

1 SB524
2 138538-2
3 By Senator Marsh (N & P)
4 RFD: Local Legislation No. 1
5 First Read: 17-APR-12

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A BILL

10 TO BE ENTITLED

11 AN ACT

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13 Relating to the City of Anniston in Calhoun County;
14 to repeal and reenact Act 608, 1951 Regular Session (Acts
15 1951, p. 1045), as reenacted, now appearing as Section
16 45-8A-22.60 to Section 45-8A-22.96, inclusive, of the Code of
17 Alabama 1975, that established a retirement plan for police
18 officers and firefighters in the City of Anniston; to provide
19 for the board and the operation of the board; and to provide
20 for the administration and operation of the City of Anniston
21 Police and Firefighters Retirement Plan and for the payment of
22 benefits to participants and their dependents and
23 beneficiaries.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Applicability, The Trust and the
26 Retirement Board.

(a) This act shall apply only to the City of Anniston.

(b) Act 608 of the 1951 Regular Session (Acts 1951, p. 1045), as last repealed and reenacted by Act 2002-298 and Act 2002-304 of the 2002 Regular Session (Acts 2002, p. 815), now appearing as Section 45-8A-22.60 to Section 45-8A-22.96, is repealed and reenacted as provided herein.

(c) In connection with the regularly organized and paid police and fire departments of the City of Anniston, a City of Anniston Police and Firefighters Retirement Trust (the "trust"), for the persons hereafter named, shall be funded and maintained in the manner hereinafter provided. In connection with the trust, the retirement board (the "retirement board") shall be responsible for the general administration and proper operation of the City of Anniston Police and Firefighters Retirement Plan (the "plan").

Section 2. Retirement Board Membership; Secretary-Treasurer.

(a) Retirement Board.

(1) The retirement board shall be composed of five members:

a. One member shall be elected by the retirees and surviving spouses of retirees of the plan,

b. One member shall be a member of the City of Anniston Fire Department ("fire department") elected by the members of the fire department,

c. One member shall be a member of the City of Anniston Police Department ("police department") elected by the members of the police department,

d. One member shall be the City of Anniston Finance Director, and

e. One member shall be appointed by the City Council of the City of Anniston and such member shall be a qualified elector in the City of Anniston and shall not be an individual who is a member or the spouse, child, parent, sibling, or in-law of a member currently represented on the retirement board.

(2) The member elected by the retirees and surviving spouses of retirees of the plan, the member elected by the members of the fire department, and the member elected by the members of the police department each shall serve for a term of three years, and such terms shall be staggered such that the terms of the members do not expire simultaneously. Any vacancy on the retirement board shall be filled for the unexpired term in the same manner that the position was previously filled. A member of the retirement board may resign by delivering a written resignation to the retirement board.

(3) The members of the retirement board shall elect one of their members as chair (the "chair").

(4) Three members of the retirement board shall constitute a quorum for the transaction of all business.

(5) Three votes shall be necessary for a decision by the retirement board; provided, however, four votes shall be necessary for:

a. a decision by the retirement board that materially affects the terms of the plan or materially affects the benefits offered hereunder, or

b. a decision by the retirement board made pursuant to Section 10(b), Section 14(d), Section 17(a)(2)b., or Section 20(a)(2)c.

(6) The members of the retirement board shall serve without compensation.

(7) The actual and reasonable cost incurred by members of the retirement board for travel, meals, gratuities, lodging, and registration fees for any seminars or programs attended by the members provided, however, that the retirement board shall approve in advance the retirement board member's participation in any seminar or program as being related to the retirement board member's performance of his or her duties under the plan in the management of the plan. Within 30 days of the retirement board member attending such seminar or program, receipts for such authorized expenses shall be submitted to the secretary-treasurer and must be approved by the retirement board. If the expenditures, or any portion thereof, are not approved by the retirement board, the member shall not be reimbursed for the expenditures, or if he or she has been advanced such funds, he or she shall immediately repay the funds to the secretary-treasurer. Such expenses

described herein shall be limited to three thousand dollars (\$3,000) per retirement board member each calendar year.

(b) Secretary-Treasurer. The City of Anniston clerk shall serve as the secretary and the treasurer (the "secretary-treasurer") to the retirement board. The secretary-treasurer shall receive as compensation for his or her services an amount to be fixed from time to time by the retirement board which is to be paid on the first day of each month by a warrant drawn upon the trust as other warrants are drawn upon the trust. The secretary-treasurer shall be responsible for maintaining the records of all monies belonging to the trust and evidence of all securities and other things of value belonging to the trust. He or she, before taking office as secretary-treasurer, shall make bond, in an amount to be fixed from time to time by the retirement board and approved by the chair, with a surety company authorized to do business in the State of Alabama for the faithful performance of his or her official duties and for the faithful accounting for all monies, securities, and other things of value which may come into his or her possession relating to the trust. The premiums on the bond shall be paid out of the trust. He or she shall keep the monies of the trust in a separate account or accounts that shall show at all times the true condition of the trust. Upon his or her resignation or removal from office, the secretary-treasurer shall surrender and deliver to his or her successor all bonds, securities, unexpended monies, properties, and assets which

are in his or her hands relating to the trust. The secretary-treasurer shall keep a full and complete record of all proceedings of the retirement board and perform such other duties as may be imposed upon him or her by the retirement board. He or she shall keep a record of the terms of office of each member of the retirement board and shall notify the electing body or bodies not less than 30 days nor more than 60 days prior to the date that an election of a member or members should be held.

Section 3. Powers and Duties of the Retirement Board.

(a) The retirement board shall be responsible for the general administration and proper operation of the plan and shall administer the plan for the exclusive benefit of participants and their beneficiaries, subject to the terms of the plan. The retirement board shall administer the plan in accordance with its terms and shall have the power and discretion to construe the terms of the plan and this act and to determine all questions arising in connection with the administration, interpretation, and application of the plan. Any such determination by the retirement board shall be conclusive and binding upon all persons.

(1) The retirement board shall have all powers necessary or appropriate to accomplish the retirement board's duties under the plan, including, but not limited to, the following:

a. To determine all questions relating to the
eligibility of a sworn police officer or a sworn firefighter
of the City of Anniston to participate or remain a participant
hereunder and to receive benefits under the plan;

b. To hear and, except as otherwise provided herein, make final decisions regarding all applications for benefits under the plan;

c. To compute and certify the amount and the kind of benefits to which any participant shall be entitled hereunder;

d. To maintain all necessary records for the administration of the plan;

e. To establish rules and regulations for the administration of the plan and the trust as are consistent with this act and the terms hereof;

f. To exercise any investment discretion in a manner designed to accomplish specific objectives related to the plan's long-term and short-term liquidity needs;

g. To, by written agreement or designation, appoint at its option an investment manager, qualified under the Investment Company Act of 1940, as amended, investment adviser, or other agent to provide direction regarding any or all plan assets. Such appointment shall specifically identify the plan assets with respect to which the investment manager or other agent shall have authority to direct the investment;

h. To establish an investment policy; and

- i. To hold meetings at least once per calendar quarter or upon the call of the chair.

(2) Failure of the retirement board to follow any provisions or procedures in the plan shall not constitute a waiver of any provision or procedure contained herein.

(b) The retirement board may allocate responsibilities among its members and may delegate responsibilities to authorized third parties. The retirement board may appoint counsel, specialists, advisers, agents, including non-fiduciary agents, and other persons as the retirement board deems necessary or desirable in connection with its administration of the plan, including, but not limited to, agents and advisers to assist with the administration and management of the plan, and thereby to provide, among such other duties as the retirement board may appoint, assistance with maintaining plan records and the providing of investment information to the plan's investment fiduciaries.

(c) In addition to the general powers and responsibilities otherwise provided for in the plan, the retirement board shall be empowered to appoint and remove the trustee from time to time as it deems necessary for the proper administration of the plan to ensure that the plan is being operated for the exclusive benefit of the participants and their beneficiaries in accordance with the terms of the plan, this act, and the Internal Revenue Code.

Section 4. Trustee; Pensions and Benefits.

(a) The retirement board or the person or entity appointed by the retirement board and named as trustee in any

separate trust forming a part of the plan shall serve as the trustee of the trust (the "trustee"). It may adopt and enforce necessary rules and regulations to carry out the purposes of the plan and enable it to properly manage and administer the trust, including employing investment counselors and agents to invest and manage portions of the trust, as the retirement board may direct.

(b) When the actuary certifies that the necessary funds are available, the retirement board, in accordance with Section 2, may increase the benefits provided for retirees by passing a written board resolution which declares that the monthly benefit paid to each retiree, surviving spouse, or other beneficiary of the retiree shall be increased by a flat dollar amount per month, increased by a flat dollar amount per year of active service per month, or increased to a minimum monthly amount. Additionally, the retirement board may pass a written board resolution to issue thirteenth checks, i.e., an additional payment each year equal to one month's benefits.

Section 5. Investment of the Trust for Revenue Purposes.

(a) The retirement board and any investment manager it appoints is authorized to invest and reinvest the funds of the trust in all classes and forms of bonds, mortgages, common and preferred stocks, shares of investment companies or mutual funds, or any other investment. The retirement board is further authorized to hold, purchase, sell, assign, transfer,

and dispose of any investment in which the funds of the trust previously have been invested as well as the proceeds thereof.

(b) No participant or employee of the City of Anniston shall have any direct interest in the gains or profits of any investment made by the retirement board nor shall any participant or employee of the City of Anniston become an endorser or surety or act in any manner as an obligor for monies loaned to or borrowed from the retirement board.

Section 6. Reports.

On a regular basis, but not less than annually, the retirement board shall provide a report to the City Council of the City of Anniston regarding the condition of the trust and shall cause such report to be published each year in a newspaper of general circulation published in the City of Anniston.

Section 7. List of Retired Police and Firefighters.

There shall be kept by the secretary-treasurer a book to be known as the List of Retired Police and Firefighters. The book shall give a full and complete history and record of the action of the retirement board in retiring any and all persons under the plan, including, but not limited to, each name, the date of entering service of the fire department or the police department, the date of retirement or other separation, and the reason for the retirement or separation.

Section 8. Retirement Board's Attorney.

The retirement board shall be authorized to employ the services of such attorney as it deems appropriate to represent the interests of the plan and to pay as compensation for such attorney's services an amount to be approved by the retirement board. It shall be the duty of the retirement board's attorney to give such advice to the retirement board in all matters pertaining to the duties of the retirement board and the management of the trust whenever he or she is requested to do so; and the retirement board shall be authorized to hire the services of an attorney to represent and defend the retirement board as it deems necessary or appropriate in any actions that may be brought against it.

Section 9. Reasonable and Necessary Expenses.

