

**CITY OF TAMPA FIREFIGHTERS AND POLICE OFFICERS  
PENSION CONTRACT**

**THIS AGREEMENT**, made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ [print today's date] by and between the City of Tampa, a municipal corporation under the laws of the State of Florida (hereinafter referred to as "City" or party of the first part), and \_\_\_\_\_ [print your name here] (hereinafter referred to as "Employee" or party of the second part), for the purpose of providing retirement and other ancillary benefits to Employee in recognition of service with the City as a firefighter or police officer.

Name Printed: \_\_\_\_\_ Fire \_\_\_ or Police \_\_\_ F&P #: \_\_\_\_\_

**WITNESSETH:**

**WHEREAS**, pursuant to the provisions of various Special Acts of the State of Florida and Ordinances of the City of Tampa, the City of Tampa is authorized and empowered to enter into a pension contract with each and every firefighter and police officer who is employed by the City of Tampa, who is authorized to join the City Pension Fund for Firefighters and Police Officers in the City of Tampa, and elects to do so, as follows:

**SECTION 1.** There is hereby created a special fund to be known as the City Pension Fund for Firefighters and Police Officers in the City of Tampa (hereinafter referred to as the Fund); said Fund to be used exclusively for the purpose provided for in this Act, which Fund shall be collected, administered and disbursed according to the provisions of this Act.

**SECTION 2.** The said Pension Fund shall consist of monies and properties derived from the following sources, which shall be set apart and placed to the credit of such Fund:

(A) The monies and assets now deposited to the credit of and held by the City Pension Fund for Firemen and Policemen of the City of Tampa.

(B) Commencing October 1, 1969, the City shall contribute eleven per centum (11%) of all earnings of employees covered under this contract, which contribution shall be deposited in the Fund at least quarterly. Commencing October 1, 1970, the City shall contribute at the rate of thirteen per centum (13%), and shall continue to increase the rate of contributions by two per centum (2%) on each October 1 thereafter, until such time as a continuation of the then current rate of contribution (or lesser rate of contribution), together with contributions provided for in Section 2(C), Section 2(D), and contributions expected from other sources, shall, pursuant to the most recent actuarial report, be sufficient if continued at such level, to fund:

(1) The normal annual cost of the benefits other than benefits arising from post retirement adjustments made pursuant to Section 23 and other than the 13th check benefits pursuant to Section 27, provided for in this contract; and

(2) Any remaining unfunded past service cost of such benefits over a period of thirty years from the date of the last actuarial report;

(3) Where such costs are determined on a basis consistent with the requirements of actuarial soundness, and the requirements of Chapters 175 and 185 of the Florida Statutes, as they may be amended from time to time, provided that the investment yield assumed in determining such costs shall not exceed 5%. After such time the City shall contribute at such rate of earnings which will be sufficient, if continued, to fund the normal cost each year and the remaining unfunded past service cost over a period of thirty years from the date of the most recent actuarial report received from time to time;

(4) Provided, however, that in no case shall the contributions by the City in any year, and exclusive of income from other sources, be less than 133, or 134 percent if paid quarterly, of the total sum contributed by employees as provided in (D) below, excluding contributions for the 13th check benefit; it being expressly understood that when the requirements for continued actuarial soundness of the plan are determined to require less contributions than would result hereby, the contributions from the City and employees will be proportionately reduced to rates which will reasonably generate such reduced amount.

(C) The City shall make additional contributions each year as follows:

(1) In the event that the average earnings of all of the members covered under this contract for any twelve month period ending September 30 (determined for this purpose as the total earnings for such period divided by the average of the number of members covered at the beginning and end of the period), shall exceed the similar average earnings for the preceding twelve month period by A%, then commencing on October 1 an additional annual contribution shall be made by the City, equal to A% multiplied by the total earnings for the twelve months preceding such October 1, and multiplied by the pension cost factor associated with such increases as set forth in the most recent actuarial report received from time to time, subject to (2) below;

(2) Such additional contributions, together with contributions similarly determined in previous years, shall continue to be paid each year on a cumulative basis until the contributions from all sources (other than investment income) shall meet the standards set forth in Section 2(B)(1), (2), (3), and (4) after which time such contributions shall be reduced as provided for in the most recent actuarial report received from time to time.

(D) Except as provided by subparagraph 2(B)(4) and subparagraph 27(B)(2), the employees covered under this contract shall contribute at the rates set forth below, subject to a minimum annual contribution of not less than one-half of one percent (0.5%) of the total earnings of each such employee, based upon all of their earnings during each twelve month period commencing on October 1, which contributions shall be deducted from said earnings before the same are paid and shall be deposited in the Fund immediately after each pay period:

<u>Earnings in Twelve-Month Period Commencing October 1</u>	<u>Employee Contribution Rate</u>
First \$4,000	6%
Next 1,000	7%
Next 1,000	8%
Next 1,000	9%
Next 1,000	10%
Next 1,000	11%
Next 1,000	12%
Next 2,500	15%
Excess over \$12,500	25%

If the City's rate of contribution, pursuant to Section 2(B), should exceed forty per centum (40%), the employee contribution scale above shall be increased in the ratio of the City's contribution rate, pursuant to Section 2(B), to 40 percent.

Commencing for earnings paid the first pay date after January 1, 2002, all mandatory employee contributions to the Fund shall be picked-up and paid by the City. Such contributions, although designated as employee contributions, will be paid by the City in lieu of contributions by the employee. The contributions so assumed shall be treated as tax-deferred employer "pick-up" contributions pursuant to Section 414(h) of the Internal Revenue Code. Members shall not have the option of receiving the contributed amounts directly instead of having such contributions paid by the City to the Fund.

(E) All monies and assets which shall be received by the Board for deposit to the credit of or for the account of the Fund from all other sources including the State of Florida.

(F) No monies raised by taxation or otherwise provided for said Pension Fund shall be used other than for the purposes of this Act.

(G) To the extent that the City of Tampa provides for the payment of benefits otherwise payable by the City Pension Fund for Firefighters and Police Officers in the City of Tampa but for the limits in Section 415 of the Internal Revenue Code, then there shall be a reduction in the amount of the City's contributions otherwise payable to the City Pension Fund for Firefighters and Police Officers in the City of Tampa by an amount equivalent to the amount of benefits provided for by the City of Tampa; provided, however, such amounts shall be included in the calculation of the City's contributions to the City Pension Fund for Firefighters and Police Officers in the City of Tampa pursuant to Section 2(B) of this pension contract.

(H) Notwithstanding the contribution rate schedule set forth herein, the contribution rate of each firefighter and police officer who on October 15, 1992 was a member in Division B of the General Employees' Pension Plan for the City of Tampa, who becomes a member of this Fund, shall be reduced by such firefighter's or police officer's social security contribution, and the City shall pay to the Fund the amount by which such employee's contribution is reduced by the end of the calendar quarter. For purposes of this section, the term "social security contribution" shall mean that amount required to be paid by such firefighter or police officer pursuant to Section 3111(a) of the Code (regarding contributions toward the Old-Age, Survivors, and Disability Insurance). Notwithstanding any adjustment that may be required herein, the total annual contribution required of said firefighter or police officer shall not be less than one-half of one percent (0.5%) of the total earnings of each such firefighter or police officer, or such other amount as is required by Chapter 175 or Chapter 185, Florida Statutes, in order for this Pension Fund to participate in the distribution of the tax funds established by Chapter 175 or Chapter 185, Florida Statutes.

(I) Notwithstanding any other provision of this pension contract, as amended, to the contrary, to the extent that the contribution rate of the firefighter or police officer who was a member in Division B of the General Employees' Pension Plan for the City of Tampa, is less than such firefighters' or police officer's social security contribution made for the same period, such firefighter or police officer shall be entitled to a special payment from the City of Tampa in an amount equal to such excess plus the amount of the tax allowance (as defined below). Payments made pursuant to this subsection (including the tax allowance) shall constitute special payments and are not included as earnings. For purposes of this subsection, such firefighter's or police officer's "tax allowance" shall approximate:

(1) the amount necessary to compensate the firefighter or police officer to the extent of any increase in the firefighter's or police officer's federal, state and local income taxes which occur as a result of the inclusion of the special payment made pursuant hereto in such firefighter's or police officer's taxable income; plus

(2) an amount necessary to compensate the firefighter or police officer for the net increase in the taxes described in subparagraph (1) above as a result of the inclusion in such firefighter's or police officer's taxable income of any payment made pursuant hereto.

