

**Retirement Plan
of the
City of Middletown**

Effective July 3, 2017

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INTRODUCTION

In 1945, the City of Middletown (the “City”), a Connecticut municipality, adopted the Retirement System of the City of Middletown (the “Plan”). The Plan was and is intended to be a governmental retirement plan, as defined in Section 414(d) of the Internal Revenue Code (“Code”), and was and is intended to qualify as a defined benefit retirement plan under Section 401(a) of the Code. It is also intended that all Member Contributions to the Plan, except for those employees who are covered by the Police CBA, be “picked-up” (treated as pre-tax) and treated as employer contributions as described in Section 414(h) of the Code so that the contributions, when made, would not be taxable to the Members.

The Plan is funded with a trust, under which there is separate accounting for the three covered groups of Members—certain eligible police department employees, fire department employees and general government employees. The Plan is maintained for the exclusive benefit of Members and their Beneficiaries.

In the past, the terms of the Plan were set forth in the City’s Code of Ordinances (“Ordinances”), as well as in various personnel policies and collective bargaining agreements. The terms of the Plan have been amended through the years by a combination of amendments to the Ordinances and the adoption of updated personnel policies and bargaining agreements. The City has determined that it is in the best interest of the Plan’s Members and their Beneficiaries to streamline the Ordinances to include the fundamental provisions of the Plan and to incorporate by reference a separate plan document, which sets forth the specific details of the Plan’s design and operation. In light of the foregoing, effective July 3, 2017, the Plan shall be set forth in: (1) the Ordinances; (2) this Plan document; and (3) the retirement provisions of any personnel policies or collective bargaining agreements intended to supersede or supplement the Plan provisions set forth in the Ordinances and this Plan document. It is generally intended that all provisions required to comply with the Code shall be included in this Plan document, which will be incorporated by reference into the Ordinances. It is also intended that Plan provisions not typically subject to negotiation or change will be set forth in this Plan document, rather than in personnel policies and collective bargaining agreements.

Unless otherwise stated herein, the rights of Members who terminated service on or before July 2, 2017 shall be determined under the Ordinances, as modified by any applicable collective bargaining agreement or personnel policy, in effect on such Member’s date of termination and shall not be affected by any provision of this amendment and restatement, except as otherwise specifically provided in this Plan. Additionally, to the extent that any provisions of the Ordinances in effect on July 2, 2017 or any applicable collective bargaining agreement or personnel policy in effect on that date, impact the determination of a Member’s benefit accrued on or before July 2, 2017, those provisions of the Ordinances shall continue to apply.

**ARTICLE I
DEFINITIONS**

- 1.01 “Accrued Benefit” means, at any point in time, the amount of a Member’s Retirement Benefit payable at his or her Normal Retirement Date, or, if later, such Member’s date of actual retirement, determined under Article VI using a Member’s Years of Service and Final Average Earnings as of such date.
- 1.02 “Actuarial Equivalent” means a benefit of equivalent current value to the benefit which would otherwise have been provided to the Member, determined based on the following assumptions:
- | | |
|------------|---|
| Interest: | 5.5% |
| Mortality: | IRS Applicable Mortality Table as set forth in Revenue Ruling 2001-62 |
- 1.03 “Anniversary Date” means the anniversary of the Employee’s date of hire with the City.
- 1.04 “Annuity Starting Date” means the first day on which an amount is payable under the Plan.
- 1.05 “Authorized Leave of Absence” means any absence authorized by the City under the City’s standard personnel practices, provided that all persons under similar circumstances must be treated alike in the granting of such Authorized Leaves of Absence, and provided further that the Employee returns within the period of authorized absence. An absence due to service in the armed forces of the United States shall be considered an Authorized Leave of Absence to the extent required under Section 414(u) of the Code.
- 1.06 “Bargaining Agreement” or “CBA” means a collective bargaining agreement between the City and a labor union representing a group of City employees. Any reference to a Bargaining Agreement in this Plan shall be deemed to be a reference to the collective bargaining agreement in effect, or agreed to continue to be in effect with regard to an expired Bargaining Agreement, at the time for which a determination is being made. The following references to specific Bargaining Agreements shall be used for purposes of the Plan:
- (a) “AFSCME CBA” shall mean the Bargaining Agreement between the City and Local 466, Council 4 AFSCME, AFL-CIO;
 - (b) “Firefighters CBA” shall mean the Bargaining Agreement between the City and Local Union 1073, International Association of Firefighters, AFL-CIO;
 - (c) “Police CBA” shall mean the Bargaining Agreement between the City and the Police Union, AFSCME, Local 1361; and
 - (d) “UPSEU CBA” shall mean the Bargaining Agreement between the City and the local chapter of the United Public Service Employee Union.

- (e) “Russell Library CBA” shall mean the Bargaining Agreement between the Russell Library Company, Inc. and Russell Library Employees Union, Local 1303-85 Council 4 AFSCME, AFL-CIO.
- 1.07 “Beneficiary” means the individual(s) and/or trust(s) designated by the Member to receive a refund of contributions from the Plan upon the death of the Member in accordance with Section 3.03 hereof.
- 1.08 “City” means the City of Middletown, Connecticut.
- 1.09 “Code” means the Internal Revenue Code of 1986, as such has been and as such may be amended from time to time, and any regulations promulgated thereunder and interpretations thereof as such may affect this Plan.
- 1.10 “Credited Interest” means the interest credited on refunded Member Contributions, with such interest compounded annually on the last day of the Plan Year using a reasonable rate of interest as determined from time to time by the Board in its discretion; provided, however, that the rate of interest may not be retroactively decreased and may not be changed more than once during any Plan Year.
- 1.11 “Deferred Retirement Benefit” means the benefit paid to a Member commencing on his or her Deferred Retirement Date determined under Section 6.02.
- 1.12 “Deferred Retirement Date” means the Member’s retirement date described in Section 4.02 occurring after his or her Normal Retirement Date. The Member’s Deferred Retirement Date shall be determined by the Retirement Board in its discretion, with consideration to the date specified by the Member in his or her application for benefits. The selected date shall not be more than sixty (60) days after the filing date of such application.
- 1.13 “Disability Retirement Benefit” means the benefit paid to a Member commencing on his or her Disability Retirement Date determined as described in Section 5.01.
- 1.14 “Disability Retirement Date” means the date on which a Member commences receiving a Disability Retirement Benefit as described in Article V. The Member’s Disability Retirement Date shall be determined by the Retirement Board in its discretion, with consideration to the date specified by the Member in his or her application for benefits.
- 1.15 “Earnings” means, except as set forth in an applicable Appendix, the salary or wages paid to the Employee by the City for services rendered to the City. Earnings shall also include overtime unless defined differently in the attached appendices or in the relevant collective bargaining agreement. A Member’s Earnings taken into account for purposes of the Plan shall not exceed \$270,000 (for the Plan Year beginning July 1, 2017), increased as permitted under Section 401(a)(17) of the Code to reflect cost-of-living adjustments.
- 1.16 “Eligible Employee” means an Employee who is:

- (a) regularly employed by the City or is a City employee working at the Board of Education and required to be covered under the Plan pursuant to the applicable Bargaining Agreement or Personnel Rules; and
- (b) is a Full-time Employee.

Eligible Employee shall also include full-time employees of the Russell Library and full-time Assistant Registrars of the City of Middletown.

In no case shall an Employee who is accruing pension benefits under another defined benefit or defined contribution plan maintained by the City (other than the City's deferred compensation plan under Section 457(b) or Section 403(b) plan) be considered an Eligible Employee.

- 1.17 "Eligible Official" means an individual elected as and serving as the Mayor of the City.
- 1.18 "Employee" means an employee of the City or a City employee working at the Board of Education who is covered by a Bargaining Agreement or is a non-bargaining employee City employee or a non-bargaining City employee working at the Board of Education.
- 1.19 "Final Average Earnings" means, except as set forth in an applicable Appendix, the average of the Member's annual Earnings during the three (3) consecutive Plan Years in which the Member had the highest Earnings.
- 1.20 "Full-time Employee" shall have the meaning set forth in the applicable Bargaining Agreement or the Personnel Rules.
- 1.21 "Member" means any Eligible Employee who has become covered under the Plan pursuant to Article II and as further defined in each Appendix to this Plan.
- 1.22 "Member Contributions" means the contributions made by the Members which are either "picked-up" (treated as pre-tax) pursuant to Section 414(h) of the Code or, with respect to Members who are covered by the Police CBA, are made on an after-tax basis.
- 1.23 "Normal Retirement Benefit" means the benefit payable to a Member commencing on his or her Normal Retirement Date.
- 1.24 "Normal Retirement Date" shall have the meaning set forth in the applicable Appendix.
- 1.25 "Personnel Rules" shall mean the City of Middletown Personnel Rules, as amended from time to time.
- 1.26 "Plan" means the Retirement System for the City of Middletown, as amended and restated effective July 3, 2017.
- 1.27 "Plan Year" means the twelve (12) month period commencing each July 1 and ending each June 30 of the succeeding calendar year.

- 1.28 “Required Beginning Date” means the first day of April of the calendar year following the calendar year in which the Member attains age 70½; or if later, the year in which the Member has a Severance from Employment with the City.
- 1.29 “Retirement Benefit” means the Normal Retirement Benefit, Deferred Retirement Benefit or Disability Retirement Benefit pension payable to a Member as described in Article V or Article VI herein. Retirement Benefit shall not refer to a return of Member Contributions under Section 3.03.
- 1.30 “Retirement Board” means the Retirement Board described in the Ordinances and Section 12.01.
- 1.31 “Severance from Employment” means the date of an Employee’s death, retirement, resignation or discharge, or any absence that causes such Employee to cease to be an Employee of the City.
- 1.32 “Spouse” means the person, if any, to whom the Member is lawfully married for purposes of Federal tax law, except as otherwise provided in specific sections of the Plan.
- 1.33 “Totally and Permanently Disabled” means, except as set forth in an applicable Appendix, a physical or medical condition that prevents the Member from performing or engaging in any occupation or employment for remuneration or profit, as determined by the Retirement Board in its discretion.
- 1.34 “Trust” means the trust created by the City and the Trustee by a trust agreement to hold and invest the assets contributed under the terms of this Plan.
- 1.35 “Trustee” means such individual or corporate fiduciary or fiduciaries as may be duly appointed by the City to hold the assets of the Plan pursuant to the terms of this Plan and the Trust.
- 1.36 “Years of Service” means an Employee’s uninterrupted period of employment with the City.
- (a) An Employee’s Years of Service shall be equal to the number of uninterrupted months of employment between the Employee’s date of hire and the last Anniversary Date preceding his or her Severance from Employment divided by twelve (12).
 - (b) An Employee shall be credited with an additional one (1) Year of Service if he or she completes nine (9) uninterrupted months of employment between his or her last Anniversary Date and his or her Severance from Employment.
 - (c) Except as provided in subparagraph (b) above for an Employee’s last Year of Service, an Employee shall not be credited with fractional Years of Service.
 - (d) In determining an Employee’s number of uninterrupted months of employment under subparagraph (a) above, an absence from employment for a period of up to

twelve (12) months due to an Authorized Leave of Absence shall not be considered as an interruption in employment. In the case of absence from employment for more than one (1) year, the Retirement Board shall establish a policy pursuant to which the Employee may return without breaking the continuity of the Employee's employment. Reinstatement of an Employee in the Plan shall be conditioned upon such medical examination as the Retirement Board may prescribe and upon payment to the Plan of previously returned Member Contributions, together with such an amount as will establish the proper actuarial reserve for that portion of the reinstated Accrued Benefit, which was represented by the Member Contributions previously withdrawn. If a Member has received a distribution of his or her Member Contributions under Section 3.03, this subparagraph (d) shall only apply if such Member Contributions are repaid to the Plan with applicable interest.