The retirement board shall be authorized to pay out of the trust all benefits, expenses of administration, including the cost of advertising amendatory or supplementary legislation related to the plan, and other expenses arising hereunder, unless otherwise paid by the City of Anniston. Such expenses shall include expenses incident to the functioning of the retirement board, or any person or persons retained or appointed by any fiduciary incident to the exercise of their duties under the plan, including, but not limited to, fees of actuaries, accountants, attorneys, investment managers, and other specialists and their agents, and other costs of administering the plan. Until paid, the expenses shall constitute a liability of the trust.

Section 10. Contributions to the Trust.

(a) The secretary-treasurer shall receive contributions to the trust that shall consist of the following:

(1) All of the money, securities, things of value, and assets belonging to any similar fund now being maintained by the City of Anniston.

(2) All money or properties that may be given or donated by any person, firm, association, or corporation for the uses and purposes for which the trust is created, and the retirement board may take by gift, grant, devise, or bequest, any money, personal property or real estate, or any interest therein or any right of property for the benefit of the trust.

(3) Participant Contributions.

a. Employee Contributions. Effective prior to October 1, 2002, 10 percent of each participant's monthly compensation, including overtime and any other pay, which shall be deducted from such compensation and paid to the secretary-treasurer on or before the tenth day each month next succeeding the month in which such compensation is earned.

b. Pick-Up Contributions.

1. City of Anniston Contributions on Behalf of Participants.

(i) Effective October 1, 2002, in lieu of employee contributions, the City of Anniston shall contribute on behalf of each participant an amount equal to 10 percent of the participant's compensation, such payment being sometimes

hereinafter referred to as "pick-up contributions" in accordance with Internal Revenue Code Section 414(h)(2).

(ii) Effective on and after October 1, 2012, the City of Anniston shall contribute on behalf of each participant a pick-up contribution equal to 14 percent of the participant's compensation each payroll period.

2. The employee's compensation shall be reduced by the amount of the pick-up contribution, but the pick-up contribution shall not reduce the amount of his or her compensation for purposes of determining benefits hereunder. No employee shall have the option to opt-out of the pick-up contribution or to receive the pick-up contribution as described in subsection (a) (3)b. of this section, directly instead of having it paid by the City of Anniston directly to the trust.

(4) City of Anniston Contributions.

a. Effective October 1, 2002, the City of Anniston shall contribute to the trust an amount equal to the participant contributions paid into the trust under subsection (a) (3)b.1.(i) of this section out of the City of Anniston treasury, the payment to be made at the same time that the participant contributions described in subsection (a) (3)b.1.(i) of this section are required to be paid.

b. Effective on and after October 1, 2012, subject to subsection (b), the City of Anniston shall contribute to the trust out of the City of Anniston treasury, such amounts that are sufficient to meet the normal cost of the plan and to

1 amortize the plan's unfunded liability, if any, within 30
2 years. Furthermore, the net increase, if any, in the plan's
3 unfunded liability arising from significant amendments to the
4 plan, changes in actuarial assumptions, changes in funding
5 methods, or actuarial gains or losses shall be amortized
6 within 30 years.

7 (5) Public Utility Contributions.

8 a. Effective for fiscal years before October 1,
9 2012, each public utility, qualified to do business under the
10 laws of the State of Alabama and selling electricity or
11 electric current or natural gas or intra-city bus
12 transportation or local exchange telephone service or
13 telegraph service within the corporate limits and police
14 jurisdiction of the City of Anniston ("public utility"), shall
15 annually, on or before the first day of February, pay into the
16 trust a sum equal to one-half of one percent of the gross
17 revenues of such public utility from the sale of electricity
18 or electric current or natural gas or intra-city bus
19 transportation or local exchange telephone service or
20 telegraph service within the corporate limits and police
21 jurisdiction of the City of Anniston during the preceding
22 fiscal year ("gross revenues"); however, the sum equal to
23 one-half of one percent of the gross revenues of such public
24 utilities shall be deducted from and offset against any
25 privilege or license tax which the municipal corporation may
26 by law impose upon such public utility. The payment required
27 in this subsection shall be treated as a privilege or license

tax and shall be subject to the provisions of Sections 11-51-128 and 11-51-129 of the Code of Alabama 1975.

Accompanying such payment by each public utility there shall be filed with the secretary-treasurer a sworn statement by an officer or authorized agent of such public utility showing the amount of the gross revenue received by such public utility. Any such public utility which fails or refuses to comply with the provisions of this subsection shall forfeit to the trust the sum of one thousand dollars (\$1,000) to be recovered in a civil action instituted in the name of the trust by the City of Anniston attorney.

b. Effective for fiscal years beginning on and after October 1, 2012, public utilities shall no longer contribute any gross revenues to the trust, and further, such public utilities shall no longer deduct from or offset against any privilege or license tax any gross revenues.

(b) Notwithstanding the foregoing and anything to the contrary herein, if the City of Anniston's contributions, as calculated in accordance with subsection (a) (4)b. of this section, equal or exceed three times, or are less than two times, the participants' contributions, as calculated in accordance with subsection (a) (3)b.1.(ii) of this section ("contribution limitations"), or are reasonably expected to approach, based on reasonable actuarial assumptions or projections, or both, such contribution limitations, the retirement board may amend or modify pursuant to a written board resolution:

(1) Participants' contributions described in subsection (a) (3)b.1.(ii) of this section or

(2) The City of Anniston's contributions described in subsection (a) (4)b. of this section, or both.

Section 11. Participation.

(a) Every individual who becomes employed by the City of Anniston, excluding any person who is employed as an independent contractor, as a sworn police officer or as a sworn firefighter shall become a participant ("participant") in the plan and shall make contributions to the trust in accordance with Section 10.

(b) The City of Anniston shall withhold from all participants' compensation such participant contributions each payroll period and the aggregate amount so withheld shall be paid to the trustee to deposit in the trust. Participant contributions shall be paid beginning with a participant's first paycheck after becoming a sworn police officer or as a sworn firefighter as provided in subsection (a).

Section 12. Participant Eligibility for Benefits.

A participant's service with the City of Anniston as a sworn police officer or a sworn firefighter is used to determine the participant's eligibility for a benefit from the plan and the amount of benefits that the participant may be entitled to receive. Unless provided otherwise, service shall be based on a continuous period beginning on the first day of employment as a sworn police officer or a sworn firefighter and ending on the participant's date of retirement, or if

earlier, his or her date of termination of employment or date of death. No service is credited for any partial years of service. If the participant's employment with the City of Anniston as a sworn police officer or a sworn firefighter terminates prior to becoming eligible for retirement, he or she will lose any service credited under the plan.

Section 13. Credit for Military Service.

(a) Qualified Military Service. The plan will grant continuous service in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), 38 U.S.C. Sections 4301 through 4333, for a participant who is an employee immediately prior to the commencement of qualified military service, as defined in Code Section 414(u)(5), provided such participant:

(1) Provides the City of Anniston with advance written notice of the qualified military service;

(2) Has accumulated five years or less of qualified military service while employed with the City of Anniston;

(3) Returns to work or applies for reemployment within the applicable time period specified in subsections (b) (1) through (4);

(4) Has not been separated from the qualified military service with a disqualifying discharge or under other than honorable conditions.

(b) Time frame for Reemployment. Under USERRA, the time period in which a participant must return to work or apply for reemployment depends on the length of qualified

1 military service. In general, those time periods are as
2 follows:

3 (1) One day after a participant's qualified military
4 service ends, if such service was less than 31 days.

5 (2) Fourteen days after a participant's qualified
6 military service ends, if such service was more than 30, but
7 less than 181 days.

8 (3) Ninety days after a participant's qualified
9 military service ends, if such service was more than 180 days.

10 (4) If a participant is hospitalized for or
11 recovering from an illness or injury that was incurred or
12 aggravated during qualified military service, USERRA requires
13 that such participant return to work or apply for reemployment
14 with the City of Anniston as soon as he or she has recovered.
15 Except as otherwise provided by USERRA, such recovery period
16 cannot exceed two years.

17 (c) Plan Contributions. A participant returning from
18 qualified military service who meets the requirements of
19 subsections (a) and (b) shall have the right to make up his or
20 her participant contributions for the period of qualified
21 military service and thereby receive credit for continuous
22 service equal to his or her period of qualified military
23 service. Such participant must notify the retirement board
24 within a reasonable period of time following reemployment of
25 his or her desire to repay his or her participant
26 contributions. Such contributions shall be made (1) in a lump
27 sum payment or (2) over a period of time beginning with the

1 participant's date of reemployment and extending three times
2 the period of the participant's qualified military service,
3 with such payment period not to exceed five years. No such
4 payment may exceed the amount the participant would have been
5 permitted or required to contribute had the participant
6 remained continuously employed throughout the period of
7 qualified military service.

8 For purposes of calculating participant
9 contributions under this section, the participant's
10 compensation during the period of qualified military service
11 shall be computed as the compensation the participant would
12 have received but for the period of qualified military
13 service; provided, however, in the event that the
14 determination of such compensation is not reasonably certain,
15 the participant's compensation shall be calculated as the
16 participant's average rate of compensation during the 12-month
17 period immediately preceding the qualified military service,
18 or, if shorter, the period of employment immediately preceding
19 such period.

20 (d) Except as provided in this section, a
21 participant shall not receive credited service for periods of
22 absence from employment during which he or she receives no
23 compensation from the City of Anniston.

24 (e) Notwithstanding any provision of the plan to the
25 contrary, all contributions and benefits relating to qualified
26 military service shall be made in accordance with applicable
27 state and federal law, including, but not limited to, USERRA

and the Internal Revenue Code, including those provisions created by the Heroes Earnings Assistance and Relief Tax (HEART) Act of 2008.

Section 14. Retirement Eligibility and Benefit.

(a) Participants Hired Before May 29, 1979. Subject to Section 15, any person who was hired by the City of Anniston as a sworn police officer or sworn firefighter before May 29, 1979, and who has been in continuous service as a participant for a period of 20 years shall have a non-forfeitable right to a benefit and shall be entitled to retire and receive a monthly benefit from the plan in an amount equal to three percent of the average of his or her monthly compensation for the last three years preceding his or her retirement multiplied by the number of years of continuous service; provided, however, credit shall not be counted for continuous service in excess of 30 years.

(b) Participants Hired On and After May 29, 1979.

Any participant who was hired by the City of Anniston as a sworn police officer or sworn firefighter on or after May 29, 1979, shall have a non-forfeitable right to a benefit to the extent described in this subsection (b), subject to subsections (c) and (d).

(1) A participant shall have a non-forfeitable right to a benefit if such participant has been in continuous service as a participant for a period of 20 years. Such participant shall be entitled to retire and receive a monthly benefit from the plan in an amount equal to the following:

a. Two and one-half percent of the average of his or her monthly compensation for the last three years preceding his or her retirement multiplied by the number of full years of continuous service beginning on or after October 1, 2012, plus

b. Three percent of the average of his or her monthly compensation for the last three years preceding his or her retirement multiplied by the number of full years of continuous service minus those full years of continuous service accounted for in subsection (b) (1)a.,

Reduced by four percent for each year his or her total continuous service is less than 25 years.

