

**AN AGREEMENT BETWEEN
AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, AFL CIO
AND ITS LOCAL UNION NO. 3919**

AND

THE CITY OF NEWARK, DELAWARE

January 1, 2024 – DECEMBER 31, 2026

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AFSCME NO. 3919

AGREEMENT

Entered into this 24 day of June, 2024 between the City of Newark, Delaware, hereinafter referred to as the Municipality, and the American Federation of State, County and Municipal Employees, AFL-CIO, and its Local Union No. 3919 hereinafter referred to as the Union.

ARTICLE I

1.0 PURPOSE

It is the purpose of this Agreement to promote and insure harmonious relations, cooperation and understanding between the Municipality and its employees covered hereby, to insure true collective bargaining, and to establish proper standards of wages, hours, working conditions and other conditions of employment.

1.1 UNION RECOGNITION

- A. The Municipality recognizes the American Federation of State, County and Municipal Employees, AFL-CIO and its Local No. 3919, as the sole and exclusive collective bargaining agent for the employees certified by the Department of Labor and Industrial Relations, State of Delaware for the purpose of collective bargaining with respect to rates of pay, wages, hours of employment and other conditions of employment in accordance with Title 19, Delaware Code, Chapter 13, Part I (New Case No. 9, January 20, 1966 - New Case No. 9a, March 31, 1966).
- B. For the purpose of this Agreement, the term "employee" or "employees" shall include all hourly, non-supervisory employees working in, the Electric Department; Public Works & Water Resources Maintenance Division; and Water Plant Operators, and in the bargaining unit covered hereby and excluding all other employees in the Municipality.
- C. The Union agrees that it will not accept into membership in this bargaining unit employees of the Municipality in the above excluded category.

1.2 PAYROLL DEDUCTION FOR DUES

- A. The Municipality agrees to deduct the periodic union membership dues uniformly required by the Union as a condition of retaining membership in accordance with the Constitution and By-Laws of the Union from the pay of employees who individually and voluntarily certify that they authorize such deductions and who execute the "Authorization for Check-off of Dues" form.
- B. For the purpose of this Article, the term "dues" shall not be deemed to include any fine, assessment, contributions or other forms of payment required from the American Federation of State, County and Municipal Employees, AFL-CIO members.
- C. Union members who individually and voluntarily certify that they authorize such deduction assign to the American Federation of State, County and Municipal Employees, AFL-CIO, from wages earned or to be earned from the Municipality as an employee, the regular periodic dues as may hereafter be established and become due to the Union as said membership dues in the Union.
- D. The American Federation of State, County, and Municipal Employees, AFL-CIO and the Local Union jointly and separately agree to indemnify and save harmless the Municipality from any payments the Municipality may be required to make for the purpose of complying with the provisions set forth in Paragraph 1.2 A of this section.
- E. On or before the fifteenth (15) of each month, the Union shall deliver to the Municipality additional executed "Authorization for Check-off of Dues" forms under which union membership dues for the current month are to be deducted. Dues deductions shall be made from pay earned. Such withholdings shall be transmitted by the Municipality with a list of those from whom such deductions have been made, to the duly elected Treasurer of the Union not later than the tenth (10th) day of the following month.

1.3 MANAGEMENT OF MUNICIPALITY

The parties recognize that an area of responsibility must be reserved to the management of the Municipality if it is to function effectively. It is agreed that the following responsibilities of management are specifically reserved to management and are not subject to collective bargaining, except where any of them concern wages, salaries, hours, vacations, sick leave, grievance procedures and other terms and conditions of employment specifically defined in this Agreement:

- The determination of the services and the standard of services to be rendered to the citizens of the Municipality
- The determination of the Municipality's financial organization, policies and accounting procedures;

- The determination of the duties to be included in job classifications (it is understood by the parties that every incidental duty connected with operations enumerated in job descriptions is not always specifically described; nevertheless, it is intended that all such duties shall be performed by the employees);
- The determination of the standards to be used in selection for employment;
- The sole right to hire;
- The determination of the number of men or women to be employed or retained in employment;
- The necessity for overtime and the amount of overtime required;
- The right to discipline and discharge employees for just cause;
- The determination of methods, means, and personnel by which the City's operations are to be conducted;
- The fulfillment of all of its legal responsibilities;
- All rights and responsibilities not specifically modified by this Agreement.

1.4 UNION SECURITY

- A. Employees covered by this Agreement shall, upon written execution of a voluntary dues authorization form, become members of the Union by tendering the periodic dues uniformly required as a condition of acquiring or retaining membership.
- B. The Union shall indemnify and save the City harmless against any and all claims, demands, suits or other forms of liability that may arise by reason of action taken or not taken by the employer for the purpose of complying with any of the provisions of this Article.

1.5 UNION REPRESENTATION

- A. The employees in this bargaining unit shall be represented for the purpose of grievance adjustment by a grievance committee of three (3) employee members including the President of Local No. 3919 who shall act as Chairman, the Steward of the aggrieved, and the aggrieved employee.
- B. The Municipality agrees to recognize the following Stewards:
 - One (1) Steward - Electric Department
 - One (1) Steward - Water Division
 - One (1) Steward - PWWR Maintenance Division

Only permanent employees in the bargaining unit shall serve as Officers or Stewards.

- C. Stewards, the Chairman of the Grievance Committee and Grievance Committee members may leave their place of work without loss of pay with the understanding that the time be devoted to the proper investigation and processing of grievances as specified in the Grievance Procedure herein, and the time so spent, to be paid for by the Municipality will be the time spent by the Stewards in the First (1st) Step of the Grievance Procedure, time so spent by the Chairman of the Grievance Committee in the Second (2nd) Step of the Grievance Procedure and time so spent by the Grievance Committee in the Third (3rd) Step of the Grievance Procedure at their respective straight time hourly rate.
- D. Stewards and the Chairman of the Grievance Committee will continue to work at their assigned jobs except when required to leave their work to handle grievances as provided herein.
- E. When required to process grievances under the Grievance Procedure, employees, Stewards, the Chairman of the Grievance Committee and Grievance Committee members shall, prior to leaving and upon returning to their place of work, notify their immediate foremen.
- F. Special meetings may be arranged by agreement between the Department Heads of the Municipality and the Union. The International Representative of the American Federation of State, County and Municipal Employees, AFL-CIO, if requested by the Local Union, may participate in special meetings called by the Union. The party requesting the special meeting will notify the other party, in writing, of the subject to be discussed.
- G. The size of the union negotiating committee shall be limited to no more than four (4) on-duty employees. No more than two (2) on-duty employees, excluding the president, may be from any one department.

1.6 STRIKES

During the term of this Agreement, the Union or Local or their representatives will not cause or sanction their members to cause or take part in any strike, sit-down, stay-in or slow-down, or other stoppage of work in any of the operations of the Municipality.

In the event of a work stoppage, picketing, or any other curtailment by the Union or the employees covered hereunder, the Union, by its Officers and Agents, shall immediately declare such work stoppage, picketing, or other curtailment, to be illegal and unauthorized, in writing, to the employees and order said employees, in writing, to stop

the said conduct and return to work. Copies of such written notices shall be served upon the City. The Union shall do everything in its power to obtain the return to work from said employees. Any violation of the requirements of this Section is grounds for immediate cancellation of this Agreement by the City.

The City shall have the sole and unlimited right to discipline including summary discharge, any employee who instigates, participates in, or gives leadership to any activity herein prohibited.

1.7 DISCRIMINATION AND COERCION

- A. Neither the Municipality nor any of its direct supervisor or other agents or representatives shall discriminate against any employee because such employee is a member of or acting as a Steward, Officer, or other agent or representative of the Union. Nothing in this Section is intended to prevent a supervisor, direct supervisor, or department head from discussing concerns regarding an employee's work-related problems.
- B. Neither the Union, nor any Steward, Officer, or other agent or representative of either shall intimidate or coerce any employee.
- C. The Municipality and the American Federation of State, County and Municipal Employees, AFL-CIO, have the policy and practice of non-discrimination in selection, employment, promotion, demotion, transfer, layoff, termination, recall, rehire, training and education of personnel regardless of their race, creed, color, national origin, handicapped status or sex. The application of this policy of non-discrimination will continue based solely upon the individual's ability, performance and potential in accordance with the policy of the Municipality and the terms of this collective bargaining Agreement.

ARTICLE II

2.0 GRIEVANCE PROCEDURE

Any grievance or dispute, which may arise between the parties, shall be settled in the following manner. However, disputes shall be fully exhausted after the reply from the City Manager or the City Manager's representative at Step Two (2). For the purpose of this Agreement, a grievance shall be defined as a disagreement, which may arise between the parties concerning the application, meaning or interpretation of this Agreement unless specifically excluded by this Agreement. A dispute shall, for the purposes of this Agreement, be defined as any disagreement, which may arise between the parties regarding matters other than those concerning the application, meaning or interpretation of this Agreement.

Time limits, as set forth herein, may be extended in writing by agreement of the parties.

INFORMAL MEETING

- A. Any employee having a grievance or dispute, or one designated member of a group having a grievance or dispute, should first, and within ten (10) working days of the date the employee knew or should have known of the cause for the grievance or dispute, take the matter up with the employee's direct supervisor who will attempt to adjust it; however, any employee may request his or her direct supervisor to call the Steward for that section to handle a specified grievance or dispute. The direct supervisor will send for the Steward without undue delay and without further discussion of the matter. The Steward may at this time privately discuss the grievance or dispute with the aggrieved.
- B. The direct supervisor and the employee(s), with or without the Steward shall have a respectful and professional discussion in an effort to resolve the issue presented by the grievance or dispute.

STEP ONE

- A. If the matter is not adjusted by the direct supervisor, it shall be reduced in writing on forms provided by the Municipality and signed by the employee(s) involved and the Steward. The grievance shall include a statement of the facts involved, the alleged violation of the Agreement (not applicable in the event of a dispute), and the remedy sought. The grievance shall be submitted to the employee's department director within three (3) working days after the employee and the direct supervisor meet.
- B. The department director, or his assigned, shall schedule a meeting within three (3) working days with the Chairman of the Grievance Committee to discuss the

appealed grievance or dispute. At the conclusion of such discussion, the department director shall submit the decision in writing on the form within three (3) working days and shall sign the written form.

STEP TWO

If the decision of the department head is unsatisfactory, the Union shall have the right through its Grievance Committee to appeal said grievance or dispute to the City Manager and/or the City Manager's representative(s). Request for such appeal meeting must be made to the City Manager in writing by the Chairman of the Grievance Committee within three (3) working days after the decision has been submitted by the department head to the Union in Step Two of the Grievance Procedure. The City Manager and/or the City Manager's representative(s) will arrange for a meeting within seven (7) working days from the date of receipt of appeal. This meeting shall also be attended by International Representatives of the American Federation of State, County and Municipal Employees, AFL-CIO. The City Manager and/or the City Manager's representative(s) shall submit a decision in writing within seven (7) working days following the appeal meeting and sign the written form.

2.1 ARBITRATION

STEP THREE: APPEAL TO ARBITRATOR

- A. In the event a grievance is still unsettled, it may be appealed to arbitration. Notice of appeal of such case to arbitration shall be filed by the Chairman of the Grievance Committee with the other party within ten (10) working days after the final decision has been given in writing by the Municipality in Step Three of the Grievance Procedure; otherwise, such case shall be considered settled on the basis of the decision so given.
- B. Any grievance arising out of or relating to the interpretation or application of the Agreement shall be submitted to arbitration under the Voluntary Labor Arbitration Rules of the American Arbitration Association. The parties further agree to accept the arbitrator's award as final and binding upon them. The cost of the arbitrator's fees and expenses shall be borne by the party against whom the arbitrator's decision is made. The arbitrator shall, in the decision, stipulate the party against whom the decision is made and all arbitration fees and expense invoices shall be directed to that party.
- C. The arbitrator shall render a decision no later than thirty (30) calendar days after the conclusion of the hearing. The arbitration award shall be in writing and shall set forth the arbitrator's opinion and conclusion on the issue(s) submitted. The arbitrator shall limit the decision strictly to the application and the interpretation of the provisions of the Agreement. Issues involving increased costs, which are

matters of contract negotiations, such as the development and modification of a system-wide salary schedule, are not arbitrable. The arbitrator shall be without power to make decisions limiting or interfering with the powers, duties and responsibilities of the City of Newark under its Charter, applicable law and rules and regulations having the force and effect of law.

