

ORDINANCE NO. _____

1 AN ORDINANCE amending Chapters 2.62, 2.65, and 2.66 of the Lincoln Municipal
2 Code by amending Sections 2.62.055, 2.65.055, 2.66.055, 2.62.180, 2.65.180, and 2.66.140; and
3 repealing Sections 2.62.055, 2.65.055, 2.66.055, 2.62.180, 2.65.180, and 2.66.140 as hitherto existing.

4 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

5 Section 1. That Section 2.62.055 be amended to read as follows:

6 **2.62.055 Limitations of Benefits.**

7 (a) Notwithstanding any other provisions of the Plan to the contrary, the member contributions
8 paid to and retirement benefits paid from the Plan shall be limited to such extent as may be necessary to
9 conform to the requirements of Section 415 of the Internal Revenue Code for a qualified pension plan.

10 (b) Participation in Other Qualified Plans: Aggregation of Limits.

11 (1) The 415(b) limit with respect to any member who at any time has been a member in
12 any other defined benefit plan as defined in Section 414(j) of the Internal Revenue Code maintained by
13 the City in this Plan shall apply as if the total benefits payable under all such defined benefit plans in
14 which the member has been a member were payable from one plan.

15 (2) The 415(c) limit with respect to any member who at any time has been a member in
16 any other defined contribution plan as defined in Section 414(i) of the Internal Revenue Code maintained
17 by the City in this Plan shall apply as if the total annual additions under all such defined contribution
18 plans in which the member has been a member were payable from one plan.

19 (c) Basic 415(b) Limitation.

20 (1) Before January 1, 1995, a member may not receive an annual benefit that exceeds the
21 limits specified in Section 415(b) of the Internal Revenue Code, subject to the applicable adjustments in
22 that Section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the
23 dollar amount specified in Section 415(b)(1)(A) of the Internal Revenue Code, subject to the applicable
24 adjustments in Section 415(b) of the Internal Revenue Code and subject to any additional limits that may
25 be specified in the Plan. In no event shall a member's benefit payable under the plan in any limitation

1 year be greater than the limit applicable at the annuity starting date, as increased in subsequent years
2 pursuant to Section 415(d) of the Internal Revenue Code and the regulations thereunder.

3 (2) For purposes of Section 415(b) of the Internal Revenue Code, the “annual benefit”
4 means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without
5 regard to the benefit attributable to after-tax employee contributions (except pursuant to Section 415(n) of
6 the Internal Revenue Code) and to rollover contributions (as defined in Section 415(b)(2)(A) of the
7 Internal Revenue Code). The “benefit attributable” shall be determined in accordance with Treasury
8 Regulations.

9 (d) Adjustments to Basic 415(b) Limitation for Form of Benefit. If the benefit under the Plan is
10 other than the form specified in subsection (c)(2), then the benefit shall be adjusted so that it is the
11 equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

12 (1) If the form of benefit without regard to the automatic benefit increase feature is not a
13 straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by
14 either reducing the Section 415(b) of the Internal Revenue Code limit applicable at the annuity starting
15 date or adjusting the form of benefit to an actuarially equivalent amount [determined using the
16 assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii)] that takes into account the
17 additional benefits under the form of benefit as follows:

18 (2) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code
19 does not apply [a monthly benefit], the actuarially equivalent straight life annuity benefit that is the
20 greater of (or the reduced Limit applicable at the annuity starting date which is the “lesser of” when
21 adjusted in accordance with the following assumptions):

22 (i) The annual amount of the straight life annuity (if any) payable to the member
23 under the plan commencing at the same annuity starting date as the form of benefit to the member, or

24 (ii) The annual amount of the straight life annuity commencing at the same
25 annuity starting date that has the same actuarial present value as the form of benefit payable to the
26 member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and

27 (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation

1 Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the
2 applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the
3 applicable mortality tables described in Internal Revenue Code Section 417(e)(3)(B) (Notice 2008-85 or
4 any subsequent Internal Revenue Service guidance implementing Internal Revenue Code Section
5 417(e)(3)(B)); or

6 (iii) For a benefit paid in a form to which Section 417(e)(3) of the Internal
7 Revenue Code applies [a lump sum benefit], the actuarially equivalent straight life annuity benefit that is
8 the greatest of (or the reduced Section 415(b) of the Internal Revenue Code limit applicable at the annuity
9 starting date which is the “least of” when adjusted in accordance with the following assumptions:

10 A. The annual amount of the straight life annuity commencing at the
11 annuity starting date that has the same actuarial present value as the particular form of benefit payable,
12 computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial
13 experience;

14 B. The annual amount of the straight life annuity commencing at the
15 annuity starting date that has the same actuarial present value as the particular form of benefit payable,
16 computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and (i)
17 for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation
18 Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the
19 applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the
20 applicable mortality tables described in Internal Revenue Code Section 417(e)(3)(B) (Notice 2008-85 or
21 any subsequent Internal Revenue Service guidance implementing Internal Revenue Code Section
22 417(e)(3)(B)); or

23 C. The annual amount of the straight life annuity commencing at the
24 annuity starting date that has the same actuarial present value as the particular form of benefit payable
25 (computed using the applicable interest rate for the distribution under Treasury Regulation Section
26 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1 2007, using the rate in effect for the month
27 prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the plan

1 year with a one-year stabilization period)) and (i) for years prior to January 1, 2009, the applicable
2 mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or
3 any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and
4 (ii) for years after December 31, 2008, the applicable mortality tables described in Internal Revenue Code
5 Section 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance
6 implementing Internal Revenue Code Section 417(e)(3)(B)), divided by 1.05.

7 (e) Benefits Not Taken into Account for 415(b) Limitation. For purposes of this section, the
8 following benefits shall not be taken into account in applying these limits:

9 (1) Any ancillary benefit which is not directly related to retirement income benefits;

10 (2) That portion of any joint and survivor annuity that constitutes a qualified joint and
11 survivor annuity;

12 (3) Any other benefit not required under Section 415(b)(2) of the Internal Revenue Code
13 and Treasury Regulations thereunder to be taken into account for purposes of the limitation of Section
14 415(b)(1) of the Internal Revenue Code.

15 (f) Other Adjustments in 415(b) Limitation.

16 (1) In the event the member's retirement benefits become payable before age sixty-two
17 (62), the limit prescribed by this section shall be reduced in accordance with Treasury Regulations
18 pursuant to the provisions of Section 415(b) of the Internal Revenue Code, so that such limit (as so
19 reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is
20 equivalent to a one hundred sixty thousand dollar (\$160,000) (as adjusted) annual benefit beginning at age
21 sixty-two (62).

22 (2) In the event the member's benefit is based on at least fifteen (15) years of service as a
23 full-time employee of any police or fire department or on fifteen (15) years of military service, the
24 adjustments provided for in (1) above shall not apply.

25 (3) The reductions provided for in (1) above shall not be applicable to pre-retirement
26 disability benefits or pre-retirement death benefits.

1 (g) Less than Ten Years of Service Adjustment for 415(b) Limitations. The maximum retirement
2 benefits payable to any member who has completed less than ten years of service shall be the amount
3 determined under subsection (c) multiplied by a fraction, the numerator of which is the number of the
4 member's years of service and the denominator of which is ten. The reduction provided by this
5 subsection cannot reduce the maximum benefit below 10%. The reduction provided for in this subsection
6 shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

7 (h) \$10,000 Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to
8 a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such
9 member under this plan and under all other qualified defined benefit pension plans to which the member's
10 employer contributes, do not exceed \$10,000 for the applicable limitation year and for any prior limitation
11 year and the employer has not any time maintained a qualified defined contribution plan in which the
12 member participated.

13 (i) Effect of COLA without a Lump Sum Component on 415(b) Testing. Effective on and after
14 January 1, 2009, for purposes of applying the limits under Section 415(b) of the Internal Revenue Code
15 (the "Limit") to a member with no lump sum benefit, the following will apply:

16 (1) A member's applicable Limit will be applied to the member's annual benefit in the
17 member's first limitation year without regard to any cost of living adjustments under Section 2.62.140;

18 (2) To the extent that the member's annual benefit equals or exceeds the Limit, the
19 member will no longer be eligible for cost of living increases until such time as the benefit plus the
20 accumulated increases are less than the Limit; and

21 (3) Thereafter, in any subsequent limitation year, a member's annual benefit, including
22 any cost of living increases under Section 2.62.140, shall be tested under the then applicable benefit Limit
23 including any adjustment to the Section 415(b)(1)(A) of the Internal Revenue Code dollar limit under
24 Section 415(d) of the Internal Revenue Code, and the regulations thereunder.

