

ORDINANCE NO. C-15-40

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, RESPECTING THE CITY'S GENERAL EMPLOYEES' RETIREMENT SYSTEM BY AMENDING AND RESTATING THE CITY OF FORT LAUDERDALE GENERAL EMPLOYEES' RETIREMENT PLAN BY AMENDING CITY OF FORT LAUDERDALE CODE SECTION 20-106 RESPECTING THE ESTABLISHMENT OF THE PLAN, ITS PURPOSE AND EFFECTIVE DATES; BY AMENDING CODE SECTION 20-107, DEFINITIONS; CREATING A NEW CODE SECTION 20-115, MAXIMUM PENSION, PROVIDING FOR BASIC LIMITATION; ADJUSTMENTS OF BASIC LIMITATION FOR FORM OF BENEFITS; BENEFITS NOT TAKEN INTO ACCOUNT; COLA EFFECT; OTHER ADJUSTMENTS IN LIMITATIONS, PROVISIONS RESPECTING LESS THAN TEN (10) YEARS OF SERVICE; PARTICIPATION IN OTHER DEFINED BENEFIT PLANS; PROVISIONS RESPECTING A TEN THOUSAND DOLLAR (\$10,000.00) LIMITATION; REDUCTION OF BENEFITS; SERVICE CREDIT PURCHASE LIMITS AND ADDITIONAL LIMITATION OF PENSION BENEFITS; AMENDING CODE SECTION 20-116, ADDITIONAL SPECIFIC PROVISIONS REGARDING ROLLOVER DISTRIBUTIONS, ELIGIBLE ROLLOVER DISTRIBUTION, ELIGIBLE RETIREMENT PLAN, DISTRIBUTE, DIRECT ROLLOVER, DISTRIBUTION OF BENEFITS; PROHIBITED TRANSACTION; AND QUALIFICATION OF PLAN; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCE PROVISIONS, FOR SEVERABILITY AND EFFECTIVE DATE.

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WHEREAS, the City of Fort Lauderdale's General Employees' Retirement System ("Plan") has recently applied for an IRS Letter of Determination with respect to qualification of the government plan under Internal Revenue Codes and regulations; and

WHEREAS, it is recommended that the City Commission adopt an Ordinance amending and restating the Plan as set forth herein in order to continue to meet compliance with Internal Revenue regulations concerning the qualifications of a government plan; and

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WHEREAS, the City Commission determines that adoption of the Ordinance serves a valid municipal purpose and is in the best interests of the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Chapter 20, Personnel, Article IV, Pensions, Division 2, General Employees Retirement System of the Code of Ordinances of the City of Fort Lauderdale, Florida, is hereby amended to read as follows:

Sec. 20-106. Plan established; purpose; effective date.

~~There is hereby established a "City of Fort Lauderdale General Employees' Retirement Plan," comprising a comprehensive amended Retirement Plan for City employees other than police and Firefighters certified in the manner required in the City of Fort Lauderdale Police and Firefighters Retirement System. The purpose of this Plan is to establish amended terms and conditions under which Retirement benefits will be provided to eligible employees of the City. The benefits under the Plan shall be in addition to amounts received as federal social security benefits, except where social security benefits are specifically applied as offsets in the case of disability benefits hereunder; the benefits under this Plan shall also be in addition to benefits received by any Member from any other private or public Retirement System. The effective date of the provisions of this division shall be January 3, 1973.~~

The "City of Fort Lauderdale General Employees' Retirement Plan" (the "Plan"), comprising a retirement plan for City Employees other than police officers and firefighters, originally effective January 3, 1973, is hereby amended and restated. The Plan consists of a defined benefit plan and a deferred retirement option plan, both of which are intended to qualify under Code Section 401(a). The Plan is a governmental plan under Code Section 414(d). The Plan is maintained for the exclusive benefit of eligible City Employees and their beneficiaries. The benefits under the Plan shall be in addition to amounts received as federal social security benefits, except where social security benefits are specifically applied as offsets in the case of disability benefits hereunder; the benefits under this Plan shall also be in addition to benefits received by any Member from any other private or public Retirement System. Except as otherwise specifically provided, the amended and restated Plan shall be effective October 1, 2013. Notwithstanding the forgoing, the following effective dates shall apply:

- 1        (a) Section 20-116 k is amended effective January 1, 2009 to provide for direct  
2        rollovers by non-spouse beneficiaries.
- 3        (b) The definition of 415 compensation in Sec. 20-115 j is modified to include  
4        differential pay effective for "limitation years" beginning after December 31, 2008.
- 5        (c) Section 20-107 is amended effective for Employees who die after December 31,  
6        2006 while engaged in qualified military service to provide that they shall be  
7        treated as having returned to employment immediately prior to death for certain  
8        Plan purposes.

9        Sec. 20-107. Definitions.

10        As used herein, unless otherwise defined or required by the context, the following words  
11        and phrases shall have the meanings indicated:

12        *Accrued Pension* or *Accrued Benefit* means the amount determined by applying the formula  
13        in section 20-110(a)(1) to a Member's Average Monthly Earnings and Service at date of  
14        termination of employment.

15        *Accumulated Contribution* means the total of a Member's own contributions under the prior  
16        Plan and this Plan, plus interest as provided in section 20-112(a).

17        *Actuarially Equivalent* means a benefit of equivalent value to the benefit which would  
18        otherwise have been provided, determined using GAM '83 (with a blended rate of 65% male,  
19        35% female) and interest of eight (8) percent per annum before and after Retirement, and on  
20        the basis of other appropriate actuarial assumptions and methods used by the actuary.

21        *Affiliated agency* means the City of Fort Lauderdale General Employees' Retirement  
22        System, the City of Fort Lauderdale Police and Firefighters' Retirement System, and the City of  
23        Fort Lauderdale Community Redevelopment Agency, a body politic organized and existing  
24        under the Community Redevelopment Act, Part III, Chapter 163, Florida Statutes.

25        *Average Monthly Earnings, for Group I Members* means the result obtained by adding such  
26        Member's highest two (2) years' Earnings within his last five (5) years of Service, and dividing  
27        the sum by twenty-four (24). For Group II Members, Average Monthly Earnings means one-  
28        twelfth (1/12) of the arithmetic average of annual Earnings for the highest three (3) years  
29        preceding actual Retirement or termination.

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1        *Beneficiary* means a person or persons entitled to receive any benefits under the Plan upon  
2 the death of a Member, as designated in writing by the Member and filed with the Board.

3        *Board of Trustees* or *Board* means the administrative Board which shall supervise,  
4 administer and manage the Plan.

5        *Child* or *children* means the natural born or legally adopted child or children of a Member.

6        *City* means the employer, the City of Fort Lauderdale, Florida.

7        *City Commission* means the City Commission of the City of Fort Lauderdale, Florida.

8        *City Sponsored Defined Contribution Plan* means that Defined Contribution Money  
9 Purchase Plan created by City Ordinance No. C-95-41 under Internal Revenue Code Section  
10 401(a).

11        *Code* means the Internal Revenue Code of 1986, as amended from time to time.  
12 Reference to a Code section shall include (a) such section and any comparable section or  
13 sections of any future legislation that amends, supplements, or supersedes such section and (b)  
14 all rulings, regulations, notices, announcements, and any other pronouncement issued by the  
15 U.S. Treasury Department, the Internal Revenue Service, and any court of competent  
16 jurisdiction that relate to such section(s).

17        *DROP* means a Deferred Retirement Option Program under section 20-110(a.1).

18        *DROP Account* means the Account established for each DROP Participant. The DROP  
19 Account shall be part of the Fund. Monies in the DROP Account may be commingled with other  
20 assets of the Fund and may be invested by the Board in the same manner as other Fund  
21 assets.

22        *DROP Participant* means a Member who meets the DROP eligibility requirements set forth  
23 in section 20-110(a.1)(1), meets the conditions set forth in section 20-110(a.1)(2) and actually  
24 commences participation in the DROP. Except for the death of a Member while a DROP  
25 Participant, a Member who is a DROP Participant is a retired Member in DROP Retirement and  
26 the DROP Retirement shall convert to a normal Retirement at the conclusion of the DROP  
27 Period.

28        *DROP Period* means the period of time commencing when an eligible Member commences  
29 his DROP Retirement after attaining his DROP Retirement Date and concluding upon the

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earliest of (i) a DROP Participant's death during DROP Retirement, (ii) conversion of DROP Retirement into a normal Retirement, which such conversion shall occur no later than thirty-six (36) months after the eligible Member's DROP Retirement Date, or (iii) termination of employment prior to either (i) or (ii) above; provided, however, that the commencement of a DROP Period for certain Members may be deferred beyond the attainment of their Normal Retirement Date under section 20-110(a.1)(4)a. under the terms provided therein.

*DROP Retirement* means the status of a Member who meets the DROP eligibility requirements set forth in section 20-110(a.1)(1), elects normal Retirement and elects to have receipt of normal monthly Retirement benefits under section 20-110(a.1)(2) deferred and transferred into a DROP Account, but who does not terminate his employment with the City until the end of the DROP Period.

*DROP Retirement Date* means the date on which a Member first attains his Normal Retirement Date.

*Early Retirement Date* for a Group I Member means the date upon which a Group I Member attains fifty (50) years of age, after such Member has completed fifteen (15) or more years of Service. Early Retirement Date for a Group II Member means the date upon which a Group II Member attains fifty-five (55) years of age, after such Member has completed fifteen (15) or more years of Service.

*Earnings* means basic wages, assignment pay and regular longevity pay paid to an Employee including contributions "picked-up" by the City pursuant to section 20-112(a), but excluding overtime, any bonus and any other non-regular payments; provided, that if a Member is paid on the basis of an hourly wage rate, his Earnings shall be based on not more than forty (40) hours per week unless otherwise determined for a particular department by the City Manager. An Employee's Earnings, compensation or salary contributed as employee-elective salary reductions or deferrals to any salary reduction, deferred compensation, or tax-sheltered annuity program authorized under the Internal Revenue Code shall also be deemed to be the Earnings the employee would receive if he or she were not participating in such program and shall be treated as Earnings for retirement purposes. For any person who first becomes a member in any Plan year beginning on or after January 1, 1996, Earnings for any Plan year shall not include any amounts in excess of the Internal Revenue Code Section 401(a)(17) limitation, which limitation shall be adjusted as required by federal law for qualified government plans and shall be further adjusted for changes in the cost of living in the manner provided by Internal Revenue Code Section 401(a)(17)(B).

*Effective Date* means January 3, 1973.

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1        *Employee of an Affiliated Agency* means a permanent full-time employee of an Affiliated  
2        Agency who was hired on or after February 20, 2008 and became a Member of this Plan on or  
3        before February 19, 2008.

4        *Employee* means, except as provided below, any person employed by the City or any  
5        qualified Employee of an Affiliated Agency, other than a Police Officer or Firefighter in the  
6        manner required by the City of Fort Lauderdale Police and Firefighters Retirement System, who:

- 7            (1)        Has been appointed to a permanent position in a classified Service (as defined  
8                      by the personnel rules of the City);
- 9            (2)        Is in the non-classified Service (as defined by the City Charter) and has elected  
10                   to become a Member of the Plan); or
- 11           (3)        Was transferred to another government agency and at the time of such transfer  
12                   was a Member of this Plan or the prior Plan, provided that the City Commission  
13                   and/or City Manager approves the initial and continued qualification of such an  
14                   Employee under this Plan.

15  
16        The term Employee does not include any person

- 17           (i)        who is hired by the City on or after October 1, 2007 for a position that is within  
18                   the Collective Bargaining Unit for those employees defined in Certification  
19                   Number 1519 granted by the State of Florida Public Employees Relations  
20                   Commission on November 16, 2004, which, as of the effective date of this  
21                   amendment are represented by Teamsters Local Union No. 769, affiliated with  
22                   the International Brotherhood of Teamsters, AFL-CIO;
- 23           (ii)        who is hired by the City on or after November 7, 2007 for a position that is within  
24                   the Supervisory Bargaining Unit as defined in Certification Number 1521 granted  
25                   by the State of Florida Public Relations Commission on November 30, 2004 and  
26                   the Professional Bargaining Unit as defined in Certification Number 1523  
27                   granted by the State of Florida Public Employees Relations Commission on  
28                   November 30, 2004, which, as of the effective date of this amendment are  
29                   represented by the Federation of Public Employees, a Division of the National  
30                   Federation of Public and Private Employees, AFL-CIO, affiliated with District 1-  
31                   MEBA (AFL-CIO);
- 32           (iii)        who is hired by the City on or after February 20, 2008 for a position that is in  
33                   either the classified Service or the non-classified Service and which position is  
34                   neither within the Bargaining Units identified in (i) nor (ii) above; and

1 (iv) who is hired by an Affiliated Agency on or after February 20, 2008.

2  
3 For a person employed by an Affiliated Agency to be qualified hereunder as an Employee,  
4 such individual must be employed full-time by such Affiliated Agency. Such a qualified person  
5 shall be deemed to be an Employee hereunder. Membership in this Plan shall be optional for  
6 Employees of Affiliated Agencies for persons employed by an Affiliated Agency prior to February  
7 19, 2008 who established Membership in the Plan prior to February 19, 2008.

8 *Fund* means the Fund established and maintained in accordance with the Plan, as from  
9 time to time amended.

10 *Governmental Agency* means and includes all City and county agencies and subdivisions  
11 therein.

12 *Group I Member* means (a) a Member hired prior to October 1, 1983; (b) a Member hired  
13 on or after October 24, 1991; (c) a Member hired on or after October 1, 1983 but prior to  
14 October 24, 1991; (d) a Member hired prior to October 1, 1983 but who elected under section  
15 20-108(a)(3) to be treated as a Member hired on or after October 1, 1983; or (e) as to Members  
16 within (c) and (d) above, a Member who did not elect the optional benefit treatment for eligible  
17 Members in accordance with section 20-107.1. Group I Member shall also mean an Employee  
18 in the non-classified Service of the City or a qualified Employee of an Affiliated Agency who  
19 fulfills the prescribed participation requirements set forth in section 20-108 and elects  
20 Membership in this Plan on a date on or after October 24, 1991. Only persons meeting the  
21 definition of Employee and the eligibility requirements therefor may be a Group I Member.