Notwithstanding the foregoing, there shall be no reduction in a participant's monthly benefit described herein if such participant has been in continuous service for a period of at least 25 years. Credit shall not be counted for continuous service in excess of 30 years.

(2) A participant shall have a non-forfeitable right to a benefit if such participant was an active participant in the plan as of September 30, 2012, and will attain age 60 prior to being in continuous service as a participant for a period of 20 years. Such participant shall be entitled to retire and receive a monthly benefit from the plan in an amount equal to the following:

a. Two and one-half percent of the average of his or her monthly compensation for the last three years preceding his or her retirement multiplied by the number of full years

1 of continuous service beginning on or after the participant
2 attains age 60, plus

3 b. Three percent of the average of his or her
4 monthly compensation for the last three years preceding his or
5 her retirement multiplied by the number of full years of
6 continuous service minus those full years of continuous
7 service accounted for in subsection (b) (2)a.

8 Notwithstanding the foregoing, credit shall not be
9 counted for continuous service in excess of 30 years.

10 (c) Seventy-Five Percent Limitation. Notwithstanding
11 the foregoing, effective as of October 1, 2012, a
12 participant's monthly benefit under this section shall not
13 exceed 75 percent of his or her monthly compensation;
14 provided, however, with respect to any participant whose
15 accrued benefit may equal or exceed 75 percent of his or her
16 monthly compensation as of October 1, 2012, his or her monthly
17 benefit shall not exceed the participant's accrued benefit
18 calculated as of the end of the first full year of continuous
19 service beginning on or after October 1, 2012.

20 (d) Notwithstanding this section, if the City of
21 Anniston's contributions meet the contribution limitations
22 described in subsection (b) of Section 10, or the City of
23 Anniston's contributions are reasonably expected to approach,
24 based on reasonable actuarial assumptions or projections, or
25 both, such contribution limitations, the retirement board may
26 amend or modify the provisions of this section pursuant to a
27 written board resolution.

Section 15. Normal Retirement Age.

(a) Effective with respect to retirements that occur before October 1, 2012, the retirement board shall retire from service any participant who has attained age 60 years, and such participant shall be entitled to receive a monthly benefit from the plan equal to three percent of the average of his or her monthly compensation for the last three years preceding his or her retirement multiplied by the number of years of continuous service; provided, however, credit shall not be counted for continuous service in excess of 30 years.

(b) Effective with respect to retirements that occur on and after October 1, 2012, the retirement board shall retire from service any participant who has attained age 65 years, and such participant shall become fully vested and entitled to receive a monthly benefit from the plan calculated in accordance with Section 14(b).

Section 16. Compensation for Purposes of Benefit Calculations.

(a) Compensation. For purposes of calculating contributions to the plan in accordance with Section 10 and benefits paid under the plan in accordance with Section 14, Section 17, and Section 20, "compensation" shall include the following amounts:

(1) Regular salary, including accumulated vacation pay,

(2) Overtime pay,

(3) Longevity pay,

(4) Comp pay, and

(5) Any differential wage payment, as defined in

Code Section 3401(h)(2), generally relating to military pay.

Bonuses and paid accumulated sick leave, expense allowances, and any other non-regular forms of compensation are excluded.

(b) Compliance with Internal Revenue Code Section

401(a)(17). Compensation of each participant taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed two hundred thousand dollars (\$200,000), or such other amount provided in the Internal Revenue Code. Such amount shall be adjusted for increases in the cost of living in accordance with Internal Revenue Code Section 401(a)(17)(B), except that the dollar increase in effect on January 1 of any calendar year shall be effective for the calendar years beginning with such calendar year. For any short calendar year, the compensation limit shall be an amount equal to the compensation limit for the calendar year in which the calendar year begins multiplied by the ratio obtained by dividing the number of full months in the short calendar year by 12.

Section 17. Disability Benefits.

(a) Line of Duty Disability Benefit.

(1) Effective for Disabilities Occurring Before

October 1, 2012.

a. Participants Hired Before July 1, 2002. A

participant, who was hired by the City of Anniston as a sworn

1 police officer or sworn firefighter before July 1, 2002, who
2 becomes permanently physically or mentally disabled as a
3 result of injuries received in the line of duty, rendering his
4 or her retirement from service necessary, shall be entitled to
5 receive a disability benefit equal to the following:

6 1. Participants With At Least Three Years of
7 Service. The participant's disability benefit shall equal
8 three percent times the average of his or her monthly
9 compensation for the last three years preceding his or her
10 retirement multiplied by 30.

11 2. Participants With Less Than Three Years of
12 Service. The Participant's disability benefit shall equal
13 three percent times the average of his or her monthly
14 compensation for all years of continuous service multiplied by
15 30.

16 b. Participants Hired on or after July 1, 2002. A
17 participant, who was hired by the City of Anniston as a sworn
18 police officer or sworn firefighter on or after July 1, 2002,
19 who becomes physically or mentally disabled as a result of
20 injuries received in the line of duty, rendering his or her
21 retirement from service necessary, shall be entitled to
22 receive a disability benefit equal to the following:

23 1. Participants 50 Percent or Greater Disabled. If
24 the participant is determined to be 50 percent disabled or
25 greater, the participant's disability benefit shall equal the
26 following:

(i) Participants With At Least Three Years of Service. The participant's disability benefit shall equal three percent times the average of his or her monthly compensation for the last three years preceding his or her retirement multiplied by 30.

(ii) Participants With Less Than Three Years of Service. If the total service of the participant is less than three years, the participant shall be entitled to receive a disability benefit of three percent times the average of his or her monthly compensation for all years of service multiplied by 30.

2. Participants Less Than 50 Percent Disabled. If the participant is determined to be less than 50 percent disabled, the participant's disability benefit shall be determined in accordance with subsection (a)(1)b.1. of this section; provided, however, such disability benefit shall be reduced by the percent of disability, as determined in accordance with subsection (c).

(2) Effective for Disabilities Occurring On and After October 1, 2012.

a. Subject to subsection (a) (2)b. of this section, a participant who becomes physically or mentally disabled as a result of bodily injury, disease, or mental disorder received in the line of duty, which renders such participant incapable of continuing his or her employment as a sworn police officer or sworn firefighter performing the same duties and having the same responsibilities as those immediately prior to the time

1 of the disability, shall be entitled to receive a monthly
2 disability benefit equal to the greater of:

3 1. Forty percent of the participant's monthly
4 compensation at the time of such termination from service as a
5 sworn police officer or sworn firefighter due to disability,
6 or

7 2. One hundred percent of the participant's monthly
8 benefit calculated in accordance with Section 14 using the
9 participant's actual number of years of continuous service and
10 disregarding the requirement that the participant have been in
11 continuous service for a period of 20 years.

12 In lieu of the disability benefit described in
13 subsection (a) (2) of this section, a participant may elect
14 instead to receive all of his or her contributions to the
15 plan, without interest, in accordance with Section 18.

16 b. Notwithstanding subsection (a) (2) of this
17 section, if the City of Anniston's contributions meet the
18 contribution limitations described in subsection (b) of
19 Section 10, or the City of Anniston's contributions are
20 reasonably expected to approach, based on reasonable actuarial
21 assumptions or projections, or both, such contribution
22 limitations, the retirement board may amend or modify the
23 provisions of subsection (a) (2) of this section pursuant to a
24 written board resolution.

25 (b) Off-Duty Disability Benefits.

26 (1) Effective for Disabilities Occurring After June
27 30, 2002, and Before October 1, 2012. If a participant becomes

1 physically or mentally disabled, other than as a result of
2 injuries received in the line of duty as described in
3 subsection (a) (1) of this section, rendering retirement from
4 service as a sworn police officer or sworn firefighter
5 necessary, and has at least five years of continuous service,
6 and the disability continues for at least three months, the
7 participant shall be entitled to receive a disability benefit
8 equal to three percent multiplied by the average of his or her
9 monthly compensation for the last three years preceding his or
10 her retirement from service multiplied by 25; and then
11 multiplied by the percentage of disability, as determined
12 according to subsection (c).

13 (2) Effective for Disabilities Occurring On and
14 After October 1, 2012. The plan does not provide a disability
15 benefit to a participant who becomes physically or mentally
16 disabled, other than as a result of injuries received in the
17 line of duty as described in subsection (a) (2) of this
18 section, rendering retirement from service as a sworn police
19 officer or sworn firefighter necessary as described therein;
20 provided, however, the participant may make a request to the
21 retirement board for the payment of all the participant's
22 contributions made to the plan pursuant to Section 18, without
23 interest.

24 (c) Determination of Disability.

25 (1) The retirement board shall have the authority to
26 adopt such rules and regulations as it deems necessary to
27 provide for procedures which shall be followed by the

1 retirement board and by a participant applying for or
2 receiving or continuing to receive disability benefits.

3 (2) The retirement board shall have the right at any
4 time to cause the retired participant to be examined by a
5 licensed medical advisor selected by the retirement board to
6 assist it in ascertaining whether a participant is entitled to
7 a disability benefit or entitled to a continued disability
8 benefit. The American Medical Association's Guidelines for the
9 Evaluation of Permanent Impairment ("Impairment Guide") shall
10 be used to determine the percentage of disability suffered by
11 the participant. The retirement board may accept documentation
12 presented from the participant's physician, provided it
13 complies with the criteria set forth in the Impairment Guide
14 and further provided that the physician certifies that he or
15 she is familiar with the duties and functions of the
16 participant and that the participant is expected to be unable
17 to perform certain material functions of his or her service to
18 the City of Anniston as a sworn police officer or sworn
19 firefighter. The retirement board shall have the authority to
20 issue such subpoenas to compel the production of such records
21 or the attendance of such witnesses to assist it in its
22 determination and adopt such rules and regulations as it deems
23 necessary to provide for procedures which shall be followed by
24 the retirement board and by a participant applying for or
25 receiving disability benefits. In no event, however, shall a
26 participant's application for disability benefits remain
27 pending before the retirement board for a period in excess of

six months, except with the express written consent of the participant.

(3) The participant shall be entitled to notice and to be present at all hearings of the evidence related to his or her application for disability benefits or any hearing relating to the continuation of his or her disability benefits. The participant shall be permitted to propound any questions pertinent or relevant to the issue of the disability. The participant also shall have the right to introduce in his or her own behalf any competent evidence under oath.

(4) The retirement board, or anyone acting on its behalf, shall administer oaths to witnesses and shall be authorized to issue such subpoenas as it deems necessary to compel the production of such records or the attendance of such witnesses to determine such issue of disability, or the continuation thereof.

(5) If the retirement board determines that the participant is no longer disabled to the degree previously approved, the retirement board shall order that the disability benefits to the participant from the trust shall be adjusted or discontinued, whichever is applicable.

