

# *R*etirement *P*lan

For

City of Tampa

General Employees

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Dear Retirement Plan Members:

The Retirement Plan (the “Plan”) for City of Tampa General Employees Retirement Fund is printed in its entirety starting on page 3. It is a Special Act (the “Act”) of the Florida State Legislature -- specifically Chapter 23559, Special Act of 1945, as amended.

The Plan has two Divisions; Division A and Division B. Division A consists of those Employees hired prior to October 1, 1981. Division B consists of those Employees hired on or after October 1, 1981, and former Division A Employees who elected Division B.

The chart on this page is only intended to give you a broad overview of the Retirement Plan. It does not address all of the Plan’s provisions; therefore, if you have a specific question relating to yourself, you should read the Plan in detail.

Topic	Division A (Hired prior to October 1, 1981)	Division B (Hired on or after October 1, 1981 going forward)
Vesting Period	6 years minimum	6 years minimum
Normal Retirement Age	55 Years Minimum	62 Years Minimum
Employee Contributions	7% of salary pretax to Retirement Fund, no contribution to Social Security	Percentage set by Social Security, no City contribution.
City Contributions	Percentage needed to maintain adequate funding for benefits	Percentage needed to maintain adequate funding for benefits, plus % of salary to Social Security.
Monthly Pension Calculation	.02 x average monthly salary over the highest 3 of the last 6 years of Service x years of Service plus .005 x average monthly salary over the highest 3 of the last 6 years of Service x years of Service over 15 years.	.012 x average monthly salary over the highest 3 of the last 6 years of Service x years of Service for City pension; contact the Social Security Office on Social Security’s benefits.
Deferred Retirement	Retirement at an age younger than 55 with 6 or more years of service and a monthly pension starting at age 55.	Retirement at an age younger than 62 with 6 or more years of service and a monthly pension starting at age 62.
Deferred Retirement Option Program (DROP) Benefits	DROP accumulations for a maximum of 7 years provided requirements for longevity retirement have been met.	DROP accumulations for a maximum of 7 years provided requirements for longevity retirement, or early retirement, have been met.
Cost of Living Adjustment (COLA)	2.2% every January 1 <sup>st</sup>	1.2% every January 1st
Disability Retirement	Retirement at an age younger than 55; participant’s monthly pension checks start immediately regardless of his or her age; has to be based on a total and permanent disablement.	Retirement at an age younger than 62; participant’s monthly pension checks start immediately regardless of his or her age; has to be based on a total and permanent disablement.
Death Benefits	Spouse receives 75% (50% if remarries), plus children under 18 get \$100 per month	Spouse receives 50% per month. No decrease for remarriage. Contact Social Security Office for Social Security benefits.

Be it Enacted by the Legislature of the State of Florida:

**Chapter 23559, Special Act of 1945, as amended, reads:**

**Section 1. Declaration on Policy.**

It is expressed intent of the Legislature to divide the pension system for General Employees of the City of Tampa into two Divisions in order to maintain the existing Plan for present Employees of the City and to create a new Plan of benefits for future Employees, combining the benefits of the new Plan with Social Security benefits.

**Section 2. Creation.**

A pension fund is hereby created for all Employees of the City of Tampa, Florida, who are not now members of any other pension fund for Employees of the City of Tampa, Florida, heretofore created by the Legislature of the State of Florida.

**Section 3. Division of the Retirement Fund.**

The retirement fund for the General Employees of the City of Tampa shall be deemed to be divided into two divisions to be designated Division A and Division B.

(A) Division A of the system shall include all those members of the General Employees Retirement Plan created by Chapter 23559, Laws of Florida, 1945, as amended, who were employed prior to October 1, 1981, all Employees of Division A who elected pursuant to Section 7 to become members of Division B, and elective officers, department heads, and appointive officers working with the City prior to October 1, 1981, who elected pursuant to the provisions of Section 17 to become members of Division B.

(B) Division B of this system shall include all General Employees of the City of Tampa employed on or after October 1, 1981, all Employees of Division A who elected pursuant to Section 7 to become members of Division B, and elective officers, department heads, and appointive officers, working with the City prior to October 1, 1981, who elect pursuant to the provisions of Section 17 to become members of Division B.

**Section 4. Definitions.**

(A) Salaries or Wages. Salaries or Wages for the purpose of this Act shall be the base amounts earned by the Employee, plus regular longevity bonuses, overtime, and shift premiums. Salary or Wages shall also include elective amounts that are excludible from the Employee's gross income under Sections 125 (including amounts that are not available to the Employee in cash in lieu of group health coverage because the Employee is unable to certify that he or she has other health coverage, but only if the Employer does not request or collect information regarding the Employee's other health coverage as part of the enrollment for the health plan); 403(b) tax-sheltered annuity); 457 (Section 457 Plan); and 132(f)(4) of the Internal Revenue Code of 1986, as amended, and the regulations thereunder (the "Code"). Salaries or Wages shall exclude other premiums, other than shift premiums, allowances, special payments, or any casual nonrecurring or unpredictable bonuses; payments for unused accrued bona fide sick, vacation, or other leave; payments received by an Employee pursuant to a nonqualified unfunded deferred salary or wages plan; and severance pay that is paid after an Employee severs employment with the City. However, Salaries or Wages, as defined herein, earned but not paid to the Employee by the Employee's severance date with the City shall be considered Salary or Wages for Plan purposes. In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, for Plan Years beginning on or after January 1, 1996, the annual Salaries or Wages of each Employee taken into account under the Plan shall not exceed the annual

compensation limit provided for in Section 401(a)(17) of the Code as adjusted by the Commissioner of the Internal Revenue Service for increases in the cost-of-living in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Salaries or Wages are determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the Annual Compensation Limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. The limitation on Salaries or Wages for an "eligible Employee" shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. "Eligible Employee" is an individual who was a participant in the Plan before the first Plan Year beginning after December 31, 1995.

(B) Plan. The retirement Plan for all General Employees of the City of Tampa described in the Act. The Plan shall include Employees in Division A and Division B. The Plan shall include the City pension Plan existing prior to the effective date of this Act.

(C) Fund. Monies derived from Employee contributions and Employer contributions, both prior to and after the effective date of this Act, investment earnings and other contributions from whatever source derived.

(D) Employer. For the purposes of this Act, "Employer" and "City" may be used interchangeably.

(E) Employee. For the purposes of this Act, "Employee" shall mean an Employee covered, or qualified to be covered, under either Division A or Division B of this Plan. An Employee covered by this Plan shall include all Employees, whether full-time, part-time, or temporary, who have taken the physical examination required by Section 18. Employees whose Salaries or Wages are paid pursuant to a federal grant-in-aid program are included in this Act only when the federal government pays the Employer's contribution. Any individual who is an independent contractor, or who performs services for the City under an agreement that identifies the individual as an independent contractor, is excluded from the Plan even if a governmental agency retroactively reclassifies such individual as an Employee. Casual laborers are excluded from this definition, as are Employees covered by other City pension Plans.

