

ORDINANCE NO. 2013-33

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF VENICE, FLORIDA, CHAPTER 50, PERSONNEL, ARTICLE III, PENSIONS AND RETIREMENT, DIVISION 3, MUNICIPAL POLICE OFFICERS' PENSION TRUST FUND, SECTION 50-131, DEFINITIONS; SECTION 50-133, BOARD OF TRUSTEES; SECTION 50-134, FINANCES AND FUND MANAGEMENT; SECTION 50-135, CONTRIBUTIONS; SECTION 50-136, BENEFIT AMOUNTS AND ELIGIBILITY; SECTION 50-137, PRE-RETIREMENT DEATH; SECTION 50-138, DISABILITY; SECTION 50-139, VESTING; SECTION 50-140, OPTIONAL FORMS OF BENEFITS; SECTION 50-145, MAXIMUM PENSION; SECTION 50-146, MINIMUM DISTRIBUTION OF BENEFITS; SECTION 50-147, MISCELLANEOUS PROVISIONS; SECTION 50-148, REPEAL OR TERMINATION OF SYSTEM; SECTION 50-149, DOMESTIC RELATIONS ORDERS; RETIREE DIRECTED PAYMENTS; EXEMPTION FROM EXECUTION, NON-ASSIGNABILITY; SECTION 50-151, FORFEITURE OF PENSION; SECTION 50-154, CREDIT FOR MILITARY SERVICE PRIOR TO EMPLOYMENT; SECTION 50-157, DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS; ELIMINATION OF MANDATORY DISTRIBUTIONS; SECTION 50-158, DEFERRED RETIREMENT OPTION PLAN; SECTION 50-159, PRIOR POLICE SERVICE; ADDING SECTION 50-160, REEMPLOYMENT AFTER RETIREMENT; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE

BE IT ORDAINED BY THE CITY OF VENICE, FLORIDA;

SECTION 1. Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-131, Definitions, specifically Actuarial equivalent, Credited service, Retirement, and Salary are amended to read as follows:

Sec. 50-131. Definitions.

Actuarial equivalent means a benefit or amount of equal value, based upon the ~~1983 Group Annuity Mortality~~ RP-2000 Combined Healthy Table and an interest rate of ~~eight~~ eight seven and nine tenths percent per annum. This definition may only be amended by the city pursuant to the recommendation of the board using the assumptions adopted by the board with the advice of the plan's actuary, such that actuarial assumptions are not subject to city discretion.

Credited service means the total number of years and fractional parts of years of service as a police officer with member contributions, when required, omitting intervening years or fractional parts of years when such member was not employed by the city as a police officer. A member may voluntarily leave his accumulated contributions in the fund for a period of five years after leaving the employ of the police department pending the possibility of being reemployed as a police officer, without losing credit for the time that he was a member of the system. If a vested member leaves the employ of the police department, his accumulated contributions will be returned only upon his written request. If a member who is not vested is not reemployed as a police officer with the police department within five years, his accumulated contributions, if \$1,000.00 or less, shall be returned. If a member who is not vested is not reemployed within five years, his accumulated contributions, if more than \$1,000.00, will be returned only upon the written request of the member and upon completion of a written election to receive a cash lump sum or to rollover the lump sum amount on forms designated by the board. Upon return of a member's accumulated contributions, all of his rights and benefits under the system are forfeited and terminated. Upon any reemployment, a police officer shall not receive credit for the years and fractional parts of years of service for which he has withdrawn his accumulated contributions from the fund, unless the police officer repays

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into the fund the contributions he has withdrawn, with interest, as determined by the board, within 90 days after his reemployment.

The years or fractional parts of years that a police officer ~~serves in the military service of the armed forces of the United States, the United States Merchant Marine or the United States Coast Guard, voluntarily or involuntarily~~ performs "Qualified Military Service" consisting of voluntary or involuntary "service in the uniformed services" as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L.103-353), after separation from employment as a police officer with the city to perform training or service, shall be added to his years of credited service for all purposes, including vesting, provided that:

- (1) The member is entitled to reemployment under the provisions of USERRA.
- ~~(2)~~ (4) The member ~~must~~ returns to his employment as a police officer within one year from the earlier of the date of his military discharge or release from active service, unless otherwise required by USERRA.
- ~~(2) — The member is entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), (P.L. 103-353).~~
- (3) The maximum credit for military service pursuant to this paragraph shall be five years.
- (4) This paragraph is intended to satisfy the minimum requirements of USERRA. To the extent that this paragraph does not meet the minimum standards of USERRA, as it may be amended from time to time, the minimum standards shall apply.

In the event a member dies on or after January 1, 2007, while performing USERRA qualified military service, the beneficiaries of the member are entitled to any benefits (other than benefit accruals relating to the period of qualified military service) as if the member had resumed employment and then died while employed.

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

Retirement means a member's separation from city employment with eligibility for immediate receipt of benefits under the system or entry into the Deferred Retirement Option Plan.

Salary means the total monthly compensation for services rendered to the city as a police officer, 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, including amounts picked up by the city pursuant to section 414(h) of the code, as well as any employer final pay contribution and employer accrued leave contribution made to the City of Venice Non-Bargaining Retirement Plan for the member's benefit. For service earned after the date that a collective bargaining agreement is entered into after July 1, 2011 (the "effective date"), salary shall not include more than 300 hours of overtime per calendar year and shall also not include payments for accrued unused sick or annual leave. Provided however, in any event, payments for overtime in excess of 300 hours per year or accrued unused sick or annual leave accrued as of the effective date and attributable to service earned

prior to the effective date, may still be included in salary for pension purposes even if the payment is not actually made until on or after the effective date. In any event, with respect to unused sick leave and unused annual leave accrued prior to the effective date, salary will include the lesser of the amount of sick or annual leave time accrued on the effective date or the actual amount of sick or annual leave time for which the retiree receives payment at the time of retirement, regardless of whether the amount of sick or annual leave was, at some time prior to retirement, reduced below the amount on the effective date.

Compensation in excess of the limitations set forth in section 401(a)(17) of the code shall be disregarded as of the first day of the plan year shall be disregarded for any purpose, including employee contributions or any benefit calculations. The annual compensation of each member taken into account in determining benefits or employee contributions for any plan year beginning on or after January 1, 2002, may not exceed \$200,000, as adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the code. Compensation means compensation during the fiscal year. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If the determination period consists of fewer than 12 months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12. If the compensation for any prior determination period is taken into account in determining a member's contributions or benefits for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period. The limitation on compensation for an eligible employee shall not be less than the amount, which was allowed to be taken into account under this subsection as in effect on July 1, 1993. For purposes of this subsection, the term "eligible employee" means an individual who was a member before the first plan year beginning after December 31, 1995.

SECTION 2. Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-133, Board of Trustees, subsection (a), is amended to read as follows:

Sec. 50-133. Board of trustees.

