City of Portland Bureau of Fire and Police Disability and Retirement
Agenda for Regular Meeting – Board of Trustees
City Council Chambers – City Hall
1221 SW Fourth Avenue, 2nd Floor, Portland, Oregon 97204
Tuesday, November 18, 2014 – 1:00 p.m.

ADMINISTRATION
The following consent item(s) are considered to be routine and will be acted upon by the Board in one motion, without discussion, unless a Board member, staff member or the public requests an item be held for discussion.

1 Approval of Minutes – September 23, 2014 Meeting

INTRODUCTION OF VISITORS
PUBLIC COMMENT PERIOD
A sign up sheet for members of the public wishing to make public comments will be available at the meeting. The public comment period will not exceed 30 minutes. Therefore, the Board may limit individual comments to three minutes per person. In addition, a sign up sheet will be available prior to the meeting to allow public members the opportunity to sign up for an agenda item which they wish to provide comment on. When discussion on a specific agenda item is to begin, the public member will be allowed three minutes to provide comments, unless additional time is allowed by the Board.

ACTION ITEMS
1 Resolution No. 496 - Administrative Rule Amendments to Sections 5.7 and 5.8
   o Issue: Amendments to Section 5.7 and 5.8 defining and clarifying “Preexisting Income”.
   o Expected Outcome: Board adopts amendments as proposed by staff.

2 Resolution No. 497 – Amend Piracle, Inc. Contract
   o Issue: Piracle, Inc. contract will expire on November 18, 2014.
   o Expected Outcome: Board adopts amendment to contract to extend term and increase compensation as proposed by staff.

INFORMATION ITEMS
The following information items do not require action by the Board and are solely for informational purposes unless a Board member, staff member or the public requests an item be held for discussion.

1 Managed Health Northwest Contract Amendment
2 Windsor-Ruling Plan Change
3 Proposed 2015 FPDR Board of Trustees Meeting Schedule
4 FPDR Updates
5 Future Meeting Agenda Items
6 FPDR Summary of Expenditures
# 7 Discussion with Legal Counsel Regarding Possible Litigation (Executive Session)
# 8 Discussion with Legal Counsel Regarding Oregon Supreme Court Decision in Miller et al. v. City of Portland (Executive Session)

Copies of materials supplied to the Board before the meeting, except confidential items and those referred to Executive Session, are available for review by the public on the FPDR website at www.portlandonline.com or at the FPDR offices located at: 1800 SW First Avenue, Suite 450, Portland, Oregon 97201

NOTE: If you have a disability that requires any special materials services or assistance call (503) 823-6823 at least 48 hours before the meeting.
*denotes items will be in Executive Session pursuant to ORS 192.660(2)(f) and not open to the public
#denotes items will be in Executive Session pursuant to ORS 192.660(2)(h) and not open to the public
A regular meeting of the Board of Trustees of the Fire and Police Disability and Retirement Fund was called to order on the 23rd day of September 2014 at 1:04 p.m.

Board Members Present Included:

    Mayor Charlie Hales, Chair
    Mr. Jason Lehman, Fire Trustee
    Mr. Robert Foesch, Police Trustee (entered meeting at 1:40 p.m.)
    Mr. Justin Delaney, Citizen Trustee
    Mr. David Dougherty, Citizen Trustee

Also Present Were:

    Mr. Samuel Hutchison, FPDR Director
    Ms. Kimberly Mitchell, FPDR Claims Manager
    Ms. Nancy Hartline, FPDR Finance Manager
    Ms. Sheri Miller, FPDR Sr. Business Systems Analyst
    Ms. Derily Bechthold, Deputy City Attorney
    Mr. Ty Walthers, Retired Fire Member
    Mr. Henry Groepper, Retired Police Member
    Mr. Del Stevens, Retired Fire Member
    Mr. Lorne Dauenhauer, Outside Legal Counsel
    Mr. Ken McGair, Deputy City Attorney
    Mr. Daryl Turner, PPA President
    Mr. Alan Ferschweiler, PFFA President
    Mr. Mike White, PFFA
    Ms. Crystal Viuhkola, Police Liaison
    Mr. Gabe Sansone, Fire Liaison
    Mr. Nelson Hall, Attorney
    Ms. Julie Falender, Attorney
    Police Chief Mike Reese
    Fire Chief Erin Janssens
    (Other unknown audience members)

Mayor Hales called the meeting to order and roll call of the trustees present was taken. Mayor Hales then asked for a motion to approve the minutes.

Mr. Delaney made a motion, which was seconded by Mr. Dougherty and unanimously passed to approve the May 27, 2014 minutes. (Mr. Foesch was absent from the vote).
The following summarized minutes were conducted in public session. There was no portion of the minutes that were in executive session.

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There was no General Public Comment.

**Action Item No. 1 – Resolution No. 491 – Administrative Rule Amendments (Housekeeping)**

Mr. Hutchison explained the housekeeping changes to the Administrative Rules. He stated that the changes related to spacing, pagination, capitalization, section letters, cross-references and spelling and did not impact the meaning of the Administrative Rules. He added that staff, the City Attorney’s Office and the Fire and Police liaisons reviewed the housekeeping changes and had no objections or comment.

Mayor Hales called for a roll call on Resolution No. 491 adopting the housekeeping amendments to the Administrative Rules.

