

AGENDA ITEM 1

**NO BACKUP
FOR THIS SECTION**

AGENDA ITEM 2

**NO BACKUP
FOR THIS SECTION**

AGENDA ITEM 3

ITEM 3.a.

**AUGUST 27, 2015
REGULAR PENSION BOARD
MEETING MINUTES**

**MINUTES
REGULAR PENSION BOARD MEETING
CITY OF HOLLYWOOD EMPLOYEES' RETIREMENT FUND
THURSDAY, AUGUST 27, 2015**

1. CALL TO ORDER

Vice-Chair Greene called the meeting to order at 10:07 a.m.

2. ROLL CALL AND PLEDGE OF ALLEGIANCE

Board Members present: Chair Phyllis Shaw (arrived at 10:08 a.m.), Vice-Chair Jeffrey Greene (via telephone), Ralph Dierks, Raquel Elejabarrieta, George Keller, Daniel Matlow and Richard Templeton. Also present: Pension Coordinator, Lisa Castronovo, Board Secretary, Tammie Hechler; Board Treasurer, Matthew Lalla; and Board Attorney, James Linn.

3. CONSENT AGENDA

- a. July 30, 2015 Regular Meeting Minutes
- b. Ratification of Distributions (Contributions and DROP) and Plan Expenses
- c. Approval/Ratification of New Retirement/DROP/Vested/Death Annuities

MOTION made by Mr. Dierks, seconded by Ms. Elejabarrieta, to approve Consent Agenda Items 3.a-c. In a voice vote by the members present, all members voted in favor. **Motion** passed 7-0.

4. TREASURER'S REPORT (Matthew Lalla)

Mr. Lalla reported an increase in the Fund's assets of \$3.87 million/1.3% (net of disbursements) from \$290.58 million on October 1, 2014 to \$294.45 million as of August 24, 2015. The Board accepted the Treasurer's Report as read.

5. INVESTMENT ISSUES (Keith Reynolds) – Taken out of order

- a. Wellington Trust Company (Thomas Egan and Matthew McKenna)
Handout made part of these minutes.

Mr. McKenna emphasized international equity money manager Wellington Trust Company 1) had a strong culture of collaboration among its very stable team of investors, 2) was a bottom-up, fundamental international equity manager who concentrated on stock selection over sector and region selection, 3) looked for mispriced or under-appreciated capital and/or investments in companies with proven sustainable returns, 4) looked to avoid investing in companies and sectors performing poorly, 5) designed its portfolio to do well in both up and down markets, and 6) specifically for the Fund, had outperformed the benchmark by 870 basis points for the one-year period ended July 31, 2015.

- b. Performance Report for Quarter End June 30, 2015
Report made part of these Minutes.

Mr. Reynolds stated the assets were \$296.6 million on June 30, 2015. The Fund performed in the top quartile for the quarter ended June 30, 2015, the last year, and the last three (3) and five (5) years when compared to other public plans with assets less than \$500 million and similar equity allocations.

c. Flash Performance Review

Mr. Reynolds reported the Fund's value was \$297.0 million on July 31, 2015. Mr. Reynolds noted as of August 1, 2015, international small cap equity manager Brandes was fully funded per the allocation the Board approved earlier in the year. Mr. Reynolds noted 2015 had to date been very volatile with China likely to continue being volatile for the remainder of the year. With that noted, Segal Rogerscasey still held their belief that international equity investments would continue to be strong performers for the Fund's portfolio. Mr. Reynolds concluded that small-mid cap equity manager Frontier Capital, while posting impressive numbers over the two years since inception, was substantially behind the benchmark for the month ended July 31, 2015 due primarily to the fact that equity value managers in general performed significantly worse than equity growth managers (i.e. Thompson, Siegel and Walmsley).

Mr. Reynolds concluded the flash report review by noting that the Fund's rate of return so far for the fiscal year to date was 6.93%, net of fees, versus the policy index of 5.58%

d. Liquidity Analysis Overview

Handout made part of these minutes.

Mr. Reynolds stated the primary purpose to perform a Liquidity Analysis was to determine analytically, rather than emotionally, the Fund's capacity to invest in alternatives. The reason such an analysis was important was due to the fact that alternative investments are generally less liquid than investments in standard equities and fixed income. Therefore, the Fund's need for cash in future years needs to be determined in advance of investing in alternatives so the Fund does not investment too much in alternatives. Mr. Reynolds continued that Segal Rogerscasey, as the one preparing the Liquidity Analysis, would work closely with the Fund's actuary to gather pertinent information regarding expected cash flows – both in and out of the Fund - over the next 10-20 years.

Discussion ensued. Mr. Templeton stated he was hesitant to invest any Fund monies in alternatives since there were no guarantees that the City would continue to contribute their employer contributions to the Fund and if they ceased making contributions, the need to immediate Fund liquidity would be great. Vice-Chair Greene stated he was not concerned about the City making their contributions since per State law they must contribute the amount detailed in the annual actuarial valuation report, but was concerned about the Fund meeting the actuarial assumed rate of return. Vice-Chair Greene stated his desire to see anything needed to make better decisions on behalf of the Fund regarding its investments, be they traditional (equities and fixed income) or non-traditional (real estate, hedge funds, private equity).

MOTION made by Vice-Chair Greene, seconded by Ms. Elejabarrieta, to accept Segal Rogerscasey's proposal to perform a Liquidity Analysis for \$15,000. In a voice vote by the members present, all members voted in favor. **Motion** passed 7-0.

Mr. Reynolds stated he would present the results of the Liquidity Analysis at the Board's October meeting.

6. LEGAL ISSUES (James Linn)

Mr. Linn noted 1) he, along with Chair Shaw, was scheduled to meet with the City Manager to discuss the Board's concerns/request regarding the City's gift policy and how such policy affects Trustees who were also City employees; 2) he had not received anything to date regarding the pending City lawsuits against the Board; and 3) his firm had not been paid for invoiced legal services for the past three (3) months.

7. ADMINISTRATIVE ISSUES

a. Fiduciary Liability Insurance

The Board discussed the premiums for a variety of fiduciary liability insurance coverage limits as outlined in the Executive Summary provided by Ms. Jori Van der Voort from Arthur J. Gallagher & Company (made part of these Minutes).

MOTION made by Vice-Chair Greene, seconded by Mr. Matlow, to ask the City to increase the fiduciary liability insurance coverage to \$3.0 million at a premium of \$70,006. In a voice vote by the members present, all members voted in favor. **Motion** passed 7-0.

Chair Shaw noted that the contract with the Fund's actuary, Gabriel, Roeder, Smith and Company, would expire September 30, 2015. Mr. Lalla replied the City would be doing a Request for Proposal for actuarial services.

Ms. Castronovo asked the Board for their approval for her to meet with software development companies meet to discuss the specific needs of the Retirement Fund regarding pension management software prior to such companies submitting responses to a Request for Proposal. The Board approved.

8. PUBLIC COMMENTS

Public comments were heard from: Christopher Cassidy, President - AFSCME Local 2432, 2734 Hollywood Boulevard, Hollywood, FL

9. TRUSTEE REPORTS, QUESTIONS AND COMMENTS

There were no Trustee reports, questions or comments.

10. PENSION COORDINATOR'S REPORT (Lisa Castronovo)

Ms. Castronovo reported: 1) the FPPTA Trustees' School was October 4 – 7 and if anyone wished to attend to let her know so she could handle the registrations; 2) the Supplemental Pension Distributions for fiscal year end September 30, 2013 were paid on August 12, 2015 to all eligible retirees/beneficiaries; 3) she distributed the personalized October 1, 2014 Employee Benefit Statements to all employees employed on October 1, 2014; and 4) she distributed the respective Summary Plan Descriptions to each employee currently employed with the City.

11. ADJOURNMENT

MOTION made by Mr. Keller, seconded by Mr. Matlow, to adjourn the meeting. In a voice vote by the members present, **Motion** passed 7-0. Meeting adjourned at 11:57 a.m.

Phyllis Shaw, Chair

Date

ITEM 3.b.

**RATIFICATION OF
DISTRIBUTIONS
(Contributions and DROP)
and
PLAN EXPENSES**

PLAN DISTRIBUTIONS

EMPLOYEES' RETIREMENT FUND
Refunds and DROP Distributions
September 24, 2015 Regular Pension Board Meeting

Refunds of Contributions

<u>Name</u>	<u>Refund</u>
Barbour, Davon	\$ 32,201.23
Brito, Jonathan	1,078.02
Coleman, Germaine	4,833.22
Elleson, Dane	2,150.84
Payne, Jerry	1,159.45
Santiago, Cesar	5,665.84
Welles, Matthew	2,119.84
	<hr/>
	\$ 49,208.44

Planned Retirement Distributions

Cairns, Terry	\$ 126,747.67
Taylor, Delores	63,722.19
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	\$ 190,469.86

DROP Distributions

Anderson, Radcliffe	\$ 157,981.54
Barnes, Hubert	366,038.39
Channer, Collin	31,762.14
Gooden, Byron	184,810.69
Gurdyal, Janet	211,972.32
Kalinowski, Joseph	460,878.61
Kasha, Gail	315,240.96
Kong, Maria	239,204.59
McCorkell, Cammal	92,641.99
Rolle, James	162,797.22
	<hr/>
	\$ 2,223,328.45

TOTAL: \$ 2,463,006.75

PLAN EXPENSES

EMPLOYEES RETIREMENT FUND

Payment Requests Processed During the Period

August 1, 2015 through August 31, 2015

Manager Fees

Baird Advisors (quarter ending 06/30/15)	\$ 28,682.68
Segal Rogerscasey (July 2015)	6,375.00
Neuberger Berman (quarter ending 09/30/15)	30,087.43
Brandes International Partners (05/01/15 - 06/30/15)	7,796.00
	<u>72,941.11</u>

Pension Coordinator Fees

LECastronovo Co., Inc. (August 2015)	<u>13,173.33</u>
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Travel Advances/Expenses

FPPTA Annual Conference (Boca Raton)	
Richard Templeton	<u>719.00</u>

Miscellaneous

The Berwyn Group	61.75
P.E.P. Signs & Plaques	9.65
	<u>71.40</u>

Total	\$ <u><u>86,904.84</u></u>
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ITEM 3.c.

