

RETIREMENT PLAN
for
GENERAL EMPLOYEES
of the
CITY OF NORTH MIAMI BEACH

(As Amended Through Ord. 2016-5)

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RETIREMENT PLAN for GENERAL EMPLOYEES

of the

CITY OF NORTH MIAMI BEACH

ARTICLE I

CREATION; AMENDMENT; TERMINATION

S. 1.01	AUTHORIZATION
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The City of North Miami Beach Retirement Plan, for employees hereinafter referred to as "RETIREMENT PLAN", is hereby established under the provisions of Ordinance 65-30 as revised and restated by Ordinance 89-19.

S. 1.02	PURPOSE
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The purpose of the Retirement Plan is to provide benefits to regular and permanent employees of the City and their beneficiaries upon the occurrence of retirement, death or disability of the employee.

S. 1.03	NAME
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The Plan created by the City shall be known as the Retirement Plan for General Employees of the City of North Miami Beach.

S. 1.04	EFFECTIVE DATE
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The Plan, effective October 1, 1965, becomes effective as revised and restated January 1, 1990, and is an amendment, restatement and continuation of the superseded plan, adopted effective as of July 1, 1957.

S. 1.05	AMENDMENT OF PLAN
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- (a) **Ordinance of City** - The Plan may be amended by the City from time to time in any respect whatever, by ordinance of City Council of North Miami Beach, specifying such amendment, subject only to the applicable requirements of federal and state law.
 - (1) **Approval of Participants** – Repealed
 - (2) **Report and Recommendation** from City Manager and the actuary and/or any other pension board or consultant may be considered before the Plan may be amended by the City Council.

- (3) **Distribution for Benefit of Participants Only** - Such amendment shall, under no condition, result in or permit the return or repayment to the City of any property held or acquired by the Trustee or the proceeds thereof or result in or permit the distribution of any such property for the benefit of anyone other than the participants and their beneficiaries or joint pensioners, except to the extent provided by Section 5.09 (Expenses of Administration) and Section 8.06 (Termination of Plan and Distribution of Trust Fund).
- (4) **Duties of Trustees Under Amendment** - Such amendment shall, under no condition, change the duties or responsibilities of the trustee (hereunder) without its written consent.
- (b) **Retroactive Amendment** - Subject to the foregoing limitations, any amendment may be made retroactive which, in the judgment of the Retirement Committee, is necessary or advisable. Such retroactive amendment shall not deprive a participant, without his consent, of a right to receive those benefits hereunder, which have already fully vested and matured in such participant. Such modification or amendment shall be as necessary to comply with any laws or regulations of the United States or of any state to qualify this as a tax-exempt plan or trust.

S. 1.06	TERMINATION OF PLAN
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- (a) **By Ordinance** - The Plan may be terminated by the City at any time by delivering to the trustee in writing an ordinance of the City Council of North Miami Beach, duly certified by an official of the City, specifying that
 - i. the plan is being terminated, or
 - ii. contributions thereunder are being permanently discontinued.
- (b) **Automatic Termination** - The Plan shall automatically terminate only upon adjudication by a court of competent jurisdiction that the City is bankrupt or insolvent (whether such proceedings be voluntary or involuntary), upon dissolution of the City or upon the liquidation, merger or consolidation without provisions being made by its successor, if any, for the continuation of the Plan.

ARTICLE II

DEFINITIONS

For the purposes of the Retirement Plan, certain words and phrases shall have the meanings ascribed to them in this article, except where the context otherwise requires. The masculine pronoun, wherever used, shall include the feminine.

Actuarial Equivalent as used herein means equality in value of the aggregate amounts expected to be received under different forms of payment. Actuarially Equivalent amounts will be determined for all purposes based on the 1994 Group Annuity Reserving Table, projected by 2002, based upon a fixed blend 50% male mortality rates – 50% female mortality rates, per IRS Revenue Ruling 2001-62 with interest 8.0% where the disabled Member's age shall be set forward five (5) years for all calculations.

Basic Compensation means base pay to be interpreted as the compensation actually paid to a participant by the City, exclusive of commissions, bonuses, overtime pay, expense allowances and all other extraordinary compensation.

Beneficiary means the surviving person or persons designated as such by a Member or Retirant in the last written designation on file with the Board in accordance with Section 7.02. In the absence of such survivor or such designation, it means the estate of the deceased Member or Retirant, as the case may be.

City Council or **Council** means the City Council of the City of North Miami Beach, Florida.

City or **Employer** means the City of North Miami Beach, Florida.

Credited Service means service credited to a member under the plan provided in Article III.

Disability means the employee, according to the Retirement Committee, is prevented from engaging in any occupation for wage or profit.

DROP Participant means a member of the Deferred Retirement Option Program. Upon the resignation of the Employee, after entering the DROP, or upon conclusion of the maximum DROP participation period specified in Section 6.14, a person is no longer a DROP participant.

Employee means any person employed by the City on a regular full-time basis, excluding police officers, firefighters or City Council members, who is receiving compensation from the City for personal services, and who is within a group or classification of employees designated by the Retirement Board as eligible for membership in the plan, exclusive of the following groups and classifications:

- (a) Persons employed on a provisional, original probationary or other temporary basis;
- (b) Members of boards or commissions, officers or employees receiving no salary or a nominal salary or a fee basis;

- (c) Persons whose regular employment with the City is for less than twenty (20) hours per week or for not more than five (5) months in any once calendar year.

Enrolled Actuary means an actuary who is enrolled under Subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who is a member of the Society of Actuaries or The American Academy of Actuaries.

Final Monthly Compensation means the participant's average monthly rate of compensation from the City for the sixty (60) successive months out of the 120 months next preceding his termination date, which gives the highest average monthly rate of compensation for the participant.

The participant's average monthly rate of compensation will be determined by dividing the total basic compensation received by him during such 60-month period by the number of months for which he received compensation from the City in such 60-month period.

In computing "final monthly compensation" for a participant who has returned to the active service of the City following a leave of absence granted by the City during which he did not receive regular compensation from the City, or following a period of disability retirement or termination of service with a vested benefit, as described in Sections 6.03(h) and 6.04(a)(6) hereof respectively, the period during which he was on leave of absence, or during which he was on disability retirement, or during which his service was terminated, shall be ignored or excluded, in determining the 120 successive months preceding a subsequent date of termination of service or his date of early or normal retirement.

Highly Compensated Employee means an employee described in IRC Section 414(q) and the regulations thereunder, and generally means an employee who performed service for the City during the "determination year" and is one or more of the following groups:

- (1) Employees who at any time during the "determination year" or "look-back year" were five percent owners of the City.
- (2) Employees who received "415 Compensation" during the "look-back year" from the City in excess of \$75,000.00.
- (3) Employees who received "415 Compensation" during the "look-back year" from the City in excess of \$50,000.00 and were in the "top paid group" of employees for the plan year.
- (4) Employees who during the "look-back year" were officers of the City (as that term is defined within the meaning of the regulations under IRC Section 416) and received "415 Compensation" during the "look-back year" from the City greater than 50 percent of the limit in effect under IRC Section 415(b)(1)(A) for any such plan year. The number of officers shall be limited to the lesser of (i) 50 employees; or (ii) the greater of 3 employees or 10 percent of all employees. If the City does not have at least one officer whose annual "415 Compensation" is in excess of 50 percent of the IRC Section 415(b)(1)(A) limit, then the highest paid officer of the City will be treated as a highly compensated employee.

- (5) Employees who are in the group consisting of the 100 employees paid the greatest "415 Compensation" during the "determination year" and are also described in (2), (3) or (4) above, when these paragraphs are modified to substitute "determination year" for "look-back year".

The "determination year" shall be the plan year for which testing is being performed, and the "look-back year" shall be the immediately preceding twelve-month period.

"Top paid group" means the top 20 percent of the employees who performed services for the City during the applicable year ranked according to the amount of "415 Compensation" received from the City during such year. For the purpose of determining the number of active employees in any year, the following employees shall be excluded; however, such employees shall be considered for the purpose of identifying the particular employees in the "top paid group".

1. Employees with less than six (6) months of service;
2. Employees who normally work less than 17-1/2 hours per week;
3. Employees who normally work less than six (6) months during a year; and
4. Employees who have not yet attained age 21.

The foregoing exclusions set forth in this section shall be applied on a uniform and consistent basis for all purposes for which the IRC Section 414(q) definition is applicable.

"Family member" means, with respect to an affected participant, such participant's spouse, such participant's lineal descendants and ascendants and their spouses, all as described in IRC Section 414(q)(6)(B).

The foregoing shall not apply if Section 415 of the Internal Revenue Code is made inapplicable to this Plan either by statute or regulation.

Leave of Absence means a grant of leave by the Retirement Board because of illness, military service or for any other reason that does not terminate the employee's service.

Members means any employee included in the membership of the Plan, as provided in Article III. A member who retires shall be deemed a retired member or retirant.

Normal Retirement Date shall have the same meaning as set forth in Section 6.01(b).

Participant's Contribution Account means the required contributions paid by any member as provided in Section 4.01 or credited to the member pursuant to Section 4.02, together with any interest allowed thereon under this Plan until such time as the employee's service with the City is terminated at the rate computed annually, as determined by the Committee from time to time.

Pension means the monthly amount payable to a pensioner under the Plan. The pension shall be due as of the first day of the calendar month next following the death of a member. It shall cease after the payment due on the first day of the month in which the pensioner ceases to be entitled thereto according to the provisions of this Plan.

Pensioner means the dependent beneficiary of a member or retirant in receipt of a pension under the Plan as the result of the death of said member or retirant.

Permanent Disability means the disabled employee according to the Retirement Committee is likely to remain disabled continuously and permanently from a cause other than specified in Section 6.03.

Physical Examiners means the physicians provided for in Section 6.03.

Plan means the Retirement Plan established herein to be known and cited as Retirement Plan for General Employees of City of North Miami Beach.

Plan Trust Fund means the trust fund established by this plan for the purpose of holding and investing the contributions paid by members and employers and paying the benefits to which members or their beneficiaries may be entitled.

Retirant means a person in receipt of retirement allowance payments under the Plan or the basis of his service as an employee.

Retirement Committee or **Committee** means the managing board of the Retirement Plan.

Service means that period of continuous uninterrupted employment with the City and its designated successors from the employee's or participant's last date of employment to the earlier of the date of termination of his credited service and his retirement, as defined in Article III.

Social Security Coverage means old-age, survivors, disability and health insurance, as provided by the United States Social Security Act (42 U.S.C.A. 301).

Spouse means the legally recognized spouse of the member at the time of his death.

Trustee means the trustees appointed by the Retirement Committee and approved by the City Council, to administer the trust fund created for the purposes of the Plan or such other trustee the Committee may designate from time to time, which is approved by the City Council.

ARTICLE III

MEMBERSHIP

S. 3.01	ELIGIBILITY; PARTICIPATION
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- (a) **Date of Participation** - The date on which each such employee will become a participant in the Plan shall be:
- (i) January 1, 1990, for each employee who was a participant in the RETIREMENT PLAN FOR EMPLOYEES OF CITY OF NORTH MIAMI BEACH effective October 1, 1965.
 - (ii) The date after January 1, 1990, as of which each employee completes two (2) years of credited service.

S. 3.02	SERVICE
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- (a) **Definition** - The term **service** means that period of continuous, uninterrupted employment with the City and its designated successors from the employee's or participant's last date of employment to the earlier of the date of termination of his credited service and his retirement as herein described.
- (b) **Termination** - Any absence from the active service of the City, including (but not limited to) absences by reason of discharge or resignation, which is not deemed a leave of absence as defined herein, will be considered a termination of service (except as provided in Section 6.04(a)(6)(C)).

S. 3.03	LEAVE OF ABSENCE
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- (a) **In General** - Absence from the active service of the City by reason of leave of absence granted by the City because of illness or military service, or for any other reason, will not terminate an employee's or participant's service. However, he must return to the active employment of the City at or prior to the expiration of his leave or, if not specified therein, within the period of time which accords with the City's policy with respect to permitted absences.
- (b) **Termination and Exception** - If the employee or participant does not return to the active employment of the City at or prior to the expiration of his leave of absence (as above defined) his service will be considered terminated as of the date on which his leave began.
- (1) **Disability or Death on Leave** - Except for the absence because of military service, if such employee or participant is prevented from his timely return to the active employment of the City because of his total and permanent disability or his death, he shall, nevertheless, be entitled to any disability benefit as provided in Section 6.03 hereof or to any death benefit as provided in Section 6.04 hereof, whichever is applicable, as though he returned to active employment immediately preceding the date of his total and permanent disability or his death.

- (c) **Military Service** - Absence from the active service of the City because of compulsory engagement in military service will be considered a leave of absence granted by the City. Such absence will not terminate the service of an employee or a participant if he returns to the active employment of the City within the period of time during which he has re-employment rights under any applicable Federal law or within 60 days from and after discharge or separation from such compulsory engagement if no Federal law is applicable. No provision of this paragraph or in this Plan shall require re-employment of any employee or participant whose active service with the City was terminated by reason of military service.

S. 3.04	CREDITED SERVICE
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- (a) **Defined** - The credited service of each employee or participant will be the total period of his service as defined in Section 3.02 (Service) computed in completed calendar months, from the last date of employment until the first day of the month coincident with or next following his date of actual retirement or termination of employment. (See Section 6.04(a)(6)(C)).
- (b) **Exclusion From Credited Service** - The period of any absence of 31 days or more will be excluded from an employee's or participant's credited service unless he receives regular compensation from the City during such absence and except or otherwise provided below. Any absence of 30 days or less will be included in the employee's credited service.
- (c) **Military Service.**
- (1) **First Two Years of Absence** - The first 2 years of any absence due to the employee's or participant's engagement in military service will be included in his credited service, if such absence is covered by a leave of absence granted by the City or is by reason of compulsory military service.
- (2) **Absence Prior to Effective Date of Plan** - An employee or a participant who was absent prior to the effective date of the plan because of his engagement in military service will be credited for the full period of such absence, if such absence was covered by a leave of absence granted by the City or was by reason of compulsory military service, provided such period would otherwise have been included as credited service if the employee or participant had been in the active service of the City.
- (d) **Employees Excluded From Participation Under Prior Plan** - For any employee who was excluded from participation as a result of being at least age 60 on his date of employment and who became eligible to participate when that provision was eliminated, credited service will be the period of service from the date participant contributions begin until the date of actual retirement or termination of employment, plus 2 years.

