

1 Introduced by Council President at the request of the Mayor:



2
3 Attach.tif

4 **ORDINANCE 2013-366**

5 AN ORDINANCE PERTAINING TO CHAPTER 121 (POLICE
6 AND FIREFIGHTERS PENSION PLAN), ORDINANCE
7 CODE; AMENDING SECTION 121.102(E) (POLICE AND
8 FIRE PENSION PLANS) CREATING A NEW CATEGORY OF
9 MEMBER KNOWN AS A "GROUP II MEMBER" BASED UPON
10 A DATE OF HIRE ON OR AFTER OCTOBER 1, 2013 AND
11 SECTION 121.113(A) AND (B) (CALCULATION OF
12 PENSION CONTRIBUTIONS FOR POLICE AND FIRE
13 PENSION FUND) REVISING THE CONTRIBUTION
14 PERCENTAGES OF EXISTING POLICE AND FIRE
15 PENSION PLAN MEMBERS; AMENDING SECTION 121.201
16 (RETIREMENT BENEFITS), SECTION 121.204
17 (SURVIVING SPOUSE'S BENEFITS), SECTION 121.206
18 (CHILDREN'S BENEFITS), AND SECTION 121.209
19 (DEFERRED RETIREMENT OPTION PROGRAM (DROP));
20 CREATING NEW SECTION 121.211 (CALCULATION OF
21 PENSION CONTRIBUTION FOR POLICE AND FIRE
22 PENSION FUND) ESTABLISHING THE PROGRAM OF
23 PENSION BENEFITS EXTENDED TO GROUP II MEMBERS;
24 APPROVING THE MEDIATION SETTLEMENT AGREEMENT
25 IN THE CASE OF RANDALL WYSE, ET AL, VS. CITY
26 OF JACKSONVILLE, ET AL, CASE NO. 3:13-CV-121-
27 J-34MCR, UNITED STATES DISTRICT COURT, MIDDLE
28 DISTRICT OF FLORIDA; ATTACHING THE REQUIRED
29 ACTUARIAL IMPACT STATEMENT; PROVIDING AN
30 EFFECTIVE DATE.

1 **WHEREAS**, in the case of *Randall Wyse, et al, vs. City of*
2 *Jacksonville, et al*, Case No. 3:13-cv-121-J-34MCR, pending in the
3 United States District Court for the Middle District of Florida,
4 the Plaintiffs, are individuals who are members of the City of
5 Jacksonville Police and Fire Pension Plan ("Plan"), and the
6 defendants consisting of the City (Defendant and Cross-Claim
7 Defendant), the Jacksonville Police and Fire Pension Fund Board of
8 Trustees ("Board") (Rule 19 Defendant and Cross-Claim Plaintiff),
9 the Fraternal Order of Police (Rule 19 Defendant) and Jacksonville
10 Association of Firefighters (Rule 19 Defendant), have entered into
11 a Mediation Settlement Agreement **attached as Exhibit 1** (the
12 "Settlement Agreement"), subject to the approval of the Council and
13 the Board; and

14 **WHEREAS**, the Settlement Agreement provides for the amendment
15 of the Ordinance Code regarding Plan benefits, including by
16 creating a new tier of pension benefits applicable to Plan members
17 hired on or after October 1, 2013, and by revising the contribution
18 percentages of existing Plan members; now, therefore,

19 **BE IT ORDAINED** by the Council of the City of Jacksonville:

20 **Section 1. Sections 121.102(e) and 121.113(a) and (b) Amended.**

21 Sections 121.102(e) and 121.113(a) and (b), *Ordinance Code*, are
22 amended, to read as follows:

23 **Chapter 121. POLICE AND FIREFIGHTERS PENSION PLAN**

24 **PART 1. POLICE AND FIRE PENSION FUND ADMINISTRATION**

25 * * *

26 **Sec. 121.102. Police and Fire Pension Plans.**

27 * * *

28 (e) Definitions of Membership Classes:

29 (1) Members: Are Group I Members and Group II Members.

30 ~~Are employees of the City of Jacksonville who have enrolled in the~~
31 ~~Police and Fire Pension Plan and are contributing to the Plan~~

1 ~~through payroll deduction.~~

2 (2) Qualified Mmembers: Are Group I Members employees of
3 the City who have elected to participate in the deferred retirement
4 option program under Section 121.209, which applies only to Group I
5 Members. Group II Members are not eligible to participate in the
6 deferred retirement option program.

