NOTICE OF ELECTION

To the Qualified Electors of the City of Birmingham, County of Oakland, State of Michigan:

Notice is hereby given that an election will be held in the City of Birmingham, County of Oakland, State of Michigan, on

MONDAY, April 2, 1956

at the place or places of holding the election in said city as indicated below, viz:

Precinct 1—Chesterfield Fire Station—1600 West Maple
Precinct 2—Holy Name School—Corner of Harmon and Greenwood—to be determined—Entrance
Precinct 3—Adams School—Corner Oakland and Worth
Precinct 4—Municipal Building—151 Martin St.
Precinct 5—Barnum School
Precinct 6—Adams Fire Station—572 So. Adams
Precinct 7—Grand Trunk Station—245 Eton Rd.
Precinct 8—Birmingham High School—Corner West Lincoln and Cranbrook. Main Lobby Entrance on West Lincoln.
Precinct 9—Pierce School—Entrance
Precinct 10—Y.M.C.A.—400 East Lincoln
Precinct 11—Torry School—1658 E. Lincoln, Corner of Torry.

from seven o'clock in the fore-noon until eight o'clock in the afternoon Eastern Standard Time, for the purpose of electing the following officers:

Two City Commissioners, Two Members of the Library Board, and One Constable;

and to vote on the following Charter Amendment:

Shall the Charter of the City of Birmingham be amended by amending Chapter XIX thereof, to revise the retirement system for employees of said City, so as to coordinate the same with the Federal Social Security Act of the United States of America?

Shall said amendment be adopted:.....Yes
Shall said amendment be adopted:.....No

(Chapter XIX of the Charter of the City of Birmingham is printed herewith, immediately followed by the proposed amendment to Chapter XIX.)

CHAPTER XIX—RETIREMENT SYSTEM
RETIREMENT SYSTEM FOR THE EMPLOYEES OF THE CITY OF BIRMINGHAM

Section. 1. NAME AND ESTABLISHMENT. The City of Birmingham Employees Retirement System hereinafter called the Retirement System, is hereby established for the purpose of providing retirement allowances and death benefits for the employees of the City of Birmingham, Michigan, and their dependents, under the provisions of this amendment to the Charter of the City of Birmingham.

Sections 2. DEFINITIONS. The following words and phrases wherever used in this chapter, unless a different meaning is plainly required by the context, shall have the following meanings:

(a). "City" shall mean the City of Birmingham, State of Michigan and shall include its predecessor the Village of Birmingham, State of Michigan.

(b). "City Commission" shall mean the City Commission of the City of Birmingham.

(c). "Board" shall mean the Retirement Board provided for in Section 3.

(d). "Member" shall mean any person included in the membership of the Retirement System.

(e). "New member" shall mean any member without prior service credited to his service account.

(f). "Original member" shall mean any member with prior service credited to his service account.

(g). "Service" shall mean service rendered to the City as an employee of the City.

(h). "Prior service" shall mean service rendered prior to July 1, 1944.

(i). "Membership service" shall mean service rendered on and after July 1, 1944.

(j). "Regular interest" shall be interest at 3 per cent per annum, compounded annually, to July 1, 1954. For each subsequent 5 year period after July 1, 1954 regular interest shall be such rate of interest as the Board shall determine.

(k). "Accumulated contributions" shall mean the sum of all amounts deducted from the compensation of a member and credited to his individual account in the annuity savings fund, together with regular interest thereon.

(l). "Average final compensation" shall mean the average of the highest annual compensations received by a member during a period of 5 consecutive years of service contained within his 10 years of service immediately preceding his retirement. In the event he has less than 5 years of service credit, then his average final compensation shall be the average of the annual compensations received by him during his total years of service. If a member receives compensation not all paid in money, the Board shall fix the value of that part of his compensation not paid in money.

(m). "Final compensation" shall mean the annual rate of compensation of a member at the date of termination of his last employment with the City.

(n). "Annuity" shall mean an annual amount payable in equal monthly installments for life derived from the accumulated contributions of a member.

(o). "Pension" shall mean an annual amount payable in equal monthly installments for life derived from money provided by the City or any instrumentality of the City.

(p). "Retirement allowance" shall mean the sum of the annuity and the pension.

(q). "Beneficiary" shall mean any person in receipt of an annuity, pension, retirement allowance, or other benefit provided by the Retirement System.

(r). "Annuity reserve" shall mean the present value of all payments to be made on account of any annuity, or benefit in lieu of any annuity, computed upon the basis of such mortality tables as the Board shall adopt, and regular interest.

(s). "Pension reserve" shall mean the present value of all payments to be made on account of any pension, or benefit in lieu of any pension, computed upon the basis of such mortality tables as the Board shall adopt and regular interest.

