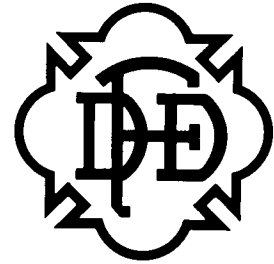




D A L L A S
POLICE & FIRE
PENSION SYSTEM

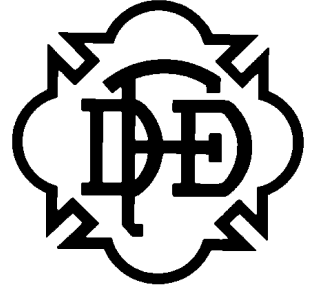


Combined Pension Plan Document
As Amended and Restated Through March 2011





D A L L A S
POLICE & FIRE
PENSION SYSTEM



Combined
Pension Plan
Document

As Amended and Restated Through March 1, 2011



D A L L A S
POLICE & FIRE
PENSION SYSTEM



Board of Trustees

(As of June, 2011)



*George Tomasovic
Chairman
Fire Trustee*



*Steve Umlor
Vice Chairman
Police Trustee*



*Rick Salinas
Deputy Vice Chairman
Fire Trustee*



*Jerry Allen
Council Member
Trustee*



*Sam Friar
Fire Trustee*



*Sheffie Kadane
Council Member
Trustee*



*John Mays
Police Pensioner
Trustee*



*David A Neumann
Council Member
Trustee*



*Richard Wachsmann
Fire Pensioner
Trustee*



*Thomas White
Police Trustee*



*Dan Wojcik
Police Trustee*

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Part 1. Purpose.

Sec. 1.01. Amendment, Restatement, and Consolidation.

(a) The purpose of this Article is to restate and amend the provisions of a former law governing the pension funds for Police Officers and Fire Fighters in certain municipalities (Chapter 4, Acts of the 43rd Legislature, 1st Called Session, 1933, also known as Article 6243a) having previously been amended and restated to permit the consolidation of the terms of certain pension plans created under Sections 1, 11A, and 11B of that Act for the purpose of simply and accurately reflecting the joint administration of the plans.

(b) This Article does not take away or reduce any benefit contained in the plans created under former Articles 6243a and Article 6243a-1, as previously written.

Part 2. General Provisions.

Sec. 2.01. Definitions.

In this article:

(1) “Active Service” means any period that a Member receives compensation as a Police Officer or Fire Fighter from either Department for services rendered.

(2) “Actuarial Equivalent” means a form of benefit differing in time, duration, or manner of payment from a standard benefit payable under this Article but having the same value when computed using the assumptions set forth in this Article.

(3) “Administrator” means the person designated by the Board to supervise the operation of the Pension System.

(4) “Alternate Payee” has the meaning given the term by Section 414(p) of the Code or any successor provision.

(5) “Annual Additions” means the sum of the following amounts credited to a Member’s Account under any defined contribution plan maintained by the City for the Limitation Year:

(A) City contributions;

(B) Member contributions, other than rollover contributions from a plan maintained by any employer other than the City;

(C) forfeitures; and

(D) amounts allocated after March 31, 1984, to an individual medical account, as defined in Section 415(1)(2) of the Code, that is part of a pension or annuity plan maintained by the City.

For any Limitation Year beginning before January 1, 1987, only that portion of Member contributions equal to the lesser of Member contributions in excess of six percent of 415 compensation or one-half of Member contributions to the Combined Pension Plan or any qualified defined contribution plan maintained by the City is treated as Annual Additions.

(6) “Annual Benefit” means the aggregate benefit attributable to City contributions payable annually under the Combined Pension Plan or any plan maintained by the City exclusive of any benefit not required to be considered for purposes of applying the limitations of Section 415 of the Code to the Combined Pension Plan, payable in the form of a straight life annuity beginning at age 62 with no ancillary benefits. Solely for purposes of computing the limitations under the Combined Pension Plan, benefits actually payable to a Pensioner are adjusted to the Actuarial Equivalent of a straight life annuity pursuant to Section 415(b) of the Code even though no Member may actually receive a benefit in the form of a straight life annuity.

(7) “Article 6243a” means Chapter 4, Acts of the 43rd Legislature, 1st Called Session, 1933 (former Article 6243a, Vernon’s Texas Civil Statutes), pertaining to a pension system for police officers, fire fighters, and fire alarm operators in certain cities. “Article” means this Article 6243a-1 of the Revised Civil Statutes of the State of Texas and, unless the context dictates otherwise, the Combined Pension Plan established pursuant to this Article 6243a-1 of the Revised Civil Statutes of the State of Texas.

(8) “Assignment Pay” means monthly pay, in addition to salary, granted to a Group B Member and authorized by the City Council for the performance of certain enumerated duty assignments.

(9) “Base Pay” means the maximum monthly civil service pay from time to time established by the City for persons who hold the rank of “police officer” in the City’s Police Department or “fire and rescue officer” in the City’s Fire Department exclusive of any other form of compensation.

(10) “Base Pension” means the amount of retirement, death, or disability benefits as determined at the earliest of the time a Group B Member: enters DROP; leaves or left Active Service; dies; or becomes entitled to a disability pension under the Combined Pension Plan. Solely for purposes of this definition, when a Member becomes entitled to a disability pension Base Pension shall be determined as of the date on which the disability pension commences.

(11) “Board” means the Board of Trustees created for the purpose of administering the Pension System.

(12) “Child” or “Children” means a person whose parent is a Primary Party as recognized under the laws of this state.

(13) “City” means each municipality having a population of more than 1,000,000 and less than 1,500,000, according to the most recent federal census.

(14) “City Council” means the governing body of the City.

(15) “City Service Incentive Pay” means annual incentive pay, adjusted by the City from time to time, in addition to the salary of a Member granted to the Member under the authority of the City charter and received by the Member during Active Service.

(16) “Code” means the United States Internal Revenue Code of 1986.

(17) “Combined Pension Plan” means any pension plan created pursuant to this Article.

(18) “Computation Pay” shall be used in determining the amount of a Group B Member’s contribution under Subsection 4.03(d) of this Article and in determining the Base Pension to be paid to a Group B Member or the benefits to be paid to the Member’s Qualified Survivors and means the sum of the following:

(A) the bi-weekly rate of pay of a Group B Member for the highest civil service rank the person holds, from time to time, as a result of a competitive examination; plus

(B) the Educational Incentive Pay of a Group B Member, computed on a bi-weekly basis; plus

(C) the Longevity Pay of a Group B Member, as authorized by the Legislature, computed on a bi-weekly basis; plus

(D) the City Service Incentive Pay of a Group B Member, computed on a bi-weekly basis.

Computation Pay includes only amounts actually paid in salary or payments made in lieu of salary to the Member and Member contributions picked up by the City and does not include any imputed pay. Furthermore, any compensation received by a Group B Member, other than that noted in Paragraphs (A)-(D) of this Subsection (for example, compensation for overtime work and the pay a Member would receive from the City in the form of Assignment Pay), will not be considered in determining the Computation Pay of a Group B Member. Any lump-sum payments for compensatory time, unused sick leave, unused vacation time, or City Service Incentive Pay payable after a Group B Member leaves Active Service, dies, becomes disabled, resigns, or any other type of termination may not be considered in determining the Computation Pay of any Group B Member. Computation Pay for a Group B Member for any given period is determined on the bi-weekly rates of pay due the Group B Member for the entire period.

(19) “Educational Incentive Pay” means incentive pay designed to reward completion of certain hours of college credit, adjusted by the City from time to time, that is paid to a Member in addition to the Member’s salary.

(20) “Department” means either the Police Department of the City, the Fire Department of the City, or both the Police and Fire Departments of the City together.

(21) “Dependent Parent” means a natural parent or parent who adopted a Primary Party and who immediately before the death of a Primary Party received over half of the parent’s financial support from the Primary Party.

(22) “Disability Retirement” means any period that a Pensioner receives periodic disability compensation or a disability pension.

(23) “415 Compensation” means a Member’s wages, salary, and other amounts received for personal services rendered in the course of employment with the City during a Limitation Year and permitted to be treated as compensation for purposes of Section 415(c) of the Code.

(24) “Fund” means all funds and property held to provide for those benefits of all persons who are or who may become entitled to any benefits under any plan within the Pension System, together with all income, profits, or other increments.

(25) “Group A Member” means any Police Officer or Fire Fighter described by Paragraph 5.01(a)(1) of this Article.

(26) “Group B Member” means any Police Officer or Fire Fighter described by Paragraph 5.01(a)(2) of this Article.

(27) “Health Director” means any qualified physician designated from time to time by the Board.

(28) “Limitation Year” means the plan year of the Combined Pension Plan and any defined benefit plan or defined contribution plan of the City in which a Member participates.

(29) “Longevity Pay” means pay in addition to the salary of a Member granted under Section 141.032 of the Local Government Code, or such successor provision thereof, for each year of Active Service completed by a Member in either Department.

(30) “Member” means both Group A and Group B Members.

(31) “Member’s Account” means an account established and maintained for a Member with respect to the Member’s total interest in one or more defined contribution plans under this Article or maintained by the City resulting in Annual Additions.

(32) “Old Plan” means any pension plan created pursuant to Section 1 of Article 6243a.

(33) “Pensioner,” “Group A Pensioner,” or “Group B Pensioner” means a former Member of the Pension System who is on either a Service or Disability Retirement.

(34) “Pension Service” means the time, in years, and prorated for fractional years, that a Member has contributed to the Fund under the terms of the Combined Pension Plan or any plan within the Pension System, reduced to reflect refunds that have been received and not fully repaid.

(35) “Pension System” means the Fund and any plans created pursuant to this Article or Article 6243a and that are intended to be qualified under Section 401(a) of the Code.

(36) “Plan A” means any plan created pursuant to Section 11A of Article 6243a.

(37) “Plan B” means any plan created pursuant to Section 11B of Article 6243a.

(38) “Police Officer” or “Fire Fighter” means a Police Officer, Fire Fighter, Fire and Rescue Officer, Fire Alarm Operator, Fire Inspector, apprentice Police Officer, apprentice Fire Fighter, or similar employee of either Department as defined in the classifications of the human resources department of the City.

(39) “Primary Party,” “Group B Primary Party,” or “Group A Primary Party” means a Member or Pensioner.

(40) “Qualified Actuary” means either:

(A) an individual who is a Fellow of the Society of Actuaries, a Fellow of the Conference of Actuaries in Public Practice, or a member of the American Academy of Actuaries; or

(B) a firm that employs one or more persons who are Fellows of the Society of Actuaries, Fellows of the Conference of Actuaries in Public Practice, or members of the American Academy of Actuaries and are providing services to the Pension System.

(41) “Qualified Domestic Relations Order” has the meaning provided by Section 414(p) of the Code.

(42) “Qualified Survivor” means a person who is eligible to receive survivor benefits after the death of a Primary Party and includes only:

(A) a surviving Spouse, if the Spouse was continuously married to the Primary Party from the date when the Primary Party either voluntarily or involuntarily left Active Service as a Member through the date of the Primary Party’s death;

(B) all surviving, unmarried Children who are either under age 19 or handicapped, as determined by the Board pursuant to Section 6.06(p), and who were born or adopted before the Primary Party either voluntarily or involuntarily left Active Service, or who were born after the Primary Party left Active Service if the mother was pregnant with such child before the Primary Party left Active Service; and

(C) a surviving Dependent Parent of a Primary Party if the Primary Party is not survived by a Spouse or Child eligible for benefits.

(43) “Service Retirement” means any period that a Pensioner receives a retirement pension but does not include any period of disability retirement.

(44) “Spouse” means the person to whom a Primary Party is legally married under the laws of this state.

(45) “Total Wages and Salaries” means all pay received by a Member of any plan within the Pension System from the City, excluding any lump-sum payments for unused sick time or unused vacation time accrued by any Member and payable as the result of the Member’s death, disability, resignation, or any other reason for leaving Active Service.

(46) “Trustee” means a member of the Board.

Sec. 2.02. Actuarial Assumptions.

(a) If the amount of any benefit is to be determined on the basis of actuarial assumptions that are not otherwise specifically set forth for that purpose in this Article, the actuarial assumptions to be used are those earnings and mortality assumptions being used on the date of the determination by the Pension System’s Qualified Actuary and approved by the Board.

(b) The actuarial assumptions being used at any particular time shall be attached by the Administrator as an addendum to this Article and treated for all purposes as a part of any plan created by this Article.

(c) The actuarial assumptions may be changed by the Pension System’s Qualified Actuary at any time if approved by the Board, but no such change in actuarial assumptions may result in any decrease in benefits accrued as of the effective date of the change.

Sec. 2.03. References.

Any reference to a statute made in this Article shall be interpreted to include reference to any regulation, rule, order or notice made pursuant to the statute upon which it is intended that persons rely.

Part 3. Administration.

Sec. 3.01. Board of Trustees.

(a) The Pension System shall be administered by the Board.

(b) Effective June 1, 2001, the Board shall consist of twelve Trustees who shall be selected and shall serve as follows:

(1) The City Council shall name from among its members, four (4) Council members who shall serve as Trustees of the Board. The places of those named by the Council shall be designated as Council Places numbered 1 through 4. The Council Place to be filled by each Council Member Trustee shall be designated at the time of appointment. The Council member Trustees shall be named as soon as possible after the first Monday after the final election of Council members and shall serve for the term of office to which they were elected as Council members. In the event the City Council fails to select a Council member as Trustee within the prescribed period of time, the person who has been filling the Council Member Trustee position shall continue to serve as Trustee until such time as said selection

is made. If there is a vacancy in any of the Council member Trustees' seats on the Board, for any reason other than the failure of the City to select a Council member as a Trustee, the City Council shall name another Council member to serve out the remainder of the unexpired term.

(2) Six Trustees shall be elected by the Members. For elections occurring after November 25, 1996, the Police and Fire Department Members of the pension plans within the Pension System who are on Active Service shall separately, by Department, elect from among their respective memberships three active Police Officer and three active Fire Fighter Members with each position being filled designated by a Place number. There shall be no cumulative voting and no at-large Trustee position; rather, beginning with the 1999 election, each candidate for Trustee shall compete for a specific position on the Board designated by a place number with respect to the trustees to be elected from each Department. Beginning with the 1999 election, the places of those current trustees whose term is then to expire shall be designated as Places numbered 2 and 3 and Police Officer and Fire Fighter Places numbered 2 and 3 will then be up for election. In the year 2001, the places of those current trustees whose term is then to expire shall be designated as Places numbered 1 and Police Officer and Fire Fighter Places 1 will then be up for election. On their election, each of the Trustees under this Subsection shall execute a written affirmation of the person's undertaking to faithfully perform duties to the Pension System. The Police and Fire Department Trustees shall serve terms of four years each, the terms being staggered so that the terms of two, but not three Trustees from the same Department, shall expire on June 1 of each odd-numbered year. If a vacancy occurs among the Police and Fire Department Trustees, the vacancy shall be filled in accordance with the provisions of Subsection (d) of this Section. The Police and Fire Department Trustees will continue to serve beyond the expiration of their terms, if their successors have not been elected and affirmed in writing their undertaking to faithfully perform their duties to the Pension System, until their successors are elected and have affirmed in writing their undertaking to faithfully perform their duties to the Pension System.

(c) The remaining two Trustees shall be elected by the Pensioners. Not later than April 30, 2001, an election shall be held for the purpose of electing the first Pensioner Trustees. One Trustee shall be a Pensioner who has retired from the Police Department and is elected to Police Pensioner Place 1 by the Pensioners who retired from the Police Department and one Trustee shall be a Pensioner who has retired from the Fire Department and is elected to Fire Fighter Pensioner Place 1 by the Pensioners who retired from the Fire Department. Pensioner Trustees shall serve terms of four years. On their election, each of the Trustees under this Subsection shall execute a written affirmation of the person's undertaking to faithfully perform duties to the Pension System. The Pensioner Trustees will continue to serve beyond the expiration of their terms, if their successors have not been elected and affirmed in writing their undertaking to faithfully perform their duties to the Pension System, until their successors are elected and have affirmed in writing their undertaking to faithfully perform their duties to the Pension System.

(d) If a vacancy occurs among the Police or Fire Department Active Service Member Trustees, and one year or less remains before the end of the Trustee's term, the Board shall appoint a new Trustee from the Group A or Group B Members who are on Active Service from the same Department to serve for a period ending on the expiration of the regular Trustee's term. If a vacancy occurs among the Pensioner Trustees, and one year or less remains before the end of the Trustee's term, the Board shall appoint a new Trustee from the Pensioners who retired from the same Department to serve for the period ending on the expiration of the elected Pensioner Trustee's term. If the vacancy occurs more than one year before the end of the Active Service Member Trustee's or Pensioner

Trustee's term, the Board shall call a special election to fill the unexpired portion of the term. The procedures described in this Section for the regular election of Trustees shall also apply to a special election of a Trustee.

(e) The election of the Trustees representing the Active Service Members and Pensioners of the Police and Fire Departments shall be held under the supervision of the Board, and the Board shall adopt such rules and regulations governing the election procedure as it considers appropriate, as long as the rules and regulations are consistent with generally accepted principles of secret ballot and majority rule. The rules and regulations adopted by the Board shall be recorded in the minutes of the Board and made available to the Members of any pension plan within the Pension System.

(f) The Board shall, in June of each odd-numbered year, elect from among its Trustees a Chairman, Vice Chairman, and a Deputy Vice Chairman, each to serve for two-year terms. In addition, the Board may elect, if it so chooses, a Second Deputy Vice Chairman to serve during the term of the incumbent Chairman. The Vice Chairman shall be authorized to act in the place of the Chairman in all matters pertaining to the Board. In the absence of both the Chairman and the Vice Chairman, the Deputy Vice Chairman shall be authorized to act. In the absence of the Chairman, Vice Chairman, and Deputy Vice Chairman, the duties shall fall to the Second Deputy Vice Chairman.

(g) The Administrator, or in the Administrator's absence a member of the administrative staff designated by the Board, shall serve as the secretary of the Board.

(h) The Board shall serve without separate compensation from the Fund, but with entitlement to any appropriate compensation from the City as if the Board members were performing their regular functions for the Police or Fire Department or the City, whichever the case may be. The Board shall meet not less than once each month and may meet at any time on the call of its Chairman.

(i) The Board has full power to make rules and regulations pertaining to the conduct of its meetings and to the operation of the Pension System as long as its rules are not inconsistent with the terms of this Article, any pension plan within the Pension System, or the laws of this state or the United States to the extent applicable.

(j) The Board has full power, through the Chairman, to issue process for witnesses and to administer oaths to witnesses and examine witnesses as to any matter affecting retirement, disability, or death benefits under any pension plan within the Pension System, and to compel witnesses to testify. In addition, the Board may request investigative services from either Department in connection with any matter before the Board.

(k) The Board has the responsibility for the administration of the Pension System and shall order payment from the Fund in accordance with the terms of the appropriate plans within the Pension System. Money from the Fund may not be paid except on order of the Board.

(l) The Board has full power to invest the assets of the Fund in accordance with Section 4.07 of this Article.

(m) Four Trustees of the Board constitute a quorum at any called meeting, except that an Active Service Member Trustee from the Police Department and an Active Service Member Trustee from the Fire Department must be present to conduct business.

