Introduced by: City Manager N. Mai-Lombardo

AN ORDINANCE AMENDING CITY OF BERKELEY POLICE AND FIREMEN'S RETIREMENT FUND PENSION PLAN

AMENDMENT NO. 2 TO 2015 AMENDED AND RESTATED PENSION ORDINANCE: PENSION ORDINANCE ON MANDATORY COMMENCEMENT OF RETIREMENT AND DEATH BENEFITS (Ordinance No. 4254) (12/7/2015)

WHEREAS, the Further Consolidated Appropriations Act of 2020 contained the Setting Every Community Up for Retirement Enhancement (SECURE) Act that amended Code Section 401(a)(9) to extend the required beginning date for required minimum distributions to Participants in the City of Berkeley Police and Firemen's Retirement Fund Pension Plan who attain age 70½ after December 31, 2019 to age 72; and

WHEREAS, the Consolidated Appropriations Act of 2023 included the SECURE 2.0 Act of 2022 that amended Code Section 401(a)(9) to (a) extend the required beginning date for required minimum distributions to participants who attain the applicable age, as defined in Section 401(a)(9)(C)(v) of the Internal Revenue Code, after December 31, 2022; (b) provide that, effective for calendar years after December 31, 2023, a surviving spouse who is the designated beneficiary of a participant may defer the distribution of death benefits to December 31st of the calendar year in which the surviving spouse reaches the applicable age.

WHEREAS, the Trustees of the City of Berkeley Police and Firemen's Retirement Fund Pension Plan have recommended to the City Council an amendment to the Pension Ordinance on the Mandatory Commencement of Retirement and Death Benefits with an effective date of January 1, 2022;

WHEREAS, Pursuant to the authority of the City Council under Section 110.070 of the City Code, Pension Ordinance Section 200.240 is amended effective January 1, 2022:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, MISSOURI, AS FOLLOWS:

- Section 1. Effective January 1, 2022, the Berkeley City Code Sections 200.240 (Pension Ordinance Section 7.24) which is titled "Mandatory Commencement of Retirement and Death Benefits," shall be amended consistent with the Setting Every Community Up for Retirement Enhancement (SECURE) Act and the Consolidated Appropriations Act of 2023 which included the SECURE 2.0 Act of 2022 to provide as follows.
- Section 2. Section 200.333 <u>Mandatory Commencement of Retirement and Death</u> <u>Benefits</u>.

A. General Rules.

- 1. *Effective date*. The provisions of this Section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.
- 2. *Precedence*. The requirements of this Section will take precedence over any inconsistent provisions of the Plan.
- 3. Requirements of Treasury regulations incorporated. All distributions required under this Section will be determined and made in accordance with the Treasury Regulations under Section 401(a)(9) of the Internal Revenue Code.
- 4. Minimum distribution to covered employees for calendar years prior to 2003. With respect to distributions under the Plan made on or after March 30, 2001, for calendar years beginning on or after January 1, 2001, and prior to January 1, 2003, the Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Code in accordance with the regulations under Section 401(a)(9) that were proposed on January 17, 2001 (the 2001 proposed regulations), notwithstanding any provision of the Plan to the contrary. If the total amount of required minimum distributions made to a covered employee for 2001 prior to March 30, 2001, are equal to or greater than the amount of required minimum distributions determined under the 2001 proposed regulations, then no additional distributions are required for such covered employee for 2001 on or after such date. If the total amount of required minimum distributions made to a covered employee for 2001 prior to March 30, 2001, are less than the amount determined under the 2001 proposed regulations, then the amount of required minimum distributions for 2001 on or after such date will be determined so that the total amount of required minimum distributions for 2001 is the amount determined under the 2001 proposed regulations. This amendment shall continue in effect until the last calendar year beginning before the effective date of the final regulations under Section 401(a)(9) or such other date as may be published by the Internal Revenue Service.

B. Time And Manner Of Distribution.

- **1.** Required beginning date. The covered employee's entire interest will be distributed, or begin to be distributed, to the covered employee no later than the covered employee's required beginning date.
- **2.** Death of covered employee before distributions begin.