(a) *Membership; appointment and term of members; legal status of board.* The sole and exclusive administration of and responsibility for the proper operation of the retirement system and for making effective the provisions of this division is hereby vested in a board of trustees. The board is hereby designated at the plan administrator. The board shall consist of five trustees, two of whom, unless otherwise prohibited by law, shall be legal residents of the city, who shall be appointed by the city council, and two of whom shall be members of the system, who shall be elected by a majority of the police officers who are members of the system. The fifth trustee shall be chosen by a majority of the previous four trustees as provided for in this section, and such person's name shall be submitted to the city council. Upon receipt of the fifth person's name, the city council shall, as a ministerial duty, appoint such person to the board as its fifth trustee. The fifth trustee shall have the same rights as each of the other four trustees appointed or elected as provided in this section, and shall serve a ~~two~~ four-year term unless he sooner vacates the office. Each resident trustee shall serve as trustee for a period of ~~two~~ four years, unless he sooner vacates the office or is sooner replaced by the city council, at whose pleasure he shall serve. Each member trustee shall serve as trustee for a period of ~~two~~ four years, unless he sooner leaves the employment of the city as a police officer or otherwise vacates his office as trustee, whereupon a successor shall be chosen in the same manner as the departing trustee. Each trustee may succeed himself in office. DROP participants can be elected as but not vote for elected trustees. The board shall establish and administer the nominating and election procedures for each election. The board shall meet at least

quarterly each year. The board shall be a legal entity with, in addition to other powers and responsibilities contained in this division, the power to bring and defend lawsuits of every kind, nature and description. The chief of police shall be an ex officio member of the board of trustees without vote.

SECTION 3. Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-134, Finances and fund management, subsection (f)(2) is amended to read as follows:

Sec. 50-134. Finances and fund management.

- (f)(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~~ subject to the following:
- a. ~~Annuity and life insurance contracts with life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the members in the fund shall be entitled under the provisions of this system and pay the initial and subsequent premiums thereon.~~
 - b. ~~Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund or a savings/building and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.~~
 - c. ~~Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States or by an agency of the government of the United States.~~
 - d. ~~Bonds issued by the State of Israel.~~
 - e. ~~Stocks, commingled funds administered by national or state banks, mutual funds and bonds or other evidences of indebtedness, provided that:~~
 - 1. ~~Except as provided in paragraph 2., all individually held securities and all securities in a commingled or mutual fund must be issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia.~~
 - 2. ~~Not more than ten percent of the assets of the fund valued at cost may be invested in foreign securities.~~
 - 3. ~~The board shall not invest more than five percent of its assets in the common stock, capital stock or convertible securities of any one issuing company; nor shall the aggregate investment in any one issuing company exceed five percent of the outstanding capital stock of that company; nor shall the aggregate of its investments in common stock, capital stock and convertible securities at cost exceed 65 percent of the assets of the fund.~~

- a. Notwithstanding any limitation provided for in F.S. ch. 185, to the contrary (unless such limitation may not be amended by local ordinance) or any limitation in prior city ordinances to the contrary, 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. In no event, however, shall more than 25% of the assets of the fund at market value be invested in foreign securities.
- b. The board shall develop and adopt a written investment policy statement setting forth permissible types of investments, goals and objectives of investments and setting quality and quantity limitations on investments in accordance with the recommendations of its investment consultants. The investment policy statement shall be reviewed by the board at least annually.
- c. In addition, the board may, upon recommendation by the board's investment consultant, make investments in group trusts meeting the requirements of Internal Revenue Service Revenue Ruling 81-100 and Revenue Ruling 2011-1 or successor rulings or guidance of similar import, and operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under section 401(a) of the code, individual retirement accounts that are exempt under section 408(e) of the code, eligible governmental plans that meet the requirements of section 457(b) of the code, and governmental plans under 401(a)(24) of the code. For this purpose, a trust includes a custodial account that is treated as a trust under section 401(f) or under section 457(g)(3) of the code. ~~While~~ any portion of the assets of the fund are invested in such a group trust, such group trust is itself adopted as a part of the system or plan.

SECTION 4. Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-135, Contributions, subsection (c), City contributions, is hereby amended to read as follows:

Sec. 50-135. Contributions.

(c) *City contributions.* So long as this system is in effect, the city shall make quarterly contributions to the fund in an amount 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~~ required city contribution, as shown by the ~~most recent~~ applicable actuarial valuation of the system, but in no event shall the city's annual contribution be less than 12 percent of the total salary of plan members. ~~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 as provided in Part VII F.S. ch 112.~~

SECTION 5. Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-136, Benefit amounts and eligibility, is amended by adding a new subsection (h), Required distribution date, to read as follows:

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(h) *Required distribution date.* The member's benefit under this section must begin to be distributed to the member no later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70½ or the calendar year in which the member terminates employment with the city.

SECTION 6. Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-137, Pre-retirement death, subsection (d) Additional provision - spouse beneficiary, is amended and subsection (e), Additional provisions for non-spouse beneficiary, is added to read as follows:

(d) *Additional provisions - spouse beneficiary.* This subsection (d) applies only when the member's spouse is the sole designated beneficiary. Notwithstanding ~~any provision to the contrary~~ subsections (a) and (b) of this section, in the event a member or terminated vested person, with ten or more years of credited service, dies prior to retirement or prior to receipt of benefits, his spouse beneficiary shall be entitled to the accrued normal or early retirement benefit calculated with a two percent accrual rate, payable for ten years at the deceased member's early or normal retirement age less the value of any benefits paid or payable under subsections (a) or (b) above.

(e) *Additional provisions for non-spouse beneficiary.* This subsection applies only when the member's spouse is not the beneficiary or is not the sole designated beneficiary, but there is a surviving beneficiary. If a member having at least ten years of credited service dies prior to retirement, his beneficiary is entitled to the benefits described in (d) above, payable beginning by December 31 of the calendar year immediately following the calendar year in which the member died. The benefit will be calculated as for normal retirement based on the deceased members' credited service and average final compensation and actuarially reduced to reflect the commencement of benefits prior to the normal retirement date.

- (1) If a surviving beneficiary commences receiving a benefit under subsection (e) above, but dies before all payments are made, the actuarial value of the remaining benefit will be paid to the surviving beneficiary's estate by December 31 of the calendar year of the beneficiary's death in a lump sum.
- (2) If there is no surviving beneficiary as of the member's death, and the estate is to receive the benefits, the actuarial equivalent of the member's entire interest must be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.
- (3) The Uniform Lifetime Table in Treasury Regulations § 1.401(a)(9)-9 shall determine the payment period for the calendar year benefits commence, if necessary to satisfy the regulations.

SECTION 7: Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-138, Disability, subsections (f)(2) and (g), Disability payments, is amended to read as follows:

- (f)(2) Any retiree receiving disability benefits under provisions of this section may be required by the board to submit sworn statements of his condition accompanied by a physician's statement (provided at the Retiree's expense) to the board annually and may be required by the board to undergo additional periodically ~~reexamined~~ re-examinations by a qualified physician or physicians and/or surgeon or surgeons, who shall be selected by the board, to determine if such disability has ceased to exist. If, prior to the police officer's normal retirement date, the board finds that the retiree is no longer permanently and totally disabled, the board shall have the power to compel the return of the retiree to

performance of duty as a police officer or another position with the police department as provided for in subsections (a) and (c) of this section and the retiree so returned shall enjoy the same rights that he had at the time he was placed upon pension. If the retiree so ordered to return shall refuse to comply with the order within 30 days from the issuance thereof, he shall forfeit his right to his pension.

(g) *Disability payments.* The monthly benefit to which a member is entitled in the event of his 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 determines 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 retiree recovers from the disability ~~prior to his normal retirement date~~, the payment due next preceding the date of such recovery; or
- (2) If the retiree dies without recovering from his disability ~~or attains his normal retirement date while still disabled~~, the payment due next preceding his death or the 120th monthly payment, whichever is later.

