

RESOLUTION NO. 305

WHEREAS, the Board of Trustees of the Fire and Police Disability and Retirement Fund recognize a need for pre-retirement education for members of the Fire and Police Disability, Retirement and Death Benefit Plan (Plan) who are approaching retirement, and

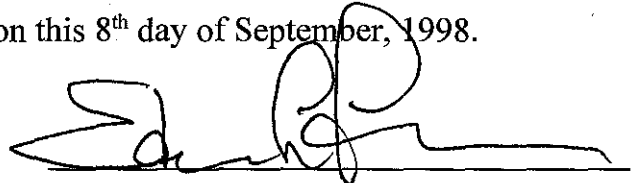
WHEREAS, the Board of Trustees desires to utilize the expertise of Retirement Planning, Inc. (RPI) to develop and implement a pre-retirement education program workshop for Plan members, and

WHEREAS, RPI has indicated that it is ready, willing and able to develop and implement a pre-retirement education program for members of the Plan, and

WHEREAS, an appropriate form of contract which will implement the desires of the parties expressed above is attached hereto as Exhibit "A."

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Fire and Police Disability and Retirement Fund that the Fund Administrator is authorized and directed to execute an Agreement substantially in accordance with the terms and provisions of the Agreement attached hereto as Exhibit "A" on behalf of the Board of Trustees and the Fire and Police Disability and Retirement Fund.

ADOPTED by the Board of Trustees on this 8th day of September, 1998.



Edwin L. Freeman, Administrator
Fire and Police Disability and
Retirement Fund

AGREEMENT FOR SERVICES

This Agreement for Services is between the City of Portland Fire and Police Disability and Retirement Fund, acting by and through its Board of Trustees, hereafter called "Fund" and Retirement Planning, Inc., hereafter called "RPI."

RECITALS

WHEREAS, the Board of Trustees of the Fund recognize a need for pre-retirement education for members of the Fire and Police Disability, Retirement and Death Benefit Plan (Plan) who are approaching retirement, and

WHEREAS, the Board of Trustees desires to utilize the expertise of RPI to develop and implement a pre-retirement education program workshop for Plan members, and

WHEREAS, RPI has indicated that it is ready, willing and able to develop and implement a pre-retirement education program for members of the Plan.

NOW, THEREFORE, in order to implement the desires of the parties expressed above, the parties hereto enter into the following.

AGREEMENT

I. SCOPE OF SERVICES TO BE PROVIDED BY RETIREMENT PLANNING, INC. (RPI)

- A. RPI shall develop and present to the members of the Fire and Police Disability, Retirement and Death Benefit Plan (Plan) who are nearing retirement a pre-retirement education program/workshop.
 - 1. The pre-retirement program/workshop will include exposure to life planning issues, financial issues which are of concern to retirees and people who are approaching retirement and any other related issues which may be agreed upon by RPI and the Fund Administrator.
 - 2. The financial issues to be discussed in the pre-retirement program/workshop will include, the benefit options available under the Plan and Social Security, deferred income options, health insurance, estimating retirement income and expenses, financial experts, investments, estate planning and any other topics or issues which may be agreed upon by RPI and the Fund Administrator.
 - 3. The life planning issues to be included in the pre-retirement program/workshop will include the topics of relationships, living arrangement changes, health, new careers and other topics which are relevant to the retirement transition which may be agreed upon by RPI and the Fund Administrator.

4. The objectives of the pre-retirement education program/workshop to be developed by RPI will be (1) to assist members of the Plan and their spouses/partners to study and become knowledgeable about the benefits offered by the Plan and the Social Security system and to understand the various decisions which will need to be made at the time of retirement; (2) to cover basic financial planning issues; (3) to explain principles of deferring income now and how such deferrals assist the retiree meet retirement expenses; (4) to sensitize Plan members and their spouses/partners to the life-planning issues which are presented in retirement; (5) to provide the basic elements of estate planning; and (6) to provide motivation for Plan members who are approaching retirement to take positive steps in planning for their retirement.
- B. RPI will provide workshop participants with a copy of the pre-retirement workbook, The Next Step. Handouts on Plan benefits, Social Security and other topics will be supplied, as needed, in order to give workshop participants resources with which to find answers, explore options and seek additional information.
 - C. All workshop materials and program outlines shall be approved by the Fund Administrator.
 - D. Neither RPI nor their independent contractors at the pre-retirement education program workshops will sell or attempt to sell any financial products to workshop participants. Furthermore, RPI will not sell any mailing lists which may be developed relative to workshop attendees, nor will it contact, in any manner, workshop attendees for the purpose of developing such attendees as clients.