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**Action Item No. 2 – Resolution No. 492 – Administrative Rule Amendments to Section 5.1**

Mr. Hutchison explained that the amended rule to Section 5.1 would allow FPDR staff to make changes to minor errors without having to present those corrections to the Board for approval. He explained that any such housekeeping changes would need to have the unanimous agreement between staff, the liaisons and the City Attorney’s Office. He added that he would notify the Board when housekeeping changes are made and then will publish and distribute the changes. In addition, the Board may rescind any housekeeping changes. Mr. Hutchison also explained that the City of Portland allows the Auditor’s Office to make similar changes to the City Code and the State of Oregon allows their agencies to make housekeeping changes without public notice or hearing.

Mayor Hales called for a roll call on Resolution No. 492 adopting proposed rule 5.1.04(D) to allow staff to make housekeeping changes to the Administrative Rules.
Minutes - Summary

[THE FOLLOWING SUMMARIZED MINUTES WERE CONDUCTED IN PUBLIC SESSION. THERE WAS NO PORTION OF THE MINUTES THAT WERE IN EXECUTIVE SESSION.]

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Action Item No. 3 – Resolution No. 493 – Administrative Rule Amendments to Section 5.2

Mr. Hutchison explained Resolution No. 493 and stated that he wanted to take the resolution adopted at the last board meeting empowering him as the Fund Administrator to make benefit and expense payments and move it into a rule so anyone could locate it and it was easy to find. Mr. Lehman suggested that since the Board did not meet monthly anymore he suggested removing the last four words “at each Board meeting” from the proposed rule amendment. There was consensus on the Board to remove the last four words from the proposed amendment as stated on Exhibit “A”. Staff will prepare the benefit and expense summary and provide to the Board on a monthly basis.

Mayor Hales called for a roll call on Resolution No. 493, as amended, adopting proposed rule 5.2.05(L) which authorizes the FPDR Director to make pension, disability and administrative expense payments.

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Action Item No. 4 – Resolution No. 494 – Amendments to Sections 5.7 and 5.8

Mr. Hutchison explained Resolution No. 494 and stated that it was a rule about how the FPDR offsets wages. The first thing he addressed was rental income and went over what the IRS considers rental income. He also went over the IRS exceptions. He added that the rule provides no change from the FPDR’s current practice. Mr. Hutchison then explained the changes made to Sections 5.7.01, 5.8.01 and 5.8.13 concerning Preexisting Income. Mr. Delaney proposed splitting Resolution No. 494 into two resolutions. He stated that he had no problem with the rental income rule, but felt there might need to be more discussion on the preexisting income language. It was the consensus of the Board to split Resolution No. 494 into two resolutions: 1) clarification language on rental income in Section 5.7.01 and 5.8.01, and 2) Preexisting Income.
Mayor Hales called for a roll call on Resolution No. 494 regarding the clarification language on rental income in Section 5.7.01 and 5.8.01.

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Mr. Hutchison then walked through the changes to the rules regarding preexisting income. He explained that they are attempting to bring the rule in line with what was standard practice with most other plans and offset only the increased amount.

Mr. Delaney questioned a rule change that is a benefit enhancement. He added that every time the Board adopts a rule that impacts benefits in the opposite direction, there is a grievance filed and they are confronted with statements that it has to be bargained for. Mr. Dougherty stated that it is a change in the benefit and asked why then are they allowed to do this in rules versus a Charter change.

Ms. Bechthold explained that she thought administratively the FPDR could offset benefits. She added that what the rule change is trying to get at is a member going out on disability and starting to work in another position thereby potentially increasing their potential for getting injured and also kind of gaming the system. She stated that it is a built-in deterrent to engaging in activities that could prolong their disability. However, she also stated that it does contemplate that individuals may have an additional income stream so it protects that but it prevents them from increasing their activity so as to increase the amount of money they are receiving while they’re out on disability.

Mr. Delaney stated that his concern was more in the legal challenges that are working their way through and, on a philosophical level, wondered if they should wait until those are resolved before the Board makes benefit changes in either direction. After further discussion, it was the consensus of the Board to table this matter and staff will do further work on it, revise it and bring it back to the Board at their next meeting.

**Action Item No. 5 – Resolution No. 495 Disability Payment Process Analysis Contract Authorization**

Ms. Hartline explained that the disability payment process analysis contract is a companion piece to the disability program audit. She explained that the contract is for $13,182 and would be looking at the FPDR payment process and how to make it more efficient.
Mr. Del Stevens addressed the Board and commented about the disability study that was authorized by the Board in May 2014. He asked why the Board could not authorize Milliman to expand the study and look at a disability system that would have a tax-protected disability for the members. He added that it was suggested that he come up with additional directives for that study and he did provide that information to Mr. Lehman to pass along to Mr. Hutchison but he has not yet heard back from FPDR. Mr. Stevens passed out his suggested directives to the Board for their review. Mayor Hales advised Mr. Stevens that the disability study contract was a process review rather than an inquiry into different methods of payment. Mr. Stevens concluded by saying that his purpose in this matter is to have the Pension Board take serious his request to look at a tax-protected disability system. He added that perhaps a study revealing the pluses and negatives of such a system could be helpful.

Mr. Hutchison explained that the study that Mr. Stevens is referring to is a disability or workers’ compensation study. He stated that it has nothing to do with retirements so adding retirement into it would be a total scope change and staff would have to come back to the Board for an additional amount of money and the Board would need to define what the scope of that study would be.

