

EXECUTIVE DIRECTOR RECOMMENDATIONS TO BOARD OF TRUSTEES
ON ORDINANCE 2014-386-E
JANUARY 2, 2015

A. WHEREAS SECTION:

The “whereas” provision do not accurately reflect our understanding of the discussion to date. The “whereas” provisions, however, are not a part of the ordinance and reflect only the Council’s unilateral view.

RECOMMENDATION: The Board should take no position on these provisions. Our desire was to resolve all outstanding issues. Yet, neither the draft Agreement nor the draft ordinance addresses the Voluntary Senior Management Staff Retirement Plan. Similarly, a memo from the Office of General Counsel also is silent on the issue. The Board has unilaterally closed the plan and all newly hired executive directors will receive retirement benefits as recommended by the proposed ordinance. This issue needs resolution as part of any over-all amendment.

Once a final agreement is reached, a jointly drafted “whereas” clause will be appropriate.

B. THE ORDINANCE

Page 6, Line 5 – Sec. 121.101. Control and Administration of Police and Fire Pension Fund.

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(f) From and after the prospective effective date of Ordinance 2014-386-E: (1) the Board shall not engage in the determination of pension benefits and shall leave the negotiation and future modification of pension benefits to elected City officials and certified bargaining agents; (2) Nothing in this section shall be construed to impair the rights provided under Article 1, Section 6 of the Florida Constitution or Chapter 447, Florida Statutes; (3) All subjects of collective bargaining including but not limited to pension or retirement benefits shall be subject to the requirements of Chapter 447, Florida Statutes; (4) The City and any authorized certified bargaining agent shall have the rights and be subject to the provisions of Chapter 447, Florida Statutes, including but not limited to the requirement for negotiations, the term limitation set forth in Section 447.309(5), Florida Statute, and the impasse process; (5) The City retains all rights to unilaterally take action that alters benefits (pension or otherwise) as authorized under Florida law; and (6) Nothing herein shall be construed to

waive the City's or the certified bargaining agent's right to demand collective bargaining as authorized under Florida law.

RECOMMENDATION: The Board has never “collectively bargained” with the City. The City and the Unions have all their respective rights, except they cannot enter into an agreement that will violate the Board’s Contract with the City.

All current fund members were hired under the terms of the 30 year agreement and should receive the rights and benefits upon which their service has been predicated.

It is recommended that the terms of participation for Group I members, as amended by the proposed ordinance concerning the DROP earning rate and the calculation of final average earnings be maintained for the duration of their tenure.

As future hires have no expectation concerning the terms of the Agreement, benefit design in the future for those participants are properly the subject of collective bargaining.

Sec. 121.107. Credit for broken service, continuous service, partial years transferability, and service as a Florida State Certified Police Officer or ~~Fire-Fighter~~Firefighter.

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Page 8, Line 12 - (d) Any active Member of the Police and Fire Pension Fund who is not a retiree and who has not attained vested status under any other governmental retirement system shall be entitled to purchase time service credit for up to five years of full time employment as a Police Officer under the provisions of F.S. Ch. 943, or as a certified ~~Fire-Fighter~~ Firefighter under the provisions of F.S. Ch. 633. Notwithstanding the preceding sentence, any active member of the Police and Fire Pension Fund who is not a retiree and seeks to purchase time service credit as a Police Officer under the provisions of F.S. Ch. 943, or as a certified Firefighter under the provisions of F.S. Ch. 633, under this paragraph for service with another government in Duval County, shall be entitled to purchase up to 5 years of such time service credit provided such service has t been used for entitlement for benefits under any other pension system.

RECOMMENDATION: While this service purchase is more limited than is permitted by, Fla. Stat. Section 175.032(4)(C) and 185.02(5)(C), agreement is recommended.

Page 11, Line 30 - (bc) Notwithstanding the deduction provided in subsection (a)(1) of this Section, a deduction of two percent per annum

RECOMMENDATION: This section must be read in conjunction with the DROP earning provisions. The Internal Revenue Code does not permit a DROP account to have negative earnings. If the Plan earned less than 2%, this negative earnings would occur and be in conflict with the “definitely determinable” provision of the Tax Code for defined benefit plans. If the proper earning rate is 0-10%, then there should be no contribution. If the contribution is to continue, the rate should be 2-10%. Either option is recommended as part of a total agreement on all other issues.

Page 14, Line 7 – (b) Within 30 days following the prospective effective date of Ordinance 2014-386-E, the Board will apply the entire balances in the Enhanced Benefits Account and the City Budget Stabilization Account to reduce the unfunded actuarial liability of the Plan. As of October 1, 2013, the total balance of both accounts was \$60,915,907.00; however, the amount applied pursuant to this section will be the actual balances of both accounts on the prospective effective date of Ordinance 2014-386-E, but shall not be less than \$60,915,907.00.

RECOMMENDATION: The current balances in the Enhanced Benefit Account and the City Budget Stabilization accounts is approximately \$80,000,000. Given the growth of these accounts, the Board has a policy decision to make as whether to authorize an additional transfer and if so, determine what is being received in return. The Board cannot transfer any money until the City contribution of 40 million dollars for the next 10 years is identified and authorized by ordinance. To the extent, any future Council fails to make a required payment, it is recommended that unpaid amount be added to the next ensuing City contribution and that the City consent to direct payment of any state or federal revenue sharing money necessary to meet that obligation.

