

SHELBY COUNTY, TENNESSEE, RETIREMENT SYSTEM

PLAN B

AS AMENDED AND RESTATED

GENERALLY EFFECTIVE JANUARY 1, 2007

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through 07/25/2011

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ARTICLE 1
DEFINITIONS

As used in this Plan, the following words and phrases shall have the respective meanings set forth below, unless otherwise clearly required by the context. Other definitions not defined in this Article may appear in the Plan.

"Accrued Benefit" means the Pension to which a Participant would be entitled as of the earliest date such Pension would be payable if he Terminated on the relevant date, based on his age, his Final Average Earnings, and his Credited Service. The relevant date shall be the Restatement Effective Date, the date of Termination, and any other relevant date. The calculation of a Participant's "Accrued Benefit" shall not take into consideration (a) any future cost of living adjustments or (b) any Survivor Pension under Article 6.

"Accumulated Contributions" mean the sum of all Required Contributions made by a Participant, together with the interest accrued before April 1, 1967 pursuant to the Prior Plan Provisions.

"Active Participant" See "Participant."

"Actuary" means a qualified actuary selected by the Board of Administration who is a member of the American Academy of Actuaries or who is enrolled by the Joint Board for Enrollment of Actuaries and who performs the annual actuarial valuations and other computations required under the System.

"Annual Benefit" shall have the meaning provided under Treasury Regulation 1.415(b)-1(b). "Annual Benefit" See 7.7.4, "415 Definitions."⁸

"Averaging Period" shall mean a Participant's period of total Credited Service, not in excess of 36 consecutive calendar months (whether or not the Participant received Credited Service for all of such calendar months)⁸, over which his Final Average Earnings is as high as possible. Notwithstanding the foregoing, in the case of either a County-to-City Transfer Employee or a City-to-County Transfer Employee, his Averaging Period shall include not only calendar months completed for his last employer but, if necessary to add up to 36 consecutive calendar months, shall include calendar months completed for his prior employer, whether or not his Final Average Earnings during such 36 consecutive calendar months is his overall highest.⁵

"Beneficiary" means each person who becomes entitled to benefits as a result of the Participant's death and shall include, to the extent applicable, his surviving Spouse, his Eligible Children, his Eligible Parent(s), and his Named Beneficiary.

"Named Beneficiary" is defined in 7.8.

"Designated Beneficiary" shall mean the individual who is designated as a beneficiary under the Plan in accordance with IRC 401(a)(9) and the Treasury Regulations thereunder.

"Board" means the Board of Administration and Trust of the Shelby County Retirement System, as more fully set forth in that separate County resolution titled "Administration and Trust Agreement of the Shelby County, Tennessee, Retirement System."

"City" means the City of Memphis, Tennessee.

"City Plan" means the 1948 Plan under the City of Memphis Retirement System under City Ordinance Chapter 25, Articles I through VII, other than Article VII, Division 2.

"City-to-County Transfer Employee" means a Participant in this Plan who was last a participant or member of the City Plan prior to becoming an Employee of the County and who became an Employee of the County as a direct result of one or more of the following events:

- (a) the legal consolidation of any agency, board, commission, or other entity, regardless of its name, which was being administered by the City in whole or in part prior to such administration being assumed by the County;
- (b) the cessation of operation or function by any agency, board, commission, or other entity, regardless of its name, which was being administered by the City in whole or in part prior to such cessation;
- (c) the direct transfer of the Employee to the County for the convenience of County government, provided such transfer receives the approval of the Board.⁸

"City Transfer Service" shall mean creditable service, to the date of transfer from the City, determined in accordance with the terms of the City Plan as applicable to such Employee immediately prior to the date of transfer; provided, however, that in computing such service, no credit shall be given for periods of time for which the Employee either received a refund of

contributions or for other periods of time not counted as creditable service in accordance with the terms of the City Plan.

"COLA" means cost of living adjustment based in part upon the Consumer Price Index; the COLA applies to annual adjustments in the amounts of certain Pensions.⁴

"Commission" or "County Commission" means the Shelby County, Tennessee, Board of Commissioners.

"Commissioner" means a member of the Shelby County Board of Commissioners.

"Consumer Price Index" shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers as measured by the United States City Average for all items, published by the Bureau of Labor Statistics, and adjusted as may be necessary by the Actuary for any change in the index or its base.⁴

"County" means Shelby County, Tennessee.

"County-to-City Transfer Employee" shall mean a person who was a Participant in this Plan prior to becoming an employee of the City and who became an employee of the City as a direct result of one, or any combination, of the following events:

- (a) the legal consolidation of any agency, board, commission, or other entity, regardless of its name, which was being administered by the County in whole or in part prior to such administration being assumed by the City;
- (b) the cessation of operation or function by any agency, board, commission, or other entity, regardless of its name, which was being administered by the County in part or in whole prior to such cessation;
- (c) the direct transfer of the employee to the City for the convenience of City government, provided such transfer receives the approval of the Board.⁸

"County Transfer Service" means all Credited Service of a County Employee prior to the date of his transfer from County to City employment, determined as if such County Employee were then eligible for a Deferred Vested Retirement Pension (whether or not his years of Credited Service were then sufficient) or an Early Retirement Pension.

"Credited Service" is defined in 3.1.

"Total Credited Service" shall mean (a) the combination of a City-to-County Transfer Employee's City Transfer Service and Credited Service earned while a Participant in this Plan and (b) the combination of a County-to-City Transfer Employee's County Transfer Service and years of service earned while a Participant in the City Plan.

"Current Service" See "Service."

"Day" shall mean a twenty-four hour day commencing at midnight and ending at 11:59 p.m.

"Deferred Vested Pension" See "Pension."

"Designated Beneficiary" See "Beneficiary."

"Disability" means, for purposes of entitlement to a Disability Pension under the provisions of the Plan, the inability of a person to properly perform the usual and regular duties of his employment position, or similar duties, as a consequence of (i) any medically determinable bodily injury or impairment resulting therefrom, (ii) any disease, or (iii) any mental disorder, provided that such condition is reasonably expected (A) to persist for a continuous period of at least 12 months from its onset or (B) to result in death within such 12 month period. Notwithstanding the foregoing, Disability does not include any physical or mental condition which results directly or indirectly from the Participant's gross or willful (including criminal) misconduct.

"Disability Pension." See "Pension".

"Disabled Participant" means a Participant who is under a Disability incurred while an Active Employee.

"Earnings" paid to the Participant by the Employer (or, in the case of a City-to-County Transfer Employee or a County-to-City Transfer Employee to which the definition of "Earnings" is relevant, by the City)⁵ for the relevant period means compensation within the meaning of IRC 3401(a) (for purposes of income tax withholding at the source), as reportable in Box 1 of the Participant's W-2 form, including (i) base salary, (ii) shift differentials, (iii) hazardous duty pay, and (iv) longevity pay: (a) increased by compensation contributed or deferred by the Employer at the election of the Participant and not includable in Box 1 of the Participant's W-2 by reason of IRC 125 (cafeteria plans), IRC 402(g)(3) (deferrals under IRC 401(k) and 403(b) plans), or IRC 457 (non-qualified deferred compensation plans of state and local governments and tax-exempt organizations); and

(b) decreased by (i) overtime earnings, (ii) payment for accumulated unused sick days, and (iii) all other extraordinary compensation not included in the salary scale of the Participant's position and not otherwise stated to be included in the term "Earnings."

Notwithstanding the foregoing, if the Participant is otherwise eligible under the terms of the Plan, then for purposes of determining a Participant's Accrued Benefit and his Final Average Earnings, the "Earnings" of a Participant during Qualified Military Service shall be (x) the Earnings the Participant would otherwise have received during the period of Qualified Military Service, determined based on the rate of compensation the Participant would have received from the Employer but for absence during the period of Qualified Military Service or (y) if the compensation the Participant would have received during such period was not reasonably certain, the Participant's average Earnings during the 12-month period immediately preceding the Qualified Military Service (or, if shorter, the period of employment immediately preceding the Qualified Military Service).

"Eligible Child" means a legal child of a Participant, whether adopted or natural and whether born in or out of a lawful marriage, who at the relevant time (a) has not attained the age of 18 or (b) regardless of age, is permanently and severely handicapped as determined by the Board. The "relevant time" shall be each consecutive day after a Participant's death upon which a Survivor Pension may be payable as a result of his death. Once a child of a Participant has lost his status as an Eligible Child for any reason, such child may never again become an Eligible Child.

