

ORDINANCE NO. 2025-O-11

AN ORDINANCE OF THE CITY COUNCIL OF EDGEWATER, FLORIDA, REPEALING ORDINANCE NUMBERS 2014-O-20, 2016-O-33, 2019-O-03, 2019-O-26, 2021-O-36, 2023-O-11, AND 2024-O-37 IN THEIR ENTIRETY AND AMENDING, RESTATING AND ADOPTING THE CITY OF EDGEWATER, FLORIDA, FIREFIGHTERS' PENSION PLAN, PROVIDING FOR FILING WITH THE DIVISION OF RETIREMENT OF THE FLORIDA DEPARTMENT OF MANAGEMENT SERVICES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY AND APPLICABILITY; AND PROVIDING FOR AN EFFECTIVE DATE AND FOR ADOPTION.

WHEREAS, the City of Edgewater sponsors a Firefighters' Pension Plan most recently restated on September 22, 2014, when the City Council adopted Ordinance No. 2014-O-20 which amended and restated the City of Edgewater, Florida Firefighters' Pension Plan; and

WHEREAS, the City Council of the City of Edgewater, Florida has made the following determinations:

1. On June 6, 2016, the City Council adopted Ordinance #2016-O-33, which provided for purchase of past credited service by installment payments.
2. On June 3, 2019, the City Council adopted Ordinance #2019-O-03, which amended the definition of "average final compensation" in the Firefighters Pension Plan so that the definition is the same as that found in the Police Officers' Pension Plan
3. On January 6, 2020, the City Council adopted Ordinance #2019-O-26, which provided for compliance with Chapter 2019-21, Laws of Florida
4. On September 13, 2021, the City Council adopted Ordinance #2021-O-36, which provided clarification of the annual distribution of the state provided excess reserve funds through a sum of years (seniority) share plan.

5. On February 6, 2023, the City Council adopted Ordinance #2023-O-11, which provided for eliminating the line of duty injury insurance benefit for firefighters after effective date of the ordinance.
6. On October 21, 2024, the City Council adopted Ordinance #2024-O-37, which added section 4.08 accrued benefits to provide for the purchase of an enhanced multiplier in benefit calculation; and

WHEREAS, the City of Edgewater Firefighters' Pension Plan board of trustees recommends adoption of this amendment to and restatement of the Plan; and

WHEREAS, the City Council has reviewed and considered an actuarial impact statement describing the actual impact of the amendments provided for herein.

NOW THEREFORE, BE IT ENACTED by the City Council of the City of Edgewater, Florida:

PART A. REPEAL OF ORDINANCE NO. 2014-O-20, 2016-O-33, 2019-O-03, 2019-O-26, 2021-O-36, 2023-O-11, AND 2024-O-37 IN THEIR ENTIRETY.

Ordinance No. 2014-O-20, 2016-O-33, 2019-O-03, 2019-O-26, 2021-O-36, 2023-O-11, and 2024-O-37 are hereby repealed.

PART B. RESTATEMENT OF CITY OF EDGEWATER, FLORIDA, FIREFIGHTERS' PENSION PLAN.

The restatement of the City of Edgewater, Florida, Firefighters' Pension Plan, attached hereto and incorporated herein by reference as Exhibit "A" is hereby adopted.

PART C. FILING WITH THE DIVISION OF RETIREMENT.

Upon adoption, a copy of this Ordinance shall be filed with the Division of Retirement of the Florida Department of Management Services.

PART D. CONFLICTING PROVISIONS.

All conflicting ordinances and resolutions, or parts thereof in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

PART E. SEVERABILITY AND APPLICABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provisions thereof shall be held to be inapplicable to any person, property, or circumstances, such holding shall not affect its applicability to any other person, property or circumstance.

PART D. EFFECTIVE DATE

This ordinance shall take effect upon adoption.

PASSED AND DULY ADOPTED this _____ day of _____, 2025.

Diezel DePew, Mayor

ATTEST:

Monique Toupin, Acting City Clerk

Passed on first reading on the _____ day of _____, 2025.

REVIEWED AND APPROVED: _____
Aaron R. Wolfe, City Attorney

EXHIBIT “A’

CITY OF EDGEWATER, FLORIDA FIREFIGHTERS'
RETIREMENT PLAN

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INTRODUCTION

The City of Edgewater ("City") established on November 13, 1989, a defined benefit retirement ~~Plan-plan~~ ("Plan") for the City's Firefighters, which Plan is known as the ~~City of Edgewater, Florida Firefighters' Pension Fund~~, ~~restating said Plan on November 13, 1989 and declaring~~ The City declared the Plan a Local Law Plan (as defined in Chapter 175, Florida Statutes) on May 16, 1994 and restated the Plan effective September 22, 2014. The present is a restatement of the Plan, effective [date], and shall constitute a continuation of the Plan. Except as specifically provided herein, ~~The the~~ provisions of Chapter 175, Florida Statutes, shall be effective and constitute the City of Edgewater, Florida Firefighters' Pension fund except as specifically set forth herein apply to the Plan, and the Plan shall at all times be operated in compliance therewith. Accordingly, Chapter 175, Florida Statutes is incorporated by reference. ~~This Pension Fund may be amended at any time by the City Council enacting an appropriate ordinance, provided that such amendment shall comply~~ comply with the Internal Revenue Code, Florida Statutes and other applicable laws. ~~The Board of Trustees may make recommendations by a majority vote to the City Council concerning proposed pension fund amendments.~~

~~There is hereby assessed, imposed and levied on every insurance company, corporation or other insurer now engaging in or carrying on, or which shall hereafter engage in or carry on the business of property insurance, as shown by the records of the Insurance Commissioner of the State of Florida an excise or license tax in addition to any license tax or excise tax now levied by the City of Edgewater, which said tax shall be in the amount of \$1.85% of the gross amount of receipts of premiums from policyholders on all premiums collected on property insurance policies covering property within the corporate limits of the City of Edgewater.~~

The provisions of the present restatement shall apply only to Firefighters in active service on or after the effective date hereof. Any Retiree receiving benefits prior to the effective date of this restatement, and any former Firefighter who terminated service with the City before said date, shall have his or her rights to benefits determined under the Plan in effect when his or her service with the City terminated, and shall not be entitled to any additional benefits under this Restatement, unless specifically provided otherwise by ordinance of the City.

ARTICLE I

FORMAT AND DEFINITIONS

SECTION 1.01 –FORMAT

~~The Words~~ words and phrases defined in the DEFINITIONS SECTION (SECTION 1.02) of Article I shall have that defined meaning when used in this Plan, unless the context clearly indicates otherwise.

—These words and phrases will have appear throughout this document with an initial capital letter to aid identifying them as defined terms.

SECTION 1.02—DEFINITIONS

~~As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meaning indicated~~ Terms employed herein and in Chapter 175, Florida Statutes, shall have the meaning ascribed in Chapter 175, Florida Statutes, except where the context clearly indicates a different meaning. Notwithstanding, the following terms shall have the specific, indicated meaning:

~~Accrued benefit~~ means the benefit accrued by a member under the terms of the Plan.

~~Accumulated Contributions~~ means a Member's ~~own contributions~~ employee contributions (as described in Section 3.01) without interest. For those who purchase Credited Service with interest and at no cost to the Plan, any payment representing the amount attributable to ~~member~~ employee contributions based on the applicable ~~member~~ employee contribution rate, and any actuarially calculated payments for their purchase, shall be included in ~~accumulated~~ Accumulated Contributions.

~~Act~~ means the Employee Retirement Income Security Act of 1971 (P.L. 93-406) and any regulations issued thereunder by the Department of Labor and the Internal Revenue Service, as that statute and these regulations shall be amended.

~~Actuarial Equivalent~~ means a benefit or amount of equal value, based upon the ~~most recent group annuity mortality table and interest rate in investment return as stated assumptions adopted by the Board of Trustees upon the recommendation of the Plan's actuary. Said assumptions shall be stated in the most recent actuarial valuation report and in the minutes of the meeting at which any change to said assumptions is adopted.~~ for the Plan

~~Average Final Compensation~~ means on any given date, the average of an Employee's ~~a Firefighter's Monthly Compensation Salary~~ for those three ~~Compensation Years~~ years (all Compensation Years, if less than three) which give the highest average out of the five latest Compensation Years (all Compensation Years, if less than five) before the earlier of such given date, or his Normal Retirement Date.

In computing Average Final Compensation on any given date before the first Yearly Date in 1994, the Plan will include only Compensation Years ending before such given date. In computing Average Final Compensation on any given date on or after the first Yearly Date in 1994, the Plan will exclude Compensation Years in which the Employee terminates employment with the Employer.

~~*Bargaining Unit* means a specific group of City firefighters represented by one authorized union or association for the purposes of collective bargaining.~~

Beneficiary means the person or persons entitled to receive benefits hereunder at the death of a Member of this Plan.

Board means the Board of Trustees constituted in accordance with Section 10.01 hereof and Section 175.061, Florida Statutes, which shall administer and manage the Plan herein provided and serve as trustees of the fund be solely responsible for the administration of the Plan.

City means City of Edgewater, Florida.

Code means the Internal Revenue Code of 1986, as amended from time to time.

Credited Service means the total number of years and fractional parts of years of service as a Firefighter with ~~member~~ employee contributions, when required, omitting intervening years or fractional parts of years when such Member was not employed by the City as a Firefighter. A Member who is not vested may voluntarily leave his contributions in the Plan for a period of up to five (5) years after leaving the employ of the City pending the possibility of being re-employed as a Firefighter without losing credit for the time that he was a Member of the Plan, if ~~after~~ he is rehired within the five-year period and he remains re-employed with the same department not less than three (3) years after rehire, otherwise all of his rights under and participation in, the Plan shall be forfeited and terminated as of the date of his initial termination and his contributions shall be returned and the Firefighter shall be entitled to a refund of his or her Accumulated Contributions without interest. ~~If the member who left the employ of the fire department should not be re-employed as a firefighter within five (5) years, then accumulated~~ Accumulated Contributions will be returned upon the written request of the Member, but all rights under the Plan shall terminate as provided above, regardless of whether the Member has made such a request or whether the Accumulated Contributions have yet been refunded, and all of his rights and benefits under the Plan shall be forfeited and terminated. However, ~~no~~ No Member will receive credit for service for which the Member has withdrawn the Member's contributions unless the Member pays into the Plan the contributions withdrawn, with interest, at the actuarially assumed rate within ninety (90) days of reemployment. Years and completed months of employment with the City during which time the Member is participating in the deferred retirement option Plan (DROP) as described in this Plan, shall not be counted as Credited Service for benefit purposes unless the Member elects to continue employment with the City following the completion

of the DROP period and makes payment of the omitted Member contributions. In the event of continued employment following participation in the DROP program, the Member will receive credit for the DROP period in accordance with the required procedure.

In the event that a Member of this Plan has also accumulated Credited Service in another pension Plan maintained by the City, or has a period or periods of previous employment as a Firefighter, but is not eligible to receive Credited Service for this period or periods of previous employment for benefit calculation purposes, then such other Credited Service shall be used in determining eligibility for early or normal retirement. Such other Credited Service will not, however, be considered in determining benefits under this Plan. Unless otherwise provided herein only the Member's Credited Service and compensation under this Plan on or after the Member's latest date of membership in this Plan will be considered for benefit calculation. In addition, any benefit calculation for a Member of this Plan who is or becomes eligible for a benefit from this Plan after the Member has become a member of another pension Plan maintained by the City, shall be based upon the Member's Average Final Compensation, Credited Service and benefit accrual rate as of the date the Member ceases to be a Firefighter.

Except as provided below, Credited Service shall be provided only for service as a Firefighter, ~~with the City of Edgewater or for military service while a firefighter with the City. A firefighter may purchase up to a combined total of five (5) years of Credited service for voluntary firefighter service with the City of Edgewater, military service prior to employment or prior service as a firefighter for some other employer provided:~~

- ~~(1) the firefighter is not entitled to receive a benefit for such other prior service as a firefighter, and~~
- ~~(2) the firefighter purchases such prior military or prior other firefighter service at the full actuarial cost of such Credited service.~~

In determining the Creditable service of any Firefighter, credit for up to 5 years of the time ~~spent~~ spent in the military service of the Armed Forces of the United States shall be added to the years of actual service if:

- (1) The Firefighter is in the active employ of the City of Edgewater immediately prior to such service and leaves a firefighter position, for the purposes of voluntary or involuntary service in the Armed Forces of the United States.
- (2) The Firefighter is entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA).
- (3) The Firefighter returns to employment as a Firefighter of the City of Edgewater within 1 year from the date of release from such active service.

~~In determining the creditable service for, military service in the armed forces of the United States, service as a firefighter with another employer prior to employment with City of Edgewater or voluntary firefighter with the City of Edgewater, service up to five (5) years for the years or fractional parts of years that a firefighter served in the armed forces of the United States, as a firefighter with any other employer or as a volunteer firefighter with the City of Edgewater may be purchased provided that~~ A Firefighter may purchase up to a combined total of five (5) years of Credited Service for years or fractional parts of years of: service as volunteer firefighter with the City of Edgewater prior to covered employment under the plan; military service prior to covered employment under the plan; and/ or service as a Firefighter for some other employer prior to covered employment under the plan, provided:

- (1) The Firefighter did not receive Credited Service, for time spent in such prior service in the armed forces of the United States, in such prior service as a Firefighter with another employer or as a Volunteer Firefighter for the City of Edgewater Fire Department, from any other private or governmental retirement or pension Plan.
- (2) The Firefighter purchases such Credited Service at the full actuarial cost of such Credited Service.
 - i. Payment for said purchase of Credited Service may be made as a lump sum, by direct in-service transfer into the pension fund from any deferred compensation account pursuant to Section 457(e)(17) of the Code, or by installments not to exceed five (5) years, provided that all installment payments are completed prior to retirement or termination.
 - ii. Installment payments shall require interest at the actuarial rate of return at the time of purchase, provided that the Firefighter shall pay for all actuarial calculations after the first inquiry. Such purchase of Credited Service shall take effect upon vesting. If a Member terminates service prior to vesting and receives a refund of ~~employee contributions~~ Accumulated Contributions, the amount paid for Credited Service shall also be refunded.