Page 14, Line 16 - (c) Beginning with the first fiscal year commencing after the prospective effective date of Ordinance 2014-386-E and ending with the tenth fiscal year or when the fund reaches an 80% funded status, whichever is sooner, the City shall contribute \$40 million annually as an additional unfunded liability payment; provided, the application of the balances in the Enhanced Benefits Account and City Budget Stabilization Account provided in paragraph (b) shall reduce the City’s contributions under this paragraph (c).

RECOMMENDATION: It is understood that this amount is going directly to payment of unfunded accrued liability rather than current year normal cost. To that extent, approval is recommended.

Page 14, Line 24 - (d) The Florida Premium Tax Dollars (i.e., Chapter 175/185 Funds) will be allocated as follows: Beginning with the first fiscal year commencing after the prospective effective date of Ordinance 2014-386-E and ending with the seventh fiscal year, the Board shall annually allocate all Chapter 175/185 Funds, minus the Chapter 175/185 funds used to provide the holiday bonus, at the City's discretion for the benefit of the Plan, including without limitation to fund base benefits, reduce the unfunded actuarial accrued liability, or mitigate the City's annual required contribution to the Plan. (As used herein, "holiday bonus" refers to the annual discretionary Chapter 175/185 Fund bonus payment).

RECOMMENDATION: See comment above. Using funds advanced by our Members to offset the City current year normal cost contribution requirements is contrary to Chapter 112, Part VII, Fla. Stat. and does nothing to reduce the Unfunded Actuarial Accrued Liability. To the extent, any future Council fails to make a required payment, it is recommended that unpaid amount be added to the next ensuing City contribution and that the City consent to direct payment of any state or federal revenue sharing money necessary to meet that obligation.

The Board's contribution under the tentative agreement with the Mayor was \$107 million. Given the Council proposed ordinance, that sum is now approximately \$127 million. The Board has a policy decision to make as whether to authorize an additional transfer and if so, determine what is being received in return.

Subject to that determination, approval is recommended.

Page 15, Line 4 - (e)(1) The contributions in subsection (c) and (d) shall be contingent upon the other party making the payment noted in each subsection. Should the contribution in subsection (c) or (d) be less than that set forth in subsection (c) or (d), then the other contribution shall be reduced pro rata.

(2) In any fiscal year in which the City does not make the contribution set forth in subsection (c), the Board may use the Chapter 175/185 funds to either: (i) pay down the unfunded liability as a contribution above those otherwise required or (ii) fund a share plan as established in Section 121.115 or (iii) pay the holiday bonus. (As used herein, "holiday bonus" refers to the annual discretionary Chapter 175/185 Fund bonus payment identified in City Ordinance 2006-508-E.) The share plan created herein will be governed by the rules and regulation in Section 121.115. The share plan will remain unfunded until the requirements outlined in this section have been met.

RECOMMENDATION: See comments above.

Page 15, Line 20 - (3) After the seventh fiscal year after the prospective effective date of Ordinance 2014-386-E, the Board may use the Florida Premium Tax Dollars to either: (i) pay down the unfunded liability as a voluntary contribution or (ii) fund a share plan as established in Section 121.115 or (iii) pay the holiday bonus. (As used herein, "holiday bonus" refers to the annual discretionary Chapter 75/185 Fund bonus payment identified in City Ordinance 2006-508-E.)

RECOMMENDATION: Approval is recommended as all payments from Chapter Funds must be approved by the Board.

Page 15, Line 28 - (f) As an alternative to the provisions of subsection (c), the City may, at any time, contribute an additional unfunded liability payment in an amount equal to the then equivalent present value of payments due and owing under subsection (c).

RECOMMENDATION: Approval is recommended, subject to review by the actuary for the Board as to the proper method of calculating present value.

Page 16, Line 1 - **Sec. 121.115. Supplemental Share Plan.** (a) *Supplemental share plan retirement benefit.* A supplemental share plan retirement benefit ("Share Plan") is hereby created. The Share Plan shall consist of an individual share account for each active police officer or firefighter ("Participant") on or after the prospective effective date of Ordinance 2014-386-E. The sole source of funds for the Share Plan shall be Florida Premium Tax Dollars (i.e., Chapter 175/185 Funds) distributed pursuant to Section 121.114. The Board may deposit into the Share Plan only those monies identified in Section 121.114(e) and only when in conformance with the requirements of Section 121.114(d) and (e). The Share Plan shall remain dormant until such time as the Board makes its first deposit pursuant to Section 121.114(e).

(b) Participant Share Plan accounts shall be credited with premium tax revenues and investment earnings or losses, and interest, and distributed as set forth in this Section.

(c) *Annual crediting.* Effective January 1 after the first year in which the Board has made its first contribution to the Share Plan pursuant to Section 121.114(e) and each January 1 thereafter, the Share Plan account of each active Participant on the city's payroll as of the preceding September 30th shall be credited as follows: Each active Participant who was employed on the preceding September 30th shall receive one share for the plan year ending on the same September 30th. The total number of shares thus determined shall be divided into the premium tax revenues received by the

Share Plan during that plan year to determine the amount to be credited to the Share Plan account of each eligible Participant. Participants who had less than one year of service on September 30th shall receive prorated shares for each full month of service based on their partial year of service prior to September 30. Chapter 175 premium taxes shall be separately distributed to firefighter Participants and Chapter 185 premium taxes shall be separately distributed to police officer Participants.

