

RESOLUTION No. 2016-3310

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE OREGON PUBLIC SERVICE RETIREMENT PLAN COVERAGE AGREEMENT FOR PARTICIPATION IN THE PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS) FOR ALL ELIGIBLE NON-REPRESENTED EMPLOYEES HIRED ON OR AFTER AUGUST 1, 2016

RECITALS:

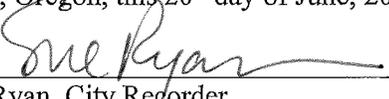
1. The City Council Sub-Committee on Pensions met and discussed the growing fiduciary responsibilities and projected significant cost increases placed on the City because of the organization's participation in the Newberg Employee Retirement Plan (NERPS) with the Principal Finance Group. The Sub-Committee agreed that a change was warranted in the provider of retirement benefits for eligible Non-Represented and AFSCME-Represented Public Works employees and recommended that the City Council approve said change. At the May 16, Council Meeting, by Resolution 2016-3292, approval was given to the City Manager Pro Tem to initiate the process of participation in the Public Employees Retirement System (PERS) for all eligible Non-Represented employees.
2. Funding: Funding for contributions into the existing NERPS retirement plan for Non-Represented employees is included in the adopted FY 2016-2017 budget at 29.32% under the appropriate benefit line; some of these funds will be used to cover contributions to PERS.
3. The Mayor is authorized to execute the Oregon Public Service Retirement Plan Coverage Agreement, attached as Exhibit A, for participation in the Public Employees Retirement System (PERS) for all eligible Non-Represented Employees Hired on or After August 1, 2016 of participation in the Public Employees Retirement System (PERS) for all eligible Non-Represented employees.

THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

The City Council authorizes the Mayor to execute the Oregon Public Service Retirement Plan Coverage Agreement, attached as Exhibit A, for participation in the Public Employees Retirement System (PERS) for all eligible Non-Represented employees hired on or after August 1, 2016.

- **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: June 21, 2016.

ADOPTED by the City Council of the City of Newberg, Oregon, this 20th day of June, 2016.


Sue Ryan, City Recorder

ATTESTED by Mayor this 22nd day of June, 2016.

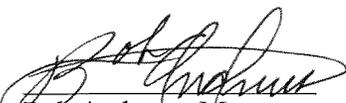

Bob Andrews, Mayor

EXHIBIT A

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 NEWBERG (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.

WHEREAS, effective June 21, 1993, the City and PERS entered an agreement pursuant to *former* ORS 237.031, in which the City agreed to participate in PERS with respect to any person employed by the City in a position classified as a department head, middle manager, or technical position ("the 1993 Agreement");

WHEREAS, effective July 1, 1994, the City and PERS entered a further agreement pursuant to *former* ORS 237.031, in which the City agreed to participate in PERS with respect to any person employed by the City in a position classified as "police service" ("the 1994 Agreement");

WHEREAS, on May 16, 2016, the City adopted Resolution 2016-3292, by which the City announced its intention to participate in PERS for "all eligible Non-Represented employees" hired on or after August 1, 2016;

WHEREAS, Resolution 2016-3292 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 is a participant 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 the employees who will become PERS members under this coverage agreement, and reduce employee compensation to generate the contributions, pursuant to ORS 238A.335(2)(a);

THEREFORE, the parties agree that:

- (1) As used in this agreement, the term "Eligible City Employee" shall mean any City Non-Represented employee who is hired by the City on or after August 1, 2016, 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), and is not covered by the 1993 Agreement or the 1994 Agreement.
- (2) As of the effective date of this agreement, the City elects to participate 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, with respect to its

Eligible City Employees. The City understands and agrees that its election to participate in PERS is irrevocable.

- (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 general service, the initial employer contribution rate shall be 7.11 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 general service, if any, the City shall have the initial employer contribution rate of 15.09 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 2016-3292, the City hereby agrees to pay those IAP contributions on behalf of Eligible City Employees, and reduce employee compensation in order to generate the funds needed to make those contributions, under ORS 238A.335(2)(a). 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 adequate written notification of the change. For purposes of this section, "salary" is defined in ORS 238A.005(17).

- (7) The City currently participates in the State & Local Government Rate Pool. Nothing in this coverage agreement affects that participation status.
- (8) In accordance with Resolution 2016-3292, Eligible City Employees who have established membership in PERS under ORS 238.015 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 **August 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 Newberg this 23rd day of June, 2016.

By 
Bob Andrews, Mayor
City of Newberg

For the Oregon Public Employees Retirement System this _____ day of _____, 2016.

By _____
Steve Rodeman, Executive Director Oregon
Public Employees Retirement System

For the Oregon Public Employees Retirement Board this _____ day of _____, 2016.

By _____
John Thomas, Chair
Oregon Public Employees Retirement Board

Approved as to form _____
Assistant Attorney General