

**AGREEMENT<sup>1</sup>**

**BETWEEN**

**CITY OF NEW HAVEN**

**AND**

**NEW HAVEN**

**ATTORNEYS UNION,**

**LOCAL 1303-464, COUNCIL 4, AFSCME, AFL-CIO**

**JULY 1, 2013 – JUNE 30, 2016**

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<sup>1</sup> Based on Award Issued November 24, 2015, Case# 2013-MBA-430

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## **Article 1 - Recognition**

### **Section 1**

In accordance with Sections 7-467 to 7-477 of the Connecticut General Statutes, the City recognizes the Corporation Counsel Attorneys Union as the exclusive bargaining representative for all Corporation Counsel Attorneys for the purposes of collective bargaining with respect to wages, hours and other conditions of employment. The City recognizes the unit as that certified by the Connecticut State Board of Labor Relations (Decision No. 4653, dated March 26, 2013, and Case No. ME-30,226). Excluded from the Unit are the Corporation Counsel and employees in other bargaining units. Included in the Unit are all Attorneys employed by the City of New Haven under the direction of the Corporation Counsel, including Special Counsel to Economic Development.

### **Section 2**

Parties to this Agreement stipulate and agree that this Agreement is negotiated under and, where applicable, governed by the Municipal Employees Relations Act of the State of Connecticut.

## **Article 2 - Probationary Period**

Bargaining unit employees shall be subject to an initial probationary period of ninety (90) working days. An employee may be terminated at any time during the probationary period. Such discharge is without the right of appeal, including the grievance procedure.

## **Article 3 - Union Security and Dues Deduction**

### **Section 1**

Effective within thirty (30) days of the signing of this Agreement, all present Bargaining Unit employees shall either become members of the Union or shall arrange to pay the Union a monthly service fee in lieu of Union dues, as a condition of employment.

### **Section 2**

Upon the completion of the probationary period but not to exceed ninety (90) working days from date of hire, all new employees shall either join the Union or pay a monthly service fee as a condition of employment. Said service fee shall be determined by the Union and shall represent the employee's fair share of the cost of administering and negotiating a Collective Bargaining Agreement. However, in no event shall the monthly service fee be greater than the monthly dues for Union members. All employees shall be given a letter explaining this Section at time of hire and sign dues authorization at that time if they wish to have dues or the service fee deducted rather than paying them directly. The parties agree that this provision cannot be enforced until ninety (90) working days from date of hire.

- (A) The Union shall be notified within five (5) business days when the probationary period for each employee has been completed. The Union shall be notified within five (5) business days of all new hires into Bargaining Unit classifications.

### Section 3

The City agrees to deduct Attorneys Union dues or service fees from the pay of employees who give written authorization to the City Controller's Office for such deductions and to transmit the dues collected to the authorized Union Official or employee at Council 4 designated in writing to the Controller of the City of New Haven by the President or Treasurer of the Attorneys Union so long as this authorization is validly in effect and is not revoked by the employee.

### Section 4

Deductions will be made once monthly. If an employee who is absent on account of sickness, leave of absence, or for any other reason has no earnings due him/her for the month, no deductions will be made from that employee for that month. The Attorneys Union will arrange collection of dues for service fees for that month directly with the employee.

### Section 5

When an employee does not have sufficient money due him, after deductions have been made for pension, social security, garnishments, or any other deductions authorized by the employee or required by law, Management Union dues or service fees for that month will be collected by the Management Union directly from the employee.

### Section 6

The Attorneys Union agrees to save the City harmless from any action arising out of this Article and commenced by an employee against the City and assumes full responsibility for the disposition of the funds so deducted once they have been turned over to the authorized responsible Management Union Official.

## **Article 4 - Management Rights**

### Section 1

Except where such rights, powers and authority are specifically relinquished, abridged or limited by the provisions of this Agreement, it is understood and agreed that the City and the Corporation Counsel will continue to retain, whether exercised or not, all of the rights, powers and authority heretofore existing, including but not limited to determining the quality and quantity standards of services to be offered by the Office of the Corporation Counsel, the sole and absolute right, responsibility and prerogative of management of the affairs of the City and direction of the workforce, including, but not limited to, the following:

- (a) To establish, continue, change or abolish policies, practices and procedures to meet changing conditions and to better serve the needs of clients and the public;
- (b) To limit, curtail or discontinue processes or operations or to discontinue their performance by employees;
- (c) To prescribe and enforce reasonable rules and regulations for the maintenance of discipline and for performance of work in accordance with the requirements of the City, provided such rules and regulations are made known in a reasonable manner to the employees affected by them;
- (d) To insure the incidental duties connected with job responsibilities, whether enumerated in job descriptions or not, shall be performed by employees;
- (e) To determine the content of classifications and job descriptions and revise as deemed necessary;
- (f) To determine the methods, means and personnel by which the Office of the Corporation Counsel's operations are to be conducted;
- (g) To exercise complete control and discretion over the organization and the technology of performing the work of the Office of the Corporation Counsel and fulfilling the Charter responsibilities of the Office of the Corporation Counsel.
- (h) To prepare budgets and in its sole discretion, expend monies, appropriated by the legislature or derived from other sources for the operation of the City.

The above rights, responsibilities and prerogatives are inherent in the Board of Aldermen, the Mayor and the Office of the Corporation Counsel by virtue of statutory and Charter provisions.

## Section 2

The Corporation Counsel may assign bargaining unit work to parties and/or attorneys outside of the bargaining unit for representation of the City's interests. Further, the Corporation Counsel shall assign work in accordance with the Rules of Professional Conduct, the Charter and the Ordinances of the City of New Haven, provided no such assignments may result in a layoff or reduction in hours of any bargaining unit member.

## Article 5 - Hours of Work

Bargaining unit members hold exempt professional positions under state and federal law, which are, therefore, salaried. Effective upon implementation, all bargaining unit members shall work a flexible thirty-five (35) hour work week. The standard day shall be between the hours of 8:00 a.m. and 6:00 p.m. However, such employees are responsible for fulfilling the duties of their

positions regardless of the hours of work or the schedule of hours that may be necessary. Often, this requires work outside the hours of 8:00 a.m. to 6:00 p.m.

## **Article 6 - Holidays**

### **Section 1**

Eligible employees shall receive twelve (12) paid holidays. The eleven (11) holidays which will be celebrated on the dates prescribed by law are New Year's Day, Martin Luther King's Birthday, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. In addition, employees shall receive one (1) floater holiday for use at the employee's discretion.

### **Section 2**

If the floater holiday is not used by July 31 of the calendar year, the employee shall on August 1 select the floater holiday for use in the remainder of that calendar year. Seniority by rotation shall prevail in any areas of conflict.

## **Article 7 - Vacations**

### **Section 1**

Full-time employees shall be covered by the following vacation schedule:

- (A) Any full-time employee hired on or after January 1 of a given year shall accrue vacation at the rate of one and two thirds (1 2/3) days per month for each full month of service for his/her first calendar year of employment.
- (B) Full-time employees shall earn twenty (20) vacation days per year, which shall be credited to each employee on the payroll as of December 31 of the previous year.
- (C) Any full-time employee who has twenty (20) or more years of continuous service shall receive twenty-five (25) days of vacation per year.

### **Section 2**

No employee shall be permitted to carry over to the succeeding year more than forty (40) days vacation.

### **Section 3**

All vacations are to be authorized and approved in advance by the Corporation Counsel or his/her Designee. The minimum unit in which vacation may be utilized is 1/4 day.

#### Section 4

Employees who retire or otherwise leave the employ of the City in good standing shall be paid for their vacation time not used to a maximum of forty (40) days upon separation of employment.

### **Article 8 - Sick Leave**

#### Section 1

Employees covered by this Agreement shall earn and accrue sick leave at the rate of one and one-quarter (1-1/4) days per month of service. Credit for a full month will be given in any month an employee actually works or is on approved leave with pay for at least ten (10) working days.

#### Section 2

- (A) Payment for sick leave shall be authorized and approved by the Corporation Counsel. Sick leave payment may only be used for employee illness or injury or for medical or dental examinations or treatment for which arrangements cannot be made outside of working hours.
- (B) Sick leave may also be utilized for illness or injury to an employee's immediate family not to exceed three (3) days per Contract year.
- (C) A medical certificate, acceptable to the Corporation Counsel, may be required:
  - (1) For frequent or habitual absence from duty or when, in the judgment of the Corporation Counsel, there is reasonable cause for requiring such certificate;
  - (2) For any period of absence consisting of more than three consecutive working days.

#### Section 3

Each employee shall be permitted to accrue sick leave to a maximum of 150 days.

#### Section 4

In any year (12 months of service from employment date) that an employee utilizes 6 or fewer sick days, he/she shall accrue three (3) personal days for use in the next year. In any year (12 months of service from employment date) that an employee utilizes 4 or fewer sick days, he/she shall accrue four (4) personal days for use in the next year.

## Article 9 - Leaves of Absence

### Section 1

#### Bereavement Leave

- (A) When there is a death in an employee's immediate family, the employee may be absent from work to attend the funeral/memorial service for not more than five (5) consecutive calendar days. If any of the days are regularly scheduled workdays, the employee shall receive normal pay, notwithstanding the absence from work. Any days taken for this purpose which are in addition to five (5) days authorized leave shall be considered as leave without pay. Vacation and personal days may be used for the additional days.

If for any reason the funeral is delayed, the employee does not have to take the time off immediately following the death. The time off will be to accommodate the date of the funeral but in no event will the employee be compensated more than the days due if taken immediately following the death.

Immediate family shall include spouse, parent, grandparent, mother-in-law, father-in-law, child, grandchild, brother, sister, or other person who is an actual member of the employee's household.

- (B) In addition to the provision provided for above, employees may attend funerals for close relatives related by blood or marriage. When the funeral is held within the New Haven area, one (1) day's leave will be granted; when the funeral is held away from the New Haven area, a distance greater than fifty miles from New Haven, two (2) days leave will be granted.