(6) Workers' Compensation. For purposes of computing the average of the monthly compensation of a participant, the average of the monthly compensation of the participant shall not be decreased during any portion of the three-year period preceding his or her retirement by virtue of being placed on

workers' compensation for any portion of the income shall be calculated as if he or she was receiving the monthly compensation which would have otherwise been paid to him or her during the period that he or she was paid workers' compensation benefits notwithstanding the decrease in the contributions made for the participant or by the participant into the trust during the time that the workers' compensation benefits are paid. Workers' compensation means benefits paid to a participant under any workers' compensation law of the State of Alabama for any injury or disability suffered by such participant while working for the City of Anniston on the job or position by reason of which he or she is a participant.

Section 18. Termination of Employment; Return of Contributions; Participation in the Plan Ceased.

In the event a participant terminates employment with the City of Anniston as a sworn police officer or sworn firefighter for any reason prior to becoming eligible for a benefit from the plan, the participant shall be entitled to receive all his or her participant contributions, without interest, made to the plan pursuant to Section 10 and shall have no further claim to benefits from the plan, and his or her participation in the plan shall cease as of the date of termination. If the participant subsequently becomes employed by the City of Anniston as a sworn police officer or as a sworn firefighter, he or she shall be treated as a new participant and accrual of benefits shall begin as of the date of his or her reemployment, unless otherwise allowed by

1 applicable law to repay such participant contributions to the
2 plan and continue participation in the plan.

3 All other contributions made to the plan pursuant to
4 Section 10, including the City of Anniston contributions, are
5 never returned to a participant who terminates employment or a
6 participant's beneficiary. All such contributions shall remain
7 in the trust, except such contributions that are returned to
8 the City of Anniston to correct certain errors, e.g.,
9 inclusion in the plan of an ineligible individual or the
10 overpayment of contributions to the trust, etc.

11 Section 19. Maximum Benefits; Limitations;
12 Adjustments.

13 (a) Annual Benefit and Final Regulations Under
14 Internal Revenue Code Section 415.

15 (1) Annual Benefit. For purposes of this section,
16 "annual benefit" means the benefit payable annually under the
17 terms of the plan, exclusive of any benefit not required to be
18 considered for purposes of applying the limitations of
19 Internal Revenue Code Section 415 to the plan, in the form of
20 a straight life annuity with no ancillary benefits. If the
21 benefit is payable in any other form, the annual benefit shall
22 be adjusted to the equivalent of a straight life annuity
23 pursuant to subsection (c).

24 (2) Final Regulations Under Internal Revenue Code
25 Section 415. Notwithstanding anything in this section to the
26 contrary, the following provisions apply beginning on or after
27 January 1, 1976, except as otherwise provided in this section.

a. Incorporation by Reference. The limitations, adjustments, and other requirements prescribed in the plan shall comply with the provisions of Internal Revenue Code Section 415 and the final regulations promulgated thereunder, the terms of which are specifically incorporated herein by reference for limitation years beginning on or after July 1, 2007, except where an earlier effective date is otherwise provided in the final regulations or in this section. However, where the final regulations permit the plan to specify an alternative option to a default option set forth in the regulations, and the alternative option was available under statutory provisions, regulations, and other published guidance relating to Internal Revenue Code Section 415 as in effect prior to April 5, 2007, and the plan provisions in effect as of April 5, 2007, incorporated the alternative option, the alternative option shall remain in effect as a plan provision for limitation years beginning on or after July 1, 2007, unless another permissible option is selected herein.

b. Grandfather Provision. The application of the provisions of this section shall not cause the maximum annual benefit for any participant to be less than the participant's accrued benefit under all the defined benefit plans of the City of Anniston or a predecessor employer as of the end of the last limitation year beginning before July 1, 2007, under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both

adopted and in effect before April 5, 2007, satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to Internal Revenue Code Section 415 in effect as of the end of the last limitation year beginning before July 1, 2007, as described in Treasury Regulations Section 1.415(a)-1(g)(4).

c. Adjustment to Dollar Limit After Date of
Severance. In the case of a participant who has had a
severance from employment with the City of Anniston, the
defined benefit dollar limitation applicable to the
participant in any limitation year beginning after the date of
severance shall automatically be adjusted under Internal
Revenue Code Section 415(d).

(3) Treatment of Qualified Governmental Excess Benefit Arrangements. Pursuant to Internal Revenue Code Section 415(m), in determining whether the plan meets the requirements of this section, the annual benefit does not include benefits provided under any qualified governmental excess benefit arrangement as defined in Internal Revenue Code Section 415(m)(3).

(b) Maximum Annual Benefit.

(1) Notwithstanding the foregoing and subject to the exceptions and adjustments below, effective for limitation years ending after December 31, 2001, the annual benefit otherwise payable to a participant under the plan at any time shall not exceed the maximum annual benefit, and if the benefit a participant would otherwise accrue in a limitation

1 year would produce an annual benefit in excess of the maximum
2 annual benefit, the benefit shall be limited, or the rate of
3 accrual reduced, to a benefit that does not exceed the maximum
4 annual benefit. The maximum annual benefit payable to a
5 participant under the plan in any limitation year shall equal
6 the "defined benefit dollar limitation" ("Maximum Annual
7 Benefit"). The "defined benefit dollar limitation" one hundred
8 sixty thousand dollars (\$160,000), as adjusted, effective
9 January 1 of each year, under Internal Revenue Code Section
10 415(d) in such manner as the secretary-treasurer shall
11 prescribe, and payable in the form of a straight life annuity.
12 Such dollar limitation as adjusted under Internal Revenue Code
13 Section 415(d) will apply to limitation years ending with or
14 within the calendar year for which the adjustment applies.

15 (2) For purposes of applying the limitations of
16 Internal Revenue Code Section 415, the "limitation year" shall
17 be the calendar year. All qualified plans maintained by the
18 City of Anniston must use the same limitation year. If the
19 limitation year is amended to a different 12 consecutive month
20 period, the new limitation year must begin on a date within
21 the limitation year in which the amendment is made.

22 (3) Notwithstanding anything in this section to the
23 contrary, if the plan was in existence on May 6, 1986, and had
24 complied at all times with the requirements of Internal
25 Revenue Code Section 415, the maximum annual benefit for any
26 individual who is a participant as of the first day of the
27 limitation year beginning after December 31, 1986, shall not

1 be less than the "current accrued benefit." "Current accrued
2 benefit" shall mean a participant's accrued benefit under the
3 plan, determined as if the participant had separated from
4 service as of the close of the last limitation year beginning
5 before January 1, 1987, when expressed as an annual benefit
6 within the meaning of Internal Revenue Code Section 415(b)(2).
7 In determining the amount of a participant's current accrued
8 benefit, the following shall be disregarded: a. any change in
9 the terms and conditions of the plan after May 5, 1986; and b.
10 any cost of living adjustment occurring after May 5, 1986.

11 (4) For the purpose of this section, all qualified
12 defined benefit plans, whether terminated or not, ever
13 maintained by the City of Anniston shall be treated as one
14 defined benefit plan.

15 If a participant is, or has ever been, a participant
16 in more than one defined benefit plan maintained by the City
17 of Anniston, the sum of the participant's annual benefits from
18 all such plans may not exceed the maximum annual benefit of
19 this subsection (b). Where the participant's City of Anniston
20 provided benefits under all defined benefit plans ever
21 maintained by the City of Anniston, determined as of the same
22 age, would exceed the maximum annual benefit applicable at
23 that age, the City of Anniston will reduce the rate of accrual
24 in the plan to the extent necessary so that the total annual
25 benefit payable at any time under such plans will not exceed
26 the maximum annual benefit.

(5) For the purpose of this section, if the City of Anniston is a member of a controlled group of corporations, trades or businesses under common control, as defined by Internal Revenue Code Section 1563(a) or Internal Revenue Code Section 414(b) and (c) as modified by Internal Revenue Code Section 415(h), or is a member of an affiliated service group, as defined by Internal Revenue Code Section 414(m), all employees of such employers shall be considered to be employed by a single employer.

(6) Notwithstanding anything contained in this section to the contrary, the limitations, adjustments, and other requirements prescribed in this section shall at all times comply with the provisions of Internal Revenue Code Section 415 and the regulations thereunder.

(7) Affect on Participants of EGTRRA Increase in Internal Revenue Code Section 415(b) Limitations. Effective for limitation years ending after December 31, 2001, benefit increases resulting from the increase in the limitations of Internal Revenue Code Section 415(b) on account of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") will be provided to all current and former participants, with benefits limited by Internal Revenue Code Section 415(b), who have an accrued benefit under the plan immediately prior to the effective date of this section, other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under Internal Revenue Code Section 415(b).

(c) Adjustments to Annual Benefit and Limitations.

(1) Adjustment if Fewer than 10 Years. Effective for limitation years ending after December 31, 2001, if a participant has fewer than 10 years of participation in the plan, then the defined benefit dollar limitation of subsection (b) shall be multiplied by a fraction, a. the numerator of which is the number of years, or part thereof, of participation in the plan, and b. the denominator of which is 10. However, in no event shall such fraction be less than 1/10th. Notwithstanding the foregoing, no adjustment shall be made to the defined benefit dollar limitation for a distribution on account of a participant becoming disabled by reason of personal injuries or sickness, or as a result of the death of a participant.

For purposes of this section, a "year of participation" means each accrual computation period for which the following conditions are met: a. the participant is credited with a period of service for benefit accrual purposes, required under the terms of the plan in order to accrue a benefit for the accrual computation period, and b. the participant is included as a participant under the eligibility provisions of the plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a year of participation credited to the participant shall equal the amount of benefit accrual service credited to the participant for such accrual computation period. A participant who is permanently and totally disabled

within the meaning of Internal Revenue Code Section 415(c)(3)(C)(i) for an accrual computation period shall receive a year of participation with respect to the period. In no event will more than one year of participation be credited for any 12-month period.

(2) Adjustment of Defined Benefit Dollar Limitation for Commencement Before Age 62. Effective for benefits commencing in limitation years ending after December 31, 2001, the defined benefit dollar limitation shall be adjusted if the annuity starting date of the participant's benefit is before age 62.

a. Limitation Years Beginning Before July 1, 2007.

If the annuity starting date for the participant's benefit is prior to age 62 and occurs in a limitation year beginning before July 1, 2007, the defined benefit dollar limitation for the participant's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the participant's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation with actuarial equivalence computed using whichever of the following produces the smaller annual amount: 1. the applicable interest rate and applicable mortality table, or other tabular factor, as defined in Internal Revenue Code Section 417(e)(3); or 2. a five percent interest rate assumption and the applicable mortality table as defined in Internal Revenue Code Section 417(e)(3).

b. Limitation Years Beginning On or After July 1, 2007.

1. Plan Does Not Have Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the participant's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the participant's annuity starting date is the annual amount of a benefit payable in the form of a straight life annuity commencing at the participant's annuity starting date that is the actuarial equivalent of the defined benefit dollar limitation with actuarial equivalence computed using a five percent interest rate assumption and the applicable mortality table under Treasury Regulations Section 1.417(e)-1(d)(2), or the applicable mortality table as required by law, that is effective for that annuity starting date, and expressing the participant's age based on completed calendar months as of the annuity starting date.