**APPROVAL/RATIFICATION of
NEW RETIREMENTS/DEATHS**

EMPLOYEES' RETIREMENT FUND

New Retirement/DROP/Death/Vested Annuities - Monthly Amounts September 24, 2015 Regular Pension Board Meeting

July 2015

Barnick, James - retirement (from Police)	\$	324.83
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August 2015

Cairns, Terry - retirement (Planned Retirement)	\$	3,796.56
Channer, Collin - retirement (from DROP)		1,370.79
Rolle, James - retirement (from DROP)		2,102.15
Taylor, Delores - retirement (Planned Retirement)		3,550.95

September 2015

Daniels, Jonetta - beneficiary of Willie Daniels		1,270.46
Gooden, Byron - retirement (from DROP)		2,440.22
Jackson, Regina - beneficiary of Calvin Taylor		948.76
Kasha, Gail - retirement (from DROP)		4,048.84
Taylor, David - beneficiary of Calvin Taylor		474.38
Taylor, Willie - beneficiary of Calvin Taylor		474.38

October 2015

Anderson, Radcliffe - retirement (from DROP)	\$	2,038.18
Corchado, Jose - retirement (from Vested)		1,146.29
Gurdyal, Janet - retirement (from DROP)		3,122.58
Kong, Maria - retirement (from DROP)		3,086.07
McCorkell, Cammal - retirement (from DROP)		1,195.21

Benefits Stopped

Bowen, Joseph - died 7/11/2015	\$	2,867.87
Daniels, Willie - died 8/27/2015		2,540.92
Quinn, Cecil - died 8/28/2015		1,924.14

AGENDA ITEM 4

CITY OF HOLLYWOOD, FLORIDA

EMPLOYEES RETIREMENT FUND
TREASURER'S REPORT
JUNE 30, 2015

<u>Investment Balances</u>	<u>Market Value</u>	<u>Book Value</u>	<u>Unrealized Gain (Loss)</u>
Balance, October 1, 2014	\$ 287,742,313.40	253,402,095.27	\$ 34,340,218.13
Contributions and Payments:			
City Contributions		12,817,457.54	
Employee Contributions		1,976,073.67	
Pension Disbursements		(22,497,671.49)	
Administrative Expenses		(212,917.20)	
Net Contributions/Payments		<u>(7,917,057.48)</u>	
Investment Income:			
Dividends Received		2,518,756.85	
Interest Received - net		1,588,125.99	
Gain on Sales		8,224,263.41	
Commission Recapture		2,736.48	
Quarterly Investment Fees		(744,443.40)	
Net Investment Income		<u>11,589,439.33</u>	
Balance, June 30, 2015	<u>296,578,492.19</u>	<u>257,074,477.12</u>	<u>39,504,015.07</u>
Increase (Decrease) for the Period	\$ <u>8,836,178.79</u>	\$ <u>3,672,381.85</u>	\$ <u>5,163,796.94</u>

Unrealized Gain (Loss) Account
Composition of Increases (Decreases)

Thompson, Siegel & Walmsley	\$ 879,072.02
Frontier Capital Management	2,682,949.50
Wellington International	1,280,448.44
Northern Trust	(1,376,006.29)
Brandes Investment Partners	(89,058.90)
Total Equity Managers	<u>3,377,404.77</u>
Baird Advisors	(467,975.52)
Neuberger & Berman	(166,916.13)
Morgan Stanley	2,123,256.82
Principal Investors	298,027.00
	\$ <u>5,163,796.94</u>

Investment Return

Net Investment Income	\$ 11,589,439.33
Increase (Decrease) in Unrealized Gain/Loss	5,163,796.94
Total Investment Return for Period	\$ <u>16,753,236.27</u>
Beginning Market Value of Assets	\$ 287,742,313.40
Plus/(Less): Net Contributions/Payments	(7,917,057.48)
Assets Available for Investment	\$ <u>279,825,255.92</u>
Investment Return as a % of Assets Available for Investment	<u>5.99%</u>

CITY OF HOLLYWOOD, FLORIDA

EMPLOYEES RETIREMENT FUND
TREASURER'S REPORT
JULY 31, 2015

<u>Investment Balances</u>	<u>Market Value</u>	<u>Book Value</u>	<u>Unrealized Gain (Loss)</u>
Balance, October 1, 2014	\$ 287,742,313.40	253,402,095.27	\$ 34,340,218.13
Contributions and Payments:			
City Contributions		12,817,457.54	
Employee Contributions		2,187,105.19	
Pension Disbursements		(24,949,204.80)	
Administrative Expenses		(230,296.15)	
Net Contributions/Payments		<u>(10,174,938.22)</u>	
Investment Income:			
Dividends Received		2,576,084.03	
Interest Received - net		1,756,836.60	
Gain on Sales		10,122,036.50	
Commission Recapture		3,053.58	
Quarterly Investment Fees		(814,293.70)	
Net Investment Income		<u>13,643,717.01</u>	
Balance, July 31, 2015	<u>296,546,254.36</u>	<u>256,870,874.06</u>	<u>39,675,380.30</u>
Increase (Decrease) for the Period	\$ <u>8,803,940.96</u>	\$ <u>3,468,778.79</u>	\$ <u>5,335,162.17</u>

Unrealized Gain (Loss) Account

Composition of Increases (Decreases)

Thompson, Siegel & Walmsley	\$ 692,558.00
Frontier Capital Management	1,553,378.81
Wellington International	2,316,959.79
Northern Trust	(1,385,433.40)
Brandes Investment Partners	96,292.60
Total Equity Managers	<u>3,273,755.80</u>
Baird Advisors	(272,688.72)
Neuberger & Berman	(87,188.73)
Morgan Stanley	2,123,256.82
Principal Investors	298,027.00
	\$ <u>5,335,162.17</u>

Investment Return

Net Investment Income	\$ 13,643,717.01
Increase (Decrease) in Unrealized Gain/Loss	5,335,162.17
Total Investment Return for Period	\$ <u>18,978,879.18</u>

Beginning Market Value of Assets	\$ 287,742,313.40
Plus/(Less): Net Contributions/Payments	(10,174,938.22)
Assets Available for Investment	\$ <u>277,567,375.18</u>

Investment Return as a % of Assets Available for Investment	<u>6.84%</u>
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Treasurer's Report
Pension Board Meeting – September 24, 2015

Investment Balances

For the current fiscal year, investment balances have decreased from approximately \$290.58 million (as of 10/1/2014) to approximately \$283.96 million (as of 9/15/15).

- An decrease of approximately \$6.62 million or 2.28% net of disbursements

Investment Returns

July	6.84%
June	5.99%
May	6.67%
April	6.13%
March	5.46%
February	5.43%
January	2.27%
December	2.96%
November	2.81%
October:	1.34%
September:	10.92%
August:	12.90%
July:	10.12%
June:	11.86%

AGENDA ITEM 5

ITEM 5.a.

PRINCIPAL GLOBAL INVESTORS PRESENTATION

(Backup will be provided at the meeting)

ITEM 5.b.

**NORTHERN TRUST
PRESENTATION**

(No backup provided at this time)

ITEM 5.c.

FLASH PERFORMANCE REVIEW

(Backup will be provided at the meeting)

AGENDA ITEM 6

ITEM 6.a.

**FOLLOW-UP ON MEETING with
CITY MANAGER re: GIFT POLICY**

(Discussion Item)

ITEM 6.b.

**IRS FAVORABLE
DETERMINATION LETTER**



REPLY TO: TALLAHASSEE

MEMORANDUM

TO: Board of Trustees
City of Hollywood Employees' Retirement Fund

FROM: Jim Linn and Glenn Thomas

DATE: September 17, 2015

RE: Favorable IRS Determination Letter

We are pleased to advise that the Internal Revenue Service has issued a favorable determination on the Employees' Retirement Plan. A copy of the determination letter is attached. The determination letter reflects that the Retirement Plan satisfies all applicable qualification requirements contained in the U.S. Internal Revenue Code.

The IRS determination is contingent on adoption of the plan amendments we provided to the IRS in January 2014. A copy of the plan amendments is also attached.

Please let us know if you have any questions or would like to discuss.

Attachments

TAMPA BAY
101 Riverfront Boulevard
Suite 620
Bradenton, FL 34205
(941) 708-4040
Fax: (941) 708-4024

JACKSONVILLE
245 Riverside Avenue
Suite 150
Jacksonville, FL 32202
(904) 353-6410
Fax: (904) 353-7619

TALLAHASSEE
315 South Calhoun Street
Suite 830
Tallahassee, FL 32301
(850) 222-5702
Fax: (850) 224-9242

WEST PALM BEACH
515 North Flagler Drive
Suite 1500
West Palm Beach, FL 33401
(561) 640-0820
Fax: (561) 640-8202

www.llw-law.com

INTERNAL REVENUE SERVICE
P. O. BOX 2508
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: **SEP 03 2015**

CITY OF HOLLYWOOD FLORIDA
C/O LEWIS LONGMAN & WALKER PA
GLENN THOMAS
315 S CALHOUN STREET STE 830
TALLAHASSEE, FL 32301

Employer Identification Number:
59-6000338
DLN:
17007037150004
Person to Contact:
AIMEE C BEIMESCHE ID# 31315
Contact Telephone Number:
(513) 263-4611
Plan Name:
CITY OF HOLLYWOOD FLORIDA GENERAL
EMPLOYEES RETIREMENT PLAN
Plan Number: 001

Dear Applicant:

Based on the information you provided, we are issuing this favorable determination letter for your plan listed above. However, our favorable determination only applies to the status of your plan under the Internal Revenue Code and is not a determination on the effect of other federal or local statutes. To use this letter as proof of the plan's status, you must keep this letter, the application forms, and all correspondence with us about your application.

Your determination letter does not apply to any qualification changes that become effective, any guidance issued, or any statutes enacted after the dates specified in the Cumulative List of Changes in Plan Requirements (the Cumulative List) for the cycle you submitted your application under, unless the new item was identified in the Cumulative List.

Your plan's continued qualification in its present form will depend on its effect in operation (Section 1.401-1(b)(3) of the Income Tax Regulations). We may review the status of the plan in operation periodically.

You can find more information on favorable determination letters in Publication 794, Favorable Determination Letter, including:

- The significance and scope of reliance on this letter,
- The effect of any elective determination request in your application materials,
- The reporting requirements for qualified plans, and
- Examples of the effect of a plan's operation on its qualified status.

You can get a copy of Publication 794 by visiting our website at www.irs.gov/formspubs or by calling 1-800-TAX-FORM (1-800-829-3676) to request a copy.

We based this determination letter solely on your claim that the plan meets the requirements of a governmental plan under Section 414(d) of the Internal Revenue Code.

Letter 5274

CITY OF HOLLYWOOD FLORIDA

This determination letter applies to the plan and related documents you submitted with the application you filed during the remedial amendment cycle ending 1/31/14.

You can't rely on this letter after the end of the plan's first five-year remedial amendment cycle that ends more than 12 months after we received the application. This letter expires on January 31, 2019. This letter considered the 2012 Cumulative List of Changes in Plan Qualification Requirements.

This letter is not a determination with respect to any language in the plan or any amendment to the plan that reflects Section 3 of the Defense of Marriage Act, Pub. L. 104-199, 110 Stat. 2419 (DOMA) or U.S. v. Windsor, 133 S. Ct 2675 (2013), which invalidated that section.

If you submitted a Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization, with your application and asked us to send your authorized representative or appointee copies of written communications, we will send a copy of this letter to him or her.

If you have any questions, you can contact the person listed at the top of this letter.

Sincerely,

A handwritten signature in cursive script, reading "Karen D. Truss".

Karen D. Truss
Director, EP Rulings & Agreements

**2013 Amendment to
City of Hollywood
EMPLOYEES' RETIREMENT FUND**

§ 33.025 PENSIONS AND RETIREMENT.

(A) Establishment and purpose.

