

**HOLLYWOOD, FLORIDA POLICE OFFICERS'  
DEFERRED RETIREMENT OPTION PLAN**



Effective as of January 1, 1991  
Amended and Restated as of October 30, 2009

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**DEFERRED RETIREMENT OPTION PLAN**

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**HOLLYWOOD, FLORIDA POLICE OFFICERS'  
DEFERRED RETIREMENT OPTION PLAN**

**INTRODUCTION**

The Hollywood, Florida Police Officers' Deferred Retirement Option Plan is created and administered by the Board of Trustees of the Police Officers' Retirement System in accordance with Section 33.128(E) of Chapter 33 of the Code of Ordinances of the City of Hollywood, Florida. This Deferred Retirement Option Plan was originally effective as of January 1, 1991 and was subsequently amended. The Deferred Retirement Option Plan as subsequently amended is hereby amended and restated in its entirety effective as of October 30, 2009.

**ARTICLE I**  
**DEFINITIONS**

- 1.1 **"Beneficiary"** shall mean any person, persons or entity designated by a Police Officer, in a time and manner determined by the Board, to receive any benefits payable from the DROP in the event of the Police Officer's death. If no Beneficiary designation is in effect at the Police Officer's death, or if no person, persons or entity so designated survives the Police Officer, the Police Officer's surviving spouse, if any, shall be deemed to be the Beneficiary; otherwise the Beneficiary shall be the Police Officer's estate. A Police Officer may change his Beneficiary in accordance with such rules as the Board may adopt; provided, however, that a Police Officer participating in the DROP participant in the DROP shall be limited to a total of two such changes.
- 1.2 **"Board"** shall mean the Board of Trustees of the Retirement System.
- 1.3 **"City"** shall mean the City of Hollywood, Florida.
- 1.4 **"Combined Credited Service"** shall mean the aggregate of all a Police Officer's continuous service, whether or not as a Police Officer, under all retirement systems to which the City contributes.

- 1.5 **"DROP"** shall mean the Hollywood, Florida Police Officers' Deferred Retirement Option Plan.
- 1.6 **"DROP Account"** shall mean the account established for each DROP participant under Section 3.1.
- 1.7 **"Earnings"** shall mean the investment gains and losses to be credited to a Police Officer's DROP Account in accordance with the provisions of Section 3.5.
- 1.8 **"Code"** shall mean the Internal Revenue Code of 1986, as from time to time amended.
- 1.9 **"Police Officer"** shall mean any person who is appointed or employed full time by the City, who is certified or required to be certified as a law enforcement officer in compliance with F.S. § 943.1395, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic or highway laws of the state. Police Officers shall include certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include part-time law enforcement officers or auxiliary law enforcement officers as the same are defined in F.S. § 943.10(6) and (8), respectively.

**1.10 "Retirement System"** shall mean the City of Hollywood Police Officers' Retirement System as from time to time in effect.



**ARTICLE II**  
**PARTICIPATION**

**2.1 Eligibility to Participate**

In lieu of terminating his employment as a Police Officer, any Police Officer actively employed by the City who

- (a) would be eligible to receive a service retirement pension under the Retirement System; and
- (b) has attained age 50 or (i) has completed at least 25 years, but less than 28 years, of Combined Credited Service prior to June 7, 2006 or (ii) has completed at least 22 years, but less than 30 years, of Combined Credited Service on or after June 7, 2006.

may elect to defer receipt of such service retirement pension and to participate in the DROP.

**2.2 Election to Participate**

A Police Officer's election to participate in the DROP must be made in writing in a time and manner determined by the Board and shall be effective on the Police Officer's actual retirement date. Any election made under this Section 2.2 to participate in the DROP must be made before the Police Officer completes 27 years of Combined Credited Service if the election is made prior to June 7, 2006, or

before the Police Officer completes 29 years of Combined Credited Service if the election is made on or after June 7, 2006.

### **2.3 Period of Participation**

A Police Officer who elects to participate in the DROP under Section 2.2 shall participate in the DROP for a period equal to the excess of 360 months over the number of full months of his Combined Credited Service at the time his election to participate in the DROP first becomes effective. However, no Police Officer shall participate in the DROP for more than 60 months if the Police Officer first elected to participate in the DROP prior to June 7, 2006 and for more than 96 months if the Police Officer first elected to participate in the DROP on or after June 7, 2006.