(d) *Investment earnings and losses, or interest.* Effective the first January 1 after the Board makes its first contribution to the Share Plan, and each January 1 thereafter, the Share Account of each active Participant shall be credited or debited with earnings or losses based upon the amount in the Share Account at the close of the immediately preceding calendar year at a rate equal to the pension plan's actual net rate of investment return for the preceding plan year.

(e) *Distribution of share accounts.* A Participant with ten (10) or more years of credited service with the City, upon termination of creditable service employment, shall be eligible to receive a distribution of 100 percent of the balance in his or her Share Account, together with all earnings and losses and interest credited to the Share Account through the date of termination of employment. No benefit shall be payable to a Participant who terminates creditable service employment with fewer than ten (10) years of credited service. The Share Account balances of such non-vested terminated Members shall be redistributed among all eligible Participants' Share Accounts in the same manner as premium tax revenues in the following calendar year. The designated beneficiary of a Participant who has died shall receive the accumulated total of their Share Account balance. A Participant awarded a disability pension from the pension plan shall receive the accumulated total of their Share Account balance. Payment of Share Account benefits shall be by lump sum, which shall consist of the accumulated total balance of the active Participant's Share Account, or, at the Participant's direction, the Share Account balance may be rolled over to another qualified plan in accordance with the Internal Revenue Code, with an additional payment made for any amount credited in the year following termination of employment.

RECOMMENDATION: Add (f) The Board shall establish the Rules and Regulations for the operation of the Share Plan. A copy of the Rules and Regulations will be filed with the City Council Secretary. Subject to that addition, approval is recommended.

Page 18, Line 2 - Sec. 121.116. Board of Trustees' Investment Authority.

(a) The Board of Trustees is authorized to invest and reinvest

the assets of the Pension Fund in any lawful investment as provided in applicable provisions of s.112.661, 175.071, 185.06, 215.47, Florida Statutes, and, is further authorized to invest in alternative investments, alternative investment vehicles and portfolio positions, as those terms are defined in this section.

(b) Investments in hedge funds are prohibited.

(e) The Board of Trustees is authorized to make the same investments the General Employee Pension Fund or the Correctional Officers Pension Fund are permitted to make.

RECOMMENDATION: Approval is recommended.

Page 19, Line 19 - A salary and benefits survey should be conducted prior to advertising for the position in order to establish a compensation level comparable to funds of similar size and complexity to the Fund.

RECOMMENDATION: The Board has already authorized a new salary survey. Although it is duplicative, approval is recommended as consistent with current Board policy.

Page 20, Line 3 - (b) As part of the selection of any future Board of Trustees' Executive Director-Administrator, the aggregate compensation of the Executive Director-Administrator shall be determined in accordance with the market analysis of comparably-sized public pension plans as noted in subsection (a).

RECOMMENDATION: The Board has already authorized a new salary survey. Although it is duplicative, approval is recommended as consistent with current Board policy.

Page 20, Line 9 - The City and Board of Trustees shall ensure that any future Executive Director-Administrator and any senior management employee shall be placed in either the City General Employees' Pension Plan or a defined contribution plan with the Board of Trustees' employer contribution subject to the limits of federal law.

RECOMMENDATION: Approval is recommended.

Page 20, Line 13 - **Sec. 121.118. Use of General Counsel.** The City's Office of General Counsel (the "OGC") is ~~the~~ a proper source for legal representation on routine matters (e.g., open records, public meetings, and ~~other ordinary legal issues~~ collections) subject to the Charter and Ordinance Code. The Charter and Ordinance Code allow for separate counsel for ~~other purposes~~ at the Board's

discretion.

RECOMMENDATION: This section has been modified to reflect the recently adopted Board practice. With those stylistic amendments, approval is recommended.

Section 2. Part 2, Chapter 121 Amended; Section 121.201 Amended; Sections 121.201A and 121.201B Created; Sections 121.204, 121.206 and 121.209 Amended; Section 121.211 Created. Part 2, Chapter 121, Ordinance Code, is hereby amended; Section 121.201, Ordinance Code, is hereby amended; Sections 121.201A and 121.201B, Ordinance Code, are hereby created; Sections 121.204, 121.206 and 121.209, Ordinance Code, are amended; and Section 121.211, Ordinance Code, is hereby created; to read as follows:

Chapter 121. POLICE AND FIREFIGHTERS PENSION PLAN

PART 2. PENSION BENEFITS

Sec. 121.201. Retirement benefits.

Sec. 121.201A Retirement Benefits for Group I Members.

This Section 121.201A applies solely to Group I Members. Nothing herein shall be construed to apply to Group II Members. The following definitions are applicable to Group I Members:

(a) Time service retirement.

