

May 15, 2016
May 19, 2016
May 21, 2016

ARTICLE 1 DEFINITIONS

As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meaning indicated:

1.01 "Accumulated Contributions":

shall mean a Participant's own contributions without interest. For those Participant's who purchase Credited Service with interest or at no cost to the Plan, only that portion of any payment representing the amount attributable to the Participant's contributions based on the applicable Participant contribution rate shall be included in Accumulated Contributions.

1.02 "Accrued Benefit":

shall mean a fraction of the benefit to which a Participant would be entitled at their Normal Retirement Date. The numerator of the fraction is the years of participation completed to date and the denominator is the years of participation in the Plan that would have been earned if the Participant continued employment until their Normal Retirement Date.

1.03 "Actuary":

shall mean an actuary that is a member of the Society of Actuaries or the American Academy of Actuaries and who is enrolled under subtitle C of Title III of the Employee Retirement Income Security Act of 1974.

1.04 "Actuarial Equivalent":

means a benefit or amount of equal value, based upon the RP2000 Combined Healthy Mortality Table, unisex, and the same interest rate utilized in the most recently Board approved Actuarial Valuation Report. ~~shall mean a benefit of~~

~~equivalent current value to the benefit that would otherwise have been provided to the Participant. At the time of calculation of the actuarially equivalent benefit, the calculation shall not include possible future benefit increases which have not been adopted by the Employer and which are not in effect as of the calculation date. Actuarial equivalence will be based on an interest or discount rate and mortality table as set forth in this paragraph. The interest rate will be equal to the post-retirement rate of interest that was used to determine the minimum funding requirement pursuant to Chapter 112, Florida Statutes, for the plan year that precedes the plan year during which the benefit is being determined. The mortality table will be the unisex mortality table that is promulgated by the Commissioner from time to time for purposes of determining lump sum values pursuant to Code section 417(e)(3).~~

1.05 "Average Final Compensation":

shall mean one-twelfth (1/12) of the average annual compensation of the five (5) best years of the last ten (10) years of Credited Service prior to retirement, termination or death, or the career average, whichever is greater. A year shall be defined as the twelve (12) consecutive months immediately prior to death, disability or retirement.

1.06 "Beneficiary":

shall mean the person or persons entitled to receive benefits hereunder at the death of a Participant who has or have been designated in writing by the Participant and filed with the Board. If no such designation is in effect, or if no person so designated is living, at the time of death of the Participant, the beneficiary shall be the estate of the Participant.

1.07 "Board":

shall mean the Board of Trustees, which shall administer and manage the Plan herein provided and serve as Trustees of the Fund.

1.08 "Code":

shall mean the Internal Revenue Code of 1986, as amended from time to time.

1.09 "Credited Service":

shall mean the total number of years and fractional parts of years as a Participant

during which the Participant made required contributions to the Plan, omitting intervening years or fractional parts of years when such Participant is not employed by the Employer. Credited Service may be given for years of employment as a Police Officer, Firefighter or Public Safety Officer, prior to plan inception at the discretion of the Employer.

A Participant may voluntarily leave his/her Participant contributions in the Fund for a period of five (5) years after leaving the employ of the Employer pending the possibility of being rehired in a position eligible for participation in this Plan, without losing credit for the time that he/she was a Participant in the Plan. If a Participant who is not vested is not reemployed with the Employer within five (5) years, the Accumulated Contributions shall be returned without interest. Upon return of a Participant's Accumulated Contribution, all rights and benefits under the Plan are forfeited and terminated. Upon any reemployment in a position eligible for participation in this Plan, a Participant shall not receive credit for the years and fractional parts of years for which the Participant has withdrawn his/her Accumulated Contributions from the Plan unless the Participant repays into the Fund the contributions he/she has withdrawn, with interest, as determined by the Board, within ninety (90) days after reemployment.

A Participant shall receive Credited Service for all purposes, including vesting, for the years or fractional parts of years that he/she performs "Qualified Military Service" including voluntary or involuntary service in the armed forces of the United States as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L. 103-353), after separation from employment with the Employer, to perform training or service, provided that:

- (A)** The Participant must return to his/her employment with the Employer within one (1) year following the date of military discharge or his/her release from active service.
- (B)** The Participant is entitled to reemployment under the provisions of USERRA.
- (C)** The maximum credit for military service pursuant to this paragraph shall be five (5) years.

(D) This section is intended to satisfy the minimum requirements of USERRA, as may be amended from time to time. To the extent that this section does not meet the minimum requirements of USERRA, the provisions of USERRA shall govern.

If a participant dies or becomes disabled on or after January 1, 2007 while performing Qualified Military Service as defined by USERRA, the participant's beneficiaries shall be entitled to any benefits the participant would have been entitled to had he or she resumed employment and then died while employed.

1.10 "Deferred Retirement Option Plan" or "DROP"
shall mean a retirement option in which a Member may elect to participate. A Member may retire for all purposes of the plan and defer receipt of retirement benefits into a DROP account while continuing employment with the Employer. However, a Members who enter the DROP and who is otherwise eligible to participate will continue participation in the Share Account benefit.

1.11 "Early Retirement Date":
shall mean the first day of the month coincident with or next following the attainment of age Fifty (50) and Seven (7) years of service.

~~1.12~~ ~~1.11~~ "Effective Date":
shall mean May 1, 1999.

~~1.13~~ ~~1.12~~ "Employee":
shall mean Full time Public Safety Officers and the Firefighters of the Town of Indian River Shores.

~~1.14~~ ~~1.13~~ "Employer":
shall mean the Town of Indian River Shores.

~~1.15~~ ~~1.14~~ "Firefighter":
shall mean any person employed solely by the Employer in the public safety department who is certified as a Firefighter as a condition of employment in

accordance with the provisions of Section 633.35, Fl. Stat., and whose duty is to extinguish fires, to protect life, and to protect property. The term includes all certified, supervisory, and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time firefighters, part-time firefighters, or auxiliary firefighters but does not include part-time firefighters or auxiliary firefighters.

1.16-1.15 "Fund":

shall mean the Trust Fund established herein as part of the Plan.

1.17-1.16 "Limitation Year":

shall mean the Calendar Year.

1.18-1.17 "Normal Retirement Date":

shall mean the first day of the month coincident with, or next following attainment of age Fifty-five (55) and Seven (7) years of service or attainment of age Fifty-two (52) and Twenty-five (25) years of service.

1.19-1.18 "Participant or Member"

shall mean the actively employed Employees who are eligible to participate in this Plan as specified in Article 2. Benefit improvements which, in the past, have been provided for by amendments to the Plan adopted by the Employer by ordinance or resolution, and any benefit improvements which might be made in the future shall apply prospectively and shall not apply to Participants who terminate employment or who retire prior to the effective date of any ordinance or resolution adopting such benefit improvements, unless such ordinance or resolution specifically provides to the contrary.

1.20-1.19 "Plan":

shall mean the pension Plan as herein set forth and as may be amended from time to time.

1.21-1.20 "Plan Year":

shall mean the Plan's accounting year of twelve (12) consecutive months commencing on October 1 of each year and ending the following September 30, or the Plan Year.

1.221-21 "Police Officer":

shall mean any person who is elected, appointed, or employed full time by the Employer, who is certified or required to be certified as law enforcement officer in compliance with s. 943.1395, Fl. Stat., who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the State. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers, but does not include part-time law enforcement officers or auxiliary law enforcement officers as the same are defined in s. 943.10(6) and (8), Fl. Stat., respectively. A Police Officer classification shall also include a public safety officer who is responsible for performing both police and fire services.

1.231-22 "Public Safety Officer":

shall mean an actively employed person who is responsible for performing both firefighter and police officer services for the Employer. A Public Safety Officer shall be considered a "police officer" for the purposes of this Plan.

1.241-23 "Salary/Compensation":

shall mean the total cash remuneration paid to a Participant for services rendered. Effective October 1, 2012, overtime included in earnable compensation is limited to 300 hours per Participant per year. Prior to October 1, 2012, all overtime is included in the definition of earnable compensation. No hours of unused accumulated sick and vacation leave earned after October 1, 2012, shall be considered earnable compensation, however, Participants may include all hours earned as of September 30, 2012, provided that amount of hours is cashed in at retirement.

Compensation in excess of the limitations set forth in Section 401(a)(17) of the Code as of the first day of the calendar year shall be disregarded for any purpose, including employee contributions or any benefit calculations. The annual compensation of each member taken into account in determining benefits or employee contributions for any calendar year beginning on or after January 1, 2002, may not exceed \$200,000, as adjusted for cost-of-living increases in accordance

with Section 401(a)(17)(B) of the Code.

Beginning with compensation paid after December 31, 2008, and pursuant to Internal Revenue Code Section 414(u)(7), the definition of compensation includes amounts paid by the Town as differential wages to members who are absent from employment while in qualified military service.

1.251-24 "Spouse":

shall mean the wife or husband of a Participant at the time benefits become payable.

1.261-25 "Total and Permanent Disability":

shall mean a physical or mental condition of a Participant resulting from bodily injury, disease, or mental disorder which renders him incapable of employment as a Firefighter, Police Officer or Public Safety Officer, and which condition constitutes total disability as determined by the Board.

1.271-26 "Trust Fund or Trust":

shall mean the Trust Fund established under this Plan to hold Plan assets and to which contributions are to be paid and benefits held. Nothing herein shall preclude the establishment of more than one trust fund as may be required by law or adopted by the Employer.

1.281-27 "Trustee":

shall mean the person or persons named as and making up the Board of Trustees or Board, who shall administer and manage the Plan.

1.291-28 "Valuation Date":

shall mean the first day of the Plan Year.