Division means the State of Florida Division of Retirement.

Effective date means ~~is hereby restated to be effective as of~~ November 13, 1989.

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

Firefighter means any person employed full-time in the City of Edgewater fire department who is certified as a Firefighter as a condition of employment in accordance with the provisions of Florida Statute §633.408. Full-time employment shall be deemed to be employment of a minimum of 40 hours per week.

Fund means the trust fund established herein as part of the Plan, which shall receive, hold, and from which shall be invested, all contributions and assets attributable to the Plan, and from which benefits and expenses shall be paid.

~~*General Counsel* means the attorney retained by the board to represent it with respect to the Plan.~~

~~*Local Law Plan* means a defined benefit pension Plan for firefighters as described in Section 175.351 of the Florida Statutes, established by municipal ordinance, which enactment sets forth all Plan provisions. Local Law law Plan provisions may vary from the provisions of Chapter 175 FS, provided that required minimum benefits and minimum standards are met. Any such variance shall provide a greater benefit for firefighters.~~

~~*Masculine gender* where used herein, unless the context specifically requires otherwise, shall include both the feminine and masculine genders.~~

Member means an actively employed Firefighter, full-time firefighter who fulfills the prescribed membership requirements. Benefit improvements which, in the past, have been provided for by amendments to the Plan adopted by City ordinance, and any benefit improvements which might be made in the future shall apply prospectively and shall not apply to members who terminate employment or who retire prior to the effective date of any ordinance adopting such benefit improvements, unless such ordinance specifically provides to the contrary., a Retiree, and any former Firefighter who (1) has a vested interest in his accrued benefit or, (2) has Accumulated Contributions in the Plan and has been separated from employment by the City for fewer than five years.

Plan means these rules governing the administration of benefits from the City of Edgewater, Florida Firefighters' Pension Fund ~~the City of Edgewater Firefighter's Pension Plan and Trust.~~

Plan Year means the twelve (12) month period beginning October 1 and ending September 30 of the following year. ~~The Plan year shall be the computation period for the purposes of the Plan.~~

~~*Property Insurance* means property insurance as defined in §624.604 and covers real and personal property within the corporate limits of the City of Edgewater. "Multiple peril" means a combination or package policy which includes both property and casualty coverage for a single premium.~~

Retiree means a Member who has entered Retirement status.

Retirement means a Firefighter's separation from the City employment as a Firefighter with immediate eligibility for receipt of benefits under the Plan. ~~For purposes of a Plan that includes a~~ With respect to a Member who participates in the Deferred Retirement Option Plan (DROP), "Retirement" means the date a Firefighter enters the DROP.

Salary prior to October 1, 2012, means total cash remuneration paid a Firefighter for service rendered, reported on the Member's W-2 form, plus all tax deferred, tax sheltered or tax exempt items of income derived from elective employee payroll deductions or salary reductions. Compensation in excess of limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for an "eligible employee" shall not be less than the amount which was allowed to be taken into account hereunder in effect on July 1, 1993. ~~The City understands and acknowledges that it has no authority to amend Chapter 175.~~

Salary on October 1, 2012 and thereafter means the fixed monthly remuneration paid a Firefighter, ~~provide~~ provided that when calculating retirement benefits, up to three hundred (300) hours per year in overtime compensation and any accrued leave balance shall be included, but payments for accrued unused sick or vacation leave accrued after said date may not be included.

~~For the purpose of applying the limitations set forth in Sections 401(a)(17) and 415 of the Internal Revenue Code, earnings shall include any elective deferral (as defined in Code Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the member and which is not includible in the gross income of the member by reason of Section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described herein compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the member by reason of Section 132(f)(4) of the Internal Revenue Code.~~

Supplemental Plan means a Plan to which deposits are made to provide extra benefits for firefighters. Such a Plan is an element of a local law Plan plan and exists in conjunction with a defined benefit Plan that meets the minimum benefits and minimum standards of this chapter.

Plan means the City of Edgewater Firefighter's Pension Plan and Trust as contained herein and all amendments thereto.

Volunteer Firefighter means any person whose name is carried on the active volunteer membership roll of the City of Edgewater fire department and whose duty it is to extinguish fires, to protect life, and to protect property. Compensation for services rendered by a Volunteer Firefighter shall not disqualify him or her as a volunteer. A person shall not be disqualified as a Volunteer Firefighter solely because he or she has

other gainful employment. Any person who volunteers assistance at a fire but is not an active member of a department described herein is not a Volunteer Firefighter within the meaning of this paragraph. Volunteer Firefighters for the City of Edgewater shall not be eligible to participate in this pension Plan.

ARTICLE II

PARTICIPATION

SECTION 2.01—Active Participant

Conditions of eligibility.

All full-time Firefighters, ~~and all future new full-time firefighters,~~ shall become Members of this Plan as a condition of employment with the City of Edgewater,

~~(1) For the purpose of this Plan, the~~ The Fire Chief shall have an option to participate, or not, in this pension Plan.

~~(2)~~ Such option shall be exercised within ninety (90) days of initial employment or promotion and shall be irrevocable.

All ~~future~~ newly-hired Firefighters shall be required to complete a medical examination as prescribed by the City. Based upon medical evidence of a pre-existing adverse health condition, resulting from the prescribed examination or other records or medical history, the Board may declare any Member ineligible for disability benefits hereunder, as related to such preexisting condition. Each declaration must also be reflected in the minutes of the meeting of the Board at which such declaration was formally adopted or established by the Board, except as otherwise restricted by law.

Application for membership. Each Firefighter shall complete a form prescribed by the Board providing the following information:

- (1) Acceptance of the terms and conditions of the retirement Plan;
- (2) Designation of a Beneficiary or Beneficiary;
- (3) A sworn statement as to prior medical history;
- (4) A written release and waiver of right to privacy permitting the Board to obtain, discuss and distribute all medical records to the Board, the Board attorney and any medical professions retained by the Board; and
- (5) Authorization for payroll deductions payable to the Plan.

SECTION 2.02—~~Inactive Participant~~

~~—An active participant shall become an inactive participant (stop accruing benefits) on the earliest of the following:~~

- ~~(1) The date he/she ceases to be an eligible employee~~

~~(2) The effective date of complete termination of the Plan~~

~~(3) Voluntary discontinuance date~~

SECTION 2.03 – Cessation of Participation

A participant, ~~whether active or inactive~~ shall cease to be a participant on the earlier of the following:

(1) The date of death

(2) The date he/she received a single sum distribution that is in lieu of all benefits under the Plan ~~if vesting percentage is 100%.~~

(3) The date all benefits to which the participant is entitled have been paid.

ARTICLE III

CONTRIBUTIONS

SECTION 3.01 - Employee contributions.

Amount. Each Member of the Plan shall be required to make regular contributions to the Plan in the amount of six (6) percent. ~~Member~~ Employee contributions shall be ~~withheld~~ picked-up by the City in accordance with Section 414(h)(2) of the Internal Revenue Code on behalf of the Member and shall be deposited with the Board each payroll period. For all ~~other~~ purposes of the Plan other than the pick up, such contributions shall be considered to be ~~member-employee~~ contributions. ~~Such contributions shall be made by payroll deduction. No firefighter shall have any right to the money so paid into the fund except as provided herein.~~

SECTION 3.02 – State Contributions

Any monies received or receivable by reason of laws of the state for the express purpose of funding and paying for retirement benefits for Firefighters of the City shall be deposited in the Plan immediately, and under no circumstances more than five (5) days after receipt by the City.

SECTION 3.03 – Employer Contributions

So long as this Plan is in effect, the City shall make quarterly contributions to the Plan in an amount required ~~equal to the difference in each year between the total aggregate member contributions for the year, plus state contributions for such year, and the total cost for the year, in a manner which is authorized under the provision of Part VII of Chapter 112, Florida Statutes, or its successor. The total cost for any year shall be defined as the total normal cost plus the additional amount sufficient to amortize the unfunded past service liability up to a thirty (30) year period, commencing with the fiscal year in which the effective date of this Plan occurs.~~

SECTION 3.04 – Other Contributions

Private donations, gifts and contributions may be deposited to the Fund, but such deposits must be accounted for separately and kept on a segregated bookkeeping basis. Funds arising from these sources may be used only for additional benefits for Members, as determined by the Board, and may not be used to reduce what would have otherwise been required City contributions.

SECTION 3.05 – Return of Overpayments Member or Beneficiary

~~Any overpayment or underpayment from the Fund to a Member or Beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the board resolved in accordance with applicable IRS guidance. Overpayment shall be charged against payments next succeeding the correction. Any underpayment Underpayment shall be made up from the Fund.~~

SECTION 3.06 – Rollover contributions

The Plan does not permit member rollover contributions, or voluntary contributions other than the mandatory contribution required pursuant to the Plan.

ARTICLE IV

RETIREMENT BENEFITS

SECTION 4.01 – Normal Retirement

Normal retirement date. A Member's Normal Retirement Date shall be the first day of the month coincident with, or next following the date the Member attains his or her Normal Retirement Age, which is defined as the earlier of:

- (1) ~~Age~~ age fifty-five (55) with five (5) or more years of Credited Service; or
- (2) ~~Completes~~ the completion of twenty (20) years of Credited Service.

~~A member may retire on his or her normal retirement date, or on the first day of any month thereafter.~~ Normal retirement under the Plan is retirement from employment with the City on or after attainment of Normal Retirement Age ~~the normal retirement date~~. Each Member who retires on or after his Normal Retirement Age shall receive a normal retirement pension.

Normal retirement benefit. A Member retiring hereunder on or after his or her Normal Retirement Date shall receive a monthly benefit consisting of a single life annuity which shall commence on the first day of the month next following his or her retirement and be continued thereafter during Member's lifetime, ceasing upon death, but with one hundred twenty (120) monthly payments guaranteed in any event. The monthly retirement benefit for a Firefighter shall equal: (i) three percent of Average Final Compensation, for each year of Credited Service. ~~The normal retirement date shall be the first day of the month coincident with, or next following, actual retirement.~~ If a Firefighter continues in the service of the municipality or special fire control district beyond his or her Normal Retirement Date and dies prior to his or her date of actual retirement, without an option made pursuant to s. 175.171 FS being in effect, monthly retirement income payments will be made for a period of 10 years to a Beneficiary (or Beneficiaries) designated by the Firefighter as if the Firefighter had retired on the date on which his or her death occurred.

SECTION 4.02 - Delayed retirement.

Retirement may be delayed by a Member until a date after Normal Retirement Age, and shall not be mandatory solely by reason of attainment of Normal Retirement Age ~~prior to the required beginning date~~. The delayed retirement date shall be the first day of the month coincident with, or next following, actual retirement.

SECTION 4.03 - Early retirement date.

A Member may retire prior to attaining his or her Normal Retirement Age, on or after the date upon which the Member attains his or her Early Retirement Age date, which shall be the first day of any month coincident with or next following the attainment of age fifty (50) and the completion of ten (10) years of Credited Service. Early retirement under the Plan is Retirement from employment with the City on or after ~~the~~ Early Retirement date Age and prior to the Normal Retirement date Age.

Early retirement benefit. A Member retiring hereunder on or after reaching his or her Early Retirement date Age and before reaching his or her Normal Retirement Age may receive either a deferred or an immediate monthly retirement benefit payable for life, with one hundred twenty (120) monthly payments guaranteed, as follows:

- A deferred monthly retirement benefit which shall commence on what would have been the Member's Normal Retirement Date ~~had he remained a firefighter and shall be continued on the first day of each month thereafter~~. The amount of each such deferred monthly retirement benefit shall be ~~a life annuity~~ determined in the same manner as for retirement at Normal Retirement date Age except that Credited Service and ~~average~~ Average Final Compensation shall be determined as of the Early Retirement Date; or
- An immediate monthly retirement benefit which shall commence on the Member's Early Retirement Date and shall be continued on the first day of each month thereafter. The benefit payable shall be as determined in subsection (1) above, ~~which is then~~ actuarially reduced from the amount to which the Member would have been entitled had the Member retired on his Normal Retirement Date and with the same number of years of Credited Service as at the time benefits commence and based on the Member's Average Final Compensation at that date. In no event shall the early retirement reduction exceed three (3) percent for each year by which the Member's age at retirement precedes the Member's Normal Retirement Age.

Immediate and deferred payment of early retirement benefit. The Board shall commence payment of the immediate early retirement pension on the first day of the month designated by the Member as the annuity starting date, so long as such date follows the Member's termination of service with the City. If a Member elects a deferred early retirement pension, or fails to designate an annuity starting date, the Board shall commence payment following the Member's attainment of Normal Retirement Age.

SECTION 4.04 - Termination benefit—Generally.

A Member who has at least five (5) years of eCredited Service and whose employment terminates for any reason prior to becoming eligible for an early or normal retirement pension, shall receive either a deferred pension, calculated in the manner set forth herein; or a refund benefit in an amount equal to the ~~total contributions made by the member to the Plan without interest~~ Member's Accumulated Contributions. ~~A member shall only be entitled to a deferred pension if he has at least five (5) years of Credited service.~~ Notwithstanding the provisions of this section, a Member, at any time prior to the commencement of his normal retirement pension, his early retirement pension or his deferred pension, may elect to receive a refund benefit in lieu thereof.

