

1 **BOARD BILL NO. 280** **INTRODUCED BY ALDERMAN JEFFREY BOYD**
2

3 An Ordinance repealing Ordinance 69183 and making certain technical corrections,
4 regulatory updates, and clarifications to The Firefighters' Retirement Plan of St. Louis, as set
5 forth in Ordinance No. 69245, as amended by Ordinance No. 69353, and as codified in Chapter
6 4.19 of the Revised Code of the City of St. Louis.

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

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

11 **WHEREAS**, on December 28, 2012 the City adopted Ordinance 69353, amending The
12 Firefighters' Retirement Plan of St. Louis.

13 **WHEREAS**, the City wishes to further amend The Firefighters' Retirement Plan of
14 St. Louis to make certain technical corrections, regulatory updates, and clarifications.

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

16 **Section One.** Ordinance No. 69183, which amended governance provisions of The
17 Firemen's Retirement System, is hereby repealed.

18 **Section Two.** The last sentence of Subsection C of Section Two of Ordinance 69353 is
19 hereby amended to read in its entirety as follows:

20 Sick leave accumulated before February 1, 2013, if any, shall be credited for
21 purposes of the FRS to the extent applicable under the FRS without regard to this
22 Ordinance.

23 **Section Three.** The fourth sentence of Subsection B of Section 4.19.010 of Ordinance
24 69245, as amended by Ordinance 69353, is hereby amended to read as follows:

1 Except as expressly provided herein, the provisions of subsections 4.19.060(A)
2 through (F), governing pension benefits of Grandfathered Participants, are
3 independent of the provisions of subsections 4.19.050(A) through (G) relating to
4 Participants hired on and after the Effective Date.

5 **Section Four.** Subsection B of Section 4.19.010 of Ordinance 69245, as amended by
6 Ordinance 69353, is hereby amended by adding a new paragraph to the end of said subsection to
7 read as follows:

8 Notwithstanding anything to the contrary, no member of the FRS shall
9 receive a pension or retirement allowance from any other pension or retirement
10 system supported wholly or in part by the City or the state of Missouri because of
11 years of service for which they are entitled to benefits under the FRS nor shall
12 they be required to make contributions under any other pension or retirement
13 system of the City or the state of Missouri.

14 **Section Five.** Subsection B of Section 4.19.020 of Ordinance 69245 is hereby repealed
15 and replaced with the following:

16 B. Actuarial Equivalent. The actuarial equivalent amount determined
17 on the basis of the RP 2000 combined healthy mortality projected to 2015 (static
18 table) Mortality Table and an assumed annual rate of investment return of
19 7.625%, or on the basis of such mortality tables and interest rate as shall be
20 adopted by the Board of Trustees and applied prospectively.

21 **Section Six.** Subsection F of Section 4.19.020 of Ordinance 69245 is hereby amended to
22 read as follows:

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

10 **Section Seven.** Section 4.19.020 of Ordinance 69245, as amended by Ordinance 69353,
11 is hereby amended by adding a new subsection K and by changing the designation of existing
12 subsections K through CC to L through DD. The new subsection K shall read as follows:

13 K. Consumer Price Index. The consumer price index (United States Average
14 Index) for urban consumers, or its successor index approved by the Board of Trustees, as
15 defined and officially reported by the U.S. Department of Labor. The cost of living
16 factor shall be the change in the specified CPI for the applicable 12 month period set by
17 the Board of Trustees rounded to the nearest one-tenth of one percent.

18 **Section Eight.** The following new paragraph is added to the end of former Subsection
19 CC (now Subsection DD) of Section 4.19.020 of Ordinance 69245:

20 A domestic partner shall not be treated as a widow(er) for purposes of
21 subsections 4.19.100(B) (required minimum distributions), 4.19.110(C) (domestic
22 relations orders) and 4.19.110(D) (rollovers).

1 **Section Nine.** The first paragraph of Subsection B of Section 4.19.030 of Ordinance
2 69245, as amended by Ordinance 69353 is hereby amended to read as follows:

3 B. Employee Contributions. The Board of Trustees shall certify to
4 the fire commissioner, and the fire commissioner shall cause to be deducted from
5 the compensation of each Participant each pay period, and remitted to the Trustee,
6 eight percent of the compensation of each Participant with at least twenty full
7 Years of Service as of the Effective Date, and nine percent of the compensation of
8 each Participant with fewer than twenty full Years of Service as of the Effective
9 Date. Such contributions shall be credited to the Accumulated Contributions
10 account of the Participant. Contributions by each Participant with fewer than
11 twenty full Years of Service as of the Effective Date shall be treated as employer
12 before-tax ("pick-up") contributions paid by the Employer in lieu of contributions
13 by the Employee under Section 414(h)(2) of the Code solely for purposes of the
14 Internal Revenue Code of 1986, as amended. Contributions by Participants with
15 at least twenty full Years of Service as of the Effective Date shall be treated as
16 after-tax employee contributions.

