

RETIREMENT PLAN
for
POLICE OFFICERS & FIREFIGHTERS
of the
CITY OF NORTH MIAMI BEACH

(As Amended Through Ord. 2012-4)

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RETIREMENT PLAN for POLICE OFFICERS AND FIREFIGHTERS
of the
CITY OF NORTH MIAMI BEACH

ARTICLE I
CREATION; AMENDMENT; TERMINATION

S. 1.01	AUTHORIZATION
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The City of North Miami Beach Retirement Plan for Police Officers and Firefighters, hereinafter referred to as "RETIREMENT PLAN", is hereby established under the provisions of Ordinance 65-30 as revised and restated by Ordinance 89-18.

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

S. 1.03	NAME
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The Plan hereby created by the City shall be known as the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach.

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becomes effective as revised and restated January 1, 1990, and is an amendment, restatement and continuation of the superseded plan, adopted effective as of July 1, 1957.

S. 1.05	AMENDMENT OF PLAN
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(a) **Resolution of City** - The Plan may be amended by the City from time to time in any respect whatever, by resolution of City Council of North Miami Beach, specifying such amendment, subject only to the following limitations:

(1) **Approval of Participants** - Approval of 60% of the active members shall be required before the Plan may be amended by the City Council. Changes to benefits or contributions will be negotiated as required by Chapter 447, Florida Statutes.

(A) Such consent shall not be required if such amendment pertains to the actuarial soundness of the Plan, as determined by the actuary employed by the City Council in accordance with Section 5.06, or if such amendment shall be necessary to comply with any laws or regulations of the United States or of any state to qualify this as a tax-exempt plan and trust.

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

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

(c) In the event of termination or partial termination of the plan, each participant's accrued pension benefit shall become nonforfeitable (100 percent vested). The board shall determine the date of distribution and the asset value required to fund all nonforfeitable benefits after taking into account the expenses of such distribution. The board shall inform the then current Plan sponsor if additional assets are required in which event the then current Plan sponsor shall continue to financially support the pension plan until all nonforfeitable benefits have been funded. At such time, the funds shall be appropriated and distributed in accordance with the provisions of Section 175 and 185, Florida Statutes.

ARTICLE II

DEFINITIONS

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

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

Basic Compensation for Police Officers means, as per the State Statute, the total cash remuneration paid to a police officer for services rendered and shall include any elective deferral (as defined in Code Section 402(g)(3)), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in Section 6.08(C) hereof, compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Code.

Basic Compensation for Firefighters means the regular fixed monthly compensation actually paid to a participant by Metropolitan Dade County and shall include any elective deferral (as defined in Code Section 402(g)(3)), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in Section 6.08(C) hereof, compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Code.

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

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

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

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

Disability means, in the opinion of the Retirement Committee, the employee is wholly

prevented from rendering useful and efficient service as a police officer and/or firefighter.

DROP Participant means a member of the Deferred Retirement Option Program. Upon the resignation of the police officer, after entering the DROP, or upon conclusion of eight (8) years in the DROP program, a person is no longer a DROP participant.

Employee means sworn police officers, and former firefighters employed by the City of North Miami Beach as defined herein.

Employment means full-time employment by the City as an employee as defined herein.

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

Final Monthly Compensation means the participant's average monthly rate of compensation from the City or County for the sixty (60) successive months out of the 120 months next preceding his or her termination date for police officers, and for the eighteen (18) successive months out of the 120 months next preceding his or her termination date for firefighters, which gives the highest average monthly rate of compensation for the participant.

The participant's average monthly rate of compensation will be determined by dividing the total basic compensation received by him or her during such sixty (60) month period for police officers and such eighteen (18) month period for firefighters by the number of months for which he or she received compensation from the City or County in such sixty (60) month period or eighteen (18) month period, respectively.

In computing "final monthly compensation" for a participant who has returned to the active service of the City or County following a leave of absence granted by the City or County during which he or she did not receive regular compensation from the City or County following a period of disability retirement or termination of service with a vested benefit, as described in Sections 6.03(i) and 6.04(a)(5) hereof respectively, the period during which he or she was on leave of absence, or during which he or she was on disability retirement, or during which his or her service was terminated, shall be ignored or excluded, in determining the 120 successive months preceding a subsequent date of termination of service or his or her date of early or normal retirement.

Firefighter means any firefighter who is retired from the plan who was formerly employed by the City of North Miami Beach and Metropolitan Dade County.

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

- (1) Employees who at any time during the "determination year" or "look-back year" were five percent owners of the City.
- (2) Employees who received "415 Compensation" during the "look-back year" from the City in excess of \$75,000.00.
- (3) Employees who received "415 Compensation" during the "look-back year" from the City in excess of \$50,000.00 and were in the "top paid group" of employees

for the plan year.

- (4) Employees who during the "look-back year" were officers of the City (as that term is defined within the meaning of the regulations under IRC Section 416) and received "415 Compensation" during the "look-back year" from the City greater than 50 percent of the limit in effect under IRC Section 415(b)(1)(A) for any such plan year. The number of officers shall be limited to the lesser of (i) 50 employees; or (ii) the greater of 3 employees or 10 percent of all employees. If the City does not have at least one officer whose annual "415 Compensation" is in excess of 50 percent of the IRC Section 415(b)(1)(A) limit, then the highest paid officer of the City will be treated as a highly compensated employee.
- (5) Employees who are in the group consisting of the 100 employees paid the greatest "415 Compensation" during the "determination year" and are also described in (2), (3) or (4) above, when these paragraphs are modified to substitute "determination year" for "look-back year".

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

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

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

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

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

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

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

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

Normal Retirement Date for firefighters means the first day of any month coincident with or next following the earlier of the date a member completes 22 years of service or attains the age of 52.

Normal Retirement Date for police officers means the first day of any month coincident with or next following the earlier of the completion of 20 years of credited service or attainment of age 52.

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

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

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

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

Physical Examiners means the physicians provided for in Section 6.03.

Plan means the Retirement Plan established herein to be known and cited as the Retirement Plan for Police Officers and Firefighters of the City of North Miami Beach.

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

Police Officer means any person who is elected, appointed or employed full time by the City of North Miami Beach. Full time shall include a police officer working forty hours a week or employed to work forty hours a week or with compensated leave time equaling forty hours a week. He or she shall be certified or required to be certified as a law enforcement officer in compliance with F.S. 943.14, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers, but does not include part-time law enforcement officers or auxiliary law enforcement officers as the same are defined in F.S. 943.10(5) and (7), respectively.

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

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

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

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

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

Trustee means the trustees appointed by the Retirement Committee to administer the trust fund created for the purposes of the Plan or such other trustee the Committee may designate from time to time.

ARTICLE III

MEMBERSHIP

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

S. 3.02	SERVICE
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- (a) **Definition** - The term **service** means that period of employment with the City and its designated successors from the employee's or participant's date of employment to the earlier of the date of termination of his or her credited service and his or her retirement as herein described.
- (b) **Termination** - Any absence from the active service of the City, including (but not limited to) absences by reason of discharge or resignation, which is not deemed a leave of absence as defined herein, will be considered a termination of service (except as provided in Section 6.04(a)(5)(C)).

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

and permanent disability or his or her death.

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

S. 3.04	CREDITED SERVICE
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- (a) **Defined** - The credited service of each employee or participant will be the total period of his or her service as defined in Section 3.02 (Service) computed in completed calendar months, from the date of employment until the first day of the month coincident with or next following his or her date of actual retirement or termination of employment. (See Section 6.04(a)(5)(C)). For police officer participants who served in more than one of the city's employment classifications prior to January 1, 1990, (when this separate police officers' and firefighters' retirement plan was established) and earned or were eligible to earn service under the citywide Retirement Plan for Employees of the City of North Miami Beach then in effect, credited service for purposes of this Retirement Plan for Police Officers & Firefighters shall include all continuous service in all employment classifications in which the employee served while covered by the former citywide Retirement Plan for Employees. Such police officer participants shall not receive or be entitled to any benefits from the former citywide Retirement Plan.
- (b) **Exclusion From Credited Service** - The period of any absence of 31 days or more will be excluded from an employee's or participant's credited service unless he or she receives regular compensation from the City during such absence and except or otherwise provided below. Any absence of 30 days or less will be included in the employee's credited service.
- (c) **Military Service.**
- (1) **First Five Years of Absence** - The first 5 years of any absence due to the employee's or participant's engagement in military service will be included in his or her credited service, if:
- (a) The police officer is in the active employ of the municipality prior to such service and leaves a position, other than a temporary position, for the purpose of voluntary or involuntary service in the Armed Forces of the United States.
 - (b) The police officer is entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act.
 - (c) The police officer returns to his or her employment as a police officer of the municipality within 1 year from the date of his or her release from such active service.

- (2) **Absence Prior to Effective Date of Plan** - An employee or a participant who was absent prior to the effective date of the plan because of his or her engagement in military service will be credited for the full period of such absence, if such absence was covered by a leave of absence granted by the City or was by reason of compulsory military service, provided such period would otherwise have been included as credited service if the employee or participant had been in the active service of the City.
- (3) No employee contributions shall be required with regard to credited service for military service provided in this section.
- (d) **Employees Excluded From Participation Under Prior Plan** - For any employee who was excluded from participation as a result of being at least age 60 on his or her date of employment and who became eligible to participate when that provision was eliminated, credited service will be the period of service from the date participant contributions begin until the date of actual retirement or termination of employment.
- (e) **Purchase of Credited Service for Prior Military or Law Enforcement Services** - For a Participant who has completed ten years of credited service, the years or fractional parts of years that such a participant served full-time active duty in the military service of the Armed Forces of the United States, voluntarily or involuntarily, or performed law enforcement service prior to the Participant's first or initial employment with the City, shall be added to the Participant's years of credited service under the following terms and conditions:
- (1) The Participant contributes to the Retirement Plan the full actuarial cost of all service credits purchased hereunder. As part of the application for the purchase of such credited service, the Participant shall elect either to contribute to the Retirement Plan the cost of such purchased credited service or to have all or a portion of the contributions for the cost of said purchased credited service picked up by the City. If the Participant elects to have contributions picked up by the City, the Participant must execute an irrevocable, binding payroll deduction authorization form with respect to these contributions, the employee shall not be entitled any option of choosing to receive the contributed amounts directly instead of having them paid by the City to the Retirement Plan and the employee while employed by the City shall not be able to make payment directly to the Retirement Plan for such purchased credited service. With respect to any Participant's contributions which are picked up by the City, the effective date of the pick-up by the City shall be the later of the adoption of this ordinance or the execution of the payroll deduction authorization form. This pick-up does not apply to any contributions made before the effective date or to any contribution that relates to compensation earned for services before the effective date. Participant contributions made pursuant to a binding irrevocable payroll deduction authorization to have such contributions picked up for the purpose of purchasing credited service hereunder shall be designated and considered as employee contributions, even though they are being paid by the City in lieu of the contributions paid directly by the Participant. Any payroll deduction authorizations in effect for the purchase of such credited service as of the

effective date of this ordinance are void. The contributions made pursuant to this section are designated as being picked up by the City and paid from the same source as the payment of salary and wages to these Participants. If the cost of the purchased service credits is not paid in full prior to the termination of the Participant's employment, then the balance due to the Retirement Plan for the purchased credited service shall be picked up by the City from any payment due to the Participant by the City for unused accrued leave (termination pay) and the irrevocable payroll deduction authorization form described above, shall so provide, except pick up from termination pay is allowed only if said form was signed three (3) months or more before the employee's termination date. Should, after termination of the Participant's employment and the City pick-up of any remaining contribution due from the Participant's payment for accrued unused leave (*which only includes payments available upon termination which would be reportable on Form W-2 as taxable wages but for the pickup*) a balance still remain due for the purchase of credited service, then, at the Participant's option, the Retirement Plan shall reduce the amount of service purchased to conform with the amount of contributions therefore picked up by the City and paid to the Retirement Plan or the Participant may elect to make a lump-sum contribution for the balance due subject to the limitations of Section 415 of the Internal Revenue Code. If the Participant elects to make a lump-sum contribution for the balance due, such payment shall be made by the Participant prior to the date that the Participant's first monthly pension benefit payment is due. The service purchase shall not be recognized or credited by the Pension Plan until the Participant has completed ten (10) years of credited service. If the Participant terminates employment before completing ten (10) years of service, all contributions made by the Participant for prior military or law enforcement service shall be refunded to the Participant.

