

STATE OF GEORGIA

COUNTY OF CLAYTON

ORDINANCE NO. 2015-92

AN ORDINANCE ADOPTED UNDER THE HOME RULE POWERS GRANTED TO CLAYTON COUNTY PURSUANT TO ARTICLE IX, SECTION II, PARAGRAPH I OF THE CONSTITUTION OF THE STATE OF GEORGIA OF 1983, AMENDING THE CLAYTON COUNTY CODE OF ORDINANCES, SPECIFICALLY, RELEVANT SECTIONS OF THE CLAYTON COUNTY, GEORGIA PUBLIC EMPLOYEE RETIREMENT SYSTEM; TO AMEND THE PENSION BENEFIT FORMULA; TO INCREASE PLAN FUNDING LEVELS; TO REPEAL CONFLICTING LAWS, ORDINANCES AND RESOLUTIONS; AND TO PROVIDE AN EFFECTIVE DATE OF THIS ORDINANCE; AND FOR OTHER PURPOSES.

WHEREAS, Clayton County and the Clayton County Water Authority maintain the Clayton County, Georgia Public Employee Retirement System (Pension Plan) (the "Plan") by an Act of the General Assembly of the State of Georgia, which originally became effective as of July 1, 1971;

WHEREAS, the Plan was last amended and restated by Ordinance No. 2015-29 of the Clayton County Code of Ordinances;

WHEREAS, the Clayton County Pension Board recommended the approval of the restatement of the Plan at its March 5, 2015 meeting; and

WHEREAS, the Board of Commissioners now wishes to amend and restate the Plan primarily to amend the pension benefit formula and increase the level of funding for the Plan;

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF CLAYTON COUNTY  
AND IT IS HEREBY ORDAINED:

Section I. By the authority granted to Clayton County pursuant to Article IX, Section II, Paragraph I of the Constitution of the State of Georgia of 1983, the Board of Commissioners hereby amends the Clayton County Code of Ordinances, as amended, by amending and restating the Plan, generally effective as of January 1, 2016, in substantially the manner set forth in the instrument entitled the "Clayton County, Georgia Public Employee Retirement System (Pension Plan)" attached hereto as Exhibit "A" and incorporated herein.

Section II. In the event any section, paragraph, subpart, sentence, clause, phrase or word of this Ordinance shall be declared or adjudged unconstitutional or invalid by any Court, such declaration or adjudication shall not affect the remaining portions of this Ordinance which shall remain in full force and effect as if the portions declared invalid or unconstitutional had never been enacted into law.

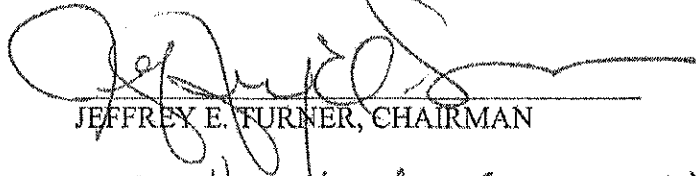
Section III. All laws, ordinances or resolutions, or parts thereof, in conflict with provisions of this Ordinance are hereby repealed.

Section IV. This Ordinance shall become generally effective as of the date provided herein upon its approval by the Board of Commissioners after the second reading of the Ordinance, provided the same receives an affirmative vote of three or more members, and provided further that a copy of the Ordinance has been published in the official organ of Clayton County and filed with the Secretary of the State of Georgia as required by law.

[SIGNATURES ON THE NEXT PAGE]

SO ORDAINED, this 5<sup>th</sup> day of May, 2015.

CLAYTON COUNTY BOARD OF COMMISSIONERS

  
JEFFREY E. TURNER, CHAIRMAN

  
GAIL B. HAMBRICK, VICE CHAIRMAN

  
MICHAEL EDMONDSON, COMMISSIONER

  
SONNA GREGORY, COMMISSIONER

  
SHANA M. ROOKS, COMMISSIONER

ATTEST:

  
SANDRA T. DAVIS, CLERK

**EXHIBIT A**

**CLAYTON COUNTY, GEORGIA  
PUBLIC EMPLOYEE RETIREMENT SYSTEM  
(PENSION PLAN)**

(As amended and restated generally effective January 1, 2016)

The General Assembly of the State of Georgia established the Clayton County, Georgia Public Employee Retirement System (Pension Plan), by an Act which became effective July 1, 1971 (the "Plan"). The Plan was last amended by Ordinance No. 2015-29 of the Clayton County Code of Ordinances.

The Plan is a governmental plan within the meaning of Section 414(d) of the Code as a result of its establishment and continuing maintenance by a political subdivision of the State of Georgia.

The Plan is intended to qualify as a "pension plan" within the meaning of Sections 401(a) of the Internal Revenue Code of 1986, as amended, and Treasury Regulations Section 1.401-1(b)(1)(i) issued thereunder and is designed as a "defined benefit plan" within the meaning of Section 414(j) of the Internal Revenue Code of 1986, as amended.

The Primary Sponsor now wishes to amend and restate the Plan primarily to to amend the pension benefit formula and increase the level of funding for the Plan.

The provisions of the Plan, as amended and restated herein, shall generally be effective as of January 1, 2016, except as otherwise provided herein or except to the extent the provisions are required to apply at any other date to comply with applicable law.

**CLAYTON COUNTY, GEORGIA  
PUBLIC EMPLOYEE RETIREMENT SYSTEM  
(PENSION PLAN)  
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**CLAYTON COUNTY, GEORGIA  
PUBLIC EMPLOYEE RETIREMENT SYSTEM  
(PENSION PLAN)**

**SECTION 1  
DEFINITIONS**

Wherever used herein, the masculine pronoun shall be deemed to include the feminine, and the singular to include the plural, unless the context clearly indicates otherwise, and the following words and phrases shall, when used herein, have the meanings set forth below:

1.1 “Accrued Benefit” means the monthly retirement benefit which a Participant has earned up to any date, and which is payable at the later of his Normal Retirement Date or his Deferred Retirement Date in an amount computed as described in Section 5.2 based, however, only upon the Participant’s Average Monthly Compensation and Credited Service as of the date the Accrued Benefit is determined.

Notwithstanding the foregoing or the provisions of Section 5, the Accrued Benefit of a Grandfathered Participant shall consist of the sum of two components that are separately calculated, as follows: (1) the monthly retirement benefit which the Grandfathered Participant has earned prior to qualifying as an Eligible Employee, and which is payable at the later of his Normal Retirement Date or his Deferred Retirement Date in an amount computed as described in Section 5.2 based, however, only upon the Grandfathered Participant’s Average Monthly Compensation and Credited Service prior to the date that the Grandfathered Participant qualified as an Eligible Employee, plus (2) the monthly retirement benefit which the Grandfathered Participant has earned on and after qualifying as an Eligible Employee, and which is payable at the later of his Normal Retirement Date or his Deferred Retirement Date in an amount computed as described in Section 5.2 based, however, only upon the Grandfathered Participant’s Average Monthly Compensation and Credited Service from and after the date that the Grandfathered Participant first qualified as an Eligible Employee.

1.2 “Actuarial Equivalent” means a form of benefit differing in time, period, or manner of payment from a specific benefit provided under the Plan but having the same value when computed using the mortality table designated by the Secretary of the Treasury pursuant to Code Section 417(e)(3) and 8% pre-and post-retirement interest assumptions. The Actuarial Equivalent of a lump sum shall be the greater of the benefit payable at Normal Retirement Age or Early Retirement Age.

Notwithstanding the foregoing, (a) for purposes of determining a Disability retirement benefit payable to a Participant due to the Participant’s Disability, the Actuarial Equivalent shall be determined using the mortality table prescribed in Revenue Ruling 96-7 for male persons disabled after 1994, and any successor guidance thereto; and (b) for the purpose of adjusting any benefit or limitation under Code Section 415(b)(2)(B), (C) or (D), the Actuarial Equivalent shall be determined by using the interest rate assumptions and mortality table described in Appendix A.

1.3 “Actuary” means an actuary, enrolled by the Joint Board for the Enrollment of Actuaries, selected by the Plan Administrator to provide actuarial services for the Plan.

1.4 “Annual Compensation Limit” means \$265,000, for Plan Years commencing on and after July 1, 2015, which amount may be adjusted in subsequent Plan Years based on changes in the cost of living as announced by the Secretary of the Treasury.

1.5 “Authorized Leave of Absence” means any absence authorized and approved by a Plan Sponsor under the Plan Sponsor’s standard personnel practices, provided that the Participant returns or retires within the period specified leave of absence. An absence due to service in the Armed Forces of the United States shall be considered an Authorized Leave of Absence provided that the Employee complies with all the requirements of Federal law in order to be entitled to reemployment and provided further that the Employee returns to employment with the Plan Sponsor within the period provided by such law. In addition, any absence taken in accordance with the provisions of the Family and Medical Leave Act of 1993 and applicable regulations promulgated thereunder shall be considered an Authorized Leave of Absence.

1.6 “Average Monthly Compensation” means:

(a) for Participants first employed by a Plan Sponsor prior to January 1, 2016, the monthly Compensation of a Participant averaged over the thirty-six (36) consecutive months of employment with a Plan Sponsor which produces the highest monthly average within the last sixty (60) completed whole or partial months of such employment. If a Participant has less than thirty-six (36) months of employment from his date of employment to his date of termination, his Average Monthly Compensation will be his monthly Compensation averaged over the number of months completed from his date of employment to his date of termination; and

(b) for Participants first employed by a Plan Sponsor on or after January 1, 2016, the monthly Compensation of a Participant averaged over the highest sixty (60) consecutive months of employment with a Plan Sponsor which produces the highest monthly average within the last one hundred twenty (120) completed whole or partial months of such employment. If a Participant has less than sixty (60) months of employment from his date of employment to his date of termination, his Average Monthly Compensation will be his monthly Compensation averaged over the number of months completed from his date of employment to his date of termination.

Notwithstanding the foregoing, Participants first employed by a Plan Sponsor prior to January 1, 2016, but experiencing a Severance Date and subsequently rehired on or after January 1, 2016, shall have Average Monthly Compensation determined in accordance with Section 7.6(e).

For purposes of determining Average Monthly Compensation,

(i) partial months shall be taken into account;

(ii) if applicable, any intervening periods of non-employment, self-employment or employment with a party other than a Plan Sponsor shall be disregarded; and

(iii) any period of employment when a Participant is an active participant or member in the Employees Retirement System of Georgia or the Georgia State Employees Pension and Saving Plan (or any successor plan) shall be excluded from the determination.

Notwithstanding the foregoing or the provisions of Section 5, in determining the Accrued Benefit of a Grandfathered Participant under Clause (1) of the second paragraph of Section 1.1, Average Monthly Compensation shall be based upon the last five (5) completed years (or shorter period) in which the Grandfathered Participant was being paid a supplement by Clayton County in a capacity other than as an Eligible Employee and in determining the Accrued Benefit of a Grandfathered Participant under Clause (2) of the second paragraph of Section 1.1, Average Monthly Compensation shall be based upon the last five (5) completed years (or shorter period) during which the Grandfathered Participant was employed as an Eligible Employee.

1.7 “Beneficiary” means the person or trust that a Participant designated most recently to the Plan Administrator; provided, however, that if the Participant has failed to make a designation, no designated person is alive, no trust has been established, or no successor Beneficiary has been designated who is alive, the term “Beneficiary” means the Participant’s spouse, if living. If the Participant does not have a surviving spouse, the term “Beneficiary” means the legal representative of the deceased Participant’s estate. Changes in designations of Beneficiaries may be made upon written notice to the Plan Administrator in the form as the Plan Administrator may from time to time prescribe. Each Beneficiary designation filed with the Plan Administrator will cancel all Beneficiary designations previously filed with the Plan Administrator. The revocation of a Beneficiary designation, no matter how effected, shall not require the consent of any designated Beneficiary. Except as otherwise limited by Section 6.2(c), if a Participant becomes divorced from his spouse, any prior designation of such spouse as a Beneficiary shall be void as of the date of divorce, unless the Participant redesignates his former spouse as a Beneficiary after the date of divorce.

1.8 “Board of Commissioners” means the Board of Commissioners of Clayton County, Georgia.

1.9 “Code” means the Internal Revenue Code of 1986, as amended.

1.10 “Compensation” means wages within the meaning of Code Section 3401(a) (for purposes of income tax withholding at the source) paid to an Employee by a Plan Sponsor during a Plan Year (but without regard to any rules 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)), to the extent not in excess of the Annual Compensation Limit for all purposes under the Plan except determining Key Employees and Highly Compensated Employees. Notwithstanding the above, Compensation shall be determined as follows:



(a) for all purposes under the Plan, except Appendix A hereto and for purposes of determining Highly Compensated Employees, Compensation shall mean only (i) annual salary or wages paid to an Eligible Employee for time worked during regularly scheduled work periods as recorded on the payroll records of the Plan Sponsor; (ii) holiday pay; and (iii) the following forms of premium pay: longevity pay, call back pay, and standby pay. For purposes of this Subsection (a), Compensation shall not include any other amounts, including, but not limited to, (A) commissions, fees (whether received from service upon a regulatory board or otherwise), salary paid by the State of Georgia or salary from a Plan Sponsor which is reimbursed to the Plan Sponsor by the State of Georgia, provided such reimbursements are considered in determining the Participant's accrued benefit under a pension or other retirement plan maintained by the State of Georgia; and (B) premium pay (other than those items listed in Clause (a)(iii) above) for services rendered for time worked in addition to an Employee's regularly scheduled work periods, including, but not limited to, overtime (*e.g.*, one and one-half pay), comp time payoff, on call stipends, sick leave incentive or any other pay of a similar kind or character;

(b) effective as to persons who become Employees on or after September 1, 1995, for all purposes under the Plan, except Appendix A hereto, Compensation shall not include salary supplements paid by Clayton County to persons for services rendered other than as an Eligible Employee;

(c) for all purposes under the Plan, Compensation shall include amounts which are not currently includible in the gross income of the Employee under Sections 125, 132(f)(4), 414(h) and 457 of the Code and the regulations thereunder;

(d) for purposes of Plan Section 3.2, Compensation shall not include Compensation received for services rendered prior to the later of (i) the date the Employee becomes a Participant or (ii) September 1, 1995; and

(e) for purposes of determining the Accrued Benefit of a Participant who was formerly an employee of The City of Forest Park Water and Sewer Department who was an Employee of the Clayton County Water Authority on January 1, 1994, the Compensation of such Participant shall include compensation paid by The City of Forest Park Water and Sewer Department.

