CITY PENSION FUND FOR FIREFIGHTERS AND POLICE OFFICERS IN THE CITY OF MIAMI BEACH

CODE OF THE CITY OF MIAMI BEACH, FLORIDA

ARTICLE IX. - PENSION SYSTEM FOR DISABILITY AND RETIREMENT OF MEMBERS OF POLICE AND FIRE DEPARTMENTS

Which appears as part of the:

Miami Beach, Florida - Code of Ordinances, Part 1 – Charter and Related Special Acts, Subpart B – Related Special Acts, Article IX., as amended through March 5, 2014.

ARTICLE IX. - PENSION SYSTEM FOR DISABILITY AND RETIREMENT OF MEMBERS OF POLICE AND FIRE DEPARTMENTS [9]

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ARTICLE IX. - PENSION SYSTEM FOR DISABILITY AND RETIREMENT OF MEMBERS OF POLICE AND FIRE DEPARTMENTS

Sec. 61. - Creation of fund; merger of base and supplemental plans.

(a) There is created a special fund to be known as the City Pension Fund for Firefighters and Police Officers in the City of Miami Beach. The Fund shall be used exclusively for the purpose provided for in this article, and shall be collected, administered and disbursed according to the provisions of this article.

(b) Effective as of October 1, 1999, the Police Officers' and Fire Fighters' Supplemental Pension (the "Supplemental Plan") shall be merged into and become a part of this System. In connection with the merger, all assets of the fund created and maintained in connection with the Supplemental Plan shall be transferred to the Fund.

(c) Except as otherwise expressly provided in this article, the rights and benefits of any member who retires or whose employment is terminated on or after October 1, 1999, shall be determined solely in accordance with the provisions of this System as in effect and operative at the time of such retirement or termination. However, his benefit and Creditable Service under this System as of October 1, 1999, shall not be less than his benefit and Creditable Service under the System as in effect on September 30, 1999, if he was only a member in the System as of such date, under the Supplemental Plan as in effect on September 30, 1999, if he was only a member in that plan and not a member in the System as of such date or under both the System and the Supplemental Plan as in effect on September 30, 1999, if he was a member in both the System and the Supplemental Plan as of such date.

(d) Except as otherwise expressly provided in this article, the rights and benefits of any member of the System or the Supplemental Plan who retired or whose employment terminated prior to October 1, 1999, and who is not reemployed by the City after that date in a position that would entitle him to be a member in the System, shall be determined solely in accordance with the provisions of the System as in effect on the date of his retirement or termination if he was only a member of the System as of that date, solely in accordance with the provisions of the Supplemental Plan as in effect on the date of his retirement or termination if he was only a member of the Supplemental Plan as of that date or in accordance with the terms of the System and the Supplemental Plan as in effect on the date of his retirement or termination if he was a member of both the System and the Supplemental Plan as of that date.

(Laws of Fla., 1945, ch. 23414, § 1; election of 11-2-99)

Sec. 62. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means the Board of Trustees appointed and elected to administer and supervise the System as provided in section 76.

City means the City of Miami Beach, Florida.

Creditable Service means the Employee's service determined as provided in section 65 used to determine his eligibility for certain benefits under the System and the amount of his benefit under this System.

Dependent Parent means a parent of a member for whom a member is entitled, or would have been entitled, to claim a dependency exemption for federal income tax reporting purposes.

Domestic Partner means a person with whom a member has entered into a Domestic Partnership as defined in sec. 62-126, and registered and documented according to the requirements of sec. 62-127.

Effective Date means September 20, 1945.

Employee means any full time employee who is certified as a firefighter as a condition of employment in accordance with section 633.35, Florida Statutes, and whose duty it is to extinguish fires, to protect life or to protect property, and any full time employee who is certified or required to be certified as a law enforcement officer in compliance with section 943.1395, Florida Statutes, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The foregoing definition applies to employees hired on or after September 30, 2013. Notwithstanding the foregoing definition, any employee hired before September 30, 2013, whose initial employment with the City was in the unclassified service and who continuously remained a member of the unclassified service after that date shall remain a member of the Miami Beach Employees Retirement Plan for as long as employed as an unclassified employee, and shall not be eligible to participate in this System.

Fund means the City Pension Fund for Firefighters and Police Officers in the City of Miami Beach created by section 61.

Handicapped Child means a child of a member who has reached the age of 18 and who is primarily dependent upon the member for the child's livelihood or support due to a mental or physical condition or handicap of the child which requires, or otherwise would have required, the member to provide primary support for the child.

May 1993 Member means a member first employed by the City on or after May 19, 1993.

Editor's note—

See § 86(b) herein.

Salary, for the purpose of determining member contributions under this System, means the member's base pay, longevity pay, overtime, shift differential and extra compensation allowance such as uniform allowance, before reduction for the picked-up member contributions and before reduction for any amounts contributed in accordance with sections 125 or 457 of the Internal Revenue Code. Notwithstanding the preceding sentence, effective September 30, 2013, Salary shall exclude overtime pay in excess of 300 hours per calendar year, payments for unused sick and vacation leave, hazardous duty pay (when paid), payments relating to the domestic partner tax credit reimbursement, and payments to police officer members for voluntarily participating in a physical fitness assessment program offered by the City. However, for periods prior to October 1, 2000, and solely with respect to May 1993 Members, the term "Salary" shall refer only to base pay and longevity pay, excluding any payment of overtime, shift differential or extra compensation allowance such as uniform allowance, but determined before reduction for the picked-up member contributions and before reduction for any amounts contributed in accordance with sections 125 or 457 of the Internal Revenue Code. For purposes of determining the amount of a member's benefit under the System, Salary shall mean the amount determined under this section as modified by the provisions of section 66 under which the benefit is being provided. Notwithstanding anything herein to the contrary, a member's Salary taken into account for any purpose under this System, including for purposes of determining the amount of a member's benefit and his contribution to this System, shall not exceed the limitation set forth in section 401(a)(17) of the Internal Revenue Code as adjusted for changes in the cost of living by the Secretary of the Treasury of the United States. However, for employees who were members before the first plan year beginning after December 31, 1995, the limitation on Salary shall not be less than the amount which was allowed to be taken into account under this article as in effect on July 1, 1993.

Surviving Spouse shall mean the lawfully wedded spouse of a member of the System living with the member at the time of the member's death.

System means this Pension System for Disability and Retirement of Members of Police and Fire Departments, as from time to time amended.

(Laws of Fla., 1945, ch. 23414, § 3; Laws of Fla., 1953, ch. 29286, § 2; election of 11-7-89; election of 11-2-99; election of 11-6-01; Ord. No. 2013-3817, § 1, 9-30-13; Ord. No. 2014-3848, § 1, 3-5-14)

Sec. 63. - Source of moneys for fund; computation of liability; use and investment of fund.

(a) At the end of each fiscal year of the City, the City shall pay into the Fund the amount the Board determines is required under this System, in addition to the personal contributions of members.

(b) Each member of this System hired before September 30, 2013, shall contribute 10% of his Salary to the Fund. Each member of this System hired on or after September 30, 2013, shall contribute 10.5% of his Salary to the Fund. The City shall, solely for purposes of complying with section 414(h) of the Internal Revenue Code, pick up contributions required to be made by the members under this System. The contributions so picked up shall be treated as employer contributions for purposes of determining their tax treatment under the Internal Revenue Code.

(c) All computations of liability in connection with the System shall be based on tables and rates approved by the Board. The Board shall designate an actuary for the System who shall recommend such tables and rates for adoption by the Board. The actuary designated by the Board, on the basis of such tables and rates, shall recommend to the Board the amounts required to be paid into the System by the City under subsection (a) of this section. During the three-year period beginning October 1, 2013, and at least once every three years thereafter, there shall be an experience study of the System's actuarial assumptions performed by an actuary selected by the City. The actuary selected by the City shall make recommendations for any changes in assumptions based on the results of the experience study. In the event the Board of Trustees or plan actuary disagrees with the recommended assumption changes, the Board or plan actuary shall present the basis of their disagreement and justify and deviation from the recommended assumptions to the City Commission. Effective September 30, 2013, the City shall require 5-, 10- and 20-year projections of required pension contributions as part of the annual actuarial valuations for each of the City's pension plans. These projections shall be based on the current actuarial assumptions for each plan. The projections shall be updated to reflect the cost of any proposed benefit enhancement before the City Commission agrees to the enhancement. The cost of these studies shall be funded separately from the annual contribution to the pension plan.

