

**THE EMPLOYEES OF OCEAN CITY, MARYLAND
PENSION PLAN AND TRUST**

Amendment and Restatement

Generally effective April 1, 2019

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**THE EMPLOYEES OF OCEAN CITY, MARYLAND
PENSION PLAN AND TRUST**

**Amendment and Restatement
Generally effective April 1, 2019**

This amended and restated Plan, The Employees of Ocean City, Maryland Pension Plan and Trust (the "Plan"), is adopted, generally effective April 1, 2019, by the Mayor and City Council of Ocean City, Maryland (hereinafter referred to as the "City"), and the undersigned Trustees (hereinafter referred to as the "Trustees"). This amended and restated Plan is designed to afford eligible employees an opportunity to increase their security at retirement through participation in a pension plan during their periods of active employment while this Plan remains in effect.

The City established the Plan, effective May 27, 1967. The Plan was first amended and restated August 5, 1975 and again was amended and restated effective April 1, 1987.

The City subsequently amended and restated the Plan effective April 1, 1989 to comply with the Tax Reform Act of 1986. The City again amended and restated the Plan effective April 1, 1997 to make various changes, including changes required or permitted by the various federal laws commonly referred to as "GUST" and, generally effective as of January 1, 2002, to include changes required or permitted by the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA").

The City restated the Plan again effective October 1, 2004 and again with an effective date of October 1, 2006, and again with an effective date of April 1, 2015, each time to incorporate various amendments and to make other changes. The City now wishes to adopt an amendment and restatement of the Plan to incorporate amendments adopted since the April 1, 2015 restatement was adopted and to make other required or desired changes. Accordingly, the City wishes to adopt this amended and restated Plan, generally effective April 1, 2019.

Except as is otherwise provided in the Plan or under applicable law, the terms of the Plan, as amended and restated, apply only with respect to individuals who are employees of the City on or after April 1, 2019, and the rights, benefits and interests of any employee who died, retired or otherwise terminated his or her employment with the City prior to April 1, 2019 will be determined under the provisions of the Plan as in effect on the date the former employee died, retired or otherwise terminated his or her employment with the City.

**ARTICLE 1
DEFINITIONS**

The following terms, when used in this Plan, shall have the meanings set forth below, unless different meanings are clearly required by the context:

1.1 **ACCRUED BENEFIT** means the pension benefit earned to any date of reference pursuant to the provisions of Article 3, expressed as the Normal Form of Benefit under Section 3.4(b) (i.e., a monthly single life annuity) commencing at Normal Retirement Date or the Actuarial Equivalent thereof.

The portion of the Participant's Accrued Benefit attributable to the Participant's contributions, made pursuant to Section 6.2, shall equal the Actuarial Equivalent of the Participant's Employee Contributions Benefit, expressed as a monthly single life annuity commencing at Normal Retirement Date. The portion of the Participant's Accrued Benefit attributable to City contributions shall be the remainder of the Accrued Benefit, if any.

1.2 ACTUARIAL EQUIVALENT OR EQUIVALENT ACTUARIAL VALUE means a form of benefit differing in time, period or manner of payment from a specific benefit provided under the Plan but having the same value when computed, based on the Plan's actuarial assumptions in effect at the time of calculations.

Notwithstanding any provision of the Plan to the contrary, the applicable mortality table used for purposes of adjusting any benefit or limitation under Code Section 415(b)(2)(B), (C), or (D) (as provided in Section 3.7) is the mortality table prescribed in Revenue Ruling 2001-62 (or such other mortality table published by the Internal Revenue Service using the latest effective date permitted for that table).

1.3 ACTUARIAL REDUCTION means a reduction that will cause a benefit with a starting date that precedes a Participant's Normal Retirement Date to be the Actuarial Equivalent of the benefit that would otherwise have been payable at Normal Retirement Date.

Notwithstanding the preceding, for purposes of (i) early retirement benefits described in Section 3.3, (ii) deferred pension benefits commencing under Section 5.1, (iii) disability benefits for a Participant with at least 10 years of Periods of Credited Service commencing under Section 3.6 on or after the Participant's Early Retirement Date or (iv) surviving spouse benefits commencing under Section 4.2(a) commencing on or after what would have been the Participant's Early Retirement Date, the Actuarial Reduction for benefits commencing before the Participant's Normal Retirement Date will be equal to:

$(1/180 \text{ times the lesser of } 60 \text{ or } M) \text{ plus } (1/360 \text{ times } (M \text{ minus } 60 \text{ (or zero, if } M \text{ is less than } 60))) \text{ rounded to four decimal places, where } M \text{ is equal to the number of months from the Annuity Starting Date to the Participant's Normal Retirement Date.}$

Notwithstanding the preceding, for purposes of disability benefits for a Participant with at least 10 year of Periods of Credited Service commencing under Section 3.6 earlier than 10 years before the Participant's Normal Retirement Date, the Actuarial Reduction will be equal to the amount determined under the previous paragraph but with M equal to 120, multiplied by the Actuarial Equivalent reduction based on the period from the Annuity Starting Date to the first of the month coincident with or next following the Participant's 55th birthday.

1.4 ADMINISTRATOR means the Plan Administrator provided for in Article 9 of this Plan.

1.5 ANNUITY STARTING DATE means the first day of the first period for which an amount is paid as an annuity, or in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred that entitle the Participant to such benefit.

1.6 AVERAGE COMPENSATION means the greater of (i) the average of the Participant's Compensation for the three consecutive Compensation Calculation Dates through

the Termination Date during the last 120 months of employment that yield the highest average or (ii) the average of the Participant's Compensation for any 36 consecutive months during the last 120 months of employment that yield the highest average. For purposes of clause (ii) of the preceding sentence "Compensation" has the same meaning as provided for in Section 1.11, except the monthly rate is determined on a monthly basis, as of the first day of the month, rather than based on the most recent Compensation Calculation Date.

This provision is not applicable to those employees of Wastewater Treatment Department who transferred from Worcester County to Ocean City and remain in the Worcester County pension plan. These employees shall have retiree benefits determined according to the terms of an agreement between Ocean City and Worcester County.

1.7 BENEFICIARY means any person, estate or trust entitled to receive any payments due under this Plan as a result of the death of a Participant.

1.8 CASH-OUT means a distribution in settlement of a benefit otherwise payable under the Plan and which is equal to the Participant's Employee Contributions Benefit.

1.9 CITY means the Mayor and City Council of Ocean City, Maryland, a municipal body corporate duly organized and existing under the laws of the State of Maryland, and its successors and assigns, unless otherwise herein provided, or any other business organization which, as herein provided, assumes the obligations hereunder, or which agrees to become a party to the Plan.

1.10 CODE means the Internal Revenue Code of 1986 and the regulations promulgated thereunder, as amended from time to time.

1.11 COMPENSATION means the monthly rate, determined as of the Compensation Calculation Date, of basic remuneration paid by the City to an Employee with respect to service as an Employee, excluding: (1) bonuses, overtime pay and other extra remuneration; (2) credits or benefits under the Plan or under any other retirement, deferred compensation or employee welfare benefit plan; and (3) direct reimbursement for expenses; but including: (1) "elective contributions" which are not includible in gross income under Code §§125, 132(f)(4), 402(e)(3), 402(h)(1)(B) or 403(b); (2) deferrals under an eligible deferred compensation plan within the meaning of Code §457(b); and (3) employer "pick-up" contributions (under governmental plans) within the meaning of Code §414(h)(2). Notwithstanding the preceding sentence, the Compensation of any Participant taken into account under the Plan for any year may not exceed the dollar limit that applies under Code §401(a)(17), as adjusted automatically at the same time and in the same manner as any cost-of-living adjustment made by the Secretary of the Treasury under Code §415(d) (as modified by Code §401(a)(17)) (e.g., \$280,000 for 2019). The cost-of-living adjustment in effect for a calendar year applies to Compensation for the Plan Year that begins with or within that calendar year. Notwithstanding any provision of this Plan to the contrary, the definition of "Compensation" for purposes of the Plan shall reflect the special rules applicable to differential wage payments, as defined by Code §3401(h)(2), in accordance with, and to the extent required by, §105(b) of the HEART Act and subsequent guidance issued thereunder.

1.12 COMPENSATION CALCULATION DATE means the Participant's Employment Commencement Date (or, if later, the Participant's Reemployment Commencement Date) or any

anniversary of that date.

1.13 COVERED EMPLOYEE means any full-time, permanent Employee except for:

- (a) any such Employee who is classified as any of the following:
 - (1) Communication Personnel;
 - (2) Certified EMS Personnel;
 - (3) Fire Marshall;
 - (4) Sworn Police Officer;
 - (5) Paid Firefighter;

(b) an Employee who was hired (or rehired) by the Employer after May 10, 2011 other than a rehired Employee who, (i) on his or her most recent date of hire, was still a Participant in this Plan (as defined in Section 1.23) or was still a Participant in The Ocean City, Maryland Public Safety Employees Pension Plan and Trust (as defined in Section 1.23 of that plan) and who has never experienced a one-year Period of Severance under this Plan or, if applicable, under the Public Safety Plan, that ended after May 10, 2011; or

(c) any person whose employment is subject to a collective bargaining agreement that does not provide for participation in this Plan.

1.14 EARLY RETIREMENT DATE means the first day of any month that precedes the Participant's Normal Retirement Date and that coincides with or follows the Participant's attainment of age 55, and completion of ten years of Periods of Credited Service.

1.15 EFFECTIVE DATE means April 1, 2019, the effective date of this amendment and restatement of the Plan. The initial effective date of the Plan was May 27, 1967.

1.16 EMPLOYEE means any person employed by the City, except such a person who is a leased employee. Notwithstanding anything herein that may suggest otherwise, the term Employee shall not include any person who is not classified by the City as a common law employee of the City for the period during which the person is not so classified by the City, notwithstanding the later reclassification by a court or any regulatory agency of the person as a common law employee of the City.

For purposes of this Section 1.15, "leased employee" means any person (other than an employee of the recipient) who receives compensation and who, pursuant to an agreement between the recipient and any other person, has performed services for the recipient (or for the recipient and related persons determined in accordance with Code §414(n)(6)) on a substantially full-time basis for a period of at least one year with such services are under the recipient's primary direction or control.

1.17 EMPLOYEE CONTRIBUTIONS BENEFIT means the sum of the following amounts (net of any previous distributions):

(i) The contributions made by the Participant through salary reduction and "picked up" by the City, as described in Section 6.2; plus

(ii) The contributions made by the Participant pursuant to Section 6.3 which

are not picked up by the City; plus

(iii) Interest on the amounts described in (i) and (ii) above computed on March 31 of each year as follows and compounded annually:

(A) 2.5% of the amount contributed during the current Plan Year.

(B) 5.0% of any amount contributed or transferred prior to the current Plan Year.

Interest, computed as described in (iii) above, is credited to the Employee Contributions Benefit of each Participant on or after April 1 of each Plan Year following the March 31 calculation of interest for the previous Plan Year to Participants who have an Employee Contribution Benefit under the Plan on that April 1. No interest attributable to a current Plan Year is credited or paid to any Participant who receives a distribution of his or her Employee Contribution Account during that Plan Year.

1.18 EMPLOYMENT COMMENCEMENT DATE or REEMPLOYMENT COMMENCEMENT DATE means the date on which an Employee first performs an Hour of Service or first performs an Hour of Service following a Period of Severance.

1.19 HOUR OF SERVICE means each hour for which an Employee is directly or indirectly compensated by the City for the performance of duties for the City.

1.20 LEAVE OF ABSENCE means an authorized absence from active service with the City, under conditions described herein, which does not constitute a termination of employment, and during which the Employee completes no Hours of Service.

A Period of Credited Service or Period of Service shall not be deemed to have terminated by a temporary absence by reason of: (i) a Leave of Absence granted by the City on account of vacation, holiday, illness, incapacity (including disability), layoff or jury duty, (ii) a Leave of Absence required by law or granted by the City on account of service in the Armed Forces of the United States, (iii) any other Leave of Absence during which the individual remains in active pay status, or (iv) any other Leave of Absence, extending for not more than two years, for reasons other than resignation, discharge, mutual agreement, total and permanent disability or retirement. The performance of an Hour of Service after a Leave of Absence has commenced shall constitute an expiration of the Leave of Absence.

If, on a Compensation Calculation Date occurring during a Leave of Absence, a Participant is unpaid or his or her rate of basic pay is reduced, then, for purposes of computing Plan benefits, his or her Compensation and Average Compensation shall be computed as if he or she were being paid at a rate equivalent to that in effect as of the most recent Compensation Calculation Date preceding the beginning of the Leave of Absence.

If any Participant on Leave of Absence fails to answer an inquiry by the City as to the status of the Leave of Absence, or if the City is not notified of the death or disability of such Participant, and the City has no actual knowledge thereof, the City may determine that the Leave of Absence had or has expired.

Service with respect to a Leave of Absence will be credited pursuant to the following:

(a) Paid Leaves of Absence will constitute continuation of employment; as such service will be credited for the customary period of work during such Leave of Absence, and Section 6.2 contributions will continue to be made. An individual on a Leave of Absence for reasons of illness will be deemed to be on a paid Leave of Absence so long as his or her rate of pay is not reduced and so long as he or she is paid directly by the City of through City-financed wage continuation insurance; but the Participant will not be considered to be on a paid Leave of Absence under circumstances where payments are made solely for the purpose of complying with workers' compensation, unemployment insurance or disability insurance laws.

