

January 20, 2023

**FREQUENTLY ASKED QUESTIONS (FAQs)
REGARDING VOLUNTEER FIREFIGHTERS INCENTIVE PLAN TRANSITION**

On January 11, 2023, the City of Troy (“City”) announced its intent and provided official notice to the Voluntary Incentive Committee of its intent to close out the current City of Troy Incentive Plan for Volunteer Firefighters (“Current VFIP”) and associated City of Troy Incentive Trust for Volunteer Firefighters (“Current Trust”) and establish a replacement firefighters incentive plan and associated trust (“Replacement FIP” or “Replacement Trust”, as applicable). The Current VFIP requires the City to provide the Voluntary Incentive Committee with at least ninety (90) days advance notification that termination will be submitted to the City Council for consideration. During the January 11, 2023 meeting, the City also provided the Voluntary Incentive Committee with a draft of a Replacement FIP to demonstrate the City’s desire to retain current volunteer firefighters and continue to incentivize them for their essential function within the City.

The Internal Revenue Service (“IRS”) recently determined that the Current VFIP is not a length of service award plan (“LOSAP”) (as intended) because the benefits are greater than those allowed by the Internal Revenue Code (“Code”). This means that the Current VFIP has unintended tax consequences for both the volunteer firefighters and the City. The City made extensive efforts to challenge the IRS determination, but those comprehensive efforts were ultimately unsuccessful with respect to altering the IRS’s declaration that the Current VFIP is not a LOSAP. Accordingly, in order to avoid the imposition of unintended tax consequences on the volunteer firefighters and the City, and continue to reward the valuable service of the volunteer firefighters, the City plans to close out the Current VFIP and Current Trust and replace them with a new plan and trust. The process associated with the closeout of the Current VFIP and Current Trust and establishment of a Replacement FIP and Replacement Trust is referred to herein as the “Transition.”

The City created its first volunteer firefighter incentive plan in 1979. Since then, the City and volunteer firefighters have had a long history of cooperation to ensure the incentive plan remains mutually beneficial. The City acknowledges that due to the confidential nature of the IRS audits, the volunteer firefighters were not aware of the City’s efforts to reach an agreement with the IRS until January 11, 2023 (when the Voluntary Incentive Committee was notified of the proposed Current VFIP termination). However, the City is committed to keeping the volunteer firefighters apprised on developments in the Transition process. To this end, the City and the Volunteer Incentive Committee will be meeting next week to discuss the Transition and further explore the terms of a Replacement Plan.

The purpose of this document is to respond to certain questions that have been asked about the Transition, and these FAQs will continue to be updated as additional information (including that related to a Replacement Plan) becomes available.

Section 1 General Questions Regarding the Transition

1.1 Why is the Transition occurring?

The Transition would resolve various tax issues and liabilities associated with the Current VFIP raised by the Internal Revenue Service (“IRS”) during its audits of the City’s tax records. The Current Trust was created to complement the Current VFIP to provide some financial protection for the benefits accrued by the volunteers. The intent of the Current VFIP was to create a tax-exempt length of service award plan (“LOSAP”), but the IRS declared that the incentive plan benefits actually exceed the IRS limit. This has substantial tax consequences on the City and its volunteer firefighters. The City continues to work with the IRS to resolve the outstanding tax issues and liability associated with the Current VFIP. The City’s agreement with the IRS calls for the City to close out the Current VFIP and Current Trust. This closure would require ALL vested participants to be cashed out with lump sum distributions. The City would then adopt a Replacement FIP and a Replacement Trust to incentivize volunteer firefighters for future service.

1.2 Will I lose my previously accrued years of credited service in conjunction with the Transition?

It is intended that Current VFIP active participants will transfer all months and years of credited service to a Replacement FIP. There may be differences in how previously accrued years of credited services are applied in a Replacement FIP between vested and non-vested Current VFIP participants.

Section 2 Questions Related to Lump Sum Distributions from Current VFIP

2.1 Are all of the monthly payments under the Current VFIP ending in conjunction with its closure?

Yes. The resolution with the IRS requires a complete closure of the Current VFIP and Current Trust. A Replacement FIP and Replacement Trust will be created. There is no mechanism for the City to keep open the Current VFIP and provide monthly payments to participants without adverse tax consequences being applied to the volunteer firefighters and the City. The resolution with the IRS requires that lump sum payments be made to all vested participants.

2.2 When will the amount of my lump sum distribution be determined?

The Current VFIP’s independent actuary will prepare a final actuarial valuation for the Current VFIP as of the closing date (“Final Valuation”). This is required before the independent actuary can determine the lump sum payment for each individual vested participant. The independent actuary will use actuarial assumptions approved by the IRS. The City currently anticipates that such values will be available shortly after the Current VFIP closure date.

2.3 How is the amount of my lump sum distribution from the Current VFIP determined?

Once the Final Valuation is published by the independent actuary, the amount of each vested participant's lump sum distribution will be determined by the independent actuary according to actuarial assumptions approved by the IRS. If you are already in pay status (i.e., receiving benefits from the Current VFIP on the day prior to the closure date) your lump sum distribution amount will take into account payments that you have already received from the Current VFIP, but a new actuarial assessment will be made by the independent actuary, based on the assumptions approved by the IRS.

2.4 Can you provide an example of what an individual lump sum distribution might be?

As noted in FAQ 2.3, the amount of a vested individual participant's lump sum distribution will be determined by the independent actuary according to actuarial assumptions approved by the IRS. Such determinations are made solely by the independent actuary based on actuarial science which is tied to various demographics of the specific participant. An example showing a hypothetical lump sum distribution amount for one participant will not necessarily be illustrative for other participants. The following actuarial assumptions have been approved by the IRS for purposes of calculating the lump sum distributions:

- The assumed rate of interest is 6.50%
- The assumed price inflation is 2.50%
- The rate of increase in the benefit amount per year of service is 2.50%
- Changes in Actuarial Accrued Liability are amortized over closed period of 24 years
- Station Officers are assumed to earn approximately 13 years of credited service as a Station Officer at retirement, on average.
- The mortality assumption used is 100% unisex blend of the RP-2000 Mortality Table, projected to the year 2017 using Projection Scale BB, set back 0 years for men and 0 years for women (the same assumptions used by the Current VFIP to calculate the optional forms of payment).

2.5 How accurate is the City's estimate of the aggregate lump sum distributions?

The estimated aggregate amount of the lump sum distributions is based on data available as of the actuarial report for the Current VFIP dated December 31, 2021 (which is the most recent report available). Liabilities between December 31, 2021 and April 30, 2023 will fluctuate based on factors such as vesting, retirements, and deaths. The City does not currently anticipate a drastic change from its current estimate of liabilities, but is intending to pay out all lump sum distributions.

2.6 Will there be a lump sum distribution for beneficiaries of deceased volunteer firefighters?

To the extent that a beneficiary of a vested deceased retired volunteer firefighter is entitled to receive benefits from the Current VFIP, he or she will receive a lump sum distribution in conjunction with the Current VFIP closure.

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2.7 Will the lump sum distribution be subject to tax withholding by the City?

The lump sum distribution will be subject to tax withholding by the City. The City is negotiating with the IRS to have a 10% withholding on all lump sum distributions. Special payouts are generally subject to 25% withholding. There may be additional withholding, including but not limited to employment tax withholding, based on individual circumstances. Each volunteer firefighter will need to work with his or her individual tax advisor to determine the impact of the lump sum distribution on his or her ultimate tax liability.