(d) There shall be a complete actuarial evaluation prepared by the actuary at least every three years, and the City shall make such adjustments in its contributions as shall be shown to be required by such actuarial evaluation. The money required to meet all the obligations of this System over and above the personal contributions from members, is a liability and obligation of the City. The expenses of the System shall not be separately budgeted so long as the method is permitted by law. The City commission shall levy annually, in the manner provided by law, upon all taxable property within the City, such millage on the assessed valuation thereof as is necessary to produce the amounts required to be contributed by the City to this System. Effective September 30, 2013, the City shall fund at least the normal cost of the System, net of member contributions and state premium tax revenues. If the net City normal cost for any Plan year exceeds the City's annual required contribution as determined in accordance with Part VII, Chapter 112, Florida Statutes, the excess shall be held in reserve as part of the Fund assets, designated as the pension stabilization fund, and shall be used to offset the City's annual required contribution in any Plan year as determined by the City. The pension stabilization fund shall be accounted for separately and not included as assets of the Fund for plan valuation purposes, and shall be annually credited or debited with gains and losses at the same rate of return as the overall net market rate of return on Fund investments.

(e) Nothing in this System shall be construed to prevent the City administration from appropriating moneys from the general fund or from any special funds of the City for the purpose of creating or adding to the Fund, and the City shall have the right to appropriate moneys from the general fund or any special fund of the City in addition to a millage. Furthermore, the City shall have the right and power to designate other sources of revenue for the Fund, including the designating of certain fines

and forfeitures for violation of the City ordinances to be paid to the Fund instead of the general revenue of the City.

(f) No moneys raised by taxation or otherwise provided for in the Fund shall be used other than for the purpose of this System.

(g) Money shall be withdrawn from the Fund only upon warrants executed by at least five members of the Board. The Board shall have exclusive charge of the investment of any surplus in the Fund not needed for the Fund's current obligations. The Board shall, in acquiring, investing, reinvesting, exchanging, retaining, selling and managing property for the benefit of the Fund, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard, the Board is authorized to acquire and retain every kind of property, real, personal or mixed, and every kind of investment specifically including, but not by way of limitation, bonds, debentures and other corporate obligations, and stocks, preferred or common, which persons of prudence, discretion and intelligence acquire or retain for their own account and, within the limitations of the foregoing standard, the Board may retain property acquired, without limitation as to time and without regard to its suitability for original purchase. The intent of this provision is to remove any and all restrictions which are otherwise imposed by F.S. chs. 175 or 185 and which may be removed.

(h) Moneys needed for meeting the System's current obligations may be deposited in a depository recognized by law for the deposit of funds of the State of Florida and upon posting of similar security to that required for public deposits. The City shall have the custody of and responsibility for any funds, stocks, bonds, notes or other evidences of indebtedness and such custody shall be for the purpose of safekeeping only, without any discretion in the City regarding the propriety of any withdrawal or transfer of any such funds, stocks, notes, or other evidences of indebtedness or funds.

(Election of 11-2-99; Ord. No. 2013-3817, § 2, 9-30-13; Ord. No. 2014-3848, § 2, 3-5-14)

Sec. 64. - Membership; transfer of accumulated total credit; severance of employment and reemployment.

(a) Any individual who is an Employee on October 1, 1999, who was a member of the System on that date shall remain a member of this System. All individuals who become Employees on or after October 1, 1999, shall automatically be members of this System and shall submit to a physical examination as prescribed by the Board; however, the result of such examination shall not affect eligibility for membership in this System, but shall be used for the proper administration of the System by the Board.

(b) Whenever any member of this System voluntarily severs his employment with the City prior to becoming eligible for a pension, but retains civil service rights with the City, and does not have returned to him the monies provided for in section 70, he shall again become a member upon resuming his employment as an Employee. However, he shall be entitled to no benefits under this System between the date of such severance and the date of such reemployment, except those which may have accrued to him prior to such severance, and further provided upon such reemployment he shall submit to the medical examination required by this section.

(Laws of Fla., 1945, ch. 23414, § 4; election of 6-2-59; election of 11-2-99)

Sec. 65. - Computation of creditable service; service record.

(a) A member's Creditable Service shall include all periods of employment as an Employee for which contributions have been made to this System in accordance with subsection (b) below and section 63(b), together with all service in the uniformed services of the United States required to be included

under section 82; provided, however, that only periods of service in the uniformed services of the United States for which the member makes the member contributions as provided for in section 82 shall be Creditable Service for purposes of computing the amount of the member's benefit from the System. Notwithstanding any provision to the contrary, in no event shall the same period of service be counted more than once as Creditable Service under this System, and in no event shall a member receive Creditable Service under this System for any period of service for which credit has been received under any other defined benefit retirement plan established by the City.

(b) Employees who become members of this System in order to receive credit for service rendered prior to their becoming a member shall make contributions to the Fund in the amount such member would have contributed had he been a member during the period of service for which credit is being purchased. In order to receive such credit, employees shall make payment within six months after becoming a member or within such other period as may be provided in a bargaining agreement covering the member. No Creditable Service shall be provided under this System for periods of service in another City retirement plan, nor shall any transfer of service or credit from another City retirement plan to this System be allowed.

(c) The Board shall establish the service record of all employees who may be entitled to participate in the benefits of this System, and shall keep a record thereof.

(Election of 11-2-99; election of 11-6-01; Ord. No. 2010-3705, § 1, 11-17-10; Ord. No. 2013-3817, § 3, 9-30-13; Ord. No. 2014-3848, § 3, 3-5-14)

Sec. 66. - Service and disability benefits generally.

(a) The Board shall, upon application retire members meeting any one of the following requirements:

(1) The attainment of age 50.

(2) Permanent and total disability incurred in line of duty in the police or fire department, or in the unclassified service as provided in section 70, irrespective of the number of years of Creditable Service;.

(3) Permanent and total disability incurred other than in the line of duty, after five years of Creditable Service.

(4) The sum of the member's age and Creditable Service equals at least 70 and the member retires on or after October 1, 1998; provided, effective September 30, 2013, a member hired before July 14, 2010 must attain age 47 to be eligible for retirement under this paragraph (4); and a member hired on or after July 14, 2010 must attain age 48 to be eligible for retirement under this paragraph (4); and provided further, any member hired prior to July 14, 2010 who completes a buyback of prior Creditable Service prior to September 30, 2013 and reaches the maximum pension benefit of 85% of average monthly Salary prior to attaining age 47, the employee contribution shall cease on the date such employee reaches the 85% maximum pension benefit, and his/her final average monthly Salary will be frozen on the same date. Notwithstanding the preceding sentence, any police officer member; and effective January 16, 2014, any firefighter member hired pursuant to a consent decree may retire when the sum of the member's age and Creditable Service equals at least 70.

(5) Only for periods prior to October 1, 2000, and only in the case of a May 1993 Member, the attainment of age 55 with at least 10 years of Creditable Service.

(b) A member who attains eligibility for retirement under subsection (a) above on or before September 30, 2013, shall be entitled to receive upon retirement under subsection (a), a monthly pension payable for life equal to: .

(1) Three percent of the member's average monthly Salary for each year of the member's first 15 years of Creditable Service, being computed as to a part of a year on a pro rata basis to the nearest month; plus

(2) Four percent of the member's average monthly Salary for each year of the member's Creditable Service in excess of 15 years, being computed as to a part of a year on a pro rata basis to the nearest month.