(F) Temporary Employee. An Employee whose period of employment is not contemplated to extend beyond 180 days from the date of employment. Temporary Employees will only be considered part of this pension Plan if their employment extends beyond the 180 day period, and they are required to take a physical examination pursuant to Section 18 of this Act.

(G) Continuous Service. The term "Continuous Service" or Service continuously or continuous shall mean unbroken Service by an Employee immediately preceding the date of application for retirement, except for temporary interruptions of Service caused by military Service, illness, or involuntary severance from Service through no fault of the Employee, and provided he or she is reinstated. Time spent upon an authorized leave of absence by a member of a recognized bargaining unit for union business which is participated in by the recognized bargaining unit for General City Employees or time spent on any leave of absence shall not constitute a break in Service and the time so spent shall be deemed to be continuous Service. However, time spent upon an authorized leave of absence by a member of a recognized bargaining unit for union business shall not be creditable unless the individual, if in Division A, pays into the pension fund on a biweekly basis an amount equal to the aggregate contributions such Employee would have made and such amounts the City would have paid into the Fund based on the salary such Employee would have earned had he or she not been on an authorized union leave of absence. For the purposed of this Act, the terms "Service" and "Continuous Service" shall have the same meaning and shall be used interchangeably.

(H) Military Service Time. For members rehired after leave to provide military service prior to December 12, 1994, in computing Service allowance for retirement, creditable Service shall, at the option of the Employee, include any Service which interrupted employment with the Employer, not to exceed a period of 3 years, in any of the armed Services of the United States during time of war, upon

condition that within 90 days from the date of reinstatement of such Employee now or hereafter serving in the armed forces, or within 90 days from the effective date of this Act for those Employees already reinstated, such Employee shall exercise such option by filing written notice thereof with the Board of Trustees and, if a Division A Employee, shall within the 12 ensuing months pay, into the retirement fund an amount equal to the aggregate contributions such Employee would have made had such Employee not served in the armed forces, based upon the Salary or Wages being earned at the time of entering the armed Services, and if any such Employee shall fail to exercise such option within the time and in the manner hereinabove prescribed, such period of military Service shall not thereafter be allowed as creditable Service, but shall not be deemed a break in such Employee's Continuous Service eligibility period. Members rehired on or after December 12, 1994, shall be credited with Service for purposes of vesting and benefit accrual under the Plan for his or her Service in the uniformed Service (as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994, known as the "USERR Act" upon termination from employment as an Employee with the Employer, provided that the Employee must return to his or her employment as an Employee with the Employer within the time periods prescribed by the USERR Act and must comply with the Employee contribution requirements prescribed by the USERR Act. The maximum Service credit for uniformed Service shall be 5 years, or such other time period as may be prescribed by the USERR Act. Effective as of the dates reflected in the Heroes Earnings Assistance and Relief Tax Act ("HEART Act"), the Plan must comply with all applicable provisions of the HEART Act.

(I) Average Monthly Salary. The Average Monthly Salary shall be determined by calculating the average of an Employee's Salary for the highest three of the last six years of Continuous Service ending on the date of retirement, and dividing by 12. In the event an Employee does not have six years Service at the time his or his Average Monthly Salary is calculated, the average for the highest three of the total number of years employed shall be used for this definition. If the Employee does not have three years Service, the average for years employed shall be used.

(J) Accrued Pension. The Accrued Pension shall mean the amount determined by applying the formula in Section 8 to an Employee's Average Monthly Salary and Service at the date of termination of employment.

(K) Pension Credit. Pension Credit shall refer to the minimum number of years necessary to have a vested pension. For the purposes of this Act, an Employee shall work six continuous years to earn Pension credit.

(L) Normal Retirement Date. This shall mean the date an Employee qualifies for benefits under this Act. For Division A Employees, the Normal Retirement Date shall mean the date an Employee has both 6 years of Continuous Service and has attained the age of 55 years. For Division B Employees, the Normal Retirement Date shall mean the date an Employee has both 6 years of Continuous Service and attains the age of 62 years.

(M) Social Security Coverage. This means old age, survivors, disability and health insurance as provided by the federal Social Security Act. Social Security Coverage is separate and apart from the benefits provided by this Act, and may or may not be available at age 62.

(N) Date of Election. For all Employees who elect to join Division B from Division A, the Date of Election shall be considered to be October 1, 1981, regardless of the actual date of election.

(O) Language. Whenever the term "he" or "him" appears herein, the same shall also include "she" or "his" when applicable.

(P) Actuarial Equivalent. The Actuarial Equivalent of an Employee's Accrued Pension shall be determined by basing mortality on the 1983 Group Annuity Mortality Table for Males with female ages set back 6 years, and post-disablement mortality upon 80% of the 1985 Railroad Board Ultimate Mortality Table, or such other mortality tables as are in compliance with the Code. This subsection does not apply to Plan Limitation Years beginning after December 31, 2008.

(Q) Plan Year. Plan Year shall mean the period commencing on the first day of October of each year and ending on the last day of September of the following year.

(R) Legal Heirs. An Employee's Legal Heirs shall mean an Employee's designated beneficiary, or, in the absence of such a designation, of if there is no surviving designated beneficiary, the Legal Heirs of the Employee as determined by applicable law. For the purposes of this Act, the term "Legal Heirs" and "Designated Beneficiary" shall have the same meaning and shall be used interchangeably.

(S) Limitation Year. The limitation year shall be the Plan Year.

## **Section 5. Contributions.**

The pension Fund shall consist of monies derived from the following sources:

(A) Employee Contributions. Division A Employees. Commencing for earnings paid beginning with the first pay date after January 1, 2005, all Employee contributions to the Fund shall be mandatory Employee contributions and shall be picked up and paid by the City on Behalf of the member. Such contributions shall be made by Employees in an amount equal to 7% of all Salaries or Wages of all Employees participating in this Fund, which shall be deducted from said Salaries or Wages by the Director of Finance before the same are paid as long as the Employee continues in the Service of the City of Tampa regardless of the number of years of Service with the City. Such contributions, although designated as Employee contributions, shall be paid by the City in lieu of contributions by the Employee. The contributions so assumed shall be treated as tax-deferred Employer "pick-up" contributions pursuant to Section 414(h) of the Code. Members shall not have the option of receiving the contributed amounts directly instead of having such contributions paid by the City to the Fund.

(B) Employer Contributions. Contributions of the City shall consist of the amount of monies necessary, when combined with Employee contributions, to maintain a level of funding adequate to enable payment of the benefit amounts prescribed by the Plan, to pay the yearly amortization of any accrued unfunded liability, and to fund the costs of administering the Plan. Employer Contributions shall be placed in the Fund established pursuant to this Act.

