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CONSOLIDATION UPDATE: FEBRUARY 22, 2012

THE CITY OF WINNIPEG

BY-LAW NO. 7869/2001

A By-law of THE CITY OF WINNIPEG to establish a pension benefits program for members of Council of The City of Winnipeg.

WHEREAS the Legislature of the Province of Manitoba has enacted *The City of Winnipeg Act*, enabling Council to pass a By-law to establish a pension benefits program maintained by The City of Winnipeg for members of Council;

AND WHEREAS Council, at its meeting on November 22, 2000, adopted Clause 1 of the Report of the Secretariat Committee that a By-law be prepared to establish a pension benefits program for all members of Council of The City of Winnipeg;

AND WHEREAS Council has determined that the establishment of the pension benefits program be effective from January 1, 2001;

NOW THEREFORE THE CITY OF WINNIPEG, in Council assembled, enacts as follows:

DEFINITIONS

1. In this By-law:

"Board" means the Council Pension Benefits Board created and established under this By-law.

"Board Member" means a member of the Board.

"City" means The City of Winnipeg as established and constituted by *The City of Winnipeg Charter*.

amended 27/2012

"Council" means the City Council.

"Councillor(s)" means a person or persons elected to and serving as a member of Council of the City, including the mayor.

"Employee Benefits Program" means the benefits program consisting of the Civic Employees' Pension Plan, the Civic Employees' Early Retirement Benefits Arrangement and the Long Term Disability Plan, and any such successor program.

"Council Pension Benefits Program" means the benefits program consisting of The City of Winnipeg Council Pension Plan and The City of Winnipeg Council Early Retirement Benefits Arrangement.

"Early Retirement Benefits Arrangement" means The City of Winnipeg Council Early Retirement Benefits Arrangement, as set out in Part B.

"Investment Committee" means the Council Pension Benefits Investment Committee established under this By-law.

"Investment Manager" means a life insurance company, trust company, or an investment counsellor registered with a provincial Securities Commission.

"Member" means a person who is a member of the Plan as defined in Part A.

"Pension Fund" means The City of Winnipeg Council Pension Fund established for the Plan under Section 4.

"Plan" means The City of Winnipeg Council Pension Plan, as set out in Part A.

"Surplus" means the amount determined in accordance with subsection 4(5).

"The City of Winnipeg Charter" means *The City of Winnipeg Charter*, as amended from time to time.

amended 27/2012

THE PLAN

2. (1) There is hereby established a registered pension plan for members of Council of The City of Winnipeg which shall be known as "The City of Winnipeg Council Pension Plan" (hereinafter called the "Plan") and the Plan shall be part of the Council Pension Benefits Program for members of Council, and shall be deemed to have come into existence on January 1, 2001, and this By-law shall be known as "The Council Pension Plan By-law".

(2) The conditions of the Plan for eligibility, contributions, and benefits shall be determined in accordance with Part A of this By-law.

(3) The primary purpose of the Plan is to provide Councillors and/or their beneficiaries with periodic payments after retirement and until death in respect of the Member's Credited Service under the Plan.

EARLY RETIREMENT BENEFITS ARRANGEMENT

3. (1) The early retirement benefits established under this By-law shall be part of the Council Pension Benefits Program of the City, and shall be known as The City of Winnipeg Council Early Retirement Benefits Arrangement, and shall be deemed to have come into existence on January 1, 2001.

(2) The conditions of the Early Retirement Benefits Arrangement for eligibility, contributions, and benefits shall be determined in accordance with Part B of this By-law.

(3) The Board shall establish an Early Retirement Benefits Account for the Plan.

PENSION FUND

4. (1) The Board shall establish a Pension Fund for the Plan.

(2) The Board shall hold the Pension Fund in trust for the City, the Members and their beneficiaries and shall deal with it in accordance with this By-law.

(3) (a) The Pension Fund shall consist of one account for the Plan where all contributions in accordance with the terms of the Plan shall be credited to the account.

(b) All benefits paid in accordance with the terms of the Plan shall be deducted from the account.

(c) Expenses paid out of the Pension Fund may be deducted from the account, as determined by the Board.

(4) There shall be an actuarial valuation of the Pension Fund and of the benefits provided under this By-law made as of January 1, 2001 and at least every three years thereafter.

(5) The Surplus disclosed by an actuarial valuation is the excess, if any, of

(a) the assets of the Pension Fund

over

(b) the liability for benefits payable under the Plan which are deductible from the Pension Fund in accordance with this section; and

(c) the liability for the benefits payable under the Early Retirement Benefits Arrangement.

(6) Any Surplus disclosed in an actuarial valuation of the Pension Fund after January 1, 2001 may be used to reduce the City's required contributions to the Plan or used as a contingency reserve to offset possible future losses to the Plan.

(7) Any Surplus determined in accordance with subsection (6) of this Section shall be applied based on the direction from the Board considering the recommendation of the Actuary.

(8) No property or interest in the Pension Fund, nor any benefits payable therefrom, shall be subject to sale, transfer, alienation, assignment, encumbrance or other process except as provided by the Pension Plan and this By-law.

(9) The Board in the name of The City of Winnipeg Council Pension Fund shall hold all property forming the Pension Fund.

(10) The Pension Fund shall be invested based on recommendation of the Investment Committee who shall use *The Pension Benefits Act* of Manitoba and its Regulations as a guideline.

CONTRIBUTIONS TO THE COUNCIL BENEFITS PROGRAM

5. Councillors shall contribute only to The City of Winnipeg Council Pension Plan. City contributions shall be paid as required in Parts A and B, adjusted by the application of any Surplus declared in Section 4 herein.

SOLVENCY OF THE COUNCIL PENSION BENEFITS PROGRAM

6. (1) The City shall at all times guarantee the solvency of the Council Pension Benefits Program. The Board, upon receipt of each actuarial valuation, shall advise the City who shall have the right to amend any terms and conditions of the Council Pension Benefits Program in respect of service yet to be completed in order to maintain such solvency. This may include, but is not limited to, increasing the Member's required contributions.

(2) *repealed 27/2012*

THE BOARD

7. (1) The Board shall consist of:

(a) three representatives appointed by Council, only one of whom may be a Councillor, and

(b) the Chief Financial Officer of the City and where such position is vacant, the acting designate.

(2) Upon becoming a Board Member, each Board Member shall immediately become vested with all the property, rights, powers and duties of a trustee in relation to the Pension Fund, without the necessity of the execution of any conveyance, assignment or transfer or other documents.

(3) When a Board Member ceases to be a Board Member, he or she shall be deemed to have conveyed, assigned or transferred to the Pension Fund any or all the rights or property of the Pension Fund and shall, if necessary, convey, assign or transfer to the Pension Fund any or all the rights and property of the Pension Fund as the remaining Board Members may direct.

SELECTION OF BOARD MEMBERS

8. Council shall appoint its representatives for such term as is specified by Council. Each representative appointed by Council becomes a Board Member on the date the appointment becomes effective. Unless the representative dies, resigns from the Board or otherwise ceases to be eligible in accordance with rules established by Council, he or she shall continue to be a Board Member for the balance of the term specified by Council in the appointment.

BOARD OPERATION

9. The Board shall operate as follows:

(1) The Board Members shall elect a chairperson and vice-chairperson from amongst their number, and a secretary who is not necessarily a Board Member.

(2) The Board shall meet at the call of the chairperson but not less frequently than once every four months.

(3) On the written request of at least two Board Members, the chairperson shall call a Board meeting.

(4) The Board may establish and amend rules governing the conduct of its meetings.

(5) Three Board Members shall constitute a quorum at any Board meeting. All questions shall be decided by the affirmative vote of at least three Board Members. The chairperson is entitled to cast a vote as a Board Member but in the event of a tie vote the chairperson has an additional or casting vote.

(6) In the event that no quorum is present one-half hour after the time appointed for a Board meeting, the meeting shall stand adjourned, subject to the call of the chairperson.