(t). "Eligible retirement age" shall be age 60 years for members other than policemen and firemen; for policemen and firemen members eligible retirement age shall be age 55 years; provided, that subject to the provisions of Section 19 (a), the City Commission may, in the national interest during time of war engaged in by the United States, or other national emergency, extend the age at which any class of members may be eligible to retire.

(u). "Policeman" shall mean an employee of the Police Department holding the rank of patrolman (including probationary patrolman), or higher rank, but it shall not include (1) any privately employed policeman, nor (2) any person temporarily employed during an emergency, nor (3) any civilian employee of the Police Department.

(v). "Fireman" shall mean an employee of the Fire Department holding the rank of fire-fighter (including probationary fire-fighter) or higher rank, but it shall not include (1) any privately employed fireman, nor (2) any person temporarily employed during an emergency, nor (3) any civilian employee of the Fire Department.

(w). The masculine gender shall include the feminine gender and words of the singular number in relation to persons shall include the plural number and vice versa.

Section 3. RETIREMENT BOARD. There is hereby created a Retirement Board in whom is vested the power to administer, manage, and properly operate the Retirement System and to make effective the provisions of this chapter. The Board shall consist of 7 members as follows:

(a). The Mayor of the City;

(b). A member of the City Commission to be selected by that body;

(c). The City Manager;

(d). A citizen, who is an elector and a freeholder of the City and who is not eligible to receive benefits under the provisions of the Retirement System, to be appointed by the Mayor by and with the consent of the City Commission;

(e). A policeman member of the Retirement System to be elected by the policemen members;

(f). A firemen member of the Retirement System to be elected by the firemen members;

(g). A member of the Retirement System, other than a policeman or fireman member, to be elected by the members of the Retirement System who are not policemen and firemen members.

Section 4. ELECTION OF BOARD—TERM OF OFFICE. The members of the Retirement Board provided for in section 3, paragraphs (e), (f) and (g), shall be elected under such rules and regulations as the Board shall from time to time prescribe governing such elections. The term of office of the Board members provided for in section 3, paragraphs (d), (e), (f) and (g) shall be 3 years and shall expire at the end of each 3 year period following July 1, 1948 for the appointed citizen Board member provided for in section 3 (d), July 1, 1947 for the policeman Board member provided for in section 3 (e), July 1, 1948 for the fireman Board member provided for in section 3 (f), and July 1, 1945 for the general City Board member provided for in section 3 (g). Each Board member shall serve after his appointment or election, as the case may be, take an oath of office, on the form now prescribed by Charter, to be administered by the City Clerk.

Section 5. VACANCY ON BOARD. In the event an elected Board member shall cease to be an employee of the City, or in the event the appointed citizen member or any elected Board member shall fail to attend scheduled meetings of the Board for 3 consecutive meetings, unless in each case excused for cause by the remaining Board members attending such meetings, he shall be considered to have resigned from the Board and the Board shall by resolution declare his office vacated as of the adoption of such resolution. If a vacancy occurs in the office of a Board member, the Mayor shall, within 30 days of the date of the vacancy, fill the vacancy by appointment for the unexpired term; said appointment to be made by and with the consent of the City Commission.

Section 6. MEETINGS OF BOARD. The Board shall hold meetings regularly, at least one in each quarter year, and shall designate the time and place thereof. Five members of the Board shall constitute a quorum at any meeting of the Board. Each Board member shall be entitled to one vote in the meetings of the Board and at least 5 concurring votes shall be necessary for a decision by the Board members at any meeting of the Board. The Board shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the Board shall be public. The Board members shall serve without compensation for their services as such.

Section 7. OFFICERS OF THE BOARD. (a). Officers of the Board shall be a Chairman and a Vice-Chairman elected from the membership of the Board.

(b). **Secretary.** The City Treasurer shall be Secretary of the Retirement System.

(c). **Treasurer.** The City Treasurer shall be Treasurer of the Retirement System and the custodian of its funds. All payments from the funds of the Retirement System shall be made by the City Treasurer, on according to vouchers signed by two officials designated by the Board 2 persons designated by the Board. A duly attested copy of a resolution designating such persons and bearing upon its face specimen signatures of such persons shall be filed with the City Treasurer as his authority for making payments. No payment from the funds shall be drawn unless it shall have been previously authorized by resolution of the Board.

(d). **Actuary.** The Board may appoint an actuary who shall be the technical advisor to the Board on matters regarding the operation of the Retirement System and who shall perform such other duties as are required in connection therewith.

(e). **Medical Director.** The Board shall appoint as Medical Director a physician who is not eligible for membership in the Retirement System. The Medical Director shall be responsible to and shall hold office at the pleasure of the Board. He shall arrange for and pass upon all medical examinations required under the provisions of this chapter; he shall investigate all essential statements and certificates of a medical nature made by or on behalf of a member or beneficiary in connection with an application for disability retirement or death in line of duty benefits. He shall report in writing to the Board his conclusions on medical matters referred to him.