### Section 2

#### Jury Duty Leave

- (A) Employees summoned for Jury Duty will receive the difference between their regular pay and the compensation received from the State while on required Jury assignment.

Notification of Jury Duty leave must be made in writing to the Corporation Counsel with a copy to the Controller's Office.

### Section 3

#### Personal Days

Bargaining Unit members shall be entitled to two (2) personal days per calendar year, issued on July 1. Any employee intending to utilize personal leave shall notify the Corporation Counsel at

least forty-eight (48) hours prior to taking such leave unless notification is impossible due to circumstances beyond the employee's control.

Personal days not taken by June 30 of any year shall be forfeited. Personal days shall not be paid upon termination of employment.

## **Article 10 - Health Insurance**

### **Section 1**

A. The City shall offer all bargaining unit employees and their eligible dependents health insurance benefits under one of the following four medical care programs known as:

1. Lumenos High Deductible/HIA plan ("HDHP")
2. Century Preferred Comp/Mix plan ("Comp/Mix")
3. BlueCare POE ("POE")
4. Century Preferred PPO ("PPO")

Prescription coverage for the Comp/Mix, POE, and PPO programs shall be as stated on the attached Medical Benefits Matrix. Prescription coverage for the high deductible/HIA plan is contained within the plan description.

The Department of Human Resources maintains all governing plan documents and applicable riders.

B. Each year, at a schedule established by the City, the City may hold a required re-enrollment for all bargaining unit members and their eligible dependents. At this time all members will be required to re-enroll in their choice of the City's offered medical benefit plans pursuant to the regulations prescribed by the Human Resources Department. Any individual not participating in this re-enrollment will not be eligible for continuation of medical benefits. During the course of this Agreement, the City may require continuing proof of spouse and/or dependent eligibility. New employees shall not be eligible for medical benefits until such time as they provide documentation acceptable to the Human Resources Department. Subsequent to re-enrollment or enrollment, any changes in dependent or spouse status, or qualifying event changes must be communicated to the Human Resources Department immediately upon such change taking place. Should there be any change in federal law that results in a conflict with the terms outlined herein, the law shall prevail. The City reserves the right to recoup claims that are improperly paid.

### **Section 2**

Additionally, the City shall make available to eligible employees, as defined above, a Full Service Dental Plan for employees and all eligible dependents including the unmarried dependents children rider ages 19-26 and Dental Riders A (Additional Basic Benefits), B (Prothonontic), C (Periodontics), and D (Orthodontics).

Section 3

Vision Care Rider shall be offered to all eligible employees and eligible dependents covered by one of the above-referenced medical plans regardless of the medical benefit plan chosen.

Section 4

Employees must contribute a percentage of the cost of his/her health and dental premiums based on the equivalent fully underwritten rates in effect at the time. Such data shall be shared with the Union when prepared and available. These contributions shall be made through weekly payroll deductions as follows:

<u>Year</u>	<u>Lumenos</u>	<u>Comp Mix</u>	<u>Blue Care POE</u>	<u>Century Preferred PPO</u>
July 1, 2014 to June 30, 2015	12%	17%	21%	23%
July 1, 2015 to June 30, 2016	13%	17.5%	21.5%	23.5%

Employees who elect the dental benefits mentioned in Section 2 of this Article shall be responsible for paying fifteen percent (15%) of the cost, based on the Fully Insured Equivalent rate, of the single, couple, or family plan selected.

Section 5

The City shall implement and maintain a Section 125 pre-tax deduction in accordance with the applicable provisions of Section 125 of the Internal Revenue Code (and in accordance with any amendments to said provisions) so long as said provisions allow for such a plan. Said plan will be designed to permit exclusion from taxable income of the employees' share of health insurance premiums for those employees who complete and sign the appropriate wage deduction form. The City shall incur no obligation to engage in any form of impact bargaining in the event that a change in law reduces or eliminates the tax exempt status of the employee insurance premium contributions. Neither the Union nor any employee covered by this Agreement shall make a claim or demand nor maintain any action against the City or any of its members or agents for taxes, penalties, interest or other costs or loss arising from the use of the wage deduction form or from a change in law that may reduce or eliminate the employee's tax benefits to be derived from this plan. Further, the parties agree that the health insurance benefits and the administration of those benefits shall continue to be governed by the collective bargaining agreement and the carrier's insurance plan.

Section 6

New employees shall not be eligible for medical benefits until the first day of the month coincident with or next following the successful completion of their probationary period.

## Section 7 – Retiree Medical Benefits

The City shall provide the following medical insurance coverage for retirees:

- (A) The City shall continue to provide and pay for the medical insurance as provided for all eligible bargaining unit employees under one of four medical care programs known the Lumenos High Deductible Plan, the Comp Mix Plan, Bluecare POE, and Century Preferred PPO, for all employees who retire on or after the ratification date of this Agreement and who meet the criteria set forth herein:
- (1) Twenty-five (25) years of service or meets the criteria to retire under the Rule of 80.
  - (2) Twenty (20) years of service and retire with a service-connected disability.
  - (3) Fifteen (15) years of service and retire on a disability pension and meet the total and permanent requirement of Social Security

In addition, for employees with more than ten (10) years of service as of July 1, 2010, such medical insurance shall be provided for the employee's spouse. In addition, such eligible spouses of employees who are still working but meet the above criteria and die while still an employee will be covered under this provision until such time as the employee would have reached age sixty-five (65). Further, such eligible spouses of retirees who are retired and meet the above criteria and die prior to age sixty-five (65) shall continue to be covered until such time as the retiree would have reached age sixty-five (65).

- (B) Employees who retire on or after the effective date of this Agreement shall make a monetary contribution for a portion of the medical insurance premiums. Employees with ten or more years of service as of July 1, 2010 shall have their cost share percentages frozen at the time of their retirement. Employees with less than ten (10) years of service as of July 1, 2010 shall pay cost shares in an equal amount as called for with active employees. Provided the required contribution is made, said coverage shall continue until the retiree reaches age sixty-five. In addition, such retirees shall be required to re-enroll (either in person or by mail) during open enrollment period, including after the execution of each new successor contract, along with the active members of Local 1303-464. Such retirees shall be entitled to choose among the medical insurance plan options offered to active members, at the same rate paid by such active employees.
- (C) For retirees who satisfy the above criteria (and their spouses, provided that the employee has more than ten (10) years of service as of July 1, 2010) and who reach the age of 65, the City shall pay for coverage under Medicare Supplemental Plan C with unlimited pharmaceutical coverage until the retiree reaches age 70, subject to the employee cost share provided below. If retiree dies prior to age 70 then his/her eligible spouse will continue to be covered by Medicare Supplemental Plan C with unlimited pharmaceutical

coverage until such time as the retiree would have reached age 70 as if he/she lived. In addition, the City shall have the ability to pursue, with the cooperation of the retiree and/or covered individual, any and all age appropriate riders and other forms of collateral coverage, which may serve to offset costs to the City. The retiree shall be responsible for paying the same premium cost sharing for the Medicare Supplemental Plan C as he/she was paying for the chosen medical plan coverage prior to turning age sixty-five.

- (D) Retirees who have twenty-five (25) years of City service and who are not eligible for social security or Medicare at the age of sixty-five (65) may maintain group health insurance until the age of seventy (70) pursuant to the following conditions: (i) they shall make a monetary contribution for a portion of the medical insurance premiums in an equal amount as called for with active employees; and (ii) they shall be required to re-enroll during open enrollment period, including after the execution of each new successor contract, along with the active members of Local 1303-464. Such retirees shall be entitled to choose among the medical insurance plan options offered to active members, at the same rate paid by such active employees.
- (E) The insurance benefits listed in (A) above shall apply to all retirees whether or not they are in the pension plan.

## Section 8

The City may change insurance carriers; however, the benefits enjoyed under the current programs shall remain substantially equivalent as a whole. The Union will be notified prior to any change and if the Union wishes, the City will fully discuss any changes with them prior to their implementation. If a change of carriers is made, the amount that an employee is contributing for coverage in the program shall not be changed for the duration of this Agreement.

## Section 9

### Life Insurance

In accordance with designated carrier's policy, a twenty thousand dollar (\$20,000) term life insurance policy is provided and paid for by the City for each full-time covered employee.

Full-time employees may purchase additional life insurance at the existing rate, which is subject to change. The policy premiums shall be paid by way of monthly payroll deductions. Such insurance may be purchased in an amount equal to one (1), two (2) or three (3) times the employee's annual salary, not to exceed \$100,000.00.

In addition to the above life insurance benefit, any employee covered under this Manual who receives a salary of \$50,000.00 or greater shall receive a \$100,000.00 term life policy and a \$100,000.00 Accidental Death and Dismemberment Policy.

Section 10

Long-Term Disability

Employees may purchase a long term disability policy and pay for same by way of monthly payroll deduction. Such insurance may be purchased in an amount equal to 2/3 of the employee's salary with a 120 day exclusion and benefits to age sixty-five (65).

Selection of carrier and additional terms of the policy shall be subject to Union approval.

**Article 11 - Non-Discrimination**

There shall be no discrimination, threat, penalty, coercion or intimidation or harassment of any kind against any employee for reasons of race, creed, color, sex, sexual orientation, religious belief, Union membership, national origin, political affiliation, age, handicap or Union activity.

**Article 12 - No Strike**

Section 1

The Union and its members agree that during the length of this Agreement it will not call or support or participate in any work stoppage or strike against the City.

Section 2

The City agrees that there shall be no lock out of employees during the life of this Agreement.

**Article 13 - Residency**

There shall be no residency requirement for Bargaining Unit employees.

**Article 14 - Substance Abuse Policy**

Section 1: Purposes

- A. The purposes of this policy are as follows:
- B. To establish and maintain a safe, healthy working environment for all employees and to protect the public;
- C. To insure the reputation of the City of New Haven employees as good, responsible citizens worthy of public trust;

- D. To demonstrate a clear expectation and understanding that a drug test shall be considered a condition of entry/application to the employ of the City and in reasonable suspicion scenarios as defined herein;
- E. To reduce the incidents of accidental injury to person or property;
- F. To reduce absenteeism, tardiness and indifferent job performance; and
- G. To provide assistance toward rehabilitation for any employee who seeks help in overcoming any addiction to, dependence upon, or problem with alcohol or drugs.