Amount of deferred pension. The Member's deferred pension shall be a single life annuity, with a one hundred twenty-month guarantee, computed in the same manner as the early retirement pension if the Member elects to begin receiving his monthly pension before age fifty-five (55) and has at least ten years of service, or it shall be a single life annuity, with a one hundred twenty-month guarantee, computed in the same manner as the normal retirement pension if the Member elects to begin receiving his pension on or after age fifty-five (55), or if the Member has fewer than ten years of service, with such benefit to be determined as of the date on which his termination of employment occurs.

Payment of deferred pension. A terminated Member's deferred pension shall commence on or after the terminated Member's Normal Retirement Date and be become payable in the same manner as a normal retirement pension, or if elected by the Member (and if the Member has at least ten years of service) , the benefit shall commence on or after the terminated Member's Early Retirement Date but prior to the terminated Member's Normal Retirement Date and shall be payable in the manner provided in the same manner as an early retirement pension.

SECTION 4.05 - Optional forms of benefits.

In lieu of the amount and form of retirement income payable in the event of normal, early, or delayed retirement, or deferred pension, as specified herein, a Member, upon written request to the Board, which request shall be retained by the Board, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one (1) of the following options:

- A retirement income of a larger monthly amount, payable to the Member for his or her lifetime only.
- A retirement income of a ~~modified~~ reduced monthly amount, payable to the Member during the lifetime of the Member, and following the death of the Member, one hundred (100) percent, seventy-five (75) percent, sixty-six and two-thirds (66 2/3) percent, or fifty (50) percent of such monthly ~~amounts~~ amount payable to a joint pensioner for his or her lifetime. Except where the Retiree's joint pensioner is

his or her spouse, the present value of payments to the Retiree shall not be less than fifty (50) percent of the total present value of payments to the Retiree and his or her joint pensioner.

- An actuarially equivalent larger monthly amount, with a reduction in the monthly amount when the Member's social security benefits are estimated to start so that the Member's total monthly benefit, inclusive of social security benefits, will remain constant upon the starting date of his social security benefits.

The Member, upon electing any joint pensioner option of this section, ~~shall will~~ designate the joint pensioner (~~subsection (a)(2) above~~) or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the Plan in the event of Member's death, and ~~will shall~~ have the power to change such designation from time to time. ~~Such designation will shall name a joint pensioner or one (1) or more primary beneficiaries where applicable.~~ If a Member has elected an option with a joint pensioner or beneficiary and the Member's retirement income benefits have commenced, the Member may thereafter change his or her designated beneficiary up to two (2) times and may change his or her joint pensioner up to two (2) times without the approval of the Board or the current designated survivor. The Retiree Member need not provide proof of the good health of the designated survivor being removed, and the designated survivor being removed need not be living. Provided that in the absence of proof of good health, the actuary will assume that the designated survivor being removed has deceased for purposes of calculating the new benefit payment.

The consent of a Member's ~~or retiree's~~ joint pensioner or beneficiary to any such change shall not be required. The rights of all previously designated beneficiaries joint pensioners to receive benefits under the Plan shall thereupon cease.

Upon change of a Retiree's ~~beneficiary or~~ joint pensioner in accordance with this section, the Board shall adjust the Retiree's monthly benefit by application of actuarial calculations to ~~insure~~ ensure that the benefit paid is the Actuarial Equivalent of the Retiree's then current benefit. Any such Retiree shall pay the actuarial recalculation expenses and shall make repayment of any overage of previously paid pension benefits as a result of said recalculations. Each request for a change will be made in writing on a form prepared by the Board and on completion will be filed with the Board. In the event that no designated beneficiary survives the Retiree, such benefits as are payable in the event of the death of the Retiree subsequent to his or her retirement shall be paid as provided herein.

Retirement income payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

- (1) If a Member dies prior to his or her Normal Retirement Date or Early Retirement Date, whichever first occurs, no retirement benefit will be

payable under the option to any person, but the benefits, if any, will be determined under the provisions of the Plan.

- (2) If the designated Beneficiary (or Beneficiaries) or joint pensioner dies before the Member's retirement under the Plan, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the Member upon his or her retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this section or a new Beneficiary is designated by the Member prior to his or her retirement.
- (3) If both the Retiree and the Beneficiary (or Beneficiaries) designated by Member or Retiree die before the full payment has been effected under any option providing for payment for a period certain ~~and life thereafter, made pursuant to the provisions of subsection (a),~~ the Board may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with applicable law.
- (4) If a Member continues beyond his or her Normal Retirement Date ~~pursuant to the provisions of~~ and dies prior to his or her actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a Beneficiary (or Beneficiaries) designated by the Member in the amount or amounts computed as if the Member had retired under the option on the date on which his or her death occurred.

Except as set forth herein a Retiree may not change his or her retirement option after the date of cashing or depositing his or her first retirement check.

The Board of Trustees shall, upon written request by a retired Firefighter of the Plan, and in accordance with applicable law, withhold from the monthly retirement payment those funds that are necessary to pay for the benefits being received through the City of Edgewater, to pay the certified bargaining agent of the City of Edgewater Firefighters and to make payment for child support or alimony.

Notwithstanding anything herein to the contrary, the Board in its discretion, may elect to make a lump sum payment to a Member or a Member's Beneficiary ~~in the event that the total commuted value of the remaining monthly income payments to be paid do not exceed five thousand dollars (\$5,000.00) if the monthly retirement income payable to any person entitled to benefits hereunder is less than \$100, or if the single-sum value of the accrued retirement income is less than \$5,000, as of the date of retirement or termination of service, whichever is applicable.~~ Any such payment made to any person pursuant to the power and discretion conferred upon the Board by the preceding sentence shall operate as a complete discharge of all obligations under the Plan with the regard to such Member and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons.

SECTION 4.06 – Deferred Retirement Option Plan

A Firefighter may retire for all purposes of the Plan and defer receipt of retirement benefits into a DROP account while continuing employment with the City as follows:

Eligibility

~~A “eligible firefighter” of the City of Edgewater, Florida Firefighters’ Pension Fund, is defined as a firefighter who has attained age fifty-five (55) and has five (5) years of creditable service, or has twenty (20) years of creditable service.~~ A Firefighter who has reached Normal Retirement Age, may elect to participate in the DROP. ~~On such election, participation~~ Participation in the DROP shall commence on the first day of the month coincident with or next following such election., ~~which date shall constitute the “initial date of eligibility.”~~

Written Election

~~An eligible~~ Firefighter electing to participate in DROP must complete and execute such forms as may be required by the Board of Trustees not less than thirty (30) days prior to entering into the DROP. The forms shall include, but not be limited to, an irrevocable letter of resignation effective no later than the conclusion of the maximum period of DROP participation. Election into DROP is irrevocable provided, however, there is no minimum period of participation.

Limitation/disqualification for other benefits

~~An eligible~~ Firefighter may elect to participate in the DROP only once. After commencement of participation in DROP, a Firefighter shall no longer earn, accrue or purchase additional service credits towards retirement benefits and shall not be eligible for disability retirement benefits, pre-retirement death benefits or later enhancements to the City of Edgewater Firefighters’ Pension Plan.

Cessation or reduction of contributions

Upon the effective date of an ~~eligible firefighter’s~~ Firefighter’s participation in DROP, all contributions by and on behalf of the Firefighter to the Plan shall be discontinued.

Benefit calculation

For all Plan purposes, service and vesting credits of an ~~eligible~~ Firefighter electing DROP shall be fixed as of the effective date of commencement of DROP participation, and the Firefighter shall be a Retiree. Any service as a Firefighter after entry into DROP shall not be used for calculation or determination of benefits payable by the Plan. The Average Final Compensation of a participant, as defined in this Plan, shall be determined as of the effective date of commencement of

DROP participation and any subsequent earnings shall not be used for calculation or determination of benefits payable by the Plan.

Benefit Credits to DROP account

Upon entry into DROP, the monthly retirement benefit which would have been payable had the Firefighter ceased employment and commenced receiving a normal retirement benefit shall be credited to the Firefighter's DROP account on a monthly basis. No benefit credits from the Plan shall be made to a DROP account for more than the maximum period of DROP participation.

No Firefighter shall receive a credit to the Firefighter's DROP account until the required DROP forms have been submitted including the Firefighter's irrevocable letter of resignation and the City has actually discontinued the Firefighter's contributions to the Plan.

DROP account earnings

Each DROP account shall be eligible to earn interest in accordance with the following method, which may be amended by the Board of Trustees periodically:

The DROP account shall earn interest equal to the actual earnings of the investments of City of Edgewater Firefighters' Pension Plan, net of fees as determined by the actuary using the standard IRS formula for purposes of reporting the annual investment return on Schedule B (Form 5500), whether or not such form is actually required for this Plan and less an administrative fee to be established annually on October 1st of each fiscal year by the Board of Trustees.

Maximum period of participation

~~An eligible~~ Firefighter may elect to participate in DROP for a maximum of sixty (60) months. At the conclusion of the maximum period of DROP participation, retirement benefit payments to the DROP account shall cease and the Firefighter's termination from employment with the City shall become effective pursuant to the irrevocable letter of resignation.

Administrative Fee for DROP account

An annual administrative fee shall be charged on each October 1st for the administration and operation of a Firefighter's DROP account at a rate established by the Board of Trustees. In the case of a participant who separates from service after October 1st, the administrative fees shall be paid on a prorated basis for the partial year of participation.

Distribution of DROP account

Upon termination of a Firefighter's City employment, whether by retirement, resignation, discharge or death, no further benefit credits shall be made to the DROP account.

All retirement benefits paid after termination of employment shall be made directly to the Firefighter, or in the case of death, in accordance with any survivorship option which the Firefighter elected.

The Firefighter must elect ~~the method of payment~~ within thirty (30) days following the end of DROP participation to receive his or her account balance in the form of a lump sum payment or to have it directly rolled-over to another qualified retirement plan, and the election shall be irrevocable. Failure to elect a payment within the prescribed time shall be deemed an election to receive payment of the entire DROP account balance in cash, less required income tax withholding.

Within sixty (60) days following the end of the month in which the Firefighter terminated employment, the balance of the Firefighter's DROP account shall be paid to the Firefighter in accordance with the Firefighter's election. ~~as a lump sum or by rollover to another qualified retirement Plan.~~

Notwithstanding the option selected by the Firefighter, the Board of Trustees reserves the right to accelerate payments to comply with the minimum distribution provisions of the Internal Revenue Code or to defer payments to comply with the maximum benefit provisions of the Internal Revenue Code. A Member's final DROP account value upon termination of DROP participation shall be the value of the account at the end of the quarter immediately preceding termination of participation (to include net plan earnings using investment performance determined by the Plan's investment consultant), plus any monthly periodic additions made to the DROP account subsequent to the end of the previous quarter.

Disability of a DROP participant

If the City determines that a Firefighter has become unable to perform the duties of an Edgewater Firefighter due to service or non-service related disability and terminates the employment of the Firefighter for this reason, the Firefighter shall be deemed to have retired on a service retirement upon entry into DROP and DROP participation shall end. Distribution of the DROP account balance shall be made in accordance with the provisions and requirements of this section in the manner elected by the Firefighter.

Death of a DROP participant

If a DROP participant dies, ~~the firefighter shall be deemed to have retired upon entry into DROP and the balance in the DROP account shall be distributed in accordance with the distribution methodology (Paragraph 10 above) elected election made~~ by the Firefighter as provided under the heading "Distribution of

DROP Account” above, or if no such election has been made, the Firefighter’s designated Beneficiary may elect the method of payment in accordance with the ~~time and election requirements of paragraph 10 above~~ provisions under said heading. Survivorship benefits, if any, shall be paid in accordance with the Firefighter’s benefit elections upon entry into DROP.

Forms

All forms and notices used in the administration of the DROP shall be prepared through joint cooperation between the City of Edgewater and the Board of Trustees.

Back DROP

Eligibility; Duration of Back DROP election.

The Back-DROP shall be defined as a partial lump sum distribution with a forward annuity for the remainder of the lifetime of the participant available only to participants who have passed the initial DROP eligibility date, which is defined as the first day of the month coincident with or next following the month in which the Firefighter attained Normal Retirement Age. This subsection sets forth rights for participation in the Back-DROP.

Participation in Back DROP.

Participants who have attained age fifty-five (55) and have five (5) years of creditable service, or have twenty (20) years of creditable service, as of the effective date of the ordinance shall be eligible to elect to participate in the Back DROP. Back DROP benefits shall be up to twenty-four (24) months of accumulated pension payments utilizing service accrued and Average Final Compensation based on what would have been the participant’s selected date of eligibility then in existence, but not ~~before~~ earlier than the Firefighter’s attainment of Normal Retirement Date. Any contributions paid by the eligible participant during the Back DROP period, not to exceed twenty-four (24) months, shall be transferred to the participant’s Back DROP account. The Back DROP account shall be credited with interest equal to the net investment return of the Plan annually from the selected date of Back Drop initiation to the date of the participant’s retirement or resignation from employment with the City. In the case of a partial year’s participation, interest shall be prorated to achieve that applicable rate of interest set forth in this section on an annualized basis. Interest shall be compounded annually. As part of the application process for Back Drop, participants shall submit an irrevocable letter of resignation to take effect immediately upon completion of the Back Drop application process. Participants electing the Back DROP shall also elect a form of distribution methodology of the Back DROP account on the same basis as a DROP participant as provided herein.

