

LEGISLATIVE #


120224C

MEMORANDUM

Office of the City Attorney

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TO: Mayor and City Commission **DATE:** August 30, 2012

FROM: Stephanie M. Marchman, Assistant City Attorney II 

SUBJECT: Ratification of Ordinance No. 120218, which amends the General Employees Pension Plan, and Correction of Scriveners Error

Ordinance No. 120218 amends the City's General Employees Pension Plan (Plan) in accord with the collective bargaining process between the City and the Communication Workers of America, Local No. 3170 (CWA). The changes negotiated with the CWA include modifications to the length and components of final average earnings, eligibility for normal and early retirement, adjustment to the multiplier and cost of living allowance, elimination of DROP for new members and a reduction of the DROP return for existing members, and other changes mandated by Florida Statutes, as more specifically described in the title and body of the Ordinance. These changes, together with other collectively bargained for changes to members' terms and conditions of employment, were ratified by the members of the CWA on August 14, 2012 and should be ratified by the City Commission at the same time as the Second Reading of this Ordinance for the Plan changes to take effect on October 1, 2012.

For the record, it should be noted that members of the CWA ratified a draft of Ordinance No. 120218 dated 6/19/2012 and attached hereto as Exhibit A, as well as two collective bargaining agreements covering the non-supervisory and supervisory units for January 1, 2010 – December 31, 2012. The ordinance presented to the City Commission for adoption and ratification is identical to the ordinance ratified by the CWA except that it contains the ordinance number (120218), is dated 8/27/2012, and corrects a scrivener's error on page 13, line 2 by striking the word "first" which was mistakenly not stricken from the 6/19/2012 draft ratified by the CWA. See Exhibit B. City management discussed correction of this scrivener's error with the CWA and the CWA has agreed to the correction.

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ORDINANCE NO. XXXXXX

1
2
3
4 An ordinance of the City of Gainesville, Florida, amending
5 Chapter 2, Article VII, Division 5 (Employees Pension Plan) of
6 the Code of Ordinances of the City of Gainesville; amending
7 Section 2-521, Definitions; amending the definition of credited
8 service related to sick leave and personal critical leave bank;
9 amending the definition of earnings related to overtime pay
10 and termination vacation pay; amending the definition of final
11 average earnings related to the computation of such earnings;
12 amending the definition of service credit rules to conform and
13 clarify the Plan with regard to a member's death while
14 performing qualified military service; amending Section 2-523,
15 Membership and service, related to the computation of final
16 average earnings for participants in the Gainesville Gas Group
17 Pension Plan; amending Section 2-524, Contributions and
18 funding, related to member contributions, by changing the
19 term gross pay to earnings; amending Section 2-526, Benefits,
20 related to years of service and age required for normal
21 retirement and early retirement, payment of accrued benefit
22 with an actuarial present value of \$5,000.00 or less, the timing
23 of termination benefits, and the amount of monthly pension
24 benefit; amending Section 2-534, Deferred Retirement Option
25 Program (DROP), related to eligibility, sick leave and personal
26 critical leave bank, and interest rate; amending Section 2-535,
27 Cost of living adjustment of benefits; non-eligibility during
28 DROP participation, related to age and years of service;
29 providing directions to the codifier; providing a severability
30 clause; providing a repealing clause; and providing an
31 immediate effective date.
32

33 WHEREAS, at least 10 days notice has been given once by publication in a newspaper
34 of general circulation notifying the public of this proposed ordinance and of a Public Hearing in
35 the Auditorium of City Hall in the City of Gainesville; and

36 WHEREAS, the Public Hearings were held pursuant to the published notice described at
37 which hearings the parties in interest and all others had an opportunity to be and were, in fact,
38 heard.

39 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE
40 CITY OF GAINESVILLE, FLORIDA:



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1 **Section 1.** Section 2-521, Definitions, of the Code of Ordinances of the City of

2 Gainesville, is amended to read as follows (except as amended herein, the remaining definitions
3 in Section 2-521 remain unchanged and in full force and effect):

4 **Section 2-521. – Definitions.**

5 *Credited service* shall mean the total number of months of service with the city, expressed in
6 terms of full and fractional years. Additional months of service shall be credited for unused sick
7 leave and personal critical leave bank (PCLB) credits, assigning one day of service for each day
8 of unused sick leave and unused personal critical leave, unless otherwise expressly provided for
9 herein, in applicable personnel policies, collective bargaining agreements, or DROP provisions.

10 For service earned on or after October 1, 2012, no additional months of service shall be credited
11 for unused sick leave or PCLB credits earned on or after October 1, 2012. In calculating credited
12 service on or after October 1, 2012, the lesser number of months between the additional months
13 of service credited for unused sick leave or PCLB credits earned on or before September 30,
14 2012 and months of unused sick leave or PCLB credits available to a member at the time of his
15 or her retirement shall be used. Employees of the Gainesville Police Department

16 Communications Center at the time the combined communications center is activated who are
17 hired by the Alachua County Sheriff on or about said date and who elect to remain members of
18 this plan and the City of Gainesville Employees Disability Plan (GPD employees) shall designate
19 some, none, or all of their city sick leave or PCLB balances at time of hire by the sheriff to be
20 applied as credited service under the plan. Such sheriff department employee's sick leave (or
21 equivalent benefit) balances at the time of termination from the sheriff's department shall not be
22 applied towards credited service nor shall any cash out of such benefit be included in such
23 member's final average earnings. GPD employees' employment with the city shall not be deemed
24 to be terminated, for the purposes of this section, when hired by the Sheriff on or about the

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1 activation date. If the employment of a member is terminated, by reason of layoff, and the
2 member is subsequently reemployed by the city, the credited service to which he/she was entitled
3 as of his/her termination date shall be included in any further computation of credited service if
4 the member refunds withdrawn contributions, if any, as described in section 2-626(i). Further
5 provided, that if the employment of a member is terminated, other than layoff, and the member is
6 subsequently reemployed by the city, the credited service to which he/she was entitled as of
7 his/her termination date shall be included in any further computation of credited service.

- 8 (1) If the member was entitled to a termination benefit; or
- 9 (2) If the member was not entitled to a termination benefit and his/her number of
10 calendar months that he/she was not employed is less than his/her aggregate months of
11 service credited under the plan as of his/her termination date and he/she has repaid
12 withdrawn contributions as provided in section 2-526(i).
- 13 (3) If the member was not entitled to a termination benefit, and he/she remains in the
14 continuous employ of the city for at least five years subsequent to his/her re-employment,
15 and he/she has repaid withdrawn contributions as provided in section 2-526(i).
16 Continuous employ shall not be deemed interrupted because of absence, when the
17 absence shall have been granted in accordance with appropriate contract provisions or
18 applicable personnel policies as approved by the city commission. Approved absences
19 shall count as credited service under the plan, in accordance with the terms of the plan.

20 *Earnings* shall mean only base pay, (which shall include all paid leaves), all overtime pay (which
21 shall include time paid at time-and-a-half, double-time, and double-time-and-a-half), stand-by
22 pay, call-back pay, working out of classification pay, acting out of classification pay, longevity
23 pay, special assignment pay, and termination vacation pay, or for members entering a DROP any
24 lump sum payment of some or all of such member's vacation balance upon entering the DROP,

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1 except as may be otherwise expressly provided for herein or in collective bargaining agreements.

2 To calculate earnings for service earned on or after October 1, 2012 by members whose most

3 recent appointment to employment with the city as a permanent or regular employee occurred on

4 or before October 1, 2012, no more than 300 hours of overtime pay per year earned on or after

5 October 1, 2012 shall be included, nor shall termination vacation pay earned on or after October

6 1, 2012 be included. To calculate earnings for service earned on or after October 2, 2012 by

7 members whose most recent appointment to employment with the city as a permanent or regular

8 employee occurred on or after October 2, 2012, no more than 150 hours of overtime pay per year

9 earned on or after October 2, 2012 shall be included, nor shall termination vacation pay earned

10 on or after October 2, 2012 be included. Effective October 1, 1996, earnings in excess of

11 \$150,000.00 annually shall be disregarded for all purposes of this plan. As of January 1 of each

12 calendar year, the dollar limitation as determined by the commissioner of internal revenue for

13 that calendar year will become effective for the plan year commencing thereafter in lieu of the

14 dollar limitation provided in the preceding sentence. For an employee who became a member of

15 the plan prior to October 1, 1996, this limitation shall not be applicable.

