

**BIG SPRING FIREMEN'S  
RELIEF AND RETIREMENT FUND**

**Plan Effective January 1, 2011**

The participating Members of the Big Spring Firemen's Relief and Retirement Fund held a secret ballot as required under the Section 7 of Article 6243e, Vernon's Texas Civil Statutes, which may be cited as the Texas Local Fire Fighters Retirement Act (TLFFRA) approved by the Board of Trustees on November 30, 2010, with 57 of the 64 participating Members (89% of the total) voting in the election (TLFFRA requires that at least 50% of the participating Members must vote). The number voting in favor of the changes as described in the ballot was 56 for the Thirteenth Check change, 57 for the QDRO Language Change, 38 for Option 2 for Overtime Contributions, 50 for Member Contribution Change, 51 for the Retiree Raise, and 51 for the Medical Plan Increase, a majority of voters in each case.

The Board of Trustees therefore, hereby adopts the Big Spring Firemen's Relief and Retirement Fund Plan in the following terms and conditions. This instrument is an amendment, restatement, and continuation of the Plan as in effect December 31, 2010.

Except as otherwise specifically noted, the following provisions are applicable to all actively employed Members of the Pension fund as of January 1, 2011 and to those who enter the Department thereafter.

When appropriate, the masculine gender shall include the feminine and vice versa.

**A. Basis for Determining Retirement Benefit (Definitions)**

The amount of income payable upon retirement will depend upon the Member's age when he retires, his number of years of "Service", and his "Average Monthly Salary" as described below.

*Service* – For the period prior to December 12, 1986, the number of years of continuous employment will be determined from the records of the Fire Department of the City of Big Spring, Texas. The number of years of continuous employment after December 12, 1986 will include the period of uninterrupted employment after that date with the Fire Department of the City of Big Spring, Texas. If a Member's Service is terminated after December 12, 1986, he will be treated in the same manner as a new Employee if he is later re-employed. Absence from the active service of the Department by reason of leave of absence will not terminate a Member's Service provided he returns to active employment prior to the expiration of his leave, except that if he withdraws his contributions from the Firemen's Relief and Retirement Fund, City of Big Spring, Texas, he will be treated in the same manner as though his Service had been terminated even though he returns to active employment prior to the expiration of his leave.

Periods of leave of absence, determined by the policy of the City of Big Spring, shall be deemed continuous employment provided the Member makes contributions equal to the total of the Member and City contributions with regard to the entire leave of absence period. Such contributions shall be based on the Member's rate of pay and contribution percentages in effect during the leave of absence.

Up to six (6) months of a Member's unused accrued leave shall be deemed continuous employment provided the Member and the City of Big Spring, Texas each contribute the required contribution percentages of pay then in effect. For Members scheduled for a 56-hour work week, accrued leave includes a maximum of 480 hours of compensatory time, 1,080 hours of sick leave and (effective October 1, 2006) 480 hours of vacation time. For Members scheduled for a 40-hour work week, accrued leave includes a maximum of 320 hours of compensatory time, 720 hours of sick leave and (effective October 1, 2006) 320 hours of vacation time. For Members regularly scheduled for less than a 40-hour work week, the maximum hours of compensatory time and sick

leave are proportionately reduced from the limits for Members with a 40-hour work week.

***Average Monthly Salary*** – Average Monthly Salary shall be the average of the Member’s pay upon which contributions have been made (except as otherwise noted in this paragraph) over a period of 60 consecutive months of Service credit which results in the highest such average, or if greater, the average of the Member’s pay upon which contributions have been made over the 36 month period of Service credit ended on or before December 31, 2006. Pay with respect to any unused accrued leave deemed as continuous employment shall be related to an equivalent period of service in determining the Average Monthly Salary (i.e., the period of service related to the Member’s pay shall be consistent with the period of Service credited under the Plan). Effective January 1, 2011, pay included in calculating Average Monthly Salary shall include no more than 480 hours of overtime pay per year for Members scheduled for a 56-hour work week and no more than 320 hours of overtime pay for Members scheduled for a 40-hour work week. At such time as benefit payments to the Member or Member’s beneficiary commence under the Plan, any contributions made by the Member with respect to Pay during the 60 month averaging period of this paragraph applicable to pay excluded from Average Monthly Salary due to the overtime pay limit, shall be refunded to such Member or Beneficiary in addition to the retirement or death benefits that are payable.

If at the time of death or disability the Member has less than 36 (or 60, as appropriate) months of Service his Average Monthly Salary shall be based on his entire period of Service.

***Member*** – shall mean any employee of the Big Spring Fire Department and any other person designated by the Board of Trustees in accordance with Section 9(c)(2) of the Texas Local Fire Fighters' Retirement Act. Employees covered by the Texas Municipal Retirement System (TMRS) or any other system or plan shall be excluded from the Fund as approved by the Board of Trustees.

***Normal Retirement Date (Age)*** – A Member’s Normal Retirement Date is the earliest date at which the Member will be at least age 50 and would have at least twenty (20) years of Service if he had not terminated covered employment. A Member’s Normal Retirement Age is his age at his Normal Retirement Date.

***Termination of Service*** – To Terminate Service, a member shall be required to terminate employment from the City of Big Spring Fire Department and from any position of employment with the City of Big Spring in a fire, rescue, or EMS related capacity. The Board of Trustees in its sole discretion will determine whether any position of employment with the City of Big Spring is a fire, rescue, or EMS related capacity. The Board of Trustees shall have the sole power and discretion determine if a member has Terminated Service and shall determine all questions arising in connection with the interpretation of whether a member has Terminated Credited Service.

If benefits have begun and the Board of Trustees determines the member has not Terminated Service, the benefit payments shall be suspended. Benefit payments will resume when the member Terminates Service.