SECTION 4.07 – Supplemental Benefit

Supplemental Retirement Benefit: There is hereby provided, subject to the conditions set forth below, ~~for firefighters that attain Credited service of five (5) or more years, and~~ in addition to all other benefits provided in this Plan section, ~~an annual a supplemental retirement benefit, which shall be a defined contribution benefit, constituted of annual contributions~~ Entitlement to such supplemental retirement benefit shall be determined annually based upon the receipt by to the Fund of any "additional premium tax revenues," as defined in sub-section 175.162(2)(a), of the Florida Statutes. Payment of such supplemental retirement benefit shall be made annually to each eligible firefighter (defined for this subsection only as an active firefighter that has attained Credited service of five (5) or more years and terminates service with the City or an active firefighter that retires under the retirement provisions herein) no later than the 1st of December after receipt of the "additional premium tax revenues" from the state, provided that it has been confirmed in writing that the eligible firefighter was alive on September 30th of such year, beginning with fiscal year 2007. The annual amount, if any, of such supplemental retirement benefit shall be equal to the quotientproduct of: the total amount of all "additional premium tax revenues" received by the Fund during that calendar year (regardless of the year to which the revenues relate), multiplied by each eligible Firefighter's (including DROP participants) percentage of the total number of combined years of service for all eligible firefighters Firefighters (including DROP participants). Such supplemental benefit for each ~~eligible firefighter~~ Firefighter (including DROP participants) shall be credited, no later than the 1st of December after receipt of the "additional premium tax revenues" from the state, provided that it has been confirmed in writing that the eligible firefighter Member was alive on September 30th of such year, beginning with fiscal year 2007, to an account to be maintained by the Pension Fund, which shall be credited with the actual rate of investment return (less expenses) of the Pension Fund and shall be distributed as a lump sum or rolled over to a designated qualified Plan or a combination thereof, on retirement (other than DROP retirement), or termination (or attainment of Normal Retirement Age with respect to a vested terminated Member who elects at the time of termination to leave his supplemental benefit in the Plan (see heading "Distribution" below)), termination of DROP, or in the event of death prior to retirement or termination of DROP, shall be paid to a designated Beneficiary. If for any year the actual rate of investment return (less expenses) is less than zero, the return (less expenses) shall be deemed to be equal to zero.

Firefighters shall vest their respective supplemental benefit accounts, including earnings, on the same date they vest under the terms of the Retirement Plan. Vested supplemental benefit accounts are non-forfeitable to the extent permitted by law. Should a non-vested Member die before vesting, the account of said non-vested Firefighter shall be forfeited. Should a non-vested Member separate from employment or otherwise cease to be an eligible Firefighter, the supplemental benefit account of such non-vested Firefighter shall be forfeited. Forfeited supplemental benefit accounts shall be allocated pro rata to the supplement benefit accounts of all remaining eligible Firefighters in the year after termination of employment.

Co-mingling of assets: For investment purposes all supplemental benefit accounts shall be co-mingled with other assets of the Retirement Plan. However, there shall be a separate accounting for each individual supplemental benefit account.

Distribution: Within ninety (90) days after retirement (other than entry into the DROP), or termination of employment prior to retirement (except as provided below), or termination of DROP, whichever the case may be, each vested Firefighter shall be issued a distribution of the individual's supplemental benefit account balance equivalent to the prior year's ending account balance. There may be a second distribution of any subsequent allocations that are credited during the following year.

Notwithstanding the foregoing, a vested Firefighter whose employment is terminated prior to his or her Normal Retirement Age, and who has not elected a refund of Accumulated Contributions, may elect to leave his or her supplemental benefit in the Plan until the earlier of the commencement of normal retirement benefits, or any subsequent refund of Accumulated Contributions. In such case, the Member's account shall not be credited with any allocations in a calendar year following the calendar year in which employment terminated, but shall continue to be credited with investment returns as provided above.

- a. Share account balances shall be calculated as a lump sum.
- b. Distribution of the supplemental benefit balances shall be by:
 - (i) Direct lump sum distribution to the Firefighter subject to a 20% tax withholding, or
 - (ii) As a direct rollover to a qualified plan (IRA, etc.), or
 - (iii) As a partial direct lump sum subject to a 20% tax withholding and a partial direct rollover.

Section 415 Limits: All distributions are subject to the maximum benefit limitation of section 415 of the Internal Revenue Code. Such limitation shall be calculated in combination with other benefits that may be payable under the Retirement Plan.

Limitation: Firefighters shall have no right or access to the individual supplemental benefit account balances until retirement or termination of employment. Payments shall comply with Section 401(a)(9) of the Internal Revenue Code.

Inalienability: Share accounts shall not be subject to execution or attachment or to any legal process whatsoever, and shall be unassignable.

Death: In the event a vested Firefighter dies prior to termination of employment, the Firefighter's supplemental benefit account shall be paid to his or her designated Beneficiary, or in the absence of a living designated Beneficiary, to his or her estate.

SECTION 4.08 – Accrued Benefits

Firefighters shall have the option to purchase up to five (5) years of additional Accrued Benefits, which shall be calculated in the form of an enhanced multiplier of an additional three (3%) percent resulting in a total multiplier of six (6%) percent for each completed year of service. In order to qualify for this benefit, the Member must be vested under the terms of the Plan. Members electing this additional Accrued Benefit option shall contribute to the Plan the full actuarial cost, as calculated by the Plan's actuary, of applying such enhanced multiplier benefit. All required additional contributions shall be paid prior to retirement and may be made through either lump sum, qualified rollover, automatic payroll deductions or any combination thereof. Members shall only receive Accrued Benefits as described in this section commensurate with the contribution amounts actually paid to the Plan. Accrued Benefits purchased under this section shall not be counted for vesting or benefit eligibility purposes and there shall be no refunds of any such additional contributions made unless a Member has requested a refund of all member contributions in lieu of retirement benefits.

ARTICLE V

OTHER BENEFITS

SECTION 5.01 --- Disability Benefits on-duty

Disability benefits in-duty. Each Firefighter who is a Member in the Plan and who shall have become totally and permanently disabled, while, actively employed as a Firefighter with the City to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Firefighter, and which disability was directly caused by the performance of his duty as a Firefighter shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to either, (i) accrued normal retirement benefit or (ii) a minimum amount paid to the Member of not less than forty-two (42) percent of the Member's compensation. For the purposes of this paragraph, compensation shall be deemed to be the greater of the Member's monthly compensation based upon his or her pay status at the time the disability occurred or his or her Average Final Compensation.

Any condition or impairment of health of a Firefighter caused by tuberculosis, hypertension or heart disease resulting in total or partial disability or death shall be presumed to have been suffered in the line of duty unless the contrary is shown by competent evidence; provided, that such Firefighter shall have successfully passed a physical examination upon entering into such service, including a cardiogram, which examination failed to reveal any evidence of such condition; and provided further, that such presumption shall not apply to benefits payable or granted in a policy of life insurance or disability insurance.

The presumption provided for in this paragraph shall apply only to those conditions described in this subsection that are diagnosed on or after January 1, 1996.

Definitions. As used in this section, the following definitions apply:

- (1) "Body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of meningococcal meningitis or tuberculosis, the term "body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, and saliva, mucous, and other fluids through which infectious airborne organisms can be transmitted between persons.
- (2) "Emergency rescue or public safety member" means any Member employed full-time by the City as a Firefighter, paramedic, emergency medical technician, law enforcement officer, or correctional officer who, in

the course of employment, runs a high risk of occupational exposure to hepatitis, meningococcal meningitis, or tuberculosis and who is not employed elsewhere in a similar capacity. However, the term "emergency rescue or public safety member" does not include any person employed by a public hospital licensed under F.S. Ch. 395, or any person employed by a subsidiary thereof.

- (3) "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.
- (4) "High risk of occupational exposure" means that risk that is incurred because a person subject to the provisions of this subsection, in performing the basic duties associated with his or her employment:
 - i. Provides emergency medical treatment in a non-healthcare setting where there is a potential for transfer of body fluids between persons;
 - ii. At the site of an accident, fire, or other rescue or public safety operation, or in an emergency rescue or public safety vehicle, handles body fluids in or out of containers or works with or otherwise handles needles or other sharp instruments exposed to body fluids;
- (5) "Occupation exposure," in the case of hepatitis, meningococcal meningitis, or tuberculosis, means an exposure that occurs during the performance of job duties that may place a worker at risk of infection.

Presumption. Any emergency rescue or public safety member who suffers a condition or impairment of health that is caused by hepatitis, meningococcal meningitis, or tuberculosis, that requires medical treatment, and that results in total or partial disability or death shall be presumed to have a disability suffered in the line of duty, unless the contrary is shown by competent evidence; however, in order to be entitled to the presumption, the Member must, by written affidavit as provided in F.S. §92.50, verify by written declaration that, to the best of his or her knowledge and belief:

- (1) In the case of a medical condition caused by or derived from hepatitis, he has not:
 - i. Been exposed, through transfer of bodily fluids, to any person known to have sickness or medical conditions derived from hepatitis, outside the scope of his employment;
 - ii. Had a transfusion of blood or blood components, other than a transfusion arising out of an accident or injury happening in connection with his present employment, or received any blood

products for the treatment of a coagulation disorder since last undergoing medical tests for hepatitis, which tests failed to indicate the presence of hepatitis;

- iii. Engaged in unsafe sexual practices or other high-risk behavior, as identified by the Centers for Disease Control or the Surgeon General of the United States or had sexual relations with a person known to him to have engaged in such unsafe sexual practices or other high-risk behavior; or
 - iv. Used intravenous drugs not prescribed by a physician.
- (2) In the case of meningococcal meningitis, in the ten (10) days immediately preceding diagnosis he or she was not exposed, outside the scope of his or her employment, to any person known to have meningococcal meningitis or known to be an asymptomatic carrier of the disease.
- (3) In the case of tuberculosis, in the period of time since the Member's last negative tuberculosis skin test, he or she has not been exposed, outside the scope of his or her employment, to any person known by him or her to have tuberculosis.

Cancer Presumption. As provided and subject to the limitations in section 112.1816, Florida Statutes, effective July 1, 2019, a Firefighter (as defined in section 112.1816(1), Florida Statutes) Member shall be considered to be totally and permanently disabled in the line of duty if he or she meets the Plan's definition of Totally and Permanently Disabled due to a diagnosis of cancer (as defined in section 112.1816(1), Florida Statutes) or circumstances that arise out of the treatment of such cancer (as defined in section 112.1816(1), Florida Statutes).

Immunization. Whenever any standard, medically recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is granted under this section, if medically indicated in the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the U.S. Public Health Service, an emergency rescue or public safety member may be required by the City to undergo the immunization or prophylaxis unless the Member's physician determines in writing that the immunization or other prophylaxis would pose a significant risk to the Member's health. Absent such written declaration, failure or refusal by an emergency rescue or public safety member to undergo such immunization or prophylaxis disqualifies the member from the benefits of the presumption.

Record of exposures. The City shall maintain a record of any known or reasonable suspected exposure of an emergency rescue or public safety member in its employ to the disease described in this section and shall immediately notify the member of such

exposure. An emergency rescue or public safety member shall file an incident or accident report with the City of each instance of known or suspected occupational exposure to hepatitis infection, meningococcal meningitis, or tuberculosis.

Required medical tests; pre-employment physical. In order to be entitled to the presumption provided by this section:

- (1) An emergency rescue or public safety member must, prior to diagnosis, have undergone standard, medically acceptable tests for evidence of the communicable disease for which the presumption is sought, or evidence of medical conditions derived therefrom, which tests fail to indicate the presence of infection. This paragraph does not apply in the case of meningococcal meningitis.
- (2) On or after June 15, 1995, an emergency rescue or public safety member may be required to undergo a pre-employment physical examination that tests for any evidence of hepatitis or tuberculosis.

SECTION 5.02 - Disability benefits off-duty.

Every Firefighter who is a Member in the Plan with five (5) years or more Credited Service who shall have become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Firefighter, which disability is not directly caused by the performance of his duties as a Firefighter, shall be entitled to a monthly pension equal to either: (i) two and one-half (2½) percent of monthly compensation for a Member separating from service prior to October 1, 1998, or (ii) three (3) percent of monthly compensation for a Member separating from service on or after October 1, 1998, multiplied by the total years of Credited Service, but in any event, the minimum amount paid to the Member shall be twenty-five (25) percent of his compensation. This provision shall not apply to a Member who has reached Early or Normal Retirement Age. Any disability occurring after termination shall not constitute a basis for disability payments. For the purposes of this paragraph, compensation shall be deemed to the greater of the Member's monthly compensation based upon his or her pay status at the time the disability occurred or his or her Average Final Compensation.

Conditions disqualifying disability benefits. Each Firefighter who is claiming disability benefits shall establish, to the satisfaction of the Board, that such disability or death was not occasioned primarily by:

- (1) Excessive or habitual use of any drugs, intoxicants or narcotics.
- (2) Injury or disease sustained while willfully and illegally participating in fights, riots or civil insurrections.

- (3) Injury or disease sustained while committing a crime.
- (4) Injury or disease sustained while serving in any branch of the armed forces.
- (5) Injury or disease sustained after his employment as a Firefighter with the City shall have terminated.
- (6) A condition pre-existing the Firefighter's membership in the Plan. No Member shall be entitled to a disability pension because of or due to the aggravation of a specific injury, impairment or other medical condition pre-existing at the time of membership in the Plan; provided, that such preexisting condition and its relationship to a later injury, impairment or other medical condition be established by competent substantial evidence. Nothing herein shall be construed to preclude a disability pension to a Member who, after membership in the Plan, suffers an injury, impairment or other medical condition different from some other injury, impairment or other medical condition existing at or prior to said membership.

Physical examination requirement. A Firefighter shall not become eligible for disability benefits until and unless he undergoes a physical examination by a qualified physician or physicians and/or surgeon or surgeons, who shall be selected by the Board for that purpose. The Board shall not select the Member's treating physician or surgeon for this purpose except in an unusual case where the Board determines that it would be reasonable and prudent to do so.