- D. In case of a grievance involving any continuing or other money claim against the Municipality, no award shall be made by the arbitrator which shall allow any alleged accruals prior to the date when such grievance shall have been presented to the Municipality in writing, except in a case whereby the employee or the Union due to lack of knowledge could not have known prior to that date that there were grounds for a claim. In such cases, retroactive claims shall be limited to a period of twenty (20) calendar days prior to the date the claim was first filed in writing.
- E. Excluded from arbitration are disputes and unresolved grievances concerning the discipline or discharge of strikers who struck in violation of the No-Strike Pledge in this Agreement. Also excluded from arbitration is any matter otherwise subject to arbitration, but over which the Union strikes, contrary to its No-Strike Pledge in this Agreement. However, it is understood that should the City, in response to a violation of any of the prohibited activities enumerated in Article I, Section 1.6, Strikes, take the "disciplinary" and/or "immediate cancellation of this Agreement" action as provided for in Article I, Section 1.6, Strikes, that this contract Grievance Procedure including Arbitration as defined herein shall remain in effect for the sole and strictly limited purpose of allowing a procedural review and final determination of whether or not there had been any violation of any of the prohibited activities enumerated in Article I, Section 1.6, Strikes. Excluded from the arbitration are unadjusted grievances which question the exercise of rights set forth in Article I, Section 1.3 of this Agreement or which question the use or application of any right over which the employer is given unilateral discretion in this Agreement, excepting those rights relinquished by this Agreement.
- F. Any employee or group of employees seeking arbitration under the provisions of this Article agree that as a condition for the submission of any issue to arbitration, the grievant knowingly and willingly agrees to accept the contractually provided for arbitration procedure as satisfying any state or federally required procedural due process and to accept the decision of the arbitrator as dispositive of all substantive due process rights. If any employee or group of employees refuses to accept these terms and conditions, said grievance shall be ruled non-arbitrable. Should any state or federal legislation or court decision rule that any employee can maintain a court action and not be bound by the arbitrator's decision on issues actually raised or on issues that could have been raised, all subsequent issues of that type and kind shall no

longer be heard in arbitration. No grievance alleging violation of race, sex, color, religion, national origin or age (as provided by law) shall be subject to arbitration.

2.2 MUNICIPALITY GRIEVANCES

Any grievance which the Municipality may have against the Union involving the interpretation or application of this Agreement shall be presented to the Grievance Committee of the Union. In the event the matter is not satisfactorily adjusted within ten (10) days after such presentation, it may be appealed at the Third Step in the Grievance Procedure. If the matter is not satisfactorily settled at this meeting, it may be appealed to Arbitration as provided for in Section 2.1, Arbitration.

2.3 OBJECTIVITY

The Union is obligated when reviewing or submitting complaints, grievances, appeals, or problems encountered, to make every reasonable effort to ascertain, document, and present the true facts relating to the situation in order to facilitate appropriate and timely resolution or action.

2.4 COOPERATION

The Union agrees to cooperate with the employer, upon request, in formulating steps necessary to alleviate any abuses of responsibilities, rights, or privileges by employees of the unit, which impede the efficient operation of the Municipality.

2.5 GPS

The City implemented GPS units on fleet vehicles. The data collected by GPS units shall not be disciplinary in nature, rather may be considered information that may be reviewed and investigated relating to existing personnel policies. Information collected by GPS shall not be relied upon for disciplinary measures unless it is verified or corroborated.

2.6 COMMUNICATIONS

The City shall provide \$25.00 per month to eligible regular full-time or part-time employee for the personal use of the employee's cellular phone. The employee shall be required to possess a working device for telephonic calls or text messaging at no additional cost to the employer. The employee's personal device shall be the mechanism for the employer to contact during the work day, as well as off-hour call out situations.

At the sole discretion of the employer, an employee may be required to utilize their smart phone device during work, at which time the employer shall provide a \$50.00 per

month value in lieu of the \$25.00.

ARTICLE III – LEAVE OF ABSENCE

3.0 SICK AND EMERGENCY LEAVE

- A. Cumulative sick leave shall accrue to all regular, full-time City employees at the rate of one and one-quarter (1 1/4) days for each month of continuous service, provided however, that the total accumulation shall not exceed ninety (90) working days and provided further that the City Manager, or his assigned, may require a medical certification for all absences of three (3) or more days. The City Manager, or his assigned, may permit a regular, full-time employee to take not more than thirty (30) working days sick leave with pay over and above the accrued sick leave in cases of serious disability or sickness, upon certification by a practicing physician. All sick leave advanced to a regular, full-time employee shall be repaid to the City at the rate of one and one-quarter (1 1/4) days for each continuous month of service occurring after the return to duty. Should a regular, full-time employee leave City employment with a sick time advance liability against his or her record, such liability will be deducted from accrued earnings. Note: nothing herein shall prevent the City from requesting a medical note for events that are determined to be systematically excessive or abusive.
- B. If a regular, full-time employee takes nine (9) or more days of sick leave in a calendar year, five (5) days of sick leave will be deducted from the employee's accrued sick leave balance as of January 1 of the following calendar year. If all or part of the nine (9) or more days of sick leave is a result of the employee's hospitalization or a serious or catastrophic illness, the employee may request that the five (5) day penalty provision be waived. This request shall be made in writing, accompanied by appropriate medical documentation, and shall be reviewed by a four (4) member board composed of two employees appointed by the City Manager and two employees from the Union appointed by the President of the Union. The board's decision on the granting of such waivers shall be final except that the employee may appeal the decision of the board to the City Manager as a dispute under the provisions of Article II of this Agreement.
- C. A regular, full-time employee with good attendance during the calendar year will be credited with three (3) additional days of sick leave at the beginning of the following calendar year. Good attendance shall be defined as less than five (5) sick leave days. These additional sick leave days will be added to the employee's accrued sick leave bank. For sick leave pay back purposes, these additional sick leave days shall be credited at the end of the calendar year of good attendance. Each employee who has enrolled in the Sick Leave/Pension Incentive Plan shall not be eligible for the Sick Leave Accrual Bonus provided by this Section.

D. To receive compensation for sick leave for either the employee or the employee's parent, spouse, dependent child, it is the regular, full-time employee's responsibility to report his or her inability to be on duty and the reason at as early an hour as is practical, but in any event, not later than one-half (1/2) hour after the time set for the beginning of his or her daily duties. Where someone other than the employee is or has been asked to make the required notification to the City, the employee will be solely responsible for that notification being made. Sick leave notification as outlined herein must be made for each work day that paid leave is being requested, unless this requirement is waived by the employee's department director or immediate supervisor. Employees may request a meeting with the City Manager and/or the City Manager's designee to explain extenuating circumstances for failure to report their inability to be on duty as required. The City Manager, after considering such extenuating circumstances, may grant compensation for such leave.

E. SICK PAYMENT AT RETIREMENT

An employee who is retirement eligible may utilize up to four (4) weeks of accrued time off after final day worked. After the employee announces his or her retirement, a separation letter will be generated. No later than four (4) weeks the employee shall be considered an 'active retiree' and commence retirement benefits. The employee shall be paid for up to one-hundred fifty (150) hours of Available Accrued Sick Time, and the employee shall complete a retirement form that will submit their last day worked and method of Sick Time payment. No prorated vacation or pension credit accruals shall occur after the actual last day worked.

F. EMERGENCY LEAVE

Each regular, full-time employee may be allowed to use up to a maximum of three (3) day off work with pay per calendar year to attend to a serious, sudden and unforeseen nature, which require the employee's immediate attention. Such situations may include an unforeseen illness or medical emergency to an immediate family member, or an unforeseen incident to the employee's principal residence. Immediate family shall be defined as Article III, Section 3.1 Death in Family.

G. Provided, further that on January 1 or as soon after as practical of each calendar year, each regular, full-time employee shall be paid at the rate of one (1) day of base pay for each three (3) days of sick leave over the allowable ninety (90) days accumulated during the preceding year. Each regular, full-time employee who has enrolled in the Sick Leave/Pension Incentive Plan shall not

be eligible to receive compensation for unused Sick Leave as provided by this Section.

- H. Provided, further, that if the City Manager delegates a subordinate to determine whether or not a medical certification is to be required from an employee who was alleged to be sick for three (3) or more days, the employee may appeal the decision of the delegate to the City Manager. Note: nothing herein shall prevent the City from requesting a medical note for events that are determined to be systematically excessive or abusive.
- I. Provided further, that it is understood that a regular, full-time employee's attendance record shall be the major criterion used by the City Manager in making a decision on the granting of advance sick leave or emergency leave to any employee requesting it and who meets the minimum requirements listed above. The determination of a good or poor attendance record shall remain within the City Manager's discretion and the City Manager will take extenuating circumstances into account.

3.1 DEATH IN FAMILY

When death occurs in any regular, full-time employee's immediate family, the employee will be excused on request up to five (5) days to attend the funeral and will be compensated at his straight time hourly rate for normal scheduled hours lost as follows:

The immediate family shall be defined to include employee's spouse, children, step-children, parents, brother, sister, step-brother, step-sister, step-mother, step-father, mother-in-law, step-mother-in-law, father-in-law, step-father-in-law, brother-in-law, step-brother-in-law, sister-in-law, step-sister-in-law, grandparents and grandchildren.

Each employee may be required by the Municipality to show proof of death and relationship. Except in extraordinary cases approved by the City Manager or their assigned, bereavement leave days must be taken consecutively and must commence within seven (7) days of the death of the immediate family member.

Employees may utilize sick leave contiguous to bereavement leave with the supervisor's approval, which shall not be unreasonably denied.

3.2 MILITARY PAY DIFFERENTIAL

A regular, full-time employee with one (1) or more years of service attending annual

encampments or training duty in the Armed Forces, State or National Guard or United States Reserves shall be granted a military pay differential for a period of up to ten (10) days annually. Any regular, full-time employee with one (1) year or more of service who is called for emergency duty with the Armed Forces, State or National Guard or United States Reserves shall be granted a military pay differential for a period of up to ten (10) days annually. The employee shall be given credited service for each ten (10) day period or portion thereof during which the employee is absent. Such military pay differential shall be the amount by which the employee's normal wages calculated on the basis of a work week up to a maximum of forty (40) hours which the employee has lost by virtue of such absence exceeds any pay received from the federal or state government. Such items as subsistence, rental and travel allowance shall not be included in determining pay received from the federal or state government. Seniority shall accumulate. Any employee required to take a military examination for the purpose of being inducted into the Armed Forces shall be paid for time off up to eight (8) hours.

3.3 MILITARY LEAVE

A regular, full-time employee who enters either active or inactive training duty or service in the Armed Forces of the United States under any applicable status, upon the termination of such service, will be reemployed by the Municipality in accordance with the provisions of the applicable statute, seniority permitting. As used in this paragraph "Armed Forces of the United States" is defined as and limited to the United States Army, Navy, Marine Corps, Air Force, Coast Guard, National Guard, Air National Guard or any reserve component unit thereof.

3.4 JURY DUTY – SUBPOENAED WITNESS

Recognizing it is the obligation of every citizen to serve when called upon to do so, each employee will be excused from work for jury duty or when subpoenaed as a witness.

Any regular, full-time employee who is called and reports for jury duty or as a witness under this paragraph shall be paid basic straight time hourly rate lost by employee by reason of such duty, for each day served as a jurist or witness on which the employee otherwise would be scheduled to work for the Municipality, up to a limit of eight (8) hours per day and forty (40) hours per week. Employee shall sign over any fee received for fulfilling jury duty, less documented parking expenses, and submit with his/her timesheet. This provision shall not apply to cases in which the employee is a party to the matter.

3.5 UNION CONVENTIONS

The City agrees to grant a leave of absence to no more than three (3) employees at any time to attend the regular biennial convention convened by AFSCME International Union,

Delaware Council 81, or the Delaware State Labor Council. The Union agrees to notify the City in writing prior to the use of this leave. This leave shall not exceed for the entire Union, ten (10) man days during any two (2) consecutive calendar years. Each employee shall only receive fifty percent (50%) of the employee's regular compensation while absent on this leave.

3.6 POLITICAL OR UNION OFFICE

Any employee with seniority who is elected or appointed to public office or elected to a permanent office in the American Federation of State, County and Municipal Employees, AFL-CIO or Local Union No. 3919, shall be granted a leave of absence without pay for a period of one (1) year. Such leave may be renewed at the option of the Municipality upon application by the employee. Seniority shall accumulate but not as criteria for holiday, vacation pay or other benefits as set forth herein.

3.7 PERSONAL LEAVE

A leave of absence without pay up to thirty (30) days may be granted for personal reasons to regular, full-time employees with seniority other than to seek or obtain employment elsewhere. A leave of absence without pay up to nine (9) months may be granted to regular, full-time employees with seniority for the purpose of attending a qualified educational institution for instructional purposes. Such leave of absence may not be renewed. Seniority shall continue to accumulate during the leave.