## Section 2: Definitions

- A. Alcohol or Alcoholic Beverages – means the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol, including methyl and isopropyl alcohol.
- B. Drug – means any substance (other than alcohol) capable of altering the mood, perception, pain level or judgment of the individual consuming it.
- C. Prescribed Drug – means any substance prescribed for the individual consuming it by a licensed medical practitioner.
- D. Illegal Drug – means any drug or controlled substance, the sale possession or consumption of which is illegal.
- E. Ranking Supervisor – means any supervisory employee who is the employee’s immediate supervisor in the chain of command, or the Department Head or his/her designee.
- F. Employee Assistance Program – means Employee Assistance Program provided by the City of New Haven or any agency/entity with whom the City has contracted to provide said program.
- G. Union President – means President of Local 1303-464, Council 4, AFSCME, AFL-CIO or his/her designee.
- H. Refusal to Submit to Reasonable Suspicion Drug Testing – The refusal by an employee to submit to a drug or alcohol screening test based on reasonable suspicion will result in the employee’s immediate suspension without pay and subsequent disciplinary action, which may include dismissal from the City.
- I. Refusal to Submit to Random Drug Testing - The refusal by an employee to submit to a drug or alcohol screening test based on random drug testing will result in the employee’s immediate suspension without pay and subsequent disciplinary action, which may include dismissal from the City.

- J. Refusal to Submit to Post-Accident Testing - The refusal by an employee to submit to a drug or alcohol screening test based on post-accident testing will result in the employee's immediate suspension without pay and subsequent disciplinary action, which may include dismissal from the City.
- K. Refusal to Submit to Return to Duty Testing - The refusal by an employee to submit to a drug or alcohol screening test based on return to duty will result in the employee's immediate suspension without pay and subsequent disciplinary action, which may include dismissal from the City.

### Section 3: Testing Based Upon Reasonable Suspicion

- A. Purpose: This section is intended to specify the methods to be used by the City when an employee's conduct, behavior, demeanor or statements have created reasonable suspicion that he or she has engaged in "substance abuse." Substance abuse is defined for purposes of this section as the ingestion of an illegal drug or the abuse of alcohol or of a legally prescribed drug.
- B. Voluntary Disclosure and Employee Assistance:
  - 1. An employee who has completed his or her initial probationary period with the City and has engaged in substance abuse and voluntarily discloses this issue to his/her Department Head and requests treatment and rehabilitative assistance shall be given assistance under the City's Employee Assistance Program. Access of this type shall be limited to two occasions, provided that he or she has not previously failed to comply with the requirements of the program during a prior enrollment. An employee referred to the program shall not be disciplined for the substance abuse disclosed. However, failure to comply with the terms of this program shall subject the employee to discipline.
  - 2. Any employee who returns to employment following completion of a program under the Employee Assistance Program shall be subject to follow-up testing as determined by the EAP provider.
- C. Basis for Testing: The testing authorized under this policy shall be preceded by a determination by a supervisor that the conduct, behavior, demeanor or statements of the employee have given that supervisor "reasonable suspicion" that the employee has engaged in substance abuse.
- D. Preservation of Rights: This policy does not constitute a waiver of the rights of members of the bargaining unit regarding drug testing protection provided by United States or Connecticut Constitution or statutes.
- E. Preliminary Determination of Reasonable Suspicion of Substance Abuse:

1. An order to undergo a test pursuant to this agreement shall be based on preliminary and final determinations of reasonable suspicion of substance abuse by designated supervisors. A supervisor shall base his or her preliminary determination on facts regarding the conduct, behavior, demeanor and statements of the employee observed by that supervisor or reliably and speedily reported to him or her. This preliminary determination shall be followed by a final determination by a second supervisor who must confirm the preliminary determination in order for testing to be ordered.
2. Designated supervisors shall be the Department Head, Deputy Department Head and any supervisor acting in the capacity of the Department Head or Deputy Department Head. The City shall provide training for such designated supervisors, but the lack of such training of a particular supervisor shall not prevent his or her determination of reasonable suspicion of substance abuse, unless the lack of training is shown to have undermined the reliability of the determination.

F. Order to Undergo Test:

1. When a designated supervisor makes a determination based on reasonable suspicion and that determination is confirmed by a second supervisor, the employee shall be informed of this preliminary determination and shall be immediately relieved of duty. The employee shall be entitled to Weingarten representation rights by a bargaining unit representative.
2. Following the determination, the employee shall be directed to immediately report to the designated testing facility. It is expected that the test will be administered within two (2) hours following the determination.
3. The employee shall be entitled to Weingarten representation during the sample production process.

G. Testing Procedures: The testing procedures shall be in accordance with those set forth in the "Testing Procedures" section of this Article. Test results shall not be used for disciplinary purposes unless they have been obtained in accordance with the procedures outlined in this section.

H. Confidentiality: Records of the process used to order a test and test results shall be maintained along with other employee medical records, and shall be handled consistent with the policies respecting such records. In addition, an employee who elects participation in the Employee Assistance Program shall be required to authorize the release of these records to the personnel utilized in that program.

I. What Constitutes a Refusal to Take a Test: The following actions may constitute a refusal to take a drug or alcohol test:

- Blatant refusal to submit to the testing procedure or engaging in any conduct that clearly obstructs the testing process, including being unavailable for testing;
- Failure to provide an adequate amount of breath for an alcohol breath test without a valid medical reason;
- Failure to sign the alcohol testing form;
- Failure to submit to a confirmation test for alcohol after a positive result;
- Failure to endorse items to verify chain of custody for any specimen;
- Failure to provide sufficient amount of urine for a drug test without a valid medical reason;
- Failure to provide necessary identification before submitting to test;
- Failure to remain available for such testing.

J. Consequences of Refusal to Take a Test: The consequences for refusal to take a required drug or alcohol test are the same as if the employee had tested positive for drug or alcohol use, as listed in Section 10 of this Article. In addition, the refusal shall constitute insubordination and the employee shall be subject to discipline.

K. Cost of Required Tests: The City shall pay for the following tests:

- Pre-employment drug testing;
- Random testing;
- Reasonable suspicion testing;
- Return to duty drug testing; and
- Follow up testing.

The employee shall be responsible to pay for the following tests:

- Split analysis testing.

L. Transportation: The City will provide transportation for the employee to the testing facility when the employee is being tested under reasonable suspicion procedures. The City shall provide transportation for an employee to the employee's home when the employee tests positive under these procedures.

#### Section 4: Random Testing

A. Random testing pursuant to the City of New Haven's CDL Policy shall continue for all affected workers. The parties recognize that industry standards may change during the life of the CDL policy. Any such changes shall be negotiated pursuant to the requirements of MERA.

B. Any expansion of random testing beyond the CDL Policy shall only be initiated pursuant to an amendment to this policy.

C. Consequences of Refusal to Take a Test: The consequences for refusal to take a required drug or alcohol test are the same as if the employee had tested positive for drug or alcohol

use, as listed in Section 10 of this Article. In addition, the refusal shall constitute insubordination and the employee shall be subject to discipline.

#### Section 5: Post-Accident Testing

- A. As soon as practicable following an accident, each surviving employee will be tested for alcohol and controlled substances when (1) the accident involved a fatality or serious injury or (2) the employee received a citation for a moving traffic violation. An accident is defined as an incident involving a motor vehicle or industrial safety in which there is a fatality, an injury treated away from the scene or a vehicle required to be towed from the scene.

An employee who is subject to post-accident testing must remain available for such testing, or the City may consider the employee to have refused to submit to it.

- B. Consequences of Refusal to Take a Test: The consequences for refusal to take a required drug or alcohol test are the same as if the employee had tested positive for drug or alcohol use, as listed in Section 10 of this Article. In addition, the refusal shall constitute insubordination and the employee shall be subject to discipline.

- C. The City should make every attempt to test an employee for alcohol within two hours and for drugs within 32 hours of an accident. If an alcohol test has not been given within 8 hours of the accident, or a drug test has not been given within 32 hours, the City must cease trying to administer such test and must prepare and maintain on file a record stating the reason why the appropriate test was not promptly administered.

The requirements of this section should not be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit an employee from leaving the scene of an accident for the length of time necessary to obtain necessary emergency medical care or to obtain any other assistance necessary at the accident site. However, employees must remain available for testing and shall not consume alcohol or drugs until the post-accident test has been performed.

#### Section 6: Return to Duty Testing

If an employee has engaged in prohibited conduct regarding alcohol and/or drug misuse, the employee must undergo a return to duty test prior to returning to the job. The test must indicate a breath alcohol concentration of less than 0.02 or a verified negative result for drug use. When an employee engages in prohibited conduct, the City must advise the employee of the resources available to evaluate and resolve drug and/or alcohol problems through the EAP program. In addition, each employee who engages in prohibited conduct must be evaluated by a substance abuse professional (SAP) who shall determine what assistance, if any, the employee needs in resolving drug and/or alcohol problems.

Consequences of Refusal to Take a Test: The consequences for refusal to take a required drug or alcohol test are the same as if the employee had tested positive for drug or alcohol use, as listed in Section 10 of this Article. In addition, the refusal shall constitute insubordination and the employee shall be subject to discipline.

On a first offense for a positive alcohol test, if the SAP determines that the employee requires assistance in handling an alcohol problem, the employee must properly follow the prescribed rehabilitation program. If the rehabilitation program requires time off, said time off will be granted with or without pay for up to sixteen weeks without a loss of seniority or benefit eligibility. During the period of rehabilitation the employee may elect to use any accrued vacation or sick time. Any paid time off (vacation or sick time) used in accordance with this provision shall be subtracted from the sixteen-week entitlement referred to herein.