S. 3.05	PURCHASE OF CREDITED SERVICE
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- (a) **Purchase of Credited Service for Prior Military Services** - Participants of the Plan shall have the option to receive credited service for all purposes of this Plan, for the time while in the active United States military service under the following conditions.

- (1) Participants who wish to receive credit for service will be required to make a contribution for such service which will be sufficient to pay for the full actuarial cost of the additional service, including any administrative costs associated with the purchase. A Participant may purchase United States military service time in increments of six (6) months and up to a maximum of four (4) years or the time of military service. Once a time period is chosen for purchase, the period cannot be adjusted. The purchase of military service is subject to the Retirement Committee's receipt of proof of the employee's military service.
- (2) As part of the application for the purchase of such credited service, the Participant shall elect either to contribute to the Plan the cost of such purchased credited service or to have all or a portion of the contributions for the cost of said purchased credited service picked up by the City. If the Participant elects to have contributions picked up by the City, the Participant must execute an irrevocable, binding payroll deduction authorization form with respect to these contributions, the Participant shall not be entitled any option of choosing to receive the contributed amounts directly instead of having them paid by the City to the Plan and the Participant while employed by the City shall not be able to make payment directly to the Plan for such purchased credited service. With respect to any Participant's contributions which are picked up by the City, the effective date of the pick-up by the City shall be the later of the adoption of this Ordinance or the execution of the payroll deduction authorization form. This pick-up does not apply to any contributions made before the effective date or to any contribution that relates to compensation earned for services before the effective date. Participant contributions made pursuant to a binding irrevocable payroll deduction authorization to have such contributions picked up for the purpose of purchasing credited service hereunder shall be designated and considered as employee contributions, even though they are being paid by the City in lieu of the contributions paid directly by the Participant. Any payroll deduction authorizations in effect for the purchase of such credited service as of the effective date of this Ordinance are void. The contributions made pursuant to this section are designated as being picked up by the City and paid from the same source as the payment of salary and wages to these Participants. If the cost of the purchased service credits is not paid in full prior to the termination of the Participant's employment, then the balance due the Plan for the purchased credited service shall be picked up by the City from any payment due to the Participant by the City for unused accrued leave (termination pay) and the irrevocable payroll deduction authorization form described above, shall so provide, except pick-up from termination pay is allowed only if said form was signed three (3) months or more before the employee's termination date. Should, after termination of the Participant's employment and the City pick-up of any remaining contribution due from the Participant's payment for accrued unused leave (which only includes payments available upon termination which would be reportable on Form W-2 as taxable wages but for the pickup) a balance still remain due for the purchase of credited service, then, at the Participant's option, the Plan shall reduce the amount of service purchased to conform with the amount of contributions therefore picked up by the City and paid to the Plan or the Participant may elect to make a lump-sum contribution for the balance due subject to the limitations of Section 415 of the internal Revenue

Code. If the Participant elects to make a lump-sum contribution for the balance due, such payment shall be made by the Participant within 60 days of separating service with the City or 30 days prior to the date that the Participants' first monthly pension benefit payment is due, whichever is earlier.

- (3) The Participant did not receive credited service for the time spent in the Armed Forces from any military retirement or pension system.
- (4) If, upon adoption of this Ordinance, a Participant has previously agreed to purchase credited service but has not yet made full payment for that credited service, then the Participant may elect City pick-up of the contribution remaining due the Plan pursuant to the procedures and provisions set forth above. The irrevocable payroll deduction authorization form electing such City pick-up must be signed within three months after the adoption of this Ordinance.
- (5) Notwithstanding any other provision of this subsection (a), the purchase of credited service for prior military service shall not be available to any participant in the IUPA bargaining unit who has not purchased or agreed to purchase such credited service through payroll deduction prior to January 1, 2014.

(b) **Purchase of Credited Service for Prior Periods of Service with Other Public Employers or for Service with the City of North Miami Beach as a Contract Employee** - Participants under the Plan shall have the option to receive credited service for all purposes of this Plan, for periods of service with other public employers or for service with the City of North Miami Beach as a contract employee, under the following conditions.

- (1) Participants who wish to receive credit for this service will be required to make a contribution for such service which will be sufficient to pay for the total full actuarial cost of the additional service, including any administrative costs associated with the purchase. A Participant may purchase other public employee service time in increments of six (6) months and up to a maximum of the lesser of four (4) years or the number of full years of service with the other public employer or as a contract employee with the City of North Miami Beach. Once a time period is chosen for purchase, the period cannot be adjusted. The purchase of other public employer service time is subject to the Retirement Committee's receipt of proof of the employee's employment with the other public employer and participation in the other public employer's pension plan.
- (2) As part of the application for the purchase of such credited service, the Participant shall elect either to contribute to the Plan the cost of such purchased credited service or to have all or a portion of the contributions for the cost of said purchased credited service picked up by the City. If the Participant elects to have contributions picked up by the City, the Participant must execute an irrevocable, binding payroll deduction authorization form with respect to these contributions, the Participant shall not be entitled any option of choosing to receive the contributed amounts directly instead of having them paid by the City to the Plan and the Participant while employed by the City shall not be able to make payment directly to the Plan for such purchased credited service. With respect to any Participant's contributions which are picked up by the City, the effective date of the pick-up by the City shall be the later of the adoption of this

Ordinance or the execution of the payroll deduction authorization form. This pick-up does not apply to any contributions made before the effective date or to any contribution that relates to compensation earned for services before the effective date. Participant contributions made pursuant to a binding irrevocable payroll deduction authorization to have such contributions picked up for the purpose of purchasing credited service hereunder shall be designated and considered as employee contributions, even though they are being paid by the City in lieu of the contributions paid directly by the Participant. Any payroll deduction authorizations in effect for the purchase of such credited service as of the effective date of this Ordinance are void. The contributions made pursuant to this section are designated as being picked up by the City and paid from the same source as the payment of salary and wages to these Participants. If the cost of the purchased service credits is not paid in full prior to the termination of the Participant's employment, then the balance due the Plan for the purchased credited service shall be picked up by the City from any payment due to the Participant by the City for unused accrued leave (termination pay) and the irrevocable payroll deduction authorization form described above, shall so provide, except pick-up from termination pay is allowed only if said form was signed three (3) months or more before the employee's termination date. Should, after termination of the Participant's employment and the City pick-up of any remaining contribution due from the Participant's payment for accrued unused leave (which only includes payments available upon termination which would be reportable on Form W-2 as taxable wages but for the pick-up) a balance still remain due for the purchase of credited service, then, at the Participant's option, the Plan shall reduce the amount of service purchased to conform with the amount of contributions therefore picked up by the City and paid to the Plan or the Participant may elect to make a lump-sum contribution for the balance due subject to the limitations of Section 415 of the Internal Revenue Code. If the Participant elects to make a lump-sum contribution for the balance due, such payment shall be made by the Participant within 60 days of separating service with the City or 30 days prior to the date that the Participant's first monthly pension benefit payment is due, whichever is earlier.

- (3) The Participant did not receive credited service from any other retirement or pension system.
- (4) If, upon adoption of this Ordinance, a Participant has previously agreed to purchase credited service but has not yet made full payment for that credited service, then the Participant may elect City pick-up of the contribution remaining due to the Plan pursuant to the procedures and provisions set forth above. The irrevocable payroll deduction authorization form electing such City pick-up must be signed within three (3) months after the adoption of this Ordinance.
- (5) Notwithstanding any other provision of this subsection (b), the purchase of credited service for prior service with other public employers or for service with the City of North Miami Beach as a contract employee shall not be available to any participant in the IUPA bargaining unit who has not purchased or agreed to purchase such credited service through payroll deduction prior to January 1, 2014.

- (c) **Purchase of Permissive Service Credit** - Participants of the Plan shall have the option to receive permissive credited service for all purposes of this Plan under the following conditions.
- (1) Participants who wish to receive permissive credited service will be required to make a contribution for such service which will be sufficient to pay for the full actuarial cost of the additional service, including any administrative costs associated with the purchase. A Participant may purchase permissive credited service in increments of six (6) months and up to a maximum of four (4) years. Once a time period is chosen for purchase, the period cannot be adjusted.
 - (2) As part of the application for the purchase of such credited service, the Participant shall elect either to contribute to the Plan the cost of such purchased credited service or to have all or a portion of the contributions for the cost of said purchased credited service picked up by the City. If the Participant elects to have contributions picked up by the City, the Participant must execute an irrevocable, binding payroll deduction authorization form with respect to these contributions, the Participant shall not be entitled any option of choosing to receive the contributed amounts directly instead of having them paid by the City to the Plan and the Participant while employed by the City shall not be able to make payment directly to the Plan for such purchased credited service. With respect to any Participant's contributions which are picked up by the City, the effective date of the pick-up by the City shall be the later of the adoption of this Ordinance or the execution of the payroll deduction authorization form. This pick-up does not apply to any contributions made before the effective date or to any contribution that relates to compensation earned for services before the effective date. Participant contributions made pursuant to a binding irrevocable payroll deduction authorization to have such contributions picked up for the purpose of purchasing credited service hereunder shall be designated and considered as employee contributions, even though they are being paid by the City in lieu of the contributions paid directly by the Participant. Any payroll deduction authorizations in effect for the purchase of such credited service as of the effective date of this Ordinance are void. The contributions made pursuant to this section are designated as being picked up by the City and paid from the same source as the payment of salary and wages to these Participants. If the cost of the purchased service credits is not paid in full prior to the termination of the Participant's employment, then the balance due the Plan for the purchased credited service shall be picked up by the City from any payment due to the Participant by the City for unused accrued leave (termination pay) and the irrevocable payroll deduction authorization form described above, shall so provide, except pick-up from termination pay is allowed only if said form was signed three (3) months or more before the Participant's termination date. Should, after termination of the Participant's employment and the City pick-up of any remaining contribution due from the Participant's payment for accrued unused leave (which only includes payments available upon termination which would be reportable on Form W-2 as taxable wages but for the pickup) a balance still remain due for the purchase of credited service, then, at the Participant's option, the Plan shall reduce the amount of service purchased to conform with the amount of contributions therefore picked up by the City and paid to the Plan or the Participant may elect to make a lump-sum contribution for the balance due subject to the limitations of Section 415 of the

Internal Revenue Code. If the Participant elects to make a lump-sum contribution for the balance due, such payment shall be made by the Participant within 60 days of separating service with the City or 30 days prior to the date that the Participant's first monthly pension benefit payment is due, whichever is earlier.

- (d) Notwithstanding any other provision of (a), (b) and (c) of this section, the combined maximum number of years of credited service which a participant can purchase for periods of military service, periods of service with other public employers or with the City of North Miami Beach as a contract employee and for permissive credited service cannot exceed a total of four (4) years.
- (e) To the extent permitted by law, including relevant Internal Revenue Code provisions, as amended from time to time, in lieu or in addition to irrevocable employer pick up of Participant contributions, the Plan will accept inter-plan transfers (rollovers) as provided in Section 6.11.

ARTICLE IV

FINANCING

S. 4.01	PARTICIPANT'S CONTRIBUTION ACCOUNT
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- (a) **Contributions Mandatory** - The "Participant's Contribution Account" will consist of tax-deferred participant contributions. Contributions required of employees will be paid by the City and shall be treated for IRS purposes as employer contributions. However, for all purposes of determining benefits under the Plan, they will be considered participant contributions. This section is intended to comply with Section 414(h) of the Internal Revenue Code.
- (b) **Amount of Contribution** - Effective July 1, 1998, each participant will contribute toward the cost of the Plan an amount equal to 7% of his basic annual compensation as defined in Article II effective as of January 1, 1973.
- (c) **Length of Contribution** - Each participant shall continue to contribute to the Plan until the date of termination of the participant's service with the City.

S. 4.02	CONTRIBUTIONS
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- (a) **City Contributions**. The City shall make contributions together with the contributions of participants, as are required by State Statute.

S. 4.03	CITY'S CONTRIBUTIONS IRREVOCABLE
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The City shall have no right, title or interest in the trust fund or in any part thereof. No contributions made thereto shall revert to the City except such part of the trust fund, if any, which remains therein after the satisfaction of all liabilities to persons entitled to benefits under the Plan, as described in Section 8.06 (Termination of Plan and Distribution of Trust Fund).

S. 4.04	ADMINISTRATION OF FUNDS
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- (a) **Employee Contributions** - shall be deposited in the Retirement Plan on at least a monthly basis.
- (b) **City Contributions** - shall be deposited on at least a quarterly basis.

ARTICLE V

ADMINISTRATION OF PLAN

S. 5.01	ADMINISTRATION BY RETIREMENT COMMITTEE
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- (a) **Membership** - The Plan will be administered by the Retirement Committee consisting of the following:
 - (i) Three (3) individuals appointed by the Mayor and ratified by the City Council, at least two of whom shall be elected officials and the third may be an elected official and/or the designee.
 - (ii) Two (2) members from employees participating in the Plan, including DROP Participants as defined in Article II.
- (b) **Election Of Employee Members** - Under (ii) above, the members of the Retirement Committee will be elected by majority from the general employees, including DROP Participants as defined in Article II. Members from the selected groups will serve for a period of four (4) years.
- (c) **Resignation Of Employee Members** - A member under (ii) above may resign from such capacity by delivering his written resignation to the Retirement Committee, at which time another member shall be elected as outlined above.
- (d) **Elected Officials and/or the Designee, Terms and Resignation** - Each elected official under (i) above shall serve until his successor shall be appointed, but may resign by delivering his written resignation to the Retirement Committee. The designee of the elected officials shall serve for a period of two (2) years. The designee may resign from such capacity by delivering his written resignation to the Retirement Committee.
- (e) **Chairman** - The Retirement Committee shall by majority vote elect from its members a Chairman.

S. 5.02	OFFICERS AND EMPLOYEES OF RETIREMENT COMMITTEE; COMPENSATION
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The Retirement Committee shall select a secretary. The secretary of the Committee shall keep a complete minute book of the actions, proceedings or hearings of the Committee. The Committee members shall not receive any compensation as such, but may receive expenses and per diem as provided by law or ordinance. The secretary may receive compensation as established by the Committee from time to time.

S. 5.03	ACTION BY RETIREMENT COMMITTEE
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- (a) A quorum shall constitute three (3) members of the Retirement Committee, whose number shall include at least two (2) elected officials and/or the designee. Each member of the Committee shall be entitled to one vote on the Committee.