- (2) For purchase of military service, the Participant did not receive a dishonorable discharge from such service from the Armed Forces.
- (3) The Participant did not receive credited service for the time spent in the Armed Forces or other law enforcement service from any other governmental or military retirement or pension system.
- (4) The maximum credit which may be purchased by a Participant for any prior military service in the Armed Forces of the United States or other law enforcement service under this section shall be four years.
- (5) If, upon adoption of this Ordinance, a Participant has previously agreed to purchase credited service but has not yet made full payment for that credited service, then the Participant may elect City pick-up of the contribution remaining due to the Retirement Plan pursuant to the procedures and provisions set forth in section 1, above. The irrevocable payroll deduction authorization form electing such City pick-up must be signed within three months after the adoption of this ordinance.
- (6) A Participant who purchases service credits shall make the following series of elections with regard to these actions:

- (i) The Participant may elect a lump sum payment, installment payments, or a partial lump sum payment ("down payment") followed by installments;
 - (ii) If installment payments are elected by the Participant, the Participant shall execute a binding irrevocable payroll deduction authorization to have these installment contributions picked up by the City.
- (f) **Inter-Plan Transfers.** On or after April 1, 2003, in addition to direct payment methods available as determined by the Retirement Committee, and all other allowable payment provisions established herein, the plan will accept permissible member requested transfer of funds from other retirement or pension plans, member rollover cash contributions and/or direct cash rollovers of distributions to fund the purchase of Credited Service under this section, or to fund any other allowable contributions provided by plan provisions, as follows:
 - (A) **Transfers and Direct Rollovers or Member Rollover Contributions from Other Plans** – The System will accept either a direct rollover of an eligible rollover distribution or a Member contribution of an eligible rollover distribution from a qualified plan described in Section 401(a) or 403(a) of the Code, from an annuity contract described in Section 403(b) of the Code, or from 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. The System will also accept legally permissible Member requested transfers of funds from other retirement or pension plans.
 - (B) **Member Rollover Contributions from IRAs** – The System will accept a Member rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income.
 - (C) All purchases must be made and fully funded prior to retirement.
- (g) **Purchase of Permissive Service Credit**
 - (1) In lieu of the purchase of credited service for prior military or law enforcement services, as provided above, a participant may purchase permissive service credit comprised of eligibility for earlier retirement combined with higher benefit level for the participant's credited service which is the actuarial equivalent of up to 4 years of additional credited service under the following terms and conditions:
 - a. The Participant contributes to the Retirement Plan the full actuarial cost of the higher benefit level combined with eligibility for earlier retirement (the benefit) purchased hereunder. As part of the application for the purchase of this type of permissive service credit, the Participant shall elect either to contribute to the Retirement Plan the cost of such purchased permissive service credit or to have all or a portion of the contributions for the cost of said purchased permissive service credit picked up by the City. If the Participant elects to have contributions picked up by the City, the Participant must execute an irrevocable,

binding payroll deduction authorization form with respect to these participant contributions, the employee shall not be entitled to any option of choosing to receive the contributed amounts directly instead of having them paid by the City to the Retirement Plan and the employee while employed by the City shall not be able to make payment directly to the Retirement Plan for such purchased benefit. With respect to any Participant's contributions, which are picked up by the City, the effective date of the pick-up by the City shall be the later of the adoption of this ordinance or the execution of the payroll deduction authorization form. Participant contributions made pursuant to such City pick-up shall be designated and considered as employee contributions, even though they are being paid by the city in lieu of the contributions paid directly by the Participant. The contributions made pursuant to this section are designated as being picked up by the City and paid from the same source as the payment of salary and wages to these Participants. Should, after termination of the Participant's employment a balance still remain due for the purchase of the benefit provided hereunder, at the Participant's option, the Retirement Plan shall reduce the amount of such permissive service credit to conform with the amount of contributions therefore picked up by the City and paid to Retirement Plan or the Participant may elect to make a lump-sum contribution for the balance due subject to the limitations of Section 415 of the Internal Revenue Code. If the Participant elects to make a lump-sum contribution for the balance due, such payment shall be made by the Participant prior to the date that the Participant's first monthly pension benefit payment is due. The permissive service credit purchase shall not be recognized or credited by the Pension Plan until the Participant has entered the DROP, retired, or terminated from employment with at least ten (10) years of credited service. If the Participant terminates employment before completing ten (10) years of service, all contributions made by the Participant for the permissive service credit provided hereunder shall be refunded to the Participant.

- b. For each month's equivalent of higher benefit level purchased hereunder, the participant's multiplier for the final year of credited service will be increased by (0.25%) one-quarter of one percent.
- c. Years and months of earlier retirement eligibility purchased under this section will be treated as credited service for the purpose of determining eligibility for normal retirement, under section 6.01(b), early retirement, under section 6.02(a), or entry into DROP, under section 6.01A(e).
- d. The maximum combined credit or equivalent credit which may be purchased by a Participant for any prior military service in the Armed Forces of the United States, other law enforcement service or high multiplier benefit under this section shall be four years.
- e. A participant who purchases the higher multiplier benefit provided hereunder shall make the following series of elections with regard to these actions:
 - (i) The Participant may elect a lump sum payment, installment payments, or a partial lump sum payment ("down payment") followed by installments;

- (ii) If installment payments are elected by the Participant, the Participant shall execute a binding irrevocable payroll deduction authorization to have these installment contributions picked up by the City.

f. To the extent permitted by law, including relevant Internal Revenue Code provisions, as amended from time to time, in lieu or in addition to irrevocable employer pickup of employee contributions, the plan will accept inter-plan transfers ("rollovers") as provided in §3.04(f) to fund the purchase of the permissive service credit comprised of a higher benefit level and eligibility for earlier retirement provided herein.

(h) **Purchase of Credited Service for Family Medical Leave.**

For a participant who was absent due to family medical leave (FMLA) for thirty-one (31) days or more, the months or fractional parts of months that such Participant was absent in excess of thirty (30) days (the first thirty (30) days being included in the Participant's credited service pursuant to Section 3.04(b) above) shall be added to the Participant's months of credited service provided that the Participant contributes to the Retirement Plan the full actuarial cost of all service credits purchased hereunder. The Participant, as part of the application for the purchase of family medical leave credited service, shall elect to purchase the family medical leave service credit either:

- (1) In the manner set forth in subsection (e)(1), above (i.e. lump sum contribution or employer pick-up); or
- (2) Inter-plan transfer as set forth in subsection (f), above.

ARTICLE IV

FINANCING

S. 4.01	PARTICIPANT'S CONTRIBUTION ACCOUNT
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- (a) **Contributions Mandatory** - The "Participant's Contribution Account" will consist of tax-deferred participant contributions. Contributions required of employees (no less than 1% of salary) will be paid by the City and shall be treated for IRS purposes as employer contributions. However, for all purposes of determining benefits under the Plan, they will be considered participant contributions. This section is intended to comply with Section 414(h) of the Internal Revenue Code.
- (b) **Amount of Contribution** - Each police officer will contribute toward the cost of the Plan an amount equal to 8% of his or her basic annual compensation as defined in Article II, effective as of his or her date of service. Effective June 17, 2003, the rate of each police officer's contribution will increase from 8% to 10.5% of his or her basic annual compensation. If the additional tax revenues provided under Section 185, Florida Statutes are insufficient to fund the benefit provided under Subsection (c) of Section 6.04 hereof, the employees' contribution shall increase to 11.1% effective 10/01/06, except as provided otherwise in an applicable collective bargaining agreement.
- (c) **Length of Contribution** - Each participant shall continue to contribute to the Plan until the date of termination of the participant's service with the City.

S. 4.02	CONTRIBUTIONS
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- (a)
 - (1) **City Contributions.** The City shall make contributions, together with the contributions of police officers, as are required by State Statute.
 - (2) Supplemental contributions
 - a. In addition to the contributions required by state statute, the city shall make an annual supplemental contribution in the same manner and at the same time as the contribution required by state statute.
 - b. The supplemental contribution shall be calculated by the Plan's actuary as part of and shall be included in each of the Plan's annual actuarial valuations commencing with the valuation of October 1, 2006 (that will determine the City's contributions for the fiscal year starting October 1, 2007).
 - c. The supplemental contribution for each year shall be calculated using the same actuarial assumptions, cost methods, actuarial value of assets and actuarial accrued liability as are used in

that year's annual valuation to determine the contribution required by state statute.

- d. The supplemental contribution for each of the first seven years (i.e., the fiscal years beginning each October 1st in 2007, 2008, 2009, 2010, 2011, 2012, and 2013) shall be the greater of two hundred thousand dollars (\$200,000) per year or the amount determined by the actuary to be necessary so that the funded ratio of the Plan shall be seventy percent (70%) as of the October 1, 2013 actuarial valuation.
 - i. "Funded ratio" as used herein shall be defined as the actuarial value of assets divided by the actuarial accrued liability.
 - ii. The calculation of the funded ratio shall be in accordance with Government Accounting Standards Board (GASB) Statement number 25.
 - iii. If the funded ratio exceeds seventy percent before October 1, 2014, the minimum supplemental contribution of \$200,000 must still be made by the City, but shall be placed in a restricted reserve account, which shall not be included in calculating the funded ratio of the Plan, and which shall be drawn upon to meet the City's Supplemental Contribution requirement if said requirement exceeds \$200,000 in any year prior to 10/1/2014, and/or if the funded ratio of the Plan falls below 70% after 10/1/2014, as provided below.
- a. Starting October 1, 2014 and each fiscal year thereafter, a supplemental contribution.
 - i. Shall be paid by the City if the actuarial valuation that determines that fiscal year's contribution shows a funded ratio of less than seventy percent (70%); and
 - ii. Shall be in the amount determined by the actuary to be necessary so that the funded ratio of the Plan shall be seventy percent (70%) as of the actuarial valuation three years hence.

- (b) **State Contributions.** The monies received from the State of Florida under Chapters 175 and 185 of the Florida Statutes shall be transferred to the trust fund as established in the trust agreement of which this plan is a part, for the exclusive benefit of the firefighters and police officers and their beneficiaries.

- (1) The City must satisfy the relevant requirements of Chapters 175 and 185 on a current basis during that calendar year.

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

S. 4.04	ADMINISTRATION OF FUNDS
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- (a) **Employee Contributions** shall be deposited in the Retirement Plan on at least a monthly basis.
- (b) **City Contributions** shall be deposited on at least a quarterly basis.
- (c) **State Contributions** - Chapter 175 and 185 tax revenue and any other funds received by the City pursuant to those chapters shall be deposited in the retirement fund for police officers and firefighters within five (5) days of receipt.

(d) The Retirement Committee shall establish a written investment policy, with the advice and counsel of such advisors as the Retirement Committee deems necessary, and said investment policy shall set forth the types of securities and other types of investments into which shall be placed the assets of the fund. The policy shall further set forth appropriate limitations on those investments, including, but not limited to, anticipated rate of return, quality of investment, class of investment and acceptable risk. The Retirement Committee shall identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in Florida Statutes, Section 215.473, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in such company beginning January 1, 2010 and shall thereafter be prohibited from purchasing or holding such securities. The divestiture of any such security must be completed by September 30, 2010. In accordance with Ch. 2009-97, Laws of Florida, no person may bring any civil, criminal, or administrative action against the board or any employee, officer, director, or advisor of such board based upon the divestiture of any security pursuant to this paragraph. The board shall have the authority to invest and reinvest the assets of the plan in such securities or property, real or personal, as the board deems appropriate.

ARTICLE V

ADMINISTRATION OF PLAN

S. 5.01	ADMINISTRATION BY RETIREMENT COMMITTEE
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- (a) **Membership** - There is hereby created a Retirement Committee for the Plan which shall be solely responsible for administering the Plan. Effective January 1, 1990 and thereafter, the Committee shall consist of five members: (a) two of whom, unless otherwise prohibited by law, shall be legal residents of the City who shall be elected officials or original appointment designees. The designees shall have no direct or indirect vested interest in the Plan; (b) two of whom shall be police officers, including participants in the DROP, and/or firefighters as defined in Article II who shall be elected by a majority of the police officers, including DROP participants and firefighters who are members of the Plan. Provided that there are no firefighters available or capable of serving as a member, the remaining board members may elect an individual to serve in the firefighter member position. Upon receipt of such persons' names, the City Council shall, as a ministerial duty, appoint such persons to the committee; and (c) the fifth member shall be chosen by a majority of the previous four members, who shall give preference to retirees, and such person's name shall be submitted to the City Council. Upon receipt of the fifth person's name, the City Council shall, as a ministerial duty, appoint such person to the committee as its fifth member except, before appointing a non-retiree to the committee as the fifth member, the City Council shall first inquire of the Retirement Committee as to why a retiree was not chosen as the fifth member. The fifth member shall have the same rights as each of the other four members appointed or elected as herein provided and may succeed himself or herself in office. The priority of the four members shall be to choose the fifth member to the Committee. Thereafter, the chosen fifth member will serve concurrent terms with the other four members. Each resident member shall serve as trustee for a period of two (2) years, unless sooner replaced by the City Council at whose pleasure he or she shall serve, and may succeed himself or herself as a committee member. Each police officer and/or firefighter member shall serve as committee member for a period of two (2) years, unless he or she sooner leaves the employment of the City as a police officer and/or firefighter, whereupon the City Council shall choose his or her successor in the same manner as an original appointment. Each police officer and/or firefighter may succeed himself or herself in office. The committee shall meet at least quarterly each year. The committee shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature and description.

