

AMENDMENT AND RESTATEMENT OF
SHELBY COUNTY, TENNESSEE, RETIREMENT SYSTEM

PLAN A

GENERALLY EFFECTIVE JANUARY 1, 1999

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³ Added by Resolution adopted June 19, 2000 as Item 43

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 upon his attaining age 65, calculated in accordance with 4.1, based on his Final Average Earnings and Credited Service, each determined as of the date of amendment of the Plan, as of the date of Termination or as of any other relevant date. The calculation of a Participant's "Accrued Benefit" shall not take into consideration (a) any future COLAs or (b) any Survivor Pension under Article 6 or any Optional Pension under section 4.5 other than a 100% joint and survivor annuity where the Participant's Named Beneficiary is his Spouse.

"Present Value of Accrued Benefit," as of any relevant date, is the single sum Actuarial Equivalent of a Participant's Accrued Benefit.

"Active Participant" See "Participant."

"Actuarially Equivalent" or "Actuarial Equivalence" means a benefit or an amount having the same actuarial value as another stated benefit or amount, as determined by the Actuary pursuant to the mortality tables and interest rates set forth on Schedule 1. In each case, the calculation shall not take into consideration (a) any future COLAs or (b) except in calculating a 100% joint and survivor annuity where the Participant's Named Beneficiary is his Spouse, any Survivor Pension under Article 6 or any Optional Pension under section 4.5.

"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 Additions" See 7.7.5, "415 Definitions."

"Annual Benefit" See 7.7.5, "415 Definitions."

"Averaging Period" shall mean a Participant's period of total Credited Service, not in excess of thirty six (36) consecutive

calendar months, over which his Final Average Earnings is as high as possible.

"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 Dependent Children, his Spouse, and his Named Beneficiary.

"Named Beneficiary" at any time shall mean, pursuant to the election of an Optional Pension under 4.5, the person last designated by the Participant in writing to the Board to receive benefits payable under such election upon the death of the Participant or the Minimum Death Benefit, if any.

"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.

"Benefit Rate" shall mean the relevant factor set forth on Table A, Table B, Table B-1, Table C, Table C-1, Table D, or Table D - 1, as the case may be, based upon the Participant's age, years of Credited Service, and his Final Average Earnings as of the relevant date.

"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."

"Certificate" or "Prior Service Certificate" shall mean a document setting forth the Credited Service earned by a Participant while a participant of Plan B.

"Chemical Dependency" means the habitual or addictive use of (a) alcohol or (b), to the extent not prescribed by a single physician pursuant to case management of his patient, any controlled substance (as officially recognized from time to time by the Board of Pharmacy of the State of Tennessee).

"City" means the City of Memphis, Tennessee.

"City Plan" means the 1978 Plan under the City of Memphis Retirement System under City Ordinance Chapter 25, Articles I through VII other than Article VII, Division 1.²

² Amended by Resolution adopted June 21, 1999 as Item 13

"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.

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

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

"Compensable Activities" means gainful employment (including self-employment), consisting of at least 20 hours a week, requiring a Participant's personal efforts, producing for him federally taxable income at least equal to the federal minimum wage, and subjecting him to FICA or self-employment tax (or that would have subjected him to FICA or self-employment tax had his work been defined as "employment" in IRC 3121(b)).

"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.

"County" means Shelby County, Tennessee.

"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 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 an Involuntary Transfer City-to-County Employee's City

Transfer Service and Credited Service earned while a Participant in Plan A (and Plan B, if such Participant was a Member of Plan B who transferred to Plan A) and (b) the combination of an Involuntary Transfer County-to-City Employee's County Transfer Service and years of service earned while a Participant in the City Plan.

"Current Accrued Benefit" See 7.7.5, "415 Definitions."

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

"Deferred Vested Pension" See "Pension."

"Defined Benefit Dollar Limitation" See "415 Definitions."

"Defined Benefit Fraction" See 7.7.5, "415 Definitions."

"Defined Contribution Fraction" See 7.7.5, "415 Definitions."

"Dependent Child" means a legal child of a Participant or of his Spouse, whether adopted or natural and whether born in or out of a lawful marriage, who at the relevant time was or is dependent upon the Participant or upon the Participant and his Spouse for at least 50% of the child's needed support and maintenance and either (a) is unmarried and has not attained the age of 19; (b) has attained the age of 19 but has not attained the age of 23 and is a full-time student at a school or university accredited according to standards approved by the Board, or (c) is over age 19, is unmarried, is under a Disability, and is permanently and severely handicapped as determined by the Board. A Dependent Child shall include a legal child of the Participant who is born within 9 ½ months after the Participant's death, and such child shall be presumed to have been dependent upon the Participant for at least 50% of his needed support and maintenance until he loses his status as a Dependent Child pursuant to the preceding provisions. The "relevant time" shall be each day upon which a Participant is a Disabled Participant and each consecutive day after a Participant's death upon which a Survivor Pension may be paid as a result of his death. Once a child of a Participant or of his Spouse has lost his status as a Dependent Child for any reason, such child may never again become a Dependent Child.

"Designated Beneficiary" See "Beneficiary."

"Direct Result" means exclusive of all external, unrelated causes.

"Disability" means:

(1) for purposes of entitlement to a Disability Pension under the provisions of the Plan⁷, the inability of a person to engage in Compensable Activities for which he is reasonably capable 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, and further provided that such condition is reasonably expected to prevent such person from engaging in Compensable Activities during such 12 month period. However, loss by severance of both hands at or above the wrist, both feet at or above the ankles, one hand at or above the wrist and one foot at or above the ankle, or the complete, irrecoverable loss of the sight of both eyes shall, subject to the provisions of the following sentence, conclusively be considered to result in Disability. Notwithstanding the foregoing, Disability does not include any physical or mental condition which results directly or indirectly (i) from any Pre-Existing Condition, (ii) from Chemical Dependency, (iii) from an intentionally self-inflicted injury, (iv) from an injury or disease contracted during or resulting from military service, or (v) from the Participant's gross or willful (including criminal) misconduct²; and

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

² Amended by Resolution adopted June 21, 1999 as Item 13

(2) for all other purposes, the definition contained in the Disability Contract.⁷

"Disability Application" means the collection of written evidence required by the Board to be submitted by the Participant (or on his behalf) to enable the Board to determine the nature, cause, and circumstances of his condition and the existence, type, and/or continuation of Disability. The Application shall be in the form and manner required by the Board. It shall contain all appropriate medical releases and shall further contain such circumstantial information, medical reports and diagnoses, Compensable Earnings information, information as to other benefits the Participant is eligible to receive as a result of his condition, and such other information and proof supporting the Participant's claim as the Board determines to be reasonably relevant to enable it to make its determinations.

"Disability Contract" means the long-term disability insurance contract maintained by the County with the Insuror covering certain classes and categories of County employees.⁸

"Disability Contract Termination Date (ADEA I)" is determined as follows:

Participant's Age at Time of Disability	Benefit Duration
Under age 60	To age 65, but not less than 60 months
60	60 months
61	48 months
62	42 months
63	36 months
64	30 months
65	24 months
66	21 months
67	18 months
68	15 months
69	12 months ⁷

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

⁸ Amended by Resolution adopted April 8, 2002 as Item 19

"Disability Pension" means the Pension a Disabled Participant is eligible to receive under Article 5 and includes Ordinary Disability Pensions and Line of Duty Disability Pensions.

"Disability Pension Recomputation Date" is determined as follows:

Participant's Disability Pension Age at Time of Recomputation <u>Disability</u>	<u>Date</u>
Under age 60	65 th birthday
Age 60 through 64	Date of receipt of 60th monthly payment of Disability Pension
Age 65 through 69	70 th birthday ⁷

"Disability Report" means the written record consisting of a Disability Application and such other written materials (including subsequent medical reports and Compensable Earnings information, in the case of Disability Reports required to be submitted by the Participant while receiving a Disability Pension) relied upon by the Board to determine the existence and type of Disability.

"Disability Survivor Election" means the irrevocable affirmative election by an Active Participant in the 1978 Plan to have the provisions of the 1988 Plan apply to any future Disability Survivor Pensions to which his Survivors may become entitled thereafter.

"Disabled Participant" means a Participant who is under a Disability incurred while an Active Employee and who is either (a) eligible to receive a Disability Pension at the relevant time or (b) is an Insured Disabled Participant.⁷

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

"Insured Disabled Participant" means a Participant whom the Insurer determines to have incurred Disability on or after January 1, 2002 and shall include both (a) Participants receiving payments under the Disability Contract and (b) Participants who have not yet begun to receive benefits under the Disability Contract solely because the elimination period under the Disability Contract has not elapsed, so long as the Participant ultimately receives benefits under the Disability Contract or sooner dies. An Insured Disabled Participant shall remain a Disabled Participant so long as he is entitled to receive payments under the Disability Contract.⁷

"Early Retirement Pension" See "Pension."

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

"Earnings" paid to the Participant by the Employer 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.⁷

"Effective Date" means January 1, 1999.

"Eligible Employee" means:

(a) Each County Employee,

specifically including:

- * Each person elected to County office by a popular vote of the citizens of the County (and each person appointed in an interim appointment to any of such offices), except

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

for each such person who has the right under Tennessee Code Annotated Section 8-35-116 to participate in the Tennessee Consolidated Retirement System and who so elects.

- * Each person appointed to County office or position by the County Commission, the County Mayor, or any other elected official of the County and whose services are performed under the administrative control of the County.

- * Each person employed under any public program, agency, board, commission, or entity by any other name consisting of, established by, and/or maintained by any Governmental Entity, and in which the County jointly participates or is a part, whether or not such person is paid by the County directly or indirectly or not at all, and whether or not the County has some or all administrative control, if and only if the County is specifically obligated under a contract with such Governmental Entity or by State and/or County legislation to provide such person participation in the Plan, subject to limitations or restrictions as to such participation in such contract or legislation. Such persons include (a) those certain individuals whose services are performed for the State District Attorney General for Shelby County but whose compensation and benefits are fully paid or partially subsidized by the County pursuant to State and County legislation; and (b) those certain individuals whose services are performed at the State Agricultural Extension office but whose compensation and benefits are fully paid or partially subsidized by the County pursuant to State and County legislation.

- * The Chairman of the Shelby County Jury Commission.

- * Each person employed under any public program, agency, board, commission, or entity by any other name consisting of, established

by, and/or maintained by any Governmental Entity, and in which the County jointly participates or is a part, whether or not such person is paid by the County directly or indirectly or not at all, and whether or not the County has some or all administrative control, if and only if the County is specifically obligated under a contract with such Governmental Entity or by State and/or County legislation to provide such person participation in the Plan, subject to limitations or restrictions as to such participation in such contract or legislation to provide such person participation in the Plan, subject to limitations or restrictions as to such participation in such contract or legislation. Such persons include (a) those certain individuals whose services are performed for the State District Attorney General for Shelby County but whose compensation and benefits are fully paid or partially subsidized by the County pursuant to State and County legislation; and (b) those certain individuals whose services are performed at the State Agricultural.¹²

Extension office but whose compensation and benefits are fully paid or, prior to January 1, 2004, partially subsidized by the County pursuant to State and County legislation.¹²

but specifically excluding:

- * Any person employed by or paid by the Board of Education of Shelby County.
- * Any person employed under any public program, agency, board, commission, or entity by any other name consisting of, established by, and/or maintained by any Governmental Entity, and in which the County jointly participates or is a part, whether or not such person is

¹² Amended by Resolution adopted January 26, 2004 as Item 32

paid by the County directly or indirectly or not at all, and whether or not the County has some or all administrative control but only if the County is not specifically obligated under a contract with such Governmental Entity or by State and/or County legislation to provide such person participation in the Plan, subject to limitations or restrictions as to such participation in such contract or legislation.

- * Each person who has (or had) a right to elect, and has so elected, pursuant to the contractual terms of employment or otherwise, to participate in the Social Security OASDI program in lieu of participation in the Plan.
- * Each person who would otherwise meet the definition of an Eligible Employee but who is identified and classified for payroll purposes as a "Temporary Employee" and is, therefore, covered by the Social Security OASDI program.

(b) The Employees of each other Employer to the extent set forth in any State and/or County legislation or in any written contract to which the County and such other Employer are parties. Such persons include, but shall not necessarily be limited to, certain former County employees who became employees of the Shelby County Health Care Corporation in 1985 pursuant to County legislation.