"Eligible Employee" means (a) each Employee who, pursuant to Prior Plan Provisions, was a Participant in Plan B on November 30, 1978 and who did not elect to become a participant in Plan A pursuant to Prior Plan Provisions, (b) each City-to-County Transfer Employee, regardless of whether he became a County Employee before or after December 1, 1978, and (c) each Employee who was formerly a Disabled Participant, whose Disability ceases, and who again becomes an Employee within 90 days after his Disability Pension is terminated. Notwithstanding the foregoing, "Eligible Employee" shall not include any person who is actively accruing Credited Service as a member of Plan A, Plan C, or Plan D. Furthermore, "Eligible Employee" shall not include any Employee whose services were performed for the State District Attorney General or the State Agricultural Extension office before termination of such employment, whose compensation and

benefits had been subsidized (rather than fully paid) by Shelby County, and who is subsequently employed by the County in a full-time or part-time position; such Employee, if otherwise eligible, shall thereupon become a participant in Plan C (or, after June 30, 2011, Plan D), and his pension benefits from such other plan shall be calculated without consideration of his years of Credited Service in this Plan B.

"Eligible Parent" means a legal parent of a Participant who at the time of the Participant's death was financially dependent upon him.

"Eligible Retirement Plan" means: an individual retirement account as described in IRC 408(a); an individual retirement annuity as described in IRC 408(b) (other than an endowment contract); an annuity plan as described in IRC 403(a) [except as a recipient of non-taxable distributions]; another qualified plan/trust described in IRC 401(a) that is exempt from tax under IRC 501(a) and that accepts rollover distributions [and, in the case of a recipient of non-taxable distributions, that separately accounts for amounts so transferred and the earnings thereon]; an eligible deferred compensation plan described in IRC 457(b) which is maintained by an eligible employer described in IRC 457(e)(1)(A) [except as a recipient of non-taxable distributions]; and an annuity contract described in IRC 403(b).⁸

"Eligible Rollover Distribution" means any distribution to which a Participant or Named Beneficiary is entitled other than a distribution of substantially equal periodic payments over the life or life expectancy of the Participant (or joint life or joint life expectancies of the Participant and his beneficiary) or a distribution over a period certain of 10 years or more. Amounts required to be distributed under IRC 401(a)(9) are not Eligible Rollover Distributions.⁸ Furthermore, amounts included in a distribution that would not be includible in gross income for federal income tax purposes if not subject to the direct transfer option are not, to that extent, Eligible Rollover Distributions.

"Employee" means (a) any person who performs services for the County, is paid for such services by the County, and receives from the County on an annual basis a federal form W-2, (b) any person who performs services for another Employer that is a Governmental Entity, is paid in whole or in part by the County, and receives from the County on an annual basis a federal form W-2; and (c) any person who performs services for another Employer which is a Governmental Entity, is paid in whole or in part by such other Employer, and receives from such other Employer on an annual basis a federal form W-2.

"Employer" means (a) the County and, (b) where applicable, any other Governmental Entity whose employees are Participants in the Plan.

"Final Average Earnings"⁵ means, for a Participant who has at least 36 months of Credited Service (including, in the case of a City-to-County Transfer Employee or a County-to-City Transfer Employee, service for the City that would have been Credited Service for the County if it had been performed for the County) in his Averaging Period, a monthly amount equal to the total Earnings in his Averaging Period divided by 36. For a Participant who has fewer than 36 months of Credited Service in his Averaging Period, Final Average Earnings means the Employee's total Earnings in his Averaging Period divided by the number of Months of Credited Service in his Averaging Period.

"Full-Time Employee" means any Active Participant who is identified and classified for payroll purposes as a "full-time employee."

"Fund" or "Trust Fund" shall mean the assets maintained under the System, in accordance with the Trust Agreement of the Shelby County, Tennessee Retirement System.

"Funding Rate" means the interest rate used by the Actuary to calculate the County's contribution requirement to the Plan for a Plan Year, which interest rate includes consideration of the expected asset return of the Trust Fund and the discounting of future benefit payments.⁷ Effective for the Plan Year beginning July 1, 2011 and for successive Plan Years until amended, the Funding Rate shall be 8.0%.^{7,8}

"Governmental Entity" means the County, the United States of America, the State of Tennessee, the City of Memphis, and/or any agency or instrumentality of any of the foregoing.

"IRC" means the Internal Revenue Code of 1986, as amended.

"Limitation Year" means the calendar year.

"Line of Duty Death" shall mean a death which proximately results from an accident or injury arising out of and in the course of a Participant's Employment.

"Line of Duty Disability Pension" shall mean a Disability Pension which proximately results from an accident or injury arising out of and in the course of a Participant's Employment.

"Month" shall mean, for purposes of computing benefits, a 30 day period.

"Named Beneficiary" See definition of "Beneficiary."

"Normal Retirement Date" shall mean the date a Participant attains age 60 (age 55 if the Participant is a Deputy Sheriff).

"Participant" unless the context clearly indicates otherwise, means an individual who is or was an Eligible Employee, who has met all the requirements for participating in the Plan, and who is either an Active Participant, a former Active Participant who is engaged in Qualified Military Service, a Disabled Participant, a Pensioned Participant, or a Terminated Participant.⁸

"Active Participant" is a Participant who is actively employed by and performing Service for his Employer at the relevant time and further includes a County-to-City Transfer Employee while he is employed by the City; provided that a Participant who dies while performing Qualified Military Service shall be deemed to have resumed his status as an Active Participant the day prior to his death for purposes of determining whether and to what extent his Survivors are entitled to benefits under this Plan.⁸

"Pensioned Participant" is a Terminated Participant who is actually receiving a Pension from the Plan.

"Terminated Participant" is a Participant who Terminated before his Service Retirement Eligibility Date, who was entitled to receive a Deferred Vested Pension, but who, at the relevant time, was not yet eligible to begin receiving such Pension.

"Part-Time Employee" means any County Employee who is identified and classified for payroll purposes as a "part-time employee."

"Pension" means a benefit payment to which a Participant or a Beneficiary is entitled under the Plan.

"Disability Pension" means the Pension being paid before the Restatement Effective Date to a Terminated Participant as a result of Disability incurred before the Restatement Effective Date and further includes the Pension to which a Participant is entitled under Article 5 after the Restatement Effective Date.

"Deferred Retirement Pension" means a Pension earned by a Terminated Participant who was under the age of 60 at the

time of his Termination but who had completed at least 10 years, but fewer than 25 years, of Credited Service prior to his Termination.

"Service Retirement Pension" means a Pension payable to a Participant whose Termination occurs on or after his Service Retirement Eligibility Date.

"Survivor Pension" means a Pension to which a Participant's survivors (including his Spouse, his Eligible Child(ren), or his Eligible Parent(s)) are entitled under Article 6 as a result of the Participant's death.

"Pensioned Participant" See "Participant."

"Plan" or "Plan B" means the Shelby County Retirement System Plan B, effective September 1, 1949, and shall include all restatements and amendments thereto, including this Amendment and Restatement.

"Plan A" means the Shelby County Retirement System Plan A, originally effective December 1, 1978, and shall include all restatements and amendments thereto.

"Plan C" means the Shelby County Retirement System Plan C, originally effective September 1, 2005, and shall include all restatements and amendments thereto.

"Plan D" means the Shelby County Retirement System Plan D, originally effective July 1, 2011.⁸

"Plan Year" means the fiscal year ending on June 30.

"Prior Plan Provisions" means the substantive (as opposed to procedural) provisions of Plan B prior to Restatement Effective Date.

"Prior Service Certificate" means, with respect to each Active Participant as of the Restatement Effective Date, a document setting forth the Credited Service earned by him before the Restatement Effective Date and whether or not he was then eligible for a Service Retirement Pension or a Deferred Vested Pension.

"Qualified Military Service" means any service in the uniformed services (as defined in chapter 43 of title 38, United States Code) by any individual is such individual is entitled to reemployment rights under such chapter with respect to such service.

"Required Beginning Date" means the later of April 1 following the calendar year in which the Participant attains age 70 ½, or April 1 following the calendar year in which the Employee Terminates.

"Required Contribution" means eight percent (8%) of a Participant's Earnings, provided, however, that, for an Active Participant with 35 years of Credited Service, the Required Contribution shall be calculated only on that portion of his Earnings in excess of the amount of his Earnings as of the date upon which he completed 35 years of Credited Service.

"Restatement Effective Date" means January 1, 2007.

"Retirement Pension" means Service Retirement Pension and Deferred Retirement Pension but does not include Disability Pension and Survivor Pension.

"Retirement System" See "System."

"Service" shall mean the number of years, Months, and Days in any period of time during which a person is an Employee and performs services as such for his Employer. Unless otherwise required by the context, "Service" also includes service of a Governmental Transfer Employee as an employee of the City.

