




MEMORANDUM

January 21, 2014

TO: City of Franklin Board of Mayor and Alderman

FROM: Eric Stuckey, City Administrator 
Shirley K. Harmon, Human Resources Director

SUBJECT: Resolution 2014-11 – Resolution to Amend and Restate the Employees’ Pension Plan

Purpose

The purpose of this memorandum is to provide the Board of Mayor and Aldermen (BOMA) with information to consider Resolution 2014-11 to amend and restate the City of Franklin Employees’ Pension Plan (“Plan”). This request is made to enable the City the ability to submit the Plan to the Internal Revenue Service (IRS) for a Determination Letter. If during its consideration of the application for a favorable determination letter, the IRS requests that certain additional amendments to the Plan be made in order to preserve the tax-qualified status of the Plan, the Mayor and/or City Administrator are authorized and directed to sign all such additional amendments as they may deem appropriate.

Background

The IRS has established a system of cyclical “remedial amendment periods” for individually designed qualified plans such as the Plan.¹ Under this system, every individually designed plan has a five-year remedial amendment cycle. Governmental plans such as the City of Franklin’s Plan are generally amended under Cycle C, which ends on January 31, 2014.

In connection with the determination letter cycles established by the IRS, the IRS each year issues a Cumulative List of Changes in Plan Qualification Requirements (the “Cumulative List”). As part of the restatement and submission of the Plan to the IRS for a favorable determination letter, the Plan must be restated to incorporate the changes required by the Cumulative List, which generally include changes required as a result of changes in the law. Accordingly, we have restated the Plan to include the changes required to be reflected in a restatement as part of the Cumulative List. These changes are solely for compliance purposes and should not result in any substantive change in Plan administration or benefits. The restatement of the Plan also includes all amendments to the Plan since its last restatement in January 2012.

We have prepared a draft IRS Form 5300 application for an updated determination letter, which must be submitted with the restated Plan by January 31, 2014. Plan Participants must also be provided with advance notice of the filing of the determination letter, which notice we have also prepared.

Included with this memorandum is a draft set of resolutions approving the restatement of the Plan. The resolutions also provide, in connection with the submission of the Plan to the IRS, that further amendments may be made to the Plan if required by the IRS as part of the determination letter process.

¹ The “remedial amendment period” for a plan is the deadline to amend the plan to comply with requirements under the Internal Revenue Code in order to preserve the right to amend the plan retroactively, if required by the IRS.

Financial Impact

The resolution has no financial impact; however, there is a fee of \$2,500.00 to the U.S. Treasury which must accompany the packet for submission to the IRS.

Recommendation

Staff recommends approval of Resolution 20114-11 to Amend and Restate the City of Franklin Employees' Pension Plan which shall include:

- Restatement of the Plan: The Mayor and/or City Administrator are authorized and directed to execute the restatement of the Plan in substantially the same form as presented to the Board of Mayor and Aldermen.
- Notice to Participants of the Restatement of the Plan: The Mayor and/or City Administrator are authorized and directed to give notice to the Plan Participants of the restatement of the Plan as effected herein.
- Submission of the Plan to the Internal Revenue Service for a Determination Letter: Following the restatement of the Plan, as effected by Resolution 20104-11, the Mayor and/or City Administrator or their designee are authorized and directed to sign such documents as may be necessary to submit the restated Plan to the IRS for the issuance of a favorable determination letter.
- Additional Amendment of the Plan: If, during its consideration of the application for a favorable determination, the IRS requests that certain additional amendments to the Plan be made in order to preserve the tax-qualified status of the Plan, the Mayor and/or the City Administrator are authorized and directed to sign all such additional amendments as they may deem appropriate.

RESOLUTION NO. 2014-11

**A RESOLUTION TO AMEND AND RESTATE THE CITY OF FRANKLIN
EMPLOYEES' PENSION PLAN**

WHEREAS, the City of Franklin ("City") adopted the City of Franklin Employees' Pension Plan and Trust (the "Plan") effective May 1, 1971, and has maintained the Plan since that date, with amendments to the Plan from time to time on subsequent occasions; and

WHEREAS, the City has determined that it is in the best interests of the City and Plan Participants to amend and restate the Plan in its entirety, effective as of January 1, 2013, to incorporate amendments to the Plan and changes required as part of the Internal Revenue Service ("IRS") Cumulative List of Changes in Plan Qualification ("Cumulative List") so that the Plan may be submitted to the IRS for a favorable determination letter; and

WHEREAS, Section 9.1 of the Plan provides that the Plan may be amended by the City; and

WHEREAS, the Board of Mayor and Aldermen has been provided with the attached restatement of the Plan for the foregoing purposes and wishes to approve of the restatement, effective as of January 1, 2013; and

WHEREAS, the Board of Mayor and Aldermen also wishes to authorize any further amendments to the Plan required by the IRS as part of the submission of the Plan for a favorable determination letter.

NOW, THEREFORE, BE IT RESOLVED:

SECTION 1: That the Plan is hereby amended as set forth in substantially the same form as the draft restatement of the Plan presented to the meeting of the Board of Mayor and Aldermen, effective as of January 1, 2013.

SECTION 2: That the Mayor and/or City Administrator are hereby authorized and directed to execute and deliver the following documents, at such times as are described below, in connection with the Plan, all without further action on the part of the Board of Mayor and Aldermen:

A. **RESTATEMENT OF THE PLAN:** The Mayor and/or City Administrator are authorized and directed to execute the restatement of the Plan in substantially the same form as presented to the Board of Mayor and Aldermen; and

B. **NOTICE TO PARTICIPANTS OF THE RESTATEMENT OF THE PLAN:** The Mayor and/or City Administrator are authorized and directed to give notice to the Plan Participants of the restatement of the Plan, as effected herein; and

C. **SUBMISSION OF THE PLAN TO THE INTERNAL REVENUE SERVICE FOR A DETERMINATION LETTER:** Following the restatement of the Plan, as effected herein, the Mayor and/or City Administrator or their designee are authorized and directed to sign such documents as may be necessary to submit the restated Plan to the IRS for the issuance of a favorable determination letter; and

D. **ADDITIONAL AMENDMENT OF THE PLAN:** If, during its consideration of the application for a favorable determination letter, the IRS requests that certain additional amendments to the Plan be made in order to preserve the tax-qualified status of the Plan, the Mayor and/or City Administrator are authorized and directed to sign all such additional amendments as they may deem appropriate.

THIS RESOLUTION SHALL BE EFFECTIVE IMMEDIATELY UPON ITS PASSAGE AND ADOPTION on this ____ day of January, 2014, the public welfare and the welfare of the City requiring it.

ATTEST:

CITY OF FRANKLIN, TENNESSEE

By: _____

**Eric Stuckey
City Administrator**

By: _____

**Dr. Ken Moore
Mayor**

CITY OF FRANKLIN
EMPLOYEES' PENSION PLAN

(As Amended and Restated)
Effective January 1, 2013

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CITY OF FRANKLIN EMPLOYEES' PENSION PLAN

The City of Franklin Employees' Pension Plan (the "Plan") originally became effective May 1, 1971 and is herein amended and restated effective as of January 1, 2013, except as may otherwise be provided herein ("Effective Date").

The Plan was initially funded with a Group Annuity Contract of The Life Insurance Company of Georgia. On May 19, 1981, the Plan was amended and restated in its entirety and funded with a Group Annuity Contract issued by Provident National Assurance Company. Effective June 1, 1983 the Plan again was amended for the third time. The Plan was further amended and restated in its entirety for a fourth time on April 1, 1985 (but effective as of May 1, 1984), and a Provident National Assurance Company Prototype Defined Benefit Plan and Trust (Basic Plan Document Number 02), together with Adoption Agreement 02-001 and Special Attachment was adopted. Effective July 24, 1987, the Plan was funded by a Group Annuity Contract issued by Provident National Assurance Company. The Plan was amended to provide an Early Retirement Option effective June 30, 1995, and was further amended and restated effective July 1, 1995, January 1, 1997, July 1, 2003, January 1, 2009, and January 1, 2010. The Plan is herein amended and restated as of the Effective Date. The Plan is a defined benefit pension plan intended to qualify under Section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code") to the extent those provisions apply to governmental plans.

The amended and restated Plan herein contained constitutes an amendment, effective as of the Effective Date, to the earlier Plan provisions, rather than a replacement of such Plan. The Plan provisions in effect immediately prior to this amendment shall remain in effect for those Participants who are not actively employed by the City of Franklin at any time after such date. The Plan, as amended and restated in this instrument, and the insurance contract(s) or Trust established in connection with the Plan are intended to meet the requirements of Sections 401(a) and 501(a) of the Code, to the extent that those provisions apply to a governmental plan (as defined in Section 414(d) of the Code).

As of the Effective Date, the Plan as amended and restated has the terms and provisions hereinafter set forth.

ARTICLE I. DEFINITIONS

The following terms when used herein shall have the meaning set forth below, if capitalized. Unless the context clearly indicates otherwise, words in the masculine, feminine or neuter gender include the other genders and the singular includes the plural and vice versa.

Section 1.1 "Accrued Benefit" is the sum of (a) and (b):

- (a) the amount of the retirement annuity or benefit accrued as of any given date for a Participant shall be equal to his prospective retirement annuity under the Plan at Normal Retirement Date as determined in Article III, Section 3.1(b) entitled "Normal Retirement Monthly Benefit," multiplied by the ratio that Credited

Service at such date bears to the total possible Credited Service from the Participant's earliest employment date he would have completed if he lived and remained employed by the Employer until his Normal Retirement Date; and

- (b) the amount determined from his Cash Balance Accounts.

Section 1.2 **"Active Participant"** shall mean any Employee who has satisfied the eligibility requirements under Article II, Section 2.1.

Section 1.3 **"Actuarial Equivalent"** or **"Actuarial Equivalence"** shall mean:

- (a) for purposes of determining the optional forms of benefit other than conversion of the accrued benefit to a Single Sum Value or conversion of a Cash Balance Account to a Cash Refund Annuity, the equivalent value of a benefit shall be computed on the basis of the 1971 Group Annuity Table for Males, with interest payable at a rate of six percent (6%) per annum.
- (b) for the purposes of determining a single sum value or the present value of Accrued Benefits pursuant to Article I, Section 1.1(a) and for determining the conversion of Cash Balance Accounts (as defined in Article I, Section 1.12) to Cash Refund Annuities or Deferred Annuities in accordance with Article I, Sections 1.8 and 1.13, the equivalent value of a benefit shall be calculated on the basis of the Mortality Table for Sections 415 and 417(e) as set forth in IRS Rev. Rul. 2007-67 as amended from time to time with interest payable at a rate of six percent (6%) per annum.

Section 1.4 **"Actuary"** shall mean a qualified actuary who is a Member of the American Academy of Actuaries and who performs the annual actuarial valuations and other computations required under the Plan.

Section 1.5 **"Administrator"** shall mean the City of Franklin.

Section 1.6 **"Affiliate"** means any corporation or unincorporated business controlled by, or under common control with, an Employer within the meaning of Sections 414(b), (c), (m), or (o) of the Code. A corporation or unincorporated business shall not be deemed an Affiliate for any purpose under the Plan with respect to any period before it became an Affiliate.

Section 1.7 **"Anniversary Year"** means the 12 consecutive month period beginning on the first day of the month following the month in which an Employee completes his or her first Hour of Service and each succeeding 12 consecutive month period beginning on the anniversary of such date.

Section 1.8 **"Annuity Starting Date"** shall mean the first day of the first period for which an amount is payable as an annuity or, in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the Participant to such benefit.

Section 1.9 **"Average Compensation"** shall mean the average of the Participant's Compensation over the three (3) consecutive whole calendar years of a Participant's Employment during which his Compensation was the greatest out of the last ten (10) calendar years or over a

lesser number of Years of Employment actually served, provided, however, that for a Participant who was first hired by the City on or after February 15, 2010, "Average Compensation" shall mean the average of the Participant's Compensation over the five (5) consecutive whole calendar years of a Participant's Employment during which his Compensation was the greatest out of the last ten (10) calendar years or over a lesser number of Years of Employment actually served. Notwithstanding the foregoing, if the amount of Compensation in the whole or partial year in which the Participant terminates Employment is greater than the amount of Compensation for the first whole or partial year which would be used in determining the average hereunder, then the first whole year of actual Compensation shall be used in determining such Participant's Average Compensation.

Section 1.10 "**Beneficiary**" means the recipient or recipients, including a trust, last designated by a Participant in writing on forms provided by the Employer, who or which shall receive any benefits payable under the Plan upon the death of the Participant. If no such designation of Beneficiary has been received by the Employer prior to the date of death of the Participant or if there is no surviving Beneficiary and a benefit is due and payable that is a lump sum or may, under the terms of the Plan, be commuted and payable as a lump sum, such benefit shall be payable to the estate of the Participant.

Notwithstanding anything contained herein to the contrary, if a Beneficiary designated by a Participant is not the Participant's Spouse, the Spouse's written consent to such specific Beneficiary shall be required for such designation to become effective, and such consent shall be witnessed by a representative of the Administrator or a notary public. A Participant may revoke a Beneficiary(ies) designation at any time in writing. A Participant's Spouse may give a general consent acknowledging the Spouse's right to consent to any Beneficiary and relinquishing such right, in which event any future revocation and/or redesignation of Beneficiary(ies) by the Participant shall not require further spousal consent. The consent of the Spouse must acknowledge the effect of such election and, once given, cannot be revoked by such Spouse. The Administrator may accept an election without the consent of the Spouse if there is no Spouse, the Spouse cannot be located, or such other circumstances as may be prescribed by the Secretary of the Treasury. Any spousal consent shall only be applicable to the Spouse granting such consent.

Section 1.11 "**Board**" means the Board of Mayor and Aldermen of the City of Franklin, Tennessee.

Section 1.12 "**Cash Balance Account**" means a hypothetical Employee Account wherein account values shall accrue with allocation credits and interest adjustments credits pursuant to Article III for illustrative purposes only; provided, however, the assets shall not be segregated or actually allocated to such accounts. Each Employee can have up to three (3) Cash Balance Accounts, for which the following definitions shall apply:

- (a) "Pre-tax Employee Contribution Cash Balance Account" means a hypothetical account to which allocations are credited based on the percent of Compensation earned by the Employee during a year and contributed to the fund for which Code Section 414(h)(2) considers the contribution to be an Employer contributions and which are "picked-up" by the Employer and therefore deducted on a pre-tax basis from the Employee's wages. This contribution is mandatory for all employees hired after July 1, 1995. Notwithstanding the preceding sentence, no Participants

who were first hired by the City after June 30, 2001 shall be required to make any mandatory contributions to the Plan, and no Pre-tax Employee Contribution Cash Balance Account shall be maintained for any such Participant.

- (b) “Post-tax Employee Contribution Cash Balance Account” means a hypothetical account to which allocations are credited based on the percent of Compensation earned by the Employee during a year and contributed to the fund on voluntary basis on an after-tax basis. This contribution is voluntary for all employees. Notwithstanding the preceding sentence, no Participants who were first hired by the City after June 30, 2001 shall be allowed to make any after-tax contributions to the Plan, and no Post-tax Employee Contribution Cash Balance Account shall be maintained for any such Participant.
- (c) “Discretionary City Contribution Cash Balance Account” means a hypothetical account to which allocations are credited at the discretion of the City.

Notwithstanding the preceding provisions of this Section 1.12, those Participants who have made a one-time permanent election pursuant to Section 3.1(c) to transfer the balance in their Pre-tax Employee Contribution Cash Balance Plan Accounts as of June 30, 2002 to the City of Franklin Employees’ Money Purchase Pension Plan shall make no subsequent mandatory contributions to the Cash Balance fund, and all future allocations of the mandatory contributions previously designated by the Participant pursuant to Section 3.1(c)(1)(i) shall be made to the electing Participant’s Employee Contribution Account under the City of Franklin Employees’ Money Purchase Pension Plan.

Section 1.13 “**Cash Refund Annuity**” means a monthly annuity or lump sum death benefit payable to the Beneficiary in an amount determined upon the death of the Participant equal to the excess of the Cash Balance Account at Retirement Date over the sum of annuity payments actually received by the Participant, if any; but annuity payments shall not be credited with additional interest after the Participant’s Retirement Date.

Section 1.14 “**City**” means the City of Franklin located in Williamson County in the State of Tennessee.

Section 1.15 “**Committee**” means the City of Franklin Employee Pension and Trust Investment Committee, consisting of the City’s Human Resources Director, Finance Director, Finance Chair of the Board, another member of the Board appointed by the Mayor, two (2) City Employee Representatives elected by the Employee population covered by this Plan, and two (2) Citizen Representatives who shall be appointed initially by the Mayor and approved by the Board, provided, however, that effective April 13, 2010, “Committee” means the City of Franklin Employee Pension and Trust Investment Committee, consisting of the City’s Human Resources Director, two (2) members of the Board appointed by the Mayor, two (2) City Employee Representatives elected by the Employee population covered by this Plan, and two (2) Citizen Representatives who shall be appointed initially by the Mayor and approved by the Board. Each Employee Representative and each Citizen Representative shall serve a term of four (4) years. These terms shall be staggered so that one (1) Employee Representative and one (1) Citizen representative begin their terms every two (2) years. These terms shall renew in years in which neither Mayoral nor Aldermanic elections occur. The term of the Human Resources Director shall

never expire and shall be held by the employee currently holding the Human Resources Director position. The members of the Board shall serve at the will of the Mayor and shall be replaced either at the will of the Mayor or after the Aldermanic term has expired, whichever is sooner.

Section 1.16 **“Compensation”** means, for each calendar year as reported on IRS Form W-2, an Employee’s Compensation (as defined below) for Employment received in that year, plus any salary reduction amounts contributed on a pre-tax basis to the City of Franklin or to a “cafeteria plan” or to a “retirement plan” under Sections 125, 401(k), 402(a)(8), 402(h), 403(b), 414(h) or deferred compensation under Section 457 of the Internal Revenue Code established by the City of Franklin for its participating subsidiaries and affiliates. For Plan Years beginning on or after January 1, 2001, compensation paid or made available during the plan year shall include elective amounts that are not includible in the gross income of the Employee by reason of Code Section 132(f)(4). For purposes of this Section 1.14, the following definitions shall apply:

- (a) “Compensation” includes base salary, overtime pay, bonuses, shift differential, holiday pay, fringe benefits (cash or noncash), deferred compensation, and welfare benefits.
- (b) “Compensation” excludes reimbursements or other expense allowances, moving expenses, uniform allowances, supplemental pay for police officers and fire fighters, long term disability benefits, pay in lieu of notice, severance pay, tuition reimbursements, or automobile allowances.
- (c) Notwithstanding the foregoing, effective for Plan Years beginning on or after January 1, 1989, the Compensation of an Employee may not exceed \$200,000 for a Plan Year (as adjusted under Code Section 401(a)(17)). Commencing January 1, 1994, the Compensation of an Employee may not exceed \$150,000 for a Plan Year as adjusted under Internal Revenue Code Section 401(a)(17). If Compensation for any prior determination period is taken into account in determining an Employee’s benefits accruing in a current Plan Year, the Compensation for that prior determination period is subject to the annual compensation limit in effect for that prior determination period. For the purposes of the preceding sentence, for prior determination periods beginning before January 1, 1989, the annual compensation limit is \$200,000 and for prior determination periods beginning before January 1, 1994, the annual compensation limit is \$150,000. In applying these limits, the Plan shall use January 1, 1989 and January 1, 1994 fresh start dates with extended wear away.

Notwithstanding any provision of the Plan to the contrary, for Plan Years beginning on or after July 1, 2007, for all applicable purposes under the Plan of the definition of compensation under Section 415 of the Code, Compensation shall include the following types of compensation paid by the later of 2½ months after a Participant’s severance from employment with the Employer or the end of the Plan Year that includes the date of the Participant’s severance from employment with the Employer. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered compensation within the meaning of Section 415(c)(3) of the Code, even if payment is made within the time period specified above.

- (a) Compensation shall include regular pay after severance from employment if:
 - (1) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
 - (2) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.
- (b) Leave cashouts and deferred compensation shall be included in Compensation if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are either:
 - (1) Payment for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued; or
 - (2) Received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been made to the Participant if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.
- (c) Compensation includes payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Section 414(u)(1) of the Code) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.
- (d) Compensation does not include compensation paid to a Participant who is permanently and totally disabled (as defined in Section 22(e)(3) of the Code).

Section 1.17 **"Continuous Employment"** means the whole years and partially completed calendar months during which an Employee shall have been continuously employed with the Employer as a Regular Employee. If an Employee voluntarily terminates Employment or is discharged, his employment shall be deemed to cease on the date of his voluntary severance from Employment or discharge.

Section 1.18 **"Credited Service"** and **"Years of Credited Service"** shall mean the sum of periods of Continuous Employment expressed in whole years and whole months. Credited Service will not be granted for Credited Service for which a retirement benefit (Lump Sum or Annuity Benefit) already has been paid or is being paid or for which an Employee is accruing benefits as a member of another City-sponsored retirement plan, or Credited Service excluded under Article II, Section 2.2.

Section 1.19 **“Delayed Retirement Date”** shall mean the first day of the month coinciding with or next following the date after a Participant’s Normal Retirement Date on which he actually terminates employment with the Employer for any reason other than death.

Section 1.20 **“Disability”** or **“Disabled”** shall mean an Employee’s injury or illness that renders the Employee totally disabled to perform the essential duties of his Employment. The Administrator shall make the determination of an Employee’s Disability based on such information as the Administrator may deem appropriate, including medical examinations.

Section 1.21 **“Early Retirement Age”** shall mean, as to each Participant, the later of age fifty-five (55) and ten (10) Years of Credited Service.

Section 1.22 **“Early Retirement Date”** shall mean, the first day of the month coinciding with or next following the date after a Participant’s Early Retirement Age on which he actually terminated employment with the Employer for any reason other than death.

Section 1.23 **“Employee”** or **“Eligible Class”** or **“Regular Employee”** means any full-time person in the active and continuous employ of the Employer. For purposes of eligibility under the Plan and this Section, a full-time employee means anyone who is employed in a Regular position as defined in the City’s job classification or employment standards and is employed for 30 or more hours per week and is not a person whose retirement benefit was the subject of a collectively bargained agreement where retirement benefits were the subject of good faith bargaining between Employee representatives and the Employer.

Section 1.24 **“Employer”** means the City of Franklin, Williamson County, Tennessee or any entity with which said Employer may be merged or consolidated or by which it may be succeeded or is a member of the controlled group of corporations (within the meaning of Section 1563(a) of the Internal Revenue Code without regard to Sections 1563(a)(4) and 1563(e)(3)(C) of which the City of Franklin is a member, but only after the date such corporation became a member of the controlled group of Corporations and which may adopt this Plan and Trust.

Section 1.25 **“Employment”** means employment with the City of Franklin.

Section 1.26 **“ERISA”** or **“Act”** means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations and rulings in effect thereunder from time to time, as applicable to governmental plans.

Section 1.27 **“Highly Compensated Employee”** includes highly compensated active employees and highly compensated former employees.

A highly compensated active employee includes an Employee described in Code Section 414(q) and the Regulations thereunder and generally means an Employee who was (i) a “five percent owner” (as defined according to Code Section 416(i)(1)) of the Employer at any time during the current or the preceding Plan Year, or (ii) for the preceding Plan Year, had compensation from the Employer in excess of \$90,000 (as adjusted by the Secretary pursuant to section 415(d) of the Code, except that the base period shall be the calendar quarter ending September 30, 1996) and, if the Employer so elects, was in the top-paid group for the preceding Plan Year.

For purposes of this Section, the term "compensation" means compensation within the meaning of Code Section 415(c)(3) of the Code without regard to Code Sections 125, 402(e)(3), and 402(h)(1)(B). However, for Plan Years beginning after December 31, 1997, for purposes of this Section, the term "compensation" means compensation within the meaning of section 415(c)(3) of the Code. Compensation paid or made available during the plan year shall include elective amounts that are not includible in the gross income of the Employee by reason of Code Section 132(f)(4).

A highly compensated former employee includes a former Employee who shall be treated as a Highly Compensated Employee because (i) such Employee was a Highly Compensated Employee when such Employee separated from service, or (ii) such Employee was a Highly Compensated Employee at any time after attaining age 55.

The determination of who is a Highly Compensated Employee, including the determinations of the number and identity of employees in the top-paid group, the number of employees treated as officers and the compensation that is considered will be made in accordance with section 414(q) of the Internal Revenue Code and the regulations thereunder.

Section 1.28 "**Hour of Employment**" shall mean the following:

- (a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer during the applicable computation period.
- (b) Each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the Employment relationship has terminated) due to vacation, holiday, illness, incapacity (including Disability), layoff, jury duty, military duty or leave of absence; provided, however, that
 - (1) no more than five hundred one (501) Hours of Employment shall be credited under this subsection (b) to an Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs in a single computation period),
 - (2) hours for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed shall not be credited 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 shall not be credited for a payment which solely reimburses an Employee for medical or medically-related expenses incurred by the Employee.

For purposes of this subsection (b), a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made by or due from the Employer directly, or indirectly through, among others, a trust fund or insurer to which the Employer 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 Employees or are on behalf of a group of Employees in the aggregate.

- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same hours shall not be credited both under subsection (a) or (b) and under this subsection. Hours credited for back pay under this subsection with respect to periods described in subsection (b) shall be subject to the limitations set forth in subsection (b).

The provisions of paragraphs (b) and (c) of 29 C.F.R. § 2530.200b-2 shall be observed in crediting Hours of Employment under this Section, which paragraphs are incorporated herein by reference.

Section 1.29 “**Internal Revenue Code**” or “**Code**” means the Internal Revenue Code of 1986, as amended from time to time, and the regulations and rulings in effect thereunder from time to time, as applicable to governmental plans.

Section 1.30 “**Insurer**” means a legal reserve life insurance company or companies licensed to do business in the State of Tennessee.

Section 1.31 “**Leased Employee**” means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person (leasing organization) has performed services for the recipient (or for the recipient and related persons determined in accordance with section 414(n)(6) of the Internal Revenue Code) on a substantially full-time basis for a period of at least one year, and such services are performed under primary direction and control by the recipient Employer. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient Employer.

A leased employee shall not be considered an employee of the recipient if: (i) such employee is covered by a money purchase pension plan providing: (1) a nonintegrated employer contribution rate of at least ten (10%) percent of compensation, as defined in section 415(c)(3) of the Internal Revenue Code, but including amounts contributed pursuant to a salary reduction agreement which are excludable from the employee’s gross income under section 125, section 402(e)(3), section 402(h)(1)(B) or section 403(b) of the Internal Revenue Code; (2) immediate participation, and (3) full and immediate vesting; and (ii) leased employees do not constitute more than 20 percent of the recipient’s nonhighly compensated workforce. Compensation paid or made available during the plan year shall include elective amounts that are not includible in the gross income of the Employee by reason of Code Section 132(f)(4).

Section 1.32 “**Normal Annuity Form**” means (a) and (b):

- (a) for purposes of determining a benefit under Article IV, Section 4.2(a), a life retirement annuity which provides payments for the life of the Participant, the first payment becoming due on such Participant’s retirement date, if living, and subsequent payments of a like amount, payable monthly thereafter during the lifetime of such Participant, terminating with the last payment due the month preceding the death of such Participant;

- (b) for purposes of determining a benefit under Article IV, Section 4.2(c), the Cash Balance Account is an annuity based on the Cash Refund Annuity, pursuant to Article I, Section 1.13.