22 *Group II Member* means (a) a Member hired on or after October 1, 1983, but prior to  
23 October 24, 1991 and (b) a Member hired prior to October 1, 1983 but who elected under  
24 section 20-108(a)(3) to be treated as a Member hired on or after October 1, 1983, which such  
25 Member of (a) or (b) above elected to continue to be treated as a Group II Member under the  
26 optional benefit treatment for eligible Members in accordance with section 20-107.1. Only  
27 persons meeting the definition of Employee and the eligibility requirements therefor may be a  
28 Group II Member.

29 *Investment Advisor* means the person or entity which at any time serves as investment  
30 agent, or advisor, or both, for the Fund.

1        *Medical Board* means two (2) or more medical doctors, one (1) or more of whom may be a  
2 Member's doctor, whose reports or opinions shall be considered by the Board when determining  
3 or reviewing the status of Service incurred or non-service incurred disabilities.

4        *Member* means an Employee who fulfills the prescribed participation requirements set forth  
5 in section 20-108 or a former employee who is receiving a disability pension. Only persons  
6 meeting the definition of Employee and the eligibility requirements therefor may become  
7 Members.

8        *Normal Retirement date for Group I Members* means

- 9        (a)        The first day of the month next following a Group I Member's attainment of fifty-  
10                five (55) years of age, and, for Employees hired on or after January 21, 2004,  
11                attainment of a minimum of five (5) years of Continuous Service, or  
12        (b)        Thirty (30) years of Continuous Service, whichever (a) or (b) shall first occur.

13  
14        For a Group II Member, Normal Retirement Date means the first day of the month next  
15 following a Group II Member's attainment of sixty-five (65) years of age. Normal Retirement  
16 Date shall be adjusted for certain Members under subsection 20-110(c)(3)c.

17        *Pension* means a series of monthly amounts which are payable to a person who is entitled  
18 to receive benefits under the Plan.

19        *Plan* means the City of Fort Lauderdale General Employees' Retirement System as  
20 contained herein and all amendments thereto.

21        *Plan Year* means the twelve-month period commencing on October 1 and ending on  
22 September 30.

23        *Previously Ineligible Employee* means an Employee who was not eligible to participate in  
24 the Plan because such Employee had either:

- 25        (a)        Attained age fifty-five (55) on or before his date of employment where the date  
26                of his employment was either (i) prior to October 1, 1983 or (ii) on or after  
27                October 1, 1991, but before the effective date of this amendment, July 15, 2003  
28                or  
29        (b)        Attained age sixty (60) on or before his date of employment when the date of his  
30                employment was on or after October 1, 1983 but prior to October 1, 1991.

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1  
2       *Primary Social Security Benefit* means the monthly amount payable to a Member as a  
3 disability insurance benefit under the Social Security Act in effect at the time of his disability,  
4 without regard to any increases in the wage or benefit levels that take effect after the date of his  
5 termination of active employment due to disability.

6       *Prior Plan* means the City of Fort Lauderdale Employees' Pension Plan as it existed  
7 immediately preceding January 3, 1973.

8       *Retirement* means (i) termination of employment for a reason other than death after a  
9 Member has fulfilled all requirements for a normal, early, Service or disability Retirement  
10 pension, or, (ii) DROP Retirement.

11       *Service, continuous Service, Credited Service or service credit* means the period of an  
12 Employee's uninterrupted employment from the date he last entered employment as an  
13 Employee as defined herein up to (i) the beginning of his DROP Period, (ii) the date his  
14 employment is terminated, or (iii) the date he ceased to be an Employee as defined herein,  
15 whichever (i), (ii) or (iii) shall first occur.

16       For a Previously Ineligible Employee in the employ of the City as of July 15, 2003, the term  
17 Service, Continuous Service, Credited Service or Service Credit means the period of a  
18 Previously Ineligible Employee's uninterrupted employment with the City from the date he  
19 commenced Membership in the Plan, together with any prior Service Credit he purchases, up to  
20 (i) the beginning of his DROP Period, (ii) the date his employment is terminated or (iii) the date  
21 he ceases to be an Employee as defined herein, whichever (i), (ii), (iii) or (iv) shall first occur.

22       For a qualified Employee of an Affiliated Agency or an Employee in the non-classified  
23 Service of the City who elects Membership in this Plan the term Service, Continuous Service,  
24 Credited Service or Service Credit means the period of such Employee's uninterrupted  
25 employment with the Affiliated Agency or City from the date he commenced Membership in the  
26 Plan, together with any prior Service Credit he purchases, up to (i) the beginning of his DROP  
27 Period, (ii) the date his employment is terminated, (iii) the date he ceased to be an Employee as  
28 defined herein, or (iv) the date on which he voluntarily terminates his Membership in the Plan,  
29 whichever (i), (ii), (iii), or (iv) shall first occur.

30       Anything herein to the contrary notwithstanding, provided one maintains continuity of  
31 Membership in this Plan, when changing employment from the City and simultaneously securing  
32 employment as a qualified Employee of an Affiliated Agency or vice versa, there is no break in  
33 Continuous Service.

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Furthermore, only the benefits due from this Plan, including those which have accrued and been credited to this Plan from the City of Fort Lauderdale Police and Firefighters' Retirement System shall be paid by the Fund.

Periods of employment as a City Police Officer or Firefighter shall be counted if accrued and credited as provided above for determining an employee's eligibility for benefits. For this purpose, benefits under this Plan shall take into Account such employee's Service in a capacity as a Police Officer or Firefighter, by giving credit for years of "continuous Service" (as that term is defined in section 20-127 of the City of Fort Lauderdale Police and Firefighters' Retirement System).

*Service, continuous Service, Credited Service or Service credit* means the period of an Employee's uninterrupted employment from the date he last entered employment as an Employee as defined herein up to (i) the beginning of his DROP Period, (ii) the date his employment is terminated, or (iii) the date he ceased to be an Employee as defined herein, whichever (i), (ii) or (iii) shall first occur.

An Employee shall receive Credited Service for all purposes, including vesting, for the years or fractional parts of years that he or she performs "Qualified Military Service" including voluntary or involuntary service in the armed forces of the United States as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L. 103-353), after separation from employment with the City, to perform training or service, provided that:

- (a) The Employee must return to his employment with the City within one (1) year following the date of military discharge or his release from active service.
- (b) The Employee is entitled to reemployment under the provisions of USERRA.
- (c) The Employee pays to the Plan the amount he would have contributed to the Plan as pick-up contributions if his employment would have continued during the period he was absent due to Qualified Military Service. Such payment must be made by the earlier of a period equal to three (3) times the period of absence or five (5) years.
- (d) The maximum credit for military service pursuant to this paragraph shall be five (5) years.
- (e) This section is intended to satisfy the minimum requirements of USERRA, as may be amended from time to time. To the extent that this section does not meet the minimum requirements of USERRA, the provisions of USERRA shall govern.

If an Employee dies on or after January 1, 2007 while performing Qualified Military Service as defined by USERRA, the Employee's beneficiaries shall be entitled to any benefits the

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Employee would have been entitled to had he or she resumed employment and then died while employed.

Beginning January 1, 2009, to the extent required by section 414(u)(12) of the federal internal revenue code, an individual receiving differential wage payments, as defined under section 3401(h)(2) of the federal internal revenue code, from an employer shall be treated as employed by the City, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under section 415(c) of the federal internal revenue code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

*Service Retirement Date* shall mean the date upon which any Group II Member has completed thirty (30) years of Service in accordance with section 20-110(d).

*Spouse* means the person who is recognized as the legal wife or husband of the Member under the laws of the State of Florida.

*Trustee* means the entity chosen to serve as trustee and custodian of the Fund.

Sec. 20-107.1. Optional benefit treatment for eligible Members.

(a) Effective September 13, 1992, Members hired on or after October 24, 1991 shall receive the same benefits and make contributions at the same rate as Group I Members.

(b) Effective September 13, 1992, eligible Members, as set forth below, who were hired on or after October 1, 1983, but prior to October 24, 1991 or were hired prior to October 1, 1983 but elected under section 20-108(a)(3) to be treated as Members hired on or after October 1, 1983, shall receive the same benefits and make contributions at the same rate as Group I Members, except that such eligible Members shall have the option of continuing to receive the same benefits and make contributions at the same rate as Group II Members.

(c) For those Members in subsection (a) and for those eligible Members in subsection (b) not electing to be treated Group II Members, additional contributions, as set forth below, shall be made beyond those otherwise required under section 20-112(a).

(1) The amount of the additional contributions required under this section shall be equal to one-half (½) of the total contributions made by the Member prior to September 13, 1992.

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1           (2)     The additional contributions required under this section shall be paid by the  
2                 Member in equal bi-weekly installments over a period of time equal to the  
3                 Member's period of Service under the Plan. Payment of the additional  
4                 contributions shall be by equal monthly installments over the same period of  
5                 time for those Members governed by this subsection (c) who are also on  
6                 disability approved by the Board. Nothing herein shall prevent a Member from  
7                 paying the additional contributions over a time period shorter than that  
8                 proscribed above.

9           (3)     To the extent that the additional contributions under this subsection (c) are not  
10                paid in full upon application by the Member for benefits under section 20-110 or  
11                20-111, excluding an application for disability benefits under section 20-110(c),  
12                the remaining additional contributions payable hereunder shall be first deducted  
13                from any benefits otherwise payable. Members hereunder who owe additional  
14                contributions at the time an approved disability benefit becomes payable shall  
15                continue to make such additional contributions in the manner provided in  
16                subsection (c)(2) above.

17  
18           (d)     In order for a Member in subsection (b) to be eligible to elect to be treated either  
19                as a Group I Member or a Group II Member, such Member must be an Employee as of  
20                October 23, 1991.

21  
22           (e)     Eligible Members in subsection (b) may elect to continue to receive the same  
23                benefits and make the same contributions as Group II Members by delivery of written notice  
24                of such election to the Office of the General Employee's Retirement System on or before the  
25                close of business August 31, 1992. Such written notice shall be on forms promulgated by the  
26                Board and distributed to the eligible Members as defined above. The Member may change  
27                the election at any time on or before August 31, 1992, but such election shall become  
28                irrevocable after such date. In the event an eligible Member fails to timely deliver written  
29                notice of the election to continue to be treated as a Group II Member, such Member shall  
30                thereafter be treated as a Group I Member.

31  
32           (f)     Effective May 1, 1998 any remaining Group II Members described in subsection  
33                (b) above who elected to remain a Group II Member under subsection (b) above shall have  
34                the option to receive the same benefits and make the same contributions at the same rate as  
35                Group I Members, by making the election in subsection (h) below.

(g) For those Members in subsection (f) electing to be treated as Group I Members, additional contributions, as set forth below, shall be made beyond those otherwise required under section 20-112(a).

(1) The amount of the additional contributions required under this section shall be equal to one-half ( $\frac{1}{2}$ ) of the total contributions made by the Member prior to May 1, 1998.

(2) The additional contributions required under this subsection shall be paid by the Member in equal bi-weekly installments over a period of time equal to the Member's period of Service under the Plan. Payment of the additional contributions shall be by equal monthly installments over the same period of time for those Members governed by this subsection (g) who are also on disability approved by the Board for the period of disability prior to October 1, 1996. Nothing herein shall prevent a Member from paying the additional contributions over a time period shorter than that proscribed above.

(3) To the extent that the additional contributions under this subsection (g) are not paid in full upon application by the Member for benefits under section 20-110 or 20-111, excluding an application for disability benefits under section 20-110(c), the remaining additional contributions payable hereunder shall be first deducted from any benefits otherwise payable. Members hereunder who owe additional contributions at the time an approved disability benefit becomes payable shall continue to make such additional contributions in the manner provided in subsection (g)(2) above.

(h) Eligible Members in subsection (f) may elect to receive the same benefits and make the same contributions as Group I Members by delivery of written notice of such election to the Office of the General Employees' Retirement System on or before the close of business April 3, 1998. Such written notice shall be on forms promulgated by the Board and distributed to the eligible Members as defined above. The Member may change the election at any time on or before April 3, 1998, but such election shall become irrevocable after such date. In the event an eligible Member fails to timely deliver written notice of the election to be treated as a Group I Member, such Member shall thereafter continue to be treated as a Group II Member.

#### Sec. 20-108. Eligibility.

(a) *Conditions of eligibility:*

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- 1
- 2 (1) Employees who were Participants in the prior Plan at the time of the adoption of
- 3 this Plan shall become Members of this Plan.
- 4 (2) Except as might be otherwise expressly provided herein, any future City
- 5 Employee shall become a Member, provided that:
- 6 a. Such Employee is actively employed at the time of enrollment.
- 7 b. Such Employee is not receiving a pension under any other pension Plan
- 8 or Retirement System of the City of Fort Lauderdale.
- 9 (3) Except as might be otherwise expressly provided herein, Membership in the
- 10 Plan is mandatory for all eligible City Employees and is a condition of their
- 11 continued employment, except that Membership (i) of those in the non-classified
- 12 Service, (ii) qualified Employees of Affiliated Agency, and (iii) Previously
- 13 Ineligible Employees in the City's employ as of July 15, 2003 shall be optional.
- 14
- 15 However, each Employee hired before October 1, 1983 who had attained age fifty-
- 16 five (55) prior to such date and who had attained age sixty (60) as of such date,
- 17 and was therefore not eligible to become a Member of this Plan shall have the
- 18 option of becoming a Member, under the terms of the Plan applicable to
- 19 Employees hired on or after October 1, 1983, effective retroactively as of the date
- 20 he first became an Employee, provided that:
- 21 a. Such Employee shall submit to the Board a written statement indicating
- 22 that he wishes to become a Member.
- 23 b. Such Employee pays into the Fund the full amount of Member
- 24 contributions, with interest thereon determined by applying the actuarially
- 25 assumed rate of interest for the Plan's investment return, which
- 26 contributions would have been made to the Plan (and which interest
- 27 would have accrued) had such employee otherwise satisfied the
- 28 requirements of this section as of the date he first became a Member.
- 29 Such amount must be paid in full not later than the date the Employee
- 30 actually retires under a normal or disability Retirement. If full payment has
- 31 not been made prior to Retirement (whether normal or disability), the
- 32 Employee's contributions will be refunded pursuant to section 20-110(g)
- 33 and the Employee shall not receive any benefits from the Plan.
- 34 (4) The methods and procedures to be followed with regard to the above shall be
- 35 determined by the Board.