(7) Notwithstanding that it may be subsequently discovered or determined that there existed some defect in the appointment, election, removal or qualification of a Board Member, all accounts and proceedings of the Board done and carried out in good faith, at any time while any such defect existed, shall be valid and effective.

DUTIES OF THE BOARD

10. In respect of the Council Pension Benefits Program, the Board shall:

(1) operate, administer and interpret the Council Pension Benefits Program in accordance with this By-law;

(2) keep a complete and accurate set of accounts for the Pension Fund;

(3) based on the recommendations of the Investment Committee, establish and review regularly the investment policy for the Pension Fund;

(4) establish and review regularly the funding policy for the Pension Fund;

(5) determine and advise the Investment Committee as frequently as necessary the amounts which are available for investment;

(6) submit the accounts and financial statements of the Pension Fund and the Early Retirement Benefits Account at least annually for examination, checking and audit by the auditor appointed by the Board;

(7) as soon as possible after January 1 in each year, submit a report to Council on the operation of the Council Pension Benefits Program during the previous year together with audited financial statements, including a balance sheet, a statement of income and expenditures, a statement of changes in the Pension Fund and a schedule of investments of the Pension Fund;

(8) ensure that an actuarial report is prepared for the Council Pension Benefits Program as provided herein and at such other times as the Board may deem advisable; and

(9) regularly monitor the investment performance of the Pension Fund.

POWERS OF THE BOARD

11. In respect of the Council Pension Benefits Program, the Board is empowered and authorised to:

(1) on the recommendation of the Investment Committee, establish accounts for the Pension Fund and the Early Retirement Benefits Account in a chartered bank or other financial institution in Canada;

(2) on the recommendation of the Investment Committee, appoint one or more Investment Managers to manage the investments of the Pension Fund or a portion thereof and specify the terms and conditions to apply in each case, or terminate any such appointment;

(3) allocate all amounts that may become available for investment or are already invested between the Investment Managers in such proportions as may be determined by the Investment Committee;

(4) on the recommendation of an Investment Manager, purchase, hold or acquire stocks, bonds, property or other investments for the Pension Fund;

(5) on the recommendation of an Investment Manager, sell or otherwise dispose of any stocks, bonds, property or other investments held in or for the Pension Fund;

(6) exercise all voting and other rights in respect of any stocks, bonds, properties or other investments held in or for the Pension Fund;

(7) execute all documents of transfer and conveyance that may be necessary or appropriate to carry out the duties and powers herein granted;

(8) register any investments held in the Pension Fund in the name of the Board and to hold any investments in bearer form;

(9) appoint the persons to provide such services as the Board deems necessary in the performance of its powers, duties and responsibilities;

(10) rent premises, purchase supplies and equipment and employ such personnel as required for the efficient administration of the Pension Plan;

(11) make all disbursements and allocation from the Pension Fund and the Early Retirement Benefits Account by cheque or authorisation signed as the Board may determine by resolution from time to time;

(12) pay from the Pension Fund all costs and expenses of the Board attributable to the operation and administration of the Pension Fund, including any remuneration paid to the Board Members and the Investment Committee as determined by the Board;

(13) pay from the Early Retirement Benefits Account all costs and expenses attributable to the operation and administration of the Early Retirement Benefits Arrangement;

(14) purchase such insurance or fidelity bonds as the Board deems necessary or proper, the cost of which shall be paid out of the Pension Fund;

(15) do all acts that the Board may deem necessary or appropriate for the protection of the property of the Pension Fund;

(16) do all acts that the Board deems necessary or appropriate to accomplish the general objectives of enabling Members and their beneficiaries to obtain benefits under the Council Pension Benefits Program in the most efficient and economical manner; and

(17) combine any Pension Funds that it administers with the funds administered by another benefits board if the manner of the investment of the combined funds is authorized by each benefit board and if applicable, the board of trustees. Accounts will be kept to disclose the share of each benefit board and of the board of trustees, if applicable, in the combined fund.

INVESTMENT COMMITTEE

12. (1) The Investment Committee shall consist of representatives appointed by the Board for such terms as may be fixed by the Board.

(2) If an Investment Committee member dies, resigns or has his or her appointment terminated, he or she shall immediately cease to be an Investment Committee member and a new Investment Committee member shall be appointed in accordance with the same provision of subsection (1) under which he or she was appointed.

(3) The Investment Committee shall:

(a) recommend to the Board the chartered bank or other financial institution in Canada in which the accounts of the Pension Fund are to be established or re-established;

(b) recommend to the Board the appointment or reappointment of one or more Investment Managers to manage the investments of the Pension Fund or portion thereof and specify the terms and conditions to apply in each case;

(c) recommend to the Board the termination of the appointment or reappointment of any Investment Manager;

(d) direct the Board to allocate the amounts which may become available for investment or are already invested between the Investment Managers appointed by Council in such proportions as may be determined by the Investment Committee;

(e) recommend to the Board the investment policy for the Pension Fund or any changes thereto; and

(f) review regularly the performance of each Investment Manager, which is managing the investment of the Pension Fund or portion thereof.

PROHIBITION OF CONFLICT OF INTEREST

13. (1) No Board Member and no member of the Investment Committee shall knowingly permit his or her interest to conflict with his or her powers, duties and responsibilities in respect of the Council Pension Benefits Program or the Pension Fund;

(2) Investment Committee members are prohibited from personally managing the Pension Fund or any portion thereof.

FIDUCIARY RESPONSIBILITIES

14. The Board, the Investment Committee and the Investment Managers shall:

(1) exercise the care, diligence and skill in the administration and investment of the Pension Fund that a person of ordinary prudence would exercise in dealing with property of another person;

(2) use in the administration of the Council Pension Benefits Program and in the administration of the investment of the Pension Fund all relevant knowledge and skill that they possess or ought to possess by reason of each Board Member's, member of the Investment Committee's, or Investment Manager's profession, business or calling; and

(2) select all investments with consideration given to the overall context of the portfolio of the Pension Fund, without undue risk of loss of impairment and with a reasonable expectation of fair return or appreciation given the nature of the investment.

LIMITATION OF LIABILITY

15. (1) The Pension Fund shall indemnify and save harmless any Board Member and Investment Committee members and his or her heirs, executors and administrators against:

(a) all claims, liabilities, charges and expenses whatsoever that the Board Member or Investment Committee member sustains or incurs in or about any action, suit or proceeding that is brought, commenced or prosecuted against him or her for or in respect of all acts, deeds, matters or things whatsoever lawfully made, done or permitted by the Board, Investment Committee or by any of their members in the exercise of the powers and duties vested in them by this By-law and under the law; and

(b) all other claims, liabilities, costs, charges and expenses that the Board Member or Investment Committee member may sustain or incur in or in relation to the exercise of his or her powers and duties except such claims, liabilities, costs, charges or expenses that are occasioned by the Board Member's or Investment Committee member's gross negligence, wilful misconduct or lack of good faith.

(2) The Board Members or Investment Committee members, individually or collectively, shall not be liable for the making, retention or sale of any investment or reinvestment made by them in accordance with this By-law or in accordance with any other legal duties nor for any loss to or diminution of the Pension Fund, except a loss or diminution that resulted from gross negligence, wilful misconduct or lack of good faith of the Board Members or Investment Committee members and no individual Board Member or Investment Committee member shall incur any liability for such loss or diminution unless he or she is a party to such gross negligence, wilful misconduct or lack of good faith.