Notwithstanding the foregoing, if the exclusion of any amount described in Subsection (a) or (b) above results in a "compensation percentage" for Employees who are Highly Compensated Employees which is greater than the "compensation percentage" for Employees who are not Highly Compensated Employees by more than a *de minimis* amount, then such excluded amounts shall be included in Compensation; provided such amounts would otherwise fall within the definition of Compensation provided in the head language of this Section 1.10. The "compensation percentage" for a group of Employees is the average of the "compensation ratio" for each Employee in the group. An Employee's "compensation ratio" is the Employee's Compensation determined pursuant to this Section 1.10 divided by the Employee's Compensation determined pursuant to the Section 1.10 without giving effect to Subsections (a) and (b) above.

1.11 "Contribution Account Balance" means the accumulated amount of Participant contributions under Section 3.2 and interest thereon as of the date of determination. For purposes of this Section, "interest" shall be calculated annually as of June 30 by multiplying a Participant's Contribution Account Balance as of the immediately preceding July 1 by five percent (5%); provided, however, that the first interest calculation shall be made as of June 30, 1997.

1.12 "Credited Service" means the number of years and completed months (calculated by aggregating all periods whether or not consecutive) of continuous employment with a Plan Sponsor as an Employee beginning on the date on the Employee's employment commencement date and ending on his Severance Date. For purposes of determining Credited Service, the following rules shall apply:

(a) Effective January 1, 1999, a Participant's sick leave shall be counted as Credited Service in accordance with the following rules:

(i) Each Participant's current sick leave and reserved sick leave ("Total Sick Leave"), as determined under the Plan Sponsor's standard personnel practices, shall be used in determining Credited Service at the Participant's Retirement Date, death or other termination of employment.

(ii) With respect to periods of employment for which a Participant is not classified as Twenty-Four Hour Personnel, a Participant's Total Sick Leave shall be converted to months of Credited Service by dividing the number of hours of Total Sick Leave by 173.333 (the conversion factor assumes 21.666 eight-hour days per month, regardless of actual circumstances), with each 173.333 increment constituting one month of Credited Service.

(iii) With respect to periods of employment for which a Participant is classified as Twenty-Four Hour Personnel, except as provided in Section 1.12(a)(iv) below, a Participant's Total Sick Leave shall be converted to months of Credited Service by dividing the number of hours of Total Sick Leave by 264 hours (the conversion factor assumes eleven (11) twenty-four days per month, regardless of actual circumstances), with each 264 hour increment constituting one month of Credited Service.

(iv) With respect to periods of employment for which a Participant is classified as Twenty-Four Hour Personnel, a Participant's Total Sick Leave accrued as of December 25, 1998 (but subject to reduction in accordance with either the immediately succeeding sentence or Section 1.30 or both) shall be converted to months of Credited Service by dividing the number of hours of Total Sick Leave by 173.333 hours (the conversion factor assumes 21.666 eight-hour days per month, regardless of actual circumstances), with each 173.333 increment constituting one month of Credited Service. Any reductions to such a Participant's reserve sick leave that occur as a result of the Participant's request to use accumulated reserve sick leave during his employment shall be applied against the Participant's reserve sick leave on a "first in, first out" basis.

(v) No partial month that results from the application of any conversion formula shall be so credited to a Participant's Credited Service.

(vi) Notwithstanding any other provision of this Section, Credited Service shall not be increased by any Total Sick Leave that is applied to reduce a Participant's Normal Retirement Age in accordance with Section 1.30.

(b) Notwithstanding the foregoing or the provisions of Section 5, in determining the Accrued Benefit of a Grandfathered Participant under Clause (1) of the second paragraph of Section 1.1, Credited Service shall be based upon the period of time during which the Grandfathered Participant was being paid a supplement by Clayton County in a capacity other than as an Eligible Employee and in determining the Accrued Benefit of a Grandfathered Participant under Clause (2) of the second paragraph of Section 1.1, Credited Service shall be based upon the period of time during which the Grandfathered Participant was employed as an Eligible Employee.

(c) Notwithstanding the foregoing or any other provision of the Plan, effective as of November 1, 2010, a Participant's Credited Service shall not include any period of employment when such Participant is an active participant or member in the Employees Retirement System of Georgia or the Georgia State Employees Pension and Saving Plan (or any successor plan).

(d) Credited Service shall include a Participant's periods of employment with The City of Forest Park Water and Sewer Department prior to January 1, 1994 if the Participant was an Employee of the Clayton County Water Authority on January 1, 1994.

1.13 "Custodian" means the custodian appointed by the Plan Administrator to hold the assets of the Fund.

1.14 "Deferred Retirement Date" means the first day of the month coinciding with or next following the date subsequent to a Participant's Normal Retirement Age on which the Participant actually retires.

1.15 "Direct Rollover" means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

1.16 "Disability" means a physical or mental condition which totally and presumably permanently prevents a Participant from engaging in any substantial gainful employment and which entitles a Participant to receipt of a Social Security Disability Insurance Benefit under the Social Security Act or which would entitle the Participant to a Social Security Disability Insurance Benefit if the Participant were covered under the Social Security Act, as determined by the Plan Administrator from time to time based upon such medical evidence as it deems necessary. Any determination of Disability by the Plan Administrator shall be final and binding.

1.17 "Disability Retirement Date" means the first day of any month coinciding with or next following the month in which a Participant ceases to be an Employee as a result of a Disability.

1.18 "Distributee" means a Participant, a surviving spouse or a former spouse who is an alternate payee under a qualified domestic relations order, as defined in Code Section 414(p). A non-spouse Beneficiary of a deceased Participant who is either an individual or an irrevocable trust, where the beneficiaries of such trust are identifiable and the trustee provides the Plan Administrator with a final list of trust beneficiaries or a copy of the trust document by October 31 of the year following the Participant's death, shall be a Distributee with regard to the interest of the deceased Participant, but only if the Eligible Rollover Distribution is transferred in a direct trustee-to-trustee transfer to an Eligible Retirement Plan which is an individual retirement account described in Code Section 408(a) or an individual retirement account described in Code Section 408(b) (other than an endowment contract).

1.19 "Early Retirement Age" means:

(a) for Participants first employed by a Plan Sponsor prior to January 1, 2016, the earlier of: (i) the date a Participant, prior to his Normal Retirement Age, has attained age fifty-five (55) after completing at least fifteen (15) years of Credited Service; or (ii) the date a Participant, prior to his Normal Retirement Age, has attained age fifty (50) after completing at least twenty-five (25) years of Credited Service;

(b) for Participants, other than Safety Personnel, first employed by a Plan Sponsor on or after January 1, 2016, the earlier of: (i) the date a Participant, prior to his Normal Retirement Age, has attained age sixty (60) after completing at least fifteen (15) years of Credited Service; or (ii) the date a Participant, prior to his Normal Retirement Age, has attained age fifty-five (55) after completing at least twenty-five (25) years of Credited Service; and

(c) for Participants who are Safety Personnel and are first employed by a Plan Sponsor on or after January 1, 2016, the earlier of: (i) the date a Participant, prior to his Normal Retirement Age, has attained age fifty-five (55) after completing at least fifteen (15) years of Credited Service; or (ii) the date a Participant, prior to his Normal Retirement Age, has attained age fifty (50) after completing at least twenty-five (25) years of Credited Service.

Notwithstanding the foregoing, the Early Retirement Age of Participants first employed by a Plan Sponsor prior to January 1, 2016, but experiencing a Severance Date and subsequently rehired on or after January 1, 2016, shall be determined in accordance with Section 7.6(e).

A Participant's Total Sick Leave (as determined in accordance with Section 1.12(a)) may not be used as an age credit towards Early Retirement Age

1.20 "Early Retirement Date" means the first day of the month coinciding with or next following the date on which a Participant, prior to his Normal Retirement Age, retires after attaining Early Retirement Age.

1.21 "Effective Date" means January 1, 2016.

1.22 "Eligible Employee" means any Employee of a Plan Sponsor who is: (a) a Commissioner of Clayton County; (b) a department head or staff member appointed by the

Board of Commissioners; (c) employed under the Clayton County Civil Service System in a classified position; (d) a judicial secretary appointed by a Judge of Clayton County to perform services for his or her court; (e) an Associate Juvenile Court Judge; (f) a Probate Court Judge; (g) a Magistrate; (h) the Clerk of the Superior Court and, effective January 1, 2001, the Clerk of the State Court and court clerks appointed by such Clerks; (i) effective December 1, 2000, the Chief Court Orderly; (j) the Superior Court/State Court Administrator; (k) the Sheriff; (l) the Chief Deputy Sheriff; (m) a Tax Commissioner; (n) a Deputy Tax Commissioner; (o) classified in a Clayton County Water Authority position as listed in the Clayton County Water Authority Position Classification Plan; (p) appointed by the Clayton County Water Authority Board of Directors; or (q) a State Court law clerk. Notwithstanding any other provision of the Plan, effective with respect to Employees hired on and after July 1, 2012, no Employee (including without limitation any Clayton County elected official) of a Plan Sponsor who is enrolled as or becomes an active participant or member in the Employees Retirement System of Georgia or the Georgia State Employees Pension and Saving Plan (or any successor plan) shall be treated as an Eligible Employee even if the Employee is otherwise described in any one or more of Clauses (a) through (q) above.

All other Employees shall not be Eligible Employees, including but not limited to (i) a leased employee within the meaning of Code Section 414(n)(2) or (ii) any person deemed to be an Employee of a Plan Sponsor pursuant to regulations under Code Section 414(o). In addition, no person who is initially classified for a period by a Plan Sponsor as an independent contractor for federal tax purposes shall be regarded as an Eligible Employee for that period, regardless of any subsequent independent determination that any such person should have been characterized as a common law employee of the Plan Sponsor for the period in question.

1.23 “Eligible Retirement Plan” means any of the following that will accept a Distributee’s Eligible Rollover Distribution:

- (a) an individual retirement account described in Code Section 408(a);
- (b) an individual retirement annuity described in Code Section 408(b) (other than an endowment contract);
- (c) an annuity plan described in Code Section 403(a) or an annuity contract described in Code Section 403(b), unless the Distributee is a non-spouse Beneficiary of a deceased Participant;
- (d) a qualified trust described in Code Section 401(a), unless the Distributee is a non-spouse Beneficiary of a deceased Participant; or
- (e) an eligible plan under Code Section 457(b) which is maintained by a state or political subdivision of a state, or any agency or instrumentality of a state or political subdivision and which agrees to separately account for amounts transferred into such plan from this Plan, unless the Distributee is a non-spouse Beneficiary of a deceased Participant.

If any portion of an Eligible Rollover Distribution is attributable to payments or distributions from a designated Roth account (as defined in Code Section 402A), an Eligible Retirement Plan with respect to such portion shall include only another designated Roth account and a Roth IRA.

1.24 “Eligible Rollover Distribution” means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include:

(a) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee’s designated Beneficiary, or for a specified period of ten (10) years or more;

(b) any distribution to the extent such distribution is required under Code Section 401(a)(9);

(c) any distribution which is made upon hardship of the employee;

(d) except as otherwise provided in this Section, the portion of any distribution that is not includable in gross income (determined without regard to the exclusions for net unrealized appreciation with respect to employer securities); and

(e) if the Distributee is a non-spouse Beneficiary of a deceased Participant, any distribution other than a direct trustee-to-trustee transfer to an individual retirement account described in Code Section 408(a) or an individual retirement annuity described in Code Section 408(b) (other than an endowment contract).

“Eligible Rollover Distribution” shall include any portion of the distribution that is not includable in gross income, provided such amount is distributed directly to one of the following:

(i) an individual retirement account described in Code Section 408(a) or an individual retirement annuity described in Code Section 408(b) (other than an endowment contract); or

(ii) a qualified trust as described in Code Section 401(a) or an annuity contract described in Code Section 403(b), but only to the extent that

(A) the distribution is made in a direct trustee-to-trustee transfer; and

(B) the transferee trust or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution which is includable in income and the portion which is not includable in income.

1.25 “Employee” means any person who is, with respect to a Plan Sponsor: (a) a regular full-time employee who performs services for the benefit of a Plan Sponsor who is paid with funds of the Plan Sponsor which are not reimbursed by the State of Georgia, (b) a leased employee within the meaning of Code Section 414(n)(2), or (c) deemed to be an employee pursuant to regulations under Code Section 414(o). For purposes of this Section, a regular Employee is one who is not classified as “temporary” under the Clayton County Civil Service System or by the Clayton County Water Authority. For purposes of this Section and Section 1.22, a “full-time employee” is one who is regularly scheduled to work a minimum of 40 hours per week. For purposes of the Plan, the term “leased employee” means any person (other than a common law employee of a Plan Sponsor or a related person) who, pursuant to an agreement between the Plan Sponsor or a related person and any other person, has performed services for the Plan Sponsor or a related person (determined in accordance with Code Section 414(n)(6)), on a substantially full-time basis for a period of at least one year, and such services are performed under the primary direction or control of the Plan Sponsor or a related person.

1.26 “Fund” means the amount at any given time of the cash and other property held by the Custodian pursuant to the Plan.

1.27 “Grandfathered Participant” means an individual who became a Participant in the Plan prior to September 1, 1995 by virtue of receiving a salary supplement from Clayton County but who was first employed as an Eligible Employee on or after October 5, 2004.

1.28 “Highly Compensated Employee” means, with respect to a Plan Year, each Employee who:

(a) was at any time during the Plan Year, or the immediately preceding Plan Year, an owner of more than five percent (5%) of the outstanding stock of a Plan Sponsor or more than five percent (5%) of the total combined voting power of all stock of a Plan Sponsor;

(b) received Compensation in excess of \$120,000 (for the Plan Year beginning in 2015) during the immediately preceding Plan Year, which amount shall be adjusted for changes in the cost of living as provided in regulations issued by the Secretary of the Treasury; or

(c) is a former Employee who met the requirements of Subsection (a) or (b) at the time the former Employee separated from service with the Plan Sponsor or at any time after the former Employee attained age 55.

1.29 “Normal Fund Payment” means a single life annuity, payable in monthly installments for the life of the Participant, with guaranteed payments for sixty (60) months. If the Participant dies before receiving all of the guaranteed payments, the Participant’s Beneficiary will receive the monthly benefit the Participant was receiving for the number of months left in the guarantee period. Notwithstanding the foregoing, in the case of a Participant (or Beneficiary) whose vested Accrued Benefit has an Actuarial Equivalent of \$5,000 or less, the Normal Fund Payment is a lump sum payment in cash of such amount or, if greater, the amount credited to the Participant’s Contribution Account Balance.