**B. Service Retirement Benefit**

**1. *Eligibility for Service Retirement Benefit*** – A Member will be eligible for a Service Retirement Benefit after he Terminates Service provided he meets both of the following requirements:

- a. Attainment of age 50; and
- b. Completion of 20 years of Service.

2. **Amount of Service Retirement Benefit** – Subject to the Maximum Service Retirement Benefit, a Member who qualifies for a Service Retirement Benefit will receive a monthly retirement income equal to 2.55% times years of Service times Average Monthly Salary.

**C. Early Retirement Benefit**

1. **Eligibility for Early Retirement Benefit** – A Member will be eligible for an Early Retirement Benefit after he Terminates Service provided he meets both of the following requirements:
  - a. Retirement before age 50; and
  - b. Completion of 25 or more years of Service.
2. **Amount of Early Retirement Benefit** – Subject to the Maximum Service Retirement Benefit, a Member who qualifies for an Early Retirement Benefit may elect to receive a monthly retirement income payable under a) or b) as follows:
  - a. Monthly retirement income commencing on the Member’s Normal Retirement Date equal to 2.55% times years of Service times Average Monthly Salary, or
  - b. Monthly retirement income commencing prior to the Member’s Normal Retirement Date equal to an actuarially equivalent Percent of the Service Retirement Benefit based on the age payments commence as shown in the table below:

Start Age	Percent of Service Retirement Benefit
45	65.66%
46	71.35%
47	77.57%
48	84.38%
49	91.83%
50	100.00%

The actuarially equivalence basis for the early retirement reduction is 8% interest and 1983 GAM male mortality table. For this purpose, start ages are interpolated based on the Member’s age in years and completed months.

**D. Disability Retirement Benefit**

1. **Eligibility for Disability Retirement Benefit** – An active Member will qualify for a Disability Retirement Benefit if he becomes disabled from any cause whatsoever for either physical or mental reasons before he meets the requirements to qualify for a Service Retirement Benefit. The Member need only be disabled to the extent of being unable to perform the major duties, which are described in the job description of a position offered to him in the Fire Department, providing the Member with pay that is greater than or equal to the pay the disabled Member would have been receiving had his disability not occurred and he continued in his former position with the Fire Department, to be entitled to benefits for the first 2 ½ years; thereafter, he must be unable to perform the duties of any occupation for which he is reasonably suited by education, training and experience.
2. **Amount of Disability Retirement Benefit** – The Disability Retirement Benefit will commence after the Member’s regular salary, including vacation and sick leave pay, has ceased as the result of his disability and will continue thereafter as long as the Member remains alive and is eligible under (D)(1) and (D)(4) of this Section. Subject to the

Maximum Service Retirement Benefit, the total monthly Disability Retirement Benefit will be equal to:

- a. *if the Employee's disability did not arise from a pre-existing condition* –  
2.55% times years of Service times the Average Monthly Salary times the Member's vested percentage as defined in Section E; or
- b. *if the Employee's disability arose from a pre-existing condition* –  
\$100 per month.

For this purpose, a pre-existing condition is a condition which predates the Employee's employment with the Big Spring Fire Department. Solely for purposes of the formula (a) of D(2) of this Section, the vested percentage of a Member with less than ten (10) years of Service shall be treated as 50%.

3. ***Coordination with Other Disability Insurance Policies*** – In the event the City of Big Spring has a disability insurance policy in effect, a Member must first make an application for disability insurance benefits to the insurance company providing the City's disability insurance.
4. ***Termination, Reduction or Reinstatement of a Disability Benefit*** – The Board of Trustees shall have the power to continue, terminate, reduce or reinstate a Member's Disability Retirement Benefits subject to these constraints:
  - a. During the first 2 ½ years, the Board of Trustees may terminate the Member's Disability Retirement Benefit if the Member recovers to the extent that he is able to perform the major duties, which are described in the job description, of a position offered to him in the Fire Department providing the Member with pay that is greater than or equal to the pay the disabled Member would have been receiving had his disability not occurred and he continued in his former position with the Fire Department.
  - b. After the disabled Member has received Disability Retirement Benefits from the Fund for at least 2 ½ years, the Board of Trustees may terminate the Member's Disability Retirement Benefit if the Member has recovered to the extent that he is able to perform the duties of a job outside the Fire Department and he is able to earn at least as much money in his new job as he would have as a Member of the Fire Department.
  - c. After the disabled Member has received Disability Retirement Benefits from the fund for at least 2 ½ years, the Board of Trustees may review the situation of the disabled Member to determine the status of his disability. If the Member has recovered to the extent that he is able to perform the duties of a job outside the Fire Department, then the Board of Trustees may modify the disability benefit according to the following provisions:
    - i) if the Member is not able to earn at least one-half (1/2) as much money in his new job as he would have as a Member of the Fire Department, the Board of Trustees may continue to pay a full Disability Retirement Benefit to the disabled Member; or
    - ii) if the Member is able to earn between one-half (1/2) as much money and in his new job as he would have as a Member of the fire Department, the Board of Trustees may elect to pay the disabled member a Partial Disability

Retirement Benefit equal to one-half (1/2) of the original Disability Retirement Benefit.

- d. The Board of Trustees shall have the power to reinstate any Disability Retirement Benefit which has been previously terminated or reduced by the Board provided the disabled Member's condition has worsened due to the same cause for which he was originally disabled.

**5. *Proof of Disability*** – The Board of Trustees, before approving payment of any Disability Retirement Benefit, shall require satisfactory Proof of disability. In this regard, the Board of Trustees shall, as a condition to such approval, require that such Member submit the results of a medical examination by a duly licensed physician, selected by the Board of Trustees. After the commencement of Disability Retirement Benefit payments, the Board of Trustees may require additional financial data or medical examinations if such appears advisable in the interest of the Fund, and such an examination can be required at any time. The Board of Trustees may also require the disabled Member to be examined by a vocational rehabilitation expert selected and paid for by the Board.

