

FIRST AMENDMENT TO THE  
CITY OF FRANKLIN EMPLOYEES' PENSION PLAN

WHEREAS, the City of Franklin (the "City") has previously established and currently maintains the City of Franklin Employees' Pension Plan (the "Plan"); and

WHEREAS, the City has retained the right to amend the Plan; and

WHEREAS, the Board of Mayor and Aldermen has approved the amendment of the Plan as set forth herein;

NOW, THEREFORE, the Plan is hereby amended in the following respects:

1. Section 2.4 is deleted hereby and the following substituted as Section 2.4:

Section 2.4      Optional Participation

Certain Employees who are classified at a level of Director and above in the City's job classification and who were employed on or after July 1, 1995 may opt out of participation in the Plan. The approval of this optional participation in the Plan is subject to the following conditions: (a) a written agreement exists between the Employee and the City, (b) the Employee must participate in another retirement plan stated in such agreement, and (c) the agreement must state the contribution or benefit he shall receive as a percentage of salary. An Employee's election pursuant to this Section 2.4 shall be irrevocable.

2. Section 3.1(c) shall be amended by the addition of the following subsection (c)(5):

(5) Notwithstanding the preceding provisions of Section 3.1(c), with respect to Participants first hired by the City prior to July 1, 2001, the designation of an the amount expressed as a percent of Compensation to be his or her mandatory contribution shall be an irrevocable election, and such designation cannot be altered by the Participant once designated.

3. Section 4.3(d) shall be amended by the addition of the following subsection (3) thereto:

(3) With respect to employee contributions hereunder, and for limitation years beginning after December 31, 2001, and except as otherwise permitted under this Plan and Code Section 414(v), the annual addition that may be contributed under the Plan for any limitation year shall not exceed the lesser of:

(i)      \$40,000, as adjusted for increases in the cost-of-living under Code Section 415(d), with references to quarters and base periods independently of the defined benefit dollar limit, or

(ii)      one hundred percent (100%) of the Participant's compensation (within the meaning of Section 415(c)(3) of the Code) for the limitation year.

Any adjustments shall be in \$1,000.00 increments. Any repayment of contributions and earnings which were previously refunded due to a forfeiture of service credit under IRC 415(k)(3) shall not be taken into account for purposes of IRC Section 415.

If the annual additions attributable to employee contributions as provided in this subsection (3) are exceeded for any Participant, the Plan may only correct such excess in accordance with the Employee Plans Compliance Resolution System (EPCRS) as set forth in Revenue Procedure 2006-27 or any superseding guidance, including, but not limited to, the preamble of the final Section 415 regulations.

4. Section 4.7(a) of the Plan shall be deleted in its entirety and the following substituted therefor as section 4.7(a):

(a) **In General.** All distributions under this Section shall be made in accordance with Code §401(a)(9), the regulations promulgated under Code §401(a)(9), including Treasury Regulation §§1.401(a)(9)-1 through 1.401(a)(9)-9 and any other provisions reflecting the requirements of Code §401(a)(9) that are prescribed by the Commissioner, in revenue rulings, notices and other guidance published in the Internal Revenue Bulletin, all of which are hereby incorporated by reference; and the terms of the Plan reflecting the requirements of Code §401(a)(9) shall override any provisions of the Plan which are inconsistent with those requirements.

(1) A Participant's entire interest shall be distributed not later than April 1st of the calendar year following the later of (A) the calendar year in which the Participant attains age seventy and one-half (70½) or (B) the calendar year in which the Participant retires. Alternatively, distributions to a Participant must begin no later than the applicable April 1st as determined under the preceding sentence and must be made over the life of the Participant (or the lives of the Participant and the Participant's designated Beneficiary) or the life expectancy of the Participant (or the life expectancies of the Participant and his/her designated Beneficiary) in accordance with Regulations.

(2) Distributions to a Participant and his/her Beneficiaries shall only be made in accordance with the incidental death benefit requirements of Code §401(a)(9)(G) and the Regulations thereunder.

(3) The restrictions imposed herein shall not apply if a Participant has, prior to January 1, 1984, made a written designation to have his/her death benefits paid in an alternative method acceptable under Code §401(a) as in effect prior to the enactment of the Tax Equity and Fiscal Responsibility Act of 1982. Any such written designation made by a Participant shall be binding upon the Plan Administrator notwithstanding the provisions of this Section.