17 **Section Ten.** The first sentence of Subsection C of Section 4.19.040 of Ordinance 69245
18 is hereby amended to read as follows:

19 C. Absence in Military Service. If, at any time since first becoming a
20 Participant in the Plan, a Participant has performed qualified military service as
21 defined by 26 U.S.C. § 414(u)(5) and has subsequently been reinstated as a
22 firefighter within the period of time required by 38 U.S.C. § 4312(e), he shall be
23 granted credit for such service as if his service in the Fire Department of the City

1 had not been interrupted by his induction into the armed forces of the United
2 States.

3 **Section Eleven.** Subsection C of Section 4.19.040 of Ordinance 69245 is hereby
4 amended by adding new paragraphs at the end of this subsection to read as follows:

5 In the case of a Participant who dies while performing qualified military
6 service as defined in 26 U.S.C. § 414(u)(5), the survivors of the Participant are
7 entitled to any additional benefits (other than benefit accruals relating to the
8 period of qualified military service) that would have been provided under the Plan
9 had the Participant resumed employment and then terminated employment on
10 account of death. In any event, a deceased member's period of qualified military
11 service must be counted for vesting purposes.

12 Only to the extent required by Code Section 414(u)(12) and only in the
13 event that the City elects to pay differential wage payments, an individual who
14 receives differential wage payments (as defined under Code Section 3401(h)(2))
15 shall be treated as employed by the Fire Department of the City, and the
16 differential wage payment shall be treated as compensation for purposes of
17 applying the limits on annual additions under Code Section 415(c). This
18 provision shall be applied to all similarly situated individuals in a reasonably
19 equivalent manner.

20 **Section Twelve.** Section 4.19.040 of Ordinance 69245, as amended by Ordinance
21 69353, regarding service, is hereby amended by adding new subsections E and F at the end to
22 read as follows:

1 E. Transfer of Creditable Service. The transfer of creditable service
2 shall be in accordance with the provisions of Section 105.691 of the Missouri
3 Revised Statutes, as amended, or as the same may from time to time be amended.
4 The Board of Trustees may enter into cooperative agreements to transfer
5 creditable service between the Plan and any other retirement plan established by
6 the state of Missouri or any political subdivision or instrumentality of the state
7 when a Participant who has been employed in a position covered by one plan is
8 employed in a position covered by another plan.

9 F. Purchase of Creditable Service. A participant may contribute or
10 have transferred to the fund an amount to be utilized to purchase an additional
11 period of creditable service determined using the accepted actuarial methods of
12 the Plan in accordance with the provisions of Section 105.691 of the Revised
13 Statutes of Missouri, as amended, or as the same may from time to time be
14 amended, and pursuant to policies adopted by the Board of Trustees, which are
15 incorporated herein by reference. In addition, participants may purchase credible
16 service for an amount determined using the actuarial methods of the plan pursuant
17 to policies adopted by the Board of Trustees, which are incorporated by reference
18 and may be amended from time to time.

19 **Section Thirteen.** Subsection E of Section 4.19.050 of Ordinance 69245 is repealed and
20 in lieu thereof a new subsection E of Section 4.19.050 is enacted to read as follows:

21 E. Cost of Living Increases. Following a Participant's Annuity
22 Starting Date, benefits paid to such Participant pursuant to subsections (A) and
23 (B) of this Section (but not any other provisions) shall be increased as of each

1 October 1, with the first increase in the October following his retirement and
2 subsequent increases in each October thereafter, by an amount equal to the lesser
3 of three percent or the increase in the Consumer Price Index during the preceding
4 twelve month period as designated by the Board of Trustees; up to a maximum
5 aggregate increase of twenty-five percent.

6 **Section Fourteen.** Section 4.19.050 of Ordinance 69245 is amended by adding a new
7 subsection H at the end to read as follows:

8 H. Felony Bar. Participants found guilty of certain felony offenses
9 shall be barred from obtaining benefits in accordance with the provisions of
10 Section 105.669 of the Missouri Revised Statutes, as amended, or as the same
11 may from time to time be amended and pursuant to policies adopted by the Board
12 of Trustees, which are incorporated herein by reference.

13 **Section Fifteen.** Subsection C of Section 4.19.060 of Ordinance 69245, as amended by
14 Ordinance 69353, is hereby repealed and in lieu thereof a new subsection C of Section 4.19.060
15 is enacted to read as follows:

16 C. Grandfathered Normal Retirement Benefit. Subject to the
17 conditions and limitations of the Plan, a Grandfathered Participant who incurs a
18 Termination of Employment on or after his Normal Retirement Age of fifty-five
19 years and after completing at least twenty Years of Service will be entitled to a
20 monthly retirement income payable to the Participant for his lifetime commencing
21 at his Normal Retirement Date in an amount equal to two percent of the
22 Participant's Average Final Compensation for each Year of Service up to twenty-
23 five years, and five percent of the Participant's Average Final Compensation for

1 each Year of Service over twenty-five years, up to a maximum of seventy-five
2 percent of Average Final Compensation. The monthly amount of the retirement
3 income of such a Participant shall not be increased actuarially to reflect an
4 Annuity Starting Date deferred beyond the Normal Retirement Age of the
5 Participant.