Any annuity may be purchased from an insurance company designated by the Plan Administrator, and may be distributed to the Participant or his Beneficiary, as the case may be. The distribution, if any, shall be in full satisfaction of the benefits to which the Participant or his Beneficiary is entitled under the Plan.

1.30 “Normal Retirement Age” means:

(a) for Participants first employed by a Plan Sponsor prior to January 1, 2016, the date a Participant attains the earlier of: (i) the later of: (A) age sixty (60) or (B) the Participant’s seventh anniversary of participation in the Plan (or the Participant’s fifth anniversary in the case of Safety Personnel who were Participants in the Plan on or before June 1, 2001); or (ii) age fifty-five (55) after completing twenty-five (25) years of Credited Service;

(b) for Participants, other than Safety Personnel, first employed by a Plan Sponsor on or after January 1, 2016, the date a Participant attains the earlier of: (i) the later of: (A) age sixty-two (62) or (B) the completion of ten (10) years of Credited Service; or (ii) age sixty (60) after completing twenty-five (25) years of Credited Service; and

(c) for Participants who are Safety Personnel and are first employed by a Plan Sponsor on or after January 1, 2016, the date a Participant attains the earlier of: (i) the later of: (A) age sixty (60) or (B) the completion of ten (10) years of Credited Service; or (ii) age fifty-five (55) after completing twenty-five (25) years of Credited Service.

Notwithstanding the foregoing, the Normal Retirement Age of Participants first employed by a Plan Sponsor prior to January 1, 2016, but experiencing a Severance Date on or after January 1, 2016 and subsequently rehired, shall be determined in accordance with Section 7.6(e).

Effective January 1, 1999, a Participant, or the Beneficiary of a deceased Participant, may elect to apply all or a portion of a Participant’s Total Sick Leave (as determined in accordance with Section 1.12(a)) as an age credit in the event the Participant would not, but for the age credit, be considered to have attained Normal Retirement Age. A Participant’s actual age may be increased by the application of the Participant’s Total Sick Leave in accordance with one of the following formulas, as applicable:

(a) With respect to periods of employment for which a Participant is not classified as Twenty-Four Hour Personnel, divide the number of hours of Total Sick Leave to be applied as an age credit by 173.333 hours (the conversion factor assumes 21.666 eight-hour work days per month, regardless of actual circumstances), with each 173.333 hour increment constituting one month of age credit;

(b) With respect to periods of employment for which a Participant is classified as Twenty-Four Hour Personnel, divide the number of hours of Total Sick Leave to be applied as an age credit by 264 hours (the conversion factor assumes eleven (11) twenty-four hour days per month, regardless of actual circumstances) with each 264 hour



increment constituting one month of age credit. Any reductions to such a Participant's Total Sick Leave that occur as a result of the Participant's age credit election shall be applied against the Participant's Total Sick Leave on a "first in, first out" basis;

(c) No partial month that results from the application of any conversion formula shall be so credited to a Participant's actual age; and

(d) Notwithstanding any other provision of this Section, Credited Service shall not be increased by any Total Sick Leave that is applied as an age credit under this Section.

1.31 "Normal Retirement Date" means the first day of the month coinciding with or next following the date on which a Participant attains Normal Retirement Age.

1.32 "Participant" means any Employee or former Employee who has met the requirements of Plan Section 2 and who has not received a full distribution from the Plan of his Accrued Benefit. The term "Participant" shall include Grandfathered Participants except to the extent the provisions of the Plan expressly contemplate otherwise.

1.33 "Plan Administrator" means the Pension Board, as described in Appendix B.

1.34 "Plan Sponsor" means, individually or collectively, as the context requires, Clayton County and the Clayton County Water Authority.

1.35 "Plan Year" means the twelve-month period commencing on July 1 and ending on June 30.

1.36 "Retirement Date" means a Participant's Normal Retirement Date (provided the Participant retires upon attaining his Normal Retirement Age), Early Retirement Date, Disability Retirement Date or Deferred Retirement Date.

1.37 "Safety Personnel" means an Employee who is either (a) certified under police officer standard training, (b) a firefighter, or (c) an emergency medical technician.

1.38 "Severance Date" means the earlier of:

(a) the date of the last active day of work of the Employee if the Employee quits, retires or is discharged; or

(b) the first anniversary of the first date of a period in which the Employee remains absent from service (with or without pay) with a Plan Sponsor for any reason other than resignation, attainment of a Retirement Date, discharge, an Authorized Leave of Absence or death, such as vacation, holiday, sickness, disability, or layoff.

Notwithstanding the foregoing, the Severance Date of an Employee who remains absent from service beyond the first anniversary of the first date of a period of absence (i) by reason of the pregnancy of the Employee, (ii) by reason of the birth of a child of the Employee, (iii) by reason of the placement of a child with the Employee in connection with the adoption of a child

by the Employee, or (iv) for purposes of caring for such child for a period immediately following its birth or placement, means the second anniversary of the first date of the absence.

1.39 “State Enacted Retirement Plan” means a pension or retirement plan established by the legislature of the State of Georgia or otherwise maintained by the State of Georgia if contributions for Employees to such plan come from Clayton County funds or from funds of the State of Georgia which, but for the contribution, would go to Clayton County.

1.40 “State Enacted Retirement Plan Offset Amount” means a monthly benefit payable at the same time as the Accrued Benefit, and which is the Actuarial Equivalent to any and all benefits payable to a Highly Compensated Participant or the Beneficiary of a Highly Compensated Participant under a State Enacted Retirement Plan.

1.41 “Twenty-Four Hour Personnel” means each Employee who is regularly scheduled to work twenty-four hour work shifts on a full-time basis of no less than 2,808 hours per calendar year. Effective on and after January 1, 1999, only firemen and emergency medical service personnel who satisfy the criteria set forth in the immediately preceding sentence qualify as Twenty-Four Hour Personnel.

1.42 “Vesting Service” means, the number of years (calculated by aggregating all periods whether or not consecutive) of continuous employment with a Plan Sponsor as an Employee beginning on the date of the Employee’s employment commencement date and ending on his Severance Date. An Authorized Leave of Absence, whether or not compensated, shall be included in determining Vesting Service. For purposes of determining the Vesting Service of a Participant who was formerly an employee of The City of Forest Park Water and Sewer Department who was an Employee of the Clayton County Water Authority on January 1, 1994, the Vesting Service of such Participant shall include his periods of service with The City of Forest Park Water and Sewer Department.

## **SECTION 2** **ELIGIBILITY**

2.1 Each Eligible Employee shall become a Participant as of the first day the Eligible Employee becomes an Eligible Employee.

2.2 Each former Participant who is reemployed by a Plan Sponsor shall become a Participant as of the date of his reemployment as an Eligible Employee.

2.3 Each individual who was a Participant on the day immediately preceding the Effective Date (including any Participant who, as of the Effective Date, is no longer an Eligible Employee) shall continue to be a Participant as of the Effective Date.

### **SECTION 3** **FUNDING**

3.1 (a) Effective for Compensation paid on and after July 1, 2015, each Plan Sponsor shall contribute to the Fund such amounts as are determined by the Actuary to be necessary to fund the benefits provided under the Plan; provided, however, each Plan Sponsor will appropriate to the Fund annually, to be paid in quarterly installments, a sum of not less than 13.9% of Compensation, as defined in Section 1.10(a) above, of all Eligible Employees. The Actuary will analyze the Plan and the Fund a minimum of one time every two years and will report to the Plan Administrator its findings. In the event the Plan report reveals that the appropriations herein provided are insufficient to maintain the Plan on a sound basis, it will be the duty of the Plan Sponsor to appropriate such additional sums as would be necessary to maintain the Fund and the Plan on a sound financial basis until the next actuarial analysis. Should the Actuary subsequently find that a lesser appropriation by the Plan Sponsor would maintain the Fund on a sound financial basis, then each Plan Sponsor is authorized, upon approval of the Plan Administrator, to decrease its contribution to the percentage of the total payroll found by the Actuary to be sufficient, when combined with the Participant contributions set forth herein, to maintain the Plan and Fund on such financial basis.

(b) All forfeitures arising under the Plan shall be used to reduce the cost of the Plan and shall not be used to increase any benefits payable under the Plan.

(c) Notwithstanding the other provisions of this Section 3.1, the Plan Sponsor shall have the right, but not the obligation, to contribute such additional amounts as it, in its sole discretion, deems necessary or desirable to maintain the actuarial soundness of the Plan, and each Plan Sponsor shall also have the right at any time to discontinue contributions hereunder.

3.2 Effective for Compensation paid on and after July 1, 2015, seven and one-half percent (7.5%) of the Compensation, as defined in Section 1.10(a) above, of every Participant will be deducted by the Plan Sponsor and will be transferred to the Fund as soon as administratively feasible after deduction. The contributions required by this Section are mandatory and the Participant does not have the option to receive such contributions in cash. Although such contributions are designated as Participant contributions, the contributions will be "picked up" by the Plan Sponsor as described in Code Section 414(h)(2) and will be treated as being paid by the Plan Sponsor in lieu of contributions by Participants in determining tax treatment under Code Section 414(h)(2).

3.3 Notwithstanding any other provision of the Plan to the contrary, benefits and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u).

**SECTION 4**  
**DEATH BENEFITS**

4.1 Upon the death of a Participant who is receiving payments under the Plan, his Beneficiary shall be entitled to receive such payments, if any, as are payable to a Beneficiary in accordance with the form of payment selected by the Participant pursuant to Plan Section 6.

4.2 The death benefit of a Participant who dies while employed by a Plan Sponsor shall be determined in accordance with this Section 4.2. The Accrued Benefit of a Participant who dies while employed by a Plan Sponsor shall be determined in accordance with Section 5.2(a) in the case of a Participant first employed by a Plan Sponsor prior to January 1, 2016 and in accordance with Section 5.2(b) in the case of a Participant first employed by a Plan Sponsor on or after January 1, 2016. The amount of any corresponding death benefit, to the extent available, shall be determined in accordance with Subsection (a), (b) or (c), as and to the extent applicable.

(a) If a Participant dies while employed by a Plan Sponsor (i) after reaching Normal Retirement Age or (ii) prior to reaching Normal Retirement Age, but either (A) in the performance of his duties for a Plan Sponsor the discharge of which was the proximate cause of death or (B) on or after attaining age fifty (50) and completing at least (1) seven (7) years of Vesting Service in the case of a Participant first employed by a Plan Sponsor prior to January 1, 2016 and (2) ten (10) years of Vesting Service in the case of a Participant first employed by a Plan Sponsor on or after January 1, 2016, the Participant's Beneficiary shall receive a death benefit commencing as of the first day of the month immediately following the date of the Participant's death in the form which would have been payable to the Beneficiary if the Participant had:

(I) separated from service immediately prior to his date of death;

(II) if the Participant was married at the time of his death and the Participant's Beneficiary is his spouse, elected to receive a distribution in the form of a contingent annuity under which the reduced monthly benefit payments are made to the Participant during his lifetime and following his death are continued to his spouse in an amount equal to fifty percent (50%) of the monthly payments to the Participant or, if the Participant was not then married or the Participant's Beneficiary is not his spouse, elected to receive a Normal Fund Payment; and

(III) died immediately thereafter.

Any death benefits payable under this Section 4.2(a) shall not be actuarially reduced for their commencement prior to the Participant's Normal Retirement Age. In addition, the Beneficiary of a Participant eligible for death benefits under this Section 4.2(a) may elect, in lieu of the form of death benefit payment described in Clause (II) of this Section 4.2(a), to receive the Actuarial Equivalent of such death benefits in a lump sum payment in cash.

(b) If a Participant dies while employed by a Plan Sponsor, other than in the performance of his duties for a Plan Sponsor the discharge of which was the proximate cause of death and prior to attaining age fifty (50), but after completing at least (i) seven (7) years of Vesting Service in the case of a Participant first employed by a Plan Sponsor prior to January 1, 2016 and (ii) ten (10) years of Vesting Service in the case of a Participant first employed by a Plan Sponsor on or after January 1, 2016, the Participant's Beneficiary shall receive a death benefit in the form set forth below commencing as of the first day of the month following the date on which the Participant would have first attained Normal Retirement Age or Early Retirement Age, if otherwise eligible, if the Participant had:

(A) separated from service immediately prior to his date of death;

(B) survived until his Normal Retirement Age or Early Retirement Age, whichever date would have been the first to occur;

(C) if the Participant was married at the time of his death and the Participant's Beneficiary is his spouse, elected to receive a distribution in the form of a contingent annuity under which the reduced monthly benefits payments are made to the Participant during his lifetime and following his death are continued to his spouse in an amount equal to fifty percent (50%) of the monthly payments to the Participant or, if the Participant was not then married or the Participant's Beneficiary is not his spouse, elected to receive a Normal Fund Payment; and

(D) died immediately thereafter.

(c) If a Participant terminates employment after completing at least (i) seven (7) years of Vesting Service in the case of a Participant first employed by a Plan Sponsor prior to January 1, 2016 and (ii) ten (10) years of Vesting Service in the case of a Participant first employed by a Plan Sponsor on or after January 1, 2016, but prior to age fifty (50), and subsequently dies prior to commencement of payment of benefits under the Plan, the Participant's Beneficiary shall receive a death benefit in the form set forth below, commencing as of the first day of the month following the date on which the Participant would have first attained Normal Retirement Age or Early Retirement Age, if otherwise eligible, if the Participant had:

(A) retired immediately prior to his date of death;

(B) survived until his Normal Retirement Age or Early Retirement Age, whichever date would have been the first to occur;

(C) if the Participant was married at the time of his death and the Participant's Beneficiary is his spouse, elected to receive a distribution in the form of a contingent annuity under which the reduced monthly benefit payments are made to the Participant during his lifetime and, following his death, are continued to his spouse in an amount equal to fifty percent (50%) of the monthly payments to the Participant or, if the Participant was not then married or the

Participant's Beneficiary is not his spouse, elected to receive a Normal Fund Payment; and

(D) died immediately thereafter.

4.3 Any annuity may be purchased from an insurance company designated by the Plan Administrator and may be distributed to the Participant's Beneficiary. The distribution, if any, shall be in full satisfaction of the benefits to which the Beneficiary is entitled under the Plan. Any benefit payable under this Section 4 shall be paid in accordance with and subject to the provisions of Plan Sections 6.4, 6.5, and 6.7 and 7.3, if applicable.