(1) For Members with 10 or more years of service as of the prospective effective date of Ordinance 2014-386-E, those Members shall be entitled to a time service retirement benefit equal to a maximum of 80 percent of the average salary (as defined in Section 121.113 (a)(1)) received by the member for the 52 pay periods immediately preceding the time of retirement, upon the completion of 30 years of credited service. For each year prior to the thirtieth year of service that a member retires, the 80 percent retirement benefit shall be reduced by two percent, of the average salary (as defined in Section 121.113 (a)(1)) received by the member for the 52 pay periods immediately preceding the time of retirement, with the minimum normal retirement benefit being 60 percent after completion of 20 years of credited service.

(2) For Members with fewer than 10 years of service as of the prospective effective date of Ordinance 2014-386-E, those Members shall be entitled to a time service retirement benefit equal to a maximum of 80 percent of the average salary (as defined in Section 121.113 (a)(1)) received by the member for the 104 pay periods

immediately preceding the time of retirement, upon the completion of 30 years of credited service. For each year prior to the thirtieth year of service that a member retires, the 80 percent retirement benefit shall be reduced by two percent, of the average salary (as defined in Section 121.113 (a)(1)) received by the member for the 104 pay periods immediately preceding the time of retirement, with the minimum normal retirement benefit being 60 percent after completion of 20 years of credited service. However, in no event shall the average salary be less than it would have been using the 52 pay periods ending on the prospective effective date of Ordinance 2014-386-E.

(b) Disability retirement.

(1) A Group I member, who prior to reaching the minimum normal retirement becomes permanently and totally disabled from useful and efficient service as a police officer or firefighter, as established by competent medical evidence, shall be entitled to a disability retirement. The disability retirement benefit for Members with 10 years of service as of the prospective effective date of Ordinance 2014-386-E shall be equal to 60 percent of the average salary received by the Member for the 52 pay periods immediately preceding the time of disability retirement. The disability retirement benefit for Members with fewer than 10 years of service as of the prospective effective date of Ordinance 2014-386-E shall be equal to 60 percent of the average salary received by the member for the 104 pay periods immediately preceding the time of disability retirement. However, in no event shall the average salary be less than it would have been using the 52 pay periods ending on the prospective effective date of Ordinance 2014-386-E. The Board shall establish the effective date on which the disability benefit shall commence. The Board shall, by rule, establish procedures for the examination of applicants for disability retirement, for the conduct of disability retirement hearings, for review of said hearings by a court of competent jurisdiction, and reexamination of retirees on disability pension. In the event the application for a disability pension is denied by the Board, then a new application for the same disability cannot be filed by the member within six months of the denial.

(2) For Group I Members with 10 or more years of service as of the prospective effective date of Ordinance 2014-386-E, who have been in the service of the City for a period of time equal to the minimum time necessary for time service retirement or more and become permanently and totally disabled from useful and efficient service shall be entitled to the same rate of pension benefit calculation of the average salary (as defined in Section 121.113 (a)(1)) received by the member for the 52 pay periods immediately preceding the time of disability retirement as those Members of his

pension plan who retire on time service retirement. For Group I Members with fewer than 10 years of service as of the prospective effective date of Ordinance 2014-386-E, who have been in the service of the City for a period of time equal to the minimum time necessary for time service retirement or more and become permanently and totally disabled from useful and efficient service shall be entitled to the same rate of pension benefit calculation of the average salary (as defined in Section 121.113 (a)(1)) received by the member for the 104 pay periods immediately preceding the time of disability retirement as those Members of his pension plan who retire on time service retirement. However, in no event shall the average salary be less than it would have been using the 52 pay periods ending on the prospective effective date of Ordinance 2014-386-E. Any member who elects to retire under a disability pension as provided in this Section shall be required to meet the same requirements for a disability pension as are required for any other member of the respective fund requesting a disability retirement. The Board shall establish the effective date on which the disability benefit shall commence.

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

RECOMMENDATION: Approval is recommended as consistent with current Group I Member benefits.

(c) Vested retirement benefits.

Page 29, Line 25 - (1) For Group I Members with 10 or more years of service as of the prospective effective date of Ordinance 2014-386-E, who terminate employment on or after the prospective effective date of Ordinance 2014-386-E with five or more years

RECOMMENDATION: Approval is recommended as consistent with the earlier tentative agreement with the Mayor.

Page 30, Line 25 - (2) In the event that the Member who is entitled to vested retirement benefits becomes deceased prior to the scheduled date for the commencement of the payment of retirement benefits, the surviving spouse and/or children of such Member shall not be entitled to a refund of contributions

RECOMMENDATION: Recommend approval.

Page 31, Line 14 - For Members with fewer than 20 years of credited service as of the prospective effective date of Ordinance 2014-386-E, beginning with the first bi-weekly pay period in the first January after commencement of benefit and in each subsequent first bi-weekly pay period in January, the Member shall be granted a COLA equal to three percent applied to the portion of the accrued benefit based on credited service prior to the prospective effective date of Ordinance 2014-386-E, and equal to the Social Security COLA for the same plan year, but not to exceed four percent, applied to the portion of the accrued benefit based on credited service on and after the prospective effective date of Ordinance 2014-386-E.

RECOMMENDATION: This is a policy decision for the Board as changes to COLA were not part of the tentative agreement with the Mayor. Recommendation should be dependent on resolution of all other matters at issue.

Page 31, Line 26 - Sec. 121.201B Retirement Benefits for Group II Members
This Section 121.201B sets forth the pension benefits that are applicable solely to Group II Members, and the term "Member" as used in this Section means "Group II Member".