(f). **Employment of Professional and Clerical Services.** The Board may employ such professional and clerical services as are required for the proper operation of the Retirement System. The compensation for such services shall be fixed by the Board subject to the approval of the City Commission.

Section 8. (a) RECORDS—ANNUAL REPORT. The Secretary shall keep, or cause to be kept, such records as shall be necessary for an actuarial valuation of the assets and liabilities of the Retirement System. The Board shall render a report to the City Commission, on or before the fifteenth day of November of each year, showing the fiscal transactions of the Retirement System for the year ending the preceding thirtieth day of June, and the last balance sheet showing the financial condition of the Retirement System by means of an actuarial valuation of the assets and liabilities of the Retirement System as of this preceding last mentioned date.

(b). **Mortality and Other Tables.** The Board shall adopt such mortality and other tables of experience as are necessary in the operation of the Retirement System on actuarial basis.

Section 9. MEMBERSHIP. The membership of the Retirement System shall include all persons now or hereafter employed by the City, but it shall not include (1) any person whose services are compensated on a contractual or fee basis, nor (2) any person whose compensation in a period of 3 consecutive years averages less than $500.00 a year, nor (3) the Medical Director and Actuary, nor (4) elective officials of the City.

(b). **Right of Board to Decide Membership.** In all cases of doubt, the Board shall decide whether any person is or is not employed by the City within a period of 3 years following the date of his last separation from City service, any prior service and membership service which may have been forfeited by him, at the date of his last separation from City service, shall be restored to his credit. In the event a member becomes a beneficiary, by reason of retirement from service, he shall thereupon cease to be a member.

Section 11. SERVICE CREDITABLE. The Board shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to a year of service, but in no case shall less than 15 days of service in a calendar month constitute a month of service, nor shall less than 10 months of service in a calendar year constitute a year of service, nor shall more than one year of service be creditable for all service rendered in one calendar year.

Section 12. WAR SERVICE CREDIT. Should an employee who while employed by the City was called to or who enlisted in any armed service of the United States in any war, be called into the service, or shall enlist in any armed service of the United States, and who has been or who shall be on active duty during time of war, or other national emergency recognized by the City Commission, and should such person be re-employed by the City within 90 days from the date of termination of his required service, then such war service shall be credited to him as City service; Provided, that in any case of doubt as to the period so to be credited, the Board shall have final power to determine the same. Any member who has accumulated contributions withdrawn by a member to the Federal Government and until his re-employed by the City, his contributions to the annuity savings fund shall be suspended and his balance in the annuity savings fund at the last payroll date for which deductions were made for the City service shall be accumulated at regular interest.

Section 13. MEMBER'S SERVICE ACCOUNTS. The Board shall credit each member's service account with the number of years and months of prior service and membership service to which he may be entitled.

Section 14. VOLUNTARY RETIREMENT. Any member who has attained or attains his eligible retirement age, as defined in Section 2 (t), may retire from City service upon his written application to the Board setting forth at what time, not less than 30 days nor more than 90 days subsequent thereto, he desires to be retired.

Section 15. (a). NORMAL RETIREMENT. Any policeman or fireman member who has attained or attains age 60 years and any member in any other eligible branch of the City service who has attained or attains age 65 years, shall be retired forthwith by the Board; Provided, that this paragraph (1) shall not apply to any member who is an appointive official of the City appointed directly by the City Commission, and (2) shall be subject to the provisions of paragraph (b) of this section.

(b). **Extensions in Service.** Any member who has attained or attains his normal retirement age, as provided in paragraph (a) of this section, may be continued in service by the Board for periods of time not to extend beyond his attainment of age 70 years; Provided, that (1) he files a written application for an extension in service with the Secretary of the Retirement System, and (2) his application is approved by his department head and the City Manager.

Section 16 and 16.1
Amendment Adopted April 5, 1954

Section 16. SERVICE RETIREMENT ALLOWANCE. Upon retirement from service as provided in sections 14 and 15, a member shall receive a service retirement allowance which shall consist of the benefits provided in (a), (b), (c) and (d) of this section, subject to paragraph (e) of this section:

(a) **Annuity.** An annuity which shall be the actuarial equivalent of his accumulated contributions standing to his credit in the annuity savings fund at the date of his retirement; and

(b) **Basic Pension.** A basic pension of $120.00 per annum; and

(c) **Membership Service Pension.** A membership service pension of one-one hundred twentieth (1/120) of his average final compensation multiplied by the number of years, and fraction of a year, of membership service credited to his service account; and

(d) **Prior Service Pension.** A prior service pension of two-one hundred thirty-fifths (2/135) of his average final compensation multiplied by the number of years, and fraction of a year, of prior service credited to his service account, not to exceed 30 years; provided, that in no case shall such prior service pension exceed $1,800.00 per annum.