### **2.4 Termination of Participation**

- (a) A Police Officer participating in the DROP shall cease participating in the DROP by:
- (i) electing in writing, in a time and manner determined by the Board, to cease participating in the DROP;
  - (ii) continuing to be employed as a Police Officer at the end of his period of participation in the DROP as determined under Section 2.3; or
  - (iii) terminating his employment as a Police Officer.

Any election made under clause (i) shall be effective on the first day of the first calendar month which is at least five business days after it is received by the Board.

- (b) Upon the Police Officer's termination of participation in the DROP, amounts shall cease to be transferred from the Retirement System to his DROP Account under Section 3.2, he shall cease to have the right to make after-tax contributions or rollover contributions under Sections 3.3 and 3.4, respectively, and he shall again contribute to the Retirement System if required under the provisions of the Retirement System as then in effect. Any amounts remaining in his DROP Account shall be paid to him in accordance with the provisions of Article IV when he terminates his employment as a Police Officer.
- (c) Except as otherwise provided in this subsection (c) or in Section 4.3(c), a Police Officer's DROP Account shall cease being credited with Earnings upon his termination of participation in the DROP. However, the DROP Account of a Police Officer who ceases to be a participant in the DROP as provided in Section 2.4(a)(ii) because he continues to be employed as a Police Officer shall be reduced each month by the sum of the actual net rate of investment loss, if any, on the Retirement System's assets for the month, determined as of the last day of the month, plus any administrative fee determined by the Board under Section 3.5(b)(ii). The reduction shall commence with the first month in which the Police Officer ceases to be a participant in the DROP as provided in Section 2.4(a)(ii) and shall end with the month in which he terminates his employment as a Police Officer.

- (d) A Police Officer who elects to terminate his participation in the DROP under this Section 2.4 shall not be permitted to again become a participant in the DROP.

## **2.5 Effect of DROP Participation on Retirement System**

- (a) A Police Officer's Combined Credited Service and his accrued benefit under the Retirement System shall be determined on the date his election to participate in the DROP first becomes effective. The Police Officer shall not accrue any additional Combined Credited Service or any additional benefits under the Retirement System (except for any additional benefits provided under any cost-of-living adjustment in the Retirement System in accordance with Section 2.5(c)) while he is a participant in the DROP.
- (b) No amounts shall be paid to a Police Officer from the Retirement System while the Police Officer is a participant in the DROP. Unless otherwise specified in the Retirement System, if a Police Officer terminates his participation in the DROP other than by terminating his employment as a Police Officer, no amounts shall be paid to him from the Retirement System until he terminates his employment as a Police Officer. Unless otherwise specified in the Retirement System, amounts transferred from the Retirement System to the Police Officer's DROP Account shall be paid directly to the Police Officer only on or after the first day of the month coincident with or next following the later of the termination of the Police

Officer's participation in the DROP or the termination of his employment as a Police Officer.

- (c) A Police Officer who first becomes a participant in the DROP prior to June 7, 2006 shall receive any additional benefits provided under any cost-of-living adjustment in the Retirement System while participating in the DROP. A Police Officer who first becomes a participant in the DROP on or after June 7, 2006 shall not receive any additional benefits provided under any cost-of-living adjustment in the Retirement System prior to the later of (i) the date the Police Officer separates from employment with the City or (ii) the third anniversary of the date his election to participate in the DROP first becomes effective.

## **ARTICLE III**

### **FUNDING**

#### **3.1 Establishment of DROP Account**

A DROP Account shall be established for each Police Officer participating in the DROP. A Police Officer's DROP Account shall consist of:

- (a) amounts transferred to the DROP under Section 3.2 and Earnings on those amounts;
- (b) after-tax contributions to the DROP by the Police Officer under Section 3.3 and Earnings on those amounts; and
- (c) amounts transferred to the DROP under Section 3.4 and Earnings on those amounts.

Amounts transferred to the DROP under Section 3.2, contributed to the DROP under Section 3.3 and transferred to the DROP under Section 3.4 shall each be accounted for separately from amounts contributed or transferred to the DROP under the other two Sections. Subject to the rules regarding forfeiture set forth in Section 7.10, amounts transferred to the DROP under Sections 3.2, 3.3 and 3.4 herein shall be fully vested at all times.