**Mayor Hales called for a roll call on Resolution No. 495 authorizing the FPDR Director to enter into an agreement for a disability payment process analysis with Framework LLC in an amount not to exceed $13,182.**

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**Information Item No. 1 – State of FPDR**

Mr. Hutchison stated that staff will be providing an overview of the FPDR and will address some things in the disability program, the pension program and in the finance and administrative portions of FPDR and also technology issues.

Chief Reese addressed the Board. He prefaced his remarks by saying that one of his top priorities as Chief is the health and welfare of the men and women in his organization. He wanted to thank the Board for their service to the City and the men and women of the Portland Police Bureau and Portland Fire and Rescue. He then shared a positive story of a traumatically injured police officer who has now returned to full-time work. He stated that he was proud of the work that FPDR and their staff did in reaching out to the family and the officer and working quickly to accommodate his needs in the short term as well
as the long term. He also stated that the Police Bureau is committed to having a liaison with the FPDR and see it as a positive benefit to both FPDR and the Police Bureau.

Chief Janssens then addressed the Board and stated that she echoes Chief Reese’s comments. She wanted to thank both the FPDR, Mr. Hutchison and the work of the Board for their support for the health and wellness efforts and ongoing benefits to Portland police and firefighters. She also added that their new liaison Gabe Sansone has been very positive and encouraging and she felt like they are moving forward in making improvements to the system and to policy.

Mr. Delaney stated that he had been on the Board for some time and one of the things they spend time on is looking at the incentives and inducements for return to work and the health and wellness of Fire and Police employees. He asked about the new exercise equipment in the stations and whether the Chiefs had any feedback.

Chief Reese replied that the situation that transpired with the police officer that was injured is a template for how they can bring people back to work in a very productive fashion and allow them to remain a vital part of their organization.

Chief Janssens responded that from the Fire side, the light duty positions that they utilize to bring people back to work before they have actually recovered to perform the duties of a firefighter is a very positive and valuable program. She added that she thought it was very helpful to keep people engaged and to reengage them as early as possible back into the workplace. She went on to state that the workout facilities and the ability to support more preventative actions is also a very critical link in the health and wellness of their members.

Mr. Delaney stated that the Board is always open to ideas to help disabled employees get back to work sooner or to prevent disabilities.

Staff then presented the State of FPDR. Mr. Hutchison went over a new mission statement and values and provided a brief program overview. He also went over customer service enhancements and legal and legislative impacts. Ms. Mitchell provided an update on interim benefits and highlights of the disability program. She explained that for fiscal year 2013-2014 the number of claims filed totaled 343 with 93 percent of claims approved. She touched on the increase in Fire claims filed. Ms. Mitchell also reported on the reduction in medical costs due to two network fee agreements that allow FPDR access to Oregon Fee Schedules and other overall savings. She went over the disability numbers pre- and post-Charter reform. She concluded by stating that staff’s goal is to continue to work on procedures to ensure that benefits are delivered consistent with the Charter and rules, to use the disability audit findings to improve processes and enhance benefit delivery to members and to continue outreach to members.
Mr. Delaney stated that the statistics showing the reduction and percentage of people out on disability was “fantastic” and is a win for everyone. He also stated that he did not remember if in prior benchmarks that statistic was included from other systems and that it would be something that would be interesting to compare.

Ms. Hartline provided an overview of the pension program. She stated that they had a busy year with three large projects: 1) the pension overpayment settlement was implemented, 2) the additional tax offset benefit was eliminated for both new and current employees who were not subject to Oregon personal income tax by SB 822 and made effective January 1, and 3) the Fire Apparatus Operator settlement was implemented in June. She stated that their goals for the current year are to conduct a pension audit, to take the Windsor-ruling Charter changes to City Council in the fall, and to complete a Plan Summary document for members’ use. She went over the numbers for the pension program and stated that on average pension benefits have grown about four percent a year for the last five years. Ms. Hartline then went over the goals for FPDR’s overall finances and administration. She also went over implementation of GASB 67 and 68.

Ms. Miller reviewed what has been happening in technology. She informed the Board about the new phone system, creation of online fillable member information forms, the completed migration to Office 365 and database enhancements. She stated that technology goals for this year include looking at transitioning to TRIM for some of FPDR’s email, web document management and some other records that FPDR will need to keep, continuing to review data reporting compatibility with City Risk and creation of a member web portal. Ms. Miller also stated that staff is currently working on continuity of operations and disaster recovery issues as well as data security and records management.

Mr. Hutchison concluded the staff portion of the State of FPDR presentation by stating that there will be a few things coming their way, e.g., decisions in SB 822 and 861, disability and pension audits, the technology five-year plan, creation of the member portal and a disability claim filing timeliness analysis.

Mr. Gabe Sansone, Fire Liaison, addressed the Board and stated that he has been the Fire Liaison for about two years now and it has been a pleasure and honor to do his work. He welcomed the new Police Liaison Crystal Viuhkola and stated that he is looking forward to working with her. He added that he works well with staff and stated when you put folks that are trying to do a good job together you get a good result. He added that they have not had any new litigation in a couple years now and felt that of lot of that is making sure the critical information is given to people in a timely fashion. The one thing he wanted to touch on was working with the Fire Bureau and FPDR staff to do a better job of preventing injuries. He also shared information about the ExerSafe Pilot Program and that their preliminary numbers showed 10 percent fewer injuries by program participants than non-participants.
Ms. Crystal Viuhkola, Police Liaison, then addressed the Board and stated that she is still learning and will work on continued communication between the Police Bureau and FPDR and taking a more proactive role in getting police officers help and seeing them through retirement.