- (e) Notwithstanding any provision of this Plan to the contrary, Years of Service shall be credited for periods of qualified military service in accordance with Section 414(u) of the Code or as otherwise required by law.

ARTICLE II MEMBERSHIP

2.01 Conditions of Membership.

- (a) Each Member of the Plan who was a Member on July 2, 2017 shall continue to be a Member following the effective date of this Plan document.
- (b) Each Eligible Employee shall become a Member in the Plan as soon as administratively practicable following his or her first day of employment. All Eligible Employees shall be required to participate in the Plan as a condition of employment with the City. To the extent required by the City, a Member shall provide to the City any information necessary for the administration of the Plan, including the completion and return of any applicable forms.
- (c) Notwithstanding the foregoing, an Eligible Official shall not be required to participate in the Plan if, prior to the date he or she commences his or her term of office, the Eligible Official notifies the Retirement Board in writing of his or her intention not to participate in the Plan. Such decision not to participate shall be irrevocable once made and such Eligible Official shall be precluded from participating in any retirement plan sponsored by the City.

2.02 Membership After Reemployment.

- (a) If a Member who had a Severance from Employment with the City prior to commencing benefits from the Plan is reemployed by the City, he or she shall immediately resume participation in the Plan as required under Section 2.01.
- (b) If a Member who had a Severance from Employment with the City and who has commenced receiving benefits from the Plan is reemployed by the City and is an Eligible Employee, he or she shall immediately resume participation in the Plan subject to the requirements of Section 2.01.

2.03 Termination of Participation.

- (a) A Member who has a Severance from Employment with the City will no longer be an active Member of the Plan as of his or her Severance from Employment date, and shall not accrue further benefits or Years of Service following his or her Severance from Employment date unless otherwise specified in the Plan.
- (b) A Member who has a Severance from Employment shall continue to be a Member with regard to his or her already Accrued Benefit until such time as no further benefits are due from the Plan to the Member, his or her Spouse, child(ren) or estate.
- (c) A Member who has a Severance from Employment with no right to a vested benefit shall cease to be a Member on the date of his or her Severance from Employment.

- (d) A Member who is entitled to no further benefits from the Plan shall cease to be a Member on the date the final payment of benefits is made.

ARTICLE III CONTRIBUTIONS

3.01 Member Contributions.

All Members of the Plan who are actively employed by the City, or who are on a paid Authorized Leave of Absence, shall be required to make Member Contributions to the Plan each pay period. The percentage of pay contributed as a Member Contribution for a given pay period shall be determined as required under the applicable Appendix.

3.02 Member Contributions Treated as Picked-Up.

- (a) Member Contributions made by Members in accordance with Section 3.01, other than Members covered by the Police CBA, shall be “picked up” by the City as permitted under Section 414(h)(2) of the Code. Such Member Contributions shall be withheld from a Member’s pay on a pre-tax basis and shall be treated as employer contributions. Member Contributions made by Members covered by the Police CBA shall be withheld from a Member’s pay on an after-tax basis.
- (b) Member Contributions picked up by the City shall be paid to the Trust from the City’s general fund. A deduction shall be made from each Member’s Earnings equal to the amount of the Member Contributions picked up by the City, provided that such deduction shall not reduce the Member’s Earnings for purposes of computing benefits under this Plan. Member Contributions made by Members covered by the Police CBA shall be paid to the Trust after being withheld from the Member’s pay.

3.03 Return of Member Contributions.

- (a) A Member shall receive a return of his or her Member Contributions, plus Credited Interest, if the Member has a Severance from Employment: (i) prior to his or her completion of ten (10) Years of Service; and (ii) before he or she becomes eligible for a Retirement Benefit from the Plan. Any such payment shall be made to the Member in a single sum as soon as administratively practicable after his or her Severance from Employment.
- (b) A Member who has a Severance of Employment prior to the date he or she becomes eligible to receive a Retirement Benefit from the Plan, but after completing ten (10) Years of Service, shall be eligible to request a return of his or her Member Contributions, plus Credited Interest, in lieu of a Retirement Benefit from the Plan. Any such payment shall be made to the Member in a single sum as soon as administratively practicable following the date he or she makes a written request for such return of Member Contributions, provided that such request must be made before the Member’s Normal Retirement Date.
- (c) Member Contributions, plus Credited Interest, shall be returned if the Member: (i) dies before commencing to receive a Retirement Benefit from the Plan; and (ii) no death benefit is payable under Article X. Such Member Contributions, plus

Credited Interest, shall be paid to the individual determined under subparagraph (e) in a single lump sum payment as soon as administratively practicable following the Member's death.

- (d) If a Member dies while receiving a Retirement Benefit from the Plan, and no death benefit is payable under Article X, the individual determined under subparagraph (e) shall receive an amount payable in a single sum payment that is equal to the excess, if any, of:
 - (i) the Member Contributions, determined as of the date Retirement Benefits commenced under the Plan, over
 - (ii) the amount of all benefit payments made from the Plan on behalf of the Member as of the date of his or her death.

Such payment shall be made as soon as administratively practicable following the Member's death.

- (e) Any refund of contributions under this Section 3.03 that is made following the death of the Member shall be payable first to the Member's Spouse; next, to his or her child(ren), in equal shares; and last, to the Member's estate.
- (f) If:
 - (i) a Member died and had commenced receiving Retirement Benefits at the time of his or her death,
 - (ii) death benefits were payable under Article X at one time, but ceased to be payable due to the death or remarriage of the Member's Spouse or the death or attainment of age 18 of the Member's child(ren),
 - (iii) the total amount of benefits paid to the Member, the Member's Spouse and/or the Member's child(ren) under Article X did not exceed the contributions made by the Member under Section 3.01, plus Credited Interest, and
 - (iv) the Plan has no further obligation to provide benefits to the Member, the Member's Spouse or the Member's child(ren),

the Member's Spouse if he or she is not otherwise eligible for a death benefit; or if no such Spouse survives the Member, the Member's estate, shall receive single lump sum payment of the excess, if any, of:

- (i) the Member Contributions, determined as of the date Retirement Benefits commenced under the Plan, over

- (ii) the amount of all Retirement Benefits paid from the Plan on behalf of the Member, his or her Spouse and/or his or her child(ren) as of the date death benefits cease to be payable.

Such payment shall be made as soon as administratively practicable following the Member's death.

- (g) If the Plan is discontinued, any Member not entitled to a Retirement Benefit under Section 13.02 shall receive a return of his or her Member Contributions, plus Credited Interest, as soon as administratively practicable following the date the Plan is terminated.
- (h) Any return of Member Contributions under this Section 3.03 shall constitute a complete distribution of the Member's interest in the Plan and no further benefit shall be due from the Plan to the Member, his or her Spouse, child(ren), Beneficiary, estate or any other person.

3.04 Direct Rollover of Eligible Rollover Distributions.

- (a) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Member's election under Section 3.03, a Member may elect, at the time and in the manner prescribed by the City, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Member in a Direct Rollover.
- (b) A "Direct Rollover" is an eligible rollover distribution, except hardship distributions as provided in Section 401(k)(2)(B)(i)(IV) of the Code, that is paid directly to:
 - (i) an individual retirement account described in Section 408(a) of the Code;
 - (ii) an individual retirement annuity described in Section 408(b) of the Code;
 - (iii) an annuity plan described in Section 403(b) of the Code;
 - (iv) an eligible plan under Section 457(b) of the Code maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state;
 - (v) a qualified plan described Sections 401(a) and 403(a) of the Code that accepts the eligible rollover distribution; or
 - (vi) a Roth individual retirement account described in Section 408A of the Code (subject to certain income restrictions for Direct Rollovers made before January 1, 2010).
- (c) A Member may elect to have a portion of an eligible rollover distribution distributed to him and a portion distributed as a Direct Rollover. A Direct

Rollover of a Member's Member Contributions plus Credited Interest or a portion thereof may only be made to a single recipient plan. A Member may not elect a Direct Rollover of a distribution that does not exceed \$200 (\$500 if the Participant is electing a Direct Rollover of only a portion of his Member Contributions plus Credited Interest). A Member electing a Direct Rollover shall be required to furnish the City with adequate information with respect to the recipient plan, including, but not limited to, the name of the recipient plan and a representation that the recipient plan is an eligible individual retirement plan or qualified defined contribution plan and that it will accept the Member's Direct Rollover.

If a Member fails to elect a Direct Rollover or provide the City with adequate information in order to make a Direct Rollover prior to the date distribution is to be made to such Member, such Member shall be deemed not to have elected a Direct Rollover.

- (d) The foregoing requirements of this Section shall apply to distributions made to a surviving Spouse.

3.05 City Contributions

The City shall pay annually to the Plan such amount, as determined by the Retirement Board based on sound actuarial principles, as necessary, in addition to contributions of the Members, to provide future pensions and other benefits under the Plan on account of service rendered by Members subsequent to the date upon which each shall begin participation in the Plan.

**ARTICLE IV
RETIREMENT DATES**

4.01 Normal Retirement Date.

Each Member who has attained his or her Normal Retirement Date may retire under this Section 4.01 and shall be entitled to a Retirement Benefit payable in an amount and in a manner as set forth in Sections 6.01 and 8.01.

4.02 Deferred Retirement Date.

Each Member who terminates employment after his or her Normal Retirement Date in accordance with this Section 4.02 shall be entitled to receive a Deferred Retirement Benefit payable in an amount and in a manner as set forth in Sections 6.02 and 8.01.

4.03 Disability Retirement Date.

Each Member who terminates employment due to being Totally and Permanently Disabled, and is found eligible to receive a Disability Retirement Benefit under Article V, shall be entitled to receive a benefit paid in the amount and manner set forth in Sections 5.01 and 8.01.

4.04 Retirement Benefit under Multiple Formulas.

If a Member earns Years of Service in more than one position with the City, and the positions are subject to different Appendices of the Plan, such Member's Retirement Benefit shall be determined based upon the provisions of the Plan and the applicable Appendix for the position the Member occupies at the time of his or her Severance from Employment.