(c) A member who does not attain eligibility for retirement under subsection (a) above on or before September 30, 2013, shall be entitled to receive upon retirement under subsection (a), a monthly pension payable for life equal to:

(1) Three percent of the member's average monthly Salary for each year of the member's first 20 years of Creditable Service, being computed as to a part of a year on a pro rata basis to the nearest month; provided in no event shall a member's benefit multiplier for Creditable Service earned before October 1, 2013, be reduced; plus

(2) Four percent of the member's average monthly Salary for each year of the member's Creditable Service in excess of 20 years, being computed as to a part of a year on a pro rata basis to the nearest month.

(d) For purposes of determining a member's benefit, the average monthly Salary of members who attains eligibility for retirement under subsection (a) above on or before September 30, 2015, shall be based on the average of the two highest-paid years of the member prior to the date of retirement or termination, or the average of the last two paid years of the member prior to the date of retirement or termination, whichever produces the greater benefit for members employed by the City before May 19, 1993, and shall be based on the average of the three highest paid years of the member prior to the date of retirement or termination for May 1993 Members. Effective September 30, 2015, the average monthly salary for members hired before July 14, 2010, who do not attain eligibility for retirement under subsection (a) above on or before September 30, 2015, shall be based on the average of the three highest paid, years or the average of the last three (3) years of the member prior to the date of retirement or termination. whichever produces the greater benefit. The average monthly salary for Members hired on or after July 14, 2010, but prior to September 30, 2013, shall be based on the average of the three highest paid years or the average of the last three (3) years of the member prior to the date of retirement or termination, whichever produces the greater benefit. The average monthly salary for Members hired on or after September 30, 2013, shall be based on the average of the five (5) highest paid years or the average of the last five (5) years of the member prior to the date of retirement or termination, whichever produces the greater benefit. For purposes of such calculation, Salary shall be the Salary upon which the member's contribution to the System was computed, as provided in paragraphs (1) and (2) below:

(1) With respect to a firefighter member employed before May 19, 1993, and retiring on or after October 1, 1994, the inclusion of overtime in the member's Salary for the two highest-paid years or last two years, as the case may be, shall be limited in each year to an amount which, when combined with compensation for off-duty services and the value of any accrued sick and/or vacation leave that is included in a member's Salary for pension contribution and benefit purposes, is equal to 11% of the highest annualized pay rate for the same salary rank that the member is in at time of retirement. Effective July 14, 2010, all compensation received by a firefighter member who is eligible for overtime pay and who receives pay for off-duty services performed after that date for which compensation is received through the City shall be included in such member's Salary for pension contribution and benefit purposes; provided, in no event shall such compensation for off-duty services, in combination with any overtime pay and the value of any accrued sick and/or vacation leave included in a member's Salary for pension contribution and benefit purposes, exceed 11% of the highest annualized pay rate for the same salary rank that the member is in at time of retirement. For firefighter members who are eligible for overtime pay and who retire on or after September 30, 2010, upon reaching eligibility for retirement, a member may elect to apply unused sick and/or vacation leave for inclusion in the member's Salary for pension contribution and benefit purposes, at a cost of 10% of the value of the unused sick and/or vacation leave (at the member's current hourly rate). Provided, in no event shall the value of such unused sick and/or vacation time, when combined with any overtime pay and compensation for off-duty services included in a member's Salary for pension contribution and benefit purposes, exceed 11% of the highest annualized pay rate for the same

salary rank that the member is in at time of retirement. Notwithstanding the foregoing, effective September 30, 2013, overtime pay in excess of 300 hours per calendar year, payments for unused sick and vacation leave, hazardous duty pay (when paid), and payments relating to the domestic partner tax credit reimbursement, shall be excluded from a firefighter member's Salary for pension contribution and benefit purposes.

(2) With respect to a police officer member employed before May 19, 1993, and retiring on or after October 1, 1994, the inclusion of overtime in the member's Salary for the two highest paid years or last two years, as the case may be, shall be limited in each year to an amount which, when combined with compensation for off-duty services and the value of any accrued sick and/or vacation leave that is included in a member's Salary for pension contribution and benefit purposes, is equal to 70% of the difference between the member's annualized pay rate at retirement and the highest annualized pay rate for the next higher salary rank; but in no event shall such member's accrued benefit on his date of retirement be less than the benefit he had accrued as of September 30, 1994, determined under the terms of the System in effect on that date. Effective July 14, 2010, all compensation received by a police officer member who is eligible for overtime pay and who receives pay for off-duty services performed after that date for which compensation is received through the City, shall be included in such member's Salary for pension contribution and benefit purposes; provided, in no event shall such compensation for off-duty services, in combination with any overtime pay and the value of any accrued sick and/or vacation leave included in a member's Salary for pension contribution and benefit purposes, exceed 70% of the difference between the member's annualized pay rate at retirement and the highest annualized pay rate for the next higher salary rank; but in no event shall such member's accrued benefit on his date of retirement be less than the benefit he had accrued as of September 30, 1994, determined under the terms of the System in effect on that date. For police officer members who are eligible for overtime pay and who retire on or after September 30, 2010 and before September 30, 2013, upon reaching eligibility for retirement, a member may elect to apply unused sick and/or vacation leave for inclusion in the member's Salary for pension contribution purposes, at a cost of 10% of the value of the unused sick and/or vacation leave (at the member's current hourly rate). Provided, in no event shall the value of such unused sick and/or vacation time, when combined with any overtime pay and compensation for off-duty services included in a member's Salary for pension contribution and benefit purposes, exceed 70% of the difference between the member's annualized pay rate at retirement and the highest annualized pay rate for the next higher salary rank; but in no event shall such member's accrued benefit on his date of retirement be less than the benefit he had accrued as of September 30, 1994, determined under the terms of the System in effect on that date. Notwithstanding the foregoing, effective September 30, 2013, overtime pay in excess of 300 hours per calendar year, payments for unused sick and vacation leave, hazardous duty pay (when paid), payments relating to the domestic partner tax credit reimbursement, and payments for voluntarily participating in a physical fitness assessment program offered by the City shall be excluded from a police officer member's Salary for pension contribution and benefit purposes; and in no event shall compensation for off-duty services, in combination with overtime pay not exceeding 300 hours per calendar year, exceed 11% of the highest annualized pay rate for the same salary rank that the member is in at time of retirement. Provided, the 11% limitation in the preceding sentence shall not apply to any member who holds the rank of sergeant or lieutenant on September 30, 2013, or any police officer who is promoted into the position of police sergeant prior to the date the 2013 Certified Police Sergeant Promotional Register expires in 2015.

(e) Notwithstanding anything in this section to the contrary, the benefits provided in this section shall not exceed 90% of the member's average monthly Salary as defined in subsection (d) of this section; provided, however, that the benefits for May 1993 Members shall not exceed 80% of such Salary. Notwithstanding the foregoing, effective September 30, 2013, the benefits provided in this section shall not exceed 85% of the member's average monthly Salary as defined in subsection (d) of this section; provided, however, that the benefits for May 1993 Members shall not exceed 80% of such Salary; and provided further, the benefit of any member who has an accrued benefit in excess of

85% of average monthly Salary as defined in subsection (d) of this section on September 30, 2013 shall not exceed 90% of such Salary.

(f) The minimum pension for a member retiring for permanent and total disability under subsection (a)(2) of this section shall be 85% of the member's Salary at the time of disability retirement; provided, however, that the minimum pension for a May 1993 Member shall be 75% of such Salary. The minimum pension for a May 1993 Member retiring for permanent and total disability under subsection (a)(3) of this section shall be 50% of the member's Salary at the time of the disability retirement.

(g) (1) If any member eligible for benefits under this article shall terminate his employment before September 30, 2013, after having completed at least 10 years of Creditable Service but prior to attaining age 50 years (or after having completed one year of Creditable Service but before attaining age 55 and completing 10 years of Creditable Service for a May 1993 Member), and does not withdraw his accumulated contributions in the System, such member shall be entitled to receive upon attaining age 50 (age 55 or his termination of employment, if later, for a May 1993 Member) a monthly pension payable for life in accordance with the provisions of subsection (b) (or subsection (c) for a May 1993 Member) of this section; provided, however, the benefit so determined shall be reduced for a May 1993 Member by 10% multiplied by the difference between the member's years of Creditable Service at his date of termination and 10. If the member dies prior to attaining age 50 (age 55 or his termination of employment, if later, for a May 1993 Member), no benefit shall be payable under subsection (b) (or subsection (c) for a May 1993 Member); instead, the member's estate shall be entitled to all moneys contributed by the member to this System together with accumulated interest on that sum at the rate of three percent per annum computed until the date of payment to the member's estate.