25 (j) Effect of COLA with a Lump Sum Component on 415(b) Testing. On and after January 1,
26 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum (a
27 DROP lump sum), a member's applicable Limit will be applied taking into consideration cost of living

1 increases as required by Section 415(b) of the Internal Revenue Code and applicable Treasury
2 Regulations.

3 (k) Section 415(c) limitations on contributions and other additions. After-tax member
4 contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as
5 adjusted pursuant to Section 415(d) of the Internal Revenue Code) or 100% of the member's
6 compensation.

7 (1) Annual additions are defined to mean the sum (for any year) of employer
8 contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's
9 individual account. Member contributions are determined without regard to rollover contributions and to
10 picked-up employee contributions that are paid to a defined benefit plan.

11 (2) For purposes of applying Section 415(c) of the Internal Revenue Code and for no
12 other purpose, the definition of compensation where applicable will be compensation actually paid or
13 made available during a limitation year, except as noted below and as permitted by Treasury Regulation
14 Section 1.415(c)-2, or successor regulation; provided, however, that member contributions picked up
15 under Section 414(h) of the Internal Revenue Code shall not be treated as compensation.

16 (3) Compensation will be defined as wages within the meaning of Section 3401(a) of the
17 Internal Revenue Code and all other payments of compensation to an employee by an employer for which
18 the employer is required to furnish the employee a written statement under Sections 6041(d), 6051(a)(3)
19 and 6052 of the Internal Revenue Code and will be determined without regard to any rules under Section
20 3401(a) of the Internal Revenue Code that limit the remuneration included in wages based on the nature
21 or location of the employment or the services performed (such as the exception for agricultural labor in
22 Section 3401(a)(2) of the Internal Revenue Code).

23 (i) However, for limitation years beginning after December 31, 1997,
24 compensation will also include amounts that would otherwise be included in compensation but for an
25 election under Section 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Internal Revenue Code.
26 For limitation years beginning after December 31, 2000, compensation shall also include any elective

1 amounts that are not includible in the gross income of the member by reason of Section 132(f)(4) of the
2 Internal Revenue Code.

3 (ii) For limitation years beginning on and after January 1, 2008, compensation for
4 the limitation year shall also include compensation paid by the later of 2½ months after a member's
5 severance from employment or the end of the limitation year that includes the date of the member's
6 severance from employment if:

7 A. The payment is regular compensation for services during the
8 member's regular working hours, or compensation for services outside the member's regular working
9 hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and,
10 absent a severance from employment, the payments would have been paid to the member while the
11 member continued in employment with the employer; or

12 B. The payment is for unused accrued bona fide sick, vacation or other
13 leave that the member would have been able to use if employment had continued; or

14 C. Payments pursuant to a nonqualified unfunded deferred compensation
15 plan, but only if the payments would have been paid to the member at the same time if the member had
16 continued employment with the employer and only to the extent that the payment is includible in the
17 member's gross income.

18 Any payments not described in paragraph (ii) above are not considered compensation if
19 paid after severance from employment, even if they are paid within two and one-half (2½) months
20 following severance from employment, except for payments to the individual who does not currently
21 perform services for the employer by reason of qualified military service (within the meaning of Section
22 414(u)(1) of the Internal Revenue Code) to the extent these payments do not exceed the amounts the
23 individual would have received if the individual had continued to perform services for the employer
24 rather than entering qualified military service.

25 An employee who is in qualified military service (within the meaning of Section
26 414(u)(1) of the Internal Revenue Code) shall be treated as receiving compensation from the employer
27 during such period of qualified military service equal to (i) the compensation the employee would have

1 received during such period if the employee were not in qualified military service, determined based on
2 the rate of pay the employee would have received from the employer but for the absence during the period
3 of qualified military service, or (ii) if the compensation the employee would have received during such
4 period was not reasonably certain, the employee's average compensation from the employer during the
5 twelve month period immediately preceding the qualified military service (or, if shorter, the period of
6 employment immediately preceding the qualified military service).

7 (iii) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-
8 2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent
9 the back pay represents wages and compensation that would otherwise be included under this definition.

10 (iv) For limitation years beginning on or after January 1, 2008, a member's
11 compensation for purposes of subsection (k) shall not exceed the annual limit under Section 401(a)(17) of
12 the Internal Revenue Code.

13 (l) Service Purchases under Section 415(n). Effective for permissive service credit contributions
14 made in limitation years beginning after December 31, 1997, if a member makes one or more
15 contributions to purchase permissive service credit under the plan, then the requirements of Section
16 415(n) of the Internal Revenue Code will be treated as met only if:

17 (1) The requirements of Section 415(b) of the Internal Revenue Code are met, determined
18 by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of
19 Section 415(b) of the Internal Revenue Code, or

20 (2) The requirements of Section 415(c) of the Internal Revenue Code are met, determined
21 by treating all such contributions as annual additions for purposes of Section 415(c) of the Internal
22 Revenue Code.

23 (3) For purposes of applying this section, the Plan will not fail to meet the reduced limit
24 under Section 415(b)(2)(C) of the Internal Revenue Code solely by reason of this subparagraph and will
25 not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code solely
26 by reason of this section.

27 (4) For purposes of this section the term "permissive service credit" means service credit:

1 (i) recognized by the Plan for purposes of calculating a member's benefit under
2 the Plan,

3 (ii) which such member has not received under the Plan, and

4 (iii) which such member may receive only by making a voluntary additional
5 contribution, in an amount determined under the Plan, which does not exceed the amount necessary to
6 fund the benefit attributable to such service credit.

7 Effective for permissive service credit contributions made in limitation years beginning after December
8 31, 1997, such term may include service credit for periods for which there is no performance of service,
9 and, notwithstanding clause (B), may include service credited in order to provide an increased benefit for
10 service credit which a member is receiving under the Plan.

11 (5) The Plan will fail to meet the requirements of this section if:

12 (i) more than five years of nonqualified service credit are taken into account for
13 purposes of this subparagraph, or

14 (ii) any nonqualified service credit is taken into account under this paragraph
15 before the member has at least five years of participation under the Plan.

16 (6) For purposes of paragraph (5) effective for permissive service credit contributions
17 made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means
18 permissive service credit other than that allowed with respect to:

19 (i) service (including parental, medical, sabbatical, and similar leave) as an
20 employee of the Government of the United States, any State or political subdivision thereof, or any
21 agency or instrumentality of any of the foregoing (other than military service or service for credit which
22 was obtained as a result of a repayment described in Section 415(k)(3) of the Internal Revenue Code),

23 (ii) service (including parental, medical, sabbatical, and similar leave) as an
24 employee (other than as an employee described in clause (A)) of an education organization described in
25 Section 170(b)(1)(A)(ii) of the Internal Revenue Code which is a public, private, or sectarian school
26 which provides elementary or secondary education (through grade 12), or a comparable level of
27 education, as determined under the applicable law of the jurisdiction in which the service was performed,

1 (iii) service as an employee of an association of employees who are described in
2 clause (A), or

3 (iv) military service (other than qualified military service under Section 414(u) of
4 the Internal Revenue Code) recognized by the Plan.

5 In the case of service described in clause (i), (ii), or (iii), such service will be non-
6 qualified service if recognition of such service would cause a member to receive a retirement benefit for
7 the same service under more than one plan.

8 (7) In the case of a trustee-to-trustee transfer after December 31, 2001, to which Section
9 403(b)(13)(A) of the Internal Revenue Code or Section 457(e)(17)(A) of the Internal Revenue Code
10 applies (without regard to whether the transfer is made between plans maintained by the same employer)-

11 (i) the limitations of paragraph (5) will not apply in determining whether the
12 transfer is for the purchase of permissive service credit, and

13 (ii) the distribution rules applicable under federal law to the Plan will apply to
14 such amounts and any benefits attributable to such amounts.

15 (8) For an eligible member, the limitation of Section 415(c)(1) of the Internal Revenue
16 Code shall not be applied to reduce the amount of permissive service credit which may be purchased to an
17 amount less than the amount which was allowed to be purchased under the terms of a plan as in effect on
18 August 5, 1997. For purposes of this paragraph an eligible member is an individual who first became a
19 member in the Plan before January 1, 1998.

20 (m) Modification of Contributions for 415(c) and 415(n) Purposes. Notwithstanding any other
21 provision of law to the contrary, the Plan Administrator may modify a request by a member to make a
22 contribution to the Plan if the amount of the contribution would exceed the limits provided in Section 415
23 of the Internal Revenue Code by using the following methods:

24 (1) If the law requires a lump sum payment for the purchase of service credit, the Plan
25 Administrator may establish a periodic payment plan for the member to avoid a contribution in excess of
26 the limits under Section 415(c) or 415(n) of the Internal Revenue Code.