ARTICLE 2 PARTICIPATION

2.01 Conditions of Eligibility

A Participant shall become eligible to participate in this Plan immediately upon hire as a Police Officer, Public Safety Officer or a Firefighter

2.02 Participation

Each Participant shall complete a form prescribed by the Board providing the following information:

- (A) enrollment in the Plan

- (B) designation of a beneficiary or beneficiaries,

- (C) a certified statement as to prior medical history, and a waiver to release and access medical records.

2.03 Change in Designation of Beneficiary

A Participant may from time to time change his/her designated beneficiary by written notice to the Board upon forms provided by the Board. Upon such change, the rights of all previously designated beneficiaries to receive any benefits under the Plan shall cease. A change of beneficiary shall not require consent of the beneficiary. Notwithstanding the provisions of this paragraph, a police officer retiree or firefighter retiree may change his or her designation of beneficiary up to two times without the approval of the Board or the current beneficiary. The retiree is not required to provide proof of the good health of the beneficiary being removed, and the beneficiary being removed need not be living.

ARTICLE 3
BOARD OF TRUSTEES

3.01 Board of Trustees

- (A)** The sole and exclusive administration of and responsibility for the proper operation of the Plan is hereby vested in a Board of Trustees. Each Board of Trustees shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description. Accurate and detailed accounts of all Board meetings must be kept. All accounts, books and records relating thereto shall be open to inspection and audit in accordance with general law. The Board shall issue such reports as are requested and make available to the same for inspection any and all records and accounts which are deemed appropriate in order to comply with governmental regulations issued thereunder.
- (B)** The Board members shall, by a majority vote, elect a Chairman and a Secretary. The Secretary of the Board shall keep a complete minute book of the actions, proceeding, or hearings of the Board. The Board members shall not receive any compensation as such, but may receive expenses and per diem as provided by law.
- (C)** Each Board member shall serve as trustee for a period of 4 years, unless he or she sooner leaves the employment of the Employer, whereupon a successor shall be chosen in the same manner as an original appointment. The length of the terms of office shall be the same for all board members.
- (D)** Each Board member shall be entitled to one vote on the Board. A majority of the Board shall be necessary for any decision of the Board. A Board member shall have the right to abstain from voting as the result of a conflict of interest provided that Board member states in writing the nature of the conflict and complies with the provisions of Section 112.3143, Fl. Stat.
- (E)** The Board of Trustees shall engage such actuarial, accounting, legal, and

other services as shall be required to transact the business of the Plan. The compensation of all persons engaged by the Board and all other expenses of the Board necessary for the operation of the Plan shall be paid from the Fund at such rates and in such amounts as the Board of Trustees shall approve.

- (F)** The duties and responsibilities of the Board of Trustees shall include, but not necessarily be limited to, the following:
- (1)** To construe the provisions of the Plan and determine all questions arising thereunder.
 - (2)** To determine all questions relating to eligibility and participation.
 - (3)** To determine the amount of all benefits hereunder.
 - (4)** To establish uniform rules and procedures to be followed for administrative purposes, benefit applications, and all matters required to administer the Plan.
 - (5)** To distribute to Participants, at regular intervals, information concerning the Plan.
 - (6)** To receive and process all applications for participation and benefits.
 - (7)** To authorize all payments whatsoever from the Fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the Plan and Fund.
 - (8)** To have performed actuarial studies and at least triennial valuations, as required by law, and make recommendations regarding any and all changes in the provisions of the Plan.
 - (9)** To perform such other duties as required to administer the Plan.
 - (10)** To arrange for and select physicians for medical exams and review and advise on medical disability eligibility issues.
 - (11)** To invest and reinvest the assets of the Fund.
- (G)** At least once every three (3) years, the Board shall retain a professionally qualified independent consultant who shall evaluate the performance of any existing professional money manager and shall make recommendations to the Board regarding the selection of money managers for the next investment term. These recommendations shall be considered by the Board at its next regularly scheduled meeting.

ARTICLE 4
FINANCES AND FUND MANAGEMENT

4.01 Establishment and Operation of Fund

- (A)** As part of the Plan, there is hereby established the Fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the Plan, including any assets of any prior municipal trust fund(s).
- (B)** The actual custody and supervision of the Fund (and assets thereof) shall be vested in the Board. Payment of benefits and disbursements from the Fund shall be made by the disbursing agent but only upon written authorization from the Board or its designee.
- (C)** All funds of the Plan may be deposited by the Board with the Employer, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he/she is liable for the safekeeping of funds for the Employer. However, any funds so deposited with the Employer shall be kept in a separate fund by the Employer or clearly identified as such funds of the Plan. In lieu thereof, the Board shall deposit the funds in a qualified public depository as defined in Section 280.02, Fl. Stat., which depository with regard to such funds shall conform to and be bound by all of the provisions of Chapter 280, Fl. Stat. In order to fulfill its investment responsibilities as set forth herein, the Board may retain the services of a custodian bank, an investment adviser registered under the Investment Advisors Act of 1940, or otherwise exempt from such required registration, an insurance company, or a combination of these, for the purpose of investment decisions and management. Such investment manager shall have discretion, subject to any guidelines as prescribed by the Board, in the investment of all Fund assets.
- (D)** All funds of the Plan may be commingled without limitation in governmental investment trusts, no-load investment funds or no-load mutual funds, and all such trusts or funds must comply with the Investment Policy. Accurate records are to be maintained at all times reflecting the financial composition

of the Fund, including accurate current accounts and entries as regards the following:

- (1) Current amounts of Accumulated Contributions of Participants on both an individual and aggregate account basis, and
- (2) receipts and disbursements, and
- (3) benefit payments, and
- (4) current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the Employer, and
- (5) all interest, dividends and gains (or losses), and
- (6) such other entries as may be properly required so as to reflect a clear and complete financial report of the Fund.

(E) An independent audit shall be performed annually by a certified public accountant for the most recent fiscal year of the Employer showing a listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year. Such report shall reflect a complete evaluation of assets on a cost and market basis, as well as other items normally included in a certified audit.

(F) The Board of Trustees shall have the following investment powers and authority:

- (1) The Board of Trustees shall be vested with full legal title to said Fund, subject, however, and in any event to the authority and power of the governing body of the Employer to amend or terminate this Plan, provided that no amendment or termination shall ever result in the use of any assets of the Fund except for the payment of regular expenses and benefits under this Plan, and except as otherwise provided in this Plan. All contributions deposited into the Fund, and the income thereof, without distinction between principal and income, shall be held and administered by the Board, or its agent, in the Fund, and the Board shall not be required to segregate or invest separately any portion of the Fund.
- (2) All monies paid into or held in the Fund shall be invested and

reinvested by the Board. The Fund shall be invested in accordance with an established investment policy adopted by the Board. The adopted investment policy will be made part of this document and shall be attached as **Exhibit A**.

- (3) The Board may cause any investment in securities held by it to be registered in or transferred into its name as Trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in a form permitting transferability, but the books and records shall at all times show that all investments are part of the Trust Fund.
- (4) The Board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution to participate in mergers, reorganizations, recapitalization, consolidations and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the Trustee or with depositories designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the Fund which it may deem to be in the best interest of the Fund to exercise.
- (5) Any overpayments or underpayments from the Fund to a Participant or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum as utilized in the prior years' actuarial valuation. Overpayments shall be charged against payments next succeeding the correction. Underpayments shall be made up from the Trust Fund.
- (6) In any application to or proceeding or action in the courts, the Board and Employer shall be a necessary party, and no Participant or other person having an interest in the Fund shall be entitled to any notice or service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.
- (7) Any powers and functions of the Board may be performed or carried out by the Board through duly authorized agents, provided that the

Board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to the Fund always remain with the Board.

- (G)** Notwithstanding any provision of this section to the contrary, for plans participating in Chapter 175 or 185, Fl. Stat., the Board shall identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in section 215.473, Florida Statutes, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in that company beginning January 1, 2010. The divestiture of any such security must be completed as specified in Chapter 175 or 185, Fl. Stat. The Board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the Board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the participants of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by s. 215.473, and the manner of the disposition, if any, is reasonable as to the means chosen. For the purposes of effecting compliance with that section, the pension fund shall designate terror-free plans that allocate their funds among securities not subject to divestiture. No person may bring any civil, criminal, or administrative action against the Board of trustees or any employee, officer, director, or advisor of such pension fund based upon the divestiture of any security pursuant to this paragraph.

ARTICLE 5 CONTRIBUTIONS

5.01 Participant Contributions

Participant contributions are pick-up contributions pursuant to 414(h) of the Internal Revenue Code. The Town shall initially pick up the sum of 5% of the earnings of the member, which shall constitute the pick-up amounts, provided however, that if an approved actuarial study shows that the plan is over-funded, payments to the plan by the Employer and the pick-up amounts set forth herein may be reduced or increased in direct proportion that the pick up amounts bear to the Participant's Contributions. If under-funded, pick up amounts will increase until the Participant's Contribution reaches a maximum of 9%. If over-funded, pick-up amounts will decrease in proportion once the Participant's Contribution falls to 9%. Any changes to contribution levels shall be increased and decreased in proportions of 31.25% to the Participants and 68.75% to the Employer. **Effective October 1, 2015, The maximum Participant's contribution for all Participants shall be 9% of salary including up to 300 hours of overtime pay. The minimum Participant's contribution shall be 5% of salary including up to 300 hours of overtime pay.** ~~Effective for eligible Participants hired after October 1, 2012, the maximum contribution will be 13% of the Participant's compensation including up to 300 hours of overtime.~~ Participant contributions withheld by the Employer on behalf of the Participant shall be deposited in the Fund immediately after each pay period.

5.02 State Contributions

Any monies received or receivable by reason of laws of the State of Florida, for the express purpose of funding the Plan shall be deposited in the Trust Fund comprising part of this Plan immediately. Contributions must be deposited within five (5) days after receipt by the Employer. The available funds are deposited to the Share Account provided for in Article 6 of this Plan.

