COUNCIL ITEM 8B DATE 6/13/16 COUNCIL ITEM 10B DATE 5/23/16

ORDINANCE 16-28

AN ORDINANCE OF THE CITY OF PORT ST. LUCIE, AMENDING THE CITY OF PORT ST. LUCIE MUNICIPAL POLICE OFFICERS' RETIREMENT TRUST FUND AS CODIFIED UNDER SECTION 32.77 OF THE CODE OF ORDINANCES OF THE CITY OF PORT ST. LUCIE, FLORIDA, PURSUANT TO ORDINANCE 13-49; SPECIFICALLY AMENDING SECTION 32.77(a)(1), *DEFINITIONS*, BY AMENDING THE DEFINITIONS OF "*ACTUARIAL EQUIVALENT*," "*CREDITED SERVICE*," AND "*SPOUSE*;" AMENDING SECTION 32.77(b), *MEMBERSHIP*; AMENDING SECTION 32.77(d), *FINANCES AND FUND MANAGEMENT*; AMENDING SECTION 32.77(f), *BENEFIT AMOUNTS AND ELIGIBILITY*; AMENDING SECTION 32.77(h), *DISABILITY*; AMENDING SECTION 32.77(j), *OPTIONAL FORMS OF BENEFITS*; AMENDING SECTION 32.77(o), *MAXIMUM PENSION*; AMENDING SECTION 32.77(aa), *DEFERRED RETIREMENT OPTION PLAN*; ADDING SECTION 32.77(bb), *SUPPLEMENTAL BENEFIT COMPONENT FOR SPECIAL BENEFITS*; *CHAPTER 185 SHARE ACCOUNTS*; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Port St. Lucie has an established Municipal Police Officers' Retirement Trust Fund; and

WHEREAS, on or about August 26, 2013, the City Council adopted Ordinance 13-49 which consolidated, amended and restated the pension plan for the Police Officers to incorporate federal and state law regulations; and

WHEREAS, the City Council's adoption of Ordinance 13-49 served to authorize the codification of the Municipal Police Officers' Retirement Trust Fund, the provisions of which were subsequently codified under Section 32.77 of the Code of Ordinances of the City of Port St. Lucie; and

WHEREAS, the City Council and the Board of Trustees of the City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund desire to amend and clarify certain provisions of Section 32.77 of the Port St. Lucie Code of Ordinances entitled Police Officers' Retirement Trust Fund; and

WHEREAS, the Board of Trustees of the City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund and the Board's attorney have requested and drafted changes to certain provisions of Section 32.77 of the City's Code of Ordinances in order to properly clarify, implement and comply with the recent changes made to Chapter 185 of the Florida Statutes, the Internal Revenue Code and its associated regulations, and also the provisions of the collective bargaining agreements with the three (3) sworn bargaining units that were approved by City Council on April 11, 2016; and

WHEREAS, the City Council desires to amend certain provisions of Section 32.77 of the Port St. Lucie Code of Ordinances entitled "Police Officers' Retirement Trust Fund" pursuant to the request of the Board's attorney.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, HEREBY ORDAINS, that:

Additions to text are indicated by underline; deletions by ~~strikeout~~.

Section 1. The City Council of the City of Port St. Lucie, Florida hereby adopts and ratifies those matters set forth in the foregoing recitals.

Section 2. The City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted pursuant to Ordinance No. 13-49, and codified under Section 32.77 of the Code of Ordinances of the City of Port St. Lucie is hereby amended by amending Section 32.77(a)(1), *Definitions*, specifically the definitions of "Actuarial Equivalent," "Credited Services," and "Spouse" to read as follows:

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"Actuarial Equivalent" means a benefit or amount of equal value, based upon the RP 2000 Combined Healthy Unisex Mortality Table and an interest rate ~~of eight and one-half percent per annum~~ equal to the investment return assumption set forth in the last actuarial valuation report approved by the Board. This definition may only be amended by the city pursuant to the recommendation of the board using assumptions adopted by the board with the advice of the plan's actuary, such that actuarial assumptions are not subject to city discretion;

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"Credited Service" means the total number of years and fractional parts of years of service as a police officer with member contributions, when required, omitting intervening years or fractional parts of years when such member was not employed by the city as a police officer. A member may voluntarily leave his accumulated contributions in the fund for a period of five years after leaving the employ of the police department pending the possibility of being reemployed as a police officer, without losing credit for the time that he was a member of the system. If a vested member leaves the employ of the police department, his accumulated contributions will be returned only upon his written request. If a member who is not vested is not reemployed as a police officer with the police department within five years, his accumulated contributions shall be returned, if $1,000.00 or less. If a member who is not vested is not reemployed within five years, his accumulated contributions, if more than $1,000.00, will be returned only upon the written request of the member and upon completion of a written election to receive a cash lump sum or to rollover the lump sum amount on forms designated by the board. Upon return of a member's accumulated contributions, all of his rights and benefits under the system are forfeited and terminated. Upon any reemployment, a police officer shall not receive credit for the years and fractional parts of years of service for which he has withdrawn his accumulated contributions from the fund, unless the police officer repays into the fund the contributions he has withdrawn, with interest, as determined by the board, within 90 days after his reemployment.

The years or fractional parts of a year that a member performs "qualified military service" consisting of voluntary or involuntary "service in the uniformed services" as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L.103-353), after separation from

employment as a police officer with the city, shall be added to his years of credited service for all purposes, including vesting, provided that:

(1) The member is entitled to reemployment under the provisions of USERRA.

(2) The member returns to his employment as a police officer within one-year from the earlier of the date of his military discharge or his release from active service, unless otherwise required by USERRA.

(3) The maximum credit for military service pursuant to this subsection shall be five years.

(4) This subsection is intended to satisfy the minimum requirements of USERRA. To the extent that this subsection does not meet the minimum standards of USERRA, as it may be amended from time to time, the minimum standards shall apply.

In the event a member dies on or after January 1, 2007, while performing USERRA qualified military service, the beneficiaries of the member are entitled to any benefits (other than benefit accruals relating to the period of qualified military service) as if the member had resumed employment and then died while employed.

Beginning January 1, 2009, to the extent required by Section 414(u)(12) of the Code, an individual receiving differential wage payments (as defined under Section 3401(h)(2) of the Code) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under Section 415(c) of the Code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Leave conversions of unused accrued paid time off shall not be permitted to be applied toward the accrual of Credited Service either during each Plan Year of a Member's employment with the City of in the Plan Year in which the Member terminates employment.

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"Spouse" means ~~the lawful wife or husband of a~~ member's or retiree's spouse under applicable law at the time benefits become payable.

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Section 3. The City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted pursuant to Ordinance No. 13-49, and codified under Section 32.77 of the Code of Ordinances of the City of Port St. Lucie is hereby amended by amending Section 32.77(b), *Membership*, to read as follows:

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(b) *Membership.*

(1) *Conditions of eligibility.* All police officers who are members as of May 8, 2013, and all future new police officers, shall become members of this system as a condition of employment.

(2) *Designation of beneficiary.* Each police officer shall complete a form prescribed by the board designating a beneficiary or beneficiaries.

(3) *Opt out option.* Notwithstanding subsection (b)(1), conditions of eligibility, above, any ~~future~~ new employee who is hired as police chief, may, in the event he has elected to participate in another pension program, ~~within the first 90 days of his employment as police chief~~, notify the board and the city, in writing, of his election to not be a member of the system. Current employees of the City who are selected to become police chief are not eligible for the op-out provided for herein. In the event of any such election, he shall be barred from future membership in the system. Thereafter, contributions to the plan in accordance with section (e) shall not be required, he shall not be eligible to be elected as a member trustee on the board or vote for a member trustee, and he shall not be eligible for any other benefits from the plan.

(4) *Opt in option.* Any police officer, except a police chief who has or will opt out pursuant to subsection (b)(3), who is not a member on August 26, 2013 shall be permitted to elect to become a member on November 2, 2013 as a new member by notifying the board and the city in writing of his election prior to November 2, 2013.

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Section 4. The City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted pursuant to Ordinance No. 13-49, and codified under Section 32.77 of the Code of Ordinances of the City of Port St. Lucie is hereby amended by amending Section 32.77(d), *Finances and Fund Management*, to read as follows:

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(d) *Finances and Fund Management.*

Establishment and operation of fund.

(1) As part of the system, there is hereby established the fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the system, including the assets of the prior municipal police officers' retirement trust fund.

(2) The actual custody and supervision of the fund (and assets thereof) shall be vested in the board. Payment of benefits and disbursements from the fund shall be made by the disbursing agent but only upon written authorization from the board.

(3) All funds of the municipal police officers' retirement trust fund may be deposited by the board with the finance director of the city, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he is liable for the safekeeping of funds for the city. However, any funds so deposited with the finance director of the city shall be kept in a separate fund by the finance director or clearly identified as such funds of the municipal police officers' retirement trust fund. In lieu thereof, the board shall deposit the funds of the municipal police officers' retirement trust fund in a qualified public depository as defined in F.S. § 280.02, which depository with regard to such funds shall conform to and be bound by all of the provisions of F.S. ch. 280. In order to fulfill its investment responsibilities as set forth herein, the board may retain the services of a custodian bank, an investment advisor registered under the Investment Advisors Act of 1940 or otherwise exempt from such required registration, an insurance company, or a combination of these, for the purposes of investment decisions and management. Such investment manager shall have discretion, subject to any guidelines as prescribed by the board, in the investment of all fund assets.

(4) All funds and securities of the system may be commingled in the fund, provided that accurate records are maintained at all times reflecting the financial composition of the fund, including accurate current accounts and entries as regards the following:

a. Current amounts of accumulated contributions of members on both an individual and aggregate account basis, and

b. Receipts and disbursements, and

c. Benefit payments, and

d. Current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the city, and

e. All interest, dividends and gains (or losses) whatsoever, and

f. Such other entries as may be properly required so as to reflect a clear and complete financial report of the fund.

(5) An audit shall be performed annually by a certified public accountant for the most recent fiscal year of the system showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year. Such report shall reflect a complete evaluation of assets on both a cost and market basis, as well as other items normally included in a certified audit.

(6) The board shall have the following investment powers and authority:

a. The board shall be vested with full legal title to said fund, subject, however, and in any event to the authority and power of the city council to amend or terminate this fund, provided that no amendment or fund termination shall ever result in the use of any assets of this fund except for the payment of regular expenses and benefits under this system, except as otherwise provided herein. All contributions from time to time paid into the fund, and the income thereof, without distinction between principal and income, shall be held and administered by the board or its agent in the fund and the board shall not be required to segregate or invest separately any portion of the fund.

b. All monies paid/into or held in the fund shall be invested and reinvested by the board and the investment of all or any part of such funds shall subject to the following:

1. Notwithstanding any limitation provided for in F.S. ch. 185 to the contrary (unless such limitation may not be amended by local ordinance) or any limitation in prior city ordinances to the contrary, all monies paid into or held in the fund may be invested and reinvested in such securities, investment vehicles or property wherever situated and of whatever kind, as shall be approved by the board, including but not limited to common or preferred stocks, bonds, and other evidences of indebtedness or ownership. In no event, however, shall more than 25 percent of the assets of the fund at market value be invested in foreign securities.

2. The board shall develop and adopt a written investment policy statement setting forth permissible types of investments, goals and objectives of investments and setting quality and quantity limitations on investments in accordance with the recommendations of its investment consultants. The investment policy statement shall be reviewed by the board at least annually.

3. In addition, the board may, upon recommendation by the board's investment consultant, make investments in group trusts meeting the requirements of Internal Revenue Service Revenue Ruling 81-100, ~~and~~ Revenue Ruling 2011-1, IRS Notice 2012-6 and Revenue Ruling 2014-24 or successor rulings or guidance of similar import, and operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of

trust assets held under plans qualified under Section 401(a) of the Code, individual retirement accounts that are exempt under Section 408(e) of the Code, eligible governmental plans that meet the requirements of Section 457(b) of the Code, and governmental plans under 401(a)(24) of the Code. For this purpose, a trust includes a custodial account or separate tax favored account maintained by an insurance company that is treated as a trust under Section 401(f) or under Section 457(g)(3) of the Code. While any portion of the assets of the fund are invested in such a group trust, such group trust is itself adopted as a part of the system or plan.