(c) Employees of the Shelby County Governmental Library Commission (also known as the "Law Library Commission") whose compensation is paid through the County's payroll system. This amendment shall be applicable to all existing Participants whose services have been performed for the Law Library Commission as well as future Law Library Commission employees.¹¹

(d) Employees of Projects, Inc., an IRC 501(c)(3) organization controlled by the Memphis and Shelby County Film and Television Commission, whether or not the compensation of such persons is paid through the County's payroll system. This amendment shall be applicable to all existing Participants whose

2 Amended by Resolution adopted June 21, 1999 as Item 13

services have been performed for Projects, Inc., or the Memphis and Shelby County Film and Television Commission on and after January 19, 1999, as well as future employees of the same.¹¹

"Eligible Retirement Plan" means an individual retirement account as described in IRC 408(a), an individual retirement annuity as described in IRC 408(b), an annuity plan as described in IRC 403(a), or a defined contribution plan described in IRC 401(a) which is exempt from tax under IRC 501(a) and which accepts rollover distributions.²

"Eligible Rollover Distribution" means any distribution 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. 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.

¹¹ Amended by Resolution adopted January 26, 2004 as Item 31

"Employee Contributions Account" means the separate account maintained for certain Participants pursuant to 8.4.³

"Employer" means (a) the County and, (b) where applicable, any other Governmental Entity whose employees are identified in the definition of "Eligible Employee" as permitted to participate in the Plan.¹¹

"Final Average Earnings" means, for a Participant who has at least 36 months of Credited Service 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.

"Former Participant" See "Participant."

"Full-Time Employee" means any County Employee 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.

³ Amended by Resolution adopted June 19, 2000 as Item 43

¹¹ Amended by Resolution adopted January 26, 2004 as Item 31

"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. The Funding Rate shall be set forth on Schedule 1.⁸

"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.

"Hazardous Duty" has the meaning set forth in the 1978 Plan.

"Highest Average Compensation" See 7.7.5, "415 Definitions."

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

"Insured Disabled Participant" See "Disabled Participant."⁷

"Insuror" means the licensed insurance company that has issued the Disability Contract and that administers the same.⁷

"Interruption of Service" is defined in 3.2.

"Involuntary Transfer City-to-County Employee²" means a person who was last a participant or member of the City Plan prior to becoming an Employee of the County and who has become 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

² Amended by Resolution adopted June 21, 1999 as Item 13

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

⁸ Added by Resolution adopted April 8, 2002 as Item 19

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 and the Board of Shelby County Commissioners.

"Involuntary Transfer County-to-City Employee²" 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 and the Board of Shelby County Commissioners.

"Limitation Year" See 7.7.5, "415 Definitions."

"Line of Duty Death" means Death that is a Direct Result of an accident or activity occurring in the actual performance of duties arising out of and in the course of employment for the Participant's Employer. Furthermore, if any Participant who is a firefighter or a law enforcement officer to whom the provisions

² Amended by Resolution adopted June 21, 1999 as Item 13

of Tennessee Code Annotated Section 7-51-201 (popularly known as the "Heart and Lung Act") applies dies as a result of any condition or impairment of health caused by hypertension or heart disease, such death shall be presumed to be a Line of Duty Death unless the contrary is shown by competent medical evidence or unless such condition or disease was revealed in his pre-employment examination as existing at the time of his employment. Line of Duty Death includes Hazardous Duty Death under the 1978 Plan.

"Line of Duty Disability" means a Disability that is the Direct Result of an accident or act occurring, a thing done, or a risk taken in the actual performance of duties arising out of and in the course of employment for the Participant's Employer and required of the Participant in performing such duties, provided (in the case of a County employee) that the County's Office of Risk Management has certified the injury giving rise to the Disability as a compensable OJI injury. Furthermore, if any Participant who is a firefighter or a law enforcement officer to whom the provisions of Tennessee Code Annotated Section 7-51-201 (popularly known as the "Heart and Lung Act") applies suffers or incurs a condition or impairment of health caused by hypertension or heart disease which condition or impairment results in Disability, such Disability shall be presumed to be a Line of Duty Disability unless the contrary is shown by competent medical evidence or unless such condition or disease was revealed in his pre-employment examination as existing at the time of his employment. Line of Duty Disability includes Hazardous Duty Disability under the 1978 Plan.

"Maximum Permissible Amount" See 7.7.5, "415 Definitions."

"Member of Plan B" shall mean any employee of the County as of December 1, 1978 who was then a member of Plan B, which as of that date was the entire Retirement System.

"Minimum Death Benefit" means an amount calculated in accordance with 6.7 which is payable after the later of (a) the date of death of the survivor of the Participant and his Spouse, or (b) the date upon which a Survivor Pension is no longer payable under the Plan to or for the benefit of the Participant's Dependent Child(ren).

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

"1988 Plan" means Plan A as restated effective December 1, 1988,

including all amendments thereto prior to the adoption of this restatement.

"1978 Plan" means Plan A adopted effective December 1, 1978, including all amendments thereto prior to the adoption of the 1988 restatement.

"Named Beneficiary" See definition of "Beneficiary."

"Normal Retirement Pension" means a Pension payable to a Participant (a) whose Termination occurs on or after his Normal Retirement Age or (b) whose Termination is a Public Safety Retirement.³

"Normal Retirement Age" means age 65.

"OJI" means on-the-job injury.

"OJI Report" means the report required to be submitted by or on behalf of an Employee to his Employer following an on-the-job injury incurred by the Employee.

"Optional Pension" means a form of pension selected by the Participant under 4.5 in lieu of a Retirement Pension and Permanent Survivor Pension.

"Ordinary Disability" means Disability that is not Line of Duty Disability.

"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 Pensioned Participant, or a Terminated Participant.

"Active Participant" is a Participant who is actively employed by and performing Service for his Employer at the relevant time.

"Former Participant" is a Terminated Employee who at the time of his Termination (a) was an Active Participant, (b) is not entitled to a Deferred Vested Pension, and (c) has

³ Amended by Resolution adopted June 19, 2000 as Item 43

the right to add to his Credited Service if he becomes reemployed as an Eligible Employee pursuant to 3.3.

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

"Terminated Participant" is a Terminated Employee who is entitled to receive a Deferred Vested Pension but who has not yet begun to receive a Pension.

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

"Special Part-Time Employee" shall mean any person who is identified and classified for payroll purposes as a "Part-Time Employee" and who normally works 20 or fewer hours per week.

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

"Deferred Vested Pension" means a Pension earned by a Terminated Participant who was under the age of 55 at the time of his Termination but who had completed at least 10 years of Credited Service prior to his Termination (seven and one-half (7 ½) years of Credited Service for Eligible Employees who were Employees on or after January 1, 1998).

"Disability Pension" means a Pension payable to a Participant as a result of his having incurred Disability.

"Early Retirement Pension" means a Pension payable to a Participant when Termination occurs on or after age 55 but before age 65, and after the Participant has earned at least 10 years of Credited Service (seven and one-half (7 ½) years of Credited Service for Eligible Employees who were Employees on or after January 1, 1998).

"Normal Retirement Pension" means a Pension payable to a Participant (a) whose Termination occurs on or after his Normal Retirement Age or (b) whose Termination is a Public Safety Retirement.³

³ Amended by Resolution adopted June 19, 2000 as Item 43

"Survivor Pension" means a Pension to which a Participant's Survivors are entitled as a result of the Participant's death. A Survivor Pension may be a Temporary Survivor Pension, payable to a Participant's Dependent Child(ren) and/or his Spouse for a limited period of time, or it may be a Permanent Survivor Pension, payable to the Participant's surviving Spouse for life.

"Pensioned Participant" See "Participant."

"Permanent Survivor Pension" See "Survivor Pension."

"Physician" means a doctor of medicine or osteopathy legally licensed to practice medicine or osteopathy in the state(s) in which he is so practicing.

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

"Plan B" means the Shelby County Retirement System Plan B, originally effective September 1, 1949, and which was closed to new County Employees engaged on and after December 1, 1978.

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

"Pre-Existing Condition" means any sickness, injury, medical condition, or mental condition which, based on competent medical evidence, is determined, with respect to any Participant other than a former Participant in Plan B or a Participant in the 1978 Plan, to have existed in any degree prior to the Participant's date of employment or date of reemployment.

"Present Value of Accrued Benefit" See "Accrued Benefit."

"Prior Service Certificate" See "Certificate."

"Projected Annual Benefit" See 7.7.5, "415 Definitions."

"Public Safety Employee" means only an employee or elected official who falls within one of the following categories, provided such individual's maximum pension service as a County employee or elected official, based on original and any rehire dates and assuming all future service qualifies as Public Safety Service, would enable such individual to earn a Public Safety Retirement prior to his attaining age 63:

(a) Shelby County Sheriff's Department:

- (1) The duly elected Sheriff of the County;
 - (2) Law enforcement officers certified by the State POST Commission;
 - (3) Emergency dispatchers, as well as dispatcher supervisors and management personnel;
 - (4) Duty jailers (including deputy jailers temporarily reassigned to training positions) as well as jail management personnel;
 - (5) IDFP clerical specialists - B;
 - (6) Jail counselors as well as coordinators, supervisors and management personnel;
 - (7) Jail laundry personnel, including supervisors and management personnel;
- (b) Shelby County Fire Department:
- (1) The County Fire Chief;
 - (2) Firefighters and other employees in related classifications but only if such employees are certified by the State's Department of Commerce and Insurance and by the Bureau of Apprenticeship Training of the United States Department of Labor;
 - (3) Emergency dispatchers, as well as dispatcher supervisors and management personnel.
- (c) Shelby County Department of Corrections:
- (1) Correctional officers who are certified by the State and whose employment situs is the County Correction Center, as well as the chief of security;
 - (2) Care and custody counselors who are certified by the State and whose employment situs is the County Correction Center, as well as the

chief of care and custody;

- (3) Cook personnel, including supervisors and management personnel;
 - (4) Laundry personnel, including supervisors and management personnel;
 - (5) Maintenance personnel, including supervisors and management personnel;
 - (6) All full-time internal affairs investigators.
- (d) Shelby County Juvenile Court:
- (1) Detention monitors and supervisory personnel whose work shift mandates that they be housed in a detention area;
 - (2) Court officers;
 - (3) Probation counselors, I.
- (e) Shelby County Juvenile Court Clerk:
- (1) Process servers.
- (f) Shelby County Police Department:
- (1) Commissioned employees who are members of the sworn force;
 - (2) Building security officers.
- (g) Pretrial Services:
- (1) Release counselors.
- (h) Memphis and Shelby County Health Department:
- (1) Rabies control officers, supervisors and management personnel.

Notwithstanding the foregoing, however, each Public Safety Employee whose employment date was on or before June 30, 2000 shall have the option to make an irrevocable election at the time and in the manner determined by the Board not to

be considered a Public Safety Employee for all purposes of the Plan.^{3,4,6}

"Public Safety Retirement" means Termination of a Participant who is eligible for a Normal Retirement Pension under 4.1.2.³

"Public Safety Service" means Credited Service earned by a Participant while serving as a Public Safety Employee and, after June 30, 2000, while making Required Contributions; "Public Safety Service" shall not include Credited Service deemed to have been earned while a Participant was a Disabled Participant.^{3,7}

³ Amended by Resolution adopted June 19, 2000 as Item 43

⁴ Amended by Resolution adopted December 4, 2000 as Item 19

⁶ Amended by Resolution adopted September 10, 2001 as Item 27

⁷ Amended By resolution adopted December 17, 2001 as Item 40

"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.⁷

"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" with respect to a Public Safety Employee, means 2.65% of his Earnings as a Public Safety Employee, which percentage may be changed from time to time by duly adopted amendment to the Plan.³

"Retirement Pension" means Normal Retirement Pension, Early Retirement Pension, and/or Deferred Vested Pension, and does not include Disability Pension or Survivor Pension.

"Retirement System" See "System."

"Service" shall mean the number of years and months in any period of time during which a person is an Employee and performs services as such for his Employer.

"Special Part-Time Employee" See "Part-Time Employee."

"Spouse" means the person who has been legally married (as determined under the laws of the State) to the Participant for at least three (3) consecutive years at the relevant time. The "relevant time" is (a) the day prior to the first date upon which the Participant is entitled to receive an immediately payable Pension (including a Disability Pension) after his having made an election to receive a Pension (other than a Disability Pension) or (b) in the case of a Participant who dies prior to the date upon which he is entitled to so receive an immediately payable Pension, the date of his death.

"State" means the State of Tennessee.