2. Plan Has Immediately Commencing Straight Life Annuity Payable at Both Age 62 and the Age of Benefit Commencement. If the annuity starting date for the participant's benefit is prior to age 62 and occurs in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity

payable at both age 62 and the age of benefit commencement, the defined benefit dollar limitation for the participant's annuity starting date is the lesser of the limitation determined under subsection (c)(2)b.1. of this section and the defined benefit dollar limitation multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the participant's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age 62, both determined without applying the limitations of this section.

c. Mortality Adjustments. Notwithstanding the other requirements of this section, no adjustment shall be made to the defined benefit dollar limitation to reflect the probability of a participant's death between the annuity starting date and age 62 if benefits are not forfeited upon the death of the participant prior to the annuity starting date. To the extent benefits are forfeited upon death before the annuity starting date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the participant's death if the plan does not charge participants for providing a qualified preretirement survivor annuity, as defined in Internal Revenue Code Section 417(c), upon the participant's death.

d. Exception for Certain Participants to the Adjustment of Defined Benefit Dollar Limitation for Commencement Before Age 62.

1. Qualified Participants. Pursuant to Internal Revenue Code Section 415(b)(2)(G) and (H), no age adjustment is made to the defined benefit dollar limitation for commencement before age 62 for any "qualified participant." For this purpose, a "qualified participant" is a participant in a defined benefit plan that is maintained by a state or any political subdivision of a state with respect to whom the service taken into account in determining the amount of the benefit under the defined benefit plan includes at least 15 years of service of the participant as a full-time employee of any police department or fire department that is organized and operated by the state or political subdivision maintaining such defined benefit plan to provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such state or political subdivision, or as a member of the Armed Forces of the United States.

2. Survivor and Disability Benefits. Pursuant to Internal Revenue Code Section 415(b)(2)(I), no age adjustment is made to the defined benefit dollar limitation for commencement before age 62 for a distribution from the plan on account of a participant becoming disabled by reason of personal injuries or sickness, or as a result of the death of a participant.

(3) Actuarial Equivalence of Forms of Benefit Other Than a Straight Life Annuity. Effective for distributions in plan years beginning after December 31, 2003, the

1 determination of actuarial equivalence of forms of benefit
2 other than a straight life annuity shall be made in accordance
3 with a. or b. in the subsection below.

4 a. Benefit Forms Based on a Participant's Life, Not
5 Subject to Internal Revenue Code Section 417(e)(3). The
6 straight life annuity that is actuarially equivalent to the
7 participant's form of benefit shall be determined under this
8 section if the form of the participant's benefit is either 1.
9 a nondecreasing annuity, other than a straight life annuity,
10 payable for a period of not less than the life of the
11 participant, or, in the case of a qualified pre-retirement
12 survivor annuity, the life of the surviving spouse, or 2. an
13 annuity that decreases during the life of the participant
14 merely because of (i) the death of the survivor annuitant, but
15 only if the reduction is not below 50 percent of the benefit
16 payable before the death of the survivor annuitant, or (ii)
17 the cessation or reduction of Social Security supplements or
18 qualified disability payments, as defined in Internal Revenue
19 Code Section 401(a)(11).

20 1. Limitation Years Beginning Before July 1, 2007.
21 For limitation years beginning before July 1, 2007, the
22 actuarially equivalent straight life annuity is equal to the
23 annual amount of the straight life annuity commencing at the
24 same annuity starting date that has the same actuarial present
25 value as the participant's form of benefit computed using
26 whichever of the following produces the greater annual amount:

(i) The applicable interest rate and applicable mortality table, or other tabular factor, as defined in Internal Revenue Code Section 417(e)(3) for adjusting benefits in the same form; or

(ii) Five percent interest rate assumption and the applicable mortality table as defined in Internal Revenue Code Section 417(e)(3).

2. Limitation Years Beginning On or After July 1, 2007. For limitation years beginning on or after July 1, 2007, the actuarially equivalent straight life annuity is equal to the greater of:

(i) The annual amount of the straight life annuity, if any, payable to the participant under the plan commencing at the same annuity starting date as the participant's form of benefit; or

(ii) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, computed using a five percent interest rate assumption and the applicable mortality table as described in Treasury Regulations Section 1.417(e)-1(d)(2), or the applicable mortality table as required by law for that annuity starting date.

b. Benefit Forms Not Based on a Participant's Life, Lump Sum, Term Certain, Subject to Internal Revenue Code Section 417(e) (3). The straight life annuity that is actuarially equivalent to the participant's form of benefit

1 shall be determined under this subsection if the form of the
2 participant's benefit is other than a benefit form described
3 in subsection (c) (3)a. In this case, the actuarially
4 equivalent straight life annuity shall be determined as
5 follows:

6 1. Annuity Starting Date in Plan Years Beginning
7 After 2005. If the annuity starting date of the participant's
8 form of benefit is in a plan year beginning after 2005, the
9 actuarially equivalent straight life annuity is equal to the
10 greatest of:

11 (i) The annual amount of the straight life annuity
12 commencing at the same annuity starting date that has the same
13 actuarial present value as the participant's form of benefit,
14 computed using the interest rate and mortality table specified
15 in the plan for adjusting benefits in the same form;

16 (ii) The annual amount of the straight life annuity
17 commencing at the same annuity starting date that has the same
18 actuarial present value as the participant's form of benefit,
19 computed using a five and one-half percent interest rate
20 assumption and the applicable mortality table for the
21 distribution under Treasury Regulations Section
22 1.417(e)-1(d) (2), or the applicable mortality table as
23 required by law; or

24 (iii) The annual amount of the straight life annuity
25 commencing at the same annuity starting date that has the same
26 actuarial present value as the participant's form of benefit,
27 computed for the distribution under Treasury Regulations

1 Section 1.417(e)-1(d) (3), or the applicable interest rate as
2 required by law, and the applicable mortality table for the
3 distribution under Treasury Regulations Section
4 1.417(e)-1(d) (2), or the applicable mortality table as
5 required by law, divided by 1.05.

6 2. Annuity Starting Date in Plan Years Beginning in
7 2004 or 2005. If the annuity starting date of the
8 participant's form of benefit is in a plan year beginning in
9 2004 or 2005, the actuarially equivalent straight life annuity
10 is equal to the annual amount of the straight life annuity
11 commencing at the same annuity starting date that has the same
12 actuarial present value as the participant's form of benefit,
13 computed using whichever of the following produces the greater
14 annual amount:

15 (i) The applicable interest rate and applicable
16 mortality table, or other tabular factor, as defined in
17 Internal Revenue Code Section 417(e) (3) for adjusting benefits
18 in the same form; or

19 (ii) A five and one-half percent interest rate
20 assumption and the applicable mortality table for the
21 distribution under Treasury Regulations Section
22 1.417(e)-1(d) (2).

23 (4) For purposes of subsection (a) and subsection
24 (c) (2), no adjustments under Internal Revenue Code Section
25 415(d) shall be taken into account before the limitation year
26 for which such adjustment first takes effect.

(5) No actuarial adjustment to the benefit is required for a. the value of a qualified joint and survivor annuity, b. ancillary benefits that are not directly related to retirement benefits, such as a qualified disability benefit, pre-retirement death benefits, and post-retirement medical benefits, and c. the value of post-retirement cost of living increases made in accordance with Internal Revenue Code Section 415(d) and Treasury Regulations Section 1.415(d)-1. The annual benefit does not include any benefits attributable to employee contributions or rollover contributions, or the assets transferred from a qualified plan that was not maintained by the City of Anniston.

(d) Annual Benefit Not in Excess of Ten Thousand Dollars (\$10,000).

(1) The plan may pay an annual benefit to any participant in excess of the participant's maximum annual benefit if the annual benefit derived from employer contributions under the plan and all other defined benefit plans maintained by the City of Anniston does not in the aggregate exceed ten thousand dollars (\$10,000) for the limitation year or for any prior limitation year and the City of Anniston has not at any time maintained a defined contribution plan, a welfare benefit fund under which amounts attributable to post-retirement medical benefits are allocated to separate accounts of key employees, as defined in Internal Revenue Code Section 419(A) (d) (3), or an individual medical account in which the participant participated. For purposes of

1 this subsection, if the plan provides for voluntary or
2 mandatory employee contributions, such contributions will not
3 be considered a separate defined contribution plan maintained
4 by the City of Anniston.

5 (2) However, if a participant has fewer than 10
6 years of service with the City of Anniston, then the ten
7 thousand dollar (\$10,000) threshold of subsection (d)(1) shall
8 be multiplied by a fraction, a. the numerator of which is the
9 number of years, or part thereof, of service with the City of
10 Anniston and b. the denominator of which is 10. However, in no
11 event shall such fraction be less than 1/10th.

12 (e) Purchase of Permissive Service Credit.

13 (1) In General. If a participant makes one or more
14 contributions to the plan to purchase permissive service
15 credit under the plan, the requirements of Internal Revenue
16 Code Section 415 shall be treated as met with respect to these
17 contributions if:

18 a. The requirements of Internal Revenue Code Section
19 415(b) are met, determined by treating the accrued benefit
20 derived from all such contributions as an annual benefit for
21 purposes of Internal Revenue Code Section 415(b), provided,
22 however, the plan shall not fail to meet the reduced limit
23 under Internal Revenue Code Section 415(b)(2)(C) solely by
24 reason of this section; or

25 b. The requirements of Internal Revenue Code Section
26 415(c) are met, determined by treating all such contributions
27 as annual additions for purposes of Internal Revenue Code

1 Section 415(c), provided, however, the plan shall not fail to
2 meet the percentage limitation under Internal Revenue Code
3 Section 415(c)(1)(B) solely by reason of this section.

4 (2) Limitation on Nonqualified Service Credit. The
5 plan shall fail to meet the requirements of this section if:

6 a. More than five years of nonqualified service
7 credit are taken into account; or

8 b. Any nonqualified service credit is taken into
9 account before the participant has at least five years of
10 participation under the plan.

11 (3) Definitions.

12 a. Permissive Service Credit. For purposes of this
13 section, "permissive service credit" means service credit:

14 1. Recognized by the plan for purposes of
15 calculating a participant's benefit under the plan;

16 2. Which such participant has not otherwise received
17 under the plan; and

18 3. Which such participant may receive only by making
19 a voluntary additional contribution, in an amount determined
20 under the plan, which does not exceed the amount necessary to
21 fund the benefit attributable to such service credit.