ARTICLE V
DISABILITY RETIREMENT

5.01 Eligibility for Disability Retirement Benefit.

- (a) A Member who has a Severance from Employment prior to his or her Normal Retirement Date because he or she is Totally and Permanently Disabled shall be eligible to receive a Disability Retirement Benefit if he or she meets the requirements of this Section 5.01, as determined by the Retirement Board in its discretion.
- (b) A Member shall be eligible to receive a Disability Retirement Benefit if:
 - (i) the Member became Totally and Permanently Disabled while employed by the City;
 - (ii) the Member's willful misconduct was not a cause of the Member's becoming Totally and Permanently Disabled;
 - (iii) the Member had completed at least ten (10) Years of Service as of the date he or she became Totally and Permanently Disabled; and
 - (iv) the Member is unable to earn compensation at any substantially gainful employment as a result of being Totally and Permanently Disabled.
- (c) Notwithstanding the foregoing, the service requirement under subparagraph (b)(iii) above shall not apply to a Member who is found by the Retirement Board to have become Totally and Permanently Disabled while performing essential duties pertaining to his or her employment with the City.
- (d) To the extent an applicable Appendix sets forth different criteria for a Member to receive a Disability Retirement Benefit, that Appendix shall control.

5.02 Application for Disability Retirement Benefit.

- (a) Except as may be provided in an Appendix, the provisions of this Section shall govern the process for determination of whether or not a Member is eligible for a Disability Retirement Benefit.
- (b) A Member who wishes to receive a Disability Retirement Benefit or his or her legal designee shall make a written application to the Retirement Board for such benefit on a form provided by the Office of the General Counsel. Such application must include any evidence the Member wishes to present to support the Member's claim for a Disability Retirement Benefit.
- (c) Following receipt of a Member's application for disability benefits, the Member shall submit to at least two (2) impartial medical examinations for the purpose of determining: (i) whether the Member is Totally and Permanently Disabled, and

(ii) to the extent relevant and possible, whether the Member became Totally and Permanently Disabled in the course of the Member's employment. The City shall select two impartial medical examiners to perform the impartial medical examinations. In no event shall a Member's personal treating physician be utilized as an impartial medical examiner. The cost of these impartial medical examinations shall be paid from the Trust.

- (d) Upon receipt of the results of the impartial medical examinations described above, the Retirement Board shall consider the Member's application for a Disability Retirement Benefit at its next regularly scheduled meeting, or, if the results are received without sufficient notice for the application to be heard at such meeting, the application shall be heard at or before the second regularly scheduled Retirement Board meeting.
- (e) In determining whether a Member is entitled to a Disability Retirement Benefit, the Retirement Board shall consider: (i) the results of the impartial medical examinations; (ii) any evidence presented by the Member; and (iii) any evidence presented by the City. Such application shall be considered in executive session as a matter involving an individual employee unless the Member requests that said meeting be held as an open meeting.
- (f) A Member's application for a Disability Retirement Benefit shall be granted if the Retirement Board is presented with sufficient proof demonstrating that the Member is Totally and Permanently Disabled, including, but not limited to, the impartial medical examinations ordered by the Retirement Board. The determination of the Retirement Board shall be conclusive and binding upon all persons.

5.03 Timing of Commencement of Disability Retirement Benefit.

A Member found to be eligible for a Disability Retirement Benefit pursuant to Section 5.02 shall be entitled to receive a Disability Retirement Benefit commencing on the date that the Retirement Board approves the Disability Retirement Benefit.

5.04 Amount of Disability Retirement Benefit.

- (a) The amount of a Member's Disability Retirement Benefit shall be calculated using the Normal Retirement Benefit formula set forth in the applicable Appendix, based upon the Member's Final Average Earnings and Years of Service as of the date the Member became Totally and Permanently Disabled.
- (b) The amount of the Member's Disability Retirement Benefit shall be offset by any awards or payments concurrently received by the Member under the provisions of the Connecticut Workers' Compensation Act.
- (c) Notwithstanding the foregoing, in no event shall the annual Disability Retirement Benefit payable to a Member who is Totally and Permanently Disabled and whose disability was sustained during the performance of essential duties of his or her

position with the City be less than fifty percent (50%) of the Member's annual rate of Earnings on the date he or she became Totally and Permanently Disabled.

5.05 Right to Affirm That Member Continues to Be Totally and Permanently Disabled.

- (a) In any case where the Retirement Board deems it necessary or advisable, the Retirement Board may require that a Member receiving a Disability Retirement Benefit submit to physical examination, including, but not limited to, diagnostic tests, by a physician or physicians selected by the Retirement Board. The purpose of this examination shall be to determine whether the Member continues to be Totally and Permanently Disabled and eligible to receive a Disability Retirement Benefit. The cost of any such diagnostic test or exam shall be paid from the Trust.
- (b) If a Member refuses to submit to any such physical examination or test, the Retirement Board shall have the right to determine without regard to any other evidence that the Member is no longer Totally and Permanently Disabled. This provision shall not apply if the Member is able to demonstrate to the Retirement Board that the examination or test would be dangerous to the Member's life or health.
- (c) The Retirement Board shall also have the right to inquire about the employment status of a Member receiving a Disability Retirement Benefit. A Member who fails to respond to a written inquiry from the Retirement Board regarding his or her employment status within 60 days of the inquiry shall be deemed to be engaged in substantially gainful occupation.

5.06 Cessation of Disability Retirement Benefit.

- (a) A Member will cease to receive a Disability Retirement Benefit as of the earliest of the following dates:
 - (i) the date the Member ceases to be Totally and Permanently Disabled;
 - (ii) the date the Member fails to submit requested satisfactory proof that the Member continues to be Totally and Permanently Disabled;
 - (iii) the date the Member is determined by the Retirement Board to be engaged in a substantially gainful occupation (except as otherwise provided in an applicable Appendix); or
 - (iv) the date of the Member's death.
- (b) If a Member's Disability Retirement Benefit is discontinued under subparagraphs (a)(i), (a)(ii) or (a)(iii) above, and the Member otherwise meets the requirements for benefit under Section 4.01 or Section 4.02, he or she shall be eligible to receive a benefit under the applicable Section calculated using his or her Final

Average Earnings and Years of Service as of the date he or she became Totally and Permanently Disabled.

- (c) If a Member's Disability Retirement Benefit is discontinued under subparagraphs (a)(i), (a)(ii) or (a)(iii) above, and the Member does not meet the requirements for benefit under Section 4.01 or Section 4.02, he or she shall be eligible to receive a refund of Member Contributions in a single sum payment that is equal to the excess, if any, of:
 - (i) the Member's Member Contributions, determined as of the date Disability Retirement Benefits commenced under the Plan, over
 - (ii) the amount of all benefit payments made from the Plan on behalf of the Member as of the date he or she ceases to be eligible for a Disability Retirement Benefit.

Such payment shall be made as soon as administratively practicable following the date the Member ceases to be eligible for a Disability Retirement Benefit.

- (d) If a Member's Disability Retirement Benefit is discontinued under subparagraph (a)(iv) above, the Member's Spouse or child(ren) may be eligible for a death benefit subject to the requirements of Article X.

ARTICLE VI
AMOUNT OF RETIREMENT BENEFITS

6.01 Amount of Normal Retirement Benefit.

A Member who retires on his or her Normal Retirement Date as set forth in Section 4.01 shall receive a benefit equal to a percentage of the Member's Final Average Earnings multiplied by his or her Years of Service, each determined as of the Member's Normal Retirement Date. The percentage of pay used to calculate a Member's Normal Retirement Benefit under this Section 6.01 shall be set forth in the applicable Appendix.

6.02 Amount of Deferred Retirement Benefit.

A Member who retires on his or her Deferred Retirement Date as set forth in Section 4.02 shall be calculated in the same manner as the Normal Retirement Benefit set forth in Section 6.01, except that the Member's Final Average Earnings and Years of Service shall be determined as of the Member's Deferred Retirement Date.

6.03 Amount of Disability Retirement Benefit.

The amount of a Member's Disability Retirement Benefit shall be determined under Section 5.04. The provisions of Section 6.04 and 6.05 shall not apply to a Disability Retirement Benefit.

6.04 Minimum Benefit.

- (a) In no event shall the benefit determined under Section 6.01 or 6.02 and provided to a Member with more than twenty (20) Years of Service be less than \$100 per month.
- (b) Notwithstanding the foregoing, to the extent an applicable Appendix contains a minimum benefit provision, subparagraph (a) shall not apply and the Member's minimum benefit shall be determined under the terms of the applicable Appendix.

6.05 Maximum Benefit.

- (a) In no event shall the benefit provided to a Member under Section 6.01 or 6.02 exceed seventy percent (70%) of such Member's Final Average Earnings.
- (b) Notwithstanding the foregoing, to the extent an applicable Appendix contains a maximum benefit provision, subparagraph (a) shall not apply and the Member's maximum benefit shall be determined under the terms of the applicable Appendix.
- (c) A Member's maximum benefit under this Section 6.05 or an applicable Appendix shall be determined prior to the application of the offset set forth in Section 6.06.

6.06 Workers' Compensation Offset.

All monies received by any Member or dependent payable by the City, the Board of Education and/or the workers' compensation insurer under the State of Connecticut Workers' Compensation Act shall be deducted from any concurrent payments of Retirement Benefits or death benefits payable under Article X or an applicable Appendix made from the Plan.

**ARTICLE VII
LIMITATIONS ON BENEFITS**

7.01 Code Limitations on Benefits.

The benefits payable under this Plan shall be subject to the following limitations:

(a) Basic Limitation.

- (i) Regardless of any other provision of this Plan, other than subparagraph (f) below, an annual benefit payable hereunder shall not exceed \$215,000, or such other amount as may be prescribed under the Code and Treasury Regulations issued thereunder.
- (ii) For purposes of this Section, “annual benefit” means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax Member Contributions (except pursuant to Section 415(n) of the Code) and to rollover contributions (as defined in Section 415(b)(2)(A) of the Code). The “benefit attributable” shall be determined in accordance with Treasury Regulations.

(b) Benefit Beginning After Age 65.

- (i) For limitation years beginning before July 1, 2007, the dollar limitation on a Member’s benefit under Section 7.01(a) shall be equal to the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member’s Annuity Starting Date that is the actuarial equivalent of such dollar limitation (adjusted under Section 7.01(e) if required) computed using the Plan’s mortality table and whichever of the following produces the smaller annual amount: (1) the Plan’s interest rate; or (2) five percent (5%).
- (ii) For limitation years beginning on or after July 1, 2007, the dollar limitation on a Member’s benefit shall be equal to the lesser of the limit determined under subparagraph (b)(i) above and the dollar limit under Section 7.01(a) (adjusted under Section 7.01(e) if required), multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the Member’s Annuity Starting Date to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age sixty-five (65), both determined without applying the limitations of this Section 7.01. For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the Member’s Annuity Starting Date is the annual amount of such annuity payable to the Member, computed disregarding the Member’s accruals after age sixty-five (65) but including actuarial adjustments even if those actuarial adjustments are used to offset accruals, and the adjusted immediately commencing straight life annuity under the Plan at age sixty-

five (65) is the annual amount of such annuity that would be payable under the Plan to a hypothetical Member who is age sixty-five (65) and has the same accrued benefit as the Member.

