

AN ORDINANCE

AMENDING Ordinance Number 4532 as contained in City Code Sections 4-12-6 Exhibit B to Chapter 4-12, so as to revise the City/BLW Consolidated Retirement Plan for all participants

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MARIETTA, GEORGIA:

Section 1: That certain listed sections of Section 4-12-6-010, Exhibit B to Chapter 4-12, Ordinance No. 4532 of the Code of Ordinances of the City of Marietta be modified to read as follows:

ARTICLE I

Summary of Consolidated

Retirement Plan for the Employees of the City of Marietta, Georgia

Participation --All current participants will have the option to participate in the new plan or continue to be participants in the existing plan, new participants must meet the eligibility provisions as outlined in the current plan.

Normal retirement date --First day of the month following or coincident with the later of the participant's 65th birthday and the completion of 5 years of credited service for employees hired prior to March 18, 2008.

Early retirement --Age 55 or more with a minimum of 5 years credited service.

Disability retirement --Current plan with offset for any monies received from workers' compensation.

Normal retirement date --First day of the month following or coincident with the later of the participant's 65th birthday and the completion of seven (7) years of credited service for employees hired on or after March 18, 2008.

Early retirement --Age 55 or more with a minimum of seven (7) years credited service.

Disability retirement --Current plan with offset for any benefit received under workers' compensation.

Special election period --All current participants have 90 days from the new plan effective date of March 1, 1987 to elect to be covered under the new plan, failure to elect will mean automatic coverage under the current plan.

Second special election period --All current "4022" plan participants as of November 11, 1998 will be provided a thirty (30) day period in the calendar year 1999 to elect to be covered by the provisions of the Consolidated Retirement Plan; failure to elect will mean automatic coverage under their current plan.

Normal retirement pension --2.1% (for participants who terminate active service prior to the effective date of this change, the benefit percentage will remain 2%).

Final average earnings --Shall mean the average of the annual earnings paid to a participant during any consecutive three (3) year period preceding his actual date of retirement in which his earnings were highest; or if he had less than three (3) years of total credited service, then his final average earnings shall be his average earnings for his total credited service for employees hired prior to January 1, 2009.

Effective January 1, 2009, **final average earnings** shall mean the average of the annual earnings paid to a participant during any consecutive five (5) year period preceding his actual date of retirement in which his earnings were highest; or if he had less than five (5) years of total credited service, then his final average earnings shall be his average earnings for his total credited service for employees hired prior to January 1, 2009.

80 point pension -- Participants hired prior to March 18, 2008 will be eligible to receive an unreduced retirement when a participant's age plus credited service total 80.

Participants hired on or after March 18, 2008 will only be eligible to receive an unreduced retirement pension under the 80 point pension provision once they reach age fifty-five (55).

Early retirement pension --The accrued normal retirement pension is reduced by .25 of 1 percent for each month the participant's age at early retirement is less than 65 for employees hired prior to January 1, 2009.

Early retirement pension -- for employees hired on or after January 1, 2009 the accrued normal retirement pension is reduced by .417 of 1 percent for each month the participant's age at early retirement is less than 65

Normal benefit form --No change from the current plan--lifetime benefit without survivor continuation.

Benefit form options --Normal benefit.

Social Security option

Joint & survivor option

Break-in-service pension eligibility --All future participants that incur a break-in-service will only be entitled to a benefit at their normal retirement date.

ARTICLE II

Section 7. Early Retirement Age.

Early retirement age for employees hired prior to March 18, 2008 shall mean the date a participant attains age fifty-five (55) and has completed at least five (5) years of credited service.

Early retirement age for employees hired on or after March 18, 2008 shall mean the date a participant attains age fifty-five (55) and has completed at least seven (7) years of credited service.

Section 12. Final Average Earnings.

Final average earnings for participants hired prior to January 1, 2009 shall mean the average monthly earnings paid to a participant during the thirty-six (36) full months preceding his actual date of retirement in which his earnings were highest.

