

**PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM
BASE PLAN DOCUMENT**

TABLE OF CONTENTS

	Page
ARTICLE I: DEFINITIONS	1
ARTICLE II: MEMBERSHIP	15
ARTICLE III: MUNICIPALITY CONTRIBUTIONS	17
ARTICLE IV: MEMBER CONTRIBUTIONS	18
ARTICLE V: SUPERANNUATION RETIREMENT PENSION	21
ARTICLE VI: EARLY RETIREMENT PENSION	24
ARTICLE VII: DISABILITY PENSION	26
ARTICLE VIII: DEFERRED VESTED PENSION	28
ARTICLE IX: DEATH BENEFITS	30
ARTICLE X: PAYMENT OF ACCRUED BENEFIT - OPTIONAL FORMS OF PAYMENT	32
ARTICLE XI: MISCELLANEOUS PROVISIONS AFFECTING THE CREDITING OF SERVICE	41
ARTICLE XII: MISCELLANEOUS PROVISIONS AFFECTING THE PAYMENT OF BENEFITS	49
ARTICLE XIII: ADMINISTRATIVE PROVISIONS	53
ARTICLE XIV: MEMBER ADMINISTRATIVE PROVISIONS	57
ARTICLE XV: PENNSYLVANIA MUNICIPAL RETIREMENT FUND	59
ARTICLE XVI: AMENDMENT	61
ARTICLE XVII: MISCELLANEOUS PROVISIONS	64
ADDENDUM A - APPLICABLE STATE LAWS	
ADDENDUM B - POLICY STATEMENTS	

Pennsylvania Municipal Retirement System Base Plan Document

Pursuant to Article IV of the Pennsylvania Municipal Retirement Law 53 P.S. § 881.101 et. seq., (“PMRL”), (Sections of the PMRL referenced in this Base Plan Document are attached hereto in Addendum A) and Sections 104 and 401 thereof, the Pennsylvania Municipal Retirement Board has adopted this “Base Plan Document” which, together with the applicable executed “Adoption Agreement” shall constitute the “Plan” of a Municipality. Each such Plan is intended to be a tax qualified governmental plan under Sections 401, 414(d) and 501 of the Internal Revenue Code of 1986, as amended.

This Base Plan Document and its related Adoption Agreements are important legal documents under the Internal Revenue Code and Pennsylvania law. The Municipality is urged to consult with its legal counsel regarding the adoption of these instruments.

ARTICLE I: DEFINITIONS

All capitalized terms set forth shall have the meaning set forth below.

- 1.01 Accrued Benefit** means, subject to Plan termination provisions in Article XVI of the Plan, a Member's Superannuation Retirement Pension under Section 5.02 of the Plan. The Accrued Benefit shall include the value of the Member Contribution Account, if applicable, based on the subcategory of the type of contribution. For Cash Balance Plans the minimum annual Accrued Benefit is one half of one percent (0.5%) of Compensation.
- 1.02 Accumulated Deductions** means the total amount deducted from the salary or compensation of the Member and paid over by the Municipality or paid by the Member or from any existing pension or retirement system directly into the Fund and credited to the appropriate subaccount within the Member's Contribution Account, together with Regular Interest thereon.
- 1.03 Active Member** means a Member who is accruing Credited Service under the Plan.
- 1.04 Actuarial Equivalence or Actuarial Equivalent** means a benefit of equal value to the normal form of benefit (as defined in Article X of the Plan) whether in the form of an annuity, a lump sum or otherwise, based on the following:
- (a) For Mortality:
 - (i) For Members under age 50:
 - (A) The RP-2000 Male Non-Annuitant and the RP-2000 Female Non-Annuitant Mortality Tables (as published by the Society of Actuaries) are used with a blend of seventy percent (70%) male and thirty percent (30%) female rates
 - 1. For male Members, the mortality table is projected 15 years with Scale AA mortality improvements
 - 2. For female Members, the mortality table is projected 15 years with Scale AA mortality improvements and also setback 5 years
 - (ii) For Members 50 years of age and older:
 - (A) The RP-2000 Male Annuitant and the RP-2000 Female Annuitant Mortality Tables (as published by the Society of Actuaries) are used with a blend of seventy percent (70%) male and thirty percent (30%) female rates
 - 1. For male Members, the mortality table is projected 5 years with Scale AA mortality improvements
 - 2. For female Members, the mortality table is projected 10 years with Scale AA mortality improvements
 - (b) For an Interest Rate, the rate of Regular Interest as defined in Section 1.77 of the Plan.
 - (c) With respect to benefits determined under a cash balance formula, (1) the Actual Equivalence shall be applied to the Member's Hypothetical Account Balance; and (2) lump sum payment and other benefits payable in a form that would be subject to the minimum present value requirements of Code Section 417(e)(3) (if applicable) will not be determined using the applicable mortality table and applicable latest rules under Code Section 417(e), this produces a benefit greater than the benefit determined using the Actual Equivalence assumption specified in this Section.
- 1.05 Actuarially Sound** means a plan which is being operated under supervision of an Actuary and which is being funded annually at a level not lower than the normal cost of the plan plus a

contribution towards the unfunded accrued liability sufficient to complete the funding thereof within thirty years of the effective date of the system. If the unfunded accrued liability is increased subsequent to the effective date of the system, such additional liability shall be funded within a period not to exceed thirty years from the effective date of the increase. If deemed advisable by the actuary, the initial liability and any increase thereof, may be combined and amortized over a period of years, not to exceed thirty.

1.06 Actuary means:

- (a) Member of the American Academy of Actuaries, and
- (b) an individual who has demonstrated to the satisfaction of the Insurance Commissioner of Pennsylvania that he had the educational background necessary for the practice of actuarial science and has had at least seven years of actuarial experience, or
- (c) a firm, partnership, or corporation of which one or more Members meets the requirements of subclauses (a) and (b) above.

1.07 Adoption Agreement means the document executed by each Municipality, and approved by the Board, electing to join the System and setting forth its applicable terms. The terms of this Plan and Trust as modified by the terms of an adopting Municipality's Adoption Agreement shall constitute a separate Plan and Trust to be construed as a single Plan. Each elective provision of the Adoption Agreement shall correspond by section reference to the section of the Base Plan Document that grants the election.

1.08 Alternate Payee means a spouse, former spouse, child or dependent of a Member, who is recognized by an Approved Domestic Relations Order as having a right to receive all or a portion of the money payable to the Member under the Plan.

1.09 Annuitant means a Member during the time period:

- (a) beginning with the effective date of the Member's Retirement; and
- (b) ending on the date of termination of the Member's annuity.

1.10 Approved Domestic Relations Order means a Domestic Relations Order which has been reviewed and approved by the Board.

1.11 Average Annual Compensation means the arithmetic annual average of Compensation paid to a Member by the Municipality for a specified number of consecutive years of Credited Service immediately preceding the Member's most recent Termination of Employment. The Municipality, in its Adoption Agreement, shall determine the years of Credited Service for use in the calculation and the maximum number of years of Credited Service to consider.

If a Member does not have a sufficient number of consecutive years of Credited Service as specified by the Municipality in its Adoption Agreement, the Average Annual Compensation shall be based on such actual lesser number of consecutive years of Credited Service.

If a Member (a) Terminates Employment and is later reemployed; or (b) has an unpaid Leave of Absence, the consecutive years of Credited Service prior to such Termination or Leave of Absence combined with the consecutive years of Credited Service after such Termination or Leave of Absence shall be considered consecutive for the purposes of this Section.

1.12 Average Monthly Compensation and Final Monthly Compensation means the arithmetic monthly average of Compensation paid to a Member by the Municipality for a specified number of consecutive months for purposes of determining the Member's Final Average Salary. The Municipality, in its Adoption Agreement, shall determine the maximum number of months of

Credited Service for use in the calculation and the specific months of Credited Service to consider (either the months producing the highest average or the final months immediately preceding Termination of Employment). If any partial months of Credited Service are within the maximum number of months of Credited Service considered, the partial months shall be included without adjustment.

If a Member does not have a sufficient number of consecutive months of Credited Service as specified by the Municipality in its Adoption Agreement, the Average Monthly Compensation or Final Monthly Compensation shall be based on such actual lesser number of consecutive months of Credited Service.

If a Member (a) Terminates Employment and is later reemployed; or (b) has an unpaid Leave of Absence, the consecutive months of Credited Service prior to such Termination or Leave of Absence combined with the consecutive months of Credited Service after such Termination or Leave of Absence shall be considered consecutive for the purposes of this Section.

- 1.13 Base Plan Document** means this document which sets forth the mandatory provisions of a Municipality's Plan.
- 1.14 Basic Benefit** means the pension benefit determined pursuant to the formula set forth in Section 5.02(a)(i) of the Plan.
- 1.15 Beneficiary** means a person last designated by a Member to receive benefits after the death of such Member.
- 1.16 Benefit Commencement Date** means, with respect to a Member, Survivor Annuitant, or Beneficiary the first day of the first period for which payment of the benefit under the Plan is scheduled to commence, either as a result of the Member's written election or by operation of the Plan, whichever is later.
- 1.17 Board** means the Pennsylvania Municipal Retirement Board as established pursuant to Section 103 of the PMRL. See Addendum A. The Board may act in the name of the System and shall designate, as appropriate, its Secretary to act on its behalf.
- 1.18 Break in Service** means,
- (a) with respect to an Employee:
 - (i) under the Hours of Service Method, any consecutive twelve (12) month period during which such Employee fails to complete at least fifty percent (50%) of the required number of hours designated in Section 1.40 of the Adoption Agreement for purpose of the Hours of Service Method. The consecutive twelve (12) month period shall be measured from the Employment Commencement Date or Reemployment Commencement Date and each anniversary thereof; and
 - (ii) under the Elapsed Time Method, a Period of Severance of twelve (12) consecutive months.
 - (b) For a Leave of Absence, including Military Leave under USERRA and FMLA Leave under the Family and Medical Leave Act of 1993, a Break in Service shall not be deemed to have occurred if the Employee returns to the Service of the Municipality following the Leave of Absence within the time required by the earlier of federal or state law.

(c) For a Maternity or Paternity Leave, for purposes of determining when the measuring period for a Break in Service begins, the Employee shall receive additional Eligibility and Vesting Service as follows:

- (i) Under the Hours of Service Method, an Employee shall be credited with the greater of:
 - (A) the number of Hours of Service actually worked, or
 - (B) the number of Hours of Service he normally would have been credited but for the Maternity or Paternity Leave.

Provided, however, the maximum number of Hours of Service credited for purposes of this Section shall not exceed fifty percent (50%) of the required number of hours under designated in Section 1.40 of the Adoption Agreement for purpose of the Hours of Service Method. Hours of Service credited shall be applied only to the Plan Year in which the Maternity or Paternity Leave begins unless such Hours of Service are not required to prevent the Employee from incurring a Break in Service, in which event such Hours of Service shall be credited to the Employee in the immediately following year.

- (ii) Under the Elapsed Time Method, the Termination of Employment Date of an Employee who is absent from employment beyond the first anniversary of his first date of absence is the second anniversary of the first date of absence. The period between the first and second anniversaries is neither a Period of Service nor a Period of Severance.
- (iii) No Service shall be credited due to Maternity or Paternity Leave as described in this Section unless the Employee furnishes proof satisfactory to the Municipality:
 - (A) that his absence from work was due to a Maternity or Paternity Leave, and
 - (B) of the number of days he was absent due to the Maternity or Paternity Leave.
- (iv) No Service shall be credited due to Maternity and Paternity Leave in excess of the amount of time the Employee was actually absent due to such Maternity and Paternity Leave.
- (v) An Employee shall not earn Credited Service while on Maternity or Paternity Leave.

The Municipality shall prescribe uniform and nondiscriminatory procedures by which to make the determinations required in this Section.

1.19 **Cash Balance Contribution Credit** means the sum of (i) required Municipal contributions under Article III; (ii) required Member contributions under Article IV; and (iii) Optional After-Tax contributions (if permitted) under Section 4.02(b).

1.20 **Cash Balance Interest Credit** means the amount credited to the Member's Hypothetical Account Balance as provided in Section 5.06.

1.21 **Cash Balance Interest Crediting Rate** means the Regular Interest rate and in no event shall not exceed six percent (6%) annually.

1.22 **Code** means the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

1.23 **Compensation** means remuneration actually received for services rendered as a Municipal Employee, Municipal Firefighter or Municipal Police Officer:

- (a) The following items are excluded from compensation:
 - (i) Reimbursement for expenses incidental to employment;
 - (ii) Income derived directly or by formula from the collection of fees or taxes;
 - (iii) Severance payments; and
 - (iv) Payments related to services rendered during a Period of Service in which an individual is an Ineligible Employee or an Ineligible Member.
- (b) The following additional rules apply:
 - (i) Compensation shall be adjusted as appropriate pursuant to the terms of the Adoption Agreement.
 - (ii) For Members who are enrolled in a Plan that has adopted the provisions of Code Section 414(h), the term includes a contribution designated as a pickup contribution.
 - (iii) Compensation shall include payments pursuant to the Enforcement Officers Disability Benefits Law, 53 P.S. § 637. See Addendum A.
 - (iv) Notwithstanding any provision of this Plan to the contrary, a Member's Compensation shall not exceed the limitations under Code Section 401(a)(17), as adjusted in accordance with Code Section 401(a)(17)(B).
 - (A) The adjustment in effect for a calendar year applies to a period:
 - 1. which begins in the calendar year;
 - 2. which does not exceed twelve months; and
 - 3. over which Compensation is determined.
 - (B) If a determination period consists of fewer than twelve months, the Compensation limit shall be multiplied by a fraction:
 - 1. the numerator of which is the number of months in the determination period; and
 - 2. the denominator of which is twelve.

1.24 **Credited Service** means the measurement of a Member's Service that is used to determine the Member's Accrued Benefit. Credited Service shall not include Service while the individual is an Ineligible Employee or an Inactive Member unless otherwise specifically provided for by the Municipality in its Adoption Agreement.

- (a) Credited Service shall be determined, as specified in each Municipality's Adoption Agreement, by either the:
 - (i) Elapsed Time Method or
 - (ii) Hours of Service Method.
- (b) Each Municipality shall elect in its Adoption Agreement to include or exclude:
 - (i) A maximum number of years of Credited Service that will be used in Pension benefit calculations,
 - (ii) Service prior to the Original Effective Date of the Plan,

- (iii) Transferred and/or additional Credited Service as provided in Article XI,
- (iv) Service rendered under a Prior Plan of the Municipality; or
- (v) Unused sick leave and/or annual leave as specifically set forth in the Adoption Agreement.

- 1.25 Deferred Vested Pension** means, with respect to a Member, the benefit described in Article VIII of the Plan.
- 1.26 Disability or Disabled** means, upon certification by the Board, a Member who is unable to engage in any gainful employment by reason of any medically determinable physical or mental impairment.
- 1.27 Disability Date** means the date on which the Disability applicant became Disabled, as determined by the Board, provided however, that the Disability Date shall not be later than the Member's Termination of Employment.
- 1.28 Disability Pension** means, with respect to a Member, the benefit described in Article VII of the Plan.
- 1.29 Domestic Relations Order** means any judgment, decree or order, including approval of a property settlement agreement, entered into on or after the effective date of this definition by a court of competent jurisdiction pursuant to a domestic relations law which relates to the marital property rights of the spouse or former spouse of a Member, including the right to receive all or a portion of the money payable to that Member under the Plan, in furtherance of the equitable distribution of marital assets that satisfies the definition of a "qualified domestic relations order" under Code Section 414(p). The term includes an "order of support" under 23 Pa.C.S. § 4302 (relating to definitions) and an order for the enforcement of arrearages under 23 Pa.C.S. § 3703 (relating to enforcement of arrearages).
- 1.30 Early Retirement Date** means the date the Member becomes eligible for an Early Retirement Pension, as specified the Municipality's Adoption Agreement.
- 1.31 Early Retirement Pension** means, with respect to a Member, the benefit described in Article VI of the Plan.
- 1.32 Effective Date of Disability Retirement** means the later of (i) the date following the last day for which the Member is paid for services as an Employee; or (ii) the date on which the Member files an application for Disability Pension
- 1.33 Elapsed Time Method** means a method of computing Service by reference to the total time (years, months and days) that elapses between the Employee's Employment Commencement Date or Reemployment Commencement Date and the Employee's Termination of Employment. The total time need not be consecutive.

For the purpose of calculating Eligibility Service and Vesting Service, a Member shall accrue one day of Service for each day in which he is credited with one Hour of Service as an Employee of the Municipality and shall accrue one Year of Service for each three hundred and sixty-five (365) days. The calculations shall be subject to the Break in Service provisions of the Plan.

For the purpose of calculating Credited Service, a Member shall accrue one day of Service for each day in which he is credited with one Hour of Service as an Employee of the Municipality and shall

accrue one Year of Service for each three hundred and sixty-five (365) days. The calculations shall not be subject to the Break in Service provisions of the Plan.

- 1.34** **Eligibility Service** means the measurement of an Eligible Employee's Service for purposes of determining when the Employee is eligible for membership in the Plan and is measured from the Employee's Employment Commencement Date or Reemployment Commencement Date, as applicable, to the date the Employee satisfies the requirements in Article II of the Plan and the Municipality's Adoption Agreement. Eligibility Service shall not include the Period of Service for which the Employee was considered an Ineligible Employee.

Eligibility Service shall be determined, as specified in each Municipality's Adoption Agreement, by either the:

- (a) Elapsed Time Method or
- (b) Hours of Service Method.

- 1.35** **Employee** means an individual employed by the Municipality. Employees designated in the Municipality's Adoption Agreement as eligible to participate in the Plan shall be considered an "Eligible Employee." An Employee designated as ineligible to participate in the Plan or not otherwise identified in the Adoption Agreement as eligible to participate in the Plan shall be considered an "Ineligible Employee." Individuals paid by the Municipality wholly on a fee basis shall be considered "Ineligible Employees."

- 1.36** **Employment Commencement Date** means the date on which an Eligible Employee first performs an Hour of Service for the Municipality.

- 1.37** **Excess Interest** means additional assets which may result when investment earnings from the Fund exceed those necessary to cover the Regular Interest or all reserves for the covered Plans and the current market asset value exceeds the Reserve Accounts plus expenses. Excess Interest is determined and declared pursuant to the Board policies attached in Addendum B.

- 1.38** **Final Average Salary** means the Average Monthly Compensation or the Average Annual Compensation or Final Monthly Compensation as elected by the Municipality in its Adoption Agreement.

- 1.39** **Fund** means the Pennsylvania Municipal Retirement Fund created by the PMRL and consisting of all property of every kind invested and administered by the Board pursuant thereto.

- 1.40** **Hour of Service** means the increments of time, described in sections (a), (b), (c), and (d) hereof (as applicable), subject to any limitations set forth herein:

- (a) Each hour for which the Municipality, either directly or indirectly, pays an Employee, or for which the Employee is entitled to payment, for the performance of duties during the Plan Year. The Municipality shall credit Hours of Service under this paragraph (a) to the Employees for the Plan Year(s) in which the Employee performs the duties, irrespective of when paid;
- (b) Each hour for back pay, irrespective of mitigation of damages, to which the Municipality has agreed or for which the Employee has received an award. The Municipality shall credit Hours of Service under this paragraph (b) to the Employee for the Plan Year(s) to which the award or the agreement pertains rather than for the Plan Year(s) in which the award, agreement or payment is made; and
- (c) Each hour for which the Municipality, either directly or indirectly, pays an Employee, or for which the Employee is entitled to payment (irrespective of whether the employment

relationship is terminated), for reasons other than for the performance of duties during a Plan Year, such as leave of absence, vacation, holiday, sick leave, illness, incapacity (including disability), layoff, jury duty, or military duty, provided:

- (i) A Municipality shall not credit more than fifty percent (50%) of the required number of hours under the Hours of Service Method to an Employee on account of any single continuous period during which the Employee does not perform any duties as an Employee (whether or not such period occurs during a single Plan Year);
 - (ii) An hour for which an Employee is directly or indirectly paid, or entitled to payment, on account of a period during which he performs no duties as an Employee shall not be credited as an Hour of Service if such payment is made or due under a plan maintained solely to comply with applicable workers' compensation, unemployment compensation, or disability insurance laws; and
 - (iii) Hours of Service shall not be credited to an Employee for a payment that solely reimburses such Employee for medical or medically related expenses incurred by him.
- (d) Each hour for which the Employee is required to be granted leave under USERRA.
- (e) A Municipality shall not credit an Hour of Service under more than one (1) of the above paragraphs (a), (b), (c) or (d). If the Service counted under this Section can be counted under more than one of these paragraphs, the rule crediting the greatest number of Hours of Service shall apply. The Municipality shall resolve any ambiguity with respect to the crediting of an Hour of Service in favor of the Employee.
- (f) The Municipality shall credit Hours of Service under this Section in accordance with Department of Labor Regulation Section 2530.200b-2(b) and (c), 29 CFR Part 2530, as amended, which the Plan, by this reference, specifically incorporates in full, or such other federal regulations as may from time to time be applicable.

- 1.41 Hours of Service Method** means a method for computing Service by reference to the number of Hours of Service performed by the Employee in a consecutive twelve (12) month period or any permitted equivalency. Any computations or calculations using the Hours of Service Method shall: (a) award a year of Service for any consecutive twelve (12) month period in which a Member is credited with the number of Hours of Service as set forth in the Adoption Agreement; and (b) be subject to the Break in Service provisions.
- 1.42 Hypothetical Account Balance** means the balance of a hypothetical account established for the benefit of a Member and credited with Cash Balance Contribution Credits and Cash Balance Interest Credits.
- 1.43 Inactive Member** means a Member who has experienced a Severance from Credited Service but has not received full payment of his Vested benefit under the Plan. A Member on Leave of Absence shall not be deemed an Inactive Member.
- 1.44 In-service Distribution** means a distribution of a Member's Accrued Benefit commencing after the Member's Normal Retirement Age and before the Member's Severance from Credited Service.
- 1.45 Joint Coverage Member** means a Member who shall have become a Member of the System subsequent to the last date permitted by the Municipality employing him for statement of preference concerning social security coverage, or who, having become a Member on or before such date, shall have filed with the Municipality a written statement that he elects social security coverage

under an agreement with the Federal Secretary of Health, Education and Welfare entered into by the Commonwealth of Pennsylvania.

1.46 **Leave of Absence** means a paid or unpaid excused leave of absence granted to an Employee in accordance with applicable federal or state law or the Municipality’s personnel policies. Leave of Absence shall include the following:

(a) **Military Leave**

Employees who leave the service of a Municipality, voluntarily or involuntarily, to enter the Armed Forces of the United States and the Employee is legally entitled to certain rights under USERRA.

(b) **FMLA Leave**

Employees who leave the service of the Municipality under the provisions of the Family and Medical Leave Act of 1993 (“FMLA”) provided that the Employee returns to active employment within the time required under the FMLA.

(c) **Other Leave**

Employees who leave the service of the Municipality under such other circumstances as approved by the Municipality and applied uniformly among Employees under similar circumstances.

1.47 **Limitation Year** means the calendar year.

1.48 **Look Back Month** means the December 1 immediately preceding a Stability Period.

1.49 **Maternity or Paternity Leave** means any period during which an Employee is absent from work with a Municipality by reason of (a) pregnancy of such Employee, (b) the birth of a child of such Employee, (c) the placement of a child with such Employee in connection with the adoption of a child by such Employee, or (d) for purposes of such Employee caring for such child immediately after such birth or placement.

1.50 **Member** means an individual that is:

(a) a Municipal Officer, Employee, Firefighter or Police Officer; or

(b) an Employee of a municipal government association, who satisfies the conditions for membership as set forth in Article II.

1.51 **Member Contribution Account** means the notional account and subaccounts thereunder established by the Board to reflect Accumulated Deductions and other contributions made by the Member to the Trust, if any, plus Regular Interest credited thereon as required under the Plan. In addition to any other accounts the Board shall establish, the Board shall establish the following subaccounts under the Member Contribution Account for each Member to be designated as follows:

(a) “Pick-Up Contribution Account” shall reflect a Member’s interest in the Municipality pick-up contributions made under Section 4.01 of the Plan and shall include any payments made by the Member under Section 4.08 of the Plan to repay such account.

(b) “Required After Tax Contribution Account” shall reflect a Member’s interest in required after-tax contributions made by the Member under Section 4.02(a) of the Plan and shall include any payments made by the Member under Section 4.08 of the Plan to repay such account.

(c) “Optional After-Tax Contribution Account” shall reflect a Member’s interest in elective after-tax contributions made by the Member under Section 4.02(b) of the Plan and shall

include any payments made by the Member under Section 4.08 of the Plan to repay such account.

- (d) “Service Purchase Account” shall reflect a Member’s interest in payments made by the Member under Section 4.03(a) of the Plan for the purpose of purchasing eligible Credited Service under the Plan.
- (e) “Transferred Contribution Account” shall reflect a Member’s interest in amounts transferred by the Municipality under Section 4.03(b) of the Plan, from one or more of the Municipality’s tax-qualified plans, that have been merged or combined with the Plan, directly to the Fund.
- (f) “Terminated Contribution Account” shall reflect a Member’s interest in amounts transferred, at the election of the Member under Section 4.03(c) of the Plan, from one or more of the Municipality’s previously terminated Prior Plans directly to the Fund.

1.52 **Member’s Excess Investment Account** means the account maintained for each Member, to which shall be credited such Excess Interest deemed to be earned on the Member Contribution Account. For purposes of any distribution of the Member Contribution Account, said distribution shall include the Member’s Excess Investment Account.

1.53 **Membership Commencement Date** means the date a Member first commences participation under the Plan.

1.54 **Municipal Contribution Account** means, in the aggregate, the account and subaccounts thereunder established by the Board to reflect contributions made by the Municipality to the Trust, plus Regular Interest deemed to be earned by the Board thereon as required under the Plan. In addition to any other accounts the Board shall establish, the Board shall establish separate accounts for each Municipality to be designated as follows:

- (a) “Defined Benefit Contribution Account” shall reflect the Municipality’s required contributions and any additional contributions made by the Municipality under Sections 3.01 and 3.02 of the Plan.
- (b) “Cash Balance Contribution Account” shall reflect the Municipality’s contributions required Section 3.02 of the Plan.

1.55 **Municipal Employee** means a person holding an office or position, other than that of a Municipal Firefighter or Municipal Police Officer, under a Municipality or a municipal government association and paid on a regular salary or per diem basis. The term shall not include officers and employees paid wholly on a fee basis.

1.56 **Municipal Firefighter** means a person holding a full-time position in the fire department of a Municipality and who works for a stated salary or Compensation.

1.57 **Municipal Police Officer** means a person holding a full-time position in the police department of a Municipality and who works for a stated salary or Compensation.

1.58 **Municipality** means a city, borough, town, township, county, institution district, or any newly created governmental unit, or an authority created by a city, borough, town, township, county or county institution district, or jointly by any such political subdivisions, or an institution supported and maintained by a municipality or a municipal government association, or an industrial development agency which has adopted bylaws and the governing body of which is organized and holds regular public meetings.

- 1.59** **New Member** means a municipal officer, employee, firefighter or police officer, or an employee of a municipal government association who first becomes a Member after the date the Municipality by which he is employed establishes a Plan.
- 1.60** **Nonqualified Service Credit** means Permissive Service Credit other than service rendered as an employee of the Government of the United States, any State or political subdivision thereof, any agency of the foregoing, service as an employee of an educational organization described in Code Section 170(b)(1)(A)(ii), or military service (other than qualified military service under Code Section 414(u).
- 1.61** **Normal Retirement Age** means such age as may be stipulated by the Municipality in the Adoption Agreement at which a Member is eligible to commence receipt of his Superannuation Retirement Pension under Section 5.01 without actuarial or other reduction for early commencement. The above notwithstanding, Normal Retirement Age shall be interpreted consistent with the requirements of “normal retirement age” as set forth in Treasury Regulation § 1.401(a)-1(b).
- 1.62** **Original Member** means a Municipal Officer, Employee, Firefighter or Police Officer, or an employee of a municipal government association who was employed by the Municipality and becomes a Member in the Plan the date the Municipality establishes a Plan.
- 1.63** **Original Plan** means the tax-qualified plan of a Municipality that is (i) merged into this Plan; or (ii) administered by the Municipality or a third party other than Board, and is restated and superseded by this Plan document (provided that the corresponding assets of such plan are transferred into this Plan). If there is no such tax-qualified plan, then this Plan shall be the Original Plan of the Municipality.
- 1.64** **Original Plan Effective Date** shall mean the effective date of the Original Plan of the Municipality.
- 1.65** **Original Plan Service** means all service an Eligible Employee completed at the time the Municipality by which he is or was employed elected to join the System or the same Municipality under a prior name or classification elected to join the System.
- 1.66** **Period of Service** means for purposes of the Elapsed Time Method of counting Service, the Employee’s period of employment with the Municipality commencing with the Employment Commencement Date or the Reemployment Commencement Date, whichever is applicable, and ending on the Employee’s Termination of Employment date.
- 1.67** **Period of Severance** means, for purposes of the Elapsed Time Method of counting Service, a continuous period of time during which the Employee is not employed by the Municipality, commencing on the Employee’s Termination of Employment date and ending on the Employee’s Reemployment Commencement Date.
- 1.68** **Permissive Service Credit** means certain Credited Service that the Member may receive only by making a voluntary contribution which does not exceed the amount necessary to fund the benefit attributable to such service credit. Such service shall include service rendered as an employee of the Government of the United States, any State or political subdivision thereof, any agency of the foregoing, service as an employee of an educational organization described in Code Section 170(b)(1)(A)(ii), or military service (other than qualified military service under Code Section 414(u).
- 1.69** **Plan** means the plan as set forth in this document, including the executed Adoption Agreement through which a Municipality establishes a Plan. A Municipality shall designate the name of the Plan in the Adoption Agreement. The Board shall administer and maintain the Plan of each

adopting Municipality as a separate Plan and independent from the plan of any other Municipality, and any other plan offered by the adopting Municipality.

