

1 An Ordinance establishing the Firefighters’ Retirement Plan of the City of St. Louis;
2 providing retirement, disability and death benefits for the firefighters of the City and their
3 covered dependents, including severability and effective date clauses, and provisions pertaining
4 to the repeal of Chapter 4.18 of the Revised Code of the City of St. Louis and the ordinances
5 referenced therein, relating to The Firemen’s Retirement System of St. Louis.

6 **WHEREAS**, in 1959 the City adopted Ordinance 49623, establishing The Firemen’s
7 Retirement System of St. Louis (“FRS”), effective January 1, 1960, under the general authority
8 of Senate Bill 314, approved by the Missouri General Assembly;

9 **WHEREAS**, as a result of a series of amendments and actions by the trustees of The
10 Firemen’s Retirement System of St. Louis, the retirement plan originally adopted by the City has
11 been transformed into an unsustainable system with many unaffordable secondary benefits,
12 which must be funded by the City;

13 **WHEREAS**, the City is required to fund FRS to the extent investment returns and other
14 revenues are insufficient to fund benefit obligations;

15 **WHEREAS**, FRS incurred actuarial investment losses totaling more than \$256 million
16 during the eleven-year period from 2001 through 2011, resulting in an unfunded liability in
17 excess of \$117 million for that period;

18 **WHEREAS**, during the same period of time, the City’s required annual payment to FRS
19 increased by 529 percent, from \$3,365,007 to \$21,176,763 (not including service of debt
20 incurred to fund contributions);

21 **WHEREAS**, the cost of funding FRS currently totals more than fifty-six percent of the
22 total firefighter’s payroll, compared to 10.3 percent in 2001 (not including service of debt

1 incurred to fund contributions), and approximately 14.3 percent of payroll to fund the pension
2 plan for other City employees;

3 **WHEREAS**, firefighter pension costs now consume about one-third of the fire
4 department's budget;

5 **WHEREAS**, these dramatic increases in FRS costs have created a severe budgetary
6 hardship on the City, which lacks the financial resources to sustain this level of funding without
7 drastically reducing other essential services, including services related to fighting fires;

8 **WHEREAS**, service-related disability benefits under the FRS are more generous than
9 ordinary retirement benefits and have become a significant expense that is ultimately borne by
10 the City;

11 **WHEREAS**, the City is committed to funding the entire amount certified by the actuary
12 for the plan each year.

13 **WHEREAS**, given that there have historically been hundreds of applicants for each
14 opening for entry level firefighter positions in the fire department, the City believes it can attract
15 and retain qualified firefighters, and maintain a pension plan that is very competitive in the
16 marketplace, with a reduced level of contributions for pensions.

17 **WHEREAS**, the City wishes to reform the current retirement plan for its firefighters, in
18 order to (i) assure that firefighters receive all benefits accrued and earned to date; (ii) make
19 modifications for future benefits in a manner that provides substantial retirement income benefits
20 at an early retirement age of fifty-five, typical for firefighters generally; (iii) maintain a pension
21 benefit that is competitive in the marketplace that will attract and retain qualified firefighters;
22 (iv) preserve the long-term financial sustainability of the plan and the City; and (v) and reduce
23 the financial burden on taxpayers funding the system.

- 1 4.19.020 Definitions
- 2 4.19.030 Eligibility and Contributions
- 3 4.19.040 Service
- 4 4.19.050 Retirement Benefits
- 5 4.19.060 Grandfathered Pension Benefits
- 6 4.19.070 Disability Income
- 7 4.19.080 Death Benefits
- 8 4.19.090 Limitation of Benefits
- 9 4.19.100 Payment of Benefits
- 10 4.19.110 Special Payment Rules
- 11 4.19.120 Funding
- 12 4.19.130 Trust Fund Investments
- 13 4.19.140 Administration – Duties of Trustees
- 14 4.19.150 Claims and Review Procedure
- 15 4.19.160 Amendment and Termination
- 16 4.19.170 Miscellaneous

17

18 **4.19.010 Establishment of the Plan.**

19 A. Establishment of Plan. Pursuant to its authority under the home rule charter
20 provisions of the Constitution of the State of Missouri and the laws of the State of Missouri, the
21 City of St. Louis hereby establishes the pension plan prescribed in this Ordinance, known as the
22 Firefighters’ Retirement Plan (the “Plan”), to provide retirement, disability and death benefits for
23 the firefighters of the City and their covered dependents.

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1 B. Structure of Plan. The provisions of subsections 4.19.050(A) through (G) govern
2 pension benefits accrued by Participants hired on and after the Effective Date. Before the
3 Effective Date, the benefits of Participants accrued under the Firemen’s Retirement System of St.
4 Louis pursuant to Chapter 4.18 of the Revised Code (the “Prior Plan”). Benefit accruals under
5 the Prior Plan were frozen as of the Effective Date by a separate Board Bill and Ordinance. The
6 assets and liabilities of the Prior Plan are merged into this Plan, as provided in subsection
7 4.19.010(E). Subsections 4.19.060(A) through (G) contain rules relating to accrual of benefits of
8 Participants hired before the Effective Date and payment of pension benefits accrued under the
9 Prior Plan (“Grandfathered Benefits”). The provisions of subsections 4.19.060(A) through (F),
10 governing pension benefits of Grandfathered Participants, are independent of the provisions of
11 subsections 4.19.050 (A) through (G) relating to Participants hired on and after the Effective
12 Date.

13 C. Type of Plan. This Plan and the Trust established pursuant to this Plan are
14 intended to qualify under Sections 401(a) and 501(a) of the Internal Revenue Code of 1986, as
15 amended from time to time.

16 D. Effective Date. This Ordinance is effective on and after the thirtieth day
17 following the date this Ordinance is signed into law by the Mayor of the City of St. Louis.

18 E. Merger of Prior Plan. Pursuant to the provisions of this Ordinance and City
19 Ordinance 69149, upon establishment of the successor Plan created herein, the assets of the Prior
20 Plan are hereby merged into the Trust Fund established under this Plan and shall be held and
21 administered by the Trustees pursuant to the provisions of this Plan. The ordinances that are
22 referenced and comprise Chapter 4.18 of the Revised Code of the City of St. Louis, as amended,
23 are repealed, as provided in Ordinance 69149, the firemen’s pension fund heretofore created by

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1 said ordinances and Chapter is dissolved, and the City Treasurer is directed to hold the cash
2 securities and other assets of the said fund as of the Effective Date, as assets of the Trust Fund
3 under the Firefighters' Retirement Plan of St. Louis hereby created and established. The City
4 Treasurer shall take any action necessary or appropriate to effectuate such direction as of the
5 Effective Date. Upon the consummation of such merger of assets, the liabilities of the Prior Plan
6 shall be assumed by and paid pursuant to the terms of this Plan, and the provisions of the Prior
7 Plan shall be repealed in their entirety.

8 **4.19.020 Definitions.**

9 A. Accrued Benefit. The amount from time to time payable to a Participant in the
10 form of a single life annuity beginning on the Normal Retirement Date of the Participant
11 determined in accordance with the Plan, as if the Participant had incurred a Termination of
12 Employment at such time.

13 B. Actuarial Equivalent. The actuarial equivalent amount determined on the basis of
14 the RP 2000 combined healthy mortality, sex distinct, projected to 2015 (static table) Mortality
15 Table and an assumed annual rate of investment return of 7.625%.

16 C. Accumulated Contributions. The sum of all amounts deducted from the
17 compensation of a Participant and credited to his individual account, together with interest
18 thereon, less any previous withdrawals from such account.

19 D. Actuary. An actuary, enrolled by the Joint Board for the Enrollment of Actuaries,
20 selected by the Board of Trustees.

21 E. Annuity Starting Date. The first day of the first period for which an amount
22 (other than a disability benefit payable under Section 4.19.070) is paid in accordance with the
23 Plan.

1 F. Average Final Compensation. The average monthly compensation of the
2 Participant during his last five years of Covered Employment; or if he has less than five years of
3 such service, the average compensation paid during his entire period of Covered Employment.
4 The Final Average Compensation of a Grandfathered Participant shall be based on the last two
5 years of Covered Employment, instead of the last five years. Compensation means the regular
6 annual rate of compensation that a Participant would earn on the basis of the stated compensation
7 for his rank or position.

8 G. Board of Aldermen. The Board of Aldermen of the City.

9 H. Board of Trustees. The Board of Trustees provided for in Section 4.19.130 to
10 hold and invest the assets of the Trust Fund.

11 I. City. The City of St. Louis, Missouri.

12 J. Code. The Internal Revenue Code of 1986. Reference to a section of the Code
13 shall include that section and any comparable section or sections of any future legislation that
14 amends, supplements or supersedes said section.

15 K. Covered Employment. All service performed for the fire department of the City
16 for which an Employee is compensated while classified by the fire department as an Employee
17 performing services as a firefighter (without regard to any retroactive reclassification).

18 L. Early Retirement Age. The date on which a Participant completes at least twenty
19 years of service.

20 M. Early Retirement Date. The first day of the month next following the date the
21 Participant incurs a Termination of Employment after his Early Retirement Age, but before his
22 Normal Retirement Age.

23 N. Effective Date. The date specified in subsection 4.19.010.

1 **O. Employee.** Any officer or employee of the fire department of the City employed
2 by the City for the duty of fighting fires, but does not include anyone employed in a clerical or
3 other capacity not involving firefighting duties.

4 **P. Full-Time Student.** A person enrolled in a degree program at a college,
5 university, community college, or vocational or technical school with a schedule of at least
6 twelve hours per semester.

7 **Q. Grandfathered Participant.** A Participant of the Prior Plan who was employed on
8 the day before the Effective Date.

9 **R. Interest.** The short-term Applicable Federal Rate, as published by the Internal
10 Revenue Service for the December immediately preceding the calendar year, for the purpose of
11 interest for each calendar year for refund of Accumulated Contributions.

12 **S. Normal Retirement Age.** The date on which a Participant first attains fifty-five
13 years of age.

14 **T. Normal Retirement Date.** The first day of the month next following the date the
15 Employee incurs a Termination of Employment after his Normal Retirement Age and after
16 completing at least twenty Years of Service.

17 **U. Participant.** An Employee or former Employee who shall have become entitled to
18 participate in this Plan and who continues to have rights to benefits under this Plan, or whose
19 beneficiaries may be eligible to receive benefits under this Plan.

