RESOLUTION NO. 2016-1

TEMPORARY PROCEDURE REGARDING RECOGNITION OF MARRIAGES

BOARD OF TRUSTEES
EMPLOYEES' RETIREMENT FUND OF THE CITY OF DALLAS

November 8, 2016

WHEREAS, pursuant to Section 40A-4 of the Dallas City Code, the Board of Trustees (the "Board") has the power and duty to administer the Employees' Retirement Fund of the City of Dallas (the "Fund") in accordance with Dallas City Code Chapter 40A (Chapter 40A) and adopt rules and regulations not inconsistent with Chapter 40A and the Constitution and laws of the State of Texas and to the extent applicable of the United States; and

WHEREAS, the Texas Family Code prescribes procedures for entering into a ceremonial marriage, recognizes informal marriages (sometimes called common law marriages) and provides a procedure, at Section 2.402, for the declaration and registration of such informal marriages; and

WHEREAS, a surviving spouse of a retiree, and of certain active or inactive members of the Fund, becomes entitled to a life annuity unless the retiree, active member or inactive member has selected another eligible person to receive the life annuity and the spouse has consented to the selection; and

WHEREAS, if a retiree marries after retirement, the spouse of that marriage is not eligible for a survivor annuity, or for any other death benefit, except as the retiree's heir or designee; and

WHEREAS, effective April 1, 2015, the Fund adopted Rules of Procedure and Practice Regarding Determination of Marriage whereby the Fund will treat a person as a surviving spouse of a member, inactive member or retiree only if the Fund is provided with a valid copy of a Certificate of Marriage or a Declaration of Registration of Informal Marriage that was issued before the termination of employment of the member, inactive member or retiree. There must also be no evidence that such marriage had been annulled or ended by divorce; and

WHEREAS, the Supreme Court of the United States issued an opinion on June 26, 2015, in the case of Obergefell v. Hodges that requires all states to recognize otherwise valid marriages between persons of the same sex; thereby enabling some couples to marry or have their out-of-state marriages recognized in Texas; and

WHEREAS, the Board desires to afford an opportunity for all members, inactive members and retirees, including those who were prevented by Texas state law from entering into a ceremonial marriage, from having an out of state ceremonial marriage from being recognized in Texas or filing a Declaration and Registration of Informal Marriage before June 26, 2015, to obtain recognition of a marriage that occurred before that date;

WHEREAS, the Board previously afforded an opportunity for a person to be treated as a surviving spouse of a member, inactive member or retiree, if, on or before January 1, 2017, the Fund was provided a copy of either: (i) a Certificate of Marriage issued before the retirement of the member, inactive member or retiree that was valid when issued, or (ii) a Declaration and Registration of Informal Marriage whenever issued.

WHEREAS, the Board believes that there may be some additional persons who may still desire to apply or re-apply and believes it is prudent to extend by one year the original date by which the Fund would accept a Declaration of Common Law Marriage whenever issued if both parties to the marriage have asserted on the Declaration that the marriage occurred before the retirement of the member, inactive member or retiree.

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Trustees of the Employees' Retirement Fund of the City of Dallas adopts the following procedures regarding marriages:

The Board extends the previous date of January 1, 2017 to January 1, 2018, the Rules of Procedure and Practice Regarding the Determination of Marriage will be modified as follows: The Fund will treat a person as a surviving spouse of a member, inactive member or retiree if the Fund is provided with either:

1. A copy of a Certificate of Marriage of the couple that was issued before the retirement of the member, inactive member or retiree and was valid when issued in the state or country of issuance; or

2. A Declaration and Registration of Informal Marriage whenever issued if both parties to the marriage have asserted on the Declaration that the marriage occurred before the retirement of the member, inactive member or retiree.

On and after January 1, 2018, the Rules of Procedure and Practice Regarding the Determination of Marriage will be applied and the Fund will not treat a person as a surviving spouse of a member, inactive member or retiree unless the Fund is provided with a copy of a valid Certificate of Marriage or Declaration and Registration of Informal Marriage that was issued before the retirement of the member, inactive member or retiree.

The member or survivor shall be responsible for providing evidence to the Fund of the existence of a marriage; and

The Fund will maintain in its files copies of Marriage Certificates, Declaration and Registration of Informal Marriages, Divorce Decrees and other evidence of marriage and divorce of members, inactive members and retirees.

EMPLOYEES' RETIREMENT FUND OF THE CITY OF DALLAS

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John Jenkins, Board Chair

ATTEST:

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Cheryl D. Alston
Executive Director

APPROVED AS TO FORM:

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Gary Lawson, Esq.
Strasburger & Price, LLP