(i) Any collective or common group trust to which assets of the fund are transferred pursuant to section (d)(6)b.3. shall be adopted by the board as part of the plan by executing appropriate participation, adoption agreements, and/or trust agreements with the group trust's trustee.

(ii) The separate account maintained by the group trust for the plan pursuant to section (d)(6)b.3. shall not be used for, or diverted to, any purpose other than for the exclusive benefit of the members and beneficiaries of the plan.

(iii) For purposes of valuation, the value of the separate account maintained by the group trust for the plan shall be the fair market value of the portion of the group trust held for the plan, determined in accordance with the generally recognized valuation procedures.

c. At least once every three years, and more often as determined by the board, the board shall retain a professionally qualified independent consultant, as defined in F.S. § 185.06, to evaluate the performance of all current investment managers and make recommendations regarding the retention of all such investment managers. These recommendations shall be considered by the board at its next regularly scheduled meeting.

d. The board may retain in cash and keep unproductive of income such amount of the fund as it may deem advisable, having regard for the cash requirements of the system.

Additions to text are indicated by underline; deletions by ~~strikeout~~.

e. Neither the board nor any trustee shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the fund, except that due to his or its own negligence, willful misconduct or lack of good faith.

f. The board may cause any investment in securities held by it to be registered in or transferred into its name as trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the fund.

g. The board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the trustees or with depositories designated thereby, to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the fund which it may deem to be to the best interest of the fund to exercise.

h. The board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power contained herein.

i. Where any action which the board is required to take or any duty or function which it is required to perform either under the terms herein or under the general law applicable to it as trustee under this section, can reasonably be taken or performed only after receipt by it from a member, the city, or any other entity, of specific information, certification, direction or instructions, the board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction or instruction has been received by it.

j. Any overpayments or underpayments from the fund to a member, retiree or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the board in such a manner that the actuarial

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equivalent of the benefit to which the member, retiree or beneficiary was correctly entitled, shall be paid. Overpayments shall be charged against payments next succeeding the correction or collected in another manner if prudent underpayments shall be made up from the fund in a prudent manner.

k. The board shall sustain no liability whatsoever for the sufficiency of the fund to meet the payments and benefits provided for herein.

l. In any application to or proceeding or action in the courts, only the board shall be a necessary party, and no member or other person having an interest in the fund shall be entitled to any notice or service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.

m. Any of the foregoing powers and functions reposed in the board may be performed or carried out by the board through duly authorized agents, provided that the board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to said fund shall always remain in the board.

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Section 5. The City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted pursuant to Ordinance No. 13-49, and codified under Section 32.77 of the Code of Ordinances of the City of Port St. Lucie is hereby amended by amending Section 32.77(f), *Benefit Amounts and Eligibility*, to read as follows:

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(f) *Benefit Amounts and Eligibility.*

(1) *Normal retirement age and date.* ~~A member's normal retirement date shall be the first day of the month coincident with, or next following the earlier of the attainment of age 55 and the completion of ten years of credited service or the attainment of age 52 and the completion of 25 years of credited service. A member may retire on his normal retirement date or on the first day of any month thereafter, and each member shall become 100 percent vested in his accrued benefit on the member's normal retirement date. Normal retirement under the system is retirement from employment with the city on or after the normal retirement date.~~

A member's normal retirement age is the earlier of the attainment of age fifty-five (55) and the completion of ten (10) years of Credited Service or the attainment of age fifty-two (52) and the completion of twenty-five (25) years of Credited Service. Each member shall become one hundred percent (100%) vested in his accrued benefit at normal retirement age. A member's normal retirement date shall be the first day of the month coincident with or next following the date the member retires from the City after attaining normal retirement age.

(2) *Normal retirement benefit.* A member retiring hereunder on or after his normal retirement date shall receive a monthly benefit which shall commence on the first day of the month coincident with or next following his retirement and be continued thereafter during member's lifetime, ceasing upon death, but with 120 monthly payments guaranteed in any event. The monthly retirement benefit shall equal three and nine-~~tenths~~ hundredths percent (3.09%) of average final compensation, for each year of credited service, for member's who retire prior to October 1, 2015. The monthly retirement benefit shall equal three and twenty-seven hundredths percent (3.27%) of average final compensation, for members who retire on or after October 1, 2015.

(3) *Early retirement date.* A member may retire on his early retirement date which shall be the first day of any month coincident with or next following the attainment of age 50 and the completion of ten years of credited service. Early retirement under the system is retirement from employment with the city on or after the early retirement date and prior to the normal retirement date.

(4) *Early retirement benefit.* A member retiring hereunder on his early retirement date may receive either a deferred or an immediate monthly retirement benefit payable in the same form as for normal retirement as follows:

a. A deferred monthly retirement benefit which shall commence on what would have been his normal retirement date had he continued employment as a police officer and shall be continued on the first day of each month thereafter. The amount of each such deferred monthly retirement benefit shall be determined in the same manner as for retirement on his normal retirement date except that credited service and average final compensation shall be determined as of his early retirement date; or

b. An immediate monthly retirement benefit which shall commence on his early retirement date and shall be continued on the first day of each month thereafter. The benefit payable shall be as determined in subsection (f)(4)a., reduced by three percent for each year by which the commencement of benefits precedes the date which would have been the member's normal retirement date had he continued employment as a police officer.

(5) *Required distribution date.* The member's benefit under this section must begin to be distributed to the member no later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70½ or the calendar year in which the member terminates employment with the city.

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Section 6. The City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted pursuant to Ordinance No. 13-49, and codified under Section 32.77 of the Code of Ordinances of the City of Port St. Lucie is hereby amended by amending Section 32.77(h), *Disability*, to read as follows:

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(h) *Disability.*

(1) *Disability benefits in-line of duty.* Any member who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a police officer, which disability was directly caused by the performance of his duty as a police officer, shall, upon establishing the same to the satisfaction of the board, be

entitled to a monthly pension equal to three and nine-~~tenths~~ hundredths percent (3.09%) of his average final compensation multiplied by the total years of credited service, but in any event the minimum amount paid to the member shall 42 percent of the average final compensation of the member. Terminated persons, either vested or non-vested, are not eligible for disability benefits~~, except that those terminated by the city for medical reasons may apply for a disability within 30 days after termination~~. Notwithstanding the previous sentence, if a member is terminated by the City for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the board otherwise determines that he is totally and permanently disabled as provided for above.

(2) *In-line of duty presumptions.*

a. Presumption. Any condition or impairment of health of a member caused by hypertension or heart disease shall be presumed to have been suffered in line of duty unless the contrary is shown by competent evidence, provided that such member shall have successfully passed a physical examination upon entering into such service, including cardiogram, which examination failed to reveal any evidence of such condition; and provided further, that such presumption shall not apply to benefits payable or granted in a policy of life insurance or disability insurance.

b. Additional presumption. The presumption provided for in this subsection shall apply only to those conditions described in this subsection that are diagnosed on or after January 1, 1996.

1. Definitions. As used in this subsection (h)(2)b., the following definitions apply:

Body fluids means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of meningococcal meningitis or tuberculosis, the term "body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, and saliva, mucous, and other fluids through which infectious airborne organisms can be transmitted between persons.

Emergency rescue or public safety member means any member employed full time by the city as a firefighter, paramedic, emergency medical technician, law enforcement officer, or correctional officer who, in the course of employment, runs a high risk of occupational exposure to hepatitis, meningococcal meningitis, or tuberculosis and who is not employed elsewhere in a similar capacity. However, the term "emergency rescue or public safety member" does not include any person employed by a public hospital licensed under F.S. ch. 395, or any person employed by a subsidiary thereof.

Hepatitis means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.

High risk of occupational exposure means that risk that is incurred because a person subject to the provisions of this subsection, in performing the basic duties associated with his employment:

i. Provides emergency medical treatment in a non-health care setting where there is a potential for transfer of body fluids between persons;

ii. At the site of an accident, fire, or other rescue or public safety operation, or in an emergency rescue or public safety vehicle, handles body fluids in or out of containers or works with or otherwise handles needles or other sharp instruments exposed to body fluids;

iii. Engages in the pursuit, apprehension, and arrest of law violators or suspected law violators and, in performing such duties, may be exposed to body fluids; or

iv. Is responsible for the custody, and physical restraint when necessary, of prisoners or inmates within a prison, jail, or other criminal detention facility, while on work detail outside the facility, or while being transported and, in performing such duties, may be exposed to body fluids.

Occupational exposure means, in the case of hepatitis, meningococcal meningitis, or tuberculosis, means an exposure that occurs during the performance of job duties that may place a worker at risk of infection.

2. Presumption. Any emergency rescue or public safety member who suffers a condition or impairment of health that is caused by hepatitis, meningococcal meningitis, or tuberculosis, that requires medical treatment, and that results in total or partial disability or death shall be presumed to have a disability suffered in the line of duty, unless the contrary is shown by competent evidence; however, in order to be entitled to the presumption, the member must, by written affidavit as provided in F.S. § 92.50, verify by written declaration that, to the best of his knowledge and belief:

i. In the case of a medical condition caused by or derived from hepatitis, he has not:

(A) Been exposed, through transfer of bodily fluids, to any person known to have sickness or medical conditions derived from hepatitis, outside the scope of his employment;

(B) Had a transfusion of blood or blood components, other than a transfusion arising out of an accident or injury happening in connection with his present employment, or received any blood products for the treatment of a coagulation disorder since last undergoing medical tests for hepatitis, which tests failed to indicate the presence of hepatitis;

(C) Engaged in unsafe sexual practices or other high-risk behavior, as identified by the Centers for Disease Control or the Surgeon General of the United States or had sexual relations

with a person known to him to have engaged in such unsafe sexual practices or other high-risk behavior; or

(D) Used intravenous drugs not prescribed by a physician.

ii. In the case of meningococcal meningitis, in the ten days immediately preceding diagnosis he was not exposed, outside the scope of his employment, to any person known to have meningococcal meningitis or known to be an asymptomatic carrier of the disease.

iii. In the case of tuberculosis, in the period of time since the member's last negative tuberculosis skin test, he has not been exposed, outside the scope of his employment, to any person known by him to have tuberculosis.

3. Immunization. Whenever any standard, medically recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is granted under this section, if medically indicated in the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the U.S. Public Health Service, an emergency rescue or public safety member may be required by the city to undergo the immunization or prophylaxis unless the member's physician determines in writing that the immunization or other prophylaxis would pose a significant risk to the member's health. Absent such written declaration, failure or refusal by an emergency rescue or public safety member to undergo such immunization or prophylaxis disqualifies the member from the benefits of the presumption.

4. Record of exposures. The city shall maintain a record of any known or reasonably suspected exposure of an emergency rescue or public safety member in its employ to the disease described in this section and shall immediately notify the member of such exposure. An emergency rescue or public safety member shall file an incident or accident report with the city of each instance of known or suspected occupational exposure to hepatitis infection, meningococcal meningitis, or tuberculosis.

5. Required medical tests; pre-employment physical. In order to be entitled to the presumption provided by this section:

i. An emergency rescue or public safety member must, prior to diagnosis, have undergone standard, medically acceptable tests for evidence of the communicable disease for which the presumption is sought, or evidence of medical conditions derived therefrom, which tests fail to indicate the presence of infection This subsection does not apply in the case of meningococcal meningitis.

ii. On or after June 15, 1995, an emergency rescue or public safety member may be required to undergo a pre-employment physicalexamination that tests for and fails to reveal any evidence of hepatitis or tuberculosis.

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(3) *Disability benefits not-in-line of duty.* Any member with ten years or more credited service who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a police officer, which disability is not directly caused by the performance of his duties as a police officer shall, upon establishing the same to the satisfaction of the board, be entitled to a monthly pension equal to three and nine-~~tenths~~ hundredths percent (3.09%) of his average final compensation multiplied by the total years of credited service. Terminated persons, either vested or non-vested, are not eligible for disability benefits~~, except that those terminated by the city for medical reasons may apply for a disability within 30 days after termination~~. Notwithstanding the previous sentence, if a member is terminated by the City for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the board otherwise determines that he is totally and permanently disabled as provided for above.

