

1 **BY AUTHORITY**

2 ORDINANCE NO.  
3 SERIES OF 2013

COUNCIL BILL NO.  
COMMITTEE OF REFERENCE:

4  
5 **A BILL**

6 **For an ordinance amending the 1963 Retirement Plan with regard to**  
7 **definitions (credited service, deferred member, gross pay,**  
8 **compensation and salary, vest, vesting or vested and re-numbering**  
9 **of Section 18-402); additional powers of the retirement board;**  
10 **eligibility; retirement categories; retirement benefits; joint and**  
11 **survivor benefits; death benefits; purchase of service credits; and**  
12 **the anti-alienation provision.**  
13

14 **WHEREAS**, under Section 18-405(g) of the Code, the Retirement Board is  
15 responsible for making recommendations to the City for amendments to the Plan when  
16 in the judgment of the Board such changes are necessary; provided that such  
17 recommendations are accompanied by a report of the Plan's actuary setting forth the  
18 effect of such amendments; and,

19 **WHEREAS**, while in the process of administering the Plan, it has been  
20 determined that the addition of, clarification of, or further detailed explanation of various  
21 definitions, procedures or legal requirements applicable to the Plan has become  
22 necessary to assist the Plan in explaining the benefits available to members and their  
23 beneficiary(ies) as well as to assist in explaining the processes a member or their  
24 beneficiary(ies) must comply with in order to obtain various retirement benefits; and,

25 **WHEREAS**, to ensure the continuity between the legal requirements of the Plan  
26 and the internal procedures used in administering the Plan it has been determined that  
27 minor technical amendments need to be made to the Ordinance governing the Plan.  
28

29 **NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE CITY AND**  
30 **COUNTY OF DENVER:**

31  
32 **Section 1.** That Section 18-402(9)d, 18-402(10), 18-402(15) and Section 18-402(31)  
33 (sometimes known and cited as Section 402, Subsections (9), (10), (15) and (31),

1 Chapter 18) of the Revised Municipal Code, relating to definitions of "Credited service",  
2 "Deferred member", "Gross pay, compensation and salary", and "Vest, vesting or  
3 vested" as well as the re-numbering of the subsections following the definition of  
4 "Deferred member" be amended by deleting the language stricken and by adding the  
5 language underlined as follows:  
6

7 **Sec. 18-402. Definitions.**

8 Terms used in this article or in the plan not defined generally in the Code shall have  
9 those meanings set forth specifically in definitions found in various sections of this  
10 division or in the administrative rules and regulations duly adopted by the board. As  
11 used in this division, the following words and phrases (and their declensional, inflected  
12 and conjugated forms) shall have the meanings in this section ascribed to them, unless  
13 it appears from the context that such word or term shall have been used in another  
14 sense:

15 (9) *Credited service* shall mean the number of years and months of service for which  
16 contributions on behalf of the member were received by the plan based on the  
17 member's compensation, and the number of years and month of permissive service  
18 credit (subject to the terms provided in this division) obtained by the member prior to the  
19 retirement date and credited to such member by the retirement board. The use of  
20 permissive service in the calculation of credited service shall only be for the calculation  
21 of benefits and shall not entitle a member to the receipt of a particular benefit, nor shall  
22 it entitle a member to vest in a particular benefit.

23 a. Years and months of "military service duty," which shall have the meaning  
24 given the term "uniformed service" in the federal Uniformed Service Employment and  
25 Reemployment Rights Act of 1994, as amended from time to time, (the "Act") for re-  
26 employment rights purposes, shall be counted as credited service and benefits shall be  
27 accorded in compliance with and as limited by the Internal Revenue Code, provided that  
28 the member meets the qualifications and requirements of the Act.

29 b. A member may change the class of employment without causing a break  
30 in credited service so long as the member maintains eligibility.

31 c. In determining credited service, the plan shall count current service for  
32 fractional years on the basis of one-twelfth of one (1) year for each full calendar month  
33 of service.

34 d. Subject to eligibility requirements, credited service shall include the  
35 aggregate of periods of current service commencing with an employee's first day of  
36 employment or reemployment and ending on the date a break in service begins, or the  
37 date an employee terminates employment with the employer. Service credit for properly  
38 authorized leave of absence without pay can be obtained upon payment by the member  
39 into the trust fund of an amount equal to the employee contribution, if any, and the

1 employer contribution, including interest compounded annually at the rates of three (3)  
2 percent for the complete period of the leave of absence. Partial paybacks for a leave of  
3 absence shall not be allowed. Unpaid disciplinary leave or an unpaid disciplinary  
4 suspension are not authorized leaves of absence and a member is prohibited from  
5 purchasing or receiving credited service for any period of unpaid disciplinary leave or  
6 suspension. Any payment for an authorized leave of absence must be completed prior  
7 to the member's termination from employment. No payment shall be allowed to be  
8 made to the Plan for a purchase of service credit following a member's termination of  
9 employment. If payment is made for an authorized leave of absence within twenty-four  
10 (24) months following a member's return to work the cost shall be calculated based  
11 upon the required contributions plus interest to the date of repayment at the rate of  
12 three (3) percent per annum. The cost for a member wishing to receive credited service  
13 for an authorized leave of absence who does not repay the required contributions, with  
14 interest, within twenty-four (24) months following the employee's return to work, shall be  
15 calculated at the full actuarial cost for such service in accordance with Section 18-  
16 415(c)(2). The hours of service credited shall be those which would normally have been  
17 credited but for such absence, or, in any case in which the plan is unable to determine  
18 such hours normally credited, eight (8) hours of service per day of absence.

