




500 West Big Beaver
Troy, MI 48084
troymi.gov

CITY COUNCIL AGENDA ITEM

Date: February 18, 2020 

To: Honorable Mayor and Troy City Council Members

From: Mark F. Miller, City Manager
Lori Grigg Bluhm, City Attorney
Robert Maleszyk, Chief Financial Officer
Jeanette Menig, Human Resources Director
David Roberts, Fire Chief

Subject: Changes to Volunteer Firefighters Incentive Program

History

Prior to 2016, the Troy City Council passed resolutions, setting an annual amount that would be multiplied by years of service as a deferred incentive plan for City of Troy volunteer firefighters. In 2016, based on requests from the volunteer firefighters, City Council approved a Trust and an Incentive Plan which, upon information and belief, is unique and similar plans and amounts are not used in any other volunteer or paid-on-call fire department. However, the City of Troy wanted to demonstrate its appreciation for the dedication and commitment of our volunteer firefighters, and provided very generous benefits.

The trust and plan are based on Section 115 of the Internal Revenue Code, and patterned after the City's Retiree Health Care Trust. With a trust, the amounts set aside in the trust can only be used to pay the length of service benefits, in accordance with the incentive plan, which provided greater protection. Additionally, investment income could be realized through a trust.

Due to the unique nature of Troy's proposed volunteer firefighter trust and incentive plan, the City sought guidance from the Internal Revenue Service before approving the documents. This plan provides significantly greater benefits than the IRS provision that expressly allows for up to \$6,000 in deferred compensation for volunteer firefighters under Section 457 (e)(110), which is adjusted by the CPI increases. In order to comply with the IRS regulations, there must be a "risk of forfeiture." This is why the trust was drafted to provide ONLY the Troy City Council with the option of amending or terminating the Trust and/or the Plan (Section 1:107). As authorized under the Code, the Troy City Council has the ability, but not the responsibility, to increase or decrease the annual amounts for the length of service plan.

When the Trust and Plan were adopted in 2016, the Troy City Council increased the annual amounts through a resolution that provided increases through July 1, 2018. Although the volunteer firefighters requested an increase effective as of July 1, 2019, this was unavoidably temporarily put on hold. To avoid this situation in the future, the proposed Amended Plan automatically incorporates an annual CPI increase for the plan, and City Council asked that this be retroactive to July 1, 2019.



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City Administration has met with representatives from each of the fire stations, worked to understand their interests, and obtained their recommendation for financial increases to the benefit, which included more than a CPI increase. Upon information and belief, the volunteer firefighters have also met with individual City Council members, requesting greater annual increases than the CPI increase. Upon information and belief, the volunteer firefighters are relying on financial projections that they proposed in 2016. These proposed increases were not vetted by City Administration or City Council, however.

Of course, City Council retains the authority to amend the Incentive Plan for Volunteer Firefighters, and could increase the annual amounts above CPI increases. City Administration has not requested our actuaries perform any additional work, since there is a cost for this additional work, and City Administration feels very strongly that the Incentive Plan should be approved as proposed. It should also be noted that the proposed Amended Plan includes an additional incentive for those members serving as station officers; provides credit for partial months served; adds an option for surviving spouses to receive incentive benefits; and clarifies some of the language.

Financial

City Administration is concerned that a commitment to increases greater than the CPI, as requested by the volunteer firefighters, could result in a significant financial hardship, especially since the City's income is essentially tied to the CPI. City Administration is charged with presenting a proposed budget for Troy City Council consideration. The CPI increases that are incorporated into the Amended Plan are already expected to cost approximately \$415,000, thereby increasing the Fire Department's operating budget by 7.5%, and will reduce the funded ratio of the Plan from 54.5 % funded to 48.3%. Any increase over and above this amount will also shift the funded ratio, and must also be balanced against other City needs, such as additional employees to provide desired City services or desired capital expenditures. Additionally, City Administration is concerned about providing bargaining powers to the volunteer firefighters, and/or removing the status as a "volunteer" as a result of the amounts paid through this plan and also provided to each station.

