

**Official Proceedings
Pontiac City Council
213th Session of the Tenth Council**

Call to order

A Formal Meeting of the City Council of Pontiac, Michigan was called to order electronically, on Tuesday, February 2, 2021 at 6:00 p.m. by Council President Kermit Williams.

Roll Call

Members Present	Attendance	Location
Carter	Remotely	Lansing, Ingham County, MI
Miller	Remotely	Pontiac, Oakland County, MI
Pietila	Remotely	Pontiac, Oakland County, MI
Shramski	Remotely	Pontiac, Oakland County, MI
Taylor-Burks	Remotely	Pontiac, Oakland County, MI
Waterman	Remotely	Pontiac, Oakland County, MI
Williams	Remotely	Pontiac, Oakland County, MI

Mayor Waterman was present.
Clerk announced a quorum.

Amendments and Approval of the Agenda

21-16 **Motion to add on amendment A (Resolution for Phase Two of Oakland County's City Village and Township Grant Program to Support Dine-In Restaurants, Bars and Cafes during COVID-19) to the agenda after item #6. Moved by Councilperson Pietila and second by Councilperson Taylor-Burks.**

Ayes: Miller, Pietila, Shramski, Taylor-Burks, Waterman and Williams
No: Carter
Motion Carried

21-17 **Motion not to add amendment B (Resolution on the Medical Marihuana Process) to the agenda and remove item #9 (Resolution regarding the City Clerk's Medical Marihuana Obligations) from the agenda. Moved by Councilperson Waterman and second by Councilperson Miller.**

Ayes: Pietila, Shramski, Taylor-Burks, Waterman, Williams, Carter and Miller
No: None
Motion Carried

21-18 **Motion to add on amendment C (Resolution to approve the City of Pontiac participation in the North Oakland Household Hazardous Waste Consortium) to the agenda as new Item #9. Moved by Councilperson Pietila and second by Councilperson Taylor-Burks.**

Ayes: Shramski, Taylor-Burks, Waterman, Williams, Carter, Miller and Pietila
No: None
Motion Carried

Motion to add amendment d (Resolution to approve the Metro Act Right of Way Permit Extension) to the agenda. Moved by Councilperson Pietila and second by Councilperson Taylor-Burks. Councilperson Pietila withdrew her motion and Councilperson Taylor-Burks withdrew her second.

21-19 **Motion to move items #7 (Adoption of an Ordinance to Amend the City of Pontiac General Employees' Retirement System) and #8 (Adoption of an Ordinance to Establish the City of Pontiac Reestablished General Employees' Retirement System), Recognition of Elected Officials, and item #5 (MDOT special presentation) after the approval of the agenda.** Moved by Councilperson Taylor-Burks and second by Councilperson Waterman.

Ayes: Waterman, Williams, Carter, Miller, Pietila, Shramski and Taylor-Burks

No: None

Motion Carried

21-20 **Approval of the agenda as amended.** Moved by Councilperson Pietila and second by Councilperson Waterman.

Ayes: Williams, Carter, Miller, Pietila, Shramski, Taylor-Burks and Waterman

No: None

Motion Carried

Ordinances

21-21 **Adoption of an Ordinance to Amend the City of Pontiac General Employees' retirement System.** Moved by Councilperson Taylor-Burks and second by Councilperson Shramski.

The City of Pontiac ordains:

Section 1. Amendments.

That the City of Pontiac General Employees' Retirement System ("GERS") is hereby amended as follows:

a. Section 42(c)(3) [92-52(c)(3)] of the GERS is amended in its entirety to read as follows:

(3) Distributee. A "distributee" includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are "distributees" with regard to the interest of the spouse or former spouse. A distributee also includes an eligible designated non-spouse beneficiary. In the case of a nonspouse beneficiary, the direct rollover may be made only to a traditional IRA or Roth IRA that is established on behalf of the designated beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code section 402(c)(11). Also in this case, the determination of any required minimum distribution under Code section 401(a)(9) that is ineligible for rollover shall be made in accordance with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.

Section 2. Severability.

If any section, or provision of this Ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of the Ordinance shall stand and be in full force and effect.

Section 3. Repealer.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 4. Publication.

The Clerk shall publish this Ordinance in a newspaper of general circulation.

Section 5. Effective Date.

This Ordinance shall be effective 10 days after adoption by the City Council.

Ayes: Miller, Pietila, Shramski, Waterman and Williams

No: Carter

Ordinance Passed

Councilwoman Doris Taylor-Burks did not vote

21-22 **Adoption of an Ordinance to Establishing the City of Pontiac Reestablished General Employees' Retirement System.** Moved by Councilperson Shramski and second by Councilperson Pietila.

Ayes: Miller, Pietila, Shramski, Taylor-Burks, Waterman, and Williams

No: Carter

Ordinance Passed

****The City of Pontiac Reestablished General Employees' Retirement System Ordinance attached as Exhibit A.****

Recognition of Elected Officials

State Senator Rosemary Bayer

Special Presentation

Michigan Department of Transportation (MDOT) Woodward Wide Track Loop Conversion

Presentation Presenters: Mayor Waterman, Paul Ajegba, Director, MDOT, Kim Avery, Metro Region Engineer, MDOT and Lori Swanson, PE Oakland TSC Manager, MDOT

Councilwoman Mary Pietila left the meeting.

Suspend the rules

21-23 **Suspend the rules to move item #10 (Resolution to approve Zoning Map Amendment [ZMA 20-07], 729 Linda Vista, PIN 64-14-21-451-002 [former Mark Twain School site] from R-1 One Family Dwelling to R-3 Multiple Family Dwelling zoning district.) before approval of the minutes.** Moved by Councilperson Waterman and second by Councilperson Taylor-Burks.

Ayes: Shramski, Taylor-Burks, Waterman, Williams, Carter and Miller

No: None

Motion Carried

Resolution

Planning

21-24 **Resolution to approve Zoning Map Amendment [ZMA 20-07], 729 Linda Vista, PIN 64-14-21-451-002 [former Mark Twain School site] from R-1 One Family Dwelling to R-3 Multiple Family Dwelling zoning district. Moved by Councilperson Miller and second by Councilperson Waterman.**

Whereas, The City has received an application for a Zoning Map Amendment for 729 Linda Vista, identified as PIN 64-14-21-451-002 from Terence Anderson for the rezoning of the aforementioned parcel; and

Whereas, the Planning Division has reviewed the applicant's rezoning request in regards to the City's Master Plan and the request conforms to the goals and vision contained within the plan; and

Whereas, the Planning Division reviewed the requirements set forth by Section 6.804 of the Zoning Ordinance, the Planning Division has determined the aforementioned request and proposed intended use of the property complies with the City of Pontiac Zoning Ordinance; and

Whereas, In Accordance with the procedures outlined in the Zoning Ordinance, Sections 6.802 as it relates to Zoning Map Amendments, the request has undergone the required: Technical Review, Public Hearing, and Planning Commission Recommendation; and

Whereas, on November 18, 2020 a Public Hearing was held and in consideration of public opinion, the Planning Commission recommends City Council approve the Zoning Map Amendment request for 729 Linda Vista, approving the change from the current R-1 One Family Dwelling zoning district to R-3 Multiple Family Dwelling zoning district; and

Now Therefore, Be It Resolved, that the City Council for the City of Pontiac approve the Planning Commission recommendation for the Zoning Map Amendment [ZMA 20-07] request for 729 Linda Vista, also known as Parcel No. 64-14-21-451-002 to amend the current site zoning from R-1 One Family Dwelling to R-3 Multiple Family Dwelling zoning district.

Ayes: None

No: Shramski, Taylor-Burks, Waterman, Williams, Carter and Miller

Resolution Failed

Approval of the Minutes

21-25 **Motion to approve the meeting minutes for January 26, 2021. Moved by Councilperson Waterman and second by Councilperson Taylor-Burks.**

Ayes: Taylor-Burks, Waterman, Williams, Carter, Miller, and Shramski

No: None

Motion Carried

Subcommittee Reports

Received Community Development Subcommittee Reports – January 19, 2021

Received Department of Public Works Subcommittee Reports – January 22, 2021

Special Presentations Continued.

Office of the City Clerk Medical Marihuana Review Process Update

Presentation Presenters: Garland Doyle, Interim City Clerk and Jonathan Starks, Special Assistant to the Clerk

Pontiac Youth Recreation and Enrichment Center (PYREC) Update

Presentation Presenters: Mayor Waterman, Robert Burch, PYREC, Gavin McGuire, Boys and Girls Clubs of Southeastern Michigan (BGCSM) and Tiffany Sula, BGCSM

Councilwoman Patrice Waterman left the meeting.

Resolutions

Economic Development

21-26 Resolution for Phase Two of Oakland County's City Village and Township Grant Program to Support Dine-In Restaurants, Bars and Cafes during COV-19. Moved by Councilperson Shramski and second by Councilperson Miller.

Whereas, Oakland County has implemented the Oakland Together Restaurant Relief Grant for Cities, Villages and Townships (CVTs) Program allowing municipalities to assist restaurants, bars and cafes and provide support to those within their jurisdiction during the Covid-19 pandemic; and

Whereas, the program allows grant funding to assist with creating and expanding outdoor dining opportunities; and

Whereas, under the program, the City of Pontiac is eligible for a minimum of \$98,367 in grant funding for such assistance; and

Whereas, the grant application period is between January 27, 2021 and February 4, 2021; and

Now, Therefore, Be It Resolved, that the City Council of the City of Pontiac, hereby approve the submission of the Grant Application to Oakland County in the amount of \$98,367 and authorize the Mayor to execute all necessary and related documents for the grant application and administration.

Ayes: Williams, Carter, Miller, Shramski and Taylor-Burks

No: None

Resolution Passed

Department of Public Works (DPW)

21-27 Resolution to approve the City of Pontiac participation in the North Oakland Household Hazardous Waste Consortium. Moved by Councilperson Shramski and second by Councilperson Carter.

Whereas, the northern cities, villages, and townships in Oakland County are committed to protection of the natural environmental and preventing toxic materials from entering our waterways and landfill resources; and

Whereas, the improper handling and disposal of toxic and poisonous household chemicals also poses a health risk to our citizens; and

Whereas, recognizing there is a need to provide regular and easily accessible household hazardous waste collection services to North Oakland County residents; and

Whereas, collection events for household hazardous waste have become widely accepted as the best way to provide citizens with a safe method of disposal of these toxic and poisonous household chemicals, and for the communities to realize the economies of scale, and

Whereas, Oakland County, through its Planning and Local Business Development Division, has joined these northern Oakland County communities in creating the North Oakland Household Hazardous Waste Consortium (NO HAZ), and

Whereas, the NO HAZ Consortium has developed a household hazardous waste collection program, and

Whereas, a NO HAZ Interlocal Agreement has been drafted to address necessary legal, liability, and responsibility issues for both the County and the participating communities, and identifies Oakland County's role in administering and managing the NO HAZ program, and

February 2, 2021 Approved Minutes

Whereas, the NO HAZ Interlocal Agreement establishes a NO HAZ advisory board to assist and advise Oakland County in the development of the NO HAZ program.