Mr. Daryl Turner, PPA President, thanked the FPDR for their work with the traumatically injured officer Chief Reese had referred to. He then stated that it was important to note that there have been fewer denials than in the past. He added that in terms of their membership, they would like to see more communication by FPDR. He went over what his members ask his office about their claims and the importance of making sure they have a clear understanding about the process.

Mr. Alan Ferschweiler, PFFA President, went over the increased injuries on the Fire side and felt that some of those injuries were probably non-preventable and gave some examples of how a couple of members were injured. He stated that he would be remiss if he did not also mention Charter changes and increasing age of members in their bureau as reasons as well. He went over operational changes being made by the bureau to help prevent injuries as well as other ways like the peer strength-training program. He also touched on some of the legal issues. Lastly, he stated that the Board and FPDR staff have been very much a partner with him and the members he represents. He also added that he believes Fire Liaison Gabe Sansone has been one of the reasons why they do not have as many denials as in the past.

Del Stevens then addressed the Board and stated that he was not exactly sure what State of FPDR was referring to. He stated that staff are qualified, caring people and the City by and large is very responsible and supportive of the members. He also stated that they need to be alert to possibilities for change and good ideas for improvements. He added that it seems like he and the Board have an awkward relationship. He questioned the public comment policy and the lack of a Board meeting for three months. He stated that there is an Oregon public meetings law that talks about the responsibility of public agencies to have meetings. Mr. Stevens also stated that the Board and FPDR need to pursue opportunities for saving money, but not at the expense of individuals. He felt that individuals deserve the best care and best support they can get. He raised the possibility of a tax-protected disability system and could not understand why nobody wanted to look at it further.

Mr. Hutchison then presented a Power Point presentation with his views and opinions regarding FPDR entitled “As the World Turns”. He covered taxes, pension reform, workers’ compensation, and other changes and why they were important for FPDR.
[THE FOLLOWING SUMMARIZED MINUTES WERE CONDUCTED IN PUBLIC SESSION. THERE WAS NO PORTION OF THE MINUTES THAT WERE IN EXECUTIVE SESSION.]

**Information Item No. 2 – Internal Revenue Service Determination Letter**

Mr. Hutchison went over the Internal Revenue Service Determination Letter. He stated that the FPDR’s tax qualification is good for another five years with the Internal Revenue Service.

**Information Item No. 3 – FPDR Updates**

Mr. Hutchison provided information to the Board regarding:

1) Disability audit. Milliman will present their findings in January.
2) Pension audit RFP will be posted in October.
3) Board training manual. Mr. Hutchison stated he would be reaching out to the Board to gather information to put together a training manual.
4) MHN contract. Mr. Hutchison explained the MHN contract and advised the Board that the MHN contract is being amended to increase the compensation and will be presented to City Council via ordinance.

**Information Item No. 4 – Future Meeting Agenda**

The November meeting is scheduled for November 18, 2014. Mr. Hutchison advised that, at the present time, the November agenda will just be general business and one rule amendment regarding preexisting income.

**Information Item No. 5 – FPDR Summary of Expenditures**

There was no discussion on this item.

Samuel Hutchison
Director

/kk
RESOLUTION NO. 496

WHEREAS, the Board of Trustees (Board) of the Bureau of Fire and Police Disability and Retirement (FPDR) determined that changes were necessary to the FPDR Administrative Rules; and

WHEREAS, a public Question and Answer session on proposed amendments to the FPDR Administrative Rules was held on July 25, 2014; and

WHEREAS, at its September 23, 2014 meeting, the Board tabled this issue with instructions to staff to revise the proposed amendments; and

WHEREAS, the Board has considered and recommends changes to Sections 5.7 and 5.8 of the FPDR Administrative Rules as shown on Exhibit “A”, attached hereto and by this reference made a part hereof; and

WHEREAS, it is appropriate and in the public interest that the FPDR Administrative Rules be changed in accordance with the recommendations of the Board; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees that Sections 5.7 and 5.8 of the FPDR Administrative Rules be amended as shown on Exhibit “A”.

ADOPTED by the Board of Trustees on the 18th day of November, 2014.

Samuel Hutchison
FPDR Director
Proposed Administrative Rule Changes

Other Employment

5.7.01 Definitions

“Preexisting Income.” The term “Preexisting Income” means the gross salary, overtime pay, fees, commissions, other remuneration or self-employment income a Member earned prior to disability that the Member continues to earn while receiving disability benefits.

5.7.12 Offset to Service Connected and Occupational Disability Benefits Payable Under Article 3 of the Plan

(B) Guidelines for Wage Offset Administration

6 For service-connected or occupational disability Claims submitted on or after November 19, 2014, any increase in the amount of Preexisting Income earned while a Member is receiving disability benefits shall be considered Wages Earned in Other Employment for the purpose of wage offset.

5.8.01 Definitions

“Preexisting Income.” The term “Preexisting Income” means the gross salary, overtime pay, fees, commissions, other remuneration or self-employment income a Member earned prior to disability that the Member continues to earn while receiving disability benefits.

5.8.13 Offset to Service Connected and Occupational Disability Benefits Payable Under Article 3 of the Plan

(C) Guidelines for Wage Offset Administration

1 A Member must complete the “Outside Employment” section of the “Nonservice-connected Disability Report” at the time of Claim filing. The Director may require an update on the Member’s Other Employment status periodically throughout the Member’s course of disability.

