

**CITY OF BALTIMORE**  
**COUNCIL BILL 13-0274**  
**(First Reader)**

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Introduced by: Councilmember Holton, President Young, Councilmembers Clarke, Stokes  
Introduced and read first time: October 7, 2013

Assigned to: Taxation, Finance and Economic Development Committee

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REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Employees' Retirement System, Fire and Police Employees' Retirement System, Baltimore City Public School System, Department of Human Resources, Department of Finance

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A BILL ENTITLED

1 AN ORDINANCE concerning

2 **A Safe and Adequate Retirement System for the City of Baltimore**

3 FOR the purpose of establishing a new tax-qualified defined contribution plan (the "Supplemental  
4 Savings Plan of the City of Baltimore") for the benefit of certain employees initially  
5 employed or reemployed by the City of Baltimore on or after a certain date; providing for the  
6 administration of the Plan; requiring Plan members and the City to make certain  
7 contributions to the Plan each payroll period; permitting Plan members to select from among  
8 various investment options; imposing certain vesting rules for City contributions; providing  
9 that a member's account balance will be distributed upon certain events; establishing for  
10 certain employees a limit on pensionable pay under the Employees' Retirement Plan of the  
11 City of Baltimore and requiring certain contributions by those employees; defining certain  
12 terms; correcting, clarifying, and conforming related provisions; providing for a special  
13 effective date; and generally relating to the Supplemental Savings Plan of the City of  
14 Baltimore.

15 BY adding

16 New Article 22A - Supplemental Savings Plan  
17 Baltimore City Code  
18 (Edition 2000)

19 BY repealing and reordaining, with amendments

20 Article 22 - Retirement Systems  
21 Section(s) 1(11)(ii), 2, 5(b)(5)(ii)1, 8(d)(1)(i), 9(a)(1a), and 33(b)(9)(ii)1  
22 Baltimore City Code  
23 (Edition 2000)

24 BY adding

25 Article 22 - Retirement Systems  
26 Section(s) 1(11)(iii), and 8(d)(1a)  
27 Baltimore City Code  
28 (Edition 2000)

EXPLANATION: CAPITALS indicate matter added to existing law.  
[Brackets] indicate matter deleted from existing law.

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1       **SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE,** That the  
2 Laws of Baltimore City read as follows:

3                                   **Baltimore City Code**

4                                   **ARTICLE 22A. SUPPLEMENTAL SAVINGS PLAN**

5                                   **SUBTITLE 1. DEFINITIONS; GENERAL PROVISIONS**

6 **§ 1-1. DEFINITIONS.**

7       (A) *IN GENERAL.*

8               IN THIS ARTICLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

9       (B) *ACCOUNT.*

10               “ACCOUNT” MEANS THE SEPARATE BOOKKEEPING ACCOUNT ESTABLISHED AND  
11 MAINTAINED ON BEHALF OF EACH MEMBER UNDER § 6-1 {“ACCOUNTS: ESTABLISHMENT”}  
12 OF THIS ARTICLE.

13       (C) *BENEFICIARY.*

14               “BENEFICIARY” MEANS ANY PERSON ENTITLED UNDER § 9-4 {“DISTRIBUTABLE EVENTS –  
15 DEATH”} OF THIS ARTICLE TO RECEIVE THE VALUE OF A MEMBER’S ACCOUNT ON THE  
16 DEATH OF THAT MEMBER.

17       (D) *BOARD OF TRUSTEES; BOARD.*

18               “BOARD OF TRUSTEES” OR “BOARD” MEANS THE BOARD OF TRUSTEES ESTABLISHED BY  
19 THIS ARTICLE.

20       (E) *CITY OF BALTIMORE; CITY.*

21               “CITY OF BALTIMORE” OR “CITY” MEANS THE MAYOR AND CITY COUNCIL OF  
22 BALTIMORE.

23       (F) *DEFERRED COMPENSATION PLAN.*

24               “DEFERRED COMPENSATION PLAN” MEANS THE CITY OF BALTIMORE DEFERRED  
25 COMPENSATION PLAN.

26       (G) *EARNABLE COMPENSATION.*

27               (1) *IN GENERAL.*

28               “EARNABLE COMPENSATION” MEANS THE ANNUAL SALARY AUTHORIZED FOR A  
29 MEMBER.

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1 (2) *EXCLUSIONS.*

2 "EARNABLE COMPENSATION" DOES NOT INCLUDE OVERTIME PAY, DIFFERENTIAL PAY,  
3 ENVIRONMENTAL PAY, HAZARDOUS DUTY PAY, PAY FOR CONVERSION OF LEAVE OR  
4 OTHER FRINGE BENEFITS, OR ANY LIKE ADDITIONAL PAYMENTS.

5 (H) *EMPLOYEE.*

6 (1) *IN GENERAL.*

7 "EMPLOYEE" MEANS ANY OF THE FOLLOWING, IF IN A JOB CLASSIFICATION THAT  
8 REQUIRES AT LEAST 500 HOURS PER YEAR:

9 (I) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ANY  
10 PERMANENT OFFICER OR EMPLOYEE OF THE MAYOR AND CITY COUNCIL OF  
11 BALTIMORE, INCLUDING ANY OFFICER OR EMPLOYEE OF AN AGENCY,  
12 DEPARTMENT, UNIT, SUBDIVISION, OR INSTRUMENTALITY OF THE MAYOR AND  
13 CITY COUNCIL; AND

14 (II) ANY EMPLOYEE OF THE BALTIMORE CITY PUBLIC SCHOOL SYSTEM WHO IS  
15 NOT ELIGIBLE TO PARTICIPATE IN THE MARYLAND STATE RETIREMENT AND  
16 PENSION SYSTEM.

17 (2) *EXCLUSIONS.*

18 "EMPLOYEE" DOES NOT INCLUDE:

19 (I) ANY "ELECTED OFFICIAL", AS DEFINED IN CITY CODE ARTICLE 22, § 17A(2),  
20 FOR PURPOSES OF MEMBERSHIP IN THE ELECTED OFFICIALS' RETIREMENT  
21 SYSTEM OF THE CITY OF BALTIMORE; OR

22 (II) ANY "EMPLOYEE", AS DEFINED IN CITY CODE ARTICLE 22, § 30(2), FOR  
23 PURPOSES OF MEMBERSHIP IN THE FIRE AND POLICE EMPLOYEES' RETIREMENT  
24 SYSTEM OF THE CITY OF BALTIMORE.

25 (3) *IN CASE OF DOUBT.*

26 (I) IN ALL CASES OF DOUBT, THE BOARD OF TRUSTEES DETERMINES WHO IS AN  
27 "EMPLOYEE" UNDER THIS ARTICLE.

28 (II) A DETERMINATION BY THE BOARD UNDER THIS PARAGRAPH IS FINAL AND BINDING  
29 ON ALL PERSONS, SUBJECT TO THE RIGHTS OF APPEAL AND REVIEW UNDER § 2-17  
30 {"ADMINISTRATIVE APPEAL"} AND § 2-18 {"JUDICIAL AND APPELLATE REVIEW"}  
31 OF THIS ARTICLE.

32 (I) *INCLUDES; INCLUDING.*

33 "INCLUDES" OR "INCLUDING" MEANS BY WAY OF ILLUSTRATION AND NOT BY WAY OF  
34 LIMITATION.

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1 (J) *IRC*.

2 “IRC” MEANS THE INTERNAL REVENUE CODE, AS AMENDED FROM TIME TO TIME.

3 (K) *MEMBER*.

4 “MEMBER” MEANS AN EMPLOYEE WHO IS A MEMBER OF THE PLAN.

5 (L) *MILITARY SERVICE*.

6 “MILITARY SERVICE” MEANS “SERVICE IN THE UNIFORMED SERVICES”, AS THAT PHRASE IS  
7 DEFINED IN 38 U.S.C. § 4303(13) OR ANY SUCCESSOR LAW.

8 (M) *NORMAL RETIREMENT AGE*.

9 “NORMAL RETIREMENT AGE” MEANS AGE 65.

10 (N) *PARTICIPATING EMPLOYER; EMPLOYER*.

11 “PARTICIPATING EMPLOYER” OR “EMPLOYER” MEANS:

12 (1) THE MAYOR AND CITY COUNCIL OF BALTIMORE; AND

13 (2) THE BALTIMORE CITY PUBLIC SCHOOL SYSTEM.

14 (O) *PENSIONABLE PAY CAP*.

15 “PENSIONABLE PAY CAP” MEANS AN AMOUNT EQUAL TO \$40,000 IN CALENDAR YEAR  
16 2014, INDEXED TO CPI-U IN YEARS FOLLOWING 2014, AS DEFINED IN 17.1(D)(1), DIVIDED  
17 BY THE NUMBER OF PAY PERIODS DURING THE YEAR.

18 (P) *PLAN YEAR*.

19 “PLAN YEAR” MEANS THE 12-MONTH PERIOD BEGINNING ON JULY 1 OF EACH YEAR AND  
20 ENDING ON JUNE 30 OF THE FOLLOWING YEAR, BOTH DATES INCLUSIVE.

21 (Q) *SERVICE*.

22 “SERVICE”, AS APPLIED TO AN EMPLOYEE’S SERVICE WITH A PARTICIPATING EMPLOYER,  
23 HAS THE MEANING STATED IN § 4-1 {“ ‘SERVICE’ DEFINED”} OF THIS ARTICLE.

24 (R) *SUPPLEMENTAL SAVINGS PLAN; PLAN*.

25 “SUPPLEMENTAL SAVINGS PLAN” OR “PLAN” MEANS THE SUPPLEMENTAL SAVINGS PLAN  
26 OF THE CITY OF BALTIMORE ESTABLISHED BY THIS ARTICLE.

27 (S) *TRUSTEE*.

28 “TRUSTEE” MEANS A MEMBER OF THE BOARD OF TRUSTEES.

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1 (T) *USERRA*.

2 “USERRA” MEANS THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT  
3 RIGHTS ACT OF 1994, AS AMENDED, 38 U.S.C. § 4301 *ET SEQ.*

4 (U) *VALUE*.

5 “VALUE”, AS APPLIED TO A MEMBER’S ACCOUNT OR SUB-ACCOUNT, MEANS THE TOTAL  
6 VALUE OF THAT ACCOUNT OR SUB-ACCOUNT, AS DETERMINED UNDER § 6-3(B) {“VALUE  
7 OF FUNDS AND ACCOUNTS”} OF THIS ARTICLE.

8 (V) *VESTED ACCOUNT*.

9 “VESTED ACCOUNT” MEANS THE AGGREGATE OF THE FOLLOWING VESTED SUB-ACCOUNTS:

10 (1) A MEMBER’S MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT;

11 (2) A MEMBER’S EMPLOYER CONTRIBUTION SUB-ACCOUNT, IF VESTED UNDER § 7-2  
12 {“VESTING: EMPLOYER CONTRIBUTION SUB-ACCOUNT”} OF THIS ARTICLE; AND

13 (3) IF APPLICABLE, A MEMBER’S ROLLOVER CONTRIBUTION SUB-ACCOUNT.

14 **§ 1-2. RULES OF CONSTRUCTION.**

15 (A) *IN GENERAL*.

16 IN INTERPRETING AND APPLYING THIS ARTICLE, THE FOLLOWING RULES OF CONSTRUCTION  
17 APPLY.

18 (B) *CAPTIONS OR HEADINGS*.

19 THE CAPTIONS OR HEADINGS OF THE VARIOUS SECTIONS AND SUBSECTIONS:

20 (1) ARE FOR CONVENIENCE OF REFERENCE ONLY, INTENDED TO SUMMARIZE THE  
21 STATUTORY PROVISIONS THAT FOLLOW; AND

22 (2) ARE NOT LAW AND ARE NOT TO BE TAKEN AS AFFECTING THE MEANING OR EFFECT  
23 OF THE LAW.

24 (C) *GENDER*.

25 WORDS DENOTING ONE GENDER INCLUDE AND APPLY TO THE OTHER GENDERS AS WELL.

26 (D) *MANDATORY, PROHIBITORY, AND PERMISSIVE TERMS*.

27 (1) *MANDATORY TERMS*.

28 “MUST” AND “SHALL” ARE EACH MANDATORY TERMS USED TO EXPRESS A  
29 REQUIREMENT OR TO IMPOSE A DUTY.

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1 (2) *PROHIBITORY TERMS.*

2 “MUST NOT”, “MAY NOT”, AND “NO ... MAY” ARE EACH MANDATORY NEGATIVE TERMS  
3 USED TO ESTABLISH A PROHIBITION.

4 (3) *PERMISSIVE TERMS.*

5 “MAY” IS PERMISSIVE.

6 (E) *NUMBER.*

7 THE SINGULAR INCLUDES THE PLURAL AND VICE VERSA.

8 (F) *REFERENCES TO OTHER LAWS.*

9 WHENEVER A PROVISION OF THIS ARTICLE REFERS TO ANY PART OF THE CITY CODE OR TO  
10 ANY OTHER LAW, THE REFERENCE APPLIES TO ANY SUBSEQUENT AMENDMENT OF THE LAW  
11 REFERRED TO, UNLESS THE REFERRING PROVISION EXPRESSLY PROVIDES OTHERWISE.

12 (G) *SEVERABILITY.*

13 ALL PROVISIONS OF THIS ARTICLE ARE SEVERABLE. IF A COURT DETERMINES THAT A  
14 WORD, PHRASE, CLAUSE, SENTENCE, PARAGRAPH, SUBSECTION, SECTION, OR OTHER  
15 PROVISION IS INVALID OR THAT THE APPLICATION OF ANY PART OF THE PROVISION TO ANY  
16 PERSON OR CIRCUMSTANCES IS INVALID, THE REMAINING PROVISIONS AND THE  
17 APPLICATION OF THOSE PROVISIONS TO OTHER PERSONS OR CIRCUMSTANCES ARE NOT  
18 AFFECTED BY THAT DECISION.

19 (H) *TIME COMPUTATIONS.*

20 (1) *COMPUTATION OF TIME AFTER AN ACT, EVENT, OR DEFAULT.*

21 (I) IN COMPUTING ANY PERIOD OF TIME PRESCRIBED BY THIS ARTICLE, OR BY A RULE  
22 OR REGULATION ADOPTED UNDER THIS ARTICLE, THE DAY OF THE ACT, EVENT, OR  
23 DEFAULT AFTER WHICH THE DESIGNATED PERIOD OF TIME BEGINS TO RUN IS NOT  
24 INCLUDED.

25 (II) IF THE PERIOD OF TIME ALLOWED IS MORE THAN 7 DAYS, INTERMEDIATE  
26 SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS ARE COUNTED.

27 (III) IF THE PERIOD OF TIME ALLOWED IS 7 DAYS OR LESS, INTERMEDIATE SATURDAYS,  
28 SUNDAYS, AND LEGAL HOLIDAYS ARE NOT COUNTED.

29 (IV) THE LAST DAY OF THE PERIOD SO COMPUTED IS INCLUDED UNLESS IT IS A  
30 SATURDAY, SUNDAY, OR LEGAL HOLIDAY, IN WHICH EVENT THE PERIOD RUNS  
31 UNTIL THE END OF THE NEXT DAY THAT IS NOT A SATURDAY, SUNDAY, OR LEGAL  
32 HOLIDAY.

