

1 **Section 3.** Section 3.01 (b)(ix) of Article 3 on Eligibility is hereby amended to read as follows (with
2 the italics and strike-throughs used only for clarification in this section and not in Exhibit A attached to this
3 resolution):

4 *The benefits which may be provided to ~~A~~ any City Attorney, City Clerk or Treasurer,*
5 *Mayor or other Employee who is entitled to a retirement benefit under ~~State Statute and~~*
6 *~~who participates in this Plan shall be entitled before the time requirement benefits are to~~*
7 *~~commence, to receive either the benefit under this Plan or the benefit set forth in Ark. Code~~*
8 *Ann. § 24-12-120 through 24-12-125 shall be provided under this Plan; provided that such*
9 *person only be entitled to the Statutory Benefit, as provided below, or the benefit provided*
10 *to such person disregarding such Statutory Benefit, and not both benefits with respect to*
11 *the same service. ~~with respect to service on such capacity. Such persons shall not be~~*
12 *~~entitled to both benefits.~~* If such an Employee elects to receive benefits pursuant to Statute
13 and not this Plan, and such Employee has made Participant Contributions, such Employee
14 shall receive his Participant Contributions with Interest.

15 **Section 4.** The first sentence of Section 3.03 on Required Participant Contributions is hereby amended
16 to read as follows (with the italics used only for clarification in this section and not in Exhibit A attached
17 to this resolution):

18 As a condition of Employment with the Employer, *and as a condition of participating in*
19 *this Plan*, each Participant must agree to have his Compensation reduced on a payroll
20 deduction basis as set forth in this section.

21 **Section 5.** Section 5.02 (c) (ii) on Early Retirement is hereby amended to read as follows (with the
22 italics used only for clarification in this section and not in Exhibit A attached to this resolution):

23 (ii) If the Participant is retiring after age fifty-five (55) and has at least twenty (20)
24 Years of Service (but does not qualify for early retirement under (i)), the Early Retirement
25 Benefit shall be his Accrued Benefit, reduced actuarially in accordance with Section 1.02
26 for the period that the date on which his Early Retirement Benefit commences precedes his
27 Normal Retirement Date.

28 *Notwithstanding the above reductions under Paragraph (c) above, with respect to*
29 *Department Director who has attained Early Retirement Age and who has a combined age*
30 *and years of service of seventy (70) or more, such Department Director may retire without*
31 *any reduction.*

32 **Section 6.** The last paragraph of Section 5.12 on Cost of Living Increases is hereby amended to read
33 as follows (with the italics used only for clarification in this Section and not in Exhibit A attached to this
34 Resolution):

1 Notwithstanding any other provision of this section, no cost-of-living increase shall be
2 provided if the Fair Market Value of the assets of the Plan on the preceding December
3 31st is less than 80% of the accrued pension liabilities of the plan, determined by the
4 Administrative Committee using assumptions in accordance with Governmental
5 Accounting Standards Board (GASB) Standards (or in absence of GASB Standards, in
6 accordance with Actuarial Standards of Practice), unless contributions are made by July
7 1st (not counting normal contributions to the Plan) in an amount equal to the deficiency
8 determined as of such December 31st. *For purposes of making this determination, any*
9 *liabilities of the Mayor's Benefit under Section 5.13, and any accumulated employer and*
10 *employee contributions and earnings attributable to the Mayor's Benefit, determined in*
11 *a reasonable manner by the actuary for the Plan, shall be excluded.*

12 **Section 7.** Section 5.13 on Special Retirement Benefits With Respect to Mayors Who Meet Certain
13 Requirements is added as follows (with the italics used only for clarification in this section and not in
14 Exhibit A attached to this resolution):

15 *5.13 SPECIAL RETIREMENT BENEFITS WITH RESPECT TO MAYORS WHO MEET*
16 *CERTAIN REQUIREMENTS. Any Mayor of the City of Little Rock shall participate in this*
17 *Plan, and shall not participate in any other retirement plan with respect to such service,*
18 *subject to the terms and conditions set forth in this section. Each new Mayor shall execute*
19 *such documentation as is acceptable to the Employer agreeing to the provisions of this*
20 *section. If such documentation is not executed, the Mayor shall not be entitled to any*
21 *retirement benefit as a result of such service as Mayor, except as required by law.*

22 *(a) Any Mayor of the City of Little Rock who has agreed for this section to apply*
23 *shall receive a retirement benefit equal to the greater of (1) the benefit such Mayor*
24 *would have otherwise received under the Plan, but for this section, or (2) the benefit*
25 *provided under this Section, except, however, that in lieu of requiring five (5) years of*
26 *service to receive any benefit as provided under Section 6.01, such Mayor shall be*
27 *required to perform four (4) years of service as Mayor to receive such benefit.*

28 *(b) Any Mayor of the City of Little Rock who serves ten (10) years or more in such*
29 *office shall be entitled, upon reaching the age of sixty (60), to retire with an annual*
30 *retirement benefit payable for the remainder of such person's lifetime at a rate of one-*
31 *half (1/2) of the salary payable to the Mayor at the time of retirement. Such amount*
32 *shall be payable in monthly installments equal to 1/12th of the annual amount.*

33 *(c) Any Mayor of the City of Little Rock who serves twenty (20) years or more in*
34 *such office shall be entitled, regardless of age, to retire with an annual retirement*

1 *benefit payable for the remainder of such person's lifetime at a rate of one-half (1/2)*
2 *of the salary payable to the Mayor at the time of retirement. Such amount shall be*
3 *payable in monthly installments equal to 1/12th of the annual amount.*

4 *(d) For purposes of determining the Mayor's benefit in accordance with (a) or (b)*
5 *above, if a person has performed service with the City of Little Rock in a capacity other*
6 *than Mayor, for which such person would otherwise be entitled to a benefit under this*
7 *Plan, such service shall count towards the service needed for the Mayor's benefit in*
8 *accordance with the following:*

9 *(i) One (1)-year of Mayor's service for each two (2) years of such ser-*
10 *vice in another capacity, up to a maximum of an additional two (2) years of*
11 *credit towards a Mayor's Retirement Benefit; or*

12 *(ii) If the Mayor has less than twenty (20) years of Mayor's credit and*
13 *has reached at least age fifty-two (52), one (1)-year of Mayor's retirement*
14 *service for each two (2) years of such service in another capacity, up to a*
15 *maximum of an additional three (3) years of credit towards a Mayor's re-*
16 *tirement benefit; or,*

17 *(iii) If the Mayor has less than twenty (20) years of Mayor's credit and*
18 *has reached at least age fifty-four (54), one (1) year of Mayor's retirement*
19 *service for each two (2) years of such service in another capacity, up to a*
20 *maximum of an additional four (4) years credit towards a Mayor's*
21 *Retirement Benefit.*

22 *Notwithstanding the above, any credit towards the Mayor's benefit shall*
23 *not also be counted for purposes of a different benefit under this Plan, and*
24 *no credit towards the Mayor's benefit shall be counted if such person is also*
25 *participating in another retirement plan with respect to such service.*

26 *(e) On January 1st of each year, if a retired Mayor receiving retirement benefits*
27 *under this section has been retired for at least twelve (12) months, such retired Mayor*
28 *shall be entitled to a cost of living increase added to the Annual Retirement Benefit,*
29 *subject to the following conditions:*

30 *(i) In order to receive such cost of living increase, the Mayor must be*
31 *a Participant in this Plan;*

32 *(ii) The percentage of the cost of living increase shall be the same*
33 *percentage, if any, as determined as of such January 1st for other*
34 *Participants in this Plan under Section 5.12 above (even though such cost*

1 **ATTEST:**

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 Susan Langley, City Clerk

5 **APPROVED AS TO LEGAL FORM:**

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 Thomas M. Carpenter, City Attorney

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APPROVED:

 Frank Scott, Jr., Mayor

Exhibit A

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**CITY OF LITTLE ROCK
NON-UNIFORM EMPLOYEES DEFINED BENEFIT PENSION PLAN**

CITY OF LITTLE ROCK
NON-UNIFORM EMPLOYEES DEFINED BENEFIT PENSION PLAN

Originally Effective January 1, 2014

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1 **CITY OF LITTLE ROCK**

2 **NON-UNIFORM EMPLOYEES DEFINED BENEFIT PENSION PLAN**

3
4 The City of Little Rock, Arkansas, an Arkansas municipal corporation, has previously established the
5 City of Little Rock Non-Uniform Employees Defined Benefit Pension Plan, effective January 1, 2014. The
6 City hereby amends and restates the Plan, effective January 1, 2019, as set forth below.

7 The Plan has been approved by the legally constituted authority of the City of Little Rock, and is
8 intended to qualify under § 401 and § 501 of the Internal Revenue Code of 1986, as amended from time to
9 time (“Code”). Under the Plan, Employee contributions are designated as picked up by the Employer, with
10 the intention that such Employee contributions are not subject to Federal or State Income Taxes but are
11 subject to Federal Insurance Contributions Act (FICA) and Medicare Taxes.

12 The City of Little Rock Non-Uniform Employees Defined Benefit Pension Plan is hereby established
13 as a unit benefit type of Defined Benefit Pension Plan.

14 The terms and conditions of the Plan and Trust are as follows:

15 **ARTICLE 1.**

16 **DEFINITIONS**

17 As used in this document, the following terms shall have the indicated meanings:

18 **1.01. “ACCRUED BENEFIT”** shall mean the amount of benefit, expressed as a benefit payable at
19 Normal Retirement Date to which a Participant would be entitled if he terminated Employment as of any
20 date.

21 **1.02. “ACTUARIAL EQUIVALENCE”** shall mean, for the purposes of establishing the present
22 value of a stated benefit, including a lump sum distribution (other than a return of Participant Contributions
23 with Interest), the present value determined by discounting all future payments for interest and mortality
24 on the following:

- 25 (a) Interest Rate: 6.5%, pre-retirement;
26 6.5%, post-retirement;

27 (b) Mortality Table: RP- 2000 projected to 2014 with Scale AA and combined as a
28 unisex table as described in IRS Notice 2013-49, otherwise referred to as the 417(e) applicable mortality
29 table for 2014.