- (c) Benefits Beginning Before Age 62.
- (i) For limitation years beginning before July 1, 2007, the dollar limitation under Section 7.01(a) is the annual amount of a benefit payable in the form of a straight life annuity commencing at the Member's Annuity Starting Date that is the actuarial equivalent of the dollar limit under Section 7.01(a) (adjusted under Section 7.01(e) if required) with actuarial equivalence computed using the Plan's mortality table and whichever of the following produces the smaller annual amount: (1) the Plan's interest rate; or (2) five percent (5%).
 - (ii) For limitation years beginning on or after July 1, 2007, the dollar limitation under Section 7.01(a) is the lesser of the limitation determined under subparagraph (c)(i) above and the dollar limit under Section 7.01(a) (adjusted under Section 7.01(e) if required) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the Member's Annuity Starting Date to the annual amount of the immediately commencing straight life annuity under the Plan at age sixty-two (62), both determined without applying the limitations of this Section 7.01.
- (d) Exception to Basic Limitation. The limitation in subparagraphs (a), (b) and (c) above shall not be applied to reduce the benefit of any Member below \$10,000.
- (e) Secondary Limitations. The limitation in Section 7.01(a) shall be reduced in the case of any Member who has had less than ten (10) years of participation in the Plan by multiplying the limitation by a fraction whose numerator is the number of years (or part thereof) of participation in the Plan and the denominator of which is ten (10).
- (f) Cost-of-Living Limitation Adjustment. If the Secretary of the Treasury shall, by regulations, have raised the \$215,000 limitation of subparagraph (a) above to reflect increases in the cost of living, such new limitation at the time of a Member's commencement of benefits shall be applied.
- (g) For purposes of this Section 7.01, average compensation with respect to any Member shall mean the wages, salaries, fees for professional services and other amounts paid to such Member by the City for personal services actually rendered in the course of employment with the City, and shall include, without being limited to, bonuses, overtime payments and commissions; and any elective deferrals that are not includible in gross income of the Member by reason of Sections 125, 132(f), 402(g), or 457(b) of the Code; and shall exclude other deferred compensation, stock options and other distributions which receive

special tax benefits under the Code. Notwithstanding the foregoing, in no event shall a Member's remuneration include amounts in excess of the limit set forth in Section 401(a)(17) of the Code that applies to the limitation year for which Compensation is being determined. Compensation shall also include payments made by the later of two and one half months after or the end of the limitation year that includes the date of severance from employment, provided that absent a severance from employment, such payments would have been paid to the employee while the employee continued in employment with the City and are regular compensation for services during the employee's regular working hours, compensation for services outside of the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar compensation.

Effective with respect to amounts paid after December 31, 2008, compensation shall also include differential wage payments made to active duty members of the uniformed services in accordance with Section 3401(h) of the Code. For this purpose, differential wage payments shall mean any payment which:

- (i) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) while on active duty for a period of more than thirty (30) days, and
 - (ii) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer.
- (h) Exception for Death Benefits and Disability Retirement Benefits. The limitations in subparagraphs (c) and (e) shall not be applied to reduce (i) the benefit of a Member who receives a Disability Retirement Benefit in accordance with the provisions of Article V of the Plan, or (ii) the death benefits payable under Article X of the Plan.
- (i) Exception for Certain Police Officers and Firefighters. The limitation in subparagraph (c) shall not be applied to reduce the benefit of a Member who is an employee of the City's police department or fire department who has completed fifteen (15) years of service providing police protection, firefighting services, or emergency medical services.

7.02 Code Limitations on Police Contributions.

- (a) Limitation on Annual Additions. Anything in this Article VII to the contrary notwithstanding, in no event shall Member Contributions made with respect to any Plan Year regarding a Member subject to the Police CBA exceed the lesser of \$54,000 (as modified for cost of living adjustments under Section 415 of the Code) or one hundred percent (100%) of such Member's compensation, as defined by Section 415(c)(3) of the Code, for the Plan Year.

- (b) Treatment of Excess Annual Additions. If the limitation on Member Contributions made by a Member is exceeded, such excess Member Contributions shall be corrected as permitted under applicable law, statute, regulation or procedure.

**ARTICLE VIII
DISTRIBUTION OF BENEFITS**

8.01 Form of Benefit.

A Member's Normal Retirement Benefit under Section 6.01, Deferred Retirement Benefit under Section 6.02 and Disability Retirement Benefit under Section 5.04 shall be paid in the form of a life annuity, with payments made each month during the Member's life and the final payment made for the month of the Member's death.

8.02 Commencement of Benefit Payments

A Member's benefit payments shall be deemed to commence on his or her Normal Retirement Date, Disability Retirement Date, or Deferred Retirement Date. The first and last monthly benefit payment shall be adjusted, as applicable, if the Member was not eligible to receive a full month of benefits for such month. The amount of such adjusted benefit shall be determined by multiplying the Member's monthly benefit amount by a fraction. For a Member's first monthly benefit payment, the numerator of this fraction shall be the number of days occurring between the Member's Normal Retirement Date, Disability Retirement Date or Deferred Retirement Date and the last day of the month, and the denominator shall be the number of days in the month. For a Member's final monthly benefit payment, the numerator of this fraction shall be the number of days occurring between the first day of the month and the day on which the Member's death occurs, and the denominator shall be the number of days in the month. Payments shall generally be made on the twenty-sixth (26th) day of the month, although the City shall have discretion to make all payments on an earlier date for purposes of administrative convenience.

8.03 Latest Commencement of Benefits.

A Member's interest in the Plan must commence no later than the Member's Required Beginning Date. All distributions required under this Article VIII shall be determined and made in accordance with Section 401(a)(9) of the Code and its accompanying regulations, including the minimum distribution incidental benefit requirement set forth in Treas. Regs. Section 1.401(a)(9)-6.

8.04 Suspension of Benefits.

- (a) If a Member continues to be an Eligible Employee of the City after reaching his or her Normal Retirement Date, any benefits payable to such Member or retired or former Eligible Employee under the Plan shall be suspended during the period of such continued employment.
- (b) If a Member is reemployed by the City, other than as a temporary employee, after Retirement Benefits from the Plan have commenced, such Member's Retirement Benefits shall be suspended for the duration of his or her employment, other than as a temporary employee. Payments shall resume, adjusted for an additional

benefit accrued under paragraph (a), on the date the Member is no longer employed by the City or is only employed by the City as a temporary employee.

8.05 Cost of Living Adjustments.

Except as otherwise provided herein, as of each July 1, the Plan Administrator shall adjust the monthly benefit of each Member who is retired and has commenced receiving monthly Retirement Benefits, and the monthly benefit of the Spouse or child(ren) of a deceased Member who are entitled to and receiving a monthly death benefit, by the amount of the year over year increase in the Consumer Price Index - U (CPU-U) ("Index"), compiled by the United States Department of Labor, Bureau of Labor Statistics. The amount of such adjustment shall be determined as follows:

- (a) The percentage increase in the Index shall be determined by dividing the Index for March in the current calendar year by the Index for March of the preceding calendar year.
- (b) Notwithstanding the foregoing, no adjustment shall be made under this Section 8.05 if the increase in the Index, as determined under subparagraph (a), is less than zero percent (0%).
- (c) Notwithstanding the foregoing, the amount of any adjustment under this Section 8.05 shall not exceed three percent (3%), regardless of whether the percentage increase calculated in subparagraph (a) exceeds that amount.

In the case of any Member who has been retired for less than twelve (12) full months on any such July 1, such Member's adjustment, if any, under this Section shall be reduced by multiplying the adjustment determined under subparagraphs (a), (b) and (c) by the ratio of the number of full months that have elapsed since the Member's retirement over twelve (12).

Notwithstanding the foregoing, effective July 1, 2016, the adjustment shall be two percent (2%). In addition, the adjustment effective July 1, 2017, shall not be less than two percent (2%) if the amount determined above would be less than two percent (2%). On July 1, 2018 and each July thereafter, each retiree's pension shall be adjusted in accordance with subsections (a) through (c) of this section.

**ARTICLE IX
TERMINATION OF EMPLOYMENT**

9.01 Vesting.

- (a) Except to the extent modified by an applicable Appendix, a Member shall become vested in his or her benefit under the Plan in accordance with the following schedule:

| <u>Years of Service</u> | <u>Percentage Vested</u> |
|-------------------------|--------------------------|
| Less than 10 Years | 0% |
| 10 or More Years | 100% |

- (b) A Member shall be one hundred percent (100%) vested, regardless of his or her actual Years of Service, upon the termination of the Plan.
- (c) If a Member leaves employment with the City to perform qualified military service and dies while performing such qualified military service, to the extent that the Member was not fully vested at the time such Member commenced the period of qualified military service during which death occurred, such Member shall be fully vested as if he or she died while employed by the City. For purposes of this provision, the term “qualified military service” shall be defined as set forth in Section 414(u) of the Code.

9.02 Refund of Member Contributions.

Any Member who terminates employment prior to becoming vested under Section 9.01 shall receive a return of his or her Member Contributions as described in Section 3.03.

9.03 Deferred Vested Benefit.

- (a) A Member who:
- (i) has a Severance of Employment with the City;
 - (ii) has completed at least ten (10) Years of Service; and
 - (iii) has not yet reached his or her Normal Retirement Date

may elect to leave his or her Member Contributions in the Plan until his or her Normal Retirement Date.

- (b) A Member who elects to leave his or her Member Contributions in the Plan shall be eligible to receive a Normal Retirement Benefit determined as described in Section 6.01. Such benefit shall be calculated based on the Member’s Final Average Earnings and number of Years of Service as of the date of his or her Severance from Employment.

- (c) A Member entitled to a Normal Retirement Benefit under subparagraph (a) above shall have the option to request a return of his or her Member Contributions under Section 3.03(b). Such return of Member Contributions shall be in lieu of the benefit described in subparagraph (b) above. Should a Member elect payment under Section 3.03(b), his or her benefit shall be considered paid in full and he or she shall not be entitled to any additional benefits.

9.04 Forfeitures.

Any forfeitures arising from the termination of employment or death of a Member, or for any other reason, shall be used to reduce the City's contributions to the Trust. In no event shall forfeitures be used to increase a Member's Retirement Benefit.