Now, Therefore, Be it Resolved, that our community, City of Pontiac hereby approves the attached NO HAZ Interlocal Agreement and authorizes its signature, and

Be It Further Resolved, that we will not charge residents to participate in NO HAZ events in 2021, and

Be It Further Resolved, that we hereby appoint Dan Ringo as our official representative to the NO HAZ Advisory Board, to work with the Oakland County Planning and Local Business Development Division as needed to plan the NO HAZ program for 2021.

Ayes: Williams, Carter, Miller, Shramski and Taylor-Burks

No: None

Resolution Passed

Mayoral Monthly Reports

Received the Personnel Monthly Staff Report

Received the Monthly Check Register (**The check registers for December 31, 2020; January 8, 15 and 22, 2021 are attached**)

Received the City Credit Card Statement (**Per the Mayor's Office, the Finance Director will issue to the City Council Members**)

Public Comment

Five (5) individuals submitted a public comment read by the City Clerk

Mayor, Clerk and Council Closing Comments

Mayor Waterman, Legislative Counsel Monique Sharp, Councilwoman Doris Taylor-Burks, Councilwoman Megan Shramski, Councilwoman Gloria Miller, Council President Pro-Tem Randy Carter and Council President Kermit Williams made closing comments.

Adjournment

President Kermit Williams adjourned the meeting at 8:34 p.m.

GARLAND S DOYLE
INTERIM CITY CLERK

Ordinance No. XXXX

The City of Pontiac ordains:

Section 1. Amendments.

That the City of Pontiac Reestablished General Employees' Retirement System is hereby established and adopted to read as follows:

**CITY OF PONTIAC
REESTABLISHED GENERAL EMPLOYEES' RETIREMENT SYSTEM**

**SECTION 1
NAME AND EFFECTIVE DATE**

The City of Pontiac General Employees' Retirement System (codified at chapter 92, article I of the Municipal Code of Pontiac, Michigan) was established effective January 1, 1946, for the purpose of providing retirement allowances and death benefits for employees of the City of Pontiac (the *City*) under the provisions of the amendment to the Charter of the City of Pontiac, Michigan (the *GERS*). The GERS is replaced by the City of Pontiac Reestablished General Employees' Retirement System established by this retirement system (the *Retirement System*).

This Retirement System shall be put into effect immediately upon final passage by the Pontiac City Council with an effective date of April 1, 2021 (the *Effective Date*). This Retirement System will apply to individuals who were members of the GERS on the date immediately prior to the Effective Date and to the limited group of individuals described in Section 11 employed by the City on or after the Effective Date.

SECTION 2 DEFINITIONS

The following words and phrases as used in this Retirement System, unless a different meaning is plainly required by the context, shall have the following meanings:

Accumulated Contributions means the sum of all amounts deducted from the Compensations of a Member and credited to the Member's individual account in the Annuity Savings Fund, together with Regular Interest thereon.

Actuarial Equivalent means the equivalence in the present value of various forms of payment. Present value will be determined by the Retirement System's actuary based upon the mortality tables and interest rates established from time to time by the Board. For purposes of determining the actuarial equivalence of benefits, the actuary for the Retirement System shall use 7.00% interest rate and the RP-2014 Healthy Annuitant Mortality Table projected to 2021 using the 2-dimensional MP-2014 improvement scale Set Forward 0 Years for retirees and for beneficiaries. The unisex mix shall be 50% Male and 50% Female.

Annuity means an annual amount, payable in equal monthly installments for life, derived from the Accumulated Contributions of a member.

Annuity Reserve means the present value of all payments to be made on account of any Annuity computed upon the basis of such mortality table and Regular Interest as the Board shall from time to time adopt.

Annuity Savings Fund means the fund described in Section 32.

Beneficiary means any person, except a Retirant, who is in receipt of a Pension, Retirement Allowance, or other benefit payable from funds of the Retirement System.

Board means the Board of Trustees provided for by this Retirement System.

City means the City of Pontiac, State of Michigan, and any instrumentality of the City.

Compensation means a Member's salary or wages paid by the City for Services rendered by him to the City. In any case where a Member's compensation is not all paid in money, the Board shall fix the value of that part of the Member's compensation not paid in money. Compensation shall include those items specifically referenced in the applicable collective bargaining agreement.

Notwithstanding anything herein to the contrary, *Annual Compensation* shall mean Compensation during the Plan Year or such other consecutive 12-month period over which Compensation is otherwise determined under the Retirement System (the "*determination period*"). The Annual Compensation of each Member taken into account in determining benefit accruals in any Plan Year beginning after December 31, 2001, shall not exceed \$200,000.00. In determining benefit accruals in years beginning after December 31, 2001, the Annual Compensation limit for determination periods beginning before January 1, 2002, shall be \$150,000.00 for any

determination period beginning in 1996 or earlier; \$160,000.00 for any determination period beginning in 1997, 1998, or 1999; and \$170,000.00 for any determination period beginning in 2000 or 2001. The \$200,000.00 limit on Annual Compensation shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to Annual Compensation for the determination period that begins with or within such calendar year.

Council means the Pontiac City Council.

Credited Service means the sum of the Prior Service and Membership Service credited to a Member's Service Account.

Deferred Vested Former Member means any person who meets the requirements of Section 18.

Effective Date means April 1, 2021.

Final Average Compensation means the highest average Annual Compensation received by a Member during a period of five consecutive years of Service contained within the Member's ten years of Service immediately preceding Retirement. If the Member has less than five years of Credited Service, Final Average Compensation shall be the average of the Member's Annual Compensations received during the Member's total years of Credited Service. Final Average Compensation shall be calculated in accordance with the applicable collective bargaining agreement.

(a) For nonunion employee-Members of the Retirement System (excluding PGH employees), *Final Average Compensation* means the highest average Annual Compensation received by such Member during a period of three consecutive years of Service contained within such Member's ten years of Service immediately preceding Retirement. If the Member has less than three years' Credited Service, Final Average Compensation shall be the average of the Member's Annual Compensation received during the Member's total years of Credited Service.

(b) Effective July 1, 1996, *Final Average Compensation* for 50th Judicial District Court Judges and nonunion employee-Members (i) means the highest average Annual Compensation received by such Member during a period of three consecutive years of Service contained within such Member's five years of Service immediately preceding Retirement; and (ii) shall include the amount of payment by the City to the employee-Member for unused sick time contained in the employee-Member's primary sick leave bank up to a maximum of 1,500 hours.

(c) Effective July 1, 2002, *Final Average Compensation* for nonunion management employee-Members of the Retirement System means the highest average Annual Compensation received by such Member during a period of three consecutive years of Service contained within such Member's ten years of Service immediately preceding Retirement. If such Member has less than three years' Credited Service, Final Average Compensation shall be the average of such Member's Annual Compensation received during the Member's total years of Credited Service.

(d) For purposes of calculating Final Average Compensation, the term *year* shall mean the period of time consisting of 365 days (366 days in a leap year) corresponding back from the Member's effective Retirement/separation date. In the event the Member's periods of Service

immediately preceding the Member's effective Retirement/separation date do not result in the highest Final Average Compensation, the Member's benefits will be calculated based upon a calendar year basis. The periods of time to be used for Final Average Compensation shall be consecutive. Compensation shall be credited to the period in which it is paid; however, retroactive pay, if any, shall be credited to the period(s) in which it would have been paid/earned and not to the period in which the lump sum payment is received in accordance with Board's final average compensation policy.

(e) For nonunion employee-Members, Final Average Compensation shall include the amount of the payment by the employer to the nonunion employee-Member for unused sick time contained in the nonunion employee-Member's primary sick leave bank up to a maximum of 1,500 hours. For nonunion employee-Members, Compensation shall include longevity at the time of retirement.

(f) Effective November 9, 1981, for Member's who have rights pursuant to an amended agreement (as a result of a settlement of litigation as authorized by City Council Resolution No. 770-84 adopted November 20, 1984, and in accordance with a consent judgment dated July 23, 1985, in Oakland County Circuit Court, Case No. 83-254373CK), *Final Average Compensation* shall include the amount of payment by the employer to the employee for unused sick leave pursuant to said amended agreement.

Final Compensation means a Member's annual rate of Compensation at the time the Member's employment with the City is last terminated.

GERS means the City of Pontiac General Employees' Retirement System established effective January 1, 1946, as amended and/orrestated.

GERS Assets means assets held within the GERS on the date of its termination equal to 130% of the GERS liabilities/obligations on that date.

IRC means the Internal Revenue Code of 1986, as amended.

Member means any person who is included in the Membership of the Retirement System.

Member's Service Account means the account described in Section 15.

Membership has the meaning set forth in Section 11.

Membership Service means Service rendered after December 31, 1945.

Pension means an annual amount, payable in equal monthly installments for life, derived from moneys provided by the City.

Pension Reserve means the present value of all payments to be made on account of any Pension computed upon the basis of such mortality and other tables of experience, and Regular Interest, as the Board shall from time to time adopt.

Pension Reserve Fund means the fund described in Section 34.

PGH means the Pontiac General Hospital.

Plan Year means the 12-month period ending each December 31.

Police or Fire Member or Police or Fire Members means, in the case of a police officer, any employee of the Police Department of the City holding the rank of patrol officer, including probationary patrol officer, or higher rank; and in the case of the fire fighter, any employee of the Fire Department of the City holding the rank of pipeman, including probationary pipeman, or higher rank, who shall be excluded from Membership in the Retirement System.

Prior Service means service rendered to the City prior to January 1, 1946.

Regular Interest means such rates of interest per annum, compounded annually, as the Board shall from time to time determine; provided, that regular interest shall be determined by the Board but in no case shall be less than two percent per annum, compounded annually.

Retirant means any Member who retires with a Pension or Retirement Allowance payable pursuant to the provisions of this Retirement System.

Retirement means withdrawal from active Service with a Pension or Retirement Allowance granted under this Retirement System.

Retirement Allowance means the sum of the Annuity and the Pension.

Retirement Reserve Fund means the fund described in Section 33.

Retirement System means this City of Pontiac Reestablished General Employees' Retirement System.

Service means service rendered to the City by a person as an officer or employee of the City while a Member of the Retirement System or member of the GERS.

Settlement Agreement means the settlement agreement entered into in *City of Pontiac Retired Employees Association et. al. v. Schimmel et. al.*, Docket #64-2, Case No. 2:12-cv-12830-AC-PJK dated March 30, 2018 (United States District Court Eastern District of Michigan), which was given final approval by the court on November 19, 2018.

Social Security Date means the date the agreement between the authorized State agency and the Secretary of Health, Education and Welfare of the United States is modified to cover the eligible employees of the City under the Old-Age and Survivor's Insurance Program of the Federal Social Security Act.

Trustee means an individual serving on the Board.

