

**CITY OF HANNIBAL, MISSOURI
POLICEMEN AND FIREMEN
RETIREMENT FUND**

Effective September 1, 2017

**Restated by Ordinance No. 4756
Approved by Council on
August 15, 2017**

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INTRODUCTION

The City of Hannibal, Missouri (herein referred to as the "City") previously established a retirement plan for full time police and fire members in recognition of the service provided by such members. The Plan was originally effective July 18, 1973. The Plan is hereby amended and restated effective August 1, 2017.

It is intended that this Plan shall be approved and qualified by the Internal Revenue Service under Section 401(a) of the Internal Revenue Code and any applicable regulations issued thereunder with respect to employee plans and trusts so: (a) Employer contributions will not be taxable to Members as income until received; and (b) the income of the trust shall be exempt from federal income taxes.

This amendment and restatement is effective with respect to any disability that occurs after July 31, 2017. Disabilities occurring prior to August 1, 2017 shall be subject to the Plan as in effect on the date of the disability.

SECTION I - DEFINITIONS

1.01 ACCRUED BENEFIT

Shall mean, at any time, a monthly benefit payable in the form of a single life annuity starting on the Normal Retirement Date, equal to the benefit determined under Section 4.01, based on Years of Service and Average Monthly Compensation as of the date such benefit is being determined.

1.02 ACTUARIAL EQUIVALENT

Shall mean a form of benefit differing in time, period, or manner of payment from a specific benefit provided under the Plan but having the same present value on the Benefit Payment Commencement Date. The Member's mortality (both pre-retirement and post-retirement) is based on the Male 1983 Group Annuity Mortality Table. The Beneficiary's mortality is based on the Female 1983 Group Annuity Mortality Table. The interest rate is 7% (both pre-retirement and post-retirement).

1.03 AVERAGE MONTHLY COMPENSATION

Shall mean the monthly average of the Member's Compensation during the highest continuous twelve (12)-month period in the five (5) years immediately preceding retirement. Lump sum payments paid at the time of termination are not included for benefit purposes.

1.04 BENEFICIARY

Shall mean the Member's Eligible Spouse, or such other named person pursuant to an optional form of benefit under Section V, who may be eligible to receive benefits which are payable under the Plan upon or after the death of a Member.

1.05 BENEFIT PAYMENT COMMENCEMENT DATE

Shall mean the first day of the first period for which a benefit is payable under the Plan.

1.06 BOARD OF TRUSTEES

Shall be made up of the following representatives of the City:

- City Clerk;
- Two representatives of the Fire Department (to be elected by the respective departments);
- Two representatives of the Police Department (to be elected by the respective departments);
- Two "at large" representatives appointed by the City Manager; and
- Two alternates - one from the Fire Department and one from the Police Department (to be elected by the respective departments).

The term of office of such representatives is three (3) years. Selected members from each Department will be elected on alternate years. The City Clerk shall be the official record keeper of the Board of Trustees.

1.07 CITY

Shall mean the City of Hannibal, Missouri.

1.08 CODE

Shall mean the Internal Revenue Code of 1986, as amended.

1.09 COMPENSATION

Shall mean a Member's regular base wages or base salary paid by the City as per payroll ordinance. Base salary for this purpose does not include payments for excess unused-accrued-sick leave, unused vacation, clothing allowance, holiday pay, overtime pay, out of rank pay or any other additional benefit or pay not stated in the base salary pay for said Member.

Compensation in excess of the annual compensation limit in effect for the Plan Year under Code Section 401(a)(17) shall be disregarded under the Plan. For the Plan Year beginning January 1, 2017, the annual compensation limit is \$270,000, as adjusted thereafter by the Commissioner for increases in the cost-of-living in

accordance with Code Section 401(a)(17)(B). The adjusted annual compensation limit in effect for a calendar year shall be effective for the Plan Year beginning in such calendar year. If a determination period consists of fewer than twelve (12) months, the Code Section 401(a)(17) annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is twelve (12).

1.10 EARLY RETIREMENT AGE

Shall mean the age at which the Member completes twenty (20) continuous Years of Service.

1.11 ELIGIBLE CHILD

Shall mean the Member's surviving natural or adopted children who are under the age of eighteen (18) or, if full-time students, age twenty-three (23).

1.12 ELIGIBLE SPOUSE

Shall mean the Member's surviving opposite sex legal spouse or surviving same sex legal spouse under the law of the State in which the marriage was formalized, who is married to the Member on the earlier of the Benefit Payment Commencement Date or the Member's death.

1.13 EMPLOYMENT COMMENCEMENT DATE

Shall mean the date on which a Member first performs an Hour of Service for the City.

1.14 FUND

Shall consist of all amounts held in trust by the Board of Trustees pursuant to Section VII.

1.15 HOURS OF SERVICE

Shall mean each hour that a Member is:

- (a) Directly paid or entitled to payment, by the City for the performance of duties during the applicable computation period;
- (b) Directly paid or entitled to payment, by the City because of a period of time during which no duties are performed (regardless of whether the employment relationship has terminated), e.g., vacation, holiday, illness, incapacity, lay-off, jury duty, military duty, or approved leave of absence, during the applicable computation period; or

- (c) Awarded (or has reached an agreement for) back pay by the City (credited for the computation period or periods to which such award or agreement pertains), regardless of mitigation of damages.

Notwithstanding the above, (1) no more than 501 Hours of Service are required to be credited to a Member on account of any single continuous period during which the Member performs no duties (irrespective of whether such period occurs in a single computation period); (2) an hour for which a Member is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed, is not required to be credited to the Member if such payment is made or due under a plan maintained solely for the purpose of complying with applicable workers' compensation, unemployment compensation or disability insurance laws; and (3) Hours of Service are not required to be credited for a payment that solely reimburses a Member for medical or medically-related expenses incurred by the Member.