"Current Service" means the number of years, Months, and Days for which an Active Participant is paid by his Employer on and after the Restatement Effective Date.

"Service Retirement Eligibility Date" means the earlier of (1) the date upon which the Participant completes 25 years of Credited Service; or (2) the date upon which the Participant attains age 60 (age 55 if the Participant is a Deputy Sheriff), having then completed 10 years of Credited Service.

"Service Retirement Pension." See "Pension".

"Spouse" means the person who has been legally married (as determined under the laws of the State) to the Participant for at least three consecutive years at the relevant time, except that, in the case of entitlement to a Survivor Pension following a Line of Duty Death under 6.4, "Spouse" means the person who was legally married (as determined by the laws of the State) to the Participant at the relevant time.³ For the purpose of determining eligibility for a Survivor Pension, the "relevant time" is the day prior to the Participant's death.

"State" means the State of Tennessee.

"Survivor Pension" See "Pension."

"System" or "Retirement System" means the "Retirement System of Shelby County, Tennessee," including all constituent plans.

"Temporary Employee" shall mean any County Employee who is identified and classified for payroll purposes as a "temporary employee."

"Terminated Participant" See "Participant."

"Termination" or "Termination of Employment" means termination of employment as an Employee of the Employer for any reason, including death; provided, however, that for purposes of entitlement to any benefit payments, a County-to-City Transfer Employee shall be deemed to have incurred a termination of employment only upon his termination from the City.

"Terminate," "Terminated," and other capitalized terms derived from the same root word shall be interpreted consistently.

"Total Credited Service" See "Credited Service."

"Trust" means the trust established under the Trust Agreement.

"Trust Agreement" means the "Administration and Trust Agreement of Shelby County, Tennessee, Retirement System."

"Trust Fund" See definition of "Fund."

ARTICLE 2
PARTICIPATION

2.1 Participation as a Condition of Employment. Participation in the Plan is a continued condition of employment for each Eligible Employee.

2.2 City-to-County Transfer Employees. Each City-to-County Transfer Employee must present to the Board a City Transfer Service Certificate containing a statement of his City Transfer Service. The Board has authority to review and accept City Transfer Service Certificates.⁸

2.3 Agreement to Furnish Information; Waiver of Confidentiality. Each Eligible Employee agrees, upon request of the Board, to furnish facts and information about his pension benefits from Social Security or any other tax-supported entity as well as any other information regarding his earnings. As both a condition of participation and a condition of employment, each Participant waives all rights to confidential records required by the Board for administration of the Plan. The types of records which may be required include, but are not limited to, records maintained by physicians, the Social Security Administration, and the Internal Revenue Service. The Board will respect the confidential nature of all information not subject to Sunshine laws.

2.4 Continued Participation. A Participant will continue to be a Participant so long as he is either an Eligible Employee who is an Active Participant (or former Active Participant who is engaged in Qualified Military Service)⁸, is eligible to receive a Pension under the Plan, or is actually receiving a Pension under the Plan.

ARTICLE 3
CREDITED SERVICE

3.1 Credited Service. Except as otherwise set forth herein, "Credited Service" means (a) the number of years, Months, and Days of Service set forth in a Participant's Prior Service Certificate and (b) Service on and after the Restatement Effective Date for which an Active Participant is paid by his Employer. "Credited Service" additionally includes the number of years, Months, and Days during which a Participant performed Qualified Military Service (provided the Participant is otherwise eligible under the terms of the Plan). None of the time periods described in this 3.1 shall be counted more than once.

3.1.1 Unused Accumulated Sick Leave; Accrued Vacation; Bonus Days. Service represented by post-termination payments of unused accrued sick leave, unused accrued vacation days, unused "bonus days," and any other similar incentive awards granted under governing personnel policies shall not be included in Credited Service, except that, to the extent that, as of May 31, 2006, a Member has to his credit unused accrued vacation days and/or unused "bonus days," such days shall be deemed to have subsequently been used in the order of their accrual, that is, first earned, first used. If a Member terminates employment before using (or losing, pursuant to governing personnel policy) all of such days, his service represented by the remaining such days earned before June 1, 2006 and still standing to his credit shall be included in his Credited Service.

3.1.2 Extensive Unpaid Absences. A Full-Time Employee who is not paid for 51% or more of a calendar month for any reason shall receive no Credited Service for the entire month. A Part-Time Employee who is not paid for 51% of the hours normally scheduled during a calendar month shall receive no Credited Service for the entire month.

3.1.3 Exclusion of Service While Not an Eligible Employee. Credited Service shall not include any Service performed when an Employee was not an Eligible Employee.

3.1.4 Positions Without Hourly Standards. If the Board determines, in its sole discretion, a Participant's employment position does not lend itself to any hourly work requirements or standards, Credited Service for such Participant shall be determined as if he is paid for working a specified number of hours per calendar year, as determined by the Board in a consistent and non-discriminatory manner.

3.2 Reemployment of Terminated Participants. If a Terminated Participant is reemployed by an Employer or employed by a different Employer, such Participant shall be ineligible for accumulating any future Credited Service under Plan B and, if he meets the eligibility requirements of Plan C, shall following such subsequent employment accumulate "Credited Service" under Plan C. Any benefits he and his survivors are entitled to under this Plan (other than a benefit not calculated with respect to his years of Credited Service) shall be determined as if he were two separate Participants, one of whom Terminated on the date of his Termination with Plan B and the other of whom "Terminated" on the date of his second "Termination" under Plan C, each Terminating with a different period of Credited Service, and each with a different Final Average Earnings.

3.3 Part-Time Employees. Each Active Participant who is a Part-Time Employee shall be entitled to Credited Service as if he were a Full-Time Employee. Furthermore, each such Participant who normally works fewer than 12 months during a calendar year shall be entitled to Credited Service as if he had worked for 12 months during the calendar year.

3.4 City-to-County Transfer Employees. The Credited Service of a Participant who is a City-to-County Transfer Employee shall include Service contained in his City Transfer Service Certificate.

ARTICLE 4
RETIREMENT PENSIONS AND
OTHER RETIREMENT BENEFITS

4.1 Refund of Accumulated Contributions. Notwithstanding any other provisions of this Article 4, upon Termination other than as a result of his death, a Participant may elect to receive a refund of his Accumulated Contributions in lieu of a Service Retirement Pension or Deferred Retirement Pension, including minimum Pensions addressed in 4.5. Furthermore, if he elects to receive such refund, then no Survivor Pension shall be payable to his survivors.

4.2 Service Retirement Pension. The Service Retirement Pension of a Participant whose Termination occurs on or after his Service Retirement Eligibility Date shall be 2.7% of his Final Average Earnings multiplied by the lesser of (a) his years of Credited Service or (b) 25 years, plus 1% of his Final Average Earnings multiplied by his years of Credited Service in excess of 25 but no more than 35. Such Pension shall begin as of the day following his Termination after reaching Normal Retirement Date and shall be payable in arrears on the last day of each month thereafter during his lifetime.

4.3 Deferred Vested Pension.⁵ Each Participant who has completed at least 10 years of Credited Service at the time of his Termination and who is not eligible for a Service Retirement Pension shall be eligible for a Deferred Vested Pension. The amount of the Deferred Vested Pension shall be 2.7% of his Final Average Earnings multiplied the lesser of (a) his years of Credited Service or (b) 25 years, plus 1% of his Final Average Earnings multiplied by his years of Credited Service in excess of 25 but no more than 35. Such Pension shall begin upon the Participant's attainment of age 60. It shall be payable in arrears on the last day of the month in which he attains age 60 and each month thereafter during his lifetime.

4.4 Benefit Calculations for Governmental Transfer Employees.

4.4.1 City-to-County Transfer Employees. Notwithstanding the provisions of 4.2 and 4.3, a Retirement Pension otherwise payable from this Plan to a City-to-County Transfer Employee shall be calculated as the excess, if any, of:

- (a) a Retirement Pension (if any) payable hereunder to the Participant based on his Total Credited Service (not to exceed 35 years of Total Credited Service) and his Final Average Earnings as of the

date of Termination (taking into consideration all other relevant provisions of 4.1 through 4.3), over

- (b) a Retirement Pension (if any) payable to the Participant based solely on his City Transfer Service and Final Average Earnings as of the date of Termination (taking into consideration all other relevant provisions of 4.1 through 4.3).