Recommendation

Approval of the Amended Plan, as proposed by City Administration for City Council action, expresses appreciation for the dedication and commitment of our firefighters and addresses their concerns, while being fiscally responsible.

City Administration recommends approval of the attached Amended City of Troy Incentive Plan For Volunteer Firefighters.

AMENDED CITY OF TROY INCENTIVE PLAN FOR VOLUNTEER FIREFIGHTERS

Chapter 1. **GENERAL PROVISIONS**

1:100. Establishment and Purpose.

This City of Troy Incentive Plan for Volunteer Firefighters is hereby restated, as amended, for the purpose of providing length of service incentive benefits for the City of Troy volunteer firefighters.

1:101. Short Title.

This Plan may be known and cited as the City of Troy Incentive Plan for Volunteer Firefighters ("Plan").

1:102. Definitions.

For the purposes of this Plan, the following words shall have the meanings respectively ascribed to them by this section:

- (1) *Annual Benefit Amount* means the annual dollar amount of the length of service incentive benefits which may be payable from the Plan to eligible Former Participants, as amended from time to time by City Council via a budget appropriations resolution.
- (2) *Break in service* shall mean an unapproved leave of absence or termination of service as a volunteer firefighter lasting more than one (1) year.
- (3) *City* means the City of Troy, Michigan.
- (4) *City Council* means the City Council of the City of Troy, Michigan.
- (5) *Code* means the Internal Revenue Code of 1986, as amended. Reference to any section or subsection of the Code includes reference to any comparable or succeeding provision of any legislation which amends or replaces such section or subsection and any regulations thereto.
- (6) *Contribution(s)* means the payments made to the Trust by the City for the purpose of providing length of service based incentive benefits to Former Participants and beneficiaries covered by the Plan.
- (7) *Deferred Former Participant* means a former volunteer firefighter and Former Participant who has ten (10) or more years of incentive service as a volunteer firefighter for the City, but has not reached the requisite age requirement for commencement of benefits from the Plan.
- (8) *Eligible Former Participant* means an individual who is (a) an active volunteer firefighter, who upon attaining eligibility, elected to commence receipt of incentive

benefits and is therefore no longer entitled to further benefit accruals under the provisions of this Plan; (b) a former volunteer firefighter, who upon termination of volunteer service was eligible for, and elected to commence receipt, of incentive benefits from the Plan; (c) a former volunteer firefighter, who is eligible for incentive benefits from the Plan but has not yet elected to commence receipt of incentive benefits from the Plan; or (d) a Deferred Former Participant.

- (9) *Incentive Service Credit* means personal service rendered to the City as a volunteer firefighter and credited to a Participant in accordance with the Plan.
- (10) *Ineligible Former Participant* shall mean an individual who ceases to be an active volunteer firefighter prior to attainment of eligibility for incentive benefits under the provisions of this Plan.
- (11) *Participant* means an individual who is an active volunteer firefighter eligible for benefit accruals under the provisions of the Plan and who has not elected to commence receipt of benefits under the terms of the Plan.
- (12) *Plan* means the City of Troy Incentive Plan for Volunteer Firefighters established by Ordinance as provided herein. A description of the incentive benefits provided to Eligible Former Participants, spouses and dependents under the Plan is maintained by the Plan Administrator.
- (13) *Plan Administrator* means the person, persons, firm, corporation or insurance company or companies, appointed by the City to administer the Plan. The Plan Administrator shall be responsible for the day-to-day operations of the Plan and shall carry out the directives of the City and the Board of Trustees.
- (14) *Service* shall mean personal service rendered to the City of Troy as a volunteer firefighter.
- (15) *Spouse* means a Participant's or Eligible Former Participant's spouse by legal marriage who is the Participant's or Eligible Former Participant's spouse on the earlier of the date the Participant terminates from volunteering with the City or elects to commence receipt of incentive benefits from the Plan.
- (16) *Station Officer* means a *Participant* who serves as Station Assistant Chief; Station Captain; or Station Lieutenant.
- (17) *Trust* means the City of Troy Incentive Trust for Volunteer Firefighters as established pursuant to the declaration of trust approved by the City Council and as may be amended from time to time.
- (18) *Trustee(s)* or *Board* means the Board of Trustees of the Trust or a member of the Board of Trustees of the Trust as provided for in the Trust.
- (19) *Voluntary Incentive Committee* means a committee comprised of representatives selected by each of the six fire stations in the City.