(4) *Conditions disqualifying disability benefits.* Each member who is claiming disability benefits shall establish, to the satisfaction of the board, that such disability was not occasioned primarily by:

a. Excessive or habitual use of any drugs, intoxicants or narcotics.

b. Injury or disease sustained while willfully and illegally participating in fights, riots or civil insurrections or while committing a crime.

c. Injury or disease sustained while serving in any branch of the Armed Forces.

d. Injury or disease sustained by the member after his employment as a police officer with the city shall have terminated.

e. Injury or disease sustained by the member while working for anyone other than the city and arising out of such employment.

(5) *Physical examination requirement.* A member shall not become eligible for disability benefits until and unless he undergoes a physical examination by a qualified physician or physicians and/or surgeon or surgeons, who shall be selected by the board for that purpose. The board shall not select the member's treating physician or surgeon for this purpose except in an unusual case where the board determines that it would be reasonable and prudent to do so.

Any retiree receiving disability benefits under provisions of this section may be required by the board to submit sworn statements of his condition accompanied by a physician's statement (provided at the retiree's expense) to the board annually and may be required by the board to undergo additional periodic re-examinations by a qualified physician or physicians and/or surgeon or surgeons who shall be selected by the board, to determine if such disability has ceased to exist. If the board finds that the retiree is no longer permanently and totally disabled to the extent that he is unable to render useful and efficient service as a police officer, the board shall recommend to the city that the retiree be returned to performance of duty as a police officer, and the retiree so returned shall enjoy the same rights that he had at the time he was placed upon pension. In the event the retiree so ordered to return shall refuse to comply with the order within 30 days from the issuance thereof, he shall forfeit the right to his pension.

The cost of the physical examination and/or re-examination of the member claiming or the retiree receiving disability benefits shall be borne by the fund. All other reasonable costs as determined by the board incident to the physical examination, such as, but not limited to, transportation, meals and hotel accommodations, shall be borne by the fund.

If the retiree recovers from disability and reenters the service of the city as a police officer, his service will be deemed to have been continuous, but the period beginning with the first month for which he received a disability retirement income payment and ending with the date he reentered the service of the city will not be considered as credited service for the purposes of the system.

The board shall have the power and authority to make the final decisions regarding all disability claims.

(6) *Disability payments.* The monthly benefit to which a member is entitled in the event of the member's disability retirement shall be payable on the first day of the first month after the board determines such entitlement. However, the monthly retirement income shall be payable as of the date the board determined such entitlement, and any portion due for a partial month shall be paid together with the first payment. The last payment will be:

a. If the retiree recovers from the disability, the payment due next preceding the date of such recovery, or

b. If the retiree dies without recovering from disability, the payment due next preceding his death or the 120th monthly payment, whichever is later.

Provided, however, the disability retiree may select, at any time prior to the date on which benefit payments begin, an optional form of benefit payment as described in subsection (j)(1)a. or b., which shall be the actuarial equivalent of the normal form of benefit.

(7) *Workers' compensation.* When a retiree is receiving a disability pension and workers' compensation benefits pursuant to F.S. ch. 440, for the same disability, and the total monthly benefits received from both exceed 100 percent of the member's average monthly wage, as defined in F.S. ch. 440, the disability pension benefit shall be reduced so that the total monthly amount received by the retiree does not exceed 100 percent of such average monthly wage. The amount of any lump sum workers' compensation payment shall be converted to an equivalent monthly benefit payable for ten years certain by dividing the lump sum amount by 83.9692. Notwithstanding the foregoing, in no event shall the disability pension benefit be reduced below the greater of 42 percent of average final compensation or ~~two percent~~ two and three quarters percent (2.75%) of average final compensation times years of credited service.

* * * * *

Section 7. The City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted pursuant to Ordinance No. 13-49, and codified under Section 32.77 of the Code of Ordinances of the City of Port St. Lucie is hereby amended by amending Section 32.77(j), *Optional Forms of Benefits*, to read as follows:

* * * * *

(j) *Optional Forms of Benefits.*

(1) In lieu of the amount and form of retirement income payable in the event of normal or early retirement as specified herein, a member, upon written request to the board, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one of the following options:

a. A retirement income of a monthly amount payable to the retiree for his lifetime only.

b. A retirement income of a modified monthly amount, payable to the retiree during the lifetime of the retiree and following the death of the retiree, 100 percent, 75 percent, 662/3 percent or 50 percent of such monthly amount payable to a joint pensioner for his lifetime. Except where the retiree's joint pensioner is his spouse, the payments to the joint pensioner as a percentage of the payments to the retiree shall not exceed the applicable percentage provided for in the applicable table in the Treasury Regulations. (See Q&A-2 of 1.401(a)(9)-6)

c. If a member retires prior to the time at which social security benefits are payable, he may elect to receive an increased retirement benefit until such time as social security benefits shall be assumed to commence and a reduced benefit thereafter in order to provide, to as great an extent as possible, a more level retirement allowance during the entire period of retirement. The amounts payable shall be as recommended by the actuaries for the system, based upon the social security law in effect at the time of the member's retirement.

(2) The member, upon electing any option of this subsection, will designate the joint pensioner (subsection (j)(1)b.) or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the system in the event of member's death, and will have the power to change such designation from time to time. Such designation will name a joint pensioner or one or more primary beneficiaries where applicable. A member may change his beneficiary at any time. If a member has elected an option with a joint pensioner and member's retirement income benefits have commenced, member may thereafter change his designated beneficiary at any time, but may only change his joint pensioner twice. Subject to the restriction in the previous sentence, a member may substitute a new joint pensioner for a deceased joint pensioner. In the absence of proof of good health of the joint pensioner being replaced, the actuary will assume that the joint pensioner has deceased for purposes of calculating the new payment.

(3) The consent of a member's or retiree's joint pensioner or beneficiary to any such change shall not be required. The rights of all previously-designated beneficiaries to receive benefits under the system shall thereupon cease.

(4) Upon change of a retiree's joint pensioner in accordance with this subsection, the amount of the retirement income payable to the retiree shall be actuarially redetermined to take into account the age of the former joint pensioner, the new joint pensioner and the retiree and to ensure that the benefit paid is the actuarial equivalent of the present value of the retiree's then-current benefit at the time of the change. Any such retiree shall pay the actuarial recalculation expenses. Each request for a change will be made in writing on a form prepared by the board and on completion will be filed with the board. In the event that no designated beneficiary survives the retiree, such benefits as are payable in the event of the death of the retiree subsequent to his retirement shall be paid as provided in subsection (k).

(5) Retirement income payments shall be made under the option elected in accordance with the provisions of this subsection and shall be subject to the following limitations:

a. If a member dies prior to his normal retirement date or early retirement date, whichever first occurs, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined under the pre-retirement death section.

b. If the designated beneficiary (or beneficiaries) or joint pensioner dies before the member's retirement under the system, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the member upon his retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this section or a new beneficiary is designated by the member prior to his retirement.

c. If both the retiree and the beneficiary (or beneficiaries) designated by member or retiree die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of subsection (j)(1), the board may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with subsection (k).

d. If a member continues beyond his normal retirement date pursuant to the provisions of subsection (f)(1), and dies prior to his actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the member in the amount or amounts computed as if the member had retired under the option on the date on which his death occurred.

e. The member's benefit under this subsection must begin to be distributed to the member no later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70½ or the calendar year in which the member terminates employment with the city.

(6) A retiree may not change his retirement option after the date of cashing or depositing his first retirement check.

(7) Notwithstanding anything herein to the contrary, the board in its discretion, may elect to make a lump sum payment to a member or a member's beneficiary in the event that the total commuted value of the monthly income payments to be paid do not exceed $1,000.00. Any such payment made to any person pursuant to the power and discretion conferred upon the board by the preceding sentence shall operate as a complete discharge of all obligations under the system with regard to such member and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons.

* * * * *

Section 8. The City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted pursuant to Ordinance No. 13-49, and codified under Section 32.77 of the Code of Ordinances of the City of Port St. Lucie is hereby amended by amending Section 32.77(o), *Maximum Pension*, to read as follows:

* * * * *

(o) *Maximum Pension.*

(1) *Basic limitation.* Notwithstanding any other provisions of this system to the contrary, the member contributions paid to, and retirement benefits paid from, the system shall be limited to such extent as may be necessary to conform to the requirements of Code Section 415 for a qualified retirement plan. Before January 1, 1995, a plan member may not receive an annual benefit that exceeds the limits specified in Code Section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a plan member may not receive an annual benefit that exceeds the dollar amount specified in Code Section 415(b)(1)(A) ($160,000.00), subject to the applicable adjustments in Code Section 415(b) and subject to any additional limits that may be specified in this system. For purposes of this subsection, "limitation year" shall be the calendar year.

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

(2) *Adjustments to basic limitation for form of benefit.* If the benefit under the plan is other than the annual benefit described in subsection (o)(1), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations. If the form of the benefit without regard to any automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Code Section 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii)) that takes into account the additional benefits under the form of benefit as follows:

a. For a benefit paid in a form to which Section 417(e)(3) of the Code does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of

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

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

b. For a benefit paid in a form to which Section 417(e)(3) of the Code applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of

Additions to text are indicated by underline; deletions by ~~strikeout~~.

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

2. The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a five and one-half percent interest assumption (or the applicable statutory interest assumption) and:

   i. For years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent revenue ruling modifying the applicable provisions of Revenue Ruling 2001-62), and

   ii. For years after December 31, 2008, the applicable mortality tables described in Section 417(e)(3)(B) of the Code (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing section 417(e)(3)(B) of the Code); or

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

   i. For years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation Section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and

   ii. For years after December 31, 2008, the applicable mortality tables described in Section 417(e)(3)(B) of the Code (Notice 2008-85 or actuary may adjust the 415(b) limit at the annuity starting date in accordance with subsections (o)(2)a. and b.

(3) *Benefits not taken into account.* For purposes of this subsection, the following benefits shall not be taken into account in applying these limits:

a. Any ancillary benefit which is not directly related to retirement income benefits;

b. Any other benefit not required under Section 415(b)(2) of the Code and regulations thereunder to be taken into account for purposes of the limitation of Code Section 415(b)(1); and

c. That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity.

(4) *COLA effect.* Effective on and after January 1, 2003, for purposes of applying the limits under Code Section 415(b) (the "limit"), the following will apply:

a. A member's applicable limit will be applied to the member's annual benefit in the member's first limitation year of benefit payments without regard to any automatic cost of living adjustments;

b. Thereafter, in any subsequent limitation year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable benefit limit including any adjustment to the Code Section 415(b)(1)(A) dollar limit under Code Section 415(d), and the regulations thereunder; but

c. In no event shall a member's benefit payable under the system in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Code Section 415(d) and the regulations thereunder.

Unless otherwise specified in the system, for purposes of applying the limits under Code Section 415(b), a member's applicable limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Internal Revenue Code and applicable Treasury Regulations.

(5) *Other adjustments in limitations.*

a. In the event the member's retirement benefits become payable before age 62, the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of Code Section 415(b) of the Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a $160,000.00 annual benefit beginning at age 62.

b. In the event the member's benefit is based on at least 15 years of credited service as a full-time employee of the police or fire department of the city, the adjustments provided for in subsection (o)(5)a. shall not apply.

c. The reductions provided for in subsection (o)(5)a. above shall not be applicable to disability benefits pursuant to subsection (h), or pre-retirement death benefits paid pursuant to subsection (g).

d. In the event the member's retirement benefit becomes payable after age 65, for purposes of determining whether this benefit meets the limit set forth in subsection (o)(1), such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age 65. This adjustment shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.

(6) *Less than ten years of participation ~~or service~~.* The maximum retirement benefits payable under this subsection to any member who has completed less than ten years of ~~credited service with the city~~ participation shall be the amount determined under subsection (o)(1) multiplied by a fraction, the numerator of which is the number of the member's years of ~~credited service~~ participation and the denominator of which is ten. The reduction provided by this subsection cannot reduce the maximum benefit below ten percent of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits paid pursuant to subsection (h), or pre-retirement death benefits paid pursuant to subsection (g).

(7) *Participation in other defined benefit plans.* The limit of this subsection with respect to any member who at any time has been a member in any other defined benefit plan as defined in Code Section 414(j) maintained by the city shall apply as if the total benefits payable under all city defined benefit plans in which the member has been a member were payable from one plan.