22 Permissive service credit may include service credit
23 for periods for which there is no performance of service, and,
24 notwithstanding subsection (e)(3)a.2., may include service
25 credited in order to provide an increased benefit for service
26 credit which a participant is receiving under the plan.

b. Nonqualified Service Credit. For purposes of this section, "nonqualified service credit" means permissive service credit other than that allowed with respect to:

1. Service, including parental, medical, sabbatical, and similar leave, as an employee of the government of the United States, any state or political subdivision thereof, or any agency or instrumentality of any of the foregoing, other than military service or service for credit which was obtained as a result of a repayment described in Internal Revenue Code Section 415(k)(3);

2. Service, including parental, medical, sabbatical, and similar leave, as an employee, other than as an employee described in subsection (e) (3)b.1., of an educational organization described in Internal Revenue Code Section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education, through grade 12, or a comparable level of education, as determined under state law;

3. Service as an employee of an association of employees who are described in subsection (e) (3)b.1.; or

4. Military service, other than qualified military service, recognized by the plan.

In the case of service described in subsections (e) (3)b.1, 2, and 3, such service will be nonqualified service if recognition of such service would cause a participant to receive a retirement benefit for the same service under more than one plan.

(4) Special Rules for Trustee-to-Trustee Transfers.

In the case of a trustee-to-trustee transfer to which Section 403(b)(13)(A) or 457(e)(17)(A) applies, without regard to whether the transfer is made between plans maintained by the same employer:

a. The limitations above shall not apply in determining whether the transfer is for the purchase of permissive service credit; and

b. The distribution rules applicable to the defined benefit governmental plan to which any amounts are so transferred shall apply to such amounts and any benefits attributable to such amounts.

(5) Effective Date. This section shall be effective with respect to permissive service credit contributions made in years beginning after December 31, 1997. Notwithstanding the foregoing, in the case of an "eligible participant," the limitations of Internal Revenue Code Section 415(c)(1) shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount which is less than the amount which was allowed to be purchased under the terms of the plan as in effect on August 5, 1997. For purposes of this subsection, an "eligible participant" is an individual who became a participant in the plan before January 1, 1998.

(f) Annual Benefit Attributable to Mandatory Employee Contributions.

(1) In the case of "mandatory employee contributions" as defined in Internal Revenue Code Section

1 411(c)(2)(C) and Treasury Regulations Section
2 1.411(c)-1(c)(4), or contributions that would be mandatory
3 employee contributions if Internal Revenue Code Section 411
4 applied to the plan, the annual benefit attributable to such
5 mandatory employee contributions is determined by applying the
6 factors applicable to mandatory employee contributions as
7 described in Internal Revenue Code Section 411(c)(2)(B) and
8 (C) and regulations promulgated under Internal Revenue Code
9 Section 411 to those contributions to determine the amount of
10 a straight life annuity commencing at the annuity starting
11 date, regardless of whether the requirements of Internal
12 Revenue Code Sections 411 and 417 apply.

13 (2) For purposes of applying such factors to the
14 plan, the applicable effective date of Internal Revenue Code
15 Section 411(a)(2), which is used under Treasury Regulations
16 Section 1.411(c)-1(c)(3) to determine the beginning date from
17 which statutorily specified interest must be credited to
18 mandatory employee contributions, must be determined as if
19 Internal Revenue Code Section 411 applied to the plan, and in
20 determining the annual benefit that is actuarially equivalent
21 to these accumulated contributions, the plan must determine
22 the interest rate that would have been required under Internal
23 Revenue Code Section 417(e)(3) as if Internal Revenue Code
24 Section 417 applied to the plan.

25 Section 20. Death Benefits.

26 (a) Participant Death in the Line of Duty.

(1) Effective for Deaths Occurring Before October 1, 2012.

a. Surviving Spouse. If a participant dies as a result of injuries received in the line of duty and leaves a surviving spouse, the retirement board shall direct the payment to the surviving spouse of a monthly pension equal to Option B-100 percent joint and survivor plan, described in Section 21, based on a 30-year service retirement.

b. No Surviving Spouse and Surviving Children. If a participant dies as a result of injuries received in the line of duty and leaves no surviving spouse or the surviving spouse should die, and if the participant leaves a surviving child or children under the age of 18 years, then a benefit of 50 percent of the amount the participant would have been paid under the 100 percent joint and survivor plan based on a 30-year service retirement shall be paid to the legal guardian of the child or children then under the age of 18 years, for the use and benefit of the child or children, until the youngest child reaches the age of 18 years. As each child reaches the age of 18 years, the child shall cease to participate in the 50 percent, thereby increasing the share or shares of the other child or children under the age of 18 years.

(2) Effective for Deaths Occurring On and After October 1, 2012.

a. Surviving Spouse. Subject to subsection (a) (2)c. of this section, if a participant dies as a result of injuries

1 received in the line of duty and leaves a surviving spouse,
2 the retirement board shall direct the payment to the surviving
3 spouse of a monthly death benefit equal to 62 1/2 percent of
4 the participant's monthly benefit calculated in accordance
5 with Section 14 using a period of 25 years of continuous
6 service regardless of the participant's actual number of years
7 of continuous service.

8 Notwithstanding the forgoing, such monthly death
9 benefits shall cease should the surviving spouse remarry.

10 b. No Surviving Spouse and Surviving Children.
11 Subject to subsection (a) (2)c., if a participant dies as a
12 result of injuries received in the line of duty and leaves no
13 surviving spouse or the surviving spouse should die, and if
14 the participant leaves a surviving child or children under the
15 age of 18 years at the time of the participant's death, the
16 retirement board shall direct the payment to the legal
17 guardian of such child or children, for the use and benefit of
18 the child or children, until the youngest child reaches the
19 age 18 years, a monthly death benefit equal to 62 1/2 percent
20 of the participant's monthly benefit calculated in accordance
21 with Section 14 using a period of 25 years of continuous
22 service regardless of the participant's actual number of years
23 of continuous service.

24 As each child attains, or in the event the child
25 dies before attaining, the age of 18 years, the child shall
26 cease to participate in the monthly death benefits, thereby

increasing the share or shares of the other child or children under the age of 18 years.

c. Notwithstanding this subsection, if the City of Anniston's contributions meet the contribution limitations described in subsection (b) of Section 10, or the City of Anniston's contributions are reasonably expected to approach, based on reasonable actuarial assumptions or projections, or both, such contribution limitations, the retirement board may amend or modify the provisions of this subsection pursuant to a written board resolution.

(b) Participant Death Other Than in the Line of Duty.

(1) Effective for Participant Deaths Occurring Before October 1, 2012.

a. Twenty Years of Service.

1. Surviving Spouse. If a participant, who has been in continuous service for a period of at least 20 years, dies from any cause other than as a result of injuries received in the line of duty and leaves a surviving spouse, the retirement board shall direct the payment to the surviving spouse of a monthly pension equal to Option B-100 percent joint and survivor plan, described in Section 21, based on the participant's years of continuous service as calculated in accordance with Section 14.

2. No Surviving Spouse and Surviving Children. If a participant, who has been in continuous service for a period of at least 20 years, dies from any cause other than as a

result of injuries received in the line of duty and leaves no surviving spouse or the surviving spouse should die, and if the participant leaves a surviving child or children under the age of 18 years, then a benefit of 50 percent of the amount the participant would have been paid under the 100 percent joint and survivor plan based on the participant's years of continuous service as calculated in accordance with Section 14 shall be paid to the legal guardian of the child or children then under the age of 18 years, for the use and benefit of the child or children, until the youngest child reaches the age of 18 years. As each child reaches the age of 18 years, the child shall cease to participate in the 50 percent, thereby increasing the share or shares of the other child or children under the age of 18 years.

b. Less Than 20 Years of Service.

1. Surviving Spouse. If a participant who has been in continuous service for a period of less than 20 years dies from any cause other than as a result of injuries received in the line of duty and leaves a surviving spouse, the retirement board shall direct the payment to the surviving spouse of all the participant's contributions made to the plan pursuant to Section 18, without interest.

2. No Surviving Spouse and Surviving Children. If a participant who has been in continuous service for a period of less than 20 years dies from any cause other than as a result of injuries received in the line of duty and leaves no surviving spouse, and if the participant leaves a surviving

1 child or children under the age of 18 years, the retirement
2 board shall direct the payment of all the participant's
3 contributions made to the plan pursuant to Section 18, without
4 interest, to the legal guardian of the child or children who
5 are then under the age of 18 years for the use and benefit of
6 the child or children.

7 (2) Effective for Participant Deaths On and After
8 October 1, 2012. The plan does not provide a death benefit,
9 other than as a result of death in the line of duty as
10 described in subsection (a); provided, however, if a
11 participant leaves a surviving spouse or leaves no surviving
12 spouse but leaves a surviving child or children under the age
13 of 18 years, the surviving spouse or surviving child or
14 children may make a request to the retirement board for the
15 payment of all the participant's contributions made to the
16 plan pursuant to Section 18, without interest.

17 (c) Participant Retires Prior to January 1, 1989,
18 and Subsequent Death.

19 (1) Surviving Spouse. If a participant, having
20 retired prior to January 1, 1989, dies from any cause and
21 leaves a surviving spouse, the retirement board shall direct
22 the payment of a monthly pension to the surviving spouse equal
23 to 50 percent of the amount of the pension being paid to the
24 retired participant at the time of his or her death.

25 (2) No Surviving Spouse and Surviving Children. If a
26 participant, having retired prior to January 1, 1989, dies
27 from any cause and leaves no surviving spouse, and if the

participant leaves a surviving child or children under the age of 18 years, the retirement board shall direct the payment to the legal guardian of the child or children then under the age of 18 years, a monthly pension equal to 25 percent of the amount that the participant was receiving prior to his or her death for the use and benefit of the child or children.

(d) Participant Death and No Surviving Spouse or Children Under 18 Years. Notwithstanding any provisions contained in the plan to the contrary, in the event a participant dies from any cause leaving no surviving spouse or child under the age of 18 years, or if the youngest child of the participant has attained the age of 18 years, the retirement board shall pay a lump sum equal to the participant's contributions made to the plan pursuant to Section 18, into the trust to a beneficiary who has been designated by the participant, in writing, executed by the participant on a form prescribed by the retirement board and delivered to the secretary-treasurer. In the event that the participant has not designated a beneficiary, the retirement board shall, upon demand, pay the lump sum equal to the deceased participant's contributions made to the plan pursuant to Section 18, into the trust to the personal representative of the estate of the deceased participant. Any amounts received by the participant in his or her lifetime or by his or her surviving spouse or children following the death of the participant shall be deducted from the amount payable to the beneficiary properly designated by the participant or to the

1 estate of the deceased participant pursuant to the terms of
2 the plan. Any attempt to designate a beneficiary pursuant to
3 the terms of this subsection not in compliance with the
4 procedure set forth herein shall be wholly ineffective and the
5 retirement board and the secretary-treasurer shall be exempted
6 and immune from any suit, action, or cause of action for
7 damages or from any other compelling the payment of the lump
8 sum provided herein to a person not properly designated as a
9 beneficiary in accordance with the terms of the plan.