(b) A Leave of Absence where the Participant's rate of pay is reduced shall constitute an unpaid Leave of Absence. Service credit shall not be granted for an unpaid Leave of Absence (other than for military service, as described below) unless the Participant continues to make regular contributions to the Plan pursuant to Section 6.3, in accordance with such administrative procedures as are developed by the City.

(c) Notwithstanding the foregoing, the Participant will not receive credit for Service during an unpaid Leave of Absence for military service, except to the extent required by law.

1.21 LIMITATION YEAR means, for purposes of the application of the provisions of Code §415, the Plan Year.

1.22 NORMAL RETIREMENT DATE means the first day of the month coinciding with or next following the Participant's 65th birthday.

1.23 PARTICIPANT means any Employee who participates in the Plan as provided in Article 2. A Participant shall continue to be a Participant as long as he or she is entitled to receive or is receiving a Plan benefit. Effective May 11, 2011, the Plan is closed to new Participants. No person who is not a Participant in the Plan on or before May 10, 2011 can become a Participant after that date.

1.24 PERIOD OF CREDITED SERVICE means the continuous period of service commencing on the Employee's Employment Commencement Date or Reemployment Commencement Date, whichever is applicable, and ending on the Employee's Termination Date, except as otherwise provided under Section 3.2, and excluding any period during which the Employee is not a Covered Employee.

For purposes of determining the amount of a Participant's benefits under the Plan (but not for purposes of determining eligibility for Early Retirement or reductions or vesting), a Participant whose Termination Date occurs on or after attaining eligibility for early retirement under Section 3.3 or normal retirement under Section 3.1 or after electing to receive disability retirement benefits under Section 3.6, will be credited with additional Periods of Credited Service expressed in whole months ("Sick Leave Credits"). Such a Participant will be credited with one month of Sick Leave Credit for each 176 hours of unused sick leave on his or her Termination Date and, after each whole 176 hour period has been credited, the Participant shall be credited with one additional month of Sick Leave Credit if 88 or more hours of unused sick leave remain.

For calculating a surviving spouse's benefit under Section 4.2, Periods of Credited Service include Sick Leave Credits if the Participant was eligible to receive such credits on his or her date of death.

1.25 PERIOD OF SERVICE means the continuous period of service commencing on the Employee's Employment Commencement Date or Reemployment Commencement Date, whichever is applicable, and ending on the Employee's Termination Date.

1.26 PERIOD OF SEVERANCE means a period of time commencing on an Employee's Termination Date and ending on the date the Employee again is credited with an Hour of Service.

1.27 PLAN means The Employees of Ocean City, Maryland Pension Plan and Trust as set forth in this document and as amended from time to time.

1.28 PLAN YEAR means the 12 month period beginning each April 1 and ending each March 31 during which this Plan is in effect.

1.29 TERMINATION DATE means the earlier to occur of (a) a termination of employment by reason of resignation, discharge, mutual agreement, total and permanent disability, retirement or death, or (b) the date on which a Leave of Absence expires if the Participant does not return to covered employment on or before that date.

1.30 TRUST means the trust established under this Plan or under a separate trust agreement which forms a part of this Plan. If a separate trust agreement is adopted which forms a part of this Plan, the trust provisions contained within this document shall be inoperative and the provisions of the separate trust agreement shall control.

1.31 TRUST FUND means the assets of the Trust.

1.32 TRUSTEES means, the Trustee or the Trustees, and their successor or successors, who are designated herein or who are appointed pursuant to the terms of the Plan. The Trustees shall include, the Mayor, the Council President, three members of the community, who are appointed by the Mayor with the consent of the Council, and one individual who (1) is a Covered Employee, (2) has been elected by Plan Participants to serve as a Trustee, and (3) is affirmed by the Mayor and Council to serve as a Trustee (hereinafter referred to as "Participant Representative Trustee").

ARTICLE 2

ELIGIBILITY FOR PARTICIPATION

2.1 ELIGIBILITY. Employees first hired after May 10, 2011 are not eligible to participate in this Plan. Each person who became a Covered Employee on or before May 10, 2011 became a Participant in the Plan on the date he or she first performed an Hour of Service as a Covered Employee. Participation in this Plan and the agreement to make contributions described in Section 6.2, is mandatory as a condition of employment by Covered Employees with the City.

2.2 REHIRED PARTICIPANTS. If an Employee or Participant, following his or her

Termination Date, subsequently performs an Hour of Service for the Employer, his or her status with respect to the Plan shall be governed by the following:

(a) Vesting and Benefit Accrual. Subject to Section 2.2(c) below, if a reemployed Participant resumes employment as an Employee within 12 months of his or her Termination Date, the Participant's prior Periods of Service and Periods of Credited Service shall be aggregated with Periods of Service and Periods of Credited Service performed after his or her Reemployment Commencement Date for purposes of determining the Participant's eligibility to receive, the vested percentage of, and amount of, his or her Accrued Benefit (with respect to the periods before and after the Period of Severance).

If a reemployed Participant does not resume status as an Employee within 12 months of his or her prior Termination Date, the Participant's prior Periods of Service and Periods of Credited Service shall be disregarded for purposes of determining any eligibility to receive, the vested percentage of, and the amount of, any benefits he or she may accrue following a Period of Severance. In addition, a Participant described in the previous sentence who returns to status as an Employee after May 10, 2011 will not participate in this Plan with respect to Periods of Service and Periods of Credited Service starting after his or her return to employment and any Compensation earned by such a Participant after that returning to employment will not be considered in computing his or her Average Compensation.

(b) Benefit Payments. If, at the time of reemployment, the Participant is receiving benefits under the Plan, such benefits shall continue. Any benefits payable that with respect to his or her subsequent employment shall be calculated from the date of rehire of the Participant.

(c) Cash-Out. If, after the Participant's Termination Date: (i) the Participant receives a Cash-Out of his or her Employee Contributions Benefit, and (ii) he or she again becomes a Covered Employee, then, notwithstanding the commencement of a new Period of Service, the Periods of Service and Periods of Credited Service with respect to which the distribution was received shall be disregarded in subsequent determinations of the amount of, the vested percentage of, and the eligibility to receive his or her Accrued Benefit. However, if the Participant (i) resumes his or her status as a Covered Employee within 12 months of his or her Termination Date, and (ii) within 90 days of the resumption of such status, repays to the Trust the full amount of the Cash-Out, plus interest from date of distribution to date of repayment at the rate of five percent per annum compounded annually, the Participant's Accrued Benefit will be determined taking into account the Participant's Periods of Service and Periods of Credited Service before as well as after the Termination Date (subject to the remaining provisions of this Article 2).

2.3 ENROLLMENT. Participation in the Plan is automatic when the requirements of Section 2.1 have been met; provided, however, that the City may, in its discretion, require each eligible Employee to execute a written application containing such items as may be desired by the City including, but not limited to, the Employee's consent to be bound by all the terms and conditions of the Plan and all amendments thereto.

2.4 CHANGE OF EMPLOYMENT CATEGORY. For any period in which a Participant remains in the employ of the City but ceases to be a Covered Employee, he or she will continue Plan participation and will continue to accrue service credit for purposes of vesting but

will not receive credit for service for that period of employment for purposes of accruing benefits or for purposes of determining his or her Early Retirement Date.

2.5 FRACTIONAL CREDIT FOR SERVICE. A Participant will receive partial or full credit for a Period of Service or a Period of Credited Service, as the case may be, as follows:

(a) Vesting. For purposes of determining a Participant's vested percentage, the Participant will receive credit for the number of completed months in his or her Periods of Service determined as elapsed time from an Employment Commencement Date or a Reemployment Commencement Date, as applicable, to a Termination Date.

(b) Early Retirement Eligibility. For purposes of determining eligibility for early retirement benefits under Section 3.3, including eligibility for an unreduced benefit, the Participant will receive credit for the number of completed months in his or her Periods of Credited Service, determined as elapsed time from the date a given period of Covered Employment starts to a Termination Date.

(c) Benefit Accrual. For purposes of determining a Participant's accrued benefit, the Participant will receive fractional credit for Periods of Credited Service equal to one month for each calendar month during which the Participant was a Covered Employee for the entire month, but will not receive fractional service credit for any calendar month when the Participant was not a Covered Employee for the entire month.

2.6 TRANSFERS.

(a) If, for any reason, a participant in The Ocean City, Maryland Public Safety Employees Pension Plan and Trust has his or her participation in that plan transferred directly to the Plan, the following procedure shall be followed:

(i) The participant's accrued benefit under the Public Safety Plan shall be calculated as of the date of the transfer and the present value of such accrued benefit shall be calculated under the definition of actuarial equivalence under the Public Safety Plan;

(ii) The difference between (A) the amount of the participant's employee contributions, plus interest, under the Public Safety Plan through the date of the transfer and (B) the amount of Employee Contributions, plus interest, the participant would have accrued under the Plan if the participant had participated in the Plan through the date of transfer, shall be calculated, and such amount shall be credited with interest, compounded annually at 5.0%, and paid as an additional benefit at retirement, death or termination of employment;

(iii) Assets shall be transferred from the Public Safety Plan to the Plan in an amount equal to the present value of the accrued benefit, determined in accordance with Section 2.6(a)(i); and

(iv) All of the participant's periods of credited service for eligibility, vesting and benefit accrual purposes under the Public Safety Plan shall be transferred to the Plan and shall be counted under the Plan as Periods of Credited Service for eligibility, vesting and benefit accrual purposes.

(b) If, for any reason, a Participant in the Plan has his or her participation in the Plan transferred directly to The Ocean City, Maryland Public Safety Employees Pension Plan and Trust, the following procedure shall be followed:

(i) The Participant's Accrued Benefit under the Plan shall be calculated as of the date of the transfer and the present value of such Accrued Benefit shall be calculated under the definition of Actuarial Equivalence under the Plan;

(ii) Assets shall be transferred from the Plan to the Public Safety Plan in an amount equal to the present value of the Accrued Benefit, determined in accordance with Section 2.6(b)(i); and

(iii) All of the Participant's Periods of Credited Service for eligibility, vesting and benefit accrual purposes under the Plan shall be transferred to the Public Safety Plan and shall be counted under the Public Safety Plan as periods of credited service for eligibility, vesting and benefit accrual purposes.

2.7 TRANSFER OF SERVICE.

(a) Any member of a Maryland Employer Retirement Plan who, without a Break in Service, becomes a Covered Employee may elect to receive credit for Periods of Service and Periods of Credited Service (for purposes of determining the Covered Employee's eligibility to receive, the vested percentage of, and amount of, his or her Accrued Benefit) for service recognized under another Maryland Employer Retirement Plan to the extent and under the conditions the Plan is required to permit the Covered Employee to make such election under the provisions of Title 37 of the State Personnel and Pensions Article of the Annotated Code of Maryland (or any successor statute). An election to receive credit under this Plan for service recognized under another Maryland Employer Retirement Plan must be made by a Covered Employee in writing, on a form supplied by or acceptable to the City. For purposes of applying the provisions of Title 37 of the State Personnel and Pensions Article of the Annotated Code of Maryland (or any successor statute), this Plan shall be considered a "noncontributory system" if the service for which the Covered Employee elects to receive credit under this Plan was earned before October 1, 2004 and a "contributory system" if the service for which the Covered Employee elects to receive credit under this Plan was earned on or after October 1, 2004.

(b) For purposes of this Section, (i) the term "Break in Service" shall mean a period of more than 30 calendar days commencing on the date a Covered Employee terminates employment with the employer with whom the service for which he or she elects to receive credit under this Plan was earned and ending on his or her Employment Commencement Date or Reemployment Commencement Date, whichever is applicable, and (ii) the term "Maryland Employer Retirement Plan" shall mean a retirement plan maintained by the State of Maryland or any other political subdivision within the State of Maryland to which the provisions of Title 37 of the State Personnel and Pensions Article of the Annotated Code of Maryland (or any successor statute) apply.

ARTICLE 3 **RETIREMENT BENEFITS**

3.1 NORMAL RETIREMENT BENEFITS. Subject to any limitations provided

under the Plan, each Participant who is an Employee on his or her 65th birthday shall be entitled to receive a monthly pension under this Plan, which shall commence at the later of the Participant's Normal Retirement Date or the first day of the month coincident with or next following the Participant's Termination Date and continue for the life of the Participant, in an amount computed as follows (except as provided in Exhibit A for Participants who were Covered Employees before April 1, 1996):

The amount of the monthly pension for such Participants will be equal to the sum of (i) and (ii) where:

- (i) = (A) 50% of the Participant's Average Compensation; reduced by (B) 1/360th of the amount computed in (A) for each month less than 360 in his or her Periods of Credited Service (excluding Periods of Credited Service attributable to Sick Leave Credits) as of his or her Termination Date; and
- (ii) = one-twelfth of one and two-thirds percent of the Participant's Average Compensation multiplied by months in his or her Periods of Credited Service attributable to Sick Leave Credits.

In addition, in no event shall the monthly retirement income benefit for any Participant who qualifies for a monthly retirement benefit under this Plan be less than \$25.

3.2 LATE RETIREMENT BENEFITS. Subject to the requirements of Section 3.8, if a Participant continues covered employment with the City after the Participant's Normal Retirement Date, the Participant's retirement benefits under the Plan shall not commence until the first day of the month coincident with or next following the Participant's Termination Date.