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

S. 5.03**ACTION BY RETIREMENT COMMITTEE**

- (a) Each member of the Retirement Committee shall be entitled to one vote on the Committee. Three (3) concurring votes shall be necessary for a decision by the members of any meeting of the Committee and three (3) members shall constitute a quorum of the Committee.
- (b) Minutes of all meetings of the Retirement Committee and a record of any action taken by the Retirement Committee shall be kept in written form, and such record shall be kept by the secretary appointed by the Retirement Committee.
- (c) The Retirement Committee shall give to the Trustee any order, direction, consent or advice required under the terms of the trust agreement, and the Trustee shall be entitled to rely on any instrument delivered to it and signed as set forth above.
- (d) A member of the Retirement Committee may not vote or decide upon any matter relating solely to himself or herself or vote in any case in which his or her individual right or claim to any benefit under the Plan is particularly involved.
- (e) The Committee shall not conduct business which would result in a recommendation of an amendment to the plan without the presence of at least a quorum of the Committee.
- (f) Each member of the Committee shall, within ten (10) days after appointment, take the constitutional oath of office, to be administered by and filed with the Clerk of the Council.
- (g) The Committee may employ such legal, technical, professional or other advisors and medical and other services, per state law, as shall be required. The compensation for all such services shall be fixed by the Committee, subject to the limitations provided herein.
- (h) The Committee shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the retirement system and for checking the experience of the retirement system.
- (i) The Committee shall arrange for the necessary physicians to pass upon all medical examinations required under the provisions of this division. It shall be their duty to investigate all essential statements and certificates by or on behalf of members in connection with applications for disability retirement and shall report in writing to the Committee their conclusions and recommendations upon all matters referred to them.

S. 5.04**RULES AND REGULATIONS OF RETIREMENT COMMITTEE**

The Retirement Committee shall have the authority to make such rules and regulations and to take such action as may be necessary to carry out the provisions of the Plan. The Retirement Committee is subject to the provisions of the Plan, and may decide any questions that arise in the administration, interpretation and application of the Plan. Its decisions shall be conclusive

and binding on all parties. The Retirement Committee may delegate any part of its authority and duties as it deems expedient.

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

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

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

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

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

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

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

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

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

S. 5.11	GENERAL PROVISIONS
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- (a) **Relief from Responsibility or Liability** - Any provision in a legal agreement, contract or instrument which purports to relieve the fiduciary of the Plan from responsibility or liability is void, as being against public policy.
- (b) **Civil Action by Beneficiary or Member** - A civil action may be brought by a member

or beneficiary of the Plan to recover benefits due to him or her under the terms of the Plan, to enforce his or her rights, or to clarify his or her rights to future benefits under the terms of the Plan.

- (c) **Written Notice of Denial of Claims** - There shall be timely adequate written notice given to any member or beneficiary whose claim for benefits under the terms of the Plan has been denied. This notice shall set forth the specific reasons for such denial. There will be a full and fair review in those cases when a member or beneficiary has had his or her claim to benefits denied.

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

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

ARTICLE VI

RETIREMENT BENEFITS

S. 6.01	NORMAL RETIREMENT
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- (a) **Normal Retirement Defined** - Normal retirement under the Plan is retirement from the service of the City on or after the normal retirement date.

- (b) **Normal Retirement Date**

Firefighters - The normal retirement date for each firefighter will be the first day of the month coincident with or next following the earlier of the date a member completes 22 years of service or attains the age of 52. However, a firefighter may continue in the service of the City or the County beyond his or her normal retirement date and retire as of the first day of any month beyond his or her normal retirement date which is coincident with or next following his or her actual termination of service.

Police Officers - The normal retirement date for each police officer will be the first day of the month coincident with or next following the earlier of the completion of 20 years of credited service or attainment of age 52. However, a police officer may continue in the service of the City beyond his or her normal retirement date and retire as of the first day of any month beyond his or her normal retirement date which is coincident with or next following his or her actual termination of service.

- (c) **Cost of Living Adjustments**

Commencing October 1, 1998 and on the first day of each October thereafter, the monthly income payable hereunder to each police participant who retired under Section 6.01 hereof on or after December 30, 1988, and who as of that October 1st has been retired for three or more years, or who retired under the Early Retirement Incentive set forth in Section 6.01(f), or to any such participant's surviving beneficiary, shall be increased by two and one-quarter percent, increasing to 2.5% commencing October 1, 2002.

Firefighter Supplemental Retirement Benefit. In lieu of the cost of living adjustments previously provided, commencing January 1, 2009, there is hereby provided for all firefighter retirees and pensioners alive as of each October 1st prior to the payment of this benefit an annual supplemental retirement.

(i) Entitlement to such supplemental retirement benefit is contingent upon and shall be determined annually based upon the receipt by the Plan of any premium tax income pursuant to sections 175.121(2) and 175.351(1), Florida Statutes. The total amount of premium tax income that is available to be distributed as supplemental retirement benefits hereunder shall be determined by the Board, upon advice of the Board's actuary, after the maximum amount that is allowed to be placed in the pension plan to become an integral part of the firefighters' pension plan so as to be

applied to the City's contribution requirement has been determined and placed in the firefighters' pension plan.

(ii) Payment of such supplemental retirement benefit shall be made annually in January of each year, based upon the amount of undistributed premium tax income received during previous calendar year, or if the payment of a year's premium tax income is delayed until after December 31st of that year, then payment of the supplemental retirement benefit shall be paid within 90 days after receipt.

(iii) Payment to each firefighter retiree or pensioner is contingent upon and can only be made after receipt of premium tax income from the state in excess of the maximum amount that is allowed to be placed in the pension plan to offset any required City contribution to become an integral part of the firefighters' pension plan and only after it has been confirmed in writing that the recipient was alive on the prior October 1st.

(iv) The amount of each such supplemental retirement benefit shall be equal to the sum of: (1) Half of the premium tax income available to be distributed as supplemental retirement benefits hereunder multiplied by the total Credited Service at retirement for the retired or deceased firefighter upon whose service the benefit is based, divided by the total Credited Service at retirement for all retired firefighters and all deceased firefighters whose beneficiaries or survivor annuitants received supplemental retirement benefits as of the prior October 1st, plus (2) Half of the premium tax income available to be distributed as supplemental retirement benefits multiplied by the monthly benefit paid to the retiree or pensioner on the prior October 1st, divided by the total monthly benefits paid to all retirees and pensioners on the prior October 1st.

(d) **Amount of Retirement Income**

Firefighters - To a firefighter who retires on or after normal retirement date:

Effective October 1, 1997, the monthly amount of retirement income payable to each participating firefighter who retires on or after his or her normal retirement date shall be an amount equal to 3.3% (.0330) of his or her final monthly compensation multiplied by his or her years of credited service.

Retroactively effective June 1, 1989, all former firefighters or beneficiaries of former firefighters of the Retirement Plan of the City of North Miami Beach shall receive a one-time increase in benefit equal to one percent (1%) for each full year since their retirement.

Effective October 1, 1994, all former firefighters or beneficiaries of former firefighters of the Retirement Plan of the City of North Miami Beach shall receive a one-time increase in benefit equal to one percent (1%) for each full year since their retirement.

Effective October 1, 2001 all former firefighters or beneficiaries of former firefighters of the Retirement Plan of the City of North Miami Beach shall receive a one time nine and one-half percent (9.5%) increase in benefit. This increase will be paid on a monthly

basis as long as the portion of the Retirement Plan's accrued liability attributable to former firefighters is fully funded. Payment of this increase will cease at any time that the Retirement Plan assets attributable to former firefighters are insufficient to provide for all Accrued Benefits expected to be paid to former firefighters and their beneficiaries. For the purpose of this paragraph, Accrued Benefits shall mean the level of benefit being paid at that time without any future expected payments under Section 6.01(c).

Police Officers - Retroactively effective December 30, 1988, to a police officer who retires on or after normal retirement date:

The monthly amount of retirement income payable to each participating police officer who retires on or after his or her normal retirement date shall be an amount equal to 3% (.0300) of his or her final monthly compensation multiplied by his or her years of credited service.

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

- (f) **Early Retirement Incentives**

Notwithstanding the provisions of subsection 6.01(d) above, those police officer participants who, as of March 31, 1996, are eligible for regular retirement under Section 6.01 hereof, and those participants who lack 36 or fewer months of service or age in order to be eligible for normal retirement pursuant to Section 6.01 shall be permitted to retire on or before January 1, 1997, on a date designated by the City Manager, and upon retirement shall receive a service pension equal to the following percentages of the participant's final monthly compensation as defined below, for each year of service as defined in Section 3.02 hereof, according to their years of service as of their retirement date:

Less than 10 years	4.22%
10 but less than 20 years	3.76%
20 but less than 21 years	3.53%
21 but less than 22 years	3.51%
22 but less than 23 years	3.49%
23 but less than 24 years	3.47%
24 but less than 25 years	3.46%
25 but less than 26 years	3.45%
26 but less than 27 years	3.44%
27 but less than 28 years	3.42%
28 but less than 29 years	3.41%
29 but less than 30 years	3.40%

rather than the 3 percent provided by subsection (d) above, under the terms and conditions set forth below.

The first payment to participants retiring hereunder on or before October 4, 1995 will be made on the participant's retirement date. For participants retiring after October 4, 1995, the first payment shall be made in accordance with Section 6.01(e).

For purposes of determining a police officer participant's average final compensation under this subsection, such compensation shall be computed for the twelve (12) month period immediately preceding the participant's retirement date.

Terms and conditions for Early Retirement Incentive.

- (1) The application for retirement must be received by the Retirement Plan no later than 5:00 p.m. on September 27, 1996, unless extended by the City Manager;
- (2) As a condition of receiving a pension at the rates set forth above, the participant shall make an irrevocable application to the Retirement Plan for normal retirement on a date designated by the City Manager which must be before January 1, 1997 and shall retire on the date so designated unless the retirement date is extended by the mutual agreement of the participant, the Retirement Committee and the City Manager;
- (3) Any accrued leave remaining due to a participant as of his or her designated retirement date, with a limit of 320 hours of annual leave, and otherwise pursuant to the Contract provisions relevant to each applicant, shall be paid to the participant in three (3) equal annual installment payments, without interest, commencing after the participant's designated retirement date, with the remaining two (2) installment payments to be made in January, 1997 and January, 1998, for participants retiring before April 1, 1996, and in January, 1998 and January 1999, for participants retiring after April 1, 1996 pursuant to this section.
- (4) Participants who lack four or fewer years of credited service in order to be eligible for the Early Retirement Incentive set forth in subsection (f) above, or are eligible for and retire under said Early Retirement Incentive, may purchase credits for military or other government law enforcement service. The years or fractional parts of years that such a participant served full-time active duty in the military service of the Armed Forces of the United States, voluntarily or involuntarily, or other government law enforcement service, prior to the participant's first or initial employment with the City shall be added to the participant's years of credited service only for participants who retire under the Early Retirement Incentive, provided that:
 - (i) The participant did not receive a dishonorable discharge from the Armed Forces.
 - (ii) The participant did not receive credited service for the time spent in the Armed Forces or other government law enforcement service from any other

private, governmental or military retirement or pension system.

- (iii) The participant contributes to the Retirement Plan the full actuarial cost of all military or other law enforcement service credits purchased.
 - (iv) The purchase of credited military or other law enforcement service under this subsection by a participant shall be paid in full prior to the participant's retirement date or, at the participant's option, in three equal annual installment payments, without interest, commencing on the participant's designated retirement date, with the remaining two installments payable on the first and second anniversary dates of the participant's designated retirement date, and in accordance with all terms, rules, procedures or regulations established by the Retirement Committee.
 - (v) The maximum credit which may be purchased by a participant for any military service in the Armed Forces of the United States or other government law enforcement service under this section shall be four years.
- (5) Participants who lack four or fewer years of credited service in order to be eligible for the Early Retirement Incentive set forth in subsection (f) above, or are eligible for and retire under said Early Retirement Incentive, but are not eligible to purchase credits for military or other law enforcement service under paragraph (4) above, may retire under the Early Retirement Incentive set forth above except they shall receive a service pension equal to the following percentages of the participant's final monthly compensation as defined below, for each year of service as defined in Section 3.02 hereof, according to their years of service as of their retirement date:

but less than 17-1/2 years	4.05%
but less than 23 years	3.98%

provided that the participant contributes to the Retirement Plan the full actuarial cost of the higher benefit rate which contribution is made under the same terms and conditions as the purchase of military or other law enforcement service set forth in paragraph (4)(iv) above.