SECTION 8: Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-139, Vesting, is amended to read as follows:

Sec. 50-139. Vesting.

If a member terminates his employment as a police officer, either voluntarily or by discharge, and is not eligible for any other benefits under this system, the member shall be entitled to the following:

- (1) If the member has less than ten years of credited service upon termination, the member shall be entitled to a refund of his accumulated contribution, or member may leave it deposited with the fund.
- (2) If the member has ten or more years of credited service upon termination, the member shall be entitled to a monthly retirement benefit determined in the same manner as for normal or early retirement and based upon the member's credited service, average final compensation and the benefit accrual rate as of the date of termination, payable to him commencing at the member's otherwise normal or early retirement date, determined as if he had remained employed, provided he does not elect to withdraw his accumulated contributions and provided the member survives to his normal or early retirement date. If the member does not withdraw his accumulated contributions and does not survive to his otherwise normal or early retirement date, his designated beneficiary shall be entitled to a benefit as provided in this division for a deceased member, vested or eligible for retirement under preretirement death.
- ~~(3) Any vested member of the system whose position is terminated, for whatever reason, but who remains employed by the city in some other capacity, shall have all retirement benefits accrued up to the date of such termination under this system preserved, provided he does not elect to withdraw his accumulated contributions from this system. Such accrued retirement benefits shall be payable at his otherwise early (reduced as for early retirement) or normal~~

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~~retirement date under this division, or later, in accordance with the provisions of this system.~~

SECTION 9: Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-140, Optional forms of benefits, is amended to read as follows:

Sec. 50-140. Optional forms of benefits.

(a) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified in this division, a member, upon written request to the board of trustees, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

- (1) A retirement income of a larger monthly amount, payable to the retiree for his lifetime only.
- (2) A retirement income of a modified monthly amount, payable to the retiree during the lifetime of the retiree and following the death of the retiree, 100 percent, 75 percent, 66 2/3 percent or 50 percent of such monthly amounts payable to the dependent joint pensioner for his lifetime. Except where the retiree's joint pensioner is his spouse, the payments to the joint pensioner as a percentage of the payments to the retiree shall not exceed the applicable percentage provided for in the applicable table in the treasury regulations. (See Q & A-2 of 1.401(a)(9)-6)
- (3) If a member retires prior to the time at which social security benefits are payable, he may elect to receive an increased retirement benefit until such time as social security benefits shall be assumed to commence and a reduced benefit thereafter in order to provide, to as great an extent as possible, a more level retirement allowance during the entire period of retirement. The amounts payable shall be as recommended by the actuaries for the system, based upon the social security law in effect at the time of the member's retirement.
- (4) The member may elect a benefit pursuant to subsections (1), (2) or (3) above with 120 payments guaranteed in any event.

(b) The member, upon electing any option of this section, will designate the joint pensioner (subsection (a)(2) above) or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the system in the event of the member's death, and will have the power to change such designation from time to time. Such designation will name a joint pensioner or one or more primary beneficiaries where applicable. A member may change his beneficiary at any time. If a member has elected an option with a joint pensioner and the member's retirement income benefits have commenced, the member may thereafter change his beneficiary at any time but may only change his joint pensioner twice. Subject to the restriction in the previous sentence, a member may substitute a new joint pensioner for a deceased joint pensioner. In the absence of proof of good health of the joint pensioner being replaced, the actuary will assume that the joint pensioner has deceased for purposes of calculating the new payment.

(c) 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 to receive benefits under the system shall thereupon cease.

(d) Upon change of a retiree's joint pensioner in accordance with this section, the amount of the retirement income payable to the retiree shall be actuarially redetermined to take into account the age of the former joint pensioner, the new joint pensioner, and the

retiree and to ensure that the benefit paid is the actuarial equivalent of the present value of the retiree's then-current benefit at the time of the change. Any such retiree shall pay the actuarial recalculation expenses. 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 retirement shall be paid as provided in section 50-141.

(e) 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 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 section 50-137.
- (2) If the designated beneficiary (or beneficiaries) or joint pensioner dies before the member's retirement under the system, 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 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 retirement.
- (3) If both the retiree and the beneficiary (or beneficiaries) designated by the member or retiree 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 of subsection (a) of this section, 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 section 50-141.
- (4) If a member continues beyond his normal retirement date pursuant to the provisions of section 50-136(a), and dies prior to his 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 designated by the member in the amount computed as if the member had retired under the option on the date on which his death occurred.
- (5) The member's benefit under this section must begin to be distributed to the member no later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70½ or the calendar year in which the member terminates employment with the city.

(f) A retiree may not change his retirement option after the date of cashing or depositing his first retirement check.

(g) 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 monthly benefit amount is less than \$100.00 or the total commuted value of the remaining monthly income payments to be paid do not exceed \$5,000.00~~ total commuted value of the monthly income payments to be paid do not exceed \$1,000.00. 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 system with regard

to such member and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons.

SECTION 10: Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-145, Maximum pension, is amended to read as follows:

Sec. 50-145. Maximum pension.

~~(a) — Basic limitation.~~

~~(1) — Subject to the adjustments set forth in this section, the maximum amount of annual retirement income payable with respect to a member under this system shall not exceed \$160,000.00.~~

~~(2) — For purposes of applying the limitation in subsection (a)(1) of this section, benefits payable in any form other than a straight life annuity with no ancillary benefits shall be adjusted, as provided by treasury regulations, so that such benefits are the actuarial equivalent of a straight life annuity. For purposes of this section, the following benefits shall not be taken into account:~~

~~a. — Any ancillary benefit which is not directly related to retirement income benefits.~~

~~b. — Any other benefit not required under section 415(b)(2) of the code and regulations thereunder to be taken into account for purposes of the limitation of section 415(b)(1) of the code.~~

~~(b) — Members participating in other defined benefit plans. The limitation of this section with respect to any member who at any time has been a member in any other defined benefit plan (as defined in section 414(j) of the code) maintained by the city shall apply as if the total benefits payable under all defined benefit plans in which the member has been a member were payable from one plan.~~

~~(c) — Adjustments in limitations.~~

~~(1) — In the event the member's retirement benefits become payable before age 62, the \$160,000.00 limitation prescribed by this section shall be reduced in accordance with regulations issued by the secretary of the treasury pursuant to the provisions of section 415(b) of the code, so that such limitation (as so reduced) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a \$160,000.00 annual benefit beginning at age 62.~~

~~(2) — In the event the member's benefit is based on at least 15 years of credited service, the adjustments provided for in (1) above shall not apply.~~

~~(3) — The reductions provided for in subsections (c)(1) and (2)(1) [(c)(2)] above shall not be applicable to disability benefits paid pursuant to section 50-138 or pre-retirement death benefits paid pursuant to section 50-137.~~

~~(4) — In the event the member's retirement benefit becomes payable after age 65, for purposes of determining whether this benefit meets the limitation set forth in subsection (a) of this section, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age 65. This adjustment shall~~

~~be made in accordance with regulations promulgated by the secretary of the treasury or his delegate.~~

~~(d) — *Members with less than ten years of service.* The maximum retirement benefits payable under this section to any member who has completed less than ten years of credited service with the city shall be the amount determined under subsection (a) of this section multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten. The reduction provided for in this subsection shall not be applicable to disability benefits paid pursuant to section 50 138 or preretirement death benefits paid pursuant to section 50 137.~~

~~(e) — *Exception for annual benefit of \$10,000.00 or less.* Notwithstanding the provisions of subsections (a) through (d) of this section, the retirement benefit payable with respect to a member shall be deemed not to exceed the limitations set forth in this section if the benefits payable with respect to such member under this system, and under all other qualified defined benefit pension plans to which the city contributes, do not exceed \$10,000.00 for the applicable plan year and for any prior plan year and the city has not at any time maintained a qualified defined contribution plan in which the member participated.~~

~~(f) — *Method of reduction of benefits.* Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans; provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such member.~~

~~(g) — *Cost of living adjustments.* The limitations as stated in subsections (a), (b), and (c) of this section shall be adjusted to the time payment of a benefit begins in accordance with any cost of living adjustments prescribed by the secretary of the treasury pursuant to section 415(d) of the code.~~

~~(h) — *Additional limitation on benefits.* Notwithstanding anything in this section to the contrary:~~

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

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

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

For purposes of section 415(b) of the code, the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to section 415(n) of the code and to rollover contributions (as defined in section 415(b)(2)(A) of the code). The "benefit attributable" shall be determined in accordance with treasury regulations.