Section 1.33 “**Normal Retirement Age**” shall mean, as to each Participant, the date on which the Participant attains the later of age sixty-five (65) and five (5) Years of Credited Service.

Section 1.34 “**Normal Retirement Date**” shall mean the first day of the month coinciding with or next following (i) the date on which the Participant attains his Normal Retirement Age or, if earlier, (ii) with respect to Employees hired before July 1, 2006, the date on which the Participant completes twenty-five (25) Years of Credited Service.

Section 1.35 “**One Year Break in Employment**” shall mean a twelve (12) consecutive month period beginning on the severance from service date or any anniversary thereof and ending on the next succeeding anniversary of such date during which an Employee has not been credited with an Hour of Employment as a Regular Employee.

To the extent not already credited, Hours of Employment shall be credited solely for the purpose of determining whether a One Year Break in Employment has occurred with respect to an Employee who is absent from work, regardless of whether the Employee is paid for such absence:

- (a) by reason of the pregnancy of the Employee;
- (b) by reason of the birth of a child of the Employee;
- (c) by reason of the placement of a child with the Employee in connection with the adoption of such child by such Employee;
- (d) for purposes of caring for such child for a period beginning immediately following such birth or placement; or
- (e) other authorized family and medical leave absences.

Hours of Employment shall be credited for such purpose pursuant to Code Section 411(a)(6)(E) only in the twelve (12) month consecutive period in which the absence from work begins, if the crediting is necessary to prevent a One Year Break in Employment in that twelve (12) consecutive month period, or in any other case, in the immediately following twelve (12) consecutive month period.

Section 1.36 “**Participant**” means an individual who has an Accrued Benefit under the Plan which has not been totally distributed.

Section 1.37 “**Participating Employee**” means an Employee who meets the requirements in Article II, Sections 2.1.

Section 1.38 “**Participating Employer**” means the City of Franklin, any successors thereof, and such subsidiaries and affiliates at the City of Franklin as are authorized to participate in this Plan by a resolution of the Board of Mayor and Aldermen, designating such subsidiary or

affiliate as a Participating Employer, and by a resolution of the board of such subsidiary or affiliate adopting this Plan.

Section 1.39 **“Plan”** means the City of Franklin Employees’ Pension Plan as herein set forth, and as amended from time to time, and shall include any Trust Agreement or insurance contract from time to time, and the Trust established under said Agreement or any insurance contract(s) entered into as a funding entity for the Plan.

Section 1.40 **“Plan Year”** means each twelve (12) month period beginning on January 1 and ending on the following December 31. A Year of Service is the 12-consecutive month period from January 1 to December 31 each year following the end of the Short Plan Year.

Section 1.41 **“Qualified Joint and Survivor Annuity”** shall mean for benefits not determined from a Cash Balance Account, a monthly benefit payable to the Participant for his lifetime with a monthly benefit following the death of the Participant payable to his Spouse and continuing for the life of such Spouse equal to fifty percent (50%) of the amount of the monthly benefit payable during the joint lives of the Participant and his Spouse; for benefits determined from a Cash Balance Account, a monthly benefit payable to the Participant for his lifetime with a monthly benefit following the death of the Participant payable to his Spouse and continuing for the life of such Spouse equal to fifty percent (50%) of the amount of the monthly benefit payable during the joint lives of the Participant and his Spouse, and upon the death of the last annuitant, the Beneficiary shall receive an amount equal to the excess of the Cash Balance Account at retirement date over the sum of annuity payments actually received by the Participant and his Spouse, if any.

The Qualified Joint and Survivor Annuity shall be the Actuarial Equivalent of the normal annuity forms under the Plan, and shall be based on the Participant’s entire Vested Benefit under the Plan, except as may otherwise specifically provided for, or as otherwise elected by the Participant in accordance with the terms of the Plan.

Section 1.42 **“Reemployment Date”** means the date as of which an Employee is credited with the first Hour of Employment as a Regular Employee after an interruption in Employment as a Regular Employee.

Section 1.43 **“Retired Participant”** means a Participant who has terminated active service with the Employer and is currently receiving benefits.

Section 1.44 **“Rollover Account”** means the account established and maintained by the Administrator for each Participant with respect to his total interest in the Plan resulting from amounts transferred from another qualified plan or “conduit” Individual Retirement Account in accordance with Section 4.5.

Section 1.45 **“Spouse”** means the spouse of a Participant pursuant to applicable federal and state law.

Section 1.46 **“Temporary Employee”** shall mean any Employee of the Employer who is not a full-time person in the active and continuous employ of the Employer. For purposes of this Section, a full-time employee means anyone who is employed in a Regular position as defined

in the City's job classification or employment standards and is employed for 30 or more hours per week.

Section 1.47 "**Terminated Vested Participant**" shall mean former Employees who have an Vested Accrued Benefit but who are not yet currently receiving benefits.

Section 1.48 "**Trust Agreement**" means the Trust Agreement between the City of Franklin and the Trustees, attached hereto, provided, however, that effective as of September 1, 2011, "Trust Agreement" means a written agreement between the City of Franklin and the Trustee, as applicable.

Section 1.49 "**Trust Fund**" or "**Fund**" shall mean the assets consisting of such cash and other property as shall be paid or delivered to the Trustees or to the Insurer, including earnings.

Section 1.50 "**Trustees**" shall mean the Mayor, City Administrator, and the Human Resources Director, or any corporation or bank that accepts the role of Trustee under the terms of a written agreement with the City, provided, however, that effective as of September 1, 2011, "Trustee" or "Trustees" shall mean the City, or any corporation or bank that accepts the role of Trustee under the terms of a written agreement with the City.

Section 1.51 "**Vested Accrued Benefit**" means the nonforfeitable percentage of an Accrued Benefit to which a Participant is entitled, as determined under Article V, Section 5.1.

ARTICLE II. ELIGIBILITY TO PARTICIPATE

Section 2.1 Employee Participation.

Employees who were not Participants in the Plan immediately prior to the Effective Date shall become eligible to participate in the Plan as of the first day of the month immediately following the completion of the following eligibility requirements:

- (a) He or she is permanently employed in a full-time position with the City;
- (b) He or she is designated by the City as a Regular Employee and works at least thirty (30) hours per week; and
- (c) He or she has earned at least one (1) Year of Credited Service.

Notwithstanding the foregoing, an Employee first hired on or after February 15, 2010, shall become eligible to participate in the Plan and become a Participant hereunder as of the first day of the month immediately following the commencement of the Employee's employment by the City, provided, however, that such Employee shall be eligible to participate in the Plan only upon his election to participate. Such election shall be made in a form and manner acceptable to the Plan Administrator.

Section 2.2 Excluded Employees.

Employees included in a unit of Employees covered by a collective bargaining agreement between the City of Franklin and Employee representatives are excluded from eligibility to participate in this Plan if retirement benefits were the subject of good faith bargaining. For this purpose, the term "Employee representative" does not include any organization more than half of whose members are Employees who are officers or executives of the Employer. Leased Employees are excluded from eligibility to participate in the Plan. In addition, individuals designated by the City as Temporary Employees are excluded from eligibility to participate in the Plan.

Section 2.3 Eligible Employee Procedures.

Each eligible Employee who becomes a Participant shall, within thirty (30) days after receiving a notice from the Employer of eligibility to participate, execute an application form provided by the Employer for that purpose.

Section 2.4 Optional Participation.

Certain Employees who are classified at a level of Director and above in the City's job classification and who were employed on or after July 1, 1995 may opt out of participation in the Plan. The approval of this optional participation in the Plan is subject to the following conditions: (a) a written agreement exists between the Employee and the City, (b) the Employee must participate in another retirement plan stated in such agreement, and (c) the agreement must state the contribution or benefit he shall receive as a percentage of salary.

Section 2.5 Reemployment.

Upon reemployment a former Active Participant will be eligible to accrue retirement benefits upon his reemployment date provided he has not received all of his benefits in lump sum or is not currently being paid a monthly benefit.

If reemployment occurs after a One Year Break in Employment, Credited Service completed before such break will be taken into account for the purposes of the Plan; provided, however, in the case of a Participant who does not have a Vested Accrued Benefit under the Plan, that Years of Credited Service before a period of One Year Breaks in Employment will not be taken into account if the number of consecutive One Year Breaks in Employment equals or exceeds the greater of (A) five (5) or (B) the aggregate number of pre-break Years of Credited Service. Such aggregate number of Years of Credited Service will not include any Years of Credited Service disregarded under the preceding sentence by reason of prior One Year Breaks in Employment.

If reemployment occurs before a One Year Break in Employment, the period of absence will be deemed Credited Service for the purposes of meeting the requirements for participation (see Section 2.1).

For purposes of the foregoing and for all features of the Plan as adopted with respect to Employees first hired on or after February 15, 2010:

- (a) a Participant who has no Vested Accrued Benefit upon his severance from Employment and who is subsequently re-hired after February 15, 2010, is a new hire at the time of his reemployment unless such Participant's forfeited Accrued Benefit is eligible to be and is reinstated pursuant to Section 5.1(e);
- (b) a Participant who has a vested Accrued Benefit that is not distributed upon his severance from Employment and who is subsequently re-hired after February 15, 2010, is not a new hire at the time of his reemployment; and
- (c) a Participant who has a vested Accrued Benefit that is distributed upon his severance from Employment and who is subsequently re-hired after February 15, 2010, is a new hire at the time of his reemployment.

Section 2.6 Ineligible employment.

In the event that a Participant becomes ineligible to participate because he is no longer a member of an eligible class of Employees but has not incurred a One Year Break in Employment, such Employee shall participate immediately upon returning to an eligible class of Employees. If such participant incurs a One Year Break in Employment, eligibility to participate shall be determined under Reemployment, pursuant to Article II, Section 2.5.

Section 2.7 Purchase of Credited Service.

Notwithstanding any provision of the Plan to the contrary, with respect to an Employee who was first hired on or after February 15, 2010, and who has not elected to participate in the Plan pursuant to Section 2.1, such Employee who has become fully vested in his account balance under the City of Franklin 2010 Defined Contribution Plan (the "DC Account Balance") attributable to employer

contributions by reason of the completion of five (5) years of service for the City may make an irrevocable election in a form and manner prescribed by the City to become a Participant under the Plan and to purchase Years of Credited Service with his DC Account Balance pursuant to the following formula:

Years of Credited Service = 5, multiplied by a fraction, the numerator of which is the amount actually paid by the Employee for the purchase of Credited Service, and the denominator of which is the product of (i) the Employee's total compensation during the period of his first sixty (60) months of service for the City, multiplied by (ii) 15% (subject to future actuarial adjustment).

Such election shall be made no later than such time as shall be reasonably required by the Plan Administrator. The purchase of Years of Credited Service must be completed no later than the first day of the month following the date that is sixty (60) days after the date that the Employee became fully vested in his DC Account Balance. An Employee who elects to purchase Years of Credited Service in part with funds other than amounts attributable to his DC Account Balance must provide to the Plan Administrator all such necessary funds to complete the purchase by such date. Amounts used for the purchase of Years of Credited Service shall be used in the following order until each such fund source is exhausted:

- (1) That portion of the DC Account Balance attributable to employer contributions;
- (2) That portion of the DC Account Balance attributable to employee contributions;
- (3) Any other Employee funds.

Notwithstanding the foregoing, no Employee shall be permitted to purchase more than five (5) Years of Credited Service pursuant to this Section 2.7. An Employee who makes the election provided for in this Section 2.7 shall become eligible to earn additional Years of Credited Service under the Plan as of the effective date of his election to participate in the Plan.

ARTICLE III. RETIREMENT BENEFITS

Section 3.1 Normal Retirement.

- (a) **Condition.** A Participant whose Employment with the Employer is terminated on his Normal Retirement Date shall be entitled to receive a monthly retirement benefit paid in accordance with Article IV.
- (b) **Normal Retirement Monthly Benefit.** The monthly retirement benefit, based on the Normal Form of payment described in Article IV, Section 4.2(a), which shall commence on the Participant's Normal Retirement Date, shall be determined as of such date in accordance with subsections (1) and (2) below:
 - (1) With respect to any Participant whose Employment is terminated on or after July 1, 2003, such Participant shall be eligible for a Normal Retirement Monthly Benefit as of the first day of the month coinciding with or next following the date the Participant attains Normal Retirement Age. The Normal Retirement Monthly Benefit shall be one-twelfth of two percent (1/12 of 2%) of the Participant's Average Compensation times Years of Credited Service.
 - (2) With respect to any Participant whose Employment is terminated prior to July 1, 2003, the Normal Retirement Monthly Benefit for such Participant shall be calculated according to applicable provisions of the Plan as in effect on the date such Participant's Employment is terminated.
- (c) **Cash Balance Accounts.** A Participant's Cash Balance Account is the sum of the following credits under subsections (1) and (2):
 - (1) **Annual hypothetical allocations:**
 - (i) Pre-tax Employee Contribution Cash Balance Account - the annual hypothetical allocation credit is based on the amount expressed as a percent of Compensation the Employee designates as his mandatory contribution, and which amount is considered picked-up as an Employer Contribution under Code Section 414(h)(2).
 - (ii) Post-tax Employee Contribution Cash Balance Account - the annual hypothetical allocation credit is based on the amount expressed as a percent of Compensation made by the Employee each year on an after-tax basis.
 - (iii) Discretionary City Contribution Cash Balance Account - the hypothetical allocation is based on an amount expressed as percent of Compensation or in dollars that is made at the discretion of the City.
 - (2) Interest adjustments to Cash Balance Accounts shall be based on the annual interest rate on 30-year Treasury securities as specified by the

Commissioner of the Internal Revenue Service in revenue rulings, notices, or other guidance published by the Internal Revenue Service for the November 1 prior to January 1 of the next Plan Year, plus one percent (1%); however, in no event shall the interest credited be less than six percent (6%) per annum. Interest credited shall be based on simple interest for periods of less than twelve 12 months.

Interest adjustments shall be determined in the following manner and shall include the sum of the following items:

- (i) The interest adjustment credited for the Cash Balance Account as of December 31 as of any Plan Year shall include interest earned for the entire year, or, if credited for a partial year shall be based on completed months to the date of distribution.
 - (ii) The interest adjustment on Allocations credited to the Cash Balance Account during a Plan Year will assume that contributions were made on a monthly basis at the end of each completed month. A monthly Allocation amount will be equal to the annual Allocation amount, divided by the number of completed months of Participation during the Plan Year, and the interest will be determined assuming the monthly amount was credited to the account at the end of the month.
- (3) Notwithstanding the preceding provisions of Section 3.1(c), for each Participant who has made a one-time permanent election to transfer the balance in the Participant's Pre-tax Employee Contribution Cash Balance Account as of June 30, 2002 to the City of Franklin Employees' Money Purchase Pension Plan, all future allocations of the mandatory contributions previously designated by the Employee pursuant to Section 3.1(c)(1)(i) shall be made to the electing Employee's Employee Contribution Account under the City of Franklin Employees' Money Purchase Pension Plan. Any funds transferred from a Participant's Pre-tax Employee Contribution Cash Balance Account shall become the Participant's beginning Employee Contribution Account balance in such Money Purchase Pension Plan. The window to make this one-time permanent election has expired and the class of Employees eligible to select this option has closed.
- (4) Notwithstanding the preceding provisions of Section 3.1(c), no Participants who were first hired by the City after June 30, 2001 shall be required to make any mandatory contributions to the Plan or allowed to make any after-tax contributions to the Plan. As such, no Pre-tax Employee Contribution Cash Balance Account or Post-tax Employee Contribution Cash Balance Account shall be maintained for any such Participants.

Section 3.2 Mandatory Participant Contributions. Notwithstanding any provision of the Plan to the contrary, a Participant who was first hired by the City on or after February 15, 2010, shall make a mandatory contribution to the Plan in an amount equal to 5% of the Participant's

Compensation. Such Participant whose Employment terminates before he is fully vested in his Accrued Benefit shall be entitled to a return of such mandatory contributions, as adjusted for earnings, as soon as is reasonably practicable following termination. For this purpose, earnings shall be equal to the State of Tennessee Local Government Investment Pool rate of return, not to exceed 5%, compounded annually as of the first day of the Plan Year, and shall include an amount equal to pro-rated annual interest on the Participant's mandatory contributions as of January 1 of the year of termination for the period beginning on the first day of the year of termination and ending on the actual date of termination. The return of a Participant's mandatory contributions shall constitute a full payment and release of the Participant's right to any benefit under the Plan that is attributable to such mandatory contributions.

Section 3.3 Delayed Retirement.

- (a) **Condition.** A Participant who continues Employment with the Employer beyond his Normal Retirement Date shall be eligible to retire on a Delayed Retirement Date and receive a monthly retirement benefit paid in accordance with Article IV.
- (b) **Delayed Retirement Benefit.** The monthly retirement benefit, which shall commence on the Participant's Delayed Retirement Date, shall be the greater of:
 - (1) the amount computed in the manner set forth in Section 3.1(b), with such computation made as of his Delayed Retirement Date based on the normal form of payment described in Section 4.2(a), or
 - (2) the Actuarial Equivalent of the amount the Participant would have received if he had retired on his Normal Retirement Date.

In no event shall the benefit computed hereunder be less than the benefit payable at the Participant's Normal Retirement Date.

The retirement benefit determined from Cash Balance Accounts, which shall commence on the Participant's Delayed Retirement Date, shall be the amount calculated in the manner set forth in Section 3.1(c), with such calculation made as of his Delayed Retirement Date, based on the form of payment described in Section 4.2(a)

Section 3.4 Early Retirement.

- (a) **Condition.** If a Participant terminates Employment with the Employer prior to his Normal Retirement Date, but at or after such time that he has attained age fifty-five (55) and ten (10) Years of Credited Service, he shall be entitled to a monthly retirement benefit paid in accordance with Article IV.
- (b) **Early Retirement Benefit.** The amount of monthly retirement benefit determined as of a Participant's Early Retirement Date, based on the normal form of payment described in Section 4.2(a), shall be either (1) or (2) or (3) or (4), plus (5):

- (1) The deferred early retirement benefit which shall commence on his Normal Retirement Date in an amount equal to his Accrued Benefit;
- (2) If a Participant has fewer than twenty-five (25) years of Credited Service on his Early Retirement Date, an amount equal to his Accrued Benefit determined by Section 1.1(a), reduced by five percent (5%) for each year his Early Retirement Date precedes his Normal Retirement Date, with a pro rata adjustment for any partial years, rounded to the nearest month;
- (3) If a Participant has completed at least twenty-five (25) years of Credited Service on his Early Retirement Date, an amount equal to his Accrued Benefit determined by Section 1.1(a);
- (4) With respect to a Participant who was first hired by the City before February 15, 2010, if a Participant has twenty (20) or more years of Credited Service and has attained at least age 62, an amount equal to his Accrued Benefit determined by Section 1.1(a);
- (5) The Accrued Benefit determined under Section 1.1(b), paid based on the forms of payment described in Article IV, Section 4.1.

If the Participant requests an Early Retirement Benefit in writing to the Administrator, the retirement benefit shall commence on the first day of the month next following the Participant's Early Retirement Date.

Section 3.5 No Duplication of Benefits. Notwithstanding any provision of the Plan which may be construed to the contrary, a Participant or Beneficiary shall not be entitled to two separate benefits under the Plan which are attributable to the same period of employment. Accordingly, if benefit payments are made to or in respect of the same Participant, the determination of which is based upon the same period of employment as the benefits previously paid, the benefit currently payable shall be reduced to reflect the Actuarial Equivalent value of the benefits previously paid.

Section 3.6 Limitations on Benefits.

- (a) **General Limitation.** The projected annual benefit of a Participant shall not exceed the limitation set forth in Section 415(b)(1) of the Code (the "Defined Benefit Dollar Limitation").
- (b) **Adjustment for Early Retirement.** If the retirement benefit of a Participant commences before the Participant attains age 62, the Defined Benefit Dollar Limitation shall be adjusted so that it is the Actuarial Equivalent of an annual benefit of one hundred sixty thousand dollars (\$160,000), multiplied by the Adjustment Factor as prescribed by the Secretary of the Treasury, beginning at age 62. The adjustment provided for in the preceding sentence shall be made in accordance with regulations prescribed by the Secretary of the Treasury. For purposes of this Section, "Adjustment Factor" shall mean the cost-of-living

adjustment factor prescribed by the Secretary of Treasury under Section 415(d) of the Code, applied to such items and in such manner as the Secretary shall prescribe.

- (c) **Adjustment for Deferred Retirement.** If the retirement benefit of a Participant commences after the Participant attains age 62, the Defined Benefit Dollar Limitation shall be adjusted so that it is the Actuarial Equivalent of a benefit of one hundred sixty thousand dollars (\$160,000) beginning at age 62, multiplied by the Adjustment Factor as provided by the Secretary of the Treasury, based on the lesser of the interest rate assumption under the Plan or on an assumption of five percent (5%) per year.
- (d) **Changes in Benefit Structure.** To the extent provided by the Secretary of the Treasury, Section 3.5 shall be applied separately with respect to each change in the benefit structure of the Plan.
- (e) **Preservation of Accrued Benefit.** If the Current Accrued Benefit of an individual who is a Participant as of the first day of the limitation year beginning on or after January 1, 1987 exceeds the benefit limitations under Section 415(b) of the Code (as modified by this Section), then for purposes of Code Sections 415(b) and (e), the Defined Benefit Dollar Limitation with respect to such individual shall be equal to such Current Accrued Benefit. "Current Accrued Benefit" shall mean a Participant's Accrued Benefit under the Plan determined as if the Participant had separated from service as of the close of the last limitation year beginning before January 1, 1987, when expressed as an annual benefit within the meaning of Section 415(b)(2) of the Code. In determining the amount of a Participant's Current Accrued Benefit, the following shall be disregarded:
 - (1) any change in the terms and conditions of the Plan after May 5, 1986; and
 - (2) any cost-of-living adjustment occurring after May 5, 1986.
- (f) **Other Defined Benefit Plans.** For purposes of applying the limitations set forth in subsection (a) hereof, all Defined Benefit Plans of the Employer established pursuant to Code §§ 401(a) or 403, whether or not terminated, shall be treated as one Defined Benefit Plan.
- (g) **Plans of Affiliates.** For purposes of applying the limitations set forth in subsection (a) hereof, a Defined Benefit Plan maintained by any Affiliate shall be treated as maintained by all other Affiliates.
- (h) **Maximum Monthly Benefits.** Notwithstanding any other provision of this Plan, the maximum monthly annuity payable to a Participant commencing at age 62 shall not exceed (1) \$13,333, or (2) one hundred percent (100%) of the Participant's average monthly compensation during his or her highest three (3) consecutive calendar years.
- (i) **Reduction For Less Than 10 Years of Service.** The maximum monthly amount under (a) shall be reduced if the Participant has fewer than 10 years of participation

in the Plan. In that event, the maximum amount shall be equal to the amount in paragraph (a) multiplied by a fraction, the numerator of which is months of participation and the denominator of which is 120.

- (j) **Adjustment for Early or Late Commencement.** The monthly maximum in paragraph (a) shall be multiplied by the applicable factor from the table below, based on the number of years and months between the annuity starting date and the first day of the month after the month in which the Participant attained age 62.

Age	Year of Birth		
	1937 and before	1938 and 1954	1955 and after
55	0.4683	0.4391	0.4098
56	0.5034	0.4719	0.4404
57	0.5417	0.5078	0.4740
58	0.5838	0.5473	0.5108
59	0.6301	0.5907	0.5513
60	0.6811	0.6385	0.5960
61	0.7375	0.6914	0.6453
62	0.8000	0.7500	0.7000
63	0.8667	0.8000	0.7500
64	0.9333	0.8667	0.8000
65	1.0000	0.9333	0.8667
66	1.0942	1.0000	0.9333
67	1.2002	1.0969	1.0000
68	1.3202	1.2066	1.1000
69	1.4564	1.3311	1.2135
70	1.6118	1.4731	1.3429
71	1.7897	1.6357	1.4911
72	1.9943	1.8227	1.6616
73	2.2307	2.0387	1.8585
74	2.5051	2.2895	2.0872
75	2.8252	2.5821	2.3539

Straight line interpolation shall be used to determine the applicable factors if the difference is in months less than a full year. For factors before age 55, the applicable age 55 factor shall be reduced by five percent (5%) compounded annually to the appropriate age (years and months).

(k) **Adjustments for Benefit Options**

- (1) No additional adjustments shall be made to the monthly maximum if the participant receives a single-life annuity or a joint and fifty percent (50%) survivor level annuity with the Spouse as joint annuitant.

- (2) If the Participant elects a joint and fifty percent (50%) survivor annuity with a Spouse joint annuitant, the annuity amount may not exceed an amount equal to (i) the applicable monthly maximum multiplied by (ii) a fraction, the numerator of which is the initial joint and fifty percent (50%) survivor amount and the denominator of which is the Participant's joint and fifty percent (50%) survivor annuity amount option.
 - (3) If the Participant elects a single-life escalating annuity or joint and survivor escalating or level annuity with a non-Spouse joint annuitant, the initial annuity amount may not exceed an amount equal to (i) the applicable monthly maximum, multiplied by (ii) a fraction, the numerator of which is the initial single-life annuity amount or joint and survivor annuity amount, and the denominator of which is the single-life annuity option amount.
 - (4) If the Participant elects the single sum payment option, the single sum amount payable may not exceed an amount which is the single sum payment option for the maximum monthly single-life annuity the Participant could receive.
- (l) **Survivor and Disability Benefits.** For all Plan Years in which the Plan is a governmental plan as defined in Code Section 414(d), the adjustment described in Section 3.5(b) and the reduction described in Section 3.5(i) shall not apply to (i) amounts received under the Plan as a result of the Disability of the Participant; and (ii) amounts received under the Plan by a Participant's beneficiaries, survivors or the estate of the Participant as a result of the Participant's death.
- (m) **Additional Limitations.** The following provisions shall supersede any conflicting provision of the Plan, effective as of January 1, 2008.
- (1) The application of the provisions of this paragraph (m) shall not cause the maximum permissible benefit for any Participant to be less than the Participant's Accrued Benefit under all the defined benefit plans of the Employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, Treasury Regulations, and other published guidance relating to Section 415 of the Code in effect as of the end of the last limitation year beginning before July 1, 2007, as described in section 1.415(a)-1(g)(4) of the Treasury Regulations.
 - (2) Notwithstanding any provision of the Plan to the contrary, the limitations, adjustments, and other requirements prescribed in the Plan shall comply with the provisions of Section 415 of the Code and the final Treasury Regulations promulgated thereunder, as applicable, the terms of which are specifically incorporated herein by reference as of the effective date of this paragraph (m), except where an earlier effective date is otherwise provided

in the final Treasury Regulations or in this paragraph (m). However, where the final Treasury Regulations permit the Plan to specify an alternative option to a default option set forth in the Treasury Regulations, and the alternative option was available under statutory provisions, Treasury Regulations, and other published guidance relating to Section 415 of the Code as in effect prior to April 5, 2007, and the Plan provisions in effect as of April 5, 2007 incorporated the alternative option, said alternative option shall remain in effect as a plan provision for limitation years beginning on or after July 1, 2007 unless another permissible option is elected in this paragraph (m).

- (3) In the case of a Participant who has had a severance from employment with the Employer, the Defined Benefit Dollar Limitation applicable to the Participant in any limitation year beginning after the date of severance shall not be automatically adjusted under Section 415(d) of the Code.
- (4) For purposes of the Defined Benefit Dollar Limitation, a Participant's compensation for a limitation year shall not include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates.