For purposes of determining a police officer participant's average final compensation under this subsection, such compensation shall be computed for the twelve (12) month period immediately preceding the participant's retirement date.

- (6) Non-bargaining unit employees who retire under the Early Retirement Incentive set forth in subsection (f) and thereafter are re-employed by the City shall not accrue additional credited service hereunder, shall not be eligible for disability or pre-retirement death benefits and shall not make contributions to the Plan; however, their service pension paid pursuant to the Early Retirement Incentive shall not be suspended or interrupted due to such re-employment.
- (g) Notwithstanding any of the foregoing, distributions under the Plan shall commence not later than the "required beginning date", in accordance with IRC Section 401(a)(9).

(h) **Benefit Alternate Computation - Deferred Retirement Option Plan for Firefighters (BAC-DROP)**.

All firefighters retiring on or after January 1, 1996, who, at the time of retirement, are past normal retirement age, shall have the option of receiving a benefit computed in the following manner instead of a benefit computed in the manner set forth in Section 6.01(c) hereof. Upon retirement, the monthly benefit which the member would have received had the member retired five years earlier or upon reaching normal retirement age, whichever is later (which date shall hereinafter be referred to as "DROP date") shall be determined. This monthly benefit will be determined using final monthly compensation based upon the highest eighteen (18) successive months of compensation earned in fiscal years ended September 30, 1996 and September 30, 1997. The amount of benefits which the member would have received from his or her DROP date until his or her retirement date, including the cost of living adjustment provided by Section 6.01(c) hereof, together with the member and Dade County contributions received by the Retirement Plan during that time period, shall be accrued, together with interest thereon credited at the actual rate of net investment earnings realized by the Retirement Plan during the DROP period. The total amount so calculated shall be made available to the member on or after the member's retirement date pursuant to rules and regulations adopted by the Board of Trustees and shall continue to be credited or debited quarterly in an amount equal to the net investment earnings of the Retirement Plan's assets. Upon retirement, the member shall receive the monthly pension benefit payable as of the member's DROP date together with any cost of living adjustments to that benefit, as provided herein. This Bac-DROP plan must be administered by the Board of Trustees in such a way as to not increase the City's contributions to the Retirement Plan.

S. 6.01A	DEFERRED RETIREMENT OPTION PROGRAM (DROP)
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- (a) There is hereby created a deferred retirement option program ("DROP") for police officers.
- (b) The DROP is a retirement option in which a police officer may choose to participate or not to participate, at his or her own discretion.
- (c) DROP participants will be considered a retiree for all purposes of the plan, pursuant to Chapter 185, Florida Statutes.
- (d) A DROP participant will remain an employee of the City of North Miami Beach while a member of the DROP.
- (e) A police officer is eligible to enter the DROP upon attaining twenty (20) years of service, or upon reaching age fifty-two (52) with the completion of 15 years of service. Years of service may be acquired by actual eligible credited service to the City, by the purchase of credited service for prior military or law enforcement service (§304(e)(1)), by the purchase of permissive service credit (§304(g)) or any allowable combination thereof.
- (f) The total years of participation in the DROP may not exceed five (5) years. Any Employee who is employed by the City as sworn police on or after January 1, 2008 may participate in the DROP for up to eight (8) years. The eight year limit shall apply even if the member had entered DROP prior to January 1, 2008 if they were still employed by

the City on January 1, 2008.

- (g) A police officer's credited service and final average monthly compensation for calculation of benefits will freeze as of the date the police officer enters the DROP. Credited service that is purchased pursuant to Section 3.04(e) which has been paid for at the time the police officer enters the DROP will be used as credited service for the purpose of computing the retirement benefit. A DROP participant may not purchase credited service after entry into the DROP. The police officer's retirement benefit will be based on the Plan provisions in effect at the time the member entered the DROP, unless subsequent Plan amendments specifically provide otherwise. To the extent that the age of the member or the age of the beneficiary of a member is taken into account in the calculation of the monthly benefit, the ages will be calculated as of the beginning of the DROP period. All contributions required under Article IV, Section 4.01(b) shall cease upon entry into the DROP.
- (h) Monthly retirement benefits that would have been payable had the police officer terminated employment and elected to receive monthly retirement benefits will be credited to the police officer's DROP account while the police officer remains employed as a police officer with the City of North Miami Beach.
- (i) The DROP account is a bookkeeping account within the Fund. The money that is credited to a member's DROP account will be commingled with all other monies in the fund. Each member's DROP account will be credited with interest at the assumed interest assumption for the Plan, as it may change from time to time.
- (j) No payments or loans will be made from the DROP account to any DROP participant until the police officer actually terminates employment from the City. Upon termination of employment, the DROP participant will be eligible to receive the entire balance in his or her DROP account. Alternatively, the police officer may elect to roll-over the DROP account into a qualified plan. The police officer shall have up to sixty days from termination of employment to make his or her selection. Failure to make a selection shall be construed as a request for a distribution directly to the former DROP participant. Whichever distribution method the employee chooses must comply with the Internal Revenue Code and rules and regulations promulgated thereunder.
- (k) If a DROP participant dies prior to receiving a distribution of all money in the participant's DROP account, the money in the participant's DROP account shall be paid to the designated beneficiary for the DROP account. The monthly retirement benefit which would otherwise be payable to the retiree, or to his or her designated beneficiary, will be paid in accordance with the form of benefit and beneficiary designation filed by the police officer.
- (l) The normal form of benefit will be a monthly benefit for life with a guarantee of at least one hundred twenty (120) monthly payments. The ten (10) year guarantee period will commence as of the end of the DROP period. The member may elect to receive the benefit in any of the optional forms offered by the Plan. The amount that the member receives in an alternative form of benefit will be calculated based on the age of the member and the beneficiary at the end of the DROP period.
- (m) COLA payments pursuant to Section 6.01(c) shall commence on the October 1st coincident with or next following three years after the DROP participant's actual separation from service with the City as a police officer.

- (n) The decision to DROP is irrevocable. Each police officer who enters the DROP is required to execute whatever documents the Retirement Committee promulgates, which shall include, at a minimum, an agreement that he or she will resign from the City no later than eight (8) years from actual date of entering the DROP.
- (o) If for any reason, a court of competent jurisdiction determines that the irrevocable election is not enforceable, and a police officer chooses to remain in the employment of the City beyond eight (8) years, the police officer's retirement benefit will be calculated as if the police officer had never entered the DROP, and the police officer will be required to make contributions to the Pension Fund in an amount sufficient to cover the employee and City contributions that would have been made had the police officer not elected to participate in the DROP, along with interest, as determined by the Retirement Committee upon the advice of the actuary.
- (p) At the police officer's option, payouts for all or a portion of each officer's pensionable accrued compensatory leave time will be paid to the participant at the time the participant enters the DROP and will be used to calculate the amount of the DROP participant's pension and will be included in the police officer's final average monthly compensation for pension purposes.
- (q) Upon entry into the DROP, the DROP participant will not be eligible to receive a disability retirement benefit.
- (r) The Retirement Committee shall have the power to make administrative rules as are necessary for the efficient implementation and operation of the DROP and to ensure its continued compliance with the tax qualification requirements of the Internal Revenue Code.
- (s) The City Council of the City of North Miami Beach shall have the unilateral authority, at its absolute discretion, to extend temporarily the term of the DROP plan in effect for up to two additional years, to address what it considers, at its sole discretion, emergency management / personnel issues.

S. 6.02	EARLY RETIREMENT AND RETIREMENT INCOME
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- (a) **Defined** - Early retirement under the Plan is retirement from the service of the City, as of the first day of any calendar month prior to the participant's normal retirement date, subsequent to the date he or she has both attained the age of 45 years and has completed at least fifteen (15) years of credited service, or has attained the age of 50 years and has completed at least ten (10) years of credited service.
- (b) **Payment Governed By** - In the event of early retirement, payment of retirement income will be governed by the following provisions:
 - (1) **Early Retirement Date** - The early retirement date will be the first day of the month coincident with or next following the date a participant retires from the service of the City under the provisions of this section, prior to his or her normal retirement date.
 - (2) **Cost of Living Adjustments** - Commencing October 1, 1998 and on the first day

of each October thereafter, the monthly income

- (i) payable hereunder to each police participant who retired under Section 6.02 hereof on or after December 30, 1988, after completing at least twenty years of credited service, who has attained age 52, and who, as of that October 1st has been retired for three or more years, shall be increased by two and one-quarter percent, increasing to 2.5% commencing October 1, 2002, or
 - (ii) payable to the surviving beneficiary of a participant who retired under Section 6.02 hereof on or after December 30, 1988, after completing at least 20 years of credited service and who died before reaching age 52, shall be increased by two and one-quarter percent and commencing October 1, 2002, by 2.5%, on the October 1st after the participant, had she or he or she survived, would have attained age 52 and would have been retired for three or more years and on the 1st day of each October thereafter.
- (3) **Amount of Retirement Income** - The monthly amount of retirement income payable to an employee who retires prior to his or her normal retirement date under the provisions of this section shall be an amount equal to 3% (.0300) of his or her final monthly compensation multiplied by his or her years of credited service, multiplied by the actuarially-equivalent reduction factor to take into account the participant's younger age at retirement and the earlier commencement of retirement income payments. Effective October 1, 2004, the early retirement reduction factor shall be three percent (3%) per year for each year by which the employee's age at early retirement precedes his or her normal retirement age as provided in Section 6.01(b).
- (4) **Payment of Retirement Income** - The retirement income payable in the event of early retirement will be payable on the first day of each month. The first payment will be made on the participant's early retirement date and the last payment will be the payment due next preceding the retired participant's death. In the event the participant dies after his or her retirement, but before he or she has received retirement income payments for a period of 10 years, the same monthly benefit will be paid for the remainder of such 10-year period to the beneficiary (or beneficiaries) designated by the participant; or, if no designated beneficiary is surviving, the same monthly benefit shall be payable for the remainder of such 10-year period as provided in Sections 7.02 and 7.03.

S. 6.03	DISABILITY RETIREMENT AND RETIREMENT INCOME
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- (a) **Definition** - An actively employed participant may retire from the service of the City under the Plan if he or she becomes totally and permanently disabled as defined in Paragraph (b) of this Section 6.03, on or after the effective date of the Plan. Such retirement from the service of the City shall herein be referred to as disability retirement.
- (b) **Total and Permanent Disability** - A participant will be considered totally disabled if, in the opinion of the Retirement Committee, based upon evidence, exhibits, their findings and the reports of the following physical examiners:

- (i) a duly-licensed physician selected by the Retirement Committee,
- (ii) a duly-licensed physician selected by the participant, and
- (iii) in the event of a disagreement between (i) and (ii), a duly-licensed physician mutually agreeable to the physicians selected in (i) and (ii) above,

he or she is wholly prevented from rendering useful and efficient service in that capacity. A participant will be considered permanently disabled if, in the opinion of the Retirement Committee, based upon evidence, exhibits, their findings, and the reports of the physical examiners selected as outlined above, such participant is likely to remain so disabled continuously and permanently from a cause other than specified in paragraph (d) of this Section 6.03.

(c) **Line of Duty Disability.**

- (1) **In General** - Any condition or impairment of health of any and all police officers or firefighters caused by tuberculosis, hypertension, heart disease, or hardening of the arteries, resulting in total or partial disability or death, shall be presumed to be accidental and suffered in the line of duty unless the contrary be shown by competent evidence.
- (2) **Injury by Exposure** - Any condition or impairment of health caused directly or proximately by exposure, which exposure occurred in the active performance of duty at some definite time or place without willful negligence on the part of the police officer or firefighter, resulting in total or partial disability, shall be presumed to be accidental and suffered in the line of duty.
 - (A) However, such police officer or firefighter shall have successfully passed a physical examination upon entering such service, which physical examination including electrocardiogram failed to reveal any evidence of such condition.
 - (B) Such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance.

