



CITY OF PLANO COUNCIL AGENDA ITEM

CITY SECRETARY'S USE ONLY				
<input type="checkbox"/> Consent <input type="checkbox"/> Regular <input type="checkbox"/> Statutory				
Council Meeting Date:		11/09/2015		
Department:		Human Resources		
Department Head		Shanté Akafia		
Agenda Coordinator (include phone #): Frank Haller x7296				
CAPTION				
An Ordinance of the City of Plano, Texas amending and restating the Retirement Security Plan generally effective as of January 1, 2016; authorizing its execution by the City Manager or his designee; providing a repealer clause, a severability clause, a savings clause, and an effective date.				
FINANCIAL SUMMARY				
<input checked="" type="checkbox"/> NOT APPLICABLE <input type="checkbox"/> OPERATING EXPENSE <input type="checkbox"/> REVENUE <input type="checkbox"/> CIP				
FISCAL YEAR:	2015-16	Prior Year (CIP Only)	Current Year	Future Years
		TOTALS		
Budget		0	0	0
Encumbered/Expended Amount		0	0	0
This Item		0	0	0
BALANCE		0	0	0
FUND(S): N/A				
COMMENTS: The review of the Retirement Security Plan (RSP) Document has been completed and requires City Council approval. This item has no financial impact. STRATEGIC PLAN GOAL: Periodic legal reviews of the Retirement Security Plan Document relates to the City's goal of a Financially Strong City with Service Excellence.				
SUMMARY OF ITEM				
Outline of the Retirement Security Plan (RSP) Document changes.				
List of Supporting Documents: Memo, Ordinance, Exhibit "A"			Other Departments, Boards, Commissions or Agencies	



Memorandum

Date: November 9, 2015
To: Bruce Glasscock – City Manager
From: Shante Akafia, Director of Human Resources/Risk Management
Subject: Outline of Changes to the Retirement Security Plan (RSP) Document

Background

On January 1, 1983, The City of Plano withdrew from the Federal Social Security system and created the Retirement Security Plan (RSP), a defined benefit pension trust fund, to provide retirement benefits for all full-time employees of the City. The Plan was created by City ordinance and is administered by a committee. The Plan document describes the Plan's terms and conditions related to the operations and administration of the Plan.

As a best practice, the RSP Plan document is periodically reviewed and the amended version is submitted to City Council for approval. The amended RSP Plan document will also be submitted to the Internal Revenue Service (IRS) Employee Plan Determination Letter program. This program allows the IRS to give tax-exempt status to qualified plan. The IRS is cutting back on this program on January 1, 2017 to review new and terminating plans. Therefore, the City of Plano will make one last submittal prior to the cutback of this program in order to have the most recent Plan document reviewed as a tax exempt plan.

Process

Human Resources staff, Legal staff, the Plan actuary, the Plan counsel, and the RSP Committee collaborated and reviewed the Plan document and made numerous changes, mostly ensuring that the Plan document reflects current operating practices, regulations and ensuring that the language is clear to the average reader. The following is a summary of the changes to be adopted:

- **Clarifying language in document:**
 - Disability defined as “totally and permanently disabled” as determined by the City’s 3rd party Long-Term Disability carrier
 - Updated Plan Document to reflect actual process of LTD carrier determining disability status, not Committee determining disability status
 - Language added to clarify that no death benefit would be received if an annuity option was already selected
 - Language added to clarify that if an employee dies prior to “retiring,” that there is no death benefit through RSP
 - Death benefits as an employee are provided for under the City life insurance policy
 - Several non-substantive changes were made to enhance the RSP’s readability
 - Multiple references to the term “Employee” were changed to the more precise term “Participant”

- References to the term “Employer” were removed, in favor of using the term “City” consistently throughout the document
 - A number of outdated provisions that are no longer needed to administer the plan were deleted
- Actuarial recommendations and changes:
 - Removing specific mention of actuarial assumptions used in Plan Document
 - With proposed changes, City Council can adjust actuarial factors as needed without the need to formally amend the RSP each time
 - Increased the limit for mandatory annuity distributions to a value of \$25,000 (previously \$12,000)
- Limiting liability for Plan and Committee:
 - Section 9.6 was added to the RSP to address disputes and claims
 - The new provision would require participants to apply for pension benefits within a year of becoming entitled to receive them
 - The new provision also requires participant or beneficiary to bring any lawsuit related to a claim dispute within two years of the plan’s determination regarding benefit rights
 - Finally, the provision would allow the Committee to develop and impose more specific claims procedures as needed (This change is intended to provide maximum flexibility for handling potential disputes)
 - Section 11.2, referring to the liability of benefit payments, was revised to clarify that the City, Plan Trustee, Committee members, and City employees, Officer and Officials will not be liable under any circumstances to pay benefits due under the plan
- Electronic notices:
 - Section 13.5 of the RSP was revised to allow required notices to be provided electronically, as long as it would be permitted by IRS regulations

These proposed changes were discussed at the last Retirement Security Plan Committee meeting on October 15, 2015, with the presence of the Director of Finance, Director of Budget, Director of Human Resources/Risk Management, the Deputy City Manager – Administrative Services and the Plan’s actuaries. The RSP Committee voted unanimously to take forth the revised Plan document to City Council for approval.

An Ordinance of the City of Plano, Texas, amending and restating the Retirement Security Plan generally effective as of January 1, 2016; authorizing its execution by the City Manager or his authorized designee; providing a repealer clause, a severability clause, a savings clause, and an effective date.

WHEREAS, the City Council of the City of Plano has established the City of Plano, Texas Retirement Security Plan (“Plan”) for the benefit of its eligible employees and their beneficiaries; and

WHEREAS, the employer previously amended the Plan to provide clarification and incorporate new legislation; and

WHEREAS, the employer further desires to amend and restate the Plan to be generally effective as of January 1, 2016 to adopt new processes for added efficiency and reflect certain practices currently in place; and

WHEREAS, the City Council has been presented a proposed City of Plano, Texas Retirement Security Plan as Restated January 1, 2016, a substantial copy of which is attached hereto as Exhibit “A” and incorporated herein by reference; and

WHEREAS, upon full review and consideration of the amendments to the Plan as shown in Exhibit “A” and all matters attendant and related thereto, the City Council is of the opinion that the City of Plano Retirement Security Plan as Restated January 1, 2016 should be approved, and that the City Manager, or his authorized designee, shall be authorized to execute it on behalf of the City of Plano.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLANO, TEXAS, THAT:

Section I. The terms and conditions of the City of Plano Retirement Security Plan as Restated January 1, 2016, attached hereto as Exhibit “A,” having been reviewed by the City Council of the City of Plano and found to be acceptable and in the best interests of the City of Plano and its citizens, is hereby in all things approved.

Section II. The City Manager, or his designee, is hereby authorized to execute the City of Plano Retirement Security Plan as Restated January 1, 2016 and all other documents in connection therewith on behalf of the City of Plano, substantially according to the terms and conditions set forth in the Plan.

Section III. All provisions of the Code of Ordinances of the City of Plano, codified or uncodified, in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano, codified or uncodified, not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section IV. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph or section of this Ordinance.

Section V. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of passage of this ordinance.

Section VI. This Ordinance shall become effective immediately upon its passage.

DULY PASSED AND APPROVED this 9th day of November, 2015.

Harry LaRosiliere, MAYOR

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

**CITY OF PLANO, TEXAS,
RETIREMENT SECURITY PLAN**

Restated January 1, 2016

(except as otherwise indicated herein)

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ARTICLE 1. INTRODUCTION

1.1 Purpose. The purpose of the City of Plano, Texas, Retirement Security Plan (the "Plan") is to provide retirement and incidental death benefits for those employees of the City of Plano, Texas (the "City") who complete a period of service with the City and otherwise become eligible for such benefits in accordance with the terms and provisions hereof. Benefits provided by the Plan will be paid from a Trust Fund established by the City.

The Plan has been established and shall be maintained for the exclusive benefit of the eligible employees of the City and their beneficiaries. Except as hereinafter provided, no part of the Trust Fund can ever revert to the City or be used for or diverted to purposes other than the exclusive benefit of Participants in the Plan and their beneficiaries.

1.2 Effect of Restatement. This amended and restated Plan applies for purposes of determining benefits on and after the Effective Date except as otherwise specified herein. Those provisions of the Plan that are effective as of a date before the Effective Date, and that were not otherwise in effect under the Plan before the Plan's amendment and restatement by this instrument shall nonetheless be applied to determine rights hereunder after the effective date of such provision unless specified otherwise herein. Unless it is inconsistent with the terms of the Plan, any action taken or election made by the Committee or by a Participant, Employee, former Employee, or beneficiary under the Plan before the Plan's amendment and restatement by this instrument shall be regarded as having been taken or made under the Plan as amended and restated and as in effect hereunder unless and until changed in accordance with the terms of the Plan.

