

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING AND RESTATING THE MIAMI BEACH EMPLOYEES' RETIREMENT PLAN CREATED BY ORDINANCE NO. 2006-3504, AS SUBSEQUENTLY AMENDED, BY AMENDING SECTIONS 2, 3, 4, 5, AND 12 OF THE PLAN; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

Section 1. The Miami Beach Employees' Retirement Plan created by Ordinance 2006-3504, as subsequently amended, is hereby restated, and amended as follows:

Section 1. Creation and Purpose of the Retirement Plan

1. A retirement system is hereby created under and by authority of Chapter 18691, Laws of Florida, Acts of 1937, as amended, by merging the "RETIREMENT SYSTEM FOR GENERAL EMPLOYEES OF THE CITY OF MIAMI BEACH" created by Ordinance 1901, as amended (hereinafter referred to as the "Classified System"), with the "RETIREMENT SYSTEM FOR UNCLASSIFIED EMPLOYEES AND ELECTED OFFICIALS OF THE CITY OF MIAMI BEACH" created by Ordinance 88-2603, as amended (hereinafter referred to as the "Unclassified System"), to form the "MIAMI BEACH EMPLOYEES' RETIREMENT PLAN" which shall be hereinafter referred to as the "Plan" or the "Retirement Plan." Any references to the Classified System or Unclassified System in any other provision of the City Charter, Code of Ordinances, ordinances or resolutions shall be construed to apply to this Plan in the same manner as applied to the Classified System or Unclassified System.

2. The purpose of the Retirement Plan is to provide retirement and other related benefits for eligible employees and elected officials of the City and their beneficiaries or dependents.

Section 2. Definitions

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

2.01 "Accumulated Employee Contributions" means the required contributions paid by any Member as provided in Section 6.2 or credited to the Member pursuant to Section 6.1(b), together with any interest allowed thereon under this Plan or previous City

retirement system, until such time as the Employee's service with the City is terminated at the rate, compounded annually, as determined by the Board from time to time.

2.02 "Actuarial Equivalent" means equivalent when computed at 8.0% interest per annum on the basis of the RP 2000 Combined Healthy Participant Mortality Tables with a blending of 65% male rate and 35% female rates.

2.03 "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 5.10 (g); in the absence of such survivor or such designation, it means the estate of the deceased Member or Retirant, as the case may be.

2.04 "Board of Trustees" or "Board" means the managing board of the Plan as provided for in Article VII.

2.05 "Charter Officers" means the City Manager, City Attorney, City Clerk, and Inspector General.

2.065 "City" or "Employer" means the City of Miami Beach, Florida.

2.076 "City Commission" or "Commission" means the City Commission of the City of Miami Beach, Florida.

2.087 "Classified Employee" means an Employee who is employed in a classified position under the City of Miami Beach Civil Service Act.

2.098 "Creditable Service" means service credited to a Member under the Plan as provided in Article IV.

2.1009 "Defined Contribution Retirement System" means a plan established by the City pursuant to Ordinance 92-2813.

2.1140 "Domestic Partner" means a person with whom a member has entered into a domestic partnership as defined in Section 62-126 of the City Code, and registered and documented according to the requirements of Section 62-127 of the City Code.

2.1244 "Earnings" means base pay, including longevity pay, for personal services rendered as an Employee, but excluding any payment of overtime, shift differential or extra compensation allowances such as uniform allowances. Notwithstanding the foregoing, in the case of any Member who is in a classification within the CWA bargaining unit who entered service with the City prior to February 21, 1994 as a Classified Employee, and who was continuously a member of the Classified System from that date until March 18, 2006, "Earnings" shall include overtime pay up to a maximum of ten percent (10%) above the Member's highest pensionable earnings each year. The definition of Earnings in the preceding sentence shall apply to Employees in classifications within the AFSCME bargaining unit who entered the service of the City prior to April 30, 1993 and to employees in classifications within the GSA bargaining unit who entered the service of the City prior to August 1, 1993, and who were Members of

the Classified Plan continuously from that date until March 18, 2006, upon the ratification of a collective bargaining agreement that contains such definition. Earnings in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code, and regulations promulgated thereunder, shall be disregarded, and no member contributions shall be required on any such excess

2.1342 "Elected Officials" means the Mayor, and the members of the City Commission of the City of Miami Beach.

2.1443 "Employee" means any person employed by the City on a regular basis who is receiving compensation from the City for personal services, exclusive of the following groups and classifications:

- (a) Persons whose services are compensated on a contractual basis.
- (b) Persons employed on a provisional, original probationary or other temporary basis.
- (c) Members of boards or commissions, officers, or employees receiving no salary or a nominal salary on a fee basis.
- (d) Members of the City Pension Fund for Firemen and Policemen or the City Supplemental Pension Fund for Firemen and Policemen in the City of Miami Beach.
- (e) Persons whose regular employment with the City is for less than thirty (30) hours per week. Provided, however, all persons who were on the membership rolls of the Classified System as of August 31, 1992 and became Members of this Plan on March 18, 2006, whose regular employment is for less than thirty (30) hours per week may continue as Members of this Plan.

"Employee" also means any person employed on a regular basis for thirty (30) or more hours per week by the Miami Beach Visitor and Convention Authority, this Retirement Plan, the Classified Plan, the Unclassified Plan or the City Pension Fund for Firemen and Policemen.

2.1544 (a) "Final Average Monthly Earnings" means one-twelfth of the average annual earnings of the Member during the two highest paid years of creditable service except as otherwise provided in this Section 2.14. Notwithstanding the foregoing, for any Member who became a Member of the Unclassified System prior to October 18, 1992 and was continuously a Member of the Unclassified System from that date until March 18, 2006, "Final Average Monthly Earnings" means one-twelfth of the average annual earnings of the Member during the two highest paid years of creditable service but shall not in any event be less than one-twelfth of the earnings of the Member during the twelve months immediately preceding March 18, 2006.

(b) Notwithstanding Section 2.14(a) above, effective September 30, 2010, "Final Average Monthly Earnings" means:

1) For those Members who as of September 30, 2010 have attained normal retirement age or are within twenty-four (24) months from normal retirement age, "Final Average Monthly Earnings" shall have the same meaning as in Section 2.14(a) above.

2) For those Members who as of September 30, 2010 are between twenty-four (24) and thirty-six (36) months from normal retirement age, "Final Average Monthly Earnings" means one-twelfth (1/12) of the average annual earnings of the Member during the three (3) highest paid years of creditable service.

3) For those Members who as of September 30, 2010 are between thirty-six (36) and forty-six (46) months from normal retirement age, "Final Average Monthly Earnings" means one-twelfth (1/12) of the average annual earnings of the Member during the four (4) highest paid years of creditable service.

4) For those Members who as of September 30, 2010 are more than forty-eight (48) months from normal retirement age, "Final Average Monthly Earnings" means one-twelfth (1/12) of the average annual earnings of the Member during the five (5) highest paid years of creditable service.

(c) Effective April 23, 2014, Members within classifications in the AFSCME bargaining unit who were hired prior to September 30, 2010, may elect to retire for purposes of the Plan but continue employment with the City for up to sixty (60) months, and have their monthly retirement benefit paid into a DROP account during the DROP period, in accordance with Section 5.13.

(d) Effective January 1, 2023 for Members who have served as an Elected Official or Charter Officer and terminate employment, retire or enter the DROP on or after that date, "Final Average Monthly Earnings" means one-twelfth (1/12) of the average annual earnings of the Member during the five (5) highest paid years of creditable service, or if such Member's period of creditable service is less than five (5) years, the average of the Member's years of creditable service.

2.1645 "Finance Director" means the Finance Director of the City of Miami Beach as appointed by the City Manager or such person designated by the City Manager to perform the duties of Finance Director.

2.1746 "Member" means any Employee included in the membership of the Plan, as provided in Article III. A Member who retires shall be deemed a retired member or a retirant.

2.1817 "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 the Member or Retirant and 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 Ordinance.

2.1918 "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 a Member or Retirant of this Plan, the Classified or Unclassified System, or the Predecessor System.

2.2019 "Physical Examiners" means the physicians provided for in Section 8.06(j).

2.2120 "Predecessor system" means the Retirement System governed by Ordinance No. 845 as in effect prior to the adoption of the Classified System and the Unclassified System.

2.2224 "Regular Interest" means interest at the rate or rates determined by the Board of Trustees as provided in Section 8.6(d).

2.2322 "Retirant" means a person in receipt of retirement allowance payments under the Plan on the basis of his service as an Employee.

2.2423 "Retirement allowance" means monthly payments under the Plan to a Retirant during his lifetime; monthly payments shall be due as of the first day of each calendar month and shall cease after the payment as of the first day of the month in which the Retirant's death occurs.

2.2524 "Retirement Plan" or "Plan" means the Miami Beach Employees Retirement Plan created by this ordinance.

2.2625 "Unclassified Employee" means an Employee who is employed in a position that is not a classified position under the City of Miami Beach Civil Service Act.

2.2726 Deferred Retirement Option Plan (DROP) - A program under which a Member who has reached the normal retirement date may elect to retire for purposes of the Plan but continue employment with the City for up to thirty-six (36) months, and have his/her monthly retirement benefit paid into a DROP account during the DROP period, in accordance with Section 5.13. Notwithstanding the preceding sentence:

(a) Effective July 17, 2013, Members within classifications in the CWA bargaining unit who were hired prior to October 27, 2010, and Members not included in any bargaining unit, who were hired prior to September 10, 2010, may elect to retire for purposes of the Plan but continue employment with the City for up to sixty (60) months, and have their monthly retirement benefit paid into a DROP account during the DROP period, in accordance with Section 5.13.

(b) Effective October 16, 2013, Members within classifications in the GSAF bargaining unit who were hired prior to July 14, 2010, may elect to retire for

purposes of the Plan but continue employment with the City for up to sixty (60) months, and have their monthly retirement benefit paid into a DROP account during the DROP period, in accordance with Section 5.13.

(c) Effective April 23, 2014, Members within classifications in the AFSCME bargaining unit who hired prior to September 30, 2010, may elect to retire for purposes of the Plan but continue employment with the City for up to sixty (60) months, and have their monthly retirement benefit paid into a DROP account during the DROP period, in accordance with Section 5.13.

For members in classifications within the American Federation of State, County and Municipal Employees ("AFSCME") and Communications Workers of America ("CWA") bargaining units, the terms in this Plan shall have the same meanings as in Ordinance 789, the Classified Employee's Salary Ordinance, except as otherwise specifically provided in this Plan.

Section 3. Membership

3.01 Every person who on March 18, 2006 was a Retirant, Pensioner, or vested former member under the Classified System, Unclassified System or Predecessor System shall automatically become on such date a Retirant, Pensioner or vested Member, as applicable, under this Plan, and shall continue to receive or receive in the future under this Plan the benefits paid or payable under the Classified System, Unclassified System, or Predecessor System. Every person who on March 18, 2006 was a Member of the Classified System or Unclassified System shall automatically become on such date a Member of this Retirement Plan. Any written designation of beneficiary or dependent beneficiary in effect under the Classified System, Unclassified System or Predecessor System on March 18, 2006 shall continue to be in effect under this Plan unless subsequently changed or revoked by the Member or Retirant, in writing, in accordance with the provisions of this Plan Ordinance.

3.02 Any person, other than as provided in Section ~~3.033-3~~ herein, who becomes an Employee on or after March 18, 2006 shall be a Member of this Plan as a condition of his employment or office, as of the first day of City employment. An Employee's acceptance of employment with the city shall constitute authorization for the city to deduct contributions from the Earnings of the Employee in accordance with Section 6.02. unless and until the Employee elects not to participate in this Plan pursuant to Section 3.03.

3.03 Any person serving as an Elected Official or Charter Officer, ~~City Manager or City Attorney~~ shall have the option to reject membership in this Plan, and to participate in another plan that is approved by the City Commission. Any employee in a classification within the AFSCME or GSA bargaining units who enter the service of the City on or after March 18, 2006, and who would otherwise become a Member of this Retirement Plan, shall have an irrevocable option to reject membership in this Plan, and elect instead to participate in the Defined Contribution Retirement System, until such time as a collective bargaining agreement is ratified that provides for mandatory participation in this Plan.

3.04 An Employee shall cease to be a Member if he dies, retires, ceases to be an Employee as defined in Section 2.13 herein for any other reason, or elects not to participate in this Plan in accordance with Section 3.03.

3.05 Any Employee who previously elected to participate in the Defined Contribution Retirement System, or a defined contribution retirement plan established for employees of the Miami Beach Visitor and Convention Authority, the Classified Plan, the Unclassified Plan or the City Pension Fund for Firemen and Policemen, prior to March 18, 2006 shall have a one-time, irrevocable option to transfer to this Plan by filing a written election with the Board within six months from March 18, 2006, but in no event later than the last day of employment. Employees who elect to participate in this Plan pursuant to this Section ~~3.053.5~~ may purchase Creditable Service under the Plan for all or a portion of the period of their participation in the Defined Contribution Retirement System, or a defined contribution retirement plan established for employees of the Miami Beach Visitor and Convention Authority, the Classified Plan, the Unclassified Plan or the City Pension Fund for Firemen and Policemen, in accordance with Section 4.04. Notwithstanding the foregoing, Employees in classifications within the AFSCME and GSA bargaining units who previously elected to participate in the Defined Contribution Retirement System, shall not be eligible to participate in this Plan unless and until a collective bargaining agreement is ratified that provides for such participation.