(d) **Non-admissible Causes of Disability** - A participant will not be entitled to receive any disability retirement income if, in the opinion of the Retirement Committee, the disability is a result of:

- (i) Injury or disease sustained by the participant while willfully and illegally participating in fights, riots, civil insurrections or while committing a felony;
- (ii) Injury or disease sustained by the participant while serving in any armed forces;
- (iii) Injury or disease sustained by the participant diagnosed or discovered subsequent to the date his or her employment has terminated;
- (iv) Injury or disease sustained by the participant while working for anyone other than the City, and arising out of such employment; or

- (v) Discretionary Conditional Review: Excessive and habitual use by the participant of drugs, intoxicants or narcotics.

(e) **Proof of Disability.**

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

(f) **Disability Retirement Income.**

- (1) The monthly income payable to a participant who retires from the service of the City under the provisions of this section due to total and permanent disability is 60% of the participant's final monthly compensation at the date of termination of the participant's service due to disability, payable for the life of the participant, or the participant's accrued benefit as of the date of termination, whichever is greater. Commencing October 1, 1998 and on the first day of each October thereafter, the monthly benefit payable hereunder to each participant who retired due to disability on or after December 30, 1988, has attained age 52, has been retired for 3 or more years, and has received Social Security monthly disability income benefits for the same condition which caused the participant to receive disability benefits from this retirement plan, shall be increased by two and one-quarter percent, increasing to 2.5% commencing October 1, 2002.

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

- (1) **Date of Commencement of Payment** - The monthly retirement income to which a police officer or firefighter is entitled in the event of his or her disability retirement shall be payable on the first day of the first month after the Retirement Committee determines such entitlement.
 - (A) **Partial Month** - However, the monthly retirement income shall be payable as of the date the Retirement Committee determines such entitlement, and any portion due for a partial month shall be paid together with the first payment.
- (2) **Last Payment** - The last payment will be as follows:
 - (i) If the participant recovers from the disability prior to his or her normal retirement date, the last payment will be the payment due next preceding the date of such recovery.
 - (ii) If the participant dies prior to his or her normal retirement date without recovering from his or her disability, the last payment will be the payment due next preceding the date of his or her death. However, such participant's designated beneficiary (or beneficiaries) will be entitled to a death benefit as provided in Section 6.03(g) below.

- (iii) If the participant attains his or her normal retirement date while still disabled, the last payment will be the payment due next preceding the disabled participant's death. In the event the disabled participant dies before he or she has received retirement benefits for a period of 10 years after his or her normal retirement date, the same monthly benefit which he or she was entitled to receive commencing on his or her normal retirement date will be paid for the remainder of such 10-year period to the beneficiary designated, as provided in Section 7.02 (Beneficiaries).

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

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

be computed as for normal retirement under Section 6.01(b) (Normal Retirement Date), based upon the disabled participant's anticipated number of years of credited service at the date of his or her death (as defined below) and his or her projected rate of final monthly compensation at the date of his or her death (as defined below).

- (4) **Number of Years of Credited Service** - The participant's anticipated number of years of credited service at the date of his or her death shall be equal to that number which he or she would have accrued at such date in accordance with Section 3.04 (Credited Service) hereof, if his or her employment had not been terminated but had continued uninterrupted from the date of termination of his or her service due to disability to the date of his or her death.
 - (5) **Projected Rate of Final Monthly Compensation** - The participant's projected rate of final monthly compensation at the date of his or her death shall be determined as of the date of the participant's death, based on the assumption that the participant's last regular rate of monthly basic compensation prior to the date of termination of his or her service due to disability would have continued without change to the date of his or her death.
- (i) **Recovery from Disability.**
- (1) **General Provision** - If the Retirement Committee determines that the participant who is receiving disability retirement income is, at any time prior to his or her normal retirement date, no longer disabled as provided herein, the Retirement Committee shall direct that the retirement income be discontinued.
 - (2) **Early Retirement / Vested Deferred Retirement Income** - Any such participant who recovers from disability and whose retirement income is discontinued by the Retirement Committee and who, as of the date of termination of his or her service due to disability, had both attained the age of 45 years and had completed 15 years of service shall, if he or she does not re-enter the service of the City, be entitled to the early retirement income or the vested deferred retirement income as provided in Sections 6.02 and 6.04(a) respectively. This amount will be based upon his or her final monthly compensation and his or her credited service as of the date of termination of his or her service due to disability and upon his or her attained age as of the date of his or her recovery from disability. But early retirement will be subject to the consent of the Retirement Committee, and the amount of the retirement income upon early retirement will be actuarially reduced to take into account the participant's younger age and the earlier commencement of retirement income payments as provided in Section 6.02 (Early Retirement and Retirement Income).
- (j) **Re-Employment by the Employer** - If the participant recovers from disability and re-enters the service of the City, his or her service will be deemed to have been continuous. But the period beginning with the first month for which he or she received a disability retirement income payment and ending with the date he or she re-enters the service of the City will not be considered as credited service for the purposes of the Plan.

(a) **Benefit on Termination of Service.**

- (1) **Deferred Payment of Benefits** - In the event of the termination of a participant's service prior to his or her normal retirement date for any reason other than his or her death, early retirement (as described in Section 6.02) or disability retirement (as described in Section 6.03) after he or she has completed ten (10) years of credited service (hereinafter referred to as a "terminated participant"), he or she will be entitled to a monthly retirement income. That monthly retirement income will be payable for 10 years certain and life thereafter and will commence either
 - a. on his or her normal retirement date (if he or she shall then be living) in an amount equal to 3% (.0300) of his or her final monthly compensation multiplied by his or her years of credited service or
 - b. upon attaining age 50 years or more, in an amount computed as described in section (a) to be actuarially reduced to take into account the Police Officer's younger age and earlier commencement of retirement income payment.
- (2) **Immediate Monthly Payment of Benefits** - If a participant has attained age 50 with at least ten (10) years of credited service on his or her date of termination of service as described in this paragraph, he or she may elect to receive immediate monthly payments of his or her benefits in-lieu of a deferred vested benefit commencing at his or her normal retirement date.
 - a. This immediate monthly benefit will equal the deferred vested benefit calculated above, multiplied by the actuarial reduction factor to take into account the participant's younger age at commencement of benefits.
 - b. This immediate benefit will be payable commencing as of the first day of the month coincident with or next following the date on which the Retirement Committee receives from the participant his or her election in writing, and will be payable monthly thereafter for 10 years certain and life.
- (3) **Return of Contributions on Termination** - If the terminated participant described in this section has any vested percentage on his or her date of termination of service, he or she may elect to receive a return of his or her contributions, plus interest at the rate of 3% compounded annually, in lieu of a deferred vested benefit payable at his or her normal retirement date as described above.
- (4) **Terminated Employee's Death Prior to the Commencement of Retirement Income** - In the event a terminated participant dies prior to the commencement of his or her retirement income at his or her normal retirement date (without having received, in accordance with Section 6.07, the value of the benefit in Section 6.04(a)(1) (Deferred Payment of Benefits) above, without having elected and begun to receive his or her monthly benefits prior to his or her normal retirement

date as described in Section 6.04(a)(1) above, or without his or her having received a refund of his or her contributions with interest, as described in Section 6.04(a)(1) above), his or her beneficiary (or beneficiaries) shall be given the option to receive either:

- a. the monthly retirement income payable for 10 years certain and life thereafter and beginning on the date of the participant's death, which can be provided by the single-sum value of the participant's accrued deferred monthly retirement income as of the date of termination of the participant's service, accumulated at interest from the date of termination of the participant's service to the date of his or her death; or
- b. The benefit otherwise payable to the police officer commencing at his or her normal or early retirement, beginning on said date.

(5) **Re-Entry Into Service of City.**

- (A) If the participant's service with the City is terminated while he or she is entitled to the retirement income described in Section 6.04(a)(1) (Deferred Payment of Benefits) above, and he or she subsequently re-enters the service of the City prior to electing and receiving his or her monthly benefits before his or her normal retirement date as described in Section 6.04(a)(1) above, and provided he or she did not receive a refund of his or her contributions with interest, he or she will be entitled, upon such re-entry, to the credited service he or she had on the date of termination of his or her service in lieu of the benefits to which he or she was entitled on such date under Section 6.04(a)(1). The monthly retirement income payable to such participant commencing at normal retirement date shall not be less than the amount to which he or she was entitled under Section 6.04(a)(1) prior to his or her re-entry into the service of the City.
- (B) If a participant who is receiving monthly payments prior to his or her normal retirement date due to the election described in Section 6.04(a)(1) (Deferred Payment of Benefits) above subsequently re-enters the service of the City, benefit payments will cease effective immediately upon re-entry and he or she will immediately begin to make employee contributions and accrue credited service. Upon his or her subsequent retirement or termination of service, benefit payments will again commence as indicated in this Plan, except the value of those payments will be reduced by the value of the payments previously received. Except with respect to disability retirement, any other participant will, on re-entry into the service of the City (unless he or she has been on leave of absence pursuant to the provisions of Section 3.03), be treated as if he or she then first entered the service of the City.
- (C) If the participant's service with the City is terminated and he or she subsequently re-enters the service of the City and he or she did not receive a return of his or her employee contributions, he or she will be entitled, upon such re-entry, to the credited service.

If the participant's service with the City is terminated and he or she subsequently re-enters the service of the City and he or she did receive a return of his or her employee contributions, he or she will not be automatically entitled, upon such re-entry, to the credited service, unless said participant repays such amount with interest within ninety (90) days of re-entry.

- (6) **Application of Options to Other Sections** - The provisions of Section 6.06 relating to optional forms of retirement income are applicable to the benefits provided under Section 6.04(a)(1) (Deferred Payment of Benefits).
 - (7) **Termination Prior to Completion of 10 Years Credited Service** - Except as provided in Section 6.01 with respect to normal retirement, Section 6.03 with respect to disability retirement and Section 6.04 with respect to death, the participant whose service is terminated prior to the date on which he or she has completed ten (10) years of credited service shall be entitled only to the return of his or her contributions, plus interest at the rate of 3% compounded annually.
- (b) **Benefit Payable in the Event of Non-Service Related Death On or Prior to Normal Retirement Date While in Service.**
- (1) **Amount** - If the service of a participant is terminated by reason of death on or prior to his or her normal retirement date, and such death does not occur while the participant is on duty or in the line of duty, there shall be payable to the participant's designated beneficiary (or beneficiaries) the monthly retirement income, beginning on the first day of the month coincident with or next following the date of his or her death which can be provided by (i) or (ii), whichever is greater, where:
 - (i) is the single-sum value of his or her accrued deferred retirement income commencing at his or her normal retirement date, which sum has accrued to the date of his or her death, where this single-sum value will be calculated in a manner similar to the way the reserve is accumulated under a typical retirement income contract, and
 - (ii) is (a) or (b), whichever is smaller, where (a) is 24 times his or her rate of monthly compensation on the October 1st preceding the date of his or her death; and (b) is 100 times the participant's anticipated monthly retirement income commencing at normal retirement date.
 - b. the monthly benefit otherwise payable to the police officer commencing at his or her normal or early retirement, beginning on said date.
 - c. For the purpose of computing the amounts in Section 6.04(b), the following definitions will apply:
 - (A) **Computation of Accrued Deferred Monthly Retirement Income** - The amount of such accrued deferred monthly retirement income in Section 6.04(b)(1)(a)(i) above shall be computed as for normal

retirement under Section 6.01(d)(1) (Amount of Retirement Income: To Participant Who Retires on Normal Retirement Date), based upon the participant's number of years of credited service and final monthly compensation at the date of his or her death.

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

(c) **Benefit Payable in Event of Death On-Duty or In Line of Duty, On or Prior to Normal Retirement Date.**

(1) Effective July 1, 2004, the monthly retirement income payable upon the death of a participant who is survived by a spouse and/or dependent child(ren), and whose death occurs while the participant is on duty or in the line of duty shall be the greater of (i) the monthly retirement income determined in accordance with Subsection 6.04(b) above, and (ii) 60% of the participant's final monthly compensation at the date of the death of the participant. Said retirement income shall be payable to the participant's surviving spouse, or, if the participant was not married at the time of death, in equal parts to any surviving dependent children (including adopted children and step-children) of the participant. Should the surviving spouse die after the commencement of payments hereunder, but prior to the date upon which any of the participant's dependent children ceases to be a dependent, then the payments provided hereunder shall be made to any such child(ren), in equal parts, until such time as said child(ren) ceases to be a dependent. For the purposes of this Section, the term dependent child shall mean: (i) an unmarried child who is less than age 19; (ii) an unmarried child who is at least 19 years of age, but less than 23 years of age, and who is a registered, full-time student in a state-accredited high school, college, university, junior college, or community college; (iii) a child who is 19 years of age or older, and who is mentally or physical disabled. If the total benefits paid under this subsection are less than the total contributions made to the Plan by the Participant, then the balance shall be paid to the Participant's designated beneficiary.