4.4.2 County-to-City Transfer Employees. Notwithstanding other provisions of Article 4 to the contrary, if the Total Credited Service of a County-to-City Transfer Employee is at least equal to the Credited Service necessary to enable a Participant to receive a Retirement Pension under Article 4, then upon termination of his City employment he shall be entitled to the appropriate Retirement Pension. Such Retirement Pension shall be calculated as set forth in 4.2 or 4.3, whichever is applicable, but (i) his Final Average Earnings shall be that from the City (not from the County) and (ii) his years of Credited Service shall be those set forth on his County Transfer Service Certificate (not his Total Credited Service).

4.5 Minimum Pensions. Notwithstanding the provisions of 4.2 and 4.3, the minimum Retirement Pension of a Participant other than a Governmental Transfer Employee and other than a Participant who was employed by an Employer other than the County and whose compensation was merely supplemented by the County shall be \$300. Notwithstanding the provisions of 4.4, the minimum Retirement Pension of a Governmental Transfer Employee shall be \$150. Furthermore, the minimum Retirement Pension of a Participant who was employed by an Employer other than the County and whose compensation was merely supplemented by the County shall be \$150.

4.6 Reserved.

4.7 Reserved.

4.8 Reserved.

4.9 Reserved.

4.10 Minimum Distribution Rules under IRC 401(a)(9). The requirements of this section shall apply to any payments of a Participant's benefits and shall take precedence over any inconsistent provisions of the Plan. All payments required under this section shall be determined and made in accordance with the Treasury Regulations 1.401(a)(9)-0 through 1.401(a)(9)-9 except to the extent specifically not applicable to governmental plans;

all life expectancy and joint and last survivor expectancy are computed by use of the tables set forth in Treasury Regulation Section 1.401(a)(9)-9, as such tables may be amended pursuant thereto. The consent of the Participant or of the Participant's Spouse or Designated Beneficiary shall not be required to make a payment required under this section.

4.10.1 Required Beginning Date. The entire interest of a Participant must be paid or begin to be paid no later than the Participant's Required Beginning Date.

4.10.2 Duration of Benefits. Benefits to a Participant shall be paid, beginning not later than the Required Beginning Date in accordance with Treasury Regulations 1.401(a)(9), for a period not exceeding the life or life expectancy of the Participant or, if applicable, the joint lives or life expectancies of such Participant and his Designated Beneficiary. "Life expectancy" shall mean the life expectancy (or joint and last survivor expectancy) calculated by using the attained age of the Participant (or Designated Beneficiary) as of the Participant's (or Designated Beneficiary's) birthday in the applicable calendar year, provided that lifetime distributions must always satisfy the incidental death benefit requirements of IRC 401(a)(9)(G). Where the Designated Beneficiary is the Participant's spouse, life expectancies may be redetermined not less frequently than annually. The applicable calendar year shall be the first distribution calendar year, except that, if annuity payments begin before the Required Beginning Date, the applicable calendar year is the year such payments begin.

4.10.3 Payments after Death of Participant.

4.10.3.1 Payments Begun Before Death. If payment of a Participant's benefits has begun in accordance with this Plan, but the Participant dies and benefit payments are to be made after his death, then such benefit payments shall be made after his death at least as rapidly as they were under the benefit payment option in effect as of the date of his death.

4.10.3.2 Payments Not Begun Before Death. If the Participant dies before payment of his benefits begins, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death except to the extent that the provisions of either paragraph (a) or (b), below, apply:

- (a) If any portion of the Participant's interest is payable to a Designated Beneficiary other than a surviving spouse, payments may be made over the

life expectancy of the Designated Beneficiary, or over a period certain not longer than the life expectancy of the Designated Beneficiary, beginning on or before December 31 of the calendar year immediately following the calendar year in which the Participant died;

- (b) if the Designated Beneficiary is the Participant's surviving spouse, payments may be made over the life expectancy of such surviving spouse or over a period certain not longer than the life expectancy of such surviving spouse, beginning on or before the later of (1) December 31 of the calendar year immediately following the calendar year in which the Participant died; or (2) December 31 of the calendar year in which the Participant would have attained age 70 $\frac{1}{2}$. Furthermore, if the surviving spouse dies before payments to such surviving spouse begin, payments to further beneficiaries, if any, shall be required to begin as if such spouse were the Participant under this paragraph (b).

4.11 Ineligibility for Benefits While Actively Employed. Except as otherwise required by law or in 4.11, no Participant is entitled to payment of a Pension from this Plan while he is an Active Participant in the Plan (whether or not then accruing service for a pension).

4.11.1 Suspension of Retirement Pension. Except as provided in 4.11.2, the Pension then being paid to any Pensioned Participant who again becomes an Employee (whether or not he again becomes an Eligible Employee) shall immediately cease. Upon his Termination after such reemployment, his Pension shall recommence as of the first day of the following month.

4.11.2 Exception for Certain Temporary Employees. The provisions of 4.11.1 shall not apply to a Pensioned Participant under either of the following circumstances: (a) after he has attained his Normal Retirement Date and applied for his Pension, his job classification is changed to Temporary Employee or (b) after his Termination whether or not he has then attained his Normal Retirement Date, he is reemployed as a Temporary Employee. These exceptions shall apply only if the Pensioned Participant's employment as a Temporary Employee does not exceed 1,200 hours in any calendar year and, unless he holds a specialty certification and/or a license necessary for the work for which he is employed, his rate of pay is an amount equal to that of A Step (entry level) for the position in which he is employed. If the

Pensioned Participant holds a specialty certification and/or license necessary for the work for which he is employed as a Temporary Employee, his rate of pay shall be a special temporary rate established by the County's Administrator of Human Resources, which rate is applicable to all Temporary Employees employed in the same positional category. The Participant shall not be eligible to accrue additional benefits under the Retirement System by virtue of his employment as a Temporary Employee.

4.11.3⁶ Exception for Certain Pensioned Participants Who Are Election Commissioners. The provisions of 4.11.1 shall not apply to any Pensioned Participant who is appointed by the State election commission as an election commissioner, provided that he waives in writing, on a form provided by the Board, all of his rights to any benefit accrual under this Plan during his tenure as an election commissioner. Such waiver of rights shall supercede every other provision of this Plan relating to mandatory participation, Credited Service, and benefit accrual.

ARTICLE 5
DISABILITY PENSIONS

5.1 Disability Pensions Payable under This Plan. Except as provided in 5.2, no Participant shall be eligible for a Disability Pension from and after the Restatement Effective Date.

5.2 Line of Duty Disability.

5.2.1 Line of Duty Disability (Other than Governmental Transfer Employees). An Active Participant who incurs a Line-of-Duty Disability shall be entitled to a Disability Pension, the amount of which shall be the greater of (a) the amount of the Service Retirement Pension (if he is also then eligible for a Service Retirement Pension), (b) 50% of his Final Average Earnings as of the date of Disability, and (c) the amount of the minimum Retirement Pension under 4.5.

5.2.2 City-to-County Transfer Employee. The Disability Pension of an Active Participant who is a City-to-County Transfer Employee, who incurs a Line-of-Duty Disability, and who is not eligible for a normal retirement pension under the City Plan shall be 50% of his Final Average Earnings as of the date of Disability, provided that his Pension entitlement under 4.4.1 is not greater.

5.2.3 County-to-City Transfer Employee. If any County-to-City Transfer Employee incurs a "line of duty disability" as defined in section 25-1(27) of the City Plan, such Participant's Accumulated Contributions shall be distributed to him within 60 days after formal notification by the City of the determination of such "line of duty disability." Such transfer shall be a full and unconditional release of this Plan by the Participant and the City with respect to any further benefit obligations otherwise owed under this Plan to the Participant or any of his survivors.

5.3 Reduction of Disability Pensions; Other Payments Made by Employer as a Result of Disability. A Participant's Disability Pension shall be reduced dollar for dollar by any salary continuation or loss of earning power benefit owed or made by or on behalf of his Employer for a work-related Disability, including but not limited to any OJI benefit or payments made as a result of assertion of the Employer's tort liability to the Participant.

5.4 Commencement of Payment of Disability Pension. Payment of a Disability Pension shall begin on the last day of the month following the Board's determination that the Participant is eligible for a Disability Pension and shall be paid in arrears on

the last day of each month thereafter during which the Participant remains Disabled. The first payment shall be calculated to include the first day following the later of (a) the date of the Participant's Termination following Disability, (b) the date all salary continuation payments (including, for a work-related Disability, but not limited to, any OJI benefit or payments compensating for loss of earnings made as a result of assertion of the Employer's tort liability to the Participant) and all accrued vacation payments (but not unused sick leave) have been exhausted, or (c) the date the Disability Application is filed with the Board.