20 **V. Plan.** The Firefighters' Retirement Plan, the terms and provisions of which are set
21 forth in this Ordinance, as amended from time to time.

22 **W. Plan Year.** The twelve-month period beginning October 1.

1 X. Retirement Date. The first day as of which a retirement benefit is payable to a
2 Participant in accordance with this Plan, and may be either a Normal Retirement Date or an
3 Early Retirement Date.

4 Y. Termination of Employment. Separation from the service of the City.

5 Z. Trust Agreement. The trust agreement entered into between the City and the
6 Trustee in accordance herewith for the purpose of holding and investing the Trust Fund.

7 AA. Trust Fund. The Trust Fund as described in subsection 4.19.120(A) hereof.

8 BB. Trustee or Trustees. The person or persons serving as trustee of the Trust Fund or
9 any successor(s) thereto; provided that, to the extent that the Trust Fund is invested in an
10 Annuity Contract, the insurance company shall be the Trustee.

11 CC. Widow(er). The person to whom the Participant is lawfully married throughout the
12 one year period ending at death., provided that a former spouse will be treated as the Widow(er)
13 to the extent provided under a qualified domestic relations order as described in Section 414(p)
14 of the Code. A surviving domestic partner shall be deemed to be a widow(er). A surviving
15 domestic partner means a person validly registered with the City as a domestic partner with the
16 Participant in accordance with St. Louis City Ordinance 64401 throughout both the one-year
17 period ending at the time benefit payments to the Participant from this Plan commenced and the
18 one-year period ending at the death of the Participant, and with respect to whom it is
19 substantiated in writing that such person and the Participant satisfied as least two of the
20 following indicia of economic interdependence as of the date of death of the Participant:

- 21 (1) Joint ownership of real property or a common leasehold interest in real property;
- 22 (2) Common ownership of an automobile;
- 23 (3) An open joint bank account or credit account;

- 1 (4) A will designating the other person as the primary beneficiary;
- 2 (5) A current designation of the other person as the primary beneficiary for life
3 insurance or retirement benefits;
- 4 (6) A current designation of the other person as durable power of attorney or health
5 care power of attorney; and
- 6 (7) A driver's license listing a common address.

7 **4.19.030 Eligibility and Contributions.**

8 A. Entry Date. On and after the Effective Date, an Employee shall be eligible to
9 participate in the Plan on the first day such Employee is employed in Covered Employment.

10 B. Employee Contributions. The Board of Trustees shall certify to the chief of the
11 fire department, and the chief of the fire department shall cause to be deducted from the
12 compensation of each Participant each pay period, and remitted to the Trustee, nine percent of
13 the compensation of each Participant. Such contributions shall be credited to the Accumulated
14 Contributions account of the Participant. Such contributions shall be treated as before-tax
15 ("pick-up") contributions under Section 414(h) of the Code.

16 The deductions provided for herein shall be made notwithstanding that the minimum
17 compensation provided by law for any Participant shall be reduced thereby. Every Participant
18 shall be deemed to consent to the deductions made and provided for herein, and payment of
19 salary or compensation less the deduction shall be a full and complete discharge and acquittance
20 of all claims and demands whatsoever for services rendered during the period covered by the
21 payment except as to benefits provided by this Plan.

22 C. Exclusive Plan. All Employees shall be Participants as a condition of their
23 employment and shall receive no pension or retirement allowance from any other pension or

1 retirement system supported wholly or in part by the City or the State of Missouri because of
2 Years of Service for which they are entitled to benefits under this Plan, nor shall they be required
3 to make contributions under any other pension or retirement system of the City or the State.

4 **4.19.040 Service.**

5 A. Year of Service. The term “Year of Service,” means each full 365 consecutive
6 day period of time that elapses from the Effective Date, or the date the Employee first performs
7 duties in Covered Employment for which such Employee is paid or entitled to payment by the
8 City, whichever is later, and ending on the date of Termination of Employment, during which the
9 Employee is employed in Covered Employment. Less than whole periods of such time shall be
10 credited as a partial year based on the applicable portion of a 365 day period; and nonconsecutive
11 periods of such time shall be aggregated, where applicable, in determining the number of Years
12 of Service of a Participant. The period of service of an Employee on an approved paid leave of
13 absence shall continue until the end of such leave of absence. An Employee shall be credited for
14 no more than one month for an unpaid leave of absence.

15 B. Prior Plan Service. Conditional upon and effective upon the merger of assets of
16 the Prior Plan into the Trust Fund in accordance with subsection 4.19.010(E), complete and
17 partial years of service credited under the Prior Plan for periods before the Effective Date, shall
18 count as Years of Service under this Plan.

19 C. Absence in Military Service. If, at any time since first becoming a Participant in
20 the Plan, a Participant has served in the armed forces of the United States, in any war or period
21 of armed hostilities between the armed forces of the United States and those of a foreign power,
22 and has subsequently been reinstated as a firefighter within ninety days after his discharge, he
23 shall be granted credit for such service as if his service in the fire department of the City had not

1 been interrupted by his induction into the armed forces of the United States, and as if he had
2 made the required contributions during such service. If earnable compensation is needed for such
3 period in computation of benefits it shall be calculated on the basis of the compensation payable
4 to the officers of his rank during the period of his absence. Notwithstanding any provision of this
5 Plan to the contrary, contributions, benefits and service credit with respect to military service
6 will be provided in accordance with Section 414(u) of the Code.

7 D. Accumulated Contributions. An Employee shall not be credited for any service
8 with respect to which the Employee had no contributions withheld; and shall not be credited for
9 any service with respect to which the Employee withdrew or received a refund of Accumulated
10 Contributions.

11 **4.19.050 Retirement Benefits.**

12 A. Normal Retirement Benefit. Subject to the conditions and limitations of the Plan,
13 a Participant who incurs a Termination of Employment on or after his Normal Retirement Age
14 and after completing at least twenty Years of Service will be entitled to a monthly retirement
15 income payable to the Participant for his lifetime commencing at his Normal Retirement Date in
16 an amount equal to two percent of the Participant's Average Final Compensation for each Year
17 of Service up to twenty-five years, and two and one-half percent of the Participant's Average
18 Final Compensation for each Year of Service over twenty-five years, up to a maximum of
19 seventy-five percent of Average Final Compensation. The monthly amount of the retirement
20 income of such a Participant shall not be increased actuarially to reflect an Annuity Starting Date
21 deferred beyond the Normal Retirement Age of the Participant.

22 B. Early Retirement. Each Participant who incurs a Termination of Employment
23 after completing at least twenty Years of Service but before his Normal Retirement Age of fifty-

1 five, shall be entitled to a monthly retirement income payable to the Participant for his lifetime
2 commencing on the first day of the month after he attains fifty-five years of age, calculated as for
3 normal retirement in accordance with subsection 4.19.050(A), based on his Average Final
4 Earnings and his Years of Service as of his Early Retirement Date.

5 In lieu of a deferred retirement income commencing at age fifty-five, a Participant who
6 remains an Employee until his Early Retirement Age may elect to receive his retirement income
7 beginning on his Early Retirement Date; or on the first day of any month thereafter prior to age
8 fifty-five, provided that the monthly amount payable at age fifty-five shall be actuarially reduced
9 from age fifty-five to the pension commencement date in accordance with subsection
10 4.19.020(B).

11 A Participant entitled to an early retirement pension in accordance with the preceding
12 paragraphs of this subsection (B) may elect to receive a refund of his Accumulated Contributions
13 with Interest in lieu of any early retirement pension benefit.

14 C. Vested Terminated Pension. Each Participant who remains an Employee until he
15 has completed at least ten but fewer than twenty Years of Service shall be entitled to a monthly
16 retirement income calculated as for normal retirement in accordance with Section 4.19.050(A),
17 based on his Average Final Earnings and his Years of Service as of his Termination of
18 Employment, payable to the Participant for his lifetime commencing when the Participant attains
19 sixty-two years of age, or upon his Termination of Employment, if later.

20 A Participant entitled to a deferred vested pension in accordance with the preceding
21 paragraph of this subsection (C) may elect to receive a refund of his Accumulated Contributions
22 with Interest in lieu of any deferred vested pension benefit.

1 D. Unvested Participant. A Participant who incurs a Termination of Employment
2 before completing ten Years of Service shall receive a refund of his Accumulated Contributions
3 with Interest in lieu of any pension benefit.

4 E. Cost of Living Increases. Following a Participant's Annuity Starting Date,
5 benefits paid to such Participant pursuant to subsections (A) and (B) of this Section (but not any
6 other provisions) shall be increased as of each October 1, with the first increase in the October
7 following his retirement and subsequent increases in each October thereafter, by an amount equal
8 to the lesser of three percent or the increase in the Consumer Price Index ("CPI") for the
9 previous calendar year; up to a maximum aggregate increase of twenty-five percent. For
10 purposes of this subsection, CPI shall mean the CPI for all urban consumers for the United
11 States, or its successor index, approved by the Board of Trustees, such as the index as defined
12 and officially reported by the U.S. Department of Labor.

13 F. Limitation on Compensation. Notwithstanding any other provision of this Plan,
14 in no event shall the compensation of a Participant taken into account under this Plan for any
15 Plan Year exceed the maximum amount permitted in Section 401(a)(17) of the Code for that
16 Plan Year, as adjusted from time to time, as applicable to governmental plans. If the period for
17 determining compensation in a Plan Year is less than the full Plan Year, the maximum amount
18 for that Plan Year shall be reduced proportionately.

19 G. Overpayment Recoupment. In the event a Participant is paid more than the
20 amount to which the Participant is properly entitled under the terms of the Plan, the amount of
21 future payments from the Plan to the Participant may be reduced until such overpayment has
22 been corrected.

23 **4.19.060 Grandfathered Pension Benefits.**

1 A. Grandfathered Benefits – General. The provisions of this Section are contingent
2 upon and effective upon the consummation of the merger of the assets of the Prior Plan into the
3 Trust Fund under this Plan; and are intended to apply to Grandfathered Participants and to
4 preserve the retirement income pension benefits accrued under the Prior Plan as of the Effective
5 Date, as specifically provided in subsections (B) through (G) of this Section.