II. COMPENSATION

- A. The Board of Trustees shall pay RPI a flat fee of \$1,450.00 for each pre-retirement educational workshop conducted by RPI. The number of workshops to be conducted by RPI will be determined by the Fund Administrator.
- B. In addition to the flat fee per workshop referred to in Section II.A., RPI shall also receive \$25.00 for each Plan member who attends a workshop (spouses/partners may attend at no charge). This \$25.00 fee per member shall be collected by the Plan administrative staff and paid to RPI.

III. BILLING AND PAYMENT PROCEDURE

- A. After conducting a pre-retirement educational program workshop, RPI shall submit to the Fund Administrator a bill for payment of the compensation due. The Fund shall pay the amount due to RPI within thirty (30) days after receipt of the bill, provided the Fund Administrator has certified the work as complete.

IV. SCOPE OF SERVICES TO BE PROVIDED BY BOARD OF TRUSTEES

- A. The Fund administrative staff will register all Plan members who will attend the pre-retirement education program workshops and will collect from such members, for the benefit of RPI, the registration fee referred to in Section II.B.
- B. The Fund administrative staff will also make arrangements for and, if necessary, pay for the facility in which the pre-retirement education program workshops will be held.
- C. All marketing of the pre-retirement education program workshops will be the responsibility of the Plan administrative staff.

V. EFFECTIVE AND TERMINATION DATE

- A. This Agreement shall be effective as of September 8, 1998 and shall continue for five (5) years, unless terminated by either party in accordance with Section VI of this Agreement.

VI. EARLY TERMINATION OF AGREEMENT

- A. The Fund and RPI, by mutual written agreement, may terminate this Agreement at any time.
- B. The Fund, on thirty (30) days written notice to RPI, may terminate this Agreement for any reason deemed appropriate in its sole discretion.
- C. Either the Fund or RPI may terminate this Agreement in the event of a breach of the Agreement by the other party. Prior to such termination, however, the party seeking the termination shall give to the other party a written notice of the breach and the party's intent to terminate. If the party charged with the breach has not entirely cured the breach within fifteen (15) days of the notice, then the party giving the notice may terminate the Agreement at any time thereafter by giving a written notice of the termination.

VII. PAYMENT ON EARLY TERMINATION

- A. In the event of a termination under the prior paragraph (EARLY TERMINATION AGREEMENT), the Fund shall pay RPI for any pre-retirement education program workshop which RPI has conducted.

VIII. REMEDIES

- A. In the event that the Fund cancels a scheduled pre-retirement education program workshop within fourteen (14) days of the scheduled date of the workshop then the Fund shall pay RPI the flat fee provided for in Section II.A. of this Agreement.

- B. In the event that RPI cancels a scheduled pre-retirement education program workshop within fourteen (14) days of the scheduled date of the workshop then RPI shall pay the Fund any out of pocket expenses incurred by the Fund in connection with the scheduled workshop being cancelled.

IX. SUBCONTRACTS AND ASSIGNMENT

- A. RPI shall not subcontract, assign or transfer any of the work scheduled under this Agreement without the prior written approval of the Fund Administrator. Notwithstanding approval of a subcontractor, RPI shall remain obligated for full performance hereunder and the Fund shall incur no obligation other than its obligations to RPI hereunder. RPI agrees that if subcontractors are employed in the performance of this Agreement, RPI and its subcontractors are subject to the requirements and sanctions of ORS Chap. 656 (Workers' Compensation Law).