**6. *Exclusions for Disability Retirement Eligibility*** – An active Member will not be entitled to receive any Disability Retirement Benefit income if the disability is a result of:

- a. Excessive and habitual use by the Participant of drugs, intoxicants or narcotics;
- b. Injury or disease sustained by the Participant while willfully and illegally participating in fights, riots, civil insurrections, or while committing a felony;
- c. Injury or disease sustained by the Participant while serving in the armed forces;
- d. Injury or disease sustained by the Participant diagnosed or discovered subsequent to the date his employment has terminated;
- e. Injury or disease sustained by the Participant as a result of an act of war, whether or not such act arises from a formally declared state of war;
- f. Any attempt at suicide while sane or insane, or by injuries intentionally self-inflicted.

**7. *Recovery from Disability*** –

- a. Prior to completion of ten (10) years of Service, if a disabled Member recovers to the extent that his disability allowance is terminated and he does not return to the employ of the Fire Department, then an amount equal to the excess, if any, of the Member's own contributions (without interest) over the amount of payment which have been made on his behalf will be paid to him in a lump-sum payment. This Return of a Member's Own Contributions will be made in accordance with Section H.
- b. After completion of ten (10) years of Service, a disabled Member will become eligible for the Vested Termination Benefit described in (E) below, if he recovers to the extent that his disability allowance would otherwise be terminated or reduced and does not return to the employ of the fire Department.
- c. After both attainment of age fifty (50) and completion of twenty (20) years of Service, a full service allowance will be paid if the Member recovers to the extent that his disability allowance would otherwise be terminated or reduced.

**E. Vested Termination Benefit**

If a Member has completed at least ten (10) years of Service but has not attained his normal retirement age at the time of Termination of Service, he will be entitled to receive a deferred monthly retirement income commencing at the end of the month in which his Normal Retirement Date would have occurred. The amount of the Member's vested accrued benefit will be equal to a percentage of the Service Retirement Benefit (determined as if he had retired of the day he terminated employment) based on the Member's years of Service at time of termination according to the following schedule:

<b>Years of Service</b>	<b>Percentage of Service Retirement Benefit</b>
10	50.00%
11	55.00%
12	60.00%
13	65.00%
14	70.00%
15	75.00%
16	80.00%
17	85.00%
18	90.00%
19	95.00%
20 or More	100.00%

This benefit is payable only to Members who terminate employment on or after January 1, 1992. To be entitled to receive this Vested Termination Benefit, the Member is required to leave his accumulated contributions in the Fund, but is not required to make additional contributions between his date of termination of employment and the date he begins receiving benefits.

*Example: A member who terminated employment at age 46 with 15 years of Service and Average Monthly Salary of \$2,000 would be entitled to a deferred monthly benefit calculated as follows:*

	2.55%	<i>the benefit percentage</i>
<i>times</i>	15	<i>years of Service</i>
<i>times</i>	\$2,000	<i>Average Monthly Salary</i>
<i>times</i>	<u>75%</u>	<i>vested percentage</i>
<i>equals</i>	\$ 573.75	<i>per month</i>
<i>starting 5 years in the future (the end of the month when his Normal Retirement Date would have occurred if he had continued employment.)</i>		

**F. Death Benefits**

1. The Member's Spouse will receive an immediate monthly benefit for as long as she is alive and does not remarry under the conditions and in the amounts described below:
  - a. If the Member's death occurred while he was an Employee of the Fire Department and before he was eligible for a Service Retirement Benefit, a monthly spousal Death Benefit equal to
    - i. *if the Member had less than one year of Service at death - \$100, or*

- ii *if the Member had one or more years of Service at death –*  
the greater of \$225 and two-thirds (2/3rds) of the Service Retirement Benefit.
- b. If the Member's death occurred while he was an Employee of the Fire Department and after he was eligible for a Service Retirement Benefit, a monthly spousal Death Benefit equal to two-thirds (2/3) the Service Retirement Benefit that the Member would have received if he had retired on his date of death.
- c. If the Member's death occurred after a Service retirement, a monthly spousal Death Benefit equal to two-thirds (2/3) the Service Retirement Benefit that the Member was receiving on his date of death.
- d. If the Member's death occurred after a Disability retirement, a monthly spousal Death Benefit equal to two-thirds (2/3) the Disability Retirement Benefit that the Member was receiving on his date of death.
- e. If the Member's death occurred after termination of employment with 10 or more years of Service, a standard spousal Death Benefit equal to two-thirds (2/3) of the monthly Vested Termination Benefit the Member would have begun receiving at his Normal Retirement Date as defined in (E) above.

In order for a retired or terminated Member's Spouse to qualify for the Death Benefit above, she must have been married to the Member on the first to occur of his date of retirement or his date of termination of Service. If the widowed Spouse of a Big Spring Member remarries, her Pension shall cease. If the new Spouse of such widowed Spouse dies or if the widow and her new Spouse are later divorced, the spouse's Pension shall be reinstated at the monthly amount she would have been receiving had her Pension not been terminated.

- 2. The child's benefit payable upon the death of a Member who was employed in the Department on January 1, 1992 or who enters the Department after January 1, 1992 or who began receiving a Service or Disability Retirement Benefit or who terminated employment with twenty (20) or more years of Service prior to January 1, 1992 is as follows:
  - a. If the Spouse is also receiving a benefit, each unmarried child will receive \$100 per month until age 18;
  - b. If the Spouse dies or remarries after being entitled to her allowance or if there is not a Spouse, each unmarried child will receive \$200 per month until age 18;

The benefits described in (2) above, are payable from age 18 to 22 as long as the child remains a full-time student between these ages. If the child becomes totally disabled as a result of a physical or mental illness, injury or retardation, the benefits described in (2) above, are payable after age 7 and for as long as the child remains totally disabled. In order for a natural-born child to be eligible to receive a Death Benefit under this section, the child's date of birth must be no later than ten (10) months following the first to occur of the date the Member retires, dies or terminates his Service with a vested benefit. In order for an adopted child to be eligible to receive death benefit under this section, the child must have been adopted prior to the first to occur of the date the Member retires, dies or terminates his service with a vested benefit.

