



Memorandum

**TO: Board of Administration, Federated City
Employees' Retirement System**

FROM: Barbara Hayman

**SUBJECT: Resolution 9107 Setting COLA Rate
for 415(b) Qualified Participants**

DATE: March 16, 2023

Approved

Date

RECOMMENDATION

Approval of Resolution #9107 setting the Cost of Living Adjustment rate for 415(b) impacted beneficiaries who will have limits set by “grandfathered” rules at three point zero percent (3.0%) pursuant to Municipal Code section 3.44.040.

BACKGROUND

Internal Revenue Code (“IRC”) Section 415(b) limit caps the retirement allowance amount the Retirement System may pay to a retiree or any other beneficiary at \$265,000. However, for those that retire under age 62, the limit of \$265,000 is adjusted downward for every year under age 62. There is also a further reduction for members with less than 10 years of service in the System.

If a member joined the system prior to January 1, 1990, they would be considered a "qualified participant" under IRC 415(b) and their retirement allowance cannot be lower than what they would have received under the System rules as of October 14, 1987.

ANALYSIS

The current 3% annual Cost of Living Adjustment (“COLA”) applied in April of every year was not how COLA was applied as of October 14, 1987. For beneficiaries whose benefit would be higher under the “grandfathered” rules as of October 14, 1987, rather than their benefit calculated under the current benefit formula and subsequently reduced by IRC 415(b) limits, COLA rules as of October 14, 1987, must be applied. At that time, COLA was based on the Consumer Price Index for all Urban Consumers, San Francisco-Oakland-San Jose, December over December rate Consumer Price Index (“CPI”) and formally declared by the Board. On October 14, 1987, Section 3.44.030 of Chapter 3.44 provides that the annual Cost of Living Adjustment to the beneficiary’s allowance shall be the percentage increase or decrease in the CPI, subject to a maximum of three percent (3%). If the CPI-U was higher than 3%, then the difference was put into a “COLA Bank” to be used in the future to supplement the COLA up to 3% in years when the CPI-U is below 3%. Since the 2022 December over 2021 December CPI rate was 4.9%, attached is a Resolution declaring the COLA of 3.0% with the remaining 1.9% to be placed in the retiree’s “COLA Bank pursuant to Section 3.44.040 of Chapter 3.44.

Barbara Hayman
Deputy Director