(2) The designated beneficiary or beneficiaries of a Participant whose death occurs while on duty or in the line of duty and who is not survived by either a spouse or a dependent child, shall receive the benefit provided in subsection (b) above.

(3) A Participant may waive this benefit so that the benefit provided in subsection (b) above will be paid upon the Participant's death to the Participant's designated beneficiary, instead of the benefit provided in this subsection (c) being paid to the Participant's surviving spouse and/or dependent children. Such a waiver must be signed by the Participant and received by the Retirement Plan in order to be effective, and may be revoked by the Participant at any time by a written revocation received by the Retirement Plan.

(4) Commencing October 1, 2004 and on the first day of each October thereafter, the monthly benefit payable hereunder to each beneficiary of a participant whose death occurs while the participant is on duty or in the line of duty on or after July 1, 2004,

and who has been receiving benefits for more than 3 years, shall be increased by two and one half percent (2.5%).

(d) **Benefit Payable in Event of Death While in Service After Normal Retirement Date.**

- (1) **Monthly Retirement Benefit** - If the service of a participant is terminated by reason of his or her death after his or her normal retirement date, there shall be payable to the participant's designated beneficiary (or beneficiaries) the monthly retirement income, determined actuarially, beginning on the first day of the month coincident with or next following the date of his or her death, which can be provided by the single-sum value of the normal retirement income to which he or she was entitled on his or her date of death.
- (2) **Monthly Retirement Income Payments** - Except as provided in Section 6.04(c)(3) (Lump Sum Benefits) below, the monthly retirement income payments under Section 6.04(c) shall be payable for the life of the beneficiary (or beneficiaries) designated or selected under Section 7.02 (Beneficiaries) to receive such benefit. In the event of such beneficiary's death within a period of 10 years after the participant's death, the same monthly amount shall be payable for the remainder of such 10-year period in the manner and subject to the provisions of Section 7.03 (Contingent Beneficiaries).
- (3) **Lump Sum Payment** - In lieu of the benefits payable in Section 6.04(c)(2) (Monthly Retirement Income Payments) above, the single-sum value of such benefits may be paid to the participant's designated beneficiary (or beneficiaries) in such other manner and form as the participant may elect and the Retirement Committee may approve; or, in the event no election is made by the participant prior to his or her death, as the beneficiary (or beneficiaries) may elect and the Retirement Committee may approve.

S. 6.05	LIMITATIONS OF BENEFITS
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- (a) **New Members** - The normal retirement benefit or pension payable to a retiree who becomes a member of the Retirement Plan and who has not previously participated in such plan on or after January 1, 1980 shall not exceed 100 percent of his or her average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments. As used in this section, the term "average final compensation" means the average of the member's earnings over a period of time which the governmental entity has established by this ordinance.

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

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

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

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

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

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

- (c) **Changes of Joint Pensioner, Beneficiary or Beneficiaries** - If a participant has elected an option with a joint pensioner or beneficiary (or beneficiaries) and his or her retirement income benefits have commenced, he or she may thereafter change his or her designated joint pensioner or beneficiary (or beneficiaries) provided he or she may do so only in the case where the designation to be changed is one involving a joint pensioner, if the joint pensioner last previously designated by him or her is alive and evidence of good health is provided when he or she files with the Retirement Committee his or her request for such change. The consent of a participant's joint pensioner or beneficiary (or beneficiaries) to any such change shall not be required. In the alternative, a participant may change his or her designated joint pensioner or beneficiary up to two times as provided in Section 175.333, and Section 185.161, Florida Statutes, without the approval of the board of trustees or the current joint pensioner or designated beneficiary at the sole cost of the participant. The participant need not provide proof of the good health of the joint pensioner or beneficiary being removed, and the joint pensioner or beneficiary being removed need not be living. The amount of the retirement income payable to the participant upon the designation of a new joint pensioner or beneficiary shall be actuarially determined and shall be

calculated in a manner to make certain that all costs of the change of the joint pensioner or beneficiary shall be borne by the participant and the new joint pensioner. The Plan actuary may calculate the new benefit as if the first designated joint pensioner or beneficiary was deceased, or the Plan actuary may calculate the new benefit by adjusting the interest rate based on the age of the new joint pensioner or beneficiary, or the Plan actuary may calculate the new benefit by any actuarially-accepted method to ensure that the benefit to the participant and the new joint pensioner or beneficiary do not adversely impact the Plan. The amount of the retirement income payable to the participant upon the designation of a new joint pensioner or beneficiary shall be actuarially determined taking into account the age and sex of the former joint pensioner or by assuming that former joint pensioner is deceased, the age and sex of the new joint pensioner and the participant, with the new benefit being adjusted so as to be actuarially equivalent to the original benefit. Each time the participant changes his/her joint pensioner or beneficiary pursuant to Section 175.333 and Section 185.161, Florida Statutes the designation shall be made in writing on a form prepared by the board of trustees, and the completed form must be received and accepted by the board of trustees in order to take effect.

- (d) **Change of Joint Pensioner, Actuarial Redetermination of Income** - The Retirement Committee may request such evidence of the good health of the joint pensioner who is being removed as it may require. The amount of retirement income payable to that participant upon the designation of a new joint pensioner shall be actuarially redetermined, taking into account the age and sex of the former joint pensioner, the new joint pensioner and the participant. Each such designation will be made in writing on a form prepared by the Retirement Committee.
- (e) **Benefits Where No Survivors** - In the event that no designated beneficiary survives the participant, such benefits as are payable in the event of the death of the participant subsequent to his or her retirement shall be paid as provided in Section 7.02 (Beneficiaries).
- (f) **Limitations on Retirement Income Under Options** - Retirement income payments will be made under the option elected in accordance with the provisions of this section and will be subject to the following limitations:
 - (i) If a participant dies prior to his or her retirement under the Plan or if a terminated participant dies prior to the commencement of his or her payments at his or her normal retirement date, no benefit will be payable under the option to any person, but benefits will be payable as provided in Section 6.04 (Benefits Other Than on Retirement).
 - (ii) If the designated beneficiary (or beneficiaries) or joint pensioner dies before the participant's retirement under the Plan or subsequent to a terminated participant's date of termination of service but prior to his or her normal retirement date, the option elected will be cancelled automatically and a retirement income of the normal form and amount will be payable to the participant upon his or her retirement or to the terminated participant at his or her normal retirement date as if the election had not been made, unless

a new election is made in accordance with the provisions of this section, or unless a new beneficiary (or beneficiaries) or joint pensioner is designated by the participant prior to his or her retirement or by the terminated participant prior to his or her normal retirement date and within 90 days after the death of the prior beneficiary (or beneficiaries) or joint pensioner.

- (iii) If both the participant and the beneficiary (or beneficiaries) designated by him or her die after the date that the participant's retirement income commences under the Plan but before the full payment has been effected under any option providing for payments for a period certain and life thereafter, the Retirement Committee may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with Section 7.03 (Contingent Beneficiaries).

S. 6.07	LUMP SUM PAYMENT OF SMALL RETIREMENT INCOME
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Notwithstanding any provision of the Plan to the contrary, if the monthly retirement income payable to any person entitled to any benefit hereunder is less than \$100 or if the single-sum value of the accrued retirement income is less than \$1,000 as of the date of retirement or termination of service, whichever is applicable, the Retirement Committee may, in the exercise of its discretion, specify that the actuarial equivalent of such retirement income be paid in a lump sum or in monthly installments for a period certain of not more than 60 months.

S. 6.08	TEMPORARY LIMITATIONS ON BENEFITS REQUIRED BY THE INTERNAL REVENUE SERVICE
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The term "employee" as used in this Section 6.08 shall include all employees who are participants in the Plan on the applicable effective date as hereinafter described and all employees who may later become participants in the Plan.

Notwithstanding any provision of any other section of the Plan to the contrary, the retirement income or retirement benefit in any form attributable to the City's contributions for any participant within the applicable group of the 25 highest-paid employees, as hereinafter described, shall not exceed an amount which is equal in value to (or which is actuarially equivalent to) the amount specified below with respect to the period for which the limitations described herein shall be applicable.

- (A) With respect to any employee who is in the group of the 25 highest-paid employees of the City, determined as of July 1, 1957, who is a participant under the plan and whose monthly retirement income under the plan will exceed \$125, and who is not in the group of the 25 highest-paid employees determined as of October 1, 1965 (to whom the provisions of Section 6.08(B) below shall be applicable), the benefits in any form attributable to City contributions, which any participant to whom this Section 6.08(A) is applicable may receive prior to July 1, 1967, shall not exceed an amount which is equal in value (or which is actuarially equivalent to) the larger of the following amounts:

- (1) \$20,000 and
- (2) An amount computed by multiplying the number of years elapsed since July 1, 1957, for which the full current costs have been met, by the smaller of the following amounts:
 - (a) \$10,000; and
 - (b) An amount equal to 20% of the participant's average regular annual compensation received from the City for the five years immediately preceding the date of such determination, or for a participant whose service has terminated, who has retired prior to his or her normal retirement date or who has attained his or her normal retirement age whether or not he or she has retired under the plan, the date of termination of service, the date of retirement or the normal retirement date, respectively.

Provided, however, if the full current costs have not been met as of July 1, 1967, the above restrictions will continue to apply until the full current costs have been funded for the first time.

- (B) With respect to any employee who is in the group of the 25 highest-paid employees of the City, determined as of October 1, 1965, and whose monthly retirement income under the plan will exceed \$125, the benefits in any form attributable to City contributions which any participant to whom this Section 6.08(B) is applicable may receive prior to October 1, 1975 shall not exceed an amount which is equal in value (or which is actuarially equivalent to) the largest of the following amounts:

- (1) The amount attributable to City contributions which would have been applied to provide the benefits for such participant if the plan, as in effect on September 30, 1965, had been continued without change;
- (2) \$20,000; and
- (3) The sum of:
 - (a) The amount attributable to City contributions which would have been applied to provide benefits accrued to the participant under the plan on September 30, 1965; and
 - (b) An amount computed by multiplying the number of years elapsed since October 1, 1965 for which the full current costs of the plan have been met by the smaller of the following amounts:
 - (i) \$10,000; and
 - (ii) An amount equal to 20% of the participant's average regular annual compensation received from the City for the five years

immediately preceding the date of such determination, or for a participant whose service has terminated, who has retired prior to his or her normal retirement date or who has attained his or her normal retirement age whether or not he or she has retired under the plan, the date of termination of service, the date of retirement or the normal retirement date, respectively.

Provided, however, if the full current costs have not been met as of October 1, 1975, the above limitations will continue to apply until the full current costs have been funded for the first time.

The foregoing conditions will not restrict the payment of the full benefits to a beneficiary after the death of a participant whose benefits are subject to the provisions of this Section 6.08 if, at the time of such death, the Plan is in full effect and the full current costs thereof have been met.

The provisions of this Section 6.08 will not apply to the retirement income payable in the normal form, or under Option 1, Option 2 or any other optional form which does not provide a larger monthly income to any participant retiring or receiving benefits during any period in which the Plan is in full effect and the full current costs have been met.

The limitations will not apply to the payment of any survivorship income with respect to any deceased participant or retired participant who dies prior to the termination of the Plan and while the full current costs thereof have been met.

In the event of the termination of the Plan prior to the end of the 10-year period that next follows the effective date of the Plan, that portion of the assets of the trust fund arising from contributions made by the City with respect to those participants to whom the provisions of this Section 6.08 are applicable which is in excess of the foregoing limitations will be apportioned to the other participants, including retired participants, in accordance with the provisions contained in Section 8.06 hereof.

(A) Definitions Used in this Section

(1) "Annual Pension" means the sum of all annual benefits payable in the form of a single life annuity or qualified joint and survivor annuity from all defined benefit plans (whether or not terminated) maintained by the City, provided that effective for limitation years beginning after December 31, 2001, the Plan shall not be combined or aggregated with any other plan for purposes of applying Section 415(b)(1)(B) of the Code to such other plan for purposes of applying the limitations of Code Section 415. Benefits payable in any other form shall be adjusted to the larger of:

(a) the Actuarial Equivalent of a single life annuity beginning at the same age, computed using the interest rate and mortality basis (or other tabular factor) used for Actuarial Equivalence for the particular form of payment under the Plan, or

(b) the actuarial equivalent of a single life annuity beginning at the same age, computed using a 5.00% interest rate (or for any form of payment subject to IRC Section 417(e)(3), the Applicable Interest Rate) and the Applicable Mortality Table.

The Annual Pension shall not be adjusted for any benefit that is payable on account of the death or disability of the Member as defined in Section 415(b)(2)(H)(I) of the Code.