2 If at any time during the Member’s disability he/she has engaged or wishes to engage in Other Employment, the Member will be required to submit a completed “Request to Engage in Outside Employment” form for the Director’s approval. Failure to do so may result in a reduction or suspension of benefits.

3 Once the Request to Engage in Outside Employment has been approved by the Director, the Member will be required to submit a report of his/her outside earnings upon the request of and at intervals determined by the Director.
(4) A “Report of Earnings from Outside Employment” will be returned with proper documentation within the timeframe stated in the request. Failure to do so may result in a reduction or suspension of benefits.

(5) Documentation acceptable for reporting outside employment wages include valid copies of payroll records, pay stubs, W-2 and income tax returns.

(D) Guidelines for Substantial Gainful Activity Wage Offset Administration

(1) (6) When a Member who has been determined to be capable of Substantial Gainful Activity (SGA) chooses to pursue Self-Employment rather than seek regular employment:

(a) The Director will initially assume the Member’s Self-Employment wages as zero dollars. The Director will calculate an estimate of Self-Employment wages when sufficient wage, hour and expense documentation is available but no later than six months after the Member’s Self-Employment started.

(b) The Member will be required to submit his/her tax returns and other wage, hour and expense documentation annually or when requested by the Director.

(c) After receipt of wage, hour and expense documentation, the Director will recalculate the wage offset for the past year and either pay the Member any additional benefits due or calculate an overpayment. The Director will also re-estimate the Member’s Self-Employment wages for the current and next year.

(d) The Director will recover any overpayment by offsetting one-twelfth of the overpaid amount from future overpayments until the overpayment is recovered in full.

(7) For service-connected or occupational disability Claims submitted on or after November 19, 2014, any increase in the amount of Preexisting Income earned while a Member is receiving disability benefits shall be considered Wages Earned in Other Employment for the purpose of wage offset.
Presentation to Board
November 18, 2014

Proposed Rule Amendments
Other Employment – Preexisting Income

Objective
Inform Board about when rental income is and is not considered a wage offset and to obtain Board approval of amended rules for:

- Wages Earned in Other Employment, specifically, how wages earned from a second job are treated.

Pertinent Rules

5.7.05 – AMOUNT OF BENEFITS
During the period the Member continues to be eligible under this section, benefits shall be paid as follows:

(A) First year from date of disability:

(2) The Member’s disability benefit rate shall be reduced by 50 percent of any wages earned in Other Employment during the period the benefit is payable.

(C) Fourth anniversary of the date of disability:

(3) If the Member is capable of Substantial Gainful Activity, the benefit shall be 50 percent of the Member’s rate of Base Pay in Effect at Disability, reduced by 25 percent of any wages earned in Other Employment during the same period.

5.8.06 - AMOUNT OF BENEFITS
(A) The benefit shall be 50 percent of the Member's Base Pay in Effect at Disability, reduced by 50 percent of any wages the Member earns in other employment during the period the benefit is payable. The Director may reduce, suspend or terminate the benefit if the Member does not cooperate in treatment of the disability or in vocational rehabilitation or does not pursue other employment.
Discussion

Presently, FPDR offsets 100% of Wages Earned in Other Employment from a member’s disability benefit even if the wages are from a job the member had prior to becoming disabled (a preexisting job). This practice differs from how preexisting income is treated under Oregon Workers Compensation rules and the City of Portland’s LTD plan.

**OAR – 436-060-0025 Rate Of Temporary Disability Compensation**

(5)(d) Earnings from a second job will be considered for calculating temporary partial disability only to the extent that the post-injury income from the second job exceeds the pre-injury income from the second job (i.e., increased hours or increased wage).

**City’s LTD plan** (reply from The Standard) – “We offset any increase in work earnings post disability. If earnings from the second job did not change following disability, there would be no offset.”

FPDR is proposing to change how we offset wages and income from a member’s preexisting job. The intent is to mirror Oregon Workers Compensation and City’s LTD plan’s treatment of preexisting income.
Proposed New Rules

5.7.01 & 5.8.01 Definitions

“Preexisting Income.” The term “Preexisting Income” means the gross salary, overtime pay, fees, commissions, other remuneration and Self-Employment income a Member earned prior to disability that the Member continues to earn while receiving disability benefits.

5.7.12 Offset to Service Connected and Occupational Disability Benefits Payable Under Article 3 of the Plan

(B) Guidelines for Wage Offset Administration

(6) For service-connected or occupational claims submitted on or after November 19, 2014, any increase in the amount of Preexisting Income earned while a Member is receiving disability benefits shall be considered Wages Earned in Other Employment for the purpose of wage offset.

5.8.13 Offset to Service Connected and Occupational Disability Benefits Payable Under Article 3 of the Plan

(C) Guidelines for Wage Offset Administration

(5) Documentation acceptable for reporting outside employment wages include valid copies of payroll records, pay stubs, W-2 and income tax returns.

(D) Guidelines for Substantial Gainful Activity Wage Offset Administration

(1) (6) When a Member who has been determined to be capable of Substantial Gainful Activity (SGA) chooses to pursue Self-Employment rather than seek regular employment:

(a) through (d) – no changes

(7) For service-connected or occupational claims submitted on or after November 19, 2014, any increase in the amount of Preexisting Income earned while a Member is receiving disability benefits shall be considered Wages Earned in Other Employment for the purpose of wage offset.