ARTICLE 2. DEFINITIONS AND CONSTRUCTION

2.1 Definitions. Where the following words and phrases appear in the Plan, they shall have the respective meanings set forth below, unless their context clearly indicates to the contrary:

- (a) Accrued Benefit. The benefit determined under the Plan, expressed in the form of a monthly benefit commencing at Normal Retirement Date which is applicable to a Participant at any time under the provisions of the Plan.
- (b) Actuarial (or Actuarially) Equivalent. Equality in value of the aggregate amounts expected to be received under different forms of payment, based upon mortality and interest rate assumptions, as defined below:
 - (1) Interest rate assumption – The interest rate used for purposes of computing optional forms of benefit payments shall be Eight Percent (8%).
 - (2) Mortality assumption – The mortality assumption used for purposes of computing optional forms of benefit payments, and for purposes of computing any adjustments called for under the terms of the Plan for benefits commencing other than at Normal Retirement Date when such adjustment is not otherwise provided for in the Plan, shall be taken from the 1983 Group Annuity Mortality Table (GATT mortality) using a unisex rate that is 50% male and 50% female.

Notwithstanding anything to the contrary above, effective January 1, 2016, assumptions used to determine Actuarial Equivalency will be adopted by the City Council from time to time, as set forth in a written ordinance or similar documentation. Such assumptions will be adopted based on the recommendations of the Committee, made in consultation with the Plan's Actuary. The amount of benefits payable from the Plan, based on such actuarial assumptions, will not be subject to employer discretion. In addition, the applicable mortality table used for purposes of adjusting any benefit or limitation under Section 415(b)(2)(B), (C), or (D) of the Code will be the mortality table prescribed in Section 417(e)(3)(B) of the Code.

- (c) Actuary. An individual or firm providing actuarial services to the Plan.
- (d) Average Monthly Compensation: The result obtained by dividing the total Compensation paid to an Employee during a considered period by the number of months in the considered period. The considered period shall be the thirty-six (36) consecutive calendar months within the last one hundred twenty (120) completed calendar months of Credited Service which yield the highest Average Monthly Compensation. In the event the Employee has completed fewer than thirty-six (36) consecutive months of Credited Service, the considered period shall be all completed months in which Compensation was paid. For the purpose of computation of "Average Monthly Compensation," the Compensation of an Employee during any month may be determined by deeming such Employee to

have earned one-twelfth (1/12) of his or her Compensation for a calendar year during each month.

- (e) City. The City of Plano, Texas.
- (f) City Council. The Plano City Council.
- (g) City Manager. The Chief Executive Officer of the City of Plano, Texas, appointed by the City Council.
- (h) Code. The Internal Revenue Code of 1986, as amended.
- (i) Committee. The persons appointed to administer the Plan in accordance with Article 9. For the avoidance of doubt, references to the Committee's duties and responsibilities throughout the Plan are intended to include duties or responsibilities that have been delegated by the Committee to the City's Human Resources Department or another individual or entity.
- (j) Compensation. The base salary or wages paid to an Employee by the City for services exclusive of any overtime pay, longevity pay, standby pay, bonuses and severance payments, such as accrued vacation or sick pay. The term "Compensation" shall also include any contribution made by an Employee participating in a salary reduction eligible deferred compensation plan (under Section 457(b) of the Code) sponsored by the City.
 - (1) Compensation taken into account during each of the twelve (12) consecutive month periods used in determining Average Monthly Compensation under (d) above, shall not exceed the current limit in effect under Section 401(a)(17) of the Code for the calendar year in which each such twelve (12) month period begins (\$265,000 for 2015). The limit on annual Compensation in the preceding sentence shall be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year. However, the Accrued Benefit determined in accordance with this provision shall not be less than the Accrued Benefit determined on December 31, 1992.
 - (2) In the event that Compensation under the Plan is determined based on a period of time that contains fewer than twelve (12) calendar months, the Code Section 401(a)(17) annual Compensation limit for that period of time shall be equal to the Code Section 401(a)(17) annual Compensation limit for the calendar year during which such period of time begins multiplied by the fraction in which the numerator is the number of full months in such period of time and the denominator is twelve (12).
 - (3) Any provisions herein to the contrary notwithstanding, an Employee's accrued benefit as of December 31, 1993 shall not be reduced due to the Code Section 401(a)(17) annual Compensation limit imposed effective as of January 1, 1994 on the amount of his Compensation. In the event that the Code Section 401(a)(17) annual Compensation limit is reduced

effective as of any date subsequent to January 1, 1994, a Participant's accrued benefit immediately prior to the date that such reduction becomes effective shall not be reduced due to the reduction in such limit.

- (k) Disability. A Participant's total and permanent disability, to be determined in accordance with the definition of total and permanent disability under the long-term disability policy adopted by the City, by the insurance carrier or other third party that administers benefits under such policy. Such total and permanent disability will be considered to have ended if such carrier or other third party determines that the Participant is no longer totally and permanently disabled within the meaning of such policy. A Disabled Participant will be required to provide written documentation in support of his continued Disability as may be reasonably requested by the Plan (or its representative) from time to time, but no more frequently than twice in any calendar year.
- (l) Effective Date. January 1, 2016, except as may otherwise be indicated herein. The Plan's original effective date was January 1, 1983.
- (m) Employee. Any person who receives compensation from the City for regular, full-time services other than persons under separate employment contract; provided, however, that the term "Employee" shall not include any person:
 - (1) as to any service for which he would be eligible to be included in and for which he is entitled to receive credit in the Teacher Retirement System of Texas, the Employees Retirement System of Texas, the Judicial Retirement System of Texas, the Texas County and District Retirement System, or any other pension fund or retirement system supported wholly or partly at public expense, but not including participation in the Texas Municipal Retirement System (TMRS);
 - (2) who is elected to office by vote of the people, it being further specifically provided, however, that a voluntary fireman or elected official who meets the definition of Employee in some capacity other than as a voluntary fireman or elected official shall be considered as an "Employee" for purposes of the Plan to the extent of such other capacity.
- (n) Employer. The City of Plano, Texas.
- (o) Highly Compensated Employee. An employee who is a "highly compensated employee" within the meaning of Section 414(q) of the Code.
- (p) Investment Manager(s). An investment advisor registered under the Investment Advisors Act of 1940, a bank (as defined in that Act), or an insurance company qualified to perform investment management services under State law in more than one State.
- (q) Leave of Absence. Any absence from Service authorized by the City under the City's standard personnel practices for reasons other than termination of employment, death, discharge or Retirement.

- (r) Normal Form. The life annuity form of payment provided for under Section 5.1, 5.2, or 5.4 of the Plan, as applicable, that applies to a Participant who does not elect to receive an optional form of payment described in Article 8 of the Plan.
- (s) Normal Retirement Date. The later of a Participant's sixty-fifth (65th) birthday or the date on which the Participant completes five (5) years of Credited Service.

Any benefits which are to commence as of a Participant's Normal Retirement Date shall not actually commence until the first day of the month coinciding with or next following said Normal Retirement Date.
- (t) Participant. An Employee who participates in the Plan in accordance with Section 3.2 and whose benefit has not been fully distributed or forfeited.
- (u) Pension. A series of monthly amounts which are payable to a person who is entitled to receive benefits under the Plan.
- (v) Plan. City of Plano, Texas, Retirement Security Plan, as amended from time to time.
- (w) Plan Administrator:. Such person or persons as designated by the City Manager, and who shall have the duties and powers described in Article 9.
- (x) Plan Year. The twelve (12) month period beginning on January 1st and ending on December 31st.
- (y) Retirement. Termination of employment after a Participant has fulfilled all Service requirements for a Pension. Retirement shall be considered as commencing on the day immediately following a Participant's termination date.
- (z) Service. A period or periods of employment of an Employee by the City used in determining eligibility or the amount of benefits as described in Article 3 hereof.
- (aa) TMRS. Texas Municipal Retirement System.
- (bb) Trust or Trust Fund. The fund maintained in accordance with the terms of the Plan.
- (cc) Trustee. The Corporation or individuals selected by the City Council to administer the Trust.
- (dd) U.S. Consumer Price Index. As of any date, the Consumer Price Index for all items for the prior calendar year as reported in the Monthly Labor Review for each calendar month by the United States Department of Labor. The Index to be used shall be the annual average over such calendar year which is most recent and designated in said Monthly Labor Review as "Consumer Price Index for Urban Wage Earners and Clerical Workers -- U.S. City Average -- All Items."

2.2 Construction. The masculine gender, where appearing in the Plan, shall be deemed to include the feminine gender; the singular may include the plural; and vice versa, unless the context clearly indicates to the contrary. The words "hereof," "herein," "hereunder"

and other similar compounds of the word "hereof shall, unless otherwise specifically stated, mean and refer to the entire Plan, not to any particular provision or Section. The word "including" and words of similar import when used in the Plan shall mean "including, without limitation," unless the context otherwise requires or unless otherwise specified. Article and Section headings are included for convenience of reference and are not intended to add to, or subtract from, the terms of the Plan. The Plan and Trust shall each form a part of the other by reference and terms shall be used herein interchangeably.