The amounts described in (1) and (2) above shall be calculated by multiplying the special payment by the gross up percentage of such taxable year. The "gross up percentage" for any year shall be determined by utilizing the following formula, with the "tax rate" being the sum of (i) the highest percentage income tax rate determined pursuant to Section 1(a) of the Code (for married individuals filing joint returns) applicable for the taxable year in which such payments will be included in taxable income, based on the annualized average rate of monthly salary for those firefighters and police officers receiving the special payments, plus, to the extent applicable, (ii) the rate specified under Section 3111(a) of the Code:

$$"[(1 / (1 - \text{tax rate})) - 1]"$$

The tax allowance shall be paid to the firefighter or police officer by the City of Tampa. Payment of the tax allowance shall be made on or before the last day of the calendar year to which such special payment relates. For purposes of this subsection the "annualized average rate of monthly salary" shall be the average of the scheduled or stated amount of monthly compensation (without regard to compensation actually paid) of that group of firefighters or police officers who are entitled to special payments herein for the last month of the Plan Year annualized for such Plan Year.

(J) For each firefighter and police officer, who on October 15, 1992 was not a member of this Fund, but who becomes a member of this Pension Fund, for service occurring on and after October 16, 1992 until said firefighter or police officer is formally accepted into membership by the Board of Trustees, the City shall pay within thirty (30) days of acceptance the employee contributions that otherwise would have been paid pursuant to Section 2 of this pension contract, plus interest at the rate of ten percent (10%) per annum. The City shall also pay by the end of the calendar quarter in which said firefighters and police officers were formally accepted the City of Tampa contributions that otherwise would have been paid pursuant to Section 2 of pension contract, plus interest at the rate of ten percent (10%) per annum. Notwithstanding the provisions of Section 22, there shall be no refund of employee contributions which are paid by the City of Tampa on behalf of such firefighters and police officers.

(K) Notwithstanding any other provisions of this section, the City and the employees shall make additional contributions to the 13th Check Benefit Program to the extent set forth in Section 27.

**SECTION 3.** When used herein the following terms shall have the following meanings:

(A) The term "employee" shall mean any member of the Fire or Police Department employed as a firefighter or police officer, and whose employment shall be regular and continuous and not of a temporary character.

(B) The terms "firefighter" and "police officer" shall be synonymous with the term "employee" as defined above.

(C) The term "member" shall mean an employee contributing or required to contribute to the Fund and entitled to participate in the benefits thereof upon the terms and conditions hereof.

(D) The terms "widow" and "widower" shall mean the lawful wedded spouse of a member of the Fire or Police Department at the time of such member's death.

(E) Commencing for earnings paid the first pay date after October 1, 2004, the term "earnings" shall mean total cash remuneration paid by the City to a firefighter or police officer for services rendered, including any payments required to be included within the definition of compensation pursuant to Chapters 175 and 185, Florida Statutes, but not including any payments for extra duty. Commencing for earnings paid the first pay date after October 1, 2004, earnings shall also include payments for overtime paid by the City to a firefighter or police officer up to a maximum of 300 hours of overtime per calendar year.

(F) The term "actuary" shall mean a Fellow or Associate of the Society of Actuaries, or a firm employing such person, provided that such firm must be nationally recognized in the actuarial field and acceptable to the State Treasurers Office and to the Board of Pension Trustees.

(G) The term "actuarial report" shall mean a report prepared at least once every three years and in any year in which the average earnings of members increases more than two per centum (2%) of the average earnings the year before, and in any year in which the same shall be required by Chapters 175 and 185, Florida Statutes; such study to be prepared by an actuary and accepted by the Board of Trustees; determining the costs of all benefits provided for under this Act as a result of employment of members and former members, including a review of experience and a determination of a pension earnings increase factor or factors, and including determination of the effect of adjustments for expected cost-of-living index changes, based upon the data current as of the effective date of the report; and, based upon cost methods, factors, and assumptions consistent with actuarial soundness, and acceptable to the State of Florida as being consistent with the requirements of Chapters 175 and 185 of the Florida Statutes as they may be from time to time amended.

(H) Wherever the term "he" or "him" appears herein the same shall also include "she" or "her" when applicable.

(I) The term "primary beneficiary" shall mean the beneficiary designated by the member to receive benefits payable, if any, in the event of the member's death.

(J) The term "contingent beneficiary" shall mean the beneficiary or beneficiaries designated to receive benefits payable, if any, in the event of the member's death and the primary beneficiary has predeceased the contingent beneficiary(ies).

(K) The term “joint annuitant” shall mean the person designated by the employee to participate with the employee in one of the optional forms of benefits. The term “joint annuitant” does not apply to the definition of a spousal beneficiary in the option for normal retirement.

(L) The term “normal retirement” shall mean retirement after earning ten (10) years of creditable service and the attainment of age forty-six (46) or retirement after earning twenty (20) years of service, regardless of age, in both cases the member may begin to immediately draw benefits.

**SECTION 4.** Except as otherwise provided herein, before any person shall become a member of the Pension Fund he or she shall:

- (1) be not more than any applicable entry level age limit established by federal law;
- (2) be required to furnish a list of all of their medical providers and authorizations to obtain such medical records;
- (3) pass a complete medical examination including, but not limited to, echo-cardiogram, functional examination of the back and neck, and any other specific diagnostic tests as determined by the Medical Board based upon the individual’s risk factors, medical history and physical examination; and
- (4) meet all the requirements of the Civil Service Board of the City except the probationary period.

Such medical records and medical examination also shall be utilized by the Board of Trustees for purposes of establishing baseline medical conditions for reviewing any future claims for disability benefits. Each active firefighter and police officer, who on October 15, 1992 was not a member of this Fund because of his or her age, shall become a member of this Fund, provided said person within thirty (30) days of receipt of written notice from the City of Tampa does not file a written election with the City of Tampa and the Board of Trustees of this Fund electing not to join this Fund, but instead to remain a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended. Each active firefighter and police officer, who on October 15, 1992 was not a member of this Fund and becomes a member of this Pension Fund shall furnish to the Board of Trustees a list of all of their medical providers and authorizations to obtain such medical records within a reasonable period of time as established by the Board of Trustees. Each firefighter and police officer shall also undergo a medical examination by the medical board at the expense of the Board of Trustees for purposes of establishing baseline medical conditions for reviewing any future claims for disability benefits. Any person who is initially employed on or after October 16, 1992, without prior creditable service in this Pension Fund by the City of Tampa for a position with the fire department or police department which position is in the unclassified service, as defined by the Civil Service Law of the City of Tampa and the City of Tampa Civil Service Rules and Regulations, shall not be eligible to join this Pension Fund.

**SECTION 5.** The general administration and responsibility for the proper operation of the pension system and for making effective the provisions of this Act are hereby vested in a board consisting of nine persons, as follows:

(1) Three members of the City Administration other than firefighters or police officers to be appointed as hereinafter provided;

(2) Three members of the Fire Department to be elected as hereinafter provided; and

(3) Three members of the Police Department to be elected as hereinafter provided.

(A) The term of office of each trustee shall be three years, except that the initial terms of the trustees of each class shall respectively be for one, two, and three years. The initial terms shall commence on the 60th day after the ordinance approving and authorizing this contract shall become a law.

(B) The appointive trustees shall be appointed by the Mayor.

(C) The elective trustees shall be elected in the following manner, to wit: by per capita vote of all members of each of said respective departments who come within the purview of this Act, both active and retired, at meetings to be held at places designated by the Board, at which meetings all qualified members entitled to vote shall be notified in person or by mail ten days in advance of said meeting. The candidate receiving the majority of votes for each office shall be declared elected and shall take office immediately upon commencement of the term of office for which elected or as soon thereafter as he shall qualify therefor. An election shall be held each year not more than thirty and not less than ten days prior to the commencement of the terms for which trustees are to be elected in that year. The Board of Trustees shall meet, organize, and elect one trustee as chairman, one trustee as vice chairman, and one trustee as secretary within ten days after any trustees are elected and duly qualified.

(D) If a vacancy occurs in the office of trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled.

(E) The trustees shall serve without compensation, but they may be reimbursed from the expense fund for all necessary expenses which they may actually expend through services on the board.

(F) Each trustee shall, within ten days after his appointment or election, take an oath of office before the City Clerk of said City, that so far as it devolves upon him he will diligently and honestly administer the affairs of the said Board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to the retirement system. Such oath shall be subscribed to by the member making it and certified by the said clerk and filed in his office.

(G) Each trustee shall be entitled to one vote on the Board. Five votes shall be necessary for a decision by the trustees at any meeting of the Board. The chairman shall have the right to one vote only.

(H) Subject to the limitations of this Act the Board of Trustees shall from time to time establish rules and regulations for the administration of funds created by this Act and for transaction of its business, including provisions for compulsory attendance of its members, which shall have the force of law.