3.8 ABSENCE WITHOUT LEAVE

An absence of an employee from duty, including any absence for a single day or part of a day that is not authorized by the City in advance shall be deemed to be an absence without leave. Any such absence shall be without pay and may be subject to disciplinary action. In the absence of such disciplinary action, any employee who is absent for three (3) consecutive working days without leave shall be deemed to have quit.

Employees, however, may request a meeting with the City Manager and/or the City Manager's designee to explain extenuating circumstances for absence without leave. The City Manager, after considering such extenuating circumstances, may allow employees to return to work without discipline.

ARTICLE IV - OTHER BENEFITS

4.0 HOLIDAYS

- A. Hourly rated employees in the bargaining unit shall be paid for the following holidays:

New Year's Day	Three (3) Individual Days
Martin Luther King Day	Fourth of July
Presidents' Day	Labor Day
Good Friday	Thanksgiving Day
Memorial Day	Christmas Day
Juneteenth	

The holiday designated as "Individual Days" may be requested by an employee for any normal workday subject to the following provisions:

1. Advance notice of at least five (5) working days must be given, and the requested day shall be subject to the approval of the department head.
2. The department director will schedule "Individual Days" as nearly as possible as the employees desire giving preference to seniority, but the department head may find it necessary to schedule "Individual Days" to meet the needs of service requirements. "Individual Days" may be scheduled throughout the year but must be taken by December 31 in each year it is authorized or it will be lost in that year.

Employees can earn in a subsequent year a fourteenth (14th) floating paid holiday, known as a Community Service Day, by completing four (4) City-sponsored charitable events (for example, City-sponsored blood donations to Delmarva Blood Bank). A memorandum from the City Manager's Office shall designate acceptable activities and be updated by the City Manager's Office as needed.

- B. Provided: The regular, full-time employee must have worked the last scheduled workday prior to and the next scheduled workday after such holiday. However, payment for the holiday will be made if the regular, full-time employee has worked for the Municipality at any time within the fourteen (14) calendar days prior to the holiday and who is absent either or both such work days due to verified personal illness or emergency illness at home, death in the immediate family, because of being hospitalized or injury sustained on the job.

- C. Should any of the above holidays fall on Saturday, Friday will be observed as the holiday. If the holiday falls on Sunday, Monday will be observed as the holiday.
- D. Employees who are given holiday work assignments and then fail to report for and perform such work for any reason except, as set forth in Paragraph B of this section, shall not receive pay for the holiday.
- E. Each regular, part-time employee shall receive additional compensation for each holiday. The regular, part-time employee must have either performed regularly scheduled work or been on paid vacation leave during the week of the holiday to be eligible to receive Holiday Pay. Holiday Pay shall be in addition to any regular, hourly pay received by the employee for work performed on the holiday. Such compensation shall be known as Holiday Pay and shall be subject to the above-stated conditions. The amount of Holiday Pay shall be as follows:
 - 1. Each employee whose scheduled work and/or vacation leave is less than twenty (20) hours during a holiday week shall receive three (3) hours of base pay for the holiday.
 - 2. Each employee whose scheduled work and/or vacation leave is twenty (20) or more hours during a holiday week shall receive four (4) hours of base pay for the holiday.

4.1 VACATIONS

- A. Regular, full-time employees having less than twelve (12) months of continuous service shall be entitled to a vacation credit of one (1) day with pay for each month worked prior to January 1. Credit not to exceed ten (10) days.
- B. Regular, full-time employees having twelve (12) months of continuous service in any calendar year shall be entitled to ten (10) working days vacation with pay for each calendar year.
- C. Regular, full-time employees having five (5) or more years of continuous service shall be entitled to fifteen (15) working days vacation with pay each calendar year.
- D. Regular, full-time employees having ten (10) or more years of continuous service shall be entitled to twenty (20) working days vacation with pay each calendar year.

- E. Regular, full-time employees having twenty (20) years or more of continuous service shall be entitled to twenty-five (25) working days vacation with pay each calendar year.
- F. Regular, full-time employees with ten (10) or more years service may carry over and accumulate with current year vacation credits a maximum of ten (10) days. Said carryover vacation credit may be used concurrently with vacation earned for any following year.
- G. The department heads will schedule vacations as nearly as possible as employees desire giving preference to seniority, but the City may find it necessary to schedule vacations to meet the needs of service requirements. Vacations may be scheduled throughout the year but must be completed by December 31, except as provided in Section F above.
- H. If an employee terminates employment without giving the City two (2) weeks' notice, the employee shall not be paid for vacation time due.
- I. If an employee submits two (2) weeks' notice of resignation, the employee shall be paid for unused vacation time accrued to date.
- J. If an employee is discharged, laid off or dies, the employee or the employee's beneficiary shall be paid for vacation time accrued to date of termination.
- K. Each regular, part-time employee with less than ten (10) years of service as a part-time employee shall accrue .04 hours of vacation leave for each hour of regular work performed. Such accrual shall be continuous and shall not exceed forty (40) hours of vacation leave.
- L. Each regular, part-time employee with more than ten (10) years of service as a part-time employee shall accrue .06 hours of vacation leave for each hour of regular work performed. Such accrual shall be continuous and shall not exceed sixty (60) hours of vacation leave.

4.2 LONGEVITY PAY-TIME IN SERVICE – REGULAR, FULL-TIME EMPLOYEES ONLY

Effective January 1, 2017

After 10 Years	\$ 750 annually
After 15 Years	\$1,300 annually
After 20 Years	\$2,000 annually

4.3 SERVICE AWARD

- A. Each regular, full-time employee who has been employed by the City for at least ten (10) years as of December 1 shall receive additional compensation to be known as Service Award in an amount equal to two percent (2%) of the employee's monthly Base Salary as November 1 multiplied by the employee's years of service. Such payment shall be made on or about December 1 of each year.
- B. Each regular, part-time employee who has been employed by the City for at least ten (10) years as of December 1 shall receive additional compensation to be known as Service Award in an amount equal to two percent (2%) of the employee's Base Hourly Pay Rate as of November 1 multiplied by the employee's years of service multiplied by eighty (80). Such payment shall be made on or about December 1 of each year.

4.4 GROUP TERM LIFE INSURANCE

- A. Regular, full-time employees – The City shall provide group term life insurance coverage to each employee with a death benefit amount equal to two (2) times the employee's current annual base pay and longevity rates. The benefit shall not exceed one hundred fifty thousand dollars (\$150,000).
- B. Dependents – The City shall make available to each regular, full-time employee group dependent term life insurance coverage. Such coverage may be chosen at the employee's option. The employee shall pay the entire premium for such coverage.
- C. Retirees – Each regular, full-time employee who terminates employment and is eligible for the immediate receipt of a retirement pension benefit shall be provided with five thousand dollars (\$5,000) of group term life insurance coverage.

4.5 HOSPITAL–SURGICAL–MEDICAL PLAN

- A. The City will provide a group health insurance plan with benefits as determined by the Labor-Management Health and Dental Insurance Committee. The City shall pay the entire premium for employee only coverage. Each employee may opt for dependent coverage. Each employee who opts for dependent coverage shall pay the City through payroll deduction a portion of the premium for such dependent coverage expressed as a percentage of the difference between the premium rate for employee only coverage and the premium rate for the chosen dependent coverage as follows:

2014	17.5%
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B. There is hereby established a Labor–Management Health and Dental Insurance Committee. The purpose of the committee is to:

1. Select the City's health and dental insurance carrier(s).
2. Establish the design of the City's health and dental insurance plan(s).

The committee is to be comprised of two (2) representative of each of the following groups:

1. Management employees
2. AFSCME Local 1670 and Local 3919
3. FOP Lodge 4
4. CWA Local 1034, Branch 317

The committee will also include the Director of Finance and the City Manager or his designee. The Director of Finance and the City Manager will each have one (1) vote and each of the employee groups will also have one (1) vote. Four (4) votes will be required to approve any action by the committee. In the event that the committee vote results in a tie, the issue will be presented to all regular, full-time employees who will be allowed to cast a vote in a secret ballot on the issue.

The committee will meet on or about June 1 of each year to determine if the City will seek a renewal of the current health and/or dental insurance plans from the current carrier(s). If the committee decides not to seek a renewal from the current carrier(s), the committee will request proposals from other carriers based on the current plan design(s). The committee will decide if there are to be any changes to the design of these plans which will take effect on the following January 1.

- C. Any employee covered by health insurance by a spouse or other family member at a level of benefits comparable to or better than the City's health insurance shall not receive coverage under the City's policy. If the employee's alternate health insurance coverage ceases or is reduced to a level below the City's benefit coverage, then upon appropriate written notice by the employee, the City will include said employee in its health insurance policy.
- D. In the event of any change in an employee's status which affects the employee's health insurance coverage as provided by the City, the employee shall notify the City in writing of such change within thirty (30) calendar days. Such changes in status shall include but not be limited to marriage, divorce, birth or adoption of an eligible dependent, death of a spouse or dependent, or the initiation or cessation of other insurance coverage as specified in Paragraph D of this section.

E. Spousal Coordination (for employees hired on or after January 1, 2024)

Spouses of employees hired on or after January 1, 2024, who are eligible for health care coverage through their own employer are ineligible for coverage under the group health insurance plan(s) offered by the City.

4.5.1. RETIREE HEALTH INSURANCE (for employees hired before April 1, 2014)

A. Eligibility for retiree health insurance coverage.

1. Must terminate employment or die after August 2001.
2. Must be at least fifty-five (55) years of age and have completed at least twenty-five (25) years of service as a full-time employee, or
3. Must be at least fifty-five (55) years of age and the sum of age and years of service in a full-time position must be equal to or greater than eighty-five (85).

B. Each eligible retiree and the retiree's spouse shall be provided with health insurance coverage for life as follows:

1. The retiree and spouse may continue to participate in the City's group health insurance.
2. If the retiree and spouse continue participation in the City's group health insurance plan, the City will pay the premium for such coverage.
3. The retiree and spouse shall reimburse the City on a monthly basis for any premium payment which exceeds the allowance rate for the retiree and/or spouse.
4. The allowance rate for the retiree and/or spouse shall be:
 - a. Retiree – The non-Medicare premium rate in effect for a single employee on the date of the employee's retirement.
 - b. Spouse – Twelve dollars (\$12.00) per month multiplied by the retiree's years of service in a full-time position.

5. If the retiree and/or spouse fail(s) to reimburse the City within thirty (30) calendar days after the due date for reimbursement, the City may cancel health insurance coverage for the retiree and/or spouse.
6. If the retiree and/or spouse choose to obtain health insurance coverage from another source, the City will reimburse the retiree and spouse for such verifiable coverage up to the allowance rate.
7. Each retiree and/or spouse who chose, after March 29, 2006, to obtain health insurance coverage from another source, as provided by 4.51B6 above, shall be permitted to re-enroll in the City's plan at a later date, provided that the retiree and spouse have both remained continuously insured under another health plan for the twelve (12) month period immediately preceding their re-enrollment with the City.
8. The spouse of a retired employee may not continue health insurance coverage from the City if the retiree of said spouse has discontinued coverage, except in the case of the retiree's death.

4.5.2. RETIREE HEALTH INSURANCE (for employees hired after April 1, 2014)

- A. For employees hired after April 1, 2014, the City shall establish and maintain a Retirement Health Savings (RHS) plan to provide savings to be used towards purchase of post-retirement health insurance for the employee and dependents. The RHS shall be established and maintained by the City in accordance with federal rules and law.
 1. Each eligible employee shall contribute one percent (1%) of salary on a pre-tax basis bi-weekly to the RHS plan.
 2. Effective April 1, 2014, the City shall contribute Fifty Dollars (\$50.00) on a bi-weekly basis to the employee's RHS plan and such contributions shall increase One and One-Half Percent (1.5%) annually.
 3. Upon retirement eligibility, the employee may use the RHS funds to pay for eligible health insurance expense, which may include participation in the City's group health insurance.
 4. The employee's RHS account shall remain portable should the employee leave the City's employment. Funds in the RHS account may be used for eligible health insurance expenses, as governed by federal law and regulation.

5. The City and Union agree to mutually support GASB guidelines and standards for funding OPEB liability.

4.5.3. DENTAL PLAN

The City will provide a group dental insurance plan with benefits as determined by the Labor-Management Health and Dental Insurance Committee as stated in Section 4.5B, above.