³ Amended by Resolution adopted June 19, 2000 as Item 43

"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."

"Temporary Survivor Pension" See "Survivor Pension."

"Termination" or "Termination of Employment" means termination of employment as an Employee of the Employer for any reason, including death.

"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."

"Year of Participation" See 7.7.5, "415 Definitions."

ARTICLE 2
PARTICIPATION

2.1 Conditions of Participation and Employment. Participation in the Plan is a condition of employment for each Eligible Employee.

2.1.1 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.

2.2 Initial Participation. Each Eligible Employee shall become a Participant on the date of his employment (or reemployment) with his Employer.

2.3 Enrollment Procedures.

2.3.1 In General. Each Eligible Employee must submit a completed form called "Application for Participation - Shelby County Retirement System - Plan A" which shall be supplied by the Board. Upon receipt of an Eligible Employee's Application for Participation, he shall be furnished a document called "Summary of Plan A" as well as a copy of his Application for Participation.

2.3.2 Involuntary Transfer City-to-County Employees. Each Involuntary Transfer City-to-County Employee shall 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, except that additional approval by the Commission is required for Involuntary Transfer City-to-County Employees who transfer for the convenience of Shelby County Government.

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, 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 the number of years, Months, and Days of Service, without an Interruption of Service, for which an Active Participant is paid by his Employer. "Credited Service" further includes the number of years, Months, and Days during which a Participant is a Disabled Participant. "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.⁷

3.1.1 Plan B Service. Credited Service includes Service reported on the Participant's Prior Service Certificate.

3.1.2 Unused Accumulated Sick Leave; Accrued Vacation; Bonus Days. Credited Service shall not include unused accumulated sick leave but shall include accrued vacation days and "bonus days" pursuant to governing personnel policy.

3.1.3 Extensive Unpaid Absences. Effective for periods beginning after December 31, 1988, a Full-Time Active Participant 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. For periods on or before December 31, 1988, an Active Participant shall have received Credited Service for periods of absence while on approved leave of absence in accordance with governing personnel policies.

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

3.1.4 Exclusion of Service While Not an Eligible Employee.

Except for Participants who are Disabled Participants, Credited Service shall not include any Service performed when an Employee was not an Eligible Employee. Those certain Participants whose services are performed at the State Agricultural Extension office but whose compensation is partially subsidized by the County shall be deemed to have Terminated on December 31, 2003 after the close of business, and their Accrued Benefits shall be frozen as of such date.^{7,12}

3.1.5 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 Interruption of Service. Except as otherwise set forth herein, an Interruption of Service occurs upon an Active Participant's Termination or, if later, upon the termination of the Disability of a Disabled Participant. However, an Interruption of Service shall not occur when a Participant is on an approved leave of absence, with or without pay, in accordance with governing personnel policies; any eligible leave under the Family Leave Act, for example, will not constitute an Interruption of Service. Absence from work as a result of illness will not cause an Interruption of Service so long as the absence remains an approved leave of absence, but if continued absence is not approved under governing personnel policies, an Interruption of Service will occur. An Interruption of Service shall not occur during the time that a Participant is a Disabled Participant.⁷

3.3 Reemployed Participants. Participants who Terminate and Participants whose Disability Pensions or whose payments

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

¹² Amended by Resolution adopted January 26, 2004 as Item 32

under the Disability Contract are terminated will receive Credited Service as if there had been no Interruption of Service if they are subsequently reemployed by an Employer and if and only if one of the following circumstances is applicable:

- (a) the Participant's Termination or absence was due to Qualified Military Service, and he is entitled to reemployment under the provisions of any applicable state or federal law, including chapter 43 of title 38 of the United States Code, and he does, in fact, become an Eligible Employee within the time specified by law and in the manner and under the conditions prescribed by law;
- (b) the Participant is an elected official of the County and is reelected within nine (9) years of an election defeat; or
- (c) the Participant returns to work as an Eligible Employee within two (2) years following Termination, he was in good standing at the time of his Termination, and he repays any distribution made to him after his Termination in accordance with the provisions of 7.4 or 4.6.2, as the case may be.

Otherwise, if a Participant has accumulated Credited Service both before and after an Interruption of Service, his entitlements to a Pension shall be determined as if he were two separate Participants.^{3,7}

² Amended by Resolution adopted June 21, 1999 as Item 13

³ Amended by Resolution adopted June 19, 2000 as Item 43

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

3.4 Part-Time Employees.

3.4.1 Beginning December 1, 1978. For Part-Time Employees who were Participants in the 1978 Plan and with respect to the periods of time beginning on December 1, 1978 and ending December 31, 1988², Credited Service shall have been calculated as set forth in section 4.06 of the 1978 Plan.²

3.4.2 Period from January 1, 1989 Through December 31, 1992. From January 1, 1989 through December 31, 1992, Part-Time Employees are entitled to Credited Service as follows, with Credited Service based on full calendar years:²

3.4.2.1 Salaried Part-Time Employees. Each salaried Part-Time Employee not required to report hours for pay purposes qualifies for six (6) months of Credited Service per a calendar year, provided that he works at least six (6) months as a Part-Time Employee during that calendar year. If he converts to a Full-Time position during a calendar year without an Interruption of Service, or if a Full-Time Employee converts to a Part-Time Employee in a salaried position during a calendar year without an Interruption of Service and such Employee completes at least six (6) months of combined Part-Time and Full-Time Service during that calendar year, such Employee shall be entitled to 50% of Credited Service for his Part-Time Employee Service in addition to any Credited Service earned as a Full-Time Employee during that calendar year. For example, if a Part-Time Employee in a salaried position works for two (2) months in that capacity and then becomes a Full-Time Employee, he will be entitled to 50% of two months Part-Time Credited Service (or one month of Credited Service) provided that his combined Part-Time and Full-Time Service exceeds six (6) months during that calendar year.

3.4.2.2 Hourly Part-Time Employees. Any Part-Time Employee who must report his hours for pay purposes qualifies for six (6) months of Credited Service for a calendar year, provided that he works at least 910 hours during that calendar year. If such a Part-Time Employee converts to a Full-Time position during a calendar year without an Interruption of Service or if a Full-Time Employee converts to a Part-Time position in which he must report hours during a calendar year without an Interruption of Service and such Employee works at least 910 hours of combined Part-Time and Full-Time service during that calendar year, he shall be entitled to 50% of the Credited Service for his Part-Time service as an Employee in addition to any Credited Service earned as a Full-Time Employee during the calendar year. For example, if a Part-Time Employee who must report hours works 122-1/2 hours and then assumes a Full-Time position, he will be entitled to 50% of 122-1/2 hours Part-Time Credited Service (one

² Amended by Resolution adopted June 21, 1999 as Item 13

month of Credited Service) provided that his combined Part-Time and Full-Time service is at least 910 hours during that calendar year.

3.4.3 Years Beginning After December 31, 1992. Effective January 1, 1993, each Active Participant who is a Part-Time Employee shall be entitled to Credited Service on and after such date 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.²

3.5 Commissioners. Before December 1, 1988, Commissioners shall receive eight (8) months Credited Service for a full calendar year of Service. After November 30, 1988, Commissioners shall receive Credited Service as if they were Full-Time Employees.

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

² Amended by Resolution adopted June 21, 1999 as Item 13

ARTICLE 4
NORMAL RETIREMENT, EARLY RETIREMENT,
DEFERRED VESTED, AND OPTIONAL PENSIONS

4.1 Normal Retirement Pensions.³

4.1.1 Participants Not Eligible for Public Safety Retirement -- Table A. The Normal Retirement Pension of each Participant who is not eligible for a Public Safety Retirement shall begin as of the day following his Termination after reaching age 65, regardless of the length of his Credited Service, and shall be payable in arrears on the last day of each month thereafter during his lifetime. The amount of each monthly payment shall be determined by multiplying his Final Average Earnings by the Benefit Rate from Table A, according to the Participant's attained age and Credited Service as of the date of his Termination.

4.1.2 Participants Eligible for Public Safety Retirement - Table A-1.

4.1.2.1 Eligibility. Each Participant who has earned at least 25 years of Credited Service without an Interruption of Service, at least 20 of which are Public Safety Service or at least the last 15 years of which are Public Safety Service shall be entitled to a Normal Retirement Pension, which shall begin as of the day following his Termination after satisfying the eligibility requirements.

4.1.2.2 Calculation and Payment of Pension. The Normal Retirement Pension shall be payable in arrears on the last day of each month thereafter during his lifetime. The amount of each monthly payment shall be determined by multiplying his Final Average Earnings by the Benefit Rate from Table A-1, according to the Participant's attained age and Credited Service as of the date of his Termination. Notwithstanding the foregoing, if the Participant is also eligible to receive a Normal Retirement Pension calculated under 4.1.1 or an Early Retirement Pension calculated under 4.2, such Participant's Pension shall not be less than a Normal Retirement Pension calculated under 4.1.1 or an Early Retirement Pension calculated under 4.2.

³ Amended by Resolution adopted June 19, 2000 as Item 43

4.1.3 Normal Retirement Pensions Following Disability.⁷

4.1.3.1 Conversion of Disability Pension to Normal Retirement Pension. On the first day of the month following a Disabled Participant's Disability Pension Recomputation Date, his Disability Pension shall terminate. Thereafter, he shall begin to receive a Normal Retirement Pension, calculated as set forth in 4.1 under the following assumptions and with the following adjustments: (a) the Participant shall be deemed to have earned Credited Service for all periods during which he was entitled to receive a Disability Pension through his Disability Pension Recomputation Date; and (b) the Participant's Final Average Earnings shall be adjusted by the COLA from the date his Disability Pension began through his Disability Pension Recomputation Age. Notwithstanding the foregoing, if the Participant's Credited Service, as so calculated, would not have entitled him to a Normal Retirement Pension as of the day before his Normal Retirement Date, he shall not be entitled to a Normal Retirement Pension.⁷

4.1.3.2 Normal Retirement Pension Following Disability Contract Termination Date (ADEA I). On the first day of the month following a Disabled Participant's Disability Contract Termination Date (ADEA I), he shall be eligible to receive a Normal Retirement Pension, calculated as set forth in 4.1 under the following assumptions and with the following adjustments: (a) the Participant shall be deemed to have earned Credited Service for all periods he was an Insured Disabled Participant (as provided in 3.1) and (b) the Participant's Final Average Earnings shall be adjusted by the COLA from the beginning of the period described in (a) above through his Disability Contract Termination Date (ADEA I). Notwithstanding the foregoing, if the Participant's Credited Service, as so calculated, would not have entitled him to a Normal Retirement Pension as of the day before his Normal Retirement Date, he shall not be entitled to a Normal Retirement Pension.⁷

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

4.2 Early Retirement Pension. If the Termination of a Participant who is not eligible for a Public Safety Retirement occurs on or after age 55 but before age 65, and after completion of the required years of Credited Service, a monthly pension shall be payable as set forth in either 4.2.2 or 4.2.3, at the Participant's election. The Participant's election may be exercised at any time after his Termination and before he attains age 65. If he has made no election before attaining age 65, his Pension shall be paid as set forth in 4.2.3.³

4.2.1 Required Years of Credited Service. For purposes of 4.2, the required years of Credited Service shall be seven and one-half (7 ½) for all Participants who are Employees on or after January 1, 1998 [ten (10) for all Participants who Terminated before January 1, 1998] (i) except in the case of a Participant who at any time after December 31, 1992 was a Special Part-Time Employee, in which case the required years of Credited Service shall be his actual years of Credited Service earned only in his capacity as a Special Part-Time Employee after such date and (ii) except in the case of an Involuntary Transfer County-to-City Employee, in which case the required years of Credited Service shall be that number of years required to earn a deferred vested benefit under the City of Memphis Retirement System, regardless of the number of years of Credited Service such Employee had earned prior to such involuntary transfer.

4.2.2 Immediate Early Retirement Pension -- Table B; Table B-1. The Participant's first option is an immediate Early Retirement Pension beginning as of any elected day following the Participant's date of Termination but before his 65th birthday. The Early Retirement Pension shall be payable in arrears on the last day of each month thereafter during his lifetime. The amount of the Early Retirement Pension shall be determined by multiplying the Participant's Final Average Earnings by the Benefit Rate from Table B (or, if greater, Table B-1 in the case of a Participant who at any time after December 31, 1992 was a Special Part-Time Employee, but only with respect to his Final Average Earnings in his capacity as a Special Part-Time Employee after such date) according to the Participant's age and Credited Service on the date of his Termination. The Credited Service of

³ Amended by Resolution adopted June 19, 2000 as Item 43

a Participant who at any time after December 31, 1992 was a Special Part-Time Employee shall include all of his Credited Service in making the determination as to which benefit is greater.