(I) The Board of Trustees shall by majority vote of its members appoint a secretary, who may, but need not be, one of its members. It shall engage such actuarial and other services as shall be required to transact the business of the pension system. The compensation of all persons engaged by the Board of Trustees and all other expenses of the Board necessary for the operation of the retirement system shall be paid at such rates and in such amounts as the Board of Trustees shall agree, but in no case shall the expenditures for such services or operations exceed three per cent of the maximum of the fund each fiscal year. All funds shall be disbursed by the Board of Trustees. The secretary shall be bonded in such amount, not less than five thousand dollars, as the Board shall determine. The premium for said bond to be paid out of this fund.

(J) Any trustee who neglects the duties of his office shall be removed by the Board of Trustees.

**SECTION 6.** Money shall be withdrawn from the Pension Fund created by this Act only upon warrants executed by a majority of the Board of Trustees. Monies needed for the meeting of the current obligations of said fund may be deposited in a depository recognized by law for the deposit of funds of the State of Florida and upon the posting of similar security for that required for state deposits. The Board shall have exclusive charge of the investment of any surplus in said fund not needed for the current obligations thereof, and said funds shall be managed by said Board and shall be invested by said Board in accordance with the following:

(1) That the Board shall retain the services of a nationally recognized professional investment counsel.  
(2) That not less than once every six (6) months a written opinion shall be obtained from the investment counsel as to the overall condition and composition of the investment portfolio.

(3) That the portfolio, representing the principal or surplus funds of the Pension Fund may be invested in the following securities or other property, real or personal, including, but without being limited to, bonds, notes, or other evidences of indebtedness issued, or assumed or guaranteed in whole or in part by the United States or any of its agencies or instrumentalities; or by any foreign government or political subdivisions or agencies thereof; or by the State of Florida, or by any county, city, school district, municipal corporation, or other political subdivision of the State of Florida, both general and revenue obligations; in mortgages and other interests in realty; or in such corporation bonds, notes, or other evidences of indebtedness, and corporation stocks including common and preferred stocks, of any corporation created or existing under the laws of the United States or any of the states of the United States, or of any foreign government or political subdivisions or agencies thereof, provided that in making each and all of such investments the Board of Trustees shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as probable safety of their capital; provided, however, that not more than sixty-five per centum (65%) of said fund, based on the total book value of all investments held, shall be invested at any given time in common stocks, and that not more than five per centum (5%) of said fund shall be invested at any given time in the preferred and common, or either, stock of any one corporation and its affiliates and that not more than ten per centum (10%) of said fund, based on the total book value of all investments held, shall be invested at any given time in the bonds, notes or other evidences of indebtedness of any foreign government or political subdivisions or agencies thereof or corporations created or existing under the laws thereof.

#### **SECTION 7. BENEFITS, PENSIONS TO MEMBERS**

The Board shall upon its application retire:

(A) Any member of the Fund having an aggregate of 10 years of service as defined in Section 17 in said departments, and having reached the age of 46 years, who then shall receive in monthly installments a pension equal to 31.5 percent of the member's average earnings for the three (3) highest years within the last 10 years of service for a period of ten (10) years certain and life. For each additional year of such service after 10 years, a member shall receive 3.15 percent of average earnings, not to exceed a total pension of 100 percent of said average earnings for a period of ten (10) years certain and life. After 10 years of service as defined in Section 17, this pension right shall be a vested right with the payment thereof to begin upon the employee's separation from the service or the employee's reaching the age of 46 years, whichever occurs later, so that an employee having 10 or more years of such service who resigns, retires, or is otherwise separated from the service prior to reaching the age of 46 years may elect to allow his contributions to remain in the Pension Fund and upon reaching the age of 46 years shall be entitled to commence receiving a pension based upon his service as herein provided, and should such employee die before reaching 46 years of age, then at the time that decedent would have reached 46 years of age the widow or widower shall receive such benefit as the widow or widower would have received under subparagraph 9(C) if the employee had died while receiving a pension. Provided however, any member of the Pension Fund who was actively employed as a firefighter or police officer in the City of Tampa on or after October 1, 2003, or a member of the Fund on or after October 1, 2003, and, prior to

October 16, 1992, was a participant of Division B of the General Employees Pension Plan as established by chapter 81-497, Laws of Florida, as amended, shall receive benefits from this Pension Fund at the rate of 3.15 percent of average earnings for each year of service in this Pension Fund, provided however, the 3.15 percent accrual shall not apply to any service while the member was a participant of Division B of the General Employees Pension Plan; provided, further, that upon reaching social security normal retirement age, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(B) Any member who in the service has received or shall receive within or without the city any injuries, disease or disability, which injury, disease or disability now permanently incapacitates him physically or mentally from regular and continuous duty as a firefighter or police officer, then he shall receive in equal monthly installments an amount equal to 65% of monthly salary in effect at date of disability retirement, plus 1/12 of any other earnings received within one year prior to date of disability retirement for a period of ten (10) years certain and life. For any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon reaching social security normal retirement age or qualifying for social security disability benefits, whichever comes first, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if such member's social security disability benefits cease prior to attaining social security retirement age, such reduction shall be deferred until such time as the member reaches his social security retirement age. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(C) Any member of the fund who has completed ten (10) years of creditable service and becomes permanently incapacitated, physically or mentally, from regular and continuous service as a firefighter or police officer as a result of any injury, disease or disability which is not incurred in the service of the City, shall receive in equal monthly installments for a period of ten (10) years certain and life an amount equal to the greater of (1) 2% of his average salary (as above computed) for each year of service with a minimum of 25% and a maximum of 50% of average salary or (2) the accrued benefit under Section 7(A) based upon years of service and average salary determined as of the date of disability. For any member of this Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon reaching social security normal retirement age, or qualifying for social security disability benefits, whichever comes first, except as provided in Section 28(C) of this Contract, the benefit paid herein shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if such member's social security disability benefits cease prior to attaining social security retirement age, such reduction shall be deferred until such time as the member reaches his social security retirement age. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. Each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such member willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(D) Notwithstanding the foregoing, any member of this Pension Fund having an aggregate of 20 years of service as a firefighter or police officer in said departments either in this Pension Fund or Division B of the General Employees Pension Plan, or a combination thereof, may elect to enter into the Deferred Retirement Option Program (DROP), or, if the member separates from the service as a firefighter or police officer, may elect to commence immediate receipt of benefits regardless of age.

(E) In lieu of the amount and form of pension payable as provided in Section 7(A), Section 7(B) or Section 7(C) of this contract, a member, upon written request to the Board and subject to the approval of the Board, may elect to receive a pension of equivalent actuarial value payable in accordance with one of the following options:

- (1) A pension of a larger monthly amount, payable to the member for his lifetime only;
- (2) A pension of a modified monthly amount, payable to the member during the joint lifetime of the member and a joint annuitant designated by the member, and following the death of either of them, 100 percent, 75 percent, 66 2/3 percent, or 50 percent of such monthly amounts payable to the survivor for the lifetime of the survivor;

(3) Such other amount and form of pension as, in the opinion of the Board, will best meet the circumstances of the retiring member.

No member may make any change in his retirement option after the date of cashing or depositing the first pension check.

(F) Upon electing one of the optional forms of pension income, the member shall designate the joint annuitant or beneficiary (or beneficiaries) to receive the benefit, if any, payable under this Fund in the event of the member's death, and the member will have the power to change such designation from time to time, but any such change shall be deemed a new election and will be subject to approval by the Board. Such designation will name a joint annuitant or one or more primary beneficiaries where applicable. If a member has elected an option with a joint annuitant or beneficiary, and his pension has commenced, the member may thereafter change the designated joint annuitant or beneficiary, but only if the Board consents thereto, and only if the joint annuitant last previously designated by the member is alive when the member files a request for such change in writing with the Board. The consent of the member's joint annuitant or beneficiary to any such change shall not be required. The Board may request such evidence of the good health of the joint annuitant that is being removed as it may require, and the amount of the pension payable to the member upon designation of a new joint annuitant shall be actuarially redetermined taking into account the age and sex of the former joint annuitant, the new joint annuitant, and the member. Each such designation shall be made in writing on a form prescribed by the Board and filed with the Board. In the event that no designated beneficiary survives the member, such benefits as are payable in the event of the member's death subsequent to his retirement shall be paid to the member's estate. Pension payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

(1) If a member dies prior to retirement, benefits, if any, will be payable in accordance with Section 8 or 9 of this contract;

(2) If the designated beneficiary (or beneficiaries) or joint annuitant dies before the member's retirement, the option elected will be cancelled automatically and a pension as provided for pursuant to Section 7(A), Section 7(B) or Section 7(C) of this contract will be payable to the member upon retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this section or a new beneficiary is designated by the member prior to retirement and within 90 days after the death of the beneficiary;

(3) If both the retired member and the beneficiary (beneficiaries) designated by the member die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, the Board may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum to the member's estate;

(4) If a member continues to work beyond his normal retirement date pursuant to the provisions of this section, and dies from causes not attributable to active duties prior to actual retirement and separation from service, while a monthly retirement benefit option has been elected by the member, monthly pension payments will be made, under the selected option to a beneficiary (or beneficiaries) designated by the member in the amount computed as if the member had retired under the option on the date on which death occurred.