#### **3.2 Transfers From Retirement System**

The monthly retirement benefit and any additional amounts payable under Section 33.136 (N) (13<sup>th</sup> check) of the Retirement System a Police Officer would have received under the Retirement System during his period of participation in the

DROP had he terminated his employment as a Police Officer and elected to receive monthly benefit payments thereunder shall be transferred to his DROP Account during his period of participation in the DROP. The transfer shall be made as of the date such retirement benefits and additional amounts would otherwise have been paid to the Police Officer under the Retirement System. A Police Officer's period of participation in the DROP shall be determined in accordance with the provisions of Sections 2.3 and 2.4, but in no event shall it continue past the date he terminates his employment as a Police Officer.

### **3.3 After-Tax Contributions**

A Police Officer may make after-tax contributions to his DROP Account during the first 12 months of his participation in the DROP. His after-tax contributions shall be made in a time and manner determined by the Board and shall not exceed the limitation on annual additions provided under Section 415(c) of the Code, which is the lesser of:

- (i) 100% of the Police Officer's compensation as reported on Form W-2 for the 12-month period; or
- (ii) \$40,000 as adjusted pursuant to Section 415(d) of the Code.

In the case of a Police Officer who is a "highly compensated employee" as defined in Section 414(q) of Code, the amount of annual additions shall not exceed the amount of employee contributions permitted under Section 401(m) of the Code.

For purposes of clause (i), compensation in excess of limitations set forth in Section 401(a)(17) of the Code shall be disregarded.

### **3.4 Rollover Contributions**

With the permission of the Board, and in accordance with procedures established by the Board and applied in a uniform and nondiscriminatory manner, the DROP may receive an “eligible rollover distribution” within the meaning of Section 402(c)(4) of the Code from a deferred compensation plan described in Section 402(c)(8)(B)(v) of the Code (an “eligible governmental 457(b) plan”). The DROP may receive such amount either directly from the Police Officer or from an eligible governmental 457(b) plan in the form of a direct rollover. Notwithstanding the foregoing, the DROP shall not accept any amount unless such amount is eligible to be rolled over into the DROP in accordance with applicable law, the Police Officer is participating in the DROP in accordance with Section 2.2 and the transfer is made during the period described in Section 2.3. Unless received by the DROP in the form of a direct rollover, the transfer must be paid to the Police Officer’s DROP Account on or before the 60<sup>th</sup> day after the day it was received by the Police Officer. The Police Officer shall provide the Board such evidence, assurances, opinions and certifications as the Board may deem necessary to establish to its satisfaction that the amounts transferred to the Police Officer’s DROP Account under this Section 3.4 meet the requirements of this Section 3.4 and any applicable provisions of the Code and will not affect the qualification of the Retirement System. Any amounts transferred to the DROP in accordance with this Section 3.4 shall be accounted for separately from all other assets of the DROP and the Retirement System.



### 3.5 Earnings

- (a) Except as otherwise provided in Section 2.4(c),
  - (i) Amounts credited to a Police Officer's DROP Account under this Article III, other than rollover contributions from an eligible governmental 457(b) plan received under Section 3.4, or amounts transferred to the Loan Fund under Section 5.1(b) shall be credited monthly with Earnings. The rate of Earnings to be credited shall be either the fixed rate of return determined in accordance with Section 3.5(b)(i) or the variable rate of return determined in accordance with Section 3.5(b)(ii), as the Police Officer may elect. Any such election shall be made in accordance with the provisions of Section 3.6. If no such election is in effect for a Police Officer for a calendar month, the Police Officer's DROP Account shall be credited with the variable rate of return for the month.
  - (ii) Rollover contributions under Section 3.4 from an eligible governmental 457(b) plan shall be automatically credited with Earnings using the variable rate of return determined in accordance with Section 3.5(b)(ii).
- (b)
  - (i) (A) For Police Officers hired on or before September 30, 2009, the fixed rate of return for any month shall be the actuarially assumed rate of return for the Retirement System's assets determined as

of the last day of the month, reduced by an administrative fee determined by the Board.

(B) For Police Officers hired on or after October 1, 2009, the fixed rate of return shall be six percent (6%) per annum reduced by an administrative fee determined by the Board. In the event the Retirement System's earnings exceed twelve percent (12%) per year, the excess earnings shall be divided between the Police Officer and the City.