ARTICLE 3. SERVICE AND PARTICIPATION

3.1 Credited Service. Credited Service is the period of employment used in determining both eligibility for benefits and the amount of benefits. A Participant's Credited Service shall be all his full-time employment with the City as an Employee that is taken into account under TMRS, excluding any periods of unpaid Leave of Absence. Credited Service shall also include any employment with the City as an Employee that is not taken into account under TMRS if: (a) the Employee was not then eligible to make contributions to TMRS, and (b) any such employment was part of a continuous uninterrupted period of employment that was continuing on the Effective Date. Credited Service shall cease accruing upon an Employee's separation from the service of the City or upon the completion of twenty-five (25) years of Credited Service, whichever first occurs.

If an Employee incurs a period of separation which is equal to or longer than one year, then he shall lose all his prior Credited Service. An Employee who incurs a period of separation of less than one year shall retain all prior Credited Service.

Effective January 1, 2002, for purposes of the five (5) year Credited Service requirement in the definition of Normal Retirement Date and in determining eligibility for commencement of Early Pensions and Deferred Vested Pensions, and for purposes of the twenty (20) year Credited Service requirement for an Early Pension, all prior employment taken into account under TMRS will be counted, regardless of whether such employment is with the City.

3.2 Participation. Employees who were Participants in the Plan immediately prior to the Effective Date and who are employed by the City on the Effective Date shall remain Participants as of the Effective Date. Each other Employee hired on or after the Effective Date shall become a Participant in the Plan as of his date of hire.

3.3 Rehires. Participants who, after receiving an RSP payment, are rehired within a one year period from the date of termination, thus retaining RSP service credit, will have the benefit value from the first date of termination subtracted from the benefit value due at the second termination date in accordance with actuarial practices.

3.4 Military Service.

(a) Absence from the active service of the City because of engagement in qualified military service will not terminate the service of the Employee and will be treated under the Plan as a leave of absence granted by the City if the Employee is entitled under the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA") to reemployment by the City upon the completion of his period of service and if he returns to the active service of the City within the period of time during which he has reemployment rights under USERRA. The following special provisions apply to such an Employee:

(1) Each period of qualifying military service of the Employee shall, upon such reemployment, be counted toward determining the Employee's service with the City for all purposes of the Plan, including determining the amount of the Employee's Accrued Benefit and the vested percentage in his Accrued Benefit.

- (2) For all purposes under the Plan, an Employee shall be treated as having received Compensation from the City based on the rate of Compensation the Employee would have received during the period of qualifying military service, or if that rate is not reasonably certain, on the basis of the Employee's average rate of Compensation during the twelve (12)-month period immediately preceding such period.
- (b) To the extent provided under Code Section 401(a)(37) and effective as of January 1, 2007, in the case of an Employee whose employment is interrupted by qualified military service and who dies while performing qualified military service, the survivor(s) of such Employee shall be entitled to any additional benefit (other than benefit accruals) that would have been provided under the Plan had the Employee resumed and then terminated employment on account of death.
- (c) An Employee who receives a differential wage payment (within the meaning of Code Section 414(u)(12)(D)) from the City with respect to a period during which the Employee is performing uniformed service while on active duty for a period of more than thirty (30) days, shall be treated as an Employee of the City, and the differential wage payment shall be treated as Compensation for all purposes under the Plan (including Section 6.6). Compensation recognized under this Section 3.4(c) shall not duplicate Compensation already recognized under Section 2.1(j) or Section 3.4(a)(2), and therefore if the same item of Compensation is recognized under this Section and Section 2.1(j) or Section 3.4(a)(2), such item of Compensation shall be recognized under only one Section.

ARTICLE 4. CONTRIBUTIONS

4.1 Contributions by Employer. The City, acting under the advice of the Actuary for the Plan, intends to make contributions to the Trust in such amounts and at such times as are required to maintain the Plan on a sound actuarial basis. All contributions made by the City to the Trust shall be used to pay benefits under the Plan or to pay expenses of the Plan and Trust and shall be irrevocable, except for any residual amounts after satisfying all liabilities of the Plan. Forfeitures arising because of severance of employment before a Participant becomes eligible for a Pension or for any other reason shall be applied to reduce the costs of the Plan, not to increase the benefits otherwise payable to other Participants.

4.2 Contributions by Employees. Employees are neither required nor permitted to make contributions under the Plan.

ARTICLE 5. REQUIREMENTS FOR RETIREMENT BENEFITS

5.1 Normal and Late Retirement. A Participant shall be eligible for a Normal Pension if his employment with the City is terminated on his Normal Retirement Date. A Participant shall be eligible for a Late Pension if his employment with the City is terminated after his Normal Retirement Date. Payment of a Normal or Late Pension shall commence as of the first day of the month coinciding with or next following the Participant's date of Retirement and, unless an optional form of payment becomes effective and payable under the provisions of Article 8 hereof, shall be made in the form of an annuity for the life of the Participant only subject to the minimum payment term of sixty (60) months pursuant to Section 7.1.

5.2 Early Retirement. A Participant shall be eligible for an Early Pension if his employment with the City is terminated before his Normal Retirement Date and either (a) on or after his sixtieth (60th) birthday and completion of five (5) or more years of Credited Service or (b) after his completion of twenty (20) or more years of Credited Service.

Unless the Participant requests otherwise, payment of an Early Pension shall commence as of the Participant's Normal Retirement Date if he is then living. If the Participant requests the commencement of his Early Pension as of the first day of the month coinciding with or next following his Retirement, or as of the first day of any subsequent month which precedes his Normal Retirement Date, his Pension shall commence as of the beginning of the month so requested, but the amount thereof shall be reduced as provided in Section 6.2. Unless an optional form of payment becomes effective and payable under the provisions of Article 8 hereof, payment shall be made in the form of an annuity for the life of the Participant only subject to the minimum payment term of sixty (60) months pursuant to Section 7.1.

5.3 Disability Retirement. A Participant shall be eligible for a Disability Pension if his employment with the City is terminated by reason of Disability. Payment of a Disability Pension shall commence as of the first day of the month coinciding with or next following such termination of employment. A Disabled Participant's last Disability Pension payment shall be made as of the earliest of the first day of the month in which (a) such Disability ceases, (b) the death of the retired Participant occurs, and (c) the Normal Retirement Date of the retired Participant occurs. If Disability continues to the Participant's Normal Retirement Date, his Pension thereafter will be a Normal Pension (in a sixty (60) month certain and life form) determined according to Section 6.3(b) hereof. If Disability ceases prior to the Participant's Normal Retirement Date, no Disability Pension shall continue to be paid to or for him. A Participant may elect, in lieu of the Disability Pension provided hereunder (including any Pension payable after his Normal Retirement Date under Section 6.3(b) hereof), to receive an Early Pension if he had met the requirements for an Early Pension on the date of his Retirement for Disability.

A Participant who is otherwise entitled to receive a Disability Pension under this Section 5.3 must apply to the Plan for such Disability Pension within six (6) months after the date of termination of his service due to Disability.

If the retired Participant's Disability ceases prior to his Normal Retirement Date, and such Participant is reemployed by the City, the Pension payable upon his subsequent Retirement shall be determined based on his Credited Service and Compensation prior to the date of his previous retirement, as well as his Credited Service and Compensation during the period of his reemployment. If the retired Participant's Disability ceases prior to his Normal

Retirement Date, and he is not reemployed by the City as an Employee, but had met the requirements for an Early or Deferred Vested Pension on the date of his retirement for Disability described in this Section 5.3, he shall be entitled to receive, commencing on the first day of the month coinciding with or next following his Normal Retirement Date, a Pension equal in amount to the Early or Deferred Vested Pension to which he would have been entitled, as of the date of his Disability, considering his Compensation and Credited Service as if he had had no Disability; provided, however, if the Participant had completed five (5) years of Credited Service and requests the commencement of his Early or Deferred Vested Pension as of the first day of any subsequent month which precedes his Normal Retirement Date, his Pension shall commence as of the beginning of the month so requested, but the amount thereof shall be reduced in accordance with Section 6.2 or 6.4 hereof, based on the number of years by which the starting date of the Pension payment precedes the Participant's Normal Retirement Date.

If a retired Participant's Disability is determined to have ended and payment of a Disability Pension has ceased, but it is subsequently determined by the insurance carrier or other third party administrator described in Section 2.1(k) of the Plan that such Disability has continued or recurred, then the City, in its sole discretion, may reinstate Disability Pension payments to such Participant in accordance with this Section 5.3, after receiving proper documentation of such Participant's Disability from such insurance carrier or third party administrator.