(2) If any member eligible for benefits under this article shall terminate his employment on or after September 30, 2013 after having completed at least 5 years of Creditable Service, but prior to attaining age 50 years (or after having completed one year of Creditable Service but before attaining age 55 and completing 10 years of Creditable Service for a May 1993 Member), and does not withdraw his accumulated contributions in the System, such member shall be entitled to receive upon attaining age 50 (age 55 or his termination of employment, if later, for a May 1993 Member) a monthly pension payable for life in accordance with the provisions of subsection (b) (or subsection (c) for a May 1993 Member) of this section; provided, however, the benefit so determined shall be reduced for a May 1993 Member by 10% multiplied by the difference between the member's years of Creditable Service at his date of termination and 10. If the member dies prior to attaining age 50 (age 55 or his termination of employment, if later, for a May 1993 Member), no benefit shall be payable under subsection (b) (or subsection (c) for a May 1993 Member); instead, the member's estate shall be entitled to all moneys contributed by the member to this System together with accumulated interest on that sum at the rate of three percent per annum computed until the date of payment to the member's estate.

(h) (1) Notwithstanding anything in this section to the contrary, the minimum monthly pension payable for the life of any member who was employed prior to July 1, 1976 and who retires after attaining age 50 and completing at least 15 years of Creditable Service or after meeting the requirements of subsection (a)(3) or (a)(4) of this section 66 shall be equal to:

(A) Three percent of the member's average monthly Salary for each of the first 20 years of his Creditable Service, being computed as to a part of a year on a pro rata basis to the nearest month; plus

(B) Two and three-quarters percent of the member's average monthly Salary for each of his years of Creditable Service in excess of 20, being computed as to a part of a year on a pro rata basis to the nearest month.

(2) For purposes of this subsection (h) the member's average monthly Salary shall be the Salary upon which the member's contribution to the System was computed for the two highest paid years of the member prior to his date of retirement.

(3) Notwithstanding anything to the contrary, benefits provided under this subsection (h) shall not be more than 85% of the average monthly Salary used to compute the benefit under this subsection.

(4) The minimum pension for a member retiring under this subsection (h) for permanent and total disability shall be 75% of the member's Salary at the time of his disability retirement.

(i) Nothing in this section shall be construed to prevent the City manager or the Board from initiating action for the compulsory retirement of a member eligible for retirement, prior to such age, where such member is considered to be unfit for the proper performance of his duties because of physical or mental incapacity. Upon certification by the medical board designated by the Board pursuant to section 76(j) that such member is mentally or physically incapable of proper performance of duties, the member shall be automatically retired. Any member who is compulsorily retired by an act of the Board shall have the right to appeal such retirement to a court of proper jurisdiction. The member shall defray his own expense in his appeal of such compulsory retirement.

(Laws of Fla., 1945, ch. 23414, § 7; Laws of Fla., 1949, ch. 26034, § 2; election of 5-24-66; election of 11-2-99; election of 11-6-01; Ord. No. 2012-3705, § 2, 11-17-10; Ord. No. 2013-3817, § 4, 9-30-13; Ord. No. 2014-3848, § 4, 3-5-14)

Sec. 66.1. - Normal form of benefit; benefit options.

(a) The normal form of benefit payable to a member who retires, enters the deferred retirement option plan, or separates from City employment on or after the effective date of this ordinance, or to such member's surviving spouse or domestic partner, shall be the applicable benefit as specified in section 66, 68 or 69. In the alternative and in lieu of such benefit, the member may, at any time prior to retirement, elect to receive a lifetime retirement benefit with 120 monthly payments guaranteed. If the member should die before 120 monthly payments are made, benefits will continue to be paid to the member's designated beneficiary for the balance of the 120-month period. If the retired member is living after 120 monthly payments are made, the payments shall be continued for the member's remaining lifetime.

(b) A member who retires, enters the deferred retirement option plan, or separates from City employment on or after the effective date of this ordinance, and who is entitled to service or disability benefits under section 66 may elect, in lieu of such benefit, a joint and contingent survivor option, at any time prior to retirement. Under the joint and contingent survivor option, the member shall receive an actuarially adjusted retirement benefit during the member's lifetime, and have same monthly benefit (or a designated percentage of 25%, 50%, 662/3% or 75% thereof) continued after the member's death to and for the lifetime of the member's designated joint pensioner. The election of the joint and contingent survivor option shall be null and void if the designated joint pensioner dies before the member's retirement. The value of the joint and contingent survivor option shall be actuarially equivalent to the value of the benefit otherwise payable.

(c) A member may revoke an election made under subsection (a) or (b), above, at any time prior to retirement. The election of an alternate normal form of benefit or joint and contingent survivor option, and the revocation of such election, must be made in writing on a form provided by the Board, and submitted to the Board. The member shall not be entitled to change an election made under subsection (a) or (b), above, after the date of cashing or depositing the first retirement benefit check.

(d) A member who elects an alternate normal form of benefit or joint and contingent survivor option under subsection (a) or (b), above, shall designate a beneficiary or joint pensioner in writing on a form provided by the Board, and submitted to the Board at the time of the election. The member may revoke or change the designation of a beneficiary or joint pensioner at any time prior to the date of cashing or depositing the first retirement benefit check, by submitting such change in writing on a form provided by the Board.

(Election of 11-4-03)

Sec. 67. - Cost-of-living adjustment.

(a) In the case of a pensioner who was employed by the City prior to May 19, 1993, or a beneficiary of such a member who has been receiving a pension for at least one year under the System as of October 1, 1989, or any subsequent October 1, the amount of pension payable to him under the System as of such October 1, other than a pension payable under subsection 66(h) of the System, shall be increased by 2½% of the amount payable to him under the System.

(b) In the case of a pensioner who was a May 1993 Member, or a beneficiary of such a member, who has been receiving a pension for at least one year under the System as of October 1, 1994, or any subsequent October 1, the amount of pension payable to him under the System as of such October 1, determined without regard to any cost of living increase previously granted under this section, shall be increased by 1½%.

(c) In the case of a pensioner who has been receiving a benefit under subsection 66(h) of the System for at least three years as of July 1, 1982, or any subsequent July 1, the amount payable to him under the System as of such July 1 shall be increased as of the next following October 1 by 2%.

(d) In the case of a pensioner or beneficiary who retires after October 1, 1988, under the System or after October 1 of any subsequent year and who therefore must wait more than 12 months for his first increase, the amount of pension payable to him as of the October 1 next following the first anniversary of the commencement of his pension shall be increased by a specified percentage, as defined in this subsection, of the amount payable to him under the System multiplied by a fraction, the numerator of which is the number of months for which his pension under the System has been paid and the denominator of which is 12. The specified percentage shall be 2½% for members and their beneficiaries and 1½% for May 1993 Members and their beneficiaries.

(e) For purposes of determining the one-year requirement of subsections (a) and (b) of this section and the three-year requirement of subsection (c) of this section, the pension commencement date for a beneficiary receiving a pension as the result of the death of a retired member who was receiving a pension at the time of his death shall be the date on which the retired member began to receive his pension.

(f) The provisions of this section shall not apply in the case of a member of the System who elected in writing prior to the earlier of his date of retirement or January 1, 1990, to waive his membership in the Police Officers' and Fire Fighters' Supplemental Pension in accordance with the provisions of section 78-246 or 78-247 of Chapter 78 of Part II of the Miami Beach City Code as in effect at such date.

(g) Effective September 30, 2010, for members who retire on or after that date, the cost of living adjustment provided in this Section 67 shall be applied annually on the anniversary date of the member's retirement.