Voluntary Retirement Age means age 55 years with 25 or more years of Credited Service, otherwise

age 60 years. Voluntary Retirement Age shall be the age and/or service requirements specifically referenced in the applicable collective bargaining agreement.

(a) Effective July 1, 1996, *Voluntary Retirement Age* for 50th Judicial District Court Judges and nonunion employee-Members of the retirement system shall mean age 50 with 25 or more years of Credited Service; age 55 with 20 or more years of Credited Service; otherwise age 60 with ten or more years of Credited Service.

The masculine gender shall include the feminine, and words of the singular number in relation to persons shall include the plural number and vice versa. Headings are for convenience and are not controlling.

SECTION 3

TRANSFER OF ASSETS / ASSUMPTION OF LIABILITIES AND OBLIGATIONS

As soon as administratively feasible after the Effective Date, the GERS Assets shall be transferred to or assumed by, and become assets of the Retirement System.

All obligations and liabilities of the GERS existing on the Effective Date, including continuation of payments and accrual of benefits, are hereby assumed by and made obligations and liabilities of the Retirement System upon transfer of the GERS Assets to the Retirement System.

The assets and obligations so transferred to and assumed by the Retirement System shall be charged to or credited to the various accounts of the Retirement System according to the purposes for which they existed under the GERS.

Benefits provided under this Retirement System are meant to replace the benefits which would have otherwise been available to the Members and Beneficiaries had the GERS not terminated (and had its assets not been transferred to and liabilities assumed by the Retirement System). In no event shall a Member or Beneficiary receive duplicative benefits under both the GERS and the Retirement System.

SECTION 4

ADMINISTRATION OF RETIREMENT SYSTEM

There is hereby created a Board in whom is vested the general administration, management, and responsibility for the proper operation of the Retirement System and for making effective the provisions of this Retirement System. The Board shall be a quasi-judicial body consisting of 11 Trustees as follows:

- (a) A member of the Council to be selected by the Council.
- (b) The Mayor of the City.
- (c) The Finance Director of the City.

(d) The Council shall appoint three citizens who are electors and freeholders of the City and who are not eligible to receive benefits under this Retirement System, hereinafter referred to

as the citizen Trustees.

(e) Three Members of the Retirement System, one of whom shall be an active Member to be nominated and elected by the active Members of the Retirement System, and two of whom shall be either active, deferred vested or retired Members, nominated and elected by the active, deferred vested and retired Members (hereinafter referred to as the "Member Trustees").

(f) One Retirant of the Retirement System to be elected by the Retirants of the Retirement System.

(g) One deferred vested or retired Member of the Retirement System who was formerly employed by Pontiac General Hospital ("PGH Member") shall be nominated and elected by the deferred vested or retired Members who were formerly employed by PGH, pursuant to an election or nominating procedure adopted by the PGH Members. Elections shall be conducted by the PGH Members and shall be held in such a manner as to afford all PGH deferred and retired Members the opportunity to vote.

(h) The election of the Trustees provided for in subsections (e) and (f) of this section shall be conducted under such rules and regulations as the Board shall adopt to govern such elections.

(i) In exercising its fiduciary responsibilities, the Board shall act for the exclusive benefit of the Retirement System's participants and their beneficiaries and shall exercise the care, skill, prudence, and diligence under the circumstances then prevailing that an individual of prudence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and similar objectives.

(j) The Board shall indemnify to the extent authorized or permitted by law the members of the Board, their representatives, and any other employees of the City who are deemed to be acting on behalf of the Retirement System and hold them harmless against any and all liabilities, including legal fees and expenses, arising out of any act or omission made or suffered in good faith pursuant to the provisions of the Retirement System, or arising out of any failure to discharge any fiduciary obligation imposed, other than a willful failure to discharge a fiduciary obligation of which the person was aware. There shall be no duty to indemnify where such person is judicially determined to have incurred liability due to fraud, gross negligence, or malfeasance in the exercise and performance of their duties.

SECTION 5 APPLICABLE LAW

The Board shall administer this Retirement System consistent with the trust fund provisions, Article 9, Section 24, of the State of Michigan Constitution and other applicable law. The Board shall have the fiduciary obligations, limitations, and authority as provided by Public Act 314 of 1965 of the State statutes, as amended. The Board shall administer this Retirement System in accordance with applicable collective bargaining agreements; provided, that any increase in Pension benefits, provided by collective bargaining agreement or otherwise, shall be funded by the employer; and provided further, that the assets of the Retirement System representing current service funding shall not be used to fund such increase in benefits.

SECTION 6
TRUSTEES' REGULAR TERM OF OFFICE—VACANCY

The board of trustees of the GERS, as comprised on the date prior to the Effective Date, is hereby designated and continued as the initial Board of the Retirement System. The terms of office of the Trustees holding office on the Effective Date shall expire on the same date as they would have expired had the termination of the GERS not occurred.

Thereafter, the regular term of office of the citizen Trustees, the employee Member-Trustees, and the Retirant-Trustee provided for in Sections 4(d), (e), (f), and (g) shall be four years, each serving until a successor is elected or appointed and qualified. If a vacancy occurs in the office of Trustee, the vacancy shall be filled within 90 days after the date of the vacancy, for the unexpired term, in the same manner as the office was previously filled. A vacancy shall occur: (1) if the Trustee ceases to be eligible for nomination for the position being held, or (2) the Trustee fails to meet the standards of attendance as adopted by the Board. Each Trustee shall within ten days after appointment or election take an oath of office to be administered by the City Clerk.

SECTION 7
MEETINGS OF THE BOARD—COMPENSATION—PROHIBITED ACTIONS

The Board shall hold meetings regularly, at least one in each month, and shall designate the time and place thereof. The Board shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the Board shall be public. The members of the Board shall serve without compensation for their services as Trustees, and shall be reimbursed for all actual necessary expense incurred in performance of duties.

All assets of the Retirement System shall be held and invested for the sole purpose of meeting the legitimate obligations of the Retirement System and shall be used for no other purpose. Members of the Board and its representatives are prohibited from:

- (1) Having a beneficial interest, direct or indirect, in an investment of the Retirement System.
- (2) Borrowing money or assets of the Retirement System.
- (3) Receiving any pay or payment from any individual or organization providing services to the Retirement System, other than compensation for personal services or reimbursement of authorized expenses paid by the Retirement System.

The Board shall adopt policies and procedures for the proper administration of the Retirement System.

Nothing contained herein shall be construed to impair the rights of any Member, Retirant, or Beneficiary of the Retirement System to benefits provided by the Retirement System.

SECTION 8

EACH TRUSTEE ENTITLED TO VOTE

Six Trustees shall constitute a quorum at any meeting of the Board. Each Trustee shall be entitled to one vote in the meeting of the Board and at least six concurring votes shall be necessary for a decision by the Trustees.

However, seven concurring votes shall be required (a) whenever the Board votes to invest in any alternative investment, including but not limited to real estate, private equity, or hedge funds; and (b) whenever the Board votes on any investment decision if the Retirement System is determined by the Retirement System's actuary to be less than 90% funded.

SECTION 9

CHAIR OF BOARD—OFFICERS AND PROFESSIONAL ADVISORS

The Board shall annually elect from its members a Chairperson and a Vice Chairperson.

- (a) Secretary. The Director of Finance, ex officio, shall be the Secretary to the Board.
- (b) Treasurer. The Board may select a custodial bank or trust company to provide custodial services to the Retirement System. All payments from the funds of the Retirement System shall be made in accordance with law only upon resolution adopted by the Board authorizing such payment or payments.
- (c) Legal Advisor. An attorney selected by the Board shall be the legal advisor to the Board and shall serve at the pleasure of the Board.
- (d) Actuary. The Board shall appoint an actuary who shall be the technical advisor to the Board on matters regarding the operation of the Retirement System and who shall perform such other duties as are required in connection therewith.
- (e) Medical Director. The Board shall appoint as Medical Director a physician who is not eligible for Membership in the Retirement System, and who has not within five years prior to appointment as Medical Director filled an elective, appointive, or salaried office in the City or Oakland County governments; provided, that service as an intern in any City, County, or State hospital or sanitarium, and service in any military body, shall not disqualify a physician for appointment as Medical Director. The Medical Director shall be responsible to and shall hold office at the pleasure of the Board. The Medical Director shall arrange for and pass upon all medical examinations required under the provisions of this Retirement System; shall investigate all essential statements and certificates of a medical nature by or on behalf of a Member or Beneficiary in connection with an application for disability benefits or accidental death benefits; and shall report in writing to the Board his/her conclusions on matters referred to the Medical Director.

(f) Employment of Professional and Clerical Services. The Board may employ such professional, clerical, and other services as are required for the proper operation of the Retirement System.

(g) Executive Director. The Board may delegate to an Executive Director the responsibility and authority to act on its behalf regarding administrative matters that are within the authority of the Board. No delegation under the provision shall be construed as a delegation of the Board's fiduciary responsibility. The Executive Director shall manage and administer the Retirement System under the supervision and direction of the Board. The Board shall have the authority to establish job descriptions and promulgate rules and regulations appropriate for the Executive Director and Retirement System staff.

SECTION 10 SYSTEM RECORDS AND MORTALITY TABLES

(a) Records of Retirement System—Annual Report. The Secretary shall keep, or cause to be kept, in convenient form, such data as shall be necessary for an actuarial valuation of the assets and liabilities of the Retirement System. The Board annually shall render a report to the Council, on or before November 1st, showing the fiscal transactions of the Retirement System for the prior calendar year and a balance sheet showing the financial condition of the Retirement System at the close of the prior calendar year by means of an actuarial valuation of the assets and liabilities of the Retirement System.

(b) Mortality and Other Tables. The Board shall adopt such mortality and other tables of experience as are necessary in the operation of the Retirement System on an actuarial basis.

SECTION 11 MEMBERSHIP

(a) Membership Consists Of. The "Membership" of the Retirement System shall include (1) all employees and officials of the City who were in the service of the City on the day preceding January 1, 1946 and who continue in the service of the City on and after January 1, 1946, and (2) subject to section (g) below, all persons who become employees of the City, the City of Pontiac Police and Fire Retirement System, the GERS, and/or the Retirement System, on and after January 1, 1946. The "Membership" of the Retirement System shall not include (1) any person whose services are compensated for on a contractual or fee basis, (2) the Medical Director, (3) elected officials of the City who are employed in a City position requiring less than full-time, (4) any employee who is not a full-time, regular employee, (5) any employee who has once retired on any type of Retirement Allowance from the Retirement System (or a retirement allowance from the GERS), and is subsequently rehired by the City, (6) any police officer or firefighter who is a member of the City of Pontiac Police and Fire Retirement System, or (7) any employee who is included by law, by action of the Council, by collective bargaining agreement, by individual employment agreement or by individual choice of retirement plan, in any other pension or retirement plan by reason of the compensation paid by the City, except the Federal Old Age, Survivors and Disability Insurance program.