(1) ~~An employees' retirement fund is hereby created, which shall be known as the Employees' Retirement Fund of the City of Hollywood; and the prior creation of such Fund by ordinance is hereby approved, ratified and confirmed. The "City of Hollywood Employees' Retirement Fund" (the "Fund"), comprising a retirement plan for general employees of the City, originally effective October 1, 1958 is hereby amended and restated. The Fund consists of a defined benefit plan and a deferred retirement option plan, both of which are intended to qualify under Code Section 401(a). The Plan is a governmental plan under Code Section 414(d). The Plan is maintained for the exclusive benefit of eligible City Employees and their beneficiaries. The benefits under the Plan shall be in addition to amounts received as federal social security benefits, except where social security benefits are specifically applied as offsets in the case of disability benefits hereunder; the benefits under this Plan shall also be in addition to benefits received by any Member from any other private or public Retirement System. Except as otherwise specifically provided, the amended and restated Plan shall be effective October 1, 2013. Notwithstanding the forgoing, the following effective dates shall apply:~~

- (a) Subsection (Y) amended effective January 1, 2009 to provide for direct rollovers by non-spouse beneficiaries.
- (b) The definition of 415 compensation in Subsection (Z) is modified to include differential pay effective for "limitation years" beginning after December 31, 2008.
- (c) Section (D)(5) is amended effective for Employees who die after December 31, 2006 while engaged in qualified military service to provide that they shall be treated as having returned to employment immediately prior to death for certain Plan purposes.

(2) It is the legislative intent and purpose of this subchapter to provide certain retirement, disability, death and withdrawal benefits to officers and employees of the city in the amounts and under the terms and conditions herein set forth.

(3) The purpose of the Fund is to provide an orderly means whereby employees of the city who become superannuated or otherwise incapacitated as the result of age or disability may be retired from active service without prejudice and without inflicting a hardship upon the employees retired, and to enable such employees to accumulate reserves for themselves and their beneficiaries to provide for old age, disability, death, and termination of employment, thus effecting economy and efficiency in the administration of city government.

(4) A new contribution and benefit structure is hereby established for employees hired on or after July 15, 2009. Such employees will be members of the Employees Retirement Fund of the City of Hollywood; however, the contributions and benefits for such employees are as set forth in division (AA) of this section.

(5) The benefit structure in effect on September 30, 2011 is frozen at midnight on that date for general fund members. All general fund members will be vested in benefits accrued to that date and payable under the terms and conditions of plan provisions then in effect. No additional benefits of any kind shall accrue to general fund members under the frozen benefit structure. Effective October 1, 2011, general fund members are subject to a new benefit structure applicable to future service as set forth in this § 33.025.

(a) Any member who, on or after October 1, 2011, transfers between a position in which he or she is a general fund member and a position in which he or she is not a general fund member shall be subject to the benefit structure applicable to general fund members for all periods of time during which he or she is a general fund member and shall be subject to the benefit structure applicable to members who are not general fund members for all periods of time during which he or she is not a general fund member.

(b) Notwithstanding any provision contained in this § 33.025 to the contrary, for any general fund member who becomes eligible to retire with normal retirement benefits on or before September 30, 2011 and is so eligible on September 30, 2011, the benefit structure in effect on September 30, 2011 shall remain in effect beyond September 30, 2011 and shall not be frozen; provided, however, that any such member who does not enter the DROP on or before September 30, 2011 shall not be eligible to participate in the DROP.

(B) *Definitions.* For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACTUARIAL EQUIVALENT. A benefit or amount of equal value, based upon the 1983 Group Annuity Mortality Table for males and an interest rate of 8% per annum, or such other rate that is recommended by the actuary and approved by the Board.

AVERAGE FINAL COMPENSATION. For a member hired prior to July 15, 2009, means monthly average compensation for the highest 78 consecutive bi-weekly pay periods of credited service. Payments for accumulated sick and annual leave received by such a member following separation from employment and included in compensation in accordance with the definition of **COMPENSATION** below, shall be deemed to have been received in the final pay period for the purpose of this definition. **AVERAGE FINAL COMPENSATION** for members hired on or after July 15, 2009 is set forth in division (AA) below, and **AVERAGE FINAL COMPENSATION** for members hired on or after October 1, 2011 is set forth in division (CC) below. The definition of **AVERAGE FINAL COMPENSATION** set forth above is frozen at midnight on September 30, 2011 for general fund members. Under the benefit structure effective October 1, 2011 for general fund members, a definition of **AVERAGE FINAL COMPENSATION** is set forth in division (BB) below.

BENEFICIARY. The person or persons entitled to receive benefits hereunder upon the death of a member who has or have been designated in writing by the member and filed with the pension coordinator in accordance with the provisions of this pension plan.

BOARD. The Board of Trustees, which shall administer the pension plan as provided herein.

CITY. The City of Hollywood, Florida.

CITY COMMISSION. The City Commission of the city.

CODE. The U.S. Internal Revenue Code of 1986, as amended from time to time.

COMPENSATION. A member's gross wages received from the city, including overtime and payments for accumulated annual leave and accumulated sick leave, except as provided below:

(a) For members who retire or enter the DROP on or after January 3, 2001 and prior to October 1, 2002, compensation shall include payments for accumulated sick and annual leave received by such member.

(b) For members hired prior to October 1, 2002 and employed by the city on that date, compensation shall include payments for accumulated annual leave, but the amount of accumulated sick leave included in such member's compensation shall not exceed the amount accumulated as of October 1, 2002 (including the maximum limitation as of October 1, 1994).

(c) For members most recently hired after October 1, 2002 compensation shall include payments for accumulated annual leave, but no payment for accumulated sick leave shall be included in such member's compensation.

(d) For members hired prior to July 15, 2009 who retire or enter the DROP on or after August 17,

2009, compensation shall exclude all earnings and payouts for blood time and compensatory time. In addition, the payouts for accumulated annual leave that may be counted as compensation for such members shall not exceed 125 hours for employees who retire from a position covered by the general employees' bargaining unit; and shall not exceed 60 hours per year for employees who retire from a position not covered by the general employees' bargaining unit.

(e) Compensation for members hired on or after July 15, 2009 but prior to October 1, 2011 is set forth in division (AA) below, and compensation for members hired on or after October 1, 2011 is set forth in division (CC) below.

(f) Employee-elective salary reductions or deferrals to any salary reduction, deferred compensation, or tax-sheltered annuity program authorized under the rules of the Internal Revenue Service Code shall be included in compensation for retirement purposes. Compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code, adjusted in accordance with U.S. Treasury Department regulations, shall be disregarded.

The definition of compensation set forth above is frozen at midnight on September 30, 2011 for general fund members. Under the benefit structure effective October 1, 2011 for general fund members, a definition of compensation for general fund members is set forth in division (BB).

DIRECT ROLLOVER. A payment to an eligible retirement plan specified by the distributee in accordance with division (Y) below.

EMPLOYEE. Any person employed by the city on a full-time basis whose services are compensated in whole or in part by the city, with or without grant funds, including all employees hired on or after the effective date of this subchapter whose services are compensated on a contractual basis. All references to employees in this plan shall mean both sexes and where the male gender is used, it shall be construed to include male and female employees.

FUND. The pension fund established as part of this retirement plan.

GENERAL FUND MEMBER. Any member paid out of the city's general fund and/or other

city funds, with the exception of the water and sewer utility, stormwater utility, parking and sanitation funds.

MEMBER. Any employee who participates in the fund in accordance with the provisions of this plan, and any retiree.

PENSION COORDINATOR. The person or entity appointed in accordance with division (S)(9) of this plan.

REGULAR INTEREST. Interest at the rate fixed by the Board from time to time based upon the long-term rate of income earnable on investments but not less than 4% per annum.

RETIREE. Any member who receives benefits under the provisions of this plan, including DROP participants.

RETIREMENT. A member's separation from city employment with eligibility for and actual receipt of benefits under this retirement plan, or entry into the DROP.

RETIREMENT PLAN or PLAN. The Employee's Retirement Fund of the City of Hollywood as set forth herein and as it has been and may be amended from time to time.

SPOUSE. The lawful wife or husband of a member.

VESTING PERIOD. The period of credited service required to obtain a nonforfeitable right to receive a future benefit under the plan. The vesting period for employees hired prior to July 15, 2009, who separate from city employment on or after July 1, 1999 is five years of credited service. The vesting period for employees who separated from city employment before July 1, 1999 is ten years of credited service. The vesting period for employees hired on or after July 15, 2009 is set forth in division (AA) below.

(C) *Membership.* All employees and retirees shall be compulsory members of this plan, except for the following:

(1) The City Manager and City Attorney, who may participate in the plan with the approval of the City Commission;

(2) Employees who serve as active city law enforcement officers or firefighters and who are required to be certified as law enforcement officers or firefighters in accordance with state law;

(3) Seasonal and part-time employees;

(4) Elected officials;

(5) Independent contractors;

(6) Employees hired prior to the effective date of this subchapter who are employed by the city on that date, whose services are compensated on a contractual basis, and who do not elect to participate in this plan in accordance with division (D)(7) below.

(D) *Credited service.* Each member shall receive credit for service rendered as an employee as follows:

(1) Any employee in the service of the city on September 30, 1958, or on sick leave or on an approved leave of absence on such date, provided such leave shall not have extended for more than six months after such date, shall be entitled to credit for service rendered as an employee of the city prior to October 1, 1958, for the purpose of the Fund.

(2) Each person becoming a member of the Fund after September 30, 1958, shall be entitled to credited service for all service rendered the city on or after October 1, 1958, for which he or she shall have received compensation; provided, however, that no credited service shall be earned after a member has entered the DROP plan as herein described.

(3) In computing credited service, 12 months of service shall constitute a year of service and 15 days or more of service during any month shall constitute a month of service.

(4) A member may receive additional credited service for up to six months in the last year of city employment by paying into the Fund the member contributions that normally would have been paid to the Fund had the employee worked the necessary time to

complete the year. Additional credited service purchased in accordance with this division may not be used to obtain the minimum service required for vesting or participation in the DROP plan.

~~(5) A member shall be eligible to receive up to five years of credited service under the plan for service in the uniformed services of the United States as provided in the Uniformed Services Employment and Reemployment Rights Act of 1994 (28 U.S.C. §§ 4301 et seq.), as amended, provided that the member:~~

- ~~—— (a) Was employed by the city when he or she entered the uniformed services;~~
- ~~—— (b) Is reemployed by the city within the time specified in the Act;~~
- ~~—— (c) Leaves his or her contributions in the plan during the period of military service; and~~
- ~~—— (d) Deposits into the Fund within a period that does not exceed the period of military service the member contributions that would have been required to have been made by members during the period of such service based on the members' city compensation prior to entering military service, for each month of credited service, together with interest equal to the overall rate of return on Fund investments from the date of reemployment to the date of deposit.~~

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

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

If an Employee dies on or after January 1, 2007 while performing Qualified Military Service as defined by USERRA, the Employee's beneficiaries shall be entitled to any benefits the Employee would have been entitled to had he or she resumed employment and then died while employed.

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

This division (5) is intended to comply with all applicable provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 (28 U.S.C. §§ 4301 et seq.), as amended, and in the event of any conflict or inconsistency with the Act, the provisions of the Act shall be controlling.

