

C56312  
07-0734

**FOURTH AMENDMENT  
TO  
MEET AND CONFER AGREEMENT**

THIS FOURTH AMENDMENT TO MEET AND CONFER AGREEMENT ("Fourth Amendment") is made this 27th day of June, 2007 (the "Effective Date"), by and between the Board of Trustees ("Board") of the Houston Municipal Employees Pension System ("HMEPS") and the City of Houston, Texas ("City") pursuant to the statutory authority under the provisions of Article 6243h, Tex. Rev. Civ. Stats., as amended ("Statute").

WHEREAS, the provisions of Section 3(n) of the Statute governing HMEPS provide that, notwithstanding any other law, the Board may enter into a written agreement with the City regarding pension issues and benefits; and

WHEREAS, pursuant to such authority, the Board and City have previously entered into an agreement, effective September 15, 2004, as amended by the First Amendment to Meet and Confer Agreement, effective December 21, 2004, and by the Second Amendment to Meet and Confer Agreement, effective April 14, 2005, and by the Third Amendment to Meet and Confer Agreement, effective November 1, 2005 (collectively, the "Meet and Confer Agreement"); and

WHEREAS, the City and the Board (each a "Party" and, collectively, the "Parties"), desire to amend the Meet and Confer Agreement to the extent provided herein;

NOW, THEREFORE, in consideration of the premises and the mutual promises contained in this Fourth Amendment, the Board and the City agree as follows:

**1 DEFINITIONS**

Unless specifically defined otherwise in this Fourth Amendment all words shall have the same meaning provided in the Statute and/or the Meet and Confer Agreement, as determined by the Board.

**2 CITY FUNDING COMMITMENT**

(a) For the four (4) year period beginning July 1, 2007, the City shall provide funding to HMEPS as set forth in subsection (b) of this section, notwithstanding anything in the Statute to the contrary.

(b) The city shall provide funding to HMEPS as follows for the city fiscal years beginning July 1, 2007 (FY 2008), July 1, 2008 (FY 2009), July 1, 2009 (FY 2010), and July 1, 2010 (FY 2011):

<u>Fiscal Year</u>	<u>City Contributions</u>
FY 2008	\$75.0 million
FY 2009	\$78.5 million
FY 2010	\$83.5 million
FY 2011	\$88.5 million

The city shall pay contribution amounts to HMEPS no less frequently than bi-weekly. Each bi-weekly payment to HMEPS shall be the pro rata bi-weekly amount of the city contributions for such fiscal year.

- (c) Solely for purposes of the July 1, 2007 actuarial valuation, one hundred percent (100%) of all remaining deferred investment experience from FY 2006 and prior shall be fully recognized.

### **3 ACTUARIAL SERVICES**

The actuary or actuarial firm engaged by HMEPS and approved by the Board shall be the sole actuary or actuarial firm authorized to perform services for purposes of actuarial valuations, funding and benefit matters under the Meet and Confer Agreement, this Fourth Amendment, and the Statute.

### **4 MEMBERSHIP**

Effective January 1, 2008, Section 5(b)(1) of the Statute is amended to read as follows:

- (b) Except as provided by subsections (c), (j), and (k) of this section and sections 4 and 6 of this Act, an employee is a group A member of the pension system as a condition of employment if the employee:

- (1) is hired or rehired as an employee by the city, the predecessor system, or the pension system (i) on or after September 1, 1999 and before January 1, 2008; or

Effective January 1, 2008, Section 5 of the Statute is amended to add subsections (j) and (k) to read as follows:

- (j) An employee is a group D member of the pension system as a condition of employment if the employee is hired as an employee by the city or the pension system on or after January 1, 2008.
- (k) Notwithstanding any provision of this Section to the contrary, a former employee who is rehired as an employee by the city or the pension system on or after January 1, 2008 is, as a condition of employment, a member of the group in which such employee participated at the time of the employee's immediately preceding separation from service.

### **5 RETIREMENT ELIGIBILITY AND BENEFIT ACCRUAL RATES**

Effective January 1, 2008, Section 10 of the Statute is amended in its entirety to read as follows:

Sec. 10. (a) For purposes of this section, a pension under this section is referred to as a normal retirement pension.

- (b) (1) Except as provided in subsection (b)(2) of this section, a group A or group B member of the pension system who terminates employment is eligible for a normal retirement pension beginning on the member's effective retirement date after the date the

member completes at least five years of credited service and attains either:

- (i) 62 years of age; or
- (ii) a combination of years of age and years of credited service, including parts of years, the sum of which equals the number 75, provided the member is at least 50 years of age.