5.03 Employer Contributions

So long as this Plan is in effect, the Employer shall deposit at least quarterly contributions for each Plan Year to the Trust Fund in an amount no less than the amount determined by the Actuary, taking into account Participant contributions,

state contributions for such year, and the total cost for the Plan Year, as represented in the most recent actuarial valuation of the Plan. The total cost for each Plan Year shall be defined as the total normal cost plus the additional amount sufficient to amortize the unfunded past service liability as provided in Part VII of Chapter 112, Florida Statutes.

5.04 Other

Private donations, gifts and contributions may be deposited to the Fund.

ARTICLE 6
BENEFIT AMOUNTS AND ELIGIBILITY

6.01 Normal Retirement Date

Effective October 1, 2015, a A Participant's Normal Retirement Date shall be the first day of the month coincident with, or next following attainment of age **Fifty (50)** ~~Fifty-five (55)~~ and Seven (7) years of service or attainment of age Fifty-two (52) and Twenty-five (25) years of service. A Participant may retire on his/her Normal Retirement Date or on the first day of any month thereafter. Normal Retirement under the Plan is retirement from employment with the Employer on or after the Normal Retirement Date and completion of the required years of credited service.

6.02 Normal Retirement Benefit

A Participant hired before October 1, 2012, retiring on or after his/her Normal Retirement Date shall receive a monthly benefit equal to the number of years of credited service multiplied by 2.75%; the product of which is multiplied by Average Final Compensation, which shall commence on the first day of the month coincident with or next following his/her termination of employment. A participant hired on or after October 1, 2012, retiring on or after his/her Normal Retirement Date shall receive a monthly benefit equal to the number of years of credited service multiplied by 2.0%; the product of which is multiplied times Average Final Compensation.

In the event that a Participant does not begin to receive his/her Benefit at his/her Normal Retirement Date, such Participant shall be entitled to a deferred benefit equal to the benefit the Participant was entitled to receive at his/her Normal Retirement Date, adjusted to take into account the Participant's Average Final Compensation and years of Credited Service as of his/her actual retirement date, and the Participant may be entitled to the Late Retirement Benefit provided for in Section **6.05** ~~6.07~~.

6.03 Normal Form of Benefit

The normal form of benefit shall be life and ten years certain. This is a benefit payable for the life of the retiree. If the retiree dies before receiving 120 payments, then the beneficiary is entitled to receive the remainder of the 120 payments. In this

case, the total number of payments to the retiree and the beneficiary cannot exceed 120. If the retiree dies after receiving 120 payments, no benefit is payable to a beneficiary.

6.04 ~~Early Retirement Date~~

~~A Participant may retire on the Early Retirement Date which shall be the first day of the month coincident with or next following the attainment of age Fifty (50) and Seven (7) years of service. Early retirement under the Plan is termination from employment with the Employer on or after the Early Retirement Date and prior to the Normal Retirement Date and the actual completion of the required years of credited service.~~

6.05 ~~Early Retirement Benefit~~

~~A Participant retiring hereunder on or after his/her Early Retirement Date may receive either a deferred or an immediate monthly retirement benefit payable for life, as follows:~~

~~(A) A deferred monthly retirement benefit which shall commence on what would have been the Participant's Normal Retirement Date had he/she remained a Participant, determined based upon his/her actual years of Credited Service. The amount of such deferred monthly retirement benefit shall be determined in the same manner as for retirement at his/her Normal Retirement Date, as determined based upon his/her actual years of Credited Service, except that Credited Service and Average Final Compensation shall be determined as of his/her Early Retirement Date; or~~

~~(B) An immediate monthly retirement benefit which shall commence on his/her Early Retirement Date. The amount of the Early Retirement Benefit shall be determined in the same manner as for Retirement at his/her Normal Retirement Date, except the benefit shall be reduced by 2% for each year the Early Retirement Date precedes the Normal Retirement Date to take into account the Participant's younger age and the earlier commencement of retirement income payments.~~

6.046-06 Required Distribution Date

Distribution of a participant's benefit under this article must commence no later than April 1 of the calendar year following the later of the calendar year during which the

participant attains age seventy and one-half (70 ½) or the calendar year in which the participant terminates employment with the Employer.

6.056-07 Late Retirement Date (LRD)

A Participant's retirement benefit on his/her Late Retirement Date shall be equal to the greater of (A) or (B) below:

- (A) The accrued benefit on the Late Retirement Date (LRD).
- (B) The accrued benefit at Normal Retirement Date (NRD), multiplied by the factor show below corresponding to the number of years the LRD follows the Normal Retirement Date.

NUMBER OF YEARS LRD FOLLOWS NRD	FACTOR
1	1.06
2	1.12
3	1.19
4	1.26
5	1.34
6	1.42
7	1.50
8	1.59
9	1.69
10	1.79

6.066-08 Public Safety Officers and Firefighters Share Plan

The purpose of this Section is to implement the provisions of Chapters 175 and 185, Florida Statutes, and to provide a mechanism to pay required "extra benefits" to Public Safety Officers and Firefighters based on the growth of premium tax revenue pursuant to Chapters 175 and 185. The monies shall be derived exclusively from monies received from the state and not from any additional taxes levied by the Town, and shall be in addition to the benefits the Participants receive in the Plan.

After receipt of the annual distribution of money from the state, the Board of Trustees, with the advice of their actuary, shall determine the amount of excess money received by the Town during the current fiscal year pursuant to Chapters 175 and 185, Florida Statutes. The sum of these amounts shall be known as "available

funds." All monies received will be placed in the Fund, as outlined in Article 4 of the Basic Plan Document, and shall be commingled for investment purposes with the other assets of the Town's retirement pension funds. Separate accounting shall be maintained for all commingled assets.

In accordance with provisions of Chapters 175 and 185, Florida Statutes and such other required authority, a Public Safety Officer or Firefighter, who is a Participant, shall be entitled to one share for each year of Credited Service, as defined below, as a Public Safety Officer or Firefighter of the Town. Each Participant shall thereupon have as many shares as years of Credited Service. The number of years of Credited Service rendered by each Participant shall be determined and a record thereof shall be made on the Participant's service record.

For purposes of this Section, the word "Credited Service," in addition to the definition in Section 1.09 ~~1.10~~ shall mean "all time served as a regularly appointed or employed Public Safety Officer or Firefighter of the Town, measured from October 1, 2006, for which regular compensation is paid by the Town and all times during which a Participant is absent on military leave. It shall include all leave of absences with pay, but shall not include leave of absences during which no regular compensation is paid by the Town, except military leave."

Available funds shall be distributed to all individuals who are active participants as of September 30th of the applicable Plan Year. Available funds shall be prorated to each qualifying Public Safety Officer or Firefighter in proportion to the number of individual shares for the Plan Year by credit to the Fund.

Participant accounts are credited with earnings or losses based upon the earnings or losses of the Fund as a whole. The Fund shall pay all costs and expenses for the management and operation for the current fiscal year from the Chapter 175/185 available funds and shall set aside as much of the income as it considers advisable as a reserve for expenses for the next fiscal year. After deducting these monies, the remaining monies shall be allocated and credited to the Fund on behalf of the respective Participants. The Town shall bear no expense in the operation of this share plan.

Upon retirement, the Participant shall be paid the entire amount standing to this

credit in the Fund in a lump sum to the Participant as soon as administratively feasible following his/her termination of employment.

No Participant or designated beneficiary shall be entitled to payment of their share balance unless:

- i) the Participant has completed 7 years of Credited Service under the Plan as a Public Safety Officer or Firefighter of the Town; and
- ii) the Participant or beneficiary becomes eligible for a normal, early, disability, or death benefit from the defined benefit plan.

Upon the separation from service of a non-vested Participant, shares shall revert back into this Share Plan and shall be reallocated to the membership unless the former participant returns to service prior to the September 30th allocation date.

If any provisions of this Section or the Plan hereby created shall conflict with the provisions of Chapters 175 and 185, Florida Statutes, such conflict shall be resolved in favor of the statutory provisions which are intended to control.

6.07 Deferred Retirement Option Plan ("DROP")

(A) ELIGIBILITY TO PARTICIPATE IN THE DROP

- 1. Any Member who is eligible to receive a normal retirement pension may participate in the DROP. Members shall elect to participate by applying to the Board of Trustees on a form provided for that purpose. Additionally, upon entry in the DROP, Members will sign an irrevocable letter of termination, agreeing to leave employment no later than the end of the DROP participation period.**
- 2. Election to participate shall be forfeited if not exercised within 90 days of reaching normal retirement.**
- 3. A Member shall not participate in the DROP beyond the time of attaining 30 years of service and the total years of participation**

in the DROP shall not exceed five (5) years.

4. Upon a Member's election to participate in the DROP, he or she shall cease to be a Member and is precluded from accruing any additional benefit under the Pension Fund. For all Fund purposes, the member becomes a retirant. The amount of credited service and Average Final Compensation freeze as of the date of entry into the DROP.

(B) AMOUNTS PAYABLE UPON ELECTION TO PARTICIPATE IN DROP

1. Monthly retirement benefits that would have been payable had the member terminated employment with the department and elected to receive monthly pension payments will be paid into the DROP and credited to the DROP Participant. Payments into the DROP will be made monthly over the period the DROP Participant is in the DROP, up to a maximum of sixty (60) months. DROP Participants will also be eligible for Share Account Distributions during the period of participation in the DROP.
2. DROP Participant accounts are credited with earnings or losses based upon the earnings or losses of the Fund as a whole. The DROP accounts will be charged with the pro rata expenses of the operation of the DROP accounts.
 - (a) Interest will be credited on a monthly basis using the calculation method set forth by the Trustees in its investment policy.
 - (b) Statements will be provided to the DROP Participants annually as of September 30 of each year.
3. If a DROP Participant does not terminate employment at the end of participation in the DROP, there shall be no future DROP deposits and there will be no further interest credits on the balance.

