

**ORDINANCE #69353**  
**Board Bill No. 109**  
**Floor Substitute**

An Ordinance pertaining to and terminating The Firemen's Retirement System of St. Louis, repealing certain sections of Ordinance 69149 and of Ordinance 69245, codified in Section 4.19 of the Revised Code of the City of St. Louis, and enacting in lieu thereof new sections pertaining to the The Firemen's Retirement System of St. Louis and making certain changes and clarifications to The Firemen's Retirement Plan of St. Louis, as set forth in Ordinance No. 69245.

**WHEREAS**, on February 10, 2012 the City adopted Ordinance 69149, which froze future benefit accruals under The Firemen's Retirement System of St. Louis.

**WHEREAS**, on July 28, 2012 the City adopted Ordinance 69245, establishing The Firemen's Retirement Plan of St. Louis.

**WHEREAS**, pursuant to Section 4.19.160 of Ordinance 69245, the City reserved the right to amend The Firemen's Retirement Plan of St. Louis at any time.

**WHEREAS**, as a result of a Memorandum and Order of the Circuit Court of the City of St. Louis regarding the enforceability of such Ordinances, the City wishes to amend certain provisions of Ordinances 69149 and 69245 to modify the arrangement so that benefits accrued because of years of service to date will continue to be paid from The Firemen's Retirement System of St. Louis and benefits that accrue in the future attributable to years of service rendered in the future will be paid from the new Firemen's Retirement Plan of St. Louis.

**WHEREAS**, Sections One and Two of this ordinance contain modifications to Ordinance 69149; and Sections Three through Twenty-Eight of this ordinance contain modifications to Ordinance 69245.

**BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

**Section One.** Section One of Ordinance 69149 is hereby repealed.

**Section Two.** Section Two of Ordinance 69149 is hereby repealed and in lieu thereof a new Section Two is enacted to read as follows herein:

A. Pursuant to the power to amend or repeal the Firemen's Retirement System of the City of St. Louis ("FRS") under Section Fifty-five of Ordinance 49623, codified in Section 4.18.345 of the Revised Code of the City of St. Louis, and notwithstanding any provision or ordinance to the contrary, for (1) members with fewer than twenty years of service as of February 1, 2013, and (2) members with twenty or more years of service as of February 1, 2013, the benefit accrued under the FRS shall be frozen. A member whose benefit accrued under the FRS is frozen as of February 1, 2013 shall not accrue any additional benefits on account of years of service on or after February 1, 2013 or (inclusively) compensation paid on or after February 1, 2013. The benefit calculation for a member of the FRS shall not be less than the benefit the member would have received if the member terminated employment on February 1, 2013.

In addition, a member whose benefit accrued under the FRS is frozen as of February 1, 2013 shall not make any employee contributions to the FRS with respect to payroll periods beginning on or after February 1, 2013, and the death benefit provisions of the FRS shall not apply to such a member who was actively employed on February 1, 2013 and who dies on or after February 1, 2013.

The disability benefit provisions of the FRS shall not apply to any member who permanently ceases performance of duties as a firefighter on account of disability on or after February 1, 2013.

For purposes of this Ordinance, the benefit accrued under the FRS means the basic monthly amount of the service retirement allowance, the death benefit, and any other benefit payable in accordance with Chapter 4.18 of the Revised Code of the City of St. Louis.

B. Service performed on or after February 1, 2013 by a member whose benefit accrued under the FRS was frozen as of February 1, 2013 shall continue to be taken into account solely for purposes of vesting and eligibility to begin receiving a retirement income benefit; so that a member of The Firemen's Retirement

System of St. Louis who was unvested as of February 1, 2013 may become vested in the future based on years of service after February 1, 2013. For example, a member with fifteen years of service as of February 1, 2013 shall be eligible for the retirement income allowance upon completion of twenty years of service, but the amount of the retirement allowance shall be based on average final compensation as of February 1, 2013 and fifteen years of service, not twenty; so that the benefit accrued under this plan is earned only because of years of service up to February 1, 2013, although vesting is based on total years of service as a firefighter with the City of St. Louis.