(2) "Dollar Limitation" means the adjusted value of \$160,000 (or such other amount as may be in effect on the last day of the calendar year pursuant to Section 415(d) of the IRC) based on the age of the Member when the benefit begins as follows:

Age:	Adjustment of Dollar Limitation:
Over 65	The smaller of: (a) the Actuarial Equivalent of the limitation for age 65, computed using the interest rate and mortality basis (or other tabular factor) used for Actuarial Equivalence for Late Retirement Income under the Plan, or (b) the actuarial equivalent of the limitation for age 65, computed using a 5.00% interest rate and the Applicable Mortality Table. For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.
62 to 65	No adjustment.
Less than 62	No adjustment for qualified Police Officers and Firefighters as

	defined in Section 415(b)(2)(G) of the code; otherwise: The greater of: (a) the Actuarial Equivalent of the limitation for age 62, computed using the interest rate and mortality basis (or other tabular factor) used for Actuarial Equivalence for Early Retirement Income under the Plan, or (b) the actuarial equivalent of the limitation for age 62, computed using 5.00% interest rate and the Applicable Mortality Table. Dollar Limitation determined in accordance with this paragraph 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) The term "limitation year" is the 12 month period which is used for application of the limitations under Section 415 of the Code and shall be the calendar year.

(B) This Section 6.08(C) will not be applicable if Annual Pension benefits do not exceed \$10,000 multiplied by a fraction whose value cannot exceed one, the numerator of which is the Member's period of service measured by total Vested Service, and the denominator of which is 10, provided the Member has never participated in a defined contribution plan maintained by the City.

(C) Cost-of-living adjustments in the Dollar Limitation for benefits shall be limited to scheduled annual increases determined by the Secretary of the Treasury that become effective no sooner than January 1 of each year. As a result of such an adjustment, a Retirement Income that had been limited by the provisions of this Section 3.6 in a previous Plan Year may be increased with respect to future payments to the lesser of the adjusted Dollar Limitation amount or the amount of Retirement Income that would have been payable under this Plan without regard to the provisions of this Section 3.6.

(D) The above limitations are intended to comply with the provisions of

Section 415 of the Code, as amended, so that the maximum benefits provided by plans of the City shall be exactly equal to the maximum amounts allowed under Section 415 of the Code and regulations thereunder. If there is any discrepancy between the provisions of this Section 6.08(C) and the provisions of Section 415 of the Code and regulations hereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code.

(E) In no event shall the amount of Retirement Income considered under this Plan exceed the amount of a benefit that is non-discriminatory under Code Section 401(a)(4).

(F) In no event shall distributions to the 25 most highly-compensated active and former Members (as that term is defined in Code Section 414(q)) exceed the amount that would be paid to such individual under a straight-life annuity that is the Actuarial Equivalent of the Member's accrued benefit and the Member's other benefits under the Plan, except that the preceding restriction on the amount of distribution to the 25 most highly-compensated Members ("Restricted Member") will not apply if any of the following requirements have been met for each Restricted Member:

(1) After payment of the benefits otherwise provided under this Plan to such Restricted Member, the value of plan assets equals or exceeds 110 percent of the value of current liabilities as defined in Code Section 412(l)(7);

(2) The value of the benefits otherwise provided under this Plan to such Restricted Member is less than one percent of the value of current liabilities, as defined in Code Section 412(l)(7), before distribution of such benefit; or

(3) The value of such Restricted Member's benefits does not exceed \$5,000.

S. 6.08A	ANNUAL COMPENSATION LIMITS PROVIDED BY SECTION 401(A)(17) OF THE INTERNAL REVENUE CODE
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In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, the annual Compensation of each Member taken into account under the Plan shall not exceed the OBRA '93 annual compensation limit. The OBRA '93 annual compensation limit is \$150,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

Any reference in the Plan to the limitation under Section 401 (a)(17) of the Code shall mean the OBRA '93 annual compensation limit set forth in this provision.

S. 6.08B	REQUIRED DISTRIBUTIONS
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(A) Required Beginning Date:

Notwithstanding any other provision of the Plan, payment of a Member's benefits under the Plan shall commence not later than the later of:

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

(b) April 1 of the calendar year that next follows the calendar year in which the Member retires;

(B) Time and Manner of Distribution.

(1) Required Beginning Date. The Member's entire interest will be distributed, or begin to be distributed, to the Member no later than the Member's Required Beginning Date.

(2) Death of Member Before Distributions Begin. If the Member dies before distributions begin, the Member's entire interest will be distributed, or begin to be distributed, no later than as follows:

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

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

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

(d) If the Member's surviving spouse is the Member's sole designated beneficiary and the surviving spouse dies after the Member but before distributions to the surviving spouse begin, this Paragraph 6.08B(B)(2), other than Subparagraph 6.08B(B)(2)(a), will apply as if the surviving spouse were the Member.

For purposes of this Paragraph 6.08B(B)(2) and Subsection 6.08B(E), distributions are considered to begin on the Member's Required Beginning Date (or, if Subparagraph 6.08B(B)(2)(d) applies, the date distributions are required to begin to the surviving spouse

under Subparagraph 6.08B(B)(2)(a)). If annuity payments irrevocably commence to the Member before the Member's Required Beginning Date (or to the Member's surviving spouse before the date distributions are required to begin to the surviving spouse under Subparagraph 6.08B(B)(2)(a)), the date distributions are considered to begin is the date distributions actually commence.

(3) Form of Distribution. Unless the Member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Subsections 6.08B(C), 6.08B(D) and 6.08B(E). If the Member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations. Any part of the Member's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

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

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

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

(b) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Subsections 6.08B(D) or 6.08B(E);

(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 nonincreasing or increase only as follows:

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

(ii) to the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Subsection 6.08B(D) dies or is no

longer the Member's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Code;

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

(iv) 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 Member's Required Beginning Date (or, if the Member dies before distributions begin, the date distributions are required to begin under Subparagraph 6.08B(B)(2)(a) or Subparagraph 6.08B(B)(2)(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 Member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's Required Beginning Date.

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

(D) Requirements For Annuity Distributions That Commence During Member's Lifetime.

(1) Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse. If the Member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Member and a nonspouse beneficiary, annuity payments to be made on or after the Member's Required Beginning Date to the designated beneficiary after the Member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Member using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Member and a nonspouse 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 Member's spouse is the sole designated beneficiary and the form of distribution is a period certain

and no life annuity, the period certain for an annuity distribution commencing during the Member's lifetime may not exceed the applicable distribution period for the Member under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Member reaches age 70, the applicable distribution period for the Member is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Member as of the Member's birthday in the year that contains the annuity starting date. If the Member's spouse is the Member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Member's applicable distribution period, as determined under this Paragraph 6.08B(D)(2), or the joint life and last survivor expectancy of the Member and the Member's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Member's and spouse's attained ages as of the Member's and spouse's birthdays in the calendar year that contains the annuity starting date.

(E) Requirements For Minimum Distributions Where Member Dies Before Date Distributions Begin.

(1) Member Survived by Designated Beneficiary. If the Member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Member's entire interest will be distributed, beginning no later than the time described in Subparagraph 6.08B(B)(2)(a) or Subparagraph 6.08B(B)(2)(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 Member'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 Member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Member's death, distribution of the Member's entire interest will be completed by

December 31 of the calendar year containing the fifth anniversary of the Member's death.

- (3) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Member dies before the date distribution of his or her interest begins, the Member's surviving spouse is the Member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Subsection 6.08B(E) will apply as if the surviving spouse were the Member, except that the time by which distributions must begin will be determined without regard to Subparagraph 6.08B(B)(2)(a).

(F) Definitions.

- (1) Designated beneficiary. The individual who is designated as the beneficiary under Section 6.4 of the Plan and is the designated beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.
- (2) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Member's Required Beginning Date. For distributions beginning after the Member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Paragraph 6.08B(B)(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.

S. 6.08C	RETROACTIVE ANNUITY DATES
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In the event an Member elects a retroactive annuity starting date, such Member's future periodic payments shall be the same as the future periodic payments, if any, that would have been paid with respect to the Member had payments actually commenced on the retroactive annuity starting date. Such Member must receive a make-up payment to reflect any missed payment or payments for the period from the retroactive annuity starting date to the date of the actual make-up payments (with an appropriate adjustment for interest from the date the missed payment or payments would have been made to the date of the actual make-up payment). An Member cannot elect a retroactive annuity starting date that precedes the date upon which the Member could have otherwise started receiving benefits. If an Member elects a retroactive annuity starting date, the actuarial assumptions as of the retroactive annuity starting date shall be used to determine such Member's benefits. However, if the exceptions for benefits subject to Code Section 417(e) and 415 are not complied with in accordance with the final regulations, the actuarial assumptions as of the date distributions begin shall be used.

S.6.09**FORFEITURE OF BENEFITS**

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

accumulated contributions; and, if he or she fails to pay back such amount, the Retirement Board may bring an action in circuit court to recover such amount, plus court costs.

- (e) **Increased Benefits And Forfeitures** - Forfeitures shall not be used to increase the benefits that any employee would otherwise receive under the Plan at any time prior to the termination of the Plan or the complete discontinuance of contributions to the Plan, but shall be anticipated in determining the costs under the Plan.

S. 6.10	ELECTION FOR DIRECT ROLLOVER OF ELIGIBLE DISTRIBUTIONS REQUIRED BY INTERNAL REVENUE SERVICE
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- (A) This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Article, 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.

(B) **Definitions.**

- (1) **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: 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 years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income.
- (2) **Eligible retirement plan:** An eligible retirement plan is an individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
- (3) **Distributee:** A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse.
- (4) **Direct rollover:** A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

- (A) A Participant may elect to purchase permissive service credit in the form of an increase to his or her retirement benefit by an amount no greater than 5% of his or her final monthly compensation (also referred to herein as "Voluntary Supplemental Benefit") under the following conditions:
- (1) The Participant contributes to the Retirement Plan the full actuarial cost of the higher benefit level purchased hereunder. As part of the application for the purchase of such higher benefit level, the Participant shall elect either (i) to contribute to the Retirement Plan the cost of such purchased higher benefit level, which contribution may include, in whole or part, the diversion of payments due to the Participant from the Deferred Retirement Option Plan (DROP), or (ii) to have all or a portion of the contributions for the cost of said higher benefit level picked up by the City. If the Participant elects to have contributions picked up by the City, the Participant must execute an irrevocable, binding payroll deduction authorization form with respect to these contributions, the employee shall not be entitled any option of choosing to receive the contributed amounts directly instead of having them paid by the City to the Retirement Plan and the employee while employed by the City shall not be able to make payment directly to the Retirement Plan for such higher benefit level. With respect to any Participant's contributions which are picked up by the City, the effective date of the pick-up by the City shall be the later of the adoption of this ordinance or the execution of the payroll deduction authorization form. This pick-up does not apply to any contributions made before the effective date or to any contribution that relates to compensation earned for services before the effective date. Participant contributions made pursuant to a binding irrevocable payroll deduction authorization to have such contributions picked up for the purpose of purchasing a higher benefit level hereunder shall be designated and considered as employee contributions, even though they are being paid by the City in lieu of the contributions paid directly by the Participant. Any payroll deduction authorizations in effect for the purchase of such higher benefit level as of the effective date of this ordinance are void. The contributions made pursuant to this section are designated as being picked up by the City and paid from the same source as the payment of salary and wages to these Participants. If the cost of the purchased higher benefit level is not paid in full prior to the termination of the Participant's employment (or by the conclusion of participation in the DROP, if the Participant elected to divert payments from the DROP), then the balance due to the Retirement Plan for the purchased higher benefit level shall be picked up by the City from any payment due to the Participant by the City for unused accrued leave (termination pay) and the irrevocable payroll deduction authorization form described above, shall so provide, except pick up from termination pay is allowed only if said form was signed three (3)

months or more before the employee's termination date. Should, after termination of the Participant's employment (or participation in the DROP) and the City pick-up of any remaining contribution due from the Participant's payment for accrued unused leave (*which only includes payments available upon termination which would be reportable on Form W-2 as taxable wages but for the pickup*) a balance still remain due for the purchase of the higher benefit level, then, at the Participant's option, the Retirement Plan shall reduce the amount of higher benefit level purchased to conform with the amount of contributions therefore picked up by the City and paid to the Retirement Plan or the Participant may elect to make an after-tax lump-sum contribution for the balance due subject to the limitations of Section 415 of the Internal Revenue Code. If the Participant elects to make a lump-sum contribution for the balance due, such payment shall be made by the Participant prior to the date that the Participant's first monthly pension benefit payment is due, or if the Participant elected to divert payments from the DROP, then within 30 days of the conclusion of participation in the DROP. To the extent permitted by law, including relevant Internal Revenue Code provisions, as amended from time to time, in lieu or in addition to irrevocable employer pickup of employee contributions and diversions from the Participant's DROP account, the plan will accept inter-plan transfers ("rollovers") as provided in Section 3.04(f) to fund the purchase of the permissive service credit in the form of a higher benefit level provided herein. The higher benefit level purchase shall not be recognized or credited by the Pension Plan until the Participant has completed ten (10) years of credited service. If the Participant terminates employment before completing ten (10) years of service, all contributions made by the Participant for a higher benefit level shall be refunded to the Participant.