6 Solely for purposes of computing such Grandfathered Benefit, sick leave
7 accumulated under the FRS shall be credited as Years of Service and added to no
8 more than a total of thirty Years of Service for purposes of vesting and to allow
9 such a Participant to receive a monthly retirement income benefit in excess of
10 seventy-five percent of Average Final Compensation. Notwithstanding anything
11 to the contrary herein, sick leave of a Participant who is participating in DROP
12 shall be subject to the provisions of subsection 4.19.060(E).

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

19 **Section Sixteen.** Subsection D of Section 4.19.060 of Ordinance 69245, as amended by
20 Ordinance 69353, is hereby repealed and in lieu thereof a new Subsection D of Section 4.19.060
21 is enacted to read as follows:

22 D. Early Retirement Benefit. A Grandfathered Participant who incurs
23 a Termination of Employment after completing twenty Years of Service, but

1 before attaining his Normal Retirement Age of fifty-five years, shall be entitled to
2 a monthly retirement income payable to the Participant for his lifetime
3 commencing on the first day of the month after he attains fifty-five years of age,
4 calculated as for normal retirement in accordance with the preceding subsection,
5 based on his Average Final Compensation and his Years of Service as of his
6 Termination of Employment. In lieu of a deferred retirement income
7 commencing at age fifty-five, such a Participant may elect to receive his
8 retirement income beginning on his Termination of Employment; or on the first
9 day of any month thereafter prior to age fifty-five. The monthly amount
10 otherwise payable at age fifty-five that is attributable to Years of Service after the
11 Effective Date shall be actuarially reduced from age fifty-five to the pension
12 commencement date in accordance with subsection 4.19.020(B) for a Participant
13 with fewer than twenty full Years of Service as of the Effective Date. The
14 monthly amount otherwise payable at age fifty-five to a Participant with more
15 than twenty full Years of Service as of the Effective Date shall be unreduced.

16 Solely for purposes of computing such Grandfathered Benefit, sick leave
17 accumulated under the FRS shall be credited as Years of Service and added to no
18 more than a total of thirty Years of Service for purposes of vesting and to allow
19 such a Participant to receive a monthly retirement income benefit in excess of
20 seventy-five percent of Average Final Compensation. Notwithstanding anything
21 to the contrary herein, sick leave of a Participant who is participating in DROP
22 shall be subject to the provisions of subsection 4.19.060(E).

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

7 For example, a Participant with ten Years of Service on the Effective Date,
8 who retires ten years after the Effective Date, at age fifty with a total of twenty
9 Years of Service, with annualized Average Final Compensation of \$80,000 for the
10 last two years before retirement, would be entitled to a deferred pension benefit of
11 \$32,000 (40% of \$80,000) per year beginning at age fifty-five, or an immediate
12 pension beginning at age fifty of \$26,272. (The \$16,000 attributable to the ten
13 Years of Service before the Effective Date is unreduced; the \$16,000 attributable
14 to the ten Years of Service after the Effective Date is actuarially reduced from
15 \$16,000 to \$10,272.) Such amount is subject to the offset for the Prior Plan
16 benefit as provided in Section 4.19.060(G).

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

20 **Section Seventeen.** Subsection E of Section 4.19.060 of Ordinance 69245 is hereby
21 amended to read in its entirety as follows:

22 E. DROP. Grandfathered Participants who have completed at least
23 twenty Years of Service may elect to continue active employment and defer

1 receipt of the retirement benefit for a period not to exceed five years. Any
2 Grandfathered Participant who has at least twenty Years of Service may elect in
3 writing before retirement to participate in the deferred retirement option program
4 ("DROP"). A Grandfathered Participant electing to participate in the DROP
5 program shall continue in active employment and shall not receive any direct
6 retirement benefit payments during the time of participation. Upon the start of
7 participation in the DROP program, the Grandfathered Participant shall make
8 contributions at the rate of one percent of compensation, instead of the
9 contribution rate required by subsection B of Section 4.19.030. During the period
10 of participation in the DROP program, the amount that the Grandfathered
11 Participant would have received as a monthly retirement income benefit (Normal
12 Retirement Benefit under subsection C or reduced Early Retirement Benefit under
13 subsection D, whichever is applicable) shall accumulate for the Grandfathered
14 Participant until the Grandfathered Participant retires. Years of Service earned
15 during the period of participation in the DROP program shall not be credited and
16 shall not be counted in determination of any service-based retirement benefit.

