

A RESOLUTION

AUTHORIZING THE EIGHTH AMENDMENT TO THE LAKEWOOD EMPLOYEES MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT

WHEREAS, the City of Lakewood adopted the Lakewood Employees Money Purchase Pension Plan and Trust Agreement ("Plan") March 1, 1991; and

WHEREAS the City of Lakewood restated the Plan, effective January 1, 1999; and

WHEREAS the City of Lakewood adopted the First Amendment to the Plan effective April 1, 2000, the Second Amendment to the Plan effective January 1, 2002, the Third Amendment to the Plan effective January 1, 2003, and the Fourth Amendment to the Plan effective January 1, 2004, the Fifth Amendment to the Plan effective upon IRS approval; the Sixth Amendment to the Plan effective January 1, 2008, and the Seventh Amendment to the Plan effective January 1, 2008; and

WHEREAS, the City of Lakewood desires to further amend the Plan to incorporate tax law changes from the Heroes Earnings Assistance and Relief Tax Act of 2008 (the "HEART Act") and the Worker, Retiree, and Employer Recovery Act of 2008 ("WRERA") and to provide for the participation and benefits of the new City Manager.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lakewood, Colorado, that:

SECTION 1. The Plan, at ARTICLE II, DEFINITIONS AND CONSTRUCTION, Section 2.1(f), Compensation, shall be amended, effective as of January 1, 2009, to read as follows:

(f) Compensation: A Participant's base salary paid by the Employer for personal services during the Year, before reducing the amount of base salary by any pickup contributions, voluntary contributions or salary deferrals, excluding overtime, shift differential pay, and excluding any benefits paid under this Plan or any other retirement or life insurance program or under any other health or welfare plan. For purposes of allocating the Employer's contribution and tracking Forfeiture amounts for the Year in which a Participant begins or resumes Participation, Compensation shall be determined as of the first day of the year in which the Employee became a Participant and Compensation before his

Participation began or resumed shall be disregarded. Effective January 1, 2009, Compensation shall include "differential wage payments" made to a Participant with respect to active military service, in accordance with Code Section 414(u)(12). Effective January 1, 2002, Compensation in excess of \$200,000 (as adjusted by the Secretary of the Treasury for cost of living increases) shall not be taken into account under the Plan.

SECTION 2. The Plan, at the first paragraph of ARTICLE II, DEFINITIONS AND CONSTRUCTION, Section 2.1(j), Employee, shall be amended, effective as of September 6, 2009, to read as follows:

(j) Employee: Any person who is a Regular Full-Time Employee or Regular Part-Time Employee, who is receiving remuneration for personal services rendered to the Employer (or who would be receiving such remuneration except for an Authorized Leave of Absence). "Employee" shall not include sworn police officers, Seasonal Employees, Temporary Employees, and Provisional Employees. Effective as of December 14, 2008, "Employee" shall not include employees of the Lakewood Housing Authority. Effective September 6, 2009, the City Manager shall be an "Employee" hereunder.

SECTION 3. The Plan, at ARTICLE IV, CONTRIBUTIONS AND FORFEITURES, Section 4.1, Employer Contributions, shall be amended, effective as of September 6, 2009, to read as follows:

4.1 Employer Contributions: On a monthly basis, the Employer shall pay into the Trust Fund an amount equal to ten percent (10%) of the Compensation of all Participants eligible to receive a contribution for such month. Notwithstanding the foregoing sentence, effective September 6, 2009, the Employer shall pay into the Trust Fund an amount equal to eighteen percent (18%) of the City Manager's Compensation for the benefit of the City Manager.

SECTION 4. The Plan, at the first paragraph of ARTICLE IV, CONTRIBUTIONS AND FORFEITURES, Section 4.2, Contributions by Participants, paragraph a., Mandatory Contributions, shall be amended, effective as of September 6, 2009, to read as follows:

a. Mandatory Contributions: In order to share in Employer Contributions, each Participant will be required to make a mandatory contribution of eight percent (8%) of the Compensation each year. Mandatory contributions shall be made by payroll deduction. Notwithstanding the foregoing provisions of this paragraph, effective September 6, 2009, the City Manager shall not be required to make any mandatory contributions hereunder.

SECTION 5. The Plan, at ARTICLE VI, BENEFITS, Section 6.5, Required Minimum Distribution Rules, shall be amended by the addition of a new paragraph (f), Special Rule for 2009 RMDs, to read as follows:

(f) Special Rule for 2009 RMDs. Notwithstanding the provisions of this Section 6.5, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2009 but for the enactment of Section 401(a)(9)(H) of the Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (1) equal to the 2009 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2009 RMDs"), will receive those distributions for 2009 unless the Participant or Beneficiary chooses not to receive such distributions.

Participants and Beneficiaries described in the preceding sentence will be given the opportunity to elect to stop receiving the distributions described in the preceding sentence. In addition, notwithstanding the provisions of Section 6.3, and solely for purposes of applying the direct rollover provisions of the Plan, 2009 RMDs and Extended 2009 RMDs will be treated as eligible rollover distributions.

SECTION 6. All other terms and provisions of the Plan shall remain unchanged and in full force and effect.

INTRODUCED, READ AND ADOPTED by a vote of 11 For and 0 Against at a regular meeting of the City Council on October 26, 2009 at 7 o'clock p.m. at the Lakewood Civic Center, 480 South Allison Parkway, Lakewood, Colorado.

Bob Murphy, Mayor

Margy Greer, City Clerk