(8) *Ten thousand dollar limit; less than ten years of service.* Notwithstanding anything in this subsection, the retirement benefit payable with respect to a member shall be deemed not to exceed the limit set forth in this subsection (o)(8) if the benefits payable, with respect to such member under this system and under all other qualified defined benefit pension plans to which the city contributes, do not exceed $10,000.00 for the applicable limitation year and for any prior limitation year and the city has not any time maintained a qualified defined contribution plan in which the member participated; provided, however, that if the member has completed less than ten years of credited service with the city, the limit under this subsection (o)(8) shall be a reduced limit equal to $10,000.00 multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten.

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

~~10.~~(10) *Service credit purchase limits.*

a. Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the system, as allowed in subsection (y) and (z), then the requirements of this section will be treated as met only if:

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

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

For purposes of applying subsection (o)(10)a.1., the system will not fail to meet the reduced limit under Code Section 415(b)(2)(c) solely by reason of this subsection, and for purposes of applying subsection (o)(10)a.2. the system will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Internal Revenue Code solely by reason of this subsection.

b. For purposes of this subsection the term "permissive service credit" means service credit:

1. Recognized by the system for purposes of calculating a member's benefit under the plan,

2. Which such member has not received under the plan, and

3. Which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may, if otherwise provided by the system, include service credit for periods for which there is no performance of service, and, notwithstanding clause (o)(10)b.2., may include service credited in order to provide an increased benefit for service credit which a member is receiving under the system.

(11) *Contribution limits.*

a. For purposes of applying the Code Section 415(c) limits which are incorporated by reference and for purposes of this subsection (o)(11), only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulations Section 1.415(c)-2, or successor regulations. Unless another definition of compensation that is permitted by Treasury Regulations Section 1.415(c)-2, or successor regulation, is specified by the system, compensation will be defined as wages within the meaning of Code Section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Code Sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2).

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

2. For limitation years beginning on and after January 1, 2007, compensation for the limitation year will also include compensation paid by the later of two and one-half months after an employee's severance from employment or the end of the limitation year that includes the date of the employee's severance from employment if:

i. The payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance

from employment, the payments would have been paid to the employee while the employee continued in employment with the employer; or

ii. The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued.

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

b. Notwithstanding any other provision of law to the contrary, the board may modify a request by a member to make a contribution to the system if the amount of the contribution would exceed the limits provided in Code Section 415 by using the following methods:

1. If the law requires a lump sum payment for the purchase of service credit, the board may establish a periodic payment deduction plan for the member to avoid a contribution in excess of the limits under Code Sections 415(c) or 415(n).

2. If payment pursuant to subsection (o)(11)b.1. will not avoid a contribution in excess of the limits imposed by Code Section 415(c), the board may either reduce the member's contribution to an amount within the limits of that section or refuse the member's contribution.

c. If the annual additions for any member for a limitation year exceed the limitation under Section 415(c) of the Code, the excess annual addition will be corrected as permitted under the employee plans compliance resolution system (or similar IRS correction program).

d. For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of this subsection (o)(11) shall not exceed the annual limit under Section 401(a)(17) of the Code.

(12) *Additional limitation on pension benefits.* Notwithstanding anything herein to the contrary:

a. The normal retirement benefit or pension payable to a retiree who becomes a member of the system and who has not previously participated in such system, on or after January 1, 1980, shall not exceed 100 percent of his average final compensation. However, nothing contained in this subsection shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.

b. No member of the system shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter ~~67~~ 1223, Title 10, U.S. Code.

(13) *Effect of direct rollover on 415(b) limit.* If the plan accepts a direct rollover of an employee's or former employee's benefit from a defined contribution plan qualified under 26 U.S. Code Section 401(a) which is maintained by the employer, any annuity

resulting from the rollover amount that is determined using a more favorable actuarial basis than required under U.S. Code Section 417(e) shall be included in the annual benefit for purposes of the limit under U.S. Code Section 415(b).

* * * * *

Section 9. The City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted pursuant to Ordinance No. 13-49, and codified under Section 32.77 of the Code of Ordinances of the City of Port St. Lucie is hereby amended by amending Section 32.77(aa), *Deferred Retirement Option Plan*, to read as follows:

* * * * *

(aa) *Deferred Retirement Option Plan.*

(1) *Definitions.* As used in this section, the following definitions apply:

DROP means the city municipal police officers' retirement trust fund deferred retirement option plan.

DROP account means The account established for each DROP participant under subsection (aa)(3).

Total Return of the Assets means, for purposes of calculating earnings on a members' *DROP account* pursuant to subsection (3)b.2.ii., for each fiscal year quarter, the percentage increase (or decrease) in the interest and dividends earned on investments, including realized and unrealized gains (or losses), of the total plan assets.

(2) *Participation.*

a. *Eligibility to participate.* In lieu of terminating his employment as a police officer, any member who is eligible for normal retirement under the system may elect to defer receipt of such service retirement pension and to participate in the DROP.

b. *Election to participate.* A member's election to participate in the DROP must be made in writing in a time and manner determined by the board and shall be effective on the first day of the first calendar month which is at least 15 business days after it is received by the board.

c. *Period of participation.* A member who elects to participate in the DROP under subsection (aa)(2)b., shall participate in the DROP for a period not to exceed 60 months beginning at the time his election to participate in the DROP first becomes effective. An election to participate in the DROP shall constitute an irrevocable election to resign from the service of the city not later than the date provided for in the previous sentence. A member may participate only once.

d. *Termination of participation.*

1. A Member's participation in the DROP shall cease at the earlier of:

i. The end of his permissible period of participation in the DROP as determined under subsection (aa)(2)c.; or

ii. Termination of his employment as a police officer.

2. Upon the member's termination of participation in the DROP, all amounts provided for in subsection (aa)(3)b., including monthly benefits and investment earnings and losses or interest, shall cease to be transferred from the system to his DROP account any amounts remaining in his DROP account shall be paid to him in accordance with the provisions of subsection (aa)(4) when he terminates his employment as a police officer.

3. A Member who terminates his participation in the DROP under this subsection (aa)(2)d. shall not be permitted to again become a participant in the DROP.

e. Effect of DROP participation on the system.

1. A member's credited service and his accrued benefit under the system shall be determined on the date his election to participate in the DROP first becomes effective. For purposes of determining the accrued benefit, the member's salary for the purposes of calculating his average final compensation shall include an amount equal to any lump sum payments or portion thereof which would have been paid or are paid to the member and included as salary as defined herein, had the member retired under normal retirement and not elected DROP participation. Member contributions attributable to any lump sums used in the benefit calculation and not actually received by the member shall be deducted from the first payments to the member's DROP account. The member shall not accrue any additional credited service or any additional benefits under the system (except for <u>any supplemental benefit payable to DROP participants or</u> any additional benefits provided under any cost-of-living adjustment in the system) while he is a participant in the DROP. After a member commences participation, he shall not be permitted to again contribute to the system nor shall he be eligible for disability or pre-retirement death benefits.

2. No amounts shall be paid to a member from the system while the member is a participant in the DROP. Unless otherwise specified in the system, if a member's participation in the DROP is terminated other than by terminating his employment as a police officer, no amounts shall be paid to him from the system until he terminates his employment as a police officer. Unless otherwise specified in the system, amounts transferred from the system to the member's DROP account shall be paid directly to the member only on the termination of his employment as a police officer.

(3) *Funding.*

a. *Establishment of DROP account.* A DROP account shall be established for each member participating in the DROP. A member's DROP account shall consist of amounts transferred to the DROP under subsection (aa)(3)b., and earnings or interest on those amounts.

b. *Transfers from retirement system.*

1. As of the first day of each month of a member's period of participation in the DROP, the monthly retirement benefit he would have received under the system had he terminated his employment as a police officer and elected to receive monthly benefit payments thereunder shall be transferred to his DROP account, except as otherwise provided for in subsection (aa)(2)d.2. A members period of participation in the DROP shall be determined in accordance with the provisions of subsections (aa)(2)c. and (aa)(2)d., but in no event shall it continue past the date he terminates his employment as a police officer.

2. Except as otherwise provided in subsection (aa)(2)d.2., a member's DROP account under this subsection (aa)(3)b. shall be debited or credited ~~after each fiscal year quarter~~ with either:

   i. Interest at an effective rate of six and one-half percent (6.5%) per annum compounded monthly determined on the last business day of the prior month's ending balance and credited to the members' DROP account as of such date (to be applicable to all current and future DROP participants); or

   ii. Earnings, to be credited or debited to the member's DROP account, determined as of the last business day of each fiscal year quarter and debited or credited as of such date, determined as follows:

   The average daily balance in a member's DROP account shall be credited or debited at a rate equal to the net investment return realized by the system for that quarter. "Net investment return" for the purpose of this subsection is the total return of the assets in which the member's DROP account is invested by the board net of brokerage commissions, transaction costs and management fees.

For purposes of calculating earnings on a member's DROP account pursuant to this subsection (3)b.2.ii., brokerage commissions, transaction costs, and management fees shall be determined for each quarter by the investment consultant pursuant to contracts with fund managers as reported in the custodial statement. The investment consultant shall report these quarterly contractual fees to the board. The investment consultant shall also report the net investment return for each manager and the net investment return for the total plan assets.

Upon electing participation in the DROP, the member shall elect to receive either interest or earnings on his account to be determined as provided above. The member may, in writing, elect to change his election only once during his DROP participation. An election to change' must be made prior to the end of a quarter and shall be effective beginning the following quarter.

3. A member's DROP account shall only be credited or debited with earnings or interest and monthly benefits while the member is a participant in the DROP. A member's final DROP account value for distribution to the member upon termination of participation in the DROP shall be the value of the account at the end of the quarter immediately preceding termination of participation for participants electing the net plan return and at the end of the month immediately preceding termination of participation for participants electing the flat interest rate return plus any monthly periodic additions made to the DROP account subsequent to the end of the previous quarter or month, as applicable, and prior to eligibility for distribution. A member shall not be employed by the police department after participating in the DROP, and the member's DROP account will no longer be credited or debited with earnings or interest, nor will monthly benefits be transferred to the DROP account. All such non-transferred amounts shall be forfeited and continue to be forfeited.

(4) *Distribution of DROP accounts on termination of employment.*

a. *Eligibility for benefits.* A member shall receive the balance in his DROP account in accordance with the provisions of this subsection (aa)(4) upon his termination of employment as a police officer. Except as provided in subsection (aa)(4)e., no

amounts shall be paid to a member from the DROP prior to his termination of employment as a police officer.

b. *Form of distribution.*

1. Unless the member elects otherwise, distribution of his DROP account shall be made in a cash lump sum, subject to the direct rollover provisions set forth in subsection (aa)(4)f. A member may, however, elect, in such time and manner as the board shall prescribe, that his DROP distribution be used to purchase a nonforfeitable fixed annuity payable in such form as the member may elect. Elections under this subsection shall be in writing and shall be made in such time or manner as the board shall determine.

2. If a member dies before his benefit is paid, his DROP account shall be paid to his beneficiary in such optional form as his beneficiary may select. If no beneficiary designation is made, the DROP account shall be distributed to the member's estate.

c. *Date of payment of distribution.* Except as otherwise provided in this subsection (aa)(4), distribution of a member's DROP account shall be made as soon as administratively practicable following the member's termination of employment. Distribution of the amount in a member's DROP account will not be made unless the member completes a written request for distribution and a written election, on forms designated by the board, to either receive a cash lump sum or a rollover of the lump sum amount.

d. *Proof of death and right of beneficiary or other person.* The board may require and rely upon such proof of death and such evidence of the right of any beneficiary or other person to receive the value of a deceased member's DROP account as the board may deem proper and its determination of the right of that beneficiary or other person to receive payment shall be conclusive.

e. *Distribution limitation.* Notwithstanding any other provision of this subsection (aa)(4), all distributions from the DROP shall conform to the "minimum distribution of benefits" provisions as provided for herein.

f. *Direct rollover of certain distributions.* This subsection applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the DROP to the contrary a distributee may elect to have any portion of an eligible rollover distribution paid in a direct rollover as otherwise provided under the system in the direct transfers of eligible rollover distributions; elimination of mandatory distributions section of your plan.