(2) A group A or group B member of the pension system who terminates employment is eligible for a normal retirement pension beginning on the member's effective retirement date after the date the member completes at least five years of credited service and attains either:

- (i) 62 years of age; or
- (ii) a combination of years of age and years of credited service, including parts of years, the sum of which equals the number 70, provided that the member attained a combination of years of age and years of credited service, including parts of years, the sum of which equals or is greater than the number 68 as of December 31, 2004.

(c) (1) A group C member of the pension system who terminates employment is eligible for a normal retirement pension beginning on the member's effective retirement date as provided by Section 6(e) of this Act.

(2) A group D member who terminates employment is eligible for a normal retirement pension beginning on the member's effective retirement date after the date the member completes at least five years of credited service and attains 62 years of age.

(d) The accrued monthly normal retirement pension of each group A member and group B member as of December 31, 2004, shall be determined under the provisions of the Statute in effect on December 31, 2004. Beginning January 1, 2005 for a group A member or a group B member, and beginning January 1, 2008 for a group D member:

(1) The amount of the monthly normal retirement pension payable to an eligible group A member who retires on or after January 1, 2005 is equal to (A) the member's average salary multiplied by the percentage accrued by the member under the Statute as of December 31, 2004, plus (B) the member's average monthly salary multiplied by 2.5% for each year of the member's years of credited service in group A during the member's first 20 years of service that is earned after January 1, 2005, plus (C) the member's average monthly salary multiplied by 3.25% for each year of credited service of the member in group A during the member's years of service in excess of 20 years that is earned after January 1, 2005.

(2) The amount of the monthly normal retirement pension payable to an eligible group B member who retires on or after January 1, 2005 is equal to (A) the member's average monthly salary multiplied by the percentage accrued by the member under the Statute as of December 31, 2004, plus (B) the member's average monthly salary multiplied by 1.75% for each year of the member's years of credited service in group B

during the member's first 10 years of service that is earned after January 1, 2005, plus (C) the member's average monthly salary multiplied by 2% for each of the member's years of credited service in group B during the member's next 10 years of service that is earned after January 1, 2005, plus (D) the member's average monthly salary multiplied by 2.5% for each year of credited service of the member in group B during the member's years of service in excess of 20 years that is earned after January 1, 2005.

(3) The amount of the monthly normal retirement pension payable to an eligible group D member who retires is equal to (A) the member's average monthly salary multiplied by 1.80% for each year of the member's years of credited service in group D during the member's first 25 years of service, plus (B) the member's average monthly salary multiplied by 1.00% for each year of credited service of the member in group D during the member's years of service in excess of 25 years.

(e) A group D member who terminates employment with the city or the pension system may elect to receive an early retirement pension payable as a reduced benefit if the member has attained: (A) at least ten (10) years of credited service and age 55; or (B) five years of credited service and a combination of years of age and years of credited service, including parts of years, the sum of which equals or is greater than the number 75. The amount of the early retirement pension payable to a retired group D member shall be equal to the normal pension reduced by 0.25% for each month the member is less than age sixty-two (62) at retirement.

(f) The amount of the monthly normal retirement pension payable to a retired group C member is computed as provided by Section 6 of this Act.

(g) Notwithstanding any other provision of this Act, the total normal retirement pension of a retired member with credited service in group A, group B, group C, or group D may not exceed 90 percent of the member's average monthly salary. For purposes of subsection (d), service credit is rounded to the nearest one-twelfth of a year.

(h) (1) Effective January 1, 2005, for future payments only, pension benefits for all group A retirees and group B retirees and survivor benefits for eligible survivors of a former member of group A or group B participant shall be increased annually by three percent (3%), not compounded, for all persons receiving a pension or survivor benefit as of January 1 of the year in which the increase is made, provided the retiree receiving the pension was an employee on or before December 31, 2004, and the eligible survivor receiving the survivor benefit is the eligible survivor of a former member who was an employee on or before December 31, 2004.

(2) Effective January 1, 2005, for future payments only, pension benefits for all group A retirees and group B retirees and survivor benefits for eligible survivors of a former member of group A or group B shall be increased annually by two percent (2%), not compounded, for all eligible survivors receiving a pension or survivor benefit as of January 1 of the year in which the increase is made, provided the retiree receiving the pension was hired or rehired on or after January 1, 2005, and the eligible survivor

receiving the survivor benefit is the eligible survivor of a former member who was hired or rehired on or after January 1, 2005.