(b) Right to Decide Membership. In cases of doubt, the Board shall decide who is a Member within the meaning of the provisions of this Retirement System. For purposes of determining Membership, employment with the City of Pontiac Police and Fire Retirement System, the GERS, and/or the Retirement System shall be considered Membership positions.

(c) Continued Membership. Notwithstanding any provision hereof to the contrary, any person who becomes a Member of the Retirement System as a full-time, regular employee shall remain a Member of the Retirement System as long as said person remains an employee of the City, the City of Pontiac Police and Fire Retirement System, the GERS, and/or the Retirement System, even if such person shall at any time, subsequent to becoming a Member of the Retirement System, become a part-time employee and not a full-time, regular employee, provided said Member has not had a break in service. Credited Service for such employees who are Members of the Retirement System shall be computed as set forth in rules and regulations to be established by the Board.

(d) Effect of Workers Compensation. Members who are in receipt of workers' compensation will be granted Credited Service for the period during which they are in receipt of workers' compensation. No Credited Service will be earned during any period without pay including unpaid leaves of absence including leaves under Family Medical Leave Act of 1993, as amended.

(e) Mayor of the City. Each Mayor of the City shall have a period of thirty (30) days after taking office to elect, in writing directed to the Secretary, whether or not to be a Member of the Retirement System. Once such election has been made by any Mayor, it shall be irrevocable for that Mayor. In the case of such election not to be a Member of the Retirement System by a Mayor, neither that Mayor nor any beneficiary of at Mayor so electing shall be entitled to any payments from the Retirement System.

(f) Participation in other City Retirement Plans. In the event an individual elects to participate in any other pension or retirement system provided by the City, the individual shall no longer be eligible for Membership in the Retirement System. Once such election has been made by the individual, it shall be irrevocable and shall be binding on the individual and any beneficiary of the individual. "Pension" or "retirement system", as referenced in this Section, shall not include an eligible deferred compensation plan provided by the City.

(g) Closed Membership. No person hired after April 1, 2013, shall be eligible to participate in the Retirement System, except for employees hired pursuant to, and whose employment is covered by, the Michigan Association of Public Employees (MAPE) collective bargaining agreement with the City.

SECTION 12

SEPARATION AND RE-EMPLOYMENT

Except as otherwise provided in this Retirement System, should any Member separate from the Service of the City, for any reason except Retirement or death, the individual shall thereupon cease to be a Member and the Member's Credited Service at that time shall be forfeited. Provided,

however, any person who has been a Member, and who is re-employed by the City in a position qualifying for Membership under the provisions of Section 11, shall again become a Member. In such case, if the re-employed Member completes three years of Service after re-entry, the Credited Service previously forfeited by the Member shall be restored to the Member's Service Account, if the Member returns to the Annuity Savings Fund the amounts the individual may have withdrawn therefrom and not returned thereto, together with Regular Interest thereon from the date of withdrawal to the repayment. Upon Retirement or death, the individual's Membership shall terminate.

In the event a Retirant or Beneficiary is employed by the City, payment of the individual's Pension shall continue and shall not be suspended during the period of employment. During the period of employment by the City, the individual shall not be a Member.

SECTION 13 SERVICE CREDITABLE

The Board shall fix and determine by appropriate rules and regulations how much Service in any calendar year is equivalent to a year of Service, but in no case shall less than ten days' Service in a calendar month constitute a month of Service; nor shall less than nine months' Service in a calendar year constitute a year of Service; nor shall more than one year of Service be credited for all Service rendered in one calendar year.

SECTION 14 ACTIVE MILITARY SERVICE

In the event any person, who, while employed by the City, was called to or entered any armed service of the United States, or any Member who is called to or enters any armed service of the United States, and who has been or shall be on active duty in such armed service during time of war or other national emergency, and is re-employed by the City within 90 days from the date of termination of required armed service, then such armed service shall be credited as City Service in the same manner as if the individual had served the City uninterruptedly; provided, that the Member returns to the Annuity Savings Fund all amounts withdrawn therefrom at the time the Member entered, or while in such armed service, together with Regular Interest thereon from the date of withdrawal to the date of repayment. In any case of doubt as to the period to be so credited any Member, the Board shall have final power to determine such period. During the period of such armed service rendered to the Federal government and until the individual's re-employment by the City, the Member's contributions to the Annuity Savings Fund shall be suspended and the balance standing to the Member's credit in the said fund shall be accumulated at Regular Interest. Notwithstanding any provision of the Retirement System to the contrary, contributions, benefits and Credited Service with respect to qualified military service will be provided in accordance with IRC section 414(u) and regulations.

Effective January 1, 2007, the beneficiary of a Member on a leave of absence to perform military service with reemployment rights described in IRC section 414(u) where the Member cannot return to employment on account of his or her death shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided

under the Retirement System had the Member died as an active employee, in accordance with IRC section 401(a)(37).

An individual receiving a differential wage payment is treated as an employee of the employer making the payment, and further, the differential wage payment shall be treated as compensation for purposes of IRC section 415.

SECTION 15 MEMBERS' SERVICE ACCOUNT

The Board shall credit each Member's Service Account with the number of years and months of Prior Service and Membership Service to which he may be entitled.

SECTION 16 WRITTEN APPLICATION TO RETIRE

Any Member who has attained or attains Voluntary Retirement Age and has ten or more years of Credited Service may retire upon written application filed with the Board setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, the Member's desire to be retired. Upon Retirement, a Member shall receive a Retirement Allowance provided for in Section 17.

SECTION 17 PAYMENT OPTIONS

Upon Retirement, a Member who has attained Voluntary Retirement Age and has ten or more years of Credited Service shall receive a regular Retirement Allowance which shall consist of the benefits hereinafter set forth in this section, and the Member shall have the right to elect an option provided for in Section 21.

(a) (1) An Annuity which shall be the Actuarial Equivalent of the Accumulated Contributions standing to the Member's credit in the Annuity Savings Fund at the time of the Member's Retirement; and

(2) A Pension when added to the Member's Annuity will provide a Retirement Allowance equal to the number of years, and fraction of a year, of the Member's Credited Service, multiplied by the sum of 1.5 percent of the first \$9,000.00 of the Member's Final Average Compensation and 2.0 percent of the portion of the Member's Final Average Compensation in excess of \$9,000.00. All Retirement Allowances effective before July 1, 1974, shall be increased July 1, 1974, by 2.5 percent multiplied by the number of complete years elapsed since the date the Retirement Allowance became effective. No Member shall receive an increase of less than 2.5 percent.

(b) Effective November 9, 1981, for Member's who have rights pursuant to an "amended agreement" (as a result of litigation as authorized by City Council Resolution No. 770-84 adopted November 20, 1984, and in accordance with a court judgment dated July 23, 1985, in

Oakland County Circuit Court, Case No. 83-254373CK), a Pension which when added to the Member's Annuity will provide a Retirement Allowance equal to the number of years, and fraction of a year, of the Member's Credited Service, multiplied by the sum of 2.25 percent of the first \$9,000.00 of the Member's Final Average Compensation and 2.0 percent of the portion of the Member's Final Average Compensation in excess of \$9,000.00. Such Members shall be entitled to receive a regular or deferred Retirement Allowance, which is the greater of the amount provided for herein or the amount based on the formula in existence as of the date of such Member's separation from City employment.

(c) Effective July 1, 1996, for 50th Judicial District Court Judges and nonunion employee-Member's, a Pension when added to the Member's Annuity will provide a Retirement Allowance equal to the number of years, and fraction of a year, of his/her Credited Service, multiplied by the product of 2.25 percent times his/her Final Average Compensation.

(d) Effective July 1, 2002, a Pension, when added to the Annuity of a nonunion employee-Member, will provide a Retirement Allowance equal to the number of years, and fraction of a year, of his/her Credited Service, multiplied by the product of 2.5 percent times his/her Final Average Compensation.

(e) According to such rules and regulations as the Board may from time to time adopt, any Member who retires prior to his/her attainment of age 65 years may elect to have his/her Retirement Allowance equated on an actuarial basis to provide an increased Retirement Allowance payable to his/her attainment of age 65 years and a reduced Retirement Allowance payable thereafter. His/her increased Retirement Allowance payable to his/her attainment of age 65 years shall approximate the sum of his/her reduced Retirement Allowance to be payable after his/her attainment of age 65 years and his/her estimated Social Security primary insurance amount.

(f) In the event a Retirant dies before he/she has received in Retirement Allowances payments an aggregate amount equal to his/her Accumulated Contributions standing to his/her credit in the Annuity Savings Fund at the time of his/her Retirement, the difference between his/her said Accumulated Contributions and the said aggregate amount of Retirement Allowance payments received by him/her shall be paid to such person or persons as he/she shall have nominated by written designation duly executed and filed with the Board.

If there is no such designated person or persons surviving the said Retirant, such difference, if any, shall be paid to his/her legal representative. No benefits shall be paid under this subsection on account of the death of a Retirant if he/she has elected an option provided for in Section 21.

(g) In the event a Member, who is a Member at the Social Security Date, retired prior to the date the Member acquires Social Security fully insured status on account of his/her City employment, the Pension portion of his/her Retirement Allowance shall not be less than the sum of (a) \$120.00, plus (b) 1/115 of the Member's Final Average Compensation multiplied by the number of years, and fraction of a year, of the Member's Credited Service rendered after December 31,

1945, plus (c) 1/90 of the Member's Final Average Compensation multiplied by the number of years, and fraction of a year, of the Member's Credited Service rendered prior to January 1, 1946.

SECTION 18 DEFERRED RETIREMENT

Should any Member who has ten or more years of Credited Service separate from the Service of the City prior to attainment of Voluntary Retirement Age, for any reason except Retirement or death, the individual shall be a Deferred Vested Former Member during the period of absence from City Service for the sole and exclusive purpose only of receiving a Retirement Allowance provided for in Section 17(a), (b), (d) and (e), provided the individual does not withdraw their Accumulated Contributions. A Deferred Vested Former Member's Retirement Allowance shall begin as of the first day of the calendar month next following the month in which the Deferred Vested Former Member files with the Board an application for same and has attained Voluntary Retirement Age. In no case shall any such Deferred Vested Former Member receive Service credit for said period of absence from City Service, except as otherwise provided in this Retirement System. In the event such a Deferred Vested Former Member withdraws all or part of their Accumulated Contributions from the Annuity Savings Fund, the individual shall thereupon cease to be a Deferred Vested Former Member and the individual shall forfeit all rights in and to a deferred Retirement Allowance provided for in this section.

The provisions of this Retirement System notwithstanding, the accrued benefit for Members shall be nonforfeitable upon the attainment of Voluntary Retirement Age. Upon termination of the Retirement System or upon complete discontinuance of City contributions under this Retirement System, the rights of all Members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall be nonforfeitable.