AMENDMENT OR TERMINATION

16. Subject to Sections 17 and 18, but notwithstanding any other provision of this By-law or the Council Pension Benefits Program, Council may by By-law from time to time amend, modify, vary or terminate the terms, conditions or provisions of this By-law or the Council Pension Benefits Program (and any trust arising under this By-law or under the Plan) in such manner and on such terms as Council may determine appropriate, such determination to be conclusively deemed to be evidenced by the passage of such By-law, and such amendment, modification, variation or termination may be effective retroactive to a date prior to the date such By-law is passed.

amended 27/2012

PROCEDURE

17. (1) No amendment, modification, variation, or termination pursuant to Section 16 of this By-law shall be made without prior submission to the Board which shall provide to Council a written report on the proposed amendment, modification, variation, or termination.

amended 27/2012

(2) *repealed 27/2012*

(3) If the Board reports to Council that it does not approve of the proposed amendment, modification, variation, or termination, it shall not be passed unless, in a recorded vote, two-thirds of the members of the whole Council vote in favour of the proposed amendment, modification, variation, termination, merger, consolidation or division.

(4) If a proposed amendment, modification or variation of the terms, conditions or provisions of this By-law or the Council Pension Benefits Program would materially affect the contributions or benefits payable under the Plan, the Board shall have a written report thereon prepared by a qualified actuary and shall provide such report to Council, and Council shall not adopt such amendment, modification or variation until having received such written report.

amended 27/2012

NO REDUCTION OF ACCRUED BENEFITS

18. No amendment, modification, variation, or termination pursuant to Section 16 of this By-law shall adversely affect the pension benefit credits of any Member in respect of remuneration and service or membership in the Council Pension Benefits Program prior to the effective date of the amendment, modification, variation, or termination. In addition, in the event of the termination of the Council Pension Benefits Program (and any trust arising under the Council Pension Benefits Program) or Pension Fund, no part of the assets of the Council Pension Benefits Program (and any trust arising under the Council Pension Benefits Program) shall revert to the benefit of the City until provision has been made for all pensions and other benefits in respect of service up to the date of such termination to Members of the Council Pension Benefits Program, and for all benefits to former employees, pensioners, dependants, and estates.

PART A AND PART B

19. Part A and Part B are incorporated within and form part of this By-law.

EFFECTIVE DATE

20. This By-law is retroactive and shall be deemed to have come into effect on January 1, 2001.

DONE AND PASSED in Council assembled, this 18th day of July, 2001.

PART A OF BY-LAW NO. 7869/2001 OF THE CITY OF WINNIPEG

THE CITY OF WINNIPEG COUNCIL PENSION PLAN

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DEFINITIONS

1. In this Plan:

"Actuarial Equivalent" means a pension of an equivalent value determined using actuarial tables and other methods and assumptions, and that are adopted by the Board on the recommendation of the Actuary for the purposes of the Plan, subject to any requirements of the *Income Tax Act* (Canada).

"Actuary" means a person or firm retained by the Board, who is a Fellow of the Canadian Institute of Actuaries for the purpose of the Plan.

"Average Consumer Price Index" for a calendar year means one-twelfth of the sum of the Consumer Price Index for each month in the twelve-month period ending March 31 of the previous calendar year. Consumer Price Index for a month is the Consumer Price Index for that month as published by Statistics Canada.

"Average Wage" for a calendar year means the amount that is obtained by dividing by 12 the total of all amounts each of which is the Wage Measure for a month in the 12 month period ending on June 30 of the immediately preceding calendar year.

"Beneficiary" means a beneficiary designated by a Member in accordance with Section 12.

"Best 5-Year Average Canada Pension Plan Earnings" means the amount obtained by dividing the Canada Pension Plan Earnings of a Member in the same period of Eligibility Service as was used in the calculation of the Member's Best 5-Year Average Earnings by the same Eligibility Service as was used in the calculation of the Member's Best 5-Year Average Earnings.

"Best 5-Year Average Earnings" means the amount obtained by dividing the Earnings of a Member in the five Taxation Years in which the Member's Yearly Earnings were the highest by the Eligibility Service completed by the Member on those Taxation Years, where the five highest Taxation Years are obtained from the last ten Taxation Years in which the Member had Eligibility Service. If a Member is not re-elected as an Employee, dies or retires during a Taxation Year, and such Taxation Year is one of the five Taxation Years in which the Member's Yearly Earnings were the highest, a proportion of the Earnings and a corresponding proportion of the Eligibility Service completed during the sixth Taxation Year in which the Member's Yearly Earnings were the highest shall be used. Such proportion, plus the proportion of the Taxation Year in which the Member is not re-elected, dies or retires shall be equal to one. If a Member did not have Eligibility Service in at least 5 Taxation Years, the Member's Best 5-Year Average Earnings is the amount obtained by dividing the Member's Earnings by the Eligibility Service the Member completed.

"Best 5-Year Average Non-Canada Pension Plan Earnings" means the amount by which the Best 5-Year Average Earnings of a Member exceeds the Member's Best 5-Year Average Canada Pension Plan Earnings.

"Board" means the Board created and established under this By-law.

"Canada Pension Plan" means the Canada Pension Plan as provided by the terms of the *Canada Pension Plan Act*, as amended from time to time.

"Canada Pension Plan Earnings" means the lesser of the Member's Earnings for a Taxation Year and YMPE for that year.

"Child" means a natural, adopted, or step-child of a Member, provided that the date of adoption or becoming a step-child is at least one year prior to the date on which the Member retires or ceases to be an Employee, whichever occurs first, or evidence of the Member's good health on or after such date is submitted and found to be satisfactory by the Board.

"City" means The City of Winnipeg.

"Commuted Value" means, in relation to benefits that a person has a present or future entitlement to receive, a lump sum amount which is the actuarial present value of those benefits computed using rates of interest, the actuarial tables and other assumptions, and that are adopted by the Board on the recommendation of the Actuary for purposes of the Plan, subject to any requirements of the *Income Tax Act* (Canada).

"Credited Service" means the aggregate of each period of Eligibility Service including fractional years:

(a) of which the Member made Required Contributions,

(b) of any unpaid leave of absence during which the Member continues to make Required Contributions, or

(c) of any period of absence required by law to be granted in respect of maternity or parental leave, provided that the Member continues to make Required Contributions during the absence,

provided that in respect of unpaid periods of absence, the aggregate of Credited Service so granted is limited to a maximum full-time equivalent of 5 years, plus an additional 3 years credited in respect of absences that commence immediately after the birth or adoption of a child of the Member, each of which is not longer than 12 months' duration.

"Defined Benefit Limit" for a calendar year means $1,722.22, or such greater amount permitted under the *Income Tax Act* (Canada).

"Dependent Child" means an unmarried Child of a Member who, in the opinion of the Board, is totally or substantially dependent on that Member for financial support and:

(a) is less than 18 years of age,

(b) is less than 25 years of age, and has been in full-time attendance in an educational institution that is considered acceptable by the Board, since the Child reached 18 years of age,

(c) has been totally disabled since the Child reached 18 years of age, or,

(d) has become totally disabled subsequent to age 18 and was qualified as a Dependent Child under clause (b) on the date of becoming totally disabled.

"Disability" means a disability throughout which the Member is physically or mentally impaired so that he or she is prevented from performing the duties of his or her occupation in either a full or partial capacity which is determined by the City to exist, based on the written report of a medical doctor licensed to practice in Canada. Disability includes a physical and mental condition that entitles the Member to receive Periodic Payments from Workers' Compensation.

"Earnings" means the total taxable remuneration received by a Member from the City during a Taxation Year, plus, with respect to periods of Credited Service during which a Member does not actually receive remuneration from the City, an amount deemed to be received based on the rate of Earnings the Member was receiving immediately preceding that period. However, deemed Earnings shall not exceed the amount of compensation that is prescribed for this purpose by the *Income Tax Act* (Canada). A Member's Earnings shall be considered as having been earned in equal instalments throughout the Taxation Year.

"Effective Date" means January 1, 2001.