16 *Final average earnings* shall mean:

17 (1) For members whose most recent appointment to employment with the city as a

18 permanent or regular employee occurred on or before October 1, 2007, t~~The~~ average of

19 the annual (12 consecutive months) ~~compensation~~earnings received by an employee

20 during any 36 consecutive months of employment by the city during which the employee

21 received the highest ~~compensation~~earnings paid him/her by the city; provided, however,

22 for employees who are demoted for disciplinary reasons by the city, the terms shall refer

23 to the greater of:

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1 a. The average of the annual (12 consecutive months) ~~compensation~~earnings
2 received by an employee his/her final 36 consecutive months of employment with
3 the city, or;

4 b. The average of the annual (12 consecutive months) ~~compensation~~earnings
5 received by an employee during any 36 consecutive months of employment by the
6 city subsequent to the demotion during which the employee received the highest
7 ~~compensation~~earnings paid him/her by the city.

8 (2) For members whose most recent appointment to employment with the city as a
9 permanent or regular employee occurred on or after October 2, 2007 but on or before
10 October 1, 2012, the average of the annual (12 consecutive months) earnings received by
11 an employee during any 48 consecutive months of employment by the city during which
12 the employee received the highest earnings paid him/her by the city; provided, however,
13 for employees who are demoted for disciplinary reasons by the city, the terms shall refer
14 to the greater of:

15 a. The average of the annual (12 consecutive months) earnings received by an
16 employee his/her final 48 consecutive months of employment with the city, or;

17 b. The average of the annual (12 consecutive months) earnings received by an
18 employee during any 48 consecutive months of employment by the city
19 subsequent to the demotion during which the employee received the highest
20 earnings paid him/her by the city.

21 (3) For members whose most recent appointment to employment with the city as a
22 permanent or regular employee occurred on or after October 2, 2012, the average of the
23 annual (12 consecutive months) earnings received by an employee during any 60
24 consecutive months of employment by the city during which the employee received the

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1 highest earnings paid him/her by the city; provided, however, for employees who are
2 demoted for disciplinary reasons by the city, the terms shall refer to the greater of:

3 a. The average of the annual (12 consecutive months) earnings received by an
4 employee his/her final 60 consecutive months of employment with the city, or;

5 b. The average of the annual (12 consecutive months) earnings received by
6 an employee during any 60 consecutive months of employment by the city
7 subsequent to the demotion during which the employee received the highest
8 earnings paid him/her by the city.

9 (24) If a member has been absent from work (performs no duties) due to an injury
10 claimed to be compensable under F.S. Ch. 440 during the period of time which would be
11 utilized to determine his/her final average earnings, then such period of absence shall not
12 be considered months of employment for the purposes of this section. The months of
13 employment immediately preceding the absence shall be deemed to be consecutive with
14 the months of employment, if any, earned after his/her return to work.

15 (35) If the employment of a member is terminated and such former member, who is
16 not a retiree or receiving a termination benefit (or whose termination benefit was cashed
17 out under section 2-526(a)(3)), is subsequently re-employed by the city as an eligible
18 member, such member's final average earnings shall be calculated as follows, except as
19 otherwise required by subsections (1), ~~and (2)~~, and (3) of this definition: The months of
20 employment immediately preceding the termination shall be deemed to be consecutive
21 with the months of employment earned after the member's re-employment.

22 (46) If a continuously employed member ceases to earn eligible service for more than
23 one month during the period of such employment and subsequently begins to again earn
24 eligible service, such member's final average earnings shall be calculated as follows,

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1 except as otherwise required by subsections (1), ~~and (2)~~, and (3) of this definition: The
2 months of employment during which eligible service were earned shall be deemed
3 consecutive.

4 *Service credit rules:*

5 (1) *Day of service* shall mean each day for which a member is:

- 6 a. Paid or entitled to payment by the city for performance of duties;
- 7 b. Paid or entitled to payment by the city on account of a period of time during
8 which no duties are performed (e.g., vacation, holiday, illness, incapacity, layoff,
9 jury duty, military duty or approved leave of absence);
- 10 c. Each day for which back pay, irrespective of mitigation or damages, has been
11 either awarded to or agreed to by the city; provided, however, that the same day
12 shall not be credited as a day of service more than once.

13 (2) *Month of service* shall mean a one-month period beginning on the day of the month
14 corresponding to a member's date of employment, during which the member has earned
15 at least ten days of service; provided, however, that ten days of service will be deemed to
16 have been earned in each month of service in which occurs:

- 17 a. An approved leave of absence, not to exceed 90 days, authorized by the city,
18 in accordance with a uniform policy applied on a nondiscriminatory basis to all
19 members similarly situated; or
- 20 b. Voluntary or involuntary service in the armed forces of the United States for a
21 period not greater than one enlistment, provided that the member is legally
22 entitled to reemployment pursuant to the provisions of any federal law applicable
23 to veterans' reemployment rights, and any amendments thereto, and is reemployed
24 by the city within the manner provided by law and under the conditions

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1 prescribed by law; or such member dies while performing qualified military
2 service as defined in Section 414(u) of the Internal Revenue Code, in which case
3 the member shall be treated as if he or she had returned to employment and then
4 terminated employment on account of death.

5 (3) A member shall not earn any days or months of service for any purpose under the
6 plan after entering in a DROP, except as a re-employed retiree, if applicable.

7 (4) If the employment of a member is terminated, and the former member is
8 subsequently reemployed by the city, the member's date of employment for purpose of
9 determining additional months of service, shall be reestablished as his/her date of
10 reemployment.

11 **Section 2.** Subsection (h) of Section 2-523, Membership and Service, Participants in
12 Gainesville Gas Group Pension Plan, of the Code of Ordinances of the City of Gainesville, is
13 amended to read as follows:

14 **Section 2-523. - Membership and service.**

15 (h) *Participants in Gainesville Gas Group Pension Plan.* The City of Gainesville
16 shall purchase the Group Pension Plan for employees of Gainesville Gas and shall place
17 all of the cash, investments, and other assets of said plan in the trust fund of the City of
18 Gainesville Employees Pension Plan (the "plan"). Retired and former participants shall
19 remain entitled to the applicable benefits as described in the group pension plan, but shall
20 not become members of the "plan." Active participants of the group pension plan who
21 become employed by the City of Gainesville upon the city's acquisition of the Gainesville
22 Gas Company shall become members of the "plan" on the first day following the
23 acquisition date and shall be entitled to the benefits described below.

24 (1) The accrued benefit for such members shall be:

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1 a. The accrued benefit earned under the Gainesville Gas Group Plan as of
2 the acquisition date, plus

3 b. Two percent of final average earnings times credited service earned
4 after the acquisition date, plus

5 c. For each year of credited service earned after the acquisition date, an
6 additional two percent of final average earnings will be credited, not to
7 exceed the service years earned under the accrued benefit formula under
8 the Gainesville Gas Group Plan, less

9 d. For each year of Gainesville Gas Group Plan service credited under
10 subsection c. above, the portion of the accrued benefit determined under
11 subsection a. above based on such year(s), payable as a monthly life
12 annuity from normal retirement date, except as otherwise provided in this
13 article.

14 (2) For purposes of determining normal retirement date, service accrued under
15 the Gainesville Gas Group Plan prior to the acquisition date will be
16 counted as vesting service.

17 (3) For the purpose of computing final average earnings, overtime and
18 termination vacation pay shall not be included, except as provided below.
19 For members retiring on or after October 1, 1996, overtime shall be
20 included for the purpose of computing final average earnings, except as
21 otherwise expressly provided for herein. To calculate earnings for service
22 earned on or after October 1, 2012, no more than 300 hours of overtime
23 pay per year earned on or after October 1, 2012 shall be included.

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1 **Section 3.** Subsection (b)(1) of Section 2-524, Contributions and funding, of the
2 Code of Ordinances of the City of Gainesville, is amended to read as follows:

3 **Section 2-524. - Contributions and funding.**

4
5 (b) *Member contributions.*

6
7 (1) Effective the first full pay period following October 1, 2000, members, except
8 members who have entered a DROP, will have a fixed employee contribution rate
9 of five percent of ~~gross pay~~ earnings. There shall be no member contributions
10 deducted from a member's compensation while participating in the DROP.
11 Effective January 1, 1998, the contributions made by each member to the plan
12 shall be designated as employer contributions pursuant to the Internal Revenue
13 Code (I.R.C.), Section 414(h), of 1986. Such designation is contingent upon the
14 contributions being excluded from the member's gross income for federal income
15 tax purposes. For all other purposes of the plan, such contributions shall be
16 considered to be member contributions.