(C) Contributions for Social Security by each Division B Employee and the Employer in the amount required for Social Security Coverage as now or hereafter required by the federal Social Security Act shall be in addition to the Contributions specified in this section.

## **Section 6. Administration.**

The Administration of this Fund shall be in charge of a pension or retirement Board of Trustees, consisting of seven members who shall be designated as trustees of the pension or retirement fund ("Board of Trustees"). Three members of this Board of Trustees shall be appointed by the Mayor or Executive Head of the City of Tampa. Three members of this Board of Trustees shall be Employees participating in this Fund elected by the members of this Fund. However, not more than one Employee member shall be elected from the same department of the Employer. In the event that two or more candidates from the same department should receive sufficient number of votes for election, then only the candidate receiving the highest number of votes among the candidates from the same department shall be elected. The Chief Financial Officer shall be the seventh member of this Board of Trustees. The three members of this Board of Trustees to be appointed by the Mayor, or Executive Head, of the City shall be appointed immediately after the passage of this Act, and they shall qualify within 30 days thereafter. One member appointed by the Mayor, or Executive Head, of the City shall serve for a period of three years; one member for a period of two years; and one member for a period of one year. Three members of this Board of Trustees shall be elected by the Employees who are beneficiaries of this Fund. One member elected shall serve for a period of three years; one member for a period of two years; and one member for a period of one year. At the expiration of the term of office of each member appointed, the Mayor, or Executive Head, of the City shall appoint his or his successor to serve for a term of three

years. Thirty days prior to the expiration of the term of office of each member elected, a successor shall be elected by the Employees and shall take office upon the expiration of his or his predecessor's term and shall serve for a term of three years. Vacancies on the pension or retirement Board of Trustees before the expiration of the term of office shall be filled in the same manner as prescribed for members replacing those whose term of office expires for the period of the unexpired time. The Board of Trustees shall have the power to adopt and prescribe reasonable rules, regulations, and orders necessary and proper for effective administration and enforcement of this Act, and for the election of Trustees. The Chief Financial Officer of the City shall be the treasurer of the Board of Trustees and he or she shall give bond as may be prescribed by the Board of Trustees. The City Attorney shall be the legal advisor of the Board of Trustees. The compensation of all persons engaged by the City for the Board of Trustees, and all other expenses of the Board of Trustees necessary for the administration of the Plan, shall be paid out of the Fund at such rates and in such amounts as the Board of Trustees shall approve, but in no case shall the expenditures for such compensation and administration exceed .5% of the maximum of the Fund each fiscal year. The funds shall be managed by said Trustees and shall be invested by the Trustees in accordance with the following:

(A) That the Board of Trustees shall retain the services of one or more recognized professional investment counselor(s) or state, or national bank(s) in the State of Florida offering qualified and competent investment advisory services. Said bank must be capitalized at not less than \$10 million, having trust assets aggregating not less than \$150 million in value, and having not less than 500 trust accounts.

(B) That not less than once every six months, a written opinion shall be obtained from the investment counselor(s) as to the overall condition and composition of the investment portfolio.

(C) That the portfolio, representing the principal or surplus funds of the pension Fund, may be invested in the following securities or other property, real or personal, including, but without being limited to bonds, notes, or other evidences of indebtedness issued, or assumed or guaranteed in whole or in part by the United States or any of its agencies or instrumentalities; or by any foreign government or political subdivisions or agencies thereof; or by the State of Florida, or by any county, city, school district, municipal corporation, or other political subdivision of the State of Florida, both general and revenue obligations; in mortgages and other interests in realty and shares or certificates of real estate investment trusts; or in such corporation bonds, notes, or other evidences of indebtedness, and corporation stocks including common and preferred stocks, or any corporation created or existing under the laws of the United States, or any of the states of the United States or of any foreign government or political subdivisions or agencies thereof, provided:

1. The Board of Trustees shall cause actuarial surveys of the Plan to be made from time-to-time as deemed necessary, or as required by state law by a competent actuary to be selected by the Board of Trustees;

2. In making each and all of such investments, the Board of Trustees shall exercise the judgment and care under the circumstances, then prevailing which men or women of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income therefrom, as well as probable safety of their capital. However, not more than 65% of said Fund, based on the total book value of all investments held, shall be invested at any time in common and/or preferred stocks, and not more than 10% of said Fund shall be invested at any given time in the preferred and/or common stock of any one corporation and its affiliates; and not more than 5% of the outstanding stock of any one corporation and its affiliates shall be held by the Fund at any given time; and that corporation bonds, notes, or other evidence of indebtedness commonly referred to as "fixed income investments," must hold a rating in one of the four highest classifications by a major rating service and corporation bonds, notes, or other evidences of indebtedness with an equity conversion



provision used as an equity substitute are not required to hold a rating in one of the four highest classifications by a major rating service;

3. Anything in this chapter to the contrary notwithstanding, the Board of Trustees may also invest the principal or surplus funds of the pension Fund, without limitations, in appropriate contracts of life insurance or group annuities, with insurers duly licensed to do business in Florida, including any such contract or contracts which provide for the placement of funds in separate accounts maintained by any such insurer in accordance with the laws of Florida controlling such accounts.

#### **Section 7. Division Election.**

(A) All Employees in the General Employees Retirement Fund, prior to the effective date of this Act, who would, pursuant to Section 3 of this Act, automatically become members of Division A of this Plan, may elect to become members of Division B of this Plan.

(B) The election procedure shall be as follows:

1. On or after the date this Act becomes law, the Employee shall be given written notice of his right of election; and

2. An Employee shall have, from the date of receipt of notice of his right of election, until October 1, 1981, the effective date of this Act, to become a member of Division B of this Plan.

(C) Any member of Division A, on the effective date of this Act, who elects to become a member of Division B, shall be considered to have been a member of Division B since his original date of acceptance as a member of Division A, subject to the minimum benefits specified in Section (8)(b)2. Employees who elect to become members of Division B shall not receive a refund of the contributions as members of Division A.

(D) All Employees employed by the City on or after January 1, 1988, and who were employed by the City in positions created and financed in whole or in part as the result of participation by the City in any form of grant-in-aid program, or of the receipt of funds by the City from any agency, and who are otherwise qualified to participate in the General Employees Retirement Fund, may elect to receive credit for continuous and creditable past Service for their employment in one of the aforesaid positions if said Employees comply with the following:

1. The affected Employee shall notify the City in writing at any time between July 1, 1988 and December 31, 1988, of his desire to receive credit for continuous and creditable past Service for his employment in one of the aforesaid positions; and

2. By September 30, 1989, the Employee shall pay into the pension Fund a sum of money equal to the aggregate Employee contributions, plus compound interest thereon at the rate of 8% per annum, which the Employee would have paid into the Fund had the Employee participated in the Fund during the period of the prior Service.