C. A member of the FRS whose benefit accrued under the FRS was frozen as of February 1, 2013 who is participating in the DROP program on January 31, 2013 shall continue to participate in the DROP program under the FRS until the member is no longer participating in the DROP program in accordance with Section 4.18.131 of the Revised Code of the City of St. Louis. Such a member of the FRS who stops participation in the DROP program shall accrue benefits for compensation paid and service rendered after ending participation in the DROP program under the Firefighters' Retirement Plan, not the FRS, and shall not make any withdrawal from his or her DROP account until after termination of employment. Sick leave accumulated before February 1, 2013, if any, to the extent applicable under the FRS without regard to this Ordinance, shall be credited in accordance with Section 4.18.386 of the Revised Code of the City of St. Louis.

**Section Three.** Subsection B of Section 4.19.010 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection B of Section 4.19.010 is enacted to read as follows:

B. Structure of Plan. The provisions of subsections 4.19.050(A) through (G) govern pension benefits accrued by Participants hired on and after the Effective Date. The amount of the accrued benefit of Participants under the Firemen's Retirement System of St. Louis pursuant to Chapter 4.18 of the Revised Code (the "Prior Plan") was frozen as of February 1, 2013 by Ordinance 69149, as amended by this Ordinance. The amount of the benefit accrued under the Prior Plan for a Participant whose benefit accrued under the Prior Plan was frozen as of February 1, 2013 does not increase because of years of service after the Effective Date. The provisions of subsections 4.19.060(A) through (F), governing pension benefits of Grandfathered Participants, are independent of the provisions of subsections 4.19.050 (A) through (G) relating to Participants hired on and after the Effective Date. The benefit accrued under this plan is earned only because of years of service after the Effective Date (although vesting, eligibility for retirement and the rate of accrual for benefits attributable to years of service after the Effective Date is based on total years of service as a firefighter with the City of St. Louis).

**Section Four.** Subsection D of Section 4.19.010 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection D of Section 4.19.010 of Ordinance 69245 is enacted to read as follows:

D. Effective Date. This Ordinance is effective February 1, 2013.

**Section Five.** Subsection E of Section 4.19.010 of Ordinance 69245 (pertaining to merger of the FRS into the FRP) is hereby repealed in its entirety.

**Section Six.** Subsection K of Section 4.19.020 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection K of Section 4.19.020 of Ordinance 69245 is enacted to read as follows:

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

**Section Seven.** Subsection Q of Section 4.19.020 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection Q of Section 4.19.020 of Ordinance 69245 is enacted to read as follows:

Q. Grandfathered Participant. A Participant who was employed on the day before the Effective Date and whose benefit accrued under the Prior Plan was frozen as of February 1, 2013.

**Section Eight.** Subsection U of Section 4.19.020 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection U of Section 4.19.020 of Ordinance 69245 is enacted to read as follows:

U. Participant. An Employee hired on or after the Effective Date and an Employee who was employed on the day before the Effective Date and whose benefit accrued under the Prior Plan was frozen as of February 1, 2013, either of whom shall have become entitled to participate in this Plan in accordance with Subsection A of Section 4.19.030 and who continues to have rights to benefits under this Plan, or whose beneficiaries may be eligible to receive benefits under this Plan.

**Section Nine.** Subsection A of Section 4.19.030 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection A of Section 4.19.030 of Ordinance 69245 is enacted to read as follows:

A. Entry Date. An Employee hired on and after the Effective Date shall be eligible to participate in the Plan on the first day such Employee is employed in Covered Employment. An Employee who was employed on the day before the Effective Date, and whose benefit accrued under the Prior Plan was frozen as of February 1, 2013, shall be eligible to participate in this Plan beginning February 1, 2013.

**Section Ten.** Subsection B of Section 4.19.030 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection B of Section 4.19.030 of Ordinance 69245 is enacted to read as follows:

B. Employee Contributions. The Board of Trustees shall certify to the chief of the fire department, and the chief of the fire department shall cause to be deducted from the compensation of each Participant each pay period, and remitted to the Trustee, eight percent of the compensation of each Participant with at least twenty full Years of Service as of the Effective Date, and nine percent of the compensation of each Participant with fewer than twenty full Years of Service as of the Effective Date. Such contributions shall be credited to the Accumulated Contributions account of the Participant. Contributions by each Participant with fewer than twenty full Years of Service as of the Effective Date shall be treated as employer before-tax ("pick-up") contributions under Section 414(h) of the Code. Contributions by Participants with at least twenty full Years of Service as of the Effective Date shall be treated as after-tax employee contributions.

