



500 West Big Beaver  
Troy, MI 48084  
troymi.gov



Date: April 13, 2023  
To: Honorable Mayor and City Council Members  
From: Mark F. Miller, City Manager  
Lori Grigg Bluhm, City Attorney  
Subject: Volunteer Firefighter Incentive Plan (VFIP) Termination

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### **Background**

The City of Troy has been very fortunate to have a dedicated and professional volunteer fire department serving since the City's incorporation. As an expression of appreciation for the hours spent in training and responding to fires, the City created an "Incentive Plan for Volunteer Firefighters" (Plan) on July 1, 1980. At the request of the volunteer firefighters, that plan, with its subsequent amendments, was modified to create a new trust that would segregate and preserve the City's annual budgetary deposits in order to fund actual and expected incentive payments for the City's volunteer firefighters. This new trust and plan was modeled after the City's recently created Retiree Health Care Trust, allowable under Section 115 of the Internal Revenue Code (IRC). It was drafted by the same outside legal counsel, and approved by the Troy City Council on August 25, 2014, City Council Resolution #2014-08-110. Since the trust was so unique, and was intended to produce income, the City pursued a Private Letter Ruling (PLR) from the IRS, asking for a confirmation that the Trust's income was excludable from gross income under IRC section 115. The plan was outside the scope of an official PLR request.

Based on the IRS's conclusions, the Troy City Council approved an amended Plan and a Trust (two separate documents) on April 4, 2016, City Council Resolution #2016-04-062. .

At the request of the volunteer firefighters, the Plan was most recently amended on February 24, 2020, to incorporate a CPI increase for the annual incentive payments and to include additional consideration for station officers (Resolution 2020-02-044).

The Plan (as amended) was specially intended to comply with IRC section 457(e)(11)(B)(ii), as a Length of Service Plan ("LOSAP") that specifically allows municipalities to provide certain benefits to volunteer firefighters. However, in late 2022, the IRS, as part of an audit of the City, determined the Plan exceeds the allowable LOSAP contribution levels, based on its determination that the calculation is based on cumulative, rather than annual amounts and also is based on the present value. As a result, the IRS has determined that the Plan is not a LOSAP as intended and therefore has undesirable tax consequences for both the volunteer firefighters and the City.

Based on the complexity of this issue, and the uniqueness of Troy's Plan and Trust, the City hired Miller Canfield as its outside legal counsel in conjunction with the audit, and with its assistance, the City made extensive efforts to challenge the IRS determination. Unfortunately, these extensive efforts were unsuccessful in changing the IRS's characterization of the Plan. After extensive analysis, due diligence and research, City Administration recommends that the Plan be terminated and a replacement incentive



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plan (“Replacement Plan”) be established to continue retaining and rewarding volunteer firefighters. Section 1:107 of the Current Plan requires the City to provide at least 90 days notice to the Voluntary Incentive Committee, which is a Committee that was established under the Plan Plan, with one designated volunteer selected from each of the six fire stations. This notice was given to the Committee and Station Leadership on January 11, 2023. The City also provided notification to the individual volunteers and retirees, and also placed this information and FAQs on the City’s homepage on its website. City representatives have also continued to regularly meet with the designated Volunteer Incentive Committee and exchange information related to the transition process.

Under the current Plan, the City is required to hold a public hearing before terminating the Plan. After a formal resolution terminating the Plan, the City will exhaust all money segregated in the Trust, as required by the Plan, to provide lump sum payments to each vested volunteer firefighter and retiree for their service. Based on the calculations of an independent actuary, the amounts held in reserve in the Trust are insufficient to satisfy the actuarial determined amounts, and therefore the City will also be contributing a substantial amount from the General Fund to cover the remaining payments to vested volunteers and retirees, and also to pay the otherwise unvested active volunteers in accordance with their service under the Current Plan. The City has also prepared a proposed Replacement Plan for the volunteer firefighters, which will be considered as a regular agenda item, since there is no formal public hearing required for this action.

**Recommendation**

Terminate the Current Plan in accordance with section 1:107 of the Plan.

**CITY OF TROY INCENTIVE PLAN  
FOR VOLUNTEER FIREFIGHTERS**

**TERMINATION AMENDMENT**

This Amendment is intended to terminate the City of Troy Incentive Plan for Volunteer Firefighters (the “Plan”) and provide for a lump sum distribution to vested participants in conjunction with such Plan termination.

**PLAN TERMINATION AND VESTING OF ACCRUED INCENTIVE BENEFITS:**

The Plan is terminated effective April 30, 2023 (“Termination Date”). All Participants actively performing volunteer firefighter services as of the Termination Date shall be deemed vested in their accrued incentive benefits as of the Termination Date (even if they do not have 10 or more years of incentive service credit as of the Termination Date).

**LUMP SUM PAYMENT OF ACCRUED INCENTIVE BENEFITS IN CONJUNCTION WITH PLAN TERMINATION**

1. Section 1:202 of the Plan is amended, effective April 30, 2023, to add a new Subsection (9) to read as follows:

- (9) In conjunction with Plan termination, a Participant shall receive his or her entire vested incentive benefit in a lump sum payment in an amount equal to the actuarial present value of the accrued incentive benefit (or, in the case of a Participant whose benefit commenced prior to Plan termination, the actuarial present value of his or her remaining monthly payments) as soon as administratively feasible after the Termination Date.

**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 April, 2023.

**CITY OF TROY**

By: \_\_\_\_\_  
Ethan Baker, Mayor

By: \_\_\_\_\_  
M. Aileen Dickson, City Clerk