- 4. No payments will be made from DROP until the DROP Participant terminates employment with the Employer.**
- 5. DROP Participants who retire on or after the effective date of this section may leave their DROP accounts in the Fund for a period of ninety (90) days. At the end of the 90 day period, the DROP Participant must begin taking withdrawals of the DROP balances. DROP balances may be paid:**
- (a) in cash;**
 - (b) by rollover to another qualified plan;**
 - (c) paid in substantially equal payments based on the life expectancy of the DROP Participant as determined by the actuary for the Fund; or**
 - (d) a combination of the foregoing payment methods.**
- (C) Any form of payment selected by a DROP Participant must comply with the minimum distribution requirements of the IRC 401(A)(9) e.g., payments must commence by age 70½.**
- (D) In the event that a DROP Participant becomes disabled during the DROP period, the DROP Participant shall not be eligible for a disability retirement, but shall be deemed to have begun a normal retirement on the date of disability.**
- (E) In the event that a DROP Participant dies during the time he or she is participating in the DROP program, the DROP Participant shall be deemed to have retired on a normal retirement effective on the day prior to the date of the death of the DROP Participant. In the event of the DROP Participant's death, the DROP account shall be distributed to the DROP Participant's designated beneficiary, or if no such beneficiary shall have been designated on a form prescribed by the Board or if the designated beneficiary has pre-deceased the DROP Participant, the DROP Participant's estate shall be deemed the designated beneficiary.**

ARTICLE 7
PRE-RETIREMENT DEATH

7.01 Single Sum Death Benefit

If a Participant dies prior to vesting, the beneficiary will receive an amount equal to the employee's accumulated contributions.

7.02 Pre-Retirement Survivor Benefits

If a Participant has any vesting percentage or has made any contributions, and the Participant dies prior to retirement, a Death Benefit shall be paid.

If the Beneficiary is the Participant's spouse, the Death Benefit shall be paid on the first day of the month after the date on which the Early Retirement Benefits could have been paid. The particular month in which this benefit will start is based on the option of the spouse, provided however, that benefits must commence on the date the Participant would have been age 70½. In the event the Spouse dies before the date the Death Benefit starts, a Death Benefit shall be paid to the Spouse's beneficiary.

The Death Benefit is determined as follows: The Participant's accrued benefit is determined, using the date the Participant died, if then employed by the Town, or the date the employee stopped working for the Town, if earlier. The spouse will receive the 50% survivor form of the actuarially adjusted Participant's normal retirement benefit, reduced by half, which will be paid to the spouse for his/her lifetime, or the spouse may choose to receive the benefits otherwise payable to the member at what would have been the Participant's Normal or Early Retirement Date. The benefit shall be paid as a life and 10 year certain payment.

If the beneficiary is someone other than the Participant's spouse, the Death Benefit is determined as follows: The designated beneficiary will receive the benefits otherwise payable to the member at what would have been the Participant's Normal or Early Retirement Date. The benefit shall be paid as a life and 10-year certain payment.

7.03 If No Spousal Death Benefit is Paid

If no death benefit is paid because the conditions set forth above are not met, a death benefit will be payable to the Participant's beneficiary in a lump sum equal to the Participant's accumulated contributions.

A death benefit will be paid for the life of the beneficiary. Provided, however, if a member has already retired prior to death, the death benefit will be paid in accordance with the form of retirement benefit in effect on the date the benefit would have started had the member not died.

7.04 Beneficiaries Receipt of Payment

A Beneficiary may not elect an optional form of benefit, however, the Board may elect to make a lump sum payment pursuant to Article 10(G) to a beneficiary of the death benefits payable hereunder.

7.05 Distribution of Benefits

Distributions to the beneficiary shall commence by a date selected in accordance with this Article; however in no event shall distribution commence later than December 31 of the calendar year in which the participant would have attended age seventy and one-half (70 ½).

ARTICLE 8
DISABILITY

8.01 Disability Benefits In-Line-Of-Duty

(A) Benefits

A Participant may file for a duty disability benefit if he or she becomes Totally and Permanently Disabled while an active Participant of the Employer to the extent that he/she is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Firefighter, Police Officer or Public Safety Officer, respectively, which disability was directly caused by the performance of his/her duty as a Firefighter, Police Officer or Public Safety Officer, respectively. Upon establishing the same to the satisfaction of the Board, the Participant will be entitled to a monthly pension which is the greater of: a monthly pension equal to 42% of average monthly compensation or an amount equal to the accrued retirement benefit payable on the 1st day of the next month after the Board of Trustees has determined entitlement to benefits under this section. The first payment shall include any portion due for a partial month.

If the participant recovers from the disability, the last payment will be, the payment due next preceding the date of such recovery or, if the participant dies without recovering from the disability, the payment due next preceding his/her death or the 120th monthly payment, whichever is later. In lieu of the benefit payment as provided in this paragraph, a participant may select an optional form as provided in Article 10 of this Plan.

(B) Presumption Pursuant to the provisions of section 112.18, Fl. Stat., as amended from time to time, any condition or impairment of the health of a Firefighter, Police Officer or Public Safety Officer caused by tuberculosis, hypertension or heart disease, or hardening of the arteries for a Police Officer or a Public Safety Officer, shall be presumed to have been suffered in line-of-duty unless the contrary is shown by competent evidence, provided that such Firefighter, Police Officer or Public Safety Officer, shall have successfully passed a physical examination upon entering into employment

with the Employer, which may include a cardiogram, which failed to reveal any evidence of such condition; and provided further, that such presumption shall not apply to benefits payable or granted in a policy of life insurance or disability insurance.

(C) Additional Presumption Section 112.181, Fla. Stat., as amended from time to time, is hereby adopted and incorporated by reference and is applicable to those conditions described therein that are diagnosed on or after January 1, 1996.

8.02 Disability Benefits Off-Duty

Every Firefighter, Police Officer or Public Safety Officer who has 10 or more years of service who shall have become Totally and Permanently Disabled to the extent that he/she is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Firefighter, Police Officer or Public Safety Officer, respectively, as defined in Article 1, and which disability is not directly caused by the performance of his/her duties as a Firefighter, Police Officer or Public Safety Officer, respectively, shall, upon establishing the same to the satisfaction of the Board of Trustees, be entitled to a disability benefit equal to 25% of average monthly compensation or an amount equal to the accrued retirement benefit payable on the 1st day of the next month after the Board of Trustees has determined entitlement to benefits under this section. The first payment shall include any portion due for a partial month.

If the participant recovers from the disability, the last payment will be the payment due next preceding the date of such recovery or, if the participant dies without recovering from the disability, the payment due next preceding his/her death or the 120th monthly payment, whichever is later. In lieu of the benefit payment as provided in this paragraph, a participant may select an optional form as provided in Article 10.

A disabled Participant that does not meet the 10 years of credited service requirement will receive a return of his/her Accumulated Contributions without interest.

8.03 Conditions Disqualifying Disability Benefits

Each Participant who is claiming disability benefits shall establish, to the satisfaction of the Board, that such disability was not occasioned primarily by:

- (A) Excessive or habitual use of any drugs, intoxicants or narcotics.
- (B) Injury or disease sustained while willfully and illegally participating in fights, riots or civil insurrections, or while committing a crime.
- (C) Injury or disease sustained while serving in any branch of the Armed Forces. This exclusion does not affect members who have been disabled as a result of intervening military service under the federal Heroes Earnings Assistance and Relief Tax Act of 2008 (H.R. 6081; P.L. 110-245).
- (D) Injury or disease sustained after his/her employment as a Participant with the Employer had terminated.
- (E) Injury or disease sustained by the Participant while working for anyone other than the Employer and arising out of such employment.
- (F) Aggravation of an injury or disease which was incurred before employment of the Participant, unless the Participant establishes, to the satisfaction of the Board that the force or effect of the event itself would have been sufficient to cause the Participant to be disabled.

8.04 Physical Examination Requirement

A Participant shall not become eligible for disability benefits until and unless he undergoes physical examination by a qualified physician or physicians and/or surgeons or surgeons, who shall be selected by the Board for that purpose.

Any Participant receiving disability benefits under this Plan may be periodically re-examined by a qualified physician or physicians and/or surgeon or surgeons who shall be selected by the Board, to determine if such disability has ceased to exist. If the Board finds that the former Participant is no longer Permanently and Totally Disabled to the extent that he is able to render useful and efficient service as a Firefighter, Police Officer or Public Safety Officer, respectively, the pension shall stop in accordance with Section 8.05. Further, the Board shall recommend to the Employer that the former Participant be returned to performance of duty as a Firefighter, Police Officer or Public Safety Officer, respectively, and shall again

become eligible to Participate in the Plan. In the event the former Participant so ordered to return to employment shall refuse to comply with the order within thirty (30) days from the issuance thereof, the Participant shall forfeit the right to his/her benefits hereunder.

The cost of the physical examination and/or re-examination of the Participant claiming and or receiving disability benefits shall be paid by the Plan. All other reasonable costs as determined by the Board incident to the physical examination, such as, but not limited to, transportation, meals and hotel accommodations, shall be paid by the Plan.

If a Participant recovers from disability and reenters the service of the Employer as a Participant, his/her service will be deemed to have been continuous, but the period beginning with the first month for which he/she received a disability retirement income payment and ending with the date he/she reentered the service of the Employer will not be considered as Credited Service for the purposes of the Plan. The Board shall have the power and authority to make the final decision regarding all disability claims.