On a first offense for a positive drug test, if the SAP determines that the employee requires assistance in handling a drug problem, the employee must properly follow the prescribed rehabilitation program. If the rehabilitation program requires time off, said time off will be granted with or without pay for up to sixteen weeks without a loss of seniority or benefit eligibility. During the period of rehabilitation the employee may elect to use any accrued vacation or sick time. Any paid time off (vacation or sick time) used in accordance with this provision shall be subtracted from the sixteen-week entitlement referred to herein.

When an employee has properly followed the prescribed rehabilitation, the employee must then be reevaluated by the substance abuse professional. If the SAP determines that the employee has properly followed the rehabilitation program, then the employee must undergo a return to duty test with a negative result as prescribed herein before being allowed to return to the performance of his job. In the event the employee fails to comply with the prescribed rehabilitation or fails to pass a return to duty test he or she shall be subject to further discipline up to and including termination.

#### Section 7: Alcoholic Beverages

- A. No alcoholic beverages will be brought onto City premises, or consumed while on City premises. The Department will invoke appropriate disciplinary action for any violations.
- B. Drinking or being under the influence of alcoholic beverages while on duty is cause for discipline.

#### Section 8: Prescription Drugs

- A. No prescription drug shall be brought upon City premises by any employee other than the employee (or members of the employee's immediate family) for whom the drug is prescribed by a licensed medical practitioner, and shall be used only in the manner, combination and quantity prescribed.

- B. Where the employee has been informed that the use of a prescribed drug may pose a risk to the employee or others, the employee shall so advise his/her Department Head or Deputy Department Head.

Section 9: Illegal Drugs

- A. The use or possession of an illegal drug or controlled substance by an employee on duty is cause for suspension or termination, and/or referral for criminal prosecution.
- B. The sale, trade or delivery of illegal drugs or controlled substances by an employee on duty to another person is cause for suspension or termination, and/or referral for criminal prosecution.

Section 10: Procedures

The procedures of the City of New Haven in regard to an employee using, possessing or under the influence of alcohol, drugs or chemicals while on duty are as follows:

- A. An employee shall report to his place of assignment fit and able to perform his required duties and shall not by any improper act render himself unfit for duty.

STEP 1: Any Supervisor who has cause to suspect that an employee is under the influence of alcohol, drugs or chemicals shall immediately relieve said employee from duty with pay in order to protect said employee, fellow employees and the public from harm. Supervisors shall receive training by certified drug and alcohol experts on how to detect and process substance abuse cases.

STEP 2: The Supervisor shall immediately notify the Department Head, or in his absence, the ranking supervisor. Any employee being interviewed and/or tested may consult with and be accompanied by a representative of the Union. The Union representative may confer with and advise the employee before and after the testing process, but shall not participate in the process in any way except as an observer. The interview/testing process will not be unreasonably delayed simply because a Union representative is unable to be present.

STEP 3: The Department Head, or in his absence, the ranking supervisor shall interview the employee concerning alleged alcohol or controlled substance abuse. Such interview shall be conducted in order to document the reasons and observations of the interviewers and to ascertain from the employee any recent use of prescribed drugs or non-prescribed drugs, or any indirect exposure to drugs that may result in a positive test.

STEP 4: If the interviewers document cause, then the employee will be given the following option(s):

- a) The employee may resign or retire, if eligible, without penalty or prejudice.

- b) The employee can claim that he/she is not under the influence of alcohol or illegal drugs.
  - 1. If there is no criminal investigation pending, the employee can admit there is cause for reasonable suspicion of alleged alcohol or substance abuse, and shall, within 24 hours, enroll in an Employee Assistance program (EAP).

STEP 5: If the employee chooses paragraph (b) in Step 4, the test procedures set forth in the “Testing Procedures” section below may be ordered by the Department Head or, in his absence, the ranking supervisor. A positive test shall result in the following discipline:

- 1. The first offense shall result in an immediate two (2) day suspension without pay.
- 2. The second offense shall result in an immediate five (5) day suspension without pay.
- 3. A third offense shall result in immediate termination.

B. The employee shall have the right and shall not be denied the right to the presence of a Union Representative during any part of these procedures.

## TESTING PROCEDURES

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What are the testing procedures for drugs?

All drug testing will be done from urine specimens collected under highly controlled conditions at the following location: St. Raphael’s Occupational Health & Rehabilitation Services at 789-3530. The person collecting the urine sample will be the same gender as the employee submitting the sample. The collection site will be secured to prevent any tampering or switching of samples. The City reserves the right to change and/or add providers.

When the employee has submitted a specimen, the collection person will determine whether there is a sufficient amount of urine for testing. If there is not enough, the employee may be asked to drink fluids and wait until the employee is able to provide a sufficient amount of urine to test. The urine collected from each employee will be divided into two different sample containers. This is known as a split specimen collection. The person collecting the specimen will divide the specimen into the two containers in the presence of the employee and will label both accordingly. The employee must ensure that the split samples are both accurately marked with the correct identification.

The primary sample is then tested for the presence of drugs, while the second or “split” sample is stored in a secured, refrigerated location. The initial test is the immunoassay test, which screens the sample for usage of the eleven (11) classes of drugs. The second test is a confirmation test.

The labs that perform the tests must be certified by the Federal Department of Health & Human Services.

The testing program is limited to eleven (11) drug/drug types: Amphetamines, Barbiturates, Benzodiazepines, Cocaine Metabolite, Opiates, Oxycodone, Phencyclidine (PCP), Marijuana (THC) Metabolite, Methadone, Methaqualone, and Propoxyphene. The positive levels for the eleven (11) classes of drug tests are in the table below:

Initial Test Analyte	Initial Test Cutoff Concentration	Confirmatory Test Analyte	Confirmatory Test Cutoff Concentration
Amphetamines	300 ng/mL		500 ng/mL
Barbiturates	300 ng/mL		300 ng/mL
Benzodiazepines	300 ng/mL		300 ng/mL
Cocaine Metabolites	300 ng/mL	Benzoyllecgonine	150 ng/mL
Opiate Metabolites	2000 ng/mL		2000 ng/mL
Oxycodone	100 ng/mL		100 ng/mL
Phencyclidine	25 ng/mL	Phencyclidine	25 ng/mL
Marijuana Metabolites	50 ng/mL	THCA	15 ng/mL
Methadone	300 ng/mL		300 ng/mL
Methaqualone	300 ng/mL		300 ng/mL
Propoxyphene	300 ng/mL		300 ng/mL

\*ng/ml means nanograms per milliliter. A nanogram is one billionth of a gram. A milliliter is one thousandth of a liter.

If the results of the initial test are negative, the testing laboratory will so advise the Medical Review Officer (MRO). The MRO is a licensed physician not employed by the testing laboratory who interprets the drug test results. The MRO's role includes making determinations that other factors besides drugs may be affecting a particular test result, and the MRO may conduct sessions with individual employees to learn more about their medical histories and other factors which might influence a test result.

If the results of the initial test exceed the test levels for any of the eleven (11) drug/drug classes, a second (confirmation) test is performed. This test is done differently by using gas chromatography/mass spectrometry techniques. Only specimens that are confirmed positive on the second or confirmatory test are reported positive to the Medical Review Officer for review and analysis.

If the test result of the primary specimen is positive, the employee may request the Medical Review Officer to send the second (or split) specimen to a different certified lab for testing. If the result of the test of the split specimen is "negative", the MRO shall cancel the test. If an employee wants the split specimen tested, he or she must advise the MRO within seventy two (72) hours of being notified of the positive test result of the primary specimen.

The City will keep a record in the employee's file showing the type of test (pre-employment, periodic, etc.); date of collection; location of collection; entity performing the collection; name of the lab; name of the MRO; and the test results.

What are the testing procedures for alcohol?

Alcohol testing is done by testing breath, using a device called an Evidential Breath Testing Device (EBT). The EBT is a scientific instrument that determines the concentration of alcohol in the bloodstream by analyzing a specific amount of exhaled breath. The test result is a number representing the blood alcohol concentration (BAC), which is expressed in grams of alcohol per 210 liters of breath. The EBT prints out numbered copies of the test results. A BAC of 0.04 or greater indicates alcohol impairment. A BAC between 0.02 and 0.04 indicates likely alcohol impairment. A BAC less than 0.02 indicates no alcohol impairment.

People who have been trained and certified as breath alcohol technicians (BAT) will conduct the tests, check the EBT prior to testing to ensure its accuracy, and conduct the tests. Testing should be conducted in an area that allows the employees as much privacy as is feasible. The tester will remain present at all times during the testing procedure.

First, in the employee's presence the BAT makes sure that the EBT is responding accurately. Then, a sealed mouthpiece is opened and placed into the device. The employee is required to blow into the mouthpiece for at least six seconds or until the EBT indicates that it has obtained a sufficient amount of air to test. The EBT will then print the test results, with a copy given to the employee.

If the initial test shows a reading less than 0.02 the test is recorded as "negative". If the initial test results indicate a BAC of 0.02 or greater, a confirmation test will be conducted, after a fifteen (15) minute interval has passed to make sure that the sample was not tainted by recent use of food, tobacco, or other products. The confirmation test is done on the same EBT as the first test. If the two results are different, the confirmation test results are controlling. At this point, the breath alcohol test is completed; the employee must sign the testing form and be provided with a copy.

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Substance abuse testing that currently exists under the Commercial Drivers License (CDL) Policy shall continue pursuant to the terms of the policy. In addition, the policy may be extended by the City to all employees who operate City vehicles. In the event the City decides to extend the policy to all drivers, it shall first notify the Union in writing of its intent and the date of the implementation.

The parties understand that the testing means and methods defined herein represent the current standard in the industry for such testing. As such, any testing defined in any City policies that are not consistent with the means and methods defined herein shall be considered updated to conform with this policy. The parties recognize that industry standards may change during the life of this policy. Any such changes shall be negotiated pursuant to the requirements of MERA.

The parties agree to review the means and methods defined herein at reasonable intervals and to update such methods when required. The goal of the parties shall be to promote the most efficient, effective and accurate methods available.

