

ORDINANCE

AN ORDINANCE OFFICIALLY RATIFYING PREVIOUS APPROVAL OF THE CITY OF COATESVILLE FIRE FIGHTERS' PENSION PLAN (THE "PLAN"), AS ADOPTED EFFECTIVE AS OF MAY 12, 2008, RESTATED EFFECTIVE AS OF JANUARY 1, 2009, AND AS AMENDED FROM TIME TO TIME, ADOPTING SERVICE-RELATED DISABILITY AND SURVIVOR PROVISIONS UNDER THE PLAN AND CLARIFYING ADMINISTRATIVE AND OPERATIONAL PROCEDURES OF THE PLAN

WHEREAS, the City of Coatesville (the "City"), a Third Class City situated in Chester County, Pennsylvania operating under a Home Rule Charter, the general laws of the City as set forth in its consolidated ordinances (the "City Code"), and the Third Class City Code; and

WHEREAS, under Chapter 38 Article III of the City Code, the "Fire Fighters' Pension Fund" (hereinafter the "Fund"), the City provides a pension for City fire fighters;

WHEREAS, by Resolution No. 2009-27A adopted on October 26, 2009 (the "Resolution"), the Council of the City (the "Council") approved the "Summary Plan Description" adopted by the Coatesville Fire Fighter's Pension Commission (the "Commission") following the Commission's review thereof;

WHEREAS, it has since been determined that said Resolution inadvertently referred to the term "Summary Plan Description" in describing the plan document promulgated with respect to the Fund (the "Plan Document") wherein the Council intended to refer to the Plan Document and adopt such Plan Document by means of an appropriate ordinance;

WHEREAS, the City is desirous of adding a service-related disability benefit and a survivor benefit for City fire fighters under the Plan in accordance with the provisions of the Third Class City Code; and

WHEREAS, the City wishes to confirm that the Commission has the authority to promulgate rules, regulations, and policies regarding the administration of the Fund and its operations in accordance with Section 9.5 of the Plan Document as well as clarify those

individuals who are to constitute voting members of the Commission and certain operational procedures thereof.

NOW, THEREFORE, in consideration of the foregoing recitals, the terms of which are incorporated herein by reference, and other and diverse consideration and in accordance with the authority of the City's Home Rule Charter and the City Code, the City, by a duly-enacted Ordinance, hereby ordains the following:

1. Ratification of the Plan Document and Amendments Thereto. The City ratifies adoption and approval of (i) the Plan Document (copy attached as "Exhibit A"), effective as of May 12, 2008 (restated as of January 1, 2009); (ii) Amendment No. 1 to the Plan Document incorporating amendments to the Plan (as established in Chapter 38 of the City Code and stated in the Plan Document) by adding "pick-up contribution" provisions to the Plan in accordance with Section 414(h)(2) of the Internal Revenue Code of 1986, as amended (copy attached as Exhibit "B"), effective as of January 10, 2011; and (iii) Amendment No. 2 to the Plan Document clarifying the voting rights of certain members of the Commission and amending certain administrative and operating procedures thereof (copy attached as Exhibit "C"), effective as of November 28, 2016.
2. Service-Related Disability and Survivor Benefit. Chapter 38, Article III of the City Code is hereby amended to read as follows and by the addition of the following new § 38-28A thereto:

"§ 38 -28. Payments Upon Death and Survivor Benefit.

- A. In-service death. When any member of the Fire Fighters' Pension Fund shall die in active service, there shall be paid from the fund a sum of money equal to the amount payable to the member or which would have been payable had he been retired at the time of his death, to his surviving spouse; to the extent there is no surviving spouse, the dependent child or children of such deceased

member shall be paid from the fund a sum equal to 100% of the amount payable to the member or which would have been payable had he been retired at the time of his death, until the dependent child, or each of the dependent children, reach age 18, and, in the case of multiple dependent children, in equal shares to each such dependent child, to be reallocated upon a dependent child's attainment of age 18.

B. Death of a retired member or a member eligible for retirement. The surviving spouse of a member of the Fire Fighters' Pension Fund eligible for retirement or a member who retires on pension, shall, during the lifetime of such surviving spouse, be entitled to receive the full pension benefit the member was receiving or would have been receiving had he been retired at the time of his death. If there is no surviving spouse or if such surviving spouse subsequently dies, then the dependent child or children under the age of 18 years of a member eligible for retirement or a member who retires on pension, shall, until reaching the age of 18 years, be entitled to receive 100% of the full pension benefit the member was receiving or would have been receiving had he been retired at the time of his death, and, in the case of multiple dependent children, in equal shares to each such dependent child, to be reallocated upon a dependent child's attainment of age 18.

C. Death of a member before retirement and not in-service. In the event of the death of a member, the total amount of the contributions paid into the Fire Fighters' Pension Fund by the member shall be paid over to the member's estate if any of the following apply: (1) the death did not occur in the line of

duty; (2) the death occurs before the member becomes entitled to a pension; and/ or (3) the member has no surviving spouse or family entitled to payments.

§ 38 -28A. Disability Benefits.

- A. Eligibility. If a member suffers Permanent and Total Disability as a result of a mental or physical condition or exposure which is determined to have been incurred in the line of duty, no minimum period of service shall be required for eligibility for disability benefits. A member entitled to disability benefits hereunder shall be entitled to receive 100% of the pension determined pursuant to §§ 38-29 and 38-30 hereof subject to any offset required by law, excluding workers' compensation benefits. Any such member who has not completed 20 years of service at the time he or she suffers Permanent and Total Disability shall be deemed to have completed 20 years of service beginning the day before such Permanent and Total Disability occurred. Any such member who has completed at least 20 years of service at the time he or she suffers the Permanent and Total Disability shall be credited with the actual service he or she completed. Such disability benefits shall commence immediately after a determination of eligibility by the Fire Fighters' Fund Commission and shall continue until the earliest of the following events:
- (1) The disabled member is determined to be no longer disabled; or
 - (2) The death of the member.
- B. Permanent and Total Disability. For purposes of this § 38-28A, "Permanent and Total Disability" shall mean a mental or physical impairment which

renders a member unable to perform the essential duties of a City Fire Fighter, as determined in accordance with this § 38-28A.

- C. Physical or mental examinations. The Commission may, at any reasonable time, and at the expense of the Commission, require a physical examination or examinations or other satisfactory proof or proofs of the beginning or continuance of a disability as a prerequisite to making any payments to any member for disability benefits.
- D. Physicians' written statements on disability. No member shall receive any benefits under this § 38-28A by reason of Permanent and Total Disability except upon on the written statement of at least two of three physicians to be named by the Commission, each of whom shall examine the member. The Commission shall pay such physician's for each such service rendered.
- E. Concurrent disability benefits and pension benefits prohibited. No member shall be entitled to receive from the Commission concurrently both disability benefits and normal pension benefits.
- F. The surviving spouse, or if there is no surviving spouse, a child or children under the age of 18, of a member who had been receiving disability benefits under this Section shall be entitled to survivor benefits in accordance with § 38-28.”
3. Powers of the Commission. The Council reaffirms and expressly empowers the Commission with the right to establish rules, regulations, and policies necessary to the administration and operation of the Fund as set forth in Section 9.6 of the Plan Document.
4. Conflicts with Statutory Provisions. In all matters that are regulated by the laws of the Commonwealth of Pennsylvania or by regulations of departments or agencies of the

Commonwealth promulgated by authority of law, such laws or regulations shall control in the event of a conflict with the provisions set forth in this Ordinance.

- 5. Any Portion of Ordinance Found to be Unconstitutional, Illegal or Unenforceable is Severed. If any portion of this Ordinance shall be determined to be unconstitutional, illegal or unenforceable, then the portion and only that portion of this Ordinance, which is deemed to be unconstitutional, illegal or unenforceable, shall be severed from the remainder of this Ordinance and all other terms thereof shall remain in full force and effect.
- 6. Effective Date of Ordinance. This Ordinance shall be effective thirty (30) days after publication following final adoption in accordance with the City Home Rule Charter and the Third Class City Code.
- 7. Savings Clause. Notwithstanding anything to the contrary contained in this Ordinance, the provisions of this Ordinance shall be construed in accordance with 53 P.S. §§39340-39353 and those provisions of the Internal Revenue Code of 1986, as amended, and the Treasury regulations and other Internal Revenue Service and Treasury Department guidance promulgated thereunder that relate to tax-qualified governmental pension plans including, but not limited to, the provisions of sections 401(a)(2), 401(a)(9), 401(a)(31), 401(a)(37), 402(c)(11), 414(u) and 415(b) of the Internal Revenue Code of 1986, as amended.