"Eligible Spouse" means a person who was a Spouse throughout the period that began at least one year prior to the date the Member retired, the date the Member became Totally and Permanently Disabled, or the date the Member ceased to be an Employee, whichever occurred first, and continued until the Member's death. If the person became a Spouse or was first deemed to be a Spouse less than one year prior to the date on which the Member retired or the date the Member became Totally and Permanently Disabled, or the date the Member ceased to be an Employee, whichever occurred first, the person will be deemed to be an Eligible Spouse if evidence of the Member's good health is submitted and found satisfactory by the Board.

"Eligibility Service" means the aggregate of each period that is:

(a) a period during which an Employee had continuous Employment with the City as an elected official; Eligibility Service commences on the date the Employee became officially elected and continues until the earlier of his or her retirement, death or not being officially re-elected as a Employee of the City,

(b) a period of absence from work that the Employee received all or a portion of his or her Earnings,

(c) a period of Disability that the Employee continued to make Required Contributions,

(d) a period of maternity or parental leave that the City recognises as satisfactory work performed, or

(e) any other period of absence from work that the Employee made Required Contributions.

"Employee" means, for the purposes of the Plan, a person elected as a Councillor or the Mayor of the City.

"Employment" means, for the purpose of the Plan, serving as a member of Council for the City.

"Highest Average Compensation" means the average of the Member's total indexed Earnings over the three non-overlapping 12-month periods, during which such total indexed compensation was the highest. Total indexed compensation for any 12-month period shall be equal to the total of the Earnings received by the Member from the City for each month in the period, adjusted by a percentage corresponding to the increase of the average wage, as defined under Subsection 147.1(1) of the *Income Tax Act* (Canada), for the period from the applicable month to the date of determination.

"Member" means either:

(a) an Employee who joins the Plan by meeting the eligibility requirements, or

(b) a former Employee who is entitled to a pension or a deferred pension from the Plan.

"Pension Fund" means the fund established for the Plan in accordance with the terms of this By-law.

"Plan" means The City of Winnipeg Council Pension Plan established in accordance with this By-law.

"Prescribed Reduction" means 100% less ¼ of 1% for each complete month by which the early pension commencement date precedes the earliest of:

(a) the day on which the Member will attain 60 years of age,

(b) the day on which the Member would have completed 30 years of Eligibility Service had the Member continued Employment with the City, and

(c) the day on which the Member's age plus the Member's years of Eligibility Service would have totalled 80 had the Member continued Employment with the City,

except that no reduction applies if the Member becomes Totally and Permanently Disabled.

"Required Contributions" means contributions made by a Member to this Plan.

"Spouse" means, at the time a determination of marital status is required, a person to whom the Member is:

(a) legally married, provided the Member is not living separate and apart from that person, or

(b) not legally married but the Member and that person are and have been cohabiting continuously in a conjugal relationship for at least a 12 month period,

and who qualifies as a spouse as defined at the relevant time by the *Income Tax Act* (Canada) for purposes of registered pension plans.

"Taxation Year" means all of the pay periods of a Member which end in the same calendar year.

"Totally and Permanently Disabled" means a physical or mental impairment which prevents a Member from engaging in any Employment for which he or she is reasonably suited by virtue of his or her education, training or experience and that can be reasonably be expected to continue for the remainder of the Member's lifetime and which is determined by the Board to exist, based on a written report of a medical doctor licensed to practice in Canada or where the Member resides.

"Wage Measure" for a month means the average weekly wages and salaries of the Industrial Aggregate in Canada for the month as published by Statistics Canada or, if that ceases to be published, such other measure for the month as prescribed by regulation under the Canada Pension Plan.

"With Interest" means interest on Member Required Contributions compounded and allocated annually and calculated:

(a) at the end of each Taxation Year, on the balance of Required Contributions at the beginning of the Taxation Year, at the net rate of return realised by the Pension Fund the Board approves, plus

(b) at the end of each Taxation Year, on the balance of Required Contributions made during the Taxation Year, a pro-rata portion of the rate calculated in accordance with (a) above, and

(c) on the day on which the Member terminates, dies or retires, on the balance of Required Contributions at the beginning of the Taxation Year, and the balance of Required Contributions made during the Taxation Year, the appropriate pro-rata portion of the net rate of return realised by the Pension Fund the Board approved for the preceding Taxation Year, for the portion of the Taxation Year before the Member separated from service.

"Yearly Earnings" means the Earnings received by a Member for the pay periods that are completed in a Taxation Year divided by the Eligibility Service completed by the Member in that Taxation Year.

"YMPE" means the Year's Maximum Pensionable Earnings as defined under the Canada Pension Plan.

ELIGIBILITY FOR MEMBERSHIP

2. (1) **All Employees**

Each Employee shall become a Member of the Plan on the later of the Effective Date or upon taking office as an elected official with the City.

(2) **Termination of Participation Not Permitted**

A Member's participation in the Plan must continue while he or she remains an Employee.

(3) **Re-election**

(a) Non-Pensioners

If a former Member, other than a person described in clause (3)(b), to whom a deferred pension has been granted, is re-elected, the Member's deferred pension shall be cancelled and the years of Credited Service on which it is based shall be added to the Member's years of Credited Service after re-election, for the purpose of determining any pension payable to the Member or his or her survivors.

(b) Pensioners

If a Member who is receiving a pension from the Plan is re-elected, the Member's pension will be suspended prior to the pay period in which he or she again becomes an Employee. The Member's years of Credited Service at his or her date of retirement shall be added to his or her years of Credited Service after re-election, for the purpose of determining any pension payable to the Member or his or her survivors.

If the Member again retires, or is deemed to retire, the Member's pension shall be recalculated in accordance with Section 6 and shall commence on the first of the month following or coincident with the pay period in which the Member again retires or is deemed to have retired.

Notwithstanding the foregoing, no further benefits shall accrue to a Member in respect of a period during which retirement benefits are paid to the Member under this Plan or any other registered pension plan in which the City participates.

CONTRIBUTIONS

3. (1) **Member Required Contributions**

Each Member shall contribute to the Pension Fund, by payroll deduction, for each pay period while a Member of the Plan:

(a) 6 1/2% of that portion of his or her Earnings for a Taxation Year that are Canada Pension Plan Earnings, plus

(b) 7 1/2% of any portion of his or her Earnings for that Taxation Year that are in excess of Canada Pension Plan Earnings,

provided that a Member's Required Contributions for any Taxation Year shall not exceed the maximum amount permitted by the *Income Tax Act* (Canada) for that Taxation Year.

However, no further Member Required Contributions shall be deducted from the Member's Earnings in a Taxation Year when the maximum lifetime pension is reached as described in subsection (6) of Section 6.

(2) **Leave of Absence**

(a) A Member who has been granted leave of absence shall contribute if he or she receives Earnings from the City during such absence. Such contributions shall be at the rate specified in subsection (1).

(b) A Member who has been granted leave of absence may, with the approval of the Board, contribute if he or she does not receive remuneration from the City during such absence. Such contributions shall be a percentage of Earnings as determined by the Board, based on the recommendation of the Actuary, to be equal to the value of the benefits accruing to the Member in respect of the period of absence. The payment of such contributions shall be at regular intervals throughout the period of absence. A Member may contribute for periods of absence stated above, only if such periods do not exceed the maximum prescribed periods under the *Income Tax Act* (Canada).

(3) **City's Contributions**

(a) Subject to subsection (5), the City shall make such contributions to the Pension Fund as are required, based on the certification of the Actuary, to provide:

(i) the normal cost of benefits currently accruing to Members under the Plan, and

(ii) for the proper amortisation of any unfunded liability,

after taking into account all relevant factors including the assets of the Pension Fund and the contributions of Members. The City may reduce its contributions in accordance with this By-law to reflect any actuarial surplus in the Plan.

(4) **Contributions for Past Service**

(a) Within 90 days after the adoption of the By-law, an Employee who became a Member of the Plan on the Effective Date may elect, by completing the form prescribed by the Board, to make a contribution for the purchase of past service prior to the Effective Date of the Plan that is not Credited Service but that is a period of Employment as an elected official with the City.