6 B. Benefits in Pay Status on the Effective Date. Retirement income benefits being
7 paid to Participants of the Prior Plan as of the day before the Effective Date, shall continue to be
8 paid under this Plan in accordance with the terms and conditions of the Prior Plan.

9 C. Grandfathered Normal Retirement Benefit. Subject to the conditions and
10 limitations of the Plan, a Grandfathered Participant who incurs a Termination of Employment on
11 or after his Normal Retirement Age of fifty-five years and after completing at least twenty Years
12 of Service will be entitled to a monthly retirement income payable to the Participant for his
13 lifetime commencing at his Normal Retirement Date in an amount equal to two percent of the
14 Participant's Average Final Compensation for each Year of Service up twenty-five years, and
15 five percent of the Participant's Average Final Compensation for each Year of Service over
16 twenty-five years, up to a maximum of seventy-five percent of Average Final Compensation.
17 The monthly amount of the retirement income of such a Participant shall not be increased
18 actuarially to reflect an Annuity Starting Date deferred beyond the Normal Retirement Age of
19 the Participant.

20 Solely for purposes of computing such Grandfathered Benefit, sick leave accumulated
21 before September 26, 2010 shall be credited as Years of Service to no more than a total of thirty
22 Years of Service for purposes of vesting and to allow such a Participant to receive a monthly
23 retirement income benefit in excess of seventy-five percent of Average Final Compensation.

1 Notwithstanding anything to the contrary herein, sick leave of a Participant who is participating
2 in DROP shall be subject to the provisions of subsection 4.19.060E.

3 A Grandfathered Participant who receives such a retirement income benefit shall receive
4 a refund of his contributions to the Prior Plan made before the Effective Date, without interest;
5 contributions to the Plan made on and after the Effective Date are not refundable. All refundable
6 contributions are payable at the time of his pension commencement date.

7 D. Early Retirement Benefit. A Grandfathered Participant who incurs a Termination
8 of Employment after completing twenty Years of Service, but before attaining his Normal
9 Retirement Age of fifty-five years, shall be entitled to a monthly retirement income payable to
10 the Participant for his lifetime commencing on the first day of the month after he attains fifty-
11 five years of age, calculated as for normal retirement in accordance with the preceding
12 paragraph, based on his Average Final Compensation and his Years of Service as of his
13 Termination of Employment. In lieu of a deferred retirement income commencing at age fifty-
14 five, such a Participant may elect to receive his retirement income beginning on his Termination
15 of Employment, or on the first day of any month thereafter prior to age fifty-five, provided that
16 the monthly amount otherwise payable at age fifty-five that is attributable to Years of Service
17 after the Effective Date shall be actuarially reduced from age fifty-five to the pension
18 commencement date in accordance with subsection 4.19.020(B).

19 Solely for purposes of computing such Grandfathered Benefit, sick leave accumulated
20 before September 26, 2010 shall be credited as Years of Service to no more than a total of thirty
21 Years of Service for purposes of vesting and to allow such a Participant to receive a monthly
22 retirement income benefit in excess of seventy-five percent of Average Final Compensation.

1 Notwithstanding anything to the contrary herein, sick leave of a Participant who is participating
2 in DROP shall be subject to the provisions of subsection 4.19.060E.

3 A Grandfathered Participant who receives such a retirement income benefit shall receive
4 a refund of his contributions to the Prior Plan made before the Effective Date, without interest;
5 contributions to the Plan made on and after the Effective Date are not refundable. All refundable
6 contributions are payable at the time of his pension commencement date.

7 For example, a Participant with ten Years of Service on the Effective Date, who retires
8 ten years after the Effective Date, at age fifty with a total of twenty Years of Service, with
9 annualized Average Final Compensation of \$80,000 for the last two years before retirement,
10 would be entitled to a deferred pension benefit of \$32,000 (40% of \$80,000) per year beginning
11 at age fifty-five, or an immediate pension beginning at age fifty of \$26,272. (The \$16,000
12 attributable to the ten Years of Service before the Effective Date is unreduced; the \$16,000
13 attributable to the ten Years of Service after the Effective Date is actuarially reduced from
14 \$16,000 to \$10,272.)

15 A Grandfathered Participant who incurs a Termination of Employment before completing
16 twenty Years of Service shall receive a refund of his Accumulated Contributions with Interest in
17 lieu of any pension benefit.

18 E. DROP. Grandfathered Participants who have completed at least twenty Years of
19 Service may elect to continue active employment and defer receipt of the retirement benefit for a
20 period not to exceed five years. Any Grandfathered Participant who has at least twenty Years of
21 Service may elect in writing before retirement to participate in the deferred retirement plan
22 program (“DROP”). A Grandfathered Participant electing to participate in the DROP program
23 shall continue in active employment and shall not receive any direct retirement benefit payments

1 during the time of participation. Upon the start of participation in the DROP program, the
2 Grandfathered Participant shall make contributions at the rate of one percent of compensation,
3 instead of nine percent. During the period of participation in the DROP program, the amount that
4 the Grandfathered Participant would have received as a retirement income benefit (Normal
5 Retirement Benefit under subsection C or reduced Early Retirement Benefit under subsection D,
6 whichever is applicable) shall be deposited monthly in the Grandfathered Participant's DROP
7 account, which shall be established in his name by the Board of Trustees. Years of Service
8 earned during the period of participation in the DROP program shall not be credited and shall not
9 be counted in determination of any service-based retirement benefit.

10 A Grandfathered Participant who elects to stop participation in the DROP program shall
11 make contributions at the rate of nine percent of compensation. Service rendered after
12 restoration of the Grandfathered Participant to non-DROP participation status shall be counted as
13 Years of Service. No Grandfathered Participant ending participation in the DROP program and
14 returning to non-DROP participation status shall make any withdrawal from his or her DROP
15 account until after Termination of Employment. If after return to non-DROP participation status
16 a Grandfathered Participant retires, the Grandfathered Participant's retirement benefit shall be
17 computed on the combination of the Grandfathered Participant's pre-DROP retirement benefit
18 (based on Average Final Compensation at the beginning of the DROP period and any applicable
19 reduction for commencement before age fifty-five) plus an additional benefit earned by the
20 Grandfathered Participant after returning to non-DROP participation status. Post-DROP Years of
21 Service shall be the only years used in computing the additional benefit; however, total Years of
22 Service shall be used to determine the appropriate accrual level of additional benefit, two percent
23 or five percent, for each year of post-DROP service. Upon retirement the Grandfathered

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1 Participant shall receive retirement income benefits plus the amount which has accumulated in
2 his or her DROP account. The amount in the Grandfathered Participant's DROP account shall be
3 payable, at the Grandfathered Participant's option, either as a lump sum payment or as a series of
4 periodic payments of reasonably equal amounts over a period of up to ten years.

5 If a Grandfathered Participant dies before Termination of Employment while
6 participating in the DROP program, the funds in his DROP account shall be payable to the
7 Grandfathered Participant's designated beneficiary under either of the following options:

8 (1) A lump sum payment equal to the amount in the Grandfathered Participant's
9 DROP account shall be paid to the Grandfathered Participant's beneficiary or the
10 Grandfathered Participant's estate. The death benefits for the beneficiary under the
11 provisions of Section 4.09.080 shall be based on the Grandfathered Participant's
12 compensation and Years of Service before the Grandfathered Participant's
13 participation in the DROP program.

14 or

15 (2) The beneficiary may waive any claim to the Grandfathered Participant's DROP
16 account, in which case any death benefits payable to the beneficiary under the
17 provisions of Section 4.09.080 shall be calculated as if the Grandfathered
18 Participant had continued as an employee and had not participated in the DROP
19 program. Any funds in a DROP account which has been waived as provided in
20 this paragraph shall become funds of the Plan.

21 If a Grandfathered Participant who has elected to participate in the DROP program
22 subsequently applies for and receives benefits for a disability benefit under the provisions of
23 Section 4.19.070, the Grandfathered Participant shall forfeit all rights, claims or interest in his

1 DROP account, and the Grandfathered Participant's benefits shall be calculated as if the
2 Grandfathered Participant had continued in employment and had not elected to participate in the
3 DROP program. Any funds in a DROP account which has been forfeited as provided in this Plan
4 shall become funds of the Plan.

5 A Grandfathered Participant's DROP account shall earn interest (or loss) equal to the
6 percentage rate of return of the Trust Fund's investment portfolio as certified annually by the
7 actuary in the yearly evaluation report. The interest shall be credited annually to the
8 Grandfathered Participant's account beginning with the start of the second fiscal year of
9 participation.

10 No Participant may elect to participate in the DROP program more than once.

11 Notwithstanding anything to the contrary in this Chapter, a Grandfathered Participant
12 who is participating in the DROP program may elect upon Termination of Employment (i) to
13 have placed in his or her DROP account a dollar amount equal to the number of his sick leave
14 hours accumulated before September 26, 2010, multiplied by his or her hourly rate of pay at the
15 time of Termination of Employment; or (ii) to place one-half of such dollar amount in the
16 Grandfathered Participant's DROP account, to have one-fourth of this dollar amount added to the
17 Grandfathered Participant's Average Final Compensation, and to have the remaining one-fourth
18 of this dollar amount remain as time and added to the Grandfathered Participant's Years of
19 Service before the Effective Date.

20 F. Cost of Living Increases. The grandfathered benefit payable in accordance with
21 subsections (C) and (D) of this Section shall be increased annually, as approved by the Board of
22 Trustees beginning with the first increase in the October following retirement of the Participant
23 and subsequent increases in each October thereafter, at the rates designated as follows:

- 1 (1) One and one-half percent per year, compounded each year, up to age sixty for
2 those retiring with twenty to twenty-four Years of Service,
- 3 (2) Two and one-fourth percent per year, compounded each year, up to age sixty for
4 those retiring with twenty-five to twenty-nine Years of Service,
- 5 (3) Three percent per year, compounded each year, up to age sixty for those retiring
6 with thirty or more Years of Service,
- 7 (4) After age sixty, five percent per year for five years or until a total maximum
8 increase of twenty-five percent is reached.