- 1.70 **Plan Entry Date** means the date designated in the Municipality's Adoption Agreement as the Employee's Membership Commencement Date after satisfying the Plan eligibility requirements as specified in Article II of the Plan and the Municipality's Adoption Agreement.
- 1.71 **Plan Year** means the twelve (12) month period specified in the Adoption Agreement.
- 1.72 **PMRS Plan Effective Date** shall mean the date the Municipality establishes a plan with the Board pursuant to Sections 107 or 402 of the PMRL. See Addendum A.
- 1.73 **Policy Statement** means a statement of rule issued by the Board pursuant to its general powers under Section 104(10) of the PMRL. See Addendum A. In the event of a conflict between operative provisions of the Base Plan and a Policy Statement, the terms of the Base Plan shall control. All Policy Statements are incorporated by reference and attached at Addendum B.
- 1.74 **Prior Plan** means a tax-qualified plan established by a Municipality that has been terminated or frozen for future benefit accruals.
- 1.75 **Prior Plan Service** means all service recognized under a Prior Plan of the Municipality prior to the Original Plan.
- 1.76 **Reemployment Commencement Date** means the first date on which the Eligible Employee performs an Hour of Service that is required to be taken into account for Eligibility, Vesting or Credited Service, following a Break in Service or Period of Severance.
- 1.77 **Regular Interest** means the rate fixed by the Board (from time to time, and in effect on the Look Back Month), to be applied to the Member's notional accounts, to the Municipal Accounts and to the Retired Member's Reserve Account. Effective January 1, 2017, the Regular Interest rate is five and one-quarter percent (5.25%).
- 1.78 **Retire or Retirement** means Termination of Employment with the Municipality or Severance from Credited Service on or after (i) the Member's Early Retirement Date or Superannuation Retirement Date or Disability Date and (ii) the Member has filed an application to retire.
- 1.79 **Reserve Account** means separate accounts and subaccounts established for the aggregation of monies held in the Trust and to be used for specified purposes. The Board shall establish a minimum number of such accounts to be designated as follows:
- (a) **Disability Reserve Account**
This account is the aggregation of monies collected from Municipalities that offer a Disability Pension and is used to supplement monies transferred from one or more Municipality Accounts and one or more Member Contribution Accounts if such transferred monies are insufficient to equal the Actuarial Equivalence of such Member's Disability Pension through a transfer to the Retired Member's Reserve Account.
 - (b) **Member Reserve Account**
This account is the aggregation of each Member's Contribution Accounts and subaccounts and such monies are held in Trust for each Member. The monies are used to provide for the applicable Pension benefits provided to Members by their respective Municipality through transfers to the Retired Member's Reserve Account.

(c) Municipal Reserve Account

This account is the aggregation of each Municipality's accounts and subaccounts and such monies are held in Trust for each Municipality. The monies are used to provide for the applicable Pension benefits provided to Members by each such applicable Municipality through transfers to the Retired Member's Reserve Account.

(d) Retired Members' Reserve Account

This account is the aggregation of monies transferred from the other Reserve Accounts and held in Trust for each Retiree. The monies are used to provide for the applicable Pension benefits provided to Members by each such applicable Municipality.

- 1.80** Service means any period of time the Employee is in the employ of the Municipality, including any period the Employee is on a Leave of Absence authorized by the Municipality up to one (1) year, unless a longer period is required by law to be counted as Service. Notwithstanding any provision of this Plan to the contrary, contributions, benefits, Vesting, Eligibility and Credited Service with respect to qualified military service will be provided in accordance with USERRA and Code Section 414(u) and with respect to FMLA Leave will be provided in accordance with the Family and Medical Leave Act of 1993.
- 1.81** Service Connected Disability means total and permanent disability of a Member prior to eligibility for superannuation retirement resulting from a condition arising out of and incurred in the course of his employment, and which is compensable under the applicable provisions of the act of June 2, 1915 (P.L. 736, No. 338), known as "The Pennsylvania Workmen's Compensation Act," or the act of June 21, 1939 (P.L. 566, No. 284), known as "The Pennsylvania Occupational Disease Act." See Addendum A.
- 1.82** Service Increment Benefit means a supplemental benefit payable to a Member who has twenty-six (26) or more years of Credited Service as provided in the Municipality's Adoption Agreement.
- 1.83** Severance from Credited Service means an Employee's Termination of Employment or change in employment status (via election, appointment or otherwise) such that he is no longer an Eligible Employee under the Plan.
- 1.84** Single Coverage Member means a Member who shall become a Member of the System on or before the last date permitted by the municipality employing him for statement of preference concerning social security coverage and who either shall have filed with the Municipality a written statement that he does not elect social security coverage under any agreement with the Federal Secretary of Health, Education and Welfare entered into by the Commonwealth of Pennsylvania, or shall not have filed with the municipality any written statement.
- 1.85** Spouse or Surviving Spouse means the person to whom the Member is legally married for Federal tax purposes.
- 1.86** Stability Period means the calendar year during which Regular Interest will be in effect.
- 1.87** Superannuation Retirement Date means the date of the Member's Retirement after becoming eligible for a Superannuation Retirement Pension as specified in Section 5.01 of the Municipality's Adoption Agreement.
- 1.88** Superannuation Retirement Pension means, with respect to a Member, the benefit described in Section 5.02 of the Plan.
- 1.89** Survivor Annuitant means any person who has been named by a Member under a joint and survivor annuity option to receive an annuity upon the death of such Member. The term shall also

include a spouse, or child(ren) if applicable, for plans that have elected a life and 50% spouse benefit or life and 100% spouse benefit as specified in Section 10.01 of the Base Plan Document.

- 1.90** **System** means the Pennsylvania Municipal Retirement System, an agent multiple employer retirement system for purposes of Government Accounting Standards Board requirements created pursuant to the PMRL. The above notwithstanding, this Base Plan document and accompanying Adoption Agreements are approved by the Internal Revenue Service pursuant to Rev. Proc. 2015-36 solely for the purposes of establishing and maintaining an individual Plan by an adopting Municipality.
- 1.91** **Termination Contribution** means an amount transferred to this Plan pursuant to an Eligible Rollover Distribution (as defined in Article X) of a Member's account under a Prior Plan of the Municipality or the predecessor to the Municipality.
- 1.92** **Termination of Employment, Terminate Employment, Termination, or Terminated** means a termination of employment with the Municipality, including Retirement, resignation, discharge, and death except as otherwise provided by the Municipality as a Leave of Absence or any other leave of absence regulated by federal or state law. Unless otherwise provided by law, if an Employee on a Leave of Absence fails to return to active employment upon expiration of the Leave of Absence, the Employee will be considered Terminated as of the last day worked immediately preceding the Leave of Absence.
- 1.93** **Transfer Contribution** means an amount transferred to this Plan directly from a Member's account under an Eligible Retirement Plan (as defined in Article X) sponsored by the Municipality or the predecessor to the Municipality.
- 1.94** **Trust** means the agreement setting forth the terms and conditions with respect to the administration, investment and distribution of the Fund by the Board.
- 1.95** **USERRA** means the Uniform Services Employment and Reemployment Rights Act of 1994.
- 1.96** **Vested** means that portion of a Member's interests in this Plan that is vested pursuant to Article XIII or Section 16.06, if applicable.
- 1.97** **Vesting Service** means the measurement of a Member's Service that is used to determine the Member's Vested Accrued Benefit, and if the Member meets Service related requirements for all other benefits provided in the Plan. Vesting Service shall be measured from the Member's Employment Commencement Date or Reemployment Commencement Date and each anniversary thereof. Vesting Service shall not include the Period of Service for which the Employee was considered an Ineligible Employee.
- (a) Service shall be determined, as specified in each Municipality's Adoption Agreement, by either the:
 - (i) Elapsed Time Method or
 - (ii) Hours of Service Method.
 - (b) A Municipality shall elect in its Adoption Agreement to include or exclude:
 - (i) Service before the Original Plan Effective Date, or
 - (ii) Service before the PMRS Restatement Plan Date, or
 - (iii) unused sick leave and/or unused annual leave in accordance with the Municipality's personnel policies.

ARTICLE II: MEMBERSHIP

2.01 Initial Membership

(a) Mandatory Membership

Each Eligible Employee in a category selected for mandatory membership under Section 1.35 of the Adoption Agreement shall become a Member in the Plan on the Plan Entry Date (if actively employed on that date) coincident with or immediately following the date on which he meets the eligibility conditions selected by the Municipality in its Adoption Agreement.

(b) Optional Membership

(i) Each Eligible Employee in a category selected for optional membership under Section 1.35 of the Adoption Agreement must elect to become a Member by filing a written election with the Municipality within ninety (90) days of notification by the Municipality of membership eligibility. Such Eligible Employee shall become a Member effective on the date of filing of the written election and membership shall be prospective from such date. The election, or failure to elect membership shall be irrevocable for the duration of the Eligible Employee's service in the category of optional membership.

(ii) The above notwithstanding, if the Plan does not require pre-tax pick-up contributions pursuant to Code Section 414(h), then an Eligible Employee for optional membership may elect to become a Member by filing a written election with the Municipality within one year of notification by the Municipality.

(c) Ineligible Employee

An Ineligible Employee identified in the Municipality's Adoption Agreement shall not be eligible to become a Member in the Plan.

2.02 Membership Upon Reemployment

Upon an Employee's Reemployment Commencement Date, the Eligible Employee shall have the following status in the Plan based on his status as of his most recent Termination of Employment:

- (a) If the Eligible Employee was a Member, he shall reenter the Plan as a Member on his Reemployment Commencement Date.
- (b) If the Eligible Employee had satisfied the Plan's eligibility conditions but had not become a Member, he shall become a Member on the next Plan Entry Date after his Reemployment Commencement Date.
- (c) If the Eligible Employee had not satisfied the Plan's eligibility conditions, he shall receive all previous Eligibility Service and shall become a Member on the Plan Entry Date coincident with or immediately following his satisfying the Plan's eligibility conditions.
- (d) The above notwithstanding, the Eligible Employee's position upon reemployment (either optional membership or mandatory membership) shall determine the conditions of membership upon such reemployment.

2.03 Membership Upon Change in Employment Status

If an Eligible Employee has a change in employment status, the Period of Service when the Employee was an Ineligible Employee shall be not included in determining Eligibility Service.

- (a) If the Employee had not previously satisfied the Plan's eligibility conditions, he shall become a Member on the Plan Entry Date coincident with or immediately following his satisfying the Plan's eligibility conditions as an Eligible Employee.
- (b) If, during one or more previous periods of Service in which he was an Eligible Employee, the Employee had previously satisfied the Plan's eligibility conditions but had not become a Member, he shall become a Member on the next Plan Entry Date coincident with or immediately after his most recent change in employment status.
- (c) If, during one or more previous periods of Service in which he was an Employee, the Employee was a Member, he shall reenter the Plan as a Member on date of his change in employment status.

Under no circumstances shall a person who is not an Eligible Employee, as defined by the Adoption Agreement, become a Member unless he is an Eligible Employee on the Plan Entry Date.

ARTICLE III: MUNICIPALITY CONTRIBUTIONS

3.01 Determination of Contribution

The Board will actuarially determine the normal cost of the benefits provided for in a Municipality's Plan and any amortization of unfunded liability associated with the actuarial experience of such benefits which shall be contributed annually by the Municipality. Additionally, the Board shall determine and the Municipality shall be charged an additional amount to be contributed annually toward a reserve account for any disability benefit if disability benefits are elected by the Municipality under the terms of its Adoption Agreement.

3.02 Amount

Unless otherwise provided in Article IV of its Adoption Agreement, the Municipality shall make the contributions required to fund the Municipality's cost of the benefits provided to its Members as set forth in Section 5.02 of the Plan.

3.03 Time of Payment of Contribution

(a) Defined Benefit Plan

Unless otherwise provided in the Municipality's Adoption Agreement, the Municipality shall pay its contribution for each Plan Year in one (1) annual payment. The Municipality must make its contribution to the Board no later than December 31 of the year for which the contribution was required.

(b) Cash Balance Plan

Unless otherwise provided in the Municipality's Adoption Agreement, the Municipality shall pay its contributions for each Plan Year in the same manner and frequency as it remits Member contributions in accordance with Section 4.04 of the Plan and Section 4.02 of the Municipality's Adoption Agreement. The above notwithstanding, the Municipality must complete its aggregate requirement contributions to the Board no later than December 31 of the year for which the contributions were required.

ARTICLE IV: MEMBER CONTRIBUTIONS

4.01 Pre-Tax Pick-Up Contributions

If the Municipality elects the application of this Section in its Adoption Agreement, it shall contribute to the Plan, to the credit of each Member, the amount of the required Member contribution (as a percentage of Compensation as specified in the Adoption Agreement) to fund the Member's cost of the benefit provided to the Member as set forth in Section 5.02(a) or (b) as applicable. The contributions are mandatory and no Member shall be entitled under any circumstances to receive such contributions in cash in lieu of having them contributed to the Trust by the Municipality in accordance with the preceding sentence. Such contributions shall be made pursuant to Code Section 414(h) and shall be treated as Municipality contributions in determining their federal income tax treatment under the Code.

4.02 After-Tax Member Contributions

(a) Required After-Tax Contributions

If the Municipality elects the application of this Section in its Adoption Agreement, it shall require a Member to make after-tax contributions by payroll deduction to the Trust. The Board shall allocate and credit such contribution made for a particular Plan Year to the Member's Required After-Tax Contribution Account as soon as administratively possible. The Board may establish appropriate procedures it deems necessary to facilitate Member payroll deduction contributions. Required after-tax contributions shall be allocated to the cost of the Member's benefit as set forth in Section 5.02(a) or (b) as applicable.

(b) Optional After-Tax Contributions

If the Municipality elects the application of this Section in its Adoption Agreement, it shall allow a Member to elect after-tax contributions by payroll deduction to the Trust. The Board shall allocate and credit such contribution made for a particular Plan Year to the Member's Optional After-Tax Contribution Account as soon as administratively possible. The Board may establish appropriate procedures it deems necessary to facilitate Member payroll deduction contributions and the Member's elected use of such contributions. Optional after-tax contributions may be (i) utilized for the purchase of Permissive Service Credit as provided in Section 11.07; or (ii) allocated to the Member's Hypothetical Account Balance pursuant to Section 5.06.

4.03 Other Member Contributions

(a) Service Purchase Contributions

If the Municipality elects in its Adoption Agreement to allow Members to purchase transferred, prior or additional service in accordance with Article XI of the Plan, the Member may make contributions to purchase such service. For the purchase of such service, the Plan may accept payment directly from the Member or through a plan-to-plan transfer or rollover contribution from any other allowable qualified retirement plan, Section 401(k) plan, Section 457(b) governmental deferred compensation plan or a Section 403(b) tax sheltered annuity. Any Service Purchase Contributions received from the sources specified in this subsection and used for service purchases shall be allocated to the Member Service Purchase Account.

(b) Transferred Contributions

If the Municipality elects in its Adoption Agreement to transfer funds from one or more of the Municipality's Prior Plans pursuant to a merger of such Prior Plan with this Plan, such funds may be: (i) utilized for the purchase of Permissive Service Credit as provided in Section 11.07; or (ii) allocated to a Member's Hypothetical Account Balance pursuant to

Section 5.06. Any such Transferred Contributions shall be allocated to the Member's Transferred Contribution Account.

(c) Terminated Contributions

If the Municipality elects in its Adoption Agreement to permit Members to transfer funds from one or more of the Municipality's Prior Plans where such plans have been previously terminated by the Municipality, such funds may be: (i) utilized for the purchase of Permissive Service Credit as provided in Section 11.07; or (ii) allocated to a Member's Hypothetical Account Balance pursuant to Section 5.06. Any Terminated Contributions shall be allocated to the Member's Terminated Contribution Account.

4.04 Time and Manner of Contribution

Contribution deductions from Member Compensation as specified in Sections 4.01 and 4.02 shall be made on a payroll basis and unless otherwise elected in the Adoption Agreement, the Municipality shall remit such contributions as of each payroll period as soon as administratively possible. Other Member contributions identified in Section 4.03 shall be remitted to the System as soon as administratively possible by the Municipality or representative acting on its behalf and, if applicable, by the Member or representative acting on its behalf.

4.05 Allocation of Contributions

The Board shall establish and maintain the Member Contribution Accounts and subaccounts to which all Member contributions shall be allocated. Each Member Contribution Account shall be credited with contributions, rollovers, transfers and earnings allocated to such Account if provided under the Adoption Agreement and debited with distributions made during the Plan Year.

4.06 Interest on Member Contribution Account

The Member Contribution Account described in this Article of the Plan shall be credited with Regular Interest.

4.07 Refund of Member Contribution Account

A Member or Beneficiary shall receive a refund or withdrawal of his Member Contribution Account if:

- (a) the Member Terminates Employment and, at the time of such Termination, does not have sufficient vesting Service to qualify for a vested Accrued Benefit in accordance with the vesting schedule specified in Section 8.05 of the Adoption Agreement, or
- (b) the Member or Beneficiary is receiving benefits under the Plan and dies before receiving Pension benefit payments in an amount equal to or greater than the Member Contribution Account, and no additional Pension benefits are due, then the Beneficiary (or estate, if no Beneficiary) shall receive the amount remaining in the Member Contribution Account, or
- (c) the Member Terminates Employment and, at the time of such Termination, requests the refund of his Member Contribution Account in lieu of retaining an Accrued Benefit, or
- (d) the Member dies before receiving any benefits under the Plan and the value of the death benefit payable to the Beneficiary is equal to or less than the Member Contribution Account, then the Beneficiary (or estate, if no Beneficiary) shall receive the amount remaining in the Member Contribution Account and no additional death benefits will be paid, or
- (e) an individual has been determined to be an Ineligible Employee and is ineligible to be a Member in the Plan.

Distribution of the Member Contribution Account shall be made only in a lump sum and for no less than 100% of the Member Contribution Account including interest earnings. Upon distribution of the Member Contribution Account, the Member or Beneficiary shall have no Accrued Benefit under the Plan.

4.08 Repayment of Member Contribution Account

(a) Restoration of Service

A Member who is reemployed with the Municipality after receiving a refund of amounts allocated to his Member Contribution Account:

- (i) shall have his Eligibility and Vesting Service restored in accordance with Article XI of the Plan, and
- (ii) shall have his Credited Service and any previous Accrued Benefits restored by repaying the Board the entire amount distributed under Section 4.07 plus interest at the Regular Interest rate. Interest shall begin on the first day of the month following the month of the previously refunded Member Contribution Account and shall end on the last day of the month preceding such repayment.

(b) Repayment Requirements

Unless otherwise provided in the Municipality's Adoption Agreement, the Member shall not:

- (i) repay the Member Contribution Account balance and interest later than ninety (90) days after the Member's Reemployment Commencement Date and
- (ii) repay less than 100% of the previously refunded Member Contribution Account plus interest.
- (iii) Upon 100% repayment, the Member shall have his Member Contribution Account restored along with the applicable Credited Service under Section 5.02.
- (iv) Upon less than 100% repayment, the Member shall have the respective subaccounts of his Member Contribution Account restored in the following order:
 - (A) Pick-up Contribution Account;
 - (B) Required After-Tax Contribution Account;
 - (C) Service Purchase Account (if any);
 - (D) Optional After-Tax Contribution Account (if any);
 - (E) Transferred Contribution Account (if any); and
 - (F) Terminated Contribution Account (if any).

The full amount of refund or withdrawal, plus interest, shall be restored to each sub account before restoration of the next sequential sub account. Credited Service under Section 5.02 attributed to such repaid contribution shall be determined upon completion of the repayment.

The Plan may accept any such repayment directly from the Member or through a plan-to-plan transfer from any other qualified retirement plan, Section 401(k) plan, Section 457(b) plan or a Section 403(b) tax sheltered annuity.

ARTICLE V: SUPERANNUATION RETIREMENT PENSION

5.01 Offering of Superannuation Retirement Pension

A Member who Retires on or after satisfaction of the conditions set forth in Section 5.01 of the Adoption Agreement, shall receive a Superannuation Retirement Pension.

5.02 Amount of Superannuation Retirement Pension

(a) Defined Benefit Plan

Subject to the maximum permissible amount limitations in Article XII, a Member's Superannuation Retirement Pension shall equal his Accrued Benefit. The Member's Accrued Benefit shall be the sum of:

- (i) his Basic Benefit as determined under Adoption Agreement; and
- (ii) his Service Increment Benefit if such benefit is authorized under the Adoption Agreement.

The Superannuation Retirement Pension shall be expressed in the normal form of benefit as elected by the Municipality in Section 10.01 of the Adoption Agreement.

(b) Cash Balance Plan

Subject to the maximum permissible amount limitations of Article XII, a Member's Superannuation Retirement Pension shall be his Accrual Benefit as calculated pursuant to Section 5.06. The Superannuation Retirement Pension shall be expressed in the normal form of benefit as elected by the Municipality in Section 10.01 of the Adoption Agreement.

5.03 Computation and Payment of Superannuation Retirement Pension

(a) Computations

The Superannuation Retirement Pension shall be computed by the Board in the form of benefit selected by the Member. A Member shall select the form of benefit for his Superannuation Retirement Pension as either the normal form as elected by the Municipality in Section 10.01 of its Adoption Agreement or any eligible optional form as elected by the Municipality in Section 10.02 of its Adoption Agreement. If no optional form of benefit is selected by the Member, the Pension benefit shall be paid in the normal form.

(b) Payments

Payments shall begin no earlier than the Member's Superannuation Retirement Date and begin no later than the date specified in Section 10.04(b) of the Plan. Between the dates a Member is first eligible to receive Superannuation Retirement Pension and the Mandatory Commencement of Benefits date specified in Section 10.04(b), a Member must apply for benefits to commence. The Member's Benefit Commencement Date shall be the first day of the month coincident with or next following the later of (i) Member's Termination of Employment following the Superannuation Retirement Date; (ii) the date specified by the Member in his or her application, or (iii) the date the application is approved by the Board.

Payments for an annuity form of benefit shall continue until the last scheduled payment coincident with the month of the Member's death or, if applicable, the month of the death of the Survivor Annuitant.

The above notwithstanding, if a Member's Retirement arises due to a Severance from Credited Service, and the Member remains employed by the Municipality, payment shall

begin no earlier than the Member's Normal Retirement Age as set forth in Treasury Regulation § 1.401(a)-1(b).

5.04 Involuntary Lump Sum Payment of Superannuation Retirement Pension

If elected by the Municipality in its Adoption Agreement, a lump sum payment shall be made for a Superannuation Retirement Pension to Members, with the Member's consent, if the lump sum Actuarial Equivalent of the Member's vested Accrued Benefit is less than or equal to \$5,000.

However, effective as of January 1, 2006, if the mandatory distribution is greater than \$1,000 but less than \$5,000, and the Member does not elect to have such distribution paid directly to an Eligible Retirement Plan, specified by the Member in a direct rollover or to receive the distribution directly, then the Board will (i) pay the distribution in a direct rollover to an individual retirement plan designated by the Board; or (ii) retain the distributable amount until the Member elects to have such benefit paid provided, however, that such benefit shall commence on or before the Required Beginning Date as set forth under Section 10.04(b).

If such a lump sum payment is made or transferred to an Individual Retirement Account or an Eligible Retirement Plan, the Member's vested Accrued Benefit shall be disregarded and he shall not be entitled to any other Pension benefits under the Plan.

5.05 Late Retirement

Except as provided in Article X, a Member shall receive Credited Service for Service completed after the Member's Superannuation Retirement Date, until subsequent Termination of Employment.

5.06 Cash Balance Superannuation Retirement Pension

(a) Accrued Benefit

- (i) A Member's Accrued Benefit, as of any determination date (on or prior to the Superannuation Retirement Date), means a lifetime annuity in the normal form of benefits as described in Section 10.01 of the Plan commencing at a Participant's Superannuation Retirement Date, calculated by projecting the Member's Hypothetical Account Balance to Superannuation Retirement Age with interest at the Cash Balance Interest Crediting Rate in effect at the date of determination, and converting the projected account to an Actuarial Equivalent benefit payable in the normal form at the Member's Benefit Commencement Date.
- (ii) In the event of a change in the assumptions defined under Section 1.04, Actuarial Equivalence/ or Actuarial Equivalent such that the change would result in a lower projected Superannuation Retirement Pension, the Accrued Benefit will be determined as the last day of the Stability Period immediately preceding the Stability Period in which the assumption change takes effect. In no event will a Member's accrued benefit be less than the Accrued Benefit defined in this subsection

(b) Establishment of Hypothetical Account Balance.

A Hypothetical Account Balance shall be established and maintained for each Member. Additions to and reductions in the Hypothetical Account Balance shall be made in accordance with the provisions set forth below. This Hypothetical Account Balance shall be a hypothetical account for bookkeeping purposes only and neither the maintenance nor the adding of credits thereto shall be construed as an allocation of assets of the Plan to, or a segregation of such assets in, any such Hypothetical Account Balance, or otherwise creating a right for any individual to receive specific assets of the Plan. Benefits provided under the

Plan shall be paid from the general assets of the Trust in the amounts, in the forms, and at the times provided, under the terms of the Plan. When applying any statutory or Plan limitation and/or minimum benefit that is expressed in terms of an annuity to the benefit derived from the Hypothetical Account Balance, the limit shall be applied to the annuity derived from the Hypothetical Account Balance that is payable at the time and in the form corresponding to the Plan limitation or minimum benefit, determined under the terms of the Plan.

(c) Cash Balance Contribution Credits

As of the last day of each Plan Year, a Cash Balance Contribution Credit amount as set forth in the Adoption Agreement shall be credited to such Member's Hypothetical Account. If the Member is employed for a period of less than the full Plan Year, the Cash Balance Contribution Credit shall be equal to the ratio of (i) the number of days in which the Member is employed in the Plan Year; to (ii) 365.

(d) Cash Balance Interest Credits

At the end of each Cash Balance Interest Credit Period, a Cash Balance Interest Credit shall be credited to the Hypothetical Account Balance. The Cash Balance Interest Credit shall be calculated by multiplying the balance in the Member's Hypothetical Account Balance at the beginning of the Cash Balance Interest Credit Period by the Cash Balance Interest Crediting Rate applicable for such Cash Balance Interest Credit Period, based upon the Stability Period and the Lookback Month that applies for the Cash Balance Interest Credit Period. No Cash Balance Interest Credits shall accrue to any portion of the Hypothetical Account Balance after the annuity starting date that applies to that portion.

(e) Cash Balance Interest Credit Period

The Cash Balance Interest Credit Period shall be each calendar quarter.

ARTICLE VI: EARLY RETIREMENT PENSION

6.01 Offering of Early Retirement Pension

The Municipality shall elect in its Adoption Agreement whether to offer an Early Retirement Pension. If the Municipality elects to offer an Early Retirement Pension, a Member who satisfies the eligibility criteria specified in Section 6.02 of its Adoption Agreement and who Retires on or after the Early Retirement Date, but before the Superannuation Retirement Date, may elect to receive an Early Retirement Pension.

6.02 Eligibility for Early Retirement Pension

If the Municipality elects to provide an Early Retirement Pension, its Adoption Agreement shall specify the following eligibility criteria:

- (a) The minimum age, if any, for a Member to be eligible for an Early Retirement Pension,
- (b) The minimum years of Vesting Service, if any, required to be completed to be eligible for an Early Retirement Pension, and
- (c) The minimum age and years of Vesting Service combined (expressed as a single cumulative number), if any, required to be completed to be eligible for an Early Retirement Pension,

The Municipality may elect to provide for more than one method of determining Member eligibility for the Early Retirement Pension under (a), (b) and (c).