(a) Time service retirement. Upon reaching 30 years of credited service, Group II Members shall be entitled to a time service retirement with a benefit equal to 2.5 percent of average salary multiplied by the number of years of credited service, but not exceeding a maximum of 75 percent of average salary. The term "average salary" as used in the foregoing sentence means the average "salaries" (as defined in Section 121.113(a)(2)) received by the Group II Member during the 130 bi-weekly pay periods immediately preceding the date of retirement. Notwithstanding the foregoing, the annual retirement benefit shall not exceed \$99,999.99, which amount shall be adjusted January 1 of each year beginning with the first January after the prospective effective date of Ordinance 2014-386-E, by the most recent cost of living adjustment applicable to recipients of Social Security retirement benefits, as determined by the U.S. Social Security Administration each calendar year, but not exceeding 1.5 percent.

(b) Disability retirement.

(1) A Group II Member who, prior to reaching the minimum normal retirement eligibility of 30 years of credited service, becomes permanently and totally disabled from useful and efficient service as a police officer or firefighter, as established by competent medical evidence, shall be entitled to a disability retirement. The disability retirement benefit shall be equal to 50 percent of

the average "salaries" (as defined in Section 121.113(a)(2)) received by the Group II Member for the 130 pay periods immediately preceding the time of disability retirement. The Board shall establish the effective date on which the disability benefit shall commence. The Board shall, by rule, establish procedures for the examination of applicants for disability retirement, for the conduct of disability retirement hearings, for review of said hearings by a court of competent jurisdiction, and reexamination of retirees on disability pension. In the event the application for a disability pension is denied by the Board, then a new application for the same disability cannot be filed by the Group II Member within six months of the denial.

(2) A Group II Member who has been in the service of the City for a period of time at least equal to the minimum time necessary for time service retirement and who becomes permanently and totally disabled from useful and efficient service, shall be entitled to the same pension calculation as a Group II Member who retires pursuant to a time service retirement as described in Section 121.201B(a). Any Group II Member who elects to retire under a disability pension as provided in this Section shall be required to meet the same requirements for a disability pension as are required for any other Member of the Fund requesting a disability retirement.

(c) Vested retirement benefits.

Page 36, Line 21 - (2) In the event that a former Group II Member who separates from service and is entitled to vested retirement benefits dies prior to the scheduled date for the commencement of the payment of retirement benefits, the surviving spouse and/or children of such member shall not be entitled to a refund of contributions nor shall they be entitled to the payment of survivors benefits otherwise extended to Members who complete the required number of years of service to become eligible for minimum time service benefits.

RECOMMENDATION: Recommend approval.

(3) Former Group II Members who separate from service and are entitled to receive vested retirement benefits are not eligible to qualify for potential enhancements pursuant to the minimum monthly pension provisions of Section 121.301.

Page 37, Line 2 - (4) Group II Members with at least 25 but less than 30 years of credited service shall be eligible for early retirement,

provided that for each year or partial year prior to reaching 30 years of credited service, the Group II Member who retires early shall incur a 2.5% accrual rate penalty for any year or part thereof short of 30 years. Notwithstanding this provision, the minimum pension a person taking early retirement under this section will not be less than 52.5% of employee's final average compensation. Early retirement benefits pursuant to this section will be calculated as follows:

Number of Years of Credited Service:	Retirement Benefit as a Percentage of Final Average Salary as defined in 121.113(a)(2):
25, but less than 26	52.50%
26, but less than 27	55.00%
27, but less than 28	60.00%
28, but less than 29	65.00%
29, but less than 30	70.00%

(d) Cost of Living Adjustments. (1) A Cost of Living Adjustment (COLA) based on each prior annual benefit amount actually received (exclusive of one-time bonuses or adjustments) shall be provided for Group II Retirees and their eligible survivors, on the first bi-weekly pay period in each January beginning in the third January following commencement of benefit. Group II Retirees and their eligible survivors shall be granted a COLA in the amount of COLA applicable to recipients of Social Security retirement benefits, as determined by the U.S. Social Security Administration each calendar year, but not exceeding 1.5 percent.

(2) In addition to the COLA, a minimum adjustment supplement of five (5) dollars per month for each year of actual credited service of the Participant used to compute the pension benefit shall be provided for current and future retirees and their survivors, and it shall be paid beginning with the first full biweekly pay period after October 1, 2003, and continuously thereafter; provided however, that such supplement shall be no less than twenty-five (25) dollars nor more than one hundred and fifty (150) dollars per month. The adjustment supplement described herein shall be based upon the member's actual years of service rather than imputed years of service, which is used for purposes of calculating pension

benefits under the disability retirement provisions of section 121.201A (b) and the surviving spouse provision of section 121.204(a)(1), and becomes operative in the event of the disability or death of a member, respectively. The Mayor shall annually, each January, evaluate the annual cost of the foregoing adjustment supplement by comparing it to the City's annual cost to provide single employee group health insurance. In the event that the City's cost to provide such health insurance per employee is less than the amount of such supplement per retiree, then the supplement shall be reduced to the amount of the insurance cost.