(e) **Limitations.** To be eligible to receive the pensions provided for in paragraphs (b), (c) and (d), of this section, a member must have 10 or more years of service credited to his service account. Provided, that the service conditions contained in this paragraph shall not apply if a member becomes eligible for benefits provided in section 21.

Section 16.1. BENEFITS UPON DEATH OF RETIRANT. In the event a beneficiary (retired member) dies before he has received as retirement allowance payments an aggregate amount equal to his accumulated contributions standing to his credit in the annuity savings fund at the time of his retirement, the difference between his said accumulated contributions and the aggregate amount of retirement allowance payments received by him shall be paid from the pension reserve fund to such person or persons as he shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person or persons surviving the said beneficiary, then said difference, if any, shall be paid to his legal representative. No benefits shall be paid under this section on account of the death of the said beneficiary if he elected Option I, II, or III provided for in section 18.

Section 17. DEFERRED SERVICE RETIREMENT ALLOWANCE. Should any member who either (1) has 25 or more years of service credited to his service account, or (2) has attained age 55 years and has 10 or more years of service credited to his service account, separate from the service of the City, in either case prior to his attainment of his eligible retirement age, for reasons other than becoming a beneficiary, he shall remain a member during the period of his absence from City service, and he shall be entitled to apply for receiving a service retirement allowance provided for in Section 16, paragraphs (a), (b), (c), (d) and (e). The said service retirement allowance shall begin as of the first day of the calendar month next following the month in which application for same is filed with the Board on or after his attainment of age 60 years. In the event the said member withdraws all or part of his accumulated contributions from the annuity savings fund he shall thereupon cease to be a member and he shall forfeit all his rights in and to a deferred service retirement allowance.

Section 18
Amendment Adopted April 5, 1954

Section 18. RETIREMENT ALLOWANCE OPTIONS. Prior to the effective date of his service retirement, but not thereafter, any member may elect to make application for one of the benefits provided for in the following options, and may elect to receive the actuarial equivalent, computed as of the effective date of his retirement, of his regular retirement allowance in a reduced retirement allowance payable throughout his life, and nominate a survivor beneficiary, in accordance with the provisions of Option I, II, or III, as hereinafter set forth.

Option I. Cash Refund Annuity. If a beneficiary (retired member) dies before he has received in payment of the annuity portions of his reduced retirement allowance an aggregate amount equal to his accumulated contributions standing to his credit in the annuity savings fund at the date of his retirement, the difference between his said accumulated contributions and the said aggregate amount of annuity payments received by him shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the Board. In the event there be no such designated person or persons surviving the said beneficiary, then said difference, if any shall be paid to his legal representative; or

Option II. Joint and Survivorship Allowance. Upon the death of a beneficiary (retired member), his reduced retirement allowance shall be continued throughout the life of and paid to such person, having an insurable interest in his life, as he shall have nominated by written designation duly executed and filed with the Board prior to the effective date of his retirement; or

Option III. Modified Joint and Survivorship Allowance. Upon the death of a beneficiary (retired member), one-half of his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall have nominated by written designation duly executed and filed with the Board prior to the effective date of his retirement.

Section 19
Amendment Adopted April 5, 1954

Section 19. USE OF OPTION II PRIOR TO RETIREMENT. (a) Any member who is in the employ of the City on or after the date he either (1) acquires 25 years of service credit, or (2) attains age 55 years and has 10 or more years of service credited to his service account, may, by written declaration duly executed and filed with the Board, in the manner and form prescribed by the Board, elect Option II provided for in section 18, and nominate a survivor beneficiary whom the Board finds to be dependent upon the said member for financial support, in the same manner as if he were then retiring from service, notwithstanding the said member may not have attained his eligible retirement age. An election of Option II and nomination of survivor beneficiary so made cannot be revoked by the said member except upon the death of, or divorce or legal separation from, the said survivor beneficiary prior to the effective date of the said member's retirement. In the event of the death of, or divorce or legal separation from, the said survivor beneficiary prior to the effective date of the said member's retirement, his previous election of Option II and nomination of survivor beneficiary shall be automatically revoked as of the date of such death, or divorce or legal separation, and he may again elect the said Option II, and nominate a survivor beneficiary whom the Board finds to be dependent upon the said member for financial support, as of the effective date of his retirement. If any member who shall have made an election of Option II and nominated a survivor beneficiary as provided in this paragraph dies prior to the effective date of his retirement, then his said survivor beneficiary shall receive the same retirement allowance as the said survivor beneficiary would have been entitled to receive under the said Option II if the said member had been regularly retired pursuant to the provisions of this chapter, effective the first day of the month following the date of death; provided that he may not have attained his eligible retirement age. If a member who shall have made an election of Option II and nominated a survivor beneficiary under the provisions of this paragraph subsequently retires pursuant to the provisions of this chapter, he shall have the right to elect, within a period of 90 days immediately preceding the effective date of his retirement, to receive his service retirement allowance beginning the effective date of his retirement as a regular retirement allowance or under any option provided for in Section 18. No retirement allowance shall be paid under this paragraph on account of the death of a member if any benefits are paid under Section 26 on account of his death.