For purposes of this Section, a payment shall be deemed to be made by or due from the City regardless of whether such payment is made by or due from the City directly, or indirectly through, among others, a trust fund, or insurer, to which the City contributes or pays premiums and regardless of whether contributions made or due to the trust fund, insurer, or other entity are for the benefit of particular Members or are on behalf of a group of Members in the aggregate.

Notwithstanding any provision of this Plan to the contrary, benefit accruals and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

1.16 MEMBER

Shall mean for purposes of the Plan any person who is currently, or hereafter, employed by the City as a police officer or firefighter and makes mandatory contributions to the Plan as provided in Section 2.02. Member shall not include, however, any department head who is not a Member of the Plan at the time of his or her hire into such position (i.e., any department head who is hired into such position from outside the City).

1.17 NORMAL RETIREMENT AGE

For those Members hired prior to July 1, 2007, shall mean the age at which the Member completes twenty-five (25) continuous Years of Service.

For those Members hired on or after July 1, 2007, shall mean the later of the age at which the Member completes twenty-five (25) continuous Years of Service or reaches age fifty-five (55).

1.18 NORMAL RETIREMENT DATE

Shall mean the first day of the month coincident with or immediately following the Member's attainment of Normal Retirement Age.

1.19 ONE-YEAR BREAK IN SERVICE

Shall mean the applicable computation period during which a Member has not completed more than 500 Hours of Service with the City. Solely for the purpose of determining whether a Member has incurred a One-Year Break in Service, Hours of Service shall be recognized for "authorized leaves of absence," "maternity and paternity leaves of absence" and "family and medical leaves of absence." Years of Service and One-Year Breaks in Service shall be measured on the same computation period.

"Authorized leave of absence" means an unpaid, temporary cessation from active employment with the City pursuant to an established nondiscriminatory policy, whether occasioned by illness, military service, or any other reason.

A "maternity or paternity leave of absence" means an absence from work for any period by reason of the Member's pregnancy, birth of the Member's child, placement of a child with the Member in connection with the adoption of such child, or any absence for the purpose of caring for such child for a period immediately following such birth or placement. For this purpose, Hours of Service shall be credited for the computation period in which the absence from work begins, only if credit is necessary to prevent the Member from incurring a One-Year Break in Service, or, in any other case, in the immediately following computation period. The Hours of Service credited for a "maternity or paternity leave of absence" shall be those that would normally have been credited but for such absence, or, in any case in which the Administrator is unable to determine such hours normally credited, eight (8) Hours of Service per day. The total Hours of Service required to be credited for a "maternity or paternity leave of absence" shall not exceed 501.

A "family and medical leave of absence" means a leave of absence taken on or after August 5, 1993, which is a qualified leave under the Family and Medical Leave Act of 1993 (FMLA).

1.20 PLAN

Shall mean the City of Hannibal, Missouri Policemen and Firemen Retirement Fund, as set forth in this document and as may be amended from time to time in the future.

1.21 PLAN YEAR

Shall mean the twelve (12)-month period beginning each July 1 and ending on the following June 30.

1.22 RETIREMENT DATE

Shall mean the date a Member retires.

1.23 YEAR OF SERVICE

Shall mean a computation period during which a Member is credited with at least 1,000 Hours of Service. For partial computation periods (i.e., a Member's year of termination), one-fourth ($\frac{1}{4}$) of a Year of Service is credited for each computation period quarter during which a Member is credited with at least 250 Hours of Service. A computation period is the twelve (12)-month period commencing on the Member's Employment Commencement Date and each subsequent anniversary of his or her Employment Commencement Date.

If a Member terminates employment with the City and is later rehired by the City after incurring a One-Year Break in Service, the Member's pre-break Years of Service shall not be counted for Plan purposes, unless such Member had accepted an appointment as the director of any administrative department of the City of which he or she is a member at the time of his or her appointment or as specifically provided below.

Notwithstanding any provision of this Plan to the contrary:

- (a) A Member who leaves the service of the City to serve in the armed services of the United States in any qualifying military deployment shall be entitled to service crediting under the Plan in accordance with Code Section 414(u); and
- (b) Any Member who is placed on temporary total disability due to a work-related injury shall be entitled to service crediting under the Plan as if he or she were actively working for the City during the time of such temporary total disability; provided that the Member returns to his or her respective department immediately upon receiving a medical release to return to work.

Upon return from a leave provided above, said Member will be allowed a time period equal to three (3) times the length of uniformed service (or as otherwise provided in Code Section 414(u) or temporary total disability period, but not longer than five (5) years, to make-up contributions pursuant to Section 2.02 of the Plan that would have been made to the Plan but for the Member's leave. In the case of a Member returning after a period of temporary total disability, the Member's make-up contribution will equal nine and one-half percent (9.5%) of

his or her temporary total disability payment during such period of disability. A Member on temporary total disability leave may elect to pay such contribution from his or her temporary total disability payment during the leave.

SECTION II - FUNDING

2.01 CITY CONTRIBUTIONS

The City shall contribute to the Plan each Plan Year the amount deemed necessary to fund benefits under this Plan based on the annual recommendations of an enrolled actuary and subject to the review of the City's auditor; provided, however, that the City's contribution for any Plan Year shall not be less than its contribution for the preceding Plan Year (unless the funding ratio, as determined by an enrolled actuary and reflected in the most recent actuarial study, is 80% or greater), nor shall its contribution for any Plan Year increase by more than 3% above its contribution for the preceding Plan Year. For purposes of this Section 2.01, the City's contribution shall be expressed as a percentage of gross compensation. For this purpose, "gross compensation" means all wages, allowances, paid benefits, and other compensation paid to Members. All contributions shall be irrevocable and shall be used for the exclusive benefit of Members and their Beneficiaries, subject to the provisions of Section 10.08.