#### **Section 8. Longevity Retirement Benefits.**

(A) Division A Employees. An Employee in Division A whose employment terminates on or after his normal retirement date shall receive a monthly pension benefit equal to 2% of his average monthly salary multiplied by his years of Service, plus an additional .5% of his average monthly salary for each additional year of Service for employment after 15 years for years served on or after January 1, 1975, until a maximum of 30 years of Service is reached.

(B) Division B Employees.

1. An Employee in Division B whose employment terminates on or after his normal retirement date shall receive a monthly pension benefit equal to 1.2% of his average monthly salary multiplied by his Service.

2. An Employee in Division B who was previously a member of Division A whose employment terminates on or after his normal retirement date shall receive a pension calculated as in

subsection (B)1 of this section subject to the following minimum benefits: Said Employee shall not receive less than his Accrued Pension in Division A (calculated as in (A) above), plus 1.2% of his average monthly salary multiplied by his Service after his date of election. For the purpose of determining an Employee's Accrued Pension in Division A under this subsection, his Average Monthly Salary shall be calculated as of the date of election and his Service shall be Service prior to the date of election.

#### **Section 9. Deferred Pension.**

(A) Division A Employees. Any Employee who has been in the Service of the City of Tampa for a period of not less than six years continuously who voluntarily terminates his employment, or is discharged may elect to allow the amount contributed to the pension Fund to remain in said Fund, and upon attaining the age of 55 years shall be entitled to a pension in an amount equal to the Employee's Accrued Pension based upon the number of years and months of actual Service.

(B) Division B Employees. Any Employee in Division B who has worked for the City of Tampa for a period of six years continuously who leaves the employ of the City either voluntarily or by discharge and who has not reached his 62<sup>nd</sup> birthday, upon attaining his 62<sup>nd</sup> birthday, shall be entitled to a pension equal to his Accrued Pension based upon the number of years and months of actual Service. However, if such Employee was previously a member of Division A and elects to withdraw his Employee contributions in Division A, his period of Service as a member of Division A shall not be used to qualify under this subsection, or if he otherwise qualifies, in computing his pension hereunder.

#### **Section 10. Early Retirement.**

This section shall apply only to Employees in Division B:

(A) An Employee in Division B of this Plan, on or after his 55<sup>th</sup> birthday, may elect to take an early retirement, provided that he has been in the Service of the City of Tampa for six continuous years.

(B) An Employee in Division B who elects to take an early retirement as defined in this section shall receive an immediate monthly pension commencing on the first day of any month prior to his normal retirement date equal to his Accrued Pension reduced by 5/12% for each month by which the commencement date of such pension preceded his normal retirement date.

#### **Section 11. Disability Retirement.**

(A) An Employee in Division A or Division B who has been in the Service of the City of Tampa for a period of not less than six years continuously who becomes totally and permanently disabled physically or mentally, or both, from further rendering useful and efficient Service as an Employee shall be entitled to immediately receive a monthly disability pension equal to his accrued pension.

(B) No such Employee shall be permitted to retire under the provision of this section until examined by a duly qualified physician or surgeon, or Board of Trustees of Physicians and Surgeons, to be selected by the Trustees of this Fund for that purpose, and thereby found and certified to be disabled in the degree and in the manner herein specified.

(C) In the event that an Employee who has been retired on a pension due to total and permanent disability should sufficiently regain his health and is found to be physically able to render useful and efficient Service to the City, the Board of Trustees shall require the said Employee to resume employment with said City and discontinue the pension.

#### **Section 12. Death Benefits.**

(A) Division A Employees.

1. Should any retired Employee or active Employee regardless of age, having earned pension credit and participated in the Fund, die and leave a widow or widower, and/or a child or children under the age of 18 years, or one or both solely dependent parents, then the Trustees shall authorize and

direct payment of a pension to the widow or widower, and/or child or children, or the parent or parents, but only in the following amounts and on the following conditions:

a. To the widow/widower until he dies or remarries, a monthly pension equal to 75% of the Employee's Accrued Pension; however, such monthly pension shall be reduced to 50% of the Employee's Accrued Pension if such widow/widower remarries.

b. To the children, a pension of \$100 per month for each child until said child or children shall marry or reach the age of 18 years; however, combined payments to the widow/widower, and/or children shall not exceed the maximum pension the Employee had earned at the time of his death.

c. In the event that there is no widow/widower or children, and either or both parents of the Employee are solely dependent on the earnings of such Employee, either or both shall jointly receive an amount equal to that which would have been paid to the widow/widower under like conditions, or said parent or parents may elect to withdraw in a lump sum the amount contributed by the Employee during his period of membership in the Fund, in which case no further payments will be made.

d. Beneficiaries can only participate in one pension of an Employee, and should there be two pensions to spouses' beneficiaries, participation shall be in the pension having the highest benefits.

e. Should any former Employee who has earned pension credit die, then at the time that the said decedent would have reached the age of 55 years, his widow, widower, children or dependent parent or parents shall receive the pension benefits as provided for in this section.

f. Children who are orphaned shall receive equally a monthly pension equal to 75% of the Employee's Accrued Pension until they marry or reach the age of 18 years, or die. Upon said children reaching the age of 18 years, if there is a balance in the Employee's contribution account, said balance shall be paid in a lump sum to his legal heirs.

2. Should an Employee die before he is entitled to any retirement benefits under this Act, then the full amount of his contributions to the Fund, without interest, shall be paid to his legal heirs.

3. Should an Employee die after he becomes eligible to retirement benefits, but before he retires, and is not survived by a widow, widower, children, or dependent parents, if any, then the full amount of his contributions to the Fund, without interest, shall be paid to his legal heirs.

4. Should a retired Employee die before the retirement benefits received by him are equivalent to the total amount said Employee has paid into the Fund, then his legal heirs, if Employee is not survived by a widow, widower, children or dependent parents, shall be paid a sum of money equivalent to the difference between the amount said Employee contributed to the Fund and the total amount of money received by the pensioner as retirement pension benefits, without interest.

#### (B) Division B Employees.

1. Should an Employee in Division B having earned Pension Credit, die while in the active service of the Employer, the following benefits shall be paid:

a. The deceased Employee's legal heirs shall receive in a lump sum, an amount equal to the Employee's annual salary at the time of death; and

b. In addition, if the Employee is survived by a spouse, such spouse shall receive a monthly pension benefit equal to 50% of the Employee's Accrued Pension.

2. Should any former Employee of Division B, having previously earned Pension Credit, and having previously been receiving retirement benefits pursuant to the provision of this Act, die, then his spouse shall receive a monthly pension benefit equivalent to 50% of the employee's monthly pension benefit.

3. Should any former Employee of Division B of having previously earned Pension Credit die, then his spouse shall receive, when the deceased Employee would have reached age 62, a monthly pension benefit equivalent to 50% of the Employee's Accrued Pension.

4. No pension shall be allowable to any spouse pursuant to the provisions of this subsection unless she or he was married to the deceased Employee on the date of retirement of the Employee.