SECTION 19 REORGANIZATION/REDUCTION OF WORKFORCE 2003

Effective July 3, 2003, upon finding it is in the best interest of the City as it relates to Retirement System nonunion employees in the executive, legislative and Stadium Building Authority branches of government, the City Council may authorize nonunion employees in cases where reorganization and/or a reduction in workforce is necessary, an employee with a minimum of 18 years of Credited Service whose age combined with years of Credited Service comprises a minimum total score of at least 70 points, said employee will be eligible to elect Retirement without penalty.

Prior to City Council approving this type of Retirement for nonunion employees in the executive branch, authorization from the Mayor must be obtained.

Approval of Stadium Building Authority employees shall also require the concurrence of the Pontiac Stadium Building Authority, if applicable, that nonunion stadium employees who meet the above referenced criteria and are Members shall likewise be eligible to elect Retirement without penalty.

Employees who are active City employees as of May 1, 2013, who are not members of any union, who are participants in the GERS, who have attained the age of 45, and who have at least 13 years of service may, by May 31, 2013, file their intention to retire, and such retirement date shall be no later than June 30, 2013.

Employees who are active City employees as of April 1, 2013, who are not members of any union, who are participants in the GERS, who have attained the age of 42, and who have at least 14 years of service may, by April 30, 2013, file their intention to retire, and such retirement date shall be no later than June 30, 2013.

Early Retirement Window. Any former City of Pontiac employees who are or were Members of the GERS/Retirement System and who meet the following criteria will be eligible to participate in an early retirement:

(a) The former employee was involuntarily separated from employment with the City between March 23, 2009, and August 19, 2013, for reasons not connected with disciplinary action.

(b) The former employee had ten (10) years of Credited Service in the GERS at the time of separation from employment. Former employees who meet this requirement based on the Reciprocal Retirement Act shall also be eligible for this benefit. However, said former employee shall not be eligible to commence receipt of this early retirement benefit unless or until they have attained the age of forty-three (43). Former employees who meet the criteria of this section (b) and have attained the age of 43 by December 31, 2017, shall commence receipt of their benefit payable effective January 1, 2018. Former employees who otherwise meet the criteria set forth in this early retirement provision, but who have not yet attained the age of 43, will not be eligible to commence receipt of this benefit until the first day of the month following the month in which they attain the age of 43. Said employees shall be required to comply with the application filing process set forth in Section 16.

(c) A qualifying individual retiring under this provision will have their Retirement Allowance calculated based on years of Credited Service at the time of separation in conjunction with the applicable multiplier and formula contained in the individual's Collective Bargaining Agreement or the individual's non-union pay plan in effect at the time of the person's separation.

(d) All eligible Members (including those who have not yet attained the age of forty-three (43)), will be required to file their intention to retire under this Section with the Executive Director of the GERS no later than 30 days following the date of final City approval and not before final approval.

(e) Employees who are eligible for this early retirement benefit shall not be offered any form of retiree health care until they obtain the age of 60. Such retiree health care benefit shall be strictly guided by the Settlement Agreement.

SECTION 20

2000 POST RETIREMENT INCREASE

(a) All persons who are receiving retirement benefits as of December 31, 2000, based upon a minimum of nine years and nine months of Credited Service, disability, or death, and who are not eligible to receive a post retirement increase, shall be entitled to receive an increase in their annual Retirement Allowance based upon the greater of (1) two percent of their Retirement Allowance otherwise provided, or (2) \$1.00 per month of Credited Service with a minimum increase of \$120.00 and a maximum increase of \$300.00 per year. Each year such person's Retirement Allowance shall be increased by the identical amount, such increase to be cumulative (non-compounding) for a period of six years, which, at the end of said six-year period, shall continue at that amount thereafter.

(b) *Temporary pension increase.*

All persons who are receiving retirement benefits as of August 1, 2013 or who enter pay status through August 1, 2021 shall be entitled to receive an increase in their monthly Retirement Allowance of \$400.00 per month beginning September 1, 2013 through August 31, 2021 or when the CPREA litigation is resolved and health insurance will be provided to the retiree class, whichever comes first.

Cost of living allowance shall be payable on the temporary pension increase for the period of September 1, 2013, through March 31, 2015, in accordance with the appropriate bargaining agreements for retired union Members based on the individual retiree's number of years of Retirement and Section 26 for retired nonunion Members.

SECTION 21

OPTIONAL FORMS OF PAYMENT

(a) Prior to the effective date of the Member's Retirement, but not thereafter, a Member may elect to receive his/her Retirement Allowance as a regular Retirement Allowance payable throughout his/her life; or the Member may elect to receive the Actuarial Equivalent, at that time, of his/her regular Retirement Allowance in a reduced Retirement Allowance payable throughout his/her life, and nominate a beneficiary, in accordance with the provisions of Option 1, 2, 3, 4, or 5, as hereinafter set forth. If a Member does not have an option election in force at the effective date of his/her Retirement, the Member's Retirement Allowance shall be paid as a regular Retirement Allowance.

Option 1—Cash Refund Annuity. If a Retirant dies before he/she has received in the Annuity portions of his/her reduced Retirement Allowance an aggregate amount equal to his/her Accumulated Contributions standing to his/her credit in the Annuity Savings Fund at the time of his/her Retirement, the difference between his/her said Accumulated Contributions and the said aggregate amount of Annuity payments received by him shall be paid to such person or persons as he/she shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person or persons surviving the said Retirant, such difference, if any, shall be paid to his/her legal representative.

Option 2—Joint and Survivor Allowance. Upon the death of a Retirant, his/her reduced Retirement Allowance shall be continued throughout the life of and paid to such person, having an insurable interest in the Retirant's life, as the Retirant shall have nominated by written designation duly executed and filed with the Board prior to the effective date of his/her Retirement.

Option 3—Modified Joint and Survivor Allowance. Upon the death of a Retirant, one-half of his/her reduced Retirement Allowance shall be continued throughout the life of and paid to such person, having an insurable interest in the Retirant's life, as the Retirant shall have nominated by written designation duly executed and filed with the Board prior to the effective date of his/her Retirement.

Option 4—"Pop-Up" Allowance. Upon the death of a Retirant who elected a "pop-up" allowance, the Retirant's reduced Retirement Allowance shall be continued throughout the life of and paid to such individual, the beneficiary, who has an insurable interest in the Retirant's life and who was nominated by the Retirant by written designation duly executed and filed with the Board prior to the effective date of Retirement. If the person nominated as beneficiary thereunder predeceases the Retirant, the Retirant shall thereafter receive his/her Retirement Allowance as regular Retirement Allowance, unreduced, payable the month following the month in which the beneficiary died and for the remaining lifetime of the Retirant.

Option 5—"50 Percent Pop-Up" Allowance. Upon the death of a Retirant who elected a "50 percent pop-up" allowance, 50 percent of the Retirant's reduced Retirement Allowance shall be continued throughout the life of and paid to such individual, the beneficiary, who has an insurable interest in the Retirant's life and who was nominated by the Retirant by written designation duly executed and filed with the Board prior to the effective date of Retirement. If the person nominated as beneficiary hereunder predeceases the Retirant, the Retirant shall thereafter receive his/her Retirement Allowance as a regular Retirement Allowance unreduced, payable the month following the month in which the beneficiary died and for the remaining lifetime of the Retirant.

(b) If any benefits become payable under Section 28 on account of the death of the Retirant who was receiving a Retirement Allowance under Option 2, 3, or 4 above, no Retirement Allowance shall be paid to his/her designated beneficiary under the said Option 2, 3, or 4. If the said Retirant dies before he received in Retirement Allowance payments an aggregate amount equal to, but not exceeding, his/her Accumulated Contributions standing to his/her credit in the Annuity Savings Fund at the time of his/her Retirement, the difference between his/her said Accumulated Contributions and the said aggregate amount of Retirement Allowance payments received by him shall be paid from the Retirement Reserve Fund to his/her said designated beneficiary, if living, otherwise to his/her legal representative.

SECTION 22

OPTION 2 ELECTION

Any Member who continues in the Service of the City on or after the date he/she has ten or more years of Credited Service may, at any time prior to the effective date of his/her Retirement but

not thereafter, elect Option 2 provided for in Section 21, in the same manner as if the Member were then retiring from Service, and nominate a beneficiary who has an insurable interest in the life of the Member. Prior to the effective date of the Member's Retirement, a Member may revoke his/her said election of Option 2 and nomination of beneficiary and may again elect the said Option 2 and nominate a beneficiary as provided in this section. Upon the death of a Member who has an Option 2 election in force, his/her beneficiary, if living, shall immediately receive the same Retirement Allowance to which the said beneficiary would have been entitled if the said Member had retired the day preceding the date of his/her death, notwithstanding that the Member may not have attained his/her Voluntary Retirement Age; provided that the said Option 2 shall be applied to a Retirement Allowance computed according to Sections 17(a) and (b) for a beneficiary of a deceased Member, and according to Section 23 for a beneficiary of a deceased Member. If a Member has an Option 2 election in force at time of his/her Retirement, the Member's said election of Option 2 and nomination of beneficiary shall thereafter continue in force, unless prior to the effective date of the Member's Retirement he/she elects to receive his/her Retirement Allowance as a regular Retirement Allowance or according to any option provided for in Section 21. No benefits shall be paid under this section on account of the death of a Member if any benefits are paid under Section 28 on account of his/her death.

SECTION 23 DEATH IN SERVICE

Any Member who continues in the Service of the City on or after the date he/she has ten or more years of Credited Service, and does not have an Option 2 election in force as provided in Section 22, and (1) dies while in City Service, and (2) leaves a surviving spouse, the surviving spouse shall immediately receive the same Retirement Allowance to which the said beneficiary would have been entitled if the said Member had (1) retired the day preceding the date of his/her death notwithstanding that the Member may not have attained his/her Voluntary Retirement Age, (2) elected Option 2 provided for in Section 21, and (3) nominated his/her said surviving spouse, as the case may be, as beneficiary. No benefit shall be paid under this section on account of the death of a Member if any benefits are paid under Section 28 on account of his/her death.

SECTION 24 DISABILITY RETIREMENT

(a) Upon the application of a Member, or his/her department head, a Member who (1) is in the Service of the City, (2) has ten or more years of Credited Service, (3) becomes totally and permanently incapacitated for duty in the Service of the City, by reason of a personal injury or disease, may be retired by the Board; provided, the Medical Director, after a medical examination of the said Member, reports to the Board (1) that said Member is physically or mentally totally incapacitated for duty in the Service of the City, (2) that such incapacity will probably be permanent, and (3) that such Member should be retired.

(b) A Member with less than ten years of Credited Service shall have the ten years' Service requirement provided for in subsection (a) of this section waived; provided, that (1) the Board finds the Member is totally and permanently incapacitated for duty in the Service of the City as the natural and proximate result of a personal injury or disease arising out of and in the

course of his/her actual performance of duty in the Service of the City, and (2) the Member is in receipt of Workers' Compensation on account of his/her said physical or mental capacity.