ARTICLE IV. PAYMENT OF BENEFITS

Section 4.1 **General Conditions.** As a condition precedent to the distribution of any benefit under the Plan to a Participant or Beneficiary, as the case may be, such Participant or Beneficiary may be required to submit a written application to receive such benefit in such form and manner as shall be prescribed by the Administrator. Any payment of benefits to a Participant or Beneficiary, or to his legal representative, in accordance with the provisions of the Plan, shall, to the extent of the method of computation as well as the amount thereof, constitute full satisfaction of all claims hereunder against the Trustees, the Administrator and the Employer, who may require such Participant, Beneficiary or legal representative, as a condition precedent to such payment, to execute a receipt and release therefore. Benefit payments will commence on the first day of the month.

Section 4.2 **Form of Benefit Payment.**

- (a) **Normal Form of Payment.** The normal form of payment of any benefit not determined using a Cash Balance Account shall be in the form described in Section 1.33 as the Normal Annuity Form.

The normal form of payment of any benefit determined using a Cash Balance Account described as a Cash Refund Annuity in Article I, Section 1.13, is payable monthly to the Participant during his lifetime. The monthly amount shall be equal to the Cash Balance Account amount as of date of retirement divided by the Cash Refund Annuity shown in Appendix A using the Actuarial Equivalence assumptions stated in Article I, Section 1.2. The Cash Refund Annuity shall be pro rata retirement ages between integral ages.

Any other form of benefit payment provided under this Section or optional forms under Section 4.3 shall be the Actuarial Equivalent of such normal form of benefit payment.

- (b) **Form of Payment for a Married Participant.** Subject to the provisions of Sections 4.2(c) and 4.2(d) below, benefits payable under the Plan shall be paid in the form of a Qualified Joint and Survivor Annuity with respect to a married Participant who is entitled to receive a monthly benefit pursuant to this Article IV.

Notwithstanding the foregoing, the Qualified Joint and Survivor Annuity shall not be required with respect to a benefit which is less than five thousand dollars (\$5,000) or less and which is paid in a lump sum.

- (c) **Election to Receive an Optional Form of Benefit.** At least thirty (30) days and no more than one hundred eighty (180) days before the Participant's Annuity Starting Date, a Participant shall be given a written notice to the effect that benefits thereafter payable will be in the form specified in this Section 4.2 unless the Participant, with the written consent of his Spouse, if applicable, elects to the contrary prior to the commencement of payments. The notice shall describe, in a manner intended to be understood by the Participant:

- (1) each form of payment available under the Plan;
- (2) the respective value of each form of payment;
- (3) the Participant's right to make, and the effect of, an election to receive an optional form of benefit;
- (4) the right of the Participant, if any, to defer commencement of payments; and
- (5) the rights of the Participant's Spouse, if applicable.

Each Participant, with the consent of his Spouse, if applicable, shall have the right to elect during the "election period" to have his retirement benefit paid under any one of the options hereinafter set forth in Section 4.3 in lieu of the applicable retirement benefit otherwise provided for in this Section 4.2. The "election period" shall be the one hundred eighty (180) day period ending on the Annuity Starting Date.

A Participant who desires to have his retirement benefit paid under one of the optional forms provided in Section 4.3 shall make an election by written notice to the Administrator on forms provided by the Administrator. Such election must include the written consent of the Spouse, if applicable, witnessed by a representative of the Administrator or notary public, and may be revoked by such Participant in writing to the Administrator at any time during the election period. The consent of the Spouse must acknowledge the effect of such election and, once given, shall be irrevocable and shall be binding only with respect to the Spouse executing the consent. The consent of the Spouse must also either (i) consent to a designated Beneficiary who will receive any survivor benefits under the Plan and the form of benefits paid under the Plan or (ii) acknowledge that the Spouse has the right to limit consent to a specific Beneficiary or a specific form of benefits, and that the Spouse is voluntarily electing to relinquish both of such rights. The Administrator may accept an election other than that provided hereunder without the consent of the Spouse if there is no Spouse, the Spouse cannot be located, or such other circumstances as may be prescribed by regulations. After retirement benefit payments have commenced, no future elections or revocations of an optional form will be permitted under any circumstances.

Notwithstanding the foregoing, the Participant may waive the notice and receipt of the written explanation regarding the Qualified Joint and Survivor Annuity.

- (d) **Payment of Small Benefits.** If a Participant terminates service and if the Actuarial Equivalent of the Vested Benefit payable to the Participant or his Beneficiary is equal to or less than one thousand dollars (\$1,000), the Administrator shall direct that such benefit be paid in a lump sum as soon as is practicable. If a Participant terminates service and if the Actuarial Equivalent of the Vested Accrued Benefit, excluding that portion attributable to the Cash Balance Accounts, payable to the Participant or his Beneficiary is less than or equal to ten thousand dollars (\$10,000),

the Participant or Beneficiary, as applicable, may elect to receive the benefit in a lump sum, which payment shall be made as soon as practicable following the election. Such distribution shall be made prior to the Participant's Annuity Starting Date (whether before, on or after the Participant's Normal Retirement Date).

If a partially Vested Participant receives a distribution pursuant to this Section and the Participant resumes covered Employment under the Plan, he shall have the right to restore his City contributions under Article III, Section 3.1(b) to the extent forfeited upon the repayment to the Plan of the full amount of the distribution plus interest, compounded annually from the date of distribution at the rate of five percent (5%). Such repayment must be made by the Participant before the earlier of five (5) years after the first date on which the Employee is reemployed, or the close of the period in which the Participant incurs five (5) consecutive One Year Breaks in Employment following the date of distribution.

Section 4.3 **Optional Form of Benefit Payment.**

- (a) **Determination of Optional Benefit.** The amount of any benefit payable in accordance with options provided in this Article shall be determined as of the date payment thereof is made or commenced as the Actuarial Equivalent of the Normal Annuity Form of payment. For any annuity optional selector for benefit determined using the Cash Balance Account, the optional form will be the Cash Refund Annuity of that particular option.

Under any option elected which provides for payments to a Beneficiary after the death of a Participant, except under Option 1 if the Participant's Spouse is the Beneficiary, the actuarial present value of all payments to the Participant must be more than fifty percent (50%) of the actuarial present value of payments to the Participant and his Beneficiary.

- (b) **Description of Options.**

Option 1. Optional Joint and Survivor Annuity. This form of benefit is payable monthly to the Participant for life and a percentage (50%, 75% or 100%) of such amount, as elected by the Participant, shall continue after his death to his surviving designated Beneficiary for life. If his designated Beneficiary does not survive the Participant, no further benefits will be payable under this option.

Option 2. Single Life Annuity. This form of benefit is payable monthly to the Participant for life.

Option 3. Life Annuity with Payments Guaranteed. This form of benefit is payable monthly to the Participant for life with the first sixty (60), one hundred twenty (120) or one hundred eighty (180) monthly payments guaranteed, as elected by the Participant. Any guaranteed payments due after the death of the Participant shall be payable to his Beneficiary, if any, who survives the Participant, or, if there is no surviving Beneficiary, the commuted value of any remaining guaranteed payments shall be payable in a lump sum to the Participant's estate.

If the surviving Beneficiary should die before all guaranteed payments have been paid, the commuted value of any remaining guaranteed payments shall be payable in a lump sum to the estate of said Beneficiary.

Option 4. Lump Sums. The portion of the Accrued Benefit attributable to the Cash Balance Account may be paid in a lump sum equal to its value on the date paid. With respect to the portion of a Participant's Accrued Benefit not attributable to his Cash Balance Accounts, the lump sum form of payment is available only as a Small Amount payable under Section 4.2(d) or as a Death Benefit pursuant to Section 5.3.

(c) **Cancellation of Election.** The election by a Participant of any option under this Article involving survivor payments shall be null and void if the Participant's designated Beneficiary shall die before benefit payments commence, and benefits shall be payable pursuant to the normal form of settlement. A Participant may revoke an election in writing at any time prior to the Participant's Annuity Starting Date. After any such revocation a Participant may again, with the written consent of his Spouse, if any, make another election in the manner elsewhere provided in this Section.

(d) **Adjustments to Annual Benefit and Limitations.** Notwithstanding any provision of the Plan to the contrary, effective for distributions in Plan Years beginning after December 31, 2003, the required determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with this subsection (d).

(1) Limitation years beginning before July 1, 2007. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit computed using whichever of the following produces the greater annual amount:

(A) the interest rate and the mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; and

(B) a 5-percent interest rate assumption and the "applicable mortality table" defined in the Plan for that Annuity Starting Date.

(2) Limitation years beginning on or after July 1, 2007. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

(A) The annual amount of the straight life annuity (if any) payable to the Participant under the Plan commencing at the same Annuity Starting Date as the Participant's form of benefit; and

(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 Participant's form of benefit, computed using a 5-percent interest rate assumption and the applicable mortality table defined in the Plan for that Annuity Starting Date.

Section 4.4 Direct Rollovers. A Participant or an alternate payee who is a Participant's Spouse or former Spouse may elect to have all or any portion of an eligible rollover distribution (as defined in section 402(c) of the Internal Revenue Code) from the Plan paid directly to an eligible retirement plan (as defined in section 402(c) of the Internal Revenue Code) that accepts the eligible rollover distribution in a direct rollover. A Beneficiary who is the surviving Spouse of a Participant may also elect to have all or any portion of an eligible rollover distribution from the Plan paid directly to an eligible retirement plan which is an individual retirement account or individual retirement annuity, and that accepts the eligible rollover distribution. The above elections shall be made in accordance with procedures established by the Board of Mayor and Aldermen. For purposes of this Section 4.4, an eligible retirement plan shall include an annuity contract described in section 403(b) of the Code and an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a qualified domestic relation order, as defined in section 414(p) of the Code.

A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

For distributions made after December 31, 2007, a distributee may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code Section 408A(b). For distributions made after December 31, 2009, if a non-spouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a "60-day" rollover. If the Employee's named beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code Section 401(a)(9)(E).

Section 4.5 Transfers from Qualified Plans.

- (a) With the consent of the Administrator, amounts may be transferred from other qualified plans, provided that the trust from which such funds are transferred permits the transfer to be made and the transfer will not jeopardize the tax exempt status of the Plan or create adverse tax consequences for the Employer. The amounts transferred shall be set up in a separate account herein referred to as a

“Rollover Account.” Such account shall be fully Vested at all times and shall not be subject to forfeiture for any reason.

- (b) Amounts in a Participant’s Rollover Account shall be held by the Trustees pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as provided in Paragraphs (c) and (d) of this Section.
- (c) Amounts attributable to elective contributions (as defined in Regulation § 1.401(k)-1(g)(4)), including amounts treated as elective contributions, which are transferred from another qualified plan in a plan-to-plan transfer shall be subject to the distribution limitations provided for in Regulation § 1.401(k)-1(d).
- (d) At Normal Retirement Date, or such other date when the Participant or his Beneficiary shall be entitled to receive benefits, the value of the Rollover Account shall be used to provide additional benefits to the Participant or his Beneficiary. The value shall be determined in the same manner as the Cash Balance Account. Any distributions of amounts held in a Rollover Account shall be made in a manner which is consistent with and satisfies the provisions of Section 4.2, including, but not limited to, all notice and consent requirements of Code Sections 411(a)(11) and 417 and the Regulations thereunder. Furthermore, such amounts shall be considered as part of a Participant’s benefit in determining whether an involuntary cash-out of benefits without Participant consent may be made.
- (e) The Administrator may direct that employee transfers made after a valuation date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated or be invested as part of the Plan’s Trust Fund, to be determined by the Administrator.
- (f) For purposes of this Section, the term “qualified plan” shall mean any tax qualified plan under Code Section 401(a). The term “amounts transferred from other qualified plans” shall mean: (i) amounts transferred to this Plan directly from another qualified plan; (ii) lump-sum distributions received by an Employee from another qualified plan which are eligible for tax free rollover to a qualified plan and which are transferred by the Employee to this Plan within sixty (60) days following his receipt thereof; (iii) amounts transferred to this Plan from a conduit individual retirement account provided that the conduit individual retirement account has no assets other than assets which (A) were previously distributed to the Employee by another qualified plan as a lump-sum distribution, (B) were eligible for tax-free rollover to a qualified plan, and (C) were deposited in such conduit individual retirement account within sixty (60) days of receipt thereof and other than earnings on said assets; and (iv) amounts distributed to the Employee from a conduit individual retirement account meeting the requirements of clause (iii) above, and transferred by the Employee to this Plan within sixty (60) days of his receipt thereof from such conduit individual retirement account. The Plan will accept a direct rollover of an eligible rollover distribution from a qualified plan described in section 401(a) or 403(a) of the Code, including after-tax employee contributions,

an annuity contract described in section 403(b) of the Code, excluding after-tax employee contributions, and an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. The Plan will accept a Participant contribution of an eligible rollover distribution from a qualified plan described in section 401(a) or 403(a) of the Code, an annuity contract described in section 403(b) of the Code, and an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

- (g) Prior to accepting any transfers to which this Section applies, the Administrator may require the Employee to establish that the amounts to be transferred to this Plan meet the requirements of this Section and may also require the Employee to provide an opinion of counsel satisfactory to the Employer that the amounts to be transferred meet the requirements of this Section.
- (h) Notwithstanding anything herein to the contrary, a transfer directly to this Plan from another qualified plan (or a transaction having the effect of such a transfer) shall only be permitted if it will not result in the limitation or reduction of any "Section 411(d)(6) protected benefit" as described in Article IX, Section 9.2.

Section 4.6 **Mandatory Withholding on Certain Distributions.**

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

- (b) **Definitions.**

- (1) **Eligible rollover distribution:** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; any hardship distribution; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).
- (2) **Eligible retirement plan:** An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in

section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving Spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.

- (3) **Distributee:** A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving Spouse and the employee's or former employee's Spouse or former Spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the Spouse or former Spouse. For distributions made after December 31, 2009, a distributee includes the Employee's non-spouse beneficiary who is a "designated beneficiary" under Code Section 401(a)(9)(E) and the regulations thereunder.

Section 4.7 Time of Payment and Minimum Distributions.

- (a) **In General.** Subject to the requirements of the Plan relating to the payment of a Qualified Joint and Survivor Annuity, the provisions of this Section shall take precedence over any inconsistent Plan provision. All distributions shall be made in accordance with Section 401(a)(9) of the Code and Regulations issued by the Secretary thereunder including, but not limited to, Regulation § 1.401(a)(9)-2.
- (b) **Maximum Distribution Period.** Beginning with the first distribution calendar year, any distribution not made in a single sum must be made over one of the following periods (or a combination thereof):
 - (1) the life of the Participant;
 - (2) the life of the Participant and a designated Beneficiary;
 - (3) a period certain not longer than the Participant's life expectancy; or
 - (4) a period certain not longer than the joint and last survivor life expectancies of the Participant and a designated Beneficiary.
- (c) **Annual Distribution Amount.** If benefits will be paid in the form of an annuity, such payments will satisfy the following:
 - (1) payment intervals will not exceed one (1) year;
 - (2) the distribution period must be over a life (lives) or a period certain not longer than a life expectancy (or joint and last survivor expectancy) described in Section 401(a)(9)(A)(ii) or (B)(iii) of the Code;
 - (3) life expectancy will be recalculated annually for purposes of determining any period certain at the election of the Participant, but in the absence of any specific election by the Participant to the contrary, life expectancy shall not be recalculated annually;

- (4) once payments begin for a period certain, that period may not be extended;
- (5) payments must be nonincreasing or increase only as permitted under the Regulations issued by the Secretary; and
- (6) for life annuities and life annuities with a period certain not exceeding twenty (20) years, the distribution required on or before the Participant's required beginning date (or, for post-death distributions, the date such distributions are required to begin) shall be the payment required for one payment interval. The second payment need not be made until the end of the next payment interval. Payment intervals are the periods for which payments are received, *e.g.*, monthly, annually, etc.

If the annuity is for a period certain with no life contingency (or is a life annuity with a period certain exceeding twenty (20) years), payments for each calendar year shall be combined and treated as an annual amount. The amount which must be distributed by the Participant's required beginning date (or, for post-death distributions, the date such distributions are required to begin) is the annual amount for the first distribution calendar year. The annual amount for other distribution calendar years, including the calendar year in which the Participant's required beginning date (or post-death payment commencement date) occurs must be distributed on or before December 31 of the calendar year for which the distribution is required.

- (7) Unless the Participant's Spouse is the designated Beneficiary, if distributions will be made as a period certain annuity with no life contingency, such period certain as of the beginning of the first distribution calendar year may not exceed the applicable period determined under tables set forth or referred to in Regulations issued by the Secretary.
 - (8) If distributions will be made as a joint and survivor annuity for the Participant and a non-Spouse Beneficiary, any payments made after the required beginning date and after the Participant's death must not exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant under tables set forth or referred to in Regulations issued by the Secretary (*e.g.*, Regulation § 1.401(a)(9)-6).
- (d) **Benefits Beginning Before 1989.** If payments under an annuity form satisfying paragraph (b) above began prior to 1989, the minimum distribution requirements in effect as of July 27, 1987, shall apply regardless of whether the annuity form of payment is revocable. This rule also applies to deferred annuity contracts distributed to or covered by an individual prior to 1989, unless additional contributions are made by an Employer with respect to such contract.
 - (e) **Further Accruals.** Any additional benefits accruing to a Participant after his required beginning date shall be distributed as a separate component of the annuity beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(f) **Death Distributions.**

- (1) If a Participant dies after distribution of his interest in the Plan has begun, the remaining portion of such interest will be distributed at least as rapidly as under the method being used prior to the Participant's death.
- (2) If a Participant dies before distribution of his interest in the Plan begins, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year which includes the fifth (5th) anniversary of the Participant's death except to the extent an election is made to receive distributions in accordance with (i) or (ii) below:
 - (i) If any part of the Participant's interest is payable to a designated Beneficiary, distributions may be made over the life or over a period certain not greater than the life expectancy of the designated Beneficiary starting on or before December 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (ii) If the designated Beneficiary is the Participant's surviving Spouse, the date distributions are required to begin under (i) above shall not be earlier than the later of (A) December 31 of the calendar year immediately following the calendar year in which the Participant died, and (B) December 31 of the calendar year in which the Participant would have attained age seventy and one-half (70½).

If the Participant has not made an election under this paragraph (g)(2) before he dies, his designated Beneficiary must elect the method of distribution no later than the date which is ninety (90) days before the date as of which distributions would be required to begin under the method chosen. If the Participant has no designated Beneficiary, or if the designated Beneficiary does not elect a method of distribution, then the Participant's entire interest must be completed by the December 31 of the calendar year containing the fifth anniversary of the Participant's death.

- (3) For purposes of paragraph (g)(2), if the surviving Spouse dies after the Participant but before payments to such Spouse begin, the provisions of paragraph (g) with the exception of (g)(2) shall be applied as if the surviving Spouse were the Participant.
- (4) Any amount paid to a child of the Participant will be treated as having been paid to the surviving Spouse if the amount becomes payable to the surviving Spouse when the child reaches the age of majority (or other designated event permitted by Regulations issued by the Secretary).
- (5) For purposes of this paragraph (g), distribution is considered to begin on the Participant's required beginning date (or for purposes of paragraph (g)(3),

the date distribution is required to begin under (g)(2) above). If distribution in the form of an annuity irrevocably begins to the Participant before the required beginning date, the date distribution is considered to begin is the date distribution actually begins.

(g) **Definitions.** For purposes of this Section the following terms shall have the indicated meaning:

(1) “Designated Beneficiary” shall mean the individual who is designated as the Beneficiary under the Plan in accordance with Section 401(a)(9) of the Code and Regulations thereunder.

(2) “Distribution Calendar Year” shall mean a calendar year for which a minimum distribution is required. For distributions beginning before a Participant’s death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant’s required beginning date.

For distributions beginning after the Participant’s death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to paragraph (g) above.

(3) “Life Expectancy” shall mean the life expectancy (or joint and last survivor expectancy) calculated using the attained age of the Participant (or designated Beneficiary) as of the Participant’s (or designated Beneficiary’s) birthday in the applicable calendar year. The applicable calendar year is the first distribution calendar year.

If annuity payments start before the required beginning date, the applicable calendar year is the year such payments begin. Life expectancy and joint and last survivor expectancy will be computed using Tables V and VI of Regulation § 1.72-9.

(4) “Required Beginning Date” shall generally mean the first day of April of the calendar year following the later of

(i) the calendar year in which the Participant attains age seventy and one-half (70½); or

(ii) the calendar year in which the Participant retires.

(h) **Transition Rule.** Notwithstanding the foregoing, but subject to the Qualified Joint and Survivor Annuity requirements, payments to any Participant or former Participant may be made in accordance with all of the following, regardless of when payments begin:

(1) The distribution would not have disqualified the Trust under Code Section 401(a)(9) prior to its amendment by the Deficit Reduction Act of 1984.

- (2) The distribution is made in accordance with a method designated by the Participant or Beneficiary.
- (3) The designation is written and signed by the Participant or Beneficiary before 1984.
- (4) The Participant had an Accrued Benefit as of December 31, 1983.
- (5) The designated method specifies when payments will commence, the distribution period, and priority of Beneficiary(ies).

For distributions which started before 1984, the method of distribution shall be presumed to have been properly designated if written and it satisfies (1) and (5) above.

If a designation is revoked, any later distribution must satisfy Code Section 401(a)(9). If the revocation occurs after the required beginning date the total amount not yet distributed which would have been required to be distributed under Section 401(a)(9) but for the election must be distributed by the end of the calendar year following the calendar year of such revocation including, for post-1988 calendar years, the incidental benefit requirements of Prop. Treas. Reg. § 1.401(a)(9)-2 or any successor thereto. Any change in the designation will be treated as a revocation. However, the mere substitution or addition of a Beneficiary(ies) will not be treated as a revocation as long as the substitution or addition does not directly or indirectly change the period of payment.

- (i) Unless otherwise consented to by the Participant, in no event may any benefit pursuant to the Plan commence later than the sixtieth (60th) day after the close of the Plan Year in which occurs the later of:
 - (i) the date on which the Participant attains his Normal Retirement Age,
 - (ii) the tenth (10th) anniversary of the date the Employee becomes a Participant, and
 - (iii) the date on which the Participant terminates his service with the Employer.

The failure of a Participant or Spouse, if any, to consent to a distribution while a benefit is immediately distributable (*i.e.*, prior to the date the Participant attains, or would have attained if not deceased, the later of age sixty-two (62) or Normal Retirement Age) shall be deemed an election to defer commencement of payment.

- (j) The restrictions imposed by this Section shall not apply if a Participant has, prior to January 1, 1984, made a written designation to have his death benefits paid in an alternative method acceptable under Code Section 401(a) as in effect prior to the enactment of the Tax Equity and Fiscal Responsibility Act of 1982. Any such written designation made by a Participant shall be binding upon the Administrator notwithstanding the provisions of this Section.

- (k) If the Actuarial Equivalent lump sum value of a Participant's vested benefit exceeds five thousand dollars (\$5,000) or is to be paid or commence to be paid prior to the date the Participant attains (or would have attained if not deceased) the later of the Participant's Normal Retirement Age or age sixty-two (62) (*i.e.*, before the date the benefit ceases to be "immediately distributable"), the written consent of the Participant and Spouse, if any, or the survivor of the two, shall be required within the one hundred eighty (180) day period ending on the Annuity Starting Date; provided, however, that the consent of a Participant's Spouse, if any, shall not be required for the commencement of any distribution in the form of a Qualified Joint and Survivor Annuity.

Section 4.8 **Purchase of Annuities.** The Administrator may at any time in its discretion direct the Trustees to purchase annuities from a qualified life insurance company or insurer to provide benefits otherwise payable under the Plan. Any such annuity which is distributed to a Participant or Beneficiary shall be endorsed as "nontransferable" and shall satisfy the spousal consent requirements of Section 417 of the Code.

Section 4.9 **Post-Retirement Benefit Increases.** The Board of Aldermen from time to time may increase the monthly retirement benefit of Retired Participants or other Participants or Beneficiaries receiving monthly benefits. The amount of such increase will be found in City's Board of Aldermen Minutes Book.

**ARTICLE V. BENEFITS ON SEVERANCE FROM EMPLOYMENT,
DEATH OR DISABILITY**

Section 5.1 Severance from Employment.

- (a) **Condition.** If a Participant has a severance from Employment for any reason other than death and if he then does not become entitled to receive a benefit under any Section of Article III, he shall be entitled to a Vested Benefit equal to a nonforfeitable percentage of his Accrued Benefit as determined under this Section.
- (b) **Vested Accrued Benefit.** The Vested Accrued Benefit shall be computed by multiplying the Participant's Accrued Benefit by the nonforfeitable percentage determined from the following schedule:

Years of Credited Service	Vested Percentage
Less Than 5	0%
5 Years or More	100%

Notwithstanding any other provision of the Plan, a Participant's Accrued Benefit shall be fully nonforfeitable upon his attainment of his Normal Retirement Age.

The Participant is 100% immediately vested in all Cash Balance Accounts.

- (c) **Payment of Vested Accrued Benefit.** The Vested Accrued Benefit shall be a deferred benefit commencing on the first day of the month next following the Participant's Normal Retirement Date or if the participant meet the Early Retirement eligibility requirements, the Vested Accrued Benefit can be paid at the Early Retirement Date under the Early Retirement provision in Article III, Section 3.3, provided, however, a Participant entitled to a Vested Accrued Benefit from a Cash Balance Account hereunder may upon written request receive an immediate benefit in lieu of the deferred benefit.
- (d) **Forfeitures.** In the event of a Participant's severance from Employment with the Employer pursuant to this Section, any portion of the Participant's Accrued Benefit in excess of the nonforfeitable percentage thereof shall be maintained until the earlier of (i) the commencement of distribution of the Participant's Vested Benefit as set forth hereunder, or (ii) the Participant's incurring five (5) consecutive One Year Breaks in Employment, at which time such Accrued Benefit shall be forfeited and applied by the Actuary to reduce the Employer's contribution requirement. In the event a Participant is zero percent (0%) vested in his Accrued Benefit, however, such Accrued Benefit shall constitute a Forfeiture as of the date of his severance from Employment. The distribution of the interest of a Participant who had a severance from Employment prior to the date of execution hereof with a zero percent (0%) vested interest in his Accrued Benefit shall be deemed to have occurred as of the date of such execution, provided such Forfeiture has not previously been treated as having occurred.

- (e) **Restoration of Forfeitures.** In the event a Participant who incurs a Forfeiture under subsection (d) above prior to incurring five (5) consecutive One Year Breaks in Employment (i) again becomes an active Employee of the Employer and is eligible to participate hereunder prior to incurring said five (5) consecutive One Year Breaks in Employment, and does not incur a fifth (5th) consecutive One Year Break In Employment for or following the Plan Year of such reemployment, and (ii) repays to the Fund the full amount distributed to him plus interest, compounded annually from the date of distribution at the rate of five percent (5%), the Accrued Benefit which was forfeited pursuant to subsection (d) above shall be restored to him.

In the event the Participant was treated as incurring a Forfeiture without a distribution and without incurring a fifth consecutive One Year Break in Employment, such nonvested Accrued Benefit shall be reinstated without any requirement of repayment by such reemployed Participant. The repayment provided for by this subsection (e) must be made by the Employee before five (5) years after the first date on which the Employee is reemployed by the Employer.

Section 5.2 Disability Benefit.

In the event of an Active Participant becoming Disabled, the benefit will be treated as any other termination or retirement.

Section 5.3 Death Benefit.