(G)

(1) Each member may designate in writing to the Board, on a form prescribed by the Board, a choice of one or more persons, named sequentially or jointly, as his beneficiary (or beneficiaries) to receive the benefit payable pursuant to Section 8(F) or Section 9(E), if any, which may be payable in the event of the member's death; and each designation may be revoked by the member by signing and filing in writing with the Board a new designation of beneficiary form.

(2) A retired member may change his designation of joint annuitant or beneficiary only twice.

(3) If no beneficiary is named in the manner herein provided, death benefits shall be paid pursuant to Section 8(A)-(E) or Section 9(A)-(D). If there are no persons eligible for benefits pursuant to Section 8(A)-(E) or Section 9(A)-(D), and if no beneficiary designated by the member survives the member, the death benefit, if any, which may be payable under this contract with respect to such deceased member shall be paid by the Board to the estate of such deceased member, provided that the Board, in its discretion, may direct that the commuted value of the remaining monthly pension payments be paid in a lump sum. Any payment made to any person pursuant to this subsection shall operate as a complete discharge of all obligations under this contract with regard to the deceased member and any other persons with rights under this contract and shall not be subject to review by anyone, but shall be final, binding, and conclusive on all persons ever interested hereunder.

(H) If the monthly pension payable to any person entitled to benefits under this contract is less than \$100, or if the single-sum value of the accrued pension is less than \$5,000 for firefighters and \$2,500 for police officers, as of the date of retirement or termination of service, whichever is applicable, the Board, in the exercise of its discretion, may specify that the actuarial equivalent of such pension be paid in a lump sum. The discount rate used to calculate the present value of lump sum payouts shall be equal to the immediately preceding cost-of-living adjustment paid pursuant to Section 23 of this contract.

(I) The Board shall make such rules as are necessary for the effective and efficient administration of Sections 7, 8, and 9, provided that such rules are not inconsistent with the terms of any collective bargaining agreement entered into by the City and the certified bargaining agents for firefighters and police officers. Notwithstanding any other provision of this section to the contrary, any provision of this section shall be construed and administered in such manner that the fund will qualify as a qualified governmental pension plan under existing or hereafter enacted provisions of the Internal Revenue Code of the United

States, and the Board may adopt any rule to accomplish the purpose of this section as is necessary to retain tax qualification, which rules shall have the force of law and shall be considered part of this contract.

(J) Effective October 1, 2004, the minimum monthly pension for any retired member or eligible surviving spouse shall be 100 percent of the amount of the poverty level for an individual member or a member with a family of two, as the case may be, as established annually by the Federal Bureau of Labor and Statistics and published in the Federal Register.

**SECTION 8.** If any member of either department shall lose his life or later die from injuries or causes occurring while in the discharge of his duties, and shall leave a widow or widower, or child or children under the age of eighteen (18) years, the Board shall authorize and direct payment of a pension to the widow or widower and/or child or children, but only in the following amounts and on the following conditions:

(A) To the widow or widower in equal monthly installments an amount equal to fifty per centum (50%) of the member's final year's earnings, computed from date of death, until death. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(B) For each child until he or she shall have reached the age of eighteen (18) years, or until such child or children shall die or marry before reaching the age of eighteen (18) years, in equal monthly installments an amount equal to seven and one-half per centum (7½ %) of the final year's earnings, computed from date of death, subject to a limitation of a total of sixty-five per centum (65%) of final yearly earnings for widow or widower and children combined. Children's pensions shall terminate at death or marriage as well as reaching age eighteen (18). Adopted children shall participate.

(C) Upon death of the widow or widower, the seven and one-half per centum (7½%) child allowance shall be increased to fifteen per centum (15%) for each child, and shall be paid in trust to eligible children, not to exceed a total of fifty per centum (50%) of member's final earnings.

(D) The trusteeship and disbursement of the pension to any child or children is to be determined by the Board of Trustees.

(E) No pension shall be allowed to any stepchild or stepchildren of a deceased member.

(F) In the absence of an eligible surviving spouse or minor children, to the extent required by the Florida Statutes, in the event of the death of a member prior to retirement, the member's designated beneficiary shall be entitled to the benefits otherwise payable to the member at normal retirement age for ten (10) years certain.

**SECTION 9.** To the widow or widower (until death or remarriage) and child or children (under the age of eighteen (18) years), until death or marriage before reaching the age of eighteen (18) years, of any member who dies from causes not attributed to his active duties in the departments, provided, however, that such member shall have been a member of such department for ten (10) years prior to the date of his death, the Trustees shall authorize and direct payment in equal monthly installments as follows:

(A) To the widow or widower in equal monthly installments sixty-five per centum (65%) of the service retirement pension earned by the member at date of death. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(B) To the child or children of a member who dies from causes not attributed to active duties in the department, the provisions of Section 8, governing the amounts and conditions of administration of childrens' pensions, shall apply but subject to a limitation on the combined payments to a widow or widower and children equal to fifty per centum (50%) of final salary.

(C) The widow or widower of a member who dies while receiving a retirement pension shall receive sixty-five per centum (65%) of the pension which the member was receiving; provided however, that no pension shall be allowed to any widow or widower unless she or he was married to the member prior to the date of retirement of the member. For the widow or widower of any member of this Pension Fund who prior to October 16, 1992 was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, upon the reaching social security normal retirement age, except as provided in Section 28 (C) of this Contract, the benefit paid to the widow or widower shall be reduced by an amount equal to the actual social security benefit earned by the member for employment as a firefighter or police officer for the City to the extent that such employment is considered to be creditable service under this Fund; provided, however, that if the widow or widower does not receive the member's accrued social security benefit, there shall be no reduction in benefits paid to such widow or widower. The effect of such reduction shall be that the sum of the benefit paid herein and said social security benefit shall be equal to the amount of the benefit otherwise payable herein. The widow or widower of each such member shall, upon demand by the Board, authorize the Social Security Administration to release any information necessary to calculate such reduction. The Board shall not make any payment for the benefit payable herein for any period during which such widow or widower willfully fails or refuses to authorize the release of such information in the manner and within the time prescribed by rules adopted by the Board.

(D) No pension shall be allowed to any stepchild or stepchildren of a deceased member.

(E) In the absence of an eligible surviving spouse or minor children, to the extent required by the Florida Statutes, in the event of the death of a vested member prior to retirement, the member's designated beneficiary shall be entitled to the benefits otherwise payable to the member at normal retirement age for ten (10) years certain.

(F) In the event a retired firefighter or police officer dies after retirement but before he or she has received retirement benefits for a period of ten (10) years, the same monthly benefit will be paid to the eligible surviving spouse, or if there is no eligible surviving spouse, to the beneficiary as designated by the member for the balance of such ten (10) year period.

**SECTION 10.** Any firefighter or police officer of the City who makes his legal election as provided herein, and who shall make the contribution required to be made hereunder into the Pension Fund, shall be permitted to participate in the fund and benefits thereof, herein and hereby authorized, but nothing herein contained shall be construed as to require or compel any employee to participate in the said pension system. Each firefighter and police officer who does not elect to join this Pension Fund shall remain or become a member of Division B of the General Employees' Pension Plan, as established by Chapter 81-497, Laws of Florida, as amended.

**SECTION 11.** Except for each firefighter and police officer who on October 15, 1992 was a member of Division B of the General Employees' Pension Plan for the City of Tampa, all persons entering the employ of the City, as firefighters or police officers subsequent to the time when this Act shall have become a law, shall be required to file their legal election with the City, on or before ninety days from the date of their employment, in order to entitle them to participate in the benefits and funds herein created and authorized by this Act.