17 A Grandfathered Participant who elects to stop participation in the DROP
18 program shall make contributions at the rate of eight percent of the compensation
19 of each Participant with at least twenty full Years of Service as of the Effective
20 Date, and nine percent of the compensation of each Participant with fewer than
21 twenty full Years of Service as of the Effective Date. Service rendered after
22 restoration of the Grandfathered Participant to non-DROP participation status
23 shall be counted as Years of Service. No Grandfathered Participant ending

1 participation in the DROP program and returning to non-DROP participation
2 status shall make any withdrawal from his or her DROP accumulation until after
3 Termination of Employment. If after return to non-DROP participation status, a
4 Grandfathered Participant retires, the Grandfathered Participant's retirement
5 benefit shall be computed on the combination of the Grandfathered Participant's
6 pre-DROP retirement benefit (based on Average Final Compensation at the
7 beginning of the DROP period and any applicable reduction for commencement
8 before age fifty-five) plus an additional benefit earned by the Grandfathered
9 Participant after returning to non-DROP participation status. Post-DROP Years
10 of Service shall be the only years used in computing the additional benefit;
11 however, total Years of Service shall be used to determine the appropriate accrual
12 level of additional benefit, two percent or five percent, for each year of post-
13 DROP service. Upon retirement the Grandfathered Participant shall receive
14 retirement income benefits plus the amount of his or her DROP accumulation.
15 The Grandfathered Participant's DROP accumulation shall be payable, at the
16 Grandfathered Participant's option, either as a lump sum payment or as a series of
17 annual payments of reasonably equal amounts using the declining balance method
18 over a period of fewer than ten years as selected by the Grandfathered Participant,
19 subject to the minimum distribution rules of subsection B of Section 4.19.100.

20 If a Grandfathered Participant dies before Termination of Employment
21 while participating in the DROP program, his or her DROP accumulation shall be
22 payable to the Grandfathered Participant's designated beneficiary under either of
23 the following options:

1 (1) A lump sum payment equal to the Grandfathered
2 Participant's DROP accumulation shall be paid to the Grandfathered
3 Participant's beneficiary or the Grandfathered Participant's estate. The
4 death benefits for the beneficiary under the provisions of Section 4.19.080
5 shall be based on the Grandfathered Participant's compensation and Years
6 of Service before the Grandfathered Participant's participation in the
7 DROP program.

8 or

9 (2) The beneficiary may waive any claim to the Grandfathered
10 Participant's DROP accumulation, in which case any death benefits
11 payable to the beneficiary under the provisions of Section 4.19.080 shall
12 be calculated as if the Grandfathered Participant had continued as an
13 employee and had not participated in the DROP program. Any DROP
14 accumulation which has been waived as provided in this paragraph shall
15 become funds of the Plan.

16 If a Grandfathered Participant who has elected to participate in the DROP
17 program subsequently applies for and receives benefits for a disability benefit
18 under the provisions of Section 4.19.070, the Grandfathered Participant shall
19 forfeit all rights, claims or interest in his DROP accumulation and the
20 Grandfathered Participant's benefits shall be calculated as if the Grandfathered
21 Participant had continued in employment and had not elected to participate in the
22 DROP program. Any DROP accumulation which has been forfeited as provided
23 in this Plan shall become funds of the Plan.

1 The balance of a Grandfathered Participant's DROP accumulation shall be
2 credited with interest for each Plan Year under one of the following two options,
3 as elected by the Grandfathered Participant upon entering DROP: (1) the rate of
4 return of the Trust Fund's investment portfolio for the preceding Plan Year, as
5 determined by the Trustees, subject to a minimum rate of return of 0%; or (2) the
6 rate of return equal to the yield on the ten-year treasury bond as of the end of the
7 preceding Plan Year, subject to a minimum rate of return of 0%.

8 Interest shall be credited annually to the Grandfathered Participant's
9 DROP accumulation beginning with the start of the second Plan Year of
10 participation, based on the balance at the beginning of the Plan Year. If a
11 withdrawal occurs during a Plan Year, interest will be determined pro rata for
12 each partial Plan Year before and after the withdrawal.

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

15 Notwithstanding anything to the contrary in this Chapter, a Grandfathered
16 Participant who is participating in the DROP program may elect upon
17 Termination of Employment to have added to his or her DROP accumulation a
18 dollar amount equal to the number of his sick leave hours accumulated under the
19 FRS multiplied by his or her hourly rate of pay at the time of Termination of
20 Employment, net of the amount, if any, required to be withheld as taxes by the
21 applicable governmental authorities; or to add one-half of such dollar amount in
22 the Grandfathered Participant's DROP accumulation, to add one quarter of such
23 dollar amount to the aggregate total of the Grandfathered Participant's monthly

1 compensation for the period used in calculating the Grandfathered Participant's
2 Average Final Compensation, and to have the remaining one-fourth of such sick
3 leave remain as time and added to the Grandfathered Participant's Years of
4 Service before the Effective Date. A Grandfathered Participant may make such
5 an election to have sick leave hours converted to a combination of DROP
6 accumulation, Years of Service and Average Final Compensation only if the
7 Participant made a comparable election under The Firemen's Retirement System
8 of St. Louis; and a Grandfathered Participant who made such an election under
9 The Firemen's Retirement System of St. Louis shall be deemed to have made such
10 an election under this Plan; so that the DROP benefit payable from this Plan shall
11 be paid in the same form as the benefit payable under The Firemen's Retirement
12 System of St. Louis.