(h) Notwithstanding the provisions of subsections (a) through (g) above, effective September 30, 2013 the benefit of members hired before July 14, 2010, and the beneficiaries of such members, shall be increased by 2.5% annually, commencing on the anniversary date of the member's retirement, except that members who enter the DROP on or after September 1, 2012 and before September 30, 2013, and participate in the DROP for six months or longer shall receive a zero percent (0%) cost of living adjustment for the third (3rd) and fourth (4th) annual adjustment dates.

(i) Notwithstanding the provisions of subsections (a) through (g) above, effective September 30, 2013, the benefit of members hired on or after July 14, 2010, and the beneficiaries of such members, shall be increased by 1.5% annually, commencing on the anniversary date of the member's retirement.

(Election of 11-2-99; Ord. No. 2010-3705, § 2, 11-17-10; Ord. No. 2013-3817, § 5, 9-30-13)

Sec. 68. - Service-connected death benefits.

If any member shall lose his life while in the discharge of his duties, or shall die within five years from injuries received while in the discharge of his duties, and shall leave a Surviving Spouse or Domestic Partner or a child or children or one or more Dependent Parent(s), the Board shall authorize and direct payment of a pension to the member's Surviving Spouse or Domestic Partner or child or children or Dependent Parent(s) as follows:

(a) To the Surviving Spouse or Domestic Partner, the greater of:

(1) The pension to which the deceased member would have been entitled under section 66; and

(2) Eighty-five percent of the member's Salary at the date of his death.

(b) If there is no Surviving Spouse or Domestic Partner, or if the Surviving Spouse remarries or dies, or the Domestic Partner marries, enters into another Domestic Partnership, or dies, the benefit set forth in subsection (a) of this section shall be paid in equal portions to each child of the deceased member. However, benefits shall continue to be paid to the member's Surviving Spouse on the Surviving Spouse's remarriage, instead of to the member's children, if the member is killed in the line of duty. Payments under this subsection to any child shall cease when:

(1) The child attains age 18 (or age 22 in the case of a child who is a full-time student in high school or college, in the case of a Handicapped Child ceases to be a Handicapped Child); or

(2) The child marries or dies.

A legally adopted child shall have the same rights as a natural born child but no pension shall be allowed to any stepchild of a deceased member or child of any Domestic Partner.

(c) If there are no benefits payable to a child or children, the benefit set forth in subsection (a) of this section shall be paid to the Dependent Parent of the deceased member. If both parents are Dependent Parents, such benefit shall be shared equally.

(d) The trusteeship and disbursement of the pension to any child or Dependent Parent is to be determined by the Board.

(e) The pension payments to a Surviving Spouse, Domestic Partner, children and Dependent Parents shall not be decreased or reduced due to benefits received by them under any workmen's compensation law.

(Laws of Fla., 1945, ch. 23414, § 8; Laws of Fla., 1953, ch. 29286, § 5; election of 11-2-99; election of 11-6-01)

Sec. 69. - Nonservice-connected death benefits.

(a) If any member, other than a member entitled to a benefit under section 68, shall die after completing five years of Creditable Service or after meeting the requirements for retirement under section 66, whether or not pension payments have commenced, the Board shall authorize and direct payment to the member's Surviving Spouse or Domestic Partner and/or child or children and/or a Dependent Parent in equal monthly installments as follows:

(1) To the Surviving Spouse or Domestic Partner, the pension to which the deceased member was entitled or was receiving at the time of death or would have been entitled at the time of death under section 66 of this System, for the first 12 months, and thereafter the greater of:

(A) (i) Seventy-five percent of the pension payable under section 66 determined without regard to subsection 66(h), if the member retired on or after October 1, 1988 and is not eligible for

a benefit under subsection 66(h) of the System, (ii) 50% of the pension payable under this System if the member was a May 1993 Member; or (iii) the greater of 50% of the pension payable under subsection 66(h) or 75% of the pension payable under section 66 determined without regard to subsection 66(h) if the member is eligible for a benefit under subsection 66(h) of the System; or

(B) Twenty-five percent of the member's average monthly Salary for his two highest paid years. The monthly installments shall continue until the Surviving Spouse's remarriage or the Domestic Partner's marriage or entry into another Domestic Partnership. However, if the Surviving Spouse was married to the deceased member less than 10 years, or the Domestic Partnership was registered for less than 10 years, the benefit provided in this subsection shall be payable until remarriage or death, but in no case longer than for the period of the normal life expectancy of the deceased member at the time of his death, determined in accordance with the mortality table adopted by the Board.

(2) To the child or children or Dependent Parent(s), the provisions of section 68 governing the conditions and restrictions applicable to the administration of pensions for children and Dependent Parents shall apply, as the case may be.

(b) If any member, other than a member entitled to a benefit under section 68, who retired prior to October 1, 1988 but after completing five years of Creditable Service, shall later die from causes not attributable to his duties, the Board shall authorize and direct payment to his Surviving Spouse or Domestic Partner and/or child or children in equal monthly installments as follows:

(1) To a Surviving Spouse or Domestic Partner, the amount of the pension to which the deceased member was entitled or was receiving at the time of death or would have been entitled at the time of death, computed in accordance with the terms of the System as in effect on his retirement, for the first 12 months, and thereafter the greater of:

(A) Fifty percent of such pension or

(B) Twenty-five percent of the average monthly Salary for the two highest paid years.

The monthly installments shall continue until the Surviving Spouse's remarriage or death, or the Domestic Partner marries, enters into another Domestic Partnership, or dies. However, if the Surviving Spouse was married to the deceased member less than 10 years, or the Domestic Partnership was registered for less than 10 years, the benefit provided in this subsection shall be payable until remarriage or death, but in no case longer than for the period of the normal life expectancy of the deceased member at the time of his death determined in accordance with the mortality table adopted by the Board.

(2) To the member's children under 18 years of age, $100.00 per month; provided, however, the benefit shall continue until the child is age 22 if the child is a full-time student in high school or college. The combined maximum benefit payable to the member's children shall be $200.00 per month and the combined maximum benefit payable to the Surviving Spouse or Domestic Partner and the member's children shall be $320.00 per month. However, this maximum limitation shall not in any manner limit the Surviving Spouse's or Domestic Partner's benefits provided in subparagraph (1) above. For purposes of this subparagraph, a legally adopted child shall have the same rights as a naturally born child but no pension shall be allowed to any stepchild of a deceased member.

(Laws of Fla., 1945, ch. 23414, § 9¾; election of 6-2-59; election of 5-24-66; election of 11-5-68; election of 11-18-69; election of 11-2-71; election of 9-28-76; election of 11-3-87; election of 11-2-99; election of 11-6-01)

Sec. 70. - Return of contribution.

(a) Except as provided in subsections (b) and (c) of this section, whenever any member in the service of either the fire or police department shall sever his connection with such department either voluntarily or by lawful discharge, or by death not attributed to his active duties prior to the completion of five years of membership in the department, or by death in active service after the completion of five years of membership in the department leaving no Surviving Spouse, Domestic Partner, children or Dependent Parents entitled to pension benefits under this System, such member or his estate shall be entitled to the return of all the moneys he has contributed into this System, together with accumulated interest on the sum, at the rate of three percent per annum, computed until date of payment to the member or his estate, unless in the event of discharge or voluntary severance such member has at that time qualified under the terms of this System for a pension from the System.

(b) Any member of this System who separates from active service with the fire or police departments to accept an appointment to any office in the unclassified service of the City shall continue to have all the rights, privileges and responsibilities of this System.

(c) Any member of this System who separates from active service with the fire or police departments to accept an appointment to any office in the classified service of the City shall immediately become a member of the City of Miami Beach Employees Retirement System and shall receive creditable service under that system for service which is Creditable Service under this System. Upon a member of this System becoming a member of the City of Miami Beach Employees Retirement System, the Board shall transfer from the funds of this System to the City of Miami Beach Employees Retirement System an amount equal to three times the accumulated amount of the member's contributions under this System that were paid by the member to this System, together with interest thereon to the date of transfer. For purposes of this section, moneys a member has contributed shall include picked-up member contributions together with interest thereon.

(Election of 11-2-99; election of 11-6-01)

Sec. 71. - Cancellation of participation in other systems.