(5) Any person hired on or after October 1, 2007 who fails to meet the definition of Employee at the time he or she is hired shall not be eligible to become a Member of and participate in the Plan.

(b) *Application.* Each Member shall complete an application form within the time limit established by the Board, covering the following points, as well as such other points or items as may be prescribed by the Board:

(1) Such employee's acceptance of the terms and conditions of the Plan; and, if requested,

(2) Such employee's designation of a beneficiary or beneficiaries.

(c) *Change in designation of beneficiary.* A Member may from time to time change his beneficiary or beneficiaries by written notice on proper forms executed in the pension office. Upon such change, the rights of all previously designated beneficiaries to receive any benefits of the Plan shall cease.

Sec. 20-108.1. Optional Participation; City Sponsored Defined Contribution Plan.

(a) Eligible Employees may elect to participate in a City Sponsored Defined Contribution Plan in lieu of participation in this defined benefit Plan. Participation in either this Defined Benefit Plan or the City Sponsored Defined Contribution Plan is mandatory for all eligible Employees, except that participation in either this defined benefit Plan or the City Sponsored Defined Contribution Plan for Employees in the non-classified Service and for Employees of Affiliated Agencies is optional. An eligible Employee may not participate in both this Plan and the City Sponsored Defined Contribution Plan for the same time period.

(b) The Director of Finance shall promulgate forms for a notice of election ("Notice of Election for New Employees") which form shall be made available to all newly hired Employees. Upon hiring, an Employee electing to participate in the City Sponsored Defined Contribution Plan in lieu of this Defined Benefit Plan shall file the Notice of Election for New Employees with the Director of Finance prior to the end of his first pay period after his first day of employment.

(c) The election to participate in the City Sponsored Defined Contribution Plan in lieu of this Defined Benefit Plan shall be made by one who became a Member prior to July 15,

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2003 by filing with the Board and with the Director of Finance a notice of election to participate in the City Sponsored Defined Contribution Plan ("Notice of Election") which Notice of Election shall be promulgated by the Director of Finance after consultation with the Plan's Administrator.

(d) The Notice of Election forms shall provide for the following:

- (1) The Notice of Election form shall provide for termination of Membership in this defined benefit Plan effective the date specified in the Notice of Election and election of participation in the City Sponsored Defined Contribution Plan.
- (2) The effective date of termination of Membership in this defined benefit Plan shall coincide with the last day of a pay period ending no sooner than thirty (30) days after the filing of the Notice of Election.
- (3) The effective date of commencement of participation in the City's Defined Contribution Plan shall coincide with the first day of the pay period next following the effective date of termination of Membership in this defined benefit Plan.
- (4) The Notice of Election form shall contain a notice to the Member that upon termination of Membership in this Plan, the Member shall be entitled to refund of Member contributions, with interest, in accordance with Section 20-112 (a)(7) and shall further provide notice with regard to rollover distribution options pursuant to section 20-115(k) hereof.

(e) As to Employees for whom participation in this Plan or the City's Defined Contribution Plan is mandatory, election to participate in the City's Defined Contribution Plan shall be in accordance with the following:

- (1) As to Employees hired on or after July 15, 2003 for whom participation in this Plan is mandatory, such Employees upon meeting all the eligibility requirements for Membership in this Plan shall initially become Members of and participate in this Plan unless they have elected in accordance with subsection (b) above to participate in the City Sponsored Defined Contribution Plan by filing a Notice of Election for New Employees to participate in the City Defined Contribution Plan.
- (2) In the event an Employee for whom participation in this Plan is mandatory desires to participate in the City Sponsored Defined Contribution Plan in lieu of this defined benefit Plan, then such Employee who has not filed a Notice of



Election for New Employees in accordance with subsection (b) above may, at any time prior to

- (i) Commencement of a DROP Retirement, or
- (ii) Termination of employment with the City, whichever (i) or (ii) should first occur, file a Notice of Election in the manner set forth above.

Sec. 20-109. Retirement dates.

(a) *Normal retirement date.* A Group I Member shall be eligible for a normal retirement pension if his employment is terminated on or after the first day of the month next following his attainment of age fifty-five (55) years or thirty (30) years of service, whichever shall first occur, provided that, in addition to the foregoing, a Group I Member who is hired on or after January 21, 2004 shall also be required to have a minimum of five (5) years of Continuous Service to be eligible for a normal retirement pension. A Group II Member shall be eligible for a normal retirement pension if his employment is terminated on or after the first day of the month next following his attainment of age sixty-five (65).

(b) *Early retirement date.* A Group I Member shall be eligible for an early retirement pension if his employment is terminated on or after his fiftieth birthday and after he has completed fifteen (15) or more years of Service. A Group II Member shall be eligible for an early retirement pension if his employment is terminated on or after his fifty-fifth birthday and after he has completed fifteen (15) or more years of Service. Such early retirements must be approved by the Board. Any retirement, other than a service retirement, prior to Normal Retirement Date shall be deemed to be an early retirement.

(c) *Service retirement date.* A Group II Member shall be eligible for a service retirement pension after he has completed thirty (30) or more years of Service in accordance with section 20-110(d).

(d) *Bonus Incentive for Retirement Program.* There is hereby created a Bonus Incentive for Retirement Program by which the Retirement System is amended to provide a Bonus Incentive for certain eligible Employees to terminate their employment with the City and begin a retirement within a proscribed window, in accordance with the terms and conditions hereinafter set forth. In order to qualify for the Bonus Incentive, the Member must establish eligibility as of the Eligibility Date in accordance with the terms of subsection (2),

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Normal Retirement Pension, subsection (3), Early Retirement Pension, or subsection (4), Service Retirement Pension of the Bonus Incentive for Retirement Program hereunder. Once eligibility is established under subsection (2), (3), or (4), hereof, then the terms of the succeeding retirement shall be governed by the subsection under which the Member attained eligibility for the Bonus Incentive for Retirement Program hereunder.

(1) *Defined terms.* The following defined terms shall be applicable under the Bonus Incentive for Retirement Program:

*Bonus Incentive*, for Employees who meet the eligibility requirements as of the Eligibility Date and deliver the Notice, Resignation and Waiver as required in Section (5)(b) hereof within the Window Period for Election, shall mean the supplementing of the months of Service Credit otherwise earned by the Employee under Section 20-110(a)(1), through his last day of employment by adding up to an additional thirty (30) months of Service Credit as a bonus under the Bonus Incentive for Retirement Program.

*Eligibility Date* shall mean December 1, 2011, the date upon which eligibility for participation in the Bonus Incentive for Retirement Program is determined. For the purpose of determining eligibility, an Employee's age and Service Credit as of the Eligibility Date shall be controlling. If an Employee has not attained the specified Service Credits or age by the Eligibility Date, the Employee is not eligible to participate in the Bonus Incentive Program for Retirement.

*OWBPA* means the Older Workers' Benefits Protection Act.

*Window Period for Election* shall mean the period within which an Employee must submit, on forms promulgated by the City, (i) Notice of Election, (ii) Irrevocable Resignation of Employment with an elected retirement date and (iii) OWBPA Acknowledgment, Waiver and Release. The Window Period for Election shall be a period commencing December 7, 2011 and ending February 1, 2012.

*Window Period for Retirement* shall mean the period within which an Employee must retire (last day of employment) in order to qualify for the Bonus Incentive. The Window Period for Retirement shall be a period commencing December 14, 2011 and ending March 16, 2012. An Employee who elects a retirement date outside the Window Period for Retirement is not eligible to participate in the Bonus Incentive for Retirement Program. Retirements under the Bonus Incentive for

1 Retirement Program shall be subject to the conditions and terms set forth in  
2 Section 5 hereof.

3 (2) *Normal Retirement Pension.* The provisions of Section 20-109(a) [Normal  
4 Retirement Date] and 20-110(b) [Normal Retirement Pension - Amount] to the  
5 contrary notwithstanding, during the Window Period for Election, Employees  
6 who, as of the Eligibility Date, are (i) Members of the Plan, and (ii) as to Group I  
7 Members hired on or after January 21, 2004, such Group I Member must have a  
8 minimum of five (5) years of Service Credit under the Plan as of the Eligibility  
9 Date and (iii) are fully vested as of the Eligibility Date and (iv) have attained fifty-  
10 five (55) years of age or more or twenty-seven and one-half (27.5) years of  
11 Service Credit or more as of the Eligibility Date, shall be eligible to receive the  
12 Bonus Incentive under the terms and conditions of the Bonus Incentive for  
13 Retirement Program.

14 (3) *Early Retirement Pension.* The provisions of Section 20-109(b) [Early  
15 Retirement Date] and 20-110(b) [Early Retirement Pension] to the contrary  
16 notwithstanding, during the Window Period for Election, Employees who, as of  
17 the Eligibility Date, are (i) Members of the Plan, and (ii) have attained the age of  
18 fifty (50) years or more as of the Eligibility Date for Group I Members, or, for  
19 Group II Members have attained that age of fifty-five (55) years or more as of  
20 the Eligibility Date and (iii) have completed twelve and one-half (12.5) years or  
21 more of Service Credit as of the Eligibility Date, shall be eligible to receive the  
22 Bonus Incentive under the terms and conditions of the Bonus Incentive for  
23 Retirement Program.

24  
25 a. For those Group I Members who are eligible to participate in the Bonus  
26 Incentive for Retirement Program as set forth in Section 3 above, "Early  
27 Retirement Pension" and who elect an immediate monthly pension under  
28 Section 20-110(b)(2), the reduction factor of five-twelfths (5/12) percent  
29 for each month by which the commencement date of such monthly  
30 pension precedes the Group I Member's Normal Retirement Date, shall  
31 still be applied after addition of the Bonus Incentive.

32 b. For those Group II Members who are eligible to participate in the Bonus  
33 Incentive for Retirement Program as set forth in Section 3 above, "Early  
34 Retirement Pension" and who elect an immediate monthly pension under  
35 Section 20-110(b)(2), the reduction factor of one-third (1/3) percent for  
36 each month by which the commencement date of such monthly pension  
37 precedes the Employee's Normal Retirement Date, up to a maximum of

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sixty (60) months and one-half (½) percent for each additional month by which the commencement date of such monthly pension precedes the Group II Members' Normal Retirement Date, shall be applied after addition of the Bonus Incentive.

- c. For those Employees who are eligible to participate in the Bonus Incentive for Retirement Program as set forth in Section 3 above, "Early Retirement Pension" and who elect a deferred monthly Pension commencing at their Normal Retirement Date equal to their accrued Pension under Section 20-110(b)(1), there shall be no reduction factor after the addition of the Bonus Incentive.

- (4) *Service Retirement Pension.* The provisions of Section 20-109(d) [Service Retirement Date] and 20-110(d) [Service Retirement Pension] to the contrary notwithstanding, during the Window Period for Election, Employees who, as of the Eligibility Date, are (i) Group II Members of the Plan, and (ii) have, as of the Eligibility Date, completed twenty-seven and one-half (27.5) or more years of Service Credit, shall be eligible to receive the Bonus Incentive under the terms and conditions of the Bonus Incentive for Retirement Program.

- (5) *Procedures and Conditions of Bonus Incentive for Retirement Program.* The following procedures and conditions shall govern the Bonus Incentive for Retirement Program.

- a. All retirements administered under the Bonus Incentive for Normal Retirement and the time frames set forth herein shall be subject to compliance with Title II of the OWBPA. Under the OWBPA, once an Employee signs the OWBPA Acknowledgment, Waiver and Release that Employee has up to seven (7) days to rescind his signature. An Employee's last day of employment and first day of retirement may not fall within the seven (7) day period allowed for rescission.
- b. In order to be eligible to receive the Bonus Incentive an Employee must deliver to the GERS Plan Administrator and the City's Director of Human Resources within the Window Period for Election, on forms promulgated by the City, (i) a Notice of Election of Participation in the Bonus Incentive for Retirement Program, (ii) an Irrevocable Resignation of Employment as of the elected last day of employment within the Window Period for Retirement, and (iii) an OWBPA Acknowledgment, Waiver and Release.

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- 1 c. In no event shall a Group I Member exceed the maximum benefit accrual  
2 of ninety (90) percent of his Average Monthly Earnings as provided under  
3 Section 20-110(a)(1)a.i. nor shall a Group II Member exceed the  
4 maximum benefit accrual of forty-five (45) percent of his Average Monthly  
5 Earnings as provided under Section 20-110(a)(1)b.  
6 d. The Employee shall continue to accrue Service Credit through the last  
7 day of Employment.  
8

9 Sec. 20-110. Retirement benefits.

10  
11 (a) Normal retirement pension. The normal retirement Pension benefits under this  
12 Plan shall be as follows:

13  
14 (1) Amount.

- 15  
16 a. Group I Members. The monthly normal retirement Pension for a Group I  
17 Member accruing Continuous Service shall be equal to three (3.0) percent  
18 of such Member's Average Monthly Earnings multiplied by his years of  
19 Service through twenty-five (25) years, for all such years of Service,  
20 including Service prior to November 1, 2001, plus two and one-half (2.5)  
21 percent of his Average Monthly Earnings multiplied by his years of Service  
22 in excess of twenty-five (25) years.  
23

- 24 i. Under subsection (a)(1) a. above, the maximum benefit accrual  
25 permitted a Group I Member is ninety (90) percent of his Average  
26 Monthly Earnings, except as may otherwise be specifically provided  
27 herein. A Group I Member who has reached his maximum benefit  
28 accrual shall not be required to make any further contributions under  
29 section 20-112(a).  
30

- 31 a. The succeeding subsections 20-110(a)(1)ii. through iv. are  
32 only applicable to the conversion to the revised benefit accrual  
33 formula of 2.75%/2.25% under Ordinance No. 00-63 and are  
34 not applicable to the conversion to the revised benefit accrual  
35 formula of 3.0%/2.5% in Ordinance No. C-01-40.  
36

- 37 ii. Except as provided below, in converting to the revised higher benefit  
38 accrual formula of 2.75%/2.25%, a Group I Member shall not be

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1 permitted to exceed the maximum benefit accrual set forth in  
2 subsection (a)(1)a. i. above.