5.5 Term of Payment of Disability Pension; Reduction of Disability Pension; Reimbursement of Plan upon Termination of Disability. A Participant's Disability Pension shall terminate upon the earlier of (a) the date upon which his Disability ceased, as determined by the Board; or (b) his death. The Board shall have the authority to require the Participant to reimburse the Plan for any or all Pension benefits paid to the Participant after the date upon which Disability ceased and before the Board's formal determination of cessation of Disability and, if the Plan is not so reimbursed, may require that the Participant's Retirement Pension, if any, be offset for any amounts not so reimbursed.

5.5.1 Termination of Disability Pension. Upon a finding by the Board of any one of the following circumstances with respect to a Participant's Disability, his Disability Pension shall promptly terminate:

- (a) His Disability has abated sufficiently to permit him to resume the duties of his pre-Disability employment or duties of a similar nature, whether or not he actually is or becomes employed in any such capacity;
- (b) He fails to submit to or fully participate in an examination requested by the Board within the period of time requested;
- (c) He fails to furnish or authorize the release of any information requested by the Board within the amount of time requested;
- (d) He ceases to be under the care and treatment of a Physician, if his condition indicates that he should be; or

- (e) He fails or refuses to follow a rehabilitation plan (including participation in an Employer-maintained employee assistance program for which the Participant is eligible) prescribed by a qualified professional which is expected to enable the Participant to resume his pre-Disability employment or similar compensable activities.

Upon termination of the Disability Pension before the Participant's death and if the Participant does not become an Employee of his Employer within a reasonable time thereafter, he shall be paid his Accumulated Contributions less the amount of all Disability Pension payments previously made to him.

5.5.2 Reduction of Disability Pension. If, before he attains age 65, a Disabled Participant engages in any gainful employment other than with an Employer, or if he engages in any gainful employment with an Employer but not as an Eligible Employee, his Disability Pension shall be reduced by an amount which, when added to the current compensation earned in his gainful employment, shall equal, and not exceed, his Final Average Earnings. Solely for purposes of this 5.5.2, however, his Final Average Earnings shall be increased as of each January 1 following the commencement of the Disability Pension by the lesser of (1) 4% or (2) the percentage increase (if any) in the Bureau of Labor Statistics' Consumer Price Index for Urban Wage Earners and Clerical Workers (or, in the discretion of the Board, such other cost of living index utilized from time to time by the Social Security Administration in adjusting benefits under the OASDI provisions of the Social Security Act) during the 12 month period ended on the preceding September 30, as computed by the System's Actuary.

5.5.3. Restoration of Accumulated Contributions upon Reemployment as Eligible Employee; Prior Service Certificate to Issue. If a Disabled Participant's Disability ceases and he is reemployed by his Employer and again becomes a Participant in this Plan, his Accumulated Contributions shall be restored. He shall receive a Prior Service Certificate containing all of his Credited Service before his Termination as a result of his Disability.

5.6. Conclusive Presumption of Disability at Age 65. Each Disabled Participant properly receiving (or, absent the application of 5.5.2, eligible to receive) a Disability Pension immediately prior to attaining age 65 shall, upon attaining age 65, be conclusively presumed to remain a Disabled Participant thereafter.

ARTICLE 6
SURVIVOR PENSIONS

6.1 Death of Pensioned Participant. If a Participant, including a Governmental Transfer Employee, dies after Termination and was receiving at the time of his death (or was then immediately entitled to receipt of) a Retirement Pension or a Disability Pension, then the following Survivor Pensions shall be payable to his survivors.

6.1.1 Spousal Survivor Pension. The Participant's surviving Spouse (if any) shall be entitled to receive a Survivor Pension in the amount of 100% of the Retirement Pension or Disability Pension the Pensioned Participant was receiving immediately prior to his death (or was then immediately entitled to receipt thereof). Such Survivor Pension shall be payable as of the date of the Participant's death and shall be payable in arrears on the last day of each month thereafter for the surviving Spouse's life.

6.1.2 Eligible Children Survivor Pension. Upon the death of the Participant's surviving Spouse, or upon Participant's death if he has no surviving Spouse, his Eligible Children (if any) shall be entitled to receive a Survivor Pension in the amount of 100% of the Retirement Pension or Disability Pension the Pensioned Participant was receiving immediately prior to his death (or was then immediately entitled to receipt thereof), or, as the case may be, 100% of the Survivor Pension the surviving Spouse was receiving immediately prior to her death (or was then immediately entitled to receipt thereof). Such Survivor Pension shall be payable so long as there is at least one surviving child of the Participant who is an Eligible Child.

6.1.3 Eligible Parent Survivor Pension. If a Participant dies while receiving a Line of Duty Disability Pension and if he leaves no surviving Spouse or surviving Eligible Children (or, if later, upon the death of the surviving Spouse and the loss of status of an Eligible Child as such), then his Eligible Parent(s) (if any) shall be entitled to receive a Survivor Pension in the amount of 100% of the Line of Duty Disability Pension the Pensioned Participant was receiving immediately prior to his death. If there are two Eligible Parents, the Survivor Pension shall be paid to them equally, and to the survivor upon the death of one.

6.2 Death of Active Participant. If a Participant, including a Governmental Transfer Employee, dies while an Active

Participant, then the following Survivor Pensions shall be payable to his survivors.

6.2.1 Spousal Survivor Pension. Upon the death of an Active Participant, his surviving Spouse (if any) shall be entitled to receive a Survivor Pension equal to the Retirement Pension the Participant would have received if he had Terminated (or, in the case of a County-to-City Transfer Employee, terminated employment with the City) on the date of his death but for a reason other than his death, even if the Participant had not then attained his Service Retirement Eligibility Date. Such Survivor Pension shall be payable as of the date of the Participant's death and shall be payable in arrears on the last day of each month thereafter for the surviving Spouse's life.

6.2.2 Eligible Children Survivor Pension. Upon the Participant's death if he has no surviving Spouse or upon the subsequent death of the Participant's surviving Spouse, his Eligible Children (if any) shall be entitled to receive a Survivor Pension equal to the Retirement Pension the Participant would have received if he had Terminated (or, in the case of a County-to-City Transfer Employee, terminated employment with the City) on the date of his death but for a reason other than his death, or, as the case may be, 100% of the Survivor Pension the surviving Spouse was receiving immediately prior to her death. Such Survivor Pension shall be payable so long as there is at least one surviving child of the Participant who is an Eligible Child.

6.3 Death of Terminated Participant. If a Terminated Participant, including a Governmental Transfer Employee, dies, whether before or after his Service Retirement Eligibility Date, the following Survivor Pensions shall be payable to his survivors.

6.3.1 Spousal Survivor Pension. Such Terminated Participant's surviving Spouse (if any) shall be entitled to receive a Survivor Pension equal to the Retirement Pension the Participant would have received if he had attained age 60 on the date of his death (if he had not then attained age 60) or was then entitled to receive if he had attained age 60 and had made application therefore. If such Terminated Participant's Credited Service (or in the case of a Governmental Transfer Employee, his Total Credited Service) equaled or exceeded 15 years, such Survivor Pension shall be payable as of the date of the Participant's death, even if he had not attained his Service Retirement Eligibility Date as of the date of his death, and shall be payable in arrears on the last day of each month thereafter for the surviving Spouse's life. If such Terminated

Participant's Credited Service (or in the case of a Governmental Transfer Employee, his Total Credited Service) was less than 15 years, such Survivor Pension shall be payable as of the first day of the month following the date the Participant would have attained age 60 (if he had not attained age 60 on the date of his death). All such Survivor Pensions shall be payable in arrears on the last day of each month for the surviving Spouse's life.

6.3.2 Eligible Children Survivor Pension. No Survivor Pension shall be payable to the Eligible Children of any Terminated Participant.

6.4 Death of a Participant in the Line of Duty. Notwithstanding the provisions of 6.2, if an Active Participant dies and his death is a Line of Duty Death, then the following Survivor Pensions are payable.

6.4.1 Spousal Survivor Pension. Upon the Line of Duty Death of an Active Participant other than a County-to-City Transfer Employee, his surviving Spouse (if any) shall be entitled to receive a Survivor Pension equal to the greater of (a) the Retirement Pension the Participant would have received if he had Terminated on the date of his death for a reason other than his death (in the case of a City-to-County Transfer Employee, calculated as if his Total Credited Service were all attributed to Service for the County) or (b) 50% of his Final Average Earnings as of the date of his death. The Survivor Pension shall be payable as of the date of the Participant's death and shall be payable in arrears on the last day of each month thereafter for the surviving Spouse's life.

