

**CITY OF NEW ORLEANS
EMPLOYEES' RETIREMENT SYSTEM
ADMINISTRATIVE PROCEDURES
(TAX COMPLIANCE)**

Date of Adoption: August 15, 2012

Effective Dates: As Provided Below

Subject: Internal Revenue Service Determination Letter Request

These Administrative Procedures (the "Procedures") are made by the Board of Trustees (the "Trustees") of the City of New Orleans Employees' Retirement System (the "System") in accordance with the provisions of Ordinance No. 114-86, City of New Orleans, Municipal Code of Ordinances (the "Ordinances") which expressly delegates to the Trustees all power necessary for the administration of the System and for making effective the provisions thereof. Unless otherwise defined herein, capitalized terms shall have the meanings ascribed to them in the System. This Procedure is intended to form of part of the System and to govern the interpretation and construction of the related ordinances named above.

I. Purpose: These Procedures are made in consideration of the following:

- a. That the System is intended to be a qualified employee benefit plan and to comply with the applicable provisions of Section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code").
- b. That the System has received from the Internal Revenue Service a favorable determination as to its qualified status, dated June 15, 2012, conditioned upon the adoption of these procedures.
- c. That as a condition of its determination, the Internal Revenue Service now requires that the System reflect the following.

II. Substantive Provisions:

- a. **Vesting:** Section 114-160 of the Ordinances shall be restated as follows:

"A Member who Separates From Service on or after January 1, 2002, and is then credited with not less than five years of Creditable Service shall be entitled to (1) retain his Member Account in the System and receive a Retirement Allowance in accordance with Division 5 hereof, or (2) receive a single-sum distribution of his Member Account. For this purpose, the interest of such Member in his Retirement Allowance shall be deemed vested and non-forfeitable upon (1) an earlier date that may be determined hereunder, or (2) when he is credited with at least five years of Creditable Service and has attained age 65."

- b. **Code Section 415 Limit:** Notwithstanding any provision of the Ordinances to the contrary, this Subsection II.b shall determine the maximum benefit payable to any Member hereunder for each calendar year.

1. **Maximum Permissible Amount.** The value of a Member's annualized Retirement Allowance, when expressed in the form of an Annual Benefit as defined herein, shall not exceed the Maximum Permissible Amount. If the value of a Member's Annual Benefit would exceed such amount, the value of such benefit shall be reduced to the Maximum Permissible

Amount. For this purpose, a Member's "Maximum Permissible Amount" shall be the dollar limit set forth in Tax Code Section 415(b)(1)(A), as the same may be indexed from time to time under Tax Code Section 415(d), and subject to adjustment as provided herein.

2. **Determination of Annual Benefit.** A Member's "Annual Benefit" shall be the actuarial equivalent of a Member's Retirement Allowance, determined as a single life annuity payable under a plan to which Members do not contribute and to which rollover contributions are not made. Such equivalent shall be determined using: (i) an interest rate equal to the greater of 5.5%, the rate otherwise specified herein or the rate that provides a benefit of not more than 105% of the benefit derived from the interest rate specified in Tax Code Section 417(e)(3); and (ii) the mortality table specified in Tax Code Section 417(e). The value of such Annual Benefit shall further be determined as follows:

- i. The value of such benefit shall not include any after-tax Member Contributions, which contributions, if any, shall be separately subject to the limitations imposed under Tax Code Section 415(c).
- ii. The value of such benefit shall include the value of any amount paid by a Member to purchase Creditable Service hereunder, except that:
 - x. Amounts paid for service with the Armed Forces as contemplated under Tax Code Section 414(n) shall not be included;
 - y. Any amount transferred from another qualified governmental plan or governmental Tax Code Section 457(b) plan shall not be included; and
 - z. Any amount subject to the provisions of subsection iv below shall not be included.
- iii. The value of such benefit shall not include any amount attributable to the transfer of service credit hereunder.

3. **Payment Before Age 62.** If a Member Retires before he attains age 62, such Member's Maximum Permissible Amount shall be reduced to equal an annual benefit commencing as of such Member's Retirement Date that is the actuarial equivalent of such amount payable at age 62, determined using (i) an interest rate equal to the greater of 5% or the rate otherwise specified herein, and (ii) the mortality table determined in accordance with Tax Code Section 417(e). Notwithstanding the foregoing, such adjustment shall not apply to any benefit payable on account of the death or Disability of a Member.

4. **Retirement After Age 65.** If a Member Retires after he attains age 65, such Member's Maximum Permissible Amount shall be actuarially adjusted to reflect such delayed retirement using (i) an interest rate equal to the lesser of 5% or the rate otherwise specified herein, and (ii) the mortality table required under Tax Code Section 417(e).

5. **Less Than Ten Years of Participation.** If a Member is credited with less than ten years of participation in the System, the Maximum Permissible Amount determined hereunder shall be reduced by 1/10 for each year of such participation less than ten.

6. **Application to Qualified Members.** Notwithstanding the foregoing, in no event shall the Retirement Allowance of a Member be reduced as provided herein if he is a

Qualified Member. For this purpose, a "Qualified Member" is a Member who commenced participation hereunder prior to January 1, 1990.

7. **Small Benefits.** The limitations set forth in this Subsection 11.b shall not apply to any Member if (i) his or her Retirement Benefit hereunder, including any retirement benefit paid from any other tax-qualified retirement plan maintained by the City or another participating employer hereunder, does not exceed \$10,000 each year, and (ii) no such employer has at any time maintained a defined contribution plan in which such Member participated.

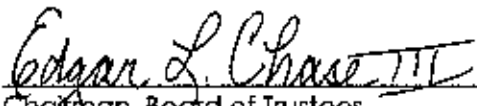
8. **Separation From Service.** If the Maximum Permissible Amount increases after a Member Separates From Service, the amount of any limitation imposed hereunder shall thereafter take into account such increase.

9. **Adjustments for Retirement Before January 1, 2007.** If a Member Retires before January 1, 2007, then notwithstanding any provision of this Subsection 11.b to the contrary:

- i. The value of such Member's Annual Benefit shall not include any amount attributable to the transfer of service or benefits hereunder.
- ii. Member Contributions made in the form of after-tax contributions shall be subject to the limitations on contributions applicable to defined contribution plans imposed under Code Section 415.
- iii. If such Member's Retirement Allowance includes a rollover hereto, the value of such rollover shall be included in the determination of such Member's Annual Benefit by applying reasonable actuarial assumptions.
- iv. If such Member Retires after the attainment of age 65, the Maximum Permissible Amount shall be determined without regard to Subsection 3 hereof.
- v. If such Member Retires before attainment of age 62, the adjustment set forth in Subsection 2 hereof shall not apply.
- vi. If a Member's Retirement Allowance is payable in a form other than a single life annuity, such allowance shall be expressed as the actuarial equivalent of a single life annuity

10. **Construction.** The terms of this Subsection 11.b are to be interpreted and construed in accordance with the provisions of Tax Code Section 415(b) and the regulations promulgated thereunder, the terms of which are incorporated herein by this reference.

THESE ADMINISTRATIVE PROCEDURES were adopted by the Board of Trustees on the date set forth above to be effective as provided herein.


Chairman, Board of Trustees