30 The Administrative Committee may change the Actuarial Equivalent assumptions with respect to forms
31 of benefit not yet elected if the Administrative Committee determines that new assumptions are needed to
32 more accurately reflect the relative values of various forms of benefit.

33 **1.03. “ADMINISTRATIVE COMMITTEE”** shall mean the persons named pursuant to Article 2
34 to administer the Plan.

1 **1.04. “ANNIVERSARY DATE”** shall mean the last day of each Plan Year.

2 **1.05. “ANNUITY STARTING DATE”** shall mean the first day of the first period for which an
3 amount is received as an annuity (whether by reason of retirement or disability).

4 **1.06. “AVERAGE MONTHLY COMPENSATION”** shall mean the sum of the monthly
5 Compensation received by a Participant over the highest thirty-six (36) complete consecutive calendar
6 months out of the Participant’s final 60 complete calendar months of employment with the Employer,
7 divided by thirty-six (36) (or if a Participant does not have thirty-six (36) complete calendar months,
8 averaged over his actual complete months of service).

9 **1.07. “BENEFICIARY”** shall mean the person or other legal entity who under the Plan becomes
10 entitled to receive a Participant's benefits upon the Participant’s death, if any.

11 **1.08. “COMPENSATION”** shall mean the amount of an eligible Employee’s base salary plus
12 longevity pay. Such amount includes such amounts even if made as contributions under Code § 414(h) or
13 elective contributions to a § 457(b) plan, a § 125 plan, or under § 132(f)(4) of the Code. Such amount
14 excludes all other forms of compensation, including, but not limited to overtime, bonuses and fringe
15 benefits. Compensation also does not include lump sum PTO, STD and Vacation payouts, whether
16 in-service or at termination of Employment.

17 Only Compensation received by an Employee after becoming a Participant shall be considered.

18 The annual Compensation of each Participant taken into account in determining allocations for any
19 Plan Year beginning after December 31, 2013, shall not exceed Two Hundred Fifty-Five Thousand Dollars
20 (\$255,000.00), as adjusted for Cost-of-Living Increases in accordance with § 401(a)(17)(B) of the Code.
21 Annual Compensation means Compensation during the Plan Year or such other consecutive twelve (12)-
22 month period over which Compensation is otherwise determined under the Plan (the determination period).
23 The Cost-of-Living Adjustment in effect for a calendar year applies to annual Compensation for the
24 determination period that begins with or within such calendar year.

25 Compensation does not include differential wages paid to Employees in qualified military service.

26 **1.09. “EARLY RETIREMENT AGE”** shall mean the date the Participant either (a) attains age
27 sixty-two (62) and has completed at least ten (10) Years of Service or; (b) attains age fifty-five (55) and has
28 completed at least twenty (20) Years of Service.

29 **1.10. “EFFECTIVE DATE”** of this Plan shall mean January 1, 2014, unless otherwise provided.

30 **1.11. “EMPLOYEE”** shall mean any person on the payroll of the Employer whose wages from the
31 Employer are subject to withholding for the purposes of federal income taxes and for the purposes of the
32 Federal Insurance Contributions Act.

33 Employees shall include Leased Employees. An individual who is not classified for the relevant period
34 as an Employee on the Employer’s (or affiliated employer’s) payroll records, whether because the

1 individual is treated as an independent contractor or an employee of another person, shall not be an
2 Employee, even if such classification is determined to be erroneous, or is retroactively revised pursuant to
3 an audit by a governmental agency, civil litigation or otherwise, and even though such individual's pay
4 shall be later determined to be subject to withholding as an Employee for previous periods.

5 **1.12. "EMPLOYER"** shall mean City of Little Rock, Arkansas, and any City Agency which agrees
6 to participate in this Plan pursuant to an agreement between such Agency and the City Manager.

7 **1.13. "EMPLOYMENT"** shall mean service as an Employee, beginning on the date the Employee
8 first performed an hour of service for Employer, and ending on the date on which Employee quits, retires,
9 is discharged or dies.

10 Employment shall mean service only as a full-time Employee. A full-time Employee shall be any
11 Employee whose job responsibilities require that he regularly devote such hours as would total 2,080 or
12 more in a year. A part-time Employee is not considered in the Employment of Employer for purposes of
13 accruing a benefit or vesting. If a full-time Employee becomes a part time Employee, he shall cease
14 receiving credit for accrual of benefits and vesting.

15 **1.14. "ENTRY DATE"** shall mean the Participant's date of hire in a position eligible to participate
16 in this Plan.

17 **1.15. "LEASED EMPLOYEE"** shall mean any person (other than an Employee of the recipient)
18 who pursuant to an agreement between the recipient and any other person ("leasing organization") has
19 performed services for the recipient (or for the recipient and related persons determined in accordance with
20 Section 414(n)(6) of the Code) on a substantially full-time basis for a period of at least one (1)-year, and
21 such services are performed under the primary direction or control by the recipient employer. Contributions
22 or benefits provided a leased employee by the leasing organization which are attributable to services
23 performed for the recipient employer shall be treated as provided by the recipient employer.

24 **1.16. "NORMAL RETIREMENT AGE"** shall mean the date the Participant reaches age sixty-five
25 (65) and has completed at least three (3) years of participation in the Plan.

26 **1.17. "NORMAL RETIREMENT DATE"** shall mean the first day of the month following a
27 Participant's Normal Retirement Age.

28 **1.18. "PARTICIPANT"** shall mean an Employee who shall have met all requirements for
29 participation in the Plan. Each Participant ceases to be such when he terminates his Employment with
30 Employer, except where pursuant to this Plan the distribution of benefits shall be deferred to a later date.

31 **1.19. "PARTICIPANT'S CONTRIBUTIONS WITH INTEREST"** shall mean the sum of the
32 mandatory contributions made by the Participant under the Plan, plus any amounts that the Participant has
33 paid or caused to be paid to the Plan to purchase credit for prior service under Section 5.05 of the Plan, plus

1 interest (if any) on such amounts, computed at 3% per annum. Interest shall be calculated through the
2 calendar quarter preceding distribution.

3 **1.20. "PLAN"** shall mean this document as now written and any amendments thereto which may
4 be in force from time to time.

5 **1.21. "PLAN YEAR"** shall mean the twelve (12)-month period ending on December 31st of each
6 year.

7 **1.22. "TRUST AGREEMENT"** shall mean the agreement, if any, between Employer and any
8 Trustee or successor Trustee named under the Trust Agreement which may be executed which provides for
9 the administration of the Trust Fund.

10 **1.23. "TRUSTEE"** shall mean the person or committee, or corporation having trust powers, so
11 designated by the Employer to serve as Trustee, if any, and who, by joining in the execution of the Trust
12 documents, acting in his capacity as a party to the Trust, signifies his acceptance of the Trust, or any person
13 or persons or corporation having trust powers duly appointed as a successor Trustee.

14 **1.24. "YEAR OF SERVICE"** shall mean twelve (12) completed calendar months during which the
15 Employee is in the Employment of the Employer. An Employee who is in the Employment of the Employer
16 for less than twelve (12) completed calendar months shall be given credit for a partial Year of Service,
17 based on the number of full months of Employment.

18 For vesting purposes and for purposes of calculating Average Monthly Compensation, Years of Service
19 while an Employee was excluded from the Plan under Section 3.01(b) shall not be counted. With respect
20 to Employees not excluded under Section 3.01(b) who become eligible to participate in this Plan on the
21 Effective Date, all prior years shall be counted for vesting purposes, in calculating Average Monthly
22 Compensation and for purposes of determining whether such Participant is eligible for early retirement
23 under Section 5.02. For benefit calculation purposes, Years of Service while an Employee was excluded
24 under Section 3.01(b) shall not be counted.

25 ARTICLE 2.

26 ADMINISTRATIVE COMMITTEE

27 **2.01. DESIGNATION AND ACCEPTANCE.** The Administrative Committee shall consist of
28 three (3) to five (5) members appointed by the City Manager of the City of Little Rock. The Director of
29 Finance and Human Resources Director shall be members of the Administrative Committee. The City
30 Manager shall appoint the remaining members. A member of the Administrative Committee shall not be
31 required to be an Employee or Participant. The City Manager shall advise the City Board concerning the
32 identity (or the positions) serving on the Administrative Committee.

33 The City Manager is hereby designated as agent for the service of legal process.

1 **2.02. RULES CONCERNING ADMINISTRATIVE COMMITTEE.** Provisions for resignation,
2 removal and replacement of members of the Administrative Committee shall be governed under applicable
3 rules and regulations established by such committee from time to time. Rules concerning procedures for
4 voting and making determinations by the Administrative Committee shall also be established pursuant to
5 such rules and regulations from time to time. Such rules and regulations may not be inconsistent with this
6 Agreement.

7 **2.03. POWERS.** The Administrative Committee shall have full power and discretion to administer
8 the Plan and to construe and apply all of its provisions. The Administrative Committee's powers and duties,
9 unless properly delegated, shall include, but are not limited to:

10 (a) Determining questions of eligibility and benefit entitlement;

11 (b) Compiling and maintaining all records necessary for the Plan, including preparing, filing
12 and furnishing reports and other documents required under the provisions of any law;

13 (c) Approving forms as needed for proper administration of the Plan;

14 (d) Adopting rules and regulations for the administration of the Plan, not inconsistent with the
15 Plan and the Trust Agreement, if applicable;

16 (e) Engaging such legal, administrative, actuarial, investment, accounting and other
17 professional services as necessary;

18 (f) Interpreting the provisions of the Plan and making rules for the regulation of the Plan;

19 (g) Establishing factors for determining actuarial equivalence, with the advice of the actuary
20 for the Plan;

21 (h) Establishing factors for purchase of prior service credit, with the advice of the actuary for
22 the Plan;

23 (i) Determining any cost of living increases in accordance with Section 5.12 of the Plan;

24 (j) Hearing claims for benefits and appeals thereon; and

25 (k) Doing and performing such other matters as may be provided for in other parts of this Plan
26 or the Trust Agreement, if applicable.

27 The Administrative Committee may delegate any non-discretionary functions to one or more
28 Employees of the Employer.