(5) *Administration of DROP.*

a. *Board administers the DROP.* The general administration of the DROP, the responsibility for carrying out the provisions of the DROP and the responsibility of overseeing the investment of the DROP's assets shall be placed in the board. The members of the board may appoint from their number such subcommittees with such powers as they shall determine; may adopt such administrative procedures and regulations as they deem desirable for the conduct of their affairs; may authorize one or more of their number or any agent to execute or deliver any instrument or make any payment on their behalf; may retain counsel, employ agents and provide for such clerical, accounting, actuarial and consulting services as they may require in carrying out the provisions of the DROP; and may allocate among themselves or

Additions to text are indicated by underline; deletions by ~~strikeout~~.

delegate to other persons all or such portion of their duties under the DROP, other than those granted to them as trustee under any trust agreement adopted for use in implementing the DROP, as they, in their sole discretion, shall decide. A trustee shall not vote on any question relating exclusively to himself

b. *Individual accounts—Records and reports.* The board shall maintain, or cause to be maintained, records showing the operation and condition of the DROP, including records showing the individual balances in each member's DROP account, and the board shall keep, or cause to be kept, in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The board shall prepare or cause to be prepared and distributed to members participating in the DROP and other individuals or filed with the appropriate governmental agencies, as the case may be, all necessary descriptions, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Code and any other applicable laws.

c. *Establishment of rules.* Subject to the limitations of the DROP, the board from time to time shall establish rules for the administration of the DROP and the transaction of its business. The board shall have discretionary authority to construe and interpret the DROP (including but not limited to determination of an individual's eligibility for DROP participation, the right and amount of any benefit payable under the DROP and the date on which any individual ceases to be a participant in the DROP). The determination of the board as to the interpretation of the DROP or its determination of any disputed questions shall be conclusive and final to the extent permitted by applicable law. The board shall also oversee the investment of the DROP'S assets.

d. *Limitation of liability.*

1. The trustees shall not incur any liability individually or on behalf of any other individuals for any act or failure to act, made in good faith in relation to the DROP or the funds of the DROP.

2. Neither the board nor any trustee of the board shall be responsible for any reports furnished by any expert retained or employed by the board, but they shall be entitled to rely thereon as well as on certificates furnished by an accountant or an actuary, and on all opinions of counsel. The board shall be fully protected with respect to any action taken or suffered by it in good faith in reliance upon such expert, accountant, actuary or counsel, and all actions taken or suffered in such reliance shall be conclusive upon any person with any interest in the DROP.

(6) *General provisions.*

a. *The DROP is not a separate retirement plan.* Instead, it is a program under which a member who is eligible for normal retirement under the system may elect to accrue future retirement benefits in the manner provided in this section (aa) for the remainder of his employment, rather than in the normal manner provided under the plan. Upon termination of employment, a member is entitled to a lump sum distribution of his or her DROP account balance or may elect a rollover. The DROP account distribution is in addition to the member's monthly benefit.

b. *Notional account.* The DROP account established for such a member is a notional account, used only for the purpose of calculation of the DROP distribution amount. It is not a separate account in the system. There is no change in the system's assets,

and there is no distribution available to the member until the member's termination from the DROP. The member has no control over the investment of the DROP account.

c. *No employer discretion.* The DROP benefit is determined pursuant to a specific formula which does not involve employer discretion.

d. *IRC limit.* The DROP account distribution, along with other benefits payable from the system, is subject to limitation under Internal Revenue Code Section 415(b).

~~a~~ e. *Amendment of DROP.* The DROP may be amended by an ordinance of the city at any time and from time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the DROP. However, except as otherwise provided by law, no amendment shall make it possible for any part of the DROP's funds to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the DROP. No amendment shall be made which has the effect of decreasing the balance of the DROP account of any member.

~~b~~ f. *Facility of payment.* If the board shall find that a member or other person entitled to a benefit under the DROP is unable to care for his affairs because of illness or accident or is a minor, the board may direct that any benefit due him, unless claim shall have been made for the benefit by a duly appointed legal representative, be paid to his spouse, a child, a parent or other blood relative, or to a person with whom he resides. Any payment so made shall be a complete discharge of the liabilities of the DROP for that benefit.

~~c~~ g. *Information.* Each member, beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or on his account under the DROP, shall file with the board the information that it shall require to establish his rights and benefits under the DROP.

~~d~~ h. *Prevention of escheat.* If the board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the board may, no earlier than three years from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the board or the city. If such person has not made written claim therefor within three months of the date of the mailing, the board may, if it so elects and upon receiving advice from counsel to the DROP, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the DROP. Upon such cancellation, the DROP shall have no further liability therefor except that, in the event such person or his beneficiary later notifies the board of his whereabouts and requests the payment or payments due to him under the DROP, the amount so applied shall be paid to him in accordance with the provisions of the DROP.

~~e~~ i. *Written elections, notification.*

1. Any elections, notifications or designations made by a member pursuant to the provisions of the DROP shall be made in writing and filed with the board in a time and manner determined by the board under rules uniformly applicable to all employees similarly situated. The board reserves the right to change from time to time the manner for making notifications, elections or designations by members under the DROP if it determines after due deliberation that such

action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.

2. Each member or retiree who has a DROP account shall be responsible for furnishing the board with his current address and any subsequent changes in his address. Any notice required to be given to a member or retiree hereunder shall be deemed given if directed to him at the last such address given to the board and mailed by registered or certified United States mail. If any check mailed by registered or certified United States mail to such address is returned, mailing of checks will be suspended until such time as the member or retiree notifies the board of his address.

~~f~~ j. *Benefits not guaranteed.* All benefits payable to a member from the DROP shall be paid only from the assets of the member's DROP account and neither the city nor the board shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law.

~~g~~ k. *Construction.*

1. The DROP shall be construed, regulated and administered under the laws of the state, except where other applicable law controls.

2. The titles and headings of the subsections in this section are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

~~h~~ l. *Forfeiture of retirement benefits.* Nothing in this section shall be construed to remove DROP participants from the application of any forfeiture provisions applicable to the system. DROP participants shall be subject to forfeiture of all retirement benefits, including DROP benefits.

~~i~~ m. *Effect of DROP participation on employment.* Participation in the DROP is not a guarantee of employment and DROP participants shall be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.

~~j~~ n. *Right to serve as a trustee.* A member's election to participate in the DROP shall not make him ineligible to serve as a member trustee, but he shall be ineligible to vote for member trustees.

* * * * *

Section 10. The City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted pursuant to Ordinance No. 13-49, and codified under Section 32.77 of the Code of Ordinances of the City of Port St. Lucie is hereby amended by adding Section 32.77(bb), *Supplemental Benefit Component for Special Benefits; Chapter 185 Share Accounts*, to read as follows:

* * * * *

(bb) *Supplemental Benefit Component for Special Benefits; Chapter 185 Share Accounts.*

There is hereby established an additional plan component to provide special benefits in the form of a supplemental retirement, termination, death and disability benefits to be in addition to the benefits provided for in the previous sections of this plan, such benefit to be funded solely and

entirely by Chapter 185, Florida Statutes, premium tax monies for each plan year which are allocated to this supplemental component as provided for in Section 185.35, Florida Statutes. Amounts allocated to this supplemental component ("Share Plan") shall be further allocated to the members and DROP participants in a manner to be agreed upon.

* * * * *

Section 11. Specific authority is hereby granted to codify and incorporate this Ordinance into the existing Code of Ordinances of the City of Port St. Lucie.

Section 12. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

Section 13. If any section, subsection, sentence, clause, or phrase of this Ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby. In the event this Ordinance conflicts with any other Ordinance of the City, this Ordinance shall govern, and all City ordinances, or parts thereof, in conflict with this Ordinance are hereby superseded and repealed by this Ordinance to the extent of such conflict.

Section 14. This Ordinance shall become effective ten (10) days after its final adoption.

PASSED AND APPROVED by the City Council of the City of Port St. Lucie, Florida, this the 13TH day of June, 2016.

CITY COUNCIL
CITY OF PORT ST. LUCIE, FLORIDA

BY: _____
Gregory J. Oravec, Mayor

ATTEST:

BY: _____
Karen A. Phillips, City Clerk

APPROVED AS TO FORM:

BY: _____
Azlina Goldstein Siegel, Interim City Attorney

Additions to text are indicated by underline; deletions by ~~strikeout~~.

CITY COUNCIL
AGENDA MEMORANDUM

ATTACHMENT
"1"

Law Offices
Christiansen & Dehner, P.A.
63 Sarasota Center Blvd. Suite 107 Sarasota, Florida 34240 • 941-377-2200 • Fax 941-377-4848

May 13, 2016

VIA ELECTRONIC MAIL ONLY

Ms. Sandy Steele
Plan Administrator
Port St. Lucie Mun. Pol. Off. Ret. Trust Fund
121 S.W. Port St. Lucie Blvd.
Port St. Lucie, FL 34984

Re: City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund - Proposed Ordinance

Dear Sandy:

Enclosed please find a proposed ordinance amending the City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund. With the recent adoption by the Florida Legislature of Chapter 2015-39, Laws of Florida, and changes to the Internal Revenue Code (IRC) and its associated Regulations, as well as guidance from the Internal Revenue Service (IRS), the following amendments to the pension plan are proposed:

1. Section 1, Definitions, is being amended for IRC changes and requirements, to amend the definitions of:

    a. Actuarial Equivalent - to amend the definition to incorporate the Mortality Table and interest rate currently being used by the plan's actuary
    b. Credited Service - to clarify IRC regulations on leave conversions
    c. Spouse - To clarify the definition in accordance with a recent US Supreme Court ruling

2. Section 2, Membership, has been amended to limit those individuals eligible to opt-out of the system, to comply with recent IRC Treasury Regulation requirements.

3. Section 4, Finances and Fund Management, is being amended to further incorporate recent IRC requirements with regard to investments in commingled funds.

4. Section 6, Benefit amounts and eligibility, is amending subsection 1., Normal Retirement Date, to include IRC required language regarding Normal Retirement Age

and Normal Retirement Date and subsection 2., Normal Retirement Benefit, to add that members who retire on or after October 1, 2015 shall have a benefit rate of 3.27%.

5. Section 8, Disability, is being amended to more clearly identify those individuals who may be eligible to apply for a disability pension who have been terminated by the City due to medical reasons. Subsection 7, Workers' Compensation, is also being amended to clearly identify the new minimum benefit accrual rate of 2.75%, as provided for in Chapter , Florida Statutes.

6. Section 10, Optional Forms of Benefits, is amending subsection 2. to clarify that if proof of good health of a joint pensioner who is being replaced is not provided, the actuary will assume that the joint pensioner is deceased for purposes of calculating the revised benefit amount.

7. Section 15, Maximum Pension, has had several subsections amended to comply with IRC changes.

8. Section 27, Deferred Retirement Option Plan, is being amended in accordance with recent direction from the IRS in connection with the issuance of several recent Favorable Determination Letters to clarify investment returns on DROP accounts and add several sections clarifying the DROP provisions as required by the IRS.

   We have also amended the provisions regarding when interest is calculated and paid, which will avoid a participant's forfeiture of interest accrued during the first or second month of the quarter should the member terminate DROP participation at the end of the first or second month of the quarter.

9. Section 28, Supplemental Benefit Component for Special Benefits; Chapter 185 Share Accounts, is a new Section being added to the plan. This Section creates a 'Share Plan', or defined contribution component, and the addition of a share plan is a requirement of recently adopted Chapter 2015-39, Laws of Florida, for all pension plans that are subject to the provisions of Chapters 175 and 185, Florida Statutes.

   This Share Plan provides for a share account for each member of the plan. The Share Plan is to be funded solely and entirely by Chapter 185, Florida Statutes, premium tax monies for each plan year that funding is made available to it in accordance with governing Florida Statutes and/or mutual agreement between the City and the Union. This supplemental benefit, therefore, may or may not be funded.

   If the share plan is funded, at retirement, termination (vested), disability or death, there is an additional lump sum benefit paid to the eligible member. Other allocation methods (i.e. equal allocation) could be considered if requested by the union. Each

share account receives its proportionate share of the income or loss on the assets in the plan.