For purposes of the benefits described in (2) above, a child shall be defined as the unmarried, dependent offspring, either natural-born or adopted, of a Member.

3. The sum of all benefits being paid or payable at any point in time shall not exceed:
  - a. For a retired Member, the amount of a Service or Disability Retirement Benefit the Member was receiving;
  - b. For a Member who was not retired and was eligible for a Service Retirement Benefit at his time of death, the Service Retirement Benefit the Member would have received had he retired on his date of death; and
  - c. For a Member who was not retired and was not eligible for a Service Retirement Benefit at his time of death, the Disability Retirement Benefit the Member would have received had he become disabled on his date of death.

If the sum of all benefits payable on behalf of the Member's Spouse and children would otherwise exceed the limits set forth above, then the benefit attributable to the Spouse and each child shall be reduced by the same percentage so that the sum of the reduced benefits equals the applicable limit. If the benefit for the spouse or one or more of the children should subsequently be terminated, then the benefits for the remaining beneficiaries shall be recalculated to provide the full benefits specified in this plan or a larger pro-rata share of those benefits if the sum of the benefits exceeds the above-mentioned limit.

4. If no Spouse or child is entitled to an allowance under (1) or (2) above, an amount equal to the excess, if any, of the member's own contributions (without interest) over the amount of payment which have been made to the Member, Spouse or child will be paid to the Member's named beneficiary(ies), or if there is no named beneficiary, to his estate.

#### **G. Benefits to Retired Members and Spouses**

Effective as of January 1, 2001, the monthly benefit of any Member or surviving Spouse then in payment status shall be increased to \$400 for any such payee who was receiving less than \$400 per month as of December 31, 2000. Effective as of January 1, 2011, the monthly benefit of any Member or surviving Spouse then in payment status shall be increased by \$50 for any such payee who was receiving \$1,000 or less per month as of December 31, 2010, or increased by \$25 per month for any such payee who was receiving more than \$1,000 per month.

#### **H. Return of a Member's Own Contributions**

If a Member terminates his Service and he is not entitled to a benefit as described above, he will receive an amount equal to the excess of his own contributions to the Fund over the amount of benefits which he has previously received from the Fund. A Member who retires or whose Service is terminated may elect to receive, at the time of his retirement or termination, the excess of his own contributions to the Fund over the amount of benefits which he has previously received from the Fund; however, if he makes such an election, he will forfeit his right to all benefits which he otherwise would have been entitled to receive. The amount refunded shall not include any interest accumulated on account of the Member's contributions.

#### **I. Qualified Domestic Relations Orders (QDRO)**

1. The anti-alienation provisions of the Public Retirement System shall apply to the creation, assignment, recognition or enforcement of a right to any benefit payable with respect to a Member or retiree unless the order is determined to be a QDRO. The QDRO must specify certain facts:
  - a. The name and the last known mailing address, if any, of the Member and mailing address of each alternate payee covered by the QDRO; and

- b. the amount or percentage of the Member's benefits to be paid by the Plan to each alternate payee, or the manner in which such amount or percentage is to be determined; and
  - c. The number of payments or period to which such QDRO applies; and
  - d. Each Plan to which such QDRO applies.
2. The QDRO may not alter the amount or form of the benefits. These requirements state that a domestic relations order is QDRO only if such order does not require:
- a. the Plan to provide any type or form of benefit or any option not otherwise provided under the Plan; and
  - b. the Plan to provide increased benefits (determined on the basis of actuarial value); or
  - c. payment of benefits to an alternate payee which are required to be paid to another payee under another order previously determined to be a QDRO.
3. In the event the alternate payee dies before the Member, any periodic payments being made to the alternate payee shall revert to the Member thereby reinstating the Member to the payment amount scheduled before the reduction due to the payments to the alternate payee.

**J. Deferred Retirement Option Plan (DROP)**

1. ***Eligibility for a DROP Benefit*** – A Firefighter will be eligible for this benefit upon retirement from active Service after attaining age 50 with 20 years of Service. A Firefighter meeting these requirements may irrevocably elect to have his benefits paid in this form under Option 1 or Option 2 of this Section.
2. ***DROP plan benefits:***
- a. **Option 1** – The Firefighter must retire (that is, Terminate Service) within five (5) years of a DROP election. The monthly benefit he will receive from the Plan will be determined based upon his salary and Service at the time of his DROP election. At the conclusion of the DROP period, the Firefighter will be paid an amount which is the sum of i) his monthly benefit amount times the number of months of the DROP period, and ii) to total of any Member contributions made during the DROP period (excluding any Member contributions made with respect to Service credited at the time of his DROP election as a result of unused accrued leave, unused sick leave and/or accrued vacation or comp time together with interest at 4% compounded annually on such contributions. This amount must be paid within three (3) years in no more than three (3) installments.
  - b. **Option 2** – Upon retirement (that is, Termination of Service), a Firefighter may elect to receive 85% of his regular monthly benefit (with all survivor benefits appropriately reduced) for life and a lump sum equal to 24 times this reduced benefit. This amount must be paid over three (3) years in no more than three (3) installments.

DROP benefits will be actuarially converted to a life only benefit for purposes of determining the “Maximum Service Retirement Benefit.”

**K. Maximum Service Retirement Benefit**

Service Retirement Benefits for firefighters are subject to a maximum amount under Section 415 of the Internal Revenue Code (IRC) using the calendar year as the “limitation year”.