Section 4. Creditable Service

4.01 Each Employee who was a member of the Classified System or Unclassified System and becomes a Member of this Plan on March 18, 2006 shall be credited with the same amount of creditable service under this Plan to which the member was credited as of such date under the Classified System or Unclassified System. A Member shall be credited with creditable service for all periods of service as an Employee on or after March 18, 2006 during which the Member makes contributions to the Plan in accordance with Article 6. The creditable service of a Member shall not include service prior to the date the member elects to receive a refund of Accumulated Employee Contributions in accordance with Section ~~5.095-9~~(a).

4.02 A member who separates from City employment for active duty service in the Armed Forces of the United States, the United States Merchant Marine or the United States Coast Guard, voluntarily or involuntarily, shall be entitled to creditable service under the Plan for the period of such service, provided:

(a) The Member must return to City employment within one (1) year from the earlier of the date of military discharge or release from active service, unless otherwise provided by the Uniformed Services Employment and Reemployment Rights Act (USERRA), (P.L. 103-353).

(b) The Member is entitled to reemployment with the City under the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), (P.L. 103-353).

(c) The member pays into the Plan the amount of contributions that would have been required had the Member remained continuously employed by the City, based on the member's earnings on the date of separation from City employment.

(d) The maximum amount of creditable service available under this paragraph shall be five (5) years.

In addition, for years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined in Section 3401(h)(2) of the Internal Revenue Code, shall be treated as an employee of the employer making the payment, (ii) the differential wage payment shall be treated as compensation, and (iii) the plan shall not be treated as failing to meet the requirements of any provision described in Section 414(u)(1)(C) of the Internal Revenue Code by reason of any contribution or benefit which is based on the differential wage payment.

4.03

(a) A Member with five (5) or more years of creditable service may, at any time prior to retirement, elect to purchase up to a maximum of two (2) years of additional creditable service may at any time prior to retirement elect to purchase a maximum of two years of additional creditable service as provided in Section 4.03. Notwithstanding any provision of this Section 4.03, effective September 30, 2013, Members whose classification is included in the CWA bargaining unit and Members who are not included in any collective bargaining unit shall not be eligible to purchase additional creditable service under this Section 4.03. Notwithstanding any provision of this Section 4.03, effective September 30, 2013, Members whose classification is included in GSAF bargaining unit shall not be eligible to purchase additional creditable service under this Section 4.03. Notwithstanding any provision of this Section 4.03, effective April 23, 2015, Members whose classification is included in the AFSCME bargaining unit shall not be eligible to purchase additional creditable service under this Section 4.03. The benefit multiplier that the Member is earning at the time of the election to purchase additional creditable service pursuant to this Section 4.03 shall be applied to the additional credited service purchased. To be eligible to purchase additional creditable service under this Section 4.03, a Member who previously elected to participate in the Defined Contribution Retirement System (401(a) Plan) must first purchase all available creditable service in accordance with Section ~~4.044.4~~. An eligible Member may elect to purchase additional creditable service under this Section 4.3 for any of the following types of employment prior to the employee's date of hire by the City, provided that the Member may not purchase such service if the Member has received or will receive a pension benefit for the same period of employment under another retirement plan:

- 1) Active duty military service in the Armed Forces of the United States or the Coast Guard.
- 2) Full-time employment with another governmental entity.
- 3) Full-time employment in the private sector performing the same or

very similar duties the employee is performing for the City at the time of his/her election to purchase additional service.

(b) In order to receive the additional creditable service, the Member shall pay ten percent (10%) of his/her annual rate of pensionable Earnings, multiplied by the number of years and fractions of a year purchased, up to a total of two years. For the purpose of this section, the annual rate of pensionable earnings shall be the rate in effect on the date of payment and shall include the annual amount of overtime pay for those Members whose overtime pay is included in Earnings. Payment shall be made in a single lump sum to the Plan within six (6) months following the date of the member's election to purchase the additional service. Notwithstanding the preceding sentence, effective July 17, 2013, Members whose classification is included in the CWA bargaining unit and Members who are not included in any collective bargaining unit shall make payment in a single lump sum to the Plan within twelve (12) months following the date of the Members election to purchase the additional service.

(c) For purposes of this Section ~~4.034-3~~, Members may use the value of accrued sick and/or annual leave for the purchase of additional creditable service, as follows. Accrued sick leave may be used at the rate of 2 hours of accrued sick leave for the value of each hour used toward the purchase, provided that the Member must retain at least 120 hours of accrued sick leave after the purchase. Annual leave may be used at the rate of 1 hour of accrued annual leave for the value of each hour used toward the purchase. The total amount of sick and annual leave used for the purchase of additional creditable service under this Section 4.03 shall be deducted from the maximum amount of leave allowed for payout to the Member upon termination of employment.

(d) Members may pay for some or all of the cost of additional creditable service purchased pursuant to this Section 4.03 by direct transfer or rollover of funds from a 401 (a) or 457 plan, provided the 401(a) plan or 457 plan permits such direct transfers.

(e) Notwithstanding the forgoing, Employees in classifications within the AFSCME bargaining unit and the GSA bargaining unit shall not be eligible to purchase additional creditable service under this Section 4.03 unless and until a collective bargaining agreement is ratified that provides for such purchase.

(f) Amounts paid or transferred to this Plan for the purchase of creditable service under this Section 4.03 shall be considered accumulated employee contributions as that term is defined herein, and Members shall be 100% vested in such amounts.

(g) Notwithstanding any other provision of this Section 4.3, in no event may the maximum benefit percentage applicable to the member be exceeded as the result of any purchase of creditable service.

4.04 Purchase of Creditable Service by Members Who Previously Participated in the Defined Contribution Retirement System.

(a) Any Employee who previously elected to participate in the Defined Contribution Retirement System (401(a) Plan) prior to March 18, 2006, and who becomes a Member of this Plan on or after March 18, 2006, may purchase Creditable Service under this Plan for all or a portion of the period of their participation in the Defined Contribution Retirement System, by paying into the Plan an amount equal to the sum of the required employer and employee contributions to the Classified Plan or Unclassified Plan (whichever plan in which the Member was eligible to participate) for each fiscal year of service, or portion thereof, purchased, as reflected in the actuarial valuation report for that year; plus interest at the rate of 8.5 percent for Classified Employees and 9.0 percent for Unclassified Employees, calculated from the end of each applicable fiscal year through the date of payment. Notwithstanding the preceding sentence, for any Creditable Service purchased pursuant to this subsection (a) that relates to employment during the 2005-2006 fiscal year, if full payment for such service is made on or before May 1, 2006, the payment amount for such service shall be twenty percent (20%) of the Employee's earnings for the period purchased, with no interest on the amount paid for such service. In any event, full payment all service purchased pursuant to this subsection (a) must be made within six (6) months from March 18, 2006 and cost estimates have been provided to the Employee, but in no event later than the last day of employment. In the case of an employee who elects to transfer or roll over assets from the Defined Contribution Retirement System to purchase creditable service pursuant to this subsection (a), the requirements of the preceding sentence as to such assets shall be satisfied by the employee's irrevocable authorization to transfer or roll over such assets, executed on or before the last day of employment. Each employee electing this option may purchase creditable service under this Plan for the period from the date the employee entered the Defined Contribution Retirement System through the effective date of membership in this Plan, or any portion thereof. If a Member elects to purchase less than the full period of participation in the Defined Contribution Retirement System, the first period of purchase shall be for the same fiscal year in which the Employee was first authorized to purchase service pursuant to this subsection (a), the second period of purchase shall be for the immediately preceding fiscal year and so on, until the Member purchases the amount of creditable service desired. A Member shall not be permitted to select those years that result in the lowest purchase amount. Notwithstanding any other provision of this Section 4.4, in no event may the maximum benefit percentage applicable to the member be exceeded as the result of any purchase of Creditable Service.

(b) Any Employee who previously elected to participate in a defined contribution retirement plan established for employees of the Miami Beach Visitor and Convention Authority, the Classified Plan, the Unclassified Plan or the City Pension Fund for Firemen and Policemen, prior to March 18, 2006, and who becomes a Member of this Plan on or after March 18, 2006, may purchase Creditable Service under this Plan for all or a portion of the period of their

participation in such defined contribution retirement plan on or after October 18, 1992, during which such Member was employed on a regular basis for thirty (30) or more hours per week, by paying into the Plan an amount equal to the sum of the required employer and employee contributions to the Classified Plan for each fiscal year of service, or portion thereof, purchased, as reflected in the actuarial valuation report for that year; plus interest at the rate of 8.5 percent calculated from the end of each applicable fiscal year through the date of payment. Notwithstanding the preceding sentence, for any Creditable Service purchased pursuant to this subsection (b) that relates to employment during the 2005-2006 fiscal year, if full payment for such service is made on or before May 1, 2006, the payment amount for such service shall be twenty percent (20%) of the Employee's earnings for the period purchased, with no interest on the amount paid for such service. In any event, full payment for all service purchased pursuant to this subsection (b) must be made within six (6) months after March 18, 2006 and cost estimates have been provided to the Employee, but in no event later than the last day of employment. In the case of a Member who elects to transfer or roll over assets from a defined contribution retirement plan established for employees of the Miami Beach Visitor and Convention Authority, the Classified Plan, the Unclassified Plan or the City Pension Fund for Firemen and Policemen to purchase creditable service pursuant to this subsection (b), the requirements of the preceding sentence as to such assets shall be satisfied by the Member's irrevocable authorization to transfer or roll over such assets, executed on or before the last day of employment. If a Member elects to purchase less than the full period of participation in the defined contribution retirement plan, the first period of purchase shall be for the same fiscal year in which the Employee was first authorized to purchase service pursuant to this subsection (b), the second period of purchase shall be for the immediately preceding fiscal year and so on, until the Member purchases the amount of creditable service desired. A Member shall not be permitted to select those years that result in the lowest purchase amount. Notwithstanding any other provision of this Section ~~4.044.4~~, in no event may the maximum benefit percentage applicable to the Member be exceeded as the result of any purchase of creditable service.

(c) A Member who elects to purchase creditable service under this Section ~~4.044.4~~ may pay for such service in one or a combination of the following manners:

- 1) Direct transfer or rollover from the Defined Contribution Retirement System, 457 plan or other eligible plan in accordance with Section ~~12.0342.3~~, provided the other retirement system or plan permits such direct transfers or rollovers for the purchase of creditable service under this Plan. The full value of assets, including any outstanding loans, transferred from a Member's account in the Defined Contribution Retirement System, or from a defined contribution retirement plan established for employees of the Miami Beach Visitor and Convention Authority, the Classified Plan, the Unclassified Plan or the City Pension Fund for Firemen and Policemen that permits such direct transfers or rollovers for the purchase of creditable service under this Plan, will be credited toward the purchase of creditable

service under this Section 4.044.4. A Member must pay off any loan balance existing at the time of transfer from the Defined Contribution Retirement System, or from a defined contribution retirement plan established for employees of the Miami Beach Visitor and Convention Authority, the Classified Plan, the Unclassified Plan or the City Pension Fund for Firemen and Policemen, by making payments to this Plan in the same manner and at the same rate of interest as the payments that were made to the Defined Contribution Retirement System or defined contribution retirement plan prior to the transfer. In the event full payment of all outstanding loan balances is not made prior to termination of employment, the Member's creditable service shall be adjusted to reflect the payments actually made.

2) Cash Payment.

3) A Member who is employed by the City at the time creditable service is purchased pursuant to this Section 4.044.4 may use the value of accrued sick and/or annual leave as follows. Accrued sick leave may be used at the rate of 2 hours of accrued sick leave for the value of each hour used toward the purchase, provided that the Member must retain at least 120 hours of accrued sick leave after the purchase. Annual leave may be used at the rate of 1 hour of accrued annual leave for the value of each hour used toward the purchase. The total amount of sick and annual leave used for the purchase of additional creditable service under this Section 4.044.4 shall be deducted from the maximum amount of leave allowed for payout to the Member upon termination of employment.

(d) Amounts paid or transferred to this Plan for the purchase of creditable service under this Section 4.044.4, excluding any outstanding loan balances, shall be considered accumulated employee contributions as that term is defined herein, and Members shall be 100% vested in such amounts.

(e) Notwithstanding any other provision of this Section 4.044.4, the provisions of this Section 4.044.4 shall not apply to Employees within classifications in the AFSCME and GSA bargaining units until a collective bargaining agreement containing such provisions is ratified. If a collective bargaining agreement applying the provisions of this Section 4.044.4 to Employees within classifications in the AFSCME or GSA bargaining units is ratified on or before April 1, 2006, for any Employee who purchases Creditable Service purchased pursuant to subsection (a), above, that relates to employment during the 2005-2006 fiscal year, and makes full payment for such service within sixty (60) days following ratification of the collective bargaining agreement, the payment amount for such service shall be twenty percent (20%) of the Employee's earnings for the period purchased, with no interest on the amount paid for such service.

4.05 Purchase of Creditable Service by Members Who Previously had Creditable Service Under the Classified Plan.

(a) Any Employee who was employed on March 18, 2006, and becomes a Member of this Plan on or before September 18, 2006, and who previously had creditable service under the Classified Plan but who separated from employment as a Classified Employee prior to becoming fully vested in the Classified Plan, may purchase Creditable Service under this Plan for all or a portion of the period of their creditable service under the Classified Plan, by paying into the Plan an amount equal to the sum of the required employer and employee contributions to the Classified Plan for each fiscal year of service or portion thereof purchased, plus interest at the rate of eight and one-half percent (8.5%) from the end of each applicable fiscal year through the date of payment. Full payment must be made within six (6) months after March 18, 2006.