19 (10) *Deferred member* shall mean a member who does not complete and submit the  
20 required retirement application and all required documents to the plan within thirty (30)  
21 days of separation from service or termination of employment.

22 (4011) *Effective date* shall mean January 1, 1963, the date when the retirement plan  
23 shall be first put into effect.

24 (4112) *Elected official* shall mean any person occupying the following positions:  
25 councilmember, mayor, auditor, district attorney or clerk and recorder.

26 (4213) *Employee* shall mean any employee of the city who regularly works for the city at  
27 least twenty (20) hours per week, but shall not mean or include those reemployed  
28 pursuant to subsection 18-408(j)(7) of this article, or persons holding on-call positions  
29 ("on-call position" shall mean and include those positions which have no established  
30 work schedule and for which no employee benefits are available). The term "regularly  
31 works" shall mean and apply to a person who works at least twenty (20) hours per week  
32 for a total of twelve (12) or more weeks in a rolling twelve-month period. "Employee"  
33 shall also mean and include (excepting personnel holding on-call positions) any  
34 appointed official of the city, any elected official of the city, any employee designated by  
35 the mayor to be exempt from career service as an administrative position, and any  
36 employee of:

- 37 (a) The city council;
- 38 (b) The auditor;
- 39 (c) The retirement board (or the plan);
- 40 (d) The library commission;

- 1 (e) The civil service commission;
- 2 (f) The board of adjustment-zoning;
- 3 (g) The clerk and recorder;
- 4 (h) The county court (except the judges of the county court);
- 5 (i) The Office of Human Resources;
- 6 (j) The district attorney;
- 7 (k) The undersheriff;
- 8 (l) Any other person employed by the city who is eligible for employee
- 9 benefits defined in Part 1, Article IX of the Charter (2003 codification) (but excepting
- 10 employees who are members of the classified service as defined in Parts 4, 5 and 6 of
- 11 said Article IX); and

12 (m) In the case of contractual entities, any person who qualifies for

13 participation in the plan and is an employee of an employer.

14 ~~(1314)~~ *Employer* shall mean the city or any contractual entity.

15 ~~(1415)~~ *Gross pay, compensation and salary* shall mean that amount of remuneration,

16 including wages, salaries, other amounts received for personal services actually

17 rendered in the course of employment with the employer, and other amounts actually

18 included or that could be included in gross income of and due to an employee, including

19 employees on disability leave as provided for in division 4 of article V of this chapter 18,

20 or otherwise, from the employer in the full amount as calculated before any reductions

21 or deductions are made there from for any purpose, including reductions or deductions

22 by reason of sections 125, 132(f)(4) or 457 of the Internal Revenue Code, but not

23 including distributions made from a plan of the employer designed to be eligible under

24 section 457. The calendar year shall be the limitation year (determination period) for

25 purposes of section 415 of the Internal Revenue Code.

26

27 Gross pay, compensation and salary shall not include any amounts paid to a member

28 whose service with the employer begins, or whose reemployment with the employer

29 begins, after December 31, 2009, for the unused portion of the employee's bank of

30 accumulated paid time off upon the employee's separation from employment with the

31 employer. Employees who were employed on or before December 31, 2009, who are

32 thereafter laid off and then reinstated (as defined in the career service rules), shall

33 continue to have included in the calculation of their retirement benefit as gross pay,

34 compensation and salary the unused portion of the employee's bank of accumulated

35 paid time off upon the employee's subsequent separation from employment with the

36 employer.