By copy of this letter to the Board's actuary, Foster & Foster, Inc., I am requesting that they provide you with a letter indicating the cost, if any, associated with the adoption of this ordinance. Please provide a copy of the document to the members of the Board for review at the next meeting. If you have any questions with regard to this ordinance, please feel free to give me a call.

This ordinance should be adopted prior to August 2016 to avoid delay in the payment of state monies.

Yours very truly,

H. Lee Dehner

HLD/ksh
enclosure

DICTATED BY MR. DEHNER
BUT SIGNED IN HIS ABSENCE
TO AVOID DELAY IN MAILING

e-copy: Doug Lozen, with enclosure
Siera Feketa, with enclosure
Jerome Post, with enclosure
Bill Vega, with enclosure
Paul Griffith, with enclosure

ORDINANCE NO. ___

AN ORDINANCE OF THE CITY OF PORT ST. LUCIE, AMENDING ORDINANCE 13-49 OF THE CITY OF PORT ST. LUCIE MUNICIPAL POLICE OFFICERS' RETIREMENT TRUST FUND, IS HEREBY AMENDED; AMENDING SECTION 1, DEFINITIONS BY AMENDING THE DEFINITIONS OF "ACTUARIAL EQUIVALENT", "CREDITED SERVICE" AND "SPOUSE"; AMENDING SECTION 2, MEMBERSHIP; AMENDING SECTION 4, FINANCES AND FUND MANAGEMENT; AMENDING SECTION 6, BENEFIT AMOUNTS AND ELIGIBILITY; AMENDING SECTION 8, DISABILITY; AMENDING SECTION 10, OPTIONAL FORMS OF BENEFITS; AMENDING SECTION 15, MAXIMUM PENSION; AMENDING SECTION 27, DEFERRED RETIREMENT OPTION PLAN; ADDING SECTION 28, SUPPLEMENTAL BENEFIT COMPONENT FOR SPECIAL BENEFITS; CHAPTER 185 SHARE ACCOUNTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ST. LUCIE, FLORIDA, that;

SECTION 1: That the City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted by Ordinance No. 13-49, is hereby amended by amending Section 1, Definitions by amending the definitions of "Actuarial Equivalent", "Credited Service" and "Spouse", to read as follows:

* * *

Actuarial Equivalent means a benefit or amount of equal value, based upon the RP 2000 Combined Healthy Unisex Mortality Table and an interest rate ~~of eight and one-half percent (8.5%) per annum~~ equal to the investment return assumption set forth in the last actuarial valuation report approved by the Board. This definition may only be amended by the City pursuant to the recommendation of the Board using assumptions adopted by the Board with the advice of the plan's actuary, such that actuarial assumptions are not subject to City discretion.

* * *

Credited Service means the total number of years and fractional parts of years of service as a Police Officer with Member contributions, when required, omitting intervening years or fractional parts of years when such Member was not employed by the City as a Police Officer. A Member may voluntarily leave his Accumulated Contributions in the Fund for a period of five (5) years after leaving the employ of the Police Department pending the possibility of being reemployed as a Police Officer, without losing credit for the time that he was a Member of the System. If a vested Member leaves the employ of the Police Department, his Accumulated Contributions will be returned only upon his written request. If a Member who is not vested is not reemployed as a Police Officer with the Police Department within five (5) years, his Accumulated Contributions shall be returned, if one-thousand dollars ($1,000.00) or less. If a Member who is not vested is not reemployed within five

(5) years, his Accumulated Contributions, if more than one-thousand dollars ($1,000.00), will be returned only upon the written request of the Member and upon completion of a written election to receive a cash lump sum or to rollover the lump sum amount on forms designated by the Board. Upon return of a Member's Accumulated Contributions, all of his rights and benefits under the System are forfeited and terminated. Upon any reemployment, a Police Officer shall not receive credit for the years and fractional parts of years of service for which he has withdrawn his Accumulated Contributions from the Fund, unless the Police Officer repays into the Fund the contributions he has withdrawn, with interest, as determined by the Board, within ninety (90) days after his reemployment.

The years or fractional parts of a year that a Member performs "Qualified Military Service" consisting of voluntary or involuntary "service in the uniformed services" as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L.103-353), after separation from employment as a Police Officer with the City, shall be added to his years of Credited Service for all purposes, including vesting, provided that:

A. The Member is entitled to reemployment under the provisions of USERRA.

B. The Member returns to his employment as a Police Officer within one (1) year from the earlier of the date of his military discharge or his release from active service, unless otherwise required by USERRA.

C. The maximum credit for military service pursuant to this paragraph shall be five (5) years.

D. This paragraph is intended to satisfy the minimum requirements of USERRA. To the extent that this paragraph does not meet the minimum standards of USERRA, as it may be amended from time to time, the minimum standards shall apply.

In the event a Member dies on or after January 1, 2007, while performing USERRA Qualified Military Service, the beneficiaries of the Member are entitled to any benefits (other than benefit accruals relating to the period of qualified military service) as if the Member had resumed employment and then died while employed.

Beginning January 1, 2009, to the extent required by Section 414(u)(12) of the Code, an individual receiving differential wage payments (as defined under Section 3401(h)(2) of the Code) from an employer shall be treated as employed by that employer, and the differential wage payment shall be treated as compensation for purposes of applying the limits on annual additions under Section 415(c) of the Code. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

Leave conversions of unused accrued paid time off shall not be permitted to be applied toward the accrual of Credited Service either during each Plan Year of a Member's employment with the City or in the Plan Year in which the Member terminates employment.

* * *

Spouse means the ~~lawful wife or husband of a~~ Member's or Retiree's spouse under applicable law at the time benefits become payable.

* * *

SECTION 2: That the City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted by Ordinance No. 13-49, is hereby amended by amending Section 2, Membership, subsection 3. Opt out option, to read as follows:

* * *

3. Opt out option. Notwithstanding subsection 1., Conditions of Eligibility, above, any ~~future~~ new employee who is hired as Police Chief, may, in the event he has elected to participate in another pension program, ~~within the first ninety (90) days of his employment as Police Chief,~~ notify the Board and the City, in writing, of his election to not be a member of the system. Current employees of the City who are selected to become Police Chief are not eligible for the opt-out provided for herein. In the event of any such election, he shall be barred from future membership in the system. Thereafter, contributions to the plan in accordance with Section 5 shall not be required, he shall not be eligible to be elected as a member trustee on the board or vote for a member trustee, and he shall not be eligible for any other benefits from the plan.

* * *

SECTION 3: That the City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted by Ordinance No. 13-49, is hereby amended by amending Section 4, Finances and Fund Management, subsection 6.B.(3), to read as follows:

* * *

6.B.(3) In addition, the Board may, upon recommendation by the Board's investment consultant, make investments in group trusts meeting the requirements of Internal Revenue Service Revenue Ruling 81-100, ~~and~~ Revenue Ruling 2011-1, IRS Notice 2012-6 and Revenue Ruling 2014-24 or successor rulings or guidance of similar import, and operated or maintained exclusively for the commingling and collective investment of monies, provided that the funds in the group trust consist exclusively of trust assets held under plans qualified under Section 401(a) of the Code, individual retirement accounts that are exempt under Section 408(e) of the Code, eligible governmental plans that meet the requirements of Section 457(b) of the Code, and governmental plans under 401(a)(24) of the Code. For this purpose, a trust includes a custodial account or separate tax favored account maintained by an insurance company that is treated as a trust under Section 401(f) or under Section 457(g)(3) of the Code. While any portion of the assets of the Fund are invested in such a group trust, such group trust is itself adopted as a part of the System or Plan.

(a) Any collective or common group trust to which assets of the fund are transferred pursuant to subsection (3) shall be adopted by the board as part of the plan by executing appropriate participation, adoption agreements, and/or trust agreements with the group trust's trustee.

(b) The separate account maintained by the group trust for the plan pursuant to subsection (3) shall not be used for, or diverted to, any purpose other than for the exclusive benefit of the members and beneficiaries of the plan.

(c) For purposes of valuation, the value of the separate account maintained by the group trust for the plan shall be the fair market value of the portion of the group trust held for the

plan, determined in accordance with generally recognized valuation procedures.

* * *

SECTION 4: That the City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted by Ordinance No. 13-49, is hereby amended by amending Section 6, Benefit Amounts and Eligibility, subsections 1. Normal Retirement Date and 2. Normal Retirement Benefit, to read as follows:

1. Normal Retirement Age and Date.

~~A Member's normal retirement date shall be the first day of the month coincident with, or next following the earlier of the attainment of age fifty-five (55) and the completion of ten (10) years of Credited Service or the attainment of age fifty-two (52) and the completion of twenty-five (25) years of Credited Service. A Member may retire on his normal retirement date or on the first day of any month thereafter, and each Member shall become one hundred percent (100%) vested in his accrued benefit on the Member's normal retirement date. Normal retirement under the System is Retirement from employment with the City on or after the normal retirement date.~~

A Member's normal retirement age is the earlier of the attainment of age fifty-five (55) and the completion of ten (10) years of Credited Service or the attainment of age fifty-two (52) and the completion of twenty-five (25) years of Credited Service. Each Member shall become one hundred percent (100%) vested in his accrued benefit at normal retirement age. A Member's normal retirement date shall be the first day of the month coincident with or next following the date the Member retires from the City after attaining normal retirement age.

* * *

2. Normal Retirement Benefit.

A Member retiring hereunder on or after his normal retirement date shall receive a monthly benefit which shall commence on the first day of the month coincident with or next following his Retirement and be continued thereafter during Member's lifetime, ceasing upon death, but with one hundred twenty (120) monthly payments guaranteed in any event. The monthly retirement benefit shall equal three and nine tenths percent (3.09%) of Average Final Compensation, for each year of Credited Service, for Members who retire prior to October 1, 2015. The monthly retirement benefit shall equal three and twenty-seven hundredths percent (3.27%) of Average Final Compensation, for Members who retire on or after October 1, 2015.

* * *

SECTION 5: That the City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted by Ordinance No. 13-49, is hereby amended by amending Section 8, Disability, subsections 1. Disability Benefits In-Line of Duty, 3. Disability Benefits Not-in-Line of Duty and 7. Workers' Compensation, to read as follows:

1. Disability Benefits In-Line of Duty.

Any Member who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Police Officer, which disability was directly caused by the performance of his duty as a Police Officer, shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to three and nine tenths percent (3.09%) of his Average Final Compensation multiplied by the total years of Credited Service, but in any event the minimum amount paid to the Member shall forty-two percent (42%) of the Average Final Compensation of the

Member. Terminated persons, either vested or non-vested, are not eligible for disability benefits~~, except that those terminated by the City for medical reasons may apply for a disability within thirty (30) days after termination~~. Notwithstanding the previous sentence, if a Member is terminated by the City for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the Board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the Board otherwise determines that he is totally and permanently disabled as provided for above.

* * *

3. Disability Benefits Not-in-Line of Duty.

Any Member with ten (10) years or more Credited Service who shall become totally and permanently disabled to the extent that he is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Police Officer, which disability is not directly caused by the performance of his duties as a Police Officer shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to three and nine tenths percent (3.09%) of his Average Final Compensation multiplied by the total years of Credited Service. Terminated persons, either vested or non-vested, are not eligible for disability benefits~~, except that those terminated by the City for medical reasons may apply for a disability within thirty (30) days after termination~~. Notwithstanding the previous sentence, if a Member is terminated by the City for medical reasons, the terminated person may apply for a disability benefit if the application is filed with the Board within thirty (30) days from the date of termination. If a timely application is received, it shall be processed and the terminated person shall be eligible to receive a disability benefit if the Board otherwise determines that he is totally and permanently disabled as provided for above.

* * *

7. Workers' Compensation.

When a Retiree is receiving a disability pension and workers' compensation benefits pursuant to Florida Statute Chapter 440, for the same disability, and the total monthly benefits received from both exceed one hundred percent (100%) of the Member's average monthly wage, as defined in Chapter 440, Florida Statutes, the disability pension benefit shall be reduced so that the total monthly amount received by the Retiree does not exceed one hundred percent (100%) of such average monthly wage. The amount of any lump sum workers' compensation payment shall be converted to an equivalent monthly benefit payable for ten (10) Years Certain by dividing the lump sum amount by 83.9692. Notwithstanding the foregoing, in no event shall the disability pension benefit be reduced below the greater of forty-two percent (42%) of Average Final Compensation or ~~two percent (2%)~~ two and three quarters percent (2.75%) of Average Final Compensation times years of Credited Service.