(b) Notwithstanding the provisions of subsection (a), above, any Employee who was employed on March 18, 2006 and becomes a Member of this Plan on or before September 18, 2006, and who was promoted from a classified position to an unclassified position with no break in City service prior to March 18, 2006 and received a refund of member contributions from the Classified Plan, may purchase Creditable Service under this Plan for all or a portion of the period of their creditable service under the Classified Plan, by paying into the Plan an amount equal to ten percent (10%) of their annual rate of pensionable Earnings, multiplied by the number of years and fractions of a year purchased, plus interest at the rate of 9.0% calculated from the end of each applicable fiscal year through the date of payment. Full payment for Creditable Service purchased pursuant to the preceding sentence must be made within six (6) months from March 18, 2006.

(c) Notwithstanding any provision of this Section 4.05, this Section 4.05 shall have no application to persons employed by the Miami Beach Visitor and Convention Authority, the Classified Plan, the Unclassified Plan or the City Pension Fund for Firemen and Policemen on March 18, 2006.

4.06 Purchase of Creditable Service for Initial Probationary Period. Any Member who did not receive credit under a City retirement plan, other than a Section 457 plan, during their employment as a provisional or probationary employee, may, at any time prior to retirement, purchase Creditable Service under this Plan for all or a portion of such provisional or probationary employment, by paying into the Plan an amount equal to member contribution rate in effect during the period of such provisional or probationary employment, plus interest compounded annually based on the regular rate of interest in effect at the time of the purchase. If the member elects to purchase Credited Service for less than the entire period of provisional or probationary employment, only the most recent period of provisional or probationary employment shall be claimed. Notwithstanding, any other provision of this Section 4.06, in no event may the maximum benefit percentage applicable to the member be exceeded as the result of any purchase of Creditable Service.

Section 5. Benefits

5.01 Normal Retirement

(a) Normal Retirement Date

1) Except as otherwise provided in this subsection (a), the normal retirement date shall be the first day of the calendar month coincident with or next following the attainment of age fifty-five (55) and completion of five (5) or more years of creditable service.

2) Notwithstanding the provisions of paragraph (1), above, the normal retirement date of a Member who became a member of the Unclassified System prior to October 18, 1992 and was continuously a member of the Unclassified System from that date until March 18, 2006, shall be the first day of the calendar month coincident with or next following the attainment of age fifty (50) and completion of five (5) or more years of creditable service.

3) Notwithstanding the provisions of paragraph (1), above, the normal retirement date for Members in classifications within the CWA (MBEBA) bargaining unit who entered the service of the City prior to February 21, 1994 and who were Members of the Classified Plan continuously from that date until March 18, 2006, shall be the first day of the calendar month coincident with or next following the attainment of age 50 and completion of five (5) or more years of creditable service.

4) Notwithstanding the provisions of paragraph (1), above, the normal retirement date for Members in classifications within the AFSCME bargaining unit who entered the service of the City prior to April 30, 1993 and who were Members of the Classified Plan continuously from that date until March 18, 2006, shall be the first day of the calendar month coincident with or next following the attainment of age fifty (50) and completion of five (5) or more years of creditable service, until a collective bargaining agreement is ratified that provides a normal retirement date in accordance with paragraph (1), above.

5) Notwithstanding the provisions of paragraph (1), above, the normal retirement date for Members in classifications within the GSA bargaining unit or any Employee classified as "Other" who entered the service of the City prior to August 1, 1993 and who were Members of the Classified Plan continuously from that date until March 18, 2006, shall be the first day of the calendar month coincident with or next following the attainment of age fifty (50) and completion of five (5) or more years of creditable service, until a collective bargaining agreement is ratified that provides a normal retirement date in accordance with paragraph (1), above.

6) Notwithstanding the provisions of paragraph (1), above, the normal retirement date for Members in classifications within the AFSCME bargaining unit who entered the service of the City after on or April 30, 1993, and Members in classifications within the GSA bargaining unit who entered the service of the City on or after August 1, 1993, shall be the first day of the calendar month coincident with or next following the attainment of age sixty (60) and the completion of ten (10) or more years of creditable service, until a collective bargaining agreement is ratified that provides a normal retirement date in accordance with paragraph (1), above.

7) Upon attainment of the Member's normal retirement date as provided for in this subsection (a), the Member's benefits under this Plan shall be fully vested and nonforfeitable.

(b) Normal Retirement Benefit

1) Except as otherwise provided in this subsection (b), the normal retirement benefit shall be payable to a Member on or after the normal retirement date in an amount equal to three percent (3%) of final average monthly earnings multiplied by creditable service, up to a maximum of eighty percent (80%) of final average monthly earnings.

2) Notwithstanding the provisions of paragraph (1) above, the normal retirement benefit payable to Members in classifications within the AFSCME bargaining unit who entered the service of the City prior to April 30, 1993 and who were Members of the Classified Plan continuously from that date until March 18, 2006, shall be three percent (3%) of final average monthly earnings multiplied by creditable service for the first fifteen (15) years of such service, and four percent (4%) of final average monthly earnings multiplied by creditable service for each year in excess of fifteen (15), to a maximum of ninety percent (90%) of final average monthly earnings.

3) Notwithstanding the provisions of paragraph (1), above, the normal retirement benefit payable to Members in classifications within the CWA (MBEBA) bargaining unit who entered the service of the City prior to February 21, 1994 and who were Members of the Classified Plan continuously from that date until March 18, 2006, shall be three percent (3%) of final average monthly earnings multiplied by creditable service for the first fifteen (15) years of such service, and four percent (4%) of final average monthly earnings multiplied by creditable service for each year in excess of fifteen (15), to a maximum of ninety percent (90%) of final average monthly earnings.

4) Notwithstanding the provisions of paragraph (1), above, the normal retirement benefit payable to Members in classifications within the GSA bargaining unit or any Employee classified as "Other" who entered the service of the City prior to August 1, 1993 and who were Members of the

Classified Plan continuously from that date until March 18, 2006, shall be three percent (3%) of final average monthly earnings multiplied by creditable service for the first fifteen (15) years of such service, and four percent (4%) of final average monthly earnings multiplied by creditable service for each year in excess of fifteen (15), to a maximum of ninety percent (90%) of final average monthly earnings.

5) Notwithstanding the provisions of paragraph (1), above, the normal retirement benefit payable to a Member who became a member of the Unclassified System prior to October 18, 1992 and was continuously a member of the Unclassified System from that date until March 18, 2006, shall be four percent (4%) of final average monthly earnings multiplied by creditable service prior to that date, and three percent (3%) of final average monthly earnings multiplied by creditable service after that date, up to a maximum of eighty percent (80%) of final average monthly earnings. Notwithstanding any other provision of this Plan, in determining the normal retirement benefit payable to Unclassified Employees, earnings shall be as defined in Section 2.11 except that annual payments for unused leave (excluding annual or sick leave) shall be included.

6) Notwithstanding the provisions of paragraph (1), above, the normal retirement benefit payable to a Member who has served as an Elected Official City Manager, City Attorney, or City Clerk (from and after December 12, 2012, the date the position of City Clerk became a charter officer of the City) shall be the sum of four percent (4%) of final average monthly earnings as an Elected Official or Charter Officer multiplied by the number of years of creditable service as an Elected Official, City Manager, City Attorney or City Clerk; plus and the percentage rate in effect under the Classified System, Unclassified System or this Plan, as applicable, for any other periods of City employment as a member of such plan(s), multiplied by the final average monthly earnings and the number of years of creditable service as a member of such plan(s); in such employment; up to a an overall maximum of eighty percent (80%) of the member's greatest final average monthly earnings. Notwithstanding any other provision of this Plan, in determining the benefit payable under this paragraph (6), earnings as an Elected Official, City Manager, City Attorney or City Clerk shall include total W-2 compensation plus any other payments or allowances, up to the limitations set forth in Section 401(a)(17) of the Internal Revenue Code and regulations promulgated thereunder. ~~Notwithstanding any other provision of this Plan, the normal retirement benefit payable to a Member who has served as an Elected Official and is subsequently employed, without a break in service, by the City in another position as a member of this Plan for a period of at least five additional years, shall be equal to the sum of the retirement allowance payable based on the member's creditable service and final average monthly earnings as an Elected Official, plus the retirement allowance payable based on the member's creditable service and final average monthly earnings for the period of employment~~

~~subsequent to service as an Elected Official, up to a maximum of eighty percent (80%) of final average monthly earnings during employment subsequent to service as an Elected Official. In the event a Member who has served as an Elected Official and is subsequently employed, without a break in service, by the City in another position as a member of this Plan for a period of less than five additional years, such Member shall not be entitled to a benefit from this Plan for the period of employment subsequent to service as an Elected Official, but shall be entitled to a refund of accumulated employee contributions for such period of service.~~

5.02 Early Retirement

(a) Any Member who was a member of the Classified System and became a Member of this Plan on March 18, 2006, may retire prior to the normal retirement date and receive an early retirement benefit in accordance with this Section 5.2. To be eligible for an early retirement benefit, such Member must have attained age fifty (50), and the sum of the Member's attained age (last birthday) and complete years of creditable service must not be less than seventy-five (75). The early retirement benefit shall commence on the first day of the calendar month next following receipt of written application therefor by the Board.

(b) The early retirement benefit shall be the actuarial equivalent of a deferred benefit commencing on the Member's normal retirement date and computed in accordance with Section 5.1 on the basis of final average monthly earnings and creditable service as of the date of retirement.

5.03 Partial Lump Sum Distribution. A Member who terminates City employment and retires on or after the normal retirement date and on or after March 18, 2006, shall have the option of receiving up to twenty-five percent (25%) of the actuarial value of his/her normal retirement allowance in a lump sum distribution. For example, if a member's normal retirement allowance is \$2,000 per month, the Member may elect to receive, in lieu of such monthly benefit, a monthly benefit in the amount of \$1,500 per month plus a single lump sum distribution equal to the actuarial value of the other \$500 monthly benefit. The lump sum distribution shall be calculated using the same discount rate, mortality rates and other assumptions and cost methods used in the most recent actuarial valuation report for the Plan. The partial lump sum distribution option is available only to Members who are eligible for a normal retirement allowance, and is not available in connection with any other benefit payable under the Plan.

5.04 Vested Retirement Allowance

(a) Any Member who was a member of the Unclassified System and became a Member of this Plan on March 18, 2006, with five or more years of creditable service and whose service with the City is terminated prior to the normal retirement date, shall be eligible for a refund of accumulated employee contributions; or the member may elect to not receive the refund but instead, in lieu of a refund of

accumulated employee contributions, apply for a vested retirement allowance in accordance with this Section 5.4.

(b) Any Member who was a member of the Classified System and became a Member of this Plan on March 18, 2006, whose service with the City is terminated voluntarily or involuntarily, prior to the date as of which he would first become eligible for retirement on a normal or early service retirement allowance shall be entitled, in lieu of a refund of his accumulated employee contributions, to apply for a vested retirement allowance in accordance with this Section 5.04.

(c) Notwithstanding any other provision of the Plan, effective January 1, 2023, any Member employed on that date who has served as an Elected Official or Charter Officer and whose service with the City is terminated voluntarily or involuntarily on or after that date, after completing four (4) or more years of creditable service, or in the case of a Member who has served as a City Commissioner, after completing a full term as defined in Article II, Section 2.02 of the Miami Beach City Charter, shall be entitled, in lieu of a refund of accumulated employee contributions, to apply for a vested retirement allowance in accordance with this Section 5.04.

(d) The vested retirement allowance payable under this Section ~~5.04~~^{5.4} shall be a deferred allowance commencing on the earliest date as of which a Member, with the years of creditable service upon termination of employment, would first be eligible for normal retirement benefits, and shall be equal to the amount computed in accordance with Section ~~5.01~~^{5.4} on the basis of the Member's final average monthly earnings and creditable service at the time of termination, and the Member's age as of the date on which payment of the allowance commences.

5.05 Disability Retirement Allowance

(a) Upon the written application of a Member or the City Manager, a Member who has five (5) or more years of creditable service may be retired by the Board on an ordinary disability retirement allowance on the first day of a calendar month next following the granting of such application; provided that the Physical Examiners, after a medical examination of such Member, shall certify that the member is totally incapacitated, mentally or physically, for the further performance of duty, that such incapacity is not the result of habitual use of narcotics or alcohol, misconduct, service in the Armed Forces, self-inflicted injury or disability sustained through other employment, that such incapacity is likely to be permanent and that such Member should be retired.

(b) Upon the written application of a Member or the City Manager, any Member who has been totally and permanently incapacitated for the performance of his duties as the natural and proximate result of an accident occurring while in the actual performance of duty at some definite time and place, without willful negligence on the member's part, may be retired by the Board on a Service-connected disability retirement allowance, and not on an ordinary disability

retirement allowance, on the first day of a calendar month next following the execution and granting of such application; provided that the Physical Examiners, after a medical examination of the Member, shall certify that the member is totally incapacitated, mentally or physically for the further performance of duty, that such incapacity is likely to be permanent and that he should be retired.