9 Each increase, however, is subject to a determination by the Board of Trustees that the
10 consumer price index (United States Average Index) as published by the United States
11 Department of Labor shows an increase of not less than the approved rate during the latest
12 twelve-month period for which the index is available at the date of determination. If the increase
13 is in excess of the approved rate for any year, the excess shall be accumulated as to any retired
14 Participant and increases granted in subsequent years subject to the maximum allowed for each
15 full year from October following his retirement but not to exceed a total increase of twenty-five
16 percent. If the Board of Trustees determines that the index has decreased for any year, the
17 benefits of any retired Participant that have been increased shall be decreased but not below his
18 initial benefit. No annual increase shall be made of less than one percent and no decrease of less
19 than three percent except that any decrease shall be limited by the initial benefit.

20 In addition to the above, Grandfathered Participants may share in ad hoc COLAs, if any,
21 to which they were entitled as of the day before the Effective Date in accordance with the terms
22 and conditions of the Prior Plan.

1 G. Limitation on Benefits. Subsections 4.19.050(F) and (G) shall apply to all
2 benefits, including grandfathered benefits.

3 **4.19.070 Disability Income.**

4 A. Disability Benefits – General. The disability income provisions of subsections
5 (B) through (G) of this Section apply to Participants who incur a Termination of Employment on
6 account of disability on or after the Effective Date. Contingent upon and effective upon the
7 consummation of the merger of assets of the Prior Plan into the Trust Fund, disability benefits
8 being paid to Participants in the Prior Plan as of the day before the Effective Date shall continue
9 to be paid in accordance with the provisions of the Prior Plan, including the cost of living
10 adjustment provisions of the Prior Plan.

11 B. Disability – Line of Duty.

12 (1) A Participant who incurs a Termination of Employment because of a Total and
13 Permanent Disability resulting from bodily injury incurred while engaged in the
14 actual performance of duty as a firefighter in response to an emergency call that
15 renders the Participant totally and permanently unable to engage in any gainful
16 employment in any occupation, shall be entitled to receive a monthly disability
17 income equal to seventy-five percent of his Average Final Compensation, while
18 so disabled. A disability that is caused by lung disease is presumed to have been
19 incurred while engaged in the actual performance of duty as a firefighter in
20 response to an emergency call, unless rebutted by evidence such as (but not
21 limited to) habitual smoking.

22 (2) A Participant who incurs a Termination of Employment because of a Total and
23 Permanent Disability resulting from bodily injury incurred while engaged in the

1 actual performance of duty as a firefighter in response to an emergency call that
2 renders the Participant totally and permanently unable to continue his
3 employment as a firefighter, but not other gainful employment as described in
4 subsection B(1) of this Section, shall receive a disability income while so disabled
5 equal to twenty-five percent of his Average Final Compensation; plus an
6 additional two and seventy-five one hundredth percent (2.75%) of Average Final
7 Compensation for each Year of Service in excess of ten years, up to twenty-five
8 Years of Service; with a benefit of seventy-five percent of Average Final
9 Compensation for a Participant with at least twenty-five Years of Service at the
10 time of such a Termination of Employment. A disability that is caused by lung
11 disease is presumed to have been incurred while engaged in the actual
12 performance of duty as a firefighter in response to an emergency call, unless
13 rebutted by evidence such as (but not limited to) habitual smoking.

14 A Participant who receives such a disability benefit shall receive a refund of his
15 contributions to the Prior Plan made before the Effective Date, without interest; contributions to
16 the Plan made on and after the Effective Date are not refundable. All refundable contributions
17 are payable at the time of his disability commencement date.

18 C. Disability – Other. A Participant who incurs a Termination of Employment after
19 completing at least five Years of Service because of a Total and Permanent Disability that is not
20 described in subsection (B) (outside the line of duty) that renders the Participant totally and
21 permanently unable to engage in any gainful employment in any occupation shall be entitled to
22 receive a monthly disability income equal to the greater of twenty-five percent of his Average

1 Final Compensation or ninety percent of the benefit accrued under the formula in subsection
2 4.19.050(A) as of the time of such a Termination of Employment, while so disabled.

3 A Participant who receives such a disability benefit shall receive a refund of his
4 contributions to the Prior Plan made before the Effective Date, without interest; contributions to
5 the Plan made on and after the Effective Date are not refundable. All refundable contributions
6 are payable at the time of his disability commencement date.

7 D. Cost of Living Increases. Following commencement of disability income
8 payments to a Participant, benefits paid to such Participant pursuant to subsection (B) or
9 subsection (C) of this Section shall be increased as of each October 1, with the first increase in
10 the October following commencement of disability income payments and each October
11 thereafter, by an amount equal to the lesser of three percent or the increase in the Consumer Price
12 Index ("CPI") for the previous calendar year; up to a maximum aggregate increase of twenty-five
13 percent. For purposes of this Section, CPI shall mean the CPI for all urban consumers for the
14 United States, or its successor index, approved by the Board of Trustees, such as the index as
15 defined and officially reported by the U.S. Department of Labor.

16 E. Total and Permanent Disability. An Employee shall be deemed to be Totally and
17 Permanently Disabled when, on the basis of qualified medical evidence, he is found by the Board
18 of Trustees to be totally and permanently prevented from performing the duties described in the
19 applicable paragraph of subsection (B) or (C) of this Section.

20 F. Discontinuance of Disability Benefits. If, based on qualified medical advice, it is
21 reasonably possible for a disabled beneficiary to recover for the condition that caused him to be
22 Totally and Permanently Disabled, once each year during the first five years following the
23 commencement of disability income, and once in every three year period thereafter, the Board of

1 Trustees shall require the disability beneficiary to undergo a medical examination to be made at a
2 place designated by the Board of Trustees, and to be made by a physician or physicians
3 designated by the Board of Trustees. Should any disability beneficiary refuse to submit to a
4 medical examination, his disability income shall be discontinued until his withdrawal of the
5 refusal, and if his refusal continues for one year all rights in and to his disability income shall be
6 revoked by the Board of Trustees.

7 Payment of disability benefits under this Section shall be discontinued upon the earliest
8 of the following:

- 9 (1) the refusal of the Participant to undergo a medical examination;
- 10 (2) the time as of which the Board of Trustees finds the Participant is no longer
11 Totally and Permanently Disabled; or
- 12 (3) the death of the Participant.

13 After the Board of Trustees finds the Participant is no longer Totally and Permanently
14 Disabled, and during such time as the Participant is not receiving a disability benefit pursuant to
15 this Section, the Participant shall be entitled to a pension benefit in the amount and at the time or
16 times determined in accordance with Sections 4.19.050 and 4.19.060, as applicable, based on
17 Average Final Compensation and Years of Service at Termination of Employment.

18 G. Adjustment of Disability Income. If the disability beneficiary is engaged, or is
19 able to engage, in a gainful occupation other than firefighter paying more than the difference
20 between his disability income and the then current rate of pay for the rank held by the Participant
21 at the time of retirement (indexed as described below), the amount of his disability income shall
22 be reduced to an amount which together with the amount earnable by him in such other
23 occupation shall equal the amount of such current rate of pay. If his earning capacity is later

1 changed, the amount of his disability income may be further modified. The then current rate of
2 pay for the rank held by the Participant at the time of retirement shall be increased as of each
3 October 1, with the first increase in the October following commencement of disability income
4 payments and each October thereafter, by an amount equal to the lesser of three percent or the
5 increase in the CPI (as defined in subsection D of this Section) for the previous calendar year; up
6 to a maximum aggregate increase of twenty-five percent.

7 A disabled beneficiary shall submit a copy of his annual federal income tax return to the
8 Board of Trustees for each calendar year for which the beneficiary is eligible for a disability
9 benefit under this Section. Payment of disability benefits of a beneficiary shall be discontinued
10 if the beneficiary fails to submit a copy of his federal income tax return to the Board of Trustees
11 by the 15th day of October immediately following the end of the calendar year. The Board of
12 Trustees shall audit the validity of at least two percent of such tax returns.

13 H. Tuition Reimbursement. Except for a disability described in paragraph B(1) or
14 paragraph C of this Section, a Participant receiving disability benefits under this Section may
15 receive reimbursement for educational tuition expenses for attending a college, university,
16 community college, or vocational or technical school as a Full-Time Student upon proof of
17 payment to such institution in an amount not to exceed the tuition for a state resident at the
18 University of Missouri – St. Louis. A Participant receiving disability benefits shall apply for
19 such tuition reimbursement no later than three years after the Participant first becomes entitled to
20 a disability benefit under this Plan. Such right to reimbursement shall cease when the disabled
21 Participant ceases to be a Full-Time Student, fails to provide verified proof of achievement of a
22 grade point average of two on a four-point scale or the equivalent on another scale for each
23 academic term, or if the disabled Participant is restored to active service as a firefighter, but in no

1 event shall such education reimbursement be available after the end of the five-year period
2 beginning when the Participant first becomes entitled to a disability benefit under this Plan.

3 **4.19.080 Death Benefits.**

4 A. Active Participants or Participants Receiving Retirement or Disability Income.

5 Upon the receipt of proper proof of the death of a Participant, or a Participant of the Prior Plan,
6 while an Employee, or who incurred a Termination of Employment while in service and was
7 receiving a retirement income benefit or a disability benefit at the time of his death, provided no
8 other benefits are payable, there shall be paid a retirement allowance to the widow(er) of the
9 Participant or Participant of the Prior Plan during her or his widowhood of twenty-five percent of
10 the deceased Participant's Average Final Compensation, or two hundred dollars per month,
11 whichever is greater, plus ten percent of such compensation to or for the benefit of each
12 unmarried dependent child of the deceased Participant who is either under age eighteen or who is
13 totally and permanently mentally or physically incapacitated regardless of age, but not in excess
14 of three children, and paid as the Board of Trustees in its discretion directs. Any widow(er) who
15 is receiving retirement benefits upon application to the Board of Trustees shall be made,
16 constituted, appointed and employed by the Board as a special consultant on the problems of
17 retirement, aging, and other state matters, for the remainder of her life, and upon request of the
18 Board, give opinions, and be available to give opinions in writing, or orally, in response to such
19 request, as may be required, and for such services shall be compensated monthly, in an amount,
20 which when added to any monthly retirement benefits being received, shall not exceed fifty
21 percent of the deceased Participant's average final compensation or two hundred dollars
22 (\$200.00) whichever is greater. This compensation shall be consolidated with any other
23 retirement benefits payable to such widow(er) and shall be paid in the manner and from the same

1 fund as her other retirement benefits under this chapter, and shall be treated in all aspects under
2 the laws of this state as retirement benefits paid pursuant to this chapter.

