

**CITY OF BALTIMORE
COUNCIL BILL 12-0088
(First Reader)**

Introduced by: The Council President

At the request of: The Administration (Retirement Systems)

Introduced and read first time: June 4, 2012

Assigned to: Taxation, Finance and Economic Development Committee

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Employees' Retirement System, Fire and Police Employees' Retirement System, Department of Finance, Labor Commissioner

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Employees', Elected Officials', and Fire and Police Employees' Retirement Systems –**
3 **Technical Revisions**

4 FOR the purpose of providing that the Employees', Elected Officials', and Fire and Police
5 Employees' Retirement Systems need comply only with a "reasonable good faith
6 interpretation" of Internal Revenue Code § 401(a)(9); expanding the vehicles into which
7 eligible distributions from these Systems can be rolled over, to include qualified defined
8 benefit plans, § 403(b) tax-deferred annuity plans, certain § 457(b) plans, and Roth IRAs;
9 permitting non-spouse beneficiaries of Systems members to make rollovers; removing a
10 restriction on rollovers by surviving spouses of members of the Employees' and Elected
11 Officials' Systems; clarifying the availability of the non-line-of-duty death benefit for
12 members of the Fire and Police Employees' System who are on military service; applying
13 cost-of-living adjustments to increase the \$160,000 limit on annual Fire and Police
14 Employees' Retirement System benefits under § 415 of the Internal Revenue Code and
15 applying those cost-of-living adjustments to retired members of the Fire and Police
16 Employees' Retirement System; conforming certain provisions to the Internal Revenue Code;
17 correcting, clarifying, and conforming related provisions; providing for a special effective
18 date; and generally relating to the Employees', Elected Officials', and Fire and Police
19 Employees' Retirement Systems of the City of Baltimore.

20 BY repealing and reordaining, with amendments

21 Article 22 - Retirement Systems
22 Section(s) 9(r) and (t)(1), 22(m) and (o)(1), and
23 34(h)(1), (t), (u)(1), (u)(3), and (w)(1)
24 Baltimore City Code
25 (Edition 2000)

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

28 **Baltimore City Code**

29 **Article 22. Retirement Systems**

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

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Subtitle – Employees’ Retirement System

§ 9. Class C membership.

(r) Compliance with Internal Revenue Code § 401(a)(9).

(1) Distributions under this subtitle shall be made in accordance with [the regulations adopted under] A REASONABLE GOOD FAITH INTERPRETATION OF Internal Revenue Code § 401(a)(9), as applicable to this [system] SYSTEM [, including Regulation § 1.401(a)(9)-2, which regulations override any distribution options in this subtitle to the extent of any inconsistency]. This subsection is intended to comply with [the requirements] A REASONABLE GOOD FAITH INTERPRETATION of Internal Revenue Code § 401(a)(9) to the extent applicable to this [system] SYSTEM, and [shall] MAY not be interpreted to impose any requirements on this [system] SYSTEM or on any member or beneficiary OF THIS SYSTEM beyond those required to comply with A REASONABLE GOOD FAITH INTERPRETATION OF § 401(a)(9). This subsection only specifies the latest permissible time by which distributions must begin and the longest permissible period over which distributions may be made, and in no way precludes any earlier commencement or more rapid distribution provided for in this subtitle.

(2) Distribution of a member’s retirement benefit shall begin no later than the April 1 following the calendar year during which the member both has reached age 70½ and has terminated employment with the City. Distribution shall be made over a period not extending beyond the life of the member or the joint lives of the member and his or her beneficiary.