The maximum benefit permitted by Section 415 of the Internal Revenue Code is the sum of the maximum Employer financed benefit and the Employee financed benefit. The maximum Employer financed benefit is \$140,000 for 2001 for firefighters retiring with at least 15 years of Service at age 65 or younger. Effective January 1, 2002, the maximum Employer financed benefit is \$160,000 for firefighters retiring with at least 15 years of Service at age 65 or younger. The limit is adjusted annually, on a rounded basis per IRC rules, for changes in the Consumer Price Index. The limit is adjusted for older ages at retirement based on an interest rate of 5% and the Applicable Mortality Table. For purposes of this Section, the “Applicable Mortality Table” is (1) for periods from January 1, 1995 through December 31, 2002, the IRC specified gender neutral 1983 GAM mortality table prescribed in Rev. Rul. 95-6, and (2) for annuity starting dates on and after January 1, 2003, the table prescribed in Rev. Rul. 2001-62 (the gender neutral version of 1994 GAR).

The Employee financed benefit is the monthly benefit annuitized from the Employee’s after-tax accumulated contributions. Solely for purposes of determining the maximum benefit, the conversion of the Employee after-tax accumulated contributions to a life annuity will be based on the interest rate on 30-year Treasury bonds as specified by the IRC using a plan year stability period and a look back month of the fourth calendar month preceding the first day of the stability period. The mortality table used in the Employee contribution conversion shall be Applicable Mortality Table.

The benefits subject to Section 415 limits must be adjusted if the payments are made in a form other than a life annuity or a qualified joint and survivor benefit. Solely for purpose of determining the maximum benefit, the adjustments for optional forms of payment other than a life annuity or a qualified joint and survivor benefit will be an actuarial equivalence based on an interest rate of 5% and the Applicable Mortality Table.

The benefits subject to Section 415 limits must be adjusted if the payments are made in a form other than a life annuity or a qualified joint and survivor benefit. Solely for purpose of determining the maximum benefit, the adjustments for optional forms of payment other than a life annuity or a qualified joint and survivor benefit will be an actuarial equivalence based on an interest rate of 5% and the Applicable Mortality Table.

As a result of such an adjustment, a Pension which had been limited by the provisions of this Section in a previous Plan Year shall be increased with respect to future payments to the lesser of the adjusted dollar limitation amount or the amount of Pension which would have been payable under this Plan without regard to the provisions of this Section. Annual benefits may not be paid in an amount greater than the accrued benefit under the Plan.

If the United States Congress and/or the IRS later amend the laws and regulations pertaining to section 415 in order to permit higher Service benefits, then for any retired Firefighters who had previously had a benefit reduced because it exceeded the “Maximum Service Retirement Benefit”, the Plan will be amended again to cause the Board to recalculate the retired Firefighter’s benefit to be the smaller of the:

- i) unreduced benefit based on the Plan’s Service Retirement Benefit formula in effect on the date the firefighter retired; or

- ii) maximum permissible benefit calculated under an amended “Maximum Service Retirement Benefit” provision that is based on the revised Section 415 laws and regulations.

The Board shall pay the retired Firefighter in a single payment an amount equal to the difference between the adjusted higher monthly benefit and the reduced benefit for the number of months the Firefighter has received the reduced benefit.

#### **L. Direct Rollover of Eligible Rollover Distributions**

This Section applies to distributions made on or after December 1, 1994. Notwithstanding any provision of the Plan 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 Plan Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

##### **1. Definitions:**

- a. Eligible rollover Distribution** – an Eligible Rollover Distribution is any distribution described in Code Section 402(c)(4) of all or any portion of the balance to the credit of the Distributee except that an Eligible Rollover distribution does not include: any equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee’s designated Beneficiary or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; the portion of any distribution that is not includable in gross income; for distributions made after December 31, 1999, any hardship distribution as defined in Code Section 401(k)(2)(B)(i)(IV), which are attributable to the Participant’s elective contributions under Treasury Regulation Section 1.401(k)-1(d)(2)(ii); and any other distribution reasonably expected to total less than \$200 during a year.
- b. Eligible Retirement Plan** – An Eligible Retirement Plan is an individual retirement account described in Section 408(b) of the code, an individual retirement annuity plan described in Section 408(a) of the Code or a qualified Trust described in Section 401(a) of the Code, that accepts the Distributee’s Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to the surviving Spouse, an eligible Retirement Plan is an individual retirement account or individual retirement . Effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible Plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. 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 qualified domestic relation order, as defined in Section 414(p) of the Code.
- c. 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 Section 414(p) of the Code, are Distributees with regard to the interest of the Spouse or former Spouse.
- d. Direct Rollover** – A Direct Rollover is a payment by the plan to the Eligible Retirement Plan specified by the Distributee.

**M. Contributions and Compensation Limit**

1. Each Member will make contributions as a percentage of his total pay (including regular, longevity and overtime pay and pay received during a period of sick leave or vacation, and including lump-sum distributions for unused sick leave or vacation). Effective for service on and after January 1, 2006 the Member contribution percentage shall be 12% of such total pay. ). Effective for service on and after January 1, 2011 the Member contribution percentage shall be 13% of such total pay. Such contributions are designated “picked-up” by the City so as not to be included in Participants’ gross income for Federal tax purposes as provided by Section 414(h)(2) of the Code
2. The City of Big Spring will make contributions of 12.0% of each Member’s total pay (including regular, longevity and overtime pay and pay received during a period of sick leave or vacation, and including lump-sum distribution for unused sick leave or vacation).
3. The annual compensation of each employee taken into account under the plan for any year shall not exceed \$150,000 or the adjusted limit for such year published by the Secretary of the Treasury, pursuant to Section 401(a)(17) of the Internal Revenue Code. For years beginning after December 31, 2001, the annual compensation of each Member taken into account under the plan any year beginning after December 31, 2001, shall not exceed \$200,000. For purposes of determining benefit accruals in a year beginning after December 31, 2001, compensation for any prior determination period shall be \$150,000 for any determination period beginning in 1996 or earlier; \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001. The \$200,000 limit on annual compensation in this paragraph shall be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. "Year" for purpose of this paragraph shall be the calendar year.

