

RESOLUTION NO. 2635

A RESOLUTION DESIGNATING ALL CITY EMPLOYEES PERS REQUIRED 6% INDIVIDUAL ACCOUNT PROGRAM EMPLOYEE CONTRIBUTIONS AS MEMBER PAID PRE-TAX CONTRIBUTIONS.

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. That the Oregon State Legislature has established the Public Employees Retirement System (PERS) and the Oregon Public Service Retirement Plan (OPSRP), through the Oregon Revised Statutes (ORS) Chapters 238 and 238A.
2. That the Legislature has established and authorized the Public Employees Retirement Board (Board) to operate the PERS system as provided in ORS Chapters 238 and 238A, and to adopt Oregon Administrative Rules (OAR) and to take all actions necessary to maintain qualification of the Public Employees Retirement System and the Public Employees Retirement Fund as a qualified governmental retirement plan and trust under the Internal Revenue Code (IRC) and regulations.
3. That the City of Troutdale, in December 2005 through Resolution No. 1788, joined the PERS State and Local Government Rate Pool as a participating public employer.
4. That Legislature established as a part of OPSRP, the individual account program (IAP) which requires employee contributions of 6% of the member's salary, pursuant to ORS 238A.330(1) and 238.200(1)(a).
5. That the City, beginning in July 2009, by the union collective bargaining agreement (CBA) through Resolution No. 2019, and adopted employment policies, has paid the required employee 6% IAP contributions designated as Employer Paid Pre-Tax (EPPT) contributions, per OAR 459-009-0200(1).
6. That by Resolution No. 2633 on August 27, 2024 the City adopted a new CBA which included changing the EPPT 6% IAP contributions to, Member Paid Pre-Tax (MPPT), per OAR 459-009-0200(3), and withholding 6% from employee gross salaries each pay cycle.
7. That the Internal Revenue Code (IRC) section 414(h)(2) provides for employee contributions to a public employer pension plan may be "picked up" on a pre-tax basis by the public employer and excluded from employee gross income as related to federal tax policy.

8. That a resolution, required by PERS to designate the 6% IAP required employee contributions as Member Paid Pre-Tax contributions, will serve a valuable, necessary and authorized public purpose, and that doing so is in the best interest of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE:

Section 1. The City shall withhold the full amount of the statutorily required OPSRP individual account program (IAP) employee contributions of 6% of the employee's salary from the gross pay of each IAP eligible employee and the City shall remit the withholdings to PERS as Member Paid Pre-Tax (MPPT) contributions per OAR 459-009-0200(3)(a)(B) & (3)(c).

Section 2. The MPPT required employee contributions shall include all City employees both represented and non-represented who are or become members of PERS, and shall exclude rehired working PERS retirees and employees who have not yet obtained PERS membership, per OAR 459-009-0200(3)(d).

Section 3. For the limited purposes of Internal Revenue Code (IRC) § 414(h)(2) and any related federal or state tax policies, the IAP eligible employee's MPPT contribution shall hereby be designated as "picked up" by the City, as the term "picks up" is used in the IRC, such that the contributions are treated as public employer contributions pursuant to IRC Section 414(h)(2) and excluded from an employee's gross income as related to federal tax policy.

Section 4. Employees shall not be entitled to any option of choosing to receive the IAP required contribution amounts directly instead of having them withheld and remitted by the City as MPPT, on behalf of its employees to PERS per OAR 459-009-0200(3)(a)(A). All contributions shall be remitted by the City directly to PERS.

Section 5. The full amount of the 6% IAP required employee contributions "picked-up" and remitted by the City on behalf of employees pursuant to this agreement shall be considered as "salary" within the meaning of ORS 238.005(26)(a) and 238A.005(17).

Section 6. The MPPT picked-up member contributions shall be treated as employer contributions for the purpose of determining tax treatment under the IRC. MPPT contributions picked-up shall not be included in the employee's gross income for tax purposes until such time as the picked-up contributions are distributed in retirement, or by another PERS authorized manner.

Section 7. The City shall compute and remit the IAP required employee contributions to PERS based upon the employee's total salary each pay cycle, and the MPPT contribution amounts shall be subject to Social Security and Medicare tax (FICA).

Section 8. Upon implementation of MPPT the City shall discontinue directly paying the 6% IAP contribution as EPPT and shall increase the wage scale in each pay range and in each step of the pay range by 6%.

Section 9. Any affected employee, on the date that this resolution is adopted, who is not then a member of PERS, shall not immediately receive the 6% wage scale increase, and instead, the employee's pay shall be increased when the employee qualifies to become a member of PERS subject to the required IAP employee contributions.

Section 10. Amounts remitted by the City as MPPT for the picked up IAP contribution shall be paid from the same sources of funds as used in paying salary.

Section 11. The MPPT contributions to PERS shall be treated for all other purposes as employee contributions.

Section 12. The City Manager, Ray Young, and City Personnel Officer and Finance Director, Erich Mueller, (each a "City Official") are designated, or a designee of the City Official, to act on behalf of the City, and without further action by the City Council, are hereby authorized, empowered and directed to take any and all other required and necessary actions to implement the intent of this resolution.

Section 13. Further, as applicable, to comply with State statutes, administrative rules or local ordinances, and to act in the best interest of the City, and without further action by the City Council, the City Officials are hereby authorized, directed, and responsible for fulfilling the ministerial, intergovernmental, technical, compliance, procedural or promotional functions as required for the effective administration and implementation of this resolution, and to take any other action as may be advisable, convenient, necessary, or appropriate, and the execution thereof by any such City Official shall be conclusive as to such determination.

Section 14. The Finance Director is authorized to disburse funds, subject to annual appropriations, as necessary to fulfill the intent of this resolution, and is further directed to implement all such actions necessary to ensure budgetary compliance.

Section 15. The effective date of the pick-up of employee required contributions by the City shall not be retroactive in its application in accordance with OAR 459-009-0200(3)(a)(C), and shall apply beginning with the wages earned in the pay period starting September 2, 2024.

Section 16. This Resolution shall take effect immediately upon adoption.

YEAS: 5
NAYS: 0
ABSTAINED: 0



Randy Lauer, Mayor
Date: August 28, 2024



Kenda Rimes, Deputy City Recorder
Adopted: August 27, 2024