6.4.2 Eligible Children Survivor Pension. Upon the Line of Duty Death of an Active Participant (other than a County-to-City Transfer Employee) who had completed at least 15 years of Credited Service, then, if the Participant had no surviving Spouse, his Eligible Children (if any) shall be entitled to receive a Survivor Pension equal to the greater of (a) the Retirement Pension the Participant would have received if he had Terminated on the date of his death but for a reason other than his death (in the case of a City-to-County Transfer Employee, calculated as if his Total Credited Service were all attributed to Service for the County) or (b) 50% of his Final Average Earnings as of the date of his death. Furthermore, if such an Active Participant described in the preceding sentence had been survived by a Spouse, then upon the death of his surviving Spouse his Eligible Children (if any) shall be entitled to receive 100% of the Survivor Pension the surviving Spouse was receiving immediately prior to her death. Such Survivor Pension shall be

payable so long as there is at least one surviving child of the Participant who is an Eligible Child.

6.4.3 Eligible Parent(s) Survivor Pension. Upon the Line of Duty Death of an Active Participant (other than a County-to-City Transfer Employee) who had completed at least 15 years of Credited Service, then, if the Participant had no surviving Spouse, his Eligible Children (if any) shall be entitled to receive a Survivor Pension equal to the greater of (a) the Retirement Pension the Participant would have received if he had Terminated on the date of his death but for a reason other than his death (in the case of a City-to-County Transfer Employee, calculated as if his Total Credited Service were all attributed to Service for the County) or (b) 50% of his Final Average Earnings as of the date of his death. Furthermore, if such an Active Participant described in the preceding sentence had been survived by a Spouse, then upon the death of his surviving Spouse and his Eligible Children (if any), the Participant's Eligible Parent(s) shall be entitled to receive 100% of the Survivor Pension the surviving Spouse or, collectively, the surviving Eligible Children were receiving immediately prior to her death or, as the case may be, the last Eligible Child's loss of status as an Eligible Child. If there are two Eligible Parents, the Survivor Pension they are entitled to shall be payable to them equally, and to the survivor upon the death of one.

6.4.4 Line of Duty Death of a County-to-City Transfer Employee. Notwithstanding anything in this Plan document to the contrary, there shall be no Survivor Pension payable to any survivor of a County-to-City Transfer Employee if such Participant's death was a "line of duty death" as defined in the City Plan. Rather, such Participant's Accumulated Contributions shall be distributed to his Named Beneficiary within 60 days after formal notification by the City of the determination of such "line of duty death." Such transfer shall be a full and unconditional release of this Plan by the Participant's estate, his survivors and the City with respect to any further benefit obligations otherwise owed under this Plan to the Participant's estate or any of his survivors.

6.5 Distribution of Excess Accumulated Contributions. If the combined Pensions actually paid to a Participant and to his survivors is, for any reason, less than his Accumulated Contributions, then, within 90 days after it is no longer possible under this Plan for the Participant or any Beneficiary to receive a further Pension, the excess of his Accumulated Contributions shall be paid to his Named Beneficiary.

6.6 Payments to or for the Benefit of Eligible Children. The Survivor Pension payable to or for the benefit of a deceased Participant's Eligible Children shall be divided equally among the persons who are, from time to time, Eligible Children. All Survivor Pensions payable to or for the benefit of an Eligible Child who is under a legal incapacity shall be paid to the court-appointed legal guardian of the estate of such Eligible Child. Survivor Pensions payable to or for the benefit of an Eligible Child who is not under a legal incapacity shall be paid directly to such Eligible Child.

6.7 Time for Payment of Survivor Pensions. When a Survivor Pension is originally payable as of a particular date, it shall be calculated from such date even though payment may take place at a later date as a result of administrative procedures or otherwise. Thereafter, each monthly Survivor Pension payment shall be made in arrears on the last business day of the month.

6.8 Remarriage of Surviving Spouse; Death of Remarried Surviving Spouse. Notwithstanding any other provision of this Article, a Survivor Pension for a Participant's surviving Spouse who remarries prior to such Spouse's 65th birthday shall immediately cease; provided, however, that a surviving Spouse, whose remarriage terminates for any reason prior to the surviving Spouse's 65th birthday, may make application to the Board for resumption of such Survivor Pension.

ARTICLE 7
MISCELLANEOUS BENEFIT PROVISIONS

7.1 Application for Benefits. Before any Pension or other benefit under the Plan is payable, all conditions applicable to the payment of the Pension or other benefit must be met. Additionally, a written application for the Pension or benefit must be presented to the Board in such form and manner as the Board shall determine, and payment of the Pension or benefit must be approved and authorized by the Board.

7.1.1 Participant's Certification of Marital Status. Prior to and as a condition of the Participant's receipt of any benefits under the Plan, each Participant shall certify in writing and under oath to the Board his marital status. His certificate shall state whether or not he is legally married under the laws of the State and, if he is so legally married, the name, Social Security number, and address of his spouse and the date of their marriage. If he is legally married, he shall attach to his certificate a copy of his marriage license. The Board shall be entitled to rely upon the Participant's certificate and its contents unless and until his certificate is proven false to the Board's satisfaction, at which time the Board shall fashion an appropriate remedy which may include denial of future benefits to the person to whom benefit payments would otherwise have been paid upon the Participant's death (or were being paid after the Participant's death) and an award of such benefits to a person who is proven to have been the Participant's Spouse at the relevant time. Under no circumstances shall the Board, the County, or any of its elected or appointed officials or employees be liable or responsible in any way to any person by reason of the Board's reliance upon the accuracy of the Participant's certificate.

7.1.2 Spouse's Proof of Marital Status. Where a Pension or benefits are payable to the Spouse of a Participant, the person making the application shall present satisfactory proof to the Board that such person meets the Plan's definition of "Spouse."

7.1.3 Birth Certificates. Where a Pension or other benefit is payable to a Participant, his Spouse or Eligible Child, or any other Beneficiary of his, the Participant (if living and able, otherwise the person making the application) shall provide to the Board, promptly upon request, a copy of the birth certificate (or other evidence of the date of birth and parentage) of each person with respect to whose age the Pension or other benefit is calculated or with respect to whom it is payable. Such birth

certificate (or other evidence of the date of birth and parentage) shall be in such form as is required by the Board.

7.2 Proration of Pensions for Partial Months. The first month's Pension shall be prorated to reflect the number of days in the month following the Participant's Termination. The last month's Pension shall be prorated to reflect the number of days preceding death or other termination of the Pension.

7.3 Pension Formulas; Interpolations. Pension formulas contained in this Plan document are designed to express benefits using as a factor a Participant's exact number of years of Credited Service in full years. Pension entitlements based upon partial years of Credited Service shall be determined by the Board by interpolation in accordance with the written directions of the Actuary.

7.4 Reserved.

7.5 Cost-of-Living Adjustments.⁴

7.5.1 Ad Hoc Cost of Living Adjustments. Except as provided in 7.5.2, this Plan does not provide for any automatic COLAs to Pensions. From time to time the County Commission may enact through resolution an ad hoc cost of living adjustment or an ad hoc cost of living bonus with respect to the Pensions of the members of one or more categories of Retired Participants and Beneficiaries. Any such enactment shall be deemed to be an amendment to this Plan and shall be recorded as such in Article 12. Such additional benefits shall be subject to all of the provisions of this Plan.

7.5.2 Automatic COLAs for Certain Retirees and Survivors. Notwithstanding the provisions of 7.5.1, there shall be automatic COLAs to the Pensions of the following retirees and Survivors, and under the following terms and conditions:

7.5.2.1 Application to Certain Pensions. On January 1 of each calendar year, a COLA shall be made for the 12 months then beginning with respect to the following Pensions then being paid:

(a) Service Retirement Pensions, but (i) only for calendar years beginning after the Participant has attained age 65 and (ii) only if the Participant had completed 25 years of Credited Service prior to his Termination and (iii) only if the date of the Participant's Termination was more than 60 months before such January 1 and (iv) only if the Participant's monthly Pension for the first month in which he is eligible for the COLA

(regardless of whether or not a COLA is then payable under 7.5.2.2.1) is less than \$3,000;

(b) Disability Pensions, but only if the Participant's monthly Pension for the first month in which he is eligible for the COLA (regardless of whether or not a COLA is then payable under 7.5.2.2.1) is less than \$3,000;

(c) Survivor Pensions to surviving Spouses, but (i) only for calendar years beginning after the Spouse has attained age 65 and (ii) only if the Participant had completed 25 years of Credited Service prior to his Termination or whose death was a Line of Duty Death or whose Pension had been a Disability Pension and (iii) only if the date of the Participant's Termination was at least 60 months before such January 1 and (iv) only if the surviving Spouse's monthly Pension for the first month in which she is eligible for the COLA or, if earlier, the Participant's monthly Pension for the first month in which he was eligible for the COLA (in either case, regardless of whether or not a COLA is or was then payable under 7.5.2.2.1) is less than \$3,000;

(d) Survivor Pensions to Eligible Children pursuant to Article 6, but (i) only if the Participant had completed 25 years of Credited Service prior to his Termination or whose death was a Line of Duty Death or whose Pension had been a Disability Pension and (ii) only if the date of the Participant's Termination was at least 60 months before such January 1 and (iii) only if the sum of the monthly Survivor Pensions to Eligible Children for the first month in which they are eligible for the COLA or, if earlier, the Participant's monthly Pension for the first month in which he was eligible for the COLA (in either case, regardless of whether or not a COLA is or was then payable under 7.5.2.2.1) is less than \$3,000.