7 (3) Beneficiary or Beneficiaries: Are (i) with respect
8 to Group I Members, present and former active Group I Mmembers who
9 have completed five or more years of credited service as active
10 members and have either (1) vested their service for deferred
11 retirement (Inactive Beneficiary) or (2) have met time and service
12 requirements for retirement, or are retired as totally and
13 permanently disabled while an active member, or anyone receiving
14 benefits as a surviving spouse or minor child of a member (Active
15 Beneficiary); or (ii) with respect to Group II Members, former
16 active Group II Members who have completed ten or more years of
17 credited service as active members and have either (1) vested their
18 service for retirement or (2) have met time and service
19 requirements for retirement, or are retired as totally and
20 permanently disabled while an active member, or anyone receiving
21 benefits as a surviving spouse or minor child of a member (Active
22 Beneficiary). In the case of the distribution of DROP benefits for
23 Group I Members, the estate of the Qequalified Mmember or former
24 Qequalified Mmember may also be considered to be a beneficiary in
25 the event that there is no surviving spouse.

26 (4) Group I Members: Are employees of the City of
27 Jacksonville who were hired by the City for full time employment
28 prior to October 1, 2013 and who have enrolled in the Police and
29 Fire Pension Plan and are contributing to the Plan through payroll
30 deduction.

31 (5) Group II Members: Are employees of the City of

1 Jacksonville who are hired by the City for full time employment on
2 or after October 1, 2013 and who have enrolled in the Police and
3 Fire Pension Plan and are contributing to the Plan through payroll
4 deduction.

5 (6) Group I Retirees: Are former Group I Members who are
6 retired under the terms of the Plan.

7 (7) Group II Retirees: Are former Group II Members who
8 are retired under the terms of the Plan.

9 * * *

10 **Sec. 121.113 Calculation of pension contributions for Police**
11 **and Fire Pension Fund.**

12 The Pension Fund created by Laws of Fla. Ch. 18615 (1937), as
13 amended, shall consist of moneys derived as follows:

14 (a) Salary Deductions.

15 (1) Group I Members. A deduction of seven percent per
16 annum, plus an additional two percent subject to the conditions
17 described below, from all salaries (base salary, longevity, City
18 college incentive, enhanced certification pay, emergency operation
19 and hazardous duty pay; shift differential, and "upgrade" pay; and
20 excluding all overtime, state incentive pay, reimbursed expenses
21 and allowances such as cleaning/clothes allowances, and payments
22 for unused accrued time), of all ~~members of the Police and Fire~~
23 ~~Departments participating in this fund, or who will become members~~
24 ~~hereafter~~ Group I Members, to be deducted in installments from each
25 periodical paycheck of each ~~of these members~~ Group I Member.
26 together with a sum equal to not less than the minimum recommended
27 contribution in the most recent actuarial valuation of the fund
28 expressed as a percent per annum of all salaries (as defined above)
29 of all members of the Police and Fire Departments participating in
30 this fund according to the amount thereof as set up in the current

1 budget in each year hereafter, together with such additional sums
2 as may be necessary to administer this fund, which two latter
3 amounts shall be designated by the Board and certified to the
4 Council for each fiscal year, and the Council shall thereupon place
5 the amount so designated in the budget for the succeeding year and
6 levy a tax therefor, if necessary; except that the City may in good
7 faith challenge the City contribution designated by the Board. In
8 the event of such a challenge, the Board's actuary and City's
9 actuary shall agree on an impartial third actuary who shall resolve
10 all disputes between the actuaries and whose decision shall be
11 binding and final as between the Board and the City. The foregoing
12 seven percent deduction shall be increased by two percent as
13 follows:

14 (i) Firefighters: Upon restoration of the two
15 percent reduction in wages that took effect on October 1,
16 2010, one-half of any subsequent increase shall be used to
17 increase the member's payroll deduction to a maximum of nine
18 percent; provided however, if the City later reduces
19 pensionable compensation below the level that generated the
20 contribution increase, then the deduction will be reduced in a
21 commensurate manner until the deduction rate has been reduced
22 to seven percent.

23 (ii) Police Officers: Upon restoration of the three
24 percent reduction in wages that took effect on January 1,
25 2012, one-half of any subsequent increase shall be used to
26 increase the member's payroll deduction to a maximum of nine
27 percent; provided however, if the City later reduces
28 pensionable compensation below the level that generated the
29 contribution increase, then the deduction will be reduced in a
30 commensurate manner until the deduction rate has been reduced
31 to seven percent.