4.6 RETIREMENT PLAN (for employees hired before April 1, 2014, or after April 1, 2024)

- A. The current retirement plan as established by present City Ordinance or future City Ordinance as pertaining to Local No. 3919 bargaining unit regular, full-time employees shall be continued for the term of this Agreement. The Union shall have representation on the Pension Committee.
- B. The City agrees to amend the pension plan ordinance in compliance with the tentative agreement dated July 19, 1999 and incorporated herein as Appendix D.
- C. The City agrees to amend the Pension Plan for regular, full-time employees represented by this agreement to provide for the pre-tax treatment of employee pension contributions effective February 12, 1990.
- D. All employees participating in the Defined Benefit Pension Plan as of March 31, 2024, shall continue to contribute 2 ½%. All employees entering the Defined Benefit Pension Plan on or after April 1, 2024, (including those entering pursuant to Section 4.6(E)) shall contribute 6%.
- E. Regular, full-time Employees in the Defined Contribution Plan hired between April 1, 2014, and January 1, 2024, shall have the option to buy service credit in the Defined Benefit Pension Plan, in whole month increments, using funds from the Defined Contribution Plan, and/or using other funds available to the Employee. Any excess funds will remain in the employee's defined contribution plan. However, no employee may purchase credit for more years of service than they are eligible for based on their date of hire. Employees will exercise this option by making a one-time irrevocable election to move to the defined benefit pension plan. Thereafter, employees will no longer be eligible to continue making contributions to, or otherwise participate in, the defined contribution plan. Employees will have a ten business day enrollment window. Employees shall be provided with an estimate of benefits under the defined benefit plan at least 20 days prior to the beginning of the enrollment window.

The estimate of benefits will be for informational purposes only and is subject to change based on market conditions.

- F. Employee retirement eligibility will be based on date of hire and actual service with the City, which may differ from the employees' defined benefit plan service credit.
- G. The City agrees to provide each regular, full-time employee with an annual statement of employee contributions and benefits.

4.6.1. RETIREMENT PLAN (for employees hired between April 1, 2014 and January 1, 2024)

- A. The City shall establish and maintain a defined contribution plan provided to regular, full-time employees hired between April 1, 2014 and January 1, 2024.
 - 1. The contributions from employees and the City shall be as follows, or as mutually agreed to in writing by the parties:
 - a. Employee contributes four percent (4%) minimum, matched by City with six percent (6%)
 - b. If employee contributes five percent (5%), matched by City with six and seventy-five hundredths percent (6.75%)
 - c. If employee contributes six percent (6%), matched by City with seven and one-half percent (7.5%)
 - 2. The employee contributions shall be deducted on a pre-tax basis
 - 3. The employee must designate his/her contribution level at time of hire. The contribution level designated by the employee shall be irrevocable, unless allowed under federal law or regulation.
 - 4. The employee shall vest twenty percent (20%) of their benefits per year of service and shall be one hundred percent (100%) vested after five (5) years of service.
 - 5. After five (5) years of service, if an employee did not maximize his/her pre-tax contribution of six percent (6%), the employee shall receive an additional seventy-five hundredths of a percent (0.75%) from the City in the 401(a) plan for each one percent (1%) contributed by the employee

into the available 457 Deferred Compensation plan. The existing maximum contributions for employee and employer, respectively, shall apply.

6. The City and Union agree to mutually support GASB guidelines and standards for funding pension liability.

4.7 DUPLICATE INSURANCE

Should the employer be obligated by law to contribute to a governmentally sponsored insurance program, national or otherwise, which duplicates the benefits provided by the employer under any insurance policies currently in effect as a result of this Agreement, it is the intent of the parties that the employer not be obligated to provide double

coverage, and to escape such double payments, the employer shall be permitted to cancel benefits or policies which duplicate, in whole or in part, compulsory governmentally sponsored insurance programs. The employer shall continue to provide those insurance benefits not duplicated.

4.8 LONG-TERM DISABILITY INSURANCE COVERAGE

The City shall provide each regular, full-time employee with LTD insurance coverage with a benefit of fifty percent (50%) of the employee's regular wages up to maximum benefit of four thousand dollars (\$4,000) per month. The City shall pay the entire premium for such coverage.

4.9 EMERGENCY CALL-OUT PAY

In the event a regular, full-time employee is called back for an emergency job after completing a regular shift and after having left the premises of the Municipality, the employee shall be paid the appropriate overtime rate stipulated in Article V, Section 5, provided the employee works four (4) or more hours. In the event the employee works less than four hours, the employee shall be paid the appropriate aforementioned overtime rate for the actual number of hours worked and, in addition, the employee shall receive straight time pay for the difference between the actual number of hours worked and four (4) hours.

Examples

<u>Actual Number of Hours Worked</u>	<u>Appropriate Overtime Rate</u>	<u>Call-Out Pay Calculation - Number of Straight Time Hours to be Paid</u>
4	Time and One-Half	4 hours at overtime rate = 6 hours

4	Double Time	4 hours at overtime rate = 8 hours
2 1/2	Time and One-Half	2 1/2 hours at overtime rate plus 1 1/2 hours at straight time = 5.25 hours
2 1/2	Double Time	2 1/2 hours at overtime rate plus 1 1/2 hours at straight time = 6.50 hours

4.10 STANDBY PAY

- A. A regular, full-time employee placed on Standby shall be paid a thirty-five percent (35%) premium based on straight time pay for the number of regular scheduled hours worked during the Standby period. Employees on Standby shall fall under the provisions of Section 4.9, Emergency Call-Out Pay, for all emergency call-outs while on Standby. Except as noted below (for failing to respond to an emergency call-out), an employee who is placed on Standby shall receive: (1) no less than four (4) hours pay at his straight time rate for Standby, or (2) the above defined standby premium, whichever is greater, but not both nor any combination of both.

Examples

Regular Hours Worked While on Standby Assignments	Call Out Hours Actually Worked While on Standby Assignment	Call Out Pay Calculation (O/T Based on 1 1/2 Rate)	Standby Premium	Total Hours
40	2	5	14	59
40	0	0	14	54
24	1	4.5	8.4	36.9
0	4	6	4	10

- B. A regular, full-time employee on standby who fails to respond to an emergency call-out within a reasonable period of time shall forfeit the current week's standby premium. Employees on Standby shall be responsible for informing the City of their whereabouts. An employee who has forfeited the Standby premium and guarantee for the current week is not relieved of Standby obligation for the remainder of the current week and shall remain available for call-out.
- C. When a call is received by the answering service involving "Code A" problems as defined in the answering service instructions, a Standby 1st Class Lineman shall be called. The Lineman shall be called in the order that they appear on the

standby list until one is reached. After listening to the complaint, the 1st Class Lineman may:

1. Proceed to the site of emergency.
2. Ask the answering service to call the Standby Assistant.

If additional assistance is needed, the Lineman shall call the answering service and instruct them as to how many employees will be needed. The answering service will then proceed to call the needed employees in the order that they appear on the standby list. This procedure may be changed as deemed necessary by the City but shall not be changed without prior notification to the Union and upon request without prior consultation with the Union.

4.11 MEAL ALLOWANCE

- A. In the event a regular, full-time employee is required to work overtime for periods exceeding four (4) hours, he will be given a meal break and the City will pay for the cost of a meal in an amount not to exceed ten dollars (\$10.00).

Meals will be paid only when accompanied by proper vouchers submitted by the direct supervisor and must be from establishments approved by the state for selling food.

- B. Time off for meals: Regular, full-time employees will be granted thirty (30) minutes time off with pay for the purpose of eating for each period of overtime worked exceeding four (4) hours. A regular, full-time employee unable to obtain the earned meal shall be paid an additional one-half (1/2) hour pay at the regular rate.

4.12 UNEMPLOYMENT COMPENSATION

The City agrees to provide the applicable benefits listed under the provisions of Title 19, Chapter 33 of the Delaware Code relating to Unemployment Compensation in effect as of January 1, 1978.

4.13 ESSENTIAL PERSONNEL TIME

- A. All employees of this agreement are designated as "Essential Personnel" and shall receive, on an annual basis, twenty-four (24) hours of Essential Personnel Time. The deposit of time shall occur on or around January 1 of each year, or upon the first pay period of a given calendar year. Twelve (12) hours may be rolled over at year end. During first year of employment EPT time shall be prorated based on date of hire at the rate of 2 hours per month.

- B. The purpose for this allotment of time is to recognize those employees who may be required to report to work during an extreme weather event or an event of substantial magnitude that would have non-essential personnel not report for work.
- C. Nothing herein shall be construed to offset remuneration as defined within this agreement.
- D. At discretion of the employee, Essential Personnel Time may be scheduled in accordance with either the vacation time or compensatory time policies.

ARTICLE V – PAY PLAN

5.0 HOURS AND OVERTIME

- A. For the purpose of computing overtime pay, the regular working day is eight (8) hours and the regular working week is forty (40) hours.
- B. The work week for all employees in the bargaining unit shall begin at 12:01 a.m. on Monday and end the following Monday at 12:00 a.m.

C. STRAIGHT TIME

- 1. For the first eight (8) hours worked in any continuous twenty-four (24) hour period, beginning with the starting time of the employee's shift.
- 2. For the first forty (40) hours worked in the employee's regular work week, including regular refuse collection employees.
- 3. For time worked during the regular working hours of any shift, which starts on the day before and continues into a Day 6 or specified holiday.

D. TIME AND ONE-HALF

- 1. For time worked in excess of eight (8) hours in any continuous twenty-four (24) hours, beginning with the starting time of the employee's shift.
- 2. For time worked in excess of forty (40) hours in the employee's regular work week, including the regular refuse collection employees.
- 3. For time worked on Day 6 by any regular, full-time employee.
- 4. For time worked on any non-regular scheduled work day, provided the regular, full-time employee has worked the full regular scheduled week.

E. DOUBLE TIME

For time worked on, legal City holidays, and for time worked during a Governor declared weather-related State of Emergency with a duration of no more than five (5) consecutive days, with a minimum Level 3 driving ban by any regular, full-time employee.

- F. In no event shall payment for both daily, weekly or holiday overtime rates be required for the same hours of work.
- G. Each employee who is required by the City Manager to perform work during the employee's regularly scheduled work hours during a weather-related State of Emergency declared by the Governor of the State of Delaware with a duration of no more than five (5) consecutive days, shall receive, in addition to the employee's regular wages, one (1) hour of Compensatory Time for each hour of such work performed.
- H. Overtime for employees who are called back after completing their regular shift shall be divided and rotated as equally as possible within each department among those employees who regularly perform such work.
- I. Each regular, full-time employee who is required to work in excess of the employee's regular work day or work week may request to be allowed to accrue Compensatory Time in lieu of receiving Overtime Pay for such excess work performed. The employee's request shall be subject to the approval of the employee's department director. If approved by the employee's department director, the employee shall accrue Compensatory Time at the appropriate overtime pay rate for each hour of excess work performed. If the department director denies the employee's request, the employee shall receive Overtime Pay for excess work performed. The accrual of Compensatory Time shall be limited to a maximum balance of one hundred (100) hours per employee. Effective January 1, 2024, the maximum balance shall increase to two hundred forty (240) hours. The use of previously accrued Compensatory Time shall be subject to rules and regulations established by the City.

5.1 WAGE SCHEDULE AND OCCUPATIONAL CLASSIFICATIONS

The basic hourly wage rates for occupational classifications covered by this Agreement shall be as indicated in the Wage Schedules, set forth in Appendix "A".

5.2 RATE PROGRESSION AND MERIT EVALUATION

- A. The Municipality shall make an evaluation of the individual merits of each employee on forms provided by the Municipality.
- B. Each employee hired before January 1, 2017 shall have the quality of their work evaluated by the City at regular intervals after the completion of their probationary period. Each regular, full-time employee shall be evaluated at six (6) month intervals until the employee reaches the top step of their pay grade. Each regular, part-time employee shall be evaluated at one (1) year intervals

until the employee reaches the top of their pay grade. Merit step evaluations after Step 5 shall occur at the employee's full-time benefit eligible hire date. Each employee hired after January 1, 2017 shall be evaluated every twelve (12) month interval until the employee reaches the top of pay scale.

C. Each employee shall be provided with a copy of their Performance Evaluation.

D. EFFECTIVE DATE

The effective date of merit evaluation rate increases will be the beginning day of the payroll period closest to the calendar date that such increases become due.