If a Member must satisfy a minimum age and Vesting Service requirement for an Early Retirement Pension, a Member who has a Termination of Employment after satisfying the Vesting Service requirement but not the minimum age requirement may elect to receive an Early Retirement Pension upon satisfying the minimum age requirement.

6.03 Amount of Early Retirement Pension

Subject to the maximum permissible amount limitations of Article XII of the Plan, if the Municipality elects to provide an Early Retirement Pension, it shall equal the Member's vested Accrued Benefit or the Actuarial Equivalent of the vested Accrued Benefit as of the Early Retirement Date.

The formula specified by the Municipality in Section 5.02 of the Adoption Agreement shall be used to calculate the Early Retirement Pension in the normal form of benefit as elected by the Municipality in Section 10.01 of the Adoption Agreement. The above notwithstanding, the Early Retirement Pension payable from a Cash Balance Plan shall be the Actuarial Equivalent of his Hypothetical Account Balance determined as of the Benefit Commencement Date.

The Early Retirement Pension shall be adjusted by any reductions elected by the Municipality in its Adoption Agreement for a reduced Early Retirement Pension when the Member's Benefit Commencement Date is prior to his Superannuation Retirement Date.

6.04 Computation and Payment of Early Retirement Pension

(a) Computations

The Early Retirement Pension shall be computed by the Board in the form of benefit selected by the Member. A Member shall select the form of benefit for his Early Retirement Pension as either the normal form as elected by the Municipality in Section 10.01 of its Adoption Agreement or any eligible optional form as elected by the Municipality in Section 10.02 of

its Adoption Agreement. If no optional form of benefit is selected by the Member, the Pension benefit shall be paid in the normal form.

(b) Payments

Payments shall begin no earlier than the Early Retirement Date and begin no later than the date specified in Section 10.04(b) of the Plan. Between the dates a Member is first eligible to receive the Early Retirement Pension and the Mandatory Commencement of Benefits date specified in Section 10.04(b), a Member must apply for benefits to commence. The Member's Benefit Commencement Date shall be the first day of the month coincident with or next following the later of (i) the Member's Termination of Employment following Early Retirement Date; (ii) the date the application is approved by the Board; or (iii) the date specified by the Member in his or her application. The above notwithstanding, if a Member's Retirement arises due to a Severance from Credited Service, and the Member remains employed by the Municipality, payment shall begin no earlier than the Member's Normal Retirement Age as set forth in Treasury Regulation § 1.401(a)-1(b).

Payments for an annuity form of benefit shall continue until the last scheduled payment coincident with the month of the Member's death or, if applicable, the month of the death of the Survivor Annuitant.

6.05 Limited Offering of Early Retirement Pension Under Alternative Eligibility Requirements

The Municipality may amend this Plan to provide for different eligibility requirements for an Early Retirement Pension as part of a bona fide retirement incentive program ("Program"). Prior to the implementation of any such Program, the Municipality shall:

- (a) submit to the System a proposed addendum as an amendment to its Adoption Agreement specifying the proposed Program's terms and conditions as tentatively approved by the Municipality's governing authority; and
- (b) provide a draft of the disclosure documents to be provided to eligible Members explaining the Program and an illustration of the Program's impact on a typical Member; and
- (c) provide an explanation of the Municipality's reason for the Program including the expected Municipality benefits; and
- (d) request the System to complete an actuarial cost study of the proposed Program.

Upon completion of the actuarial cost study, the System shall provide the Municipality the cost study results and may request additional information from the Municipality. If the Municipality elects to amend the Plan to implement the Program, it shall provide the System with an ordinance or resolution (i) authorizing an amendment of the Plan in the form of a proposed addendum; (ii) a copy of the disclosure documents for each eligible Member; and (iii) identifying the Program's final terms and conditions, the estimated annual and total additional costs to the Municipality's Plan and any other information requested by the System.

Such Program shall be permitted only upon a determination by the Board that (i) additional benefits thereunder, when added to all other benefits provided under the plan do not exceed the limitation on benefits set forth under Code Section 415(b); and (ii) the Program does not otherwise violate any tax qualification provisions of the Code.

ARTICLE VII: DISABILITY PENSION

7.01 Offering of Disability Pension

The Municipality may elect in its Adoption Agreement to provide a disability benefit under the Plan. If the Municipality elects to provide such benefit, an active Member who, prior to satisfying the requirements for a Superannuation Retirement Pension, becomes Disabled and who satisfies the eligibility criteria established in Section 7.02 of the Municipality's Adoption Agreement shall receive a Disability Pension.

7.02 Eligibility for Disability Pension

If the Municipality elects to provide a disability benefit, the Municipality shall also elect the eligibility criteria for Member submission of an application for a non-service connected Disability Pension. Where the disability of a Member is determined to be a Service Connected Disability, no minimum period of service, nor minimum age, shall be required for eligibility. In addition to any other criteria elected by the Municipality which shall be non-discretionary and applied on a uniform basis, a Member may become eligible for a Disability Pension only if he is an Eligible Employee on his Disability Date.

7.03 Amount of Disability Pension

Subject to the Maximum Permissible Dollar Limitations of Article XII of the Plan, if the Municipality elects to provide a Disability Pension, its Adoption Agreement shall establish the amount of a Member's Disability Pension including any adjustments or offsets for payment made to the Member for the same disability. The Municipality shall be allowed to establish a different benefit amount if the Member is determined to have a Service Connected Disability.

The above notwithstanding, the Disability Pension payable from a Cash Balance Plan shall be the Actuarial Equivalence of his Hypothetical Account Balance determined as of the Benefit Commencement Date.

7.04 Computation and Payment of Disability Pension

(a) Benefit Commencement Date

- (i) The Benefit Commencement Date shall be no earlier than the later of the first day of the month coincident with or next following the Member's Termination of Employment; or
- (ii) the first day of the first month coincident with or next following the Disability Date as determined by the Board.

(b) Program Computations

The Disability Pension shall be computed by the Board in the Single Life form of benefit.

(c) Payments

- (i) Shall be in accordance with Article X of the Plan.
- (ii) Payments shall continue until earlier of:
 - (A) the last scheduled payment coincident with the month the Member has been determined to no longer be Disabled, or
 - (B) the last scheduled payment coincident with the month of the Member's death.

7.05 Recovery from Disability

If a Member recovers from Disability and is reemployed as an Employee under the Plan, the Member's Credited Service shall be restored up to the Benefit Commencement Date of his Disability Pension. The Member then shall commence to accrue benefits under the Plan based upon his Credited Service before the Benefit Commencement Date of his Disability Pension and after his Reemployment Commencement Date.

7.06 Application and Continuing Evidence of Total Disability

- (a) A Member may, upon application or on application of one acting on the Member's behalf, or upon application of a responsible official of the Municipality, be retired by the Board on a disability retirement following a review of the application and any supporting medical records and other documentation submitted with the application certifies to the Board that the Member is unable to engage in any gainful employment and that said Member ought to be retired.
- (b) The Board may require a Disabled Member to undergo medical examination by a physician designated by the Board at least once per year prior to the Member's Superannuation Retirement Date. Such examination shall be made at the place of residence of the Member or other place mutually agreed upon. Should the physician report and certify to the Board that such Disabled Member is no longer physically or mentally incapacitated for the performance of duty and is able to engage in a gainful occupation, then his disability retirement allowance shall be discontinued, and in lieu thereof an early involuntary retirement allowance shall at that time be granted as if such person had been retired not voluntarily, if such provision is selected by the Municipality in Section 6.01 of the Adoption Agreement and if the Member shall have had the required number of years of total service as stated in the Adoption Agreement.
- (c) Should a Disabled Member refuse to submit to a medical examination as provided above, his Disability Pension shall be discontinued until the withdrawal of such refusal, and should such refusal continue for one year, then all his right in and to any disability retirement allowance or for early involuntary retirement allowance shall be forfeited.
- (d) Should a Disabled Member die before the amount payable under this section equals the total amount allocated to his Member Contribution Account, plus the balance in the Member's Excess Investment Account as of the Effective Date of Disability Retirement, the Board shall pay to the Beneficiary (if living, or if the Beneficiary predeceased the Disabled Member, or no Beneficiary was named, then to the Disabled Member's estate) an amount equal to the difference between such amounts paid under this Section and the Member Contribution Account and the balance in the Member's Excess Investment Account. If such difference is less than one hundred dollars (\$100) and no letters have been taken out on the estate within six (6) months after the Disabled Member's death, such difference may be paid to the undertaker or to any person or Municipality who or which shall have paid the claim of the undertaker.

ARTICLE VIII: DEFERRED VESTED PENSION

8.01 Offering of Deferred Vested Pension

A Member who meets the eligibility criteria specified in Section 8.02 shall receive a Deferred Vested Pension.

8.02 Eligibility for Deferred Vested Pension

A Member is eligible to receive a Deferred Vested Pension provided that: (a) the Member has completed the minimum amount of Vesting Service specified in Section 8.05 of the Municipality's Adoption Agreement; and (b) the Member Terminated Employment but has not yet Retired.

8.03 Amount of Deferred Vested Pension

The Member's Deferred Vested Pension shall equal his Vested Accrued Benefit as of the date of his Termination of Employment.

8.04 Computation and Payment of Deferred Vested Pension

(a) Computations

The Deferred Vested Pension shall be computed by the Board in the form of benefit selected by the Member. A Member shall select the form of benefit for his Deferred Vested Pension as either the normal form as elected by the Municipality in Section 10.01 of its Adoption Agreement or any eligible optional form as elected by the Municipality in Section 10.02 of its Adoption Agreement. If no optional form of benefit is selected by the Member, the Pension benefit shall be paid in the normal form.

(b) Payments

Payments shall begin no earlier than the Member's Early Retirement Date and begin no later than the date specified in Section 10.04(b) of the Plan. Between the dates a Member is first eligible to receive his Early Retirement Pension and the Mandatory Commencement of Benefits date specified in Section 10.04(b), a Member must apply for benefits to commence; provided however, the Member's Benefit Commencement Date shall be the first day of the month coincident with or next following the later of (1) the Member's Termination from Employment; or (2) the date the application is approved by the Board.

Payments for an annuity form of benefit shall continue until the last scheduled payment coincident with the month of the Member's death or, if applicable, coincident with the month of the death of the Survivor Annuitant.

(c) Voluntary Lump Sum Payment of Deferred Vested Pension

Notwithstanding the provisions of paragraphs (a) and (b), if elected by the Municipality in its Adoption Agreement, a lump sum payment shall be made for a Deferred Vested Pension to Members, at any time on or after the Member's Termination of Employment with the Member's consent, if the lump sum Actuarial Equivalent of the Member's vested Accrued Benefit is less than \$5,000.

If such a lump sum payment is made or transferred to an Individual Retirement Account or an Eligible Retirement Plan, the Member's vested Accrued Benefit shall be disregarded and he shall not be entitled to any other benefits under the Plan.

(d) Involuntary Lump Sum Payment of Deferred Vested Pension

Notwithstanding the provisions of paragraphs (a), (b) and (c), if elected by the Municipality in its Adoption Agreement, a lump sum payment shall be made for a Deferred Vested Pension

to Members, at any time on or after the Member's Termination of Employment and without the Member's consent, if the lump sum Actuarial Equivalent of the Member's vested Accrued Benefit is less than or equal to \$5,000 or such other higher amount as the Board may approve from time to time.

However, effective as of January 1, 2006, if the mandatory distribution is greater than \$1,000, and the Member does not elect to have such distribution paid directly to an Eligible Retirement Plan, specified by the Member in a direct rollover or to receive the distribution directly, then the Board will (i) pay the distribution in a direct rollover to an individual retirement plan designated by the Board; or (ii) retain the distributable amount until the Member elects to have such benefit paid provided, however, that such benefit shall commence on or before the Required Beginning Date set forth under Section 10.04(b).

If such a lump sum payment is made or transferred to an Individual Retirement Account or an Eligible Retirement Plan, the Member's vested Accrued Benefit shall be disregarded and he shall not be entitled to any other Pension benefits under the Plan.

8.05 Vesting Schedule

A Member's Accrued Benefit derived from Municipality contributions shall be one hundred percent (100%) vested:

- (a) on and after his Superannuation Retirement Date (if employed on or after that date),
- (b) if his employment Terminates as a result of:
 - (i) death, provided the member has satisfied the death benefit eligibility criteria elected by the Municipality in Section 9.01 of its Adoption Agreement; or
 - (ii) Disability, provided the member has satisfied the Disability benefit eligibility criteria elected by the Municipality in Section 7.02 of its Adoption Agreement;
- (c) if there is a complete termination of the Plan, but only to the extent the benefits are funded.

For all other circumstances other than those applicable above, a Member shall receive a vested percentage of his Accrued Benefit derived from Municipality contributions equal to the percentage of completed vesting service designated in the Municipality's Adoption Agreement.

8.06 Member Contribution Forfeitability

A Member shall be one hundred percent (100%) vested at all times in the amounts allocated to his Member Contribution Account.

ARTICLE IX: DEATH BENEFITS

9.01 Pre-Retirement Death Benefit

(a) Eligibility and Amount

If a Member dies while an Employee of the Municipality, the Member's designated Beneficiary shall be entitled to an immediate death benefit equal to Actuarial Equivalent of his Vested Accrued Benefit, provided the Member, prior to his death, satisfied the death benefit eligibility criteria elected by the Municipality in Section 9.01 of its Adoption Agreement.

If the Member fails to satisfy the death benefit eligibility criteria prior to his death, the designated Beneficiary shall receive the value of the Member Contribution Account balance valued as of the Member's date of death in a single lump sum payment.

(a) Optional Forms of Payment

Upon satisfying the death benefit eligibility criteria, a Member shall have the option of filing with the System an application to specify a form of payment for the distribution of the death benefit. The available forms of payment shall be the forms of benefit elected by the Municipality in Section 10.02 of its Adoption Agreement.

If the Member fails to specify a form of payment upon satisfying the death benefit eligibility criteria, it will be deemed that the Member has specified the optional form of benefit identified as the "Single Life Guaranteed Present Value" and shall be paid to the designated Beneficiary in a single lump-sum payment or, in accordance with the limitations found in Section 10.04 of the Plan, an Actuarial Equivalent period certain annuity.

9.02 Deferred Vested Death Benefit

(a) Eligibility and Amount

If a Deferred Vested Member eligible to receive a Deferred Vested Pension dies prior to the Benefit Commencement Date, the Member's designated Beneficiary shall be entitled to a death benefit equal to Actuarial Equivalent of his Vested Accrued Benefit, provided the Member, prior to his death, satisfied the death benefit eligibility criteria elected by the Municipality in Section 9.01 of its Adoption Agreement.

If the Member fails to satisfy the death benefit eligibility criteria prior to his death, the designated Beneficiary shall receive the value of the Member Contribution Account balance valued as of the Member's date of death less any benefit payment paid to or on behalf of the Member. Such amount shall be paid in a single lump sum payment.

(b) Optional Forms of Payment

Upon satisfying the death benefit eligibility criteria, a Member shall have the option of filing with the System an application to specify a form of payment for the distribution of the death benefit. The available forms of payment shall be the forms of benefit elected by the Municipality in Section 10.02 of its Adoption Agreement.

If the Member fails to specify a form of payment upon satisfying the death benefit eligibility criteria, it will be deemed that the Member has specified the optional form of benefit identified as the "Single Life Guaranteed Present Value" and shall be paid to the designated Beneficiary in a single lump-sum payment or, in accordance with the limitations found in Section 10.04 of the Plan, an Actuarial Equivalent period certain annuity.

9.03 Post Retirement Death Benefit

If a Member's death occurs after the Benefit Commencement Date and there remains no further benefit payment obligations based on the Member's elected optional form of benefit, the designated Beneficiary shall be entitled to an amount equal to the Member's Contribution Account as of the Benefit Commencement Date less the total accumulated benefit payment amounts made to the Member or to the applicable recipients designated by the Member; otherwise no death benefit is payable.

9.04 Minimum Death Benefit

The minimum death benefit shall be a refund of the Member's Contribution Account valued at the time of the Member's death less any benefit payments paid to or on behalf of the Member.

9.05 Limitation on Death Benefit

Notwithstanding anything in this Article to the contrary, death benefits shall not be paid in excess of the amount that would be considered an incidental death benefit as defined under Treasury Regulation § 1.401-1(b)(1)(i).

ARTICLE X: PAYMENT OF ACCRUED BENEFIT - OPTIONAL FORMS OF PAYMENT

10.01 Normal Form of Benefit

The Municipality shall elect in its Adoption Agreement to provide one of the following the normal form of benefits that shall be used for the computation and payment of pension benefits.

(a) Single Life

An immediate monthly benefit payment payable for the life of the Member.

(b) Life and 50% Spouse Benefit

An immediate monthly benefit payment payable for the life of the Member and the life of the Spouse. Upon the Member's death, the Spouse at the time of the Member's death shall receive a survivor's annuity equal to fifty percent (50%) of the monthly benefit amount being received by the Member immediately preceding his death and such survivor annuity shall be paid for the remainder of the Spouse's life. If the Member has no Spouse at the time of death, and the Survivor Annuitant is one or more of Member's children under the age of 18, (or, if in college, under the age of 23), the survivor's annuity shall be divided and paid equally to each child until such child attains age 18 (or, if in college, age 23).

(c) Life and 100% Spouse Benefit

An immediate monthly benefit payment payable for the life of the Member and the life of the Spouse. Upon the Member's death, the spouse at the time of the Member's death shall receive a survivor's annuity equal to one hundred percent (100%) of the monthly benefit amount being received by the Member immediately preceding his death and it shall be paid for the remainder of the Spouse's life. If the Member has no Spouse at the time of death, and the Survivor Annuitant is one or more of Member's children under the age of 18, (or, if in college, under the age of 23), the survivor's annuity shall be divided and paid equally to each child until such child attains age 18 (or, if in college, age 23).

10.02 Optional Forms of Benefit

Subject to the limitations of Section 12.08 of the Plan, if the Member selects an optional form of benefit, the Member shall receive the Actuarial Equivalent of the Vested Accrued Benefit payable at Early Retirement or Superannuation Retirement Date.

(a) Required Optional Forms of Benefit

The Municipality shall provide the following optional forms of benefit for the computation and payment of monthly benefits:

(i) Single Life with Minimum Net Present Value

A monthly benefit payable for the life of the Member; provided however, that the total benefit payments shall not be less than the present value of the Member's Vested Accrued Benefit ("NPV") as of the Benefit Commencement Date. Should the Member die prior to receiving benefit payments at least equal to the NPV, the designated beneficiary shall receive the remaining amount.

(ii) Life and 50% Survivor Annuitant Benefit

A monthly benefit payable for the life of the Member. Upon the Member's death, the Survivor Annuitant shall receive fifty percent (50%) of the monthly benefit amount being received by the Member immediately preceding his death for the remainder of the Survivor Annuitant's life.

(iii) Life and 100% Survivor Annuitant Benefit

A monthly benefit payable for the life of the Member. Upon the Member's death, the Survivor Annuitant shall receive one hundred percent (100%) of the monthly benefit amount being received by the Member immediately preceding his death for the remainder of the Survivor Annuitant's life.

(b) Employer Elective Optional Forms of Benefit

The Municipality may elect in its Adoption Agreement to provide the following additional optional forms of benefit for the computation and payment of monthly benefits:

(i) Single Life with 10 Years Certain

A monthly benefit payable for the life of the Member; provided however; that the total number of monthly benefit payments made shall not be less than 120. Should the Member die prior to receiving 120 monthly benefit payments, the designated Beneficiary shall receive the remaining monthly benefit payments.

(ii) Single Life with 20 Years Certain

A monthly benefit payable for the life of the Member; provided however; that the total number of monthly benefit payments made shall not be less than 240. Should the Member die prior to receiving 240 monthly benefit payments, the designated Beneficiary shall receive the remaining monthly benefit payments.

(iii) Lump Sum Payment with Reduced Monthly Benefit

A lump sum payment of the Member's Contribution Account at his Benefit Commencement Date combined with a reduced monthly benefit based on the Member's election of one of remaining available optional forms of benefit. The Member may elect to withdraw less than the full amount of the Member Contribution Account. The reduced monthly benefit shall be the Actuarial Equivalent of the Member's Vested Accrued Benefit less the lump sum payment of the Member's Contribution Account.

The Member may select in writing one of the permitted optional forms of benefit prior to his Benefit Commencement Date. This optional form selection shall become irrevocable upon deposit of the Member's first benefit payment, including lump sum payments. If a Member fails to elect one of the optional forms of benefit as of his Benefit Commencement Date, the System shall deem the Member as having elected the Normal Form of Benefit specified in Section 10.01 of the Municipality's Adoption Agreement.

10.03 Cost of Living Adjustment

If elected by the Municipality in its Adoption Agreement, eligible Plan Members shall receive a cost of living adjustment applied to eligible benefit payments in an amount provided in the Municipality's Adoption Agreement as follows:

(a) Municipality Discretionary Percentage Rate

The Municipality may provide from time to time a specified cost of living adjustment to be applied to eligible benefit payments. Any such cost of living adjustment does not obligate the Municipality to provide future cost of living adjustments. Each such adjustment shall be specified as a fixed percentage rate to be applied equitably to all eligible benefit payments and shall be adopted by the Municipality as an amendment to the Plan in accordance with the provisions of Article XVI.

Any Municipality discretionary adjustment authorized and adopted shall not exceed the percentage change calculated in accordance with Subsection (c) below. If the discretionary adjustment percentage rate exceeds the percentage change calculated in accordance with Subsection (c) below, the cost of living adjustment shall be adjusted to the rate calculated in Subsection (c) below.

(b) Fixed Percentage Rate

If a fixed percentage cost of living adjustment has been elected by the Municipality in the Adoption Agreement, the Municipality will provide for a cost of living adjustment based on a specified fixed percentage rate to be applied equitably to all eligible benefit payments.

Any fixed percentage rate adjustment authorized and adopted shall not exceed the percentage change calculated in accordance with Subsection (c) below. If the fixed percentage rate specified the Adoption Agreement exceeds the percentage change calculated in accordance with Subsection (c) below, the cost of living adjustment shall be adjusted to the rate calculated in Subsection (c) below.

(c) Adjustable Percentage Rate based on the Consumer Price Index

The Municipality may provide for a cost of living adjustment based on the United States Bureau of Labor Statistics' Consumer Price Index. The index series used shall be the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S. City Average for All Items, 1982-84=100.

- (i) Such increases shall be a percentage to be applied to the existing benefit payment amount.
- (ii) The specific percentage change shall be calculated by:
 - (A) averaging the monthly index amounts for the final three months of each calendar year immediately preceding the year in which the increase is to be applied (the "Second Year") and averaging the monthly index for the final three months of the calendar year preceding the Second Year (the "First Year"); and
 - (B) Subtracting the First-Year average from the Second-Year average; and
 - (C) Dividing the result of subsection (B) by the First-Year average.
- (iii) If the result in subsection (ii)(C) is less than zero, no adjustment shall be made for the applicable Plan year.
- (iv) If the result in subsection (ii)(C) is greater than zero, the percentage amount, rounded down to one decimal place, shall be applied to all eligible benefit payments.

Cost of living adjustments shall be applied to eligible benefit payments beginning with the payments dated April 1 in the applicable Plan Year.

(d) Maximum Cost of Living Adjustment

Notwithstanding anything in this Section, in no event shall a cost of living adjustment cause annual payment to a Member or Beneficiary to exceed (i) seventy-five percent (75%) of the Member's Final Average Salary; or (ii) one hundred thirty percent (130%) of the Member's or Beneficiary's annual Pension payment; each determined as of the Member's Date of Termination of Service.

For the purposes of this Section 10.03, "eligible benefit payments" shall mean payments to eligible Members that were disbursed or required to be disbursed by December 31 of the Plan Year immediately preceding the Plan Year in which the cost of living adjustment is to be applied. For the purposes of this Section 10.03, "eligible Plan Members" shall mean

Members receiving benefit payments for an Early or Superannuation Retirement Pension and, if elected by the Municipality in its Adoption Agreement, Members receiving a Disability or Deferred Vested Pension or Survivor Annuitants receiving a joint and survivor annuity.

10.04 Commencement of Benefits/Payment Schedules

(a) Entitlement to Payments

The Member is entitled to commence the payment of his Superannuation or Early Retirement on the first day of the first month coincident with or following his Termination of Employment following his Superannuation or Early Retirement Date.

(b) Mandatory Commencement of Benefits – Required Beginning Date

In no event shall the Board commence the payment of a Member's Superannuation Retirement Pension, Early Retirement Pension or Deferred Vested Pension later than the first day of April in the calendar year following the later of:

- (i) the calendar year in which the Member attains age 70-1/2, or
- (ii) the calendar year in which the Member Terminates Employment as required by Code Section 401(a)(9).

(c) Benefit Payments to Beneficiaries After Member's Death

- (i) If Pension benefit payments begin prior to the Member's death, the remaining Vested Accrued Benefit will be distributed to his Beneficiary at least as rapidly as under the method of benefit payments being used as of the date of the Member's death.
- (ii) If the Member dies after application to the Board for the commencement of benefits but prior to the Benefit Commencement Date, the Member's Beneficiary, based on the Actuarial Equivalence of a single, lump sum payment calculated as of the Member's date of death, shall receive the greater of:
 - (A) the remaining vested Accrued Benefit, or
 - (B) the total of any Death Benefits described in Article IX as elected by the Municipality in its Adoption Agreement.
- (iii) If the Member dies before his Benefit Commencement Date the following rules apply:
 - (A) If the Member's Spouse is the sole Beneficiary, distribution must begin by December 31 of the calendar year immediately following the calendar year in which the Member dies or by December 31 of the calendar year in which the Member would have attained age 70½, if later.
 - (B) If the Member's Spouse is not the sole Beneficiary, then distribution must begin by December 31 of the calendar year immediately following the calendar year in which the Member dies.
 - (C) If there is no designated Beneficiary as of September 30 of the year following the year of the Member's death, the Member's entire benefit must be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.
 - (D) If the Member's Spouse is the sole Beneficiary and the Spouse dies after the Member but before distributions to the Spouse begin, this Section 10.04(c)(iii) (other than Section 10.04(c)(iii)(A)) will apply as if the Spouse were the Member.

(d) Conformance to Code Section 401(a)(9)

- (i) All distributions will be made in accordance with Code Section 401(a)(9), the regulations promulgated under Code Section 401(a)(9) and any other provisions reflecting the requirements of Code Section 401(a)(9) and prescribed by the Internal Revenue Service; and the terms of the Plan reflecting the requirements of Code Section 401(a)(9) override the distribution options (if any) in the Plan which are inconsistent with those requirements.
- (ii) Effective January 1, 2006, unless the Member's benefit is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with sections (e), (f) and (g) of this Section 10.04. If the Member's benefit is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury regulations.
- (iii) Notwithstanding any other provision in the Plan to the contrary, distributions from the Plan will be made in accordance with a good faith interpretation of Code Section 401(a)(9) and the regulations thereunder as applicable to governmental plans with the meaning of Code Section 414(d) and shall be implemented in accordance with the grandfathering provisions of such regulations applicable to annuity option distributions in effect on April 17, 2001.

(e) Determination of Amount to be Distributed Each Year

(i) Annuity Distributions

If the Member's benefit is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

- (A) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;
- (B) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Section 10.04 (f) or 10.04 (g);
- (C) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted; and
- (D) Payments will either be non-increasing or increase only as follows:
 - 1. by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
 - 2. to the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in Section 10.04(f) dies;
 - 3. to provide cash refunds of employee contributions upon the Member's death;
 - 4. to pay increased benefits that result from the allocation of Excess Interest pursuant to Section 15.10; or
 - 5. to pay increased benefits that result from a Plan amendment.

(ii) Amount Required to be Distributed by Required Beginning Date

The amount that must be distributed on or before the Member's Required Beginning Date (or, if the Member dies before distributions begin, the date distributions are required to begin under section (c)(iii)(A) or (B)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's Required Beginning Date.

(iii) Additional Accruals After First Distribution Calendar Year

Any additional benefits accruing to the Member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(f) Requirements For Annuity Distributions That Commence During Member's Lifetime

(i) Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse

If the Member's benefit is being distributed in the form of a joint and survivor annuity for the joint lives of the Member and a non-spouse Beneficiary, annuity payments to be made on or after the Member's Required Beginning Date to the Beneficiary after the Member's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Member using the table set forth in Q&A-2 of section 1.401(a)(9)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Member and a non-spouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the Beneficiary after the expiration of the period certain.