3  
4 a. Group I Members with thirty-five (35) years or more of Service  
5 as of November 1, 2000, who on the date of converting to the  
6 2.75%/2.25% benefit accrual formula exceed the otherwise  
7 applicable maximum accrual rate of ninety (90) percent shall  
8 be permitted to exceed the maximum benefit accrual rate of  
9 ninety (90) percent for Service accrued on or before  
10 November 1, 2000, but not to exceed a maximum benefit  
11 accrual of one hundred (100) percent. Such Members who, on  
12 the date of converting to the 2.75%/2.25% benefit accrual  
13 formula exceed the otherwise applicable maximum accrual  
14 rate of ninety (90) percent shall not continue to accrue Service  
15 after November 1, 2000.

16  
17 iii. A Group I Member shall have his normal retirement benefit  
18 calculated in accordance with the benefit formula (2.75%/2.25%) set  
19 forth in subsection (a)(1) a. above, unless he has delivered a written  
20 election to the Office of the Retirement System and the City's  
21 Finance Director prior to December 1, 2000 electing to continue to  
22 accrue benefits in accordance with the prior formula of 2.5% for the  
23 first twenty-five (25) years of service and 2.0% for years of service in  
24 excess of twenty-five (25). Forms for such written election shall be  
25 promulgated by the Board in consultation with the City's Finance  
26 Director. Group I Members who timely file the written election as set  
27 forth above shall not be subject to the maximum benefit accrual set  
28 forth in subsection (a)(1)i. above.

29  
30 iv. The total accrued pension of such Group I Member who timely elects  
31 to retain the 2.5%/2.0% accrual formula shall not be subject to the  
32 maximum accrual formula set forth in subsection (a)(1)a.i. above.  
33 However, the total accrued pension benefit of such Group I Member  
34 and the total accrued pension benefit of a Group I Member shall not  
35 exceed other limitations established by law.

36  
37 b. Group II Members. For Group II Members the monthly normal retirement  
38 Pension shall be an amount equal to 1.5% of such Member's Average

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1 Monthly Earnings multiplied by his years of Continuous Service up to a  
2 maximum of thirty (30) years. However, should the disability benefit being  
3 received by a Group II Member at his Normal Retirement Date exceed the  
4 amount of his normal retirement benefit, such Member's monthly retirement  
5 benefit shall be an amount equal to his disability benefit. The total Accrued  
6 Pension shall not exceed the limitations established by law. The Pension of  
7 any Member who was a participant in the Prior Plan shall not be less than  
8 the Pension provided by the Prior Plan.  
9

- 10 (2) Duration and survivor benefits. Except as is otherwise provided under section 20-  
11 110(a.1)(9), unless he elects an optional form of Retirement benefit under section  
12 20-111, a Member retiring on or after his Normal Retirement Date shall receive a  
13 monthly Pension commencing on his Retirement date and continuing thereafter  
14 during his lifetime. Additionally, Group I Members shall receive duration and  
15 survivor benefits as follows:  
16

17 a. If such a Member is married at the time of his Retirement, upon his death  
18 one hundred (100) percent of his normal Retirement Pension shall be  
19 continued to his Spouse for a period of one (1) year, and sixty (60) percent  
20 of such amount shall be continued thereafter until the earlier of the  
21 Spouse's death or remarriage. In addition, there shall be paid to each Child  
22 of such deceased retired Member, twenty (20) percent of such Member's  
23 normal Retirement Pension until the earliest of such Child's marriage, death  
24 or attainment of age eighteen (18). Provided, however, that the total  
25 Pension paid to the Spouse and Children shall not exceed one hundred  
26 (100) percent of the deceased Member's monthly Pension. If the Spouse  
27 dies after commencement of her Pension under this section, Pensions  
28 payable to a Child or Children shall be adjusted to the amount set forth in  
29 (a)(2)b. below.  
30

31 b. If there is no Spouse, upon the death of the retired Member each Child shall  
32 receive a monthly Pension equal to twenty-five (25) percent of the  
33 Member's Pension until the earliest of death, marriage or the attainment of  
34 age eighteen (18). Provided, however, that the Pension payable to all  
35 surviving children shall not exceed one hundred (100) percent of the  
36 Member's monthly Pension.  
37

38 c. If there is no Spouse or eligible Child, upon the death of the retired Member

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1 the Beneficiary of a Member who was a Participant in the Prior Plan shall  
2 receive in a lump sum an amount equal to sixty (60) of the Member's  
3 monthly payments less the sum of any monthly payments received by the  
4 Member prior to his death. If such Member was not a Participant in the Prior  
5 Plan, the Member's Beneficiary shall receive in a lump sum the excess of  
6 such Member's accumulated contributions at his date of Retirement over  
7 the Pension payments made prior to his death. Upon the death of a Group  
8 II Member, all Retirement benefits shall cease, except that if such a  
9 Member has elected to receive a decreased Retirement benefit during his  
10 lifetime, such decreased Retirement benefit shall be continued to his  
11 Spouse until death or remarriage or, if there is no Spouse, to his Children, if  
12 any, until age eighteen (18). The decreased Retirement benefit elected  
13 shall be calculated by the Board to be the Actuarial Equivalent of the normal  
14 Retirement benefit which would otherwise have been paid to the Member  
15 during his lifetime.  
16

17 (a.1) Deferred Retirement Option Program. A Deferred Retirement Option Program  
18 ("DROP") is hereby created for eligible Members. The purpose of this DROP is to encourage  
19 eligible Members to commence Retirement in accordance with the DROP at the earliest  
20 available date. Notwithstanding anything to the contrary herein, neither the Board nor the City  
21 shall take any action contrary to the Internal Revenue Code provisions applicable to this Plan or  
22 the tax qualification status of this Plan.  
23

- 24 (1) Members who have reached their DROP Retirement Date and whose employment  
25 with the City has not already terminated shall be eligible to participate in the DROP  
26 during the DROP Period.  
27
- 28 (2) In order to participate in the DROP, an eligible Member must meet the following  
29 conditions:  
30
- 31 a. The eligible Member must have attained his DROP Retirement Date, elect  
32 normal Retirement and must elect to defer receipt of his normal monthly  
33 Retirement benefit into a DROP Account.  
34
- 35 b. A written election of DROP participation form, on forms promulgated by the  
36 Board, must be filed by the eligible Member with both the Board and the  
37 City's Personnel Director at least three (3) months prior to the beginning of  
38 the DROP Period, except for those Members qualifying under section 20-

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110 (a.1)(4)a., who shall be governed by the filing dates indicated therein. An otherwise eligible Member may file an election of DROP participation form three (3) months prior to his DROP Retirement Date.

- c. Upon filing of the election of DROP participation form as required above, the eligible Member shall obtain from the City's Personnel Director an irrevocable resignation and waiver form, on forms promulgated by the City. The resignation and waiver form shall provide for the Member's irrevocable resignation from employment, with the actual date of termination being postponed until the end of the DROP Period. The administration and timing of execution and delivery of the resignation and waiver form shall meet the requirements of the Age Discrimination in Employment Act and the Older Worker's Benefits Protection Act, as same may be amended from time to time. The eligible Member must execute and deliver the resignation and waiver form to both the Board and the City's Personnel Director at least forty-five (45) days prior to the beginning of the DROP Period. An otherwise eligible Member may file the irrevocable resignation and waiver form provided for herein prior to his Normal Retirement Date.

- (3) An eligible Member electing to participate in the DROP shall have receipt of his normal monthly Retirement benefits deferred and transferred, on a monthly basis as such normal monthly Retirement benefits would otherwise be payable, into a DROP Account for the DROP Period, commencing with the first day of the first month after which the conditions in section 20-110(a.1)(2) are met. The amount of the normal monthly Retirement benefits deferred and transferred into a DROP Account shall be in accordance with the amount otherwise payable under section 20-110(a)(1), including, to the extent applicable, cost of living adjustments otherwise payable under section 20-110(h).

- (4) For each calendar month, or fraction thereof, beyond the Normal Retirement Date that an eligible Member delays election to participate in the DROP, the maximum period of participation in the DROP shall be proportionately reduced.

- a. For Members who (i) first attain their Normal Retirement Date on or before February 1, 2002, (ii) elected to commence DROP Retirement by filing the election forms under section 20-110(a.1)(2)b. and c. no later than March 1, 2002, and (iii) commence DROP Retirement no later than May 1, 2002, there shall be no proportionate reduction of the maximum period of

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1 participation in the DROP for delays beyond their DROP Retirement Date in  
2 electing to participate in the DROP.

- 3
- 4 (5) Each DROP Account shall accrue DROP Earnings during the DROP Period.  
5 DROP Earnings shall be computed at simple interest at the actuarially assumed  
6 rate of return for the Fund. At the end of the DROP Period, the DROP Account  
7 shall no longer accrue DROP Earnings. Cost of living adjustments pursuant to  
8 section 20-110(h) shall be applicable to monthly Retirement benefits during the  
9 DROP Period to the same extent the adjustments would be applicable to normal  
10 Retirement monthly benefits.
- 11
- 12 (6) A DROP Participant is a retired Member under the Plan and shall accrue no  
13 further Continuous Service credits during the DROP Period. At the conclusion of  
14 the DROP Period a DROP Retirement is converted to a normal Retirement with  
15 monthly normal Retirement benefits being paid thereafter directly to the Member.
- 16
- 17 (7) A DROP Participant on DROP Retirement shall not be eligible for either disability  
18 benefits or preretirement death benefits under sections 20-110(c)(1) or (2), but  
19 eligibility for death or disability benefits provided to a DROP Participant upon  
20 DROP Retirement under federal law, state law, City ordinance (other than as  
21 stated within this Plan), or any rights or benefits under any applicable collective  
22 bargaining agreement (other than as stated within this Plan) shall not be affected  
23 by a DROP Retirement.
- 24
- 25 (8) No later than one (1) year after termination of employment with the City, the DROP  
26 Account, together with accrued DROP Earnings, shall be distributed in the  
27 following manner:
- 28
- 29 a. Lump sum distribution to the Member (which may be used at the Member's  
30 discretion to purchase an annuity); or
- 31 b. Roll over of the balance to another qualified Retirement Plan; or
- 32 c. Any combination of a. and b. above.
- 33 d. To the extent a Member fails to elect b., or c. above, the balance of the  
34 DROP Account will be distributed in accordance with a. above at the end of  
35 the one (1) year period after termination of employment with the City.
- 36
- 37 (9) Upon the death of a DROP Participant during DROP Retirement, the DROP  
38 Retirement shall cease and the benefits payable thereafter shall be the normal

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1 monthly Retirement benefits as modified by the duration and survivor benefits  
2 formula provided in section 20-110(a)(2). If a DROP Participant dies before the  
3 DROP Account balances are distributed in full, the Beneficiary or Beneficiaries  
4 duly designated by the DROP Participant on forms promulgated by the Board shall  
5 receive the DROP Account balances in accordance with the DROP Beneficiary  
6 Form in effect and on file with the Board at the time of the DROP Participant's  
7 death. If no designation of DROP Beneficiary form is on file with the Board upon  
8 the death of the Member with a DROP Account balance remaining, the DROP  
9 Account shall be paid to the Member's estate.

- 10  
11 (10) Notwithstanding the general severability provisions set forth below in this article, in  
12 the event there is a determination (i) by the Internal Revenue Service or a court of  
13 competent jurisdiction, that the DROP provision therein or similar DROP  
14 provisions contravene provisions of the Internal Revenue Code applicable to this  
15 qualified Plan or a qualified Plan; or (ii) by a court of competent jurisdiction or any  
16 federal or state agency with authority over such subject matter, that the DROP  
17 provisions respecting the irrevocable resignation and waiver process herein are  
18 contrary to law and not enforceable, then the Board shall be notified of such  
19 event(s) and the DROP provisions set forth above shall, upon the next regularly  
20 scheduled meeting of the Board, terminate in the manner set forth below and the  
21 DROP Participants shall be so notified.

- 22  
23 a. As of the date of termination of the DROP provisions, there shall be no new  
24 DROP Retirement established.  
25 b. As of the date of termination of the DROP provisions, DROP Retirements  
26 shall cease and receipt of normal monthly Retirement benefits under  
27 section 20-110(a)(1) shall no longer be deferred and transferred into a  
28 DROP Account.  
29 c. For those Members who were DROP Participants on the date of termination  
30 of the DROP provisions, normal monthly Retirement benefits shall be  
31 suspended until termination of employment with the City and such Members  
32 shall continue to accrue Credited Service during their continued  
33 employment.  
34 d. For those Members who are DROP Participants and still in the employ of  
35 the City at the time of the termination of the DROP provision, the following  
36 provisions shall apply:

- 37  
38 1. The normal monthly Retirement benefits and the Member's normal

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1 Retirement status shall be suspended until termination of  
2 employment with the City.

3  
4 2. During the period that the normal Retirement benefits and normal  
5 Retirement status is suspended, the Member shall continue to make  
6 contributions to the Plan in accordance with the applicable provisions  
7 of section 20-112 and the Member shall continue to accrue Service  
8 during such period in accordance with the provisions otherwise  
9 applicable to the Member under section 20-110(a)(1).

10  
11 3. The DROP Account shall be distributed upon termination of  
12 employment with the City.