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

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

(g) Requirements that Actuarial Assumptions be specified. Section 401(a)(25) of the Internal Revenue Code provides that whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, such assumptions are specified in the plan in a way which precludes employer discretion. The provisions of Code Section 401(a)(25) and the linkage between the proper use of actuarial assumptions and the conclusion that the plan is established and maintained primarily to provide systematically for

the payment of 'definitely determinable benefits' to employees, is further described pursuant to Treasury Regulations Section 1.401-1(b)(1)(i). The Police and Fire Pension Plan incorporates by reference the requirements that actuarial assumptions be specified as described under Code Section 401(a)(25) and Treasury Regulations Section 1.401-1(b)(1)(i).

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

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Sec. 121.204 Surviving Spouse Benefits.

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

(a) Benefits under this section for Group I and Group II Members will be as follows:

* * *

Page 42, Line 14 - (g) A spouse shall be deemed living with the Member if the Member or spouse is confined to a nursing or hospital facility at the time of the Member's death, provided that the Member was living with the spouse at the time of admission to the nursing or hospital facility.

RECOMMENDATION: Recommend approval.

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

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Page 45, Line 6 - For Members with less than 20 years of creditable service, as of the prospective effective date of Ordinance 2014-386-E, such interest shall accrue based on the actual net rate of return after the deduction of all related and direct expenses for the preceding year rate of return; provided however, that the minimum interest shall be 0.0 percent and the maximum interest shall be 10.00 percent. Interest calculations shall be administered in accordance with rules prescribed by the board and interest distributions shall be credited using the 30-day month/360-day year method of calculation.

RECOMMENDATION: This section must be read in conjunction with the DROP earning provisions. The Internal Revenue Code does not permit a DROP account to have negative earnings. If the Plan earned less than 2%, this negative earnings would occur and be in conflict with the “definitely determinable” provision of the Tax Code for defined benefit plans. If the proper earning rate is 0-10%, then there should be no contribution. If the contribution is to continue, the rate should be 2-10%. Either option is recommended as part of a total agreement on all other issues.

Page 46, Line 12 – The annual rate of interest to be factored into such distribution period shall be based on the actual rate of return; provided however, that the minimum interest shall be 0.0 percent and the maximum interest shall be 10.00~~8.4~~ percent for Members with less than 20 years of service as of the prospective effective date of Ordinance 2014-386-E. For Members with 20 or more years of service as of the prospective effective date of Ordinance 2014-386-E, the annual rate of interest to be factored into such distribution period shall be 8.4 percent.

RECOMMENDATION: See above comments.

Page 47, Line 8 - April 1st, the deferred retirement benefit may be increased, under the provisions of Section 121.201A(d)(1), if applicable.

RECOMMENDATION: Recommend approval with amendment of an apparent scrivener’s error to January 1st.

(f) Health insurance subsidy. DROP Participants are not eligible for the health insurance subsidy as provided in Section 121.201A(d)(2) of this Chapter until termination of employment is effectuated.

* * *

(i) Contributions and deductions.

(1) The employer contributions on the salary, as defined in Section 121.113(a)(1) of DROP Participants shall be zero percent.

Page 47, Line 19 - (2) A deduction of two percent per annum shall be made from all salaries (as defined in Section 121.113(a)(1)) of DROP Participants as the contribution from the Participant during the period of DROP participation, with such amount being credited to the Base Benefits Fund.

RECOMMENDATION: See above comments regarding DROP.

Section 121.211 BACKDROP for Group II Members

* * *

Page 49, Line 18 -

<u>Number of years of</u> <u>Credited Service at</u> <u>Commencement of BACKDROP:</u>	<u>Retirement Benefit as a of</u> <u>Percentage of Average</u> <u>Salary as defined in Sec.</u> <u>121.113(a)(2):</u>
25 but less than 26	52.50%
26 but less than 27	57.00%
27 but less than 28	61.50%
28 but less than 29	66.00%
29 but less than 30	70.50%

(e) Interest shall be credited starting from the hypothetical date the payment would have been made had the BACKDROP Participant retired as of the beginning of the BACKDROP period to the end of the BACKDROP period at an annual rate of return, compounded annually, equivalent to the actual rate of return on the Fund assets during the BACKDROP period, provided that such rate of return shall not be less than zero nor more than ten percent.

(f) A BACKDROP Participant shall not be entitled to receive any cost-of-living increase during the BACKDROP Period. The waiting period to receive cost-of-living increases, as set forth in Section

121.201B(d), shall commence upon retirement.

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

(h) All disbursements made pursuant to Section 121.211(g) shall be made subject to and in accordance with all applicable provisions of the Internal Revenue Code.

RECOMMENDATION: There is an issue with calculation of amount of reduction in chart. As this will not become an issue for 25 years, approval is recommended as any changes will be addressed by collective bargaining.

Page 51, Line 2 - advisory oversight and advice to the Jacksonville Police and Fire Pension Board of Trustees ("Board") on: (1) financial matters; (2) actuarial practices and assumptions; (3) investment strategy and policy; (4) the selection of outside financial services providers, including investment managers and advisors; and (5) such other matters as requested by the Board.

PART 5. FINANCIAL INVESTMENT AND ADVISORY COMMITTEE

* * *

Sec. 121.502 General responsibilities and Duties of Financial Investment and Advisory Committee. The Financial Investment and Advisory Committee shall have the responsibility and duty to provide advisory oversight and advice

RECOMMENDATION: Approval is recommended with an amendment striking the words “advisory oversight and”; “(2) actuarial practices and assumptions;”.

