

RESOLUTION NO. 2016-08

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE OREGON PUBLIC SERVICE RETIREMENT PLAN COVERAGE AGREEMENT BETWEEN THE CITY OF FOREST GROVE (CITY) AND THE STATE OF OREGON FOR NEWLY HIRED POLICE OFFICERS AND FIREFIGHTERS TO PARTICIPATE IN THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

WHEREAS, the City and the Forest Grove Police Association (FGPA) have agreed to put newly hired police officers into PERS; and

WHEREAS, the City and the International Association of Firefighters Local No. 1660 (IAFF) have agreed to put newly hired firefighters into PERS; and

WHEREAS, the City has negotiated a coverage agreement with PERS that will put police officers and firefighters hired after the effective date of the coverage agreement into PERS; and

WHEREAS, PERS requires formal government body approval of the coverage agreement for the agreement to be effective; and

WHEREAS, the City Council will be required to approve the negotiated coverage agreement before it is effective.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF FOREST GROVE AS FOLLOWS:

Section 1. The City of Forest Grove agrees to the terms in the Oregon Public Service Retirement Plan Coverage Agreement attached as Exhibit A.

Section 2. The City understands that this agreement is irrevocable once it becomes effective.

Section 3. The City designates Michael J. VanderZanden, City Manager, to execute the Oregon Public Service Retirement Plan Coverage Agreement on behalf of the City.

Section 4. This resolution is effective immediately upon its enactment by the City Council.

PRESENTED AND PASSED this 25th day of January, 2016.



Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 25th day of January, 2016.



Peter B. Truax, Mayor

Oregon Public Service Retirement Plan Coverage Agreement

This agreement is made between the State of Oregon by and through the PUBLIC EMPLOYEES RETIREMENT BOARD (hereinafter referred to as “the Board”) on behalf of the PUBLIC EMPLOYEES RETIREMENT SYSTEM (hereinafter referred to as “PERS”) and CITY OF FOREST GROVE (hereinafter referred to as “the City”) for the purpose of establishing new employer coverage for City employees pursuant to ORS 238A.070 and ORS 238A.025(2).

WHEREAS, on October 30, 2015, the City adopted Resolution 2015-75, by which the City announced its intention to participate in PERS for all of its sworn police officers and firefighters hired on or after the effective date of this coverage agreement;

WHEREAS, Resolution 2015-75 further provided:

that the City would provide the “unused sick leave benefit” available under ORS 238.350 to members of PERS entitled to benefits under ORS chapter 238;

that the City did not intend to participate in the State and Local Government Rate pool with respect to its contributions for members of PERS entitled to benefits under ORS chapter 238; and

that the City would pay the six percent contribution for the Individual Account Program that is due from members under ORS 238A.330 on behalf of its employees, pursuant to ORS 238A.335;

THEREFORE, the parties agree that:

- (1) As used in this agreement, the term “Eligible City Employee” shall mean any City police and firefighter employee who is hired by the City on or after the effective date of this agreement, and is either an “employee” as that term is defined in ORS 238.005(8) or an “eligible employee” as that term is defined in ORS 238A.005(4).
- (2) As of the effective date of this agreement, the City elects to participate for its Eligible City Employees in the Public Employees Retirement System (“PERS”), which consists of ORS chapter 238 and the Oregon Public Service Retirement Plan Pension Program (“OPSRP Pension Program”) and Individual Account Program (“IAP”) in ORS chapter 238A. The City understands and agrees that its election to participate in PERS is irrevocable for its Eligible City Employees.
- (3) The City shall provide coverage to its Eligible City Employees as follows:
 - (a) For those Eligible City Employees who establish membership in the OPSRP Pension Program under ORS 238A.100 and any related administrative rules promulgated by the Board, the City shall provide coverage in the OPSRP Pension Program.