ARTICLE VI – POLICIES

6.0 SENIORITY

- A. A separate seniority list shall be maintained for regular, full-time and regular, part-time employees.
- B. Seniority shall be by skilled and semi-skilled occupational groupings within each division, except as it applies to the General Labor Pool.
- C. In cases of layoff, employees shall exercise seniority privileges downward, displacing employees in the next lower-rated occupation of their skilled work group, and likewise such displaced employees will exercise seniority privileges downward, thereby displacing the semi-skilled employee with least seniority in such work group; however, divisional seniority shall apply to employees classified as laborers in the General Labor Pool. Employees shall be recalled in the inverse order of layoff. In the exercise of seniority for layoff and recall of employees, consideration shall be given to the classification of work and the qualifications of the employee(s) to satisfactorily perform the work required.
- D. The seniority of employees will be shown on the Seniority List to be retained in the Office of the City Manager. Stewards and the Chairman of the Grievance Committee will have access to the Seniority List.
- E. Loss of Seniority: An employee shall lose seniority and the employee's employment with the Municipality shall be considered terminated for all purposes if:
 - 1. The employee quits.
 - 2. The employee is discharged for just cause.
 - 3. The employee who is laid off fails to respond within a period of three (3) working days after being recalled by certified letter sent to the last known address as shown on the records of the Municipality.
 - 4. The employee fails to report for work at the termination of leave of absence.
 - 5. The employee is separated from the payroll of the Municipality for more than one (1) year.
 - 6. The employee voluntarily retires or is automatically retired under the terms of the retirement plan.

6.1 PROBATIONARY PERIOD

Employees shall be regarded as temporary (probationary) until their names have been placed on the Seniority List. Employees may establish seniority six (6) months after their date of hire. If retained by the Municipality thereafter, their names shall be placed on the Seniority List in accordance with Section 6.0, Seniority, in the order of their seniority as of date of hiring. During such probationary employment period, employees may be discharged, transferred, or demoted by the Municipality without the same causing a breach of this Agreement or constituting a grievance.

6.2 TRANSFERS

- A. The transferring of employees is the sole responsibility of the Municipality. In cases where employees are required for emergency work or where there is not an adequate supply of personnel in any section, the Municipality reserves the right to transfer (loan) any regular available worker regardless of seniority.
- B. An employee shall have the right to request a transfer and such request will be given consideration based on seniority and qualifications.

6.3 PROMOTION

- A. Whenever a vacancy for a higher-rated position within a division becomes available, the employee with the greatest seniority in such division will be given prior consideration in filling such higher-rated position, provided the employee is qualified to satisfactorily perform the work. However, the Management reserves the right to fill such a vacancy with the person who, in their judgment, is best suited for the position.
- B. When a vacancy exists for the position of direct supervisor within a division, the City will give consideration to employees within such division in filling such a vacancy. However, the Management reserves the right to fill such vacancies in the position of direct supervisor with the person who, in their judgment, is best qualified.
- C. Employees selected for a promotion shall complete a ninety (90) day probationary period upon promotion. Employees who are unsuccessful during the promotional probationary period shall have an opportunity to revert to the position held immediately prior to the promotion with prior divisional seniority unchanged.

6.4 WORKING OUT OF GRADE

Each regular, full-time employee who is temporarily required to perform the duties of a higher paying position for a period of four (4) hours or more shall receive out-of-grade pay, which shall be in addition to the employee's regular wages. The amount of out-of-grade pay received for each four hour period of eligible work performed shall be equal to the difference between the employee's base hourly rate of pay and the lowest base hourly rate of pay for the higher paying position which is at least four percent (4%) higher than the employee's base hourly rate of pay.

Employees who are temporarily transferred to a lower-rated position shall receive no change in their hourly rate during this loan period.

6.5 SHIFT DIFFERENTIAL

Regular, full-time employees regularly employed on the second or third shift shall receive, in addition to their regular pay, as defined by Appendix "B"

6.6 FULL-TIME WORK HOURS

A. The City, by its right to adjust the working hours of all employees, agrees to, where it determines practicable and except in emergencies, adjust the normal working hours of the employees represented by AFSCME Local No. 3919 to the scheduled outlined and defined by Appendix "B", with a one-half (1/2) hour paid lunch period. This lunch period shall be strictly limited to one-half (1/2) hour with no additional time for travel, and employees shall not use City vehicles to travel to any other place for their lunch unless specifically authorized by their supervisor to do so. The beginning time for the one-half (1/2) hour lunch period will normally be twelve noon but may be varied by the supervisor.

B. The rate of pay will be adjusted for those employees who begin work after the starting time, or after the finish time as stated in Appendix "B".. A uniform penalty for lateness will be applied to those employees who begin work after 8 a.m. as follows:

If an employee is more than seven (7) minutes late, the employee will be docked fifteen (15) minutes. If the employee is late for any portion of a quarter hour thereafter, he will be docked for the entire quarter hour.

For those employees who work more than seven (7) minutes after finishing time, the employee will be paid for the entire quarter hour. For every additional fraction of a quarter hour the employee works, he will be paid for the entire quarter hour.

C. The parties agree that where the above work hour adjustment has been made, except in emergencies, there shall be one fifteen (15) minute work break during

the first four (4) hours of work during normal working hours. This work break may be scheduled by the Municipality. The conditions of this work break shall be the same as those described above for the one-half (1/2) hour lunch. The parties further agree that there will be no work break during the second four (4) hours of work during the adjusted normal working hours.

- D. It is recognized by the parties that the provisions of this Section in no way represent an abrogation by the City of its right to schedule hours of work; nor is it an abrogation by the union of its right as provided herein to a fifteen (15) minute work break in the second four (4) hours of work during normal working hours should the City decide to discontinue the work schedule defined above and revert to the previous or other work schedule.

6.7 REST PERIOD POLICY FOR REGULAR, FULL-TIME EMPLOYEES

An employee, after working eighteen (18) consecutive hours will qualify for a four (4) hour unpaid rest period. If any or all of the four (4) hour unpaid rest period falls within the employee's regularly scheduled eight (8) hour work shift, the employee shall receive straight time pay for that portion of the four (4) hours that falls within the employee's regularly scheduled eight (8) hour work shift providing the employee returns to work at the end of the four (4) hours to finish the regularly scheduled eight (8) hour work shift.

All hours actually worked during the employee's regularly scheduled eight (8) hour work shift that exceed the eighteen (18) consecutive hour qualifying period shall be paid at time and one-half until the rest period is granted.

It is understood that the City reserves the right to require an employee to continue working beyond the eighteen (18) consecutive hour qualifying period within these provisions should adequate substitute manpower as determined by the City not be obtained. In no event shall more than the highest single premium provisions apply for the same hours of work.

ARTICLE VII – GENERAL PROVISIONS

7.0 CONTRACTUAL SERVICES

Whenever practical and whenever the City's position is not jeopardized by revealing such information, the City shall notify the Union of each contract involving work which is usually done or has in the past been done by City forces. This also includes advance notice of any additions or deletions of job classifications.

7.1 SAFETY

- A. In the course of performing their normally assigned work, Union representatives will be alert to observe unsafe practices, equipment, and conditions as well as environmental conditions in their immediate area, which represent health hazards and will report such conditions to their immediate supervisor.
- B. The City of Newark's Safety Program will start as of January 1, 1973. Each employee will be provided with a booklet containing the following regulations:

EQUIPMENT – The City of Newark will provide the safety equipment it requires the employee to wear. This safety equipment is the property of the City of Newark and the employee is responsible for lost equipment.

ENFORCEMENT OF SAFETY RULES – The direct supervisor or person appointed will enforce the safety rules. The wearing of safety equipment shall include all items on the Mandatory Safety Equipment List and proper dress - long pants and a shirt. No employee will start work without the proper equipment. Failure to wear or use safety equipment on the job as outlined on the Mandatory Safety Equipment List shall result in: 1st offense, verbal warning by the direct supervisor or person appointed; 2nd offense, a written warning with copies to the Union and Personnel Department; 3rd offense, disciplinary action.

SAFETY COMMITTEE – The City will establish a Safety Committee consisting of: the direct supervisor of each division, Assistant to the City Manager, Union Representative, and Insurance Administrator. The Safety Committee will investigate all lost time accidents, prepare safety talks, etc. Unsafe conditions shall be reported to a member of the Safety Committee.

ACCIDENTS – All accidents must be reported immediately to the direct supervisor. In each first aid kit will be a guideline for emergency procedure. All lost time accidents have to be reported right away to the Personnel Department. As soon as possible [at least within forty-eight (48) hours], a report by the attending physician must be submitted to the Personnel Department as to the nature of the injury and required time off. In case of a lost time accident, the City

has the right to request the consultation of a second physician.

REWARDS –Any division of Local No. 3919 without lost time accident in any calendar year will receive a day off the following year. This day should be requested by Local No. 3919 at least thirty (30) days in advance. If an employee with a lost time accident is transferred or loaned to another department, the department the employee is working for at the time of the accident shall be charged for the lost time accident, thereby losing the safety day.

SAFETY SHOES – The City will pay up to a maximum of \$150.00 for the purchase of each pair of safety shoes approved by the City. Shoes will be replaced as needed.

DRESS POLICY – The City and Union have negotiated a dress policy that is appended hereto as Appendix “C”.

C. MANDATORY SAFETY EQUIPMENT

ELECTRIC DEPARTMENT

ON CONSTRUCTION SITE: Safety glasses, footwear to meet requirements as specified by the Electrical Engineer, safety hats, sleeves, gloves and other safety equipment to meet requirements as specified by the Electrical Engineer.

NON-CONSTRUCTION: Safety shoes, safety glasses.

WATER DIVISION

ON CONSTRUCTION SITE: Safety glasses, safety shoes, safety hats, gloves, ear protection when using certain equipment and safety vests when required.

NON-CONSTRUCTION: Safety shoes, safety glasses.

MAINTENANCE DIVISION: Safety glasses, safety shoes, gloves and other safety equipment to meet requirements as specified by the direct supervisor.

7.2 LOYALTY

- A. The Union agrees that the employees of the unit which it represents should individually and collectively perform loyal efficient service, that it will use its influence and best effort to protect the effectiveness of the service rendered by the Municipality, that it will safeguard the integrity of employee performance to

the maximum extent possible, and that it will cooperate in promoting and advancing the morale of its employees and the welfare of the Municipality.

- B. The Union is obligated to actively support the employer's efforts to eliminate waste; conserve materials and supplies; uphold high standards of workmanship and safety practices; minimize absenteeism, tardiness, carelessness, and any other conditions, which adversely affect or hamper the efficiency of the operation of the Municipality; and encourage the submission of improvements and cost reduction ideas.

7.3 BULLETIN BOARDS

The Municipality agrees to provide reasonable bulletin board space labeled with the Union's name where notices of official Union functions will be posted by the Office of the City Manager. All notices must be countersigned by the President of the Union.

7.4 INCORPORATING MORE LIBERAL BENEFITS

The Municipality agrees that during the term of this Agreement, any proclamation by the Mayor or ordinances passed by the City Council providing more liberal benefits than those listed in this section and which ordinances or proclamations specifically state that the additional benefits being provided are intended for the employees in the bargaining unit currently represented by AFSCME Local No. 3919, then these benefits shall supersede any similar benefits provided for in this Agreement.

- 1. Vacations
- 2. Sick and Emergency Leave
- 3. Death in Family
- 4. Holidays
- 5. Pension
- 6. Leaves of Absence
- 7. Group Insurance
- 8. Longevity Service Award

7.5 PRODUCTIVITY

The parties recognize that delivery of essential municipal services in the most efficient and effective manner is of paramount importance and interest to the City and the Union. Maximized productivity is recognized to be a mutual obligation of both parties within their respective roles and responsibilities. Work procedures, schedules and assignments or any other means of increasing productivity may be established and/or revised from time to time at the discretion of the City so long as no right guaranteed employees under this Agreement is violated.

7.6 ALTERATION OF AGREEMENT

- A. No agreement, alteration, understanding, variation, waiver, or modification of any of the terms or conditions or covenants contained herein shall be made by an employee or group of employees with the City and in no case shall it be binding upon the parties hereto unless agreement is made and executed in writing between the parties hereto.
- B. The waiver of any breach or condition of this agreement by either party shall not constitute a precedent in the future enforcement of the terms and conditions herein.
- C. It is understood and agreed that if any part of this agreement is in conflict with the mandatory federal or state laws, or mandatory provisions of the City Charter, that such part shall be suspended and the appropriate mandatory provision shall prevail, and the remainder of this agreement shall not be affected thereby. It is further agreed that in the event any part of this agreement is declared to be illegal, the parties shall meet within thirty (30) days of written notice, by either party to the other, to negotiate the modification or elimination of such provision.

7.7 UNION/MANAGEMENT COMMUNICATION MEETINGS

The parties recognize the utility of continued communication during the term of the agreement so that problems and issues of mutual concern can be discussed. Accordingly, in addition to the present communication methods available, a Management-Union meeting may be held during the first week of each month, the exact date to be confirmed with the City Manager. The Union representatives may be any three (3) members it designates. City representatives shall include the City Manager, if available, or his designee. The meeting shall not exceed one (1) hour per month unless extended by mutual agreement. A written agenda of topics to be discussed shall be submitted by either party to the other seven (7) days prior to such meeting. If no agenda is submitted in accordance with the above in any month, no meeting need be scheduled. The City will make available summary minutes of the meetings. These meetings are not intended to bypass the Grievance Procedure or to be considered contract negotiation meetings, but are intended as a means of fostering harmonious relations and more efficient service.