ARTICLE X
DEATH BENEFITS

10.01 Death of a Member Before Retirement with Ten Years of Service.

- (a) A death benefit shall be paid from the Plan on behalf of a Member who:
 - (i) completed at least ten (10) Years of Service prior to the date of his or her death;
 - (ii) had not yet commenced receiving Retirement Benefits as of the date of his or her death; and
 - (iii) is either:
 - (1) survived by a Spouse to whom the Member was married on the date of the Member's death, and to whom the Member had been married for at least three (3) years at the time of the Member's death; or
 - (2) is survived by a child or children under the age of eighteen (18).
- (b) If a Member is eligible for a death benefit under subparagraph (a) and is survived by a Spouse who meets the requirements of subparagraph (a)(iii)(1), the Member's surviving Spouse will receive an annual benefit calculated as follows: 50% of the appropriate pension multiplier referenced in the attached Appendices multiplied by such Member's Final Average Earnings calculated in accordance with the appropriate Appendix, then multiplied by the deceased Member's Years of Service. In no event shall the surviving Spouse's benefit be less than twenty-five percent (25%) of the Member's Final Average Earnings. This benefit shall be paid in monthly installments until the earlier of the month of the Spouse's death or the month of the Spouse's remarriage.
- (c) If a Member is eligible for a death benefit by meeting the requirements of subparagraph (a), and is not survived by a Spouse who meets the requirements of subparagraph (a)(iii)(1), but is survived by a child or children meeting the requirements of subparagraph (a)(iii)(2), the then-living children of the Member under 18 will receive an annual benefit calculated as follows: 50% of the appropriate pension multiplier referenced in the attached Appendices multiplied by such Member's Final Average Earnings calculated in accordance with the appropriate Appendix, then multiplied by the deceased Member's Years of Service. In no event shall the child or children's benefit be less than twenty-five (25%) of the Member's Final Average Earnings. This benefit shall be paid in monthly installments to the Member's children under the age of 18, divided among them equally. A child's right to such payment shall cease on the date he or she attains age 18, with the full benefit amount divided among the remaining children under 18.

- (d) If a Member's Spouse was entitled to a death benefit under subparagraph (b) above, but is no longer entitled to such payment due to such Spouse's death or remarriage, the benefit shall instead be paid to the Member's then-living children under the age of 18. Such payment shall be made in monthly installments, divided among them equally. A child's right to such payment shall cease on the date he or she attains age 18, with the full benefit amount divided among the remaining children under 18.
- (e) The monthly payments to be made under this Section 10.01 shall commence on the twenty-sixth (26th) day of the month in which the Member's death occurs, or as soon as administratively practicable thereafter. The first and last month's payment shall be prorated in the manner described in Section 8.02.

10.02 Death of a Member After Retirement.

- (a) A death benefit shall be paid from the Plan on behalf of a Member who:
 - (i) has commenced, or has been approved to commence, receiving Retirement Benefits at the time of his or her death; and
 - (ii) is either:
 - (1) survived by a Spouse to whom the Member was married on the date of the Member's death, and to whom the Member had been married for at least three (3) years at the time of the Member's death; or
 - (2) is survived by a child or children under the age of eighteen (18).
- (b) If a Member is eligible for a death benefit under subparagraph (a) and is survived by a Spouse who meets the requirements of subparagraph (a)(ii)(1), the Member's surviving Spouse will receive an annual benefit equal to fifty percent (50%) of the annual Retirement Benefit the Member was receiving at the time of his or her death. This benefit shall be paid in monthly installments until the earlier of the month of the Spouse's death or the month of the Spouse's remarriage.
- (c) If a Member is eligible for a death benefit under subparagraph (a) and is not survived by a Spouse who meets the requirements of subparagraph (a)(ii)(1) but is survived by a child or children meeting the requirements of subparagraph (a)(ii)(2), the then-living children of the Member who are under age 18, if any, will receive an annual benefit equal to fifty percent (50%) of the annual Retirement Benefit the Member was receiving at the time of his or her death. This benefit shall be paid in monthly installments to the Member's children under the age of 18, divided among them equally. A child's right to such payment shall cease on the date he or she attains age 18, with the full benefit amount divided among the remaining children under 18.

- (d) If a Member's Spouse was entitled to a benefit under subparagraph 10.02(b) above, but is no longer entitled to such payment due to such Spouse's death or remarriage, the benefit shall instead be paid to the Member's then-living children under the age of 18. Such payment shall be made in monthly installments, divided among them equally. A child's right to such payment shall cease on the date he or she attains age 18, with the full benefit amount divided among the remaining children under 18.
- (e) The monthly payments to be made under this Section 10.02 shall commence on the twenty-sixth (26th) day of the month in which the Member's death occurs, or as soon as administratively practicable thereafter. The first and last month's payment shall be prorated in the manner described in Section 8.02.

10.03 Line of Duty Death Benefit.

- (a) A line of duty death benefit shall be paid from the Plan if a Member dies or suffers a fatal injury while in the actual performance of duties pertaining to employment by the City. A line of duty death benefit shall not be paid with regard to any Member who has commenced receiving a Disability Retirement Benefit as of the date of his or her death.
- (b) If a Member described in subparagraph (a) is survived by a Spouse to whom the Member was married on the date of the Member's death, and to whom the Member had been married for at least three (3) years at the time of the Member's death, the Member's Spouse will receive an annual benefit equal to fifty percent (50%) of such deceased Member's Earnings. This benefit shall be paid in monthly installments until the earlier of: (1) the month of the Spouse's death, or (2) the month of the Spouse's remarriage.
- (c) If the deceased Member leaves no Spouse, or if the Spouse dies or remarries, the Retirement Board shall pay an annual benefit to the then living child or children of the deceased Member who are under age 18. This death benefit shall be paid as an annual benefit equal to fifty percent (50%) of the deceased Member's Earnings. Such payment shall be made in monthly installments, divided equally among the Member's children under 18. A child's right to such payment shall cease on the date he or she attains age 18, with the full benefit amount divided among the remaining children under 18.
- (d) For purposes of this Section 10.03, the Member's Earnings shall be determined as of the earlier of: (i) the Member's date of death; or (ii) the date of the Member's injury resulting in the Member's death.
- (e) The monthly payments to be made under this subparagraph to the deceased Member's Spouse, or child(ren) if applicable, shall commence on the twenty-sixth (26th) day of the month in which the Member's death occurs, or as soon as administratively practicable thereafter. The first and last month's payment shall be prorated in the manner described in Section 8.02.

- (f) Any benefit payable under this Section 10.03 shall be in lieu of any death benefit the Member's Spouse or child(ren) would have been entitled to under Section 10.01 or 10.02.

**ARTICLE XI
TRUST**

11.01 Trust.

The Trust is maintained by the Trustee for the Plan under a trust agreement with the City. Benefits under the Plan shall be payable from the assets of the Trust. The Trust shall be funded as described in the Ordinances.

11.02 Segregation of Amounts.

The Plan is funded with a single trust, under which there is separate accounting for the three covered groups of Members—police department employees, fire department employees and general government employees. The assets of each subaccount shall consist of the contributions made by Members within the group and City contributions for such Members, plus earnings thereon, and the liabilities of such subaccount shall be equal to the benefits accrued on behalf of the Members within the group.

Notwithstanding this separate account, the assets of the Trust shall be available to pay all liabilities of the Plan, regardless of the subaccount to which a particular Member belongs.

11.03 Expenses of the Plan.

The expenses of administration of the Plan shall be paid from the Trust, unless the Common Council elects to pay some or all such expenses from the general fund.

11.04 No Reversion.

The Trust shall be for the exclusive benefit of Members, their beneficiaries and persons claiming Plan benefits under or through them. All contributions made to the Trust by the City shall be irrevocable, and such contributions, as well as the assets of the Trust, or any portion of the principal or income thereof, shall never revert to or inure to the benefit of the City except that:

- (a) the residual amounts specified in Article XIII may be returned to the City; and
- (b) any contributions which are made under a mistake of fact may be returned to the City within one (1) year after the date on which the contributions were made.

The City shall determine, in its sole discretion, whether the contributions described above, other than the residual amounts described in subparagraph (a), shall be returned to the City. If any such contributions are to be returned, the City shall direct the Trustee, in writing to return such amounts.

11.05 Change of Funding Medium.

The Common Council shall have the right to change at any time the means through which benefits under the Plan shall be provided. No such change shall constitute a termination

of the Plan or result in the diversion to the City of any funds previously contributed in accordance with the Plan.

ARTICLE XII
PLAN ADMINISTRATION

12.01 Administration.

The Plan shall be administered by the Retirement Board. The Retirement Board shall have the powers set forth in the Ordinances.

**ARTICLE XIII
AMENDMENT AND TERMINATION**

13.01 Amendment of Plan.

The Plan may be amended by the City, by action of the Common Council at any time for any reason. With the exception of the appendices attached hereto, which, if appropriate, must be revised by the Common Council either at the same time or after its approval of any collective bargaining tentative agreement or revision to the Personnel Rules, prior to the adoption of any amendment to the Plan, such amendment shall be provided to the Retirement Board for review. However, no such amendment shall authorize or permit any part of the Trust to be used for or diverted to purposes other than for the exclusive benefit of the Members or their beneficiaries; no such amendment shall cause any reduction in the accrued benefit of any Member, or cause or permit any portion of the Trust to revert to or become the property of the City; and no such amendment which affects the rights, duties or responsibilities of the Trustee may be made without the Trustee's written consent. Any such amendment which affects the rights, duties or responsibilities of the Trustee shall only become effective upon delivery of a written instrument, executed by the City, to the Trustee and the endorsement of the Trustee of his or her written consent thereto, if such consent is required.

13.02 Termination.

It is intended that the Plan will be continued indefinitely, but the City, by action of the Common Council, reserves the right to terminate the Plan on or after such time as there are no Members eligible to accrue additional benefits under the Plan. In the event the Plan is terminated, the rights of each Eligible Employee to benefits accrued as of the date of such termination shall be fully vested and non-forfeitable.

The available Plan assets will be disposed of through the purchase of annuities, for the exclusive benefit of Members and their beneficiaries, in the order of priorities stated at the end of this paragraph. An annuity under which payments will commence immediately will be provided for each person who is receiving benefit payments immediately before the termination of the Plan, and immediately before the termination of the Plan for each Member on his or her Deferred Retirement Date. Deferred annuities, with the first payment due to commence at Normal Retirement Date, will be provided for all other Members.

Class 1. The Accrued Benefit attributable to Member Contributions.

Class 2. Any other retirement benefits, starting at Normal Retirement Date, for Members who retain a vested interest in plan benefits.

Class 3. All other accrued annuity benefits as to which an allocation has not been made pursuant to the above priorities.

Class 4. All other benefits under the Plan.

Any Plan assets remaining due to an actuarial error after satisfaction of all liabilities of the Plan to Members, beneficiaries, and other parties will be distributed to the City provided the City obtains the consent of the Internal Revenue Service.

The necessary assets determined on the basis of the present value of benefits accrued as of the termination date will be fully allocated under Class 1 before any assets are allocated under Class 2; and then fully allocated under Class 2 before any allocation is made to Class 3; and, so on, allocated to the Class with the lower number before allocation to the higher number Class.

As to any assets available for allocation to Class 3 however, if such assets are not sufficient to satisfy in full the benefits accrued under Class 3 determined on the basis of the Plan provisions in effect as of the termination date, then the benefits under Class 3 to which allocation will be made will be determined instead on the basis of Plan provisions in effect at the later of (a) the beginning of the five (5) year period ending on the plan termination date, or (b) the effective date of the most recent plan amendment during such five (5) year period under which benefits would be fully satisfied by assets available for allocation to Class 3. Any assets remaining for allocation to Class 3 after such determination shall then be applied on a pro-rata basis to benefits for which no allocation has been made, determined from the plan on the date of termination.