### **Article 15 - Union Activity**

#### **Section 1**

The Union shall be entitled to ten (10) working days of leave with pay per contract year for union business, to use at their discretion. Each request for union leave shall be requested through the office of Labor Relations and shall apply to the President of the Union or his/her designee and up to two (2) other members so designated by the President.

#### **Section 2**

One Officer or Steward and the grievant or grievants, and witnesses, not to exceed a total of three (3) people, shall suffer no loss in wages to attend any grievance hearings or arbitration.

#### **Section 3**

Three (3) members of the Bargaining Unit shall be allowed time off with pay for the purpose of negotiating a successor Agreement if negotiation sessions are held during working hours.

#### **Section 4**

Unless expressly provided within this Article, or otherwise agreed upon by the parties, there shall be no other paid union leave provided by the City.

### **Article 16 - Grievance Procedure**

#### **Grievance Procedure**

##### **Section 1 - Purpose**

The purpose of the grievance procedure shall be to secure equitable solutions to employees grievances on as low an administrative level as possible and practicable so as to insure efficiency and employee morale.

##### **Section 2 - Definition**

A grievance shall be considered to be a dispute between an employee and/or the Union and the City and/or any of its agents, servants, employees, officials, Boards or Commissions concerning the interpretation and application of specific provisions of this Agreement including the discharge, suspension, demotion or other discipline of an employee.

### Section 3 – Procedure

Any employee may use this grievance procedure with or without Union assistance except the procedure set forth in Section 5 of this Article. No grievance settlement made as a result of an individually processed grievance shall contravene this provision of this Agreement.

Step 1: An employee with or without a Steward with a complaint should first discuss the matter with his/her Department Head. In this discussion, the Department Head involved shall make an earnest effort to resolve the matter. The Department Head shall make whatever additional investigation is necessary and shall give his/her answer as soon as practicable, but within three (3) working days. It is agreed that most complaints should be settled at this Step.

Step 2: If the employee is not satisfied with the answer at Step 1, he/she shall then reduce his/her complaint to writing either on a form mutually agreed to by the parties or in a letter. Such grievance must contain the following information: (1) A statement presenting the nature of the grievance; (2) A statement outlining the relief sought; and (3) Specific reference to the clause or clauses of this Agreement which the employee feels have been violated. The employee and/or his/her chosen representative shall submit the written grievance to the Department Head, who, in turn, shall submit to the Union a written answer to the grievance within five (5) working days.

Step 3: If the decision at Step 2 is not satisfactory to the employee, he/she may appeal, in writing, to the Director of Labor Relations within ten (10) working days after receiving the decision at Step 2. The Step 3 written grievance shall include the information required in Step 2, as well as the decision of the Department Head from Step 2, if any. If the grievance fails to identify any of this requested information, then the City shall return the grievance to the union and/or the grievant, who shall have five (5) working days to remedy the omission and resubmit the grievance. Grievances not remedied and resubmitted within this period shall be considered as settled. Upon receipt of such an appeal, the Director or his/her designated representative will investigate the grievance and make an effort to resolve it to the satisfaction of all parties. Prior to denying any grievance at this step, the aggrieved employee and/or his/her representative, if any, shall be afforded the right to meet and discuss the grievance with the Director or his/her representative. Step 3 grievances shall be scheduled within thirty days of receipt of the grievance unless the parties mutually agree to extend the thirty day requirement. The decision of the Director or his/her representative will be made as soon as practicable, but not later than ten (10) working days after the aforesaid meeting or ten (10) days from the time the meeting should have taken place.

### Section 4 - General Provisions

Any complaint which is not taken up with the employees immediate Supervisor within fifteen (15) working days after the occurrence or knowledge of the matter out of which the complaint arises, shall not be presented or considered at a later date.

At Steps 2 and 3 of this procedure, the Employer and the Union shall be permitted to call a reasonable number of witnesses, normally not more than two (2) from each party at Step 2 and three (3) from each party at Step 3.

When several employees within the unit have an identical grievance, the Union will select one individual case for processing with the understanding that the decision on the case will be applied to the other identical cases. Such grievance shall be known as a Unit Grievance.

An employee's grievance will be considered settled upon his written request, or when the grievant ceases to be a regular employee of the City, including by resignation, unless the grievance is directly related to the employee's termination and he desires it to be processed; or unless the Union considers the grievance to reflect on or affect other employees in the Bargaining Unit, or when the time limit to appeal to the next step expires.

Grievances will be heard at a time most practical to do so. Should such time occur during periods other than normal working hours of the grievant and/or other Union representatives, the City shall accept no financial obligation for such time spent by the grievant and/or other Union representatives.

The Union agrees that it shall cooperate with the City by making every effort to handle grievances in such a manner so as to cause a minimum of interference with normal operations of a Department.

It is recognized by both parties that on occasions a grievance may develop, the immediate disposition of which would be in the best interest of both parties (i.e., discharge or suspension). In such instances, the responsible Union official may contact the Labor Relations Director directly to acquaint him with the situation. At that time a determination shall be made as to what procedure is to be followed.

Any grievance not answered within the prescribed time limits may be processed to the next step of the grievance procedure up to and including arbitration.

#### Section 5 - Arbitration

If the Union is not satisfied with the response rendered in Step 3 it shall notify the Director of Labor Relations in writing within ten (10) working days from the receipt of the decision at Step 3 of the grievance procedure or ten (10) working days from the date that said decision should have been made that it intends to submit the grievance to arbitration and shall simultaneously file the notice with the American Arbitration Association (AAA). Grievances not appealed within this time shall be considered as settled. Petitions for arbitration shall be in writing and contain the following items: (1) Name of the grievant; and (2) a statement of the issue involved.

The arbitration fee and expenses shall be borne equally by the parties to this Agreement. The Employer and the Union shall also share equally the expenses of any and all mutually agreed

upon services considered desirable or necessary in connection with the proceedings. Except that in the event one party to the proceeding requests a transcript, the non-requesting party shall not be required to share in the cost of said transcript. The non-requesting party shall, however, be furnished a copy of the transcript in a timely fashion at no cost.

The Arbitrator(s) designated in accordance with this Article shall conduct a hearing at which the facts and arguments relating to the dispute shall be heard. The Arbitrator(s) jurisdiction to make an award shall be limited by the submission and confined to the interpretation or application of the provisions of this Agreement. The Arbitrator shall not have jurisdiction to make an award which has the effect of amending, altering, enlarging or ignoring the provisions of the Agreement in effect at the time of the occurrence of the grievance being arbitrated, nor shall the Arbitrator have jurisdiction to determine that the parties by implication have amended or supplemented the Agreement, unless the parties shall expressly submit to him the issue as to whether such an agreement by implication was made. The Arbitrator(s) shall confine the award to a decision that the City or the Union has or has not violated a provision of this Agreement, and if such an award is in the affirmative, the award shall specify the remedy. The written award of the Arbitrator made in accordance with the above arbitration procedure shall be final and binding on the parties to this Agreement, subject only to court appeal of the decision.

## **Article 17 - Discharge and Discipline**

### **Section 1**

Normally, disciplinary action shall be in the form of an oral warning, a written warning, a suspension without pay, or a discharge.

- (A) Disciplinary action shall be consistent with the type of infraction or malfeasance which is the subject of the discipline.
- (B) Discipline should be progressive in nature, but where circumstances warrant, it need not necessarily have been preceded by lesser disciplinary actions.

### **Section 2**

All disciplinary actions shall be communicated, in writing, to the employee, with a copy placed in the Department's personnel folder and a copy sent to the Union President or his/her designee.

### **Section 3**

Notwithstanding the foregoing, as provided for in Article VI, Section 3 of the Charter for the City of New Haven, employees serve a one (1) year term, which may be renewed for subsequent one (1) year terms by the Mayor. In the event that a term is not extended, the employee shall be given not less than sixty (60) days notice thereof.

### **Section 4**

Employees who are discharged during their initial probationary period shall not have recourse to the grievance procedure including arbitration. This shall not apply to promotions.

### **Article 18 - Seniority**

#### **Section 1**

Seniority is defined as the total length of continuous service in any position of the City of New Haven.

#### **Section 2**

Any layoff shall be by seniority within classification, least senior first.

#### **Section 3**

The City shall prepare a list of employees represented by this Bargaining Unit, showing their seniority in time of service with the City, their classification and rate of pay, and deliver same to the Bargaining Unit once yearly in the month of April.

#### **Section 4 - Recall**

Laid off bargaining unit members shall be subject to recall for two (2) years from the effective date of the layoff. The bargaining unit member with the most seniority will be the first to be recalled to the same classification from which s/he was laid off. No new employee may be appointed to a bargaining unit position until all laid off members in that classification have been recalled, unless such laid off member(s)' recall rights have been exhausted or forfeited.

#### **Section 5 - Classification**

For purposes of this Article, there shall be two classifications: ( 1 )Assistant Corporation Counsel; and (2) Deputy Corporation Counsel and Special Counsel Economic Development

### **Article 19 - Miscellaneous**

#### **Section 1**

##### **Savings Clause**

Should any provision of this Agreement be found to be inoperative, void or invalid by a court of competent jurisdiction, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement.

#### **Section 2**

The City shall reimburse each employee for all Connecticut Occupational taxes paid by the employee that are related to the practice of law, and shall reimburse each employee for membership dues for one bar association of the employee's choosing.

#### **Article 20- Pension**

Bargaining unit members hired before July 1, 2008, shall continue to participate in the City CERF Plan set forth in Appendix B.

Bargaining unit members hired on or after July 1, 2008 shall be covered by social security and shall contribute 7.5% of their base salary into, and shall participate in, the defined contribution plan for Executive Management and Confidential Employees.

#### **Article 21- Duration**

This Agreement shall cover the period July 1, 2013, through June 30, 2016, and shall not be retroactive unless specifically stated herein. Negotiations for a successor agreement shall take place in accordance with the Municipal Employees Regulations Act.