1 (2) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the
2 limits imposed by Section 415(c) or 415(n) of the Internal Revenue Code, the Plan Administrator may
3 either reduce the member's contribution to an amount within the limits of those sections or refuse the
4 member's contribution.

5 (n) Repayments of Cashouts. Any repayment of contributions (including interest thereon) to the
6 Plan with respect to an amount previously refunded upon a forfeiture of service credit under the Plan or
7 another governmental plan maintained by the City shall not be taken into account for purposes of Section
8 415 of the Internal Revenue Code, in accordance with applicable Treasury Regulations.

9 (o) Reduction of Benefits Priority. Reduction of benefits and/or contributions to all plans, where
10 required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in
11 which the member participated, such reduction to be made first with respect to the plan in which the
12 member most recently accrued benefits and thereafter in such priority as shall be determined by the plan
13 and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for
14 defined contribution plans in which the member participated, such reduction to be made first with respect
15 to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be
16 established by the plan and the plan administrator for such other plans provided, however, that necessary
17 reductions may be made in a different manner and priority pursuant to the agreement of the plan and the
18 plan administrator of all other plans covering such member.

19 (p) Effect of Direct Rollover on 415(b) Limit. If the plan accepts a direct rollover of an
20 employee's or former employee's benefit from a defined contribution plan qualified under Section 401(a)
21 of the Internal Revenue Code of 1986 which is maintained by the employer, any annuity resulting from
22 the rollover amount that is determined using a more favorable actuarial basis than required under Section
23 417(e) of the Internal Revenue Code of 1986 shall be included in the annual benefit for purposes of the
24 limit under Section 415(b) of the Internal Revenue Code of 1986.

25 Section 2. That Section 2.65.055 be amended to read as follows:

26 **2.65.055 Limitations of Benefits.**

1 (a) Notwithstanding any other provisions of the Plan to the contrary, the member contributions
2 paid to and retirement benefits paid from the Plan shall be limited to such extent as may be necessary to
3 conform to the requirements of Section 415 of the Internal Revenue Code for a qualified pension plan.

4 (b) Participation in Other Qualified Plans: Aggregation of Limits.

5 (1) The 415(b) limit with respect to any member who at any time has been a member in
6 any other defined benefit plan as defined in Section 414(j) of the Internal Revenue Code maintained by
7 the City in this Plan shall apply as if the total benefits payable under all such defined benefit plans in
8 which the member has been a member were payable from one plan.

9 (2) The 415(c) limit with respect to any member who at any time has been a member in
10 any other defined contribution plan as defined in Section 414(i) of the Internal Revenue Code maintained
11 by the City in this Plan shall apply as if the total annual additions under all such defined contribution
12 plans in which the member has been a member were payable from one plan.

13 (c) Basic 415(b) Limitation.

14 (1) Before January 1, 1995, a member may not receive an annual benefit that exceeds the
15 limits specified in Section 415(b) of the Internal Revenue Code, subject to the applicable adjustments in
16 that Section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the
17 dollar amount specified in Section 415(b)(1)(A) of the Internal Revenue Code, subject to the applicable
18 adjustments in Section 415(b) of the Internal Revenue Code and subject to any additional limits that may
19 be specified in the Plan. In no event shall a member's benefit payable under the plan in any limitation
20 year be greater than the limit applicable at the annuity starting date, as increased in subsequent years
21 pursuant to Section 415(d) of the Internal Revenue Code and the regulations thereunder.

22 (2) For purposes of Section 415(b) of the Internal Revenue Code, the "annual benefit"
23 means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without
24 regard to the benefit attributable to after-tax employee contributions (except pursuant to Section 415(n) of
25 the Internal Revenue Code) and to rollover contributions (as defined in Section 415(b)(2)(A) of the
26 Internal Revenue Code). The "benefit attributable" shall be determined in accordance with Treasury
27 Regulations.

1 (d) Adjustments to Basic 415(b) Limitation for Form of Benefit. If the benefit under the Plan is
2 other than the form specified in subsection (c)(2), then the benefit shall be adjusted so that it is the
3 equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

4 (1) If the form of benefit without regard to the automatic benefit increase feature is not a
5 straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by
6 either reducing the Section 415(b) of the Internal Revenue Code limit applicable at the annuity starting
7 date or adjusting the form of benefit to an actuarially equivalent amount [determined using the
8 assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii)] that takes into account the
9 additional benefits under the form of benefit as follows:

10 (2) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code
11 does not apply [a monthly benefit], the actuarially equivalent straight life annuity benefit that is the
12 greater of (or the reduced Limit applicable at the annuity starting date which is the “lesser of” when
13 adjusted in accordance with the following assumptions):

14 (i) The annual amount of the straight life annuity (if any) payable to the member
15 under the plan commencing at the same annuity starting date as the form of benefit to the member, or

16 (ii) The annual amount of the straight life annuity commencing at the same
17 annuity starting date that has the same actuarial present value as the form of benefit payable to the
18 member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and

19 (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation
20 Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the
21 applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the
22 applicable mortality tables described in Internal Revenue Code Section 417(e)(3)(B) (Notice 2008-85 or
23 any subsequent Internal Revenue Service guidance implementing Internal Revenue Code Section
24 417(e)(3)(B)); or

25 (iii) For a benefit paid in a form to which Section 417(e)(3) of the Internal
26 Revenue Code applies [a lump sum benefit], the actuarially equivalent straight life annuity benefit that is

1 the greatest of (or the reduced Section 415(b) of the Internal Revenue Code limit applicable at the annuity
2 starting date which is the “least of” when adjusted in accordance with the following assumptions:

3 A. The annual amount of the straight life annuity commencing at the
4 annuity starting date that has the same actuarial present value as the particular form of benefit payable,
5 computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial
6 experience;

7 B. The annual amount of the straight life annuity commencing at the
8 annuity starting date that has the same actuarial present value as the particular form of benefit payable,
9 computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and (i)
10 for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation
11 Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the
12 applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the
13 applicable mortality tables described in Internal Revenue Code Section 417(e)(3)(B) (Notice 2008-85 or
14 any subsequent Internal Revenue Service guidance implementing Internal Revenue Code Section
15 417(e)(3)(B)); or

16 C. The annual amount of the straight life annuity commencing at the
17 annuity starting date that has the same actuarial present value as the particular form of benefit payable
18 (computed using the applicable interest rate for the distribution under Treasury Regulation Section
19 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1 2007, using the rate in effect for the month
20 prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the plan
21 year with a one-year stabilization period)) and (i) for years prior to January 1, 2009, the applicable
22 mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or
23 any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and
24 (ii) for years after December 31, 2008, the applicable mortality tables described in Internal Revenue Code
25 Section 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance
26 implementing Internal Revenue Code Section 417(e)(3)(B)), divided by 1.05.

1 (e) Benefits Not Taken into Account for 415(b) Limitation. For purposes of this section, the
2 following benefits shall not be taken into account in applying these limits:

3 (1) Any ancillary benefit which is not directly related to retirement income benefits;

4 (2) That portion of any joint and survivor annuity that constitutes a qualified joint and
5 survivor annuity;

6 (3) Any other benefit not required under Section 415(b)(2) of the Internal Revenue Code
7 and Treasury Regulations thereunder to be taken into account for purposes of the limitation of Section
8 415(b)(1) of the Internal Revenue Code.

9 (f) Other Adjustments in 415(b) Limitation.

10 (1) In the event the member's retirement benefits become payable before age sixty-two
11 (62), the limit prescribed by this section shall be reduced in accordance with Treasury Regulations
12 pursuant to the provisions of Section 415(b) of the Internal Revenue Code, so that such limit (as so
13 reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is
14 equivalent to a one hundred sixty thousand dollar (\$160,000) (as adjusted) annual benefit beginning at age
15 sixty-two (62).

16 (2) In the event the member's benefit is based on at least fifteen (15) years of service as a
17 full-time employee of any police or fire department or on fifteen (15) years of military service, the
18 adjustments provided for in (1) above shall not apply.

19 (3) The reductions provided for in (1) above shall not be applicable to pre-retirement
20 disability benefits or pre-retirement death benefits.

21 (g) Less than Ten Years of Service Adjustment for 415(b) Limitations. The maximum retirement
22 benefits payable to any member who has completed less than ten years of service shall be the amount
23 determined under subsection (c) multiplied by a fraction, the numerator of which is the number of the
24 member's years of service and the denominator of which is ten. The reduction provided by this
25 subsection cannot reduce the maximum benefit below 10%. The reduction provided for in this subsection
26 shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

1 (h) \$10,000 Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to
2 a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such
3 member under this plan and under all other qualified defined benefit pension plans to which the member's
4 employer contributes, do not exceed \$10,000 for the applicable limitation year and for any prior limitation
5 year and the employer has not any time maintained a qualified defined contribution plan in which the
6 member participated.