X. COMPLIANCE WITH APPLICABLE LAW

- A. In connection with its activities under this Agreement, RPI shall comply with all applicable federal, state and local laws and regulations. RPI shall complete Exhibit "A," Independent Contractor/Workers' Compensation Insurance Questionnaire, which is attached hereto and by this reference made a part hereof.

XI. INDEMNITY - CLAIMS FOR OTHER THAN PROFESSIONAL LIABILITY

- A. RPI shall defend, save and hold harmless the City of Portland Fire and Police Disability and Retirement Fund, its trustees, agents and employees, from all claims, suits or actions of whatsoever nature, including intentional acts, resulting from or arising out of the activities of RPI or its subcontractors, agents or employees under this Agreement.

XII. INDEMNITY - CLAIMS FOR PROFESSIONAL LIABILITY

- A. RPI shall defend, save and hold harmless the City of Portland Fire and Police Disability and Retirement Fund, its officers, agents and employees, from all claims, suits or actions arising out of the professional negligent acts or omissions of RPI or its subcontractors and subconsultants, agents or employees in performance of professional services under this Agreement.

XIII. INDEMNITY - STANDARD OF CARE

- A. If RPI's services involve engineering or consulting, the standard of care applicable to RPI's service will be the degree of skill and diligence normally employed by professional engineers or consultants performing the same or similar services at the time such services are performed. RPI will perform any services not meeting this standard without additional compensation.

XIV. NONDISCRIMINATION

- A. RPI agrees to comply with all applicable requirements of all federal and state civil rights and rehabilitation statutes, rules, and regulations. RPI shall also comply with the Americans with Disabilities Act of 1990 (Public Law No. 101-336), including Title II of that Act, ORS 659.425, and all regulations and administrative rules established pursuant to those laws.

XV. SUCCESSORS IN INTEREST

- A. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and approved assigns.

XVI. SEVERABILITY

- A. The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

XVII. WAIVER

- A. The failure of the Fund to enforce any provision of this Agreement shall not constitute a waiver by the Fund of that or any other provision.

XVIII. ERRORS

- A. RPI shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional cost.

XIX. GOVERNING LAW

- A. The provisions of this Agreement shall be construed in accordance with the laws of the State of Oregon. Any actions or suits involving any question arising under this Agreement must be brought in the appropriate court in Multnomah County, Oregon.

XX. AMENDMENTS

- A. The Fund and the Contractor may amend this Agreement at any time only by written amendment executed by the Fund Administrator and RPI.

XXI. BUSINESS LICENSE

- A. RPI shall obtain a City of Portland business license as required by PCC 7.02.030.

XXII. PROHIBITED INTEREST

- A. No employee of the City of Portland or the Fund during his or her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.
- B. No employee of the City of Portland or the Fund who participated in the award of this Agreement shall be employed by RPI during the period of this Agreement.

XXIII. PAYMENT TO VENDORS AND SUBCONTRACTORS

- A. RPI shall timely pay all suppliers, lessors and contractors providing it services, materials or equipment for carrying out its obligations under this Agreement. RPI shall not take or fail to take any action in any manner that causes the Fund or any materials that RPI provides hereunder to be subject to any claim or lien of any person without the Fund's prior written consent.

XXIV. NOTICES

- A. Any notice provided for under this Agreement shall be sufficient if in writing and delivered personally to the following addressee or deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed as follows, or to such other address as the receiving party shall hereafter specify in writing.

FUND

Fund Administrator
Fire and Police Disability
and Retirement Fund
1800 S.W. First Avenue, Suite 450
Portland, Oregon 97201

RPI

John S. Clyde, President
Retirement Planning, Inc.
4263 Elf Avenue, S.E.
Salem, Oregon 97302

XXV. AUTHORITY OF FUND ADMINISTRATOR

- A. The Fund Administrator is authorized to approve work and billings hereunder, to give notices referred to herein, to terminate this Agreement as provided herein and to carry out any other Fund actions referred to herein.

XXVI. INSURANCE

- A. During the term of this Agreement RPI shall maintain in force, at its own expense:
 - 1. Workers' compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers (contractors with one or more employees, unless exempt under ORS 656.027).