Final average earnings for participants hired on or after January 1, 2009 shall mean the average monthly earnings paid to a participant during the sixty (60) full months preceding his actual date of retirement in which his earnings were highest.

Final average earnings for an elected or appointed member of the governing authority shall be defined as the average annual salary divided by twelve (12) of all plan participants covered by the plan on the July 1 preceding the plan year of determination. Under no circumstances may this amount be more than five (5) percent greater than the average salary used from the prior year. This amount will also be adjusted as necessary in order to preserve an individual participants accrued benefit.

Section 15. Normal Retirement Age.

Normal retirement age for employees hired prior to March 18, 2008 shall mean the date a participant attains age sixty-five (65) and has completed at least five (5) years of credited service.

Normal retirement age for employees hired on or after March 18, 2008 shall mean the date a participant attains age sixty-five (65) and has completed at least seven (7) years of credited service.

ARTICLE IV

Contributions

Section 3. Participant Contributions

(1) As of January 1, 2009, each Participant shall make mandatory contributions to the Plan. The amount of such contributions shall be 4 percent (4%) of each Participant's gross wages other than overtime and expense reimbursements. Such amounts shall be withheld from each payroll check for periods beginning on and after the date that the Eligible Employee becomes a Participant in the Plan. The city shall hold such amounts, for recordkeeping purposes, in a Participant Contribution Account for each contributing Participant. Such account shall be a notional account only. The Participant may not direct the investment of such account, and such amounts shall be held together with the remaining assets of the plan. The Participant shall not, on account of the existence of such an account, have any greater or higher-priority claim on the assets of the plan than any other Participant.

Participant contributions described in this Article IV, Section 3, shall be made pursuant to Section 414(h) of the Code and shall be treated as employer contributions in determining their federal income tax treatment under the Internal Revenue Code. Such contributions shall be included in the Participants' Earnings for purposes of determining their benefits under this Plan.

(2) Refund of Participant Contributions. If a Participant has a termination of employment and is not eligible for any retirement benefit under this Plan, or if the Participant dies before his benefits have commenced and no death benefit is payable to a spouse or child of the Participant, the Participant (or the Beneficiary, if the Participant dies) shall receive the balance of his Participant Contribution Account. A Participant who is vested in his benefit under this Plan is not eligible for a refund of Participant Contributions pursuant to this paragraph (2).

If the Participant, a contingent annuitant, a spouse or child is receiving benefits under the Plan and dies before payments from the Plan to the Participant, contingent annuitant, spouse or child have been made in an amount equal to or greater than the total of the Participant Contribution Account, and no additional benefits are due from this Plan, then the Beneficiary shall receive the amount by which the Participant Contribution Account (as of the date benefits commenced) exceeds such amount. If the Beneficiary receives such a refund, no additional death benefits will be paid from the Plan.

A refund of a Participant Contribution Account shall not include interest.

"Beneficiary" for purposes of this Section 3 shall mean the individual, trust or other entity designated by the Participant in accordance with procedures established by the Pension Board to receive a distribution of the Participant's Participant Contribution Account under the circumstances described above.

For the purposes of this Section, revocation of prior Beneficiary designations will occur when a Participant files a new valid designation with the Plan Administrator.

Nothing in this definition of Beneficiary shall be deemed to provide death benefits that are not otherwise provided in this Plan.

- If the Participant does not designate a Beneficiary, or the Beneficiary so designated does not survive the Participant, the Participant's Beneficiary for purposes of receiving any refund of Participant Contributions shall be his spouse, if the Participant is survived by a spouse, or the Participant's estate if he is not survived by a Spouse.
- Any refund of the Participant Contribution Account shall be made in a lump sum after the later of (i) the Participant's Termination of Employment and (ii) the date that the Participant requests a distribution and completes any forms required by the Pension Board as a condition of his receiving a refund.

ARTICLE V

Eligibility for Benefits and Amounts

Section 1. Eligibility for a Normal Retirement Benefit.