7 (i) Effect of COLA without a Lump Sum Component on 415(b) Testing. Effective on and after
8 January 1, 2009, for purposes of applying the limits under Section 415(b) of the Internal Revenue Code
9 (the "Limit") to a member with no lump sum benefit, the following will apply:

10 (1) A member's applicable Limit will be applied to the member's annual benefit in the
11 member's first limitation year without regard to any cost of living adjustments under Section 2.65.140;

12 (2) To the extent that the member's annual benefit equals or exceeds the Limit, the
13 member will no longer be eligible for cost of living increases until such time as the benefit plus the
14 accumulated increases are less than the Limit; and

15 (3) Thereafter, in any subsequent limitation year, a member's annual benefit, including
16 any cost of living increases under Section 2.65.140, shall be tested under the then applicable benefit Limit
17 including any adjustment to the Section 415(b)(1)(A) of the Internal Revenue Code dollar limit under
18 Section 415(d) of the Internal Revenue Code, and the regulations thereunder.

19 (j) Effect of COLA with a Lump Sum Component on 415(b) Testing. On and after January 1,
20 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum (a
21 DROP lump sum), a member's applicable Limit will be applied taking into consideration cost of living
22 increases as required by Section 415(b) of the Internal Revenue Code and applicable Treasury
23 Regulations.

24 (k) Section 415(c) limitations on contributions and other additions. After-tax member
25 contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as
26 adjusted pursuant to Section 415(d) of the Internal Revenue Code) or 100% of the member's
27 compensation.

1 (1) Annual additions are defined to mean the sum (for any year) of employer
2 contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's
3 individual account. Member contributions are determined without regard to rollover contributions and to
4 picked-up employee contributions that are paid to a defined benefit plan.

5 (2) For purposes of applying Section 415(c) of the Internal Revenue Code and for no
6 other purpose, the definition of compensation where applicable will be compensation actually paid or
7 made available during a limitation year, except as noted below and as permitted by Treasury Regulation
8 Section 1.415(c)-2, or successor regulation; provided, however, that member contributions picked up
9 under Section 414(h) of the Internal Revenue Code shall not be treated as compensation.

10 (3) Compensation will be defined as wages within the meaning of Section 3401(a) of the
11 Internal Revenue Code and all other payments of compensation to an employee by an employer for which
12 the employer is required to furnish the employee a written statement under Sections 6041(d), 6051(a)(3)
13 and 6052 of the Internal Revenue Code and will be determined without regard to any rules under Section
14 3401(a) of the Internal Revenue Code that limit the remuneration included in wages based on the nature
15 or location of the employment or the services performed (such as the exception for agricultural labor in
16 Section 3401(a)(2) of the Internal Revenue Code).

17 (i) However, for limitation years beginning after December 31, 1997,
18 compensation will also include amounts that would otherwise be included in compensation but for an
19 election under Section 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Internal Revenue Code.
20 For limitation years beginning after December 31, 2000, compensation shall also include any elective
21 amounts that are not includible in the gross income of the member by reason of Section 132(f)(4) of the
22 Internal Revenue Code.

23 (ii) For limitation years beginning on and after January 1, 2008, compensation for
24 the limitation year shall also include compensation paid by the later of 2½ months after a member's
25 severance from employment or the end of the limitation year that includes the date of the member's
26 severance from employment if:

1 A. The payment is regular compensation for services during the
2 member's regular working hours, or compensation for services outside the member's regular working
3 hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and,
4 absent a severance from employment, the payments would have been paid to the member while the
5 member continued in employment with the employer; or

6 B. The payment is for unused accrued bona fide sick, vacation or other
7 leave that the member would have been able to use if employment had continued; or

8 C. Payments pursuant to a nonqualified unfunded deferred compensation
9 plan, but only if the payments would have been paid to the member at the same time if the member had
10 continued employment with the employer and only to the extent that the payment is includible in the
11 member's gross income.

12 Any payments not described in paragraph (ii) above are not considered compensation if
13 paid after severance from employment, even if they are paid within two and one-half (2½) months
14 following severance from employment, except for payments to the individual who does not currently
15 perform services for the employer by reason of qualified military service (within the meaning of Section
16 414(u)(1) of the Internal Revenue Code) to the extent these payments do not exceed the amounts the
17 individual would have received if the individual had continued to perform services for the employer
18 rather than entering qualified military service.

19 An employee who is in qualified military service (within the meaning of Section
20 414(u)(1) of the Internal Revenue Code) shall be treated as receiving compensation from the employer
21 during such period of qualified military service equal to (i) the compensation the employee would have
22 received during such period if the employee were not in qualified military service, determined based on
23 the rate of pay the employee would have received from the employer but for the absence during the period
24 of qualified military service, or (ii) if the compensation the employee would have received during such
25 period was not reasonably certain, the employee's average compensation from the employer during the
26 twelve month period immediately preceding the qualified military service (or, if shorter, the period of
27 employment immediately preceding the qualified military service).

1 (iii) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-
2 2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent
3 the back pay represents wages and compensation that would otherwise be included under this definition.

4 (iv) For limitation years beginning on or after January 1, 2008, a member's
5 compensation for purposes of subsection (k) shall not exceed the annual limit under Section 401(a)(17) of
6 the Internal Revenue Code.

7 (l) Service Purchases under Section 415(n). Effective for permissive service credit contributions
8 made in limitation years beginning after December 31, 1997, if a member makes one or more
9 contributions to purchase permissive service credit under the plan, then the requirements of Section
10 415(n) of the Internal Revenue Code will be treated as met only if:

11 (1) The requirements of Section 415(b) of the Internal Revenue Code are met, determined
12 by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of
13 Section 415(b) of the Internal Revenue Code, or

14 (2) The requirements of Section 415(c) of the Internal Revenue Code are met, determined
15 by treating all such contributions as annual additions for purposes of Section 415(c) of the Internal
16 Revenue Code.

17 (3) For purposes of applying this section, the Plan will not fail to meet the reduced limit
18 under Section 415(b)(2)(C) of the Internal Revenue Code solely by reason of this subparagraph and will
19 not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code solely
20 by reason of this section.

21 (4) For purposes of this section the term "permissive service credit" means service credit-

22 (i) recognized by the Plan for purposes of calculating a member's benefit under
23 the Plan,

24 (ii) which such member has not received under the Plan, and

25 (iii) which such member may receive only by making a voluntary additional
26 contribution, in an amount determined under the Plan, which does not exceed the amount necessary to
27 fund the benefit attributable to such service credit.

1 Effective for permissive service credit contributions made in limitation years beginning after
2 December 31, 1997, such term may include service credit for periods for which there is no performance
3 of service, and, notwithstanding clause (B), may include service credited in order to provide an increased
4 benefit for service credit which a member is receiving under the Plan.

5 (5) The Plan will fail to meet the requirements of this section if-

6 (i) more than five years of nonqualified service credit are taken into account for
7 purposes of this subparagraph, or

8 (ii) any nonqualified service credit is taken into account under this paragraph
9 before the member has at least five years of participation under the Plan.

10 (6) For purposes of paragraph (5) effective for permissive service credit contributions
11 made in limitation years beginning after December 31, 1997, the term “nonqualified service credit” means
12 permissive service credit other than that allowed with respect to-

13 (i) service (including parental, medical, sabbatical, and similar leave) as an
14 employee of the Government of the United States, any State or political subdivision thereof, or any
15 agency or instrumentality of any of the foregoing (other than military service or service for credit which
16 was obtained as a result of a repayment described in Section 415(k)(3) of the Internal Revenue Code),

17 (ii) service (including parental, medical, sabbatical, and similar leave) as an
18 employee (other than as an employee described in clause (A)) of an education organization described in
19 Section 170(b)(1)(A)(ii) of the Internal Revenue Code which is a public, private, or sectarian school
20 which provides elementary or secondary education (through grade 12), or a comparable level of
21 education, as determined under the applicable law of the jurisdiction in which the service was performed,

22 (iii) service as an employee of an association of employees who are described in
23 clause (A), or

24 (iv) military service (other than qualified military service under Section 414(u) of
25 the Internal Revenue Code) recognized by the Plan.

1 In the case of service described in clause (i), (ii), or (iii), such service will be
2 nonqualified service if recognition of such service would cause a member to receive a retirement benefit
3 for the same service under more than one plan.