13 **Section Eighteen.** Subsection F of Section 4.19.060 of Ordinance 69245 is hereby
14 amended to read as follows:

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

- 20 (1) One and one-half percent per year, compounded each year,
21 up to age sixty for those retiring with at least twenty Years of Service but
22 less than twenty-five Years of Service,

1 (2) Two and one-fourth percent per year, compounded each
2 year, up to age sixty for those retiring with at least twenty-five Years of
3 Service but less than thirty Years of Service,

4 (3) Three percent per year, compounded each year, up to age
5 sixty for those retiring with thirty or more Years of Service,

6 (4) After age sixty, five percent per year for five years or until
7 a total maximum increase of twenty-five percent is reached.

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

19 In addition to the above, Grandfathered Participants may share in ad hoc
20 COLAs, if any, to which they would be entitled in accordance with the terms and
21 conditions of the Prior Plan as if such terms and conditions were included in this
22 Plan.

1 **Section Nineteen.** Subsection G of Section 4.19.060 of Ordinance 69245, as amended
2 by Ordinance 69353, is hereby repealed and in lieu thereof a new Subsection G of Section
3 4.19.060 is enacted to read as follows:

4 G. Prior Plan Benefit Offset — No Duplication Rule. Subsections
5 4.19.050(F) and (G) shall apply to all benefits, including grandfathered benefits.
6 Notwithstanding anything in this Plan to the contrary, the retirement income
7 benefit payable under this Plan shall be offset by the amount of retirement income
8 payable under The Firemen's Retirement System of St. Louis (and any other
9 defined benefit plan maintained by the City of St. Louis that is qualified under
10 Section 401 of the Code) to the extent that the benefit under such other plan or
11 plans is based on Years of Service used as the multiplier (times a percent of
12 compensation) for purposes of determining the retirement income benefit under
13 this Plan, so that the benefit accrued under this Plan is earned only because of
14 years of service after the Effective Date, although vesting, eligibility for
15 retirement and the rate of accrual for benefits attributable to years of service after
16 the Effective Date is based on total years of service. The retirement income
17 benefit offset shall be computed as if the Participant had received his retirement
18 income under the offset plan in the form of a single life annuity commencing on
19 the day benefits commence to be paid under this Plan.

20 The benefit of a Participant who enters DROP on or after February 1, 2013
21 shall be determined under this Plan, based on all service, including Prior Plan
22 service, but the benefit of such a Participant shall be offset by the benefit payable
23 under The Firemen's Retirement System of St. Louis, so that the benefit accrued

1 under this Plan is earned only because of years of service after the Effective Date.
2 No member has accrued any sick leave benefits under this Plan. The benefit
3 under this Plan of a Grandfathered Participant who elects to have sick leave hours
4 converted shall be adjusted so that the aggregated total of each of such benefits
5 payable by both this Plan and the offset plan mirrors but does not exceed the
6 amount of such benefits to which the Participant would have received under this
7 Plan if all such service and compensation had been taken into account only by this
8 Plan.

9 Notwithstanding anything in this Plan to the contrary, there shall be no
10 duplication of any benefit under this Plan of a benefit payable from The Firemen's
11 Retirement System of St. Louis that is attributable to years of service for which a
12 Participant is entitled to an accrued benefit under The Firemen's Retirement
13 System of St. Louis, no duplication of any death or disability benefit paid under
14 The Firemen's Retirement System of St. Louis, and no duplication of any benefit
15 under this Plan attributable to accumulated sick pay, DROP, or any other factor
16 credited under The Firemen's Retirement System of St. Louis.

17 **Section Twenty.** The last two sentences of paragraph (1) of Subsection B of Section
18 4.19.070 of Ordinance 69245 shall be amended to read as follows:

19 A disability shall be presumed to have been incurred while engaged in the
20 actual performance of duty as a firefighter in response to an emergency call to the
21 extent the disability is caused by a disease specified by state pension law
22 applicable to this Plan as establishing such a presumption. Such presumption may
23 be rebutted by evidence to the contrary, such as habitual smoking.

1 **Section Twenty-one.** The paragraph (2) of Subsection B of Section 4.19.070 of
2 Ordinance 69245 shall be amended to read as follows:

3 (2) A Participant who incurs a Termination of Employment because of a Total
4 and Permanent Disability resulting from bodily injury incurred while
5 engaged in the actual performance of duty as a firefighter in response to an
6 emergency call that renders the Participant totally and permanently unable
7 to continue his employment as a firefighter, but not other gainful
8 employment as described in paragraph B(1) of this Section, shall receive a
9 disability income while so disabled equal to twenty-five percent of his
10 Average Final Compensation; plus an additional two and seventy-five one
11 hundredth percent (2.75%) of Average Final Compensation for each Year
12 of Service in excess of ten years, up to twenty-five Years of Service; plus
13 an additional eleven and five-tenths (11.5%) percent of Average Final
14 Compensation for the twenty-fifth Year of Service at the time of such a
15 Termination of Employment; with a maximum benefit of seventy-five
16 percent of Average Final Compensation. A disability shall be presumed to
17 have been incurred while engaged in the actual performance of duty as a
18 firefighter in response to an emergency call to the extent the disability is
19 caused by a disease specified by state pension law applicable to this Plan
20 as establishing such a presumption. Such presumption may be rebutted by
21 evidence to the contrary, such as habitual smoking.