29 **2.04. ACTIONS.** The Administrative Committee and Employer shall be entitled to rely
30 conclusively upon the tables, valuations, certificates and reports furnished by an actuary or accountant
31 employed by the Administrative Committee or an insurer issuing contracts under this Plan, or upon opinions
32 of counsel or other experts, or both; and such members, and each of them, shall be fully protected as to any
33 action taken or allowed by them in good faith and reliance upon any such tables, valuations, certificates,

1 reports or opinions; and all actions taken or allowed by them shall be conclusive upon all persons having
2 or claiming any interest under the Plan.

3 **2.05. EXPENSES.** The Employer, or in its absence, the Trust Fund, if any, shall reimburse the
4 Administrative Committee for any necessary or proper expenses incurred in exercising its duties. Except
5 for such reimbursement, neither the Administrative Committee nor its individual members shall receive
6 any compensation for the administration of the Plan.

7 **2.06. CLAIM PROCEDURE.**

8 (a) Any Participant or Beneficiary may file with the Administrative Committee a written
9 statement setting forth a claim for benefits. The written statement shall be signed and set forth the
10 claim in a manner reasonably calculated to bring it to the Administrative Committee's attention.
11 The Administrative Committee shall render a decision on such claim, which shall be communicated
12 to the Participant or Beneficiary.

13 (b) If a claim is wholly or partially denied, notice of the decision shall be furnished by the
14 Administrative Committee to the claimant within ninety (90) days after receipt of the claim. If
15 within such ninety (90) days, the claim has neither been denied in writing nor granted, it shall be
16 deemed denied on the 90th day.

17 (c) Any notice of denial of claim shall be written in a manner calculated to be understood by
18 the claimant and shall include the following:

19 (i) the specific reason or reasons for denial;

20 (ii) specific reference to pertinent Plan provisions on which the denial is based;

21 (iii) a description of additional material or information necessary for the claimant to
22 perfect the claim and an explanation of why such material or information is necessary; and

23 (iv) appropriate information as to the steps to be taken if the claimant wishes to submit
24 the denied claim for review.

25 (d) A claimant may obtain a full and fair review by the Administrative Committee by appealing
26 a denied claim to the Administrative Committee in writing within sixty (60) days after receipt by
27 the claimant of the notice of denial. A claimant may review pertinent documents and may submit
28 issues and comments in writing. An appeal may be requested or pursued by a duly authorized
29 representative of the claimant. Within sixty (60) days of receipt of a request for review, a written
30 decision shall be rendered. The decision on review shall be in writing and shall include specific
31 reasons for the decision, written in a manner calculated to be understood by the claimant, as well
32 as specific references to the pertinent provisions of the Plan on which the decision is based.

33 **2.07. INDEMNIFICATION OF THE ADMINISTRATIVE COMMITTEE.** To the extent
34 permissible by law, the Administrative Committee and its individual members shall be indemnified by the

1 Employer against any and all liabilities arising by reason of any act or failure to act made in good faith
2 pursuant to the provisions of the Plan if the act or failure to act is judicially determined not to be a breach
3 of fiduciary responsibility. The indemnification shall include expenses and attorney's fees reasonably
4 incurred in the defense of any claim relating thereto. When making a determination or calculation, the
5 Administrative Committee shall be entitled to rely conclusively upon, and shall be fully protected by the
6 Employer in any action it may take or suffer in reliance upon, information furnished by the Employer. The
7 Employer and Administrative Committee shall be entitled to rely upon all reports furnished by any
8 consultant and actuary and upon all opinions given by legal counsel selected by the Employer and
9 Administrative Committee.

10 **ARTICLE 3.**

11 **ELIGIBILITY**

12 **3.01. ELIGIBILITY REQUIREMENTS.**

13 (a) Any Employee who is employed as of January 1, 2014, and who is not excluded below
14 shall become a Participant in this Plan on January 1, 2014. Each Employee hired after January 1,
15 2014, who is not excluded below shall become a Participant on the Participant's Entry Date.

16 (b) Notwithstanding the above requirements, the following shall be excluded from the Plan:

17 (i) All Employees who are not full-time Employees are not eligible for this Plan. A
18 full-time Employee is an Employee whose job responsibilities require that he regularly
19 devote such hours as would total 2,080 or more in a year.

20 (ii) All uniform Employees are excluded from this Plan (police and fire).

21 (iii) Police cadets are excluded from this Plan.

22 (iv) Employees who have attained age sixty (60) on January 1, 2014, shall have a one-
23 time irrevocable election whether to participate in this Plan, or to continue to participate in
24 the City of Little Rock Non-Uniform Employees Defined Contribution Plan. If such an
25 Employee declines to participate in this Defined Benefit Pension Plan, such Employee shall
26 be excluded from this Plan. Such election shall be made before the Effective Date.

27 (v) Employees hired prior to January 1, 1978, who are participants in the prior City of
28 Little Rock Defined Benefit Plan shall continue to participate in such plan and are not
29 eligible to participate in this Plan.

30 (vi) Department Heads and the City Manager and the City Attorney shall not
31 participate in this Plan, but instead will participate in the Defined Contribution Plan
32 established for persons in such positions. However, at any time while such individual is in
33 that position, the individual shall have a one-time irrevocable election to elect to participate
34 in this Plan, in which case the Participant and Employer contributions required under this

1 Plan will be made to this Plan instead of such Defined Contribution Plan. Such election
2 shall be made by filing a written election with the Administrative Committee. Until such
3 election is made, service in such positions will not be counted for benefit purposes; after
4 the election is made, the individual may purchase credit in accordance with Section 5.05.
5 Once made, such election shall be irrevocable. If an Employee who is a Participant in this
6 Plan and who is not in one of the above positions changes jobs so as to be employed in one
7 of these positions, such Employee shall cease to be eligible to participate in this Plan, and
8 shall participate in the Defined Contribution Plan described above; however, such
9 individual shall have the one-time election to be covered under this Plan.

10 (vii) All Employees not otherwise excluded above who are covered under another
11 retirement plan with respect to service which would be covered under this Plan including,
12 but not limited to, Judges, are excluded from this Plan.

13 (viii) All employees of outside agencies are excluded from this Plan unless the Board of
14 such agency adopts this Plan with the consent of the Employer.

15 (ix) Leased Employees shall be excluded from this Plan.

16 The benefits which may be provided to any City Attorney, City Clerk or Treasurer, Mayor or other
17 Employee who is entitled to a retirement benefit under Ark. Code Ann. § 24-12-120 through 24-12-125
18 shall be provided under this Plan; provided that such person only be entitled to the Statutory Benefit, as
19 provided below, or the benefit provided to such person disregarding such Statutory Benefit, and not both
20 benefits with respect to the same service. If such an Employee elects to receive benefits pursuant to Statute
21 and not this Plan, and such Employee has made Participant Contributions, such Employee shall receive his
22 Participant Contributions with Interest.

23 If a Participant becomes a member of an excluded class of Employees, for purposes of this Plan, the
24 Participant shall cease to receive credit for Years of Service for vesting or accrual purposes or determination
25 of Average Monthly Compensation. If an Employee who is excluded becomes eligible for participation in
26 the Plan, the Employee shall become a Participant on the Entry Date following the Employee's becoming
27 a member of an eligible class.

28 **3.02. PARTICIPATION.** Participation in the Plan by an eligible Employee is a condition of
29 Employment, subject to elections for certain Employees under Section 3.01.

30 **3.03. REQUIRED PARTICIPANT CONTRIBUTIONS.** As a condition of Employment with
31 the Employer, and as a condition of participating in this Plan, each Participant must agree to have his
32 Compensation reduced on a payroll deduction basis as set forth in this section. The payroll deduction shall
33 be 4.5% of Compensation. The required Employee contribution rate may be increased (or decreased) from
34 time to time by the City Board, provided that Employees shall be given at least sixty (60) days advance

1 notice of any change in the Employee contribution rate. The purpose of increasing the Employee
2 contribution rate is that for every 1% increase in actuarial cost, two-thirds (2/3) of such increase would be
3 borne by the Employer and one-third (1/3) by the Participants. Once amounts are deducted from
4 Employee's paychecks, the Employer shall assume the obligation for such amounts and shall pay such
5 amounts to the Plan as Participant contributions. Participant contributions shall be considered "picked-up"
6 for Federal Tax purposes and therefore shall not be subject to Federal Income Tax.

7 Except as provided in Sections 6.02 and 6.03, the Participant shall not receive a refund of the Participant
8 Contributions with Interest, but shall instead receive the Participant's Accrued Benefit as provided in this
9 Plan.

10 **3.04. ACCEPTANCE.** No provisions of the Plan shall be construed as abridging or limiting any
11 managerial right of the Employer, or giving an Employee or Participant the right to be retained in
12 Employment with the Employer, or interfering with the right of the Employer to discharge any Employee
13 or Participant at any time, subject to applicable law, regardless of the effect which such discharge may have
14 upon him as a Participant.

15 **ARTICLE 4.**
16 **CONTRIBUTIONS**

17 **4.01. FUNDING OF BENEFITS.** The Employer may contribute from time to time such amounts
18 in cash or property as the Employer shall determine.

19 The Employer intends, but does not guarantee, to make contributions to provide the benefits provided
20 by the benefit formula specified in the Plan. Benefits shall be limited to the extent funded in the Trust, and
21 nothing contained herein shall be construed as imposing any obligation on the Employer to continue its
22 contributions hereunder or following any suspension of contributions to resume or thereafter to continue its
23 contributions. No temporary suspension of contributions by Employer shall be deemed a termination of
24 the Plan.

25 **4.02. EMPLOYEE CONTRIBUTIONS.** Except for any Participant Contributions as provided in
26 Section 3.03 and for the purchase of credit pursuant to Section 5.05, Employees shall not be permitted to
27 contribute to the Plan.

28 **ARTICLE 5.**
29 **BENEFITS**

30 **5.01. NORMAL RETIREMENT INCOME.**

31 The Normal Retirement Income to be provided each Participant who retires on his Normal Retirement
32 Date shall be in a form permitted under Article 7 of the Plan, determined on the basis of a benefit which
33 shall commence on the Participant's Normal Retirement Date and which shall be payable on the first day
34 of each month thereafter during his lifetime, where the monthly benefit shall be equal to 2% of Average

1 Monthly Compensation multiplied by the Participant's Years of Service.

2 Except where a Participant has purchased credit for Years of Service before January 1, 2014, for
3 purposes of determining a Participant's Years of Service, only Years of Service after December 31, 2013,
4 shall be counted.