2.02 EMPLOYEE CONTRIBUTIONS

The City shall deduct the following percentage applicable to each Plan Year from each Member's gross compensation (as defined in Section 2.01 above) on an after-tax basis and contribute it to the Plan:

July 1, 2016 - June 30, 2017	12.5%
July 1, 2017 - June 30, 2018	13%
July 1, 2018 - June 30, 2019	13.5%
July 1, 2019 - June 30, 2020	14%
July 1, 2020 - June 30, 2021	14.5%
July 1, 2021 - June 30, 2022 and subsequent Plan Years	15%

SECTION III - ELIGIBILITY AND PARTICIPATION

3.01 PARTICIPATION

Any Member shall be eligible to participate in the Plan on his or her Employment Commencement Date.

A Member shall not be allowed to waive participation in the Plan for any reason.

3.02 RE-EMPLOYMENT RULES

Any Member who terminates employment with the City and is later rehired as a Member shall be eligible to participate in the Plan immediately on the date of his or her rehire. Prior service shall be credited only as provided in Section 1.23.

SECTION IV - RETIREMENT DATES AND BENEFITS

4.01 NORMAL RETIREMENT

A Member may retire on his or her Normal Retirement Date, and payment of the retirement benefit shall be governed by the following provisions:

- (a) **Benefit Amount:** A Member's monthly normal retirement benefit shall be equal to 65% of the Member's Average Monthly Compensation.
- (b) **Benefit Payments:** Retirement benefits shall be payable in the form of a lifetime annuity on the first day of each month. The first payment shall be made on the first day of the month that falls on or immediately follows the Member's Retirement Date.

A Member's right to his or her normal retirement benefit shall become nonforfeitable upon the attainment of Normal Retirement Age.

4.02 LATE RETIREMENT

A Member may retire after his or her Normal Retirement Age, and payment of the retirement benefit shall be governed by the following provisions:

- (a) **Benefit Amount:** For a Member who continues to work after reaching his or her Normal Retirement Age, his or her retirement benefit shall be that provided in Section 4.01 above; provided, however, that an additional 1% of Average Monthly Compensation shall be added to the 65% stated therein for each Year of Service after twenty-five (25) Years of Service, to a maximum of 70% of Average Monthly Compensation.
- (b) **Benefit Payments:** Late retirement benefits shall be payable in the form of a lifetime annuity on the first day of each month. The first payment shall be made on the first day of the month that falls on or immediately follows the Member's Retirement Date.

4.03 EARLY RETIREMENT

A Member may retire after his or her Early Retirement Age, but before his or her Normal Retirement Age, and payment of the retirement benefit shall be governed by the following provisions:

- (a) **Benefit Amount - Pre-July 1, 2007 Members:** A Member hired prior to July 1, 2007 is entitled to an early retirement benefit payable immediately upon retirement equal to 55% of Average Monthly Compensation. An additional 2% of Average Monthly Compensation is added for each full Year of Service between twenty (20) and twenty-five (25) Years of Service.

- (b) **Benefit Amount - Post July 1, 2007 Members:** A Member hired on or after July 1, 2007 is entitled to an early retirement benefit payable when he or she reaches age fifty-five (55) equal to 55% of Average Monthly Compensation. An additional 2% of Average Monthly Compensation is added for each full Year of Service between twenty (20) and twenty-five (25) Years of Service.
- (c) **Benefit Payments:** Early retirement benefits shall be payable in the form of a lifetime annuity on the first day of each month. The first payment pursuant to Section 4.03(a) above shall be made on the first day of the month that falls on or immediately follows the Member's Retirement Date and the first payment pursuant to Section 4.03(b) above shall be made on the first day of the month that falls on or immediately follows the Member's attainment of age fifty-five (55).

4.04 VESTED BENEFITS

- (a) **Benefit Amount:** Any Member who terminates his or her employment with the City and is credited with at least twelve (12) Years of Service, but less than twenty (20) Years of Service, is entitled to a vested benefit of 2.5% of his or her Average Monthly Compensation, multiplied by his or her Years of Service. In the alternative, a Member described above may, in lieu of receiving such vested benefit, elect a single lump sum distribution of his or her accumulated employee contributions, without earnings.

The Member's election shall be made by notifying the City Clerk in writing within thirty (30) calendar days after his or her termination; provided, however, that a Member who timely elects to receive the vested benefit described in the preceding paragraph may at any time prior to his or her attainment of age fifty-five (55), elect to waive such benefit and receive a single lump sum distribution of his or her accumulated employee contributions. A Member who fails to make a timely election shall be deemed to have elected to receive a single lump sum payment of his or her accumulated employee contributions. In no event shall a Member receive both the vested benefit and his or her accumulated employee contributions.

- (b) **Benefit Payments:** Vested benefits shall be payable in the form of a lifetime annuity on the first day of each month. The first payment shall be payable on the first day of the month that falls on or follows the Member's attainment of age fifty-five (55).

4.05 CHIEF OF THE DEPARTMENT RETIREMENT PROVISION

- (a) **Benefit Amount:** Any Member who: (1) has served as Chief of his or her Police or Fire Department for longer than twelve (12) months, (2) has at least eighteen (18) Years of Service, but less than twenty (20) Years of Service, and (3) terminates employment for any reason other than in connection with the commission of a felonious criminal act, may elect the normal retirement benefit provided in Section 4.01 in lieu of any other benefits to which he or she may be entitled under the Plan. If the Member elects such benefit, he or she shall not be entitled to return of his or her accumulated employee contributions pursuant to Section 4.06 regardless of his or her date of hire.
- (b) **Benefit Payments:** Retirement benefits under this Section 4.05 shall be payable in the form of a lifetime annuity on the first day of each month. The first payment shall be payable on the first day of the month that falls on or follows the date the Member is credited with his or her twentieth (20th) Year of Service.