(ii) Period Certain Annuities

Unless the Member's Spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Member's lifetime may not exceed the applicable distribution period for the Member under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the Benefit Commencement Date. If the Benefit Commencement Date precedes the year in which the Member reaches age 70, the applicable distribution period for the Member is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Member as of the Member's birthday in the year that contains the Benefit Commencement Date. If the Member's Spouse is the Member's sole Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Member's applicable distribution period, as determined under this section (f)(ii), or the joint life and last survivor expectancy of the Member and the Member's Spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Member's and Spouse's attained ages as of the Member's and Spouse's birthdays in the calendar year that contains the Benefit Commencement Date.

(g) Requirements For Minimum Distributions Where Member Dies Before Date Distributions Begin

(i) Member Survived by Designated Beneficiary

If the Member dies before the date distribution of his or her benefit begins and there is a Beneficiary, the Member's entire benefit will be distributed, beginning no later than the time described in section (c)(iii)(A) or (B), over the life of the designated Beneficiary or over a period certain not exceeding:

(A) unless the Benefit Commencement Date is before the first distribution calendar year, the life expectancy of the Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death; or

(B) if the Benefit Commencement Date is before the first distribution calendar year, the life expectancy of the Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the Benefit Commencement Date.

(ii) No Beneficiary

If the Member dies before the date distributions begin and there is no Beneficiary as of September 30 of the year following the year of the Member's death, distribution of the Member's entire benefit will be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(iii) Death of Spouse Before Distributions to Begin

If the Member dies before the date distribution of his or her benefit begins, the Member's Spouse is the Member's sole Beneficiary, and the Spouse dies before distributions to the Spouse begin, this Section 10.04(g) will apply as if the Spouse were the Member, except that the time by which distributions must begin will be determined without regard to section (c)(iii)(A).

(h) Definitions

(i) Designated Beneficiary

The individual who is designated as the Beneficiary under Section 1.09 of the Plan and is the designated Beneficiary under Code Section 401(a)(9) and section 1.401(a)(9)-4 of the Treasury regulations.

(ii) Distribution Calendar Year

A calendar year for which a minimum distribution is required.

For distributions beginning before the Member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Member's Required Beginning Date. For distributions beginning after the Member's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to section 10.04(c)(iii).

(iii) Life Expectancy

Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

(iv) Required Beginning Date

The date specified in section 10.04(b) of the Plan.

10.05 Member Continuing Employment after Normal Retirement Age

The Municipality may elect in its Adoption Agreement to permit In-service Distributions. If permitted and a Member elects to commence In-service Distribution, the Member's Service and Compensation earned after commencement of benefit payments shall not thereafter be counted as Credited Service or otherwise increase the Member's Accrued Benefit.

10.06 Reemployment of Member after Benefit Commencement Date

The Municipality shall elect in its Adoption Agreement to allow a retired Member, upon reemployment to (i) elect to either continue or cease receiving his Early or Superannuation Retirement Pension; or (ii) be required to suspend receipt of his Early or Superannuation Retirement Pension.

- (a) If permitted in the Municipality's Adoption Agreement and if the Member elects to continue receiving his Retirement Benefit, the Member's Service and Compensation earned after the Reemployment Commencement Date shall not thereafter be counted as Credited Service or otherwise increase the Member's Accrued Benefit.
- (b) If the Municipality's Adoption Agreement requires the Reemployed Retired Member suspend receipt of his Retired Benefit; or if the Member elects to suspend receipt of his Retirement Benefit, the Member's Service and Compensation earned after the Reemployment Commencement Date shall thereafter be counted as Credited Service to increase the Member's Accrued Benefit.
- (c) The Municipality is required to notify the Board immediately of the reemployment status of any Retired Member.

10.07 Rollovers

(a) General Rule

Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Member's election under this Section, a Member may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Member, in a direct rollover.

(b) Definitions

(i) Eligible Rollover Distribution

An Eligible Rollover Distribution is any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (A) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Member or the joint lives (or joint life expectancies) of the Member and the Member's designated Beneficiary, or for a specified period often (10) years or more; (B) any distribution to the extent such distribution is required under Code Section 401(a)(9); and (C) the portion of any distribution that is a hardship distribution under Code Section 401(k). A Distributee may not elect a direct rollover with respect to an Eligible Rollover Distribution during the Plan Year that is less than \$200. If the Distributee elects to have only a portion of an Eligible Rollover Distribution paid to an Eligible Retirement Plan, that portion must be equal to at least \$500. Notwithstanding anything contained herein to the contrary, the portion of a distribution that is not includible in the gross income because it represents after-tax amounts shall constitute an Eligible Rollover Distribution, but before January 1, 2007, such portion may be transferred only to an individual retirement account or annuity described in Code

Section 408(a) or (b), or to a qualified defined contribution plan described in Code Section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of the distribution that is includible in gross income and the portion that is not so includible. Effective for distributions on and after January 1, 2007, after-tax amounts also may be rolled over to a defined benefit plan described in Code Section 401(a) or an annuity described in Code Section 403(b), provided in either case that the recipient agrees to separately account for amounts so transferred, including separately accounting for the portion of the distribution that is includible in gross income and the portion that is not so includible.

(ii) Eligible Retirement Plan

An Eligible Retirement Plan is, in the case of an Eligible Rollover Distribution to the Member or Member's Surviving Spouse, an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), a qualified trust described in Code Section 401(a), an annuity contract described in Code Section 403(b) that accepts the Member's Eligible Rollover Distribution and an eligible plan under Code Section 457(b) which is maintained by a state, political subdivision or agency or instrumentality of a state and which agrees to separately account for amounts transferred to such plan from this Plan, provided that such account, annuity, contract, plan or trust accepts the Distributee's Eligible Rollover Distribution. Effective as of January 1, 2008, "eligible retirement plan" shall include a Roth IRA established under Code Section 408A.

Effective as of January 1, 2010, in the case of an Eligible Rollover Distribution to a Beneficiary other than the Member's Surviving Spouse, "eligible retirement plan" shall mean: (i) an individual retirement account described in Code Section 408(a), (ii) an individual retirement annuity described in Code Section 408(b), or (iii) as of January 1, 2008, a Roth IRA established under Code Section 408A which shall be treated as an inherited IRA.

(iii) Distributee

A Distributee includes the Member, former Member, Surviving Spouse or effective January 1, 2010, a nonspouse Beneficiary of the Member.

(iv) Direct Rollover

A Direct Rollover is a payment by the Plan to the Eligible Retirement Plan specified by the Member.

ARTICLE XI: MISCELLANEOUS PROVISIONS AFFECTING THE CREDITING OF SERVICE

11.01 Service Upon Reemployment

The Municipality, in its Adoption Agreement, shall specify the maximum number of consecutive one-year Breaks in Service a reemployed Employee may incur in order for the Employee to have his Eligibility Service, Vesting Service and Credited Service restored from his prior employment with the Municipality. An Employee who is reemployed by the Municipality after incurring the number of consecutive one year Breaks in Service equal to or greater than that elected by the Municipality in its Adoption Agreement, shall not have restored any prior Credited Service, Eligibility Service and Vesting Service.

All restored Credited Service, Eligibility Service and Vesting Service shall apply to the Plan provisions in effect under the Plan at the time the Member is reemployed and again participates in the Plan.

(a) Reemployment Having an Existing Vested Accrued Benefit

- (i) If, at an Employee's Reemployment Commencement Date, the Employee has a Vested Accrued Benefit under the Plan and prior Service is restored, his benefit at Benefit Commencement Date shall be the greater of his Vested Accrued Benefit at his Reemployment Commencement Date or his Vested Accrued Benefit as of his Benefit Commencement Date.
- (ii) If, at the Date of Reemployment, the Employee has a vested Accrued Benefit under the Plan and prior Service is not restored, his benefit at Benefit Commencement Date shall be the sum of his vested Accrued Benefit at his Reemployment Commencement Date and his vested Accrued Benefit for subsequent periods of Plan membership as of his Benefit Commencement Date.

11.02 Service Prior to Original Plan

The Municipality may elect in its Adoption Agreement to grant some or all of an Employee's Service with the Municipality prior to the Original Plan Effective Date as Credited Service.

- (a) The Municipality may require the Member to purchase such Service in amounts necessary to reimburse the Plan for up to the total cost of such Service to the Plan; provided, however, any such purchase cost shall not exceed an amount equal to the Actuarial Equivalent present value of the additional Accrued Benefit attributable to such purchased Service as of the date of purchase. The Plan may accept payment directly from the Member or through a plan-to-plan transfer from any other qualified retirement plan, Section 401(k) plan, Section 457(b) deferred compensation plan or a Section 403(b) tax sheltered annuity.
- (b) If Members are required to purchase prior Credited Service, the Member shall have the option to decline any such Service (rather than received such Credited Service as an automatic grant).

11.03 Qualified Military Service

(a) Definitions.

For purposes of this Section, the following definitions shall apply:

- (i) **Differential Wage Payments** means, effective January 1, 2009, any payments that are made by the Municipality to a Member for any period during which the Member is performing Military Service for more than 30 days and represents all or part of the

Compensation that the Member would have received from the Municipality if he were performing services for the Municipality.

- (ii) **Military Service** means the period of a Member's active duty for training and service in the Army, Navy, Air Force, Coast Guard or Marines of the United States of America, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.
 - (iii) **Qualified Military Service** means Military Service during which the Member is entitled to reemployment rights under Chapter 43 Title 38 of the United State Code.
 - (iv) **USERRA** means the Uniformed Services Employment and Reemployment Rights Act of 1994.
- (b) **USERRA**. Notwithstanding any provision of the Plan to the contrary, contributions, benefits and service credit with respect to Qualified Military Service will be provided in accordance with Code Section 414(u). Plan Members who are reemployed in accordance with the requirements of USERRA shall be treated as not having a Break in Service during such Qualified Military Service and such periods of Qualified Military Service shall be counted for Vesting Service and Credited Service except as provided below.
- (c) **Reemployment**. The Municipality shall elect in its Adoption Agreement whether a Plan Member must make-up any required Member Contributions in order to receive Credited Service under the Plan for the period of Qualified Military Service.
- (d) **Make-up Member Contributions**. Except as provided in subsection (i) below, a Member who is required to make-up Member Contributions in accordance with this Section must do so within the time period the begins on the Employee's Reemployment Commencement Date and ends on the date that is earliest of (i) three (3) times the period of Qualified Military Service; (ii) five (5) Years; or (iii) Termination of Employment. The Member may make-up all or a portion of any required Member Contributions and shall receive the amount of Credited Service that is directly proportionate to the percentage of Member Contributions that are made-up. The Member shall designate the Plan Year to which such Employee Contributions relate. The Municipality shall grant Credited Service based on the made-up Member Contributions in the time and manner as such Credited Service is accrued by active Members. Such make-up Member Contributions can be paid to the Plan in a lump sum, in installments or by payroll deduction.
- (e) **Death During Military Service**
- (i) **Deemed Return to Employment**. If a Member dies during a period of Qualified Military Service, the Member shall be treated as having returned to employment with the Municipality on the day before his death and died the next day for purposes of any survivor benefits including pre-retirement survivor benefits and any accelerated vesting. Such Member shall receive Vesting Service for the period of Qualified Military Service.
 - (ii) **Credited Service**. The Municipality shall elect in its Adoption Agreement whether to grant Credited Service to any Member who dies during a period of Qualified Military Service. If the Municipality elects to grant such Credited Service and the Plan requires Member Contributions in order for a Member to receive Credited Service, the Member shall be deemed to have made the maximum amount of required Member Contributions during the period of Qualified Military Service.

(f) Disability during Qualified Military Service.

The Municipality shall elect in its Adoption Agreement whether to grant Credited Service and Vesting Service if a Member becomes Disabled during a period of Qualified Military Service. If the Municipality elects to grant Credited Service to such Members, the Municipality shall also credit Vesting Service to the Member for such period. The Municipality may elect to credit Vesting Service without crediting Credited Service. However, if the Municipality elects to grant such Credited Service and the Plan requires Member Contributions in order for a Member to receive Credited Service, the Member shall be deemed to have made the maximum amount of required Member Contributions during the period of Qualified Military Service.

(g) Compensation.

For purposes of this Section, a Member's Compensation during the period of Qualified Military Service shall be treated as equivalent to the Compensation he or she would have received during such period but for the period of Qualified Military Service. Such determination shall be based on the rate of pay the Employee would have received during that time; provided however if the Compensation the Employee would have received is not reasonably certain, Compensation for this purpose shall equal the Employee's average Compensation during the 12 months period immediately preceding the Qualified Military Service (or, if shorter, the period of employment immediately preceding the Qualified Military Service).

(h) Intervening Military Service

- (i) Any Member who enters the uniformed services as defined by USERRA and returns to service as a Member within the authorized time period of the law, shall have the authorized time spent in such service credited to the Member's employment record for pension or retirement benefits if the Member makes the required member contributions.
- (ii) The amount due from the Member shall be certified by the System and shall be paid by the Member in accordance with applicable law.
- (iii) A Member may purchase credit for intervening military service only if discharge or separation from the service was granted under other than dishonorable conditions. A Member may not purchase military credit for any service that is covered by another retirement system administered and wholly or partially paid for by any other government agency or private employer.

(i) Non-Intervening Military Service

An Active Member may purchase credit for other than intervening military service performed for the armed forces of the United as defined by USERRA, for a period not to exceed five (5) years, provided the Member has completed five (5) years of service to the Municipality subsequent to such military service. An Active Member may file an application with the Board for permission to purchase credit for non-intervening military service upon completion of five (5) years of subsequent service to the Municipality. The cost of such purchase shall not exceed an amount equal to the Actuarial Equivalent present value of the additional Accrued Benefit attributable to such purchased service as of the date of such purchase.

- (i) The rate of interest charged a Member on purchase of credit for non-intervening military service shall be the Regular Interest in effect on the date of the Member's application.

- (ii) An Active Member may purchase credit for non-intervening military service only if discharge or separation from the service was granted under other than dishonorable conditions. A Member may not purchase military credit for any service that is covered by another retirement system administered and wholly or partially paid for by any other government agency or private employer.

(j) Differential Wage Payments

If the Municipality pays Differential Wage Payments to the Member while on Qualified Military Leave, such payments shall be treated as Compensation under the Plan. Such Differential Wage Payments shall also be treated as Compensation for purposes of Code Section 415 and Section 12.11 of the Plan.

11.04 Transfer of Service and Assets from Another System Plan

The Municipality may elect in its Adoption Agreement to allow Eligible Employees who have previously been Members of another System Plan to transfer Credited Service and Vesting Service and assets from other System plans to the Municipality's Plan subject to certain terms and conditions.

(a) Limitations

- (i) The Employee shall be an Eligible Employee with the Municipality within one (1) year of Termination of Employment from the municipality for which the service is being transferred.
- (ii) At the time the Employee elects to transfer service, the Employee shall be an Eligible Employee under the Plan but is not required to be a Member of the Plan at the time the Employee elects to transfer service. If not a Plan Member at the time the Employee elects to transfer service, the Employee shall subsequently become a Member after satisfying the Plan's eligibility requirements.
- (iii) The Employee shall affirmatively elect to transfer service no later than the one (1) year period specified in subparagraph (i). If however, the Employee's Employment Commencement Date is within ninety (90) days of the expiration of such one (1) year period, he will have ninety (90) days from his Employment Commencement to provide the affirmative election to transfer service.
- (iv) The affirmative election shall be made in the form and substance approved by the Board which shall (A) identify the Plan from which the Credited Service is to be transferred, and (B) specify the amount of Credited Service to be transferred. Failure to affirmatively elect in such manner within the required time limit shall prohibit the transfer of service under this Section.

(b) Transfer of Applicable Vesting Service and Credited Service

- (i) Vesting Service will be transferred in an amount equal to the Vesting Service earned by the Employee with the previous Municipality as of his Termination of Employment with the previous Municipality.
- (ii) Credited Service will be transferred in an amount equal to the Credited Service earned by the Employee with the previous Municipality as of his Termination of Employment with the previous Municipality. A System Policy Statement that reflects the differences in the Actuarial Equivalent present values of the Accrued Benefit when the Accrued Benefit is calculated will be issued to the Member.

(c) Transfer of Applicable Assets

- (i) Assets in the Member's Member Contribution Account of the previous Municipality shall be transferred to equivalent Member Contribution Accounts in the Municipality Plan in an amount equal to the amounts as of the date of transfer. If an appropriate Member Contribution Account type has not been established within the Municipality Plan, such an account type shall be established if needed for the appropriate accounting of any transferred Member Contributions.
- (ii) Assets in the Municipality Contribution Account from the previous Municipality shall be transferred to equivalent Municipality Contribution Account in an amount equal to the Actuarial Equivalent present value of Member's Accrued Benefit in the previous Municipality plan less the transferred amounts of the Member's Member Contribution Account referenced in paragraph (c)(i) above.
- (iii) Any transfer of service under this Section shall be treated as a purchase of Permissive Service Credit and subject to the provision of Code Section 415(n) as set forth in Section 11.09 below.

(d) Calculation of Benefits from Transferred Service and Assets

After the transfer of service and assets, the calculation of benefits based on the transferred service and assets shall be based on the Plan provisions of the Municipality receiving such transfer. Transferred assets shall be applied to the cost of purchasing Permissive Service Credit (including Non-Qualified Service Credit) pursuant to Section 11.07 and 11.08. If, however, the assets to be transferred exceed the amount necessary for the purchase of Permissive Service Credit, such excess shall be allocated as follows:

- (i) If the Plan is a Cash Balance Plan, any excess shall be allocated to the Member's Hypothetical Account Balance pursuant to Section 5.06.
- (ii) If the Plan is a Defined Benefit Plan, the Municipality shall transfer such excess to a Cash Balance Plan established and maintained by the Municipality. If the Municipality does not maintain a Cash Balance Plan, the excess amounts shall be returned to the Member.

11.05 Purchase of Service Credited Under Prior Plan of the Municipality

(a) Transfer Contributions

If elected by the Municipality in the Adoption Agreement, a Member may elect to utilize Transfer Contribution amounts to purchase and convert Prior Plan Service to Credited Service under this Plan. The cost of such conversion shall not exceed an amount equal to the Actuarial Equivalent present value of the additional Accrued Benefit attributable to such purchased service as of the date of such purchase. The amount of Prior Plan Service to be purchased and converted to Credited Service shall be determined at the discretion of the Member subject to the following limitations:

- (i) Transfer Contribution amounts cannot be used to purchase and convert years of Credited Service in excess of the Member's years of Prior Service;
- (ii) The Member may determine the amount of Prior Service to be purchased and converted to Credited Service provided, however that Prior Service shall be purchased and converted to Credited Service in increments authorized in the election notice;
- (iii) Transfer Contribution amounts cannot be used to purchase Prior Service that results in the Member receiving a duplicate benefit under this Plan and the Prior Plan for the same service;

- (iv) The election to convert Prior Service to Credited Service by purchase shall be made in accordance with the election notice; and
 - (v) The election to convert Prior Service to Credited Service by purchase shall be irrevocable.
- (b) Termination Contributions
- If elected by the Municipality in the Adoption Agreement, Termination Contributions amounts shall be used to purchase and convert Prior Plan Service to Credited Service under this Plan. The cost of such conversion shall not exceed an amount equal to the Actuarial Equivalent present value of the additional Accrued Benefit attributable to such purchased Service on the date of purchase. The Prior Plan Service to be purchase and converted to Credited Service shall be determined as follows:
- (i) Termination Contribution amounts cannot be used to purchase and convert years of Credited Service in excess of the Member's years of Prior Service;
 - (ii) Termination Contribution amounts shall be utilized to purchase and convert the maximum increment of Credited Service available for such amounts;
 - (iii) Termination Contribution amounts cannot be used to purchase Prior Service that results in the Member receiving a duplicate benefit under this Plan and the Prior Plan for the same service; and
 - (iv) The purchase and conversion of Prior Service to Credited Service shall be irrevocable.
- (c) Any purchase of service under this Section shall be treated as a purchase of Permissive Service Credit and subject to the provisions of Code Section 415(n) as set forth in Section 11.07 and 11.08 below. If, however, such Termination Contributions or Transfer Contributions exceed the amount necessary for the purchase of Permissive Service Credit, the excess shall be allocated to the Member's Hypothetical Account Balance under the Cash Balance Plan maintained by the Municipality.

11.06 Transfer of Member Loans

Upon joining the System, a Municipality may elect in the Adoption Agreement to have Member loans transferred from the Municipality's Original Plan or Prior Plan to this Plan with other assets transferred from the Original Plan or Prior Plan. Such transfer shall be permitted only upon a determination by the Board that the loans to be transferred satisfy the provisions of Code Section 72(p) and Treas. Reg. 1.72(p)-1. In the event the Member fails to repay the outstanding loan in accordance with the loan agreement, then the outstanding loan amount shall be treated as a taxable distribution.

11.07 Permissive Service Credit

A Municipality may elect in the Adoption Agreement to allow a Member to purchase certain types of Permissive Service Credit pursuant to the requirements of Section 415(n) of the Code as set forth in Section 11.09.

(a) Limitations

- (i) The Municipality shall elect in its Adoption Agreement the maximum amount of Permissive Service Credit a Member may purchase.
- (ii) The Municipality shall elect in its Adoption Agreement the types of Permissive Service Credit the Member may purchase.

- (iii) A Member may not purchase Permissive Service Credit for any service that is covered by another retirement system administered by an employer for which Permissive Service Credit is otherwise allowed to be purchased.

(b) Cost

The cost to purchase Permissive Service Credit shall be an amount equal to the Actuarial Equivalence attributable to such service as of the service purchase date.

Subject to the Code, the Municipality may also limit the type and amount of Permissive Service Credit in the Adoption Agreement.

11.08 Nonqualified Service Credit

A Municipality may elect in the Adoption Agreement to allow a Member to purchase Nonqualified Service Credit pursuant to the requirements of Section 415(n) of the Code as set forth in Section 11.09. The cost to purchase Nonqualified Service Credit shall be an amount equal to the Actuarial Liability attributable to such service as of the service purchase date.

11.09 Service Purchases under Code Section 415(n)

- (a) If a Member makes one or more contributions to purchase Permissive Service Credit or Nonqualified Service Credit under the Plan, then the requirements of Section 415(n) of the Code will be treated as satisfied only if:

- (i) the requirements of Section 415(b) are met, determined by treating the Accrued Benefit derived from all such contributions as an annual benefit for purposes of Section 415(b) of the Code; or
- (ii) the requirements of Section 415(c) of the Code are met, determined by treating all such contributions as annual additions for purposes of Code Section 415(c).

(b) Permissive Service Credit

- (i) For purposes of this Plan, the term “Permissive Service Credit” means service credit:
 - (A) recognized by the Plan for purposes of calculating a Member’s benefit under the Plan;
 - (B) that the Member has not received under the Plan; and
 - (C) that the Member may receive only by making a voluntary additional contribution, in an amount determined under the Plan, that does not exceed the amount necessary to fund the benefit attributable to the service credit.

The term may include service credit for periods for which there is no performance of service and may include service credited in order to provide an increased benefit for service credit a member is receiving under the plan.

- (ii) The Plan will fail to meet the requirements of this Section if:
 - (A) more than five (5) years of “Nonqualified Service Credit” as defined below are taken into account for purposes of this Section; or
 - (B) any Nonqualified Service Credit is taken into account under this Section before the Member has at least five years of Membership under the Plan.
- (iii) The term “Nonqualified Service Credit” means Permissive Service Credit other than that allowed with respect to:

- (A) service (including parental, medical, sabbatical and similar leave) as an employee of the Government of the United States, any state or political subdivision of the United States, or any agency or instrumentality of any of the foregoing (other than military service or service for credit that was obtained as a result of a repayment described in Code Section 415(k)(3));
- (B) service (including parental, medical, sabbatical and similar leave) as an employee (other than as an employee described in subsection (e)(1)) of an education organization described in Code section 170(b)(1)(A)(ii) that is a public, private or sectarian school that provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed;
- (C) service as an employee of an association of employees who are described in subparagraph (A) above; or
- (D) military service (other than qualified military service under IRC section 414(u)) recognized by the Plan.

In the case of service described in subparagraphs (A), (B) and (C) above such service will be nonqualified service if recognition of the service would cause a Member to receive a pension benefit for the same service under more than one plan.

- (iv) In the case of a Transfer Contribution to which Code Section 403(b)(13)(A) or 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same Municipality):
 - (A) the limitations of paragraph (i) will not apply in determining whether the transfer is for the purchase of Permissive Service Credit; and
 - (B) the distribution rules of the Plan will apply to the Transfer Contribution and any benefits attributable to those amounts.

**ARTICLE XII: MISCELLANEOUS PROVISIONS
AFFECTING THE PAYMENT OF BENEFITS**

12.01 Non-Duplication of Benefits

If the Board distributes any part or all of a Member's Accrued Benefit to him and the Member is later rehired by the Municipality before or after Retirement, the Board shall compute the Member's Accrued Benefit by taking into account all of the Member's Credited Service. However, the Board shall offset the Member's Accrued Benefit so computed by the Member's Accrued Benefit attributable to any distribution described in Article X of the Plan and by any Accrued Benefit disregarded under Section 8.04 of the Plan.

12.02 Form of Payment of Benefits

Benefit payments, including lump sum payments, will be made by direct deposit to a financial institution specified by the Member. Exceptions may be granted upon request for Members who do not have an account at a financial institution.

12.03 Merger of Plan

Neither the Municipality nor the Board shall consent to, or be a party to, any merger or consolidation of the Plan with another plan, or to a transfer of assets or liabilities to another plan, unless immediately after the merger, consolidation or transfer, the surviving Plan provides each Member a benefit equal to or greater than the benefit each Member would have received had the Plan terminated immediately before the merger or consolidation or transfer. However, the Board possesses the specific authority to enter into a merger agreement or a direct transfer of assets agreements with the trustees of other retirement plans described in Code Section 401(a) and to accept the direct transfer of plan assets, or to transfer plan assets, as a party to any such agreement.

The Board may accept a direct transfer of plan assets on behalf of an Employee prior to the date the Employee satisfies the Plan's eligibility condition(s). If the Board accepts such a direct transfer of plan assets, the Board shall treat the Employee as a Member for all purposes of the Plan except the Employee may not make Member Contributions under Sections 4.01 or 4.02 of the Plan, nor shall the Employee accrue benefits, including any minimum Superannuation Retirement Pension provided for, until he actually becomes a Member in the Plan.

12.04 Payments to Minors or Legally Incompetent Persons

Whenever any benefit is to be paid to or for the benefit of any person who is a minor or determined to be incompetent by qualified medical advice, the Board shall cause the benefit to be paid to the person having custody of the minor or incompetent or to the legal guardian or custodian appointed by the Member or a court of competent jurisdiction.

12.05 Unclaimed Payments

The Board shall take reasonable steps, as appropriate, to locate a Member entitled to Plan benefits. Such steps shall include: (i) use of certified mail; (ii) verification through related Plan records and, as appropriate, Municipality records (such as group health plans); (iii) contact of Member's designated Beneficiaries; and (iv) use of free electronic search tools including internet search engines, public record databases (such as those for licenses, mortgages and real estate taxes), obituaries and social media.

If the above attempts to locate a Member have failed, the Board may direct that the payment and all remaining payments otherwise due to the Member allocated to an appropriate Reserve Account at the discretion of the Board. If the Member later notifies the Board of his whereabouts and

requests the payments due to him, an amount equal to the undistributed amount to be paid to him as soon as administratively feasible.

12.06 Assignment or Alienation

A Member, Survivor Annuitant or Beneficiary shall not anticipate, assign or alienate (either at law or in equity) any benefit provided under the Plan, and the Board shall not recognize any such anticipation, assignment or alienation, subject to the following exceptions (a) federal tax liens or other applicable garnishment under federal law, (b) an assignment of Plan benefits for the provision of health care premiums, or (c) an Approved Domestic Relations Order, or (d) a trustee-to-trustee transfer of a Member's accrued benefit in accordance with Section 12.02 of the Plan. Furthermore, a benefit under the Plan is not subject to attachment, garnishment, levy, execution or other legal or equitable process.

12.07 No Decrease in Benefits by Change in Social Security

In the case of a Member or Beneficiary who is receiving benefits under this Plan or a Member who has Terminated Employment with the Municipality and has a vested Accrued Benefit under this Plan, any increase in the taxable wage base or the benefit level payable under Title II of the Social Security Act shall not affect the way benefits are payable under this Plan to such Member or Beneficiary. The Plan does not permit the recalculation of any benefits accrued before the Termination of Employment of a Member on the basis of changes in Social Security benefit levels or the taxable wage base in effect after reemployment with the Municipality.