5 **5.02. EARLY RETIREMENT.**

6 (a) A Participant whose Employment with the Employer is terminated for reasons other than
7 death on or after his Early Retirement Age but prior to his Normal Retirement Date shall be eligible
8 to receive an Early Retirement Benefit, and his Early Retirement date shall be the first day of the
9 month coincident with or next following the date on which said Employment terminates.

10 (b) The Early Retirement Benefit payable to a Participant who meets the requirements of
11 Paragraph (a) shall be in a form permitted under Article 7.

12 (c) The amount of the Early Retirement Benefit shall be determined under this paragraph.

13 (i) If the Participant is retiring after attaining age sixty-two (62) and has at least ten
14 (10) Years of Service, the Early Retirement Benefit shall be his Accrued Benefit, reduced
15 by 1/12 of 3.0% for each full or partial month by which the Participant's Early Retirement
16 Date precedes his Normal Retirement Date.

17 (ii) If the Participant is retiring after age fifty-five (55) and has at least twenty (20)
18 Years of Service (but does not qualify for early retirement under (i)), the Early Retirement
19 Benefit shall be his Accrued Benefit, reduced actuarially in accordance with Section 1.02
20 for the period that the date on which his Early Retirement Benefit commences precedes his
21 Normal Retirement Date.

22 Notwithstanding the above reductions under paragraph (c) above, with respect to Department Director
23 who has attained Early Retirement Age and who has a combined age and years of service of seventy (70)
24 or more, such Department Director may retire without any reduction.

25 A Participant whose benefits under the Plan have not commenced may change the date elected
26 prospectively for the Participant's early retirement on a request in writing to the Employer at least thirty
27 (30) days prior to the newly-elected date.

28 **5.03. DISABILITY BENEFIT.**

29 (a) If a Participant has been determined to be totally and permanently disabled by the Social
30 Security Administration or under the Employer's Long-Term Disability Program while employed
31 by the Employer, the Participant shall be entitled to receive a disability benefit under this Plan.

32 (b) The Disability Benefit for a disabled Participant shall be the Participant's Accrued Benefit,
33 reduced actuarially in accordance with Section 1.02 for the period that the date on which his
34 Disability Benefit commences precedes his Normal Retirement Date.

1 (c) Such Disability Benefit may commence, at the Participant's election, on the first day of
2 any month following determination of disability. The Disability Benefit payable to an eligible
3 Participant shall be in a form permitted under Article 7.

4 **5.04. DEFERRED RETIREMENT AFTER NORMAL RETIREMENT DATE.** If a Participant
5 remains in service past his Normal Retirement Date, the retirement benefit commencing at his deferred
6 retirement date shall be the Participant's Accrued Benefit based on his Average Monthly Compensation
7 and Years of Service, as of his deferred retirement date.

8 **5.05. PURCHASE OF ADDITIONAL CREDIT.**

9 (a) A Participant may purchase additional credit, either with the Employer prior to January 1,
10 2014, or for Years of Service prior to participation in this Plan, or with one of the governmental
11 employers described in Paragraph (b) below, on the terms described in this section. A Participant
12 may purchase credit with such entities only if the Participant did not receive vested credit under a
13 defined benefit plan with such other entity, and only after providing documentation satisfactory to
14 the Administrative Committee concerning such credit.

15 (b) A Participant may purchase credit for service with any other local, county, public school,
16 state or federal governmental entity, provided that such credit satisfies the requirements of
17 Paragraph (a).

18 (c) The maximum number of years additional credit which may be purchased for service with
19 any governmental entity other than the Employer under this section shall be five (5).

20 (d) Years of service for which credit is purchased shall not be counted as Years of Service:

21 (i) for vesting purposes, if such service is with an employer other than the Employer,
22 or if such service is while such Employee was an excluded Employee under Section
23 3.01(b);.

24 (ii) for purposes of whether the Participant is eligible for early retirement, if such
25 service is with an employer other than the Employer, or if such service is while such
26 Employee was excluded under Section 3.01(b).

27 (e) A Participant may purchase credit for complete months of Employment by paying, or
28 causing to be paid, an amount equal to the actuarial value of such credit, determined by the
29 Administrative Committee from time to time. The actuarial factors determined by the
30 Administrative Committee in determining the actuarial value of purchased credit shall be
31 established for each Plan Year at the beginning of the Plan Year, and shall remain in place for the
32 balance of the Plan Year. Such factors need not be the actuarial factors described in Section 1.02.

33 (f) Purchases of credit may be made from time to time and at any time prior to ninety (90)
34 days prior to a Participant's commencement of benefits under the Plan. The Administrative

1 Committee may adopt rules concerning purchase of credit which are not inconsistent with this
2 section.

3 **5.06. LIMITATION ON MAXIMUM BENEFITS.**

4 (a) The Annual Benefit otherwise payable to a Participant at any time shall not exceed the
5 maximum permissible benefit, as determined in (b) below. If the benefit the Participant would
6 otherwise accrue in a limitation year produces an annual pension benefit in excess of the maximum
7 permissible benefit, the rate of accrual will be reduced so that the annual pension benefit will equal
8 the maximum permissible benefit. This Section 5.06 is intended to provide for the maximum benefit
9 limitations as required under Code Section 415 and does not give rise to a separate benefit under
10 the Plan.

11 If a Participant is, or has ever been, covered under more than one Defined Benefit Plan
12 maintained by the Employer, the sum of the Participant's annual benefits from all such plans,
13 determined as of the same retirement age, may not exceed the maximum permissible benefit. If the
14 sum of the annual benefits does exceed the maximum permissible benefit, the benefits from the
15 plan in which benefits are currently being accrued will be reduced first. In the case where benefits
16 are being accrued under more than one plan, including this Plan, the accruals under this Plan will
17 be reduced prior to the benefits in the other plan(s.)

18 (b) Determination of annual pension benefit and maximum permissible benefit.

19 (i) Annual Pension Benefit. For purposes of this section, the term "Annual Pension
20 Benefit" shall mean for any limitation year, the benefit, expressed in a form payable at
21 Normal Retirement Age, payable annually in the form of a straight life annuity. Except as
22 provided below, a benefit payable in a form other than a straight life annuity must be
23 adjusted to an actuarially equivalent straight life annuity before applying the limitations of
24 this section. No actuarial adjustment to the benefit is required for (1) the value of a qualified
25 joint and survivor annuity, (2) the value of benefits that are not directly related to retirement
26 benefits (such as the qualified disability benefit, pre-retirement death benefits, and
27 post-retirement medical benefits), and (3) the value of post-retirement Cost-of-Living
28 Increases made in accordance with Section 415(d) of the Code and the regulations
29 thereunder.

30 Solely for purposes of determining whether a benefit exceeds the limits of Code
31 Section 415 under this section, for benefits payable other than in the form of a lump sum,
32 the actuarially equivalent straight life annuity is equal to the greater of (i) the annual
33 amount of the straight life annuity (if any) payable to the Participant under the Plan at the
34 same annuity starting date as the form of benefit payable to the Participant or (ii) the annual

1 amount of the straight life annuity commencing at the same annuity starting date that has
2 the same actuarial present value as the form of benefit payable to the Participant, computed
3 using a 5% interest assumption and the applicable mortality table for that annuity starting
4 date.

5 Solely for purposes of determining whether a benefit exceeds the limits of Code
6 Section 415 under this section, for benefits payable in the form of a lump sum, the actu-
7 ally equivalent straight life annuity is the greatest of: (i) the annual amount of the straight
8 life annuity commencing at the annuity starting date that has the same actuarial present
9 value as the particular form of benefit payable, computed using the interest rate and
10 mortality table specified in Section 1.02; (ii) the annual amount of the straight life annuity
11 commencing at the annuity starting date that has the same actuarial present value as the
12 particular form of benefit, computed using a 5.5% interest assumption and the applicable
13 mortality table for the distribution; or (iii) the annual amount of the straight life annuity
14 commencing on the annuity starting date that has the same actuarial present value as the
15 particular form of benefit payable (computed using the applicable interest rate and the
16 applicable mortality table), divided by 1.05. The terms applicable interest rate and appli-
17 cable mortality rate shall be as defined in the final regulations under Code Section 415.

18 (ii) Maximum Permissible Benefit. For purposes of this section, the term "maximum
19 permissible benefit" shall mean, for any limitation year, the defined benefit dollar
20 limitation, as defined below. This amount may be further adjusted in Subsection (c). The
21 "defined benefit dollar limitation" shall be Two Hundred Five Thousand Dollars
22 (\$205,000.00), as adjusted, effective January 1st of each year, under Section 415(d) of the
23 Code in such manner as the IRS shall prescribe, and payable in the form of a straight life
24 annuity. The new limitation will apply to limitation years ending with or within the
25 calendar year for which the adjustment applies. Unless otherwise provided by law,
26 adjustments for increases in the cost of living shall not be taken into account for any year
27 before the year for which such adjustment first takes effect.

28 (iii) Adjustments to the Maximum Permissible Benefit.

29 A. If the Participant has less than ten (10) years of participation, the defined
30 benefit dollar limitation described above, shall be multiplied by a fraction, the
31 numerator of which is the number of years of participation and the denominator of
32 which is ten (10). A Participant is credited with a year of participation (computed
33 to fractional parts of a year) for each accrual computation period for which the
34 Participant is credited with the period of service required under the terms of the

1 Plan in order to accrue a benefit for the accrual computation period, and the
2 Participant is included as eligible to participate in the plan for at least one day of
3 the accrual computation period. A Participant who is permanently and totally dis-
4 abled within the meaning of Section 415(c) of the Code shall be credited with a
5 year of participation (or part thereof) with respect to that period. In no event will
6 more than one year of participation be credited for any twelve (12)-month period.