SECTION 6: That the City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted by Ordinance No. 13-49, is hereby amended by amending Section 10, Optional Forms of Benefits, subsection 2., to read as follows:

* * *

2. The Member, upon electing any option of this Section, will designate the joint pensioner (subsection 1.B. above) or Beneficiary (or Beneficiaries) to receive the benefit, if any, payable under the System in the event of Member's death, and will have the power to change such designation from time to time. Such designation will name a joint pensioner or one (1) or more primary Beneficiaries where applicable. A Member may change his Beneficiary at any time. If a Member has elected an option with a joint pensioner and Member's retirement income benefits have

commenced, Member may thereafter change his designated Beneficiary at any time, but may only change his joint pensioner twice. Subject to the restriction in the previous sentence, a Member may substitute a new joint pensioner for a deceased joint pensioner. In the absence of proof of good health of the joint pensioner being replaced, the actuary will assume that the joint pensioner has deceased for purposes of calculating the new payment.

* * *

SECTION 7: That the City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted by Ordinance No. 13-49, is hereby amended by amending Section 15, Maximum Pension, subsections 6. Less than Ten (10) Years of Participation or Service and 12. Additional Limitation on Pension Benefits and adding subsection 13. Effect of Direct Rollover on 415(b) Limit, to read as follows:

* * *

6. Less than Ten (10) Years of Participation ~~or Service~~.

The maximum retirement benefits payable under this Section to any Member who has completed less than ten (10) years of ~~Credited Service with the City~~ participation shall be the amount determined under subsection 1 of this Section multiplied by a fraction, the numerator of which is the number of the Member's years of ~~Credited Service~~ participation and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits paid pursuant to Section 8, or pre-retirement death benefits paid pursuant to Section 7.

* * *

12. B. No Member of the System shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the Member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter ~~67~~1223, Title 10, U.S. Code.

13. Effect of Direct Rollover on 415(b) Limit.

If the plan accepts a direct rollover of an employee's or former employee's benefit from a defined contribution plan qualified under Code Section 401(a) which is maintained by the employer, any annuity resulting from the rollover amount that is determined using a more favorable actuarial basis than required under Code Section 417(e) shall be included in the annual benefit for purposes of the limit under Code Section 415(b).

SECTION 8: That the City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted by Ordinance No. 13-49, is hereby amended by amending Section 27, Deferred Retirement Option Plan, to read as follows:

SECTION 27. DEFERRED RETIREMENT OPTION PLAN.

1. Definitions.

As used in this Section , the following definitions apply:"

A. "DROP" -- The City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund Deferred Retirement Option Plan.

B. "DROP Account" -- The account established for each DROP participant under subsection 3.

C. "Total Return of the Assets" -- For purposes of calculating earnings on a Member's DROP Account pursuant to subsection 3.B.(2)(b)., for each fiscal year quarter, the percentage increase (or decrease) in the interest and dividends earned on investments, including realized and unrealized gains (or losses), of the total Plan assets.

2. Participation.

A. Eligibility to Participate.

In lieu of terminating his employment as a Police Officer, any Member who is eligible for normal retirement under the System may elect to defer receipt of such service retirement pension and to participate in the DROP.

B. Election to Participate.

A Member's election to participate in the DROP must be made in writing in a time and manner determined by the Board and shall be effective on the first day of the first calendar month which is at least fifteen (15) business days after it is received by the Board.

C. Period of Participation.

A Member who elects to participate in the DROP under subsection 2.B., shall participate in the DROP for a period not to exceed 60 months beginning at the time his election to participate in the DROP first becomes effective. An election to participate in the DROP shall constitute an irrevocable election to resign from the service of the City not later than the date provided for in the previous sentence. A Member may participate only once.

D. Termination of Participation.

(1) A Member's participation in the DROP shall cease at the earlier of:

(a) the end of his permissible period of participation in the DROP as determined under subsection 2.C.; or

(b) termination of his employment as a Police Officer.

(2) Upon the Member's termination of participation in the DROP, all amounts provided for in subsection 3.B., including monthly benefits and investment earnings and losses or interest, shall cease to be transferred from the System to his DROP Account. Any amounts remaining in his DROP Account shall be paid to him in accordance with the provisions of subsection 4. when he terminates his employment as a Police Officer.

(3) A Member who terminates his participation in the DROP under this subsection 2.D. shall not be permitted to again become a participant in the DROP.

E. Effect of DROP Participation on the System.

(1) A Member's Credited Service and his accrued benefit under the System shall be determined on the date his election to participate in the DROP first becomes effective. For purposes of determining the accrued benefit, the Member's Salary for the purposes of calculating his Average Final Compensation shall include an amount equal to any lump sum payments or portion thereof which would have been paid or are paid to the Member and included as Salary as defined herein, had the Member retired under normal retirement and not elected DROP participation. Member contributions attributable to any lump sums used in the benefit calculation and not actually received by the Member shall be deducted from the first payments to the Member's DROP Account. The Member shall not accrue any additional Credited Service or any additional benefits under the System (except for any supplemental benefit payable to DROP participants or any additional benefits provided under any cost-of-living adjustment for Retirees in the System) while he is a participant in the DROP. After a Member commences participation, he shall not be permitted to again contribute to the System nor shall he be eligible for disability or pre-retirement death benefits.

(2) No amounts shall be paid to a Member from the System while the Member is a participant in the DROP. Unless otherwise specified in the System, if a Member's participation in the DROP is terminated other than by terminating his employment as a Police Officer, no amounts shall be paid to him from the System until he terminates his employment as a Police Officer. Unless otherwise specified in the System, amounts transferred from the System to the Member's DROP Account shall be paid directly to the Member only on the termination of his employment as a Police Officer.

3. Funding.

A. Establishment of DROP Account.

A DROP Account shall be established for each Member participating in the DROP. A Member's DROP Account shall consist of amounts transferred to the DROP under subsection 3.B., and earnings or interest on those amounts.

B. Transfers From Retirement System.

(1) As of the first day of each month of a Member's period of participation in the DROP, the monthly retirement benefit he would have received under the System had he terminated his employment as a Police Officer and elected to receive monthly benefit payments thereunder shall be transferred to his DROP Account, except as otherwise provided for in subsection 2.D.(2). A Member's period of participation in the DROP shall be determined in accordance with the provisions of subsections 2.C. and 2.D., but in no event shall it continue past the date he terminates his employment as a Police Officer.

(2) Except as otherwise provided in subsection 2.D.(2), a Member's DROP Account under this subsection 3.B. shall be debited or credited ~~after each fiscal year quarter~~ with either:

(a) Interest at an effective rate of six and one-half percent (6.5%) per annum compounded monthly determined on the last business day of the prior month's ending balance and credited to the Member's DROP Account as of such date (to be applicable to all current and future DROP participants); or

(b) Earnings, to be credited or debited to the Member's DROP Account, determined as of the last business day of each fiscal year quarter and debited or credited as of such date, determined as follows:

The average daily balance in a Member's DROP Account shall be credited or debited at a rate equal to the net investment return realized by the System for that quarter. "Net investment return" for the purpose of this paragraph is the total return of the assets in which the Member's DROP Account is invested by the Board net of brokerage commissions, transaction costs and management fees.

For purposes of calculating earnings on a Member's DROP Account pursuant to this subsection 3.B.(2)(b)., brokerage commissions, transaction costs, and management fees shall be determined for each quarter by the investment consultant pursuant to contracts with fund managers as reported in the custodial statement. The investment consultant shall report these quarterly contractual fees to the Board. The investment consultant shall also report the net investment return for each manager and the net investment return for the total Plan assets.

Upon electing participation in the DROP, the Member shall elect to receive either interest or earnings on his account to be determined as provided above. The Member may, in writing, elect to change his election only once during his DROP participation. An election to change must be made prior to the end of a quarter and shall be effective beginning the following quarter.

(3) A Member's DROP Account shall only be credited or debited with earnings or interest and monthly benefits while the Member is a participant in the DROP. A Member's final DROP account value for distribution to the Member upon termination of participation in the DROP shall be the value of the account at the end of the quarter immediately preceding termination of participation for participants electing the net plan return and at the end of the month immediately preceding termination of participation for participants electing the flat interest rate return plus any monthly periodic additions made to the DROP account subsequent to the end of the previous quarter or month, as applicable, and prior to eligibility for distribution. A Member shall not be employed by the Police Department after participating in the DROP, and the Member's DROP Account will no longer be credited or debited with earnings or interest, nor will monthly benefits be transferred to the DROP account. All such non-transferred amounts shall be forfeited and continue to be forfeited.

4. Distribution of DROP Accounts on Termination of Employment.

A. Eligibility for Benefits.

A Member shall receive the balance in his DROP Account in accordance with the provisions of this subsection 4. upon his termination of employment as a Police Officer. Except as provided in subsection 4.E, no amounts shall be paid to a Member from the DROP prior to his termination of employment as a Police Officer.

B. Form of Distribution.

(1) Unless the Member elects otherwise, distribution of his DROP Account shall be made in a cash lump sum, subject to the direct rollover provisions set forth in subsection 4.F. A Member may, however, elect, in such time and manner as the Board shall prescribe, that his DROP distribution be used to purchase a nonforfeitable fixed annuity payable in such form as the Member may elect. Elections under this paragraph shall be in writing and shall be made in such time or manner as the Board shall determine.

(2) If a Member dies before his benefit is paid, his DROP Account shall be paid to his Beneficiary in such optional form as his Beneficiary may select. If no Beneficiary designation is made, the DROP Account shall be distributed to the Member's estate.

C. Date of Payment of Distribution.

Except as otherwise provided in this subsection 4., distribution of a Member's DROP Account shall be made as soon as administratively practicable following the Member's termination of employment. Distribution of the amount in a Member's DROP account will not be made unless the Member completes a written request for distribution and a written election, on forms designated by the Board, to either receive a cash lump sum or a rollover of the lump sum amount.

D. Proof of Death and Right of Beneficiary or Other Person.

The Board may require and rely upon such proof of death and such evidence of the right of any Beneficiary or other person to receive the value of a deceased Member's DROP Account as the Board may deem proper and its determination of the right of that Beneficiary or other person to receive payment shall be conclusive.

E. Distribution Limitation.

Notwithstanding any other provision of this subsection 4., all distributions from the DROP shall conform to the "Minimum Distribution of Benefits" provisions as provided for herein.

F. Direct Rollover of Certain Distributions.

This subsection applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the DROP to the contrary a distributee may elect to have any portion of an eligible rollover distribution paid d in a direct rollover as otherwise provided under the System in the Direct Transfers of

Eligible Rollover Distributions; Elimination of Mandatory Distributions Section of your plan.

5. Administration of DROP.

A. Board Administers the DROP.

The general administration of the DROP, the responsibility for carrying out the provisions of the DROP and the responsibility of overseeing the investment of the DROP's assets shall be placed in the Board. The members of the Board may appoint from their number such subcommittees with such powers as they shall determine; may adopt such administrative procedures and regulations as they deem desirable for the conduct of their affairs; may authorize one or more of their number or any agent to execute or deliver any instrument or make any payment on their behalf; may retain counsel, employ agents and provide for such clerical, accounting, actuarial and consulting services as they may require in carrying out the provisions of the DROP; and may allocate among themselves or delegate to other persons all or such portion of their duties under the DROP, other than those granted to them as Trustee under any trust agreement adopted for use in implementing the DROP, as they, in their sole discretion, shall decide. A Trustee shall not vote on any question relating exclusively to himself.

B. Individual Accounts, Records and Reports.

The Board shall maintain, or cause to be maintained, records showing the operation and condition of the DROP, including records showing the individual balances in each Member's DROP Account, and the Board shall keep, or cause to be kept, in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The Board shall prepare or cause to be prepared and distributed to Members participating in the DROP and other individuals or filed with the appropriate governmental agencies, as the case may be, all necessary descriptions, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Code and any other applicable laws.