4 (7) In the case of a trustee-to-trustee transfer after December 31, 2001, to which Section
5 403(b)(13)(A) of the Internal Revenue Code or Section 457(e)(17)(A) of the Internal Revenue Code
6 applies (without regard to whether the transfer is made between plans maintained by the same employer)-

7 (i) the limitations of paragraph (5) will not apply in determining whether the
8 transfer is for the purchase of permissive service credit, and

9 (ii) the distribution rules applicable under federal law to the Plan will apply to
10 such amounts and any benefits attributable to such amounts.

11 (8) For an eligible member, the limitation of Section 415(c)(1) of the Internal Revenue
12 Code shall not be applied to reduce the amount of permissive service credit which may be purchased to an
13 amount less than the amount which was allowed to be purchased under the terms of a plan as in effect on
14 August 5, 1997. For purposes of this paragraph an eligible member is an individual who first became a
15 member in the Plan before January 1, 1998.

16 (m) Modification of Contributions for 415(c) and 415(n) Purposes. Notwithstanding any other
17 provision of law to the contrary, the Plan Administrator may modify a request by a member to make a
18 contribution to the Plan if the amount of the contribution would exceed the limits provided in Section 415
19 of the Internal Revenue Code by using the following methods:

20 (1) If the law requires a lump sum payment for the purchase of service credit, the Plan
21 Administrator may establish a periodic payment plan for the member to avoid a contribution in excess of
22 the limits under Section 415(c) or 415(n) of the Internal Revenue Code.

23 (2) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the
24 limits imposed by Section 415(c) or 415(n) of the Internal Revenue Code, the Plan Administrator may
25 either reduce the member's contribution to an amount within the limits of those sections or refuse the
26 member's contribution.

1 (n) Repayments of Cashouts. Any repayment of contributions (including interest thereon) to the
2 Plan with respect to an amount previously refunded upon a forfeiture of service credit under the Plan or
3 another governmental plan maintained by the City shall not be taken into account for purposes of Section
4 415 of the Internal Revenue Code, in accordance with applicable Treasury Regulations.

5 (o) Reduction of Benefits Priority. Reduction of benefits and/or contributions to all plans, where
6 required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in
7 which the member participated, such reduction to be made first with respect to the plan in which the
8 member most recently accrued benefits and thereafter in such priority as shall be determined by the plan
9 and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for
10 defined contribution plans in which the member participated, such reduction to be made first with respect
11 to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be
12 established by the plan and the plan administrator for such other plans provided, however, that necessary
13 reductions may be made in a different manner and priority pursuant to the agreement of the plan and the
14 plan administrator of all other plans covering such member.

15 (p) Effect of Direct Rollover on 415(b) Limit. If the plan accepts a direct rollover of an
16 employee's or former employee's benefit from a defined contribution plan qualified under Section 401(a)
17 of the Internal Revenue Code of 1986 which is maintained by the employer, any annuity resulting from
18 the rollover amount that is determined using a more favorable actuarial basis than required under Section
19 417(e) of the Internal Revenue Code of 1986 shall be included in the annual benefit for purposes of the
20 limit under Section 415(b) of the Internal Revenue Code of 1986.

21 Section 3. That Section 2.66.055 be amended to read as follows:

22 **2.66.055 Limitations of Benefits.**

23 (a) Notwithstanding any other provisions of the Plan to the contrary, the member contributions
24 paid to and retirement benefits paid from the Plan shall be limited to such extent as may be necessary to
25 conform to the requirements of Section 415 of the Internal Revenue Code for a qualified pension plan.

26 (b) Participation in Other Qualified Plans: Aggregation of Limits.

1 (1) The 415(b) limit with respect to any member who at any time has been a member in
2 any other defined benefit plan as defined in Section 414(j) of the Internal Revenue Code maintained by
3 the City in this Plan shall apply as if the total benefits payable under all such defined benefit plans in
4 which the member has been a member were payable from one plan.

5 (2) The 415(c) limit with respect to any member who at any time has been a member in
6 any other defined contribution plan as defined in Section 414(i) of the Internal Revenue Code maintained
7 by the City in this Plan shall apply as if the total annual additions under all such defined contribution
8 plans in which the member has been a member were payable from one plan.

9 (c) Basic 415(b) Limitation.

10 (1) Before January 1, 1995, a member may not receive an annual benefit that exceeds the
11 limits specified in Section 415(b) of the Internal Revenue Code, subject to the applicable adjustments in
12 that Section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the
13 dollar amount specified in Section 415(b)(1)(A) of the Internal Revenue Code, subject to the applicable
14 adjustments in Section 415(b) of the Internal Revenue Code and subject to any additional limits that may
15 be specified in the Plan. In no event shall a member's benefit payable under the plan in any limitation
16 year be greater than the limit applicable at the annuity starting date, as increased in subsequent years
17 pursuant to Section 415(d) of the Internal Revenue Code and the regulations thereunder.

18 (2) For purposes of Section 415(b) of the Internal Revenue Code, the "annual benefit"
19 means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without
20 regard to the benefit attributable to after-tax employee contributions (except pursuant to Section 415(n) of
21 the Internal Revenue Code) and to rollover contributions (as defined in Section 415(b)(2)(A) of the
22 Internal Revenue Code). The "benefit attributable" shall be determined in accordance with Treasury
23 Regulations.

24 (d) Adjustments to Basic 415(b) Limitation for Form of Benefit. If the benefit under the Plan is
25 other than the form specified in subsection (c)(2), then the benefit shall be adjusted so that it is the
26 equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

1 (1) If the form of benefit without regard to the automatic benefit increase feature is not a
2 straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by
3 either reducing the Section 415(b) of the Internal Revenue Code limit applicable at the annuity starting
4 date or adjusting the form of benefit to an actuarially equivalent amount [determined using the
5 assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii)] that takes into account the
6 additional benefits under the form of benefit as follows:

7 (2) For a benefit paid in a form to which Section 417(e)(3) of the Internal Revenue Code
8 does not apply [a monthly benefit], the actuarially equivalent straight life annuity benefit that is the
9 greater of (or the reduced Limit applicable at the annuity starting date which is the “lesser of” when
10 adjusted in accordance with the following assumptions):

11 (i) The annual amount of the straight life annuity (if any) payable to the member
12 under the plan commencing at the same annuity starting date as the form of benefit to the member, or

13 (ii) The annual amount of the straight life annuity commencing at the same
14 annuity starting date that has the same actuarial present value as the form of benefit payable to the
15 member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and

16 (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation
17 Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the
18 applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the
19 applicable mortality tables described in Internal Revenue Code Section 417(e)(3)(B) (Notice 2008-85 or
20 any subsequent Internal Revenue Service guidance implementing Internal Revenue Code Section
21 417(e)(3)(B)); or

22 (iii) For a benefit paid in a form to which Section 417(e)(3) of the Internal
23 Revenue Code applies [a lump sum benefit], the actuarially equivalent straight life annuity benefit that is
24 the greatest of the reduced Section 415(b) of the Internal Revenue Code limit applicable at the annuity
25 starting date which is the “least of” when adjusted in accordance with the following assumptions:

26 A. The annual amount of the straight life annuity commencing at the
27 annuity starting date that has the same actuarial present value as the particular form of benefit payable,

1 computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial
2 experience;

3 B. The annual amount of the straight life annuity commencing at the
4 annuity starting date that has the same actuarial present value as the particular form of benefit payable,
5 computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and (i)
6 for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation
7 Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the
8 applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the
9 applicable mortality tables described in Internal Revenue Code Section 417(e)(3)(B) (Notice 2008-85 or
10 any subsequent Internal Revenue Service guidance implementing Internal Revenue Code Section
11 417(e)(3)(B)); or

12 C. The annual amount of the straight life annuity commencing at the
13 annuity starting date that has the same actuarial present value as the particular form of benefit payable
14 (computed using the applicable interest rate for the distribution under Treasury Regulation Section
15 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1 2007, using the rate in effect for the month
16 prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the plan
17 year with a one-year stabilization period)) and (i) for years prior to January 1, 2009, the applicable
18 mortality tables described in Treasury Regulation Section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or
19 any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and
20 (ii) for years after December 31, 2008, the applicable mortality tables described in Internal Revenue Code
21 Section 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance
22 implementing Internal Revenue Code Section 417(e)(3)(B)), divided by 1.05.

23 (e) Benefits Not Taken into Account for 415(b) Limitation. For purposes of this section, the
24 following benefits shall not be taken into account in applying these limits:

- 25 (1) Any ancillary benefit which is not directly related to retirement income benefits;
26 (2) That portion of any joint and survivor annuity that constitutes a qualified joint and
27 survivor annuity;

1 (3) Any other benefit not required under Section 415(b)(2) of the Internal Revenue Code
2 and Treasury Regulations thereunder to be taken into account for purposes of the limitation of Section
3 415(b)(1) of the Internal Revenue Code.