3 If no widow(er) benefits are payable pursuant to this Section, such total benefit as would
4 have been paid had there been a widow(er) (twenty-five percent of compensation) shall be
5 divided among the unmarried dependent children under age eighteen and such unmarried
6 children, regardless of age, who are totally and permanently mentally or physically incapacitated,
7 and paid to, or for the benefit of, each such child, as the Board of Trustees in its discretion
8 directs, until the respective child attains the age of eighteen or is no longer incapacitated,
9 whichever is applicable.

10 Any benefit payable to, or for the benefit of, a child or children under the age of eighteen
11 years pursuant to this Section shall be paid beyond the age of eighteen years through the age of
12 twenty-five years in such cases where the child is a Full-Time Student at a regularly accredited
13 college, business school, nursing school, school for technical or vocational training or university,
14 but such benefit shall cease whenever the child ceases to be a Full-Time Student. A college or
15 university shall be deemed to be regularly accredited as which maintains membership in good
16 standing in a national or regional accrediting agency recognized by any state college or
17 university.

18 B. Accidental Death in Line of Duty. Upon the receipt of evidence and proof that a
19 Participant died as the result of an accident or exposure at any time, or place, provided that at
20 such time or place the Participant was in the actual performance of his duty as a firefighter and,
21 in the case of an exposure, while in response to an emergency call, or was acting pursuant to
22 orders, there shall be paid in lieu of all other benefits the following benefits:

1 (1) A retirement income to the widow(er) during the person's widowhood of fifty
2 percent of the deceased Participant's Average Final Compensation, plus ten
3 percent of such compensation to or for the benefit of each unmarried dependent
4 child of the deceased Participant, who is either under the age of eighteen, or who
5 is totally and permanently mentally or physically incapacitated, regardless of age,
6 but not in excess of a total of three children, including both classes, and paid as
7 the Board of Trustees in its discretion directs.

8 (2) If no widow(er) benefits are payable pursuant to subdivision (1), the total income
9 that would have been paid had there been a widow(er) shall be divided among the
10 unmarried dependent children under the age of eighteen and such unmarried
11 children, regardless of age, who are totally and permanently mentally or
12 physically incapacitated, and paid to, or for the benefit of, each such child, as the
13 Board of Trustees in its discretion directs, until the respective child attains the age
14 of eighteen or is no longer incapacitated, whichever is applicable.

15 (3) Any benefit payable to, or for the benefit of, a child or children under the age of
16 eighteen years pursuant to subdivisions (1) and (2) of this Section shall be paid
17 beyond the age of eighteen years through the age of twenty-five years in such
18 cases where the child is a Full-Time Student at a regularly accredited college,
19 business school, nursing school, school for technical or vocational training or
20 university, but such benefit shall cease whenever the child ceases to be a full-time
21 student. A college or university shall be deemed to be regularly accredited as
22 which maintains membership in good standing in a national or regional
23 accrediting agency recognized by any state college or university.

1 (4) Wherever any dependent child designated by the Board of Trustees to receive
2 benefits pursuant to this Section is in the care of the widow(er) of the deceased
3 Participant, the child's benefits may be paid to the widow(er) of the child.

4 (5) The widow(er) of a Participant who receives such a death benefit shall receive a
5 refund of the contributions of the Participant to the Prior Plan made before the
6 Effective Date, without interest, if any; and a refund of one-half of the
7 contributions of the Participant to the Plan made after 2011, without interest,
8 payable at the time of his or her death benefit commencement date.

9 The benefit of a widow(er) entitled to a death benefit in accordance with subsection B(1),
10 whose Participant spouse died on the scene of a fire as a direct and proximate cause of an
11 accident that occurred while the Participant was engaged in the actual performance of his duty as
12 a firefighter, shall be increased from fifty percent to sixty-two and one-half percent.

13 C. Funeral Expenses. In addition to any other benefit to which an active or retired
14 fire fighter may be entitled, whenever an active or retired firefighter shall die, the Board of
15 Trustees shall pay from the Trust a sum of two thousand dollars to the widow(er) or family for
16 funeral expenses.

17 D. Accumulated Contributions. A beneficiary shall be repaid the total amount of the
18 contributions to the Prior Plan before the Effective Date, without interest, made by a deceased
19 Participant who died while employed in Covered Employment, upon receipt of proof of the death
20 of the Participant; contributions to the Plan made on and after the Effective Date are not
21 refundable.

22 **4.19.090 Limitations of Benefits.**

1 A. Limitation on Benefits. In no event shall the annual benefit under this Plan and all
2 other defined benefit plans maintained by the City exceed the lesser of:

3 (1) The amount specified in Section 415(b)(1)(A) of the Code, as adjusted for any
4 applicable increases in the cost of living in accordance with Section 415(d) of the
5 Code, as in effect on the last day of the Plan Year; and

6 (2) One-hundred percent of the average compensation of such Participant for his high
7 three consecutive Plan Years as provided in Section 415 of the Code.

8 Notwithstanding anything to the contrary in this Section, the annual benefit, when paid in
9 the form of a joint and survivor annuity, can be as great as that of a Single Life Annuity for the
10 Participant, not in excess of the limitations contained in the first sentence of this Section, plus a
11 survivor annuity at the same level for the Participant's Spouse.

12 For purposes of this Section, Section 415 of the Code, which limits the benefits and
13 contributions under qualified plans, is hereby incorporated by reference; provided that the repeal
14 of Section 415(e) of the Code, which is effective for limitation years beginning on or after April
15 1, 2000, shall apply only to a Participant whose Accrued Benefit increases on or after April 1,
16 2000. The reduced limitation for early retirement benefits shall be determined in accordance
17 with applicable regulations using the Actuarial Equivalent assumptions prescribed in subsection
18 4.19.020(B), except as otherwise required by Section 415(b)(2)(E) of the Code. The cost-of-
19 living adjustments under Section 415(d) of the Code to the limits under Section 415(b) of the
20 Code are hereby incorporated by reference as provided under Section 1.415(a)-1(d)(3)(v) of the
21 Treasury Regulations. Pursuant to Treas. Reg. Section 1.415(b)-1(c)(5), no adjustment shall be
22 required to a benefit that is paid in a form that is not a straight life annuity to take into account
23 the inclusion of an automatic benefit increase feature in such form of benefit. In no event will the

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1 amount payable in any limitation year to a Participant under a form of benefit with an automatic
2 benefit increase feature be greater than the Code Section 415(b) limit applicable at the annuity
3 starting date, as increased in subsequent years pursuant to Section 415(d) of the Code and Treas.
4 Reg. §1.415(d)-1. In the case of a Participant who received a portion of his or her benefit in the
5 form of a lump sum (a DROP), the annuity equivalent of such lump sum portion, calculated in
6 accordance with Treas. Reg. §1.415(b)-1(b) taking into account the cost of living adjustments
7 assumed in calculating such lump sum, shall be treated as an amount payable in the applicable
8 limitation year for purposes of such test.

9 For purposes of this Section, “City” means the City and any corporation or other
10 business entity that from time to time is, along with the City, a Participant of a controlled group
11 as defined in Section 414 of the Code, as modified by Section 415(h) of the Code (fifty percent
12 control test); and effective April 1, 1998, “Compensation” means wages paid by the City within
13 the meaning of Section 3401(a) of the Code (for purposes of income tax withholding at the
14 source) but determined without regard to any rules that limit the remuneration included in wages
15 based on the nature or location of the employment or the services performed, plus the amount of
16 salary reduction as a result of an election pursuant to a plan or plans governed by Section 125,
17 Section 401(k) or Section 403(b) of the Code and, effective on and after April 1, 2001, Section
18 132(f)(4) of the Code (inclusively).

19 **4.19.100 Payment of Benefits.**

20 A. Claim for Benefits. No pension or other benefit shall be payable under this Plan
21 to any Participant or beneficiary except as expressly provided for in this Section. The Board of
22 Trustees shall authorize payments under this Plan.

1 No pension or other benefit shall be payable until the Participant or beneficiary shall have
2 filed a claim for benefits with the Board of Trustees or its designated representative. Such claim
3 must be submitted in writing on a form provided by, or suitable to, the Board of Trustees at least
4 fifteen days prior to the date on which payments begin. The Board of Trustees may require any
5 applicant to furnish it with such information as may be reasonably necessary, including a copy of
6 the Participant's death certificate, if applicable.

7 B. Latest Time of Payment. This section does not contain the general rules of the
8 Plan governing the time and form of distribution. In particular, this Section in and of itself does
9 not give any right to a Participant or Beneficiary to defer distributions beyond the time of
10 distribution provided in the preceding Sections. The provisions of this Section shall apply only
11 to the extent they specifically override the other provisions of this Plan governing the payment of
12 pensions.

13 Notwithstanding anything to the contrary in the Plan and regardless of any election of the
14 Participant, distribution of the Participant's retirement benefit shall commence no later than the
15 Participant's Required Beginning Date. The Required Beginning Date of a Participant is April 1
16 of the calendar year following the later of (i) the calendar year in which the Participant attains
17 age seventy and one-half; and (ii) the calendar year in which the Participant incurs a Termination
18 of Employment.

19 The Participant's entire interest under the Plan shall be distributed in the form of
20 nonincreasing periodic annuity payments beginning on the Participant's Required Beginning
21 Date and extending over the life of the Participant or the joint lives of the Participant and a
22 designated beneficiary (as determined in accordance with Treas. Reg. §1.401(a)(9)-4), or over a

1 period not extending beyond the life expectancy of the Participant or the joint life expectancy of
2 the Participant and a designated beneficiary.

3 If a Participant dies after payments have begun in accordance with the immediately
4 preceding paragraph but before the Participant's entire interest has been distributed, the
5 remaining portion of such interest shall be distributed at least as rapidly as under the method of
6 distribution in effect as of the date of the Participant's death. If a Participant dies before
7 payments have begun in accordance with the immediately preceding paragraph, the entire
8 interest of the Participant shall be distributed:

9 (1) if payable to (or for the benefit of) a designated beneficiary in a form other than a
10 single sum distribution, over the life of the designated beneficiary (or over a
11 period not extending beyond the life expectancy of such beneficiary), beginning
12 not later than one year after the date of the Participant's death, or if the sole
13 designated beneficiary is the Participant's surviving spouse, by December 31 of
14 the calendar year in which the Participant would have attained age seventy and
15 one-half, if later; and

16 (2) if payable to (or for the benefit of) a designated beneficiary in the form of a single
17 sum distribution, the entire interest of the Participant shall be distributed within
18 five years after the Participant's death.