- **a.** If the covered employee dies before distributions begin, the covered employee's entire interest will be distributed, or begin to be distributed, no later than as follows:
 - (1) If the covered employee's surviving spouse is the covered employee's sole designated beneficiary, then distributions to the surviving spouse will begin by the later of:
 - (a) December 31 of the calendar year immediately following the calendar year in which the covered employee died, or by:
 - (b) <u>For distributions prior to January 1, 2020,</u> December 31 of the calendar year in which the covered employee would have attained- age 70 1/2, <u>if later</u>;
 - (c) For distributions on or after January 1, 2020 but prior to January 1, 2022, December 31 of the calendar year in which the covered employee would have attained age 72; or
 - (d) For distributions on or after January 1, 2023, December 31 of the calendar year in which (i) the covered employee attained, or would have attained the applicable age as defined in Section 401(a)(9)(C)(v) of the Internal Revenue Code; or (ii) December 31 of the calendar year in which the covered employee's surviving spouse would have attained the applicable age as defined in Section 401(a)(9)(C)(v) of the Internal Revenue Code.
 - (2) If the covered employee's spouse is not the covered employee's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the covered employee died.
 - (3) If there is no designated beneficiary as of September 30 of the year following the year of the covered employee's death, the covered employee's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the covered employee's death.
 - (4) If the covered employee's surviving spouse is the covered employee's sole designated beneficiary and the surviving spouse dies after the covered employee but before distributions to the surviving spouse begin, this Section 200.333(B)(2), other than Section 220.333(B)(2)(a)(1), will apply as if the surviving spouse were the covered employee.

- **b.** For purposes of this Section 200.333(B)(2), distributions are considered to begin on the covered employee's required beginning date [or, if Section 200.333(B)(2)(a)(4) applies, the date distributions are required to begin to the surviving spouse under Section 200.333(B)(2)(a)(1)].
- C. Determination Of Amount To Be Distributed Each Year.
 - 1. Amount required to be distributed by required beginning date. The amount that must be distributed on or before the covered employee's required beginning date [or, if the covered employee dies before distributions begin, the date distributions are required to begin under Section 200.333(B)(2)(a)(1) or (2)] is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bimonthly, monthly, semiannually, or annually. All of the covered employee's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the covered employee's required beginning date.
 - 2. Additional accruals after first distribution calendar year. Any additional benefits accruing to the covered employee in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.
- **D.** Requirements For Minimum Distributions Where Covered Employee Dies Before Date Distributions Begin.
 - 1. Covered employee survived by designated beneficiary. If the covered employee dies before the date distribution of his or her interest begins and there is a designated beneficiary, the covered employee's entire interest will be distributed, beginning no later than the time described in Section 200.333(B)(2)(a)(1) or (2), over the life of the designated beneficiary or over a period certain not exceeding:
 - a. Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the covered employee's death: or

- **b.** If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.
- 2. No designated beneficiary. If the covered employee dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the covered employee's death, distribution of the covered employee's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the covered employee's death.
- **3.** Death of surviving spouse before distributions to surviving spouse begin. If the covered employee dies before the date distribution of his or her interest begins, the covered employee's surviving spouse is the covered employee's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section 200.333(D) will apply as if the surviving spouse were the covered employee, except that the time by which distributions must begin will be determined without regard to Section 200.333(B)(2)(a)(1).
- **E.** *Definitions*. As used in this Article, the following terms shall have the meanings indicated:

DESIGNATED BENEFICIARY

The individual who is designated as the beneficiary by the covered employee and is the designated beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4 of the Treasury Regulations.

DISTRIBUTION CALENDAR YEAR

A calendar year for which a minimum distribution is required. For distributions beginning before the covered employee's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the covered employee's required beginning date. For distributions beginning after the covered employee's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 200.333(B)(2).

LIFE EXPECTANCY

Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

REQUIRED BEGINNING DATE

A covered employee's required beginning date is April 1 following the later of the year in which the covered employee attains the applicable age as defined in Section 401(a)(9)(C)(v) of the Internal Revenue Codeage 70 or the year in which the covered employee retires.

- Section 3. This ordinance shall be in full force and effect from and after its passage.
- Section 4. The City Council does hereby find and declare that an emergency exists which requires the immediate passage of this ordinance for the preservation of the welfare of the citizens of the City of Berkeley.

1st Reading this <u>04th day of March 2024</u>					
2nd Reading this 04th day of March 2024					
3rd Reading, PASSED and APPROVED, the	nis day of	2024			
	Babatunde Deinbo, Mayor				
ATTEST:	Final Roll Call:				
	Councilwoman Verges	Aye _	Nay	Absent	Abstain
D	Councilwoman Williams	Aye	Nay	Absent	Abstain _
Deanna L. Jones, City Clerk	Councilman Hoskins	Aye	Nay	Absent	Abstain
	Councilwoman Anthony	Aye	Nay	Absent	Abstain
	Councilman Hindeleh	Aye	Nay	Absent	Abstain
	Councilwoman-at-Large Crawford-Graham				
Approved as To Form:		Aye	Nay	Absent	Abstain
Donnell Smith, City Attorney	Mayor Deinbo	Aye _	Nay _	Absent	Abstain