(b) *Adjustments to Basic Limitation for Form of Benefit.* If the benefit under the plan is other than the annual benefit described in subsection (a), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in treasury regulations. If the form of the benefit without regard to any automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the section 415(b) of the code limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in treasury regulation section 1.415(b)-1(c)(2)(ii)) that takes into account the additional benefits under the form of benefit as follows:

(1) For a benefit paid in a form to which section 417(e)(3) of the code does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:

- a. The annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member, or
- b. The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5 percent interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in treasury regulation section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the code); or

(2) For a benefit paid in a form to which section 417(e)(3) of the code applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:

- a. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and

mortality table, or tabular factor, specified in the plan for actuarial experience;

b. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under treasury regulation section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the code); or

c. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under treasury regulation section 1.417(e)-1(d)(3) (the 30-year treasury rate (prior to January 1, 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under treasury regulation section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in section 417(e)(3)(B) of the code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the code), divided by 1.05.

(3) The actuary may adjust the 415(b) limit at the annuity starting date in accordance with subsections (1) and (2) above.

(c) *Benefits not taken into account.* For purposes of this section, the following benefits shall not be taken into account in applying these limits:

(1) Any ancillary benefit which is not directly related to retirement income benefits;

(2) Any other benefit not required under §415(b)(2) of the code and regulations thereunder to be taken into account for purposes of the limitation of section 415(b)(1) of the code; and

(3) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity.

(d) *COLA Effect.* Effective on and after January 1, 2003, for purposes of applying the limits under section 415(b) of the code (the "limit"), the following will apply:

- (1) A member's applicable limit will be applied to the member's annual benefit in the member's first limitation year of benefit payments without regard to any automatic cost of living adjustments;
- (2) Thereafter, in any subsequent limitation year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable benefit limit including any adjustment to the section 415(b)(1)(A) of the code dollar limit under section 415(d) of the code, and the regulations thereunder; but
- (3) In no event shall a member's benefit payable under the system in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to section 415(d) of the code and the regulations thereunder.

Unless otherwise specified in the system, for purposes of applying the limits under section 415(b) of the code, a member's applicable limit will be applied taking into consideration cost of living increases as required by section 415(b) of the code of the Internal Revenue Code and applicable treasury regulations.

(e) *Other adjustments in limitations.*

- (1) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of section 415(b) of the code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a \$160,000 annual benefit beginning at age 62.
- (2) In the event the member's benefit is based on at least 15 years of credited service as a full-time employee of the fire department of the city, the adjustments provided for in subsection (e)(1) above shall not apply.
- (3) The reductions provided for in subsection (e)(1) above shall not be applicable to disability benefits pursuant to section 50-138, or pre-retirement death benefits paid pursuant to section 50-137.
- (4) In the event the member's retirement benefit becomes payable after age 65, for purposes of determining whether this benefit meets the limit set forth in subsection (a) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age 65. This adjustment shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.

(f) *Less than ten years of participation or service.* The maximum retirement benefits payable under this section to any member who has completed less than ten years of credited service with the city shall be the amount determined under subsection (a) of this section multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten. The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits paid pursuant to section 50-138, or pre-retirement death benefits paid pursuant to section 50-137.

(g) *Participation in other defined benefit plans.* The limit of this section with respect to any member who at any time has been a member in any other defined benefit plan as defined in section 414(j) of the code maintained by the city shall apply as if the total benefits payable under all city defined benefit plans in which the member has been a member were payable from one plan.

(h) *Ten thousand dollar limit; less than ten years of service.* Notwithstanding anything in this section 50-145, the retirement benefit payable with respect to a member shall be deemed not to exceed the limit set forth in this subsection (h) of section 50-145 if the benefits payable, with respect to such member under this system and under all other qualified defined benefit pension plans to which the city contributes, do not exceed \$10,000 for the applicable limitation year and for any prior limitation year and the city has not any time maintained a qualified defined contribution plan in which the member participated; provided, however, that if the member has completed less than ten years of credited service with the city, the limit under this subsection (h) of section 50-145 shall be a reduced limit equal to \$10,000 multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten.

(i) *Reduction of benefits.* Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such member.

(i) *Service credit purchase limits.*

(1) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the system, as allowed in section 50-76 and section 50-77, then the requirements of this section will be treated as met only if:

- a. The requirements of section 415(b) of the code are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of section 415(b) of the code, or
- b. The requirements of section 415(c) of the code are met, determined by treating all such contributions as annual additions for purposes of section 415(c) of the code.

For purposes of applying subsection (i)(1)a., the system will not fail to meet the reduced limit under section 415(b)(2)(C) of the code solely by reason of this subsection, and for purposes of applying subsection (i)(1)b. the system will not fail to meet the percentage limitation under section 415(c)(1)(B) of the Internal Revenue Code solely by reason of this subsection.

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

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

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

(k) Contribution limits.

(1) For purposes of applying the section 415(c) of the code limits which are incorporated by reference and for purposes of this subsection (k), only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by treasury regulations section 1.415(c)-2, or successor regulations. Unless another definition of compensation that is permitted by treasury regulations section 1.415(c)-2, or successor regulation, is specified by the system, compensation will be defined as wages within the meaning of section 3401(a) of the code and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under sections 6041(d), 6051(a)(3) and 6052 of the code and will be determined without regard to any rules under section 3401(a) of the code that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in section 3401(a)(2) of the code.

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

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

- 1. The payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime

or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or

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

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

(2) Notwithstanding any other provision of law to the contrary, the board may modify a request by a member to make a contribution to the system if the amount of the contribution would exceed the limits provided in section 415 of the code by using the following methods:

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

b. If payment pursuant to subsection (k)(2)a. will not avoid a contribution in excess of the limits imposed by section 415(c) of the code, the board may either reduce the member's contribution to an amount within the limits of that section or refuse the member's contribution.

(3) If the annual additions for any member for a limitation year exceed the limitation under section 415(c) of the code, the excess annual addition will be corrected as permitted under the Employee Plans Compliance Resolution System (or similar IRS correction program).

(4) For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of this subsection (k) shall not exceed the annual limit under section 401(a)(17) of the code.

(l) Additional limitation on pension benefits. Notwithstanding anything herein to the contrary:

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

(2) No member of the system shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This

restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.

SECTION 11: Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-146, Minimum distribution of benefits, is amended to read as follows:

Sec. 50-146. Minimum distribution of benefits.