4 (f) Other Adjustments in 415(b) Limitation.

5 (1) In the event the member's retirement benefits become payable before age sixty-two
6 (62), the limit prescribed by this section shall be reduced in accordance with Treasury Regulations
7 pursuant to the provisions of Section 415(b) of the Internal Revenue Code, so that such limit (as so
8 reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is
9 equivalent to a one hundred sixty thousand dollar (\$160,000) (as adjusted) annual benefit beginning at age
10 sixty-two (62).

11 (2) In the event the member's benefit is based on at least fifteen (15) years of service as a
12 full-time employee of any police or fire department or on fifteen (15) years of military service, the
13 adjustments provided for in (1) above shall not apply.

14 (3) The reductions provided for in (1) above shall not be applicable to pre-retirement
15 disability benefits or pre-retirement death benefits.

16 (g) Less than Ten Years of Service Adjustment for 415(b) Limitations. The maximum retirement
17 benefits payable to any member who has completed less than ten years of service shall be the amount
18 determined under subsection (c) multiplied by a fraction, the numerator of which is the number of the
19 member's years of service and the denominator of which is ten. The reduction provided by this
20 subsection cannot reduce the maximum benefit below 10%. The reduction provided for in this subsection
21 shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

22 (h) \$10,000 Limit. Notwithstanding the foregoing, the retirement benefit payable with respect to
23 a member shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such
24 member under this plan and under all other qualified defined benefit pension plans to which the member's
25 employer contributes, do not exceed \$10,000 for the applicable limitation year and for any prior limitation
26 year and the employer has not any time maintained a qualified defined contribution plan in which the
27 member participated.

1 (i) Effect of COLA without a Lump Sum Component on 415(b) Testing. Effective on and after
2 January 1, 2009, for purposes of applying the limits under Section 415(b) of the Internal Revenue Code
3 (the "Limit") to a member with no lump sum benefit, the following will apply:

4 (1) A member's applicable Limit will be applied to the member's annual benefit in the
5 member's first limitation year without regard to any cost of living adjustments under Section 2.66.107;

6 (2) To the extent that the member's annual benefit equals or exceeds the Limit, the
7 member will no longer be eligible for cost of living increases until such time as the benefit plus the
8 accumulated increases are less than the Limit; and

9 (3) Thereafter, in any subsequent limitation year, a member's annual benefit, including
10 any cost of living increases under Section 2.66.107, shall be tested under the then applicable benefit Limit
11 including any adjustment to the Section 415(b)(1)(A) of the Internal Revenue Code dollar limit under
12 Section 415(d) of the Internal Revenue Code, and the regulations thereunder.

13 (j) Effect of COLA with a Lump Sum Component on 415(b) Testing. On and after January 1,
14 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum (a
15 DROP lump sum), a member's applicable Limit will be applied taking into consideration cost of living
16 increases as required by Section 415(b) of the Internal Revenue Code and applicable Treasury
17 Regulations.

18 (k) Section 415(c) limitations on contributions and other additions. After-tax member
19 contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as
20 adjusted pursuant to Section 415(d) of the Internal Revenue Code) or 100% of the member's
21 compensation.

22 (1) Annual additions are defined to mean the sum (for any year) of employer
23 contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's
24 individual account. Member contributions are determined without regard to rollover contributions and to
25 picked-up employee contributions that are paid to a defined benefit plan.

26 (2) For purposes of applying Section 415(c) of the Internal Revenue Code and for no
27 other purpose, the definition of compensation where applicable will be compensation actually paid or

1 made available during a limitation year, except as noted below and as permitted by Treasury Regulation
2 Section 1.415(c)-2, or successor regulation; provided, however, that member contributions picked up
3 under Section 414(h) of the Internal Revenue Code shall not be treated as compensation.

4 (3) Compensation will be defined as wages within the meaning of Section 3401(a) of the
5 Internal Revenue Code and all other payments of compensation to an employee by an employer for which
6 the employer is required to furnish the employee a written statement under Sections 6041(d), 6051(a)(3)
7 and 6052 of the Internal Revenue Code and will be determined without regard to any rules under Section
8 3401(a) of the Internal Revenue Code that limit the remuneration included in wages based on the nature
9 or location of the employment or the services performed (such as the exception for agricultural labor in
10 Section 3401(a)(2) of the Internal Revenue Code).

11 (i) However, for limitation years beginning after December 31, 1997,
12 compensation will also include amounts that would otherwise be included in compensation but for an
13 election under Section 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b) of the Internal Revenue Code.
14 For limitation years beginning after December 31, 2000, compensation shall also include any elective
15 amounts that are not includible in the gross income of the member by reason of Section 132(f)(4) of the
16 Internal Revenue Code.

17 (ii) For limitation years beginning on and after January 1, 2008, compensation for
18 the limitation year shall also include compensation paid by the later of 2½ months after a member's
19 severance from employment or the end of the limitation year that includes the date of the member's
20 severance from employment if:

21 A. The payment is regular compensation for services during the
22 member's regular working hours, or compensation for services outside the member's regular working
23 hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and,
24 absent a severance from employment, the payments would have been paid to the member while the
25 member continued in employment with the employer; or

26 B. The payment is for unused accrued bona fide sick, vacation or other
27 leave that the member would have been able to use if employment had continued; or

1 C. Payments pursuant to a nonqualified unfunded deferred compensation
2 plan, but only if the payments would have been paid to the member at the same time if the member had
3 continued employment with the employer and only to the extent that the payment is includible in the
4 member's gross income.

5 Any payments not described in paragraph (ii) above are not considered compensation if
6 paid after severance from employment, even if they are paid within two and one-half (2½) months
7 following severance from employment, except for payments to the individual who does not currently
8 perform services for the employer by reason of qualified military service (within the meaning of Section
9 414(u)(1) of the Internal Revenue Code) to the extent these payments do not exceed the amounts the
10 individual would have received if the individual had continued to perform services for the employer
11 rather than entering qualified military service.

12 An employee who is in qualified military service (within the meaning of Section
13 414(u)(1) of the Internal Revenue Code) shall be treated as receiving compensation from the employer
14 during such period of qualified military service equal to (i) the compensation the employee would have
15 received during such period if the employee were not in qualified military service, determined based on
16 the rate of pay the employee would have received from the employer but for the absence during the period
17 of qualified military service, or (ii) if the compensation the employee would have received during such
18 period was not reasonably certain, the employee's average compensation from the employer during the
19 twelve month period immediately preceding the qualified military service (or, if shorter, the period of
20 employment immediately preceding the qualified military service).

21 (iii) Back pay, within the meaning of Treasury Regulation Section 1.415(c)-
22 2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent
23 the back pay represents wages and compensation that would otherwise be included under this definition.

24 (iv) For limitation years beginning on or after January 1, 2008, a member's
25 compensation for purposes of subsection (k) shall not exceed the annual limit under Section 401(a)(17) of
26 the Internal Revenue Code.

1 (l) Service Purchases under Section 415(n). Effective for permissive service credit contributions
2 made in limitation years beginning after December 31, 1997, if a member makes one or more
3 contributions to purchase permissive service credit under the plan, then the requirements of Section
4 415(n) of the Internal Revenue Code will be treated as met only if:

5 (1) The requirements of Section 415(b) of the Internal Revenue Code are met, determined
6 by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of
7 Section 415(b) of the Internal Revenue Code, or

8 (2) The requirements of Section 415(c) of the Internal Revenue Code are met, determined
9 by treating all such contributions as annual additions for purposes of Section 415(c) of the Internal
10 Revenue Code.

11 (3) For purposes of applying this section, the Plan will not fail to meet the reduced limit
12 under Section 415(b)(2)(C) of the Internal Revenue Code solely by reason of this subparagraph and will
13 not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code solely
14 by reason of this section.

15 (4) For purposes of this section the term “permissive service credit” means service credit-
16 (i) recognized by the Plan for purposes of calculating a member’s benefit under
17 the Plan,
18 (ii) which such member has not received under the Plan, and
19 (iii) which such member may receive only by making a voluntary additional
20 contribution, in an amount determined under the Plan, which does not exceed the amount necessary to
21 fund the benefit attributable to such service credit.

22 Effective for permissive service credit contributions made in limitation years beginning after December
23 31, 1997, such term may include service credit for periods for which there is no performance of service,
24 and, notwithstanding clause (B), may include service credited in order to provide an increased benefit for
25 service credit which a member is receiving under the Plan.

26 (5) The Plan will fail to meet the requirements of this section if-

1 (i) more than five years of nonqualified service credit are taken into account for
2 purposes of this subparagraph, or

3 (ii) any nonqualified service credit is taken into account under this paragraph
4 before the member has at least five years of participation under the Plan.