12.08 Limitation on Benefits

(a) General Rule

The annual benefit under this Plan payable to a Member at any time shall not exceed the maximum permissible amount. "Maximum permissible amount" shall mean \$160,000, such limitation to be adjusted automatically as determined by the Internal Revenue Service for each calendar year, with the new limitation to apply to limitation years ending within the calendar year of the date of the adjustment.

(a) Annual Benefit

(i) In General

For purposes of subsection (a), the term "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions (as defined in Code sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)) are made.

(ii) Adjustment for Certain Other Forms of Benefit

If the benefit under the Plan is payable in any form other than the form described in paragraph (i), or if the Member contributes to the plan or make rollover contributions (as defined in sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)), the determinations as to whether the limitation described in subsection (a) has been satisfied shall be made, in accordance with regulations by adjusting such benefit so that it is equivalent to the benefit described in subparagraph (i). For purposes of this subparagraph, any ancillary benefit which is not directly related to retirement income benefits shall not be taken into account; and that portion of any joint and survivor annuity which constitutes a qualified joint and survivor annuity (as defined in section 417) shall not be taken into account.

(iii) Adjustment to \$160,000 Limit Where Benefit Begins Before Age 62

If the retirement income benefit under the plan begins before age 62, the determination as to whether the \$160,000 limitation set forth above has been satisfied shall be made, in accordance with regulations prescribed by the Internal Revenue Service, by reducing the limitation so that such limitation (as so reduced) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a \$160,000 annual benefit beginning at age 62.

(iv) Adjustment to \$160,000 Limit Where Benefit Begins After Age 65

If the annual benefit under the Plan begins after age 65, the determination as to whether the \$160,000 limitation set forth above has been satisfied shall be made, in accordance with regulations, by increasing the limitation so that such limitation (as so increased) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a \$160,000 annual benefit beginning at age 65.

(v) Limitation on Certain Assumptions

- (A) For purposes of adjusting any limitation under paragraph (iii) and, for purposes of adjusting any benefit under subparagraph (ii), the interest rate assumption shall not be less than the greater of 5 percent or the rate specified in the Plan.
- (B) For purposes of adjusting any limitation under paragraph (iv), the interest rate assumption shall not be greater than the lesser of 5 percent or the rate specified in the Plan.
- (C) For purposes of this Section, no cost of living adjustment under Code Section 415(d)(1) shall be taken into account before the year for which such adjustment first takes effect.
- (D) For purposes of adjusting any benefit or limitation under paragraph (ii), (iii) or (iv), the mortality table used shall be the applicable mortality table (within the meaning of Code Section 417(e)(3)(B)).

(vi) Special Limitation for Qualified Police or Firefighters

In the case of a qualified participant, paragraph (iii) of this subsection shall not apply.

(vii) Qualified Participant Defined

For purposes of paragraph (vi), the term “qualified participant” means a participant with respect to whom the period of service taken into account in determining the amount of the benefit under such defined benefit plan includes at least 15 years of service of the participant:

- (A) as a full-time employee of any police department or fire department which is organized and operated by the State, Indian tribal government (as so defined), or any political subdivision maintaining such defined benefit plan to provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State, Indian tribal government (as so defined), or any political subdivision, or
- (B) as a member of the Armed Forces of the United States.

(viii) Exemption for Survivor and Disability Benefits.

Paragraph (iii) of this subsection and subsection (v) shall not apply to:

- (A) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or
- (B) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee.

(b) Total Annual Benefits Not in Excess of \$10,000

Notwithstanding the preceding provisions of this Section 12.09, the benefits payable with respect to a Member under the Plan shall be deemed not to exceed the limitation of this Section if:

- (i) the retirement benefits payable with respect to such Member under such plan and under all other defined benefit plans of the Municipality do not exceed \$10,000 for the Plan Year, or for any prior Plan Year, and
- (ii) the Municipality has not at any time maintained a defined contribution plan in which the Member participated.

(c) Reduction for Membership of less than 10 years

(i) Dollar Limitation

In the case of a Member who has less than 10 years of Membership in the Plan, the limitation referred to in subsection (a)(i) shall be the limitation determined under such subsection (without regard to this subsection) multiplied by a fraction:

- (A) the numerator of which is the number of years (or part thereof) of participation in the defined benefit plan of the employer, and
- (B) the denominator of which is 10.

(ii) Limitation on Reduction

In no event shall paragraph (i) reduce the limitations referred to in subsection (a) to an amount less than 1/10 of such limitation (determined without regard to this paragraph).

(d) Plan Aggregation

If the Municipality maintains both a Defined Benefit Plan and Cash Balance Plan, the limits set forth in this Section shall apply to the aggregate Accrued Benefit of such plans.

ARTICLE XIII: ADMINISTRATIVE PROVISIONS

13.01 General Powers of the Board

In the administration of the System, the Board has all power granted to it under Section 104 of the PMRL, as set forth in Addendum A, including but not limited to:

- (a) Entering into agreements for professional services, including but not limited to actuarial, investment and medical as it deems advisable;
- (b) Keep in convenient form such data as shall be deemed necessary for actuarial valuation purposes;
- (c) From time to time, through its Actuary, make an actuarial investigation into the mortality and service experience of the Members and Annuitants and of the various accounts created by 16 Pa. Code §81.7 (see Addendum A);
- (d) Adopt for the Base Plan one or more mortality tables and such other tables as shall be deemed necessary;
- (e) Amend the Base Plan Document as necessary and appropriate to comply with the Code or adopt administrative changes;
- (f) Adopt Policy Statements as necessary to administer the System and establish rules regarding the operation of the System. Policy Statements shall remain in full force and effect until superseded or otherwise revoked by the Board;
- (g) Certify annually the amount of appropriation which the Municipality shall pay into the Fund, which amounts shall be based on estimates furnished by the Actuary;
- (h) Prepare and distribute annual statements of accounts to each of the Active Members and annuitants showing the contributions made during the year, the interest earned and the total balance standing in the Member's Contribution Account at the end of the year; and
- (i) Perform such other functions as are required for the execution of any other Federal and State law and to administer and interpret this Plan to ensure that the System is maintained as tax qualified under the IRC.

The Board shall discharge its duties and obligations above solely in the interest of the participants and beneficiaries and 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 a like character and with like aims.

13.02 Policy Statements

- (a) All Policy Statement set forth in Addendum B, shall be deemed incorporated herein by reference regardless of its adoption date and shall be binding on the Municipality to the extent applicable.
- (b) All Policy Statement may be retitled, amended, or supplemented from time to time by written notice to the Municipality.
- (c) The Board shall provide written notice, which may be email, to the Municipality within ninety (90) days of enactment of any new Policy Statement.
- (d) The above notwithstanding, a Policy Statement shall not be applicable to the extent inconsistent with the Base Plan Document.

13.03 Plan Withdrawal

- (a) The Municipality may, for good cause, file an application with the Board for permission to withdraw from the system if it meets all of the following requirements:
 - (i) The Municipality has been enrolled in the System for a period of at least five years.
 - (ii) The Municipality has met all of its financial obligations to the System.
 - (iii) The Municipality has passed an ordinance or resolution signifying its intention to withdraw from the System.
 - (iv) The Municipality has certified to the Board that an affirmative vote approving withdrawal from the System had been obtained from at least seventy-five percent (75%) of all Active Members, Inactive Members, vested Members, Annuitants, and Survivor Annuitants after providing such Members with the information specified in Section 13.03(e) of the Base Plan Document.
 - (v) The Municipality has acknowledged its responsibility to assume and provide for all future benefit payments to the existing Active Members, Inactive Members, vested Members, Annuitants, Survivor Annuitants, and their Beneficiaries effective upon the withdrawal.
 - (vi) The application has specified a date for the withdrawal to become effective, provided if there are Annuitants and/or Survivor Annuitants in active pay status the effective date is the first day of a month no earlier than the month after which the Board is scheduled to take action on the withdrawal application.
- (b) In the event that the Municipality elects to withdraw from the System, a Member's basic benefit under this Plan shall be immediately vested to the extent funded as of the effective date of the withdrawal.
- (c) In the event the Municipality withdraws from the System, the Municipality shall only be entitled to the assets credited to the Municipal Account and the Members' Accounts in accordance with the provisions of the PMRL and Policy Statements. Assets that are actuarially determined by the Board's Actuary to be matched to the Municipality's Annuitants and Survivor Annuitants will also be returned to the Municipality in accordance with the PMRL and Policy Statements.
- (d) If the Municipality intends to continue the Plan in substantially the same form with a successor to the System, the Board shall determine the amount of Plan assets attributable to the Municipality in accordance with policies and procedures established by the Board and provided in the Trust Agreement or a separate written instrument. After the determination of the assets attributable to the Municipality, the Board, with consent of the Municipality, may apply the assets of the portion of the Trust attributable to the Municipality to either:
 - (i) Purchase deferred paid-up annuities for all vested accrued benefits of all Plan Members;
 - (ii) Purchase deferred paid-up annuities for all vested accrued benefits of Plan Members who are former Employees of the Municipality;
 - (iii) Purchase deferred paid-up annuities for all accrued benefits of retired Employees of the Municipality; or
 - (iv) Not purchase any deferred paid-up annuities.

Any remaining assets of the Trust attributable to the Municipality, shall, after satisfaction of the requirements of this Section, be transferred to the successor trustee designated by the Municipality, as soon as practical after the later of the December 31st or ninety (90) days following the date of determination of any such remaining assets.

- (e) Prior to the Board transferring any assets to a successor to the System, the Municipality shall warrant and certify to the Board, in a manner satisfactory to the Board, the following:
 - (i) The successor trustee has been duly appointed by the Municipality;
 - (ii) The plan document pursuant to which the Plan will continue to be maintained, is qualified under Code Section 401(a);
 - (iii) The assets of the Plan will continue to be held by the successor trustee for the exclusive benefit of Plan Members and their Beneficiaries;
 - (iv) The successor plan document does not reduce the Accrued Benefit, vested percentage or existing benefit payment options of any Plan Member;
 - (v) The Municipality has met all minimum funding requirements applicable to the Plan in accordance with the Board's funding policy; and
 - (vi) To the extent permitted by federal, state or local law, the Municipality agrees to indemnify the Board from and against any loss, liability or claim arising out of the Municipality's maintenance of the Plan from and after the date of withdrawal from the Trust.

13.04 Notice

Any notice, demand, direction, instruction, or other communication required or permitted ("Notice") to the Board hereunder shall be confirmed in writing and shall be sufficiently given for all purposes when sent by:

- (a) registered U.S. Postal Service delivery, postage prepaid, or
- (b) facsimile, with a copy sent by 1st Class U.S. Postal Service delivery (provided that if the date of dispatch is not a working day, the facsimile shall be deemed to have been received at the opening of business of the addressee on the next working day),
- (c) email to any party at the email address below, or
- (d) delivering the same in person to any party at the applicable address, or
- (e) any other method or other address as may be designated in writing from time to time by the parties:

PENNSYLVANIA MUNICIPAL RETIREMENT BOARD

Attn: Secretary

For Registered U.S. Postal Service delivery; for overnight/courier service delivery; and for in-person delivery:

1721 N. Front Street, 3rd Floor

Harrisburg, PA 17102-2315

For 1st Class U.S. Postal Service delivery:

P.O. Box 1165

Harrisburg, PA 17108-1165

Fax: (717) 783-8363

Email: RA-Staff@state.pa.us

Any Notice to the Municipality shall be as provided in the Adoption Agreement.

13.05 Information to Board

The Municipality shall supply current information to the Board as to the name, date of birth, Employment Commencement Date, annual Compensation, Leaves of Absences, Vesting, Eligibility, and Credited Service and date of Termination of Employment of each Employee who is, or who will be eligible to become, a Member under the Plan, together with any other information which the Board considers necessary. The Municipality's records as to the current information the Municipality furnishes to the Board shall be conclusive as to all persons.

The following documents will be accepted as documentation of proof of an individual's date of birth in the following order of preference: birth certificate, baptismal certificate showing the date of birth, selective service record, armed forces discharge papers, passport, Pennsylvania Department of Transportation-issued photo ID (need not be current), military ID (DD Form 2) or its equivalent, school records, naturalization record, alien registration records, other records as may be submitted by the Member which are acceptable to the Board.

13.06 Liability

The Municipality shall hold and save harmless the Commonwealth, the Board, its officers, agents and employees and the System from any and all claims, demands, actions or liability of any nature based upon or arising out of any services performed by its employees, servants and agents under this Plan in a manner which is clearly contrary to the written direction of the System or the Board and shall defend any and all actions brought against the System or the Board based upon such claims or demands.

13.07 Amendment to Vesting Schedule

Although the Municipality reserves the right to amend the vesting schedule in the Adoption Agreement at any time, the Municipality shall not apply the amended vesting schedule to reduce the Vested percentage of any Member's Accrued Benefit derived from Municipality contributions (determined as of the later of the date the Municipality adopts the amendment, or the date the amendment becomes effective) to a percentage less than the Vested percentage computed under the Plan without regard to the amendment.

13.08 Information to Municipalities

The Board shall, with the aid of the Actuary, prepare a circular of information relative to the system, showing estimates of the costs thereof to municipalities and Members, including costs of administration, the benefits to be derived therefrom, the methods of administration by the Board and the municipality, and such other information as may be deemed appropriate. Such circular of information shall be furnished to municipalities upon request.

ARTICLE XIV: MEMBER ADMINISTRATIVE PROVISIONS

14.01 Beneficiary Designation

Any Member may from time to time designate, in writing or via secure electronic communication, any person or persons, continentally or successively, to whom the Board shall pay various death benefits provided under the Plan on event of his death. The Board shall prescribe the form or forms, for the designation of Beneficiaries and, upon the Member's filing the form with the Municipality or Board, it effectively shall revoke all designations filed prior to that date by the same Member. Beneficiary designations may be made and/or maintained electronically, if the Municipality or the Board has established a method that is reasonably calculated to provide accurate results.

14.02 No Beneficiary Designation

If a Member fails to name a Beneficiary in accordance with Section 14.01 of the Plan, or if the Beneficiary named by a Member predeceases him or dies before complete distribution of all benefits payable under the Plan, then the Board shall pay such benefits to the Member's estate or next of kin under 20 Pa.C.S. § 3101 (relating to payments to family and funeral directors (see Addendum A) to the extent applicable.

If payment cannot be made as specified above, the Member's benefits shall remain a part of the Municipality's pension assets until his payment can be processed pursuant to this Section 14.02.

14.03 Personal Data to Board

Each Member and each Beneficiary of a deceased Member must furnish to the Board such evidence, data or information as the Board considers necessary or desirable for the purpose of administering the Plan. The provisions of this Plan are effective for the benefit of each Member upon the condition precedent that each Member will furnish promptly full, true and complete evidence, data and information when requested by the Board, provided the Board shall advise each Member of the effect of his failure to comply with its request.

14.04 Information Available

Any Member in the Plan or any Beneficiary may examine copies of the Plan, latest annual report, any bargaining agreement, Adoption Agreement, or any other instrument under which the Plan was established or is operated. The Board will maintain all of the items listed in this Section 14.04 in its offices, or in such other place or places as it may designate from time to time in order to comply with all applicable regulations, for examination during reasonable business hours. Upon the written request of a Member or Beneficiary the Board shall furnish him with a copy of any item listed in this Section 14.04. The Board may make a reasonable charge to the requesting person for the copy so furnished. The Board may provide Members with any information required under any applicable federal or state law via electronic communication, provided the electronic communication is not prohibited under such laws and the method of electronic communication is reasonably calculated to provide accurate results. A Beneficiary's right to (and the Board's duty to provide to the Beneficiary) information or data concerning the Plan, shall not arise until the Beneficiary first becomes entitled to receive a benefit under the Plan.

14.05 Benefits Claims Procedures

- (a) The Board is statutorily vested with the exclusive jurisdiction to administer and interpret this Plan. The parties hereby waive any claim or defense that forum before the Board is not convenient or proper.

- (b) If a Member and/or Municipality believe that a right or benefit under this Plan has been improperly denied, a written request for a final determination must be filed with the Board.
- (c) If the Member and/or Municipality disagrees with the final determination reached by the Board. The Member and/or the Municipality has the right to file an appeal and request an administrative hearing before the Board. See 1 Pa. Code §§ 31.11, 31.15, 33.31, 33.34, and 35.20. See Addendum A. The appeal and request for an administrative hearing must include a statement of the facts that forms the basis of the requested relief and all points of law that support the claim.
- (d) An administrative hearing is a process in which evidence is presented before an independent hearing examiner who makes a recommendation to the Board, following which the Board renders a final adjudication. All administrative hearings are conducted at the Board's headquarters in Harrisburg, Pennsylvania. The Board's final adjudication is subject to an appeal before the Commonwealth Court of Pennsylvania.
- (e) All appeals and requests for administrative hearings must be made in writing within 30 days of the date of the final determination and sent to:

**Appeal Docket Administrator
 Pennsylvania Municipal Retirement Board
 5 North Fifth Street
 Harrisburg, PA 17110**

- (f) If the appeal and request for an administrative hearing is not received by the Board within the thirty (30) day period, the Member and/or Municipality will no longer have the right to administratively appeal the denial of its request to the Board.

14.06 Filings with the Board

(a) Receipt

Any filing, election or notice required to be made under this Plan by a Member must be made by written statement, duly attested, and filed in the office of the Board or deposited in the United States mail, addressed to the Board.

(b) Timeliness

The timeliness of any filing, election or notice required to be made under this Plan to the Board by a Member shall be governed by the actual receipt of the filing, election or notice rather than the date of mailing.

(c) Municipal Certifications

- (i) In the event the Board receives an application for a benefit from a Member in which certification by the Municipality with regard to the data used to calculate such benefit is needed but such certification has not been made by the Municipality, the Board shall issue a formal demand to the Municipality for such certification of the necessary data.
- (ii) Any certification required to be made by the Municipality with regard to any application for benefits by a Member under this Plan shall be made by the Municipality within forty-five (45) days following the date of the Board's formal demand.
- (iii) Failure of the Municipality to provide such requested certification within the forty-five (45) day period shall result in the Board utilizing the most current reliable data maintained by the Board for the Member.

ARTICLE XV: PENNSYLVANIA MUNICIPAL RETIREMENT FUND

15.01 General

The Pennsylvania Municipal Retirement Fund shall consist of (i) contributions by the Municipalities; (ii) contributions by Members through the employing Municipality; (iii) transfers made from municipal retirement plans or pension systems that are tax qualified under Section 401(a) of the Code; and (iv) investment earnings.

15.02 Separate Accounts

The Board shall keep separate accounts for each Municipality, except the Disability Reserve Account and the Retired Member's Reserve Account which shall be maintained as pooled accounts, as described in 16 Pa. Code §81.7 (attached in Addendum A). The Municipality and the Members shall be liable to the Board for the amount of contributions required to cover the cost of the Vested Accrued Benefit and other benefits payable to such Members.

15.03 Disability Pension

Upon the granting of a Disability Retirement Pension, there shall be transferred to Retired Member's Reserve Account the amount of the Disabled Annuitant's Member's Contribution Account, together with an amount from the Municipal Contribution Account, equal to the amount of the Actuarial Equivalent of the Member's Vested Accrued Benefit as of the Benefit Commencement Date of the Disability Retirement Pension. If the total amount transferred from the applicable Member Contribution Account and Municipal Account is less than the Actuarial Equivalent of the Disability Retirement Pension, the difference in amount shall be transferred from the Disability Reserve Account to the Retired Member's Reserve Account.

15.04 Superannuation, Early and Deferred Vested Pension

Upon the granting of a Superannuation, Early or Deferred Vested Pension, there shall be transferred to the Retired Member's Reserve Account the amount of the Member's Account, plus an amount from the Municipal Account such that the sum will equal the Actuarial Equivalent of the Superannuation, Early or Deferred Vested Pension.

15.05 Municipal Liability

The Regular Interest charges payable and the creation and maintenance of the necessary reserves for the payment of the benefits, as to the Municipality and its Members are hereby made the obligation of the Municipality in accordance with PMRL Section 111 and shall not otherwise attach to those assets of the Fund attributable to any other municipality and its members. See Addendum A.

15.06 Exclusive Benefit

The Fund is a trust, and the assets of the Plan are held in trust. No part of the assets of the Plan shall be used for or diverted to purposes other than for the exclusive benefit of the Members, their Survivor Annuitant or Beneficiaries prior to the satisfaction of all liabilities of the Plan with respect to them. The assets of the Fund shall be used only to pay:

- (a) Benefits to Members in accordance with the Plan; and
- (b) Necessary and appropriate expenses of the Plan.

15.07 Custody of the Fund

All moneys and securities in the Fund shall be placed in the custody of the State Treasurer as is required by PMRL Section 109. See Addendum A.

15.08 Management and Investment of the Fund

The members of the Board shall be trustees of the Fund, and shall have the exclusive management of said Fund, with full power to invest the moneys therein, subject to the terms, conditions, limitations and restrictions imposed by law upon fiduciaries. The Board shall have power to hold, purchase, sell, assign, transfer and dispose of any securities and investments in said Fund, as well as the proceeds of such investments, and of the money belonging to such Fund.

The members of the Board shall discharge its duties and obligations solely in the interest of the participants and beneficiaries and 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 a like character and with like aims. For the avoidance of doubt, nothing in this Section 15.08 shall prevent the Board from contractually requiring plan fiduciaries to perform services in accordance with a heightened fiduciary standard.

15.09 Allocation of Regular Interest

The Board shall annually allocate Regular Interest to the credit of each Member's Contribution Account, Municipal Account, and the Retired Member's Reserve Account.

15.10 Allocation of Excess Interest

- (a) The Board may, after deducting money to pay for Regular Interest and any appropriate expenses of each Plan, award Excess Interest to the Municipality in accordance with the terms of this Plan.
- (b) In the event that the Municipality's funding status in relation to the benefit structure set forth under this Plan is less than 95% funded as of the most recent actuarial report filed pursuant to the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. § 895.101 et seq., (See Addendum A) all Excess Interest awarded by the Board shall be allocated to the Municipal Account.
- (c) In the event that the Municipality's funding status in relation to the benefit structure set forth under this Plan is 95% funded or more as of the most recent actuarial report filed pursuant to the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. § 895.101 et seq., (See Addendum A) Excess Interest awarded to the Municipality shall be allocated as elected by the Municipality in its Adoption Agreement.

ARTICLE XVI: AMENDMENT

16.01 Amendment by Board

The Base Plan Document may be amended at any time and from time to time, in the sole discretion of the Board as sponsor of the Base Plan, by a written instrument. Each amendment shall state the date to which it is either retroactively or prospectively effective. Any amendment which is required by the Internal Revenue Service in order for the Plan or Trust to qualify or continue to be qualified under the applicable provisions of the Code, or which in the judgment of the Board is necessary or appropriate to such qualification or continued qualification, may be made effective retroactively. Each Municipality, by executing an Adoption Agreement, shall thereby delegate to the Board the power to amend its Plan and shall thereby be deemed to have assented to any such amendment. Municipalities will be notified in writing of any Plan amendments made by the Board.

16.02 Amendment by Municipality

The Municipality may amend its Plan from time to time under the circumstances provided below. Each Amendment shall specify its effective date and unless otherwise specified, Amendments are assumed to be applied prospectively from its effective date. The above notwithstanding, no Amendment shall be effective until approved as to form and content by the Board. A resolution, in absence of a completed and approved Adoption Agreement amendment, shall not constitute an amendment of the Plan.

(a) Adoption Agreement Amendment

The Municipality may amend its Plan by changing its election of options in the Adoption Agreement, in the manner it deems necessary or advisable. The Municipality shall identify to the Board any information related to the changes the Board may require.

(b) Application of Amendments

An Amendment shall be considered to be of “General Application” or “Limited Application” as described below:

(i) General Application

Amendments of General Application, as of the Effective Date of the Amendment shall apply to:

- (A) all current and future Eligible Employees; and
- (B) all past and future Eligibility Service, Vesting Service and Credited Service.

(ii) Limited Application

Amendments of Limited Application shall be all other Amendments not of General Application. Amendments of Limited Application shall, at a minimum, include:

- (A) the specific subset of Employees, as identified in the Adoption Agreement, if applicable, which will be affected; and
- (B) the specific Service, if applicable, which will be affected.

(c) Impact on Tax-Qualified Status

For purposes of reliance on the advisory letter issued pursuant to Rev. Proc. 2015- 36, the Board will no longer have the authority to amend the Plan on behalf of a Municipality (i) as of the date of the adoption of a Municipality amendment to the Plan to incorporate a feature described in Section 16.03 of Rev. Proc. 2015-36: or (ii) as of the date the IRS notifies the

Board that the Plan is being treated as an individually designed plan pursuant to Section 24.03 of Rev. Proc. 2015-36.

16.03 Limitations on Amendments

No amendment shall be made that would jeopardize the qualified status of the Plan.

No amendment shall authorize or permit any portion of the Trust Fund (other than the part which is required to pay investment or administration expenses) to be used for or diverted to purposes other than for the exclusive benefit of the Members or their Beneficiaries.

No amendment shall have the effect of decreasing a Member's Accrued Benefit, including a change in the actuarial assumptions or in the Compensation levels used to determine a Member's Superannuation Retirement Pension.

No amendment shall affect the rights, duties, or responsibilities of the Board without the written consent of the Board. Additionally, no such amendment shall be enacted or approved that impairs or is otherwise violative of a Member's rights and protections under the Pennsylvania Constitution.

No amendment shall take effect without the consent and approval of the Board.

16.04 Termination or Freeze by Municipality

By adopting the Plan, the Municipality represents that the Plan is intended to be a permanent and continuing program for providing benefits to the Members therein. The Municipality shall have the right to terminate its Plan upon not less than ninety (90) days advance written notice to the Board. A termination of the Municipality's Plan shall be effective as of the last day of the Plan Year, which follows receipt of the notice of termination (unless the Municipality and Board agree upon a different date).

(a) Complete Plan Termination

If Municipality intends to completely terminate the Plan, the Board shall determine the amount of Plan assets attributable to the Municipality in accordance with the terms of the Plan and Trust. The Board may use the Trust assets attributable to the Municipality to purchase deferred paid-up annuities for the benefits described in (b)(i) through (iii) below.

(b) Annuities Purchased

If any annuities are purchased by the Board in accordance with subsections (a) or (b) hereof, at the option of the Board, such annuities shall be either (i) held by the Board, (ii) transferred to a successor trustee, or (iii) transferred to the applicable Employee or Beneficiary.

16.05 Distribution Upon Termination of Trust

If the Municipality terminates the Plan, the Board shall determine the amount of Plan assets attributable to the Municipality in accordance with the terms of this Plan and Trust. The Board shall allocate assets of the Plan among the Members and Beneficiaries according to the following priorities:

- (a) Benefits payable as an annuity, in the case of the benefit of a Member or Beneficiary which was in pay status as of the termination date of the Plan, each such benefit, based on the provisions of the Plan under which such benefit would be the least;
- (b) All other Vested benefits under the Plan; and

(c) Any other benefits under the Plan.

If assets are insufficient to provide all benefits under the Plan, the Board shall allocate such assets to satisfy obligations within each category by order of priority. If assets are insufficient to provide all benefits under a priority category, the Board shall allocate assets to Members within that category in the ratio which each Member's total benefit bears to the total benefits of all Members within that category.

16.06 Full Vesting on Termination

Notwithstanding any other provision of this Plan to the contrary, upon either full or partial termination of the Plan or the discontinuance of contributions or benefit accruals under the Plan (i.e. a freeze), under Sections 16.04 or 16.05 of the Plan, the Accrued Benefit of those Members, Beneficiaries, Inactive Members and joint annuitants affected shall become one hundred percent (100%) vested and Vested to the extent funded.

ARTICLE XVII: MISCELLANEOUS PROVISIONS

17.01 Use of Trust Fund

The terms of the Plan shall govern the establishment of the Trust Fund from which the benefits provided by the Plan shall be paid. All contributions paid over to the Board shall be invested in accordance with the terms of the Plan and Trust.

17.02 Amount of Municipality Contributions

Each Municipality shall contribute to the Trust Fund such amounts as are necessary to fund its respective benefits under the Plan, and shall contribute such additional amounts as the Board (based on the recommendation of the Actuary and Board) deem necessary or desirable to maintain the actuarial soundness of the Plan. The Board may establish a formal funding policy for this purpose.

17.03 Use of Forfeitures

Forfeitures and investment income attributable to contributions shall be used to reduce Municipality contributions and shall not be used hereunder to increase the benefit of any person.

17.04 Payment of Contributions

Contributions shall be paid by the Municipality to the Board or the Trust Fund manager. The Board or Trust Fund Manager shall provide each Municipality instructions regarding the payment of contributions, including: the schedule for paying contributions; the deadline for paying contributions; the amount of contributions due; and to whom contributions shall be sent.