4.06 RETURN OF EMPLOYEE CONTRIBUTIONS

- (a) Any Member hired prior to July 1, 2005, shall receive his or her accumulated employee contributions in a single lump sum payment, without earnings, as soon as administratively practicable following termination of employment (other than on account of death), unless he or she is entitled to a vested benefit pursuant to Section 4.04 or a disability benefit pursuant to Article VI.
- (b) Any member hired on or after July 1, 2005, shall receive his or her accumulated employee contributions in a single lump sum payment, without earnings, as soon as administratively practicable following termination of employment (other than on account of death), unless he or she is entitled to a normal retirement benefit under Section 4.01, a late retirement benefit pursuant to Section 4.02, an early retirement benefit pursuant to Section 4.03, a vested benefit pursuant to Section 4.04 or a disability benefit pursuant to Article VI.
- (c) If the Member's accumulated employee contributions do not exceed \$1,000 and he or she is otherwise entitled to a distribution of such contributions as provided hereunder, they shall be distributed to the Member without his or her consent unless he or she elects to roll over such amounts as provided in Section 4.10. If the Member's accumulated employee contributions exceed \$1,000, the Member must elect to receive such amounts directly or to roll over such amounts as provided in Section 4.10; such contributions may not be distributed without the Member's written consent.

4.07 MAXIMUM ANNUAL BENEFIT LIMITATION

Notwithstanding anything herein to the contrary, the limitations, adjustments and other requirements prescribed in the Plan shall comply with the provisions of Code Section 415 and the final regulations promulgated thereunder, the terms of which are specifically incorporated herein by reference as of July 1, 2007. For purposes of this Section 4.07 and Code Section 415, the Plan's limitation year shall be the Plan Year.

4.08 REQUIRED MINIMUM DISTRIBUTIONS

Notwithstanding anything herein to the contrary, in accordance with Code Section 401(a)(9) and guidance issued thereunder, a Member's retirement benefit shall commence no later than the first day of April immediately following the calendar year in which the Member attains age 70½ or terminates his or her employment with the City, whichever is later. The Member's retirement benefit shall be paid over a period not longer than the life of the Member or the lives of the Member and any designated Beneficiary in accordance with Code Section 401(a)(9). This Section 4.08 shall be applied in accordance with a reasonable and good faith interpretation of Code Section 401(a)(9), including the incidental death benefit requirement under section 401(a)(9)(G).

If the Member dies before distribution of the Member's interest has commenced, distribution of a death benefit shall be completed by the end of the calendar year which contains the fifth (5th) anniversary of the date of the Member's death. Such distribution need not be completed within such five (5)-year period if the distribution is for a period not longer than the life expectancy of the Beneficiary and commences on or before the end of the calendar year immediately following the calendar year in which the Member's death occurred, or if the Beneficiary is the Member's spouse, not later than the later of the end of the calendar year immediately following the calendar year in which the Member died or the end of the calendar year in which the Member would have attained age 70½.

If the distribution of the Member's interest has commenced prior to his or her death and he or she dies before his or her entire interest has been distributed to him or her, the remaining portion of such interest shall be distributed to his or her spouse or Beneficiary at least as rapidly as under the method of distribution as of his or her date of death.

4.09 APPLICABLE BENEFIT PROVISIONS

The determination of the Accrued Benefit to which any Member or Beneficiary is entitled shall be governed by the terms of the Plan in effect on the date of the Member's termination of employment, unless a subsequent amendment provides otherwise.

4.10 DIRECT ROLLOVER

- (a) Election. Notwithstanding any contrary provision of the Plan that otherwise would limit a distributee's election of a form of distribution under the Plan, a distributee may elect, at the time and in the manner prescribed by the Board of Trustees, to have all of an eligible rollover distribution paid as a direct rollover to an eligible retirement plan specified by the distributee.
- (b) Definitions.
 - (1) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or a portion of the balance to the credit of the distributee of at least \$200, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (made not less frequently than annually) for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and his or her designated Beneficiary, or for a specified period of ten years or more; and any distribution to the extent such distribution is required under Code Section 401(a)(9).
 - (2) Eligible retirement plan: An eligible retirement plan is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), a tax deferred annuity described in Code Section 403(b), a qualified trust described in Code Section 401(a), or an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state which agrees to separately account for amounts transferred into such plan from this Plan, that accepts the eligible rollover distribution; provided, however, that only an inherited individual retirement account or annuity described in Code Section 408(a) or 408(b) that was established for the purpose of receiving benefits under the Plan and a Roth individual retirement account described in Section 408A that is treated as an inherited IRA shall be considered an eligible retirement plan with respect to a distributee who is a non-spouse designated beneficiary. An eligible retirement plan shall also include a Roth individual retirement account described in Code Section 408A.
 - (3) Direct rollover: A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.
 - (4) Distributee: An employee or former employee; and an employee's or former employee's surviving spouse. Distributee also includes

an employee's or former employee's non-spouse designated beneficiary.

SECTION V - DEATH BENEFITS

5.01 DEATH BEFORE BENEFIT PAYMENT COMMENCEMENT DATE

- (a) **Benefit Amount:** If a Member dies while actively employed by the City, his or her surviving Eligible Spouse is entitled to a benefit equal to the amount the Member would have received if he or she had terminated employment on his or her date of death; provided, however, that in the event the Member was credited with at least ten (10) years of service, but less than twenty (20) Years of Service, as of his or her death, the Eligible Spouse is entitled to a benefit equal to 2.5% of Average Monthly Compensation, multiplied by the Member's Years of Service. In the alternative, the Eligible Spouse may, in lieu of receiving such benefit, elect a single lump sum distribution of the Member's accumulated employee contributions, without earnings.

The Eligible Spouse's election shall be made in writing by notifying the City Clerk within sixty (60) calendar days after the Member's death. An Eligible Spouse who fails to make a timely election shall be deemed to have elected to receive the monthly benefit described above.

- (b) **Benefit Payments:** Benefits shall be payable in the form of a lifetime annuity on the first day of each month; provided however, that all payments shall cease upon the Eligible Spouse's death or remarriage. The first payment shall be made on the first day of the month that falls on or immediately follows the Member's death.