13.03 Residual Assets.

Subject to the provisions of any applicable collective bargaining agreement, any residual assets of the Plan shall be distributable to the City if:

- (a) all Plan liabilities to Members and their beneficiaries have been satisfied; and
- (b) the distribution does not contravene any provision of applicable law.

**ARTICLE XIV
MISCELLANEOUS**

14.01 Rights of Employees and Members.

This Plan shall not be construed as creating any contract of employment between the City and any employee, and the City shall have the right in all respects to deal with its employees, their hiring, discharge, compensation and conditions of employment as though this Plan did not exist. Nothing in the Plan or Trust Agreement shall be construed as giving any Member or any other person, firm, or corporation, any legal or equitable right as against the City, their officials or employees, or as against the Trustee, except such rights as are specifically provided for in the Plan or Trust Agreement or hereafter created in accordance with the terms and provisions of the Plan.

14.02 Non-Assignability of Benefits.

No benefits under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, or garnishment. Any attempt so to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or garnish the same shall otherwise be void; nor shall any such benefit be in any manner liable for or subject to the debts, contracts, liabilities, engagements or torts of the person entitled to such benefit, except as specifically provided in this Plan. Notwithstanding the foregoing, nothing in this Section shall prohibit the Plan from following the processing of an order or requirement under Section 401(a)(13)(C) of the Code. Effective July 3, 2017, the Plan shall no longer recognize a domestic relations order received by the City after such date for any member or beneficiary regardless of when the member ceased to be employed by the City.

If any Member or any other beneficiary under the Plan becomes bankrupt or attempts to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge any benefit under the Plan, except as specifically provided herein, or if any garnishment is attempted, then such benefit shall, in the discretion of the Retirement Board, cease and terminate, and in that event the Retirement Board may accumulate or withhold income or apply the same for the support of such Member or beneficiary, or his or her family or any of them, in such manner and in such proportion as the Retirement Board may think proper.

14.03 Facility of Payment.

If, in the judgment of the Retirement Board, any person entitled to payment from the Plan is legally, physically or mentally incapable of personally receiving and receipting for any payment due him or her, such payment or any part thereof, may be made to any person or institution who, in the opinion of said Retirement Board, is then maintaining or has custody of such person, until a claim is made by the duly appointed guardian or other legal representative of such person. Such payments shall, to the extent thereof, discharge all liability of the Retirement Board, the City and the Trust.

14.04 Claims for Benefits; Legal Action.

The Retirement Board shall set forth a reasonable and equitable process for the consideration of claims for benefits.

If a Member, including his or her Spouse, child(ren) or Beneficiary, has a claim for benefits the individual will be required to bring such claim before the Retirement Board to exhaust his or her administrative remedies prior to filing such claim in a court of law. Any such claim must be filed in a court no later than six (6) years following the date on which the individual commenced receiving benefits from the Plan, or, if earlier, the date the individual purportedly should have commenced receiving benefits. Such six (6) year period shall be measured without regard for any period of time during which a claim for such benefits is pending before the Retirement Board. Persons legally incapable of bringing an action when the right accrues may sue at any time within the three (3) years next after becoming legally capable of instituting suit.

The limitation period set forth above is intended to apply without regard for any state or federal statute of limitations that might otherwise apply to an individual's claim for benefits from the Plan if the Plan were silent on the limitations of claims. Any claim filed after the limitation period set forth above has lapsed shall be time-barred.

14.05 Governing Law.

This Plan shall be construed according to the laws of the State of Connecticut, except to the extent any such laws are superseded by any applicable Federal law, in which case such Federal law shall apply.

14.06 Benefit Offsets for Overpayments.

If a Member or beneficiary receives benefits hereunder for any period in excess of the amount of benefits to which he or she was entitled under the terms of the Plan as in effect for such period, such overpayment, plus earnings, may be: (a) offset against current or future benefit payments, as applicable, until such time as the overpayment is entirely recouped by the Plan; or (b) recouped through repayment of the overpaid amount, plus applicable earnings, to the Trust.

14.07 Location of Participant or Beneficiary.

In the event that any benefit shall become payable hereunder to any person and if, after written notice from the Trustee mailed to such person's last known address as certified to the Trustee by the Retirement Board, such person shall not present himself or herself to the Trustee within two (2) years after the mailing of such notice, the Trustee shall notify the Retirement Board thereof. The Retirement Board shall thereupon attempt to locate such person or, failing in such effort, to locate such person's designated Beneficiary, if applicable. If the Retirement Board fails to locate such person or his or her Beneficiary, it shall attempt to locate such person's Spouse and/or blood relatives and to allocate the benefit among such persons in such manner as the Retirement Board in its absolute discretion deems equitable. If such person, Beneficiary, Spouse or blood relatives cannot

be located, the Retirement Board shall treat the benefit as a forfeited amount to be used to pay Plan administrative expenses or reduce future City contributions; provided, however, that in the event that such person is subsequently located such benefit shall be restored and paid to him or her. The Retirement Board's obligation to locate individuals under this Section shall be satisfied if the Retirement Board employs reasonable efforts to that end.

14.08 Pronouns and Headings.

Wherever any words are used herein in the masculine gender they shall be construed as though they were also used in the feminine or neuter gender in all cases where they would so apply, and wherever any words are used herein in the singular form they shall be construed as though they were also used in the plural form in all cases where they would so apply, and vice versa.

The titles of the various articles and sections of the Plan are inserted herein solely for convenience of reference, do not constitute a part of the Plan and shall be disregarded in construing, interpreting or applying any or all of the provisions hereof.

14.09 Shall.

When used in this Plan, the word "shall" connotes a mandatory obligation, and is not directory in nature.

This amended and restated Plan has been adopted on this 3rd day of July, 2017 by the Common Council of the City of Middletown.

APPENDIX A
DEFINED, EXECUTIVE NON-BARGAINING POSITIONS AND
DEFINED, NON-BARGAINING POSITIONS

This Appendix A lists the provisions applicable to Eligible Employees of the City who are defined, executive non-bargaining employees and defined, non-bargaining employees as determined under the Personnel Rules. In the event that the provisions of this Appendix A are inconsistent with the terms contained in the remainder of the Plan, the provisions contained in this Appendix A shall take precedence. In the event the provisions of this Appendix A are inconsistent with the terms of the Personnel Rules, the Personnel Rules shall control.

For purposes of this Appendix A, “Member” means (a) an Eligible Employee of the City who (b) is in a defined position under the Personnel Rules or via resolution; (c) is not represented by a collective bargaining unit; and (d) has met the eligibility requirements of Article II. However, certain non-bargaining employees who are covered by Appendix D shall not be eligible for the benefits provided in this Appendix A.

1. Definitions.

The following defined terms shall apply to Members covered by this Appendix A:

“Normal Retirement Date” shall mean the date elected by the Member and approved by the Board that occurs after:

- (a) the date on which a Member has completed at least ten (10) Years of Service and has attained age sixty-five (65) or older; or
- (b) the date on which the Member completes twenty (20) Years of Service, regardless of his or her age.

2. Member Contributions.

A Member subject to this Appendix A shall be required to make a Member Contribution each pay period equal to six percent (6%) of such Member’s Earnings for that pay period. Notwithstanding the foregoing, no Member Contributions shall be required with regard to a Member who: (a) was hired before May 7, 2012; and (b) has completed sufficient Years of Service such that his or her Normal Retirement Benefit as described in Section 3 below would be subject to the maximum percentage if the Member were to retire immediately.

3. Normal Retirement Benefit.

A Member's Normal Retirement Benefit shall be equal to two and one-half percent (2.5%) of the Member's Final Average Earnings multiplied by his or her Years of Service. The maximum Normal Retirement Benefit a Member may receive under this enhanced formula is eighty percent (80%) of his or her Final Average Earnings.

4. Death Benefits.

For purposes of Article X, the provision that death benefits shall only be provided to a Member's child or children until age eighteen (18) shall be applied to permit such payments until a Member's child or children attain age twenty-three (23).

5. Special Member Contributions.

A Member may purchase additional Years of Service for service performed: (i) as a member of the U.S. military; or (ii) for the City in temporary emergency employment positions. For each Year of Service purchased, the Member must make a Special Member Contribution in an amount equal to one hundred percent (100%) of the cost as determined by the Plan's actuary.

The Plan Administrator shall determine in its sole discretion whether a Participant is eligible to purchase additional Years of Service.

6. Forfeiture.

A Member's benefit may be subject to forfeiture in accordance with the Personnel Rules.

7. Disability – Public Safety.

For purposes of determining whether a Member subject to Appendix A who is currently serving as the Chief of Police, Deputy Chief of Police, Fire Chief, and Deputy Fire Chief, has become Total and Permanently Disabled while performing essential duties pertaining to his or her employment with the City for purposes of Article V, "Totally and Permanently Disabled" shall mean unable to perform the material and substantial duties of the Member's individual's occupation, or any occupation, within the City's Classified System, for which the Member is deemed reasonably qualified by education, training, or experience.

The Disability Retirement payable to a Member who is Totally and Permanently Disabled under this Section 7 shall not be equal to less than sixty-six and two thirds percent (66-2/3%) of such Member's annual rate of Earnings on the date he or she became Totally and Permanently Disabled as described in this Section 7. The maximum pension payable to a Member under this Section 7 shall not exceed seventy percent (70%) of the Member's average annual pay received during the four (4) consecutive highest years of service with the City. Such Member's Disability Retirement Benefit payable under this Section 7 shall be reduced by the amount of wages earned from subsequent new employment.

**APPENDIX B
POLICE EMPLOYEES
COVERED UNDER AFSCME, LOCAL 1361**

This Appendix B lists the provisions applicable to Eligible Employees of the City who are employed as police officers by the City's Police Department and are covered by the Police CBA. In the event that the provisions of this Appendix B are inconsistent with the terms contained in the remainder of the Plan, the provisions contained in this Appendix B shall take precedence. In the event the provisions of this Appendix B are inconsistent with the terms of the version of the Police CBA currently in effect, the Police CBA shall control to the extent it is intended to supersede or supplement the Plan provisions set forth in the Ordinances and/or this Plan document.

For purposes of this Appendix B, "Member" means (a) an Eligible Employee of the City who (b) is covered by the Police CBA; and (c) has met the eligibility requirements of Article II.

1. Definitions

The following defined terms shall apply to Members covered by this Appendix B:

"Earnings" shall mean straight-time wages, longevity pay, and holiday payments. Overtime shall be excluded, except that Earnings shall include four percent (4%) of redlined (replacement) overtime pay for: (i) Police Employees hired after January 14, 2026; and (ii) Police Employees who elected or are deemed to have elected certain insurance concessions as provided for in the Police CBA.

"Final Average Earnings" shall mean the Member's highest year of Earnings without regard to any period during which the Member was out of work due to a workers compensation injury.