1 (2) Group II Members. A deduction of ten percent per
2 annum from all salaries (base salary, longevity, City college
3 incentive, enhanced certification pay, emergency operation and
4 hazardous duty pay; shift differential (provided that the shift pay
5 included in the calculation may not exceed 125 percent of the shift
6 pay earned during the five years prior to the beginning of the
7 130th pay period immediately preceding retirement, adjusted for
8 promotion), and upgrade pay; and excluding all overtime, state
9 incentive pay, reimbursed expenses and allowances such as
10 cleaning/clothes allowances, and payments for unused accrued time),
11 of all Group II Members, to be deducted in installments from each
12 periodical paycheck of each Group II Member. The foregoing ten
13 percent per annum salary deduction shall also apply during the
14 BACKDROP period described in Section 121.212 for all eligible Group
15 II Members who elect the BACKDROP.

16 (b) Notwithstanding the deduction provided in subsection
17 (a)(1) of this Section, a deduction of two percent per annum shall
18 be made from all salaries (as defined in Section 121.113(a)(1)) of
19 Qualified Members in Group I who elect to participate in the
20 deferred retirement option program, with such amount being credited
21 to the Pension Fund's Ordinance 91-1017-605, Base Benefit Fund
22 ~~from qualified members who elect to participate in the Deferred~~
23 ~~Retirement Option Program.~~

24 **Section 2. Sections 121.201, 121.204, 121.206 and 121.209**
25 **Amended.** Sections 121.201, 121.204, 121.206 and 121.209, Ordinance
26 Code, are amended, to read as follows:

27 **Chapter 121. POLICE AND FIREFIGHTERS PENSION PLAN**

28 **PART 2. PENSION BENEFITS**

29 * * *

30 **Sec. 121.201A Retirement benefits for Group I Members.**

31 The following Definitions are applicable to Group I

1 members:

2 The following Definitions are applicable to Group I
3 members:

4 (a) Time service retirement. Members shall be entitled
5 to a time service retirement benefit equal to a maximum of 80
6 percent of the average salary (as defined in Section 121.113 (a))
7 received by the member for the 52 pay periods immediately preceding
8 the time of retirement, upon the completion of 30 years of credited
9 service. For each year prior to the thirtieth year of service that
10 a member retires, the 80 percent retirement benefit shall be
11 reduced by two percent, of the average salary (as defined in
12 Section 121.113 (a)) received by the member for the 52 pay periods
13 immediately preceding the time of retirement, with the minimum
14 normal retirement benefit being 60 percent after completion of 20
15 years of credited service.

16 (b) Disability retirement.

17 (1) Any member, who prior to reaching the minimum normal
18 retirement becomes permanently and totally disabled from useful and
19 efficient service as a police officer or firefighter, as
20 established by competent medical evidence, shall be entitled to a
21 disability retirement. The disability retirement benefit shall be
22 equal to 60 percent of the average salary received by the member
23 for the 52 pay periods immediately preceding the time of disability
24 retirement. The Board shall establish the effective date on which
25 the disability benefit shall commence. The Board shall, by rule,
26 establish procedures for the examination of applicants for
27 disability retirement, for the conduct of disability retirement
28 hearings, for review of said hearings by a court of competent
29 jurisdiction, and reexamination of retirees on disability pension.
30 In the event the application for a disability pension is denied by
31 the Board, then a new application for the same disability cannot be

1 filed by the member within six months of the denial.

2 (2) Any member of the pension funds created by these acts
3 who has been in the service of the City for a period of time equal
4 to the minimum time necessary for time service retirement or more
5 and becomes permanently and totally disabled from useful and
6 efficient service shall be entitled to the same rate of pension
7 benefit calculation of the average salary (as defined in Section
8 121.113 (a)) received by the member for the 52 pay periods
9 immediately preceding the time of disability retirement as those
10 members of his pension plan who retire on time service retirement.
11 Any member who elects to retire under a disability pension as
12 provided in this Section shall be required to meet the same
13 requirements for a disability pension as are required for any other
14 member of the respective fund requesting a disability retirement.
15 The Board shall establish the effective date on which the
16 disability benefit shall commence.

17 (3) In applying the provisions of this Section, the
18 adjustment supplement described in 121.201 (d)(2) that is
19 calculated for the benefit of a member and a surviving spouse shall
20 be based upon the actual years of credited service, subject to the
21 minimum and maximum provisions, rendered by the member.