If a Participant retires after his or her Normal Retirement Date, the monthly retirement benefit provided for the Participant at his or her actual retirement will equal (a) or (b), whichever is greater, plus (c) where:

- (a) = (A) 50% of the Participant's Average Compensation; reduced by (B) 1/360th of the amount computed in (A) for each month less than 360 in his or her Periods of Credited Service (excluding Periods of Credited Service attributable to Sick Leave Credits), with Average Compensation and Periods of Credited Service determined as of his or her Termination Date;
- (b) = the Actuarial Equivalent, based on the Participant's Annuity Starting Date, of (A) 50% of the Participant's Average Compensation; reduced by (B) 1/360th of the amount computed in (A) for each month less than 360 in his or her Periods of Credited Service (excluding Periods of Credited Service attributable to Sick Leave Credits), with Average Compensation and Periods of Credited Service determined as of his or her Normal Retirement Date; and
- (c) = one twelfth of one and two-thirds percent of the Participant's Average Compensation multiplied by months in his or her Periods of Credited Service attributable to Sick Leave Credits, as determined on the Participant's Termination Date.

3.3 EARLY RETIREMENT BENEFITS. If a Participant's Termination Date occurs for any reason other than death on or after the Participant reaches age 55 and completes Periods of Credited Service totaling at least 10 years but before age 65, the Participant is eligible to receive an Early Retirement Benefit (payable in accordance with the provisions of Section 3.4, based on the Plan's Normal Form of benefit or any optional form elected by the Participant) commencing on the first day of any month coincident with or following his or her Early Retirement Date and no later than his or her Normal Retirement Date (with the Annuity Starting Date determined by the Participant by notice to the Administrator in accordance with the rules adopted by the Administrator).

Except as provided in Exhibit A for certain employees who became Covered Employees before April 1, 1996, a Participant's Early Retirement Benefit is the Participant's retirement benefit determined under Section 3.1, but based on Periods of Credited Service, Sick Leave Credits and Average Compensation determined as of the Termination Date and reduced for early commencement as described in Section 1.3 if the Annuity Starting Date is before the Normal Retirement Date, except that no reduction will be applied if the Participant terminates after reaching age 55 and completing Periods of Credited Service totaling at least 30 years.

3.4 FORMS OF BENEFITS.

(a) All benefit distributions shall be in cash (or in annuity contracts). The City shall determine, in its discretion, whether the distribution shall be funded through periodic payments made directly from the Trust, or through the purchase of annuity contracts or a combination, and the City shall give to the Trustees such directions and information as may be necessary for the Trustees to carry out the decision of the City. If the City determines that the whole or any part of the distribution is to be funded through purchase of an annuity contract for a Participant, the City shall select such form of contract (including a variable annuity) to be so purchased and shall direct the Trustees to pay the premium of such contract to the issuing company. The City shall direct that all right, title and interest in such contract shall remain in the Trustees under the terms of the Plan and the Participant shall have no right, title or interest therein except to receive the payments therefrom as provided therein, and to change the Beneficiary from time to time; alternatively, the City may direct that the contract shall be purchased in the name of the Participant and distributed to him or her free and clear of the Trust, in which case: (i) the contract shall be issued so as to be nontransferable, (ii) it shall not contain a death benefit in excess of the greater of the reserve or the total premiums paid for annuity benefits, and (iii) it shall not contain provisions that expand upon, change or eliminate any Plan provisions applicable to distributions in annuity form.

(b) Normal Form of Benefit. The Plan's Normal Form of benefit is a monthly pension benefit, as computed in Section 3.1, paid for the Participant's lifetime with no payments to be made after the last payment before his or her death.

(c) Optional Forms of Benefit. In lieu of receiving the monthly pension benefit provided in Section 3.4(b) above, a Participant may elect (as provided in (d), below) to receive his or her pension benefit payable in accordance with one of the following options, which, except for the option described in 3.4(c)(iv), are the Actuarial Equivalent of the Normal Form of benefit under Section 3.4(b):

(i) Joint and Survivor Option. The joint and survivor option is a reduced monthly benefit payable during the Participant's lifetime with payments continuing after his or her death at either 50% or 100% (as elected by the Participant) of that reduced monthly benefit to his or her surviving spouse for the remainder of the spouse's life.

If the Participant's spouse dies before the Participant's benefits have commenced (whether before or after his or her Termination Date), the election of a joint and survivor option will become void and benefits will be paid in the Normal Form unless the Participant timely elects another form of benefit in accordance with Plan procedures. If the spouse dies after the Participant's benefits have commenced, but before the death of the Participant, the election shall remain effective and the Participant shall continue to receive the reduced monthly payment payable to him or her in accordance with the option elected by the Participant with no benefits payable following the Participant's death. Except as otherwise required by a qualified domestic relations order accepted by the Plan, if the Participant divorces after the Participant's benefits have commenced, the Participant's election shall remain effective and the Participant shall continue to receive the reduced monthly payment payable to him or her in accordance with the option elected by the Participant with benefits payable to the former spouse following the Participant's death, if the former spouse survives the Participant.

(ii) Guaranteed Period Option. The guaranteed period option is a monthly retirement benefit, payable during the lifetime of the Participant and guaranteed to continue to the Participant or to a designated Beneficiary for a period certain (of such duration as is permitted by the City and by the limitations in Section 3.8) after the Participant's retirement benefit commences regardless of whether the Participant survives that period certain.

If the Participant's Beneficiary dies before the Participant, the Participant may designate another Beneficiary; if the Participant's Beneficiary dies after the Participant and after benefits have commenced, benefits for the remainder of the period certain will be continued to the estate of the Beneficiary, unless the Participant properly designated another Beneficiary to receive such benefits.

(iii) 20% Leveling Option ("Bridge Option"). This option is available only for benefits that commence in the Normal Form of benefit pursuant to Sections 3.3, 3.6 or 5.1, before the Participant reaches age 65. A Participant who is eligible for and elects to commence benefits before reaching age 65 may elect to increase his or her monthly retirement benefit payments by 20% until the Participant reaches age 65, at which time, any remaining monthly benefit payments will be decreased to an amount that results in an overall benefit that is the Actuarial Equivalent of the Participant's Normal Form of benefit, based on the Participant's Annuity Starting Date.

(iv) Lump Sum Option. The lump sum option is a Cash-Out of the Participant's Employee Contributions Benefit in lieu of all other benefits under the Plan.

(d) General Provisions Applicable to Options

(i) Election Procedures. An election of any optional form of benefit described in Section 3.4(c), or any revocation or change of such election, must be made by a Participant in writing, on a form supplied by or acceptable to the City.

(ii) Effect of Death. In the event of the death of a Participant before his or her benefits are due to commence under the terms of the Plan, no benefits shall be payable to his or her spouse or other Beneficiary except as provided in Article 4, regardless of whether the Participant has elected an optional form of benefit pursuant to this Section 3.4.

(iii) Timing of Benefit Commencement. Notwithstanding any other Plan provision to the contrary, in no event (unless the Participant otherwise elects pursuant to any elective provision which may be then present in the Plan) shall benefits begin later than the 60th day after the close of the Plan Year in which occurs the later of: (i) the date on which the Participant attains age 65; (ii) the tenth anniversary of the Participant's Plan participation date; or (iii) the termination of the Participant's employment with the City.

3.5 PAYMENTS TO MINORS AND INCOMPETENTS. If the Administrator shall receive evidence satisfactory to it (a) that a Participant or Beneficiary entitled to receive any benefit under this Plan is, at the time when such benefit becomes payable, a minor, or is physically or mentally incompetent to receive such benefit and to give a valid release therefor, (b) that another person or an institution is then maintaining or has custody of such Participant or Beneficiary, and (c) that no guardian, committee or other representative of the estate of such Participant or Beneficiary has been duly appointed, the Administrator may authorize the Trustee to make payment of the benefit otherwise payable to such Participant or Beneficiary to such other person or institution, including a custodian under a Uniform Gifts to Minors Act or corresponding legislation (who shall be an adult, a guardian of the minor or a trust company), and the release given by such other person or institution shall be a valid and complete discharge for the payment of such benefit.

3.6 DISABILITY BENEFITS. A Participant whose Termination Date occurs because of total and permanent disability before satisfying the eligibility requirements for early retirement under Section 3.3 or normal retirement benefits under 3.1 will be fully vested in his or her Accrued Benefit without regard to the total of his or her Periods of Service and will be entitled to receive, commencing on the first day of any month following the determination of disability by the City and before the Participant's Normal Retirement Date, a monthly benefit in an amount equal to the benefit which the Participant would have received pursuant to Section 3.1, based on the Participant's Average Compensation and Periods of Credited Service at his or her Termination Date, but subject to Actuarial Reduction, if applicable based on the date of commencement of benefits. Benefits will be paid in the Normal Form of benefit under Section 3.4(b) unless the Participant elects a different form of benefit in accordance with Section 3.4.

Total and permanent disability for purposes of this Section 3.6 means a condition that renders the Participant unable to engage in any substantially gainful activity, which condition is a medically determinable physical or mental impairment which can be expected to result in death or to be of long and indefinite duration. Evidence of disability may be required by the Administrator which may include the certificate of a competent and licensed physician selected by the Participant and approved by the Administrator that confirms the Participant is Disabled as defined herein.

3.7 LIMITS ON BENEFITS. In no event shall any benefit be payable from this Plan if such benefit would cause the Plan or any other plan maintained by the City to violate the limits of Code §415, and the regulations thereunder (as adjusted pursuant to Code §415(d) and Treasury Regulations §§1.415(d)-1(a) and 1.415(b)-1), as those limits apply to a governmental

plan. If any Participant in this Plan is also a participant in any other defined benefit plan maintained by the City and any adjustment is required to prevent a violation of the applicable limits of Code §415, the adjustment will be made under the plan in which the individual first became a participant. For purposes of applying the limits under Code §415, the annual increase of the Code §415 limits applies to a Participant for increases that are effective after the Participant's severance from employment.

Notwithstanding any provision of the Plan to the contrary, compensation for purposes of applying the applicable limits of Code §415 and the Final Treasury Regulations (Code §415 Compensation) includes regular pay paid to a Participant after the Participant's severance from employment with the City provided (i) the payment is regular compensation for services during the Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments and the payment would have been paid to the Participant before severance from employment if the participant had continued in employment with the City and (ii) the amounts are paid by the later of two and one-half months after severance from employment or the end of the limitation year that includes the date of severance from employment. Code §415 Compensation does not include (i) contributions, credits or benefits under the plan or under any other retirement, stock related, deferred compensation, fringe benefit or employee welfare plan or (ii) any supplemental payment made by the City because of a vesting event under a nonqualified deferred compensation plan or any amount held or distributed from such a plan that is required to be included in the Participant's gross income as a result of vesting or distribution under that plan.

Notwithstanding the foregoing, the application of the Final Treasury Regulations, shall not cause the maximum permissible benefit for any Participant to be less than the Participant's accrued benefit under all of the defined benefit plans of the City as of March 31, 2008 under provisions of the plans that were adopted and in effect before April 5, 2007, provided such defined benefit plans satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to Code §415 in effect as of March 31, 2008, as described in Treasury Regulations §1.415(a)-1(g)(4).

3.8 DISTRIBUTION REQUIREMENTS.

(a) General Rule. This Section 3.8(a) is included in the Plan to comply with Code §401(a)(9) and the Regulations thereunder. To the extent that there is any conflict between the provisions of Code §401(a)(9) and the Regulations thereunder and any other provision in the Plan, the provisions of Code §401(a)(9) and the Regulations thereunder will control. If the Participant's spouse is not the Beneficiary with respect to any distribution of benefits, the method of distribution elected must satisfy the incidental death benefit requirements specified in §401(a)(9)(G) of the Code and Treasury Regulation §1.401(a)(9)-2.

(b) Commencement of Benefits. The distribution of benefits to a Participant who continues employment with the City beyond the Participant's Normal Retirement Date must begin by the first day of April following the later of (1) the calendar year in which the Participant attains age 70½ or (2) the calendar year in which the Participant's employment is terminated.

If a Participant's distributions commence or recommence later than the first day of April of the calendar year following the calendar year in which he or she attains age 70½, the Participant's Accrued Benefit shall be adjusted actuarially (in accordance with Section 1.2) to

take into account the period after age 70½ during which the Participant was not receiving any distributions.

(c) Death Distribution Provisions

(i) Death After Distribution. If the Participant dies after distribution of his or her interest has commenced, the remaining portion of such interest, if any, will be distributed pursuant to the form in which the Participant's interest was being paid prior to the Participant's death.

(ii) Death Before Distribution. If the Participant dies before distribution of his or her interest commences, any benefits payable because of the Participant's death will be distributed pursuant to the provisions of Article 4. If the Participant's spouse is not the beneficiary, the method of distribution must satisfy the incidental death benefit requirements specified in §401(a)(9)(G) of the Code and the regulations thereunder.

3.9 DIRECT ROLLOVERS. Notwithstanding any other provision of the Plan to the contrary, any Distributee who is to receive an Eligible Rollover Distribution may elect the direct trustee-to-trustee rollover of the distribution to an Eligible Retirement Plan. A direct rollover election must be made pursuant to the procedures established by the Plan Administrator and must specify the Eligible Retirement Plan to which the direct rollover is to be made. If the Distributee elects a direct rollover as permitted hereunder, the Plan Administrator shall make the rollover as elected.