Page 51, Line 25 - City Council shall designate whether the initial term is for two or for three years.

RECOMMENDATION: Recommend approval with an amendment substitution “board” for “City Council.”

Page 52, Line 5 - (b) With regard to the selection (or deselection) of individual investment managers, the Board of Trustees shall not select any investment manager without first obtaining the advice and recommendation of the Financial Investment and Advisory

Committee which, with the assistance of the professional staff of the Board, shall review any and all potential asset/investment managers. In selecting (or deselecting) the Board will then make its decision(s) taking into account Financial Investment and Advisory Committee recommendations as well as other information available to the Board.

RECOMMENDATION: Recommend approval subject to an amendment reading as follows: Notwithstanding any provision to contrary, nothing shall prevent the immediate removal of a manager, when in the opinion of the Board, in consultation with the investment consultant, immediate action is necessary to safeguard fund assets from loss. In such an event, the assets held by that manager will be transferred to a pre-selected index fund chosen for that purpose until a new manager can be selected as provided in this section.

Page 52, Line 15 – (c) With regard to the selection (or deselection) of other professionals or professional services, including, but not limited to, actuaries, the Financial Investment and Advisory Committee shall furnish advice and recommendations to the Board as requested by the Board, following such processes as may be determined with respect to the particular selection (or deselection).

RECOMMENDATION: Recommend approval subject to an amendment and re-letter to read: “(c) With regard to the selection (or deselection) of Plan professionals or professional services, the Financial Investment and Advisory Committee shall furnish advice and recommendations to the Board as requested by the Board, following such processes as may be determined by the Board with respect to the particular selection (or deselection).

Sec. 121.505. Financial Investment and Advisory Committee; Fiduciary Responsibilities; Improper Business Relationships.

(a) Financial Investment and Advisory Committee members shall be deemed to be fiduciaries of the Police and Fire Pension Fund. Each member individually and the Financial Investment and Advisory Committee as a whole shall be required to undergo periodically any and all fiduciary and ethical training required by the Board ~~or by~~ ordinance.

RECOMMENDATION: Recommend approval subject to fiduciary and ethical training to be determined by the Board.

Page 52, Line 29 – (b) Financial Investment and Advisory Committee members shall comply with all requirements of state law with regard

to annual public conflict disclosure statements required by members of other public agencies and boards.

RECOMMENDATION: Recommend approval.

Page 53, Line 6 - indirectly contract with or provide services for the investment of Police and Fire Pension Fund assets during the time of such member's service on the Financial Investment and Advisory Committee or for two (2) years thereafter.

(2) The Board may waive the prohibition in Subsection (c)(1) if, (a) such potential conflict is fully disclosed to the Board as well as the Financial Investment and Advisory Committee, and (b) only after the Financial Investment and Advisory Committee members who have no apparent conflict in the matter unanimously

RECOMMENDATION: This section is not recommended for approval. Allowing waivers of conflict on an *ad hoc* basis will increase the likelihood of a conflict or the appearance of a conflict.

Page 54, Line 17 - (b) Board of Trustee members shall comply with all requirements of state law with regard to annual public conflict disclosure statements required by members of other public agencies and boards.

(c) (1) No business organization or affiliate thereof that is owned or controlled by, or employs, a member of the Board of Trustees or a spouse, child or sibling of a member of the Board of Trustees shall directly or indirectly contract with or provide services for the investment of Police and Fire Pension Fund assets during the time of such member's service on the Financial Investment and Advisory Committee or for two (2) years thereafter.

RECOMMENDATION: Approval is recommended subject to correcting an apparent scrivener's error on Line 25 in which "Financial Investment and Advisory Committee" should be replaced with "Board of Trustees".

Page 55, Line 9 - Sec. 121.602. Actuarial Assumptions. The assumed annual actuarial rate of return Jacksonville Police and Fire Pension Fund at the date of the adoption of this section shall be 7.0%. This rate shall be modified only as required by law or upon agreement by the ~~Mayer and City Council~~ City and the Police and Fire Pension Fund Board of Trustees, based on sound actuarial practices.

RECOMMENDATION: Recommend approval subject to the above stylistic correction.

Page 56, Line 4 – (2) Alternative funding scenarios based on variable investment performance in addition to the base case, that extend to future years and incorporate volatility;

(3) The latest “experience studies” prepared by the Board's actuary;

(4) Consistency in actuarial methods;

(5) Accrual method: Entry Age Normal (EAN);

(6) Annual normal cost disclosure, using a separate annual normal cost disclosure for each pension group as those groups are defined in Part 2, Chapter 121, Ordinance Code; and

RECOMMENDATION: Approval is recommended subject to deleting (2) which does not limit the number of scenarios and can lead to confusion. The remaining sections should be renumbered.

Page 56, Line 14 – (7) Unfunded liabilities will be amortized as separate annual bases over closed 30-year periods or less, unless otherwise required by law.

RECOMMENDATION: As the State Division of Retirement has approved a combined base, approval of change is not recommended.

(c) The actuarial practices will be consistent from year to year unless changed through an “experience study” or decision of the Board, with advice from the Financial Investment and Advisory Committee, or unless necessary for compliance with applicable laws or regulations.