SECTION 25 MINIMUM DISABILITY ANNUITY

Upon a Member's Retirement on account of disability as provided in Section 24, a Member shall receive a disability Retirement Allowance computed according to Sections 17(a)(1), (a)(2), (f) and (g), notwithstanding that the Member may not have attained his/her Voluntary Retirement Age. In no case shall the Member's disability Retirement Allowance payable to his/her Voluntary Retirement Age be less than 15 percent of his/her Final Average Compensation; nor shall the Member's disability Retirement Allowance payable after his/her Voluntary Retirement Age be less than the sum of 15 percent of the first \$9,000.00 of his/her Final Average Compensation and 20 percent of the portion of his/her Final Average Compensation in excess of \$9,000.00. To the Member's Voluntary Retirement Age, his/her disability Retirement Allowance shall be subject to Section 30. Upon the Member's Retirement, he/she shall have the right to elect an option provided for in Section 21.

SECTION 26 NONUNION COST OF LIVING INCREASE

For nonunion employee-Members of the Retirement System (excluding PGH employees), the Retirement Allowance otherwise provided for any such Member who retires on or after July 1, 1980, shall be increased upon Retirement by an amount equal to two percent of the Retirement Allowance otherwise provided for under this Retirement System. Each year thereafter, such Member's Retirement Allowance shall be increased by an identical amount, such increases to be cumulative for a period of ten years. At the end of said ten-year period, the Member's initial Retirement Allowance shall have been increased by 20 percent and shall continue at that amount thereafter.

For 50th Judicial District Court Judges and nonunion employee-Members of the Retirement System, the Retirement Allowance otherwise provided for any such Member who retires on or after July 1, 1996, shall be increased upon Retirement by an amount equal to two percent of the Retirement Allowance otherwise provided for under this Retirement System. Each year thereafter such Member's Retirement Allowance shall be increased by an identical amount, such increases to be cumulative for a period of 18 years. At the end of said 18-year period, the Member's initial Retirement Allowance shall have been increased by 36 percent and shall continue at that amount thereafter.

SECTION 27 WORKERS COMPENSATION RE-CALCULATION

Upon termination of the statutory period for payment of Workers' Compensation, if any, arising on account of a Member's City employment, or at this attainment of age 65 years, whichever occurs first, a disability Retirant shall be given Service credit for the said statutory period and his/her disability Retirement Allowance shall be increased to include such additional Service

credit. In no case shall the Member's said increased Retirement Allowance payable to his/her attainment of age 65 years be less than his/her weekly Workers' Compensation benefits converted to an annual basis.

SECTION 28 DUTY DEATH

In the event (1) a Member dies as the result of a personal injury or disease arising solely and exclusively out of and in the course of his/her employment with the City, or (2) a disability Retirant, while in receipt of Workers' Compensation on account of his/her City employment, dies prior to his/her Voluntary Retirement Age as the result of the same injury or disease for which he/she was retired, and in either case (1) or (2) such death, injury or disease resulting in death be found by the Board to have been the result of his/her actual performance of duty in the Service of the City, the applicable benefits provided in subsections (a) through (e) of this section shall be paid subject to the condition that the beneficiaries eligible to Pensions apply for and are in receipt of Workers' Compensation on account of the death of the said Member or Retirant.

(a) In the case of a deceased Member, his/her Accumulated Contributions standing to his/her credit in the Annuity Savings Fund shall be paid according to Section 31.

(b) The surviving spouse shall receive a Pension equal to his/her Workers' Compensation converted to an annual basis. Said surviving spouse's Pension shall begin upon termination of the statutory period for payment of Workers' Compensation and shall continue until death.

(c) The Member's unmarried child or children under age 18 years shall each receive a Pension equal to such child's Workers' Compensation converted to an annual basis. Said child's Pension shall begin upon termination of the statutory period for payment of the child's Workers' Compensation and shall continue until his/her adoption, marriage, attainment of age 18 years, or death, whichever occurs first. If a surviving spouse's Pension is terminated, each such child's Pension shall be increased by an equal share of said surviving spouse's Pension.

(d) The Member's parents shall each receive a Pension equal to such parent's Workers' Compensation converted to an annual basis. Said parent's Pension shall begin upon termination of the statutory period for payment of the parent's Workers' Compensation and shall continue until death.

(e) As used in this section, the term *surviving spouse* means the person to whom the said Member or Retirant, as the case may be, was married at the time said Member's or Retirant's employment with the City last terminated.

SECTION 29 SUBROGATION

If a person becomes entitled to a Pension payable from funds of the Retirement System as the result of an accident or injury caused by the act of a third party, the City shall be subrogated to

the rights of the said person against said third party to the extent of benefits which the City pays or becomes liable to pay.

SECTION 30

DISABILITY RE-EXAMINATION AND INCOME VERIFICATION

(a) At least once each year during the first five years following the Retirement of a Member with a disability Retirement Allowance, and at least once in each three-year period thereafter, the Board may, and upon the Retirant's application shall, require any disability Retirant, who has not attained his/her Voluntary Retirement Age, to undergo a medical examination to be made by or under the direction of the Medical Director. Should any disability Retirant who has not attained his/her Voluntary Retirement Age refuse to submit to such medical examination in any such period, the Board may suspend payment of his/her disability Retirement Allowance until his/her withdrawal of such refusal. If such refusal continues for one year, all of his/her rights in and to a disability Pension shall be forfeited by the Member. If upon such medical examination of the Retirant the Medical Director reports to the Board that the said Retirant is physically able and capable of resuming employment with the City, the Member shall be returned to active Service in the employ of the City and his/her disability Retirement Allowance shall terminate; provided, the report of the Medical Director is concurred in by the Board. In returning the Retirant to active Service, as herein provided, reasonable latitude shall be allowed the City in placing the Member in a position commensurate to his/her type of work and rate of compensation at the time of his/her Retirement. The terms and conditions of disability Retirement are contained in applicable collective bargaining agreements.

(b) A disability Retirant who has been or shall be returned to active Service in the employ of the City, as provided in this section, shall again become a Member of the Retirement System and he/she shall contribute to the Retirement System at the rate applicable to his/her Membership classification. The Member's Credited Service at the time of his/her Retirement shall be restored to full force and effect. The Member shall be given Membership Service credit for the period he/she was receiving a disability Retirement Allowance provided for in this Retirement System if within said period the Member was in receipt of Workers' Compensation on account of total and permanent disability arising out of and in the course of his/her City employment; otherwise, the Member shall not be given Service credit for said period.

(c) If a disability Retirant who has not attained his/her Voluntary Retirement Age is or becomes engaged in a gainful occupation, business or employment, the amount of the disability Retirement Allowance shall be reduced by the amount that the disability Retirement Allowance plus the amount earned by the Retirant exceeds the disability Retirant's Final Compensation, or the compensation currently being paid to persons holding the same position as that last held by the disability Retirant, or, if there is no such position, the compensation currently paid to the person holding the most similar position as determined by the Board, whichever is higher. Should the Retirant's earnings or the compensation paid for his/her prior position subsequently change, his/her disability Retirement Allowance shall be correspondingly adjusted. The Board shall be authorized to adopt rules to provide for the implementation of this provision.

(d) If the Board – in consultation with the Medical Director – determines that it is unlikely that a disability Retirant will ever recover sufficiently enough to return to full-time employment with the City, the Board may deem the disability catastrophic. In cases where the Board has deemed a disability to be catastrophic, the Board may – in its discretion – approve to waive the periodic re-examinations and income verifications described in this section.

SECTION 31 REFUND OF ACCUMULATED CONTRIBUTIONS

(a) Should any Member cease to be an officer or employee of the City and not be entitled to a Pension payable from funds provided by the City, the Member shall be paid all of the Member's Accumulated Contributions standing to their credit in the Annuity Savings Fund as the Member shall demand in writing on forms furnished by the Board.

(b) Upon the death of a Member, his/her Accumulated Contributions standing to his/her credit in the Annuity Savings Fund at the time of his/her death shall be paid, except as otherwise provided in this Retirement System, to such person or persons as the Member shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person or persons surviving the said Member, his/her said Accumulated Contributions shall be paid to his/her legal representative.

(c) In the event any Member dies intestate, without heirs, and without having nominated a beneficiary as provided in subsection (b) of this section, his/her Accumulated Contributions standing to his/her credit in the Annuity Savings Fund, at the time of his/her death, may be used to pay his/her burial expense, not to exceed a reasonable sum to be determined by the Board; provided, that the deceased Member leaves no other estate sufficient for such purpose.

(d) Payments of refunds of Accumulated Contributions, as provided in this section, shall be made in a single sum.

SECTION 32 ANNUITY SAVINGS FUND—MEMBER CONTRIBUTIONS

(a) The Annuity Savings Fund is hereby created. It shall be the fund in which shall be accumulated, at Regular Interest, the contributions deducted from the Compensations of Members to provide for their Annuities, and from which shall be paid refunds of Accumulated Contributions, as provided in this Retirement System.

(b) Except as otherwise provided in this Section, Members are not required to contribute to the Retirement System.

(c) The officer or officers responsible for making up the payroll shall cause the contributions provided for in this section to be deducted from the Compensations of each Member on each and every payroll, for each and every payroll period, from the date of the Member's entrance in the Retirement System to the date of his/her Retirement or prior separation from City Service. The Member's contributions provided for herein shall be made, notwithstanding that the

minimum compensation provided by law for any Member shall be changed thereby. Every Member shall be deemed to consent and agree to the deductions made and provided for herein and payment of his/her Compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the Services rendered by said person during the period by such payment, except as to benefits provided by this Retirement System. The officer or officers responsible for making up the payroll shall certify to the Director of Finance the amount of contributions to be deducted from the Compensation of each Member for each and every payroll and each of said amounts shall be deducted by the Director of Finance and when deducted shall be paid to the Retirement System and shall be credited to the said Member's individual account in the Annuity Savings Fund.

(d) In addition to the contributions deducted from the Compensations of a Member, as hereinbefore provided, a Member shall deposit in the Annuity Savings Fund, by a single contribution or by an increased rate of contribution as approved by the Board, all amounts the Member may have previously withdrawn from, and not repaid to, the Annuity Savings Fund, together with Regular Interest computed from the date of withdrawal to the date of repayment. In no case shall any Member be given credit for Service rendered prior to the date he/she withdrew his/her Accumulated Contributions until he/she repays to the Annuity Savings Fund all amounts due the said fund by him.

(e) Upon Retirement of a Member, his/her Accumulated Contributions shall be transferred from the Annuity Savings Fund to the Retirement Reserve Fund. At the expiration of a period of three years from the date an employee ceases to be a Member, any balance standing to his/her credit in the Annuity Savings Fund, unclaimed by the Member or his/her legal representative, shall be transferred to the Pension Reserve Fund.

SECTION 33 RETIREMENT RESERVE FUND

The Retirement Reserve Fund is hereby created. It shall be the fund from which shall be paid all Annuities and Pensions payable as provided in this Retirement System. Should a disability Retirant return to active Service in the employ of the City, his/her Annuity reserve at that time shall be transferred from the Retirement Reserve Fund to the Annuity Savings Fund and shall be credited to his/her individual account therein; and the Member's Pension reserve at that time shall be transferred from the Retirement Reserve Fund to the Pension Reserve Fund.