Any Firefighter receiving disability benefits under provisions of this section shall be periodically re-examined by a qualified physician or physicians and/or surgeon or surgeons, who shall be selected by the Board, to determine if such a disability has ceased to exist. If the Board finds that the Retiree is no longer permanently and totally disabled to the extent that he is unable to render useful and efficient service as a Firefighter, the Board shall recommend to the City that the Retiree be returned to performance of duty as a Firefighter and that the disability retirement income be discontinued and the Retiree so returned shall enjoy the same rights that Member had at the time he was placed upon pension.

The cost of the physical examination and/or re-examination of the Firefighter claiming and/or receiving disability benefits shall be borne by the Board of this Plan. All other reasonable costs as determined by the Board incident to the physical examination, such as, but not limited to, transportation, meals and hotel accommodations, shall be borne by the Board.

If the Firefighter recovers from disability and re-enters the service of the City as a Firefighter, his service will be deemed to have been continuous, but the period beginning with the first month for which he received a disability retirement income payment and

ending with the date he re-entered the service of the City will not be considered as Credited Service for the purposes of the Plan.

The Board shall have the power and authority to make the final decisions regarding all disability claims.

Disability payments. The monthly benefit to which a Member is entitled in the event of the Member's disability retirement shall be payable on the first day of the first month after the Board determines such entitlement. However, the monthly retirement income shall be payable as of the date the Board determined such entitlement, and any portion due for a partial month shall be paid together with the first payment. The last payment will be:

- (1) If the Firefighter recovers from the disability prior to his Normal Retirement Date, the payment due next preceding the date of such recovery; or
- (2) If the Firefighter dies without recovering from disability or attains his Normal Retirement Date while still disabled, the payment due next preceding his death or the one hundred twentieth monthly payment, whichever is later.
- (3) Any monthly retirement income payments due after the death of a disabled Firefighter shall be paid to the Firefighter's designated Beneficiary or Beneficiaries as provided in Florida Statutes §§ 175.181 and 175.201.

A disabled Member may select an actuarially equivalent optional form of benefit in the same manner as a retired Member, or in such other actuarially equivalent form as may be allowed by the Board.

SECTION 5.03 – Death Benefits

Death prior to retirement; refunds of contributions; death benefits.

If a Firefighter dies prior to retirement and has at least 5 years of contributing service, his Beneficiary is entitled to the benefits otherwise payable to the Firefighter at Early or Normal Retirement Age or the immediate refund of one-hundred (100%) percent, without interest, of the contributions made to the Firefighters' pension trust fund by such deceased Firefighter. As provided and subject to the limitations in section 112.1816, Florida Statutes, effective July 1, 2019, a Firefighter (as defined in section 112.1816(1), Florida Statutes) Member is considered to have died in the line of duty if he or she dies as a result of cancer (as defined in section 112.1816(1), Florida Statutes) or circumstances that arise out of the treatment of such cancer (as defined in section 112.1816(1), Florida Statutes).

Death while performing USERRA-qualified active military service.

In the case of a Member who dies on or after January 1, 2007 while performing "Qualified Military Service" under Title 38, United States Code, Chapter 43, Uniformed Services Employment and Reemployment Rights Act ("USERRA") within the meaning of Section 414(u) of the Internal Revenue Code, any "additional benefits" (as defined by Section 401(a)(37) of the Internal Revenue Code) provided under the Plan that are contingent upon a Member's termination of employment due to death shall be determined as though the Member had resumed employment immediately prior to his death. With respect to any such "additional benefits," for vesting purposes only, credit shall be given for the period of the Member's absence from covered employment during "Qualified Military Service".

SECTION 5.04 – ~~Vested Benefits~~ Refund of Contributions upon non-vested separation from service

~~If a Firefighter leaves the service of the City before accumulating aggregate time of five (5) years toward retirement and before being eligible to retire under the provisions of this chapter, the Firefighter shall be entitled to a refund of all of his or her contributions made to the Firefighters' pension trust fund, without interest. If a firefighter who has been in the service of the City for at least five (5) years and has contributed to the firefighters' pension trust fund for at least five (5) years elects to leave his or her accrued contributions in the firefighters' pension trust fund, such firefighter upon attaining the age of 50 years may retire at the actuarial equivalent of the amount of such retirement income otherwise payable. In no event shall the early retirement reduction exceed three (3) percent for each year by which the member's age at retirement precedes the member's normal retirement age.~~

SECTION 5.05 – Line-of-Duty Injury Health Insurance Benefit.

- (a) Eligibility. The City of Edgewater shall continue health insurance coverage for any Firefighter who has five or more years of Credited Service under the City of Edgewater Firefighters' Pension Fund, and who, on or after January 1, 1995, suffers an injury in the line of duty that would qualify him or her for an On-Duty Disability within the meaning of section 5.01 of this Plan. A Firefighter who suffers a catastrophic injury while in fresh pursuit within the meaning of section 112.191(g), Florida Statutes, shall not be entitled to the benefit described in this section but instead shall be entitled to the benefit described in section 112.191(g), Florida Statutes. This benefit shall apply only to an injury that occurred while on duty and while the Firefighter is acting within the scope of employment. The Firefighter shall not be eligible for this benefit for an injury sustained in connection with any unlawful acts or any activities not related to a Firefighter assignment. Eligibility for this benefit shall be determined by the Board of Trustees. Eligibility shall cease if the Board of Trustees finds that the Firefighter receiving a disability retirement is no longer disabled, in which event the Board of Trustees shall notify the City. Eligibility shall cease when a disabled Firefighter reaches age 65. If after

reaching age 65 a disabled Firefighter is not eligible for Social Security benefits under 42 U.S.C. § 402 or 423, the City shall provide supplemental insurance or premium reimbursements in a manner equivalent to those benefits that the Firefighter would have received if he or she were eligible for Social Security benefits. Any fact or circumstance that would disqualify a Firefighter from receiving a benefit under either section 5.01 or 5.02 of the Plan shall likewise disqualify the Firefighter from receiving a benefit under this section 5.05. Effective February 7, 2023, the City of Edgewater shall no longer provide the benefits afforded in this section for continuation of health insurance coverage for line-of-duty injuries sustained by Firefighters. Notwithstanding, any Participant who is currently receiving such benefits or having claims paid in connection with receipt of the benefits afforded herein prior to the adoption of this language shall continue to receive such benefit coverage without interruption.

- (b) *Amount.* The health insurance provided under this section 5.05 shall be equal to that coverage as provided to the City's current active employees and may only be amended if such plan is amended for all current employees or as otherwise amendable in accordance with this section.
- (c) *Offsets.* Health insurance benefits or reimbursements payable from any policy, plan, settlement, judgment, private or public benefit, worker's compensation, or any other source shall reduce the benefits payable under this section.
- (d) *Fraud.* It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement to obtain this health insurance coverage. In addition to any applicable criminal penalty, upon conviction for a violation as described in this subsection (d), a Firefighter or other Beneficiary who receives or seeks to receive health insurance benefits under this section shall forfeit the right to receive such health insurance benefits and shall reimburse the City for all benefits paid due to the fraud or other prohibited activity. For purposes of this subsection, "conviction" means a determination of guilt that is the result of a plea or trial, regardless whether adjudication is withheld.

ARTICLE VI

INTERNAL REVENUE CODE COMPLIANCE

~~(a) Maximum Pension~~

~~Notwithstanding any provision of this Plan to the contrary, the Annual Pension that is accrued by or paid to a participant shall not exceed the Dollar Limitation set forth below. If the benefit the participant would otherwise accrue in a Limitation Year would produce an Annual Pension in excess of the Dollar Limitation, the benefit shall be limited to a benefit that does not exceed the Dollar Limitation.~~

~~(1) Definitions Used in the Section~~

~~(A) "Annual Pension" means the benefits received by a participant under this Plan expressed in the form of a straight life annuity. In determining whether benefits payable exceed the Dollar Limitation set forth below, benefits payable in any form other than a straight life annuity shall be adjusted to the larger of:~~

~~(i) The annual amount of the straight life annuity (if any) payable to the participant under the Plan commencing at the same annuity starting date as the form of benefit payable to the participant; or~~

~~(ii) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the participant, computed using a 5 percent interest assumption and the applicable mortality table described in Internal Revenue Code §1.417(e)-1(d)(2) for that annuity starting date.~~

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

~~(B) "Dollar Limitation" means \$160,000 (subject to the annual adjustments provided under Section 415(d) of the IRC). Said amount shall be adjusted based on the age of the participant when benefits begin as follows:~~

~~(i) Except with respect to a participant who is a “Qualified Participant” as defined in Section 415(b)(2)(H) of the Code, for benefits (except survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code) beginning before age 62 the Age-Adjusted Dollar Limitation is equal to the lesser of—~~

~~(l) the actuarial equivalent of the annual amount of a straight life annuity commencing at the annuity starting date that has the same actuarial present value as a deferred straight life annuity commencing at age 62, where annual payments under the straight life annuity commencing at age 62 are equal to the Dollar Limitation (as adjusted pursuant to section 415(d) for the limitation year), and where the actuarially equivalent straight life annuity is computed using a 5 percent interest rate and the applicable mortality table under §1.417(e)-1(d)(2) that is effective for that annuity starting date (and expressing the participant’s age based on completed calendar months as of the annuity starting date); and~~

~~(2) the Dollar Limitation (as adjusted pursuant to section 415(d)) multiplied by the ratio of the annual amount of the straight life annuity under the Plan to the annual amount of the straight life annuity under the Plan commencing at age 62, with both annual amounts determined without applying the rules of section 415.~~

~~(ii) For benefits beginning after the age of 65, the age-adjusted Dollar Limitation is equal to the lesser of:~~

~~(l) the actuarial equivalent of the annual amount of a straight life annuity commencing at the annuity starting date that has the same actuarial present value as a straight life annuity commencing at age 65, where annual payments under the straight life annuity commencing at age 65 are equal to the dollar limitation of section 415(b)(1)(A) (as adjusted pursuant to section 415(d) for the limitation year), and where the actuarially equivalent straight life annuity is computed using a 5 percent interest rate and the applicable mortality table under §1.417(e)-1(d)(2) that is effective for that annuity starting date (and expressing the participant’s age based on completed calendar months as of the annuity starting date); and~~

~~(2) the section 415(b)(1)(A) Dollar limitation (as adjusted pursuant to section 415(d) and §1.415(d)-1 for the limitation year) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under~~

~~the Plan to the adjusted age 65 straight life annuity. The adjusted immediately commencing straight life annuity means the annual amount of the immediately commencing straight life annuity payable to the participant, computed disregarding the participant's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are applied to offset accruals. For this purpose, the annual amount of the immediately commencing straight life annuity is determined without applying the rules of section 415. The adjusted age 65 straight life annuity means the annual amount of the straight life annuity that would be payable under the Plan to a hypothetical participant who is 65 years old and has the same accrued benefit (with no actuarial increases for commencement after age 65) as the participant receiving the distribution (determined disregarding the participant's accruals after age 65 and without applying the rules of section 415).~~

~~(iii) — There shall be no age adjustment of the Dollar Limitation with respect to benefits beginning between the ages of 62 and 65.~~

- ~~(b) — The limitations set forth in this Subsection (a) shall not apply if the Annual Pension does not exceed \$10,000 provided the participant has never participated in a Defined Contribution Plan maintained by the City.~~
- ~~(c) — Cost-of-living adjustments in the Dollar Limitation for benefits shall be limited to scheduled annual increases determined by the Secretary of the Treasury under Section Subsection 415(d) of the Code.~~
- ~~(d) — In the case of a participant who has fewer than 10 years of participation in the Plan, the Dollar Limitation set forth in Paragraph (1)(B) of this Subsection (a) shall be multiplied by a fraction — (i) the numerator of which is the number of years (or part thereof) of participation in the Plan, and (ii) the denominator of which is 10.~~
- ~~(e) — Any portion of a participant's benefit that is attributable to mandatory employee contributions (unless picked up by the City) or rollover contributions, shall be taken into account in the manner prescribed in the regulations under Section 415 of the Code.~~
- ~~(f) — Should any participant participate in more than one defined benefit Plan maintained by the City, in any case in which the participant's benefits under all such defined benefit Plans (determined as of the same age) would exceed the Dollar Limitation applicable at that age, the accrual of the participant's benefit under this Plan shall be reduced so that the participant's combined benefits will equal the Dollar Limitation.~~

- ~~(g) For a participant who has or will have distributions commencing at more than one annuity starting date, the Annual Benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to §1.401(a)-20, Q&A 10(d), and with regard to §1.415(b)-1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.~~
- ~~(h) The determination of the Annual Pension under Paragraph (a)(1) of this Subsection (a) shall take into account (in the manner prescribed by the regulations under Section 415 of the Code) social security supplements described in §411(a)(9) of the Internal Revenue Code and benefits transferred from another defined benefit Plan, other than transfers of distributable benefits pursuant §1.411(d)-4, Q&A-3(c) of the Income Tax Regulations.~~
- ~~(i) The above limitations are intended to comply with the provisions of Section 415 of the Code, as amended, so that the maximum benefits provided by Plans of the City shall be exactly equal to the maximum amounts allowed under Section 415 of the Code and regulations thereunder. If there is any discrepancy between the provisions of this Subsection (a) and the provisions of Section 415 of the Code and regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code. The value of any benefits forfeited as a result of the application of this Subsection (a) shall be used to decrease future employer contributions.~~

~~(a) Maximum amount of retirement income:~~

- ~~(1) The limitations of this subsection (a) shall apply in limitation years beginning on or after July 1, 2007, except as otherwise provided herein, and are intended to comply with the requirements of the Pension Protection Act of 2006 and shall be construed in accordance with said Act and guidance issued thereunder. The provisions of this subsection (a) shall supersede any provision of the Plan to the extent such provision is inconsistent with this subsection.~~

~~The annual pension as defined in paragraph (2) below otherwise payable to a participant at any time shall not exceed the dollar limitation for the Member multiplied by a fraction whose value cannot exceed one (1), the numerator of which is the participant's number of years (or part thereof, but not less than one (1) year) of service with the City and the denominator of which is ten (10). For this purpose, no more than one (1) year of service may be credited for any Plan Year. If the benefit the participant would otherwise accrue in a limitation year would produce an annual pension in excess of the dollar limitation, the benefit shall be limited (or the rate of accrual reduced) to a benefit that does not exceed the dollar limitation.~~

(2) "Annual pension" means the sum of all annual benefits, payable in the form of a straight life annuity. Benefits payable in any other form shall be adjusted to the larger of:

a. For limitation years beginning on or after July 1, 2007:

(I) the straight life annuity (if any) payable to the participant under the Plan commencing at the same annuity starting date as the participant's form of benefit; or

(II) the actuarially equivalent straight life annuity commencing at the same annuity starting date, computed using a five (5.00) percent interest rate and the mortality basis prescribed in Code section 415(b)(2)(E)(v).

b. For limitation years beginning before July 1, 2007:

(I) the actuarially equivalent straight life annuity commencing at the same annuity starting date, computed using the interest rate and mortality basis specified by the Board of Trustees for determining actuarial equivalence under the Plan for the particular form of payment; or

(II) the actuarially equivalent straight life annuity commencing at the same annuity starting date, computed using a five (5.00) percent interest rate and the mortality basis prescribed in Code section 415(b)(2)(E)(v).