5. If any Employee in Division B who was formerly a member of Division A dies without a surviving spouse, then his Legal Heirs shall receive a lump sum payment of his contributions as a member of Division A without interest, less any benefits paid pursuant to this section.\

(C) When the designated beneficiary, as defined in Section 401(a)(9)(E) of the Code, is not the Employee's spouse (including, without limitation, a child, parent, or sibling), distributions made after December 31, 2006, from Division A and Division B shall be made in accordance with Section 402(c)(11) of the Code, and such designated beneficiary shall have the option to roll over all or a portion of his or her death benefit via a direct trustee-to-trustee transfer to an inherited individual retirement account, as defined in Section 408(d)(3)(c) of the Code, provided such distribution meets the definition of an eligible rollover distribution as defined in Section 26 of this Act.

### **Section 13. Cost of Living Adjustment (COLA).**

(A) The purpose of this section is to provide cost-of-living adjustments (COLA) to the monthly pension benefits due all retired Employees of this Plan.

(B) On October 1, 1988, a single adjustment shall be made to the pension benefit due each Employee who retired before January 1, 1975, from active Service, and the beneficiaries thereof, such that the amount of the monthly pension benefit due such Employees and beneficiaries on October 1, 1999, shall be the amount of the retired Employee's or beneficiary's monthly benefit being received on September 30, 1999, plus an amount, compounded annually from such Employee's date of retirement from active Service until January 1, 1999, equal to 1% of such benefit.

(C) Commencing January 1, 2000, and each January 1 thereafter, the pension benefit due each retired Employee or beneficiary shall be adjusted as follows:

1. For those retired Employees, and beneficiaries Thereof, in Division A, the amount of the monthly pension benefit due for the 12 month period commencing on the adjustment date shall be the amount of the retired Employee's or beneficiary's monthly benefit being received on December 31 immediately preceding the adjustment date plus an amount equal to 2% of such benefit. Commencing January 1, 2005, the 2% adjustment amount provided for in this subparagraph (C)1 shall be revised to 2.2%.

2. For those retired Employees, and beneficiaries Thereof, in Division B, the amount of the monthly pension benefit due for the 12 month period commencing on the adjustment date shall be the amount of the retired Employee's or beneficiary's monthly benefit being received on December 31 immediately preceding the adjustment date plus an amount equal to 1% of such benefit. Commencing January 1, 2005, the 1% adjustment amount provided for in this subparagraph (C)2 shall be revised to 1.2%.

### **Section 14. Refund of Contributions.**

(A) In the event of voluntary resignation or discharge of any Employee in Division A who is not qualified for retirement as herein provided, said Employee shall receive a refund of 100% of his said contribution without interest. Upon the voluntary resignation or discharge of any Employee, said Employee shall immediately cease to be a member and entitled to any of the benefits of said pension Fund.

(B) Any Employee in Division B who was previously a member of Division A, who voluntarily resigns or is discharged and who is not qualified for retirement as herein provided, said Employee shall receive a refund of 100% of his said contribution made while in Division A, without interest. Upon the voluntary resignation or discharge of such Employee, said Employee shall immediately cease to be a member and entitled to any of the benefits of said pension Fund.

(C) Refund of Employee contributions shall be paid in accordance with Section 26 of this Act.

**Section 15. Reemployment After Termination.**

(A) Should any former Employee in Division A of the City of Tampa who had participated in the Fund and had withdrawn his contributions be reinstated or reemployed, said Employee may receive credit toward retirement for any previous Service under the provisions of this Act, provided said Employee shall redeposit in the pension Fund the amount refunded upon the Employee's voluntary resignation or discharge and shall pay a yearly interest rate as determined by the Board of Trustees upon the amount so redeposited for the period of time elapsing between receipt of the refunded monies provided for herein and redeposit of the same in the pension Fund. In order to receive credit for past Service under this subsection, an Employee must return to work with the City within five years of the date of withdrawal of his contributions. Employees, who have already received a refund on the effective date of this Act, shall have five years from the effective date of this Act to be eligible to repurchase past Service. Such Employee cannot receive any benefit under this Act unless he shall then serve continuously for a period of six years. Past Service in Division A repurchased by a Division B Employee shall be treated as Division B Service for the purpose of calculating benefits subject to the minimum benefits specific in Section 8(B)2.

(B) An Employee in Division B who terminates his employment with the City, or is terminated, if he is reemployed with the City, shall receive credit for his past Service if he returns to employment with the City within five years of his voluntary termination or discharge. However, the Employee shall work six continuous years from his date of reemployment before becoming eligible to receive any benefits under this Act.

(C) An Employee in Division A or B who elects to take a deferred pension as defined in Section 9 of this Act, and subsequently returns to employment with the City, shall not receive any additional benefits (in computing Average Monthly Salary, continuous Service, or otherwise) until he serves a period of six continuous years from his date of reemployment. However, an Employee who earned a deferred pension in Division A who returns to work with the City may have either his deferred pension in Division A considered separate and apart from his Service upon reemployment in Division B (in which case, he may receive his Division A benefits at age 55, provided he is no longer in the employ of the City); or, he may have his Service earned in Division A converted to Division B Service subject to the minimum benefits of Section 8(B)2. This election shall be made at the date of retirement after reemployment.

**Section 16. Reemployment of Retired Employees.**

Upon the employment of any person in Division A or Division B who shall have retired under the pension or retirement Plan and shall be receiving pension payments, such person shall resume his participation in the Plan, shall not be entitled to receive pension payments during or for the period of such additional Service, the period of such retirement shall not constitute a break in Service, and the period of such retirement shall not be allowed as creditable Service. The monthly pension payable when such officer or person is eligible to receive a pension shall consist of the sum of (A) and (B) below, provided that the total pension shall not be less than \$100 per month after 25 years of Service.

(A) The monthly pension he was receiving immediately prior to the commencement of his additional Service; plus

(B) One and two-tenths percent of his Average Monthly Salary at the end of his period of additional Service multiplied by the number of years of additional Service, provided, however, that this additional benefit shall not be payable before the age of 62 years.

**Section 17. Officers.**

(A) Elective officers, department heads, and appointive officers of the City shall participate in the pension or retirement Plan. Such elective officers, department heads, and appointive officers shall have the same status for pension purposes as permanent Employees; provided, however, any such elective officer, department head, or appointive officer of the City who (1) shall have participated in the pension or retirement Plan and acquired a vested right to a deferred proportionate pension thereunder; (2) shall have at the end of any term in office (a) unsuccessfully sought election, (b) not been appointed, or (c) not declined appointment to any office of the City; (3) shall have left his contributions in the Fund if he was a member of Division A and had contributed to the Fund, and (4) is or shall have been subsequently elected or appointed to any office or employed in any position in the City, shall resume his participation in the Plan; and the period during which such person shall have been out of office shall not constitute a break in Service, but no creditable Service shall be allowed for such period. Pensions under this section shall be calculated in the same manner as any pensions of Employees receiving retirement benefits who were subsequently reemployed (Section 16).