(b) The amount of the contribution to be made in respect of a period for which application is made in accordance with this subsection shall be equal to the contribution rates specified in subsection (1) applied against the taxable remuneration the Employee received in the year 2000 multiplied by the amount of past service as an elected official of the City that he or she wishes to purchase. The maximum past service that can be purchased by an eligible individual as described in this subsection is subject to the later of the date of the Employee becoming an elected official of the City or November 3, 1992.

(c) Any Member that elects to purchase past service in accordance with this subsection shall remit the contribution as calculated in accordance with subsection (4)(b) within 90 days of the adoption of the By-law. If the total contribution is not remitted within 90 days of the adoption of the By-law, then an interest charge, based on the actuarial valuation interest rate, shall be applied to any outstanding balance. The total contribution must be remitted to the Plan on or before November 1, 2002.

(d) Subject to subsection 5, the City shall also make a contribution to the Pension Fund as is required, based on the certification of the Actuary, to provide for the additional past service cost that will be incurred as a result of any past service benefits being purchased by an Employee.

(e) On payment of the contributions in accordance with this subsection, the period of Employment that the contribution is in respect of shall be reflected and included in the Member's Eligibility and Credited Service.

(5) **Return of Contributions**

An amount contributed by a Member under subsections (1) or (4) or by the City under subsections (3) or (4) may be refunded at any time to the Member or the City as applicable where required to avoid revocation of the registration of the Plan provided under the *Income Tax Act* (Canada).

(6) **Maximum Employee Contributions**

Notwithstanding the foregoing, the aggregate amount of contributions that a Member may make to the Plan in respect of a calendar year shall not exceed the limits specified in paragraph 8503(4)(a) of the Regulations under the *Income Tax Act* (Canada).

PENSION FUND

4. (1) **Payments into the Fund**

(a) The City will pay all contributions deducted from Member's Earnings and the contributions that the City makes because of such deductions into the Pension Fund within four weeks of the date on which the deductions are made. All other contributions will be paid directly into the Pension Fund within four weeks of the required date.

(b) All contributions made by each Member shall be accounted for separately, and the separate accounting shall show:

(i) the contributions made by the Member,

(ii) the interest credited on such contributions, and

(iii) the payments made to the Member, or his or her survivor, Beneficiary, or estate, as a result of such contributions.

(2) **Payments out of the Fund**

Except as otherwise provided under the Plan, payments shall be made out of the Pension Fund only to pay the Beneficiary or estate in accordance with the terms and provisions of the Plan, or to pay expenses relating to the administration of the Plan.

RETIREMENT

5. (1) **Retirement Date**

A Member or former Member may elect to retire on the first day of the month coinciding with or following the date in which the Member:

(a) has attained the age of 55 or older,

(b) has completed at least 30 years of Eligibility Service,

(c) has reached 80 points which is determined by adding the Member's age plus his or her years of Eligibility Service, or

(d) is Totally and Permanently Disabled.

(2) **Notice of Retirement**

Each Member electing to retire in accordance with subsection (1) shall give the Board sufficient notice of his or her intention to retire.

(3) **Deemed Retirement at Age 71**

Each Member who is not retired on December 1 of the Taxation Year in which he or she attains age 71 shall be deemed to have retired on that day and any reference to a retired Member shall include a Member who is deemed to have retired.

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RETIREMENT PENSION

6. (1) **Lifetime Pension**

Each Member who retires in accordance with Section 5 shall receive a pension for life that, each year, shall be equal to the Member's years of Credited Service multiplied by the aggregate of:

(a) 1.5% of his or her Best 5-Year Average Canada Pension Plan Earnings, plus

(b) 2% of his or her Best 5-Year Average Non-Canada Pension Plan Earnings,

multiplied by the Prescribed Reduction.

(2) **Bridging Pension Before Age 65**

Notwithstanding subsection (1), the pension payable to a Member who retires prior to age 65 in accordance with clause (1)(a), (b) or (c) of Section 5 shall be 2% of the Member's Best 5-Year Average Earnings for each year of Credited Service, provided that the excess of this pension over the pension determined under subsection (1) shall not exceed the maximum under subsection (8). The bridging pension shall be paid in accordance with the Member's election under either Sections 8 or 9 and will cease the first day of the month in which the Member attains the age of 65.

(3) **Maximum Employee Cost**

Upon death, retirement or termination, if the Member's Required Contributions, With Interest exceed 50% of the Commuted Value of the pension benefit earned, the excess shall be refunded to the Member, or the Member's Spouse or Beneficiary, as applicable, in a lump sum.

(4) **Payment of Pensions**

The pension shall be paid in monthly instalments with the first instalment due on the first day of the month coincident with or following the pay period in which the Member retires. The last instalment is due on the first day of the month in which the death of the Member occurs or the date the guarantee period expires, if later. A corresponding procedure is followed when the pension is being paid to an Eligible Spouse or Dependent Child.

(5) **Amount of Monthly Instalments**

The amount of each monthly instalment shall be one-twelfth of the Member's yearly pension.

(6) **Maximum Lifetime Pension**

(a) The annual pension determined under subsection (1), including any portion of the pension assigned to the Member's Spouse pursuant to Section 12, shall not exceed the lesser of:

(i) the Defined Benefit Limit for the year of pension commencement multiplied by the Member's years of Credited Service; and

(ii) an amount that is 2% of the Member's Highest Average Compensation multiplied by the Member's years of Credited Service,

reduced if necessary by the Prescribed Reduction.

(b) The pension benefits considered for purposes of the application of clauses (6)(a) and (d) do not include any bridging benefits payable pursuant to subsection (2).

(c) The limit described in clause (6)(a) is applied to the pension in the form paid to the Member, except that where the form of pension is more generous than a joint and 66 2/3% survivor pension with a guarantee period of more than 5 years. The pension shall be further reduced, if necessary, so that it is not greater than the Actuarial Equivalent of the maximum pension payable in a joint and 66 2/3% survivor form with a guarantee of 5 years.

(d) The annual pension payable in each calendar year subsequent to the year of pension commencement, shall not exceed the amount determined in clause (6)(a) multiplied by the ratio of A to B where:

A is the Average Consumer Price Index for a calendar year not earlier than the calendar year in which the pension benefits commence to be paid and not later than the particular year; and

B is the Average Consumer Price Index for the calendar year in which the pension benefits commence to be paid.

(7) **Maximum Pension Before Age 65**

(a) The annual pension payable until the first day of the month in which the Member attains the age of 65 determined in accordance with subsection (2), including any portion of the pension assigned to the Member's Spouse pursuant to Section 12, shall be limited to the aggregate of:

(i) the Defined Benefit Limit for the year in which the pension payments commence times the Member’s years of Credited Service,

(ii) 25% of the average of the YMPE for the year in which the pension commences to be paid and for each of the two preceding calendar years multiplied by 1/35th of the Member's Credited Service to a maximum of 35 years.

(b) In each calendar year subsequent to the year in which the bridging benefits commenced, until the bridging benefit ceases, the annual benefits payable to a Member to which clause (7)(a) is applicable shall not exceed the amount determined in clause (7)(a) multiplied by the ratio of E to F where:

E is the Average Consumer Price Index for a calendar year not earlier than the calendar year in which the bridging benefits commence to be paid and not later than the particular year; and

F is the Average Consumer Price Index for the calendar year in which the bridging benefits commence to be paid.

(8) **Maximum Bridging Benefit**

(a) The monthly bridging benefit payable under subsection (2) shall not exceed the amount of benefits payable to the Member under the Canada Pension Plan and under the *Old Age Security Act* assuming the Member is:

(i) 65 years of age at the date of pension commencement,

(ii) entitled to receive the maximum Old Age Security benefits, and

(iii) entitled to that proportion, not exceeding 1, of the maximum benefits payable under the Canada Pension Plan that the total of the Member's remuneration for the 3 calendar years in which the remuneration is the highest is of the total of the YMPE for those 3 years,

reduced proportionately in the case of a Member who has completed less than 10 years of Credited Service as at that date and further reduced by 1/4 of 1% for each month by which the Member's pension commencement date precedes his attainment of age 60. However, the age and service restrictions in this subsection (8) do not apply to the maximum bridging benefits payable to a Member who is Totally and Permanently Disabled.