4.2.3 Deferred Retirement Pension-- Table A. The Participant's second option is a deferred Retirement Pension which shall begin as of the day following his attainment of age 65, provided he is then living, and shall be payable in arrears on the last day of each month thereafter during his lifetime. The amount of the Early Retirement Pension shall be determined by multiplying the amount of his Final Average Earnings by the Benefit Rate from Table A according to his Credited Service and the age at which his Pension shall actually begin.

4.3 Deferred Vested Pension Upon Termination Before Age 55 -- Tables C, C-1, D, and D-1. If the Termination of a Participant who is not eligible for a Public Safety Retirement occurs before age 55 and after completion of the required years of Credited Service, a monthly pension shall be payable as set forth in either 4.3.2 or 4.3.3, at the Participant's election. The Participant's election may be exercised at any time after his Termination and before he attains age 65. If he has made no election before attaining age 65, his Pension shall be paid as set forth in 4.3.2.³

4.3.1 Required Years of Credited Service. For purposes of 4.3, the required years of Credited Service shall be seven and one-half (7 ½) for all Participants who are Active Participants on or after January 1, 1998 [10 years of Credited Service for all Participants who are Terminated before January 1, 1998] (i) except in the case of a Participant who at any time after December 31, 1992 was a Special Part-Time Employee, in which case the required years of Credited Service shall be his actual years of Credited Service earned only in his capacity as a Special Part-Time Employee after such date and (ii) except in the case of an Involuntary Transfer County-to-City Employee, in which case the required years of Credited Service shall be that number of years required to earn a deferred vested benefit under the City of Memphis Retirement System, regardless of the number of years of Credited Service such Employee had earned prior to such involuntary transfer.

³ Amended by Resolution adopted June 19, 2000 as Item 43

4.3.2 Deferred Vested Pension to Begin at Age 65. The Participant's first option is a monthly Deferred Vested Pension which shall begin as of his 65th birthday, provided he is then living, and shall be payable in arrears on the last day of each month thereafter during his lifetime. The amount of the Deferred Vested Pension shall be determined by multiplying his Final Average Earnings by the Benefit Rate from Table C (or, if greater, Table C-1 in the case of a Participant who at any time after December 31, 1992 was a Special Part-Time Employee, but only with respect to his Final Average Earnings in his capacity as a Special Part-Time Employee after such date), according to his length of Credited Service on the date of his Termination. The Credited Service of a Participant who at any time after December 31, 1992 was a Special Part-Time Employee shall include all of his Credited Service in making the determination as to which benefit is greater.

4.3.3 Deferred Vested Pension to Begin at or after Age 55. The Participant's second option is a monthly Deferred Vested Pension beginning as of the time specified by the Participant in his election, which may be any day after he has attained age 55 and before he attains age 65. The Deferred Vested Pension shall be payable in arrears on the last day of each month thereafter during his lifetime. The amount of such Deferred Vested Pension shall be determined by multiplying the Participant's Final Average Earnings by the Benefit Rate from Table D (or, if greater, Table D-1 in the case of a Participant who at any time after December 31, 1992 was a Special Part-Time Employee, but only with respect to his Final Average Earnings in his capacity as a Special Part-Time Employee after such date), according to his years of Credited Service and age as of the date such Deferred Vested Pension is to begin. The Credited Service of a Participant who at any time after December 31, 1992 was a Special Part-Time Employee shall include all of his Credited Service in making the determination as to which benefit is greater.

4.4 Benefit Calculations for Involuntary Transfer Employees.

4.4.1 Involuntary Transfer City-to-County Employees. Notwithstanding other provisions of Article 4 to the contrary, a Retirement Pension otherwise payable from this Plan to an Involuntary Transfer City-to-County Employee shall be calculated as the excess, if any, of:

- (a) a Retirement Pension (if any) payable to the Participant based on his Total Credited Service and his Final Average Earnings as of the date of

Termination, 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.

4.4.2 Involuntary Transfer County-to-City Employees. Notwithstanding other provisions of Article 4 to the contrary, if the Total Credited Service of an Involuntary Transfer County-to-City 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, expressed in terms of a Normal Retirement Pension, shall be the product of his Final Average Earnings from the City (not from the County) and (ii) the Benefit Rate from Table A based upon the Credited Service set forth on his County Transfer Service Certificate.

4.5 Optional Pensions.

4.5.1 Election and Revocation of Election. A Participant who is entitled to receive a Retirement Pension may, at least 90 days prior to the beginning of the such Pension, elect to receive an Optional Pension in lieu of both the Retirement Pension otherwise payable to him and the Permanent Survivor Pension otherwise payable to his Spouse. The election shall be in writing in such form and manner as the Board may prescribe. At least 90 days before the beginning of the Optional Pension, the Participant may revoke his election and make a new election. Upon good cause shown, a Participant may elect to revoke his election within the 90 day period but no later than 45 days before the beginning of the Pension. The election of an Optional Pension shall be null and void if the Participant or his Named Beneficiary under the optional form dies before the beginning of the Optional Pension, and the Retirement Pension and/or Survivor Pension otherwise payable under the Plan shall again become payable.

4.5.2 Actuarial Equivalence. Each Optional Pension shall be the Actuarial Equivalence of Retirement Pension otherwise payable to the Participant.

4.5.3 Forms of Optional Pensions. The Board shall not

approve any Optional Pension under which the actuarial value of benefits payable to Named Beneficiaries is greater than 50% of the value of all benefits under the Optional Pension.

4.5.3.1 Option A - Joint and Survivor Annuity. A pension payable to the Participant for his life and, after his death, a percentage (as specified by the Participant in his election) of the Participant's pension for the life or lives of his Named Beneficiary or Named Beneficiaries. Permissible percentages of the continuing pension to the Named Beneficiary or Named Beneficiaries are 50%, 66 2/3%, 75%, or 100%, except that a 50% and a 66 2/3% joint and survivor annuity shall not be an available Optional Pension if the Participant's Named Beneficiary is his Spouse. If the Participant has more than one Named Beneficiary, Actuarial Equivalence shall be calculated by using the age of the youngest Named Beneficiary and, upon the Participant's death, dividing the resulting survivor benefit by the number of then living Named Beneficiaries.²

4.5.3.2 Option B - Life Only with a 10-Year Certain Payment. A pension payable to the Participant for the longer of the Participant's life or 120 months from the annuity starting date. If the Participant dies within 120 months from the annuity starting date, the same pension shall be payable to his Named Beneficiary or Named Beneficiaries until the end of such 120 month period. If there is more than one Named Beneficiary, the payment shall be divided into as many equal shares as there are Named Beneficiaries on the annuity starting date and paid accordingly to such Named Beneficiaries or to their estates upon their deaths.²

² Amended by Resolution adopted June 21, 1999 as Item 13

4.5.3.3 Option C - Special Form Option². A benefit form specified by the Participant, subject to the approval of the Board, which shall be tailored to the pattern of benefits reasonably necessary to meet specific needs of the Participant.

4.6 Refund of Employee Contributions Account; Repayment upon Reemployment.³

4.6.1 Refund in Lieu of All Other Benefits. Upon Termination of a Participant for any reason, he may elect to receive in a lump sum a refund of his Employee Contributions Account reduced by all Pension benefits previously paid to him. An election to receive such refund shall be in lieu of all other Pension benefits and, if applicable, any lump sum payment under 7.4 otherwise payable to the Participant or his Beneficiaries under the Plan.³

4.6.2 Participant's Right to Repay Amounts with Interest upon Reemployment under Certain Circumstances. If a Participant who has received a distribution of his Employee Contributions Account under 4.6.1 is reemployed as an Eligible Employee under circumstances that would permit his prior Credited Service to be restored under 3.3 absent his having received such payment, he shall have the right to repay the Trust the entire amount of his lump sum payment plus interest, compounded annually through the date of repayment at the rate utilized by the Actuary in calculating a benefit payable under section 7.4.1. Such repayment must be made on a single date in the form of one or more cashier's checks payable to the Trust and must be made within one (1) year of his date of reemployment. If the Participant had caused the Trust to transfer his lump sum payment directly into a rollover individual retirement account or into another plan qualified under IRC 401(a) (or IRC 403(b)) and IRC 501(a), the Trustee shall accept a direct transfer of cash from such account or plan as part (or all, as the case may be) of such repayment. Upon full repayment, the provisions of 3.3 shall

2 Amended by Resolution adopted June 21, 1999 as Item 13

3 Amended by Resolution adopted June 19, 2000 as Item 43

apply to the Participant.³

4.7 Named Beneficiaries.

4.7.1 Designation. At the time a Participant is eligible to elect an immediately payable Retirement Pension, he is entitled to designate one or more natural persons (including classes of natural persons) as Named Beneficiaries of Optional Pensions after the Participant's death. 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.

4.7.2 Spousal Rights. Notwithstanding the provisions of 4.7.1, a Participant who has a Spouse at any relevant time shall be automatically deemed to have named his Spouse as the sole primary Named Beneficiary unless the Spouse consents otherwise. Any such consent must be in writing on a form prescribed by the Board and shall be irrevocable (unless both the Participant and his Spouse consent in writing to a revocation), and the Spouse's signature must be witnessed by a designee of the Board. Except as otherwise provided in 4.7, the Participant's Named Beneficiary shall be the Named Beneficiary or Named Beneficiaries last designated by the Participant in writing to the Board.

4.8 Minimum Distribution Rules under IRC 401(a)(9). The requirements of 4.8 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 4.8 shall be determined and made in accordance with the Treasury Regulations under IRC 401(a)(9), including the minimum distribution incidental benefit requirement of Section 1.401(a)(9)-2 of the proposed Treasury Regulations. The consent of the Participant or of the Participant's Spouse or Designated Beneficiary shall not be required to make a payment required under 4.8.

4.8.1 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. The consent of the Participant or of the Participant's Spouse or Designated Beneficiary shall not be required to make a payment required under 4.8.

4.8.2 Duration of Benefits. Benefits to a Participant

shall be paid, beginning not later than the Required Beginning Date in accordance with Treasury Regulations, for a period not exceeding the life or life expectancy of such Participant or, if applicable, the joint lives of 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. The applicable calendar year shall be the first distribution calendar year. If annuity payments begin before the Required Beginning Date, the applicable calendar year is the year such payments begin. Life expectancy and joint and last survivor expectancy are computed by use of the expected return multiples in Tables V and VI of Treasury Regulation Section 1.72-9.

4.8.3 Payments after Death of Participant.

4.8.3.1 Benefits 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.

4.8.3.2 Benefits Not Beginning 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 an election is made to receive distributions in accordance with paragraph (a) or (b) below:

- (a) If any portion of the Participant's interest is payable to a Designated Beneficiary other than a surviving spouse, distributions may be made over the life expectancy of the Designated Beneficiary or over a period certain not greater 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 must commence under paragraph (a) 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 ½.

If the Participant has not made an election at the time of his death, the Participant's Designated Beneficiary must elect the method of distribution no later than the earlier of December 31 of the calendar year in which distributions would be required to begin, or December 31 of the calendar year which contains the fifth anniversary of the Participant's death. If the Participant has no Designated Beneficiary, or if the Designated Beneficiary does not elect a method of distribution, distribution of the Participant's entire interest must be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

4.8.3.3 Death of Surviving Spouse. For purposes of 4.8.3.2, if the surviving spouse dies before payments to such spouse begin, the provisions of 4.8.3.2, with the exception of paragraph (b), shall be applied as if the surviving spouse were the Participant.

4.8.3.4 Payments Deemed to Begin. For all purposes of 4.8.3, payment of a Participant's interest is considered to begin on the Participant's Required Beginning Date (or, if 4.8.3.3 is applicable, the date payment is required to begin to the surviving spouse under 4.8.3.2). If payment in the form of an annuity to the Participant irrevocably begins before his Required Beginning Date, the date payment is considered to begin is the date payment actually begins.

4.9 Ineligibility for Benefits While Actively Employed. Except as otherwise required by law or in 4.9, 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).

4.9.1 Suspension of Retirement Pension. Except as provided in 4.9.2, the Pension then being paid to any Terminated 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, and if he shall have qualified for additional Pension benefits under the terms of the Plan, his Pension shall be recalculated accordingly.