(B) Elective officers, department heads, and appointive officers, working with the City prior to October 1, 1981, who are not members of the General Employees Retirement Fund, and are employed with the City on or after January 1, 1988, may become members of Division B if they comply with the following:

1. Notify the City, in writing, at any time between July 1, 1988, and December 31, 1988, of their desire to participate in Division of the Fund; and
2. By September 30, 1989, pay into the Fund a sum of money equal to the aggregate contributions, plus compound interest Thereon at the rate of 8% per annum, which they would have paid into the Fund had they participated in the Fund from the time period they initially began working with the City.

**Section 18. Physical Examination.**

All persons employed by the City after the passage of this Act shall be required to pass a physical examination conducted by a duly qualified physician or surgeon, or Board of Trustees of Physicians or Surgeons, to be selected by the Trustees of this Fund for that purpose and by said physician or surgeon, or Board of Trustees of Physicians or Surgeons, found and certified to be mentally and physically qualified for such employment. Those holding employment with the City before the passage of this Act shall not be required to take a physical examination as before stated. Once the Employee has passed the physical examination, he shall immediately become a member of the Plan. However, a Temporary Employee shall not be given a physical examination until 180 days after his or his date of employment.

**Section 19. Construction.**

This Act shall be liberally construed in accordance with general law and the federal tax code, and if any part or portion thereof be declared invalid, or the application thereof to any person, circumstance or thing is declared invalid, the validity of the remainder of this Act shall not be affected Thereby.

**Section 20. Exemptions.**

The pensions or other benefits accrued or accruing to any person under the provisions of this Act, and the accumulated contributions and the cash securities in the funds created under this Act, are hereby exempted from any state, county, or municipal tax of the State of Florida, and shall not be subject to execution or attachment or to any legal process whatsoever, and shall be unassignable.

**Section 21. Pension Benefits; Certain Firefighters and Police Officers.**

Notwithstanding any other provision of this Act to the contract, the following provisions shall apply only to those firefighters and police officers who prior to October 16, 1922, the effective date of the Older Workers Benefit Protection Act (OWBPA), were participants in Division B of the Plan and who became members of the City pension Fund for firefighters and police officers in the City of Tampa as of the OWBPA effective date pursuant to Chapter 94-463, Laws of Florida:

1. Longevity retirement, deferred pension, early retirement and death benefits accrued as of the OWBPA effect date shall be computed by using only that period of Service prior to the OWBPA effective date as members of Division B of the Plan and shall be paid to, or paid on behalf of, each such firefighter or police officer on and after the OWBPA effective date as set forth under the terms of this ACT.

2. Death Benefits payable on behalf of any such firefighter or police officer shall be provided only as set forth in subparagraphs 2, 3, and 4 of Section 12(B) or this Plan; provided, however, that if a death benefit is paid under the City pension Fund for firefighters and police officers in the City of Tampa on behalf of any such firefighter or police officer on account of death resulting from injuries or causes occurring while in the discharge of duty as firefighter or police officer, then no death benefit shall be paid on behalf of such firefighter or police officer under this Act.

3. Disability benefits shall not be paid to any such firefighter or police officer after the OWBPA effective date.

4. For purposes of determining the minimum number of years necessary to have a vested pension and the normal retirement date of any such firefighter or police officer, Service after the OWBPA effect date shall be counted as continuous Service under this Act.

5. The Average Monthly Salary of each such firefighter or police officer shall be determined by calculating the average of such firefighter's or police officer's salary for the highest three of the last 10 years of participation in Division B of the Plan prior to the OWBPA effective date, and dividing by 12; provided, however, that in the event such firefighter or police officer does not have 10 years of participation in Division B of the Plan prior to the OWBPA effective date at the time his participation in Division B of the Plan prior to the OWBPA effective date, shall be used; provided, further, that if such firefighter or police officer does not have three years of participation in Division B of the Plan prior to the OWBPA effective date, the average for years of such participation shall be used.

6. Notwithstanding any other provisions of the Act to the contrary, for purposes of determining the longevity retirement, deferred pension, early retirement, death benefits, and Average Monthly Salary of each such firefighter or police officer, Service prior to the OWBPA effective date shall not be included to the extent that such firefighter or police officer purchases creditable Service under the City pension Fund for firefighters and police officers in the City of Tampa for Service as a firefighter or police officer with the City of Tampa prior to the OWBPA effective date.

**Section 22. Deferred Retirement Option Program (DROP).**

Notwithstanding any other provisions of this Act, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is an option under which an eligible member may elect, commencing on October 1, 1999, to have the member's pension benefits calculated as of a certain date prior to retirement, and accumulate benefits plus the investment return pursuant to this section during the DROP calculation period. Participation in the DROP does not guarantee employment for the DROP calculation period, as defined in this section.

(A) Eligibility: In order to be eligible for the DROP option, the member must meet the following eligibility criteria:

1. The member must have attained the age of 55 years and at least six years of continuous Service at the time the member files an election under this section. A member is eligible for accumulations pursuant to the DROP for a maximum of seven years.

2. The member must meet all eligibility requirements for pension benefits, other than separation from Service as an Employee of the City.

3. Upon electing to participate in the DROP, the member shall submit on forms required by the City and the Board of Trustees:

a. An irrevocable written election to participate in the DROP, specifying a DROP benefit calculation date. The DROP benefit calculation date is used to determine the DROP calculation period, which commences on the DROP benefit calculation date and ends on the earlier of the member's separation from Service or death;

b. An irrevocable notice of employment termination to take effect upon the expiration of the DROP calculation period; provided that a DROP participant shall not be precluded from voluntarily terminating employment with the City before the expiration of the DROP calculation period, nor shall the City be precluded from terminating such DROP participant's employment as applicable due to disciplinary action, layoff, or other separation in accordance with the applicable collective bargaining agreement, civil Service law, or other applicable law;

c. A properly completed application for the longevity retirement benefits to be calculated pursuant to Section 8 or Section 10 as of the DROP benefit calculation date; and

d. Any other information required by the Board of Trustees.

4. A member may only make on DROP election during the member's lifetime.

(B) Status. For pension purposes only:

1. During the DROP calculation period, there shall be no pension contribution deductions made from the earnings, wages, salary, or compensation earned by the DROP participant.

2. Upon entry into the DROP, a DROP participant shall no longer be entitled to disability retirement benefits pursuant to Section 11.

3. Upon the death of a DROP participant, the named beneficiary or beneficiaries shall be entitled to receive the benefits accumulated during the DROP calculation period as of the date of death. After the date of death of such DROP participant, death benefits shall be paid as required by Section 12. Eligibility to participate in the DROP terminates upon the death of such DROP participant.

4. A DROP participant shall not be eligible to be elected as a member of the Board of Trustees during such participant's DROP calculation period.