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

**Section Eleven.** Subsection B of Section 4.19.040 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection B of Section 4.19.040 of Ordinance 69245 is enacted to read as follows:

B. Prior Plan Service. Complete and partial years of service credited for a Grandfathered Participant pursuant to the terms of the Prior Plan for periods before the Effective Date shall count as Years of Service under this Plan (but benefits attributable to such Prior Plan service under this Plan shall be offset by the benefits payable under The Firemen's Retirement System of St. Louis, as provided in Subsection G of Section 4.19.060, so that the benefit accrued under this plan is earned only because of years of service after the Effective Date, although vesting, eligibility for retirement and the rate of accrual for benefits attributable to years of service after the Effective Date is based on total years of service).

Notwithstanding the above, service credited pursuant to the terms of the Prior Plan for periods before the Effective Date shall not count as Years of Service under this Plan to the extent a Participant did not receive a periodic retirement income benefit from the Prior Plan based on such service (e.g., a Participant with fewer than twenty years of service received a refund of contributions withheld from compensation attributable to such service in lieu of a pension).

**Section Twelve.** Subsection A of Section 4.19.060 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection A of Section 4.19.060 of Ordinance 69245 is enacted to read as follows:

A. Grandfathered Benefits – General. The provisions of this Section apply only to Grandfathered Participants. The amount of retirement income benefits accrued under this Section is based on all service and compensation, including years of service rendered and compensation paid before the Effective Date, but is offset by benefits payable under The Firemen's Retirement System of St. Louis, as provided in Subsection G of Section 4.19.060, so that the benefit accrued under this plan is earned only because of years of

service after the Effective Date, although vesting, eligibility for retirement and the rate of accrual for benefits attributable to years of service after the Effective Date is based on total years of service.

**Section Thirteen.** Subsection B of Section 4.19.060 of Ordinance 69245 (pertaining to benefits in pay status under the FRS) is hereby repealed in its entirety.

**Section Fourteen.** Subsection C of Section 4.19.060 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection C of Section 4.19.060 of Ordinance 69245 is enacted to read as follows:

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

Solely for purposes of computing such Grandfathered Benefit, sick leave accumulated before September 26, 2010 shall be credited as Years of Service to no more than a total of thirty Years of Service for purposes of vesting and to allow such a Participant to receive a monthly retirement income benefit in excess of seventy-five percent of Average Final Compensation. Notwithstanding anything to the contrary herein, sick leave of a Participant who is participating in DROP shall be subject to the provisions of subsection 4.19.060E.

A Grandfathered Participant who receives such a retirement income benefit shall receive a refund of his contributions to the Prior Plan made before the Effective Date, without interest; provided that contributions to the Plan made on and after the Effective Date by a Participant who had fewer than twenty full Years of Service as of the Effective Date are not refundable. All refundable contributions are payable at the time of his pension commencement date.

**Section Fifteen.** Subsection D of Section 4.19.060 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection D of Section 4.19.060 of Ordinance 69245 is enacted to read as follows:

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

Solely for purposes of computing such Grandfathered Benefit, sick leave accumulated before September 26, 2010 shall be credited as Years of Service to no more than a total of thirty Years of Service for purposes of vesting and to allow such a Participant to receive a monthly retirement income benefit in excess of seventy-five percent of Average Final Compensation. Notwithstanding anything to the contrary herein, sick leave of a Participant who is participating in DROP shall be subject to the provisions of subsection 4.19.060E.

A Grandfathered Participant who receives such a retirement income benefit shall receive a refund of his contributions to the Prior Plan, without interest; provided that contributions to the Plan made on and after the Effective Date by a Participant with fewer than twenty Years of Service as of the Effective Date are not refundable. All refundable contributions are payable at the time of his pension commencement date.