(6) Any person who was a member of this plan on June 4, 2003 and employed by the city on January 3, 2001 may purchase credited service under the plan for all prior periods of city employment in a position eligible for membership in the plan in accordance with division (C) above, that were not included in the member's credited service; provided that credited service for prior city employment as a CETA, BETA or temporary employee may be purchased only by members who are employed in a position covered by this plan at the time of such purchase. Such member may enter into an agreement at any time prior to separation from city employment to purchase such credited service by paying a contribution of 7% of the compensation received during the period of prior employment, plus a buy-back fee of 4% of the total contribution amount. If the total contribution amount and buy-back fee is not fully paid by the time the member leaves city employment, an additional 6½% fee will be charged on the unpaid balance remaining when the member separates from city employment. Payments for the purchase of credited service made pursuant to this division must be made using any one or a combination of the following options:

(a) Cash lump sum payment.

(b) Direct transfer or rollover of an eligible rollover distribution from a qualified plan, in accordance with division (Y) below.

(c) *Time payment plan.* Under this option the member may elect to pay any remaining balance due for the purchase of credited service through a time payment plan approved by the city and the employee. Under such plan, bi-weekly payments shall be deducted from the member's compensation, and if there is any remaining balance due upon separation from city employment, monthly payments shall be deducted from the member's monthly pension benefit until the remaining balance is fully paid; provided that the deduction shall not exceed 20% of the member's gross monthly pension benefit.

(7) Employees hired prior to the effective date of this subchapter who are employed by the city on that date, whose services are compensated on a contractual basis, may elect to participate in this plan by submitting a written election to participate, on a form approved by the city, within one year following the effective date of this subchapter. Any such member may purchase credited service under the plan for all prior periods of city employment in a position eligible for

membership in the plan in accordance with division (C) above, under the same conditions and options as provided for the purchase of credited service under division (D)(6) above. The election to participate in the plan under this division (7) shall be irrevocable. Any person who is eligible to become a member of the plan under this division (7) who does not submit a timely written election to participate in accordance with this division shall not be eligible to participate in the plan for as long as he or she is compensated on a contractual basis.

(8) Notwithstanding anything to the contrary contained in this plan, a member who is receiving retirement benefits under this Fund which are based on previous employment with the city shall not be required to make member contributions and shall not accrue additional benefits or receive additional credited service for any additional periods of employment. A member who retired pursuant to the Early Retirement Incentive Plan created by Ordinance No. O-94-34 shall not thereafter be eligible for full or part-time city employment.

(9) Notwithstanding any other provision of this subchapter, effective October 1, 2005, any former member of this plan who is employed as a city police officer on the effective date of this division, and has credited service under this plan with an accrued benefit rate of less than 3% per year, may purchase the difference between the accrued benefit rate and 3% per year by paying the full actuarial cost of such difference. Full payment for this additional accrued benefit rate must be made within 60 days following the effective date of this division.

(E) Normal retirement date.

(1) A member hired prior to July 15, 2009 who separates from city employment on or after July 1, 1999 may retire with normal retirement benefits upon attaining 25 years of credited service regardless of age, or upon reaching age 55 with at least five years of credited service, subject, however, to the additional provisions applicable to such a member under the benefit structure effective October 1, 2011 as specified in division (BB) below.

(2) A member who separates from city employment on or after November 7, 1990 and before July 1, 1999 may retire with normal retirement benefits upon attaining 25 years of credited service regardless of age, or upon reaching age 55 with at least ten years of credited service.

(3) A member who separates from city employment prior to November 7, 1990 may retire with normal retirement benefits upon attaining age 55 with at least 25 years of credited service, or upon reaching age 62 with at least ten years of credited service.

(4) The normal retirement date for members hired on or after July 15, 2009 but prior to October 1, 2011 is specified in division (AA) below.

(5) The normal retirement date for members hired on or after October 1, 2011 is specified in division (CC) below.

(F) Normal retirement benefit.

(1) The retirement benefit payable to a member hired prior to July 15, 2009 who separates from city employment on or after October 1, 1998 shall be 3% of average final compensation multiplied by years of credited service, up to a maximum of 27 years of credited service and a maximum pension rate of 81%. Such benefit shall be payable on the member's normal retirement date and separation from city employment. The normal retirement benefit specified in this paragraph is frozen at midnight on September 30, 2011 for general fund members. The

normal retirement benefit for general fund members hired prior to July 15, 2009, under the benefit structure effective October 1, 2011, is specified in division (BB) below.

(2) The retirement benefit payable to a member who separates from city employment on or after February 1, 1974 and before October 1, 1998 with ten or more years of credited service shall be 2.5% of average final compensation multiplied by years of credited service, up to a maximum of 30 years of credited service and a maximum pension rate of 75%, excluding those members who retired pursuant to the Early Retirement Incentive Plan created by Ordinance No. O-94-34. Such benefit shall be payable on the member's normal retirement date and separation from city employment.

(3) The normal retirement benefit for members hired on or after July 15, 2009 but prior to October 1, 2011 is specified in division (AA) below.

(4) The normal retirement benefit for members hired on or after October 1, 2011 is specified in division (CC) below.

(G) Deferred vested retirement.

(1) Any member hired prior to July 15, 2009, irrespective of age, who separates from city employment on or after July 1, 1999 after having completed at least five years of credited service prior to October 1, 2011 and does not receive a refund of contributions, and any member hired prior to July 15, 2009, irrespective of age, who separates from city employment on or after October 1, 2011 after having completed at least five years of credited service consisting of any combination of credited service (i) as a member of any kind prior to October 1, 2011 and (ii) as a member other than a general fund member on or after October 1, 2011, shall have the right to receive a service retirement benefit beginning at age 55 based on the benefit formula in effect on the date of separation from city employment and years of credited service and average final compensation on that date.

(2) Any member, irrespective of age, who separated from city employment before July 1, 1999 after having completed at least ten years of credited service and did not receive a refund of contributions shall have the right to receive a service retirement benefit beginning at age 62, based on the benefit formula in effect on the date of separation from city employment and years of credited service and average final compensation on that date.

(3) Deferred vested retirement for members hired on or after July 15, 2009 but prior to October 1, 2011 is set forth in division (AA) below.

(4) Deferred vested retirement for members hired on or after October 1, 2011 is set forth in division (CC) below.

(H) Deferred retirement option plan.

(1) A deferred retirement option plan ("DROP plan") is hereby created.

(2) An employee covered by this plan and hired prior to July 15, 2009 may enter into the DROP plan on the earlier of the first day of any month following the employee's 55th birthday and tenth-year anniversary of credited service, or the first day of any month following the completion of a total of 25 years of credited service. An employee hired on or after July 15, 2009 shall not be eligible to participate in the DROP.

(3) An employee electing to participate in the DROP plan must complete and execute the

proper forms supplied by the pension coordinator. The election to participate in the DROP plan must be exercised prior to the attainment of 30 years of credited service, or the right of election to participate in the DROP plan shall be forfeited.

(4) The duration and participation in the DROP plan shall be specified and shall not exceed a number of years which, when added to the number of years of all credited service which the member has in the retirement system, exceeds a total of 32 years. In any event, the total participation in the DROP plan shall not exceed five years and participation will end if the employee is terminated for just cause, dies or retires.

(5) A member may participate in the DROP plan only once, and after commencement, the employee shall not again have the right to be a contributing member of the retirement plan.

(6) Upon the effective date of employee commencement of participation in the DROP plan, neither the employee nor the employer contribution will continue to be paid.

(7) For purposes of this retirement plan, average final compensation and credited service shall be determined as of the effective date of commencement of participation in the DROP plan. The monthly retirement benefits ("DROP payments") that would have been payable, had the member elected to cease employment and receive a service retirement benefit, shall be paid into a deferred retirement option account.

(8) DROP payments shall earn interest at a rate set by the Board of Trustees, through the date of termination of the member's participation in the DROP. Notwithstanding the preceding sentence, effective July 1, 2006 for members included in the AFSCME General bargaining unit, May 1, 2007 for members included in the AFSCME Professional and Supervisory units, and July 1, 2007 for members not included in any bargaining unit, DROP payments shall earn interest at the same rate as the net rate of investment return on plan assets. Upon termination of a member's participation in the DROP and separation from city employment, the DROP account balance credited to the member shall be distributed to the member under one or a combination of the following options selected by the member in accordance with procedures established by the Board:

(a) A single lump sum payment equal to the balance in the member's DROP account as of the date of termination from the DROP plan; or

(b) A direct rollover to a qualified plan or a direct trustee to trustee transfer to an eligible plan.

(9) The member's selection of a distribution option shall be irrevocable. If the member does not select a distribution option within 60 days following separation from city employment, the DROP account shall be distributed in accordance with option (a), above.

(10) If a participant dies during the period of participation in the DROP plan, a lump sum equal to DROP payments including earned interest to the date of the member's death shall be paid to the named beneficiary or, if no beneficiary is named, to the estate of the employee in addition to any other normal survivorship benefits which would be paid.

(11) A DROP participant may terminate DROP participation and resign from city employment prior to the end of the maximum DROP period. Upon termination of DROP participation and separation from city employment, a member shall receive a distribution of his/her DROP account balance in accordance with division (H)(8) above, and regular monthly

service retirement benefit payments shall thereafter commence. If a DROP participant does not separate from city employment at the end of the maximum DROP period, the DROP account will not be credited with additional interest and the member's monthly retirement benefit will not be paid until the member separates from city employment.

(12) If an employee becomes disabled during the period of DROP participation and employment is terminated because of disability, the employee shall receive payment of the DROP account balance as set forth in this section. Thereafter, such member shall receive, at the member's election, a normal retirement benefit calculated in accordance with division (E) above, or a disability retirement benefit calculated in accordance with division (L) below, based on the compensation and years of credited service in effect on the date the DROP participation began.

(13) The Commission may, by ordinance, implement the provisions of the DROP plan.

(I) Service retirement benefit; optional forms.

(1) The retirement benefit to be paid by the system shall be a life annuity, provided that the member shall have an option, prior to the date of retirement, to receive his or her benefit under any of the following forms:

(a) Five years certain and life thereafter. Under this option, the member receives a reduced monthly benefit for life, and if the member dies within five years following retirement, the same monthly benefit is paid to the member's designated beneficiary for the remainder of the five-year period.

(b) Ten years certain and life thereafter. Under this option, the member receives a reduced monthly benefit for life, and if the member dies within ten years following retirement, the same monthly benefit is paid to the member's designated beneficiary for the remainder of the ten-year period.

(c) Twenty years certain and life thereafter. Under this option, the member receives a reduced monthly benefit for life, and if the member dies within 20 years following retirement, the same monthly benefit is paid to the member's designated beneficiary for the remainder of the 20-year period.

(d) Joint and last survivor, whereby the retired member shall receive a reduced monthly benefit for life, and following the retired member's death, the same monthly benefit is paid to the member's designated beneficiary for life.

(e) Joint and last survivor, whereby the retired member shall receive a reduced monthly benefit for life, and following the retired member's death, the designated beneficiary receives one-half of the member's reduced monthly benefit for life.