1:103. Interpretation and law; Construction.

- (1) The Plan is hereby established and shall be administered consistent with applicable Federal and Michigan law, including, but not limited to the Public Employee Retirement System Investment Act, Public Act 314 of 1965, as amended (MCL §38.1132 et seq.).
- (2) The establishment of this Plan, any modification thereof, the creation of any fund or account, or the payment of any benefits, shall not be construed as giving to any person covered under the Plan, or any other person, any legal or equitable right against the City, its elected or appointed officials or employees, the Trustees or any individual Trustee, except as may otherwise be provided in this Plan document.
- (3) The headings and subheadings in this Plan are inserted for convenience of reference only and are not to be considered in the construction of any provision of the Plan.
- (4) Words herein in the masculine gender shall be construed to include the feminine gender where appropriate, and words used herein in the singular or plural shall be construed as being in the plural or singular where appropriate.
- (5) In resolving any conflict among provisions of this Plan or any uncertainty as to the meaning or intention of any provision of this Plan, the interpretation that causes both the Trust to be exempt from tax and the Trust to comply with all applicable requirements of the Code shall prevail over any different interpretation.
- (6) This Plan shall be binding upon all Participants and Eligible Former Participants under the Plan, or their applicable heirs, executors, administrators, successors, and assigns.

1:104. Administrative Regulations.

The provisions of this Plan are subject to relevant provisions of any administrative regulations that the City may have for volunteer firefighters and any volunteer service contracts between the City and an individual Participant, if any. The provisions of any administrative regulations or service contracts for volunteer firefighters relative to incentive benefits are controlling in the event of a conflict between the terms of the administrative regulations or applicable service contract and the Plan.

1:105. Notice.

Notice given to all interested parties shall, unless otherwise specified in this Plan, be sufficient if in writing and delivered or sent by prepaid first class mail. Except as otherwise noted, the distribution or delivery of any statements or documents required under the Plan shall be sufficient if delivered in person or prepaid first class mail.

1:106. Reporting and Disclosure.

The Plan Administrator shall complete and provide to Participants, Eligible Former Participants, Spouses and Dependents, and to the appropriate government agencies any reports as may be required by the Code, applicable federal, state or local law.

1:107. Amendment and Termination.

- (1) The provisions of the Plan may be amended at any time by the City Council in accordance with applicable law. The Voluntary Incentive Committee will be notified at least thirty (30) days in advance that a proposed amendment or revision will be submitted to the City Council for consideration. The City Council shall hold a public hearing prior to any action to reduce Plan benefits or terminate the Plan.
- (2) The City reserves the right to modify or terminate the Plan and/or the benefits payable under the Plan at any time in its sole discretion after the requisite public hearing. Such a termination shall not affect the amount of any incentive payments made prior to the effective date of termination of the Plan or incentive payments otherwise payable at the time of such termination for which assets remain in the Trust. The Voluntary Incentive Committee will be notified at least ninety (90) days in advance that a proposed Plan termination will be submitted to the City Council for consideration.

Chapter 2.
INCENTIVE PLAN FOR VOLUNTEER FIREFIGHTERS

1:200. Participation.