17.05 Contingent Nature of Municipality Contributions

Contributions made by each Municipality are hereby made expressly contingent on the maintenance of a qualified status by the Plan for the year with respect to which such contribution is made.

17.06 Form of Municipality Contribution

Municipalities may pay their contributions to the Board or Trust Fund manager in cash.

17.07 Exclusive Benefit

Except as otherwise provided herein, the Municipality shall have no beneficial interest in any asset of the Trust or Trust Fund and no part of any asset in the Trust or Trust Fund shall ever revert to or be repaid to a Municipality, either directly or indirectly; prior to the satisfaction of all liabilities with respect to the Members and their Beneficiaries under the Plan. At no time shall any part of the corpus or income of the Trust Fund, or any asset of the Trust, be (at any time) used for or diverted to purposes other than the exclusive benefit of the Members or their Beneficiaries or to pay necessary and appropriate expenses of the System.

17.08 Evidence

Anyone required to give evidence under the terms of the Plan may do so by certificate, affidavit, document or other information which the person to act in reliance may consider pertinent, reliable and genuine, and to have been signed, made or presented by the proper party or parties. The Board shall be fully protected in acting and relying upon any evidence described under the immediately preceding sentence.

17.09 Waiver of Notice

Any person entitled to notice under the Plan may waive the notice.

17.10 Successors

The Plan shall be binding upon all persons entitled to benefits under the Plan, their respective heirs and legal representatives, upon the Municipality, its successors and assigns, and upon the Board and its successors.

17.11 Word Usage

Words used in the masculine shall apply to the feminine where applicable, and wherever the context of the Municipality's Plan dictates, the plural shall be read as the singular and the singular as the plural.

17.12 Intent of Tax Qualification

In an intent to maintain tax qualification, the applicable tax-qualification provisions of the Code shall control over any conflicting provision of state law.

17.13 Employment Not Guaranteed

Nothing contained in this Plan, or any modification or amendment to the Plan, or in the creation of any account, or the payment of any benefit, shall give any Employee, Member, or Beneficiary any right to continue employment, any legal or equitable right against the Municipality, or an Employee of the Municipality, or against the Board, or its agents or employees or against the Board, except as expressly provided by the Plan or by a separate agreement.

17.14 Entire Agreement

Except as expressly provided herein, this Plan supersedes all prior contracts and undertakings, written or oral, between the same parties concerning the same subject matter. The above notwithstanding, in no event shall any provision of this Plan reduce, diminish or otherwise impair any right of a Member Beneficiary or Survivor Annuity under any plan or contract for such benefits accrued as of the date of execution of this Plan.

17.15 Mistake in the Record

Should any change or mistake in records result in any Member, Beneficiary or Survivor Annuitant receiving from the System more or less than the individual would have been entitled to receive had the records been correct, then regardless of the intentional or unintentional nature of the error and upon the discovery of such error, the Board shall correct the error and so far as practicable adjust the payments which may be made for and to such person in such a manner that the actuarial equivalent of the benefit to which he was correctly entitled shall be paid.

17.16 Counterparts

This Plan may be executed in any number of separate counterparts, each of which shall be deemed an original, but the several counterparts shall together constitute but one and the same instrument.

17.17 Severability

If any one or more of the covenants, agreements, provisions, or terms of this Plan shall be held contrary to any express provision of applicable law then such covenants, agreements, provisions, or terms shall be deemed severable from the remaining covenants, agreements, provisions, or terms

of this Plan and shall in no way affect the validity or enforceability of the remainder of this Plan or the rights of the parties hereto.

17.18 No Presumption Based upon Draftsmanship

For purposes of the interpretation and construction of this Plan and for the purpose of resolving any ambiguity herein, no inference or presumption shall be accorded to any party hereto based upon draftsmanship.

17.19 Headings

The headings and captions in this Plan are for convenience and reference purposes only and shall not be construed or deemed to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions hereof.

ADDENDUM A – APPLICABLE STATE LAWS

Sections 101, 103, 104, 107, 109, 111, 401 and 402 of the Pennsylvania Municipal Retirement Law 53 P.S. § 881.101 et. seq., (“PMRL”)

Enforcement Officers Disability Benefits Law, 53 P.S. § 637

16 Pa. Code § 81.7

Public Employee Pension Forfeiture Act (P.L. 752, No. 140)

20 Pa.C.S. § 3101

1 Pa. Code §§ 31.11, 31.15, 33.31, 33.34, and 35.20

ADDENDUM B – PMRS POLICY STATEMENTS

Subject

Actuary Tables

Allocation of Excess Interest

Disability Reserve

Excess Interest Award Process

Overpayment

Permanent Employment

Plan Withdrawal Procedure

Portability-Individual Member

Portability-Plan Spin-offs

Refund- Plan Withdrawal

Treatment of Member Contributions

1 of 8 DOCUMENTS

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** Pa.C.S. documents are current through 2016 Regular Session Acts 1-101 **
** P.S. documents are current through 2016 Regular Session Acts 1-81 **

Pennsylvania Statutes
Title 53. Municipal and Quasi-Municipal Corporations
Part I. General Municipal Law
Chapter 8A. Pennsylvania Municipal Retirement Law
Article I. General Provisions

Go to the Pennsylvania Code Archive Directory

53 P.S. § 881.101 (2016)

NOTICE: As to repeal of this section where it relates to townships of the first class, see § 3501 of act 1931, June 24, P.L. 1206, art. XXXV. As to repeal of this section where it relates to townships of the second class, see § 2101 of act 1933, May 1, P.L. 103, art. XXI (renumbered § 2201, art. XXII) and § 49 of act 1947, July 10, P.L. 1481. As to repeal of this section where it relates to boroughs, see § 1 of act 1915, May 14, P.L. 312, ch. XIII, art. 1. As to repeal of this section where it relates to third class cities, see § 4701 of act 1931, June 23, P.L. 932, art. XLVII.

§ 881.101. Short title

This act shall be known and may be cited as the "Pennsylvania Municipal Retirement Law."

2 of 8 DOCUMENTS

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** P.S. documents are current through 2016 Regular Session Acts 1-81 **

Pennsylvania Statutes
Title 53. Municipal and Quasi-Municipal Corporations
Part I. General Municipal Law
Chapter 8A. Pennsylvania Municipal Retirement Law
Article I. General Provisions

Go to the Pennsylvania Code Archive Directory

53 P.S. § 881.103 (2016)

NOTICE: As to repeal of this section where it relates to the conferrance of powers or the imposition of any duties on

townships, see § 1500 of act 1917, July 14, P.L. 840. As to repeal of this section where it relates to the conferrance of powers or the imposition of any duties on boroughs, see § 1 of act 1915, May 14, P.L. 312, ch. XIII, art. I. As to repeal of this section as it relates to third class cities, see § 4701 of act 1931, June 23, P.L. 932, art. XLVII.

§ 881.103. Pennsylvania Municipal Retirement Board

% A Pennsylvania Municipal Retirement Board is hereby created, which shall consist of the State Treasurer, Secretary of the Commonwealth, six municipal elected officials or employes of different classes of municipalities which have joined the system, one retired member of the system who is receiving a retirement allowance, one municipal fireman employed by a municipality which has joined the system and one municipal policeman employed by a municipality which has joined the system. The nine latter members shall be appointed by the Governor from among nominations made by the County Commissioners Association, the Pennsylvania League of Cities, the Pennsylvania Association of Township Commissioners, the Pennsylvania State Association of Township Supervisors, the Pennsylvania State Association of Boroughs and the Pennsylvania Municipal Authorities Association, and associations representing municipal firemen and municipal police, to serve for a term of four years each and until their successors are appointed and qualified. Appointments of members made by the Governor shall not require the advice and consent of the Senate. The two municipal employe members of the Municipal Employees' Retirement Board, appointed by the Governor from among nominations made by various associations of county and municipal officers, who are serving on the effective date of this act, shall continue to serve as members of the Pennsylvania Municipal Retirement Board until the expiration of their respective terms.

A chairman and vice chairman of the board shall be elected by the board every year at the January meeting of the board and the chairman and vice-chairman may succeed themselves for the appointed term of four years.

Vacancies happening from among members appointed from among the nominations made by the associations shall be filled by the appointment of a successor for a full term of four years.

No appointed member shall serve more than two consecutive full terms.

Each member of the board shall take an oath of office that he will diligently and honestly administer the affairs of the board, and that he will not knowingly violate or wilfully permit to be violated any of the provisions of this act.

A quorum of the board shall consist of six members.

3 of 8 DOCUMENTS

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** Pa.C.S. documents are current through 2016 Regular Session Acts 1-101 **

** P.S. documents are current through 2016 Regular Session Acts 1-81 **

Pennsylvania Statutes
Title 53. Municipal and Quasi-Municipal Corporations
Part I. General Municipal Law
Chapter 8A. Pennsylvania Municipal Retirement Law
Article I. General Provisions

Go to the Pennsylvania Code Archive Directory

53 P.S. § 881.104 (2016)

NOTICE: As to repeal of this section where it relates to the conferrance of powers or the imposition of any duties on

townships, see § 1500 of act 1917, July 14, P.L. 840. As to repeal of this section where it relates to the conferrance of powers or the imposition of any duties on boroughs, see § 1 of act 1915, May 14, P.L. 312, ch. XIII, art. I. As to repeal of this section as it relates to third class cities, see § 4701 of act 1931, June 23, P.L. 932, art. XLVII.

§ 881.104. General powers of the Board

The board shall:

(1) Appoint a secretary and an assistant secretary. The secretary, with the prior approval of the board, shall appoint the clerical and other employes of the board, whose positions, excluding the secretary's and assistant secretary's, shall be under the classified service provisions of the act of August 5, 1941 (P.L. 752, No. 286), as amended and the secretary shall fill future vacancies in accordance with such provisions. The compensation of all persons so appointed shall be fixed by the board and shall be consistent with the standards established by the Executive Board of this Commonwealth;

(2) Contract for professional services, including but not limited to actuarial, investment and medical as it deems advisable;

(3) Keep in convenient form such data as shall be deemed necessary for actuarial valuation purposes;

(4) From time to time, through its actuary, make an actuarial investigation into the mortality and service experience of the contributors and annuitants and of the various accounts created by this act;

(5) Adopt for the system one or more mortality tables and such other tables as shall be deemed necessary;

(6) Deleted by 1980, May 17, P.L. 135, No. 50, § 3, eff. in 60 days.

(7) Certify annually the amount of appropriation which each municipality shall pay into the retirement fund, which amounts shall be based on estimates furnished by the actuary, and shall be credited to the municipal account of the fund;

(8) Prepare and publish annually a financial statement showing the condition of the fund and the various accounts thereof, and setting forth such other facts, recommendations and data as may be of use in the advancement of knowledge concerning the Pennsylvania Municipal Retirement System, and furnish a copy thereof to each municipality which has joined the system, and to such persons as may request copies thereof;

(9) Keep a record of all its proceedings, which will be open to inspection by the public;

(10) From time to time, with the advice of the Attorney General and the actuary, to adopt and promulgate such rules and regulations as may be required for the proper administration of the fund created by this act and the several accounts thereof; to establish procedures which would permit an eligible retired public safety officer to pay qualified accident, health or long-term care insurance premiums as permitted under *section 402(l) of the Internal Revenue Code*; and to provide for the transaction of the business of the board;

(11) Be authorized to approve any optional retirement plan for municipal employes, municipal firemen or municipal police, with any municipality as long as it is actuarially sound and benefits under the plan are not in excess of or member's minimum contribution rates are not less than those provided in other existing retirement laws pertaining to that class of municipality; except to the extent that excess investment earnings are allocated to provide for additional pension benefits or member accruals as otherwise provided in this law;

(12) Prepare and distribute annual statements of accounts to each of the active members of the system, showing the contributions made during the year, the interest earned and the total balance standing in the member's account at the

end of the year;

(12.1) In accordance with the plan contract, provide cost-of-living increases from a plan's share of excess investment earnings to those members of such municipalities who have already retired. Such allocations shall be made, with the advice of the actuary, on a fully funded basis employing actuarial assumptions which reflect the nature of the liability. An award of excess interest shall not be made under this paragraph if the plan is less than 95% funded as of the plan's most recent filing of the actuarial report required under the Municipal Pension Funding Standard and Recovery Act.

(12.2) In accordance with the plan contract, the board shall allocate excess investment earnings for active members of such municipalities by applying such allocation to member contributions. To the extent that additional liabilities may accrue as a result of such allocation, the actuary shall employ actuarial assumptions, on a fully funded basis, to accurately reflect the nature of the liability generated therefrom. An award of excess interest shall not be made under this paragraph if the plan is less than 95% funded as of the plan's most recent filing of the actuarial report required under the Municipal Pension Funding Standard and Recovery Act.

(12.3) Promulgate regulations required for the proper administration of the DROP.

(12.4) Establish a subsidiary DROP participant account for each DROP participant, provide for the separate investment and funding of each account and establish a monthly rate of interest to credit the money deposited in each account.

(13) Perform such other functions as are required for the execution of the provisions of this act and of other Federal and State law and administer and interpret this act to ensure that the system is maintained as tax qualified under the Internal Revenue Code.

4 of 8 DOCUMENTS

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** Pa.C.S. documents are current through 2016 Regular Session Acts 1-101 **

** P.S. documents are current through 2016 Regular Session Acts 1-81 **

Pennsylvania Statutes
Title 53. Municipal and Quasi-Municipal Corporations
Part I. General Municipal Law
Chapter 8A. Pennsylvania Municipal Retirement Law
Article I. General Provisions

Go to the Pennsylvania Code Archive Directory

53 P.S. § 881.107 (2016)

NOTICE: As to repeal of this section where it relates to boroughs, see § 3301 of act 1927, May 4, P.L. 519, art. XXXIII. As to repeal of this section where it relates to third class cities, see § 4701 of act 1931, June 23, P.L. 932, art. XLVII.

§ 881.107. Election by municipalities to join retirement system

53 P.S. § 881.107

% Any municipality may elect, by ordinance or resolution adopted by the tax levying body, or in the case of municipal authorities by the board of such municipal authority to join the system: Provided, however, That any municipality electing coverage under the provisions of Article II of this act must have first placed its municipal employees in so far as they are eligible under the Federal Social Security Act.

Any municipality, by action of its tax levying body, may and upon petition of electors equal to at least five per cent of the registered electors of the municipality, shall, submit the question of joining such system to the voters of the municipality at any municipal or general election, in the same manner as other questions are submitted to the electors under the election code of the Commonwealth. If the majority of the electors voting on the question vote in favor thereof, the tax levying body shall adopt an ordinance or resolution electing to join such system. If the electors vote against joining the system, then no further action shall be taken in the municipality for a period of two years.

A duly certified copy of any such ordinance or resolution electing to join the system shall be filed with the board.

5 of 8 DOCUMENTS

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** P.S. documents are current through 2016 Regular Session Acts 1-81 **

Pennsylvania Statutes

Title 53. Municipal and Quasi-Municipal Corporations

Part I. General Municipal Law

Chapter 8A. Pennsylvania Municipal Retirement Law

Article I. General Provisions

Go to the Pennsylvania Code Archive Directory

53 P.S. § 881.109 (2016)

NOTICE: As to repeal of this section where it relates to boroughs, see § 3301 of act 1927, May 4, P.L. 519, art. XXXIII. As to repeal of this section where it relates to third class cities, see § 4701 of act 1931, June 23, P.L. 932, art. XLVII.

§ 881.109. Custody of and payments from fund

All moneys and securities in the fund shall be placed in the custody of the State Treasurer for safekeeping, and all payments on account of retirement allowances shall be made on requisition signed by the chairman and secretary of the board.

6 of 8 DOCUMENTS

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53 P.S. § 881.111

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Pennsylvania Statutes
Title 53. Municipal and Quasi-Municipal Corporations
Part I. General Municipal Law
Chapter 8A. Pennsylvania Municipal Retirement Law
Article I. General Provisions

Go to the Pennsylvania Code Archive Directory

53 P.S. § 881.111 (2016)

NOTICE: As to repeal of this section where it relates to third class cities, see § 4701 of act 1931, June 23, P.L. 932, art. XLVII.

§ 881.111. Municipal guarantee

% The regular interest charges payable, the DROP interest charges payable and the creation and maintenance of the necessary reserves for the payment of the municipal and member's annuities, as to any municipality in accordance with this act, are hereby made the obligation of that municipality.

In the case of the failure of a municipality to make payments as required by this act, the Commonwealth shall withhold payment to the municipality of any funds to which the municipality may be entitled for pension purposes. The board may recover any sums due to the fund by suit at law, or other appropriate remedy.

7 of 8 DOCUMENTS

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** P.S. documents are current through 2016 Regular Session Acts 1-81 **

Pennsylvania Statutes
Title 53. Municipal and Quasi-Municipal Corporations
Part I. General Municipal Law
Chapter 8A. Pennsylvania Municipal Retirement Law
Article IV. Optional Retirement Plans

Go to the Pennsylvania Code Archive Directory

53 P.S. § 881.401 (2016)

NOTICE: As to repeal of this section where it relates to boroughs, see § 1 of act 1915, May 14, P.L. 312, ch. XIII, art. I. As to repeal of this section where it relates to third class cities, see § 4701 of act 1931, June 23, P.L. 932, art. XLVII. See also act 1899, April 28, P.L. 74 and § 42 of act 1901, June 4, P.L. 364.

§ 881.401. Purpose

This article shall provide for the enrollment of those municipalities in the Pennsylvania Municipal Retirement System which want to offer retirement benefits to their employes different from those available under Article II and Article III of this act. It shall also provide for increasing member benefits for municipalities formerly enrolled under the provisions of Article II and Article III of this act.

8 of 8 DOCUMENTS

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** Pa.C.S. documents are current through 2016 Regular Session Acts 1-101 **

** P.S. documents are current through 2016 Regular Session Acts 1-81 **

Pennsylvania Statutes
Title 53. Municipal and Quasi-Municipal Corporations
Part I. General Municipal Law
Chapter 8A. Pennsylvania Municipal Retirement Law
Article IV. Optional Retirement Plans

Go to the Pennsylvania Code Archive Directory

53 P.S. § 881.402 (2016)

NOTICE: As to repeal of this section where it relates to boroughs, see § 1 of act 1915, May 14, P.L. 312, ch. XIII, art. I. As to repeal of this section where it relates to third class cities, see § 4701 of act 1931, June 23, P.L. 932, art. XLVII. See also act 1899, April 28, P.L. 74 and § 42 of act 1901, June 4, P.L. 364.

§ 881.402. Existing local retirement systems and compulsory and optional membership

% Where a municipality elects to join the system established by this act, and is then maintaining a retirement or pension system or systems covering its employes in whole or in part, those employes so covered, and employes thereafter eligible to join such pension system, shall not become members of the retirement system established by this act, unless at the time the municipality elects to join the system, the members of each such existing retirement or pension system shall, by the affirmative vote of seventy-five per cent of all the members of each pension system, elect to be covered by the retirement system established by this act. At any time thereafter, within a period of three years after the municipality has elected to join the system, but not thereafter, the members of an existing retirement or pension system may, in like manner, elect to join the system established by this act. In any such case, provisions may be made for the transfer of moneys and securities in its retirement or pension fund or funds, in whole or in part, to the fund established by this act. Securities so transferred shall be only those acceptable to the board. Securities not so acceptable shall be converted into cash, and said cash transferred to the fund created by this act. In any such transfer, provision shall be made to credit the accumulated deductions of each member, at least the amount he has paid into the retirement or pension system of the municipality, which moneys shall be credited against the prior service contributions of such member, or a municipality may turn over to the retirement system created by this act any existing local pension system on a completely funded basis, as to pensioners and pension credits of members related to prior service to the date of transfer, or on a partially funded basis if the municipality pays annually into the retirement system amounts sufficient to completely liquidate the municipality's liability for prior service within a period not to exceed thirty years.

No liability, on account of retirement allowances or pensions being paid from any retirement or pension fund of the municipality, shall attach against the fund, except as provided in the agreement, making a transfer of an existing system

in accordance with this section. The liability to continue payment of pensions not so transferred shall attach against the municipality, which shall annually make appropriations from its tax revenues sufficient to pay the same. In cases where workers covered by an existing retirement or pension system elect to join the system created by this act, the election to join shall be deemed to have been made at the time the municipality elected to join the system, and the liabilities of the municipality shall be fixed accordingly.

If a municipality elects to join the system under the provisions of this Article IV, it shall first negotiate a contract with the board, acceptable to both the municipality and the board, which shall set forth all the specific details of municipal and member contribution rates and benefits. The municipality shall then pass an ordinance or resolution electing to join the system, and confirming the terms of the contract by reference thereto. Separate contracts and separate resolutions shall be executed for each class of employees, namely municipal employees, municipal firemen and municipal police in those cases where the municipality elects to bring more than one class of its employees into the system.

When a municipality elects to enroll its municipal employees into the system, then each officer other than elected officers, and each municipal employe thereof, employed on a full-time basis, shall be required to become a member of the system. Each municipality shall determine whether membership in said system for elected officials and employes hired on a temporary, seasonal or part-time basis shall be compulsory, optional or prohibited. Where membership may be optional with an elected officer or an employe hired on a temporary, seasonal or part-time basis, an election to join the system must be made within one year after the municipality elected to join the system or within one year after the officer or temporary, seasonal or part-time employe first entered the service of the municipality. Officers and employes paid only on a fee basis shall not be eligible to join the system.

When a municipality elects to enroll its municipal firemen or its municipal police into the system, then each municipal fireman or each municipal policeman, as defined in section 102 of this act, shall be required to become a member of the system.

When a municipality has established a policy of placing new employees on a probationary status it may elect to refrain from enrolling such employees into the system for a period of up to one year from the date the probationary employe first entered the service of the municipality. In such cases service credits shall not be earned by the employe for probationary time served prior to enrollment. Notwithstanding any other provision herein, the board may, in its discretion, entertain a request from a municipality to join the system established by this act for those employees who are excluded from local pension plan coverage by virtue of the collective bargaining process or otherwise. The request to join the system must be accompanied by an affirmative vote of no less than three-fourths of those employees not covered by the local pension plan. The benefits to be established may be in accordance with the provisions of this article or any other relevant pension law covering that class of municipality. The other requirements of this section for joining this system shall be observed.



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*** Changes effective through 46 Pa.B. 6280 (October 1, 2016) ***

TITLE 16. COMMUNITY AFFAIRS
PART III. MUNICIPAL RETIREMENT BOARD
CHAPTER 81. GENERAL PROVISIONS

Go to the Pennsylvania Administrative Code Archive Directory

16 Pa. Code § 81.7 (2016)

§ 81.7. Retirement funds and accounts

(a) The Board will consolidate for investment purposes the assets of the various plans. The Board will account separately for each plan's assets in a municipal account and each individual active member, inactive member and vested member's assets in a member's account. The Board maintains pooled accounts for retired members (the Retired Members' Reserve Account) and for the funding of disability benefits (the disability reserve).

(b) When a municipality withdraws the administration of its plan from the System, the municipality shall only be entitled to the assets credited to the plan's municipal account and the plan's members' accounts in accordance with the provisions of the law. Assets that are actuarially determined by the Board's actuary to be matched to a withdrawing plan's retired members as of the effective date of withdrawal will also be returned to the plan in accordance with the law provided there are sufficient funds in the retired member's reserve account to meet the actuarially determined liability of all retired members of the System, as of the date of withdrawal; otherwise payment shall be on a prorated basis.

SOURCE:

The provisions of this § 81.7 amended June 23, 2000, effective June 24, 2000, *30 Pa.B. 3168*. Immediately preceding text appears at serial page (260163).

HIERARCHY NOTES:

Part Note

1 of 1 DOCUMENT

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** Pa.C.S. documents are current through 2016 Regular Session Acts 1-101 **

** P.S. documents are current through 2016 Regular Session Acts 1-81 **

Pennsylvania Statutes
Title 53. Municipal and Quasi-Municipal Corporations
Part I. General Municipal Law
Chapter 8. Public Officers and Employees
Article IV. Compensation

Go to the Pennsylvania Code Archive Directory

53 P.S. § 637 (2016)

§ 637. Enforcement officer disability benefits

(a) Any member of the State Police Force, any enforcement officer or investigator employed by the Pennsylvania Liquor Control Board, and the parole agents, enforcement officers and investigators of the Pennsylvania Board of Probation and Parole, Capitol Police officers, correction employes employed by the Department of Corrections, whose principal duty is the care, custody and control of inmates, psychiatric security aides employed by the Department of Public Welfare and the Department of Corrections, whose principal duty is the care, custody, and control of the criminally insane, drug enforcement agents of the Office of Attorney General whose principal duty is the enforcement of the drug laws of the Commonwealth, special agents of the Office of Attorney General whose principal duty is the enforcement of the criminal laws of the Commonwealth, any member of the Delaware River Port Authority Police, any policeman, fireman or park guard of any county, city, borough, town or township, or any sheriff or deputy sheriff who is injured in the performance of his duties including, in the case of firemen, duty as special fire police, and by reason thereof is temporarily incapacitated from performing his duties, shall be paid by the Commonwealth of Pennsylvania if a member of the State Police Force or an enforcement officer or investigator employed by the Pennsylvania Liquor Control Board or the parole agents, enforcement officers and investigators of the Pennsylvania Board of Probation and Parole, Capitol Police officers, correction employes employed by the Department of Corrections, whose principal duty is the care, custody and control of inmates, psychiatric security aides employed by the Department of Public Welfare and the Department of Corrections, whose principal duty is the care, custody, and control of the criminally insane, drug enforcement agents of the Office of Attorney General whose principal duty is the enforcement of the drug laws of the Commonwealth, special agents of the Office of Attorney General whose principal duty is the enforcement of the criminal laws of the Commonwealth, or by the Delaware River Port Authority if a member of the Delaware River Port Authority Police or by the county, township or municipality, by which he is employed, his full rate of salary, as fixed by ordinance or resolution, until the disability arising therefrom has ceased. All medical and hospital bills, incurred in connection with any such injury, shall be paid by the Commonwealth of Pennsylvania or by the Delaware River Port Authority or by such county, township or municipality. During the time salary for temporary incapacity shall be paid by the Commonwealth of Pennsylvania or by the Delaware River Port Authority or by the county, city, borough, town or township, any workmen's compensation, received or collected by any such employe for such period, shall be turned over to the Commonwealth of Pennsylvania or to the Delaware River Port Authority or to such county, city, borough, town or township, and paid into the treasury thereof, and if such payment shall not be so made by the employe the amount so due the Commonwealth of Pennsylvania, the Delaware River Port Authority or the county, city, borough,

town or township shall be deducted from any salary then or thereafter becoming due and owing.

(b) In the case of the State Police Force, enforcement officers and investigators employed by the Pennsylvania Liquor Control Board and the parole agents, enforcement officers and investigators of the Pennsylvania Board of Probation and Parole, Capitol Police officers, correction employes employed by the Department of Corrections, whose principal duty is the care, custody and control of inmates, psychiatric security aides employed by the Department of Public Welfare and the Department of Corrections whose principal duty is the care, custody, and control of the criminally insane, drug enforcement agents of the Office of Attorney General whose principal duty is the enforcement of the drug laws of the Commonwealth, special agents of the Office of Attorney General whose principal duty is the enforcement of the criminal laws of the Commonwealth, members of the Delaware River Port Authority Police, salaried policemen and firemen, and sheriffs and deputy sheriffs who have served for four consecutive years or longer, diseases of the heart and tuberculosis of the respiratory system, contracted or incurred by any of them after four years of continuous service as such, and caused by extreme overexertion in times of stress or danger or by exposure to heat, smoke, fumes or gases, arising directly out of the employment of any such member of the State Police Force, enforcement officer, investigator employed by the Pennsylvania Liquor Control Board, guard or enforcement officer employed by the Department of Corrections or parole agent, enforcement officer or investigator of the Pennsylvania Board of Probation and Parole, Capitol Police officers, correction employes employed by the Department of Corrections whose principal duty is the care, custody and control of inmates, psychiatric security aides employed by the Department of Public Welfare and the Department of Corrections whose principal duty is the care, custody, and control of the criminally insane, drug enforcement agents of the Office of Attorney General whose principal duty is the enforcement of the drug laws of the Commonwealth, special agents of the Office of Attorney General whose principal duty is the enforcement of the criminal laws of the Commonwealth, member of the Delaware River Port Authority Police, policeman or fireman, or sheriff or deputy sheriff shall be compensable in accordance with the terms hereof; and unless any such disability shall be compensable under the compensation laws as having been caused by accidental injury, such disability shall be compensable as occupational disease disabilities are presently compensable under the compensation laws of this Commonwealth. It shall be presumed that tuberculosis of the respiratory system contracted or incurred after four consecutive years of service was contracted or incurred as a direct result of employment.