(b) In each calendar year subsequent to the year in which the bridging benefit commenced, until the bridging benefit ceases, the annual benefits payable to a Member to which clause (8)(a) is applicable shall not exceed the amount determined in clause (8)(a) multiplied by the ratio of E to F where:

E is the Average Consumer Price Index for a calendar year not earlier than the calendar year in which the bridging benefits commence to be paid and not later than the particular year; and

F is the Average Consumer Price Index for the calendar year in which the bridging benefits commence to be paid.

(9) **Pension Adjustment**

In no event shall the benefit accrued by a Member in a Plan Year under subsection (1) result in a pension adjustment for the Member as defined by the *Income Tax Act* (Canada) in excess of the limits for the year prescribed by the *Income Tax Act* (Canada).

(10) **Reduction of Benefits**

The Board may at any time amend the Plan to reduce the benefits provided under this Section 6 where required to avoid the revocation of registration of the Plan under the *Income Tax Act* (Canada).

(11) **Small Pensions**

If a Member's

(a) annual pension determined in accordance with subsection (1) at the first of the month in which the Member attains the age of 65 is less than 4% of the YMPE for the year in which the Member retired, died, or terminated Employment with the City or the year in which the Member became divorced, separated or had their marriage annulled; or

(b) Commuted Value of the pension is less than 20% of the YMPE for the year in which the Member retired, died, or terminated Employment with the City or the year in which the Member became divorced, separated or had their marriage annulled;

the Member or, if the Member has died, the Member's Spouse, Beneficiary or estate, whichever is applicable, shall receive a lump sum payment equal to the Commuted Value of the pension otherwise payable in lieu of all benefits under the Plan.

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COST OF LIVING

7. (1) **Eligibility for Adjustments**

Subject to subsections (6) and (7) of Section 6, each pension payable to a Member, Spouse or Dependent Child shall be adjusted in accordance with this Section on July 1 of each Taxation Year.

(2) **Amount of Adjustments**

(a) The adjustment to a pension in accordance with this Section shall be calculated as a percentage of the pension payable in respect of the Member equal to 80% of the percentage change in the Consumer Price Index for Canada during the 12-month period that ended on the March 31 immediately preceding the date of the adjustment.

(b) If the pension in respect of which an adjustment is to be made in accordance with clause (a) has been in payment for less than 12 months, the percentage adjustment shall be multiplied by the fraction N/12

where N is the number of months for which the pension has been in payment.

For the purpose of this clause, any pension payments made to a Member shall be taken into account in determining the adjustment to any pension payable after the Member's death to the Spouse or Dependent Child of the Member.

For the purpose of this clause, the payments of a Member's pension that ceased in accordance with subsection (3)(b) of Section 2 shall not be taken into account in determining the adjustment to any subsequent pension payable to or in respect of that Member.

(c) No adjustment shall be made to a pension payable in respect of Old Age Security Integration in accordance with subsection (2) of Section 9.

(d) If the Consumer Price Index for Canada decreases, each pension shall be adjusted accordingly, but the resulting pension shall not be less than the pension that would have been provided under the Plan had no adjustments been made in accordance with this Section.

(e) If a pension reduces or a portion of a pension ceases in any month, the portion of any adjustment payable in accordance with this Section in respect of the reduction in pension or pension that ceased shall cease in that month.

(3) **Cost of Living Adjustments to Deferred Pensions**

(a) If a Member becomes entitled to a deferred pension benefit in accordance with subsection (2) of Section 11, the deferred pension shall be adjusted in accordance with this Section on July 1 of each Taxation Year subsequent to becoming entitled to the deferred pension and ceasing on the date the deferred pension commences to be paid as a pension or if subsection (3)(a) of Section 2 is applicable.

(b) The adjustment to a deferred pension in accordance with this Section shall be calculated as a percentage of the pension payable in respect of the Member equal to 80% of the percentage change in the Consumer Price Index for Canada during the 12-month period that ended on the March 31 immediately preceding the date of the adjustment.

(c) If the deferred pension in respect of which an adjustment is to be made in accordance with clause (b) has been deferred for less than 12 months, the percentage adjustment shall be multiplied by the fraction N/12,

where N is the number of months for which the deferred pension has been deferred.

(d) If a deferred pension has commenced to be paid as a pension since the immediately preceding July 1, the percentage adjustment shall be multiplied by the fraction N/12,

where N is the number of months between the immediately preceding July 1 and the date on which the deferred pension commenced to be paid as a pension.

(e) The aggregate cost of living increase provided to a deferred pension from the date of termination of Employment to the date of pension commencement shall not exceed the aggregate percentage increase in the Average Wage from the date the Member terminates Employment to the date of pension commencement, in compliance with the *Income Tax Act* (Canada).

NORMAL FORM OF PENSION

8. (1) **Members with Eligible Spouse**

(a) The normal form of pension of a Member who has an Eligible Spouse on his or her retirement date is a pension payable to the Member for the lifetime of the Member and, after the Member's death, a pension to the Eligible Spouse for the Eligible Spouse's remaining lifetime of 66 2/3% of the lifetime pension to which the Member would have been entitled had the Member continued to live.

(b) The amount of the Member's pension calculated in accordance with subsection (1) and (2) of Section 6 shall be reduced by 2%.

(c) If the Member is survived by an Eligible Spouse and by:

(i) two Dependent Children, a pension of 3 1/3% of the Member's lifetime pension shall be payable and divided equally among the Dependent Children or their respective legal guardian(s).

(ii) three or more Dependent Children, a pension of 8 1/3% of the Member's lifetime pension shall be payable and divided equally among the Dependent Children or their respective legal guardian(s).

(d) If the Member and Eligible Spouse both die and are survived by one or more Dependent Children, a pension of 50% of the Member's lifetime pension shall be payable and divided equally among the Dependent Children or their respective legal guardian(s).

(2) **Members with Spouse**

The normal form of pension of a Member who has a Spouse who is not an Eligible Spouse on his or her retirement date is a pension payable in the form described in subsection (1), except that the amount of the Member's pension shall be Actuarial Equivalent to the normal form of pension described in subsection (4).

(3) **Members Without Spouse, With Dependent Children**

The normal form of pension of a Member who does not have a Spouse and has one or more Dependent Children on his or her retirement date is a pension payable to the Member for the lifetime of the Member and, after the Member's death, a pension of 50% of the Member's lifetime pension shall be payable and divided equally among the Dependent Children or their respective legal guardian(s).

(4) **Members Without Spouse, With No Dependent Children**

The normal form of pension of a Member who does not have a Spouse or Dependent Children on his or her retirement date shall be a pension payable for the lifetime of the Member.

(5) **Lump Sum Refund When Pension Payments Cease**

If pension payments cease before the total of the payments made to the Member and his or her Spouse and Dependent Children under the terms of Part A or B of this By-law is at least equal to the Member's Required Contributions, With Interest, then:

the unpaid balance shall be paid to the Beneficiary or estate, whichever is applicable, of the last survivor or, where the pension ceases because a Child ceases to be a Dependent Child, to that Child.

OPTIONAL FORMS OF PENSION

9. (1) **50% Surviving Spouse's Pension**

(a) Before the date of pension commencement, a Member who has a Spouse may elect, jointly with the Spouse, to receive in lieu of the normal form of pension an unreduced pension for the lifetime of the Member and, after the Member's death, a pension to the Spouse for the Spouse's remaining lifetime of 50% of the pension to which the Member would have been entitled had the Member continued to live. Such pension shall be unreduced in the case of a Member with an Eligible Spouse and shall be Actuarial Equivalent to the normal form in the case of a Member with a Spouse who is not an Eligible Spouse.