- (b) Minutes of all meetings of the Retirement Committee and a record of any action taken by the Retirement Committee shall be kept in written form, and such record shall be kept by the secretary appointed by the Retirement Committee.
- (c) The Retirement Committee shall give to the Trustee any order, direction, consent or advice required under the terms of the trust agreement, and the Trustee shall be entitled to rely on any instrument delivered to it and signed as set forth above.
- (d) A member of the Retirement Committee may not vote or decide upon any matter relating solely to himself or vote in any case in which his individual right or claim to any benefit under the Plan is particularly involved. If, in any case in which an individual Retirement Committee member is so disqualified to act, the remaining members cannot agree, the City Council of North Miami Beach will appoint a temporary substitute member to exercise all of the powers of a qualified member concerning the matter in which the disqualified member is not qualified to act.
- (e) The Committee shall not conduct business which would result in a recommendation of an amendment to the plan without the presence of four (4) members of the Committee.
- (f) Each member of the Committee shall, within ten (10) days after appointment, take the constitutional oath of office, to be administered by and filed with the Clerk of the Council.
- (g) The Committee may employ such legal, technical, professional or other advisors and medical and other services as shall be required. After the public bid process, the Committee, by majority, selects the bank, investment counsel, investment monitor, auditor and actuary, and presents its selection to the Mayor and City Council for its acceptance or rejection of each category. The compensation for all such services shall be fixed by the Committee, subject to the limitations provided herein.
- (h) The Committee shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the retirement system.
- (i) The Committee shall arrange for the necessary physicians to pass upon all medical examinations required under the provisions of this division. It shall be their duty to investigate all essential statements and certificates by or on behalf of members in connection with applications for disability retirement and shall report in writing to the Committee their conclusions and recommendations upon all matters referred to them.

S. 5.04	RULES AND REGULATIONS OF RETIREMENT COMMITTEE
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The Retirement Committee shall have the authority to make such rules and regulations and to take such action as may be necessary to carry out the provisions of the Plan. The Retirement Committee is subject to the provisions of the Plan, and may decide any questions that arise in the administration, interpretation and application of the Plan. Its decisions shall be conclusive and binding on all parties. The Retirement Committee may delegate any part of its authority and duties as it deems expedient.

S. 5.05	POWERS OF THE RETIREMENT COMMITTEE
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- (a) **Construction of Plan** - In order to effectuate the purposes of the Plan, the Retirement Committee shall have the power to construe the Plan, to supply any omissions therein, to reconcile and correct any errors or inconsistencies and to make equitable adjustments for any mistakes or errors made in the administration of the Plan.

S. 5.05A	CITY ATTORNEY AND INDEPENDENT COUNSEL
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- (a) **City Attorney** - The City Attorney shall give advice to the Retirement Committee in all matters pertaining to its duties in administration of the retirement trust fund, whenever requested.
- (1) He shall represent and defend the Retirement Committee as its attorney in all suits and actions at law or in equity that may be brought against it.
 - (2) He shall bring all suits and actions on the Retirement Committee's behalf that may be required or determined by the Committee.
- (b) However, if the Retirement Committee so elects, it may employ independent legal counsel at the pension fund's expense for the purposes contained herein, together with such other professional, technical or other advisors as the Committee deems necessary.

S. 5.06	ACTUARY
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- (a) **General Duties** - The actuary shall be appointed by the Retirement Committee after acceptance by the Mayor and City Council to serve as long as it is agreeable to the Retirement Committee and the actuary. The actuary will do such technical and advisory work as the Retirement Committee may request, including analysis of the experience of the Plan from time to time, the preparation of actuarial tables for the making of computations thereunder and the submission of an actuarial report to the Retirement Committee as of the anniversary date of the Plan each year. That report shall contain an actuarial valuation showing the financial condition of the Plan, a statement of the contributions to be made by the City for the ensuing year, and such other information as may be required by the Retirement Committee and by Florida law. The actuarial report is required to be submitted to the State Department of Administration.

S. 5.07	GENERAL INFORMATION ON FILE
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The following information shall be maintained in accurate and accessible form by the Retirement Committee:

- (a) **Active and Inactive Members** - For each active and inactive member of the Plan, a number or other means of identification; date of birth; sex; date of employment; period of credited service, split (if required) between prior service and current service; and occupational classification.

- (b) **Active Members** - For each active member, current pay rate; cumulative contributions together with accumulated interest, if credited; age at entry into the Plan; and current rate of contribution.
- (c) **Inactive Members** - For each inactive member, average final compensation or equivalent; and age at which deferred benefit is to begin.
- (d) **Retired Members and Other Beneficiaries** - For each retired member and other beneficiary, a number or other means of identification; date of birth; sex; beginning date of benefit; type of retirement and amount of monthly benefit; and type of survivor benefit.

S. 5.08	FIDUCIARY DUTIES
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- (a) **In General** - The named fiduciary shall discharge its duties with respect to the Plan solely in the interest of the participants and beneficiaries, for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administration.
- (b) **Named Fiduciary** - The Retirement Committee shall be the named fiduciary, with authority to control and manage the administration and operation of the Retirement Plan in accordance with the ordinance and other applicable law governing the Retirement Plan.
- (c) **Insurance** - The Retirement Committee may purchase insurance for its named fiduciary, to cover liability or losses incurred by reason or act of omission of the fiduciary.

S. 5.09	EXPENSES OF ADMINISTRATION
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The City may pay all expenses incurred in the administration of the Plan, including expenses and fees of the Trustee, but it shall not be obligated to do so. Any such expenses and fees not so paid by the City shall be paid from the trust fund.

S. 5.10	WRITTEN PLAN DESCRIPTION
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- (a) **In General** - The provisions of this Retirement Plan shall be contained in a written plan description which shall include a report of pertinent financial and actuarial information on the solvency and actuarial soundness of the Plan.
- (b) **Furnished to Membership** - The plan description shall be furnished to each member of the Plan upon his initial employment in the Plan and thereafter upon request by the member.

S. 5.11	GENERAL PROVISIONS
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- (a) **Relief from Responsibility or Liability** - Any provision in a legal agreement, contract or instrument which purports to relieve the fiduciary of the Plan from responsibility or liability is void, as being against public policy.
- (b) **Civil Action by Beneficiary or Member** - A civil action may be brought by a member or beneficiary of the Plan to recover benefits due to him under the terms of the Plan, to enforce his rights, or to clarify his rights to future benefits under the terms of the Plan.
- (c) **Lawsuits For and Against the City** - The City may sue or be sued as an entity.
- (d) **Written Notice of Denial of Claims** - There shall be timely adequate written notice given to any member or beneficiary whose claim for benefits under the terms of the Plan has been denied. This notice shall set forth the specific reasons for such denial. There will be a full and fair review in those cases when a member or beneficiary has had his claim to benefits denied.

S. 5.12	APPLICABLE LAW
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The Plan will be construed according to the laws of the State of Florida, and all provisions of the Plan will be administered according to those laws.

S. 5.13	ERRORS
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Should any change or error in the records be discovered or result in any member or beneficiary receiving from the retirement system more or less than he would have been entitled to receive had the records been correct, the Retirement Committee shall have the power to correct the error and, as far as possible, to adjust the payments in such a manner that the actuarial equivalent of the benefits to which the member or beneficiary was correctly entitled shall be paid.

ARTICLE VI

RETIREMENT BENEFITS

S. 6.01	NORMAL RETIREMENT
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- (a) **Normal Retirement Defined** - Normal retirement under the Plan is retirement from the service of the City on or after the normal retirement date. Any provision of this plan to the contrary notwithstanding, a Member's accrued benefit shall become 100% vested upon the attainment of the Normal Retirement Date.
- (b) **Normal Retirement Date**
- (1) The normal retirement date of each participant will be the first day of the month coincident with or next following the date he attains age 62, or, effective July 1, 1998, completes 20 years of service after having reached the age of 55. Notwithstanding the preceding sentence:
- a. The normal retirement date for participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit who are employed and not participating in the DROP on September 30, 2013, and who on that date have not attained age 62 or age 55 with 20 or more years of credited service, shall be age 62 with 10 or more years of credited service, or age 60 with 25 or more years of credited service. Participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit who are employed and not participating in the DROP on September 30, 2013, and who on that date have not attained age 62 or age 55 with 20 or more years of credited service, may retire upon reaching age 62 or age 55 with 20 or more years of credited service and terminating City employment or entering the DROP, and upon such retirement shall be eligible to receive the benefit based on their credited service prior to October 1, 2013; and such participants shall be eligible to receive the benefit based on their credited service on and after October 1, 2013 upon attaining age 62 with 10 or more years of credited service, or age 60 with 25 or more years of credited service, and terminating City employment or entering the DROP. The normal retirement date for participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit hired on or after October 1, 2013 shall be age 62 with 10 or more years of credited service, or age 60 with 25 or more years of credited service.
- b. The normal retirement date for participants in the IUPA bargaining unit who are employed and not participating in the DROP on December 31, 2013, and who on that date have not attained age 62 or age 55 with 20 or more years of credited service, shall be age 66 with 6 or more years of credited service, or age 59 with 30 or more years of credited service; provided, such participants may retire upon reaching age 62 or age 55 with 20 or more years of credited service and terminating City employment, and upon such retirement shall be eligible to receive the benefit based on their credited service prior to January

1, 2014; and such participants shall be eligible to receive the benefit based on their credited service on and after December 31, 2013 upon attaining age

66 with 6 or more years of credited service, or age 59 with 30 or more years of credited service, and terminating City employment. The normal retirement date for participants in the IUPA bargaining unit hired on or after January 1, 2014 shall be age 66 with 6 or more years of credited service, or age 59 with 30 or more years of credited service.

(c) **Amount of Retirement Income.**

The monthly amount of retirement income payable to a participant who retires on or after his normal retirement date shall be an amount as follows:

- (i) **For participants retiring on or before September 30, 1994:** 1.75% (.0175) of the first \$400 of final monthly compensation plus 2.25% (.0225) of final monthly compensation in excess of \$400, with such sum multiplied by years and completed calendar months of credited service.
- (ii) **For participants retiring after September 30, 1994 but before October 1, 1995:** 2.25% (.0225) of final monthly compensation, multiplied by years and completed calendar months of credited service.
- (iii) **For participants retiring after September 30, 1995 but before October 1, 1996:** 2.35% (.0235) of final monthly compensation, multiplied by years and completed calendar months of credited service.
- (iv) **For participants retiring after September 30, 1996 but before July 1, 1998:** 2.50% (.0250) of final monthly compensation, multiplied by years and completed calendar months of credited service.
- (v) **For participants retiring after July 1, 1998 but before August 24, 2000:** 2.60% (.0260) of final monthly compensation, multiplied by years and completed calendar months of credited service.
- (vi) **For participants retiring after August 24, 2000:** 3.00% (.0300) of final monthly compensation, multiplied by years and completed calendar months of credited service.
- (vii) Notwithstanding paragraph (vi) above, for credited service earned by participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit on and after October 1, 2013: 2.50% (.0250) of final monthly compensation multiplied by years and completed calendar months of credited service; provided, the monthly amount of retirement income payable to each such participant who is employed and not participating in the DROP on September 30, 2013 and who on that date has attained age 62 or age 55 with 20 years of credited service shall be an amount equal to 3.00% (.0300) of final monthly compensation multiplied by years and completed calendar months of credited service.

(viii) Notwithstanding paragraph (vi) above, for credited service earned by participants in the IUPA bargaining unit on and after January 1, 2014:

2.00% (.0200) of final monthly compensation multiplied by years and completed calendar months of credited service; provided, the monthly amount of retirement income payable to each such participant who is employed and not participating in the DROP on December 31, 2013 and who on that date has attained age 62 or age 55 with 20 years of credited service shall be an amount equal to 3.00% (.0300) of final monthly compensation multiplied by years and completed calendar months of credited service.

- (d) **Payment of Retirement Income** - The monthly retirement income payable in the event of normal retirement will be payable on the first day of each month. The first payment will be made on the participant's normal retirement date (or on the first day of the month coincident with or next following his actual retirement, if later), except as otherwise provided in Section 6.01(b)(1). The last payment will be the payment due next preceding the retired participant's death. In the event the participant dies after his retirement but before he has received retirement income payments for a period of ten (10) years, the same monthly benefit will be paid for the remainder of such 10-year period to the beneficiary (or beneficiaries) designated by the participant; or, if no designated beneficiary is surviving, the same monthly benefit shall be payable for the remainder of such 10-year period as provided in Sections 7.02 (Beneficiaries) and 7.03 (Contingent Beneficiaries) hereof.
- (e) Notwithstanding any of the foregoing, distributions under the plan shall commence not later than the "required beginning date", in accordance with IRC Section 401(a)(9).