For example, a Participant with ten Years of Service on the Effective Date, who retires ten years after the Effective Date, at age fifty with a total of twenty Years of Service, with annualized Average Final Compensation of \$80,000 for the last two years before retirement, would be entitled to a deferred pension benefit of \$32,000 (40% of \$80,000) per year beginning at age fifty-five, or an immediate pension beginning at age fifty of \$26,272. (The \$16,000 attributable to the ten Years of Service before the Effective Date is unreduced; the \$16,000 attributable to the ten Years of Service after the Effective Date is actuarially reduced from \$16,000 to \$10,272.) Such amount is subject to the offset for the Prior Plan benefit as provided in Section 4.19.060G.

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

**Section Sixteen.** Subsection G of Section 4.19.060 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection G of Section 4.19.060 of Ordinance 69245 is enacted to read as follows:

G. **Prior Plan Benefit Offset—No Duplication Rule.** Subsections 4.19.050(F) and (G) shall apply to all benefits, including grandfathered benefits. Notwithstanding anything in this Plan to the contrary, the retirement income benefit payable under this Plan shall be offset by the amount of retirement income payable under The Firemen’s Retirement System of St. Louis (and any other defined benefit plan maintained by the City of St. Louis that is qualified under Section 401 of the Code) to the extent that the benefit under such other plan or plans is based Years of Service used as the multiplier (times a percent of compensation) for purposes of determining the retirement income benefit under this Plan, so that the benefit accrued under this plan is earned only because of years of service after the Effective Date, although vesting, eligibility for retirement and the rate of accrual for benefits attributable to years of service after the Effective Date is based on total years of service. Sick Leave credited as a Prior Plan service under Subsection B of Section 4.19.040 shall not be counted again as Years of Service under this Plan. There shall be no duplication of any benefit under this Plan of a benefit payable from The Firemen’s Retirement System of St. Louis that is attributable to years of service for which a Participant is entitled to an accrued benefit under The Firemen’s Retirement System of St. Louis, no duplication of any death or disability benefit paid under The Firemen’s Retirement System of St. Louis, and no duplication of any benefit under this Plan attributable to accumulated sick pay, DROP, or any other factor credited under The Firemen’s Retirement System of St. Louis.

The benefit of a Participant who enters DROP on or after February 1, 2013 shall be determined under this Plan, based on all service, including Prior Plan service, but the monthly retirement income benefit of such a Participant upon retirement shall be offset by the amount of retirement income payable under The Firemen’s Retirement System of St. Louis, as provided above.

Such benefit offset shall be computed as if the Participant had received his retirement income under both this Plan and the offset plan in the form of a single life annuity commencing on the day benefits commence to be paid under this Plan.

**Section Seventeen.** Subsection A of Section 4.19.070 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection A of Section 4.19.070 of Ordinance 69245 is enacted to read as follows:

A. **Disability Benefits – General.** The disability income provisions of subsections (B) through (H) of this Section apply to Employees who permanently cease performance of duties as a firefighter on account of disability on or after the Effective Date. For purposes of such subsections, the term “Participant” shall mean any Employee performing services as a firefighter on or after February 1, 2013, while so classified by the fire department.

**Section Eighteen.** Subsection D of Section 4.19.070 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection D of Section 4.19.070 of Ordinance 69245 is enacted to read as follows:

D. **Cost of Living Increases.**

(1) Following commencement of disability income payments to a Participant, benefits paid to such Participant pursuant to subsection (B) or subsection (C) of this Section shall be increased as of each October 1, with the first increase in the October following commencement of disability income

payments and each October thereafter, by an amount equal to the lesser of three percent or the increase in the Consumer Price Index ("CPI") for the previous calendar year; up to a maximum aggregate increase of twenty-five percent. For purposes of this Section, CPI shall mean the CPI for all urban consumers for the United States, or its successor index, approved by the Board of Trustees, such as the index as defined and officially reported by the Department of Labor.