**SECTION 12.** Whenever any employee, within the terms of this Act, shall file his election with the City of Tampa as hereinbefore provided, the City, within thirty (30) days thereafter, is hereby authorized, empowered and directed to execute a contract as provided for herein in triplicate, one copy to be retained by the City, one copy to be retained by the Pension Board, and the other copy to be delivered to the said employee joining in said contract, and shall thereafter be and remain a contract binding upon the said City and the employee, and enforceable in any Court in the State of Florida having jurisdiction of actions upon contracts in like amount, and by such relief, ordinary or extraordinary, at law, or in equity as may be suitable or appropriate in similar cases.

**SECTION 13. MEDICAL BOARD.** The Board of Trustees shall designate a Medical Board to be composed of three physicians who shall arrange for and pass upon all medical examinations required under the provisions of this Act, shall investigate all essential statements or certificates made by or on behalf of a member in connection with an application for disability or retirement and shall report in writing to the Board of Trustees its conclusions and recommendations upon all matters referred to it. The payment for such services shall be determined by the Board of Trustees.

**SECTION 14.** On compulsory retirement of a member by act of the Board of Trustees any such retired member shall have the right to appeal against such retirement by the Board of Trustees by appealing to a court of proper jurisdiction, and said member shall defray his own expense in his appeal of such compulsory retirement.

**SECTION 15.** Members entitled to a pension shall not forfeit the same upon dismissal from the department, but shall be retired as herein described.

**SECTION 16.** In the event a member who has been retired on a pension on account of permanent incapacity regains his full health and is shown to be physically able to perform his duties in the Fire or Police Department, the Board shall require the said member to resume his position in the respective department and discontinue the pension; provided, however, that, if such member shall have been retired for disability in line of duty, shall not have reached the age of forty-six (46) years and shall within eighteen (18) months after resuming his position pay into the fund an amount equal to the aggregate contributions (computed upon his annual earnings at the time of his disability retirement) he would have been required to make hereunder during the period of his disability retirement had he not been retired, such member shall receive creditable service for the period of such disability retirement.

**SECTION 17. COMPUTATION OF PENSION SERVICE.**

(A) In computing service allowance, creditable service shall include all service or employment of the member in the Fire or Police Department, either continuous or interrupted, provided, however, that any leave of absence without pay shall not be included. Credited service shall include credit for up to five (5) years of the time spent in the military service of the Armed Forces of the United States if the member is in the active employ of the City of Tampa immediately prior to such service and leaves a permanent, full-time position as a firefighter or police officer with the City of Tampa for the purpose of voluntary or involuntary service in the Armed Forces of the United States. The member must be entitled to re-employment under the provisions of the Uniformed Services Employment and Re-Employment Rights Act (USERRA). In order to be eligible for the benefits of this section, a member must return to employment as a firefighter or a police officer of the City of Tampa within one year from the date of release of such active service. Pension contributions shall not be required for military service as described in this section, unless permitted by the Florida Statutes. The provision of this section shall not apply to temporary service for reserve training. No credited service shall be given for military service prior to employment or for service as a firefighter or police officers for any other employer. However, the amount of any pension or compensation that may be received from the Federal Government on account of disability from such service shall be deducted from the amount of any pension due under this Act. The deduction of the amount of any pension or compensation received from the Federal Government shall be made only where the period of military service (not exceeding five (5) years) is added to the period of actual service of the member in either the Fire or Police Department in order to make up the required number of years for retirement on a City pension; that the disability for which any pension or compensation is received from the Federal Government shall be only such disability that was incurred in the military service during the same period of military service used by the member to add to his actual service in the Police or Fire Departments in order to make up the number of years required for retirement on a City pension; and that no deduction of the amount of any pension or compensation received from the Federal Government can or shall be made from the amount of any City pension granted solely on account of disability. Any member who, in order to perform such active military service, has left his employment in the Police or Fire Departments of the City of Tampa and (a) who received a certificate of honorable discharge upon completion of such active military service, (b) is still qualified to perform the duties of such position, (c) makes or shall have made application for reemployment within thirty (30) days after he is released from active military service, shall be restored by the Police or Fire Department of the City of Tampa to such position or a position of like seniority, status and pay.

(B) Immediately upon the passage of this Act the Board of Trustees shall at once establish the service record of all employees, who may be entitled to participate in the benefits of this Act, and shall keep a record thereof.

(C) For each firefighter and police officer who on October 15, 1992 was not a member of this Pension Fund, but who was a member of Division B of the General Employees Pension Plan as established by Chapter 81-497, Laws of Florida, as amended, who elects to join this pension fund, for purposes of determining eligibility for any benefit in which length of service is a factor, the entire period of time served as a firefighter or police officer with the City of Tampa, either continuous or interrupted, shall be included; provided, however, that any leave of absence without pay shall not be included unless required by applicable law, any service as a police recruit shall not be included, and any service in which the firefighter or police officer withdrew his/her contributions shall not be included. Active military service shall be included to the extent required by law.

(D) A member who has separated from service as a firefighter or police officer and who has taken a refund of his pension contributions, who is later readmitted to the Fund, shall have the option of purchasing past creditable service.

(1) The readmitted member shall make the election in writing to purchase past creditable service on a form prescribed by the Board within 90 days of readmission, which election shall be legally binding.

(2) The readmitted member who elects to purchase past creditable service shall repay the withdrawn contributions with interest at the actuarially assumed rate of return of the Fund within 90 days of the later of, readmission or receipt of written notification from the Board of the amount due. Interest shall be calculated from the date of withdrawal to the date of repayment at the actuarially assumed rate of return of the Fund.

(3) A member who fails to pay withdrawn contributions with interest as provided in this subsection within 90 days of the later of, readmission or receipt of written notification from the Board of the amount due, shall not receive creditable service for the period of time for which the withdrawn contributions apply.

**SECTION 18.** No pension provided for herein shall be assignable or subject to garnishment for debt or for other legal process.

**SECTION 19. DURATION OF MEMBER'S PENSION.** Pensions granted to retired members shall be paid to them for life and shall not be revoked nor in any way diminished except as provided in this Act, and the payments of the member to this fund shall cease upon his retirement and acceptance of a pension.

**SECTION 20.** The Board of Trustees shall direct that there be included in the pension list, and be subject to the benefits of this Act, all pensions now being paid by the Fund to widows and widowers and children and retired members of the Fire and Police Departments who are now drawing a pension from said fund or may be hereafter entitled thereto, but not to exceed the maximum provided by this Act, and are hereby directed to pay said pensions.

**SECTION 21.** The Board of Trustees shall have the power to examine into the facts upon which any pension shall have heretofore been granted under any prior or existing law, or shall hereafter be granted under this Act, and ascertain if any pension has been granted or obtained erroneously, fraudulently, or illegally for any reason. Said Board is empowered to purge the pension rolls of any person heretofore granted a pension under prior or existing law, or hereafter granted under this Act, if the same is found to be erroneous, fraudulent or illegal for any reason; and to reclassify any pensioner who has heretofore under any prior or existing law, or who shall hereafter under this Act, be erroneously, improperly or illegally classified.

**SECTION 22.** Whenever any member in the service of either the Fire or Police Department shall sever his connection with such department, either voluntarily or by lawful discharge, all rights under this Act shall thereupon cease automatically unless at the time of such discharge or voluntary retirement such member has qualified under the terms of this Act for a pension as herein provided. Upon severance prior to qualifying for retirement, a member shall receive a refund of contributions without interest provided, that a member may voluntarily leave his contributions in the Fund for a period of 5 years after terminating employment with the Fire or Police Department, pending the possibility of being rehired by the same department without losing credit for the time he has participated actively as a firefighter or police officer. If the member is not re-employed as a firefighter or police officer, with the same department, within 5 years after terminating such employment, his contributions shall be returned without interest. In the event of the death of a member who is not vested, the member's designated beneficiary shall receive a return of the member's contributions without interest. In the event that the member has not designated a beneficiary, the member's estate shall be deemed the designated beneficiary.

**SECTION 23.**

(1) Commencing September 30, 1970, the size of the Fund, excluding the 13th check account, determined on a market value basis, shall be compared with the amount that would have been in the Fund, excluding the 13th check account, had the fund, excluding the 13th check account, earned 5 percent, inclusive of realized and unrealized capital gains and losses, compounded annually from October 1, 1969. If on any September 30, the actual fund, excluding the 13th check account, exceeds the 5 percent accumulation, the excess will be known as the Post Retirement Adjustment Account, provided that for this purpose the 5 percent accumulation will not be reduced by any post-retirement benefit adjustment payments.

(2) Commencing January 1, 1980, and on each January 1 thereafter, installments due in the following twelve months to members and beneficiaries covered under this contract shall be increased or decreased by (a) below, but shall not be increased by more than (b) below:

(a) The increase or decrease since the preceding January 1, in the ratio of the current average cost-of-living index to the average cost-of-living index determined as the later of October 1, 1978, and the October 1 immediately preceding the date such installments commenced, rounded off to the nearest whole per centum.