(2) All of these optional forms shall be actuarially equated to the life annuity to which the member is entitled at the date of retirement.

(3) A member may change his or her designated beneficiary at any time. If a retiree changes his or her designated beneficiary, the retiree's benefit shall be actuarially adjusted to reflect the age of the new beneficiary.

(4) A member may designate any number of beneficiaries. If he or she designates more than one, the age of the younger or youngest will be used in the calculation of benefits.

(J) Benefit adjustments.

(1) Effective January 1, 1970, a member who retired prior to January 1, 1968, shall have his or her monthly retirement adjusted so as to result in a minimum payment of \$100 per month, unless he or she has elected to receive his or her benefit under any of the options enumerated hereinabove, in which case a proportionate adjustment shall be made in accordance with the actuarial tables provided by the actuary.

(2) Effective January 1, 1970, a member retiring after January 1, 1968, shall have his or her monthly retirement benefit adjusted to the greater of either 2½% of his or her highest average monthly salary for any three consecutive years within his or her last ten years of service, multiplied by the number of years of service, or \$100 per month. If, however, the member has elected to receive his or her benefit under the options enumerated hereinabove, the adjustment shall be made in accordance with the actuarial tables provided by the actuary.

(3) There shall be payable to a retiree whose retirement date occurs after October 1, 1989 and before August 17, 2009, commencing three years after retirement benefits begin, a 2% cost of living adjustment (COLA) in retirement benefits annually, including benefits paid into the DROP account.

(4) There shall be payable to a retiree whose retirement date occurred before October 1, 1989, commencing, October 1, 1999, a 2% cost of living adjustment (COLA) in retirement benefits annually.

(5) For members hired prior to July 15, 2009 who retire on or after August 17, 2009 without entering the DROP, a 2% COLA shall be payable annually commencing three years after retirement benefits begin. For members hired prior to July 15, 2009 who enter the DROP on or after August 17, 2009, a 2% COLA will be payable annually, commencing the later of three years after retirement benefits begin or one year after separation from employment following participation in the DROP. The benefit provided in this paragraph is frozen as of midnight on September 30, 2011. Under the benefit structure effective October 1, 2011, no COLA shall be payable.

(6) Members hired on or after July 15, 2009 shall not be eligible for a COLA.

(K) Supplemental pension distribution.

(1) Effective October 1, 2002, a supplemental pension distribution program shall be established in accordance with this subsection. For the purpose of this division, an eligible person is any member who is employed by the city on October 1, 2002 and any member who is receiving benefits from the plan on that date, or the spouse of such member if the member is deceased and the spouse is receiving benefits from the plan. A supplemental pension distribution shall be paid to each eligible person other than a DROP participant who receives retirement benefits from the plan, for each plan year beginning October 1, 2002 through September 30, 2005 in which the net market rate of return on fund assets exceeds the assumed rate of investment return plus 2%. For plan years beginning October 1, 2005 and thereafter, a supplemental pension distribution shall be paid to each eligible person other than a DROP participant who receives retirement benefits from the plan, as follows:

(a) For the plan year beginning October 1, 2005, a supplemental pension distribution shall be paid if the net market rate of return on fund assets exceeds the assumed rate of investment return plus 3%.

(b) For the plan year beginning October 1, 2006, a supplemental pension distribution shall

be paid if the net market rate of return on fund assets exceeds the assumed rate of investment return plus 4%.

(c) For plan years beginning October 1, 2007 and thereafter, a supplemental pension distribution shall be paid if the net market rate of return on fund assets exceeds the assumed rate of investment return plus 4.5%.

(2) For the purpose of this division, **NET MARKET RATE OF RETURN** means the rate of return on a market value basis net of investment related expenses for each year ending September 30. The total amount of the supplemental pension distribution for a particular fiscal year shall be equal to the actuarial present value of future retirement benefits with respect to eligible retirees multiplied by the excess (not to exceed 2%) of the net market rate of return, over the assumed rate of investment return plus 2%, for the years beginning October 1, 2002 and ending on or before September 30, 2005. For plan years beginning October 1, 2005 and thereafter, the total amount of the supplemental pension distribution for a particular fiscal year shall be equal to the actuarial present value of future retirement benefits with respect to eligible retirees multiplied by the excess (not to exceed 2%) of the net market rate of return, over the assumed rate of investment return plus:

- (a) Three percent for the plan year beginning October 1, 2005;
- (b) Four percent for the plan year beginning October 1, 2006; and
- (c) Four and one-half percent for plan years beginning October 1, 2007 and thereafter.

(3) For those years in which a supplemental pension distribution is payable, the amount of the supplemental pension distribution paid to each eligible person shall be determined as follows:

(a) First, the total amount of the supplemental pension distribution for a particular year shall be divided by the total years of credited service attributable to all eligible persons who are receiving retirement benefits from the plan (not to exceed 25 years for each eligible person).

(b) Then, the amount obtained in division (3)(a), above, shall be multiplied by the years of credited service attributable to each eligible person (not to exceed 25 years) to produce the amount of the supplemental pension distribution payable to each eligible person.

(4) The supplemental pension distribution shall not be paid to any member who is participating in the DROP, for as long as the member participates in the DROP. For the purpose of this division, credited service includes only those periods in which the member contributed a percentage of his/her compensation to the Fund. The Board may adopt rules to implement this division.

(L) Disability retirement.

(1) Except as set forth in division (3) below, upon total and permanent disability of a member by reason of injuries sustained while in the performance of an act of duty as an active employee of the city, resulting in the inability of the member to perform the specific duties of his or her position in the service of the city, such member shall be entitled to a disability retirement benefit equal to 75% of his or her salary from the first day of disability. Based on the available medical information, the Human Resources Director shall make the final determination regarding the ability of the member to perform the specific duties of his or her position.

(2) Except as set forth in division (3) below, upon total and permanent disability of a

member hired prior to July 15, 2009 having at least five years of credited service, from causes other than the performance of an act of duty as an employee of the city, resulting in the inability of the member to perform the specific duties of his or her position in the service of the city, such member shall be entitled to a disability retirement benefit equal in rate to that provided for service retirement, but not less than 20% of average salary. Based on the available medical information, the Human Resources Director shall make the final determination regarding the ability of the member to perform the specific duties of his or her position. The eligibility of members hired on or after July 15, 2009 but prior to October 1, 2011 for non-duty disability benefits is specified in division (AA) below. The eligibility of members hired on or after October 1, 2011 for non-duty disability benefits is specified in division (CC) below. If a general fund member hired prior to October 1, 2011 is entitled to a non-duty disability benefit and the date of disability, defined as the date the member becomes disabled, as opposed to the date on which the determination of disability is made, is on or after October 1, 2011, the amount of the non-duty disability benefit to which the member is entitled shall equal the sum of (i) a benefit for the period prior to October 1, 2011 calculated in accordance with the benefit structure frozen as of September 30, 2011, and (ii) a benefit for the period on and after October 1, 2011 calculated in accordance with the benefit structure effective October 1, 2011.

(3) The disability benefit as herein provided shall continue until the member is able to return to work, or dies; provided that the member shall have an option, at the date of retirement, to receive his or her benefit under either division (D)(1)(d) or (e).

(4) Notwithstanding the provisions of divisions (1) and (2) above, a member shall not be entitled to a disability retirement benefit if the city offers the member, with no change in salary or benefit level, a newly created modified duty position or a vacant position which the member is capable and qualified to perform. If the position is a vacant position, it shall be a position within the civil service system provided in this chapter. Any member who is placed in such a position shall have preference for future vacant positions without regard to the provisions of the civil service system. Placement in a position pursuant to this division shall be at the discretion of the Human Resources Director. This division shall not apply to any member who was injured or disabled prior to July 1, 1999.

(5) The amount of a disability retirement benefit payable by reason of injuries sustained while in the performance of an act of duty as an active employee of the city shall be reduced to the extent that the sum of the disability retirement benefit to which the retiree would otherwise be entitled and the retiree's workers' compensation benefits exceeds the retiree's average weekly wages at date of retirement. For purposes of this division, **AVERAGE WEEKLY WAGES** shall be determined as prescribed in F.S. Ch. 440 (the Workers' Compensation Law).

(6) The amount of a disability retirement benefit shall be reduced annually by the amount of salary received by the member, and by the amount of net earnings from self-employment income received by the member. Neither social security nor workers' compensation benefits shall be deemed salary or net earnings from self-employment income under this division. Not later than April 15 of the year following any calendar year in which a member received a disability retirement benefit for the entire year, the member shall submit to the Board the first page of his or her federal income tax return. Commencing with the first monthly payment thereafter to which the reduction can be applied, the member's disability retirement benefit for 12 consecutive monthly payments shall be reduced by an amount equal to 1/12 of the salary received by the member and 1/12 of the net earnings from self-employment income received by the member

during the preceding calendar year. This division shall not apply to any member who was injured or disabled prior to July 1, 1999. Notwithstanding any other provision of this division, effective October 1, 2005 the provisions of this division shall apply only to disability retirement benefits payable by reason of injuries sustained while in the performance of an act of duty as an active employee of the city; and any member who was receiving non-duty disability retirement benefits on June 1, 2001, or who commenced receiving non-duty disability retirement benefits after that date, shall not be subject to the benefit reduction provided in this division.

(7) Members receiving disability retirement benefit shall be subject to periodic investigations and medical examinations as deemed necessary by the Board and the city. The Board shall prescribe rules and regulations governing the payment of the disability benefits herein provided, including prescribing the requirements for such periodic investigations and medical examinations in the interest of an effective and efficient administration of these benefits.

(M) Death benefits.

(1) Effective April 5, 2006 for members included in the AFSCME General bargaining unit, March 7, 2007 for members included in the AFSCME Professional and Supervisory bargaining units, and July 18, 2007 for members not included in any bargaining unit, when an employed member of the Employees' Retirement Fund of the City of Hollywood, who is vested, dies before retirement, his or her designated beneficiary (or beneficiaries) shall have the option of receiving the member's contribution to the Fund, plus simple interest at the rate of 4% per year, or benefit payments until his or her own death equal to the benefit payments the deceased member would have received had he or she retired on the day of his or her death having selected to receive his or her annuity under division (I)(1)(d) above.

(2) Benefits payable upon a member's death following retirement.

(a) If a member elects to receive an optional benefit form pursuant to division (I)(1)(a), (b) or (c), that benefit shall be paid upon retirement for the member's lifetime, and if the member dies before the specified period of benefits ends, the benefit shall be paid to the member's beneficiary (or if more than one beneficiary is designated, in equal shares to each beneficiary), for the remainder of the specified period. Upon the death of any designated beneficiary following the retired member's death, the benefit shall continue to be paid, in equal shares, to any remaining beneficiaries for the remainder of the specified period. If all designated beneficiaries pre-decease the retired member, any remaining benefit shall be reduced to present value and paid to the member's estate upon the death of the member. Upon the death of the last surviving designated beneficiary following the death of the retired member, any remaining benefit shall be paid to the last surviving beneficiary's estate.