- (2) Notwithstanding the provisions of paragraph (2) of this subsection, in the case of a Participant who incurs a Termination of Employment because of a Total and Permanent Disability resulting from bodily injury incurred while the Participant was engaged in the actual performance of duty as a firefighter in response to an emergency call that renders the Participant totally and permanently unable to engage in any gainful employment in any occupation, following commencement of disability income payments to the Participant, benefits paid to such Participant pursuant to subsection (B) of this Section shall be increased as of each October 1, with the first increase in the October following commencement of disability income payments and each October thereafter, by three percent per year, compounded each year up to age sixty; and after age sixty by five percent per year for five years or until a total maximum increase of twenty-five percent is reached; provided that each such increase is subject to a determination by the Board of Trustees that the consumer price index (United States Average Index) as published by the United States Department of Labor shows an increase of not less than the approved rate during the latest twelve-month period for which the index is available at date of determination. If the increase is in excess of the approved rate for any year, the excess shall be accumulated as to any retired member and increases may be granted in subsequent years subject to the maximum allowed for each full year from October following his retirement but not to exceed a total increase of twenty-five percent. If the Board of Trustees determines that the index has decreased for any year, the benefits of any retired member that have been increased shall be decreased but not below his initial benefit. No annual increase shall be made of less than one percent and no decrease of less than three percent except that any decrease shall be limited by the initial benefit.

Notwithstanding anything to the contrary in the Plan, Grandfathered Participants may share in ad hoc COLAs, if any, to which they would be entitled in accordance with the terms and conditions of the Prior Plan.

**Section Nineteen.** Subsection A of Section 4.19.080 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection A of Section 4.19.080 of Ordinance 69245 is enacted to read as follows:

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

If no widow(er) benefits are payable pursuant to this Section, such total benefit as would have been paid had there been a widow(er) (twenty-five percent of compensation) shall be divided among the unmarried dependent children under age eighteen and such unmarried children, regardless of age, who are totally and permanently mentally or physically incapacitated, and paid to, or for the benefit of, each such child, as the Board

of Trustees in its discretion directs, until the respective child attains the age of eighteen or is no longer incapacitated, whichever is applicable.

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

**Section Twenty.** Paragraph (5) of Subsection B of Section 4.19.080 of Ordinance 69245 is hereby repealed and in lieu thereof a new Paragraph (5) of Subsection B of Section 4.19.080 of Ordinance 69245 is enacted to read as follows:

- (5) The widow(er) of a Participant with at least twenty full Years of Service as of the Effective Date who receives such a death benefit shall receive a refund of the contributions of the Participant to the Plan, without interest.

**Section Twenty-One.** Subsection C of Section 4.19.080 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection C of Section 4.19.080 of Ordinance 69245 is enacted to read as follows:

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

**Section Twenty-Two.** Subsection D of Section 4.19.080 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection D of Section 4.19.080 of Ordinance 69245 is enacted to read as follows:

D. **Accumulated Contributions.** A beneficiary shall be repaid the total amount of the contributions to the Plan, without interest, made by a deceased Participant with at least twenty full Years of Service as of the Effective Date who died while employed in Covered Employment, upon receipt of proof of the death of the Participant.

**Section Twenty-Three.** Subsection B of Section 4.19.120 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection B of Section 4.19.120 of Ordinance 69245 is enacted to read as follows:

B. Annual Actuarial Examination. At least once each year, the Board of Trustees shall cause the liabilities of the Plan with respect to retirement benefits to be evaluated by an Actuary who shall report on the soundness and solvency of the Trust Fund in relation to such liabilities and on the amount of the contribution for the year which is appropriate to keep the Trust Fund actuarially sound with respect to the obligation to pay the benefits under the Plan. Except as described below, each such report shall be delivered to the City's Budget Director no later than March 1st of each year.

The Actuary shall use the entry age normal method, amortizing the unfunded accrued liability as a level percent of payroll over a thirty year period. If the Board of Trustees fails to provide the actuarial valuation on or before the deadline for a Plan Year, the amount of the contribution for such year shall be determined by an Actuary retained by the City.

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

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

**Section Twenty-Four.** Subsection C of Section 4.19.120 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection C of Section 4.19.120 of Ordinance 69245 is enacted to read as follows:

C. Rights of Participants. No person shall have any financial interest in, or right to, any benefits or assets in the Trust Fund, except as expressly provided for in this Plan. The payment of all benefits accrued under this Plan is hereby made an obligation of the City.