1 **Section Twenty-two.** The first sentence of the last Paragraph of Subsection B and first
2 sentence of the last paragraph of Subsection C of Section 4.19.070 of Ordinance 69245 are
3 amended as follows:

4 Only Grandfathered Participants with at least twenty years of service as of the
5 Effective Date who receive such a disability benefit shall receive a refund of his
6 contributions to the Prior Plan and this Plan, without interest.

7 **Section Twenty-three.** Subsection D of Section 4.19.070 of Ordinance 69245, as
8 amended by Ordinance 69353, is amended as follows:

9 D. Cost of Living Increases.

10 (1) Following commencement of disability income payments to a
11 Participant, benefits paid to such Participant pursuant to subsection
12 (B) or subsection (C) of this Section shall be increased as of each
13 October 1, with the first increase in the October following
14 commencement of disability income payments and each October
15 thereafter, by an amount equal to the lesser of three percent or the
16 increase in the Consumer Price Index during the preceding twelve
17 month period as designated by the Board of Trustees; up to a
18 maximum aggregate increase of twenty-five percent.

19 (2) Notwithstanding the provisions of paragraph (2) of this subsection,
20 in the case of a Participant who incurs a Termination of
21 Employment because of a Total and Permanent Disability resulting
22 from bodily injury incurred while the Participant was engaged in
23 the actual performance of duty as a firefighter in response to an

1 emergency call that renders the Participant totally and permanently
2 unable to engage in any gainful employment in any occupation,
3 following commencement of disability income payments to the
4 Participant, benefits paid to such Participant pursuant to subsection
5 (B) of this Section shall be increased as of each October 1, with the
6 first increase in the October following commencement of disability
7 income payments and each October thereafter, by three percent per
8 year, compounded each year up to age sixty; and after age sixty by
9 five percent per year for five years or until a total maximum
10 increase of twenty-five percent is reached; provided that each such
11 increase is subject to a determination by the Board of Trustees that
12 the consumer price index shows an increase of not less than the
13 approved rate during the preceding twelve month period as
14 designated by the Board of Trustees. If the increase is in excess of
15 the approved rate for any year, the excess shall be accumulated as
16 to any retired member and increases may be granted in subsequent
17 years subject to the maximum allowed for each full year from
18 October following his retirement but not to exceed a total increase
19 of twenty-five percent. If the Board of Trustees determines that the
20 index has decreased for any year, the benefits of any retired
21 member that have been increased shall be decreased but not below
22 his initial benefit. No annual increase shall be made of less than

1 one percent and no decrease of less than three percent except that
2 any decrease shall be limited by the initial benefit.

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

7 **Section Twenty-four.** Subsection H of Section 4.19.070 of Ordinance 69245 is hereby
8 repealed in its entirety.

9 **Section Twenty-five.** The second sentence of Subsection A of Section 4.19.080 of
10 Ordinance 69245, as amended by Ordinance 69353, is hereby amended to read as follows:

11 Any widow(er) who is receiving retirement benefits upon application to the Board
12 of Trustees shall be made, constituted, appointed and employed by the Board as a special
13 consultant on the problems of retirement, aging, and other state matters, during her or his
14 widowhood, and upon request of the Board, give opinions, and be available to give
15 opinions in writing, or orally, in response to such request, as may be required, and for
16 such services shall be compensated monthly, in an amount, which when added to any
17 monthly retirement benefits being received, shall not exceed fifty percent of the deceased
18 Participant's average final compensation or two hundred dollars (\$200.00) whichever is
19 greater.

20 **Section Twenty-six.** Subsection C of Section 4.19.080 of Ordinance 69245, as amended
21 by Ordinance 69353, is hereby amended to read as follows:

22 C. Funeral Expenses. In addition to any other death benefit to which a
23 Participant may be entitled, whenever an active or retired Participant shall die, the Board

1 of Trustees shall pay from the Trust a sum of two thousand dollars to the widow(er) or
2 beneficiary of the Participant for funeral expenses.

3 **Section Twenty-seven.** Section 4.19.090 of Ordinance 69245 is hereby repealed and in
4 lieu thereof a new Section 4.19.090 is enacted to read as follows:

5 **4.19.090 Limitations of Benefits.** Notwithstanding any other provisions of
6 the Plan to the contrary, the member contributions paid to and retirement benefits
7 paid from the plan shall be limited to such extent as may be necessary to conform
8 to the requirements of Section 415 of the Code for a qualified pension plan
9 pursuant to policies adopted by the Board of Trustees, which are incorporated
10 herein by reference.