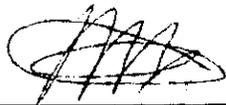
ENACTED AND ORDAINED this 12th day of December, 2016

Linda Lavender-Norris

Linda Lavender-Norris
City Council President

[attestation on following page]

ATTEST:



Michael Trio, City Manager

CERTIFICATION

I HEREBY CERTIFY that the foregoing Ordinance was introduced on the 28th day of November, 2016, and was duly enacted by the Council of the City of Coatesville, Chester County, Pennsylvania on the 12th day of December, 2016, that the vote upon the said Ordinance has been recorded in the Minutes of the City Council and that the Ordinance has been fully recorded.



Michael Trio, City Manager

RESOLUTION No. 2009-27A

A RESOLUTION OF THE COUNCIL OF THE CITY OF COATESVILLE, CHESTER COUNTY, PENNSYLVANIA, OFFICIALLY APPROVING THE SUMMARY PLAN DESCRIPTION FOR THE FIRE FIGHTERS' PENSION FUND

WHEREAS, the City of Coatesville is a Chartered Third Class City in the Commonwealth of Pennsylvania; and;

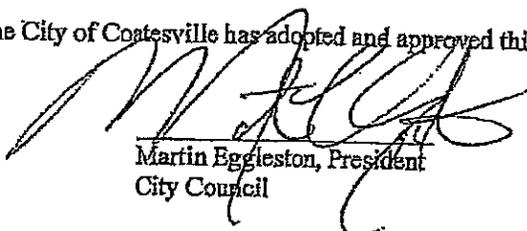
WHEREAS, the City of Coatesville has established a Fire Fighters' Pension Fund pursuant to the Third Class City Code and other applicable law which is governed by an ordinance codified in Chapter 38 of the Administrative Code of the City of Coatesville, and;

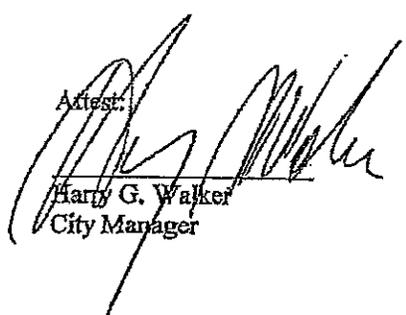
WHEREAS, Section 38-20 of Chapter 38 of said Code specifies that the Fire Pension Fund shall be under the direction and control of Council and shall be committed to the custody and management of a Fire Fighters' Pension Commission, and;

WHEREAS, the duly constituted Fire Fighters' Pension Commission, after appropriate legal and administrative review, has adopted a Summary Plan Description for the Fire Fighters' Pension Fund which will ensure proper administration of the Fund and legal and regulatory compliance of the fund with applicable laws and regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Coatesville that the Summary Plan Description adopted by the Coatesville Fire Fighters' Pension Commission is hereby approved by Council.

IN WITNESS THEREOF, the Council of the City of Coatesville has adopted and approved this Resolution this 26th day of October, 2009.


Martin Eggleston, President
City Council

Attest:

Harry G. Walker
City Manager

I HEREBY CERTIFY that the foregoing is a true and correct copy of the said Resolution duly adopted at a regular meeting of City Council held on October 26th, 2009 and recorded in the minutes as such.

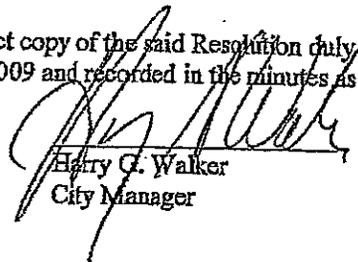

Harry G. Walker
City Manager

Exhibit A

CITY OF COATESVILLE FIRE FIGHTERS' PENSION PLAN

Adopted Effective As Of May 12, 2008

Restated Effective As Of January 1, 2009

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**CITY OF COATESVILLE
FIRE FIGHTERS' PENSION PLAN**

Adopted Effective As Of May 12, 2008

Restated Effective As Of January 1, 2009

WHEREAS, pursuant to the Third Class City Code enacted by the General Assembly of the Commonwealth of Pennsylvania on June 23, 1931 (P.L. 932, No. 317), as reenacted and amended on June 28, 1951 (P.L. 662, No. 164), and as further amended from time to time (the "Third Class City Code"), the City of Coatesville ("City") established the City of Coatesville Fire Fighters' Pension Plan ("Plan") effective May 12, 2008 by Ordinance Number 1304-2008 of the Coatesville Code ("City Code"); and

WHEREAS, pursuant to the Municipal Pension Plan Funding Standard and Recovery Act, act of December 18, 1984, P.L. 1005 no. 205, as amended, 53 P.S. §895.101, *et seq.* ("Act 205"), the Plan is funded by way of contributions from the Treasurer of the Commonwealth of Pennsylvania ("Commonwealth"), the City and from Fire Fighters;

WHEREAS, so that the Members of the Plan may enjoy favorable tax treatment of contributions to the Plan, the City desires and intends that the Plan shall comply with those qualification requirements of the Internal Revenue Code of 1986, as amended from time to time, as are applicable to governmental plans; and

WHEREAS, the City and the Fire Fighters employed by the City have engaged in collective bargaining negotiations regarding the pension benefits to be provided under the Plan, and those negotiations are reflected in a collective bargaining agreement agreed to by the City and the Fire Fighters ("CBA"); and

WHEREAS, the City and the Fire Fighters have agreed to establish a formal plan of benefits under the Plan that reflects the provisions of, and is consistent with, the Third Class City Code, Act 205, the City Code, and the CBA;

NOW THEREFORE, the plan of benefits of the Plan is hereby established in its entirety effective January 1, 2009 as herein set forth.

ARTICLE I

PENSION PLAN AND PENSION FUND

1.1 Establishment of Plan. The City hereby establishes this formal plan of benefits as a continuation of the Plan originally effective as of May 12, 2008 for the benefit of full time Fire Fighters employed by the City who have satisfactorily passed a probationary period. The Plan shall be known as the "City of Coatesville Fire Fighters' Pension Plan" ("Plan"). The original effective date of the Plan is May 12, 2008 ("Effective Date").

1.2 Establishment of Fund. The City hereby establishes a formal pension fund as a continuation of the pension fund originally effective as of May 12, 2008 for the benefit of Fire Fighters employed by the City who shall have satisfactorily passed his probation period. The Fund shall be known as the "City of Coatesville Fire Fighters' Fund" ("Fund"). Member Contributions, annual appropriations by the City, and annual appropriations from the Commonwealth shall be paid into the Fund.

1.3 Assets and Liabilities. All assets set aside in the Fund shall be used for the exclusive purpose of providing pension benefits under this Plan for Members and for permitted administrative expenses. All pension benefits paid to Members shall be paid from the Fund. No money shall be paid out of the Fund except for the purpose of paying pension benefits in accordance with the Plan and permitted administrative expenses.

ARTICLE II

MEMBERSHIP

2.1 Fire Fighter. "Fire Fighter" means a full time fire fighter, and any regularly appointed fire fighter, who has satisfactorily passed his probationary period.

2.2 Member. "Member" means each Fire Fighter who was or becomes employed by the City on or after the Effective Date of this Plan. Upon appointment as a regular full time Fire Fighter, each Fire Fighter shall become a Member of the Plan and shall be obliged to make Member Contributions to the Fund. The Commission shall certify the acceptance of a new full time Fire Fighter as a Member of the Plan to the City Director of Finance, who shall thereafter make all necessary deductions for Member Contributions to the Fund.

2.3 Rights Affected. Any Fire Fighter who retired or was terminated from employment by the City prior to the Effective Date shall have no rights or benefits under this Plan. Any Fire Fighter who becomes employed by the City on or after the Effective Date shall have his rights and benefits determined under the terms of this Plan.