5.02 DEATH AFTER BENEFIT PAYMENT COMMENCEMENT DATE

If a Member dies after his or her Benefit Payment Commencement Date, other than with respect to disability benefits under Article VI, his or her Eligible Spouse is entitled to continue the benefit the Member was receiving at his or her death; provided however, that all payments shall cease upon the Eligible Spouse's death or remarriage.

5.03 DEPENDENT CHILD BENEFIT

- (a) **Benefit Amount:** In the event an Eligible Spouse benefit is paid pursuant to Section 5.01 or 5.02 and the Member also had Eligible Children as of his or her death, an additional benefit equal to \$25 per month per Eligible Child shall be paid to the Eligible Spouse until the child ceases to be an Eligible Child.

In the event the Member dies without an Eligible Spouse, or the Eligible Spouse dies or remarries, the benefit that would otherwise have been paid to an Eligible Spouse shall be divided equally among all Eligible Children and shall continue to each such Eligible Child until the child ceases to be

an Eligible Child; provided, however, that any payment under this Section to an Eligible Child shall be reduced by any workers' compensation payments received by such Child from any source.

- (b) **Benefit Payments:** Benefits shall be payable in the form of an annuity on the first day of each month; provided however, that payments shall cease as provided above. The first payment shall be made on the first day of the month that falls on or immediately follows the Member's death or, if applicable, the Eligible Spouse's death or remarriage.

5.04 DEATH DURING DISABILITY

If a Member dies while receiving disability benefits under Section 6.01, his or her surviving spouse or dependents shall be entitled to receive any survivor benefits available under the group disability policy referenced in Section 6.01. In addition, and notwithstanding anything herein to the contrary, his or her Eligible Spouse, if any, shall receive the Member's accumulated employee contributions in a single lump sum payment, without earnings, as soon as administratively practicable following the Member's death.

SECTION VI - DISABILITY BENEFITS

6.01 DISABILITY BENEFIT

- (a) **Underlying Policy.** Members shall be eligible for a disability benefit per the terms of the policy of group disability insurance held by the Trust Fund from time to time and attached hereto as Exhibit A. Neither the Trust Fund nor the City shall be obligated to pay any disability benefits under the Plan, other than premiums on such policy.
- (b) **Coordination with Retirement Benefit.** If a Member is entitled to a benefit under this Section 6.01 and also eligible for a benefit under Article IV, the Member may elect to retire and waive his or her benefit under this Section 6.01 in lieu of the benefit under Article IV, subject to the terms and conditions of Article IV. While receiving benefits under Section 6.01, a Member shall not be entitled to receive any other benefit under this Plan.

6.02 CESSATION OF DISABILITY

While receiving benefits under Section 6.01, a Member shall not be entitled to receive any other benefit under this Plan. If a Member who is receiving benefits under Section 6.01 ceases to be disabled or his or her benefit under Section 6.01 ceases for any other reason, to the extent otherwise entitled to receive benefits under Article IV, he or she shall be entitled to receive a benefit provided in Article IV, subject to the terms and conditions of Article IV. Any such benefit shall commence as soon as administratively practicable following the cessation of benefits under Section 6.01; the Member shall not be entitled to benefit payments for any retroactive period.

SECTION VII - MANAGEMENT AND ADMINISTRATION

7.01 GENERAL FIDUCIARY DUTIES

- (a) Fiduciaries shall act with the care, skill, prudence, and diligence under the circumstances that a prudent person, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims.
- (b) In the course of administration of the Plan, fiduciaries may delegate in writing such duties and responsibilities to other parties.
- (c) Each fiduciary is responsible for the duties and responsibilities that are specifically allocated to them under this Section VII, and is responsible for no other duties under the Plan.
- (d) A fiduciary may serve in more than one fiduciary capacity with respect to the Plan.

7.02 RESPONSIBILITIES OF THE BOARD OF TRUSTEES

(a) Powers, Duties and Responsibilities

The primary responsibility of the Board of Trustees is to administer the Plan for the exclusive benefit of the Members and their Beneficiaries, subject to the specific terms of the Plan. The Board of Trustees shall administer the Plan in accordance with its terms and shall have the power to determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by the Board of Trustees shall be conclusive and binding upon all persons. The Board of Trustees may establish procedures, correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of this Agreement. The Board of Trustees shall have all powers necessary or appropriate to accomplish their duties under this Plan.

The Board of Trustees may rely upon such information as is supplied by the City pursuant to Section 7.03, and shall have no duty or responsibility to verify such information.

The Board of Trustees shall be charged with the duties of the general administration of the Plan, including, but not limited to, the following:

- (1) to determine all questions relating to the eligibility of Members to participate or remain a Member hereunder;

- (2) to compute, certify, and direct the amount and the kind of benefits to which any Member shall be entitled hereunder;
- (3) to authorize with respect to all nondiscretionary or otherwise directed disbursements from the Plan;
- (4) to maintain all necessary records for the administration of the Plan;
- (5) to interpret the provisions of the Plan and to make and publish such rules for regulation of the Plan as are consistent with the terms hereof.
- (6) to consult with the City regarding the short and long-term liquidity needs of the Plan in order that the investment manager can exercise any investment discretion in a manner designated to accomplish specific objectives; and
- (7) to assist any Member regarding their rights, benefits, or elections available under the Plan.

The Board of Trustees may appoint counsel, specialists, advisors, and other persons as it deems necessary or desirable in connection with the administration of this Plan, including an actuary who shall have the responsibility for the preparation of the annual actuarial statements.

(b) **Records and Reports**

The Board of Trustees shall keep a record of all actions taken and shall keep all other books of account, records, and other data that may be necessary for proper administration of the Plan and shall be responsible for supplying all information and reports to the Internal Revenue Service, Department of Labor, Members, Beneficiaries and others as required by law.

(c) **Annual Report of Condition of Funds**

The Board of Trustees shall make a report to the City Council of the condition of the Plan and Fund on January 1 in each and every year.