(3) For DROP participants in group A or group B, effective January 1, 2005, for future credit only, the cost of living adjustment credited to a DROP participant's DROP account shall be three percent (3%), not compounded, provided the DROP participant was an employee on or before December 31, 2004. For DROP participants in group A or group B who were hired on or after January 1, 2005, the cost of living adjustment credited to a DROP participant's DROP account shall be two percent (2%), not compounded.

(4) Notwithstanding any provision of this section to the contrary, if a retiree receives a three percent (3%) cost of living adjustment on the retiree's pension benefit, and such retiree is rehired in a covered position in group A or group B on or after January 1, 2005, such retiree shall receive, upon subsequent termination of employment and retirement and for future payments only, a cost of living adjustment of three percent (3%), not compounded, on the retiree's pension attributable to the period of credited service accrued before and after the retiree's reemployment.

(i) A member receiving a normal retirement pension is considered to have resigned and shall be removed from the regular full-time employment rolls of the city or the pension system not later than the day before the member's effective retirement date.

(j) A disability benefit or survivor benefit that first becomes payable under the Statute on or after January 1, 2005 for a former member who separated from service on or after January 1, 2005, shall be determined in accordance with the monthly normal retirement pension calculation under this section.

## **6 SERVICE**

Effective January 1, 2008, Section 7(a) of the Statute is amended to read as follows:

Sec. 7. (a) Notwithstanding any other provision of this Act, duplication of service or credited service in group A, B, C, or D of the pension system or in the pension system and any other defined benefit pension plan to which the city contributes is prohibited.

Effective January 1, 2008, Section 7 of the Statute is amended by adding subsection (i) to read as follows:

(i) Under rules and procedures adopted by the pension board, a group D member may effectuate a direct trustee-to-trustee transfer from a qualifying Code Section 457(b) plan to the pension system to purchase an increased or enhanced benefit in accordance with the provisions of Code Sections 415(n) and 457(e)(17). The amount so transferred shall be held by the pension system but not separately accounted for. The member shall be entitled to receive such additional benefits under the pension system with respect to the amounts so transferred as prescribed by the pension board.

## **7 CONTRIBUTION REFUNDS**

Effective on the Effective Date of this Fourth Amendment, Sections 9 (c) of the Statute are amended to read as follows:

(c) If a member dies and there are no eligible survivors to receive the allowance provided for in section 14 of this Act, the member's spouse or, if there is no spouse, the member's estate shall receive the refund amount.

## **8 BENEFIT OPTIONS**

Effective January 1, 2008, Section 11 of the Statute is amended in its entirety to read as follows:

Sec. 11. (a) A group B member who terminated employment with the city or the predecessor system before September 1, 1997, or a group D member who terminates employment with the city or the pension system, must elect no later than 60 days before the member's benefit commencement date whether to have the member's normal retirement pension or early retirement pension paid under one of the options provided by Subsection (b) of this section. The election may be revoked, in a manner and at a time established by the pension board, not later than the 60th day before the member's benefit commencement date.

(b) The normal retirement pension or early retirement pension may be one of the following actuarially equivalent amounts:

- (1) option 1: a reduced pension payable to the member, then on the member's death one-half of the amount of that reduced pension is payable to the member's designated survivor, for life;
- (2) option 2: a reduced pension payable to the member, then on the member's death that same reduced pension is payable to the member's designated survivor, for life; and
- (3) option 3: a reduced pension payable to the member, and if the member dies within 10 years, the pension is paid to the member's designated survivor for the remainder of the 10-year period beginning on the member's effective retirement date.

(c) If a former group B or group D member who has made the election provided by Subsection (b) of this section dies after terminating employment with at least five years of credited service but before attaining the age required to begin receiving a normal or early retirement pension, the person's designated survivor is eligible for the benefits provided by the option selected by the former member at the time of separation from service. The benefits first become payable to an eligible designated survivor on the date the former member would have become eligible to begin receiving a pension; provided, however, that if the designated survivor elects for earlier payment, in a time and manner determined by the Board, the actuarial equivalent of such amount shall be payable at such earlier date.

(d) If a former group B or group D member under subsection (a) of this section does not elect one of the options under subsection (b) of this section and dies after retirement has

commenced, a survivor benefit is not payable. If a former group B or group D member under subsection (a) of this section elects a normal retirement pension or early retirement pension, in a time and manner determined by the board, and dies prior to retirement, a survivor benefit is not payable. If a former group B member under subsection (a) of this section has made an election under this section and is rehired in a covered position and converts the service to group A, the election governs the payment of any pension or benefit for the period of service covered by the election, and no other survivor benefit is payable for such period of service.