4.4 In lieu of the death benefits described in this Section 4 to which a spouse or Beneficiary may be entitled, a Participant's spouse or Beneficiary may elect to receive the Participant's Contribution Account Balance upon the Participant's death. If a Beneficiary elects to receive a distribution of the Participant's Contribution Account Balance under this Section 4.4, then no additional benefits will be payable to such Beneficiary under any circumstances and, furthermore, the Contribution Account Balance so received by such Beneficiary will be in full settlement of any and all obligations of the Plan to the Participant and his Beneficiary. Any distribution under this Section 4.4 shall be made in the form of a lump sum in cash.

4.5 Notwithstanding anything to the contrary in this Section 4, if the Participant's vested Accrued Benefit has a present value Actuarial Equivalent of \$5,000 or less, any benefits payable to a Beneficiary described in this Section shall be paid in the form of a lump sum payment in cash.

4.6 Effective January 1, 2007, in case of a Participant who dies while performing qualified military service (as defined in Code Section 414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Participant resumed and then terminated employment on account of death.

## **SECTION 5**

### **RETIREMENT BENEFITS**

5.1 The amount of a Participant's Accrued Benefit upon his Retirement Date shall be determined in accordance with this Section 5.

5.2 Normal Retirement Date. The Accrued Benefit of a Participant as of his Normal Retirement Date shall be:

(a) for Participants first employed by a Plan Sponsor prior to January 1, 2016, a monthly benefit (payable in monthly installments as an annuity for the Participant's life with sixty (60) months guaranteed commencing at the Participant's Normal Retirement Date), equal to the product of (i) multiplied by (ii) where (i) is two and one-half percent (2½%) of the Participant's Average Monthly Compensation, and (ii) is the Participant's years of Credited Service (not to exceed thirty-two (32)); and

(b) for Participants first employed by a Plan Sponsor on or after January 1, 2016, a monthly benefit (payable in monthly installments as an annuity for the Participant's life with sixty (60) months guaranteed commencing at the Participant's Normal Retirement Date), equal to the product of (i) multiplied by (ii) where (i) is two percent (2%) of the Participant's Average Monthly Compensation, and (ii) is the Participant's years of Credited Service (not to exceed thirty-two (32)).

Notwithstanding the foregoing, the Accrued Benefit of a Participant as of his Normal Retirement Age who was first employed by a Plan Sponsor prior to January 1, 2016, but experienced a Severance Date and subsequently was rehired on or after January 1, 2016, shall be determined in accordance with Section 7.6(b).

Notwithstanding any other provision of this Section 5.2 to the contrary,

(A) in calculating the Participant's Accrued Benefit under this Section 5.2, the Accrued Benefit of a Highly Compensated Employee shall be reduced by any State Enacted Retirement Plan Offset Amount; provided the Plan Sponsor can reasonably determine the State Enacted Retirement Plan Offset Amount; and

(B) the Accrued Benefit of certain Participants identified in Appendix F as of their Normal Retirement Date shall be the monthly benefit payable in the Normal Fund Payment specified in Appendix F and such monthly benefit shall be in lieu of any other payment of benefits under the Plan.

5.3 Early Retirement Date. The Accrued Benefit of a Participant who attains his Early Retirement Date shall be a monthly benefit (payable in monthly installments as an annuity for the Participant's life with sixty (60) months guaranteed commencing at the Participant's Normal Retirement Date), determined pursuant to Plan Section 5.2, but based upon his years of Credited Service (not to exceed thirty-two (32)) and Average Monthly Compensation as of his Early Retirement Date. Notwithstanding the foregoing, a Participant who has reached his Early Retirement Date may elect to begin receiving a monthly pension, commencing at the Participant's Early Retirement Date, which benefit shall equal his Accrued Benefit reduced by one-half ( $\frac{1}{2}$ ) of one percent (0.5%) for each month by which payments commence prior to the Participant's Normal Retirement Date. The Accrued Benefit of certain Participants identified in Appendix F, however, shall not be subject to the reduction described in the immediately preceding sentence.

5.4 Deferred Retirement Date. The Accrued Benefit of a Participant as of his Deferred Retirement Date shall be a monthly benefit (payable in monthly installments as an annuity for the Participant's life with sixty (60) months guaranteed commencing at the Participant's Deferred Retirement Date), determined pursuant to Plan Section 5.2, but based upon his years of Credited Service (not to exceed thirty-two (32)) and Average Monthly Compensation as of his Deferred Retirement Date; provided, however, if greater, the benefit payable pursuant to this Section 5.4 shall be the Participant's Accrued Benefit determined as of his Normal Retirement Age.

5.5 Disability Retirement Date. If a Participant becomes Disabled prior to retirement or any other termination of employment either (a) as the result of his performance of duties for a Plan Sponsor after completing at least three (3) years of Vesting Service or (b) after completing (i) seven (7) years of Vesting Service in the case of a Participant first employed by a Plan Sponsor prior to January 1, 2016 and (ii) ten (10) years of Vesting Service in the case of a Participant first employed by a Plan Sponsor on or after January 1, 2016, and by reason thereof such Participant's status as an Employee ceases, then said Participant shall be entitled to receive a Disability retirement benefit (payable in monthly installments as an annuity for Participant's life with sixty (60) months guaranteed commencing at the Participant's Disability Retirement Date) equal to thirty percent (30%) of the Participant's monthly rate of Compensation as of the date of his Disability. Disability benefit payments to the Participant shall be discontinued in the event the Plan Administrator determines that the Participant is no longer suffering from a Disability. If such a Participant does not then return to the employ of the Plan Sponsor, for purposes of determining the Participant's rights to future benefits under the Plan, he will be treated as if he suffered a termination of employment as of his Disability Retirement Date. Notwithstanding the foregoing, in no event shall the Disability retirement benefit payable under this Section 5.5 be less than the Participant's Accrued Benefit as of his Disability Retirement Date, without regard to the reductions described in Plan Section 5.3.

5.6 Notwithstanding any other provision of this Section to the contrary, the Accrued Benefit of any Participant shall not be less than the Accrued Benefit determined as of June 30, 1997 under the terms of the Plan in effect prior July 1, 1997 and shall not be less than the Accrued Benefit determined as of August 7, 1998 under the terms of the Plan in effect prior to August 8, 1998.

5.7 Minimum Benefit. Effective as of July 1, 2006, any Participant, qualifying spouse or Beneficiary receiving a monthly benefit under any provision of the Plan of less than \$300 as of July 1, 2006 (determined after the four percent (4%) cost-of living adjustment provided pursuant to Section 2C of Appendix C), shall receive a minimum monthly pension benefit of \$300 for the remainder of his benefit payment period and, if applicable, the benefit payment period for any survivor benefit available under the form of payment elected by the Participant.

## **SECTION 6**

### **PAYMENT OF BENEFITS ON RETIREMENT**

6.1 The retirement benefit (as described in Plan Section 5) of a Participant who has attained his Retirement Date or has attained Normal Retirement Age shall be fully vested and nonforfeitable. As of a Participant's Retirement Date, payment of his vested retirement benefit shall be made in accordance with this Section. Payments shall commence as of the first day of the month coinciding with or next following the Participant's Retirement Date. If the amount of the payment required to commence on a given date cannot be ascertained by that date, payment shall commence retroactively to that date and shall commence no later than sixty (60) days after the earliest date on which the amount of the payment can be ascertained under the Plan.



6.2 (a) Any retirement benefit payments pursuant to the Plan shall be in the form of a Normal Fund Payment, unless the Participant's vested Accrued Benefit has an Actuarial Equivalent of greater than \$5,000 at the time he or his Beneficiary is entitled to the commencement of payments under the Plan and the Participant elects not to receive the Normal Fund Payment by execution and delivery to the Plan Administrator of a form provided for that purpose by the Plan Administrator. If an election is made, payments shall be paid in the Actuarial Equivalent form set forth in Subsection (b) of this Section chosen by the Participant by written instrument delivered to the Plan Administrator prior to the date payments are otherwise to commence.

(b) The alternate forms of payment are:

(i) a contingent annuitant option under which reduced monthly benefit payments are made to the Participant during his lifetime and following his death are continued to his Beneficiary in an amount equal to 100%, 75% or 50% (as elected by the Participant) of the monthly payments to the Participant; and

(ii) a single life annuity, payable in monthly installments, with guaranteed payments for 120 months. If the Participant dies before receiving all of the guaranteed payments, his Beneficiary will receive the monthly benefit the Participant was receiving for the number of months left in the guaranteed period..

(c) The Participant may revoke any election not to receive payment in the form of a Normal Fund Payment at any time prior to commencement of payments from the Fund, and may make a new election at any time prior to the commencement of payments from the Fund. The election of the contingent annuitant option shall be null and void if, prior to the date benefit payments commence, (i) either the Participant or the Participant's Beneficiary die, or (ii) the Participant's Beneficiary is the Participant's spouse and the Participant becomes divorced from his spouse. In the event the election becomes null and void, the Participant shall have the right to name a new contingent annuitant or elect another option provided in this Section. The election of the contingent annuitant option and the Participant's Beneficiary cannot be changed or revoked after the date benefit payments commence.

(d) In accordance with the requirements contemplated by Section 6.4(a), the contingent annuitant option providing for a survivor benefit of 100% to a Beneficiary other than the spouse may not be elected if the Beneficiary is more than ten (10) years younger than the Participant and the contingent annuitant option providing for a survivor benefit of 75% to a Beneficiary other than the spouse may not be elected if the Beneficiary is more than nineteen (19) years younger than the Participant.

6.3 In lieu of the retirement benefits described in Section 5, a Participant may elect to receive a distribution of his Contribution Account Balance as soon as administratively feasible following his Retirement Date. If a Participant receives his Contribution Account Balance under this Section 6.3, then no additional benefits will be payable to the Participant or his Beneficiaries under any circumstances unless such individual again becomes a Participant and earns additional benefits. The payment of a Participant's Contribution Account Balance will be in the form of

one (1) lump sum in cash and will be in full settlement of any and all obligations of the Plan to the Participant and his Beneficiaries unless he again becomes a Participant and earns additional benefits under the Plan.

6.4 Notwithstanding anything to the contrary contained in the Plan:

(a) the payments to be made to a Participant shall satisfy the incidental death benefit requirements under Code Section 401(a)(9)(G) and the regulations thereunder; and

(b) if the Actuarial Equivalent of a Participant's vested Accrued Benefit exceeds \$1,000, it shall not be distributed prior to the Participant's Normal Retirement Age without the written consent of the Participant.

6.5 Distributions will be made in accordance with Code Section 401(a)(9) and the regulations issued thereunder, including the minimum distribution incidental benefit requirements, and will be administered in accordance with the requirements of Appendix D hereto.

6.6 (a) If a Participant is reemployed by a Plan Sponsor prior to his Normal Retirement Date and after the payment of retirement benefits to him have been made or commenced, the payment of any remaining portion of his retirement benefits shall be suspended during the time he is reemployed. The payment of retirement benefits that have been suspended shall resume following the Participant's subsequent retirement in the same form of benefit previously made to the Participant prior to his reemployment. Such Participant shall be entitled to any additional Accrued Benefit determined under Plan Section 5 upon his subsequent retirement. The retirement benefit payable upon the Participant's subsequent retirement will be reduced by the Actuarial Equivalent of the payments received by the Participant prior to his Normal Retirement Date, but not below the level of the retirement benefits previously payable to the Participant.

(b) If a Participant is reemployed by a Plan Sponsor as a full-time employee after his Normal Retirement Date and after the payment of retirement benefits to him have been made or commenced, the payment of any remaining portion of his retirement benefits shall be suspended during the time he is reemployed. The payment of retirement benefits that have been suspended shall resume following the Participant's subsequent retirement in the same form of benefit previously made to the Participant prior to his reemployment. Such Participant shall be entitled to any additional Accrued Benefit determined under Plan Section 5 upon his subsequent retirement. The retirement benefit payable upon the Participant's subsequent retirement will be reduced by the Actuarial Equivalent of the payments received by the Participant, but not below the level of the retirement benefits previously payable to the Participant.

(c) Notwithstanding the foregoing provisions of this Section 6.6, if a Participant with at least thirty-two (32) years of Credited Service is reemployed by a Plan Sponsor, the payment of any retirement benefits that have previously commenced shall not be suspended. Such Participant shall be entitled to any additional Accrued Benefit

determined under Plan Section 5 upon his subsequent retirement. The retirement benefit payable upon the Participant's subsequent retirement will be reduced by the Actuarial Equivalent of the payments received by the Participant prior to such subsequent retirement, but not below the level of the retirement benefits previously payable to the Participant, and, shall continue following the Participant's subsequent retirement in the same form of benefit as originally elected by the Participant.

6.7 (a) Notwithstanding any provision of the Plan to the contrary, a Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover; provided, however, (i) if a Distributee's Eligible Rollover Distribution to be paid during a calendar year is reasonably expected to be less than \$200, the entire amount of such Eligible Rollover Distribution for such year shall be paid directly to the Distributee and not to an Eligible Retirement Plan; (ii) if a Distributee elects to have a portion, but not all, of his Eligible Rollover Distribution paid directly to an Eligible Retirement Plan in a Direct Rollover, the minimum amount of the Eligible Rollover Distribution that he can elect to have paid to an Eligible Retirement Plan in a Direct Rollover shall be \$500, and (iii) a Distributee may only designate one Eligible Retirement Plan to which his Eligible Rollover Distribution may be transferred.

(b) To the extent required by applicable law, the Plan Administrator shall furnish a Distributee, within the period beginning ninety (90) days prior to the date his Eligible Rollover Distribution commences and ending thirty (30) days prior to such date, with a written explanation of (i) the rules under which he may have his Eligible Rollover Distribution paid to an Eligible Retirement Plan, (ii) the rules that require the withholding of tax on an Eligible Rollover Distribution if it is not paid to an Eligible Retirement Plan, (iii) the rules under which he will not be subject to tax if the Eligible Rollover Distribution is contributed to an Eligible Retirement Plan within sixty (60) days of distribution, and (iv) if applicable, the provisions concerning taxation of lump-sum distributions pursuant to Code Section 402(d). If the Eligible Rollover Distribution is one to which Code Sections 401(a)(11) and 417 do not apply, such Eligible Rollover Distribution may commence less than thirty (30) days after the notice required under Treasury Regulations Section 1.411(a)-11(c) is given, provided that:

(A) the Plan Administrator clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option); and

(B) the Distributee, after receiving the notice, affirmatively elects a distribution.