(ii) The variable rate of return for any month shall be the actual net rate of investment gain or investment loss on the Retirement System's assets for the month, determined as of the last day of the month, reduced in the event of a net investment gain, or increased in the event of a net investment loss, by an administrative fee determined by the Board.

### **3.6 Investment Elections**

(a) A Police Officer shall make an investment election with respect to the amounts credited to his DROP Account (other than amounts received as a rollover contributions from an eligible governmental 457(b) plan under Section 3.4 or amounts transferred to the Loan Fund under Section 5.1(b)) in accordance with one of the following options:

(i) 100 percent shall be credited with the fixed rate of return; or

(ii) 100 percent shall be credited with the variable rate of return.

(b) Any investment election made under this Section 3.6 shall be made on the form furnished by the Board, in accordance with the rules for such elections established by the Board which may be changed in the discretion of the Board from time to time. Any investment election made under this Section 3.6 shall remain in effect until the Police Officer submits a new investment election under this Section 3.6. Investment elections shall take effect only on the effective date designated by the Board.

### **3.7 Responsibility for Investments**

(a) Each Police Officer is solely responsible for the selection of his investment options under Section 3.6. The Board, the City and the officers, supervisors and employees of the Board and the City are not empowered to advise a Police Officer as to the manner in which his DROP Account shall be invested.

(b) Nothing in this Article III shall act in any way to limit the manner in which the assets of the Retirement System may be invested or the actuarial assumptions which may be adopted for use by the Retirement System.

## **ARTICLE IV**

### **DISTRIBUTION OF DROP ACCOUNTS ON SEPARATION OF EMPLOYMENT**

#### **4.1 Eligibility for Benefits**

A Police Officer shall receive the balance in his DROP Account in accordance with the provisions of this Article IV upon his separation of employment as a Police Officer. Except as provided in Section 4.4 or in Article V, no amounts shall be paid to a Police Officer from the DROP prior to his separation of employment as a Police Officer.

#### **4.2 Form of Distribution**

(a) Unless the Police Officer elects otherwise, distribution of his DROP Account shall be made in a cash lump sum. A Police Officer may elect, in such time and manner as the Board shall prescribe, to receive an optional form of benefit described below.

(i) Payments in approximately equal quarterly or annual installments over a period, designated by the Police Officer, not to exceed the life expectancy of the last survivor of the Police Officer and his Beneficiary. If the Police Officer elects annual installments, the first installment payment shall be paid as provided in Section 4.3, the second installment payment shall be paid as soon as administratively practicable after the immediately following January 1 and each

succeeding installment payment shall be paid as soon as administratively practicable following each succeeding January 1. If the Police Officer dies before all installments have been paid, the remaining balance in his DROP Account shall be paid in an immediate cash lump sum to his Beneficiary. After installment payments begin to a Police Officer he may elect, if he has at least \$5,000 remaining in his DROP Account at the time of the election, to withdraw all or a portion of his remaining unpaid DROP Account, in \$1,000 multiples but not less than \$5,000, in a single sum; provided that a Police Officer may not make more than one such election during his lifetime. Any amount to be paid in a single sum pursuant to such an election shall be paid as soon as administratively practicable following the Board's receipt of the election. Any such election shall be made in a time and manner as the Board shall prescribe.

- (ii) The purchase of a nonforfeitable fixed annuity payable in such form as the Police Officer may elect. Elections under this clause (ii) shall be in writing and shall be made in such time or manner as the Board shall determine. If the annuity form selected is not a qualified joint and 50% survivor annuity with the Police Officer's spouse as the beneficiary, the annuity payable to the Police Officer and thereafter to his Beneficiary shall be subject to the incidental death benefit rule as described in Section 401(a)(9)(G) of the Code and its applicable regulations.