(b) If the Member is survived by a Spouse and by one or more Dependent Children and an election was made in accordance with clause (a), a pension of:

(i) 10% while there is one Dependent Child,

(ii) 20% while there are two Dependent Children, or

(iii) 25% while there are three or more Dependent Children,

of the Member's pension in accordance with subsections (1) and (6) of Section 6 shall be payable to the Dependent Child or his or her legal guardian(s) in the case of subclause (i) and payable and divided equally among the Dependent Children or their respective legal guardian(s) in the case of subclauses (ii) and (iii).

(c) If the Member is survived by one or more Dependent Children but not by a Spouse and an election was made in accordance with clause (a), a pension of 50% of the pension to which the Member would have been entitled had the Member continued to live shall be payable on the terms and conditions specified in subsection (3) of Section 8.

(2) **Old Age Security Integration (Advance Recovery Option)**

(a) If a Member is retiring in accordance with Section 5 prior to age 65, the Member may, prior to the commencement of the pension, elect to have his or her pension integrated with the Old Age Security pension expected to be received by the Member. The effect of such integration shall be to provide the Member with an increased pension from the Plan until the last day of the month in which the Member attains age 65. Thereafter, the pension will be reduced by the amount previously expected to be received as Old Age Security pension. The integrated form of pension payable shall be Actuarial Equivalent to the pension payable had the Member not elected the integrated form.

(b) Any pension payable in respect of a Spouse shall be determined as if the Member had not elected to integrate his or her pension.

(c) The integration option shall be available to the Spouse of a Member and the conditions specified in clause (a) shall apply.

(3) **Other Forms of Pension**

(a) In lieu of the normal form of pension, a Member may elect prior to the Member's retirement date any other form of lifetime pension from the list outlined in subclauses (c)(i), (ii) and (iii) and that is acceptable to the Board and conforms to the requirements of the *Income Tax Act* (Canada).

The optional form of pension elected shall be Actuarial Equivalent in value to the pension and other benefits that would otherwise have been payable, determined as if the Member did not have an Eligible Spouse or Dependent Children.

(b) In lieu of the normal form of pension, a Member who has a Spouse may elect prior to the Member's retirement date the form of lifetime pension outlined in subclause (c)(iv).

The optional form of pension elected shall be Actuarial Equivalent in value to the pension payable in the normal form.

(c) The other forms of pension available are summarised as follows:

(i) Life and Guaranteed 5 Years

Monthly payments will be made for the lifetime of the Member but if death occurs before the Member has received 5 years of monthly payments, the balance of the 5 years of monthly payments will be made to the Member's Beneficiary.

(ii) Life and Guaranteed 10 Years

Monthly payments will be made for the lifetime of the Member but if death occurs before the Member has received 10 years of monthly payments, the balance of the 10 years of monthly payments will be made to the Member's Beneficiary.

(iii) Life and Guaranteed 15 Years

Monthly payments will be made for the lifetime of the Member but if death occurs before the Member has received 15 years of monthly payments, the balance of the 15 years of monthly payments will be made to the Member's Beneficiary.

(iv) Joint and 100% Survivor (Only Available to Members with Spouses)

Monthly payments will be made for the lifetime of the Member and if at date of death of the Member, the Member's Spouse is then surviving, monthly payments will be made for the Spouse's remaining lifetime of 100% of the lifetime pension which the Member would have been entitled had the Member continued to live.

(4) **Election Irrevocable**

No change can be made in the form of pension elected by a Member after the first pension payment has been made.

(5) **Transferable**

If the person who is entitled to receive a lump sum payment under any of the forms of pension payable under the Plan is the Member's Spouse, that person may elect to have that amount transferred directly on his or her behalf to a Registered Retirement Savings Plan.

DEATH PRIOR TO RETIREMENT

10. (1) **Employees - Less than 2 Years' Eligibility Service**

If a Member dies while an Employee but before completing 2 years of Eligibility Service, the Member's Spouse, Beneficiary or estate, whichever is applicable, shall receive in a lump sum the Commuted Value of a pension commencing on the first day of the month following or coinciding with the month in which the Member would have attained age 60. The amount of the pension shall be equal to the pension determined in accordance with Section 6.

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(2) **Employees - More than 2 Years' Eligibility Service With Eligible Spouse**

(a) If a Member dies while an Employee and after having completed at least 2 years of Eligibility Service, and is survived by an Eligible Spouse, then the Eligible Spouse shall receive a lifetime pension each month equal to 50% of the pension calculated in accordance with the formula contained in subsections (1) and (6) of Section 6 but with a Prescribed Reduction of 100% in respect of the Member's Earnings and Credited Service up to the date of the Member's death.

The Eligible Spouse shall also be entitled to a refund in a lump sum of the Member's excess contributions, if any, calculated in accordance with subsection (3) of Section 6.

(b) If the Member to whom clause (a) applies is also survived by one or more Dependent Children, a pension of:

(i) 20% while there is one Dependent Child,

(ii) 40% while there are two Dependent Children,

(iii) 50% while there are three or more Dependent Children,

of the pension calculated in accordance with clause (a) shall be payable and divided equally among the Dependent Children or their respective legal guardian(s).

(c) If the Eligible Spouse dies while there is one or more Dependent Children, the pension shall continue to be paid on the terms and conditions specified in subsection (4) of this Section.

(3) **Employees - More than 2 Years' Eligibility Service with Spouse**

If a Member dies while an Employee and after having completed at least 2 years of Eligibility Service, and is survived by a Spouse who is not an Eligible Spouse, then the Spouse shall receive a lifetime pension Actuarial Equivalent in value to the lump sum described in subsection (5).

(4) **Employees - More than 2 Years' Eligibility Service Without Spouse, With Dependent Children**

(a) If a Member dies while an Employee and after having completed at least 2 years of Eligibility Service, and is survived by one or more Dependent Children but not by a Spouse, a pension shall be paid to the legal guardian of such Dependent Children, or to the Dependent Children if no guardian is required by law. The amount of this pension shall be equal to the pension calculated in accordance with clause (2)(a).

(b) If there is more than one Dependent Child, an equal share of the pension shall be paid in respect of each Child.

(c) The portion of the pension payments made in respect of a Dependent Child shall cease when the child ceases to be a Dependent Child and subsequent pension payments shall be redistributed to the remaining Dependent Children, if any.

(5) **Employees - More Than 2 Years' Eligibility Service Without Eligible Spouse or Dependent Children**

If a Member dies while an Employee and after having completed at least 2 years of Eligibility Service, and is not survived by a Spouse or Dependent Children, the Member's Beneficiary or estate, whichever is applicable, shall receive in a lump sum:

(a) the Commuted Value of the pension benefit earned by the Member, plus

(b) the excess, if any, of the Member's Required Contributions, With Interest over 50% of the Commuted Value of the pension benefit earned by the Member.

(6) **Deferred Pensioners**

If a former Member to whom a deferred pension has been granted and not subsequently cancelled dies prior to the commencement of the deferred pension and the Member:

(a) is survived by a Spouse, the Spouse shall receive the lifetime pension, that can be provided by the lump sum amount determined in accordance with subsection (5);

(b) is not survived by a Spouse, the Member's Beneficiary or estate, whichever is applicable, shall receive a lump sum payment determined in accordance with subsection (5).