SECTION 34 PENSION RESERVE FUND

The Pension Reserve Fund is hereby created. It shall be the fund in which shall be accumulated reserves for the payment of all Pensions payable from funds provided by the City. Upon the basis of such mortality and other experience tables, and Regular Interest, as the Board shall from time to time adopt, the actuary shall annually compute the Pension reserves (1) for Pensions being paid Retirants and Beneficiaries, and (2) covering Service rendered and to be rendered by Members. The Pension reserves shall be financed by annual appropriations, to be made by the Council, determined according to subsections (a), (b) and (c) of this section.

(a) The appropriation for Members' current Service shall be a percent of their annual Compensations which will produce an amount which if paid annually by the City during their future Service will be sufficient to provide the reserves, at the time of their Retirements, for the portions of the Pensions to be paid them based upon their future Service; and

(b) The appropriation for Members' accrued Service shall be a percent of their annual Compensations which will produce an amount which if paid annually by the City over a period of years, to be determined by the Board, will amortize, at Regular Interest, the unfunded Pension reserves for the accrued Service portions of the Pensions to which they may be entitled; and

(c) The appropriation for Pensions being paid to Retirants and Beneficiaries shall be a percent of the annual Compensations of Members which will produce an amount which if paid annually by the City over a period of years, to be determined by the Board, will amortize, at Regular Interest, the unfunded Pension reserves for Pensions being paid to Retirants and Beneficiaries;

(d) In the event the amounts appropriated in the budget in any year are insufficient to pay in full the amounts due in said year to all Members of the Retirement System, the amount of such insufficiency shall thereupon be provided by the appropriating authorities of the City;

(e) Contributions to the Retirement System by the City to the extent necessary to provide payment of Pensions and other benefits to Retirants and Beneficiaries of and Members employed by an instrumentality of the City shall be made from the revenues of the said instrumentality of the City;

(f) Upon the Retirement of a Member, or at the time a Pension becomes payable to a Beneficiary on account of the death of a Member, the reserve for such Pension shall be transferred from the Pension Reserve Fund to the Retirement Reserve Fund. The Board may from time to time transfer from the Pension Reserve Fund to the Retirement Reserve Fund such additional amounts as it determines to be necessary for the proper maintenance of the Retirement Reserve Fund.

SECTION 35 EXPENSE RESERVE

Amounts contributed by the Retirement System for administrative expense shall be credited to this reserve. All expenses for the administration of the Retirement System shall be charged to this reserve. The Board shall certify to the City annually the amount of its requirements for administrative expenses.

SECTION 36 MANAGEMENT OF FUNDS

(a) The Board shall be the Trustees of the funds of the Retirement System and shall have full power to invest and reinvest such funds subject to all terms, conditions, limitations,

and restrictions imposed by the law of the State of Michigan in the making and disposing of their investments. The Board shall have the power to purchase notes, bonds, or other obligations of the City before or after the same are offered to the public and with or without advertising for bids.

(b) The Board shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments in which any of the funds of the Retirement System have been invested, as well as the proceeds of said investments and any moneys belonging to the Retirement System. There shall be kept on deposit available cash not exceeding ten percent of the total assets of the Retirement System. All funds of the Retirement System shall be held for the sole purpose of meeting disbursements for Pensions, Annuities, and other payments authorized by the provisions of this Retirement System, and shall be used for no other purpose.

(c) The description of the various funds of the Retirement System in Sections 32 through 35 shall be interpreted to refer to the accounting records of the Retirement System and not to the segregation of moneys in the funds of the Retirement System.

SECTION 37 EARNINGS ALLOCATION—INTEREST CREDITABLE

All interest and other earnings on moneys and investments of the Retirement System shall be credited to the Pension Reserve Fund. The Board shall, at the end of each calendar year, allow Regular Interest on the Members' individual balances in the Annuity Savings Fund at the beginning of the calendar year. The Board shall, at the end of each fiscal year, allow Regular Interest on the mean assets credited to the Retirement Reserve Fund. The amounts of interest so credited to the Annuity Savings Fund and the Retirement Reserve Fund shall be charged to the Pension Reserve Fund.

SECTION 38 ASSIGNMENTS PROHIBITED

The right of a person to an Annuity, a Pension, a Retirement Allowance, to the return of Accumulated Contributions, the Annuity, the Pension, or the Retirement Allowance itself, any optional benefit, any other right accrued or accruing to any Member, Retirant, or Beneficiary under the provisions of this Retirement System, and the moneys belonging to the Retirement System shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law whatsoever, and shall be unassignable, except as is specifically provided in this Retirement System and in accordance with Public Act 100 of 2002, as amended; provided, that the City shall have the right of set-off for any claim arising from embezzlement or fraud by a Member.

SECTION 39 CORRECTION OF ERRORS

Should any change in the records result in any Member, Retirant, or Beneficiary receiving from the Retirement System more or less than he/she would have been entitled to receive had the records

been correct, the Board shall correct such error, and as far as practicable shall adjust the payment in such manner that the Actuarial Equivalent of the benefit to which the said Member, Retirant, or Beneficiary was correctly entitled shall be paid.

SECTION 40 NONIMPAIRMENT OF FINANCIAL BENEFITS

Any and all provisions of this Retirement System may, from time to time, be modified, changed, or terminated by ordinance duly adopted by the Council. The Council shall consult with the Board and seek its technical review of the proposed changes prior to amendment or termination of the Retirement System. The accrued financial benefits of this Retirement System shall not be diminished or impaired by such modifications or changes and subject to the conditions of Public Act 728 of 2002, as amended. All provisions of City laws inconsistent with the provisions of this Retirement System are hereby repealed to the extent of such inconsistency.

Prior to the satisfaction of all liabilities to Members and their Beneficiaries under this Retirement System, the City shall have no right, title or interest in any money or investments held or acquired under the Retirement System by the Trustees, nor will any such money or investments at any time revert to the City or in anyway, directly or indirectly, inure to its benefit; except if a contribution made by the City in any Plan Year is made by mistake of fact (as determined under applicable provisions of the IRC and corresponding guidance), then such contribution must be returned to the City within one year of payment of the contribution upon demand by the City. Upon termination of the Retirement System, any assets remaining in the Retirement System after all liabilities of the Retirement System have been satisfied shall be returned to the City and shall be presumed to be as a result of actuarial error.

SECTION 41 SAVINGS CLAUSE

If any provision, section, subsection, paragraph, sentence, clause, or phrase of this Retirement System is for any reason found to be invalid or inoperative, or shall be held by any court to be unconstitutional, the remainder of the provisions of this Retirement System shall nevertheless continue in full force and effect.

SECTION 42 NORTH OAKLAND MEDICAL CENTER PRIVATIZED

This section is effective January 1, 1994, and is applicable only to persons who, on December 31, 1993, were simultaneously (1) members of the GERS and (2) employees of the City owned North Oakland Medical Center and who became employees of the privatized North Oakland Medical Center on January 1, 1994. With respect to the persons identified in this section:

(a) Such persons who are vested shall receive benefits from the Retirement System based upon Final Average Compensation as defined by the highest average Annual Compensation received by a Member during a period of three consecutive years of Service contained within the ten years immediately preceding the privatization of North Oakland Medical Center (January 1,

1994). If the Member has less than three years of Credited Service, Final Average Compensation shall be the average of the Member's Annual Compensation received during the Member's total years of Credited Service. The definition of *Final Average Compensation* in Section 2 is superseded for this limited purpose for this limited group of former Members of the Retirement System who remain vested.

(b) Such persons with vested benefits shall receive from the Retirement System benefits with the Section 17(b) 1.5 percent factor being changed to a 2.0 percent factor. Section 17(b) is superseded for this limited purpose for this limited group of former Members of the Retirement System who remain vested.

(c) Such persons with vested benefits shall receive from the Retirement System benefits pursuant to the definition of *Voluntary Retirement Age* in Section 2, which is amended to provide that:

Voluntary Retirement Age is defined as age 55 with, for eligibility purposes only, 25 or more years of Credited Service with either the previously (prior to January 1, 1994) City owned North Oakland Medical Center or the privatized North Oakland Medical Center (or a combination thereof). The definition of *Voluntary Retirement Age* in Section 2 is superseded for this limited purpose for this limited group of former Members of the Retirement System who remain vested. Calculation of benefit amounts shall only include Service credit as an employee of the City owned North Oakland Medical Center.

(d) The City of Pontiac, employer-sponsor with respect to the majority of Members of the Retirement System, to the extent funds do not exist in the Retirement System to provide the Retirement System benefits for retired employees and beneficiaries of the North Oakland Medical Center, will provide funding in compliance with Article IX, Section 24 of the State of Michigan Constitution, the Retirement System provisions, and other applicable law.

SECTION 43 INTERNAL REVENUE CODE QUALIFICATIONS

(a) The Retirement System is intended and shall be administered to be a qualified pension plan under IRC section 401, or successor provisions of law, and other applicable laws, regulations and administrative authority. The Retirement System is a governmental plan under IRC section 414(d) and is administered for the exclusive benefit of the Members and their Beneficiaries. The Retirement System trust is an exempt organization under IRC section 501. The Board may adopt such additional provisions to the Retirement System as are necessary to fulfill this intent which are incorporated by reference into this section.

(b) Notwithstanding any provision of the Retirement System to the contrary, benefits and contributions shall be limited in accordance with section 415 of the Internal Revenue Code, which is hereby incorporated by reference.

For purposes of section 415 of the Internal Revenue Code, compensation shall mean compensation actually paid during the limitation year and the limitation year shall be the

Plan Year or such other consecutive 12-month period over which compensation is otherwise determined under the Retirement System.

For purposes of adjusting any benefit or limitation under section 415 of the Internal Revenue Code, the mortality table used shall be the table prescribed by the United States Secretary of the Treasury in accordance with section 415(b)(2)(E)(v) of the Internal Revenue Code.

For limitation years beginning on and after January 1, 2001, for purposes of applying the limitations described herein, compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Member by reason of section 132(f)(4) of the Internal Revenue Code.

For limitation years beginning after December 31, 1997, for purposes of applying the limitations of section 415 of the Internal Revenue Code, compensation paid or made available during such limitation years shall include any elective deferral (as defined in section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the employee and which is not includable in the gross income of the employee.

Compensation for purposes of IRC §415(c)(3) shall also include, (1) regular pay after severance from employment; (2) leave cashouts and deferred compensation including cash out of accrued sick, vacation or other leave time if the employee would have been able to use the leave if employment had continued or the payment of nonqualified deferred compensation that would have been paid to the employee at the same time if the employee had remained employed and only to the extent that the payment is includable in the employee's gross income. The compensation items listed in this paragraph must be paid by the later of two and one-half-months of severance from employment or the end of the limitation year that includes the date of severance with the City.