2.4 Membership After Reemployment. A Member whose employment is terminated, and who is later rehired as a Fire Fighter shall resume his Membership in the Plan as of his reemployment date, subject to the provisions of Section 3.9 of this Plan (Refund of Member Contributions) and Section 3.10 of the Plan (Reemployment After Refund of Member Contributions).

2.5 USERRA Coverage.

(a) "USERRA" shall mean the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended from time to time.

(b) Contributions by the Commonwealth and the City, Member Contributions, and Years of Service under this Plan with respect to any period during which a Member is absent from work due to Military Service (either because he was inducted or because he volunteered for Military Service) shall be determined in accordance with section 414(u) of the Internal Revenue Code.

ARTICLE III
CONTRIBUTIONS

3.1 Source of Contributions. The Fund shall be comprised of and maintained by the following contributions:

- (a) Annual appropriations to the Fund made by the Commonwealth in accordance with Act 205, as further described in Section 3.4;
- (b) Annual appropriations to the Fund made by the City, in accordance with Act 205, as further described in Section 3.5; and
- (c) Contributions by Members in accordance with the Third Class City Code, the City Code and the CBA, as further described in Section 3.6.

3.2 Exclusive Purpose. All contributions to the Fund, regardless of source, shall be deemed to be a part of the Fund and shall not be applied to any other pension fund or account or disbursed in any manner, except as provided herein. Payments for pension benefits under the Plan shall be a charge only upon the Fund and not upon other moneys or funds of the City.

3.3 Role of Actuary.

- (a) Approved Actuary. An Approved Actuary is a person who has at least five years of actuarial experience with public pension plans and who is either enrolled as a member of the American Academy of Actuaries or enrolled as an actuary pursuant to the Employee Retirement Income Security Act of 1974.
- (b) Employment of Approved Actuary. Commission shall, from time to time, employ an Approved Actuary at a compensation to be determined by the Commission.
- (c) Duties of Actuary. The Approved Actuary employed by the Commission shall provide the following services on behalf of the Plan:

- (1) Prepare all required actuarial studies, in accordance with all applicable laws, including but not limited to Act 205;
- (2) Determine the Financial Requirements of the Plan, the Plan's Normal Cost, and the Plan's Allowable Administrative Expenses in accordance with Act 205 for each Plan year; and
- (3) Determine the amount of the City's Minimum Municipal Obligation for each Plan year after taking into consideration the amount contributed by the Commonwealth Treasurer and anticipated Member Contributions; and
- (4) Such other reasonable and necessary actuarial services as the Commission shall direct.

3.4 Commonwealth Contributions.

- (a) Pursuant to Section 302 of Act 205, the Commonwealth Treasurer shall deliver to the City Director of Finance the Commonwealth's annual pension funding contribution intended to satisfy the "Financial Requirements of the Plan" as further defined below. Payments from the Commonwealth Treasurer shall be delivered by the City Director of Finance to the Fund within the statutory time period following receipt by the City Director of Finance.
- (b) The annual contribution made by the Commonwealth Treasurer to the City Director of Finance pursuant to Act 205 for pension benefits under the Plan shall be based on the most recent actuarial report prepared in accordance with Chapter 2 of Act 205.
- (c) Unless the assets of the Plan equal the present value of future benefits as reported pursuant to Section 202(b)(2) of Act 205, the Financial Requirements of the Plan shall be the Plan's "Normal Cost" as defined in Section 102 of Act 205 and the Plan's "Allowable Administrative Expenses" as defined in Section 402 of Act 205 and Auditor General Municipal

Pension Bulletin No. 1-88 for the following Plan year. The Financial Requirements of the Plan, however, shall be at least equal to the annual amount of pension benefits anticipated to be payable from the Plan for the following Plan year less the market value of the assets of the Plan as of the date on which the Financial Requirements of the Plan are determined.

(d) Allowable Administrative Expenses shall satisfy the following criteria:

- (1) The expense shall be directly associated with the Plan;
- (2) The Commission shall monitor any services provided to ensure that the expense is necessary, reasonable and beneficial to the Plan and Fund; and
- (3) Appropriate records of expenses are kept as necessary for the Auditor General audit.

Any administrative expenses that do not satisfy the foregoing criteria shall be provided for by appropriation made by the City Council of the City.

(e) The Normal Cost and Allowable Administrative Expenses for the following Plan year shall be expressed as a dollar amount and shall be determined by applying the Normal Cost of the Plan and the Allowable Administrative Expenses payable from the assets of the Plan, as reported in the actuarial valuation report of the Plan and expressed as a percentage of payroll, to the payroll of the active membership of the Plan as of the date the Financial Requirements of the Plan are determined.

(f) The amortization contribution requirement for the following Plan year shall be expressed as a dollar amount and shall be the additional amount reported in the actuarial valuation report of the Plan as sufficient to amortize on a level dollar basis the various increments of the unfunded actuarial accrued liability of the Plan by the applicable amortization target dates as established in Section 202(b)(4) of Act 205.

3.5 City Contributions.

(a) Pursuant to Section 302 of Act 205, the City shall contribute an amount equal to the "Minimum Municipal Obligation" which amount shall be determined annually by the Plan's Approved Actuary. The Minimum Municipal Obligation shall be equal to the Financial Requirements of the Plan reduced by the following amount:

(1) The amount of any Member contributions anticipated as receivable for the following year; and

(2) If the actuarial value of the assets of the Plan exceed the actuarial accrued liability of the Plan, an amount equal to one-tenth of the amount by which the actuarial value exceeds the actuarial accrued liability.

(b) The City shall provide for appropriation of the Minimum Municipal Obligation annually in the City's budget payable from the revenue of the City on or before December 31st of each year.

(c) Any amount of the Minimum Municipal Obligation that remains unpaid as of December 31st of the year in which the Minimum Municipal Obligation is due shall be added to the Minimum Municipal Obligation of the City for the following year, with interest from January 1 of the year in which the Minimum Municipal Obligation was first due until the date the payment is paid at a rate equal to the interest assumption used for the actuarial valuation report or the discount rate applicable to Treasury bills issued by the Department of Treasury of the United States with a six month maturity as of the last business day in December of the year in which the obligation was due, whichever is greater, expressed as a monthly rate and compounded monthly.

3.6 Member Contributions.

(a) Obligation to Contribute. Each Member shall contribute "Retirement Contributions" and "Service Increment Contributions" to the Fund.

(b) Retirement Contributions. Pursuant to the CBA, Section 38-25 of the City Code, and Section 4320 of the Third Class City Code, each Member shall contribute, by way of a monthly payroll deduction beginning as of the first day of the Member's employment as a Fire Fighter, a Retirement Contribution to the Fund equal to five percent (5%) of the Member's annual Salary. From time to time, the amount of Required Contributions may be changed by a resolution of the City Council in accordance with the CBA which revision shall be based upon actuarial recommendations and shall be a result of collective bargaining negotiations.

(c) Service Increment Contributions. Pursuant to Section 4322(b)(2) of the Third Class City Code and the CBA, each Member shall contribute a Service Increment Contribution, by way of a monthly payroll deduction beginning as of the first day of the Member's employment, and ending as of the month that the Member attains age sixty-five (65), equal to ONE DOLLAR (\$1.00) per month.

3.7 Payroll Deductions. The City's Director of Finance is hereby authorized and directed to establish and maintain a system of payroll deductions to be deposited in the Fund in accordance with the terms of the Plan.

3.8 Reduction or Elimination of Member Contributions. Member Contributions may be reduced or eliminated if the following conditions are met:

(a) A current actuarial study indicates that the condition of the Plan is such that the Fund remains actuarially sound without the reduced or eliminated Member Contributions;

(b) An appropriation by the City will not be required to keep the Fund actuarially sound;

(c) The City Council authorizes by ordinance or resolution, on an annual basis, any reduction or elimination of Member Contributions; and

(d) The reduction or elimination of Member Contributions will not cause an actuarial reduction in pension benefits under the Plan.

3.9 Refund of Member Contributions.

(a) Entitlement to Refund. Any Member who, for any reason whatsoever, shall be ineligible to receive pension benefits under this Plan shall be entitled to a refund of his Member Contributions to the Fund upon the Member's termination of employment with the City.

(b) Amount of Refund. All refunds of Member Contributions shall be equal to the total amount of Member Contributions contributed pursuant to Sections 3.6, without interest.