4.9.2 Exception for Certain Temporary Employees. The provisions of 4.9.1 shall not apply to any Terminated Participant reemployed as a Temporary Employee (and, thus, not eligible to accrue additional benefits under the Plan), provided that: (a) his rate of pay is the lesser of (i) the rate of pay specified for a Temporary Employee in the appropriate salary position or (ii) an amount equal to that of A Step (entry level) for the position in which he is temporarily employed, and (b) his employment does not exceed 90 working Days in any calendar year.¹⁰

¹⁰ Amended by Resolution adopted January 12, 2004 as Item 18

ARTICLE 5
DISABILITY PENSIONS

5.1 Ordinary Disability Pensions. Except as set forth in 5.1.6, the provisions of this 5.1 shall apply only to each Participant who last performed active service as an Active Employee on or before December 31, 2001 unless the Insuror makes a written determination that the Participant's Disability is not covered under the provisions of the Disability Contract solely as a result of either (i) the Insuror's written determination that the Participant's date of Disability was prior to January 1, 2002 or (ii) if the date of Disability is on or after January 1, 2002 and before January 1, 2003, the Insuror's written determination that Disability is a consequence of a pre-existing condition as of January 1, 2002 under the terms of the Disability Contract.⁷

5.1.1 Eligibility. An Active Participant who incurs Disability that is not a Line of Duty Disability shall be entitled to an Ordinary Disability Pension if (a) he has completed five (5) or more years of Credited Service prior to incurring Ordinary Disability, and (b) he is under the age of 70 at the time he incurs Disability.

5.1.2 Ordinary Disability Pension: Active Participants Who Were Not Participants in the 1978 Plan. The monthly Ordinary Disability Pension of an Active Participant who was not a Participant in the 1978 Plan and who is not an Involuntary Transfer City-to-County Employee shall be determined under the following formula:

30% of his Final Average Earnings with five (5) but fewer than 10 years of Credited Service;

35% of his Final Average Earnings with 10 but fewer than 15 years of Credited Service;

40% of his Final Average Earnings with 15 but fewer than 20 years of Credited Service;

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

45% of his Final Average Earnings with 20 but fewer than 25 years of Credited Service;

50% of his Final Average Earnings with 25 or more years of Credited Service.

5.1.3 Ordinary Disability Pension: Active Participants Who Were Participants in the 1978 Plan. The monthly Ordinary Disability Pension of an Active Participant who was a Participant in the 1978 Plan shall be 60% of his Final Average Earnings as of the date of Disability.

5.1.4 Increased Pension If Dependent Child. The Ordinary Disability Pension of each Participant entitled thereto shall be increased by 10 percentage points if and only so long as he has at least one Dependent Child.

5.1.5 Ordinary Disability Pension for Involuntary Transfer City-to-County Employee. Notwithstanding other provisions of Article 5 to the contrary, an Ordinary Disability Pension otherwise payable from this Plan to an Involuntary Transfer City-to-County Employee shall be calculated as the excess, if any, of:

- (a) an Ordinary Disability Pension (if any) payable to the Participant based on his Total Credited Service and his Final Average Earnings as of the date of Disability, over
- (b) the Participant's disability entitlement from the City Plan.⁷

5.1.6 Ordinary Disability Pension for Involuntary Transfer County-to-City Employee. Notwithstanding other provisions of Article 5 to the contrary, an Involuntary Transfer County-to-City Employee's Total Credited Service is sufficient to entitle him to an ordinary disability pension from the City Plan (with the fact of disability determined under the provisions of the City Plan), his Ordinary Disability Pension payable from this Plan shall be the excess, if any, of:

- (a) an Ordinary Disability Pension (calculated as if the Plan had not been amended to reflect the

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

existence of the Disability Contract) based on his Total Credited Service and his "average monthly compensation" (as defined in the City Plan) as of the date of "ordinary disability" (as defined in the City Plan), over

- (b) the Participant's disability entitlement from the City Plan.

Notwithstanding the foregoing, the Ordinary Disability Pension payable from this Plan to an Involuntary Transfer County-to-City Employee shall not exceed 60% of the Participant's "average monthly compensation" (as defined in the City Plan), as adjusted by the COLA from time to time, less the Participant's monthly disability entitlement from the City Plan.⁷

5.2 Line of Duty Disability Pension. The provisions of this 5.2 shall apply only to each Participant who incurs a Line of Duty Disability before becoming covered under the Disability Contract.⁷

5.2.1 Active Participant. The Disability Pension of an Active Participant (including an Involuntary Transfer City-to-County Employee) who incurs a Line of Duty Disability shall be 60% of his Final Average Earnings as of the date of Disability.

5.2.2 Increased Pension If Dependent Child. With respect to each Participant who incurs a Line of Duty Disability before January 1, 2002, the Line of Duty Disability Pension of each Participant entitled thereto shall be increased by 10 percentage points if and only so long as he has at least one Dependent Child.⁷

5.2.3 Line of Duty Disability of Involuntary Transfer County to-City Employee. This Plan shall not be liable to provide a

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

Line of Duty Disability Pension to any Involuntary Transfer County-to-City Employee. Instead, if any Involuntary Transfer County-to-City Employee incurs a "line of duty disability" as defined in section 25-1(27) of the City Plan, the Board shall cause the Fund to transfer to the City Plan the greater of (i) Participant's Contribution Account, if any, or (ii) the sum of \$10. 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.

5.3 Reduction of Disability Pensions.

5.3.1 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.

5.3.2 Change in Status of Dependent Child. The portion of the Disability Pension payable to a Disabled Participant as a result of his having a Dependent Child shall not be payable at any time that he has no Dependent Child. For example, if the only child of a Disabled Participant marries at age 20, such child is not a Dependent Child after the marriage, and the Disabled Participant's Disability Pension shall be reduced accordingly.

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.⁷

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

5.5 Term of Payment 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; (b) his Disability Pension Recomputation Date⁶; or (c) 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 Before Disability Recomputation Date⁷ or Death. Upon a finding by the Board of any one of the following circumstances with respect to a Participant's Disability prior to his Disability Pension Recomputation Date, the Participant's Disability Pension shall terminate:

- (a) The Disability of the Participant has abated to permit him to engage in Compensable Activities, whether or not he is actually engaging in Compensable Activities;
- (b) The Participant fails to submit to or fully participate in an examination requested by the Board within the period of time requested;
- (c) The Participant fails to furnish or authorize the release of any information requested by the Board within the amount of time requested;
- (d) The Participant ceases to be under the care and treatment of a Physician, if his condition indicates that he should be; or
- (e) The Participant fails or refuses to follow a

6 Amended by Resolution adopted September 10, 2001 as item 27

7 Amended by Resolution adopted December 17, 2001 as Item 40

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 Compensable Activities.

5.5.2 Reserved.⁷

5.6 Conversion of Disability Pension to Normal Retirement Pension. A Disabled Participant's Disability Pension shall terminated on his Disability Pension Recomputation Date, after which the provisions of 4.1.3.1 shall apply.

5.7 Public Safety Employees' Disability Pensions. The provisions of this Articles supercede all other provisions of the Plan (other than 4.6) with respect to the Pension entitlements of any Public Safety Employee who is entitled to a Disability Pension and to his Beneficiaries.³

3 Amended by Resolution adopted June 19, 2000 as Item 43

7 Amended by Resolution adopted December 17, 2001 as Item 40

ARTICLE 6
SURVIVOR PENSIONS

6.1 Line of Duty Death; Death of Disabled Participant.⁷

6.1.1 Survivor Pensions Applicable to Participants in the 1978 Plan Who Did Not Make Disability Survivor Elections and to Insured Disabled Participants. If a Participant who was a Participant in the 1978 Plan and who did not make the Disability Survivor Election dies (a) before attaining age 65 and before Termination and his death is a Line of Duty Death, or (b) during the time that he was receiving or entitled to receive a Disability Pension, the following Survivor Pensions are payable if the Participant is survived by either Dependent Children or Spouse or both. This 6.1.1 shall also apply to each Participant, whether or not a Participant in the 1978 Plan, who dies on or after January 1, 2002 (a) before attaining age 65 and before Termination and his death is a Line of Duty Death, or (b) while an Insured Disabled Participant, if the Participant is survived by either Dependent Children or Spouse or both.⁷

6.1.1.1 Temporary Survivor Pensions.

- (a) Dependent Children. If and so long as there is at least one survivor of the Participant who is a Dependent Child, the Survivor Pension to or for the benefit of such Dependent Child(ren) shall be 52 ½% of the Participant's Final Average Earnings determined as of the date of death.
- (b) Surviving Spouse Following Dependent Children. When there is no longer at least one survivor of the Participant who is a Dependent Child, the Survivor Pension shall be 85% of the Survivor Pension last paid to the last Dependent Child. Such Survivor Pension shall be payable to the Surviving Spouse for a period of 24 months but not beyond the Surviving Spouse's attainment of age 65, death, or remarriage.
- (c) Surviving Spouse Only. If the Participant is not

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

survived by a Dependent Child, a Survivor Pension shall be 45% of the Participant's Final Average Earnings determined as of the date of death. Such Survivor Pension shall be payable to the Surviving Spouse for a period of 24 months but not beyond the Surviving Spouse's attainment of age 65, death, or remarriage.

6.1.1.2 Permanent Survivor Pension. If, at the time of his death, the Participant was receiving or was entitled to receive a Disability Pension or was an Insured Disabled Participant or if his death was a Line of Duty Death, his surviving Spouse upon attaining age 65 and not then having remarried shall be entitled to a Permanent Survivor Pension. Such Survivor Pension shall be payable as of the later of the Participant's death and the Spouse's 65th birthday. It shall be payable monthly for the surviving Spouse's life, regardless of any remarriage after the Spouse's 65th birthday. The Survivor Pension shall be 75% of a pension determined in accordance with 4.1.3.⁶ If the Spouse is under age

65 at the time of the Participant's death, the Participant's Final Average Earnings shall be adjusted by the COLA over the period of time from the Participant's death to the Spouse's 65th birthday. The Survivor Pension shall be payable monthly for the Spouse's life, regardless of any remarriage after the Spouse's 65th birthday. In lieu of receiving such Survivor Pension at age 65, the surviving Spouse shall have the right to make the election under 6.6.

6.1.2 Survivor Pensions Applicable to Participants Who Were Not Participants in the 1978 Plan. If a Participant who was not in the 1978 Plan and was not an Insured Disabled Participant dies (a) before attaining age 65, before Termination, and his death is a Line of Duty Death or (b) during the time that he was receiving or entitled to receive a Disability Pension, the following Survivor Pensions are payable if the Participant is survived by either Dependent Children or Spouse or both. If the Participant's death is a Line of Duty Death, he shall be deemed to have been entitled to receive a Line of Duty Disability Pension calculated in accordance with 5.2 on the date of his death.⁷

6.1.2.1 Temporary Survivor Pensions.

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

- (a) Dependent Children. If and so long as there is at least one survivor of the Participant who is a Dependent Child, the Survivor Pension to or for the benefit of such Dependent Child(ren) shall be 100% of his Ordinary Disability Pension or his Line of Duty Disability Pension, as the case may be, determined as of the date of his death but recalculated under the assumption that the Participant had no Dependent Children immediately prior to his death.
- (b) Surviving Spouse Following Dependent Children. When there is no longer at least one survivor of the Participant who is a Dependent Child, the Survivor Pension shall be 75% of the Survivor Pension last paid to the last Dependent Child. Such Survivor Pension shall be payable to the Surviving Spouse for a period of 24 months but not beyond the Surviving Spouse's attainment of age 65, death, or remarriage.
- (c) Surviving Spouse Only. If the Participant is not survived by a Dependent Child, a Survivor Pension shall be 75% of the Participant's Ordinary Disability Pension or his Line of Duty Disability Pension, as the case may be, determined as of the date of his death but recalculated under the assumption that the Participant had no Dependent Children immediately prior to his death. Such Survivor Pension shall be payable to the Surviving Spouse for a period of 24 months but not beyond the Surviving Spouse's attainment of age 65, death, or remarriage.

6.1.2.2 Permanent Survivor Pension. If the Participant was receiving or was entitled to receive a Disability Pension at the time of his death or if his death was a Line of Duty Death, his surviving Spouse upon attaining age 65 and not then having remarried shall be entitled to a Permanent Survivor Pension, the amount and terms of which shall be the same as set forth in 6.1.1.2.