S. 6.02	EARLY RETIREMENT AND RETIREMENT INCOME
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- (a) **Defined** - Early retirement under the Plan is retirement from the service of the City, as of the first day of any Calendar month prior to the participant's normal retirement date, subsequent to the date he has both attained the age of 55 years and has completed at least fifteen (15) years of credited service.
- (b) **Payment Governed By** - In the event of early retirement, payment of retirement income will be governed by the following provisions:
- (1) **Early Retirement Date** - The early retirement date will be the first day of the month coincident with or next following the date a participant retires from the service of the City under the provisions of this section, prior to his normal retirement date.
 - (2) **Amount of Retirement Income.**

The monthly amount of retirement income payable to a participant who retires prior to his normal retirement date under the provisions of this section shall be an amount as follows:

- (i) **For participants retiring on or before September 30, 1994:** 1.75% (.0175) of the first \$400 of final monthly compensation plus 2.25% (.0225) of final monthly compensation in excess of \$400, with such sum multiplied by years and completed calendar months of credited service. This amount is multiplied by the actuarial reduction factor to reflect the early retirement age.
- (ii) **For participants retiring after September 30, 1994 but before October 1, 1995:** 2.25% (.0225) of final monthly compensation, multiplied by years and completed calendar months of credited service. This amount is multiplied by the actuarial reduction factor to reflect the early retirement age.
- (iii) **For participants retiring after September 30, 1995 but before October 1, 1996:** 2.35% (.0235) of final monthly compensation, multiplied by years and completed calendar months of credited service. This amount is multiplied by the actuarial reduction factor to reflect the early retirement age.
- (iv) **For participants retiring after September 30, 1996 but before July 1, 1998:** 2.50% (.0250) of final monthly compensation, multiplied by years and completed calendar months of credited service. This amount is multiplied by the actuarial reduction factor to reflect the early retirement age.
- (v) **For participants retiring after July 1, 1998 but before August 24, 2000:** 2.60% (.0260) of final monthly compensation, multiplied by years and completed calendar months of credited service. This amount is multiplied by the actuarial reduction factor to reflect the early retirement age.
- (vi) **For participants retiring after August 24, 2000:** 3.00% (.0300) of final monthly compensation, multiplied by years and completed calendar months of credited service. This amount is multiplied by the actuarial reduction factor to reflect the early retirement age.
- (vii) Notwithstanding paragraph (vi) above, for credited service earned by participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit on and after October 1, 2013: 2.50% (.0250) of final monthly compensation multiplied by years and completed calendar months of credited service; provided, the monthly amount of retirement income payable to each such participant who is employed and not participating in the DROP on September 30, 2013 and who on that date has attained age 62 or age 55 with 20 years of credited service shall be an amount equal to 3.00% (.0300) of final monthly compensation multiplied by years and completed calendar months of credited service. This amount is multiplied by the actuarial reduction factor to reflect the early retirement age.
- (viii) Notwithstanding paragraph (vi) above, for credited service earned by participants in the IUPA bargaining unit on and after January 1, 2014: 2.00% (.0200) of final monthly compensation multiplied by years and completed calendar months of credited service; provided, the monthly

amount of retirement income payable to each such participant who is employed and not participating in the DROP on December 31, 2013 and who on that date has attained age 62 or age 55 with 20 years of credited service shall be an amount equal to 3.00% (.0300) of final monthly compensation multiplied by years and completed calendar months of credited service.

- (3) **Payment of Retirement Income** - The retirement income payable in the event of early retirement will be payable on the first day of each month. The first payment will be made on the participant's early retirement date and the last payment will be the payment due next preceding the retired participant's death. In the event the participant dies after his retirement, but before he has received retirement income payments for a period of 10 years, the same monthly benefit will be paid for the remainder of such 10-year period to the beneficiary (or beneficiaries) designated by the participant; or, if no designated beneficiary is surviving, the same monthly benefit shall be payable for the remainder of such 10-year period as provided in Sections 7.02 and 7.03.

S. 6.03	DISABILITY RETIREMENT AND RETIREMENT INCOME
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- (a) **Definition** - An actively employed participant may retire from the service of the City under the Plan if he becomes totally and permanently disabled as defined in Paragraph (b) of this Section 6.03, on or after the effective date of the Plan but prior to his attainment of normal retirement date. Such retirement from the service of the City shall herein be referred to as disability retirement.
- (b) **Total and Permanent Disability** - A participant will be considered totally disabled if, in the opinion of the Retirement Committee, based upon evidence, exhibits, their findings and the reports of the following physical examiners:
- (i) a duly-licensed physician selected by the retirement committee,
 - (ii) a duly-licensed physician selected by the participant, and
 - (iii) in the event of a disagreement between (i) and (ii), a duly-licensed physician mutually agreeable to the physicians selected in (i) and (ii) above,
- the participant is wholly prevented from engaging in any occupation for wage or profit. A participant will be considered permanently disabled if, in the opinion of the Retirement Committee, based upon evidence, exhibits, their findings, and the reports of the physical examiners selected as outlined above, such participant is likely to remain so disabled continuously and permanently from a cause other than specified in paragraph (c) of this Section 6.03.
- (c) **Non-admissible Causes of Disability** - A participant will not be entitled to receive any disability retirement income if, in the opinion of the Retirement Committee, the disability is a result of:
- (i) Injury or disease sustained by the participant while willfully and illegally participating in fights, riots, civil insurrections or while committing a felony;

- (ii) Injury or disease sustained by the participant while serving in any armed forces;
- (iii) Injury or disease sustained by the participant diagnosed or discovered subsequent to the date his employment has terminated;
- (iv) Injury or disease sustained by the participant while working for anyone other than the City, and arising out of such employment; or
- (v) Discretionary Conditional Review: Excessive and habitual use by the participant of drugs, intoxicants or narcotics.

(d) **Proof of Disability.**

- (1) **Certificate from Physical Examiners** - The Retirement Committee, before approving the payment of any disability retirement income, may require satisfactory proof in the form of a certificate from the Physical Examiners that the participant has become disabled as provided herein.
- (2) **Continuing Proof of Disability** - Every six months after commencement of disability retirement income, or more frequently, the Retirement Committee may similarly require proof of the continued disability of the participant.

(e) **Disability Retirement Income.**

(1) **Monthly Income Payable Prior to Normal Retirement Date.**

A. **Formula** - The monthly benefit payable prior to the normal retirement date of a participant who retires from the service of the City under the provisions of this section due to total and permanent disability is the greater of either (I) or (ii) below payable for the life of the participant:

- (i) a monthly income equal to the excess (if any) of 60% of the participant's final monthly compensation at the date of termination of his service due to disability; over an amount equal to 64% of the actual monthly disability benefit, if any, which the participant (and not his spouse or other dependents) is entitled to receive under the provisions of the Social Security Act as in effect on the date of commencement of his disability retirement income payments, in accordance with Section 6.03(f) hereof;

or

- (ii) the participant's accrued benefit as of the date of termination.

- B. **Disability Benefits and Social Security** - Any disabled participant will be assumed to be eligible for disability benefits under the Social Security Act unless and until he shall have supplied satisfactory evidence to the Retirement Committee that he has applied for such disability insurance benefit and has been ruled ineligible for reasons not entailing any act or failure to act on his part. In that event, appropriate adjustment will be made, retroactively if necessary, in the amount of the monthly disability benefit previously paid or payable to him.

(f) **Payment of Disability Retirement Income.**

- (1) **Date of Commencement of Payment** - The monthly retirement income to which a participant is entitled in the event of his disability retirement will be payable on the first day of each month, commencing on the first day of the month coincident with the later to occur of (i) and (ii) where:
- (i) is the date as of which his disability has existed for six (6) months, and
 - (ii) is the date as of which application is made in writing, by the participant, for the payment of such retirement income.
- (2) **Last Payment** - The last payment will be as follows:
- (i) If the participant recovers from the disability prior to his normal retirement date, the last payment will be the payment due next preceding the date of such recovery.
 - (ii) If the participant dies prior to his normal retirement date without recovering from his disability, the last payment will be the payment due next preceding the date of his death. However, such participant's designated beneficiary (or beneficiaries) will be entitled to a death benefit as provided in Section 6.03(g) below.
 - (iii) If the participant attains his normal retirement date while still disabled, the last payment will be the payment due next preceding the disabled participant's death. In the event the disabled participant dies before he has received retirement benefits for a period of 10 years after his normal retirement date, the same monthly benefit which he was entitled to receive commencing on his normal retirement date will be paid for the remainder of such 10-year period to the beneficiary designated, as provided in Section 7.02 (Beneficiaries).

(g) **Benefit Payable in the Event of Death of Disabled Participant Prior to his Normal Retirement Date.**

- (1) **Amount of Death Benefit** - In the event that the death of a disabled participant occurs after he has been determined to be disabled by the Retirement Committee but prior to his normal retirement date (whether or not his disability retirement income payments have commenced), his beneficiary (or beneficiaries) will receive the monthly retirement income, payable for 10 years certain and life thereafter and beginning on the first day of the month coincident with or next following the date of the disabled participant's death, which can be provided, on an actuarially equivalent basis, by (A) or (B), whichever is greater, where:
 - A. is equal to the single-sum value, as of the date of the participant's death, of the deferred monthly retirement income commencing at normal retirement date which the disabled participant would have accrued to the date of his death, if he had remained continuously in the service of the City from the date of termination of his service due to disability to the date of his death, and
 - B. is the smaller amount of:
 - (i) an amount equal to 24 times his final monthly compensation immediately preceding the date of termination of his service due to disability, and
 - (ii) an amount equal to 100 times the participant's anticipated monthly retirement income commencing at his normal retirement date.
- (2) **Lump Sum Benefit** - In lieu of payment of such benefit in the form of the monthly income described above, the single-sum value of such benefit may be paid on an actuarially equivalent basis to the participant's designated beneficiary (or beneficiaries) in such other manner or form as the participant may elect and the Retirement Committee may approve; or in the event no election is made by the participant prior to his death, as the beneficiary (or beneficiaries) may elect and the Retirement Committee may approve.
- (3) **Amount of Deferred Monthly Retirement Income** - The amount of such deferred monthly retirement income commencing at normal retirement date which the disabled participant would have accrued to the date of his death shall be computed as for normal retirement under Section 6.01(b) (Normal Retirement Date), based upon the disabled participant's anticipated number of years of credited service at the date of his death (as defined below) and his projected rate of final monthly compensation at the date of his death (as defined below).
- (4) **Number of Years of Credited Service** - The participant's anticipated number of years of credited service at the date of his death shall be equal to that number which he would have accrued at such date in accordance with Section 3.04 (Credited Service) hereof, if his employment had not been terminated but had continued uninterrupted from the date of termination of his service due to disability to the date of his death.

- (5) **Projected Rate of Final Monthly Compensation** - The participant's projected rate of final monthly compensation at the date of his death shall be determined as of the date of the participant's death, based on the assumption that the participant's last regular rate of monthly basic compensation prior to the date of termination of his service due to disability would have continued without change to the date of his death.
- (h) **Recovery from Disability.**
- (1) **General Provision** - If the Retirement Committee determines that the participant who is receiving disability retirement income is, at any time prior to his normal retirement date, no longer disabled as provided herein, the Retirement Committee shall direct that the retirement income be discontinued.
- (2) **Early Retirement / Vested Deferred Retirement Income** - Any such participant who recovers from disability and whose retirement income is discontinued by the Retirement Committee and who, as of the date of termination of his service due to disability, had both attained the age of 55 years and had completed 15 years of service shall, if he does not re-enter the service of the City, be entitled to the early retirement income or the vested deferred retirement income as provided in Sections 6.02 and 6.04(a) respectively. This amount will be based upon his final monthly compensation and his credited service as of the date of termination of his service due to disability and upon his attained age as of the date of his recovery from disability. But early retirement will be subject to the consent of the Retirement Committee, and the amount of the retirement income upon early retirement will be actuarially reduced to take into account the participant's younger age and the earlier commencement of retirement income payments as provided in Section 6.02 (Early Retirement and Retirement Income).
- (i) **Re-Employment by the Employer** - If the participant recovers from disability and re-enters the service of the City, his service will be deemed to have been continuous. But the period beginning with the first month for which he received a disability retirement income payment and ending with the date he re-enters the service of the City will not be considered as credited service for the purposes of the Plan.

S. 6.04	BENEFITS OTHER THAN ON RETIREMENT
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- (a) **Benefit on Termination of Service.**
- (1) **Deferred Payment of Benefits** - In the event of the termination of a participant's service prior to his normal retirement date for any reason other than his death, early retirement (as described in Section 6.02) or disability retirement (as described in Section 6.03) after he has completed ten (10) years of credited service (hereafter referred to as a "terminated participant"), he will be entitled to a monthly retirement income. That monthly retirement income will be payable for 10 years certain and life thereafter and will commence on his normal retirement date (if he shall then be living) in an amount as follows, with such amount multiplied by the Vested Percentage described below.

Effective October 1, 2002, in the event of the termination of a participant's service prior to his normal retirement date for any reason other than his death, early retirement (as described in Section 6.02) or disability retirement (as described in Section 6.03) after he has completed six (6) years of credited service (hereafter referred to as a "terminated participant"), he will be entitled to a monthly retirement income. Notwithstanding the preceding sentence, effective October 1, 2013 for participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit, in the event of the termination of such participant's service prior to the normal retirement date for any reason other than his death, early retirement (as described in Section 6.02) or disability retirement (as described in Section 6.03) after completion of ten (10) years of credited service (hereafter referred to as a "terminated participant"), the participant will be entitled to a monthly retirement income. That monthly retirement income will be payable for 10 years certain and life thereafter and will commence on his normal retirement date (if he shall then be living) in an amount as follows, with such amount multiplied by the Vested Percentage described below.

- (i) **For participants terminating on or before September 30, 1994:** 1.75% (.0175) of the first \$400 of final monthly compensation plus 2.25% (.0225) of final monthly compensation in excess of \$400, with such sum multiplied by years and completed calendar months of credited service.
- (ii) **For participants terminating after September 30, 1994 but before October 1, 1995:** 2.25% (.0225) of final monthly compensation, multiplied by years and completed calendar months of credited service.
- (iii) **For participants terminating after September 30, 1995 but before October 1, 1996:** 2.35% (.0235) of final monthly compensation, multiplied by years and completed calendar months of credited service.
- (iv) **For participants terminating after September 30, 1996 but before July 1, 1998:** 2.50% (.0250) of final monthly compensation, multiplied by years and completed calendar months of credited service.
- (v) **For participants terminating after July 1, 1998 but before August 24, 2000:** 2.60% (.0260) of final monthly compensation, multiplied by years and completed calendar months of credited service.
- (vi) **For participants terminating after August 24, 2000:** 3.00% (.0300) of final monthly compensation, multiplied by years and completed calendar months of credited service.
- (vii) Notwithstanding paragraph (vi) above, for credited service earned by participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit on and after October 1, 2013: 2.50% (.0250) of final monthly compensation multiplied by years and completed calendar months of credited service; provided, the monthly amount of retirement income payable to each such participant who is employed and not

participating in the DROP on September 30, 2013 and who on that date has attained age 62 or age 55 with 20 years of credited service shall be an amount equal to 3.00% (.0300) of final monthly compensation multiplied by years and completed calendar months of credited service.