(n) No action may be taken by the Board except at a meeting, and no action shall be taken during a meeting without the approval of a majority of the Trustees present. Only actions of the Board taken or approved of during a meeting are binding on the Board, and no other written or oral statement or representation made by any person is binding on the Board or the Pension System.

(o) The Board shall have the right to sue on behalf of the System in any court with proper subject matter jurisdiction regardless of location and the Board shall have sole authority to litigate matters on behalf of the System. The System and the Board may only be sued in any courts in the City of Dallas, Dallas County, Texas with proper subject matter jurisdiction.

(p) The Board may purchase from one or more insurers one or more insurance policies that provide for the reimbursement of a Trustee or employee of the System for liability imposed as damages caused by, and for costs and expenses incurred by the individual in defense of an alleged act, error, or omission committed in the individual's capacity as a fiduciary or employee of the System. The Board may not purchase an insurance policy that provides for the reimbursement of a Trustee or employee of the System due to the Trustee's or employee's dishonesty, fraudulent breach of trust, lack of good faith, intentional fraud or deception, or intentional failure to act prudently.

(q) The Board shall have the authority to amend or repeal any provision of this Article in order to assure compliance with the Code and other applicable Federal laws.

(r) The Board may correct any defect, supply any omission, and reconcile any inconsistency that may appear in this Article in a manner and to the extent that the Board believes would: (i) be expedient for the administration of the Pension System; (ii) be for the greatest benefit of all Members, Pensioners and Qualified Survivors; and (iii) not adversely affect the benefits of a Member, Pensioner, or Qualified Survivor.

(s) The Board shall have full discretion and authority to construe and interpret this Combined Pension Plan and to do all acts necessary to carry out the purpose of this Combined Pension Plan. All decisions of the Board shall be final and binding on all parties affected thereby.

Sec. 3.02. Professional Consultants.

In addition to the authority of the Board to employ the services of certain consultants set forth in this Article, the Board has the authority to employ the services of any professional consultant including investment advisors and investment managers, whenever the services of such consultants are considered necessary or desirable and in the best interests of the Pension System. A professional consultant shall receive such compensation as may be determined by the Board in accordance with Section 4.01 of this Article.

Sec. 3.03. Legal Advisor.

(a) The city attorney of the City may ex officio be the legal advisor to the Board.

(b) The city attorney or an assistant city attorney shall attend Board meetings as and when requested by the Pension System and advise the Board on any matter on which the Pension System requests a legal opinion from the city attorney.

(c) The Board may retain other attorneys to represent the Board or to give advice. Compensation for other attorneys shall be made in accordance with Section 4.01 of this Article.

Sec. 3.04. Appointment of Administrator.

(a) The Board has the authority to appoint an Administrator to carry out the business of the Board and to keep a record of the proceedings of the Board.

(b) Subject to the approval of the Board, the Administrator may select any number of persons to assist the Administrator.

(c) Both the Administrator and those persons selected to assist the Administrator may be considered employees of the City. Unless otherwise delegated to the Administrator, the Board shall have the ultimate authority to retain, discipline or terminate the engagement of any persons selected under this Section. In carrying out the business of the Board, the Administrator and other staff employees shall not be considered fiduciaries.

Part 4. Finances.

Sec. 4.01. Payment of Administrative and Professional Services Fees.

(a) The Board shall pay for all costs of administration, including the cost of salaries and benefits for the Administrator and administrative staff, office expenses, adequate office space and associated utilities, fees for professional consultants, professional investment managers, or other professional services and other expenses as approved by the Board, out of income from the Fund when it is actuarially determined that the payments will not have an adverse effect on the payment of benefits from any of the plans within the Pension System and when in the judgment of the Board the costs are necessary. The City shall provide for costs of administration if the Board determines that payment of the costs by the Fund will have an adverse effect on the payment of benefits from any plan within the Pension System.

(b) Notwithstanding Subsection (a) of this Section, on request of the Board, the City shall provide the Administrator and the Administrator's staff with first class, Class "A" office space at a City-owned office facility. The office space, as well as all associated utilities, shall be provided at no expense to the Pension System.

(c) No expenditure for the costs of administration or payment of any fee for professional consultants or professional services may be made from the Fund without the approval of the Board.

(d) After the Board has developed an annual budget for the Pension System, the budget shall be presented to the City's budget office for comment. The City's budget office may request the Board

to reconsider the appropriation for any expenditure at a Board meeting, but the Board shall make the final determination concerning any appropriation.

Sec. 4.02. Use of Public Funds.

(a) The financial share of the cost of the Pension System to be paid out of the public treasury shall be as provided by this Section.

(b) Funds contributed by the City as its share of the amount required to finance the payment of benefits under the Pension System may be used for no other purpose. The contributions shall be annually appropriated by the City Council and periodically paid on the basis of a percentage of the Total Wages and Salaries of the Members of the Police and Fire Departments who are Members of each of the plans within the Pension System and who are on Active Service. The amount of this percentage and any change in it may be determined only by the Legislature or by a majority vote of the voters of the City.

(c) Funds shall be appropriated by the City to carry out various other provisions contained in this Article that authorize expenditures in connection with the administration of the Pension System.

(d) The percentage of required contributions from the City shall be in accordance with the following schedule and any increase or decrease in City contributions shall occur automatically on any increases or decreases in the Members' contribution percentage:

<i>City Contributions</i>	<i>Member Contributions</i>
28½%	9%
27½%	8½%
26%	8%
24½%	7½%
23%	7%
21½%	6½%

(e) The City may elect to contribute more than that required in the schedule provided by Subsection (d) of this Section, except that the City's contribution percentage may not exceed 28½ percent unless approved as provided by Subsection (b) of this Section. Further, in no event may the City's contribution be less than 21½ percent unless approved as provided by Subsection (b).

(f) For purposes of Subsection (d) of this Section, a Member's contribution rate, regardless of the plan of which the person is a member, is considered to be the highest contribution rate of any member of any pension plan within the Pension System.

Sec. 4.03. Member Contributions.

(a) Except as otherwise provided in this Subsection and Subsection 4.03(j), each Group A Member of the Combined Pension Plan shall have 6.5 percent of Base Pay deducted from the Member's wages each month, and the contributions shall be promptly remitted to the Fund by the City. Provided, however, that the contributions of any such Group A Member who is assigned, for any period, to a job-sharing program or any similar work schedule that is considered by the Group A Member's Department to be less than a full-time work schedule shall be determined by a fraction, the numerator of which is the

number of hours the Member actually worked during such period, and, the denominator of which is the number of hours the Member would have worked during such period if the Member had been on a full-time work schedule.

(b) Each Member shall contribute to the Fund under the applicable terms of this Section until the Member leaves Active Service with either Department and thereafter, the Member shall cease making contributions.

(c) Each Group B Member shall authorize the City to deduct from the Member's salary a percentage of the Member's Computation Pay. The authorization shall be in writing and filed with the Administrator.

(d) Except as otherwise provided in this Subsection and Subsection 4.03(j), each Group B Member shall have 8.5 percent of the Member's Computation Pay deducted from the Member's wages on a bi-weekly basis, including Computation Pay during any period the Member is receiving workers' compensation, and the contributions shall be promptly remitted to the Fund by the City. However, the contributions of any such Group B Member who is assigned, for any period, to a job-sharing program or any similar work schedule that is considered by the Group B Member's Department to be less than a full-time work schedule shall be determined by a fraction, the numerator of which is the number of hours the Member actually worked during such period, and, the denominator of which is the number of hours the Member would have worked during such period if the Member had been on a full-time work schedule.

(e) The City shall determine the frequency of deductions for Member contributions, as long as there is at least one deduction each month.

(f) Each Group B Member shall contribute to the Fund beginning on the effective date of the Member's Group B membership.

(g) The percentage of Base Pay contributed by Group A Members or Computation Pay contributed by Group B Members may not be altered except by an amendment pursuant to the terms of Section 4.02 of this Article.

(h) The only purposes for which Member contributions to the Fund and the investment income derived from Member contributions may be applied are:

(1) to the payment of benefits prescribed by this Article;

(2) to the payment of such administrative and professional service costs of the Pension System as are provided for under Section 4.01 of this Article or as may be within the discretion of the Board to incur; and

(3) to invest any surplus in accordance with Section 4.07 of this Article.

(i) Member contributions required by this Section may be picked up by the City pursuant to the terms of an appropriate resolution of the City Council. Also, any payments a Member is entitled to

make under this Article in order to receive additional Pension Service may be picked up by the City pursuant to the terms of an appropriate resolution of the City Council.

(j) No DROP participant shall have any Member contributions deducted for pay periods ending after the date of DROP entry and before October 1, 2011. Thereafter, three percent (3%) of the DROP participant's Base Pay or Computation Pay, whichever is applicable, shall be deducted and remitted to the Fund from the DROP participant's Base Pay or Computation Pay for pay periods ending after September 30, 2011 and before October 1, 2012; six percent (6%) of the DROP participant's Base Pay or Computation Pay shall be deducted and remitted to the Fund for pay periods ending after September 30, 2012 and before October 1, 2013; and six and one-half percent (6.50%) of such DROP participant's Base Pay, if a Group A Member, or eight and one-half percent (8.50%) of Computation Pay, if a Group B Member, shall be deducted and remitted to the Fund for each pay period ending after September 30, 2013.

Sec. 4.04. Refund of Group B Member Contributions.

(a) A Group B Member who, either voluntarily or involuntarily, leaves Active Service is entitled to a refund from the Fund of the total amount of the Member's Plan B and Group B contributions, without interest, that were paid beginning with the effective date of the Member's Group B membership or membership in Plan B. A refund under this Subsection results in a total cancellation of Pension Service credit and thereafter such Member and any person who would otherwise take by, through or under such person shall have no right to any benefits from the Pension System.

(b) Old Plan or Plan A contributions paid to the Fund by a Group B Member may not be refunded from the Fund.

(c) A Group B Member who has left Active Service and who later desires a refund of the Plan B or Group B contributions the person made to the Fund must make written application for the refund with the Administrator. In no case may any refund be made to such Group B Member before the expiration of 30 days after the date the person left Active Service.

(d) Subject to Subsection (l) of this Section, if a Group B Member with less than five years of Pension Service either voluntarily or involuntarily leaves Active Service and fails to make written application for a refund of contributions within three years after the date of the notice described by Subsection (k) of this Section is made by the Board, the person forfeits the right to withdraw any portion of the contribution, and the total amount of Plan B and Group B contributions the person made will remain in the Fund. If the Group B Member described by this Subsection dies after leaving Active Service, the deceased Member's designee may apply for the refund of the person's contributions, resulting in an appropriate loss of Pension Service if the application is filed with the Administrator within three years after the date the notice described by Subsection (k) of this Section is made by the Board. Subject to Subsection (l) of this Section, if a Group B Member's designee fails to apply for a refund of the Group B Member's contributions within the three-year period described by this Subsection, the designee forfeits any right to the contributions, and the total amount of the Plan B and Group B contributions made by the Group B Member will remain in the Fund.

(e) Subject to Subsection (l) of this Section, if a Group B Member with five or more years of Pension Service either voluntarily or involuntarily leaves Active Service and fails to make written

application for a refund of the person's Plan B and Group B contributions within three years after the date the notice described by Subsection (k) of this Section is made by the Board, the person forfeits the right to withdraw any portion of the contributions, and the total amount of the contributions will remain in the Fund. A Group B Member described by this Section may, however, apply for a Group B retirement pension under Section 6.02 hereof or, if the Group B Member dies before the Member is eligible to apply for a Group B retirement pension, the Member's Qualified Survivors may apply for Group B death benefits pursuant to Section 6.06 hereof. In the event there are no Qualified Survivors, the Group B Member's designee may apply for a refund of the Group B Member's Plan B and Group B contributions, resulting in a total cancellation of Pension Service. Subject to Subsection (l) of this Section, if a Group B Member's designee fails to apply for a refund of the Group B and Plan B Member's contributions within the three-year period described by this Subsection, the designee forfeits any right to the contributions, and the total amount of the Plan B and Group B contributions made by the Group B Member will remain in the Fund.

(f) A Group B Member (other than a Group B Member who elects or has elected to receive a Group A benefit or a benefit determined under the Old Plan or Plan A) who either voluntarily or involuntarily leaves Active Service with five or more years of Pension Service is entitled:

(1) to have the total amount of the person's Plan B and Group B contributions to the Fund refunded in accordance with Subsection (a) of this Section, which results in a loss of all of the person's accrued Pension Service and thereafter such Member and any person who would otherwise take by, through or under such person shall have no right to any benefits from the Pension System; or

(2) if the Group B Member entered Active Service before January 1, 1999, to elect to take a refund of less than the total amount of the person's Plan B and Group B contributions while leaving a sufficient amount to retain Pension Service amounting to five or more years.

(g) If a Group B Member elects a refund of a portion of the person's contributions under Subsection 4.04(f)(2) of this Section, the amount of the refund shall equal the total amount of the person's Plan B and Group B annual contributions, without interest, for each full year of Pension Service canceled, computed based on the earliest contributions made.

(h) A Group B member who first enters Active Service after December 31, 1998, shall be entitled to have the total amount of the person's Group B contributions refunded in accordance with Subsection (a) of this Section, but may not receive a refund of less than the total amount.

(i) A Group B Member who leaves Active Service and who later returns to Active Service is permitted to repay to the Fund any previously withdrawn employee contributions and receive Pension Service, in accordance with Section 5.07(d) as a Group B Member to the extent that, before again leaving Active Service, the Group B Member repays to the Fund the previously withdrawn contributions with interest, calculated at the interest rate from time to time used in the Pension System's actuarial rate of return assumptions, compounded annually, on the previously withdrawn contributions.

(j) If a person becomes a Group B Member under Subsection 5.01(b) of this Article and again, either voluntarily or involuntarily, leaves Active Service and makes application for a refund of contributions under this Section, the person is entitled to a refund from the Fund of the following:

(1) the amount of Group B contributions to the Fund, without interest, that were paid from the date the person returned to Active Service following Service or Disability Retirement; plus

(2) the excess, if any, of:

(A) the person's Plan B and Group B contributions to the Fund, without interest, that were paid from the effective date of the person's original Group B or Plan B membership in Plan B until the time the person originally left Active Service because of the Service or Disability Retirement; less.

(B) the total amount of benefits the person received during Service or Disability Retirement.

(k) On the 50th anniversary of the birth of a Group B Member described by Subsection (d) or (e) of this Section, or on the Board's receipt of notice of the death of the Group B Member, the Board shall, by registered or certified mail, return receipt requested, attempt to notify the Group B Member or designee, as applicable, of the status of the entitlement to a refund of contributions from the Fund.

(l) A Group B Member or designee described by Subsection (d) or (e) of this Section shall have the right, title, interest, or claim to a refund of the Group B Member's contributions reinstated only on the Board's grant of their written request for a reinstatement and refund. The Board's decision shall be based on a uniform and nondiscriminatory basis.

Sec. 4.05. Investment Counselor; Qualifications.

(a) The Board may employ from time to time an investment counselor to advise the Board in the investment and reinvestment of the assets of the Fund. Only the following are eligible for employment as an investment counselor:

(1) any organization whose regular business functions include rendering investment advisory services to pension and retirement funds and that is registered as an "investment adviser" under the Investment Advisers Act of 1940; and

(2) any bank, as defined in the Investment Advisers Act of 1940, that maintains a trust department and offers investment services to pension and retirement funds.

(b) The investment counselor shall receive such compensation as may be determined by the Board and as authorized by Section 4.01 of this Article.

Sec. 4.06. Investment Custody Account or Master Trust Agreements.

(a) If the Board contracts for investment management services as authorized by Section 4.07 of this Article, it may, with respect to every such contract, also enter into an investment custody account agreement, designating one or more banks as custodian or master trustee for any assets of the Fund.

(b) Under a custody account or master trust agreement, the Board shall require the designated bank to perform the duties and assume the responsibilities of a custodian in relation to the investment contract to which the custody account or master trust agreement is established.

(c) The authority of the Board to make a custody account or master trust agreement is supplementary to its authority to make an investment management contract. Allocation of assets to a custody account or master trust shall be coordinated by the Administrator, as authorized by the Board, and the bank designated as custodian or master trustee for the assets.

(d) Any custody account or master trust agreement made by the Board shall establish such compensation for the custodian or master trustee as may be determined by the Board and as authorized by Section 4.01 of this Article.

Sec. 4.07. Investment of Surplus.

(a) If the Board determines that there is in the Fund a surplus exceeding a reasonably safe amount to take care of current demands on the Pension System, the Board may invest or direct the investment of the surplus for the sole benefit of the Pension System.

(b) In making investments and supervising investments, Trustees shall exercise the judgment and care under the circumstances then prevailing that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to probable income from the assets as well as the probable safety of their capital.

(c) The Board has the ultimate responsibility for the investment of funds. The Board may exercise this responsibility directly by purchasing or selling securities or other investments, or it may exercise discretion in determining the procedure that it deems most efficient and beneficial for the Pension System in carrying out the responsibility. The Board may contract for professional advisory services regarding the purchase or sale of securities or other investments pursuant to Section 3.02 of this Article. A professional advisory service shall receive such compensation as may be determined by the Board in accordance with Section 4.01 of this Article.

(d) The Board also has the authority to contract for professional investment management services. Any contract that the Board makes with an investment manager shall set forth the Board's investment policies and guidelines. A professional investment management service shall receive such compensation as may be determined by the Board in accordance with Section 4.01 of this Article.

(e) The Board, in exercising its control, may at any time, and shall at frequent intervals, monitor the investments made by any investment manager and shall enforce full compliance with the requirements of the Board.

(f) If the Board contracts for and receives professional advisory services or professional investment management services, the Board has no greater liability under the terms of this Section than otherwise provided for under the Government Code or the Texas Trust Code.

(g) A bank or trust company that has custody and trustee powers, and a contract with the Board to provide assistance in making investments, shall be the custodian or master trustee of any of the

securities or other assets of the Fund. Pursuant to Section 4.06 of this Article, the Board may designate a bank to serve as custodian or master trustee, or subcustodian or submaster trustee, to perform the customary duty of safekeeping as well as duties incident to the execution of transactions. As the demands of the Pension System require, the Board shall withdraw from the custodian or master trustee money previously considered surplus in excess of current cash and proceeds from the sale of investments. The money may without distinction be used for the payment of benefits pursuant to each of the plans within the Pension System and for other uses authorized by this Article and approved by the Board.

Sec. 4.08. Actuarial Valuation.

(a) The Board has the authority to employ a Qualified Actuary to provide a continuing observation of the operation of the Pension System and to make recommendations and give advice to the Board about the condition of the assets of the Fund and the administration of the Pension System. A Qualified Actuary shall receive such compensation as is determined by the Board in accordance with Section 4.01 of this Article.

(b) A Qualified Actuary shall perform continuing actuarial observation of the assets of the Fund not less than once every two years and make a report of the condition of the assets of the Fund to the Board. The Board may require more frequent reports.

Sec. 4.09. Rewards, Donations, and Contributions.

Any reward, donation, or contribution given to any Member as payment or gratuity for service performed in the line of duty shall be turned over to the Chief of the Member's Department, who shall, in turn, forward the reward, donation, or contribution to the Administrator of the Pension System for deposit in the Fund.

Part 5. Membership.

Sec. 5.01. Membership in Combined Pension Plan.