37

38 Employer provided fringe benefits receiving special tax benefits, such as premiums for

39 group term life insurance (to the extent excludible from gross income), shall be excluded

1 from the definition of compensation. Gross pay, compensation and salary shall not  
2 include any lump-sum amount paid to a member under a settlement agreement entered  
3 into between the employer and the member, unless the adverse employment action  
4 which led to the settlement agreement is rescinded and the member is reinstated to  
5 employment with the employer back to the effective date of the adverse employment  
6 action and the lump-sum settlement amount equals the exact gross pay, compensation  
7 and salary the member would have received for personal services actually rendered in  
8 the course of employment with the employer, but for the adverse employment action  
9 being taken, and the lump-sum payment is classified as back-pay wages in the  
10 settlement agreement. Payments made to employees pursuant to ~~article XV, Chapter~~  
11 ~~18, and the Denver Health and Hospital Authority 2009 Incentive Retirement Program~~  
12 ~~retirement incentive program~~, shall be excluded from the definition of compensation and  
13 shall not be used in calculating an employee's retirement benefit.  
14 ~~(4516)~~ *Internal Revenue Code* shall mean the Internal Revenue Code of 1986, as the  
15 same may be amended from time to time, and regulations and policies duly adopted or  
16 promulgated thereunder from time to time.  
17 ~~(4617)~~ *Investment manager* shall mean any person who is a registered investment  
18 advisor under the Investment Advisors Act of 1940 who has the power to manage,  
19 acquire, or dispose of plan assets and acknowledges in writing the manager's fiduciary  
20 responsibility to the plan.  
21 ~~(4718)~~ *Investment manual* shall mean the document which contains the current and  
22 long-term goals and objectives for the trust fund and the policies and procedures to be  
23 used by the retirement board, the trustees, investment managers, custodians, or any of  
24 them, in the management and safekeeping of the trust fund.  
25 ~~(4819)~~ *Joint and survivor annuity or joint and survivor benefit* means an annuity for the  
26 life of the participant with a continued annuity for either the life of the spouse, if the  
27 participant is married at the time of retirement, or for a named beneficiary, and, subject  
28 to the minimum distribution incidental benefit requirements of the Internal Revenue  
29 Code, which is the actuarial equivalent of a single straight life annuity for the life of the  
30 participant. Under this option the member's benefit is reduced to provide for the lifetime  
31 monthly benefit of either the spouse or a named beneficiary following the death of the  
32 member.  
33 ~~(4920)~~ *Normal retirement.* Normal retirement for members originally employed before  
34 July 1, 2011, shall mean retirement at the earlier of the age of sixty-five (65) or the first  
35 day of any calendar month after which a member has attained his or her fifty-fifth (55th)  
36 birthday and where the member's age and credited service, while an active member,  
37 are or were equal to the sum of seventy-five (75). The "rule-of-75" is determined by  
38 adding the age of the employee while employed with the employer to the years of  
39 credited service as an employee with the employer. If the total equals or exceeds the  
40 sum of seventy-five (75) then the requirements of the rule-of-75 have been met. The

1 rule-of-75 must be attained by the member, while employed as an active member, prior  
2 to termination of employment. If the employee terminates employment, after earning the  
3 required service credit to be granted rule-of-75 unreduced benefits, but prior to reaching  
4 the age of fifty-five (55), the member may not apply for or receive retirement benefits  
5 under the rule until reaching age fifty-five (55).

6  
7 For members first employed on or after July 1, 2011, "normal retirement" shall mean, for  
8 members who have vested, the earlier of the age of sixty-five (65), or the first day of any  
9 calendar month after which a member has attained his or her sixtieth birthday and  
10 where the member's age and credited service, while an active member, are or were  
11 equal to the sum of eighty-five (85). The "rule-of-85" is determined by adding the age of  
12 the employee while employed with the employer to the years of credited service as an  
13 employee with the employer. If the total equals or exceeds the sum of eighty-five (85)  
14 then the requirements for the rule-of-85 have been met. The rule-of-85 must be attained  
15 by the member while employed as an active member, prior to termination of  
16 employment. If the employee terminates employment, after earning the required service  
17 credit to be granted rule-of-85 unreduced benefits, but prior to reaching the age of sixty  
18 (60), the member may not apply for or receive retirement benefits under the rule until  
19 reaching age sixty (60).

20 ~~(2021)~~ *Participant* or *member* shall mean any employee or official of an employer after  
21 the effective date, who qualifies for participation in the plan and who has not for any  
22 reason become ineligible to participate further in the plan. The term "participant" or  
23 "member" shall also include "active member," "deferred member" and "retired member."

24 ~~(2422)~~ *Permissive service credit or purchase of service credit* shall have the meaning  
25 given to it in section 415(n) of the Internal Revenue Code, and shall not mean the  
26 credited service granted a member under the Uniformed Services Employment and  
27 Reemployment Rights Act of 1994, as amended and as provided by federal law, or  
28 credited service for purposes of qualifying for a benefit available under the plan.

29 ~~(2223)~~ *Plan* shall mean the employees' retirement plan as presently set forth in this  
30 division or as the same may hereafter be amended. The name of the plan shall be  
31 "Denver Employees Retirement Plan." The term "plan" may also be used to refer to the  
32 administration of the plan and those who administer the plan.

33 ~~(2324)~~ *Pre-retirement survivor annuity* shall mean an annuity form of payment for the life  
34 of the surviving spouse of a participant who dies prior to the member's retirement date.