5.4 Deferred Vested Retirement. A Participant shall be eligible for a Deferred Vested Pension if his employment with the City is terminated, for reasons other than death or Normal, Late, Early or Disability Retirement, on or after the completion of five (5) or more years of Credited Service. Payment of a Deferred Vested Pension shall commence as of the first day of the month coinciding with or next following the Participant's Normal Retirement Date if he is then living, unless a Participant requests commencement as of the first day of the month coinciding with or next following his sixtieth (60th) birthday, in which case the amount thereof shall be subject to reduction as provided in Section 6.4. Such a request must be received by the Committee at least thirty (30) days before the first Pension payment is due. Unless an optional form of payment becomes effective and payable under the provisions of Article 8 hereof, payment shall be made in the form of an annuity for the life of the Participant only subject to the minimum payment term of sixty (60) months pursuant to Section 7.1.

5.5 Required Minimum Distributions. All distributions required under this Section will be determined and made in accordance with the Treasury Regulations under Section 401(a)(9) of the Code. Notwithstanding the other provisions of this Section 5.5, other than the immediately preceding sentence, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

(a) Time and Manner of Distribution.

- (1) Mandatory Commencement. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.
- (2) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest, if any under

Section 7.4, will be distributed, or begin to be distributed, no later than as follows:

- (A) If the Participant's surviving spouse is the Participant'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 Participant died, or by December 31 of the calendar year in which the Participant would have attained age seventy and one half (70½), if later.
- (B) If the Participant's surviving spouse is not the Participant'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 Participant died.
- (C) If there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest, if any, will be distributed in accordance with the applicable terms of the Plan by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (D) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this paragraph (a)(2), other than subparagraph (a)(2)(A), will apply as if the surviving spouse were the Participant.

For purposes of this paragraph (a)(2) and paragraph (d), distributions are considered to begin on the Participant's Required Beginning Date (or, if paragraph (a)(2)(D) applies, the date distributions are required to begin to the surviving spouse under paragraph (a)(2)(A)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under paragraph (a)(2)(A)), the date distributions are considered to begin is the date distributions actually commence.

- (3) Form of Distribution. Unless the Participant'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 paragraphs (b), (c), and (d) of this Section. If the Participant'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 Participant'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.

(b) Determination of Amount to be Distributed Each Year.

- (1) General Annuity Requirements. If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:
- (A) the annuity distributions will be paid in periodic payments made at intervals not longer than one (1) year;
 - (B) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in paragraphs (c) or (d);
 - (C) 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;
 - (D) 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 Participant'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 described in paragraph (c) dies or is no longer the Participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Code Section 414(p); or
 - (iii) to pay increased benefits that result from a Plan amendment.
- (2) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under paragraph (a)(2)(A) or (B)) 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 Participant'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 Participant's Required Beginning Date.
- (3) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Participant 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.

(c) Requirements For Annuity Distributions That Commence During Participant's Lifetime.

(1) Joint Life Annuities Where the Beneficiary Is Not the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-spouse beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the designated beneficiary after the Participant'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 Participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury Regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-spouse 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.

(2) Period Certain Annuities. Unless the Participant'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 Participant's lifetime may not exceed the applicable distribution period for the Participant 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 Participant reaches age seventy (70), the applicable distribution period for the Participant is the distribution period for age seventy (70) under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations plus the excess of seventy (70) over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's spouse is the Participant'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 Participant's applicable distribution period, as determined under this paragraph (c)(2), or the joint life and last survivor expectancy of the Participant and the Participant'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 Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

(d) Requirements For Minimum Distributions Where Participant Dies Before The Date Distributions Begin.

(1) Participant Survived by Designated Beneficiary. If the Participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Participant's entire interest will be distributed,

beginning no later than the time described in paragraphs (a)(2)(A) or (B), over the life of the designated beneficiary or over a period certain not exceeding:

- (A) 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 Participant's death; or
- (B) 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.

(2) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest, if any, will be completed in accordance with the applicable terms of the Plan by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death.

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this paragraph (d) will apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be determined without regard to paragraph (a)(2)(A).

(e) Definitions.

(1) Designated beneficiary. The individual who is designated as the beneficiary under Section 8.3 of 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.

(2) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to paragraph (a)(2).

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

- (4) Required Beginning Date. In the case of a Participant who terminates employment prior to attaining age seventy and one half ($70\frac{1}{2}$), the Required Beginning Date is April 1 of the calendar year following the calendar year in which the former employee attains age seventy and one half ($70\frac{1}{2}$). In the case of a Participant who continues in employment after attaining age seventy and one half ($70\frac{1}{2}$), the Required Beginning Date is April 1 of the calendar year following the calendar year in which the Participant retires.

ARTICLE 6. AMOUNT OF RETIREMENT BENEFITS

6.1 Normal and Late Pension. Subject to the minimum pension under Section 6.1A of Appendix A (if applicable), a Participant who meets the requirements for a Normal Pension and retires on his Normal Retirement Date shall receive a monthly amount equal to Seven-Tenths of One Percent (.7%) of his Average Monthly Compensation, multiplied by his Credited Service from January 1, 1983, not to exceed twenty-five (25) years.

Subject to the minimum pension under Section 6.1A of Appendix A (if applicable), a Participant who meets the requirements for a Normal Pension and retires after his Normal Retirement Date shall receive a Late Pension which shall be computed as for a Normal Pension in accordance with the provisions of this Section 6.1 above, considering his Average Monthly Compensation and Credited Service to his actual date of Retirement.

6.2 Early Pension. Subject to the minimum pension under Section 6.2A of Appendix A (if applicable), a Participant who meets the requirements for an Early Pension shall receive a monthly amount equal to his Accrued Benefit. A Participant's Accrued Benefit shall be equal to Seven-Tenths of One Percent (.7%) of his Average Monthly Compensation, multiplied by his Credited Service from January 1, 1983, not to exceed twenty-five (25) years.

If payment of an Early Pension commences prior to the Participant's Normal Retirement Date, the amount determined above shall be reduced by one-fifteenth (1/15th) for each of the first five (5) years and one-thirtieth (1/30th) for each of the next five (5) years (and on an Actuarially Equivalent basis thereafter) by which the starting date of Pension payments precedes the Participant's Normal Retirement Date.

6.3 Disability Pension. A Participant who meets the requirements for a Disability Pension shall receive a monthly amount payable prior to Normal Retirement Date computed as set forth in (a) below and a monthly amount payable on or after Normal Retirement Date as set forth in (b) below computed as follows:

- (a) Disability Pension Payable Prior to Normal Retirement Date. An amount equal to Sixty Percent (60%) of the greater of the Participant's monthly base rate of pay exclusive of overtime pay, longevity pay, standby pay, bonuses and severance payments, or Average Monthly Compensation, as of the month prior to his termination of employment by reason of Disability, **reduced by** the amount of disability benefit to which he is entitled under TMRS.
- (b) Disability Pension Payable on and After Normal Retirement Date. An amount equal to the Normal Pension that would have been payable to the Participant, in accordance with the provisions of Section 6.1 hereof, if he had continued in active employment with the City until his Normal Retirement Date, assuming his Compensation had continued at the same rate as in effect at the date of his Disability Retirement until his Normal Retirement Date, and no increases occurred in the Social Security or TMRS benefits, if applicable. This pension will not be less than the Disability Pension commencing prior to his Normal Retirement Date determined under paragraph (a) above.

6.4 Deferred Vested Pension. A Participant who meets the requirements for a Deferred Vested Pension shall receive a non-forfeitable right to his Accrued Benefit (computed

in accordance with the provisions of Section 6.2 hereof). If the Participant has fewer than five (5) years of Credited Service, the Accrued Benefit will be adjusted by the following schedule:

<u>Years of Credited Service</u>	<u>Non-forfeitable Percentage</u>
Less than 5	0%
5 or more	100%

A Participant who reaches his Normal Retirement Date shall also have a 100% vested and non-forfeitable right to his Accrued Benefit hereunder.

If a Participant is eligible and payment of a Deferred Vested Pension commences prior to the first day of the month coincident with or next following the Participant's sixty-fifth (65th) birthday, the amount determined above shall be reduced by one-fifteenth (1/15th) for each year by which the starting date of Pension payments precedes such first day of the month.

6.5 Cost-of-Living Adjustment. The monthly amount of Pension payable to a retired Participant, provided such Participant had received such payments for at least twelve (12) months, shall be adjusted annually, as of each April 1st, to reflect increases in the U.S. Consumer Price Index. Such annual increase, if any, shall be limited to a maximum change of four percent (4%). In no event shall any cost of living adjustment under this Section 6.5 be applied to increase the amount of monthly pension (or other alternative form of payment) payable to the spouse or beneficiary of a Participant after the Participant's death.