- (a) In event of the death of a Participant before actual retirement where the Participant has, pursuant to Section 4.2(c), selected a payment option, the Beneficiary of such Participant shall be entitled to the greater of: (i) the amount of survivor annuity that the option allows, or (ii) the Qualified Joint and Survivor Annuity, assuming the Participant had retired on the day preceding the day of his death. The Beneficiary of a Terminated Vested Participant is not otherwise eligible for any benefit under the Plan.
- (b) In the event of the death of an Active Participant before actual retirement where the Participant has not selected a payment option, the Beneficiary of such Participant shall be entitled to the following methods of distribution:
- (1) An immediate or a deferred annuity determined by converting the actuarial present value or lump sum value of the Participant's Vested Accrued Benefit using the Actuarial Equivalence assumptions stated in Article I, Section 1.2. The Death Benefit distribution options are those provided by Article IV, Section 4.3.
 - (2) A lump sum payment. However, the portion of the Accrued Benefit not attributable to the Cash Balance Account shall be available in a lump sum payment only if such portion of the Accrued Benefit has an Actuarial Equivalent Single Sum Value which does not exceed \$25,000. In the event that the above stated Actuarial Equivalent Single Sum Value exceeds

\$25,000, then only the Cash Balance Account may be distributed in a lump sum.

- (c) In the event of the death of a Retired Participant, the death benefit will be paid according to the retirement option chosen.
- (d) A Participant may designate any person or persons, including a trust, as his or her Beneficiary or contingent Beneficiary to receive his or her Accrued Benefits in the event of the Participant's death. Any such designation shall be made by filing the form designated for that purpose with the Administrator. The Participant may change or cancel his or her Beneficiary designation at any time prior to death without the consent of any designated Beneficiary. If the Participant is married at the date of death, the Beneficiary designation shall not be effective unless the surviving Spouse has consented as described in this Section.

Section 5.4 Death of Employee. All Accrued Benefits of a participating Employee shall become fully vested and nonforfeitable if the Participant dies during Employment. If a Participant dies after Employment ends, only the Participant's vested benefits shall be payable.

ARTICLE VI. OTHER BENEFIT PROVISIONS

Section 6.1 **Qualified Domestic Relations Orders.** Notwithstanding the restrictions on the transfer of benefits as described in Section 11.4, upon the written request and consent of the Participant in such form as shall be acceptable to the Administrator, the Plan may provide for the payment of a Participant's Accrued Benefits in accordance with any qualified domestic relations order, as defined below.

- (a) Requirements for QDRO. A domestic relations order must meet the following requirements in order to be a qualified domestic relations order:
 - (1) The order must constitute a judgment, decree or order (including approval of a property settlement agreement) which relates to the provision of child support, alimony payments or marital property rights of a Spouse, former Spouse, child or other dependent of a Participant and is made pursuant to a state domestic relations law (including a community property law). The order must create or recognize the existence of an alternate payee's right to, or assign to an alternate payee the right to receive all or a portion of the benefits payable with respect to a Participant under the Plan.
 - (2) The order must clearly state:
 - (i) The name, the last known mailing address and Social Security number of the participant and of each alternate payee covered by the order (unless the Administrator knows such information).
 - (ii) The amount or percentage of the Participant's benefits to be paid by the Plan to each alternate payee, or the manner in which such amount or percentage is to be determined.
 - (iii) The number of payments or period to which the order applies.
 - (iv) The order is to specifically apply to the Plan.
 - (3) The order may not:
 - (i) Require the Plan to provide any type or form of payment or any option not otherwise provided under the Plan. However, if the order so states, the Plan shall make payment to the alternate payee at the "earliest retirement age" defined in Code Section 414(p)(4)(B). Unless the order provides otherwise, the Plan shall make payment to the alternate payee at the time the Participant's benefits are paid.
 - (ii) Require the plan to provide increased benefits (determined on the basis of actuarial value).
 - (iii) Require the payment of benefits to an alternate payee which is inconsistent with a pre-existing qualified domestic relations order.

- (b) **Determination by Administrator.** Upon receipt of a domestic relations order, the Administrator shall determine whether such order is qualified domestic relations order and shall be entitled to rely upon advice of legal counsel in determining if the domestic relations order satisfies the requirements of Internal Revenue Code section 414(p), as enacted by the Retirement Equity Act of 1984, and to further determine whether the court has proper jurisdiction over the Plan. The Plan shall establish reasonable procedures to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. The Administrator shall make such determinations within a reasonable time after receipt of such domestic relations order.
- (c) **Notification of Participant and Spouse.** The Administrator shall notify the Participant and any other alternate payee of the receipt of the order and of the Plan's procedures described in (b) for determining whether the order is a qualified domestic relations order. In addition, the Administrator shall notify the Participant and each alternate payee of its determination on whether the order is a qualified domestic relations order.

Section 6.2 **Unclaimed Benefits.**

- (a) **Address Records.** Each Participant shall keep the Administrator informed from time to time of his or her current post office address and the current post office address of his or her Spouse or any Beneficiary named by the Participant. Any communication, statement or notice from Administrator addressed to a Participant, Spouse or Beneficiary at his or her last post office address filed with the Administrator, or if no address is filed with the Administrator, at the last post office address as shown on the Employer's records, shall be binding on the Participant, Spouse or Beneficiaries for all purposes of the Plan.
- (b) **Unclaimed Payments.** If a notice of the right to receive a benefit payment is returned to the Trustees because a Participant, Spouse or Beneficiary cannot be located, the Trustees shall request the Internal Revenue Service (or other appropriate government agency) to forward a notice to the payee that the payment will be made when a claim for payment is received. Until such claim is made, the balance of the Participant's account shall remain in the Plan's fund.
- (c) **Death of Participant.** If a Participant has died and no Spouse or Beneficiary can be located after one year, a notice of the amount of the Participant's account shall be issued in the name of the Participant's estate and mailed to the Participant's last post office address as determined above.
- (d) **Duties of Administrator or Trustees.** Other than as described above, neither the Administrator nor the Trustees shall be required to search for or locate a Participant, Spouse or Beneficiary.
- (e) **Legal Incompetence.** If any Participant or Beneficiary is a minor or is, in the judgment of the Administrator, otherwise legally incapable of personally receiving and giving a valid receipt for any payment due him hereunder, the Administrator

may, unless and until a claim shall have been made by a guardian or conservator of such person duly appointed by a court of competent jurisdiction, direct the Insurer or the Trustees that payment be made to such person's Spouse, child, parent, brother or sister, or other person deemed by the Administrator to be a proper person to receive such payment. Any payment so made shall be a complete discharge of any liability under the Plan for such payment.

- (f) **Correction of Errors.** If any change in records or error results in any Participant or Beneficiary receiving from the Plan more or less than he would have been entitled to receive had the records been correct or had the error not been made, the Administrator, upon discovery of such error, shall correct the error by adjusting, as far as is practicable, the payments in such a manner that the benefits to which such person was correctly entitled shall be paid.

ARTICLE VII. PLAN OPERATION AND ADMINISTRATION

Section 7.1 **Plan Sponsor.** The City of Franklin is the “Plan Sponsor” of the Plan.

Section 7.2 **Plan Administrator.** The City is the Plan Administrator. The Committee members listed in Section 1.15 are named fiduciaries of the Plan and shall have discretionary authority to manage operation and administration of the Plan.

Section 7.3 **Powers and Duties of Committee.**

- (a) The Committee shall have the authority to and responsibility to recommend to the Board of Mayor and Aldermen the following items, including determining eligibility for benefits and construing the terms of the Plan and Trust. The Committee shall have such other authority as may be necessary to enable it to discharge its responsibilities under the Plan as Plan Administrator and named fiduciary, including, but not limited to, the power to recommend the following actions:
- (1) To review appeals by Employees from a denial of benefits.
 - (2) To recommend to the Board of Mayor and Aldermen the employment of one or more persons to assist in the administration of the Plan.
 - (3) To adopt such rules as it deems appropriate for the administration of the Plan.
 - (4) To prescribe procedures to be followed by Participants and Beneficiaries.
 - (5) To prepare and distribute information relating to the plan.
 - (6) To request from Participating Employers and Employees such information as shall be necessary for proper administration of the Plan.
 - (7) To recommend on behalf of all Plan Participants an independent qualified public accountant to examine the financial statements of the Plan and other Plan books and records as such accountant may consider necessary.
 - (8) To direct the Trustees concerning all benefits which are to be paid from the Trust Fund pursuant to the provisions of the Plan. The Trustees may conclusively rely on all such directions as being in accordance with Plan provisions.
 - (9) To comply with and monitor the Plan’s continued compliance with all governmental laws and regulations relating to recordkeeping and reporting of Participants’ benefits, other notifications to Participants, registration with the Internal Revenue Service, and reports to the U.S. Department of Labor, if applicable.

- (10) To delegate to one or more investment managers (as defined in Section 3(38) of ERISA) the authority to manage, acquire, or dispose of Plan assets and to regularly monitor the performance of any investment managers so selected, or to invest Plan assets in index funds, limited partnerships, or other such passive investments that are not actively managed by an investment manager for the Plan.
 - (11) To develop and communicate to the Trustees, funding agent or investment managers the investment objectives for Plan assets, and to appoint one or more financial advisors to assist in the development of such investment objectives.
 - (12) To select on behalf of all Plan Participants an Actuary responsible for preparing the annual actuarial statement which shall be received and reviewed by the Committee.
 - (13) To review the implementation of the funding policy, the payment of Employer contributions pursuant to such policy, and the actuarial statement.
 - (14) To review investment performance on a regular basis.
 - (15) To designate the Human Resources Director or such other individual or entity as the Committee may choose to provide day-to-day administrative services under the Plan.
- (b) The decision of the Board of Mayor and Aldermen upon any Committee's recommendation upon any matter within its authority shall be final and binding on all parties, including the City of Franklin, its Affiliates, and the Plan Participants and Beneficiaries.

Section 7.4 Uniformity of Application. The Committee may approve the use of such rules, mortality and other factors deemed necessary or appropriate under the Plan. The provisions of this Plan and the rules and decisions of the Committee shall be applied in a uniform and nondiscriminatory manner, systematically followed and consistently applied so that all Participants and Beneficiaries similarly situated shall be treated alike. The Committee shall be entitled to rely upon information furnished by the City Participants, Beneficiaries, Participating Employers, legal counsel, accountants, and all other fiduciaries or persons retained by the Plan, the Committee, or the City of Franklin.

Section 7.5 Committee Procedures.

- (a) **Actions of Committee.** A majority of its members shall constitute a quorum at any meeting, and the majority of the quorum may transact any business or perform any duties of each Committee. The Committee may adopt such by-laws and make such rules and procedures not inconsistent with the Plan and the governmental laws and regulations pertaining to such Plan as it deems to be necessary and appropriate.

- (b) **Expenses of Committees.** All usual and reasonable expenses of the Committee shall be paid by the City of Franklin. Members of the Committee shall not be entitled to any additional compensation for services performed for the Committee or otherwise in connection with the Plan.

Section 7.6 Adherence to Plan Document. Neither the Committee nor any of its members shall have the power to add to, subtract from or modify any of the terms of the Plan or Trust, to change any benefits otherwise than as provided by the plan, or to waive or fail to apply any eligibility requirements for benefits under this Plan.

Section 7.7 Agent for Service of Process. The City Attorney is designated as the agent for the service of legal process against the Plan and the Trust Fund at the following address:

City Attorney
City of Franklin
P.O. Box 305
Franklin, Tennessee 37064

Section 7.8 Allocation of Fiduciary Responsibilities.

- (a) **Duties of Fiduciaries.** The named fiduciaries of the Plan shall have only those specific powers, duties, responsibilities and obligations as are specifically provided to them under the Plan and Trust Agreement. Except as provided in Section 9.1, the Board of Mayor and Aldermen shall have the sole responsibility to amend or terminate the Plan in whole or in part. The Board of Mayor and Aldermen shall also have the sole authority to designate the Participating Employers and to appoint members of the Committee. The Trustees shall have sole responsibility for trust administration and management of the assets held under the Trust unless (a) the investment of such assets has been directed by the Committee or the Board of Mayor and Aldermen, or (b) an investment manager has been appointed by the Committee to manage an investment fund held under the Trust.
- (b) **Representations of Fiduciaries.** By adopting the Plan or accepting appointment under the Plan, each fiduciary represents that any directions given, information furnished, or action taken by it shall be in accordance with the provisions of the Plan or Trust Agreement or applicable governmental laws or regulations authorizing or providing such direction, information or action. Each fiduciary is entitled to rely upon any such direction, information or action of another fiduciary as being proper under this Plan or Trust Agreement and pursuant to governmental laws and regulations, and is not required under this Plan or Trust Agreement to inquire into the propriety of any such direction, information or action. It is intended under this Plan and Trust Agreement that each fiduciary shall be responsible for the proper exercise of its own powers, duties, responsibilities and obligations and shall not be responsible for any act or failure to act of another fiduciary.

ARTICLE VIII. CONTRIBUTIONS

Section 8.1 **Contributions.** Contributions by the City of Franklin and Participants shall be made as follows:

- (a) **Pre-tax Employee Contributions.** Employees hired before July 1, 1995 may elect to contribute from three percent (3%) to ten percent (10%) on a pre-tax basis to a cash balance account beginning with the first payroll period after September 1, 1995. Employees hired on or after July 1, 1995 and before December 1, 1996 must, per administrative procedures, contribute at least three percent (3%) on a pre-tax basis to a cash balance account; however, these Employees may make a permanent one-time election to contribute an additional amount of from one percent (1%) to seven percent (7%) of salary. Employees hired on or after December 1, 1996, who have satisfied eligibility requirements of Section 2.1, must contribute at least three percent (3%) on a pre-tax basis to a cash balance account; however, these Employees may make a permanent one-time election to contribute an additional amount of from one percent (1%) to seven percent (7%) of salary. A Participant who was first hired by the City on or after February 15, 2010, shall make a mandatory contribution to the Plan in an amount equal to 5% of the Participant's Compensation. These contributions are considered to be "picked up" by the Employer under Code § 414(h)(2). Notwithstanding the foregoing, no Participants who were first hired by the City after June 30, 2001, but before February 15, 2010, shall be required to make any mandatory contributions to the Plan, and no Pre-tax Employee Contribution Cash Balance Account shall be maintained for any such Participant. For each Participant who has made a one-time permanent election to transfer the balance in the Participant's Pre-tax Employee Contribution Cash Balance Account as of June 30, 2002 to the City of Franklin Employees' Money Purchase Pension Plan, all future allocations of the mandatory contributions previously designated by the Employee pursuant to Section 3.1(c)(1)(i) shall be made to the electing Employee's Employee Contribution Account under the City of Franklin Employees' Money Purchase Pension Plan.
- (b) **Post-tax Employee Contributions.** All Participants may elect on an annual basis to make voluntary after-tax contributions of from one percent (1%) to ten percent (10%) of their salary to a Cash Balance Account. Notwithstanding the preceding sentence, no Participants who were first hired by the City after June 30, 2001 shall be allowed to make any after-tax contributions to the Plan, and no Post-tax Employee Contribution Cash Balance Account shall be maintained for any such Participant.
- (c) **Discretionary City Contributions.** The City may make contributions to all Participants' Cash Balance Accounts on a discretionary nondiscriminatory basis.
- (d) **Regular City Contributions.** Contributions to provide retirement benefits under the Plan also shall be made by the City of Franklin.

All contributions to the Plan shall be paid to the Trustees. The Trustees shall hold, invest, distribute and otherwise administer the funds entrusted to it in strict

accordance with the terms and provisions of the Plan and the Trust Agreement. All assets of the Trust Fund shall be retained for the exclusive benefit of Participants and their Beneficiaries, shall be used to pay the benefits hereunder to such persons or to pay reasonable administrative expenses to the extent not paid by the Participating Employers (including, without limitation, such reasonable expenses as may be incurred by the Trustee, a financial advisor to the Plan, or an investment manager for the Plan), and shall not revert to or inure to the benefit of the City until the satisfaction of all Plan liabilities.

Section 8.2 Return of Contributions. Upon request by the City or an Employee, a contribution made by mistake of fact, or conditioned upon qualification of the Plan or any amendment thereof shall be returned to the City or to the Employee, as applicable, within one year after the payment of the contribution or the denial of the qualification by the Internal Revenue Service.

Section 8.3 Deferred Annuity Contracts. Any individual or group deferred annuity contracts which have been acquired by the Plan shall be used to offset the benefits payable under this Plan to affected Participants.

Section 8.4 Qualified Military Service. Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code.

- (a) In the case of a death occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code Section 414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed and then terminated employment on account of death. Moreover, the Plan will credit the Participant's qualified military service as service for vesting purposes, as though the Participant had resumed employment under the Uniformed Services Employment and Reemployment Rights Act ("USERRA") immediately prior to the Participant's death.
- (b) For benefit accrual purposes, the Plan treats an individual who, on or after January 12, 2007, dies or becomes disabled (as defined under the terms of the Plan) while performing qualified military service with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under USERRA, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.
- (c) For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined by Code Section 3401(h)(2), shall be treated as an Employee of the Employer making the payment, (ii) the differential wage payment shall be treated as compensation within the meaning of Code Section 415(c)(3), and (iii) the Plan shall not be treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

ARTICLE IX. AMENDMENT AND TERMINATION

Section 9.1 **Amendment.** The City of Franklin may amend or modify this Plan at any time, and from time to time, with retroactive or future effect, by action of its Board of Mayor and Aldermen. No such amendment or modification shall cause or permit any part of the Trust Fund to be used for or diverted to purposes other than the exclusive benefit of Participants or their Beneficiaries or revert to or become the property of the City of Franklin prior to the satisfaction of all liabilities under the Plan.

Section 9.2 **Transfers of Assets.** If any Plan assets or liabilities are merged or consolidated with or transferred in whole or in part to another plan established for the benefit of any Participants under this Plan, each such Participant shall be entitled to receive a benefit, which would, if the successor plan were to be terminated immediately after such merger, consolidation or transfer, be equal to or greater than the benefit that he would have been entitled to receive immediately before the merger, consolidation or transfer if this Plan had then terminated. Not less than 30 days prior to such merger, consolidation or transfer of Plan assets or liabilities, the Committee shall file an actuarial statement of valuation in accordance with the Internal Revenue Code, as may be determined to be applicable to governmental plans.

Section 9.3 **Plan Termination.** The City of Franklin may terminate the Plan at any time by action of its Board of Mayor and Aldermen. The City of Franklin reserves the right at any time to reduce, temporarily suspend or discontinue contributions, provide that any such action shall be communicated promptly to all Participants.

Section 9.4 **Termination and Partial Termination.** Upon a termination or partial termination of the Plan, the rights of all affected Participants to benefits accrued to the date of such termination or partial termination, to the extent funded, shall be nonforfeitable. However, the Participants shall have no recourse towards the satisfaction of the nonforfeitable benefit from sources other than the then available Plan assets funding such Participants' benefits. If all Plan obligations have been satisfied, any remaining Plan assets due to actuarial error shall be returned to the City of Franklin.

ARTICLE X. CLAIMS FOR BENEFITS

Section 10.1 Claims Procedure

- (a) **Claims Must be Filed.** An Employee, Participant, the Spouse of an Employee or Participant, Beneficiary, or estate of a Participant (the "Claimant") who has a claim for benefits under the Plan must give written notice of such claim to the Administrator at the following address:

Human Resources Director
City of Franklin
P.O. Box 305
Franklin, Tennessee 37064

- (b) **Review of Claim.** After the Administrator has reviewed the claim and obtained any other information it deems necessary to render a decision on the claim, the Administrator shall notify the Claimant within 90 days after receipt of the claim of the acceptance or denial of the claim, unless special circumstances require an extension of time for processing the claim. Such an extension of time may not exceed 90 additional days and notice of the extension shall be provided to the Claimant prior to the termination of the initial 90 day period indicating the special circumstances requiring the extension and the date by which a final decision on the claim is expected.
- (c) **Denied Claims.** In the event any application for benefits is denied, in whole or in part, the Administrator shall notify the Claimant of such denial in writing and shall advise the Claimant of the right to appeal the denial and to request a review thereof. Such notice shall be written in a manner calculated to be understood by the Claimant and shall contain:
- (1) Specific reasons for such denial.
 - (2) Specific references to the Plan provisions on which such denial is based.
 - (3) A description of any information or material necessary for the Employee to perfect the claim.
 - (4) An explanation of why such material is necessary.
 - (5) An explanation of the Plan's appeal and review procedure.

Section 10.2 Appeal for Further Review.

- (a) **Appeal to the Committee.** If the Claimant's claim for benefits is denied in whole or in part, the Claimant, or the Claimant's duly authorized representative, may appeal the denial by submitting to the Committee a written request for review of the application within 60 days after receiving written notice of such denial. The Committee shall give the Claimant (upon request) an opportunity to review

pertinent Plan documents (other than legally privileged documents) in preparing such request for review.

- (b) **Contents of Appeal.** The request for review must be in writing and shall be addressed to the Administrator at the address listed in Section 10.1(a) above. The request for review shall set forth all of the grounds upon which it is based, all facts in support thereof, and any other matters which the Claimant deems pertinent. The Committee may require the Claimant to submit (at the Claimant's expense) such additional facts, documents or other material as the Committee deems necessary or advisable in making its review.
- (c) **Review of Appeal.** The Committee shall act upon each request for review within 60 days after its receipt thereof, unless special circumstances require further time for processing. In no event shall the decision on review be rendered more than 120 days after the Committee receives the request for review. Written notice of an extension of time beyond 60 days shall be furnished to the Claimant prior to the commencement of the extension.
- (d) **Denied Appeals.** In the event the Committee confirms the denial of the claim for benefits in whole or in part, it shall give written notice of its decision to the Claimant. Such notices shall be written in a manner calculated to be understood by the Claimant and shall contain the specific reasons for the denial.

Section 10.3 Exhaustion of Remedies. No legal action for benefits under the Plan shall be brought unless and until the following steps have occurred:

- (a) The Claimant has submitted a written application for benefits in accordance with Section 10.1.
- (b) The Claimant has been notified that the claim has been denied.
- (c) The Claimant has filed a written request appealing the denial in accordance with Article X, Section 10.2.
- (d) The Claimant has been notified in writing that the Committee has denied the Claimant's appeal within the time prescribed by Article X, Section 10.2.

Notwithstanding the foregoing, a legal action for benefits may be brought by the Claimant upon the failure of the Plan to deny the claim or appeal within the time prescribed herein.

ARTICLE XI. OTHER PROVISIONS

Section 11.1 Exclusive Benefit of Participants. The City of Franklin intends that this Plan shall be maintained for the exclusive benefit of Participants and their Beneficiaries and that the assets of the Plan shall be used exclusively for such purpose.

Section 11.2 Payments Solely from Plan Assets. Payment of benefits as provided in the Plan shall be made solely from Plan assets held under the Trust Agreement or by a funding agent other than the Trustees, and the City of Franklin or any Plan fiduciary shall not otherwise be liable for such benefits.

Section 11.3 Not a Contract of Employment. Participation in this Plan by an Employee shall not give such Employee any right to be retained in the employ of the City of Franklin and the ability of the City of Franklin to dismiss or discharge an Employee hereby is specifically reserved.

Section 11.4 Prohibition on Alienation. Except as provided in Section 6.1, no benefit payable under this Plan shall be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, attachment, garnishment, execution, or levy of any kind or any other process of law, voluntary or involuntary. Any attempt to so dispose of any rights to benefits payable hereunder shall be void. The Plan and Trust Fund shall not be liable for or subject to the debts, contracts, liabilities, engagements or torts of any person entitled to benefits hereunder. Notwithstanding any provision of this Section to the contrary, an offset to a Participant's Accrued Benefit against an amount that the Participant is ordered or required to pay the Plan with respect to a judgment, order, or decree issued, or a settlement entered into, on or after August 5, 1997, shall be permitted in accordance with Sections 401(a)(13)(C) and (D) of the Code.

Section 11.5 Necessary Information. Participants, Spouses of Participants and Beneficiaries shall furnish the Administrator such documents or other information as the Administrator reasonably determines to be necessary for administration of the Plan, including certification as to the Participant's marital status. Payment of benefits under the Plan for each Participant, Spouse or Beneficiary is conditioned upon receipt by the Administrator of such documents or other information. The Administrator may rely upon any such information provided by such individuals.

Section 11.6 Inconsistencies and Separability. In case of any inconsistencies between the provisions of the Plan and provisions of the Trust Agreement if applicable, the Plan shall prevail. If any provisions of the Plan are for any reason declared invalid or not enforceable under either federal or Tennessee law, such provisions will not affect the remaining terms and conditions, but the Plan will be construed and enforced thereafter as if such provisions had not been inserted.

Section 11.7 Plan Forms. Wherever the Plan requires the Participant to file an enrollment application, Plan form or other notice, election or designation with the Administrator, the Participant shall take such action by completing and signing the form prescribed by the Administrative Committee for that purpose and filing such form with the Administrator.

Section 11.8 Headings Not to Control. Headings and titles within the Plan are for convenience only and are not to be read as part of the text of the Plan.

Section 11.9 Applicable Law. The validity and effect of the Plan and the rights and obligations of all persons affected thereby, are to be construed and determined in accordance with applicable federal law, and to the extent that federal law is inapplicable, under the laws of the State of Tennessee.

Section 11.10 Copy of Plan. A current copy of the Plan shall be available for inspection by any Participant or other person entitled to benefits under the Plan at reasonable times at the office of the Human Resources Director.

Section 11.11 Entire Plan. This document and any authorized written amendment thereto is a complete statement of the Plan and as of the Effective Date (or the effective date of any such amendment) supersedes all prior plans, representatives and proposals, written or oral, relating to its subject matter. The City of Franklin shall not be bound by or liable to any person for any representation, promise or inducement made by any employee or agent which is not embodied in this document and any authorized written amendment thereto.

Section 11.12 Internal Revenue Service Qualification. Anything herein to the contrary notwithstanding, this Plan is created and maintained under the condition that it is approved and qualified by the Internal Revenue Service under Code Section 401(a) as a governmental plan and that any Trust hereunder is exempt under Code Section 501(a), or under any comparable Sections of any future legislation which amends, supplements or supersedes such Sections. Therefore, if the Plan fails to so qualify, as evidenced by receipt of a letter to such effect from the Internal Revenue Service, then the City of Franklin reserves the right to either:

- (a) withdraw and terminate the Plan hereunder whereupon no Participant shall have any right or claim to any of the assets hereunder which are derived from Employer contributions, notwithstanding any other provision hereof; or
- (b) amend the Plan to the extent necessary to secure a favorable determination that the Plan is so qualified.

Section 11.13 Execution of the Plan. This document may be executed in any number of counterparts and each fully executed counterpart shall be deemed an original.

(Remainder of page intentionally left blank)

IN WITNESS WHEREOF, the City of Franklin, pursuant to resolution of the Board of Mayor and Aldermen, has caused this instrument to be executed by its duly authorized officer, this _____ day of _____, 2014, to be effective as of January 1, 2013, except as otherwise noted herein.