(a) The membership of the Combined Pension Plan is composed of the following persons:

(1) Group A Members:

(A) Police Officers or Fire Fighters who are on Active Service and who as of February 28, 1973, had filed a written statement with the Pension System of their desire to participate in either the Old Plan or Plan A;

(B) Police Officers and Fire Fighters who are on Active Service and who were employed and receiving compensation from the City as a Police Officer or a Fire Fighter before March 1, 1973, and who made contributions to either the Old Plan or Plan A attributable to any period of employment before March 1, 1973; and

(C) except as provided by Subsection (b) of this Section, persons who elect to become Group A Members under that Subsection; and

(2) Group B Members:

(A) Police Officers and Fire Fighters who are on Active Service and who were formerly Members of either the Old Plan or Plan A, and who as of April 30, 1973, had filed a written statement with the Pension System of their desire to participate in Plan B;

(B) Police Officers and Fire Fighters who are on Active Service and who on or after March 1, 1973, and before January 1, 1993, became Members of Plan B;

(C) as a condition of employment, any Police Officer or Fire Fighter who is initially employed as a Police Officer or a Fire Fighter by the City on or after January 1, 1993;

(D) as a condition of return to Active Service and except as provided by Subsection (b) of this Section, former members of the Old Plan or Plan A who left Active Service before March 1, 1973;

(E) as a condition of return to Active Service and except as provided by Subsection (c) of this Section, Group B Members who are no longer on Active Service, whether or not ever a Member of the Old Plan, Plan A, or the Combined Pension Plan;

(F) Group A Members who are on Active Service and meet the requirements and make an election under Subsection (d) of this Section; and

(G) persons who are on Active Service and make an election under Subsection (e) of this Section.

(b) A person who has received an Old Plan, Plan A, or Combined Pension Plan retirement or disability pension on or after March 1, 1973, may, if the person returns to Active Service, elect to participate as a Group A or Group B Member by filing a written application for membership with the Administrator not later than 60 days after the date of return to Active Service. If the person does not elect to become a Group A or Group B Member, the person shall on leaving Active Service receive a retirement pension in an amount that is unadjusted for the period of return to Active Service if the person meets all of the requirements of Group A membership.

(c) A Group B Pensioner who was never a member of the Old Plan, Plan A, or the Combined Pension Plan before January 1, 1993, may, if the person returns to Active Service, elect to become a Group B Member by filing a written application for membership with the Administrator not later than 60 days after the date of return to Active Service. If the person does not elect to again become a Group B Member, on leaving Active Service, if the person meets all applicable requirements of this Article, the person shall receive benefits in an amount equal to the amount the person was receiving as of the day before the day the person returned to Active Service, and the person's Base Pension shall be the same as the Base Pension originally computed before the return to Active Service.

(d) A person who is on Active Service and is a Group A Member may, prior to participation in DROP, irrevocably elect to become a Group B Member by filing a written application with the

Administrator. On and after the filing of the application, the Group A Member shall make contributions to the Fund at the rate applicable to Group B Members. However, the contributions do not, by themselves, establish Group B membership. Group B membership is contingent on the satisfaction of the following conditions:

(1) The person must, prior to participation in DROP, pay an amount to the Fund equal to the difference between the contributions the person would have made to the Fund had the person been a Group B Member for the entire period the person could otherwise have been a Group B Member before making application for membership and the contributions the person actually made during that period, plus interest calculated in accordance with procedures adopted by the Board from time to time. If payment of the entire amount is not completed by the date the Group A Member enters DROP or leaves Active Service, all partial payments shall be returned without interest to the Group A Member or, if the Group A Member has died, to the Group A Member's designee, whichever is applicable.

(2) The payments described by this Subsection must be completed before the date on which the person leaves Active Service in accordance with procedures adopted by the Board from time to time. If the Fund does not receive payment by that date, all payments of this type, as well as those amounts paid by the person after the person's application for Group B membership that are in excess of the Group A Member contribution rate, shall be returned to the person, or in the event of the person's death to the person's designee, as applicable.

(e) A person who is on Active Service and has never been a Member of any plan within the Pension System may elect to become a Group B Member on a prospective basis by filing a written application for membership with the Administrator.

Sec. 5.02. Effective Date of Group B Membership.

(a) The effective date of Group B membership for a person who becomes a Group B Member pursuant to Subparagraph 5.01(a)(2)(A) or (B) of this Article is the date the Group B Member first became a member of Plan B.

(b) The effective date of Group B membership for a person who becomes a Group B Member pursuant to Subparagraph 5.01(a)(2)(C) of this Article is the day the person begins Active Service.

(c) The effective date of Group B membership for a person who becomes a Group B Member and is described by Subparagraph 5.01(a)(2)(D) of this Article is the date of the person's return to Active Service.

(d) The effective date of Group B membership for a person who again becomes a Group B Member and is described by Subparagraph 5.01(a)(2)(E) of this Article is the person's original effective date of Group B membership, adjusted for any period for which the person was not on Active Service or has withdrawn some, but not all, contributions. If, however, the person has withdrawn all contributions to the Fund in accordance with Section 4.04 of this Article, and the person does not replace the previously withdrawn contributions together with interest as provided by Subsection 4.04(i) of this Article, the effective date of the person's membership is the date of return to Active Service.

(e) The effective date of membership for a person who becomes a Group B Member pursuant to Subsection 5.01(b) of this Article is the date written application for such membership is filed with the Administrator. The effective date of membership for a person who becomes a Group A Member pursuant to Subsection 5.01(b) of this Article is the person's original effective date of membership in the Old Plan, Plan A, or the Combined Pension Plan, whichever is applicable.

(f) The effective date of Group B membership for a Group B Pensioner who again becomes a Group B Member pursuant to Subsection 5.01(c) of this Article is the Pensioner's original effective date of membership, adjusted for any period the person was not on Active Service.

(g) The effective date of Group B membership for a person who joins this plan pursuant to Subsection 5.01(d) of this Article is March 1, 1973.

(h) A person described by Subsection (a), (c), (d), (e), (f), or (g) of this Section shall be given full Pension Service for the time the person was a contributing member of the Old Plan, Plan A, the Combined Pension Plan, and Plan B, and the Pension Service shall be counted as if it had been earned while a Group B Member. Neither the length of time persons described by Subsection (a), (c), (d), (e), (f), or (g) of this Section received a retirement or disability pension, whether under the Old Plan, Plan A, the Combined Pension Plan or Plan B, nor the amount of any benefits paid to the person shall have any effect on the Pension Service earned by the person. No Pension Service may be earned while on Service Retirement or Disability Retirement, or when the person was not on Active Service. Except as provided by Sections 5.08 and 5.09 of this Article, a person described by Subsection (a), (c), (d), (e), (f), or (g) of this Section may not be allowed to contribute to the Fund in order to receive Pension Service for the time the person was not on Active Service, regardless of whether the person was actually receiving a pension.

(i) The effective date of Group B membership for a person who becomes a Group B Member pursuant to Subsection 5.01(e) of this Article is the date on which written application for Group B membership is filed with the Administrator.

Sec. 5.03. Termination of Group B Membership.

(a) Group B membership, whether by voluntary application or as a condition of employment, may be terminated by the Group B Member only when the person ceases to be on Active Service.

(b) Once a Police Officer or Fire Fighter becomes a Group B Member, whether by voluntary application or as a condition of employment, the person may never transfer the membership to become a Group A Member and may never transfer the membership to any pension plan for Police Officers and Fire Fighters that may be created in the future unless the terms of that plan allow the transfer.

(c) A Group B Member who is on Active Service and who also was a former contributing member of either the Old Plan or Plan A may elect, when applying for either a retirement or disability pension if applicable, to terminate membership and receive a Group A retirement or disability pension under the applicable provisions of this Article, if the Group B Member's application for retirement or disability pension is granted by the Board. A Group B Member who is not on Active Service and who was also a former contributing member of either the Old Plan or Plan A may elect, when applying for a retirement pension, to terminate membership and receive a Group A retirement pension under the

applicable provisions of this Article if such Group B Member's application for retirement pension is granted by the Board.

(d) If a Group B Member described by Subsection (c) of this Section has elected and been granted a Group A retirement or disability pension as described in Subsection (c) of this Section, under the applicable provisions of this Article, the person is entitled to a reimbursement from the Fund. The reimbursement shall be equal to that portion of the person's contributions to the Fund, without interest, from the person's effective date of Group B membership until the time the person left Active Service that is in excess of the total amount the person would have contributed as a Group A Member or as a Member of the Old Plan or Plan A for the same period. A Group B Member desiring a refund of excess contributions must make written application for the refund with the Administrator within three years after the date the person's Group A retirement or disability pension (whichever is applicable) begins, otherwise, the person will lose all right, title, interest, or claim to the refund until such time as the Board grants the refund in response to the person's written request. The refund shall be made as soon as practicable after written application is filed with the Administrator.

Sec. 5.04. Group B Membership May Be Declared Inactive.

(a) If a Group B Member with less than five years of Pension Service either voluntarily or involuntarily leaves Active Service, the person's Group B membership remains active as long as the person has not withdrawn the person's contributions pursuant to Section 4.04 of this Article.

(b) If a Group B Member with five or more years of Pension Service either voluntarily or involuntarily leaves Active Service, the person's Group B membership remains active as long as the person has not withdrawn the person's entire contributions pursuant to Section 4.04 of this Article.

(c) If the Board receives valid information that a Group B Primary Party has died, leaving one or more Qualified Survivors, the Board shall attempt to notify the Primary Party's Qualified Survivors of the procedures for applying and qualifying for death benefits pursuant to Section 6.06, hereof. In the event there are no Qualified Survivors, the Board shall attempt to notify the Primary Party's designee of the procedures for applying for a refund of the Group B Primary Party's contributions, if applicable, pursuant to Section 4.04, hereof.

(d) (1) Subject to the provisions of Subparagraph (5)(B) of this Subsection, the membership of a Group B Member described by Subsection (a) of this Section shall be declared inactive and all of the person's accrued Pension Service voided if the person does not return to Active Service within three years after the date of the notice described by Paragraph (4) of this Subsection.

(2) Subject to the provisions of Subparagraph (5)(B) of this Subsection, the membership of a Group B Member described by Subsection (b) of this Section shall be declared inactive and all of the person's accrued Pension Service voided if the person does not file an application for a Group B retirement pension with the Board within three years after receiving the notice described by Paragraph (4) of this Subsection.

(3) Subject to the provisions of Subparagraph (5)(C) of this Subsection:

(A) if there are no Qualified Survivors, the designee of a deceased Primary Party described in Subsection (c) of this Section has no right, title, interest, or claim for a refund of the Primary Party's contributions to the Fund if application for the Primary Party's contributions is not made within three years from the date of the notice described in Paragraph (4) of this Subsection; and

(B) if there are Qualified Survivors of a deceased Primary Party described in Subsection (c) of this Section, such persons have no right, title, interest, or claim to the Primary Party's death benefits if application for said benefits is not made within three years from the date of the notice described in Paragraph (4) of this Subsection.

(4) On the 50th anniversary of the birth of a Group B Member described in Subsection (a) or (b) of this Section, the Board shall, by registered or certified mail, return receipt requested, attempt to notify the Group B Member of the status of his or her entitlement to benefits or contributions from the Fund. In the event the Group B Member described in Subsection (a) or (b) of this Section or the Group B Primary Party described in Subsection (c) of this Section is deceased, the Board shall send the notice to the Qualified Survivors or, if none, to the designee of the person.

(5) (A) A Group B Member described by Paragraph (1) of this Subsection shall have the person's Group B membership and Pension Service reinstated on the person's return to Active Service.

(B) A Group B Member described by Paragraph (2) of this Subsection shall have the person's Group B membership and Pension Service reinstated on the person's return to Active Service or on the grant of the person's written request to the Board of the person's desire to apply for a Group B retirement pension as described in Section 6.02 hereof.

(C) The Qualified Survivors or, if none, the designee of a Primary Party described in Paragraph (3) of this Subsection shall have the Member's contributions reinstated on the Board's grant of their written request.

Sec. 5.05. Pension Service.

(a) A Member shall receive Pension Service for the time, computed in years and fractional years for months and days, completed as a member of the Combined Pension Plan, the Old Plan, Plan A, or Plan B.

(b) A Member who elects to pay contributions for time spent on military leave, authorized leave of absence, or for an apprenticeship or probationary period, or for any other reason provided for by this Article may receive Pension Service for the time for which the Member is contributing only to the extent provided under Section 5.07(d), and Section 5.08, if applicable.

(c) If a Member, either voluntarily or involuntarily, leaves Active Service and later returns to Active Service, the person shall receive full Pension Service for the period of the person's original

membership, if the person did not withdraw the person's contributions pursuant to Section 4.04 of this Article. If, however, previously withdrawn contributions have not been replaced by the Member as required by Section 4.04 hereof, the Member will forfeit any Pension Service attributable to the period, or periods, of time for which the contributions were not repaid.

(d) If a Member is assigned, for any period, to a job-sharing program or any similar work schedule that is considered by the Member's Department to be less than a full-time work schedule, the Member's Pension Service shall be determined by multiplying the Pension Service that could have been earned for full-time work during such period by a fraction, the numerator of which is the number of hours the Member actually worked during such period and the denominator of which is the number of hours the Member would have worked during such period if the Member had been on a full-time work schedule. This proration shall not affect the computation of Pension Service for a Member during any period the Member is on leave because of an illness or injury or receiving periodic payments of workers' compensation.

Sec. 5.06. Vested Rights of Group B Members.

(a) If a Group B Member accrues five years of Pension Service, whether the Pension Service is accrued while a Group B Member or while a Member of the Old Plan, Plan B, Plan A, the Combined Pension Plan, or a combination of such plans, the Group B Member has vested rights and is eligible to apply for a retirement pension in accordance with Section 6.02 of this Article.

(b) If a Group B Member has vested rights as determined under Subsection (a) of this Section, and the Group B Member either voluntarily or involuntarily leaves Active Service before becoming eligible to receive any benefits under Section 6.02 of this Article, the person shall be provided with a letter approved by the Board and signed by the Administrator that, barring unrepaid refunds, clerical error, miscalculation, or other error, is incontestable and shall state:

(1) the total amount of Pension Service the Group B Member had accrued until the date the person left Active Service;

(2) the total amount of contributions the Group B Member made under the terms of Plan B and the Combined Pension Plan; and

(3) the monthly retirement pension due the Group B Member at age 50.

Sec. 5.07. Purchase of Pension Service by Group B Members.

(a) A Group B Member who is on Active Service and who has previously elected not to become a contributing member of the Old Plan or Plan A may purchase Pension Service from the Fund for that period during which the Member performed Active Service with either Department until the effective date of the Member's Group B membership. No Pension Service may be given to the Group B Member except to the extent that payment is made for the Pension Service in accordance with Subsection (d).

(b) Payment for the purchase of Pension Service under Subsection (a) shall be equal to the amount of contributions the Group B Member would have made to the Old Plan and Plan A had the

Member been a contributing member of either of the plans during the period for which the Pension Service is being purchased, plus interest calculated in accordance with procedures adopted by the Board from time to time.

(c) Subject to the provisions of Subsection (d), a Group B Member who is on Active Service may repay the Fund all or a portion of the employee contributions withdrawn by an Alternate Payee pursuant to the terms of a Qualified Domestic Relations Order with interest, calculated at the interest rate from time to time used in the Pension System's actuarial rate of return assumptions, compounded annually, on the contributions for the period from the date the contributions were withdrawn until the date the principal and accrued interest are repaid, and receive Pension Service as a Group B Member, in accordance with Subsection (d), for the period for which the contributions and interest were paid.

(d) If payment of the entire amount of Pension Service the Member is entitled to purchase under Subsection (a), (b) and (c) and Section 4.04(i) is not completed by the earlier of the date the Group B Member enters DROP or leaves Active Service, Pension Service will be provided only for the number of full years of Pension Service that the contributions and interest will purchase, computed based on the most recent years for which the Member was entitled to purchase Pension Service. Except for Pension Service that is being picked up by the City pursuant to the authority of Section 414(h)(2) of the Internal Revenue Code, a fractional year of Pension Service may be purchased only if less than a full year of Pension Service is available for purchase. All payments that can provide only a fractional year of Pension Service when one or more whole years of Pension Service remain available for purchase, including any interest paid by the Group B member, shall be returned to the Group B Member or, if the Group B Member has died, to the Group B Member's designee, without any interest on such returned monies. Notwithstanding the foregoing, no amounts that have been picked up and paid by the City shall ever be paid to a Member or designee, and the Member shall be given credit for all years, and fractions of years, of Pension Service that can be purchased with the picked-up contributions.

Sec. 5.08. Members in Uniformed Services.

(a) Any Member who is reemployed by the City after an absence due to "service in the uniform services," as that term is defined in the Uniform Services Employment and Reemployment Rights Act of 1994 and, thereby, has rights under that act, shall receive contributions, benefits and Pension Service that are no less favorable than required by Section 414(u) of the Code in accordance with the procedure described in Subsection (c) of this Section.

(b) To the extent the provisions of this Section in effect prior to November 25, 1996 would provide a Member who was on Active Service prior to November 25, 1996 with greater rights, the prior provisions of this Section shall apply.

(c) Payment for credit for Pension Service under this Section shall be made in accordance with Section 5.07 and the procedure set forth in a uniform and nondiscriminatory procedure adopted by the Board.

Sec. 5.09. Nonuniformed Leave of Absence.

(a) An authorized leave of absence means any leave of absence that meets one of the following requirements:

(1) the leave of absence was unpaid and granted by the Department in accordance with the Family and Medical Leave Act of 1993; or

(2) the leave of absence was unpaid and must be an official leave authorized by the Chief of the Member's Department and certified by such Chief to be for the purpose of benefiting the Department.

(b) Subject to the requirements of this Section and any procedures adopted by the Board, a Member may receive Pension Service for time spent away from the Department on an authorized nonmilitary leave of absence. To receive Pension Service under this Section, the Member must file with the Administrator a written application to pay into the Fund both:

(1) the Member contributions the Member would have made, and

(2) the contributions, as a percentage of Total Wages and Salaries, the City would have made on the Member's salary,

as if the Member had remained on Active Service and there had been no change in the Member's position or hours of work during the period of the authorized leave of absence. Contributions made under paragraph (2) are not refundable. The written application shall be filed before the Member's leave of absence commences unless the System determines that it would not be reasonable to expect the Member to file the application before the leave of absence begins, in which case the application must be filed as soon thereafter as circumstances permit.

(c) To receive Pension Service under this Section, the following additional conditions must also be met:

(1) if the Member and/or City contribution rate changes before the end of the leave of absence, the percentage required to be paid by the Member also changes, so that the amount paid by the Member in accordance with this Section always equals the amount that would have been contributed by the Member, and by the City on the Member's salary had the Member remained on Active Service;

(2) payment of contributions as set forth in this Subsection shall begin coincident with the beginning of the applicable leave of absence and shall be made monthly to the Administrator for deposit in the Fund, unless the Board authorizes the deferment of the payments (in which case the payments must include interest. For purposes of this paragraph interest shall be calculated from the date the payment was first due at the interest rate from time to time used in the Pension System's actuarial rate of return assumptions, compounded annually until the date the principal and accrued interest are repaid in full;

(3) no Pension Service will be granted to the Member until the Member returns to Active Service, and if the Member does not return to Active Service, the contributions paid (including

any interest payment) will be returned to the Member except as provided by Subsection (d) of this Section; if the Board authorizes the deferment of the payments, the payment must be made either by authorizing the deduction of pro rata portions of the total amount due from the Member's salary over a one-year period, or by cash payment made to the Administrator within one year after the date of the Member's return to Active Service, except that the Board may approve a longer period for making the payment if it finds that the one-year limit would work a financial hardship on the Member;

(4) the Member must return to Active Service within 90 days after the date the Member's authorized leave expires, or if the Member's authorized leave does not have a fixed expiration date, within a reasonable time to be determined by the Board, or the Member forfeits the right to pay for the leave time; and

(5) no Member may ever be allowed to pay leave of absence contributions under this Section for any time in excess of the time actually spent on an authorized leave of absence.