**SECTION 7**  
**PAYMENT OF BENEFITS ON TERMINATION OF EMPLOYMENT**

7.1 Transfer of a Participant from one Plan Sponsor to another Plan Sponsor shall not be deemed for any purpose under the Plan to be a termination of employment by the Participant.

7.2 Except as provided below, if a Participant terminates employment with a Plan Sponsor, such Participant shall be entitled to receive that portion of his Accrued Benefit, determined as of his termination of employment, in which he is vested according to the following vesting schedules:

(a) for Participants first employed by a Plan Sponsor prior to January 1, 2016:

<u>Full Years of Vesting Service</u>	<u>Percentage Vested</u>
Less than 7	0%
7 or more	100%

(b) for Participants first employed by a Plan Sponsor on or after January 1, 2016:

<u>Full Years of Vesting Service</u>	<u>Percentage Vested</u>
Less than 10	0%
10 or more	100%

Notwithstanding the foregoing, the vesting schedule applicable to a Participant who was first employed by a Plan Sponsor prior to January 1, 2016, but who experienced a Severance Date and subsequently was rehired on or after January 1, 2016, shall be determined in accordance with Section 7.6(e).

Notwithstanding the foregoing vesting schedule, in no event will a Participant's vested percentage be less than his vested percentage determined under the terms of the Plan in effect prior to the Effective Date.

7.3 The retirement benefit payable to a Participant under this Section shall be in the form of a Normal Fund Payment, unless the Participant elects otherwise pursuant to Plan Section 6. Payment shall commence, except as otherwise provided in this Section, as of the first day of the month coinciding with or next following the Participant's Normal Retirement Age. If a Participant has completed fifteen (15) years of Credited Service on the date he terminates employment, he may elect to receive his retirement benefit on or after the date he attains Early Retirement Age, reduced as provided in Plan Section 5.3. Notwithstanding the foregoing, if the Actuarial Equivalent of a Participant's vested Accrued Benefit is not more than \$5,000, payment shall be made within a reasonable period of time after the end of the Plan Year in which the Participant terminates employment; provided that, if the Actuarial Equivalent of the Participant's

vested Accrued Benefit exceeds \$1,000, payment will not be made to the Participant prior to the Participant's Normal Retirement Age without the written consent of the Participant. The retirement benefits payable to a Participant hereunder shall be subject to the provisions of Plan Sections 6.2, 6.4, 6.5 and 6.7.

7.4 In lieu of the retirement benefits described in Section 5, a vested Participant may elect to receive a distribution of his Contribution Account Balance as soon as administratively feasible after his termination of employment. If a Participant receives his Contribution Account Balance under this Section 7.4, then no additional benefits will be payable to the Participant or his Beneficiaries under any circumstances unless such individual again becomes a Participant and earns additional benefits. The payment of a Participant's Contribution Account Balance will be in the form of one (1) lump sum in cash and will be in full settlement of any and all obligations of the Plan to the Participant and his Beneficiaries unless he again becomes a Participant and earns additional benefits under the Plan.

7.5 As of a Participant's termination of employment, that portion of his Accrued Benefit in which he is not vested shall be forfeited, and any forfeitures resulting from the operation of this Section 7 shall be used to reduce the cost of the Plan by reducing future Plan Sponsor contributions.

7.6 (a) For Participants first employed by a Plan Sponsor prior to January 1, 2016 and rehired prior to January 1, 2016:

(i) If the Participant (A) terminates employment with a vested Accrued Benefit, (B) does not receive a distribution of his Contribution Account Balance under Section 6.3 or 7.4 hereof, and (C) becomes reemployed by a Plan Sponsor, any Credited Service and Vesting Service prior to his termination of employment shall be considered for all purposes under the Plan.

(ii) If the Participant (A) terminates employment without a vested interest in his Accrued Benefit, (B) does not receive a distribution of his Contribution Account Balance under Section 6.3 or 7.4 hereof, and (C) becomes reemployed by a Plan Sponsor, any Credited Service and Vesting Service prior to his termination of employment shall be disregarded for all purposes under the Plan unless the Participant is credited with at least seven (7) years of Vesting Service following his reemployment date.

(iii) If the Participant (A) terminates employment with a vested Accrued Benefit, (B) receives a distribution of his Contribution Account Balance under Section 6.3 or 7.4 hereof, and (C) becomes reemployed by a Plan Sponsor, any Credited Service and Vesting Service earned prior to his termination of employment shall be disregarded for all purposes under the Plan unless (1) the Participant is credited with at least seven (7) years of Vesting Service following his reemployment date; and (2) the Participant repays the amount of such prior distribution to the Plan in a lump sum no later than twelve (12) months after the date of his reemployment.

(iv) If the Participant (A) terminates employment without a vested interest in his Accrued Benefit, (B) receives a distribution of his Contribution Account Balance under Section 7.4 hereof, and (C) becomes reemployed by a Plan Sponsor, any Credited Service and Vesting Service earned prior to his termination of employment shall be disregarded for all purposes under the Plan unless (1) the Participant is credited with at least seven (7) years of Vesting Service following his reemployment date; and (2) the Participant repays the amount of such prior distribution to the Plan in a lump sum no later than twelve (12) months after the date of his reemployment.

(b) For Participants first employed by a Plan Sponsor prior to January 1, 2016 and rehired on or after January 1, 2016 before the commencement of benefit payments (other than a distribution of his Contribution Account Balance):

(i) If the Participant (A) terminates employment with a vested Accrued Benefit, (B) does not receive a distribution of his Contribution Account Balance under Section 6.3 or 7.4 hereof, and (C) becomes reemployed by a Plan Sponsor, any Credited Service and Vesting Service prior to his termination of employment shall be considered for all purposes under the Plan and his Accrued Benefit shall be determined in accordance with Section 5.2(a).

(ii) If the Participant (A) terminates employment without a vested interest in his Accrued Benefit, (B) does not receive a distribution of his Contribution Account Balance under Section 6.3 or 7.4 hereof, and (C) becomes reemployed by a Plan Sponsor, any Credited Service and Vesting Service prior to his termination of employment shall be disregarded for all purposes under the Plan unless the Participant is credited with at least ten (10) years of Vesting Service following his reemployment date. If the Participant is credited with at least ten (10) years of Vesting Service following his reemployment date, any Credited Service and Vesting Service prior to his termination of employment shall be considered for all purposes under the Plan and his Accrued Benefit shall be determined in accordance with Section 5.2(a).

(iii) If the Participant (A) terminates employment with a vested Accrued Benefit, (B) receives a distribution of his Contribution Account Balance under Section 6.3 or 7.4 hereof, and (C) becomes reemployed by a Plan Sponsor, any Credited Service and Vesting Service earned prior to his termination of employment shall be disregarded for all purposes under the Plan unless (1) the Participant is credited with at least ten (10) years of Vesting Service following his reemployment date; and (2) the Participant repays the amount of such prior distribution to the Plan in a lump sum no later than twelve (12) months after the date of his reemployment. If the Participant is credited with at least ten (10) years of Vesting Service following his reemployment date and timely repays his Contribution Account Balance, any Credited Service and Vesting Service prior to his termination of employment shall be considered for all purposes under the Plan and his Accrued Benefit shall be determined in accordance with Section 5.2(b).

(iv) If the Participant (A) terminates employment without a vested interest in his Accrued Benefit, (B) receives a distribution of his Contribution Account Balance under Section 6.3 or Section 7.4 hereof, and (C) becomes reemployed by a Plan Sponsor, any Credited Service and Vesting Service earned prior to his termination of employment shall be disregarded for all purposes under the Plan unless (1) the Participant is credited with at least ten (10) years of Vesting Service following his reemployment date; and (2) the Participant repays the amount of such prior distribution to the Plan in a lump sum no later than twelve (12) months after the date of his reemployment. If the Participant is credited with at least ten (10) years of Vesting Service following his reemployment date and timely repays his Contribution Account Balance, any Credited Service and Vesting Service prior to his termination of employment shall be considered for all purposes under the Plan and his Accrued Benefit shall be determined in accordance with Section 5.2(b).

(c) For Participants first employed by a Plan Sponsor on or after January 1, 2016 and rehired on or after January 1, 2016 before the commencement of benefit payments (other than a distribution of his Contribution Account Balance):

(i) If the Participant (A) terminates employment with a vested Accrued Benefit, (B) does not receive a distribution of his Contribution Account Balance under Section 6.3 or 7.4 hereof, and (C) becomes reemployed by a Plan Sponsor, any Credited Service and Vesting Service prior to his termination of employment shall be considered for all purposes under the Plan and his Accrued Benefit shall be determined in accordance with Section 5.2(b).

(ii) If the Participant (A) terminates employment without a vested interest in his Accrued Benefit, (B) does not receive a distribution of his Contribution Account Balance under Section 6.3 or 7.4 hereof, and (C) becomes reemployed by a Plan Sponsor, any Credited Service and Vesting Service prior to his termination of employment shall be disregarded for all purposes under the Plan and his Accrued Benefit shall be determined in accordance with Section 5.2(b), unless the Participant is credited with at least ten (10) years of Vesting Service following his reemployment date. If the Participant is credited with at least ten (10) years of Vesting Service following his reemployment date, any Credited Service and Vesting Service prior to his termination of employment shall be considered for all purposes under the Plan and his Accrued Benefit shall be determined in accordance with Section 5.2(b).

(iii) If the Participant (A) terminates employment with a vested Accrued Benefit, (B) receives a distribution of his Contribution Account Balance under Section 6.3 or 7.4 hereof, and (C) becomes reemployed by a Plan Sponsor, any Credited Service and Vesting Service earned prior to his termination of employment shall be disregarded for all purposes under the Plan unless (1) the Participant is rehired within three (3) years following the termination of employment; (2) the Participant is credited with at least ten (10) years of Vesting Service following his reemployment date; and (3) the Participant repays the

amount of such prior distribution to the Plan in a lump sum no later than twelve (12) months after the date of his reemployment. If such a Participant is credited with at least ten (10) years of Vesting Service following his reemployment date and timely repays his Contribution Account Balance, any Credited Service and Vesting Service prior to his termination of employment shall be considered for all purposes under the Plan and his Accrued Benefit shall be determined in accordance with Section 5.2(b).

(iv) If the Participant (A) terminates employment without a vested interest in his Accrued Benefit, (B) receives a distribution of his Contribution Account Balance under Section 6.3 or Section 7.4 hereof, and (C) becomes reemployed by a Plan Sponsor, any Credited Service and Vesting Service earned prior to his termination of employment shall be disregarded for all purposes under the Plan.

(d) Except to the extent provided in Subsections (a), (b) and (c) of this Section 7.6, a Participant who is reemployed after incurring a termination of employment, any Credited Service and Vesting Service earned prior to his termination of employment shall be disregarded for all purposes under the Plan.

(e) For purposes of this Section 7.6, (i) a Participant's Accrued Benefit determined in accordance with Section 5.2(a) shall have Average Monthly Compensation determined in accordance with Section 1.6(a), Early Retirement Age determined in accordance with Section 1.19(a), Normal Retirement Age determined in accordance with Section 1.30(a) and vesting determined in accordance with Section 7.2(a); and (ii) a Participant's Accrued Benefit determined in accordance with Section 5.2(b) shall have Average Monthly Compensation determined in accordance with Section 1.6(b), Early Retirement Age determined in accordance with Section 1.19(b) or (c), as applicable, Normal Retirement Age determined in accordance with Section 1.30(b) or (c), as applicable, and vesting determined in accordance with Section 7.2(b).

Notwithstanding any other provision of this Section to the contrary, the following additional rules are applicable:

(I) For purposes of determining a Participant's Accrued Benefit under Section 5, years of Credited Service in excess of thirty-two (32), if any, shall not be considered.

(II) If a Participant, who has experienced a Severance Date and was reemployed prior to July 1, 2003, could have his Vesting Service and Credited Service earned prior to his termination of employment restored under the provisions of the Plan, as in effect for Eligible Employees immediately prior to July 1, 2003 (the "Prior Restoration Rules"), then such a Participant may make a repayment in accordance with the Prior Restoration Rules and have his Vesting Service and Credited Service earned prior to his termination of employment considered in accordance with the provisions of the Prior Restoration Rules. If a Participant satisfies both the conditions of one of the Prior Restoration Rules and the successor to that rule under Subsection (b) or (c) above, as applicable, the Participant's Vesting Service and Credited Service earned prior to his



reemployment shall be considered, to the extent applicable, in the manner that provides the Participant with the greater benefit.

(III) If a Grandfathered Participant terminates employment and subsequently becomes reemployed, any restored Credited Service and Vesting Service shall be counted in accordance to, and consistent with, the provisions of the second paragraph of Section 1.1.

(IV) If a Participant (a) terminates employment with or without a vested interest in his Accrued Benefit, (b) receives a distribution of his Contribution Account Balance under Section 6.3 or 7.4 hereof, and (c) becomes reemployed by a Plan Sponsor on or before October 31, 2008, any Credited Service and Vesting Service earned prior to his termination of employment shall be disregarded for all purposes under the Plan unless (i) the Participant elects to repay the amount of such prior distribution to the Plan on or before March 15, 2009, in the manner prescribed by the Plan Administrator; (ii) the Participant is credited with at least seven (7) years of Vesting Service following his reemployment date; and (iii) the Participant repays the amount of such prior distribution to the Plan (in accordance with such rules and limitations the Plan Administrator may prescribe) no later than March 15, 2011.

## **SECTION 8**

### **ADMINISTRATION OF THE PLAN**

#### **8.1 Assets of the Fund.**

(a) All contributions made by a Plan Sponsor shall be deposited in the Fund, which shall be administered by the Plan Administrator. The Plan Administrator shall have the authority to develop a statement of investment policy. The Plan Administrator shall also have the authority to invest and reinvest money which is held for the purpose of paying retirement benefits under the Plan, but which is not needed for immediate payment, as determined by the Plan Administrator, in accordance with such investment policy to be known as the Clayton County Pension Board Employees' Retirement Plan Statement of Investment Policy, as amended from time to time. The Board of Commissioners shall have the primary authority to appoint and select any consultant, advisor, or manager to assist the Plan Administrator with the investment or reinvestment of the assets of the Fund.

(b) The Plan Administrator shall exercise voting rights pertaining to any security at any time held in the Fund, and accept and hold any securities issued in connection therewith in accordance with rules and procedures and requirements as may be adopted and delegated by the Plan Administrator in accordance with the Plan Administrator Procedures in Appendix B hereto.