6.6 Maximum Annual Benefit Under Code Section 415. Notwithstanding any other provision contained herein to the contrary, the benefits payable to a Participant from the Plan, shall be subject to the limitations of Code Section 415. For purposes of this Section, the term "Limitation Year" shall mean the year used in applying the limitations of Code Section 415, which year shall be a Plan Year. The benefits payable to a Participant from the Plan shall in all events comply with the provisions of Code Section 415 and the applicable Treasury Regulations published thereunder, the provisions of which are specifically incorporated herein by reference. To the extent any portion of this Section 6.6 conflicts with such Regulations, the provisions of such Regulations shall govern.

Any annual Pension payable to a Participant hereunder (including any annual Pension paid to such Participant from another defined benefit plan of the City) shall not exceed subsection (a) below, subject to subsections (b) through (d) below.

- (a) Defined Benefit Dollar Limitation. The "defined benefit dollar limitation" will be equal to the limit set forth in Section 415(b)(1)(A) of the Code (\$210,000 for 2015), to be adjusted in accordance with Section 415(d) of the Code, as applied to a benefit payable in the form of a straight life annuity. Adjustments to the limitation required under Section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies.
- (b) Maximum Permissible Benefit. The "maximum permissible benefit" is the defined benefit dollar limitation adjusted where required, as provided in paragraph (1) and, if applicable, in paragraph (2) or (3) below.
 - (1) If the Participant has fewer than ten (10) years of participation in the Plan, the defined benefit dollar limitation shall be multiplied by a fraction,

(A) the numerator of which is the number of years (or part thereof) of participation in the Plan and (B) the denominator of which is ten (10).

- (2) If the benefit of a Participant begins prior to age sixty-two (62), the defined benefit dollar limitation applicable to the Participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the Participant at age sixty-two (62) (adjusted under paragraph (1) above, if required). The defined benefit dollar limitation applicable at an age prior to age sixty-two (62) is determined as the lesser of (A) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in Section 2.1(b) of the Plan and (B) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent (5%) interest rate and the applicable mortality table as defined in Section 2.1(b) of the Plan. Any decrease in the defined benefit dollar limitation determined in accordance with this paragraph (2) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the Participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.
- (3) If the benefit of a Participant begins after the Participant attains age sixty-five (65), the defined benefit dollar limitation applicable to the Participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the Participant at age sixty-five (65) (adjusted under paragraph (1) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age sixty-five (65) is determined as the lesser of (A) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in Section 2.1(b) of the Plan and (B) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a five percent (5%) interest rate assumption and the applicable mortality table as defined in Section 2.1(b) of the Plan. For these purposes, mortality between age sixty-five (65) and the age at which benefits commence shall be ignored.
- (4) With respect to the limitations of this Section, for purposes of adjusting the annual Pension to a straight life annuity, if the annual Pension is paid in any form other than a non-decreasing life annuity payable for a period not less than the life of a Participant or, in the case of a Pre-Retirement Survivor Annuity, the life of the surviving spouse, then the equivalent annual Pension shall be the greatest of (A) the equivalent annual Pension computed using the Plan interest rate and Plan mortality table (or other tabular factor); (B) the equivalent annual Pension computed using five and one-half percent (5.5%) and the applicable mortality table as defined in Section 2.1(b); or (C) the equivalent annual Pension computed using the applicable interest rate under Treasury Regulation Section 1.417(e)-1(d)(3) and the applicable mortality table under Treasury Regulation Section 1.417(e)-1(d)(2), divided by 1.05.

Notwithstanding anything to the contrary above, the provisions of this Section 6.6(b) shall not apply to (1) income received as a pension, annuity, or similar allowance as a result of a Participant's disability due to personal injuries or sickness, or (2) amounts received as a result of a Participant's death by the Participant's beneficiaries, survivors, or estate.

- (c) In no event shall a Participant's maximum annual Pension allowable under this Section be less than the annual amount of Pension (including early Pension and qualified joint and survivor annuity amounts) duly accrued by such Participant (under Code Section 415 limitations then in effect) as of the last day of the Limitation Year beginning in 1982, or as of the last day of the Limitation Year beginning in 1986, whichever is greater (disregarding any Plan changes or cost-of-living adjustments occurring after July 1, 1982, as to the 1982 accrued amount, and May 5, 1986, as to the 1986 accrued amount).

ARTICLE 7. DEATH BENEFITS

7.1 Death After Commencement of Normal, Late, Early or Deferred Vested Pension.

If a Participant, on the date of his death, was receiving a Normal, Late, Early, or Deferred Vested Pension hereunder (including a Normal Pension that has commenced to a Disabled Participant at his Normal Retirement Date), and had elected to receive Pension payments in an optional form provided for under Article 8 of the Plan, any remaining benefits payable to the beneficiary or beneficiaries of such Participant will be paid in accordance with such election. To the extent that a deceased Participant was receiving such Pension payments in the Normal Form, and such deceased Participant had not received sixty (60) monthly payments of such Pension, the beneficiary or beneficiaries of such Participant shall be eligible to receive a Death Benefit in the form of a monthly Pension, which will be equal to the monthly Pension that the Participant was receiving on the date of his death. Payment of such Death Benefit shall commence on the first day of the month coinciding with or next following the Participant's date of death. The last payment of such Death Benefit shall be made as of the first day of the month in which sixty (60) monthly payments have been made in the aggregate to the Participant and his beneficiary or beneficiaries.

7.2 Death Pending Payment. If a Participant has completed at least ten (10) years of Credited Service, terminates employment with the City, and dies after attainment of age sixty (60), but before the date of commencement of his Pension, his surviving spouse, or if none, his surviving child or children under the age of eighteen (18), shall be entitled to receive a benefit hereunder. Such benefit shall be a monthly Pension payable for a period of sixty (60) months equal to the Pension the Participant would have received under Section 6.4 hereof had he commenced payment on the first day of the month coinciding with or next following the Participant's date of death. With the approval of the Committee, this benefit may be paid in a lump sum amount equal to the Actuarially Equivalent lump sum value of the sixty (60) monthly payments otherwise provided. If this benefit becomes payable to a minor child or children, and more than one such child is eligible, the benefit determined above shall be divided in equal parts among such children.

7.3 Vested Terminated Participant Death Benefits.

- (a) In the event that a terminated Participant entitled to a deferred vested benefit under the Plan above dies prior to his commencement date of benefits and without his having received the value of his benefit in accordance with Article 6 of the Plan, his surviving spouse, if any, will be entitled to receive a monthly retirement income. This monthly income, payable for life, will be in an amount that is the Actuarial Equivalent of the accrued monthly retirement income as of the Participant's Normal Retirement Date that would have been payable to such surviving spouse, commencing on the Early Pension commencement date under the 50% Joint and Survivor Option, if such surviving spouse is then living. It is determined as if:
- (1) the terminated Participant had survived to his earliest Early Pension commencement date or immediately if he has already survived to that date; and

- (2) the terminated Participant had died immediately after such commencement of payments under the 50% Joint and Survivor Option described in Section 8.1(e).
- (b) Alternatively, if there is no surviving spouse at the time of the vested terminated Participant's death, the Participant's dependent child or children, including legally adopted children, if any, will be entitled to receive a monthly income, provided he has not received the value of his benefit from the Plan. A dependent child will be defined as any child under the age of 18, any child under the age of twenty-three (23) and a full-time student at an educational institution, or any child, regardless of age, that is considered permanently disabled on a nondiscriminatory basis. Determinations regarding a child's permanent disability will be made by the insurance carrier or other third party administrator described in Section 2.1(k), in a manner similar to the one that applies under the long-term disability policy described in such Section. The benefit payable to the dependent child or children described above shall be a monthly Pension determined in accordance with Article 6 of the Plan and equal to the income the Participant would have received under the Plan, if:
 - (1) the terminated Participant had survived to his earliest Early Pension commencement date or immediately if he had already survived to that date; and
 - (2) the terminated Participant had died immediately after such commencement of payments under the Five (5) Year Certain and Life Option described in Section 8.1(c).

If this benefit becomes payable to a minor child or children, and more than one such child is eligible, the benefit determined above shall be divided in equal parts among such children.

- (c) With the approval of the Committee, the death benefit may be paid in a lump sum amount equal to the Actuarially Equivalent lump sum value of the payments otherwise provided.
- (d) No vested terminated death benefit shall be payable with respect to any Participant who does not have either a spouse or dependent child at the time of death. For the avoidance of doubt, such Participant's interest under the Plan will terminate as of the date of death, and no further benefits will be payable from the Plan with respect to such Participant.

7.4 Other Death Benefits. No other benefits shall be payable hereunder upon the death of a Participant, other than those payable under an optional form of payment described in Section 8.1 and except as provided below. For the avoidance of doubt, no death benefits will be payable under the Plan with respect to a Participant who dies while in active employment with the City, including a Participant who was on a leave of absence but had not terminated employment with the City as of the date of death; provided, however, if the amount of insurance coverage provided with respect to any Participant under the City of Plano, Texas, Employee's Group Term Life Insurance Plan (disregarding for this purpose any insurance coverage paid for by the Participant) is limited by the application of Title 7 of the Texas Insurance Code, the

amount of death benefit not payable thereunder as a result of such limitation shall be payable upon the Participant's death under the Plan.