7 B. For purposes of determining a member's "maximum permissible benefit,"
8 the defined benefit dollar limitation above shall be adjusted for commencement of
9 benefits before the attainment of sixty-two (62) or after the attainment of sixty-five
10 (65). If benefits commence before the Participant attains age sixty-two (62), the
11 defined benefit dollar limitation applicable to the Participant is an annual benefit
12 payable in the form of a straight life annuity beginning at the earlier age that is the
13 actuarial equivalent of the defined benefit dollar limitation at age sixty-two (62),
14 with the actuarial adjustment as provided in the final regulations under Code
15 Section 415.

16 If benefits commence after the Participant attains age sixty-five (65), the
17 defined benefit dollar limitation applicable to the Participant is an annual benefit
18 payable in the form of a straight life annuity beginning at the later age that is
19 actuarially equivalent to the defined benefit dollar limitation at age sixty-five (65),
20 with the actuarial adjustment as provided in the final regulations under Code
21 Section 415.

22 (iv) Notwithstanding anything else in this Section to the contrary, the benefit
23 otherwise accrued or payable to a Participant hereunder shall be deemed not to exceed the
24 maximum permissible benefit limitation if:

25 A. the retirement benefits payable for a Plan Year under any form of benefit
26 with respect to such Participant under this Plan and under all other defined benefit
27 plans (regardless of whether terminated) ever maintained by the Employer do not
28 exceed One Thousand Dollars (\$1,000.00) multiplied by the Participant's number
29 of Years of Service or parts thereof (not to exceed ten (10)) with the Employer;
30 and

31 B. the Employer has not at any time maintained a defined contribution plan,
32 a welfare benefit fund, an individual medical account, or simplified employee
33 pension, in which the Participant participated. For this purpose only, employee
34 contributions under a Defined Benefit Plan (whether voluntary or mandatory) are

1 not treated as a defined contribution plan.

2 (c)

3 (i) If a Participant makes one (1) or more contributions to the Plan to purchase
4 permissive service credit under the Plan, then the requirements of this section shall be
5 treated as met only if—

6 A. the requirements of Subsection (b) are met, determined by treating the
7 accrued benefit derived from all such contributions as an annual benefit for
8 purposes of Subsection (b), or

9 B. the requirements of Code Section 415(c) are met, determined by treating
10 all such contributions as annual additions for purposes of such Section 415(c).
11 However, the percentage limit in Section 415(c) shall not be applicable for this
12 purpose.

13 (ii) For purposes of this subsection in general. The term “permissive service credit”
14 means service credit—

15 A. recognized by the governmental plan for purposes of calculating a
16 Participant's benefit under the Plan,

17 B. which such Participant has not received under such governmental plan,
18 and

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

23 Such term may include service credit for periods for which there is no
24 performance of service, and, notwithstanding clause (B) above, may include
25 service credited in order to provide an increased benefit for service credit which a
26 participant is receiving under the Plan.

27 (iv) Nonqualified service credit. For purposes of (2) above, the term “nonqualified
28 service credit” means permissive service credit other than that allowed with respect to:

29 A. service (including parental, medical, sabbatical, and similar leave) as an
30 employee of the Government of the United States, any State or political
31 subdivision thereof, or any agency or instrumentality of any of the foregoing,

32 B. service (including parental, medical, sabbatical, and similar leave) as an
33 employee (other than as an employee described in clause (i) of an educational
34 organization described in Section 170(b)(1)(A)(ii) which is a public, private, or

1 sectarian school which provides elementary or secondary education (through
2 Grade 12), or a comparable level of education, as determined under the applicable
3 law of the jurisdiction in which the service was performed,

4 C. service as an employee of an association of employees who are described
5 in clause (A), or

6 D. military service (other than qualified military service under Section
7 414(u)) recognized by such governmental plan shall not apply in determining
8 whether the transfer is for the purchase of permissive service credit, and

9 E. the distribution rules applicable under this title to the defined benefit
10 governmental plan to which any amounts are so transferred shall apply to such
11 amounts and any benefits attributable to such amounts.

12 **5.07. NON-DUPLICATION OF BENEFITS.** It is the intent of this Plan to avoid duplication of
13 benefits provided under this Plan and another pension plan of the Employer or the pension plans of any
14 other Employers with respect to which credit for prior service is given, if any, under this Plan. A benefit
15 payable under this Plan shall be offset by any benefit previously earned and payable to the Participant or
16 his Beneficiary under this Plan. The offset shall be applied by reducing the benefit payable to the Participant
17 under this Plan at the time the benefit commences by the Actuarial Equivalent of the prior benefit payable
18 under the Plan.

19 **5.08. BENEFITS NONFORFEITABLE UPON RETIREMENT.** A Participant's right to his
20 retirement benefits is non-forfeitable upon the attainment of his Normal Retirement Age.

21 **5.09. TERMINATION PRIOR TO EARLY RETIREMENT.** If a Participant terminates
22 employment prior to his Early Retirement Age, his benefit shall be payable under Article 6.

23 **5.10. MILITARY SERVICE.** Notwithstanding any provision of this Plan to the contrary, with
24 respect to a Participant who is in qualified military service, as defined in Code § 414(u)(5) and who is
25 reemployed within the time required by law after the expiration of his qualified military service, such
26 Participant may make up any required Participant contributions for the period of his qualified military
27 service, based on his deemed compensation during his qualified military service as defined in Code
28 § 414(u). Such make up Participant contributions may be made in either a single payment or in installments
29 and must be made during the period beginning with the date of the Participant's reemployment after his
30 military leave equal to the lesser of (i) three (3) times the period of his military leave and (ii) five (5) years.
31 If such Participant makes the Participant contributions, the Participant shall be credited with Years of Ser-
32 vice for the period required to be recognized for such military service.

33 **5.11. ADJUSTMENT FOR OVERPAYMENTS AND UNDERPAYMENTS.** Whenever as a
34 result of administrative error, a benefit is paid in excess of the amount payable under the provisions of this

1 Plan, the Participant shall immediately reimburse the Trustee upon written request the aggregate amount of
2 such excess payment. If as a result of administrative error, the amount paid to the Participant is less than
3 the amount to which he is entitled under the terms of this Plan, the Trustee shall immediately pay, upon
4 discovery of such error, an amount equal to the deficiency through the date of such payment. Subsequent
5 payments in either event shall be the correct amount payable under this Plan.

6 **5.12. COST OF LIVING INCREASES.** With respect to any Participant or Beneficiary who is
7 receiving Retirement Benefits under the Plan, the benefit under this Plan shall be increased each July 1st for
8 a Cost-of-Living Increase as described in this section. Any such increase shall be applied to the benefit of
9 any Participant or Beneficiary who has been drawing his or her benefit for at least twelve (12) months as
10 of such July 1st. The amount of any Cost-of-Living Increase shall be a percentage of such person's benefit
11 before such increase, times the lesser of 5% or two-thirds (2/3) of the increase in the Consumer Price Index
12 (all urban consumers), determined as of the December 31st preceding such July over the preceding
13 December 31st.

14 Notwithstanding any other provision of this section, no Cost-of-Living Increase shall be provided if the
15 Fair Market Value of the assets of the Plan on the preceding December 31st is less than 80% of the accrued
16 pension liabilities of the plan, determined by the Administrative Committee using assumptions in
17 accordance with Governmental Accounting Standards Board (GASB) Standards (or in absence of GASB
18 Standards, in accordance with Actuarial Standards of Practice), unless contributions are made by July 1st
19 (not counting normal contributions to the Plan) in an amount equal to the deficiency determined as of such
20 December 31st. For purposes of making this determination, any liabilities of the Mayor's benefit under
21 Section 5.13, and any accumulated employer and employee contributions and earnings attributable to the
22 Mayor's benefit, determined in a reasonable manner by the actuary for the Plan, shall be excluded.

23 **5.13. SPECIAL RETIREMENT BENEFITS WITH RESPECT TO MAYORS WHO MEET**
24 **CERTAIN REQUIREMENTS.** Any Mayor of the City of Little Rock shall participate in this Plan, and
25 shall not participate in any other retirement plan with respect to such service, subject to the terms and
26 conditions set forth in this section. Each new Mayor shall execute such documentation as is acceptable to
27 the Employer agreeing to the provisions of this section. If such documentation is not executed, the Mayor
28 shall not be entitled to any retirement benefit as a result of such service as Mayor, except as required by
29 law.

30 (a) Any Mayor of the City of Little Rock who has agreed for this section to apply shall receive
31 a retirement benefit equal to the greater of (1) the benefit such Mayor would have otherwise
32 received under the Plan, but for this section, or (2) the benefit provided under this Section, except,
33 however, that in lieu of requiring five (5) years of service to receive any benefit as provided under
34 Section 6.01, such Mayor shall be required to perform four (4) years of service as Mayor to receive

1 such benefit.

2 (b) Any Mayor of the City of Little Rock who serves ten (10) years or more in such office shall
3 be entitled, upon reaching the age of sixty (60), to retire with an annual retirement benefit payable
4 for the remainder of such person's lifetime at a rate of one-half (1/2) of the salary payable to the
5 Mayor at the time of retirement. Such amount shall be payable in monthly installments equal to
6 1/12th of the annual amount.

7 (c) Any Mayor of the City of Little Rock who serves twenty (20) years or more in such office
8 shall be entitled, regardless of age, to retire with an annual retirement benefit payable for the
9 remainder of such person's lifetime at a rate of one-half (1/2) of the salary payable to the Mayor
10 at the time of retirement. Such amount shall be payable in monthly installments equal to 1/12th of
11 the annual amount.

12 (d) For purposes of determining the Mayor's benefit in accordance with (a) or (b) above, if a
13 person has performed service with the City of Little Rock in a capacity other than Mayor, for which
14 such person would otherwise be entitled to a benefit under this Plan, such service shall count
15 towards the service needed for the Mayor's benefit in accordance with the following:

16 (i) One (1)-year of Mayor's service for each two (2) years of such service in another
17 capacity, up to a maximum of an additional two (2) years of credit towards a Mayor's
18 retirement benefit; or

19 (ii) If the Mayor has less than twenty (20) years of Mayor's credit and has reached at
20 least age fifty-two (52), one (1)-year of Mayor's retirement service for each two (2) years
21 of such service in another capacity, up to a maximum of an additional three (3) years of
22 credit towards a Mayor's Retirement Benefit; or,

23 (iii) If the Mayor has less than twenty (20) years of Mayor's credit and has reached at
24 least age fifty-four (54), one (1)-year of Mayor's retirement service for each two (2) years
25 of such service in another capacity, up to a maximum of an additional four (4) years credit
26 towards a Mayor's Retirement Benefit.