**Appendix A – Salary Schedules**

A. 2013-14 Effective, but not retroactive, upon issuance of the award in Case No. 2013-MBA-430, wages shall increase by 3.0%.

B. 2014-15 Effective, but not retroactive, upon issuance of the award in Case No. 2013-MBA-430, wages shall increase by 3.0%.

C. 2015-16 Effective and retroactive to July 1, 2015, wages shall increase by two percent (2.0%)

Effective January 1, 2016, there shall be an equity adjustment for all bargaining unit members whose pay is under \$70,000 per year as of July 1, 2015. This equity adjustment shall be a 2% wage increase to the wage in effect for such employees as of December 31, 2015.

## **Appendix B – Pension**

### **ARTICLE I, PENSIONS - GENERAL INFORMATION**

Only full-time, bargaining unit employees initially hired before July 1, 2008, who are currently members of the City Employees Retirement Fund (“CERF”) as of the date that this Collective Bargaining Agreement becomes effective, shall continue to be members of CERF. Attached as Schedule A is the CERF Pension Agreement that is applicable to such employees.

All full-time, bargaining unit employees initially hired after July 1, 2008 shall be covered by Social Security. In addition, for these employees, the City shall contribute 7.5% of their base pay into a defined contribution plan (“DC Plan”). The DC Plan shall be established by the Director of Labor Relations in coordination with the Department of Finance, the Department of Human Resources, and the Department of Management and Budgets, and shall be incorporated herein by reference.

Notwithstanding any language in this Article or any provisions of Schedule A, any employee covered by this Collective Bargaining Agreement who engages in illegal conduct performed while acting as if the actions are under the color of law or in the course and scope of his or her employment or during which time the employee was being paid to perform work for the City, and is terminated from employment by the City for such conduct, shall forfeit his or her rights to all pension and other retirement benefits and only be allowed to recover funds that said employee actually contributed to CERF, plus an interest rate as determined by the applicable retirement board, to the extent permitted by law.

## SCHEDULE A - Pension Provisions

### Section 1 - General Definitions

As used in this plan the following terms shall have the following meaning:

The Fund or said Fund means the City of New Haven, City Employees Retirement Fund;

The City or said City means the City of New Haven;

The Treasurer and the City/Town Clerk mean, respectively, such Board or Officer of said City;

Eligible employee means any General Fund full time employee as defined in Article I, elected or appointed, of said City, except an employee receiving benefits from or eligible for participation in any of the other pension or retirement funds of the City or the State of Connecticut;

Full time employee means any permanent employee who works twenty (20) hours or more hours per week;

Member of said Fund means an eligible employee who contributes to said Fund, or who has qualified for a disability annuity or a retirement benefit by reason of age and service;

Conditional member means a terminated employee who has ceased to contribute to the Fund but who has retained eligibility rights for a deferred pension;

He or his means “he” or “she” or “his” or “her”, as may be appropriate.

The pay of a member means all compensation for services, but shall not include allowance for a motor vehicle or other transportation.

Said Board or the Board means the Retirement Board created pursuant to the provisions of this plan.

### Section 2 - Retirement Fund; Assets, Administration

There is established a Fund to be known as the “City of New Haven, City Employees Retirement Fund” for the benefit of the members as defined in this plan. Said Fund shall consist of:

- (1) All appropriations, gifts, or bequests made to the Fund from public or private sources for the purpose for which said Retirement Fund is established;
- (2) All contributions by participating members; and

- (3) All assets of the Employees Retirement Fund of said City heretofore created by an Act approved April 28, 1937 and subsequent amendment thereof.

The Treasurer of said City shall be the Treasurer of said Fund. The Retirement Board shall be the trustee thereof, and have full control and management of all its securities and assets, with power to invest and reinvest the same in accordance with the provisions of the General Statutes governing the investment of Trust Funds. Said Board may, by written certificate, approved by the Board of Finance and accepted by the appointee and filed with the City/Town Clerk, appoint an incorporated bank or trust company doing business in said City as financial agent of said Board for such period as said Board may decide. Such appointee shall be, until otherwise ordered by said Board, the receiving and disbursing agent of said Board and said Fund. Said Board may turn over to such appointee the custody and possession of all or any part of the assets of said Fund to hold for and on account of said Board for such time as said Board may decide. For such services rendered by such Appointee reasonable compensation shall be approved by said Board and paid to such appointee out of income of said Fund. All annuities and all repayments under this plan, and under any amendments hereof, shall be paid from said Fund.

### Section 3 - Retirement Board

The Retirement Fund shall be administered by a Retirement Board of seven (7) members as follows: The Mayor and Controller of said City, ex officio, three (3) persons appointed by the Mayor, and two (2) members of the Fund nominated and elected by members of the Fund (no more than one of which at any time shall be from the same Collective Bargaining Unit). The terms of appointed members of the Retirement Board shall be three (3) years, beginning on January first, the terms of one expiring at the end of each year. The terms of elected members of the Retirement Board shall be three (3) years, beginning on January first, said terms running concurrently. A member of the Retirement Board shall serve until his successor is named and has qualified, and the Mayor shall make such appointments to the Retirement Board as may be necessary to fill vacancies occurring during the term, except a vacancy in the positions of member representatives which shall be filled by the members of the Fund. No member of the Retirement Board shall incur any liability for any act done or omitted in the exercise of his duty, except due to his own willful misconduct and/or lack of good faith. The Retirement Fund shall indemnify and hold harmless each member of the Retirement Board for any and all claims or liabilities asserted against him by reason of his status as a member of the Retirement Board, except those claims or liabilities occasioned by his own willful misconduct and/or lack of good faith.

The Retirement Board shall submit annually to the Board of Finance of the City of New Haven a schedule of estimated appropriations of money necessary for the administration of this plan; and shall receive, control, manage and expend according to the provisions of this plan all of said Fund, including any monies contributed by employees; and shall invest and reinvest all of said Fund in accordance with the provisions of the General Statutes governing trust funds. Said Board shall determine the eligibility of a member of the Retirement Fund and his rights under this act; shall make bylaws and regulations not inconsistent with law for the administration of this plan; shall hire and dismiss any employees necessary for the proper administration of this

plan and fix their compensation and shall engage expert actuarial, legal, auditing, investment and medical service when, in the judgment of the Retirement Board, it shall be advisable.

#### Section 4 - Payment By City

The City of New Haven shall pay to the Retirement Board such amounts to fund the benefits provided by this Article as shall be determined by the Retirement Board based on sound actuarial principles. For each fiscal year the City's payments shall be a percentage of the estimated total payroll of all participating members of the Retirement Fund. The City's payment shall also include the total administrative and other expenses of the Retirement Fund for each year.

#### Section 5 - Annual Reports Of Retirement Board

The Retirement Board shall report annually to the Board of Aldermen of the City on the condition of the Retirement Fund.

#### Section 6 - Exemption Of Fund And Benefits From Taxation, Attachment, Execution, Etc.; Fund And Benefits Declared Unassignable

The right of any person under the provisions of this plan to any payment from said Fund, and said Fund itself, shall be exempt from any State, Municipal, transfer or inheritance tax and shall not be subject to attachment, garnishment or execution and shall be unassignable.

#### Section 7 - Limitations Of Actions

No action for any amount due under the provisions of this plan shall be brought but within two years after the right of action accrues. Any person legally incapable of bringing an action when the right accrues may sue at any time within two years next after he becomes legally capable to institute suit. All amounts not claimed within said period shall remain absolutely a part of said Fund.

#### Section 8 - Effect Of Workers Compensation

Any member receiving payments under the Worker's Compensation Act shall not, at the same time, receive an annuity provided by the Retirement Fund, except to the extent that such annuity for each month exceeds the Worker's Compensation benefit payable for the same month. If payment of an award or stipulation under the Worker's Compensation Act has been made and the time covered by such award or stipulation has ended, the member may thereafter receive annuities under the Retirement Fund to the extent that he is otherwise qualified to participate in the Retirement Fund at the time.

#### Section 9 - Accounts & Reserves

The Retirement Board shall maintain proper accounts and actuarial reserves for all benefits provided by this plan. These actuarial reserves shall include the following items:

- (1) A reserve to cover future payments on retirement annuities granted due to age and service;
- (2) A reserve to cover future payments on annuities granted due to disability;
- (3) A reserve to cover future payments of benefits granted to survivors; and
- (4) The balance representing the remainder of the accumulated contributions made by the members and by the City, to be held as a reserve for benefits accruing in future years in accordance with the provisions of this plan.

#### Section 10 - Actuarial Valuation

A complete valuation shall be made periodically (but at least bi-annually) by a qualified actuary in order to determine the amount of the reserve prescribed in Section 9 of this Article and the City's contributions prescribed in Sections 2 and 4 of this Article.

#### Section 11 - Membership Classification

When a member's status changes from one Bargaining Unit to another he will automatically become covered by the provisions of the Bargaining Unit which covers his new classification and his years of Credited Service will not be broken or diminished by reason of such change.

#### Section 12 - Optional Transfer Of Pension Credits In Event A Member Changes To, Or From, Permanent Employment Covered By The Policemen And Firemen's Pension Fund

In the event of such change of employment within the City of New Haven the member can elect that the period of prior service for which he made contributions to the first Fund shall be included in determining the amount of his pension benefits under the second Fund to which he has transferred his participation. Such transfer of credits shall be contingent on a transfer of cash between the Funds equal to the actuarial reserve for his participating service in the first Fund, including both the employee's and the City's contributions therefor, and all rights to pension or other benefits under the first Fund will be terminated by such transfer.

#### Section 13 - Miscellaneous

- (a) In the event the Fund merges or consolidates with, or there is a transfer of assets or liabilities to any other Plan or Trust, each member would (if the Fund then terminated) receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation or transfer (if the Fund had then terminated).