- (viii) Notwithstanding paragraph (vi) above, for credited service earned by participants in the IUPA bargaining unit on and after January 1, 2014: 2.00% (.0200) of final monthly compensation multiplied by years and completed calendar months of credited service; provided, the monthly amount of retirement income payable to each such participant who is employed and not participating in the DROP on December 31, 2013 and who on that date has attained age 62 or age 55 with 20 years of credited service shall be an amount equal to 3.00% (.0300) of final monthly compensation multiplied by years and completed calendar months of credited service

(2) **Vesting.**

- (i) The Vested Percentage for participants who terminate employment prior to October 1, 1994 will be 0% for those with less than 10 years of credited service; 40% for those with credited service of 10 years but less than 11, with 6% additional Vested Percentage for each year of credited service more than 10; with 100% Vested Percentage for 20 or more years of credited service.
- (ii) The Vested Percentage for participants who terminate on or after October 1, 1994 will be 0% for those with less than 10 years of credited service, and 100% for those with credited service of 10 years or more.
- (iii) The Vested Percentage for participants who terminate on or after October 1, 2002 will be 0% for those with less than 6 years of credited service, and 100% for those with credited service of 6 years or more.
- (iv) Notwithstanding paragraph (iii) above, the vested percentage for participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit who are employed on September 30, 2013, have not attained 6 years of credited service on that date and terminate after that date will be 0% for those who terminate with less than 10 years of credited service, and 100% for those who terminate with credited service of 10 years or more. The vested percentage for such participants who are employed on September 30, 2013 and have attained 6 years of credited service on that date will be 100%. The vested percentage for participants hired on or after October 1, 2013 will be 0% for those who terminate with less than 10 years of credited service, and 100% for those who terminate with credited service of 10 years or more.

- (3) **Immediate Monthly Payment of Benefits** - If a participant has at least 20 years of credited service on his date of termination of service as described in this paragraph, he may elect to receive immediate monthly payments of his benefits in lieu of a deferred vested benefit commencing at his normal retirement date.
- (A) This immediate monthly benefit will equal the deferred vested benefit calculated above, multiplied by the actuarial reduction factor to take into account the participant's younger age at commencement of benefits.
- (B) This immediate benefit will be payable commencing as of the first day of the month coincident with or next following the date on which the Retirement Committee receives from the participant his election in writing, and will be payable monthly thereafter for 10 years certain and life.
- (4) **Return of Contributions on Termination** - If the terminated participant described in this section has any vested percentage on his date of termination of service, he may elect to receive a return of his contributions, plus interest at the rate of 3% compounded annually, in lieu of a deferred vested benefit payable at his normal retirement date as described above.
- (5) **Terminated Employee's Death Prior to the Commencement of Retirement Income** - In the event a terminated participant dies prior to the commencement of his retirement income at his normal retirement date (without having received, in accordance with Section 6.07, the value of the benefit in Section 6.04(a)(1) (Deferred Payment of Benefits) above, without having elected and begun to receive his monthly benefits prior to his normal retirement date as described in Section 6.04(a)(1) above, or without his having received a refund of his contributions with interest, as described in Section 6.04(a)(1) above), his beneficiary (or beneficiaries) will receive the monthly retirement income payable for 10 years certain and life thereafter and beginning on the date of the participant's death, which can be provided by the single-sum value of the participant's accrued deferred monthly retirement income as of the date of termination of the participant's service, accumulated at interest from the date of termination of the participant's service to the date of his death.
- (6) **Re-Entry Into Service of City.**
- (A) If the participant's service with the City is terminated while he is entitled to the retirement income described in Section 6.04(a)(1) (Deferred Payment of Benefits) above, and he subsequently re-enters the service of the City prior to electing and receiving his monthly benefits before his normal retirement date as described in Section 6.04(a)(1) above, and provided he did not receive a refund of his contributions with interest, he will be entitled, upon such re-entry, to the credited service he had on the date of termination of his service in lieu of the benefits to which he was entitled on such date under Section 6.04(a)(1). The monthly retirement income payable to such participant commencing at normal retirement date shall not be less than the amount to which he was entitled under Section 6.04(a)(1) prior to his re-entry into the service of the City.

- (B) If a participant who is receiving monthly payments prior to his normal retirement date due to the election described in Section 6.04(a)(1) (Deferred Payment of Benefits) above subsequently re-enters the service of the City, benefit payments will cease effective immediately upon re-entry and he will immediately begin to make employee contributions and accrue credited service. Upon his subsequent retirement or termination of service, benefit payments will again commence as indicated in this Plan, except the value of those payments will be reduced by the value of the payments previously received. Except with respect to disability retirement, any other participant will, on re-entry into the service of the City (unless he has been on leave of absence pursuant to the provisions of Section 3.03), be treated as if he then first entered the service of the City. Nothing herein shall be construed to prohibit in-service distributions of monthly retirement benefits to an employee who continues in, or re-enters, employment by the City, to the extent that such distributions are permitted under the Internal Revenue Code and subsection 6.04(a)(11) below.
- (C) The Retirement Committee may consider requests for re-entry into service with the City. If the participant's service with the City is terminated and he subsequently re-enters the service of the City and he did not receive a return of his employee contributions, he will be entitled upon such re-entry to the credited service.

If the participant's service with the City is terminated and he subsequently re-enters the service of the City and he did receive a return of his employee contributions, he will not be automatically entitled, upon such re-entry, to the credited service, unless said participant purchases the actuarial value of the prior service years within sixty (60) days of re-entry.

- (7) **Application of Options to Other Sections** - The provisions of Section 6.06 relating to optional forms of retirement income are applicable to the benefits provided under Section 6.04(a)(1) (Deferred Payment of Benefits).
- (8) **Termination Prior to Completion of 10 Years Credited Service** - Except as provided in Section 6.01 with respect to normal retirement, Section 6.03 with respect to disability retirement and Section 6.04 with respect to death, the participant whose service is terminated prior to the date on which he has completed ten (10) years of credited service shall be entitled only to the return of his contributions, plus interest at the rate of 3% compounded annually.
- (9) **Termination Prior to Completion of 6 Years Credited Service** - Except as provided in Section 6.01 with respect to normal retirement, Section 6.03 with respect to disability retirement and Section 6.04 with respect to death, the participant whose service is terminated after October 1, 2002, but prior to the date on which he has completed six (6) years of credited service shall be entitled only to the return of his contributions, plus interest at the rate of 3% compounded annually.

(10) **Termination Prior to Completion of 10 Years Credited Service for Certain Participants** – Notwithstanding subsection (9) above and except as provided in Section 6.01 with respect to normal retirement, Section 6.03 with respect to disability retirement and Section 6.04 with respect to death, participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit who are employed on September 30, 2013 and have less than six (6) years of credited service on that date, whose service is terminated on or after October 1, 2013 but prior to the date on which such participant has completed ten (10) years of credited service, shall be entitled only to the return of the participant's contributions, plus interest at the rate of 3% compounded annually. Notwithstanding subsection (9) above and except as provided in Section 6.01 with respect to normal retirement, Section 6.03 with respect to disability retirement and Section 6.04 with respect to death, participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit who are hired on or after October 1, 2013 and whose service is terminated prior to the date on which such participant has completed ten (10) years of credited service, shall be entitled only to the return of the participant's contributions, plus interest at the rate of 3% compounded annually.

(11) **Employment of Retirants**. Effective March 1, 2014, a participant who retires after attaining the normal retirement date on or before March 31, 2016 may return to City employment without loss of retirement income as long as the employment is for less than twenty (20) hours per week or not more than five (5) months in any calendar year. A participant who retires after attaining the normal retirement date on or after April 1, 2016, and who has been in receipt of retirement income for a period of at least thirty (30) days may return to City employment without loss of retirement income as long as the employment is for less than twenty (20) hours per week or not more than five (5) months in any calendar year

(b) **Benefit Payable in the Event of Death On or Prior to Normal Retirement Date While in Service.**

(1) **Amount** - If the service of a participant is terminated by reason of death on or prior to his normal retirement date, there shall be payable to the participant's designated beneficiary (or beneficiaries) the monthly retirement income, beginning on the first day of the month coincident with or next following the date of his death which can be provided by (i) or (ii), whichever is greater, where:

(i) is the single-sum value of his accrued deferred retirement income commencing at his normal retirement date, which sum has accrued to the date of his death, where this single-sum value will be calculated in a manner similar to the way the reserve is accumulated under a typical retirement income contract, and

(ii) is (a) or (b), whichever is smaller, where (a) is 24 times his rate of monthly compensation on the October 1st preceding the date of his death, and (b) is 100 times the participant's anticipated monthly retirement income commencing at normal retirement date.

- (A) **Computation of Accrued Deferred Monthly Retirement Income** - The amount of such accrued deferred monthly retirement income in Section 6.04(b)(1)(i) above shall be computed as for normal retirement under Section 6.01(c) (Amount of Retirement Income), based upon the participant's number of years of credited service and final monthly compensation at the date of his death.
 - (B) **Computation of Anticipated Monthly Retirement Income** - The amount of anticipated monthly retirement income commencing at normal retirement date in Section 6.04(b)(1)(ii)(b) above shall be computed as for normal retirement under Section 6.01(c), based on his anticipated number of years of credited service at his normal retirement date and his projected final monthly compensation at normal retirement date.
 - (C) **Determination of Anticipated Number of Years of Credited Service** - The participant's anticipated number of years of credited service at his normal retirement date shall be determined in accordance with Section 3.04 (Credited Service), based on the assumption that his employment with the City would have continued uninterrupted from his date of death to his normal retirement date.
 - (D) **Determination of Projected Final Monthly Compensation** - The participant's projected final monthly compensation at his normal retirement date shall be determined as of the participant's normal retirement date, based on the assumption that the participant's rate of monthly basic compensation as of his date of death would have continued without change to his normal retirement date.
- (2) **Term of Monthly Retirement Income Payments** - Except as provided in Section 6.04(b)(3) below, the monthly retirement income payments under Section 6.04(b) shall be payable for the life of the beneficiary (or beneficiaries) designated or selected under Section 7.02 to receive such benefit. In the event of such beneficiary's death within a period of 10 years after the participant's death, the same monthly amount shall be payable for the remainder of such 10-year period in the manner and subject to the provisions of Section 7.03 (Contingent Beneficiaries).
- (3) **Lump Sum Payment** - In lieu of the benefits payable in Section 6.04(b)(2) (Term of Monthly Retirement Income Payments) above, the single-sum value of such benefits may be paid to the participant's designated beneficiary (or beneficiaries) in such other manner and form as the participant may elect and the Retirement Committee may approve; or, in the event no election is made by the participant prior to his death, as the beneficiary (or beneficiaries) may elect and the Retirement Committee may approve.

- (c) **Benefit Payable in Event of Death While in Service After Normal Retirement Date.**
- (1) **Monthly Retirement Benefit** - If the service of a participant is terminated by reason of his death after his normal retirement date, there shall be payable to the participant's designated beneficiary (or beneficiaries) the monthly retirement income, determined actuarially, beginning on the first day of the month coincident with or next following the date of his death, which can be provided by the single-sum value of the normal retirement income to which he was entitled on his date of death.
 - (2) **Monthly Retirement Income Payments** - Except as provided in Section 6.04(c)(3) (Lump Sum Benefits) below, the monthly retirement income payments under Section 6.04(c) shall be payable for the life of the beneficiary (or beneficiaries) designated or selected under Section 7.02 (Beneficiaries) to receive such benefit. In the event of such beneficiary's death within a period of 10 years after the participant's death, the same monthly amount shall be payable for the remainder of such 10-year period in the manner and subject to the provisions of Section 7.03 (Contingent Beneficiaries).
 - (3) **Lump Sum Payment** - In lieu of the benefits payable in Section 6.04(c)(2) (Monthly Retirement Income Payments) above, the single-sum value of such benefits may be paid to the participant's designated beneficiary (or beneficiaries) in such other manner and form as the participant may elect and the Retirement Committee may approve; or, in the event no election is made by the participant prior to his death, as the beneficiary (or beneficiaries) may elect and the Retirement Committee may approve.
- (d) **Death while performing USERRA-qualified active military service** - In the case of a Member who dies on or after January 1, 2007 while performing "Qualified Military Service" under Title 38, United States Code, Chapter 43, Uniformed Services Employment and Reemployment Rights Act ("USERRA") within the meaning of Section 414(u) of the Internal Revenue Code, any "additional benefits" (as defined by Section 401(a)(37) of the Internal Revenue Code) provided under the Plan that are contingent upon a Member's termination of employment due to death shall be determined as though the Member had resumed employment immediately prior to his death. With respect to any such "additional benefits," for vesting purposes only, credit shall be given for the period of the Member's absence from covered employment during "Qualified Military Service".

S. 6.05	LIMITATIONS OF BENEFITS UNDER STATE LAW.
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- (a) **New Members** - The normal retirement benefit or pension payable to a retiree who becomes a member of the Retirement Plan and who has not previously participated in such plan on or after January 1, 1980 shall not exceed 100 percent of his 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. As used in this section, the term "average final compensation" means the average of the member's earnings over a period of time which the governmental entity has established by this ordinance.

No member of a retirement system or plan covered by this part who is not now a member of such plan 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 member is already receiving or will receive in the future, a retirement benefit or pension from another retirement system or plan; provided that this restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.

S. 6.06	OPTIONAL FORMS OF RETIREMENT INCOME
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- (a) **Options** - In lieu of the amount and form of retirement income payable in the event of normal retirement, early retirement or termination of service as specified in Sections 6.01, 6.02, and 6.04(a), a participant, or a terminated participant as defined in Section 6.04(a), upon written request to the Retirement Committee, may elect to receive a retirement income or benefit commencing on the date specified in Sections 6.01, 6.02 or 6.04(a), whichever is applicable, of equivalent actuarial value payable in accordance with one of the following options:

Option 1: A retirement income of larger monthly amount, payable to the participant for his lifetime only.

Option 2: A retirement income of modified monthly amount, payable to the participant during the joint lifetime of the participant and a joint pensioner designated by him; and following the death of either of them, 2/3 of such monthly amount payable to the survivor for the lifetime of the survivor.

Option 3: A retirement income of modified monthly amount, payable to the participant during the joint lifetime of the participant and a joint pensioner designated by the participant; and following the death of the participant, a percentage of such monthly benefit (either 50%, 66.667%, 75% or 100% as selected by the participant) to the joint pensioner for his or her lifetime. There shall be no reduction of the participant's benefits in case of death of the joint pensioner.

- (b) **Designation of Joint Pensioner, Beneficiary or Beneficiaries** - The participant upon electing any option of this section will designate the joint pensioner or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the Plan in the event of his death and will have the power to change such designation from time to time, but any such change shall be deemed a new election. Such designation will name a joint pensioner or one or more primary beneficiaries where applicable.