(b) The increase which can be applied and continued for remaining installments, by using the excess, if any, on the preceding September 30 of the Post Retirement Adjustment Account over the value of previous cumulative adjustments if continued for remaining installments, all as determined by the Actuary.

(c) Provided that the effect of such cumulative adjustments shall not be such as to reduce installment payments below the rate at which they would have been paid if no such adjustments had ever been made.

(d) The "average cost-of-living index" shall be ascertained each year; determined as the average of the immediately preceding 24 monthly consumer price index figures, relative to the United States as a whole, known as The Consumer Price Index for All Urban Consumers (CPI-U), (1982-84 = 100 Basis), most recently issued as of such date by the Bureau of Labor Statistics. Should the base point or basis of the monthly Consumer Price Index be revised by the Bureau of Labor Statistics, this term shall mean the published average as adjusted by the Board of Trustees with advice from the Actuary so as to maintain consistency in index figures for purposes of this Plan.

(3) If a member elects to commence receipt of subparagraph 7(A) benefits after 20 years of service immediately upon separation from service as provided in subparagraph 7(D) or to enter into the Deferred Retirement Option Program (DROP) and prior to reaching the age of 46 years, adjustments provided for in this section shall commence on January 1 immediately following the October 1 on or before which the member separates from service as a firefighter or police officer in the fire

department or police department, respectively, or enters the Deferred Retirement Option Program (DROP).

- (4) Only benefits paid by this Pension Fund shall be subject to cost-of-living adjustments as provided herein.

**SECTION 24.**

(A) In the event that the provisions of the federal Internal Revenue Code operate to limit the benefit amount that the member or the member's survivors would otherwise be eligible to receive pursuant to the City of Tampa Firefighters and Police Officers Pension Contract, then the member or the member's survivors shall not receive from the City Pension Fund for Firefighters and Police Officers in the City of Tampa retirement benefits in an amount in excess of the limits provided by the federal Internal Revenue Code or in an amount that would cause the City Pension Fund for Firefighters and Police Officers in the City of Tampa to lose its federal income tax exempt status.

(B) In order to maintain the tax exempt status of the City Pension Fund for Firefighters and Police Officers in the City of Tampa, said pension fund shall not be required to pay benefits in excess of the appropriate limits established by Section 415 of the Internal Revenue Code (26 USC Section 415), nor shall said pension fund be required to pay any benefits which would jeopardize its tax exempt status.

(C) Should the benefits otherwise payable pursuant to the City of Tampa Firefighters and Police Officers Pension Contract by the City Pension Fund for Firefighters and Police Officers in the City of Tampa be limited pursuant to Section 415 of the Internal Revenue Code, then the City of Tampa shall provide for payment of those benefits in excess of the limits in Section 415 of the Internal Revenue Code.

(D) Notwithstanding any other provision of this pension contract to the contrary, any provision of this pension contract shall be construed and administered in such manner that this Pension Fund will qualify as a qualified governmental pension plan under existing or hereafter enacted provisions of the Internal Revenue Code of the United States, and the Board of Trustees may adopt any rule necessary to retain tax qualification, which rules shall have the force of law and shall be considered part of this pension contract.

**SECTION 25.**

(A) To the extent that any provision of this contract is in conflict with sections 112.60 - .67, Florida Statutes, or other provisions of the Florida Statutes made applicable to the Fund, excluding chapters 175 and 185, Florida Statutes, those provisions of the Florida Statutes shall prevail.

(B) To the extent that any provision of this contract would result in the loss of the tax-exempt status of the Fund, such contractual provision shall be null and void.

(C) To the extent that any provision of this contract is not in compliance with the minimum benefits provisions of chapters 175 and 185, Florida Statutes, that apply to the Fund, the non-compliance with which would result in a forfeiture of the right of the fund to participate in the distribution of the premium tax funds established in chapters 175 and 185, Florida Statutes, the City is authorized to amend this contract by local ordinance to cure such non-compliance, only to the extent that additional premium tax revenues become available to incrementally fund the cost of such compliance, such ordinance is consistent with the terms of a collective bargaining agreement entered into among the City and the certified bargaining agents for firefighters and police officers, the procedures for the adoption of such ordinance are consistent with section 112.63(3), Florida Statutes, and such ordinance is adopted prior to March 31, 2003. Any local ordinance adopted by the City pursuant to this subparagraph shall be incorporated by reference into the pension contract of each firefighter and police officer who is an active or contributing member of the Fund on the date the amendments to such contract provided in such ordinance become effective.

(D) To the extent that any provision of this contract is not in compliance with the minimum standards provisions of chapters 175 and 185, Florida Statutes, that apply to the Fund, the non-compliance with which would result in a forfeiture of the right of the Fund to participate in the distribution of the premium tax funds established in chapters 175 and 185, Florida Statutes, the City is authorized to amend this contract by local ordinance to cure such non-compliance, provided such ordinance is consistent with the terms of a collective bargaining agreement entered into among the City and the certified bargaining agents for firefighters and police officers, and such ordinance is adopted prior to March 31, 2003. Any local ordinance adopted by the City pursuant to this subparagraph shall be incorporated by reference into the pension contract of each firefighter and police officer who is an active or contributing member of the Fund on the date the amendments to such contract provided in such ordinance become effective.

**SECTION 26. DEFERRED RETIREMENT OPTION PROGRAM**

Notwithstanding any other provisions of this contract, and subject to the provisions of this section, the Deferred Retirement Option Program, hereinafter referred to as the DROP, is an option under which an eligible member may elect to have the member's pension benefits calculated as of a certain date prior to retirement, and accumulate benefits plus the investment return pursuant to this section during the DROP calculation period. Participation in the DROP does not guarantee employment for the DROP calculation period, as defined in this section.

(A) Eligibility- In order to be eligible for the DROP option, the member must meet the following eligibility criteria:

(1) The member must have attained at least 20 years of service but no more than 30 years of service at the time the member files an election under this section. The service must be as a firefighter or police officer in the fire department or the police department, respectively, either in this Pension Fund or Division B of the General Employees Pension Plan, or a combination thereof. A member is eligible for accumulations pursuant to the DROP for the lesser of 5 years, or the difference between 30 years of service and the member's service as of the effective date of the member's DROP election. However, if a member has attained at least 25 years of service on the date this act becomes a law and elects to participate in the DROP within 90 days after receipt of written notice from the Board of Trustees, the member is eligible for a 5-year DROP calculation period following the date this act becomes a law.

(2) The member must meet all eligibility requirements for pension benefits, other than separation from service as a firefighter or police officer in the fire department or police department, respectively.

(3) Upon electing to participate in the DROP, the member shall submit on forms required by the City and the Board of Trustees:

(a) An irrevocable written election to participate in the DROP, specifying a DROP benefit calculation date. This DROP benefit calculation date is used to determine the DROP calculation period, which commences on the DROP benefit calculation date and ends on the earlier of (i) the last day of DROP eligibility as determined under paragraph (1) or (ii) the member's separation from service or death;

(b) An irrevocable notice of employment termination to take effect upon the expiration of the DROP calculation period; provided that a DROP participant shall not be precluded from voluntarily terminating employment with the City as a firefighter or police officer before the expiration of the DROP calculation period, nor shall the City be precluded from terminating such DROP participant's employment as applicable due to disciplinary action, layoff, or other separation in accordance with the applicable collective bargaining agreement, civil service law, or other applicable law;

(c) A properly completed application for longevity retirement benefits to be calculated pursuant to subparagraph 7(A) or subparagraph 7(D) as of the DROP benefit calculation date; and

(d) Any other information required by the Board of Trustees.

(4) A member may only make one DROP election during the member's lifetime.

(B) Status - For pension purposes only:

(1) During the DROP calculation period, there shall be no pension contribution deductions made from the earnings, wages, salary, or compensation earned by the DROP participant.

(2) Upon entry into the DROP, a DROP participant shall no longer be entitled to disability benefits pursuant to subparagraph 7(B) or subparagraph 7(C).

(3) Death benefits under the DROP.--Upon the death of a DROP participant, the named beneficiary or beneficiaries shall be entitled to receive the benefits accumulated during the DROP calculation period as of the date of death. After the death of such DROP participant, pension benefits shall be paid as required by Section 9, provided however that a surviving spouse who was not married to the member during some period of the member's employment as a firefighter or police officer prior to the date of the member's entry into the DROP shall not be entitled to Section 9 benefits. Eligibility to participate in the DROP terminates upon the death of such DROP participant.