- (1) Except as otherwise provided herein, each active volunteer firefighter of the City shall be a Participant in the Plan.
- (2) Participation shall terminate upon the earlier of termination of duties as a volunteer firefighter or commencement of incentive benefits under the provisions of this Plan.

1:201. Service Credit.

- (1) A Participant shall be credited with one month of incentive service credit for each calendar month the Participant is an active volunteer firefighter and meets or exceeds the attendance requirements as identified in the Troy Fire Department Policy Directive 103.07 provided that ten (10) or more days of service are rendered by the Participant for that calendar month. Service shall be totaled in years and months.
- (2) For each full month of station officer service starting July 1, 2020, active volunteer firefighters who serve as a station officer shall be credited with 1.3 months of service. This 1.3 multiplier shall only be used as a means to calculate the incentive benefits once the participant is eligible to receive incentive benefits in accordance with Section 1:202(2).
- (3) Should any Participant cease to be an active volunteer firefighter prior to attaining ten (10) or more years of continuous service as a volunteer firefighter, he or she shall immediately cease to be a Participant in this Plan and all incentive service credit shall be forfeited, unless otherwise provided herein.
- (4) Incentive service credit shall be restored to an Ineligible Former Participant upon returning to active duty as a volunteer firefighter within five (5) years from the date he or she ceased to be an active volunteer firefighter, and so long as he/she remains an active volunteer firefighter and a Participant in the Plan for five (5) consecutive years after returning to active service. In the event an Ineligible Former Participant returns to service as an active volunteer firefighter after a break in service lasting five (5) or more

years, incentive service credit shall be restored upon remaining an active volunteer firefighter and a Participant in the Plan for ten (10) consecutive years after returning to service.

- (5) In the event a Deferred Former Participant returns to service as an active volunteer firefighter, prior incentive service credit shall not be combined with new incentive service credit until after returning for five (5) consecutive years of active service as a volunteer firefighter. Payments will be in accordance with Section 1:202.

1:202. Benefits.

- (1) An eligible Participant or Eligible Former Participant, upon written application filed with the Board of Trustees and the receipt of approval, shall be paid incentive benefits pursuant to the provisions of this Plan. The incentive benefits due an eligible Participant or Eligible Former Participant shall be determined at the time he or she terminates participation, as provided in the Plan. Credited service under Section 1.201 shall be combined for benefit eligibility purposes only after a Participant's return to active service as a volunteer firefighter for five (5) consecutive years.
- (2) Except as otherwise set forth in the Plan, a Participant shall be eligible for incentive benefit payments upon his termination of Participation in the Plan and satisfaction of the following eligibility criteria as may be amended from time to time by resolution of City Council:
 - (a) Ten (10) years of incentive service credit with at least five consecutive years as a participant after returning (if applicable), and is at least age fifty-five (55);
 - (b) Twenty-five (25) or more years of incentive service credit as a volunteer firefighter with at least five consecutive years as a participant after returning (if applicable) and has attained fifty (50) years of age; or
 - (c) A Participant having attained thirty (30) years of incentive service credit as a volunteer firefighter regardless of age, with at least five consecutive years as a participant after returning (if applicable).
- (3) Eligible Former Participants with ten (10) or more years of service as a volunteer firefighter, but who separated from volunteer service prior to meeting the foregoing age requirements, are eligible to commence receipt of incentive benefit payments from the Plan upon attainment of age sixty (60).
- (4) Incentive benefits shall be made in monthly installments on the last day of each month during the life of the Eligible Former Participant.
- (5) Effective July 1, 2020, the amended annual incentive benefit shall be equal to \$ 819, multiplied by the eligible years of service. This annual benefit amount shall be positively adjusted for each subsequent fiscal year by the percentage change in the Consumer Price Index (for the Metropolitan Detroit/Ann Arbor area), as published by the U.S. Bureau of Labor Standards, or its successor index ("CPI"), as of June 30 of the preceding fiscal year. However, in no event shall any annual adjustment exceed a maximum increase of 5%, and there shall be no negative adjustment. The amount may also be amended from time to time by a City Council budget appropriations resolution. In the event a Deferred

Former Participant separates from service as an active volunteer firefighter prior to attaining immediate eligibility for incentive benefit payments under this Plan, he or she shall be entitled to an annual incentive benefit calculated in accordance with the provisions of this Plan in effect at the time of said Deferred Former Participant's separation from service as an active volunteer firefighter.