THE CITY OF FRANKLIN

BY: _____

TITLE: _____

APPENDIX A

Age	Annuity
19	16.5566
20	16.5217
21	16.4849
22	16.4462
23	16.4054
24	16.3624
25	16.3171
26	16.2695
27	16.2194
28	16.1667
29	16.1113
30	16.0531
31	15.9920
32	15.9279
33	15.8607
34	15.7903
35	15.7166
36	15.6395
37	15.5588
38	15.4746
39	15.3867
40	15.2950
41	15.1993
42	15.0996
43	14.9957
44	14.8875
45	14.7749
46	14.6575
47	14.5354
48	14.4088
49	14.2771
50	14.1402
51	13.9979
52	13.8501
53	13.6967
54	13.5374
55	13.3735
56	13.2038
57	13.0285
58	12.8474
59	12.6606
60	12.4688
61	12.2730
62	12.0720
63	11.8657
64	11.6544
65	11.4397

APPENDIX A

Age	Annuity
66	11.2224
67	11.0009
68	10.7752
69	10.5452
70	10.3172
71	10.0861
72	9.8520
73	9.6121
74	9.3804
75	9.1471
76	8.9120
77	8.6750
78	8.4411
79	8.2126
80	7.9826
81	7.7506
82	7.5157
83	7.2960
84	7.0722
85	6.8453
86	6.6142
87	6.3936
88	6.1763
89	5.9551
90	5.7293
91	5.5035
92	5.2976
93	5.0876
94	4.8723
95	4.6502
96	4.4412
97	4.2446
98	4.0389
99	3.8207
100	3.5855
101	3.3845
102	3.1791
103	2.9506
104	2.6879
105	2.4429
106	2.2284
107	1.9659
108	1.5961
109	1.3313
110	0.5417

NOTICE TO INTERESTED PARTIES

1. Notice to employees. An application is to be made to the Internal Revenue Service for an advance determination on the qualification of the following employee pension benefit plan:

2. Name of Plan: City of Franklin Employees' Pension Plan (the "Plan")

3. Plan Number: 001

4. Name and Address of Applicant (and Employer):

City of Franklin, Tennessee
109 Third Avenue South
Franklin, Tennessee 37064

5. Applicant's EIN: 62-6000290

6. Name and address of Plan Administrator:

City of Franklin, Tennessee
109 Third Avenue South
Franklin, Tennessee 37064

7. The application will be filed on January 31, 2014, for a determination as to whether the Plan meets the qualification requirements of Section 401 of the Internal Revenue Code of 1986, with respect to the Plan's amendment and restatement. The application will be filed with:

Internal Revenue Service
EP Determinations
P.O. Box 12192
Covington, KY 41012-0192

8. The employees eligible to participate in the Plan are full-time regular employees (as designated by the City) who have elected to participate in the Plan, provided, however, that full-time regular employees (as designated by the City) hired before February 15, 2010, were eligible to participate in the Plan after completing one year of credited service.

9. The Internal Revenue Service has previously issued a determination letter with respect to the qualification of this Plan.

RIGHTS OF INTERESTED PARTIES

10. You have the right to submit to EP Determinations, at the above address, either individually or jointly with other interested parties, your comments as to whether this Plan meets the qualification requirements of the Internal Revenue Code. Your comments to EP Determinations may be submitted to:

Internal Revenue Service
EP Determinations
Attn: Customer Service Manager
P.O. Box 2508
Cincinnati, OH 45202

COMMENTS TO THE INTERNAL REVENUE SERVICE

11. Comments submitted by you to EP Determinations must be in writing and received by it by March 18, 2014.

ADDITIONAL INFORMATION

12. Detailed instructions regarding the requirements for notification of interested parties may be found in Sections 17 and 18 of Revenue Procedure 2014-6. Additional information concerning this application (including, where applicable, an updated copy of the plan and related trust; the application for determination; any additional documents dealing with the application that have been submitted to the Service; and copies of Section 17 of Revenue Procedure 2014-6) are available at the employer's business office at 109 Third Avenue South for inspection during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. (There is a nominal charge for copying and/or mailing.)

CITY OF FRANKLIN
EMPLOYEES' PENSION PLAN

(As Amended and Restated)
Effective January 1, ~~2010~~2013

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CITY OF FRANKLIN EMPLOYEES' PENSION PLAN

The City of Franklin Employees' Pension Plan (the "Plan") originally became effective May 1, 1971 and is herein amended and restated effective as of January 1, ~~2010~~2013, except as may otherwise be provided herein ("Effective Date").

The Plan was initially funded with a Group Annuity Contract of The Life Insurance Company of Georgia. On May 19, 1981, the Plan was amended and restated in its entirety and funded with a Group Annuity Contract issued by Provident National Assurance Company. Effective June 1, 1983 the Plan again was amended for the third time. The Plan was further amended and restated in its entirety for a fourth time on April 1, 1985 (but effective as of May 1, 1984), and a Provident National Assurance Company Prototype Defined Benefit Plan and Trust (Basic Plan Document Number 02), together with Adoption Agreement 02-001 and Special Attachment was adopted. Effective July 24, 1987, the Plan was funded by a Group Annuity Contract issued by Provident National Assurance Company. The Plan was amended to provide an Early Retirement Option effective June 30, 1995, and was further amended and restated effective July 1, 1995, January 1, 1997, July 1, 2003, ~~and~~ January 1, 2009, and January 1, 2010. The Plan is herein amended and restated as of the Effective Date. The Plan is a defined benefit pension plan intended to qualify under Section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code") to the extent those provisions apply to governmental plans.

The amended and restated Plan herein contained constitutes an amendment, effective as of the Effective Date, to the earlier Plan provisions, rather than a replacement of such Plan. The Plan provisions in effect immediately prior to this amendment shall remain in effect for those Participants who are not actively employed by the City of Franklin at any time after such date. The Plan, as amended and restated in this instrument, and the insurance contract(s) or Trust established in connection with the Plan are intended to meet the requirements of Sections 401(a) and 501(a) of the Code, to the extent that those provisions apply to a governmental plan (as defined in Section 414(d) of the Code).

As of the Effective Date, the Plan as amended and restated has the terms and provisions hereinafter set forth.

ARTICLE I. DEFINITIONS

The following terms when used herein shall have the meaning set forth below, if capitalized. Unless the context clearly indicates otherwise, words in the masculine, feminine or neuter gender include the other genders and the singular includes the plural and vice versa.

Section 1.1 "Accrued Benefit" is the sum of (a) and (b):

- (a) the amount of the retirement annuity or benefit accrued as of any given date for a Participant shall be equal to his prospective retirement annuity under the Plan at Normal Retirement Date as determined in Article III, Section 3.1(b) entitled "Normal Retirement Monthly Benefit," multiplied by the ratio that Credited

Service at such date bears to the total possible Credited Service from the Participant's earliest employment date he would have completed if he lived and remained employed by the Employer until his Normal Retirement Date; and

- (b) the amount determined from his Cash Balance Accounts.

Section 1.2 **"Active Participant"** shall mean any Employee who has satisfied the eligibility requirements under Article II, Section 2.1.

Section 1.3 **"Actuarial Equivalent"** or **"Actuarial Equivalence"** shall mean:

- (a) for purposes of determining the optional forms of benefit other than conversion of the accrued benefit to a Single Sum Value or conversion of a Cash Balance Account to a Cash Refund Annuity, the equivalent value of a benefit shall be computed on the basis of the 1971 Group Annuity Table for Males, with interest payable at a rate of six percent (6%) per annum.
- (b) for the purposes of determining a single sum value or the present value of Accrued Benefits pursuant to Article I, Section 1.1(a) and for determining the conversion of Cash Balance Accounts (as defined in Article I, Section 1.12) to Cash Refund Annuities or Deferred Annuities in accordance with Article I, Sections 1.8 and 1.13, the equivalent value of a benefit shall be calculated on the basis of the Mortality Table for Sections 415 and 417(e) as set forth in IRS Rev. Rul. 2007-67 as amended from time to time with interest payable at a rate of six percent (6%) per annum.

Section 1.4 **"Actuary"** shall mean a qualified actuary who is a Member of the American Academy of Actuaries and who performs the annual actuarial valuations and other computations required under the Plan.

Section 1.5 **"Administrator"** shall mean the City of Franklin.

Section 1.6 **"Affiliate"** means any corporation or unincorporated business controlled by, or under common control with, an Employer within the meaning of Sections 414(b), (c), (m), or (o) of the Code. A corporation or unincorporated business shall not be deemed an Affiliate for any purpose under the Plan with respect to any period before it became an Affiliate.

Section 1.7 **"Anniversary Year"** means the 12 consecutive month period beginning on the first day of the month following the month in which an Employee completes his or her first Hour of Service and each succeeding 12 consecutive month period beginning on the anniversary of such date.

Section 1.8 **"Annuity Starting Date"** shall mean the first day of the first period for which an amount is payable as an annuity or, in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the Participant to such benefit.

Section 1.9 **"Average Compensation"** shall mean the average of the Participant's Compensation over the three (3) consecutive whole calendar years of a Participant's

Employment during which his Compensation was the greatest out of the last ten (10) calendar years or over a lesser number of Years of Employment actually served, provided, however, that for a Participant who was first hired by the City on or after February 15, 2010, "Average Compensation" shall mean the average of the Participant's Compensation over the five (5) consecutive whole calendar years of a Participant's Employment during which his Compensation was the greatest out of the last ten (10) calendar years or over a lesser number of Years of Employment actually served. Notwithstanding the foregoing, if the amount of Compensation in the whole or partial year in which the Participant terminates Employment is greater than the amount of Compensation for the first whole or partial year which would be used in determining the average hereunder, then the first whole year of actual Compensation shall be used in determining such Participant's Average Compensation.

Section 1.10 "**Beneficiary**" means the recipient or recipients, including a trust, last designated by a Participant in writing on forms provided by the Employer, who or which shall receive any benefits payable under the Plan upon the death of the Participant. If no such designation of Beneficiary has been received by the Employer prior to the date of death of the Participant or if there is no surviving Beneficiary and a benefit is due and payable that is a lump sum or may, under the terms of the Plan, be commuted and payable as a lump sum, such benefit shall be payable to the estate of the Participant.

Notwithstanding anything contained herein to the contrary, if a Beneficiary designated by a Participant is not the Participant's Spouse, the Spouse's written consent to such specific Beneficiary shall be required for such designation to become effective, and such consent shall be witnessed by a representative of the Administrator or a notary public. A Participant may revoke a Beneficiary(ies) designation at any time in writing. A Participant's Spouse may give a general consent acknowledging the Spouse's right to consent to any Beneficiary and relinquishing such right, in which event any future revocation and/or redesignation of Beneficiary(ies) by the Participant shall not require further spousal consent. The consent of the Spouse must acknowledge the effect of such election and, once given, cannot be revoked by such Spouse. The Administrator may accept an election without the consent of the Spouse if there is no Spouse, the Spouse cannot be located, or such other circumstances as may be prescribed by the Secretary of the Treasury. Any spousal consent shall only be applicable to the Spouse granting such consent.

Section 1.11 "**Board**" means the Board of Mayor and Aldermen of the City of Franklin, Tennessee.

Section 1.12 "**Cash Balance Account**" means a hypothetical Employee Account wherein account values shall accrue with allocation credits and interest adjustments credits pursuant to Article III for illustrative purposes only; provided, however, the assets shall not be segregated or actually allocated to such accounts. Each Employee can have up to three (3) Cash Balance Accounts, for which the following definitions shall apply:

- (a) "Pre-tax Employee Contribution Cash Balance Account" means a hypothetical account to which allocations are credited based on the percent of Compensation earned by the Employee during a year and contributed to the fund for which Code Section 414(h)(2) considers the contribution to be an Employer contributions and which are "picked-up" by the Employer and therefore deducted on a pre-tax basis

from the Employee's wages. This contribution is mandatory for all employees hired after July 1, 1995. Notwithstanding the preceding sentence, no Participants who were first hired by the City after June 30, 2001 shall be required to make any mandatory contributions to the Plan, and no Pre-tax Employee Contribution Cash Balance Account shall be maintained for any such Participant.

- (b) "Post-tax Employee Contribution Cash Balance Account" means a hypothetical account to which allocations are credited based on the percent of Compensation earned by the Employee during a year and contributed to the fund on voluntary basis on an after-tax basis. This contribution is voluntary for all employees. Notwithstanding the preceding sentence, no Participants who were first hired by the City after June 30, 2001 shall be allowed to make any after-tax contributions to the Plan, and no Post-tax Employee Contribution Cash Balance Account shall be maintained for any such Participant.
- (c) "Discretionary City Contribution Cash Balance Account" means a hypothetical account to which allocations are credited at the discretion of the City.

Notwithstanding the preceding provisions of this Section 1.12, those Participants who have made a one-time permanent election pursuant to Section 3.1(c) to transfer the balance in their Pre-tax Employee Contribution Cash Balance Plan Accounts as of June 30, 2002 to the City of Franklin Employees' Money Purchase Pension Plan shall make no subsequent mandatory contributions to the Cash Balance fund, and all future allocations of the mandatory contributions previously designated by the Participant pursuant to Section 3.1(c)(1)(i) shall be made to the electing Participant's Employee Contribution Account under the City of Franklin Employees' Money Purchase Pension Plan.

Section 1.13 "**Cash Refund Annuity**" means a monthly annuity or lump sum death benefit payable to the Beneficiary in an amount determined upon the death of the Participant equal to the excess of the Cash Balance Account at Retirement Date over the sum of annuity payments actually received by the Participant, if any; but annuity payments shall not be credited with additional interest after the Participant's Retirement Date.

Section 1.14 "**City**" means the City of Franklin located in Williamson County in the State of Tennessee.

Section 1.15 "**Committee**" means the City of Franklin Employee Pension and Trust Investment Committee, consisting of the City's Human Resources Director, Finance Director, Finance Chair of the Board, another member of the Board appointed by the Mayor, two (2) City Employee Representatives elected by the Employee population covered by this Plan, and two (2) Citizen Representatives who shall be appointed initially by the Mayor and approved by the Board, provided, however, that effective April 13, 2010, "Committee" means the City of Franklin Employee Pension and Trust Investment Committee, consisting of the City's Human Resources Director, two (2) members of the Board appointed by the Mayor, two (2) City Employee Representatives elected by the Employee population covered by this Plan, and two (2) Citizen Representatives who shall be appointed initially by the Mayor and approved by the Board. Each Employee Representative and each Citizen Representative shall serve a term of four (4) years. These terms shall be staggered so that one (1) Employee Representative and one

(1) Citizen representative begin their terms every two (2) years. These terms shall renew in years in which neither Mayoral nor Aldermanic elections occur. The term of the Human Resources Director shall never expire and shall be held by the employee currently holding the Human Resources Director position. The members of the Board shall serve at the will of the Mayor and shall be replaced either at the will of the Mayor or after the Aldermanic term has expired, whichever is sooner.

Section 1.16 **“Compensation”** means, for each calendar year as reported on IRS Form W-2, an Employee’s Compensation (as defined below) for Employment received in that year, plus any salary reduction amounts contributed on a pre-tax basis to the City of Franklin or to a “cafeteria plan” or to a “retirement plan” under Sections 125, 401(k), 402(a)(8), 402(h), 403(b), 414(h) or deferred compensation under Section 457 of the Internal Revenue Code established by the City of Franklin for its participating subsidiaries and affiliates. For Plan Years beginning on or after January 1, 2001, compensation paid or made available during the plan year shall include elective amounts that are not includible in the gross income of the Employee by reason of Code Section 132(f)(4). For purposes of this Section 1.14, the following definitions shall apply:

- (a) “Compensation” includes base salary, overtime pay, bonuses, shift differential, holiday pay, fringe benefits (cash or noncash), deferred compensation, and welfare benefits.
- (b) “Compensation” excludes reimbursements or other expense allowances, moving expenses, uniform allowances, supplemental pay for police officers and fire fighters, long term disability benefits, pay in lieu of notice, severance pay, tuition reimbursements, or automobile allowances.
- (c) Notwithstanding the foregoing, effective for Plan Years beginning on or after January 1, 1989, the Compensation of an Employee may not exceed \$200,000 for a Plan Year (as adjusted under Code Section 401(a)(17)). Commencing January 1, 1994, the Compensation of an Employee may not exceed \$150,000 for a Plan Year as adjusted under Internal Revenue Code Section 401(a)(17). If Compensation for any prior determination period is taken into account in determining an Employee’s benefits accruing in a current Plan Year, the Compensation for that prior determination period is subject to the annual compensation limit in effect for that prior determination period. For the purposes of the preceding sentence, for prior determination periods beginning before January 1, 1989, the annual compensation limit is \$200,000 and for prior determination periods beginning before January 1, 1994, the annual compensation limit is \$150,000. In applying these limits, the Plan shall use January 1, 1989 and January 1, 1994 fresh start dates with extended wear away.

Notwithstanding any provision of the Plan to the contrary, for Plan Years beginning on or after July 1, 2007, for all applicable purposes under the Plan of the definition of compensation under Section 415 of the Code, Compensation shall include the following types of compensation paid by the later of 2½ months after a Participant’s severance from employment with the Employer or the end of the Plan Year that includes the date of the Participant’s severance from employment with the Employer. Any other payment of compensation paid after severance of employment that is not described in the following types of compensation is not considered

compensation within the meaning of Section 415(c)(3) of the Code, even if payment is made within the time period specified above.

- (a) Compensation shall include regular pay after severance from employment if:
 - (1) The payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments; and
 - (2) The payment would have been paid to the Participant prior to a severance from employment if the Participant had continued in employment with the Employer.
- (b) Leave cashouts and deferred compensation shall be included in Compensation if those amounts would have been included in the definition of Compensation if they were paid prior to the Participant's severance from employment with the Employer, and the amounts are either:
 - (1) Payment for unused accrued bona fide sick, vacation, or other leave, but only if the Participant would have been able to use the leave if employment had continued; or
 - (2) Received pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been made to the Participant if the Participant had continued in employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.
- (c) Compensation includes payments to an individual who does not currently perform services for the Employer by reason of qualified military service (as that term is used in Section 414(u)(1) of the Code) to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.
- (d) Compensation does not include compensation paid to a Participant who is permanently and totally disabled (as defined in Section 22(e)(3) of the Code).

Section 1.17 "**Continuous Employment**" means the whole years and partially completed calendar months during which an Employee shall have been continuously employed with the Employer as a Regular Employee. If an Employee voluntarily terminates Employment or is discharged, his employment shall be deemed to cease on the date of his voluntary severance from Employment or discharge.

Section 1.18 "**Credited Service**" and "**Years of Credited Service**" shall mean the sum of periods of Continuous Employment expressed in whole years and whole months. Credited Service will not be granted for Credited Service for which a retirement benefit (Lump Sum or Annuity Benefit) already has been paid or is being paid or for which an Employee is accruing

benefits as a member of another City-sponsored retirement plan, or Credited Service excluded under Article II, Section 2.2.

Section 1.19 **“Delayed Retirement Date”** shall mean the first day of the month coinciding with or next following the date after a Participant’s Normal Retirement Date on which he actually terminates employment with the Employer for any reason other than death.

Section 1.20 **“Disability”** or **“Disabled”** shall mean an Employee’s injury or illness that renders the Employee totally disabled to perform the essential duties of his Employment. The Administrator shall make the determination of an Employee’s Disability based on such information as the Administrator may deem appropriate, including medical examinations.

Section 1.21 **“Early Retirement Age”** shall mean, as to each Participant, the later of age fifty-five (55) and ten (10) Years of Credited Service.

Section 1.22 **“Early Retirement Date”** shall mean, the first day of the month coinciding with or next following the date after a Participant’s Early Retirement Age on which he actually terminated employment with the Employer for any reason other than death.

Section 1.23 **“Employee”** or **“Eligible Class”** or **“Regular Employee”** means any full-time person in the active and continuous employ of the Employer. For purposes of eligibility under the Plan and this Section, a full-time employee means anyone who is employed in a Regular position as defined in the City’s job classification or employment standards and is employed for 30 or more hours per week and is not a person whose retirement benefit was the subject of a collectively bargained agreement where retirement benefits were the subject of good faith bargaining between Employee representatives and the Employer.

Section 1.24 **“Employer”** means the City of Franklin, Williamson County, Tennessee or any entity with which said Employer may be merged or consolidated or by which it may be succeeded or is a member of the controlled group of corporations (within the meaning of Section 1563(a) of the Internal Revenue Code without regard to Sections 1563(a)(4) and 1563(e)(3)(C) of which the City of Franklin is a member, but only after the date such corporation became a member of the controlled group of Corporations and which may adopt this Plan and Trust.

Section 1.25 **“Employment”** means employment with the City of Franklin.

Section 1.26 **“ERISA”** or **“Act”** means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations and rulings in effect thereunder from time to time, as applicable to governmental plans.

Section 1.27 **“Highly Compensated Employee”** includes highly compensated active employees and highly compensated former employees.

A highly compensated active employee includes an Employee described in Code Section 414(q) and the Regulations thereunder and generally means an Employee who was (i) a “five percent owner” (as defined according to Code Section 416(i)(1)) of the Employer at any time during the current or the preceding Plan Year, or (ii) for the preceding Plan Year, had compensation from the Employer in excess of \$90,000 (as adjusted by the Secretary pursuant to section 415(d) of the

Code, except that the base period shall be the calendar quarter ending September 30, 1996) and, if the Employer so elects, was in the top-paid group for the preceding Plan Year.

For purposes of this Section, the term "compensation" means compensation within the meaning of Code Section 415(c)(3) of the Code without regard to Code Sections 125, 402(e)(3), and 402(h)(1)(B). However, for Plan Years beginning after December 31, 1997, for purposes of this Section, the term "compensation" means compensation within the meaning of section 415(c)(3) of the Code. Compensation paid or made available during the plan year shall include elective amounts that are not includible in the gross income of the Employee by reason of Code Section 132(f)(4).

A highly compensated former employee includes a former Employee who shall be treated as a Highly Compensated Employee because (i) such Employee was a Highly Compensated Employee when such Employee separated from service, or (ii) such Employee was a Highly Compensated Employee at any time after attaining age 55.

The determination of who is a Highly Compensated Employee, including the determinations of the number and identity of employees in the top-paid group, the number of employees treated as officers and the compensation that is considered will be made in accordance with section 414(q) of the Internal Revenue Code and the regulations thereunder.

Section 1.28 "Hour of Employment" shall mean the following:

- (a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer during the applicable computation period.
- (b) Each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the Employment relationship has terminated) due to vacation, holiday, illness, incapacity (including Disability), layoff, jury duty, military duty or leave of absence; provided, however, that
 - (1) no more than five hundred one (501) Hours of Employment shall be credited under this subsection (b) to an Employee on account of any single continuous period during which the Employee performs no duties (whether or not such period occurs in a single computation period),
 - (2) hours for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which no duties are performed shall not be credited 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 shall not be credited for a payment which solely reimburses an Employee for medical or medically-related expenses incurred by the Employee.

For purposes of this subsection (b), a payment shall be deemed to be made by or due from the Employer regardless of whether such payment is made by or due from the Employer directly, or indirectly through, among others, a trust fund or insurer to which the Employer 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 Employees or are on behalf of a group of Employees in the aggregate.

- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same hours shall not be credited both under subsection (a) or (b) and under this subsection. Hours credited for back pay under this subsection with respect to periods described in subsection (b) shall be subject to the limitations set forth in subsection (b).

The provisions of paragraphs (b) and (c) of 29 C.F.R. § 2530.200b-2 shall be observed in crediting Hours of Employment under this Section, which paragraphs are incorporated herein by reference.

Section 1.29 “**Internal Revenue Code**” or “**Code**” means the Internal Revenue Code of 1986, as amended from time to time, and the regulations and rulings in effect thereunder from time to time, as applicable to governmental plans.

Section 1.30 “**Insurer**” means a legal reserve life insurance company or companies licensed to do business in the State of Tennessee.

Section 1.31 “**Leased Employee**” means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person (leasing organization) has performed services for the recipient (or for the recipient and related persons determined in accordance with section 414(n)(6) of the Internal Revenue Code) on a substantially full-time basis for a period of at least one year, and such services are performed under primary direction and control by the recipient Employer. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient Employer.

A leased employee shall not be considered an employee of the recipient if: (i) such employee is covered by a money purchase pension plan providing: (1) a nonintegrated employer contribution rate of at least ten (10%) percent of compensation, as defined in section 415(c)(3) of the Internal Revenue Code, but including amounts contributed pursuant to a salary reduction agreement which are excludable from the employee’s gross income under section 125, section 402(e)(3), section 402(h)(1)(B) or section 403(b) of the Internal Revenue Code; (2) immediate participation, and (3) full and immediate vesting; and (ii) leased employees do not constitute more than 20 percent of the recipient’s nonhighly compensated workforce. Compensation paid or made available during the plan year shall include elective amounts that are not includible in the gross income of the Employee by reason of Code Section 132(f)(4).

Section 1.32 “**Normal Annuity Form**” means (a) and (b):

- (a) for purposes of determining a benefit under Article IV, Section 4.2(a), a life retirement annuity which provides payments for the life of the Participant, the first payment becoming due on such Participant's retirement date, if living, and subsequent payments of a like amount, payable monthly thereafter during the lifetime of such Participant, terminating with the last payment due the month preceding the death of such Participant;
- (b) for purposes of determining a benefit under Article IV, Section 4.2(c), the Cash Balance Account is an annuity based on the Cash Refund Annuity, pursuant to Article I, Section 1.13.

Section 1.33 **"Normal Retirement Age"** shall mean, as to each Participant, the date on which the Participant attains the later of age sixty-five (65) and five (5) Years of Credited Service.

Section 1.34 **"Normal Retirement Date"** shall mean the first day of the month coinciding with or next following (i) the date on which the Participant attains his Normal Retirement Age or, if earlier, (ii) with respect to Employees hired before July 1, 2006, the date on which the Participant completes twenty-five (25) Years of Credited Service.

Section 1.35 **"One Year Break in Employment"** shall mean a twelve (12) consecutive month period beginning on the severance from service date or any anniversary thereof and ending on the next succeeding anniversary of such date during which an Employee has not been credited with an Hour of Employment as a Regular Employee.

To the extent not already credited, Hours of Employment shall be credited solely for the purpose of determining whether a One Year Break in Employment has occurred with respect to an Employee who is absent from work, regardless of whether the Employee is paid for such absence:

- (a) by reason of the pregnancy of the Employee;
- (b) by reason of the birth of a child of the Employee;
- (c) by reason of the placement of a child with the Employee in connection with the adoption of such child by such Employee;
- (d) for purposes of caring for such child for a period beginning immediately following such birth or placement; or
- (e) other authorized family and medical leave absences.

Hours of Employment shall be credited for such purpose pursuant to Code Section 411(a)(6)(E) only in the twelve (12) month consecutive period in which the absence from work begins, if the crediting is necessary to prevent a One Year Break in Employment in that twelve (12) consecutive month period, or in any other case, in the immediately following twelve (12) consecutive month period.

Section 1.36 **“Participant”** means an individual who has an Accrued Benefit under the Plan which has not been totally distributed.

Section 1.37 **“Participating Employee”** means an Employee who meets the requirements in Article II, Sections 2.1.

Section 1.38 **“Participating Employer”** means the City of Franklin, any successors thereof, and such subsidiaries and affiliates at the City of Franklin as are authorized to participate in this Plan by a resolution of the Board of Mayor and Aldermen, designating such subsidiary or affiliate as a Participating Employer, and by a resolution of the board of such subsidiary or affiliate adopting this Plan.

Section 1.39 **“Plan”** means the City of Franklin Employees’ Pension Plan as herein set forth, and as amended from time to time, and shall include any Trust Agreement or insurance contract from time to time, and the Trust established under said Agreement or any insurance contract(s) entered into as a funding entity for the Plan.

Section 1.40 **“Plan Year”** means each twelve (12) month period beginning on January 1 and ending on the following December 31. A Year of Service is the 12-consecutive month period from January 1 to December 31 each year following the end of the Short Plan Year.