27 Notwithstanding the above, any credit towards the Mayor's Benefit shall not also be
28 counted for purposes of a different benefit under this Plan, and no credit towards the
29 Mayor's Benefit shall be counted if such person is also participating in another retirement
30 plan with respect to such service.

31 (e) On January 1st of each year, if a retired Mayor receiving retirement benefits under this
32 section has been retired for at least twelve (12) months, such retired Mayor shall be entitled to a
33 Cost of Living Increase added to the Annual Retirement Benefit, subject to the following
34 conditions:

1 (i) In order to receive such cost of living increase, the Mayor must be a Participant in
2 this Plan;

3 (ii) The percentage of the Cost of Living Increase shall be the same percentage, if any,
4 as determined as of such January 1st for other Participants in this Plan under Section 5.12
5 above (even though such cost of living for other Participants goes into effect on the fol-
6 lowing July 1st).

7 (iii) The retired Mayor must formally execute a legal waiver of any entitlement to any
8 particular percentage of Annual Cost of Living Increase that would otherwise be available
9 pursuant to Ark. Code Ann. Section 24-12-123, as amended.

10 (f) A Mayor who retires under this section may elect to receive a form of benefit other than a
11 life only benefit from among the optional forms of benefit provided in Section 7.03 of this Plan.
12 The amount of such benefit shall be the Actuarial Equivalent of the life only form of benefit.

13 (g) The Spouse of a Mayor who dies while in office after satisfying the requirements for a
14 Mayoral Benefit under this section shall be entitled to a Qualified Preretirement Survivor Annuity
15 in accordance with the provisions of Article 8 of the Plan.

16 (h) A Mayor shall be required to make required employee contributions pursuant to Section
17 3.03 of this Plan. A Mayor shall not be entitled to any refund of such contributions except as
18 provided in Section 6.02 or 6.03.

19 (i) With respect to Mayors retiring prior to the effective date of this amended and restated
20 document, the retirement benefit payable under this plan shall be provided pursuant to separate
21 agreement between such Mayor and the City.

22 **ARTICLE 6.**

23 **TERMINATION OF SERVICE**

24 **6.01. VESTED INTEREST ON TERMINATION.**

25 (a) If a Participant terminates service for reasons other than death or disability (in accordance
26 with Section 5.03) prior to Early or Normal Retirement Age, and the Participant has at least five
27 (5) Years of Vesting Service under the Plan, the Participant shall be entitled to a deferred benefit
28 payable under this Article 6. Notwithstanding the above, Department Heads, the City Manager,
29 Mayor, and City Attorney shall be vested at all times in their Accrued Benefit under the Plan. If a
30 Participant not in such positions is hired in one of such positions, the Participant shall be immedi-
31 ately vested. If a Participant in one of such positions ceases to be in such position (after having
32 elected to be in the Plan), such Participant shall remain 100% vested.

33 A Participant is 100% vested at the Participant's Normal Retirement Age, or upon death or
34 Disability while employed.

1 (b) The vested benefit payable to a Participant who terminates Employment shall be in a form
2 permitted under Article 7 and payable, at the Participant's election as set forth below:

3 (i) a deferred benefit commencing on his Normal Retirement Date, or

4 (ii) a benefit commencing at any age after age fifty-five (55) which is the Actuarial
5 Equivalent of his vested Accrued Benefit under Section 1.02.

6 **6.02. OTHER TERMINATION OF EMPLOYEE.** If a Participant terminates service for reasons
7 other than death or disability (in accordance with Section 5.03) prior to Early or Normal Retirement Age,
8 and the Participant does not have at least five (5) Years of Vesting Service under the Plan, the Participant
9 shall be entitled to the Participant Contributions with Interest, payable in a lump sum. Payment shall be
10 made as soon as administratively feasible after the end of the calendar quarter in which such Participant
11 terminates Employment. Interest shall be calculated through the end of the preceding calendar quarter
12 preceding distribution. No further benefit shall be payable to such Participant under the Plan.

13 **6.03. SMALL BENEFITS.** In the event the Participant is vested under Section 6.01 but the present
14 value of the Participant's vested Accrued Benefit is less than the Participant Contributions with Interest,
15 the Participant shall be paid the Participant Contributions with Interest in a single sum as soon as
16 administratively feasible after the end of the calendar quarter in which such Participant terminates
17 Employment. Interest shall be calculated through the end of the calendar quarter preceding distribution.
18 No further benefit shall be payable to such Participant under the Plan. In the event that the present value
19 of the Participant's vested Accrued Benefit is greater than the Participant Contributions with Interest but
20 the value of the Employer-provided benefit (the present value of the vested Accrued Benefit less the
21 Participant Contributions With Interest) is less than or equal to Five Thousand Dollars (\$5,000.00), then
22 the present value of the Participant's Accrued Benefit will be paid to the Participant or Beneficiary in a
23 single sum as soon as administratively feasible after the end of the calendar quarter in which such
24 Participant terminates Employment. Interest shall be calculated through the end of the calendar quarter
25 preceding distribution. No further benefit shall be payable to such Participant under the Plan. If any single
26 sum payment is made in accordance with this Section 6.03, no further benefit will be payable to the
27 Participant, his Beneficiary, or his surviving Spouse, as the case may be. For purposes of this Section 6.03,
28 the lump sum present value of the Accrued Benefit shall be computed according to the interest rate and
29 mortality assumptions used to calculate the lump sum payment under Section 1.02. For purposes of this
30 section, Participant Contribution with Interest do not include any Service Purchases made under Section
31 5.05.

32 Notwithstanding the above, if the total amount payable to the Participant shall exceed One
33 Thousand Dollars (\$1,000.00), distribution shall not be made without the Participant's consent.

34 **6.04. DIRECT ROLLOVER.** A distributee may elect, at the time and in the manner prescribed by

1 the Administrative Committee, to have any portion of an eligible rollover distribution paid directly to an
2 eligible retirement plan specified by the distributee in a direct rollover. An eligible rollover distribution is
3 any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible
4 rollover distribution does not include any distribution that is one of a series of substantially equal periodic
5 payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the
6 joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for
7 a specified period of ten (10) years or more; any distribution to the extent such distribution is required
8 under Section 401(a)(9) of the Code; and any hardship distribution. An eligible retirement plan is an indi-
9 vidual retirement account described in Section 408(a) of the Code, an individual retirement annuity de-
10 scribed in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, a qualified
11 trust described in Section 401(a) of the Code, an annuity contract described in section 403(b) of the Code
12 and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision
13 of a state, or any agency or instrumentality of a state or political subdivision of a state that accepts the
14 distributee's eligible rollover distribution and that agrees to separately account for amounts transferred into
15 such plan from this plan. A distributee includes an Employee or former Employee. In addition, the Em-
16 ployee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or for-
17 mer spouse who is the alternate payee under a qualified domestic relations order, as defined in Section
18 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. A direct
19 rollover is a payment by the plan to the eligible retirement plan specified by the distributee. For purposes
20 of the direct rollover provisions above, a portion of a distribution shall not fail to be an eligible rollover
21 distribution merely because the portion consists of after-tax employee contributions which are not includi-
22 ble in gross income. However, such portion may be transferred only to an eligible retirement plan that
23 agrees to separately account for amounts so transferred, including separately accounting for the portion of
24 such distribution which is includible in gross income and the portion of such distribution which is not so
25 includible. The Plan will permit a Direct Rollover of an Eligible Rollover Distribution to a Roth IRA in a
26 Qualified Rollover Contribution.

27 **ARTICLE 7.**

28 **FORM OF BENEFITS**

29 **7.01. JOINT AND SURVIVOR BENEFIT.** The benefit to which a Participant is entitled normally
30 shall be payable in equal monthly installments in accordance with Paragraphs (a) and (b), unless the
31 Participant (and his spouse, if applicable) elect, in the manner provided in Section 7.02, to have the benefit
32 paid in another form permitted under Section 7.03.

33 (a) The benefit payable to a Participant who is married on the date the Participant's benefit
34 commences shall be payable for the lifetime of the Participant, with one-half of the amount payable

1 to the Participant continued thereafter for the lifetime of his spouse. The amount of the benefit
2 shall be the Actuarial Equivalent of the life annuity for the Participant calculated under Section
3 1.02.

4 (b) The benefit payable to any Participant who does not have a spouse on the date the
5 Participant's benefit commences shall be a benefit payable only for the lifetime of the Participant.

6 **7.02. ELECTION OF OPTIONAL RETIREMENT BENEFITS.**

7 (a) Each Participant in the Plan may elect at any time to waive the form of benefit payable
8 under Section 7.01 and elect an optional form of benefit. Each Participant may revoke any such
9 election at any time prior to commencement of benefits. Any such election or revocation must
10 meet the requirements of Paragraphs (b) and (c). Once a Participant has commenced receipt of
11 benefits, any election is irrevocable.

12 (b) Any election under paragraph (b) shall not take effect unless

13 (i) the spouse, if any, of the Participant irrevocably consents in writing to such
14 election, and the spouse's consent is witnessed by a notary public, or

15 (ii) it is established to the satisfaction of the Administrative Committee that the
16 Participant has no spouse or that the spouse cannot be located.

17 Any consent (or establishment that no consent may be obtained) shall be effective only
18 with respect to such spouse.

19 (c) The Administrative Committee shall provide to each Participant, within a reasonable
20 period of time before the Annuity Starting Date, a written explanation of:

21 (i) The terms and conditions of the normal form of payment;

22 (ii) The Participant's right to make, and the effect of, an election under Paragraph (b)
23 to waive the normal form of benefit;

24 (iii) The right of the Participant's spouse under Section 7.02 (b); and

25 (iv) The right to make, and the effect of a revocation of such an election.