35 ~~(2425)~~ *Regular member* shall mean an employee who is eligible to be covered by the  
36 retirement plan and who is making all contributions required by the plan to be made by  
37 a regular member.

1 (~~25~~26) *Retired member* shall mean a former employee whose membership service has  
2 terminated by reason of retirement or disability and who is receiving or is entitled to  
3 receive benefits under this plan.

4 (~~26~~27) *Retirement benefits* shall mean any annuity payment to retired members, their  
5 spouses, beneficiaries or dependents provided for under the plan.

6 (~~27~~28) *Service* shall mean service rendered for compensation as an employee.

7 (~~28~~29) *Single straight life annuity or maximum benefit* shall mean an annuity for the  
8 lifetime of the member only which has not been reduced to provide a lifetime monthly  
9 benefit to a spouse or a beneficiary which becomes payable upon the death of the  
10 member. A member who is married at the time of his or her retirement shall not be  
11 allowed to take a single straight life annuity without the written permission of the  
12 member's spouse.

13 (~~29~~30) *Trust or trust fund* shall mean the fund established by this division and having its  
14 inception by authority of Ordinance No. 388, series of 1962, and shall have the  
15 meanings and be governed by the authority as set forth in section 18-403, for the  
16 purpose of providing pension benefits and benefits incident thereto, and, except for  
17 reporting and record-keeping purposes, the term shall also include, for custodial,  
18 investment and fiduciary purposes, the health benefits account.

19 (~~30~~31) *Vest, vesting or vested* shall mean a member meeting or having met a stated  
20 requirement for a privilege or right as stated in the plan. Unless otherwise specifically  
21 indicated in this article, a member appointed before January 1, 1987, shall be vested  
22 after ten (10) years of credited service, a member appointed on or after January 1,  
23 1987, but before July 1, 2011, shall be vested after five (5) years of credited service or  
24 upon reaching the age of sixty-five (65), whichever is earlier. A member first appointed  
25 on or after July 1, 2011, regardless of their age upon appointment, shall be vested after  
26 five (5) years of credited service. A vested member, who terminates employment and is  
27 subsequently re-employed or re-hired by the employer, even if subject to a different  
28 benefit formula than the one applied or to be applied to the initial employment and  
29 credited service of the member, does not have to re-vest in the plan. Upon meeting the  
30 eligibility and years of credited service requirements for a benefit, a member shall be  
31 vested in the benefit accruing under the terms of this article.

32  
33 **Section 2.** That Section 18-405(b)(3) (sometimes known and cited as Section 405,  
34 Subsection (b)(3), Chapter 18) of the Revised Municipal Code, relating to the authority  
35 of the Plan to recover benefits or premiums improperly paid to benefit recipients or their  
36 beneficiaries be amended by adding the language underlined as follows:

37  
38 **Sec. 18-405. Retirement Board.**  
39

1 (b) *Additional powers.* In addition to the general authority granted to the retirement  
2 board to carry out and administer the plan and the trust assets, and in no way in  
3 limitation of such authority, the board shall have the following powers:

4 (3) The authority to recover from benefit recipients, through legal process or  
5 benefit offset, any benefits or premiums improperly paid to them or on behalf of them to  
6 which they or their beneficiaries are not entitled, and to assess interest on such money  
7 at the general statutory rate. When a benefit offset is not available as a means to  
8 collect, the Plan may employ any collection method available, including assigning such  
9 accounts to private counsel or private collection agencies. If a legal suit is brought, then  
10 reasonable collection costs, attorney's fees, and legal expenses shall be added to the  
11 amount due. In the case of dishonored bank drafts and other negotiable instruments, in  
12 addition to the fee provided for below, the Plan may pursue all remedies provided for in  
13 the Colorado Revised Statutes. Whenever any account or debt due the Plan becomes  
14 delinquent and is referred for collection, the following collection fees will be added to the  
15 original debt amount:

<u>Amount of debt</u>	<u>Collection fee</u>
<u>\$0.01 to 50.00</u>	<u>\$20.00</u>
<u>\$50.01 to 100.00</u>	<u>\$30.00</u>
<u>\$100.01 to 150.00</u>	<u>\$40.00</u>
<u>\$150.01 to 200.00</u>	<u>\$60.00</u>
<u>\$200.01 to 300.00</u>	<u>\$80.00</u>
<u>\$300.01 and above</u>	<u>30% of the debt amount</u>

16  
17 The benefit recipient or their beneficiary(ies) shall be liable for repayment of the total of  
18 the amount outstanding plus the collection fee. The Plan may, at its option, waive the  
19 collection fee for good cause shown.