(3) If a member dies before distribution of his or her retirement benefit begins, the member’s entire benefit shall be distributed within 5 years after death. This requirement is deemed satisfied by any distribution of the member’s benefit payable to his or her DESIGNATED beneficiary over a period not extending beyond the life or life expectancy of the beneficiary, as long as those distributions begin no later than December 31 of the calendar year following the calendar year of the member’s death. However, if the DESIGNATED beneficiary is the member’s surviving spouse, the date on which the distributions are required to begin is December 31 of the calendar year in which the member would have attained age 70½. This paragraph (3) does not apply if distribution of the member’s benefit began before his or her death and the remaining portion of the member’s benefit is distributed at least as rapidly as under the method of distribution being used at the date of the member’s death. Any amount paid to a child is treated as if it HAD BEEN PAID TO A SURVIVING SPOUSE IF THAT AMOUNT is paid to the surviving spouse when that child reaches the age of majority.

(t) Eligible rollover distribution.

(1) Definitions.

(A) In this subsection, the following terms have the meanings indicated:

(B) (i) “Eligible rollover distribution” means any distribution of all or any portion of the balance to the credit of the distributee.

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1 (ii) “Eligible rollover distribution” does not include:

- 2 1. any distribution that is one of a series of substantially equal periodic
3 payments (not less frequently than annually) made for the life (or life
4 expectancy) of the distributee or the joint lives (or joint life
5 expectancies) of the distributee and the distributee’s designated
6 beneficiary, or for a specified period of 10 years or more;
- 7 2. any distribution to the extent that it is required under Internal Revenue
8 Code § 401(a)(9); and
- 9 3. the portion of any distribution that is not includible in gross income,
10 determined without regard to the exclusion for net unrealized
11 appreciation with respect to employer securities.

12 (iii) 1. A PORTION OF A DISTRIBUTION DOES NOT FAIL TO BE AN “ELIGIBLE
13 ROLLOVER DISTRIBUTION” MERELY BECAUSE THE PORTION CONSISTS OF
14 AFTER-TAX EMPLOYEE CONTRIBUTIONS THAT ARE NOT INCLUDIBLE IN
15 GROSS INCOME.

16 2. HOWEVER, THE PORTION MAY BE TRANSFERRED ONLY TO:

- 17 I. AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN
18 INTERNAL REVENUE CODE § 408(A) OR (B);
- 19 II. FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2001, AND
20 BEFORE JANUARY 1, 2007, TO A QUALIFIED TRUST THAT IS PART OF
21 A DEFINED CONTRIBUTION PLAN THAT AGREES TO SEPARATELY
22 ACCOUNT FOR AMOUNTS SO TRANSFERRED, INCLUDING
23 SEPARATELY ACCOUNTING FOR THE PORTION OF THE DISTRIBUTION
24 THAT IS INCLUDIBLE IN GROSS INCOME AND THE PORTION OF THE
25 DISTRIBUTION THAT IS NOT SO INCLUDIBLE; OR
- 26 III. FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006, TO A
27 QUALIFIED TRUST OR TO AN ANNUITY CONTRACT DESCRIBED IN
28 INTERNAL REVENUE CODE § 403(B), IF THE TRUST OR CONTRACT
29 PROVIDES FOR SEPARATE ACCOUNTING FOR AMOUNTS SO
30 TRANSFERRED (INCLUDING INTEREST ON THOSE AMOUNTS),
31 INCLUDING SEPARATELY ACCOUNTING FOR THE PORTION OF THE
32 DISTRIBUTION THAT IS INCLUDIBLE IN GROSS INCOME AND THE
33 PORTION OF THE DISTRIBUTION THAT IS NOT SO INCLUDIBLE.

34 (C) [(i)] “Eligible retirement plan” means any of the following that accepts the
35 distributee’s eligible rollover distribution:

- 36 (I) [1.] an individual retirement account described in Internal Revenue Code
37 § 408(a);
- 38 (II) [2.] an individual retirement annuity described in Internal Revenue Code
39 § 408(b);