- (iii) An amount elected by a Police Officer by September 30 of a year, but not less than \$4,000 or such greater amount as may be required to comply with the incidental death benefit rules of Code Section 401(a)(9), to be paid to him in a cash lump sum as soon as administratively practicable after the immediately following January 1 or in four approximately equal installments to be paid as soon as administratively practicable after the first day of each calendar quarter in the immediately following calendar year as he may elect by such September 30. The Police Officer's election of an amount of payment and form of payment shall remain in effect for each succeeding year unless he elects to change the amount of the payment, the form of the payment or both. Any such change elected by September 30 of a year shall be effective as of the following January 1. A Police Officer who elects this option but who does not elect an amount to be paid for a calendar year by September 30 of the preceding calendar year will be deemed to have elected a payment of \$4,000 for the calendar year. A Police Officer who elects this option but who does not elect a form of payment for a calendar year shall be deemed to have elected a cash lump sum payment. If the Police Officer dies before receiving the entire amount of his DROP Account, the remaining balance in his DROP Account shall be paid in an immediate cash sum to his Beneficiary.

- (b) A Police Officer who has begun to receive distributions from his DROP Account under this Section 4.2, other than as an annuity under Section 4.2(a)(ii) may elect a different optional form of benefit under Section 4.2(a), including an annuity under Section 4.2(a)(ii). The election shall be made in a time and manner prescribed by the Board.
- (c) Notwithstanding anything in this Section 4.2 to the contrary, if a Police Officer dies before his benefits commence, his DROP Account shall be paid to his Beneficiary in such optional form as his Beneficiary may select.

#### **4.3 Date of Payment of Distribution**

- (a) Except as otherwise provided in this Article IV, distribution of a Police Officer's DROP Account shall begin as soon as administratively practicable following the Police Officer's separation of employment.
- (b) In lieu of a distribution as described in paragraph (a) above, a Police Officer may, in accordance with such procedures as the Board shall prescribe, elect to have the distribution of his DROP Account made as of the first day of any month coincident with or following his separation of employment as a Police Officer; provided, however, payments shall be made before the distribution date elected by the Police Officer to the extent necessary to comply with the provisions of Sections 4.4 and 4.6.
- (c) Any amounts in the DROP Account of a Police Officer who terminated his participation in the DROP in accordance with Section 2.4(a)(iii) by separation of employment as a Police Officer shall continue to

be invested as part of the DROP's funds and shall be credited with Earnings on those funds in accordance with the provisions of Article III until such amounts are distributed to the Police Officer or his Beneficiary.

#### **4.4 Age 70 ½ Required Distribution**

In no event shall the provisions of this Article IV operate so as to allow the distribution of a Police Officer's DROP Account to begin later than the April 1 following the later of the calendar year in which he separates from his employment as a Police Officer or he attains age 70 ½. In the event a Police Officer is required to begin receiving payments while in service under the provisions of this Section 4.4, he shall receive one lump sum payment on or before his required beginning date equal to his entire DROP Account balance and annual lump sum payments thereafter of amounts accrued during each calendar year. Upon the Police Officer's subsequent separation from employment, payment of his DROP Account shall be made in accordance with the provisions of Section 4.2; provided, however, that the option set forth in clause (iii) of Section 4.2(a) shall not be available to him.

#### **4.5 Proof of Death and Right of Beneficiary or Other Person**

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



#### **4.6 Distribution Limitation**

Notwithstanding any other provision of this Article IV, all distributions from the DROP shall conform to the regulations issued under Section 401(a)(9) of the Code, including the incidental death benefit provisions of Section 401(a)(9)(G) of the Code. Further, such regulations shall override any DROP provision that is inconsistent with Section 401(a)(9) of the Code.

#### **4.7 Direct Rollover of Certain Distributions**

This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the DROP 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 Board, to have any portion of an eligible rollover distribution paid directly by the DROP to an eligible retirement plan specified by the distributee in a direct rollover. The following definitions apply to the terms used in this Section:

(a) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee under the DROP, except that an eligible rollover distribution does not include:

- (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more,

- (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code, and
  - (iii) after-tax amounts in the Police Officer's DROP Account unless such amounts are rolled over or transferred (i.e., directly rolled over) to an individual retirement account or individual retirement annuity described in Section 408(a) or 408(b) of the Code, or transferred to a defined contribution plan qualified under Section 401(a) of the Code that agrees to separately account for such amounts.
- (b) "Eligible retirement plan" means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, a qualified trust described in Section 401(a) of the Code, an eligible deferred compensation plan described in Section 457(b) of the Code which is maintained by an eligible employer described in Section 457(e)(1)(A) of the Code and which agrees to separately account for amounts transferred into such plan from the DROP, or an annuity contract described in Section 403(b) of the Code that accepts the distributee's eligible rollover distribution.
- (c) "Distributee" means an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse; and

- (d) "Direct rollover" means a payment by the DROP to the eligible retirement plan specified by the distributee. The direct rollover may be accomplished by any reasonable means chosen by the Board.