(C) Benefits under DROP:

1. Effective with the DROP benefit calculation date, a DROP participant's monthly pension installments calculated pursuant to Section 8 or Section 10, including continuous Service, such participant's Average Monthly Salary and the effective date of retirement shall be fixed.

2. The DROP accumulation shall be calculated as follows:

a. The amount of the monthly installments to which the member would have been entitled to receive from the DROP benefit calculation date to the end of the member's DROP calculation period.

b. The amount of any COLA adjustments pursuant to Section 13 during the DROP benefit calculation period.

c. Interest accumulation as set forth in this section.

3. At the conclusion of the member's DROP benefit calculation period, the Board of Trustees shall distribute the member's benefits, subject to the following provision:

a. The Board of Trustees shall receive verification by the City that such DROP participant's employment as an Employee of the City has terminated;



b. A terminated DROP participant or, if deceased, such participant's named beneficiary or beneficiaries, shall elect on forms provided by the Board of Trustees to receive the DROP benefits in accordance with the one of the options provided in subparagraph E.1. Once a DROP participant commences distribution under a payment method, or receives a lump sum, no further interest shall be payable to the DROP participant. For a DROP participant or beneficiary who fails to elect a method of payment within 60 days of termination of DROP participation, the Board of Trustees will pay a lump sum as provided hereafter.

(D) Interest and Administrative Costs: Interest shall accumulate annually, whether positive or negative, during the DROP calculation period, less the cost of administering the DROP, all of which shall be determined by the Board of Trustees. A DROP participant shall have the opportunity to elect, as provided in this subsection, an investment option to be applied to such DROP participant's account for the Plan Year when entering the DROP and for each subsequent Plan Year. In such election, the DROP participant shall choose to have interest accumulate annually, whether positive or negative, at either (i) a rate reflecting the Fund's net investment performance, as determined by the Board of Trustees, or (ii) a rate reflective of a low-risk variable rate selected annually by the Board of Trustees in its sole discretion. Each election must be made at such time, on such forms, and in such manner as the Board of Trustees may determine in its sole discretion. If a DROP participant fails to make a valid election upon entering the DROP, the Fund interest rate shall be applied as provided in (i) herein. If a DROP participant fails to make a valid election in a subsequent Plan Year, the election for the then-current Plan Year shall be applied.

(E) Payment:

1. Upon termination of employment with the City, the accumulated DROP benefits at the option of the terminated DROP participant, or if deceased, such participant's designated beneficiary or beneficiaries, shall be distributed to the extent allowed by law by rollover to another qualified Plan, as a lump sum payment, as a combination of both, or in such other forms as provided by the rules and regulations adopted by the Board of Trustees, provided that such distribution may be adjusted by the Board of Trustees to maintain Internal Revenue Code qualification of the Plan.

2. If a DROP participant dies during the DROP calculation period, or if there is no surviving designated beneficiary, to the participant's spouse, or if there is no surviving designated beneficiary and no surviving spouse, to the participant's estate. Any such payment shall be made in a rollover or lump sum payment, unless the participant had already commenced benefit payment of their DROP accumulation in an optional plan. In such an event, benefits shall continue to be paid pursuant to the optional benefit form selected.

3. The form of distribution elected by a DROP participant or surviving beneficiary must comply with the applicable requirements of the Internal Revenue Code and the regulations adopted thereunder.

4. A DROP participant who is involuntarily discharged who seeks review of such discharge shall not be entitled to receipt of pension benefits or benefits accumulation while in the DROP until it has been determined that the discharge was lawful, or at the expiration of DROP participation provided in subparagraph (A)1, whichever is first.

5. The accumulated benefits of any DROP participant, including any interest thereon, shall not be subject to assignment, garnishment, execution, attachment, or to any legal process whatsoever, except income deduction orders as provided in S.61.1301, Florida Statutes, and federal income tax levies.

6. Upon termination from employment with the City, the monthly pension installments pursuant to Section 8 or Section 10, and the COLA pursuant to Section 13, shall be paid to the member, and upon death of the member, monthly pension installments shall be paid pursuant to Section 12 with COLA pursuant to Section 13.

(F) Conflict of Laws: To the extent that any provision of this section is in conflict with SS.112.60-112.67, Florida Statutes, that apply to local law plans established by municipal ordinance or special act, or provision of Florida Statutes made applicable to pension funds established by special act, or to the extent that any provision of this section would result in the loss of tax exempt status of the Plan, the Board of Trustees is hereby delegated the authority to adopt by rule changes to this section in order to comply with said laws, which shall have the force of law and shall be considered part of this Act.

(G) Administration of program: The Board of Trustees shall make such rules as are necessary for the effective and efficient administration of this section, provided that such rules are not inconsistent with the provisions of this Act. The Board of Trustees shall not be required to advise members of the federal tax consequences of an election related to the DROP, but may advise members to seek independent advice. Notwithstanding any other provision of this section to the contrary, each provision of this section shall be construed and administered in such a manner that the Plan and such program shall qualify as a qualified governmental pension Plan under existing or hereafter enacted provisions of the Internal Revenue Code of the United States and the regulations adopted thereunder, and the Board of Trustees may adopt any rule necessary to accomplish the purpose of this section as is necessary to retain tax qualification, which rule shall have the force of law and shall be considered part of this Act.

### **Section 23. Sole Purpose.**

The Plan is created for the sole purpose of providing benefits to the Employees of the City. Except as otherwise permitted by law, in no event shall any part of the principal or income of the Fund be paid to or reinvested in the City or be used for or diverted to any purpose whatsoever other than for the exclusive benefit of the Employees participating in the Plan and their beneficiaries.

### **Section 24. Limitations on Amounts of Benefits.**

(A) For Plan Years ending after December 31, 2001, benefits for an Employee under this Plan, when expressed as a benefit payable annually in the form of a straight life annuity without regard to the death benefit or any other ancillary benefit, shall not at any time within the limitation year exceed the limits provided under Section 415(b) of the Code.

(B) 1. The limitation set forth in subsection (A) shall be actuarially reduced in accordance with regulations prescribed by the Secretary of the Treasury for any retirement benefit that may begin before an Employee attains age 62, by adjusting such benefit so that it is equivalent to such a benefit beginning at age 62. For Plan Years ending before January 1, 2002, and repealed for Plan Years ending thereafter, the reduction shall not reduce the limitation set forth in subsection (A) to less than (a) \$75,000 if the benefit begins at or after age 55, or (b) if the benefit begins before age 55, the equivalent of the \$75,000 limitation for age 55.

2. If any retirement benefit begins after the Employee attains age 65, the limitation set forth in subsection (A) shall be adjusted (based upon an interest rate assumption of 5%) in accordance with regulations prescribed by the Secretary of the Treasury, by adjusting such benefit so that it is equivalent to such benefit beginning at age 65.