- (b) For those Eligible City Employees who establish membership in the Individual Account Program under ORS 238A.300 and ORS 238A.305 and any related administrative rules promulgated by the Board, the City shall provide coverage in the Individual Account Program.
 - (c) For those Eligible City Employees who have established membership in PERS under ORS 238.015 and ORS 238A.025(4) and any related administrative rules promulgated by the Board, the City shall provide coverage under ORS chapter 238.
 - (d) No Eligible City Employee shall receive retirement credit or any other benefit under ORS chapters 238 or 238A for service performed for the City prior to the effective date of this agreement.
- (4) The City understands that the Oregon Legislature may in the future amend ORS chapters 237, 238 and 238A. The City also understands that the Board may amend its administrative rules promulgated pursuant to those statutes. The City agrees to comply with the statutes and rules governing those programs, including any additions or amendments to those statutes and rules.
- (5) The City has the following initial employer contribution rates. The City understands that employer contribution rates are subject to change based on periodic actuarial valuations or as directed by the Board pursuant to ORS 238.225 and ORS 238A.220, and the City agrees that the Board may change those contribution rates without amending this agreement.
- (a) For Eligible City Employees who establish membership in the OPSRP Pension Program and who are classified as police and fire, the initial employer contribution rate shall be 12.65% percent of salary. For purposes of this subsection, “salary” is defined in ORS 238A.005(17).
 - (b) For Eligible City Employees who have established membership in PERS under ORS 238.015 and ORS 238A.025(4) and who are classified as police and fire, if any, the City shall have the initial employer contribution rate of 17.79 percent of salary. For purposes of this subsection, “salary” is defined in ORS 238.005(26).
- (6) The City understands that Eligible City Employees who establish membership in the IAP are required by ORS 238A.330 to contribute six percent of their salaries to the IAP. In accordance with Resolution 2015-75, the City hereby agrees to pay those IAP contributions on behalf of Eligible City Employees under ORS 238A.335. If the City changes the manner in which IAP contributions are to be paid in the future, such a change shall be effective with respect to employee contributions made on and after the date that the Board receives notice as required by ORS 238.335. For purposes of this section, “salary” is defined in ORS 238A.005(17).
- (7) In accordance with Resolution 2015-75, PERS will not include the City in the State & Local Government Rate Pool, as of the effective date of this agreement, for purposes of contributions made on behalf of Eligible City Employees who have established

membership in PERS under ORS 238.015 and ORS 238A.025(4). The City may elect to participate in the State & Local Government Rate Pool in the future by adopting a resolution or ordinance and submitting a copy to the Board, in accordance with OAR 459-009-0070(4).

- (8) In accordance with Resolution 2015-75, Eligible City Employees who have established membership in PERS under ORS 238.005 and ORS 238A.025(4) will be compensated for accumulated unused sick leave by increasing their retirement benefits upon service or disability retirement pursuant to ORS 238.350. The City understands and agrees that its election to provide increased retirement benefits for accumulated unused sick leave is irrevocable.
- (9) The City understands and agrees that once this agreement is in effect the City must continue to provide coverage under the OPSRP Pension Program and ORS chapter 238 for all Eligible City Employees. In the event that the City at any time does not employ any Eligible City Employees, the City shall still be required to make contributions necessary to fund any unfunded liability for benefits under the OPSRP Pension Program and ORS chapter 238, as determined by the Board. These obligations shall be binding on the successors and assignees of the City.
- (10) The City warrants that it is a “public employer” as defined by ORS 238.005(17), and a governmental agency or instrumentality as defined in Internal Revenue Code §414(d). If at any time the City for any reason fails to meet the definition of ORS 238.005(17) or IRC §414(d), the City’s participation in PERS shall terminate as of that date. In the event of any termination the City shall continue to make contributions necessary to fund any unfunded liability for benefits under the OPSRP Pension Program and ORS chapter 238, as determined by the Board.
- (11) By virtue of this coverage agreement, neither the Board nor PERS assumes any contractual obligations of the City toward any employee, other than the responsibility to administer benefits funded by the City as specifically provided for in this coverage agreement.
- (12) 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, or if any part of this agreement conflicts with any law, the validity of the remaining terms and provisions shall not be affected, and 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.
- (13) In addition to the provisions of this agreement, ORS chapters 237, 238, and 238A and all administrative rules promulgated by the Board apply to the City and all Eligible City Employees. If a provision of this agreement conflicts with any provision of ORS chapters 237, 238, or 238A, or with any administrative rules promulgated by the Board, the statute or rule shall govern.
- (14) This agreement is effective **February 1, 2016**, but shall have no effect until the agreement has been approved and signed by the City and by the Board.

For City of Forest Grove this 25th day of Jan., 2016.

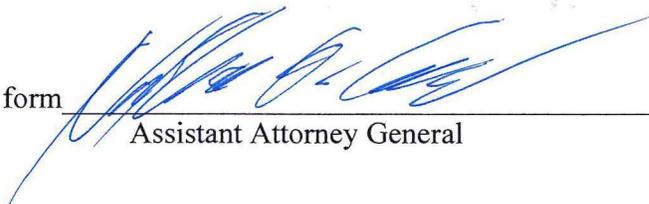
By 
Michael J. VanderZanden, City Manager
City of Forest Grove

For the Oregon Public Employees Retirement System this 29th day of January, 2016.