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1 (2) *COMPUTATION OF TIME BEFORE A DAY, ACT, OR EVENT.*

2 (I) IN DETERMINING THE LATEST DAY FOR PERFORMING AN ACT THAT THIS ARTICLE,  
3 OR A RULE OR REGULATION ADOPTED UNDER THIS ARTICLE, REQUIRES TO BE  
4 PERFORMED A PRESCRIBED NUMBER OF DAYS BEFORE A CERTAIN DAY, ACT, OR  
5 EVENT, ALL DAYS PRECEDING THAT DAY, INCLUDING INTERVENING SATURDAYS,  
6 SUNDAYS, AND LEGAL HOLIDAYS, ARE COUNTED IN THE NUMBER OF DAYS SO  
7 PRESCRIBED.

8 (II) THE LATEST DAY IS INCLUDED IN THE DETERMINATION UNLESS IT IS A SATURDAY,  
9 SUNDAY, OR LEGAL HOLIDAY, IN WHICH EVENT THE LATEST DAY IS THE FIRST  
10 PRECEDING DAY THAT IS NOT A SATURDAY, SUNDAY, OR LEGAL HOLIDAY.

11 **§ 1-3. {RESERVED}**

12 **§ 1-4. PLAN ESTABLISHED.**

13 THE SUPPLEMENTAL SAVINGS PLAN OF THE CITY OF BALTIMORE IS ESTABLISHED, EFFECTIVE  
14 AS OF JANUARY 1, 2014, FOR THE PURPOSE OF PROVIDING RETIREMENT BENEFITS FOR ELIGIBLE  
15 EMPLOYEES.

16 **§ 1-5. QUALIFICATION UNDER INTERNAL REVENUE CODE.**

17 (A) *IN GENERAL.*

18 THE SUPPLEMENTAL SAVINGS PLAN IS INTENDED TO BE:

19 (1) QUALIFIED UNDER IRC § 401(A); AND

20 (2) A “GOVERNMENTAL PLAN” UNDER IRC § 414(D).

21 (B) *CONSTRUCTION OF ARTICLE.*

22 ACCORDINGLY, ANY PROVISION OF THIS ARTICLE THAT IS SUBJECT TO MORE THAN ONE  
23 CONSTRUCTION OR INTERPRETATION MUST BE RESOLVED IN FAVOR OF THE CONSTRUCTION  
24 OR INTERPRETATION THAT IS CONSISTENT WITH THE REQUIREMENTS OF IRC § 401(A) AND  
25 § 414(D).

26 **§ 1-6. LIMITATIONS ON LIABILITY.**

27 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE:

28 (1) NO MEMBER IS, BY VIRTUE OF MEMBERSHIP IN THE SUPPLEMENTAL SAVINGS PLAN,  
29 CONSIDERED TO HAVE ENTERED INTO A CONTRACT AT ANY TIME WITH THE MAYOR  
30 AND CITY COUNCIL OF BALTIMORE;

31 (2) THE MAYOR AND CITY COUNCIL OF BALTIMORE DOES NOT GUARANTEE THE PAYMENT  
32 OF ANY BENEFIT UNDER THE PLAN; AND

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1 (3) ANY PERSON CLAIMING A BENEFIT UNDER THE PLAN MUST LOOK SOLELY TO PLAN  
2 ASSETS.

3 **§ 1-7. EXCLUSIVE BENEFIT.**

4 (A) *IN GENERAL.*

5 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, OTHER THAN SUBSECTION  
6 (B) OF THIS SECTION, NO PART OF THE ASSETS OF THE SUPPLEMENTAL SAVINGS PLAN MAY  
7 BE USED FOR OR DIVERTED TO ANY PURPOSES OTHER THAN FOR THE EXCLUSIVE BENEFIT  
8 OF MEMBERS AND BENEFICIARIES.

9 (B) *EXCEPTION FOR MISTAKE OF FACT.*

10 (1) AN EMPLOYER CONTRIBUTION MADE BY MISTAKE OF FACT MAY BE RETURNED TO THE  
11 APPROPRIATE PARTICIPATING EMPLOYER WITHIN, BUT NOT LATER THAN, 1 YEAR AFTER  
12 PAYMENT OF THE MISTAKEN CONTRIBUTION.

13 (2) THE AMOUNT RETURNED:

14 (I) MUST BE REDUCED BY ITS PROPORTIONATE SHARE OF LOSSES AND EXPENSES;  
15 AND

16 (II) MAY NOT BE INCREASED BY ANY GAINS.

17 **SUBTITLE 2. ADMINISTRATION**

18 **§ 2-1. BOARD DEFINED.**

19 THE BOARD OF TRUSTEES OF THE EMPLOYEES RETIREMENT SYSTEM OF THE CITY OF  
20 BALTIMORE SHALL SERVE AS THE BOARD OF TRUSTEES FOR THE SUPPLEMENTAL SAVINGS  
21 PLAN OF THE CITY OF BALTIMORE.

22 **§ 2-2. {RESERVED}**

23 **§ 2-3. BOARD FUNCTIONS.**

24 (A) *IN GENERAL.*

25 THE BOARD OF TRUSTEES SERVES BOTH:

26 (1) IN AN ADMINISTRATIVE CAPACITY, AS DESCRIBED IN SUBSECTION (B) OF THIS  
27 SECTION; AND

28 (2) AS TRUSTEE OF PLAN ASSETS, AS DESCRIBED IN SUBSECTION (C) OF THIS SECTION.



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1 (B) *ADMINISTRATIVE CAPACITY.*

2 SUBJECT TO § 2-8 {"RETENTION OF SERVICES; RIGHT OF RELIANCE"} OF THIS SUBTITLE,  
3 THE BOARD IS RESPONSIBLE FOR:

4 (1) THE GENERAL ADMINISTRATION AND PROPER OPERATION OF THE PLAN; AND

5 (2) EFFECTUATING THE PROVISIONS OF THIS ARTICLE.

6 (C) *TRUSTEE OF PLAN ASSETS.*

7 (1) THE BOARD IS THE TRUSTEE OF THE PLAN ASSETS.

8 (2) SUBJECT TO § 2-8 {"RETENTION OF SERVICES; RIGHT OF RELIANCE"} OF THIS  
9 SUBTITLE, THE BOARD IS RESPONSIBLE FOR:

10 (I) DETERMINING THE MANNER OF INVESTING EMPLOYER CONTRIBUTION SUB-  
11 ACCOUNTS THAT HAVE NOT VESTED UNDER § 7-2 {"VESTING: EMPLOYER  
12 CONTRIBUTION SUB-ACCOUNT"} OF THIS ARTICLE;

13 (II) SELECTING INVESTMENT FUNDS (INCLUDING A DEFAULT INVESTMENT FUND)  
14 UNDER § 6-2 {"ACCOUNTS: INVESTMENTS"} OF THIS ARTICLE;

15 (III) MONITORING THESE INVESTMENT FUNDS ON AN ONGOING BASIS; AND

16 (IV) ADDING OR REPLACING THESE INVESTMENT FUNDS AS THE BOARD CONSIDERS  
17 PRUDENT.

18 **§§ 2-4 TO 2-6. {RESERVED}**

19 **§ 2-7. MEETINGS; RECORDS.**

20 (A) *MEETINGS.*

21 (1) THE BOARD OF TRUSTEES MUST MEET ONCE DURING EACH CALENDAR QUARTER,  
22 UNLESS THE CHAIR DETERMINES THAT ADDITIONAL MEETINGS ARE REQUIRED.

23 (2) ALL MEETINGS OF THE BOARD MUST BE CONDUCTED IN ACCORDANCE WITH THE STATE  
24 OPEN MEETINGS ACT (STATE GOVERNMENT ARTICLE, TITLE 10, SUBTITLE 5).

25 (B) *RECORDS.*

26 (1) THE BOARD MUST KEEP A RECORD OF ALL OF ITS PROCEEDINGS.

27 (2) THESE RECORDS ARE OPEN TO PUBLIC INSPECTION IN ACCORDANCE WITH THE STATE  
28 PUBLIC INFORMATION ACT (STATE GOVERNMENT ARTICLE, TITLE 10, SUBTITLE 6,  
29 PART III).

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**§ 2-8. RETENTION OF SERVICES; RIGHT OF RELIANCE.**

(A) *SERVICES.*

(1) FROM TIME TO TIME, AS THE BOARD OF TRUSTEES DETERMINES NECESSARY FOR THE EFFICIENT ADMINISTRATION OF THE SUPPLEMENTAL SAVINGS PLAN, THE BOARD MAY:

(I) RETAIN THE SERVICES OF A THIRD-PARTY ADMINISTRATOR TO PROVIDE ADMINISTRATIVE AND RECORDKEEPING SERVICES FOR THE PLAN;

(II) RETAIN THE SERVICES OF 1 OR MORE INVESTMENT ADVISORS TO PROVIDE INVESTMENT ASSISTANCE AND ADVICE;

(III) RETAIN THE SERVICES OR SECURE THE ADVICE OF ANY OTHER PERSON OR ENTITY; AND

(IV) APPOINT AN EXECUTIVE DIRECTOR FOR THE PLAN AND DELEGATE TO THE EXECUTIVE DIRECTOR AND THE EXECUTIVE DIRECTOR'S STAFF ANY OF THE BOARD'S DUTIES OR RESPONSIBILITIES UNDER THIS SUBTITLE.

(2) THE RETENTION OF THESE SERVICES IS SUBJECT TO THE APPROVAL OF THE BOARD OF ESTIMATES IF THE FEES FOR THE SERVICES EXCEED THE DOLLAR THRESHOLD THAT GENERALLY REQUIRES BOARD OF ESTIMATES APPROVAL.

(B) *RELIANCE.*

(1) THE BOARD OF TRUSTEES IS ENTITLED TO RELY CONCLUSIVELY ON, AND IS FULLY PROTECTED IN ANY ACTION OR OMISSION TAKEN BY IT IN GOOD FAITH RELIANCE ON, THE ADVICE OF ANY PERSON OR ENTITY.

(2) THE BOARD IS NOT LIABLE FOR ANY ACT OR OMISSION OF ANY PERSON TO WHOM THE BOARD HAS DELEGATED ANY OF ITS DUTIES OR RESPONSIBILITIES.

**§ 2-9. RULES AND REGULATIONS.**

SUBJECT TO ANY LIMITATIONS IMPOSED BY THIS ARTICLE, THE BOARD OF TRUSTEES MAY ADOPT RULES AND REGULATIONS FOR THE EFFICIENT ADMINISTRATION OF THE SUPPLEMENTAL SAVINGS PLAN.

**§ 2-10. COMPENSATION; EXPENSES.**

THE TRUSTEES SERVE WITHOUT COMPENSATION, BUT THEY ARE ENTITLED TO REIMBURSEMENT FOR ALL REASONABLE AND NECESSARY EXPENSES INCURRED THROUGH THEIR SERVICE ON THE BOARD.

**§ 2-11. LEGAL ADVISOR.**

THE CITY SOLICITOR IS THE LEGAL ADVISOR TO THE BOARD.

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**§ 2-12. FIDUCIARY STANDARDS; INDEMNIFICATION; INSURANCE.**

(A) *“ACTING AS A FIDUCIARY ...” DEFINED.*

FOR PURPOSES OF THIS SECTION, A PERSON IS “ACTING AS A FIDUCIARY WITH RESPECT TO THE PLAN” TO THE EXTENT THAT THE PERSON:

- (1) EXERCISES ANY DISCRETIONARY AUTHORITY OR DISCRETIONARY CONTROL RESPECTING MANAGEMENT OF THE SUPPLEMENTAL SAVINGS PLAN;
- (2) EXERCISES ANY DISCRETIONARY AUTHORITY OR DISCRETIONARY CONTROL RESPECTING MANAGEMENT OR DISPOSITION OF PLAN ASSETS; OR
- (3) HAS ANY DISCRETIONARY AUTHORITY OR DISCRETIONARY RESPONSIBILITY IN ADMINISTERING THE PLAN.

(B) *FIDUCIARY STANDARDS.*

THE TRUSTEES AND EVERY OTHER PERSON “ACTING AS A FIDUCIARY WITH RESPECT TO THE PLAN” MUST DISCHARGE THEIR DUTIES WITH RESPECT TO THE PLAN:

- (1) SOLELY IN THE INTEREST OF MEMBERS AND BENEFICIARIES AND FOR THE EXCLUSIVE PURPOSE OF PROVIDING BENEFITS TO MEMBERS AND BENEFICIARIES AND DEFRAYING REASONABLE EXPENSES OF ADMINISTERING THE PLAN;
- (2) WITH THE CARE, SKILL, PRUDENCE, AND DILIGENCE UNDER THE CIRCUMSTANCES THEN PREVAILING THAT A PRUDENT PERSON ACTING IN A LIKE CAPACITY AND FAMILIAR WITH THOSE MATTERS WOULD USE IN THE CONDUCT OF AN ENTERPRISE OF A LIKE CHARACTER AND WITH LIKE AIMS; AND
- (3) IN ACCORDANCE WITH THIS ARTICLE AND WITH THE DOCUMENTS AND INSTRUMENTS GOVERNING THE PLAN.

(C) *INDEMNIFICATION.*

- (1) TO THE EXTENT ALLOWABLE BY APPLICABLE LAW, THE CITY MAY INDEMNIFY EVERY PERSON WHO IS MADE OR IS THREATENED TO BE MADE A PARTY TO ANY ACTION, SUIT, OR PROCEEDING, INCLUDING ANY ADMINISTRATIVE OR INVESTIGATIVE PROCEEDING, BY REASON OF “ACTING AS A FIDUCIARY WITH RESPECT TO THE PLAN”.
- (2) THIS INDEMNIFICATION MAY COVER THOSE EXPENSES ACTUALLY AND REASONABLY INCURRED IN CONNECTION WITH THE ACTION, SUIT, OR PROCEEDING, INCLUDING ATTORNEY’S FEES, JUDGMENTS, FINES, AND AMOUNTS PAID IN SETTLEMENT.
- (3) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, INDEMNIFICATION MAY NOT BE MADE WITH RESPECT TO:

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1 (I) ANY ACTION, SUIT, OR PROCEEDING AS TO WHICH THE PERSON ACTED WITH  
2 GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR

3 (II) AN INDEPENDENT CONTRACTOR PROVIDING SERVICES TO THE PLAN.

4 (D) *FIDUCIARY INSURANCE.*

5 THE CITY MAY PROVIDE INSURANCE OR SELF-INSURANCE TO COVER POTENTIAL LIABILITY  
6 RESULTING FROM AN ACT OR FAILURE TO ACT ON THE PART OF ANY PERSON “ACTING AS A  
7 FIDUCIARY WITH RESPECT TO THE PLAN”.

8 (E) *FAILURE TO INDEMNIFY OR ADEQUATELY INSURE.*

9 IF THE CITY FAILS TO INDEMNIFY OR PROVIDE ADEQUATE INSURANCE FOR ANY PERSON  
10 “ACTING AS A FIDUCIARY WITH RESPECT TO THE PLAN”, THE CITY ASSUMES ALL LIABILITY  
11 RESULTING FROM THAT PERSON’S ACT OR FAILURE TO ACT.

12 **§ 2-13. PLAN EXPENSES.**

13 EXCEPT FOR INVESTMENT FUND FEES AND EXPENSES PAID UNDER § 6-2(E) {“INVESTMENTS:  
14 FUND FEES AND EXPENSES”} OF THIS ARTICLE, ALL EXPENSES INCURRED IN THE  
15 ADMINISTRATION OF THE SUPPLEMENTAL SAVINGS PLAN AND IN THE MANAGEMENT OF PLAN  
16 ASSETS MAY ONLY BE PAID AS FOLLOWS:

17 (1) FIRST, OUT OF FORFEITURES UNDER SUBTITLE 8 {“FORFEITURES”} OF THIS ARTICLE;  
18 AND

19 (2) THEN, TO THE EXTENT EXPENSES REMAIN UNPAID, BY THE CITY.