13  
14 4. As an alternative to subsection 3 above, a Member may elect to  
15 dissolve the DROP Account and, upon making payment to the Plan  
16 of contributions that the Member would have otherwise owed under  
17 section 20-112 had the Member not elected a DROP Retirement, the  
18 Member shall have Continuous Service credit restored for the period  
19 the Member was in DROP Retirement.

20  
21 (11) Members who are included in the bargaining unit for general employees will no  
22 longer be eligible to enter DROP on or after January 14, 2004; provided, however,  
23 that Members who filed an application for participation in DROP prior to January  
24 14, 2004 may elect the DROP Program for any remaining period of eligibility. For  
25 Members whose DROP Period commenced prior to January 14, 2004 and  
26 Members not included in the general employees bargaining unit, administration of  
27 DROP shall continue in accordance with subsections (a.1)(1) through (10) above.

28  
29 (b) Early retirement pension. A Member retiring on an Early Retirement Date may  
30 elect either a deferred or an immediate Pension as follows:

31  
32 (1) A deferred monthly Pension commencing at his Normal Retirement Date  
33 equal to his Accrued Pension.

34  
35 (2) An immediate monthly Pension commencing on the first day of any month  
36 prior to his Normal Retirement Date equal to his Accrued Pension reduced  
37 by five-twelfths (5/12) percent for each month by which the commencement  
38 date of such Pension precedes the Normal Retirement Date of a Group I

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1 Member. The early retirement Pension of a Group II Member shall be  
2 reduced by one-third (1/3) percent for each month by which the  
3 commencement date of such Pension precedes such Member's Normal  
4 Retirement Date up to a maximum of sixty (60) months and one-half (½)  
5 percent for each additional month by which such commencement date  
6 precedes such Member's Normal Retirement Date. Provided, however, that  
7 upon favorable recommendation by the Board, which recommendation shall  
8 contain a detailed statement of the facts and circumstances applicable to  
9 the case, the City Commission may, in its discretion, waive the reduction  
10 factor if there is a finding by the Board of unusual and compelling  
11 circumstances which justify such a waiver.  
12

13 Survivor benefits upon the death of a Member retired under this subsection (b) shall be  
14 computed in accordance with section 20-110(a)(2); provided, that for a Member electing a  
15 deferred early retirement Pension, such survivor benefits shall be computed as if the Member  
16 had retired with an immediate early retirement Pension on the first day of the month immediately  
17 following his death.  
18

19 (c) Disability. Disability benefits may be granted under this Plan as follows:

20 (1) Service incurred.

21  
22  
23 a. A Member who receives an injury which is determined by a Medical Board  
24 to be a medically substantiated Service-connected injury, disease or  
25 disability, which injury, disease or disability totally incapacitates him,  
26 physically or mentally, from regular and continuous duty as an Employee  
27 shall, upon the approval of the Board, receive, commencing on the ninety-  
28 first day of disability, a Pension equal to the excess, if any, of sixty-five (65)  
29 percent of his monthly Earnings in effect at the date of his disability, over, to  
30 the extent permitted by law, any amounts paid or payable from workers'  
31 compensation.  
32

33 b. If such disabled Member dies prior to his Normal Retirement Date as a  
34 result of such injury, disease or disability, as determined by a Medical  
35 Board, survivor benefits shall be determined in accordance with section 20-  
36 110(e)(1).  
37

38 (2) Non-service incurred.

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1  
2 a. A Member who receives an injury which is determined by a Medical Board  
3 to be a medically substantiated non-service connected injury, disease or  
4 disability, which injury, disease or disability totally incapacitates him  
5 physically or mentally from regular and continuous duty as an Employee, or  
6 any other gainful employment, shall upon the approval of the Board,  
7 receive, commencing on the ninety-first day of disability, a disability  
8 Pension.

9  
10 1. The amount of the disability Pension for Group I Members shall be  
11 equal to the excess, if any, of fifty (50) percent of such Member's  
12 monthly Earnings in effect at the date of his disability over, to the  
13 extent permitted by law, his Primary Social Security Benefit and any  
14 amounts paid or payable from worker's compensation.

15  
16 2. The amount of the disability Pension for Group II Members shall be  
17 equal to the excess, if any, of five (5) percent of such Member's  
18 Earnings in effect at the date of his disability multiplied by years of  
19 Service, up to a maximum of thirteen (13) years, over, to the extent  
20 permitted by law, his Primary Social Security Benefit and any  
21 amounts paid or payable from worker's compensation.

22  
23 b. If such disabled Member dies prior to his Normal Retirement Date, survivor  
24 benefits shall be determined in accordance with section 20-110(e)(2).

25  
26 (3) Payment.

27  
28 a. Subject to the provisions of subsection c. below, disability Pensions under  
29 (c)(1) or (c)(2) above shall be paid until the earlier of a Member's death,  
30 recovery from disability or Normal Retirement Date (or age sixty-five (65) for  
31 Prior Plan Participants so electing). After a Member's Normal Retirement  
32 Date (or age sixty-five (65) for Prior Plan Participant's so electing) a  
33 disabled Member shall be paid a Pension computed in accordance with  
34 section 20-110(a)(1) based upon his Earnings at date of disability and  
35 Service at his Normal Retirement Date.

36  
37 b. If a disabled Member dies after his Normal Retirement Date, survivor  
38 benefits shall be determined in accordance with section 20-110(a)(2).

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34
- c. In the event the disability benefit being received upon a Group I Member's Normal Retirement Date (prior to adjustment in accordance with this subsection c.) exceeds the amount of his normal Retirement benefit, or in the event a Group I Member suffers a disability after his Normal Retirement Date (prior to adjustment in accordance with this subsection c.) and the amount of the disability benefit exceeds the amount of the normal Retirement benefit, then for the purposes of sections 20-110(c)(3)(a) and 20-110(c)(3)(b) above, a Group I Member's disability benefit shall be extended as follows: (i) for an additional five (5) years beyond such Member's Normal Retirement Date (as that date existed prior to adjustment in accordance with this subsection c.); or (ii) until, because of the further accrual of Service during the period of disability, the amount of such Member's disability benefit equals the amount of such Member's normal Retirement benefit; whichever event (i) or (ii) above, should first occur. The Normal Retirement Date for Group I Members whose disability benefits are extended under this subsection c. shall be deemed to be adjusted in accordance with the formula set forth herein.
- d. As to any Member awarded either a Service incurred or non-service incurred disability benefit prior to or after November 1, 2000, which such Member is returning to work on a graduated or less than full-time basis, the Board of Trustees shall have the power and discretion to equitably apportion or reduce the monthly amount of such Member's disability benefit, provided such equitable apportionment or adjustment shall never result in such Member receiving disability benefits and Earnings which, when combined, exceeds one hundred (100) percent of such Member's monthly Earnings in effect as of the date of his disability, as adjusted for cost of living increases. The period of equitable apportionment or reduction shall not exceed six (6) months while such Member is returning to work on a graduated or less than full-time basis. A Member shall be given reasonable advance written notice and an opportunity to be heard prior to the Board of Trustees equitably apportioning or reducing a monthly disability benefit.

35 (4) Determination of disability.

- 36  
37  
38
- a. The status of each Service incurred and non-service incurred disability shall be determined initially and reviewed periodically pursuant to uniform

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1 procedures established by the Board. To assist with such determination the  
2 Board shall require at least two (2) concurring medical opinions of disability  
3 for consideration of payment of benefits. No Member shall be granted a  
4 disability Pension if his disability results from voluntary participation or  
5 involvement in the commission of a crime which results in a felony  
6 conviction.

- 7
- 8 b. Except as provided in subsection (c)(3)d. above, if a Member receiving a  
9 disability Pension is determined by the Board to have sufficiently recovered  
10 such that he no longer qualifies as disabled under (c)(1) or (c)(2) above,  
11 such Member's disability pension shall immediately cease. For determining  
12 any other benefits under this Plan, such Member shall receive Service  
13 credit for the period of disability, provided that he continued to make  
14 Member contributions during his period of disability based on his Earnings  
15 at date of disability, where such continued contributions are required under  
16 section 20-112(a).

17

18 Successive periods of disability separated by less than six (6) months of  
19 actual work as an Employee shall be considered as one (1) period of  
20 disability except when the subsequent disability is due to entirely different  
21 causes and commences after the Employee's return to active employment.

- 22
- 23 c. Disability benefits shall not be awarded retroactively for a period in excess  
24 of six (6) months prior to the date an application for Service incurred or non-  
25 service incurred disability benefits is filed with the Board. Any Member who  
26 delays filing an application for disability benefits for a period in excess of six  
27 (6) months from the date he or she first suffered or was aware of an injury,  
28 disease or disability forming the basis for an application for Service incurred  
29 or non-service incurred disability benefits shall forfeit rights to disability  
30 benefits for that period in excess of six (6) months preceding the date of  
31 filing an application for disability benefits with the Board. The Member's  
32 application for disability benefits shall be considered based on the status of  
33 the Member's injury, disease or disability as of the date of the application for  
34 such disability benefits is filed with the Board.

35

36 (d) Service retirement pension. A Group II Member retiring on a Service Retirement  
37 Date shall receive a monthly Pension commencing on his Service Retirement Date equal to his  
38 accrued Pension reduced by a percentage for each month by which his Service is less than

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thirty-five (35) years, as follows:

Period Between	Percentage Reduction For Each Month
34 years of Service and 35 years of Service	1/6% (2% per year)
33 years of Service and 34 years of Service	1/4% (3% per year)
32 years of Service and 33 years of Service	1/3% (4% per year)
30 years of Service and 32 years of Service	5/12% (5% per year)

Survivor benefits upon the death of a Group II Member retired under this subsection (d) shall be computed in accordance with section 20-110(a)(2).

(e) Preretirement death:

(1) Service incurred. If a Member dies while employed by the City from causes directly related to employment as an Employee, as determined by the Board, the following death benefits shall be paid:

- a. To the Spouse, if any, until the earlier of death or remarriage, a Pension equal to fifty (50) percent of the Member's monthly Earnings as of the last date of active employment.
- b. For each Child, if any, until the earliest of death, marriage or the attainment of age eighteen (18), a Pension equal to ten (10) percent of the Member's monthly Earnings as of the last date of active employment, provided that the maximum payment in any month to Spouse and Children combined shall be eighty (80) percent of the Member's monthly Earnings; or to Children only, if there is no Spouse, fifty (50) percent of the Member's monthly Earnings. The manner of handling and administering the Pension to any Child or Children shall be determined by the Board.
- c. If, upon the satisfaction of the terms of (e)(1)a. and b. above (i.e., there is no longer any qualified Spouse or Children), the aggregate Pension paid on Account of the Member's death are less than the non-service incurred death benefit provided in section 20-110(e)(2)b., the excess of the non-service incurred death benefit over the Spouse and Children's Pension paid shall be paid to a designated contingent Beneficiary, or Beneficiaries, if so

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designated by the Member. Otherwise no further benefits shall be paid. Such designated contingent Beneficiary may elect, as approved by the Board, to receive such excess either in a lump sum or in equal monthly installments over a period not to exceed five (5) years.

- d. At any time during his employment, a Member may file a written directive with the Board providing that, upon his death while an Employee, the non-service incurred death benefit described in section 20-110(e)(2) shall be paid to his designated Beneficiary or Beneficiaries in lieu of the Pension payable in (e)(1)a. and b. above.

- (2) Non-service incurred. If a Member dies while employed by the City from causes not directly related to his employment as an Employee, the following death benefits shall be paid:

- a. To the designated Beneficiary or Beneficiaries of a Group I Member, a monthly payment or payments, the sum of which shall not exceed fifty (50) percent of such Member's monthly Earnings as of the last date of active employment, such payment or payments to continue until the earlier of ninety-six (96) months or the death of the last surviving designated Beneficiary. At any time during his employment, a Group I Member who was a Participant in the Prior Plan may file a written directive with the Board providing that, upon his death while an Employee, a lump sum death benefit equal to four (4) times his annual Earnings at the date of death, shall be paid to his designated Beneficiary or Beneficiaries in lieu of the benefit payable in (e)(2)a. above.

- b. To the Spouse of a Group II Member who, at the time of death, was eligible for early Retirement pursuant to section 20-110(b), a monthly payment equal to fifty (50) percent of the early Retirement benefit to which the deceased Member would have been entitled had he elected an early Retirement, such payments to continue until the earlier of ninety-six (96) months or the death of the surviving Spouse.

(f) Termination of employment: The termination of a Member covered by this Plan shall affect the benefits payable hereunder as follows:

- (1) Vesting.

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- a. Except as set forth herein, a Group I Member shall be eligible for a pension, commencing at his Normal Retirement Date and continuing for his lifetime thereafter, if his employment is terminated before death or Retirement but after he has completed at least five (5) years of Service. Upon completion of at least five (5) years of Service and termination of employment on or after his Normal Retirement Date, such Member shall be one hundred (100) percent vested in his accrued pension. Alternatively, upon attainment of fifty (50) years of age or more, a Group I Member who terminates with fifteen (15) or more years of continuous Service may elect an immediate monthly pension subject to the reduction formula for an earlier Retirement pension under section 20-110(b).
1. The City Manager shall be eligible for a pension, commencing at his Normal Retirement Date and continuing for his lifetime thereafter, if his employment is terminated before death or Retirement, but after he has completed at least two (2) years of Service. Upon completion of at least two (2) years of Service and termination of employment on or after his Normal Retirement Date, such Member shall be one hundred (100) percent vested in his accrued pension.
2. For the purpose of vesting under this section and for no other purpose, for non-classified Employees and Employees of Affiliated Agencies, Service shall include the period of the Employee's uninterrupted employment with the City or Affiliated Agency from the date he last entered employment as an Employee up to the date his employment is terminated or the date he ceases to be an Employee as defined herein.
- b. A Group II Member shall be eligible for a Pension commencing at his Normal Retirement Date and continuing for his lifetime thereafter, if his employment is terminated before death or Retirement but after he has completed at least ten (10) years of Service. Upon completion of ten (10) years of Service, such Member shall be entitled to a one hundred (100) percent vested percentage of his Accrued Pension. Alternatively, upon attainment of fifty-five (55) years of age or more, a Group II Member who terminates with fifteen (15) or more years of Continuous Service may elect an immediate monthly pension subject to the reduction formula for an early

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1 Retirement Pension under section 20-110(b).