- (b) Participation under the Fund will not give any member any right or claim except to the extent such right is specifically fixed under the terms of the Fund and there are funds available therefor.
- (c) If the Fund is terminated or if there shall be a complete discontinuance of the contributions under the Fund, the assets held in the Fund available for payment after provision for payment of all expenses of final liquidation or termination shall be allocated pursuant to the direction of the Board on the basis of actuarial valuations to the extent of the sufficiency of such assets for the purpose of providing retirement benefits determined by the Fund to have accrued under the Fund to the date of termination of the Fund. The allocation of the available assets in the Fund shall be in the manner and order described in the following paragraphs. If the amounts available shall be insufficient for a complete allocation in accordance with any paragraph, such amounts shall be allocated in a uniform manner to all persons in the group mentioned in such paragraph and no allocation shall be made under any subsequent paragraph.
  - (1) First, toward the payment of that portion of a member's benefit earned to date derived from his contributions (after reduction for annuity payments), whether to the contributing members, their survivors or beneficiaries.
  - (2) Second, an amount shall be allocated, which when added to the amount indicated in Paragraph 1, will be sufficient to provide retirement benefits to all persons who were receiving benefits on the date of termination of the Fund and members remaining in the employ of the City who have reached their normal retirement date.
  - (3) Third, an amount shall be allocated, which when added to the amount indicated in Paragraph 1, will be sufficient to provide retirement benefits for members still in the service of the City who were eligible to retire on an early retirement date.
  - (4) Fourth, an amount shall be allocated, which when added to the amount indicated in Paragraph 1, will be sufficient to provide benefits earned to date by those members who have earned 10 years Credited Service (but are not identified in Paragraphs 2 or 3).
  - (5) Fifth, amounts then remaining shall be allocated to provide benefits for all members not provided for above.

Amounts allocated in accordance with (1) through (5) above, may be applied in the discretion of the Board to provide benefits through the purchase of paid up annuities on an individual or group basis, through allocation of reserves within the then existing Fund and/or under a separate trust instrument or through participation in any other retirement plan or by any combination of these media or other means.

ARTICLE II – PROVISIONS OF THE RETIREMENT PLAN APPLICABLE TO EMPLOYEES REPRESENTED BY THE ATTORNEYS UNION, LOCAL 1303-464 OF THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES

Section 1 - Definitions

As used in this Article, the following terms shall have the following meanings:

Eligible employees as defined in Article I of this Appendix B shall accrue the terms and benefits of this Article.

Section 2 - Determination Of Contributions Of Participating Members

The rate of contributions shall be 10% of pay effective upon the date of the award in Case No. 2013-MBA-430, said percentage to be deducted from each eligible participating member's pay and transmitted to said Board. Computation of the average rate for use in determining benefits under this Article shall be based on such member's basic rate of pay.

Section 3 - Provision For Refund Of Contributions Or Deferred Pensions For Members  
Withdrawing From Service; Provision For Refund Of Contributions Upon  
Death Of Member With No Qualified Survivors; Recovery From Disability

Withdrawal of contributions of a member shall not be permitted except in the event of discontinuance of employment. In the event of such discontinuance, the Retirement Board shall pay, upon request, to the member or to his representative, designated or otherwise, an amount equal to his total contributions to the Retirement Fund. Even if no such request is made, in the event of such discontinuance before the member has earned ten (10) or more years of Credited Service, the Retirement Board, in its sole discretion, may pay to the member, or to his representative, designated or otherwise, an amount equal to his total contributions to the Retirement Fund.

In the event of such discontinuance after ten (10) or more years of Credited Service, and provided he does not qualify for greater benefits under the provisions of Section 6, any terminating member who does not request a refund of his contributions will be retained as a conditional member and will be eligible for a deferred pension commencing when he attains age sixty five (65) or upon such earlier date as may be elected by the member pursuant to Section 6 (g). Such deferred pension shall be for an amount determined as two percent (2%) of the conditional member's average rate of pay averaged over those five (5) years of service producing the highest average, for each year of Credited Service, subject to a maximum of seventy percent (70%) of such average rate of pay and reduced as provided in Section 6 (g), if applicable. Such conditional member and his survivors will not be eligible for any disability, survivorship or other benefits which are provided for non-conditional members by other Sections of this Article. Any changes in benefits and/or eligibility requirements for such benefits prescribed in this paragraph which are adopted after a conditional member has discontinued his employment with the City shall not apply to such conditional member.

In the event of a member's or a conditional member's death, the Retirement Board shall pay to his beneficiary, or to his estate if no named beneficiary is surviving, an amount equal to the excess, if any, of his total contributions over the total of any annuity payments made to him.

In the event that a member is survived by a widow, widower or child or children under age eighteen (18), the Retirement Board shall, in lieu of such repayment of contributions, pay the survivorship benefits provided in Section 8 of this Article. If the total benefit payments to such member and his surviving widow or widower and children shall be less than the amount of his total contributions, the amount of any excess shall be paid to the legal representative of the last survivor who received benefits.

A member whose disability benefits are terminated by reason of the member's recovery shall be entitled to the benefit of this Section, without regard to the amount of his Credited Service. Notwithstanding anything in this Section to the contrary, the Retirement Board shall not have the authority to pay any such member the amount of his total contributions to the Retirement Fund except upon such member's request.

#### Section 4 - Eligibility For Retirement

- (a) Any member who has completed ten (10) years of Credited Service for the City shall be eligible for retirement according to the provisions of this Article at the age of sixty (60) years.
- (b) Any member (a) the sum of whose age and years of Credited Service for the City equals or exceeds eighty (80), or (b) in the case of members with less than ten years of credited service upon issuance of the award in Case No. 2013-MBA-430, equals or exceeds eighty-five (85) and is at least sixty-two (62) years of age, shall be eligible for retirement according to the provisions of this Article.
- (c) Any member who has completed ten (10) years of Credited Service for the City shall be eligible for retirement on account of disability according to the provisions of Section 5.
- (d) "Credited Service" for the purposes of this Article, shall mean that number of full and fractional years (calculated on a daily basis) with respect to which a member's pay is reduced by the amounts provided in Section 2.
- (e) Notwithstanding anything contained herein to the contrary, in the event a member separates from the City's service and receives a refund of his contributions pursuant to Section 3, the member's Credited Service shall include only those full and fractional years (calculated on a daily basis) occurring after the latest such refund, with respect to which the member's pay is reduced by the amounts provided in Section 2, unless:
  - (1) The member, within six (6) months of his return to the City's service, requests a reinstatement of his Prior Credited Service, if any;

- (2) The members Prior Credited Service calculated as of the date of the latest refund exceeds the number of full and fractional years (calculated on a daily basis) falling between the date the member last separated from the City's service and the date first following such separation on which the member contributed to the Fund pursuant to Section 2;
- (3) The member repays the latest refund together with three percent (3%) interest compounded annually; and
- (4) The member passes such medical examination as the Retirement Board, in its sole discretion, shall prescribe. The Retirement Board shall have the sole discretion to determine whether the member has passed such medical examinations, and its decision shall be final and conclusive on all parties.

In the event a member satisfies all of the foregoing conditions, his Credited Service shall consist of those full and fractional years (calculated on a daily basis) occurring after the latest such refund with respect to which the member's pay is reduced by the amounts provided in Section 2 plus his Prior Credited Service.

For purposes of this Section, the term Prior Credited Service shall mean those full and fractional years (calculated on a daily basis) with respect to which the latest refund was made.

- (f) "Credited Service" shall also include those full and fractional years (calculated on a daily basis) during which a member received a disability benefit, provided such member recovers from such disability, is rehired by the City and thereafter earns at least five (5) years of Credited Service.

#### Section 5 - Disability Annuities

Any member of the Retirement Fund who, after ten (10) years of Credited Service for the City, is permanently disabled from performing duties of the nature required by his job; or, irrespective of the duration of his employment, suffers such a disability which is shown to the satisfaction of the Board to have arisen out of or in the course of his employment by the City, as defined in the Worker's Compensation Act, shall be entitled to an annuity in an amount determined in Section 6; provided satisfactory proof of such disability shall be submitted to the Retirement Board.

The Retirement Board shall cause examinations to be made by at least two (2) impartial medical examiners to initially verify the existence of such disability.

The Retirement Board may, from time to time, call for similar medical evidence that the member continues to be permanently disabled. Such member shall be required to submit himself to any medical examination requested by the Retirement Board. If the Retirement Board, upon competent medical evidence, concludes that the disability for which the member is receiving an

annuity no longer exists, such Board shall thereupon order a discontinuance of all such annuities payable to such member, effective on the date which is ninety (90) days after the Board concludes that the disability no longer exists. Each member whose benefits are terminated in accordance with this paragraph shall, regardless of the number of his years of Credited Service, thereafter be entitled to those benefits provided in the second paragraph of Section 3.

Disability annuity benefits shall be subject to the conditions set forth in Section 7.

#### Section 6 - Retirement And Disability Benefits

- (a) For employees retiring by reason of age and service, the Retirement Board shall pay to each eligible member an annuity for life in an amount determined as two percent (2%) of the member's average annual rate of pay averaged over those five (5) years of service producing the highest average, for each year (or fraction) of Credited Service; provided such annuity shall not exceed seventy percent (70%) of his average annual rate of pay averaged over those five (5) years of service producing the highest average. Such annuity shall be paid monthly at the rate of one-twelfth of the annual amount so determined. A minimum annual pension of two thousand dollars (\$2,000.00) or eighty percent (80%) of the employee's annual rate of pay at the time of his retirement, whichever is smaller, is hereby established for present and future annuities.
- (b) For employees retiring by reason of disability arising out of and in the course of employment as defined in the Worker's Compensation Act, the Retirement Board shall pay to each eligible member an annuity for life in an amount determined as two percent (2%) of the member's average annual rate of pay averaged over those five (5) years of service producing the highest average, for each year (or fraction) of Credited Service; provided such annuity shall not exceed seventy percent (70%) of his average annual rate of pay averaged over those five (5) years of service producing the highest average. Such annuity shall be paid monthly at the rate of one-twelfth of the annual amount so determined. A minimum annual pension of two thousand dollars (\$2,000.00) or eighty percent (80%) of the employee's annual rate of pay at the time of his retirement, whichever is smaller, is hereby established for present and future annuities. This disability annuity benefit shall be subject to the conditions set forth in Section 7.
- (c) For employees retiring by reason of disability arising after the completion of ten (10) years Credited Service which is not a result of any pre-existing medical condition at date of employment, provided such disability was not incurred as a result of any other gainful employment, the Retirement Board shall pay to each eligible member an annuity for life in an amount determined as two percent (2%) of the member's average annual rate of pay averaged over those five (5) years of service producing the highest average, for each year (or fraction) of Credited Service; provided such annuity shall not exceed seventy percent (70%) of his average annual rate of pay averaged over those five (5) years of service producing the highest average. Such annuity shall be paid monthly at the rate of one-twelfth of the annual amount so determined. A minimum annual pension of two thousand dollars (\$2,000.00) or eighty percent (80%) of the employee's annual rate of pay at the

time of his retirement, whichever is smaller, is hereby established for present and future annuities. Any pension payable by reason of such disability shall not be less than one-half of the member's annual rate of pay at the time of disability. This disability annuity benefit shall be subject to the conditions set forth in Section 7.