(c) In the case of any person receiving benefits pursuant to this act, the statutes of limitations set forth in sections 306.1, 315, 413, and 434 of the act of June 2, 1915 (P.L. 736, No. 338), known as the "Workers' Compensation Act," shall not begin to run until the expiration of the receipt of benefits pursuant to this act.

(d) All payments herein required to be made by the Commonwealth of Pennsylvania on account of any member of the State Police Force shall be made from moneys appropriated to the Pennsylvania State Police, and any payments required to be made on account of any enforcement officer or investigator employed by the Pennsylvania Liquor Control Board shall be from appropriations out of the State Stores Fund, any payments required to be made on account of any parole agent, enforcement officer or investigator employed by the Pennsylvania Board of Probation and Parole shall be from moneys appropriated to the Pennsylvania Board of Probation and Parole, any payments required to be made on account of Capitol Police officers shall be made from moneys appropriated to the Department of General Services, any payments required to be made on account of any correction employe shall be made from moneys appropriated to the Department of Corrections, any payments required to be made on account of any psychiatric security aides shall be made from moneys appropriated to the Department of Public Welfare or the Department of Corrections where appropriate, and any payments required to be made on account of any drug enforcement agent or special agents shall be made from moneys appropriated to the Office of Attorney General.

1 of 5 DOCUMENTS

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Pennsylvania Statutes
Title 43. Labor
Chapter 22. Public Employee Pension Forfeiture Act

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43 P.S. § 1311 (2016)

§ 1311. Short title

This act shall be known and may be cited as the "Public Employee Pension Forfeiture Act."

2 of 5 DOCUMENTS

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Pennsylvania Statutes
Title 43. Labor
Chapter 22. Public Employee Pension Forfeiture Act

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43 P.S. § 1312 (2016)

NOTICE: As to suspension of this section for the purpose of considering Act 1984, Dec. 19, P.L. 1191, No. 226, and all amendments to it, see § 8 of said act.

§ 1312. Definitions

% The following words and phrases when used in this act shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"CRIMES RELATED TO PUBLIC OFFICE OR PUBLIC EMPLOYMENT." Any of the criminal offenses as set forth in the following provisions of Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes or other enumerated statute when committed by a public official or public employee through his public office or position or when his public employment places him in a position to commit the crime:

Any of the criminal offenses set forth in Subchapter B of Chapter 31 (relating to definition of offenses) when the criminal offense is committed by a school employee as defined in 24 Pa. C.S. § 8102 (relating to definitions) against a student.

Section 3922 (relating to theft by deception) when the criminal culpability reaches the level of a misdemeanor of the first degree or higher.

Section 3923 (relating to theft by extortion) when the criminal culpability reaches the level of a misdemeanor of the first degree or higher.

Section 3926 (relating to theft of services) when the criminal culpability reaches the level of a misdemeanor of the first degree or higher.

Section 3927 (relating to theft by failure to make required disposition of funds received) when the criminal culpability reaches the level of a misdemeanor of the first degree or higher.

Section 4101 (relating to forgery).

Section 4104 (relating to tampering with records or identification).

Section 4113 (relating to misapplication of entrusted property and property of government or financial institutions) when the criminal culpability reaches the level of misdemeanor of the second degree.

Section 4701 (relating to bribery in official and political matters).

Section 4702 (relating to threats and other improper influence in official and political matters).

Section 4902 (relating to perjury).

Section 4903(a) (relating to false swearing).

Section 4904 (relating to unsworn falsification to authorities).

Section 4906 (relating to false reports to law enforcement authorities).

Section 4909 (relating to witness or informant taking bribe).

Section 4910 (relating to tampering with or fabricating physical evidence).

Section 4911 (relating to tampering with public records or information).

Section 4952 (relating to intimidation of witnesses or victims).

Section 4953 (relating to retaliation against witness, victim or party).

Section 5101 (relating to obstructing administration of law or other governmental function).

Section 5301 (relating to official oppression).

Section 5302 (relating to speculating or wagering on official action or information).

Article III of the act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971."

In addition to the foregoing specific crimes, the term also includes all criminal offenses as set forth in Federal law substantially the same as the crimes enumerated herein.

"POLITICAL SUBDIVISION." Any county, city, borough, incorporated town, township, school district, vocational school district, intermediate unit, municipal authority, home rule, optional plan or optional charter municipality, and any agencies, boards, commissions, committees, departments, instrumentalities, or entities thereof designated to act in behalf of a political subdivision either by statute or appropriation.

"PUBLIC OFFICIAL" or "PUBLIC EMPLOYEE." Any person who is elected or appointed to any public office or employment including justices, judges and justices of the peace and members of the General Assembly or who is acting or who has acted in behalf of the Commonwealth or a political subdivision or any agency thereof including but not limited to any person who has so acted and is otherwise entitled to or is receiving retirement benefits whether that person is acting on a permanent or temporary basis and whether or not compensated on a full or part-time basis. This term shall not include independent contractors nor their employees or agents under contract to the Commonwealth or political subdivision nor shall it apply to any person performing tasks over which the Commonwealth or political subdivision has no legal right of control. However, this term shall include all persons who are members of any retirement system funded in whole or in part by the Commonwealth or any political subdivision. For the purposes of this act such persons are deemed to be engaged in public employment.

43 P.S. § 1313

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Pennsylvania Statutes
Title 43. Labor
Chapter 22. Public Employee Pension Forfeiture Act

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43 P.S. § 1313 (2016)

NOTICE: As to termination of this commission on December 31, 2001, in the manner provided for by the act of December 22, 1981 (P.L. 508, No. 142), known as the Sunset Act, see § 2 of Act 1991, Dec. 20, P.L. 393, No. 42.

§ 1313. Disqualification and forfeiture of benefits

(a) Notwithstanding any other provision of law, no public official or public employee nor any beneficiary designated by such public official or public employee shall be entitled to receive any retirement or other benefit or payment of any kind except a return of the contribution paid into any pension fund without interest, if such public official or public employee is convicted or pleads guilty or no defense to any crime related to public office or public employment.

(b) The benefits shall be forfeited upon entry of a plea of guilty or no defense or upon initial conviction and no payment or partial payment shall be made during the pendency of an appeal. If a verdict of not guilty is rendered or the indictment or criminal information finally dismissed, then the public official or public employee shall be reinstated as a member of the pension fund or system and shall be entitled to all benefits including those accruing during the period of forfeiture if any. Such conviction or plea shall be deemed to be a breach of a public officer's or public employee's contract with his employer.

(c) Each time a public officer or public employee is elected, appointed, promoted, or otherwise changes a job classification, there is a termination and renewal of the contract for purposes of this act.

(d) The appropriate retirement board may retain a member's contributions and interest thereon for the purpose of paying any fine imposed upon the member of the fund, or for the repayment of any funds misappropriated by such member from the Commonwealth or any political subdivision.

(e) Notwithstanding any other provision of this act, the State Employees' Retirement Board shall not disburse any funds to any person who has forfeited their right to benefits until the Auditor General and the Attorney General have determined and certified that there has been no loss to the Commonwealth as a result of the conduct that resulted in forfeiture of benefits. If there is a loss to the Commonwealth, the board shall pay the amount of the loss to the State Treasurer from the member's contributions and the interest thereon.

4 of 5 DOCUMENTS

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43 P.S. § 1314

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Pennsylvania Statutes
Title 43. Labor
Chapter 22. Public Employee Pension Forfeiture Act

Go to the Pennsylvania Code Archive Directory

43 P.S. § 1314 (2016)

§ 1314. Restitution for monetary loss

(a) Whenever any public official or employee who is a member of any pension system funded by public moneys is convicted or pleads guilty or pleads no defense in any court of record to any crime related to a public office or public employment, the court shall order the defendant to make complete and full restitution to the Commonwealth or political subdivision of any monetary loss incurred as a result of the criminal offense.

(b) If the court fails to order such restitution the Commonwealth, through the Attorney General, or a political subdivision shall petition the court pronouncing sentence for an order establishing the amount of restitution due it. If the court does not have authority to order restitution, the Commonwealth or the political subdivision shall bring an original action for restitution.

(c) Notwithstanding any law or provision of law exempting the pension account or benefits of any public official or public employee from garnishment or attachment, whenever the court shall order restitution or establish the amount of restitution due after petition, all sums then credited to the defendant's account or payable to the defendant including the contributions shall be available to satisfy such restitution order.

(d) The retirement board, administrator of the pension fund or employer of the defendant, upon being served with a copy of the court's order, shall pay over all such pension benefits, contributions or other benefits to the extent necessary to satisfy the order of restitution.

5 of 5 DOCUMENTS

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Title 43. Labor
Chapter 22. Public Employee Pension Forfeiture Act

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43 P.S. § 1315 (2016)

§ 1315. Repealer

All other acts or parts of acts inconsistent with the provisions of this act are repealed to the extent of their inconsistency.

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Pennsylvania Consolidated Statutes
Title 20. Decedents, Estates and Fiduciaries
Chapter 31. Dispositions Independent of Letters; Family Exemption; Probate of Wills and Grant of Letters
Subchapter A. Dispositions Independent of Letters

Go to the [Pennsylvania Code Archive Directory](#)

20 Pa.C.S. § 3101 (2016)

§ 3101. Payments to family and funeral directors.

(a) *Wages, salary or employee benefits.* --

Any employer of a person dying domiciled in this Commonwealth at any time after the death of the employee, whether or not a personal representative has been appointed, may pay wages, salary or any employee benefits due the deceased in an amount not exceeding \$ 5,000 to the spouse, any child, the father or mother, or any sister or brother (preference being given in the order named) of the deceased employee. Any employer making such a payment shall be released to the same extent as if payment had been made to a duly appointed personal representative of the decedent and he shall not be required to see to the application thereof. Any person to whom payment is made shall be answerable therefor to anyone prejudiced by an improper distribution.

(b) *Deposit account.* --

Any bank, savings association, savings and loan association, building and loan association, credit union or other savings organization, at any time after the death of a depositor, member or certificate holder, shall pay the amount on deposit or represented by the certificate, when the total standing to the credit of the decedent in that institution does not exceed \$ 10,000, to the spouse, any child, the father or mother or any sister or brother (preference being given in the order named) of the deceased depositor, member or certificate holder, provided that a receipted funeral bill or an affidavit, executed by a licensed funeral director which sets forth that satisfactory arrangements for payment of funeral services have been made, is presented. Any bank, association, union or other savings organization making such a payment shall be released to the same extent as if payment had been made to a duly appointed personal representative of the decedent and it shall not be required to see to the application thereof. Any person to whom payment is made shall be answerable therefor to anyone prejudiced by an improper distribution.

(c) *Patient's care account.* --

When the decedent was a qualified recipient of medical assistance from the Department of Public Welfare, the facility in which he was a patient may make payment of funds, if any, remaining in the patient's care account, for the decedent's burial expenses to a licensed funeral director in an amount not exceeding \$ 10,000 whether or not a personal representative has been appointed. After the payment of decedent's burial expenses, the facility may pay the balance of decedent's patient's care account, as long as the payments including the payment for burial expenses does not exceed \$ 10,000, to the spouse, any child, the father or mother or any sister or brother (preference being given in the order

named) of the deceased patient. Any facility making such a payment shall be released to the same extent as if payment had been made to a duly appointed personal representative of the decedent and it shall not be required to see to the application thereof. Any licensed funeral director or other person to whom payment is made shall be answerable therefor to anyone prejudiced by an improper distribution.

(d) *Life insurance payable to estate.* --

Any insurance company which upon the death of an individual residing in this Commonwealth owes his estate a total amount of \$ 11,000 or less under any policy of life, endowment, accident or health insurance, or under any annuity or pure endowment contract, may at any time after 60 days following his death pay all or any part of that amount to the spouse, any child, the father or mother or any sister or brother of the decedent (preference being given in the order named) provided that at the time of the payment no written claim for that money has been received at the office of the company specified in the policy or contract for the receipt of claims from any duly appointed personal representative of the decedent. Any insurance company making any payment in accordance with this section to an adult may rely on the affidavit of any of the persons named in this subsection concerning the existence and relationship of these persons and shall be released to the same extent as if payment had been made to a duly appointed personal representative of the decedent and the insurance company shall not be required to see to the application thereof. Any person to whom payment is made shall be answerable therefor to anyone prejudiced by an improper distribution.

(e) *Unclaimed property.*

(1) In any case where property or funds owned by an individual who has died a resident of this Commonwealth have been reported to the Commonwealth and are in the custody of the State Treasurer as unclaimed or abandoned property, the State Treasurer, at any time after the death of the individual, shall be authorized under this section to distribute the property or to pay the amount being held in custody where all of the following conditions are present:

(i) The amount of the funds or the value of the property is \$ 11,000 or less.

(ii) The person claiming the property or the funds is the surviving spouse, child, mother or father, or sister or brother of the decedent, with preference given in that order.

(iii) A personal representative of the decedent has not been appointed or five years have lapsed since the appointment of a personal representative of the decedent.

(2) Upon being presented with a claim for property owned by a decedent, the State Treasurer shall require the person claiming the property to provide all of the following prior to distributing the property or paying the amount held in custody:

(i) A certified death certificate of the owner.

(ii) A sworn affidavit under the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) setting forth the relationship of the claimant to the decedent, the existence or nonexistence of a duly appointed personal representative of the decedent and any other persons that may be entitled under this section to make a claim to the decedent's property.

(iii) Other information determined by the State Treasurer to be necessary in order to distribute property or pay funds under this section to the proper person.

(3) If the State Treasurer determines the claimant to be a person entitled to claim property of a decedent owner, the State Treasurer shall pay or distribute such property to the claimant and shall thereby be released to the same extent as if payment or distribution had been made to a duly appointed personal representative of the decedent and shall not be required to oversee the application of the payments made. Any claimant to whom payment is made shall be answerable

therefore to anyone prejudiced by an improper distribution or payment.

1 of 5 DOCUMENTS

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TITLE I. GENERAL PROVISIONS
PART II. GENERAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

CHAPTER 31. PRELIMINARY PROVISIONS
SUBCHAPTER B. TIME

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1 Pa. Code § 31.11 (2016)

§ 31.11. Timely filing required

Pleadings, submittals or other documents required or permitted to be filed under this part, the regulations of the agency or any other provision of law shall be received for filing at the office of the agency within the time limits, if any, for the filing. The date of receipt at the office of the agency and not the date of deposit in the mails is determinative.

2 of 5 DOCUMENTS

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CHAPTER 31. PRELIMINARY PROVISIONS
SUBCHAPTER B. TIME

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1 Pa. Code § 31.15 (2016)

1 Pa. Code § 31.15

§ 31.15. Extensions of time

(a) Extensions of time shall be governed by the following:

(1) Except as otherwise provided by law, whenever by these rules or by a regulation or order of an agency, or a notice given thereunder, an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, by the agency head or the presiding officer, for good cause be extended upon motion made before expiration of the period originally prescribed or as previously extended; and upon motion made after the expiration of the specified period, the act may be permitted to be done where reasonable grounds are shown for the failure to act.

(2) Requests for the extension of time in which to file briefs shall be filed at least 5 days before the time fixed for filing such briefs.

(b) Except as otherwise provided by law, requests for continuance of hearings or for extension of time in which to perform an act required or allowed to be done at or within a specified time by these rules or a regulation or order of an agency, shall be by motion in writing, timely filed with the agency, stating the facts on which the application rests, except that during the course of a hearing in a pro-ceeding, the requests may be made by oral motion in the hearing before the agency head or the presiding officer.

3 of 5 DOCUMENTS

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TITLE 1. GENERAL PROVISIONS
PART II. GENERAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

CHAPTER 33. DOCUMENTARY FILINGS
SUBCHAPTER B. SERVICE OF DOCUMENTS

Go to the Pennsylvania Administrative Code Archive Directory

1 Pa. Code § 33.31 (2016)

§ 33.31. Service by the agency

Orders, notices and other documents originating with an agency, including forms of agency action, complaints and similar process and other documents designated by the agency for this purpose, shall be served by the office of the agency by mail, except when service by another method shall be specifically required by the agency, by mailing a copy thereof to the person to be served, addressed to the person designated in the initial pleading or submittal at his principal office or place of business. If service is not accomplished by mail, it may be effected by anyone authorized by the agency in the manner provided in 231 Pa. Code Rules 400 -- 441 (relating to service of original process).

1 Pa. Code § 33.34

4 of 5 DOCUMENTS

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TITLE 1. GENERAL PROVISIONS
PART II. GENERAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

CHAPTER 33. DOCUMENTARY FILINGS
SUBCHAPTER B. SERVICE OF DOCUMENTS

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1 Pa. Code § 33.34 (2016)

§ 33.34. Date of service

The date of service shall be the day when the document served is deposited in the United States mail, or is delivered in person, as the case may be.

5 of 5 DOCUMENTS

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TITLE 1. GENERAL PROVISIONS
PART II. GENERAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE

CHAPTER 35. FORMAL PROCEEDINGS
SUBCHAPTER A. PLEADINGS AND OTHER PRELIMINARY MATTERS
PETITIONS

Go to the Pennsylvania Administrative Code Archive Directory

1 Pa. Code § 35.20 (2016)

§ 35.20. Appeals from actions of the staff

I Pa. Code § 35.20

Actions taken by a subordinate officer under authority delegated by the agency head may be appealed to the agency head by filing a petition within 10 days after service of notice of the action.

PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM
BASE PLAN DOCUMENT
ADDENDUM B – PMRS POLICY STATEMENTS

Pennsylvania Municipal Retirement Board Policy Statement 14 – 3 Adopted June 11, 2014	Utilization of Actuarial Tables
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Purpose: The Pennsylvania Municipal Retirement Board is required to adopt all necessary actuarial assumptions essential for the calculation of retirement benefits. This policy sets forth the adopted tables and assumptions the System uses to determine actuarial equivalence for optional benefit forms of retirement and the early retirement actuarial equivalence.

Authority: Pennsylvania Municipal Retirement Law, Act of February 1, 1947, P.L. 34, No. 15, § 104(5), 53 P.S. § 881.104(5).

Policy: The Pennsylvania Municipal Retirement Board adopts the following actuarial assumptions to be used for optional benefit forms of retirement and early retirement actuarial equivalence being made effective on or after January 1, 2011:

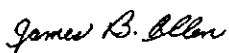
1. Mortality Assumption: The Society of Actuaries RP 2000 table. Rates will be blended 70% male and 30% female to provide unisex factors for calculating actuarial equivalent benefits.
2. Interest assumption: 6.0% compounded annually for calculations effective on or after January 1, 2011 through December 31, 2012; 5.5% compounded annually for calculations effective on or after January 1, 2013.

The following actuarial assumption shall be used for optional benefit form of retirement and early retirement actuarial equivalence being made on or after December 31, 2002 through December 31, 2010:

1. Mortality Assumption: The 1994 Group Annuity Mortality Table without adjustment or projection will be used. Rates will be blended 70% male and 30% female to provide unisex factors for calculating actuarial equivalent benefits.
2. Interest assumption: 6.0% compounded annually.

Effective Date: This policy is effective immediately and shall be applied retroactively to distributions with annuity starting dates on or after December 31, 2002. It replaces Policy Statement 10-7 adopted at the November 18, 2010 meeting of the Pennsylvania Municipal Retirement Board.

Adoption Date: Adopted at the June 11, 2014 meeting of the Pennsylvania Municipal Retirement Board.


James B. Allen, Secretary

JBA:jba
06/11/2014

Pennsylvania Municipal Retirement Board Policy Statement Rule Number 97-1	Allocation of Excess Interest to Municipal Account, Members' Accounts, and Retired Members' Reserve Account
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Purpose: To formalize the procedure used by the Pennsylvania Municipal Retirement System (the System) to allocate excess interest "... as each municipality deems appropriate to the credit of the Municipal accounts, member's accounts, the member's excess investment accounts, retired members reserve accounts and total disability reserve accounts." ("Pennsylvania Municipal Retirement Law": Section 110)

Authority: Act 15 of 1974, "Pennsylvania Municipal Retirement Law": Section 110. Management and Investment of Fund; Interest Credits.

Specific Cites: Act 15 of 1974, "Pennsylvania Municipal Retirement Law": Section 104. General Powers of the Board. (12.1) and (12.2); Section 110. Management and Investment of Fund; Interest Credits.

Policy: The Board has been directed to credit any excess investment monies, hereafter referred to as excess interest, earned by the System to the Municipal Account, Members' Accounts, and Retired Members' Reserve Account as directed by each member municipality. It is noted that the law speaks also to the crediting of excess interest to the member's excess investment account and to the total disability reserve.

Whereas the member's excess investment account is a sub-account of each member's account maintained as part of the Members' Reserve Account, the Board has determined that it does fulfill the obligation of allocating monies to the member's excess investment account when a municipality directs that excess interest is to be allocated to the members' accounts. The Board satisfies the obligation by crediting the directed excess interest to each member's excess interest account maintained as a part of the Members' Reserve Account.

The Board further declares that the total Disability Reserve Account is a pooled account of the System. This reserve account is used to fund a portion of a disability pension when a disability benefit is not fully funded by a member's accrued benefit as of the date of disability. This account does not benefit a plan unless that plan has a member who seeks a disability pension in a given year. The Board declares that allocating excess interest to the Disability Reserve Account would not directly benefit a municipality in a subsequent year, nor would it benefit a municipality's members (active or retired) in a subsequent year. Given these facts, the Board deems it illogical to have a municipality allocate excess interest to this account and therefore directs that the municipalities

Pennsylvania Municipal Retirement Board Policy Statement Rule Number 97-1 (Continued)	Allocation of Excess Interest to Municipal Account, Members' Accounts, and Retired Members' Reserve Account
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Policy: not be given the option of allocating excess interest to the total Disability Reserve Account.
 (Cont'd.)

The Board directs that the Secretary of the System or the Secretary's designee inform the municipalities of the excess interest award value to the municipalities' plan(s) within two weeks of the Board's adoption of the excess interest award. The written announcement shall be mailed to each plan's designated contact person and shall contain the specific dollar amount awarded as excess interest. This amount shall be calculated by multiplying each plan's assets by the percentage of the adopted excess interest award. Assets refer to monies held in the Members' Reserve, the Municipal Reserve, and the Retired Members' Reserve (the assets held in the name of a retired member – the present value as determined by the System's actuary) as of December 31 of the previous year. The announcement shall show not only the value of the total excess interest awarded to the plan but also the dollar amount of the award generated from the previous year-end balances of the reserve accounts (Municipal, Members, and Retired Members).

The plan's governing body shall notify the System in writing of the manner in which the governing board wants the excess interest allocated among the three reserves. In addition, if any excess interest is allocated to either active or retired members, it must be done in a non-discriminatory, systematic manner, and the process shall be uniformly applied to all members. The Board directs that staff monitor the allocation process and contact the municipality should a questionable or unusual allocation decision be presented to the System.

If the plan's allocation decision is not returned to the System by November 30, the System shall allocate all awarded excess interest to the plan's municipal account. The System will implement the municipalities' allocation decisions effective December 31 of the year the Board declared the excess interest award. Once the allocation has been made (December 31), the decision is irrevocable.

Active members who terminate membership in the System after December 31 of the previous year shall not be entitled to any excess interest award. Any award that would have been allocated to the member's account shall be deposited instead to the municipal account of the plan.

Pennsylvania Municipal Retirement Board Policy Statement Rule Number 97-1 (Continued)	Allocation of Excess Interest to Municipal Account, Members' Accounts, and Retired Members' Reserve Account
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Policy:
(Cont'd) Retired members who terminate membership in the System after December 31 of the previous year shall not be entitled to any excess interest award. Instead, any award that would have been allocated to the retired member's benefit shall be deposited to the municipal account of the plan.

Members who would have been allocated excess interest money as an active member but who retired on or after December 31 of the previous year shall have said allocation annuitized and added to the monthly benefit said member is getting as a retired member of the plan.

Municipalities that withdraw their plan(s) from the System on or after December 31 of the previous year shall be entitled to any excess interest declared by the Board in the current year which is based upon the plan's assets as of December 31 of the previous year. The System shall award said excess interest to the governing board of the withdrawn plan on December 31 of the current year. A plan must be a member of the System on December 31 to participate in any allocation of excess interest in the following year.

Any former member who has lost rights to membership in the System due to termination of employment in a member plan but has not withdrawn the accumulated member deductions by December 31 of the year in which membership rights ended shall not be eligible for allocated excess interest.

Effective Date: This rule is to be implemented effective immediately and applicable only on a prospective basis.

Adoption Date: Adopted at the September 18, 1997, meeting of the Pennsylvania Municipal Retirement Board.

Purpose: The Pennsylvania Municipal Retirement Law establishes a separate reserve fund, Total Disability Reserve Account (Disability Reserve), to assist plans in providing disability benefits through a pooled risk vehicle. This statement sets out the funding and utilization policy of the Disability Reserve.

Background: Municipalities may elect to provide disability retirement benefits. When a municipality has elected to provide disability benefits, a common design is to provide 30% income replacement for non-service or standard disability and 50% income replacement for an in-service disability. The law requires the Pennsylvania Municipal Retirement System (PMRS) to include in the plan's annual obligation a charged term cost for the value of these benefits.

When a participant of a plan with disability benefits applies and is approved by the Pennsylvania Municipal Retirement Board for a disability retirement benefit, all or a portion of the funding of the benefit is transferred from the Disability Reserve to the Retired Member's Reserve Account (Retiree Reserve). When determining the amount of the transfer from the Disability Reserve a value of the disability benefit is determined using the applicable actuarial factors consistent with the member's demographics and the plan's benefit formula.

Once the value of the disability benefit is determined, PMRS determines the accrued value of the member's normal retirement benefit. The value of the member's accrued normal retirement benefit is subtracted from the value of the member's approved disability benefit and the remainder is the amount of money that is transferred from the Disability Reserve to the Retiree Reserve to fully fund the approved disability benefit.

Any monies in the Member's Account (except those monies voluntarily contributed to fund an optional benefit and the regular interest credited to them) and any monies in the Member's Excess Interest Account are subtracted from the value of the accrued normal retirement benefit to determine the amount of monies charged to the member's employer's Municipal Account to fund the benefit not funded by monies from the Disability Reserve.

Authority: Pennsylvania Municipal Retirement Law, Act of February 1, 1974, P.L. 34, No. 15, § 104(5), 53 P.S. § 881.104(5).

Policy: The Pennsylvania Municipal Retirement Board adopts the following funding procedures to ensure adequate financial resources are available to provide for disability retirement liabilities for those participating municipalities that elect to provide disability benefits.

1. Funding – An annual cost, expressed as a percentage of a plan’s covered compensation, shall be determined by the system’s actuary and included in the Minimum Municipal Obligation of each plan that provides disability benefits. This cost is to be used for the funding of the Disability Reserve. The annual cost shall be equal to the projected disability cost in excess of the projected accrued benefit cost factoring in the probability of a disability occurrence for the one year term covered by the Minimum Municipal Obligation. Such amounts charged shall be deposited to the Disability Reserve.
2. Distributions – On approval of a disability retirement by the Pennsylvania Municipal Retirement Board, the difference in the value of the disability benefit and the funds identified for transfer to the Retiree Reserve based upon the member’s accrued normal retirement benefit as of the date of disability shall be determined and that amount shall be transferred from the Disability Reserve to the Retiree Reserve to fully fund the disabled retiree benefit.
3. Funding Limitation – The assets in the Disability Reserve shall be determined as of December 31 of each year. If the value exceeds 1.5 times the highest total of all required disability transfers to the Retiree Reserve in any one of the last three years, all assets in excess of 1.5 times the highest transfer value shall be transferred from the Disability Reserve and placed in the unallocated assets for distribution in the year of determination.
4. Shortfall Funding – To the extent that transfers from the Disability Reserve to the Retiree Reserve exceed the value of assets in the Disability Reserve and the balance in the Disability Reserve is determined to be a negative value as of December 31, assets from the unallocated earnings of PMRS shall be deposited in the Disability Reserve to bring the Disability Reserve balance to “0” at year end.

Effective This policy is to be effective immediately.
Date:

Adoption Adopted at the September 20, 2007 meeting of the Pennsylvania Municipal
Date: Retirement Board.