7.5.2.2 Amount of COLAs.

7.5.2.2.1 In General. The COLA to each eligible Pension as of January 1 of each calendar year shall be the lesser of (a) 1% or (b) the percentage increase (if any) in the CPI-U (or, in the discretion of the Board, such other cost of living index utilized from time to time by the Social Security Administration in adjusting benefits under the OASDI provisions of the Social Security Act) during the 12 month period ended on the preceding September 30, as computed by the Actuary.

7.5.2.2.2 Further Limitations. Notwithstanding the provisions of 7.5.2.2, except as otherwise permitted under IRC 415 as a result of the application of the COLA, no Pension shall

at any time exceed 100% of the Participant's Final Average Earnings. Furthermore, for the Plan Year in which the Participant's post-Termination benefit first exceeds 100% of his Final Average Earnings, and for each succeeding Plan Year, the percentage increase in each benefit payment for each such Plan Year shall be the lesser of the COLA or the maximum permissible cost-of-living adjustment prescribed by the Secretary of the Treasury under IRC 415(d)(1)(B) and 415(d)(2).

7.6 Direct Transfer of Eligible Rollover Distribution.

7.6.1 Participant's Election. A Participant shall be permitted to elect to have any Eligible Rollover Distribution transferred directly to an Eligible Retirement Plan specified by the Participant. The Plan provisions otherwise applicable to distributions continue to apply to the direct transfer option. The Participant shall, at the time and in the manner prescribed by the Board, specify the amount to be directly transferred and the Eligible Retirement Plan to receive the transfer. The Participant's direct transfer option is also available to the Participant's surviving spouse (if the surviving spouse is the Participant's Beneficiary) in the same manner as if the surviving spouse were the Participant.⁸ The Participant's direct transfer option is further available to any non-spouse Beneficiary, provided that an Eligible Retirement Plan qualified to receive such distribution shall be only an individual retirement account or individual retirement annuity.⁸ Except as provided in 7.6.2, any portion of an Eligible Rollover Distribution which is not so transferred shall be distributed to the Participant (or his Beneficiary).⁸

7.6.2 Automatic Direct Transfer of Mandatory Distribution. If, under the terms of this Plan, a Participant is required to receive a mandatory lump sum distribution greater than \$1,000 qualifying as an Eligible Rollover Distribution and if the Participant does not affirmatively elect to have such distribution paid directly to an Eligible Retirement Plan specified by him or to receive the distribution directly, then the Board shall cause the amount of such Eligible Rollover Distribution to be transferred directly into an individual retirement account (as defined in IRC 408(a)) of the Board's choosing. This 7.6.2 shall apply to distributions made on and after January 1, 2006.

7.6.3 Notice and Notice Procedure. Within a reasonable period of time before making an Eligible Rollover Distribution, the Board shall provide a written explanation to the Participant, in accordance with applicable Treasury Regulations:

(a) of the federal income tax provisions under which he may have the distribution directly transferred to an Eligible Retirement Plan and that the automatic distribution by direct transfer applies to distributions to which 7.6.2 applies;

(b) of the requirement to withhold federal income tax on the distribution if it is not directly transferred to an Eligible Retirement Plan;

(c) of the federal income tax provisions under which the distribution will not be subject to federal income tax if transferred to an Eligible Retirement Plan within 60 days after the date on which the Participant receives the distribution;⁸

(d) of the fact that any amount transferred in a direct trustee-to-trustee transfer in accordance with IRC 401(a)(31) shall not be includible in gross income, for federal income tax purposes, for the taxable year of such transfer;³ and ⁸

(e) if the distribution is an automatic direct transfer of a mandatory distribution to an individual retirement account as provided in 7.6.2, of the requirement that, absent an affirmative election by the Participant as to the manner of receipt of his distribution, the Trustee will transfer the amount into an individual retirement account established by the Trustee for the Participant maintained by a therein identified financial institution of its own choosing.⁸

7.7 ⁸ Limitations on Benefits in Compliance with IRC 415. Notwithstanding any other provision in this Plan to the contrary, the provisions of 7.7 shall apply to limit benefits otherwise payable under the Plan.

7.7.1 ⁸ Annual Benefit Not to Exceed Maximum Amount Permitted Under IRC 415. The Annual Benefit otherwise accrued by or payable to a Participant for any Limitation Year shall not exceed the limitations of IRC 415 and the regulations promulgated thereunder ("IRC 415 Limitations"). If the benefit a Participant would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the IRC 415 Limitations, then the rate of accrual will be reduced so that the Annual Benefit shall equal the maximum amount permitted by IRC 415 and the regulations thereunder.

7.7.2 ⁸ Incorporation by Reference of the IRC 415 Limitations. In accordance with Treasury Regulation 1.415(a)-1(d)(3), the provisions of IRC 415 and the regulations thereunder applicable to a defined benefit plan that is a governmental plan as defined in IRC 414(d), including any default provisions

thereunder, are hereby incorporated by reference, except where otherwise expressly provided herein.

7.7.3⁸ Grandfathered Limitations. In the case of an individual who was a Participant in one or more qualified defined benefit plans of the Employer as of the first day of the first Limitation Year beginning after December 31, 1986, the application of 7.7 shall not cause the maximum amount permitted under the IRC 415 Limitations for such individual under all such qualified defined benefit plans to be less than the individual's Accrued Benefit under all such qualified defined benefit plans as of December 31, 1986. The preceding sentence applies only if all such qualified defined benefit plans met the requirements of IRC 415 for all Limitation Years beginning before January 1, 1987.

7.8 Named Beneficiaries.

7.8.1 Designation. Each Participant is entitled to designate one or more natural persons (including classes of natural persons) as Named Beneficiaries of Plan benefits payable after the Participant's death and not required under this Plan to be paid to specific persons. Such Named Beneficiaries may be concurrent Named Beneficiaries and/or primary and contingent Named Beneficiaries. If the Participant designates concurrent Named Beneficiaries, he shall further designate the percentages of benefits to which such concurrent Named Beneficiaries are entitled.

7.8.2 Default Named Beneficiaries. If the Participant has not designated any Named Beneficiary of any benefits under this Plan as to which he was entitled to designate a Named Beneficiary, then his Named Beneficiaries shall be deemed to be the following persons, in the order stated:

- (a) His Spouse, if any; and, if not:
- (b) His spouse, if any; and, if not:
- (c) His issue, per stirpes, if any; and, if not:
- (d) His parents, equally, or the survivor, if any; and if not:
- (e) His estate.

ARTICLE 8
FUNDING OF PLAN; PARTICIPANT ACCUMULATED CONTRIBUTIONS

8.1 Contributions Made to Trust Fund. All contributions to the Plan shall be made to the Trust Fund to be invested and otherwise administered in accordance with the Trust Agreement.

8.2 Employer Contributions. Each year the County shall contribute to the Trust Fund an amount actuarially calculated to be at least sufficient to enable this Plan and all other constituent Plans in the System to meet current and anticipated near future benefit payment requirements as well as such funds as are necessary to pay all costs and expenses of the Board, including the costs of those County Employees assigned to the Board to accomplish the day to day administration of the System and including the fees of legal counsel, the Actuary, accountants, investment advisors, brokers, consultants, and such other agents engaged by the Board to enable it to perform its duties.⁸

8.3 Participant Contributions.

8.3.1 In General. Except as provided in 8.3.2, 8.3.3, and in Article 11, and except as provided in Article IV of the Trust Agreement, Participant Contributions are not permitted.⁸

8.3.2 Required Contributions.

8.3.2.1 Amount. As a condition of his employment or continued employment, each Active Participant shall contribute to the Fund the Required Contribution.

8.3.2.2 "Pick-Up." Pursuant to IRC 414(h)(2), the County shall make the Required Contribution to the Fund on behalf of the Participant in lieu of its being actually made by the Participant, whose compensation shall be reduced accordingly.