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- 1 (III) [3.] an annuity plan described in Internal Revenue Code § 403(a); [or]
- 2 (IV) [4.] a qualified trust described in Internal Revenue Code § 401(a);
- 3 (V) AN ANNUITY CONTRACT DESCRIBED IN INTERNAL REVENUE CODE § 403(B);
- 4 (VI) AN ELIGIBLE PLAN DESCRIBED IN INTERNAL REVENUE CODE § 457(B), IF IT
- 5 IS MAINTAINED BY A STATE, POLITICAL SUBDIVISION OF A STATE, OR ANY
- 6 AGENCY OR INSTRUMENTALITY OF A STATE OR POLITICAL SUBDIVISION OF
- 7 A STATE AND IT AGREES TO SEPARATELY ACCOUNT FOR AMOUNTS
- 8 TRANSFERRED INTO THAT PLAN FROM THIS SYSTEM; OR
- 9 (VII) FOR DISTRIBUTIONS MADE ON OR AFTER JANUARY 1, 2008, A ROTH IRA
- 10 DESCRIBED IN INTERNAL REVENUE CODE § 408A, SUBJECT TO THE
- 11 RESTRICTIONS THAT APPLY TO ROLLOVERS TO A ROTH IRA.

12 [(ii) However, in the case of an eligible rollover distribution to the surviving
 13 spouse, an eligible retirement plan is an individual retirement account or
 14 individual retirement annuity.]

15 (D) (i) “Distributee” means an employee or former employee.

16 (ii) In addition, the employee’s or former employee’s surviving spouse and the
 17 employee’s or former employee’s spouse or former spouse who is the alternate
 18 payee under a qualified domestic relations order, as defined in Internal
 19 Revenue Code § 414(p), are “distributees” with regard to the interest of the
 20 spouse or former spouse.

21 (III) EFFECTIVE JULY 1, 2010, A “DISTRIBUTE” ALSO INCLUDES THE EMPLOYEE’S
 22 OR FORMER EMPLOYEE’S NONSPOUSE DESIGNATED BENEFICIARY. IN THE CASE
 23 OF A NONSPOUSE BENEFICIARY, THE DIRECT ROLLOVER MAY BE MADE ONLY TO
 24 AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN INTERNAL
 25 REVENUE CODE § 408(A) OR (B) (“IRA”) THAT IS ESTABLISHED ON BEHALF OF
 26 THE DESIGNATED BENEFICIARY AND THAT WILL BE TREATED AS AN INHERITED
 27 IRA UNDER § 402(C)(11).

28 (E) “Direct rollover” means a payment under this subtitle to the eligible retirement
 29 plan specified by the distributee.

30 **Subtitle – Elected Officials’ Retirement System**

31 **§ 22. Benefits.**

32 (m) *Compliance with Internal Revenue Code § 401(a)(9).*

33 (1) Distributions under this subtitle shall be made in accordance with [the regulations
 34 adopted under] A REASONABLE GOOD FAITH INTERPRETATION OF Internal Revenue
 35 Code § 401(a)(9), as applicable to this [system] SYSTEM[, including Regulation
 36 § 1.401(a)(9)-2, which regulations override any distribution options in this subtitle to
 37 the extent of any inconsistency]. This subsection is intended to comply with [the

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1 requirements] A REASONABLE GOOD FAITH INTERPRETATION of Internal Revenue
2 Code § 401(a)(9) to the extent applicable to this [system] SYSTEM, and [shall] MAY
3 not be interpreted to impose any requirements on this [system] SYSTEM or on any
4 member or beneficiary OF THIS SYSTEM beyond those required to comply with A
5 REASONABLE GOOD FAITH INTERPRETATION OF § 401(a)(9). This subsection only
6 specifies the latest permissible time by which distributions must begin and the longest
7 permissible period over which distributions may be made, and in no way precludes
8 any earlier commencement or more rapid distribution provided for in this subtitle.

9 (2) Distribution of a member's retirement benefit shall begin no later than the April 1
10 following the calendar year during which the member both has reached age 70½ and
11 has terminated employment with the City. Distribution shall be made over a period
12 not extending beyond the life of the member or the joint lives of the member and his
13 or her beneficiary.