8.05 Disability Payments

The monthly benefit to which a Participant is entitled in the event of the Participant's disability shall be payable on the first day of the first month after the Board determines such entitlement. Provided, however, the Participant may select, at any time prior to the date on which benefit payments begin, an optional form of benefit payment as described in Article 10, Optional Forms of Benefits, which shall be the Actuarial Equivalent of the normal form of benefit. The amount of the first disability payment shall include an amount payable from the date the Board determined such entitlement. Disability benefits shall cease:

- (A) If the Participant recovers from the disability prior to his/her Normal Retirement Date, the payment due next proceeding the date of such recovery, or
- (B) If the Participant dies without recovering from disability or attains Normal Retirement Date, the later of the payment due next proceeding his/her death, or as otherwise provided for plans operating under Chapter 175 or 185, FI,

Stat.

8.06 Disability Payments & Workers Compensation

If a Participant receives a disability benefit under the Plan and workers compensation benefits pursuant to Chapter 440, Fl. Stat., for the same disability and the total monthly benefits received from both exceed one hundred percent (100%) of the Participants' average monthly wage determined in accordance with Chapter 440, Fl. Stat., the disability pension benefit shall be reduced so that the total monthly amount received by the Participant does not exceed one hundred percent (100%) of such average monthly wage. In no event shall a Participant's disability pension benefit be reduced to less than 42% of Average Final Compensation for in-line-of duty disability and 25% of Average Final Compensation for off-duty disability. In the event of a lump sum workers compensation settlement, the disability retirement income payable from the Plan shall be adjusted as follows:

- (A)** The amount of the lump sum settlement shall be divided by the Participant's remaining life expectancy (in months) as determined using the actuarial assumptions represented in the last completed valuation of the Plan.
- (B)** If the number obtained in paragraph (A) above, when added to the Participant's monthly disability retirement income from the Plan, exceeds the Participant's final monthly compensation on the date of disability, the amount of the excess shall be deducted from the Participant's monthly disability retirement income from the pension plan, for the duration of the Participant's remaining life expectancy as determined in paragraph (A) above.
- (C)** If the number obtained in paragraph (A) above, when added to the Participant's monthly disability retirement income from the Plan, does not exceed the Participant's final monthly compensation on the date of disability, there shall be no reduction of the Participant's disability benefit from the plan.

ARTICLE 9
VESTING

If a Participant terminates his/her employment with the Employer for reasons other than retirement, disability or death, the Participant shall be entitled to the following:

- (A) If the Participant has less than three (3) years of Credited Service upon termination, the Participant shall be entitled to a refund of his/her Accumulated Contributions without interest, or the Participant may leave it deposited with the Fund in accordance with Article 1 Section 1.09.

- (B) If the Participant has three (3) or more years of Credited Service upon termination, the Participant shall be entitled to a refund of his/her Accumulated Contributions without interest or the retirement benefit that is the Actuarial Equivalent of the Accrued Benefit otherwise payable to him commencing at the Participant's otherwise Normal, Early, or Late Retirement Date, and determined based on actual years of Credited Service, provided he/she does not elect to withdraw his/her Accumulated Contributions and provided the Participant survives to his/her Normal or Early Retirement Date according to the vesting schedule below.

Years of Service	Vesting Percentage
1	0%
2	0%
3	20%
4	40%
5	60%
6	80%
7	100%

- (C) If the vested benefit is paid beginning on the normal retirement date, the Participant will receive a benefit in the normal form equal to the amount of the monthly benefit that could be provided by the accumulated contributions added to the product of the following: For Participants hired before October

1, 2012, 2.75% times years of credited service on the day before he/she ceased to be an employee times Average Final Compensation, multiplied by the vesting percentage. For Participants hired on or after October 1, 2012, 2% times years of credited service on the day before he/she ceased to be an employee times Average Final Compensation multiplied by the vesting percentage.

- (D) If the vested benefit is paid on the early retirement date, the Participant will receive a benefit in the amount set forth in (1) reduced by 2% for each year early retirement precedes normal retirement.
- (E) A member may choose to receive his/her vested retirement benefit on a late retirement date. If the member chooses to receive the vested benefit on a late retirement date, and left the service of the Town before his/her normal retirement date, the vested benefit will be the amount determined in Section 6.01 multiplied by the late retirement factor set forth in Section 6.05 ~~6-07~~. For a member who left the service of the Town after his/her normal retirement date, the benefit will be the greater of:
 - (1) The accrued benefit on the date before he/she ceased being employed by the Town, or
 - (2) The accrued benefit on the Normal Retirement Date multiplied by the late retirement factor which corresponds to the number of years the late retirement date follows the normal retirement date.
- (F) Any vested Participant of the Plan who is no longer eligible to participate in this Plan due to a change of employment, but who remains employed by the Employer in a class not eligible to participate under this Plan, shall have his/her Accrued Benefit to the date of such termination under this Plan preserved, provided he/she does not elect to withdraw his/her Accumulated Contributions from this Plan. Such Accrued Benefit shall be payable at his/her otherwise Early or Normal Retirement Date hereunder in accordance with the provisions of this Plan.

- (G)** If a Participant who terminates employment prior to his/her Early Retirement Date or his/her Normal Retirement Date and elects to withdraw Accumulated Contributions, is subsequently reemployed and again becomes a Participant in this Plan, his/her Credited Service for purposes of vesting and benefit accruals shall not include any periods of employment prior to his/her reemployment date unless he/she repays to the Fund his/her Accumulated Contributions previously withdrawn with interest, as determined by the Board, within ninety (90) days after reemployment. If a Participant repays the foregoing amount to the Fund within the prescribed time period, the interest of the Participant in his/her Accrued Benefit previously forfeited shall be restored in full and the Participant's Credited Service shall be based on all periods of employment.

ARTICLE 10
OPTIONAL FORMS OF BENEFITS

- (A) In lieu of the normal form of benefit as specified herein, a Participant's Early or Normal Retirement or Disability Benefit may be paid in an optional form as selected by the Participant.

Subject to the approval of the Board or its designee, the Participant may elect to receive the Actuarial Equivalent of the benefit otherwise payable to the Participant in accordance with one of the following options:

1. Monthly income payments for the life of the Participant.
2. Monthly income payment for the life of the Participant and after his/her death, a joint pensioner benefit payable for the life of the joint pensioner equal to, 100%, 75%, 66 2/3%, or 50% of the amount payable to the Participant.
3. Such other amount and form of retirement benefit payment that, in the opinion of the Board, will meet the circumstances of the Participant and the Trust.
4. **A Participant who is not entering into the DROP may elect a percentage of the retirement benefit payment in a lump sum as follows:**
 - a. **Five percent lump sum benefit with 95% paid under the normal or optional forms of benefits.**
 - b. **Ten percent lump sum benefit with 90% paid under the normal or optional forms of benefits.**
 - c. **Fifteen percent lump sum benefit with 85% paid under the normal or optional forms of benefits.**
 - d. **Twenty percent lump sum benefit with 80% paid under the normal or optional forms of benefits.**

The assumptions used for mortality and interest will be as provided in the Plan definition of Actuarial Equivalence for calculation of all optional forms, including PLOP lump sums.

- (B) The Participant, upon electing any option pursuant to this Article, will designate the joint pensioner or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the Plan in the event of Participant's death, and will have the power to change such designation from time to time. Such designation will name a joint pensioner or one or more primary beneficiaries where applicable. A Participant may change his/her Beneficiary at any time. If a Participant has elected an option with a joint pensioner and the Participant's retirement benefits have commenced, the Participant may thereafter change his/her joint pensioner twice without the approval of the Board or the current joint pensioner. A Participant is not required to provide proof of the good health of the joint pensioner being removed, and the joint pensioner being removed need not be living.
- (C) Upon change of a Participant's joint pensioner in accordance with this Article, the amount of the retirement income payable to the Participant shall be actuarially redetermined to ensure that the benefit paid is the Actuarial Equivalent of the present value of the Participant's then-current benefit at the time of change, and there is no impact to the Plan. Any such Participant shall pay the actuarial recalculation expenses. Each request for a change will be made in writing on a form prepared by the Board and on completion will be filed with the Board. In the event that no designated Beneficiary survives the Participant, such benefits as are payable in the event of the death of the Participant subsequent to his/her retirement shall be paid as provided in Article Section 11, Beneficiaries.
- (D) Benefit payments shall be made under the option elected in accordance with the provisions of this Article and shall be subject to the following limitations:
1. if a Participant dies prior to his/her Normal Retirement Date or Early Retirement Date, the beneficiary will receive a benefit paid under the normal form of benefit in accordance with Article 7, Pre-Retirement Death.
 2. If both the retired Participant and the beneficiary (or beneficiaries) designated by Participant die before full payment has been effected

under any option providing for payments for a period certain and life thereafter, the value of the remaining payments shall be paid in such other amount and form of retirement benefit payment that, in the opinion of the Board, will meet the circumstances of the retiree and the Trust in accordance Article 11.

3. If the designated Beneficiary (or Beneficiaries) or joint pensioner dies before the Participant's retirement under the Plan, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the Participant upon his/her retirement as if the election had not been made, unless a new election is made in accordance with provisions of this Article or a new Beneficiary is designated by the Participant prior to his/her retirement.
4. If a Participant continues employment beyond his/her Normal Retirement Date pursuant to the provisions of the Normal Retirement Date, and dies prior to his/her actual retirement and while an option made pursuant to the provisions of the Adoption Agreement is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a Beneficiary (or Beneficiaries) designated by the Participant in the amount or amounts computed as if the Participant had retired under the option on the date on which his/her death occurred.

- (E) Unless otherwise allowed by law, a Participant may not change his/her benefit payment option after the date of cashing or depositing his/her first benefit check.
- (F) Distribution of a participant's benefit under this article must commence no later than April 1 of the calendar year following the later of the calendar year during which the participant attains age seventy and one-half (70 ½) or the calendar year in which the participant terminates employment with the Employer.
- (G) Notwithstanding anything herein to the contrary, the Board in its discretion, may elect to make a lump sum payment to a Participant or a Participant's Beneficiary in the event that the total commuted value of the monthly income payments to be paid do not exceed one thousand dollars (\$1,000). Any such

payment made to any person pursuant to the power and discretion conferred upon the Board by the preceding sentence shall operate as a complete discharge of all obligations under the Plan with regard to such Participant and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons.

