

2009-57

A RESOLUTION

AUTHORIZING THE EIGHTH AMENDMENT TO THE CITY OF LAKEWOOD POLICE MONEY PURCHASE PENSION PLAN AND TRUST AGREEMENT

WHEREAS, the City of Lakewood adopted the Lakewood Police Money Purchase Pension Plan and Trust Agreement ("Plan"), effective March 28, 1978; and

WHEREAS the City of Lakewood amended and restated the Plan, effective January 1, 1994; and

WHEREAS the City of Lakewood adopted the First Amendment to the Plan effective January 1, 1999, the Second Amendment to the Plan effective January 1, 2002, the Third Amendment to the Plan effective January 1, 2003, the Fourth Amendment to the Plan effective January 1, 2003, 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 mandatory 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").

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

SECTION 1. The Plan, at ARTICLE II, DEFINITIONS, Section 2.05, Compensation, shall be amended to read as follows:

2.05 "Compensation" means the total amount paid by the City to a Participant as basic salary (including performance incentive awards) during the Plan Year, excluding overtime pay, pension and retirement benefits, living expenses, other allowances, and all contributions by the City to this Plan, or any other tax qualified plan, or any health, accident or welfare fund or plan, or similar benefit. 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). Compensation shall be determined before taking into account any salary deferrals to a plan of deferred compensation under

Section 457 of the Code or a cafeteria plan under Section 125 of the Code.

SECTION 2. The Plan, at ARTICLE VII, DISTRIBUTION FROM TRUST FUND, Section 7.02, Required Minimum Distribution Rules, shall be amended by the addition of new paragraph (f), Special Rule for 2009 RMDs, to read as follows:

(f) Special Rule for 2009 RMDs. Notwithstanding the provisions of this Section, 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 7.02, 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 3. 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.

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Bob Murphy, Mayor

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Margy Greer, City Clerk