(4) A DROP participant shall not be eligible to be elected as a member of the Board of Trustees.

(5) During DROP participation, a DROP participant shall be entitled to the 13th check benefit pursuant to Section 27.

(C) Benefits under the DROP -

(1) Effective with the DROP benefit calculation date, a DROP participant's monthly pension installments calculated pursuant to Section 7, including creditable service, such participant's average earnings and the effective date of retirement shall be fixed.

(2) The DROP accumulation shall be calculated as follows:

(a) The amount of the monthly installments to which the member would have been entitled to receive from the DROP benefit calculation date to the end of the member's DROP calculation period.

(b) The amount of any cost of living adjustments pursuant to Section 23 during the DROP benefit calculation period.

(c) Interest accumulation as set forth in this section.

(d) The amount of the 13th check pursuant to Section 27.

(3) At the conclusion of the member's DROP benefit calculation period, the Board of Trustees shall distribute the member's benefits, subject to the following provisions:

(a) The Board of Trustees shall receive verification by the City that such DROP participant's employment as a firefighter or police officer with the fire department or police department, respectively, has terminated.

(b) A terminated DROP participant or, if deceased, such participant's named beneficiary or beneficiaries, shall elect on forms provided by the Board of Trustees to receive the DROP benefits in accordance with one of the options provided in subparagraph 26(E)(1). Once a DROP participant commences distribution under a payment method (or receives a lump sum), no further interest shall be payable to the DROP participant. For a DROP participant or beneficiary who fails to elect a method of

payment within 60 days of termination of DROP participation, the Board of Trustees will pay a lump sum as provided hereafter.

(D) **Interest and Administrative Costs** - Interest shall accumulate annually at the rate to reflect the Fund's net investment performance, whether positive or negative, during the DROP calculation period, less the cost of administering the DROP, all of which shall be determined by the Board of Trustees.

(E) **Payment**

(1) Upon termination of employment with the City as a firefighter or police officer in the fire department or police department, respectively, the accumulated DROP benefits at the option of the terminated DROP participant, or if deceased, such participant's designated beneficiary or beneficiaries, shall be distributed to the extent allowed by law by rollover to another qualified plan, as a lump sum payment, as a combination of both, or in such other forms as provided by rules and regulations adopted by the Board of Trustees, provided that such distribution may be adjusted by the Board of Trustees to maintain Internal Revenue Code qualification of the Fund.

(2) If a DROP participant dies during the DROP calculation period, or on or before the DROP participant's full DROP accumulation is distributed, any remaining DROP accumulation shall be distributed to the DROP participant's designated beneficiary or beneficiaries, or, if there is no surviving designated beneficiary, to the participant's spouse, or if there is no surviving designated beneficiary and no surviving spouse, to the participant's estate. Any such payment shall be made in a lump sum payment, unless the participant had already commenced benefit payment of their DROP accumulation in an optional plan. In such an event, benefits shall continue to be paid pursuant to the optional benefit form selected.

(3) The form of distribution elected by a DROP participant or surviving beneficiary must comply with the applicable requirements of the Internal Revenue Code.

(4) A DROP participant who is involuntarily discharged who seeks review of such discharge shall not be entitled to receipt of pension benefits or benefits accumulation while in the DROP until it has been determined that the discharge was lawful, or at the expiration of DROP participation provided in subparagraph 26(A)(1), whichever is first.

(5) The accumulated benefits of any DROP participant, including any interest thereon, shall not be subject to assignment, garnishment, execution, attachment, or to any legal process whatsoever, except income deduction orders as provided in section 61.1301, Florida Statutes, and federal income tax levies.

(6) Upon termination from employment with the City as a firefighter or police officer in the fire department or police department, respectively, the monthly pension installments pursuant to Section 7 and the cost of living adjustments pursuant to Section 23, shall be paid to the member, and upon death of the member, monthly pension installments shall be paid pursuant to Section 9 with cost of living adjustments pursuant to Section 23.

(F) **Conflict of Laws** - To the extent that any provision of this section is in conflict with sections 112.60-112.67, Florida Statutes, or those provisions of chapters 175 and 185, Florida Statutes, that apply to local law plans established by municipal ordinance or special act, or provisions of Florida Statutes made applicable to pension funds established by special act, or to the extent that any provision of this section would result in the loss of tax exempt status of the Pension Fund, the Board of Trustees is hereby delegated the authority to adopt by rule changes to this section in order to comply with said laws, which shall have the force of law and shall be considered part of this pension contract.

(G) **Administration of Program** - The Board of Trustees shall make such rules as are necessary for the effective and efficient administration of this section, provided that such rules are not inconsistent with the terms of any collective bargaining agreement entered into by the City and the certified bargaining agents for firefighters and police officers concerning the DROP. The Board of Trustees shall not be required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice. Notwithstanding any other provision of this section to the contrary, any provision of this section shall be construed and administered in such manner that such program will qualify as a qualified governmental pension plan under existing or hereafter enacted provisions of the Internal Revenue Code of the United States, and the Board of Trustees may adopt any rule necessary to accomplish the purpose of this section as is necessary to retain tax qualification, which rule shall have the force of law and shall be considered part of this pension contract.

**SECTION 27. 13TH CHECK PROGRAM** - Notwithstanding any other provisions of this contract, and subject to the provisions of this section, the 13th Check Program is a program which authorizes the Board of Trustees to establish and make a supplemental pension distribution, pursuant to the following terms and conditions:

(A) **Eligibility** - The following persons shall be eligible for the supplemental pension distribution payable no later than June 30, 2002, and each June 30 annually thereafter:

(1) All retired members who have terminated employment as a firefighter or police officer in the fire department or police department, respectively, who, on the October 1 immediately preceding the June 30 by which distributions are to be made, were eligible to receive pension benefits for at least 1 year. For purposes of this section only, a DROP participant shall be considered a retired member and, during the DROP calculation period, a DROP participant shall be eligible for the 13th check benefit, provided that, on the October 1 immediately preceding the June 30 by which distributions are to be made, such DROP participant had participated in the DROP for at least 1 year;

(2) All qualifying spouses who were eligible to receive pension benefits pursuant to Section 8 or Section 9 for at least 1 year on the October 1 immediately preceding the June 30 by which distributions are to be made; and

(3) All qualifying surviving spouses, who on the October 1 immediately preceding the June 30 by which distributions are to be made, were eligible for receipt of Section 8 or Section 9 benefits but who have not received such pension benefits for at least 1 year provided that the deceased member was eligible for receipt of pension benefits on October 1 of the prior year.

(B) **13th Check Account**

(1) There is hereby created a 13th check account within the Fund, which shall consist of those employees' contributions set forth in subparagraph 27(B)(2) in excess of those contributions otherwise required by Section 2 for the normal annual cost of benefits, other than benefits arising from post retirement adjustments made pursuant to Section 23 and other than benefits arising from the 13th Check Program, plus any interest earnings thereon up to and including September 30, 2001. Effective for earnings paid on the first pay date after October 1, 2001, employee contributions to the 13<sup>th</sup> Check account shall cease, and the 13<sup>th</sup> Check Account shall be funded by investment returns in excess of 10% (limited to 3%) on the base plan liabilities for persons eligible for the 13<sup>th</sup> check. For purposes of this Section, the "base plan" shall mean those assets of the Fund excluding the Post Retirement Adjustment Account, DROP account assets, and the 13<sup>th</sup> check account. The amount available for the 13<sup>th</sup> check shall be calculated as of fiscal year end commencing September 30, 2001 for the fiscal year ending September 30, 2001 for payment no later than June 30, 2002, and each June 30 annually thereafter; provided, however, the calculation of the amount payable no later than June 30, 2002, shall include employee contributions to the 13<sup>th</sup> check account for earnings paid through the last pay date immediately prior to October 1, 2001. Subject to the requirements of part VII of chapter 112, Florida Statutes, effective October 1, 2007, the 13<sup>th</sup> Check Account shall be funded by investment returns in excess of 10 percent (limited to 1 percent) on the base plan plus the Post Retirement Adjustment Account market value of assets at each fiscal year ending September 30. For purposes of this section, the term "base plan" means those assets of the fund excluding the Post Retirement Adjustment Account, DROP account assets, and the 13<sup>th</sup> Check Account. The amount available for the 13<sup>th</sup> Check shall be calculated as of fiscal year end commencing September 30, 2007, for the fiscal year ending September 30, 2007, for payment no later than June 30, 2008, and each June 30 annually thereafter. The City shall not be required to make contributions toward the 13<sup>th</sup> check program.