22 (4) The Board shall establish the effective date on which
23 the disability benefit shall commence. The Board shall, by rule,
24 establish procedures for the examination of applicants for
25 disability retirement, for the conduct of disability retirement
26 hearings, for review of said hearings by a court of competent
27 jurisdiction, and re-examination of retirees on disability pension.
28 In the event the application for a disability pension is denied by
29 the Board, a new application for the same disability cannot be
30 filed by the member within six months of the denial.

31 (c) Vested retirement benefits.

1 (1) Members who terminate employment on or after the
2 effective date of this Ordinance with five or more years of
3 credited service and are not otherwise eligible to retire, are
4 eligible to receive either a deferred retirement benefit of three
5 percent of the average salary received by the member for the 52 pay
6 periods immediately preceding the date of vesting, for each year of
7 credited service prior to the date of vesting, to commence on the
8 date the member would have been eligible to receive minimum time
9 service benefits or be paid a refund of 100 percent of member
10 contributions to the Plan without interest. Within 30 days of a
11 member leaving the payroll prior to normal service retirement, the
12 member must make the election in writing to either vest or the
13 refund will be issued automatically. Acceptance of the refund of
14 employee contributions constitutes an irrevocable waiver of all
15 rights to benefits from the Plan.

16 (2) In the event that the Member who is entitled to
17 vested retirement benefits becomes deceased prior to the scheduled
18 date for the commencement of the payment of retirement benefits,
19 the surviving spouse and/or children of such Member shall not be
20 entitled to a refund of contributions nor shall they be entitled to
21 the payment of survivors benefits otherwise extended to Members who
22 completed the required number of years of service to become
23 eligible for minimum time service benefits.

24 (3) Members who are entitled to receive vested retirement
25 benefits are not eligible to qualify for potential enhancements
26 pursuant to the minimum monthly pension provisions of section
27 121.301.

28 (d) Cost of Living Adjustments.

29 (1) A Cost of Living Adjustment (COLA) based on each
30 prior annual benefit amount actually received (exclusive of onetime
31 bonuses or adjustments) shall be provided for retirees and

1 survivors. Beginning with the first bi-weekly pay period after
2 January 1, 2007, and for the first bi-weekly pay period after each
3 succeeding January 1, the recipient shall be granted a COLA in the
4 amount of three (3) percent.

5 (2) In addition to the COLA, a minimum adjustment
6 supplement of five (5) dollars per month for each year of actual
7 credited service of the participant used to compute the pension
8 benefit shall be provided for current and future retirees and their
9 survivors, and it shall be paid beginning with the first full
10 biweekly pay period after October 1, 2003, and continuously
11 thereafter; provided however that such supplement shall be no less
12 than twenty-five (25) dollars nor more than one hundred and fifty
13 (150) dollars per month. The adjustment supplement described herein
14 shall be based upon the member's actual years of service rather
15 than imputed years of service, which is used for purposes of
16 calculating pension benefits under the disability retirement
17 provisions of section 121.201(b) and the surviving spouse provision
18 of section 121.204(a), and becomes operative in the event of the
19 disability or death of a member, respectively. The Mayor shall
20 annually, each January, evaluate the annual cost of the foregoing
21 adjustment supplement by comparing it to the City's annual cost to
22 provide single employee group health insurance. In the event that
23 the City's cost to provide such health insurance per employee is
24 less than the amount of such supplement per retiree, then the
25 supplement shall be reduced to the amount of the insurance cost.

26 (e) Deferred Retirement Option Program (DROP). A member
27 eligible to receive normal retirement benefits as provided in
28 Section 121.201 (a), may remain in the employment of the City until
29 the elected termination date by electing to participate in the
30 DROP, as provided in Section 121.209, deferring the receipt of such
31 retirement benefits for a maximum of 130 full bi-weekly pay periods

1 (60 months) from the date of participation in the Deferred
2 Retirement Option Program.

3 (f) Limitations on benefits. Notwithstanding any benefit
4 granted hereunder or under any other provision relating to benefits
5 under the Police and Fire Pension Plan, benefit payments for any
6 Member shall not exceed the maximum amount permitted under Section
7 415 of the Internal Revenue Code of 1986, as amended.