(d) **Records**

The Board of Trustees shall keep a record of all its proceedings, which shall be open to public inspection. It shall meet whenever necessary and transact all business before it. The Board of Trustees annually shall make a report to the City Council showing the fiscal transactions of the Plan for the preceding fiscal year, the amount of accumulated cash and securities of the Plan, and the last balance sheet showing the financial condition of the

system by means of an actuarial valuation of the assets and liabilities of the system.

(e) **Legal Counsel**

The City Attorney is legal counsel for the Board of Trustees. The Board of Trustees reserves the right to hire outside counsel.

7.03 RESPONSIBILITIES OF THE CITY

- (a) The City shall authorize contributions to the Fund in accordance with Section II. All expenses incurred before termination of the Plan that arise in connection with the administration of the Plan, including but not limited to proper charges of the actuary, accountant, counsel, specialist, or other person who shall be employed by the Board of Trustees, shall be paid by the City, or by the Fund as directed by the City. The City shall be responsible for amending the Plan as provided in Section 9.01.
- (b) To enable the Board of Trustees to perform its function, the City shall supply full and timely information to the Board of Trustees in all matters relating to the Average Monthly Compensation of all Members, their Hours of Service, their Years of Service, their retirement, death or termination of employment, and such other pertinent facts as the Board of Trustees may require.

7.04 CLAIMS PROCEDURE

- (a) **Initial Stage:** Claims related to disability benefits under Section 6.01 shall be handled in accordance with the terms of the policy of group disability insurance held by the Trust Fund from time to time and attached hereto as Exhibit A. Claims for retirement benefits under the Plan must be filed in writing with the Board of Trustees or its delegate (the "Administrator"). Written notice of the disposition of a claim shall be furnished to the "claimant" within ninety (90) days after the application is filed. In the event the Administrator denies a claim for benefits submitted by a Member or Beneficiary ("claimant"), the Administrator shall set forth, in a manner calculated to be understood by the claimant, the following: (1) specific reason(s) for the denial; (2) specific reference(s) to Plan provisions on which the denial is based; (3) a description of any materials or information necessary to perfect the claim and why they are necessary; and (4) an explanation of the review procedure of the Plan. In the event that the Administrator notifies the claimant that additional materials or information are necessary to perfect the claim, the claimant may in lieu of an appeal provide such materials or information to the Administrator within sixty (60) days of such notice. In that event the Administrator shall reconsider the initial claim and furnish written notice of the disposition of the claim to the claimant within sixty (60) days after receipt of such

additional materials or information. If within sixty (60) days after receipt of written notice of the denial of a claim in whole or in part the claimant neither supplies additional materials or information in accordance with this subsection (a) nor requests a hearing in accordance subsection (b), the denial at the initial stage shall become final.

- (b) **Appellate Stage:** Any claimant who has been denied a benefit by a decision of the Administrator shall be entitled to request the Administrator to give further consideration to their claim by filing with the Administrator a written request for a hearing. Such request, together with a written statement of the reasons why the claimant believes their claim should be allowed, shall be filed with the Administrator no later than sixty (60) days after receipt of the written notification provided for in Section 7.04(a). The Administrator shall then conduct a hearing within the next sixty (60) days, at which the claimant may be represented by an attorney or any other representative of their choosing and expense and at which the "claimant" shall have an opportunity to submit written and oral evidence and arguments in support of their claim. At the hearing (or prior thereto upon five (5) business days written notice to the Administrator) the claimant or their representative shall have an opportunity to review all documents in the possession of the Administrator that are pertinent to the claim at issue and its disallowance. Either the claimant or the Administrator may cause a court reporter to attend the hearing and record the proceedings. In such event, a complete written transcript of the proceedings shall be furnished to both parties by the court reporter. The full expense of any such court reporter and such transcripts shall be borne by the party causing the court reporter to attend the hearing.

A final decision as to the allowance of the claim shall be made by the Administrator within sixty (60) days of receipt of the appeal (unless there has been an extension of sixty (60) days due to special circumstances, provided the delay and the special circumstances occasioning it are communicated to the claimant within the sixty (60)-day period). Such communication shall be written in a manner calculated to be understood by the claimant and shall include specific reasons for the decision and specific references to the pertinent Plan provisions on which the decision is based.

SECTION VIII - TRUST FUND AND TRUSTEE

8.01 TRUST AGREEMENT

The City has entered into a Trust Agreement with the Board of Trustees to hold the funds necessary to provide the benefits set forth in this Plan. The Trust Agreement shall be deemed to form a part of the Plan and all rights of Members or others under this Plan shall be subject to the provisions of this section to the extent such provisions are not contradicted by specific provisions of this Plan. The Trust Agreement may contain provisions granting authority to the City to settle the accounts of the Board of Trustees on behalf of all persons having or claiming an interest in the Trust Fund.

8.02 TRUST FUND AND TRUSTEES

The Trust Fund shall be received, held, in Trust, and disbursed by the Board of Trustees in accordance with the following provisions of this section and the provisions set forth in this Plan. No part of the Trust Fund shall be used for or diverted to purposes other than for the exclusive benefit of Members, retired Members, disabled Members, spouses and Beneficiaries under this Plan, prior to the satisfaction of all liabilities hereunder with respect to them. No person shall have any interest in or right to the Trust Fund or any part thereof, except as specifically provided for in this Plan or the Trust Agreement. In particular, all benefits funded through the Trust Fund shall be shielded from claims made by the City's creditors. The City may remove the Board of Trustees or any one of them at any time upon the notice required by the terms of the Trust Agreement, and, upon such removal or upon the resignation of the Trustee or Trustees, the City shall designate and appoint a successor Trustee or Trustees. The Board of Trustees shall have such powers to hold, invest, re-invest, control, and disburse funds as at that time shall be set forth in the Trust Agreement.