14 (3) If a member dies before distribution of his or her retirement benefit begins, the
15 member's entire benefit shall be distributed within 5 years after death. This
16 requirement is deemed satisfied by any distribution of the member's benefit payable
17 to his or her DESIGNATED beneficiary over a period not extending beyond the life or
18 life expectancy of the beneficiary, as long as those distributions begin no later than
19 December 31 of the calendar year following the calendar year of the member's death.
20 However, if the DESIGNATED beneficiary is the member's surviving spouse, the date
21 on which the distributions are required to begin is December 31 of the calendar year
22 in which the member would have attained age 70½. This paragraph (3) does not
23 apply if distribution of the member's benefit began before his or her death and the
24 remaining portion of the member's benefit is distributed at least as rapidly as under
25 the method of distribution being used at the date of the member's death. Any amount
26 paid to a child is treated as if it HAD BEEN PAID TO A SURVIVING SPOUSE IF THAT
27 AMOUNT is paid to the surviving spouse when that child reaches the age of majority.

28 (o) *Eligible rollover distribution.*

29 (1) *Definitions.*

30 (i) In this subsection, the following terms have the meanings indicated:

31 (ii)(A) "Eligible rollover distribution" means any distribution of all or any portion of
32 the balance to the credit of the distributee.

33 (B) "Eligible rollover distribution" does not include:

- 34 1. any distribution that is one of a series of substantially equal periodic
35 payments (not less frequently than annually) made for the life (or life
36 expectancy) of the distributee or the joint lives (or joint life
37 expectancies) of the distributee and the distributee's designated
38 beneficiary, or for a specified period of 10 years or more;
- 39 2. any distribution to the extent that it is required under Internal Revenue
40 Code § 401(a)(9); and

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1 3. the portion of any distribution that is not includible in gross income,
2 determined without regard to the exclusion for net unrealized
3 appreciation with respect to employer securities.
4

5 (C) 1. A PORTION OF A DISTRIBUTION DOES NOT FAIL TO BE AN “ELIGIBLE
6 ROLLOVER DISTRIBUTION” MERELY BECAUSE THE PORTION CONSISTS OF
7 AFTER-TAX EMPLOYEE CONTRIBUTIONS THAT ARE NOT INCLUDIBLE IN
8 GROSS INCOME.

9 2. HOWEVER, THE PORTION MAY BE TRANSFERRED ONLY TO:

10 I. AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN
11 INTERNAL REVENUE CODE § 408(A) OR (B);

12 II. FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2001, AND
13 BEFORE JANUARY 1, 2007, TO A QUALIFIED TRUST THAT IS PART OF
14 A DEFINED CONTRIBUTION PLAN THAT AGREES TO SEPARATELY
15 ACCOUNT FOR AMOUNTS SO TRANSFERRED, INCLUDING
16 SEPARATELY ACCOUNTING FOR THE PORTION OF THE DISTRIBUTION
17 THAT IS INCLUDIBLE IN GROSS INCOME AND THE PORTION OF THE
18 DISTRIBUTION THAT IS NOT SO INCLUDIBLE; OR

19 III. FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006, TO A
20 QUALIFIED TRUST OR TO AN ANNUITY CONTRACT DESCRIBED IN
21 INTERNAL REVENUE CODE § 403(B), IF THE TRUST OR CONTRACT
22 PROVIDES FOR SEPARATE ACCOUNTING FOR AMOUNTS SO
23 TRANSFERRED (INCLUDING INTEREST ON THOSE AMOUNTS),
24 INCLUDING SEPARATELY ACCOUNTING FOR THE PORTION OF THE
25 DISTRIBUTION THAT IS INCLUDIBLE IN GROSS INCOME AND THE
26 PORTION OF THE DISTRIBUTION THAT IS NOT SO INCLUDIBLE.