20 **§ 2-14. RECOVERY OF OVERPAYMENTS.**

21 IF THE BOARD OF TRUSTEES DETERMINES THAT A MEMBER OR BENEFICIARY HAS RECEIVED  
22 FROM THE SUPPLEMENTAL SAVINGS PLAN A DISTRIBUTION THAT EXCEEDS THE AMOUNT TO  
23 WHICH THE MEMBER OR BENEFICIARY WAS ENTITLED, THE BOARD MUST TAKE ALL NECESSARY  
24 STEPS TO RECOVER THE OVERPAYMENT.

25 **§§ 2-15 AND 2-16. {RESERVED}**

26 **§ 2-17. ADMINISTRATIVE APPEAL.**

27 (A) *RIGHT OF APPEAL.*

28 ANY PERSON AGGRIEVED BY A DETERMINATION MADE OR ACTION TAKEN WITH RESPECT  
29 TO A PERSON’S ELIGIBILITY FOR MEMBERSHIP IN OR BENEFITS UNDER THE SUPPLEMENTAL  
30 SAVINGS PLAN MAY APPEAL THAT DETERMINATION OR ACTION TO THE BOARD OF  
31 TRUSTEES.

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1 (B) *WHEN AND HOW TAKEN.*

2 A NOTICE OF APPEAL MUST BE FILED WITH THE BOARD WITHIN 5 YEARS OF THE  
3 DETERMINATION OR ACTION IN QUESTION.

4 (C) *HEARING.*

5 (1) ON RECEIPT OF A NOTICE OF APPEAL, THE BOARD MUST HOLD A HEARING ON THE  
6 APPEAL AS SOON AS ADMINISTRATIVELY PRACTICABLE.

7 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR BY RULE OR REGULATION OF  
8 THE BOARD:

9 (I) THE HEARING MUST BE CONDUCTED IN AN ORDERLY BUT INFORMAL MANNER;  
10 AND

11 (II) FORMAL RULES OF EVIDENCE AND TRIAL PROCEDURES DO NOT APPLY.

12 (D) *COUNSEL.*

13 (1) THE PERSON FILING THE APPEAL MAY BE REPRESENTED BY COUNSEL AT THE HEARING.

14 (2) THE PLAN WILL BE REPRESENTED BY THE CITY SOLICITOR OR THE SOLICITOR'S  
15 DESIGNEE.

16 (E) *WITNESSES.*

17 ALL WITNESSES TESTIFYING AT THE HEARING MUST DO SO UNDER OATH OR BY  
18 AFFIRMATION, SUBJECT TO THE PENALTIES OF PERJURY.

19 (F) *DECISION.*

20 (1) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE HEARING, THE BOARD MUST  
21 RENDER ITS DECISION AND NOTIFY THE PERSON FILING THE APPEAL OF THAT DECISION.

22 (2) IN ITS DECISION, THE BOARD MAY AFFIRM, MODIFY, OR REVERSE THE DETERMINATION  
23 OR ACTION FROM WHICH THE APPEAL WAS TAKEN.

24 **§ 2-18. JUDICIAL AND APPELLATE REVIEW.**

25 (A) *JUDICIAL REVIEW.*

26 A PARTY AGGRIEVED BY A FINAL DECISION OF THE BOARD OF TRUSTEES UNDER § 2-17  
27 {"ADMINISTRATIVE APPEAL"} OF THIS SUBTITLE MAY SEEK JUDICIAL REVIEW OF THAT  
28 DECISION BY PETITION TO THE CIRCUIT COURT FOR BALTIMORE CITY IN ACCORDANCE  
29 WITH THE MARYLAND RULES OF PROCEDURE.

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1 (B) *APPELLATE REVIEW.*

2 A PARTY TO THE JUDICIAL REVIEW MAY APPEAL THE COURT’S FINAL JUDGMENT TO THE  
3 COURT OF SPECIAL APPEALS IN ACCORDANCE WITH THE MARYLAND RULES OF  
4 PROCEDURE.

5 **§ 2-19. {RESERVED}**

6 **§ 2-20. CONFLICTS OF INTEREST.**

7 (A) *APPLICATION OF CITY ETHICS CODE.*

8 (1) THE BOARD OF TRUSTEES IS AN “AGENCY” AND “BOARD” WITHIN THE MEANING OF  
9 AND SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE BALTIMORE CITY  
10 PUBLIC ETHICS LAW (CITY CODE ARTICLE 8).

11 (2) EACH TRUSTEE IS A “PUBLIC SERVANT” AND AN “OFFICIAL” WITHIN THE MEANING OF  
12 AND SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE BALTIMORE CITY  
13 PUBLIC ETHICS LAW.

14 (3) EACH EMPLOYEE OF THE BOARD IS A “PUBLIC SERVANT” AND AN “EMPLOYEE” WITHIN  
15 THE MEANING OF AND SUBJECT TO THE STANDARDS AND REQUIREMENTS OF THE  
16 BALTIMORE CITY PUBLIC ETHICS LAW.

17 (B) *ADDITIONAL STANDARDS AND REQUIREMENTS.*

18 (1) *IN GENERAL.*

19 IN ADDITION TO THE STANDARDS AND REQUIREMENTS CONTAINED IN THE BALTIMORE  
20 CITY PUBLIC ETHICS LAW, TRUSTEES AND BOARD EMPLOYEES MAY NOT ENGAGE IN  
21 ANY OF THE FOLLOWING ACTIVITIES OR HOLD ANY OF THE FOLLOWING INTERESTS, AS  
22 THESE ACTIVITIES OR INTERESTS ARE DEFINED IN THE BALTIMORE CITY PUBLIC  
23 ETHICS LAW.

24 (2) *BUSINESS WITH CITY BENEFIT PLANS.*

25 NO TRUSTEE OR BOARD EMPLOYEE MAY DO BUSINESS WITH ANY SYSTEM, PLAN, OR  
26 TRUST ADMINISTERED BY ANY OF THE FOLLOWING (COLLECTIVELY, “THE CITY  
27 BENEFIT PLANS”):

28 (I) THE BOARD OF TRUSTEES OF THE EMPLOYEES’ RETIREMENT SYSTEM OF THE  
29 CITY OF BALTIMORE;

30 (II) THE BOARD OF TRUSTEES OF THE FIRE AND POLICE EMPLOYEES’ RETIREMENT  
31 SYSTEM OF THE CITY OF BALTIMORE;

32 (III) THE BOARD OF TRUSTEES OF THE ELECTED OFFICIALS’ RETIREMENT SYSTEM  
33 OF THE CITY OF BALTIMORE;

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1 (IV) THE BOARD OF TRUSTEES OF THE SUPPLEMENTAL SAVINGS PLAN OF  
2 BALTIMORE CITY; AND

3 (V) THE COMMITTEE OF THE CITY OF BALTIMORE DEFERRED COMPENSATION  
4 PLAN.

5 (3) *EMPLOYMENT BY OR INTEREST IN PERSON SEEKING BUSINESS WITH CITY BENEFIT PLAN.*

6 NO TRUSTEE OR BOARD EMPLOYEE MAY BE EMPLOYED BY OR HAVE A FINANCIAL  
7 INTEREST IN ANY PERSON OR ENTITY DOING BUSINESS OR SEEKING TO DO BUSINESS  
8 WITH ANY CITY BENEFIT PLAN.

9 (4) *GIFTS, PAYMENTS, FREE ADMISSIONS, EXPENSE REIMBURSEMENTS.*

10 (I) NOTWITHSTANDING CITY CODE ARTICLE 8 {"ETHICS"}, § 6-28(3) {"GIFTS:  
11 QUALIFIED EXEMPTIONS; TRAVEL, ETC., EXPENSES"} OR § 6-30 {"HONORIA"}, NO  
12 TRUSTEE OR BOARD EMPLOYEE MAY ACCEPT ANY GIFT OR ANY PAYMENT, FREE  
13 ADMISSION, OR EXPENSE REIMBURSEMENT FOR ATTENDANCE AT A CONFERENCE,  
14 SEMINAR, OR SIMILAR MEETING, OR FOR RELATED FOOD, TRAVEL, LODGING, OR  
15 ENTERTAINMENT, IF THE GIFT OR THE PAYMENT, FREE ADMISSION, OR  
16 REIMBURSEMENT IS, DIRECTLY OR INDIRECTLY, FROM:

17 (A) ANY PERSON OR ENTITY ENGAGED IN AN ACTIVITY OR PROVIDING A  
18 PRODUCT OR SERVICE THAT THE TRUSTEE KNOWS OR HAS REASON TO  
19 KNOW HAS BEEN MARKETED TO A CITY BENEFIT PLAN OR IS OF A TYPE  
20 THAT THE TRUSTEE REASONABLY WOULD EXPECT TO BE MARKETED TO A  
21 CITY BENEFIT PLAN; OR

22 (B) ANY TRADE, PROFESSIONAL, OR OTHER ASSOCIATION THAT HAS MEMBERS  
23 ENGAGED IN AN ACTIVITY OR PROVIDING A PRODUCT OR SERVICE THAT THE  
24 TRUSTEE KNOWS OR HAS REASON TO KNOW HAS BEEN MARKETED TO A  
25 CITY BENEFIT PLAN OR IS OF A TYPE THAT THE TRUSTEE REASONABLY  
26 WOULD EXPECT TO BE MARKETED TO A CITY BENEFIT PLAN.

27 (II) SUBPARAGRAPH (I) OF THIS PARAGRAPH (4) DOES NOT PRECLUDE APPLICATION OF  
28 THE QUALIFIED EXEMPTIONS CONTAINED IN CITY CODE ARTICLE 8, § 6-28(1)  
29 {"FOOD OR BEVERAGES ... CONSUMED ... IN... PRESENCE ... OF DONOR"},  
30 § 6-28(2) {"GIFT ... [OF] INSIGNIFICANT VALUE"}, § 6-28(5) {"GIFT ... [EXEMPTED  
31 BY] ETHICS BOARD"}, OR § 6-28(6) {"GIFT FROM A SPOUSE, PARENT, CHILD, OR  
32 SIBLING"}, SUBJECT TO THE QUALIFICATIONS OF § 6-29 {"EXEMPTION  
33 LIMITATIONS"}.

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1 (5) *USING PLAN ASSETS FOR CONFERENCES, ETC.*

2 NO ASSETS OF THE SUPPLEMENTAL SAVINGS PLAN OR OF ANY SYSTEM, PLAN, OR  
3 TRUST ADMINISTERED BY THE BOARD OF TRUSTEES OF THE PLAN MAY BE USED TO  
4 PAY FOR THE ATTENDANCE OF A TRUSTEE OR BOARD EMPLOYEE AT ANY CONFERENCE,  
5 SEMINAR, OR SIMILAR MEETING, OR FOR RELATED FOOD, TRAVEL, LODGING, OR  
6 ENTERTAINMENT, UNLESS THAT ATTENDANCE HAS FIRST BEEN APPROVED BY THE  
7 BOARD OF ESTIMATES IN ACCORDANCE WITH THE ADMINISTRATIVE MANUAL OF  
8 BALTIMORE CITY, AM-240-3 {"BOARD OF ESTIMATES APPROVAL"}.

9 (6) *LOBBYING ACTIVITIES.*

10 NO TRUSTEE OR BOARD EMPLOYEE MAY ENGAGE IN ANY ACTIVITY THAT REQUIRES  
11 REGISTRATION AS A LOBBYIST WITH THE CITY ETHICS BOARD.

12 (C) *ADMINISTRATION AND ENFORCEMENT.*

13 THE CITY ETHICS BOARD ADMINISTERS AND ENFORCES THIS SECTION IN ACCORDANCE  
14 WITH THE ADMINISTRATIVE AND ENFORCEMENT PROVISIONS OF THE BALTIMORE CITY  
15 PUBLIC ETHICS LAW.

16 **SUBTITLE 3. PLAN MEMBERSHIP**

17 **§ 3-1. MEMBERSHIP MANDATORY.**

18 ANY EMPLOYEE WHO IS INITIALLY EMPLOYED OR REEMPLOYED BY A PARTICIPATING  
19 EMPLOYER ON OR AFTER JANUARY 1, 2014, IS A MEMBER OF THE SUPPLEMENTAL SAVINGS  
20 PLAN AS A CONDITION OF THAT EMPLOYMENT.

21 **§ 3-2. COMMENCEMENT OF PARTICIPATION.**

22 (A) *INITIAL EMPLOYMENT.*

23 AN EMPLOYEE INITIALLY EMPLOYED BY A PARTICIPATING EMPLOYER ON OR AFTER  
24 JANUARY 1, 2014, COMMENCES PARTICIPATION IN THE PLAN AS OF THE DATE ON WHICH  
25 THAT INITIAL EMPLOYMENT BEGINS.

26 (B) *BREAK IN SERVICE – NON-PLAN MEMBER.*

27 AN EMPLOYEE WHO WAS EMPLOYED BY A PARTICIPATING EMPLOYER ON OR BEFORE  
28 DECEMBER 31, 2013, AND WHO, AFTER HAVING TERMINATED THAT EMPLOYMENT, IS  
29 REEMPLOYED BY THAT OR ANOTHER PARTICIPATING EMPLOYER ON OR AFTER JANUARY 1,  
30 2014, COMMENCES PARTICIPATION IN THE PLAN AS OF THE DATE ON WHICH THAT  
31 REEMPLOYMENT BEGINS.



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1 (C) *BREAK IN SERVICE – PLAN MEMBER.*

2 A PLAN MEMBER WHO TERMINATES EMPLOYMENT WITH A PARTICIPATING EMPLOYER AND  
3 IS SUBSEQUENTLY REEMPLOYED BY THAT OR ANOTHER PARTICIPATING EMPLOYER  
4 RECOMMENCES PARTICIPATION IN THE PLAN AS OF THE DATE ON WHICH THAT  
5 REEMPLOYMENT BEGINS.

6 **§ 3-3. {RESERVED}**

7 **§ 3-4. TERMINATION OF PARTICIPATION.**

8 A MEMBER’S PARTICIPATION IN THE SUPPLEMENTAL SAVINGS PLAN TERMINATES ON THE  
9 COMPLETE DISTRIBUTION TO THE MEMBER OR THE MEMBER’S BENEFICIARY OF THE MEMBER’S  
10 VESTED ACCOUNT.

11 **SUBTITLE 4. SERVICE**

12 **§ 4-1. “SERVICE” DEFINED.**

13 (A) *IN GENERAL.*

14 EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, “SERVICE” MEANS THE SUM OF  
15 EACH PERIOD OF A MEMBER’S EMPLOYMENT WITH A PARTICIPATING EMPLOYER.

16 (B) *EXCLUSIONS.*

17 “SERVICE” DOES NOT INCLUDE ANY PERIOD THAT:

18 (1) HAS BEEN CREDITED AS SERVICE UNDER ANY OTHER RETIREMENT SYSTEM  
19 SPONSORED BY THE CITY OF BALTIMORE; AND

20 (2) WAS USED BY THAT SYSTEM FOR CALCULATING A RETIREMENT BENEFIT OR A  
21 DEFERRED VESTED RETIREMENT BENEFIT.

22 **§ 4-2. APPLICABILITY.**

23 A MEMBER’S SERVICE IS USED TO DETERMINE WHETHER THE MEMBER IS VESTED IN HIS OR HER  
24 EMPLOYER CONTRIBUTION SUB-ACCOUNT.

25 **§ 4-3. MILITARY SERVICE.**

26 TO THE EXTENT REQUIRED BY USERRA, THE SERVICE OF A MEMBER RETURNING FROM AN  
27 UNPAID LEAVE OF ABSENCE ON ACCOUNT OF MILITARY SERVICE INCLUDES THE PERIOD OF THE  
28 MEMBER’S LEAVE OF ABSENCE.