- (6) In the event a Participant has one or more breaks in service, incentive benefits payable under this Plan shall be calculated in accordance with the provisions of the Plan in effect at the time of each separation of service as an active volunteer firefighter.
- (7) Prior to the date of the first incentive benefit payment, but not thereafter, a Participant or an Eligible Former Participant may elect to receive his incentive benefits payable throughout his life, or receive his incentive benefits in a reduced amount payable throughout his life, and nominate a beneficiary, in accordance with one of the Options as set forth below:

Option A: 100% Joint and Survivor: Upon the death of an Eligible Former Participant, who elected Option A, his reduced incentive payment shall be continued throughout the life of and paid to such person having an insurable interest in his life, as he shall have nominated; or

Option B: 50% Joint and Survivor: Upon the death of an Eligible Former Participant, who elected Option B, one-half of his reduced incentive benefits shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated.

Option C: 100 % Joint and Survivor Pension w/ Pop-up (Pop-up Option A): Upon the death of an Eligible Former Participant who elected Option C, his reduced incentive benefits shall be continued through the life and paid to such person having an insurable interest in his life, as he shall have nominated. If the selected beneficiary predeceases the Eligible Former Participant, the incentive benefits shall revert to a straight-life payment payable throughout the remainder of the Eligible Former Participant's life.

Option D: 50% Modified Joint and Survivor Pension with Pop-up (Pop-up Option B): Upon the death of an Eligible Former Participant who elected Option D, one-half of his reduced incentive benefits shall be continued throughout the life of and paid to such person having an insurable interest in his life, as he shall have nominated. If the selected beneficiary predeceases the Eligible Former Participant, the incentive benefits shall revert to a straight-life payment payable throughout the remainder of the Eligible Former Participant's life.

- (8) In the event a Participant dies who has ten or more years of incentive service, his Spouse shall receive an incentive benefit computed in the same manner in all respects as if the Participant had terminated Participation on the day preceding his death, elected Option A, and nominated his Spouse as beneficiary. In the event a Deferred Former Participant dies who has ten or more years of incentive service, his Spouse shall immediately receive an incentive benefit computed in the same manner in all respects as if the Deferred Former Participant was a Participant who terminated Participation on the day preceding his death,

elected Option A, and nominated his Spouse as beneficiary. The beneficiary is not required to meet any additional eligibility requirements, such as reaching age 60. In the event there is no surviving Spouse and the Participant or Deferred Former Participant is survived by one or more legally recognized children, a lump sum equal to 60% of the actuarial present value of the accrued annual incentive benefit shall be payable to the Participant's or Deferred Former Participant's designated legal representative. If there is no surviving spouse or children or designated legal representative, then this lump sum amount shall be paid to his/her estate.

1:203. Miscellaneous.

- (1) Each Participant and Eligible Former Participant shall be deemed to have assented to the terms and conditions of the Plan. An individual may not sell, assign or hypothecate, in any manner, all or any part of the individual's potential payments under the Plan.
- (2) Nothing in this Plan shall in any way affect the rights of the City or a Participant to terminate the volunteer firefighter relationship between them.

IN WITNESS WHEREOF, this document has been signed and sealed on behalf of the City of Troy by its duly authorized officers, on this ____ day of _____, 2020.

CITY OF TROY

BY: _____

ITS: _____

BY: _____

ITS: _____