ARTICLE 8. OTHER OPTIONAL FORMS OF PAYMENT

8.1 Other Options. In lieu of any life annuity form of payment that would otherwise become payable under Section 5.1, 5.2, or 5.4 of the Plan, as applicable, a Participant may elect that any benefit provided by the Plan shall be paid in an optional payment form set forth below, provided that payments in such other form shall be the Actuarial Equivalent of the benefit otherwise payable. The optional forms of payment are as follows:

- (a) Lump Sum Payment. A lump sum payment, in cash or kind (at fair market value), but only if the present value of the Participant's non-forfeitable Accrued Benefit is greater than Five Thousand Dollars (\$5,000), but less than Twelve Thousand Dollars (\$12,000), effective August 28, 1995, for payments made prior to January 1, 2016, to all current vested terminated Participants and all active Participants. For payments made on and after January 1, 2016, the lump sum payment form described above will be available to a Participant if the present value of his non-forfeitable Accrued Benefit is greater than Five Thousand Dollars (\$5,000), but less than Twenty-Five Thousand Dollars (\$25,000), or such other dollar limitations as may be adopted by the City Council from time to time, which are incorporated by reference herein.
- (b) Life Only Option. A monthly retirement income payable to the Participant during his lifetime. Upon the death of the Participant, payments shall cease.
- (c) Five (5) Year Certain and Life Option. A monthly retirement income payable to the Participant during his lifetime, with the provision that, if the Participant's death occurs before he has received sixty (60) monthly payments (5 years), the remaining number of such payments shall be paid to his designated beneficiary.
- (d) Ten (10) Year Certain and Life Option. A monthly retirement income payable to the Participant during his lifetime, with the provision that, if the Participant's death occurs before he has received one hundred twenty (120) monthly payments (10 years), the remaining number of such payments shall be paid to his designated beneficiary.
- (e) 50% Joint and Survivor Option. A monthly income payable to the Participant during his lifetime, with the provision that, upon his death, his designated beneficiary shall receive a monthly income equal to 50% of the income that the Participant was receiving at the time of his death.
- (f) 100% Joint and Survivor Option. A monthly income payable to the Participant during his lifetime, with the provision that, upon his death, his designated beneficiary shall receive a continuation of 100% of the income the Participant was receiving at the time of his death.

In the event of a mandatory distribution greater than one thousand dollars (\$1,000) but not exceeding five thousand dollars (\$5,000) in accordance with this paragraph, if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution directly, then the Plan Administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the Plan Administrator. For accrued benefits of one thousand dollars (\$1,000) or

less and the Participant does not elect to have such distribution to be paid directly to an eligible retirement plan specified by the Participant, the amount shall be distributed to the Participant in a lump sum.

Any optional form of payment elected under this paragraph must provide that the entire interest of a Participant is expected to be distributed to the Participant and his beneficiary over a period certain not exceeding beyond the life expectancy of the Participant or beyond the joint life and last survivor expectancy of the Participant and beneficiary.

8.2 Other Benefits Cancelled by Option. Any Pension, Death Benefit, or other benefit that would otherwise have become payable under the Plan, shall be cancelled and superseded by an option or any other form of payment elected under this Article 8 as of the date such option or other form of payment becomes operative.

8.3 Designation of Beneficiary. Each active or retired Participant may designate a primary beneficiary or beneficiaries and a contingent beneficiary or beneficiaries to receive any benefit that may become payable under the Plan by reason of his death (other than a benefit payable only to his spouse or other qualified contingent pensioner). Such designation shall be made upon the forms furnished by the Committee, and may at any time and from time to time be changed or revoked without notice to the beneficiary or beneficiaries, and shall not be effective unless and until filed with the Committee.

If any Participant shall fail to designate a beneficiary or beneficiaries, or if all those designated by him predecease him, then the beneficiary shall be the Participant's Estate.

8.4 Election of Optional Form of Payment. A Participant whose Accrued Benefit is payable may, in writing to the City, elect to receive his benefit under one of the optional forms set forth in Section 8.1 above. The Committee shall not permit the retired Participant to change any prior election after commencement of payment of benefits under the Plan. The City shall provide to each active Participant, and each terminated Participant with a vested Accrued Benefit whose benefits have not yet commenced, an election form for electing an optional form, as well as a written explanation of the terms, conditions, and effects of such election as soon as administratively practicable, prior to his date of commencement of payment of benefits or, if earlier, prior to his Normal Retirement Date. Such written election must be filed with the City prior to commencement of any payments under the Plan.

8.5 Withholding Tax. Distributions from the Plan shall be subject to applicable tax withholding, including mandatory withholding to the extent applicable.

8.6 Direct Rollover Options for Eligible Rollover Distributions. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section 8.6, a distributee may elect, at the time and in the manner prescribed by the plan 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. The following definitions apply to this Section 8.6:

- (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:

- (1) 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 ten (10) years or more;
 - (2) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code;
 - (3) the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); provided, however, 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 (if applicable under the Plan) which are not includable in gross income. However, such portion may be transferred only to an individual retirement account, annuity, or plan described in Section 408(a) or (b) or 408A of the Code, a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code, or any other qualified plan under Code Section 401(a) or annuity contract described in Section 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable; and
 - (4) any other exception permitted by law or rules or regulations of the Internal Revenue Service.
- (b) Eligible retirement plan. An eligible retirement plan is any of the following plans or accounts, provided such plan or account accepts the distributee's eligible rollover distribution and, if applicable, agrees to separately account for amounts transferred into such plan or account from the Plan, an individual retirement account or annuity described in Section 408 or 408A 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; 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; or a qualified trust described in Section 401(a) of the Code. However, if the distributee is a beneficiary who is not the surviving spouse of the Participant, an eligible retirement plan is an individual retirement account or annuity described in Section 408 or 408A of the Code.
- (c) Distributee. The following individuals may be distributees under this Section 8.6. a Participant (including a former Employee), a Participant's surviving spouse, a Participant's spouse or former spouse who is an alternate payee under a qualified domestic relations order (as defined in Section 414(p) of the Code), and a designated non-spouse beneficiary.
- (d) Direct rollover. A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

Any options set forth in this Section 8.6 shall automatically become inoperative and of no effect upon a ruling by the Treasury Department that the options set forth herein are no longer required.

ARTICLE 9. ADMINISTRATION

9.1 Appointment of Committee. The Plan shall be administered by a Committee consisting of at least five (5) but no more than seven (7) persons who shall be appointed by the City Council, based on recommendations from the City Manager. At least two (2) members of the Committee must meet the same eligibility requirements as appointees to City boards and commissions as described in section 4.07 of the City Charter. Each member of the Committee shall be appointed for a period of two (2) years, with the intent that the terms of the Committee members will generally be staggered in a manner such that the Committee will not consist entirely of newly appointed members at any given time.

Committee members will not receive compensation with respect to their services for the Committee.

9.2 Committee Powers and Duties. The Committee shall have such powers as may be necessary to discharge its duties hereunder, including, but not by way of limitation, the following powers and duties:

- (a) to develop bylaws and procedures necessary to discharge the Committee's responsibilities outlined herein;
- (b) to construe and interpret the Plan, decide all questions of eligibility and determine the amount, manner and time of payment of any benefits hereunder;
- (c) to prescribe procedures to be followed by distributees in obtaining benefits;
- (d) to make a determination as to the right of any person to a benefit and to afford any person dissatisfied with such determination the right to a hearing thereon;
- (e) to receive from the City and from Participants such information as shall be necessary for the proper administration of the Plan;
- (f) to receive and review the valuation of the Plan made by the Actuary;
- (g) to appoint an Investment Manager(s) to manage the investment of the assets of the Plan; and
- (h) to receive and review reports of the financial condition and of the receipts and disbursements of the Trust Fund from the Trustee; and
- (i) to recommend to the City Council employment of any agents it deems advisable, including, but not limited to, legal counsel.

The Committee shall have no power to add to, subtract from or modify any of the terms of the Plan, nor to change or add to any benefits provided by the Plan, nor to waive or fail to apply any requirements of eligibility for a Pension under the Plan.

A majority of the members of the Committee shall constitute a quorum for the transaction of business. No action shall be taken except upon a majority vote of the quorum. An individual shall not vote or decide upon any matter relating solely to himself. If, in any case

in which a Committee member is so disqualified to act, and the remaining members cannot agree, the City will appoint a temporary substitute member to exercise all the powers of the disqualified member concerning the matter in which he is disqualified.