8 (g) Annual Compensation Limit. Section 401(a)(17) of the
9 Internal Revenue Code establishes an annual compensation limit for
10 each employee under a qualified plan. The provisions of Code
11 Section 401(a)(17) are further described pursuant to Treasury
12 Regulations Section 1.401(a)(17)-1. The Police and Fire Pension
13 Plan incorporates by reference the annual compensation limit
14 described under Section 401 (a)(17) and Treasury Regulations
15 Section 1.401(a)(17)-1. Accordingly, the Plan acknowledges that the
16 compensation taken into account for any Member of the Plan in
17 determining plan allocations or benefit accruals for the plan is
18 limited to the annual compensation limit as described in Internal
19 Revenue Code Section 401(a)(17) and the Treasury Regulations
20 related thereto. The Plan additionally elects to avail itself of
21 the transition rule for governmental plans as described in Treasury
22 Regulation Section 1.401(a)(17)-1(d)(4)(ii) which provides that
23 'eligible participants', as such term is used in the regulations,
24 will not be affected by the revised limit per the 1993 OBRA and
25 accordingly such 'eligible participants' may have their
26 contributions and benefits computed by using compensation of more
27 than \$150,000.00 (as adjusted), so long as it does not exceed the
28 limit in effect on July 1, 1993. All other plan participants ('non-
29 eligible participants') shall be subject to the revised limits for
30 plan years beginning after December 31, 1995.

31 (h) Requirements that Actuarial Assumptions be specified.

1 Section 401(a)(25) of the Internal Revenue Code provides that
2 whenever the amount of any benefit is to be determined on the basis
3 of actuarial assumptions, such assumptions are specified in the
4 plan in a way which precludes employer discretion. The provisions
5 of Code Section 401(a)(25) and the linkage between the proper use
6 of actuarial assumptions and the conclusion that the plan is
7 established and maintained primarily to provide systematically for
8 the payment of 'definitely determinable benefits' to employees, is
9 further described pursuant to Treasury Regulations Section 1.401-
10 1(b)(1)(i). The Police and Fire Pension Plan incorporates by
11 reference the requirements that actuarial assumptions be specified
12 as described under Code Section 401(a)(25) and Treasury Regulations
13 Section 1.401-1(b)(1)(i).

14 (i) Required distributions. Distributions from the Plan
15 will be made in accordance with the requirements of the regulations
16 under Internal Revenue Code Section 401(a)(9) and that any
17 provisions in the Plan that are contradictory to the distribution
18 requirements shall be overridden. In accordance therewith,
19 distributions to participants must commence by the later of April 1
20 of the calendar year following the calendar year in which the
21 employee attains the age of 70 ½, or April 1 of the calendar year
22 following the calendar year in which the employee retires. In
23 addition to meeting the minimum distribution amount, the
24 distribution must also meet the incidental benefit requirements of
25 Internal Revenue Code Section 401(a)(9)(g) and Proposed Regulations
26 Sections 1.401(a)(9)-1 and 1.401(a)(9)-2.

27
28 **Sec. 121.201B Retirement Benefits for Group II Members**

29 Except for Sections 121.201(f)-(i), which apply to
30 Group I Members and Group II Members, this Section 121.201
31 applies only to Group I Members, and the term "member" as used

1 in this Section means "Group I Member". Notwithstanding any
2 provisions to the contrary in Chapter 18615, Laws of Fla. Ch.
3 18615 (1937), and to provide for an increase in the benefits
4 thereby provided:

5 * * *

6 **Sec. 121.204 Surviving Spouse Benefits.**

7 Notwithstanding the provisions of Laws of Fla. Ch. 18615
8 (1937), as amended; or Laws of Fla. Ch. 23259 (1945), as amended,
9 and to increase the benefits thereby provided:

10 (a) Any member of the fund hereafter who shall be killed or
11 die from effects of an injury or of any illness or disease and any
12 such member so killed or dying shall have a spouse living with such
13 member at time of death, the Board shall direct the payment from
14 the fund of the following sum to the surviving spouse, 75 percent
15 of the pension benefit the deceased member would be entitled to
16 receive, had the member completed 20 years of credited service ~~(60~~
17 ~~percent of the average salary as defined in Section 121.113(a)~~
18 ~~received by the member for the 52 pay periods immediately preceding~~
19 ~~the time of death)~~ and survived to receive such pension. If a
20 deceased member served in excess of 20 years, the 75 percent of the
21 pension benefit shall be based upon the actual years of service. In
22 applying the provisions of this Section, the adjustment supplement
23 described in 121.201(d)(2) that is calculated for the benefit of
24 the surviving spouse of a Group I Member shall be based upon the
25 actual years of credited service, subject to the minimum and
26 maximum provisions, rendered by the member rather than the assumed
27 completion of 20 years of credited service otherwise acknowledged
28 in this Section. The pension benefit as used herein shall be
29 comprised of the base pension benefit as adjusted for the COLA, but
30 exclusive of the adjustment supplement described in 121.201(d)(2)
31 which shall be 100 percent allocable to the surviving spouse.