5 (6) For purposes of paragraph (5) effective for permissive service credit contributions
6 made in limitation years beginning after December 31, 1997, the term “nonqualified service credit” means
7 permissive service credit other than that allowed with respect to-

8 (i) service (including parental, medical, sabbatical, and similar leave) as an
9 employee of the Government of the United States, any State or political subdivision thereof, or any
10 agency or instrumentality of any of the foregoing (other than military service or service for credit which
11 was obtained as a result of a repayment described in Section 415(k)(3) of the Internal Revenue Code),

12 (ii) service (including parental, medical, sabbatical, and similar leave) as an
13 employee (other than as an employee described in clause (A)) of an education organization described in
14 Section 170(b)(1)(A)(ii) of the Internal Revenue Code which is a public, private, or sectarian school
15 which provides elementary or secondary education (through grade 12), or a comparable level of
16 education, as determined under the applicable law of the jurisdiction in which the service was performed,

17 (iii) service as an employee of an association of employees who are described in
18 clause (A), or

19 (iv) military service (other than qualified military service under Section 414(u) of
20 the Internal Revenue Code) recognized by the Plan.

21 In the case of service described in clause (i), (ii), or (iii), such service will be
22 nonqualified service if recognition of such service would cause a member to receive a retirement benefit
23 for the same service under more than one plan.

24 (7) In the case of a trustee-to-trustee transfer after December 31, 2001, to which Section
25 403(b)(13)(A) of the Internal Revenue Code or Section 457(e)(17)(A) of the Internal Revenue Code
26 applies (without regard to whether the transfer is made between plans maintained by the same employer)-

1 (i) the limitations of paragraph (5) will not apply in determining whether the
2 transfer is for the purchase of permissive service credit, and

3 (ii) the distribution rules applicable under federal law to the Plan will apply to
4 such amounts and any benefits attributable to such amounts.

5 (8) For an eligible member, the limitation of Section 415(c)(1) of the Internal Revenue
6 Code shall not be applied to reduce the amount of permissive service credit which may be purchased to an
7 amount less than the amount which was allowed to be purchased under the terms of a plan in effect on
8 August 5, 1997. For purposes of this paragraph, an eligible member is an individual who first became a
9 member in the Plan before January 1, 1998.

10 (m) Modification of Contributions for 415(c) and 415(n) Purposes. Notwithstanding any other
11 provision of law to the contrary, the Plan Administrator may modify a request by a member to make a
12 contribution to the Plan if the amount of the contribution would exceed the limits provided in Section 415
13 of the Internal Revenue Code by using the following methods:

14 (1) If the law requires a lump sum payment for the purchase of service credit, the Plan
15 Administrator may establish a periodic payment plan for the member to avoid a contribution in excess of
16 the limits under Section 415(c) or 415(n) of the Internal Revenue Code.

17 (2) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the
18 limits imposed by Section 415(c) or 415(n) of the Internal Revenue Code, the Plan Administrator may
19 either reduce the member's contribution to an amount within the limits of those sections or refuse the
20 member's contribution.

21 (n) Repayments of Cashouts. Any repayment of contributions (including interest thereon) to the
22 Plan with respect to an amount previously refunded upon a forfeiture of service credit under the Plan or
23 another governmental plan maintained by the City shall not be taken into account for purposes of Section
24 415 of the Internal Revenue Code, in accordance with applicable Treasury Regulations.

25 (o) Reduction of Benefits Priority. Reduction of benefits and/or contributions to all plans, where
26 required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in
27 which the member participated, such reduction to be made first with respect to the plan in which the

1 member most recently accrued benefits and thereafter in such priority as shall be determined by the plan
2 and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for
3 defined contribution plans in which the member participated, such reduction to be made first with respect
4 to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be
5 established by the plan and the plan administrator for such other plans provided, however, that necessary
6 reductions may be made in a different manner and priority pursuant to the agreement of the plan and the
7 plan administrator of all other plans covering such member.

8 (p) Effect of Direct Rollover on 415(b) Limit. If the plan accepts a direct rollover of an
9 employee's or former employee's benefit from a defined contribution plan qualified under Section 401(a)
10 of the Internal Revenue Code of 1986 which is maintained by the employer, any annuity resulting from
11 the rollover amount that is determined using a more favorable actuarial basis than required under Section
12 417(e) of the Internal Revenue Code of 1986 shall be included in the annual benefit for purposes of the
13 limit under Section 415(b) of the Internal Revenue Code of 1986.

14 Section 4. That Section 2.62.180 be amended to read as follows:

15 **2.62.180 Plan Administration; Fund Investments.**

16 (a) The Human Resources Director, or a designated representative of the director, shall act as
17 the Plan Administrator for the Police and Fire Pension Plan.

18 (b) The Plan Administrator, after consulting with the Police and Fire Pension Plan Advisory
19 ~~Committee~~Investment Board, may invest all funds of the Police and Fire Pension Fund or may contract
20 with an insurance company, trust company, or other financial institution including, but not limited to,
21 brokerage houses, investment managers, savings and loan associations, banks, credit unions, federal
22 Farmers' Home Administration or Veterans' Administration approved lenders to manage such funds. The
23 funds shall be invested in investments of the nature which individuals of prudence, discretion, and
24 intelligence acquire or retain in dealing with the property of another, and if the insurance company, trust
25 company, or other financial institution contracted with has special skills or is named on the basis of
26 representation of special skills or expertise, such company or institution is under a duty to use such skills.
27 All such investments or contracts shall be approved by the City Council.

1 (c) The City shall anticipate its liability for future payments of retirement benefits under the
2 plan on an actuarial basis and, in order to equalize the tax burden over a period of years, shall levy and
3 collect taxes in each fiscal year sufficient to meet current needs and equalize future payments. The tax
4 shall be in excess of and in addition to all other taxes now or hereafter authorized to be levied by the City.
5 The tax so levied and collected, together with contributions made by members, shall be credited to the
6 Police and Fire Pension Fund in accordance with the terms of Section 401(a)(2) of the Internal Revenue
7 Code of 1986; and any unexpended balance remaining in the fund at the close of the fiscal year shall be
8 reappropriated to the Police and Fire Pension Fund for the ensuing year. Pension payments required by
9 law shall be a general obligation of the City and may be made out of, but not limited to, the fund.

10 The City will conform to the requirements of Section 415(b) of the Internal Revenue Code of
11 1986 as it applies to the general benefits of this plan.

12 (d) All assets of the Plan shall be held and invested for the sole purpose of meeting the
13 legitimate obligations of the Plan and shall be used for no other purpose. No part of the assets shall be
14 used for or diverted to purposes other than for the exclusive benefit of members and beneficiaries prior to
15 satisfaction of all Plan obligations.

16 (e) The Plan Administrator, after consulting with the Police and Fire Pension Plan
17 Investment Board and approval by the City Council, may, unless restricted by law, transfer all or any
18 portion of the assets of the Police and Fire Pension Fund to a collective or common group trust, as
19 permitted under Revenue Ruling 81-100, Revenue Ruling 2011-1, Notice 2012-6, and Revenue Ruling
20 2014-24 (or subsequent guidance), that is operated or maintained exclusively for the commingling and
21 collective investment of monies, provided that the funds in the group trust consist exclusively of trust
22 assets held under plans qualified under Section 401(a) of the Internal Revenue Code of 1986, individual
23 retirement accounts that are exempt under Section 408(e) of the Internal Revenue Code of 1986, eligible
24 governmental plans that meet the requirements of Section 457(b) of the Internal Revenue Code of 1986,
25 and governmental plans under Section 401(a)(24) of the Internal Revenue Code of 1986. For this
26 purpose, a trust includes a custodial account or separate tax-favored account maintained by an insurance
27 company that is treated as a trust under Section 401(f) of the Internal Revenue Code of 1986 or under

1 Section 457(g)(3) of the Internal Revenue Code of 1986. Any collective or common group trust to which
2 assets of the Fund are transferred shall be adopted by the City as part of the Plan by executing appropriate
3 participation, adoption agreements, and/or trust agreements with the group trust's trustee. The separate
4 account maintained by the group trust for the Plan shall not be used for, or diverted to, any purpose other
5 than for the exclusive benefit of the members and beneficiaries of the Plan. For purposes of valuation, the
6 value of the separate account maintained by the group trust for the Plan shall be the fair market value of
7 the portion of the group trust held for the Plan, determined in accordance with generally recognized
8 valuation procedures.

9 Section 5. That Section 2.65.180 be amended to read as follows:

10 **2.65.180 Plan Administration; Fund Investments.**

11 (a) The Human Resources Director, or a designated representative of the director, shall act as the
12 Plan Administrator for the Police and Fire Pension Plan.