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### § 4-4. DETERMINATION FINAL AND BINDING.

THE DETERMINATION OF A MEMBER'S SERVICE:

- (1) IS MADE BY THE BOARD OF TRUSTEES; AND
- (2) IS FINAL AND BINDING ON ALL PERSONS, SUBJECT TO THE RIGHTS OF APPEAL AND REVIEW UNDER § 2-17 {"ADMINISTRATIVE APPEAL"} AND § 2-18 {"JUDICIAL AND APPELLATE REVIEW"} OF THIS ARTICLE.

## SUBTITLE 5. CONTRIBUTIONS

### § 5-1. TYPES OF CONTRIBUTIONS.

THE FOLLOWING CONTRIBUTIONS ARE MADE TO THE SUPPLEMENTAL SAVINGS PLAN:

- (1) MANDATORY EMPLOYEE CONTRIBUTIONS MADE UNDER § 5-2 {"MANDATORY EMPLOYEE CONTRIBUTIONS"} OF THIS SUBTITLE;
- (2) EMPLOYER CONTRIBUTIONS MADE UNDER § 5-3 {"EMPLOYER CONTRIBUTIONS"} OF THIS SUBTITLE; AND
- (3) ROLLOVER CONTRIBUTIONS MADE UNDER § 5-4 {"ROLLOVER CONTRIBUTIONS"} OF THIS SUBTITLE.

### § 5-2. MANDATORY EMPLOYEE CONTRIBUTIONS.

(A) *IN GENERAL.*

BEGINNING WITH THE FIRST FULL PAYROLL PERIOD THAT STARTS ON OR AFTER THE DATE A MEMBER COMMENCES PARTICIPATION IN THE SUPPLEMENTAL SAVINGS PLAN AND CONTINUING THROUGH THE LAST FULL PAYROLL PERIOD ENDING ON OR BEFORE TERMINATION OF EMPLOYMENT WITH A PARTICIPATING EMPLOYER:

- (1) FOR EACH PAYROLL PERIOD, THE MEMBER MUST CONTRIBUTE TO THE PLAN 5% OF THE MEMBER'S EARNABLE COMPENSATION THAT IS IN EXCESS OF THE PENSIONABLE PAY CAP FOR THAT PAYROLL PERIOD;
- (2) FOR EACH PAYROLL PERIOD, THE DEPARTMENT OF FINANCE WILL CAUSE THE CONTRIBUTION TO BE DEDUCTED FROM THE MEMBER'S EARNABLE COMPENSATION FOR THAT PAYROLL PERIOD; AND
- (3) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE DEDUCTION IS TAKEN, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER'S MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT.

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1 (B) *“PICKED-UP” STATUS.*

2 (1) (I) THE CONTRIBUTIONS DESCRIBED IN SUBSECTION (A) OF THIS SECTION ARE  
3 INTENDED TO BE TREATED AS BEING “PICKED UP” BY THE PARTICIPATING  
4 EMPLOYER WITHIN THE MEANING OF IRC § 414(H)(2).

5 (II) THE AMOUNT OF EACH MANDATORY EMPLOYEE CONTRIBUTION IS PAID BY THE  
6 EMPLOYER IN LIEU OF CONTRIBUTIONS BY MEMBERS, AND MEMBERS MAY NOT  
7 RECEIVE THOSE AMOUNTS DIRECTLY. BECAUSE THE MANDATORY EMPLOYEE  
8 CONTRIBUTIONS ARE PAID BY THE EMPLOYER, THEY MUST BE TREATED AS  
9 EMPLOYER CONTRIBUTIONS IN DETERMINING THEIR FEDERAL INCOME TAX  
10 TREATMENT.

11 (2) THE PICKED-UP CONTRIBUTIONS MAY NOT BE EXCLUDED IN COMPUTING ANY OTHER  
12 BENEFIT PAID IN CONNECTION WITH THE MEMBER’S EMPLOYMENT WITH A  
13 PARTICIPATING EMPLOYER.

14 (3) (I) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER ENACTMENT OF THIS  
15 ARTICLE, THE CITY WILL REQUEST A PRIVATE LETTER RULING FROM THE INTERNAL  
16 REVENUE SERVICE TO THE EFFECT THAT THE CONTRIBUTIONS SO PICKED UP BY  
17 THE EMPLOYER ON BEHALF OF MEMBERS WILL BE TREATED AS EMPLOYER  
18 CONTRIBUTIONS UNDER IRC § 414(H)(2) AND WILL NOT BE INCLUDIBLE IN THE  
19 MEMBER’S GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES FOR THE YEAR IN  
20 WHICH THEY ARE CONTRIBUTED.

21 (II) IF THE INTERNAL REVENUE SERVICE RULES THAT THE PICK UP OF CONTRIBUTIONS  
22 DOES NOT SATISFY THE REQUIREMENTS OF IRC § 414(H)(2), OR IF IRC § 414(H)(2)  
23 IS REPEALED, THE CONTRIBUTIONS REQUIRED UNDER THIS SECTION WILL REMAIN IN  
24 EFFECT, BUT THE CONTRIBUTIONS MAY NO LONGER BE TREATED AS PICKED UP AND  
25 INSTEAD WILL BE TREATED AS PAID DIRECTLY BY THE MEMBER.

26 **§ 5-3. EMPLOYER CONTRIBUTIONS.**

27 (A) *IN GENERAL*

28 EMPLOYER CONTRIBUTIONS MUST BE MADE TO THE SUPPLEMENTAL SAVINGS PLAN AS  
29 PROVIDED IN THIS SECTION.

30 (B) *ALL MEMBERS.*

31 (1) FOR EACH PAYROLL PERIOD IN WHICH A MEMBER MAKES A MANDATORY EMPLOYEE  
32 CONTRIBUTION UNDER § 5-2 {“MANDATORY EMPLOYEE CONTRIBUTIONS”} OF THIS  
33 SUBTITLE, THE MEMBER’S EMPLOYER MUST CONTRIBUTE TO THE SUPPLEMENTAL  
34 SAVINGS PLAN AN AMOUNT EQUAL TO 80% OF THE EMPLOYEE’S MANDATORY  
35 CONTRIBUTION FOR THAT PAYROLL PERIOD.

36 (2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE EMPLOYER CONTRIBUTION  
37 IS MADE, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER’S EMPLOYER  
38 CONTRIBUTION SUB-ACCOUNT.

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1 (C) *MEMBERS ALSO CONTRIBUTING TO DEFERRED COMPENSATION PLAN.*

2 (1) FOR EACH PAYROLL PERIOD IN WHICH A MEMBER MAKES A VOLUNTARY DEFERRAL TO  
3 THE CITY'S DEFERRED COMPENSATION PLAN, THE MEMBER'S EMPLOYER MUST  
4 CONTRIBUTE TO THE SUPPLEMENTAL SAVINGS PLAN AN AMOUNT EQUAL TO 50% OF  
5 ADDITIONAL CONTRIBUTIONS, BUT LIMITED TO 1% OF COMPENSATION THAT EXCEEDS  
6 THE PENSIONABLE PAY CAP.

7 (2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THIS EMPLOYER CONTRIBUTION  
8 IS MADE, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER'S EMPLOYER  
9 CONTRIBUTION SUB-ACCOUNT.

10 **§ 5-4. ROLLOVER CONTRIBUTIONS.**

11 (A) *IN GENERAL.*

12 (1) SUBJECT TO THE REQUIREMENTS OF THIS SECTION, A MEMBER MAY MAKE 1 OR MORE  
13 ROLLOVER CONTRIBUTIONS TO THE SUPPLEMENTAL SAVINGS PLAN.

14 (2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER A ROLLOVER CONTRIBUTION IS  
15 MADE, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER'S ROLLOVER  
16 CONTRIBUTION SUB-ACCOUNT.

17 (B) *REQUIRED SUBMISSIONS.*

18 A MEMBER WHO WISHES TO MAKE A ROLLOVER CONTRIBUTION MUST:

19 (1) FILE A REQUEST WITH THE BOARD OF TRUSTEES IN THE FORM REQUIRED BY THE  
20 BOARD; AND

21 (2) ESTABLISH TO THE SATISFACTION OF THE BOARD THAT AMOUNTS INTENDED TO BE  
22 ROLLED OVER SATISFY THE CONDITIONS OF SUBSECTION (C) OF THIS SECTION.

23 (C) *CONDITIONS OF ROLLOVER.*

24 EVERY ROLLOVER CONTRIBUTION MUST BE:

25 (1) AN "ELIGIBLE ROLLOVER DISTRIBUTION", AS DEFINED IN IRC § 402(F)(2)(A);

26 (2) MADE SOLELY IN CASH;

27 (3) DISTRIBUTED FROM:

28 (I) A QUALIFIED PLAN UNDER IRC § 401(A) OR §403(A), EXCEPT THAT  
29 AMOUNTS ROLLED OVER MAY NOT INCLUDE NONDEDUCTIBLE OR AFTER-  
30 TAX CONTRIBUTIONS;

31 (II) A TAX-SHELTERED ANNUITY UNDER IRC § 403(B);

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1 (III) AN ELIGIBLE PLAN UNDER IRC § 457(B) THAT IS MAINTAINED BY A STATE,  
2 A POLITICAL SUBDIVISION OF A STATE, OR ANY AGENCY OR  
3 INSTRUMENTALITY OF A STATE OR POLITICAL SUBDIVISION OF A STATE; OR

4 (IV) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER IRC § 408(A) OR AN  
5 INDIVIDUAL RETIREMENT ANNUITY UNDER IRC § 408(B), EXCEPT THAT  
6 AMOUNTS ROLLED OVER MAY NOT INCLUDE NONDEDUCTIBLE OR AFTER-  
7 TAX CONTRIBUTIONS; AND

8 (4) EITHER TRANSFERRED DIRECTLY TO THE SUPPLEMENTAL SAVINGS PLAN OR,  
9 WITHIN 60 DAYS OF ITS RECEIPT, CONTRIBUTED TO THE PLAN BY THE MEMBER.

10 **§ 5-5. MAKEUP CONTRIBUTIONS AFTER MILITARY LEAVE.**

11 (A) *IN GENERAL.*

12 (1) (I) TO THE EXTENT REQUIRED BY USERRA, A MEMBER RETURNING FROM AN UNPAID  
13 LEAVE OF ABSENCE ON ACCOUNT OF MILITARY SERVICE MAY MAKE A 1-TIME  
14 IRREVOCABLE ELECTION TO MAKE UP ALL OR PART OF THE MANDATORY EMPLOYEE  
15 CONTRIBUTIONS THE MEMBER WOULD HAVE BEEN REQUIRED TO MAKE UNDER  
16 § 5-2 {"MANDATORY EMPLOYEE CONTRIBUTIONS"} OF THIS SUBTITLE HAD HE OR  
17 SHE REMAINED ACTIVELY EMPLOYED BY A PARTICIPATING EMPLOYER.

18 (II) THE MEMBER'S MAKEUP CONTRIBUTION IS BASED ON WHAT THE MEMBER'S  
19 EARNABLE COMPENSATION WOULD HAVE BEEN HAD THE MEMBER REMAINED  
20 ACTIVELY EMPLOYED.

21 (2) THE ELECTION MUST:

22 (I) BE MADE BY FILING WITH THE BOARD OF TRUSTEES IN THE FORM REQUIRED BY THE  
23 BOARD; AND

24 (II) INCLUDE THE AMOUNT OF MANDATORY EMPLOYEE CONTRIBUTIONS THE MEMBER  
25 WISHES TO MAKE UP AND THE PERIOD (NOT TO EXCEED THE LESSER OF 3 TIMES THE  
26 LENGTH OF THE LEAVE OF ABSENCE OR 5 YEARS) OVER WHICH THE CONTRIBUTIONS  
27 WILL BE MADE.

28 (3) (I) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE BOARD RECEIVES THE  
29 MEMBER'S ELECTION, THE DEPARTMENT OF FINANCE WILL CAUSE THE AMOUNT OF  
30 MAKEUP CONTRIBUTIONS TO BE DEDUCTED FROM THE MEMBER'S EARNABLE  
31 COMPENSATION PRO-RATA FOR EACH PAYROLL PERIOD DURING THE PERIOD  
32 ELECTED (BUT NOT BEYOND THE LAST FULL PAYROLL PERIOD ENDING ON OR  
33 BEFORE THE MEMBER'S TERMINATION OF EMPLOYMENT WITH AN EMPLOYER).

34 (II) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER EACH AMOUNT IS  
35 DEDUCTED, THE AMOUNT WILL BE CREDITED TO THE MEMBER'S MANDATORY  
36 EMPLOYEE CONTRIBUTION SUB-ACCOUNT.

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1 (4) MAKEUP CONTRIBUTIONS MADE UNDER THIS SUBSECTION WILL BE TREATED AS BEING  
2 “PICKED UP” TO THE SAME EXTENT AS MANDATORY EMPLOYEE CONTRIBUTIONS ARE  
3 TREATED AS BEING “PICKED UP” UNDER § 5-2(B) {“MANDATORY EMPLOYEE  
4 CONTRIBUTIONS: ‘PICKED-UP’ STATUS”} OF THIS SUBTITLE.

5 (B) *ALL MEMBERS.*

6 (1) FOR EACH PAYROLL PERIOD IN WHICH A MEMBER ELECTS TO MAKE UP MANDATORY  
7 EMPLOYEE CONTRIBUTIONS UNDER SUBSECTION (A) OF THIS SECTION, THE MEMBER’S  
8 EMPLOYER MUST MAKE A CORRESPONDING CONTRIBUTION TO THE PLAN IN AN  
9 AMOUNT EQUAL TO 80% OF THE EMPLOYEE’S MANDATORY EMPLOYEE CONTRIBUTION  
10 FOR THAT PAYROLL PERIOD (AS DETERMINED UNDER SUBSECTION (A) OF THIS  
11 SECTION).

12 (2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE CORRESPONDING  
13 CONTRIBUTION IS MADE, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER’S  
14 EMPLOYER CONTRIBUTION SUB-ACCOUNT.

15 (C) *MEMBERS ALSO CONTRIBUTING TO DEFERRED COMPENSATION PLAN.*

16 (1) FOR EACH PAYROLL PERIOD IN WHICH A MEMBER ELECTS TO MAKE UP VOLUNTARY  
17 DEFERRALS TO THE CITY’S DEFERRED COMPENSATION PLAN, THE MEMBER’S  
18 EMPLOYER MUST MAKE A CORRESPONDING CONTRIBUTION TO THE PLAN IN AN  
19 AMOUNT EQUAL TO 50% OF THE VOLUNTARY DEFERRALS, LIMITED TO 1% OF  
20 COMPENSATION IN EXCESS OF THE PENSIONABLE PAY CAP.

21 (2) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THIS CORRESPONDING  
22 CONTRIBUTION IS MADE, THE CONTRIBUTION WILL BE CREDITED TO THE MEMBER’S  
23 EMPLOYER CONTRIBUTION SUB-ACCOUNT.

24 **§ 5-6. MAXIMUM ANNUAL ADDITIONS.**

25 (A) *DEFINITIONS.*

26 (1) *IN GENERAL.*

27 IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

28 (2) *“ANNUAL ADDITIONS”.*

29 (i) *IN GENERAL.*

30 “ANNUAL ADDITIONS” MEANS THE SUM OF THE FOLLOWING AMOUNTS CREDITED  
31 TO A MEMBER’S ACCOUNT FOR THE LIMITATION YEAR:

32 (A) MANDATORY EMPLOYEE CONTRIBUTIONS MADE UNDER § 5-2  
33 {“MANDATORY EMPLOYEE CONTRIBUTIONS”} OF THIS SUBTITLE; AND

34 (B) EMPLOYER CONTRIBUTIONS MADE UNDER § 5-3 {“EMPLOYER  
35 CONTRIBUTIONS”} OF THIS SUBTITLE.