(c) The disability retirement allowance payable to a Member retiring under the provisions of this Section 5.05 shall be an amount computed as a normal retirement benefit in accordance with Section 5.01, on the basis of the Member's final average monthly earnings and creditable service at the time of disability retirement; provided, that the amount of such allowance shall be modified in accordance with the following subsections (d) and (e).

(d)

1) The allowance payable to a disability Retirant prior to the normal retirement date shall not be less than thirty-five percent (35%) of his final average monthly earnings as of the date of disability if an ordinary disability retirement allowance is payable, and not less than sixty-five percent (65%) of such final average monthly earnings if a service connected disability retirement allowance is payable. Notwithstanding the foregoing, for Members who are in classifications within the AFSCME bargaining unit and who entered the service of the City prior to April 30, 1993, Members who are in classifications within the CWA bargaining unit and who entered the service of the City prior to February 21, 1994, Members who are in classifications within the GSA bargaining unit and who entered the service of the City prior to August 1, 1993, and Members who are classified as "Other" who entered the service of the City prior to August 1, 1993, the minimum service connected disability retirement allowance payable prior to such member's normal retirement date shall be seventy-five percent (75%) of such final average monthly earnings.

2) The allowance payable to a disability Retirant after the normal retirement date shall be an amount computed as a normal retirement benefit on the basis of the final average monthly earnings and number of years of creditable service the Member would have had if he had continued in service without interruption until the normal retirement date at the maximum rate of pay in effect at the time of his retirement for the classification from which the Member retired, provided that such allowance shall not exceed the amount payable to the Member as a disability retirement allowance prior to the normal retirement date and shall not be less than the normal retirement benefit at the normal retirement date. "Normal retirement date" as used in this Section 5.05 means the date determined in accordance with Section 5.01(a) on the assumption that the period of disability retirement is deemed to be active service as an Employee for this purpose.

(e) Any amounts which may be paid or payable on account of disability to the Member or the Member's dependents under the Workers' Compensation Act, exclusive of fixed statutory payments for the loss of any bodily member, shall be offset against and payable in lieu of that part of the disability retirement allowance provided under the Plan for the same disability, in such equitable manner as the Board shall determine.

(f)

1) During the period of disability retirement prior to the normal retirement date, the Retirant's annual earnings from employment (including self-employment) shall not exceed an amount which, when added to the disability retirement allowance payments received by him, would result in a combined earned income of one hundred twenty-five percent (125%) of the maximum current salary for the classification from which the member retired if he is receiving a service-connected disability retirement allowance, or one hundred percent (100%) of such maximum salary if he is receiving an ordinary disability retirement allowance; otherwise payments of the disability retirement allowance shall be withheld to the extent that the combined earned income exceeds the maximum permissible amount. The Member must agree at the time of disability retirement, before any benefits are paid under the Plan, to furnish annually to the Board, before May 1 of each year, a copy of the Member's Federal Income Tax return for the prior year, and any other information which the Board may require. When the Retirant's combined earned income exceeds the maximum permissible amount determined on the basis of the maximum salary as of January 1 of the prior year for the classification from which the Member retired, future payments of the disability retirement allowance shall be withheld until the total sum withheld equals the amount by which the Member's combined earned income for the prior year exceeded the maximum permissible amount. Restrictions on earnings shall not be applicable after the Retirant's normal retirement date.

2) Notwithstanding the provisions of paragraph 1, above, any member of the Classified System who became a Member of this Plan on or after March 18, 2006, and who retires on a disability retirement on or after July 1, 1995, shall be subject to the benefit adjustments in this paragraph 2. During the period of such Member's disability retirement, the Retirant's annual earnings from employment (including self-employment) shall not exceed an amount which, when added to the disability retirement allowance payments received by him, would result in a combined earned income of two hundred percent (200%) of the maximum current salary for the classification from which the Member retired if the Member is receiving a service-connected disability retirement allowance, or one hundred percent (100%) of such maximum salary if the Member is receiving an ordinary disability retirement allowance; otherwise payments of the disability retirement allowance shall be withheld to the extent that the combined

earned income exceeds the maximum permissible amount. The Member must agree at the time of his disability retirement, before any benefits are paid under the Plan, to furnish annually to the Board, before May 1 of each year, a copy of the Member's Federal Income Tax return for the prior year, and any other information which the Board may require. When the Retirant's combined earned income exceeds the maximum permissible amount determined on the basis of the maximum salary as of January 1 of the prior year for the classification from which the Member was retired, future payments of disability retirement allowance shall be withheld until the total sum withheld equals the amount by which the Member's combined earned income for the prior year exceeded the maximum permissible amount.

3) The term "earned income" shall be defined by Section 43(c)(2) of the Internal Revenue Code to mean wages, salaries, tips, and other employee compensation, plus the amount of the taxpayer's net earnings from self-employment for the taxable year (within the meaning of Section 1402(a) of the Internal Revenue Code).

(g) Any Retirant who is receiving a disability retirement allowance shall be subject, prior to the normal retirement date, to re-examination by the Physical Examiners either upon request of the Retirant. The Board or the City Manager, and the Physical Examiners shall report their conclusions as to the continuance of the incapacity. In the event that such disability shall not continue to incapacitate the Retirant for service acceptable to the City, in accordance with requirements of the Human Resources Department, the City Manager may require that such Retirant be returned to active duty at work which is the same or of similar nature to the work he performed prior to his incapacity, or returned to other work within the limits of his mental or physical capacities, at a rate of compensation not less than seventy percent (70%) of the pay to which he would have been entitled at the time of the Member's return to active service for the grade of service occupied by the Retirant prior to incapacity. Upon any such return to active duty, the Retirant shall be restored to service as a Member, the disability retirement allowance shall be terminated, the Member shall resume contributing to the Plan based on the earnings received upon reemployment, and the period during which the member was receiving a disability retirement allowance shall be included in creditable service for all purposes of the Plan.

(h) If any Retirant in receipt of a disability retirement allowance is found by the Physical Examiners, prior to the normal retirement date, to be no longer incapacitated but is not restored to service as a Member because of the member's own refusal to accept employment offered in accordance with the foregoing paragraph, the disability retirement allowance shall be terminated, and the period during which the member was receiving a disability retirement allowance shall in no event be added to the creditable service acquired prior to the incapacity.

5.06 Active Service Death Benefits

(a) Upon receipt of evidence, satisfactory to the Board, of the death of a Member who has three (3) or more years of creditable service, a monthly pension shall be paid to the surviving spouse or domestic partner of the deceased Member, provided that said spouse had been married to the Member, or the domestic partnership has been registered for at least one (1) year immediately prior to the date of his death. If there is no surviving spouse or domestic partner entitled to such pension, the pension shall be paid to the dependent child or children of the deceased Member, divided in such manner as the Board in its discretion shall determine, to continue until every such child dies or attains twenty-one (21) years of age.

(b) The monthly pension payable to the person or persons entitled thereto in accordance with the subsection (a), above, shall be equal to one-half of the amount computed as a normal service retirement allowance in accordance with Section 5.01, as though the date of the Member's death were the normal retirement date, on the basis of the Member's final average monthly earnings and creditable service at the time of death; provided that, for members of the Classified System who became members of this Plan on March 18, 2006, such pension shall not be less than thirty percent (30%) nor more than forty percent (40%) of final average monthly earnings; further provided that, in the case of a person who became a Member of the Classified System prior to November 1, 1976, if the Accumulated Employee Contributions credited to the Member at the time of death are less than would have been credited to him if he had contributed at the rate of six per centum (6%) of his earnings from the time he became a participant under the predecessor system governed by Ordinance No. 845, the pension computed in accordance with the foregoing provisions of this paragraph shall be reduced by half of the amount by which the retirement allowance of the deceased Member would have been reduced if he were retiring on a normal or early service retirement allowance as of the date of his death; and further provided that, if the pension is payable to a spouse or domestic partner who is more than fifteen (15) years younger than the Member, the pension shall be reduced to an amount which is the actuarial equivalent, of the pension payable to the spouse if said spouse or domestic partner were exactly fifteen (15) years younger than the deceased Member. In the event of the death of the spouse or domestic partner after pension payments have commenced, a pension computed in accordance with the foregoing sentence but prior to any reduction because of the difference in the ages of the deceased Member and the surviving spouse or domestic partner shall be paid to the dependent child or children of the deceased Member under twenty-one (21) years of age, divided in such manner as the Board in its discretion shall determine, until every such child dies or attains twenty-one (21) years of age.

5.07 Death Benefits after Retirement

(a) Upon receipt of evidence, satisfactory to the Board, of the death of a Retirant, a monthly pension shall be payable to the surviving spouse or domestic

partner of the deceased Retirant, provided that the spouse had been married to the Retirant or the domestic partnership was registered on the date of retirement or termination of service, whichever occurred first, and for a least one (1) year prior to such date; and further provided, that if the Retirant had elected an option in accordance with Section 5.09 which was in effect at the time of his death, monthly benefits shall be continued after his death, in lieu of benefits under this Section 5.07, in accordance with the option.

(b) The monthly pension payable to the surviving spouse or domestic partner of a deceased Retirant pursuant to the foregoing paragraph of this Section 5.07 shall be equal to fifty percent (50%) of the retirement allowance which would have been payable to the deceased Retirant if the Retirant had been alive at the time of the monthly payment; provided, that, if the surviving spouse or domestic partner is more than fifteen (15) years younger than the deceased Retirant, such monthly pension shall be reduced to an amount which is the actuarial equivalent of such pension for a spouse exactly fifteen (15) years younger than the deceased Retirant.

(c) If any such deceased Retirant is not survived by a spouse or domestic partner entitled to a pension in accordance with the foregoing paragraphs of this Section 5.07, or if the death of such a spouse or domestic partner occurs after pension payments have commenced in accordance with the foregoing paragraph, the pension which would otherwise have been payable to a surviving spouse or domestic partner eligible therefor and not more than fifteen (15) years younger than the deceased Retirant shall be payable to the dependent child or children of the said deceased Retirant, if any, divided in such manner as the Board in its discretion shall determine, to continue until every such child 1) marries or dies, or 2) attains eighteen (18) years of age or twenty-two (22) years of age in the case of a child who is a full-time student in high school or college; provided that in the case of a physically or mentally disabled child, the pension shall continue until the child recovers from the disability. As used in this paragraph, a "physically or mentally disabled child" is one who 1) is unmarried, 2) is entitled to and receives a child's disability benefit based upon determination by the Social Security Administration that the child is unable to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months and 3) was suffering from such impairment prior to attaining eighteen (18) years of age (or twenty-two (22) years of age in the case of a child who was a full time student in high school or college. Notwithstanding the foregoing, only children who were dependent beneficiaries of the Retirant on the date of retirement or termination of service, whichever is first, shall be eligible for a pension under this paragraph.

(d) If there are no pension benefits payable to a surviving or domestic partner, child or children pursuant to paragraphs (a), (b) or (c) above, then the aforementioned pension shall be paid to the dependent parent, if any, of the

deceased member. If both parents are dependent, such benefit shall be shared equally between them.

(e) Notwithstanding any provision of this Section 5.07 to the contrary, in the event that an optional benefit had been elected by a Retirant in accordance with Section 5.07, and such election is in effect at the time of the Retirant's death, monthly benefits, if any, shall be payable after death to the person designated as the contingent annuitant in accordance with the optional election, and no benefits shall be payable as a result of the death of the Retirant under this Section 5.07.

5.08 **Death Benefits for Death During Qualified Military Service.** In the case of a death or disability occurring on or after January 1, 2007, if a Member dies while performing qualified military service (as defined in Section 414(u) of the Internal Revenue Code), the survivors of the Member are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Member had resumed and then terminated employment by the City on account of death.

5.09 **Optional Benefits**

(a) In lieu of the normal or early retirement benefits provided in Sections 5.01 and 5.02, above, a Member may elect to receive an optional benefit under this Section 5.09. The optional benefit is the actuarial equivalent of the Member's normal or early retirement benefit. If the member's written election of an optional benefit is received by the Board at least thirty (30) days prior to the date of commencement of retirement benefits, the election of the optional benefit shall become effective on the date the retirement benefit commences. If such election is received by the Board at any later date it shall become effective thirty (30) days after the date the retirement allowance commences.

(b) A Member who elects an optional benefit must designate a contingent annuitant to receive a benefit following the Member's death. A Member may designate his/her spouse, domestic partner, child or any other person who is shown, on the basis of evidence satisfactory to the Board, to be dependent upon or receiving substantial support from the Member, as the contingent annuitant; provided, if the contingent annuitant is a minor child, the retirement benefit shall not be payable under the option after the death of the Member after the minor child attains twenty-one (21) years of age. If the designated contingent annuitant is the Member's spouse or domestic partner on the date of retirement or termination of service, whichever occurred first, and for at least one (1) year prior to such date, the monthly benefit payable under the option to the Member and the surviving contingent annuitant shall be the actuarial equivalent of the benefit which would have been payable in the absence of the member's election to receive an optional benefit, as a retirement benefit to the Member after retirement and as a pension after the Member's death to the surviving spouse or domestic partner in accordance with Section 5.07; otherwise, the monthly benefit payable under the option shall be the actuarial equivalent of the retirement allowance payable only to the Member after retirement and prior to the election of an optional benefit.

(c) The election of an optional benefit may not be revoked or changed by the Member but, if the Member or the contingent annuitant designated under the option dies prior to the date the option becomes effective, the election shall thereby be revoked.