19 If the surviving spouse described in subdivision (1) above dies before the distributions to
20 such spouse begin, this subdivision shall be applied as if the surviving spouse were the
21 Participant.

22 All distributions required under this Section shall be determined and made in accordance
23 with Section 401(a)(9) of the Code and Treas. Reg. §§1.401(a)(9)-2 through 1.401(a)(9)-9,

1 including the incidental death benefit requirements of Section 401(a)(9)(G) of the Code and
2 Treas. Reg. thereunder. The requirements of this Section will take precedence over any
3 inconsistent provisions of the Plan. The provisions of Section 401(a)(9) of the Code, including
4 the incidental death benefit requirements of Section 401(a)(9)(G), and the regulations thereunder,
5 are hereby incorporated by reference.

6 C. Payments to Legal Incompetents. If the Board of Trustees shall receive
7 satisfactory evidence that a Participant or beneficiary entitled to receive any benefit under this
8 Plan is, at the time when such benefit becomes payable, physically unable or mentally
9 incompetent to receive such benefit and to give a valid release therefor and that another person or
10 an institution is then maintaining or has custody of such Participant or beneficiary, and that no
11 guardian or other representative of the estate of such Participant or beneficiary shall have been
12 duly appointed, then the Board of Trustees may authorize payment of such benefit otherwise
13 payable to such Participant or beneficiary to such other person or institution, and the release of
14 such other person or institution shall be valid and complete discharge for the payment of such
15 benefit.

16 D. Misstatement in Application for Pension. If any Participant or any beneficiary in
17 his application for a pension or in response to a request of the Board of Trustees for information
18 gives any material fact which is erroneous or omits any material fact or fails before receiving his
19 first payment to correct any material fact that he previously incorrectly furnished, the amount of
20 his annuity shall be adjusted on the basis of the correct information and the amount of any
21 overpayment or underpayment theretofore made to such Participant shall be deducted from or
22 added to his next succeeding payments as the Board of Trustees shall direct.

23 **4.19.110 Special Payment Rules.**

1 A. Offset of Benefits. Notwithstanding anything to the contrary in this ordinance,
2 any amounts paid by the City under the provisions of The Workers' Compensation Law of the
3 State of Missouri to a Participant, or to the dependents of a Participant on account of any
4 disability or death, shall be offset against and payable in lieu of any benefits payable out of the
5 Trust Fund.

6 B. Benefits for Re-Hired Retirees. If a Participant is re-employed after his or her
7 Annuity Starting Date, pension payments shall be suspended while the Participant is re-
8 employed as an active Employee. Such a Participant shall continue to accrue benefits based on
9 Years of Service, if any, credited after such re-employment. The Participant's benefit shall be
10 recomputed upon a subsequent Termination of Employment in accordance with the terms of the
11 Plan in effect at such time.

12 C. Qualified Domestic Relations Orders. In the event the former spouse of a
13 Participant is entitled to a benefit under this Plan pursuant to a Qualified Domestic Relations
14 Order, as described in Section 414(p) of the Code, such former spouse may receive such benefit
15 in the form of a single life annuity for the lifetime of such spouse commencing on or after such
16 Participant attains his Early Retirement Date. The monthly amount of such a single life annuity
17 shall be determined so that such benefit is the Actuarial Equivalent, determined as of the benefit
18 commencement date in accordance with subsection 4.19.020(B), of the portion of the Accrued
19 Benefit of the Participant payable to the former spouse pursuant to the Qualified Domestic
20 Relations Order. Notwithstanding anything to the contrary in the Plan, the Accrued Benefit of a
21 Participant shall be reduced by an amount equal to the Actuarial Equivalent of any benefit paid
22 to his former spouse pursuant to a Qualified Domestic Relations Order.

1 To the extent a former spouse is treated as the spouse of the Participant by reason of a
2 Qualified Domestic Relations Order, any current spouse of the Participant shall not be treated as
3 the spouse. Where, because of a Qualified Domestic Relations Order, more than one individual
4 is to be treated as the spouse of a Participant, the total amount paid from the Plan shall not
5 exceed the amount that would be paid if there were only one spouse.

6 No benefit shall be payable to a former spouse pursuant to a Qualified Domestic
7 Relations Order, as described in Section 414(p) of the Code, until the former spouse shall have
8 filed a claim for benefits with the Board of Trustees or its designated representative. Such a
9 claim must be submitted in writing on a form provided by or suitable to the Board of Trustees at
10 least fifteen days prior to the date on which payments begin. Payments to a former spouse in the
11 form prescribed in this Section may be made prior to the time payments are made to the
12 Participant.

13 D. Direct Rollover of Eligible Rollover Distributions. Notwithstanding any
14 provision of the Plan to the contrary that would otherwise limit a distributee's election under this
15 Section, a distributee may elect, at the time and in the manner prescribed by the Board of
16 Trustees, to have any portion of an eligible rollover distribution, if any, paid directly to an
17 eligible retirement plan specified by the distributee in a direct rollover.

18 *Definitions.*

19 (1) *Eligible rollover distribution:* An eligible rollover distribution is any distribution
20 of all or any portion of the balance to the credit of the distributee, except that an
21 eligible rollover distribution does not include: any distribution that is one of a
22 series of substantially equal periodic payments (not less frequently than annually)
23 made for the life (or life expectancy) of the distributee or the joint lives (or joint

1 life expectancies) of the distributee and the distributee's designated beneficiary,
2 or for a specified period of ten years or more; any distribution to the extent such
3 distribution is required under Section 401(a)(9) of the Code; any hardship
4 distribution described in Section 401(k)(2)(B)(I)(IV) of the Code; and the portion
5 of any distribution that is not includable in gross income (determined without
6 regard to the exclusion for net unrealized appreciation with respect to employer
7 securities).

8 (2) *Eligible retirement plan:* An eligible retirement plan is an individual retirement
9 account described in Section 408(a) of the Code, an individual retirement annuity
10 described in Section 408(b) of the Code, an annuity plan described in Section
11 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code,
12 that accepts the distributee's eligible rollover distribution. However, in the case
13 of an eligible rollover distribution to the surviving spouse, an eligible retirement
14 plan is an individual retirement account or individual retirement annuity.

15 (3) *Distributee:* A distributee includes an Employee or former Employee. In
16 addition, the Employee's or former Employee's surviving spouse and the
17 Employee's or former Employee's spouse or former spouse who is the alternate
18 payee under a qualified domestic relations order, as defined in Section 414(p) of
19 the Code, are distributees with regard to the interest of the spouse or former
20 spouse.

21 (4) *Direct rollover:* A direct rollover is a payment by the plan to the eligible
22 retirement plan specified by the distributee.

1 For purposes of the direct rollover provisions in this Section, an eligible retirement plan
2 shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan
3 under Section 457(b) of the Code which is maintained by a state, political subdivision of a state,
4 or any agency or instrumentality of a state or political subdivision of a state and which agrees to
5 separately account for amounts transferred into such plan from this Plan. The definition of
6 eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a
7 spouse or former spouse who is the alternate payee under a qualified domestic relation order, as
8 defined in Section 414(p) of the Code.

9 **4.19.120 Funding.**

10 A. Trust Fund. The City shall establish a Trust Fund into which it shall make
11 contributions at such times and in such amounts as the Actuary shall determine to keep the Trust
12 Fund actuarially sound with respect to the obligation to pay the benefits under the Plan. The
13 assets in the Trust Fund shall be held by the Trustee for the exclusive benefit of the Participants
14 and beneficiaries and at no time prior to the satisfaction of all of the liabilities under the Plan to
15 pay benefits to Participants and beneficiaries shall any part of the Trust Fund be used for or
16 diverted to any purpose other than for their exclusive benefit or to pay administrative expenses of
17 the Plan, except as specifically provided in this Plan.

18 B. Annual Actuarial Examination. At least once each year, the Board of Trustees
19 shall cause the liabilities of the Plan with respect to retirement benefits to be evaluated by an
20 Actuary who shall report on the soundness and solvency of the Trust Fund in relation to such
21 liabilities and on the amount of the contribution for the year which is appropriate to keep the
22 Trust Fund actuarially sound with respect to the obligation to pay the benefits under the Plan.

1 Except as described below, each such report shall be delivered to the City’s Budget Director no
2 later than March 1 of each year.

3 Beginning with the actuarial valuation as of October 1, 2011, and continuing thereafter,
4 the Actuary shall use the entry age normal method, amortizing the unfunded accrued liability as a
5 level percent of payroll. If the Board of Trustees fails to provide the actuarial valuation on or
6 before the deadline for a Plan Year, the amount of the contribution for such year shall be
7 determined by an Actuary retained by the City.

8 The Board of Trustees shall obtain and deliver the actuarial valuation as of October 1,
9 2011 to the Budget Director of the City, which is based on the provisions of this Plan, no later
10 than thirty days after the Effective Date. If the Board of Trustees fails to submit such a report
11 within thirty days after the Effective Date, the Budget Director of the City is hereby authorized
12 and directed to obtain an actuarial report for such year for purposes of determining the City’s
13 contribution amount for the pertinent Plan Year.

14 Actuaries retained by the Board of Trustees shall be subject to the procurement rules
15 contained in Ordinance 64102, or its successor.

16 At least every five years, the Board of Trustees shall engage the Actuary to review the
17 mortality, service and compensation experience of the Participants and beneficiaries of the Plan
18 and update mortality and other assumptions as appropriate.

19 C. Rights of Participants. No person shall have any financial interest in, or right to,
20 any assets in the Trust Fund, except as expressly provided for in this Plan. Each Participant shall
21 be entitled to look only to assets in the Trust Fund for satisfaction of any benefit payable to such
22 person under this Plan. No liability for payment of benefits under this Plan shall be imposed
23 upon the City or the Board of Trustees.

1 D. Return of Employer Contributions. In the event a contribution by the City is
2 made by reason of a mistake of fact, the excess of the amount contributed over the amount that
3 would have been contributed had there not occurred a mistake of fact (without earnings
4 attributable to such excess, but after reduction of losses attributable thereto) may be returned to
5 the City within one year of such a mistaken payment.