26 **7.03. OPTIONAL PAYMENT FORMS**

27 (a) If a Participant elects not to receive the form of benefit named in Section 7.01, the
28 Participant's benefits shall be distributed in such manner as the Participant shall elect in accordance
29 with one or more of the following means:

30 (i) in the form of an annuity for the life of the Participant;

31 (ii) in the form of an annuity for the life of the Participant with 120 months guaranteed;

32 or

33 (iii) in the form of an annuity for the life of the Participant and an annuity for 50%,
34 75% or 100% of such amount for the life of his surviving Joint Pensioner after the

1 Participant's death (joint and 50% survivor, joint and 75% survivor, or joint and 100%
2 survivor).

3 (iv) in the form of an annuity for the life of the Participant and an annuity for 50%,
4 75% or 100% of such amount for the life of his surviving Joint Pensioner after the
5 Participant's death (joint and 50% survivor, joint and 75% survivor, or joint and 100%
6 survivor), with 120 months guaranteed.

7 The Participant may designate a Beneficiary or Beneficiaries to receive any remaining
8 guaranteed payments after the death of the Participant and any Joint Pensioner. Such designation
9 shall be made in the form prescribed by the Administrative Committee and shall be effective for
10 all purposes upon the delivery thereof to the Administrative Committee. The Participant shall have
11 the right to change or revoke any such designation of such Beneficiary at any time (including after
12 the Participant's Annuity Starting Date) by filing a new designation or notice of revocation with
13 the Administrative Committee. If a Participant shall fail to designate a Beneficiary or the designated
14 Beneficiary shall predecease the Participant, any remaining payments shall be made to the
15 Participant's estate. If a designated Beneficiary survives the Participant but dies before the end of
16 the guaranteed period, any remaining payments shall be made to the Beneficiary's estate, unless
17 otherwise indicated in the Participant's beneficiary designation.

18 (b) Any optional form of distribution shall be the actuarial equivalent of the life annuity for
19 the Participant computed under Section 1.02.

20 **7.04. REQUIRED DISTRIBUTIONS.**

21 (a) Requirements of Treasury Regulations Incorporated. All distributions under the Plan will
22 meet the requirements of Treas. Reg. 1.401(a)(9)-2 through 1.401(a)(9)-9, including the incidental
23 benefit requirements of Code § 401(a)(9)(G).

24 (b) Notwithstanding any other provision of this Plan, distribution shall commence no later than
25 the required beginning date. The required beginning date is April 1st following the later of (i) the
26 calendar year in which the Participant reaches age 70½ or (ii) the calendar year in which the
27 Participant retires.

28 (c) Under no circumstances shall a Participant be permitted to select any method of payment
29 unless, under the terms of the method selected, the entire interest of such Participant will be
30 distributed in accordance with the final regulations prescribed by the Secretary of the Treasury
31 under § 401(a) (9) of the Internal Revenue Code of 1986 over the life of the Participant (or over
32 the lives of the Participant and his Spouse) or over a period not extending beyond the life
33 expectancy of the Participant (or the joint life expectancy of the Participant and his Spouse).

34 **7.05. DISTRIBUTION TO MINOR BENEFICIARY.** In the event a distribution is to be made

1 to a minor, then the Administrative Committee may, in its discretion, approve such distribution to the legal
2 guardian or, if none, to a parent of such beneficiary with whom the Beneficiary maintains his residence.
3 Such payment shall fully discharge the Trustee, the Employer and the Plan from all liability.

4 **ARTICLE 8.**

5 **DEATH BENEFITS**

6 **8.01. QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.**

7 (a) Except as elected otherwise pursuant to this Article, in the case of

8 (i) a Vested Participant who dies while in the Employment of Employer prior to age
9 fifty-five (55); or,

10 (ii) a Vested Participant who has terminated Employment with Employer (before age
11 fifty-five (55) who dies (whether before or after age fifty-five (55);) prior to the Annuity
12 Starting Date, if such Participant has a surviving spouse, a Qualified Preretirement Spouse
13 Annuity shall be provided to the spouse; if such Participant has no surviving spouse (or the
14 provisions of (b) apply) but has dependent children under the age of twenty-six (26), a
15 Qualified Survivor Dependent Annuity shall be provided to such children.

16 (b) A Qualified Preretirement Spouse Annuity shall not be provided unless the Participant and
17 his spouse had been married throughout the one (1)-year period ending on the Participant's death.

18 (c) A Qualified Preretirement Spouse Annuity shall mean an annuity for the life of the
19 surviving spouse which shall commence on the first day of the calendar month coincident with or
20 next following the later of the Participant's date of death or the date the Participant would have
21 attained age fifty-five (55). Preretirement Death Benefit payments shall be made on the first day
22 of each month following the applicable commencement date, and the last payment shall be the
23 payment due in the month in which the spouse's death occurs. The spouse may elect an annuity
24 with 120 months certain which shall be the Actuarial Equivalent of the life annuity.

25 (d) The amount of the Qualified Preretirement Spouse Annuity for a Participant described in
26 paragraph (a) shall be the amount payable to the spouse if

27 (i) in the case of a Vested Participant who had previously terminated employment, the
28 Participant had

29 A. survived to age 55;

30 B. elected a joint and 75% survivor benefit under Section 7.03 commencing
31 on the first day of the calendar month following age fifty-five (55) in accordance
32 with Article 6; and

33 C. died before the first monthly payment was made; or

34 (ii) in the case of a Vested Participant who dies while in the Employment of Employer,

1 the Participant had

2 A. separated from service on the date of death;

3 B. survived to age fifty-five (55);

4 C. elected a joint and 75% survivor benefit under Section 7.03 commencing
5 on the first day of the calendar month following age fifty-five (55) in accordance
6 with Articles 6; and

7 D. died before the first monthly payment was made.

8 Thus, the Qualified Preretirement Spouse Annuity shall be 75% of the benefit the Participant
9 would have received had the Participant elected a joint and 75% annuity commencing on the date
10 described above.

11 The amount of the Qualified Preretirement Dependent Annuity for a Participant described in
12 paragraph (a) shall be 50% of the Participant's Accrued Benefit as of the date of the Participant's
13 death, payable commencing as of the first day of the calendar month following the Participant's
14 death, and ceasing with the calendar month in which the Participant's youngest living child reaches
15 age twenty-six (26). If a Participant has more than one dependent child under the age of twenty-six
16 (26) upon death, as each child attains age twenty-six (26), the benefit to such child shall cease, and
17 the Qualified Preretirement Dependent Annuity shall be divided equally among the Participant's
18 remaining living children under the age of twenty-six (26).

19 **8.02. DEATH BENEFITS AFTER AGE 55.**

20 (a) In the case of a Vested Participant who dies after attaining age fifty-five (55) while in the
21 Employment of Employer, or who dies after retiring on or after age fifty-five (55) but before his
22 Annuity Starting Date, and who has a surviving spouse, a death benefit shall be provided to the
23 spouse; provided that no such death benefit shall be provided unless the Participant and spouse had
24 been married throughout the one (1)-year period ending on the Participant's death. If there is no
25 spouse, or if they have not been married throughout the one (1)-year period ending on the
26 Participant's death, such death benefit shall be paid to the Participant's children under the age of
27 twenty-six (26).

28 (b) The death benefit shall be the benefit commencing on the calendar month coincident with
29 or next following the Participant's date of death.

30 (c) The amount of the Qualified Preretirement Survivor Annuity for a Participant described in
31 (a) shall be the amount payable to the spouse if the Participant had

32 (i) elected a joint and 75% survivor benefit under Section 7.03 commencing on the
33 first day of the calendar month coincident with or next following the Participant's date of
34 death; and

1 (ii) died before the first monthly payment was made.

2 Thus, the Qualified Preretirement Spouse Annuity shall be 75% of the benefit the Participant would
3 have received had the Participant elected a joint and 75% annuity commencing on the date described above.

4 If there is no spouse (or if the Participant has not been married throughout the one (1)-year period
5 ending on the Participant's death, the amount of the Qualified Preretirement Dependent Annuity for a
6 Participant described in paragraph (a) shall be 50% of the Participant's Accrued Benefit as of the date of
7 the Participant's death, payable commencing as of the first day of the calendar month following the
8 Participant's death, and ceasing with the calendar month in which the Participant's youngest living child
9 reaches age twenty-six (26). If a Participant has more than one dependent child under the age of twenty-six
10 (26) upon death, as each child attains age twenty-six (26), the benefit to such child shall cease, and the
11 Qualified Preretirement Dependent Annuity shall be divided equally among the Participant's remaining
12 living children under the age of twenty-six (26).

13 **8.03. DEATH BENEFITS UNDER USERRA-QUALIFIED MILITARY SERVICE.** If a non-
14 vested Participant dies while performing qualified military service (as defined in Code section 414(u)), the
15 death benefit under this Plan shall be determined as if the Participant resumed service with the Employer
16 and then terminated Employment on account of death. The additional benefits shall not include benefit
17 accruals relating to the period of qualified military service.

18 **8.04. PARTICIPANT CONTRIBUTIONS WITH INTEREST IN THE EVENT OF DEATH**
19 **PRIOR TO ANNUITY STARTING DATE.** In the event that a Participant dies before the Annuity
20 Starting Date, and the Participant Contributions with Interest is greater than the present value of the benefit
21 provided under Section 8.01 or 8.02, as applicable, determined using the actuarial assumptions of Section
22 1.02, the excess of the Participant Contributions with Interest over such present value shall be paid to the
23 Beneficiary or Beneficiaries designated by the Participant in accordance with this section. Such designation
24 shall be made in the form prescribed by the Administrative Committee and shall be effective for all purposes
25 upon the delivery thereof to the Administrative Committee. The Participant shall have the right to change
26 or revoke any such designation from time to time by filing a new designation or notice of revocation with
27 the Administrative Committee. If a Participant shall fail to designate a Beneficiary or the designated
28 Beneficiary shall predecease the Participant, the Participant's death benefit shall be paid to the Participant's
29 spouse, or if none, to the Participant's living descendants, per stirpes, or if none, to the Participant's estate.
30 Any such death benefit shall be paid in a lump sum as soon as administratively feasible after application is
31 made in good order by the Beneficiary to the Administrative Committee.