(a) *General Rules.*

- (1) *Effective date.* Effective as of January 1, 1989, the plan will pay all benefits in accordance with a good faith interpretation of the requirements of section 401(a)(9) of the code and the regulations in effect under that section, as applicable to a governmental plan within the meaning of section 414(d) of the code. Effective on and after January 1, 2003, the plan is also subject to the specific provisions contained in this section. The provisions of this section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- (2) *Precedence.* The requirements of this section will take precedence over any inconsistent provisions of the plan.
- ~~(3) *Requirements of treasury regulations incorporated.* All distributions required under this section will be determined and made in accordance with the treasury regulations under section 401(a)(9) of the code.~~
- (4) *TEFRA section 242(b)(2) elections.* Notwithstanding the other provisions of this section other than this subsection ~~(a)(4)~~ (a)(3), distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the plan that related to section 242(b)(2) of TEFRA.

(b) *Time and manner of distribution.*

- (1) *Required beginning date.* The member's entire interest will be distributed, or begin to be distributed, to the member no later than the member's required beginning date which shall not be later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70 ½ or the calendar year in which the member ~~retires unless otherwise provided for in the plan or required by law~~ terminates employment with the city.
- (2) *Death of member before distributions begin.* If the member dies before distributions begin, the member's entire interest will be distributed, or begin to be distributed no later than as follows:
 - a. If the member's surviving spouse is the member's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the member died, or by a date on or before December 31 of the calendar year in which the member would have attained age 70 ½, if later, as the surviving spouse elects.
 - b. If the member's surviving spouse is not the member's sole designated beneficiary, then, distributions to the designated beneficiary will begin by

December 31 of the calendar year immediately following the calendar year in which the member died.

- c. If there is no designated beneficiary as of September 30 of the year following the year of the member's death, the member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the member's death.
- d. If the member's surviving spouse is the member's sole designated beneficiary and the surviving spouse dies after the member but before distributions to the surviving spouse begin, this subsection (b)(2), other than subsection (b)(2)a., will apply as if the surviving spouse were the member.

For purposes of this subsection (b)(2) ~~and subsection (c)~~, distributions are considered to begin on the member's required beginning date or, if subsection (b)(2)d. applies, the date of distributions are required to begin to the surviving spouse under subsection (b)(2)a. If annuity payments irrevocably commence to the member before the member's required beginning date (or to the member's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (b)(2)a.) the date distributions are considered to begin is the date distributions actually commence.

- (3) Death after distributions begin. If the member dies after the required distribution of benefits has begun, the remaining portion of the member's interest must be distributed at least as rapidly as under the method of distribution before the member's death.
- (~~3~~ 4) Form of distribution. Unless the member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance ~~of subsections (c), (d) and (e) of~~ with this section. If the member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the code and treasury regulations. Any part of the member's interest which is in the form of an individual account described in section 414(k) of the code will be distributed in a manner satisfying the requirements of section 401(a)(9) of the code and treasury regulations that apply to individual accounts.
- (c) Determination of amount to be distributed each year.
- (1) General ~~annuity~~ requirements. If the member's interest is paid in the form of annuity distributions under the plan, payments under the annuity will satisfy the following requirements:
 - a. The annuity distributions will be paid in periodic payments made at intervals not longer than one year.
 - b. The distribution period will be over a life (or lives) or over a period certain not longer than the period described in subsection (d) or (e). The member's entire interest must be distributed pursuant to section 50-136, section 50-137, section 50-139, or section 50-140 (as applicable) and in

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any event over a period equal to or less than the member's life or the lives of the member and a designated beneficiary, or over a period not extending beyond the life expectancy of the member or of the member and a designated beneficiary. The life expectancy of the member, the member's spouse, or the member's beneficiary may not be recalculated after the initial determination for purposes of determining benefits.

~~c. Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted.~~

~~d. Payments will either be nonincreasing or increase only as follows:~~

~~1. By an annual percentage increase that does not exceed the cumulative 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 or by a fixed annual increase of five percent or less.~~

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

~~3. To provide cash refunds of accumulated contributions upon the member's death.~~

~~4. To pay increased benefits that result from a plan amendment.~~

(2) *Amount required to be distributed by required beginning date.* The amount that must be distributed on or before the member's required beginning date (or, if the member dies before distributions begin, the date distributions are required to begin under ~~subsection (b)(2)~~ section 50-137) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., ~~bi-monthly, monthly, semi-annually, or annually.~~ All of the member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the member's required beginning date.

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

~~(d) Requirements for annuity distributions that commence during a member's lifetime.~~

~~(1) Joint life annuities where the beneficiary is not the member's spouse.~~ If the member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary, annuity payments to be made on or after the member's required beginning date to the designated

~~beneficiary after the member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the member using the table set forth in Q&A-2 of section 1.401(a)(9)-6T of the treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the member and a nonspouse beneficiary and a period certain annuity, the requirements in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.~~

- ~~(2) *Period certain annuities.* Unless the member's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the member's lifetime may not exceed the applicable distribution period for the member under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the member reaches age 70, the applicable distribution period for the member is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the treasury regulations plus the excess of 70 over the age of the member as of the member's birthday in the year that contains the annuity starting date. If the member's spouse is the member's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the member's applicable distribution period, as determined under this subsection (d)(2), or the joint life and last survivor expectancy of the member and the member's spouse as determined under the joint and last survivor table set forth in section 1.401(a)(9)-9 of the treasury regulations, using the member's and spouse's attained ages as of the member's and spouse's birthdays in the calendar year that contains the annuity starting date.~~

~~(e) *Requirements for minimum distributions where member dies before date distributions begin.*~~

- ~~(1) *Member survived by designated beneficiary.* If the member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the member's entire interest will be distributed, beginning no later than the time described in subsection (b)(2)a. or (b)(2)b., over the life of the designated beneficiary or over a period certain not exceeding:~~
- ~~a. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the member's death.~~
- ~~b. If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.~~
- ~~(2) *No designated beneficiary.* If the member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the member's death, distribution of the member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the member's death.~~

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~~(3) — Death of surviving spouse before distributions to surviving spouse begin. If the member dies before the date distribution of his interest begins, the member's surviving spouse is the member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subsection (e) will apply as if the surviving spouse were the member, except that the time by which distributions must begin will be determined without regard to subsection (b)(2)a.~~

(d) General distribution rules.

(1) The amount of an annuity paid to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of section 401(a)(9)(G) of the code, and effective for any annuity commencing on or after January 1, 2008, the minimum distribution incidental benefit rule under treasury regulation section 1.401(a)(9)-6, Q&A-2.

(2) The death and disability benefits provided by the plan are limited by the incidental benefit rule set forth in section 401(a)(9)(G) of the code and treasury regulation section 1.401-1(b)(1)(i) or any successor regulation thereto. As a result, the total death or disability benefits payable may not exceed 25% of the cost for all of the members' benefits received from the retirement system.

(~~f~~ e) Definitions.

(1) *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.

(2) *Distribution calendar year.* A calendar year for which a minimum distribution is required. For distributions beginning before the member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the member's required beginning date. For distributions beginning after the member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to ~~subsection (b)(2)~~ section 50-137.

~~(3) — Life expectancy. Life expectancy as computed by use of the single life table in section 1.401(a)(9)-9 of the treasury regulations.~~

~~(4) — Required beginning date. The date specified in subsection (b)(1).~~

SECTION 12: Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-147, Miscellaneous provisions, is amended to read as follows:

Sec. 50-147. Miscellaneous provisions.