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1 (II) *INCLUSIONS.*

2 “ANNUAL ADDITIONS” INCLUDES MAKEUP CONTRIBUTIONS MADE UNDER § 5-5  
3 {“MAKEUP CONTRIBUTIONS AFTER MILITARY LEAVE”} OF THIS SUBTITLE FOR THE  
4 LIMITATION YEAR TO WHICH THE CONTRIBUTIONS RELATE (NOT FOR THE  
5 LIMITATION YEAR IN WHICH THE CONTRIBUTIONS ARE MADE).

6 (III) *EXCLUSIONS.*

7  
8 “ANNUAL ADDITIONS” DOES NOT INCLUDE ROLLOVER CONTRIBUTIONS MADE  
9 UNDER § 5-4 {“ROLLOVER CONTRIBUTIONS”} OF THIS SUBTITLE.

10 (3) *“LIMITATION YEAR”.*

11 “LIMITATION YEAR” MEANS A CALENDAR YEAR.

12 (4) *“SECTION 415 COMPENSATION”.*

13 (I) *IN GENERAL.*

14 (A) “SECTION 415 COMPENSATION” MEANS WAGES, WITHIN THE MEANING OF IRC  
15 § 3401, PLUS AMOUNTS THAT WOULD BE INCLUDED IN WAGES BUT FOR AN  
16 ELECTION UNDER IRC § 125, § 132(F)(4), § 402(E)(3), § 402(H)(1)(B), § 402(K),  
17 OR § 457(B), AND ALL OTHER PAYMENTS OF COMPENSATION TO AN EMPLOYEE  
18 BY A PARTICIPATING EMPLOYER FOR WHICH THE EMPLOYER IS REQUIRED TO  
19 FURNISH THE EMPLOYEE A WRITTEN STATEMENT UNDER IRC § 6041(D),  
20 § 6051(A)(3), OR § 6052.

21 (B) SECTION 415 COMPENSATION MUST BE DETERMINED WITHOUT REGARD TO ANY  
22 RULES UNDER IRC § 3401 THAT LIMIT THE REMUNERATION INCLUDED IN  
23 WAGES BASED ON THE NATURE OR LOCATION OF THE EMPLOYMENT OR THE  
24 SERVICES PERFORMED (SUCH AS THE EXCEPTION FOR AGRICULTURAL LABOR IN  
25 IRC § 3401(A)(2)).

26 (C) SECTION 415 COMPENSATION FOR A LIMITATION YEAR IS THE SECTION 415  
27 COMPENSATION ACTUALLY PAID OR MADE AVAILABLE IN GROSS INCOME FOR  
28 THAT LIMITATION YEAR.

29 (II) *INCLUSIONS.*

30 “SECTION 415 COMPENSATION” INCLUDES THE FOLLOWING AMOUNTS PAID AFTER  
31 AN EMPLOYEE’S SEVERANCE FROM EMPLOYMENT WITH A PARTICIPATING  
32 EMPLOYER, IF THOSE AMOUNTS WOULD HAVE BEEN INCLUDED IN SUBPARAGRAPH  
33 (I) OF THIS PARAGRAPH (4) HAD THEY BEEN PAID BEFORE SEVERANCE AND IF THOSE  
34 AMOUNTS ARE PAID TO THE EMPLOYEE BEFORE THE LATER OF 2½ MONTHS AFTER  
35 SEVERANCE OR THE END OF THE CALENDAR YEAR IN WHICH THE SEVERANCE  
36 BECOMES EFFECTIVE:

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1 (A) REGULAR PAYMENTS MADE AFTER SEVERANCE, IF:

2 1. THE PAYMENTS ARE:

- 3 A. COMPENSATION FOR SERVICES DURING THE EMPLOYEE’S  
4 REGULAR WORKING HOURS;
- 5 B. COMPENSATION FOR SERVICES OUTSIDE THE EMPLOYEE’S  
6 REGULAR WORKING HOURS (SUCH AS OVERTIME OR SHIFT  
7 DIFFERENTIAL); OR
- 8 C. COMMISSIONS, BONUSES, OR OTHER SIMILAR PAYMENTS;  
9 AND

10 2. THE PAYMENTS WOULD HAVE BEEN PAID TO THE EMPLOYEE BEFORE  
11 SEVERANCE HAD THE EMPLOYEE CONTINUED TO BE EMPLOYED BY  
12 THE EMPLOYER; AND

13 (B) PAYMENTS MADE AFTER SEVERANCE FOR ACCRUED AND UNUSED BONA  
14 FIDE SICK, VACATION, OR OTHER LEAVE , IF THE EMPLOYEE WOULD HAVE  
15 BEEN ABLE TO USE THAT LEAVE HAD THE EMPLOYEE CONTINUED TO BE  
16 EMPLOYED BY THE EMPLOYER.

17 (III) *EXCLUSIONS.*

18 “SECTION 415 COMPENSATION” FOR A LIMITATION YEAR DOES NOT INCLUDE  
19 COMPENSATION IN EXCESS OF THE COMPENSATION LIMIT APPLICABLE TO THAT  
20 LIMITATION YEAR UNDER IRC § 401(A)(17) .

21 (B) *LIMITATION ON ANNUAL ADDITIONS.*

22 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, TO THE EXTENT REQUIRED  
23 UNDER THE INTERNAL REVENUE CODE, THE ANNUAL ADDITIONS THAT ARE CREDITED TO  
24 THE ACCOUNT OF ANY MEMBER IN ANY LIMITATION YEAR MAY NOT EXCEED THE LESSER  
25 OF:

- 26 (1) \$40,000, AS ADJUSTED BY COST-OF-LIVING INCREASES UNDER IRC § 415(D); OR
- 27 (2) 100% OF THE MEMBER’S SECTION 415 COMPENSATION FOR THE LIMITATION YEAR.

28 (C) *CORRECTING EXCESS ANNUAL ADDITIONS.*

29 IF, FOR ANY LIMITATION YEAR, THE ANNUAL ADDITIONS THAT ARE CREDITED TO THE  
30 ACCOUNT OF A MEMBER EXCEED THE LIMITATION SET FORTH IN SUBSECTION (B) OF THIS  
31 SECTION, THE CITY MUST FOLLOW ANY APPLICABLE CORRECTION METHODOLOGY  
32 AUTHORIZED BY THE INTERNAL REVENUE SERVICE UNDER THE EMPLOYEE PLANS  
33 COMPLIANCE RESOLUTION SYSTEM (“EPCRS”) OR OTHERWISE.



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**§ 5-7. COMPENSATION LIMIT.**

PURSUANT TO IRC § 401(A)(17) AND THE REGULATIONS ADOPTED UNDER THAT SECTION, THE ANNUAL COMPENSATION OF EACH MEMBER TAKEN INTO ACCOUNT IN DETERMINING THE AMOUNT OF CONTRIBUTIONS UNDER THE SUPPLEMENTAL SAVINGS PLAN MAY NOT EXCEED \$200,000, AS ADJUSTED BY COST-OF-LIVING INCREASES UNDER IRC § 415(D).

**SUBTITLE 6. ACCOUNTS**

**§ 6-1. ESTABLISHMENT.**

*(A) IN GENERAL.*

- (1) A SEPARATE ACCOUNT ON BEHALF OF EACH MEMBER WILL BE ESTABLISHED AND MAINTAINED UNDER THE SUPPLEMENTAL SAVINGS PLAN.
- (2) THE ESTABLISHMENT AND MAINTENANCE OF AN ACCOUNT IS FOR BOOKKEEPING PURPOSES ONLY AND DOES NOT REQUIRE OR PERMIT ASSETS HELD IN ANY ACCOUNT TO BE SEGREGATED FOR INVESTMENT PURPOSES.

*(B) SUB-ACCOUNTS.*

- (1) A MEMBER'S ACCOUNT CONSISTS OF THE FOLLOWING SUB-ACCOUNTS:

- (I) A MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT;
- (II) AN EMPLOYER CONTRIBUTION SUB-ACCOUNT; AND
- (III) IF APPLICABLE, A ROLLOVER CONTRIBUTION SUB-ACCOUNT.

- (2) TO EACH OF THESE SUB-ACCOUNTS:

- (I) CONTRIBUTIONS ARE CREDITED UNDER § 5-2 {"MANDATORY EMPLOYEE CONTRIBUTIONS"}, § 5-3 {"EMPLOYER CONTRIBUTIONS"}, OR § 5-4 {"ROLLOVER CONTRIBUTIONS"} OF THIS ARTICLE, RESPECTIVELY;
- (II) GAINS AND LOSSES ARE ALLOCATED UNDER § 6-2(D) {"INVESTMENTS: FUND GAINS AND LOSSES"} OF THIS SUBTITLE; AND
- (III) FEES AND EXPENSES ARE CHARGED UNDER § 6-2(E) {"INVESTMENTS: FUND FEES AND EXPENSES"} OF THIS SUBTITLE.

**§ 6-2. INVESTMENTS.**

*(A) BOARD TO SELECT AVAILABLE INVESTMENT FUNDS.*

- (1) THE BOARD OF TRUSTEES MUST SELECT:

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1 (I) 1 OR MORE SEPARATE INVESTMENT FUNDS IN WHICH A MEMBER MAY ELECT TO  
2 HAVE THE MEMBER'S VESTED ACCOUNT INVESTED; AND

3 (II) A DEFAULT INVESTMENT FUND FOR THE AUTOMATIC INVESTMENT OF THE  
4 VESTED ACCOUNT OF A MEMBER WHO FAILS TO MAKE AN AFFIRMATIVE  
5 INVESTMENT ELECTION UNDER SUBSECTION (B) OF THIS SECTION.

6 (2) FROM TIME TO TIME, THE BOARD MAY CHANGE ANY OR ALL OF THE INVESTMENT  
7 FUNDS OR THE DEFAULT INVESTMENT FUND. ANY CHANGE MUST BE COMMUNICATED  
8 TO MEMBERS BEFORE ITS EFFECTIVE DATE.

9 (B) *MEMBERS' INVESTMENT ELECTIONS.*

10 (1) EACH MEMBER WILL BE PROVIDED A LIST THAT IDENTIFIES THE AVAILABLE  
11 INVESTMENT FUNDS (INCLUDING THE DEFAULT INVESTMENT FUND) WHEN  
12 COMMENCING PARTICIPATION IN THE SUPPLEMENTAL SAVINGS PLAN.

13 (2) IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE BOARD, EACH MEMBER MAY  
14 AFFIRMATIVELY ELECT TO HAVE THE MEMBER'S VESTED ACCOUNT INVESTED IN 1 OR  
15 MORE OF THE LISTED INVESTMENT FUNDS.

16 (3) AN AFFIRMATIVE INVESTMENT ELECTION REMAINS IN EFFECT UNTIL THE MEMBER  
17 CHANGES IT BY MAKING A NEW ELECTION IN ACCORDANCE WITH THE BOARD'S  
18 PROCEDURES. A NEW ELECTION REVOKES ALL PRIOR ELECTIONS.

19 (4) AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER A MEMBER'S AFFIRMATIVE  
20 INVESTMENT ELECTION IS RECEIVED, THE MEMBER'S VESTED ACCOUNT MUST BE  
21 INVESTED IN ACCORDANCE WITH THAT ELECTION.

22 (C) *DEFAULT INVESTMENTS.*

23 UNLESS AND UNTIL A MEMBER MAKES AN AFFIRMATIVE INVESTMENT ELECTION UNDER  
24 SUBSECTION (B) OF THIS SECTION, THE MEMBER IS DEEMED TO HAVE MADE AN ELECTION  
25 TO HAVE THE MEMBER'S VESTED ACCOUNT INVESTED AUTOMATICALLY IN THE DEFAULT  
26 INVESTMENT FUND.

27 (D) *FUND GAINS AND LOSSES.*

28 ALL GAINS AND LOSSES OF AN INVESTMENT FUND IN WHICH A MEMBER'S VESTED  
29 ACCOUNT IS INVESTED WILL BE ALLOCATED TO THAT ACCOUNT BASED ON ESTABLISHED  
30 PROCEDURES APPLIED ON A UNIFORM AND NONDISCRIMINATORY BASIS.

31 (E) *FUND FEES AND EXPENSES.*

32 ALL FEES CHARGED AND EXPENSES INCURRED BY AN INVESTMENT FUND IN WHICH A  
33 MEMBER'S VESTED ACCOUNT IS INVESTED, INCLUDING SERVICING FEES PAID BY THE  
34 INVESTMENT FUND TO THE PLAN'S THIRD-PARTY ADMINISTRATOR, WILL BE CHARGED TO  
35 THAT ACCOUNT BASED ON ESTABLISHED PROCEDURES APPLIED ON A UNIFORM AND  
36 NONDISCRIMINATORY BASIS.

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1 (F) *NO LIABILITY FOR INVESTMENT ELECTIONS.*

2 NEITHER THE CITY NOR THE BOARD OF TRUSTEES IS LIABLE TO A MEMBER, A  
3 BENEFICIARY, OR ANY OTHER PERSON FOR ANY LOSS RESULTING FROM:

4 (1) A MEMBER’S AFFIRMATIVE INVESTMENT ELECTION;

5 (2) A MEMBER’S FAILURE TO MAKE AN AFFIRMATIVE INVESTMENT ELECTION;

6 (3) A REASONABLE DELAY IN IMPLEMENTING AN AFFIRMATIVE INVESTMENT ELECTION;  
7 OR

8 (4) A REASONABLE DELAY IN IMPLEMENTING A DEFAULT INVESTMENT UNDER  
9 SUBSECTION (C) OF THIS SECTION.

10 (G) *APPLICABILITY TO DEFERRED COMPENSATION PLAN.*

11 VOLUNTARY DEFERRALS MADE BY A MEMBER TO THE CITY’S DEFERRED COMPENSATION  
12 PLAN WILL BE INVESTED IN ACCORDANCE WITH THE MEMBER’S AFFIRMATIVE INVESTMENT  
13 ELECTION UNDER SUBSECTION (B) OF THIS SECTION OR THE MEMBER’S DEFAULT  
14 INVESTMENT UNDER SUBSECTION (C) OF THIS SECTION.

15 (H) *NON-VESTED EMPLOYER CONTRIBUTION SUB-ACCOUNTS.*

16 EMPLOYER CONTRIBUTION SUB-ACCOUNTS THAT HAVE NOT VESTED UNDER § 7-2  
17 {“VESTING: EMPLOYER CONTRIBUTION SUB-ACCOUNT”} OF THIS ARTICLE WILL BE  
18 INVESTED AS THE BOARD OF TRUSTEES, IN ITS SOLE DISCRETION, DETERMINES.

19 **§ 6-3. VALUATIONS.**

20 (A) *“VALUATION DATE” DEFINED.*

21 IN THIS SECTION, “VALUATION DATE” MEANS THE DATE, NO LESS FREQUENTLY THAN THE  
22 LAST DAY OF EACH CALENDAR QUARTER, FOR DETERMINING:

23 (1) THE FAIR MARKET VALUE OF EACH INVESTMENT FUND (INCLUDING THE DEFAULT  
24 INVESTMENT FUND);

25 (2) THE PORTION OF EACH MEMBER’S ACCOUNT INVESTED IN THAT FUND; AND

26 (3) THE TOTAL VALUE OF EACH MEMBER’S ACCOUNT.