Section 1.41 **“Qualified Joint and Survivor Annuity”** shall mean for benefits not determined from a Cash Balance Account, a monthly benefit payable to the Participant for his lifetime with a monthly benefit following the death of the Participant payable to his Spouse and continuing for the life of such Spouse equal to fifty percent (50%) of the amount of the monthly benefit payable during the joint lives of the Participant and his Spouse; for benefits determined from a Cash Balance Account, a monthly benefit payable to the Participant for his lifetime with a monthly benefit following the death of the Participant payable to his Spouse and continuing for the life of such Spouse equal to fifty percent (50%) of the amount of the monthly benefit payable during the joint lives of the Participant and his Spouse, and upon the death of the last annuitant, the Beneficiary shall receive an amount equal to the excess of the Cash Balance Account at retirement date over the sum of annuity payments actually received by the Participant and his Spouse, if any.

The Qualified Joint and Survivor Annuity shall be the Actuarial Equivalent of the normal annuity forms under the Plan, and shall be based on the Participant’s entire Vested Benefit under the Plan, except as may otherwise specifically provided for, or as otherwise elected by the Participant in accordance with the terms of the Plan.

Section 1.42 **“Reemployment Date”** means the date as of which an Employee is credited with the first Hour of Employment as a Regular Employee after an interruption in Employment as a Regular Employee.

Section 1.43 **“Retired Participant”** means a Participant who has terminated active service with the Employer and is currently receiving benefits.

Section 1.44 **“Rollover Account”** means the account established and maintained by the Administrator for each Participant with respect to his total interest in the Plan resulting from

amounts transferred from another qualified plan or “conduit” Individual Retirement Account in accordance with Section 4.5.

Section 1.45 **“Spouse”** means the spouse of a Participant pursuant to applicable federal and state law.

Section 1.46 **“Temporary Employee”** shall mean any Employee of the Employer who is not a full-time person in the active and continuous employ of the Employer. For purposes of this Section, a full-time employee means anyone who is employed in a Regular position as defined in the City’s job classification or employment standards and is employed for 30 or more hours per week.

Section 1.47 **“Terminated Vested Participant”** shall mean former Employees who have an Vested Accrued Benefit but who are not yet currently receiving benefits.

Section 1.48 **“Trust Agreement”** means the Trust Agreement between the City of Franklin and the Trustees, attached hereto, provided, however, that effective as of September 1, 2011, “Trust Agreement” means a written agreement between the City of Franklin and the Trustee, as applicable.

Section 1.49 **“Trust Fund”** or **“Fund”** shall mean the assets consisting of such cash and other property as shall be paid or delivered to the Trustees or to the Insurer, including earnings.

Section 1.50 **“Trustees”** shall mean the Mayor, City Administrator, and the Human Resources Director, or any corporation or bank that accepts the role of Trustee under the terms of a written agreement with the City, provided, however, that effective as of September 1, 2011, “Trustee” or “Trustees” shall mean the City, or any corporation or bank that accepts the role of Trustee under the terms of a written agreement with the City.

Section 1.51 **“Vested Accrued Benefit”** means the nonforfeitable percentage of an Accrued Benefit to which a Participant is entitled, as determined under Article V, Section 5.1.

ARTICLE II. ELIGIBILITY TO PARTICIPATE

Section 2.1 Employee Participation.

~~All Employees who were Participants in the Plan immediately prior to the Effective Date shall remain eligible to participate in the Plan.~~

Employees who were not Participants in the Plan immediately prior to the Effective Date or are first hired on or after ~~January 1~~ February 15, 2010, shall become eligible to participate in the Plan as of the first day of the month immediately following the completion of the following eligibility requirements:

- (a) He or she is permanently employed in a full-time position with the City;
- (b) He or she is designated by the City as a Regular Employee and works at least thirty (30) hours per week; and
- (c) He or she has earned at least one (1) Year of Credited Service.

Notwithstanding the foregoing, an Employee first hired on or after February 15, 2010, shall become eligible to participate in the Plan and become a Participant hereunder as of the first day of the month immediately following the commencement of the Employee's employment by the City, provided, however, that such Employee shall be eligible to participate in the Plan only upon his election to participate. Such election shall be made in a form and manner acceptable to the Plan Administrator.

Section 2.2 Excluded Employees.

Employees included in a unit of Employees covered by a collective bargaining agreement between the City of Franklin and Employee representatives are excluded from eligibility to participate in this Plan if retirement benefits were the subject of good faith bargaining. For this purpose, the term "Employee representative" does not include any organization more than half of whose members are Employees who are officers or executives of the Employer. Leased Employees are excluded from eligibility to participate in the Plan. In addition, individuals designated by the City as Temporary Employees are excluded from eligibility to participate in the Plan.

Section 2.3 Eligible Employee Procedures.

Each eligible Employee who becomes a Participant shall, within thirty (30) days after receiving a notice from the Employer of eligibility to participate, execute an application form provided by the Employer for that purpose.

Section 2.4 Optional Participation.

Certain Employees who are classified at a level of Director and above in the City's job classification and who were employed on or after July 1, 1995 may opt out of participation in the Plan. The approval of this optional participation in the Plan is subject to the following conditions: (a) a written agreement exists between the Employee and the City, (b) the Employee

must participate in another retirement plan stated in such agreement, and (c) the agreement must state the contribution or benefit he shall receive as a percentage of salary.

Section 2.5 Reemployment.

Upon reemployment a former Active Participant will be eligible to accrue retirement benefits upon his reemployment date provided he has not received all of his benefits in lump sum or is not currently being paid a monthly benefit.

If reemployment occurs after a One Year Break in Employment, Credited Service completed before such break will be taken into account for the purposes of the Plan; provided, however, in the case of a Participant who does not have a Vested Accrued Benefit under the Plan, that Years of Credited Service before a period of One Year Breaks in Employment will not be taken into account if the number of consecutive One Year Breaks in Employment equals or exceeds the greater of (A) five (5) or (B) the aggregate number of pre-break Years of Credited Service. Such aggregate number of Years of Credited Service will not include any Years of Credited Service disregarded under the preceding sentence by reason of prior One Year Breaks in Employment.

If reemployment occurs before a One Year Break in Employment, the period of absence will be deemed Credited Service for the purposes of meeting the requirements for participation (see Section 2.1).

For purposes of the foregoing and for all features of the Plan as adopted with respect to Employees first hired on or after February 15, 2010:

- (a) a Participant who has no Vested Accrued Benefit upon his severance from Employment and who is subsequently re-hired after February 15, 2010, is a new hire at the time of his reemployment unless such Participant's forfeited Accrued Benefit is eligible to be and is reinstated pursuant to Section 5.1(e);
- (b) a Participant who has a vested Accrued Benefit that is not distributed upon his severance from Employment and who is subsequently re-hired after February 15, 2010, is not a new hire at the time of his reemployment; and
- (c) a Participant who has a vested Accrued Benefit that is distributed upon his severance from Employment and who is subsequently re-hired after February 15, 2010, is a new hire at the time of his reemployment.

Section 2.6 Ineligible employment.

In the event that a Participant becomes ineligible to participate because he is no longer a member of an eligible class of Employees but has not incurred a One Year Break in Employment, such Employee shall participate immediately upon returning to an eligible class of Employees. If such participant incurs a One Year Break in Employment, eligibility to participate shall be determined under Reemployment, pursuant to Article II, Section 2.5.

Section 2.7 Purchase of Credited Service.

Notwithstanding any provision of the Plan to the contrary, with respect to an Employee who was first hired on or after February 15, 2010, and who has not elected to participate in the Plan pursuant to Section 2.1, such Employee who has become fully vested in his account balance under the City of Franklin 2010 Defined Contribution Plan (the "DC Account Balance") attributable to employer contributions by reason of the completion of five (5) years of service for the City may make an irrevocable election in a form and manner prescribed by the City to become a Participant under the Plan and to purchase Years of Credited Service with his DC Account Balance pursuant to the following formula:

Years of Credited Service = 5, multiplied by a fraction, the numerator of which is the amount actually paid by the Employee for the purchase of Credited Service, and the denominator of which is the product of (i) the Employee's total compensation during the period of his first sixty (60) months of service for the City, multiplied by (ii) 15% (subject to future actuarial adjustment).

Such election shall be made no later than such time as shall be reasonably required by the Plan Administrator. The purchase of Years of Credited Service must be completed no later than the first day of the month following the date that is sixty (60) days after the date that the Employee became fully vested in his DC Account Balance. An Employee who elects to purchase Years of Credited Service in part with funds other than amounts attributable to his DC Account Balance must provide to the Plan Administrator all such necessary funds to complete the purchase by such date. Amounts used for the purchase of Years of Credited Service shall be used in the following order until each such fund source is exhausted:

- (1) That portion of the DC Account Balance attributable to employer contributions;
- (2) That portion of the DC Account Balance attributable to employee contributions;
- (3) Any other Employee funds.

Notwithstanding the foregoing, no Employee shall be permitted to purchase more than five (5) Years of Credited Service pursuant to this Section 2.7. An Employee who makes the election provided for in this Section 2.7 shall become eligible to earn additional Years of Credited Service under the Plan as of the effective date of his election to participate in the Plan.

ARTICLE III. RETIREMENT BENEFITS

Section 3.1 Normal Retirement.

- (a) **Condition.** A Participant whose Employment with the Employer is terminated on his Normal Retirement Date shall be entitled to receive a monthly retirement benefit paid in accordance with Article IV.
- (b) **Normal Retirement Monthly Benefit.** The monthly retirement benefit, based on the Normal Form of payment described in Article IV, Section 4.2(a), which shall commence on the Participant's Normal Retirement Date, shall be determined as of such date in accordance with subsections (1) and (2) below:
 - (1) With respect to any Participant whose Employment is terminated on or after July 1, 2003, such Participant shall be eligible for a Normal Retirement Monthly Benefit as of the first day of the month coinciding with or next following the date the Participant attains Normal Retirement Age. The Normal Retirement Monthly Benefit shall be one-twelfth of two percent (1/12 of 2%) of the Participant's Average Compensation times Years of Credited Service.
 - (2) With respect to any Participant whose Employment is terminated prior to July 1, 2003, the Normal Retirement Monthly Benefit for such Participant shall be calculated according to applicable provisions of the Plan as in effect on the date such Participant's Employment is terminated.
- (c) **Cash Balance Accounts.** A Participant's Cash Balance Account is the sum of the following credits under subsections (1) and (2):
 - (1) Annual hypothetical allocations:
 - (i) Pre-tax Employee Contribution Cash Balance Account - the annual hypothetical allocation credit is based on the amount expressed as a percent of Compensation the Employee designates as his mandatory contribution, and which amount is considered picked-up as an Employer Contribution under Code Section 414(h)(2).
 - (ii) Post-tax Employee Contribution Cash Balance Account - the annual hypothetical allocation credit is based on the amount expressed as a percent of Compensation made by the Employee each year on an after-tax basis.
 - (iii) Discretionary City Contribution Cash Balance Account - the hypothetical allocation is based on an amount expressed as percent of Compensation or in dollars that is made at the discretion of the City.
 - (2) Interest adjustments to Cash Balance Accounts shall be based on the annual interest rate on 30-year Treasury securities as specified by the

Commissioner of the Internal Revenue Service in revenue rulings, notices, or other guidance published by the Internal Revenue Service for the November 1 prior to January 1 of the next Plan Year, plus one percent (1%); however, in no event shall the interest credited be less than six percent (6%) per annum. Interest credited shall be based on simple interest for periods of less than twelve 12 months.

Interest adjustments shall be determined in the following manner and shall include the sum of the following items:

- (i) The interest adjustment credited for the Cash Balance Account as of December 31 as of any Plan Year shall include interest earned for the entire year, or, if credited for a partial year shall be based on completed months to the date of distribution.
 - (ii) The interest adjustment on Allocations credited to the Cash Balance Account during a Plan Year will assume that contributions were made on a monthly basis at the end of each completed month. A monthly Allocation amount will be equal to the annual Allocation amount, divided by the number of completed months of Participation during the Plan Year, and the interest will be determined assuming the monthly amount was credited to the account at the end of the month.
- (3) Notwithstanding the preceding provisions of Section 3.1(c), for each Participant who has made a one-time permanent election to transfer the balance in the Participant's Pre-tax Employee Contribution Cash Balance Account as of June 30, 2002 to the City of Franklin Employees' Money Purchase Pension Plan, all future allocations of the mandatory contributions previously designated by the Employee pursuant to Section 3.1(c)(1)(i) shall be made to the electing Employee's Employee Contribution Account under the City of Franklin Employees' Money Purchase Pension Plan. Any funds transferred from a Participant's Pre-tax Employee Contribution Cash Balance Account shall become the Participant's beginning Employee Contribution Account balance in such Money Purchase Pension Plan. The window to make this one-time permanent election has expired and the class of Employees eligible to select this option has closed.
- (4) Notwithstanding the preceding provisions of Section 3.1(c), no Participants who were first hired by the City after June 30, 2001 shall be required to make any mandatory contributions to the Plan or allowed to make any after-tax contributions to the Plan. As such, no Pre-tax Employee Contribution Cash Balance Account or Post-tax Employee Contribution Cash Balance Account shall be maintained for any such Participants.

Section 3.2 ~~(d)~~—**Mandatory Participant Contributions.** Notwithstanding any provision of the Plan to the contrary, a Participant who was first hired by the City on or after February 15, 2010, shall make a mandatory contribution to the Plan in an amount equal to 5% of the Participant's Compensation. Such Participant whose Employment terminates before he is fully vested in his Accrued Benefit shall be entitled to a return of such mandatory contributions, as adjusted for earnings, as soon as is reasonably practicable following termination. For this purpose, earnings shall be equal to the State of Tennessee Local Government Investment Pool rate of return, not to exceed 5%, compounded annually as of the first day of the Plan Year, and shall include an amount equal to pro-rated annual interest on the Participant's mandatory contributions as of January 1 of the year of termination for the period beginning on the first day of the year of termination and ending on the actual date of termination. The return of a Participant's mandatory contributions shall constitute a full payment and release of the Participant's right to any benefit under the Plan that is attributable to such mandatory contributions.

Section 3.3 ~~Section 3.2~~—**Delayed Retirement.**

- (a) **Condition.** A Participant who continues Employment with the Employer beyond his Normal Retirement Date shall be eligible to retire on a Delayed Retirement Date and receive a monthly retirement benefit paid in accordance with Article IV.
- (b) **Delayed Retirement Benefit.** The monthly retirement benefit, which shall commence on the Participant's Delayed Retirement Date, shall be the greater of:
 - (1) the amount computed in the manner set forth in Section 3.1(b), with such computation made as of his Delayed Retirement Date based on the normal form of payment described in Section 4.2(a), or
 - (2) the Actuarial Equivalent of the amount the Participant would have received if he had retired on his Normal Retirement Date.

In no event shall the benefit computed hereunder be less than the benefit payable at the Participant's Normal Retirement Date.

The retirement benefit determined from Cash Balance Accounts, which shall commence on the Participant's Delayed Retirement Date, shall be the amount calculated in the manner set forth in Section 3.1(c), with such calculation made as of his Delayed Retirement Date, based on the form of payment described in Section 4.2(a)

Section 3.4 ~~Section 3.3~~—**Early Retirement.**

- (a) **Condition.** If a Participant terminates Employment with the Employer prior to his Normal Retirement Date, but at or after such time that he has attained age fifty-five (55) and ten (10) Years of Credited Service, he shall be entitled to a monthly retirement benefit paid in accordance with Article IV.

- (b) **Early Retirement Benefit.** The amount of monthly retirement benefit determined as of a Participant's Early Retirement Date, based on the normal form of payment described in Section 4.2(a), shall be either (1) or (2) or (3) or (4), plus (5):
- (1) The deferred early retirement benefit which shall commence on his Normal Retirement Date in an amount equal to his Accrued Benefit;
 - (2) If a Participant has fewer than twenty-five (25) years of Credited Service on his Early Retirement Date, an amount equal to his Accrued Benefit determined by Section 1.1(a), reduced by five percent (5%) for each year his Early Retirement Date precedes his Normal Retirement Date, with a pro rata adjustment for any partial years, rounded to the nearest month;
 - (3) If a Participant has completed at least twenty-five (25) years of Credited Service on his Early Retirement Date, an amount equal to his Accrued Benefit determined by Section 1.1(a);
 - (4) With respect to a Participant who was first hired by the City before February 15, 2010, if a Participant has twenty (20) or more years of Credited Service and has attained at least age 62, an amount equal to his Accrued Benefit determined by Section 1.1(a);
 - (5) The Accrued Benefit determined under Section 1.1(b), paid based on the forms of payment described in Article IV, Section 4.1.

If the Participant requests an Early Retirement Benefit in writing to the Administrator, the retirement benefit shall commence on the first day of the month next following the Participant's Early Retirement Date.

Section 3.5 ~~Section 3.4~~ **No Duplication of Benefits.** Notwithstanding any provision of the Plan which may be construed to the contrary, a Participant or Beneficiary shall not be entitled to two separate benefits under the Plan which are attributable to the same period of employment. Accordingly, if benefit payments are made to or in respect of the same Participant, the determination of which is based upon the same period of employment as the benefits previously paid, the benefit currently payable shall be reduced to reflect the Actuarial Equivalent value of the benefits previously paid.

Section 3.6 ~~Section 3.5~~ **Limitations on Benefits.**

- (a) **General Limitation.** The projected annual benefit of a Participant shall not exceed the limitation set forth in Section 415(b)(1) of the Code (the "Defined Benefit Dollar Limitation").
- (b) **Adjustment for Early Retirement.** If the retirement benefit of a Participant commences before the Participant attains age 62, the Defined Benefit Dollar Limitation shall be adjusted so that it is the Actuarial Equivalent of an annual benefit of one hundred sixty thousand dollars (\$160,000), multiplied by the

Adjustment Factor as prescribed by the Secretary of the Treasury, beginning at age 62. The adjustment provided for in the preceding sentence shall be made in accordance with regulations prescribed by the Secretary of the Treasury. For purposes of this Section, "Adjustment Factor" shall mean the cost-of-living adjustment factor prescribed by the Secretary of Treasury under Section 415(d) of the Code, applied to such items and in such manner as the Secretary shall prescribe.

- (c) **Adjustment for Deferred Retirement.** If the retirement benefit of a Participant commences after the Participant attains age 62, the Defined Benefit Dollar Limitation shall be adjusted so that it is the Actuarial Equivalent of a benefit of one hundred sixty thousand dollars (\$160,000) beginning at age 62, multiplied by the Adjustment Factor as provided by the Secretary of the Treasury, based on the lesser of the interest rate assumption under the Plan or on an assumption of five percent (5%) per year.
- (d) **Changes in Benefit Structure.** To the extent provided by the Secretary of the Treasury, Section 3.5 shall be applied separately with respect to each change in the benefit structure of the Plan.
- (e) **Preservation of Accrued Benefit.** If the Current Accrued Benefit of an individual who is a Participant as of the first day of the limitation year beginning on or after January 1, 1987 exceeds the benefit limitations under Section 415(b) of the Code (as modified by this Section), then for purposes of Code Sections 415(b) and (e), the Defined Benefit Dollar Limitation with respect to such individual shall be equal to such Current Accrued Benefit. "Current Accrued Benefit" shall mean a Participant's Accrued Benefit under the Plan determined as if the Participant had separated from service as of the close of the last limitation year beginning before January 1, 1987, when expressed as an annual benefit within the meaning of Section 415(b)(2) of the Code. In determining the amount of a Participant's Current Accrued Benefit, the following shall be disregarded:
 - (1) any change in the terms and conditions of the Plan after May 5, 1986; and
 - (2) any cost-of-living adjustment occurring after May 5, 1986.
- (f) **Other Defined Benefit Plans.** For purposes of applying the limitations set forth in subsection (a) hereof, all Defined Benefit Plans of the Employer established pursuant to Code §§ 401(a) or 403, whether or not terminated, shall be treated as one Defined Benefit Plan.
- (g) **Plans of Affiliates.** For purposes of applying the limitations set forth in subsection (a) hereof, a Defined Benefit Plan maintained by any Affiliate shall be treated as maintained by all other Affiliates.
- (h) **Maximum Monthly Benefits.** Notwithstanding any other provision of this Plan, the maximum monthly annuity payable to a Participant commencing at age 62 shall not exceed (1) \$13,333, or (2) one hundred percent (100%) of the

Participant's average monthly compensation during his or her highest three (3) consecutive calendar years.

- (i) **Reduction For Less Than 10 Years of Service.** The maximum monthly amount under (a) shall be reduced if the Participant has fewer than 10 years of participation in the Plan. In that event, the maximum amount shall be equal to the amount in paragraph (a) multiplied by a fraction, the numerator of which is months of participation and the denominator of which is 120.
- (j) **Adjustment for Early or Late Commencement.** The monthly maximum in paragraph (a) shall be multiplied by the applicable factor from the table below, based on the number of years and months between the annuity starting date and the first day of the month after the month in which the Participant attained age 62.

Year of Birth			
Age	1937 and before	1938 and 1954	1955 and after
55	0.4683	0.4391	0.4098
56	0.5034	0.4719	0.4404
57	0.5417	0.5078	0.4740
58	0.5838	0.5473	0.5108
59	0.6301	0.5907	0.5513
60	0.6811	0.6385	0.5960
61	0.7375	0.6914	0.6453
62	0.8000	0.7500	0.7000
63	0.8667	0.8000	0.7500
64	0.9333	0.8667	0.8000
65	1.0000	0.9333	0.8667
66	1.0942	1.0000	0.9333
67	1.2002	1.0969	1.0000
68	1.3202	1.2066	1.1000
69	1.4564	1.3311	1.2135
70	1.6118	1.4731	1.3429
71	1.7897	1.6357	1.4911
72	1.9943	1.8227	1.6616
73	2.2307	2.0387	1.8585
74	2.5051	2.2895	2.0872
75	2.8252	2.5821	2.3539

Straight line interpolation shall be used to determine the applicable factors if the difference is in months less than a full year. For factors before age 55, the applicable age 55 factor shall be reduced by five percent (5%) compounded annually to the appropriate age (years and months).

(k) **Adjustments for Benefit Options**

- (1) No additional adjustments shall be made to the monthly maximum if the participant receives a single-life annuity or a joint and fifty percent (50%) survivor level annuity with the Spouse as joint annuitant.
- (2) If the Participant elects a joint and fifty percent (50%) survivor annuity with a Spouse joint annuitant, the annuity amount may not exceed an amount equal to (i) the applicable monthly maximum multiplied by (ii) a fraction, the numerator of which is the initial joint and fifty percent (50%) survivor amount and the denominator of which is the Participant's joint and fifty percent (50%) survivor annuity amount option.
- (3) If the Participant elects a single-life escalating annuity or joint and survivor escalating or level annuity with a non-Spouse joint annuitant, the initial annuity amount may not exceed an amount equal to (i) the applicable monthly maximum, multiplied by (ii) a fraction, the numerator of which is the initial single-life annuity amount or joint and survivor annuity amount, and the denominator of which is the single-life annuity option amount.
- (4) If the Participant elects the single sum payment option, the single sum amount payable may not exceed an amount which is the single sum payment option for the maximum monthly single-life annuity the Participant could receive.

(l) **Survivor and Disability Benefits.** For all Plan Years in which the Plan is a governmental plan as defined in Code Section 414(d), the adjustment described in Section 3.5(b) and the reduction described in Section 3.5(i) shall not apply to (i) amounts received under the Plan as a result of the Disability of the Participant; and (ii) amounts received under the Plan by a Participant's beneficiaries, survivors or the estate of the Participant as a result of the Participant's death.

(m) **Additional Limitations.** The following provisions shall supersede any conflicting provision of the Plan, effective as of January 1, 2008.

- (1) The application of the provisions of this paragraph (m) shall not cause the maximum permissible benefit for any Participant to be less than the Participant's Accrued Benefit under all the defined benefit plans of the Employer or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, Treasury Regulations, and other published guidance relating to Section 415 of the Code in effect as of the end of the last limitation year beginning before July 1, 2007, as described in section 1.415(a)-1(g)(4) of the Treasury Regulations.

- (2) Notwithstanding any provision of the Plan to the contrary, the limitations, adjustments, and other requirements prescribed in the Plan shall comply with the provisions of Section 415 of the Code and the final Treasury Regulations promulgated thereunder, as applicable, the terms of which are specifically incorporated herein by reference as of the effective date of this paragraph (m), except where an earlier effective date is otherwise provided in the final Treasury Regulations or in this paragraph (m). However, where the final Treasury Regulations permit the Plan to specify an alternative option to a default option set forth in the Treasury Regulations, and the alternative option was available under statutory provisions, Treasury Regulations, and other published guidance relating to Section 415 of the Code as in effect prior to April 5, 2007, and the Plan provisions in effect as of April 5, 2007 incorporated the alternative option, said alternative option shall remain in effect as a plan provision for limitation years beginning on or after July 1, 2007 unless another permissible option is elected in this paragraph (m).
- (3) In the case of a Participant who has had a severance from employment with the Employer, the Defined Benefit Dollar Limitation applicable to the Participant in any limitation year beginning after the date of severance shall not be automatically adjusted under Section 415(d) of the Code.
- (4) For purposes of the Defined Benefit Dollar Limitation, a Participant's compensation for a limitation year shall not include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates.

ARTICLE IV. PAYMENT OF BENEFITS

Section 4.1 General Conditions. As a condition precedent to the distribution of any benefit under the Plan to a Participant or Beneficiary, as the case may be, such Participant or Beneficiary may be required to submit a written application to receive such benefit in such form and manner as shall be prescribed by the Administrator. Any payment of benefits to a Participant or Beneficiary, or to his legal representative, in accordance with the provisions of the Plan, shall, to the extent of the method of computation as well as the amount thereof, constitute full satisfaction of all claims hereunder against the Trustees, the Administrator and the Employer, who may require such Participant, Beneficiary or legal representative, as a condition precedent to such payment, to execute a receipt and release therefore. Benefit payments will commence on the first day of the month.

Section 4.2 Form of Benefit Payment.

- (a) **Normal Form of Payment.** The normal form of payment of any benefit not determined using a Cash Balance Account shall be in the form described in Section 1.33 as the Normal Annuity Form.

The normal form of payment of any benefit determined using a Cash Balance Account described as a Cash Refund Annuity in Article I, Section 1.13, is payable monthly to the Participant during his lifetime. The monthly amount shall be equal to the Cash Balance Account amount as of date of retirement divided by the Cash Refund Annuity shown in Appendix A using the Actuarial Equivalence assumptions stated in Article I, Section 1.2. The Cash Refund Annuity shall be pro rata retirement ages between integral ages.

Any other form of benefit payment provided under this Section or optional forms under Section 4.3 shall be the Actuarial Equivalent of such normal form of benefit payment.

- (b) **Form of Payment for a Married Participant.** Subject to the provisions of Sections 4.2(c) and 4.2(d) below, benefits payable under the Plan shall be paid in the form of a Qualified Joint and Survivor Annuity with respect to a married Participant who is entitled to receive a monthly benefit pursuant to this Article IV.

Notwithstanding the foregoing, the Qualified Joint and Survivor Annuity shall not be required with respect to a benefit which is less than five thousand dollars (\$5,000) or less and which is paid in a lump sum.