(c) Eligible Rollover Distributions. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Retirement System to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee as a direct rollover. The following definitions shall apply with regard to this section:

(1) *Eligible Rollover Distribution.* 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 life (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more, and any distribution to the extent such distribution is required under IRC section 401(a)(9). For purposes of the direct rollover provision, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual

retirement account or annuity described in IRC section 408(a) or (b), or to a qualified plan described in IRC section 401(a) or 403(b) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) *Eligible Retirement Plan.* An eligible retirement plan is an individual retirement account described in IRC section 408(a), an individual retirement annuity described in IRC section 408(a), an annuity plan described in IRC section 403(a), an annuity contract described in IRC section 403(b) or an eligible plan under IRC section 457 which is maintained by a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan or a qualified trust described in IRC section 401(a) that accepts the distributee's eligible rollover distribution. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse or to a spouse or former spouse who is the alternate payee under a domestic relations order.

(3) *Distributee.* A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under an eligible domestic relations order (as defined in Act 46 of 1991 of the State of Michigan) or qualified domestic relations order (as defined in Code section 414(p)), as applicable, are "distributees" with regard to the interest of the spouse or former spouse. A distributee also includes an eligible designated non-spouse beneficiary. In the case of a nonspouse beneficiary, the direct rollover may be made only to a traditional IRA or Roth IRA that is established on behalf of the designated beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Code section 402(c)(11). Also in this case, the determination of any required minimum distribution under Code section 401(a)(9) that is ineligible for rollover shall be made in accordance with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.

(4) *Direct Rollover.* A direct rollover is a payment by the Retirement System to the eligible retirement plan specified by the distributee.

(d) Upon termination of the Retirement System or upon complete discontinuance of contributions under the Retirement System, the rights of all Members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall be nonforfeitable.

SECTION 44

IRS MINIMUM DISTRIBUTION

(a) Distributions from the Retirement System will comply with the requirements of IRC section 401(a)(9) and the regulations thereunder. A Member's interest in the Retirement System must begin to be distributed by the later of (1) April 1 of the calendar year following the calendar year that the Member attains the age of 70.5, or (2) April 1 of the calendar year the Member retires. With respect to distributions under the Retirement System made for calendar years beginning on or after January 1, 2001, the Retirement System will apply the minimum distribution requirements of IRC section 401(a)(9) in accordance with the regulations under IRC section 401(a)(9) that were proposed in January 2001, notwithstanding any provision in the Retirement

System to the contrary. This amendment shall continue in effect until the end of the last calendar year beginning before the effective date of final regulations under section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.

(1) *Effective Date.* Unless an earlier effective date is specified in the Retirement System, the provisions of this section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.

(2) *Coordination with Minimum Distribution Requirements Previously in Effect.* If the Retirement System specifies an effective date of this section earlier than calendar years beginning with the 2003 calendar year, required minimum distributions for 2002 under this section will be determined as follows: If the total amount of 2002 required minimum distributions under the Retirement System made to the distributee prior to the effective date of this section equals or exceeds the required minimum distributions determined under this section, then no additional distributions will be required to be made for 2002 on or after such date to the distributee. If the total amount of 2002 required minimum distributions under the Retirement System made to the distributee prior to the effective date of this section is less than the amount determined under this section, then required minimum distributions for 2002 on and after such date will be determined so that the total amount of required minimum distributions for 2002 made to the distributee will be the amount determined under this section.

(3) *Precedence.* The requirements of this section will take precedence over any inconsistent provisions of the Retirement System.

(4) *Requirements of Treasury Regulations Incorporated.* All distributions required under this section will be determined and made in accordance with the Treasury regulations under section 401(a)(9) of the Internal Revenue Code.

(5) *TEFRA Section 242(b)(2) Elections.* Notwithstanding the other provisions of this section, other than subsection (a)(4) of this section, distributions may be made under a designation made before January 1, 1984, in accordance with section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Retirement System that relate to section 242(b)(2) of TEFRA.

(b) Time and Manner of Distribution.

(1) *Required Beginning Date.* The Member's entire interest will be distributed, or begin to be distributed, to the Member no later than the Member's required beginning date.

(2) *Death of Member before Distributions Begin.* If the Member dies before distributions begin, the Member's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the Member's surviving spouse is the Member's sole designated beneficiary, then, except as provided in the Retirement System, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year

in which the Member died, or by December 31 of the calendar year in which the Member would have attained age 70.5, if later.

(ii) If the Member's surviving spouse is not the Member's sole designated beneficiary, then, except as provided in the Retirement System, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Member died.

(iii) If there is no designated beneficiary as of September 30 of the year following the year of the Member's death, the Member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(iv) If the Member's surviving spouse is the Member's sole designated beneficiary and the surviving spouse dies after the Member but before distributions to the surviving spouse begin, this subsection (b) will apply as if the surviving spouse were the Member.

For purposes of subsections (b)(2) and (iv) of this section, distributions are considered to begin on the Member's required beginning date (or, if subsection (b)(2)(iv) of this section applies, the date distributions are required to begin to the surviving spouse under subsection (b)(2)(i) of this section). If annuity payments irrevocably commence to the Member before the Member's required beginning date (or to the Member's surviving spouse before the date distributions are required to begin to the surviving spouse under subsection (b)(2)(i) of this section), the date distributions are considered to begin is the date distributions actually commence.

(3) *Form of Distribution.* Unless the Member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with subsections (c) and (d) of this section. If the Member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of section 401(a)(9) of the Code and the Treasury regulations. Any part of the Member's interest which is in the form of an individual account described in IRC section 414(k) of the will be distributed in a manner satisfying the requirements of IRC section 401(a)(9) of the and the Treasury regulations that apply to individual accounts.

(c) Determination of Amount to Be Distributed Each Year.

(1) *General Annuity Requirements.* If the Member's interest is paid in the form of annuity distributions under the Retirement System, payments under the annuity will satisfy the following requirements:

(i) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(ii) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in subsection (d) of this section;

(iii) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted.

(2) *Amount Required to Be Distributed by Required Beginning Date.* The amount that must be distributed on or before the Member's required beginning date (or, if the Member dies before distributions begin, the date distributions are required to begin under subsection (b)(2)(i) or (ii) of this section) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's required beginning date.

(3) *Additional Accruals after First Distribution Calendar Year.* Any additional benefits accruing to the Member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(d) Requirements for Minimum Distributions Where Member Dies before Date Distributions Begin.

(1) *Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse.* If the Member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Member and a nonspouse beneficiary, annuity payments to be made on or after the Member's required beginning date to the designated beneficiary after the Member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Member using the table set forth in Q&A-2 of section 1.401(a)(9)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Member and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(2) *Member Survived by Designated Beneficiary.* If the Member dies before the date distribution of his or her interest begins and there is a designated beneficiary, the Member's entire interest will be distributed, beginning no later than the time described in subsection (b)(2)(a) or (b) of this section, over the life of the designated beneficiary or over a period certain not exceeding:

(a) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death; or

(b) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(3) *No Designated Beneficiary.* If the Member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Member's death, distribution of the Member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(4) *Death of Surviving Spouse before Distributions to Surviving Spouse Begin.* If the Member dies before the date distribution of his or her interest begins, the Member's surviving spouse is the Member's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subsection (d) will apply as if the surviving spouse were the Member, except that the time by which distributions must begin will be determined without regard to subsection (b)(2)(i) of this section.

(e) Definitions.

(1) *Designated beneficiary* means the individual who is designated as the beneficiary under Section 2 of the Retirement System and is the designated beneficiary under IRC section 401(a)(9) and section 1.401(a)(9)-4 of the Treasury regulations.

(2) *Distribution calendar year* means a calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Member's required beginning date. For distributions beginning after the Member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to subsection (b)(2) of this section.

(3) *Life expectancy* means life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

(4) *Required beginning date* means the date specified in subsection (a) of this section.

SECTION 45 DEFINED CONTRIBUTION PLAN

Effective July 1, 2002, all nonunion management employee hired by the City as of January 1, 2002, and elected officials in office as of January 1, 2002, will have the option of either becoming a member of the GERS or they may elect to participate in a defined contribution plan or other portable plan as designated by the City. The defined contribution plan shall be made available to nonunion management employee and elected officials of the City and said contribution rate shall be as follows: three percent of the employee's base salary shall be contributed by the employee and nine percent shall be contributed by the City.

The Departments of Finance and Human Resources shall be responsible for establishing guidelines and procedures for implementing and administering the defined contribution plan. Employees and elected officials who elect to participate in the defined contribution plan and who complete at least ten years of Credited Service, prior to or after July 1, 2002, will be eligible for health care benefits as specified in Section 18.

SECTION 46 DENIAL OF BENEFIT CLAIM—APPEAL

A benefit claimant shall be notified in writing within 30 days of the Board's denial of a claim for benefits. The notification shall contain the basis for the denial. The benefit claimant may appeal the denial and request a hearing before the Board. The appeal shall be in writing and filed with the Retirement System within 60 days of the date of the notification of denial. The request for appeal shall contain a statement of the claimant's reasons for believing the denial to be improper. The Board shall schedule a hearing of the appeal within 60 days of receipt of the request to appeal.

SECTION 47 EFFECTIVE PROVISIONS

A Member shall be entitled to those benefits based upon the terms and conditions in effect at the time of separation from employment.

SECTION 48 MANDATORY BARGAINING SUBJECTS

Notwithstanding any other provisions of this Retirement System, any matter relating to the Retirement System applicable to current employees represented by a collective bargaining agent is a mandatory subject of bargaining under the Public Employment Relations Act, Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.216 of the Michigan Compiled Laws.

SECTION 49 RECIPROCAL RETIREMENT SYSTEM

The Retirement System is a reciprocal retirement system under the provisions of Act 88, Public Acts of 1961 of the State of Michigan, as amended. This section does not indicate adoption of section 6 of Act 88 of 1961, as amended (MCL 38.1106).

SECTION 50 FRAUD PENALTY

Whoever with intent to deceive shall make any statement or report under this Retirement System which is untrue, or shall falsify or permit to be falsified any record or records of the Retirement System, or who shall otherwise violate the provisions of this Retirement System as it may from time to time be amended, with intent to deceive, shall be guilty of a misdemeanor and upon conviction shall be fined not to exceed \$500.00 plus costs of

prosecution, or shall be imprisoned for not to exceed 90 days, or both, in the discretion of the court.

Section 2. Severability.

If any section, or provision of this Ordinance shall be declared to be unconstitutional, void, illegal, or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of the Ordinance shall stand and be in full force and effect.

Section 3. Repealer.

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 4. Publication.

The Clerk shall publish this Ordinance in a newspaper of general circulation.

Section 5. Effective Date.

This Ordinance shall be effective April 1, 2021.

I hereby certify that the foregoing is a true copy of the Ordinance as passed by the City Council of the City of Pontiac at a regular Council Meeting held electronically in said City on the _____ day of _____, 2021.

Garland S. Doyle, Interim City Clerk

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