11 **Section Twenty-eight.** The second paragraph of Subsection A of Section 4.19.100 of
12 Ordinance 69245 is hereby amended to read as follows:

13 No pension or other benefit shall be payable until the Participant or
14 beneficiary shall have filed a claim for benefits with the Board of Trustees or its
15 designated representative. Such claim must be submitted in writing on a form
16 provided by, or suitable to, the Board of Trustees at least thirty days but not more
17 than ninety days prior to the date on which payments begin. Notwithstanding the
18 foregoing sentence, the Administrator may permit a retroactive annuity starting
19 date for commencement of monthly benefits payable to a Participant or
20 beneficiary. The Board of Trustees may require any applicant to furnish it with
21 such information or identification as may be reasonably necessary, including a
22 copy of the Participant's death certificate, if applicable.

1 **Section Twenty-nine.** Subsection D of Section 4.19.100 of Ordinance 69245 is hereby
2 amended to read as follows:

3 D. Misstatement in Application for Pension. If any Participant or any
4 beneficiary in his application for a pension or in response to a request of the
5 Board of Trustees for information gives any material fact which is erroneous or
6 omits any material fact or fails before receiving his first payment to correct any
7 material fact that he previously incorrectly furnished, the amount of his annuity
8 shall be canceled, reduced, corrected, and/or adjusted on the basis of the correct
9 information and the amount of any overpayment or underpayment theretofore
10 made to such Participant shall be deducted from or added to his next succeeding
11 payments as the Board of Trustees shall direct.

12 **Section Thirty.** Subsection D of Section 4.19.110 of Ordinance 69245 is hereby
13 repealed and replaced with the following:

14 D. Direct Rollover of Eligible Rollover Distributions. For purposes of
15 compliance with Section 401(a)(31) of the Code, notwithstanding any provision
16 of the Plan to the contrary that would otherwise limit a distributee's election under
17 this Section, a distributee may elect, at the time and in the manner prescribed by
18 the Board of Trustees, to have any portion of an eligible rollover distribution, if
19 any, paid directly to an eligible retirement plan specified by the distributee in a
20 direct rollover.

21 *Definitions.*

1 (1) *Eligible rollover distribution:* An eligible rollover distribution is any
2 distribution of all or any portion of the balance to the credit of the
3 distributee, except that an eligible rollover distribution does not include:

4 (a) any distribution that is one of a series of substantially equal
5 periodic payments (not less frequently than annually) made for the life (or
6 the life expectancy) of the distributee or the joint lives (or joint life
7 expectancies) of the distributee and the distributee's designated
8 beneficiary, or for a specified period of ten years or more;

9 (b) any distribution to the extent such distribution is required under
10 Section 401(a)(9) of the Internal Revenue Code;

11 (c) the portion of any distribution that is not includible in gross
12 income; provided, however, a portion of a distribution shall not fail to be
13 an eligible rollover distribution merely because the portion consists of
14 after-tax employee contributions that are not includible in gross income,
15 but such portion may be transferred only:

16 (I) to an individual retirement account or annuity described in
17 Section 408(a) or (b) of the Code or to a qualified defined contribution
18 plan described in Section 401(a) of the Code that agrees to separately
19 account for amounts so transferred (and earnings thereon), including
20 separately accounting for the portion of the distribution that is includible
21 in gross income and the portion of the distribution that is not so includible;

22 (II) to a qualified defined benefit plan described in Section
23 401(a) of the Code or to an annuity contract described in Section 403(b) of

1 the Code, that agrees to separately account for amounts so transferred (and
2 earnings thereon), including separately accounting for the portion of the
3 distribution that is includible in gross income and the portion of the
4 distribution that is not so includible; or

5 (III) to a Roth IRA described in Section 408A of the Code; and

6 (d) any other distribution which the Internal Revenue Service does not
7 consider eligible for rollover treatment, such as certain corrective
8 distributions necessary to comply with the provisions of section 415 of the
9 Internal Revenue Code or any distribution that is reasonably expected to
10 total less than \$200 during the year. The definition of eligible rollover
11 distribution also includes a distribution to a surviving spouse.

12 (2) *Eligible retirement plan:* An eligible retirement plan is any of the
13 following that accepts the distributee's eligible rollover distribution:

14 (a) an individual retirement account described in Section 408(a) of the
15 Code,

16 (b) an individual retirement annuity described in Section 408(b) of the
17 Code,

18 (c) an annuity plan described in Section 403(a) of the Code,

19 (d) a qualified trust described in Section 401(a) of the Code,

20 (e) an annuity contract described in Section 403(b) of the Code,

21 (f) a plan eligible under Section 457(b) of the Code that is maintained
22 by a state, political subdivision of a state, or any agency or instrumentality
23 of a state or a political subdivision of a state that agrees to separately

1 account for amounts transferred into that plan from the retirement system,

2 or

3 (g) a Roth IRA described in Section 408A of the Code.

4 (3) *Distributee*: A distributee includes an employee or former employee. A
5 distributee further includes a nonspouse beneficiary who is a designated
6 beneficiary as defined by Section 401(a)(9)(E) of the Code. However, a
7 nonspouse beneficiary may only make a direct rollover to an individual
8 retirement account or individual retirement annuity established for the
9 purpose of receiving the distribution, and the account or annuity shall be
10 treated as an "inherited" individual retirement account or annuity.