20  
21 **Section 3.** That Section 18-406(d) and Section 18-406(e) (sometimes known and  
22 cited as Section 406, Subsections (d) and (e), Chapter 18) of the Revised Municipal  
23 Code, relating to Leave of Absence and Furlough Days, respectively be added by  
24 adding the language underlined as follows:

25  
26 **Sec. 18-406. Eligibility.**

27 (d) Leave of Absence. Service credit for properly authorized leave of absence  
28 without pay can be obtained upon payment by the member into the trust fund of an  
29 amount equal to the employee contribution, if any, and the employer contribution for the  
30 complete period of the leave of absence. Partial paybacks for a leave of absence shall  
31 not be allowed. Unpaid disciplinary leave or an unpaid disciplinary suspension are not  
32 authorized leaves of absence and a member is prohibited from purchasing or receiving  
33 credited service for any period of unpaid disciplinary leave or suspension. No payment  
34 shall be allowed to be made to the Plan for a purchase of service credit following a  
35 member's termination of employment. If payment for an authorized leave of absence is



1 made within twenty-four (24) months following a member's return to work, the cost shall  
2 be calculated based upon the required contributions plus interest to the date of  
3 repayment at the rate of three (3) percent per annum. The cost for a member wishing to  
4 receive credited service for an authorized leave of absence who does not repay the  
5 required contributions, with interest, within twenty-four (24) months following the  
6 employee's return to work, shall be calculated at the full actuarial cost for such service  
7 in accordance with Section 18-415(c)(2). The election to purchase service credit for a  
8 properly authorized leave of absence shall be irrevocable and no refund shall be made  
9 to a member for any amount paid to the Plan to purchase service credit. The hours of  
10 service credited shall be those which would normally have been credited but for such  
11 absence, or, in any case in which the plan is unable to determine such hours normally  
12 credited, eight (8) hours of service per day of absence.

13  
14 (e) *Furlough Days.* If a member's average monthly salary is impacted by days  
15 designated by the employer as "furlough days," the negative impact on an employee's  
16 retirement benefit may be alleviated upon payment by the member into the trust fund of  
17 an amount equal to the employee contribution, if any, and the employer contribution on  
18 foregone gross pay which resulted from the furlough day. A member with multiple  
19 furlough days may choose which furlough days or how many furlough days to redeem,  
20 however, less than a full-day or partial redemptions for less than a full-day shall not be  
21 allowed. No payment shall be allowed to be made to the Plan for a redemption of a  
22 furlough day following a member's termination of employment. The cost for a member  
23 wishing to negate the impact on their average monthly salary of a furlough day shall be  
24 based upon the required contributions in effect at the time of the furlough day plus  
25 interest to the time of payment at the rate of three (3) percent per annum, compounded  
26 each June 30<sup>th</sup>. Interest shall not be applied to the required payment if the redemption  
27 occurs between the furlough day and the June 30<sup>th</sup> immediately following such furlough  
28 day. The election to pay the required contributions to redeem a furlough day shall be  
29 irrevocable and no refund shall be made to a member for any amount paid to the Plan  
30 to redeem a furlough day.

31  
32 **Section 4.** That Sections 18-408(j)(1), 18-408(j)(2) and 18-408(j)(3) (sometimes  
33 known and cited as Section 408, Subsections (j)(1), (j)(2) and (j)(3) Chapter 18) of the  
34 Revised Municipal Code, relating to re-employment by the employer be amended by  
35 deleting the language stricken and by adding the language underlined as follows:  
36

37 **Sec. 18-408. Retirement categories.**

38  
39 (j) *Re-employment by the employer.* Unless a member meets the requirements set  
40 forth below in paragraph (7) of this subsection 18-408(j), the following shall apply:

- 41  
42 (1) Retirement and death benefits, if any, shall be immediately suspended upon the  
43 effective date of the member's re-employment with the employer and shall be  
44 resumed only upon the subsequent termination of the member from employment.

1 A member, who receives a retirement benefit from the plan who later returns to  
2 work in a position subject to this article, shall receive a new separate retirement  
3 benefit calculated solely upon the credited service earned and the benefit formula  
4 in place following the member's re-employment with the employer. A member re-  
5 employed pursuant to this section on or after July 1, 2011, shall receive  
6 retirement benefits and death benefits, for any credited service earned  
7 subsequent to the re-employment, calculated pursuant to the post July 1, 2011  
8 employment sections. A member who has received a retirement benefit from the  
9 plan shall not have his/her previous credited service included with or added to  
10 service credit earned following a member's re-employment in order to calculate a  
11 single retirement benefit or to increase a previously received retirement benefit. A  
12 member's previously calculated and received retirement benefit shall not change  
13 in form or amount following a member's re-employment, and shall be reinstated  
14 as it originally was calculated upon a member's subsequent retirement and  
15 added to any newly earned and calculated retirement benefit. A member with  
16 multiple re-employment periods following receipt of retirement benefits may have  
17 two (2) or more separately calculated benefit payments. Two (2) or more  
18 separately calculated retirement benefits combined into one benefit payment  
19 shall be known as and referred to as a "bridged benefit." Upon a subsequent  
20 retirement following a member's re-employment, a member shall accept a death  
21 benefit which shall be reduced by the death benefit payments the member  
22 received during the previous period or periods of retirement. A member re-  
23 employed pursuant to this section shall be considered vested as of the date of  
24 their re-employment and the member shall not be required to obtain a specified  
25 amount of new or subsequent credited service prior to being eligible for a  
26 "bridged benefit."

