

CITY OF ALAMEDA RESOLUTION NO. _____

ESTABLISHING THE CITY OF ALAMEDA INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS (IAFF) SUPPLEMENTAL RETIREMENT PLAN AND TRUST AGREEMENT FOR IAFF EMPLOYEES HIRED AFTER JUNE 7, 2011 AS PROVIDED IN THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND IAFF

WHEREAS, the memorandum of understanding (MOU) regarding the terms and conditions of employment of the employees of the City of Alameda (City) who are members of the International Association Of Firefighters, Local 689 (IAFF) requires the City to adopt a supplemental retirement plan that allows for the accrual of retiree health benefits; and

WHEREAS, pursuant to the MOU, the City has prepared a draft of such a plan, titled the "City Of Alameda IAFF Supplemental Retirement Plan" (Plan), a copy of which has been presented to the City Council, and a retirement trust, titled the "City Of Alameda IAFF Supplemental Retirement Plan Trust Agreement" (Trust), a copy of which has been presented to the City Council, that are intended to be a qualified retirement plan and a qualified retirement trust under sections 401(a) and 501(a) of the Internal Revenue Code (Code); and

WHEREAS, the drafts of the Plan and the Trust been reviewed and approved by the IAFF; and

WHEREAS, pursuant to the Plan and the MOU, employees who are subject to the MOU and are hired by the City after June 7, 2011 shall participate in the Plan and must make contributions to the Plan equal to (i) 3% of regular base monthly salary and (ii) upon termination of employment, the employee's unused vacation leave, unused compensatory leave, and up to 50% of the employee's unused sick leave (i.e., to the extent not converted to service credit under CalPERS); and

WHEREAS, pursuant to the Plan and the MOU, the City desires to "pick up" the employee contributions as permitted by Code section 414(h)(2) such that the employee contributions will be treated as employer contributions rather than employee contributions for income tax purposes; and

WHEREAS, neither the City nor the Plan will permit a participant to have a cash or deferred election right with respect to these employee contributions or to receive the contributed amounts directly instead of having them paid by the City to the Plan; and

WHEREAS, the Internal Revenue Service (IRS) issued Revenue Ruling 2006-43 requiring that all employers take formal action to provide that the contributions on behalf of the employees, although designated as employee contributions, are being paid by the employer in lieu of employee contributions; and

WHEREAS, the City now wishes to take the formal action required to "pick up" the employee contributions under the Plan pursuant to Code section 414(h)(2) as interpreted by the IRS; and

WHEREAS, pursuant to the Plan, the City is to appoint a Retirement Committee to serve as the Administrator of the Plan with the duties set forth in the Plan; and

WHEREAS, the City wishes to appoint the employees of the City who occupy the positions of Administrative Services Director and Finance Director as members of the Retirement Committee; and

WHEREAS, pursuant to the Trust, the City is to appoint the initial trustees of the Trust after consultation with the Pension Investment Committee appointed by the IAFF under the Plan (and then the responsibility for appointing trustees resides solely with the Pension Investment Committee); and

WHEREAS, the City and the Pension Investment Committee wish to appoint the employees of the City who occupy the positions of Administrative Services Director, Finance Director and President of the International Association of Firefighters, Local 689 as trustees; and

WHEREAS, the MOU requires that the Plan be administered by Peery & Associates, Inc., a third party administrator of plans such as the Plan; and

WHEREAS, the City has prepared a draft of an agreement between the Plan and Peery & Associates, Inc. to be signed by the Retirement Committee as the Administrator of the Plan, a copy of which has been presented to the City Council; and

WHEREAS, legal counsel for the City with respect to the Plan and Trust has recommended that the Plan and Trust be submitted to the IRS for a determination letter regarding the qualified status of the Plan and Trust under Code sections 401(a) and 501(a).

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Alameda approves the adoption of the Plan and the Trust in substantially the same forms as presented to the City Council; and

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager or his/ her designee to execute the Plan and Trust documents Trust in substantially the same forms as presented to the City Council on behalf of the City; and

BE IT FURTHER RESOLVED that the City Council approves the "pick-up" by the City of the employee contributions to the Plan as permitted by Code section 414(h)(2), recognizing that (i) the contributions, although designated as employee contributions, are being paid by the City as the employer in lieu of contributions by the employees, (ii) the employees shall not have a cash or deferred election right with respect to these employee contributions, (iii) the employees shall not have a right to receive the contributed amounts directly instead of having them paid by the City to the Plan, and (iv) the contributions will be treated as employer contributions for federal income tax purposes; and

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager or his/her designee to appoint the employees of the City who occupy the positions of Administrative Services Director and Finance Director as members of the Retirement Committee; and

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager or his/her designee to appoint the employees of the City who occupy the positions of Administrative Services Director, Finance Director and President of the International Association of Firefighters, Local 689 as trustees; and

BE IT FURTHER RESOLVED that the City Council authorizes the Retirement Committee, as the Administrator of the Plan, to enter into the agreement between the Plan and Peery & Associates, Inc. Trust in substantially the same form as presented to the City Council; and

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager or his/her designee to submit the Plan and Trust to the IRS for a determination letter regarding the qualified status of the Plan and Trust under Code sections 401(a) and 501(a); and

BE IT FURTHER RESOLVED that the City Council authorizes the City Manager or his/her designee to execute such other documents and to perform such other acts as are necessary or appropriate to effectuate the foregoing, including, but not limited, to adopting any amendments as may be necessary or appropriate to update the Plan or the Trust for any applicable changes in the Code section 401(a) or 501(a) qualification requirements.

* * * * *

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in a regular meeting assembled on the 20th day of May, 2014, by the following vote to wit:

AYES

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the seal of said City this 21st day of May, 2014.

Lara Weisiger, City Clerk
City of Alameda