ARTICLE 11
BENEFICIARIES

- (A) Each Participant may, on a form provided for that purpose, signed and filed with the Board, designate a beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of his/her death and each designation may be revoked by such Participant by signing and filing with the Board a new designation-of-beneficiary form. The consent of a Participant's beneficiary to any change of beneficiary shall not be required.
- (B) If a deceased Participant fails to name a beneficiary in the manner prescribed in subsection ~~Section~~ A, or if the beneficiary (or beneficiaries) named by a deceased Participant predeceases the Participant, the death benefit, if any, which may be payable under the Plan with respect to such deceased Participant shall be paid by the Board to the estate of the Participant, and the Board, in its discretion, may direct that the commuted value of the remaining value of the remaining monthly income benefits be paid in a lump sum.

Any payment made to any person pursuant to this Section shall operate as a complete discharge of all obligations under the Plan with regard to the deceased Participant and any other persons with rights under the Plan and shall not be subject to review by anyone but shall be final, binding, and conclusive on all persons ever interested hereunder.

ARTICLE 12
CLAIMS PROCEDURES

The Board shall establish administrative claims procedures to be utilized in processing written requests ("claims"), on matters which affect the substantial rights of any person ("claimant"), including Participants, retirees, Beneficiaries, or any person affected by a decision of the Board.

ARTICLE 13
REPORTS TO DIVISION OF RETIREMENT

Each year by no later than March 15th, the Board shall file an Annual Report with the State of Florida, Division of Retirement, and the Employer containing the documents and information contained in Sections 175.261 and 185.221, Florida Statutes.

ARTICLE 14
ROSTER OF RETIREES

The Secretary of the Board shall keep a record of all persons receiving a benefit or vested Participants who will receive a future vested benefit under the provisions of this Plan in which it shall be noted the time when the benefit became payable. Additionally, the Secretary shall keep a record of all Participants employed by the Employer in such a manner as to show the name, address, date of employment and date such employment is terminated.

ARTICLE 15
BOARD ATTORNEY AND PROFESSIONALS

The Board may employ independent legal counsel at the Fund's expense for the purposes contained herein, together with such other professional, technical, or other advisors as the Board deems necessary.

ARTICLE 16
MAXIMUM PENSION

16.01 Basic Limitation

Notwithstanding any other provisions of this plan to the contrary, the member contributions paid to, and retirement benefits paid from, the plan shall be limited to such extent as may be necessary to conform to the requirements of Code Section 415 for a qualified retirement plan. Before January 1, 1995, a plan member may not receive an annual benefit that exceeds the limits specified in Code Section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a plan member may not receive an annual benefit that exceeds the dollar amount specified in Code Section 415(b)(1)(A) (\$160,000), subject to the applicable adjustments in Code Section 415(b) and subject to any additional limits that may be specified in this plan. For purposes of this section, "limitation year" shall be the calendar year.

16.02 Adjustments to Basic Limitation for Form of Benefit

- (A) If the form of benefit without regard to any benefit increase feature is not a straight life annuity, then the Code Section 415(b) limit applicable at the annuity starting date is reduced to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that takes into account the death benefits under the form of benefit.
- (B) Benefits Not Taken into Account. For purposes of this Section, the following benefits shall not be taken into account in applying these limits:
 - (1) Any ancillary benefit which is not directly related to retirement income benefits;
 - (2) Any other benefit not required under §415(b)(2) of the Code and Regulations thereunder to be taken into account for purposes of the limitation of Code Section 415(b)(1).
- (C) COLA Effect. Effective on and after January 1, 2003, for purposes of applying the limits under Code Section 415(b) (the "Limit"), the following will apply:

- (1) A member's applicable limit will be applied to the member's annual benefit in the member's first calendar year of benefit payments without regard to any automatic cost of living adjustments;
- (2) thereafter, in any subsequent calendar year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable benefit limit including any adjustment to the Code Section 415(b)(1)(A) dollar limit under Code Section 415(d), and the regulations thereunder; but
- (3) in no event shall a member's benefit payable under the plan in any calendar year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Code Section 415(d) and the regulations thereunder.

Unless otherwise specified in the plan, for purposes of applying the limits under Code Section 415(b), a Member's applicable limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Code and applicable Treasury Regulations.

(D) Other Adjustments in Limitations.

- (1) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of Code Section 415(b) of the Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) annual benefit beginning at age sixty-two (62).
- (2) In the event the member's benefit is based on at least fifteen (15) years of credited service as a full-time police officer or firefighter, the adjustments provided for in (D)(1) above shall not apply.
- (3) The reductions provided for in (D)(1) above shall not be applicable to disability benefits or pre-retirement death benefits.
- (4) In the event the member's retirement benefit becomes payable after age sixty-five (65), for purposes of determining whether this benefit meets the limit set forth in subsection (A) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at

age sixty-five(65). This adjustment shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his/her delegate.

16.03 Less than Ten (10) Years of Service

The maximum retirement benefits payable under this section to any member who has completed less than ten (10) years of credited service shall be the amount determined under section 16.01 multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten (10). The reduction provided by this section cannot reduce the maximum benefit below 10%. The reduction provided for in this section shall not be applicable to disability benefits or pre-retirement death benefits.

16.04 Participation in Other Defined Benefit Plans

The limit of this section with respect to any member who at any time has been a member in any other defined benefit plan as defined in Code Section 414(j) maintained by the Employer shall apply as if the total benefits payable under all Employer defined benefit plans in which the member has been a member were payable from one plan.

16.05 Ten Thousand Dollar (\$10,000) Limit

Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the limit set forth in this section if the benefits payable, with respect to such member under this plan and under all other qualified defined benefit pension plans to which the Employer contributes, do not exceed ten thousand dollars (\$10,000) for the applicable plan year and for any prior plan year and the Employer has not at any time maintained a qualified defined contribution plan in which the member participated.

16.06 Reduction of Benefits

Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures to defined contribution

plans in which the member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such member.

16.07 Service Credit Purchase Limits

- (A)** Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the plan, then the requirements of this section will be treated as met only if:
- (1)** the requirements of Code Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Code Section 415(b), or
 - (2)** the requirements of Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Code Section 415(c).
 - (3)** For purposes of applying subparagraph (A)(1), the plan will not fail to meet the reduced limit under Code section 415(b)(2)(C) solely by reason of this subparagraph (3), and for purposes of applying subparagraph (A)(2) the plan will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Code solely by reason of this subparagraph (3)
- (B)** For purposes of this subsection the term "permissive service credit" means service credit—
- (1)** recognized by the plan for purposes of calculating a member's benefit under the plan.
 - (2)** which such member has not received under the plan, and
 - (3)** which such member may receive only by making a voluntary additional contribution, in an amount determined under the plan, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may, if otherwise provided by

the plan, include service credit for periods for which there is no performance of service, and, notwithstanding clause (B)(2), may include service credited in order to provide an increased benefit for service credit which a member is receiving under the plan.

- (C)** For purposes of applying the limits in this Section 16.07 only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a calendar year, except as noted below and as permitted by Treasury Regulations Section 1.415(c)-2, or successor regulations. Unless another definition of compensation that is permitted by Treasury Regulations Section 1.415(c)-2, or successor regulation, is specified by the plan, compensation will be defined as wages within the meaning of Code Section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Code Sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).
- (1)** However, for calendar years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Code Sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For calendar years beginning after December 31, 2000, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of Code Section 132(f)(4).
- (2)** For limitation years beginning on and after January 1, 2007, compensation for the calendar year will also include compensation paid by the later of 2 ½ months after an employee's severance from employment or the end of the calendar year that includes the date of the employee's severance from employment if:
- a. the payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or

other similar payments, and, absent a severance from employment, the payments would have been paid to the employee which the employee continued in employment with the employer; or

b. the payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued.

(3) Back pay, within the meaning of Treasury Regulations Section 1.415(c) - 2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(D) Notwithstanding any other provision of law to the contrary, the Board may modify a request by a member to make a contribution to the plan if the amount of the contribution would exceed the limits provided in Code Section 415 by using the following methods:

(1) If the law requires a lump sum payment for the purchase of service credit, the Board may establish a periodic payment deduction plan for the member to avoid a contribution in excess of the limits under Code Sections 415(c) or 415(n).

(2) If payment pursuant to subparagraph (D)(1) will not avoid a contribution in excess of the limits imposed by Code Section 415(c), the Board may either reduce the member's contribution to an amount within the limits of that section or refuse the member's contribution.

16.08 Additional Limitation on Pension Benefits

Notwithstanding anything herein to the contrary:

(1) The normal retirement benefit or pension payable to a retiree who becomes a Participant of the Plan and who has not previously participated in such Plan, on or after January 1, 1980, shall not exceed one hundred percent (100%) of average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.

- (2) No Participant shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the Participant is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.

16.09 Benefit Restoration Plan & Trust

- (A) An Employer may fund a Benefit Restoration Plan as permitted under Code Section 415(m) as specified in this Section

(B) Definitions

- (1) **"Information Sheet"**:
is the document executed by the Employer providing specific information as to that Employer.
- (2) **"Participant"**:
means an employee of the Employer who is eligible to receive benefits under this Benefit Restoration Plan, under (C).
- (3) **"Pensioner"**:
means a former employee of the Employer who is retired and receiving retirement benefits.
- (4) **"Benefit Restoration Plan"**:
means the provisions of section 16.09, which is hereby established for the payment of retirement benefits supplementing the Plan benefits as permitted under Code Section 415(m).
- (5) **"Benefit Restoration Plan Year"**:
means the limitation year of the Plan under Code Section 415.
- (6) **"Plan"**:
means the plan maintained by a participating employer, and with respect to which this Benefit Restoration Plan will provide supplemental benefits.
- (7) **"Trust"**:
means the trust fund established in subsection (E) (2) of this Benefit Restoration Plan, which shall constitute a separate trust fund from the trust fund maintained under the Plan.