7.8 REVIEW OF POSITION CLASSIFICATION

The Union may request the City Manager to review the duties and responsibilities of any employee which may have begun to deviate from those duties and responsibilities described for that employee's position. The results of the review may indicate that the employee's current classification is appropriate, that the incumbent employee should be

reclassified to another existing classification, or that a new Position Classification Description should be established for the employee. The determination of the City Manager shall be final.

7.9 POSITION CLASSIFICATION DESCRIPTIONS

Upon request, the City shall provide the Union with a copy of the Position Classification Description for each position represented by the Union.

7.10 COMMERCIAL DRIVER'S LICENSE PHYSICALS

For any employee required to possess a Commercial Driver's License ("CDL"), the City shall reimburse the cost of the medical examination required to obtain or renew the CDL. Such reimbursement shall be limited to the amount the City pays to its selected vendor for such exams.

ARTICLE VIII – DURATION

The duration of this Agreement shall extend from January 1, 2024 through December 31, 2026 and shall continue in effect from year to year thereafter unless amended, modified or terminated in accordance with this section. Either party wishing to amend, modify, or terminate this Agreement must so advise the other party in writing by certified mail by September 30, 2026 or by December 31st of any subsequent year of the contract. If such notice is given in accordance with the above by either party in 2026 or any subsequent year of the contract, the parties agree that it is their mutual objective to begin negotiations not later than November 1 and to conclude such negotiations not later than December 31 of the year in which such notice is so given.

IN WITNESS WHEREOF, The parties hereto have caused their names to be subscribed by their
duly authorized officers and representatives this 24 day of June, 2024

THE AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES,
AFL-CIO

CITY OF NEWARK, DELAWARE

Michael P. Burns
Chief Negotiator

Mik Sutter
Chief Negotiator

M. T. 76
President

[Signature]
City Manager

Committee Members

[Signature]
Committee Member

[Signature]
Committee Member

Committee Member

Committee Member

Committee Member

Dawn M. Henrich
HR Administrator

[Signature]
Director of Finance

Attest:

[Signature]
City Secretary

APPENDIX A
WAGE SCHEDULES

2024 (0% COLA)					
Line Workers ⁽¹⁾					
Groundhand (18 Month Minimum)	Start	Module 1	Module 2	36 Month Maximum	
	24.76	26.25	27.82		
Junior Lineman (18 Month Minimum)	F Test 1	Module 3	Module 4	36 Month Maximum	
	29.57	31.64	33.85		
Lineman 2nd Class (Complete Training)	F Test 2	6 Month	12 Month		
	36.06	38.58	41.28		
Lineman 1st Class (24 Month Minimum)	F Test 3	2	3	4	5
	43.27	45.87	48.16	50.09	51.59
Lead Lineman	1	2	3	4	5
	50.57	52.08	53.13	54.19	55.27

Mechanics ⁽²⁾						
Mechanic 1 (36 Month Minimum)	1	2	3	4	5	6
	27.50	28.33	29.17	30.05	30.95	31.88
Mechanic 2 (36 Month Minimum)	1	2	3	4	5	6
	33.16	33.82	34.49	35.18	35.89	36.61
Mechanic 3	1	2	3	4	5	6
	38.07	38.83	39.61	40.40	41.21	42.03

Water Plant Operators						
Water Plant Operator 1	1	2	3	4	5	6
	30.75	32.29	33.90	35.60	37.38	39.25
Water Plant Operator 2	1	2	3	4	5	6
	32.50	34.13	35.83	37.62	39.50	41.48
Senior Water Plant Operator	1	2	3	4	5	6
	35.25	37.01	38.86	40.81	42.85	44.99

Storekeeper						
Storekeeper	1	2	3	4	5	6
	29.50	30.68	31.91	33.18	34.51	35.89

Electric Technicians ^{(1), (3)}						
Electric Technician 1	1	2	3	4	5	6
	36.25	37.34	38.46	39.61	40.80	42.02
Electric Technician 2	1	2	3	4	5	6
	44.55	45.66	46.80	47.97	49.17	50.40
Lead Electric Technician	1	2	3	4	5	6
	47.22	48.40	49.61	50.85	52.12	53.42

⁽¹⁾ Indicates position includes mandatory inclusion in on call rotation.

⁽²⁾ Current Mechanics who have, or have had, the required certifications, will start at Mechanic 3, Step 1 and proceed accordingly.

⁽³⁾ Electric Technicians who are required to be on call will receive their annual step increase immediately upon the commencement of their on-call schedule or their anniversary date, whichever comes first. If the Electrician Technicians receive their step increase earlier than their anniversary date, they will not receive another step increase during 2024. In subsequent years, they will receive step increases, if any, on their anniversary date, which will remain unchanged.

2025 (3% COLA)					
Line Workers ⁽¹⁾					
Groundhand (18 Month Minimum)	Start	Module 1	Module 2	36 Month Maximum	
	25.50	27.03	28.65		
Junior Lineman (18 Month Minimum)	F Test 1	Module 3	Module 4	36 Month Maximum	
	30.45	32.59	34.87		
Lineman 2nd Class (Complete Training)	F Test 2	6 Month	12 Month		
	37.14	39.74	42.52		
Lineman 1st Class (24 Month Minimum)	F Test 3	2	3	4	5
	44.57	47.24	49.60	51.59	53.14
Lead Lineman	1	2	3	4	5
	52.08	53.65	54.72	55.81	56.93

Mechanics						
Mechanic 1 (36 Month Minimum)	1	2	3	4	5	6
	28.33	29.17	30.05	30.95	31.88	32.84
Mechanic 2 (36 Month Minimum)	1	2	3	4	5	6
	34.15	34.83	35.53	36.24	36.96	37.70
Mechanic 3	1	2	3	4	5	6
	39.21	40.00	40.80	41.61	42.44	43.29

Water Plant Operators						
Water Plant Operator 1	1	2	3	4	5	6
	31.67	33.26	34.92	36.66	38.50	40.42
Water Plant Operator 2	1	2	3	4	5	6
	33.48	35.15	36.91	38.75	40.69	42.72
Senior Water Plant Operator	1	2	3	4	5	6
	36.31	38.12	40.03	42.03	44.13	46.34

Storekeeper						
Storekeeper	1	2	3	4	5	6
	30.39	31.60	32.86	34.18	35.55	36.97

Electric Technicians ⁽¹⁾						
Electric Technician 1	1	2	3	4	5	6
	37.34	38.46	39.61	40.80	42.02	43.28
Electric Technician 2	1	2	3	4	5	6
	45.88	47.03	48.20	49.41	50.64	51.91
Lead Electric Technician	1	2	3	4	5	6
	48.63	49.85	51.10	52.37	53.68	55.03

⁽¹⁾ Indicates position includes mandatory inclusion in on call rotation.

2026 (3% COLA)					
Line Workers ⁽¹⁾					
Groundhand (18 Month Minimum)	Start	Module 1	Module 2	36 Month Maximum	
	26.27	27.84	29.51		
Junior Lineman (18 Month Minimum)	F Test 1	Module 3	Module 4	36 Month Maximum	
	31.37	33.56	35.91		
Lineman 2nd Class (Complete Training)	F Test 2	6 Month	12 Month		
	38.25	40.93	43.80		
Lineman 1st Class (24 Month Minimum)	F Test 3	2	3	4	5
	45.90	48.66	51.09	53.14	54.73
Lead Lineman	1	2	3	4	5
	53.65	55.26	56.36	57.49	58.64

Mechanics						
Mechanic 1 (36 Month Minimum)	1	2	3	4	5	6
	29.17	30.05	30.95	31.88	32.84	33.82
Mechanic 2 (36 Month Minimum)	1	2	3	4	5	6
	35.17	35.88	36.60	37.33	38.07	38.84
Mechanic 3	1	2	3	4	5	6
	40.39	41.20	42.02	42.86	43.72	44.59

Water Plant Operators						
Water Plant Operator 1	1	2	3	4	5	6
	32.62	34.25	35.97	37.76	39.65	41.64
Water Plant Operator 2	1	2	3	4	5	6
	34.48	36.20	38.01	39.91	41.91	44.01
Senior Water Plant Operator	1	2	3	4	5	6
	37.40	39.27	41.23	43.29	45.46	47.73

Storekeeper						
Storekeeper	1	2	3	4	5	6
	31.30	32.55	33.85	35.20	36.61	38.08

Electric Technicians ⁽¹⁾						
Electric Technician 1	1	2	3	4	5	6
	38.46	39.61	40.80	42.02	43.28	44.58
Electric Technician 2	1	2	3	4	5	6
	47.26	48.44	49.65	50.89	52.16	53.47
Lead Electric Technician	1	2	3	4	5	6
	50.09	51.35	52.63	53.95	55.29	56.68

⁽¹⁾ Indicates position includes mandatory inclusion in on call rotation.

Career Ladder for Certain Positions:



Water Treatment Plant Operator Career Ladder:

The following progression is applicable to all existing Water Plant Operator employees and new hires as of the contract date. Existing Water Plant Operator employees as of the date of this contract may progress to Water Plant Operator 2 after completion of the referenced endorsements, satisfactory performance evaluation, and Director approval. Once obtained, licensure and endorsements shall be maintained by the employee in order to receive merit steps. For the purposes of this contract, the City will recognize licensure and endorsements through Delaware Office of Drinking Water. Any or all requirements for minimum tenure and certifications may be waived at the PWWR Director's discretion.

1. Water Plant Operator 1 (New Hire/Water Plant Operator in Training)
Base Operator License must be achieved within 18 months of hire.
2. Water Plant Operator 2 (Open to all operators who meet the above requirements and gain the following endorsements):
 1. Hypochlorination
 2. Flow less than 500 gpm at 20 psi
 3. Flow greater than 500 gpm at 20 psi
 4. Approved Sampler/Tester
 5. Any combination of Six (6) of the following endorsements:
 - A) Chemical Feed
 - 1) pH Adjustment
 - 2) Inhibitor - bimetalllic phosphate, hexametaphosphate, orthophosphate, polyphosphate
 - 3) Fluoridation
 - B) Filtration
 - 1) Activated Carbon, powder or granulated
 - 2) Sand - Pressure, Rapid, Slow
 - 3) Greensand
 - 4) Activated Alumina
 - 5) Ion Exchange
 - C) Surface Water Operations
 - 1) Algae Control
 - 2) Coagulation
 - 3) Flocculation
 - 4) Rapid Mix
 - 5) Sedimentation
 - 6) Sludge Treatment

3. Senior Water Plant Operator (one position, selected on merit)
All required endorsements listed below:
- A) Disinfection
 - 1) Hypochlorination (Calcium or Sodium), powder or liquid
 - B) Chemical Feed
 - 1) pH Adjustment
 - 2) Inhibitor - bimetallic phosphate, hexametaphosphate, orthophosphate, polyphosphate
 - 3) Fluoridation
 - C) Filtration
 - 1) Activated Carbon, powder or granulated
 - 2) Sand - Pressure, Rapid, Slow
 - 3) Greensand
 - 4) Activated Alumina
 - 5) Ion Exchange
 - D) Surface Water Operations
 - 1) Algae Control
 - 2) Coagulation
 - 3) Flocculation
 - 4) Rapid Mix
 - 5) Sedimentation
 - 6) Sludge Treatment
 - E) Other Specified Treatment
 - 1) Aeration - Cascade, Diffused, Packed Tower, Slat Tray or Spray
 - 2) Dechlorination - using reducing agents, sodium bisulfate, sodium sulfide, or sulfur dioxide
 - F) Distribution
 - 1) Flow less than 500 gpm at 20 psi
 - 2) Flow greater than 500 gpm at 20 psi
 - G) Approved Sampler/Tester



**CITY OF NEWARK
DELAWARE**

Mechanic Career Ladder:

For the purposes of this contract, the City will recognize certifications from the National Institute for Automotive Service Excellence (ASE).

The following progression is applicable to all existing Mechanic 1 employees and new hires as of the contract date. Existing Mechanic 2 employees as of the date of this contract may progress to Mechanic 3 after completion of the A Series (A1-A9) ASE Certifications, satisfactory performance evaluation, and Director approval. Existing Mechanic 2 employees as of the date of this contract who can show evidence that they have or previously had the required ASE certifications will start at Mechanic 3, Step 1 and proceed accordingly with no need to reobtain the certifications if they had lapsed. Once obtained, certifications shall be maintained by the employee in order to receive merit steps. Any or all requirements for minimum tenure and certifications may be waived at the PWWR Director's discretion.