27 (iii) [(A)] “Eligible retirement plan” means any of the following that accepts the
28 distributee’s eligible rollover distribution:

29 (A) [1.] an individual retirement account described in Internal Revenue Code
30 § 408(a);

31 (B) [2.] an individual retirement annuity described in Internal Revenue Code
32 § 408(b);

33 (C) [3.] an annuity plan described in Internal Revenue Code § 403(a); [or]

34 (D) [4.] a qualified trust described in Internal Revenue Code § 401(a);

35 (E) AN ANNUITY CONTRACT DESCRIBED IN INTERNAL REVENUE CODE § 403(B);

36 (F) AN ELIGIBLE PLAN DESCRIBED IN INTERNAL REVENUE CODE § 457(B), IF IT
37 IS MAINTAINED BY A STATE, POLITICAL SUBDIVISION OF A STATE, OR ANY
38 AGENCY OR INSTRUMENTALITY OF A STATE OR POLITICAL SUBDIVISION OF

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1 A STATE AND IT AGREES TO SEPARATELY ACCOUNT FOR AMOUNTS
2 TRANSFERRED INTO THAT PLAN FROM THIS SYSTEM; OR

3 (G) FOR DISTRIBUTIONS MADE ON OR AFTER JANUARY 1, 2008, A ROTH IRA
4 DESCRIBED IN INTERNAL REVENUE CODE § 408A, SUBJECT TO THE
5 RESTRICTIONS THAT APPLY TO ROLLOVERS TO A ROTH IRA.

6 [(B) However, in the case of an eligible rollover distribution to the surviving
7 spouse, an eligible retirement plan is an individual retirement account or
8 individual retirement annuity.]

9 (iv) (A) “Distributee” means an employee or former employee.

10 (B) In addition, the employee’s or former employee’s surviving spouse and the
11 employee’s or former employee’s spouse or former spouse who is the alternate
12 payee under a qualified domestic relations order, as defined in Internal
13 Revenue Code § 414(p), are “distributees” with regard to the interest of the
14 spouse or former spouse. EFFECTIVE JULY 1, 2010, A “DISTRIBUTE” ALSO
15 INCLUDES THE EMPLOYEE’S OR FORMER EMPLOYEE’S NONSPOUSE DESIGNATED
16 BENEFICIARY. IN THE CASE OF A NONSPOUSE BENEFICIARY, THE DIRECT
17 ROLLOVER MAY BE MADE ONLY TO AN INDIVIDUAL RETIREMENT ACCOUNT OR
18 ANNUITY DESCRIBED IN INTERNAL REVENUE CODE § 408(A) OR (B) (“IRA”)
19 THAT IS ESTABLISHED ON BEHALF OF THE DESIGNATED BENEFICIARY AND THAT
20 WILL BE TREATED AS AN INHERITED IRA UNDER § 402(C)(11).

21 (v) “Direct rollover” means a payment under this subtitle to the eligible retirement
22 plan specified by the distributee.

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

24 **§ 34. Benefits.**

25 (h) *Non-line-of-duty death benefit.*

26 (1) *Scope of subsection.*

27 This subsection (h) applies to a member who dies while [actively employed] IN
28 EMPLOYMENT STATUS (INCLUDING A MEMBER WHO DIES WHILE PERFORMING
29 “QUALIFIED MILITARY SERVICE”, AS DEFINED IN INTERNAL REVENUE CODE § 414(U)),
30 but whose death does not qualify under subsection (i) as a line-of-duty death.

31 (t) *Compliance with Internal Revenue Code § 415.*

32 (1) Notwithstanding any other provision of this subtitle, no benefits are provided under
33 this subtitle to the extent that they exceed the limitations applicable to governmental
34 plans covering Police and Fire Department employees in Internal Revenue Code
35 § 415 and the regulations adopted under it.