27 (2) If an employee hired after January 1, 1979, has not received retirement or death  
28 benefits, and returns to employment with the employer, he or she is entitled to  
29 restore credit for the years and months of service for which employee  
30 contributions were refunded if the amount, including interest to the date of  
31 repayment at the rate of three (3) percent per annum, is repaid to the trust within  
32 twenty-four (24) months of the employee's re-employment date. A re-employed  
33 employee who does not repay the refunded contributions, with interest, within  
34 twenty-four (24) months of the employee's re-employment date, may still, upon  
35 repayment made to the plan prior to retirement termination from employment,  
36 receive credit for the years and months of service for which his or her  
37 contributions were refunded, however, the repayment will be calculated at the full  
38 actuarial cost for such service in accordance with Section 18-415(c)(2). No  
39 repayment shall be allowed to be made to the Plan for a purchase of refunded  
40 contributions following a member's termination of employment.

41 (3) If a member, hired before January 1, 1979, receives a refund pursuant to section  
42 18-409(e)(2) and later resumes covered service under the plan, the member is  
43 entitled to restore credit for the years and months of service for which employee  
44 contributions were refunded if the amount, including interest to the date of  
45 repayment at the rate of three (3) percent per annum, is repaid to the trust within

1 twenty-four (24) months of the employee's re-employment date. A re-employed  
2 employee who does not repay the refunded contributions, with interest, within  
3 twenty-four (24) months of the employee's re-employment date, may still, upon  
4 repayment made to the plan prior to ~~retirement~~termination from employment,  
5 receive credit for the years and months of service for which his or her  
6 contributions were refunded, however, the repayment will be calculated at the full  
7 actuarial cost for such service in accordance with Section 18-415(c)(2). No  
8 payment shall be allowed to be made to the Plan for a purchase of refunded  
9 contributions following a member's termination of employment.

10  
11 **Section 5.** That Section 18-410(b) (sometimes known and cited as Section 410,  
12 Subsection (b), Chapter 18) of the Revised Municipal Code, relating to explanation of  
13 annuities and right to change elections amended by deleting the language stricken as  
14 follows:

15  
16 **Sec. 18-410. Joint and survivor benefits.**

17 (b) *Explanation of annuities and right to change elections.* The plan shall provide a  
18 written explanation of annuities and other options, and the effect of them and the  
19 participant's right to revoke them within the time periods set by and in accordance with  
20 regulations or policies of the Internal Revenue Service. Subject to overriding regulations  
21 or policies of the Internal Revenue Service, a participant may revoke an election not to  
22 take a joint and survivor annuity or choose again to take a joint and survivor annuity at  
23 any time ~~and any number of times within the 90-day period~~ ending on the date benefit  
24 payments commence.

25  
26 **Section 6.** That Sections 18-411(c), 18-411(d) and 18-411(g) (sometimes known and  
27 cited as Section 411, Subsections (c), (d) and (g), Chapter 18) of the Revised Municipal  
28 Code, relating to death benefits be amended by adding the language underlined as  
29 follows:

30  
31 **Sec. 18-411. Death benefits.**

32 (c) *Death of an active member incurred in the performance of service duty.* Upon  
33 death incurred as a result of the performance of service duty, the active member's  
34 surviving spouse, if any, shall be entitled to receive the retirement benefit to which the  
35 member would have been entitled based on the higher of fifteen (15) years' credited  
36 service or actual credited service plus five (5) years but in either case not to exceed the  
37 credited service the member would have earned to age sixty-five (65). The active  
38 member shall be deemed to have retired on the first day of the month following the  
39 month in which death occurs. If it is determined that, notwithstanding the above-listed  
40 calculation where additional service is credited to the member, the surviving spouse  
41 would have received a larger benefit under the 100% joint and survivor annuity option  
42 (with no additional service being credited to the member), then the surviving spouse  
43 shall receive the larger 100% joint and survivor benefit. The retirement benefits to the  
44 surviving spouse shall terminate upon the surviving spouse's death. The surviving

1 spouse, if designated as beneficiary, may elect to receive in lieu hereof the benefits  
2 provided in subsection (a) of this section. Election and receipt of the benefit provided in  
3 subsection (a) shall be final and conclusive, and the surviving spouse shall have no  
4 right to later claim the benefit provided herein.