8.03 INVESTMENTS

The Board of Trustees shall invest and reinvest the Trust Fund without distinction between income or principal in one or more of the following ways as the Board of Trustees shall from time to time determine:

- (a) The Board of Trustees may invest the Trust Fund or any portion thereof in obligations issued or guaranteed by the United States of America or of any instrumentalities thereof, or in other bonds, notes, debentures, mortgages, preferred or common stocks, options to buy or sell stocks or other securities, mutual fund shares, limited partnership interests, commodities, or in such other property, real or personal, as the Board of Trustees shall determine.
- (b) The Board of Trustees may cause the Trust Fund or any portion thereof to be invested in a common trust fund established and maintained by a

national or other bank for the collective investment of fiduciary funds even though the bank is acting as the Board of Trustees or Investment Manager, provided such common trust fund is a qualified trust under the applicable section of the Code, or corresponding provisions of future federal internal revenue laws and is exempt from income tax under the applicable section of the Code. In the event any assets of the Trust Fund are invested in such a common trust fund, the Declaration of Trust creating such common trust fund, as it may be amended from time to time, shall be incorporated into this Plan by reference and made a part hereof.

- (c) The Board of Trustees may deposit any portion of the Trust Fund in savings accounts in federally insured banks or savings and loan associations or invest in certificates of deposit issued by any such bank or savings and loan association. The Board of Trustees may, without liability for interest, retain any portion of the Trust Fund in cash balances pending investment thereof or payment of expenses.
- (d) The Board of Trustees may, in its discretion, fund disability or any other Plan benefit under a policy of group insurance as it determines from time to time.

8.04 ADMINISTRATION OF TRUST ASSETS

Subject to the limitations herein expressly set forth, the Board of Trustees shall have the following powers and authority in connection with the administration of the assets of the Trust:

- (a) To hold and administer all contributions made by the City to the Trust Fund and all income or other property derived there from as a single Trust Fund, except as otherwise provided in the Plan.
- (b) To manage, control, sell, convey, exchange, petition, divide, subdivide, improve, repair, grant options, sell upon deferred payments, lease without limit as determined for any purpose, compromise, arbitrate or otherwise settle claims in favor of or against the Trust Fund, institute, compromise and defend actions and proceedings, and to take any other action necessary or desirable in connection with the administration of the Trust Fund.
- (c) To vote any stock, bonds, or other securities of any corporation or other issuer; otherwise consent to or request any action on the part of any such corporation or other issuer; to give general or special proxies or powers of attorney, with or without power of substitution; to participate in any reorganization, recapitalization, consolidation, merger or similar transaction with respect to such securities; to deposit such stocks or other securities in any voting trusts, or with any protective or like committee, or with the trustee, or with the depositories designated thereby; to exercise any subscription rights and conversion privileges or other options and to

make any payments incidental thereto; and generally to do all such acts, execute all such instruments, take all such proceedings and exercise all such rights, powers and privileges with respect to the stock or other securities or property constituting the Trust Fund as if the Trustees were the absolute owner thereof.

- (d) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;
- (e) To register any investment held in the Trust in the Board of Trustees' names or in the name of a nominee and to hold any investment in bearer form, but the books and records of the Trustees shall at all times show that all such investments are part of the Trust;
- (f) To commingle the assets of the Trust Fund with the assets of other similar trusts which are exempt from income tax, whether sponsored by the City, an affiliate of the City or an unrelated City, provided that the books and records of the Trustees shall at all times show the portion of the commingled assets which are part of the Trust; and
- (g) To do all acts whether or not expressly authorized which the Board of Trustees may deem necessary or proper for the protection of the property held hereunder.

SECTION IX - AMENDMENT AND TERMINATION

9.01 AMENDMENT AND TERMINATION OF THE PLAN

The City reserves the right at any time to amend, modify or terminate the Plan in its entirety.

9.02 AMENDMENT OF THE PLAN

The City shall have the right to amend any or all of the provisions of the Plan; provided that no amendment shall authorize or permit any part of the Plan's assets to be diverted for purposes other than for the exclusive benefit of Members and their Beneficiaries. Also, no amendment shall have the effect of re-vesting in the City any portion of the assets of the Plan, except such amounts as may remain in the Plan's assets after termination of the Plan and after all liabilities under the Plan have been satisfied, in accordance with Section 9.03. Any amendment that affects the rights, duties, or responsibilities of the Board of Trustees may only be made with the Trustees' written consent. The Board of Trustees shall not be required to execute any amendment made to the Plan provisions.

Any amendment to the Plan shall not reduce the non-forfeitable percentage of any Member's Accrued Benefit derived from contributions by the City (determined as of the later of the date such amendment is adopted or becomes effective). For purposes of this paragraph, a Plan amendment that has the effect of (a) eliminating or reducing an early retirement benefit or a retirement-type subsidy, or (b) eliminating an optional form of benefit (except as provided by IRS Regulations) with respect to benefits attributable to service before the amendment shall be treated as reducing a Member's Accrued benefit. In the case of a retirement-type subsidy, the preceding sentence shall apply only with respect to a Member who satisfies (either before or after the amendment) the pre-amendment conditions for the subsidy. In general, a retirement-type subsidy is a subsidy that continues after retirement, but does not include a qualified disability benefit, a medical benefit, a Social Security supplement, a death benefit (including life insurance), or a plan shutdown benefit (that does not continue after retirement age).

9.03 TERMINATION OF THE PLAN OR PLAN PARTICIPATION

The City expects this Plan to be continued indefinitely, but reserves the right to terminate the Plan at any time. In the event of the termination or partial termination of the Plan, the rights of all affected Members to Accrued Benefits determined as of the date of such termination or partial termination, to the extent funded as of such date, shall be non-forfeitable. No such action shall alter the Plan or its operation with respect to Members who have previously retired under this Plan.