**N. Effective January 1, 2001**

The changes which became effective on January 1, 2001 are as follows:

1. The amounts of a Service Retirement Benefit and Disability Retirement Benefit will be equal to 2.55% multiplied by the Member’s years of Service multiplied by monthly average of the three consecutive years during which the Member earned the highest salary. Prior to the amendment the benefit percentage was 2.50%.
2. The benefit amount of the Members and Spouses who were in pay status prior to January 1, 2001 will be increased to \$400 per month for any payees who were receiving less than this amount (a minimum benefit).
3. The deferral period under the Option I DROP plan was increased from 2 to 3 years.
4. Members with 25 or more years of Service may retire prior to age 50 with a permanent actuarial reduction in the benefit amount. Prior to this change the unreduced benefit would not begin until age 50 for such Members.

**O. Compliance with Internal Revenue Code and Regulations**

Notwithstanding any provisions of the Plan to the contrary, the provisions of the Plan will at all times comply with the applicable requirements of the Internal Revenue Code (the “Code”) as amended by the General Agreement on Trade and Tariffs (“GATT”), the Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”), the Small Business Job

Protection Act of 1996 (“SBJPA”), the Taxpayer Relief Act of 1997 (“TRA 97”), and the Restructuring and Reform Act of 1998 and all related regulations thereunder.

1. Effective as of December 12, 1994, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code as amended by the Uniformed Services Employment and Reemployment Rights Act of 1994.
2. With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2002, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the Code in accordance with the regulations under section 401(a)(9) of the Code that were proposed on January 17, 2001, notwithstanding any provisions of the Plan 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) of the Code or such other date as may be specified in guidance published by the Internal Revenue Service.
3. Effective August 5, 1997, except as allowed under Code Section 401(a)(13) or as otherwise provided in this paragraph, none of the payments, benefits or rights of any Participant shall be subject to the claim of any creditor, and shall not be subject to attachment, garnishment, trustee's process, or any other legal process available to any creditor of such Participant. No Participant or Beneficiary shall have the right to alienate, anticipate, commute, pledge, encumber or assign any of the benefits or payments which he may expect to receive under the terms of this Plan. This paragraph shall not prevent compliance by the Plan with any “qualified domestic relations order” (as defined in Section 414(p) of the Code) and certain judgments and settlements, and any such order, judgment or settlement shall be complied with by the Plan in accordance with the terms thereof.
4. Notwithstanding anything in the Plan to the contrary, effective with respect to Limitation Years beginning after 1999, the provisions of Code Section 415(e) as in effect prior to the enactment of the Small Business Job Protection Act of 1996 are hereby deleted.

**P. Medical Benefits For Certain Eligible Retirees**

1. This Article, in accordance with Section 401(h) of the Code, sets forth the terms and conditions under which Eligible Retirees may be entitled to receive Eligible Medical Benefits hereunder. Unless the context indicates to the contrary, or the provisions of this Article provide otherwise, all provisions and definitions contained in the Plan shall apply under this Article. This Article is effective as of January 1, 2004.
2. Definitions and Construction: For purposes of this Article, the following terms shall have the meaning set forth below when used in the capitalized form and shall supersede any similar or inconsistent terms or provisions which appear in the body of the Plan.
  - (a) **Eligible Retiree** means any terminated Member, other than a Key Employee, who meets all of the following requirements:
    - (i) The Member is eligible for Service Retirement benefits under the Plan;
    - (ii) The Member terminated employment on or after January 1, 2004; and
    - (iii) The Member elects coverage under the Medical Plan and makes any required Member contributions to the Medical Plan (net of amounts payable under this Article)

- (iv) The Participant has completed at least 20 continuous years of credited Service;
- (b) **Key Employee** means any Participant in the Plan who was a Key Employee (within the meaning of Section 416(i) of the Code) of the Employer during any Plan Year for which contributions under this Article were made on his behalf.
- (c) **Eligible Medical Benefits** means only the premiums (not in excess of the limits specified in (P)(3) ) for medical insurance coverage of the Member, his spouse and eligible dependents under the terms of the Medical Plan applicable to an Eligible Retiree. Deductible amounts, coinsurance or uncovered expenses are not considered to be Eligible Medical Benefits
- (d) **Medical Plan** means the employee benefit plan, insurance contract or similar arrangement providing benefits for sickness, accident, hospitalization, or medical expenses as adopted by the City of Big Spring, Texas for its eligible employees (including retired employees) and their spouses and dependents, as such Medical Plan may be amended from time to time. In the event an Eligible Retiree is not covered by a Medical Plan sponsored by the City of Big Spring, Texas, the term "Medical Plan" shall also mean an employee benefit plan, insurance contract or similar arrangement providing benefits for sickness, accident, hospitalization, or medical expenses which covers the Eligible Retiree after his retirement under the Plan with coverage commencing prior to the Retiree's 65<sup>th</sup> birthday and any successor arrangements which provide continuous uninterrupted coverage of the Eligible Retiree thereafter.
- (e) **Retiree Medical Separate Account** means the separate account specified in Section 6 of this Article
3. ***Payment of Eligible Medical Benefits:*** Eligible Retirees, their spouses and eligible dependants are eligible to receive payment of Eligible Medical Benefits hereunder on or after January 1, 2004 solely to the extent (i) they would be eligible to receive such Eligible Medical Benefits under the Medical Plan, but for the payment of the same under this Article, and (ii) the amount of assets allocated to the separate account under the Trust are sufficient for the payment of such Eligible Medical Benefits. In this regard, the amount of all payments to or on behalf of an Eligible Retiree shall be subject to all terms and conditions of the Medical Plan and, effective January 1, 2004, shall not exceed \$250 per month (\$300 per month effective January 1, 2009 and later, and \$325 per month effective January 1, 2011 and later) if the Member retired on or after age 50. Payment for Eligible Medical Benefits shall be made directly to the Medical Plan on behalf of the Eligible Retiree, their spouse and eligible dependents or paid directly to the Eligible Retiree for reimbursement for Eligible Medical Benefits. Valid receipts shall be submitted to the Board of Trustees no later than February 20<sup>th</sup> of the following year after expenses were accrued. Reimbursement will only be paid once a year for eligible receipts submitted on time for the previous year.
4. ***Termination of Eligible Medical Benefits:*** Payment of Eligible Medical Benefits hereunder shall terminate hereunder as follows:
- (a) With respect to the Eligible Retiree, the earlier of the date of the Eligible Retiree's death or the date on which the Eligible Retiree becomes eligible for Medicare.
- (b) With respect to the spouse or eligible dependent of an Eligible Retiree, the date on which the Eligible Retiree becomes eligible for Medicare or, if earlier, the date such spouse or eligible dependent becomes eligible for Medicare; and in the event that the