17 **Section 4.** Subsections (a), (b), and (j) of Section 2-526, Benefits, of the Code of
18 Ordinances of the City of Gainesville, are amended to read as follows:

19 **Section 2-526. - Benefits.**

20 (a) *Eligibility for service retirement.*

21
22 (1) *Normal retirement.*

23 a. A member of the plan whose most recent appointment to employment with the
24 city as a permanent or regular employee occurred on or before October 1, 2007
25 shall be eligible to retire under the terms of the plan upon the earlier of the date
26 the member completes 20 years of credited service or more at any age, or upon
27 the date the member completes ten years of credited service and attains age 65. In

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1 such event the member shall be entitled to and shall be paid an annuity calculated
2 in accordance with subsection (b).

3 b. A member of the plan whose most recent appointment to employment with the
4 city as a permanent or regular employee occurred on or after October 2, 2007 and
5 on or before October 1, 2012 shall be eligible to retire under the terms of the plan
6 upon the earlier of the date the member completes 25 years of credited service or
7 more at any age, or upon the date the member completes ten years of credited
8 service and attains age 65. In such event the member shall be entitled to and shall
9 be paid an annuity calculated in accordance with subsection (b).

10 c. A member of the plan whose most recent appointment to employment with the
11 city as a permanent or regular employee occurred on or after October 2, 2012
12 shall be eligible to retire under the terms of the plan upon the earlier of the date
13 the member completes 30 years of credited service or more at any age, or upon
14 the date the member completes ten years of credited service and attains age 65. In
15 such event the member shall be entitled to and shall be paid an annuity calculated
16 in accordance with subsection (b).

17 (2) *Early retirement.* An employee who is a member whose most recent appointment to
18 employment with the city as a permanent or regular employee occurred on or before
19 October 1, 2012 and has 15 years of credited service and has attained age 55, or an
20 employee who is a member whose most recent appointment to employment with the city
21 as a permanent or regular employee occurred on or after October 2, 2012 and has 20
22 years of credited service and has attained age 60, may make written application to the
23 ~~personnel~~ Risk Management Department which shall promptly transmit the application
24 to the appropriate administrative department head for early retirement. On the

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1 recommendation of the administrative department head and approval of the plan
2 administrator, the employee may retire on the first day of any month following becoming
3 eligible therefor as provided in this section. In such event he/she shall be entitled to and
4 shall be paid an annuity calculated in accordance with subsection (b) except that the
5 amount so computed shall be reduced by five-twelfths of one percent of such amount for
6 each month by which his/her early retirement date is less than the date he/she would have
7 reached age 65.

8 (3) *Termination of employment.* A member whose employment with the city terminates prior
9 to the completion of at least five years of credited service, for any reason, shall not be
10 entitled to any benefits under the plan; except as provided in paragraph e. below;
11 provided, however, that in any event amounts contributed by members shall be paid
12 without interest to the member or, as applicable, the member's beneficiary. A member
13 whose employment with the city terminates after the completion of at least five years of
14 credited service, but prior to retirement, shall be entitled to a termination benefit, or, if
15 applicable, return of contributions in accordance with subsections (e) and (f). Payment of
16 the termination benefit shall be governed by the following provisions of this section.

17 a. Benefit amount. A member who is entitled to a termination benefit shall
18 receive a monthly annuity equal to his/her accrued benefit, except as provided in
19 ~~subsection e. below or in~~ subsection (j), determined as of his/her date of
20 termination.

21 b. Benefit commencement date. The benefit commencement date of a
22 member with at least five years' credited service but less than 20 years' credited
23 service shall be the first day of the month after the member has attained age 65.

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1 c. Benefit payments. ~~Except as provided in subsection e. below, t~~The
2 termination benefits shall be payable on the first last day of each month. The first
3 payment shall be made on the benefit commencement date, and benefits shall be
4 payable thereafter according to the terms of the accrued benefit for the member's
5 lifetime. A member may modify the amount and conditions of payment described
6 in this section by electing an annuity option in accordance with the optional forms
7 of benefit section ~~or, if eligible, a single sum in accordance with subsection e.~~
8 ~~below, in which event the termination benefit shall be paid in accordance with the~~
9 ~~terms of such option.~~

10 d. Benefit forfeitures. That portion of a terminated member's benefit that is
11 not vested shall be forfeited and used only to reduce future costs of the plan,
12 provided, however, that amounts contributed by such a terminated member shall
13 be paid without interest to the member or, as applicable, the member's
14 beneficiary.

15 e. ~~— A member whose employment with the city terminates after the~~
16 ~~completion of at least five years of credited service, and whose accrued benefit~~
17 ~~has an actuarial present value of \$5,000.00 or less, as determined by the Plan~~
18 ~~Actuary, may elect, within 30 days after termination of employment, to receive a~~
19 ~~single sum payment of the entire actuarial present value of the vested accrued~~
20 ~~benefit.~~

21 e. The beneficiary(ies) of a member who dies while performing qualified
22 military service as described in the service credit rules shall receive the higher of
23 the actuarial present value of his or her accrued benefit calculated as of time of
24 death or return of employee contributions without any interest. In the alternative,

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1 said beneficiary may receive an annuity as described in subsections (e), (g), or (h),
2 if such are applicable.

3 (4) *Delayed retirement.* A member of the plan may continue in employment to a date
4 after eligibility for normal retirement. In such event, the member upon termination of
5 employment shall be entitled to and shall be paid an annuity calculated in accordance
6 with subsection (b), below.

7 (b) *Service retirement pension.* In the event of normal retirement, ~~or~~ early retirement, or delayed
8 retirement, the retiring employee shall be entitled to and shall be paid a monthly pension

9 beginning with the month of retirement and continuing until death, except as provided in
10 subsection (j), and subsection (g) of section 2-523. The amount of the monthly pension to which

11 a retired employee whose most recent appointment to employment with the city as a permanent
12 or regular employee occurred on or before October 1, 2012 will be entitled will be equal to two

13 percent of the employee's final average earnings multiplied by the number of years of credited
14 service divided by 12, except as provided in subsection (j), and subsection (g) of section 2-523.

15 The amount of the monthly pension to which a retired employee whose most recent appointment
16 to employment with the city as a permanent or regular employee occurred on or after October 2,

17 2012 will be entitled will be equal to 1.80 percent of the employee's final average earnings
18 multiplied by the number of years of credited service divided by 12, except as provided in

19 subsection (j), and subsection (g) of section 2-523.

20 (j) *Annuity options.* Upon a member becoming eligible to receive an annuity either through
21 regular retirement or through a DROP, he/she may elect to receive annuity benefits, payable
22 under the plan in the form of a joint survivor annuity instead of a normal annuity form, which
23 shall be the actuarial equivalent of the annuity he/she would receive under the normal form. If
24 any member who has a spouse or registered domestic partner at his/her benefit commencement

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1 date fails to make such an election it will be assumed that he/she elected option A below with
2 his/her spouse or registered domestic partner as the beneficiary and if the member does not have
3 a spouse or registered domestic partner at his/her benefit commencement date, that the member
4 elected the normal form.

5 (1) *Option A* — Joint annuity option. A reduced monthly annuity benefit which shall be
6 payable during the joint lifetime of the member and his/her beneficiary, with two-thirds
7 of such reduced annuity amount continuing after the death of the member during the
8 lifetime of the beneficiary. If the beneficiary predeceases the member, 100 percent of the
9 reduced benefit will continue to be received by the member.

10 (2) *Option B* — Joint and last survivor annuity option. A reduced monthly annuity
11 benefit which shall be payable during the joint lifetime of the member and his/her
12 beneficiary, with two-thirds of such reduced benefit amount continuing automatically
13 after the death of either the member or his/her beneficiary, payable for the lifetime of the
14 survivor.