2  
3 c. Provided, further, any Member not eligible for a normal, early or disability  
4 Retirement benefit but who has a vested interest at time of termination shall  
5 receive such benefit on a monthly, life annuity basis commencing at his  
6 regular Normal Retirement Date. Alternatively, election of an immediate  
7 monthly Pension subject to the reduction formula for an early Retirement  
8 Pension under section 20-110(b) shall be available to Members in  
9 accordance with subparagraphs a. and b. above.

10  
11 d. Upon the death of a Member terminated under this subsection (a), the  
12 excess, if any, of his accumulated contributions, plus interest, at his date of  
13 termination over the aggregate Pension payments, if any, which he  
14 received prior to his death, shall be paid to his designated Beneficiary.

15  
16 (2) Severance. If a Member's employment terminates for any reason other than death  
17 or Retirement and before he has completed the minimum vesting period as set  
18 forth above such Member shall receive a refund of his accumulated Employee  
19 contributions, plus interest at three (3) percent per annum.

20  
21 (g) Guaranteed refund of contributions. Notwithstanding any other provisions of this  
22 Plan, the aggregate benefits paid to any Member and his Beneficiaries shall not be less than  
23 such Member's accumulated contributions, plus interest at three (3) percent per annum.

24  
25 (h) Cost of living adjustment. The Board may, with the advice of the Plan's actuary  
26 and the approval of the City Commission, adjust the Pensions of retired Members, including  
27 those receiving the Member's duration and survivor benefits under section 20-110(a)(2),  
28 annually to reflect the change in the cost of living as measured by the Consumer Price Index or  
29 such other index approved by the Board, provided that such adjustments may only be made  
30 from investment return of the Fund in excess of that required to satisfy the actuarial interest  
31 assumption used in the most recent actuarial valuation of the Plan. If similar adjustments in the  
32 three (3) previous Plan Years were less than the increase for those years in the index being  
33 used, such difference may be applied in addition to the current year's adjustment, subject to a  
34 total additional adjustment in any Plan Year of four (4) percent. The procedures and methods to  
35 be followed in the determination of any adjustments shall be established from time to time by the  
36 Board.

37  
38 (i) No duplication of benefits. No Employee will be entitled to benefits provided by any

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other benefit program maintained by the City if such benefits are based upon a period of Service for which benefits are provided under this Plan.

(j) Payment of benefits. Unless a Member elects earlier payment, distribution of his benefits shall commence within sixty (60) days from close of the Plan Year after the later of a Member's:

- (1) Termination of employment;
- (2) Attainment of normal Retirement age; or
- (3) Tenth anniversary of the date on which the Member commenced participation in the Plan.

Sec. 20-111. Optional forms of Retirement benefits.

Each Member who is entitled to a regular Normal Retirement Benefit shall have the right at any time prior to his actual Retirement to elect to have such benefit payable under any one of the options hereinafter set forth in lieu of the Retirement benefits otherwise provided herein, and to revoke any such elections and make a new election at any time prior to actual Retirement. The value of optional Retirement benefits shall be actuarially equivalent (as defined in section 20-107) to the value of benefits otherwise payable. The Member shall make an election by written request to the Board and such an election shall be subject to the approval of the Board.

- (1) *Option 1. Joint and last survivor option.* A retiring Member may elect to receive a decreased Retirement benefit during his lifetime and have such decreased Retirement benefit (or a designated fraction thereof) continued after his death to and during the lifetime of the designated contingent annuitant. The election of Option 1 shall be null and void if the designated contingent annuitant dies before the Member's Retirement.
- (2) *Option 2. Ten (10) years certain and life thereafter.* A retiring Member may elect to receive a decreased Retirement benefit with one hundred twenty (120) monthly payments guaranteed. If, after retiring, the Member should die before said one hundred twenty (120) monthly payments are made, payments are then continued to his designated beneficiary until one hundred twenty (120) payments in all have been made, at which time benefits cease. After expiration

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of the certain period, should the retired Member be then alive, payment shall be continued during his remaining lifetime.

- (3) *Option 3. Other.* In lieu of the other optional forms enumerated in this section, Retirement benefits may be paid in any form approved by the Board so long as actuarial equivalence with the benefits otherwise payable is maintained.

Sec. 20-112. Contributions.

(a) *Member contributions.*

- (1) Except as otherwise provided herein, commencing with the first pay period after an Employee has satisfied the requirements of section 20-108 and continuing thereafter during his period of Service, a Group I Member shall contribute by payroll deduction six (6) percent of his Earnings.
- (2) A Group II Member shall contribute four (4) percent of his Earnings by payroll deduction during his period of Service.
- (3) The Member contributions are to be "picked-up" by the City for all compensation earned after the effective date of this amendment. All contributions, although designated as Employee contributions and accumulating in individual Employee Accounts, are to be paid ("picked-up") directly by the City in lieu of contributions being paid directly by the Employee in determining tax treatment under the United States Internal Revenue Code. This Plan prohibits an Employee from directly receiving contribution amounts. A Member is one hundred (100) percent vested in his portion of City ("picked-up") contributions at all times.
- (4) During periods of authorized leave of absence, suspension, or Service in the armed forces of the United States, a Member shall continue to contribute the applicable percentage of his Earnings to the Fund in a manner approved by the Board.
- (5) During periods of approved disability, no Members shall be required to continue to make contributions in order for such period of approved disability to be counted as Service.

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(6) Once a Group I Member has attained his or her maximum benefit accrual under Section 20-110 (a)(1)a.I. above, such Member shall no longer be required to make contributions as set forth above. Once any Member has benefit accruals amounting to 100%, such Member shall no longer be required to make contributions as set forth above. DROP Participants shall not be required to make contributions during the DROP Period.

(7) Member contributions shall be deposited in the Fund and shall be credited with three (3) percent interest per annum, compounded annually on December 31 of each Plan Year.

(b) *City contributions.* The City shall make contributions to the Fund in the amount necessary to maintain the Plan on a sound actuarial basis as set forth in the most recent actuarial valuation of the Plan. Such contribution for any year shall not be less than the amount necessary to amortize the past Service liability over a period of not more than forty (40) years from October 1, 1979.

Sec. 20-113. Administration.

(a) The general administration and responsibility for the proper operation of the Plan are hereby vested in the Board consisting of eight (8) persons, as follows:

(1) Three (3) persons other than employees to be appointed as hereinafter provided.

(2) Four (4) Members to be elected as hereinafter provided.

(3) The finance director of the City shall be a nonvoting, ex-officio Member of the Board.

(b) The terms of office for each appointed Board Member shall be three (3) years and shall be staggered in such a manner that no more than one Board Member's term of office shall expire in any one calendar year.

1 (c) The initial terms of office for each elected Board Member shall be as follows: the  
2 two (2) Members who receive the highest number of votes shall be appointed for a period of  
3 three (3) years, and the remaining two (2) Members shall be appointed for a period of two (2)  
4 years. Following the initial terms, the terms of office for each elected Board Member shall be  
5 three (3) years.

6  
7 (d) The appointive Members shall be appointed by the mayor of the City with the  
8 approval of a majority of the City commission.

9  
10 (e) The elective Board Members shall be elected by per capita vote of all  
11 employees, retirees and individuals who are on approved disability leave. Such election shall  
12 be conducted either by mailing ballots to all persons entitled to vote, or at polling places  
13 designated by the Board, at the sole discretion of the Board. If conducted by mail, an election  
14 shall be undertaken by first class mail to all persons entitled to vote. Such mailing shall  
15 include a letter of instruction written in a manner calculated to be understood by the average  
16 recipient; a Board approved ballot; a Board approved form which contains a description of  
17 each candidate's profile or description of qualifications (which profile or description must be  
18 submitted to the pension office no later than thirty (30) days prior to an election) and a  
19 postage paid return envelope. The Board shall direct its best efforts toward ensuring that  
20 mailing addresses are accurate and current with respect to persons entitled to vote; provided,  
21 however, that ballots may be obtained in person by a person entitled to vote and returned to  
22 the pension office if the voter so chooses. If conducted at polling places, an election shall be  
23 conducted at polling places designated by the Board. Such polling places may be located at a  
24 fixed site on City property or may allow for flexible locations (e.g., a "floating" ballot box) to  
25 permit all eligible individuals to cast a vote. Each polling place shall be open for such length of  
26 time as determined by the Board. Each ballot box shall be supervised by at least two (2) ballot  
27 box volunteers. Such ballot box volunteers' duties shall include, but are not limited to:

- 28  
29 (1) Verifying that an individual is eligible to vote;  
30  
31 (2) Ensuring that proper voting procedures are followed at all times; and  
32  
33 (3) Assisting with the counting of votes, as may be necessary or desirable.  
34

35 All qualified persons entitled to vote shall be notified in person or by mail ten (10) days in  
36 advance of an election. The candidates receiving the highest number of votes shall be declared

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1 elected and shall take office as soon thereafter as qualified. All ballots shall be received and  
2 counted under the supervision of the pension administrator or other designees of the Board. An  
3 election shall be held each year not more than thirty (30) and not less than ten (10) days prior to  
4 commencement of the terms for which Members are to be elected in that year. The Board shall  
5 meet, organize and elect one (1) of their Members as chairman and one (1) Member as vice-  
6 chairman, at the February monthly Board meeting.

7 (f) If an elective seat on the Board is vacated for any reason, an election to fill the  
8 vacated position shall be conducted. However, if an elected Board Member retires before the  
9 expiration of their term, such Board Member may continue to hold such elective seat for the  
10 balance of their elected term. If an appointive seat on the Board is vacated for any reason, the  
11 seat shall be filled by appointment. A replacement Member shall serve for the unexpired term  
12 of the person replaced.

13  
14 (g) Members shall serve without compensation, but they may be reimbursed from  
15 the Fund for all necessary expenses which they may actually expend through Services on the  
16 Board.

17  
18 (h) Each Board Member shall, within ten (10) days after his appointment or election,  
19 take an oath of office before the City clerk of the City, that so far as it develops upon him he  
20 will diligently and honestly administer the affairs of the said Board, and that he will not  
21 knowingly violate or willingly permit to be violated any of the provisions of the law applicable  
22 to the Plan. Such oath shall be subscribed to by the Members making it and certified by the  
23 said clerk and filed in his office.

24  
25 (i) Each Member shall be entitled to one (1) vote on the Board. A majority vote of  
26 those present, where a quorum is in attendance, shall be necessary for a decision at any  
27 meeting of the Board. The chairman shall have the right to one (1) vote only. A quorum shall  
28 consist of four (4) Members, at least one (1) of whom shall be an appointive Member.

29  
30 (j) Subject to the limitations of this division, the Board shall from time to time  
31 establish uniform rules and regulations for the administration of Funds created by this division  
32 and for transaction of its business, including provisions for compulsory attendance of its  
33 Members.

34  
35 (k) The Board shall, by majority vote of its Members, appoint a secretary who may,  
36 but need not be, one of its Members. The Board, with the approval of a majority of the City

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commission, shall engage such actuarial and other Services as shall be required to transact the business of the Plan. The compensation of all persons engaged by the Board and all other expenses of the Board necessary for the operation of the Plan shall be paid at such rates and in such amounts as the Board shall agree, but in no case shall the expenditures for such Services or operations exceed one (1) percent of the maximum Fund assets in any Plan Year. All Funds shall be disbursed by the City finance department only on authorization of the Board.

(l) Any Member who neglects the duties of his office as determined by the Board, may be removed by a two-thirds (2/3) vote of the Board.

(m) The duties and responsibilities of the Board shall include, but not necessarily be limited to, the following:

- (1) To construe the provisions of the Plan and determine all questions arising thereunder.
- (2) To determine all questions relating to eligibility and participation.
- (3) To determine and certify amount of all Retirement pensions or other benefits hereunder.
- (4) Have annual actuarial valuations of the Plan performed.
- (5) To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the Plan.
- (6) To distribute at regular intervals to employees, information concerning the Plan.
- (7) To receive, process and approve all applications for Membership and benefits; to notify the City finance department of approved benefit payments.
- (8) To perform such duties as are specified in section 20-114

1 (9) To review reports of the trustee, custodian and investment advisor, if any.

2  
3 (10) To submit copies of all annual reports to the City commission.

4  
5 (11) To conduct meetings with the trustee and investment advisor not less than once  
6 every three (3) months.  
7

8 The decision of the Board in all questions of interpretation of the Plan shall be final.

9 (n) The City attorney, his designated assistant or special counsel, shall be the  
10 attorney for the Board, shall give advice to said Board in all matters pertaining to its duties in  
11 the administration and operation of the Retirement System and shall represent and defend  
12 said Board as its attorney in all suits and legal actions to which the Board may be a party. If,  
13 in a particular instance, the City attorney determines that, pursuant to the code of professional  
14 responsibility, he is unable to represent both the City and the Board due to the presence of a  
15 conflict, the City commission shall engage independent legal counsel for the purpose of  
16 advising and representing the Board in connection with the particular matter from which said  
17 conflict arises.  
18

19 Sec. 20-114. Finances and Fund management; establishment and operation of Fund.

20 (a) All of the contributions and assets whatsoever attributable to the Plan shall be  
21 deposited into the Fund originally established and continued hereunder.  
22

23 (b) The actual supervision of the Fund (and the ability to acquire in trust and convey  
24 assets thereof) shall be vested in the Board. Payment of benefits and disbursements from the  
25 Fund shall be made by the City finance department on authorization from the Board.  
26

27 (c) The trustee and custodian of the Fund shall be designated by the Board upon  
28 an affirmative vote of five (5) Members of the Board and with the approval of a majority of the  
29 City commission. A trust agreement shall be executed between the City and the trustee under  
30 the terms of which the trustee shall be authorized to receive and hold in such Fund all  
31 contributions and assets whatsoever payable and attributable to the Plan. It shall be  
32 impossible under the terms of this Plan or any trust agreement hereunder for any part of the  
33 principal or income of the Fund, except for such sums as may be expended in administration

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of the Plan, to be used for or diverted to purposes other than the exclusive benefit of Employees, their Beneficiaries and benefits provided hereunder. No disbursements shall be made by the trust except upon written authorization from the Board to the City finance department and subsequent written notification to the trustee. No amendment shall be made to the trust agreement without approval of a majority of the City commission.