(c) The Plan Administrator shall annually have an appraisal of the Fund conducted by a qualified investment appraisal firm for the purpose of ascertaining

productivity and soundness of investments and will use such appraisals in their responsibility of investing the assets of the Fund.

(d) The Plan Administrator shall have an annual audit of the Fund prepared by the auditors employed by Clayton County, Georgia and make report of such audit examination to the Board of Commissioners.

(e) Except as otherwise provided above, all assets of the Fund, including investment income, shall be retained for the exclusive benefit of Participants and their Beneficiaries or shall be used to pay benefits to such persons or to pay administrative expenses to the extent not paid by a Plan Sponsor.

## 8.2 Fiduciary Responsibility.

(a) The Plan Administrator shall issue directions to the Custodian concerning all benefits which are to be paid from the Fund pursuant to the provisions of the Plan.

(b) The Plan Administrator, may allocate its fiduciary responsibilities among fiduciaries designated in writing by the Plan Administrator and may designate in writing other persons to carry out its fiduciary responsibilities under the Plan. The Plan Administrator may at any time and from time to time remove any such person designated to carry out its fiduciary responsibilities under the Plan by notice in writing to such person.

(c) The Plan Administrator and each other Plan fiduciary may employ persons to perform services and to render advice with regard to any of the fiduciary's responsibilities under the Plan.

(d) Each Plan Sponsor shall indemnify and hold harmless each person constituting the Plan Administrator from and against any and all claims, losses, costs, expenses (including, without limitation, attorney's fees and court costs), damages, actions or causes of action arising from, on account of or in connection with the performance by such person of his duties in such capacity, provided such person acted in good faith.

## 8.3 Duties of the Plan Administrator.

(a) The Plan Administrator shall from time to time establish rules, not contrary to the provisions of the Plan, for the administration of the Plan and the transaction of its business. All elections and designations to be made under the Plan by a Participant or his spouse shall be made on forms prescribed by the Plan Administrator. The Plan Administrator shall have discretionary authority to construe the terms of the Plan and shall determine all questions arising in the administration, interpretation and application of the Plan, including, but not limited to, those concerning eligibility for benefits, and it shall not act so as to discriminate in favor of any person. All determinations of the Plan Administrator shall be conclusive and binding on all Employees, Participants, Beneficiaries, and fiduciaries, subject to the provisions of the Plan and subject to applicable law.

(b) The Plan Administrator shall furnish Participants and Beneficiaries of deceased Participants with any disclosures now or hereafter required by the Code. The Plan Administrator shall file any reports and disclosures concerning the Plan and its operations as required by the Code, and shall be responsible for establishing and maintaining all records of the Plan.

(c) The statement of specific duties for a Plan Administrator in this Section 8.3 is not in derogation of any other duties which a Plan Administrator has under the provisions of the Plan or under applicable law.

8.4 Action by Plan Sponsor. Any action to be taken by a Plan Sponsor shall be taken by resolution or written direction duly adopted by the appropriate governing body; provided, however, that by resolution or written direction, such governing body may delegate to any officer or other appropriate person the authority to take any such actions as may be specified in such resolution or written direction.

## **SECTION 9**

### **CLAIM REVIEW PROCEDURE**

9.1 In the event that a Participant or Beneficiary is denied a claim for benefits under the Plan, the Plan Administrator shall provide to such claimant written notice of the denial which shall set forth:

- (a) the specific reasons for the denial;
- (b) specific references to the pertinent provisions of the Plan on which the denial is based;
- (c) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and
- (d) an explanation of the Plan's claim review procedure.

9.2 After receiving written notice of the denial of a claim, a claimant or his representative may request a full and fair review of the denial by written application to the Plan Administrator, review pertinent documents, and submit issues and comments in writing to the Plan Administrator.

9.3 If the claimant wishes such a review of the decision denying his claim to benefits under the Plan, he must submit such written application to the Plan Administrator within sixty (60) days after receiving written notice of the denial.

9.4 Upon receiving the written application for review, the Plan Administrator may schedule a hearing for purposes of reviewing the claimant's claim, which hearing shall take place not more than sixty (60) days from the date on which the Plan Administrator received the written application for review.

9.5 At least ten (10) days prior to the scheduled hearing, the claimant and his representative designated in writing by him shall receive written notice of the date, time, and place of such scheduled hearing. The claimant or his representative may request that the hearing be rescheduled, for his convenience, on another reasonable date or at another reasonable time or place.

9.6 All claimants requesting a review of the decision denying their claim for benefits may employ counsel for purposes of the hearing.

9.7 No later than sixty (60) days after receiving the written application for review, the Plan Administrator shall submit its decision in writing to the claimant and to his representative, if any; provided, however, a decision on the written application for review may be extended, if special circumstances, such as the need to hold a hearing require an extension of time, to a date no later than one hundred twenty (120) days after the date of receipt of the written application for review. The decision shall include specific reasons therefor and specific references to the pertinent Plan provisions on which it is based.

**SECTION 10**  
**LIMITATION OF ASSIGNMENT, PAYMENTS TO LEGALLY**  
**INCOMPETENT DISTRIBUTE AND UNCLAIMED PAYMENTS**

10.1 No benefit which shall be payable under the Plan to any person shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge the same shall be void. No benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person, nor shall it be subject to attachment or legal process for, or against, any person, and the same shall not be recognized under the Plan, except to such extent as may be required by law. Notwithstanding the above, this Section shall not apply to a "qualified domestic relations order" (as defined in Code Section 414(p)), and benefits may be paid pursuant to the provisions of such an order. The Plan Administrator shall develop procedures (in accordance with applicable federal law) to determine whether a domestic relations order is qualified, and, if so, the method and the procedures for complying therewith.

10.2 If any person who shall be entitled to any benefit under the Plan shall become bankrupt or shall attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge such benefit under the Plan, then the payment of any such benefit in the event a Participant or Beneficiary is entitled to payment shall, in the discretion of the Plan Administrator, terminate and in that event the Custodian shall hold or apply the same for the benefit of such person or his spouse in the manner and proportion as the Plan Administrator shall determine.

10.3 Whenever any benefit which shall be payable under the Plan is to be paid to or for the benefit of any person who is then a minor or determined to be incompetent by qualified medical advice, the Plan Administrator need not require the appointment of a guardian or custodian, but shall be authorized to cause the same to be paid over to the person having custody of the minor or incompetent, or to cause the same to be paid to the minor or incompetent without the intervention of a guardian or custodian, or to cause the same to be paid to a legal guardian or

custodian of the minor or incompetent if one has been appointed or to cause the same to be used for the benefit of the minor or incompetent. Any benefit payment made in accordance with the provisions of this Section shall be a complete discharge of any liability for the making of such payment.

10.4 Whenever the Plan Administrator cannot, within a reasonable time after payments are to commence, locate any person to or for the benefit of whom such payments are to be made, after making a reasonable effort to locate such person, the amount to be paid shall become a forfeiture under the Plan and shall be used to reduce the cost of the Plan.

### **SECTION 11** **PROHIBITION AGAINST DIVERSION**

At no time shall any part of the Fund be used for or diverted to purposes other than the exclusive benefit of the Participants or their Beneficiaries, subject, however, to the payment of all taxes and administrative expenses and subject to the provisions of the Plan with respect to returns of contributions.

### **SECTION 12** **LIMITATION OF RIGHTS**

Neither the Plan nor the mere fact of Plan participation shall give any Employee or other person any right or claim except to the extent that the right or claim is specifically fixed under the terms of the Plan and the Fund is sufficient therefor. The establishment of the Plan shall not be construed to give any Employee a right to continue in the employ of a Plan Sponsor or as interfering with the right of the Plan Sponsor to terminate the employment of any Employee at any time.

### **SECTION 13** **AMENDMENT AND TERMINATION**

13.1 Subject to applicable state law to the contrary, the Board of Commissioners reserves the right at any time to modify, amend, or terminate the Plan in whole or in part; provided, however, that the Board of Commissioners shall have no power to modify or amend the Plan in such manner as would cause or permit any portion of the funds held under the Plan to be used for, or diverted to, purposes other than for the exclusive benefit of Participants or their Beneficiaries, or as would cause or permit any portion of any funds held under the Plan to become the property of a Plan Sponsor. No modifications or amendments shall have the effect of retroactively changing or depriving Participants or Beneficiaries of rights already accrued under the Plan. No Plan Sponsor other than the Board of Commissioners shall have the right to so modify, amend or terminate the Plan.

13.2 Subject to applicable state law to the contrary, each Plan Sponsor other than Clayton County shall have the right to terminate its participation in the Plan by resolution of its appropriate governing body, unless the termination would result in the disqualification of the Plan as to any other Plan Sponsor. If contributions by or on behalf of a Plan Sponsor are

completely terminated, the Plan shall be deemed terminated as to such Plan Sponsor. In the event of termination of the Plan, the benefit payable to any Highly Compensated Employee is limited to an amount that is nondiscriminatory under Code Section 401(a)(4).

13.3 In the event of the termination or partial termination of the Plan, each affected Participant's Accrued Benefit as of the date of such termination or partial termination, to the extent funded as of such date, shall be fully vested and thereafter shall be nonforfeitable, notwithstanding the provisions of Plan Section 7.2.

**SECTION 14**  
**INCORPORATION OF SPECIAL LIMITATION**

Appendices A, B, C, D, E and F to the Plan attached hereto are hereby incorporated by reference and the provisions of the same shall apply notwithstanding anything to the contrary herein.

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**APPENDIX A**  
**LIMITATION ON BENEFITS**

**SECTION 1**

(a) Notwithstanding any other provision of the Plan, in no event shall the annual pension benefit of a Participant attributable to Plan Sponsor contributions, determined as of his annuity starting date, exceed the dollar limitation set forth in Code Section 415(b)(1)(A) (\$210,000 for 2015). The dollar limitation shall be subject to adjustment in accordance with regulations issued by the Secretary of the Treasury or other applicable provision of law, provided that any adjustment to the dollar limitation shall be effective as of January 1 of each calendar year and shall be applicable with respect to the limitation year ending with or within each calendar year. The adjustment to the dollar limitation shall also apply to Participants whose annual pension benefits under the Plan have already commenced and are in pay status.

The limitation under Section 1(a) above shall be adjusted annually permitting an increase in a Participant's periodic payments effective for payments due on or after January 1 of the limitation year for which the increase in the limitation year is effective. The adjusted limitation in Section 1(a) shall be equal to the greater of the amount that would be permitted without regard to the adjustment multiplied by a fraction, the numerator of which is the limitation under Section 1(a) taking into account the adjustment, and the denominator of which is the limitation in effect for the immediately preceding limitation year. The limitation under Section 1(a) shall be adjusted for each limitation year by multiplying the limitation applicable for the immediately preceding limitation year by an annual adjustment factor, with any result that is not a multiple of \$5,000 rounded down to the next lowest multiple of \$5,000. The "annual adjustment factor" is a fraction, the numerator of which is the value of the applicable index for the calendar quarter ending September 30 of the calendar year preceding the calendar year for which the adjustment is being made and the denominator of which is the value of such index for the calendar quarter ending September 30 of the calendar year prior to that preceding calendar year; provided that if the fraction determined under this sentence is less than one (1), then such fraction shall be deemed to be equal to (1). The "applicable index" is determined consistent with the procedures to adjust benefit amounts under Section 215(i)(2)(A) of the Social Security Act (92 P.L. 336).

(b) For purposes of determining the annual pension benefit due to Plan Sponsor contributions, a Participant will be treated as having elected a single life annuity for his own life commencing on the same date as the form of benefit chosen by the Participant, which annuity is the actuarial equivalent of the form of benefit chosen by the Participant. For purposes of this Subsection (c), the actuarial equivalent of the Participant's chosen form of benefit will be the greater of:

(i) the annual amount of the single life annuity (if any) payable to the Participant under the Plan; or

(ii) the annual amount of the single life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Participant, computed using a five percent (5%) interest assumption and

the applicable mortality table described in Code Section 415(b)(2)(E)(v) for that annuity starting date.

(c) Notwithstanding the foregoing, in the case of a “qualified participant,” (as defined under Code Section 415(b)(2)(H) and applicable regulations thereunder) Section 2 below shall not apply. For purposes of this Section a “qualified participant” is a Participant who has at least fifteen (15) years of Credited Service as a full-time Employee of a police department or fire department which is organized and operated by Clayton County.

## **SECTION 2**

If retirement payments to a Participant commence before the Participant attains age sixty-two (62), the limitation under Section 1(a) of this Appendix shall be age-adjusted as provided in this Section 2. The age-adjusted limit is determined as the actuarial equivalent of the annual amount of a straight life annuity commencing on the annuity starting date that has the same actual present value as a deferred straight life annuity commencing at age sixty-two (62), where annual payments under the straight life annuity commencing at age sixty-two (62) are equal to the adjusted Section 1(a) limitation and where the actuarial equivalent straight life annuity is computed assuming a five percent (5%) interest rate and the applicable mortality table that is effective for that annuity starting date under Code Section 415(b)(2)(E)(v) (expressing the Participant’s age based on completed calendar months as of the annuity starting date). However, the age-adjusted limitation shall be less if the age-adjusted limitation described in the immediately preceding sentence is greater than the adjusted Section 1(a) limitation multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan to the annual amount of the straight life annuity under the Plan commencing at age sixty-two (62), with both annual amounts determined using the Plan factors for determining the Accrued Benefit of the Participant and without applying the limitation rules under this Appendix A. No adjustment for mortality shall be taken into account in performing the first calculation required by this Section 2 to the extent permitted by Treas. Reg. Section 1.415(b)-1(d)(2).

The requirements of this Section 2 do not apply to a distribution on account of the Participant’s incurring a Disability or as a result of the death of a Participant.

## **SECTION 3**

If retirement payments to a Participant commence after the Participant attains age sixty-five (65), the limitation under Section 1(a) of this Appendix shall be age-adjusted as provided in this Section 3. The age-adjusted limitation is determined as the actuarial equivalent of the annual amount of a straight life annuity commencing on the annuity starting date that has the same actual present value as a straight life annuity commencing at age sixty-five (65), where annual payments under the straight life annuity commencing at age sixty-five (65) are equal to the adjusted Section 1(a) limitation and where the actuarial equivalent straight life annuity is computed using a five percent (5%) interest rate and the applicable mortality table under Code Section 415(b)(2)(E)(v) that is effective for that annuity starting date (expressing the Participant’s age based on completed calendar months as of the annuity starting date). However,



the age-adjusted limitation shall be less if the age-adjusted limitation described in the immediately preceding sentence is greater than the adjusted Section 1(a) limitation multiplied by the adjustment ratio, which is equal to the ratio of the “adjusted immediately commencing straight life annuity” described in Treas. Reg. Section 1.415(b)-1(e)(ii) to the “adjusted age 65 straight life annuity” described in Treas. Reg. Section 1.415(b)-1(e)(iii). No adjustment for mortality shall be taken into account in performing the first calculation required by this Section 3 to the extent permitted by Treas. Reg. Section 1.415(b)-1(e)(2).