15 The election of either joint survivor option (for an unmarried member), or the election of option
16 A or B (by a married member) must be requested by the member at least 30 days prior to the date
17 of benefit commencement. Such election, if made, may not be changed by the member within
18 three months prior to the date of benefit commencement. The election of the normal form by a
19 married member must be requested by the member at least three months prior to the date of
20 benefit commencement, or a notarized spousal waiver must be submitted thirty days prior to the
21 date of benefit commencement, and may not be changed by the member within 30 days prior to
22 the date of benefit commencement. The election of a joint survivor option shall be deemed
23 automatically canceled at the death of the proposed beneficiary prior to the member's benefit
24 commencement date. Provided, however, anything otherwise contained in this section or any

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1 other section of this division to the contrary notwithstanding, a member receiving an annuity,
2 either through regular retirement or through a DROP, may change his/her option after benefit
3 commencement either from an annuity option or to an annuity option in the event of (1) a
4 divorce or legal separation, when the same has been considered and approved by the court
5 granting same as a part of the settlement; or (2) the marriage of an unmarried employee who
6 becomes married after the date of benefit commencement. Such change shall be effective no
7 sooner than three months after the filing of a written election to effect such change with the
8 personnel department. The benefits paid under such changed annuity shall be the actuarial
9 equivalent to the remaining value of the former annuity determined as of the date of the benefit
10 change.

11 **Section 5.** Subsections (a), (b), (i) and (l) of Section 2-534, Deferred retirement option
12 program, of the Code of Ordinances of the City of Gainesville, are amended to read as follows:

13 **Section 2-534. - Deferred retirement option program.**

14 (a) A deferred retirement option program is hereby created for eligible members whose
15 most recent appointment to employment with the city as a permanent or regular employee
16 occurred on or before October 1, 2012.

17 (b) A member who is performing eligible service is eligible for participation in the DROP
18 on the first day of the month coincident with or next following the completion of 27 years
19 credited service, including limited participant service, and, if applicable, vesting service
20 for former Gainesville Gas employees, and continuing up to the point in time at which the
21 member has 35 years of regular employment, except as provided in subsection (g) below.

22 Except as otherwise expressly provided for herein, uUpon entering into the DROP,
23 employees may elect to apply unused sick leave hours (see subsection (p) for special
24 provisions related to "GPD employees") or personal critical leave bank (PCLB) hours to

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1 attain the requisite years of credited service for eligibility to enter and for determining
2 their accrued benefit, or may retain some or all of their unused sick leave or personal
3 critical leave, for use during their employment while participating in the DROP. For
4 service earned on or after October 1, 2012, no additional months of service shall be
5 credited for unused sick leave or PCLB hours earned on or after October 1, 2012. In
6 calculating service on or after October 1, 2012, the lesser number of months between the
7 additional months of service credited for unused sick leave or PCLB hours earned on or
8 before September 30, 2012 and months of unused sick leave or PCLB hours available to a
9 member at the time of his or her entry into DROP shall be used. Sick leave and PCLB
10 balances retained upon entry into the DROP and accrued while participating in the DROP
11 shall not count as days or months of credited service when determining the maximum
12 period of participation in the DROP in accordance with subsections (f) and (g) below.
13 Any unused sick leave or PCLB remaining at the expiration of the DROP participation or
14 period will be forfeited.

15 (i) Effective with the date of DROP participation, the member's initial monthly benefit,
16 including creditable service, final average earnings and the effective date of retirement
17 shall be fixed. A DROP participant's deferred monthly benefit shall accrue in the plan
18 pension fund on behalf of the participant, plus interest. Such interest for members whose
19 DROP participation begins on or before October 1, 2012 shall accrue at an effective
20 annual rate of six percent compounded monthly, on the prior month's accumulated ending
21 balance, up to the month of termination or death. For members whose DROP
22 participation begins on or after October 2, 2012, such interest shall accrue at an effective
23 annual rate of 2.25 percent compounded monthly, on the prior month's accumulated
24 ending balance, up to the month of termination or death. Retirement benefits and interest

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1 thereon shall continue to accrue in the DROP until the established termination date of the
2 DROP, or until the participant terminates employment or dies prior to such date.

3 Although individual DROP accounts shall not be established, a separate accounting of
4 each participant's accrued benefits under the DROP shall be calculated and provided to
5 participants annually.

6 (l) Upon entry into the DROP, a member shall no longer be eligible for disability
7 benefits under the city police officers and firefighters consolidated pension plan or the
8 city employees' disability plan. In the event of death during the DROP period, the
9 member shall be presumed to have retired on a normal or delayed retirement for the
10 purposes of subsection 2-526(e), (g) or (h).

11 **Section 6.** Subsection (a) of Section 2-535, Cost of living adjustment of benefits; non-
12 eligibility during DROP participation, of the Code of Ordinances of the City of Gainesville, is
13 amended to read as follows:

14 **Section 2-535. - Cost of living adjustment of benefits; non-eligibility during DROP**
15 **participation.**

16 (a) *Cost of living adjustment of benefits.* Terminated members whose normal or delayed
17 retirement has been approved shall be entitled to receive increases in the amount of monthly
18 retirement benefits upon meeting the conditions described in one of subsections (1)—(46) below.
19 Only one subsection below shall be applicable to any member.

20 (1) A retired member or beneficiary who was receiving on or before October 1, 2000, a
21 monthly normal or delayed retirement benefit based upon at least 20 years of credited
22 service, including limited participant service, and the member is or would have been at
23 least age 62 on October 1, 2000, shall have his/her monthly retirement benefit increased
24 by two percent beginning with the benefit for the month of October 2000 (which monthly

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1 benefit is payable November 1, 2000). Thereafter, the monthly benefit payable to the
2 retired member or the retired member's beneficiary, as the case may be, shall be increased
3 by two percent each October thereafter for the duration of the annuity.

4 (2) A retired member or beneficiary who was receiving on or before October 1, 2000, a
5 monthly normal or delayed, or retirement benefit based upon at least 20 years of credited
6 service, including limited participant service, shall, upon the October 1 on or following
7 the date the member would have attained age 62; have his/her monthly retirement benefit
8 increased by two percent, beginning with the benefit for that month of October (which
9 monthly benefit is payable in November). Thereafter, the monthly benefit payable to the
10 retired member or the retired member's beneficiary, as the case may be, shall be increased
11 by two percent each October thereafter for the duration of the annuity.

12 (3) A retired member or beneficiary who first receives a monthly normal or delayed
13 retirement benefit for October 2000 or later (first payable November 1, 2000 or later),
14 which benefit is based upon 25 or more years of credited service, including limited
15 participant service, shall, upon the October 1 on or following the date the member attains
16 or would have attained age 60, have his/her monthly retirement benefit increased by two
17 percent, beginning with the benefit for that month of October, if the member has at least
18 20 years of credited service on or before October 1, 2012. Thereafter, the monthly benefit
19 payable to the retired member or the retired member's beneficiary, as the case may be,
20 shall be increased by two percent each October thereafter for the duration of the annuity.

21 (4) A retired member or beneficiary who first receives a monthly normal or delayed
22 retirement benefit for October 2000 or later (first payable November 1, 2000 or later),
23 which benefit is based upon 20 or more years of credited service but less than 25,
24 including limited participant service, shall, upon the October 1 on or following the date

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1 the member attains or would have attained age 62, have ~~her~~his/her monthly retirement
2 benefit increased by two percent beginning with the benefit for that month of October, if
3 the member has at least 20 years of credited service on or before October 1, 2012.

4 Thereafter, the monthly benefit payable to the retired member or the retired member's
5 beneficiary, as the case may be, shall be increased by two percent each October thereafter
6 for the duration of the annuity.

7 (5) A retired member or beneficiary who first receives a monthly normal or delayed
8 retirement benefit for October 2012 or later (first payable November 1, 2012 or later),
9 which benefit is based upon 25 or more years of credited service, including limited
10 participant service, shall, upon the October 1 on or following the date the member attains
11 or would have attained age 65, have his/her monthly retirement benefit increased by two
12 percent beginning with the benefit for that month of October. Thereafter, the monthly
13 benefit payable to the retired member or the retired member's beneficiary, as the case
14 may be, shall be increased by two percent each October thereafter for the duration of the
15 annuity.

16 (6) A retired member whose most recent appointment to employment with the city as a
17 permanent or regular employee occurred on or after October 2, 2012 or beneficiary who
18 first receives a monthly normal or delayed retirement benefit for October 2012 or later
19 (first payable November 1, 2012 or later), which benefit is based upon 30 or more years
20 of credited service, including limited participant service, shall, upon the October 1 on or
21 following the date the member attains or would have attained age 65, have his/her
22 monthly retirement benefit increased by two percent beginning with the benefit for that
23 month of October. Thereafter, the monthly benefit payable to the retired member or the

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retired member's beneficiary, as the case may be, shall be increased by two percent each October thereafter for the duration of the annuity.