8.3.3 "Make-Up" Contributions Relating to Qualified Military Service. The provisions of 3.1 relating to Credited Service of a Participant during Qualified Military Service shall be applicable only if the Participant makes the payments that would otherwise have been required under this 8.3 (as if the Qualified Military Service had not taken place) within the period beginning on his date of reemployment (or date he again becomes an Active Participant) and ending on the later of the fifth anniversary of the same or the last day of the period whose duration is three (3) times the period of Qualified Military Service, all as determined by the Board. All of such payments

shall be treated as Required Contributions pursuant to section 8.3.2 and shall be "picked-up" as all other Required Contributions.

8.4 Accumulated Contributions. There shall be maintained for each Participant a record of his Accumulated Contributions, which shall be fully vested and non-forfeitable at all times. Except as otherwise provided in Article 5 with respect to termination of a Disability Pensions followed by return to active participation in this Plan, each Participant's Accumulated Contributions shall be reduced by all Pension payments made to a him or to his Beneficiary under Articles 4, 5, and 6.

ARTICLE 9
AMENDMENT AND TERMINATION

9.1 Amendment of Plan. Any provision of the Plan may be amended and the Plan may be restated in its entirety at any time and from time to time. Any such amendment may be prospective or retroactive.

9.1.1 No Reduction of Accrued Benefits; No Contract. No Plan amendment shall reduce the Accrued Benefit of any Participant or Beneficiary. With that single exception, the terms of the Plan shall not be deemed to constitute a contract between any Employer and any Participant or Beneficiary.

9.1.2 Amendment Procedure; Recommendation of the Board. Each proposed Plan amendment or restatement shall be drafted by counsel to the Board (which may be outside counsel or the County Attorney, at the Board's discretion) to maintain consistency in the language and provisions of the Plan. It shall thereafter be presented to the Board at a regular or special meeting in the form of a County resolution. The Board shall vote on whether or not to recommend to the Commission the adoption of the amendment or restatement in the form of the proposed resolution. If the proposed amendment or restatement is voted to be recommended for adoption, the Board shall submit the resolution to the Commission with its recommendation. If the Board refuses to recommend any proposed amendment but any other person desires to present the proposed amendment to the Commission, the Board shall present the proposed amendment to the Commission with the recommendation that it not be adopted.

9.1.3 Actuarial Impact Letter. No proposed Plan amendment or restatement that affects the funding of the Plan or the benefits provided under it may be submitted to the Board or to the Commission without including as an exhibit to the proposed resolution the written determination of the Actuary of the actuarial impact of the amendment or restatement on the financial soundness of the Plan and the Trust Fund.

9.1.4 Adoption by the County Commission. The Commission shall act upon each resolution submitted to it in accordance with its rights and obligations under the County Charter.

9.1.5 Maintenance of Fully Integrated Plan Document. The Board shall at all times maintain in its offices a complete single document of the Plan, with all amendments integrated into the document.

9.2 Termination of Plan. Although the Plan is intended to continue indefinitely, the Commission, by resolution, may at any time terminate the Plan. If the Commission fails to approve funding for the Plan to maintain it on an actuarially sound basis for two (2) consecutive Plan Years, the Plan shall terminate by default.

9.2.1 Closing of Participation. While the Plan is closed to Employees hired on and after November 30, 1978, with the exception of certain City-to-County Transfer Employees and certain Disabled Participants, it shall continue in existence in all respects as to existing Participants and their Survivors and Beneficiaries.

9.2.2 Termination of Plan. If the Plan is terminated, then unless the County shall otherwise amend the Plan pursuant to its terminating resolution, the Board shall prepare a list as follows, in each case as of the termination date:

- (a) Each person then receiving a Pension and the amount and terms of such Pension (including the terms of any Survivor Pension to follow a Retirement or Disability Pension);
- (b) Each Terminated Participant and his Accrued Benefit;
- (c) Each Active Participant and his Accrued Benefit. The Accrued Benefit of each Active Participant who would not otherwise have been entitled to a Deferred Vested Pension had he Terminated the day prior to the termination of the Plan shall, as a result of the termination of the Plan, be so entitled.

The benefits set forth in paragraphs (a) through (c) shall be paid from the Trust Fund, in the manner and at the time set forth in the resolution terminating the Plan, to the extent that there are sufficient assets in the Trust Fund, taking into consideration all other benefits payable from the Trust Fund pursuant to the terms of all other constituent plans. To the extent that there are insufficient assets in the Trust Fund to pay such benefits, the County shall be liable to pay such benefits. All other benefits under the Plan, including Survivor Benefits (other than those with respect to Pensioned Participants) and Disability benefits, shall cease to exist. If, after all benefits from all constituent plans shall have been paid from the Trust Fund, there are assets remaining in the Trust

Fund, such assets shall be paid to the County, unless the resolution terminating the Plan provides otherwise.

ARTICLE 10
GENERAL PROVISIONS

10.1 Administration of the Plan. The Plan shall be interpreted and administered under the terms and conditions of that separate County resolution titled "Administration and Trust Agreement of Shelby County, Tennessee, Retirement System," the provisions of which are incorporated herein as if fully set forth herein.

10.2 Headings. The headings and subheadings of the Plan have been inserted for convenience of reference only and, except as specifically referenced, shall be of no force and effect in any construction or interpretation of the provisions of the Plan.

10.3 Gender and Number. In the construction of any provision of the Plan, the masculine, feminine, and neuter genders whenever used herein shall each be deemed to include the other where the context requires. Furthermore, terms in singular form shall be deemed to include the plural where the context requires.

10.4 Legal Incompetence. Except as otherwise provided in Article 6, if any person is a minor, or is in the judgment of the Board otherwise legally incapable of personally receiving and giving a valid receipt for any benefit payment due him thereunder, the Board may, unless and until claim shall have been made by a guardian or conservator of such person duly appointed by a court of competent jurisdiction, direct that such payment or any part thereof be made to the person's spouse, child, parent, brother or sister, determined by the Board to have incurred expense and assumed financial responsibility for the person's welfare. Any payment so made by the Board shall be a complete discharge of any liability under the Plan for such benefit payment.

10.5 Benefits Exempt from Taxation, Execution or Assignment; Exceptions. Any and all benefits paid, accrued or accruing to any Participant or other person participating in the Plan or otherwise entitled to receive benefits under the Plan, and the contributions of Participants as well as by the Employers, and all other assets of the Fund are and shall be exempt from any State, County or municipal tax and shall not be subject to execution, attachment, garnishment or any other legal process whatsoever, except as provided herein or otherwise by law. Any attempted or purported assignment of any such benefits shall not be enforceable in any court, except that levy of execution granted by a court of competent jurisdiction may be

issued against any of the assets described above in the event a Participant does not repay any overpayment of benefits in respect of fraud or as a result of false statements, pursuant to Section 4.5 of the Administration and Trust Agreement of Shelby County, Tennessee, Retirement System, which were paid under the Plan prior to the discovery of such fraud or false statement. Notwithstanding the foregoing, in his application for a Pension or thereafter in the manner prescribed by the Board, each person receiving (or entitled to immediate receipt of) a Pension under this Plan shall have the right to direct the Board to withhold from his Pension the assigned costs of any continuing County welfare benefits he has elected to retain, including but not limited to health, life, dental, and vision insurance, and to pay over such amounts to the County or at its direction.

10.6 Intent to Constitute a Qualified Plan. This Plan is intended to comply with the requirements of IRC 401(a). This Plan shall be interpreted in every respect, and if necessary shall be amended, to so comply.

ARTICLE 11
OVERSIGHT PROVISIONS

ARTICLE 12
COST OF LIVING ADJUSTMENTS AND BONUSES
GRANTED AFTER THE RESTATEMENT EFFECTIVE DATE

12.01 2007 Resolution.¹ [For substantive provisions of this resolution, refer to resolution captioned "RESOLUTION TO GRANT ONE-TIME COST OF LIVING BONUSES IN NOVEMBER, 2007 TO CERTAIN PLAN B RETIREES," adopted November 19, 2007 as Item no. 24.]

12.02 2008 Resolution.² [For substantive provisions of this resolution, refer to resolution captioned "RESOLUTION TO GRANT ONE-TIME COST OF LIVING BONUSES IN NOVEMBER, 2008 TO CERTAIN PLAN B RETIREES," adopted November 18, 2008 as Item no. 37.]

SCHEDULE 1
PLAN B

INDEX OF RESOLUTIONS AFTER RESTATEMENT EFFECTIVE DATE,
AS FOOTNOTED

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