(d) A member may elect one of the following optional benefits:

Option 1. A reduced retirement benefit payable during the Member's life, and after the Member's death the same monthly benefit shall be paid to the Member's contingent annuitant for the contingent annuitant's lifetime; or

Option 2. A reduced retirement allowance payable during the Member's life, and after the member's death an allowance equal to two-thirds (2/3) of the Member's reduced monthly allowance shall be paid to the contingent annuitant for the contingent annuitant's lifetime.

5.10 Refund of Accumulated Employee Contributions

(a) A Member may elect in writing, in a form and manner determined by the Board, upon ceasing to be an Employee for any cause other than retirement or death, to receive in one sum the Accumulated Employee Contributions credited to the Member.

(b) Upon receipt of a refund of accumulated employee contributions, all creditable service shall be canceled, such creditable service shall not be reinstated if the Member is reemployed by the City in the future, and the Member shall be considered a new Member as of the date of reemployment.

(c) Upon receipt of evidence satisfactory to the Board, of the death of a Member prior to the commencement of retirement benefits, with no surviving spouse, domestic partner or dependent children entitled to receive a pension as provided in Section 5.05, the amount of the Member's Accumulated Employee Contributions at the time of death shall be payable in one sum to the Member's designated beneficiary if living, otherwise to such Member's estate.

(d) Upon receipt of evidence satisfactory to the Board, of the death of a Retirant who is not survived by a spouse, domestic partner or dependent children entitled to a pension in accordance with Section 5.07, provided the Member has not elected an optional benefit that has become effective, any excess of Accumulated Employee Contributions at retirement over the sum of the retirement benefit payments received shall be paid in one sum to the Member's designated beneficiary if living, otherwise to such Member's estate.

(e) Upon receipt of proof satisfactory to the Board, of the death of the survivor of a Retirant and the contingent annuitant under an option, if an option has been elected and has become effective, any excess of the Retirant's Accumulated Employee Contributions at the time of retirement over the sum of the benefit

payments received shall be paid to the Retirant's beneficiary if living, otherwise to the estate of the survivor of such Retirant and contingent annuitant.

(f) Upon receipt of proof satisfactory to the Board, that no further benefits are payable as the result of the death of a Member prior to the commencement of any retirement benefit, the excess, if any, of the Accumulated Employee contributions at the time of his death over the benefit payments received by the Member's spouse or domestic partner and dependent children shall be paid in a single sum to the Member's designated beneficiary if living, otherwise to such Member's estate.

(g) Upon receipt of proof satisfactory to the Board, that no further benefits are payable as the result of the death of a Retirant, the excess of the Retirant's Accumulated Employee Contributions at retirement over benefit payments received by the Retirant, the Retirant's spouse or domestic partner and dependent children shall be paid in one sum to the Retirant's designated beneficiary if living, otherwise to such Retirant's estate.

(h) A Member's beneficiary for receipt of the single sum payments in accordance with this Section 5.10 must have been designated by the Member in writing and filed with the Board prior to the member's death. A Member may designate more than one beneficiary for this purpose; provided that in such event the Member must specify the manner in which payments to the multiple beneficiaries shall be allocated, The Member may also designate alternate beneficiaries with a specified order or priorities for entitlement to single sum payments in the event of death. A Member may change the designated beneficiary or beneficiaries by similar written designation. A designation, revocation or change of the contingent annuitant under an optional benefit may be made only as provided in Section 5.09.

5.11 Post Retirement Adjustments

(a) The benefits payable to Retirants and Pensioners on the effective date of Ordinance 2006-3504, March 18, 2006, and the benefits commencing in accordance with Ordinance 2006-3504 on or after such date shall be continued without change except as increased in accordance with this Section 5.11

(b) "Improvement Factor" for the purpose of this Section 5.11 means an increase of two and one-half percent (2.5%) per annum in retirement allowances or pensions for each year commencing on October 1 following the completion of 364 days after the commencement date of the retirement allowance or, if applicable to pensions payable as the result of the death of a Member prior to his retirement, one full year after the commencement date of the pension. The Improvement Factor shall be compounded, and shall be applied to the retirement allowance or pension payable as the result of the retirement, termination or death of a Member, whichever is applicable.

(c) The return of a disability Retirant to employment with the City prior to the normal retirement date in accordance with Section 5.05(g) shall be governed by said Section 5.05(g). Return of such a person to employment with the City after the normal retirement date, as defined in Section 5.01(a), or after the date as of which he ceased to be entitled to a disability retirement allowance pursuant to Section 5.05(h) shall be governed by the provisions of Paragraph (a) or (b) of this Section 5.11, whichever is applicable at the time of such return.

(d) Upon the death of a Retirant, the pension payable thereafter to his dependent beneficiary shall be based on the retirement allowance payable as of the date of such death, including the benefit improvements granted in accordance with this Section 5.11, and on each October 1 subsequent to such death the Improvement Factor shall be applied to the then-current retirement allowance.

5.12 Return to Active Service

(a) If a former Member who is entitled to a vested retirement allowance not yet payable returns to service with the City as an Employee before such allowance has become payable, he shall again become a Member, but benefits payable with respect to earnings and creditable service after the Member's reemployment shall be based on the provisions applicable to a Member whose employment with the City commences on the date of reemployment. He shall contribute to the Plan at the rate required, pursuant to Section 6.02, of Employees who become Members for the first time. Creditable service rendered before and after the Member's return to service shall be considered for the purpose of determining the benefit payable; provided, in the event of the Member's subsequent termination of employment for reasons other than death or retirement, only creditable service rendered after reemployment shall be considered for the purpose of determining entitlement to a vested retirement benefit based on service rendered after reemployment. Upon subsequent retirement, the Member's retirement benefit shall be equal to the sum of the amounts computed on the basis of final average monthly earnings and creditable service with respect to each period of service as an Employee; provided that the retirement allowance shall not exceed the retirement allowance which would have been payable if creditable service had been one period of continuous service.

(b) Notwithstanding the provisions of paragraph (a) above, the benefits of a Member hired prior to September 30, 2010 (or October 27, 2010 for members of the CWA bargaining unit) who terminates employment and at the time of termination is entitled to a vested retirement allowance not yet payable, does not receive a refund of Accumulated Employee Contributions, and subsequently returns to service with the City as an Employee before such allowance has become payable, shall be determined in accordance with this paragraph (b). Upon reemployment, such member shall again become a vested Member, and shall continue to accrue benefits and make contributions to the Plan for creditable service after the Member's reemployment in accordance with the Plan provisions in effect on the date of reemployment, except as otherwise provided in this

paragraph (b). The Member's benefit for the initial period of employment shall be three percent (3%) of Final Average Monthly Earnings multiplied by creditable service accrued during the initial period of employment, and two and one-half percent (2.5%) of Final Average Monthly Earnings multiplied by creditable service accrued after reemployment; provided the Member's retirement allowance shall not exceed eighty percent (80%) of Final Average Monthly Earnings. The Member's normal retirement date shall be the first day of the calendar month coincident with or next following the attainment of age fifty-five (55) and completion of five (5) or more years of creditable service. The retiree Cost of Living Adjustment applied to the member's benefit shall be 2.5% per year applied to the benefit based on creditable service accrued during the initial period of employment, and 1.5% per year applied to the benefit based on creditable service accrued after reemployment. The provisions of this paragraph (b) shall take effect on [effective date of ordinance] for Members not included in any bargaining unit, but shall not take effect for bargaining unit Members until the provisions of this paragraph (b) are agreed to by the City and the union representing the bargaining unit.

(c) Notwithstanding the provisions of paragraph (a) above, the benefits of a Member hired prior to September 30, 2010 (or October 27, 2010 for members of the CWA bargaining unit) who terminates employment and at the time of termination is not entitled to a vested retirement allowance not yet payable, does not receive a refund of Accumulated Employee Contributions, and subsequently returns to service with the City as an Employee, shall be determined in accordance with this paragraph (c). Upon reemployment, such member shall retain his/her credited service for the initial period of employment, and continue to accrue benefits and make contributions to the Plan for creditable service after the Member's reemployment in accordance with the Plan provisions in effect on the date of reemployment, except as otherwise provided in this paragraph. The Member's benefit for the initial period of employment shall be three percent (3%) of Final Average Monthly Earnings multiplied by creditable service accrued during the initial period of employment, and two and one-half percent (2.5%) of Final Average Monthly Earnings multiplied by creditable service accrued after reemployment; provided the Member's retirement allowance shall not exceed eighty percent (80%) of Final Average Monthly Earnings. The retiree Cost of Living Adjustment applied to the member's benefit shall be 1.5% per year applied to benefit based on all years of creditable service. The Member's normal retirement date shall be the first day of the calendar month coincident with or next following the attainment of age sixty-two (62) and completion of five (5) or more years of creditable service. The provisions of this paragraph (c) shall take effect on [effective date of ordinance] for Members not included in any bargaining unit, but shall not take effect for bargaining unit Members until the provisions of this paragraph (b) are agreed to by the City and the union representing the bargaining unit.

(d~~b~~) Should a Retirant, other than a disability Retirant restored to service in accordance with Section 5.05(h). be employed by the City as an Employee, such Member's retirement benefit shall cease and the Member shall again become a

Member of the Plan, but benefits payable with respect to the Member's earnings and creditable service after reemployment shall be based on the provisions applicable to a Member whose employment with the city commences on the date of reemployment. The Member shall contribute at the rate required, pursuant to Section 6.02, of Employees who become Members for the first time. An amount equal to the excess, if any, of the Member's Accumulated Employee Contributions at the time of his retirement over the amount of retirement benefits received shall be credited as Accumulated Employee Contributions as of the date of reemployment. Creditable service rendered before and after reemployment shall be considered for the purpose of determining entitlement to a normal or early service retirement allowance upon subsequent retirement. Upon subsequent retirement, the Member's retirement allowance shall be equal to the sum of the retirement allowance payable during the previous retirement, adjusted actuarially, if reemployment is prior to the normal retirement date, for the period from the date of reemployment to the date of subsequent retirement or normal retirement date, whichever occurs first, plus the amount computed as a retirement allowance on the basis of final average monthly earnings and creditable service for the period after the last date of reemployment; provided that the total retirement benefit shall not exceed the retirement allowance which would have been payable if all years of creditable service had been a continuous period. If an option had been elected and in effect at the time of reemployment, the option shall continue to be in effect after reemployment, with respect to the retirement benefit payable prior to reemployment.

(~~ee~~) The return of a disability Retirant to employment with the City prior to the normal retirement date in accordance with Section 5.05(g) shall be governed by said Section 5.05(g). Return of such a person to employment with the City after the normal retirement date, as defined in Section 5.05, or after the date as of which he ceased to be entitled to a disability retirement allowance pursuant to Section 5.05(h) shall be governed by the provisions of Paragraph (a) or (b) of this Section 5.12, whichever is applicable at the time of such return.

(~~fd~~) Should a Pensioner be employed by the City in any capacity for which regular compensation is paid, the Pension shall cease to be paid to said Pensioner for the period of such employment, and such person shall be subject to the provisions of this Ordinance as any other person employed by the City. Upon termination of such employment, such person shall elect to receive either the benefit to which he was previously entitled as a Pensioner if still eligible therefore or the benefit, if any, to which he is otherwise entitled on the basis of his membership in this Plan.

(g) Notwithstanding the provisions of paragraph (a) above, a Member hired on or after September 30, 2010 (or October 27 , 2010 for members of the CWA bargaining unit) who terminates employment, does not receive a refund of Accumulated Employee Contributions, and subsequently returns to service with the City, shall again become a Member, and shall continue to accrue benefits and make contributions to the Plan for creditable service after the Member's reemployment in accordance with the Plan provisions in effect on the date of

reemployment. The Member's creditable service for the initial period of employment shall be applied for vesting purposes, and the benefit multiplier applicable to the initial period of employment shall also be applied in calculating the Member's retirement benefit; provided the Member's retirement allowance shall not exceed eighty percent (80%) of Final Average Monthly Earnings. The provisions of this paragraph (g) shall take effect on [effective date of ordinance] for Members not included in any bargaining unit, but shall not take effect for bargaining unit Members until the provisions of this paragraph (f) are agreed to by the City and the union representing the bargaining unit.

5.13 A deferred retirement option plan (DROP) is hereby established for eligible members as follows:

(a) Eligibility and participation:

- 1) A Member who attains the normal retirement date shall be eligible to participate in the DROP.
- 2) A Member's election to participate in the DROP shall be irrevocable. A Member may participate in the DROP only once.
- 3) An eligible Member may participate in the DROP for a maximum of thirty-six (36) months. Notwithstanding the preceding sentence:

(a) Effective July 17, 2013, Members within classifications in the CWA bargaining unit, who were hired prior to October 27, 2010, and Members not included in any collective bargaining unit, who were hired prior to September 10, 2010, may participate in the DROP for a maximum of sixty (60) months.

(b) Effective October 1, 2013, Members within classifications in the GSAF bargaining unit, who were hired prior to July 14, 2010, may participate in the DROP for a maximum of sixty (60) months.

4) An eligible Member who elects to participate in the DROP must provide at least thirty (30) days' advance written notice to the City of his or her election to participate in the DROP. A Member who elects to participate in the DROP may elect to terminate DROP participation and City employment sooner than the maximum DROP period, with thirty (30) days' advance written notice to the City.