9.3 Duties and Powers of the Plan Administrator. The Plan Administrator shall have such powers as may be necessary to discharge his duties hereunder, including, but not by way of limitation, the following powers and duties:

- (a) to file with the appropriate government agency (or agencies) any reports or other information that may be required;
- (b) to provide to each Participant and each beneficiary receiving benefits hereunder communications summarizing the Plan's terms and such benefits, as deemed necessary;
- (c) to cause benefit payments to be made hereunder if approved by the Committee;
- (d) to maintain all records necessary for verification of information required to be filed with the appropriate government agency (or agencies); and
- (e) to administer the Trust Fund on behalf of the City.

9.4 Rules and Decisions. The Committee may adopt such rules and actuarial tables as it deems necessary or desirable, subject to Section 2.1(b). All rules and decisions of the Committee shall be uniformly and consistently applied to all Participants in similar circumstances.

Any rule or decision, except as to benefits, which is not inconsistent with the provisions of the Plan, shall be conclusive and binding upon all persons affected by it, and there shall be no appeal from any ruling by the Committee which is within its authority.

When making a determination or calculation, the Committee shall be entitled to rely upon information furnished by the City, the legal counsel of the City, or the actuary for the Plan.

The Committee may, from time to time, appoint groups of Participants to advise the Committee on matters being considered. Such appointments should be made on a basis to ensure broad representation of Participant interests.

9.5 Unclaimed Benefits. During the time when a benefit hereunder is payable to any beneficiary or distributee, the Committee, upon request by the Trustee, or at its own instance, shall mail by registered or certified mail to such beneficiary or distributee, at his last known address, a written demand for his then address, or for satisfactory evidence of his continued life, or both. If such information is not furnished to the Committee within twelve (12) months from the mailing of such demand, then the Committee may, in its sole discretion, determine that such beneficiary or distributee is deceased and may declare such benefit, or any unpaid portion thereof, suspended as if the death of the distributee (with no surviving beneficiary) had occurred on the date of the last payment made thereon or the date such beneficiary or distributee first became entitled to receive benefit payments, whichever is later.

9.6 Application for Pension Benefits. Notwithstanding anything to the contrary in the Plan, except as provided in Section 5.3 with respect to application for a Disability Pension, a

Participant must apply to the Plan Administrator for a Pension that is otherwise payable under the Plan no later than one (1) year after the last date on which such Pension becomes payable from the Plan (e.g., within one (1) year of the first day of the month coinciding with or next following his Normal Retirement Date with respect to a Deferred Vested Pension payable under the Plan). In addition, a Participant or beneficiary seeking to contest a determination regarding his benefit rights under the Plan (a "contested determination") must follow any reasonable claims procedures that may be adopted by the Committee from time to time, as necessary, before seeking judicial review of, or bringing any action in court regarding, such contested determination. A Participant or beneficiary will be required to bring any action in court regarding a contested determination within two (2) years of the date that the Plan (or its representative) provides written notice to such individual of its final decision regarding the contested determination.

ARTICLE 10. TRUSTEE AND/OR INVESTMENT MANAGER(S)

10.1 Appointment of Trustee. A Trustee (or Trustees) shall be appointed by the City Council to administer the Trust Fund.

10.2 Appointment of Investment Manager(s). The Committee may appoint one or more Investment Manager(s) to manage (including the power to acquire or dispose of) such assets of the Trust Fund as may be delegated to it in writing by the Committee.

10.3 Responsibility of Trustee. All contributions under the Plan shall be paid to and held by the Trustee. The Trustee shall invest and reinvest only those assets of the Trust Fund not delegated in writing by the Committee to an Investment Manager(s) and shall not have exclusive management and control of any assets of the Trust Fund other than those not otherwise delegated to an Investment Manager(s) by the Committee. All property and funds of the Trust Fund, including income from investments and from all other sources, shall be retained by the Trustee for the exclusive benefit of Participants, as provided in the Plan, and shall be used to pay benefits to Participants or their beneficiaries, or to pay expenses of administration of the Plan and Trust Fund to the extent not paid by the City, except as provided in Section 12.5.

10.4 Responsibility of Investment Manager(s). The Investment Manager(s) shall invest and reinvest only those assets of the Trust Fund delegated to it in writing by the Committee and shall not have exclusive management and control of any assets of the Trust Fund other than those specifically delegated to it by the Committee.

ARTICLE 11. GUARANTEES AND LIABILITIES

11.1 Non-guarantee of Employment. Nothing contained in the Plan shall be construed as a contract of employment between the City and any Participant, or as a right of any Participant to be continued in the employment of the City, or as a limitation on the right of the City to discharge any of its employees, with or without cause.

11.2 Rights to Trust Assets. No Participant shall have any right to, or interest in, any assets of the Trust Fund upon termination of his employment or otherwise, except as provided from time to time under the Plan, and then only to the extent of the benefits payable to such Participant out of the assets of the Trust Fund. Neither the City, the Trustee, any Committee member, nor any employee, officer, or other official of the City, shall be liable to any Participant or beneficiary for payment of Plan benefits. Rather, any benefits due to be paid from the Plan will be paid exclusively from the Trust Fund, in accordance with the terms of the Plan and the Trust.

11.3 Non-alienation of Benefits. Benefits payable under the Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution, or levy of any kind, either voluntary or involuntary, prior to being received by the person entitled to the benefit under the terms of the Plan. Any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable hereunder shall be void. The Trust Fund shall not in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any person entitled to benefits hereunder. None of the unpaid Plan benefits or Trust assets shall be considered an asset of the Participant in the event of his insolvency or bankruptcy.

The provisions of Subchapters A and C of Chapter 804 of the Texas Government Code shall apply to the Plan. In accordance with Section 804.003(b) of the Texas Government Code, the Plan Administrator has the exclusive authority to determine whether a domestic relations order is a qualified domestic relations order; provided, however, that such a determination by the Plan Administrator may be appealed to the Committee in accordance with rules established by the Committee. Any such determination by the Plan Administrator (or by the Committee if appealed to the Committee) shall be final, binding, and conclusive on all parties. In accordance with Section 804.004 of the Government Code, the Committee may establish rules pursuant to which the Plan, in the sole discretion of the Plan Administrator, may pay to an alternate payee a single lump sum or a monthly annuity for the life of the alternate payee in lieu of any interest awarded to the alternate payee by a qualified domestic relations order. In accordance with Section 804.101 of the Government Code, any remaining interest of an alternate payee or spouse in the Plan shall be terminated by the death of the alternate payee or spouse.

ARTICLE 12. AMENDMENT AND TERMINATION

12.1 Right to Amend. The City reserves the right to make, from time to time, any amendment or amendments to the Plan which do not permit reversion of any part of the Trust Fund to the City, except as provided in Section 12.5 and which do not cause any part of the Trust Fund to be used for, or diverted to, any purpose other than the exclusive benefit of Participants included in the Plan. In all cases, amendments to the Plan must be approved by the City Council.

12.2 Right to Terminate and Withdraw. The City may at any time terminate the Plan and require the Trustee to liquidate the Trust Fund. If, for any reason, the City shall cease to exist, the Plan shall terminate. The termination of the Plan must be approved by the City Council.

12.3 Allocation and Liquidation of Trust Fund. Upon termination of the Plan, the proportionate interests of the Participants, and their beneficiaries, respectively, shall be determined by the actuary. The assets of the Trust Fund shall be liquidated and, after the provision is made for the expenses of administration, termination and liquidation, the assets shall be allocated to provide the accrued benefits of Participants and their beneficiaries in the following priority categories:

- (a) Pensions or other benefits in course of payment to retired Participants, and beneficiaries of deceased retired Participants and immediate Pensions for Participants who have reached their Normal Retirement Dates but have not retired.
- (b) Pensions deferred to Normal Retirement Date for Participants who have qualified for an Early Pension.
- (c) Pensions deferred to Normal Retirement Date for Participants who have qualified for a Deferred Vested Pension.

If the funds available in either of categories (a), (b) or (c) are determined to be insufficient to provide all such benefits, the funds and benefits shall be apportioned among the various persons, first in category (a), next in category (b), and next in category (c), in the same proportion as each person's accrued credits bear to the accrued credits of all persons in each such category on an Actuarially Equivalent basis as determined by the actuary.

If the cost of providing for the benefits, first in category (a), next in category (b), and next in category (c) is determined to be less than the total funds available, the balance will be similarly used to the extent available to provide Pensions deferred to Normal Retirement Date for all other Participants under the Plan at the time of termination of the Plan in proportion to the actuarial value of each such Participant's accrued credits, on an Actuarially Equivalent basis as determined by the actuary, as of the date of termination.

The benefit any such participant is entitled to receive under this Section 12.3 shall be based on the Participant's Compensation and Service accrued with the City prior to the date of termination of the Plan, and his right to such benefit shall be considered as vested, regardless of his age and years of Service on the date of termination of the Plan.

12.4 Manner of Distribution. Any distribution after termination of the Plan may be made through the purchase of annuities from a duly licensed insurance company, as determined by the Committee.

In making such distribution, any and all determinations, appraisals, apportionments and allotments shall be made by the Committee acting under the information supplied by the actuary and shall be final and conclusive and not subject to question by any person.