27 (B) *VALUE OF FUNDS AND ACCOUNTS.*

28 THE FAIR MARKET VALUE OF EACH INVESTMENT FUND, THE PORTION OF EACH MEMBER’S  
29 ACCOUNT INVESTED IN THAT FUND, AND THE TOTAL VALUE OF EACH MEMBER’S ACCOUNT  
30 WILL BE DETERMINED AS OF EACH VALUATION DATE, BASED ON ESTABLISHED  
31 PROCEDURES APPLIED ON A UNIFORM AND NONDISCRIMINATORY BASIS.

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1 (C) *VALUE OF ACCOUNT ON DISTRIBUTABLE EVENT.*

2 THE DATE AS OF WHICH A MEMBER'S ACCOUNT IS VALUED ON A DISTRIBUTABLE EVENT  
3 UNDER SUBTITLE 9 {"DISTRIBUTIONS"} OF THIS ARTICLE WILL BE DETERMINED ON THE  
4 BASIS OF ESTABLISHED PROCEDURES APPLIED ON A UNIFORM AND NONDISCRIMINATORY  
5 BASIS.

### 6 § 6-4. PERIODIC STATEMENTS.

7 ON A PERIODIC BASIS, BUT NO LESS FREQUENTLY THAN QUARTERLY, A STATEMENT SHOWING  
8 THE VALUE OF A MEMBER'S ACCOUNT AS OF THE MOST RECENT VALUATION DATE WILL BE  
9 MADE AVAILABLE TO EACH MEMBER.

## 10 SUBTITLE 7. VESTING

### 11 § 7-1. MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT.

12 A MEMBER'S MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT IS IMMEDIATELY AND  
13 AT ALL TIMES 100% VESTED AND NON-FORFEITABLE.

### 14 § 7-2. EMPLOYER CONTRIBUTION SUB-ACCOUNT.

15 A MEMBER'S EMPLOYER CONTRIBUTION SUB-ACCOUNT BECOMES 100% VESTED AND NON-  
16 FORFEITABLE ON THE EARLIEST OF:

- 17 (1) THE MEMBER'S ATTAINMENT OF NORMAL RETIREMENT AGE;
- 18 (2) THE MEMBER'S BEING CREDITED WITH 5 YEARS OF SERVICE;
- 19 (3) THE MEMBER'S PROVIDING THE BOARD OF TRUSTEES WITH AN SSA DETERMINATION  
20 OF DISABILITY UNDER § 9-3 {"DISTRIBUTABLE EVENTS – DISABILITY"} OF THIS  
21 ARTICLE;
- 22 (4) THE MEMBER'S DEATH WHILE AN EMPLOYEE;
- 23 (5) A PERMANENT DISCONTINUANCE OF CONTRIBUTIONS OR PLAN TERMINATION UNDER  
24 § 11-2 {"DISCONTINUANCE OF PAYMENTS; PLAN TERMINATION"} OF THIS ARTICLE; OR
- 25 (6) A "PARTIAL PLAN TERMINATION", AS DEFINED UNDER APPLICABLE LAW.

### 26 § 7-3. ROLLOVER CONTRIBUTION SUB-ACCOUNT.

27 A MEMBER'S ROLLOVER CONTRIBUTION SUB-ACCOUNT IS IMMEDIATELY AND AT ALL TIMES  
28 100% VESTED AND NON-FORFEITABLE.

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**SUBTITLE 8. FORFEITURES**

**§ 8-1. FORFEITURE OF NON-VESTED EMPLOYER CONTRIBUTIONS.**

THE EMPLOYER CONTRIBUTION SUB-ACCOUNT OF A MEMBER WHO TERMINATES EMPLOYMENT WITH A PARTICIPATING EMPLOYER BEFORE THAT SUB-ACCOUNT IS VESTED UNDER § 7-2 {"VESTING: EMPLOYER CONTRIBUTION SUB-ACCOUNT"} OF THIS ARTICLE IS FORFEITED AS OF THE DATE OF THE MEMBER'S TERMINATION OF EMPLOYMENT.

**§ 8-2. FORFEITURE ACCOUNT.**

FORFEITURES UNDER THIS SUBTITLE WILL BE HELD IN A SEPARATE FORFEITURE ACCOUNT FOR BOOKKEEPING PURPOSES.

**§ 8-3. RESTORATION.**

(A) *IN GENERAL.*

IF, FOLLOWING FORFEITURE OF A MEMBER'S EMPLOYER CONTRIBUTION SUB-ACCOUNT, THE MEMBER PROVIDES THE BOARD WITH AN SSA DETERMINATION OF DISABILITY UNDER § 9-3 {"DISTRIBUTABLE EVENTS – DISABILITY"} OF THIS ARTICLE, THE EMPLOYER CONTRIBUTION SUB-ACCOUNT WILL BE RESTORED OUT OF THE FORFEITURE ACCOUNT AND DISTRIBUTED, WITHOUT ANY ADJUSTMENT FOR EARNINGS OR LOSSES, TO THE MEMBER.

(B) *EMPLOYER CONTRIBUTION.*

IF THE FORFEITURE ACCOUNT HAS INSUFFICIENT FUNDS TO FULLY RESTORE THE EMPLOYER CONTRIBUTION SUB-ACCOUNT, THE APPROPRIATE EMPLOYER MUST MAKE A CONTRIBUTION IN THE AMOUNT NECESSARY FOR FULL RESTORATION.

**§ 8-4. REMAINING AMOUNTS IN FORFEITURE ACCOUNT.**

(A) *TO DEFRAY REASONABLE PLAN EXPENSES.*

AFTER THE END OF EACH PLAN YEAR, ANY AMOUNT REMAINING IN THE FORFEITURE ACCOUNT AFTER ALL EMPLOYER CONTRIBUTION SUB-ACCOUNTS ARE RESTORED UNDER § 8-3 {"RESTORATION"} OF THIS SUBTITLE WILL BE USED TO DEFRAY REASONABLE PLAN ADMINISTRATIVE EXPENSES.

(B) *REDUCTION OF EMPLOYER CONTRIBUTION.*

ANY AMOUNT REMAINING IN THE FORFEITURE ACCOUNT AFTER ALL REASONABLE PLAN ADMINISTRATIVE EXPENSES ARE DEFRAYED WILL BE USED TO REDUCE THE EMPLOYER CONTRIBUTION REQUIRED UNDER § 5-3 {"EMPLOYER CONTRIBUTIONS"} OF THIS ARTICLE FOR THE PLAN YEAR IN WHICH THE FORFEITURE OCCURRED.

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**SUBTITLE 9. DISTRIBUTIONS**

**§ 9-1. FORM OF PAYMENT.**

DISTRIBUTIONS FROM THE SUPPLEMENTAL SAVINGS PLAN MAY ONLY BE MADE IN 1 LUMP-SUM CASH PAYMENT.

**§ 9-2. DISTRIBUTABLE EVENTS – RETIREMENT.**

A MEMBER WHO TERMINATES EMPLOYMENT ON OR AFTER THE MEMBER’S NORMAL RETIREMENT AGE IS ENTITLED TO RECEIVE, AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE TERMINATION, THE VALUE OF THE MEMBER’S:

- (1) MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT;
- (2) EMPLOYER CONTRIBUTION SUB-ACCOUNT; AND
- (3) IF APPLICABLE, ROLLOVER CONTRIBUTION SUB-ACCOUNT.

**§ 9-3. DISTRIBUTABLE EVENTS – DISABILITY.**

(A) *“SSA DETERMINATION OF DISABILITY” DEFINED.*

“SSA DETERMINATION OF DISABILITY” MEANS A WRITTEN DETERMINATION, MADE BY A SOCIAL SECURITY ADMINISTRATION’S DISABILITY DETERMINATION SERVICE, HEARING OFFICER, OR ADMINISTRATIVE LAW JUDGE, THAT A MEMBER IS DISABLED UNDER THE FEDERAL SOCIAL SECURITY ACT.

(B) *IN GENERAL.*

IF A MEMBER TERMINATES EMPLOYMENT AS A RESULT OF A DISABILITY INCURRED WHILE AN EMPLOYEE, THE MEMBER IS ENTITLED TO RECEIVE:

- (1) THE VALUE OF THE MEMBER’S MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT AND, IF APPLICABLE, ROLLOVER CONTRIBUTION SUB-ACCOUNT, AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE TERMINATION; AND
- (2) THE VALUE OF THE MEMBER’S EMPLOYER CONTRIBUTION SUB-ACCOUNT (DETERMINED AS OF THE DATE OF TERMINATION OF EMPLOYMENT), AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE MEMBER PROVIDES THE BOARD OF TRUSTEES WITH THE SSA DETERMINATION OF DISABILITY REQUIRED BY SUBSECTION (C) OF THIS SECTION.

(C) *SSA DETERMINATION OF DISABILITY.*

- (1) A MEMBER WHO SEEKS TO RECEIVE A DISTRIBUTION OF HIS OR HER EMPLOYER CONTRIBUTION SUB-ACCOUNT AS A RESULT OF A DISABILITY MUST PROVIDE THE BOARD OF TRUSTEES, IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE BOARD, WITH AN SSA DETERMINATION OF DISABILITY NO LATER THAN 36 MONTHS AFTER THE MEMBER’S TERMINATION.

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1 (2) IF A DETERMINATION OF DISABILITY IS NOT PROVIDED BY THAT DEADLINE:

2 (I) THE MEMBER IS NOT ELIGIBLE TO RECEIVE THE DISTRIBUTION AS A RESULT OF A  
3 DISABILITY; BUT

4 (II) THE MEMBER MIGHT STILL BE ELIGIBLE FOR A DISTRIBUTION OF THAT SUB-  
5 ACCOUNT UNDER § 9-2 {"DISTRIBUTABLE EVENTS – RETIREMENT"} OR § 9-5  
6 {"DISTRIBUTABLE EVENTS – OTHER TERMINATION OF EMPLOYMENT"} OF THIS  
7 SUBTITLE.

8 (D) *BOARD’S ADMINISTRATIVE DETERMINATION.*

9 THE FINAL DETERMINATION OF WHETHER A MEMBER IS ELIGIBLE TO RECEIVE A  
10 DISTRIBUTION OF THE MEMBER’S EMPLOYER CONTRIBUTION SUB-ACCOUNT AS A RESULT  
11 OF A DISABILITY:

12 (1) IS MADE BY THE BOARD OF TRUSTEES; AND

13 (2) IS FINAL AND BINDING ON ALL PERSONS, SUBJECT TO THE RIGHTS OF APPEAL AND  
14 REVIEW UNDER § 2-17 {"ADMINISTRATIVE APPEAL"} AND § 2-18 {"JUDICIAL AND  
15 APPELLATE REVIEW"} OF THIS ARTICLE.

16 **§ 9-4. DISTRIBUTABLE EVENTS – DEATH.**

17 (A) *IN GENERAL.*

18 ON THE DEATH OF A MEMBER WHILE AN EMPLOYEE (OR BEFORE RECEIVING A  
19 DISTRIBUTION UNDER § 9-2 {"DISTRIBUTABLE EVENTS – RETIREMENT"}, § 9-3  
20 {"DISTRIBUTABLE EVENTS – DISABILITY"}, OR § 9-5 {"DISTRIBUTABLE EVENTS – OTHER  
21 TERMINATION OF EMPLOYMENT"} OF THIS SUBTITLE), THE MEMBER’S BENEFICIARY IS  
22 ENTITLED TO RECEIVE, AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE BOARD  
23 OF TRUSTEES HAS DETERMINED THAT THE MEMBER HAS DIED, THE VALUE OF THE  
24 MEMBER’S:

25 (1) MANDATORY EMPLOYEE CONTRIBUTION SUB-ACCOUNT;

26 (2) EMPLOYER CONTRIBUTION SUB-ACCOUNT; AND

27 (3) IF APPLICABLE, ROLLOVER CONTRIBUTION SUB-ACCOUNT.

28 (B) *DESIGNATION OF BENEFICIARY.*

29 (1) IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE BOARD, A MEMBER MAY  
30 DESIGNATE A BENEFICIARY TO RECEIVE DEATH BENEFITS FROM THE PLAN.

31  
32 (2) THE DESIGNATION REMAINS IN EFFECT UNTIL THE MEMBER CHANGES IT BY MAKING A  
33 NEW DESIGNATION IN ACCORDANCE WITH THE BOARD’S PROCEDURES. A NEW  
34 DESIGNATION REVOKES ALL PRIOR DESIGNATIONS.

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1 (C) *BENEFICIARY TO ESTABLISH MEMBER'S DEATH.*

2 TO RECEIVE A DEATH BENEFIT UNDER THIS SECTION, THE MEMBER'S BENEFICIARY MUST  
3 ESTABLISH TO THE SATISFACTION OF THE BOARD THAT THE MEMBER HAS DIED.

4 (D) *FAILURE TO DESIGNATE BENEFICIARY.*

5 (1) IF THE BOARD DETERMINES THAT A MEMBER HAS DIED WITHOUT VALIDLY  
6 DESIGNATING A BENEFICIARY OR THAT NO VALIDLY-DESIGNATED BENEFICIARY IS  
7 STILL ALIVE, THE VALUE OF THE MEMBER'S ACCOUNT WILL BE PAID TO:

8 (I) THE MEMBER'S SURVIVING SPOUSE;

9 (II) IF THERE IS NO SURVIVING SPOUSE, TO THE MEMBER'S SURVIVING CHILDREN, IN  
10 EQUAL SHARES;

11 (III) IF THERE ARE NO SURVIVING CHILDREN, TO THE MEMBER'S SURVIVING  
12 PARENTS, IN EQUAL SHARES; AND

13 (IV) IF THERE ARE NO SURVIVING PARENTS, TO THE MEMBER'S ESTATE.

14 (2) IF THE MEMBER'S ESTATE WOULD BE ENTITLED TO RECEIVE THE DEATH BENEFIT  
15 UNDER PARAGRAPH (1) OF THIS SUBSECTION, BUT NO ESTATE IS OPENED WITHIN 1  
16 YEAR OF THE MEMBER'S DEATH, THE AMOUNT OF THE DEATH BENEFIT IS FORFEITED  
17 AND WILL BE APPLIED IN ACCORDANCE WITH SUBTITLE 8 {"FORFEITURES"} OF THIS  
18 ARTICLE.

19 (E) *RESOLUTION OF DISPUTES.*

20 (1) IF ANY QUESTION OR DISPUTE ARISES REGARDING PAYMENT OF A DEATH BENEFIT  
21 UNDER THIS SECTION, THE BOARD MAY:

22 (I) DISTRIBUTE THE DEATH BENEFIT TO THE MEMBER'S ESTATE;

23 (II) RETAIN THE DEATH BENEFIT UNTIL THE BOARD IS SATISFIED THAT THE RIGHT  
24 TO PAYMENT HAS BEEN FINALLY DETERMINED; OR

25 (III) DEPOSIT THE AMOUNT OF THE DEATH BENEFIT INTO ANY COURT OF  
26 COMPETENT JURISDICTION.

27 (2) A DETERMINATION BY THE BOARD UNDER THIS SECTION IS FINAL AND BINDING ON ALL  
28 PERSONS, SUBJECT TO THE RIGHTS OF APPEAL AND REVIEW UNDER § 2-17  
29 {"ADMINISTRATIVE APPEAL"} AND § 2-18 {"JUDICIAL AND APPELLATE REVIEW"} OF  
30 THIS ARTICLE.