Membership in this System shall automatically cancel the membership and participation of any Employee in any other pension, annuity or retirement system for employees of the City to which the City contributes.

(Laws of Fla., 1945, ch. 23414, § 10; Laws of Fla., 1947, ch. 24709, § 5; Laws of Fla., 1953, ch. 29286, § 7; election of 11-2-99)

Sec. 72. - Contract between member and City.

(a) Within 30 days after an Employee becomes a member of this System, or October 1, 2000, for a May 1993 Member, the City shall prepare a contract for execution between the City and the Employee. The contract shall be in the following form:

"This agreement, made and entered into this _____ day of _____, 20_____, between the City of Miami Beach, a municipal corporation under the laws of the State of Florida, hereinafter referred to as City, and (individual employee), hereinafter referred to as Employee.

"WITNESSETH: THAT WHEREAS, the City established the Pension System for Disability and Retirement of Members of Police and Fire Departments, hereinafter referred to as the System, and

"WHEREAS, it is beneficial to the City to have the Employee protected by the terms of the System and benefits and the Employee is desirous of participating in the System, it is thereupon

"UNDERSTOOD AND AGREED by and between the parties that the Employee does hereby allot, out of his salary or wages, paid to him by the City, determined before reduction for picked-up contributions in accordance with section 63(b) of the System or any amounts contributed on a pretax basis in accordance with sections 125 and 457 of the Internal Revenue Code, an amount equal to the percentage of said salary or wages specified in section 63(b) of the System from his date of membership, and does hereby authorize and direct the disbursing officers or officer of said City to retain out of said wages or salary said amount, in compliance with the terms of the System, and to continue to make said allotment and authorize said deduction throughout the entire time of his employment or reemployment or until such time as he shall be entitled to receive the pension allowance or benefit provided by the Fund. For the purpose of determining the Employee's contributions under the System, salary or wages shall be computed in accordance with the definition of "Salary" in section 62 of the System.

"IT IS FURTHER UNDERSTOOD AND AGREED by and between the parties that the City will accept said allotment or deduction from the salary or wages of the Employee and when, under the terms of the System, the Employee or the Employee's beneficiary shall be entitled to receive the benefits from the Fund herein created, will pay said sum or sums from said Fund and all other benefits so authorized to the Employee or his beneficiaries, in accordance with the terms of the System, without diminution or deduction.

"IT IS FURTHER UNDERSTOOD AND AGREED that this contract shall remain in force without change, modification or amendment, until all the purposes now intended to be fulfilled shall have been fully performed, except that payment or other benefits to the Employee or his beneficiaries may be increased but not diminished.

"IT IS FURTHER UNDERSTOOD AND AGREED that the percentage of the allotment of, or deduction from, the salary or wages of the Employee shall not be increased during the term of this contract but may only be decreased or diminished by the City, nor shall the Employee lose any rights under the terms of this contract by reason of the refusal of the City at any time during the term hereof to make allotment or deduction from said wages or salary.

"IT IS FURTHER UNDERSTOOD AND AGREED that it is the intention of the parties hereto to create vested rights in the respective parties not to be hereinafter impaired for any cause whatsoever.

"IT IS FURTHER UNDERSTOOD AND AGREED that the terms of the System are declared to be a part of this contract and this contract is to be construed with reference thereto.

"IN WITNESS WHEREOF, the City has caused these presents to be executed, signed and sealed, with the seal of the City, by its duly authorized officers, and the Employee has hereunto set his hand and seal the day and year first above written. (Here follow signatures and seals.)

The contract shall be executed in duplicate, one copy to be retained by the City, the other copy to be delivered to the employee joining in the contract. The contract shall thereafter be and remain a contract binding upon the City and the employee, and shall be enforceable in any court in the State of Florida having jurisdiction of actions upon contracts in like amount, and by such relief, ordinary or extraordinary, at law, or in equity as may be suitable or appropriate in similar causes.

(b) Nothing in this section shall abridge or enlarge the rights of members acquired under contracts executed pursuant to this section.

(Laws of Fla., 1945, ch. 23414, § 12; Laws of Fla., 1947, ch. 24709, § 6; Laws of Fla., 1953, ch. 29286, § 9; election of 11-2-71; election of 9-28-76; election of 11-3-87; election of 11-2-99)

Sec. 73. - Restoration of health of participant retired for permanent incapacity.

If a member who has been retired on a pension on account of permanent and total disability regains his health and is found by the Board to be in such physical and mental condition as to meet the requirements of the City's human resources department for service acceptable to the City, the Board shall

order his pension discontinued, and he shall be ordered to resume active service in the department from which he was retired at the same or similar work as that at which he was employed prior to his disability retirement, or at other work within the limits of his physical or mental capabilities at a rate of compensation not less than 70% of the pay at the time of his return to active service for the classification occupied by him prior to his disability retirement. Upon request of the City manager, the Board shall review the condition of any member receiving a pension for disability and shall submit to the City manager a report thereon, and if there shall be substantial evidence that the retired member is capable of performing service acceptable to the City in the department from which such member was retired, he shall be ordered to resume active duties and his pension shall be discontinued.

(Election of 11-2-99)

Sec. 74. - Disposition of pension where pensioner convicted of felony.

Upon a member's conviction of a felony and actual incarceration in a penitentiary, any pension being paid to the member under this System shall be paid to his wife or children as herein prescribed for a deceased member under this article, until his official release from incarceration, then the pension will be paid to the pensioned member again.

(Laws of Fla., 1945, ch. 23414, § 15; election of 11-2-99)

Sec. 75. - Dismissal from service.

Members entitled to a pension shall not forfeit the pension upon dismissal from the department, but shall be retired as prescribed in this article.

(Laws of Fla., 1945, ch. 23414, § 16; election of 11-2-99)

Sec. 76. - Board of trustees.

(a) The general administration and responsibility for the proper operation of the System is vested in a board consisting of three members of the City administration other than police officers, firefighters or the City manager, to be appointed by the mayor of the City, and three Employees of the fire department and three Employees of the police department, who shall be elected in accordance with subsection (b) of this section.

(b) The election of the trustees from the Employees of the fire department and the police department shall be held by per capita vote of all active and retired Employees of each of the respective departments who come within the purview of this article. An election to elect the members of the fire department and police department to serve as trustees shall be held every two years.

(c) If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(d) The trustees shall serve without compensation, but they may be reimbursed from the expense fund for all necessary expenses which they may actually expend through services on the Board.

(e) Each trustee shall after his appointment or election take an oath of office before the City clerk, that so far as it devolves upon him he will diligently and honestly administer the affairs of the Board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the System. Such oath shall be subscribed to by the member making it and certified by the City clerk and filed in his office.

(f) Each trustee shall be entitled to only one vote on the Board. Five votes shall be necessary for a decision by the trustees at any meeting of the Board.

(g) Any trustee who neglects the duties of his office shall be removed by the Board.

(h) Subject to the limitations of this article, the Board may from time to time establish rules and regulations for the administration of the Fund and for transaction of its business, including provisions for compulsory attendance of its members, which shall have the force of law.

(i) The Board shall elect from its number a chairman and a secretary. It shall engage such actuarial and other services as shall be required to transact the business of the System. The compensation of all persons engaged by the Board and all expenses of the Board necessary for the operation of the System shall be paid at such rates and in such amounts as the Board shall agree, but in no case shall the expenditures for such services or operations exceed three percent of the maximum of the Fund for each fiscal year. All funds shall be disbursed by the Board.

(j) The Board shall designate a medical board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of this article. The medical board shall investigate all essential statements or certificates made by or on behalf of a member in connection with an application for disability or retirement and shall report its conclusions and recommendations in writing to the Board upon all matters referred to it. The payment for such services shall be determined by the Board.

(Election of 11-2-99)

Sec. 77. - Duration of retirement pension; contributions upon retirement.

Pensions granted to retired members shall be paid to them for life and shall not be revoked nor in any way diminished except as provided in this System. A member's payments to this fund shall cease upon the earlier of his retirement and acceptance of a pension or his election to participate in the DROP adopted in accordance with section 79.

