

RESOLUTION NO. 294

WHEREAS, the Fire and Police Disability, Retirement and Death Benefit Plan (Plan) is intended to constitute a tax qualified pension plan under Section 401(a) of the Internal Revenue Code of 1986, as amended, and

WHEREAS, changes to the Plan are periodically required in order to maintain the Plan's status as a tax-qualified plan, and

WHEREAS, Section 5-403(c) of the Plan permits the City Council, after seeking the advice of the Board, to amend the Plan by ordinance to the extent necessary to allow the Plan to maintain its status as a tax-qualified plan, and

WHEREAS, proposed amendments to the Plan are attached hereto as Attachment "A," and

WHEREAS, the amendments included in Attachment "A" should be adopted in order to maintain the tax qualified status of the Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Fire and Police Disability and Retirement Fund, that the amendments appearing in Attachment "A" be submitted to the City Council for adoption as amendments to the Plan.

ADOPTED by the Board of Trustees on the 13<sup>TH</sup> day of May 1997.



Edwin L. Freeman  
Fund Administrator

\*Amend the Fire and Police Disability, Retirement and Death Benefit Plan so that the Plan will retain its tax-qualified status.  
(Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

1. That the Fire and Police Disability, Retirement and Death Benefit Plan (Plan), which is codified as Chapter 5 of the Charter, is intended to constitute a tax-qualified pension plan under Section 401(a) of the Internal Revenue Code of 1986, as amended (IRC).
2. That the IRC is amended periodically and such amendments often necessitate that pension plans be amended in order to retain their tax-qualified status.
3. That Section 5-403(c) of the Plan permits the Council, after seeking the advice of the Board of Trustees of the Plan, to amend the Plan by ordinance to allow the Plan to retain its status as a tax-qualified plan.
4. That amendments to the Plan which are intended to allow it to retain its status as a tax-qualified plan are attached hereto as Attachment "A".
5. That the amendments appearing in Attachment "A" have been considered by the Board of Trustees of the Plan which, in turn, has requested that the Council amend the Plan as specified in attachment "A".
6. That the amendments appearing in Attachment "A" must be adopted no later than June 30, 1997.

NOW, THEREFORE, the Council directs that the Fire and Police Disability, Retirement and Death Benefit Plan be and the same hereby is amended as described in the document attached hereto as Attachment "A".

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Section 2. The Council declares that an emergency exists in order that the amendments described in Section 1 hereof may be implemented without undue delay; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council,  
Mayor Vera Katz  
WRSelby/kk  
May 16, 1997  
(fund/planamd.)

MAY 28 1997

BARBARA CLARK  
Auditor of the City of Portland  
By

*Britt Olson* Deputy

**AMENDMENT**

**TO**

**FIRE AND POLICE DISABILITY, RETIREMENT,  
AND DEATH BENEFIT PLAN**

In order to comply with changes in the requirements for tax qualified status under Section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code"), the City of Portland's Fire and Police Disability, Retirement, and Death Benefit Plan, set out in Chapter 5 of the City Charter, is amended by ordinance as follows:

**Article I**

**Direct Rollover of Eligible Rollover Distributions**

**Section 1.** This Article applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this Article, a distributee may elect, at the time and in the manner prescribed by the Fund Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

**Section 2. Definitions**

**Section 2.1.** Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

**Section 2.2.** Eligible retirement plan: An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described

in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

**Section 2.3. Distributee:** A distributee includes a Member or former Member. In addition, the Member's or former Member's surviving spouse and the Member's or former Member's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

**Section 2.4. Direct rollover:** A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

## Article II

### Limit on Annual Compensation Counted for New Members

**Section 1.** In addition to other applicable limitations set forth in the plan, and notwithstanding any other provision of the plan to the contrary, for plan years beginning on or after July 1, 1996, the annual compensation of each New Member taken into account under the plan shall not exceed the OBRA '93 annual compensation limit. The OBRA '93 annual compensation limit is \$150,000, as adjusted by the Commissioner of Internal Revenue for increases in the cost of living in accordance with section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined ("determination period") beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. For plan years beginning on or after July 1, 1996, any reference in this plan to the limitation under section 401(a)(17) of the Code shall mean the OBRA '93 annual compensation limit set forth in this provision.

**Section 2.** For purposes of Section 1, "New Member" means any Member, as described in Section 5-301(a) of Chapter 5 of the City Charter, who first becomes a Member on or after July 1, 1996. The limit provided by Section 1 shall have no effect on Members who are not New Members.

**Article III**

**Uniformed Services Employment and Reemployment Rights Act**

**Section 1.** Notwithstanding any provision of this plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Internal Revenue Code.

**Section 2.** The requirement of Section 1 shall be effective for reemployments from military service initiated on or after December 12, 1994.