1 * * *

2 **Sec. 121.206 Children's Benefits.**

3 * * *

4 (b) If there is a surviving spouse, each child's benefit shall
5 be \$200 per month until (i) each child reaches age 18 years,
6 whether or not the child is a qualified student, or (ii) each child
7 reaches age 22, provided the child is a qualified student, or (iii)
8 each child becomes married, whereupon the children's benefits
9 described herein shall cease, provided that the total of the
10 surviving spouse and children's benefits do not exceed the total of
11 the deceased member's projected benefit. In addition thereto, each
12 child of a surviving spouse of a Group I Member shall be entitled
13 to the receipt of the minimum adjustment supplement provided in
14 Section 121.201(d)(2).

15 (c) If there is no surviving spouse, each child under the age
16 of 18 shall receive the greater of either; (a) \$200 per month plus,
17 for each child of a former Group I Member, the minimum adjustment
18 supplement provided in Section 121.201(d)(2), or (b) a
19 proportionate share of the surviving spouse's benefit (including
20 the supplement where applicable) until (i) each child reaches age
21 18 years, whether or not the child is a qualified student, or (ii)
22 each child becomes married, whereupon the children's benefits
23 described herein shall cease. If there is no surviving spouse, each
24 child who is age 18 or over and who is a qualified student shall be
25 entitled to the payment of a child's benefit of \$200 per month
26 until (i) each child reaches age 22, or (ii) each child becomes
27 married, whereupon the child's benefit described herein shall
28 cease. In the event of multiple children causing the payment of a
29 prorated benefit as each child no longer becomes eligible for the
30 payment of children's benefits the remaining eligible children

1 shall receive the greater of the benefits provided for in this
2 Section up to the limits provided.

3 * * *

4 **Sec. 121.209 Deferred Retirement Option Program (DROP) for**
5 **Group I Members**

6 This Section 121.209 applies only to Group I Members, and the
7 term "member" as used in this Section means "Group I Member".

8 * * *

9 **Section 3. Section 121.211 Created.** Sections 121.211,
10 *Ordinance Code*, is created as follows:

11 **Chapter 121. POLICE AND FIREFIGHTERS PENSION PLAN**

12 **PART 2. PENSION BENEFITS**

13 * * *

14 **Sec. 121.211 Pension Benefits for Group II Members.**

15 This Section 121.211 sets forth the pension benefits that are
16 applicable solely to Group II Members, and the term "member" as
17 used in this Section means "Group II Member".

18 (a) Time service retirement. Upon reaching 30 years of
19 credited service, Group II Members shall be entitled to a time
20 service retirement with a benefit equal to 2.5 percent of average
21 salary multiplied by the number of years of credited service, but
22 not exceeding a maximum of 75 percent of average salary. The term
23 "average salary" as used in the foregoing sentence means the
24 average "salaries" as defined in Section 121.113(a)(2) received by
25 the Group II Member during the 130 bi-weekly pay periods
26 immediately preceding the date of retirement. Notwithstanding the
27 foregoing, the annual retirement benefit shall not exceed
28 \$99,999.99, which amount shall be adjusted January 1 of each year
29 beginning January 1, 2015, by the most recent cost of living
30 adjustment applicable to recipients of Social Security retirement
31 benefits, as determined by the U.S. Social Security Administration

1 each calendar year, but not exceeding 1.5 percent.

2 (b) Disability retirement.

3 (1) A Group II Member who, prior to reaching the minimum
4 normal retirement eligibility of 30 years of credited service,
5 becomes permanently and totally disabled from useful and
6 efficient service as a police officer or firefighter, as
7 established by competent medical evidence, shall be entitled
8 to a disability retirement. The disability retirement benefit
9 shall be equal to 50 percent of the average "salaries" (as
10 defined in Section 121.113(a)(2)) received by the Group II
11 Member for the 130 pay periods immediately preceding the time
12 of disability retirement. The Board shall establish the
13 effective date on which the disability benefit shall commence.
14 The Board shall, by rule, establish procedures for the
15 examination of applicants for disability retirement, for the
16 conduct of disability retirement hearings, for review of said
17 hearings by a court of competent jurisdiction, and
18 reexamination of retirees on disability pension. In the event
19 the application for a disability pension is denied by the
20 Board, then a new application for the same disability cannot
21 be filed by the Group II Member within six months of the
22 denial.