(c) Form of Payment. All refunds of Member Contributions shall be in the form of a single lump sum payment.

(d) Death of Member. If a Member dies before the Member becomes eligible for a benefit under the Plan, and the Member's death was not in service to the City as a Fire Fighter, the City shall refund the Member Contributions described in Section 3.6 to the Member's surviving Spouse, or if none, to the Member's minor children, or if none, to the Member's estate. If the Member dies in service to the City as a Fire Fighter, the Member's Survivor shall receive the Survivor Benefit described in Section 4.4 of the Plan.

(e) Termination of Plan. If the Plan is terminated, each Member's right to his Member Contributions shall be nonforfeitable. Members shall be entitled to receive their nonforfeitable Member Contributions in accordance with the terms of the Plan.

3.10 Reemployment After Refund of Member Contributions. A Member who terminates employment with the City and receives a refund of his Member Contributions, and who later is reemployed by the City as a Fire Fighter shall be eligible to participate in the Plan as a Member as follows:

(a) The Member must complete twenty (20) Years of Service from his date of reemployment to be eligible for a Normal Retirement Benefit, unless the Member returns the Member Contributions to the Plan that he received as a refund within ninety (90) days of the Member's reemployment with the City.

(b) If the Member timely returns the Member Contributions to the Plan that he received as a refund within ninety (90) days of reemployment, the Member's Years of Service shall be computed taking into account any prior Years of Service before his termination of employment and any Years of Service after his reemployment, but excluding any period when the Member was not employed by the City as a Fire Fighter. Such service shall be considered "continuous" for purposes of satisfying the minimum service requirement set forth in Section 4.3(a).

ARTICLE IV

RETIREMENT BENEFITS

4.1 Year of Service.

(a) A Member shall be credited with one full Year of Service for each 365 completed days of employment beginning on the Member's date of employment or reemployment as a Fire Fighter with the City, and ending on the next following annual anniversary thereof. A Member shall be credited with a partial Year of Service based on the number of completed months of employment within any 365 day period beginning on the Member's date of employment, reemployment, or annual anniversary thereof and ending on the Member's date of termination or retirement.

(b) Subject to Section 4.1(c) below, a Member's total Years of Service shall be calculated from his date of employment or reemployment with the City as a Fire Fighter to his date of separation from employment or retirement from the City, whichever is earlier.

(c) The following periods of time shall not interrupt the continuity of a Member's Years of Service:

- (1) Paid and unpaid time off;
- (2) Paid or unpaid leaves of absence;
- (3) Suspension from duty for cause, except that any period of suspension from duty for misconduct shall not be included in the computation of a Member's Years of Service for purposes of satisfying the minimum service requirement in Section 4.3(a); and
- (4) Military Service in time of war or in a national or state emergency on behalf of the United States or the Commonwealth of Pennsylvania.

(d) Family Medical Leave Act. A Member shall be credited with completed days of employment for purposes of determining the Member's Years of Service for any period during which he is absent from work under the Family and Medical Leave Act of 1993.

(e) Military Service. A Member may purchase up to five (5) Years of Service for active Military Service which service occurred before the Member became employed by the City as a Fire Fighter. To purchase such Years of Service, the Member must contribute an amount to the Fund equal to the Member Contributions and City Contributions that would have otherwise been payable for such Years of Service.

4.2 Salary.

(a) Salary. A Member's Salary is his fixed basic rate of compensation paid at regular, periodic intervals by the City. Salary does not include any additional compensation or remuneration for additional hours worked for which a Member is paid beyond his basic rate of pay.

(b) Final Salary. A Member's Final Salary to be used for calculating his Retirement Benefit in accordance with Section 4.3(c) shall be the greater of:

- (1) the Member's highest average annual Salary during any sixty (60) months of employment preceding retirement; or
- (2) the Member's monthly Salary at retirement.

4.3 Normal Retirement Benefit.

(a) Eligibility. A Member shall be eligible to receive a Normal Retirement Benefit when the Member attains age fifty (50) and completes a minimum of twenty (20) continuous Years of Service.

(b) Amount. The amount of a Member's monthly Normal Retirement Benefit shall be the sum of his monthly "Retirement Benefit" and his monthly "Service Increment Benefit," payable until the death of the Member.

(c) Retirement Benefit. A Member's monthly Retirement Benefit shall be an amount equal to fifty percent (50%) of the Member's Final Salary computed at the monthly or average annual rate, whichever is higher.

(d) Service Increment Benefit.

(1) A Member who completes twenty (20) Years of Service shall receive a monthly Service Increment Benefit equal to the product of .025% of the Member's Retirement Benefit multiplied by the Member's total whole Years of Service, including Years of Service credited for Military Service, in excess of twenty (20) Years of Service that the Member rendered before attaining age sixty-five (65). In no event shall the Service Increment Benefit exceed \$100.

(2) Any Member who, as of the effective date of Section 4322(b)(3) of the Third Class City Code, has already attained age sixty-five (65) shall have his Service Increment Benefit computed on the Years of Service prior to the date the Member attained age sixty-five (65).

4.4 Survivor Benefits.

(a) Eligibility. The Survivor of a Member shall be eligible for a Survivor Benefit, if, on the date of the Member's death, the Member:

- (1) was employed by the City as a Fire Fighter, was killed in the line of duty; or
- (2) was retired from the City as a Fire Fighter and receiving his monthly Normal Retirement Benefit, but the total monthly payments received by the Member at the time of his death was less than his total Member Contributions to the Fund.

(b) Survivor. "Survivor" means:

- (1) the surviving spouse of a Member; or
- (2) if no surviving spouse, the surviving minor children of a Member until reaching age eighteen (18); or
- (3) if the surviving spouse dies after a Member and the surviving children are under age eighteen (18), the surviving minor children of a Member until reaching age eighteen (18).

(c) Amount. The Survivor Benefit shall be a monthly benefit equal to the amount the Member:

- (1) would have been eligible to receive if the Member had been retired on the day of his death; or
- (2) was receiving at the time of his death.

(d) Duration. The Survivor Benefit shall be a monthly benefit commencing on the first day of the month following the month in which the Member died, and terminating as follows:

- (1) As of the date the surviving spouse dies, or
- (2) If applicable, when the last of the surviving minor children obtains age eighteen or dies, whichever event shall occur first.

(e) Limit. No Survivor Benefit shall be paid where the Member does not have a Survivor.

4.5 Cost of Living Adjustment. At any time, the City Council may, in its discretion, and upon the recommendation of the Commission, make a cost of living adjustment to the Retirement Benefit or the Service Increment Benefit of retired Members in conformity with a uniform scale, but the total of any such adjustment shall not at any time exceed one half (1/2) of the current salary paid Fire Fighters of the highest pay grade.

4.6 Forfeiture of Pension Benefits. After due notice and a hearing pursuant to procedures established by the Commission, the Commission shall have the right to forfeit a Member's right to pension benefits under the Plan for any of the following reasons:

- (a) The Member's conviction of a felony or misdemeanor;
- (b) The Member's becoming a habitual drunkard; or
- (c) The Member's failure to comply with general regulations relating to the management of the Fund, provided that such regulations state that a Member's failure to comply with such regulations shall result in the forfeiture of the Member's pension benefits under the Plan.

4.7 Post Retirement Service. All Members who retire under the terms of this Plan and who are receiving a pension benefit under the Plan shall be subject to temporary service from time to time as a firemen's reserve in cases of emergency until unfitted for such service when they may be finally discharged by reason of age or disability.

ARTICLE V

VESTING

5.1 Terminated Vested Member. A Member who terminates his employment with the City as a full-time Fire Fighter for any reason before completing twenty (20) Years of Service shall be entitled to his Accrued Normal Retirement Benefit payable beginning on his Superannuation Retirement Date, provided the Member satisfies the vesting requirements described in Section 5.2.

5.2 Vesting Requirements. A terminated Member may vest his Accrued Normal Retirement Benefit if he satisfies the following requirements:

(a) The Member completes a minimum of twelve (12) continuous Years of Service prior to his termination of employment;

(b) The Member files a written notice with the Commission expressing his intention to vest and stating the date that the Member intends to terminate his employment with the City as a Fire Fighter ("Notice to Vest");

(c) The date that the Member intends to terminate his employment is at least thirty (30) days after the Member files his Notice to Vest; and

(d) The Member is in good standing with the City's Fire Department on the day that the Member files the Notice to Vest.