6 **4.19.130 Trust Fund Investments.**

7 A. Trust Fund. The funds accumulated under the Plan shall be held in trust for the
8 exclusive benefit of the Participants of the Plan and their beneficiaries by the Board of Trustees
9 in accordance with this Section.

10 B. Investment of Trust Assets. The Board of Trustees shall have the authority and
11 discretion to invest the assets of the Plan in accordance with this Section, except to the extent
12 that the authority to manage, acquire or dispose of assets of the Plan is delegated to one or more
13 investment managers. The Board of Trustees may, but shall not be required to, appoint an
14 investment manager or managers to manage all or any portion of the assets of the Trust Fund.
15 An investment manager shall have the authority and discretion to manage and control the assets
16 of the Plan assigned to it by the Board of Trustees, in accordance with the agreement between the
17 investment manager and the Board of Trustees. The Board of Trustees shall not be obligated to
18 invest or otherwise manage any assets of the Plan so assigned to an investment manager, nor
19 shall the Board of Trustees be liable for the acts or omissions of such an investment manager.

20 The selection of investment managers shall be based solely on sound investment
21 principles in the best interest of the Trust Fund. No member of the Board of Trustees shall have
22 any personal interest in the selection of an investment manager, except benefits from an interest

1 in investments common to all Participants in the Plan. The Board of Trustees shall keep a record
2 of the process for the selection of investment managers, which shall be open to public inspection.

3 Upon transfer of the assets of the Prior Plan to the Trust Fund, each investment manager
4 of assets of the Prior Plan shall continue to manage the assets assigned to it at the time of the
5 transfer, until the Board of Trustees removes such investment manager or reduces the amount of
6 assets assigned to it.

7 C. Standard of Care. The Board of Trustees shall invest and manage the assets of the
8 Trust Fund as a prudent investor would, taking into account the purposes, terms, distribution
9 requirements, and other circumstances of the Plan. In satisfying this standard, the Board of
10 Trustees shall exercise reasonable care, skill and prudence. No member of the Board of Trustees
11 shall have any interest in the gains or profits made on any investment, except benefits from an
12 interest in investments common to all Participants in the Plan.

13 D. Appointment of Board of Trustees. The initial Board of Trustees shall be
14 comprised of the individuals who were members of the Board of Trustees of the Prior Plan
15 immediately before the Effective Date. Thereafter, The Board of Trustees shall be constituted as
16 follows:

- 17 (1) The Chief of the fire department of the City, ex officio;
- 18 (2) The Comptroller or Deputy Comptroller of the City, ex officio;
- 19 (3) Two members to be appointed by the Mayor of the City to serve for a term of two
20 years;
- 21 (4) Three members to be elected by actively employed Participants in the Plan for a
22 term of three years who shall hold office while Participants in the Plan;

1 (5) One member who shall be a retired firefighter to be elected by the retired
2 firefighter who shall hold office for a term of three years.

3 The initial three members to be elected by actively employed Participants in the Plan
4 (subsection 4 above) and the one member who shall be a retired firefighter (subsection 5 above)
5 shall each serve an initial term of one year commencing on the Effective Date, after which they
6 shall be elected to serve three-year terms as described above.

7 If a vacancy occurs in the office of the Trustee the vacancy shall be filled for the
8 unexpired term in the same manner as the office was previously filled.

9 The Trustees shall serve without compensation, but they shall be reimbursed from the
10 expense fund for all necessary expenses which they may incur through service on the Board.

11 Each Trustee shall within ten days after his appointment or election take an oath of office
12 before the Clerk of the Circuit Court of the City, that, so far as it devolves upon him, he will
13 diligently and honestly administer the affairs of the Board and that he will not knowingly violate
14 or willingly permit to be violated any of the provisions of the law applicable to the Plan. The
15 oath shall be subscribed to by the member making it and certified by the Clerk of the Circuit
16 Court.

17 Each Trustee shall be entitled to one vote on the Board. Five affirmative votes shall be
18 necessary for a decision by the Trustees at any meeting of the Board.

19 E. Powers of the Board of Trustees. Without limiting the powers of the Trustees, the
20 Trustees are authorized and empowered:

21 (1) To invest the Trust Fund in such bonds, notes, debentures, mortgages, insurance
22 contracts, trust certificates, preferred or common stocks or in any other property,
23 real or personal, as the trustees may deem advisable; and to hold in cash such

1 portion of the Trust Fund as shall be reasonable under the circumstances, pending
2 investment or payment of expenses or distribution of benefits;

3 (2) To sell, exchange, convey, transfer or dispose of and also to grant options with
4 respect to any property, whether real or personal, at any time held by it; any sale
5 may be made by private contract or by public auction; and no person dealing with
6 the trustees shall be bound to see to the application of the purchase money or to
7 inquire into the validity, expediency or propriety of any such sale or other
8 disposition;

9 (3) To retain, manage, operate, repair and improve and to mortgage or lease for any
10 period any real estate held by the Board of Trustees;

11 (4) To compromise, compound and settle any debt or obligation due to or from it as
12 trustee hereunder and to reduce the rate of interest on, to extend or otherwise
13 modify, to foreclose upon default, or to otherwise enforce any such obligation;

14 (5) To vote in person or by proxy on any stocks, bonds or other securities held by it;
15 to exercise any options appurtenant to any stocks, bonds or other securities for the
16 conversion thereof into other stocks, bonds or other securities or to exercise any
17 rights to subscribe for additional stocks, bonds or other securities and to make any
18 and all necessary payments; to join in, or to dissent from, and to oppose the
19 reorganization, recapitalization, consolidation, sale or merger of corporations or
20 properties in which it may be interested as trustees, upon such terms and
21 conditions as they may deem wise, and to accept any securities which may be
22 issued upon any such reorganization, recapitalization, consolidation, sale or
23 merger;

- 1 (6) To make, execute, acknowledge and deliver any and all deeds, leases,
2 assignments and any and all other instruments that may be necessary or
3 appropriate to carry out the powers herein granted;
- 4 (7) Subject to the limitations set forth in this ordinance, to enforce any right,
5 obligation or claim and, in general, to protect in any way the interests of the Trust
6 Fund, either before or after default, and, where it shall consider such action in the
7 best interest of the Trust Fund to abstain from the enforcement of any right,
8 obligation or claim and to abandon any property, whether real or personal, which
9 at any time may be held by it;
- 10 (8) To cause any investment from time to time held by it to be registered in, or
11 transferred to, their name as trustees or in the name of their nominee, or to retain
12 in book entry or unregistered form or in a form permitting transferability by
13 delivery; provided, that the books and records of the Board of Trustees shall at all
14 times show that all such investments are part of the Trust Fund;
- 15 (9) To do all acts which it may deem necessary or proper, and to exercise any and all
16 of the powers of the trustees under this Plan upon such terms and conditions as it
17 may deem to be in the best interest of the Trust Fund, as established in this
18 ordinance;
- 19 (10) To invest and reinvest all or any part of the Trust Fund through the medium of
20 any common, collective or commingled trust fund maintained by state and
21 federally chartered financial institutions (which institution may be the trustee or
22 affiliated with the trustee) as the same may have heretofore been or may hereafter
23 be established or amended, which is qualified under the provisions of Section

1 401(a) of the Code and exempt under Section 501(a) of the Code, and during such
2 period of time as an investment through any such medium shall exist, the
3 declaration of trust of such fund shall constitute a part of the Plan;

4 (11) To invest assets of the Trust Fund in deposits of a bank or similar financial
5 institution that bears a reasonable rate of interest;

6 (12) To establish an investment policy, which sets out investment objectives, goals and
7 guidelines for the investment of the assets over which the Board of Trustees or an
8 Investment Manager has discretionary control; and

9 (13) To enforce collection of receivables, including an obligation of the City to make a
10 contribution to the Plan.

11 F. Removal of Trustee. The mayor of the City of St. Louis may remove a member
12 of the Board of Trustees appointed by the mayor.

13 G. Audit. At the direction of the Director of Personnel, the Board of Trustees shall
14 obtain an audit by an unrelated accounting or pension consulting firm to verify that the directions
15 of the Trustees, and the payments from the Plan, are made in accordance with the terms of the
16 Plan.

17 H. Bond. Each member of the Board of Trustees shall be bonded for at least
18 \$500,000, or any other amount set by the Director of Personnel. The bond shall provide
19 protection to the Plan against loss to the Plan by reason of acts of fraud or dishonesty, or
20 intentional disregard of the terms of the Plan.

21 **4.19.140 Administration – Duties of Trustees**

22 A. Plan Administrator. The authority and responsibility for the interpretation,
23 operation and general administration of the Plan shall be vested in the Board of Trustees.

1 B. Duties of Plan Administrator. The Board of Trustees shall have the discretionary
2 authority and responsibility to interpret and manage the Plan and exercise all fiduciary
3 responsibilities with respect to the Plan. The duties and powers of the Board of Trustees as
4 Plan Administrator shall include, but not be limited to, the following:

5 (1) To interpret the Plan provisions and to decide all questions concerning the Plan
6 and the eligibility of any Employee to participate in the Plan and to receive
7 benefits from the Plan;

8 (2) To authorize the payment of benefits at such times and in such manner as they
9 determine are consistent with the terms of the Plan;

10 (3) To keep accurate and detailed records of the administration of the Plan, including
11 the amount of Accumulated Contributions credited to the account of each
12 Participant, which records shall be open to inspection by the City at all reasonable
13 times;

14 (4) To establish and enforce such rules, regulations and procedures as it shall deem
15 necessary or proper for the efficient administration of the Plan;

16 (5) To delegate to any agents such duties and powers, both ministerial and
17 discretionary, as it deems appropriate, by an instrument in writing which specifies
18 which such duties are so delegated and to whom each such duty is so delegated;
19 and

20 (6) To keep a record of all its proceedings, which shall be open to public inspection,
21 and to publish annually a report showing the fiscal transactions of the Plan for the
22 preceding fiscal year and the financial statement showing the assets of the Plan.