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

13 **Section Thirty-one.** Section 4.19.110 of Ordinance 69245 is hereby amended by adding
14 a new Subsection E to read as follows:

15 E. Anti-Assignment. Benefits provided under the plan may not be
16 assigned or alienated except otherwise provided by law.

17 **Section Thirty-two.** Subsection A of Section 4.19.120 of Ordinance 69245 is hereby
18 amended by adding a sentence at the end to read as follows:

19 The Trust Fund must not revert, and no contributions shall be permitted to be
20 returned, to the City, except due to a mistake of fact as permitted by Revenue
21 Ruling 91-4.

22 **Section Thirty-three.** The second paragraph of Subsection B of Section 4.19.120 of
23 Ordinance 69245, as amended by Ordinance 69353, is hereby amended to read as follows:

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

7 **Section Thirty-four.** Subsection D of Section 4.19.120 of Ordinance 69245 is hereby
8 amended by changing the word “may” to “must.”

9 **Section Thirty-five.** The second paragraph of Subsection B of Section 4.19.130 of
10 Ordinance 69245 is hereby amended to read as follows:

11 The selection of investment managers shall be based solely on sound
12 investment principles in the best interest of the Trust Fund for the best interests of
13 the Plan Participants and beneficiaries. No member of the Board of Trustees shall
14 have any personal interest in the selection of an investment manager, except
15 benefits from an interest in investments common to all Participants in the Plan.
16 The Board of Trustees shall keep a record of the process for the selection of
17 investment managers, which shall be open to public inspection except as provided
18 by law.

19 **Section Thirty-six.** Paragraph (2) of Subsection D of Section 4.19.130 of Ordinance
20 69245, as amended by Ordinance 69353, is hereby repealed and replaced with the following:

21 (2) The Comptroller of the City or Comptroller's designee, ex officio.
22 The Comptroller's designee must be an active, full-time employee of the City
23 Comptroller's office;

1 **Section Thirty-seven.** The title of Section 4.19.140 of Ordinance 69245, is hereby
2 repealed and replaced with the following title: Administration – Powers and Duties of Trustees

3 **Section Thirty-eight.** Subsection B of Section 4.19.140 of Ordinance 69245, as
4 amended by Ordinance 69353, is hereby amended by adding a new paragraph to read as follows:

5 (7) Correction of Errors: The Board of Trustees may cancel, reduce,
6 correct, and/or adjust the benefits of any person who shall make any false
7 statement, or shall falsify or permit to be falsified any record or records. Should
8 any change or error in records result in any Participant or beneficiary receiving
9 from the retirement system more or less than he or she should have been entitled
10 to receive had the records been correct, the Board of Trustees shall correct the
11 error, and as far as practicable, shall adjust the payments in such a manner that the
12 actuarial equivalent of the benefit to which the Participant or beneficiary was
13 correctly entitled, shall be paid.

14 **Section Thirty-nine.** Section 4.19.140 of Ordinance 69245, as amended by Ordinance
15 69353, is hereby amended as follows: The term “fiscal year” as it appears in subsection B(6) of
16 Section 4.19.140 is hereby changed to “Plan Year.” The term "Participants," each place it
17 appears in Subsection E of Section 4.19.140 is hereby changed to "members."

18 **Section Forty.** Section 4.19.160 of Ordinance 69245, as amended by Ordinance 69353,
19 is hereby is hereby repealed in its entirety and replaced with the following:

20 The Board of Trustees shall be authorized to modify or amend the plan
21 without legislative approval when necessary to maintain the qualified status of the
22 plan pursuant to IRS requirements.

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

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

9 In the event of a full or partial termination of, or a complete
10 discontinuance of Employer contributions to, the Plan, the accrued benefits of the
11 affected Participants under the Plan shall be one hundred percent vested and
12 nonforfeitable to the extent funded and to the extent required by federal law.

13 **Section Forty-one.** Subsection B of Section 4.19.170 of Ordinance 69245 is hereby
14 repealed in its entirety and replaced with the following:

15 B. Prohibited Transactions. The Board of Trustees may not engage in
16 a transaction prohibited by Section 503(b) of the Code.

17 **Section Forty-two.** The first sentence of the second paragraph of Subsection E of
18 Section 4.19.170 of Ordinance 69245 is amended as follows: the phrase “this ordinance” shall
19 be replaced with the phrase “the ordinances governing FRP.”

20 **Section Forty-three.** The last paragraph of Ordinance 69353 is hereby repealed and
21 replaced with the following:

22 If any provision of this Ordinance or any other Ordinance governing FRP shall be
23 held illegal or invalid, the remaining provisions of the Ordinances governing FRP

1 shall be construed as if such provision has never been included and such
2 remaining provisions shall remain valid and operative. The provisions of the
3 most recently enacted Ordinance shall supersede any other ordinance or part of an
4 ordinance to the extent such other ordinance or part of an ordinance conflicts
5 herewith.