5  
6 (d) *Death of an active member not incurred in the performance of service duty.* Upon  
7 death not resulting from service duty, the active member's surviving spouse, if any, shall  
8 be entitled to receive seventy-five (75) percent of the benefit calculated in accordance  
9 with subsection (c) of this section. The active member shall be deemed to have retired  
10 on the first day of the month following the month in which death occurs. The retirement  
11 benefit payments to the surviving spouse shall cease upon the surviving spouse's  
12 death. The surviving spouse, if designated as beneficiary, may elect to receive in lieu  
13 hereof the benefit provided in subsection (a) of this section. Election and receipt of the  
14 benefit provided in subsection (a) shall be final and conclusive, and the surviving  
15 spouse shall have no right to later claim the benefit provided herein. If it is determined  
16 that, notwithstanding the above-listed calculation where additional service is credited to  
17 the member, the surviving spouse would have received a larger benefit under the 100%  
18 joint and survivor annuity option (with no additional service being credited to the  
19 member), then the surviving spouse shall receive the larger 100% joint and survivor  
20 benefit.

21  
22 (g) *Death of a deferred member.* If a deferred member, employed before July 1,  
23 2011, having such credited service as required in this article dies before applying for  
24 retirement benefits as provided for in section 409(e), there shall be paid to the surviving  
25 spouse, if living at the time the member reached or would have reached age fifty-five  
26 (55) (the earliest date the member would have been eligible to receive benefits under  
27 this division), a survivor annuity calculated in accordance with this section 18-411 for  
28 the life of the surviving spouse. If a deferred member, first employed on or after July 1,  
29 2011, having such credited service as required in this article dies before applying for  
30 retirement benefits as provided for in section 409(e), there shall be paid to the surviving  
31 spouse, if living at the time the member reached or would have reached age sixty (60)  
32 (the earliest date the member would have been eligible to receive benefits under this  
33 division), a survivor annuity calculated in accordance with this section 18-411 for the life  
34 of the surviving spouse.

35  
36 If a member under this section dies without a surviving spouse, but has children under  
37 the age of twenty-one (21) at the time of death, then any benefit which would have been  
38 payable to the member under this section shall be paid beginning the month following  
39 the member's death to the guardian or other legal representative for the children under  
40 age twenty-one (21) at the date of the member's death. For members first employed  
41 before July 1, 2011, the survivor's benefit for children under the age of twenty-one (21)  
42 shall be equal to the sum which the member would have received if the member had  
43 attained the age of fifty-five (55). For members first employed on or after July 1, 2011,  
44 the survivor's benefit for children under the age of twenty-one (21) shall be equal to the  
45 sum which the member would have received if the member had attained the age of sixty

1 (60). Monthly benefits shall continue, unabated, per stirpes, for those children under age  
2 twenty-one (21) until the end of the month in which the youngest child becomes age  
3 twenty-one (21), at which time all benefits shall cease.  
4

5 If a member under this section dies without a surviving spouse and without children  
6 under the age of twenty-one (21), but who during the course of covered employment  
7 had a committed partner as that term is defined in Section 28-200 (sometimes known  
8 and cited as Section 200, Chapter 28) of the Revised Municipal Code, or had a spousal  
9 equivalent as that term is defined in Section 18-171 (sometimes known and cited as  
10 Section 171, Chapter 18) of the Revised Municipal Code, and submits a copy of the  
11 certified certificate of committed partnership or the affidavit of spousal equivalency  
12 previously filed with the employee benefits section of the Career Service Authority to the  
13 Plan and named the committed partner or spousal equivalent as the member's named  
14 beneficiary, and had not terminated the committed partnership or spousal equivalency  
15 and continued to be in the relationship with the committed partner or spousal equivalent  
16 at the time of the member's death, then there shall be paid to the committed partner or  
17 spousal equivalent, if, for members employed before July 1, 2011, the individual is living  
18 at the time the member reached or would have reached age fifty-five (55), or if, for  
19 members first employed on or after July 1, 2011, the individual is living at the time the  
20 member would have reached age sixty (60) (the earliest date the member would have  
21 been eligible to receive benefits under this division), a survivor annuity calculated in  
22 accordance with this section 18-411 for the life of the committed partner. For members  
23 employed prior to January 1, 1979, if there is no surviving spouse or children under the  
24 age of twenty-one (21), there shall be paid to the beneficiary designated by the  
25 member, if the beneficiary is living, otherwise to the member's estate, the amount of  
26 accumulated contributions paid by the member to the plan prior to January 1, 1979, if  
27 any, as of the applicable date of death.  
28

29 If a deferred member under this section dies without a surviving spouse, without  
30 children under the age of twenty-one (21) and without a committed partner or spousal  
31 equivalent, there shall be no benefit paid from the Plan to anyone.  
32

33 **Section 7.** That Section 18-415(c)(1) (sometimes known and cited as Section 415,  
34 Subsection (c)(1), Chapter 18) of the Revised Municipal Code, relating to the purchase  
35 of service credit be amended by deleting the language stricken and adding the  
36 language underlined as follows:  
37

38 **Sec. 18-415. Purchase of service credits.**

39 (c) *Requirements.*

40 (1) Payment options.