(a) *Interest of members in system.* ~~At~~ All assets of the fund are held in trust, and at no time prior to the satisfaction of all liabilities under the system with respect to retirees and 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.

(b) *No reduction of accrued benefits.* No amendment or ordinance shall be adopted by the city council which shall have the effect of reducing the then-vested accrued benefits of members or a member's beneficiaries.

(c) *Qualification of system.* It is intended that the system will constitute a qualified pension plan under the applicable provisions of the code for a qualified plan under 401(a) of the code and a governmental plan under section 414(d) of the code, as now in effect or hereafter amended. Any modification or amendment of the system may be made retroactively, if necessary or appropriate, to qualify or maintain the system as a plan meeting the requirements of the applicable provisions of the code as now in effect or hereafter amended, or any other applicable provisions of the U.S. federal tax laws, as now in effect or hereafter amended or adopted, and the regulations issued thereunder.

(d) *Use of forfeitures.* Forfeitures arising from terminations of service of members shall serve only to reduce future city contributions.

(e) *Prohibited transactions.* Effective as of January 1, 1989, a board may not engage in a transaction prohibited by section 503(b) of the code.

(f) *USERRA.* Effective December 12, 1994, notwithstanding any other provision of this system, contributions, benefits and service credit with respect to qualified military service are governed by section 414(u) of the code and the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended. To the extent that the definition of "credited service" sets forth contribution requirements that are more favorable to the member than the minimum compliance requirements, the more favorable provisions shall apply.

(g) *Vesting.*

(1) Member will be 100% vested in all benefits upon attainment of the plan's age and service requirements for the Plan's normal retirement benefit; and

(2) A member will be 100% vested in all accrued benefits, to the extent funded, if the plan is terminated or experiences a complete discontinuance of employer contributions.

(h) *Electronic forms.* In those circumstances where a written election or consent is not required by the plan or the code, an oral, electronic, or telephonic form in lieu of or in addition to a written form may be prescribed by the board. However, where applicable, the board shall comply with Treas. Reg. § 1.401(a)-21.

(e i) *Compliance with F.S. ch. 185.* It is intended that the system will continue to qualify for funding under F.S. § 185.08. Accordingly, unless otherwise required by law, any provision of the system which violates the requirements of F.S. ch. 185, as amended from time to time, shall be superseded by and administered in accordance with the requirements of such chapter.

SECTION 13: Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-148, Repeal or termination of system, is amended to read as follows:

Sec. 50-148. Repeal or termination of system.

(a) This division establishing the system and fund, and subsequent ordinances pertaining to the system and fund, may be modified, terminated or amended, in whole or in part; provided that, if this division or any subsequent ordinance shall be amended or repealed in its application to any person benefitting under this division, the amount of benefits which at the time of any such alteration, amendment or repeal shall have accrued to the member or

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with ~~strike through text~~ identifying deletions and underlined text indicating additional language.*

beneficiary shall not be affected thereby, ~~except to the extent that the assets of the fund may be determined to be inadequate.~~

(b) If this division shall be repealed, or if contributions to the system are discontinued or if there is a transfer, merger or consolidation of government units, services or functions as provided in F.S. ch. 121, the board shall continue to administer the system in accordance with the provisions of this division, for the sole benefit of the then members, any beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under one of the options provided for in this division who are designated by any of such members. In the event of repeal, discontinuance of contributions, or transfer, merger or consolidation of government units, services or functions, there shall be full vesting of 100 percent of benefits accrued to the date of repeal and ~~the assets of the system shall be allocated in an equitable manner to provide benefits on a proportionate basis to the persons so entitled in accordance with the provisions thereof~~ such benefits shall be nonforfeitable.

~~(c) The following shall be the order of priority for purposes of allocating the assets of the system as of the date of repeal of this division, or if contributions to the system are discontinued with the date of such discontinuation being determined by the board:~~

- ~~(1) Apportionment shall first be made in respect of each retiree receiving a retirement or disability benefit under this division on such date, each person receiving a benefit on such date on account of a retired or disabled (but since deceased) member, and each member who has, by such date, become eligible for normal retirement but has not yet retired, in an amount which is the actuarial equivalent of such benefit, provided that, if such asset value be 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.~~
- ~~(2) If there is any asset value remaining after the apportionment under subsection (c)(1) of this section, apportionment shall next be made in respect of each member in the service of the city on such date who is vested and who is not entitled to an apportionment under subsection (c)(1) of this section, in the amount required to provide the actuarial equivalent of the vested portion of the accrued normal retirement benefit (but not less than accumulated contributions), based on the credited service and average final compensation as of such date, and each vested former member then entitled to a deferred benefit who has not, by such date, begun receiving benefit payments, in the amount required to provide such actuarial equivalent of the vested portion of the accrued normal retirement benefit (but not less than accumulated contributions), provided that, if such remaining asset value is less than the aggregate of the amounts apportioned under this subsection, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.~~
- ~~(3) If there is any asset value after the apportionments under subsections (c)(1) and (2) of this section, apportionment shall be made in respect of each member in the service of the city on such date who is not entitled to an apportionment under subsections (c)(1) and (2) of this section in the amount equal to the member's accumulated contributions, provided that, if such remaining asset value is less than the aggregate of the amounts apportioned under this subsection, such latter amount shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.~~

~~(4) — If there is any asset value remaining after the apportionments under subsections (c)(1), (2) and (3) of this section, apportionment shall lastly be made in respect of each member included in subsection (c)(3) of this section to the extent of the non-vested actuarial equivalent of the nonvested accrued normal retirement benefit, less the amount apportioned in subsection (c)(3) of this section, based on the credited service and average final compensation as of such date, provided that, if such remaining asset value is less than the aggregate of the amounts apportioned under this subsection, such amounts shall be reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.~~

~~(5) — If there is asset value remaining after the full apportionment specified in subsections (c)(1), (2), (3) and (4) of this section, such excess shall be returned to the city, less return of the state's contributions to the state, provided that, if the excess is less than the total contributions made by the city and the state to the date of termination, such excess shall be divided proportionately to the total contributions made by the city and the state.~~

~~The allocation of the fund provided for in this subsection may, as decided by the board, be carried out through the purchase of insurance company contracts to provide the benefits determined in accordance with this subsection. The fund may be distributed in one sum to the persons entitled to such benefits or the distribution may be carried out in such other equitable manner as the board may direct. The fund may be continued in existence for purposes of subsequent distributions.~~

~~(d) — If at any time during the first ten years after the effective date of the ordinance originally establishing this system, the system shall be terminated or the full current costs of the system shall not have been met, anything in the system to the contrary notwithstanding, city contributions which may be used for the benefit of any one of the 25 highest paid members on the effective date, whose anticipated annual retirement allowance provided by the city's contributions at the member's normal retirement date would exceed \$1,500.00, shall not exceed greater of either (1) \$20,000.00, or (2) an amount computed by multiplying the smaller of \$10,000.00 or 20 percent of such member's average annual earnings during his last five years of service by the number of years of service since the effective date. If it shall hereafter be determined by statute, court decision, ruling by the Commissioner of Internal Revenue or otherwise that the provisions of this subsection are not then necessary to qualify the system under the code, this subsection shall be ineffective without the necessity of further amendment of this division.~~

~~(e) — After all the vested and accrued benefits provided under this section have been paid and after all other liabilities have been satisfied, then and only then shall any remaining fund revert to the general fund of the city.~~

(c) The fund shall be distributed in accordance with the following procedures:

(1) The board shall determine the date of distribution and the asset value required to fund all the nonforfeitable benefits after taking into account the expenses of such distribution. The board shall inform the city if additional assets are required, in which event the city shall continue to financially support the plan until all nonforfeitable benefits have been funded.