- (c) **Changes of Joint Pensioner, Beneficiary or Beneficiaries** - If a participant has elected an option with a joint pensioner or beneficiary (or beneficiaries) and his retirement income benefits have commenced, he may thereafter change his designated joint pensioner or beneficiary (or beneficiaries). He may do so only in the case where the designation to be changed is one involving a joint pensioner, if the joint pensioner last previously designated by him is alive when he files with the Retirement Committee his request for such change. The consent of a participant's joint pensioner or beneficiary (or beneficiaries) to any such change shall not be required.
- (d) **Change of Joint Pensioner, Actuarial Redetermination of Income** - The Retirement Committee may request such evidence of the good health of the joint pensioner who is being removed as it may require. The amount of retirement income payable to that participant upon the designation of a new joint pensioner shall be actuarially redetermined, taking into account the age and sex of the former joint pensioner, the new joint pensioner and the participant. Each such designation will be made in writing on a form prepared by the Retirement Committee.
- (e) **Benefits Where No Survivors** - In the event that no designated beneficiary survives the participant, such benefits as are payable in the event of the death of the participant subsequent to his retirement shall be paid as provided in Section 7.02 (Beneficiaries).
- (f) **Limitations on Retirement Income Under Options** - Retirement income payments will be made under the option elected in accordance with the provisions of this section and will be subject to the following limitations:
- (i) If a participant dies prior to his retirement under the Plan or if a terminated participant dies prior to the commencement of his payments at his normal retirement date, no benefit will be payable under the option to any person, but benefits will be payable as provided in Section 6.04 (Benefits Other Than on Retirement).
 - (ii) If the designated beneficiary (or beneficiaries) or joint pensioner dies before the participant's retirement under the Plan or subsequent to a terminated participant's date of termination of service but prior to his normal retirement date, the option elected will be cancelled automatically and a retirement income of the normal form and amount will be payable to the participant upon his retirement or to the terminated participant at his normal retirement date as if the election had not been made, unless a new election is made in accordance with the provisions of this section, or unless a new beneficiary (or beneficiaries) or joint pensioner is designated by the participant prior to his retirement or by the terminated participant prior to his normal retirement date and within 90 days after the death of the prior beneficiary (or beneficiaries) or joint pensioner.
 - (iii) If both the participant and the beneficiary (or beneficiaries) designated by him die after the date that the participant's retirement income commences under the Plan but before the full payment has been effected under any option providing for payments for a period certain and life thereafter, the Retirement Committee may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with Section 7.03 (Contingent Beneficiaries).

S. 6.07	LUMP SUM PAYMENT OF SMALL RETIREMENT INCOME
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Notwithstanding any provision of the Plan to the contrary, if the monthly retirement income payable to any person entitled to any benefit hereunder is less than \$30 or if the single-sum value of the accrued retirement income is less than \$3,500 as of the date of retirement or termination of service, whichever is applicable, the Retirement Committee may, in the exercise of its discretion, specify that the actuarial equivalent of such retirement income be paid in a lump sum or in monthly installments for a period certain of not more than 60 months.

S. 6.08	COMPLIANCE WITH INTERNAL REVENUE CODE
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- a) Maximum Amount of Retirement Income.
- (1) The limitations of this Subsection (a) shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein, and are intended to comply with the requirements of the Pension Protection Act of 2006 and shall be construed in accordance with said Act and guidance issued thereunder. The provisions of this Subsection (a) shall supersede any provision of the Plan to the extent such provision is inconsistent with this Subsection.

The Annual Pension as defined in Paragraph (2) below otherwise payable to a Member at any time shall not exceed the Dollar Limitation for the Member multiplied by a fraction whose value cannot exceed one, the numerator of which is the Member's number of years (or part thereof, but not less than one year) of service with the City and the denominator of which is 10. For this purpose, no more than one year of service may be credited for any Plan Year. If the benefit the Member would otherwise accrue in a limitation year would produce an Annual Pension in excess of the Dollar Limitation, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the Dollar Limitation.

- (2) "Annual Pension" means the sum of all annual benefits, payable in the form of a straight life annuity. Benefits payable in any other form shall be adjusted to the larger of:
- (A) For limitation years beginning on or after July 1, 2007
- (I) the straight life annuity (if any) payable to the Member under the Plan commencing at the same Annuity Starting Date as the Member's form of benefit, or
- (II) the actuarially equivalent straight life annuity commencing at the same Annuity Starting Date, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).

- (B) For limitation years beginning before July 1, 2007
 - (I) the actuarially equivalent straight life annuity commencing at the same Annuity Starting Date, computed using the interest rate and mortality basis specified by the Board of Trustees for determining Actuarial Equivalence under the Plan for the particular form of payment, or
 - (II) the actuarially equivalent straight life annuity commencing at the same Annuity Starting Date, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).

No actuarial adjustment to the benefit shall be made for benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to §417(e)(3) of the Internal Revenue Code and would otherwise satisfy the limitations of this Subsection (a), and the amount payable under the form of benefit in any Limitation Year shall not exceed the limits of this Subsection (a) applicable at the annuity starting date, as increased in subsequent years pursuant to § 415(d) of the Code. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

- (3) “Dollar Limitation” means, effective for the first limitation year beginning after January 1, 2001, \$160,000, automatically adjusted under Code Section 415(d), effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a Member’s benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. The Dollar Limitation shall be further adjusted based on the age of the Member when the benefit begins as follows:

- (A) For Annuity Starting Dates in limitation years beginning on or after July 1, 2007
 - (I) If the Annuity Starting Date for the Member’s benefit is after age 65
 - (i) If the Plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement

The Dollar Limitation at the Member's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member's Annuity Starting Date that is the actuarial equivalent of the Dollar Limitation with actuarial equivalence computed using a 5.00% interest rate assumption and the mortality basis prescribed in Code Section 415(b)(2)(E)(v) for that Annuity Starting Date (and expressing the Member's age based on completed calendar months as of the Annuity Starting Date).

- (ii) If the Plan does have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement

The Dollar Limitation at the Member's Annuity Starting Date is the lesser of (aa) the Dollar Limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the Member's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age 65, both determined without applying the limitations of this Subsection (a), and (bb) the limitation determined under Subclause (3)(A)(I)(i) of this Subsection(a). For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the Member's Annuity Starting Date is the annual amount of such annuity payable to the Member, computed disregarding the Member's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical Member who is age 65 and has the same Accrued Benefit as the Member.

(II) Except with respect to a Member who is a "Qualified Member" as defined in Section 415(b)(2)(H) of the Code, for benefits (except survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code), if the Annuity Starting Date for the Member's benefit is before age 62

(i) If the Plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement

The Dollar Limitation at the Member's Annuity Starting Date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member's Annuity Starting Date that is the actuarial equivalent of the Dollar Limitation with actuarial equivalence computed using a 5.00% interest rate assumption and the mortality basis prescribed in Code Section 415(b)(2)(E)(v) for that Annuity Starting Date (and expressing the Member's age based on completed calendar months as of the Annuity Starting Date).

(ii) If the Plan does have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement

The Dollar Limitation at the Member's Annuity Starting Date is the lesser of (aa) the Dollar Limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the Member's Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age 62, both determined without applying the limitations of this Subsection (a), and (bb) the limitation determined under Subclause (3)(A)(II)(i) of this Subsection (a).

(B) For Annuity Starting Dates in limitation years beginning before July 1, 2007

<u>Age as of Annuity Starting Date:</u>	<u>Adjustment of Dollar Limitation:</u>
<u>Over 65</u>	<p>The smaller of: (a) <u>the actuarial equivalent of the limitation for age 65, computed using the interest rate and mortality basis specified by the Board of Trustees for determining actuarial equivalence under the Plan, or</u> (b) <u>the actuarial equivalent of the limitation for age 65, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).</u></p> <p><u>Any increase in the Dollar Limitation determined in accordance with this paragraph shall not reflect a mortality decrement between age 65 and the age at which benefits commence if benefits are not forfeited upon the death of the Member. If any benefits are forfeited upon death, the full mortality decrement is taken into account.</u></p>
<u>62 to 65</u>	<u>No adjustment.</u>
<u>Less than 62</u>	<p>The smaller of: (a) <u>the actuarial equivalent of the limitation for age 62, computed using the interest rate and mortality basis specified by the Board of Trustees for determining actuarial equivalence under the Plan, or</u> (b) <u>the actuarial equivalent of the limitation for age 62, computed using a 5.00% interest rate and the mortality basis prescribed in Code Section 415(b)(2)(E)(v).</u></p> <p><u>This adjustment shall not apply to any "Qualified Member" as defined in Section 415(b)(2)(H), nor to survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code.</u></p>

- (4) With respect to Subclause (3)(A)(I)(i), Subclause (3)(A)(II)(i) and Subparagraph (3)(B) above, no adjustment shall be made to the Dollar Limitation to reflect the probability of a Member's death between the Annuity Starting Date and age 62, or between age 65 and the Annuity Starting Date, as applicable, if benefits are not forfeited upon the death of the Member prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Member's death if the Plan does not charge Members for providing a qualified preretirement survivor annuity, as defined in Code Section 417(c), upon the Member's death.
- (5) The term "limitation year" is the 12 month period which is used for application of the limitations under Code Section 415 and shall be the calendar year.
- (6) The limitations set forth in this Subsection (a) shall not apply if the Annual Pension does not exceed \$10,000 provided the Member has never participated in a Defined Contribution Plan maintained by the City.

- (7) Cost-of-living adjustments in the Dollar Limitation for benefits shall be limited to scheduled annual increases determined by the Secretary of the Treasury under Section Subsection 415(d) of the Code.
- 8) In the case of a Member who has fewer than 10 years of participation in the Plan, the Dollar Limitation set forth in Paragraph (3) of this Subsection (a) shall be multiplied by a fraction - (i) the numerator of which is the number of years (or part thereof) of participation in the Plan, and (ii) the denominator of which is 10.
- (9) Any portion of a Member's benefit that is attributable to mandatory Member contributions (unless picked-up by the City) or rollover contributions, shall be taken into account in the manner prescribed in the regulations under Section 415 of the Code.
- (10) Should any Member participate in more than one defined benefit plan maintained by the City, in any case in which the Member's benefits under all such defined benefit plans (determined as of the same age) would exceed the Dollar Limitation applicable at that age, the accrual of the Member's benefit under this Plan shall be reduced so that the Member's combined benefits will equal the Dollar Limitation.
- (11) For a Member who has or will have distributions commencing at more than one annuity starting date, the Annual Benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to § 1.401(a)-20, Q&A 10(d), and with regard to §1.415(b)1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.
- (12) The determination of the Annual Pension under Paragraph (2)(A) of this Subsection (a) shall take into account (in the manner prescribed by the regulations under Section 415 of the Code) social security supplements described in §411(a)(9) of the Internal Revenue Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant §1.411(d)-4, Q&A-3(c) of the Income Tax Regulations.
- (13) The above limitations are intended to comply with the provisions of Section 415 of the Code, as amended, so that the maximum benefits provided by plans of the City shall be exactly equal to the maximum amounts allowed under Section 415 of the Code and regulations thereunder. If there is any discrepancy between the provisions of this Subsection (a) and the provisions of Section 415

of the Code and regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code. The value of any benefits forfeited as a result of the application of this Subsection (a) shall be used to decrease future employer contributions.

- (14) For the purpose of applying the limitations set forth in Sections 401(a)(17) and 415 of the Internal Revenue Code, Compensation shall include any elective deferral (as defined in Code Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in this Subsection (a), compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Internal Revenue Code. For limitation years on or after July 1, 2007, compensation shall include payments that otherwise qualify as compensation and that are made by the later of: (a) 2 and ½ (two and one-half) months after severance from employment with the employer, and (b) the end of the limitation year that includes the date of severance.

- (b) Required Beginning Date:

Notwithstanding any other provision of the Plan, payment of a Member's retirement benefits under the Plan shall commence not later than the Member's Required Beginning Date, which is defined as the later of:

-April 1 of the calendar year that next follows the calendar year in which the Member attains or will attain the age of 70½ years; or

-April 1 of the calendar year that next follows the calendar year in which the Member retires.

- (c) Required Minimum Distributions.

(1) Required Beginning Date. The Member's entire interest will be distributed, or begin to be distributed, to the Member no later than the Member's Required Beginning Date as defined in Subsection (b) of this Section 6.08.

(2) Death of Member Before Distributions Begin.

(A) If the Member dies before distributions begin, the Member's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the Member's surviving spouse is the Member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Member died, or by December 31 of the calendar year in which the Member would have attained age 70½, if later.

(ii) If the Member's surviving spouse is not the Member's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Member died.

(iii) If there is no designated beneficiary as of September 30 of the year following the year of the Member's death, the Member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(B) The Member's entire interest shall be distributed as follows:

(i) Member Survived by Designated Beneficiary. If the Member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Member's entire interest will be distributed, beginning no later than the time described in Subparagraph (2)(A) above, over the life of the designated beneficiary or over a period certain not exceeding:

(I) unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death; or

(II) if the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(ii) No Designated Beneficiary. If the Member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Member's death, distribution of the Member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(C) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. In any case in which (i) the Member dies before the date distribution of his or her interest begins, (ii) the Member's surviving spouse is the Member's sole designated beneficiary, and (iii) the surviving spouse dies before distributions to the surviving spouse begin, Subparagraphs (2)(A) and 2(B) above shall apply as though the surviving spouse were the Member.

(3) Requirements for annuity distributions that commence during member's lifetime.

(A) Joint life annuities where the beneficiary is not the Member's Spouse. If the Member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Member and a nonspousal beneficiary, annuity payments to be made on or after the Member's Required Beginning Date to the designated beneficiary after the Member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Member using the table set forth in Q&A-2 of Section 1.401(a)(9)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Member and a nonspousal beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(B) Period Certain Annuities. Unless the Member's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Member's lifetime may not exceed the applicable distribution period for the Member under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Member reaches age 70, the applicable distribution period for the Member is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Member as of the Member's

birthday in the year that contains the annuity starting date. If the Member's spouse is the Member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Member's applicable distribution period, as determined under this Subparagraph (3)(B), or the joint life and last survivor expectancy of the Member and the Member's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Member's and spouse's attained ages as of the Member's and spouse's birthdays in the calendar year that contains the annuity starting date.