A participant shall be eligible to retire on a normal retirement benefit upon the later of:

A. attainment of age sixty-five (65), or

B. completion of five (5) years of credited service for employees hired prior to March 18, 2008 or completion of seven (7) years of service for those hired on or after March 18, 2008.

C. Elected or appointed members of the governing authority shall be eligible to retire on a normal retirement benefit upon attainment of age sixty-five (65), and completion of five (5) years of credited service for those holding office prior to January 1, 2009. Elected or appointed members of the governing authority shall be eligible to retire on a normal retirement benefit upon attainment of age sixty-five (65), and completion of seven (7) years of credited service for those holding office on or after January 1, 2009. However commencement of benefits shall be delayed until the first day of the month coinciding with or next following the date he vacates such elective office.

Section 4. Amount of Early Retirement Benefit.

The monthly amount of the early retirement benefit for participants hired prior to January 1, 2009, shall be equal to the benefit determined in section 2 of this article, reduced by .250 of one percent for each month by which the participant is younger than sixty-five (65) on the effective date of his early retirement.

The monthly amount of the early retirement benefit for participants hired on or after January 1, 2009, shall be equal to the benefit determined in section 2 of this article, reduced by .417 of one percent (1%) for each month by which the participant is younger than sixty-five (65) on the effective date of his early retirement.

Section 9. Eligibility for a Vested Retirement Benefit.

A terminated participant shall be eligible to retire and receive a vested retirement benefit if his employment with the employer terminates voluntarily or involuntarily for any reason other than death, normal, early, or disability retirement, provided he has completed at least five (5) years of credited service if hired prior to March 18, 2008 or at least seven (7) years of credited service if hired on or after March 18, 2008

A participant whose employment is terminated voluntarily or involuntarily because he is disabled shall be entitled to a vested benefit provided he qualifies for a disability retirement, (in accordance with section 11 of this article), within one (1) year of termination of employment. Should a participant receiving workers' compensation benefits becomes qualified to receive disability retirement benefits on or after January 1, 2009, his disability retirement benefit will be reduced by the amount of workers' compensation benefit. Once the participant is ineligible for workers' compensation benefits, his total disability benefit will be restored.

Benefits shall commence on the first day of the month in which the terminated participant attains his normal retirement date. If an employee is a participant in the plan on March 1, 1987, and later terminates his employment with the employer, he shall be eligible to retire and commence receiving benefits on the

first day of any month following his attainment of age fifty-five (55), provided he has completed at least five (5) years of credited service.

If an employee becomes a participant in the plan on or after March 18, 2008, and later terminates his employment with the employer, he shall be eligible to retire and commence receiving benefits on the first day of any month following the attainment of age fifty-five (55), provided he has completed seven (7) years of credited service.

In the event a participant is involuntarily terminated for reasons other than willful misconduct, he shall be eligible to retire at any time after attaining his early retirement date, provided he has at least twenty (20) years of credited service on the date he terminates his employment.

Section 12. Amount of Disability Retirement Benefit.

The monthly amount of the disability retirement benefit shall be determined in accordance with section 2 of this article. In no event, however, shall the benefit be less than fifty percent (50%) of the average of the participant's most recent 12 months of earnings. If the employee has completed an initial twelve (12) months of continuous service, from date of hire to date of termination of employment as a result of a disability, but has less than twelve (12) months of monthly earnings, the disability retirement benefit shall be no less than fifty percent (50%) of the average monthly earnings for the actual number of months worked.

Should a participant receiving workers' compensation benefits becomes qualified to receive disability retirement benefits, his disability retirement benefit on or after January 1, 2009, will be reduced by the amount of workers' compensation benefit. Once the participant is ineligible for workers' compensation benefits, his total disability benefit will be restored.

Section 2: It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses, phrases and words are severable, and if any section, paragraph, clause, phrase or word of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, clauses, phrases or words of this Ordinance.

Section 3: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 4: This Ordinance shall become effective after the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

DATE: 09/10/08 APPROVED:


William B. Dunaway, Mayor

ATTEST:


Stephanie Guy, City Clerk

Approved as to Form:


Douglas R. Haynie, City Attorney