(d) (1) If a Member of the Combined Pension Plan is disabled or dies while on an authorized leave of absence, the Member or the Member's designee is entitled to either a refund of contributions pursuant to Section 4.04 of this Article or the Member or the Member's Qualified Survivors are entitled to benefits under the provisions of this Article, to the extent applicable.

(2) A Member who is disabled or dies while on leave of absence pursuant to this Section may receive no Pension Service for any portion of the period of the leave; except that if the Member had, before the disability or death, paid for contributions while on leave of absence in accordance with this Section, the Member shall receive Pension Service for the leave time actually paid for at the time of the Member's disability or death. The Member may receive no Pension Service for any portion of the period of leave for which contributions were not paid to the Administrator for deposit in the Fund.

Part 6. Benefits.

Sec. 6.01. Group A Retirement Pension.

(a) A Group A Member must have 20 years of Pension Service to be eligible for a Group A retirement pension under this Section. A Member's benefit election under this Section, once approved, is irrevocable. If a Group A Pensioner returns to Active Service as a Police Officer or Fire Fighter with the City, the person's Group A retirement pension ceases until the time that the person again leaves Active Service with the City. If a Group A Pensioner becomes employed by the City in a capacity other than as a Police Officer or Fire Fighter, the person's Group A retirement pension will be continued during the period of employment but there will be no additional accrual of credit for Pension Service during such period. There will be no accrual of additional credit for Pension Service during any period in which a Group A Pensioner becomes employed by the City unless the Group A Pensioner returned to Active Service as a Police Officer or Fire Fighter with the City.

(b) At age 50 a Group A Member is eligible to begin drawing a monthly Group A retirement pension. A monthly Group A retirement pension equals 50 percent of the Base Pay per month, plus 50 percent of any Longevity Pay the Group A Member was receiving at the time the Member left Active Service. Although the number of years used in the computation of Longevity Pay remains fixed at the

time a Group A Member leaves Active Service or enters DROP, the monthly rate of Longevity Pay used in this computation is subject to change in the event of an amendment to the state law governing Longevity Pay. The monthly Group A retirement pension benefits of Group A Pensioners shall be adjusted from time to time in a like manner.

(c) In addition to the amount computed under Subsection (b) of this Section, at age 50, a Group A Member is eligible to begin drawing an annual Group A retirement pension. An annual retirement pension equals 50 percent of the difference between the annualized amount of City Service Incentive Pay and Longevity Pay. In determining City Service Incentive Pay and Longevity Pay for purposes of this element of the annual Group A retirement pension only the following apply:

(1) City Service Incentive Pay is calculated in the same manner as the City Service Incentive Pay is calculated for Members currently on Active Service except:

(A) the annual salary of a Group A Pensioner used in calculating City Service Incentive Pay is determined on the basis of the last city civil service rank held by the Group A Pensioner when the person was on Active Service; however, if the rank no longer exists, its closest equivalent shall be determined by the Board and applied; and

(B) the annual salary of a Group A Pensioner as determined under Subparagraph (A) of this Paragraph shall be that amount in effect on the last day of September of each year the Group A Pensioner's annual retirement pension is calculated.

(2) Longevity Pay shall be calculated as 12 times the amount of monthly Longevity Pay the Group A Pensioner was receiving at the time such person left Active Service, except that the monthly rate of Longevity Pay used in this computation is subject to change if an amendment to state law governing Longevity Pay is enacted.

(d) The element of annual retirement pension computed under Paragraph (c)(1) of this Section is subject to the following limitations:

(1) it shall be prorated for the year in which the Pensioner begins receiving a retirement pension;

(2) it shall be payable only to those Group A Pensioners who, as Group A Members on Active Service, received City Service Incentive Pay and who receive a monthly Group A retirement pension as determined under Subsection (b) of this Section on the last day of September of each year; and

(3) it shall be paid to Group A Pensioners as long as the City continues to pay City Service Incentive Pay to Group A Members on Active Service.

(4) Notwithstanding Subsections (b) and (c) of this Section, a Group A Member with a minimum of 20 years of Pension Service may apply for an actuarially reduced retirement pension to begin no earlier than when the Member attains age 45 but before the Member attains age 50. The Group A Member who has made an application may receive a retirement pension calculated under Subsections

(b) and (c) of this Section reduced by two-thirds of one percent per month for each whole calendar month the benefit is payable before the month in which the Group A Member attains age 50.

(e) At age 55 a Group A Member is eligible to begin drawing a monthly retirement pension computed as follows:

(1) (A) at the rate of three percent of Base Pay for each year, prorated for fractional years, of Pension Service, with a maximum of 32 years of Pension Service, or 96 percent of Base Pay; or

(B) if the Group A Member had 34 or more years of Pension Service as of April 30, 1990, then such Member's retirement pension shall be calculated at the rate calculated under the terms of the Combined Pension Plan in effect on April 30, 1990, if the amount rendered would be greater than the amount calculated under Subparagraph (A) of this Paragraph; plus

(2) one-half of the Longevity Pay the Group A Member was receiving at the time the person left Active Service; plus

(3) 1/24th, without subsequent adjustment, of the annualized amount of the City Service Incentive Pay the Group A Member received at the time the person left Active Service.

(f) For purposes of Subsection (e) above, Base Pay and Longevity Pay are the amounts in effect on the earlier of the date the Member enters DROP or the date benefits are to begin, without subsequent adjustment.

(g) Notwithstanding Subsection (e) of this Section, a Group A Member with 20 or more years of Pension Service may apply for an actuarially reduced Group A retirement pension beginning on or after the date the Group A Member attains age 50 but before the person attains age 55. The Group A Member may receive a retirement pension calculated under Subsection (e) of this Section reduced by two-thirds of one percent per month for each whole calendar month the benefit is payable before the month in which the Group A Member attains age 55.

(h) Entitlement to the Group A retirement pension described by this Section is subject to the following conditions:

(1) written application must be filed with the Administrator;

(2) the grant of a Group A retirement pension by the Board must be made at a meeting of the Board held during the month the Group A retirement pension is to become effective, or as soon after that as administratively possible; and

(3) the Group A Member must no longer be on Active Service.

Sec. 6.02. Group B Retirement Pension.

(a) If a Group B Member has accrued five or more years of Pension Service, is no longer on Active Service with the Department and has not withdrawn his Member contributions, such Member may apply for a Group B retirement pension under Subsection (b), (c), (d), or (e) of this Section provided the Member meets the age and service requirements of the Subsection under which the application is made. A Member's benefit election application under one of these Subsections, once approved, is irrevocable. If a Group B Pensioner returns to Active Service as a Police Officer or Fire Fighter with the City, the person's Group B retirement pension ceases until such time as that person again leaves Active Service with the City. If a Group B pensioner becomes employed by the City in a capacity other than as a Police Officer or Fire Fighter, the person's Group B retirement pension will be continued during the period of employment but there will be no additional accrual of credit for Pension Service during such period. A Group B Member or a Group B Pensioner who withdrew all of the person's Plan B or Group B contributions and who, on again becoming a Group B Member, does not replace such previously withdrawn contributions with interest thereon as provided by Section 4.04 of this Article must earn at least five years of Pension Service after the time the person returns to Active Service to be eligible for a Group B retirement pension.

(b) A Group B Member who has attained age 50 and meets the requirements of Subsection (a) of this Section, may elect to receive a Group B retirement pension computed at the rate of three percent of the average Computation Pay determined over the 36 consecutive months of Pension Service in which the Group B Member received the highest Computation Pay, multiplied by the number of years, prorated for fractional years, of Pension Service to a maximum of 32 years of Pension Service or 96 percent of the Computation Pay as determined under this Subsection. Days during which a Member earned no Pension Service due to a termination of Active Service or otherwise shall be disregarded in determining the 36 consecutive months of highest Computation Pay.

(c) A Group B Member may apply for an actuarially reduced Group B retirement pension beginning no earlier than the person's 45th birthday but before the person's 50th birthday. A Group B Member who applies for an actuarially reduced Group B retirement pension beginning on or after the person's 45th birthday shall receive a pension calculated under Subsection (b) of this Section, reduced by two-thirds of one percent per month for each whole calendar month the pension would be payable before the month in which the Group B Member attains age 50.

(d) A Group B Member who has accrued 20 or more years of Pension Service and who has been on Active Service at any time on or after January 1, 1999 may apply for a Group B Pension beginning at any time after the Group B Member leaves Active Service regardless of age. The Group B retirement pension of a Member who elects a pension under this Subsection (d) shall be computed in the same manner as the Group B retirement pension of a Member who leaves Active Service and commences receipt of his pension at or after age 50, except that the percent set forth immediately below shall be used in lieu of the three percent multiplier specified in Subsection (b) above:

Age of Member When Retirement Pension Commences	Percent
48 and 49	2.75
47	2.50
46	2.25
45 and younger	2.00

Any Member who elects a pension under this Subsection (d) will not be entitled to either minimum benefits at Sections 6.10 through 6.11 or any benefits under Subsection (f) of this Section.

(e) A Group B Member with 34 or more years of Pension Service as of April 30, 1990, shall receive the greater of a Group B retirement pension calculated under the terms of Plan B as in effect on that date or a Group B retirement pension calculated pursuant to Subsection (b) of this Section.

(f) In no event may any Group B Member who was at any time a Group A Member or a contributing Member of the Old Plan or Plan A, and who satisfied the applicable age and length-of-service requirements of the applicable plan at the time such person left Active Service, receive a retirement pension in an amount less than the amount the person would be entitled to receive as a Group A Member.

(g) Notwithstanding the foregoing provisions of this Section, a Group B Member who was not a Group B Member on or after January 1, 1993, shall receive a retirement pension calculated under the applicable provisions of Plan B as in effect on the date the person left Active Service.

(h) Entitlement to a Group B retirement pension under Subsection (b), (c), (d) or (e) of this Section is subject to the following conditions:

(1) written application must be filed with the Administrator;

(2) the grant of the Group B retirement pension by the Board must be made at a meeting of the Board held during the month the Group B retirement pension is to become effective, or as soon after that as administratively possible; and

(3) the Group B Member may no longer be on Active Service.

Sec. 6.03. Disability Benefits.

(a) If a Member who is on Active Service, other than a DROP member, becomes disabled to the extent that the Member cannot perform the Member's duties with the Member's Department, the Member may apply for a disability pension, in accordance with any uniform and nondiscriminatory disability application procedure and subject to any uniform and nondiscriminatory disability recall and review procedure adopted by the Board and in effect from time to time.

(b) No disability pension may be paid until a Member has been prevented, by a disability, from performing the Member's duties with the Member's Department for a period of at least 90 consecutive calendar days, and no disability benefits may be paid for any portion of the 90-day period. The Board may waive the waiting period on request by the Member, if the request is supported by

credible evidence acceptable to the Board that the disability is wholly and immediately incapacitating. The Board may request from the City such information, including any employment application and any related physical test and medical examination records, as may be desirable in evaluating the disability application.

(c) No disability pension may be paid for any disability if the disability was a result of the Member's commission of a felony, except that this restriction may be waived by the Board if it believes that facts exist that would mitigate the denial of the Member's application for a disability pension.

(d) No disability pension may be paid to a Member for any disability if the disability was a result of an intentionally self-inflicted injury or a chronic illness resulting from an addiction by the member through a protracted course of non coerced indulgence in alcohol, narcotics, or other substance abuse.

(e) No disability pension may be paid until the Health Director has either examined the Member or reviewed reports of the Member's physical or mental condition submitted to the Health Director by competent outside medical practitioners.

(f) No disability pension may be paid if the Chief of the Member's Department is able to provide the Member with duties that are within the Member's physical or mental capabilities, even though the duties are different from the duties the Member performed before the disability.

(g) Written application for a disability pension must be filed with the Administrator not later than 180 days after the date the Member leaves Active Service. The application must be accompanied by a recommendation from the Health Director. This recommendation shall contain a statement indicating whether the Member became disabled while the Member was on duty or off duty and whether the disability was service-connected or non service-connected.

(h) The recommendation from the Health Director shall also contain a statement indicating the date the Member became disabled or indicating that the disability prevented the Member from performing the Member's duties for a period of not less than 90 days.

(i) An application for disability retirement will be considered at the meeting of the Board held during the month the disability pension is to become effective or as soon after the effective date of the disability pension as possible. No disability pension may be paid, however, until the Board has approved the application.

(j) If a person who became a Group B Member pursuant to Subparagraph 5.01(a)(2)(E) of this Article withdraws the person's contributions pursuant to Section 4.04 of this Article and leaves Active Service with vested rights in the Old Plan, Plan A, or the Combined Pension Plan in existence before January 1, 1993, the Group B Member must, on return to Active Service, earn five years of Pension Service after the date of return to receive a Group B disability pension. If the Group B Member is disabled before earning five years of Pension Service following a return to Active Service, the person may receive only a Group A disability pension.

(k) The Board shall require any person who first became a Member of Plan B or the Combined Pension Plan on or after May 1, 1990, and who is receiving a disability pension under Section

6.04 or disability compensation under Section 6.05 to provide the Board annually, on or before July 1 of each year, with a true and complete copy of those portions of the person's federal or, if applicable, state tax return, including appropriate schedules, for the previous calendar year that indicate the person's occupations and earned income for the previous calendar year. However, the System may waive the requirement for filing a copy of the person's tax return or delay the due date until later in the same calendar year if the person provides the Board with a true and complete copy of a grant of an extension of time for the filing of the person's tax return from the appropriate governmental agency or a true and complete copy of an extension request that results in any automatic extension. If the person is or has been receiving earned income from one or more employments, including self-employment, during the preceding year, the Board shall reduce future disability compensation or disability pension payments in accordance with the following formula: \$1 for each \$1 that the sum of "a" + "b" is greater than "c," where "a" is the earned income of the person attributable to the previous calendar year from the person's employments, "b" is the total amount of compensation or disability pension received in the previous calendar year, and "c" is the annualized amount of the average Computation Pay the person received as of the date the person left Active Service. For purposes of this computation, the average Computation Pay shall be deemed increased at a rate of four percent of the Computation Pay as determined at the date of disability retirement, without compounding, as of each January 1 that the person receives the disability compensation or disability pension.

(l) For purposes of Sections 6.04, 6.05, and this Section, Base Pay, Longevity Pay, and Incentive Pay are the amounts in effect on the date the benefits are to begin, without subsequent adjustment. Also, for purposes of these Sections (other than the last sentence of Subsection 6.05(b)), Base Pay is the amount in effect on the date benefits are to begin, without adjustment. For purposes of Subsection (k) of this Section, the phrase "earned income" means income earned by a Group B Pensioner in the form of wages, salaries, commissions, fees, tips, unemployment benefits, and other amounts received by virtue of employment or self-employment but paid before any deduction for taxes or insurance. In addition, earned income also includes those amounts contributed on a before-tax basis to any retirement plan or employee health and welfare benefit plan.

(m) If a person is unable to return to Active Service by reason of disability incurred while on a leave of absence due to service in a uniformed service as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994, that person shall be entitled to a regular disability pension calculated in accordance with the provisions of this Section and Section 6.04. In order for a person to be entitled to a disability pension under this Subsection the person must have been released from the uniformed service after December 17, 2001, under conditions that would have made him eligible for benefits under Section 414(u) of the Code if he could have returned to Active Service. The 180 day period for filing an application for a disability pension, as described in Subsection (g), commences on the date of release from the uniformed service and the person will be entitled to receive Pension Service for the period of service with the uniformed service only to the extent that Member contributions are made for that period.

(n) The provisions of Subchapter B, Chapter 607, Texas Government Code, Diseases or Illnesses Suffered by Firefighters and Emergency Medical Technicians, as it is amended from time-to-time applies to all Members without regard to the employing Department or job assignment.

Sec. 6.04. Calculation of Regular Disability Benefits.

(a) Group A disability pension benefits are described in Subsections (b), (c) and (d) below and Group B disability pension benefits are described in Subsections (e) and (f) below. Subsection (g) below applies to both Group A and Group B disability pension benefits.

(b) If a Group A Member's application for a Group A disability pension has been approved by the Board pursuant to Section 6.03 of this Article, including any procedures adopted under that Section, the Group A Member may elect to receive a Group A disability pension calculated in the same manner as the benefit under Subsections 6.01(b) and (c) of this Article or under Subsection (c) of this Section. An election under this Section, once approved, is irrevocable.

(c) A Group A Member who elects to have benefits determined under this Subsection is entitled to a monthly disability pension calculated:

(1) at a rate of three percent of Base Pay for each year, prorated for fractional years, of Pension Service, with a maximum of 32 years of Pension Service, or 96 percent of Base Pay, except that if the Group A Member had 34 or more years of Pension Service as of April 30, 1990, the Member shall receive the greater of a disability pension calculated under the Combined Pension Plan in effect on that date or as calculated under this Paragraph; plus

(2) one-half of the Longevity Pay the Group A Member was receiving at the time the Member left Active Service; plus

(3) 1/24th of the annualized amount of City Service Incentive Pay the Group A Member received at the time the Member left Active Service.

(d) Payments of the amounts described by Paragraph (c)(3) of this Section are contingent on the City's continuing payment of City Service Incentive Pay to Group A Members on Active Service.

(e) If a Group B Member's application for a Group B disability pension has been approved by the Board pursuant to Section 6.03 of this Article, including any procedures adopted under that Section, the Group B Member may, depending on the circumstances, receive a Group B disability pension calculated in the manner described by Subsection (f) of this Section.

(f) The Group B disability pension shall be computed at a rate of three percent of the average Computation Pay determined over the 36 consecutive months of Pension Service in which the Group B Member received the Member's highest Computation Pay multiplied by the number of years, prorated for fractional years, of the Member's Pension Service, except that any partial year of Pension Service for the first 20 years of Pension Service shall be counted as a full year of Pension Service if the Member was considered by the Member's Department to have worked a normal full-time schedule at the time of the disability. If the Group B Member has less than 36 consecutive months of Pension Service, the Group B Member's average Computation Pay will be computed based on the Member's entire Pension Service, and if a Group B Member had 34 or more years of Pension Service as of April 30, 1990, the Group B Member is entitled to receive the greater of a disability pension calculated under the terms of Plan B in effect on that date or calculated pursuant to this Subsection. Days during which the Member earned no Pension Service due to a termination of Active Service or otherwise shall be disregarded in determining the 36 consecutive months of highest Computation Pay.

(g) A Member who is entitled to receive periodic disability compensation benefits for a service connected injury or sickness under Section 6.05 of this Article shall not receive duplicate benefits under this Section. Instead, the disability pension provided under this Section shall be reduced dollar for dollar by any monthly disability compensation received under Section 6.05. If the monthly disability compensation benefit being paid under Section 6.05 is at least as great as the benefit to which a Member would be entitled under this Section, including a Group A benefit calculated under Section 6.01(b) and (c), the Member shall receive no disability pension benefits under this Section.

