

RESOLUTION R- 3151

A RESOLUTION OF THE KIRKLAND CITY COUNCIL RELATING TO THE CITY OF KIRKLAND EMPLOYEES' BENEFIT TRUST AND PLAN (MEBT) AND APPROVING CERTAIN AMENDMENTS THERETO AS REQUIRED BY THE 1982 TAX EQUITY AND FISCAL RESPONSIBILITY ACT (TEFRA) AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE NECESSARY AMENDATORY DOCUMENTS.

Whereas, the City of Kirkland, effective January 1, 1977, withdrew from the Federal Old Age Survivor's Disability and Health Insurance Act (Social Security); and

Whereas, by Ordinance 2331, effective on said date, established and approved a substitute City of Kirkland Employees' Benefit Plan and Trust; and

Whereas, said Employees' Benefit Plan and Trust is affected by the Tax Equity and Fiscal Responsibility Act of 1982, and certain amendments are therefore required; and

Whereas, the City of Kirkland now desires to amend said plan and trust in order to comply with said federal act, now, therefore,

Be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Council hereby approves an amendment to the City of Kirkland Employees Benefit Plan heretofore entered into between the City of Kirkland as employer and Peoples National Bank of Washington as plan trustee. Said amendments are as set forth in Exhibit A to this resolution and by this reference incorporated herein.

Section 2. The City Manager is hereby authorized and directed to sign on behalf of the City of Kirkland any and all amendatory documents, reports and returns which may be necessary to amend the City of Kirkland Employees' Benefit Plan Agreement in the manner set forth herein.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 4th day of March, 1985.

Signed in authentication thereof this 4th day of March,
1985.

Doris Cooper
MAYOR

ATTEST:

Tam Aluson
Director of Administration & Finance
(ex officio City Clerk)

EXHIBIT A TO RESOLUTION R - 3151

Amendment to the City of Kirkland
Employees' Benefit Plan

This amendment to City of Kirkland, Washington Employees' Benefit Plan and Trust signed and executed by and between the City of Kirkland, hereinafter referred to as "employer" and Peoples National Bank, hereinafter referred to as "trustee";

W I T N E S S E T H:

Whereas, the employer did enter into an Employees' Benefit Plan and Trust effective January 1, 1977; and

Whereas, the employer now desires to further amend said Plan and Trust in order to comply with the Tax Equity and Fiscal Responsibility Act of 1982; and

Whereas, the City Council of the employer has heretofore authorized execution of this amendment to said Employees' Benefit Plan and Trust by City of Kirkland Resolution R - 3151;

Now, therefore, it is AGREED pursuant to Article VIII of the Employees' Benefit Plan and Trust, said Plan and Trust is hereby amended effective December 31, 1984 in the following respects:

1. Article VI shall be amended by adding a new section 6.05 to read as follows:

6.05 Limitations on allocations. Notwithstanding any other provisions of the plan, the annual additions to a participant's account for this and any other defined contribution plan maintained by the employer for any plan year, shall not exceed an amount equal to:

6.05.01

(a) The lesser of

(1) \$30,000 adjusted to each plan year to take into account any cost of living adjustment provided for that year _____

under Section 415(d) of the Internal Revenue Code of 1954, as amended; or

(2) Twenty-five percent (25%) of the total compensation paid by the Employer to the Participant during the Plan Year.

(b) The annual addition to a Participant's account shall be the sum of the following:

(1) The Employer's contribution allocable to the Participant's account.

(2) The lesser of the amount of the Participant's nondeductible contribution that exceeds six percent (6%) of his compensation or one-half of his contribution.

(3) Forfeitures allocable to the Participant's account.

6.05 .02 In the event the annual addition to the account of a Participant exceeds the limitation of this Section for a Plan Year, the excess amount shall be reduced in the following sequence:

(a) The employee's voluntary nondeductible contributions (together with earnings thereon) shall be repaid to the employee, to the extent necessary, as soon as administratively feasible.

(b) The Employer's contribution and forfeitures, to the extent necessary, shall be allocated and reallocated to other Participants' accounts in accordance with the plan formula for allocating Employer contributions and forfeitures to the extent that such allocations do not cause the additions to any such other Participant's account to exceed the lesser of the

maximum permissible amount or any other limitation provided in the Plan. In the case of a Participant who participates in more than one defined contribution plan, the reduction under this paragraph shall first be made in the plan under which contributions are discretionary on the part of the Employer.

- (c) To the extent that the reductions described in paragraph (b) cannot be allocated to other Participants' accounts, such reductions shall be allocated to a suspense account as forfeitures and held therein (unadjusted for any gains, losses, income, or expense) until the next succeeding date on which forfeitures can be applied under this Plan. In the event of termination of the Plan, the suspense account shall revert to the Employer to the extent it may not then be allocated to any Participant's account.

6.05.03 In any case in which an individual is or has been a Participant in both a defined benefit plan and a defined contribution plan maintained by the Employer, the sum of the defined benefit plan fraction and the defined contribution plan fraction for any Year may not exceed 1.0.

6.05.04 For purposes of this section, the defined benefit plan fraction for any Year is a fraction:

- (a) The numerator of which is the projected annual benefit of the Participant under the Plan (determined as of the close of the Year), and
- (b) The denominator of which is the lesser of:
- (i) The product of 1.25, multiplied by the dollar limitation in effect under Internal Revenue Code Section 415(b)(1)(A) for such Year, or

- (ii) The product of 1.4, multiplied by the percentage of a Participant's average compensation which may be taken into account under Internal Revenue Code Section 415(b)(1)(B) with respect to such individual under the plan for such Year.