SECTION X - MISCELLANEOUS

10.01 COST OF LIVING ADJUSTMENT

Annuity benefits under the Plan shall be subject to a cost-of-living adjustment to the extent provided herein. If the funded ratio of the Plan, as determined by the actuarial study, falls below 70%, the following rules shall apply:

- (a) A cost-of-living adjustment will be provided to the extent that, after the cost-of-living adjustment, the funded status of the Plan is not below the previous year's funded status.
- (b) No cost-of-living adjustment will be provided if the funded status of the Plan is below 50%.
- (c) A 1% cost-of-living adjustment may be provided if the funded status of the Plan is at least 50% but below 60%.
- (d) A 2% cost-of-living adjustment may be provided if the funded status of the Plan is at least 60% but below 70%.
- (e) A 3% cost-of-living adjustment may be provided if the funded status of the Plan is at least 70%.

10.02 HEADINGS

The headings and subheadings in this Plan have been inserted for convenience of reference only, and are to be ignored in any construction of its provisions.

10.03 CONSTRUCTION

In the construction of this Plan, the masculine shall include the feminine and the singular the plural, in all cases where such meanings would be appropriate.

10.04 SPENDTHRIFT CLAUSE

The benefit payable by the police and fireman retirement fund shall not be assignable or subject to counterclaim, recoupment or set off except as provided in the plan document, nor shall it be subject to process or proceeding in any court for the payment of any debt of any member or beneficiary. No Member or Beneficiary shall have any right to alienate, commute, or assign any of the benefit distributions.

10.05 STATUS AND LOCATION OF RECIPIENTS

(a) Legally Incompetent

Every person receiving or claiming a benefit under the Plan shall be presumed to be mentally competent and of age until the Board of Trustees receives reliable, written notice that such person is incompetent or a minor. Payments otherwise due a minor shall be paid to any custodial parent of such minor. Payments otherwise due any other incompetent person shall be paid to the guardian, conservator, or other legal representative of such person. In the event that the Board of Trustees is unable to locate a parent, guardian, conservator, or other legal representative of an incompetent person who is otherwise entitled to payment under the Plan, such payment shall be made to the individual determined by the Board of Trustees to have legally assumed financial responsibility for the care of such person. Before the initial payment is made to an individual designated in this Section 10.05, the minor or other legally incompetent person shall be legally notified of the Board of Trustees' intent to make such payment to that other individual. Any payment of a benefit in accordance with the provisions of this Section shall be in complete discharge of any further liability to make such payment.

(b) Location of Member or Beneficiary Unknown

If no legal representative or any of the aforementioned persons can be located by reason of the inability of the Board of Trustees, after sending a registered letter, return receipt requested, to any of the last known addresses of all of the aforementioned, and after further diligent effort, to ascertain the whereabouts of such Member or their beneficiary, children or legal representatives, the amounts so distributable shall be forfeited under the Plan. In the event a Member or Beneficiary is located subsequent to his benefit being forfeited, such benefit shall be restored, first from forfeitures, if any, and then from an additional City contribution if necessary.

10.06 FORFEITURES

Forfeitures arising from any cause shall not be applied to increase the benefits any Member would otherwise receive, and the forfeitures shall be applied to reduce the current or future year's contributions.

10.07 PAYMENTS PRORATED WHEN FUNDS ARE INSUFFICIENT

If at any time there should not be sufficient money in the retirement fund to pay each person entitled to the benefit thereof the full amount per month as herein provided, then an equal percentage of such monthly payments shall be made to each beneficiary until such fund shall be replenished to warrant the payment in full of each of the beneficiaries.

10.08 RETURN OF PLAN ASSETS TO THE CITY

The assets of the Plan shall be held for the exclusive purpose of providing benefits to Members and their Beneficiaries, and shall never be returned to the City except:

- (a) where the contribution was conditioned on the initial qualification of the Plan by the Internal Revenue Service, such contribution shall be returned within one (1) year after the date of denial of qualification of the Plan;
- (b) in accordance with Section 10.03 where there are excess or residual assets remaining upon termination of the Plan and after payment of all liabilities with respect to the Plan;
- (c) where the contribution was made by a mistake of fact, such contribution shall be returned within one (1) year after payment of such contribution;
- (d) where the deductibility of the contribution under the Code is disallowed by the Internal Revenue Service, or deemed to be disallowed in accordance with rules established by the Internal Revenue Service, such contribution, to the extent disallowed or deemed disallowed, shall be returned within one (1) year after the denial; or
- (e) for the payment of administrative expenses authorized by the City or paid pursuant to Section VII.

10.09 NOT A CONTRACT OF EMPLOYMENT

The Plan shall not be deemed to constitute a contract between the City and any Member or other person in the employ of the City, nor shall anything in this Plan be deemed to give any Member any right to be retained in the employ of the City, or to interfere with the right of the City to discharge any Member at any time, and to treat them without regard to the effect such treatment might have upon them as a Member in the Plan.

10.10 INDEMNITY

Except as otherwise prohibited by applicable law, the City hereby agrees to assume liability for, and does hereby indemnify, protect, save, and keep harmless each member of the Board of Trustees, and his or her respective successors and assigns from and against any and all liabilities, obligations, losses, expenses, damages, penalties, taxes, claims, actions, suits, costs, expenses, or disbursements (including legal fees and expenses) of any kind and nature whatsoever, which may be imposed on, incurred by, or asserted against such member(s) (whether or not such member(s) is also indemnified by any other person), which in any way relates to or arises out of this Plan or the administration of the Plan or Fund, or the action or inaction of such member(s) hereunder, except only in the case of willful

misconduct or gross negligence on the part of such member(s) in the performance of his duties.

10.11 FALSE STATEMENTS

Any person who knowingly or willfully makes any false statement in regard to applying for or securing a benefit under the Plan, or falsified any record or records of the Plan in an attempt to defraud the Plan as a result of such act, shall be guilty of a misdemeanor as well as having all his or her rights, interests and privileges under and by virtue of the Plan revoked and canceled.

EXHIBIT A

Group Disability Policy

Effective August 1, 2017

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