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

(3) "Dollar limitation" means, effective for the first limitation year beginning after January 1, 2001, one hundred sixty thousand dollars (\$160,000.00), automatically adjusted under Code section 415(d), effective January 1 of each year, as published in the Internal Revenue Bulletin, and payable in the form of a straight life annuity. The new limitation shall apply to limitation years ending with or within the calendar year of the date of the adjustment, but a participant's benefits shall not reflect the adjusted limit prior to January

1 of that calendar year. The dollar limitation shall be further adjusted based on the age of the participant when the benefit begins as follows:

a. For Annuity Starting Dates in limitation years beginning on or after July 1, 2007:

(l) If the annuity starting date for the participant's benefit is after age sixty-five (65):

(i) If the Plan does not have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement: The dollar limitation at the participant's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the participant's annuity starting date that is the actuarial equivalent of the dollar limitation with actuarial equivalence computed using a five (5.00) percent interest rate assumption and the mortality basis prescribed in Code section 415(b)(2)(E)(v) for that annuity starting date (and expressing the participant's age based on completed calendar months as of the annuity starting date).

(ii) If the Plan does have an immediately commencing straight life annuity payable at both age sixty-five (65) and the age of benefit commencement: The dollar limitation at the participant's annuity starting date is the lesser of (aa) the dollar limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the participant's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65), both determined without applying the limitations of this subsection (a), and (bb) the limitation determined under subparagraph (3)a.(l)(i) of this subsection (a). For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the participant's annuity starting date is the annual amount of such annuity payable to the participant, computed disregarding the participant's accruals after age sixty-five (65) but including actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65) is the annual amount of such annuity that would be payable under the Plan to a hypothetical participant who is age

sixty-five (65) and has the same accrued benefit as the participant.

(II) Except with respect to a participant who is a "qualified Member" as defined in section 415(b)(2)(H) of the Code, for benefits (except survivor and disability benefits as defined in section 415(b)(2)(I) of the Code), if the annuity starting date for the participant's benefit is before age sixty-two (62):

(i) If the Plan does not have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement: The dollar limitation at the participant's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the participant's annuity starting date that is the actuarial equivalent of the dollar limitation with actuarial equivalence computed using a five (5.00) percent interest rate assumption and the mortality basis prescribed in Code section 415(b)(2)(E)(v) for that annuity starting date (and expressing the participant's age based on completed calendar months as of the annuity starting date).

(ii) If the Plan does have an immediately commencing straight life annuity payable at both age sixty-two (62) and the age of benefit commencement: The dollar limitation at the participant's annuity starting date is the lesser of (aa) the dollar limitation multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the participant's annuity starting date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age sixty-two (62), both determined without applying the limitations of this subsection (a), and (bb) the limitation determined under subparagraph (3)a.(II)(i) of this subsection (a).

b. For annuity starting dates in limitation years beginning before July 1, 2007:

<u>Age as of Annuity Starting Date:</u>	<u>Adjustment of Dollar Limitation:</u>
<u>Over 65</u>	<u>The smaller of:</u>
	<u>(a) The Actuarial Equivalent of the limitation for age 65, computed using the interest rate and mortality basis specified</u>

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

- (4) With respect to clause (3)a.(I)(i), clause (3)a.(II)(i) and paragraph (3)b. above, no adjustment shall be made to the dollar limitation to reflect the probability of a participant's death between the annuity starting date and age sixty-two (62), or between age sixty-five (65) and the annuity starting date, as applicable, if benefits are not forfeited upon the death of the participant prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the participant's death if the Plan does not charge participants for providing a qualified preretirement survivor annuity, as defined in Code section 417(c), upon the Member's death.
- (5) The term "limitation year" is the 12-month period which is used for application of the limitations under Code section 415 and shall be the calendar year.
- (6) The limitations set forth in this subsection (a) shall not apply if the annual pension does not exceed ten thousand dollars (\$10,000.00) provided the

participant has never participated in a defined contribution plan maintained by the City.

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

provisions of section 415 of the Code. The value of any benefits forfeited as a result of the application of this subsection (a) shall be used to decrease future employer contributions.

(14) For the purpose of applying the limitations set forth in sections 401(a)(17) and 415 of the Internal Revenue Code, compensation shall include any elective deferral (as defined in Code section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the participant by reason of section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in this subsection (a), compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the participant by reason of section 132(f)(4) of the Internal Revenue Code. For limitation years on or after July 1, 2007, compensation shall include payments that otherwise qualify as compensation and that are made by the later of: (a) two and one-half (2½) months after severance from employment with the employer, and (b) the end of the limitation year that includes the date of severance.

(b) *Required beginning date:* Notwithstanding any other provision of the Plan, payment of a participant's retirement benefits under the Plan shall commence not later than the participant's required beginning date, which effective January 1, 2023, is defined as April 1 of the calendar year that next follows the later of (1) and (2), where (1) is the calendar year in which the Member attains his or her Applicable Age as defined in Section 401(a)(9) of the Code and (2) is the calendar year in which the participant retires.

(c) *Required minimum distributions.*

(1) *Required beginning date.* The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required beginning date as defined in subsection (b) of this section 58-104.

(2) *Death of participant before distributions begin.*

a. 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:

(i) 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 his or her Applicable Age.

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

b. The participant's entire interest shall be distributed as follows:

- (i) *Participant survived by designated beneficiary.* If the participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the participant's entire interest will be distributed, beginning no later than the time described in subparagraph (2)(A) above, over the life of the designated beneficiary or over a period certain not exceeding:
 - (I) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the participant's death; or
 - (II) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.
- (ii) *No designated beneficiary.* If the participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

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

- (3) Requirements for annuity distributions that commence during participant's lifetime.
- a. Joint life annuities where the beneficiary is not the participant's spouse. If the participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the participant and a nonspousal beneficiary, annuity payments to be made on or after the participant's required beginning date to the designated beneficiary after the participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant using the table set forth in Q&A-2 of section 1.401(a)(9)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the participant and a nonspousal beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.
- b. Period certain annuities. Unless the participant's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the participant's lifetime may not exceed the applicable distribution period for the participant under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the participant reaches age seventy (70), the applicable distribution period for the participant is the distribution period for age seventy (70) under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of seventy (70) over the age of the participant as of the participant's birthday in the year that contains the annuity starting date. If the participant's spouse is the participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the participant's applicable distribution period, as determined under this subparagraph (3)(B), or the joint life and last survivor expectancy of the participant and the participant's spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the participant's and spouse's attained ages as of the participant's and spouse's birthdays in the calendar year that contains the annuity starting date.
- (4) Form of distribution. Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with subparagraphs (4)(A),

(4)(B) and (4)(C) below. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations. Any part of the participant's interest which is in the form of an individual account described in section 414(k) of the Code will be distributed in a manner satisfying the requirements of section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

a. *General annuity requirements.* If the participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

- (i) The annuity distributions will be paid in periodic payments made at intervals not longer than one (1) year;
- (ii) The distribution period will be over a life (or lives) or over a period certain, not longer than the distribution period described in paragraphs (2) or (3) above, whichever is applicable, of this subsection (c);
- (iii) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
- (iv) Payments will either be non-increasing or increase only as follows:
 - (I) By an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
 - (II) To the extent of the reduction in the amount of the participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period dies or is no longer the participant's beneficiary pursuant to a qualified domestic relations order within the meaning of section 414(p) of the Code;
 - (III) To provide cash refunds of employee contributions upon the participant's death; or
 - (IV) To pay increased benefits that result from a plan amendment.

b. *Amount required to be distributed by required beginning date.* The amount that must be distributed on or before the participant's required beginning date (or, if the participant dies before distributions begin, the date distributions are required to begin under

subparagraph (2)(A)(i) or (2)(A)(ii), whichever is applicable) is the payment that is required for one (1) payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the participant's required beginning date.

c. *Additional accruals after first distribution calendar year.* Any additional benefits accruing to the participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(5) For purposes of this subsection (c), distributions are considered to begin on the participant's required beginning date. If annuity payments irrevocably commence to the participant (or to the participant's surviving spouse) before the participant's required beginning date (or, if to the participant's surviving spouse, before the date distributions are required to begin in accordance with subparagraph (2)(A) above), the date distributions are considered to begin is the date distributions actually commence.

(6) *Definitions.*

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

b. *Distribution calendar year.* A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to paragraph (2) of this subsection (c).

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

(d) *Eligible rollover distributions:*

(1) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the administrator, to have

any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(2) Definitions. The following definitions apply to this section:

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

(i) any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more;

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

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

(iv) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), provided that a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

b. *Eligible retirement plan:* An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, an annuity contract described in section 403(b) of the Code, a qualified trust described in section 401(a) of the Code, an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan, or, with respect to distributions on or after January 1, 2008, a Roth IRA

(subject to the limitations of Code section 408A(c)(3)) that accepts the distributee's eligible rollover distribution.

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

d. *Direct rollover:* A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

(e) Notwithstanding any other provision of this Plan, the maximum amount of any mandatory distribution, as defined in section 401(a)(31) of the Code, payable under the Plan shall be one thousand dollars (\$1,000.00).

(f) *Compensation limitations under 401(a)(17):* In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, the annual compensation of each participant taken into account under the Plan shall not exceed the EGTRRA annual compensation limit for limitation years beginning after December 31, 2001. The EGTRRA annual compensation limit is two hundred thousand dollars (\$200,000.00), as adjusted by the commissioner for increases in the cost of living in accordance with section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding twelve (12) months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the EGTRRA annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12).

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

(g) At no time prior to the satisfaction of all liabilities under the Plan with respect to participants and their spouses or Beneficiaries, shall any part of the corpus or income of the fund be used for or diverted to any purpose other than for their exclusive benefit.

ARTICLE VII

WHEN BENEFITS START AND DISTRIBUTION OF BENEFITS

SECTION 7.01—When Benefits Start

~~The monthly retirement income payable in the event of normal retirement will be payable on the first day of each month. The first payment will be made on the firefighter's normal retirement date, or on the first day of the month coincident with or next following his or her actual retirement, if later, and the last payment will be the payment due next preceding the firefighter's death; except that, in the event the firefighter dies after retirement but before he or she has received retirement benefits for a period of 10 years, the same monthly benefit will be paid to the beneficiary (or beneficiaries) as designated by the firefighter for the balance of such 10-year period. If a firefighter continues in the service of the municipality or special fire control district beyond his or her normal retirement date and dies prior to his or her date of actual retirement, without an option made pursuant to s. 175.171 FS being in effect, monthly retirement income payments will be made for a period of 10 years to a beneficiary (or beneficiaries) designated by the firefighter as if the firefighter had retired on the date on which his or her death occurred.~~

Required Beginning Date:

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

- ~~(1) April 1 of the calendar year that next follows the calendar year in which the participant attains or will attain the age of 70 ½ years; or~~
- ~~(2) April 1 of the calendar year that next follows the calendar year in which the participant retires.~~

SECTION 7.02—Election Procedures

~~Retirement income payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:~~

- ~~(1) If a firefighter dies prior to his or her normal retirement date or early retirement date, whichever first occurs, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined under §175.201 Florida Statutes.~~
- ~~(2) If the designated beneficiary (or beneficiaries) or joint pensioner dies before the firefighter's retirement under the Plan, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the firefighter upon retirement as if the election had not been made, unless a new election is made in accordance with the~~

~~provisions of this section or a new beneficiary is designated by the firefighter prior to retirement and within 90 days after the death of the beneficiary.~~

- ~~(3) If both the retired firefighter and the beneficiary (or beneficiaries) designated by him or her die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions herein, the board of trustees may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with §175.181, Florida Statutes.~~
- ~~(4) If a firefighter continues beyond his or her normal retirement date pursuant to the provisions herein and dies prior to actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the firefighter in the amount or amounts computed as if the firefighter had retired under the option on the date on which death occurred.~~

~~_____ No firefighter may make any change in his or her retirement option after the date of cashing or depositing the first retirement check.~~