RECOMMENDATION: The above is duplicative of current state policy. With that observation, approval is recommended.

Page 56, Line 22 – (d) The Board of Trustees must distribute to City's Chief Financial Officer and City Council Auditor the Police and Fire Pension Fund's quarterly investment return reports. These reports must, at a minimum, show gross gain/loss results as well as gain/loss results net of investment fees. These quarterly reports must also include comparisons to (1) assumption and benchmarks of the Police and Fire Pension Fund and (2) results of comparable pension funds.

RECOMMENDATION: The Board is already making the recommended distribution as well as publishing on the Board website. With that observation, approval is recommended.

Sec. 121.604. Annual Financial Statements.

(a) On or before January 31 of each year, commencing with the first January following the prospective effective date of Ordinance 2014-386-E, the Board of Trustees shall prepare annual financial statements for the fiscal year ending the previous September 30 and submit such annual financial statements electronically or as otherwise agreed to the Mayor, City Council President, City Director of Finance, City Council Auditor, and the Treasurer of the Board; and, on or before March 15 of each year, to the Florida Department of Management Services (the "Department") in format(s) prescribed by the Department.

(b) The annual financial statements shall be in compliance with the requirements of the Government Accounting and Standard Board's Statement No. 67, Financial Reporting for Pension Plans and Statement No. 68, Accounting and Financial Reporting for Pensions, using the mortality tables and generational projections by gender most recently available from qualified actuarial sources.

RECOMMENDATION: We are required by Statue and the Charter to have a "annual independent audit". Copies are already provided to all appropriate parties, also available from Fund website. Although it is duplicative of current practice, approval is recommended.

Page 57, Line 15 - unaccepted updates also are available that suggest longevity improvements beyond accepted tables, then such updates shall be used in lieu of accepted tables so long as such usage remains acceptable within GASB requirements and is permitted by applicable law.

RECOMMENDATION: The term "unaccepted updates" is unclear and may end up requiring use of actuarial practices contrary to state law and the Actuarial Standards of Practice. Approval is not recommended and clarification should be requested.

Page 57, Line 20 - (c) The annual financial statements shall report funding status, contribution rates and expected normal cost of new benefits earned using both the current assumed rate of return on investments and the greater of 5.4% or an assumed discount rate that is 200 basis points less than the Fund's assumed rate of return.

RECOMMENDATION: Approval is not recommended of three different levels (7%, 5% and 5.4%) This is will require unnecessary expenditure of taxpayer money. Consistent with state law, approval of 7% and 200 basis points less than the assumed rate of return (5%) is recommended.

Page 57, Line 29 - Sec. 121.605. Public Information. The Board of Trustees shall publish on its website on a timely basis:

(a) all financial and actuarial studies and reports created pursuant to this Chapter or other law;

(b) minutes of its meetings for the past 3 years on a rolling basis; and

(c) copies of all reports or studies commissioned by the Board of Trustees, including, but not limited to, experience studies and investment performance reports.

RECOMMENDATION: This is duplicative of current Board practice. With that observation, approval is recommended.

Page 61, Line 14 - Trustees chosen and appointed by the City Council shall not be a participant or be enrolled in a City of Jacksonville pension, shall be limited to a maximum of two four year terms, and shall have at least 10 years of professional financial experience.

RECOMMENDATION: The City has the exclusive right to determine any additional qualifications for its two Board appointees. The proposed language will limit the field of qualified candidates for Pension Trustee Board Membership. As this is matter within the City's discretion, the Board should take no position.

Page 61, Line 19 - Section 6. Ratification Disclaimer. Notwithstanding any references to the "Thirty Year Agreement" contained herein or in the Agreement attached hereto as **Fourth Revised Exhibit 1**, labeled as "Fourth Revised Exhibit 1, Fourth Rev Agmt, December 9, 2014 - Floor", nothing herein or in **Fourth Revised Exhibit 1** shall be construed as ratification or approval of said "Thirty Year Agreement." This Agreement supersedes and replaces all previous agreements.

RECOMMENDATION: There is a difference of opinion whether the current proposal is an entirely new agreement or an amendment to an existing agreement. The primary consideration should be with the contents of the agreement. Subject to agreement on all other terms, it is recommended that the respective counsel work cooperatively to fashion acceptable language on this issue.

Page 61, Line 27 - Section 7. Approval of 2014 Retirement Reform Agreement; Authorization to Execute and Implement.

There is hereby approved and the Mayor, or his designee, and the Corporation Secretary are authorized to execute and deliver, for and on behalf of the City, the 2014 Retirement Reform Agreement in the form attached as **Fourth Revised Exhibit 1**, labeled as "Fourth Revised Exhibit 1, Fourth Rev Agmt, December 9, 2014 - Floor", and

take, or cause to be taken, for and on behalf of the City, such further action as is necessary to effectuate the purpose of this Ordinance. The Agreement as set forth in **Fourth Revised Exhibit 1**, labeled as "Fourth Revised Exhibit 1, Fourth Rev Agmt, December 9, 2014 - Floor" herein replaces and supersedes the terms of the existing Police and Fire Pension Plan. It is intended that there be no lapse either in time or effect between this plan and such superseded plans.

RECOMMENDATION: See above comments.