23 (2) A Group II Member who has been in the service of the
24 City for a period of time at least equal to the minimum time
25 necessary for time service retirement and who becomes
26 permanently and totally disabled from useful and efficient
27 service, shall be entitled to the same pension calculation as
28 a Group II Member who retires pursuant to a time service
29 retirement as described in Section 121.211(a). Any Group II
30 Member who elects to retire under a disability pension as
31 provided in this Section shall be required to meet the same

1 requirements for a disability pension as are required for any
2 other Member of the Fund requesting a disability retirement.

3 (c) Vested retirement benefits.

4 (1) Group II Members who terminate employment with at
5 least 10 but less than 25 years of credited service are
6 eligible to receive a deferred retirement benefit of 2.0
7 percent of the average "salaries" (as defined in Section
8 121.113(a)(2)) received by the member during the 130 pay
9 periods immediately preceding the date of vesting, for each
10 year of credited service. If the vested member has less than
11 25 years of credited service at the time of separation, the
12 benefit shall commence at age 62. In the alternative, and in
13 lieu of any other benefit from the Fund, a vested member may
14 elect to be paid a refund of 100 percent of member
15 contributions to the Plan without interest. Within 30 days of
16 a member leaving the payroll prior to normal service
17 retirement, the vested member must elect in writing to vest or
18 else the refund will be issued automatically after the end of
19 such 30-day period. Acceptance of the refund of employee
20 contributions constitutes an irrevocable waiver of all rights
21 to benefits from the Plan.

22 (2) In the event that a former Group II Member who
23 separates from service and is entitled to vested retirement
24 benefits dies prior to the scheduled date for the commencement
25 of the payment of retirement benefits, the surviving spouse
26 and/or children of such member shall not be entitled to a
27 refund of contributions nor shall they be entitled to the
28 payment of survivors benefits otherwise extended to members
29 who complete the required number of years of service to become
30 eligible for minimum time service benefits.

31 (3) Former Group II Members who separate from service and

1 are entitled to receive vested retirement benefits are not
2 eligible to qualify for potential enhancements pursuant to the
3 minimum monthly pension provisions of Section 121.301.

4 (4) Group II Members with at least 25 but less than 30
5 years of credited service shall be eligible for early
6 retirement, provided that for each year or partial year prior
7 to reaching 30 years of credited service, the 75 percent
8 retirement benefit applicable to 30 years of credited service
9 will be reduced by three percent of the average salary as
10 defined in Section 121.113(a)(2). Notwithstanding the
11 foregoing, the minimum retirement benefit of a member who
12 attains at least 25 years of credited service shall not be
13 less than 53.5 percent of the member's average salary under
14 Section 121.113(a)(2).

15 (d) Cost of Living Adjustments. A Cost of Living Adjustment
16 (COLA) based on each prior annual benefit amount actually received
17 (exclusive of one-time bonuses or adjustments) shall be provided
18 for Group II Retirees and their eligible survivors, beginning on
19 the first bi-weekly pay period in the third January following
20 employment termination. Group II Retirees and their eligible
21 survivors shall be granted a COLA in the amount of COLA applicable
22 to recipients of Social Security retirement benefits, as determined
23 by the U.S. Social Security Administration each calendar year, but
24 not exceeding 1.5 percent.

25 (e) Employee contributions. Pursuant to Section
26 121.113(a)(2), Group II Members shall contribute ten percent per
27 annum from all salaries as defined in Section 112.113(a)(2) under
28 the conditions and procedures described in Section 121.113(a)(2).

29 (g) The provisions of Sections 121.201(f)-(i) shall also
30 apply to Group II Members.

31 **Section 4. Section 121.212 Created. Sections 121.212,**

1 Ordinance Code, is created as follows:

2 **Chapter 121. POLICE AND FIREFIGHTERS PENSION PLAN**

3 **PART 2. PENSION BENEFITS**

4 * * *

5 **Sec. 121.212 BACKDROP.**

6 (a) There is hereby created a BACKDROP retirement option (the
7 "BACKDROP") to the Retirement Plan, which shall allow any Group II
8 Member who has 30 or more years of credited service, to elect to
9 retire and have that member's retirement benefits calculated as if
10 the member actually had retired at any earlier date, provided
11 however that the BACKDROP period shall not exceed five years.