- (8) **"Board"**:
means the Board of Trustees of the Plan, serving in the separate capacity as trustees of this Benefit Restoration Plan.

(C) PARTICIPATION

- (1) All Participants, Pensioners and Beneficiaries of the Plan whose retirement or survivor benefits from that Plan for a Plan Year have been limited by Code Section 415 are eligible to participate in this Benefit Restoration Plan, unless excluded by category under the terms of the Information Sheet.
- (2) Participation in the Benefit Restoration Plan is automatic. Any Participant, Pensioner or Beneficiary who is eligible for benefits is entitled to such benefits without the necessity of enrollment. Participation in the Benefit Restoration Plan will cease for any Plan Year in which the retirement benefit of a Pensioner or Beneficiary is not limited by Code Section 415.

(D) BENEFITS

- (1) **Benefit Amount**
A covered Pensioner or Beneficiary shall receive a monthly benefit equal to the difference between the participant's monthly retirement benefit otherwise payable from the Plan prior to any reduction or limitation because of Code Section 415 and the actual monthly retirement benefit payable from the Plan as limited by Code Section 415. The monthly benefit shall be subject to withholding for any applicable income or employment taxes.
- (2) **Payment of Benefit**
Benefits under the Benefit Restoration Plan shall be paid only if the Pensioner or Beneficiary is receiving retirement benefits from the Plan.
- (3) **Form of Benefit**
The form of the benefit paid to a Pensioner or Beneficiary from the Benefit Restoration Plan shall be the same as is payable under the

Plan.

(4) Re-calculation of Benefits

The maximum benefit under the Plan shall be increased as permitted by Internal Revenue Service regulations to reflect cost-of-living adjustments above the base period, and from August 1, 2000, the benefit paid to any Participant or Beneficiary who is in payment status will be adjusted as the first day of each limitation year for the increase, if any, in the dollar limitation indexed under section 415(d) of the Code.

(E) CONTRIBUTIONS AND FUNDING

(1) Contributions

(a) The Board, upon the recommendation of the actuary, shall determine the required contributions to pay plan benefits in accordance with (3) below. The required contribution for each Plan Year shall be the total amount of benefits payable under (D) to all Pensioners and Beneficiaries, plus such amount as determined by the Board to pay the administrative expenses of the Benefit Restoration Plan and the Employer's share of any employment taxes on the benefits paid from the Plan.

(b) The required contribution as determined by the Board, upon the recommendation of the actuary, shall be paid into the Trust from an allocation of the Employer contribution amounts paid under the Plan.

(2) Benefit Restoration Plan Trust Fund

Contributions to the Benefit Restoration Plan shall be deposited in the separate Trust established and administered by the Board. This Trust is intended to be exempt from federal income tax under Code Sections 115 and 415(m)(1). The Trust assets shall be subject to the claims of general creditors of the Employer in the case of bankruptcy.

(3) Funding Assets

The benefit liabilities of the Benefit Restoration Plan shall be funded on an as-needed basis. The Trust established under (2) above shall not be accumulated to pay benefits payable in future years. Accordingly, any assets of the Trust shall be invested by the Board in short-term investments as the Board may determine to assure preservation of principal rather than the generation of income.

(4) Non-assignability of Benefits

The benefits payable under this Benefit Restoration Plan may not be assigned or alienated, except as otherwise permitted for benefits payable by the Plan.

(5) Amendment and Termination

The Employer reserves the right to amend this Benefit Restoration Plan at any time. No modification or amendment of the Benefit Restoration Plan shall make it possible for any part of the income or assets of the fund to be used for, or diverted to, purposes other than for the exclusive benefit of the

Participants, Pensioners and Beneficiaries, except as set forth in section (2) above.

The Employer reserves the right to discontinue or terminate this Benefit Restoration Plan in whole or in part. Upon a termination of the Benefit Restoration Plan, the Board shall take such steps as the Board determines to be necessary or desirable to comply with applicable laws and to apply any remaining assets.

If, after satisfaction of all liabilities, there is any balance remaining in the fund, such balance shall be refunded to the Employer if not otherwise prohibited by law.

(F) ADMINISTRATION

(1) Benefit Restoration Plan Administration

The Benefit Restoration Plan shall be administered by the Board. The

Board shall have the same authority to administer the Benefit Restoration Plan as exists for the Plan. The Board may delegate any or all of the Board's administrative authority.

(2) Compliance Authority

The Board may make modifications to the benefits payable under the Benefit Restoration Plan as may be necessary to maintain its qualified status under Code Section 415(m).

(3) No Liability for Benefits

Since this Benefit Restoration Plan is not intended to accumulate funds, the Benefit Restoration Plan shall not be liable for the payment of any benefits except to the extent of funds actually received from the Employer and not previously distributed or applied to pay Benefit Restoration Plan expenses.

(4) This Benefit Restoration Plan shall be construed, administered and governed in all respects by the laws of the State of Florida.

(G) EFFECTIVE DATES

The Board shall pay benefits under the Benefit Restoration Plan beginning on or after the date specified on the Information Sheet.

ARTICLE 17
DISTRIBUTION OF BENEFITS

As of the Effective Date, this Plan shall pay all benefits in accordance with a good faith interpretation of the requirements of Code Section 401(a)(9) and the regulations promulgated thereunder, as applicable to a governmental plan as defined in Code Section 414(d). Notwithstanding any other provision of this Plan to the contrary, a form of retirement income payable from this Plan shall satisfy the following conditions:

- (A)** If the retirement income is payable before the Participant's death,
 - (1)** It shall either be distributed or commence to the Participant not later than April 1 of the calendar year following the later of the calendar year in which the Participant attains age seventy and one-half (70 1/2), or the calendar year in which the Participant retires; and,
 - (2)** the benefit shall be paid over the life of the Participant or over the lifetimes of the Participant and designated beneficiary and shall be paid over the period extending not beyond the life expectancy of the Participant and designated beneficiary

Where benefit payments have commenced in accordance with the preceding paragraphs and the Participant dies before his/her entire interest in the Plan has been distributed, the remaining portion of such interest in the Plan shall be distributed no less rapidly than under the form of distribution in effect at the time of the Participant's death,

- (B)** If the Participant's death occurs before the distribution of his/her interest in the Plan has commenced, the Participant's entire interest in the Plan shall be distributed within five (5) years of the Participant's death, unless it is to be distributed in accordance with the following rules:
 - (1)** The Participant's remaining interest in the Plan is payable to his/her designated beneficiary.
 - (2)** The remaining interest is to be distributed over the life of the designated beneficiary over a period not extending beyond the life

expectancy of the designated beneficiary; and

- (3) Such distribution begins within one year of the Participant's death unless the Participant's spouse shall receive the remaining interest in which case the distribution need not begin before the date on which the Participant would have attained age seventy and one-half (70%), and if the spouse dies before the distribution begins, this Article shall be applied as if the spouse were the Plan Participant.

(C) Direct Transfers of Eligible Rollover Distributions

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

(2) For purposes of this paragraph, the following terms shall have the following meanings:

(i) An "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9), and the portion of any distribution that is not included in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

(ii) An "eligible retirement plan" is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), or a qualified trust

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

- (iii)** A "distributee" includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse is a distributee with regard to the interest of the spouse.
- (iv)** A "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the distributee.

ARTICLE 18
MISCELLANEOUS PROVISIONS

18.01 Interest of Participants in Plan

All assets of the Fund shall be held in trust and at no time prior to the satisfaction of all liabilities under the Plan with respect to Participants and Beneficiaries, shall any part of the corpus or income of the Fund be used for or diverted to any purpose other than for their exclusive benefit. No plan amendment or ordinance shall be adopted by the Employer which shall have the effect of reducing the then vested accrued benefits of Participants or Participants' beneficiaries under the Plan.

18.02 Summary Plan Descriptions

The Summary Plan Description outlining the provisions of this Plan was designed only to give a brief description of the benefit provided and does not include all the provisions or exclusions in the Plan Document, If the Summary Plan Description disagrees with the Plan herein in any way, the Plan Document will govern.

18.03 Gender and Number

Wherever any words are used in the masculine, feminine or neutral gender, they shall be construed as though they were also used in another gender in all cases where they would apply. Whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would apply.

18.04 Headings and References

All headings and references to sections, subsections, paragraphs, etc., in this Plan are inserted for convenience only and shall not affect the construction or interpretation of this Plan.

18.05 Benefit Improvements

Benefit improvements which, in the past, have been provided for by amendments to the Plan adopted by the Employer by ordinance or resolution, and any benefit improvements which might be made in the future, shall apply prospectively and shall not apply to Participants who terminate employment or who retire prior to the

effective date of any ordinance or resolution adopting such benefit improvements, unless such ordinance or resolution specifically provides to the contrary.

18.06 Procedure for Unclaimed Benefit

If the Board is unable, within three years after any benefit becomes due to a Participant or Beneficiary under the Plan, to authorize payment because the identity or whereabouts of such person cannot be ascertained, the Board may direct that such benefit and all further benefits with respect to such person shall be forfeited and all liability for the payment thereof shall terminate.

18.07 Qualified Military Service:

Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with § 414(u) of the Code. To the extent that the definition of "credited service" sets forth contribution requirements that are more favorable to the participants than the minimum compliance requirements, the more favorable provisions shall apply.