Sec. 6.05. Compensation for Service-Connected Disability.

(a) If a Member has left or leaves Active Service at any time due to disability and the Board also determines that the disabled Member became unable to perform the Member's duties with the Member's Department due to an injury or sickness incurred in the performance of the Member's duty, the Member shall be entitled to periodic disability compensation benefits in accordance with the provisions of this Section.

(b) A Group A Member whose disability, as determined by the Board, was caused by an injury or sickness incurred in the performance of the Member's duty, shall receive a monthly benefit equal to sixty percent of the Member's Base Pay. For purposes of the preceding sentence, Base Pay is the amount in effect on the date benefits are to begin without subsequent adjustment. In lieu of the periodic disability compensation provided in the first sentence of this Subsection (b), a Group A Member who is entitled to periodic disability compensation under this Section may elect, before the benefits commence, to receive a monthly benefit equal to fifty percent of the Member's Base Pay adjusted from time to time to reflect changes in Base Pay that occur after the time the former Group A Member commenced to receive monthly benefits.

(c) A Group B Member whose disability, as determined by the Board, was caused by an injury or sickness incurred in the performance of the Member's duty, shall receive a monthly benefit equal to sixty percent of the Member's average Computation Pay determined over the 36 consecutive months of Pension Service in which such Group B Member received the highest Computation Pay. If the Group B Member has less than 36 months of employment with the Department, average Computation Pay will be computed based on all the Member's Computation Pay. Days during which the Member earned no Pension Service due to a termination of Active Service or otherwise shall be disregarded in determining the 36 consecutive months of highest Computation Pay.

Sec. 6.06. General Rules Governing Death Benefits.

(a) A Qualified Survivor's entitlement to death benefits, as well as the amount of said benefits, shall be determined under the provisions of the Combined Pension Plan in effect on the date of the Primary Party's death. Furthermore, any award of death benefits is subject to the conditions required by this Section.

(b) A written application for benefits must be filed with the Administrator.

(c) The application will be considered at the meeting of the Board held during the month death benefits are to become effective, or as soon as possible after the date the benefits become effective. No benefits may be paid, however, until the Board has approved the application.

(d) The Board may require the applicant to provide proof of eligibility, such as marriage licenses, birth certificates, adoption papers, or sworn statements. The Board may withhold any death benefit until the eligibility of the applicant has been confirmed.

(e) If surviving Children are not Qualified Survivors as defined at Subsection 2.01(42) and thus are not entitled to death benefits, the Spouse who is a Qualified Survivor is entitled only to receive a share of the death benefits in the amount calculated under Paragraph 6.07(a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) or Paragraph 6.08(b)(1), (c)(1), (d)(1), or (e)(1) of this Article, whichever is applicable, and is not entitled to what otherwise would be the surviving Children's share. If there is no surviving Spouse, any surviving Child who is a Qualified Survivor shall receive only the amount calculated under Paragraph 6.07(a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) or Paragraph 6.08(b)(2), (c)(2), (d)(2), or (e)(2) of this Article, whichever is applicable, and are not entitled to what otherwise would be the Spouse's share. If there is no Spouse or Children who are Qualified Survivors, any Dependent Parent(s) who are Qualified Survivors shall receive only the amount calculated under Subsection 6.07(c) or Paragraph 6.08(b)(3), (d)(3), or (e)(3) of this Article, whichever is applicable, and is not entitled to what otherwise would be the Spouse's or Children's share.

(f) The total monthly death benefits received by the Spouse, Children, or Dependent Parents who are Qualified Survivors may not exceed the pension to which the deceased Primary Party was entitled per month.

(g) With the exception of those circumstances described in Subsection (m), death benefits payable to surviving Children shall be delivered to the legal guardian of the estate of the Child if one has been appointed and the System has been provided proof of appointment. If no legal guardian has been appointed, death benefits shall be delivered to one of the following persons provided there is evidence that such person is a suitable person to receive and administer the benefits:

(1) the surviving Spouse with whom the Child resides, or

(2) if not residing with the surviving Spouse, then the adult head of the household with whom the Child resides. The recipient of the Child's death benefits must use the death benefits on behalf of the Child. The Board may withhold payment of benefits to anyone if presented with evidence that the death benefits are not being used on behalf of the surviving Child.

(h) With the exception of a trust described in Subsection (m) of this Section, no death benefits awarded to surviving Children may be used for any purpose other than to benefit the surviving Children.

(i) If there is no surviving Spouse or legal guardian for the surviving Children and if the Board determines that the surviving Children lack the discretion to handle money, or in other appropriate circumstances, notwithstanding any other provision of this Section, the Board may request a court of competent jurisdiction to appoint a suitable person to receive and administer the surviving Children's money or in those circumstances described in Subsection (m) of this Section, appoint a new trustee to administer the surviving Children's trust.

(j) Dependent Parents of a Member who are entitled to receive Qualified Survivor benefits provided by this Article, shall do so for the remainder of their lives.

(k) The System may require all Qualified Survivors receiving death benefits to file a sworn statement with the Administrator concerning such persons eligibility to continue to receive death benefits at least once every two years or at any other time the Administrator deems such statement to be appropriate to evidence the continued eligibility of such person. The Board may withhold death benefits from any person who fails or refuses to file a statement when requested to do so.

(l) When the last Qualified Survivor of any Primary Party becomes ineligible to continue to receive death benefits, an amount equal to the excess, if any, of the total amount of all contributions made to the Fund by the Primary Party, while a Member, over the sum of all benefits paid to the Primary Party and all of the Primary Party's Qualified Survivors shall be paid in a lump sum. Such lump sum shall be paid to the last person to receive benefits as a Qualified Survivor or if none the Member's designee. The total amount to be paid in benefits to the Primary Party and all Qualified Survivors shall never be less than the total amount of contributions the Primary Party made to the Fund while a Member.

(m) (1) Notwithstanding any other provision of this Section, death benefits awarded to an unmarried Child who is a Qualified Survivor who is determined by the Board to be handicapped under the terms of Subsection (p) of this Section, may be paid to the trustee of a management, supplemental needs or special needs trust (or comparable trust) established for the benefit of such Child if such trust meets the requirements set forth in a procedure adopted from time to time by the Board.

(2) Payment from this Plan to the subject trust for a handicapped surviving Child will terminate as soon as practicable after the System has knowledge of, and effective on the earlier occurrence of, the following events:

(A) the date as of which the Child is determined by the Board to no longer be handicapped under the terms of this Section;

(B) the date on which the Child is lawfully married;

(C) the date on which the Child is deceased;

(D) the date on which the System becomes aware that the assets of the subject trust are deemed to be the resources of the Child under applicable federal or state laws or regulations; or

(E) the trustee of such Child's trust fails to provide a court of competent jurisdiction with an annual accounting of such trust within six months after the close of such trust's fiscal year.

(n) When a Child who, as a Qualified Survivor, is entitled to receive death benefits under this Article, reaches the age of 19, such Child may no longer participate in the division of the benefits, but the same undiminished Child's share as determined by this Section shall be paid to any remaining Children who are Qualified Survivors who remain eligible to continue to receive such death benefits.

(o) If, as provided at Paragraph 6.06(m)(2), the benefits are no longer payable to the trust described in Paragraph 6.06(m)(1), such benefits are thereafter divisible as provided above and payable to any remaining Children who are Qualified Survivors if and to the extent such remaining Children are otherwise eligible for the receipt of such benefits hereunder.

(p) If an unmarried Child, after cessation of entitlement to death benefits, because of attainment of age 19 but before age 23, becomes handicapped, the Child is entitled to participate in the division of death benefits under this Article. Notwithstanding the preceding, all death benefits granted under this Subsection are conditioned on the Board finding that:

(1) such Child is so physically or mentally handicapped, either congenitally or through injury suffered or disease contracted, as to be unable to be self-supporting or to secure and hold gainful employment or pursue an occupation;

(2) such Child is not married;

(3) the handicap was not the result of an occupational injury for which the such Child received compensation equal to or greater than that provided under this Article;

(4) the handicap was not the result of an intentional self-inflicted injury or a chronic illness itself resulting from an addiction of such Child through a protracted course of non coerced indulgence in alcohol, narcotics, or other substance abuse; and

(5) the handicap did not occur as a result of such Child's participation in the commission of a felony.

(q) If a handicapped Child received or is receiving worker's compensation resulting from an occupational injury equal to an amount less than the death benefit to be provided under this Section, the difference shall be paid out of the assets of the Fund in the form otherwise payable as monthly benefits. For purposes of Subsection (o) of this Section, if a lump sum is awarded for an injury, the Fund's actuary may compute a corresponding monthly equivalent. A finding relating to a Child's handicap is subject to periodic review and modification by the Board.

(r) On the death or marriage of a surviving Child granted death benefits under this Article, such death benefits shall cease being paid to that Child; however, the same undiminished Child's share as determined by this Section shall be uniformly distributed among any remaining unmarried Children who are under 19 years of age and any unmarried Children who are handicapped as described by Subsection (n) of this Section who are entitled to Qualified Survivor death benefits.

(s) A Spouse resulting from any marriage to a Member or Pensioner after the date the Member or Pensioner leaves or left Active Service is not a Qualified Survivor and is entitled only to those death benefits, if applicable, provided under Subsection (x) of this Section.

(t) To be eligible for Qualified Survivor death benefits under this Article, Children must be conceived, born, or legally adopted before the Primary Party leaves Active Service.

(u) A surviving Spouse who first remarried on or after April 21, 1988, and who satisfies the requirements of a Qualified Survivor is eligible to receive death benefits for the remainder of such Spouse's life. This Subsection may not be applied retroactively.

(v) The surviving Spouse of a person who was a member of the Old Plan, Plan A or Plan B whose death benefits (sometimes referred to as "survivor benefits" or "widows benefits" in said plans) terminated on account of a remarriage that occurred prior to April 21, 1988, shall receive death benefits commencing not earlier than January 1, 1994, on a prospective basis only as of the first day of the month next following the Administrator's receipt of a properly completed Board approved application. Said receipt, however must occur within, but in no event later than, One Hundred and Eighty (180) days commencing on the date the Board makes reasonable efforts to notify all known living surviving Spouses who may be entitled to said reinstatement of benefits. The Board's efforts to make reasonable notice shall commence as soon as practicable after its certification of the results of the election of the membership approving this Subsection. A surviving Spouse's application for reinstatement of death benefits under this Subsection shall constitute the survivor's waiver of any and all claims against the Pension System, the Board, the Administrator, or any other employee of the Board or the Pension System arising out of any claim for death benefits. This Subsection shall have no retroactive effect (i.e. such persons shall not receive death benefits attributable to periods prior to the Administrator's receipt of a properly completed Board approved application), and any benefit provided to a surviving Spouse described in this Subsection shall be calculated as if such benefits had not terminated upon the surviving Spouse's remarriage even though the reinstatement of such benefits are not retroactive.

(w) (1) If an unmarried Member dies while on Active Service and before entering DROP leaving either:

(A) no Qualified Survivor, or

(B) only Qualified Survivors who are Children and who become ineligible to receive benefits before death benefits have been paid for 120 months,

then a lump sum shall be paid to the last person to receive benefits as a Qualified Survivor, or if no such person is living, to the Member's designee.

(2) The amount of the lump sum payment under this Subsection (w) shall be the greater of:

(A) the payment that could have been provided under Subsection (l) of this Section or

(B) a sum equal to the Actuarial Equivalent of the remainder of the monthly benefits that would have been paid for the period from the last monthly benefit payment to the end of 120 months counting, from the date of the first monthly benefit payment, if any.

(3) If no death benefit payments have been made with respect to the Member, the amount of a monthly death benefit payment shall be considered to be the monthly death benefit that would have been paid if the Member had died leaving only one Dependent Parent who was a Qualified

Survivor. If payments could otherwise be made under both this Subsection (w) and Subsection (l) of this Section, payments shall be made only under this Subsection (w). The payment required under this Subsection (w) shall be made as soon as practical after the later of the death of the Member or the ineligibility of the last Qualified Survivor to receive monthly payments.

(x) (1) The Board shall adopt policies under which a Member who is leaving Active Service or a Pensioner may elect to accept actuarially reduced benefits in order to provide the following optional benefits:

(A) A 100 percent joint and survivor annuity with the Member's or Pensioner's Spouse;

(B) A 50 percent joint and survivor annuity with a Spouse who is not a Qualified Survivor because the marriage to the Pensioner occurred after the Pensioner terminated Active Service, provided the election is made within one year after the marriage; or

(C) A death benefit for a Child who would not otherwise be eligible for a benefit because the Child was born or adopted after the Member left Active Service, but only if the Child is a dependent of the Pensioner, within the meaning of Section 152(a)(1) of the Code, and has not attained age 18 at the time of the election.

(2) An election under this Subsection may not be revoked by the Member or Pensioner after it is filed with the Pension System. The election results in benefits being paid as described below, in lieu of any benefits that might otherwise have become payable to the Pensioner under Section 6.01, 6.02, 6.04 or 6.05, or to a Spouse or Child, if any would have been due, under Section 6.07 or 6.08. A Pensioner who desires to make an election under Paragraph (1)(A) after having made an election under Paragraph (1)(B) will incur a second actuarial reduction in benefits to pay for the increased survivor annuity. No benefits will be paid under this Section with respect to a Pensioner who makes an election after termination of Active Service and dies within one year after making the election, but the amount by which benefits were reduced will be paid to the person who is entitled to receive payments under Subsection (y). Also, the one-year waiting period does not apply to a person who makes an election to receive a 100 percent joint and survivor annuity with a Spouse who is a Qualified Survivor at the time the Board grants a retirement pension, or at the time a retirement pension would have been granted but for the fact that the person elected to participate in DROP after retirement. The actuarially reduced pension being paid to the Pensioner will not be increased if the Spouse dies before the Pensioner or if the Child attains age 19 before the Pensioner dies.

(3) The joint and survivor annuity or the Pensioner's pension and child's death benefit payable under this Subsection is the actuarial equivalent of the pension and death benefits, if any, that would have been payable, at the time of the election, if the election had not been made. Upon the death of the Pensioner, the surviving Spouse of a Pensioner who made an election under Paragraph (x)(1)(A), above, will receive a pension that is equal to the reduced pension being received by the Pensioner at the time of death and a surviving Spouse who is not a Qualified Survivor of a Pensioner who made an election under Paragraph (x)(1)(B), above, will receive a pension that is 50 percent of the reduced pension being received by the Member.

(4) The Pensioner and Spouse are eligible for adjustments provided pursuant to Section 6.12, and the supplement provided under Section 6.13, if otherwise so entitled but, in each case, reduced by the same percentage as the Pensioner's basic pension is reduced. However, they will not receive the minimum benefits provided under Section 6.10A, 6.10B or 6.11. Also, the Spouse is not entitled to the special death benefit provided under Section 6.09. During the period when there are two or more Qualified Survivors of a Member who has made a joint and survivor election under this Subsection, the spousal benefit will be divided among such eligible survivors under the terms of this Plan. The Child's death benefit elected under this Subsection is treated the same way as a death benefit to a Child who is a Qualified Survivor except that it is based on the actuarially reduced pension.

(y) (1) A Member, Pensioner or Qualified Survivor may at any time designate, in writing, one or more persons (a "designee") to receive any lump sum payment due from the Pension System upon the death of the Member, Pensioner or Qualified Survivor. A designation under this Subsection of a person other than the Spouse must be made with the written consent of the Spouse if there is a Spouse. Any designation may be revoked or changed at any time. However, a designation shall become void if the person designated dies or goes out of existence before the payment is made.

(2) If a Member, Pensioner or Qualified Survivor designates a Spouse to receive a payment and the parties are later divorced, the designation is void unless ratified in writing after the divorce. Any designation by a Member under this Subsection also must be ratified when the Member becomes a Pensioner, or it becomes void.

(3) If the deceased Member, Pensioner or Qualified Survivor does not leave a valid designee on file with the Pension System at the time of death, the designee shall be the Spouse or, if no Spouse, the Qualified Survivors, if any, or if none the estate of the Member, Pensioner or Qualified Survivor, or, if there is no estate, the heirs.

Sec. 6.07. Group A Death Benefits.

(a) (1) If a Group A Member dies before leaving Active Service and before the Group A Member had 20 years of Pension Service, the Group A Member's Spouse and Children who are Qualified Survivors shall, in the aggregate, receive a Group A death benefit equal to a Group A retirement pension computed under the terms of Section 6.01 of this Article as if the Group A Member had completed 20 years of Pension Service.

(2) If a Group A Member dies before Service Retirement and after the Group A Member had 20 years of Pension Service, the Group A Member's Spouse and Children who are Qualified Survivors shall, in the aggregate, receive a Group A death benefit computed under the terms of Section 6.01 of this Article as if the Group A Member had left Active Service on the date of the Group A Member's death.

(3) If a Group A Pensioner dies during Service Retirement, the Group A Pensioner's Spouse and Children who are Qualified Survivors shall, in the aggregate, receive a Group A death benefit in an amount equal to the Group A retirement pension being received by the Group A Pensioner at the date of death.

(4) Effective November 25, 1996, if a Group A Pensioner dies while receiving periodic disability compensation under Section 6.05 or Disability Retirement benefits under Section 6.04 and before the Group A Pensioner has 20 years of Pension Service, the Group A Pensioner's Spouse and Children who are Qualified Survivors shall, in the aggregate, receive a Group A death benefit calculated under the applicable Section 6.04 or 6.05 of this Article in the same manner of the Group A Pensioner's periodic disability compensation or disability pension but as if the Group A Pensioner had completed 20 years of Pension Service.

(5) If a Group A Pensioner who had 20 or more years of Pension Service dies during Disability Retirement, the Group A Pensioner's Spouse and Children who are Qualified Survivors shall, in the aggregate, receive a Group A death benefit in an amount equal to the Group A disability pension being received by the Group A Pensioner at the date of death.

(b) (1) The Group A death benefits described in Subsection (a) of this Section shall be divided one-half to the Spouse and one-half to the Children, who are Qualified Survivors.

(2) Subject to the terms of Subsection 6.06(m) and (n) of this Article, the Group A death benefits payable to such surviving Children under Subsection (a) of this Section shall be distributed in an equal and uniform manner.

(c) If a Group A Member or Pensioner dies leaving no Spouse or Children who are Qualified Survivors the Dependent Parents who are Qualified Survivors shall receive a Group A death benefit equal to the death benefit otherwise payable under Paragraph (a)(1), (a)(2), (a)(3), (a)(4) or (a)(5) of this Section, whichever the case may be. The death benefit payable to the such Dependent Parents shall be divided equally between them regardless of whether they are married or living at the same residence. If there is only one such Dependent Parent, that parent is entitled to one-half of the death benefit described herein.

Sec. 6.08. Group B Death Benefits.

(a) If a Group B Member dies while on Active Service or a Group B Member who left Active Service and who is vested under Section 5.06 of this Article dies, or a Group B Pensioner dies while receiving Service or Disability Retirement, or while receiving periodic disability compensation under Section 6.05 of this Article, the person's Qualified Survivors, or the person described in Subsection 6.06(g) as the recipient of the Children's benefits, may make application for Group B death benefits.