ARTICLE VIII

REQUIRED MINIMUM DISTRIBUTIONS

SECTION 8.01 – Application

~~Benefits shall begin as provided in the Plan.~~

SECTION 8.02 – Required Minimum Distributions

~~Required Minimum Distributions.~~

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

~~(2) *Death of participant Before Distributions Begin.*~~

~~(A) 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:~~

~~(i) 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 dies, or by December 31 of the calendar year in which the participant would have attained age 70 1/2, if later.~~

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

~~(iii) 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.~~

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

~~(i) *Participant Survived by Designated Beneficiary.* If the participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the participant's entire interest will be distributed, beginning no later than the time described~~

~~in Subparagraph (2)(A) above, over the life of the designated beneficiary or over a period certain not exceeding:~~

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

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

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

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

~~(3) *Requirements For Annuity Distributions That Commence During participant's Lifetime.*~~

~~(A) *Joint Life Annuities Where the Beneficiary Is Not the participant's Spouse.*~~

~~If the participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the participant and a non-spousal beneficiary, annuity payments to be made on or after the participant's Required Beginning Date to the designated beneficiary after the participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury regulations. If the form of distributions combines a joint and survivor annuity for the joint lives of the participant and a non-spousal beneficiary and a period certain annuity, the requirement in the preceding~~

~~sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.~~

~~(B) — Period Certain Annuities. Unless the participant's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the participant's lifetime may not exceed the applicable distribution period for the participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the participant reaches age 70, the applicable distribution period for the participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the participant as of the participant's birthday in the year that contains the annuity starting date. If the participant's spouse is the participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the participant's applicable distribution period, as determined under this Subparagraph (3)(B), or the joint life and last survivor expectancy of the participant and the participant's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the participant's and spouse's birthdays in the calendar year that contains the annuity starting date.~~

~~(4) — Form of Distribution. Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Subparagraphs (4)(A), (4)(B) and (4)(C) below. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations. Any part of the participant's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.~~

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

- ~~(i) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;~~
- ~~(ii) the distribution period will be over a life (or lives) or over a period certain, not longer than the distribution period described in~~

~~Paragraphs 2 or 3 above, whichever is applicable, of this Subsection (c);~~

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

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

~~(1) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;~~

~~(2) to the extent of the reduction in the amount of the participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period dies or is no longer the participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Code;~~

~~(3) to provide cash refunds of employee contributions upon the participant's death; or~~

~~(4) to pay increased benefits that result from a Plan amendment.~~

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

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

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

~~(6) Definitions.~~

~~(A) *Designated beneficiary.* The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under Section 401(a)(9) of the Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.~~

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

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

~~(7) Notwithstanding any other provision of this Plan, the maximum amount of any mandatory distribution, as defined in Section 401(a)(31) of the Code, payable under the Plan shall be \$1000.~~

~~(8) Compensation Limitations Under 401(a)(17):~~

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

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

~~(9) At no time prior to the satisfaction of all liabilities under the Plan with respect to Members and their spouses or beneficiaries, shall any part of the corpus or income of the fund be used for or diverted to any purpose other than for their exclusive benefit.~~

~~ARTICLE IX~~ ARTICLE VII

TERMINATION OF THE PLAN

Termination of Plan and distribution of fund.

Upon termination of the Plan by the municipality for any reason, or upon written notice by the municipality to the Board of Trustees that contributions under the Plan are being permanently discontinued, the fund shall be apportioned and distributed in accordance with the following procedures:

- (1) The Board of Trustees shall determine the date of distribution and the asset value to be distributed, after taking into account the expenses of such distribution.
- (2) The Board of Trustees shall determine the method of distribution of the asset value, that is, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each Firefighter entitled to benefits under the Plan as specified in subsection (3).
- (3) The Board of Trustees shall apportion the asset value as of the date of termination in the manner set forth in this subsection, on the basis that the amount required to provide any given retirement income shall mean the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income shall mean the single premium payable for such annuity.
- (4) Apportionment shall first be made in respect of each retired Firefighter receiving a retirement income hereunder on such date, each person receiving a retirement income on such date on account of a retired (but since deceased) Firefighter, and each Firefighter who has, by such date, become eligible for normal retirement but has not yet retired, in the amount required to provide such retirement income, provided that, if such asset value is less than the aggregate of such amounts, such amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such asset value.
- (5) If there is any asset value remaining after the apportionment under paragraph (4), apportionment shall next be made in respect of each Firefighter in the service of the municipality or special fire control district on such date who has completed at least 10 years of Credited Service, who has contributed to the Firefighters' pension trust fund for at least 10 years, and who is not entitled to an apportionment under paragraph (a), in the amount required to provide the Actuarial Equivalent of the accrued normal retirement income, based on the Firefighter's Credited Service and earnings to such date, and each former participant then entitled to a benefit under the provisions of §175.211 Florida Statutes who has not

by such date reached his or her Normal Retirement Date, in the amount required to provide the Actuarial Equivalent of the accrued normal retirement income to which he or she is entitled under §175.211 Florida Statutes; provided that, if such remaining asset value is less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(6) If there is any asset value after the apportionments under paragraphs (4) and (5), apportionment shall lastly be made in respect of each Firefighter in the service of the municipality or special fire control district on such date who is not entitled to an apportionment under paragraphs (a) and (b) in the amount equal to the Firefighter's total contributions to the Plan to date of termination; provided that, if such remaining asset value is less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

(7) In the event that there is asset value remaining after the full apportionment specified in paragraphs (4), (5), and (6), such excess shall be returned to the municipality or special fire control district, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the municipality or special fire control district and the state to date of termination of the Plan, such excess shall be divided proportionately to the total contributions made by the municipality or special fire control district and the state.

(8) The Board of Trustees shall distribute, in accordance with the manner of distribution determined under subsection (2), the amounts apportioned under subsection (3).

If, after a period of 24 months after the date on which the Plan terminated or the date on which the Board received written notice that the contributions thereunder were being permanently discontinued, the municipality or special fire control district or the Board of Trustees of the Firefighters' pension trust fund affected has not complied with all the provisions in this section, the Division shall effect the termination of the fund in accordance with this section.

ARTICLE XVIII

ADMINISTRATION OF THE PLAN

SECTION 408.01—Board of Trustees

Make-up of Board. The sole and exclusive administration of and responsibilities for the proper operation of the pension Plan and for making effective the provisions of this article are hereby vested in a Board herein designated the Plan administrator, consisting of five (5) trustees, two (2) of whom, unless otherwise prohibited by law, shall be legal residents of the City, who shall be appointed by the City ~~commission~~Council, and two (2) of whom shall be full-time Firefighter Members of the Plan, who shall be elected by a majority of the Firefighters who are Members of the Plan. The fifth trustee shall be chosen for a ~~four~~two-year term by a majority of the previous four (4) trustees as provided for herein, and such person's name shall be submitted to the City ~~commission~~Council. Upon receipt of the fifth person's name, the City ~~commission~~Council shall, as a ministerial duty, appoint such person to the Board as its fifth trustee. The fifth trustee shall have the same rights as each of the other four (4) trustees appointed or elected as herein provided and shall serve a ~~four~~two-year term unless the office is sooner vacated and may succeed himself in office. Each resident trustee shall serve as trustee for a period of two (2) years, unless sooner replaced by the City ~~commission~~Council at whose pleasure each trustee shall serve, and may succeed himself as a trustee without limitation. Each Firefighter trustee shall serve as trustee for a period of two (2) years, unless he sooner leaves the employment of the City as a Firefighter or otherwise vacates his office as trustee, whereupon a successor shall be chosen in the same manner as the departing trustee. Each Firefighter may succeed himself in office.

Terms and election. The regular term of office shall be two (2) years. Employee Members shall be elected in the following manner:

(1) No less than thirty (30) days before the expiration of a regular term or immediately upon notice of a vacancy on the Board, the City ~~e~~Clerk will notify all actively employed Members that an employee Member must be elected to the Board and request nominations. Such notification will be in writing and will include a nomination form and a list of all employees eligible for nomination. Employees eligible for nomination will include all actively employed Members. Nominations will be forwarded to the City ~~e~~Clerk before the time and date specified on the nomination form.

(2) If one (1) nominee receives a minimum of fifty-one (51) percent of the nominations, that nominee shall be declared elected and shall take office immediately upon commencement of the term of office for which elected.

(3) If no nominee receives fifty-one (51) percent of all nominations, the City [eClerk](#) will prepare an election ballot listing the nominees receiving the three (3) largest number of nominations and forward a ballot to all actively employed Members. Election ballots shall be returned to the City [eClerk](#) before the time and date specified on the ballot. The nominee receiving the highest number of votes for office shall be declared elected and shall take office immediately upon commencement of the term of office for which elected.

(4) If two (2) or more nominees tie for the highest number of votes, a runoff ballot shall be prepared and a runoff election shall be conducted.

(5) An election shall be held not more than thirty (30) and not less than ten (10) days prior to the commencement of the term for which a Board member is to be elected. The City shall establish and administer the nominating and election procedure for each election.

Vacancies. If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

Resignation. ~~The~~[Each](#) trustee may resign at any time as a trustee of the Plan by giving thirty (30) days written notice in advance to the City and to the Board.

Removal. The Board, upon the vote of a majority of its members, may submit to the City [commissionCouncil](#) its recommendation that the City [commissionCouncil](#) remove any appointed trustee who neglects the duties of his office. The City [commissionCouncil](#) may, by majority vote, thereafter remove such member as a trustee.

Expenses. The trustees shall serve without compensation, but they may be reimbursed from the fund for all necessary expenses which they may actually expend through service on the Board, as provided by law.

Oath of office. Each trustee shall, within ten (10) days after his appointment or election, take an oath of office before the City [eClerk](#), that he will diligently and honestly administer the affairs of the Board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the pension Plan. Such oath shall be subscribed to by the members making it and certified by the [City eClerk](#) and filed in the office of the City [eClerk](#).

Officers. The Board shall elect annually by majority vote from among its members a chairman, and secretary.

Voting. Each trustee shall be entitled to one (1) vote on the Board. Three (3) affirmative votes shall be necessary for a decision by the trustees at any meeting of the Board. The chairman shall have the right to one (1) vote only.

Rules. Subject to the limitations of this section, the Board shall from time to time establish uniform rules and regulations for the administration of funds created by this Plan and for transaction of its business.

Services. The Board shall engage such actuarial, accounting and other services as shall be required to transact the business of the retirement Plan. The compensation of all persons engaged by the Board and all other expenses of the Board necessary for the operation of the retirement Plan shall be paid from the fund at such rates and in such amounts as the Board shall agree. Funds may be disbursed by the City finance department or other disbursing agent as determined by the Board, but only upon written authorization by the Board.

Professionals. The Board may employ and pay from the fund reasonable compensation to agents, attorneys, accountants and other persons to advise the Board as in its opinion may be necessary. The Board may delegate to any agent, attorney, accountant or other person selected by it any non-trustee power or duty vested in it by the Plan, and the Board may act or refrain from acting on the advice or opinion of any agent, attorney, accountant or other person so selected.

Powers and duties. The powers, duties and responsibilities of the Board shall include the power and duty to:

- (1) Construe the provisions of the Plan and determine all questions arising thereunder;
- (2) Determine all questions relating to eligibility and participation;
- (3) Determine and certify the amount of all retirement allowances or other benefits hereunder;
- (4) Establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the Plan;
- (5) Distribute to Members at regular intervals information concerning the Plan;
- (6) Receive and process all applications for participation and benefits;
- (7) Authorize all payments whatsoever from the fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the Plan and fund;
- (8) Have performed actuarial studies and annual actuarial valuations and make recommendations regarding any and all changes in the provisions of the Plan;

- (9) Select a secretary, who shall keep a complete minute book of the actions, proceedings, or hearings of the Board and who shall keep a record of all persons receiving pension payments, noting the time of commencement and cessation thereof. Minutes prepared by the secretary shall be filed with the City eClerk and made part of the official records of the City;
- (10) Enforce the terms of the Plan and the rules and regulations it adopts;
- (11) Direct the crediting and distribution of the trust;
- (12) Review and render decisions respecting a claim for (or denial of a claim for) a benefit under the Plan;
- (13) Furnish the City with information which the City may require for tax or other purposes;
- (14) Engage the services of an investment professional money manager ~~or, each of whom~~ shall have such power and authority to manage, acquire or dispose of any Plan asset under its control as authorized by the Board;
- (15) Establish and maintain a funding standard account and to make credits and charges to the account to the extent required by and in accordance with the provisions of the pension Plan;
- (16) Perform such other duties as are specified in this document; and
- (17) Any and all other actions within the scope of the Board's powers provided in Chapter 175.

Manner of action. The Board shall exercise all of its powers, duties and discretion under the Plan in a uniform and nondiscriminatory manner.

Legal entity. The Board represents a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

Meetings. The Board shall hold meetings, at least quarterly, determining the notice, place and time of each. A majority of its members shall constitute a quorum.

Recusal. A trustee shall have the right to recuse himself or herself from voting as the result of a conflict of interest provided that the trustee complies with the provisions of Florida Statute §112.3143.

Authorized representative. The Board may authorize any one (1) of its members, to sign on its behalf any notices, directions, applications, certificates, consents, approvals,

waivers, letters or other documents. The Board must evidence this authority by an instrument signed by all members and filed with the trustee.

Third party. No person dealing with the Board shall be obligated to see to the proper application of any money paid or property delivered to the Board, or to inquire whether the Board has acted pursuant to any of the terms of the Plan. Each person dealing with the Board may act upon any notice, request or representation in writing by the Board, or by the Board's duly authorized agent, and shall not be liable to any person whomsoever in so doing. The certificate of the Board that it is acting in accordance with the Plan shall be conclusive in favor of any person relying on the certificate.