"Eligible Rollover Distribution" has the meaning provided in Code §401(a)(31)(C) and currently means any distribution of all or any portion of the balance to the credit of the Distributee, except (i) any distribution that is one of a series of substantially equal periodic payments (not less frequent than annual) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten years or more, (ii) any distribution to the extent such distribution is required under Code §401(a)(9), and (iii) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

"Eligible Retirement Plan" has the meaning provided in Code §401(a)(31)(D) and currently means (i) an individual retirement account described in Code §408(a), (ii) an individual retirement annuity described in Code §408(b) (other than an endowment contract), (iii) an annuity plan described in Code §403(a), (iv) an annuity contract described in Code §403(b), (v) an eligible plan under Code §457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan and (vi) a qualified trust that is a defined contribution plan described in Code §401(a), the terms of which permit the acceptance of direct rollovers.

"Distributee" means (i) the Participant, (ii) the Participant's surviving spouse, (iii) the Participant's spouse or former spouse who is the alternate payee under a domestic relations order that meets the requirements of Code §414(p)(1)(A)(I) or (iv) the Participant's surviving non-spouse Beneficiary who is a designated beneficiary within the meaning of Code §401(a)(9)(E).

3.10 POST-TERMINATION CHANGES. Any change in benefits provided for by amendment to the Plan shall not apply to any Participant whose Termination Date occurred prior to the effective date of such amendment, except as otherwise specifically provided for in the Plan or in such amendment.

3.11 MILITARY SERVICE BENEFITS. Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with §414(u) of the Code. Notwithstanding any provision of the Plan to the contrary, in the case of a Participant who dies while performing qualified military service (as defined in Code §414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed and then terminated employment on account of death.

3.12 SPECIAL DROP PROGRAM. The Plan includes a Special DROP program for any Participant who holds the office of Director of Public Works as of December 31, 2017:

(a) The person holding the position of Director of Public Works on December 31, 2017 is an “Eligible Special DROP Participant”. No other person is or may become an Eligible Special DROP Participant under this Section 3.12.

(b) The City shall notify the Eligible Special DROP Participant of his eligibility for the Special DROP program and shall provide a written explanation of the Special DROP program. The Participant will be given 45 days from the date that written explanation is provided to elect to participate in the Special DROP program, and such election shall be made by the Participant in writing on a form supplied by the City and shall include a release of all claims the Participant may have against the City and its officers and employees, the Plan and the fiduciaries of the Plan, in a form approved by the City Solicitor. If participation in the Special DROP program is timely elected, participation in Special DROP will be effective beginning January 1, 2018 (the “Special DROP Participation Date”). For the Eligible Special DROP Participant to elect to participate in the Special DROP program, the Participant must make a binding election to retire from employment with the City on a designated “Expected Retirement Date”, which (except as provided in Section 3.12(d)(i)), shall be no later than three years after the Special DROP Participation Date.

(c) If the Eligible Special DROP Participant fails to make an affirmative written election to participate in the Special DROP program within the time period for making such elections, he shall not be eligible to participate in the Special DROP program, and his benefit under the Plan shall be determined without regard to this Section 3.12. The election of the Eligible Special DROP Participant to participate in the Special DROP program may be revoked by the Participant by notice in writing delivered to the City at any time within seven days after the election is made and thereafter shall be irrevocable.

(d) If the Eligible Special DROP Participant makes an election to participate in the Special DROP program, he will become a “Special DROP Participant” at the expiration of the seven-day period described in Section 3.12(c) and, effective retroactive to January 1, 2018, the following provisions apply:

(i) The Special DROP Participant's Accrued Benefit as of his Special DROP Participation Date shall not be increased. The Special DROP Participant's Termination Date shall be no later than the last day before the Expected Retirement Date elected by the Participant. Notwithstanding the preceding sentence, if the City and the Special DROP Participant each agree in writing, at any time before the currently elected Expected Retirement Date has occurred, to an extension of the Participant's Expected Retirement Date for up to an additional four years, the mutually agreed upon revised Expected Retirement Date will apply for all purposes of this Section 3.12 and the Special DROP Participant's Termination Date shall be no later than the day before that revised Expected Retirement Date. In such cases, the Special DROP Participant will remain a Special DROP Participant until his Termination Date occurs. An extension of the Expected Retirement Date pursuant to this paragraph will have no effect on the Special DROP Participant's Accrued Benefit or on the amounts credited to the bookkeeping account described in the following paragraph, which will continue to be determined based on the Participant's Accrued Benefit as of his or her Special DROP Participation Date, with no adjustments for Compensation paid or service credited after the Special DROP Participation Date.

(ii) The City shall establish and maintain on behalf of the Special DROP Participant a bookkeeping account (the "Account") to which shall be credited (A) the amount of the monthly retirement benefit the Special DROP Participant would have received had he retired on the Special DROP Participation Date and elected the life only option (calculated without including Periods of Credited Service attributable to Sick Leave Credits), and (B) interest credits as determined below. The amount described in (A) shall be credited as of the first day of each calendar month commencing with the Special DROP Participation Date and ending with the first day of the calendar month immediately preceding the Participant's Termination Date.

(iii) Neither the establishment of an Account nor the crediting of amounts to an Account shall be construed as an allocation of Plan assets to, or a segregation of such assets in, such an Account, or as otherwise creating a right in any person to receive specific assets of the Plan. The benefit attributable to the Special DROP Participant's Account shall be paid from the general assets of the Plan.

(iv) As of the last day of each calendar month commencing with January 2018 and ending with the last day of the calendar month coincident with or immediately preceding the Participant's Termination Date (subject to the last sentence of subsections (e) and (f) and the second sentence of subsection (g)), the Account maintained on behalf of the Special DROP Participant shall be credited with interest equal to the monthly equivalent of the percent per annum yield for six-month CDs for the immediately preceding month, as reported on the Federal Deposit Insurance Corporation website.

(v) Subject to Section 6.2(b), the Special DROP Participant shall make contributions to the Plan pursuant to Section 6.2(a) during the period commencing on his Special DROP Participation Date and ending on his Termination Date.

(e) Upon his Termination Date, the Special DROP Participant shall be eligible to receive, notwithstanding any other portion of this Plan to the contrary, a lump sum distribution in cash equal to the balance of his Account upon his Termination Date and, in accordance with the applicable provisions of this Article 3, a monthly retirement benefit equal to the benefit the Special DROP Participant would have received had he retired as of his Special DROP Participation Date and elected the life only option (or, if the Special DROP Participant elects, pursuant to Section

3.4, a form of benefit other than the life only option, a monthly retirement benefit equal to the Actuarial Equivalent of the benefit the Special DROP Participant would have received had he retired as of his other Special DROP Participation Date and elected the life only option). In lieu of a lump sum distribution, a Special DROP Participant may elect to receive the Actuarial Equivalent of the balance of his Account upon his Termination Date in the same form of benefit in which he elects to receive the monthly retirement benefit referred to in the previous sentence. If elected, the lump sum distribution shall be paid as soon as administratively feasible following the Special DROP Participant's Termination Date (or, if the Special DROP Participant so elects, as soon as administratively feasible following the January 1 next following his Termination Date), and the monthly benefit shall commence as of the first day of the month coincident with or next following his Termination Date. If the Special DROP Participant elects to defer payment of lump sum distribution pursuant to the preceding sentence, his Account shall be credited with interest pursuant to paragraph (d)(iv) above through and including the December 31 next following his Termination Date.

(f) If a Special DROP Participant reaches a Termination Date on or after his Special DROP Participation Date by reason of total and permanent disability (as defined in Section 3.6), the Special DROP Participant shall be eligible to receive, notwithstanding any other provision of this Plan to the contrary, a lump sum distribution of cash equal to the balance of his Account upon his Termination Date and, in accordance with the applicable provisions of this Article 3, a monthly retirement benefit equal to the benefit the Special DROP Participant would have received had he retired as of his Special DROP Participation Date and elected the life only option (or, if the Special DROP Participant elects, pursuant to Section 3.4, a form of benefit other than the life only option, a monthly retirement benefit equal to the Actuarial Equivalent of the benefit the Special DROP Participant would have received had he retired as of his Special DROP Participation Date and elected the life only option). In lieu of a lump sum distribution, the Special DROP Participant may elect to receive the Actuarial Equivalent of the balance of his Account upon his Termination Date in the same form of benefit in which he elects to receive the monthly retirement benefit referred to in the previous sentence. If elected, the lump sum distribution shall be paid as soon as administratively feasible following the Special DROP Participant's Termination Date (or, if the Special DROP Participant so elects, as soon as administratively feasible following the January 1 next following the Termination Date), and the monthly benefit shall commence as of the first day of the month coincident with or next following the Termination Date. If a Special DROP Participant elects to defer payment of his lump sum distribution pursuant to the preceding sentence, his Account shall be credited with interest pursuant to paragraph (d)(iv) above through and including the December 31 next following the Termination Date.

(g) If the Special DROP Participant dies on or after the Special DROP Participation Date and before his Termination Date under the Special DROP program, his Beneficiary shall receive, in addition to the death benefit otherwise payable under Section 4.1 or 4.2, a lump sum distribution in cash equal to the balance of the Special DROP Participant's Account upon his death. Notwithstanding the preceding sentence, if the Special DROP Participant has deferred payment of his lump sum distribution pursuant to subsection (e) or (f) and dies before such lump sum is paid, his Account shall be credited with interest pursuant to paragraph (d)(iv) through the last day of the month coincident with or next preceding the date of death and his Beneficiary shall receive a lump sum distribution in cash equal to the balance of his Account upon death. A lump sum distribution payable pursuant to this subsection (g) shall be paid as soon as administratively feasible following the Participant's death.

ARTICLE 4
DEATH BENEFITS

4.1 **DEATH BENEFITS.** Unless a benefit is payable under Section 4.2, in which case no death benefits will be separately payable pursuant to this Section 4.1, the only benefits payable under the Plan in the event of the death of a Participant shall be as follows:

(a) No benefits will be payable under the Plan in the event of the death of a Participant before his or her benefits commence, except that his or her Beneficiary shall be entitled to receive the Participant's Employee Contributions Benefit, payable in one or more installments over a period that meets the requirements of Section 3.8 and is elected by the Participant or, if the Participant has made no election, by his or her Beneficiary.

(b) If a Participant dies after his or her benefits have commenced, the benefits, if any, to which his or her Beneficiary shall be entitled shall depend upon the form in which the Participant's benefits were payable at the time of his or her death, under the applicable form of benefit described in Section 3.4.

4.2 **SURVIVING SPOUSE'S BENEFIT.** Notwithstanding any Plan provision to the contrary:

(a) **Survivor Annuity Benefit.** If all of the following conditions are met, then (regardless of any contrary Beneficiary designation made pursuant to the Plan) the surviving spouse of a deceased Participant shall be entitled to receive a survivor annuity, in lieu of any other Plan benefit:

(i) The Participant is married on the date of death;

(ii) The Participant was, immediately prior to his or her death, 100% vested in his or her Accrued Benefit;

(iii) The Participant's death occurs while actively employed by the City and before his or her Annuity Starting Date; and

(iv) The City does not implement a Cash-Out pursuant to Section 4.2(c).

For this purpose, a survivor annuity is a monthly income commencing on what would have been the Participant's Normal Retirement Date (or such earlier date as the spouse may elect, but not earlier than the first day of the month coincident with or next following what would have been the Participant's 55th birthday) and continuing for the remainder of the spouse's life, in an amount equal to the greater of: (1) the Actuarial Equivalent of the amount the surviving spouse would be entitled to receive pursuant to Section 4.1 if the spouse were the designated Beneficiary, or (ii) 50% of the Participant's Accrued Benefit, or the Actuarial Equivalent of that amount, if the benefit commences before the date that would have been the Participant's Normal Retirement Date.

(b) **Waiver of Survivor Annuity Benefit.** Notwithstanding Section 4.2(a), a Participant may elect to have the death benefit described in Section 4.1(a) paid, in lieu of any

other Plan benefit, to a Beneficiary other than his or her spouse. To be effective, such election must be made in writing, on a form supplied by the City, after the Participant becomes 100% vested in his or her Accrued Benefit.

(c) Cash-Out. If the Participant has not waived the surviving spouse benefit provided under this Section 4.2, and notwithstanding the provisions of Section 4.2(a), upon the request of the surviving spouse, the City shall cause a Cash-Out of the Participant's Employee Contributions Benefit to be made to the Participant's surviving spouse, in lieu of all other benefits.

4.3 DESIGNATION OF BENEFICIARIES. Each Participant may designate a Beneficiary or Beneficiaries (who may be named contingently or successively) to receive such benefits as may be payable under the Plan upon or after his or her death, and, subject to the provisions of Section 3.5, such designation may be changed from time to time by the Participant by filing a new designation. Each designation will revoke all prior designations by the same Participant, shall be in a form prescribed by the City, and will be effective only when filed in writing with the City during his or her lifetime.