5) Effective July 17, 2013, any Member within classifications in the CWA bargaining unit, and any Member not included in any collective bargaining unit, who previously executed an election form entitling him/her to participate in the DROP for a period of less than sixty (60) months and whose DROP period ceases between July 1, 2013 and July 16, 2016, shall have a one-time opportunity to submit an irrevocable amended election from provided by the Board, within thirty (30) calendar days following the effective date of this

ordinance, extending his or her DROP period to a maximum of sixty (60) months in total. Effective October 16, 2013, any Member within classifications in the GSAF bargaining unit, who previously executed an election form entitling him/her to participate in the DROP for a period of less than sixty (60) months and whose DROP period ceases between October 16, 2013 and October 15, 2016, shall have a one-time opportunity to submit an irrevocable amended election form provided by the Board, within thirty (30) calendar days following the effective date of this ordinance, extending his or her DROP period to a maximum of sixty (60) months in total. Effective April 23, 2014, any Member within classifications in the AFSCME bargaining unit, who previously executed an election form entitling him/her to participate in the DROP for a period of less than sixty (60) months and whose DROP period ceases between April 23, 2014 and April 22, 2015, shall have a one-time opportunity to submit an irrevocable amended election form provided by the Board, within thirty (30) calendar days following the effective date of this ordinance, extending his or her DROP period to a maximum of sixty (60) months in total.

(b) DROP plan features:

- 1) An eligible Member who elects to participate in the DROP will be considered to have retired for purposes of the Plan upon entry into the DROP, except that such Member shall be eligible to vote for and serve as an Employee member of the Board of Trustees during the DROP participation period. The Member's monthly retirement benefit, determined in accordance with the Plan based on years of creditable service and final average monthly earnings at the time the Member enters the DROP, will be paid into the Member's DROP account every month during the DROP period.
- 2) No Member contributions shall be required after a Member enters the DROP, and the Member will not accrue any additional creditable service or any additional benefits under the Plan after entering the DROP. No City normal cost contributions shall be required after a Member enters the DROP and DROP participants shall be excluded from the covered payroll for the Plan.
- 3) A Member who elects to participate in the DROP shall not be eligible for disability or preretirement death benefits under the Plan; nor shall a Member be eligible for any post retirement adjustment provided in Section 5.11 during the DROP participation period.
- 4) A Member who elects to participate in the DROP shall retain the earned balance of annual and sick leave as of the date of entry into the DROP, and shall continue to earn annual and sick leave during the DROP period, in accordance with applicable City ordinances. Alternatively, at the time of entry into the DROP, a Member may request full or partial payment of the earned balance of annual and sick leave as of the date of entry into the DROP, up to the maximum allowed by applicable City ordinances for employees who

terminate City employment, but reduced by the amount of annual and sick leave used for the purchase of additional credited service under Section 4.3, if any, at the Member's rate of compensation upon entering the DROP; provided that the Member must retain at least 120 hours of accrued sick leave after any such payment. Upon termination of City employment, a Member who has participated in the DROP shall be eligible to receive payment for the earned balance of annual and sick leave as of the date of termination, up to the maximum allowed by applicable City ordinances for employees who terminate City employment, but reduced by the amount of annual and sick leave for which payment was received upon entry into the DROP, if any; and further reduced by the amount of annual and sick leave used for the purchase of additional credited service under Section 4.3, if any. In no event shall payments for accrued annual or sick leave be included in a member's Earnings for purposes of the Plan.

5) As a condition of participating in the DROP, the Member must agree to terminate City employment at the conclusion of the DROP period, and to submit an irrevocable letter of resignation stating this prior to entering the DROP. A Member who elects to participate in the DROP must also submit an irrevocable written DROP election prior to entering the DROP on a form provided by the Board. Notwithstanding the preceding sentence:

(a) Eligible Members who are participants in the DROP on July 1, 2013, shall be given a one-time opportunity to submit an irrevocable amended election form, as provided in Section 5.13 (a) 5., extending the DROP period to a maximum of sixty (60) months in total.

(b) Eligible Members who are participants in the DROP on October 1, 2013, shall be given a one-time opportunity to submit an irrevocable amended election form, as provided in Section 5.13 (a) 5, extending the DROP period to a maximum of sixty (60) months in total. Notwithstanding the preceding sentence, eligible Members whose classifications are covered by the AFSCME bargaining unit who are participants in the DROP on April 23, 2014, shall be given a one-time opportunity to submit an irrevocable amended election form, as provided in Section 5.13 (a) 5, extending the DROP period to a maximum of sixty (60) months in total.

6) At the conclusion of the DROP period and upon termination of City employment, the Member's monthly retirement benefit shall be paid to the Member in accordance with the Plan. In the event of the Member's death during or at the conclusion of the DROP period, a benefit may be payable in accordance with Section 5.07.

7) Participation in the DROP is not a guarantee of City employment, and DROP participants will be subject to the same terms and conditions of employment that are applicable to employees who are not DROP participants.

8) During participation in the DROP, the Member's monthly retirement benefit will be paid into the DROP account, and shall be credited/debited with earnings/losses as provided herein. The Member may direct that their DROP account be invested in any of the investment options approved by the Board, on forms provided by the Board. Any gains on the Member's DROP account investments shall be credited to the Member's DROP account; and any losses incurred by the Member shall be deducted from the Member's DROP account balance, and shall not be made up by the City or the Retirement Plan. A Member's DROP account shall only be credited or debited with earnings/losses while the Member is a participant in the DROP.

9) A DROP participant may designate a beneficiary or beneficiaries for his/her DROP account on a form provided by the Board.

10) Within thirty (30) days following a DROP participant's termination of City employment or death, whichever occurs first, the Member, or in the event of the Member's death the Member's designated beneficiary, may submit a written election on a form approved by the Board, to receive the Member's entire DROP account balance, which shall be distributed to the Member (or in the event of the Member's death, to the Member's designated beneficiary or estate in accordance with paragraph (b)9., below) in a cash lump sum, unless the Member elects to have all or any portion of an eligible rollover distribution paid directly to an IRA or eligible retirement plan specified by the Member in a direct rollover. Any such direct rollover shall be processed in accordance with Article 12 of the Plan. In the event a Member or designated beneficiary does not submit a written election to receive a distribution of the Member's DROP account balance within thirty (30) days following the Member's termination of City employment or death, the Member's DROP account shall be maintained by the Plan but shall not be credited with earnings/losses after thirty (30) days following the Member's termination of City employment or death.

11) If a DROP participant dies before his or her DROP account is distributed, the participant's designated beneficiary shall have the same rights as the participant with respect to the distribution of the DROP account. If the participant has not designated a beneficiary, the DROP account balance shall be paid to the Member's estate.

12) The Board of Trustees shall make such administrative rules as are necessary for the efficient operation of DROP, but shall not adopt any rule that is inconsistent with this Ordinance or the Plan.

13) The DROP shall be administered so that the Plan remains qualified under the Internal Revenue Service Code and in compliance with applicable laws and regulations.

14) Limit under Section 415(b) of the Internal Revenue Code. Notwithstanding any other provisions of this Plan, the retirement benefit of a Member shall be reduced to the extent that it exceeds amounts specified in Section 415(b) of the Internal Revenue Code. For purposes of the application of Section 415(b), each Member's compensation shall be determined in accordance with Section 1.415(c)-2 and shall be defined as remuneration for services to the City including wages, salaries, fees for professional services and other amounts for personal services actually rendered in the course of employment with the City to the extent that such amounts are included in gross income (or to the extent amounts would have been received and includible in gross income but for an election under Internal Revenue Code section 125(a), 132(f)(4), 402(e)(3), 402(h)(1)(B), 402(k) or 457(b)), and compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code, and regulations promulgated thereunder, shall be disregarded.

Section 6. Financing

6.01 Assets of Predecessor System

(a) All moneys, investments and assets of the Classified System and Unclassified System as of March 18, 2006 shall become assets of this Plan as of such date.

(b) The amount credited to each member of the Classified System and Unclassified System as "Accumulated Employee Contributions" as of March 18, 2006 shall be credited to each such Member under this Plan on such date as Accumulated Employee Contributions.

6.02 Contributions by Members

(a) Each Member shall contribute to the Plan eight percent (8%) of earnings, except as otherwise provided in this Section 6.02. Notwithstanding the preceding sentence, effective July 14, 2010 each Member in a classification within the AFSCME an GSA bargaining units, and each Unclassified and "Other" Member, shall contribute to the Plan ten percent (10%) of earnings, except as otherwise provided in this Section 6.02. Notwithstanding the first sentence of this subsection (a), effective November 27, 2010, each Member in a classification within the CWA (MBEBA) collective bargaining unit shall contribute to the Plan ten percent (10%) of earnings except as otherwise provided in this Section 6.02, and contingent on state approval of the actuarial impact statement confirming a reduction in the City's annual required pension contribution for fiscal year 2010-2011 associated with the pension changes contained in the 2009-2012 CWA collective bargaining agreement of at least \$1,000,050. The contributions made by each Member to the Plan shall be deducted from the Member's Earnings and designated as Employer contributions pursuant to section 414(h) of the Internal Revenue Code. Such designation is contingent upon the contributions being excluded from the

Members' gross income for Federal Income Tax purposes. For all other purposes of the Plan, such contributions shall be considered to be Member contributions.

(b) Notwithstanding subsection (a) above, all persons entering service with the City prior to April 1, 1993 who are in the classifications within the AFSCME bargaining unit; all persons entering service with the City prior to February 21, 1994 who are in classifications within the CWA (MBEBA) bargaining unit, and all persons entering service with the City prior to August 1, 1993 who are in classifications within the GSA bargaining unit or classified as "Other" who were members of the Classified Plan continuously from the date they entered service with the City until March 18, 2006, shall contribute to the Plan ten percent (10%) of their earnings throughout their service as a Member of this Plan. Notwithstanding the preceding sentence, effective July 14, 2010 each Member described in the preceding sentence who is in a classification within the AFSCME or GSA bargaining units shall contribute to the Plan twelve percent (12%) of earnings; and effective January 18, 2010, each Member described in the preceding sentence, classified as "Other" shall contribute to the Plan twelve percent (12%) of earnings. Notwithstanding the first sentence of this subsection (b), effective November 27, 2010, each Member described in the first sentence of this subsection (b) who is in a classification within the CWA (MBEBA) bargaining unit shall contribute to the Plan twelve percent (12%) of earnings, contingent on state approval of the actuarial impact statement confirming a reduction in the City's annual required pension contribution for fiscal year 2010-2011 associated with the pension change as contained in the 2009-2012 CWA collective bargaining agreement of at least \$1,000,050.

(c) Notwithstanding subsection (a), above, Members of the Unclassified System who entered service with the City prior to October 18, 1992, were continuously members of the Unclassified System from that date until March 18, 2006, and who became Members of this Plan on March 18, 2006, shall contribute to the Plan ten percent (10%) of their earnings. Notwithstanding the preceding sentence, effective January 18, 2010, each Member described in the preceding sentence shall contribute to the Plan twelve percent (12%) of earnings.

(d) Notwithstanding subsection (a), above, Members who are in classifications within the CWA bargaining unit, members of the Classified System who became Members of this Plan on March 18, 2006, and are not in any bargaining unit, and members of the Unclassified System who became Members of this Plan on March 18, 2006, who accrue the maximum retirement benefit payable under the Plan and continue in City employment, shall contribute to the Plan an amount equal to the applicable percentage contribution in accordance with subsections (a), (b) and (c), above, but such percentage shall be applied only to the amount of earnings in excess of such Members' rate of earnings at the time the member accrued the maximum retirement benefit payable under the Plan. For example, if a Member with earnings of \$2,000 each pay period attains the maximum benefit percentage payable under the plan (80% or 90%, depending on which cap applies to the member), the employee contribution will cease until the member has earnings in excess of \$2,000, at which time the Employee contribution would be 10% (or 12%,

depending on the contribution rate that is applicable) of the excess over \$2,000. If the member's earnings increase to \$2,500 per pay period, the Member would contribute \$50.00 (at the 10% contribution rate) each pay period. The limitation on member contributions provided in this subsection shall apply to Members in classifications within the AFSCME and GSA bargaining units upon ratification of a collective bargaining agreement that provides for such limitation.

(e) Notwithstanding subsections (a) and (b) above, for members who are in classifications within the AFSCME bargaining unit:

1) For Members hired prior to April 30, 1993, the employee contribution shall be twelve percent (12%) of earnings effective July 14, 2010 through April 30, 2013; ten percent (10%) of earnings effective May 1, 2013 through April 23, 2014; and twelve percent (12%) of earnings effective April 23, 2014.

2) For Members hired on or after April 30, 1993 and before September 30, 2010, the employee contribution shall be ten percent (10%) of earnings effective July 14, 2010 through April 30, 2013; eight percent (8%) of earnings effective May 1, 2013 through April 23, 2014; and ten percent (10%) of earnings effective April 23, 2014.

3) For members hired on or after September 30, 2010, the employee contribution shall be ten percent (10%) of earnings.

4) The employee contribution provided in paragraphs 1. and 2. above shall decrease by two percent (2%) of earnings when the Plan actuary confirms that the City's annual required contribution to the Plan is twenty-three and one-half percent (23.5%) of pensionable payroll or less. The two percent decrease in the employee contribution shall take effect on the same date as the City's annual required contribution of twenty-three and one-half percent (23.5%) of pensionable payroll or less.