#### **SECTION 4**

In the case of a Participant who has less than ten (10) years of participation in the Plan, as determined under Treasury Regulations Section 1.415(b)-1(g), the limitation under Section 1(a) shall be determined by multiplying the otherwise applicable limit by a fraction, the numerator of which is the number of years (or part thereof) of participation in the Plan and the denominator of which is ten (10). Notwithstanding the above, in no event shall the limitations contained in this Subsection reduce the limitations referred to in Section 1(a) to an amount less than one-tenth (1/10) of the applicable limitation provided in Section 1(a) (as determined without regard to this Subsection). To the extent provided in regulations promulgated by the Secretary of the Treasury, this Subsection shall be applied separately with respect to each change in the benefit structure of the Plan.

The requirements of this Section 4 do not apply to a distribution on account of the Participant’s incurring a Disability or as a result of the death of a Participant.

#### **SECTION 5**

For purposes of this Appendix A, the term “limitation year” shall mean a Plan Year unless a Plan Sponsor elects, by adoption of a written resolution, to use any other twelve-month period in accordance with regulations issued by the Secretary of the Treasury.

#### **SECTION 6**

For purposes of applying the limitations of this Appendix A, to the extent required by Code Section 415(f) and the regulations thereunder, all defined contribution plans maintained or deemed to be maintained by a Plan Sponsor shall be treated as one defined contribution plan, and all defined benefit plans now or previously maintained or deemed to be maintained by a Plan Sponsor shall be treated as one defined benefit plan.

#### **SECTION 7**

For purposes of applying the limitations set forth in this Appendix A, where a defined benefit plan provides for mandatory employee contributions (as defined in Code Section

411(c)(2)(C) and Treas. Reg. Section 1.411(c)-1(c)(4)), the annual benefit attributable to those contributions is not taken into account, but those contributions are considered a separate defined contribution plan maintained by the Plan Sponsor which is subject to the limitations set forth in this Appendix A. For this purpose, contributions that are picked up by the Plan Sponsor as described in Code Section 414(h)(2) are not considered employee contributions.

## **SECTION 8**

Benefits provided under a “qualified governmental excess benefit arrangement” as defined in Code Section 415(m)(3) and as provided for in Appendix E of the Plan shall not be taken into account for purposes of applying the limitations set forth in this Appendix A.

## **SECTION 9**

To the extent not expressly set forth herein, the annual benefit limitations of Code Section 415 and applicable Treasury regulations promulgated thereunder applicable to governmental plans, within the meaning of Code Section 414(d), are incorporated herein by reference. The provisions of this Appendix shall be construed in a manner consistent with the provisions of Treas. Reg. Section 1.415(a)-1 et seq. and any successor guidance. The foregoing provisions of this Appendix A shall be interpreted in a manner consistent with the corresponding provisions of Treas. Reg. Section 1.415(a)-1 et seq. except to the extent such corresponding provisions suggest an alternative methodology. To the extent the foregoing provisions of this Appendix A do not specify a method of application where more than one application is permissible, the default application under Treas. Reg. Section 1.415(a)-1 et seq. shall apply.

**APPENDIX B**  
**ADMINISTRATION**

**SECTION 1**  
**APPOINTMENT OF PLAN ADMINISTRATOR**

The Plan Administrator shall be the Clayton County Pension Board (the "Pension Board"). The Pension Board shall consist of five (5) members, one of whom shall be the Chairperson of the Clayton County Water Authority, or said Chairperson's designee (in which case, the person so designated shall serve at the pleasure of said Chairperson); one of whom shall be the Chairperson of the Board of Commissioners, or said Chairperson's designee (in which case, the person so designated shall serve at the pleasure of said Chairperson); one of whom shall be the Director of the Clayton County Civil Service System; one of whom shall be the Chief Financial Officer of Clayton County (or if no person then occupies the position of Chief Financial Officer, the Director of Finance of Clayton County); and the fifth member of the Pension Board shall be selected by and appointed to the Pension Board by the four (4) enumerated members, said fifth member to be a resident of Clayton County, not less than 25 years of age, not in the employ of the State of Georgia, any County or Municipal government, and experienced in business or professional work. In the case of a tie, the Senior Judge of the Clayton County Judicial Circuit shall appoint the fifth member. Such fifth member shall serve for a term of four (4) years or until such member's successor is selected and qualified. The fifth member may succeed himself or herself, as the case may be, on the Pension Board. Other Pension Board members shall serve on the Pension Board by virtue of their elected or appointed positions. The members of the Pension Board shall serve without compensation with the exception of the member at large being the fifth member selected to the Pension Board by the four (4) enumerated members. The member at large shall receive a compensatory fee in the amount of \$250.00 per meeting, not to exceed \$250.00 per quarter, to be paid out of the funds of the Plan. Nothing contained herein shall prohibit any member of the Pension Board from receiving reimbursement for reasonable expenses necessarily incurred during the course of authorized Pension Board business. Such expenses shall be reimbursed under the same circumstances and in the same manner as other County employees receive for authorized County related expenses.

**SECTION 2**  
**PENSION BOARD PROCEDURES**

(a) The Pension Board shall elect their own Chairperson and Vice Chairperson and shall delegate to such officers their respective duties. The Chief Financial Officer/Director of Finance of Clayton County shall act as Secretary to the Pension Board and in which capacity shall keep all of the records, books and minutes of the Pension Board.

(b) Each member of the Pension Board, other than the Secretary, shall have the privilege of serving as Chairman determined annually. The election of officers of the Pension Board shall be held at the first meeting of the Pension Board each calendar year.

(c) The Pension Board shall hold annually a minimum of four (4) regular meetings in the Administration Building, open to the public, and such special meetings as shall be called by

the Chairman, or a majority of the members of the Pension Board. The Secretary of the Pension Board shall give written notice to the members of all regular and special meetings.

(d) A majority of the members of the Pension Board shall constitute a quorum for all purposes. A quorum of said Pension Board shall be necessary for the transaction of any business or the conduct of any hearings before said Pension Board, and no benefits shall be granted without the affirmative vote of at least three (3) members of the Pension Board.

**APPENDIX C**  
**SPECIAL RULES**

**SECTION 1**  
**PRIOR COMPENSATION LIMIT EFFECTIVE JANUARY 1, 1992**

(a) In no event shall Compensation for any Plan Year, exceed \$200,000 (the "Compensation Limitation"). In addition, if Compensation for any Plan Year prior to January 1, 1989 is used to determine a Pension in any year beginning on or after January 1, 1989, then the Compensation Limitation for that prior year shall be \$200,000; except that such limitation shall not have the effect of reducing any benefit accrued prior to January 1, 1989.

(b) For all purposes of the Plan, the Compensation Limitation shall be increased automatically as permitted by Treasury Department regulations to reflect cost-of-living adjustments. As a result of such an adjustment, the Compensation Limitation in effect for a Plan Year shall apply only to a Participant's Compensation for that year and Compensation for any prior Plan Year shall be subject to the applicable Compensation Limitation in effect for that prior year.

(c) Notwithstanding anything to the contrary in this Section 1, references to the Plan and to defined terms are references to those provisions of the Plan and defined terms in effect as of January 1, 1992.

**SECTION 2**  
**INCREASES IN RETIREMENT BENEFITS**

A. First Adjustment

(a) The pension benefits for an eligible retiree (a "Participant") who retired under the Plan on or before January 1, 1992 shall be increased effective January 1, 1994. The level of increase for each Participant, qualifying spouse or Beneficiary shall be equal to one percent (1%) for every full year completed from the date of retirement up to and including January 1, 1994.

(b) Effective January 1, 1994, any Participant, qualifying spouse or Beneficiary receiving a benefit under any provision of the Plan as of June 30, 1992, and who is still receiving a pension on January 1, 1994, shall receive a one time cost-of-living adjustment ("COLA") to his benefit. The amount of the one-time COLA shall be equal to one percent (1%) of the number of full years such person's benefit has been in pay status as of December 31, 1993. In determining the number of full years the benefit of a Beneficiary under either of the optional forms of benefit under Section 6.01(a) or 6.01(b) of the Plan has been in pay status, the benefit commencement date shall be the date the Participant's benefit commenced, not the date the Beneficiary's benefit commenced.

(c) Notwithstanding anything to the contrary in this Section 2, references to the Plan and to defined terms are references to those provisions of the Plan and defined terms in effect as of January 1, 1992.

B. Second Adjustment

(a) The pension benefits for an eligible retiree (a "Participant") who retired under the Plan before January 1, 1996 shall be increased effective August 1, 1997. The level of increase for each Participant, qualifying spouse or Beneficiary shall be equal to two dollars (\$2.00) per month for every full year of credited service at the time of retirement.

(b) Notwithstanding anything to the contrary in this Section 2, references to the Plan and to defined terms are references to those provisions of the Plan and defined terms in effect as of January 1, 1992.

C. Third Adjustment

Effective July 1, 2006, any Participant, qualifying spouse or Beneficiary receiving a benefit under any provision of the Plan as of January 1, 2001, and who is still receiving a pension on July 1, 2006, shall receive a one time cost-of-living adjustment to his benefit. The amount of the one-time cost-of-living adjustment shall be equal to four percent (4%) of the benefit then being paid to the eligible Participant, surviving spouse or Beneficiary, including any prior cost-of-living adjustments.

D. Fourth Adjustment

(a) Effective on and after July 1, 2009, any Participant, qualifying spouse or Beneficiary who is then receiving or subsequently receives a monthly benefit in the form of the Normal Fund Payment or in an alternate form of payment provided under 6.2(b)(1) or (2), and, in combination with a Participant with respect to whom the benefit is derived (if applicable), has received a monthly benefit for at least the preceding eighty-four (84) months, shall receive an automatic cost-of-living adjustment to his monthly benefit each July 1, beginning with the July 1 immediately following the month for which the Participant, qualifying spouse or Beneficiary receives his eighty-fourth (84<sup>th</sup>) monthly benefit payment. The amount of the cost-of-living adjustment for each Plan Year shall be equal to two percent (2%) of the benefit payable to the eligible Participant, qualifying spouse or Beneficiary, including any prior cost-of-living adjustments.

(b) Effective on and after July 1, 2006, any Participant, qualifying spouse or Beneficiary receiving a monthly benefit in an alternate form of payment provided under Section 6.2(b)(3) or (4) of the Plan that commenced prior to July 1, 2006, shall have his remaining monthly benefit payments adjusted in substantially equal increments such that his benefit is the Actuarial Equivalent to the benefit that the Participant, qualifying spouse or Beneficiary would have received under the Normal Fund Payment after adjusted for cost-of-living increases in accordance with subsection (a) above.

(c) Effective on and after July 1, 2006, any Participant, qualifying spouse or Beneficiary who elects to receive a monthly benefit in an alternate form of payment provided under Section 6.2(b)(3) or (4) of the Plan that commences on or after July 1, 2006, shall have his monthly benefit adjusted in substantially equal increments such that his benefit is the Actuarial Equivalent to the benefit that the Participant, qualifying spouse or Beneficiary would have

received under the Normal Fund Payment after adjusted for cost-of-living increases in accordance with subsection (a) above.

(d) Except as provided in subsections (b) and (c) above, the Actuarial Equivalent of any alternate form of payment will be determined before any adjustment is to be made for cost-of-living increases.

(e) The Fourth Adjustment described in Part D of this Appendix C shall be made only with respect to those Participants, qualifying spouses or Beneficiaries if the Accrued Benefit used for purposes of determining the benefits payable was calculated in accordance with Section 5.2(a). Any cost-of-living increases applied to the benefits of Participants, qualifying spouses or Beneficiaries calculated in accordance with Section 5.2(b) shall be made at the discretion of the Board of Commissioners of Clayton County through an amendment to the Plan; provided, however, that: (i) no such amendment shall be adopted with an effective date prior to a date as of which the Actuary has determined that Plan assets equal or exceed ninety-five percent (95%) of total pension liabilities; (ii) any such cost-of-living increase shall not exceed the lesser of: (A) the change in the Consumer Price Index for All Urban Consumers, U.S. city average, for the calendar year immediately preceding the effective date of the increase; or (B) two percent (2%); and any such cost-of-living increase shall not take into account the amount of any prior increases in benefits attributable to previous cost-of-living increases.

### **SECTION 3 1993 EARLY RETIREMENT WINDOW**

(a) For the period January 4, 1993 through February 26, 1993, Clayton County implemented a program to provide an incentive for certain eligible employees of Clayton County (excluding employees of the Clayton County Water Authority) to retire early. For purposes of the 1993 Early Retirement Window, an eligible employee shall hereinafter be referred to as an "Eligible Participant." In order to be eligible for the 1993 Early Retirement Window, an Eligible Participant, as of December 31, 1992, must:

- (i) be actively employed with Clayton County;
- (ii) have reached age fifty (50); and
- (iii) have attained fifteen (15) years of Credited Service with Clayton County.

Additionally, an Eligible Participant must not have been rehired by Clayton County after September 1, 1992. If an Eligible Participant retired under this 1993 Early Retirement Window, the provisions of Section 5.05 of the Plan shall not apply. Provided, however, if an Eligible Participant retires under the 1993 Early Retirement Window and is rehired by Clayton County on a full-time basis, his enhanced benefit under the 1993 Early Retirement Window shall be forfeited.

(b) In addition to the benefit described in Section 5.01 of the Plan, if an Eligible Participant elects to retire under the provisions of the 1993 Early Retirement Window, the

following monthly benefits, subject to the provisions of Section 5.06, shall also be paid as follows:

(i) On a Life Income with 60 Months Certain basis, equal to the sum of (A) and (B):

(A) 1.2% of the Eligible Participant's Average Monthly Compensation multiplied by 5.0.

(B) 0.75% of the Eligible Participant's Average Monthly Compensation in excess of \$1,250, if any, multiplied by 5.0 (additional years of service).

plus

(ii) for an Eligible Participant whose benefit commences prior to age 62, an amount equal to one percent (1%) of the Eligible Participant's Average Monthly Compensation multiplied by the Eligible Participant's Credited Service but not greater than the Eligible Participant's estimated monthly Primary Social Security Benefit payable at age 62 under the provisions of Title II of the Social Security Act in effect at the time of his termination of employment; provided, however, this monthly amount shall cease on the earlier of the Eligible Participant's death or the month after the Eligible Participant attains age 62.