(2) Notwithstanding any other provision of this contract, commencing October 1, 1998, employees covered under this contract shall continue to contribute pursuant to Section 2 at the rates required for employees to fund the normal annual cost of benefits, other than benefits arising from post retirement adjustments made pursuant to Section 23 and other than benefits arising from the 13th check program made pursuant to this section, plus an additional 100 percent of 9.874 percent of the full scale contribution rate (FSCR) set forth in Section 2(D) to the 13th check program. Employee contributions to the 13<sup>th</sup> check shall cease effective for earnings paid on the last pay date immediately prior to October 1, 2001.

(C) **Amount of the 13th Check** - The amount of the 13th check shall be determined as follows:

(1)(a) The amount of the 13th check shall be the same for all retired members, regardless of years of service, age, years retired, or monthly installment.

(b) All eligible surviving spouses shall be entitled to 50 percent of what the eligible retired member would have received but for death.

(c) If a retired member is eligible on October 1 but dies before payment of the 13th check by the following June 30, the retired member's spouse shall receive the full amount of the payment, and if there is no surviving spouse, the retired member's designated beneficiary or beneficiaries, or if none, the retired member's estate shall receive the payment.

(2) The Board of Trustees shall establish by rule adopted no later than May 31, 2002 and each May 31 thereafter, the amount of the 13th check funded pursuant to Section 27(B)(1), subject to the following:

(a) The amount of the 13th check, or a method for calculating the amount of the 13th check in a manner that is definitely determinable and in accordance with the requirements of the Internal Revenue Code applicable to a qualified governmental plan; and

(b) Certification by the Fund's actuary that the amount of the payment will be funded on a sound actuarial basis as required by Section 14, Article X of the State Constitution.

(D) **Conflict of Laws** - To the extent that any provision of this section is in conflict with sections 112.60-112.67, Florida Statutes, or those provisions of chapters 175 and 185, Florida Statutes, that apply to local law plans established by municipal ordinance or special act, or provisions of Florida Statutes made applicable to pension funds established by special act, or to the extent that any provision of this section would result in the loss of tax exempt status of the Pension Fund, the Board of Trustees is hereby delegated the authority to adopt by rules changes to this section in order to comply with said laws, which shall have the force of law and shall be considered part of this pension contract.

(E) **Administration of Program** - The Board of Trustees shall make such rules as are necessary for the effective and efficient administration of this section, provided that such rules are not inconsistent with the terms of any collective bargaining agreement entered into by the City and the certified bargaining agents for firefighters and police officers concerning the 13th Check Program. Notwithstanding any other provision of this section to the contrary, any provision of this section shall

be construed and administered in such manner that such program will qualify as a qualified governmental pension plan under existing or hereafter enacted provisions of the Internal Revenue Code of the United States, and the Board of Trustees may adopt any rule to accomplish the purpose of this section as is necessary to retain tax qualification, which rules shall have the force of law and shall be considered part of this pension contract.

**SECTION 28. ELECTION TO PURCHASE PAST CREDITABLE SERVICE BY CERTAIN FIREFIGHTERS AND POLICE OFFICERS.**

(A) Each firefighter and police officer who, on October 15, 1992, was a member in Division B of the General Employees' Pension Plan for the City of Tampa, who became a member of this Fund for service occurring on and after October 16, 1992, and who is a member of this Fund on or after June 1, 2002, may elect to purchase creditable service under this Pension Contract for service as a firefighter or police officer with the City of Tampa prior to October 16, 1992, if said employee complies with the following:

(1) Notify the City of Tampa and the Board of Trustees of this Fund, in writing, at any time between July 1, 2002, and December 31, 2002, of his or her desire to purchase creditable service for all or any portion of such past service and the time period of such service to be purchased;

(2) Upon electing to purchase creditable service for such past service, submit on a form required by the City an irrevocable waiver of any pension benefits under the General Employees' Pension Plan for the City of Tampa, which waiver shall apply only to the time period of such service to be purchased; and

(3) By September 30, 2003, pay into the Pension Fund a sum of money equal to the aggregate employee contributions, plus compound interest thereon at a rate as determined by the Board, which the employee would have paid into the Fund pursuant to Section 2 (D) of this Contract, had the employee participated in the Fund during the period of such prior service that said employee has elected to purchase.

(B) For each firefighter and police officer electing to purchase creditable service for past service as provided in this section, the City shall pay into the Pension Fund, by September 30, 2003, a sum of money equal to the City contributions, plus compound interest thereon at the rate determined by the Board pursuant to Section 28 (A) (3), which the City would have paid into the Fund for such firefighters and police officers pursuant to Section 2(B) and (C) of this Contract, had such firefighters and police officers participated in the Fund during the period of such prior service that such firefighters and police officers have elected to purchase.

(C) Benefits for creditable service purchased by firefighters and police officers pursuant to this section shall be calculated in the same manner as are such firefighters' and police officers' benefits for creditable service commencing on October 16, 1992, provided that there shall be no reduction in benefits for such creditable service purchased as otherwise required pursuant to Section 7 (A), (B), or (C), Section 8 (A), or Section 9 (A) or (C) of this Contract.

(D) The Board of Trustees shall make such rules as are necessary for the effective and efficient administration of this section, provided that such rules are not inconsistent with the terms of any collective bargaining agreement entered into by the City and the certified bargaining agents for firefighters and police officers. Notwithstanding any other provision of this section to the contrary, any provision of this section shall be construed and administered in such manner that such program will qualify as a qualified governmental pension plan under existing or hereafter enacted provisions of the Internal Revenue Code of the United States, and the Board of Trustees may adopt any rule to accomplish the purpose of this section as is necessary to retain tax qualification, which rules shall have the force of law and shall be considered part of this pension Contract.

**WHEREAS**, it is beneficial to the said City to have its employees protected by the terms of said fund and benefits and the said employee is desirous of participating in said fund and benefits, it is thereupon,

**UNDERSTOOD AND AGREED** by and between the parties that the party of the second part does hereby allot, out of his salary, wages or compensation, paid to him by the said City, the required percentage of his earnings and does hereby authorize and direct the disbursing officer or officers of said City to retain out of said wages, salary or compensation said percentage in compliance with the terms of the aforesaid Act of the Legislature, and to continue to make said allotment and authorize said deduction throughout the entire time of his employment or reemployment, or until such time as he shall be entitled to receive the pension allowance or benefit provided by the Fund created in the aforesaid Act.

**IT IS FURTHER UNDERSTOOD AND AGREED** by and between the parties that the said Board will accept said allotment or deduction from the salary, wages or compensation of said employee aforesaid, and when, under the terms of the aforesaid Act, said employee or other beneficiary of said employee shall be entitled, under the terms of the aforesaid provisions to receive the benefits from said Fund therein created, will pay said sum or sums from said Fund and all other benefits so authorized to said employee or his other beneficiaries, in accordance with said terms without diminution or deduction.

**IT IS FURTHER UNDERSTOOD AND AGREED** that this contract shall remain in force without change, modification or amendment, until all the purposes now intended to be fulfilled shall have been fully performed, except that payment or other benefits to the party of the second part or such party's beneficiaries may be increased but not diminished except as provided in Section 23.

**IT IS FURTHER UNDERSTOOD AND AGREED** that employees shall not lose any rights under the terms of this contract by reason of the refusal of the City at any time during the terms hereof to make allotment or deduction from such employees' earnings.

**IT IS FURTHER UNDERSTOOD AND AGREED** that it is the intention of the parties hereto to create vested rights in the respective parties not to be hereinafter impaired for any cause whatsoever.

**IT IS FURTHER UNDERSTOOD AND AGREED** that the terms of the provisions hereinbefore set forth are declared to be a part of this contract and this contract is to be construed with reference thereto.

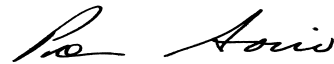
**IT IS FURTHER UNDERSTOOD AND AGREED** that this contract supersedes any and all contracts heretofore entered into by the parties hereto upon or relating to the subject matter hereof and that any and all of such contracts are supplemental by replacement hereby as of the day and year first above written.

**IN WITNESS WHEREOF** the party of the first part has hereunto caused these presents to be executed, signed and sealed, with the seal of said City, by its duly authorized officers, and the said party of the second part has hereunto set his hand and seal the day and year first above written.

CITY OF TAMPA

Attested by:

\_\_\_\_\_  
City Clerk



BY: \_\_\_\_\_  
Mayor

\* \* \* \* \*

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Employee Name --Printed--

\_\_\_\_\_  
Date Signed by Employee

Witness as to Employee:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Name --Printed--

\_\_\_\_\_  
Date Witnessed

Witness as to Employee:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Name --Printed--

\_\_\_\_\_  
Date Witnessed