5.3 Superannuation Retirement Date. The date a Member would have completed twenty (20) continuous Years of Service had the Member not terminated his employment with the City as a Fire Fighter.

5.4 Accrued Normal Retirement Benefit.

(a) A Member's Accrued Normal Retirement Benefit shall be determined by multiplying fifty percent (50%) of the Member's Final Average Monthly Salary by a fraction whose numerator is the Years of Service actually earned by the Member and whose denominator is the Years of Service required for the Member to reach his Superannuation Retirement Date.

SAMPLE CALCULATION

Actual Years of Service Earned	14
Years of Service required to meet Superannuation Date	20
Final Average Monthly Salary	\$1,500
Fifty percent of Final Average Monthly Salary	\$ 750
$\frac{14}{20} \times \$750$	= \$ 525
Accrued Normal Retirement Benefit	= \$ 525

(b) Upon receipt of a Member's Notice to Vest, the Commission shall note the Member's Final Average Monthly Salary on the Notice to Vest.

5.5 Commencement of Accrued Normal Retirement Benefit. A Member's Accrued Normal Retirement Benefit shall be payable as a monthly pension for the life of the Member beginning on the Member's Superannuation Retirement Date.

5.6 Refund. If a Member fails to satisfy the requirements for an Accrued Normal Retirement Benefit described in Section 5.2, such Member shall receive a single lump sum refund of his Member Contributions in accordance with Section 3.9.

ARTICLE VI.

MAXIMUM BENEFIT

6.1 Maximum Benefit. This Article shall be effective January 1, 2002, except as otherwise provided, and shall be construed to comply with the provisions of section 415 of the Internal Revenue Code and the regulations thereunder.

6.2 Applicable Mortality Table. "Applicable Mortality Table" shall mean at any time the "applicable mortality table" in effect under section 417(e)(3) of the Internal Revenue Code. Until January 1, 2009, the Applicable Mortality Table shall be:

- (a) the mortality table set forth in Rev. Rul. 95-6 (effective through December 30, 2002); or
- (b) the mortality table set forth in Rev. Rul. 2001-62 (effective December 31, 2002 through December 31, 2007); or
- (c) the mortality table set forth in Rev. Rul. 2007-67 (effective January 1, 2008).

After 2008, the Applicable Mortality Table shall be the mortality table designated by the Commissioner of Internal Revenue in a revenue ruling, notice, or other document of general applicability as the "applicable mortality table" under section 417(e)(3) of the Internal Revenue Code.

6.3 Limitation Compensation. "Limitation Compensation" shall mean for any Member the compensation taken into account in applying the annual benefit limit of section 415 of the Internal Revenue Code to the Member's benefit.

- (a) All remuneration that relates to a Member's employment with the City shall be included in determining a Member's Limitation Compensation. Limitation

Compensation shall include the Member's wages, salary, fees for professional services, and other amounts received for personal services rendered in the course of employment, regardless of whether an amount is paid in cash, including (but not limited to) bonuses, fringe benefits, reimbursements, and expense allowances.

(b) (1) To be included as Limitation Compensation for a given Limitation Year, an item of remuneration described in Subsection (a) must actually be paid or made available to the Member during that Limitation Year.

(2) Effective January 1, 2008, a Member's Limitation Compensation generally shall include only remuneration paid (or treated as paid) to him prior to his severance from employment (as defined in Treas. Reg. §1.415(a)-1(f)(5)). However, Limitation Compensation shall include any amounts paid to the Member after his severance from employment that may be included under Treas. Reg. §1.415(c)-2(e)(3).

(3) Effective January 1, 2008, to the extent that back pay represents wages and other amounts that would be included in Limitation Compensation under Subsection (a), such back pay shall be included in a Member's Limitation Compensation for the Limitation Year to which it relates (which will not necessarily be the Limitation Year in which it is paid).

(c) Limitation Compensation shall not include:

(1) employer contributions to a deferred compensation plan that are not elective contributions explicitly included in Limitation Compensation under Subsection (a);

(2) employer contributions to a simplified employee pension plan or a SIMPLE retirement account;

(3) distributions from a deferred compensation plan (whether or not qualified), except that any amounts received by a Member pursuant to an unfunded nonqualified

deferred compensation plan may be included in Limitation Compensation in the year that such amounts are received, to the extent that such amounts are includable in the Member's gross income;

(4) other amounts that receive special tax benefits, such as premiums for group term life insurance to the extent that they are not includable in gross income and are not salary reduction amounts under section 125 of the Internal Revenue Code; or

(5) any other similar items of remuneration.

(d) (1) Effective January 1, 2008, a Member's annual Limitation Compensation may not exceed the limit in effect under section 401(a)(17) of the Internal Revenue Code. This limit is \$230,000 for the Limitation Year beginning on January 1, 2008.

(2) The 401(a)(17) limit is adjusted annually for cost-of-living increases in accordance with section 401(a)(17)(B) of the Internal Revenue Code. The adjusted limit that applies to a given Limitation Year is the limit in effect for the calendar year that is coextensive with the Limitation Year.

6.4 Limitation Year. "Limitation Year" shall mean the calendar year.

6.5 Annual Benefit Limit. A Member's annual benefit, payable as a single life annuity shall in no event exceed the lesser of (a) or (b):

(a) (1) for the Limitation Year ending in 2002, \$160,000; and

(2) for a Limitation Year ending after 2002, \$160,000 as adjusted for cost-of-living increases in accordance with section 415(d) of the Internal Revenue Code; or

(B) one hundred percent (100%) of the Member's average Limitation Compensation during the three consecutive calendar years in which his Limitation Compensation is the highest.

6.6 Dollar Limit Where Benefit Commences Before Age 62. If a Member's pension benefit commencement date is before his 62nd birthday, the dollar limit described in Section 6.5 shall be reduced to its actuarial equivalent at his pension benefit commencement date. The actuarially reduced dollar limit shall be the lesser of (a) or (b):

(a) the dollar limit of Section 6.5(a) reduced to its actuarial equivalent at the Member's pension benefit commencement date using five percent (5%) interest and the Applicable Mortality Table (ignoring the mortality adjustment to the extent that a forfeiture does not occur at death); or

(b) the dollar limit of Section 6.5(a) multiplied by a fraction, the numerator of which is the annual amount of the single life annuity the Plan would pay to the Member at his pension benefit commencement date and the denominator of which is the annual amount of the single life annuity the Plan would pay to the Member at age 62.

6.7 Dollar Limit Where Benefit Commences After Age 65. If a Member's pension benefit commencement date is after his 65th birthday, the dollar limit of Section 6.5(a) shall be increased to its actuarial equivalent at his pension benefit commencement date. The actuarially increased dollar limit shall be the lesser of (a) or (b):

(a) the dollar limit of Section 6.5(a) increased to its actuarial equivalent at the Member's pension benefit commencement date using five percent (5%) interest and the Applicable Mortality Table (ignoring the mortality adjustment to the extent that a forfeiture does not occur at death); or

(b) the dollar limit of Section 6.5(a) multiplied by the adjustment ratio described in Treas. Reg. §1.415(b)-1(e)(2).

6.8 \$10,000 Rule. The foregoing notwithstanding, a Member's annual benefit shall be deemed not to exceed the annual benefit limit if:

(a) the Member's annual benefit does not exceed \$10,000 for the Limitation Year or for any prior Limitation Year, and

(b) the Member has never participated in a defined contribution plan maintained by the City.

6.9 Under 10 Years of Service. If a Member has fewer than 10 Years of Service, the average-compensation limit of Section 6.5(b) and the special \$10,000 limit of Section 6.7 shall be reduced by multiplying them by the Member's "Service Fraction." The numerator of the Service Fraction shall be the Member's Years of Service (or one, if greater) and the denominator shall be 10.

6.10 Plan Aggregation. For the purposes of applying the annual benefit limit, all defined benefit plans ever-maintained by the City, whether terminated or not, shall be treated as one defined benefit plan.