- (2) The election to purchase permissive service credit in the form of a higher benefit level is completely voluntary. The amount of higher benefit level purchased shall be a whole percent of final monthly compensation no less than 1% of final monthly compensation and no greater than 5% of final monthly compensation. The Voluntary Supplemental Benefit purchase shall not be limited by the purchase of additional permissive service credit or purchase of a higher benefit level under Section 3.04.
- (3) The Voluntary Supplemental Benefit shall be paid monthly at retirement.
- (4) If a Participant who purchases a higher benefit level retires under the early retirement provisions of Section 6.02, his or her Voluntary Supplemental Benefit shall be reduced in accordance with Section 6.02 (b) (3).

- (5) If a Participant who has completed the purchase of a higher benefit level retires under the disability provisions of Section 6.03, the higher benefit level shall count as part of the accrued benefit and shall increase the benefit paid to the Participant only to the extent that the accrued benefit (including the purchased supplemental benefit) is greater than 60% of the Participant's final monthly compensation.
- (6) If a Participant who has completed the purchase of a higher benefit level elects an Optional Form of Retirement Benefit under Section 6.06, the Voluntary Supplemental Benefit shall be reduced in a manner consistent with the Retirement Benefit paid to the Participant.
- (7) The Voluntary Supplemental Benefit shall increase with Cost of Living Adjustments in a manner consistent with the Retirement Benefit paid to the Participant.
- (8) A Participant who purchases a higher benefit level shall make the following series of elections with regard to these actions:
 - (i) The Participant may elect a lump sum payment, installment payments, or a partial lump sum payment ("down payment") followed by installments;
 - (ii) If installment payments are elected by the Participant, the Participant shall execute a binding irrevocable payroll deduction authorization to have these installment contributions picked up by the City or execute a binding irrevocable authorization for diversion of DROP account credits.

ARTICLE VII
PARTICIPANTS

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

- (b) **Proof of Age** - Each participant will furnish to the Retirement Committee proof of his or her age (and, in the case of election of Option 2 under Section 6.06, proof of age of the joint pensioner selected by him or her) at such time as required by the Retirement Committee.
 - (1) The Retirement Committee will, if such proof of age is not submitted as required, use as conclusive evidence thereof such information as is deemed by it to be reliable, regardless of the source of such information.
 - (2) Any adjustment required by reason of lack of proof or misstatement of the age of persons entitled to benefits hereunder, by the participant or otherwise, will be in such manner as the Retirement Committee deems equitable.

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

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

- (b) **Failure To Designate Beneficiaries** - If a deceased participant failed to name a beneficiary in the manner above prescribed or if the beneficiary (or beneficiaries) named by a deceased participant predeceases the participant, the death benefit, if any, which may be payable under the Plan with respect to such deceased participant may be paid, in the discretion of the Retirement Committee either to:
 - (i) Any one or more of the persons comprising the group consisting of the participant's spouse, the participant's descendants, the participant's parents, or the participant's heirs-at-law, and the Retirement Committee may pay the entire benefit to any member of such group or apportion such benefit among any two or more of them in such shares as the Retirement Committee, in its sole discretion,

shall determine; or

- (ii) the estate of such deceased participant; provided, however, that in any of such cases the Retirement Committee, in its discretion, may direct that the commuted value of the remaining monthly income payments be paid in a lump sum.
- (c) **Payments Final** - Any payment made to any person pursuant to the power and discretion conferred upon the Retirement Committee by the provisions of this Section 7.02 shall operate as a complete discharge of all obligations under the Plan with respect to such deceased participant and shall be final, binding and conclusive on all persons ever interested hereunder.

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

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

S. 7.05	BENEFITS NOT ASSIGNABLE
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- (a) **In General** - No benefits, rights or accounts shall exist under the plan which are subject in any manner to voluntary or involuntary anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge; and any attempt to so anticipate, alienate, transfer, assign, pledge, encumber or charge the same shall be void, except a retiree receiving any monthly benefit may authorize the board of trustees to withhold from the monthly benefit those funds necessary to pay for the benefits being received through the City, to pay the certified bargaining agent of the City, and to make any payments for child support or alimony. The Board of Trustees may, upon the written request of the retiree of the pension plan, authorize the plan administrator to withhold from that retiree's benefit payment those funds that the retiree directs to pay for premiums for accident, health, and long-term care insurance for the retiree and the retiree's spouse and dependents. The pension plan, and its Board of Trustees, shall not incur any liability for participation in this permissive program for actions taken in good faith. The actual cost of this program may be deducted from the retiree's benefit payment.
- (1) **Liability Limitation** - Any such benefit, right or account shall not be in any manner liable for or subject to the debts, contracts, liabilities, engagements, torts or other obligations of the person entitled to such benefit, right or account.
- (2) **Benefit Not Asset** - Any such benefit, right or account under the plan shall not constitute an asset in case of bankruptcy, receivership or divorce of any person entitled under the Plan.
- (3) **Payment Directly to Participant or Beneficiary** - Any such benefit, right or account shall be payable only directly to the participant or any beneficiary.

S. 7.06	BENEFITS PAYABLE TO MINORS AND INCOMPETENTS
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- (a) **In General** - Whenever any person entitled to payments under this Plan shall be a minor or under other legal disability or in the sole judgment of the Retirement Committee shall otherwise be unable to apply such payments to his or her own best interest and advantage (as in the case of illness, whether mental or physical, or where the person not under legal disability is unable to preserve his or her estate for his or her own best interest), the Retirement Committee may in the exercise of its discretion direct all or any portion of such payments to be made in any one or more of the following ways unless claim shall have been made therefor by an existing and duly-appointed guardian, conservator, committee or other duly-appointed legal representative, in which event payment shall be made to such representative:

- (i) Directly to such person unless such person shall be a minor or shall have been legally adjudicated incompetent at the time of the payment;
 - (ii) To the spouse, child, parent or other blood relative, to be expended on behalf of the person entitled or on behalf of those dependents as to whom the person entitled has the duty of support;
 - (iii) To a recognized charity, to be expended for the benefit of the person entitled or for the benefit of those dependents as to whom the person has the duty of support; or
 - (iv) By the Retirement Committee itself, receiving and expending or directing the expenditure of the same for the benefit of the person entitled or for the benefit of those dependents as to whom the person has the duty of support.
- (b) **Decision of Retirement Committee Final** - The decision of the Retirement Committee will, in each case, be final and binding upon all persons and, except in the case of (iv) above, the Retirement Committee shall not be obliged to see to the proper application or expenditure of any payments so made. Any payment made pursuant to the power herein conferred upon the Retirement Committee shall operate as a complete discharge of the obligations of the Trustee and of the Retirement Committee.

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

S. 7.08	ABANDONMENT OF BENEFITS
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- (a) **Participant's Address** - Each participant and other person entitled to benefits hereunder shall file with the Retirement Committee from time to time, in writing, his or her post office address and each change of post office address, and any check representing payment hereunder.
- (1) **Communication to Participant** - Any communication addressed to a participant, a former participant, a beneficiary or a pensioner hereunder at his or her last address filed with the Retirement Committee (or, if no such address has been filed, then at his or her last address as indicated on the records of the City) shall be binding on such person for all purposes of the Plan.
 - (2) **Obligation of Committee and Trustee** - Neither the Retirement Committee nor the Trustee shall be obligated to search for or ascertain the location of any such person.
- (b) **Options of Retirement Committee** - If the Retirement Committee for any reason is in doubt as to whether retirement income payments are being received by the person entitled thereto, it shall, by registered mail addressed to the person concerned at his or her address last known to the Retirement Committee, notify such person that:

- (i) All unmailed and future retirement income payments shall be henceforth withheld until he or she provides the Retirement Committee with evidence of his or her continued life and his or her proper mailing address; and
- (ii) His or her right to any retirement income whatsoever shall, at the option of the Retirement Committee, be cancelled forever if, at the expiration of three years from the date of such mailing, he or she shall not have provided the Retirement Committee with evidence of his or her continued life and his or her proper mailing address.
- (iii) Upon legal determination of death, or other evidence satisfactory to the Retirement Committee, a participant's retirement income payable under any provision of the Plan will be paid to his or her designated beneficiary. If, however, no designated beneficiary is recorded with the Retirement Committee, it will be paid first to his or her spouse, if living, and if not, to his or her surviving children in equal shares.

ARTICLE VIII

TRUST FUND AND TRUSTEE

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

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

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

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

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

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

apportioned and distributed in accordance with the following procedure:

- (1) **Date of Distribution, Asset Value** - The Retirement Committee shall determine the date of distribution and the asset value to be distributed, after taking into account the expenses of such distribution.
- (2) **Method of Distribution** - The Retirement Committee shall determine the method of distribution of the asset value -- that is, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or in kind based on the then market value -- for each class of participants and other persons entitled to benefits under the Plan, as specified in (3) below.
- (3) **Asset Value** - The Retirement Committee shall apportion the asset value as of the date of termination of the Plan in the manner set forth below, on the basis that the amount required to provide any given retirement income shall mean the actuarially-computed single-sum value of such retirement income; except that, if the method of distribution determined under Section 8.06(2) (Method of Distribution) above involves the purchase of an insured annuity, the amount required to provide the given retirement income shall mean the single premium payable for such annuity.
 - (a) Apportionment shall first be made in respect of each retired police officer or retired firefighter receiving a retirement income hereunder on such date, each person receiving a retirement income on such date on account of a retired (but since deceased) police officer or firefighter, and each police officer or firefighter who has, by such date, become eligible for normal retirement but has not yet retired, in the amount required to provide such retirement income; provided that, if such asset value is less than the aggregate of such amounts, such amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such asset value.
 - (b) If there is any asset value remaining after the apportionment under paragraph (a), apportionment shall next be made in respect of each police officer or firefighter in the service of the municipality on such date who has completed at least ten (10) years of credited service, who has contributed to the municipal police officers' or firefighters' pension trust fund for at least ten (10) years, and who is not entitled to an apportionment under paragraph (a), in the amount required to provide the actuarial equivalent of the accrued normal retirement income, based on the police officers' or firefighters' credited service and earnings to such date, and each former participant then entitled to a benefit under the provisions of S. 185.19 or 175.211 who has not by such date reached his or her normal retirement date, in the amount required to provide the actuarial equivalent of the accrued normal retirement income to which he or she is entitled under S. 185.19 or 175.211; provided that, if such remaining asset value is less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.
 - (c) If there is any asset value after the apportionments under paragraphs (a) and (b), apportionment shall lastly be made in respect of each police officer or firefighter in the service of the municipality on such date who is not entitled to an

apportionment under paragraphs (a) and (b) in the amount equal to his or her total contributions to the Plan to date of termination; provided that, if such remaining asset value is less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

- (d) In the event that there is asset value remaining after the full apportionments specified in paragraphs (a), (b) and (c), such excess shall be returned to the municipality, less return to the state of the state's contributions; provided that, if the excess is less than the total contributions made by the municipality and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the municipality and state.
- (4) The Retirement Committee shall distribute, in accordance with the manner of distribution determined under subsection (2), the amounts apportioned under subsection (3).
- (5) If, after a period of 24 months after the date on which the Plan terminated or the date on which the Retirement Committee received written notice that the contributions thereunder were being permanently discontinued, the municipality or the Retirement Committee of the municipal police officers' or firefighters' pension trust fund affected has not complied with all the provisions in this section, the Department of Insurance shall effect the termination of the fund in accordance with this section.

S. 8.07	BENEFITS 100% VESTED IF PLAN IS TERMINATED OR CONTRIBUTIONS PERMANENTLY DISCONTINUED
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- (a) **In General** - In the event that the Plan is terminated or contributions to the trust are permanently discontinued, the benefits of each participant in the Plan on such date of termination or discontinuance shall be 100% vested to the extent then funded, where such vested benefits shall be determined and distributed as provided in Section 8.06 hereof.
- (b) **State Monies** - However, the state monies received under Chapters 175 and 185, Florida Statutes, shall be used for the exclusive benefit of the police and fire departments, in accordance with the requirements of those statutes.