1. Mechanic 1 – ASE Certification preferred for new hires.
G Series (G1)
2. Mechanic 2 – ASE Certifications required for new hires or promotion after minimum 36 months as M1 with satisfactory performance evaluations.
All M1 Certifications
A Series (A1-A9)
3. Mechanic 3 – ASE Certifications required for new hires or promotion after minimum 36 months as M2 with satisfactory performance evaluations and Director approval.
All M2 Certifications
T Series (T1-T8)

The City shall provide reimbursement of study material and testing cost, and straight time pay for up to the ASE recommended hours to sit for each test. Any or all requirements for minimum tenure and certifications may be waived at the PWWR Director's discretion. Previously held certifications may be recognized at the PWWR Director's discretion.



**CITY OF NEWARK
DELAWARE**

Lineman Career Ladder:

For the purpose of this agreement, new hires will be enrolled in the lineman program offered by DEMEC through TVPPA or any equivalent successor program as selected by the city manager.

This contract outlines the career progression for a Lineman, whether newly hired or current. Current employees can move up the appropriate steps based on completing the TVPPA Self-Study Module, receiving a satisfactory performance evaluation, and obtaining approval from the Director. This policy applies to all current employees and those hired on or after the date of this contract.

New **Groundhands** will **begin at the starting wage and** the following modules and field test should be completed within 18 months:

- **Module 1:** After successfully completing Module 1, the employee will move to the next pay step (Module 1).
- **Module 2:** After successfully completing Module 2, the employee will move to the next pay step (Module 2).
- **Field Test 1:** After finishing Module 2, the employee will be required to take Field Test 1. Upon passing Field Test 1 and completing 18 months of training as a Groundhand, the employee will be promoted to **Junior Lineman, Step F Test 1**.

If an employee requires more than 18 months to complete the necessary modules and field test, the City will provide additional time, not exceeding an additional 18 months (36 months total). If the employee fails to complete the requirements within 36 months, the employee will be terminated.

New **Junior Linemen** will **begin at the F Test 1 step and** the following modules and field test should be completed within 18 months:

- **Module 3** – After successfully completing Module 3, the employee will move to the next pay step (Module 3).
- **Module 4** – After successfully completing Module 4, the employee will move to the next pay step (Module 4).
- **Field Test 2** – After completing Module 2, the employee will be required to take a field test. After passing Field Test 2, and completing 18 months of training as a Junior Lineman, the employee will be promoted to **Lineman Second (2nd) Class, Step F Test 2**.

If an employee requires more than 18 months to complete the necessary modules and field test, the City will provide additional time, not exceeding an additional 18 months (36 months total). If the employee fails to complete the requirements within 36 months, the employee will be terminated.

New **Linemen Second (2nd) Class will begin at the F Test 2 step and** are required to undergo a minimum of 18 months of training and successfully pass the third field test prior to promotion to Lineman 1st Class. Progression is as follows:

- **6 Months Training:** After successfully completing six (6) months as a Lineman Second Class, you will move to the next pay step (6 Months).
- **12 Months Training:** After successfully completing twelve (12) months as a Lineman Second Class, you will move to the next pay step (12 Months).
- **Field Test 3:** After successfully passing Field Test 3 and completing eighteen (18) months as a Lineman 2nd Class, you will be promoted to Lineman First (1st) Class, Step F Test 3.

A minimum of twenty-four (24) months of training as a Lineman First (1st) Class is required before an employee will be eligible to apply for advertised positions of Lead Lineman (above ground or underground). There will be one Lead Lineman for above ground and one Lead Lineman for underground.

Any or all requirements for minimum tenure and certifications may be waived at the Electric Director's discretion.

LOCAL 3919

CITY OF NEWARK, DELAWARE

BY: _____

BY: _____

APPENDIX B

AFSCME 3919 Schedule & Shift Differential										
<u>Division</u>	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7			
PWWR Maintenance Division	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday			
Electric	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday			
Water Plant Operators	Varied and Rotating: Set Among Water Plant Operator staff									
	Shift Time Slots & Shift Differential Premium									
<u>Division</u>	1st Shift		2nd Shift		3rd Shift					
PWWR Maintenance Division	Day 1-5: 7:00am-3:00pm		N/A		N/A					
Electric	Day 1-5: 8:00am-4:00pm		N/A		N/A					
Water Plant Operators	Day 1-7: 7:00am-3:00pm		Day 1-7: 3:00pm-11:00pm \$0.75/hr and \$1.13/hr OT		Day 1-7: 11:00pm-7:00am \$1.10/hr and \$1.65/hr OT		<u>Overtime Note:</u> Overtime rate shall be based on shift worked/scheduled			
Day 6 & 7 Work:	Work completed on Day 6 and 7 of a given schedule shall be compensated at 1.5x base hourly rate									
NOTE:										
	The following Divisions are not eligible to be assigned to 2nd or 3rd Shifts, or receive Differential Premium for work outside prescribed 1st Shift duties: Electric and PWWR as noted above. Work falling outside of 1st Shift shall be compensated as enumerated in "Article V - Pay Plan."									

APPENDIX C

DRESS POLICY

To foster a consistent and positive work environment that properly represents the core values and missions of the City of Newark, all employees shall follow the basic guidelines for dress. Certain employee divisions within the varied employee unions may require an attire that exceeds the below standards; the greater standard shall always take priority and govern the expectations for employment. For example, safety footwear may not be required for all members of a specific union based on job duties and obligations. All employees shall follow the general guidelines below.

1. Employees shall present themselves in a neat and clean manner; tattered or torn apparel is not appropriate.
2. Business casual shall be the minimum standard for dress attire.
 - a. Male-styled Dress: Dress shirts/polo shirts shall be tucked in to khaki pants or other business casual slacks. Slacks should fit appropriately and worn along the waistline consistent with business casual attire. Winter attire (e.g. sweaters) may not be required to be tucked.
 - b. Male-styled Dress: Shorts, jeans, sneakers, and flip-flops/hiking sandals are not acceptable attire unless a part of a particular event or program approved by the City. Dress sandals and/or 'boat shoes' can be worn with appropriate shirts and slacks. Overtly tight or revealing clothing is not acceptable to meet the intent of this policy.
 - c. Female-styled Dress: Attire shall be acceptable lengths to meet the intent to professionally represent the City; professional style skirts and slacks shall be expected to meet business casual intent of policy.
 - d. Female-styled Dress: Shorts, jeans, sneakers, and flip-flops/hiking sandals are not acceptable attire unless a part of a particular event or program approved by the City. Sandals are permissible if they are a wedge or have ankle straps/sling backs, consistent with business casual footwear. Overtly tight or revealing clothing is not acceptable to meet the intent of this policy.
3. Private business logoed apparel is not permissible; marginal apparel logos are expected and accepted. The only acceptable primary lettering and/or logo shall be that of the City.
4. Accessories (e.g. scarfs, necklaces, costume jewelry) are acceptable as long as it is not a safety risk, hazard or distraction to perform the employee, or their colleagues, work.

- a. Hat gear is acceptable for 'field' employees that are exposed to the environmental elements. The gear shall be City specific, or a solid plain blue or green color – private logos, sports teams or affiliations are not acceptable for the intent of this policy. This standard shall apply to winter hat gear as well.
 - b. Hat gear is not acceptable for traditionally 'administrative' employees working primarily within City Hall or its affiliated offices.
 - c. Visible tattoos, piercings, and body art shall be acceptable as long as it is not offensive, a safety risk, hazard or distraction to perform the employee, or their colleagues, work.
- 5. Field Operation Employees: As determined by job duties and obligations, employees working in the field will have an acceptable deviation from the policy intent for a business casual standard.
 - a. The colors within the City logo shall be the preferred color of clothing worn – a standard blue, dark blue or light blue, along with green. However, any other solid color without logo is acceptable. Sleeveless attire is not permitted. All apparel shall be solid in color without logo or print, except if it contains the City logo or text, and text is limited to "City of Newark, Delaware." To purchase logo apparel see Purchasing Administrator in the City Manager's Office for pricing and information only.
 - b. Employees that desire a wicking/dri-fit, lightweight material must follow the criteria noted in Section F5a above. An exception, however, can be a yellow tee shirt that is also a safety, reflective, Class III shirt that meets the minimum safety, Class 3 standards set by DelDOT. A Class III safety article is permissible, with supervisor authorization, depending on employee division and work type.
 - c. Pants/Short Pants: Tattered or torn pants shall not be accepted. Pants should be of a canvas work material, and solid blue or khaki in color. Pants shall be clean and presentable. Denim jeans of a solid blue color are acceptable for field operation employees. Short pants are not acceptable for any field operation employee.
- 6. Safety Items and Apparel: While working in a public right-of-way, or where otherwise legally required, or upon reasonable request of the direct supervisor, each employee is required to wear an approved, reflective, safety vest. The City will supply all safety vests at no cost to the employee. The City will supply other safety items as noted in the Safety Materials Policy or bargaining unit agreements.
- 7. Stipend Allowance: Field Operation Employees shall receive \$50.00 per month to purchase required apparel. Monthly payment will be made to each employee, through payroll, however, it is clearly noted that any Stipend Allowance payments are considered taxable income.

APPENDIX D

AMENDED PENSION PLAN FOR EMPLOYEES OF CITY OF NEWARK, DELAWARE

EFFECTIVE DATE: JANUARY 1, 1969

AS AMENDED BY:

- ORDINANCE 71-6, JANUARY 12, 1971
- ORDINANCE 75-17, APRIL 21, 1975
- ORDINANCE 76-14, MARCH 22, 1976
- ORDINANCE 77-19, MARCH 28, 1977
- ORDINANCE 78-34, SEPTEMBER 11, 1978
- ORDINANCE 80-22, MARCH 10, 1980
- ORDINANCE 86-7, FEBRUARY 10, 1986
- ORDINANCE 87-26, AUGUST 24, 1987
- ORDINANCE 89-33, AUGUST 28, 1989
- ORDINANCE 90-5, FEBRUARY 12, 1990
- ORDINANCE 90-9, MARCH 26, 1990
- ORDINANCE 91-19, MAY 13, 1991
- ORDINANCE 91-24, AUGUST 12, 1991
- ORDINANCE 94-7, APRIL 25, 1994
- ORDINANCE 95-10, MAY 8, 1995
- ORDINANCE 97-28, OCTOBER 13, 1997
- ORDINANCE 99-27, AUGUST 23, 1999
- ORDINANCE 99-40, DECEMBER 13, 1999
- ORDINANCE 00-22, JULY 10, 2000
- ORDINANCE 05-17, JULY 11, 2005
- RESOLUTION 07-D, FEBRUARY 12, 2007
- ORDINANCE 09-30, DECEMBER 14, 2009
- ORDINANCE 11-15, SEPTEMBER 26, 2011
- ORDINANCE 12-12, MARCH 26, 2012
- ORDINANCE 12-27, OCTOBER 8, 2012
- ORDINANCE 13-02, JANUARY 28, 2013
- ORDINANCE 14-07, MARCH 24, 2014
- ORDINANCE 15-08, MARCH 23, 2015
- ORDINANCE 17-09, FEBRUARY 27, 2017
- ORDINANCE 18-06, MARCH 26, 2018

pension.ord

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**AMENDED PENSION PLAN
FOR EMPLOYEES OF
CITY OF NEWARK, DELAWARE**

CITY OF NEWARK, DELAWARE does hereby adopt an Amended Pension Plan for the benefit of its employees upon the terms and conditions described herein.

ARTICLE I

Name, Effective Date, Anniversary Date and Purpose

Section 1.1. Name. The name of the Plan is "The Amended Pension Plan for Employees of the City of Newark, Delaware."

Section 1.2. Effective Date and Anniversary. The effective date of the amended plan is January 1, 1969. The plan anniversary date shall be each January 1 thereafter.

Section 1.3. Purpose. The purpose of the plan is to provide a systematic program, on an actuarially sound basis, for the retirement of the employees of the City, and under the conditions set forth therein, to provide a pension upon the retirement of an employee, the amount of which takes into account the length of service and the compensation paid by the City of Newark to such employee.

ARTICLE II

Definitions

When used herein, the words and phrases defined hereinafter shall have the following meaning unless a different meaning is clearly required by the context of the Plan.

Section 2.1. "Plan" shall mean "The Amended Pension Plan for Employees of the City of Newark, Delaware."

