

CITY OF ALAMEDA RESOLUTION NO. _____

RESOLUTION AMENDING THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS (IAFF) SUPPLEMENTAL RETIREMENT AND HEALTH PLAN (PLAN) AND TRUST AGREEMENT FOR IAFF EMPLOYEES HIRED AFTER JUNE 7, 2011 TO INCLUDE ALAMEDA FIRE CHIEFS ASSOCIATION (AFCA), ALAMEDA POLICE OFFICER'S ASSOCIATION (APOA), AND ALAMEDA POLICE MANAGEMENT ASSOCIATION (APMA) EMPLOYEES HIRED AFTER JUNE 7, 2011 AS PROVIDED IN THE MEMORANDA OF UNDERSTANDING (MOUS) BETWEEN THE CITY AND AFCA, THE CITY AND APOA, AND THE CITY AND APMA APPROVED ON APRIL 29, 2015

WHEREAS, the memoranda 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) required the City to adopt a supplemental retirement plan that allowed for the accrual of retiree health benefits; and

WHEREAS, pursuant to terms of the IAFF MOU, the City Council approved and the City adopted such a plan, titled the "City Of Alameda IAFF Supplemental Retirement Plan" (Plan), and a retirement trust, pursuant to the "City Of Alameda IAFF Supplemental Retirement Plan Trust Agreement" (Trust), 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, pursuant to the Plan and the IAFF MOU, employees who are subject to the IAFF 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 unused sick leave to the extent not converted to service credit under CalPERS; and

WHEREAS, pursuant to the Plan and the IAFF MOU, the City desired to "pick up" the employee contributions to the Plan by the employees of the City who are members of the IAFF 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, the City Council took formal action required to "pick up" the employee contributions to the Plan by the employees of the City who are members of the IAFF; and

WHEREAS, effective as of January 1, 2016, the IAFF MOU reduces the amount of the contributions to the supplemental retirement plan by employees who are subject

to the IAFF MOU and are hired by the City after June 7, 2011 from 3% to 2% of regular base monthly salary; and

WHEREAS, effective as of January 1, 2016, the MOUs regarding the terms and conditions of employment of the employees of the City who are members of either (i) the Alameda Police Officers Association (APOA), (ii) the Alameda Police Managers Association (APMA), or (iii) the Alameda Fire Chiefs Association (AFCA) require the City to adopt a supplemental retirement plan that allows for the accrual of retiree health benefits; and

WHEREAS, effective as of January 1, 2016, the APOA MOU, the APMA MOU and the AFCA MOU require employees who are subject to one of these MOUs and are hired by the City after June 7, 2011 to participate in such a supplemental retirement plan and to make contributions to such a supplemental retirement plan equal to (i) 2% of either regular base monthly salary or base salary and (ii) upon termination of employment, the employee's unused vacation leave, unused compensatory leave, and unused sick leave to the extent not converted to service credit under CalPERS; and

WHEREAS, pursuant to the IAFF MOU, the APOA MOU, the APMA MOU and the AFCA MOU, the City has prepared drafts of restatements of the Plan and the Trust so that (i) the Plan and Trust can serve as the supplemental retirement plan contemplated by these MOUs, (ii) the employees of the City who are members of the APOA, the APMA and the AFCA can participate in the Plan and the Trust, as required by these MOUs, in addition to the employees of the City who are members of the IAFF, and (iii) the plan reflects the reduced contribution amount for the employees who are subject to the IAFF MOU; and

WHEREAS, the drafts of the restatements of the Plan and the Trust have been reviewed and approved by the IAFF, the APOA, the APMA and the AFCA; and

WHEREAS, pursuant to the Plan and the APOA MOU, the APMA MOU and the AFCA MOU, the City desires to "pick up" the employee contributions to the Plan by the employees of the City who are members of the APOA, the APMA or the AFCA 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 to the Plan by the employees of the City who are members of the APOA, the APMA or the AFCA pursuant to Code section 414(h)(2) as interpreted by the IRS; and

WHEREAS, pursuant to the Trust, the City appointed the initial trustees of the Trust after consultation with the Pension Investment Committee appointed by the IAFF under the Plan; and

WHEREAS, the City and the Pension Investment Committee wish to appoint the following individuals as trustees of the Trust: (i) the City's Finance Director, (ii) the City's Human Resources Director, (iii) the President of the IAFF, (iv) the President of the APOA, (v) the President of the APMA, and (vi) the President of the AFCA.

NOW, THEREFORE, BE IT RESOLVED that the City approves the restatements 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 authorizes the Interim City Manager to execute the restatements of the Plan and the 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 approves the "pick-up" by the City of the employee contributions to the Plan by the employees of the City who are members of the APOA, the APMA or the AFCA 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 authorizes the Interim City Manager to appoint the following individuals as trustees of the Trust: (i) the City's Finance Director, (ii) the City's Human Resources Director, (iii) the President of the IAFF, (iv) the President of the APOA, (v) the President of the APMA, and (vi) the President of the AFCA; and

BE IT FURTHER RESOLVED that the City authorizes the Interim City Manager 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 15th day of December, 2015, 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 16th day of December, 2015.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM:

Janet C. Kern, City Attorney
City of Alameda