If the deceased Group B Member was previously eligible to elect whether to receive either a Group A or Group B retirement pension, the option to select whether Group A or Group B death benefits are received shall be exercised by one of the following:

(1) the Spouse who is a Qualified Survivor of a Group B Member described by this Subsection, or

(2) if no Spouse is a Qualified Survivor, the person described in Subsection 6.06(g) as the recipient of the Children's benefits on behalf of the Children who are Qualified Survivors, or

(3) if there is neither a Spouse nor Children who are Qualified Survivors, the Dependent Parents who are Qualified Survivors.

A Qualified Survivor who receives Group A death benefits under this Subsection is entitled to a ratable portion of a reimbursement from the Fund in the same amount and manner determined under Subsection 5.03(d) of this Article. A Qualified Survivor or guardian desiring a refund of excess contributions must make application for the refund with the Administrator within three years after the date the Qualified Survivor or guardian makes application for Group A death benefits. The option contained in this Subsection is not available to Qualified Survivors of a Group B Member who had, at the time of death, already applied for a retirement pension and selected a Group A retirement pension as provided by Subsection 5.03(c) of this Article, but the Qualified Survivors are entitled to receive a Group A death benefit.

(b) Death benefits shall be computed as follows for the Qualified Survivors of Group B Members who die while on Active Service:

(1) The death benefit of a Spouse who is a Group B Member's Qualified Survivor shall be computed at the rate of 1.5 percent of the Group B Member's average Computation Pay determined over the 36 consecutive months in which the Group B Member received the highest Computation Pay, for each year, and prorated for fractional years, of Pension Service with a minimum of 20 years of Pension Service assumed, or 30 percent of the average Computation Pay determined over the 36 consecutive months in which the Member received the highest Computation Pay. The benefit may not exceed a computation for 32 years of Pension Service, or 48 percent of the average Computation Pay determined over the 36 consecutive months in which the Group B Member received the highest Computation Pay. If the Group B Member had less than 36 consecutive months of Pension Service, the average Computation Pay will be computed based on the person's entire Pension Service. Days during which the Member earned no Pension Service due to a termination of Active Service or otherwise shall be disregarded in determining the 36 consecutive months of highest Computation Pay.

(2) The death benefit of Children who are a Group B Member's Qualified Survivors shall be computed in the same manner as a Spouse's benefit is computed under Paragraph (1) of this Subsection and shall be divided equally among all of the Qualified Survivor Children.

(3) The death benefit of each Dependent Parent who is a Group B Member's Qualified Survivor shall be computed in the same manner as a Spouse's Group B benefit is computed under Paragraph (1) of this Subsection.

(c) Group B death benefits shall be computed as follows for the Qualified Survivors of any Group B Member who died after leaving Active Service and who had vested rights under Section 5.06 of this Article but who had not received retirement benefits at the time of death:

(1) The death benefit of a Spouse who is the Group B Member's Qualified Survivor is equal to 50 percent of any retirement pension the Group B Member would have been entitled to as of the date the Group B Member left Active Service.

(2) The death benefits of Children who are Group B Member's Qualified Survivors shall be computed in the same manner as the Spouse's benefit is computed under Paragraph 1 of this Subsection (c), to be divided equally between such Children.

(3) The death benefit of each Dependent Parent who is a Group B Member's Qualified Survivor is equal to 50 percent of any retirement pension the Group B Member would have been entitled to as of the date the Group B Member left Active Service.

(d) Group B death benefits shall be computed as follows for the Qualified Survivors of any Group B Pensioner who dies while on Service Retirement:

(1) The death benefit of a Spouse who is a Group B Pensioner's Qualified Survivor is equal to 50 percent of any retirement pension the Group B Pensioner was receiving at the time of death.

(2) The death benefits of Children who are a Group B Pensioner's Qualified Survivors are calculated in the same manner as the Spouse's benefit is computed under Paragraph 1 of this Subsection (d), to be divided equally between such Children.

(3) The death benefit of each Dependent Parent who is a Group B Pensioner's Qualified Survivor is equal to 50 percent of any retirement pension the Group B Pensioner was receiving at the time of death.

(e) Group B death benefits shall be computed as follows for the Qualified Survivors of any Group B Pensioner who dies while receiving disability compensation due to a service-connected disability or a disability pension due to a non service-connected disability:

(1) The death benefit of a Spouse who is a Group B Pensioner's Qualified Survivor is equal to 50 percent of any Group B periodic disability compensation or disability pension the Group B Pensioner would have been entitled to as of the date the Group B Pensioner left Active Service because of disability, or a Group B death benefit equal to 50 percent of any such periodic disability compensation or disability pension the Group B Pensioner was receiving at the time of death.

(2) The death benefits of Children who are a Group B Pensioner's Qualified Survivors are calculated in the same manner as the Spouse's benefit is computed under Paragraph 1 of this Subsection (d), to be divided equally between such Children.

(3) The death benefit of each Dependent Parent who is a Group B Pensioner's Qualified Survivor is equal to 50 percent of any periodic disability compensation or disability pension the Group B Pensioner would have been entitled to as of the date the Group B Pensioner left Active Service because of disability, or a Group B death benefit equal to 50 percent of any such periodic disability compensation or disability pension the Group B Pensioner was receiving at the time of death.

Sec. 6.09. Qualified Surviving Spouse Special Death Benefit.

(a) The Spouse of a Group A Primary Party who is a Qualified Survivor who is entitled to any death benefits under Section 6.06, other than Subsection (x) thereof, and 6.07 of this Article is also entitled to a special death benefit under this Section if:

(1) the Group A Primary Party:

(A) had at least 20 years of Pension Service, left Active Service after October 1, 1985, and was at least 55 years of age on the earlier of the date he left Active Service or the date he joined DROP; or

(B) had at least 20 years of Pension Service, left Active Service on or after May 31, 2000, and on the earlier of the date he left Active Service or the date he joined DROP, had a total of at least 78 credits, with each year of Pension Service, prorated for fractional years, equal to one credit and with each year of age, prorated for fractional years, equal to one credit; or

(2) such Spouse has attained 55 years of age and there are no Children who are Qualified Survivors eligible for death benefits.

(b) Until the requirements of Subsection (a) of this Section are satisfied, a Spouse of a Group A primary party who is a Qualified Survivor shall receive a Group A death benefit in accordance with Section 6.07 of this Article.

(c) The special Group A death benefit under this Section is calculated based on the following formula:

$$(P \times P \times A) + (P \times C) + D, \text{ where}$$

A = Base Pay at the time the Group A Primary Party enters DROP, begins Service Retirement, dies, or becomes disabled, plus Longevity Pay, plus one-twelfth of last-received City Service Incentive Pay;

B = Group A Primary Party's benefit calculated at the time the Group A Primary Party enters DROP, begins Service Retirement, dies, or becomes disabled;

P = B/A (expressed as a percentage or a decimal);

C = the number of adjustments made to a Group A Primary Party's retirement pension, disability pension, or periodic disability compensation multiplied by the amount of the adjustments; and

D = the number of adjustments of this Article made to the Group A death benefit of a Spouse who is a Qualified Survivor under Section 6.07, multiplied by the amount of the adjustments.

(d) The Spouse of a Group B Primary Party who is a Qualified Survivor who is entitled to any death benefits under Sections 6.06, other than Subsection (x) thereof, and 6.08 of this Article is also entitled to a special benefit under this Section if:

(1) the Group B Primary Party:

(A) had at least 20 years of Pension Service, left Active Service after October 1, 1985, and was at least 55 years of age at the time of leaving Active Service; or

(B) on or after May 31, 2000, the Group B Primary Party left Active Service having a total of at least 78 credits, with each year of Pension Service, prorated for fractional years, equal to one credit and with each year of age (determined at the time the Group B Primary Party left Active Service or entered DROP), prorated for fractional years, equal to one credit; or

(2) such Spouse has attained 55 years of age, and there are no children who are Qualified Survivors.

Until the requirements of this subsection are satisfied, a Spouse who is a Qualified Survivor may only receive a Group B death benefit in accordance with Sections 6.06 and 6.08 of this Article.

(e) This special Group B death benefit under this Section is calculated based on the following formula:

$$(P \times P \times A) + (P \times C) + D, \text{ where}$$

A = average monthly Computation Pay at the time the Group B Primary Party begins Service Retirement, dies, or becomes disabled;

B = the Group B Primary Party's benefit calculated at the time the Group B Primary Party enters DROP, begins to receive service retirement, dies, or becomes disabled;

P = B/A (expressed as a percentage or a decimal);

C = the number of post retirement adjustments made to a Group B Primary Party's retirement pension, disability pension, or periodic disability compensation multiplied by the amount of the adjustments; and

D = the number of adjustments made to the Group B death benefit of a Spouse who is a Qualified Survivor under Section 6.08 of this Article multiplied by the amount of the adjustments.

Sec. 6.10A. Minimum Benefits to Certain Group A Primary Parties Who Were Group A, Old Plan or Combined Pension Plan Members and Their Qualified Survivors.

(a) Except as provided by Subsection 6.06(x) or Subsections (b) and (h) of this Section and notwithstanding any benefit computation and determination to the contrary contained in this Article, the minimum Group A benefits provided by this Section shall be paid to any Group A Primary Party who elects to receive a Group A retirement pension under Subsections 6.01(b) and (c) of this Article, the Old Plan or former Section 14(a) of the Combined Pension Plan or to the Primary Party's Qualified Survivors, except that a Group A Primary Party who elects to receive an actuarially reduced retirement

pension before 50 years of age and the Primary Party's Qualified Survivors are not entitled to the minimum benefits specified under this Section. An Alternate Payee is not entitled to the Group A minimum benefits specified in this Section.

(b) A Group A Primary Party who elects to receive a Group A retirement pension under Subsections 6.01(b) and (c) of this Article, the Old Plan or former Section 14(a) of the Combined Pension Plan and who left Active Service with 20 or more years of Pension Service is entitled to receive a minimum Group A retirement pension of \$2,200 a month.

(c) In the absence of any Child who is a Qualified Survivor, a Spouse who is a Qualified Survivor of a Group A Primary Party who elected to receive a Group A retirement pension under Subsections 6.01(b) and (c) of this Article, the Old Plan or former Section 14(a) of the Combined Pension Plan, will receive a minimum monthly Group A death benefit of \$1,200.

(d) A Spouse who is a Qualified Survivor of a Group A Primary Party who elected to receive a Group A retirement pension under Subsections 6.01(b) and (c) of this Article, the Old Plan or former Section 14(a) of the Combined Pension Plan, will receive, if there are Children who are Qualified Survivors, a minimum Group A death benefit of \$1,100 a month.

(e) In the absence of a Spouse who is a Qualified Survivor of a Group A Primary Party who elected to receive a Group A retirement pension under Subsections 6.01(b) and (c) or (e) of this Article, the Old Plan or former Section 14(a) of the Combined Pension Plan, the Primary Party's Children who are Qualified Survivors, as a group, will receive a minimum Group A death benefit of \$1,100 a month, to be divided equally among them.

(f) If there is neither a Spouse nor a Child who is a Qualified Survivor of a Group A Primary Party who elected to receive a Group A retirement pension under Subsections 6.01(b) and (c) of this Article, the Old Plan or former Section 14(a) of the Combined Pension Plan, each Dependent Parent who is a Qualified Survivor will receive a minimum Group death benefit of \$1,100 a month. If only one of them is surviving, that Dependent Parent will receive a minimum Group A death benefit equal to \$1,100 a month.

(g) Notwithstanding the minimum monthly benefit described in other Subsections of this Section, a Group A Primary Party who receives periodic disability compensation under Subsection 6.05(b) or a Group A disability pension under Subsection 6.04(b) of this Article, the Old Plan or former Section 17(a) of the Combined Pension Plan, shall receive a minimum Group A disability pension equal to \$2,200 a month.

(h) If a Group A Pensioner who received periodic disability compensation under the last sentence of Subsection 6.05(b) or a disability pension under Subsection 6.04(b) of this Article, calculated in the same manner as a Group A retirement pension under Subsections 6.01(b) and (c) of this Article, the Old Plan or former Section 17(a) of the Combined Pension Plan, before the completion of 20 years of Pension Service dies, the Qualified Survivors will receive a minimum Group A death benefit as provided under Subsection (c), (d), (e), or (f) of this Section, as applicable, whichever is greatest.

Sec. 6.10B. Minimum Benefits to Certain Group A Primary Parties Who Were Group A, Plan A or Combined Plan Members and Their Qualified Survivors.

(a) Except as provided by Subsection 6.06(x) and Subsections (b) and (h) of this Section and notwithstanding any benefit computation and determination to the contrary contained in this Article, the minimum Group A benefits provided by this Section shall be paid to any Group A Primary Party who elects to receive a Group A retirement pension under Subsection 6.01(e) of this Article, Plan A or former Section 14(b) of the Combined Pension Plan or to the Primary Party's Qualified Survivors, except that a Group A Primary Party who elects to receive an actuarially reduced Group A retirement pension before 50 years of age and the Primary Party's Qualified Survivors are not entitled to the minimum benefits specified in this Section. An Alternate Payee is not entitled to the Group A minimum benefits specified in this Section.

(b) A Group A Primary Party who elects to receive a Group A retirement pension under Subsection 6.01(e) of this Article, Plan A or former Section 14(b) of the Combined Pension Plan and who left Active Service with 20 or more years of Pension Service is entitled to receive a minimum retirement pension equal to the greater of (i) \$2,200 a month or (ii) \$1,000 a month adjusted in the manner described by Subsection 6.12(a) of this Article.

(c) In the absence of any Child who is a Qualified Survivor, a Spouse who is a Qualified Survivor of a Group A Primary Party who elects to receive a Group A retirement pension under Subsection 6.01(e) of this Article, Plan A or former Section 14(b) of the Combined Pension Plan, will receive a minimum monthly death benefit equal to the greater of (i) \$1,200 a month or (ii) \$500 a month adjusted in the manner described by Subsection 6.12(a) of this Article.

(d) A Spouse who is a Qualified Survivor of a Group A Primary Party who elects to receive a Group A retirement pension under Subsection 6.01(e) of this Article, Plan A or former Section 14(b) of the Combined Pension Plan, will receive, if there are Children who are Qualified Survivors, a minimum Group A death benefit equal to the greater of (i) \$1,100 a month or (ii) \$500 a month adjusted in the manner described by Subsection 6.12(a) of this Article. The Children who are Qualified Survivors, as a group, will receive a minimum death benefit equal to the greater of (iii) \$1,100 a month or (iv) \$500 a month adjusted in the manner described by Subsection 6.12(a) of this Article, to be divided equally among them.

(e) In the absence of a spouse who is a Qualified Survivor of a Group A Primary Party who elected to receive a Group A retirement pension under Subsection 6.01(e) of this Article, Plan A or the former Section 14(b) of the Combined Pension Plan, the Primary Party's Children who are Qualified Survivors, as a group, will receive a minimum Group A death benefit equal to the greater of (i) \$1,100 a month or (ii) \$500 a month adjusted in the manner described by Subsection 6.12(a) of this Article, to be divided equally among them.

(f) If there is neither a Spouse nor Child who is a Qualified Survivor of a Group A Primary Party who elected to receive a Group A retirement pension under Subsection 6.01(e) of this Article, Plan A or the former Section 14(b) of the Combined Pension Plan, each Dependent Parent who is a Qualified Survivor will receive a minimum Group A death benefit equal to the greater of (i) \$1,100 a month or (ii) \$500 a month adjusted in the manner described by Subsection 6.12(a) of this Article. If only one of them is surviving, such Dependent Parent will receive a minimum Group A death benefit equal to the

greater of (iii) \$1,100 a month or (iv) \$500 a month adjusted in the manner described by Subsection 6.12(a) of this Article.

(g) Notwithstanding the minimum monthly benefit as described in other Subsections of this Section, a Group A Primary Party who leaves Active Service on a non service-connected disability under Subsection 6.04(b) of this Article, Plan A or former Section 17(b)(2) of the Combined Pension Plan, with less than 20 years of Pension Service shall receive a minimum monthly Group A disability pension equal to the greater of (i) \$110 multiplied by the number of years of the Primary Party's Pension Service or (ii) \$50 multiplied by the number of years of the Primary Party's Pension Service, the product adjusted in the manner described by Subsection 6.12(a) of this Article.

(h) If a Group A Pensioner who received a non service-connected disability pension under Subsection 6.04(b) of this Article, Plan A or former Section 17(b)(2) of the Combined Pension Plan, before the completion of 20 years of Pension Service dies, the Qualified Survivors will each receive the amount specified in Section 6.07 of this Article or the minimum Group A death benefit as provided under Subsection (c), (d), (e), or (f) of this Section, as applicable, whichever is greatest.

Sec. 6.11. Minimum Benefits to Group B Primary Parties and Their Qualified Survivors.

(a) Except as provided by Subsection 6.06(x) or Subsection (b), (c), and (h) of this Section and notwithstanding any benefit computation and determination to the contrary contained in this Article, the minimum Group B benefits provided by this Section shall be paid to any Group B Primary Party or the Primary Party's Qualified Survivors, except further that a Group B Primary Party who elects to receive an actuarially reduced retirement pension before age 50, including, but not limited to a request for a benefit under Subsections 6.02(c) & (d) and the Primary Party's Qualified Survivors, or Alternate Payee of the Primary Party, are not entitled to the Group B minimum benefits specified by this Section.

(b) If a Group B Primary Party leaves Active Service with 20 or more years of Pension Service, the Group B Primary Party is entitled to receive a Group B minimum retirement pension equal to the greater of (i) \$2,200 a month or (ii) \$925 a month, which sum may (A) increase at the rate of \$5 a month for each year of Pension Service beyond 20 years, but the increase may not exceed \$75 and (B) be adjusted in the manner described by Subsection 6.12(a) of this Article.

(c) If a Group B Primary Party leaves Active Service with less than 20 years of Pension Service, the Primary Party is entitled to receive a minimum monthly Group B retirement pension equal to the greater of (i) \$2,200 a month divided by 20 and multiplied by the Group B Primary Party's number of years of Pension Service or (ii) \$925 a month divided by 20 and multiplied by the Group B Primary Party's number of years of Pension Service, which amount is then adjusted in the manner described by Subsection 6.12(a) of this Article.

(d) In the absence of any Child who is a Qualified Survivor, a Spouse who is a Qualified Survivor of a Group B Primary Party will receive a minimum Group B death benefit equal to the greater of (i) \$1,200 a month or (ii) \$600 a month adjusted in the manner described by Subsection 6.12(a) of this Article.

(e) A Spouse who is a Qualified Survivor of a Group B Primary Party, if there are Children who are Qualified Survivors, will receive a minimum Group B death benefit of \$1,100 a month.

(f) The Children who are Qualified Survivors of a Group B Primary Party, as a group, will receive a minimum Group B death benefit equal to the greater of (i) \$1,100 a month or (ii) \$600 a month adjusted in the manner described by Subsection 6.12(a) of this Article, to be divided equally between them.

(g) If there is neither a Spouse nor a Child who is a Qualified Survivor, each Dependent Parent who is a Qualified Survivor of the deceased Group B Primary Party will receive a minimum death benefit of \$1,100 a month.