## ARTICLE V

### LOANS

#### 5.1 Amount Available

- (a) A Police Officer participating in the DROP or a former Police Officer who has participated in the DROP for at least 12 months and who has subsequently terminated his employment as a Police Officer may borrow, on written application to the Board, an amount which, when added to the outstanding balance of any other loans to the Police Officer or former Police Officer from the DROP, does not exceed the lesser of:
  - (i) 50% of his DROP Account, or
  - (ii) \$50,000 reduced by the excess, if any, of (A) the highest outstanding balance of loans to the Police Officer or former Police Officer from the DROP during the one year period ending on the day before the day the loan is made, over (B) the outstanding balance of loans to the Police Officer or former Police Officer from the DROP on the date on which the loan is made.
- (b) The amount of the loan is to be transferred from the investment funds in which the Police Officer's or former Police Officer's Account is invested to a special "Loan Fund" for the Police Officer or former Police Officer under the DROP. The Loan Fund consists solely of the amount transferred to the Loan Fund and is invested solely in the loan made to the Police Officer or

former Police Officer. The amount transferred to the Loan Fund shall be pledged a security for the loan. Payments of principal on the loan will reduce the amount held in the Police Officer's or former Police Officer's Loan Fund. Those payments, together with the attendant interest payment, will be reinvested in the DROP's investment funds.

## 5.2 Terms

- (a) All loans shall comply with such rules and regulations and shall be subject to such terms and conditions as the Board may adopt including, but not limited to, the following:
  - (i) Each loan shall be evidenced by a promissory note payable to the DROP;
  - (ii) The loan shall be at a reasonable rate of interest. Unless another interest rate is set by the Board, the interest rate shall be equal to the prime rate published by an established local bank, selected by the Board, on the last day of the calendar quarter preceding the date of the loan application. The interest rate so determined for purposes of the DROP shall be fixed for the duration of each loan;
  - (iii) The minimum amount a Police Officer or former Police Officer can borrow is \$1,000;
  - (iv) Payments of principal and interest will be made by payroll deductions or in a manner agreed to by the Police Officer or former Police Officer and the Board in substantially level amounts, but no less frequently

than quarterly, in an amount sufficient to amortize the loan over the repayment period. Those payments shall be credited with Earnings under Article III in accordance with the Police Officer's then effective election under Section 3.6.

(v) The period of repayment for any loan shall be arrived at by mutual agreement between the Board and the Police Officer or former Police Officer, but that period shall not exceed five years.

(vi) Notwithstanding anything to the contrary in clause (v) above, the Board, in its sole discretion, may cause the outstanding balance on any loan made to a Police Officer under this Article V on or after August 1, 2003 to be due and payable on any date determined by the Board (the "Call Date") which is on or after the date the Police Officer ceases to be a participant in the DROP as provided in Section 2.4(a)(ii) because he continues to be employed as a Police Officer. The outstanding balance of any such loan shall be determined as of the Call Date and shall include any accrued but unpaid interest. If any such loan is not repaid within ten days of the Call Date it shall be deemed to be in default and the provisions of Section 5.2(b) shall apply.

(b) If a loan is not repaid in accordance with the terms contained in the promissory note and a default occurs, the DROP may execute upon its

security interest in the Police Officer's or former Police Officer's DROP Account to satisfy the debt.

- (c) Any additional rules or restrictions as may be necessary to implement and administer the loan program shall be in writing and communicated to the Police Officers and to former Police Officers requesting a loan under the DROP. Such further documentation is hereby incorporated into the DROP by reference, and the Board is hereby authorized to make such revisions to these rules as it deems necessary or appropriate, on the advice of counsel.