6.1.3 Survivor Pensions Applicable to Participants Who Were Participants in the 1978 Plan but Who Made Disability Survivor Elections. If a Participant who was a Participant in the 1978 Plan but who made the Disability Survivor Election dies (i) before attaining age 65 and before Termination and his death is a

Line of Duty Death or (b) during the time that he was receiving or entitled to receive a Disability Pension, the provisions of 6.1.2 shall apply as if he had not been a Participant in the 1978 Plan.

6.1.4 Entitled to Receive. For purposes of 6.1, to be considered "entitled to receive" a Disability Pension, the Participant must have met the Disability criteria in the Plan and must have applied for a Disability Pension prior to his death or his surviving Spouse must have applied for a Disability Pension on his behalf no later than six (6) months after the Participant's death.

6.2 Survivor Pensions upon Death of Active Employee under Age 65. If an Active Participant who has not attained age 65 dies before Termination and if no Survivor is eligible to receive a Survivor Pension under 6.1, the following Survivor Pensions are payable if the Participant had then completed at least seven and one-half (7 ½) years of Credited Service [10 years of Credited Service for all Participants who Terminated before January 1, 1998] and is survived by either Dependent Children or Spouse or both.

6.2.1.1 Temporary Survivor Pensions.

- (a) Dependent Children. If and so long as there is at least one survivor of the Participant who is a Dependent Child, the Survivor Pension to or for the benefit of such Dependent Child(ren) shall be 52 ½% of the Participant's Final Average Earnings determined as of the date of death.
- (b) Surviving Spouse Following Dependent Children. When there is no longer at least one survivor of the Participant who is a Dependent Child, the Survivor Pension shall be 85% of the Survivor Pension last paid to the last Dependent Child. Such Survivor Pension shall be payable to the Surviving Spouse for a period of 24 months but not beyond the Surviving Spouse's attainment of age 65, death, or remarriage.
- (c) Surviving Spouse Only. If the Participant is not survived by a Dependent Child, a Survivor Pension shall be 45% of the Participant's Final Average Earnings determined as of the date of death. Such Survivor Pension shall be payable to the Surviving

Spouse for a period of 24 months but not beyond the Surviving Spouse's attainment of age 65, death, or remarriage.

6.2.2.2 Permanent Survivor Pension. If, at the time of his death, the Active Participant had either (a) attained age 55 or (b) completed 15 years of Credited Service, his surviving Spouse upon attaining age 65 and not then having remarried shall be entitled to a Permanent Survivor Pension after the expiration of any Temporary Survivor Pension payable to the Spouse. The Survivor Pension shall be 75% of a pension determined in accordance with 4.1² based on the assumption that the Participant had Terminated on the day prior to his death and based on the Participant's Final Average Earnings, adjusted for the COLA over the period of time from the Participant's death to the Spouse's 65th birthday. The Survivor Pension shall be payable monthly for the Spouse's life, regardless of any remarriage after the Spouse's 65th birthday. In lieu of receiving such Survivor Pension at age 65, the surviving Spouse shall have the right to make the election under 6.6.

6.3 Survivor Pension upon Death of an Active Participant Age 65 or Older. If an Active Participant who has attained age 65 dies before Termination, the following Survivor Pensions are payable.²

² Amended by Resolution adopted June 21, 1999 as Item 13

6.3.1 Temporary Survivor Pensions. If the Participant had then completed at least seven and one-half (7 ½) years of Credited Service [10 years of Credited Service for Participants who Terminated before January 1, 1998] and is survived by either Dependent Children or Spouse or both, the provisions of 6.2.1.1 shall apply with respect to his survivors.²

6.3.2 Permanent Survivor Pension. Regardless of the Participant's years of Credited Service, a Permanent Survivor Pension is payable to his Spouse after the expiration of any Temporary Survivor Pension payable to the Spouse. The Permanent Survivor Pension is 75% of the Participant's Normal Retirement Pension based upon the assumption that the Participant had Terminated on the day prior to the date of his death and based upon the Participant's Final Average Earnings, adjusted (if the Spouse is then under age 65) by the COLA over the period of time from the Participant's death to the Spouse's 65th birthday. In lieu of receiving such Survivor Pension at age 65, the surviving Spouse shall have the right to make the election under 6.6.²

6.4 Survivor Pension upon Death of a Participant After Termination If Not Previously Receiving Disability Pension.

6.4.1 Death While Receiving a Retirement Pension. If a Participant, including an Involuntary Transfer County-to-City Employee, dies after Termination and was receiving at the time of his death (or was then entitled to immediate receipt of) a Retirement Pension, then his surviving Spouse shall receive a Survivor Pension equal to 75% of the Participant's Retirement Pension. Such Survivor Pension shall be payable as of the Spouse's 65th birthday (or if later the date of the Participant's death) and shall be payable monthly for the surviving Spouse's life. In lieu of receiving such Survivor Pension at age 65, the surviving Spouse shall have the right to make the election under 6.6.

6.4.2 Death When Entitled to Deferred Vested Pension. If a Participant, including an Involuntary Transfer County-to-City

² Amended by Resolution adopted June 21, 1999 as Item 13

Employee, dies after Termination and was entitled to a Deferred Vested Pension to have begun at age 65, then his Spouse shall receive a Survivor Pension, but only if the Spouse has not remarried prior to the Spouse's 65th birthday. The Survivor Pension shall be 75% of the Participant's monthly Accrued Benefit. The Survivor Pension shall begin on the first day of the month following the Spouse's 65th birthday and shall be payable monthly for the Spouse's life, regardless of any remarriage after the Spouse's 65th birthday. In lieu of receiving such Survivor Pension at age 65, the surviving Spouse shall have the right to make the election under 6.6.

6.5 Death within One Year after Termination and Before Age 65. If a Participant (other than Involuntary Transfer County-to-City Employees and Disabled Participants) (a) who has completed at least 10 years of Credited Service, (b) who has not attained age 65, (c) who is entitled to a Deferred Vested Pension, and (d) who dies within one (1) year after Termination, then a Survivor Pension in the amount of 52 ½% of the Participant's Final Average Earnings shall be payable to or for the benefit of the Participant's Dependent Child(ren) so long as there is at least one Dependent Child.⁷

2 Amended by Resolution adopted June 21, 1999 as Item 13

6.6 Spousal Survivor Pension Option. When a surviving Spouse is entitled to a Permanent Survivor Pension only after such surviving Spouse has attained age 65 (and, where applicable, only if such surviving Spouse has not then remarried), each such surviving Spouse who has not attained age 65 (and, where not having remarried is a condition to receiving a Permanent Survivor Pension, has not then remarried) shall have the right, at any time before the Survivor Pension begins, to elect to receive, in lieu of the designated Survivor Pension, an Actuarially Equivalent monthly lifetime Survivor Pension to begin at an earlier specified date.² Where the Participant's Final Average Earnings is otherwise required in this Article to be adjusted by the COLA from the date of the Participant's death to the Spouse's 65th birthday, it shall be so adjusted only until the date the Survivor Pension becomes payable to the surviving Spouse pursuant to the election. If the election under this 6.6 is made, the Survivor Pension will continue to be paid to the Spouse for life, regardless of any subsequent remarriage. However, such Survivor Pension shall not be adjusted by the COLA until the January 1 following the Spouse's 65th birthday.

6.7 Minimum Death Benefit for Survivors of Transferees from Plan B. The provisions of 6.7 apply only to Participants who transferred from Plan B to Plan A within the time permitted therefor. A Minimum Death Benefit shall be payable promptly after the later of (a) the date of death of the survivor of the Participant and his Spouse; or (b) the date upon which a Survivor Pension is no longer payable under the Plan to or for the benefit of the Participant's Dependent Child(ren). The amount of the Minimum Death Benefit shall be the balance in the Participant's Employee Contributions Account at the time the Minimum Death Benefit begins, less the sum of all Pension payments previously made to the Participant and his Beneficiaries. Such benefit shall be payable to the Participant's issue, per stirpes; and, if none, to the Participant's estate. The Minimum Death Benefit shall be paid in the form and method determined by the Board, which shall act in a nondiscriminatory manner.

6.8 Payments to or for the Benefit of Dependent Children. The Survivor Pension payable to or for the benefit of a deceased Participant's Dependent Children shall be divided equally among the persons who are, from time to time, Dependent Children. All Survivor Pensions payable to or for the benefit of a Dependent

² Amended by Resolution adopted December 17, 2001 as Item 40

Child who is under a legal incapacity shall be paid to the court-appointed legal guardian of the estate of such Dependent Child. Survivor Pensions payable to or for the benefit of a Dependent Child who is not under a legal incapacity shall be paid directly to such Dependent Child.

6.9 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.

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 Dependent 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

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 Benefit Tables; Interpolations. Tables of Benefit Rates appended to this Plan document express benefits as a percent of Final Average Earnings for a Participant's exact age and his exact number of years of Credited Service in full years. Benefit Rates applicable at intermediate ages and lengths of Credited Service shall be determined by the Board by interpolation in accordance with the written directions of the Actuary.

7.4 Cash-Out Provisions.

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

7.4.1 Mandatory Lump Sum Payments. Notwithstanding any provision in the Plan to the contrary, if the Present Value of Accrued Benefit of each Terminated Participant who is entitled to a Deferred Vested Pension and whose date of Termination was on or after the Effective Date is less than \$12,500 at the time of Termination (\$20,000 for Participants who Terminated on or after April 15, 2002), the Board shall pay the Present Value of the Accrued Benefit to such person in one lump sum (subject to the provisions of 7.6, where applicable), without the consent of the Participant. The Present Value of Accrued Benefit of a Terminated Participant shall be calculated as of the date of the Participant's Termination if paid within one (1) year from the date of Termination; otherwise it shall be calculated as of the first day of the Plan Year in which payment is made.^{7,8,11}

7.4.2 Time for Lump Sum Payment. The lump sum payment to a Terminated Participant under 7.4.1 shall be made no earlier than 180 days after his Termination, except in the case of a Participant whose notice of termination states that his termination is involuntary and is made as a result of budgetary constraints, in which case his lump sum payment shall be made as soon as administratively feasible. The Board may establish one or more specified periods during the Plan Year in which to make cash-out payments other than those payable as soon as administratively feasible. Notwithstanding the foregoing, no payment shall be made to a Participant if he has been reemployed as an Eligible Employee at the time established for payment. Until payment is actually made to the Participant, the terms of the Plan other than this 7.4 shall apply with respect to him.^{8,14}

7.4.3 Optional Lump Sum Payments.^{2,8}

7.4.3.1 Participants Entitled to Deferred Vested Pensions Prior to Effective Date: Payments Before April 15, 2002. Each Terminated Participant who, as of the day prior to the Effective Date, was entitled to receive a Deferred Vested Pension may elect

² Amended by resolution adopted June 21, 1999 as Item

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

⁸ Amended by Resolution adopted April 8, 2002 as Item 19

¹¹ Amended by Resolution adopted January 26, 2004 as Item 31

¹⁴ Amended by resolution adopted July 26, 2004, as Item 21

to receive, subject to the provisions of 7.6, a lump sum distribution of the Present Value of his Accrued Benefit at any time, provided that the Present Value of the Accrued Benefit is less than \$12,500 on the first day of the Plan Year in which the Participant requests such payment and provided that no payment is made until at least 180 days after such Participant's Termination. The provisions of this 7.4.3.1 shall apply only to distributions made prior to April 15, 2002.⁸

7.4.3.2 Persons Entitled to Deferred Vested Pensions or Permanent Survivor Pensions: Effective April 15, 2002. Effective April 15, 2002 each Terminated Participant who is entitled to receive a Deferred Vested Pension and each surviving Spouse who is entitled to immediate receipt of a Permanent Survivor Pension but who has not yet begun to receive a Permanent Survivor Pension may elect at any time to receive, subject to the provisions of 7.6 (where applicable), a lump sum distribution of the Present Value of his Accrued Benefit, provided that the Present Value of the Accrued Benefit is less than \$35,000 on the date of its calculation, as set forth in the last two sentences of this 7.4.3.2. The Present Value of Accrued Benefit of a Terminated Participant shall be calculated as of the date of the Participant's Termination if paid within one (1) year from the date of Termination; otherwise it shall be calculated as of the first day of the Plan Year in which payment is made. The Present Value of the Accrued Benefit of a surviving Spouse shall be calculated as of the date established for payment.⁸

7.4.3.3 Time for Lump Sum Payment. The provisions of 7.4.2 shall apply to optional lump sum payments to a Terminated Participant. The lump sum payment to a surviving Spouse shall be made as soon as administratively practicable after the final payment of such Spouse's Temporary Survivor Pension, if any, and after the surviving Spouse's election has been made.⁸

7.4.4 Participant's Right to Repay Amounts with Interest upon Reemployment under Certain Circumstances. If a Participant who has received a lump sum payment under 7.4 is reemployed as an Eligible Employee under circumstances that would permit his prior Credited Service to be restored under 3.3 absent his having received such payment, he shall have the right to repay the Trust the entire amount of his lump sum payment plus interest, compounded annually through the date of repayment at the rate utilized by the Actuary in calculating the Present Value of the Accrued Benefit when paid to him. Such repayment must be made on a single date in the form of one or more cashier's checks payable to the Trust and must be made within one (1) year of his date of reemployment. If the Participant had caused the Trust to transfer his lump sum payment directly into a rollover individual

⁸ Amended by Resolution adopted April 8, 2002 as Item 19

retirement account or into another plan qualified under IRC 401(a) (or IRC 403(b)) and IRC 501(a), the Trustee shall accept a direct transfer of cash from such account or plan as part (or all, as the case may be) of such repayment. Upon full repayment, the provisions of 3.3 shall apply to the Participant.