36 (2) THE \$160,000 DOLLAR LIMITATION UNDER INTERNAL REVENUE CODE § 415(B)(1)(A)
37 SHALL BE AUTOMATICALLY ADJUSTED UNDER § 415(D), EFFECTIVE JANUARY 1 OF

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1 EACH YEAR AND AS PUBLISHED IN THE INTERNAL REVENUE BULLETIN. AUTOMATIC
2 ADJUSTMENTS UNDER § 415(D) THAT BECOME EFFECTIVE AFTER A MEMBER HAS
3 TERMINATED EMPLOYMENT WITH THE CITY SHALL APPLY WITH RESPECT TO THAT
4 MEMBER'S BENEFIT.

5 (u) *Compliance with Internal Revenue Code § 401(a)(9).*

6 (1) Distributions under this subtitle shall be made in accordance with [the regulations
7 adopted under] A REASONABLE GOOD FAITH INTERPRETATION OF Internal Revenue
8 Code § 401(a)(9), as applicable to this [system] SYSTEM[, including Regulation
9 § 1.401(a)(9)-2, which regulations override any distribution options in this subtitle to
10 the extent of any inconsistency]. This subsection is intended to comply with [the
11 requirements] A REASONABLE GOOD FAITH INTERPRETATION of Internal Revenue Code
12 § 401(a)(9) to the extent applicable to this [system] SYSTEM, and [shall] MAY not be
13 interpreted to impose any requirements on this [system] SYSTEM or on any member or
14 beneficiary OF THIS SYSTEM beyond those required to comply with A REASONABLE
15 GOOD FAITH INTERPRETATION of § 401(a)(9). This subsection only specifies the latest
16 permissible time by which distributions must begin and the longest permissible period
17 over which distributions may be made, and in no way precludes any earlier
18 commencement or more rapid distribution provided for in this subtitle.

19 (3) If a member dies before distribution of his or her retirement benefit begins, the
20 member's entire benefit shall be distributed within 5 years after death. This
21 requirement is deemed satisfied by any distribution of the member's benefit payable
22 to his or her DESIGNATED beneficiary over a period not extending beyond the life or
23 life expectancy of the beneficiary, as long as those distributions begin no later than
24 December 31 of the calendar year following the calendar year of the member's death.
25 However, if the DESIGNATED beneficiary is the member's surviving spouse, the date
26 on which the distributions are required to begin is December 31 of the calendar year
27 in which the member would have attained age 70½. This paragraph (3) does not
28 apply if distribution of the member's benefit began before his or her death and the
29 remaining portion of the member's benefit is distributed at least as rapidly as under
30 the method of distribution being used at the date of the member's death. Any amount
31 paid to a child is treated as if it HAD BEEN PAID TO A SURVIVING SPOUSE IF THAT
32 AMOUNT is paid to the surviving spouse when that child reaches the age of majority.

33 (w) *Eligible rollover distribution.*

34 (1) *Definitions.*

35 (A) In this subsection, the following terms have the meanings indicated:

36 (B) (i) "Eligible rollover distribution" means any distribution of all or any portion of
37 the balance to the credit of the distributee.

38 (ii) "Eligible rollover distribution" does not include:

- 39 1. any distribution that is one of a series of substantially equal periodic
40 payments (not less frequently than annually) made for the life (or life
41 expectancy) of the distributee or the joint lives (or joint life

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1 expectancies) of the distributee and the distributee's designated
2 beneficiary, or for a specified period of 10 years or more;

- 3 2. any distribution to the extent that it is required under Internal Revenue
4 Code § 401(a)(9); and
- 5 3. the portion of any distribution that is not includible in gross income,
6 determined without regard to the exclusion for net unrealized
7 appreciation with respect to employer securities.

8 (III) 1. A PORTION OF A DISTRIBUTION DOES NOT FAIL TO BE AN "ELIGIBLE
9 ROLLOVER DISTRIBUTION" MERELY BECAUSE THE PORTION CONSISTS OF
10 AFTER-TAX EMPLOYEE CONTRIBUTIONS THAT ARE NOT INCLUDIBLE IN
11 GROSS INCOME.