(C) The benefit payable with respect to an Employee shall be deemed not to exceed the limitations set forth in subsection (A) and (B) if the benefit payable with respect to such Employee under this Plan, and under all other defined benefit pension Plans to which the City contributes, does not exceed \$10,000 for the applicable Plan year and for any Plan year and the City has not at any time maintained a defined contribution Plan in which the Employee participated.

(D) In accordance with Section 415(b)(5) of the Code, the limitation in subsection (A), and the limitation in subsection (C), shall be multiplied by a fraction (not in excess of 1), the numerator of which is the number of the Employee's years of Service in the Plan (in the case of the limitation set forth in

subsection (A)) or the number of the Employee's years of Service (in the case of the limitation set forth in subsection (C)) and the denominator of which, in either case, is 1.0.

(E) As of January 1 of each calendar year, the limitation set forth in subsection (A) shall be adjusted as, and if permitted by the Secretary of the Treasury, and any such adjusted limitation shall become effective as the maximum dollar limitation under the Plan for that calendar year. The maximum dollar limitation for a calendar year, as so adjusted, shall apply to limitation years ending with or within such calendar year.

(F) The following is repealed for Plan Limitation Years beginning after December 31, 1999:

1. In the event that any Employee participates in both a Defined Benefit Plan and a Defined Contribution Plan maintained by the City, then the sum of the Defined Benefit Plan Fraction (as defined in Section 415(e) of the Code) and the Defined Contribution Plan Fraction (as defined in Section 415(e) of the Code) for any limitation year shall not exceed 1.0.

2. In the event that the sum of the Defined Benefit Plan Fraction and the Defined contribution Plan Fraction exceeds 1.0, then the Board of Trustees shall take such actions, applied in a uniform and nondiscriminatory manner, as will keep the benefits and annual additions thereto for such Employees from exceeding these limits. Adjustments shall be made to this Plan before any adjustments shall be required to any other Plans.

(G) Notwithstanding any other provision of this Plan, benefits and limitations under this Plan shall satisfy all the applicable provisions of Section 415 of the Code and the regulations thereunder, which provisions and regulations are incorporated by reference.

#### **Section 25. Latest Date of Commencement of Benefits.**

The distribution of a member's benefit shall be made in accordance with the following requirements, and shall otherwise comply with Section 401(a)(9) of the Code and the regulations thereunder, as prescribed by the Commissioner in Revenue Rulings, Notices, and other guidance published in the Internal Revenue Bulletin, to the extent that said provisions apply to governmental plans under Section 414(d) of the Code. The distribution provisions of Section 401(a)(9) of the Code shall override any distribution options in the Plan inconsistent with Section 401(a)(9) of the Code:

(A) Any benefit paid to a member shall commence not later than the last to occur of:

1. April 1 of the year following the calendar year in which the member retires; or
2. April 1 of the year immediately following the calendar year in which the member reaches age 70  $\frac{1}{2}$ .

(B) Distributions of member's benefits will be made in accordance with Sections 1.401(a)(9)-2. Through 1.401(a)(9)-9. of the Code and such other rules thereunder as may be prescribed by the Secretary of the Treasury, to the extent that said provisions apply to governmental plans under Section 414(d) of the Code.

(C) Notwithstanding anything contained herein to the contrary, payments under the Plan to a Beneficiary due to a member's death shall satisfy the incidental death benefit requirements and all other applicable provisions of Section 401(a)(9)(G) of the Code, the regulations issued thereunder, and such other rules thereunder as may be prescribed by the Secretary of the Treasury including IRS Notice 2007-7, to the extent that said provisions apply to governmental plans under Section 414(d) of the Code.

#### **Section 26. Direct Rollovers.**

(A) This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary a distributee may elect, at the time and in the manner prescribed by the Commissioner of the Internal Revenue Service, to have any portion of an eligible rollover distribution (as define below) paid directly to an eligible retirement rollover plan (as defined below) specified by the distributee in a direct rollover (as defined below). If a member fails to elect a

distribution option as provided under Sections 14 and 22 of this Act, then such member's benefit shall be rolled over to an individual retirement account designated by the Board of Trustees, as defined in Section 6.

(B) For purposes of this section, the following terms shall have the following meanings:

1. 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 10 years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code, and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). Notwithstanding the above, a portion of a distribution shall not fail to be an "eligible rollover distribution" merely because the portion consists of after-tax voluntary Employee contributions that are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts transferred, including separately accounting for the portion of such distribution that is includable in gross income and the portion of such distribution that is not so includable.

2. An "eligible retirement rollover 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, other than an endowment contract; a qualified trust (an employees' trust) described in Section 401(a) of the Code that is exempt from tax under Section 501(a) of the Code; an annuity plan described in Section 403(a) of the Code; an eligible plan under Section 457(b) of the Code that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or political subdivision and that agrees to separately account for amounts transferred into such plan from this Plan; or an annuity contract described in Section 403(b) 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 rollover plan is an individual retirement account or individual retirement annuity.

3. A "distributee" includes the member or former member. In addition the member's or former member's surviving spouse and the member's or former member'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.

4. A "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the distributee.

The Acts amending Chapter 23559, Laws of Florida of 1945, are:

Chapter 24924, Special Act of 1947  
Chapter 26264, Special Act of 1949  
Chapter 27934, Special Act of 1951  
Chapter 29563, Special Act of 1953  
Chapter 31301, Special Act of 1955  
Chapter 57-1900, Special Act of 1957  
Chapter 59-1922, Special Act of 1959  
Chapter 61-2919, Special Act of 1961  
Chapter 65-2313, Special Act of 1965  
Chapter 67-2115, Special Act of 1967  
Chapter 67-2120, Special Act of 1967  
Chapter 69-1660, Special Act of 1969  
Chapter 69-1664, Special Act of 1969  
Chapter 70-953, Special Act of 1970  
Chapter 70-957, Special Act of 1970  
Chapter 71-943, Special Act of 1971  
Chapter 72-702, Special Act of 1972  
Chapter 72-703, Special Act of 1972  
Chapter 72-704, Special Act of 1972  
Chapter 73-636, Special Act of 1973  
Chapter 74-616, Special Act of 1974  
Chapter 75-512, Special Act of 1975  
Chapter 75-513, Special Act of 1975  
Chapter 76-493, Special Act of 1976  
Chapter 76-494, Special Act of 1976  
Chapter 79-574, Special Act of 1979  
Chapter 81-497, Special Act of 1981  
Chapter 86-405, Special Act of 1986  
Chapter 88-496, Special Act of 1988  
Chapter 94-463, Special Act of 1994  
Chapter 99-420, Special Act of 1999  
Chapter 2000-490, Special Act of 2000  
Chapter 2001-321, Special Act of 2001  
Chapter 2002-369, Special Act of 2002  
Chapter 2004-431, Special Act of 2004  
Chapter 2005-326, Special Act of 2005  
Chapter 2006-346, Special Act of 2006  
Chapter 2011-239, Special Act of 2011

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