Member records. The Board shall keep such records and shall prepare such reports concerning Members' accounts as required. Upon a Member's written request, the Board shall furnish the Member the information requested.

Annual review. The Board shall review, not less often than annually, all pertinent employee information and Plan data in order to establish the funding policy of the Plan and to determine the appropriate methods of carrying out the Plan's objectives. The Board shall communicate periodically, as it deems appropriate, to any Plan ~~investment~~ professional money manager the Plan's short-term and long-term financial needs so investment policy can be coordinated with Plan financial requirements.

Parties to litigation. Except as otherwise provided by the act, only the ~~City and~~ the Board shall be a necessary parties party to any court proceeding involving the Plan. No Member, beneficiary or other person having an interest in the fund shall be entitled to any notice of process unless required by the Act.

SECTION 408.02 Finances and fund management.

Establishment and operation of fund.

As part of the Plan, there exists the fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the Plan, which are hereby retained in this fund.

The actual custody and supervision of the fund (and assets thereof) shall be vested in the Board. Payment of benefits and disbursements from the fund shall be made by the disbursing agent designated by the Board but only upon written authorization from the Board.

~~All funds of the Plan may be deposited by the board with the finance director of the City, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the City. However, any funds so deposited with the finance director of the City shall be kept in a separate fund by the finance director or clearly identified as such funds of the Plan. In lieu thereof,~~

the Board shall deposit the funds of the Plan in a qualified public depository as defined in F.S. §280.02, which depository with regard to such funds shall conform to and be bound by all of the provisions of F.S. Ch. 280, as it may be amended from time to time. In order to fulfill its investment responsibilities as set forth herein, the Board may retain the services of a custodian bank, an investment advisor registered under Investment Advisors Act of 1940 or otherwise exempt from such required registration, an insurance company, or a combination of these, for the purposes of investment decisions and management. Such investment manager shall have discretion, subject to any guidelines as prescribed by the Board, in the investment of all fund assets.

All funds and securities of the Plan may be commingled in the fund, provided that accurate records are maintained at all times reflecting the financial composition of the fund, including accurate current accounts and entries as regards the following:

- (1) Current amounts of Accumulated Contributions of Members on both an individual and aggregate account basis;
- (2) Receipts and disbursements;
- (3) Benefit payments;
- (4) Current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the City;
- (5) All interest, dividends and gains (or losses) whatsoever; and
- (6) Such other entries as may be properly required so as to reflect a clear and complete financial report of the fund.

An audit shall be performed annually by a certified public accountant chosen by the Board for the most recent fiscal year of the City showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year. Such report shall reflect a complete evaluation of assets on both a cost and market basis, as well as other items normally included in a certified audit.

The Board shall have the following investment powers and authority:

- (1) The Board shall be vested with full legal title to said fund, subject, however, in any event to the authority and power of the City ~~commission~~Council to amend or terminate this fund, provided that no amendment or fund termination shall ever result in the use of any assets of this fund except for the payment of regular expenses and benefits under the Plan, except as otherwise provided herein. All contributions from time to time paid into the fund, and the income thereof, without distinction between principal and income, shall be held and administered by the

Board or its agent in the fund and the Board shall not be required to segregate or invest separately any portion of the fund.

(2) All monies paid into or held in the fund shall be invested and reinvested by the Board and the investment of all or any part of such funds shall be limited to:

A. Foreign securities in an amount not to exceed twenty-five (25) percent of the assets of the fund at market value.

B. Notwithstanding any limitation in prior City ordinances to the contrary, pursuant to §175.071(1), Fla. Stat., the City Council has passed an ordinance granting the Board a variance so that all monies paid into or held in the Fund may be invested and reinvested in such securities, investment vehicles or property wherever situated and of whatever kind, as shall be approved by the Board, including but not limited to common or preferred stocks, bonds, and other evidences of indebtedness or ownership.

(3) The Board shall not invest more than five (5) percent of its assets in the common stock or capital stock of any one (1) issuing company, nor shall the aggregate investment in any one (1) issuing company exceed five (5) percent of the outstanding capital stock of that company; nor shall the aggregate of its investments in equities (common stock or capital stock) at cost exceed seventy (70) percent of the Pension Fund's assets and the aggregate of the Pension Fund's investments in fixed income securities at cost shall not be less than 30% of the Pension Fund's assets.

(4) The Board may retain in cash and keep unproductive of income such amount of the fund as it may deem advisable, having regard for the cash requirements of the Plan.

(5) The Board may cause any investment in securities held by it to be registered in or transferred into its name as trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the fund.

(6) The Board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the trustees or with depositories designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets;

and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the fund which it may deem to be in the best interest of the fund to exercise.

(7) The Board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power contained herein.

(8) Where any action which the Board is required to take or any duty or function which it is required to perform either under the terms herein or under the general law applicable to it as trustee under this article, can reasonably be taken or performed only after receipt by it from a Member, the City, or any other entity, of specific information, certification, direction or instructions, the Board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction or instruction has been received by it.

~~(9) Any overpayment or underpayment from the fund to a member, retiree or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the board in such a manner that the actuarial equivalent of the benefit to which the member, retiree or beneficiary was correctly entitled to, shall be paid. Overpayment shall be charged against payments next succeeding the correction or collected in another manner if prudent. Underpayment shall be made up from the fund in a prudent manner.~~

(10) The Board shall sustain no liability whatsoever for the sufficiency of the fund to meet the payments and benefits herein provided for.

(11) In any application to or proceeding or action in the courts, any judgment entered in such a proceeding or action shall be conclusive upon all persons.

(12) Any of the foregoing powers and functions reposed in the Board may be performed or carried out by the Board through duly authorized agents, provided that the Board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to said fund shall always remain in the Board.

The Board shall not have any obligation or responsibility with respect to any action required by the Plan to be taken by the City or, any Member, nor shall the Board be required to collect any contribution required under the Plan, or determine the correctness of the amount of any contribution. The Board need not inquire into or be responsible for any action or failure to act on the part of the others.

The Board and the City in no way guarantee the trust fund from loss or depreciation. The City does not guarantee the payment of any money which may be or

becomes due to any person from the fund. The liability of the Board to make any payment from the fund at any time and all times is limited to the then available assets of the fund.

The Board shall not be liable for the acts or omissions of any investment manager or managers the Board may appoint, nor shall the Board be under any obligation to invest or otherwise manage any asset of the Plan which is subject to the management of a properly appointed investment manager. The Board and any properly appointed investment manager may execute a letter of agreement as a part of this Plan delineating the duties, responsibilities and liabilities of the investment manager with respect to any part of the trust fund under the control of the investment manager.

At least once every three (3) years, the Board shall retain an independent consultant professionally qualified to evaluate the performance of professional money managers. The independent consultant shall make recommendations to the Board regarding the selection of money managers for the next investment term. These recommendations shall be considered by the Board at its next regularly scheduled meeting. The date, time, place, and subject of this meeting shall be advertised in a newspaper of general circulation in the municipality at least ten (10) days prior to the date of the hearings.

The Board shall identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in Florida Statutes, §215.473, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in such company beginning January 1, 2010 and shall thereafter be prohibited from purchasing or holding such securities. The divestiture of any such security must be completed by September 30, 2010. In accordance with Ch. 2009-97, Laws of Florida, no person may bring any civil, criminal, or administrative action against the Board or any employee, officer, director, or advisor of such Board based upon the divestiture of any security pursuant to this paragraph.

~~The board of trustees shall, upon written request by a retired firefighter of the Plan, or the retiree's beneficiary, authorize the Plan to withhold from the monthly retirement payment those funds that are necessary to pay for the benefits being received through the City of Edgewater, to pay the certified bargaining agent of the City of Edgewater fire department, and to make payments for child support or alimony.~~

SECTION 408.03 – Records.

Employment records required to be kept by secretary of Board of Trustees.

The secretary of the Board of Trustees shall keep a record of all persons receiving retirement payments under the provisions of this chapter, in which shall be noted the time when the pension is allowed and when the pension shall cease to be paid. In this record, the secretary shall keep a list of all firefighters employed by the municipality or special fire control district. The record shall be kept in such manner as to show the name, address,

and time of employment of such Firefighters and when they ~~cases~~ Firefighters ceased to be employed by the municipality or special fire control district.

Annual report to Division of Retirement; actuarial reports.

(1) Each year, the chair or secretary of the Board of Trustees shall file a report with the Division which contains:

- (A) A statement of whether in fact the municipality or special fire control district is within the provisions of §175.041.
- (B) An independent audit by a certified public accountant if the fund has \$100,000 or more in assets, or a certified statement of accounting if the fund has less than \$100,000 or more in assets, for the most recent fiscal year of the municipality or special fire control district, showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year. Such income and disbursements shall be reconciled with the assets at the beginning of and end of the year.
- (C) A statistical exhibit showing the total number of Firefighters on the force, the number included in the retirement Plan and the number ineligible, classified according to the reason for their being ineligible, and the number of disabled Firefighters and retired Firefighters and their Beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.
- (D) A statement of the amount the municipality or other income source, has contributed to the retirement fund for the most recent fiscal year and the amount the municipality will contribute to the retirement fund during its current fiscal year.
- (E) If any benefits are insured with a commercial insurance company, the report should include a statement of the relationship of the insured benefits to the benefits provided by this chapter as well as the name of the insurer and information about the basis of premium rates, mortality table, interest rates, and method used in valuing retirement benefits.

(2) By February 1 of each triennial year, ~~beginning with February 1, 1986, and at least every 3 years commencing from the last actuarial report of the Plan or Plan or from February 1, 1987, if no actuarial report has been issued within the 3-year period prior to February 1, 1986,~~ the chair shall report to the Division such data that it needs to complete an actuarial valuation of each fund. The forms for each municipality shall be supplied by the Division. The expense of this actuarial valuation shall be borne by the firefighters' pension trust fund.

SECTION 408.04 – Rights to Plan Assets.

An Employee shall not have any right to or interest in any assets of the Plan upon termination of employment or otherwise except as specifically provided under this Plan, and then only to the extent of the benefits payable to such Employee according to the Plan provisions.

SECTION 408.05 – Beneficiary.

Beneficiaries.

(1) Each Firefighter may, on a form provided for that purpose, signed and filed with the Board of Trustees, designate a Beneficiary (or Beneficiaries) to receive the benefit, if any, which may be payable in the event of his or her death; and each designation may be revoked by such Firefighter by signing and filing with the Board of Trustees a new designation-of-beneficiary form.

(2) If a deceased Firefighter fails to name a beneficiary in the manner prescribed in subsection (1), or if the Beneficiary (or Beneficiaries) named by a deceased Firefighter predecease the Firefighter, the death benefit, if any, which may be payable under the Plan with respect to such deceased Firefighter may be paid, in the discretion of the Board of Trustees, either to:

- (A) The spouse or dependent children of the Firefighter; or
- (B) The dependent living parents of the Firefighter.

(3) Notwithstanding any other provision of law to the contrary, the surviving spouse of any pension participant Member killed in the line of duty shall not lose survivor retirement benefits if the spouse remarries. The surviving spouse of such deceased Member whose benefit terminated because of remarriage shall have the benefit reinstated as of July 1, 1994, at an amount that would have been payable had such benefit not been terminated.

ARTICLE XIX

GENERAL PROVISIONS

SECTION 119.01 – Amendments.

~~*Adoption or Revision of a Local Law Plan* – No retirement Plan or amendment to a retirement Plan shall be proposed for adoption unless the proposed Plan or amendment contains an actuarial estimate of the costs involved. No such proposed Plan or proposed Plan change shall be adopted without the approval of the municipality. Copies of the proposed Plan or proposed Plan change and the actuarial impact statement of the proposed Plan or proposed Plan change shall be furnished to the division prior to the last public hearing thereon. Such statement shall also indicate whether the proposed Plan or proposed Plan change is in compliance with Section 14, Art. X of the State Constitution and those provisions of part VII of Chapter 112. Notwithstanding any other provision, only those local law Plans created by special act of legislation prior to May 25, 1939, shall be deemed to meet the minimum benefits and minimum standards only in this chapter.~~

~~— The retirement Plan setting forth the benefits and the trust agreement, if any, covering the duties and responsibilities of the trustees and the regulations of the investment of funds must be in writing, and copies thereof must be made available to the participants and to the general public.~~

The City may amend the Plan at any time by ordinance. Any such ordinance shall comply with Chapter 175, Florida Statutes, Section 401(a) of the Internal Revenue Code, and with any other applicable law.

SECTION 11.02 – Direct Rollovers.

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

~~— (2) — Definitions~~

~~— The following definitions apply to this Section:~~

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

- ~~(i) — any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more;~~

- ~~(ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code;~~
- ~~(iii) the portion of any distribution that is a hardship distribution described in Section 401(k)(2)(B)(i)(IV) of the Code; and~~
- ~~(iv) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), provided that a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax Employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution Plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.~~

~~(B) Eligible retirement Plan: An eligible retirement Plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity Plan described in Section 403(a) of the Code, an annuity contract described in Section 403(b) of the Code, a qualified trust described in Section 401(a) of the Code, an eligible Plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such Plan from this Plan, or a Roth IRA (subject to the limitations of Code Section 408A(c)(3)) that accepts the distributee's eligible rollover distribution.~~

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

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

By executing this Plan, the Employer Primary Employer acknowledges having counseled to the extent necessary with selected legal and tax advisors regarding the Plan's legal and tax implications.

Executed this _____ day of _____, 2024.

CITY OF EDGEWATER, FLORIDA

By: _____

Title

ACKNOWLEDGED as PLAN ADMINISTRATOR this _____ day of _____, 2024.

By: _____

Title