(b) Any member who continues in the employ of the City on or after the date he either (1) acquires 25 years of service credit, or (2) attains age 55 years and has 10 or more years of service credited to his service account, and in either event does not have an election of Option II in force as provided in paragraph (a) of this section at the time of his death, and (1) dies prior to his retirement while in City service, and (2) leaves a widow, or in the case of a female member leaves a husband whom the Board finds to be totally and permanently disabled and to be wholly dependent upon the said female member for at least 50 per cent of his support, the said widow or disabled husband, as the case may be, shall receive a retirement allowance computed in the same manner in all respects as if the said member had (1) retired effective the first day of the month next following the date of his death, (2) elected Option II provided for in Section 18, and (3) nominated his said widow or disabled husband as survivor beneficiary. In the event the said survivor beneficiary remarries or dies his retirement allowance shall terminate. Provided, that if the gross amount of retirement allowance payments received by the said survivor beneficiary is less than the accumulated contributions standing to the said member's credit in the annuity savings fund at the time of his death, the difference between the said accumulated contributions and the said aggregate amount of retirement allowance payments received by the said survivor beneficiary shall be transferred from the annuity reserve fund to the annuity savings fund and paid in accordance with the provisions of Section 27. No benefits shall be paid under this paragraph on account of the death of a member if any benefits are paid under Section 26 on account of his death.

Section 20. DISABILITY INCURRED. Upon the application of a member or his department head, a member who has become or becomes totally and permanently incapacitated for duty in the service of the City by reason of a personal injury or disease, (1) the injury for which he became incapacitated occurred as the natural and proximate result of causes arising out of and in the course of his employment by the City, shall be retired by the Board; Provided, that (1) the injury sustained shall be one which is compensable as a permanent injury, and (2) after which permanent disability compensation would be paid under the Workmen's Compensation Law of the State of Michigan, and (2) after a medical examination of the said member, made by or under the direction of the Medical Director, the Medical Director certifies to the Board that the said member is mentally or physically totally incapacitated for duty in the service of the City and that such incapacity will probably be permanent, and (3) the report of the Medical Director is concurred in by the Board.

Section 21
Amendment Adopted April 5, 1954

Section 21. DUTY DISABILITY BENEFITS— (a). **Retirement After Eligible Retirement Age.** Upon retirement on or after his attainment of his eligible retirement age on account of disability as provided in Section 20 shall receive a service retirement allowance according to the provisions of Section 16, and he shall have the right to elect an option provided in Section 18.

(b) **Benefits—Retirement Before Eligible Retirement Age.** Upon retirement for disability as provided in Section 20, a member who has not attained his eligible retirement age shall receive a disability pension consisting of a pension and an annuity as provided in (c) and (d) of this section; Provided, that payment of pensions to eligible beneficiaries under the provisions of paragraphs (b), (c), (d) and (e) of this section shall be subject to the condition that the death of the member or disability beneficiary as the case may be, shall be investigated and reported in the course of employment with the City and such as would be compensable under provisions of the Workmen's Compensation Law of the State of Michigan; and provided further, that such pensions shall be subject to the provisions of paragraph (f) of this section and to section 24 of this chapter.

(a) **Accumulated Contributions.** The accumulated contributions standing to the said deceased member's credit in the annuity savings fund shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the Board. If there be no such designated person or persons surviving the said deceased member, then said accumulated contributions shall be paid to his legal representative; and

(b) **Widow's Pension.** A pension of one-third of the final compensation of said deceased person shall be paid to his widow to continue during her widowhood.

(c) **Children's Pension While Widow is Living.** If, in addition to a widow, a child or children under age 18 years also survive the said deceased person, each child under age 18 years shall receive a pension of an equal share of one-fourth of the said deceased person's final compensation, but when the marriage, death, or attainment of age 18 years of any child his pension shall terminate and there shall be a redistribution by the Board to the remaining eligible children under age 18 years.