(4) Form of Distribution. Unless the Member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Subparagraphs (4)(A), (4)(B) and (4)(C) below. If the Member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in

accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations. Any part of the Member's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

(A) General Annuity Requirements. If the Member's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

(i) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(ii) the distribution period will be over a life (or lives) or over a period certain, not longer than the distribution period described in Paragraphs 2 or 3 above, whichever is applicable, of this Subsection (c);

(iii) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;

(iv) payments will either be non-increasing or increase only as follows:

(I) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(II) to the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period dies or is no longer the Member's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Code;

(III) to provide cash refunds of employee contributions upon the Member's death; or

(IV) to pay increased benefits that result from a Plan amendment.

(B) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the

Member's Required Beginning Date (or, if the Member dies before distributions begin, the date distributions are required to begin under Subparagraph (2)(A)(i) or (2)(A)(ii), whichever is applicable) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's Required Beginning Date.

(C) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(5) For purposes of this Subsection (c), distributions are considered to begin on the Member's Required Beginning Date. If annuity payments irrevocably commence to the Member (or to the Member's Surviving Spouse) before the Member's Required Beginning Date (or, if to the Member's Surviving Spouse, before the date distributions are required to begin in accordance with Subparagraph (2)(A) above), the date distributions are considered to begin is the date distributions actually commence.

(6) Definitions.

(A) *Designated beneficiary.* The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-4 of the Treasury regulations.

(B) *Distribution calendar year.* A calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Member's Required Beginning Date. For distributions beginning after the Member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Paragraph (2) of this Subsection (c).

(C) *Life expectancy.* Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

(d) (1) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(2) Definitions

The following definitions apply to this Section:

(A) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include:

(i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the 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 10 years or more;

(ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code;

(iii) the portion of any distribution which is made upon hardship of the Member; and

(iv) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), provided that 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 an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, 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.

(3) Eligible retirement plan: An eligible retirement plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the

Code, an annuity plan described in Section 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, a qualified trust described in Section 401 (a) of the Code, an eligible plan under Section 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, or, with respect to distributions on or after January 1, 2008, a Roth IRA (subject to the limitations of Code Section 408A(c)(3)) that accepts the distributee's eligible rollover distribution.

(4) Distributee: A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. Furthermore, effective January 1, 2007, a surviving designated beneficiary as defined in Section 401(a)(9)(E) of the Code who is not the surviving spouse and who elects a direct rollover to an individual retirement account described in Section 408(a) of the Code or an individual retirement annuity described in Section 408(b) of the Code shall be considered a distributee.

(5) Direct rollover: A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

(e) Notwithstanding any other provision of this Plan, the maximum amount of any mandatory distribution, as defined in Section 401(a)(31) of the Code, payable under the Plan shall be \$1000.

(f) Compensation Limitations Under 401(a)(17):

In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, the annual compensation of each Member taken into account under the Plan shall not exceed the EGTRRA annual compensation limit for limitation years beginning after December 31, 2001. The EGTRRA annual compensation limit is \$200,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the EGTRRA annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

Any reference in the Plan to the limitation under Section 401 (a)(17) of the Code shall mean the EGTRRA annual compensation limit set forth in this provision.

(g) **USERRA.** This plan shall at all times be administered in accordance with the Uniformed Services Employment and Reemployment Rights Act.

(h) This plan is intended to be a Governmental Plan within the meaning of Section 414(d) of the Code, and shall be administered at all times in accordance with Section 401(a) of the Code, as it relates to Governmental Plans.

S. 6.09	FORFEITURE OF BENEFITS
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- (a) **In General** - Any member who has been found guilty by a verdict of a jury, or by the court trying the case without a jury, of committing, aiding, or abetting any embezzlement or theft from his employer, bribery in connection with the employment, or other felony specified in Chapter 838, Florida Statutes, committed prior to retirement, or who has entered a plea of guilty or of nolo contendere to such crime, or any member whose employment is terminated by reason of his admitted commitment, aiding or abetting of an embezzlement or theft from his employer, bribery, or other felony specified in Chapter 838, Florida Statutes, shall forfeit all rights and benefits under this Plan, except for the return of his accumulated contributions as of the date of termination.
- (b) **Return of Accumulated Contributions** - Any member who has willfully and with intent to defraud the public, or the public agency for which he acts or in which he is employed, of the right to receive the faithful performance of his duty as a public officer or employee, realizes or obtains (or attempts to realize or obtain) a profit, gain or advantage for himself or for some other person through the use or attempted use of the power, rights, privileges, duties or position of his public office or employment position prior to his retirement, shall forfeit all rights and benefits under this Plan, except for the return of his accumulated contributions as of the date of termination.
- (c) **Notice** - The City as the employer of any member whose office or employment is terminated by reason of his admitted commitment, aiding or abetting of an offense specified herein, shall forward notice thereof to the Commission of Ethics of the State of Florida.
- (d) **Forfeiture Determination.**
 - (1) **Upon Notice** - Whenever the Retirement Committee receives notice pursuant to paragraph (c) above or otherwise has reason to believe that the rights and privileges of any person are required to be forfeited under this section, the Committee shall give notice and hold a hearing in accordance with Chapter 120, Florida Statutes, for the purpose of determining whether such rights and privileges are required to be forfeited. If the Retirement Committee determines that such rights and privileges are required to be forfeited, it shall order such rights and privileges forfeited.
 - (2) **Appeals** - Any order of forfeiture of retirement plan rights and benefits and privileges shall be appealable to the District Court of Appeal.
 - (3) **Payments During Appeal** - Payments of retirement benefits ordered forfeited, except payments drawn from non-employer contributions to the retiree's account, shall be stayed pending an appeal as to a felony conviction. If such conviction is reversed, no retirement benefits shall be forfeited. If such conviction is affirmed, retirement benefits shall be forfeited as ordered herein.

- (4) **Excess Benefits** - If any member's rights and privileges under the Plan are forfeited pursuant to this section, and if such person has received benefits from the Plan in excess of his accumulated contributions, such person shall pay back to the Plan the amount of the benefits received in excess of his accumulated contributions; and, if he fails to pay back such amount, the Retirement Board may bring an action in circuit court to recover such amount, plus court costs.
- (e) **Increased Benefits And Forfeitures** - Forfeitures shall not be used to increase the benefits that any employee would otherwise receive under the Plan at any time prior to the termination of the Plan or the complete discontinuance of contributions to the Plan, but shall be anticipated in determining the costs under the Plan.

S. 6.10	ONE TIME BENEFIT LEVEL INCREASE
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- (1) Each person who is receiving a monthly benefit payment of any type as of October 1, 1994 will receive a one-time permanent increase in monthly benefit equal to 1% for each full year from the date benefit payments began to October 1, 1994. This increase will be effective as of October 1, 1994.
- (2) The Retirement Committee will review at least once every three years the financial condition of the Plan, to determine whether it would be feasible to increase benefits to recognize changes in cost of living for participants then receiving retirement benefits. Based on its review, it will make recommendations to the City if increases may be made.

S. 6.11	Reserved
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S. 6.12	EARLY RETIREMENT INCENTIVE
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Repealed

S. 6.13	COST OF LIVING ADJUSTMENTS
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Commencing October 1, 1999, and on the first day of each October thereafter, the monthly income payable hereunder to each participant or beneficiary who has been receiving benefits under any provision of this plan for one or more years, or to any such participant's or beneficiary's surviving beneficiary, shall be increased by two and one-quarter percent (2.25%). Notwithstanding the preceding sentence:

- (a) The cost of living adjustment applied to the benefits earned by participants in the AFSCME bargaining unit and participants who are not included in any bargaining unit for credited service on and after October 1, 2013 shall be three-quarters percent (0.75%) annually with the first adjustment applied on October 1 after three years following termination of employment; provided, any participant who is employed and not participating in the DROP on September 30, 2013 and who on that date has attained age 62 or age 55 with 20 or more years of credited service, shall upon retirement under section 6.01 hereof be eligible for an annual cost of living adjustment of 2.25% commencing on October 1 after one year following retirement.
- (b) There shall be no cost of living adjustment applied to benefits earned by participants in the IUPA bargaining unit for credited service on and after January 1, 2014. The City Council may from time to time grant an ad hoc cost of living adjustment to be applied to the benefits earned by communication officers, other than those who are eligible for an automatic cost of living adjustment, for credited service after the effective date of this Ordinance, whenever the cumulative net actuarial gain is sufficient to fund the adjustment and the funded ratio of the Plan (actuarial value of assets divided by actuarial accrued liability) is 100% or more.

S. 6.14	DEFERRED RETIREMENT OPTION PROGRAM (DROP)
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- (1) There is hereby created a deferred retirement option program ("DROP") for Employees.
- (2) The DROP is a retirement option in which an Employee may choose to participate or not to participate, at his or her own discretion.
- (3) DROP participants will be considered a retiree for all purposes of the Plan.
- (4) A DROP participant will remain an employee of the City of North Miami Beach while a member of the DROP.

- (5) An Employee is eligible to enter the DROP upon attaining twenty (20) years of service and reaching age fifty five (55), or attaining age 62, regardless of the number of years of service. Notwithstanding the preceding sentence:
- (a) Employees in the AFSCME bargaining unit and employees who are not included in any bargaining unit who are employed on September 30, 2013 and have not attained age 62 or age 55 with 20 or more years of credited service on that date, shall be eligible to enter the DROP upon attaining age 62 or age 55 with 20 or more years of credited service, and upon DROP entry shall be eligible to receive the benefit based on their credited service prior to October 1, 2013; and such participants shall be eligible to receive the benefit based on their credited service on and after October 1, 2013 upon attaining age 62 with 10 or more years of credited service, or age 60 with 25 or more years of credited service. Employees in the AFSCME bargaining unit and employees who are not included in any bargaining unit who are hired on or after October 1, 2013 shall be eligible to enter the DROP upon attaining age 62 with 10 or more years of credited service, or age 60 with 25 or more years of credited service.
 - (b) For employees in the IUPA bargaining unit, the DROP shall be closed to new participants on December 1, 2013, and any such employee who has not attained age 62 or age 55 with 20 or more years of credited service prior to January 1, 2014 shall not thereafter be eligible to participate in the DROP.
- (6) The total years of participation in the DROP may not exceed five (5) years. Notwithstanding the preceding sentence, for employees in the AFSCME bargaining unit and employees who are not included in any bargaining unit who are employed on September 30, 2013 and have not attained age 62 or age 55 with 20 or more years of credited service on that date, and employees in the AFSCME bargaining unit and employees who are not included in any bargaining unit who are hired on or after October 1, 2013, the total years of participation in the DROP may not exceed three (3) years.
- (7) An Employee's credited service and final average monthly compensation for calculation of benefits will freeze as of the date the Employee enters the DROP. Credited service that is purchased pursuant to Section 3.05 which has been paid for at the time the Employee enters the DROP will be used as credited service for the purpose of computing the retirement benefit. A DROP participant may not purchase credited service after entry into the DROP. The Employee's retirement benefit will be based on the Plan provisions in effect at the time the member entered the DROP, unless subsequent Plan amendments specifically provide otherwise. To the extent that the age of the member or the age of the beneficiary of a member is taken into account in the calculation of the monthly benefit, the ages will be calculated as of the beginning of the DROP period. All contributions required under s.4.01 (b) shall cease upon entry into the DROP.
- (8) Monthly retirement benefits that would have been payable had the Employee terminated employment and elected to receive monthly retirement benefits will be credited to the Employee's DROP account while the Employee remains employed as an Employee.

- (9) The DROP account is a bookkeeping account within the Fund. The money that is credited to a member's DROP account will be commingled with all other monies in the Fund. Each member's DROP account will be credited with interest at the rate of 6.5% through June 30, 2012, and reduced to 3.0% effective July 1, 2012, compounded monthly. This amount may be changed from time to time by the Retirement Committee. Any change will be prospective only. The interest credited to the DROP account may never be greater than the investment return actuarial assumption.
- (10) No payments or loans will be made from the DROP account to any DROP participant until the Employee actually terminates employment from the City. Upon termination of employment, the DROP participant will be eligible to receive the entire balance in his or her DROP account. Alternatively, the Employee may elect to roll-over the DROP account into a qualified plan. The Employee shall have up to sixty days from termination of employment to make his or her selection. Failure to make a selection shall be construed as a request for a distribution directly to the former DROP participant. Whichever distribution method the employee chooses must comply with the Internal Revenue Code and rules and regulations promulgated thereunder. If a DROP participant elects to receive all or a portion of their balance in a direct payment, the Fund will withhold such funds as are required by the Internal Revenue code and regulations promulgated thereunder.
- (11) If a DROP participant dies prior to receiving a distribution of all money in the participant's DROP account, the money in the participant's DROP account shall be paid to the designated beneficiary for the DROP account. The monthly retirement benefit which would otherwise be payable to the retiree, or to his or her designated beneficiary, will be paid in accordance with the form of benefit and beneficiary designation filed by the Employee.
- (12) A DROP participant must choose the form of benefit prior to entering the DROP. Unless the DROP participant chooses an optional form of payment, the DROP participant will be paid benefits in a normal form. There will be no change in the form of benefit after the first DROP payment is credited to the DROP member's account.
- (13) COLA payments pursuant to Section 6.13 shall not accrue and will not be paid until the October 1 coincident with or next following one year after the DROP participant's actual separation from service with the City as an Employee.
- (14) The decision to enter the DROP is irrevocable. Each Employee who enters the DROP is required to execute whatever documents the Retirement Committee promulgates, which shall include, at a minimum, an agreement that he or she will resign from the City no later than the end of the maximum DROP participation period.
- (15) If for any reason, a court of competent jurisdiction determines that the irrevocable election is not enforceable, and an Employee chooses to remain in the employment of the City beyond the end of the maximum DROP participation period, the Employee's retirement benefit will be calculated as if the Employee had never entered the DROP, and the Employee will be required to make contributions to the Pension Fund in an amount sufficient to cover the Employee and City contributions that would have been made had the Employee not elected to participate in the DROP, along with interest, as determined by the Retirement Committee upon the advice of the actuary.

- (16) Upon entry into the DROP, the DROP participant will not be eligible to receive a disability retirement benefit or a pre-retirement death benefit.
- (17) The Retirement Committee shall have the power to make administrative rules as are necessary for the efficient implementation and operation of the DROP and to ensure its continued compliance with the tax qualification requirements of the Internal Revenue Code.
- (18) The City Council of the City of North Miami Beach shall have the unilateral authority, at its absolute discretion, to extend temporarily the term of the DROP in effect for up to two additional years, to address what it considers, at its sole discretion, emergency management/personnel issues.