In the absence of a valid Beneficiary designation (except in conjunction with the election of a form of benefit payment which does not require the designation of a specific Beneficiary), or if, at the time any benefit payment is due to a Beneficiary, there is no living Beneficiary eligible to receive the payment, and validly named by the Participant, the City shall direct the Trustees to distribute any such benefit payment to the Participant's spouse, if then living, otherwise to the Participant's then living descendants, if any, per stirpes, otherwise to the Participant's then living parent or parents, equally, otherwise to the Participant's estate. In determining the existence or identity of anyone entitled to a benefit payment, the City and the Trustees may rely conclusively upon information supplied by the Participant's Personal Representative. In the event of a lack of adequate information having been supplied to the City, or in the event that any question arises as to the existence or identity of anyone entitled to receive a benefit payment as aforesaid, or in the event that a dispute arises with respect to any such payment, then, notwithstanding the foregoing, the City, in its sole discretion, may direct the Trustees to: (i) distribute such payment to the Participant's estate, (ii) retain such payment, without liability for interest, until the rights thereto are determined, or (iii) deposit the payment into any court of competent legal jurisdiction.

4.4 INFORMATION TO BE FURNISHED BY PARTICIPANTS AND BENEFICIARIES. Any communication, statement or notice addressed to a Participant or Beneficiary at his or her last post office address filed with the City, or if no such address was filed with the City, then at his or her last post office address as shown on the City's records, shall be binding on the Participant or Beneficiary for all purposes of the Plan. Except for the City's sending of a registered letter to the last known address, neither the Trustees nor the City shall be obliged to search for any Participant or Beneficiary. If the City notifies any Participant or Beneficiary that he or she is entitled to an amount under the Plan and the Participant or Beneficiary fails to claim such amount or make his or her location known to the City within three years thereafter, then, except as otherwise required by law, if the location of one or more of the next of kin of the Participant, including his or her surviving spouse, is known to the City, it may direct distribution of such amount to any one or more or all of such next of kin, and in such proportions as the City determines. If the location of none of the foregoing persons can be determined, the City shall have the right to direct that the amount payable shall be deemed to be a forfeiture, except that the dollar amount of the forfeiture, unadjusted for gains or losses in the

interim, shall be reinstated if a claim for the benefit is made by the Participant or Beneficiary to whom it was payable. If any benefit payable to an unlocated Participant or Beneficiary is subject to escheat pursuant to applicable state law, neither the Trustees nor the City shall be liable to any person for any payment made in accordance with such law.

ARTICLE 5
TERMINATION OF EMPLOYMENT

5.1 **DEFERRED PENSION BENEFITS.** If a Participant’s Termination Date occurs for any reason other than death, early retirement, normal retirement, late retirement or disability, the Participant shall be entitled to a monthly retirement benefit equal to the vested portion (determined as set forth below) of his or her Accrued Benefit (based upon his or her Average Compensation and Periods of Credited Service on his or her Termination Date), but subject to the appropriate Actuarial Reduction, if any.

If the Participant has not elected to receive a Cash-Out of his or her Employee Contributions Benefit, benefits payable pursuant to the above paragraph shall commence on the Participant’s Normal Retirement Date and are payable in the Normal Form of benefit unless the Participant elects an optional form of benefit in accordance with Section 3.4.

However, if the Participant has completed the service requirements for an Early Retirement Benefit (but not otherwise attained eligibility for Early Retirement), the Participant may elect to begin receiving his or her retirement benefit on the first of any month coincident with or next following his or her 55th birthday, but not later than his or her Normal Retirement Date. If paid before the Normal Retirement Date, the monthly benefit will be reduced for early commencement as described in Section 1.3 in the same manner as an Early Retirement Benefit.

Subject to Section 2.2, the vested portion of a Participant’s Accrued Benefit at any time shall be equal to the greater of: (i) 100% of the Participant’s Employee Contributions Benefit, or (ii) the Participant’s Accrued Benefit, determined based on the number of whole years in his or her Periods of Service, multiplied by the vested percentage determined in accordance with the following schedule:

Number of Years of Service	Vested Percentage
Less than 5	0%
5	25%
6	30%
7	35%
8	40%
9	45%
10	50%
11	60%

Number of Years of Service	Vested Percentage
12	70%
13	80%
14	90%
15 or more	100%

Notwithstanding any other provision of this Section 5.1, any Participant who has satisfied the eligibility requirements for early retirement under Section 3.3 or for normal retirement under Section 3.1 or who has become eligible for and elected a disability retirement under Section 3.6 shall be fully vested in his or her Accrued Benefit without regard to the total of his or her Periods of Service.

A Participant who is credited with less than five years of Periods of Service on his or her Termination Date and who has not satisfied the requirements eligibility for early retirement benefits under Section 3.3 or for normal retirement benefits under Section 3.1 and has not become eligible for and elected a disability retirement under Section 3.6 is eligible to receive a Cash-Out of his or her Employee Contribution Benefit in accordance with Section 3.4(c)(iv) but is not entitled to any other benefit under the Plan.

ARTICLE 6 **CONTRIBUTIONS**

6.1 **CITY CONTRIBUTIONS.** The funding of the Plan and payment of benefits hereunder shall be provided for through the medium of the Trust. The Trust shall accept transfer of funds from The Ocean City, Maryland Public Safety Employees Pension Plan and Trust, consistent with the establishment of this Plan. Thereafter the City, from time to time, shall make contributions to the Trust in amounts determined, in accordance with generally accepted actuarial principles, to be sufficient to support the contributions required under Section 6.2 and the contributions and transfers made pursuant to Section 6.3, to fund the benefits provided by the Plan and to maintain the Plan in a sound actuarial condition.

6.2 **PICK-UP CONTRIBUTIONS.** Under limited circumstances described below, Participant contributions may be accepted by the Plan.

(a) **City Pick-up Contributions.** In accordance with rules established by the City, each Participant who is a Covered Employee shall make contributions to the Plan equal to 5.0% of his or her compensation until his or her Termination Date. The participant contributions referred to in this Section 6.2 shall be picked up by the city, as described in Code §414(h)(2), deducted from the pay of the contributing Participants as salary reduction contributions, and paid by the City to the Trustees with reasonable promptness after the total of such contributions during any month has been determined, and in any event by the end of the succeeding month. The contributions made pursuant to this Section 6.2 shall be made a part of the Participant's Employee Contributions Benefit.

(b) **Suspension of Contributions.** A Participant's salary reduction

contributions shall be automatically suspended for any payroll period during which he or she is not a Covered Employee or during which he or she is on an unpaid Leave of Absence.

(c) Withdrawals of Pick-Up Contributions. A Participant who has reached his or her Termination Date may elect, at any time, to receive a Cash-Out of his or her Employee Contributions Benefits, by filing a written notice of such election with the City. Subject to Section 2.2(d), such Cash-Out shall constitute full payment of all benefits due to such Participant under the Plan.

(d) Forfeiture of Remaining Accrued Benefit. In the event of a Cash-Out to a Participant pursuant to this Section 6.2, then, subject to restoration provided in Section 2.2(d), the entire remaining portion of his or her Accrued Benefit shall be forfeited by the Participant.

(e) Vesting of Pick-Up Contributions. Notwithstanding any provision of this Plan to the contrary, Participant contributions picked up by the City shall be fully vested at all times.

(f) Payment of Benefits. Subject to the right of withdrawal described above, the benefits purchased from the Participant's contributions shall be payable at the same time, in the same manner, and, in the event of his or her death, to the same Beneficiary or Beneficiaries, as is the remainder of his or her Accrued Benefit.

(g) Plan Termination. In the event of a termination of the Plan, distribution to each Participant of the portion of his or her Accrued Benefit attributable to his or her contributions picked up by the City shall, notwithstanding any other provision of Article 7, be treated as a priority distribution ahead of any other distribution to Participants based upon the remainder of the Trust, other than those attributable to contributions made pursuant to Section 6.3.

6.3 PARTICIPANT CONTRIBUTIONS. Under limited circumstances, as described below, other Participant contributions may be accepted by the Plan.

(a) Characterization. Contributions made pursuant to this Section 6.3 are classified as after-tax contributions made directly by the Participant.

(b) Limitations. A Participant may elect to make contributions pursuant to this Section 6.3 within the following limitations:

(i) A Participant who elects to restore credit for service and benefits, as described in Section 2.2(d), shall pay over to the Plan the amount of any Cash-Out previously made to him or her, with interest thereon.

(ii) A Participant who is on an unpaid Leave of Absence, as described in Section 1.20(b), and who elects to contribute to the Plan during the Leave of Absence, shall make contributions to the Plan equal to 5.0% of his or her Compensation in effect on Compensation Calculation Date preceding the date such Leave of Absence began.

(c) Procedures. All Participant contributions or transfers made pursuant to this Section 6.3 shall be paid to the Trust.

(d) Separate Accounting. Participant contributions, whether made directly or transferred from another retirement plan, as aforesaid, shall be made a part of the Participant's Employee Contributions Benefit, which shall be a part of the Accrued Benefits of the respective Participants.

(e) Withdrawals of Participant Contributions. A Participant who has reached his or her Termination Date may elect, at any time, to receive a Cash-Out of his or her Employee Contributions Benefit, by filing a written notice of such election with the City. Subject to Section 2.2(d), such Cash-Out shall constitute full payment of all benefits due to such Participant under the Plan.

(f) Forfeiture of Remaining Accrued Benefit. In the event of a Cash-Out to a Participant pursuant to this Section 6.3, then, subject to restoration provided in Section 2.2(d), the entire remaining portion of his or her Accrued Benefit shall be forfeited by him or her.

(g) Vesting of Participant Contributions. Notwithstanding any provision of this Plan to the contrary, Participant contributions made to the Plan shall be fully vested at all times.

(h) Payment of Benefits. Subject to the right of withdrawal described above, the benefits purchased from the Participant's contributions shall be payable at the same time, in the same manner, and, in the event of his or her death, to the same Beneficiary or Beneficiaries, as is the remainder of his or her Accrued Benefit.

(i) Plan Termination. In the event of a termination of the Plan, distribution to each Participant of the portion of his or her Accrued Benefit attributable to his or her Participant contributions shall, notwithstanding any other provision of Article 7, be treated as a priority distribution ahead of any other distribution to Participants based upon the remainder of the Trust.

6.4 TEMPORARY SUSPENSION OF CONTRIBUTIONS. Consistent with the purposes of the Plan, the funding requirements of applicable law, and with sound actuarial principles, the City, in its sole discretion, may suspend its contributions for one or more years.

6.5 DISPOSITION OF FORFEITURES. Any forfeiture arising under the provisions of the Plan shall be used to reduce the then current or future costs of funding the benefits provided in the Plan.

6.6 ACTUARIAL EXAMINATION. The City shall, at least once every Plan Year, cause the liabilities of the Plan to be evaluated by an enrolled actuary who shall report to the City as to the soundness and solvency of the Trust in relation to the said liabilities, the amount of the annual City contribution sufficient to meet the requirements of Section 6.1, and the applicable limitations established by law as to the maximum and minimum amount of the contribution in respect of both past and currently accruing benefit liabilities which would be deductible for federal income tax purposes if the City were a tax paying entity.

ARTICLE 7
AMENDMENT AND TERMINATION

7.1 **CITY'S RIGHT TO AMEND.** The City shall have the right to amend this Plan in any and all respects at any time and from time to time, including the right to reduce or suspend contributions; provided, however:

(a) that no amendment shall increase the duties or liabilities of the Trustee without its consent;

(b) that no amendment shall provide for the use of the Fund other than for the benefit of Participants and Beneficiaries, except as provided in Section 7.3; and

(c) that no amendment shall deprive any Participant of any vested interest in his or her Accrued Benefit. If the Plan's vesting schedule is amended, any Participant having not less than three years of service shall be permitted to elect, in writing, to the Administrator, to have his or her Vested Percentage computed under the Plan without regard to such amendment, provided such Participant's Vested Percentage at some point under the amended schedule may be less than such Participant's Vested Percentage at some point under the prior vesting schedule.

The period during which the vesting schedule election must be made by the Participant shall begin no later than the date the Plan amendment is adopted and end no later than the latest of the following dates:

(i) The date which is 60 days after the day the amendment is adopted;

(ii) The date which is 60 days after the day the amendment becomes effective;

(iii) The date which is 60 days after the day the Participant is issued written notice of the amendment by the City or Administrator.

7.2 **TERMINATION OF THE PLAN.**

(a) The City reserves the right to terminate all or any portion of the Plan or to terminate or limit the participation of any City in the Plan at any time.

(b) In the event of a termination or partial termination, as determined under applicable Internal Revenue Service regulations and rulings, of the Plan, all affected Participants on the date of the termination or partial termination, to the extent required by law, shall have a nonforfeitable right to benefits under this Plan accrued on the date of the termination or partial termination to the extent the same are funded as of such date.

(c) Upon termination or partial termination of the Plan as described above, the Administrator, to the extent necessary, shall make provision for any expenses of the Plan and the Administrator shall allocate the assets of the Fund, as appropriate. Upon such allocation of assets, the Administrator shall have the authority to direct the liquidation and distribution of the Fund.

(d) The assets of the Plan upon Plan termination will be allocated for the purposes set forth below and in the order set forth below, to the extent the assets are sufficient therefor. The allocations may be implemented by distribution of assets in cash or in kind, or by the purchase and distribution by the Trustees of annuity contracts, or by a combination of these methods. The allocation of assets of the Plan shall be made pursuant to the following order of priorities:

(i) to provide benefits for each Participant who: (a) had begun to receive benefits at least three years prior to the effective date of the termination of the Plan, (b) would have begun to receive retirement or disability benefits at least three years prior to the effective date of the termination of the Plan but for the fact that commencement of benefits was deferred, or (c) would have been eligible to receive retirement benefits at least three years prior to the effective date of the termination of the Plan but for the fact that the Participant did not actually retire;

(ii) to provide benefits for all other Participants, in the following order of preference:

(A) for each Participant who would have qualified under priority (i) above but for the fact that the entitling event occurred or would have occurred within three years of the effective date of the termination of the Plan, and

(B) for all other Participants in this priority (ii);

(iii) to provide the vested benefits described in (and in the same order of preference set forth in) priority (ii) which are in excess of the amounts covered thereunder; and

(iv) to provide all other benefits under the Plan.