(d) **Children's Pension If Widow Dies Or Remarries.** In the event there be no widow, or if the widow dies or remarries before the youngest surviving child of said deceased person shall have attained age 18 years, then his child or children under age 18 years shall receive a pension of one-fourth of said deceased person's final compensation; Provided, that if there be more than 2 such surviving children under age 18 years each such child under age 18 years shall receive a pension of an equal share of one-half of the said deceased person's final compensation. In the event of the marriage, death, or attainment of age 18 years of any child his pension shall terminate and there shall be a redistribution by the Board to the remaining eligible children under age 18 years, but in no event shall the pension payable to more than one-half of the said deceased person's final compensation.

(e) **Dependent Parents' Pensions.** In the event there be neither a widow, nor children under age 18 years, eligible to receive a pension, surviving the said deceased person's dependent father and dependent mother, or either of them, as the dependent father and dependent mother, or either of them, as the Board after investigation shall find to have been actually dependent upon said deceased person, through absence of earning power due to physical or mental disability, a pension of one-sixth of said person's final compensation; Provided, that in no event shall the pension payable to either parent exceed $900.00 a year.

(f) **Limitation.** The total of the pensions provided in paragraphs (b), (c) and (d) of this section, payable to a widow, or to widow and children, of any deceased member shall not exceed $2,400.00 per an-

(1) **Cash Refund Annuity.** A cash refund annuity which shall be the actuarial equivalent of his accumulated contributions standing to his credit in the annuity savings fund at the date of his retirement. In the event he dies before he has received in annuity payments an aggregate amount equal to his said accumulated contributions the difference between his said accumulated contributions and the said aggregate amount of his annuity payments received by him shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the Board. In the event there be no such designated person or persons surviving the said beneficiary, then said difference, if any shall be paid to his legal representative; and

(2) **Disability Pension.** A disability pension consisting of a pension of one-one hundred twentieth (1/120) of his average final compensation multiplied by the number of years, and fraction of a year, of service credited to his service account plus a basic pension of $120.00 per annum; said disability pension shall begin as of the date of his disability, but in no case more than 6 months before the date his application for disability retirement is filed with the Board, or prior to the date his name last appeared on a City payroll, whichever is later, and shall continue to his attainment of his eligible retirement age or prior recovery. Said disability pension shall be subject to the provisions of Section 24 and (3).

(3) **Converting To Service Retirement.** Upon attaining his eligible retirement age, said disability beneficiary, in addition to his annuity shall receive a pension computed according to the provisions of section 16, paragraph (b), (c), (d) and (e); Provided, that no service credit shall be given for the time he was receiving a disability pension provided for in sub-paragraph (2) of this paragraph. Upon attaining his eligible retirement age, he shall have the right to elect an option provided for in section 18.

Section 24
Amendment Adopted April 7, 1952

Section 24. (a) PENSIONS OFFSET BY WORKMEN'S COMPENSATION BENEFITS. Any amounts which may be paid or payable under the provisions of any workmen's compensation, or pension or similar law, including any pensions allowed and payable by the Federal, State or City Government on account of service performed in the armed forces of the United States, to a member who has not attained his eligible retirement age, or to a beneficiary or to the dependents of a member or beneficiary, on account of any disability or death shall be offset against and payable in lieu of any benefits payable out of funds provided by the City under the provisions of this chapter on account of the same disability or death.

(b) **Subrogation Rights.** In the event any person becomes entitled to and elects to receive benefits under this chapter as the result of an accident or injury caused by the act of a third party, the City shall be subrogated to the rights of the said person against such third party to the extent of benefits which the City pays or becomes liable to pay. Acceptance of pension benefits by a person shall be construed as an election hereunder and the City shall thereby be subrogated to the rights of said person against any third party.

(c) **Subrogation Rights in Case of Death.** In the event any person being the beneficiary of a member or beneficiary as defined in Section 26 of this Chapter, becomes entitled to and elects to and does receive pension benefits as the result of the death of such member in accordance with provisions of said Section 26, and where the death of such member occurs under circumstances giving rise to a cause of action against a third party, or under such circumstances as to result in a monetary recovery from such third party, whether by Court action or voluntary settlement, and whether by such beneficiary or the personal representative of such deceased member, the City shall be subrogated to the rights of said person, including the rights of the personal representative of said deceased member, against said third party to the extent of benefits which the City pays or becomes liable to pay. Said right of subrogation shall extend to and shall include all rights of the person receiving pension benefits to any funds or sums which may be collected or received by the personal representative of such deceased member from said third party. No assignment by the beneficiary of such deceased member shall be effective to destroy such right of subrogation. Acceptance of pension benefits under provisions of said Section 26 shall be construed as an election hereunder and such beneficiary shall thereby consent to such rights of subrogation.