10 (e) Surviving Spouse or Children by a Prior
11 Marriage. Notwithstanding any provisions contained in the plan
12 to the contrary, any participant whose death meets the
13 criteria set out in subsections (a), (b), and (c) and who
14 leaves surviving children by a prior marriage or marriages,
15 who are under the age of 18 years, and for whom no other
16 court-ordered provision in contemplation of divorce has been
17 made in regard to this section, the retirement board shall
18 direct that 50 percent of the monthly benefits from the trust
19 be paid to the surviving child or children under the age of 18
20 years in the same manner set out in each subsection as if
21 there were no surviving spouse and that any surviving spouse
22 shall receive the other 50 percent in the same manner as each
23 subsection sets out. It being the intent of the retirement
24 board to provide benefits to any child or children of the
25 participant from a prior marriage or marriages, who are under
26 the age of 18 years, and for whom no court-ordered provision
27 regarding the plan has been previously made. In no event shall

a child or children receive any dependent benefits from the plan under this subsection after attaining the age of 18 years, except as otherwise payable under the terms of this subsection.

Section 21. Optional Benefit Plans.

(a) Optional Plans. Any participant terminating service on or after January 1, 1989, pursuant to the terms of Section 14, Section 15, or Section 17 shall, within 20 days of the effective date of termination have the option of electing a pension plan with or without death benefits from one of the following three optional plans:

(1) Option A-Fifty Percent Joint and Survivor Plan.

a. A participant having elected Option A shall, during his or her lifetime, receive a monthly benefit from the plan in accordance with Section 14, Section 15, or Section 17.

b. In the event that a participant dies from any cause and leaves a surviving spouse, the retirement board shall direct the payment to the spouse of a monthly pension equal to 50 percent of the amount of the pension being paid to the participant at the time of his or her death; provided, however, with respect to retirements pursuant to Section 14 or Section 15 occurring on and after October 1, 2012, if a participant's spouse thereafter remarries, such monthly pension benefits shall cease.

c. If the participant dies and leaves no surviving spouse or if the participant dies and simultaneously or thereafter the surviving spouse dies but leaves a surviving

1 child or children of the participant under the age of 18
2 years, the retirement board shall direct the payment to the
3 legal guardian of the child or children who are then under the
4 age of 18 years, a monthly pension equal to 25 percent of the
5 amount that the participant was receiving prior to his or her
6 death for the use and benefit of the child or children.

7 (2) Option B-One Hundred Percent Joint and Survivor
8 Plan.

9 a. A participant having elected Option B shall,
10 during his or her lifetime, receive a monthly benefit from the
11 plan in an amount which shall be the actuarial equivalent
12 monthly benefit which would have been due to the participant
13 had the participant elected Option A.

14 b. In the event that a participant dies from any
15 cause and leaves a surviving spouse, the retirement board
16 shall direct the payment to the spouse of a monthly pension
17 equal to 100 percent of the amount of the pension being paid
18 to the participant at the time of his or her death; provided,
19 however, with respect to retirements pursuant to Section 14 or
20 Section 15 occurring on and after October 1, 2012, if a
21 participant's spouse thereafter remarries, such monthly
22 pension benefits shall cease.

23 c. If the participant dies and leaves no surviving
24 spouse or if the participant dies and simultaneously or
25 thereafter the surviving spouse dies but leaves a surviving
26 child or children of the participant under the age of 18
27 years, the retirement board shall direct the payment to the

1 legal guardian of the child or children who are then under the
2 age of 18 years, a monthly pension equal to 50 percent of the
3 amount that the participant was receiving prior to his or her
4 death for the use and benefit of the child or children.

5 (3) Option C - Life Only Benefit Plan.

6 a. A participant having elected Option C shall,
7 during his or her lifetime, receive a monthly benefit from the
8 plan in an amount which shall be the actuarial equivalent
9 monthly benefit which would have been due to the participant
10 had the participant elected Option A.

11 b. No death benefits shall be payable to any
12 survivor or dependents of the participant under this Option C
13 and all benefits under the plan shall terminate upon the death
14 of the participant.

15 (b) Elections. A participant shall be entitled to
16 elect in writing to the secretary-treasurer one of the
17 optional plans set forth in subsection (a) on the form
18 prescribed by the retirement board, which election shall be
19 irrevocable. An election made pursuant to this subsection
20 shall not be effective unless accompanied by a document
21 executed by the spouse of the participant explaining the
22 effect of the various options available to the participant and
23 affirmatively consenting to the election made by the
24 participant. In the event that a participant fails to elect an
25 optional plan, the participant automatically shall receive
26 benefits provided under Option A. For purposes of calculating
27 benefits under the three optional plans, a spouse or surviving

1 spouse means the spouse of the participant at the time the
2 election is made by the participant, such that a former spouse
3 will be treated as the spouse or surviving spouse and a
4 current spouse will not be treated as the spouse or surviving
5 spouse.

6 (c) Actuarial Assumptions. For the purposes of
7 calculating the actuarial equivalent monthly benefit under the
8 preceding subsections (a) and (b), the following assumptions
9 shall apply:

10 (1) The 1971 Group Annuity Mortality Table.

11 (2) Seven percent interest.

12 (d) Payments to a Surviving Child or Children.

13 Payments made to a surviving child or children under the age
14 of 18 years shall be paid equally. As each child attains, or
15 in the event the child dies before attaining, the age of 18
16 years, that child shall cease to receive benefits, thereby
17 increasing the share or shares of the child or children under
18 the age of 18 years, until the youngest child reaches age 18
19 years.

20 Section 22. Partial Lump Sum Option.

21 (a) Notwithstanding Section 21, effective with
22 respect to distributions before October 1, 2012, a participant
23 may elect to receive a partial lump sum option whereby the
24 amount of his or her monthly retirement benefit shall be
25 reduced, in return for the payment to the participant of a
26 lump sum amount, in cash, at the time his or her monthly
27 pension is first payable. The participant may elect to receive

the lump sum, which is based on the reduced amount of his or her regular monthly benefit, before any reduction for survivor benefits, for life multiplied by the specified number of months, as set forth below:

Reduction Factor	Multiplier
0.91	12 months
0.83	24 months
0.77	36 months
0.71	48 months
0.67	60 months

Reduction Factor X Multiplier

Reduction Factor x Multiplier

The monthly benefit then shall be reduced appropriately for survivor benefit options.

(b) Effective with respect to distributions on and after October 1, 2012, the plan does not provide a partial lump sum distribution option; rather all distributions shall be made in accordance with Section 21.

Section 23. Proof of Marriage and Parentage.

(a) When the spouse or children of an active or retired participant shall be entitled to benefits under the

1 plan, such spouse or children shall make, or cause to be made,
2 an application to the retirement board through the
3 secretary-treasurer which shall demonstrate (1) proof of the
4 marriage of such participant to the spouse or (2) the ages of
5 the participant's children by birth certificate or other
6 competent evidence, as the case may be. All such applications
7 and evidence of marriage and parental relationships shall be
8 kept and retained in the custody of the retirement board.

9 (b) The retirement board shall have the right to
10 require such proper proof of parentage or marriage and such
11 other evidence as the retirement board deems desirable to
12 determine eligibility for or to deny a benefit. Such
13 documentation may include, but not be limited to, a birth
14 certificate, a marriage certificate, and affidavits of
15 relatives, participants, or other persons knowledgeable of the
16 fact of marriage. If no marriage certificate is available, for
17 common law marriage, proof shall include evidence of the
18 existence of the marriage as may be required by applicable law
19 and also may require indemnification and hold harmless
20 agreements. The retirement board may require that unclear
21 cases be adjudicated in an appropriate court proceeding. The
22 retirement board's determination of benefits and the right of
23 any person to receive payment shall be conclusive.

24 Section 24. Minimum Distribution Requirements.

25 (a) In General. Benefit payments under the plan must
26 begin by the "required beginning date," defined as April 1 of
27 the calendar year following the later of:

(1) The calendar year in which the participant attains age 70 1/2, or

(2) The calendar year in which the participant terminates active employment.

The participant's entire interest in the trust must be distributed, beginning no later than the "required beginning date," over the life of the participant or the lives of the participant and a designated beneficiary, or over a period not extending beyond the life expectancy of the participant or the participant and designated beneficiary.

(b) Participant Dies Before Entire Interest Is Distributed.

(1) Distributions Have Begun. When a participant dies after distribution of benefits has begun, the remaining portion of the participant's interest shall be distributed at least as rapidly as under the method of distributions prior to the participant's death.

(2) Distributions Have Not Begun. When a participant dies before distribution of benefits has begun, the following rules apply:

a. Five-Year Rule and No Designated Beneficiary. If there is no designated beneficiary, the entire interest of the participant shall be distributed within five years of the participant's death.

b. Life Expectancy Rule and Designated Beneficiary.
If the participant's interest is payable to a non-spouse
designated beneficiary, the entire interest shall be paid over

the life of such designated beneficiary, such distributions shall begin on or before the end of the calendar year after the calendar year in which the participant died.

c. Special Rule for the Surviving Spouse. If the participant's sole designated beneficiary is the surviving spouse, the date on which distributions are required to begin shall not be earlier than the December 31st of the calendar year in which the participant would have attained age 70 1/2.

(c) Reasonable and Good Faith Interpretation.

Notwithstanding anything in this section to the contrary, the plan shall pay all benefits in accordance with a reasonable and good faith interpretation of Internal Revenue Code Section 401(a)(9), including the incidental death benefit requirement in Code Section 401(a)(9)(G), and the regulations thereunder, Treasury Regulation Sections 1.401(a)(9)-1 through 1.401(a)(9)-9.

Section 25. Eligible Rollover Distribution; Direct Rollover.

(a) Rollovers Generally.

(1) Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a "distributee" may elect, at the time and in the manner prescribed by the retirement board, to have any portion of an "eligible rollover distribution" paid directly to an "eligible retirement plan" specified by the distributee in a direct rollover.

(2) Definitions.

a. Eligible Rollover Distribution. An "eligible rollover distribution" is 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:

1. 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 10 years or more;

2. Any distribution to the extent such distribution is required under Internal Revenue Code Section 401(a)(9);

3. Any hardship distribution; or

4. The portion of any distribution that is not includable in gross income, determined without regard to the exclusion for net unrealized appreciation with respect to employer securities.

A portion of a distribution shall not fail to be an "eligible rollover distribution" merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion of after-tax employee contributions may be transferred only to:

(i) An individual retirement account described in Internal Revenue Code Section 408(a) or an individual retirement annuity described in Internal Revenue Code Section 408(b); or

(ii) A qualified trust described in Internal Revenue Code Section 401(a) or an annuity contract described in Internal Revenue Code Section 403(b), if such trust or contract provides for separate accounting for amounts so transferred, including interest thereon, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

b. Eligible Retirement Plan. An "eligible retirement plan" includes:

1. An eligible plan under Internal Revenue Code Section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the plan,

2. An individual retirement account described in Internal Revenue Code Section 408(a) or an individual retirement annuity described in Internal Revenue Code Section 408(b),

3. An annuity plan described in Internal Revenue Code Section 403(a) or an annuity contract described in Internal Revenue Code Section 403(b), or

4. A qualified trust described in Internal Revenue Code Section 401(a) that accepts the distributee's "eligible rollover distribution."

c. Distributee. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Internal Revenue Code Section 414(p), are distributees with regard to the interest of the spouse or former spouse.

d. Direct Rollover. A direct rollover is a payment by the plan to the "eligible retirement plan" specified by the distributee.