31 **§ 9-5. DISTRIBUTABLE EVENTS – OTHER TERMINATION OF EMPLOYMENT.**

32 IF A MEMBER TERMINATES EMPLOYMENT BEFORE THE MEMBER'S NORMAL RETIREMENT AGE  
33 AND NOT AS A RESULT OF DISABILITY OR DEATH, THE MEMBER IS ENTITLED TO RECEIVE THE  
34 FOLLOWING, AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE TERMINATION:



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1 (1) THE VALUE OF THE MEMBER’S MANDATORY EMPLOYEE CONTRIBUTION SUB-  
2 ACCOUNT AND, IF APPLICABLE, ROLLOVER CONTRIBUTION SUB-ACCOUNT; AND

3 (2) IF VESTED UNDER § 7-2 {“VESTING: EMPLOYER CONTRIBUTION SUB-ACCOUNT”} OF  
4 THIS ARTICLE, THE VALUE OF THE MEMBER’S EMPLOYER CONTRIBUTION SUB-  
5 ACCOUNT.

6 **§ 9-6. NO LOANS OR WITHDRAWALS.**

7 NO LOAN AGAINST NOR IN-SERVICE WITHDRAWAL FROM ANY PART OF A MEMBER’S ACCOUNT  
8 IS PERMITTED.

9 **§ 9-7. DIRECT ROLLOVERS.**

10 (A) *DEFINITIONS.*

11 (1) *IN GENERAL.*

12 IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

13 (2) *“DISTRIBUTEE”.*

14 “DISTRIBUTEE” MEANS:

15 (I) AN EMPLOYEE OR FORMER EMPLOYEE;

16 (II) THE EMPLOYEE’S OR FORMER EMPLOYEE’S SPOUSE OR FORMER SPOUSE WHO IS  
17 THE ALTERNATE PAYEE UNDER A QUALIFIED DOMESTIC RELATIONS ORDER, AS  
18 DEFINED IN IRC § 414(P), WITH REGARD TO THE INTEREST OF THE SPOUSE OR  
19 FORMER SPOUSE; OR

20 (III) THE EMPLOYEE’S OR FORMER EMPLOYEE’S NONSPOUSE DESIGNATED  
21 BENEFICIARY, IF THE DIRECT ROLLOVER IS MADE TO AN INDIVIDUAL  
22 RETIREMENT ACCOUNT OR ANNUITY (“IRA”) UNDER IRC § 408(A) OR § 408(B)  
23 THAT:

24 (A) IS ESTABLISHED ON BEHALF OF THE DESIGNATED BENEFICIARY; AND

25 (B) IS TREATED AS AN INHERITED IRA UNDER IRC § 402(C)(11).

26 (3) *“ELIGIBLE RETIREMENT PLAN”.*

27 “ELIGIBLE RETIREMENT PLAN” MEANS ANY OF THE FOLLOWING THAT ACCEPTS A  
28 DISTRIBUTEE’S ELIGIBLE ROLLOVER DISTRIBUTION:

29 (I) AN INDIVIDUAL RETIREMENT ACCOUNT UNDER IRC § 408(A);

30 (II) AN INDIVIDUAL RETIREMENT ANNUITY UNDER IRC § 408(B);

31 (III) A QUALIFIED PLAN UNDER IRC § 401(A);

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1 (IV) AN ANNUITY PLAN UNDER IRC § 403(A);

2 (V) AN ELIGIBLE DEFERRED COMPENSATION PLAN UNDER IRC § 457(B) THAT IS  
3 MAINTAINED BY A STATE, A POLITICAL SUBDIVISION OF A STATE, OR ANY  
4 AGENCY OR INSTRUMENTALITY OF A STATE OR POLITICAL SUBDIVISION OF A  
5 STATE AND THAT AGREES TO SEPARATELY ACCOUNT FOR AMOUNTS  
6 TRANSFERRED FROM THE SUPPLEMENTAL SAVINGS PLAN;

7 (VI) AN ANNUITY CONTRACT DESCRIBED IN IRC § 403(B); AND

8 (VII) A ROTH IRA DESCRIBED IN IRC § 408A.

9 (4) “*ELIGIBLE ROLLOVER DISTRIBUTION*”.

10 (I) *IN GENERAL*.

11 “ELIGIBLE ROLLOVER DISTRIBUTION” MEANS ANY DISTRIBUTION OF ALL OR ANY  
12 PORTION OF THE BALANCE TO THE CREDIT OF THE DISTRIBUTEE.

13 (II) *EXCLUSIONS*.

14 “ELIGIBLE ROLLOVER DISTRIBUTION” DOES NOT INCLUDE:

15 (A) ANY DISTRIBUTION THAT IS ONE OF A SERIES OF SUBSTANTIALLY EQUAL  
16 PERIODIC PAYMENTS (NOT LESS FREQUENTLY THAN ANNUALLY) MADE FOR  
17 THE LIFE (OR LIFE EXPECTANCY) OF THE DISTRIBUTEE OR THE JOINT LIVES  
18 (OR JOINT LIFE EXPECTANCIES) OF THE DISTRIBUTEE AND THE  
19 DISTRIBUTEE’S DESIGNATED BENEFICIARY, OR FOR A SPECIFIED PERIOD OF  
20 10 YEARS OR MORE;

21 (B) ANY DISTRIBUTION TO THE EXTENT THAT IT IS REQUIRED UNDER IRC  
22 § 401(A)(9);

23 (C) ANY DISTRIBUTION THAT IS MADE ON ACCOUNT OF HARDSHIP; AND

24 (D) SUBJECT TO SUBPARAGRAPH (III) OF THIS SUBSECTION (A)(4), THE PORTION  
25 OF ANY DISTRIBUTION THAT IS NOT INCLUDIBLE IN GROSS INCOME.

26 (III) *QUALIFICATIONS FOR EXCLUSION UNDER SUBPARAGRAPH (II)(D)*.

27 (A) NOTWITHSTANDING SUBPARAGRAPH (II)(D) OF THIS SUBSECTION (A)(4), A  
28 PORTION OF A DISTRIBUTION DOES NOT FAIL TO BE AN “ELIGIBLE ROLLOVER  
29 DISTRIBUTION” MERELY BECAUSE THE PORTION CONSISTS OF AFTER-TAX  
30 EMPLOYEE CONTRIBUTIONS THAT ARE NOT INCLUDIBLE IN GROSS INCOME.

31 (B) SUB-SUBPARAGRAPH (A) OF THIS SUBSECTION (A)(4)(III) APPLIES ONLY IF THE  
32 PORTION IS TRANSFERRED TO:

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- 1 1. A TRADITIONAL INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY  
2 UNDER IRC § 408(A) OR § 408(B) OR A ROTH INDIVIDUAL RETIREMENT  
3 ACCOUNT OR ANNUITY UNDER IRC § 408A; OR
- 4 2. A QUALIFIED PLAN UNDER IRC § 401(A) OR § 403(A) OR AN ANNUITY  
5 CONTRACT UNDER IRC § 403(B), IF THE PLAN OR CONTRACT PROVIDES  
6 FOR:
  - 7 A. SEPARATE ACCOUNTS FOR AMOUNTS SO TRANSFERRED  
8 (INCLUDING EARNINGS ON THE TRANSFERRED AMOUNTS); AND
  - 9 B. SEPARATE ACCOUNTING FOR THE PORTION OF THE  
10 DISTRIBUTION THAT IS INCLUDIBLE IN GROSS INCOME AND THE  
11 PORTION OF THE DISTRIBUTION THAT IS NOT SO INCLUDIBLE.

12 (B) *DIRECT ROLLOVERS.*

13 NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE THAT WOULD OTHERWISE LIMIT A  
14 DISTRIBUTEES ELECTION UNDER THIS SECTION, A DISTRIBUTEE MAY ELECT, AT THE TIME  
15 AND IN THE MANNER DIRECTED BY THE BOARD OF TRUSTEES, TO HAVE ANY PORTION OF  
16 AN ELIGIBLE ROLLOVER DISTRIBUTION PAID DIRECTLY TO AN ELIGIBLE RETIREMENT PLAN  
17 SPECIFIED BY THE DISTRIBUTEE IN A DIRECT ROLLOVER.

18 **§ 9-8. MINIMUM DISTRIBUTION RULES.**

19 (A) *REASONABLE GOOD FAITH COMPLIANCE.*

20 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, DISTRIBUTIONS UNDER THIS  
21 ARTICLE MUST BE MADE IN ACCORDANCE WITH A REASONABLE GOOD FAITH  
22 INTERPRETATION OF IRC § 401(A)(9), AS APPLICABLE TO THE SUPPLEMENTAL SAVINGS  
23 PLAN.

24 (B) *TIME AND MANNER OF DISTRIBUTION.*

25 (1) *REQUIRED {LATEST} BEGINNING DATE.*

26 THE MEMBER'S ENTIRE INTEREST MUST BE DISTRIBUTED TO THE MEMBER NO LATER  
27 THAN THE APRIL 1 OF THE CALENDAR YEAR FOLLOWING THE LATER OF:

- 28 (I) THE CALENDAR YEAR IN WHICH THE MEMBER ATTAINS AGE 70½; OR
- 29 (II) THE CALENDAR YEAR IN WHICH THE MEMBER TERMINATES EMPLOYMENT WITH  
30 A PARTICIPATING EMPLOYER.

31 (2) *DEATH OF MEMBER BEFORE DISTRIBUTION.*

32 IF THE MEMBER DIES BEFORE DISTRIBUTION IS MADE, THE MEMBER'S ENTIRE INTEREST  
33 MUST BE DISTRIBUTED NO LATER THAN DECEMBER 31 OF THE CALENDAR YEAR IN  
34 WHICH THE 5<sup>TH</sup> ANNIVERSARY OF THE MEMBER'S DEATH OCCURS.

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**SUBTITLE 10. ANTI-ALIENATION PROVISIONS**

**§ 10-1. PROHIBITED ASSIGNMENTS, ATTACHMENTS, ETC.**

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN §§ 10-3 {"EXCEPTIONS – GENERAL APPLICABILITY"} THROUGH 10-10 {"EXCEPTIONS – FUNERAL EXPENSES"} OF THIS SUBTITLE:

(1) ALL CURRENT AND FUTURE BENEFITS PROVIDED UNDER THE SUPPLEMENTAL SAVINGS PLAN AND ALL AMOUNTS THAT HAVE BEEN CREDITED TO A MEMBER’S ACCOUNT ARE UNASSIGNABLE; AND

(2) NO PERSON MAY ATTACH, EXECUTE, GARNISH, OR OTHERWISE SEIZE ANY CURRENT OR FUTURE BENEFIT PROVIDED UNDER THE SUPPLEMENTAL SAVINGS PLAN OR ANY AMOUNT THAT HAS BEEN CREDITED TO A MEMBER’S ACCOUNT.

**§ 10-2. {RESERVED}**

**§ 10-3. EXCEPTIONS – GENERAL APPLICABILITY.**

SUBJECT TO THE REQUIREMENTS OF § 10-12 {"EXCEPTIONS – NOTICE TO BOARD"} OF THIS SUBTITLE, THE EXCEPTIONS PROVIDED IN §§ 10-4 {"EXCEPTIONS – COURT ORDERS"} THROUGH 10-10 {"EXCEPTIONS – FUNERAL EXPENSES"} APPLY NOTWITHSTANDING § 10-1 {"PROHIBITED ASSIGNMENTS, ATTACHMENTS, ETC."} OF THIS SUBTITLE.

**§ 10-4. EXCEPTIONS – COURT ORDERS.**

(S) *IN GENERAL.*

ALL OR ANY PORTION OF A MEMBER’S VESTED ACCOUNT MAY BE ASSIGNED PURSUANT TO:

(1) A DECREE OR ORDER OF ALIMONY OR CHILD SUPPORT ISSUED BY A COURT OF COMPETENT JURISDICTION;

(2) A COURT ORDER ISSUED BY A COURT OF COMPETENT JURISDICTION APPOINTING THE ASSIGNEE AS GUARDIAN OVER THE PROPERTY OF THE MEMBER; OR

(3) A DOMESTIC RELATIONS ORDER, AS DEFINED IN SUBSECTION (B) OF THIS SECTION.

(B) *DOMESTIC RELATIONS ORDERS.*

(1) *"DOMESTIC RELATIONS ORDER" DEFINED.*

IN THIS SECTION, "DOMESTIC RELATIONS ORDER" MEANS EITHER OF THE FOLLOWING THAT SATISFIES THE CONDITIONS OF PARAGRAPH (2) OF THIS SUBSECTION:

(I) A MEMBER’S COURT-APPROVED PROPERTY SETTLEMENT AGREEMENT INCIDENT TO A DIVORCE DECREE; OR

(II) A DIVISION OF MARITAL PROPERTY PURSUANT TO A COURT ORDER THAT:

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1 (A) CREATES THE RIGHT OR RECOGNIZES THE EXISTENCE OF THE RIGHT OF  
2 AN ALTERNATE PAYEE (AS DEFINED IN IRC § 414(P)(8)) TO RECEIVE  
3 ALL OR A PORTION OF A MEMBER’S BENEFIT UNDER THE  
4 SUPPLEMENTAL SAVINGS PLAN; OR

5 (B) ASSIGNS TO AN ALTERNATE PAYEE THE RIGHT TO RECEIVE ALL OR A  
6 PORTION OF A MEMBER’S BENEFIT UNDER THE PLAN.

7 (2) *CONDITIONS OF AGREEMENT OR ORDER.*

8 THE PROPERTY SETTLEMENT AGREEMENT OR COURT ORDER:

9 (I) MAY NOT REQUIRE THE PLAN TO MAKE ANY DISTRIBUTION TO THE ALTERNATE  
10 PAYEE IN A FORM OF PAYMENT OTHER THAN AS REQUIRED BY § 9-1 {“FORM OF  
11 PAYMENT”} OF THIS ARTICLE;

12 (II) MAY NOT REQUIRE THE PLAN TO PROVIDE TO THE ALTERNATE PAYEE  
13 AN AMOUNT GREATER THAN THE VALUE OF THE MEMBER’S VESTED ACCOUNT;

14 (III) MAY NOT REQUIRE THE PAYMENT OF BENEFITS TO AN ALTERNATE PAYEE IF  
15 THE BENEFITS ARE REQUIRED TO BE PAID TO ANOTHER ALTERNATE PAYEE  
16 UNDER ANOTHER ORDER PREVIOUSLY ACCEPTED AS A DOMESTIC RELATIONS  
17 ORDER;

18 (IV) MUST CLEARLY SPECIFY THE PERCENTAGE OR AMOUNT OF THE MEMBER’S  
19 VESTED ACCOUNT TO BE DISTRIBUTED TO THE ALTERNATE PAYEE OR THE  
20 MANNER IN WHICH THE PERCENTAGE OR AMOUNT IS TO BE DETERMINED; AND

21 (V) MUST CLEARLY SPECIFY (OR, TO PROTECT THE PARTIES’ PRIVACY, REQUIRE  
22 SUBMISSION BY SEPARATE WRITING OF) THE NAME, SOCIAL SECURITY  
23 NUMBER, BIRTH DATE, AND LAST KNOWN MAILING ADDRESS OF THE MEMBER  
24 AND THE ALTERNATE PAYEE.