(d) Either the trustee or a separate investment advisor, if any, shall have full authority to supervise, pass upon and approve the nature, amount and timing of investments of the Fund and the purchase, sale and disposition of such investments. The Board may, accordingly and in its discretion, hire and appoint such persons, firms or entities as it determines to be required or advisable so as to accomplish and have performed investment advisory duties hereunder. The Board may thus enter into appropriate agreements for the purpose of securing separate investment advisory Service for the Fund.

(e) All Funds and securities of the Plan may be commingled in the Fund, provided that accurate records are maintained at all times reflecting the financial composition of the Fund, including accurate current Accounts and entries as regards the following:

- (1) Current amounts of accumulated contributions of Members on both an individual and aggregate Account basis;
- (2) Receipts and disbursements;
- (3) Payments to retirees;
- (4) Current amounts clearly reflecting all monies, Funds and assets whatsoever attributable to contributions and deposits from the City;
- (5) All interest, dividends and gains (or losses) whatsoever; and
- (6) Such other entries as may be properly required so as to reflect a clear and complete financial report of the Fund.

(f) The City finance department is authorized to and charged with the responsibility of collecting Member contributions, maintaining records pertaining thereof, and promptly

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transmitting all Funds so collected, as well as all other Funds whatsoever designated for the Plan, to the trustee. The City finance department shall also:

- (1) Make payments to retirees;
- (2) Review copies of all annual reports on Fund transactions; and
- (3) Make disbursements from the Fund as authorized by the Board.

Sec. 20-115. Maximum Pension.

(a) Basic Limitation. Notwithstanding any other provisions of this plan to the contrary, the Employee contributions paid to, and retirement benefits paid from, the plan shall be limited to such extent as may be necessary to conform to the requirements of Code Section 415 for a qualified retirement plan. Before January 1, 1995, a plan Employee may not receive an annual benefit that exceeds the limits specified in Code Section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, an Employee may not receive an annual benefit that exceeds the dollar amount specified in Code Section 415(b)(1)(A) (\$160,000), subject to the applicable adjustments in Code Section 415(b) and subject to any additional limits that may be specified in this plan. For purposes of this section, "limitation year" shall be the calendar year.

For purposes of Code Section 415(b), the term "annual benefit" means a benefit payable annually in the form of a straight life annuity without regard to the benefit attributable to after-tax employee contributions (except pursuant to Code section 415(n)) and to rollover contributions (as defined in Code section 415(b)(2)(A)), and with the benefit attributable determined in accordance with Treasury Regulations located in 26 C.F.R. 1.415(b)-1.

(b) Adjustments to Basic Limitation for Form of Benefit. If the form of benefit is other than the annual benefit defined in subsection (a), the benefit shall be adjusted so that it is the equivalent of the annual benefit using factors prescribed in Treasury Regulations. If the form of benefit without regard to any automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity then the preceding sentence is applied by either reducing the Code Section 415(b) limit applicable at the annuity starting date or by adjusting the form of benefit to an actuarially equivalent amount determined using the assumptions specified in 26 CFR 1.415(b)-1 that takes into account the additional benefits under the form of benefit as follows:

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- (1) Benefit Forms Not Subject to § 417(e)(3): The straight life annuity that is actuarially equivalent to the Employee's form of benefit shall be determined under this subsection if the form of an Employee's benefit is either a non-decreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the Employee (or in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse), or an annuity that decreases during the life of the Employee merely because of (a) the death of the survivor annuitant (but only if the reduction is not below 50% of the benefit payable before the death of the survivor annuitant), or (b) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in Code Section 401(a)(11)). For a benefit paid in a form described in this subsection, the actuarially equivalent straight life annuity is equal to the greater of:
- a. The annual amount of the straight life annuity (if any) payable to the Employee under the plan commencing at the same annuity starting date as the Employee's form of benefit, or
  - b. the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the Employee's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality tables described in Code Section 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Code Section 417(e)(3)(B); or
- (2) Benefit Forms Subject to § 417(e)(3): If a form of Employee's benefit is other than a benefit form described in subsection (b)(1), the actuarially equivalent straight life annuity benefit that is the greatest of:
- a. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;
  - b. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable computed using a five percent interest assumption for the applicable statutory interest assumption and (i) for years prior to January 1, 2009 the applicable mortality tables for the distribution under 26 CFR 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent

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1 Revenue Ruling modifying the applicable provisions of Revenue Ruling  
2 2001-62) and (ii) for years after December 31, 2008 the applicable mortality  
3 tables described in Code Section 417(e)(3)(B) (Notice 2008-85 or any  
4 subsequent Internal Revenue Service guidance implementing Code Section  
5 417(e)(3)(B); or

- 6 c. The annual amount of the straight life annuity commencing at the annuity  
7 starting date that has the same actuarial present value as the particular  
8 form of benefit payable computed using the applicable interest rate for the  
9 distribution under 26 CFR 1.417(e)-1(d)(3) the 30-year Treasury rate prior  
10 to January 1, 2007 using the rate in effect for the month prior to retirement  
11 and on and after January 1, 2007 using the rate in effect for the first day of  
12 the plan year with a one-year stabilization period and (i) for years prior to  
13 January 1, 2009 the applicable mortality tables for the distribution under 26  
14 CFR 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-  
15 62 or any subsequent Revenue Ruling modifying the applicable provisions  
16 of Revenue Ruling 2001-62) and (ii) for years after December 31, 2008 the  
17 applicable mortality tables described in Code Section 417(e)(3)(B) (Notice  
18 200885 or any subsequent Internal Revenue Service guidance  
19 implementing Code Section 417(e)(3)(B)), divided by 1.05.

- 20 (3) The actuary may adjust the 415(b) limit at that annuity starting date in accordance  
21 with paragraphs (1) and (2) above.

22 (c) Benefits Not Taken into Account. For purposes of this Section, the following  
23 benefits shall not be taken into account in applying these limits:

- 24 (1) Any ancillary benefit which is not directly related to retirement income benefits;  
25 (2) Survivor benefits payable to a surviving spouse under a qualified joint and survivor  
26 annuity to the extent such benefits would not be payable if the Employee's benefit  
27 were paid in another form.  
28 (3) Any other benefit not required under §415(b)(2) of the Code and Regulations  
29 thereunder to be taken into account for purposes of the limitation of Code Section  
30 415(b)(1);

31 (d) COLA Effect. Effective on and after January 1, 2003, for purposes of applying the  
32 limits under Code Section 415(b) (the "Limit"), the following will apply:

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- 1 (1) An Employee's applicable limit will be applied to the Employee's annual benefit in  
2 the Employee's first limitation year of benefit payments without regard to any  
3 automatic cost of living adjustments;
- 4 (2) thereafter, in any subsequent limitation year, an Employee's annual benefit,  
5 including any automatic cost of living increases, shall be tested under the then  
6 applicable benefit limit including any adjustment to the Code Section 415(b)(1)(A)  
7 dollar limit under Code Section 415(d), and the regulations thereunder; but
- 8 (3) In no event shall an Employee's benefit payable under the plan in any limitation  
9 year be greater than the limit applicable at the annuity starting date, as increased  
10 in subsequent years pursuant to Code Section 415(d) and the regulations  
11 thereunder.

12 Unless otherwise specified in the plan, for purposes of applying the limits under Code  
13 Section 415(b), an Employee's applicable limit will be applied taking into consideration cost of  
14 living increases as required by Section 415(b) of the Code and applicable Treasury Regulations.

15 (e) Other Adjustments in Limitations.

- 16 (1) In the event the Employee's retirement benefits become payable before age sixty-  
17 two (62), the limit prescribed by this section shall be reduced in accordance with  
18 regulations issued by the Secretary of the Treasury pursuant to the provisions of  
19 Code Section 415(b) of the Code, so that such limit (as so reduced) equals an  
20 annual straight life benefit (when such retirement income benefit begins) which is  
21 equivalent to an annual benefit in the amount of the applicable dollar limitation of  
22 Section 415(b)(1)(A) of the Internal Revenue Code (as adjusted pursuant to  
23 Section 415(d) of the Internal Revenue Code) beginning at age sixty-two (62).
- 24 (2) In the event the Employee's benefit is based on at least fifteen (15) years of  
25 credited service as a full-time police officer or firefighter, the adjustments provided  
26 for in (D)(1) above shall not apply.
- 27 (3) The reductions provided for in (D)(1) above shall not be applicable to disability  
28 benefits or pre-retirement death benefits.
- 29 (4) In the event the Employee's retirement benefit becomes payable after age sixty-  
30 five (65), for purposes of determining whether this benefit meets the limit set forth  
31 in subsection (b) herein, such benefit shall be adjusted so that it is actuarially

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1 equivalent to the benefit beginning at age sixty-five (65). This adjustment shall be  
2 made in accordance with regulations promulgated by the Secretary of the  
3 Treasury or his delegate.

4 (f) Less than Ten (10) Years of Service. The maximum retirement benefits payable  
5 under this section to any Employee who has completed less than ten (10) years of credited  
6 service shall be the amount determined under subsection (a) multiplied by a fraction, the  
7 numerator of which is the number of the Employee's years of credited service and the  
8 denominator of which is ten (10). The reduction provided by this section cannot reduce the  
9 maximum benefit below 10% of the limit determined without regard to this subsection. The  
10 reduction provided for in this section shall not be applicable to pre-retirement disability benefits  
11 or pre-retirement death benefits.

12 (g) Participation in Other Defined Benefit Plans. The limit of this section with respect  
13 to any Employee who at any time has been an Employee in any other defined benefit plan as  
14 defined in Code Section 414(j) maintained by the City shall apply as if the total benefits payable  
15 under all City defined benefit plans in which the Employee has been an Employee were payable  
16 from one plan.

17 (h) Ten Thousand Dollar (\$10,000) Limit. Notwithstanding anything in this section to  
18 the contrary, the retirement benefit payable with respect to an Employee shall be deemed not to  
19 exceed the limit set forth in this section if the benefits payable, with respect to such Employee  
20 under this plan and under all other qualified defined benefit pension plans to which the City  
21 contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and  
22 for any prior limitation year and the City has not at any time maintained a qualified defined  
23 contribution plan in which the Employee participated; provided, however, that if the Employee  
24 has completed less than ten years of credited service, the limit under this subsection shall be a  
25 reduced limit equal to ten thousand dollars (\$10,000) multiplied by a fraction, the numerator of  
26 which is the number of the Employee's years of credited service and the denominator of which  
27 is ten.

28 (i) Reduction of Benefits. Reduction of benefits and/or contributions to all plans,  
29 where required, shall be accomplished by first reducing the Employee's benefit under any  
30 defined benefit plans in which Employee participated, such reduction to be made first with  
31 respect to the plan in which Employee most recently accrued benefits and thereafter in such  
32 priority as shall be determined by the board and the plan administrator of such other plans, and  
33 next, by reducing or allocating excess forfeitures to defined contribution plans in which the  
34 Employee participated, such reduction to be made first with respect to the plan in which

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Employee most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such Employee.

(j) Service Credit Purchase Limits.

(1) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if an Employee makes one or more contributions to purchase permissive service credit under the plan, then the requirements of this section will be treated as met only if:

- a. the requirements of Code Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Code Section 415(b), or
- b. the requirements of Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Code Section 415(c).
- c. For purposes of applying subparagraph (1)b. the plan will not fail to meet the reduced limit under Code section 415(b)(2)(C) solely by reason of this subparagraph, and for purposes of applying subparagraph (1)b. the plan will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Code solely by reason of this subparagraph c.

(2) For purposes of this subsection the term "permissive service credit" means service credit.

- a. recognized by the plan for purposes of calculating an Employee's benefit under the plan.
- b. which such Employee has not received under the plan, and
- c. which such Employee may receive only by making a voluntary additional contribution, in an amount determined under the plan, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years

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beginning after December 31, 1997, such term may, if otherwise provided by the plan, include service credit for periods for which there is no performance of service, and, notwithstanding clause (B)(2), may include service credited in order to provide an increased benefit for service credit which an Employee is receiving under the plan.

(3) For purposes of applying the limits in this subsection (j) only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulations located in 26 CFR 1.415(c)-2, or successor regulations. Unless another definition of compensation that is permitted by Treasury Regulations Section 1.415(c)-2, or successor regulation, is specified by the plan, compensation will be defined as wages within the meaning of Code Section 3401(a) and all other payments of compensation to an employee by a City for which the City is required to furnish the employee a written statement under Code Sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).

a. However, for limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Code Sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For limitation years beginning after December 31, 2000, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of Code Section 132(f)(4).

b. For limitation years beginning on and after January 1, 2007, compensation for the limitation year will also include compensation paid by the later of 2½ months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:

1. the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments,

1 and, absent a severance from employment, the payments would  
2 have been paid to the employee had the employee continued in  
3 employment with the City; or

4 2. the payment is for unused accrued bona fide sick, vacation or other  
5 leave that the employee would have been able to use if employment  
6 had continued.

7 c. Back pay, within the meaning of Treasury Regulations Section 1.415(c) -  
8 2(g)(8), shall be treated as compensation for the limitation year to which the  
9 back pay relates to the extent the back pay represents wages and  
10 compensation that would otherwise be included under this definition.

11 (4) Notwithstanding any other provision of law to the contrary, the Board may modify a  
12 request by an Employee to make a contribution to the plan if the amount of the  
13 contribution would exceed the limits provided in Code Section 415 by using the  
14 following methods:

15 a. If the law requires a lump sum payment for the purchase of service credit,  
16 the Board may establish a periodic payment deduction plan for the  
17 Employee to avoid a contribution in excess of the limits under Code  
18 Sections 415(c) or 415(n).