Section 7. It is the intention of the City Commission that the provisions of Sections 1 through 6 of this ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or relettered in order to accomplish such intentions.

Section 8. If any word, phrase, clause, paragraph, section, or provision of this ordinance or the application hereof to any person or circumstance is held to be invalid or unconstitutional, such finding shall not affect the other provisions or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

Section 9. All ordinances, parts of ordinances, or policies in conflict herewith are to the extent of such conflict hereby repealed.

Section 10. This ordinance shall become effective immediately upon final adoption.

PASSED AND ADOPTED this ___ day of _____, 2012.

CRAIG LOWE
MAYOR

ATTEST: Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

This Ordinance passed on first reading this ___ day of _____, 2012.

This Ordinance passed on second reading this ___ day of _____, 2012.

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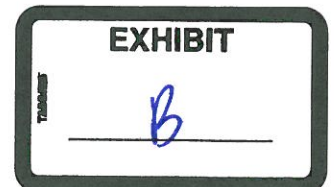
ORDINANCE NO. 120218

1
2
3
4 An ordinance of the City of Gainesville, Florida, amending
5 Chapter 2, Article VII, Division 5 (Employees Pension Plan) of
6 the Code of Ordinances of the City of Gainesville; amending
7 Section 2-521, Definitions; amending the definition of credited
8 service related to sick leave and personal critical leave bank;
9 amending the definition of earnings related to overtime pay
10 and termination vacation pay; amending the definition of final
11 average earnings related to the computation of such earnings;
12 amending the definition of service credit rules to conform and
13 clarify the Plan with regard to a member's death while
14 performing qualified military service; amending Section 2-523,
15 Membership and service, related to the computation of final
16 average earnings for participants in the Gainesville Gas Group
17 Pension Plan; amending Section 2-524, Contributions and
18 funding, related to member contributions, by changing the
19 term gross pay to earnings; amending Section 2-526, Benefits,
20 related to years of service and age required for normal
21 retirement and early retirement, payment of accrued benefit
22 with an actuarial present value of \$5,000.00 or less, the timing
23 of termination benefits, and the amount of monthly pension
24 benefit; amending Section 2-534, Deferred Retirement Option
25 Program (DROP), related to eligibility, sick leave and personal
26 critical leave bank, and interest rate; amending Section 2-535,
27 Cost of living adjustment of benefits; non-eligibility during
28 DROP participation, related to age and years of service;
29 providing directions to the codifier; providing a severability
30 clause; providing a repealing clause; and providing an
31 immediate effective date.
32

33 WHEREAS, at least 10 days notice has been given once by publication in a newspaper
34 of general circulation notifying the public of this proposed ordinance and of a Public Hearing in
35 the Auditorium of City Hall in the City of Gainesville; and

36 WHEREAS, the Public Hearings were held pursuant to the published notice described at
37 which hearings the parties in interest and all others had an opportunity to be and were, in fact,
38 heard.

39 NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE
40 CITY OF GAINESVILLE, FLORIDA:



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1 **Section 1.** Section 2-521, Definitions, of the Code of Ordinances of the City of

2 Gainesville, is amended to read as follows (except as amended herein, the remaining definitions
3 in Section 2-521 remain unchanged and in full force and effect):

4 **Section 2-521. – Definitions.**

5 *Credited service* shall mean the total number of months of service with the city, expressed in
6 terms of full and fractional years. Additional months of service shall be credited for unused sick
7 leave and personal critical leave bank (PCLB) credits, assigning one day of service for each day
8 of unused sick leave and unused personal critical leave, unless otherwise expressly provided for
9 herein, in applicable personnel policies, collective bargaining agreements, or DROP provisions.

10 For service earned on or after October 1, 2012, no additional months of service shall be credited
11 for unused sick leave or PCLB credits earned on or after October 1, 2012. In calculating credited
12 service on or after October 1, 2012, the lesser number of months between the additional months
13 of service credited for unused sick leave or PCLB credits earned on or before September 30,
14 2012 and months of unused sick leave or PCLB credits available to a member at the time of his
15 or her retirement shall be used. Employees of the Gainesville Police Department

16 Communications Center at the time the combined communications center is activated who are
17 hired by the Alachua County Sheriff on or about said date and who elect to remain members of
18 this plan and the City of Gainesville Employees Disability Plan (GPD employees) shall designate
19 some, none, or all of their city sick leave or PCLB balances at time of hire by the sheriff to be
20 applied as credited service under the plan. Such sheriff department employee's sick leave (or
21 equivalent benefit) balances at the time of termination from the sheriff's department shall not be
22 applied towards credited service nor shall any cash out of such benefit be included in such
23 member's final average earnings. GPD employees' employment with the city shall not be deemed
24 to be terminated, for the purposes of this section, when hired by the Sheriff on or about the

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1 activation date. If the employment of a member is terminated, by reason of layoff, and the
2 member is subsequently reemployed by the city, the credited service to which he/she was entitled
3 as of his/her termination date shall be included in any further computation of credited service if
4 the member refunds withdrawn contributions, if any, as described in section 2-626(i). Further
5 provided, that if the employment of a member is terminated, other than layoff, and the member is
6 subsequently reemployed by the city, the credited service to which he/she was entitled as of
7 his/her termination date shall be included in any further computation of credited service.

8 (1) If the member was entitled to a termination benefit; or

9 (2) If the member was not entitled to a termination benefit and his/her number of
10 calendar months that he/she was not employed is less than his/her aggregate months of
11 service credited under the plan as of his/her termination date and he/she has repaid
12 withdrawn contributions as provided in section 2-526(i).

13 (3) If the member was not entitled to a termination benefit, and he/she remains in the
14 continuous employ of the city for at least five years subsequent to his/her re-employment,
15 and he/she has repaid withdrawn contributions as provided in section 2-526(i).
16 Continuous employ shall not be deemed interrupted because of absence, when the
17 absence shall have been granted in accordance with appropriate contract provisions or
18 applicable personnel policies as approved by the city commission. Approved absences
19 shall count as credited service under the plan, in accordance with the terms of the plan.

20 *Earnings* shall mean only base pay, (which shall include all paid leaves), all overtime pay (which
21 shall include time paid at time-and-a-half, double-time, and double-time-and-a-half), stand-by
22 pay, call-back pay, working out of classification pay, acting out of classification pay, longevity
23 pay, special assignment pay, and termination vacation pay, or for members entering a DROP any
24 lump sum payment of some or all of such member's vacation balance upon entering the DROP,

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1 except as may be otherwise expressly provided for herein or in collective bargaining agreements.

2 To calculate earnings for service earned on or after October 1, 2012 by members whose most
3 recent appointment to employment with the city as a permanent or regular employee occurred on
4 or before October 1, 2012, no more than 300 hours of overtime pay per year earned on or after
5 October 1, 2012 shall be included, nor shall termination vacation pay earned on or after October
6 1, 2012 be included. To calculate earnings for service earned on or after October 2, 2012 by
7 members whose most recent appointment to employment with the city as a permanent or regular
8 employee occurred on or after October 2, 2012, no more than 150 hours of overtime pay per year
9 earned on or after October 2, 2012 shall be included, nor shall termination vacation pay earned
10 on or after October 2, 2012 be included. Effective October 1, 1996, earnings in excess of
11 \$150,000.00 annually shall be disregarded for all purposes of this plan. As of January 1 of each
12 calendar year, the dollar limitation as determined by the commissioner of internal revenue for
13 that calendar year will become effective for the plan year commencing thereafter in lieu of the
14 dollar limitation provided in the preceding sentence. For an employee who became a member of
15 the plan prior to October 1, 1996, this limitation shall not be applicable.

16 *Final average earnings* shall mean:

- 17 (1) For members whose most recent appointment to employment with the city as a
18 permanent or regular employee occurred on or before October 1, 2007, tThe average of
19 the annual (12 consecutive months) ~~compensation~~earnings received by an employee
20 during any 36 consecutive months of employment by the city during which the employee
21 received the highest ~~compensation~~earnings paid him/her by the city; provided, however,
22 for employees who are demoted for disciplinary reasons by the city, the terms shall refer
23 to the greater of:

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1 a. The average of the annual (12 consecutive months) ~~compensation~~earnings
2 received by an employee his/her final 36 consecutive months of employment with
3 the city, or;

4 b. The average of the annual (12 consecutive months) ~~compensation~~earnings
5 received by an employee during any 36 consecutive months of employment by the
6 city subsequent to the demotion during which the employee received the highest
7 ~~compensation~~earnings paid him/her by the city.