6.11 Repeal of Internal Revenue Code Section 415(e). Effective January 1, 2000, the provisions of section 415(e) of the Internal Revenue Code were repealed with respect to this Plan. The repeal of section 415(e) of the Internal Revenue Code resulted in an automatic benefit increase for a Member whose annual benefit was limited, before January 1, 2000, by the application of section 415(e) of the Internal Revenue Code.

6.12 EGTRRA Increase in Dollar Limit. The January 1, 2002 increase in the dollar limit under section 415(b)(1)(A) of the Internal Revenue Code will result in an automatic benefit increase for any Member who had an accrued benefit on December 31, 2001, if such accrued benefit was limited by section 415(b) of the Internal Revenue Code as in effect on December 31,

2001.

6.13 Transition Rules.

(a) GATT. In the case of a Member who began his membership in the Plan before January 1, 1995, the changes to section 415(b) of the Internal Revenue Code made by the Uruguay Round Agreements Act of 1994 (or "GATT") shall not reduce the benefit he accrued before the first day of the Limitation Year beginning in 1995.

(b) FINAL 415 REGULATIONS. In the case of a Member who began his membership in the Plan before January 1, 2008, the provisions of the April, 2007 final regulations under section 415 of the Internal Revenue Code shall not reduce the benefit that the Member accrued before January 1, 2008. Effective January 1, 2008, the sum of the benefits "grandfathered" under the preceding sentence and the benefits accrued after December 31, 2007, must satisfy the requirements of the 2007 final 415 regulations.

ARTICLE VII

ROLLOVERS

7.1 No Rollovers or Transfers Permitted. No Member shall be permitted to roll over or transfer funds to the Plan from an IRA, from another qualified retirement plan or trust, or from an annuity plan.

7.2 Direct Rollover Option.

(a) If a Member or a Member's Designated Beneficiary is to receive an "eligible rollover distribution" (as defined in Section 7.4), he may elect to have such distribution transferred directly in a direct rollover to an "eligible retirement plan" (as defined in Section 7.5).

(b) If a Member's non-spouse Designated Beneficiary is to receive an "eligible rollover distribution" (as defined in Section 7.4) after December 31, 2006, he may elect to have such distribution transferred directly in a direct rollover to an IRA. In the event of such a direct rollover, the IRA shall be treated as an inherited IRA, and the provisions of section 401(a)(9)(B) of the Internal Revenue Code (other than clause (iv) thereof) shall apply.

(c) If a Member or a Member's surviving spouse or an alternate payee under a QDRO is to receive an "eligible rollover distribution" (as defined in Section 7.4), he may elect to have such distribution transferred directly in a direct rollover to an "eligible retirement plan" (as defined in Section 7.5).

7.3 Amount. If a Member or a Member's Designated Beneficiary is to receive an eligible rollover distribution of more than \$500, he may choose to have part of the distribution transferred directly in a direct rollover, and to have the remainder paid to him. The amount that is to be transferred must be at least \$500.

7.4 Eligible Rollover Distribution. The term "eligible rollover distribution" shall mean a distribution from the Plan that is a single-sum payment (*i.e.* refund of Member Contributions).

7.5 Eligible Retirement Plan. An "eligible retirement plan" shall be:

- (a) an IRA or, after December 31, 2007, a Roth IRA (but not a SIMPLE or an education IRA);
- (b) a qualified trust if it is part of a defined contribution plan;
- (c) an annuity plan described in section 403(a) of the Internal Revenue Code;
- (d) an annuity contract described in section 403(b) of the Internal Revenue Code; or
- (e) an eligible deferred compensation plan described in section 457(b) of the Internal Revenue Code that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or political subdivision of a state, provided that the 457(b) plan agrees to separately account for amounts transferred into the 457(b) plan from this Plan.

7.6 Elections.

(a) The Commission shall provide to each individual who is to receive an eligible rollover distribution an explanation of his right to elect a direct rollover and the federal tax withholding consequences to him if he does not elect a direct rollover. The individual shall then have at least 30 days in which to elect a direct rollover. To the extent deemed appropriate by the Commission, the explanation of direct rollover rights and federal tax withholding consequences may be transmitted electronically, and elections may be made electronically.

(b) Distribution to a terminated Member may be made at any time after the Member has received the notice of his right to elect a direct rollover, if he waives his right to a

30-day election period.

(c) An individual who elects a direct rollover must provide all information that the Commission may require to complete the direct rollover. To the extent deemed appropriate by the Commission, this information may be provided electronically.

(d) A Participant who is entitled to elect a direct rollover with respect to an eligible rollover distribution, but who does not make any election, shall be deemed to have elected a direct rollover to an IRA selected by the Commission.

ARTICLE VIII

REQUIRED DISTRIBUTIONS

8.1 Commencement of Benefits. Distribution of a Member's benefits under this Plan shall commence no later than the Member's Mandatory Benefit Commencement Date.

8.2 Mandatory Benefit Commencement Date. A Member's Mandatory Benefit Commencement Date shall be the April 1st that follows the later of:

- (a) the end of the calendar year in which the Member attains age 70½, or
- (b) the end of the calendar year in which the Member's employment with the

City terminates.

ARTICLE IX

FIRE FIGHTERS' PENSION COMMISSION

9.1 Plan Sponsor. The plan sponsor of the Plan is the City. The Plan and the Fund shall at all times be under the direction and control of the City Council.

9.2 Commission. The City Council shall commit the custody and management of the Plan and the Fund to the City of Coatesville Fire Fighters' Pension Commission ("Commission") which Commission shall be the named fiduciary to whom the City shall delegate authority and responsibility to administer the Plan and control and manage the Fund. The Commission shall be responsible for the general administration of the Plan and the Fund under the policy guidance of the City and in accordance with the terms of the Plan and the requirements of the City Code and the Third Class City Code. The members of the Commission shall not be entitled to additional compensation for their service on the Commission.

9.3 Membership of the Commission. The members of the Commission shall be:

- (a) The President of the City Council whose membership on the Commission shall be concurrent with his tenure in office;
- (b) The City Manager whose membership on the Commission shall be concurrent with his tenure in office, or a City employee designated by the City Manager from time to time to serve in his place and stead;
- (c) The City Director of Finance whose membership on the Commission shall be concurrent with his tenure in office;
- (d) Two members of the Fire Department selected by the members of the Fire Department who shall serve for four year term; one of the initial members shall serve a two year

term; biennially thereafter, one member shall be chosen for a term of four years to take the place of the one whose term expires;

(e) A resident of the City, who shall serve a two year term and be appointed by the City Council pursuant to Section 2-504 of the Coatesville Home Rule Charter; and

(f) The Chief of the Bureau of Fire who shall serve as an *ex officio* member.

9.4 Officers of the Commission. The following members of the Commission shall serve as officers of the Commission as follows:

(a) The President of the City Council shall serve as the President of the Commission;

(b) The Fire Chief shall serve as the Vice-President of the Commission;

(c) The City Manager, or his designee, shall serve as the Secretary of the Commission; and

(d) The City Director of Finance shall serve as the Treasurer of the Commission.

9.5 Powers and Duties of the Commission.

(a) Powers. The Commission shall have all powers necessary to administer the Plan in accordance with its terms and applicable law, and shall also have discretionary authority to determine eligibility for participation or benefits and to construe the terms of the Plan. Any construction, interpretation, or application of the Plan by the Commission shall be final, conclusive, and binding on all persons.