Section 25. (a). RE-EXAMINATION OF DISABILITY BENEFICIARIES. Once each year during the first 5 years following the retirement of a member with a disability retirement pension or allowance, and at least once in every 3 year period thereafter, the Board may, and upon the beneficiary's application shall, require any disability beneficiary, who has not attained his eligible retirement age, to undergo a medical examination to be made by or under the direction of the Medical Director. Should any disability beneficiary who has not attained his eligible retirement age refuse to submit to such medical examination in any such period, his disability retirement pension or allowance shall be discontinued by the Board until his withdrawal of such refusal, and if such refusal continue for one year all his rights in and to his disability retirement pension or allowance shall be revoked by the Board. If upon such medical examination of a beneficiary, the Medical Director reports that any such beneficiary is physically able to engage in gainful employment with the City, and his report is concurred in by the Board, then said beneficiary shall be restored to active service with the City, and his disability pension or allowance shall be discontinued.

(b). **Earnings of Disability Beneficiaries.** If the disability beneficiary, who has not attained his eligible retirement age, is or becomes engaged in a gainful occupation, business or employment, and the sum of his pay or earnings from such occupation, business or employment, plus his disability retirement allowance, shall exceed his said final compensation, then the amount of his disability pension shall be reduced to an amount which when added to the amount so earned by him shall equal his final compensation. Should said beneficiary's earning change later, his disability pension shall be correspondingly adjusted.

(c). **Status of Disability Beneficiaries Returned to Service.** A disability beneficiary who has been or shall be returned to active service by the City shall be considered a member of the Retirement System and he shall contribute to the Retirement System thereafter in the same manner as he paid prior to his disability retirement. Any prior service and membership service credited to him at the time of his retirement shall be restored to him for all purposes and effect. He shall be given service credit for the time he was receiving a disability pension provided in section 21 (b); he shall not be given service credit for the time he was receiving a disability pension provided in section 21 (b).

Section 26
Amendment Adopted April 5, 1954

Section 26. DEATH OCCURRING IN LINE OF DUTY. In the event (1) a member dies as the result of a personal injury or disease arising out of and in the course of his employment by the City, or (2) a disability beneficiary, who retired under Section 20, dies within a period of 3 years from and after the effective date of his disability retirement and prior to his eligible retirement age as the result of the same injury or disease for which he was retired, and (3) either case (1) or (2) such death, injury or disease resulting in death, be found by the Board to have been the result of his actual performance of duty in the service of the City, the applicable benefits provided in paragraphs (a), (b), (c), (d) and (e) of this section shall be paid: Provided, that payment of pensions to eligible beneficiaries under the provisions of paragraphs (b), (c), (d) and (e) of this section shall be subject to the condition that the death of the member or disability beneficiary as the case may be, shall be investigated and reported in the course of employment with the City and such as would be compensable under provisions of the Workmen's Compensation Law of the State of Michigan; and provided further, that such pensions shall be subject to the provisions of paragraph (f) of this section and to section 24 of this chapter.

(a) **Accumulated Contributions.** The accumulated contributions standing to the said deceased member's credit in the annuity savings fund shall be paid to such person or persons as he shall have nominated by

Section 23
Amendment Adopted April 5, 1954

Section 23. NON-DUTY DISABILITY BENEFITS— (a) **Retirement After Eligible Retirement Age.** Any member who retires on or after his attainment of eligible retirement age on account of disability as providd in Section 22 shall receive a service retirement allowance according to the provisions of section 16, and he shall have the right to elect an option provided in section 18.

(b) **Benefits—Retirement Before Eligible Retirement Age.** Upon retirement for disability as provided in section 22, a member who has not attained his eligible retirement age shall receive benefits provided in sub-paragraphs (1), (2) and (3) of this paragraph.

(1) **Cash Refund Annuity.** A cash refund annuity which shall be the actuarial equivalent of his accumulated contributions standing to his credit in the annuity savings fund at the date of his retirement. In the event he dies before he has received in annuity payments an aggregate amount equal to his said accumulated contributions the difference between his said accumulated contributions and the said aggregate amount of his annuity payments received by him shall be paid to such person or persons as he shall have nominated by written designation duly executed and filed with the Board. In the event there be no said designated person or persons surviving the said beneficiary, then said difference, if any shall be paid to his legal representative; and

(2) **Disability Pension.** A disability pension consisting of a pension of one-one hundred twentieth (1/120) of his average final compensation multiplied by the number of years, and fraction of a year, of service credited to his service account plus a basic pension of $120.00 per annum; said disability pension shall begin as of the date of his disability, but in no case more than 6 months before the date his application for disability retirement is filed with the Board, or prior to the date his name last appeared on a City payroll, whichever is later, and shall continue to his attainment of his eligible retirement age or prior recovery. Said disability pension shall be subject to the provisions of Section 24 and (3).

(3) **Converting To Service Retirement.** Upon attaining his eligible retirement age, said disability beneficiary, in addition to his annuity shall receive a pension computed according to the provisions of section 16, paragraph (b), (c), (d) and (e); Provided, that no service credit shall be given for the time he was receiving a disability pension provided for in sub-paragraph (2) of this paragraph. Upon attaining his eligible retirement age, he shall have the right to elect an option provided for in section 18.