8 (2) For members whose most recent appointment to employment with the city as a
9 permanent or regular employee occurred on or after October 2, 2007 but on or before
10 October 1, 2012, the average of the annual (12 consecutive months) earnings received by
11 an employee during any 48 consecutive months of employment by the city during which
12 the employee received the highest earnings paid him/her by the city; provided, however,
13 for employees who are demoted for disciplinary reasons by the city, the terms shall refer
14 to the greater of:

15 a. The average of the annual (12 consecutive months) earnings received by an
16 employee his/her final 48 consecutive months of employment with the city, or;

17 b. The average of the annual (12 consecutive months) earnings received by an
18 employee during any 48 consecutive months of employment by the city
19 subsequent to the demotion during which the employee received the highest
20 earnings paid him/her by the city.

21 (3) For members whose most recent appointment to employment with the city as a
22 permanent or regular employee occurred on or after October 2, 2012, the average of the
23 annual (12 consecutive months) earnings received by an employee during any 60
24 consecutive months of employment by the city during which the employee received the

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1 highest earnings paid him/her by the city; provided, however, for employees who are
2 demoted for disciplinary reasons by the city, the terms shall refer to the greater of:

3 a. The average of the annual (12 consecutive months) earnings received by an
4 employee his/her final 60 consecutive months of employment with the city, or;

5 b. The average of the annual (12 consecutive months) earnings received by
6 an employee during any 60 consecutive months of employment by the city
7 subsequent to the demotion during which the employee received the highest
8 earnings paid him/her by the city.

9 (24) If a member has been absent from work (performs no duties) due to an injury
10 claimed to be compensable under F.S. Ch. 440 during the period of time which would be
11 utilized to determine his/her final average earnings, then such period of absence shall not
12 be considered months of employment for the purposes of this section. The months of
13 employment immediately preceding the absence shall be deemed to be consecutive with
14 the months of employment, if any, earned after his/her return to work.

15 (35) If the employment of a member is terminated and such former member, who is
16 not a retiree or receiving a termination benefit (or whose termination benefit was cashed
17 out under section 2-526(a)(3)), is subsequently re-employed by the city as an eligible
18 member, such member's final average earnings shall be calculated as follows, except as
19 otherwise required by subsections (1), ~~and (2)~~, and (3) of this definition: The months of
20 employment immediately preceding the termination shall be deemed to be consecutive
21 with the months of employment earned after the member's re-employment.

22 (46) If a continuously employed member ceases to earn eligible service for more than
23 one month during the period of such employment and subsequently begins to again earn
24 eligible service, such member's final average earnings shall be calculated as follows,

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1 except as otherwise required by subsections (1), ~~and (2)~~, and (3) of this definition: The
2 months of employment during which eligible service were earned shall be deemed
3 consecutive.

4 *Service credit rules:*

5 (1) *Day of service* shall mean each day for which a member is:

- 6 a. Paid or entitled to payment by the city for performance of duties;
- 7 b. Paid or entitled to payment by the city on account of a period of time during
8 which no duties are performed (e.g., vacation, holiday, illness, incapacity, layoff,
9 jury duty, military duty or approved leave of absence);
- 10 c. Each day for which back pay, irrespective of mitigation or damages, has been
11 either awarded to or agreed to by the city; provided, however, that the same day
12 shall not be credited as a day of service more than once.

13 (2) *Month of service* shall mean a one-month period beginning on the day of the month
14 corresponding to a member's date of employment, during which the member has earned
15 at least ten days of service; provided, however, that ten days of service will be deemed to
16 have been earned in each month of service in which occurs:

- 17 a. An approved leave of absence, not to exceed 90 days, authorized by the city,
18 in accordance with a uniform policy applied on a nondiscriminatory basis to all
19 members similarly situated; or
- 20 b. Voluntary or involuntary service in the armed forces of the United States for a
21 period not greater than one enlistment, provided that the member is legally
22 entitled to reemployment pursuant to the provisions of any federal law applicable
23 to veterans' reemployment rights, and any amendments thereto, and is reemployed
24 by the city within the manner provided by law and under the conditions

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1 prescribed by law; or such member dies while performing qualified military
2 service as defined in Section 414(u) of the Internal Revenue Code, in which case
3 the member shall be treated as if he or she had returned to employment and then
4 terminated employment on account of death.

5 (3) A member shall not earn any days or months of service for any purpose under the
6 plan after entering in a DROP, except as a re-employed retiree, if applicable.

7 (4) If the employment of a member is terminated, and the former member is
8 subsequently reemployed by the city, the member's date of employment for purpose of
9 determining additional months of service, shall be reestablished as his/her date of
10 reemployment.

11 **Section 2.** Subsection (h) of Section 2-523, Membership and Service, Participants in
12 Gainesville Gas Group Pension Plan, of the Code of Ordinances of the City of Gainesville, is
13 amended to read as follows:

14 **Section 2-523. - Membership and service.**

15 (h) *Participants in Gainesville Gas Group Pension Plan.* The City of Gainesville
16 shall purchase the Group Pension Plan for employees of Gainesville Gas and shall place
17 all of the cash, investments, and other assets of said plan in the trust fund of the City of
18 Gainesville Employees Pension Plan (the "plan"). Retired and former participants shall
19 remain entitled to the applicable benefits as described in the group pension plan, but shall
20 not become members of the "plan." Active participants of the group pension plan who
21 become employed by the City of Gainesville upon the city's acquisition of the Gainesville
22 Gas Company shall become members of the "plan" on the first day following the
23 acquisition date and shall be entitled to the benefits described below.

24 (1) The accrued benefit for such members shall be:

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- 1 a. The accrued benefit earned under the Gainesville Gas Group Plan as of
2 the acquisition date, plus
3 b. Two percent of final average earnings times credited service earned
4 after the acquisition date, plus
5 c. For each year of credited service earned after the acquisition date, an
6 additional two percent of final average earnings will be credited, not to
7 exceed the service years earned under the accrued benefit formula under
8 the Gainesville Gas Group Plan, less
9 d. For each year of Gainesville Gas Group Plan service credited under
10 subsection c. above, the portion of the accrued benefit determined under
11 subsection a. above based on such year(s), payable as a monthly life
12 annuity from normal retirement date, except as otherwise provided in this
13 article.

14 (2) For purposes of determining normal retirement date, service accrued under
15 the Gainesville Gas Group Plan prior to the acquisition date will be
16 counted as vesting service.

17 (3) For the purpose of computing final average earnings, overtime and
18 termination vacation pay shall not be included, except as provided below.
19 For members retiring on or after October 1, 1996, overtime shall be
20 included for the purpose of computing final average earnings, except as
21 otherwise expressly provided for herein. To calculate earnings for service
22 earned on or after October 1, 2012, no more than 300 hours of overtime
23 pay per year earned on or after October 1, 2012 shall be included.

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1 **Section 3.** Subsection (b)(1) of Section 2-524, Contributions and funding, of the

2 Code of Ordinances of the City of Gainesville, is amended to read as follows:

3 **Section 2-524. - Contributions and funding.**

4
5 (b) *Member contributions.*

6
7 (1) Effective the first full pay period following October 1, 2000, members, except
8 members who have entered a DROP, will have a fixed employee contribution rate
9 of five percent of ~~gross pay~~ earnings. There shall be no member contributions
10 deducted from a member's compensation while participating in the DROP.

11 Effective January 1, 1998, the contributions made by each member to the plan
12 shall be designated as employer contributions pursuant to the Internal Revenue
13 Code (I.R.C.), Section 414(h), of 1986. Such designation is contingent upon the
14 contributions being excluded from the member's gross income for federal income
15 tax purposes. For all other purposes of the plan, such contributions shall be
16 considered to be member contributions.

17 **Section 4.** Subsections (a), (b), and (j) of Section 2-526, Benefits, of the Code of
18 Ordinances of the City of Gainesville, are amended to read as follows:

19 **Section 2-526. - Benefits.**

20 (a) *Eligibility for service retirement.*

21
22 (1) *Normal retirement.*

23 a. A member of the plan whose most recent appointment to employment with the
24 city as a permanent or regular employee occurred on or before October 1, 2007
25 shall be eligible to retire under the terms of the plan upon the earlier of the date
26 the member completes 20 years of credited service or more at any age, or upon
27 the date the member completes ten years of credited service and attains age 65. In

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1 such event the member shall be entitled to and shall be paid an annuity calculated
2 in accordance with subsection (b).