(7) **Minimum Survivor's Pension**

If, at the date of death of the Member:

(a) the Commuted Value of the pension benefit earned by the Member,

exceeds

(b) the Actuarial Equivalent value of the benefits payable in accordance with subsections (2) or (4) in respect of the Member's Credited Service, an additional pension, which is the Actuarial Equivalent to the excess, shall be payable. If benefits are payable under subsection (2), then the additional pension shall be a lifetime pension payable to the Eligible Spouse. If benefits are payable under subsection (4), each Dependent Child, or their respective legal guardian, shall be entitled to receive an equal additional pension, calculated on the basis that it is payable until he or she attains 25 years of age. If at the date on which the last Dependent Child ceases to be a Dependent Child, the aggregate of all benefits paid to Dependent Children is less than the amount in clause (a), the balance shall be paid in equal shares to each surviving Child who was a Dependent Child at the death of the Member.

(8) **Maximum Pre-retirement Survivor Pensions**

(a) If, at the date of the death of the Member, the pension payable to two or more Dependent Children is increased in accordance with subsection (7), the increased pension shall not exceed the Member's projected lifetime retirement benefit equal to the greater of:

(i) the annual amount of lifetime retirement benefits that would have accrued to the Member to age 65 had the Member survived to that age and continued Employment and had the Member's rate of pay not increased, or if lower, 150% of the YMPE for the year in which the Member died, and

(ii) the annual amount of lifetime retirement benefits accrued to the Member to the date of the Member's death.

(b) If the pension payable to one Dependent Child is increased in accordance with subsection (7), the increased pension shall not exceed 66 2/3% of the amount determined in clause (a).

(c) If at the date of death of the Member, the Commuted Value determined in accordance with clause (5)(a) exceeds the Commuted Value of the pension determined in accordance with clauses (a) or (b) of this subsection, the excess amount shall be payable in a lump sum to be divided equally among the Dependent Children or their respective guardian(s), as the case may be.

(9) **Portability**

In lieu of the pension to which a Spouse is entitled in accordance with this Section, the Spouse may, within 90 days of receiving notification from the Board of the benefits payable as a result of the death of the Member, elect to transfer the Commuted Value of the pension to a Registered Retirement Savings Plan or receive it as a lump sum payment.
amended 27/2012

The Commuted Value of the pension shall include the value of any adjustments expected to be made in accordance with Section 7.

(10) **Lump Sum Refund When Pension Payments Cease**

If the pension payments to a Member's Spouse or Dependent Children, if any, cease before the total of these payments are equal to the Member's Required Contributions, With Interest, then:

the unpaid balance of this amount shall be paid to the Beneficiary or estate of the Spouse or last Dependent Child, whichever is applicable, when the payments cease because of death, or to the Dependent Child when payments cease because the Child ceases to be a Dependent Child.

TERMINATION OF EMPLOYMENT

11. (1) *repealed 27/2012*

(2) **Eligibility Upon Termination**

If, for any reason other than death, a Member's Employment with the City terminates before the Member becomes eligible for a pension, the Member is entitled to receive a pension commencing on the first day of any month following or coinciding with the month in which the Member attains age 60. The amount of the pension shall be equal to the pension determined in accordance with Section 6.
amended 27/2012

(3) **Portability**

A terminating Member who is entitled to a pension in accordance with subsection (2) may elect, in lieu of the pension, to transfer the Commuted Value of this pension to either another Registered Plan or a Registered Retirement Savings Plan or receive it as a lump sum refund, but only to the extent permitted under *The Income Tax Act* (Canada) and any regulations and administrative rules thereunder.

If the Member does not make an election under this subsection within 90 days of receiving notification from the Board of the benefits payable, the Member shall be deemed to have elected the pension provided in accordance with subsection (2).

The Commuted Value of the pension shall include the value of any adjustments expected to be made in accordance with subsection (3) of Section 7.
amended 27/2012

(4) **Application for Commencement of Pension**

It shall be the responsibility of a Member, to whom a deferred pension has been granted, or his or her Beneficiary if the Member has died, to apply for any benefits for which the Member is eligible.

GENERAL PROVISIONS

12. (1) **Proof of Age and Designation of Beneficiary**

Each Employee must provide proof of age and complete the Declaration of Beneficiary Form upon joining the Plan. Each Spouse or Child who becomes entitled to a pension under the Plan must provide proof of age and designate a Beneficiary on the form prescribed by the Board.

A Member may change his or her Beneficiary from time to time by completing the form prescribed by the Board. If the Beneficiary has died and no further Beneficiary has been appointed, any benefits that become payable to the Beneficiary on the Member's death shall be paid to the Member's estate.

(2) **Limitation on Assignment**

No benefit provided under the Plan is capable of being assigned, charged, anticipated, given as security or surrendered, or confers on any person any right or interest therein that is capable of being assigned, charged, anticipated, given as security or surrendered, and, for the purposes of this condition,

(a) assignment does not include:

(i) assignment pursuant to a decree, order or judgment of a competent tribunal or a written agreement in settlement of rights arising as a consequence of the breakdown of a marriage or other conjugal relationship between the Member and the Member's Spouse or former Spouse, or

(ii) assignment by the legal representative of the deceased Member on the distribution of that Member's estate, and

(b) surrender does not include:

(i) a reduction in benefits to avoid revocation of the registration of the Plan under *The Income Tax Act* (Canada), or

(ii) garnishment to enforce a maintenance order under *The Garnishment Act.*

(3) **Alienation of Benefits on Marriage Breakdown**

(a) Support Obligations

Upon breakdown of a Member's spousal relationship, payments under the Plan are subject to execution, seizure or attachment in satisfaction of a court order for support or maintenance enforceable under the Manitoba provincial property law.

(b) Division of Property

Pension benefits, pension credits and other benefits under this Plan are, on divorce, annulment or separation, subject to the Manitoba provincial property law. However, notwithstanding provincial property law, upon the breakdown of the spousal relationship, a Member may assign, or convey, all or a portion of his or her pension benefits, pension credits or other benefits under the Plan to his or her Spouse or former Spouse.

(4) **Information for Employees**

The Board shall provide each Member with a written explanation of the terms and conditions of the Plan and amendments thereto, together with an explanation of the rights and duties of the Employee with reference to the benefits available to him or her under the terms of the Plan.

AMENDMENT OR TERMINATION

13. (1) **Procedure**

The provisions pertaining to the amendment, modification, variation, or termination of the Plan (and any trust arising hereunder) shall be those set forth in Sections 16, 17, and 18 of By-law No. 7869/2001 of the City.

Where an amendment results in a certifiable past service pension adjustment as defined by the *Income Tax Act* (Canada) in respect of a Member, the amendment shall not apply to the Member prior to certification.

(2) **Disposition of Fund on Plan Termination**

In the event of the termination of the Plan, the assets of the Pension Fund shall be used to provide benefits in accordance with the Plan for the Members, former employees, pensioners, dependents, their respective beneficiaries and estates in an equitable manner to be determined by the Board on the advice of the Actuary. If after provision for all benefits payable above and for the payment of expenses, on the wind-up of the Plan, any remaining assets of the Pension Fund shall revert to the benefit of the City, consistent with the requirements of the *Income Tax Act* (Canada) and Regulations.

PART B OF BY-LAW NO. 7869/2001 OF THE CITY OF WINNIPEG

THE CITY OF WINNIPEG COUNCIL EARLY RETIREMENT BENEFITS ARRANGEMENT

DEFINITIONS

1. In this Part B, terms shall have the meaning assigned to them in Section 1 of Part A.

CONTRIBUTIONS

2. The City shall contribute to an account established under this By-law an amount equal to the benefits and expenses as they become payable in accordance with Section 3.

BENEFITS

3. (1) Each Member, Spouse, or Dependent Child, who is receiving a pension from the Plan shall receive a benefit under this Part B equal to:

(a) the amount that would be payable if the Prescribed Reduction determined in accordance with subsection (1) of Section 6 of Part A for the Member were 100%,

less

(b) the pension that is payable under Part A.

(2) There shall be no benefits payable under this Part B as a result of the provisions of Sections 10, 11, or 12 of Part A.

(3) The benefit under this Part B shall be paid in the same form as the pension payable to the Member, Spouse or Dependent Children under Part A.