1 Notwithstanding any other provision of this ordinance, the Board of Trustees shall have
2 no duty or authority with respect to the establishment, design, amendment or termination of the
3 Plan. Such functions are settlor functions, which are reserved to the City, not fiduciary
4 functions, in accordance with trust law. In particular, the Board of Trustees shall have no duty or
5 authority to challenge actions taken by the City with respect to the establishment, design,
6 amendment or termination of the Plan, or any other action taken by the City in its capacity as
7 settlor of the Plan or employer of Plan Participants; and shall not authorize the expenditure of
8 any assets of the Plan to fund such a challenge or objection. The fiduciary authority of the Board
9 of Trustees includes discretionary control over investment of assets of the Trust Fund. In
10 particular, enforcing collection of a receivable, such as an obligation of the City to make a
11 contribution to the Plan, is included in the scope of the fiduciary duties and authority of the
12 Board of Trustees. A Trustee shall be liable to the City for any damages to, or expense incurred
13 by, the City as a result of any action by the Board of Trustees in contravention of this paragraph
14 if such Trustee voted in favor of such action, and for damages as a result of the Trustee
15 approving an action clearly contrary to the terms of this Plan if such Trustee voted in favor of
16 such action.

17 Any action by the Board or Trustees in contravention of, or not pursuant to a reasonable,
18 good faith interpretation of the explicit terms of the Plan shall be null and have no effect.

19 C. Written Instructions and Information. All claims, elections, instructions and
20 requests by a Participant must be made in writing to the Board of Trustees. Each Participant
21 shall furnish the Board of Trustees any requested information as needed to administer the Plan.
22 The City shall furnish the Board of Trustees with the information needed to administer the Plan.

1 D. Compensation of Actuaries and Money Managers. Any member of the Board of
2 Trustees, Actuary or investment manager may receive reasonable compensation from the Trust
3 Fund for services rendered on behalf of the Plan or Trust, provided that no person who renders
4 services to the Plan who already receives full-time pay from the City shall receive compensation
5 from the Trust Fund except for reimbursement of expenses properly and actually incurred. The
6 selection of any actuary shall be subject to a competitive bidding process in accordance with the
7 terms and conditions of Ordinance 64102 and any subsequently enacted requirements governing
8 contracts for professional services.

9 E. Allocation and Delegation Procedures. The Board of Trustees may appoint one or
10 more of its Participants to carry out any particular duty or duties or to execute any and all
11 documents on its behalf. Any documents so executed shall have the same effect as though
12 executed by all the Participants. Such appointments shall be made by an instrument in writing
13 that specifies what duties and powers are so allocated and to whom each such duty or power is so
14 allocated. The Board of Trustees may delegate to any agent (including the Trustee) such duties
15 and powers, both ministerial and discretionary, as it deems appropriate, by an instrument in
16 writing which specifies which such duties are so delegated and to whom each such duty is so
17 delegated.

18 F. Indemnification of Board of Trustees. The Plan shall indemnify any person
19 serving on the Board of Trustees against all liabilities and claims (including reasonable
20 attorneys' fees and expenses in defending against such liabilities and claims) other than liability
21 arising out of a breach of fiduciary responsibility caused by the action of such person, liability
22 for acting outside the scope of the person's authority, including but not limited to the authority

1 and limitations stated in this Section 4.19.140, and liability for directing payment of benefits that
2 are not made pursuant to a reasonable, good faith interpretation of the explicit terms of the Plan.

3 G. Officers and Employees. The Plan's Board of Trustees shall elect a chairman
4 from its membership by a majority vote. The Board of Trustees, at its first board meeting and as
5 its first matter of business, shall determine whether the individuals who were employed by FRS
6 on the effective date of this board bill in the positions of executive directors and/or assistant
7 executive director of FRS should be employed by the City to perform similar functions for the
8 Plan created herein. In the event the Plan's Board of Trustees decides that the executive
9 directors and/or assistant executive director formerly employed by FRS should be employed by
10 the City, such employment shall be accomplished through non-competitive conversion as
11 provided in Civil Service Rule VII, Section 10, subject to all of the terms and conditions of said
12 Civil Service Rule VII. If the Board of Trustees does not request the conversion of either or
13 both of said individuals, or if either or both of said individuals do not accept a position with the
14 City and the Plan, the position(s) shall be filled through competitive examination in accordance
15 with Article XVIII of the Charter and shall be appointed by the director of personnel. The
16 director of personnel shall be the appointing authority for all employees described in this
17 subsection. The terms and conditions of employment of all employees and agents of the Plan
18 shall be governed by the City's Civil Service rules and regulations, and City Charter provisions
19 regarding Civil Service employees. The compensation of all employees referenced in this
20 subsection shall be paid in accordance with the comprehensive compensation plan of the City. A
21 relative of any member of the Board of Trustees may not be employed to perform any services
22 for the Plan or its Board of Trustees, or receive any compensation from the Trust Fund. The

1 Board of Trustees shall comply with all Charter and ordinance requirements governing contracts
2 for professional services, including but not limited to the provisions of Ordinance 64102.

3 **4.19.150 Claims and Review Procedure.**

4 A. Claims for Benefits. A Participant or beneficiary who believes that he is being
5 denied or will be denied benefits to which he is entitled under the Plan may file a written request
6 for such benefits with the Board of Trustees setting forth his claim.

7 B. Written Denials of Claims. Within ninety days after receipt of the request, the
8 Board of Trustees shall provide to every claimant who is denied a claim for benefits, written
9 notice setting forth in a manner calculated to be understood by the claimant:

- 10 (1) The specific reason or reasons for the denial;
11 (2) Specific reference to pertinent Plan provisions on which the denial is based;
12 (3) A description of any additional material or information necessary for the claimant
13 to perfect the claim and an explanation of why such material or information is
14 necessary; and
15 (4) An explanation of the claim review procedure and the time limits applicable to
16 such procedures.

17 If special circumstances require an extension of time beyond the initial ninety day period,
18 prior to the end of such initial ninety day period the Board of Trustees shall provide to the
19 claimant written notice of the extension, the special circumstances requiring the extension, and
20 the date by which the Board of Trustees expects to render the final decision.

21 C. Appeal of Denial. Within sixty days after a claim is denied, the claimant or his
22 duly authorized representative may appeal such denial to the Board of Trustees by filing a
23 written notice of appeal of the claim denial with the Board of Trustees, provided that if the

1 claimant or his duly authorized representative fails to file such appeal within sixty days after the
2 claim is denied, the claimant shall be deemed to have waived any right to appeal the denial of the
3 claim. The notice of appeal shall reasonably apprise the Board of Trustees of the reasons and
4 grounds for such appeal and shall specify the scope of review desired by requesting any or all of
5 the procedures as follows:

6 (1) Review, upon request and free of charge, all documents, records and other
7 information in the possession of the Board of Trustees that are relevant to the
8 claim; and

9 (2) Submit written comments, documents, records and other information relating to
10 the claim.

11 If review of a decision is requested, such review shall include a review of all comments,
12 documents, records and other information submitted by the claimant relating to the claim without
13 regard to whether such information was submitted or considered in the initial determination.

14 Any denial shall inform the claimant of the specific reason or reasons for the denial, refer to the
15 specific Plan provisions on which the denial is based, state that the claimant is entitled to receive,
16 upon request and free of charge, reasonable access to, and copies of all documents, records and
17 other information relevant to the claim. The decision on review shall be final and legally binding
18 on all parties.

19 **4.19.160 Amendment**

20 A. Amendment. The City reserves the right at any time, and from time to time, to
21 modify or amend the Plan in whole or in part by duly adopting an Ordinance, provided that the
22 obligation of the City to make contributions to the Plan, as provided in subsection 4.19.120(A),
23 and the provisions relating to the enforcement of that obligation, may not be diminished.

1 **4.19.170** **Miscellaneous.**

2 A. Rights of Employee. Neither the action of the City in establishing this Plan, nor
3 any action taken by an Employer or the Trustee, nor any provision of the Plan shall be construed
4 as giving to any Employee the right to be retained in the employ of the City or the right to any
5 payments other than those expressly provided for in the Plan to be paid from the Trust Fund.
6 The City expressly reserves the right to modify the Plan terms and benefits at any time. The City
7 also expressly reserves the right to dismiss any Employee without any liability for any claim
8 against such Employer or against the Trust Fund other than with respect to the benefits provided
9 for by the Plan.

10 B. Source of Benefits. All benefits to be paid to a Participant or his beneficiary
11 under this Plan shall be paid solely out of the Trust Fund, and the City assumes no liability or
12 responsibility therefor.

13 C. Notice of Address. Each person entitled to benefits under this Plan must file with
14 the Board of Trustees, in writing, his Social Security number, his post office address and each
15 change of post office address. Any communication, statement, or notice addressed to such
16 person at his latest post office address as filed with the Board of Trustees will be binding upon
17 such person for all purposes of the Plan, and neither the Trustee nor the Board of Trustees shall
18 be obliged to search for or to ascertain the whereabouts of any such person.

19 D. Rules of Construction. The terms and provisions of this Plan shall be construed in
20 accordance with the meaning under, and which will bring the Plan into conformity with Section
21 401(a) of the Code, and in accordance with the laws of the State of Missouri. The Plan shall be
22 deemed to contain the provisions necessary to comply with such laws. If any provision of this
23 Plan shall be held illegal or invalid, the remaining provisions of this Plan shall be construed as if

1 such provision had never been included and such remaining provisions shall remain valid and
2 operative; provided that the benefits accrued under the Prior Plan on account of earnings and
3 service before the Effective Date shall be assumed by and paid under this Plan if and only if the
4 assets of the Prior Plan are merged into the Trust Fund under this Plan in accordance with
5 subsection 4.19.010(E). Wherever applicable, the masculine pronoun as used herein shall
6 include the feminine, and the singular shall be the plural.

7 E. Legal Action. No action may be brought in law or equity to recover under this
8 Plan until the Claims and Review Procedures of Section 4.19.150 have been exhausted with
9 respect to a claim; and no action may be brought after one year of the final denial of an appeal
10 pursuant to subsection 4.19.150(C).

11 In the event of a failure or refusal by the Trustees to administer the Plan according to the
12 terms of this Ordinance, or if the Trustees act in manner contrary to their scope of authority,
13 including but not limited to the authority and limitations stated in Section 4.19.140, the City
14 may seek and pursue any or all legal remedies to enforce adherence to the terms and conditions
15 stated in this ordinance, including but not limited to a suit for injunction, writ of mandamus or
16 prohibition or court appointment of a successor Trustee.