(2) The board shall determine the method of distribution of the asset value, 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 police officer entitled to benefits under the plan as specified in subsection (3).

- (3) The board shall distribute 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 is 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 is the single premium payable for such annuity. The actuarial single-sum value may not be less than the police officer's accumulated contributions to the plan, with interest if provided by the plan, less the value of any plan benefits previously paid to the police officer.
- (4) If there is asset value remaining after the full distribution specified in subsection (3), and after the payment of any expenses incurred with such distribution, such excess shall be returned to the city, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the city and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the city and the state.
- (5) The board shall distribute, in accordance with subsection (2), the amounts determined under subsection (3).

If, after 24 months after the date the plan terminated or the date the board received written notice that the contributions thereunder were being permanently discontinued, the city or the board of the fund affected has not complied with all the provisions in this section, the Florida Department of Management Services will effect the termination of the fund in accordance with this section.

SECTION 14: Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-149, Exemption from execution, non-assignability, is amended to read as follows:

Sec. 50-149. Domestic relations orders; retiree directed payments; exemption from execution, non-assignability.

- (a) *Domestic relations orders.*

 - (1) Prior to the entry of any domestic relations order which affects or purports to affect the system's responsibility in connection with the payment of benefits of a retiree, the member or retiree shall submit the proposed order to the board for review to determine whether the system may legally honor the order.
 - (2) If a domestic relations order is not submitted to the board for review prior to entry of the order, and the system is ordered to take action that it may not legally take, and the system expends administrative or legal fees in resolving the matter, the member or retiree who submits such an order will be required to reimburse the system for its expenses in connection with the order.
- (b) *Retiree directed payments.* The board may, upon written request by a retiree or by a dependent, when authorized by a retiree or the retiree's beneficiary, authorize the system to withhold from the monthly retirement payment those funds that are necessary to pay for the benefits being received through the city, to pay the certified bargaining agent of the city, to

make payment to insurance companies for insurance premiums as permitted by F.S. ch. 185 and to make any payments for child support or alimony.

(c) Exemption from execution, non-assignability. Except as otherwise provided by law, the pensions, annuities or any other benefits accrued or accruing to any person under the provisions of this division and the accumulated contributions and the cash securities in the fund created under this division are hereby exempted from any state, county or municipal tax and shall not be subject to execution, attachment, garnishment or any legal process whatsoever and shall be unassignable.

SECTION 15: Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-151, Forfeiture of pension, by adding subsection (7), to read as follows:

50-151. Forfeiture of pension.

- (7) The committing on or after October 1, 2008, of any felony defined in section 800.04, Florida Statutes, against a victim younger than 16 years of age, or any felony defined in F.S. ch. 794, against a victim younger than 18 years of age, by a public officer or employee through the use or attempted use of power, rights, privileges, duties, or position of his or her public office or employment position.

SECTION 16: Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-154, Credit for military service prior to employment, subsection (2), is amended to read as follows:

Sec. 50-154. Credit for military service prior to employment.

- (2) Multiple requests to purchase credited service pursuant to this section may be made at any time prior to retirement ~~but no purchase is permitted for less than one year.~~

SECTION 17: Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-157, Direct transfers of eligible rollover distributions; elimination of mandatory distributions, subsections (a)(2) and (b)(2), are amended to read as follows:

Sec. 50-157. Direct transfers of eligible rollover distributions; elimination of mandatory distributions.

- (a)(2) *Definitions.* As used in the section, the following words and terms shall have the meanings designated in this subsection:
- a. *Eligible rollover distribution* means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the code; and the portion of any distribution that is not includable in gross income. Any Effective January 1, 2002, any portion of any distribution which would be includable in gross income as after-tax employee contributions will be an eligible rollover distribution if the

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distribution is made to an individual retirement account described in section 408(a) of the code; to an individual retirement annuity described in section 408(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 (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible; or on or after January 1, 2007, to a qualified defined benefit plan described in section 401(a) of the code or to an annuity contract described in section 403(b) of the code, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible.

- b. *Eligible retirement plan* means 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; effective January 1, 2002, an eligible deferred compensation plan described in section 457(b) of the code which is maintained by an eligible employer described in section 457(e)(1)(A) of the code and which agrees to separately account for amounts transferred into such plan from this plan; effective January 1, 2002, an annuity contract described in section 403(b) of the code; ~~or~~ a qualified trust described in section 401(a) of the code; or effective January 1, 2008, a Roth IRA described in section 408A of the code, that accepts the distributee's eligible rollover distribution. This definition shall also apply in the case of an eligible rollover distribution to the surviving spouse.
 - c. *Distributee* includes an employee or former employee. In addition, it also includes the employee's or former employee's surviving spouse ~~is a distributee with regard to the interest of the spouse and the employee's or former employee's spouse or former spouse.~~ Effective January 1, 2007, it further includes a non-spouse beneficiary who is a designated beneficiary as defined by section 401(a)(9)(E) of the code. However, a non-spouse beneficiary may rollover the distribution only to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution and the account or annuity will be treated as an "inherited" individual retirement account or annuity.
 - d. *Direct rollover* means a payment by the plan to the eligible retirement plan specified by the distributee.
- (b)(2) *Member rollover contributions from IRAs.* The system will accept a member rollover contribution of the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the code that is eligible to be rolled over ~~and would otherwise be includible in gross income.~~

SECTION 18: Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, of Section 50-158, Deferred retirement option plan, subsections (b)(5)a., (c)(2)c., and (d)(2)a., are amended to read as follows:

Sec. 50-158, Deferred retirement option plan.

(b)(5)a. A member's credited service and his accrued benefit under the system shall be determined on the date of his election to participate in the DROP first becomes effective. The member's salary for the purposes of calculating his average final compensation shall include any lump sum payments paid to the member or for the benefit of the member and included as salary as defined herein, which amounts shall be paid by the city upon the member's entry into the DROP. Member contributions attributable to any lump sums used in the benefit calculation and not actually received by the member shall be deducted from the first payments to the member's DROP account. The member shall not accrue any additional credited service or any additional benefits under the system (except for any additional benefits provided under any cost-of-living adjustment in the system) while he is a participant in the DROP. After a member commences participation, he shall not be permitted to again contribute to the system nor shall he be eligible for disability or pre-retirement death benefits, except as provided for in section 50-160.

(c)(2)c. A member's DROP account shall only be credited or debited with earnings or interest and monthly benefits while the member is a participant in the DROP. A member's final DROP account value for distribution to the member upon termination of participation in the DROP shall be the value of the account at the end of the quarter immediately preceding termination of participation date plus any monthly periodic additions made to the DROP account subsequent to the end of the previous quarter and prior to distribution. If a member is employed by the police department after participating in the DROP for the permissible period of DROP participation, then beginning with the member's 1st month of employment following the last month of the permissible period of DROP participation, the member's DROP account will no longer be credited or debited with earnings or interest, nor will monthly benefits be transferred to the DROP account. All such non-transferred amounts shall be forfeited and continue to be forfeited while the member is employed by the police department. A member employed by the police department after the permissible period of DROP participation will still not be eligible for pre-retirement death or disability benefits, nor will he accrue additional credited service, only as provided for in section 50-160.