## ARTICLE VI

### ADMINISTRATION OF DROP

#### **6.1 Board Administers the DROP**

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

#### **6.2 Individual Accounts, Records and Reports**

The Board shall maintain, or cause to be maintained, records showing the operation and condition of the DROP, including records showing the individual balances in each Police Officer's DROP Account, and the Board shall keep, or



cause to be kept, in convenient form such data as may be necessary for the valuation of the assets and liabilities of the DROP. The Board shall prepare or cause to be prepared and distributed to Police Officers participating in the DROP and other individuals or filed with the appropriate governmental agencies, as the case may be, all necessary descriptions, reports, information returns, and data required to be distributed or filed for the DROP pursuant to the Code, the Employee Retirement Income Security Act and any other applicable laws.

### **6.3 Meetings**

The Board shall hold meetings upon such notice, at such place or places, and at such time or times (but not less frequently than quarterly) as it may from time to time determine.

### **6.4 Action of Majority**

Any act which the DROP authorizes or requires the Board to do may be done by a majority of its members. The action of that majority expressed from time to time by a vote at a meeting or in writing without a meeting shall constitute the action of the Board and shall have the same effect for all purposes as if assented to by all members of the Board at the time in office. All decisions, actions and notifications of the Board shall be evidenced in writing signed by at least two members of the Board.

## **6.5 Compensation and Bonding**

No member of the Board shall receive any compensation from the DROP for his services as such. Except as may otherwise be required by law, no bond or other security need be required of any Board member in that capacity in any jurisdiction.

## **6.6 Establishment of Rules**

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

## **6.7 Limitation of Liability**

- (a) The members of the Board shall not incur any liability individually or on behalf of any other individuals for any act or failure to act, made in good faith in relation to the DROP or the funds of the DROP.
- (b) Neither the Board nor any member of the Board shall be responsible for any reports furnished by any expert retained or employed by the Board, but they shall be entitled to rely thereon as well as on certificates furnished by an accountant or an actuary, and on all opinions of counsel. The Board shall be fully protected with respect to any action taken or suffered by it in good faith in reliance upon such expert, accountant, actuary or counsel, and all actions taken or suffered in such reliance shall be conclusive upon any person with any interest in the DROP.

**ARTICLE VII**  
**GENERAL PROVISIONS**

**7.1 Amendment of DROP**

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

**7.2 Facility of Payment**

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

### **7.3 Information**

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

### **7.4 Prevention of Escheat**

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

## **7.5 Written Elections, Notification**

- (a) Any elections, notifications or designations made by a Police Officer pursuant to the provisions of the DROP shall be made in writing and filed with the Board in a time and manner determined by the Board under rules uniformly applicable to all employees similarly situated. The Board reserves the right to change from time to time the time and manner for making notifications, elections or designations by Police Officers under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.
- (b) Each Police Officer or former Police Officer who has a DROP Account shall be responsible for furnishing the Board with his current address and any subsequent changes in his address. Any notice required to be given to a Police Officer or former Police Officer hereunder shall be deemed given if directed to him at the last such address given to the Board and mailed by registered or certified United States mail. If any check mailed by registered or certified United States mail to such address is returned, mailing of checks will be suspended until such time as the Police Officer or former Police Officer notifies the Board of his address.

## **7.6 Benefits Not Guaranteed**

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

## **7.7 Administrative Expenses**

The Board may charge Police Officers such administrative fees as the Board, in its sole discretion, deems reasonable for taking any action under the DROP requested by the Police Officer, including, but not limited to, paying his DROP Account in accordance with his election under Section 4.2 of the DROP or issuing a loan under Article V of the DROP. Any such fees shall be used to pay the reasonable and necessary expenses of administering the DROP. The Board may pay any remaining reasonable and necessary expenses of administering the DROP, including, but not limited to, expenses incurred in connection with investing the DROP's assets, from the funds of the DROP to the extent they are not otherwise paid by the City.

## **7.8 Construction**

- (a) The DROP shall be construed, regulated and administered under the laws of Florida, except where other applicable law controls.
- (b) The masculine pronoun shall mean the feminine wherever appropriate.

- (c) The titles and headings of the Articles and Sections in this Plan are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

7.9 **USERRA**

Notwithstanding any provision of this plan to the contrary, effective as of December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986, as amended, USERRA and Chapter 185, Florida Statutes as applicable.

7.10 **Forfeiture of Retirement Benefits.**

Notwithstanding anything contained herein to the contrary, a Police Officer participant shall be subject to the forfeiture of his or her retirement benefits, including DROP benefits, in accordance with the provisions of the Retirement System and any applicable forfeiture laws.