Note: Section 8, Nonservice-Connected Disability Benefits, does not have an SGA requirement and does not mention SGA. We inadvertently introduced the SGA language into Section 8 in the March 2014 rule changes. We are removing the SGA language only from Section 8.

Financial Impact

For proposed rule changes to 5.7.12 (B)(6) and 5.8.13 (C)(7) the impact is de minimis. The rules changes will impact 1 – 3 claims per year. Total increase in disability benefits is expected to be less than $30,000 per year.
**Examples of Wage Offset Calculations**

The disabled member has a preexisting job as graphic designer prior to her disability. She was earning $500 per month prior to disability.

**Example #1:** The member continues to earn $500 as a graphic designer after she became disabled.

<table>
<thead>
<tr>
<th>New income from preexisting job</th>
<th>$500</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preexisting income from preexisting job</td>
<td>-$500</td>
</tr>
<tr>
<td><strong>Wages from Other Employment</strong></td>
<td><strong>$0</strong></td>
</tr>
</tbody>
</table>

**Example #2:** The member’s graphic design earnings increase to $750 after she became disabled.

<table>
<thead>
<tr>
<th>New income from preexisting job</th>
<th>$750</th>
</tr>
</thead>
<tbody>
<tr>
<td>Preexisting income from preexisting job</td>
<td>-$500</td>
</tr>
<tr>
<td><strong>Wages from Other Employment</strong></td>
<td><strong>$250</strong></td>
</tr>
</tbody>
</table>

**Example #3:** The member’s graphic design earnings decrease to $150 after she became disabled.

<table>
<thead>
<tr>
<th>New income from preexisting job</th>
<th>$150</th>
</tr>
</thead>
<tbody>
<tr>
<td>Predisability income from preexisting job</td>
<td>-$500</td>
</tr>
<tr>
<td><strong>Wages from Other Employment</strong></td>
<td><strong>$0</strong></td>
</tr>
</tbody>
</table>

**Example #4:** The member continues to earn $500 as a graphic designer after she became disabled and starts a new job earning $1,000 per month.

| New income from preexisting job | $500 |
| Income from new job | $1000 |
| Predisability income from preexisting job | -$500 |
| **Wages from Other Employment** | **$1000** |
RESOLUTION NO. 497

WHEREAS, on November 19, 2012, the Bureau of Fire and Police Disability and Retirement (FPDR) entered into a contract with Piracle, Inc. to provide interface development services in an amount not to exceed $15,000; and

WHEREAS, the contract with Piracle, Inc. will expire on November 18, 2014; and

WHEREAS, Piracle, Inc. developed and implemented the FPDR “Create-A-Check” program and also provides yearly maintenance and other upgrades.

WHEREAS, as a result of Senate Bill 822, the Oregon Department of Revenue now requires the FPDR to provide additional information when filing its 1099 records with the Internal Revenue Service. Modifications to the FPDR database are therefore necessary; and

WHEREAS, Piracle, Inc. is familiar with and has specific knowledge of the FPDR’s system and it is reasonable to have them continue their services. It would be extremely difficult, time-consuming and expensive to have any other vendor achieve the level of complete understanding of the FPDR software systems and operations that Piracle, Inc. has provided; and

WHEREAS, the FPDR wishes to continue the services of Piracle, Inc. by extending the contract for a two-year period through November 18, 2016. The cost for the additional services by Piracle, Inc. is $15,000, for a total not-to-exceed contract value of $30,000; and

WHEREAS, a form of agreement implementing the desires of the parties has been prepared and is attached hereto as Exhibit “A”.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the FPDR that the Chief Procurement Officer is authorized and directed to execute an agreement with Piracle, Inc. in a form substantially in accordance to Exhibit “A” for an additional two years with costs not to exceed an additional $15,000 for a total not-to-exceed contract value of $30,000.

ADOPTED by the Board of Trustees on this 18th day of November 2014.

Samuel Hutchison
FPDR Director
This Contract was made and entered by and between Piracle, Inc., hereinafter called Contractor, and the City of Portland, a municipal corporation of the State of Oregon, by and through its duly authorized representatives, hereinafter called City. This Amendment may refer to the City and Contractor individually as a Party or collectively as the Parties.

The Effective Date of this Amendment is November 18, 2014. The purpose of this Amendment is to extend the Contract end date and add money.

1. The Contract is hereby extended through November 18, 2016.

2. The Contract value will be increased by $15,000.00, changing the Contract not-to-exceed value from $15,000.00 to $30,000.00.

All other terms and conditions shall remain unchanged and in full force and effect.

The Parties agree the City and Contractor may conduct this transaction by electronic means, including the use of electronic signatures.

CITY OF PORTLAND, OREGON

PIRACLE, INC.

By: ___________________________ By: ___________________________
Chief Procurement Officer    Authorized Signature
Date                        Date

Approved as to Form:

By: ___________________________
City Attorney
Date
AMENDMENT NO. 002

CONTRACT NO. 30000931

FOR

MANAGED OCCUPATIONAL HEALTH CARE SERVICES

Pursuant to Ordinance No. 186830

This Contract was made and entered by and between Managed Healthcare Northwest, hereinafter called Contractor, and the City of Portland, a municipal corporation of the State of Oregon, by and through its duly authorized representatives, hereinafter called City.