(b) Duties. In addition to the duties and powers described elsewhere hereunder, the Commission shall have the following specific duties and powers:

(1) to delegate responsibility for the day to day management and administration of the Plan to an employee of the City who shall serve as the Claims Administrator of the Plan; the Claims Administrator shall administer the Plan in accordance with its terms and with the rules, regulations and procedures established by the Commission for the operation of the Plan, including claims procedures and appeals;

(2) to appoint a qualified and reputable banking or investment institution to serve as custodian of the Fund's assets held for investment; said custodian shall invest and reinvest Fund assets in such investments as are commonly called "legal investments for trust funds" as directed by the Commission; all custodial fees shall be paid by the Fund;

(3) to retain such consultants, accountants, attorneys, and actuaries as may be deemed necessary and desirable to render statements, reports, and advice with respect to the plan and to assist the Commission in complying with all applicable rules and regulations affecting the Plan. Any consultants, accountants, attorneys, and actuaries may be the same as those retained by the City;

(4) to establish uniform and nondiscriminatory rules and regulations for transaction of all matters necessary for the conduct of the business of the Plan and the Fund, including the time and place of Commission meetings, subject to the special provisions and regulations contained in the City Code, or such other ordinances as shall hereafter be adopted by the City relating thereto;

(5) to make all decisions on claims for benefits under the Plan and decide any appeals of denied claims for benefits under the Plan; or, for the refund of any Member Contributions to any person who may be entitled to the same under the Plan;

(6) to establish uniform and nondiscriminatory rules and regulations to carry out the provisions of the Plan;

(7) to resolve any questions or disputes relating to eligibility for participation or benefits under the Plan;

(8) to interpret the provisions of the Plan;

(9) to evaluate administrative procedures;

(10) to delegate such duties and powers as the Commission shall determine from time to time to any person(s);

(c) Limits

(1) No member of the Commission shall act in any matter solely affecting his own rights or benefits as a Member of the Plan; and

(2) Notwithstanding anything herein, the Commission shall not have the power to amend the terms of the Plan or take any action that would directly or indirectly increase the City's funding obligation under the Plan other than in the normal course of determining benefits under the Plan.

9.6 Functioning of the Commission.

(a) Records. The Commission and those persons or entities to whom the Commission has delegated responsibilities shall keep accurate records and minutes of meetings, interpretations, and decisions pertaining to the Commission's administration of the Plan.

(b) Meetings. The Commission shall meet at least quarterly at a stated time, or at such times as it may by resolution designate, or upon the call of the President of the Commission for the transaction of such Plan business as may properly come before it. A quorum shall consist of three (3) members of the Commission for the transaction of Plan business.

(c) Yoting. The action of the Commission shall be determined by the vote or other affirmative expression of a majority of Commission members present and voting at a meeting. All actions of the Commission shall be certified by its President and attested to by its Secretary.

9.7 Surety Bond. The Commission may require that the Treasurer of the Commission give a surety bond to the City, in a sum not less than double the probable amount of money that shall pass to the Treasurer, for the faithful performance of the Treasurer's duties. The City shall pay the premium on any such bond.

9.8 Annual Report. The Commission shall make an annual report to the City Council on the first Monday of January of each year of all receipts and disbursements of the Fund, and regarding any other matters pertaining to the administration of the Plan as should properly be embodied in such annual report.

9.9 Indemnification. The City shall indemnify and hold harmless from claims or liabilities arising from an individual's actions as a member of the Commission, except for those expenses and liabilities arising out of a member's own willful misconduct.

9.10 No Co-Fiduciary Responsibility. No member of the Commission shall be liable for any act or omission of any other member of the Commission, nor for any act or omission on his own part, except for his own willful misconduct.

9.11 Claims. To apply for a pension benefit under the Plan, a Member or his beneficiary must contact the City's Claims Administrator, and complete the application form in the manner deemed necessary by the Claims Administrator. The claimant must also provide any information deemed necessary by the Claims Administrator.

9.12 Appeals.

(a) In the event that the City's Claims Administrator denies, in whole or in part, a claim for benefits by a Member or his Spouse or beneficiary, the Claims Administrator shall furnish notice of the denial to the claimant, setting forth:

- (1) the specific reasons for the denial,
- (2) specific reference to the pertinent Plan provisions on which the denial is based,
- (3) a description of any additional information necessary for the claimant to perfect the claim and an explanation of why such information is necessary, and
- (4) appropriate information as to the steps to be taken if the claimant wishes to submit his claim for review.

(b) The notice described in Subsection (a) shall be forwarded to the claimant within 60 days of the Claims Administrator's receipt of the claim; provided, however, that in special circumstances the Claims Administrator may extend the response period for up to an additional 60 days, in which event it shall notify the claimant in writing of the extension, and shall specify the reason or reasons for the extension.

(c) Within 60 days of receipt of a notice of claim denial from the Claims Administrator, a claimant or his duly authorized representative may petition the Commission in writing for a full and fair review of the denial. The claimant or his duly authorized representative shall have the opportunity to review pertinent documents and to submit issues and comments in writing to the Commission. The Commission shall review the denial and shall communicate its decision and the reasons therefore to the claimant in writing within 60 days of receipt of the petition; provided, however, that in special circumstances the Commission may extend the

response period for up to an additional 60 days, in which event it shall notify the claimant in writing prior to the commencement of the extension.

(d) — The determination of the Commission on an appeal of a denied claim shall be final and binding and entitled to deference by any third party unless such determination is arbitrary and capricious.

ARTICLE X

MISCELLANEOUS

10.1 Qualified Domestic Relations Order. A Qualified Domestic Relations Order ("QDRO") means a domestic relations order which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a participant under the Plan. The Commission shall have the duty to determine whether any domestic relations order received by the Plan is a QDRO. To the extent provided in a QDRO, the former spouse of a Member shall be treated as the surviving spouse for purposes of this Plan, and any other spouse of the Member shall not have a spouse's rights under the Plan.

10.2 Spendthrift Clause.

(a) No benefit payable at any time under this Plan and interest or expectancy herein shall be anticipated, assigned, or alienated by any Member or Designated Beneficiary, or subject to attachment, garnishment, levy, execution, or other legal or equitable process, except for:

(1) an amount necessary to satisfy a federal tax levy made pursuant to section 6331 of the Internal Revenue Code;

(2) a benefit payable pursuant to a QDRO.

(b) Any attempt to alienate or assign a benefit hereunder, whether currently or hereafter payable, shall be void. No benefit shall in any manner be liable for or subject to the debts or liability of any Member or Designated Beneficiary. If any Member or Designated Beneficiary attempts to or does alienate or assign his benefit under the Plan or any part thereof, or, if by reason of his bankruptcy or other event occurring at any time such benefit would

devolve upon another or would not be enjoyed by him, then the Commission may terminate payment of such benefit and hold or apply it for the benefit of the Member or Designated Beneficiary.

10.3 Modification. The Plan and Fund established herein may be discontinued, modified, altered, terminated or repealed according to law, by Ordinance, provided Act 111 requirements have been met.

10.4 Gender. As used in this Plan, the masculine shall include the feminine and the feminine shall include the masculine.

10.5 Repeal of Prior Enactments. Any and all Ordinances and Resolutions heretofore enacted by the City Council providing for pensions and/or retirement benefits for Fire Fighters employed by the City are hereby repealed, and any Ordinance or Resolution or any part thereof conflicting with the provisions of this Plan shall be, and the same are, hereby repealed in so far as the same affects this Plan. Any Fire Fighter who shall have terminated employment before the Effective Date of this Plan and any dependent or beneficiary shall be entitled to the benefits, if any, they were previously receiving.

10.6 Severability of Provisions. The provisions of this Plan are severable, and if any section, sentence, clause, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any Court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses, parts, or provisions of this Plan. It is hereby declared to be the intent of the City Council that this Plan would have been adopted as if such illegal, invalid, or unconstitutional section, sentence, clause, part, or provision had not been included herein.

10.7 No Interest In Fund. No person shall have any interest in, or right to, any part of the principal or income of the Fund, except as and to the extent expressly provided in this Plan.

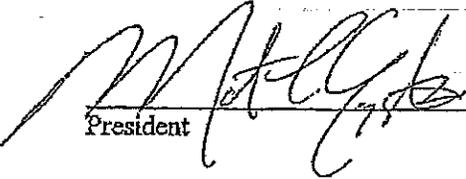
10.8 Beneficiary Designation. The Spouse of a married Member shall be the Member's Designated Beneficiary. If a Member does not have a Spouse, but does have children who are under age eighteen (18), the Member's minor children shall be his Designated Beneficiaries. A Member who does not have a Spouse or minor children may designate a beneficiary on a form and in the manner prescribed by the Commission. No designation, revocation, or change of beneficiary shall be valid and effective unless and until filed with the Commission. If a Member fails to designate a beneficiary, or if his Designated Beneficiary predeceases him or cannot be located by the Commission, the interest of the deceased Member shall be paid to the Member's estate.