James B. Allen, Secretary

JBA:jba
09/07/07

- Purpose: To document how the Pennsylvania Municipal Retirement Board determines whether and the extent to which Excess Interest is available to be distributed to the member plans.
- Authority: The Pennsylvania Municipal Retirement Law, Act 15 of 1974 (referred to as “the Act”), Sections 104 (General Powers of the Board) and 110 (Management and Investment of Fund; Interest Credits).
- Background: The Pennsylvania Municipal Retirement Board is required to determine annually the amount of investment earnings on the System assets in excess of that required for allocation to regular interest and expenses. This “excess” is defined in the law as “Excess Interest.” The Board adopted a procedure to determine the excess interest in 1984. This Policy Statement is intended to memorialize the process and make it available to the public. The Board is adding one new stipulation to the process – the establishment of a minimum award threshold. This additional provision is to limit the administrative burden associated with the allocation process in years when the award would be considered “de minimis.”
- Policy: The Board requires the following calculations to be made as part of the excess interest determination process.
1. At the close of the year, staff with the confirmation of the independent auditing firm under contract to the Board, shall make all required allocations of regular interest to the System’s accounts.
 2. Staff and consulting actuary shall then determine the expected administrative expense for the following year that is not expected to be met from the \$20 per plan member administrative charge.
 3. Staff with the confirmation of the independent auditing firm shall determine the *Market value* of the System’s investment portfolio as of year end along with the audited balances of the *System’s Reserve accounts* (Member, Municipal, Retired, Disability).
 4. These numbers (See Steps 1, 2 & 3) will be provided to the consulting actuary who will be responsible for performing the next set of calculations.
 5. The consulting actuary will add to the *System’s Reserve accounts* the projected expenses from Step 2. This total will become the *Preliminary value*.

Policy:
(Con't.)

6. The consulting actuary will then subtract from the *Market value* of the System's investment portfolio the *Preliminary value*. This result will be the *Available surplus*.
7. The consulting actuary will then determine the *New surplus* by subtracting from the *Available surplus* last year's *Final surplus*. New surplus is limited to be no greater than Available surplus
8. Next the consulting actuary will calculate the ratio "m" of *Available surplus* (See Step 6) to *Market value*.
9. Next the consulting actuary will calculate the ratio "n" of *New surplus* (See Step 7) to *Market value*.
10. The percentage of *New surplus* to be used for the *Excess interest* (e) is derived from the following formula:

$$e = \frac{0.10 + 8m}{1.0 + 8n}$$

11. The consulting actuary then determines the *Trial excess interest allocation* by multiplying (e) (See Step 10) times *New surplus* (See Step 7).
12. The consulting actuary will also determine *Trial surplus* by subtracting *Trial excess interest allocation* (See Step 11) from *Available surplus* (See Step 6).
13. The consulting actuary will determine *Trial margin* by dividing *Trial surplus* (See Step 12) from *Market value* (See Step 3).
14. If *Trial margin* (See Step 13) is less than ten percent (10%), then trial figures become final figures and the *Actuarial value* is set as *Market value* less *Final surplus* (See Step 12).
15. If *Trial margin* (See Step 13) is equal to or greater than ten percent (10%), the *Final excess interest allocation* is *Available surplus* (See Step 6) less ten percent (10%) of *Market value* (See Step 3), *Final surplus* is ten percent (10%) of *Market value*, and *Actuarial value* is ninety percent (90%) of *Market value*.

Once the *Final excess interest allocation* is determined, the *Excess interest percentage* is calculated by the consulting actuary. This is derived by first adding the Member Reserve balance, the Municipal Reserve balance and the actuarially determined Present value of the Retired Reserve balance to determine *eligible reserves*. The Excess interest percentage is the *Final excess interest allocation* divided by the *eligible reserves*.

Pennsylvania Municipal Retirement Board Policy Statement 05-2 (Con't)	Excess Interest Award Process
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Policy:
(Con't.)

If the *Excess interest percentage* is less than five tenths of one percent (0.5%), there shall be NO *Excess interest* awarded, the *Actuarial value* shall be set to the *Preliminary value* and the *Final surplus* shall be set to the *Available surplus*. If the *Excess interest percentage* is five tenths of one percent (0.5%) or greater, the resulting *Excess interest percentage* shall be awarded and the plans notified as to their proportion of the total *Final excess interest allocation*.

The actual allocation of the year's *Excess interest* will be posted to the plans' accounts as of December 31 of the following year. To be eligible to receive a portion of the excess interest awarded for any year, a municipality's plan must have been in PMRS on December 31 of the year for which the allocation was made.

Effective
Date:

This policy is to be implemented effective immediately.

Adoption
Date:

Adopted at the July 21, 2005 meeting of the Pennsylvania Municipal Retirement Board.

James B. Allen, Secretary

Purpose: To provide direction to the Pennsylvania Municipal Retirement staff (Staff) on the collection, requests for compromise, and write-off of delinquent debts and accounts due the Pennsylvania Municipal Retirement System (the “System”).

Authority The Pennsylvania Municipal Retirement Law, Act 15 of 1974, Section 104.

Background An overpayment occurs when a former member, annuitant, beneficiary or survivor annuitant (“Debtor”) is paid a benefit exceeding his/her entitlement. The following represent the major causes of overpayments by the System:

1. Delayed notification of the death of a member or annuitant.
2. Inaccurate information reported by the member or municipality.
3. Administrative errors by Staff.
4. Misinterpretation of benefit provisions.

Procedures: A. Debtors who have been overpaid shall be notified in writing of the reason and the amount of the overpayment and offered the following repayment methods:

1. A lump-sum payment within 90 days of the receipt of notification.
2. Monthly installment payments in an amount agreed upon between the former member or beneficiary and the Secretary of the Pennsylvania Municipal Retirement System (Secretary). Installment periods extending beyond sixty months shall require the approval of the Pennsylvania Municipal Retirement Board (Board).
3. If applicable, an actuarial reduction spread over the life of the annuitant, survivor annuitant, or beneficiary may be applied to the monthly check. Reductions of more than 20% of the monthly check shall require the approval of the Board

The debtor shall be given 15 days to respond to the first notice, which shall be sent via certified mail return receipt requested to the last known address on file for the debtor. If there is no response to the first notice, a second and third notice, if necessary, shall be sent by regular first-class mail at 15-day intervals.

If no response is received after the third notice and the amount of the overpayment is \$1,000 or less:

1. In the case of a former member or beneficiary, a write-off request will be completed and submitted to the Office of Attorney General, Financial Enforcement Section. If the write-off request is approved, the outstanding balance shall be written off, collection efforts shall stop, and the account shall be closed, but if the former member returns to service, the debt shall be recovered from future benefits that accrue to the re-enrolled member.

2. In the case of an annuitant, survivor annuitant or beneficiary, an actuarial reduction shall be applied to the ongoing annuity, when available. If a beneficiary is not receiving a monthly annuity from the System or if the annuity is not large enough to accommodate the actuarial reduction and there is still a balance remaining of less than \$1,000; after 2 documented attempts to receive the funds have been made, a write-off request will be completed and submitted to the Office of Attorney General, Financial Enforcement Section. If the write-off request is approved, the outstanding balance shall be written off, collection efforts shall stop, and the account shall be closed.

If no response is received after the third notice and the amount of the overpayment is more than \$1,000, the claim shall be referred to the Office of the Attorney General, Financial Enforcement Section for attempted collection of the debt. The System shall ask the Attorney General to return the claim to the System if the debt is not collectible. If the debt is returned as uncollectible:

1. In the case of a former member, the debt shall be written off to balance the member's account but if the former member returns to service, the debt shall be recovered from future benefits that accrue to the re-enrolled member.
2. In the case of an annuitant, survivor annuitant or beneficiary, the debt shall be permanently written off.

B. If payments are made by the System to a Debtor after the Debtor's date of death resulting in an overpayment, the legal representative for the estate of the Debtor shall be advised in writing of the reason and the amount of the overpayment and the following repayment methods:

1. A lump-sum payment within 90 days of the receipt of notification.
2. Monthly installment payments in an amount agreed upon between the legal representative and the Secretary. Installment periods extending beyond sixty months shall require the approval of the Board.

The legal representative shall be given 15 days to respond to the first notice, which shall be sent via certified mail return receipt requested to the last known address on file. If there is no response to the first notice, a second and third notice, if necessary, shall be sent by regular first-class mail at 15-day intervals.

If no response is received after the third notice and the amount of the overpayment is \$1,000 or less:

1. An actuarial reduction shall be applied to the annuity of the survivor annuitant or beneficiary, if available. Reductions of more than 20% of the monthly check shall require approval by the Board.

2. If a Debtor is not receiving a monthly annuity from the System or if there is no benefit payable or the annuity is not large enough to accommodate the actuarial reduction and there is still a balance remaining of less than \$1,000; a write-off request will be completed and submitted to the Office of Attorney General, Financial Enforcement Section. If the write-off request is approved, the outstanding balance shall be written off, collection efforts shall stop, and the account shall be closed.

If the amount is more than \$1,000, the claim shall be referred to the Office of the Attorney General, Financial Enforcement Section for attempted collection of the debt. The System shall ask the Attorney General to return the claim to the System if the debt is not collectible. It shall be written off on a permanent basis.

If there is no legal representative of the estate of the Debtor and the Secretary has reason to believe that the overpayment was received by a person without due authority (“Unauthorized Person”), then Staff shall make a reasonable effort to obtain the identity of the Unauthorized Person and follow the notice procedures to a legal representative stated above.

If after reasonable investigation, such Unauthorized Person cannot be identified and there is no death benefit payable from which to deduct the overpayment:

1. If the amount is \$1,000 or less, a write-off request will be completed and submitted to the Office of Attorney General, Financial Enforcement Section. If the write-off request is approved, the debt shall be written off, collection efforts shall stop, and the account shall be closed.
 2. If the amount is more than \$1,000, the claim shall be referred to the Office of the Attorney General, Financial Enforcement Section for attempted collection of the debt. The System shall ask the Attorney General to return the claim to the System if the debt is not collectible. It shall be permanently written off.
- C. If a write-off request or settlement is not approved by the Office of the Attorney General, the claim shall be referred to the Office of the Attorney General, Financial Enforcement Section for attempted collection of the debt.
- D. In all cases, the System reserves the right to confer with its Office of Chief Counsel to request delegation from the Office of the Attorney General to pursue collection of the debt in accordance with the Commonwealth Attorneys Act.
71 P.S. § 732-204(c).

Hardship: If the debtor wishes to appeal the collection of the overpayment on the basis of financial hardship, the following procedures shall be followed:

1. The Staff shall notify the debtor in writing that reasonable evidence must be provided within 30 days to support the appeal. Where health is the issue, some form of medical evidence from an informed source shall be required. For financial reasons, details of income and expenditure (bills) shall be required.
2. The Secretary, or his or her designee, shall review the information provided. If the Secretary determines that additional information is needed in order to make a recommendation to the Board, he or she may request a meeting with the Debtor. The Secretary may also request the Debtor to provide a notarized affidavit certifying the information provided.
3. If the Secretary, or his or her designee, feels that a hardship exists, he or she shall recommend to the Board forgiveness or settlement of the debt.
4. If the Board decides to write-off or settle the debt, the System shall complete and submit the appropriate STD forms including supporting documentation to the Office of the Attorney General, Financial Enforcement Section for approval.

Exceptions: Exceptions to this policy shall require Board action and the Board reserves its right to make such exceptions when it deems it appropriate.

Effective Date: This policy is to be effective immediately and apply to all current Debtors, regardless of the date on which the debt was incurred.

Adoption Date: Adopted at the November 20, 2008 meeting of the Pennsylvania Municipal Retirement Board.

James B. Allen, Secretary

JBA:jba
10/29/08

Pennsylvania Municipal Retirement Board Policy Statement Rule 03-1	Permanent Employment
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Purpose: To set forth guidance on the definition of permanent employment as used in Act 15 of 1974, the Pennsylvania Municipal Retirement Law (referred to as “the Act”).

Authority: The Pennsylvania Municipal Retirement Law, Act 15 of 1974, Section 106.

Background: The Pennsylvania Municipal Retirement Board is authorized to prepare information to be distributed to members and municipalities showing “the methods of administration” the Board uses in managing the plans enrolled in the Pennsylvania Municipal Retirement System (PMRS). The Board has found it necessary to share with existing municipal members and potential members guidance on the term “employed on a permanent basis” as used in sections 203 and 402 of the Act. The reference is to those municipal employees who must be enrolled in the PMRS administered pension plan.

Policy: The Board confirms its understanding of the law that any individual hired with the expectation of being in an active, regularly scheduled paid position for more than one year is required to be considered employed on a permanent basis, regardless of whether the employment is part-time or full-time. The actual number of hours worked per week is not a consideration in the determination of permanent employment.

Implementation: The Board directs that all municipalities that have municipal plans in PMRS be provided with information advising of their responsibility to specifically agree to enroll all employees employed on a permanent basis. The municipality’s agreement to do so shall be memorialized in all contracts for benefits entered into from the effective date of this policy forward. The municipality shall also be required to certify that this requirement is met via the certification process used on the System’s Quarterly Report of Contributions (PMRB-21).

When there is a dispute over whether an individual is eligible to be enrolled in a PMRS administered municipal plan, PMRS shall address the question of the individual’s status upon a request to review the matter from the individual or the municipality. The request shall be set forth in writing.

Pennsylvania Municipal Retirement Board Policy Statement Rule 03-1 (Con't)	Permanent Employment
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Implementation: PMRS shall review the request and confirm the particulars of that individual's employment history with the enrolled municipal plan sponsor. Circumstances to be identified include, but are not limited to, the following:

(Con't)

1. The specific offer of employment, such as the letter offering employment, the resolution of the employer formally creating the position, or any public announcement of the position's vacancy.
2. The conditions set forth in the offer of employment including hours worked, obligations to report to work and expected term of employment.
3. The funding of the position, and whether the individual is being paid under the same federal Employer Identification Number as other individuals enrolled in the pension plan.
4. Any written personnel policy adopted by the municipality.
5. Actual employment and payment records for the individual in question.

During the review, PMRS' Secretary shall be empowered to issue an "Order to Show Cause" if deemed necessary to the determination of the status of the individual with the PMRS administered pension plan.

The Secretary shall notify the individual and the municipality in writing of the administrative decision of PMRS. The parties to the administrative decision shall have all rights of appeal granted to parties to PMRS administrative decisions, including a formal appeal to the Board.

If PMRS determines that an individual should have been enrolled in the plan, enrollment will be effective as of the date the individual became eligible for enrollment, absent extenuating circumstances. PMRS shall calculate the required member contributions that should have been made during the time period in question, if any are required by the plan.

If member contributions should have been made, the individual shall be required to pay into the System the required contributions and the regular interest that would have been credited had the individual been enrolled in the System. The individual may pay the obligation in a lump sum or over a period of up to five years through payroll deductions, so long as the individual remains an active member of the plan. If not paid in a lump sum, the amount due shall be assessed interest at the regular interest rate. The municipality's liability will also be determined and reflected as an obligation of the municipality.

Pennsylvania Municipal Retirement Board Policy Statement Rule 03-1 (Con't)	Permanent Employment
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Effective

Date: This policy is to be implemented effective immediately.

Adoption

Date: Adopted at the July 17, 2003 meeting of the Pennsylvania Municipal Retirement Board.

James B. Allen, Secretary

Purpose: To document how the Pennsylvania Municipal Retirement Board (Board) processes a plan's request to withdraw from the Pennsylvania Municipal Retirement System (System).

Authority: The Pennsylvania Municipal Retirement Law, Act 15 of 1974 (referred to as "the Act"), contains three articles (Articles II, III, and IV) that allow for municipalities to enroll their pension plan in the System. Each article contains a section that also allows a municipality to withdraw from the System. (See Sections 214, 316, and 412). Each of the previously cited sections also cites Section 104 (General Powers of the Board) which authorizes the Board to adopt rules and regulations for the proper administration of the System. The Board has adopted regulations to this end. (See 16 Pa. Code, 81.10 -Withdrawal Provisions.)

Background: The Pennsylvania Municipal Retirement Board is required to take action on the application of a plan that seeks permission to withdraw from the System. While the Act and the adopted regulations set forth the specific requirements that must be met, the Board wishes to specify how the application will be processed and the steps that will be followed once a plan's application to withdraw has been approved.

Policy: Requirements for Withdrawal - A municipality that files an application with the Board for permission to withdraw from the System must meet all of the following requirements:

1. the plan has been enrolled in the System for a period of at least five years;
2. the municipality has met all of the plan's financial obligations to the System;
3. the legislative body of the municipality has passed an ordinance or, if the legislative body does not possess the authority to adopt ordinances, a resolution, signifying its intention to withdraw from the System;
4. the municipality has certified to the Board that an affirmative vote approving withdrawal from the System had been obtained from at least seventy-five per cent of all of the municipal employees (the term "municipal employee" for the purpose of considering a plan's withdrawal has been defined by regulation to include a plan's active members, inactive members, vested members and retired members);
5. the municipality has acknowledged its responsibility to assume and provide for all future benefit payments to the existing active, inactive, vested and retired members and their beneficiaries effective upon the withdrawal; and,

6. the application has specified a date for the plan withdrawal to become effective, provided if there are retired members in active pay status the effective date must be the first day of a month no earlier than the month after which the Board is scheduled to take action on the withdrawal application.

Board Consideration of Application - The Board shall take action within ninety (90) days of receipt of an application for permission to withdraw from the System. Should no regular Board meeting be scheduled to occur within ninety (90) days of receipt of an application, the Secretary shall arrange with the Board Chair to schedule a special meeting to take action on the application.

Concurrently with the scheduling of the application for action by the Board, the Secretary shall provide the Office of Chief Counsel with a copy of the application and any associated documents. The Office of Chief Counsel shall advise the Board as to whether or not the application meets the requirements of the law and Board adopted regulations. The Secretary shall also cause a review of the plan's accounts to be undertaken and a determination to be made as to whether the plan's financial obligations to the System have been met. The Secretary shall report the results of this review to the Board.

If the Board approves the municipality's application to withdraw its plan, the municipality shall be entitled to receive a refund of the assets of the plan calculated in accordance with the procedure set forth below. The Board may require the withdrawing municipality to enter into a written agreement with the Board terminating its contractual relationship with the Board and fixing the respective rights of the parties. Additionally, the withdrawing municipality may be required to obtain individual waivers or releases from affected members. If the board disapproves the application of the municipality to withdraw, the Secretary shall notify the municipality of the Board's decision and advise the municipality of the Board's reason or reasons for disapproval.

Calculation of Plan Assets to be Refunded – When the Board approves a municipality's application to withdraw a plan from the System, the Secretary shall cause to be determined as of the effective date of withdrawal, the total of all amounts then standing to the credit of the plan in the members' accounts, the members' excess investment accounts, the municipal account and the retired members' reserve accounts. When determining the amount then standing to the credit of the plan in the retired members' accounts, the Secretary shall utilize Policy Statement 10-3. This total shall be considered the plan's credited assets.

The Secretary shall also determine whether or not the actuarial value of the System's assets exceed the System's market value of its investments in the most current actuarial valuation accepted by the Board. If the actuarial value of assets exceeded the market value of investments, the ratio of market value to actuarial value shall be multiplied times the plan's credited assets. The resulting product shall be considered the plan's net refund. If the actuarial value of assets is less than the market value of investments, the plan's credited assets shall be the plan's net refund.

In the event that the withdrawal of the plan is due to the dissolution of the employing municipal entity and all of the assets and liabilities of the withdrawing plan are to be transferred and distributed to a PMRS member plan or plans; then, regardless of the ratio of the System's market value to actuarial value, the withdrawing plan's credited assets shall be the plan's net refund.

Specifics of the Plan's Net Refund – Once the determination of a withdrawing plan's net refund is made, the Secretary shall cause said amount to be made payable to the plan's withdrawing municipality. The net refund may be made in a single payment or in multiple payments depending on the municipality's certification of all plan payments into the System. If the withdrawing plan has retirees in an active payment status, the Secretary shall make every attempt to refund, at a minimum, that portion of the plan's net refund attributable to the retired members' accounts prior to the date the municipality must begin to make monthly benefit payments.

All payouts are to be considered a trustee-to-trustee payment. A complete accounting of the plan's net refund, as well as the System's financial statements for the plan for the year in which the plan withdraws shall be provided to the withdrawing municipality.

Effective Date: This policy is to be implemented effective immediately.

Adoption Date: Adopted at the March 17, 2010 meeting of the Pennsylvania Municipal Retirement Board.

James B. Allen, Secretary

Pennsylvania Municipal Retirement Board Policy Statement Rule Number 97-2	Portability: Individual Member
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Purpose: The law provides that the Board transfers service credits when an employee leaves one Pennsylvania Municipal Retirement System (PMRS) member municipality and joins another. This benefit is called portability. The Board, in order to give policy guidance to staff, adopts the following statements on portability.

Authority: Act 15 of 1974, "Pennsylvania Municipal Retirement Law": Section 405.

Policy: **STATEMENT 1:** Portability is optional.

An employee who leaves the employ of one PMRS member municipality (Municipality A) and joins the employ of another PMRS member municipality (Municipality B) shall have one year from the date of separation from Municipality A's plan to exercise the portability benefit authorized in the law. Employment (but not necessarily enrollment in Municipality B's plan) must occur within one year of separation from eligibility in Municipality A's plan. Municipality B's plan enrollment effective date as a member municipality in PMRS must be on or before the date the employee is hired. An employee shall have the rights to exercise his rights to portability but said rights have to be affirmatively selected by the eligible employee by completing the appropriate PMRS form relating to the instituting of portability within one year of separation from Municipality A.

STATEMENT 2: The member's benefit will be determined under the contract provisions in effect in Municipality B.

In determining the benefit to be received by the employee who exercises portability, the contract and plan benefit structure of Municipality B shall be the controlling document in determining the benefit under which the member will be allowed to retire or receive a benefit. However, in no event will the member receive an accrued benefit from Municipality B which has a present value less than that earned in Municipality A as of the time of separation from Municipality A.

STATEMENT 3: Service credits re combined.

For an employee electing to institute portability, the years of credited service shall be based on all years of credited service earned by the employee (credited service in both Municipality A and Municipality B).

Pennsylvania Municipal Retirement Board Policy Statement Rule Number 97-2 (Continued)	Portability: Individual Member
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STATEMENT 4: The transfer amount is the present value of the accrued benefit in Municipality A's plan as of date of separation from Municipality A.

When an individual elects to implement the portability benefit, his accumulated contributions (member contributions and regular interest thereon) and any credited excess interest shall be transferred and credited to his new account in Municipality B. The difference between the accumulated contributions and the present value of the accrued benefit of the member at the time of separation from Municipality A shall be determined (or if the plan is a defined contribution plan – the employer contributions made to the member's account and credited interest thereon). This determined amount shall be transferred from Municipality A's municipal account (or if Municipality A's plan is a defined contribution plan – from the member's account) to Municipality B's municipal account (or if Municipality B's plan is a defined contribution plan – to the member's account).

It is recognized that the potential exists for the transfer to either overfund the accrued benefit under Municipality B's plan (if the member is leaving from a higher benefit plan to go to a lower benefit plan) or, conversely, the transfer may be insufficient to meet the accrued liability of the member under Municipality B's plan (if Plan B's benefit structure is better than Plan A's benefit structure). The actual consequences will depend upon the benefit structures in effect in the two municipalities. At time of benefit receipt, the employee shall have a present value of benefits at least equal to the amount that has been transferred from Municipality A's plan to Municipality B's plan.

Effective

Date:

This rule is to be implemented effective immediately and is intended as a continuation and restatement of the Board's policy adopted on November 20, 1986.

Adoption

Date:

Adopted at the November 20, 1997 meeting of the Pennsylvania Municipal Retirement Board.

Pennsylvania Municipal Retirement Board Policy Statement Rule Number 98-1	Portability: Plan Spin-offs
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Purpose: The law provides that the Board transfers service credits when an employee leaves one Pennsylvania Municipal Retirement System (PMRS) member municipality and joins another. This benefit is called portability. The Board, in rule Number 97-2, set policy to guide staff when an individual utilizes the portability benefit. The Board finds, however, that when a member municipality elects to spin off an employee or group of employees into a new, separate plan to be governed by a new municipality, there is a need to adopt additional guidelines. Rule Number 98-1 is intended to address the portability of individuals involved in a plan spin-off.

Authority: Act 15 of 1974, "Pennsylvania Municipal Retirement Law": Section 405.

Policy: When the employer (Employer A) of a PMRS administered plan seeks to spin off one or more employee members and transfer the employee(s) to an employer (Employer B) created by Employer A and Employer B seeks to have the Pennsylvania Municipal Retirement System administer a newly created pension plan, the System shall provide portability for the affected, transferred employee members. This situation is typically found in the creation of an authority by a municipality or in the creation of a regional government (Council of Government – COG).

The calculation of the asset value associated with an employee's portability benefit in a spin-off situation shall be determined based upon the relationship between the member's existing pension plan and the newly created plan.

STATEMENT 1: When Employer B establishes a plan that is identical or better in benefit design than the plan that existed for the employee(s) under Employer A, the assets equal to the actuarial accrued liability under Employer A's plan for the effected employees will be transferred from Employer A's plan to Employer B's plan. The employee(s) shall be entitled to the benefits in effect in the plan from which they finally separate from employment.

This calculation method shall be used so that the newly established pension plan is not created with an immediate unfunded liability. It is assumed that the spin-off in this circumstance is intended to start the new employer's pension plan with no unfunded liability for service credits earned with the previous employer.

Pennsylvania Municipal Retirement Board Policy Statement Rule Number 98-1 (Continued)	Portability: Plan Spin-offs
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Because the effect of the transfer of service credits for the affected employee(s) is such that no lesser benefit will be earned in the new plan, there is no need to guarantee that the employee will be unharmed in such a transfer.

STATEMENT 2: When Employer B establishes a plan with benefits less than those that existed for the employee(s) prior to the spin-off, the calculation of the assets and liabilities associated with the portability benefit shall be done in accordance with the Board's Rule Number 97-2 policy statement.

The Board believes that Employer A should not be forced to fund the new plan at a level higher than Employer B's actual obligation to the employee(s). Because the effect of the transfer of service credits for the affected employee(s) is such that a lesser benefit could be earned in the new plan, there is a need to guarantee that the employee will not receive a reduction in benefits as a result of such a transfer. That guarantee is provided in the Board's policy statement Rule Number 97-2.

Effective

Date: This rule is to be implemented effective immediately.

Adoption

Date: Adopted at the January 22, 1998 meeting of the Pennsylvania Municipal Retirement Board.

Pennsylvania Municipal Retirement Board Policy Statement 10 – 3 Adopted March 17, 2010	Calculation of Withdrawing Plan’s Portion of Retired Member’s Reserve
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Purpose: To adopt a procedure to calculate the amount of money “. . . standing to the credit of the municipality . . . in the retired member’s reserve accounts of the system (.)” when a municipality is withdrawing a plan from the System’s administration.

Authority: Act 15 of 1974, “The Pennsylvania Municipal Retirement Law” Section 104 General Powers of the Board, Paragraph (10).

Specific Cites: Act 15 of 1974, “The Pennsylvania Municipal Retirement Law”; Section 214 Withdrawal Provisions and Section 412 Withdrawal Provisions.

Policy: The calculation of the amount remaining to the credit of a withdrawing plan in the retired member’s reserve account shall be made as of the effective date of the withdrawal utilizing the actuarial assumptions and tables in use by the System on the effective date of withdrawal.

The withdrawal payout shall be the “reverse” transfer value (actuarial present value) of each plan member in payment status as of the effective date of withdrawal provided the System’s retired member’s reserve account has as of the System’s most recently completed actuarial valuation, assets in excess of the actuarial present value of future expected payments to retired pensioners and beneficiaries of all the plans of the System (Retiree Actuarial Value). This provision shall apply only to those benefits which had been fully funded through transfers from the members, municipal, and/or disability reserves as well as any allocation of excess interest. (The reverse transfer values for pay-as-you-go ad-hoc COLA benefits are not to be calculated.)

If the assets in the System’s retired member’s reserve are less than the System’s Retiree Actuarial Value as of the most recently completed actuarial valuation, then the ratio of the assets to the Retiree Actuarial Value shall be applied to the calculated reverse transfer value and the product shall be deemed the amount then standing to the credit of the withdrawing municipality in the retired member’s reserve account, and it will be the amount paid out to the withdrawing municipality.

In the event that the withdrawal of the plan is due to the dissolution of the employing municipal entity and all of the assets and liabilities of the withdrawing plan are to be transferred to a PMRS member plan or plans; then, regardless of the ratio of the assets in the System's retiree reserve to the System's Retiree Actuarial Value, the amount credited to the withdrawing plan in the retired members' reserve account shall be equal to the actuarial present value of each plan member in payment status as of the effective date of withdrawal.

The actuarial experience of the retired members and their beneficiaries that has developed prior to the effective date of the plan's withdrawal shall not be considered in the calculation of the Retired Member's Reserve Account payout. Only those retired members or their beneficiaries who have a benefit in pay status on the effective date of withdrawal shall be considered as a part of the municipal plan's retired member's reserve account balance.

Effective
Date:

This rule is to be implemented effective immediately and applicable only on a prospective basis.

Adoption
Date:

Adopted at the March 17, 2010 meeting of the Pennsylvania Municipal Retirement Board.

James B. Allen, Secretary