3 b. A member of the plan whose most recent appointment to employment with the
4 city as a permanent or regular employee occurred on or after October 2, 2007 and
5 on or before October 1, 2012 shall be eligible to retire under the terms of the plan
6 upon the earlier of the date the member completes 25 years of credited service or
7 more at any age, or upon the date the member completes ten years of credited
8 service and attains age 65. In such event the member shall be entitled to and shall
9 be paid an annuity calculated in accordance with subsection (b).

10 c. A member of the plan whose most recent appointment to employment with the
11 city as a permanent or regular employee occurred on or after October 2, 2012
12 shall be eligible to retire under the terms of the plan upon the earlier of the date
13 the member completes 30 years of credited service or more at any age, or upon
14 the date the member completes ten years of credited service and attains age 65. In
15 such event the member shall be entitled to and shall be paid an annuity calculated
16 in accordance with subsection (b).

17 (2) *Early retirement.* An employee who is a member whose most recent appointment to
18 employment with the city as a permanent or regular employee occurred on or before
19 October 1, 2012 and has 15 years of credited service and has attained age 55, or an
20 employee who is a member whose most recent appointment to employment with the city
21 as a permanent or regular employee occurred on or after October 2, 2012 and has 20
22 years of credited service and has attained age 60, may make written application to the
23 ~~personnel~~ Risk Management Department which shall promptly transmit the application
24 to the appropriate administrative department head for early retirement. On the

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1 recommendation of the administrative department head and approval of the plan
2 administrator, the employee may retire on the first day of any month following becoming
3 eligible therefor as provided in this section. In such event he/she shall be entitled to and
4 shall be paid an annuity calculated in accordance with subsection (b) except that the
5 amount so computed shall be reduced by five-twelfths of one percent of such amount for
6 each month by which his/her early retirement date is less than the date he/she would have
7 reached age 65.

8 (3) *Termination of employment.* A member whose employment with the city terminates prior
9 to the completion of at least five years of credited service, for any reason, shall not be
10 entitled to any benefits under the plan; except as provided in paragraph e. below;
11 provided, however, that in any event amounts contributed by members shall be paid
12 without interest to the member or, as applicable, the member's beneficiary. A member
13 whose employment with the city terminates after the completion of at least five years of
14 credited service, but prior to retirement, shall be entitled to a termination benefit, or, if
15 applicable, return of contributions in accordance with subsections (e) and (f). Payment of
16 the termination benefit shall be governed by the following provisions of this section.

17 a. Benefit amount. A member who is entitled to a termination benefit shall
18 receive a monthly annuity equal to his/her accrued benefit, except as provided in
19 ~~subsection e. below or in~~ subsection (j), determined as of his/her date of
20 termination.

21 b. Benefit commencement date. The benefit commencement date of a
22 member with at least five years' credited service but less than 20 years' credited
23 service shall be the first day of the month after the member has attained age 65.

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1 c. Benefit payments. ~~Except as provided in subsection e. below, ¶~~The
2 termination benefits shall be payable on the ~~first~~ last day of each month. The first
3 payment shall be made on the benefit commencement date, and benefits shall be
4 payable thereafter according to the terms of the accrued benefit for the member's
5 lifetime. A member may modify the amount and conditions of payment described
6 in this section by electing an annuity option in accordance with the optional forms
7 of benefit section ~~or, if eligible, a single sum in accordance with subsection e.~~
8 ~~below, in which event the termination benefit shall be paid in accordance with the~~
9 ~~terms of such option.~~

10 d. Benefit forfeitures. That portion of a terminated member's benefit that is
11 not vested shall be forfeited and used only to reduce future costs of the plan,
12 provided, however, that amounts contributed by such a terminated member shall
13 be paid without interest to the member or, as applicable, the member's
14 beneficiary.

15 ~~e. — A member whose employment with the city terminates after the~~
16 ~~completion of at least five years of credited service, and whose accrued benefit~~
17 ~~has an actuarial present value of \$5,000.00 or less, as determined by the Plan~~
18 ~~Actuary, may elect, within 30 days after termination of employment, to receive a~~
19 ~~single sum payment of the entire actuarial present value of the vested accrued~~
20 ~~benefit.~~

21 e. The beneficiary(ies) of a member who dies while performing qualified
22 military service as described in the service credit rules shall receive the higher of
23 the actuarial present value of his or her accrued benefit calculated as of time of
24 death or return of employee contributions without any interest. In the alternative,

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1 said beneficiary may receive an annuity as described in subsections (e), (g), or (h),
2 if such are applicable.

3 (4) *Delayed retirement.* A member of the plan may continue in employment to a date
4 after eligibility for normal retirement. In such event, the member upon termination of
5 employment shall be entitled to and shall be paid an annuity calculated in accordance
6 with subsection (b), below.

7 (b) *Service retirement pension.* In the event of normal retirement, ~~or~~ early retirement, or delayed
8 retirement, the retiring employee shall be entitled to and shall be paid a monthly pension
9 beginning with the month of retirement and continuing until death, except as provided in
10 subsection (j), and subsection (g) of section 2-523. The amount of the monthly pension to which
11 a retired employee whose most recent appointment to employment with the city as a permanent
12 or regular employee occurred on or before October 1, 2012 will be entitled will be equal to two
13 percent of the employee's final average earnings multiplied by the number of years of credited
14 service divided by 12, except as provided in subsection (j), and subsection (g) of section 2-523.
15 The amount of the monthly pension to which a retired employee whose most recent appointment
16 to employment with the city as a permanent or regular employee occurred on or after October 2,
17 2012 will be entitled will be equal to 1.80 percent of the employee's final average earnings
18 multiplied by the number of years of credited service divided by 12, except as provided in
19 subsection (j), and subsection (g) of section 2-523.

20 (j) *Annuity options.* Upon a member becoming eligible to receive an annuity either through
21 regular retirement or through a DROP, he/she may elect to receive annuity benefits, payable
22 under the plan in the form of a joint survivor annuity instead of a normal annuity form, which
23 shall be the actuarial equivalent of the annuity he/she would receive under the normal form. If
24 any member who has a spouse or registered domestic partner at his/her benefit commencement

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1 date fails to make such an election it will be assumed that he/she elected option A below with
2 his/her spouse or registered domestic partner as the beneficiary and if the member does not have
3 a spouse or registered domestic partner at his/her benefit commencement date, that the member
4 elected the normal form.

5 (1) *Option A* — Joint annuity option. A reduced monthly annuity benefit which shall be
6 payable during the joint lifetime of the member and his/her beneficiary, with two-thirds
7 of such reduced annuity amount continuing after the death of the member during the
8 lifetime of the beneficiary. If the beneficiary predeceases the member, 100 percent of the
9 reduced benefit will continue to be received by the member.

10 (2) *Option B* — Joint and last survivor annuity option. A reduced monthly annuity
11 benefit which shall be payable during the joint lifetime of the member and his/her
12 beneficiary, with two-thirds of such reduced benefit amount continuing automatically
13 after the death of either the member or his/her beneficiary, payable for the lifetime of the
14 survivor.

15 The election of either joint survivor option (for an unmarried member), or the election of option
16 A or B (by a married member) must be requested by the member at least 30 days prior to the date
17 of benefit commencement. Such election, if made, may not be changed by the member within
18 three months prior to the date of benefit commencement. The election of the normal form by a
19 married member must be requested by the member at least three months prior to the date of
20 benefit commencement, or a notarized spousal waiver must be submitted thirty days prior to the
21 date of benefit commencement, and may not be changed by the member within 30 days prior to
22 the date of benefit commencement. The election of a joint survivor option shall be deemed
23 automatically canceled at the death of the proposed beneficiary prior to the member's benefit
24 commencement date. Provided, however, anything otherwise contained in this section or any

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1 other section of this division to the contrary notwithstanding, a member receiving an annuity,
2 either through regular retirement or through a DROP, may change his/her option after benefit
3 commencement either from an annuity option or to an annuity option in the event of (1) a
4 divorce or legal separation, when the same has been considered and approved by the court
5 granting same as a part of the settlement; or (2) the marriage of an unmarried employee who
6 becomes married after the date of benefit commencement. Such change shall be effective no
7 sooner than three months after the filing of a written election to effect such change with the
8 personnel department. The benefits paid under such changed annuity shall be the actuarial
9 equivalent to the remaining value of the former annuity determined as of the date of the benefit
10 change.