Plan assets shall be utilized under a particular priority only after all Accrued Benefits set forth in all preceding priorities shall have been fully provided for. For purposes of the allocation of funds within each priority, as set forth above, funds will be credited to each Participant to provide the Accrued Benefits to which he or she is so entitled, but only to the extent that such Accrued Benefits have not been provided under a preceding priority. Any reductions in Accrued Benefits within a particular priority (or within any particular preference set forth in that priority or preference) shall be allocated pro-rata on the basis of then present values of the respective Accrued Benefits described in that priority (or preference) for each such Participant. Any reference to Accrued Benefits payable to Participants shall be deemed to include Accrued Benefits payable to Beneficiaries of deceased Participants. If any balance of Plan assets remains after all of the allocations described above, and after all liabilities with respect to Participants and retired Participants and their Beneficiaries, if any, are satisfied, then the balance shall be returned to the City, and the Plan shall terminate. Upon making such distribution, the Trustees shall be discharged from all obligations under the Plan and no Participant shall have any further right or claim therein.

7.3 RELEASE AND DISCHARGE OF ADMINISTRATOR. Notwithstanding the above, in case the Plan is terminated in whole or in part, the Administrator, to the extent permitted under applicable law, shall distribute the assets in the Fund. To the extent permitted by applicable law, when the assets in the Fund shall have been so applied or distributed and the

accounts of the Fund shall have been so settled, the Administrator shall be released and discharged from all further accountability or liability respecting the Plan and the Fund (or that part of the Fund so applied or distributed if the Plan is terminated only in part) and shall not be responsible in any way for the further disposition of the Fund (or that part of the Fund so applied or distributed, if the Plan is terminated only in part) or any part thereof so applied or distributed.

ARTICLE 8 **ADMINISTRATION**

8.1 **ADMINISTRATION.** The Administration of this Plan shall be the responsibility of the following named fiduciaries:

(a) The Trustee with respect to the management, control and investment of the Trust (except to the extent the Trustee is subject to the direction of the Administrator or an investment manager) and the payment of benefits to Participants and their beneficiaries;

(b) The Administrator or other person or persons designated by the Administrator for purposes of determining appeals with respect to denied claims for benefits; and

(c) The Administrator with respect to controlling and managing the administration and operation of the Plan as hereinafter set forth. The Administrator may, through a written instrument, designate other persons to carry out some or all of its fiduciary responsibility.

The authority of each named fiduciary in its designated area of responsibility as aforesaid shall be exclusive, and no named fiduciary shall have either authority or responsibility to exercise any discretion or control other than as specifically delegated to the named fiduciary hereunder. Any person or group of persons or entity may serve in more than one fiduciary capacity with respect to the Plan.

ARTICLE 9 **THE ADMINISTRATOR**

9.1 **MEMBERS.** The Administrator shall be designated by the City and may be the City or a committee of one or more individuals. The Administrator shall serve until death, resignation or removal by the City. The Administrator may, but need not, be a Participant in the Plan.

9.2 **PROCEDURE.**

(a) The Administrator may elect from among its membership, by a majority vote for each, a secretary and such other officers as the Administrator may deem expedient. The Administrator shall meet as often as its Chairperson deems necessary to carry out its functions. Any other two members of the Administrator may call a meeting at any time by giving due notice thereof to the Chairperson and the other Administrator members.

(b) Action by the Administrator on any matter of substance or on any matter that requires the exercise of discretion by the Administrator shall be taken at a meeting of the Administrator by a majority vote or by unanimous written consent without a meeting. Action on

purely administrative matters may be taken by any member designated by a majority of the entire Administrator to act upon such administrative matter. However, no member of the Administrator who is a Participant shall vote or act on any question concerning only his or her rights or his or her beneficiaries' rights under the Plan.

9.3 POWERS AND RESPONSIBILITIES. The Administrator shall have the following powers and responsibilities:

(a) Under advice of counsel, who may be counsel to the City or counsel of its own selection, construing the Plan, and remedying any ambiguities, inconsistencies or omissions.

(b) Determining all questions relative to the eligibility of employees to be Participants and the benefits of Participants or beneficiaries.

(c) Establishing reasonable rules for the administration of the Plan.

(d) Maintaining appropriate records relating to Participants and their beneficiaries.

(e) Communicating the funding policy to the Trustee and to any investment managers whose duties are to determine the investment policy of the Fund.

(f) Preparing and filing such reports and returns with respect to the Plan as are required by law.

(g) Appointing such investment managers with respect to all or any designated part of the Fund as it shall deem appropriate.

(h) Performing other duties necessary for the administration of this Plan which appear to the Administrator to be necessary or appropriate in order properly to administer and operate the Plan.

The Administrator shall discharge its duties for the exclusive purpose of providing benefits hereunder and defraying the reasonable expenses of operating the Plan and with the skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

In carrying out its duties herein, the Administrator shall have discretionary authority to exercise all powers and to make all determinations, consistent with the terms of the Plan, in all matters entrusted to it, and its determinations shall be given deference and shall be final and binding on all interested parties.

9.4 CERTIFICATIONS AND INVESTIGATIONS.

(a) Whenever in the administration of the Plan a certification by the City is required to be given to the Administrator, or if the Administrator shall deem it necessary that a matter be proved by certification of the City prior to taking or omitting any action hereunder, such certification shall be duly made, and the matter shall be deemed proved, by an instrument delivered to the Administrator, signed in the name of the City by its duly authorized representative. The Administrator shall be empowered to act, and shall be protected in acting, upon such instrument. Further, the Administrator shall be empowered to act, and shall be protected in acting, upon any notice, resolution, order, offer, telegram, letter or other document believed by the Administrator to be genuine and to have been signed by the proper party or parties.

(b) The Administrator shall not be required to make any investigation to determine the identity or mailing address of any person entitled to benefits under this Plan and shall be entitled to withhold the payment of benefits until the identity and mailing addresses of persons entitled to benefits are certified to it by the City or by such person.

9.5 CLAIMS PROCEDURE. Any person claiming a benefit under the Plan (a "Claimant") shall present the claim, in writing, to the Administrator, and the Administrator shall respond in writing. If the claim is denied, the written notice of denial shall state, in a manner calculated to be understood by the Claimant:

(a) The specific reason or reasons for denial, with specific references to the Plan provisions on which the denial is based;

(b) A description of any additional material or information necessary for the Claimant to perfect his or her claim and an explanation of why such material or information is necessary; and

(c) An explanation of the Plan's claims review procedure.

The written notice denying or granting the Claimant's claim shall be provided to the Claimant within 90 days after the Administrator's receipt of the claim, unless special circumstances require an extension of time for processing the claim. If such an extension is required, written notice of the extension shall be furnished by the Administrator to the Claimant within the initial 90 day period and in no event shall such an extension exceed a period of 90 days from the end of the initial 90 day period. Any extension notice shall indicate the special circumstances requiring the extension and the date on which the Administrator expects to render a decision on the claim. Any claim not granted or denied within the period noted above shall be deemed to have been denied.

Any Claimant whose claim is denied, or deemed to be denied under the preceding sentence, (or such Claimant's authorized representative) may, within 60 days after the Claimant's receipt of notice of the denial, or after the date of the deemed denial, request a review of the denial by notice given, in writing, to the Administrator. Upon such a request for review, the claim shall be reviewed by the Administrator (or its designated representative) which may, but shall not be required to, grant the Claimant a hearing. In connection with the review, the Claimant may have representation, may examine pertinent documents, and may submit issues and

comments in writing.

The decision on review normally shall be made within 60 days of the Administrator's receipt of the request for review. If an extension of time is required due to special circumstances, the Claimant shall be notified, in writing, by the Administrator, and the time limit for the decision on review shall be extended to 120 days. The decision on review shall be in writing and shall state, in a manner calculated to be understood by the Claimant, the specific reasons for the decision and shall include references to the relevant Plan provisions on which the decision is based. The written decision on review shall be given to the Claimant within the 60 day (or, if applicable, the 120 day) time limit discussed above. If the decision on review is not communicated to the Claimant within the 60 day (or, if applicable, the 120 day) period discussed above, the claim shall be deemed to have been denied upon review. All decisions on review shall be final and binding with respect to all concerned parties.

9.6 ADVICE. The Administrator may secure specialized advice or assistance as it deems necessary or desirable in connection with the administration and operation of the Plan and shall be entitled to rely conclusively upon, and shall be fully protected in any action or omission taken by it in good faith reliance upon, any advice or opinion so obtained.

9.7 DELEGATION. The Administrator shall have the power and authority to delegate from time to time by written instrument all or any part of its duties, powers or responsibilities under the Plan, both ministerial and discretionary, as it deems appropriate, to any person, and in the same manner to revoke any such delegation of duties, powers or responsibilities. Any action of such person in the exercise of duties, powers or responsibilities delegated to such person shall have the same force and effect for all purposes hereunder as if such action had been taken by the Administrator. Further, the Administrator may authorize one or more persons to execute any certificate or document on behalf of the Administrator, in which event any person notified by the Administrator of such authorization shall be entitled to accept and conclusively rely upon any such certificate or document executed by such person as representing action by the Administrator until such third person shall have been notified of the revocation of such authority. Except to the extent required by applicable law, the Administrator shall not be liable for any act or omission of any person to whom the Administrator's duties, powers or responsibilities have been delegated, nor shall any person to whom any duties, powers or responsibilities have been delegated have any liabilities with respect to any duties, powers or responsibilities not delegated to such person, except to the extent required by applicable law.

9.8 LIABILITY INDEMNIFICATION. Except to the extent required by applicable law, no member of the Administrator shall incur any liability: (i) by virtue of any contract, agreement, bond or other instrument made or executed by the member or on the member's behalf as a member of the Administrator, (ii) for any act or failure to act, or any mistake or judgment made by the member, with respect to the business of the Plan, unless resulting from the member's gross negligence or willful misconduct, or (iii) for the neglect, omission or wrongdoing of any other member of the Administrator or of any person employed or retained by the Administrator. The City shall indemnify and hold harmless each member of the Administrator from the effects and consequences of the member's acts, omissions and conduct with respect to the Plan, except to the extent that such effects and consequences shall result from the member's own willful misconduct or gross negligence. The foregoing right to indemnification shall be in addition to such other rights as the Administrator may enjoy as a matter of law or by reason of insurance coverage of any kind. Rights granted hereunder shall be in addition to and not in lieu of any

rights to indemnification to which the Administrator may be entitled pursuant to the by-laws of the City, and, if the Administrator is an Employee, service as the Administrator shall be deemed in partial fulfillment of the member's employment function. In all computations, the Administrator shall be entitled to rely fully upon data furnished by the City and upon information furnished it by or on behalf of an Employee or Employees.

9.9 INSURANCE. The Plan may purchase, as an expense of the Plan, liability insurance for the Plan and/or for its fiduciaries to cover liability or losses occurring by reason of an act or omission by a fiduciary. In addition, any fiduciary may purchase, from and for the fiduciary's own account, insurance to protect the fiduciary in the event of a breach of fiduciary duty, and the City may also purchase insurance to cover the potential liability of one or more persons who serve in a fiduciary capacity with regard to the Plan.

9.10 BONDING. The Administrator shall arrange for such bonding as is required by law. Bonding in excess of the amount required by law shall not be considered required, but shall be permitted, by this Plan. The costs for such bonding shall be paid by the City or, if the City elects, from the Trust.

9.11 COMPENSATION. The Administrator shall serve without compensation, but all expenses of the Administrator incurred in the performance of duties hereunder shall be proper charges to the Trust and shall be paid therefrom unless the City, in its discretion, chooses to pay such expenses.

9.12 PLAN RECORDS. The Administrator, or the Secretary of the Administrator shall keep or cause to be kept records reflecting administration of the Plan, which records shall be subject to audit by the City. A Participant may examine only those records pertaining directly to the Participant.

9.13 INSTRUCTIONS TO TRUSTEES. The Administrator shall provide appropriate written instructions to the Trustee signed by an authorized member or members of the Administrator to enable it to make the distributions provided for in the Plan. The Trustee shall be entitled to rely upon any written notice, instruction, direction, certificate or other communication reasonably believed by it to be genuine and to be signed by an authorized member of the Administrator or an officer of the City, and the Trustee shall be under no duty to make investigation or inquiry as to the truth or accuracy of any statement contained therein, unless it knows that the direction or instruction constitutes a breach of the Administrator's or an City's fiduciary responsibility with respect to the Plan.

9.14 INVESTMENT MANAGERS. The City's power to retain the services of an investment manager(s) for the management of (including the power to acquire and dispose of) all or any part of the Fund's assets, shall be limited to the retention of such persons or firms that are registered as investment managers under the Investment Advisers Act of 1940, as Banks (as defined in that Act), or which are insurance companies qualified to manage, acquire or dispose of the Fund's assets under the laws of more than one state, and provided that each of such persons or firms has acknowledged to the Administrator and the Trustee in writing that he is a fiduciary with respect to the Plan. In such event, the Trustee shall not be liable for the acts or omissions of such investment manager or managers, nor shall it be under any obligation to invest or otherwise manage any assets which are subject to the management of such investment manager or managers.