(b) If a member receives a life annuity or elects to receive an optional benefit form pursuant to division (I)(1)(d) or (e), upon death of the last survivor of the retired member and the retired member's designated beneficiaries, a payment shall be made to the last survivor's designated beneficiary or estate of the excess, if any, of the contributions made by the member over the total amount paid by the fund to the retired member or designated beneficiaries, plus simple interest at the rate of 4% per year.

(3) Upon death of a vested member after separation from city employment but before retirement, if such member had elected to receive an optional benefit form pursuant to division (I)(1) above, benefit payments shall be made to the beneficiary designated by the member

commencing on the date the member would have become eligible for benefit payments in accordance with division (D) above. If such member did not elect to receive an optional benefit form pursuant to division (I)(1) above, or upon the election of the member's designated beneficiary, the beneficiary shall receive payment of the member's contributions to the fund, plus simple interest at the rate of 4% per year to the date of separation from employment, in lieu of any other benefit. If no beneficiary is designated, the member's contributions to the fund, plus simple interest at the rate of 4% per year to the date of separation from employment, shall be paid to the member's estate.

(N) Refund of member contributions.

(1) Any member who separates from city employment may elect to receive a refund of his or her total contributions plus simple interest at the rate of 4% per year through the date of separation.

(2) Any member receiving a refund of contributions shall thereby waive, forfeit and relinquish all accrued rights in the Fund including all accumulated credited service, provided that if a member who has withdrawn his or her contributions shall reenter the service of the city and render at least three years of credited service following his or her reentry, he or she shall have the right to make a repayment of the refund or refunds including interest at 4% per annum for the period of his or her absence from service of the city, and thereby have restored to him or her all credited service previously forfeited by the acceptance of a refund.

(O) Financing.

(1) The Fund shall be financed in accordance with actuarial requirements by the following revenues:

(a) Contributions by employees hired prior to July 15, 2009 of 7% of compensation prior to October 1, 2009, 8% of compensation as of October 1, 2009 and 9% of compensation as of October 1, 2010, to be deducted from members' pay at regular payroll periods. Contributions deducted from a member's pay, including contributions deducted from a member's pay to purchase credited service in accordance with division (D)(6) and (7) above, shall be 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 member's gross income for federal income tax purposes in accordance with the code and applicable regulations. For all other purposes of the plan, such contributions shall be considered to be member contributions. A member's election to purchase credited service through payroll deduction in accordance with division (D)(6) and (7) above shall be irrevocable. The employee contributions for members hired on or after July 15, 2009 but prior to October 1, 2011 is specified in division (AA) below;

(b) Contributions by the city in an amount which, when added to the members' contributions, will be sufficient to fund the plan on a sound actuarial basis, which contributions shall be made concurrently with contributions by the members according to rates established by the Board upon recommendation of the actuary;

(c) Interest earned on investments; and

(d) Miscellaneous income accruing to the Fund.

(2) The Board shall certify annually to the City Commission on or before April 1 of each year the amount necessary to fund the plan on a sound actuarial basis for the following fiscal

year.

(3) Forfeitures may not be applied to increase the benefits any member would otherwise receive under the plan.

(P) *Depository account.* The moneys constituting the Fund derived from the aforesaid revenues shall be deposited by the Treasurer in an account entitled Employees' Retirement Fund of the City of Hollywood and shall be subject to the laws and regulations that apply to other city funds.

(Q) *Investments.*

(1) The Board shall have exclusive charge of the investment of any assets in the Fund not needed for the Fund's current obligations, and may invest such assets in accordance with the written investment policy adopted by the Board pursuant to division (2) below. Board members must discharge their duties with respect to the plan solely in the interest of the participants and beneficiaries and for the exclusive purpose of:

(a) Providing benefits to participants and their beneficiaries; and

(b) Defraying reasonable expenses of administering the plan; with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; by diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

(2) The Board shall adopt and periodically update a written investment policy in accordance with F.S. § 112.661, as such statute may be amended in the future. Within the limitations of the foregoing standards and investment policy, the Board is authorized to acquire and retain in the Fund every kind of investment specifically including, but not limited to stocks, bonds, securities, debentures, real estate, mutual funds, trusts and other obligations which persons of prudence, discretion and intelligence acquire or retain for their own account.

(3) In carrying out its investment duties, the Board shall engage such custodial, investment management, and other professional consultants as the Board deems necessary and prudent.

(R) *Management.*

(1) The Fund shall constitute a trust to operate for the exclusive benefit of the participating employees by a Board of Trustees of seven members. The Board shall consist of two persons designated as citizen members who shall be residents of the city, who shall be appointed by and serve at the pleasure of the City Commission, and who shall not be identified with the city government; the City Manager or the City Manager's designee; two members representing the employees, who shall be employee members (including DROP participants) with at least six years of credited service, and who shall be elected by vote of all employee members (including DROP participants); one member representing the retirees, who shall be a retiree (but not a DROP participant) elected by vote of all retired members (excluding DROP participants); and one member representing the employees whose positions are not included in a collective bargaining unit, who shall have some accounting or investment experience and shall be appointed by and serve at the pleasure of the City Manager. The pension coordinator shall administer the election of employee Board members, subject to the direction of the Board. The City of Hollywood Retirees' Association shall administer the election of retiree Board members,

subject to the direction of the Board. Each of the three employee members shall attend two pension-related seminars during the member's first year of service on the Board. The Fund shall pay all expenses, as appropriate, related to all Board members' attendance at such required seminars, in accordance with policies approved by the Board.

(2) The terms of office of all Board members shall be three years.

(3) In case of a vacancy occurring in the Board membership appointed by City Commission, the City Commission shall appoint a successor for the unexpired term of the office so vacated. In case of vacancy occurring in the Board membership appointed by the City Manager, the City Manager shall appoint a successor for the unexpired term of the office so vacated. In case of a vacancy occurring in the Board membership elected by employee members, if less than one year remains in the term of the vacating Board member, the Board shall appoint a successor who meets the qualifications for the vacated office from among those members who submit a written expression of interest to the Board; and if one year or more remains in the term of the vacating Board member a special election shall be held in accordance with division (R)(1) above to fill the remainder of the term. In case of a vacancy occurring in the Board membership elected by retiree members, if less than one year remains in the term of the vacating Board member, the City of Hollywood Retirees' Association shall appoint a successor who meets the qualifications for the vacated office from among those members who submit a written expression of interest to the Association; and if one year or more remains in the term of the vacating Board member a special election shall be held in accordance with division (R)(1) above to fill the remainder of the term.

(4) Trustees shall serve without compensation but shall be reimbursed for any expenses incurred in connection with service as members of the Board.

(5) The Board shall elect annually from among its members a chair and vice-chair.

(6) Meetings of the Board shall be open to the public.

(7) The Board shall formulate policy and shall be responsible for the proper operation and administration of the affairs of the Fund.

(8) The Board shall from time to time establish rules and regulations implementing the provisions hereof, for the proper administration of the Fund and for the transaction of its business consistent with the provisions of this subchapter. It shall adopt bylaws to define the duties of its officers and govern the conduct of its meetings.

(S) Administration.

(1) For the purposes of administering the Fund in accordance with the terms of this plan and to execute the orders and directions of the Board of Trustees and the committee on investments, there shall be created in the office of the City Manager a Division of Pensions.

(2) The Division of Pensions shall be subject to all the laws, rules and regulations governing all departments, divisions and bureaus of the city government. To the extent possible, the accounts and records of the Fund shall be integrated with the operations of the city government.

(3) The City Manager shall appoint a person to serve as secretary of the Fund who shall perform such duties as may be assigned by the Board.

(4) The Director of the Department of Financial Services of the city shall be ex officio

treasurer of the Fund and shall be the official custodian of all cash and securities and books and accounts belonging to the Fund which shall be maintained in a special trust fund for the account of the Fund. He or she shall receive all moneys and securities for the account of the Fund, deposit such moneys and make payments for purposes specified in this plan upon vouchers signed by him or her, in accordance with authorization of the Board.

(5) The secretary shall be in charge of records, files, and all papers and documents belonging to the Board.

(6) The city shall retain an attorney to serve as legal advisor to the Board.

(7) The City Manager, subject to applicable rules and regulations governing the employment of personnel, may employ actuarial, medical, clerical and other assistants as may be required in the operation of the Fund and to effectuate the purposes of this plan.

(8) A separate corporate surety bond shall be furnished by the Finance Director, acceptable to the Board, of such amount as the Board shall designate; and surety bonds shall be taken out covering the chairman and secretary of the Board, in favor of the Fund, in amounts stipulated by the Board.

(9) The legal advisor, the pension coordinator, and the costs of the pension coordinator's office shall be paid by the Fund. All other costs and expenses incurred in the administration of the Fund shall be paid by the city, and no part of such expenses shall be charged to the Retirement Fund, except as otherwise specifically provided in the plan.

(10) Proper and adequate records and accounts shall be established and maintained which will give full effect to the requirements of this plan.

(11) An annual audit of books, accounts and records of the Fund shall be made by a certified public accountant selected by the Board. As part of the audit, an annual report shall be prepared by the Director of the Department of Financial Services and be audited by a certified public accountant as of the close of each fiscal year for submission to the Board, showing the assets and liabilities of the fund at the end of such year and the income and expenditures for the year and other data pertinent to the operation of the Fund. A synopsis of such report may be prepared for distribution to the members of the Fund.

(12) The Board shall engage an independent contractor to serve as pension coordinator. The Board shall provide an office for the pension coordinator. The pension coordinator shall be available during normal business hours to assist members and retirees in matters related to their pensions and retirement as provided in this plan.

(T) *Accounting.* The assets of the Fund shall be held for the express purpose set forth in this plan subject to the conditions prescribed herein. An adequate system of accounts and records shall be established and maintained to give effect to the requirements herein.

(U) *Actuarial studies.* An actuarial valuation of the Fund shall be conducted periodically in accordance with applicable law, but at least once every three years. In conjunction with the actuarial valuation, the actuary shall provide a supplemental report containing comparative data from other governmental pension plans, as specified by the Board. An experience study shall be conducted at least once every five years, and more frequently if authorized by the Board, to review mortality, turnover, disability, interest and other actuarial factors assumed in the calculation of costs and liabilities, and to vary the city's contribution rate. Any proposal for

changes in the benefit schedule shall be subject to evaluation by the actuary and his or her report and recommendations.

(V) *Non-alienation.* The right of a member to a service retirement benefit, disability retirement benefit, payment upon death, refund of contributions or any other right, accrued or accruing to any member or beneficiary under the provisions of this plan, shall be unassignable and shall not be subject in any manner whatsoever to anticipation, alienation, sale, execution, garnishment transfer, assignment, pledge, encumbrance, charge or attachment, or any other legal process whatsoever.

(W) *Deminimus payments.* If the present value of any non-forfeitable accrued benefit is less than \$5,000, the Board may direct at the member's request that such benefit be distributed to the member or beneficiary in a lump-sum, and such lump sum payment shall fully discharge all liability of the fund with respect to such benefit.

(X) *Insurance.* The Commission shall have the power to provide for life or disability insurance for all city employees, agents and officers in a group insurance plan approved by the Commission, and to pay all or part of the premiums thereon as the Commission may by resolution determine.