**Section Twenty-Five.** Subsection D of Section 4.19.130 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection D of Section 4.19.030 is enacted to read as follows:

D. Appointment of Board of Trustees. The Board of Trustees shall be constituted as follows:

- (1) The Budget Director of the City, ex officio;
- (2) The Comptroller or Deputy Comptroller of the City, ex officio;
- (3) Two members to be appointed by the Mayor of the City to serve for a term of two years;
- (4) Two members to be elected by actively employed Participants in the Plan for a term of three years who shall hold office while Participants in the Plan;
- (5) One member who shall be a retired firefighter to be elected by the retired firefighters who shall hold office for a term of three years.

No active or retired firefighter may serve as a Trustee under this Plan and the Prior Plan simultaneously.

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

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

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

Each Trustee shall be entitled to one vote on the Board. An affirmative vote by a majority of the members then serving shall be necessary for a decision by the Trustees at any meeting of the Board.

**Section Twenty-Six.** Subsection G of Section 4.19.140 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection G of Section 4.19.040 is enacted to read as follows:

G. Officers and Employees. The Plan's Board of Trustees shall elect a chairman from its membership by a majority vote. The Director of Personnel or his designee shall be Secretary of the Board of Trustees. The Director of Personnel shall appoint all employees of the Plan in accordance with City rules and procedures governing employment, per-performance employment and contracts. The Director of Personnel shall direct the work of said Plan employees in accordance with the rules and policies established by the Board of Trustees. The compensation of all persons so appointed shall be in accordance with the comprehensive compensation plan of the City. A relative of any member of the Board of Trustees may not be employed to perform any services for the Plan or its Board of Trustees, or receive any compensation from the Trust Fund. The Board of Trustees shall comply with all Charter and ordinance requirements governing contracts for professional services, including but not limited to the provisions of Ordinance 64102, with the chairman of the Board of Trustees appointing the committee members referenced in Section 2, subparts (1) and (2) of Ordinance 64102.

**Section Twenty-Seven.** Subsection B of Section 4.19.140 of Ordinance 69245 is hereby repealed and in lieu thereof a new Subsection B of Section 4.19.040 is enacted to read as follows:

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

- (1) To interpret the Plan provisions and to decide all questions concerning the Plan and the eligibility of any Employee to participate in the Plan and to receive benefits from the Plan;
- (2) To authorize the payment of benefits at such times and in such manner as they determine are consistent with the terms of the Plan;
- (3) To keep accurate and detailed records of the administration of the Plan, including the amount of Accumulated Contributions credited to the account of each Participant, which records shall be open to inspection by the City at all reasonable times;
- (4) To establish and enforce such rules, regulations and procedures as it shall deem necessary or proper for the efficient administration of the Plan;
- (5) To delegate to any agents such duties and powers, both ministerial and discretionary, as it deems appropriate, by an instrument in writing which specifies which such duties are so delegated and to whom each such duty is so delegated; and
- (6) To keep a record of all its proceedings, which shall be open to public inspection, and to publish annually a report showing the fiscal transactions of the Plan for the preceding fiscal year and the financial statement showing the assets of the Plan.

Notwithstanding any other provision of this ordinance, the Board of Trustees shall have no duty or authority with respect to the establishment, design, amendment or termination of the Plan, which is reserved to the City. Such functions are settlor functions, which are reserved to the City, not fiduciary functions, in accordance with trust law.

**Section Twenty-Eight.** Section 4.19.160 of Ordinance 69245 is hereby repealed and in lieu thereof a new Section 4.19.160 of Ordinance 69245 is enacted to read as follows:

4.19.160 Amendment.

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

No Employee shall have a contractual right to any benefits relating to, or based upon, service rendered or compensation paid after the effective date of an amendment that reduces future benefits.

If any provision of this Ordinance or Ordinance 69149 shall be held illegal or invalid, the remaining provisions of this Ordinance shall be construed as if such provision has never been included and such remaining provisions shall remain valid and operative. The provisions of this Ordinance shall supersede any other ordinance or part of an ordinance to the extent such other ordinance or part of an ordinance conflicts herewith.

**Approved: December 28, 2012**