- (c) **Election to Receive an Optional Form of Benefit.** At least thirty (30) days and no more than one hundred eighty (180) days before the Participant's Annuity Starting Date, a Participant shall be given a written notice to the effect that benefits thereafter payable will be in the form specified in this Section 4.2 unless the Participant, with the written consent of his Spouse, if applicable, elects to the contrary prior to the commencement of payments. The notice shall describe, in a manner intended to be understood by the Participant:

- (1) each form of payment available under the Plan;
- (2) the respective value of each form of payment;
- (3) the Participant's right to make, and the effect of, an election to receive an optional form of benefit;
- (4) the right of the Participant, if any, to defer commencement of payments; and
- (5) the rights of the Participant's Spouse, if applicable.

Each Participant, with the consent of his Spouse, if applicable, shall have the right to elect during the "election period" to have his retirement benefit paid under any one of the options hereinafter set forth in Section 4.3 in lieu of the applicable retirement benefit otherwise provided for in this Section 4.2. The "election period" shall be the one hundred eighty (180) day period ending on the Annuity Starting Date.

A Participant who desires to have his retirement benefit paid under one of the optional forms provided in Section 4.3 shall make an election by written notice to the Administrator on forms provided by the Administrator. Such election must include the written consent of the Spouse, if applicable, witnessed by a representative of the Administrator or notary public, and may be revoked by such Participant in writing to the Administrator at any time during the election period. The consent of the Spouse must acknowledge the effect of such election and, once given, shall be irrevocable and shall be binding only with respect to the Spouse executing the consent. The consent of the Spouse must also either (i) consent to a designated Beneficiary who will receive any survivor benefits under the Plan and the form of benefits paid under the Plan or (ii) acknowledge that the Spouse has the right to limit consent to a specific Beneficiary or a specific form of benefits, and that the Spouse is voluntarily electing to relinquish both of such rights. The Administrator may accept an election other than that provided hereunder without the consent of the Spouse if there is no Spouse, the Spouse cannot be located, or such other circumstances as may be prescribed by regulations. After retirement benefit payments have commenced, no future elections or revocations of an optional form will be permitted under any circumstances.

Notwithstanding the foregoing, the Participant may waive the notice and receipt of the written explanation regarding the Qualified Joint and Survivor Annuity.

- (d) **Payment of Small Benefits.** If a Participant terminates service and if the Actuarial Equivalent of the Vested Benefit payable to the Participant or his Beneficiary is equal to or less than one thousand dollars (\$1,000), the Administrator shall direct that such benefit be paid in a lump sum as soon as is practicable. If a Participant terminates service and if the Actuarial Equivalent of the Vested Accrued Benefit, excluding that portion attributable to the Cash Balance Accounts, payable to the Participant or his Beneficiary is less than or

equal to ten thousand dollars (\$10,000), the Participant or Beneficiary, as applicable, may elect to receive the benefit in a lump sum, which payment shall be made as soon as practicable following the election. Such distribution shall be made prior to the Participant's Annuity Starting Date (whether before, on or after the Participant's Normal Retirement Date).

If a partially Vested Participant receives a distribution pursuant to this Section and the Participant resumes covered Employment under the Plan, he shall have the right to restore his City contributions under Article III, Section 3.1(b) to the extent forfeited upon the repayment to the Plan of the full amount of the distribution plus interest, compounded annually from the date of distribution at the rate of five percent (5%). Such repayment must be made by the Participant before the earlier of five (5) years after the first date on which the Employee is reemployed, or the close of the period in which the Participant incurs five (5) consecutive One Year Breaks in Employment following the date of distribution.

Section 4.3 **Optional Form of Benefit Payment.**

- (a) **Determination of Optional Benefit.** The amount of any benefit payable in accordance with options provided in this Article shall be determined as of the date payment thereof is made or commenced as the Actuarial Equivalent of the Normal Annuity Form of payment. For any annuity optional selector for benefit determined using the Cash Balance Account, the optional form will be the Cash Refund Annuity of that particular option.

Under any option elected which provides for payments to a Beneficiary after the death of a Participant, except under Option 1 if the Participant's Spouse is the Beneficiary, the actuarial present value of all payments to the Participant must be more than fifty percent (50%) of the actuarial present value of payments to the Participant and his Beneficiary.

- (b) **Description of Options.**

Option 1. Optional Joint and Survivor Annuity. This form of benefit is payable monthly to the Participant for life and a percentage (50%, 75% or 100%) of such amount, as elected by the Participant, shall continue after his death to his surviving designated Beneficiary for life. If his designated Beneficiary does not survive the Participant, no further benefits will be payable under this option.

Option 2. Single Life Annuity. This form of benefit is payable monthly to the Participant for life.

Option 3. Life Annuity with Payments Guaranteed. This form of benefit is payable monthly to the Participant for life with the first sixty (60), one hundred twenty (120) or one hundred eighty (180) monthly payments guaranteed, as elected by the Participant. Any guaranteed payments due after the death of the Participant shall be payable to his Beneficiary, if any, who survives the Participant, or, if there is no surviving Beneficiary, the commuted value of any

remaining guaranteed payments shall be payable in a lump sum to the Participant's estate.

If the surviving Beneficiary should die before all guaranteed payments have been paid, the commuted value of any remaining guaranteed payments shall be payable in a lump sum to the estate of said Beneficiary.

Option 4. Lump Sums. The portion of the Accrued Benefit attributable to the Cash Balance Account may be paid in a lump sum equal to its value on the date paid. With respect to the portion of a Participant's Accrued Benefit not attributable to his Cash Balance Accounts, the lump sum form of payment is available only as a Small Amount payable under Section 4.2(d) or as a Death Benefit pursuant to Section 5.3.

(c) **Cancellation of Election.** The election by a Participant of any option under this Article involving survivor payments shall be null and void if the Participant's designated Beneficiary shall die before benefit payments commence, and benefits shall be payable pursuant to the normal form of settlement. A Participant may revoke an election in writing at any time prior to the Participant's Annuity Starting Date. After any such revocation a Participant may again, with the written consent of his Spouse, if any, make another election in the manner elsewhere provided in this Section.

(d) **Adjustments to Annual Benefit and Limitations.** Notwithstanding any provision of the Plan to the contrary, effective for distributions in Plan Years beginning after December 31, 2003, the required determination of actuarial equivalence of forms of benefit other than a straight life annuity shall be made in accordance with this subsection (d).

(1) Limitation years beginning before July 1, 2007. For limitation years beginning before July 1, 2007, the actuarially equivalent straight life annuity is equal to the annual amount of the straight life annuity commencing at the same Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit computed using whichever of the following produces the greater annual amount:

(A) the interest rate and the mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form; and

(B) a 5-percent interest rate assumption and the "applicable mortality table" defined in the Plan for that Annuity Starting Date.

(2) Limitation years beginning on or after July 1, 2007. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

(A) The annual amount of the straight life annuity (if any) payable to the Participant under the Plan commencing at the same Annuity Starting Date as the Participant's form of benefit; and

(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 Participant's form of benefit, computed using a 5-percent interest rate assumption and the applicable mortality table defined in the Plan for that Annuity Starting Date.

Section 4.4 Direct Rollovers. A Participant or an alternate payee who is a Participant's Spouse or former Spouse may elect to have all or any portion of an eligible rollover distribution (as defined in section 402(c) of the Internal Revenue Code) from the Plan paid directly to an eligible retirement plan (as defined in section 402(c) of the Internal Revenue Code) that accepts the eligible rollover distribution in a direct rollover. A Beneficiary who is the surviving Spouse of a Participant may also elect to have all or any portion of an eligible rollover distribution from the Plan paid directly to an eligible retirement plan which is an individual retirement account or individual retirement annuity, and that accepts the eligible rollover distribution. The above elections shall be made in accordance with procedures established by the Board of Mayor and Aldermen. For purposes of this Section 4.4, an eligible retirement plan shall include an annuity contract described in section 403(b) of the Code and an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the alternate payee under a qualified domestic relation order, as defined in section 414(p) of the Code.

A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

For distributions made after December 31, 2007, a distributee may elect to roll over directly an eligible rollover distribution to a Roth IRA described in Code Section 408A(b). For distributions made after December 31, 2009, if a non-spouse beneficiary receives a distribution from the Plan, the distribution is not eligible for a "60-day" rollover. If the Employee's named beneficiary is a trust, the Plan may make a direct rollover to an individual retirement account on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Code Section 401(a)(9)(E).

Section 4.5 Transfers from Qualified Plans.

- (a) With the consent of the Administrator, amounts may be transferred from other qualified plans, provided that the trust from which such funds are transferred permits the transfer to be made and the transfer will not jeopardize the tax exempt status of the Plan or create adverse tax consequences for the Employer. The amounts transferred shall be set up in a separate account herein referred to as a "Rollover Account." Such account shall be fully Vested at all times and shall not be subject to forfeiture for any reason.
- (b) Amounts in a Participant's Rollover Account shall be held by the Trustees pursuant to the provisions of this Plan and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as provided in Paragraphs (c) and (d) of this Section.
- (c) Amounts attributable to elective contributions (as defined in Regulation § 1.401(k)-1(g)(4)), including amounts treated as elective contributions, which are transferred from another qualified plan in a plan-to-plan transfer shall be subject to the distribution limitations provided for in Regulation § 1.401(k)-1(d).
- (d) At Normal Retirement Date, or such other date when the Participant or his Beneficiary shall be entitled to receive benefits, the value of the Rollover Account shall be used to provide additional benefits to the Participant or his Beneficiary. The value shall be determined in the same manner as the Cash Balance Account. Any distributions of amounts held in a Rollover Account shall be made in a manner which is consistent with and satisfies the provisions of Section 4.2, including, but not limited to, all notice and consent requirements of Code Sections 411(a)(11) and 417 and the Regulations thereunder. Furthermore, such amounts shall be considered as part of a Participant's benefit in determining whether an involuntary cash-out of benefits without Participant consent may be made.
- (e) The Administrator may direct that employee transfers made after a valuation date be segregated into a separate account for each Participant until such time as the allocations pursuant to this Plan have been made, at which time they may remain segregated or be invested as part of the Plan's Trust Fund, to be determined by the Administrator.
- (f) For purposes of this Section, the term "qualified plan" shall mean any tax qualified plan under Code Section 401(a). The term "amounts transferred from other qualified plans" shall mean: (i) amounts transferred to this Plan directly from another qualified plan; (ii) lump-sum distributions received by an Employee from another qualified plan which are eligible for tax free rollover to a qualified plan and which are transferred by the Employee to this Plan within sixty (60) days following his receipt thereof; (iii) amounts transferred to this Plan from a conduit individual retirement account provided that the conduit individual retirement account has no assets other than assets which (A) were previously distributed to the Employee by another qualified plan as a lump-sum distribution, (B) were eligible for tax-free rollover to a qualified plan, and (C) were deposited in such

conduit individual retirement account within sixty (60) days of receipt thereof and other than earnings on said assets; and (iv) amounts distributed to the Employee from a conduit individual retirement account meeting the requirements of clause (iii) above, and transferred by the Employee to this Plan within sixty (60) days of his receipt thereof from such conduit individual retirement account. The Plan will accept a direct rollover of an eligible rollover distribution from a qualified plan described in section 401(a) or 403(a) of the Code, including after-tax employee contributions, an annuity contract described in section 403(b) of the Code, excluding after-tax employee contributions, and an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. The Plan will accept a Participant contribution of an eligible rollover distribution from a qualified plan described in section 401(a) or 403(a) of the Code, an annuity contract described in section 403(b) of the Code, and an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

- (g) Prior to accepting any transfers to which this Section applies, the Administrator may require the Employee to establish that the amounts to be transferred to this Plan meet the requirements of this Section and may also require the Employee to provide an opinion of counsel satisfactory to the Employer that the amounts to be transferred meet the requirements of this Section.
- (h) Notwithstanding anything herein to the contrary, a transfer directly to this Plan from another qualified plan (or a transaction having the effect of such a transfer) shall only be permitted if it will not result in the limitation or reduction of any "Section 411(d)(6) protected benefit" as described in Article IX, Section 9.2.

Section 4.6 Mandatory Withholding on Certain Distributions.

- (a) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (b) **Definitions.**
 - (1) **Eligible rollover distribution:** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated Beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; any hardship

distribution; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

- (2) **Eligible retirement plan:** An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving Spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
- (3) **Distributee:** A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving Spouse and the employee's or former employee's Spouse or former Spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the Spouse or former Spouse. For distributions made after December 31, 2009, a distributee includes the Employee's non-spouse beneficiary who is a "designated beneficiary" under Code Section 401(a)(9)(E) and the regulations thereunder.

Section 4.7 **Time of Payment and Minimum Distributions.**

- (a) **In General.** Subject to the requirements of the Plan relating to the payment of a Qualified Joint and Survivor Annuity, the provisions of this Section shall take precedence over any inconsistent Plan provision. All distributions shall be made in accordance with Section 401(a)(9) of the Code and Regulations issued by the Secretary thereunder including, but not limited to, Regulation § 1.401(a)(9)-2.
- (b) **Maximum Distribution Period.** Beginning with the first distribution calendar year, any distribution not made in a single sum must be made over one of the following periods (or a combination thereof):
 - (1) the life of the Participant;
 - (2) the life of the Participant and a designated Beneficiary;
 - (3) a period certain not longer than the Participant's life expectancy; or
 - (4) a period certain not longer than the joint and last survivor life expectancies of the Participant and a designated Beneficiary.
- (c) **Annual Distribution Amount.** If benefits will be paid in the form of an annuity, such payments will satisfy the following:
 - (1) payment intervals will not exceed one (1) year;

- (2) the distribution period must be over a life (lives) or a period certain not longer than a life expectancy (or joint and last survivor expectancy) described in Section 401(a)(9)(A)(ii) or (B)(iii) of the Code;
- (3) life expectancy will be recalculated annually for purposes of determining any period certain at the election of the Participant, but in the absence of any specific election by the Participant to the contrary, life expectancy shall not be recalculated annually;
- (4) once payments begin for a period certain, that period may not be extended;
- (5) payments must be nonincreasing or increase only as permitted under the Regulations issued by the Secretary; and
- (6) for life annuities and life annuities with a period certain not exceeding twenty (20) years, the distribution required on or before the Participant's required beginning date (or, for post-death distributions, the date such distributions are required to begin) shall be the payment required for one payment interval. The second payment need not be made until the end of the next payment interval. Payment intervals are the periods for which payments are received, *e.g.*, monthly, annually, etc.

If the annuity is for a period certain with no life contingency (or is a life annuity with a period certain exceeding twenty (20) years), payments for each calendar year shall be combined and treated as an annual amount. The amount which must be distributed by the Participant's required beginning date (or, for post-death distributions, the date such distributions are required to begin) is the annual amount for the first distribution calendar year. The annual amount for other distribution calendar years, including the calendar year in which the Participant's required beginning date (or post-death payment commencement date) occurs must be distributed on or before December 31 of the calendar year for which the distribution is required.

- (7) Unless the Participant's Spouse is the designated Beneficiary, if distributions will be made as a period certain annuity with no life contingency, such period certain as of the beginning of the first distribution calendar year may not exceed the applicable period determined under tables set forth or referred to in Regulations issued by the Secretary.
- (8) If distributions will be made as a joint and survivor annuity for the Participant and a non-Spouse Beneficiary, any payments made after the required beginning date and after the Participant's death must not exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant under tables set forth or referred to in Regulations issued by the Secretary (*e.g.*, Regulation § 1.401(a)(9)-6).

- (d) **Benefits Beginning Before 1989.** If payments under an annuity form satisfying paragraph (b) above began prior to 1989, the minimum distribution requirements in effect as of July 27, 1987, shall apply regardless of whether the annuity form of payment is revocable. This rule also applies to deferred annuity contracts distributed to or covered by an individual prior to 1989, unless additional contributions are made by an Employer with respect to such contract.
- (e) **Further Accruals.** Any additional benefits accruing to a Participant after his required beginning date shall be distributed as a separate component of the annuity beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- (f) **Death Distributions.**
- (1) If a Participant dies after distribution of his interest in the Plan has begun, the remaining portion of such interest will be distributed at least as rapidly as under the method being used prior to the Participant's death.
- (2) If a Participant dies before distribution of his interest in the Plan begins, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year which includes the fifth (5th) anniversary of the Participant's death except to the extent an election is made to receive distributions in accordance with (i) or (ii) below:
- (i) If any part of the Participant's interest is payable to a designated Beneficiary, distributions may be made over the life or over a period certain not greater than the life expectancy of the designated Beneficiary starting on or before December 31 of the calendar year immediately following the calendar year in which the Participant died.
- (ii) If the designated Beneficiary is the Participant's surviving Spouse, the date distributions are required to begin under (i) above shall not be earlier than the later of (A) December 31 of the calendar year immediately following the calendar year in which the Participant died, and (B) December 31 of the calendar year in which the Participant would have attained age seventy and one-half (70½).

If the Participant has not made an election under this paragraph (g)(2) before he dies, his designated Beneficiary must elect the method of distribution no later than the date which is ninety (90) days before the date as of which distributions would be required to begin under the method chosen. If the Participant has no designated Beneficiary, or if the designated Beneficiary does not elect a method of distribution, then the Participant's entire interest must be completed by the December 31 of the calendar year containing the fifth anniversary of the Participant's death.

- (3) For purposes of paragraph (g)(2), if the surviving Spouse dies after the Participant but before payments to such Spouse begin, the provisions of paragraph (g) with the exception of (g)(2) shall be applied as if the surviving Spouse were the Participant.
 - (4) Any amount paid to a child of the Participant will be treated as having been paid to the surviving Spouse if the amount becomes payable to the surviving Spouse when the child reaches the age of majority (or other designated event permitted by Regulations issued by the Secretary).
 - (5) For purposes of this paragraph (g), distribution is considered to begin on the Participant's required beginning date (or for purposes of paragraph (g)(3), the date distribution is required to begin under (g)(2) above). If distribution in the form of an annuity irrevocably begins to the Participant before the required beginning date, the date distribution is considered to begin is the date distribution actually begins.
- (g) **Definitions.** For purposes of this Section the following terms shall have the indicated meaning:
- (1) "Designated Beneficiary" shall mean the individual who is designated as the Beneficiary under the Plan in accordance with Section 401(a)(9) of the Code and Regulations thereunder.
 - (2) "Distribution Calendar Year" shall mean a calendar year for which a minimum distribution is required. For distributions beginning before a Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date.

For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to paragraph (g) above.
 - (3) "Life Expectancy" shall mean the life expectancy (or joint and last survivor expectancy) calculated using the attained age of the Participant (or designated Beneficiary) as of the Participant's (or designated Beneficiary's) birthday in the applicable calendar year. The applicable calendar year is the first distribution calendar year.

If annuity payments start before the required beginning date, the applicable calendar year is the year such payments begin. Life expectancy and joint and last survivor expectancy will be computed using Tables V and VI of Regulation § 1.72-9.
 - (4) "Required Beginning Date" shall generally mean the first day of April of the calendar year following the later of

- (i) the calendar year in which the Participant attains age seventy and one-half (70½); or
 - (ii) the calendar year in which the Participant retires.
- (h) **Transition Rule.** Notwithstanding the foregoing, but subject to the Qualified Joint and Survivor Annuity requirements, payments to any Participant or former Participant may be made in accordance with all of the following, regardless of when payments begin:
- (1) The distribution would not have disqualified the Trust under Code Section 401(a)(9) prior to its amendment by the Deficit Reduction Act of 1984.
 - (2) The distribution is made in accordance with a method designated by the Participant or Beneficiary.
 - (3) The designation is written and signed by the Participant or Beneficiary before 1984.
 - (4) The Participant had an Accrued Benefit as of December 31, 1983.
 - (5) The designated method specifies when payments will commence, the distribution period, and priority of Beneficiary(ies).

For distributions which started before 1984, the method of distribution shall be presumed to have been properly designated if written and it satisfies (1) and (5) above.

If a designation is revoked, any later distribution must satisfy Code Section 401(a)(9). If the revocation occurs after the required beginning date the total amount not yet distributed which would have been required to be distributed under Section 401(a)(9) but for the election must be distributed by the end of the calendar year following the calendar year of such revocation including, for post-1988 calendar years, the incidental benefit requirements of Prop. Treas. Reg. § 1.401(a)(9)-2 or any successor thereto. Any change in the designation will be treated as a revocation. However, the mere substitution or addition of a Beneficiary(ies) will not be treated as a revocation as long as the substitution or addition does not directly or indirectly change the period of payment.

- (i) Unless otherwise consented to by the Participant, in no event may any benefit pursuant to the Plan commence later than the sixtieth (60th) day after the close of the Plan Year in which occurs the later of:
 - (i) the date on which the Participant attains his Normal Retirement Age,
 - (ii) the tenth (10th) anniversary of the date the Employee becomes a Participant, and

- (iii) the date on which the Participant terminates his service with the Employer.

The failure of a Participant or Spouse, if any, to consent to a distribution while a benefit is immediately distributable (*i.e.*, prior to the date the Participant attains, or would have attained if not deceased, the later of age sixty-two (62) or Normal Retirement Age) shall be deemed an election to defer commencement of payment.

- (j) The restrictions imposed by this Section shall not apply if a Participant has, prior to January 1, 1984, made a written designation to have his death benefits paid in an alternative method acceptable under Code Section 401(a) as in effect prior to the enactment of the Tax Equity and Fiscal Responsibility Act of 1982. Any such written designation made by a Participant shall be binding upon the Administrator notwithstanding the provisions of this Section.
- (k) If the Actuarial Equivalent lump sum value of a Participant's vested benefit exceeds five thousand dollars (\$5,000) or is to be paid or commence to be paid prior to the date the Participant attains (or would have attained if not deceased) the later of the Participant's Normal Retirement Age or age sixty-two (62) (*i.e.*, before the date the benefit ceases to be "immediately distributable"), the written consent of the Participant and Spouse, if any, or the survivor of the two, shall be required within the one hundred eighty (180) day period ending on the Annuity Starting Date; provided, however, that the consent of a Participant's Spouse, if any, shall not be required for the commencement of any distribution in the form of a Qualified Joint and Survivor Annuity.

Section 4.8 Purchase of Annuities. The Administrator may at any time in its discretion direct the Trustees to purchase annuities from a qualified life insurance company or insurer to provide benefits otherwise payable under the Plan. Any such annuity which is distributed to a Participant or Beneficiary shall be endorsed as "nontransferable" and shall satisfy the spousal consent requirements of Section 417 of the Code.

Section 4.9 Post-Retirement Benefit Increases. The Board of Aldermen from time to time may increase the monthly retirement benefit of Retired Participants or other Participants or Beneficiaries receiving monthly benefits. The amount of such increase will be found in City's Board of Aldermen Minutes Book.

**ARTICLE V. BENEFITS ON SEVERANCE FROM EMPLOYMENT,
DEATH OR DISABILITY**

Section 5.1 Severance from Employment.

- (a) **Condition.** If a Participant has a severance from Employment for any reason other than death and if he then does not become entitled to receive a benefit under any Section of Article III, he shall be entitled to a Vested Benefit equal to a nonforfeitable percentage of his Accrued Benefit as determined under this Section.
- (b) **Vested Accrued Benefit.** The Vested Accrued Benefit shall be computed by multiplying the Participant's Accrued Benefit by the nonforfeitable percentage determined from the following schedule:

Years of Credited Service	Vested Percentage
Less Than 5	0%
5 Years or More	100%

Notwithstanding any other provision of the Plan, a Participant's Accrued Benefit shall be fully nonforfeitable upon his attainment of his Normal Retirement Age.

The Participant is 100% immediately vested in all Cash Balance Accounts.

- (c) **Payment of Vested Accrued Benefit.** The Vested Accrued Benefit shall be a deferred benefit commencing on the first day of the month next following the Participant's Normal Retirement Date or if the participant meet the Early Retirement eligibility requirements, the Vested Accrued Benefit can be paid at the Early Retirement Date under the Early Retirement provision in Article III, Section 3.3, provided, however, a Participant entitled to a Vested Accrued Benefit from a Cash Balance Account hereunder may upon written request receive an immediate benefit in lieu of the deferred benefit.
- (d) **Forfeitures.** In the event of a Participant's severance from Employment with the Employer pursuant to this Section, any portion of the Participant's Accrued Benefit in excess of the nonforfeitable percentage thereof shall be maintained until the earlier of (i) the commencement of distribution of the Participant's Vested Benefit as set forth hereunder, or (ii) the Participant's incurring five (5) consecutive One Year Breaks in Employment, at which time such Accrued Benefit shall be forfeited and applied by the Actuary to reduce the Employer's contribution requirement. In the event a Participant is zero percent (0%) vested in his Accrued Benefit, however, such Accrued Benefit shall constitute a Forfeiture as of the date of his severance from Employment. The distribution of the interest of a Participant who had a severance from Employment prior to the date of execution hereof with a zero percent (0%) vested interest in his Accrued Benefit shall be deemed to have occurred as of the date of such execution, provided such Forfeiture has not previously been treated as having occurred.

- (e) **Restoration of Forfeitures.** In the event a Participant who incurs a Forfeiture under subsection (d) above prior to incurring five (5) consecutive One Year Breaks in Employment (i) again becomes an active Employee of the Employer and is eligible to participate hereunder prior to incurring said five (5) consecutive One Year Breaks in Employment, and does not incur a fifth (5th) consecutive One Year Break In Employment for or following the Plan Year of such reemployment, and (ii) repays to the Fund the full amount distributed to him plus interest, compounded annually from the date of distribution at the rate of five percent (5%), the Accrued Benefit which was forfeited pursuant to subsection (d) above shall be restored to him.

In the event the Participant was treated as incurring a Forfeiture without a distribution and without incurring a fifth consecutive One Year Break in Employment, such nonvested Accrued Benefit shall be reinstated without any requirement of repayment by such reemployed Participant. The repayment provided for by this subsection (e) must be made by the Employee before five (5) years after the first date on which the Employee is reemployed by the Employer.

Section 5.2 Disability Benefit.

In the event of an Active Participant becoming Disabled, the benefit will be treated as any other termination or retirement.

Section 5.3 Death Benefit.

- (a) In event of the death of a Participant before actual retirement where the Participant has, pursuant to Section 4.2(c), selected a payment option, the Beneficiary of such Participant shall be entitled to the greater of: (i) the amount of survivor annuity that the option allows, or (ii) the Qualified Joint and Survivor Annuity, assuming the Participant had retired on the day preceding the day of his death. The Beneficiary of a Terminated Vested Participant is not otherwise eligible for any benefit under the Plan.
- (b) In the event of the death of an Active Participant before actual retirement where the Participant has not selected a payment option, the Beneficiary of such Participant shall be entitled to the following methods of distribution:
- (1) An immediate or a deferred annuity determined by converting the actuarial present value or lump sum value of the Participant's Vested Accrued Benefit using the Actuarial Equivalence assumptions stated in Article I, Section 1.2. The Death Benefit distribution options are those provided by Article IV, Section 4.3.
 - (2) A lump sum payment. However, the portion of the Accrued Benefit not attributable to the Cash Balance Account shall be available in a lump sum payment only if such portion of the Accrued Benefit has an Actuarial Equivalent Single Sum Value which does not exceed \$25,000. In the event that the above stated Actuarial Equivalent Single Sum Value

exceeds \$25,000, then only the Cash Balance Account may be distributed in a lump sum.

- (c) In the event of the death of a Retired Participant, the death benefit will be paid according to the retirement option chosen.
- (d) A Participant may designate any person or persons, including a trust, as his or her Beneficiary or contingent Beneficiary to receive his or her Accrued Benefits in the event of the Participant's death. Any such designation shall be made by filing the form designated for that purpose with the Administrator. The Participant may change or cancel his or her Beneficiary designation at any time prior to death without the consent of any designated Beneficiary. If the Participant is married at the date of death, the Beneficiary designation shall not be effective unless the surviving Spouse has consented as described in this Section.