(d)(2) *Form of distribution.*

a. Unless the member elects otherwise, distribution of his DROP account shall be made in a cash lump sum. A member may elect, in such time and manner as the board shall prescribe, to receive an optional form of benefit described below.

~~1.~~ Until the value of the member's DROP account is completely depleted, payments in approximately equal quarterly or annual installments over a period, designated by the member, not to exceed the life expectancy of the last survivor of the member and

his beneficiary. In the event that the member dies before all installments have been paid, the remaining balance in his DROP account shall be paid in an immediate cash lump sum to his beneficiary, or if none is designated, then to the member's estate.

- ~~2. The purchase of a nonforfeitable fixed annuity payable in such form as the member may elect. Elections under this clause 2. shall be in writing and shall be made in such time or manner as the board shall determine.~~

SECTION 19: Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-159, Prior police service, is amended to read as follows:

Sec. 50-159. Prior police service.

Unless otherwise prohibited by law, and except as provided for in section 50-131, the time that a member previously served as a full-time police officer with the city during a period of previous employment and for which period accumulated contributions were withdrawn from the fund, or the years that a member served as a police officer for any other municipal, county or state law enforcement department in the ~~United States~~ state of Florida shall be added to his years of credited service provided that:

- (1) The member contributes to the fund the sum that he would have contributed had he been a member of the system for the time for which he is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the fund plus payment of costs for all professional services rendered to the board in connection with the purchase of years of credited service.
- (2) Multiple requests to purchase credited service pursuant to this section may be made at any time prior to retirement, ~~but no purchase is permitted for a period of less than one year.~~
- (3) Payment by the member of the required amount shall be made within six months of his request for credit, but not later than the retirement date, and shall be made in one lump sum payment upon receipt of which credited service shall be given.
- (4) The maximum credit under this section for service other than with the city, when combined with credited service purchased for military service prior to employment, shall be five years of credited service and shall count for all purposes, except vesting and eligibility for not-in-line of duty disability benefits. There shall be no maximum purchase of credit for prior service with the city and such credit shall count for all purposes, including vesting.
- (5) In no event, however, may credited service be purchased pursuant to this section for prior service with any other municipal, county or state law enforcement department, if such prior service forms or will form the basis of a retirement benefit or pension from another retirement system or plan as set forth in section 50-145, maximum pension section of plan, subsection ~~(h)(2)~~ (l)(2).
- (6) For purposes of determining credit for prior service as a police officer as provided for in this section, in addition to service as a police officer in this state, credit may be purchased by the member in the same manner as provided above

for federal, other state, county or municipal service if the prior service is recognized by the Criminal Justice Standards and Training Commission within the Department of Law Enforcement, as provided under F.S. ch. 943, or the police officer provides proof to the board that such service is equivalent to the service required to meet the definition of a police officer under section 50-131, Definitions.

SECTION 20: Chapter 50, Article III, Division 3, Municipal Police Officers' Pension Trust Fund, Section 50-160, Reemployment after retirement, is added to read as follows:

Sec. 50-160. Reemployment after retirement.

(a) Any retiree who is retired under this system, except for disability retirement as previously provided for, may be reemployed by any public or private employer, except the city, and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this system. Reemployment by the city shall be subject to the limitations set forth in this section.

(b) *After normal retirement.* Any retiree who is retired under normal retirement pursuant to this system and who is reemployed as a police officer after that retirement and, by virtue of that reemployment, is eligible to participate in this system, shall upon being reemployed discontinue receipt of benefits. Upon reemployment, the retiree shall be deemed to be fully vested and the additional credited service accrued during the subsequent employment period shall be used in computing a second benefit amount attributable to the subsequent employment period, which benefit amount shall be added to the benefit determined upon the initial retirement to determine the total benefit payable upon final retirement. Calculations of benefits upon retirement shall be based upon the benefit accrual rate, average final compensation, and credited service as of that date and the retirement benefit amount for any subsequent employment period shall be based upon the benefit accrual rate, average final compensation (based only on the subsequent employment period), and credited service as of the date of subsequent retirement. The amount of any death or disability benefit received as a result of a subsequent period of employment shall be reduced by the amount of accrued benefit eligible to be paid for a prior period of employment. The optional form of benefit and any joint pensioner selected upon initial retirement shall not be subject to change upon subsequent retirement except as otherwise provided herein, but the member may select a different optional form and joint pensioner applicable to the subsequent retirement benefit.

(c) Any retiree who is retired under normal retirement pursuant to this system and who is reemployed by the city after that retirement and, by virtue of that reemployment is ineligible to participate in this system, shall, during the period of such reemployment, continue receipt of benefits during any subsequent employment period.

(d) *After early retirement.* Any retiree who is retired under early retirement pursuant to this system and who subsequently becomes an employee of the city in any capacity shall discontinue receipt of benefits from the system. If by virtue of that reemployment, the retiree is eligible to participate in this system, the retiree shall be deemed to be fully vested and the additional credited service accrued during the subsequent employment period shall be used in computing a second benefit amount attributable to the subsequent employment period, which benefit amount shall be added to the benefit determined upon the initial retirement to determine the total benefit payable upon final retirement. Calculations of benefits upon retirement shall be based upon the benefit accrual rate, average final compensation, credited service and early retirement reduction factor as of that date and the retirement benefit amount

for any subsequent employment period shall be based upon the benefit accrual rate, average final compensation (based only on the subsequent employment period), and credited service as of the date of subsequent retirement. The amount of any death or disability benefit received as a result of a subsequent period of employment shall be reduced by the amount of accrued benefit eligible to be paid for a prior period of employment. The optional form of benefit and any joint pensioner selected upon initial retirement shall not be subject to change upon subsequent retirement except as otherwise provided herein, but the member may select a different optional form and joint pensioner applicable to the subsequent retirement benefit. Retirement pursuant to an early retirement incentive program shall be deemed early retirement for purposes of this section if the member was permitted to retire prior to the customary retirement date provided for in the system at the time of retirement.

(e) *Reemployment of terminated vested persons.* Reemployed terminated vested persons shall not be subject to the provisions of this section until such time as they begin to actually receive benefits. Upon receipt of benefits, terminated vested persons shall be treated as normal or early retirees for purposes of applying the provisions of this section and their status as an early or normal retiree shall be determined by the date they elect to begin to receive their benefit.

(f) *DROP participants.* Members or retirees who are or were in the deferred retirement option plan shall, following termination of employment after DROP participation, have the options provided for in this section for reemployment.

SECTION 21: All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 22: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 23: Specific authority is hereby granted to codify and incorporate this ordinance in the existing code of ordinances of the City of Venice.

SECTION 24: Effective Date. This ordinance shall take effect upon adoption.

PASSED BY THE COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 24TH DAY OF SEPTEMBER, 2013.

First Reading: September 10, 2013
Final Reading: September 24, 2013

ADOPTION: September 24, 2013

John W. Holic, Mayor

ATTEST:

Lori Stelzer, MMC
City Clerk

Approved as to form:

City Attorney Dave Persson

I, LORI STELZER, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the Venice City Council, at a meeting thereof duly convened and held on the 24th day of September, 2013, a quorum being present.

WITNESS my hand and the official seal of said City this 25th day of September, 2013.

Lori Stelzer, MMC, City Clerk