## **9 DISABILITY BENEFITS**

Effective January 1, 2008, Sections 13(a)-(b) of the Statute are amended to read as follows:

Sec. 13. (a) A member who has completed five or more years of credited service and who becomes disabled is eligible, regardless of age, for an ordinary disability retirement and shall receive a monthly disability pension computed in accordance with section 10(d).

(b) A member who is disabled by reason of a personal injury sustained or a hazard undergone as a result of, and while in the performance of, the member's employment duties at some definite place and at some definite time on or after the date of becoming a member, without serious and willful misconduct on the member's part, is eligible for a service disability retirement and shall receive a monthly disability pension equal to the greater of:

- (1) the monthly normal retirement pension computed under section 10(d); or
- (2) 20 percent of the member's monthly salary on the date the injury occurred or the hazard was undergone.

## **10 SURVIVOR BENEFITS**

Effective January 1, 2008, Sections 14(a)-(d) of the Statute are amended to read as follows:

Sec. 14. (a) Except as provided by sections 11 and 12 of this Act, the pension board shall order survivor benefits to be paid in the form of a monthly allowance to an eligible survivor under this section if:

- (1) a member or former member of group A or group B dies from any cause after the completion of five years of credited service with the city or the pension system;
- (2) while in the service of the city or the pension system, a member dies from any cause directly resulting from a specific incident in the performance of the member's duty; or
- (3) a member of group A or group B dies after the date the member retires on a pension because of length of service or a disability and the member leaves an eligible survivor; or
- (4) a member or former member of group D dies from any cause after the completion of five years of credited service with the city or the pension system.

(b) (1) A surviving spouse of a member or former member described in subsection 14(a)(1) who dies after having completed five years of credited service with the city or the pension system, but before beginning to receive retirement benefits, is eligible for a sum equal to 100 percent of the retirement benefits to which the deceased member or former member would have been eligible had the member been totally disabled with an ordinary disability at the time of the member's last day of credited service, except that the allowance payable to the surviving spouse may not be less than \$100 a month.

(2) A surviving spouse of a member described in subsection 14(a)(4) who dies after having completed five years of credited service with the city or the pension system while still in service with the city or the pension system is eligible for a sum equal to 100 percent of the retirement benefits to which the deceased member or former member would have been eligible had the member been totally disabled with an ordinary disability at the time of the member's last day of credited service.

(3) A surviving spouse of a former member described in subsection 14(a)(4) who dies after having completed five years of credited service with the city or the pension system but who was not in service with the city or the pension system at the time of death and did not make an election under Section 11, is eligible for a sum equal to 50 percent of the retirement benefits to which the deceased former member would have been eligible had the former member retired at the earliest retirement date following the month of death. Such amount shall be payable at the former member's earliest retirement date following the month of death, or if the surviving spouse elects for earlier payment, in a time and manner determined by the Board, the actuarial equivalent of such amount shall be payable at such earlier date.

(c) A surviving spouse of a member described in subsection 14(a)(2) who dies from a cause directly resulting from a specific incident in the performance of the member's duty with the city or the pension system, without serious or willful misconduct on the member's part, is eligible for a sum equal to 100 percent of the deceased member's final average salary.

(d) A surviving spouse of a retiree described in subsection 14(a)(3) who dies after having received retirement benefits is eligible for a sum equal to 100 percent of the retirement benefits being received at the time of the retiree's death. The cost-of-living adjustment in the survivor benefit under Section 10(h) of this Act is computed based on the unadjusted normal retirement pension of the deceased retiree.

## ***11 LUMP SUM BENEFIT PAYMENT***

Effective on the Effective Date of this Fourth Amendment, Section 16 (a) of the Statute is amended to read as follows:

Sec. 16. (a) Notwithstanding any other provision of this Act, the pension board may pay to a member, deferred participant, eligible survivor, alternate payee, or beneficiary in a lump-sum payment the present value of any benefit payable to such a person that is less than \$20,000 instead of paying any other benefit payable under this Act. If the lump-sum present value of the benefit is at least \$1,000 but less than \$20,000, the pension board may make a lump-sum payment only on written request by the member, deferred participant, eligible survivor,

alternate payee, or other beneficiary. The pension board shall make any payment under this subsection as soon as practicable after eligibility under this section has been determined by the pension board.

## ***12 TERMINATION OF EMPLOYMENT AND REEMPLOYMENT***

Effective January 1, 2008, Section 17(c) of the Statute is amended to read as follows:

(c) (1) A former member of group A or group B whose employment is terminated for a reason other than death or receipt of a retirement or disability pension after the completion of five years of credited service may elect, in a manner and time determined by the pension board, to receive a deferred retirement pension that begins on the former member's effective retirement date after the member attains either 62 years of age or a combination of years of age and years of credited service, including parts of years, the sum of which equals the number 75, provided the former member is at least 50 years of age. The amount of monthly benefit shall be computed in the same manner as for a normal retirement pension, but based on average monthly salary and credited service as of the former member's last day of credited service and subject to the provisions of this Act or Chapter 358, Acts of 48th Legislature, Regular Session, 1943 (Article 6243g, Vernon's Texas Civil Statutes), in effect on the former member's last day of credited service.