(Y) *Direct transfers of eligible rollover distributions.*

(1) *Rollover distributions.*

(a) *General.* This division applies to distributions made on or after the effective date of this subchapter. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this division, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) *Definitions.*

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. Any portion of any distribution which would be includible in gross income will be an eligible rollover distribution if the distribution is made to an individual retirement account described in section 408(a) of the Internal Revenue Code, to an individual retirement annuity described in section 408(b) of the Internal Revenue Code or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Internal Revenue Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is not so includible.

A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to (1) a traditional individual retirement account or annuity described in § 408(a) or (b) of the Code (a traditional IRA) or a Roth

individual retirement account or annuity described in § 408A (a Roth IRA); or (2) to a qualified defined contribution, defined benefit, or annuity plan described in § 401(a) or § 403(a) or to an annuity contract described in § 403(b), if such plan or contract provides for separate accounting for amounts so transferred (including interest thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

ELIGIBLE RETIREMENT PLAN. An eligible retirement plan is an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the 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 accepts the distributee's eligible rollover distribution. This definition shall also apply in the case of an eligible rollover distribution to the surviving spouse.

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

DIRECT ROLLOVER. A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.

(c) *Rollovers or transfers into the Fund.* On or after the effective date of this subchapter, the Fund will accept member rollover cash contributions and/or direct cash rollovers of distributions for the purchase of credited service pursuant to division (D)(6) and (7), as follows:

1. *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 Internal Revenue Code, from an annuity contract described in section 403(b) of the Internal Revenue Code, or from 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.

2. *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 Internal Revenue Code, or from an individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code, that is eligible to be rolled over and would otherwise be includible in the member's gross income.

~~(Z) Maximum pension limitation. Notwithstanding any other provision of this plan, the total annual benefit paid to a member may not exceed the maximum adjusted benefit defined in section 415(b) of the Internal Revenue Code.~~

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

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

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

(1) Benefit Forms Not Subject to § 417(e)(3): The straight life annuity that is actuarially equivalent to the Member's form of benefit shall be determined under this subsection if the form of a Member's benefit is either a non-decreasing annuity (other than a straight life annuity) payable for a period of not less than the life of the Employee (or in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse), or an annuity that decreases during the life of the Member merely because of (a) the death of the survivor annuitant (but only if the reduction is not below 50% of the benefit payable before the death of the survivor annuitant), or (b) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in Code Section 401(a)(11). For a benefit paid in a form described in this subsection, the actuarially equivalent straight life annuity is equal to the greater of:

- a. The annual amount of the straight life annuity (if any) payable to the Member under the plan commencing at the same annuity starting date as the Member's form of benefit, or
 - b. the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the Member's form of benefit, computed using a 5 percent interest rate assumption and the applicable mortality tables described in Code Section 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Code Section 417(e)(3)(B)); or
- (2) Benefit Forms Subject to § 417(e)(3): If a form of Member's benefit is other than a benefit form described in subsection (b)(1), the actuarially equivalent straight life annuity benefit that is the greatest of:
- a. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;
 - b. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable computed using a five percent interest assumption for the applicable statutory interest assumption and (i) for years prior to January 1, 2009 the applicable mortality tables for the distribution under 26 CFR 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62) and (ii) for years after December 31, 2008 the applicable mortality tables described in Code Section 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Code Section 417(e)(3)(B)); or
 - c. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable computed using the applicable interest rate for the distribution under 26 CFR 1.417(e)-1(d)(3) the 30-year Treasury rate prior to January 1, 2007 using the rate in effect for the month prior to retirement and on and after January 1, 2007 using the rate in effect for the first day of the plan year with a one-year stabilization period and (i) for years prior to January 1, 2009 the applicable mortality tables for the distribution under 26 CFR 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62) and (ii) for years after December 31, 2008 the applicable mortality tables described in Code Section 417(e)(3)(B) (Notice 200885 or any subsequent Internal Revenue Service guidance implementing Code Section 417(e)(3)(B)), divided by 1.05.

- (3) The actuary may adjust the 415(b) limit at that annuity starting date in accordance with paragraphs (1) and (2) above.
- (c) Benefits Not Taken into Account. For purposes of this Section, the following benefits shall not be taken into account in applying these limits:
- (1) Any ancillary benefit which is not directly related to retirement income benefits;
 - (2) Survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity to the extent such benefits would not be payable if the Member's benefit were paid in another form.
 - (3) Any other benefit not required under §415(b)(2) of the Code and Regulations thereunder to be taken into account for purposes of the limitation of Code Section 415(b)(1);
- (d) COLA Effect. Effective on and after January 1, 2003, for purposes of applying the limits under Code Section 415(b) (the "Limit"), the following will apply:
- (1) A Member's applicable limit will be applied to the Member's annual benefit in the Member's first limitation year of benefit payments without regard to any automatic cost of living adjustments;
 - (2) thereafter, in any subsequent limitation year, a Member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable benefit limit including any adjustment to the Code Section 415(b)(1)(A) dollar limit under Code Section 415(d), and the regulations thereunder; but
 - (3) in no event shall a Member's benefit payable under the plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Code Section 415(d) and the regulations thereunder.

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

(e) Other Adjustments in Limitations.

- (1) In the event the Member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of Code Section 415(b) of the Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to an annual benefit in the amount of the applicable dollar limitation of Section 415(b)(1)(A) of the Internal Revenue Code (as adjusted pursuant to Section 415(d) of the Internal Revenue Code) beginning at age sixty-two (62).

- (2) In the event the Member's benefit is based on at least fifteen (15) years of credited service as a full-time police officer or firefighter, the adjustments provided for in (D)(1) above shall not apply.
- (3) The reductions provided for in (D)(1) above shall not be applicable to disability benefits or pre-retirement death benefits.
- (4) In the event the Member's retirement benefit becomes payable after age sixty-five (65), for purposes of determining whether this benefit meets the limit set forth in subsection (b) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age sixty-five (65). This adjustment shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.
- (f) Less than Ten (10) Years of Service. The maximum retirement benefits payable under this section to any Member who has completed less than ten (10) years of credited service shall be the amount determined under subsection (a) multiplied by a fraction, the numerator of which is the number of the Member's years of credited service and the denominator of which is ten (10). The reduction provided by this section cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this section shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.
- (g) Participation in Other Defined Benefit Plans. The limit of this section with respect to any Member who at any time has been a Member in any other defined benefit plan as defined in Code Section 414(j) maintained by the City shall apply as if the total benefits payable under all City defined benefit plans in which the Member has been a Member were payable from one plan.
- (h) Ten Thousand Dollar (\$10,000) Limit. Notwithstanding anything in this section to the contrary, the retirement benefit payable with respect to a Member shall be deemed not to exceed the limit set forth in this section if the benefits payable, with respect to such Member under this plan and under all other qualified defined benefit pension plans to which the City contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and for any prior limitation year and the City has not at any time maintained a qualified defined contribution plan in which the Member participated; provided, however, that if the Member has completed less than ten years of credited service, the limit under this subsection shall be a reduced limit equal to ten thousand dollars (\$10,000) multiplied by a fraction, the numerator of which is the number of the Member's years of credited service and the denominator of which is ten.
- (i) Reduction of Benefits. Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the Member's benefit under any defined benefit plans in which Member participated, such reduction to be made first with respect to the plan in which Member most recently accrued benefits and thereafter in such priority as

shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures to defined contribution plans in which the Member participated, such reduction to be made first with respect to the plan in which the Member most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such Member.

(j) Service Credit Purchase Limits.

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

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

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

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

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

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

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

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

1. the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the member had the member continued in employment with the City; or

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

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

(4) Notwithstanding any other provision of law to the contrary, the Board may modify a request by a Member to make a contribution to the plan if the amount of the

contribution would exceed the limits provided in Code Section 415 by using the following methods:

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

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

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

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

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

(1) The normal retirement benefit or pension payable to a retiree who becomes a Member of the Plan and who has not previously participated in such Plan, on or after January 1, 1980, shall not exceed one hundred percent (100%) of average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.

(2) No Member shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the Member is already receiving, or will receive in the future, a retirement benefit or pension from a different City's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.

(AA) *Benefits and employee contributions for members hired on or after July 15, 2009 but prior to October 1, 2011.*

(1) Notwithstanding any other provision of the plan, members hired on or after July 15, 2009 but prior to October 1, 2011 shall receive the same retirement benefits as members hired prior to that date, subject to the following:

(a) The normal retirement dates for general fund members shall be age 65 or older with seven years of credited service; age 62 or older with 25 years of credited service; or age 60 or older with 30 years of credited service; the normal retirement dates for members who are not general fund members shall be age 57 or older with 25 years of credited service; age 60 or older with seven years of credited service; or 30 years of credited service, regardless of age;

(b) The vesting period shall be seven years of credited service;

(c) Upon reaching the normal retirement date, a general fund member is entitled to a

normal retirement benefit of (i) 2.5% of average final compensation for each year of credited service earned prior to October 1, 2011 and (ii) 2.0% of average final compensation, up to a maximum benefit of 76% (81% less two times 2.5%) of average final compensation for each year of credited service earned on or after October 1, 2011 (see paragraph (d) below for different definitions of average final compensation to be applied to (i) and (ii) above);

(d) Average final compensation shall be based on the member's highest 104 consecutive bi-weekly pay periods of credited service; provided, however, that under the benefit structure effective October 1, 2011 for general fund members, average final compensation shall be based on the member's highest 130 consecutive bi-weekly pay periods of the last 260 bi-weekly pay periods of credited service;

(e) Compensation shall include only the member's base pay, which includes longevity pay, but no other payments shall be included;

(f) Eligibility for non-duty disability benefits shall commence upon attaining seven years of credited service;

(g) A member who separates from city employment prior to his or her normal retirement date after having completed at least seven years of credited service and does not receive a refund of contributions shall have the right to receive a service retirement benefit beginning at age 60 based on the benefit formula in effect on the date of separation from city employment and years of credited service and average final compensation on that date; provided, however, that general fund members shall have their years of credited service and average final compensation frozen under the benefit structure in effect as of September 30, 2011; also provided, however, that under the benefit structure effective October 1, 2011 for general fund members, the right to receive a service retirement benefit under that benefit structure shall begin at age 65.

(h) The member shall not be eligible to participate in the DROP;

(i) The member shall not be eligible for a COLA.

(2) Notwithstanding any other provision of the plan, members hired on or after July 15, 2009 shall contribute 9% of their compensation to the plan.

(BB) Benefits for members hired prior to July 15, 2009.

(1) Members hired prior to July 15, 2009 shall continue to receive the same retirement benefits under the benefit structure effective October 1, 2011 that they received immediately prior to October 1, 2011, subject to the following:

(a) Notwithstanding any provision contained in this § 33.025 to the contrary, for any general fund member who becomes eligible to retire with normal retirement benefits on or before September 30, 2011 and is so eligible on September 30, 2011, the benefit structure in effect on September 30, 2011 shall remain in effect beyond September 30, 2011 and shall not be frozen; provided, however, that any such member who does not apply, on or before September 30, 2011, to enter the DROP shall not be eligible to participate in the DROP.