10.9 Incapacity. If the Commission deems any Member, Survivor or beneficiary who is entitled to receive payment(s) hereunder to be incapable of receiving those payment(s) by reason of youth, illness, or infirmity or incapacity of any kind, the Commission may direct the Treasurer to make payment(s) to a relative or friend of the Member, Survivor or Designated Beneficiary for his benefit. Once a claim is made by a conservator or other individual who is legally charged with the care of the Member, Survivor or Designated Beneficiary, the payment(s) shall be paid to that conservator or other individual. Such payment shall completely discharge any and all liability of the City, the Commission, and the Fund with respect to the amount so paid.

10.10 Withholding. The Commission and the City shall have the right to withhold any and all local, state, and federal taxes that may (or must) be withheld in accordance with applicable law.

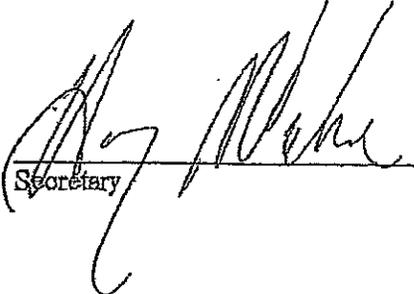
ENACTED AND ORDAINED this 26 day of October, 2009.

CITY COUNCIL
CITY GOATESVILLE



President

Attest:



Secretary

Exhibit B

AMENDMENT NO. 1
TO THE
CITY OF COATESVILLE
FIRE FIGHTERS' PENSION PLAN

WHEREAS, the City of Coatesville is a Chartered Third Class City in the Commonwealth of Pennsylvania (hereinafter the "City"); and,

WHEREAS, pursuant to the Third Class City Code and other applicable law, the City established the City of Coatesville Firefighters Pension Plan ("Plan"), effective as of May 12, 2008, by ordinance codified in Chapter 38 of the Administrative Code of the City of Coatesville; and,

WHEREAS, by Resolution No. 2009-27A dated October 26, 2009, the City adopted the City of Coatesville Fire Fighters' Pension Plan document ("Plan Document"), effective as of May 12, 2008, and restated as of January 1, 2009; and

WHEREAS, the City adopted Resolution No. 2011-~~04~~ dated January 10, 2011 to affirm its determination that the City shall "pick-up" Member contributions to the City of Coatesville Fire Fighters' Fund ("Fund") as of May 12, 2008 and thereafter, and that such Member contributions shall be treated as "employer" contributions pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986; and

WHEREAS, the City now wishes to amend the Plan Document to conform the Plan Document to Resolution No. 2011-~~05~~, and thereby cause the Plan Document to provide that the City shall "pick-up" Member contributions to the Fund as of May 12, 2008 and thereafter, and that such Member contributions shall be treated as "employer" contributions pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986.

NOW, THEREFORE, the Plan Document is hereby amended as follows:

I. Effective as of May 12, 2008, Article III is amended by adding the following new Section 3.11:

3.11 Pick-Up Contributions. Effective as of May 12, 2008, the City shall "pick-up" each Member's required contributions to the Fund. No member shall have the option to forego his obligation to make required contributions to the Fund, and receive an equal amount in compensation. A corresponding

reduction in the Member's salary shall be made in the amount of the picked-up Member contributions. For purposes of the Internal Revenue Code, such picked-up Member contributions shall be treated as employer contributions pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986.

IN WITNESS THEREOF, the Council of the City of Coatesville has authorized its duly appointed officers to execute this Amendment No. 1 this 10th day of January, 2011.


By: Karl Marling
President, City Council

Attest:


Wayne G. Reed
City Manager

Resolution No. 2011-05

**A RESOLUTION OF THE COUNCIL OF THE CITY OF COATESVILLE,
CHESTER COUNTY, PENNSYLVANIA, ADOPTING
AMENDMENT NO. 1 TO THE CITY OF COATESVILLE FIRE
FIGHTERS' PENSION PLAN TO PROVIDE THAT
THE CITY SHALL "PICK UP" MEMBER CONTRIBUTIONS**

WHEREAS, the City of Coatesville is a Chartered Third Class City in the Commonwealth of Pennsylvania (hereinafter the "City"); and,

WHEREAS, pursuant to the Third Class City Code and other applicable law, the City established the City of Coatesville Fire Fighters' Pension Plan ("Plan"), effective as of May 12, 2008, by ordinance codified in Chapter 38 of the Administrative Code of the City of Coatesville; and,

WHEREAS, by Resolution No. 2009-27A dated October 26, 2009, the City adopted the City of Coatesville Fire Fighters' Pension Plan document ("Plan Document"), effective as of May 12, 2008, and restated as of January 1, 2009; and

WHEREAS, the City now wishes to amend the Plan Document to conform the Plan Document to Resolution No. 2011-~~05~~ dated January 11, 2011, and thereby cause the Plan Document to provide that the City shall "pick-up" Member contributions to the Fund as of May 12, 2008 and thereafter, and that such Member contributions shall be treated as "employer" contributions pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986.

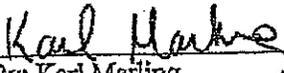
NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Coatesville, that Amendment No. 1 to the City of Coatesville Fire Fighters' Pension Plan is approved and adopted substantially in the form submitted to the undersigned and attached hereto.

BE IT FURTHER RESOLVED, by the Council of the City of Coatesville, that Amendment No. 1 is effective as of the dates set forth therein.

BE IT FURTHER RESOLVED, by the Council of the City of Coatesville, that the proper officers of the City are hereby authorized and directed to do all things necessary or desirable to implement Amendment No. 1.

reduction in the Member's salary shall be made in the amount of the picked-up Member contributions. For purposes of the Internal Revenue Code, such picked-up Member contributions shall be treated as employer contributions pursuant to Section 414(h)(2) of the Internal Revenue Code of 1986.

IN WITNESS THEREOF, the Council of the City of Coatesville has authorized its duly appointed officers to execute this Amendment No. 1 this 10th day of January, 2011.


By: Karl Marling
President, City Council

Attest:

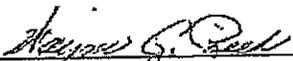

Wayne G. Reed
City Manager

Exhibit C

AMENDMENT NO. 2

TO THE

CITY OF COATESVILLE

FIRE FIGHTERS' PENSION PLAN

WHEREAS, the City of Coatesville is a Chartered Third Class City in the Commonwealth of Pennsylvania (hereinafter the "City"); and,

WHEREAS, pursuant to the Third Class City Code and other applicable law, the City established the City of Coatesville Fire Fighters' Pension Plan ("Plan"), effective as of May 12, 2008, by ordinance codified in Chapter 38 of the Administrative Code of the City of Coatesville; and,

WHEREAS, by Resolution No. 2009-27A dated October 26, 2009, the City adopted the City of Coatesville Fire Fighters' Pension Plan document ("Plan Document"), effective as of May 12, 2008, and restated as of January 1, 2009; and

WHEREAS, the City now wishes to amend the administrative provisions of the Plan Document regarding the functioning of the City of Coatesville Fire Fighters' Pension Commission ("Commission").

NOW, THEREFORE, the Plan Document is hereby amended as follows:

1. Effective as of May 12, 2008, Article IX is amended by adding flush language at the end thereof to read as follows:

All of the individuals named in Section 9.3(a)-(f) above shall have full voting rights in accordance with Section 9.6(c).

2. Effective as of November 28, 2016, Article IX is amended by deleting Section 9.6(b) in its entirety and replacing that section with a new Section 9.6(b) as follows:

9.6 Functioning of the Commission.

* * *

(b) Meetings. The Commission shall meet at least quarterly at a stated time, or at such times as it may by resolution designate, or upon the call of the President of the Commission for the transaction of such Plan business as may properly come before it. A quorum shall consist of four (4)

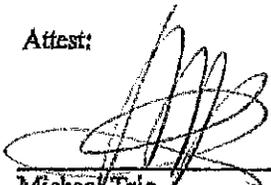
members of the Commission for the transaction of Plan business, provided that there shall only be a quorum if at least one member of the Fire Department (excluding the Fire Chief) selected to serve on the Commission in accordance with Section 9.3(d) is present at the meeting.

IN WITNESS WHEREOF, the Council of the City of Coatesville has authorized its duly appointed officers to execute this Amendment No. 2 this 28 day of November, 2016.

Linda Lavender-Norris

By: Linda Lavender-Norris
President, City Council

Attest:



Michael Trio
City Manager