"Normal Retirement Date" shall mean the date elected by the Member and approved by the Board that occurs after the earlier of:

- (a) the date on which a Member has completed at least ten (10) Years of Service and has attained age sixty-five (65) or older; or
- (b) the date on which the Member completes twenty (20) Years of Service, regardless of his or her age.

"Totally and Permanently Disabled" shall have the same meaning as set forth in Section 1.33, except that the phrase "performing or engaging in any occupation or employment for remuneration or profit" shall be replaced with "performing or engaging in any employment as a police officer."

"Substantially gainful occupation" shall be replaced with "employed as a police officer or in a job with comparable physical requirements."

2. Member Contributions

A Member subject to this Appendix B shall be required to make a Member Contribution each pay period in an amount equal to six and three-fourths percent (6.75%) of such Member's Earnings for that pay period. Such Member Contributions shall not be "picked-up" but shall be made on an after-tax basis.

3. Disability Retirement Determination

- (a) No Member shall be entitled to receive a Disability Retirement Benefit unless and until the Member has first applied for workers compensation and either had the claim accepted by the City, or been awarded compensation by the Workers Compensation Commission, with all administrative and legal appeals exhausted or waived, or reached full and final settlement with the City on the amount of workers compensation to be paid. If the injury forming the basis of the disability claim is not recognized under Connecticut's workers compensation statute, it will not be payable.
- (b) In order to be eligible for a Disability Retirement Benefit, the Member must have at least two impartial medical examinations from medical doctors, one of whom may be the Member's treating physician, provided that the physician is in the City's network of approved workers compensation physicians. The medical doctors must conclude to a reasonable degree of medical certainty that the Member is Totally and Permanently disabled as a police officer.
- (c) If the first medical examination indicates that the member is Totally and Permanently Disabled as a police officer under the standard set forth herein, a second medical examination will be required by the City, with the doctor to be selected by the City. If the first and second medical examinations disagree as to whether the member is Totally and Permanently Disabled as a police officer, a third, and final, impartial medical examination, must be ordered. The City will commission a third impartial medical examination from a list of approved specialists, approved by the Workers Compensation Commission. The City will select the doctor to conduct this third medical examination. The determination of disability will be based on the job description for a police officer as utilized for state certification purposes (POSTC) at the time of the disability.
- (d) Any impartial medical examination must conclude to a reasonable degree of medical certainty that the Member either is or is not Totally and Permanently Disabled as a police officer. Should an examining doctor fail to so conclude, the City will make a one-time request that the doctor clarify the opinion to provide a firm conclusion in the affirmative or the negative. If no firm conclusion is provided, the report will not be considered to be and will not count as an impartial medical examination.
- (e) Upon receipt of the results of the impartial medical examinations described above, the Retirement Board shall consider the Member's application for a Disability

Retirement Benefit at its next regularly scheduled meeting, or, if the results are received without sufficient notice for the application to be heard at such meeting, the application shall be heard at or before the second regularly scheduled Retirement Board meeting.

- (f) In determining whether a Member is entitled to a Disability Retirement Benefit, the Retirement Board shall consider: (i) the results of the impartial medical examinations; (ii) any evidence presented by the Member; and (iii) any evidence presented by the City. Such application shall be considered in executive session as a matter involving an individual employee unless the Member requests that said meeting be held as an open meeting.
- (g) Article 25, Section 1(j) of the Police CBA, or a similar provision of any subsequent Police CBA, is hereby incorporated by reference.
- (h) A Member's application for a Disability Retirement Benefit shall be granted if the Retirement Board is presented with sufficient proof demonstrating that the Member is Totally and Permanently Disabled, including, but not limited to, the impartial medical examinations ordered by the Retirement Board. The determination of the Retirement Board shall be conclusive and binding upon all persons.

4. Disability Retirement Benefit.

- (a) A Member covered by this Appendix B shall only be eligible to receive a Disability Retirement Benefit if such Member became Totally and Permanently Disabled during the performance of job-related police duties pertaining to employment with the City, and arose out of and in the course of employment with the City.
- (b) Notwithstanding the provisions of Section 5.04(c), the annual rate of pay received by Members who are Totally and Permanently Disabled as a police officer will be sixty-six and two-thirds percent (66 2/3%) of the annual rate of base pay at the time of retirement, as measured by the date on which the Retirement Board approves the Disability Retirement Benefit, or seventy percent (70%) of the average annual pay received during the four (4) consecutive highest years of service, whichever is lower. If the Member's Normal Requirement Benefit is greater than the amount provided in this Section then the Member may elect to receive the Normal Retirement Benefit upon attaining his or her Normal Retirement Date.
- (c) In no event will the maximum Disability Retirement Benefit payable to a Member covered by this Appendix B exceed seventy percent (70%) of the Member's Final Average Earnings. For this purpose, the Member's Final Average Earnings shall mean the average of the Member's annual Earnings during the four (4) consecutive Plan Years in which the Member had the highest Earnings. This maximum shall be increased to eighty percent (80%) for a Member who: (A) was

hired after January 14, 2026, or who elected or is deemed to have elected certain insurance concessions as provided for in the Police CBA; and (B) has completed thirty-two (32) Years of Service.

5. Normal Retirement Benefit.

A Member who retires on his or her Normal Retirement Date shall receive a Retirement Benefit equal to two and one-half percent (2.5%) of his or her Final Average Earnings multiplied by his or her Years of Service. For those members hired after January 14, 2026, or those who opted in to Tier 3 health insurance in accordance with the 2025 CBA, the maximum Normal Retirement Benefit a Member may receive is eighty percent (80%) of his or her Final Average Earnings once the Member completes thirty-two (32) Years of Service.

6. Death Benefit.

For purposes of the death benefit payable under Section 10.01, Section 10.02 and Section 10.03, an individual will be considered the Member's Spouse if the individual: (a) meets the Plan definition of Spouse; (b) was married to the Member on the date of his or her death; and (c) had been married to the Member for at least one (1) year at the time of the Member's death.

**APPENDIX C
FIREFIGHTER EMPLOYEES
COVERED UNDER LOCAL UNION 1073, INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS, AFL-CIO**

This Appendix C lists the provisions applicable to Eligible Employees of the City who are employed by the City's Fire Department and are covered by the Firefighters CBA. In the event that the provisions of this Appendix C are inconsistent with the terms contained in the remainder of the Plan, the provisions contained in this Appendix C shall take precedence. In the event the provisions of this Appendix C are inconsistent with the terms of version of the Firefighters CBA currently in effect, the Firefighters CBA shall control to the extent it is intended to supersede or supplement the Plan provisions set forth in the Ordinances and/or this Plan document.

For purposes of this Appendix C, "Member" means (a) an Eligible Employee of the City who (b) is employed by the City's Fire Department as a firefighter or Alarms Division employee and is covered by the Firefighters CBA; and (c) has met the eligibility requirements of Article II.

1. Definitions

The following defined terms shall apply to Members covered by this Appendix C:

"Final Average Earnings" shall mean the average of the Member's annual Earnings during the four (4) of out the last five (5) Plan Years immediately prior to the Member's Severance from Employment in which the Member had the highest Earnings.

"Normal Retirement Date" shall mean the date elected by the Member and approved by the Board that occurs after the earlier of:

- (a) the date on which a Member has completed at least ten (10) Years of Service and has attained age sixty-five (65) or older; or
- (b) the date on which the Member completes twenty (20) Years of Service, regardless of his or her age.

"Years of Service" shall have the same definition as set forth in Section 1.36, except that Years of Service shall also include up to two (2) Years of Service purchased for periods during which the Member performed active service in the City of Middletown under the provisions of the Comprehensive Employment and Training Act or Emergency Employment Act as described in this Appendix C.

2. Member Contributions.

A Member subject to this Appendix C shall be required to make a Member Contribution each pay period equal to six percent (6%) of such Member's Earnings for that pay period.

3. Normal Retirement Benefit.

A Member who retires on his or her Normal Retirement Date shall receive a Retirement Benefit equal to two and one-half percent (2.5%) of his or her Final Average Earnings multiplied by his or her Years of Service. The maximum Normal Retirement Benefit a Member may receive is eighty percent (80%) of his or her Final Average Earnings.

4. Disability Retirement Benefit.

(a) No Disability Retirement Benefit payable to a Member on account of the Member's becoming Totally and Permanent Disabled during the performance of essential duties pertaining to employment by the City shall be equal to less than sixty-six and two-thirds percent (66 2/3%) of the Member's annual rate of pay at the time he or she becomes Totally and Permanently Disabled.

(b) A Member shall not receive a Disability Retirement Benefit in excess of eighty percent (80%) of his or her average of the annual Earnings during the five (5) consecutive Plan Years that produce the highest annual Earnings.

5. Special Member Contributions.

A Member may purchase up to two (2) additional Years of Service for time spent in past service for the City under the provisions of the Comprehensive Employment and Training Act (CETA) or Emergency Employment Act (EEA). To receive credit for such other past service, the following conditions must be satisfied:

(a) the Member must pay outside of the Plan a small actuarial fee to determine the individual cost of each Year of Service applied for; and

(b) for each Year of Service purchased, the Member must make a Special Member Contribution in an amount to be determined by the Plan's actuary, which shall be equal to one hundred percent (100%) of the cost of such additional Year(s) of Service.

The Plan Administrator shall determine in its sole discretion whether a Participant is eligible to purchase additional Years of Service.

6. Military Service.

The City will grant all bargaining unit members with active-duty military experience of one (1) year or more, the equivalent of one (1) Year of Service. This credited time may be used for accrual purposes and for vesting an individual's pension benefit. To be eligible for this credit of time, the member must provide sufficient proof of active-duty military experience to the Director of HR in advance of retirement. The Director of HR will review said proof and once verified will forward the necessary documentation on to Payroll to accomplish the military service credit.

Active-duty means full-time service in the Army, Navy, Air Force, Marines, or Coast Guard, or if service in the Reserves or National Guard, active duty deployment to a war zone. It does not mean service in the Reserves or the National Guard if the member was never deployed to a war zone.

7. Forfeiture.

A Member's benefit may be subject to forfeiture in accordance with the Firefighters CBA.

APPENDIX D
AFSCME EMPLOYEES
COVERED UNDER LOCAL 466 AND LOCAL 1467, COUNCIL 4 AFSCME, AFL-CIO

This Appendix D lists the provisions applicable to Eligible Employees of the City who are covered by the AFSCME Local 466 and Local 1467 CBAs (“AFSCME CBAs”). In the event that the provisions of this Appendix D are inconsistent with the terms contained in the remainder of the Plan, the provisions contained in this Appendix D shall take precedence. In the event the provisions of this Appendix D are inconsistent with the terms of the version of the AFSCME CBAs currently in effect, the AFSCME CBAs shall control to the extent it is intended to supersede or supplement the Plan provisions set forth in the Ordinances and/or this Plan document.