(b) Under the benefit structure effective October 1, 2011, the normal retirement date for a general fund member with less than ten years of credited service as of September 30, 2011 shall be age 65 or older with seven years of credited service; age 62 or older with 25 years of credited service; or age 60 or older with 30 years of credited service; provided, however, that the normal retirement date of a general fund member with ten or more years of credited service as of

September 30, 2011 shall remain the same as it was on September 30, 2011.

(c) The vesting period for general fund employees who have not vested as of September 30, 2011 shall be seven years of credited service;

(d) A general fund member is entitled to a normal retirement benefit of 2.0% of average final compensation for credited service earned on or after October 1, 2011, up to a maximum benefit equal to the net result of subtracting from 81% the product of 3.0% times the number of years of credited service earned up to September 30, 2011.

(e) Under the benefit structure effective October 1, 2011 for general fund members, average final compensation shall be based on the member's highest 130 consecutive bi-weekly pay periods of the last 260 bi-weekly pay periods of credited service.

(f) Under the benefit structure effective October 1, 2011 for general fund members, compensation shall include only the member's base pay, which includes longevity pay, but no other payments shall be included.

(g) Eligibility for non-duty disability benefits shall commence upon attaining seven years of credited service.

(h) A member who separates from city employment prior to his or her normal retirement date after having completed at least five years of credited service and does not receive a refund of contributions shall have the right to receive a service retirement benefit beginning at age 55 based on the benefit formula in effect on the date of separation from city employment and years of credited service and average final compensation on that date; provided, however, that general fund members who are not eligible for normal retirement as of September 30, 2011 shall have their years of credited service and average final compensation frozen under the benefit structure in effect as of September 30, 2011; also provided however that under the benefit structure effective October 1, 2011 for general fund members, the right to receive a service retirement benefit under that benefit structure shall begin at age 65.

(i) A member who is eligible to enter the DROP prior to October 1, 2011 but does not apply, prior to October 1, 2011, to enter the DROP shall not be eligible to participate in the DROP.

(j) A general fund member's entitlement to a benefit in the form of a COLA shall be frozen as of midnight on September 30, 2011. Under the benefit structure effective October 1, 2011, a general fund member shall not be eligible for a COLA.

(2) Notwithstanding any other provision of the plan, members hired prior to July 15, 2009 shall contribute 9% of their compensation to the plan.

(CC) *Benefits for members hired after the plan freeze.*

(1) Members hired on or after October 1, 2011 shall receive the same retirement benefits as members hired on or after July 15, 2009 but prior to October 1, 2011, subject to the following:

(a) The normal retirement date for a general fund member shall be age 65 or older with seven years of credited service; age 62 or older with 25 years of credited service; or age 60 or older with 30 years of credited service;

(b) The vesting period shall be seven years of credited service;

(c) Upon reaching his/her normal retirement date, a general fund member is entitled to a normal retirement benefit of 2.0% of average final compensation for each year of credited service, up to a maximum benefit of 81% of average final compensation;

(d) Average final compensation for a general fund member shall be based on the highest 130 consecutive bi-weekly pay periods of the last 260 bi-weekly pay periods of credited service;

(e) Compensation shall include only the member's base pay, which includes longevity pay, but no other payments shall be included;

(f) Eligibility for non-duty disability benefits shall commence upon attaining seven years of credited service;

(g) A general fund member who separates from city employment prior to his or her normal retirement date after having completed at least seven years of credited service and does not receive a refund of contributions shall have the right to receive a service retirement benefit beginning at age 65 based on the benefit formula in effect on the date of separation from city employment and years of credited service and average final compensation on that date;

(h) The member shall not be eligible to participate in the DROP;

(i) The member shall not be eligible for a COLA.

(2) Notwithstanding any other provision of the plan, members hired on or after October 1, 2009 shall contribute 9% of their compensation to the plan.

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

(1) If the retirement income is payable before the Participant's death,

a It shall either be distributed or commence to the Participant not later than April 1 of the calendar year following the later of the calendar year in which the Participant attains age seventy and one-half (70½), or the calendar year in which the Participant retires; and,

b the benefit shall be paid over the life of the Participant or over the lifetimes of the Participant and designated beneficiary and shall be paid over the period extending not beyond the life expectancy of the Participant and designated beneficiary

Where benefit payments have commenced in accordance with the preceding paragraphs and the Participant 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 Participant's death.

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

a If the participant's surviving spouse is the participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the

participant died, or by December 31 of the calendar year in which the participant would have attained age 70½, if later.

- b If the participant's surviving spouse is not the participant's sole designated beneficiary, then, except as provided in the adoption agreement, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.
- c If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
- d If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the surviving spouse are required to begin, this section (2), other than subsection (2)a, will apply as if the surviving spouse were the participant. For purposes of this section, unless subsection (2)d applies, distributions are considered to begin on the participant's required beginning date. If subsection B(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under section (2)d. If distributions under an annuity meeting the requirements of this article commence to the participant before the participant's required beginning date (or to the participant's surviving spouse before the date distributions are required to begin to the surviving spouse under section (2)a, the date distributions are considered to begin is the date distributions actually commence.

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

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

§ 33.026 ORDINANCES IMPLEMENTED AND RATIFIED.

This subchapter shall be deemed implemented by ordinances of the City of Hollywood not inconsistent with the provisions hereof, which ordinances in force on the effective date hereof are hereby ratified and confirmed.

§ 33.027 TRANSFER OF A MEMBER TO ANOTHER LEVEL OF GOVERNMENT; CONTINUATION IN PENSION PLAN.

When a city employee who is in the Employees' Retirement Fund leaves the services of the city due to the transfer of that employees' function to another level of government, and the city employee goes immediately into the service of the other level of government, and the other level of government and the city have a contractual arrangement whereby such employee may remain

in the Employees' Retirement Fund of the city, then such other employee will be allowed to remain [in] the Employees' Retirement Fund, with the city's contribution to said Fund paid by the other level of government unless otherwise so provided.

§ 33.028 ASSETS OF PRIOR FUNDS.

(A) The assets of the Hollywood City Employee's Supplemental Retirement System (the "supplemental plan") shall be merged into the assets of this plan, subject to preservation of the rights of those employees who are currently in the 1% noncontributory portion of the supplemental plan ("1% supplemental plan") prior to the date of merger making an irrevocable election to remain in the 1% supplemental plan within 90 days of written notification to the employee by the Retirement Board of Trustees.

(B) Those employees currently in the 1% supplemental plan who enter this plan shall receive a benefit of 1% per year for each year of credited service up to the date of the city's acknowledged receipt of a member's irrevocable election pursuant to this section. In the event that a member of the supplemental plan desires to increase his or her benefit rate for service prior to the date of merger, he or she shall do so at a rate and under such terms as designated by the retirement board of trustees for this plan. Those employees currently in the 7% contributory portion of the supplemental plan who enter this plan shall receive a benefit of 3% per year for all years of credited service. For purposes of determining whether the transferred employee is eligible for any benefits under this plan, his or her credited service, both prior to and after the date of merger, shall be included.

(C) Members of the Employees Supplemental Retirement System shall not be eligible to participate in the Early Retirement Incentive Program (ERIP) as described in § 33.025(H)(5).

(D) Those employees currently in the 1% supplemental plan shall cease to be in said plan and shall henceforth be members of this plan; provided, however, that the benefit rate for such employees' past service shall remain at 1%. All benefits accrued by such employees as a member of the 1% supplemental plan shall be frozen, and their vesting rights in the 1% supplemental plan shall not be affected. For purposes of determining whether any such employee is eligible for any benefits under this plan, his or her credited service under both the 1% supplemental plan and this plan shall be included. Except for the benefit rate and vesting rights as provided above, such employees shall be entitled to all benefits of this plan.

§ 33.029 COORDINATION OF PENSION BENEFITS.

In the event that a city employee changes his or her job status with the city such that he or she is considered an employee pursuant to this plan, he may become a member of this plan subject to the following rules:

(A) **DATE OF TRANSFER** shall be the date when the change in job status occurs such that he or she is considered an employee pursuant to this plan.

(B) A member's total retirement benefits shall consist of a combination of the following:

(1) *Benefits payable by the previous plan.* The member's accumulated contributions, if any, shall remain funds of the previous plan. The member's retirement benefit payable from the

previous plan shall be calculated by using benefit percentage rates and his or her credited service as of the date of transfer, and the greater of his salary as of the date of his or her termination of employment or as the date of transfer. This benefit shall be payable commencing on the member's normal retirement date pursuant to this plan. The transferred employee shall not be eligible for any other benefits from the previous plan.

(2) *Benefits payable by this plan.* For purposes of determining eligibility for retirement benefits under this plan, the employee's credited service prior to and after the date of transfer shall be included. For purposes of determining the amount of benefits payable under this plan, excluding death and disability benefits, only service following the date of transfer shall be included. For purposes of determining the amount of any death or disability benefits payable under this plan, credited service both prior to and after the date of transfer shall be included.

(C) In the event that a city employee who is a member of this plan is no longer considered an employee pursuant to this plan, the rules regarding his or her transfer to another retirement plan sponsored by the city shall be as set forth above, provided such other plan has appropriate language to accept transfers on the same basis.

(D) If, prior to the date when this language regarding transferred employees becomes effective, an employee had transferred from one retirement plan sponsored by the city to another and had thereby lost credit under the previous plan for his or her service prior to the date of transfer, his or her credited service under the previous plan shall be restored under the following conditions:

(1) The person must be an employee of the city on the date this language becomes effective.

(2) Upon notification, the employee must repay to the previous plan that amount of his or her contributions that he or she received from the previous plan due to his transfer to another plan within the city. The employee will have 60 days to exercise this option. He or she will be given one year to repurchase every two years of prior service.

(3) All previous contributions must be repaid prior to the employee's retirement to be eligible for any benefit under the previous plan.

(4) Upon satisfaction of these conditions, the employee will be credited with service in each plan as indicated in division (B) above.

(E) The coordination of benefits provision in this section shall have no application to any city employee who becomes a Police Officer or Firefighter on or after July 15, 2009.

§ 33.030 TAX QUALIFICATION.

In the event the city receives approval from the Internal Revenue Service for tax qualification of this plan under the provisions of section 414(h)(2) of the Internal Revenue Code, such approval shall be implemented as soon thereafter as practicable.

§ 33.031 SUBCHAPTER AMENDMENT OR REPEAL.

This subchapter, including this section, may be amended, in whole or in part, or repealed by the City Commission upon approval of any such amendment or repeal by:

(A) A "majority plus one" vote of the City Commission and 50% plus one of the voting members of the Employee's Retirement Fund; or

(B) A majority vote of those qualified electors of the city voting in a referendum election called for such purpose by the City Commission and held in accordance with the provisions of law relating to elections currently in force in the city, or held in conjunction with a primary, general, or other special election held in the city.

AGENDA ITEM 7

**NO BACKUP
FOR THIS SECTION**

AGENDA ITEM 8

**NO BACKUP
FOR THIS SECTION**

AGENDA ITEM 9

**NO BACKUP
FOR THIS SECTION**

AGENDA ITEM 10

**NO BACKUP
FOR THIS SECTION**

AGENDA ITEM 11

**NO BACKUP
FOR THIS SECTION**