

AN ORDINANCE

AMENDING the City of Marietta/BLW Retirement Plan 4532 (New Consolidated Plan) to bring plan language into compliance with IRS requirements.

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

Section 1: That Section 4-12-6-010, Exhibit B to Chapter 4-12, also known as Ordinance 4532, the "Consolidated Plan," Article V, Section 7, "**Eligibility for a Late Retirement Benefit**" shall be amended by adding the following to the end of the second paragraph thereof to read as follows:

A participant or beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Code Section 401(a)(9)(H) shall not receive those distributions for 2009 unless the participant or beneficiary chooses to receive such distributions. Notwithstanding any other provision of this Chapter to the contrary, any required minimum distribution made in 2009 shall be treated as eligible rollover distribution.

Section 2: That Section 4-12-6-010, Exhibit B to Chapter 4-12, also known as Ordinance 4532, the "Consolidated Plan," Article VIII, Section 8.05, "**Definitions**," shall be amended by adding the following to the end of paragraph (d) "**Compensation**", to read as follows:

Compensation paid after severance of employment shall not be included as compensation under this section unless (i) such compensation is paid by the later of 2½ months after the participant's severance from employment with the City or the end of the limitation year that includes the date of the participant's severance from employment, and (ii) the amounts are regular compensation for services rendered prior to severance of employment and would have constituted compensation if they were paid prior to the participant's severance from employment with the City.

Section 3: That Section 4-12-6-010, Exhibit B to Chapter 4-12, also known as Ordinance 4532, the "Consolidated Plan," Article XII, Section 7, "**Service in the Armed Forces**," shall be amended by adding the following to the end thereof:

A participant who dies during a period of qualified military service, shall be treated as having returned to employment with the City on the day before his death and died the next day for purposes of any survivor benefits including pre-retirement survivor benefits and any accelerated vesting. Such participant shall receive service for vesting purposes for such period of military service but shall not receive service for purposes of accruing benefits for such period of military service.

Section 4: That Section 4-12-6-010, Exhibit B to Chapter 4-12, also known as Ordinance 4532, the "Consolidated Plan," Article XII, Section 8, "**Rollovers**" is hereby amended by adding the following to the end of subsection (b)(1) "**Eligible Rollover Distribution**":

Eligible rollovers distributions from this Plan as limited to refunds of Participant Contributions.

Section 5: That Section 4-12-6-010, Exhibit B to Chapter 4-12, also known as Ordinance 4532, the "Consolidated Plan," Article XII, Section 8, "Rollovers" is hereby amended by adding the following to the end of subsection (b)(2) "Eligible Retirement Plan":

Effective as of January 1, 2008, an eligible retirement plan shall include a Roth IRA established under Code Section 408A for purposes of eligible rollover distributions.

Section 6: That Section 4-12-6-010, Exhibit B to Chapter 4-12, also known as Ordinance 4532, the "Consolidated Plan," Article XII, Section 8, "Rollovers" is hereby amended by adding the following to the end of subsection (b)(3) "Distributee":

For distributions on and after January 1, 2007, "Distributee" shall include a non-spouse beneficiary of an eligible rollover distribution to the extent permitted by IRC Section 402(c)(11).

Section 7: That Section 4-12-6-010, Exhibit B to Chapter 4-12, also known as Ordinance 4532, the "Consolidated Plan," Article XII, "Miscellaneous" is hereby amended by adding a new section 9 to the end thereof:

Section 9. Limitations of Federal Law

For purposes of the Plan, any provisions mandated by Federal law shall remain in effect only so long as such provisions are currently required. If any such provisions are found to be unconstitutional or unenforceable, are rescinded, or are repealed or become discretionary, those portions of the Plan shall be deleted automatically, rescinded and revoked consistent with such action without any further action of the City Council of the City of Marietta.

Section 8: It is hereby declared to be the intention of this Ordinance that its sections, paragraphs, sentences, clauses, phrases and words are severable, and if any section, paragraph, clause, phrase or word of this Ordinance is declared to be unconstitutional or invalid, it shall not affect any of the remaining sections, paragraphs, clauses, phrases or words of this Ordinance.

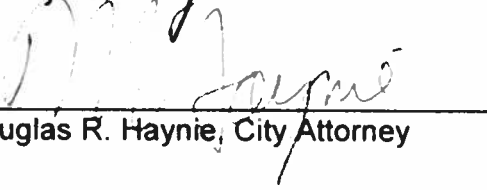
Section 9: All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

Section 9: This Ordinance shall become effective upon the signature or without the signature of the Mayor, subject to Georgia laws 1983, page 4119.

DATE: January 12, 2011

APPROVED: 
R. Steve Tumlin, Jr., Mayor

ATTEST: 
Stephanie Guy, City Clerk

Approved as to Form: 
Douglas R. Haynie, City Attorney