32 **8.05. DIRECT ROLLOVER OF NON-SPOUSAL DISTRIBUTIONS.**

33 (a) A non-spouse Beneficiary who is a "designated beneficiary" under Code §401(a)(9)(E) and
34 the regulations thereunder, by a direct trustee-to-trustee transfer ("direct rollover"), may roll over

1 all or any portion of the Beneficiary’s distribution to an individual retirement account the
2 Beneficiary establishes for purposes of receiving the distribution. In order to be able to roll over
3 the distribution, the distribution otherwise must satisfy the definition of an eligible rollover
4 distribution.

5 (b) Although a non-spouse Beneficiary may roll over directly a distribution as provided in this
6 section, the distribution is not subject to the direct rollover requirements of Code §401(a)(31), the
7 notice requirements of Code §402(f) or the mandatory withholding requirements of Code §3405(c).
8 If a non-spouse Beneficiary receives a distribution from the Plan, the distribution is not eligible for
9 a “sixty (60)-day” rollover.

10 (c) A non-spouse Beneficiary may not roll over an amount which is a required minimum
11 distribution, as determined under applicable Treasury regulations and other Revenue Service
12 guidance.

13 **8.06. NO DEATH BENEFITS EXCEPT AS PROVIDED.** Except with respect to the payment
14 of a Participant Contributions with Interest in accordance with Section 8.04, death benefits shall not be
15 payable hereunder except as provided in this Article or under the terms of an optional form of benefit
16 selected by the Participant. This exclusion applies to, but is not limited to the following:

17 (a) A death benefit shall not be payable under the Plan if a Participant dies after benefit
18 payments to the Participant have commenced unless the form of benefit specifically provides for a
19 benefit.

20 (b) A death benefit shall not be payable under the Plan if a Participant dies while not in the
21 employment of Employer and before commencement of benefits unless otherwise required under
22 this Article.

23 (c) A death benefit shall not be payable under the Plan if a Participant dies while in the
24 Employment of Employer and before commencement of benefits unless otherwise required under
25 this Article.

26 A death benefit shall not be provided to a Participant who is not survived by a spouse or a dependent
27 child under the age of twenty-six (26) unless the Participant survives the Annuity Starting Date and the
28 form of benefit selected has a death benefit.

29 **ARTICLE 9.**

30 **AMENDMENT OF PLAN**

31 **9.01. RIGHT OF EMPLOYER TO AMEND PLAN.** The Board of Directors of the City of Little
32 Rock shall have the right to amend this Plan at any time to any extent that it may deem advisable. In
33 addition, the City Manager may adopt any amendment that the Plan’s legal counsel agrees is required by
34 applicable law. A copy of such amendment shall be delivered to the Trustee and Administrative Committee.

1 All Participants shall be bound by amendments adopted in accordance herewith. No amendment may (a)
2 make it possible for any part of the corpus or income of the Plan to be used or diverted to purposes other
3 than for the exclusive benefit of the Participants or their Beneficiaries, if such diversion is not allowed by
4 applicable law; or (b) reduce the Accrued Benefit, as of the date of the amendment, of any Participant, to
5 the extent funded.

6 **ARTICLE 10.**

7 **TERMINATION OF PLAN**

8 **10.01. TERMINATION OF PLAN.** The Board of Directors of the City of Little Rock shall have
9 the right to terminate the Plan at any time by delivering to the Administrative Committee and Trustee, if
10 any, notice of such termination. Upon termination, distribution of the Participants' Accrued Benefits, to
11 the extent funded, shall be made at such time and in such manner as though the Plan had not been
12 terminated. If the Plan is terminated, any future cost of living increases under Section 5.12 shall not be
13 provided. Such payments may be made through the purchase of annuities. Any assets exceeding those
14 necessary to fund the Participants' Accrued Benefits as of date of termination shall revert to the Employer.

15 **10.02. NONFORFEITURE PROVISIONS.** It is hereby expressly provided that upon termination
16 of the Plan, the rights of all Participants to benefits accrued to the date of such discontinuance, to the extent
17 then funded, shall be non-forfeitable.

18 **ARTICLE 11.**

19 **MISCELLANEOUS PLAN PROVISIONS**

20 **11.01. HEADINGS AND SUBHEADINGS.** The headings and subheadings in this Agreement are
21 inserted for convenience of reference only and are not to be considered in construction of the provisions
22 hereof.

23 **11.02. INTERPRETATION.** This Plan shall be construed, administered and governed in all
24 respects under and by the laws of the State of Arkansas. In that connection, wherever appropriate, singular
25 words used in this Agreement may include the plural, the plural may include the singular, and the masculine
26 may include the feminine or neuter gender.

27 **11.03. SUCCESSORS AND ASSIGNS.** This Agreement shall ensure to the benefit of, and be
28 binding upon, the parties hereto, their beneficiaries, heirs, executors, administrators, and assigns.

29 **11.04. FAILURE OF INITIAL QUALIFICATION.** In the event this Plan or Trust shall initially
30 fail to qualify under Code § 401, as amended, all contributions, together with any income received or
31 accrued thereon, less appropriate expenses payable by the Trustee which have not been paid by the
32 Employer, shall be returned to the Employer, or to the person making such contribution, as the case may
33 be, within one year after the date the initial qualification is denied. Notwithstanding any other provision to
34 the contrary in this Plan or the Trust Agreement, no Participant or Beneficiary shall have any vested right

1 or claim to any assets of the Trust Fund resulting from Employer contributions prior to the issuance by the
2 Internal Revenue Service of a favorable letter of determination, provided application for determination of
3 qualification is made within the time prescribed by law for filing the employer's tax return for the tax year
4 in which the Plan is adopted.

5 **11.05. MISTAKE IN CONTRIBUTION.** In the event that a contribution is made by reason of a
6 mistake of fact, it shall be returned to the Employer. The amount to be returned to the Employer is the
7 excess of (a) the amount contributed over (b) the amount which would have been contributed had there not
8 occurred a mistake of fact. The return to the Employer of the amount involved must be made within one
9 year of the mistake in payment. Earnings attributable to the excess contribution may not be returned to the
10 Employer, but losses attributable thereto must reduce the amount to be so returned. If the withdrawal of
11 the amount attributable to the mistake in contribution will cause the balance of Plan assets to be reduced to
12 less than the balance which would have existed had the mistaken amount not been contributed, then the
13 amount to be returned to the Employer shall be reduced so as to avoid such reduction.

14 **11.06. SPENDTHRIFT CLAUSE.** No person entitled to any benefits under this Plan shall have any
15 right to assign, transfer, hypothecate, encumber, commute or anticipate his interest in any benefits under
16 this Plan, and such benefits shall not in any way be subject to any legal process or levy of execution upon,
17 or attachment or garnishment proceedings against, the same for the payment of any claim against any such
18 person.

19 The above paragraph shall not apply to the creation, assignment or recognition of any benefit payable
20 with respect to any Participant pursuant to a domestic relations order, to the extent required by Arkansas
21 law.

22 **11.07. EXCLUSIVE BENEFIT.** The Employer shall have no beneficial interest in the Fund or any
23 part thereof, and no part of the Fund shall ever revert or be repaid to the Employer, either directly or
24 indirectly, except as set forth in the Plan. The corpus or income of the Fund may not be diverted to or used
25 for other than the exclusive benefit of the Participants and their Beneficiaries.

26 **11.08. NON-TRANSFERABILITY OF ANNUITY CONTRACTS.** All annuity contracts issued
27 under the Plan shall be non-transferable at any time when such contracts are held by any person other than
28 a Trustee. On any distribution of annuity contracts held hereunder, such contracts shall first be endorsed
29 to provide in substance that such contracts may not be sold, assigned, discounted, or pledged as collateral
30 for a loan or as security for the performance of any obligation or for any other purpose, to any person other
31 than the insurance company issuing such contracts.

32 **11.09 ADOPTION BY CITY AGENCIES/WITHDRAWAL.** Upon approval of the Board of
33 Directors of the City of Little Rock, an agency of the City may adopt this Plan and its employees shall
34 become Participants as provided in this Plan. Such agency shall sign a participation agreement governing

1 its participation in the Plan. A participating agency which has previously adopted the Plan may withdraw
2 from participation in the Plan upon giving such notice as is required pursuant to the participation agreement
3 between the City of Little Rock and such participating agency; provided, that the participating employer
4 may not withdraw in the event that the fair market value of the assets of the Plan on the preceding December
5 31st is less than 100% of the accrued pension liabilities of the plan, determined by the Plan’s Administrative
6 Committee using assumptions in accordance with GASB standards, or in absence of GASB standards, in
7 accordance with Actuarial Standards of Practice. This provision shall not apply if (1) the accrued pension
8 liabilities for the active employees of the participating Employer are less than 2% of the total accrued
9 pension liabilities for the Plan or (2) in the event the participating Employer pays an amount equal to the
10 difference between (i) the participating Employer’s share of the assets of the Plan and (ii) the accrued
11 pension liabilities for the active employees of the participating Employer. The participating Employer’s
12 share of the assets of the Plan shall be the total fair market value of the assets of the Plan times a fraction,
13 the numerator of which is the accrued pension liabilities for the active employees of the Participating
14 Employer, and the denominator of which is the total accrued pension liabilities of the Plan. In the event of
15 a withdrawal by the participating Employer, all benefits of Employees of the participating Employer shall
16 be frozen as of the withdrawal date. Distributions to such employees shall be made in accordance with the
17 provisions of the Plan, upon ultimate retirement or other termination of employment with the participating
18 Employer. There shall be no transfer of assets upon withdrawal by the participating Employer. In the event
19 that the participating Employer fails to make the required contributions as required under the Plan and
20 pursuant to the participation agreement between the City and such participating Employer, such
21 participation agreement may provide that after a specified period of time, the participating Employer shall
22 be deemed to have withdrawn from the Plan, and the participating Employer shall be required to pay the
23 withdrawal amount described above. In such event, the benefits for employees of the participating
24 Employer shall be frozen as described above as of the date of the deemed withdrawal. In the event that the
25 participating Employer withdraws under this section and fails to pay any amounts owed under the
26 participation agreement, benefits for the Participants of such participating Employer shall be limited to the
27 extent funded by the participating Employer.

28 Executed by Employer on this the ____ day of _____, 2019.

29 **CITY OF LITTLE ROCK, ARKANSAS**

30 **By** _____

31

32 **Its** _____

33 **Title**