11 **Section 5.** Subsections (a), (b), (i) and (l) of Section 2-534, Deferred retirement option
12 program, of the Code of Ordinances of the City of Gainesville, are amended to read as follows:

13 **Section 2-534. - Deferred retirement option program.**

14 (a) A deferred retirement option program is hereby created for eligible members whose
15 most recent appointment to employment with the city as a permanent or regular employee
16 occurred on or before October 1, 2012.

17 (b) A member who is performing eligible service is eligible for participation in the DROP
18 on the first day of the month coincident with or next following the completion of 27 years
19 credited service, including limited participant service, and, if applicable, vesting service
20 for former Gainesville Gas employees, and continuing up to the point in time at which the
21 member has 35 years of regular employment, except as provided in subsection (g) below.

22 Except as otherwise expressly provided for herein, uUpon entering into the DROP,
23 employees may elect to apply unused sick leave hours (see subsection (p) for special
24 provisions related to "GPD employees") or personal critical leave bank (PCLB) hours to

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1 attain the requisite years of credited service for eligibility to enter and for determining
2 their accrued benefit, or may retain some or all of their unused sick leave or personal
3 critical leave, for use during their employment while participating in the DROP. For
4 service earned on or after October 1, 2012, no additional months of service shall be
5 credited for unused sick leave or PCLB hours earned on or after October 1, 2012. In
6 calculating service on or after October 1, 2012, the lesser number of months between the
7 additional months of service credited for unused sick leave or PCLB hours earned on or
8 before September 30, 2012 and months of unused sick leave or PCLB hours available to a
9 member at the time of his or her entry into DROP shall be used. Sick leave and PCLB
10 balances retained upon entry into the DROP and accrued while participating in the DROP
11 shall not count as days or months of credited service when determining the maximum
12 period of participation in the DROP in accordance with subsections (f) and (g) below.
13 Any unused sick leave or PCLB remaining at the expiration of the DROP participation or
14 period will be forfeited.

15 (i) Effective with the date of DROP participation, the member's initial monthly benefit,
16 including creditable service, final average earnings and the effective date of retirement
17 shall be fixed. A DROP participant's deferred monthly benefit shall accrue in the plan
18 pension fund on behalf of the participant, plus interest. Such interest for members whose
19 DROP participation begins on or before October 1, 2012 shall accrue at an effective
20 annual rate of six percent compounded monthly, on the prior month's accumulated ending
21 balance, up to the month of termination or death. For members whose DROP
22 participation begins on or after October 2, 2012, such interest shall accrue at an effective
23 annual rate of 2.25 percent compounded monthly, on the prior month's accumulated
24 ending balance, up to the month of termination or death. Retirement benefits and interest

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1 thereon shall continue to accrue in the DROP until the established termination date of the
2 DROP, or until the participant terminates employment or dies prior to such date.

3 Although individual DROP accounts shall not be established, a separate accounting of
4 each participant's accrued benefits under the DROP shall be calculated and provided to
5 participants annually.

6 (l) Upon entry into the DROP, a member shall no longer be eligible for disability
7 benefits under the city police officers and firefighters consolidated pension plan or the
8 city employees' disability plan. In the event of death during the DROP period, the
9 member shall be presumed to have retired on a normal or delayed retirement for the
10 purposes of subsection 2-526(e), (g) or (h).

11 **Section 6.** Subsection (a) of Section 2-535, Cost of living adjustment of benefits; non-
12 eligibility during DROP participation, of the Code of Ordinances of the City of Gainesville, is
13 amended to read as follows:

14 **Section 2-535. - Cost of living adjustment of benefits; non-eligibility during DROP**
15 **participation.**

16 (a) *Cost of living adjustment of benefits.* Terminated members whose normal or delayed
17 retirement has been approved shall be entitled to receive increases in the amount of monthly
18 retirement benefits upon meeting the conditions described in one of subsections (1)—(4) below.
19 Only one subsection below shall be applicable to any member.

20 (1) A retired member or beneficiary who was receiving on or before October 1, 2000, a
21 monthly normal or delayed retirement benefit based upon at least 20 years of credited
22 service, including limited participant service, and the member is or would have been at
23 least age 62 on October 1, 2000, shall have his/her monthly retirement benefit increased
24 by two percent beginning with the benefit for the month of October 2000 (which monthly

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1 benefit is payable November 1, 2000). Thereafter, the monthly benefit payable to the
2 retired member or the retired member's beneficiary, as the case may be, shall be increased
3 by two percent each October thereafter for the duration of the annuity.

4 (2) A retired member or beneficiary who was receiving on or before October 1, 2000, a
5 monthly normal or delayed, or retirement benefit based upon at least 20 years of credited
6 service, including limited participant service, shall, upon the October 1 on or following
7 the date the member would have attained age 62; have his/her monthly retirement benefit
8 increased by two percent, beginning with the benefit for that month of October (which
9 monthly benefit is payable in November). Thereafter, the monthly benefit payable to the
10 retired member or the retired member's beneficiary, as the case may be, shall be increased
11 by two percent each October thereafter for the duration of the annuity.

12 (3) A retired member or beneficiary who first receives a monthly normal or delayed
13 retirement benefit for October 2000 or later (first payable November 1, 2000 or later),
14 which benefit is based upon 25 or more years of credited service, including limited
15 participant service, shall, upon the October 1 on or following the date the member attains
16 or would have attained age 60, have his/her monthly retirement benefit increased by two
17 percent, beginning with the benefit for that month of October, if the member has at least
18 20 years of credited service on or before October 1, 2012. Thereafter, the monthly benefit
19 payable to the retired member or the retired member's beneficiary, as the case may be,
20 shall be increased by two percent each October thereafter for the duration of the annuity.

21 (4) A retired member or beneficiary who first receives a monthly normal or delayed
22 retirement benefit for October 2000 or later (first payable November 1, 2000 or later),
23 which benefit is based upon 20 or more years of credited service but less than 25,
24 including limited participant service, shall, upon the October 1 on or following the date

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1 the member attains or would have attained age 62, have ~~her~~his/her monthly retirement
2 benefit increased by two percent beginning with the benefit for that month of October, if
3 the member has at least 20 years of credited service on or before October 1, 2012.

4 Thereafter, the monthly benefit payable to the retired member or the retired member's
5 beneficiary, as the case may be, shall be increased by two percent each October thereafter
6 for the duration of the annuity.

7 (5) A retired member or beneficiary who first receives a monthly normal or delayed
8 retirement benefit for October 2012 or later (first payable November 1, 2012 or later),
9 which benefit is based upon 25 or more years of credited service, including limited
10 participant service, shall, upon the October 1 on or following the date the member attains
11 or would have attained age 65, have his/her monthly retirement benefit increased by two
12 percent beginning with the benefit for that month of October. Thereafter, the monthly
13 benefit payable to the retired member or the retired member's beneficiary, as the case
14 may be, shall be increased by two percent each October thereafter for the duration of the
15 annuity.

16 (6) A retired member whose most recent appointment to employment with the city as a
17 permanent or regular employee occurred on or after October 2, 2012 or beneficiary who
18 first receives a monthly normal or delayed retirement benefit for October 2012 or later
19 (first payable November 1, 2012 or later), which benefit is based upon 30 or more years
20 of credited service, including limited participant service, shall, upon the October 1 on or
21 following the date the member attains or would have attained age 65, have his/her
22 monthly retirement benefit increased by two percent beginning with the benefit for that
23 month of October. Thereafter, the monthly benefit payable to the retired member or the

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retired member's beneficiary, as the case may be, shall be increased by two percent each October thereafter for the duration of the annuity.

Section 7. It is the intention of the City Commission that the provisions of Sections 1 through 6 of this ordinance shall become and be made a part of the Code of Ordinances of the City of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may be renumbered or relettered in order to accomplish such intentions.

Section 8. If any word, phrase, clause, paragraph, section, or provision of this ordinance or the application hereof to any person or circumstance is held to be invalid or unconstitutional, such finding shall not affect the other provisions or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

Section 9. All ordinances, parts of ordinances, or policies in conflict herewith are to the extent of such conflict hereby repealed.

Section 10. This ordinance shall become effective immediately upon final adoption.

PASSED AND ADOPTED this ___ day of _____, 2012.

CRAIG LOWE
MAYOR

ATTEST: Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

This Ordinance passed on first reading this ___ day of _____, 2012.

This Ordinance passed on second reading this ___ day of _____, 2012.