For purposes of this Appendix D, “Member” means (a) an Eligible Employee of the City who (b) is covered by the AFSCME CBAs or is a full-time Assistant Registrar for the City; and (c) has met the eligibility requirements of Article II. “Member” shall not include any school cafeteria employees. Also, for purposes of this Appendix D, certain non-bargaining City employees specifically referenced in the Personnel Rules as receiving the same benefits as those covered by the AFSCME, Local 466 and Local 1467 CBAs, shall be considered a Member under this Appendix and entitled to the benefits set forth herein.

1. Definitions

The following defined terms shall apply to Members covered by this Appendix D:

“Final Average Earnings” shall have the same meaning as set forth in Section 1.19, except that the reference to “three (3) consecutive Plan Years” shall be replaced with a reference to “three (3) calendar years.”

“Normal Retirement Date” shall mean the date elected by the Member and approved by the Board that occurs after:

- (a) the date on which a Member has completed at least ten (10) Years of Service and has attained age sixty-five (65) or older; or
- (b) (i) the date on which the Member completes twenty-two (22) Years of Service, regardless of his or her age; or (ii) the date that is the second (2nd) anniversary of the Member’s Severance from Employment, provided the Member had at least twenty (20) Years of Service on the date of his or her Severance from Employment.

“Years of Service” shall have the same definition as set forth in Section 1.36, except that Years of Service shall also include Years of Service purchased for periods during which the Member performed active service in the City of Middletown under the provisions of the Comprehensive Employment and Training Act or Emergency Employment Act as described in this Appendix D, or service that is purchased following a Severance from Employment of eighteen (18) months or less.

2. Member Contributions.

- (a) An Eligible Employee covered by the AFSCME CBA who is hired after attaining the age of fifty (50) shall have the option of whether to participate in the Plan. An Eligible Employee who wishes to participate in the Plan must provide a written election to the Board prior to the date he or she commences employment as an Eligible Employee. A decision not to participate shall be irrevocable once made and such Eligible Employee shall be precluded from participating in any retirement plan sponsored by the City.
- (b) A Member subject to this Appendix D shall be required to make a Member Contribution each pay period in an amount equal to six percent (6%) of such Member's Earnings for that pay period.
- (c) The Member may name the beneficiary of their choosing for purposes of a refund of Member Contributions following his or her death.

3. Normal Retirement Benefit.

A Member who retires on his or her Normal Retirement Date shall receive a Retirement Benefit equal to two and one-quarter percent (2.25%) of his or her Final Average Earnings multiplied by his or her Years of Service. The maximum Normal Retirement Benefit a Member may receive is eighty percent (80%) of his or her Final Average Earnings.

4. Death Benefit.

For purposes of any death benefit payable to a deceased Member's Spouse under Article X, the Member may elect prior to the commencement of his or her Retirement Benefit to receive a reduced benefit during his or her life in exchange for a spousal benefit that exceeds fifty percent (50%) for his or her surviving Spouse after the Member's death. If a Member elects to provide for a survivor's benefit in excess of fifty percent (50%), the single life annuity paid during the Member's life shall be actuarially reduced to reflect the increase in the amount of the Plan's death benefit.

5. Special Member Contributions.

A Member may purchase additional Years of Service for time spent in past service for the City if he or she:

- (a) worked for the City or as a non-certified employee at the BOE in a permanent part-time capacity.
- (b) worked as a temporary employee for more than ninety (90) days, or
- (c) left the employment of the City and returned within eighteen (18) months.

For each Year of Service purchased, the Member must make a Special Member Contribution in an amount to be determined by the Plan's actuary.

The Plan Administrator shall determine in its sole discretion whether a Participant is eligible to purchase additional Years of Service.

6. Forfeiture.

A Member's benefit may be subject to forfeiture in accordance with the AFSCME CBA.

**APPENDIX E
UPSEU EMPLOYEES
COVERED UNDER UPSEU LOCAL 671**

This Appendix E lists the provisions applicable to Eligible Employees of the City who are covered by the UPSEU CBA. In the event that the provisions of this Appendix E are inconsistent with the terms contained in the remainder of the Plan, the provisions contained in this Appendix E shall take precedence. In the event the provisions of this Appendix E are inconsistent with the terms of version of the UPSEU CBA currently in effect, the UPSEU CBA shall control to the extent it is intended to supersede or supplement the Plan provisions set forth in the Ordinances and/or this Plan document.

For purposes of this Appendix E, “Member” means (a) an Eligible Employee of the City who (b) is covered by the UPSEU CBA or via resolution; and (c) has met the eligibility requirements of Article II. Also, for purposes of this Appendix E, certain employees of the Russell Library Company, Inc. who by contract or otherwise are entitled to the same benefits as those covered by the UPSEU CBA shall be considered a Member.

1. Definitions.

The following defined terms shall apply to Members covered by this Appendix E:

“Normal Retirement Date” shall mean the date elected by the Member and approved by the Board that occurs after:

- (a) the date on which a Member has completed at least ten (10) Years of Service and has attained age sixty-five (65) or older;
- (b) for a Member eligible for a Normal Retirement Benefit under Section 3(b) of this Appendix E, the date on which the Member completes twenty (20) Years of Service, regardless of his or her age; or
- (c) for a Member eligible for a Normal Retirement Benefit under Section 3(a) of this Appendix E, the earlier of: (i) date on which the Member completes twenty-two (22) Years of Service, regardless of his or her age; or (ii) the date that is the second (2nd) anniversary of the Member’s Severance from Employment, provided the Member had at least twenty (20) Years of Service on the date of his or her Severance from Employment.

2. Member Contributions.

A Member subject to this Appendix E shall be required to make a Member Contribution each pay period equal to six percent (6%) of such Member’s Earnings for that pay period. Notwithstanding the foregoing, no Member Contributions shall be required with regard to a Member who has completed sufficient Years of Service such that his or her Normal Retirement Benefit as described in Section 3 below would be subject to the maximum percentage if the Member were to retire immediately.

3. Normal Retirement Benefit.

- (a) A Member who retires on his or her Normal Retirement Date shall receive a Normal Retirement Benefit equal to two and one-quarter percent (2.25%) of his or her Final Average Earnings multiplied by his or her Years of Service. The maximum Normal Retirement Benefit a Member may receive is seventy percent (70%) of his or her Final Average Earnings.
- (b) If the Member has agreed to certain health benefit concessions as set forth in the UPSEU CBA, a Member's Normal Retirement Benefit shall be equal to two and one-half percent (2.5%) of the Member's Final Average Earnings multiplied by his or her Years of Service. The maximum Normal Retirement Benefit a Member may receive under this enhanced formula is eighty percent (80%) of his or her Final Average Earnings.

4. Death Benefits.

For purposes of Article X, the provision that death benefits shall only be provided to a Member's child or children until age eighteen (18) shall be applied to permit such payments until a Member's child or children attains age twenty-three (23).

5. Special Member Contributions.

A Member may purchase additional Years of Service for time spent in past service for the City if he or she:

- (a) served in the military or
- (b) worked for the City in temporary emergency employment positions.

For each Year of Service purchased, the Member must make a Special Member Contribution in an amount to be determined by the Plan's actuary.

The Plan Administrator shall determine in its sole discretion whether a Participant is eligible to purchase additional Years of Service.

6. Forfeiture.

A Member's benefit may be subject to forfeiture in accordance with the UPSEU CBA.

APPENDIX F
RUSSELL LIBRARY AFSCME EMPLOYEES
COVERED UNDER LOCAL 1303-85, COUNCIL 4 AFSCME, AFL-CIO

This Appendix F lists the provisions applicable to Eligible Employees of the Russell Library Company, Inc. who are covered by the Russell Library CBA. In the event that the provisions of this Appendix F are inconsistent with the terms contained in the remainder of the Plan, the provisions contained in this Appendix F shall take precedence. In the event the provisions of this Appendix F are inconsistent with the terms of version of the Russell Library CBA currently in effect, the Russell Library CBA shall control to the extent it is intended to supersede or supplement the Plan provisions set forth in the Ordinances and/or this Plan document.

For purposes of this Appendix F, “Member” means (a) an Eligible Employee of the Russell Library Company, Inc. who (b) is covered by the Russell Library CBA; and (c) has met the eligibility requirements of Article II.

1. Definitions

The following defined terms shall apply to Members covered by this Appendix F:

“Final Average Earnings” shall have the same meaning as set forth in Section 1.19, except that the reference to “three (3) consecutive Plan Years” shall be replaced with a reference to “three (3) calendar years.”

“Normal Retirement Date” shall mean the date elected by the Member and approved by the Board that occurs after:

- (a) the date on which a Member has completed at least ten (10) Years of Service and has attained age sixty-five (65) or older; or
- (b) (i) the date on which the Member completes twenty-two (22) Years of Service, regardless of his or her age.

“Years of Service” shall have the same definition as set forth in Section 1.36, except that Years of Service shall also include Years of Service purchased for periods during which the Member performed active service in the City of Middletown under the provisions of the Comprehensive Employment and Training Act or Emergency Employment Act as described in this Appendix D, or service that is purchased following a Severance from Employment of eighteen (18) months or less.

2. Member Contributions.

- (a) An Eligible Employee covered by the Russell Library CBA who is hired after attaining the age of fifty (50) shall have the option of whether to participate in the Plan. An Eligible Employee who wishes to participate in the Plan must provide a written election to the Board prior to the date he or she commences employment as an Eligible Employee. A decision not to participate shall be irrevocable once

made and such Eligible Employee shall be precluded from participating in any retirement plan sponsored by the City or the Russell Library Company, Inc.

- (b) A Member subject to this Appendix F shall be required to make a Member Contribution each pay period in an amount equal to six percent (6%) of such Member's Earnings for that pay period.
- (c) The Member may name the beneficiary of their choosing for purposes of a refund of Member Contributions following his or her death.

3. Normal Retirement Benefit.

A Member who retires on his or her Normal Retirement Date shall receive a Retirement Benefit equal to two and one-quarter percent (2.25%) of his or her Final Average Earnings multiplied by his or her Years of Service.

4. Death Benefit.

For purposes of any death benefit payable to a deceased Member's Spouse under Article X, the Member may elect prior to the commencement of his or her Retirement Benefit to receive a reduced benefit during his or her life in exchange for a spousal benefit that exceeds fifty percent (50%) for his or her surviving Spouse after the Member's death. If a Member elects to provide for a survivor's benefit in excess of fifty percent (50%), the single life annuity paid during the Member's life shall be actuarially reduced to reflect the increase in the amount of the Plan's death benefit.

5. Refund of Member Contributions.

A Member who has completed twenty (20) Years of Service but has not attained Normal Retirement Date may elect to receive a refund of Member Contributions plus interest in lieu of receiving a Normal Retirement Benefit.

6. Special Member Contributions.

A Member may purchase additional Years of Service for time spent in past service for the Russell Library Company, Inc. if he or she left the employment of the City and returned within eighteen (18) months.

For each Year of Service purchased, the Member must make a Special Member Contribution in an amount to be determined by the Plan's actuary.

The Plan Administrator shall determine in its sole discretion whether a Participant is eligible to purchase additional Years of Service.

7. Forfeiture.

A Member's benefit may be subject to forfeiture in accordance with the Russell Library CBA.