(2) A former member of group D whose employment is terminated for a reason other than death or receipt of a retirement or disability pension after the completion of five years of credited service may elect, in a manner determined by the pension board, to receive a deferred retirement pension that begins on the former member's effective retirement date after the member attains either 62 years of age. The amount of monthly benefit shall be computed in the same manner as for a normal retirement pension, but based on average monthly salary and credited service as of the former member's last day of credited service and subject to the provisions of the Statute in effect on the former member's last day of credited service.

(3) A former member of group D whose employment is terminated for a reason other than death or receipt of a retirement or disability pension and who has met the minimum years of credited service to receive an early reduced retirement pension under section 10(e) upon attaining the required age, may elect, in a manner determined by the pension board, to receive a deferred retirement pension that begins on the former member's effective retirement date after the member attains the required age under section 10(e). The amount of monthly benefit shall be computed in the same manner as for an early retirement pension under section 10(e), but based on average monthly salary and credited service as of the former member's last day of credited service and subject to the provisions of the Statute in effect on the former member's last day of credited service.

Effective January 1, 2005, Section 17(e) of the Statute is amended to read as follows:

(e) If there is no eligible survivor of a former group A member, all of the former member's rights in the pension fund shall be satisfied by the refund to the former member's spouse, if any, or if there is no spouse, to the former member's estate, of all eligible payments made by

the former member into the pension fund by way of employee contributions, without interest.

### ***13 MILITARY CREDIT***

Effective January 1, 2008, Section 18(d) of the Statute is amended to read as follows:

(d) The military service credited under Subsection (c) of this section:

- (1) may not exceed a total of 60 months; and
- (2) may be claimed as service solely in the group in which the member participates at the time the member claims the service.

### ***14 TERM***

This Fourth Amendment shall be effective from the Effective Date. Except as otherwise expressly amended hereby, the Meet and Confer Agreement remains in full force and effect from and after the Effective Date hereof and the provisions of the Meet and Confer Agreement are fully incorporated into this Fourth Amendment. The Meet and Confer Agreement and this Fourth Amendment (collectively, "the Agreement") shall remain in full force and effect until June 30, 2012, unless earlier modified or amended as provided in the Agreement.

### ***15 SURVIVAL BEYOND COMPLETION***

The following provisions of the Agreement shall survive the termination of the Agreement:

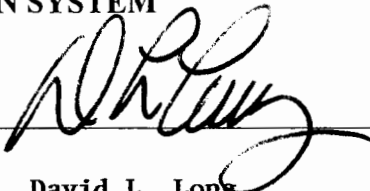
- (a) Sections 4, 5, 8, 9 and 12 for any former HMEPS member who has terminated employment and has retired or is eligible for a deferred retirement pension under its provisions, or who has died during the Term;
- (b) Sections 7 and 10 for any refund or survivor benefit payable on the death of a member, former member or retiree during the Term;
- (c) Section 13 for military service purchased during the Term;
- (d) Section 18 of the Meet and Confer Agreement; and
- (e) Attachment A to the Meet and Confer Agreement.

**16 AUTHORITY**

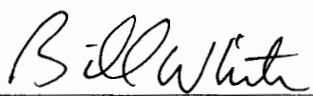
Each of the Parties represents and warrants that it has full power and authority to enter into and perform its obligations under this Fourth Amendment, and that each of the Parties hereto has been properly authorized and empowered to enter into this Fourth Amendment.

IN WITNESS WHEREOF, the Parties have executed this Fourth Amendment effective as of the day and year first above written.

**HOUSTON MUNICIPAL EMPLOYEES  
PENSION SYSTEM**

By:   
Name: David L. Long  
Title: Executive Director  
Date: June 26, 2007

**CITY OF HOUSTON**

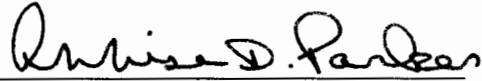
By:   
Name: B:ll WHITE  
Title: MAYOR  
Date: 6-27-07

ATTEST/SEAL:



City Secretary

COUNTERSIGNED BY:



City Controller

APPROVED AS TO FORM:



Sr. Assistant City Attorney  
L.D. File No.

DATE COUNTERSIGNED:

