

City of Portland
**HEALTH EXPENSE
REIMBURSEMENT ACCOUNT**

PLAN DOCUMENT 2018

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HEALTH EXPENSE REIMBURSEMENT ACCOUNT

As used in this Plan, the following words and phrases shall have the meanings set forth herein unless a different meaning is clearly required by the context:

ARTICLE I DEFINITIONS

- 1.1** “Administrator” means the Benefits and Wellness Manager as appointed by the Employer to carry out the administration of the Plan. In the event the Administrator has not been appointed, or resigns from a prior appointment, the City of Portland’s Human Resource Director shall be deemed to be the Administrator.
- 1.2** “Code” means the Internal Revenue Code of 1986, as amended. References to a Code section shall be deemed to be to that section as it now exists and to any successor provision
- 1.3** “Coverage Period” means the time period as set forth in the Voluntary Retirement Incentive Program.
- 1.4** “Dependent” means any individual who qualifies as a dependent of the Eligible Employee as defined by Code §152(f)(1) and who has not attained age 26, and (b) any tax dependent of a Covered Individual defined in Code §105(b) provided, however, that any child to whom Code §152(e) (regarding a child of divorced parents, etc., where one or both parents have custody of the child for more than half of the calendar year and where the parents together provide more than half of the child's support for the calendar year) applies is treated as a dependent of both parents. Notwithstanding the foregoing, the HRA Account will provide Benefits in accordance with the applicable requirements of any QMCSO, even if the child does not meet the definition of “Dependent.”
- 1.5** “Domestic Partner” as defined and declared in the City of Portland’s Domestic Partner Affidavit and who qualifies as a “qualifying relative” of the Eligible Employee as defined by IRC Section 152 dependent, as modified by IRC Section 105(b).
- 1.6** “Effective Date” means the date specified in the Voluntary Retirement Incentive Program.
- 1.7** “Eligible Employee” means a Retired City of Portland employee who elects to retire under the provisions of the Voluntary Retirement Incentive Program offered by the Employer
- 1.8** “Employee” means any person who is employed by the Employer.
- 1.9** “Employer” means The City of Portland.
- 1.10** “Employer Contribution” means the amounts contributed to the Plan by the Employer.

- 1.11** “Participant” means any Eligible Employee, Spouse or Dependent who has satisfied the requirements of Section 2.1 and has not for any reason become ineligible to participate further in the Plan.
- 1.12** “Plan” means this Basic Plan Document and the Voluntary Retirement Incentive Program outlined in Exhibit A. as adopted by the Employer, including all amendments thereto.
- 1.13** “Premiums” mean the Participant’s cost for any health plan coverage.
- 1.14** “Spouse” means a legal spouse as recognized by the employee’s state of residence.
- 1.15** “Third-Party Administrator” means a company the Employer contracts to provide customer service and claims payment or reimbursement for the City’s HRA Participants.
- 1.16** “Qualifying Medical Expenses” means any expense eligible for reimbursement under the Health Expense Reimbursement Account which would qualify as a “medical expense” (within the meaning of Code Section 213(d) and as allowed under Code Section 105 and the rulings and Treasury regulations thereunder) of the Participant, the Participant’s spouse or a Dependent and not otherwise used by the Participant as a deduction in determining the Participant’s tax liability under the Code or reimbursed under any other health coverage, including a health Flexible Spending Account. Qualifying Medical Expenses covered by this Plan are limited as elected in the Voluntary Retirement Incentive Program outlined in Exhibit A. Furthermore, a Participant may not be reimbursed for “qualified long-term care services” as defined in Code Section 7702B(c).
- 1.17** “Voluntary Retirement Incentive Program” means the program that provides for HRA contributions.

ARTICLE II PARTICIPATION

2.1 Eligibility

Any Eligible Employee shall be eligible to participate hereunder on the date such Employee satisfies the conditions of the Voluntary Retirement Incentive Program outlined in Exhibit A and as further described in the Summary Plan Description.

2.2 Effective Date of Participation

An Eligible Employee who has satisfied the conditions of eligibility pursuant to Section 2.1 shall become a Participant effective as of the date elected in the Voluntary Retirement Incentive Program and under this Plan Document.

If an Employee, who has satisfied the Plan’s eligibility requirements and would otherwise have become a Participant, shall go from a classification of a noneligible

Employee to an Eligible Employee, such Employee shall become a Participant on the date such Employee becomes an Eligible Employee or, if later, the date that the Employee would have otherwise entered the Plan had the Employee always been an Eligible Employee.

If an Employee, who has satisfied the Plan's eligibility requirements and would otherwise become a Participant, shall go from a classification of an Eligible Employee to a noneligible class of Employees, such Employee shall become a Participant in the Plan on the date such Employee again becomes an Eligible Employee, or, if later, the date that the Employee would have otherwise entered the Plan had the Employee always been an Eligible Employee.

2.3 Termination of Participation

This Section shall be applied and administered consistent with any rights a Participant and the Participant's Dependents may be entitled to, or any election within the Voluntary Retirement Incentive Program outlined in Exhibit A and as further described in the Summary Plan Description.

- (a) In the case of re-employment with the City in any capacity after more than 2 years of separation, the Participant does not forfeit any remaining balance in the HRA and shall have the right to submit claims for reimbursement, and receive benefits hereunder, for any Eligible Medical Expenses arising during the Coverage Period at any time prior to the expiration of the earlier of (1) exhaustion of the account balance.
- (b) In the case of the death of the Participant where there is no surviving Spouse, Domestic Partner and/or eligible Dependent, Eligible Medical Expenses incurred by the Participant prior to his or her death may be submitted within 120 days following the date of death for reimbursement up to the account balance. If there is no Spouse, Domestic Partner or eligible Dependent at the time of the Participant's death, the account balance, if any, is forfeited (reduced to zero).
- (c) In the case of the death of the Participants where there is a surviving Spouse Domestic Partner and/or eligible Dependent, the Spouse, Domestic Partner and/or eligible Dependent shall have the right to submit claims for reimbursement, and receive benefits hereunder, for any Eligible Medical Expenses arising during the Coverage Period at any time prior to the expiration of the earlier of (1) exhaustion of the account balance; or (2) the end of the plan year in which the Participant deceased. If there remains an account balance after the expiration of the condition (2), above, then the account balance is forfeited (reduced to zero).

ARTICLE III BENEFITS

3.1 Establishment of Plan

- (d) This Health Expense Reimbursement Account is intended to qualify as a Health Expense Reimbursement Account under Code Section 105 and shall be interpreted in a manner consistent with such Code Section and the Treasury

regulations thereunder.

- (e) Participants in this Health Expense Reimbursement Account may submit claims for the reimbursement of Qualifying Medical Expenses as defined under the Plan and the Voluntary Retirement Incentive Program outlined in Exhibit A and as further described in the Summary Plan Description. Unless otherwise elected in the Voluntary Retirement Incentive Program outlined in Exhibit A, this Plan shall reimburse any expenses only after amounts in all other Plans that could reimburse the expense have been exhausted.
- (f) The Employer shall make available to each Participant an Employer Contribution as elected in the Voluntary Retirement Incentive Program outlined in Exhibit A. for the reimbursement of Qualifying Medical Expenses. No salary reductions may be made to this Health Expense Reimbursement Account.
- (g) This Plan shall not be coordinated or otherwise connected to the Employer's cafeteria plan (as defined in Code Section 125), except as permitted by the Code and the Treasury regulations thereunder, to the extent necessary to maintain this Plan as a Health Expense Reimbursement Account.

3.2 Nondiscrimination Requirements

- (a) It is the intent of this Health Expense Reimbursement Account not to discriminate in violation of the Code and the Treasury regulations thereunder.
- (b) If the Administrator deems it necessary to avoid discrimination under this Health Expense Reimbursement Account, it may, but shall not be required to reduce benefits provided to "highly compensated individuals" (as defined in Code Section 105(h)) in order to assure compliance with this Section. Any act taken by the Administrator under this Section shall be carried out in a uniform and nondiscriminatory manner.

3.3 Health Expense Reimbursement Account Claims

- (a) The Third Party Administrator shall direct the reimbursement to each eligible Participant for all Qualifying Medical Expenses. All Qualifying Medical Expenses eligible for reimbursement pursuant to Section 3.1(b) shall be reimbursed during the Coverage Period, even though the submission of such a claim occurs after his participation hereunder ceases; but provided that the Qualifying Medical Expenses were incurred during a Coverage Period. Claims must include receipts or documentation that the expense being incurred is eligible for reimbursement, in order to claim reimbursement. Expenses may be reimbursed in subsequent Coverage Periods. However, a Participant may not submit claims incurred prior to beginning participation in the Plan and/or the Effective Date of the Plan, whichever is earlier.

- (b) Notwithstanding the foregoing, if elected in the Voluntary Retirement Incentive Program outlined in Exhibit A. Qualifying Medical Expenses shall not be reimbursable under this Plan if eligible for reimbursement and claimed under the Employer's Health Flexible Spending Account.
- (c) Claims for the reimbursement of Qualifying Medical Expenses incurred in any Coverage Period shall be paid as soon after a claim has been filed as is administratively practicable; provided however, that if a Participant fails to submit a claim within the period elected in the Voluntary Retirement Incentive Program outlined in Exhibit A immediately following the end of the Coverage Period, those Medical Expense claims shall not be considered for reimbursement by the Third Party Administrator.
- (d) Reimbursement payments under this Plan shall be made directly to the Participant.
- (e) If the maximum amount available for reimbursement for a Coverage Period is not utilized in its entirety, such remainder shall be carried forward to another Coverage Period or forfeited, as elected in the Voluntary Retirement Incentive Program outlined in Exhibit A.

ARTICLE IV CLAIM PROCESSING PROVISIONS

4.1 Claim for Benefits

Any claim for Benefits shall be made to the Third Party Administrator. The following timetable for claims and rules below apply:

Notification of whether claim is accepted or denied	30 days
Extension due to matters beyond the control of the Plan	15 days
Insufficient information on the Claim:	
Notification of	15 days
Response by Participant	45 days
Review of claim denial	60 days

Third Party Administrator Information:
WageWorks, Inc.
1100 Park Place, 4th Floor
San Mateo, CA 94403

The Administrator will provide written or electronic notification of any claim denial. The notice will state:

- (1) The specific reason or reasons for the denial.
- (2) Reference to the specific Plan provisions on which the denial was based.
- (3) A description of any additional material or information necessary for the

claimant to perfect the claim and an explanation of why such material or information is necessary.

- (4) A description of the Plan's review procedures and the time limits applicable to such procedures.
- (5) A statement that the claimant is entitled to receive, upon request and free of charge reasonable access to, and copies of, all documents, records, and other information relevant to the Claim.
- (6) If the denial was based on an internal rule, guideline, protocol, or other similar criterion, the specific rule, guideline, protocol, or criterion will be provided free of charge. If this is not practical, a statement will be included that such a rule, guideline, protocol, or criterion was relied upon in making the denial and a copy will be provided free of charge to the claimant upon request.

When the Participant receives a denial, the Participant shall have 180 days following receipt of the notification in which to appeal the decision. The Participant may submit written comments, documents, records, and other information relating to the Claim. If the Participant requests, the Participant shall be provided, free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Claim.

The period of time within which a denial on review is required to be made will begin at the time an appeal is filed in accordance with the procedures of the Plan. This timing is without regard to whether all the necessary information accompanies the filing.

A document, record, or other information shall be considered relevant to a Claim if it:

- (1) was relied upon in making the claim determination;
- (2) was submitted, considered, or generated in the course of making the claim determination, without regard to whether it was relied upon in making the claim determination;
- (3) demonstrated compliance with the administrative processes and safeguards designed to ensure and to verify that claim determinations are made in accordance with Plan documents and Plan provisions have been applied consistently with respect to all claimants; or
- (4) constituted a statement of policy or guidance with respect to the Plan concerning the denied claim.

The review will take into account all comments, documents, records, and other information submitted by the claimant relating to the Claim, without regard to whether such information was submitted or considered in the initial claim determination. The review will not afford deference to the initial denial and will be conducted by a fiduciary of the Plan who is neither the individual who made the adverse determination nor a

subordinate of that individual. The Participant may request an external review of the claims denial as provided for under the Affordable Care Act (ACA).

4.2 Named Fiduciary

The “named Fiduciaries” of this Plan are (1) the Employer and (2) the Administrator. The named Fiduciaries shall have only those specific powers, duties, responsibilities, and obligations as are specifically given them under the Plan including, but not limited to, any agreement allocating or delegating their responsibilities, the terms of which are incorporated herein by reference. In general, the Employer shall have the sole responsibility for providing benefits under the Plan; and shall have the sole authority to appoint and remove the Administrator; and to amend the elective provisions of the Voluntary Retirement Incentive Program outlined in Exhibit A, or terminate, in whole or in part, the Plan. The Administrator shall have the sole responsibility for the administration of the Plan, which responsibility is specifically described in the Plan. Furthermore, each named Fiduciary may rely upon any such direction, information or action of another named Fiduciary as being proper under the Plan, and is not required under the Plan to inquire into the propriety of any such direction, information or action. It is intended under the Plan that each named Fiduciary shall be responsible for the proper exercise of its own powers, duties, responsibilities and obligations under the Plan. Any person or group may serve in more than one Fiduciary capacity.

4.3 General Fiduciary Responsibilities

The Administrator and any other fiduciary shall discharge their duties with respect to this Plan solely in the interest of the Participants and their beneficiaries and

- (a) for the exclusive purpose of providing Benefits to Participants and their beneficiaries and defraying reasonable expenses of administering the Plan;
- (b) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and
- (c) in accordance with the documents and instruments governing the Plan.

4.4 Nonassignability of Rights

The right of any Participant to receive any reimbursement under the Plan shall not be alienable by the Participant by assignment or any other method, and shall not be subject to the rights of creditors, and any attempt to cause such right to be so subjected shall not be recognized, except to such extent as may be required by law.

ARTICLE V ADMINISTRATION

5.1 Plan Administration

The Plan and its Components shall be administered by the Administrator. The Administrator shall have responsibility for the general operation of the Plan and shall have the power and duty to decide all questions arising in connection with the

administration, interpretation and application of the Plan and shall take all actions and make all decisions that shall be necessary to carry out the provisions of the Plan, including but not limited:

- (a) To make and enforce such rules and regulations as the Administrator deems necessary or proper for the efficient administration of the Plan;
- (b) To interpret the Plan, the Administrator's interpretations thereof in good faith to be final and conclusive on all persons claiming benefits under the Plan;
- (c) To decide all questions concerning the Plan and the eligibility of any person to participate in the Plan and to receive benefits provided under the Plan;
- (d) Promulgating rules of procedure and keeping records necessary for the proper and efficient administration of the Plan;
- (e) To limit benefits for certain highly compensated individuals if it deems such to be desirable in order to avoid discrimination under the Plan in violation of applicable provisions of the Code;
- (f) To authorize the payment of benefits to a Third Party Administrator;
- (g) To appoint such agents, Third Party Administrators, counsel, accountants, consultants, and actuaries as may be required to assist in administering the Plan; and
- (h) Furnishing the City Council, Members and insurers with information they may require;

Any procedure, discretionary act, interpretation or construction taken by the Administrator shall be done in a nondiscriminatory manner based upon uniform principles consistently applied and shall be consistent with the intent that the Plan shall continue to comply with the terms of Code Section 105(h) and the Treasury regulations thereunder.

5.2 Examination of Records

The Administrator shall make available to each Participant, Eligible Employee and any other Employee of the Employer such records as pertain to their interest under the Plan for examination at reasonable times during normal business hours.

5.3 Indemnification of Administrator

The Employer agrees to indemnify and to defend to the fullest extent permitted by law any Employee serving as the Administrator against all liabilities, damages, costs and expenses (including attorney's fees and amounts paid in settlement of any claims approved by the Employer) occasioned by any act or omission to act in connection with the Plan, if such act or omission is in good faith.

5.4 General Plan Information

Plan Name: City of Portland Health Expense Retirement Account
Plan Number: 501
Effective Date: July 1, 2018
Plan Year: July 1st to June 30th.
Type of Plan: Welfare Plan
Your HRA Plan shall be governed by the Laws of the State of Oregon

Employer/Plan Sponsor/ Administrator Information
City of Portland
111 SW Columbia St, Ste. 550
Portland, OR 97201
Federal Employer Tax Identification Number (EIN) 93-6002236

ARTICLE VI AMENDMENT OR TERMINATION OF PLAN

6.1 Amendment

The Employer, at any time or from time to time, may amend any or all of the provisions of the Plan without the consent of any Employee or Participant.

6.2 Termination

The Employer is establishing this Plan with the intent that it will be maintained for enrollees prior to January 2017 until June 30, 2021.