13 (b) The Plan Administrator, after consulting with the Police and Fire Pension Plan ~~Advisory~~
14 ~~Committee~~Investment Board as hereinafter provided, may invest all funds of the Police and Fire Pension
15 Fund or may contract with an insurance company, trust company, or other financial institution including,
16 but not limited to, brokerage houses, investment managers, savings and loan associations, banks, credit
17 unions, federal Farmers' Home Administration or Veterans' Administration approved lenders to manage
18 such funds. The funds shall be invested in investments of the nature which individuals of prudence,
19 discretion, and intelligence acquire or retain in dealing with the property of another, and if the insurance
20 company, trust company, or other financial institution contracted with has special skills or is named on
21 the basis of representation of special skills or expertise, such company or institution is under a duty to use
22 such skills. All such investments or contracts shall be approved by the City Council.

23 (c) The City shall anticipate its liability for future payments of retirement benefits under the plan
24 on an actuarial basis and, in order to equalize the tax burden over a period of years, shall levy and collect
25 taxes in each fiscal year sufficient to meet current needs and equalize future payments. The tax shall be in
26 excess of and in addition to all other taxes now or hereafter authorized to be levied by the City. The tax
27 so levied and collected, together with contributions made by members, shall be credited to the Police and

1 Fire Pension Fund in accordance with the terms of Section 401(a)(2) of the Internal Revenue Code of
2 1986; and any unexpended balance remaining in the fund at the close of the fiscal year shall be
3 reappropriated to the Police and Fire Pension Fund for the ensuing year. Pension payments required by
4 law shall be a general obligation of the City and may be made out of, but not limited to, the fund.

5 The City will conform to the requirements of Section 415(b) of the Internal Revenue Code of
6 1986 as it applies to the general benefits of this plan.

7 (d) All assets of the Plan shall be held and invested for the sole purpose of meeting the legitimate
8 obligations of the Plan and shall be used for no other purpose. No part of the assets shall be used for or
9 diverted to purposes other than for the exclusive benefit of members and beneficiaries prior to satisfaction
10 of all Plan obligations.

11 (e) The Plan Administrator, after consulting with the Police and Fire Pension Plan
12 Investment Board and approval by the City Council, may, unless restricted by law, transfer all or any
13 portion of the assets of the Police and Fire Pension Fund to a collective or common group trust, as
14 permitted under Revenue Ruling 81-100, Revenue Ruling 2011-1, Notice 2012-6, and Revenue Ruling
15 2014-24 (or subsequent guidance), that is operated or maintained exclusively for the commingling and
16 collective investment of monies, provided that the funds in the group trust consist exclusively of trust
17 assets held under plans qualified under Section 401(a) of the Internal Revenue Code of 1986, individual
18 retirement accounts that are exempt under Section 408(e) of the Internal Revenue Code of 1986, eligible
19 governmental plans that meet the requirements of Section 457(b) of the Internal Revenue Code of 1986,
20 and governmental plans under Section 401(a)(24) of the Internal Revenue Code of 1986. For this
21 purpose, a trust includes a custodial account or separate tax-favored account maintained by an insurance
22 company that is treated as a trust under Section 401(f) of the Internal Revenue Code of 1986 or under
23 Section 457(g)(3) of the Internal Revenue Code of 1986. Any collective or common group trust to which
24 assets of the Fund are transferred shall be adopted by the City as part of the Plan by executing appropriate
25 participation, adoption agreements, and/or trust agreements with the group trust's trustee. The separate
26 account maintained by the group trust for the Plan shall not be used for, or diverted to, any purpose other
27 than for the exclusive benefit of the members and beneficiaries of the Plan. For purposes of valuation, the

1 value of the separate account maintained by the group trust for the Plan shall be the fair market value of
2 the portion of the group trust held for the Plan, determined in accordance with generally recognized
3 valuation procedures.

4 Section 6. That Section 2.66.140 be amended to read as follows:

5 **2.66.140 Plan Administration; Fund Investments.**

6 (a) The Human Resources Director, or a designated representative of the director, shall act as the
7 Plan Administrator for the Police and Fire Pension Plan.

8 (b) The Plan Administrator, after consulting with the Police and Fire Pension Plan ~~Advisory~~
9 ~~Committee~~Investment Board as hereinafter provided, may invest all funds of the Police and Fire Pension
10 Fund or may contract with an insurance company, trust company, or other financial institution including,
11 but not limited to, brokerage houses, investment managers, savings and loan associations, banks, credit
12 unions, Federal Farmers' Home Administration or Veterans' Administration approved lenders to manage
13 such funds. The funds shall be invested in investments of the nature which individuals of prudence,
14 discretion, and intelligence acquire or retain in dealing with the property of another, and if the insurance
15 company, trust company, or other financial institution contracted with has special skills or is named on
16 the basis of representation of special skills or expertise, such company or institution is under a duty to use
17 such skills. All such investments or contracts shall be approved by the City Council.

18 (c) The City shall anticipate its liability for future payments of retirement benefits under the plan
19 on an actuarial basis and, in order to equalize the tax burden over a period of years, shall levy and collect
20 taxes in each fiscal year sufficient to meet current needs and equalize future payments. The tax shall be in
21 excess of and in addition to all other taxes now or hereafter authorized to be levied by the City. The tax
22 so levied and collected, together with contributions made by members, shall be credited to the Police and
23 Fire Pension Fund in accordance with the terms of Section 401(a)(2) of the Internal Revenue Code of
24 1986; and any unexpended balance remaining in the fund at the close of the fiscal year shall be
25 reappropriated to the Police and Fire Pension Fund for the ensuing year. Pension payments required by
26 law shall be a general obligation of the City and may be made out of, but not limited to, the fund.

1 The City will conform to the requirements of Section 415(b) of the Internal Revenue Code of
2 1986 as it applies to the general benefits of this plan.

3 (d) All assets of the Plan shall be held and invested for the sole purpose of meeting the legitimate
4 obligations of the Plan and shall be used for no other purpose. No part of the assets shall be used for or
5 diverted to purposes other than for the exclusive benefit of members and beneficiaries prior to satisfaction
6 of all Plan obligations.

7 (e) The Plan Administrator, after consulting with the Police and Fire Pension Plan
8 Investment Board and approval by the City Council, may, unless restricted by law, transfer all or any
9 portion of the assets of the Police and Fire Pension Fund to a collective or common group trust, as
10 permitted under Revenue Ruling 81-100, Revenue Ruling 2011-1, Notice 2012-6, and Revenue Ruling
11 2014-24 (or subsequent guidance), that is operated or maintained exclusively for the commingling and
12 collective investment of monies, provided that the funds in the group trust consist exclusively of trust
13 assets held under plans qualified under Section 401(a) of the Internal Revenue Code of 1986, individual
14 retirement accounts that are exempt under Section 408(e) of the Internal Revenue Code of 1986, eligible
15 governmental plans that meet the requirements of Section 457(b) of the Internal Revenue Code of 1986,
16 and governmental plans under Section 401(a)(24) of the Internal Revenue Code of 1986. For this
17 purpose, a trust includes a custodial account or separate tax-favored account maintained by an insurance
18 company that is treated as a trust under Section 401(f) of the Internal Revenue Code of 1986 or under
19 Section 457(g)(3) of the Internal Revenue Code of 1986. Any collective or common group trust to which
20 assets of the Fund are transferred shall be adopted by the City as part of the Plan by executing appropriate
21 participation, adoption agreements, and/or trust agreements with the group trust's trustee. The separate
22 account maintained by the group trust for the Plan shall not be used for, or diverted to, any purpose other
23 than for the exclusive benefit of the members and beneficiaries of the Plan. For purposes of valuation, the
24 value of the separate account maintained by the group trust for the Plan shall be the fair market value of
25 the portion of the group trust held for the Plan, determined in accordance with generally recognized
26 valuation procedures.

1 Section 7. That Sections 2.62.055, 2.65.055, 2.66.055, 2.62.180, 2.65.180, and 2.66.140,
2 of the Lincoln Municipal Code as hitherto existing be and the same are hereby repealed.

3 Section 8. Pursuant to Article VII, Section 7 of the City Charter, this ordinance shall be
4 posted on the official bulletin board of the City, located on the wall across from the City Clerk’s office at
5 555 S. 10th Street, in lieu of and in place of newspaper publication with notice of passage and such
6 posting to be given by publication one time in the official newspaper by the City Clerk. This ordinance
7 shall take effect and be in force from and after its passage and publication as herein and in the City
8 Charter provided.

Introduced by:

Approved as to Form & Legality:

Approved this ____ day of _____, 2016: _____ Mayor
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