6.05.05 For purposes of this section, the defined contribution plan fraction for any Year is a fraction:

- (a) The numerator of which is the sum of the annual additions to the Participant's account as of the close of the Year, and
- (b) The denominator of which is the sum of the lesser of the following amounts determined for such Year and for each prior year of service with the employer:

- (i) The product of 1.25, multiplied by the dollar limitation in effect under Internal Revenue Code Section 415(c)(1)(A) for such Year (determined without regard to subsection (c)(6)), or
- (ii) The product of 1.4, multiplied by the percentage of a Participant's compensation which may be taken into account under Internal Revenue Code Section 415(c)(1)(B) with respect to such individual under such plan for such Year.

6.05.06 In the event the sum of a Participant's defined benefit plan fraction and defined contribution plan fraction exceeds 1.0, the Participant's annual benefit or annual addition shall be reduced to produce a fraction of not more than the required amount. The reductions shall be made among the plans involved by the making the reductions, to the extent necessary, in the following sequence:

- (a) The Participant's voluntary nondeductible contributions (together with earnings thereon) shall be returned.
- (b) The Participant's annual benefit under the defined benefit plan shall be limited.
- (c) The allocation of the Employer's contribution and forfeitures to the Participant under a defined contribution plan in which the contribution is discretionary shall be reduced.
- (d) The allocation of the employer's contribution to the Participant under a defined contribution plan in which the contribution is required shall be reduced.

In the case of an adjustment involving a reduction of an annual addition to a Participant's account, the reduction shall be allocated and reallocated to other Participants' accounts, in accordance with the rules of this Section, to the extent the reduction involves an Employer contribution or forfeiture."

2. Article VII shall be amended by adding Section 7.06 as follows:

" 7.06 **Required Distributions.** Notwithstanding any other provision of this Plan to the contrary, the following shall be effective for any Plan Year beginning after December 31, 1984:

- (a) The entire interest of a Participant shall be distributed commencing not later than the April 1st following the later of the calendar year in which he or she attains age seventy and one-half (70½), or the calendar year in which he or she retires, provided, that in the case of a Participant who owns, or is considered as owning within the meaning of Section 318 of the Internal Revenue Code, more than five (5) percent of the stock

of the Employer for the Plan Year ending in the calendar year in which he or she attains age seventy and one-half (70½), such distribution shall commence not later than the April 1st following the calendar year in which he or she attains such age.

- (b) The Participant's interest shall be distributed over a period which does not exceed the life expectancy of the Participant or the life expectancy of the Participant and his or her designated beneficiary, provided, that the life expectancy of the Participant or the life expectancy of the Participant and his or her spouse, if applicable, may be recalculated annually. Distributions to the Participant or the Participant and his or her designated beneficiary shall meet the minimum annual distribution requirements as prescribed by regulations of the Secretary of the Treasury. In the event the Participant's designation of a beneficiary and method of payment will cause payments to be made in any manner other than in accordance with the rules relating to qualified joint and survivor annuities (as defined under Section 401(a)(11) of the Internal Revenue Code), then the present value of the amounts projected to be paid to the Participant shall be more than fifty (50) percent of the present value of the amounts projected to be paid to the Participant and his or her beneficiary.
- (c) If payments have commenced to the Participant and the Participant dies before his or her entire interest is distributed, the Participant's remaining interest shall be distributed to his

or her beneficiary at least as rapidly as under the method of distribution to the Participant as of the date of his or her death.

- (d) If a Participant dies before distribution of his or her interest has commenced, the Participant's entire interest shall be distributed within five (5) years of the Participant's death, provided, that if the Participant has designated a beneficiary to receive a part or all of his or her interest and if payment to the beneficiary commences not later than one (1) year after the Participant's death, the portion payable to such beneficiary may be paid over a period which does not exceed the beneficiary's life expectancy. In the event the Participant's designated beneficiary is his or her spouse, payment to the spouse need not commence earlier than the date on which the Participant would have reached age seventy and one-half (70½). If a deceased Participant's designated beneficiary is his or her spouse and the spouse dies before payments commence, the Participant's entire interest shall be distributed by applying the rules of this paragraph (d) as though the deceased spouse were the participant.
- (e) In the case of a Participant who made an effective election under Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act of 1982, the Plan Administrator may, in its discretion, direct the distribution of such Participant's interest in accordance with such election to the extent such a distribution will not cause disqualification of the Plan under the Internal Revenue Code."

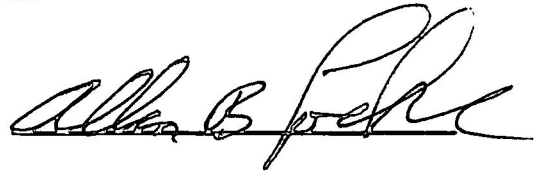
4. Section 10.03 shall be amended by adding the following sentence to the end thereof:

"The Trustee shall withhold from such distributions any amount required to be withheld pursuant to Internal Revenue Code Section 3405 unless the recipient of such distributions has made an appropriate election under Internal Revenue Code Section 3405(a)(2) or 3405(b)(3)."

IN WITNESS WHEREOF, the parties hereto have caused this Plan to be
executed this 5th day of March, 19 85.

EMPLOYER

by:



Title:

City Manager

by: _____

Title: _____

TRUSTEE

by: _____

Title: _____