18.08 Domestic Relations Order Submission:

- (A) Prior to the entry of any domestic relations order which affects or purports to affect the Fund's responsibilities in connection with the payment of benefits, that order should be submitted through the Fund's administrator for review as to whether the Fund may honor it.
- (B) If the domestic relations order is not submitted to the administrator for review prior to entry, and the Fund is ordered to take action that it may not legally take, and the Fund expends administrative or legal fees in resolving the matter, the Participant who submitted the domestic relations order will be required to reimburse the Fund its expenses in connection with the order.
- (C) The administrator may develop rules or regulations concerning what the Fund will consider to determine if a domestic relations order may be complied with by the Fund.

18.09 Prohibited Transaction

Effective January 1, 1989, the Board may not engage in any transaction prohibited under Section 503(b) of the Code.

18.10 Qualification of Plan

It is intended that this plan shall constitute a qualified public pension plan under the applicable provisions of the Code for a qualified plan under Code Section 401(a) and a governmental plan under Code Section 414(d), as now in effect and as may be amended from time to time. Any modification or amendment of this Plan may be made retroactively, if necessary or appropriate to maintain qualification.

ARTICLE 19
REPEAL OR TERMINATION OF PLAN

- (A)** This Plan and Fund may be modified, terminated, or amended, in whole or in part at any time by the Employer; provided that if this Plan or any subsequent ordinance or resolution shall be amended or repealed in its application to any person benefiting hereunder, the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to the Participant or beneficiary shall not be affected thereby, except to the extent that the assets of the Fund may be determined to be inadequate.
- (B)** If this Plan shall be repealed, or if contributions to the Plan are discontinued, or if there is a transfer, merger or consolidation of government units, services or functions as provided in Chapter 121, Fl. Stat., the Board shall continue to administer the Plan in accordance with the provisions of this Plan, for the sole benefit of the then Participant's, any beneficiaries then receiving retirement allowances, and any future persons entitled to receive future benefits. in the event of repeal, termination or permanent discontinuance of contributions due to transfer, merger or consolidation of government units, services or functions, or for any other reason, there shall be full vesting (100%) of benefits accrued to date of repeal and the assets of the Plan shall be allocated as follows:
- (C)** The Board shall determine the date of distribution and the asset value required to fund all the nonforfeitable benefits, after taking into account the expenses of such distribution. The Board shall inform the Employer if additional assets are required, in which event the Employer shall continue to financially support the plan until all nonforfeitable benefits have been funded.
- (D)** The Board shall determine the method of distribution of the asset value, that is, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each participant entitled to benefits under the plan as specified in paragraph (3).

- (E)** The Board shall distribute the asset value as of the date of termination in the manner set forth in this subsection, on the basis that the amount required to provide any given retirement income shall mean the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under paragraph (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income shall mean the single premium payable for such annuity. The actuarial single-sum value may not be less than the employee's accumulated contributions to the plan, with interest if provided by the plan, less the value of any plan benefits previously paid to the employee.

- (F)** If in the event that there is asset value remaining after the full distribution as specified in paragraph (3), and after the payment of any expenses incurred with such distribution, such excess shall be returned to Employer, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the Employer and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the Employer and the state.

ARTICLE 20
EXEMPTION FROM EXECUTION, NON-ASSIGNABILITY

The pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of this Plan, the Accumulated Contributions and the assets in the Fund created under this Plan are exempt from any state, county or municipal tax of the state and shall not be subject to execution, attachment, garnishment or any legal process whatsoever and shall be unassignable. However,

- (A)** The Plan shall honor court ordered income deduction orders only for the payment of alimony or child support or any other lawful order distributing marital interests in a Participant's benefits; or

- (B)** Upon written request by the retiree, the Plan may authorize the Plan Administrator to withhold from the monthly retirement payment the funds necessary to:
 - (1)** pay for benefits being received through the Town;
 - (2)** pay the certified bargaining agent; or
 - (3)** to pay for premiums for accident, health, and long term care insurance for the retiree, the retiree's spouse, and dependents.

A retirement plan does not incur liability for participation in this permissive program if its taken actions are in good faith pursuant to F.S. 175.061(7) and 185.05(6).

ARTICLE 21
FORFEITURE OF PENSION: CONVICTION AND FORFEITURE

Any Participant who is convicted of the any of the following offenses committed prior to retirement, or whose employment is terminated by reason of his/her admitted commission, aid or abetment of the following specified offenses, shall forfeit all rights and benefits under this Plan, except for the return of his/her Accumulated Contributions as of the date of termination.

- (A)** Specified offenses are as follows:
- (1)** the committing, aiding or abetting of an embezzlement of public funds;
 - (2)** the committing, aiding or abetting of any theft by a public officer or employee from the employer;
 - (3)** bribery in connection with the employment of a public officer or employee;
 - (4)** any felony specified in Chapter 838, Florida Statutes;
 - (5)** the committing of an impeachable offense.
 - (6)** the committing of any felony by a public officer or employee who willfully and with intent to defraud the public or the public agency, for which he/she acts or in which he/she is employed, of the right to receive the faithful performance of his/her duty as a public officer or employee, realizes or obtains or attempts to obtain a profit, gain, or advantage for himself or for some other person through the use or attempted use of the power, rights, privileges, duties or position of his/her public office or employment position.
 - (7)** the committing on or after October 1, 2008, of any felony defined in Section 800.04, Florida Statutes, against a victim younger than sixteen (16) years of age, or any felony defined in Chapter 794, Florida Statutes, against a victim younger than eighteen (18) years of age, by a public officer or employee through the use or attempted use of power, rights, privileges, duties, or position of his/her office or employment position.
- (B)** Conviction shall be defined as follows: An adjudication of guilt by a court of competent jurisdiction; a plea of guilty or a nolo contendere; a jury verdict of

guilty when adjudication of guilt is withheld and the accused is placed on probation; or a conviction by the Senate of an impeachable offense.

- (C)** Court shall be defined as follows: any state or federal court of competent jurisdiction, which is exercising its jurisdiction to consider a proceeding involving the alleged commission of a specified offense. Prior to forfeiture, the Board shall hold a hearing on which notice shall be given to the Participant whose benefits are being considered for forfeiture. Said Participant shall be afforded the right to have an attorney present. No formal rules of evidence shall apply, but the Participant shall be afforded a full opportunity to present his/her case against forfeiture.
- (D)** Any Participant who has received benefits from the Plan in excess of his/her Accumulated Contributions after Participant's rights were forfeited pursuant to this section shall be required to pay back to the Fund the amount of the benefits received in excess of his/her Accumulated Contributions. The Board may implement all legal action necessary to recover such funds.
- (E)** As provided in the Florida Statutes, it is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement or withhold or conceal material information to obtain any benefit from the Plan. A person who commits a crime is punishable as provided in Section 775.082 or Section 775.083, Florida Statutes.
- (F)** In addition to any applicable criminal penalty upon conviction for a violation described in subsection (E), a Participant or Beneficiary of the Plan may, in the discretion of the Board, be required to forfeit the right to receive any or all benefits to which the person would be otherwise be entitled under the Plan. For purposes of this subsection (F) "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

ARTICLE 22
PENSION VALIDITY

The Board shall have the power to examine and investigate into the facts upon which any pension shall heretofore have been granted under any prior or existing law, or shall hereafter be granted or obtained erroneously, fraudulently or illegally for any reason. The Board is empowered to purge the pension rolls or correct the pension amount of any person heretofore granted a pension under prior or existing law or any person hereafter granted a pension under this Plan if the same is found to be erroneous, fraudulent or illegal for any reason, and to reclassify any person who has heretofore under any prior or existing law been or who shall hereafter under this Plan be erroneously, improperly or illegally classified. Any overpayments or under payments shall be corrected and paid or repaid in a reasonable manner determined by the Board.

ARTICLE 23
IN-SERVICE DISTRIBUTION

Effective October 1, 2015, upon obtaining Normal Retirement Age, a Participant who has left employment in the Police and/or Fire Department and has been rehired by the Town in a civilian position shall be entitled to receive his/her benefit under the plan while continuing his/her employment with the Town.

- A. This distribution shall be known as an “In-service Distribution.” In-service distributions for purposes of this plan are limited to those circumstances in which an employee is rehired by the Town into a position outside of the Police and Fire Departments.**
- B. Electing to receive an In-service Distribution shall be equivalent to a termination of employment for the purpose of the Plan.**
- (i) Individuals receiving In-service Distributions shall be considered to have retired for purposes of the Plan and shall not accrue any additional benefits under the Plan.**
- (ii) Individuals receiving In-Service Distributions shall be considered to be retirees and any amendments to the Plan following the Participant’s election for In-Service Distributions that apply to retirees shall apply to those Participants. Any amendments applicable only to active Participants and not to retirees shall not apply to Participant’s who elect In-Service Distributions.**
- (iii) Participants electing In-Service Distributions shall cease making Participant contributions under Article 5.01 of the Plan Document, effective as of the first day of the first pay period following the date of the first in-service distribution.**
- C. No Participant who is retired from this Plan and rehired by the Town in a position in the Police and/or Fire Department will be eligible for an In-Service Distribution. Such employee will again be a participant in the plan. Upon re-employment, the Participant shall be deemed to be fully vested and the additional credited service accrued during the subsequent employment period shall be used in computing a second benefit amount attributable to the subsequent employment period, which benefit amount shall be added to the benefit determined upon the initial retirement to determine the total benefit payable upon final retirement. Calculations of benefits upon retirement shall be based**

upon the benefit accrual rate, average compensation, and credited service provided for in the Plan as of the date of the termination of the subsequent employment period. Upon re-employment, the Employee contribution rate for the re-employed retiree shall be as provided for in this Plan. The amount of any death in performance of duties or disability in-line of duty or not-in-line of duty benefit received during a subsequent period of employment shall be reduced by the amount of accrued benefit eligible to be paid for a prior period of employment. The optional form of benefit and any joint pensioner selected upon initial retirement shall not be subject to change upon subsequent retirement except as otherwise provided herein, but the retiree may select a different optional form and joint pensioner applicable only to the subsequent retirement benefit.