12 2. HOWEVER, THE PORTION MAY BE TRANSFERRED ONLY TO:

- 13 I. AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN
14 INTERNAL REVENUE CODE § 408(A) OR (B);
- 15 II. FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2001, AND
16 BEFORE JANUARY 1, 2007, TO A QUALIFIED TRUST THAT IS PART OF
17 A DEFINED CONTRIBUTION PLAN THAT AGREES TO SEPARATELY
18 ACCOUNT FOR AMOUNTS SO TRANSFERRED, INCLUDING
19 SEPARATELY ACCOUNTING FOR THE PORTION OF THE DISTRIBUTION
20 THAT IS INCLUDIBLE IN GROSS INCOME AND THE PORTION OF THE
21 DISTRIBUTION THAT IS NOT SO INCLUDIBLE; OR
- 22 III. FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006, TO A
23 QUALIFIED TRUST OR TO AN ANNUITY CONTRACT DESCRIBED IN
24 INTERNAL REVENUE CODE § 403(B), IF THE TRUST OR CONTRACT
25 PROVIDES FOR SEPARATE ACCOUNTING FOR AMOUNTS SO
26 TRANSFERRED (INCLUDING INTEREST ON THOSE AMOUNTS),
27 INCLUDING SEPARATELY ACCOUNTING FOR THE PORTION OF THE
28 DISTRIBUTION THAT IS INCLUDIBLE IN GROSS INCOME AND THE
29 PORTION OF THE DISTRIBUTION THAT IS NOT SO INCLUDIBLE.

30 (C) "Eligible retirement plan" means any of the following that accepts the
31 distributee's eligible rollover distribution:

- 32 (i) an individual retirement account described in Internal Revenue Code
33 § 408(a);
- 34 (ii) an individual retirement annuity described in Internal Revenue Code
35 § 408(b);
- 36 (iii) an annuity plan described in Internal Revenue Code § 403(a);
- 37 (iv) a qualified trust described in Internal Revenue Code § 401(a);

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1 (v) an eligible deferred compensation plan described in Internal Revenue
2 Code § 457(b), [that] IF IT is maintained by a state, a political subdivision
3 of a state, or an agency or instrumentality of either; [or]

4 (vi) an annuity contract described in Internal Revenue Code § 403(b); OR

5 (VII) FOR DISTRIBUTIONS MADE ON OR AFTER JANUARY 1, 2008, A ROTH IRA
6 DESCRIBED IN INTERNAL REVENUE CODE § 408A, SUBJECT TO THE
7 RESTRICTIONS THAT APPLY TO ROLLOVERS TO A ROTH IRA.

8 (D) (i) “Distributee” means an employee or former employee.

9 (ii) In addition, the employee’s or former employee’s surviving spouse and the
10 employee’s or former employee’s spouse or former spouse who is the alternate
11 payee under a qualified domestic relations order, as defined in Internal
12 Revenue Code § 414(p), are “distributees” with regard to the interest of the
13 spouse or former spouse.

14 (iii) EFFECTIVE JULY 1, 2010, A “DISTRIBUTE” ALSO INCLUDES THE EMPLOYEE’S
15 OR FORMER EMPLOYEE’S NONSPOUSE DESIGNATED BENEFICIARY. IN THE CASE
16 OF A NONSPOUSE BENEFICIARY, THE DIRECT ROLLOVER MAY BE MADE ONLY TO
17 AN INDIVIDUAL RETIREMENT ACCOUNT OR ANNUITY DESCRIBED IN INTERNAL
18 REVENUE CODE § 408(A) OR (B) (“IRA”) THAT IS ESTABLISHED ON BEHALF OF
19 THE DESIGNATED BENEFICIARY AND THAT WILL BE TREATED AS AN INHERITED
20 IRA UNDER § 402(C)(11).

21 (E) “Direct rollover” means a payment under this subtitle to the eligible retirement
22 plan specified by the distributee.

23 **SECTION 2. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
24 are not law and may not be considered to have been enacted as a part of this or any prior
25 Ordinance.

26 **SECTION 3. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the date it is
27 enacted.