ARTICLE VII

PARTICIPANTS

S. 7.01	PARTICIPANTS TO FURNISH REQUIRED INFORMATION
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- (a) **General** - Each participant will furnish to the Retirement Committee such information as the Committee deems necessary or desirable for the purpose of administering the Plan. The provisions of the Plan respecting any payments thereunder are conditional upon the participants furnishing promptly such true, full and complete information as the Retirement Committee may request.

- (b) **Proof of Age** - Each participant will furnish to the Retirement Committee proof of his age (and, in the case of election of Option 2 under Section 6.06, proof of age of the joint pensioner selected by him) at such time as required by the Retirement Committee.
 - (1) The Retirement Committee will, if such proof of age is not submitted as required, use as conclusive evidence thereof such information as is deemed by it to be reliable, regardless of the source of such information.

 - (2) Any adjustment required by reason of lack of proof or misstatement of the age of persons entitled to benefits hereunder, by the participant or otherwise, will be in such manner as the Retirement Committee deems equitable.

- (c) **Filing of Information** - Any notice or information which, according to the terms of the Plan or the rules of the Retirement Committee, must be filed with the Retirement Committee, shall be deemed so filed if addressed and either delivered in person or mailed to the Retirement Committee, in care of the City of North Miami Beach, 17011 N.E. 19th Avenue, North Miami Beach, Florida 33162.

S. 7.02	BENEFICIARIES
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- (a) **Beneficiaries Defined** - Each participant may, on a form provided for that purpose, sign and file with the Retirement Committee, designate a beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of his death, pursuant to the provisions of Sections 6.01, 6.02, 6.03 or 6.04 hereof; and each designation may be revoked by such participant by signing and filing with the Retirement Committee a new designation of beneficiary form.

- (b) **Failure To Designate Beneficiaries** - If a deceased participant failed to name a beneficiary in the manner above prescribed or if the beneficiary (or beneficiaries) named by a deceased participant predeceases the participant, the death benefit, if any, which may be payable under the Plan with respect to such deceased participant may be paid, in the discretion of the Retirement Committee either to:

- (i) Any one or more of the persons comprising the group consisting of the participant's spouse, the participant's descendants, the participant's parents, or the participant's heirs-at-law, and the Retirement Committee may pay the entire benefit to any member of such group or apportion such benefit among any two or more of them in such shares as the Retirement Committee, in its sole discretion, shall determine; or
 - (ii) the estate of such deceased participant; provided, however, that in any of such cases the Retirement Committee, in its discretion, may direct that the commuted value of the remaining monthly income payments be paid in a lump sum.
- (c) **Payments Final** - Any payment made to any person pursuant to the power and discretion conferred upon the Retirement Committee by the provisions of this Section 7.02 shall operate as a complete discharge of all obligations under the Plan with respect to such deceased participant and shall be final, binding and conclusive on all persons ever interested hereunder.

S. 7.03	CONTINGENT BENEFICIARIES
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- (a) **Contingent Beneficiary Defined** - In the event of the death of a beneficiary who survives the participant and who is receiving benefits under Sections 6.01, 6.02, 6.03, 6.04 or 6.06 hereof within the 10-year (or other) period with respect to which death benefits are payable under the Plan, after the participant's death, the same amount of monthly retirement income which the beneficiary was receiving shall be payable for the remainder of the above period to a person designated by the participant; or if no person was so named, then to a person designated by the beneficiary to receive the remaining death benefits, if any.
- (b) **No Contingent Beneficiary** - If no person so designated in (a) above is living upon the occurrence of the contingency in (a) above, the remaining death benefits, if any, shall be payable for the remainder of such applicable 10-year (or other) period, in the discretion of the Retirement Committee, either to:
 - (i) All or any one or more of the persons comprising the group consisting of the participant's spouse, the beneficiary's spouse, the participant's descendants, the beneficiary's descendants, participant's parents, the beneficiary's parents, the participant's heirs-at-law, or the beneficiary's heirs-at-law; or
 - (ii) The estate of such deceased beneficiary.
- (c) **Lump Sum Payment** - In any of the cases in (a) or (b) above, the Retirement Committee may, in its discretion, direct that the commuted value of the monthly retirement income payments due for the remainder of the applicable 10-year (or other) period be paid in a lump sum.
- (d) **All Payments Final** - Any payments made to any person pursuant to the power and discretion conferred on the Retirement Committee under this Section 7.03 shall operate as a complete discharge of all obligations under the Plan with respect to such deceased beneficiary and shall be final, binding and conclusive on all persons interested hereunder.

S. 7.04	PARTICIPANT'S RIGHTS IN TRUST FUND
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No participant or other person shall have any interest in or any right in, to or under the trust fund or any part of the assets thereof, except as and to the extent expressly provided in the Plan.

S. 7.05	BENEFITS NOT ASSIGNABLE
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- (a) **In General** - No benefits, rights or accounts shall exist under the plan which are subject in any manner to voluntary or involuntary anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge; and any attempt to so anticipate, alienate, transfer, assign, pledge, encumber or charge the same shall be void.
- (1) **Liability Limitation** - Any such benefit, right or account shall not be in any manner liable for or subject to the debts, contracts, liabilities, engagements, torts or other obligations of the person entitled to such benefit, right or account.
- (2) **Benefit Not Asset** - Any such benefit, right or account under the plan shall not constitute an asset in case of bankruptcy, receivership or divorce of any person entitled under the Plan.
- (3) **Payment Directly to Participant or Beneficiary** - Any such benefit, right or account shall be payable only directly to the participant or any beneficiary.

S. 7.06	BENEFITS PAYABLE TO MINORS AND INCOMPETENTS
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- (a) **In General** - Whenever any person entitled to payments under this Plan shall be a minor or under other legal disability or in the sole judgment of the Retirement Committee shall otherwise be unable to apply such payments to his own best interest and advantage (as in the case of illness, whether mental or physical, or where the person not under legal disability is unable to preserve his estate for his own best interest), the Retirement Committee may in the exercise of its discretion direct all or any portion of such payments to be made in any one or more of the following ways unless claim shall have been made therefor by an existing and duly-appointed guardian, conservator, committee or other duly-appointed legal representative, in which event payment shall be made to such representative:
- (i) Directly to such person unless such person shall be a minor or shall have been legally adjudicated incompetent at the time of the payment;
- (ii) To the spouse, child, parent or other blood relative, to be expended on behalf of the person entitled or on behalf of those dependents as to whom the person entitled has the duty of support;
- (iii) To a recognized charity, to be expended for the benefit of the person entitled or for the benefit of those dependents as to whom the person has the duty of support; or

- (iv) By the Retirement Committee itself, receiving and expending or directing the expenditure of the same for the benefit of the person entitled or for the benefit of those dependents as to whom the person has the duty of support.
- (b) **Decision of Retirement Committee Final** - The decision of the Retirement Committee will, in each case, be final and binding upon all persons and, except in the case of (iv) above, the Retirement Committee shall not be obliged to see to the proper application or expenditure of any payments so made. Any payment made pursuant to the power herein conferred upon the Retirement Committee shall operate as a complete discharge of the obligations of the Trustee and of the Retirement Committee.

S. 7.07	CONDITION OF EMPLOYMENT NOT AFFECTED BY PLAN
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The establishment and maintenance of the Plan will not be construed as conferring any legal rights upon any participant to the continuance of his employment with the City, nor will the Plan interfere with the right of the City to discipline, lay off or discharge any participant.

S. 7.08	ABANDONMENT OF BENEFITS
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- (a) **Participant's Address** - Each participant and other person entitled to benefits hereunder shall file with the Retirement Committee from time to time, in writing, his post office address and each change of post office address, and any check representing payment hereunder.
 - (1) **Communication to Participant** - Any communication addressed to a participant, a former participant, a beneficiary or a pensioner hereunder at his last address filed with the Retirement Committee (or, if no such address has been filed, then at his last address as indicated on the records of the City) shall be binding on such person for all purposes of the Plan.
 - (2) **Obligation of Committee and Trustee** - Neither the Retirement Committee nor the Trustee shall be obligated to search for or ascertain the location of any such person.
- (b) **Options of Retirement Committee** - If the Retirement Committee for any reason is in doubt as to whether retirement income payments are being received by the person entitled thereto, it shall, by registered mail addressed to the person concerned at his address last known to the Retirement Committee, notify such person that:
 - (i) All unmailed and future retirement income payments shall be henceforth withheld until he provides the Retirement Committee with evidence of his continued life and his proper mailing address; and
 - (ii) His right to any retirement income whatsoever shall, at the option of the Retirement Committee, be cancelled forever if, at the expiration of three years from the date of such mailing, he shall not have provided the Retirement Committee with evidence of his continued life and his proper mailing address.

- (iii) Upon legal determination of death, or other evidence satisfactory to the Retirement Committee, a participant's retirement income payable under any provision of the Plan will be paid to his designated beneficiary. If, however, no designated beneficiary is recorded with the Retirement Committee, it will be paid first to his spouse, if living, and if not, to his surviving children in equal shares.

ARTICLE VIII

TRUST FUND AND TRUSTEE

S. 8.01	TRUST AGREEMENT
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The trust agreement, and any future amendments thereto, shall form a part of the Plan, and any amendments hereto, in the same manner as if all terms and provisions were copied here in detail. The terms and provisions of the Plan, and any future amendments hereto, shall form a part of the trust agreement in the same manner as if it were copied in detail in the trust agreement.

S. 8.02	TRUSTEE
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The term "trustee" means the trustee appointed by the Retirement Committee to administer the trust fund created for the purposes of the Plan, or such other trustee the Retirement Committee may designate from time to time which is approved by the City Council.

S. 8.03	PURPOSE OF TRUST FUND
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- (a) **Creation** - A trust fund will be created and maintained for the purpose of the Plan, and the monies thereof will be invested in accordance with the terms of the agreement and declaration of trust which forms a part of the Plan.
- (b) **Contributions and Benefits** - All contributions will be paid into the trust fund, and all benefits under the Plan will be paid from the trust fund.

S. 8.04	BENEFITS SUPPORTED ONLY BY TRUST FUND
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Any person having any claim under the Plan will look solely to the assets of the trust fund for satisfaction. In no event will the City or any of its officials, employees, members of its City Council or agents be liable in their individual capacities to any person whomsoever, under the provisions of the Plan or of the trust agreement.

S. 8.05	TRUST FUND APPLICABLE ONLY TO PAYMENT OF BENEFITS
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The trust fund will be used and applied only in accordance with the provisions of the Plan to provide the benefits thereof; and no part of the corpus or income of the trust fund will be used for, or diverted to, purposes other than for the exclusive benefit of participants and other persons thereunder entitled to benefits, except to the extent provided in Section 5.09 and Section 8.06, with respect to expenses of administration and termination of the Plan, respectively.

S. 8.06	TERMINATION OF PLAN AND DISTRIBUTION OF TRUST FUND
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Upon termination of the Plan for any reason, or upon written notice to the Trustee that contributions thereunder are being permanently discontinued, the trust fund shall be apportioned and distributed in accordance with the following procedure:

- (a) **Date of Distribution, Asset Value** - The Retirement Committee shall determine the date of distribution and the asset value to be distributed, after taking into account the expenses of such distribution.
- (b) **Method of Distribution** - The Retirement Committee shall determine the method of distribution of the asset value -- that is, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or in kind based on the then market value -- for each class of participants and other persons entitled to benefits under the Plan, as specified in (c) below.
- (c) **Asset Value** - The Retirement Committee shall apportion the asset value as of the date of termination of the Plan in the manner set forth below, on the basis that the amount required to provide any given retirement income shall mean the actuarially-computed single-sum value of such retirement income; except that, if the method of distribution determined under Section 8.06(b) (Method of Distribution) above involves the purchase of an insured annuity, the amount required to provide the given retirement income shall mean the single premium payable for such annuity.
 - (1) An amount equal to each participant's contributions less the aggregate of any retirement income payments made with respect to such participant will be determined, and such amount will be apportioned from the asset value. Such asset value, if insufficient to provide such amount in full, will be apportioned among such participants in proportion to the amounts determined with respect to them.
 - (2) If there be any asset value remaining after apportionment under (1) above, apportionment shall next be made with respect to each retired participant receiving a retirement income hereunder on such date, each person receiving a retirement income on such date on account of a deceased participant or a retired (but since deceased) participant and each participant who has, by such date, become eligible for normal retirement but has not yet retired in the amount required to provide such retirement income less any apportionment in (1) above. However, if the asset value be less than the aggregate of such amounts, such amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to the asset value
 - (3) If there be any asset value remaining after the apportionments under (1) and (2) above, apportionment shall next be made with respect to each participant in the service of the City on such date who is not entitled to an apportionment under (2) above but who has both attained the age of 55 years and completed at least 15 years of credited service, in the amount required to provide the actuarially-equivalent single-sum value of his deferred retirement income accrued to the date of termination of the Plan; i.e., the actuarially-equivalent

single-sum value of the retirement income which he would have been entitled to receive had he retired early on the date of termination of the Plan, less any apportionment made in (1) above, and to each former participant then entitled to a benefit under the provisions of Section 6.04(a), who has not, by such date, reached his normal retirement date, in the amount required to provide the actuarially-equivalent single-sum value of the accrued deferred retirement income to which he is entitled under Section 6.04(a), less any apportionment made in (1) above. However, if such remaining asset value be less than the aggregate of the amounts thus apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to the remaining asset value.

- (4) If there be any asset value remaining after the apportionments under (1), (2) and (3) above, apportionment shall lastly be made with respect to each participant in the service of the City on such date who is not entitled to an apportionment under (2) or (3) above, in the amount required to provide the actuarially-equivalent single-sum value of his deferred retirement income accrued to the date of termination of the Plan, less any apportionment made in (1) above. However, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.
- (5) In the event that there be asset value remaining after the full apportionments specified in (1), (2), (3) and (4) above, such excess shall be returned to the City.

(d) **Distribution** - The Retirement Committee shall direct the Trustee to distribute, in accordance with the manner of distribution determined under (b) above, the amounts apportioned under (c) above.

S. 8.07	BENEFITS 100% VESTED IF PLAN IS TERMINATED OR CONTRIBUTIONS PERMANENTLY DISCONTINUED
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(a) **In General** - In the event that the Plan is terminated or contributions to the trust are permanently discontinued, the benefits of each participant in the Plan on such date of termination or discontinuance shall be 100% vested to the extent then funded, where such vested benefits shall be determined and distributed as provided in Section 8.06 hereof.