Section 24
Amendment Adopted April 7, 1952

Section 24. (a) PENSIONS OFFSET BY WORKMEN'S COMPENSATION BENEFITS. Any amounts which may be paid or payable under the provisions of any workmen's compensation, or pension or similar law, including any pensions allowed and payable by the Federal, State or City Government on account of service performed in the armed forces of the United States, to a member who has not attained his eligible retirement age, or to a beneficiary or to the dependents of a member or beneficiary, on account of any disability or death shall be offset against and payable in lieu of any benefits payable out of funds provided by the City under the provisions of this chapter on account of the same disability or death.

(b) **Subrogation Rights.** In the event any person becomes entitled to and elects to receive benefits under this chapter as the result of an accident or injury caused by the act of a third party, the City shall be subrogated to the rights of the said person against such third party to the extent of benefits which the City pays or becomes liable to pay. Acceptance of pension benefits by a person shall be construed as an election hereunder and the City shall thereby be subrogated to the rights of said person against any third party.

(c) **Subrogation Rights in Case of Death.** In the event any person being the beneficiary of a member or beneficiary as defined in Section 26 of this Chapter, becomes entitled to and elects to and does receive pension benefits as the result of the death of such member in accordance with provisions of said Section 26, and where the death of such member occurs under circumstances giving rise to a cause of action against a third party, or under such circumstances as to result in a monetary recovery from such third party, whether by Court action or voluntary settlement, and whether by such beneficiary or the personal representative of such deceased member, the City shall be subrogated to the rights of said person, including the rights of the personal representative of said deceased member, against said third party to the extent of benefits which the City pays or becomes liable to pay. Said right of subrogation shall extend to and shall include all rights of the person receiving pension benefits to any funds or sums which may be collected or received by the personal representative of such deceased member from said third party. No assignment by the beneficiary of such deceased member shall be effective to destroy such right of subrogation. Acceptance of pension benefits under provisions of said Section 26 shall be construed as an election hereunder and such beneficiary shall thereby consent to such rights of subrogation.

Section 25. (a). RE-EXAMINATION OF DISABILITY BENEFICIARIES. Once each year during the first 5 years following the retirement of a member with a disability retirement pension or allowance, and at least once in every 3 year period thereafter, the Board may, and upon the beneficiary's application shall, require any disability beneficiary, who has not attained his eligible retirement age, to undergo a medical examination to be made by or under the direction of the Medical Director. Should any disability beneficiary who has not attained his eligible retirement age refuse to submit to such medical examination in any such period, his disability retirement pension or allowance shall be discontinued by the Board until his withdrawal of such refusal, and if such refusal continue for one year all his rights in and to his disability retirement pension or allowance shall be revoked by the Board. If upon such medical examination of a beneficiary, the Medical Director reports that any such beneficiary is physically able to engage in gainful employment with the City, and his report is concurred in by the Board, then said beneficiary shall be restored to active service with the City, and his disability pension or allowance shall be discontinued.

(b). **Earnings of Disability Beneficiaries.** If the disability beneficiary, who has not attained his eligible retirement age, is or becomes engaged in a gainful occupation, business or employment, and the sum of his pay or earnings from such occupation, business or employment, plus his disability retirement allowance, shall exceed his said final compensation, then the amount of his disability pension shall be reduced to an amount which when added to the amount so earned by him shall equal his final compensation. Should said beneficiary's earning change later, his disability pension shall be correspondingly adjusted.

(c). **Status of Disability Beneficiaries Returned to Service.** A disability beneficiary who has been or shall be returned to active service by the City shall be considered a member of the Retirement System and he shall contribute to the Retirement System thereafter in the same manner as he paid prior to his disability retirement. Any prior service and membership service credited to him at the time of his retirement shall be restored to him for all purposes and effect. He shall be given service credit for the time he was receiving a disability pension provided in section 21 (b); he shall not be given service credit for the time he was receiving a disability pension provided in section 21 (b).

Section 26
Amendment Adopted April 5, 1954

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(a) **Accumulated Contributions.** The accumulated contributions standing to the said deceased member's credit in the annuity savings fund shall be paid to such person or persons as he shall have nominated by

Section 27
Amendment Adopted April 5, 1954

Section 27. (a) REFUND OF ACCUMULATED CONTRIBUTIONS—PRIOR TO RETIREMENT. Should a member cease to be an employee of the City (1) before attaining his eligible retirement age, for reasons other than becoming a beneficiary or dying, or (2) after attaining his eligible retirement age and not being entitled to a pension, he shall be paid all or part of the accumulated contributions

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