19 b. If payment pursuant to subparagraph (4)a. will not avoid a contribution in  
20 excess of the limits imposed by Code Section 415(c), the Board may either  
21 reduce the Employee's contribution to an amount within the limits of that  
22 section or refuse the Employee's contribution.

23 (5) If the annual additions for any Employee for a plan year exceed the limitation  
24 under Code Section 415(c), the excess annual addition will be corrected as  
25 permitted under the Employee Plans Compliance Resolution System (or similar  
26 IRS correction program).

27 (6) For limitation years beginning on or after January 1, 2009, an Employee's  
28 compensation for purposes of this subsection shall not exceed the annual limit  
29 under Code Section 401(a)(17).

30 (k) Additional Limitation on Pension Benefits. Notwithstanding anything herein to the  
31 contrary:

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- (1) The normal retirement benefit or pension payable to a retiree who becomes an Employee of the Plan and who has not previously participated in such Plan, on or after January 1, 1980, shall not exceed one hundred percent (100%) of average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.
- (2) No Employee shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the Employee is already receiving, or will receive in the future, a retirement benefit or pension from a different City's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.

Sec. ~~20-115~~ 20-116. Additional specific provisions.

(a) *Small pensions.* If the pension payable to a Member or Beneficiary has a lump sum actuarial value of less than three thousand five hundred dollars (\$3,500.00), the Board may, in its discretion, pay such benefit in a lump sum in lieu of any other payments under the Plan.

(b) *Non-assignability.* No Member or Beneficiary under the Plan shall have any right to assign, transfer, hypothecate, encumber, commute or anticipate any interest he may have in any payments, Funds or contracts under this Fund, and no such interest shall in any way be subject to any legal process or levy or execution upon, or attachment or garnishment proceedings against the same for the payment of any claim against any Member or any Beneficiary under the Plan, nor shall any such interest be subject to the jurisdiction of any bankruptcy court or insolvency proceedings. No assignment of any rights or benefits arising under the Plan will be permitted or recognized.

(c) *Incompetents.* If any Member or beneficiary is a minor or is, based on competent medical advice or court decision, otherwise incapable of personally receiving and giving a valid receipt for any payment due him under the Plan the Board may, unless and until claims shall have been made by a duly appointed guardian or committee of such person, make such payment or any part thereof to such person's spouse, children, or other person deemed by the Board to have incurred expenses or assumed responsibility for the expenses

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of such person. Any payment so made shall be a complete discharge of any liability under the Plan for such payment.

(d) *Miscellaneous:*

- (1) The Board will furnish the Plan's actuary with all data required for necessary actuarial computations under the Plan.
- (2) No payment or any benefit, contribution or other sum which would constitute a violation of any applicable wage control law shall be made hereunder.
- (3) Reference to the word "his" shall also mean "her," wherever applicable.

(e) *Increases.* Upon approval of the City Commission as regards any amendment to this Plan after the effective date of the Plan, any increases in Retirement benefits granted to active employees after the effective date of this Plan may also be made applicable to retired Members and their Beneficiaries, provided that (i) the actuarial cost of granting such additional benefits to retired Members and their Beneficiaries shall be Funded by an increase in the contribution rate of the active Members of the Plan, and (ii) the consent of the affected Bargaining Unit(s) as may be required by Part II, Chapter 447, Florida Statutes is obtained.

(f) *Transferred employees.* Any employee who was transferred to another governmental agency (as defined in section 20-107) and continued to be a Member of this Plan shall have the right to terminate his Membership in this Plan at any time subsequent to such transfer. Membership terminated by a transferred employee may not be reinstated.

(g) *Exclusions for disability and death.* No Member shall be granted a disability pension, nor shall any death benefits be payable on behalf of any Member, upon a showing to the satisfaction of the Board of the following:

- (1) That disability or death resulted from an intentionally self-inflicted injury within the first two (2) years of employment. The exclusion set forth herein shall nevertheless apply if disability or death occurs beyond such two-year period as the result of an injury that was intentionally self-inflicted within the first two (2) years of employment;

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- 1
- 2 (2) That alcoholic beverages, narcotics or drugs were the cause of disability or
- 3 death, and disability or death occurred as a direct result of the habitual
- 4 intentional ingestion of alcoholic beverages, narcotics or drugs without an
- 5 intervening or contributing cause;
- 6
- 7 (3) That disability or death resulted from unlawful participation or unlawful
- 8 involvement in riots, insurrection or assembly; or
- 9
- 10 (4) That disability or death resulted from participation or involvement in the
- 11 commission of a felony as defined by the laws of the State of Florida, or the
- 12 United States of America.
- 13

14 The provisions of this subsection shall apply to both Service and non-service incurred

15 death or disability.

16

17 (h) *Denial of claim.*

18

- 19 (1) A Member or Beneficiary whose claim for benefits under this Plan is denied by
- 20 the Board shall be given, within thirty (30) days, a written notice setting forth the
- 21 specific reasons for such denial. Such notice shall also advise the Member or
- 22 Beneficiary that he has the right to a full and fair review of the Board's decision.
- 23
- 24 (2) Such Member or Beneficiary shall have the right to file an administrative appeal
- 25 to the Board within thirty (30) days from the date a written notice setting forth the
- 26 specific reasons for denial of a claim for benefits is filed with the Board. At the
- 27 administrative appeal the Board shall hold a hearing at which time he may
- 28 present any evidence or make any statements he deems to be appropriate and
- 29 relevant to the Board's review of its decision to deny the claim for benefits.
- 30
- 31 (3) Upon completion of the administrative appeal and review, in subsection (h)(2)
- 32 above, written notice of the Board's decision shall be given to the Member or
- 33 Beneficiary within thirty (30) days. In the event the Board's decision is a denial of
- 34 the claim, the written notice shall set forth the specific reasons for the denial. In
- 35 the event of a denial of the claim, the written notice setting forth the specific

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1 reasons for the denial shall be filed with the Board within thirty (30) days of the  
2 conclusion of the hearing. A Member or Beneficiary shall have thirty (30) days  
3 from the filing of said written notice with the Board within which to file a petition  
4 for a writ of certiorari with the circuit court.

5  
6 (i) *Right to amend Plan.* The City reserves the right at any time to amend or modify  
7 this Plan in any respect or to terminate the Plan; provided that no amendment shall cause any  
8 part of the Fund assets to be used for or diverted to purposes other than the exclusive benefit  
9 of Members and their beneficiaries.

10  
11 (j) *Termination and discontinuance.* Notwithstanding any other provisions of this  
12 Plan to the contrary, upon the date of either full or partial termination of the Plan, or in the  
13 case of a Plan to which Internal Revenue Code Section 412 does not apply, upon complete  
14 discontinuance of contributions under the Plan, an affected employee's or Member's right to  
15 their accrued benefit shall be one hundred (100) percent non-forfeitable.

16  
17 (k) *Rollover distributions.* This subsection applies to distributions made on or after  
18 January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would  
19 otherwise limit a distributee's (as defined below) election under this subsection, a distributee  
20 may elect, at the time and in the manner prescribed by the Plan administrator, to have any  
21 portion of an eligible rollover distribution (as defined below) that is equal to at least \$500 paid  
22 directly to an eligible Retirement Plan specified by the distributee in a direct rollover (as  
23 defined below). If an eligible rollover distribution is less than \$500, a distributee may not make  
24 the election described in the preceding sentence to rollover only a portion of the eligible  
25 rollover distribution.

26  
27 (1) For the purposes of this subsection 20-115(k) the following words and phrases  
28 shall have the meanings indicated:

29  
30 a. *Eligible rollover distribution* is any distribution of all or any portion of the  
31 balance to the credit of the distributee, except that an eligible rollover  
32 distribution does not include:

33  
34 1. Any distribution that is one of a series of substantially equal  
35 periodic payments (not less frequently than annually) made for the  
36 life (or life expectancy) of the distributee or the joint lives (or joint



life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more;

2. Any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and

3. The portion of any distribution that is not includable in gross income. (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and

4. Any other distribution(s) that is reasonably expected to total less than \$200 during a year.

A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to (1) a traditional individual retirement account or annuity described in § 408(a) or (b) of the Code (a traditional IRA) or a Roth individual retirement account or annuity described in § 408A (a Roth IRA); or (2) to a qualified defined contribution, defined benefit, or annuity plan described in § 401(a) or § 403(a) or to an annuity contract described in § 403(b), if such plan or contract provides for separate accounting for amounts so transferred (including interest thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

b. Eligible Retirement Plan is an eligible plan under § 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, an individual Retirement Account described in Section 408(a) of the Internal Revenue Code, an individual Retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity Plan described in Section 403(a) of the Internal Revenue Code,

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1 or a qualified trust described in Section 401(a) of the Internal Revenue  
2 Code, that accepts the distributee's eligible rollover distribution. However,  
3 in the case of an eligible rollover distribution to the surviving spouse, an  
4 eligible Retirement Plan is an individual Retirement Account or individual  
5 Retirement annuity.

- 6  
7 c. *Distributee* includes an employee or former employee. In addition, the  
8 employee's or former employee's surviving spouse are distributees with  
9 regard to the interest of the spouse. For distributions occurring in plan  
10 years beginning after December 31, 2009 (or in any earlier plan year  
11 beginning after December 31, 2006), a distributee also includes the  
12 participant's non-spouse designated beneficiary. In the case of a non-  
13 spouse beneficiary, the direct rollover may be made only to a traditional IRA  
14 or Roth IRA that is established on behalf of the designated beneficiary and  
15 that will be treated as an inherited IRA pursuant to the provisions of §  
16 402(c)(11). Also, in this case, the determination of any required minimum  
17 distribution under § 401(a)(9) that is ineligible for rollover shall be made in  
18 accordance with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.

- 19  
20 d. *Direct rollover* is a payment by the Plan to the eligible Retirement Plan  
21 specified by the distributee.

22  
23 (l) *Overpayment of benefits.* In the event of overpayment of benefits, the monies  
24 owed to the Plan shall be payable in Fort Lauderdale, Broward County, Florida, within thirty  
25 (30) days of the date of overpayment. The monies owed to the Board shall accrue interest at  
26 the highest lawful rate allowed by law, but the Board, in its discretion, shall have the authority  
27 to compromise such accrued interest. In the event the Board finds it necessary to resort to  
28 litigation to collect the overpayment, venue for an action for overpayment shall be in Broward  
29 County, Florida. In the event the Board is the prevailing party in an action to collect  
30 overpayments, the Board shall be entitled to an award of attorneys' fees, together with  
31 interest at the highest lawful rate allowed by law.

32 (m) *Distribution of Benefits.* As of the Effective Date, this Plan shall pay all benefits in  
33 accordance with a good faith interpretation of the requirements of Code Section 401(a)(9) and the  
34 regulations promulgated thereunder, as applicable to a governmental plan as defined in Code  
35 Section 414(d). Notwithstanding any other provision of this Plan to the contrary, a form of  
36 retirement income payable from this Plan shall satisfy the following conditions:

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- 1  
2 (1) If the retirement income is payable before the Participant's death,  
3  
4 a It shall either be distributed or commence to the Participant not later than April  
5 1 of the calendar year following the later of the calendar year in which the  
6 Participant attains age seventy and one-half (70½), or the calendar year in  
7 which the Participant retires; and,  
8 b the benefit shall be paid over the life of the Participant or over the lifetimes of  
9 the Participant and designated beneficiary and shall be paid over the period  
10 extending not beyond the life expectancy of the Participant and designated  
11 beneficiary.

12 Where benefit payments have commenced in accordance with the preceding paragraphs  
13 and the Participant dies before his entire interest in the Plan has been distributed, the remaining  
14 portion of such interest in the Plan shall be distributed no less rapidly than under the form of  
15 distribution in effect at the time of the Participant's death.

- 16  
17 (2) If the participant dies before distributions begin, the participant's entire interest will  
18 be distributed, or begin to be distributed, no later than as follows:  
19  
20 a If the participant's surviving spouse is the participant's sole designated  
21 beneficiary, then distributions to the surviving spouse will begin by  
22 December 31 of the calendar year immediately following the calendar year  
23 in which the participant died, or by December 31 of the calendar year in  
24 which the participant would have attained age 70½, if later.  
25 b If the participant's surviving spouse is not the participant's sole designated  
26 beneficiary, then, except as provided in the adoption agreement,  
27 distributions to the designated beneficiary will begin by December 31 of the  
28 calendar year immediately following the calendar year in which the  
29 participant died.  
30 c If there is no designated beneficiary as of September 30 of the year  
31 following the year of the participant's death, the participant's entire interest  
32 will be distributed by December 31 of the calendar year containing the fifth  
33 anniversary of the participant's death.

d If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the surviving spouse are required to begin, this section (2), other than subsection (2)a, will apply as if the surviving spouse were the participant. For purposes of this section, unless subsection (2)d applies, distributions are considered to begin on the participant's required beginning date. If subsection B(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under section (2)d. If distributions under an annuity meeting the requirements of this article commence to the participant before the participant's required beginning date (or to the participant's surviving spouse before the date distributions are required to begin to the surviving spouse under section (2)a, the date distributions are considered to begin is the date distributions actually commence.

(n) *Prohibited Transaction.* The Board may not engage in any transaction prohibited under Section 503(b) of the Internal Revenue Code.

(o) *Qualification of Plan.* It is intended that this plan shall constitute a qualified public pension plan under the applicable provisions of the Code for a qualified plan under Code Section 401(a) and a governmental plan under Code Section 414(d), as now in effect and as may be amended from time to time. Any modification or amendment of this Plan may be made retroactively, if necessary or appropriate to maintain qualification.

**SECTION 2.** That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

**SECTION 3.** That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

**SECTION 4.** That this Ordinance shall be in full force and effect ten days from the date of final passage.

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PASSED FIRST READING this the 20th day of October, 2015.  
PASSED SECOND READING this the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Mayor  
JOHN P. "JACK" SEILER

ATTEST:

\_\_\_\_\_  
City Clerk  
JEFFREY A. MODARELLI

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