By 
Steve Rodeman, Executive Director
Oregon Public Employees Retirement System

For the Oregon Public Employees Retirement Board this 21st day of Jan, 2016.

By 
John Thomas, Chair
Oregon Public Employees Retirement Board

Approved as to form 
Assistant Attorney General



A place where businesses and families thrive.

CITY RECORDER USE ONLY:	
AGENDA ITEM #:	<u>9.</u>
FINAL ACTION:	<u>RESO</u> <u>2016-08</u>

CITY COUNCIL STAFF REPORT

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

MEETING DATE: *January 25, 2016*

PROJECT TEAM: *Paul Downey, Director of Administrative Services
Jesse VanderZanden, City Manager*

SUBJECT TITLE: *Authorize PERS Coverage Agreement*

ACTION REQUESTED:	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Order	<input checked="" type="checkbox"/> X	<input type="checkbox"/> Resolution	<input type="checkbox"/> Motion	<input type="checkbox"/> Informational
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X all that apply

ISSUE STATEMENT: On October 30, 2015, the City Council authorized City staff to negotiate a coverage agreement with the Public Employees Retirement System (PERS) after the City reached agreement with the Forest Grove Police Association (FGPA) to put newly hired police officers into PERS and with the International Association of Firefighters Local No. 1660 (IAFF) to put newly hired firefighters into PERS. Staff has negotiated the coverage agreement with PERS and is requesting that the City Council approve the agreement and authorize the City Manager to sign it for the City.

BACKGROUND: Staff has negotiated the coverage agreement following the terms passed by the City Council in Resolution 2015-75. The key points of that resolution are:

- PERS will be the retirement plan for police officers and firefighters hired after the effective date of the PERS coverage agreement.
- The City understands that participation is permanent and irrevocable once the coverage agreement goes into effect.
- The City does not intend to participate in the State and Local Government Rate Pool for Tier 1 and Tier 2 (Chapter 238) members.
- The City will pay (“pick up”) the six percent Individual Account Plan (IAP) contribution on applicable employees’ behalf similar to how the City currently pays the seven percent employee contribution to the City’s Defined Benefit Plan.

PERS sent a draft coverage agreement for the City to review. Staff, the City Attorney’s Office, and the City’s retirement plan attorney reviewed the draft agreement. The City requested minor modifications which were made by PERS. The attorneys reviewed the revised version and have approved the language that is being presented for Council consideration tonight. The terms of the proposed coverage agreement complies with the terms approved by the Council in its resolution of intent to join PERS.

The key points in the agreement being considered tonight are:

- The City understands and agrees that its election to participate in PERS is irrevocable for its eligible employees.
- Police officers and firefighters hired after the effective coverage date, most likely February 1, 2016, will go into PERS. They will go into PERS at their level of eligibility for PERS coverage.
- The City will have the following initial employer contribution rates of eligible salary: 1) Oregon Public Service Retirement Plan (OPSRP) – 12.65%; and 2) Tier 1 and Tier 2 – 17.79%.
- The City agrees to pay the Individual Account Plan (IAP) contribution on behalf of PERS-covered employees. The City pays the employee retirement contribution in its own retirement plan.
- The City will not participate in the State & Local Government Rate Pool for Tier 1 and Tier 2 employees.
- For Tier 1 and Tier 2 employees, the City elects to participate in the sick leave conversion program at retirement. The City has a sick leave conversion program at retirement in its own defined benefit plan.

If the agreement is approved by both parties, the City will have its first PERS-eligible employee commence employment once the coverage agreement is effective. The City will also amend its own defined benefit plan provisions to exclude from coverage employees who will be going into PERS.

FISCAL IMPACT: As stated in the October 30, 2015, staff report on the resolution to allow staff to negotiate with PERS, the fiscal impact is difficult to determine. How fast eligible employees turn over and the financial performance of both plans will affect the fiscal impact over time. The decision to move these employees to PERS is a calculated risk that PERS will be better able to control costs over the long-term. The initial PERS OPSRP rate will be 12.65% compared to 17.3% for the City's current defined contribution rate. In March 2016, City staff and its retirement actuaries will be discussing actuarial changes which could significantly increase the costs of the City's defined benefit retirement plan.

STAFF RECOMMENDATION: Staff recommends that the Council approve the PERS coverage agreement and authorize the City Manager to sign the agreement.

ATTACHMENT(s): Oregon Public Service Retirement Plan Coverage Agreement