Section 5.4 Death of Employee. All Accrued Benefits of a participating Employee shall become fully vested and nonforfeitable if the Participant dies during Employment. If a Participant dies after Employment ends, only the Participant's vested benefits shall be payable.

ARTICLE VI. OTHER BENEFIT PROVISIONS

Section 6.1 **Qualified Domestic Relations Orders.** Notwithstanding the restrictions on the transfer of benefits as described in Section 11.4, upon the written request and consent of the Participant in such form as shall be acceptable to the Administrator, the Plan may provide for the payment of a Participant's Accrued Benefits in accordance with any qualified domestic relations order, as defined below.

- (a) Requirements for QDRO. A domestic relations order must meet the following requirements in order to be a qualified domestic relations order:
 - (1) The order must constitute a judgment, decree or order (including approval of a property settlement agreement) which relates to the provision of child support, alimony payments or marital property rights of a Spouse, former Spouse, child or other dependent of a Participant and is made pursuant to a state domestic relations law (including a community property law). The order must create or recognize the existence of an alternate payee's right to, or assign to an alternate payee the right to receive all or a portion of the benefits payable with respect to a Participant under the Plan.
 - (2) The order must clearly state:
 - (i) The name, the last known mailing address and Social Security number of the participant and of each alternate payee covered by the order (unless the Administrator knows such information).
 - (ii) The amount or percentage of the Participant's benefits to be paid by the Plan to each alternate payee, or the manner in which such amount or percentage is to be determined.
 - (iii) The number of payments or period to which the order applies.
 - (iv) The order is to specifically apply to the Plan.
 - (3) The order may not:
 - (i) Require the Plan to provide any type or form of payment or any option not otherwise provided under the Plan. However, if the order so states, the Plan shall make payment to the alternate payee at the "earliest retirement age" defined in Code Section 414(p)(4)(B). Unless the order provides otherwise, the Plan shall make payment to the alternate payee at the time the Participant's benefits are paid.
 - (ii) Require the plan to provide increased benefits (determined on the basis of actuarial value).
 - (iii) Require the payment of benefits to an alternate payee which is inconsistent with a pre-existing qualified domestic relations order.

- (b) **Determination by Administrator.** Upon receipt of a domestic relations order, the Administrator shall determine whether such order is qualified domestic relations order and shall be entitled to rely upon advice of legal counsel in determining if the domestic relations order satisfies the requirements of Internal Revenue Code section 414(p), as enacted by the Retirement Equity Act of 1984, and to further determine whether the court has proper jurisdiction over the Plan. The Plan shall establish reasonable procedures to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. The Administrator shall make such determinations within a reasonable time after receipt of such domestic relations order.
- (c) **Notification of Participant and Spouse.** The Administrator shall notify the Participant and any other alternate payee of the receipt of the order and of the Plan's procedures described in (b) for determining whether the order is a qualified domestic relations order. In addition, the Administrator shall notify the Participant and each alternate payee of its determination on whether the order is a qualified domestic relations order.

Section 6.2 **Unclaimed Benefits.**

- (a) **Address Records.** Each Participant shall keep the Administrator informed from time to time of his or her current post office address and the current post office address of his or her Spouse or any Beneficiary named by the Participant. Any communication, statement or notice from Administrator addressed to a Participant, Spouse or Beneficiary at his or her last post office address filed with the Administrator, or if no address is filed with the Administrator, at the last post office address as shown on the Employer's records, shall be binding on the Participant, Spouse or Beneficiaries for all purposes of the Plan.
- (b) **Unclaimed Payments.** If a notice of the right to receive a benefit payment is returned to the Trustees because a Participant, Spouse or Beneficiary cannot be located, the Trustees shall request the Internal Revenue Service (or other appropriate government agency) to forward a notice to the payee that the payment will be made when a claim for payment is received. Until such claim is made, the balance of the Participant's account shall remain in the Plan's fund.
- (c) **Death of Participant.** If a Participant has died and no Spouse or Beneficiary can be located after one year, a notice of the amount of the Participant's account shall be issued in the name of the Participant's estate and mailed to the Participant's last post office address as determined above.
- (d) **Duties of Administrator or Trustees.** Other than as described above, neither the Administrator nor the Trustees shall be required to search for or locate a Participant, Spouse or Beneficiary.
- (e) **Legal Incompetence.** If any Participant or Beneficiary is a minor or is, in the judgment of the Administrator, otherwise legally incapable of personally receiving and giving a valid receipt for any payment due him hereunder, the

Administrator may, unless and until a claim shall have been made by a guardian or conservator of such person duly appointed by a court of competent jurisdiction, direct the Insurer or the Trustees that payment be made to such person's Spouse, child, parent, brother or sister, or other person deemed by the Administrator to be a proper person to receive such payment. Any payment so made shall be a complete discharge of any liability under the Plan for such payment.

- (f) **Correction of Errors.** If any change in records or error results in any Participant or Beneficiary receiving from the Plan more or less than he would have been entitled to receive had the records been correct or had the error not been made, the Administrator, upon discovery of such error, shall correct the error by adjusting, as far as is practicable, the payments in such a manner that the benefits to which such person was correctly entitled shall be paid.

ARTICLE VII. PLAN OPERATION AND ADMINISTRATION

Section 7.1 **Plan Sponsor.** The City of Franklin is the “Plan Sponsor” of the Plan.

Section 7.2 **Plan Administrator.** The City is the Plan Administrator. The Committee members listed in Section 1.15 are named fiduciaries of the Plan and shall have discretionary authority to manage operation and administration of the Plan.

Section 7.3 **Powers and Duties of Committee.**

- (a) The Committee shall have the authority to and responsibility to recommend to the Board of Mayor and Aldermen the following items, including determining eligibility for benefits and construing the terms of the Plan and Trust. The Committee shall have such other authority as may be necessary to enable it to discharge its responsibilities under the Plan as Plan Administrator and named fiduciary, including, but not limited to, the power to recommend the following actions:
- (1) To review appeals by Employees from a denial of benefits.
 - (2) To recommend to the Board of Mayor and Aldermen the employment of one or more persons to assist in the administration of the Plan.
 - (3) To adopt such rules as it deems appropriate for the administration of the Plan.
 - (4) To prescribe procedures to be followed by Participants and Beneficiaries.
 - (5) To prepare and distribute information relating to the plan.
 - (6) To request from Participating Employers and Employees such information as shall be necessary for proper administration of the Plan.
 - (7) To recommend on behalf of all Plan Participants an independent qualified public accountant to examine the financial statements of the Plan and other Plan books and records as such accountant may consider necessary.
 - (8) To direct the Trustees concerning all benefits which are to be paid from the Trust Fund pursuant to the provisions of the Plan. The Trustees may conclusively rely on all such directions as being in accordance with Plan provisions.
 - (9) To comply with and monitor the Plan’s continued compliance with all governmental laws and regulations relating to recordkeeping and reporting of Participants’ benefits, other notifications to Participants, registration with the Internal Revenue Service, and reports to the U.S. Department of Labor, if applicable.

- (10) To delegate to one or more investment managers (as defined in Section 3(38) of ERISA) the authority to manage, acquire, or dispose of Plan assets and to regularly monitor the performance of any investment managers so selected, or to invest Plan assets in index funds, limited partnerships, or other such passive investments that are not actively managed by an investment manager for the Plan.
 - (11) To develop and communicate to the Trustees, funding agent or investment managers the investment objectives for Plan assets, and to appoint one or more financial advisors to assist in the development of such investment objectives.
 - (12) To select on behalf of all Plan Participants an Actuary responsible for preparing the annual actuarial statement which shall be received and reviewed by the Committee.
 - (13) To review the implementation of the funding policy, the payment of Employer contributions pursuant to such policy, and the actuarial statement.
 - (14) To review investment performance on a regular basis.
 - (15) To designate the Human Resources Director or such other individual or entity as the Committee may choose to provide day-to-day administrative services under the Plan.
- (b) The decision of the Board of Mayor and Aldermen upon any Committee's recommendation upon any matter within its authority shall be final and binding on all parties, including the City of Franklin, its Affiliates, and the Plan Participants and Beneficiaries.

Section 7.4 Uniformity of Application. The Committee may approve the use of such rules, mortality and other factors deemed necessary or appropriate under the Plan. The provisions of this Plan and the rules and decisions of the Committee shall be applied in a uniform and nondiscriminatory manner, systematically followed and consistently applied so that all Participants and Beneficiaries similarly situated shall be treated alike. The Committee shall be entitled to rely upon information furnished by the City Participants, Beneficiaries, Participating Employers, legal counsel, accountants, and all other fiduciaries or persons retained by the Plan, the Committee, or the City of Franklin.

Section 7.5 Committee Procedures.

- (a) **Actions of Committee.** A majority of its members shall constitute a quorum at any meeting, and the majority of the quorum may transact any business of perform any duties of each Committee. The Committee may adopt such by-laws and make such rules and procedures not inconsistent with the Plan and the governmental laws and regulations pertaining to such Plan as it deems to be necessary and appropriate.

- (b) **Expenses of Committees.** All usual and reasonable expenses of the Committee shall be paid by the City of Franklin. Members of the Committee shall not be entitled to any additional compensation for services performed for the Committee or otherwise in connection with the Plan.

Section 7.6 Adherence to Plan Document. Nether the Committee nor any of its members shall have the power to add to, subtract from or modify any of the terms of the Plan or Trust, to change any benefits otherwise than as provided by the plan, or to waive or fail to apply any eligibility requirements for benefits under this Plan.

Section 7.7 Agent for Service of Process. The City Attorney is designated as the agent for the service of legal process against the Plan and the Trust Fund at the following address:

City Attorney
City of Franklin
P.O. Box 305
Franklin, Tennessee 37064

Section 7.8 Allocation of Fiduciary Responsibilities.

- (a) **Duties of Fiduciaries.** The named fiduciaries of the Plan shall have only those specific powers, duties, responsibilities and obligations as are specifically provided to them under the Plan and Trust Agreement. Except as provided in Section 9.1, the Board of Mayor and Aldermen shall have the sole responsibility to amend or terminate the Plan in whole or in part. The Board of Mayor and Aldermen shall also have the sole authority to designate the Participating Employers and to appoint members of the Committee. The Trustees shall have sole responsibility for trust administration and management of the assets held under the Trust unless (a) the investment of such assets has been directed by the Committee or the Board of Mayor and Aldermen, or (b) an investment manager has been appointed by the Committee to manage an investment fund held under the Trust.
- (b) **Representations of Fiduciaries.** By adopting the Plan or accepting appointment under the Plan, each fiduciary represents that any directions given, information furnished, or action taken by it shall be in accordance with the provisions of the Plan or Trust Agreement or applicable governmental laws or regulations authorizing or providing such direction, information or action. Each fiduciary is entitled to rely upon any such direction, information or action of another fiduciary as being proper under this Plan or Trust Agreement and pursuant to governmental laws and regulations, and is not required under this Plan or Trust Agreement to inquire into the propriety of any such direction, information or action. It is intended under this Plan and Trust Agreement that each fiduciary shall be responsible for the proper exercise of its own powers, duties, responsibilities and obligations and shall not be responsible for any act or failure to act of another fiduciary.

ARTICLE VIII. CONTRIBUTIONS

Section 8.1 **Contributions.** Contributions by the City of Franklin and Participants shall be made as follows:

- (a) **Pre-tax Employee Contributions.** Employees hired before July 1, 1995 may elect to contribute from three percent (3%) to ten percent (10%) on a pre-tax basis to a cash balance account beginning with the first payroll period after September 1, 1995. Employees hired on or after July 1, 1995 and before December 1, 1996 must, per administrative procedures, contribute at least three percent (3%) on a pre-tax basis to a cash balance account; however, these Employees may make a permanent one-time election to contribute an additional amount of from one percent (1%) to seven percent (7%) of salary. Employees hired on or after December 1, 1996, who have satisfied eligibility requirements of Section 2.1, must contribute at least three percent (3%) on a pre-tax basis to a cash balance account; however, these Employees may make a permanent one-time election to contribute an additional amount of from one percent (1%) to seven percent (7%) of salary. A Participant who was first hired by the City on or after February 15, 2010, shall make a mandatory contribution to the Plan in an amount equal to 5% of the Participant's Compensation. These contributions are considered to be "picked up" by the Employer under Code § 414(h)(2). Notwithstanding the foregoing, no Participants who were first hired by the City after June 30, 2001, but before February 15, 2010, shall be required to make any mandatory contributions to the Plan, and no Pre-tax Employee Contribution Cash Balance Account shall be maintained for any such Participant. For each Participant who has made a one-time permanent election to transfer the balance in the Participant's Pre-tax Employee Contribution Cash Balance Account as of June 30, 2002 to the City of Franklin Employees' Money Purchase Pension Plan, all future allocations of the mandatory contributions previously designated by the Employee pursuant to Section 3.1(c)(1)(i) shall be made to the electing Employee's Employee Contribution Account under the City of Franklin Employees' Money Purchase Pension Plan.
- (b) **Post-tax Employee Contributions.** All Participants may elect on an annual basis to make voluntary after-tax contributions of from one percent (1%) to ten percent (10%) of their salary to a Cash Balance Account. Notwithstanding the preceding sentence, no Participants who were first hired by the City after June 30, 2001 shall be allowed to make any after-tax contributions to the Plan, and no Post-tax Employee Contribution Cash Balance Account shall be maintained for any such Participant.
- (c) **Discretionary City Contributions.** The City may make contributions to all Participants' Cash Balance Accounts on a discretionary nondiscriminatory basis.
- (d) **Regular City Contributions.** Contributions to provide retirement benefits under the Plan also shall be made by the City of Franklin.

All contributions to the Plan shall be paid to the Trustees. The Trustees shall hold, invest, distribute and otherwise administer the funds entrusted to it in strict accordance with the terms and provisions of the Plan and the Trust Agreement. All assets of the Trust Fund shall be retained for the exclusive benefit of Participants and their Beneficiaries, shall be used to pay the benefits hereunder to such persons or to pay reasonable administrative expenses to the extent not paid by the Participating Employers (including, without limitation, such reasonable expenses as may be incurred by the Trustee, a financial advisor to the Plan, or an investment manager for the Plan), and shall not revert to or inure to the benefit of the City until the satisfaction of all Plan liabilities.

Section 8.2 Return of Contributions. Upon request by the City or an Employee, a contribution made by mistake of fact, or conditioned upon qualification of the Plan or any amendment thereof shall be returned to the City or to the Employee, as applicable, within one year after the payment of the contribution or the denial of the qualification by the Internal Revenue Service.

Section 8.3 Deferred Annuity Contracts. Any individual or group deferred annuity contracts which have been acquired by the Plan shall be used to offset the benefits payable under this Plan to affected Participants.

Section 8.4 Qualified Military Service. Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code.

- (a) In the case of a death occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code Section 414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed and then terminated employment on account of death. Moreover, the Plan will credit the Participant's qualified military service as service for vesting purposes, as though the Participant had resumed employment under the Uniformed Services Employment and Reemployment Rights Act ("USERRA") immediately prior to the Participant's death.
- (b) For benefit accrual purposes, the Plan treats an individual who, on or after January 12, 2007, dies or becomes disabled (as defined under the terms of the Plan) while performing qualified military service with respect to the Employer as if the individual had resumed employment in accordance with the individual's reemployment rights under USERRA, on the day preceding death or disability (as the case may be) and terminated employment on the actual date of death or disability.
- (c) For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined by Code Section 3401(h)(2), shall be treated as an Employee of the Employer making the payment, (ii) the differential wage payment shall be treated as compensation within the meaning of Code

Section 415(c)(3), and (iii) the Plan shall not be treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.

ARTICLE IX. AMENDMENT AND TERMINATION

Section 9.1 **Amendment.** The City of Franklin may amend or modify this Plan at any time, and from time to time, with retroactive or future effect, by action of its Board of Mayor and Aldermen. No such amendment or modification shall cause or permit any part of the Trust Fund to be used for or diverted to purposes other than the exclusive benefit of Participants or their Beneficiaries or revert to or become the property of the City of Franklin prior to the satisfaction of all liabilities under the Plan.

Section 9.2 **Transfers of Assets.** If any Plan assets or liabilities are merged or consolidated with or transferred in whole or in part to another plan established for the benefit of any Participants under this Plan, each such Participant shall be entitled to receive a benefit, which would, if the successor plan were to be terminated immediately after such merger, consolidation or transfer, be equal to or greater than the benefit that he would have been entitled to receive immediately before the merger, consolidation or transfer if this Plan had then terminated. Not less than 30 days prior to such merger, consolidation or transfer of Plan assets or liabilities, the Committee shall file an actuarial statement of valuation in accordance with the Internal Revenue Code, as may be determined to be applicable to governmental plans.

Section 9.3 **Plan Termination.** The City of Franklin may terminate the Plan at any time by action of its Board of Mayor and Aldermen. The City of Franklin reserves the right at any time to reduce, temporarily suspend or discontinue contributions, provide that any such action shall be communicated promptly to all Participants.

Section 9.4 **Termination and Partial Termination.** Upon a termination or partial termination of the Plan, the rights of all affected Participants to benefits accrued to the date of such termination or partial termination, to the extent funded, shall be nonforfeitable. However, the Participants shall have no recourse towards the satisfaction of the nonforfeitable benefit from sources other than the then available Plan assets funding such Participants' benefits. If all Plan obligations have been satisfied, any remaining Plan assets due to actuarial error shall be returned to the City of Franklin.

ARTICLE X. CLAIMS FOR BENEFITS

Section 10.1 Claims Procedure

- (a) **Claims Must be Filed.** An Employee, Participant, the Spouse of an Employee or Participant, Beneficiary, or estate of a Participant (the "Claimant") who has a claim for benefits under the Plan must give written notice of such claim to the Administrator at the following address:

Human Resources Director
City of Franklin
P.O. Box 305
Franklin, Tennessee 37064

- (b) **Review of Claim.** After the Administrator has reviewed the claim and obtained any other information it deems necessary to render a decision on the claim, the Administrator shall notify the Claimant within 90 days after receipt of the claim of the acceptance or denial of the claim, unless special circumstances require an extension of time for processing the claim. Such an extension of time may not exceed 90 additional days and notice of the extension shall be provided to the Claimant prior to the termination of the initial 90 day period indicating the special circumstances requiring the extension and the date by which a final decision on the claim is expected.
- (c) **Denied Claims.** In the event any application for benefits is denied, in whole or in part, the Administrator shall notify the Claimant of such denial in writing and shall advise the Claimant of the right to appeal the denial and to request a review thereof. Such notice shall be written in a manner calculated to be understood by the Claimant and shall contain:
- (1) Specific reasons for such denial.
 - (2) Specific references to the Plan provisions on which such denial is based.
 - (3) A description of any information or material necessary for the Employee to perfect the claim.
 - (4) An explanation of why such material is necessary.
 - (5) An explanation of the Plan's appeal and review procedure.

Section 10.2 Appeal for Further Review.

- (a) **Appeal to the Committee.** If the Claimant's claim for benefits is denied in whole or in part, the Claimant, or the Claimant's duly authorized representative, may appeal the denial by submitting to the Committee a written request for review of the application within 60 days after receiving written notice of such denial. The Committee shall give the Claimant (upon request) an opportunity to

review pertinent Plan documents (other than legally privileged documents) in preparing such request for review.

- (b) **Contents of Appeal.** The request for review must be in writing and shall be addressed to the Administrator at the address listed in Section 10.1(a) above. The request for review shall set forth all of the grounds upon which it is based, all facts in support thereof, and any other matters which the Claimant deems pertinent. The Committee may require the Claimant to submit (at the Claimant's expense) such additional facts, documents or other material as the Committee deems necessary or advisable in making its review.
- (c) **Review of Appeal.** The Committee shall act upon each request for review within 60 days after its receipt thereof, unless special circumstances require further time for processing. In no event shall the decision on review be rendered more than 120 days after the Committee receives the request for review. Written notice of an extension of time beyond 60 days shall be furnished to the Claimant prior to the commencement of the extension.
- (d) **Denied Appeals.** In the event the Committee confirms the denial of the claim for benefits in whole or in part, it shall give written notice of its decision to the Claimant. Such notices shall be written in a manner calculated to be understood by the Claimant and shall contain the specific reasons for the denial.

Section 10.3 Exhaustion of Remedies. No legal action for benefits under the Plan shall be brought unless and until the following steps have occurred:

- (a) The Claimant has submitted a written application for benefits in accordance with Section 10.1.
- (b) The Claimant has been notified that the claim has been denied.
- (c) The Claimant has filed a written request appealing the denial in accordance with Article X, Section 10.2.
- (d) The Claimant has been notified in writing that the Committee has denied the Claimant's appeal within the time prescribed by Article X, Section 10.2.

Notwithstanding the foregoing, a legal action for benefits may be brought by the Claimant upon the failure of the Plan to deny the claim or appeal within the time prescribed herein.

ARTICLE XI. OTHER PROVISIONS

Section 11.1 Exclusive Benefit of Participants. The City of Franklin intends that this Plan shall be maintained for the exclusive benefit of Participants and their Beneficiaries and that the assets of the Plan shall be used exclusively for such purpose.

Section 11.2 Payments Solely from Plan Assets. Payment of benefits as provided in the Plan shall be made solely from Plan assets held under the Trust Agreement or by a funding agent other than the Trustees, and the City of Franklin or any Plan fiduciary shall not otherwise be liable for such benefits.

Section 11.3 Not a Contract of Employment. Participation in this Plan by an Employee shall not give such Employee any right to be retained in the employ of the City of Franklin and the ability of the City of Franklin to dismiss or discharge an Employee hereby is specifically reserved.

Section 11.4 Prohibition on Alienation. Except as provided in Section 6.1, no benefit payable under this Plan shall be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, attachment, garnishment, execution, or levy of any kind or any other process of law, voluntary or involuntary. Any attempt to so dispose of any rights to benefits payable hereunder shall be void. The Plan and Trust Fund shall not be liable for or subject to the debts, contracts, liabilities, engagements or torts of any person entitled to benefits hereunder. Notwithstanding any provision of this Section to the contrary, an offset to a Participant's Accrued Benefit against an amount that the Participant is ordered or required to pay the Plan with respect to a judgment, order, or decree issued, or a settlement entered into, on or after August 5, 1997, shall be permitted in accordance with Sections 401(a)(13)(C) and (D) of the Code.

Section 11.5 Necessary Information. Participants, Spouses of Participants and Beneficiaries shall furnish the Administrator such documents or other information as the Administrator reasonably determines to be necessary for administration of the Plan, including certification as to the Participant's marital status. Payment of benefits under the Plan for each Participant, Spouse or Beneficiary is conditioned upon receipt by the Administrator of such documents or other information. The Administrator may rely upon any such information provided by such individuals.

Section 11.6 Inconsistencies and Separability. In case of any inconsistencies between the provisions of the Plan and provisions of the Trust Agreement if applicable, the Plan shall prevail. If any provisions of the Plan are for any reason declared invalid or not enforceable under either federal or Tennessee law, such provisions will not affect the remaining terms and conditions, but the Plan will be construed and enforced thereafter as if such provisions had not been inserted.

Section 11.7 Plan Forms. Wherever the Plan requires the Participant to file an enrollment application, Plan form or other notice, election or designation with the Administrator, the Participant shall take such action by completing and signing the form prescribed by the Administrative Committee for that purpose and filing such form with the Administrator.

Section 11.8 **Headings Not to Control.** Headings and titles within the Plan are for convenience only and are not to be read as part of the text of the Plan.

Section 11.9 **Applicable Law.** The validity and effect of the Plan and the rights and obligations of all persons affected thereby, are to be construed and determined in accordance with applicable federal law, and to the extent that federal law is inapplicable, under the laws of the State of Tennessee.

Section 11.10 **Copy of Plan.** A current copy of the Plan shall be available for inspection by any Participant or other person entitled to benefits under the Plan at reasonable times at the office of the Human Resources Director.

Section 11.11 **Entire Plan.** This document and any authorized written amendment thereto is a complete statement of the Plan and as of the Effective Date (or the effective date of any such amendment) supersedes all prior plans, representatives and proposals, written or oral, relating to its subject matter. The City of Franklin shall not be bound by or liable to any person for any representation, promise or inducement made by any employee or agent which is not embodied in this document and any authorized written amendment thereto.

Section 11.12 **Internal Revenue Service Qualification.** Anything herein to the contrary notwithstanding, this Plan is created and maintained under the condition that it is approved and qualified by the Internal Revenue Service under Code Section 401(a) as a governmental plan and that any Trust hereunder is exempt under Code Section 501(a), or under any comparable Sections of any future legislation which amends, supplements or supersedes such Sections. Therefore, if the Plan fails to so qualify, as evidenced by receipt of a letter to such effect from the Internal Revenue Service, then the City of Franklin reserves the right to either:

- (a) withdraw and terminate the Plan hereunder whereupon no Participant shall have any right or claim to any of the assets hereunder which are derived from Employer contributions, notwithstanding any other provision hereof; or
- (b) amend the Plan to the extent necessary to secure a favorable determination that the Plan is so qualified.

Section 11.13 **Execution of the Plan.** This document may be executed in any number of counterparts and each fully executed counterpart shall be deemed an original.

IN WITNESS WHEREOF, the City of Franklin, pursuant to resolution of the Board of Mayor and Aldermen, has caused this instrument to be executed by its duly authorized officer, this _____ day of _____, ~~20~~2014, to be effective as of January 1, ~~2010~~2013, except as otherwise noted herein.

THE CITY OF FRANKLIN

BY: _____

TITLE: _____

APPENDIX A

Age	Annuity
19	16.5566
20	16.5217
21	16.4849
22	16.4462
23	16.4054
24	16.3624
25	16.3171
26	16.2695
27	16.2194
28	16.1667
29	16.1113
30	16.0531
31	15.9920
32	15.9279
33	15.8607
34	15.7903
35	15.7166
36	15.6395
37	15.5588
38	15.4746
39	15.3867
40	15.2950
41	15.1993
42	15.0996
43	14.9957
44	14.8875
45	14.7749
46	14.6575
47	14.5354
48	14.4088
49	14.2771
50	14.1402
51	13.9979
52	13.8501
53	13.6967
54	13.5374
55	13.3735
56	13.2038
57	13.0285
58	12.8474
59	12.6606
60	12.4688
61	12.2730
62	12.0720
63	11.8657
64	11.6544
65	11.4397

APPENDIX A

Age	Annuity
66	11.2224
67	11.0009
68	10.7752
69	10.5452
70	10.3172
71	10.0861
72	9.8520
73	9.6121
74	9.3804
75	9.1471
76	8.9120
77	8.6750
78	8.4411
79	8.2126
80	7.9826
81	7.7506
82	7.5157
83	7.2960
84	7.0722
85	6.8453
86	6.6142
87	6.3936
88	6.1763
89	5.9551
90	5.7293
91	5.5035
92	5.2976
93	5.0876
94	4.8723
95	4.6502
96	4.4412
97	4.2446
98	4.0389
99	3.8207
100	3.5855
101	3.3845
102	3.1791
103	2.9506
104	2.6879
105	2.4429
106	2.2284
107	1.9659
108	1.5961
109	1.3313
110	0.5417

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<u>Move To</u>	0
<u>Table Insert</u>	4
Table Delete	4
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Embedded Excel	0
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