(b) Direct Rollovers by Non-Spouse Beneficiaries.

(1) Non-Spouse Beneficiary Rollover Right.

Notwithstanding the direct rollover provisions in subsection (a), for distributions in plan years starting after December 31, 2009, in accordance with Internal Revenue Code Section 402(c)(11), a non-spouse beneficiary who is a designated beneficiary, as defined in Internal Revenue Code Section 401(a)(9)(E) and the regulations thereunder, may, by means of a direct trustee-to-trustee transfer, roll over all or any portion of an "eligible rollover distribution" to an individual retirement plan the designated beneficiary establishes for purposes of receiving the distribution. Such individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity, within the meaning of Internal Revenue Code Section 408(d)(3)(C). If a non-spouse beneficiary receives a

distribution from the plan, the distribution is not eligible for a 60-day, non-direct rollover.

(2) Trust Beneficiary. If the participant's named beneficiary is a trust, the plan may make a direct trustee-to-trustee transfer to an individual retirement plan on behalf of the trust, provided the trust satisfies the requirements to be a designated beneficiary within the meaning of Internal Revenue Code Section 401(a)(9)(E).

(3) Required Minimum Distributions Not Eligible For Rollover. A non-spouse beneficiary may not roll over an amount which is a required minimum distribution, as determined under applicable treasury regulations and other Internal Revenue Service guidance. If the participant dies before the participant's required beginning date and the non-spouse beneficiary rolls over to an individual retirement plan the maximum amount eligible for rollover, the non-spouse beneficiary may elect to use either the five-year rule or the life expectancy rule, pursuant to Treasury Regulations Section 1.401(a)(9)-3, A-4(c), in determining the required minimum distributions from the individual retirement plan that receives the non-spouse beneficiary's distribution.

(c) Rollover to Roth IRA. For distributions made after December 31, 2007, in accordance with Internal Revenue Code Section 408A, a participant may elect to roll over directly an "eligible rollover distribution" to a Roth IRA, as defined in Internal Revenue Code Section 408A(b).

Section 26. Claims Procedure.

1 Claims for benefits under the plan must be filed in
2 writing with the secretary-treasurer on forms provided by the
3 retirement board in accordance with procedures established by
4 the retirement board or the secretary-treasurer, or both.

5 Section 27. Claims Review Procedure.

6 Within 30 days after any final decision of the
7 retirement board, any party, including the governing body of
8 the City of Anniston, aggrieved at the decision of the
9 retirement board may appeal from such decision to the Circuit
10 Court of Calhoun County. Such appeal shall be de novo and
11 shall be heard by a judge sitting without a jury. Upon the
12 taking of such appeal, the appellant shall serve notice
13 thereof upon the secretary-treasurer. Such appeal shall be
14 heard by the Circuit Court at the earliest possible date. No
15 bond shall be required for such an appeal. Such an appeal
16 shall be perfected by the appellant filing a notice thereof
17 with the clerk of the Circuit Court. An appeal may be taken
18 from any decision of the Circuit Court to the Court of Civil
19 Appeals in the manner provided by law or rule, or both, for
20 taking appeals in other cases.

21 Section 28. Exclusive Use of Assets of the Trust;
22 Vesting; Forfeitures.

23 (a) Trust Assets May Not Be Diverted. The assets of
24 the trust shall be held for the exclusive benefit of the
25 participants and their beneficiaries. It shall not be possible
26 for any part of the corpus or income of the trust or any funds
27 contributed thereto to be used for, or diverted to, purposes

1 other than the exclusive benefit of such participants or their
2 beneficiaries, whether by operation or natural termination of
3 the trust, by power of revocation or amendment, by the
4 happening of a contingency, by collateral arrangement, or by
5 other means. No benefits payable as set forth in the plan
6 shall be assignable or be subject to execution, levy,
7 attachment, garnishment, or other legal process. Accordingly,
8 the plan shall not recognize any domestic relations order
9 attempting to provide a participant's benefits, or any portion
10 thereof, to an alternate payee.

11 (b) Vesting. The retirement benefit earned by a
12 participant shall be fully vested no later than the date he or
13 she becomes eligible for a normal service retirement benefit.
14 Benefits of affected participants also shall become vested, to
15 the extent funded, upon the termination or partial termination
16 of the trust or the complete discontinuance of contributions
17 to the trust.

18 (c) Forfeitures May Not Increase Benefits.
19 Forfeitures resulting from a termination of employment or a
20 withdrawal of a participant's own contributions may not be
21 used to increase benefits to remaining participants. This
22 shall not preclude an increase in benefits by amendment to the
23 benefit formula made possible by favorable investment results
24 or for any other reason.

25 Section 29. Actuary; Reports.

26 The retirement board shall retain the services of a
27 competent actuary and actuarial firm on continuous basis at a

1 fee to be determined by the retirement board to advise the
2 retirement board on all actuarial matters pertaining to the
3 trust. The actuary shall possess the following minimum
4 qualifications:

5 (1) The actuary shall be an enrolled actuary under
6 the provisions of the Employee Retirement Income Society Act
7 of 1974, as amended, and

8 (2) The actuary shall be a Fellow of the Society of
9 Actuaries or employed by an actuarial firm that employs a
10 Fellow of the Society of Actuaries.

11 (b) There must be an actuarial valuation of the plan
12 at least once every two years. The plan assets are to be
13 valued on the last day of the City of Anniston's fiscal year,
14 or on any other date determined by the retirement board, using
15 any reasonable method of valuation. In establishing the
16 liabilities under the plan and contributions thereto, the
17 actuary shall use such methods and assumptions as will
18 reasonably reflect the cost of the benefits.

19 (c) The actuary, actuarial firm, or both shall be
20 required to submit its reports in writing to the retirement
21 board. These reports shall become a permanent record of the
22 retirement board.

23 Section 30. Annual Audits. The retirement board
24 shall have an audit made annually of the trust by a certified
25 public accountant.

26 Section 31. Insufficiency of Funds. If at any time
27 there shall not be sufficient funds in the trust to pay each

individual entitled to the benefits therefrom the full amount per month as herein provided, then an equal percentage of such monthly payment or payments shall be made to each individual until the trust shall be sufficient to warrant payment in full to each of the beneficiaries.

Section 32. Warrants For Payment of Money. All monies ordered to be paid from the trust shall be paid by the secretary-treasurer only upon warrants signed by two members of the retirement board and countersigned by the secretary-treasurer. No warrant shall be drawn on the trust except by order of the retirement board, which order shall be duly and regularly entered in the record of the proceedings of the retirement board.

Section 33. Protection of the Trust; Exemptions. No portion of the trust shall, before or after its order for distribution by the retirement board to the person or persons entitled thereto under the provisions of the plan, be held, seized, taken, subjected to, detained, or levied upon by virtue of any attachment, garnishment, execution, injunction, writ, order, decree, or any other process whatsoever issued out of or by any court of the State of Alabama, for the payment or satisfaction, in whole or in part, of any debt, damage, demand, claim, judgment, or decree against any beneficiary of the trust, but shall be exempt therefrom so that the trust shall be kept, held, and distributed solely for the purposes of the plan.

Section 34. Construction.

(a) Choice of Law. The plan shall be construed and enforced according to the Internal Revenue Code, this act, and the laws of the State of Alabama, other than its laws respecting choice of law. In the event of any discrepancy between the terms of the plan or this act and those of applicable federal law, federal law shall apply.

(b) Gender and Number. Words used herein in the masculine gender include the feminine and neuter, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

(c) Headings and Severability. The headings and subheadings of the plan have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof. If, for any reason, any clause, sentence, subsection, section, or provision of the plan, or the application thereof, to any person, body, situation, or circumstance is held invalid or inoperative, the remainder of the plan and the application thereof to any other person, body, situation, or circumstance shall not be affected thereby.

(d) Uniformity. All provisions of the plan shall be interpreted and applied in a uniform, nondiscriminatory manner.

Section 35. No Contract of Employment.

The plan shall not be deemed to constitute a contract between the City of Anniston and any participant or

to be consideration or an inducement for the employment of any participant or employee of the City of Anniston's police department or fire department. Nothing contained in the plan shall be deemed to give any participant or employee the right to be retained in the service of the City of Anniston or to interfere with the right of the City of Anniston to discharge any participant or employee at any time regardless of the effect which such discharge shall have upon an employee as a participant in the plan.

Section 36. Amendment and Termination.

(a) Amendment of the Plan.

(1) The retirement board shall have the right at any time to amend the plan, subject to the limitations of this section. Any such amendment must be consistent with this act, any other legislation relating to the trust, and consistent with other authority granted to the retirement board.

Additionally, in the event that the Legislature amends this act or makes other statutory changes that impact the terms of the plan, the retirement board shall cause the plan to be amended as necessary to reflect such legislation.

(2) Any amendment which affects the rights, duties, or responsibilities of the trustee may only be made with the trustee's written consent. Any such amendment shall become effective as provided therein upon its execution. The trustee shall not be required to execute an amendment unless such amendment affects the duties of the trustee hereunder.

(3) Except as otherwise specifically provided for herein, no amendment to the plan shall be effective if it authorizes or permits any part of the trust, other than such part as is required to pay taxes and administration expenses, to be used for or diverted to any purpose other than for the exclusive benefit of participants or their beneficiaries or estates.

(b) **Termination of the Plan.** In the event that the Legislature takes appropriate action to terminate the plan, or in the event of a partial termination of the plan, all amounts shall be allocated in accordance with the provisions hereof and the accrued benefit, to the extent funded as of such date, of each affected participant shall become fully vested and shall not thereafter be subject to forfeiture. Upon full termination of the plan, the retirement board shall direct the distribution of the assets in the trust to the participants. In such case, the trustee shall distribute the assets to the remaining participants in the plan and to retired participants and their beneficiaries in cash or through the purchase of irrevocable deferred commitments from an insurer, subject to provision for expenses of administration or liquidation. Such distributions shall be allocated in such order as set forth by the Legislature, or by the retirement board to the extent the retirement board receives such authorization, to the extent of the sufficiency of such assets, basing such allocation on the accrued benefit for each such participant at the date of termination of the plan.

1 Section 37. All laws or parts of laws which conflict
2 with this act are repealed.

3 Section 38. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

7 SB524
8 Senate 03-MAY-12
9 I hereby certify that the within Act originated in and passed
10 the Senate.

11
12 Patrick Harris
13 Secretary
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15

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17 House of Representatives
18 Passed: 09-MAY-12

19

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21 By: Senator Marsh