Eligible Retiree dies before becoming eligible for Medicare, the date on which the Eligible Retiree would have been eligible for Medicare if he or she had survived or, if earlier, the date such spouse or eligible dependent becomes eligible for Medicare,

5. ***Contributions and Funding of Eligible Medical Benefits:*** Contributions to the Retiree Medical Separate Account consist of Member Retiree Medical Contributions and Employer Retiree Medical Contributions as follows:
- (a) Member Retiree Medical Contributions. Effective January 1, 2004, each Member (excepting only any Member whose participation in the Plan commenced on or after the Member's forty-fifth (45<sup>th</sup>) birthday) shall contribute a bi-weekly amount of \$23.58 by payroll deduction. Such contributions are designated "picked-up" by the City so as not to be included in Participants' gross income for Federal tax purposes as provided by Section 414(h)(2) of the Code. Effective each January 1 thereafter the contribution amount shall be adjusted by the annual percentage change made in the base pay rate of a full-time firefighter employed by the City during the preceding year, but in no event shall such adjustment be more than 4% in any given year. Provided, further that the bi-weekly contribution shall be increased an additional \$3.00 effective for pay periods beginning on or after January 1, 2009. Member Retiree Medical Contributions shall be transmitted to the Trust at least monthly as soon as practicable after the payroll deductions have been made.
  - (b) Employer Retiree Medical Contributions. The Employer shall contribute a matching percentage of the Member Retiree Medical Contributions made to the Plan. Effective January 1, 2004, the matching percentage shall be 0% (i.e., no contribution).

Total contributions made to the Retiree Medical Separate Account shall not exceed the amount determined by the Plan actuary to be necessary to fund fully the Eligible Medical Benefits. Eligible Medical Benefits shall be subordinate to the retirement benefits provided by the Plan. In this regard, contributions to the Retiree Medical Separate Account shall be deemed subordinate if the aggregate actual contributions credited to such separate account, when added to any amounts contributed with respect to any life insurance protection provided under the Plan, do not at any time exceed 25% of the total actual contributions to the Plan (other than contributions to fund past service credits) for Plan Years during which this Article is in effect.

6. ***Separate Account – Recordkeeping:*** All contributions for Eligible Medical Benefits shall be credited to a separate account which shall be maintained under the Trust solely for recordkeeping purposes. At the time the Employer makes any contribution to the Plan, the Committee shall designate the portion of such contribution allocable to the funding of Eligible Medical Benefits. However, all funds accounted for in the separate account may, but need not be, invested together with all other assets of the Trust. When so invested, the gains/losses of such investments shall be proportionately allocated between this separate account and the other assets of the Trust. In addition, the separate account shall be charged with any payment of Eligible Medical Benefits under the terms of this Article.
7. ***Expenses:*** All reasonable expenses of administering the separate account, including but not limited to reasonable expenses and compensation of trustees, actuaries, attorneys, auditors, investment advisors, investment managers and other consultants, shall be paid out of the separate account of the Trust, unless the Employer, in its discretion, elects to pay such amounts on behalf of the Plan.

8. ***Non-Diversion of Separate Account Assets:*** Plan assets allocated to the separate account for payment of Eligible Medical Benefits may not be used for, or diverted to, any other purpose (including payment of pension benefits) prior to the satisfaction of all liabilities under this Article to provide for the payment of Eligible Medical Benefits. In this regard, if (i) the Plan is terminated, (ii) the requirement that Eligible Medical Benefits be provided under this Article is eliminated by amendment, or (iii) the Medical Plan is terminated, Eligible Medical Benefits incurred prior to such termination or amendment shall be payable under this Article to the extent then funded. Any amounts remaining in the separate account after the satisfaction of all liabilities for such Eligible Medical Benefits shall be returned to the Employer.
9. ***Forfeiture:*** In the event an individual's interest in the separate account established pursuant to this Article is forfeited prior to termination of the Plan, an amount equal to the amount of such forfeiture shall be applied as soon as practicable thereafter to reduce the actuarially determined contributions to fund Eligible Medical Benefits provided under this Article.

Q. **Minimum Distribution Requirements**

1. ***General Rules:*** The provisions of this article will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year. The requirements of this Section will take precedence over any inconsistent provisions of the Plan. 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. Notwithstanding the other provisions 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 Plan that relate to Section 242(b)(2) of TEFRA.
2. ***Time and Manner of Distribution***
  - (a) **Required Beginning Date:** The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's required beginning date.
  - (b) **Death of Participant Before Distributions Begin:** If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
    - i If the participant's surviving spouse is the participant's sole designated beneficiary, then, except as provided in the adoption agreement, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 70½, if later.
    - ii If the participant's surviving spouse is not the participant's sole designated beneficiary, then, distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.
    - iii If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

- iv If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the surviving spouse begin, this Section Q2(b), other than Section Q2(b)i, will apply as if the surviving spouse were the participant.