- 41  
42 a. An active member may purchase permissive service credits in accordance  
43 with the requirements and limitations imposed by the Internal Revenue Code.  
44 The board may set forth, in the requirements for eligibility, methods for

1 computing actuarial equivalents, and other terms and conditions governing  
2 the purchase of permissive service credit.

- 3 b. With the exception of direct rollover trustee-to-trustee transfers permitted  
4 under the Internal Revenue Code, as applied to governmental plans, an  
5 active member may, prior to retirement, make only after-tax direct  
6 contributions to purchase service credit.
- 7 c. Subject to the limitations imposed by the Internal Revenue Code, such  
8 payments may be made only for full months of service in full payment for  
9 each month of permissive service credit purchased, provided, that additional  
10 months of service credit may be purchased thereafter, up to the limit imposed  
11 by subsection (b) of this section.
- 12 d. An active member may use all or part of an eligible rollover distribution from  
13 another qualified plan (or other plan so permitted under the Internal Revenue  
14 Code) to pay for all or part of the amount needed to purchase the permissive  
15 service credit, subject to the limitations imposed under section 415(n) of the  
16 Internal Revenue Code.
- 17 e. The election to purchase prior permissive-service credit shall be irrevocable  
18 and no refund shall be made to a member for any amount paid to the Plan to  
19 purchase service credit.
- 20 f. No member shall receive service credit for any service for which payment has  
21 not been completed pursuant to this provision before the effective date of the  
22 member's ~~retirement~~ termination from employment. No payment shall be  
23 allowed to be made to the Plan for a purchase of service credit following a  
24 member's termination from employment.

25  
26 **Section 8.** That Section 18-418(b)(4)(b) (sometimes known and cited as Section  
27 418, Subsection (b)(4)(b), Chapter 18) of the Revised Municipal Code, relating to  
28 domestic relations orders be amended by adding the language underlined as follows:  
29

30 **Sec. 18-418. Anti-alienation provision.**

31 (b) *Domestic relations orders* (DRO). The plan shall permit the division of a  
32 member's retirement benefit through a DRO which meets all the requirements set forth  
33 in this subsection.  
34

35 (4) If the member dies prior to retirement the following terms shall govern regarding  
36 the DRO:  
37

- 38 b. If the member dies either before or on or after reaching the age of fifty-five  
39 (55) for members first employed before July 1, 2011, or before or on or after  
40 reaching the age of sixty (60) for members first employed on or after July 1,  
41 2011, and the member has a current spouse, or children under age 21, or has  
42 a named beneficiary on file with the plan, the member's former spouse may  
43 receive monthly payments of the benefit agreed in the DRO calculated as  
44 follows:

1 1. The DRO payment to the former spouse shall commence the first  
2 day of the month following the date when the member would have (but for  
3 death) reached age and other requirements for a normal retirement benefit  
4 under the terms of the plan.

5 2. Subject to the provisions of section 18-411 of this division, the  
6 decedent member's spouse or designated beneficiary, if any, at the time  
7 of the member's death shall receive a survivor annuity. This annuity shall  
8 be made available and calculated subject to the plan's requirements and  
9 the terms of the DRO.

10 3. The former spouse's portion of the retirement benefit shall be  
11 actuarially reduced for and paid over the lifetime of the former spouse.

12 4. If, at the time the member would have reached age and other  
13 requirements for a normal retirement benefit, no retirement benefit  
14 payments are being made by the plan, and no benefit payment will be  
15 made by the plan in the future, no payment will be made to the former  
16 spouse, as there is and will be no benefit to divide.

17  
18 COMMITTEE APPROVAL DATE:

19 MAYOR-COUNCIL DATE:

20  
21 PASSED BY THE COUNCIL

22 \_\_\_\_\_ 2013

23 \_\_\_\_\_ -PRESIDENT

24 APPROVED: \_\_\_\_\_ -MAYOR \_\_\_\_\_ 2013

25 ATTEST: \_\_\_\_\_ -CLERK AND RECORDER,  
26 EX-OFFICIO CLERK OF THE  
27 CITY AND COUNTY OF  
28 DENVER

29  
30 NOTICE PUBLISHED IN THE DAILY JOURNAL \_\_\_\_\_ 2013 \_\_\_\_\_ 2013

31  
32 PREPARED BY: Victoria A. Hale, GENERAL COUNSEL,  
33 DENVER EMPLOYEES RETIREMENT PLAN,  
34 September 30, 2013

35  
36 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the  
37 office of the City Attorney. We find no irregularity as to form, and have no legal objection  
38 to the proposed ordinance. The proposed ordinance is not submitted to the City Council  
39 for approval pursuant to §3.2.6 of the Charter.

40  
41 David Broadwell \_\_\_\_\_, City Attorney

1 BY: \_\_\_\_\_, \_\_\_\_\_ City Attorney

2 DATE: \_\_\_\_\_