12.5 Amounts Returnable to the Employer. In no event shall the City receive any amounts from the Trust, except such amounts, if any, as set forth below:

- (a) Upon termination of the Plan and notwithstanding any other provisions of the Plan, the City shall receive such amounts, if any, as may remain after the satisfaction of all liabilities of the Plan to its Participants and beneficiaries, and arising out of any variations between actual requirements and expected actuarial requirements.
- (b) In the event of a contribution made by the City by a mistake of fact, such contribution shall be returned to the City within one (1) year after payment thereof.

12.6 Vesting Upon Termination. Upon termination of the Plan, each Participant shall have a 100% vested and non-forfeitable right to his Accrued Benefit hereunder.

ARTICLE 13. MISCELLANEOUS

13.1 Payment in Case of Incapacity. In the event that the Plan Administrator shall find that a Participant or other person entitled to receive payment of benefits under the Plan is unable to manage his own affairs because of illness or accident or is a minor, the Plan Administrator may direct that any benefit payment due him, unless a claim shall have been made therefor by a duly appointed legal representative, be paid to his spouse, a child, a parent or other blood relative, or to a person with whom he resides. Any such payment shall be a complete discharge of the liabilities of the Plan therefor.

13.2 Recovery of Overpayments. The Plan has a right of reimbursement and recovery against any person who receives or holds a payment from the Plan in excess of the amount to which such person is entitled under the terms of the Plan. The Plan Administrator or the Trustee may recover the amount overpaid in any manner determined by the Plan Administrator or Trustee to be in the best interests of the Plan, including by legal action against the recipient and/or holder of the overpayment or by offset against other or future benefits payable to or with respect to the participant or beneficiary under the Plan. The provisions of this Section 13.2 are intended to clarify existing rights of the Plan and apply to all past or future overpayments.

13.3 Savings Clause. In the event any provision of the Plan is held to be in conflict with or in violation of any applicable state or federal statute, rule, or decision, all other provisions of the Plan shall continue in full force and effect. In the event that the making of any payment or the provision of any other benefit required under the Plan is held to be in conflict with or in violation of any state or federal statute, rule, or decision or otherwise invalid or unenforceable, such conflict, violation, invalidity, or unenforceability shall not prevent any other payment or benefit from being made or provided under the Plan, and in the event that the making of any payment in full or the provision of any other benefit required under the Plan in full would be in conflict with or in violation of any state or federal statute, rule, or decision or otherwise invalid or unenforceable, then such conflict, violation, invalidity, or unenforceability shall not prevent such payment or benefit from being made or provided in part, to the extent that it would not be in conflict with or in violation of any state or federal statute, rule, or decision or otherwise invalid or unenforceable, and the maximum payment or benefit that would not be in conflict with or in violation of any state or federal statute, rule, or decision or otherwise invalid or unenforceable shall be made or provided under the Plan.

13.4 Governing Law. The Plan shall be construed according to the laws of the State of Texas (without giving effect to the conflicts of laws provisions of any state).

13.5 Notices. The Committee and Plan Administrator may give any notice required to be given to a Participant, beneficiary, or any other person entitled to benefits hereunder, by mailing such notice to such person at the address last furnished to the Plan Administrator or Committee or by providing such notice electronically, to the extent permitted by applicable law.

IN WITNESS WHEREOF, the City has caused this instrument to be executed in its name and on its behalf on this ____ day of _____, 20____ effective as stated herein.

CITY OF PLANO, TEXAS

By: _____

Title: _____

ATTEST:

Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:

Paige Mims, CITY ATTORNEY

APPENDIX A- MINIMUM PENSION FOR CERTAIN ELIGIBLE PARTICIPANTS

2.1A Definition of Primary Social Security Benefit: The amount of monthly benefits which a Participant would be entitled to receive as his "primary insurance amount" assuming: (1) that he has made or will make appropriate application for such benefit; (2) that no event occurs to delay or forfeit any part of such benefit; (3) that if he retires (except for Disability) before his Normal Retirement Date, he will continue to receive until his Normal Retirement Date, remuneration (which would be treated as taxable wages for purposes of the Social Security Act) at the same rate as at the time of Retirement; or (4) that if he retires under the Plan on account of Disability, his Primary Social Security benefit, as herein defined, shall be the benefit payable if his Social Security disability insurance benefit were to be approved at the same time as his Disability Retirement, if he were eligible for such benefit. As used in this subparagraph, the term "primary insurance amount" shall have the meaning ascribed to it in the federal Social Security Act as amended and in effect on the affected Participant's date of death, date of severance, or Normal Retirement Date, whichever is earlier, assuming (except for Disability) commencement at the Participant's Normal Retirement Date. The Committee may adopt and apply appropriate and nondiscriminatory rules and procedures to determine such amounts.

The Committee may, to determine such amounts, use wage estimates for the Participant's pre-separation period where actual wage history is not furnished by Participant. Any such wage estimates shall be made by applying a salary scale, projected backwards, to the Participant's Compensation at his date of separation. Such salary scale shall be six percent (6%). Notice shall be duly given to each Participant explaining the use of such estimates and informing the Participant that he can obtain his actual wage history from the Social Security Administration. If any Participant shall furnish actual wage history in writing to the Committee no later than a reasonable time after his separation or, if later, after he is informed of his plan benefits, the Committee shall determine his Primary Social Security Benefit on the basis of such actual wage history.

6.1A Minimum Normal and Late Pension: If a Participant had attained age sixty (60) on January 1, 1992, was an active participant hereunder on December 31, 1991, and has not at any time been a Highly Compensated Employee, then in no event will his Normal Pension be less than the monthly amount provided under the prior benefit formula (as set forth under the terms of the Plan as in force and effect as of December 31, 1991), which is set out below and which equals (a) minus (b), subject to (c):

- (a) (1) Three Percent (3%) of his Average Monthly Compensation, multiplied by his Credited Service, not to exceed twenty-five (25) years, minus
- (2) Two Percent (2%) of his Primary Social Security Benefit multiplied by his Credited Service, not to exceed twenty-five (25) years.
- (b) The amount of benefit to which he is entitled under TMRS. The amount of such benefit shall be stated in terms of an Actuarially Equivalent five (5) year certain and life Pension, and shall be computed based upon his employee and employer account balances as of his date of Retirement, regardless of vesting, including any updated service credits.
- (c) In no event, however, shall the Actuarially Equivalent lump sum value of the above Normal Pension produced by (a) minus (b) above be less than the

accumulated value of a benefit equal to Six and Seven-Tenths Percent (6.7%) of the Participant's Compensation during each Plan Year commencing on and after January 1, 1983.

The minimum Late Pension of a Participant who meets the requirements above for a minimum Normal Pension and who retires after his Normal Retirement Date shall be computed the same as the minimum Normal Pension in accordance with the foregoing, considering his Average Monthly Compensation and Credited Service to his actual date of Retirement, but using his Primary Social Security Benefit as of his Normal Retirement Date.

6.2A Minimum Early Pension: If a Participant had attained age sixty (60) on January 1, 1992, was an active participant hereunder on December 31, 1991, and has not at any time been a Highly Compensated Employee, then in no event will his Early Pension be less than the monthly amount provided under the prior benefit formula (as set forth under the terms of the Plan as in force and effect as of December 31, 1991), which is set out below and which equals (a) minus (b), subject to (c):

- (a) (1) Three Percent (3%) of his Average Monthly Compensation, multiplied by his Credited Service, not to exceed twenty-five (25) years, minus
- (2) Two Percent (2%) of his Primary Social Security Benefit, multiplied by the number, not to exceed twenty-five (25), of the years of Credited Service he would have accumulated if his employment with the City had continued uninterrupted to his Normal Retirement Date, with the result being multiplied by the ratio that the number of his years of Credited Service at Retirement bears to the number of years of Credited Service he would have accumulated if his employment with the City had continued uninterrupted to his Normal Retirement Date.
- (b) The amount of benefit to which he is entitled under TMRS. The amount of such benefit shall be stated in terms of an Actuarially Equivalent five (5) year certain and life Pension, and shall be computed based upon his employee and employer account balances as of his date of Retirement, regardless of vesting, including any updated service credits, increased with interest at a rate determined by the Committee, to Normal Retirement Date.
- (c) In no event, however, shall the Actuarially Equivalent lump sum value of the above Early Pension produced by (a) minus (b) above be less than the accumulated value of a benefit equal to Six and Seven-Tenths Percent (6.7%) of the Participant's Compensation during each Plan Year commencing on and after January 1, 1983.

If payment of an Early Pension commences prior to the Participant's Normal Retirement Date, the amount determined above shall be reduced by one-fifteenth (1/15th) for each of the first five (5) years and one-thirtieth (1/30th) for each of the next five (5) years (and on an Actuarially Equivalent basis thereafter) by which the starting date of Pension payments precedes the Participant's Normal Retirement Date.