6.03 Contributions by City

(a) It is the intent of this Ordinance that the City contribute to the Plan each year the amounts actuarially determined to be required, in addition to contributions by Members, to cover the cost of the benefits provided by the Plan. All administrative expenses shall be paid by the Plan. Effective September 30, 2013, the City shall annually contribute no less than the net City's "normal cost" of the Plan. The net "normal cost" is the annual cost of the Plan net of Member contribution assigned to the current Plan year. If the net City "normal cost" for any Plan year exceeds the City's annual required contribution as determined in accordance with Part VII, Chapter 112, Florida Statutes, the excess shall be held in reserve as part of Fund assets, designed as the pension stabilization fund, and shall be used to offset the City's annual required contribution to any Plan year as determined by the City. The pension stabilization fund shall be accounted for

separately and not included as assets of the Fund for Plan's valuation purposes, and shall be annually credited or debited with gains and losses at the same rate of return as the overall net market rate of return on Fund investments.

(b) An actuarial valuation investigation of the Plan shall be performed annually to determine the contribution payable by the City. On the basis of regular interest and of such mortality and service tables as shall be adopted by the Board of Trustees, the actuary shall determine, immediately after making each valuation, the percentage of the compensation of all Members required, in addition to contributions payable by such Members, as contributions payable by the City to provide the benefits of the Plan currently accruing to such Members; the rate per centum so determined shall be known as the "Normal Contribution Rate" and the contributions based on this rate shall be known as "Normal Contributions." In addition, the actuary shall determine the part of the liabilities for benefits under the Plan not covered by assets in hand, future contributions of Members and future normal contributions of the City and this amount shall be known as the "Unfunded Accrued Liability"; the percentage of compensation of Members determined to be payable on account of such liability shall be known as the "Accrued Liability Contributions Rate". Also, the actuary shall determine the percentage of compensation necessary to provide for payment of the administrative expenses of the Plan and this rate shall be known as the "Administrative Cost Rate". The actuary shall recommend on the basis of each valuation a Normal Contribution Rate and an Accrued Liability Contribution Rate and an Administrative Cost Contribution Rate.

(c) It is the intention of this Ordinance that contributions be set at such levels, as recommended by the Actuary designated by the Board, as to provide for a systematic amortization of any unfunded accrued liability over a period of thirty (30) years from the date as of which such liability is incurred.

(d) During the Plan year beginning October 1, 2013, and at least once every three years thereafter, there shall be an experience study of the Plan's actuarial assumptions performed by the actuary selected by the City. The actuary shall make recommendations for any changes and assumptions based on the results of the experience study. In the event the Board of Trustees or Plan actuary disagrees with the recommended assumption changes, the Board or Plan actuary shall present the basis of their disagreement and justify any deviation from the recommended assumptions to the City Commission.

(e) Effective September 30, 2013, the City shall require five, ten and twenty year projections of required pension contributions as part of the annual actuarial valuations for the Plan. These projections shall be based on current actuarial assumptions for the Plan. The projections shall be updated to reflect the cost of any proposed benefit enhancement before the City Commission agrees to the enhancement. The cost of these studies shall be funded separately from the annual contribution to the pension plan.

6.04 Contributions by other Agencies. The Miami Beach Visitor and Convention Authority, this Plan, the Classified Plan, the Unclassified Plan, and the City Pension Fund for Firemen and Policemen shall contribute to this Plan the same percentage of payroll rate as the City on behalf of employees who become members of this Plan.

Section 7. Preservation of Benefits Plan

7.01 The Preservation of Benefits Plan adopted in Resolution No. 89-19808 is incorporated herein and revised as set forth in this Article 7. The Preservation of Benefits Plan is established as a qualified governmental excess benefit arrangement pursuant to section 415(m) of the Internal Revenue Code. The Preservation of Benefits Plan is provided for the purpose of providing benefits to a payee (Retirant or Beneficiary) of this Retirement Plan whose benefits would otherwise be limited by section 415(b) of the Internal Revenue Code.

7.02 A payee of the Plan shall participate in the Preservation of Benefits Plan whenever his or her earned benefit under the Plan exceeds the benefit maximum established under section 415(b) of the Internal Revenue Code. Participation in the Preservation of Benefits Plan shall continue for as long as the payee's earned benefit under the Plan is reduced by the application of the maximum benefit limit under section 415(b) of the Internal Revenue Code.

7.03 On and after March 18, 2006, the City shall pay to each eligible payee of the Plan who retires on or after such date, a supplemental benefit equal to the difference between the amount of the payee's monthly retirement benefit which would have been payable under the Plan if not for a reduction due to the application of section 415(b) of the Internal Revenue Code, and the reduced monthly retirement benefit as paid to the payee. The Preservation of Benefits Plan benefit shall be computed and payable under the same terms and conditions and to the same person as would have applied under the Plan were it not for the reduction resulting from the application of section 415(b) of the Internal Revenue Code.

7.04 The benefits paid under the Preservation of Benefits Plan shall not be subject to execution, garnishment, attachment, or any other process of any court with respect to a payee under the Preservation of Benefits Plan.

7.05 The Preservation of Benefits Plan shall be unfunded within the meaning of the federal tax laws. No payee contributions or deferrals, direct or indirect, by election or otherwise shall be made or allowed under the Preservation of Benefits Plan.

7.06 The Preservation of Benefits plan shall be administered by the City. Benefits due under the Preservation of Benefits plan as determined by the City Finance Director shall be paid timely by the City. The Finance Director may make modifications to the benefits payable under the preservation of benefits plan as may be necessary to maintain compliance with section 415(m) and other relevant sections of the Internal Revenue Code. The Board of Trustees shall furnish to the City all records necessary for the administration of the Preservation of Benefits Plan, including, but not limited to, the

making of requisite calculations and disbursements under the Preservation of Benefits Plan.

Section 8. Board of Trustees

8.01 The Plan created by this Ordinance shall be construed as a trust and shall be administered by a Board of Trustees. The Board shall have the general responsibility for the proper operation and management of the Plan and for making effective the provisions of this Ordinance.

8.02 The Board shall consist of nine (9) persons, each of whom shall be designated as a trustee, as follows:

- (a) Three Members of the Plan elected by Employees who are Members of the Plan;
- (b) Two (2) Retirants elected by the retired Members of the Plan; and
- (c) Four persons appointed by the City Manager;

8.03 The elected members of the Board of Trustees of the Classified System shall continue to serve as the elected Trustees of this Plan for the remainder of their terms. The City Manager may reappoint some or all of the Trustees who were appointed to serve as Trustees of the Classified System, or may appoint new Trustees to serve as appointed Trustees of this Plan. Elected Trustees shall serve for three (3) year terms and the rules governing their election shall be as prescribed by the Board. Appointed Trustees shall serve at the pleasure of the City Manager.

8.04 Each trustee shall take an oath of office within ten (10) days after his election or appointment. A trustee shall serve without compensation but shall be reimbursed for any expenses incurred as the result of service as a trustee.

8.05 The Board shall annually elect from its membership a Chairman and a Vice Chairman and shall elect a Secretary from among the City Manager's appointees. Each trustee shall be entitled to one (1) vote, and five (5) concurring votes shall be necessary for a decision by the trustees at any meeting of the Board.

8.06 The Board shall have, in addition to all other powers and duties arising out of this Ordinance not otherwise specifically reserved or delegated to others, the following specific powers and duties:

- (a) Hold regular meetings at least quarterly in each year and special meetings at such time as a majority of the Board or the Chairman may deem necessary.
- (b) Establish rules and regulations to implement the provisions of this Ordinance, and formulate policy for the proper administration of the Plan and the transaction of its business.

- (c) Consider and pass on all applications for retirement and other benefits, authorize the granting of all retirement allowances, pensions and lump sum settlements, and suspend any payment or payments, all in accordance with the provisions of this Ordinance.
- (d) Adopt from time to time service and mortality tables and the rate of regular interest for use in actuarial calculations in connection with the Plan.
- (e) Submit to the City Manager on or before July 1 of each year an estimate of the amount of appropriation required for the purpose of the Plan for the following fiscal year. Any expenditure of the Board in excess of the amounts appropriated by the City in any budget category must be approved in advance by the City Manager and City Commission.
- (f) Employment of such actuarial, legal or investment counsel or specialized technical assistance as may be required for the efficient operation of the Plan.
- (g) Maintain accounts and records showing the fiscal transactions of the Plan and keep in convenient form such data as may be necessary for the actuarial valuations of the Plan; require from each person covered under the Plan such information as shall be necessary for the proper operation of the Plan; require the maintenance of adequate accounting records which shall at all times reflect the financial condition of the Plan.
- (h) Provide for the receipt of all payments made to the Plan and records thereof, and cause them to be deposited immediately with the custodian of the fund.
- (i) Keep a permanent record of all proceedings of the Board which shall be tape recorded and available for examination by any Member, Retirant or Pensioner, or by any Officer of the City.
- (j) Designate for specified periods, or as occasion may require, three (3) physicians who are not eligible for membership in the Plan as Physical Examiners; such Physical Examiners shall arrange for, and conduct, all physical and mental examinations required under this Ordinance, shall investigate all essential statements and certificates in connection with applications for disability retirement, and shall report in writing to the Board their conclusions and recommendations upon all matters referred to them.
- (k) Be the legal custodian of all cash and securities of the Plan, invest and reinvest all cash not required to meet current disbursements in securities; and subject to the limitations of this Ordinance, the Board shall have full power to hold, purchase, sell, assign, transfer and dispose of any of the securities and investments as well as the proceeds of such investments.
- (l) Provide for certification on its behalf of all warrants issued in accordance with actions of the Board authorizing payments for benefits, expenses and

investments out of funds belonging to the Plan, and provide for certification on its behalf of all amounts required by the Plan to be levied as taxes by the City.

(m) Cause a general investigation to be made by a Consulting Actuary, at least once every three (3) years, and cause recommendations to be furnished as a result of such investigation as to the actuarial tables and rates of contributions to be used.

(n) Cause an audit of the affairs of the Plan to be made annually, with interim quarterly reports by an independent Certified Public Accountant, and submit a copy thereof to the City Manager as soon as possible after the end of each fiscal year.

(o) Accept any gift, grant or bequest of any money or securities under the terms designated by the grantor, or, if no special purpose or allocation is specified, for credit to the funds of the Plan.

(p) Make available to Members, Retirants and Pensioners a financial statement including a summary of the report of the Certified Public Accountant, and issue to each Member, as soon as practicable following the close of each fiscal year, an individual statement showing the Accumulated Employee Contributions standing to his credit.

(q) Require the preparation of an annual report as of the close of each fiscal year for submission to the City Commission; said report shall embody, among other things, a financial balance sheet and a statement of receipts and disbursements for the fiscal year, schedules of acquisitions and sales or exchanges of investments, a statement of investments owned at the close of the fiscal year and other pertinent financial and operating data.

(r) Establish rules governing the election of the trustees as described in Section 8.02 (a) and (b) and ~~(c)~~.

(s) May appoint an Administrator of such Pension Plan and fix the terms of employment of such Administrator who shall serve at the pleasure of the Board.

Section 9. Investments

9.01 The assets of the Plan, in excess of the amount required to meet current operations or pension and retirement payments, shall be invested in accordance with the following paragraph.

The trustees shall, in acquiring, investing, reinvesting, exchanging, retaining, selling and managing property for the benefit of the Plan, exercise the judgment and care under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard, a trustee is authorized to acquire and retain every kind of property, real, personal or mixed, and every kind of investment specifically including, but not by way of limitation, bonds,

debentures and other corporate obligations, and stocks, preferred or common, which men of prudence, discretion and intelligence acquire or retain for their own account and, within the limitations of the foregoing standard, a trustee may retain property acquired, without limitation as to time and without regard to its suitability for original purchase.

9.02 All investments shall be clearly marked to indicate that they are a part of the assets of the Plan, and to the extent possible they shall be so registered.

9.03 Transactions involving the sale of bonds and simultaneous purchase of other bonds for substantially the same consideration may be treated as exchanges rather than two separate transactions. No adjustments shall be made in investment valuations for ordinary current market price fluctuations, but reserves may be provided for anticipated losses upon redemption as determined by the Board.

9.04 Except as otherwise herein provided, no trustee or employee of the Board shall have any direct interest in the income, gains or profits of any investments made by the Board, nor shall any such person receive any pay or emolument for services in connection with any investment. Proof that any such person violated any of these restrictions shall make such person guilty of a misdemeanor or felony, as the case may be, and such person shall be punishable therefor as provided by law.

9.05 Beginning January 1, 2010 the Board shall proceed to sell, redeem, divest, or withdraw all publicly traded securities of any corporation or other business entity conducting business with the countries of Sudan and Iran, as follows:

(a) Sections 215.442 and 215.473, Florida Statutes, require the State Board of Administration (SBA) to make its best efforts to identify "Scrutinized Companies," as defined in section 215.473(t), Florida Statutes. The SBA has created a list of such companies ("scrutinized companies list"), which state law requires be notified and ultimately divested by the Florida Retirement System (FRS).

(b) The definition of "scrutinized company" as to Sudan generally includes a company with business operations in Sudan with revenues or assets linked to oil-related or power-production activities under certain circumstances, is complicit in Darfur genocide, or the company supplies military equipment within Sudan under certain conditions.

(c) The definition of "scrutinized company" as to Iran general includes a company with business operations that involve the Government of Iran or certain companies, and have revenues or assets linked to Iran and involve oil-related or mineral-extraction under certain conditions.