C. Establishment of Rules.

Subject to the limitations of the DROP, the Board from time to time shall establish rules for the administration of the DROP and the transaction of its business. The Board shall have discretionary authority to construe and interpret the DROP (including but not limited to determination of an individual's eligibility for DROP participation, the right and amount of any benefit payable under the DROP and the date on which any individual ceases to be a participant in the DROP). The determination of the Board as to the interpretation of the DROP or its determination of any disputed questions shall be conclusive and final to the extent permitted by applicable law. The Board shall also oversee the investment of the DROP'S assets.

D. Limitation of Liability.

(1) The Trustees shall not incur any liability individually or on behalf of any other individuals for any act or failure to act, made in good faith in relation to the DROP or the funds of the DROP.

(2) Neither the Board nor any Trustee of the Board shall be responsible for any reports furnished by any expert retained or employed by the

Board, but they shall be entitled to rely thereon as well as on certificates furnished by an accountant or an actuary, and on all opinions of counsel. The Board shall be fully protected with respect to any action taken or suffered by it in good faith in reliance upon such expert, accountant, actuary or counsel, and all actions taken or suffered in such reliance shall be conclusive upon any person with any interest in the DROP.

6. General Provisions.

A. The DROP Is Not a Separate Retirement Plan.

Instead, it is a program under which a Member who is eligible for normal retirement under the System may elect to accrue future retirement benefits in the manner provided in this section 27 for the remainder of his employment, rather than in the normal manner provided under the plan. Upon termination of employment, a Member is entitled to a lump sum distribution of his or her DROP Account balance or may elect a rollover. The DROP Account distribution is in addition to the Member's monthly benefit.

B. Notional Account.

The DROP Account established for such a Member is a notional account, used only for the purpose of calculation of the DROP distribution amount. It is not a separate account in the System. There is no change in the System's assets, and there is no distribution available to the Member until the Member's termination from the DROP. The Member has no control over the investment of the DROP Account.

C. No Employer Discretion.

The DROP benefit is determined pursuant to a specific formula which does not involve employer discretion.

D. IRC Limit.

The DROP Account distribution, along with other benefits payable from the System, is subject to limitation under Internal Revenue Code Section 415(b).

~~A~~ E. Amendment of DROP.

The DROP may be amended by an ordinance of the City at any time and from time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the DROP. However, except as otherwise provided by law, no amendment shall make it possible for any part of the DROP's funds to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the DROP. No amendment shall be made which has the effect of decreasing the balance of the DROP Account of any Member.

~~B~~ F. Facility of Payment.

If the Board shall find that a Member or other person entitled to a benefit under the DROP is unable to care for his affairs because of illness or accident or is a minor, the Board may direct that any benefit due him, unless claim

shall have been made for the benefit by a duly appointed legal representative, be paid to his Spouse, a child, a parent or other blood relative, or to a person with whom he resides. Any payment so made shall be a complete discharge of the liabilities of the DROP for that benefit.

~~C~~ G. Information.

Each Member, Beneficiary or other person entitled to a benefit, before any benefit shall be payable to him or on his account under the DROP, shall file with the Board the information that it shall require to establish his rights and benefits under the DROP.

~~D~~ H. Prevention of Escheat.

If the Board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the Board may, no earlier than three (3) years from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the Board or the City. If such person has not made written claim therefor within three (3) months of the date of the mailing, the Board may, if it so elects and upon receiving advice from counsel to the DROP, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the DROP. Upon such cancellation, the DROP shall have no further liability therefor except that, in the event such person or his Beneficiary later notifies the Board of his whereabouts and requests the payment or payments due to him under the DROP, the amount so applied shall be paid to him in accordance with the provisions of the DROP.

~~E~~ I. Written Elections, Notification.

(1) Any elections, notifications or designations made by a Member pursuant to the provisions of the DROP shall be made in writing and filed with the Board in a time and manner determined by the Board under rules uniformly applicable to all employees similarly situated. The Board reserves the right to change from time to time the manner for making notifications, elections or designations by Members under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.

(2) Each Member or Retiree who has a DROP Account shall be responsible for furnishing the Board with his current address and any subsequent changes in his address. Any notice required to be given to a Member or Retiree hereunder shall be deemed given if directed to him at the last such address given to the Board and mailed by registered or certified United States mail. If any check mailed by registered or certified United States mail to such address is returned, mailing of checks will be suspended until such time as the Member or Retiree notifies the Board of his address.

~~F~~ J. Benefits Not Guaranteed.

All benefits payable to a Member from the DROP shall be paid only from the assets of the Member's DROP Account and neither the City nor the Board shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law.

~~G~~ K. Construction.

(1) The DROP shall be construed, regulated and administered under the laws of Florida, except where other applicable law controls.

(2) The titles and headings of the subsections in this Section are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

~~H~~ L. Forfeiture of Retirement Benefits.

Nothing in this Section shall be construed to remove DROP participants from the application of any forfeiture provisions applicable to the System. DROP participants shall be subject to forfeiture of all retirement benefits, including DROP benefits.

~~I~~ M. Effect of DROP Participation on Employment.

Participation in the DROP is not a guarantee of employment and DROP participants shall be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.

~~J~~ N. Right to Serve as a Trustee.

A Member's election to participate in the DROP shall not make him ineligible to serve as a Member trustee, but he shall be ineligible to vote for Member trustees.

SECTION 9: That the City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund, adopted by Ordinance No. 13-49, is hereby amended by adding Section 28, Supplemental Benefit Component for Special Benefits; Chapter 185 Share Accounts, to read as follows:

SECTION 28. SUPPLEMENTAL BENEFIT COMPONENT FOR SPECIAL BENEFITS; CHAPTER 185 SHARE ACCOUNTS.

There is hereby established an additional plan component to provide special benefits in the form of a supplemental retirement, termination, death and disability benefits to be in addition to the benefits provided for in the previous Sections of this Plan, such benefit to be funded solely and entirely by Chapter 185, Florida Statutes, premium tax monies for each plan year which are allocated to this supplemental component as provided for in Section 185.35, Florida Statutes. Amounts allocated to this supplemental component ("Share Plan") shall be further allocated to the members and DROP participants in a manner to be agreed upon.

SECTION 10: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Port St. Lucie.

SECTION 11: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 12: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

SECTION 13: That this Ordinance shall become effective upon its adoption.

PASSED ON FIRST READING, this ____ day of _____, 2016.

PASSED AND ADOPTED ON SECOND READING, this ____ day of _____, 2016.

CITY COUNCIL
CITY OF PORT ST. LUCIE

By: _____
Gregory J. Oravec, Mayor

ATTEST:

_____
Karen A. Phillips, City Clerk

Approved as to form:

By: _____
City Attorney

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CITY COUNCIL
AGENDA MEMORANDUM

ATTACHMENT
"2"

CITY OF PORT ST LUCIE

COUNCIL AGENDA MEMORANDUM

COUNCIL ITEM 8B
DATE 6/13/16

Agenda Item #: ~~10B~~
Meeting Date: ~~5/23/16~~

TO: MAYOR AND CITY COUNCIL

THRU: DANIEL HOLBROOK, ACTING CITY MANAGER

FROM: AZLINA GOLDSTEIN SIEGEL, INTERIM CITY ATTORNEY
JOHN J. FUMERO, INTERIM CITY ATTORNEY

AGENDA ITEM: Ordinance: AN ORDINANCE OF THE CITY OF PORT ST. LUCIE, AMENDING THE CITY OF PORT ST. LUCIE MUNICIPAL POLICE OFFICERS' RETIREMENT TRUST FUND AS CODIFIED UNDER SECTION 32.77 OF THE CODE OF ORDINANCES OF THE CITY OF PORT ST. LUCIE, FLORIDA, PURSUANT TO ORDINANCE 13-49; SPECIFICALLY AMENDING SECTION 32.77(a)(1), *DEFINITIONS*, BY AMENDING THE DEFINITIONS OF "*ACTUARIAL EQUIVALENT*," "*CREDITED SERVICE*," AND "*SPOUSE*;" AMENDING SECTION 32.77(b), *MEMBERSHIP*; AMENDING SECTION 32.77(d), *FINANCES AND FUND MANAGEMENT*; AMENDING SECTION 32.77(f), *BENEFIT AMOUNTS AND ELIGIBILITY*; AMENDING SECTION 32.77(h), *DISABILITY*; AMENDING SECTION 32.77(j), *OPTIONAL FORMS OF BENEFITS*; AMENDING SECTION 32.77(o), *MAXIMUM PENSION*; AMENDING SECTION 32.77(aa), *DEFERRED RETIREMENT OPTION PLAN*; ADDING SECTION 32.77(bb), *SUPPLEMENTAL BENEFIT COMPONENT FOR SPECIAL BENEFITS; CHAPTER 185 SHARE ACCOUNTS*; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

SUBMITTAL DATE: 5/19/2016

STRATEGIC PLAN LINK: This item is consistent with the City of Port St. Lucie Goals 2015-2020, specifically Goal 1 entitled "Financially Sound City, High Performance City Organization."

BACKGROUND: H. Lee Dehner, Board Attorney for the City of Port St. Lucie Municipal Police Officers' Retirement Trust Fund (the "Trust Fund") provided Ms. Sandy Steele, Plan Administrator, a proposed ordinance amending certain provisions of the Trust Fund. Attached as Attachment "1" to this City Council Agenda Memorandum is the letter (with its enclosure) from Mr. Dehner to Ms. Steele. dated May 13, 2016. Said letter from Mr. Dehner served to transmit a proposed ordinance and explain the proposed amendments to the Trust Fund contained therein. The proposed changes to the Trust Fund seek to ensure that the Trust Fund is properly amended to clarify, implement, and comply with the legislative changes to Chapter 185 of the Florida Statutes, entitled "Municipal Police Pensions," the Internal Revenue Code and its associated regulations, and also the changes reached in collective bargaining with the three (3) sworn bargaining units.

ANALYSIS: Pursuant to the recent request of Ms. Steele, the members of the Board of Trustees of the Trust Fund, and Jerome Post, Human Resources Director, I have reviewed the ordinance prepared by Mr. Dehner. However, upon reviewing the proposed ordinance submitted by Mr. Dehner it was realized that Mr. Dehner's ordinance draft sought to amend City Ordinance No. 13-49, which was codified as Section 32.77 of the Code of Ordinances of the City of Port St. Lucie.

After miscellaneous exchanges of communications with Mr. Dehner's office occurred, it was realized that they were not aware of the fact that Ordinance 13-49 was codified. Mr. Dehner's office agreed with our position that the legislative changes, additions, and deletions that were proposed to be made to the sections of Ordinance 13-49 needed to be similarly made or incorporated into a new draft, proposed ordinance that would serve to amend the equivalent or corresponding parts of Section 32.77 of the City's Code of Ordinances. Accordingly, our office has drafted the attached proposed ordinance which correctly seeks to amend certain parts of the Trust Fund as codified under Section 32.77 of the City's Code of Ordinance; and the proposed ordinance as drafted by our office is attached hereto as Attachment "2." Our office took the liberty of making further and additional legislative changes to not only address scrivener's errors, but also to provide further clarification and/or identification of the laws and/or regulations referenced in the existing or previously proposed amendments to specific parts of Section 32.77 of the City's Code of Ordinance.

FINANCIAL INFORMATION: N/A

LEGAL INFORMATION: The proposed ordinance as drafted by our office has been reviewed and approved as to form and legal sufficiency by Azlina Goldstein Siegel, Interim City Attorney.

STAFF RECOMMENDATION: Mr. Dehner advised in his attached letter to Ms. Steele that the proposed ordinance "should be adopted prior to August 2016 to avoid delay in the payment of state monies."

SPECIAL CONSIDERATION: N/A

PRESENTATION INFORMATION: A presentation on the matter will be made upon request by either a representative for the Board of Trustees for the Trust Fund or Jerome Post.

REQUESTED MEETING DATE: 5/23/2016

LOCATION OF PROJECT: N/A

ATTACHMENTS: Attachment "1" – Letter with enclosure from H. Lee Dehner to Sandy Steele; Attachment "2" – Proposed Ordinance for City Council consideration.

cc: **Sandy Steele, Plan Administrator and Pension Administrator – Finance Dept.**
William B. Vega, Chairman and Assistant Chief
Jerome Post, Human Resources Director