For purposes of this Section Q2(b) and Section Q6, distributions are considered to begin on the participant's required beginning date (or, if Section Q2(B)(iv) applies, the date distributions are required to begin to the surviving spouse under Section Q2(b)(i)). If annuity payments irrevocably commence to the participant before the participant's required beginning date (or to the participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 2.2(a)(i)), the date distributions are considered to begin is the date distributions actually commence.

- (c) **Form of Distribution:** Unless the participant'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 Sections Q3, Q4 and Q5. If the participant'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 participant's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

3. ***Determination of Amount to be Distributed Each Year.***

- (a) **General Annuity Requirements:** If the participant's interest is paid in the form of annuity distributions under the Plan, 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 Section 4 or 5;
  - 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;
  - iv payments will either be nonincreasing or increase only as follows:
    - 1 by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
    - 2 to the extent of the reduction in the amount of the participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Section 4 dies or is no longer the participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p);
    - 3 to provide cash refunds of employee contributions upon the participant's death; or

4 to pay increased benefits that result from a plan amendment.

- (b) **Amount Required to be Distributed by Required Beginning Date:** The amount that must be distributed on or before the participant's required beginning date (or, if the participant dies before distributions begin, the date distributions are required to begin under Section Q2(b)(i) or (ii)) 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 participant'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 participant's required beginning date.
- (c) **Additional Accruals after First Distribution Calendar Year.** Any additional benefits accruing to the participant 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.

#### 4. **Requirements for Annuity Distributions that Commence During Participant's Lifetime**

- (a) **Joint Life Annuities Where the Beneficiary Is Not the Participant's Spouse:** If the participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the participant and a nonspouse beneficiary, annuity payments to be made on or after the participant's required beginning date to the designated beneficiary after the participant'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 participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the participant 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.
- (b) **Period Certain Annuities.** Unless the participant's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the participant's lifetime may not exceed the applicable distribution period for the participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the participant reaches age 70, the applicable distribution period for the participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the participant as of the participant's birthday in the year that contains the annuity starting date. If the participant's spouse is the participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the participant's applicable distribution period, as determined under this Section 4.2, or the joint life and last survivor expectancy of the participant and the participant's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the participant's and spouse's

attained ages as of the participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

5. **Requirements for Minimum Distributions Where Participant Dies Before Date Distributions Begin.**

- (a) **Participant Survived by Designated Beneficiary.** If the participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the participant's entire interest will be distributed, beginning no later than the time described in Section 2.2(a) or (b), over the life of the designated beneficiary or over a period certain not exceeding:

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 participant's death; or

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.

- (b) **No Designated Beneficiary.** If the participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
- (c) **Death of Surviving Spouse Before Distributions to Surviving Spouse Begin.** If the participant dies before the date distribution of his or her interest begins, the participant's surviving spouse is the participant's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section Q5 will apply as if the surviving spouse were the participant, except that the time by which distributions must begin will be determined without regard to Section 2.2(a).

6. **Definitions for Section Q**

- (a) **Designated Beneficiary.** The individual who is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.
- (b) **Distribution Calendar Year.** A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 2.2.
- (c) **Life Expectancy.** Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.
- (d) **Required Beginning Date.** The date specified in the Plan.

**R. Thirteenth Check**

The Board of Trustees may declare a thirteenth check payable to current payees (Retired Members and beneficiaries in payment status) provided all of the following requirements are met:

1. The current contribution rate to the Fund is sufficient to meet the annual actuarial normal cost of the plan and to amortize any remaining unfunded actuarial liability of a period of 30 years or fewer, as evidenced by the most recent actuarial valuation of the plan, adjusted for any changes in plan provisions that have been made subsequent to the actuarial valuation.
2. The rate of return on market value net of expenses for the Plan Year exceeds the actuarially assumed rate of return used in the most recent actuarial valuation.
3. The cumulative rate of return on market value, net of expenses and any prior thirteenth check payments, for the most recent five consecutive Plan Years expressed as an annual compound rate of return exceeds the actuarially assumed rate of return used in the most recent actuarial valuation.
4. The excess return above the actuarial requirement exceeds the total amount of the thirteenth checks for the year. For this purpose, the excess return above the actuarial requirement shall be calculated as:

the rate of return on market value net of expenses less the actuarial assumed rate of return,

*multiplied by*

the present value of benefits for participants in payment status,

*and then multiplied by*

the actuarial liability funded ratio (not exceeding one) which is the market value of assets divided by the actuarial liability for all participants.

5. In the years a thirteenth check is paid, such check will be issued with the November retirement check.

**S. Compliance with Section 845 of the Pension Protection Act of 2006**

Effective January 1, 2007, payments to Retired Members and beneficiaries in payment status may be allocated as directed by the Retired Member or beneficiary between direct payments to the payee and payments made to an insurer, qualified health plan, or qualified long term care plan for the benefit of the payee in order to meet the requirements of Section 845 of the Pension Protection Act of 2006 relating to favorable tax treatment of distributions from a governmental retirement plan for eligible retired public safety officers, their spouses, and dependents.

Adopted the \_\_\_\_ day of \_\_\_\_\_, 2010, by the Board of Trustees, Big Spring Firemen's Relief and Retirement Fund and executed by one or more authorized members of the Board below.

**Board of Trustees,  
Big Spring Firemen's  
Relief and Retirement Fund**

_____	_____
_____	_____
_____	_____