7.5 Cost-of-Living Adjustments.

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

(a) Normal Retirement Pensions;

(b) Early Retirement Pensions, but only for calendar years after the Participant has attained age 65;

(c) Disability Pensions;

(d) Temporary Survivor Pensions; Permanent Survivor Pensions to Surviving Spouse, but only for calendar years after the Spouse has attained age 65, if the Spouse has selected a Permanent Survivor Pension to begin before age 65;

(e) Optional Pensions but only for calendar years after the Participant has attained age 65.

In addition, COLAs shall also be made in determining the initial amount of certain Survivor Pensions, as more specifically set forth in Article 6.

7.5.2 Amount of COLAs.

7.5.2.1 In General. The COLA to each eligible Pension as of January 1 of each year shall be the lesser of (a) 4% 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 Further Limitations. Notwithstanding the provisions of 7.5.2.1:

(a) Participants with Fewer than 40 Years of Credited Service. Except as provided in paragraph (b), no Pension shall

at any time exceed the lesser of (i) 100% of the Participant's Final Average Earnings or (ii) 100% of his Highest Average Compensation (as defined in 7.7.5).

(b) Participants with 40 or More Years of Credited Service. If the Participant completed 40 or more years of Credited Service before Termination and is receiving a Normal Retirement Pension, his post-Termination benefit shall not exceed at any time the lesser of the following percentages of Final Average Earnings or Highest Average Compensation for the following classifications of such Participants:

- (1) 124%, if the Participant's Final Average Earnings did not exceed \$1,999.99;
- (2) 115%, if the Participant's Final Average Earnings equaled or exceeded \$1,200 but did not exceed \$2,799.99; and
- (3) 106%, if the Participant's Final Average Earnings equaled or exceeded \$2,800.

Furthermore, for the Plan Year in which the Participant's post-Termination benefit first exceeds the lesser of 100% of his Final Average Earnings or 100% of his Highest Average Compensation, 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. 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. Any portion of an Eligible Rollover Distribution which is not so transferred shall be distributed to the Participant. The Participant's direct transfer option is also available to the Participant's Surviving Spouse (if the Surviving Spouse is the Participant's Beneficiary), provided that an Eligible Retirement Plan qualified to receive such distribution shall be only an individual

retirement account or individual retirement annuity.

7.7 Limitation 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 Annual Benefit Not to Exceed Maximum Permissible Amount; Cut-Backs. The Annual Benefit otherwise payable to a Participant for any Limitation Year shall not exceed the Maximum Permissible Amount. If the benefit a Participant would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the Maximum Permissible Amount, then the rate of accrual will be reduced so that the Annual Benefit shall equal the Maximum Permissible Amount.

7.7.2 Participation in More Than One Plan. The provisions of 7.7.2 apply if any Participant is covered, or has been covered at any time before December 31, 1999 by another plan maintained by the Employer, including a qualified plan, a welfare benefit fund (as defined in IRC 419(e)), or an individual medical account (as defined in IRC 415(1)(2)) if any such plan provides an Annual Addition. Notwithstanding the foregoing, 7.7.2 shall not apply to any Participant in Limitation Years beginning after December 31, 1999.

7.7.2.1 Participation in More Than One Defined Benefit Plan. If at any time before December 31, 1999, the Participant is, or has been, covered under more than one (1) qualified defined benefit plan maintained by the Employer, the sum of the Participant's Annual Benefit from all such plans may not exceed the Maximum Permissible Amount.

7.7.2.2 Participation in Defined Contribution Plan. If the Employer maintains, or at any time before December 31, 1999 maintained, one (1) or more qualified defined contribution plans covering any Participant in this Plan (or if, after December 31, 1985, the Employer maintained a welfare benefit fund (as defined in IRC 419(e)) or an individual medical account (as defined in IRC 415(1)(2)), the sum of the Participant's Defined Contribution Fraction and Defined Benefit Fraction shall not exceed one (1.0) in any Limitation Year, and the Annual Additions otherwise credited to the Participant under the defined contribution plan shall be limited to the level necessary to prevent the limitations under IRC 415 from being exceeded with respect to such Participant.

7.7.3 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 the limitations of 7.7 shall not cause the Maximum Permissible Amount 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.

7.7.5 415 Definitions are the following:

"Annual Additions" shall mean the sum of the following amounts credited to a Participant's accounts under a qualified defined contribution plan for the Limitation Year;

- * Employer contributions;
- * Employee contributions; and
- * Forfeitures.

Annual additions shall also mean (i) amounts allocated an individual medical account (as defined in IRC 415(1)(2)) that is part of a pension or annuity plan maintained by the Employer; and (ii) amounts attributable to post-retirement medical benefits allocated to the separate account of a key employee (as defined in IRC 416) under a welfare benefit fund (as defined in IRC 419(e)) maintained by the Employer.

"Annual Benefit" shall mean a retirement benefit under the Plan which is payable annually in the form of a straight life annuity. Except as provided below, a benefit payable in a form other than a straight life annuity shall be adjusted to an Actuarial Equivalent straight life annuity before applying the limitations of 7.7. The Annual Benefit shall not include any benefits attributable to employee contributions or rollover contributions, or the assets transferred from a qualified plan that was not maintained by the Employer. No actuarial adjustment to the benefit is required for (i) the value of a qualified joint and survivor annuity, (ii) the value of benefits that are not directly related to retirement benefits (such as qualified disability benefits, pre-retirement death benefits, and post-retirement medical benefits), and (iii) the value of post-retirement

cost-of-living increases, if any, made in accordance with IRC 415(d) and Section 1.415-3(c)(2)(iii) of the Treasury Regulations.

"Compensation" with respect to a Participant 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 for the Limitation Year.

Thus, "415 Compensation" excludes 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).

"Current Accrued Benefit" means a Participant's Accrued Benefit under the Plan, determined as if the Participant had Terminated as of the close of the last Limitation Year beginning before January 1, 1987 when expressed as an Annual Benefit within the meaning of IRC 415(b)(2). In determining the amount of a Participant's Current Accrued Benefit, the following shall be disregarded:

- * any change in the terms and conditions of the Plan after May 5, 1986; and
- * any cost of living adjustments occurring after May 5, 1986.

"Defined Benefit Dollar Limitation" means \$90,000 for the 1989 Limitation Year, \$102,582 for the 1990 Limitation Year, \$108,963 for the 1991 Limitation Year, \$112,221 for the 1992 Limitation Year, \$115,641 for the 1993 Limitation Year, \$118,800 for the 1994 Limitation Year, \$120,000 for the 1995 and 1996 Limitation Years, \$125,000 for the 1997 Limitation Year, and \$130,000 for the 1998 Limitation Year. For Limitation Years after 1998, the prior Limitation Year's limitation shall be automatically adjusted by multiplying such limit by the cost-of-living adjustment factor prescribed by the Secretary of the Treasury under IRC 415(d) in such manner as the Secretary shall prescribe. The adjusted limitation will apply to Limitation Years ending within the calendar year of the date of the adjustment.

"Defined Benefit Fraction" shall mean a fraction, the

numerator of which is the sum of the Participant's Projected Annual Benefits under all qualified defined benefit plans (whether or not terminated) maintained by the Employer, and the denominator of which is the lesser of (i) 125% of the dollar limitation determined for the Limitation Year under IRC 415(b) and IRC 415(d) or (ii) 140% of the Highest Average Compensation, including any adjustments under IRC 415(b), which may be taken into account under IRC 415(b)(1)(B) with respect to an individual under the Plan. However, if the Participant was a Participant as of the first day of the first Limitation Year beginning after December 31, 1986 in one or more qualified defined benefit plans maintained by the Employer which are in existence on May 6, 1986, the denominator of this fraction shall not be less than 125% of the sum of the Annual Benefits under such plans which the Participant has accrued as of the close of the last Limitation Year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plans after May 6, 1986. The preceding sentence applies only if the qualified defined benefit plans individually and in the aggregate satisfied the requirements of IRC 415 for all Limitation years beginning before January 1, 1987.

"Defined Contribution Fraction" shall mean a fraction, the numerator of which is the sum of the Annual Additions to the Participant's account under all qualified defined contribution plans (whether or not terminated) maintained by the Employer for the current and all prior Limitation Years (including the Annual Additions attributable to the Participant's nondeductible employee contributions to this and all other qualified defined benefit plans, whether or not terminated, maintained by the Employer and the annual additions attributable to all welfare benefit funds, as defined in IRC 419(e) or individual medical accounts, as defined in IRC 415(1)(2), maintained by the Employer), and the denominator of which is the sum of the maximum aggregate amounts for the current and all prior Limitation Years of service with the Employer (regardless of whether a qualified defined contribution plan was maintained by the Employer). For purposes hereof, the maximum aggregate amount of any Limitation Year is the lesser of 125% of the dollar limitation determined under IRC 415(b) and (d) in effect under IRC 415(c)(1)(A) or 35% of the Participant's Compensation for such year. If the Employee was a Participant as of the first day of the first Limitation Year beginning after December 31, 1986 in one (1) or more defined contribution plans maintained by the Employer on May 6,

1986, then the numerator of this fraction shall be adjusted if the sum of this fraction and the Defined Benefit Fraction would otherwise exceed one (1.0) under the terms of this Plan. Under the adjustment, an amount equal to the product of (i) the excess of the sum of the fractions over one (1) and (ii) the denominator of this fraction, shall be permanently subtracted from the numerator of this fraction.

The adjustment shall be calculated using the fractions as they would be computed as of the end of the last Limitation Year beginning before January 1, 1987 and disregarding any changes in the terms and conditions of the plans made after May 6, 1986 but using the IRC 415 limitation applicable to the first Limitation Year beginning on or after January 1, 1987. The Annual Addition for any Limitation Year beginning before January 1, 1987 shall not be recomputed to treat all employee contributions as Annual Additions.

"Highest Average Compensation" shall mean the average Compensation for the three (3) consecutive years of Service with the Employer that produces the highest average.

"Limitation Year" means the calendar year.

"Maximum Permissible Amount" means the Defined Benefit Dollar Limitation for years beginning after December 31, 1994. For years beginning before December 31, 1994, "Maximum Permissible Amount" means the lesser of the Defined Benefit Dollar Limitation or 100% of the Participant's Highest Average Compensation.

(a) Except as otherwise provided in this paragraph, if the Participant has fewer than 10 Years of Participation in the Plan, the Defined Benefit Dollar Limitation is reduced by 1/10 for each Year of Participation (or part thereof) fewer than 10, but not less than 1/10th of the Defined Benefit Dollar Limitation determined without regard to this paragraph. The preceding sentence shall not apply to (i) Participants receiving Disability Pensions and (ii) Beneficiaries receiving Survivor Pensions or Optional Pensions after the Participant's death.

(b) Except as otherwise provided in this paragraph, if the Participant has fewer than 10 years of Service with the Employer, the Maximum Permissible Amount is reduced by 1/10 for each year of Service (or part thereof) less than 10, but not less than 1/10th of the Maximum Permissible Amount determined without regard to this paragraph. The preceding sentence shall not apply to (i) Participants receiving

Disability Pensions and (ii) Beneficiaries receiving Survivor Pensions or Optional Pensions after the Participant's death. For Limitation Years beginning before December 31, 1999, the adjustments of this definition shall be applied in the denominator of the Defined Benefit Fraction based upon years of Service.