(h) Notwithstanding the minimum monthly retirement pension otherwise described by this Section, a Group B Primary Party who left Active Service on a non service-connected disability with less than 20 years of Pension Service will receive a minimum monthly disability pension equal to the greater of (i) \$110 multiplied by the number of years of the Primary Party's Pension Service or (ii) \$46.25 multiplied by the number of years of the Primary Party's Pension Service, the product adjusted in the manner described by Subsection 6.12(a) of this Article. If a Group B Primary Party who was receiving a non service-connected disability pension before the completion of 20 years Pension Service dies, the Qualified Survivors will receive the amount specified in Section 6.08 of this Article, or the minimum monthly death benefits granted to Qualified Survivors as provided by Subsections (d), (e), (f), and (g) of this Section, as applicable, whichever is greater.

Sec. 6.12. Adjustments to Retirement and Disability Pension Benefits.

(a) This Subsection applies only to Members and Pensioners who have Active Service before January 1, 2007. Annually on the first day of October, a retirement pension calculated under Subsection 6.01(e) or Section 6.02 of this Article, a disability pension calculated under Section 6.04, other than under Subsection 6.04(b), and periodic disability compensation benefits described in Section 6.05, other than the last sentence of Subsection 6.05(b) of this Article, or a death benefit calculated under Section 6.07 (if calculated in the manner of a retirement pension under Subsection 6.01(e) or disability compensation benefits under Subsection 6.05(b)) or Section 6.08 of this Article currently in pay status, or pending Board approval on the last day of September, will be increased by an amount equal to four percent, not compounded, of the original amount of the retirement or disability pension or death benefit.

(b) A retirement, periodic disability compensation, or disability pension paid to any Group B Pensioner may not be less than the Group B Pensioner's Base Pension. The death benefits of: a Spouse who is a Qualified Survivor of a Group B Pensioner; the Dependent Parent who is a Qualified Survivor of a Group B Pensioner; and the Children who are Qualified Survivors of a Group B Pensioner, as a group, may not be less than 50 percent of a Group B Pensioner's Base Pension.

(c) Persons who first become Members after December 31, 2006, or who return to Active Service after that date and retire without any pre-2007 Pension Service, and the survivors of such persons, shall not be entitled to the annual four percent increase in benefits described in Subsection 6.12(a). However, the Board shall have the authority to grant increases in the pensions and death benefits of such persons and their survivors in an amount determined by the Board but not in excess of four percent, not compounded, of the original amount of such pension or death benefit in any year that,

in the opinion of the Board and the Qualified Actuary, the increase will not adversely affect the System's ability to meet all accrued pension obligations.

Sec. 6.13. Supplement to Certain Recipients 55 Years of Age or Older.

If a Pensioner had at least 20 years of Pension Service under any plan adopted pursuant to Article 6243a or this Article, or if a Pensioner is receiving the periodic disability compensation benefit under Section 6.05, the Pensioner, the Pensioner's Spouse who is a Qualified Survivor eligible to receive benefits under this Article, or the Pensioner's Children who are Qualified Survivors, as a group, under Subsection 6.06 of this Article are entitled to receive, when the Pensioner or such Spouse who is a Qualified Survivor attains 55 years of age, the greater of a monthly supplement equal to \$50 or three percent of their total monthly benefit, and for years beginning on and after January 1, 1991, the monthly supplement will be equal to the greater of \$75 or three percent of their total monthly benefit. For purposes only of calculating this supplement, the phrase "their total monthly benefit" means the amount payable to a Pensioner or Qualified Survivors under the terms of the plans described by this Section under which the Pensioner or Qualified Survivor elected to receive benefits but does not include the supplement authorized by this Section.

Sec. 6.14. Deferred Retirement Option Plan.

(a) A Member who remains on Active Service after becoming eligible to receive a retirement pension under either Section 6.01 or 6.02 may become a participant in the Deferred Retirement Option Plan ("DROP") in accordance with Subsections (b) and (c) of this Section, and defer the beginning of the person's retirement pension. Once an election to participate in the DROP has been made, the election continues in effect at least as long as the Member remains in Active Service. On leaving Active Service, the Member may apply for a retirement pension under Subsections 6.01(b) and (c), Subsection 6.01(e), or Subsection 6.02(b), (c), (d), or (e) of this Article, whichever is applicable, together with any DROP benefit provided under this Section or may continue to participate in DROP in accordance with Subsection 6.14(e).

(b) The election to participate in the DROP shall be made in accordance with procedures set forth in any uniform and nondiscriminatory election form adopted by the Board and in effect from time to time. To determine the proper amount to be credited to a Member's DROP account, the election shall indicate whether the Member desires to receive a retirement pension under Subsections 6.01(b) and (c), Subsection 6.01(e), or Subsection 6.02(b), (c), (d), or (e), of this Article, whichever is applicable. The election may be made at any time on or after the date the Member becomes eligible for a retirement pension as described above, and becomes effective on the first day of the first month on or after the date on which the Member makes the election. Provided, however, that any election that would otherwise have been effective on October 1, 1993 and every October 1st thereafter, shall be deemed, for purposes of both this Section and Section 6.12, to be effective on September 30th of the year in which it would otherwise have been effective. On and after the effective date of the election, the Member will no longer be eligible for any refund of contributions. The election by one or more Members to participate in the DROP has no effect on the amount of City contributions to the Fund under Section 4.02 of this Article.

(c) Each month after a Member has made an election to participate in the DROP and indicated a desire to receive a retirement pension under Subsections 6.01(b) and (c), Subsection 6.01(e), or Subsection 6.02(b), (c), (d), or (e) of this Article, whichever is applicable, and through the month

before the month in which the Member leaves Active Service, an amount equal to the retirement pension the Member would have received under the applicable Subsection (and as adjusted pursuant to Section 6.12 if applicable), for that month if the Member had left Active Service and been granted a retirement pension by the Board on the effective date of DROP participation shall be transferred to a separate DROP account maintained within the Fund for the benefit of the Member. Amounts held in the DROP account of a person who became a Member before March 1, 2011 shall be credited at the end of each calendar month with interest. The interest rate will be determined at a daily rate that will equal the arithmetic average of the annual market return on the System's investments for the preceding ten calendar years, as determined by the System's Qualified Actuary in accordance with reasonable actuarial practices. Notwithstanding the preceding sentence, the interest rate used under this Section for any year shall not be less than eight percent nor more than ten percent. Persons who become Members after February 28, 2011 shall not earn interest on, nor have interest credited to, their DROP accounts.

(d) Although a Member may not receive a distribution from his or her DROP account while the Member is still in Active Service, a Member who is in Active Service may transfer all, or part, of the Member's DROP account to any qualified defined contribution plan maintained for employees of the City. A Member may not make a transfer to a qualified defined contribution plan if another such transfer has been made within the immediately preceding twelve (12) month period. Such a transfer shall not affect the Member's continued participation in DROP.

(e) The Pension System shall adopt uniform policies from time to time for the deferral of amounts into and the disbursement of amounts from the DROP accounts of DROP participants who have terminated Active Service and are eligible for a retirement pension. The policies shall provide flexibility to such DROP participants and their beneficiaries in continuing, commencing, stopping or recommencing the deferral of some or all of their retirement pensions into their DROP accounts, and in making total or partial withdrawals from their DROP accounts to the extent consistent with the qualification of the Plan under Section 401 of the Code and efficient administration.

(f) The provisions of Sections 6.06, 6.07, and 6.08 of this Article pertaining to death benefits of a Qualified Survivor do not apply to amounts held in a Member's or Pensioner's DROP account. Instead, a Member or Pensioner who participates in DROP may designate a beneficiary to receive the balance of the Member's or Pensioner's DROP account in the event of the Member's death in any manner allowed by Section 401(a)(9) of the Code and any policy adopted by the Board. Furthermore, a Member or Pensioner who is or becomes married shall be considered to have designated the Member's or Pensioner's spouse as the Member's beneficiary, notwithstanding any prior beneficiary designation, unless the Member has made a different designation in accordance with a policy adopted by the Board. If there is no spouse or the spouse predeceases the Member or Pensioner, the Member's or Pensioner's DROP account will be distributed to the Member's or Pensioner's designee. Notwithstanding anything herein to the contrary, if a Member or Pensioner has previously designated his Spouse as his beneficiary or co-beneficiary of his DROP account and such Member or Pensioner and such Spouse are subsequently divorced, such divorce shall automatically result in the invalidation of the designation of such Spouse as a beneficiary or co-beneficiary and, if there is no co-beneficiary designated, then the Member's or Pensioner's DROP account shall be distributed in a single-sum payment as provided in Subsection (h) above. If there are any co-beneficiaries that survive the deceased Member or Pensioner, such persons shall share equally in that portion that would have otherwise been payable to the former Spouse.

(g) A Member who becomes a DROP participant is ineligible for any disability benefits described by Sections 6.03, 6.04, or 6.05 of this Article, but is entitled to a retirement pension in accordance with Subsections 6.01(b) and (c), Subsection 6.01(e), or Section 6.02 of this Article, whichever is applicable upon termination from Active Service, and is also entitled to receive a distribution of the DROP account in accordance with Subsection (e) of this Section.

(h) The Base Pay or Computation Pay, whichever is applicable, in effect as of the effective date of a Member's participation in DROP shall be used in calculating the Member's retirement pension under Section 6.01 or 6.02 of this Article. A Member who elects to participate in DROP does not accrue additional Pension Service for purposes of computing a retirement pension, for any period after the effective date of the election.

(i) If a Pensioner who has been a DROP participant returns to Active Service, the person must become a participant in DROP under the terms and conditions in effect at the time of return to Active Service.

(j) Notwithstanding any other provision of this Plan, a Member who enters DROP before March 1, 2011 may revoke the DROP election anytime before the earlier of September 30, 2011 or the Member's termination of Active Service. If a Member revokes his or her DROP participation, such Member's DROP account balance will be eliminated. Pension Service will be credited for all or a portion of the period of the revoked DROP participation upon payment of the required contributions for the period of such revoked DROP participation in accordance with a uniform and nondiscriminatory procedure adopted by the Board. No Member shall be entitled to revoke his or her DROP participation if any money has been transferred out of such Member's DROP account. The Member will then be entitled to only a monthly pension computed on the basis of the Member's Pension Service and average Computation Pay at the time of leaving Active Service, or in the case of a Group A Member as determined at Subsection 6.01(b).

(k) Without affecting any Member's or Pensioner's continued participation in DROP and notwithstanding Subsections (a)-(j) of this Section, no Member, or Pensioner may elect to begin participation in DROP after any date, not sooner than five years after the effective date of the DROP, on which the Pension System's Qualified Actuary certifies that DROP participation is resulting in a significant actuarial loss to the Fund.

Sec. 6.15. Medical Examination.

(a) The Board may require the following Pensioners receiving a disability pension or a periodic disability compensation benefit to appear and undergo a medical examination by the Health Director or, if the Health Director approves, by any licensed medical practitioner, to determine if the Pensioner's disability continues or has been removed to the extent that the Pensioner is able to resume duties with the Department:

(1) any Group A Pensioner who has served less than 20 years;

(2) any Group A Pensioner who elected a Group A disability pension under Subsection 6.04(b) of this Article, or a non service-connected disability pension under Plan A or former

Section 17(b)(2) of the Combined Pension Plan, and who had more than 20 years of Pension Service, but is less than 55 years of age; and

(3) any Group B Pensioner who was granted a Group B disability under Section 6.04 or periodic disability compensation under Section 6.05 of this Article or a disability pension under the terms of Plan B and is less than 50 years of age.

(b) Any medical examination under this Section is subject to the following conditions:

(1) Except as otherwise provided by this Section, the Board has complete discretion to require a Pensioner to appear and undergo a medical examination as well as the time that may pass between examinations. When it becomes clear to the Board from reliable medical evidence that the disability is unequivocally permanent and is not expected to diminish, the Board may waive subsequent examinations.

(2) A Pensioner may not be required to undergo a medical examination more often than once in a six-month period, except that the Board may order the Pensioner to undergo an examination at any time if the Board has reason to believe the Pensioner's disability has been removed and that the Pensioner may be able to resume duties with the Pensioner's former Department or if the Pensioner requests to be allowed to return to duty.

(3) If a Pensioner fails to undergo an examination after being notified by the Board that the examination is required, the Board may discontinue disability benefits until the Pensioner has undergone the examination and the results of the examination have been sent to the Board.

(4) If the Pensioner is examined by an approved outside medical practitioner other than the Health Director, the reasonable and customary cost of the examination, if any, is payable from the assets of the Fund.

(c) After a Pensioner has undergone a medical examination, the Health Director shall provide the Board with a report of the Pensioner's present medical condition together with the doctor's opinion as to whether the Pensioner continues to be disabled or whether the Pensioner is no longer disabled to the extent that the Pensioner could resume duties with the Pensioner's former Department. The report and opinion may be divulged only to persons who have a legitimate need for them.

(d) If, in the opinion of the Health Director, the Pensioner continues to be disabled, the Board must continue payment of benefits. If, in the opinion of the Health Director, the Pensioner is no longer disabled, or is not so disabled that the Pensioner could not perform some duties for the Pensioner's former Department, the Board shall notify the Department to determine if a position is available. If a position is available, the Board shall notify the Pensioner to return to duty. Disability benefits shall continue to be paid, however, until the Pensioner returns to Active Service. However, if the Pensioner refuses to return to duty or is refused employment by either Department for reasons other than disability, the Board shall order disability payments stopped. If a position is not available, the Board must continue payments of the Pensioner's disability pension.

(e) Pursuant to its authority under Subsection 6.06(n) of this Article to review and modify any funding relating to the handicap of a Child who is a Qualified Survivor, the Board may require such

handicapped Qualified Survivor receiving death benefits to appear and undergo medical examination by the Health Director or, if the Health Director approves, by any licensed medical practitioner, to determine if the handicap continues or if the handicap has been removed.

Sec. 6.16. Waiver of Benefits.

(a) A Primary Party, Qualified Survivor, or beneficiary of a Member's DROP account may, on a form prescribed by the Board and filed with the Administrator, waive all or a portion of the benefits to which such person is or may be entitled. Such waiver may state whether it is revocable or irrevocable, and shall be irrevocable unless the contrary is clearly stated.

(b) The waiver described by Subsection (a) of this Section applies only to benefits that become payable on or after the date the waiver is filed.

(c) Benefits waived by virtue of a revocable waiver are forfeited and the person making such waiver shall have no right, title, claim or interest in such benefits.

(d) If two or more persons are or may be entitled to benefits under this Article, the waiver described by Subsection (a) must be executed by each person in order to become effective. The living parent or parents or legal guardian or guardians of a Child must sign the waiver described by Subsection (a) on behalf of the Child.

Sec. 6.17. Denial of Benefits: Death Caused by Survivor.

A Qualified Survivor or beneficiary of a member's DROP account is not eligible for, or entitled to, benefits if the person is the principal or an accomplice in willfully bringing about the death of a Primary Party or another Qualified Survivor or beneficiary of a Member's DROP account whose death would otherwise have resulted in a benefit or benefit increase to the person. The determination of the Board that a person willfully brought about the death must be made during a meeting of the Board from a preponderance of the evidence presented and is not controlled by any other finding in any other forum, whether considered under the same or another degree of proof.

Sec. 6.18. Investigation.

(a) The Board shall consider all applications for retirement and disability pensions, all applications for death benefits, and all elections to participate in DROP. The Board shall give notice to persons applying for such benefits, advising them of their right to appear before the Board and offer such sworn evidence as they may desire. Any person claiming retirement, disability or DROP benefits may appear before the Board and offer testimony that is relevant to a contested application for a retirement pension, disability pension, death benefits or DROP benefit. The Chairman of the Board may issue process for witnesses, administer oaths to witnesses, and examine any witness as to any matter affecting benefits under any plan within the Pension System. Process for witnesses shall be served by any method of serving process permitted by the state law in any civil judicial proceeding. A witness who fails or refuses to attend and testify may be compelled to attend and testify, as in any judicial proceeding. The Board may seek assistance from any court of competent jurisdiction to further compel or sanction a witness who fails or refuses to attend and testify.

(b) Any person who is aggrieved by a determination of the Board regarding a retirement pension, disability pension, death benefits or DROP benefits may appeal the Board determination to a state district court in the city where the Pension System is located by giving written notice of appeal. The notice shall contain a statement of the grounds and reasons why the party feels aggrieved. The notice shall be served personally on the Administrator of the Board within 20 days after the date of the Board's determination. After service of the notice, the party appealing shall file with the state district court a copy of the notice of intention to appeal, together with an affidavit of the party making service showing how, when, and on whom the notice was served.

(c) Within 30 days after the date of service of the notice of appeal on the Board, the Administrator shall make up and file with the state district court a transcript of all non-privileged papers and proceedings in the case before the Board. When the copy of the notice of appeal and the transcript has been filed with the court the appeal is perfected, and the court shall docket the appeal, assign the appeal a number, fix a date for hearing the appeal, and notify both the appellant and the Board of the date fixed for the hearing.

(d) At any time prior to the rendering of its decision on appeal, the court may require further or additional proof or information, either documentary or under oath. On rendition of a decision on appeal, the court shall give to each party to the appeal a copy of the decision of the case. The decision of the court is appealable in the same manner as are civil cases generally.

(e) As provided under Section 4.01 under this Article, the Board shall approve all money used for investigations. The Board may request the investigative services of either the Police or Fire Departments in connection with any matter arising under this Section.

Sec. 6.19. Certificate of Member Pension Benefit Eligibility.

When a Member has earned 5 years of Pension Service, the Member shall be issued an incontestable five year certificate indicating that such Member is entitled to pension benefits subject to the effect of any withdrawals as permitted under Article 6243a or this Article. The certificate shall state that the calculation of the retirement pension to which the Member is entitled, or any disability benefits to which the Member may become entitled, shall be determined solely under the actual terms of the Combined Pension Plan as in effect at the time the Member leaves Active Service. The certificate shall further state that in the case of the Member's death, the Member's Qualified Survivor(s), if any, may become entitled to survivor benefits as determined solely under the actual terms of the Combined Pension Plan as in effect at the time of the Member's death. The certificate shall bear a seal and be signed by the Administrator and Chairman of the Board.

Sec. 6.20. Erroneous Payments or Overpayments.

(a) In the event the System pays monies to any person not entitled to the receipt of such funds, whether by reason of any error of the System as to entitlement, amount or otherwise, or the act of the recipient or some other person or persons, the recipient of such funds holds such funds in constructive trust for the System and upon demand by the System at any time, shall repay to the System all such funds which they are not entitled to have received under the terms of this Act.

(b) If such funds were retained by the recipient with or after their knowledge that such person was not entitled to keep such monies, whether the recipient knew so at the time of receipt or thereafter, from the time such knowledge is reasonably established, which knowledge can be established by the receipt of a demand from the System for the repayment of such funds, as well as by any other reasonable means, the recipient shall be obligated to repay to the System interest from the date of such knowledge until the date of the funds repayment, compounded annually, at the interest rate from time to time that may be levied on final judgments in state court proceedings under the laws of the State of Texas.

(c) The Board may adopt a procedure to enable the System to offset any future payments which may otherwise be due to any person in order to recover any erroneous payments previously made by the System and the Board shall have the right to take any and all additional action, including the bringing of a lawsuit, the Board deems necessary to gain restitution of funds described in this Section.

(d) In the event the System determines that a person is entitled to additional benefits, the System shall promptly pay the amounts then due.