2. Professional liability insurance with a combined single limit of not less than \$500,000 for each claim, incident, or occurrence. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this contract.
- B. There shall be no cancellation, material change, reduction of limits, or intent not to renew the above insurance coverages without thirty (30) days written notice from RPI or its insurer(s) to the Fund.
- C. Certificates of insurance. As evidence of the insurance coverages required by this Agreement, RPI shall furnish acceptable insurance certificates to the Fund at the time it returns signed agreements. The certificate will name the Fund, its trustees, agents and employees as Additional Insureds and will include a clause that provides that the insurance will not terminate or be cancelled without thirty (30) days written notice first being given to the Fund. Insurance companies or entities are subject to Fund acceptance. If requested, complete policy copies shall be provided to the Fund. RPI shall be financially responsible for all pertinent deductibles, self insured retentions, and/or self-insurance.

XXVII. MERGER

This Agreement and attached exhibits constitute the entire Agreement between the parties. No waiver, consent, modification or change of terms of this contract shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given. There are no understanding, agreements or representations, oral or written, not specified herein regarding this contract.

Fire & Police Disability & Retirement Fund

By: 

Fund Administrator


Retirement Planning, Inc.

By: 

Name

Title

APPROVED AS TO FORM:


Sr. Deputy City Attorney

93-1227319
Federal Tax I.D. No.

EXHIBIT A
INDEPENDENT CONTRACTOR CERTIFICATION STATEMENT

CONTRACTOR CERTIFICATION I, undersigned, am authorized to act on behalf of entity designated below, hereby certify that entity has current Workers' Compensation Insurance.

Signature

Date

Entity

If entity does not have Workers' Compensation Insurance, Fund Administrator and Contractor complete the remainder of this form.

ORS 670.600 Independent contractor; standards. As used in various provisions of ORS Chapters 316, 656, 657, and 701, an individual or business entity that performs labor or services for remuneration shall be considered to perform the labor or services as an "independent contractor" if the standards of this section are met. The contracted work meets the following standards:

1. The individual or business entity providing the labor or services is free from direction and control over the means and manner of providing the labor or services, subject only to the right of the person for whom the labor or services are provided to specify the desired results;
2. The individual or business entity providing labor or services is responsible for obtaining all assumed business registrations or professional occupation licenses required by state law or local government ordinances for the individual or business entity to conduct the business;
3. The individual or business entity providing labor or services furnishes the tools or equipment necessary for performance of the contracted labor or services;
4. The individual or business entity providing labor or services has the authority to hire and fire employees to perform the labor or services;
5. Payment for the labor or services is made upon completion of the performance of specific portions of the project or is made on the basis of an annual or periodic retainer.

Fund Administrator Signature

Date

Independent contractor certifies he/she meets the following standards:

1. The individual or business entity providing labor or services is registered under ORS Chapter 701, if the individual or business entity provides labor or services for which such registration is required;
2. Federal and state income tax returns in the name of the business or a business Schedule C or farm Schedule F as part of the personal income tax return were filed for the previous year if the individual or business entity performed labor or services as an independent contractor in the previous year; and
3. The individual or business entity represents to the public that the labor or services are to be provided by an independently established business. Except when an individual or business entity files a Schedule F as part of the personal income tax returns and the individual or business entity performs farm labor or services that are reportable on Schedule C, an individual or business entity is considered to be engaged in an independently established business when four or more of the following circumstances exist. Contractor check four or more of the following:

- ☒ A. The labor or services are primarily carried out at a location that is separate from the residence of an individual who performs the labor or services, or are primarily carried out in a specific portion of the residence, which portion is set aside as the location of the business;
- ☒ B. Commercial advertising or business cards as is customary in operating similar businesses are purchased for the business, or the individual or business entity has a trade association membership;
- ☒ C. Telephone listing and service are used for the business that is separate from the personal residence listing and service used by an individual who performs the labor or services;
- ☒ D. Labor or services are performed only pursuant to written contracts;
- ☒ E. Labor or services are performed for two or more different persons within a period of one year; or
- ☒ F. The individual or business entity assumes financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

Contractor Signature

Date