5. Article VI, Section 6.1 shall be deleted in its entirety.

6. Section 8.1(a) shall be deleted in its entirety and the following substituted therefor as section 8.1(a):

(a) **Pre-tax Employee Contributions.** Employees hired before July 1, 1995 may elect to contribute from three percent (3%) to ten percent (10%) on a pre-tax basis to a cash balance account beginning with the first payroll period after September 1, 1995. Such election, once made, shall be irrevocable and may not be subsequently modified. Employees hired on or after July 1, 1995 and before December 1, 1996 must, per administrative procedures, contribute at least three percent (3%) on a pre-tax basis to a cash balance account; however, these Employees may make a permanent one-time election to contribute an additional amount of from one

percent (1%) to seven percent (7%) of salary. Such election, once made, shall be irrevocable and may not be subsequently modified. Employees hired on or after December 1, 1996, who have satisfied eligibility requirements of Section 2.1, must contribute at least three percent (3%) on a pre-tax basis to a cash balance account; however, these Employees may make a permanent one-time election to contribute an additional amount of from one percent (1%) to seven percent (7%) of salary. Such election, once made, shall be irrevocable and may not be subsequently modified. A Participant who was first hired by the City on or after February 15, 2010, shall make a mandatory contribution to the Plan in an amount equal to 5% of the Participant's Compensation. These contributions are considered to be "picked up" by the Employer under Code § 414(h)(2). Notwithstanding the foregoing, no Participants who were first hired by the City after June 30, 2001, but before February 15, 2010, shall be required to make any mandatory contributions to the Plan, and no Pre-tax Employee Contribution Cash Balance Account shall be maintained for any such Participant. For each Participant who has made a one-time permanent election to transfer the balance in the Participant's Pre-tax Employee Contribution Cash Balance Account as of June 30, 2002 to the City of Franklin Employees' Money Purchase Pension Plan, all future allocations of the mandatory contributions previously designated by the Employee pursuant to Section 3.1(c)(1)(i) shall be made to the electing Employee's Employee Contribution Account under the City of Franklin Employees' Money Purchase Pension Plan.

7. Section 8.2 of the Plan shall be deleted in its entirety and the following language substituted as Section 8.2:

8.2. Return of Contributions. The assets of this Plan shall be held for the exclusive purposes of providing benefits to the Participants of the Plan and their beneficiaries and defraying reasonable expenses of administering the Plan. Notwithstanding the foregoing, return of contributions to the Employer may be made in the following circumstances:

(1) if the contribution is made by reason of a good faith mistake of fact;

(2) if the contribution is conditioned on the initial qualification of the plan under the Internal Revenue Code, the application for determination is made timely, and the Plan received an adverse determination with respect to its initial qualification; or

(3) if the contribution is conditioned on its deductibility under Section 404 of the Code.

The return of the amount involved must be made within one year of the mistaken payment of the contribution, the date of denial of qualification, or disallowance of the deduction.

The maximum amount that may be returned in the case of a mistake of fact or the disallowance of a deduction is the excess of (1) the amount contributed, over, as relevant, (2) (A) the amount that would have been contributed had no mistake of fact occurred, or (B) the amount that would have been contributed had the contribution been limited to the amount that is deductible after any disallowance by the Service. Earnings attributable to the excess contribution may not be returned, but losses attributable thereto must reduce the amount so returned. Furthermore, if the withdrawal of the amount attributable to the mistaken or

nondeductible contribution would cause the balance of the individual account of any Participant to be reduced to less than the balance which would have been in the account had the mistaken or nondeductible amount not been contributed, then the amount to be returned to the Employer must be limited so as to avoid such reduction. In the case of a reversion due to initial disqualification of a plan, the entire assets of the plan attributable to employer contributions may be returned to the Employer.

8. Section 3.1(c)(1)(iii) of the Plan shall be deleted in its entirety; similarly, Section 8.1(c) shall be deleted in its entirety.

9. Section 11.4 of the Plan shall be amended by the deletion of the initial phrase "Except as provided in Section 6.1," such that the Section begins "No benefit payable under the Plan shall be subject to anticipation..."

SIGNED this \_\_\_\_ day of \_\_\_\_\_, 2015 \_\_\_\_.

CITY OF FRANKLIN, TENNESSEE

By: \_\_\_\_\_

Title: \_\_\_\_\_