Section 6.21 Membership Effective After February 28, 2011

Persons who first become Members of the System after February 28, 2011 will have benefits determined on the same basis as Members of Group B hired prior to March 1, 2011, except as follows:

- (a) Such Member shall have vested rights only after accruing twenty (20) years of Pension Service. Normal Retirement Age shall be the attainment of age 55 and completion of twenty (20) years of Pension Service, and service retirement benefits shall not commence before Normal Retirement Age. Such Member shall not be entitled to the Certificate of Member Pension Benefit Eligibility.
- (b) The three percent (3%) multiplier contained in subsections 6.02(b) and 6.04(f) shall be replaced by a two percent (2%) multiplier for the first twenty (20) years of Pension Service, and a two and one-half percent (2.50%) multiplier for years of Pension Service after twenty (20) years through twenty-five (25) years of Pension Service and the three percent (3%) multiplier shall continue to apply only for years of Pension Service in excess of twenty-five (25) years. The Member shall not accrue a monthly pension that exceeds ninety percent (90%) of the Member's average Computation Pay.
- (c) The requirements that must be met to commence and continue to receive monthly Disability Retirement benefits for the first twenty-four (24) months of disability remain the same as for a person who became a Member before March 1, 2011. Disability Retirement benefits shall be discontinued at any time after being received for at least twenty-four (24) months if the Board determines that such Member is able to engage in any gainful employment for which he or she is qualified by reason of training, education or experience.

- (d) The monthly death benefit for a surviving Spouse or Dependent Parent who is a Qualified Survivor, or for surviving children who are Qualified Survivors as a group, shall be fifty percent (50%) of the monthly pension the deceased Member had accrued at the time of termination of Active Service (or, in the case of a Member who dies while on Active Service, the benefit he would have received if he had left Active Service on the date of death, but not less than twenty-five percent (25%) of the Member's Average Computation Pay). In the case of a Pensioner, the death benefit for a surviving Spouse or Dependent parent who is a Qualified Survivor, or for surviving children who are Qualified Survivors as a group, shall be fifty percent (50%) of the retirement pension the Pensioner was receiving at the time of death.
- (e) The highest average Computation Pay of the Member shall be determined for all purposes over sixty (60) consecutive months, rather than thirty-six (36) months, of Pension Service in which the Member received the highest Computation Pay.
- (f) If the Member retires under subsection 6.05(c) due to an injury or sickness incurred in the performance of the Member's duties, the monthly benefit provided by that Subsection shall equal fifty percent (50%) of such Member's average Computation Pay.
- (g) If the Member becomes a DROP participant, the Member's DROP account will not be credited with interest pursuant to Subsection 6.14(d).

Part 7. Medical Expense Benefits.

Sec. 7.01. Establishment of Account.

The Board shall have the authority to establish and pay the start-up costs for a separate Medical Expense Account that is a part of the Combined Pension Plan administered by the Pension System and satisfies the requirements of Section 401(h) of the Code. The Board shall determine the terms of the Medical Expense Account.

Sec. 7.02. Status of Account.

Any Medical Expense Account created pursuant to this Part along with the Combined Pension Plan shall be promptly submitted to the Internal Revenue Service for a new determination letter.

Part 8. Amendment of Pension System.

Sec. 8.01. Amendment.

(a) The Members of the plans within the Pension System have previously amended the Pension System by establishing Plan A and Plan B pursuant to Sections 11A and 11B, respectively, of Article 6243a and establishing this Article. The Members of the plans within the Pension System may further amend any plan within the Pension System in any manner, including but not limited to amendments to:

(1) benefits or eligibility requirements for those benefits, or both; or

(2) create a new plan or amend or restate any existing plan within the Pension System that embodies changes in addition to those set forth in Paragraph (1) of this Subsection if:

(A) the amendment is first approved as being actuarially sound by a Qualified Actuary selected by a majority vote of the Board;

(B) the amendment is approved by a majority of the Board;

(C) 65 percent of the votes cast by Members of the Pension System are cast in favor of the amendment, the voting to be made by secret ballot; and

(D) the amendment does not deprive any Member of any plan within the Pension System of any of the benefits that have become fully vested or nonforfeitable to the Member unless the Member:

(i) executes a written consent to participate in the amended plan; and

(ii) has qualified under the amended plan.

(b) Any amendment made pursuant to this Section may not in any manner affect any rights or responsibilities existing under Article 6243a or create any new rights or responsibilities except as fully set forth in the adopted amendment.

(c) Any amendment made pursuant to this Section is not required to be ratified by the legislature, but is effective when properly recorded in the permanent records of the Pension System.

(d) Unless otherwise provided by the amendment, the amendment applies only to Members of the plans within the Pension System who are on Active Service at the time of the amendment and those other persons who may qualify under the provisions of the plan affected or created by the amendment.

(e) Before any election under this Section, the Board by majority vote shall issue a notice of the calling of the election. The notice must state the proposition to be voted upon and include verbatim the amendment sought to be made. The notice must be posted at least two weeks before the date of the election at the City Hall and at all Fire Stations and Police Stations and upon the bulletin boards at the

places where the Police Officers and Fire Fighters are assembled for duty. The balloting in that election shall be held over a period of at least three consecutive 24-hour periods. The Board shall adopt such rules and regulations governing the election procedure as it considers appropriate, as long as the rules and regulations are consistent with generally accepted principles of secret ballot and majority rule. The rules and regulations adopted by the Board shall be recorded in the minutes of the Board and made available to the Members of the Pension System.

(f) The minutes of the Board shall be reduced to writing and certified by the Administrator of the Board showing:

- (1) the proposed amendment whether to one or more plans within the Pension System;
- (2) the calling of the election and the giving of notice of the election; and
- (3) the canvassing of the votes in the election, under the general supervision of the Board, and a certification of the results by the Board at a called meeting.

(g) When reduced to writing the minutes shall become a part of the permanent records of the Pension System to be filed in the office of the secretary of the Board. The minutes are evidence of the matters contained in the minutes and are admissible in all courts and proceedings.

(h) Notwithstanding any amendment adopted under this Section, contributions by the City to the Fund shall be the same as provided for under Subsection 4.02(d) of this Article. Any change in the rate of the City's contributions to the Fund may only be made in accordance with Subsection 4.02(b) of this Article.

Part 9. Treatment Under Federal and State Law.

Sec. 9.01. Qualification Under Federal Tax Law.

(a) The plans within the Pension System and the assets of the Fund are intended to qualify under Section 401 of the Code, be exempt from federal income taxes under Section 501(a) of the Code, and conform at all times to applicable requirements of law, regulations, and orders of duly constituted federal governmental authorities. Accordingly, if any provision of this Article is subject to more than one construction, one of which will permit the qualification of a plan that is within the Pension System, that construction that will permit the plan to qualify and conform will prevail.

(b) The plans within the Pension System as well as the assets of the Fund shall be maintained for the exclusive benefit of Members and their beneficiaries. At no time before the termination of all the plans within the Pension System and the satisfaction of all liabilities with respect to Members and their beneficiaries under all plans shall any part of the principal or interest from the assets of the Fund be used for or diverted to purposes other than the exclusive benefit of the Members and beneficiaries.

(c) (1) Notwithstanding any other provisions of this Article, the Annual Benefit provided with respect to any Member in any Limitation Year shall not exceed the amount permitted by Section 415(b) of the Code for such Year, and the sum of the Member contributions and all other Annual

Additions for any Limitation Year shall not exceed the amount permitted under Section 415(c) of the Code for that Limitation Year. If the aggregated Annual Benefit or aggregated Annual Additions under any qualified plans created under this Article and any other defined benefit plan or plans maintained by the City would otherwise exceed the limitations of Section 415 of the Code, the required reductions in benefits, or contributions shall first be made to the extent possible from the other plan or plans.

(2) Notwithstanding anything contained in this Section to the contrary, the limitations, adjustments, and other requirements prescribed by this Section shall at all times be computed in the manner most favorable to the affected members, to the extent permitted by guidelines issued by the Internal Revenue Service. If any provision of Section 415 of the Code is repealed or is not enforced by the Internal Revenue Service, that provision may not reduce the benefits of any Member after the effective date of the repeal of the provision or during the period in which the provision is not enforced.

(3) Any benefit reductions that are required to be made pursuant to this Subsection (c) of this Section shall be applied to reduce the monthly benefit that would otherwise have been payable to the Member unless the value of the Member's Deferred Retirement Option Plan Account accrued pursuant to Section 6.14 exceeds the amount that may be paid under this Section. If the value of the Deferred Retirement Option Plan Account exceeds the value of the payments that may be made under this Section, the Member shall receive a lump sum payment from such Account of the maximum amount that may be paid under this Section and such payment shall permanently reduce the benefits the Member would otherwise have been entitled to receive under the Combined Pension Plan.

(d) A Member's retirement pension may not begin later than April 1 of the year after the later of the year in which the Member leaves Active Service or the year in which the Member attains age 70½ and shall at all times comply with the requirements of Section 401(a)(9) of the Code.

(e) Any person who receives any distribution from any plan within the Pension System that is an eligible rollover distribution as defined by Section 402(c)(4) of the Code is entitled to have that distribution transferred directly to another eligible retirement plan as defined in Section 402(f)(2)(A) of the Member's or beneficiary's choice on providing direction regarding that transfer to the Administrator in accordance with procedures established by the Administrator.

(f) The annual compensation taken into account for any purpose under the Combined Pension Plan may not exceed \$200,000 for any calendar year for an eligible participant. The Annual compensation taken into account for any ineligible participant shall not exceed \$150,000 per year for any year beginning before 2002, or \$200,000 for any year beginning after 2001, for an ineligible participant. For a Group A Member the term "annual compensation" means the aggregate of the Member's Base Pay. For a Group B Member the term "annual compensation" means the aggregate of the Member's Computation Pay for any given plan year. These dollar limits shall be adjusted from time to time in accordance with guidelines provided by the Secretary of the Treasury. For purposes of this paragraph, an eligible participant is any person who first became a Member before 1996, and an ineligible participant is any Member who is not an eligible participant.

(g) (1) The Normal Retirement Age for a person who first became a Member of this Combined Pension Plan before March 1, 2011, shall be the earlier of: (i) attainment of age 50 and completion of 5 years of Pension Service, or (ii) completion of 20 years of Pension Service.

(2) The Normal Retirement Age for a person who first became a Member after February 28, 2011, shall be the attainment of age 55 and completion of twenty (20) years of Pension Service.

The retirement benefit earned by a Member shall become non-forfeitable upon attainment of Normal Retirement Age (if not already non-forfeitable). In addition, the retirement benefit earned by a Member shall become non-forfeitable, to the extent funded (if not already non-forfeitable), upon the termination or partial termination of this Combined Pension Plan or the complete discontinuance of City contributions to the Fund.

(h) Forfeitures arising under this Combined Pension Plan may not be used to increase the benefits any Member would otherwise receive under the terms of the Plan.

(i) The Board shall have the authority to amend this Combined Pension Plan to the extent necessary to assure that the Plan continually meets the qualification requirements of the Code or any other applicable Federal law.

(j) Effective January 1, 2002, and subject to procedures adopted by the Board, the System shall accept an eligible rollover distribution from another eligible retirement plan as defined in Section 402(f)(2)(A) of the Code in payment of all or a portion of any payment a Member is permitted to make to the System for past Pension Service credit. The System shall separately account for any after tax contributions transferred from any such plan.

Sec. 9.02. Excess Benefit Plan for Police Officers and Fire Fighters.

Effective on and after August 20, 1996, there is created outside the Pension System a separate “Qualified Governmental Excess Benefit Arrangement” containing the following terms and provisions:

(a) (1) All definitions prescribed by Section 2.01 of this Article are applicable to the plan created pursuant to this Section except:

(A) if a different definition is set forth in this Subsection; or

(B) the context in which a term is used in this Section indicates a different meaning is clearly intended than that prescribed by Section 2.01 of this Article.

(2) “Excess Benefit Plan” means this separate, unfunded “Qualified Governmental Excess Benefit Arrangement” as created by this Section, as amended or restated from time to time, which shall be maintained solely for the purpose of providing Members of the Pension System with that part of the Members’ benefits that would have been provided under one or more of the Qualified Plans in the Pension System but for the limitations imposed by Subsection 9.01(c) and Section 415 of the Code.

(3) “Qualified Plan” means any plan maintained within the Pension System or maintained by the City outside the Pension System for the exclusive benefit of some or all of the

employees of the City if the plan has been found by the Internal Revenue Service to be qualified or has been treated by the City as a Qualified Plan under Section 401 of the Code.

(4) “Maximum Benefit” means the retirement benefit a Member or, the Spouse, any Child, or any Dependent Parent of a Member if those persons are entitled, is entitled to receive from all Qualified Plans in any month after giving effect to Subsection 9.01(c) of this Article and any similar provisions of any other Qualified Plans designed to conform to Section 415 of the Code.

(5) “Excess Benefit Participant” means any Member whose retirement benefits as determined on the basis of all Qualified Plans without regard to the limitations of Subsection 9.01(c) of this Article and comparable provisions of other Qualified Plans would exceed the Maximum Benefit permitted under Section 415 of the Code.

(6) “Unrestricted Benefit” means the monthly retirement benefit a Member, or the Spouse or any Child of a Member, would have received after December 31, 1994, under the terms of all Qualified Plans except for the restrictions of Subsection 9.01(c) of this Article and any similar provisions of any other Qualified Plans designed to conform to Section 415 of the Code.

(b) (1) An Excess Benefit Participant who is receiving benefits from an applicable Qualified Plan is entitled to a monthly benefit under this Excess Benefit Plan in an amount equal to the lesser of:

(A) the Member’s Unrestricted Benefit less the Maximum Benefit; or

(B) the amount by which the Member’s monthly benefit from the Qualified Plan or plans approved by the Members has been reduced due to the limitations of Section 415 of the Code.

(2) In the case of the death of an Excess Benefit Participant whose Spouse or Child is entitled to preretirement or postretirement death benefits under a Qualified Plan, the Excess Benefit Participant’s surviving Spouse or Child is entitled to a monthly benefit under the Excess Benefit Plan equal to the benefit determined in accordance with the Qualified Plans without regard to the limitations under Subsection 9.01(c) of this Article or Section 415 of the Code, less the Maximum Benefit.

(3) A retirement benefit payable under this Excess Benefit Plan shall be paid in the form and at the time it would have been paid under the applicable Qualified Plan except for the limitations under Section 415 of the Code, provided, however, if a Member is required pursuant to Subsection 9.01(c) of this Article to receive a portion of his benefit from his Deferred Retirement Option Plan Account, an amount equal to any portion of the Deferred Retirement Option Account that may not be distributed from such Account pursuant to Subsection 9.01(c) of this Article shall be distributed from this Plan, as soon as administratively feasible after such amount can be determined. Under no circumstances may any Member be able to defer or accelerate any distribution under this Excess Benefit Plan.

(c) (1) This plan shall be administered by the Board, and the Administrator shall also carry out the business of the Board with respect to this Excess Benefit Plan. Except as provided to the

contrary by this Subsection, the rights, duties, and responsibilities of the Board and Administrator shall be the same for this Excess Benefit Plan as for the qualified pension plans within the Pension System.

(2) The Qualified Actuary employed pursuant to Section 4.08 of this Article is responsible for determining the amount of benefits that may not be provided under the Qualified Plans solely by reason of the limitations of Section 415 of the Code and thus the amount of City contributions that will be made to this Excess Benefit Plan rather than to a Qualified Plan.

(3) The legal advisors described by Section 3.03 of this Article shall also provide advice to the Board for this Excess Benefit Plan.

(4) Except as provided to the contrary by this Subsection, the rights, duties and responsibilities of the Excess Benefit Participant and the survivors of the Excess Benefit Participant shall be the same as for the qualified plans within the Pension System.

(d) Contributions may not be accumulated under this Excess Benefit Plan to pay future retirement benefits. Instead, each payment of City contributions that would otherwise be made to the Fund pursuant to Section 4.02 of this Article or comparable provisions of other Qualified Plans approved by the Members shall be reduced by the amount determined by the Administrator as necessary to meet the requirements for retirement benefits under this Excess Benefit Plan until the next payment of City contributions is expected to be made to the Fund by the City. The City shall then pay to this Excess Benefit Plan, out of the withheld City contributions no earlier than the 14th day before the date of each distribution of monthly retirement benefits is required to be made from this Excess Benefit Plan, the amount necessary to satisfy the obligation to pay from this Excess Benefit Plan monthly retirement benefits. The Administrator shall satisfy the obligation of this Excess Benefit Plan to pay retirement benefits out of the City contributions so transferred for that month. The City contributions otherwise required to the Pension System pursuant to Section 4.02 of this Article and any other Qualified Plan approved by the Members shall be divided into those contributions required to pay retirement benefits pursuant to this Section and those contributions paid into and accumulated to pay the Maximum Benefits required under the Qualified Plans. City contributions made to provide retirement benefits pursuant to this Section may not be commingled with the moneys of the Fund or any other Qualified Plan.

(e) Amendments to this Excess Benefit Plan shall be made in the same manner provided by Section 8.01 of this Article.

Sec. 9.03. Exemption of Benefits From Judicial Process or Alienation.

(a) A portion of the Fund or benefit or amount awarded to any Primary Party, Qualified Survivor, beneficiary of a Member's DROP account, Excess Benefit Participant, or survivor of an Excess Benefit Participant under this Article may not be held, seized, taken, subjected to, or detained or levied on by virtue of any execution, attachment, garnishment, injunction, or other writ, order, or decree, or any process or proceedings issued from or by any court for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demands, or judgment against any person entitled to benefits from any plan within the Pension System and the Excess Benefit Plan. The Fund and the Excess Benefit Plan or any claim against the Fund or the Excess Benefit Plan may not be directly or indirectly assigned or transferred, and any attempt to transfer or assign the Fund or the Excess Benefit Plan or a claim against the Fund or the Excess Benefit Plan is void.

(b) A benefit under any plan created or existing pursuant to this Article or Article 6243a is subject to division pursuant to the terms of a Qualified Domestic Relations Order. The Administrator shall determine the qualifications of a domestic relations order according to a uniform, consistent procedure approved by the Board. The total benefit payable to a Primary Party or to an Alternate Payee under a Qualified Domestic Relations Order may not actuarially exceed the benefits to which a Primary Party would be entitled in the absence of the Qualified Domestic Relations Order. In calculating the Alternate Payee's benefits under a Qualified Domestic Relations Order, the interest rate is the rate used by the Pension System's actuary in the actuarial evaluation for that year, except that the minimum interest rate for this purpose is the minimum required by Section 414 of the Code.

(c) This Section does not preclude the payment of death benefits to a trust for certain Children of a Primary Party pursuant to Subsection 6.06(m) of this Article.

(d) The preceding provisions of this Section shall not preclude the withholding of Federal taxes from pension benefits, the recovery by the Trustees of overpayments of benefits previously made to any person, the direct deposit of benefit payments to an account in a bank, savings and loan association or credit union (provided such arrangement is not an alienation), or, pursuant to any policy adopted by the Board and uniformly applied to any voluntary arrangement by a Primary Party or Qualified Survivor, any voluntary and revocable arrangement by a Pensioner or a Qualified Survivor for the withholding and direct payment of health care or life insurance premiums or similar payments from his or her monthly benefit payments. An attachment, garnishment, levy, execution or other legal process is not considered a voluntary arrangement.