(Laws of Fla., 1945, ch. 23414, § 20; election of 11-2-99)

Sec. 78. - Nonassignability of pension.

No benefits provided by the System shall be assignable or subject to garnishment for debt or to other legal process, and no pension provided by this System shall be subject to any deductions or assessments by the City. No benefits provided by the system shall be altered or modified in any respect due to the fact that any member may be the recipient of any benefits from any other pension or pension plan; provided, however, workers' compensation benefits paid by the City to a retired member shall be credited against any pension payments payable on account of permanent and total disability incurred in the line of duty in the police or fire department, or in the unclassified service as provided in section 66(a)(2).

(Election of 11-2-99)

Sec. 79. - Deferred Retirement Option Plan (DROP).

(a) Eligibility. Any active member of the System may enter into the DROP on the first day of any month following the date upon which the member first becomes eligible for a normal service retirement, subject to the provisions of this section 79

(b) Conditions of eligibility. Upon becoming eligible to participate in the DROP, a member who enters the DROP before September 1, 2012, may elect to enter that program for a period not to exceed 36 months. Notwithstanding, DROP participation for members who enter the DROP before September 1, 2012, may not continue beyond the date when the member's combined years of creditable service and time in the DROP equals 352 months (387 months for members who were members prior to July 1, 1976). Members who enter the DROP on or after September 1, 2012, shall be eligible to

participate for a period not to exceed sixty (60) months. Notwithstanding, for those members who enter the DROP on or after September 1, 2012, participation may not continue beyond the date when the member's combined years of creditable service and time in the DROP equals 408 months. Provided also that participation in DROP shall require the member to complete and submit the following prior to start of DROP payments:

1. Such forms as may be required by the Board or Plan Administrator. Election of the DROP is irrevocable once DROP payments begin.
2. A waiver and an irrevocable resignation from employment with the actual date of termination being the date designated by the member as the end of his/her DROP participation. The administration and timing of execution and delivery of the waiver and resignation forms shall meet the requirements of the Age Discrimination in Employment Act and the Older Worker's Benefits Protection Act, as same may be amended from time to time.

(c) Conditions of employment for DROP participants. Members shall be subject to termination of employment while in DROP to the same extent as they were in their pre-DROP status. A member who has elected the DROP remains an employee during the DROP period and receives all the benefits of being an employee during the DROP period, except any form of pension contribution.

(d) Effect of DROP participation.

1. A member's creditable service and his/her accrued benefit under the System shall be determined on the date of his/her election to participate in the DROP first becomes effective.
2. The member shall not accrue any additional creditable service while he/she is a participant in the DROP, or after termination of participation in the DROP.
3. A DROP participant is not eligible for disability benefits from the Plan.
4. A member may participate in the DROP only once.
5. Effective with the start date of a member's DROP participation, contributions to the Pension Plan by the member and the normal cost contribution to the Pension Plan by the City, on behalf of the member, shall cease.

(e) Payments to DROP account. A DROP account shall be created for each member who elects to participate in the DROP. A DROP account shall consist of amounts transferred to the DROP from the Plan, which include the monthly retirement benefits, including any future cost of living increases, that would have been payable had the member elected to cease employment and receive a normal retirement benefit upon commencing participation in the DROP, and earnings on those amounts. Provided, members who enter the DROP on or after September 1, 2012, and before September 30, 2013, shall receive a zero percent (0%) cost of living adjustment for the third (3rd) and fourth (4th) annual adjustment dates, regardless of whether the member remains in the DROP for the maximum five-year period. Provided further, any such member who exits the DROP within six (6) months following the date of DROP entry, shall be eligible for the cost of living adjustment as otherwise provided in section 67

(f) DROP account earnings.

1. Members may direct their DROP account balance to any of the investment options offered and approved by the Board. Any losses incurred by the participant shall not be made up by the City or the Pension Plan. The selection of these programs shall be made by the participant on forms provided by the Board. Any and all interest and/or earnings shall be credited to the participant's DROP account.
2. A member's DROP account shall only be credited or debited with earnings while the member is a participant in the DROP and, depending on the DROP Account Payment Options selected, after the member dies, retires, or terminates employment with the City of Miami Beach.

(g) Payment of DROP account funds. Upon termination of a member's employment (for any reason, whether by retirement, resignation, discharge, disability, or death), the retirement benefits payable to

the member or to the member's beneficiary shall be paid to the member or beneficiary and shall no longer be paid to the member's DROP account. No payments will be made from the DROP account until the member terminates employment.

(h) DROP account payment options. Following the termination of a member's employment, the member shall select one of the following options to begin to receive payment from his/her DROP account. Said selection shall occur no later than 30 days prior to the end of the DROP participation period or within 30 days following the termination of a member's employment if said termination of employment occurs prior to the end of the DROP participation period:

1. Lump sum: All accrued DROP benefits, plus interest, shall be paid from the DROP in a single lump sum payment.
2. Partial lump sum: A member designated portion of accrued DROP benefits, plus interest, shall be paid from the DROP in a partial lump sum payment with the remainder being directly rolled over into an eligible retirement plan.
3. Direct rollover: All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement.
4. Other method(s) of payment that are in compliance with the Internal Revenue Code and adopted by the Board.

(i) Death of DROP participant. If a DROP participant dies before his/her account balances are paid out in full, the participant member's designated beneficiary shall have the same rights as the member to elect and receive the pay-out options set forth in Paragraph (h), above. DROP payments to a beneficiary shall be in addition to any other retirement benefits payable to the beneficiary.

(j) Administration of DROP accounts.

1. The Board shall make such administrative rules as are necessary for the efficient operation of DROP, but shall neither create any rule that is inconsistent with this section 79, nor any rule that would be a mandatory subject of collective bargaining.
2. At all times, the DROP will be administered so that the System remains qualified under the Internal Revenue Code and is in compliance with the Internal Revenue Code and applicable laws and regulations.

(k) [Retaining of earned balance of accrued leave.] A member who enters the DROP on or after September 30, 2013, shall retain the earned balance of accrued sick and vacation leave as of date of entry into the DROP, and shall continue to earn sick and vacation leave during the DROP period, in accordance with the collective bargaining agreement between the City and IAFF, and between the City and FOP, as applicable. While in the DROP, the member shall have the one-time option of receiving payment for accrued sick and/or vacation leave, up to the maximum payout upon separation of employment allowed by the applicable collective bargaining agreement; provided, the member shall retain at least one hundred twenty (120) hours of accrued sick leave after such payment. The one-time election to receive payment of leave balances shall be made in any one year of the DROP, by notifying the City no later than June 30 of that year (unless an alternate date as determined by the City and the president of the respective bargaining unit). Payment will be made after the first pay period ending in October of the same year. Upon final separation from employment with the City, a member who has participated in the DROP shall be eligible to receive payment for the balance of all accrued sick and vacation leave as of the date of final separation, up to the maximum provided in the collective bargaining agreement, as reduced by the prior payout, if any. In no event shall payments for accrued sick or vacation leave be included in such member's Salary for the purposes of contributions and benefits under the System.

(Election of 11-2-99; Ord. No. 2010-3705, § 4, 11-17-10; Ord. No. 2013-3817, § 6, 9-30-13)

Sec. 80. - Assets to be held in trust; rights of members on termination of System.

All assets of the Fund shall be held by the Board in trust for use in providing the benefits of the System and paying its expenses not paid directly by the City; provided that no part of the corpus or income of the Fund shall be used for, or diverted to, purposes other than for the exclusive benefit of members or their beneficiaries under the System, prior to the satisfaction of all liabilities for benefits with respect to them or for the administrative expenses of the System. No person shall have any interest in or right to any part of the earnings of the Fund, or any rights in, or to, any part of the assets thereof, except as and to the extent expressly provided by the System. In case of termination of the System, or in the event of the discontinuance of contributions thereunder having the effect of such termination, the rights of all members of the System to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall be nonforfeitable.

(Election of 9-28-76; election of 11-2-99)

Sec. 81. - Examination into facts upon which any pension has been granted.