Additional compensation is necessary and shall not exceed $104,000 for the remainder of the contract. Total compensation plus reimbursement under the contract shall not exceed $225,000. The total compensation allowed for shall include the $121,000 previously provided for and an additional $104,000 by this amendment.

This will amend the Bureau of Fire and Police Disability and Retirement (FPDR) contract, #30000931, with Managed Healthcare Northwest (MHN). The only change to this contract is to include the requirement that the FPDR share fifty percent (50%) of a ten percent (10%) network hospital and ambulatory service center discount; in addition to the current contract which requires the FPDR to share fifty percent (50%) of an eleven percent (11%) network provider discount and a five (5%) hospital and ambulatory service center discount.

Effective January 1, 2014, MHN increased the network discount for utilization of MHN hospital and ambulatory service center facilities from five (5%) to ten (10%) which resulted in additional savings to the FPDR. The additional savings resulted in an increase of the FPDR payment for their fifty percent (50%) of the MHN network provider, hospital and ambulatory service center discounts.

All other terms and conditions shall remain unchanged and in full force and effect.

MANAGED HEALTHCARE NORTHWEST

By: Dolores Russell
    Dolores Russell, President/Chief Executive Officer

Address: 422 E Burnside, Suite 215, Portland, OR 97208-4629
    Telephone: 503-413-5800

Contract No. 30000931

Amendment/Change Order No. 2

CITY OF PORTLAND SIGNATURES:

By: Samuel Hutchison, FPDR Director

APPROVED:

By: Office of City Auditor
    APPROVED AS TO FORM

By: Office of the City Attorney
    CITY ATTORNEY
By Ordinance No. _____
(______, 2014)

SPECIAL COMPLIANCE AMENDMENT

TO

FIRE AND POLICE DISABILITY, RETIREMENT, AND DEATH BENEFIT PLAN

Pursuant to authority granted to the City Council of Portland under Chapter 5 of the Charter of the City of Portland, as amended (the “Plan”), the Plan is hereby amended by ordinance by the City Council as follows for good faith compliance with the requirements of IRS Rev. Rul. 2013-17 (“Rev. Rul. 2013-17”) and IRS Notice 2014-19 (“Notice 2014-19”) with regard to the definition of “spouse” and related terms, as required to maintain the Plan’s tax-qualified status under Section 401(a) of the Internal Revenue Code of 1986, as amended (the “Code”) and shall be interpreted and construed consistent with such intent. This amendment supersedes all inconsistent provisions of the Plan, including but not necessarily limited to Ordinance No. 176258 (February 13, 2002) and Article I, Section 2.6 of Ordinance No. 185666 (October 4, 2012), and is retroactively effective to June 26, 2013.

1. Article 3 (FPDR Two and Three Benefits), Section 5-301, subsection (c) is deleted in its entirety and replaced with the following in good faith reliance on the requirements of Rev. Rul. 2013-17 and Notice 2014-19, effective as required by Rev. Rul. 2013-17 and Notice 2014-19, to reflect the legal decision rendered in United States v. Windsor, 570 U.S. ___, 133 S.Ct. 2675 (2013) (“Windsor”) concerning the constitutionality of Section 3 of the Defense of Marriage Act of 1996 (P.L. 104-199) as amended (“DOMA”):

“(c) Surviving Spouse. Death benefits shall be paid to the Surviving Spouse of a deceased FPDR Two or Three Member in accordance with this Chapter. A “Surviving Spouse” for purposes of this Article means the individual who, at the time of the FPDR Two or Three Member’s death, was the Spouse of the Member. Moreover, to be considered the Member’s Surviving Spouse, the individual must also (i) have been the Member’s Spouse throughout the 12-month period immediately preceding the Member’s death and (ii) have not been judicially separated or divorced by interlocutory or final court decree at the time of death, unless otherwise provided in a domestic relations order that is enforceable with respect to the Member’s Plan benefit. Death benefits paid to a Surviving Spouse of an FPDR Three Member shall be adjusted in accordance with the offset provisions in this Chapter. For purposes of this Article, the term “Spouse” shall, on and after June 26, 2013, mean an individual to whom a Member is lawfully married under state law, and shall be defined consistent with Rev. Rul. 2013-17 and Notice 2014-19, under which the terms “Spouse,” “husband and wife,” “husband,” and “wife” include an individual married to another individual of the same sex if the individuals are lawfully married under state law, and the term “marriage” includes such a marriage between individuals of the same sex, provided that the marriage was validly entered into in a state whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a state that does not recognize the validity of same-sex marriages.”
2. Article 5 (FPDR One Benefits), Section 5-126 (Definitions of Terms), item 3, is deleted in its entirety and replaced with the following in good faith reliance on the requirements of Rev. Rul. 2013-17 and Notice 2014-19, effective as required by Rev. Rul. 2013-17 and Notice 2014-19, to reflect the legal decision rendered in Windsor concerning the constitutionality of Section 3 of DOMA:

“3. The term “Surviving Spouse” for purposes of this Article shall include widower, and shall mean the individual who, at the time of the member’s death, was the Spouse of a member. Moreover, to be considered the member’s Surviving Spouse, the individual must also have not been judicially separated or divorced by interlocutory or final court decree at the time of death, unless otherwise provided in a domestic relations order that is enforceable with respect to the member’s Plan benefit.