(c) Notwithstanding any prior contrary provisions, if an Eligible Participant elected early retirement under the 1993 Early Retirement Window, there shall be no reduction for commencement of such an Eligible Participant's early retirement benefit prior to his normal retirement date.

(d) The governing authority of Clayton County (but not the Clayton County Water Authority) shall appropriate to the Fund an amount necessary to fund the 1993 Early Retirement Window for Eligible Participants of Clayton County pursuant to the amortization schedule provided by the Actuary.

(e) Notwithstanding anything to the contrary in this Section 3, references to the Plan and to defined terms are references to those provisions of the Plan and defined terms in effect as of January 4, 1993.

#### **SECTION 4 1992 EARLY RETIREMENT WINDOW**

(a) For the period November 1, 1992 through December 31, 1992, Clayton County implemented a program to provide an incentive for certain eligible employees of Clayton County (excluding employees of the Clayton County Water Authority) to retire early. In order to be eligible for the 1992 Early Retirement Window, an employee must have been age 50 with fifteen (15) years of Credited Service on October 1, 1992 (an "Eligible Participant"). If an Eligible



Participant retired under the 1992 Early Retirement Window, the provisions of Section 5.05 of the Plan shall not apply.

(b) In addition to the benefit described in Section 5.01 of the Plan, if an Eligible Participant elects to retire under the provisions of the 1992 Early Retirement Window, the following monthly benefits, subject to the provisions of Section 5.06, shall also be paid as follows:

(i) On a Life Income with 60 Months Certain basis, equal to the sum of (A) and (B):

(A) 1.2% of the Eligible Participant's Average Monthly Compensation multiplied by 5.0.

(B) 0.75% of the Eligible Participant's Average Monthly Compensation in excess of \$1,250, if any, multiplied by 5.0 (additional years of service).

plus

(ii) For an Eligible Participant whose benefit commences prior to age 62, an amount equal to one percent (1%) of the Eligible Participant's Average Monthly Compensation multiplied by the Eligible Participant's Credited Service but not greater than the Eligible Participant's estimated monthly Primary Social Security Benefit payable at age 62 under the provisions of Title II of the Social Security Act in effect at the time of his termination of employment; provided, however, this monthly amount shall cease on the earlier of the Eligible Participant's death or the month after the Eligible Participant attains age 62.

(c) Notwithstanding any prior contrary provisions, if an Eligible Participant elected early retirement under the 1992 Early Retirement Window, there shall be no reduction for commencement of such an Eligible Participant's early retirement benefit prior to his normal retirement date.

(d) Notwithstanding anything to the contrary in this Section 4, references to the Plan and to defined terms are references to those provisions of the Plan and defined terms in effect as of November 1, 1992.

**APPENDIX D**  
**MINIMUM DISTRIBUTION REQUIREMENTS**

**SECTION 1**  
**GENERAL RULES**

(a) Effective Date and Precedence. The provisions of this Appendix D will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year. The provisions of this Appendix D will take precedence over any inconsistent provisions of the Plan.

(b) Requirements of Treasury Regulations Incorporated. All distributions required under this Appendix D will be determined and made in accordance with the Treasury Regulations promulgated under Code Section 401(a)(9).

(c) TEFRA Section 242(b)(2) Elections. Notwithstanding the provisions of this Appendix D, distributions may be made under a designation made before January 1, 1984, in accordance with Section 242(b)(2) of the Tax Equity and Fiscal Responsibility Act (TEFRA) and the provisions of the Plan that relate to Section 242(b)(2) of TEFRA.

**SECTION 2**  
**TIME AND MANNER OF DISTRIBUTION**

(a) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

(b) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

(ii) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iv) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 2(b), other than this Section 2(b)(i), will apply as if the surviving spouse were the Participant.

For purposes of this Section 2(b) and Section 5 of Appendix D, unless Section 2(b)(iv) of this Appendix D applies, distributions are considered to begin on the Participant's Required Beginning Date. If Section 2(b) of this Appendix D applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 2(b)(i) of this Appendix D. If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 2(b)(i)), the date distributions are considered to begin is the date distributions actually commence.

(c) Form of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year, distributions will be made in accordance with Sections 3, 4 and 5 of this Appendix D. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and Treasury Regulations promulgated thereunder. Any part of the Participant's interest which is in the form of an individual account as described in Code Section 414(k) will be distributed in a manner satisfying the requirements of Code Section 401(a)(9) and Treasury Regulations promulgated thereunder that apply to individual accounts.

### **SECTION 3 DETERMINATION OF AMOUNT TO BE DISTRIBUTED EACH YEAR**

(a) General Annuity Requirements. If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

- (i) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;
- (ii) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Section 4 or 5 of this Appendix D;
- (iii) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
- (iv) payments will either be nonincreasing or increase only as follows:

(1) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(2) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in Section 4 of this Appendix D dies or is no longer the Participant's Beneficiary pursuant to a qualified domestic relations order within the meaning of Code Section 414(p);

(3) to provide cash refunds of employee contributions upon the Participant's death; or

(4) to pay increased benefits that result from a Plan amendment.

(b) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Section 2(b)(i) or (ii) of this Appendix D) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received (e.g., bimonthly, monthly, semi-annually, or annually). All of the Participant's benefit accruals as of the last day of the first Distribution Calendar Year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.

(c) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Participant in a calendar year after the first Distribution Calendar Year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

#### **SECTION 4 REQUIREMENTS FOR ANNUITY DISTRIBUTIONS THAT COMMENCE DURING PARTICIPANT'S LIFETIME**

(a) Joint Life Annuities Where the Beneficiary Is Not the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a nonspouse Beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the Designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of Treasury Regulation Section 1.401(a)(9)-6. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a nonspouse Beneficiary and a period certain

annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the Designated Beneficiary after the expiration of the period certain.

(b) Period Certain Annuities. Unless the Participant's spouse is the sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Treasury Regulation Section 1.401(a)(9)-9 for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Treasury Regulation Section 1.401(a)(9)-9 plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's spouse is the Participant's sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section 4(b), or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in Treasury Regulation Section 1.401(a)(9)-9, using the attained ages of the Participant and the Participant's spouse as of the birthday of the Participant and the Participant's spouse in the calendar year that contains the annuity starting date.

#### **SECTION 5**

#### **REQUIREMENTS FOR MINIMUM DISTRIBUTIONS WHERE PARTICIPANT DIES BEFORE DATE DISTRIBUTIONS BEGIN**

(a) Participant Survived by Designated Beneficiary. If the Participant dies before the date distribution of his or her interest begins and there is a Designated Beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in Section 2(b)(i) or (ii) of this Appendix D, over the life of the Designated Beneficiary or over a period certain not exceeding:

(i) unless the annuity starting date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(ii) if the annuity starting date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the annuity starting date.

(b) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(c) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section 5 will apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 2(b)(i) of this Appendix D.

## **SECTION 6 DEFINITIONS**

As used in this Appendix D, the following words and phrases shall have the meaning set forth below:

(a) Designated Beneficiary. The individual who is designated as the Beneficiary under Section 1.7 of the Plan and is the Designated Beneficiary under Code Section 401(a)(9) and Treasury Regulation Section 1.401(a)(9)-4, Q&A-1.

(b) Distribution Calendar Year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin pursuant to Section 2(b) of this Appendix D.

(c) Life Expectancy. Life Expectancy as computed by use of the Single Life Table in Treasury Regulations Section 1.401(a)(9)-9.

(d) Required Beginning Date. April 1 of the calendar year following the later of (i) the calendar year in which the Participant attains age 70½ or (ii) the calendar year in which the Participant retires.

**APPENDIX E**  
**EXCESS BENEFIT ARRANGEMENT**

**SECTION 1**  
**APPLICATION AND PURPOSE**

Effective as of July 1, 2006, the excess benefit arrangement described in this Appendix E (the "Arrangement") is established as a qualified governmental excess benefit arrangement pursuant to the provisions of Code Section 415(m). The Arrangement is a separate portion of the Plan and is maintained exclusively by the Clayton County Water Authority solely for the purpose of providing to certain Participants who were Employees of the Clayton County Water Authority ("Water Authority Participants") that part of the Water Authority Participant's pension benefit that is otherwise payable under the terms of the Plan that exceeds the limitations on benefits imposed by Code Section 415, which limitations are described in Appendix A. Except as otherwise provided in this Appendix E or unless the terms and conditions are inconsistent with the purpose of the Arrangement or otherwise inapplicable, the terms and conditions contained in the Plan shall apply to the Arrangement.

**SECTION 2**  
**ELIGIBILITY AND PARTICIPATION**

A Water Authority Participant (or, if applicable, his Beneficiary) shall be eligible to participate in the Arrangement if, as of his annuity starting date, his annual pension benefit under the Plan exceeds the limitations on benefits imposed by Code Section 415. For purposes of the Arrangement, an eligible Water Authority Participant (or, if applicable, his Beneficiary) shall be hereinafter referred to as an "Affected Participant." An Affected Participant's participation in the Arrangement shall continue for as long as the Affected Participant's annual pension benefit under the Plan is reduced by the application of the limitations on benefits imposed by Code Section 415.

**SECTION 3**  
**EXCESS BENEFIT**

(a) Amount of Excess Benefit. The excess benefit payable to an Affected Participant under this Appendix E (an "Excess Benefit") shall be a monthly amount equal to the difference between:

(i) the monthly amount of the pension benefit to which the Affected Participant would have been entitled under the Plan if such pension benefit were computed without giving effect to the limitations on benefits imposed by application of Code Section 415; less

(ii) the monthly amount of the pension benefit actually payable to the Affected Participant under the Plan.

In no event shall an Affected Participant receive a total monthly pension benefit from the Plan and the Arrangement in excess of the monthly pension benefit he would have been entitled

to receive from the Plan without giving effect to the limitations on benefits imposed by Code Section 415.

(b) Form of Excess Benefit. The Excess Benefit payable to the Affected Participant shall be paid in the same form, and under the same terms and conditions, under which the pension benefit is payable to the Affected Participant under the Plan. Consequently, the Affected Participant's benefit payment election under Section 4, 6 or 7 of the Plan, as applicable, shall also be applicable to the payment of the Affected Participant's Excess Benefit.

(c) Commencement of Excess Benefit. Payment of the Excess Benefit to an Affected Participant shall commence on the same date as the payment of the pension benefit to the Participant commences under the Plan. Consequently, any benefit payment election under Section 4, 6 or 7 of the Plan, as applicable, made by the Affected Participant with respect to the commencement of payment of his pension benefit under the Plan shall also be applicable with respect to the commencement of payment of his Excess Benefit under this Arrangement.

#### **SECTION 4 FUNDING OF THE ARRANGEMENT**

(a) The Clayton County Water Authority shall contribute to the Arrangement such amounts as are determined by the Actuary to be necessary to fund the Excess Benefits provided to Affected Participants each Plan Year under the Arrangement. The Clayton County Water Authority shall make contributions to the Arrangement in an amount necessary to satisfy the obligation to pay Affected Participants the amount calculated pursuant to Section 3 of this Appendix E, as those amounts come due, and may include amounts needed to pay reasonable and necessary expenses of administering the Arrangement. Contributions may not be accumulated under the Arrangement to pay monthly Excess Benefits for any succeeding Plan Year.

(b) The Clayton County Water Authority shall pay benefits payable under the Arrangement out of the general assets of the Clayton County Water Authority. Contributions made to provide the Excess Benefits pursuant to the Arrangement shall not be commingled with any other assets of the Fund. No Excess Benefits shall be paid from the Plan's Fund. For administrative purposes, the amount necessary to pay Excess Benefits under this Arrangement may be deposited in a separate account, which shall be separate and apart from the Fund, maintained only for the Arrangement. In the alternative, the Clayton County Water Authority may establish a grantor trust for the benefit of Affected Participants and their Beneficiaries. In such case, the Clayton County Water Authority shall be treated as grantor for the trust for purposes of Code Section 677.

(c) The rights of any person to receive Excess Benefits under the Arrangement are limited to those of a general creditor of the Clayton County Water Authority. Under no circumstances shall Clayton County or any other person other than the Clayton County Water Authority be responsible or liable to any person for funding or paying any Excess Benefits that are payable or due under the Arrangement.



(d) No election shall be provided to the Affected Participant (directly or indirectly) to defer compensation under the Arrangement. No contributions or deferrals by Affected Participants shall be made or allowed under the Arrangement.

## **SECTION 5 ADMINISTRATION OF THE ARRANGEMENT**

(a) The Plan Administrator is responsible for the administration of this Arrangement. Except as otherwise provided in this Appendix E, the Plan Administrator has the same rights, duties, and responsibilities concerning the Arrangement as it has to the Plan and may adopt rules and procedures necessary to administer this Arrangement in accordance with Code Section 415(m). Except as otherwise provided in this Appendix E, the Arrangement shall be administered in the same manner as the Plan.

(b) All administrative expenses of the Arrangement shall be paid by the Clayton County Water Authority.

## **SECTION 6 AMENDMENT AND TERMINATION OF THE ARRANGEMENT**

(a) Subject to applicable state law to the contrary, the Board of Commissioners reserves the right to amend or terminate the Arrangement at any time; provided, however, that such amendment or termination shall not adversely affect a benefit to which an Affected Participant (or, if applicable, his Beneficiary) is entitled to under the Arrangement prior to the effective date of such amendment or termination. Notwithstanding the foregoing, such amendment or termination may be retroactive to the extent the Board of Commissioners deems such action necessary to maintain the tax-qualified status of the Plan under Code Section 401(a) or the status of this Arrangement as a qualified governmental excess benefit arrangement under Code Section 415(m).

(b) Subject to the foregoing and to applicable state law to the contrary, the Clayton County Water Authority shall have the right to terminate the Arrangement by resolution of its appropriate governing body.

**APPENDIX F**  
**ACCRUED BENEFIT OF CERTAIN IDENTIFIED PARTICIPANTS**

The Accrued Benefit of the Participants listed below as of their Normal Retirement Date shall be a monthly benefit (payable in monthly installments as an annuity for the Participant's life with 60 months guaranteed commencing at the Participant's Normal Retirement Date) as follows:

Larry A. Bartlett	\$5,326.17
Michael G. Maddox	\$4,685.89
Hiram D. Massengale	\$5,141.09

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