The Board shall have the power to examine into the facts upon which any pensions are granted under this System, and to ascertain if any pension has been granted or obtained erroneously, fraudulently or illegally for any reason. The Board shall also be empowered to purge the pension rolls of any pensions granted under this System, if the same are found to be erroneous, fraudulent or illegal for any reason; and to reclassify any pensioner who, under this System, is erroneously, improperly or illegally classified.

(Laws of Fla., 1945, ch. 23414, § 22; Laws of Fla., 1947, ch. 24714, § 3; election of 11-2-99)

Sec. 82. - Military service.

(a) Any member of the System or any probationary employee in the fire or police department who is absent from the service of the City because of service in the uniformed services of the United States (as defined in the Uniformed Services Employment and Reemployment Rights Act of 1994) who returns to the service of the City having applied to return while his reemployment rights were protected by law, shall be entitled to all retirement rights and privileges under this system if such member, or such probationary employee after he becomes a member, contributes the amount such member or probationary employee would have contributed had he been a member during the period of service in the uniformed services for which credit is being purchased, and creditable toward service retirement as provided in this section. The amount of any such contributions shall be determined based on the member's Salary in effect immediately prior to such period of absence and the terms of the System in effect at that time. The member shall make any such payments to the System during a repayment period equal to the lesser of (i) three times the member's period of absence for service in the uniformed services or (ii) five years. The repayment period shall begin on the later of (i) the date the member is reemployed by the City and (ii) the date the City notifies the member of his rights under this section.

(b) Effective September 30, 2013, members, who have at least 5 years of Creditable Service under the System on the applicable effective date, may contribute an additional amount to the System in order to receive service credit for years of active military service in the U.S. Army, Navy, Air Force, Marines or Coast Guard occurring prior to their date of employment with the City. A member may purchase up to two years of such service. The price for each such year shall be 10% (10.5% for members hired on or after September 30, 2013) of the aggregate of the member's Salary during the 12 calendar months immediately preceding the date of such purchase; and such price shall be prorated accordingly if a member's election includes a fractional year of service. Any additional benefits attributable to service purchased under this subsection (b) shall be at the benefit multiplier rate of 3% per year of Creditable Service, with a total maximum additional benefit of 6% based on two years of Creditable Service purchased. The purchase of Creditable Service under this

subsection (b) must be completed within 36 months following September 30, 2013, or the date a member completes 5 years of Creditable Service, whichever occurs later. A member who does not complete and fully pay for the purchase of Creditable Service under this subsection (b) within 36 months following September 30, 2013, or the date a member completes 5 years of Creditable Service, if later, shall not receive Creditable Service for more than the amount for which payment has been made, and shall not be eligible to purchase Creditable Service for prior military service in the future.

(Laws of Fla., 1945, ch. 23414, § 24; Laws of Fla., 1947, ch. 24709, § 9; Laws of Fla., 1951, ch. 27734, § 4; Laws of Fla., 1953, ch. 29286, § 13; election of 11-2-99; Ord. No. 2013-3817, § 7, 9-30-13)

Sec. 83. - Limitations on benefits.

(a) In addition to the other limitations set forth in this System and notwithstanding any other provision of the System to the contrary, the maximum annual pension payable under the System shall not increase to an amount in excess of the amount permitted under section 415 of the Internal Revenue Code, with such limitation specifically subject to subsections (F), (G) and (I) of section 415(b)(2) of the Internal Revenue Code and sections 415(b)(11), 415(k)(3) and 415(n) of said Code.

(b) For purposes of applying the limitations of section 415 of the Internal Revenue Code, the term "compensation" shall be determined by reference to the provisions of subsections (1) and (2) of Title 26 of the Code of Federal Regulations, section 1.415-2(d), as modified by subparagraph (10) of that regulation and by section 1434(a) of the Small Business Job Protection Act of 1996.

(Election of 11-7-89; election of 11-2-99)

Sec. 84. - Distribution limitation.

Notwithstanding any other provision of this System, all distributions from this System shall conform to section 401(a)(9) of the Internal Revenue Code in general and to section 401(a)(9)(C) of the Internal Revenue Code in particular.

(Election of 11-2-99)

Sec. 85. - Distribution to retirement plan.

(a) Election by distributee. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of this article to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) Definitions. The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Direct rollover means a payment by the System to the eligible retirement plan specified by the distributee.

Distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse or domestic partner is a distributee with regard to the interest of the spouse or domestic partner.

Eligible retirement plan means an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, an annuity plan described in section 403(a) of the Internal Revenue Code, or a qualified

trust described in section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse or domestic partner, an eligible retirement plan is an individual retirement account or individual retirement annuity.

Eligible rollover distribution means any distribution of all or any portion of the balance to the credit of the distributee; except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includable in gross income.

(Election of 11-2-99; election of 11-6-01)

Sec. 86. - Special rules for members employed by the City on or after May 19, 1993.

(a) For purposes of determining the provisions of the System which apply to a member who was employed by the City prior to May 19, 1993, and is rehired on or after May 19, 1993, if such a member did not receive a distribution of his accumulated contributions upon his termination of employment, he shall be treated as a member employed by the City prior to May 19, 1993; in all other cases, the member shall be deemed a new employee as of his date of reemployment and the provisions of the plan applicable to new members on and after May 19, 1993, shall govern.

(b) Notwithstanding anything in this article to the contrary, on and after September 30, 2000, all May 1993 Members shall be treated as if they were employed by the City prior to May 19, 1993, for purposes of determining their benefits under the System. May 1993 Members may purchase creditable service for their probationary period during the period beginning on June 30, 2000, and ending on September 30, 2000, if they are still employed by the City at that time. Any such purchase shall be on such terms and conditions as the Board shall, in its sole discretion, determine.

(Election of 11-2-99)

Sec. 87. - Benefits for employees hired on or after July 14, 2010.

The pension benefits for employees hired on or after July 14, 2010, shall be as provided in the sections 61 through 86, except as follows:

(a) The benefit multiplier shall be three percent (3%) for each year of creditable service for the first 20 years of service, and four percent (4%) for each year of creditable service after 20 years of creditable service.

(b) The normal retirement date shall be as provided in sec. 66, except that a member must attain age 48 to be eligible for "Rule of 70" retirement.

(c) Final average monthly salary shall be based on the three (3) highest paid years or last three (3) years as the case may be, prior to retirement or separation from employment.

(d) The cost of living adjustment shall be one and one-half percent (1.5%) annually.

(e) Members who enter the DROP shall receive a zero percent (0%) cost of living adjustment for the third (3rd) and fourth (4th) annual adjustment dates, regardless of whether the employee remains in the DROP for the maximum five-year period. Provided, any member who exits the DROP within six (6) months following the date of DROP entry, shall be eligible for the cost of living adjustment as otherwise provided in paragraph (d) above.

(Ord. No. 2010-3705, § 5, 11-17-10)

Sec. 88. - Benefits for members hired on or after September 30, 2013.

Notwithstanding any other provision of the System, the pension benefits for members hired on or after September 30, 2013 shall be as provided in the sections 61 through 86, except as follows:

(a) The benefit multiplier shall be three percent (3%) for each year of creditable service for the first 20 years of service, and four percent (4%) for each year of creditable service after 20 years of creditable service.

(b) The normal retirement date shall be as provided in sec. 66, except that a member must attain age 48 to be eligible for "Rule of 70" retirement.

(c) Final average monthly salary shall be based on the five (5) highest paid years or last five (5) years as the case may be, prior to retirement or separation from employment.

(d) The cost of living adjustment shall be one and one-half percent (1.5%) annually.

(Ord. No. 2013-3817, § 8, 9-30-13)

FOOTNOTE(S):

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Editor's note— On and after September 20, 2000, all May 1993 Members shall be treated as if they were employed by the City prior to May 19, 1993, for purposes of determining their benefits under the System.[1] All references to "May 1993 Member" are obsolete after September 30, 2000. [1] Sec. 86(b) Special rules for members employed by the City on or after May 19, 1993.

Editor's note— Question G of a special election held Nov. 2, 1999, and approved by voters of Miami Beach, amended art. IX in its entirety to read as herein set out. See the Related Special Acts Comparative Table.