- (d) For employees retiring by reason of disability arising after completion of ten (10) years of Credited Service which is a result of a pre-existing medical condition at the date of employment, provided such disability was not incurred as a result of any other gainful employment, the Retirement Board shall pay to each eligible member an annuity for life in an amount determined as two percent (2%) of the member's average annual rate of pay averaged over those five (5) years of service producing the highest average, for each year (or fraction) of Credited Service; provided such annuity shall not exceed seventy percent (70%) of his average annual rate of pay averaged over those five (5) years of service producing the highest average. Such annuity shall be paid monthly at the rate of one-twelfth of the annual amount so determined. A minimum annual pension of two thousand dollars (\$2,000.00) of the employee's annual rate of pay at the time of his retirement, whichever is smaller, is hereby established for present and future annuities. This disability annuity benefit shall be subject to the conditions set forth in Section 7.
- (e) Any bargaining unit member whose service is terminated involuntarily, not due to malfeasance or misfeasance in office, or who resigns after completion of ten (10) years of Credited Service, shall subsequently receive, commencing upon the attainment of the age of sixty (60) or upon qualification for disability annuity according to the provisions of this Article, an annuity for life equal to forty percent (40%) of the greater of (i) the last fiscal year budgeted salary or (ii) his or her average annual rate of pay averaged over those five (5) years of service producing the highest average, plus two percent (2%) of such average annual rate of pay for each full year of service in excess of ten (10) years, provided such annuity shall not exceed seventy percent (70%) of his or her average annual rate of pay averaged over those five (5) years of service producing the highest average.
- (f) Any member who is not eligible to receive a normal retirement or disability benefit under the provisions of this Section and who, after reaching the age of fifty five years and being a member of the Retirement Fund at the time, and after at least fifteen (15) years of Credited Service, is obligated to retire involuntarily from such service, which involuntary retirement is not due to malfeasance or misfeasance in office, shall receive an annual retirement benefit equal to forty percent (40%) of his average annual rate of pay averaged over those five (5) years of service producing the highest average, plus two percent (2%) of his average annual rate of pay averaged over those five (5) years of his service producing the highest average, for each full or fractional year of Credited Service in excess of fifteen (15) years but in no event more than fifty percent (50%) of his average annual rate of pay for said five (5) years of his service. This provision shall apply to any person retired on or after July 1, 1997, provided such person makes written application to the Retirement Board within one year after such involuntary retirement.

- (g) Early retirement option: Any (i) active member, or (ii) conditional member having ten (10) or more years of Credited Service, or (iii) member whose disability benefits are terminated by reason of his recovery, may elect early retirement on any date which is ten (10) or fewer years prior to the date on which he would first become eligible for normal retirement as prescribed in subsections (a) or (b) of Section 4, or subsection (e) of this section 6, in the case of an active member; or would have become eligible for normal retirement as prescribed in subsection (a) of Section 4 in all other situations covered by this Section had he remained in the City's employ. In such event his annuity, as determined by subsection (a) of this Section or Section 3, as the case may be, shall be reduced in amount by (i) two (2%) percent, or (ii) three and one-half percent (3.5%) for members with less than ten (10) years of service upon issuance of the award in Case No. 2013-MBA-430, for each full year by which his early retirement date precedes the earliest eligibility date for normal retirement as prescribed in subsections (a) or (b) of Section 4, in the case of an active member, or subsection (a) of Section 4 in all other situations covered by this Section, with a further proportionate reduction for any fraction of a year.

#### Section 7 - Additional Conditions For All Disability Annuities

Any disability annuity which is approved by the Retirement Board shall be subject to adjustment on account of the member's earnings from employment or self-employment of any kind, and his pension shall be discontinued unless he files with the Retirement Board annually before April 30th, a sworn statement of such earnings for the preceding calendar year as shown in his federal income tax return. The reduction in his disability annuity shall equal fifty (50%) percent of any excess of his earnings in the preceding calendar year over six thousand eight hundred dollars (\$6,800.00), but in no event shall such reduction exceed the amount of disability annuity paid for the period during which such excess earnings were earned. Such deduction shall be spread evenly over twelve (12) months, starting with the payment due on April 30th. No such adjustments for earnings shall be made after the disabled member attains the age of sixty five. For any one of these members whose period of credited membership shall have commenced after his fortieth birthday, the amount payable as a disability annuity (before adjustment for earnings) shall be limited to a percentage of his annual rate of pay at the time of disability; this percentage is to be determined by multiplying two percent (2%) by the number of years of membership which he could have accumulated up to his sixty fifth birthday if he were able to continue his employment for the City until that date.

#### Section 8 - Survivorship Benefits

- (a) Upon the death of a member who has participated in the Retirement Fund for a period of not less than six (6) months or who had been retired by reason of age and service, or by reason of disability, there shall be paid to or on account of his surviving child or children under eighteen years of age, and to his widow or widower, monthly benefits consistent with the following table:

MONTHLY BENEFIT						
			Widow Or			
		Widow Or	Widower			
Average	Widow Or	Widower	And Two			Three Or
Annual	Widower	And One	Or More		Two	More
Pay	Only	Child	Children	One Child	Children	Children
16,800	265	510	800	245	490	800

- (b) In the event that payments are made pursuant to this Section to surviving children under eighteen years of age who are represented by more than one legal guardian, such payments shall be apportioned among such guardians in proportion to the number of children represented by each guardian, respectively.
- (c) “Average Annual Pay” as used in computing survivorship benefits shall mean the average annual rate of pay received by the deceased member averaged over those five (5) years of service producing the highest average, or the duration of such service if less than five (5) years, subject to a maximum of sixteen thousand and eight hundred dollars (\$16,800.00) for such average annual pay.
- (d) Upon the death of a member who has completed ten (10) years of Credited Service for the City or who has qualified for a disability annuity or a retirement benefit by reason of age and service, a minimum monthly benefit will be paid to his qualified survivors if greater than the amount determined from the benefit table above. Said minimum monthly benefit shall be equal to fifty percent (50%) of the amount of the monthly annuity to which the member would have been entitled if he had been permanently disabled on the date of his death, or fifty percent (50%) of the amount of his actual monthly annuity in the case of a member who has been receiving retirement or disability benefits from the Fund.
- (e) In order to qualify for benefits under this Section a widow or widower must have been married to the deceased member at the time of his death and if such member had been retired due to age and service or disability must have been married to him at the time of retirement. Proof of dates of birth of the children must be submitted before payments of benefits under this Section.
- (f) These benefits in Section 8 shall no longer apply should such widow or widower remarry. In such cases he/she shall receive only such benefits as are payable to his/her children alone.
- (g) For any employee who dies while still employed, the widow benefit shall be calculated by treating said deceased employee as if they had retired on the date of death and then giving the widow or widower 50% of what the pension would have been.

### Section 9 - Benefits For Periods Of Military Service

In determining benefits under Sections 6 and 7, credit shall be given for periods of military service in World War II, the Korean War or the Vietnam War subject to the following conditions: Any member who, after October 15, 1940, entered any branch of the armed forces of the United States or any service auxiliary thereto, or any civil emergency defense employment pursuant to requisition by the Federal or State Government, or any member who shall enter such services while the United States is at war, and who has been or shall be re-employed by the City within six (6) months after the termination of such military service, shall qualify for credit for his period of military service, provided he resumes his participation in the Retirement Fund, with an effective date antedating his entry into such service.

### Section 10 - Preservation Of Benefits Paid Under Previous Acts

The provisions of this Article shall not affect the benefits already in course of payment in accordance with the provisions of previous acts.

### Section 11 - Future Cost-Of-Living Adjustments

Annually on each July 1, the monthly payments on those service annuities, disability annuities and survivors benefits on which at least eighteen (18) monthly payments have been made will be increased, or decreased, for changes in the cost-of-living as indicated by the Federal Consumer Price Index, Urban Wage Earners and Clerical Workers, All Cities, (CPI-W). For this purpose the Retirement Board will determine an adjustment percentage for each July 1, by relating such index for the full calendar year prior to such July 1 to that for the next preceding full calendar year, but such adjustment percentage shall be limited to a maximum of one hundred three percent (103%) and to a minimum of ninety seven percent (97%); further, no adjustment will be made where increase or decrease for the year is less than one-quarter (1/4) of one percent. However, the monthly benefit originally provided for a retired member or for a survivor shall never be reduced because of the accumulative effect of all cost-of-living adjustments. Notwithstanding the foregoing, the adjustment percentage shall be limited to a maximum of 102% and a minimum of 98%. for any members who do not have at least twenty (20) years of service as of ratification of this Agreement by the Board of Aldermen; further, the maximum aggregate lifetime increase shall not exceed twenty percent (20%) for employees with fewer than twenty years of service as of ratification of this Agreement by the Board of Aldermen.

Upon retirement, a member may elect to forego the benefits provided by this Section in exchange for a buyout of all future cost of living adjustments (COLAs) at the rate of forty percent (40%) of the actuarial value of the benefits.