12 (b) Any Group II Member who has 30 or more years of credited
13 service is eligible to participate in the BACKDROP. A Group II
14 Member with less than 30 years of credited service may participate
15 in the BACKDROP provided that for each year or partial year prior
16 to reaching 30 years of credited service, the 75 percent retirement
17 benefit applicable to 30 years of credited service will be reduced
18 by two percent of average salary as defined in Section
19 121.113(a)(2).

20 (c) (1) An eligible Group II Member may elect to participate
21 in the BACKDROP by submitting the following to the Fund:

22 (i) One copy of a signed and submitted letter of
23 resignation dated effective as of the date of election to
24 participate in the BACKDROP.

25 (ii) A properly completed BACKDROP application on
26 forms provided by the Fund, which, once submitted, shall
27 be irrevocable by the member.

28 (iii) Subject to Section 121.212(e), selection of
29 the dates that begin and end the period of participation
30 in the BACKDROP (the "BACKDROP Period").

31 (iv) An agreement to replace the retirement benefits

1 otherwise applicable with BACKDROP benefits and a reduced
2 time service benefit calculated as of the beginning of
3 the BACKDROP Period as if the BACKDROP Participant had
4 retired as of that date, but payable starting as of
5 actual retirement at the end of the BACKDROP Period.

6 (v) Any other documents or information as may be
7 reasonably required by the Fund.

8 (2) For purposes of this Section, each eligible member
9 who elects to participate in the BACKDROP and satisfies all of
10 the requirements of this Section shall be referred to as a
11 "BACKDROP Participant".

12 (e) A BACKDROP Participant must resign and retire from the
13 City as of the date of election to participate in the BACKDROP. No
14 benefits shall be paid under this Section unless and until the
15 BACKDROP Participant has resigned and retired from the City.

16 (g) (1) Provided the BACKDROP Participant has satisfied all
17 requirements set forth in this Section, the BACKDROP Participant
18 shall be entitled to receive a BACKDROP amount equal to:

19 (i) the time service retirement benefits pursuant
20 to Section 121.211(a) the BACKDROP Participant Member
21 would have received had the BACKDROP Participant actually
22 retired at the commencement of the BACKDROP Period, and

23 (ii) interest on benefits credited pursuant to
24 Section 121.212(a). The amount of interest to be credited
25 shall be determined pursuant to Section 121.212(h).

26 (2) Upon retirement, the BACKDROP Participant thereafter
27 shall be eligible to receive a reduced time service benefit
28 determined as of the beginning of the BACKDROP period.

29 (h) Interest shall be credited starting from the hypothetical
30 date the payment would have been made had the GROUP II Member
31 retired as of the beginning of the BACKDROP period to the end of

1 the BACKDROP period at an annual rate of return, compounded
2 annually, equivalent to the actual rate of return on the Fund
3 assets during the BACKDROP period, provided that such rate of
4 return shall not be less than zero nor more than ten percent.

5 (i) A BACKDROP Participant shall not be entitled to receive
6 any cost-of-living increase during the BACKDROP Period. The
7 waiting period to receive cost-of-living increases, as set forth in
8 Section 121.211(d), shall commence upon retirement.

9 (j) Provided the BACKDROP Participant has satisfied all
10 requirements set forth in this Section, within 30 days from the
11 date of expiration of the BACKDROP Period or as soon as practical
12 thereafter, the Retirement Plan shall disburse the amount of the
13 BACKDROP Participant's BACKDROP benefits to the BACKDROP
14 Participant.

15 (k) All disbursements made pursuant to Section 121.212(j)
16 shall be made subject to and in accordance with all applicable
17 provisions of the Internal Revenue Code.

18 * * *

19 **Section 5. Approval of Settlement Agreement; Authorization to**
20 **Execute and Implement.**

21 There is hereby approved and the Mayor, or his designee, and
22 the Corporation Secretary are authorized to execute and deliver,
23 for and on behalf of the City, the Settlement Agreement in the form
24 **attached as Exhibit 1**, and take, or cause to be taken, for and on
25 behalf of the City, such further action as is necessary to
26 effectuate the purpose of this Ordinance.

27 **Section 6. Actuarial Impact Statement.** The actuarial impact
28 statement required by Section 112.63(3), Florida Statutes, as a
29 condition to any proposed change in retirement benefits, is
30 **attached as Exhibit 2.**

31 **Section 7. Effective Date.** This Ordinance shall become

1 effective upon signature by the Mayor or upon becoming effective
2 without the Mayor's signature.

3

4 Form Approved:

5

6 /s/ Cindy A. Laquidara

7 Office of General Counsel

8 Legislation Prepared By: Cindy A. Laquidara

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