ARTICLE 10
TRUST AND TRUSTEE

10.1 **TRUST FUND.** The Trust Fund shall consist of all contributions made by the City or transferred to the Trust Fund as provided herein, and the investments and reinvestments thereof and the income thereon which shall be accumulated and added to principal.

10.2 **TRUSTEE CONTROL.** The Trustee shall hold and invest the funds and assets received by the Trustee under this Plan subject to the terms of this Plan and for the purposes herein set forth. The Trustee will have exclusive authority and discretion to manage and control the assets of the Trust except as otherwise provided under the Plan or under a separate Trust Agreement. The Trustee shall be responsible only for such funds and assets as shall actually be received by the Trustee as Trustee hereunder.

So long as a Trustee is acting, title to any of the assets of the Trust Fund may be held or registered in the name of a nominee of the Trustee for ease of dealing with the same, provided that the books of the Trust reflect actual ownership. The Trustee shall be liable for the acts of its nominees. The assets so held or registered shall at all times remain in the possession or under the control of the Trustee.

The City may at any time affirmatively direct the Trustees with regard to investment of the Trust, or direct the Trustees to obtain the City's approval before exercising any of the powers granted the Trustees. Any such direction may be of a continuing nature or otherwise, may be revoked at any time, and shall be complied with as promptly as possible by the Trustees. To the extent not inconsistent with the fiduciary responsibility provisions of applicable law, the Trustees shall not be liable for any loss or depreciation in value of the Trust, or any adverse effect upon the exempt status of the Trust under the Code, resulting from actions taken in accordance with the City's affirmative direction or from the failure or refusal of the City to give any required approval, nor shall the Trustees be obliged to review the assets of the Trust acquired on the direction of the City. If the City exercises its discretion under this Section: (i) the City shall have the power to retain an investment manager as set forth in Section 10.6(b), and its fiduciary liability, as well as that of the Trustees, with respect thereto shall be limited to the extent set forth therein; and (ii) the City agrees to indemnify the Trustees and hold them harmless from and against any claim or liability which may be asserted against the Trustees by reason of their acting or not acting pursuant to any such direction or failing to act in the absence of any such direction.

10.3 **TRUSTEE APPOINTMENT AND RESIGNATION; REMOVAL AND SUCCESSION OF TRUSTEES.** Each Trustee and each successor Trustee shall continue to serve as such until his or her death, incapacity, resignation, or removal, as herein provided. Any Participant Representative Trustee shall be deemed to have resigned as Trustee upon his or her termination of Employment or upon the date he or she no longer qualifies as a Covered Employee. Any Trustee may resign at any time by giving 30 days' prior written notice to the City. The City may remove any Trustee at any time by written notice to such Trustee. The City may fill any vacancy in the office of Trustee, howsoever caused, or may determine to leave such vacancy unfilled so long as at least one Trustee shall remain; the City shall also have the right, at any time, to add additional Trustees. Pending the appointment of any successor Trustee and the acceptance of such appointment, the existing Trustee or Trustees shall have full power to

take any action hereunder. Each successor or additional Trustee shall have all the rights and powers, as well as duties and liabilities, vested in the original Trustees without the signing or filing of any further instrument, but any resigning or removed Trustee shall execute all documents and do all acts necessary to transfer possession of and vest title of record to any assets of the Trust in any successor Trustee, or in the remaining Trustee or Trustees. With the approval of the City, a successor Trustee may accept the accounting rendered pursuant to Article 10 and the property delivered to it by a predecessor Trustee as a full and complete discharge of the predecessor Trustee, without incurring any liability or responsibility for so doing. Notwithstanding the preceding, upon the vacancy of the office of a Participant Representative Trustee, the City shall fill such vacancy as soon as practicable following such vacancy by the appointment of a successor Participant Representative Trustee.

10.4 PRUDENT PERSON RULE. The Trustee shall discharge its duties under this Plan solely in the interest of Participants and their beneficiaries and: (i) for the exclusive purpose of providing benefits to such Participants and beneficiaries and paying reasonable expenses of administering the Plan; (ii) with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims; (iii) by diversifying the investments of the Plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and (iv) in accordance with the provisions of this Plan insofar as they are consistent with the provisions of applicable law.

10.5 EXPENSES; COMPENSATION. The City agrees to pay all expenses properly and actually incurred by the Trustee in the administration or termination of the Trust Fund, including compensation for the Trustee's services as Trustee and legal expenses, provided that, if the Trustee already receives full time pay from the City, the Trustee may not receive such compensation. Should the City for any reason fail to pay such expenses, the same shall be paid out of the Trust Fund. The Trustee shall receive for the services rendered as Trustee hereunder such reasonable compensation as the City and the Trustee may from time to time agree upon, unless the Trustee receives full time pay from the City.

10.6 MANAGEMENT OF ASSETS.

(a) Powers of the Trustee or Investment Manager. The Trustee who is managing and administering the Trust Fund or, if applicable, the Investment Manager which has been appointed by the City to manage the Plan's assets, shall be and hereby is empowered and authorized, in its sole discretion and subject to current rules and regulations at the time the investment is made and subject to the provisions of the Plan and any separate Trust Agreement, and to subsection (b) of this Section:

(i) To invest and reinvest contributions and any accretions thereto, whether capital gains or income or both, and the proceeds of any sale, pledge, lease or other disposition of any assets of the Trust Fund in bonds, notes, mortgages, commercial paper, coins, stamps, foreign bonds, antiques, broodmares, gold, art, silver, diamonds, second trusts, option securities, in any other type of personal property and in real property; provided, however, that no individually-directed account may be invested in collectibles as described in Code §408(m). Notwithstanding any other provision of this Plan, any person having investment authority with regard to the Trust Fund is hereby authorized to direct the investment of any part or all of the assets of the trust in any common, collective, or group trust ("Common Trust"), including but not

limited to any Common Trust which has been qualified under Code §401(a) and is exempt from taxation under Code §501(a) now or hereafter maintained by a bank or trust company which is a fiduciary with respect to the Plan or trust, as any such Common Trust may have heretofore been or may hereafter be amended, to be held subject to all the provisions thereof and to be commingled with the assets of other trusts participating therein; provided, however, that any investment and retention of an interest therein shall be such as will not adversely affect in any manner the qualified or exempt status of the Plan and trust under Code §401(a) and §501(a). To the extent of the equitable share of the trust in a Common Trust which is qualified under Code §401(a), the Common Trust shall be a part of the Plan and of the trust, and all of the terms and conditions of the instrument creating the Common Trust shall be deemed to be incorporated by reference herein. The power herein conferred is intended to and shall override any provision of this Plan to the contrary (including, but not limited to, any investment limitations contained in or imposed by this Plan).

(ii) To vote any and all stock held hereunder and to continue any investment in stocks, bonds, real estate notes or other securities, or real or personal property, which may at any time form a part of the Trust Fund; provided, however, that the Trustee shall vote stock of the City only upon the instructions of the Administrator or the Participants, except as otherwise required under applicable law.

(iii) To invest, reinvest and change investments; to sell, mortgage, pledge, lease, assign, transfer and convey any and all of the Trust Fund property for cash or on credit, at public or private sale; to exchange any Trust Fund property for other property; to grant options to purchase or acquire any Trust Fund property; to determine the prices and terms of sales, exchanges or options; and to execute, acknowledge and deliver any and all deeds or other trust instruments of conveyance which may be required to carry the foregoing powers into effect, without obligation on the part of the purchaser, lessee, lender, assignee or transferee, or anyone to whom the property may in any way be conveyed to see to the application of the purchase money loans or property exchanged, transferred, assigned or conveyed.

(iv) To allow cash in the Trustee's hands to remain on deposit in the commercial or savings department of any bank or trust company supervised by the United States or a State or agency of either, even if it is a fiduciary or party-in-interest, at any time and from time to time in a reasonable amount; and, as to such amount on deposit, the Trustee shall have liability for such interest as may be paid on such deposit.

(v) To exercise with respect to all investments all of the rights, powers and privileges of an owner including, without limiting the foregoing, the power to give proxies and to pay calls, assessments and other sums deemed necessary for the protection of the Trust Fund; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers and liquidations, and in connection therewith to deposit securities with and transfer title to any protective or other committee under such terms as the Trustee may deem advisable; to exercise or sell stock subscriptions or conversion rights and to accept and retain as an investment hereunder any securities received through the exercise of any of the foregoing powers. If the Trustee shall pay more than the par value of any security purchased, the Trustee shall not be obligated to establish a sinking fund out of the income of such investments for repaying to the principal the same amount paid above par.

(vi) To take any action with respect to conserving or realizing upon the

value of any Trust Fund property and with respect to foreclosures, reorganizations, or other changes affecting the Trust Fund property; to collect, pay, contest, compromise, or abandon demands of or against the Trust Fund estate, wherever situated; and to execute contracts, notes, conveyances and other instruments, including instruments containing covenants and warranties binding upon and creating a charge against the Trust Fund estate, and containing provisions excluding personal liability.

(vii) With the approval of the City, to employ agents, including investment counsel, for advice and to manage the investment of the Trust Fund property, to employ attorneys, auditors, depositories and proxies, with or without discretionary powers and all such parties shall have the right to rely upon and execute the written instructions of the Trustee, and shall not be obligated to inquire into the propriety of the acts or directions of the Trustee, other than is required under applicable law.

(viii) To compromise any claims existing in favor of or made against the Trust Fund.

(ix) After advance notice to the City, to engage in any litigation, either for the collection of monies or for other properties due the Trust Fund, provided in defense of any claim against the Trust Fund; provided, however, that the Trustee shall not be required to engage in or participate in any litigation unless the Trustee shall have been indemnified to its satisfaction against all expenses and liabilities to which the Trustee may become subject.

(x) With the approval of the City, to apply for, and to invest the monies of the trust in, individual or group annuity or other insurance company investment contracts, and, in connection therewith, to hold such contracts in trust pursuant hereto and exercise all of the rights and privileges of ownership of such contracts as they deem advisable.

(b) Investment Manager. Notwithstanding the foregoing, the Trustees, with the approval of the City may appoint an investment adviser registered as such under the Investment Advisers Act of 1940, a bank (as defined in that Act) or an insurance company qualified to perform investment management services under the laws of more than one state to manage the investments of all or any part of the Trust Fund. Upon such appointment, and acknowledgment by the appointee that it is a fiduciary, the appointee shall have all rights to manage the investments of that portion of the Trust Fund over which authority has been granted. The Trustee shall be relieved of all further responsibility in respect thereof and shall abide by the instructions of such appointee.

10.7 RELIANCE BY TRUSTEE. The Trustee may rely on any decision of the Administrator purporting to be made pursuant to the terms of this Plan and on any list or notice furnished by the City or the Administrator as to any facts, the occurrence of any events or the existence of any situation, and shall not be bound to inquire as to the basis of any such decision, list or notice, and shall incur no obligation or liability for any action taken or suffered to be taken by them in reliance thereon.

10.8 CHANGES IN ADMINISTRATOR. The Trustee shall not be bound to inquire as to changes in the Administrator and shall be entitled to rely on such information as it may receive from time to time from the City with respect to such membership.

10.9 LEGAL COUNSEL. The Trustee may consult with legal counsel (who may or may not be counsel for the City) concerning any question which may arise with reference to its duties under this Plan, and the Trustee may rely in good faith upon the opinion of such counsel.

10.10 ACCOUNTING OF FUNDS AND TRANSACTIONS.

(a) The Trustee shall keep true and accurate records of all transactions of the Trust Fund which records shall be available for inspection on order by authorized representatives of the City or by Participants at reasonable times.

(b) On the last day of the Plan Year, or more often as directed by the City, the Trustee shall prepare and deliver to the City an accounting of the funds and transactions since the last previous such accounting of the Trust Fund. In the absence of the filing in writing with the Trustee by the City of exceptions or objections to such accounting within 120 days after the delivery of such accounting to the City, the City shall be deemed to have approved such accounting, and in such a case or upon the written approval by the City of such an accounting, the Trustee shall be released, relieved and discharged with respect to all matters and things disclosed in such accounting as though such accounting had been settled by decree of a court of competent jurisdiction.

10.11 RELIANCE ON TRUSTEE. No person contracting or in any way dealing with the Trustee shall be under any obligation to ascertain or inquire: (i) into any powers of the Trustee, (ii) whether such powers have been properly exercised, or (iii) about the sources or applications of any funds received from or paid to the Trustee. Any person contracting or in any way dealing with the Trustee may rely on the exercise of any power or authority as the conclusive evidence that the Trustee possesses such power or authority.

10.12 LEGAL ACTION. In the case of any suit or proceeding regarding this Plan to which the Trustee is a party, the Trustee shall be reasonably reimbursed for any and all costs, including attorney's fees, and for all necessary expenses which it has incurred or become liable on account thereof or on account of any other phase of its administration of the Trust Fund, and it shall be entitled to reimburse itself for said expenses out of the Trust Fund.