The Employer is establishing this Plan with the intent that it will be maintained for enrollees after January 2017 until June 30, 2022.

This period may be amended, changed or extended. Notwithstanding the foregoing, the Employer has no obligation to maintain the Plan or any component, and reserves the right to amend, change, terminate or cancel the Plan described herein, and provisions, in any manner at any time, subject to the Employer's obligations under the public employees collective bargaining act, provided however, that no amendment, change or termination shall reduce or eliminate benefits retroactively. If the plan is amended or terminated, it will not affect coverage for the services provided prior to the effective date of the change.

ARTICLE VII MISCELLANEOUS

7.1 Plan Interpretation

All provisions of this Plan shall be interpreted and applied in a uniform, nondiscriminatory manner. This Plan shall be read in its entirety and not severed except as provided in Section 7.11.

7.2 Gender and Number

Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural

form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

7.3 Written Document

This Plan, in conjunction with any separate written document which may be required by law, is intended to satisfy the written Plan requirement of Code Section 105 and any Treasury regulations thereunder.

7.4 Exclusive Benefit

This Plan shall be maintained for the exclusive benefit of the Employees who participate in the Plan.

7.5 Participant's Rights

This Plan shall not be deemed to constitute an employment contract between the Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in this Plan shall be deemed to give any Participant or Employee the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon him as a Participant of this Plan.

7.6 Action by the Employer

Whenever the Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

7.7 No Guarantee of Tax Consequences

Neither the Administrator nor the Employer makes any commitment or guarantee that any amounts paid to or for the benefit of a Participant under the Plan will be excludable from the Participant's gross income for federal or state income tax purposes, or that any other federal or state tax treatment will apply to or be available to any Participant. It shall be the obligation of each Participant to determine whether each payment under the Plan is excludable from the Participant's gross income for federal and state income tax purposes, and to notify the Employer if the Participant has reason to believe that any such payment is not so excludable. Notwithstanding the foregoing, the rights of Participants under this Plan shall be legally enforceable.

7.8 Indemnification of Employer by Participants

If any Participant receives one or more payments or reimbursements under the Plan that are not for a permitted Medical Expense such Participant shall indemnify and reimburse the Employer for any liability it may incur for failure to withhold federal or state income tax or Social Security tax from such payments or reimbursements. However, such indemnification and reimbursement shall not exceed the amount of additional federal and state income tax (plus any penalties) that the Participant would have owed if the payments or reimbursements had been made to the Participant as regular cash compensation, plus the Participant's share of any Social Security tax that would have been paid on such compensation, less any such additional income and Social Security tax actually paid by the Participant.

7.9 Funding

Unless otherwise required by law, the Employer will maintain a separate account for the benefit of Participants and the plan. No Participant or other person shall have any claim against, right to, or security or other interest in, any fund, account or asset of the Employer other than from the account in which any payment under the Plan may be made.

7.10 Governing Law

Except to the extent that this Plan is governed by federal law, this Health Plan shall be construed, administered, enforced and governed by and in accordance with the applicable laws of the State of Oregon, even if Oregon's choice of laws otherwise would require application of the law of a different jurisdiction

7.11 Severability

If any provision of the Plan is held invalid or unenforceable, its invalidity or unenforceability shall not affect any other provisions of the Plan, and the Plan shall be construed and enforced as if such provision had not been included herein.

7.12 Headings

The headings and subheadings of this Plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

7.13 Continuation of Coverage

Notwithstanding anything in the Plan to the contrary, in the event any benefit under this Plan subject to the continuation coverage requirement of Code Section 4980B becomes unavailable, each qualified beneficiary (as defined in Code Section 4980B) will be entitled to continuation coverage as prescribed in Code Section 4980B.

7.14 Family and Medical Leave Act

Notwithstanding anything in the Plan to the contrary, in the event any benefit under this Plan becomes subject to the requirements of the Family and Medical Leave Act and regulations thereunder, this Plan shall be operated in accordance with Regulation 1.125-3.

7.15 Health Insurance Portability and Accountability Act

Notwithstanding anything in this Plan to the contrary, this Plan shall be operated in accordance with HIPAA and regulations thereunder.

7.16 Uniformed Services Employment and Reemployment Rights Act

Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with USERRA and the regulations thereunder.