(d) "Scrutinized company" also includes any company that is complicit in the Darfur genocide.

(e) Notwithstanding any provision of this Plan to the contrary, the Board, or its designee, shall annually survey all corporations or other business entities in which the assets of the Retirement System are invested in order to ascertain whether

any of the assets of the Retirement System are invested in a corporation or other business entity that is appears on the SBA Scrutinized Companies List, as periodically amended.

(f) The Board, on or before the first day of January of each year, shall make available to the public the findings of its survey.

(g) Notice of the provisions of this section shall be given to investment managers for the Retirement System.

(h) The Board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the Board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the members of the Plan and their beneficiaries if the actions it takes are consistent with the duties imposed by section 215.473, Florida Statutes and the manner of the disposition, if any, is reasonable as to the means chosen.

(i) The divestiture of any security pursuant to this section must be completed by September 30 of any year following identification of Retirement System assets invested in a corporation or other business entity appearing on the SBA Scrutinized Companies List.

Section 10. Administration

10.01 Pension Administrator

The Pension Administrator shall have responsibility for the administration of the Plan. As such, he will have responsibilities which shall include, but not necessarily be limited to, the duties specified in this Section 10.01.

(a) The Pension Administrator shall establish and maintain records on all persons covered under the Plan.

(b) The Pension Administrator shall verify the amounts entered by the Payroll Department as deductions for contributions by Employees to the Plan and shall certify all payrolls on which such deductions are entered.

(c) The Pension Administrator shall receive applications for retirement and other benefits, compute retirement allowances, pensions and lump sum settlements, compute and credit interest to individual accounts and make such analyses, computations and other determinations and records as the Board may deem necessary for the efficient operation of the Plan.

(d) It shall be the duty of the Pension Administrator to notify the Board of any new Members, withdrawal of Members, applications for retirement and lump sum payments, and such other personnel information as the Board may require.

(e) The Pension Administrator shall maintain necessary records to show receipts by payroll deductions, City contributions, donations and investment returns, and to show disbursements for retirement allowances, pensions and lump sum settlements. He shall also keep such other financial records of the moneys and investments of the Plan as the Board deems necessary.

(f) All payments from the funds of the Plan shall be made by the Pension Administrator only upon vouchers signed by the Chairman of the Board of Trustees. A duly attested copy of a resolution of the Board bearing on its face the specimen signature of the Pension Administrator shall be filed as authority for making payments upon such vouchers. No voucher shall be drawn unless it shall have been previously authorized by resolution of the Board, except that the Board may, by resolution authorize the Pension Administrator to issue vouchers for refunds of Accumulated Employee Contributions in accordance with Section 5.10 and for minor adjustments in contributions by Employees.

(g) For the purpose of meeting current disbursements, cash equal in amount, as nearly as practicable, to the regular demands for the ensuing month shall be kept available in deposit.

10.02 City Attorney

(a) The City Attorney shall serve as legal advisor of the Board when requested to do so, and his services on behalf of the Board shall not be compensated additionally.

10.03 Legal Counsel

(a) The Board shall be vested with the authority to retain private legal counsel for representation thereof.

(b) Counsel retained hereunder shall be subject to the approval of the City Commission.

Section 11. General

11.01 The Assets of the Classified and Unclassified Systems as of March 18, 2006 shall become the assets of this Plan on such date. The assets of the Plan shall be invested as one fund, and no particular person, or group of persons, shall have any right in, or to, any specific security or property, or in or to any item of cash, other than an undivided interest in the whole, as specified in the provisions of this Ordinance.

11.02 All the funds of the Plan shall be held in trust for use in providing the benefits of the Plan and paying its expenses not paid directly by the City; provided that no part of the corpus or income of the funds shall be used for, or diverted to, purposes other than for the exclusive benefit of members or their beneficiaries under the Plan prior to the satisfaction of all liabilities for benefits with respect to them or for the administrative expenses of the Plan. In case of termination of the Plan, or in the event of the

discontinuance of contributions thereunder having the effect of such termination, the rights of all members of the Plan to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall be nonforfeitable.

11.03 All retirement allowances, pensions, and other benefits payable under the provisions of this Ordinance, and all accumulated credits of Employees in the Plan shall not be assignable.

11.04 Any person who shall knowingly make any false statement, or shall falsify, or permit to be falsified, any record or records of the Plan in any attempt to defraud the Plan shall be guilty of a misdemeanor, and shall be punishable therefor, upon conviction, by a fine of not more than One Thousand Dollars (\$1,000.00) or imprisonment for not more than ninety (90) days, or both, in the discretion of the Court.

11.05 No provision of any ordinance, which provides wholly or partly, at the expense of the City, for retirement allowances, pensions, or other benefits for employees of the City, their widows or other dependents, shall apply to persons covered by the Plan established by this Ordinance.

11.06 Any changes in contributions or benefits contained in this Ordinance shall apply prospectively to Members who are employed by the City on March 18, 2006 who retire on or after such effective date, and to Members who enter the service of the City after such effective date.

11.07 Effective as of March 18, 2006, notwithstanding anything herein to the contrary, a member's benefits shall commence no later than April 1 of the calendar year following the later of (a) the calendar year in which he or she attains age 70 ½ or (b) the calendar year in which the member retires. All distributions from the Plan shall conform to the regulations issued under Section 401(a)(9) of the Internal Revenue Code, including the incidental death benefit provision of Section 401(a)(9)(G) of the Internal Revenue Code. Further, such regulation shall override any Plan provision that is inconsistent with Section 401(a)(9) of the Internal Revenue Code.

11.08 Notwithstanding any other provision of this Plan to the contrary, a form of retirement income payable from this plan shall satisfy the following conditions:

(a) If the retirement income is payable before the member's death:

1) It shall either be distributed or commence to the member not later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70 1/2, or the calendar year in which member retires;

2) The distribution shall commence not later than the calendar year defined above; and (a) shall be paid over the life of the member or over the lifetimes of the member and spouse, issue or dependent, or (b) shall be paid over the period extending not beyond the life expectancy of the member and spouse, issue or dependent.

Where a form of retirement income payment has commenced in accordance with the preceding paragraphs and the member dies before his entire interest in the plan has been distributed, the remaining portion of such interest in the plan shall be distributed no less rapidly than under the form of distribution in effect at the time of the member's death.

(b) If the member's death occurs before the distribution of his interest in the plan has commenced, member's entire interest in the plan shall be distributed within five years of member's death, unless it is to be distributed in accordance with the following rules:

- 1) The member's remaining interest in the Plan is payable to his spouse, issue or dependent;
- 2) The remaining interest is to be distributed over the life of the spouse, issue or dependent or over a period not extending beyond the life expectancy of the spouse, issue or dependent; and
- 3) Such distribution begins within one year of the member's death unless the member's spouse, is the sole designated beneficiary, in which case the distribution need not begin before the date on which the member would have attained age 70 1/2 and if the member's spouse dies before the distribution to the spouse begins, this section shall be applied as if the spouse were the member.

Section 12. Rollover Distributions

12.01 Election by Distributee

This Article applies to distributions made on or after January 1, 1993. Notwithstanding any provision of this Ordinance 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.

12.02 Definitions

For purposes of this Article, the following definitions shall apply:

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

(b) **Eligible retirement plan:** An eligible retirement plan is individual retirement account described in Section 408(a) of the Internal Revenue Code, an individual retirement annuity described in Section 408(b) of the Internal Revenue Code, an annuity plan described in Section 403(a) of the Internal Revenue Code, an eligible deferred compensation plan described in section 457(b) of the Internal Revenue Code which is maintained by an eligible employer described in section 457(e)(1)(A) of the Internal Revenue Code and which agrees to separately account for amounts transferred into such plan from this Plan, an annuity contract described in section 403(b) of the Internal Revenue Code, or a qualified trust described in section 401 (a) of the Internal revenue Code that provides or accepts the distributee's eligible rollover distribution. Effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Internal Revenue Code and an eligible plan under Section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan.

(c) **Distributee:** A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse or domestic partner are distributees with regard to the interest of the spouse or domestic partner. Effective as of January 1, 2008, an Employee's or former Employee's non-spouse Beneficiary is a distributee with regard to the interest of the Employee or former Employee.

(d) **Direct rollover:** A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee. Effective as of January 1, 2008, a non-spouse Beneficiary may make a direct rollover only to an "inherited" individual retirement account as described in Section 408(b) of the Internal Revenue Code. If a non-spouse Beneficiary receives a distribution from the Plan, the distribution is not eligible for a 60-day (non-direct) rollover.

3. **Rollovers or Transfers into the Fund.** On or after March 18, 2006, the Plan will accept an eligible rollover distribution or direct transfer of distribution for the purchase of credited service pursuant to Section 4.044.4 as follows:

(a) **Transfers, Direct Rollovers or Member Rollover Contributions from Other Plans.** The Plan 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 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 Plan will also

accept legally permissible Member requested transfers from eligible retirement plans.

(b) Member Rollover Contributions from 401 (a) Plans and IRAs. The plan will accept a member rollover contribution of the portion of a distribution from qualified plan described in section 401 (a) of the Code, or 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 the member's gross income.

Section 13. Employees hired on or after September 30, 2010

Notwithstanding any other provision of the Plan, for employees hired on or after September 30, 2010, other than employees hired in classifications within the CWA (MBEBA) bargaining unit, the provisions of the Miami Beach Employees' Retirement Plan created by Ordinance 2006-3504, as subsequently amended, shall be applicable, except as set forth in paragraphs (a) through (i.) below. Notwithstanding any other provision of the Plan, for employees hired on or after October 27, 2010 in classifications within the CWA (MBEBA) bargaining unit, the provisions of the Miami Beach Employees' Retirement Plan created by Ordinance 2006-3504, as subsequently amended, shall be applicable, except as set forth in paragraphs (a) through (i.) below.

(a) The normal retirement date shall be age 55 with at least thirty (30) years of creditable service, or age 62 with at least five (5) years of creditable service.

(b) The early retirement date shall be the date on which the member's age plus years of creditable service equal 75, with a minimum age of 55

(c) Final average monthly earnings shall be an average of the highest five (5) years of employment.

(d) The benefit multiplier shall be 2.5% multiplied by the member's years of creditable service, subject to a maximum of 80% of the member's FAME.

(e) The retiree Cost of Living Adjustment shall be 1.5% per year, with the first adjustment deferred to one year after the end of the DROP.

(f) The employee contribution shall be 10% of salary.

(g) The standard form of benefit shall be a lifetime annuity.

(h) Members who separate from City employment with 5 or more years of creditable service but prior to the normal or early retirement date shall be eligible to receive a normal retirement benefit at age 62.

(i) Employees shall be eligible to enter the DROP at the normal retirement age specified in paragraph a, above, and may participate in the DROP for a maximum of 5 years.

Section 14. Application to Members of the CWA bargaining unit who terminate City employment following ratification of the 2003-2006 collective bargaining agreement and before March 18, 2006

14.01. All provisions of this plan that are applicable to employees in classifications within the CWA bargaining unit shall apply to such employees who are employed on the date the 2003-2006 collective bargaining agreement between the City and the CWA is ratified by the CWA bargaining unit and who terminate City employment after that date, but prior to March 18, 2006, under the following conditions:

- (a) On or after February 1, 2006, the employee must submit a letter of resignation/retirement to their respective Department Head and the City Labor Relations Director providing a minimum of two (2) weeks notice, (i.e., the employee will agree to work a minimum of ten (10) additional working days (not including sick or annual leave time); and
- (b) The employee will leave any accrued sick or annual leave time with the City until they exercise any retirement options contained in this ordinance; and
- (c) Following the second reading of the this ordinance, the employee will have a period not to exceed twenty (20) days to submit all changes and any required monetary payments for the buyback and/or 401A conversion to the Pension Office.
- (d) In the event that the election and/or full payment is not made within the specified twenty (20) day time frame, there will no changes made to the pension for that employee, and any accrued sick or annual leave shall be paid to the employee.

Section 2. Incorporation by Reference of Resolution No. 2013-28290.

Resolution No. 2013-28290, accepting the recommendations of the Finance and Citywide Projects Committee at its May 13, 2013 meeting, to adopt the Budget Advisory Committee's proposed policies and guidelines in order to ensure long term pension reform, is incorporated herein by reference pursuant to Ordinance No. 2013-3806.

Section 3. Conflicts and Severability.

(a) All Ordinances, and parts of ordinances, in conflict herewith shall be and the same, are hereby repealed.

(b) In the event any article, section, paragraph, sentence, clause, or phrase of this Ordinance shall be adjudicated invalid or unconstitutional, such adjudication shall in no manner affect the other articles, sections, paragraphs, sentences, clauses or phrases

of this Ordinance, which shall be and remain in full force and effect as fully as if the item so adjudged invalid or unconstitutional was not originally a part hereof.

Section 4. Effective Date.

This Ordinance shall take effect the ____ day of _____, 2023.

PASSED and ADOPTED this ____ day of _____, 2023.

ATTEST:

DAN GELBER, MAYOR

RAFAEL E. GRANADO, CITY CLERK

(Sponsored by Commissioner David Richardson)

Underscore denotes new language
~~Strikethrough denotes deleted language~~

(Ordinance Nos. 2006-3504, 2006-3530, 2007-3575, 2009-3626, 2009-3664, 2010-3693, 2010-3706, 2013-3806, 2014-3837, 2014-3864, 2015-3946)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney **PAZ** 1-29-27
Date