25 (3) *IMPLEMENTATION OF AGREEMENT OR ORDER.*

26 FOLLOWING A DETERMINATION BY THE BOARD OF TRUSTEES THAT A PROPERTY  
27 SETTLEMENT AGREEMENT OR COURT ORDER IS A DOMESTIC RELATIONS ORDER:

28 (I) A SEPARATE ACCOUNT MUST BE ESTABLISHED AND MAINTAINED ON BEHALF OF  
29 THE ALTERNATE PAYEE;

30 (II) THE ALTERNATE PAYEE MUST BE AFFORDED THE SAME RIGHTS WITH RESPECT  
31 TO THE ACCOUNT AS A MEMBER HAS UNDER THIS ARTICLE, INCLUDING THE  
32 RIGHT TO MAKE AN INVESTMENT ELECTION UNDER § 6-2 {“INVESTMENTS”} OF  
33 THIS ARTICLE; AND

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1 (III) DISTRIBUTIONS TO THE ALTERNATE PAYEE MUST BE MADE AT THE TIME  
2 SPECIFIED IN THE DOMESTIC RELATIONS ORDER, WHICH MAY BE BEFORE THE  
3 MEMBER (TO WHOM THE DOMESTIC RELATIONS ORDER RELATES) HAS A  
4 DISTRIBUTABLE EVENT UNDER SUBTITLE 9 {"DISTRIBUTIONS"} OF THIS  
5 ARTICLE.

6 **§ 10-5. EXCEPTIONS – TAX LIENS.**

7 ALL OR ANY PORTION OF A MEMBER’S VESTED ACCOUNT MAY BE PAID IN SATISFACTION OF A  
8 FEDERAL OR STATE TAX LIEN.

9 **§ 10-6. EXCEPTIONS – POWERS OF ATTORNEY.**

10 THE AMOUNT OTHERWISE DUE A MEMBER OR BENEFICIARY MAY BE PAID TO THE MEMBER’S OR  
11 BENEFICIARY’S ATTORNEY-IN-FACT, AS AGENT OF THE MEMBER OR BENEFICIARY, IF THE  
12 MEMBER OR BENEFICIARY HAS PROPERLY DESIGNATED THE ATTORNEY-IN-FACT TO ACT AS  
13 AGENT UNDER A DULY-EXECUTED DURABLE POWER OF ATTORNEY.

14 **§ 10-7. EXCEPTIONS – CUSTODIAN UNDER UNIFORM TRANSFERS TO MINORS ACT.**

15 THE AMOUNT OTHERWISE DUE A MINOR BENEFICIARY MAY BE PAID TO A CUSTODIAN VALIDLY  
16 APPOINTED FOR THE MINOR UNDER THE MARYLAND UNIFORM TRANSFERS TO MINORS ACT  
17 (STATE ESTATES AND TRUSTS ARTICLE, TITLE 13, SUBTITLE 3) OR SIMILAR PROVISIONS OF  
18 ANOTHER JURISDICTION.

19 **§ 10-8. EXCEPTIONS – TRUSTEE.**

20 THE AMOUNT OTHERWISE DUE A MEMBER OR BENEFICIARY MAY BE PAID TO THE MEMBER’S OR  
21 BENEFICIARY’S TRUSTEE, IF THE TRUSTEE WAS DESIGNATED TRUSTEE OF THE MEMBER OR  
22 BENEFICIARY UNDER AN ENFORCEABLE *INTER VIVOS* OR TESTAMENTARY TRUST AGREEMENT.

23 **§ 10-9. EXCEPTIONS – REPRESENTATIVE PAYEE.**

24 THE AMOUNT OTHERWISE DUE A MEMBER OR BENEFICIARY MAY BE PAID TO THE MEMBER’S OR  
25 BENEFICIARY’S SOCIAL SECURITY “REPRESENTATIVE PAYEE” PURSUANT TO THE SOCIAL  
26 SECURITY ACT, 42 U.S.C. § 405(J).

27 **§ 10-10. E XCEPTIONS – FUNERAL EXPENSES.**

28 ALL OR ANY PORTION OF A MEMBER’S VESTED ACCOUNT THAT IS PAYABLE ON ACCOUNT OF A  
29 MEMBER’S DEATH MAY BE PAID TO A FUNERAL ESTABLISHMENT PROVIDING FUNERAL  
30 SERVICES TO THE DECEASED MEMBER, IF THE MEMBER’S BENEFICIARY FILES WITH THE BOARD  
31 OF TRUSTEES, IN THE FORM REQUIRED BY THE BOARD, THE BENEFICIARY’S CONSENT TO THAT  
32 PAYMENT.

33 **§ 10-11. {RESERVED}**

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1 **§ 10-12. EXCEPTIONS – NOTICE TO BOARD.**

2 AN ASSIGNMENT UNDER §§ 10-4 {“EXCEPTIONS – COURT ORDERS”} THROUGH 10-10  
3 {“EXCEPTIONS – FUNERAL EXPENSES”} OF THIS SUBTITLE MAY BE MADE ONLY AFTER THE  
4 BOARD OF TRUSTEES RECEIVES:

5 (1) A COPY, AS APPROPRIATE, OF THE COURT ORDER OR DECREE, NOTICE OF TAX LIEN,  
6 POWER OF ATTORNEY, CUSTODIAL DESIGNATION, TRUST DOCUMENT, CERTIFICATION  
7 OF REPRESENTATIVE PAYEE, OR CONSENT TO ASSIGNMENT TO FUNERAL  
8 ESTABLISHMENT; AND

9 (2) ANY ADDITIONAL DOCUMENTS OR INFORMATION THAT THE BOARD REQUIRES.

10 **§ 10-13. {RESERVED}**

11 **§ 10-14. FRAUD OR MISUSE.**

12 IF THE BOARD, THE SOCIAL SECURITY ADMINISTRATION, OR A COURT OF COMPETENT  
13 JURISDICTION DETERMINES THAT ANY AMOUNT PAID UNDER §§ 10-4 {“EXCEPTIONS – COURT  
14 ORDERS”} THROUGH 10-10 {“EXCEPTIONS – FUNERAL EXPENSES”} OF THIS SUBTITLE WAS  
15 OBTAINED BY FRAUD OR MISUSED, THE BOARD MUST TAKE ALL NECESSARY STEPS TO  
16 RECOVER THAT AMOUNT.

17 **SUBTITLE 11. PLAN MODIFICATIONS**

18 **§ 11-1. PLAN AMENDMENT.**

19 (A) *IN GENERAL.*

20 SUBJECT TO THE LIMITATIONS OF SUBSECTION (B) OF THIS SECTION, THE MAYOR AND CITY  
21 COUNCIL OF BALTIMORE RESERVES THE RIGHT, AT ANY TIME BY ORDINANCE, TO AMEND  
22 ANY PROVISION OF THIS ARTICLE.

23 (B) *LIMITATIONS.*

24 NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, NO AMENDMENT MAY CAUSE ANY  
25 VESTED CONTRIBUTIONS MADE BEFORE THE AMENDMENT’S EFFECTIVE DATE TO BECOME  
26 FORFEITABLE.

27 **§ 11-2. DISCONTINUANCE OF PAYMENTS; PLAN TERMINATION.**

28 (A) *IN GENERAL.*

29 THE MAYOR AND CITY COUNCIL OF BALTIMORE RESERVES THE RIGHT, AT ANY TIME BY  
30 ORDINANCE, TO PERMANENTLY DISCONTINUE CONTRIBUTIONS TO THE PLAN OR TO  
31 TERMINATE THE PLAN.

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### (B) *EFFECT OF DISCONTINUANCE OR TERMINATION.*

ON THE EFFECTIVE DATE OF A PERMANENT DISCONTINUANCE OF CONTRIBUTIONS OR A PLAN TERMINATION, AND NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE:

(1) NO PERSON WHO IS NOT ALREADY A MEMBER MAY BECOME A MEMBER;

(2) NO FURTHER CONTRIBUTIONS MAY BE MADE TO THE PLAN; AND

(3) THE EMPLOYER CONTRIBUTION SUB-ACCOUNT OF ANY MEMBER THAT IS NOT ALREADY 100% VESTED AND NON-FORFEITABLE BECOMES 100% VESTED AND NON-FORFEITABLE.

### (C) *DISTRIBUTION OF ACCOUNTS.*

AS SOON AS ADMINISTRATIVELY PRACTICABLE AFTER THE EFFECTIVE DATE OF A PERMANENT DISCONTINUANCE OF CONTRIBUTIONS OR A PLAN TERMINATION, THE VALUE OF EACH MEMBER'S ACCOUNT MUST BE PAID TO THE MEMBER IN 1 LUMP-SUM CASH PAYMENT.

## **§ 11-3. PLAN MERGER, CONSOLIDATION, OR TRANSFER.**

IN THE CASE OF A MERGER OR CONSOLIDATION OF THE SUPPLEMENTAL SAVINGS PLAN WITH, OR A TRANSFER OF PLAN ASSETS OR LIABILITIES TO, ANY OTHER PLAN, EACH MEMBER OF THE SUPPLEMENTAL SAVINGS PLAN IS ENTITLED TO RECEIVE, IMMEDIATELY AFTER THE MERGER, CONSOLIDATION, OR TRANSFER (AS IF THE OTHER PLAN HAD THEN TERMINATED), A BENEFIT THAT IS EQUAL TO OR GREATER THAN THE BENEFIT THE MEMBER WOULD HAVE BEEN ENTITLED TO RECEIVE IMMEDIATELY BEFORE THE MERGER, CONSOLIDATION, OR TRANSFER (AS IF THE SUPPLEMENTAL SAVINGS PLAN HAD THEN TERMINATED).

## **Article 22 - Retirements Systems**

### **Subtitle – Employees' Retirement System**

#### **§ 1. Definitions; LIMIT PENSIONABLE PAY FOR NEW MEMBERS.**

(11) Average final compensation:

(ii) For any member who is an employee on or after January 1, 1994, BUT BEFORE JANUARY 1, 2014, "average final compensation" means the average of the member's annual earnable compensation on January 1 for 3 successive years of service when the member's earnable compensation is the highest.

(iii) FOR ANY MEMBER HIRED ON OR AFTER JANUARY 1, 2014, "AVERAGE FINAL COMPENSATION" MEANS THE AVERAGE OF THE MEMBER'S ANNUAL EARNABLE COMPENSATION, WHICH SHALL NOT EXCEED \$40,000 IN CALENDAR YEAR 2014, INDEXED TO CPI-U IN YEARS FOLLOWING 2014, AS DEFINED IN 17.1 (D)(1), ON JANUARY 1 FOR 3 SUCCESSIVE YEARS OF SERVICE WHEN THE MEMBER'S EARNABLE COMPENSATION IS HIGHEST.



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**§ 2. Name and date operative; NEW MEMBERS CUTOFF.**

(A) *NAME AND DATE OPERATIVE.*

(1) A retirement system is hereby established and placed under the management of the Board of Trustees for the purpose of providing retirement allowances, pensions, and other incidental benefits under the provisions of this subtitle for employees of the City of Baltimore who become members of this retirement system.

(2) [It] THIS SYSTEM shall be known as the “Employees’ Retirement System of the City of Baltimore”.

(3) The [Retirement System] SYSTEM so created [shall begin] BEGAN operation as of January 1, 1926.

**§ 5. Administration; Board of Trustees.**

(b) *Members.*

(5) (ii) In addition to the standards and requirements contained in the Baltimore City Public Ethics Law, Trustees and Board employees may not engage in any of the following activities or hold any of the following interests, as these activities or interests are defined in the Baltimore City Public Ethics Law[:].

1. No Trustee or Board employee may do business with any system, plan, or trust administered by [the City’s Deferred Compensation Plan, by the Board of Trustees of this System, by] ANY OF THE FOLLOWING (COLLECTIVELY, THE “CITY BENEFIT PLANS”):

A. the Board of Trustees of the Employees’ Retirement System OF THE CITY OF BALTIMORE[,]; [or by]

B. the Board of Trustees of the [City’s] Fire and Police Employees’ Retirement System OF THE CITY OF BALTIMORE;

C. THE BOARD OF TRUSTEES OF THE ELECTED OFFICIALS’ RETIREMENT SYSTEM OF THE CITY OF BALTIMORE;

D. THE BOARD OF TRUSTEES OF THE SUPPLEMENTAL SAVINGS PLAN OF THE CITY OF BALTIMORE; AND

E. THE COMMITTEE OF THE CITY OF BALTIMORE DEFERRED COMPENSATION PLAN.

[(collectively, the “City Benefit Plans”).]

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**§ 8. Method of financing; NEW MEMBERS CONTRIBUTE 5% OF PAY UPON HIRE.**

(d) *Member contributions.*

(1) (i) Subject to subparagraph (ii) of this paragraph (1), and notwithstanding any other provision of this subtitle, effective with the 1<sup>st</sup> full payroll period that begins after the applicable effective date shown below, each Class C member HIRED BEFORE JANUARY 1, 2014, shall contribute the percentage of his or her earnable compensation (as defined in § 1(11) of this subtitle) that corresponds to the effective date, these contributions to continue throughout the member's remaining period of service:

<i>Effective date</i>	<i>Percentage of earnable compensation</i>
July 1, 2013	1%
July 1, 2014	2%
July 1, 2015	3%
July 1, 2016	4%
July 1, 2017	5%

(1A) CLASS C MEMBERS HIRED ON OR AFTER JANUARY 1, 2014, SHALL CONTRIBUTE 5% OF HIS OR HER EARNABLE COMPENSATION, LIMITED TO THE FIRST \$40,000 IN CALENDAR YEAR 2014 AND INDEXED TO CPI-U IN THE YEARS FOLLOWING, AS DEFINED IN 17.1 (d)(1). FOR MEMBERS WHOSE EARNABLE COMPENSATION EXCEEDS THE \$40,000 INDEXED COMPENSATION CAP, THE BOARD SHALL DETERMINE MEMBER CONTRIBUTIONS THAT ARE EQUAL DURING ALL PAYROLL PERIODS THROUGHOUT THE YEAR AND THAT EQUATE TO 5% OF PENSIONABLE COMPENSATION.

**§ 9. Class C membership.**

(a) *Class C membership.*

Beginning July 1, 1979, there is a new class of members in the Retirement System, to be known as Class C members and defined as follows:

(1a) A Class C member may not make contributions to, receive any pension or retirement allowance from, or accrue any service credit in any other pension or retirement system of the City of Baltimore, WITH THE EXCEPTION OF THE SUPPLEMENTAL SAVINGS PLAN OF THE CITY OF BALTIMORE, while at the same time accruing service credit in this system.

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**Subtitle – Fire and Police Employees’ Retirement System**

**§ 33. Administration.**

(b) *Members.*

(9) (ii) In addition to the standards and requirements contained in the Baltimore City Public Ethics Law, Trustees and Board employees may not engage in any of the following activities or hold any of the following interests, as these activities or interests are defined in the Baltimore City Public Ethics Law[:].

1. No Trustee or Board employee may do business with any system, plan, or trust administered by [the City’s Deferred Compensation Plan, by the Board of Trustees of this System, by] ANY OF THE FOLLOWING (COLLECTIVELY, THE “CITY BENEFIT PLANS”):

A. the Board of Trustees of the [City’s] Employees’ Retirement System OF THE CITY OF BALTIMORE[,]; [or by]

B. THE BOARD OF TRUSTEES OF THE FIRE AND POLICE EMPLOYEES’ RETIREMENT SYSTEM OF THE CITY OF BALTIMORE;

C. the Board of Trustees of the Elected Officials’ Retirement System of the City of Baltimore;

D. THE BOARD OF TRUSTEES OF THE SUPPLEMENTAL SAVINGS PLAN OF THE CITY OF BALTIMORE; AND

E. THE COMMITTEE OF THE CITY OF BALTIMORE DEFERRED COMPENSATION PLAN.

[(collectively, the “City Benefit Plans”).]

**SECTION 2. AND BE IT FURTHER ORDAINED,** That the initial Plan Year under this Ordinance is the 6-month period commencing on January 1, 2014 and ending on June 30, 2014, both dates inclusive.

**SECTION 3. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance are not law and may not be considered to have been enacted as a part of this or any prior Ordinance.

**SECTION 4. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30<sup>th</sup> day after the date it is enacted.