(c) Except as otherwise provided in this paragraph, if the Annual Benefit of a Participant begins prior to age 62, the Defined Benefit Dollar Limitation shall be the Actuarial Equivalent of an Annual Benefit beginning at age 62. The preceding sentence shall not apply to reduce the Defined Benefit Dollar Limitation below (i) \$75,000 if benefits begin at or after age 55, or (ii) if benefits begin before age 55, the equivalent of the \$75,000 limitation for age 55. Furthermore, in the case of full-time police or firefighters (as those occupations are defined in IRC 415(b)(2)(H)) with at least 15 year of Service in such occupations, (i) the Defined Benefit Dollar Limitation not be reduced below \$50,000 in Limitation Years beginning before January 1, 1997, and (ii) there shall be no reduction of the Defined Benefit Dollar Limitation in Limitation Years beginning on and after January 1, 1997. The \$75,000 and \$50,000 limitations will be automatically adjusted after January 1, 1989, pursuant to the provisions of IRC 415(d).

(d) Except as otherwise provided in this paragraph, if the Annual Benefit of a Participant begins after age 65, the determination as to whether the Defined Benefit Dollar Amount has been satisfied shall be made, in accordance with regulations prescribed by the Secretary of the Treasury, by increasing the Defined Benefit Dollar Limitation so that such limitation (as so increased) equals an Annual Benefit (beginning when the Retirement Pension begins) that is equivalent to a \$90,000 (as automatically adjusted after January 1, 1989, pursuant to the provisions of IRC 415(d)) benefit beginning at age 65.

(e) Benefits payable with respect to a Participant shall not be deemed to exceed the Maximum Permissible Amount in any Limitation Year if such benefits, together with all other benefits payable to the Participant under each other defined benefit plan maintained by the Participant's Employer, do not exceed \$10,000 for the plan year and the Employer has not maintained at any time a defined contribution plan in which the Participant participated.

"Projected Annual Benefit" shall mean the Annual Benefit to which the Participant would be entitled under the terms of the Plan assuming:

- * the Participant continues as an Employee until Normal Retirement Age (or current age, if later), and
- * the Participant's Compensation for the current Limitation Year and all other relevant factors used to determine benefits under the Plan remain constant for all future Limitation Years.

"Year of Participation" The Participant shall be credited with a Year of Participation (computed to fractional parts of a year) for each accrual computation period for which the following conditions are met: (i) the Participant is credited with at least the period of Service for benefit accrual purposes, required under the terms of the Plan in order to accrue Credited Service, and (ii) the Participant is included as a Participant under the eligibility provisions of the plan for at least one day of the period of Credited Service. If these two (2) conditions are met, the portion of a Year of Participation credited to the Participant shall equal the amount of Credited Service credited to the Participant for such accrual computation period. A Participant who is disabled within the meaning of IRC 415(c)(3)(C)(i) for an accrual computation period shall receive a Year of Participation with respect to that period.

In addition, for a Participant to receive a Year of Participation (or part thereof) for an accrual computation period, the Plan must be established no later than the last day of such accrual computation period. In no event will more than one Year of Participation be credited for any 12 month period.

ARTICLE 8
FUNDING OF PLAN

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 the Plan and Plan B 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 Plan and Plan B 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.

8.3 Participant Contributions.³

8.3.1 In General. Except as provided in 7.4.4, 8.3.2, and Article 11, Participant contributions are not permitted.³

8.3.2 Contributions by Public Safety Employees.³

8.3.2.1 Amount. Effective September 1, 2000, as a condition of his employment or continued employment as a Public Safety Employee, each Public Safety Employee (other than Public Safety

³ Amended by Resolution adopted June 19, 2000 as Item 43

⁶ Amended by Resolution adopted September 10, 2001 as Item 27

Employees who had the right to elect and did elect not to be considered a Public Safety Employee for all purposes of the Plan, as set forth in the definition of "Public Safety Employee") shall contribute to the Fund the Required Contribution.⁶

Notwithstanding the foregoing, the Required Contribution of each Public Safety Employee whose position was added to the definition of "Public Safety Employee" by Resolution of the County Commission after June 19, 2000 (other than those who had the right to elect and did elect not to be considered a Public Safety Employee for all purposes of the Plan), shall be calculated retroactively as of September 1, 2000, and such past Required Contributions shall be made to the Plan at the time and manner determined by the Board.^{3,4,6}

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 Public Safety Employee in lieu of its being actually made by the Public Safety Employee, whose compensation shall be reduced accordingly.³

8.3.2.3 "Make-Up" Contributions Relating to Qualified Military Service. The provisions of section 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

³ Amended by Resolution adopted June 19, 2000 as Item 43

⁴ Amended by Resolution adopted December 4, 2000 as Item 19

⁶ Amended by Resolution adopted December 17, 2001 as Item 40

Military Service, all as determined by the Board.⁴

8.4 Employee Contributions Accounts.³

8.4.1 Accounts of Former Plan B Participants. An Employee Contributions Account shall be maintained by the Plan for each Participant who transferred to the Plan from Plan B and who did not receive a distribution of his Plan B Employee Contributions Account. At the end of each Plan Year each Employee Contributions Account described in this 8.4.1 shall be increased by an interest factor by multiplying such account balance as of the end of the preceding Plan Year by 7½%. The Plan shall separately account for the Employee Contributions Account and the interest factor credited to such Account.³

8.4.2 Accounts of Public Safety Employees. An Employee Contributions Account shall be maintained by the Plan for each Public Safety Employee with respect to all Required Contributions made on his behalf. At the end of each Plan Year beginning before July 1, 2003 each Employee Contributions Account described in this 8.4.2 shall be increased by an interest factor by multiplying such account balance as of the end of the preceding Plan Year by 5%. For the six month period beginning July 1, 2003 and ending December 31, 2003, each such Employee Contributions Account shall be increased by an interest factor by multiplying such account balance as of June 30, 2003 by 2.5%. At the end of each calendar year beginning after December 31, 2003, each such Employee Contributions Account shall be increased by an interest factor by multiplying such account balance as of the end of the preceding calendar year by 5%. The Plan shall separately account for the Employee Contributions Account and the interest factor credited to such Account.^{3,13}

³ Amended by Resolution adopted June 19, 2000 as Item 43

¹³ Amended by Resolution adopted January 26, 2004 as Item 33

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 (a) close participation in the Plan by excluding subsequently engaged Employees from participation or (b) 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. If the Plan is closed to subsequently engaged Employees, 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 without regard to the COLA provisions and 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. 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.

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

11.1 Credited Service of Certain Employees Reemployed in March, 1980 after Termination of Appointed Status and Employment in August, 1978. This section is applicable to each Employee (a) whose original date of employment as a classified employee of the County was on or about January 12, 1971, (b) whose employment status was changed to unclassified (appointed) on or about December 1, 1977, (c) who was not reappointed and whose employment was, therefore, terminated on or about August 31, 1978, (d) who received a refund of Plan B contributions on or about January 24, 1979, and (e) who was reemployed as a classified employee on or about March 17, 1980 and then became a Participant in Plan A. The Credited Service of each such Employee shall include all Plan B "Creditable Service" upon such Employee's payment to the Fund, within 60 days of the adoption of the Resolution containing this amendment, an amount equal to the Plan B contributions refunded to such Employee on or after January 24, 1979.¹

11.2 Credited Service of Certain Involuntary Transfer City-to-County Employees. This section is applicable to each Employee (a) whose original date of employment with the City was on or about February 10, 1975, (b) who became an Employee of the County and a Participant in this Plan on or about February 1, 1980 at a time in which there was no formal agreement between the City and the County with respect to City Transfer Service, and (c) who received from the City a refund of contributions to the City Plan on or after February 1, 1980 pursuant to the provisions of the City Plan. The Credited Service of each such Employee shall include all credited service with the City determined in accordance with the terms of the City Plan, provided that such Employee pays to the Fund, within 60 days of the adoption of the Resolution containing this amendment, an amount equal to the City Plan contributions refunded to such Employee on or after February 1, 1980.¹

¹ Added per Resolution adopted June 21, 1999 as Item 12

11.3 Presumption of a Certain Participant's Death in the Line of Duty. This section is applicable to each Participant (a) who, on April 17, 2001 was employed in the Memphis and Shelby County Office of Code Enforcement, (b) who, on April 17, 2001 and while actively engaged in his employment, disappeared under circumstances strongly suggesting his abduction and murder, and (c) whose body has not been located as of the date of this amendment nor has his disappearance otherwise been solved. For all purposes of the Plan, such Participant shall be deemed to have died in the Line of Duty on the earlier of the date his body is located and positively identified or August 31, 2001.⁵

11.4 Credited Service of Certain Involuntary Transfer City-to-County Employees, Now Retired. This section is applicable to each Employee (a) whose original date of employment with the City was on or about March 6, 1978, (b) who became an Employee of the County and a Participant in this Plan on or about February 1, 1980 at a time in which there was no formal agreement between the City and the County with respect to City Transfer Service, (c) who received from the City a refund of contributions to the City Plan on or after February 1, 1980 pursuant to the provisions of the City Plan, and (d) who retired under Plan A on or about June 10, 1998. The Credited Service of each such Employee shall include all credited service with the City determined in accordance with the terms of the City Plan, provided that such Employee pays to the Fund, within 60 days of the adoption of the Resolution containing this amendment, an amount equal to the City Plan contributions refunded to such Employee on or after February 1, 1980.⁷

⁵ Added per Resolution adopted August 27, 2001 as Item 21

⁷ Amended by Resolution adopted December 17, 2001 as Item 40

11.5 Credited Service of Certain Involuntary Transfer City-to-County Employees. This section is applicable to each Employee (a) whose original date of employment with the City was on or about October 7, 1975, (b) who became an Employee of the County and a Participant in this Plan on or about November 15, 1979 at a time in which there was no formal agreement between the City and the County with respect to City Transfer Service, and (c) who received from the City a refund of contributions to the City Plan on or about December 20, 1979 pursuant to the provisions of the City Plan. The Credited Service of each such Employee shall include all credited service with the City determined in accordance with the terms of the City Plan, provided that such Employee pays to the Fund, within 60 days of the adoption of the Resolution containing this amendment, an amount equal to the City Plan contributions refunded to such Employee on or about December 20, 1979.⁹

⁹ Added by Resolution adopted December 8, 2003 as Item 28

SCHEDULE 1⁸

FUNDING RATE; ACTUARIAL ASSUMPTIONS FOR CALCULATION OF OPTIONAL PENSIONS AND PRESENT VALUES OF ACCRUED BENEFITS

Funding Rate

For the Plan Year beginning on July 1, 1997 and successive Plan Years, until this Schedule is amended, the Funding rate is 8.25%.

Calculation of Optional Pensions

For purposes of calculating Optional Pensions, the applicable mortality table is the UP-1984 Mortality Tables rated back two (2) years for Participants and rated back one (1) year for Beneficiaries, and the applicable interest rate is 7 ½%.

Calculation of Presentation Value of Accrued Benefit

For purposes of calculating the Present Value of Accrued Benefit:

- (2) the applicable mortality table is the mortality table set forth in Revenue Ruling 95-6, based upon a blend of 50% of the male and female mortality rates set forth in the 1983 Group Annuity Mortality Table; and
- (b)(1) the applicable interest rate for all Terminated Participants whose Present Value of Accrued Benefit is payable under 7.4.1 (mandatory lump sum payments) or is payable under 7.4.3.1 (certain optional lump sum payments before April 15, 2002) and whose date of Termination is before April 15, 2002 is the annual interest rate on 30-year Treasury Constant Maturities as published in Federal Reserve releases G.13 and H.15 in effect for the month of June before the beginning of the Plan Year in which the Participant Terminates or, if the Present Value of the Accrued Benefit is not paid within one (1) year from the date of Termination, in effect for the month of June before the beginning of the Plan Year in which

payment is made;

- (b)(2) the applicable interest rate for all Terminated Participants whose Present Value of Accrued Benefit is payable under 7.4.1 (mandatory lump sum payments) and whose date of Termination is on or after April 15, 2002 is the Funding Rate for the Plan Year in which payment is made, less 75 basis points;
- (b)(3) the applicable interest rate for all Terminated Participants and Beneficiaries whose Present Value of Accrued Benefit is payable under 7.4.3.2 (optional lump sum payments on and after April 15, 2002) is the funding Rate for the Plan Year in which payment is made, less 75 basis points.