3. Article 5 (FPDR One Benefits), Section 5-126 is amended to add new item 15 as follows in good faith reliance on the requirements of Rev. Rul. 2013-17 and Notice 2014-19, effective as required by Rev. Rul. 2013-17 and Notice 2014-19, to reflect the legal decision rendered in Windsor concerning the constitutionality of Section 3 of DOMA, and to rename existing item 15 as item 16:

“15. For purposes of this Article, the term “Spouse” shall, on and after June 26, 2013, mean an individual to whom a member is lawfully married under state law, and shall be defined consistent with Rev. Rul. 2013-17 and Notice 2014-19, under which the terms “Spouse,” “husband and wife,” “husband,” and “wife” include an individual married to another individual of the same sex if the individuals are lawfully married under state law, and the term “marriage” includes such a marriage between individuals of the same sex, provided that the marriage was validly entered into in a state whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a state that does not recognize the validity of same-sex marriages.”

4. Article I, Section 2.6 (Spouse) of that certain Special Compliance Amendment adopted pursuant to Ordinance No. 185666 shall retroactively be without effect commencing June 26, 2013.

* * * * *
Proposed 2015 FPDR Board of Trustee Meeting Schedule
Meetings are held in the Portland City Council Chambers and start at 1:00 pm.
Agenda items and meeting dates subject to change

<table>
<thead>
<tr>
<th>Month</th>
<th>Agenda Items</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 27th</td>
<td>Financial</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Budget Approval</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Financial audit results</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Valuation/levy adequacy analysis</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Disability Audit Results and Response</td>
<td></td>
</tr>
<tr>
<td></td>
<td>General business</td>
<td></td>
</tr>
<tr>
<td>February 24th</td>
<td>Meet at Board’s Discretion</td>
<td></td>
</tr>
<tr>
<td>March 24th</td>
<td>Annual adjustment</td>
<td></td>
</tr>
<tr>
<td></td>
<td>General business</td>
<td></td>
</tr>
<tr>
<td>April 28th</td>
<td>Meet at Board’s Discretion</td>
<td></td>
</tr>
<tr>
<td>May 26th</td>
<td>Tax Anticipation Notes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Annual adjustment, if necessary</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Disability claim filing timeliness analysis and recommendations</td>
<td></td>
</tr>
<tr>
<td></td>
<td>General business</td>
<td></td>
</tr>
<tr>
<td>June 23th</td>
<td>Meet at Board’s Discretion</td>
<td></td>
</tr>
<tr>
<td>July 28th</td>
<td>Pension audit results and response</td>
<td></td>
</tr>
<tr>
<td></td>
<td>General business</td>
<td></td>
</tr>
<tr>
<td>August 25th</td>
<td>Meet at Board’s Discretion</td>
<td></td>
</tr>
<tr>
<td>September 22nd</td>
<td>Rule amendment adoption (new proposed rule changes, if any)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>State of FPDR</td>
<td></td>
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<tr>
<td></td>
<td>General business</td>
<td></td>
</tr>
<tr>
<td>October 27th</td>
<td>Meet at Board’s Discretion</td>
<td></td>
</tr>
<tr>
<td>November 17th</td>
<td>General business</td>
<td></td>
</tr>
<tr>
<td>December</td>
<td>No Meeting</td>
<td></td>
</tr>
</tbody>
</table>
**Description** | **Original Budget** | **Current Budget** | **Jul Actuals** | **Aug Actuals** | **Sep Actuals** | **YTD Actuals**
---|---|---|---|---|---|---
*** Revenues | 166,956,702.00 | 166,956,702.00 | 5,122.90 | 25,822,087.59 | 140,952.87 | 25,686,257.62 |
** Beginning fund balance | 13,663,467.00 | 13,663,467.00 | | | | |
** Taxes | 120,321,535.00 | 120,321,535.00 | | | | 144,768 |
** Bond and note proceeds | 31,258,000.00 | 31,258,000.00 | 25,815,143.75 | 25,815,143.75 |
** Miscellaneous Sources | 306,500.00 | 306,500.00 | 4,522.90 | 6,343.84 | 3,815.61 | 14,682.35 |
** Interagency Revenues | 657,200.00 | 657,200.00 | 600.00 | 600.00 | 1,200.00 |
** Expenses | 166,956,702.00 | 166,956,702.00 | 278,159.46 | 17,648,902.58 | 658,582.91 | 18,585,844.95 |
** Bureau Program Expenses | 123,165,378.00 | 123,165,378.00 | 265,981.99 | 17,634,903.93 | 634,931.93 | 18,535,817.85 |
** Personnel Services | 1,851,231.00 | 1,851,231.00 | 184,335.35 | 147,874.91 | 154,420.62 | 486,630.88 |
* External Materials & Services | 113,410,200.00 | 113,410,200.00 | 40,422.48 | 41,939.30 | 17,925,346.21 |
** Professional services | 80,000.00 | 80,000.00 | 10,000.00 | 7,466.88 | 2,533.12 | |
** Medical bills processing | 0 | 0 | | | | |
** Interagency Materials & Services | 7,860,647.00 | 7,860,647.00 | 41,224.16 | 53,244.59 | 16,103.26 | |
** Personnel services | 1,851,231.00 | 1,851,231.00 | 184,335.35 | 147,874.91 | 154,420.62 | 486,630.88 |
** Contingency | 11,259,064.00 | 11,259,064.00 | | | | |

** Beginning fund balance | 13,761,432 | | | | | |