10.13 COMMINGLING WITH RELATED TRUSTS. The Trustee may hold the Trust in common with the trust funds under any other qualified profit sharing or pension plan of the City or its subsidiaries or affiliates. If the Trustee does so, the Trustee shall be under no duty to earmark or keep separate the assets of the Trust, and may commingle them with the assets of the other plans. The Trustee will, however, maintain a separate accounting reflecting the equitable share of each plan in the commingled fund. The City may at any time direct the Trustee to segregate and withdraw the equitable share of the Trust in such assets. The Trustee's valuation of the assets for the purpose of such withdrawal will be conclusive.

10.14 IMMUNITY AND LIABILITY OF TRUSTEES.

(a) The Trustees shall be fully protected in acting upon any instrument, certificate or paper believed by them to be genuine and to be signed or presented by the proper person or persons, and the Trustees shall be under no duty to make any investigation or any inquiry as to any statement contained in any such writing, but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained.

(b) The Trustees shall not be liable for the proper application of any part of the Trust if payments are made in accordance with the directions of the City as herein provided, and the Trustees shall not be obliged to inquire as to whether any payee is entitled to any payment or distribution, pursuant to such directions, or as to whether any payment of distribution, pursuant to such directions, is proper or within the terms of the Plan. The Trustees shall not be required to make any investigation to determine the identity or mailing address of any person entitled to benefits under the Plan and shall be entitled to withhold making any payments or deliveries upon instructions from the City.

(c) The Trustees shall not be responsible for the adequacy of the Trust to meet and discharge any and all payments and liabilities under the Plan. The Trustees shall be responsible only for such sums as shall actually be received by them as Trustees hereunder, and it shall not be the duty of the Trustees to collect, or to ascertain the correctness of the amount of any sum receivable or received from the City.

(d) All persons dealing with the Trustees are released from inquiry as to the decision or authority of the Trustees and from seeing to the application of any property paid or delivered to the Trustee.

(e) No single Trustee shall be personally liable for the acts or omissions of any other single Trustee, and no successor Trustee shall be in any way liable or responsible for anything done or omitted in the administration of the Trust prior to the date he or she became a Trustee.

(f) In the absence of knowledge to the contrary, the Trustees may assume that the Trust is entitled to exemption from federal and state income tax.

(g) The Trustees shall have the right to obtain a judicial settlement of their accounts at any time (the only necessary parties thereto being the Trustees and the City), and such judicial settlement shall be binding on all parties claiming any interest under the Plan or Trust.

(h) If any matter arises as to which the Trustees are entitled to indemnity under this Article 10, the Trustees shall give the City prompt written notice thereof. The City, at its own expense, shall then take charge of the disposition of the matter, including compromise or the conduct of litigation. The Trustees, at their own expense, may retain their own counsel and share in the conduct of any such litigation, but the failure to do so shall not adversely affect their right to indemnity.

ARTICLE 11

MERGERS AND CONSOLIDATIONS

11.1 MERGER, CONSOLIDATION OR TRANSFER OF ASSETS OF THE CITY. In the event of merger or consolidation of the City, or transfer of all or substantially all of its assets to any corporation or other business, provisions may be made by any successor organization for the continuance of this Plan, and said successor shall in such event be substituted in place of the City by an appropriate instrument confirming such substitution and adopting this Plan. Notice of such substitution delivered to the Trustee shall be authority to the Trustee to recognize such successor in place of the City. The continuation of this Plan shall be by a separate plan and trust,

to which the Trustee shall transfer the Plan Accounts of Employees of that City.

11.2 MERGER, CONSOLIDATION OR TRANSFER OF ASSETS OF THE PLAN. In the event of the merger, consolidation or transfer of the assets of the Plan with any other pension or profit sharing plan, such action shall be on terms providing that each Participant in this Plan would (if the transferee plan then terminated) receive a benefit immediately after the merger, consolidation or transfer which is not less than the benefit the Participant would have been entitled to receive immediately before such action (if the Plan had then terminated).

ARTICLE 12

PROVISIONS TO PREVENT DISCRIMINATION

12.1 UNIFORM TREATMENT. This Plan shall be administered and construed in a uniform and non-discriminatory manner, treating similarly situated Participants alike.

ARTICLE 13

MISCELLANEOUS

13.1 NO RIGHT TO EMPLOYMENT. Participation in this Plan shall not give any person the right to be retained in the employ of the City, or any right or interest in this Plan other than as herein provided.

13.2 HEADINGS. The headings and sub-headings in this instrument are inserted for convenience of reference only and are not to be considered in construing the provisions hereof.

13.3 COUNTERPARTS. This instrument may be executed in any number of counterparts, each of which shall be deemed an original, and said counterparts shall constitute but one and the same instrument, which may be sufficiently evidenced by any one counterpart.

13.4 GOVERNING LAW. This Plan shall be construed, administered and governed in all respects under and by the laws of the State of Maryland, except to the extent Maryland law is pre-empted by other applicable law.

13.5 RULES AND REGULATIONS. By becoming a Participant, every Participant shall thereby be deemed to have agreed to abide by the rules and regulations of the Administrator made in accordance with this Plan, and to sign all papers necessary for the compliance therewith.

13.6 NO ASSIGNMENT OF BENEFITS AND FORFEITURE OF BENEFITS FOR CRIME. Except as expressly provided herein, no benefits under the Plan may be assigned or alienated, and the Trustee shall pay all amounts payable hereunder, and shall distribute all assets distributable hereunder, to any person, into the hands of such person and not unto any other person or corporation whatsoever, whether claiming by his or her authority or otherwise; nor may said payments be anticipated. Except as expressly provided herein, the interest of any Participant hereunder may not be assigned or encumbered, nor shall it be subject to attachment or other judicial process. However, deposit to the credit of the account of any person in a bank or trust company designated by such person in writing shall be deemed to be the equivalent of payment into the hands of such person. Notwithstanding the foregoing, amounts held for the benefit of a Participant may be paid in accordance with a "qualified domestic relations order" as defined in Code §414(p) (or a domestic relations order entered before January 1, 1985 which, in the judgment

of the Administrator, is entitled to be treated as a qualified domestic relations order), so long as the payment complies with Code §414(p).

Notwithstanding any provision in the Plan to the contrary, except as provided in the next sentence, no benefits provided under this Plan shall be paid or payable to any Participant, or to his or her beneficiary, who is charged with a criminal offense against the City, which the Trustees determine was committed by the Participant or beneficiary. In such event, the Participant, or his or her beneficiary, shall forfeit said benefits and be entitled to only the return of the Participant's remaining Employee Contributions Benefit, if any.

13.7 HEALTH COVERAGE. Notwithstanding any provisions of this Plan to the contrary, if a Participant is eligible for and elects retiree health coverage under the City's health and hospitalization benefit plan, his or her share of the required premium (20% of the total premium for individual coverage plus 100% of the total premium for coverage for any eligible spouse or other eligible dependent) shall be deducted from his or her monthly pension benefit payment and paid to the Employer for the purpose of providing health and hospitalization coverage in accordance with rules established by the Employer, which will be noted on the Participant's retiree health coverage election form.

To be eligible for the City's health and hospitalization benefit plan for retired public safety employees: (a) a Participant whose Employment Commencement Date or Reemployment Commencement Date is earlier than July 1, 2005 must have either (i) retired after completed at least 25 whole years of Periods of Service, or (ii) completed 15 whole years of Periods of Service and attained age 55 at the time of his or her retirement; and (b) a Participant whose Employment Commencement Date or Reemployment Commencement Date is on or after July 1, 2005 must have completed at least 25 whole years of Periods of Service at the time of his or her retirement. Additional rules and election procedures will apply as noted on the Participant's retirement health coverage election form.

Retirees who meet the eligibility requirements for retiree health care on their date of retirement may drop the City's plan and enroll in a spouse's plan. As long as the retiree remains covered under a group plan, the City's plan will be available if they lose coverage under the spouse's plan. If two spouses work for the, City and one retires, they will be eligible under the active employee's contract and will not have to enroll in the retiree health plan and pay the higher rates. The retiree will be eligible to drop coverage and re-enroll only one time and must provide proof of continuous coverage under a group health plan.

13.8 EXCLUSIVE BENEFIT. The Trust Fund shall be held by the Trustee for the exclusive purpose of providing benefits to Participants and their beneficiaries and defraying reasonable expenses of administering the Plan. No part of the Trust shall ever inure to the benefit of the City prior to the satisfaction of all liabilities to all Participants and their beneficiaries, except that:

(a) Any contribution made to the Trust Fund by the City which is attributable to a mistake of fact may be returned to the City within one year after such contribution was made;

(b) If a return of contributions pursuant to the foregoing is due to a good faith mistake of fact or a good faith mistake in determining the deductibility of the contribution:

(i) The amount which may be returned to the City is the excess of the amount contributed over the amount that would have been contributed had there not occurred a mistake of fact or a mistake in determining the deduction; and


(ii) Earnings attributable to such excess contribution may not be withdrawn, but losses attributable thereto must reduce the amount to be returned.

(c) In the case of the termination of the Plan, any residual assets of the Plan shall be distributed to the City at the direction of the Administrator if all liabilities of the Plan to Participants and their Beneficiaries have been satisfied and the distribution does not contravene any provision of law.

13.9 STATUTE OF LIMITATIONS. No legal action may be commenced or maintained to recover benefits under the Plan more than 12 months after the final review/appeal decision by the Plan Administrator has been rendered (or deemed rendered).


IN WITNESS WHEREOF, as evidence of its adoption of this Plan, the City has caused this Plan to be executed, and, if a separate Trust agreement is not entered into between the City and the Trustee, the Trustees have joined herein to evidence their acceptance of the provisions of the Plan applicable to Trustees, generally effective as of April 1, 2019.

MAYOR AND CITY COUNCIL OF OCEAN CITY, MARYLAND

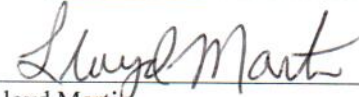


Print Name: Diana L. Chavis
Title: City Clerk
Date: 8-26-19


TRUSTEES

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Heather Stansbury, Legal Counsel
Date: 10-7-19




Lloyd Martin
Date: 8-21-19



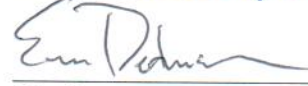
Karin Scott
Date: 8/21/2019



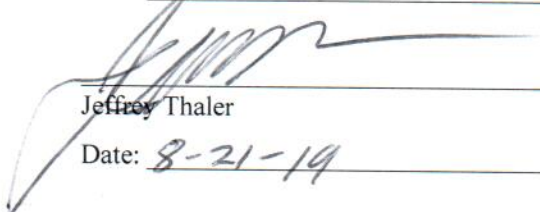
Richard Meehan
Date: 8/21/19



Timothy King, TRUSTEE
Date: 8/21/19



Eric Peterson
Date: 08-21-2019



Jeffrey Thaler
Date: 8-21-19

EXHIBIT A

I. Supplement to Section 3.1:

The following provisions apply to certain Participants, instead of the provisions of Section 3.1:

- A. For Participants who were Covered Employees before April 1, 1996 but were not Covered Employees on or after September 30, 2004, the amount of the monthly pension under Section 3.1 will be the sum of (i) plus (ii) where
- (i) = (A) 35% of the Participant's Average Compensation; reduced by (B) 1/180th of the amount computed in (A) for each month less than 180 in his or her Periods of Credited Service (excluding Periods of Credited Service attributable to Sick Leave Credits) as of his or her Termination Date, and
 - (ii) = 1/12th of two and one-third percent of the Participant's Average Compensation multiplied by months in his or her Periods of Credited Service attributable to Sick Leave Credits.
- B. For Participants who were covered Employees before April 1, 1996 and were also Covered Employees on or after September 30, 2004, the amount of the monthly pension under Section 3.1 will be the greater of the amount determined using the formula in I.A. above or the amount determined using the formula in Section 3.1, without regard to this Exhibit A. For a Covered Employee described in the preceding sentence whose benefit under the formula in I.A. above is greater than or equal to the benefit that would apply under Section 3.1 without regard to this Exhibit A, an additional benefit equal to 130% of the Actuarial Equivalent of the Participant's Employee Contributions Benefit will be paid.
- C. Notwithstanding the preceding or Section 3.1, in no event shall the monthly benefit paid under the Plan be less than the Participant's Accrued Benefits determined as of March 31, 1989 under the terms of the Plan in effect on that date.

II. Supplement to Section 3.3:

For any Participant who became a Covered Employee before April 1, 1996, the following formula applies to determine the Participant's early retirement benefit under Section 3.3, instead of the formula described in Section 3.3:

Amount of Monthly ERBEN = Max (Max (E1 , E2) + E3 , \$25.00) * (Early Retirement Reduction Factor) as follows:

BSVC_PROJ_NRD = benefit accrual service projected to Normal Retirement Date.

E1 is calculated like Normal Retirement Benefit based on service, average final compensation and sick leave credit @ Date of Termination

E2 = (i) + (ii) as follows:

(i) = 35% * Average Monthly Compensation * [Minimum (BSVC_PROJ_NRD, 180)] / 180 * [Minimum ((service @ date of term / BSVC_PROJ_NRD), 1)]

(ii) = ((2-1/3%) * Average Monthly Compensation * Sick Leave Credit)/12

If E2 >= E1, then E3 = 130% (Actuarial Equivalent of Employee Contributions Benefit (expressed as an annuity @ commencement date))

If E2 < E1, then E3 = 0.