Section 2.2. "Contributions" shall mean monies paid into the pension trust fund from any one of three sources:

- (a) The City of Newark, Delaware, as approved from time to time by the City Council.
- (b) The employees eligible for participation in plan.
- (c) The State of Delaware special tax on certain gross premiums of insurance companies for the exclusive purpose of providing pension benefits to City of Newark Police and Special Police employees under Chapter 424, Volume 55, of the Laws of Delaware.

Section 2.3. "Council" shall mean the duly elected members of the City of Newark, Delaware City Council.

Section 2.4. "Trustees" shall mean the trustees appointed by the City Council which is vested with the responsibility for administration of the plan.

Section 2.5. "Employee" shall mean any person, male or female, who on or after the effective date of the amended plan is employed by the City, except that the term "employee" shall not include:

- (a) a seasonal, part-time or casual worker whose actual employment is for less than twenty (20) hours in any week or for less than five (5) months in any calendar year, or

- (b) a City Council member unless the member is also an active employee,
or
- (c) a consultant on retainer or other independent contractor, or
- (d) a person who is not in the active employ of the City even though
receiving payments for services previously rendered.

Section 2.6. "Member" shall mean an employee who has satisfied the plan eligibility requirements and has approved the payroll deduction of employee contributions from his compensation. There shall be five (5) classes of members as follows:

Employees Council, except Roylene Hunter while assigned to the position of Parking Enforcement Officer (also referred to as "E.C.") (See Section 2.22)

Exempt Employees hired by the City prior to January 1, 2012, except Chief of Police (also referred to as "Exempt") (Defined in Section 2.23)

Local 1670 (also referred to as "1670") (Defined in Section 2.20)

Police - F.O.P. (also referred to as "Police") (Defined in Section 2.21)

Chief of Police hired by the City prior to January 1, 2012 and Roylene Hunter while assigned to the position of Parking Enforcement Officer (also referred to as "Special Police") (Defined in Section 2.23)

A member's benefits, contributions and eligibility requirements shall be based upon his or her class of membership. In the event that a member qualifies for Police and more than one (1) other class of membership during a member's period of continuous service as an employee, the benefit with respect to credited service in each membership class shall be determined separately based upon his credited service with respect to such membership class. Otherwise, the benefit will be based upon the membership class upon termination of employment. Unless specified otherwise, a member's eligibility for benefits and vesting percentage in any membership class shall be based on his continuous service in all membership classes.

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Section 2.7. "Compensation" shall mean the basic annual earnings (excluding any bonus, commission, overtime or other special compensation)¹. Compensation which an employee has elected to defer pursuant to a deferred compensation agreement or program with the City and any contributions picked up by the City pursuant to Section 2.17 of the Plan shall be considered earned in the year in which it would have been paid were it not for the deferred compensation agreement, program or pick up of employee contributions.

Compensation in excess of one hundred fifty thousand dollars (\$150,000) or such other amount provided in the Code shall be disregarded for all purposes. Such amount shall be adjusted for increases in the cost of living in accordance with Code Section 401(a)(17)(B), except that the dollar increase in effect on January 1 of any calendar year shall be effective for the Plan Year beginning with or within such calendar year. For any short Plan Year the Compensation limit shall be an amount equal to the Compensation limit for the calendar year in which the Plan Year begins multiplied by the ratio obtained by dividing the number of full months in the short Plan Year by twelve (12).

For Plan Years beginning after December 31, 1996, for purposes of determining Compensation, the family member aggregation rules of Code Section 401(a)(17) and Code Section 414(q)(6) (as in effect prior to the Small Business Job Protection Act of 1996) are eliminated.

The Compensation of each participant taken into account in determining benefit accruals in any Plan Year beginning after December 31, 2001 shall not exceed two hundred thousand dollars (\$200,000). The two hundred thousand dollars (\$200,000) limit on Compensation shall be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code.

1. The trustees have formally interpreted "basic annual earnings" to be defined as annual base and longevity rates of pay. See City Council meeting minutes - September 13, 1999.

Section 2.8. "Final Average Compensation" shall mean:

- (a) for Police employees the average of a member's compensation during thirty-six (36) month period preceding actual retirement date or earlier termination of employment, or
- (b) for Special Police and Exempt employees, the average of a member's compensation during their sixty (60) highest paid consecutive months of employment with the City.
- (c) for Local 1670 and Employees' Council members, the average of a member's compensation during their thirty-six (36) highest paid consecutive months of employment with the City.

In determining a member's final average compensation, all years as a member, including years as a member in other membership classes, shall be considered unless specifically excluded.

Section 2.9. "Participant" shall mean an employee who has satisfied requirements for eligibility and has approved the deduction or reduction of employee contributions from his compensation by the City except that a Police or Special Police employee for whom the State of Delaware contributions are being made shall automatically be a participant regardless of whether he has approved the deduction or reduction of employee contributions from his compensation.

Section 2.10. "Continuous Service" shall mean service as an employee of the City of Newark, Delaware, since the date of the last employment thereby. Service shall be deemed to have been continuous even though the same shall have been interrupted by an absence from employment provided that such absence shall have been due to leave of absence approved in writing, temporary layoff on account of lack of work, military service, maternity, sickness or disability, and provided that no such absence, except for military service or unpaid job-related disability, shall have been continuous for more than

one (1) year. The decision of the Pension Committee with respect to the continuous service of an employee shall be final and conclusive.

Section 2.11. "Credited Service" shall mean years and months of continuous service computed from the first day of the month coincident with or next following his date of employment. In no event shall "credited service" include the period of any approved absence which exceeds thirty (30) days, except an unpaid job-related disability, even though such absence does not interrupt continuity of service. Nor shall "credited service", include any period, except an unpaid job-related disability, during which an employee refused to contribute to the plan. Notwithstanding any provision of this plan to the contrary, accrual of benefits and service credits with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code.

Section 2.12. "Age" shall mean attained age, not age at nearest birthday.

Section 2.13. "Normal Retirement Date" shall mean the first day of the month coincident with or next following:

- (a) for a member other than a Police member or Special Police member, the later of the sixty-fifth (65th) birthday or the fifth (5th) anniversary of the member's date of participation in the Plan;
- (b) for a Special Police member, the later of the fiftieth (50th) birthday or the fifth (5th) anniversary of the member's date of participation in the Plan;
- (c) for a Police member hired prior to January 1, 1989, the earlier of (i) the later of the fiftieth (50th) birthday or the fifth (5th) anniversary of the member's date of participation in the Plan or (ii) completion of twenty (20) years of Credited Service as a contributing Police member;
- (d) for a Police member hired on or after January 1, 1989, the completion of twenty (20) years of Credited Service as a contributing Police member.

A member who is employed by the City on his Normal Retirement Date shall be 100% vested in his accrued benefit. Members with a deferred pension shall be vested in accordance with the schedule in Section 6.2 of the Plan.

Section 2.14. "Actuarial Equivalent" or "Equivalent Actuarial Value" shall mean a benefit of equal value when computed in accordance with the actuarial tables last adopted by the trustees and approved by the actuary for the plan. Effective January 1, 1986, actuarial equivalence shall be determined by using a unisex mortality table for all participants based upon ninety percent (90%) of the 1983 Group Annuity Mortality Table Male Rates and ten percent (10%) of the 1983 Group Annuity Mortality Table Female Rates, a unisex mortality table for beneficiaries based upon ten percent (10%) of the 1983 Group Annuity Mortality Table Male Rates and ninety percent (90%) of the 1983 Group Annuity Table Female Rates, and assuming the rate of investment return of eight percent (8%) compounded annually.

Section 2.15. "Actuarial Reserve Factor" shall mean the factor, based on such interest and mortality tables as the trustees shall adopt upon the advice of the Actuary for the plan, which when multiplied by the amount of the monthly pension entitlement shall determine the actuarial reserve for said pension amount beginning as of the then attained age.

Section 2.16. "Actuarial Reserve" shall mean the lump sum value, based on such interest and mortality tables as the trustees shall adopt upon the advice of the Actuary for the plan of a monthly pension payable in accordance with the provision of the plan.

Section 2.17. "Employee Contribution" shall mean a percent of a member's compensation earned by him as defined in Section 2.7 and picked up and paid by the City. The Employee Contribution shall embrace the period of time between his date of eligibility and participation, and his actual date of retirement and shall be:

- (a) for Local 1670 employees, 2.5% after June 1, 1991;
- (b) for Employees Council members, and Exempt employees, 3.5% after April 1, 2018; 4.5% after January 1, 2019.
- (c) for Special Police employees, 3.5%; after April 1, 2018; 4.5% after January 1, 2019.
- (d) for Police employees:
 - 1) From March 1, 1994 to June 30, 1994 - 5%.
 - 2) From July 1, 1994 to December 31, 1994 - 4.5%.
 - 3) The contribution rate during any calendar year beginning after December 31, 1994 shall be equal to the previous calendar year's actuarially recommended employer contribution rate for police employees provided that it shall not exceed six percent (6%) and that it shall not be increased or decreased by more than two percent (2%) from the previous year.
 - 4) The contribution rate during any calendar year beginning after December 31, 2006 shall be equal to the previous calendar year's actuarially recommended employer contribution rate for police employees provided that it shall not exceed seven percent (7%) and that it shall not be increased or decreased by more than two percent (2%) from the previous year.

For purposes of this Section, compensation shall be determined as the sum of the employee's current annual base salary and longevity pay rates.

The City shall pick up under the provision of Section 414(h) (2) of the Internal Revenue Code of 1986 and pay the contribution which the employee is required by law to make to the Plan for all compensation earned after the effective date of this section. Although the contributions shall be treated as contributions being paid by the City in lieu of contributions by the employee in determining tax treatment under

the Internal Revenue Code of 1986 and such picked up contributions shall not be includable in the gross income of the employee until such amounts are distributed or made available to the employee or his beneficiary. The employee by the terms of this Plan shall not have any option while employed to choose to receive the contributions so picked up directly and the picked up contributions must be paid by the City to the Plan.

Employee contributions which are picked up shall be treated in the same manner and to the same extent as employee contributions made prior to the date on which employee contributions were picked up by the City.

The City shall pay the employee contributions from the same source of funds used in paying salary to the employee, by effecting an equal cash reduction in gross salary of the employee.

Section 2.18. "Credited Interest" shall be equal to four percent (4%) compound interest credited to employee contributions starting with the January 1 following the date on which they were made and ending on the first of the month coincident with or immediately preceding the date of the member's retirement, resignation, death or total and permanent disablement.

Section 2.19. The masculine pronoun, wherever used, shall include the feminine pronoun and the singular number shall include the plural number unless the context of the plan requires otherwise.

Section 2.20. "Local 1670" hereafter known as "1670", is that category of employees who hold positions in the collective bargaining unit defined and recognized by the Delaware State Department of Labor and Industrial Relations in Case No. 9 of December, 1965, and Case No. 15 of March, 1966, as subsequently added to, subtracted from, or otherwise modified only by mutual agreement of the City of Newark and the certified exclusive bargaining unit representative which is currently the AFSCME Local 1670.

Section 2.21. "Police-F.O.P.", hereafter known as "Police", is that category of employees who hold positions in the collective bargaining unit defined and recognized by the Delaware State Department of Labor and Industrial Relations (Case No. 64) in February, 1969, as subsequently added to, subtracted from or otherwise modified only by mutual agreement of the City of Newark and the certified exclusive bargaining unit representative which is currently the Fraternal Order of Police Lodge No. 4.

Section 2.22. "Employees Council, Except Roylene Hunter While Assigned to the Position of Parking Enforcement Officers", hereafter known as "E.C.," is that category of employees who hold positions in the collective bargaining unit defined and recognized by the Delaware State Department of Labor and Industrial Relations (Case No. 104) in January, 1972, as subsequently added to, subtracted from, or otherwise modified only by mutual agreement of the City of Newark and the certified exclusive bargaining unit representative which is currently the Employees Council.

Section 2.23. "Exempt Employees, Except the Chief of Police", hereafter known as "Exempt", is that category of employees who hold positions which are not in any collective bargaining unit defined and recognized by the Delaware State Department of Labor and Industrial Relations.

Section 2.24. "Chief of Police and Roylene Hunter While Assigned to the Position of Parking Enforcement Officers", hereafter known as "Special Police", is the category of employees specifically excluded from Section 2.22 and Section 2.23 being the Chief of Police and Roylene Hunter, while assigned to the position of Parking Enforcement Officer.

Section 2.25. "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

Section 2.26. "Spouse (or spouse)" shall mean a person to whom a Member is legally married on the earlier of (a) the date on which the Member's benefit

commences, or (b) the date of the Member's death. To the extent provided under a qualified domestic relations order as defined in Section 414(p) of the Code, an alternate payee shall be treated as a Spouse. Effective January 1, 2012, should a Member enter into a civil union recognized by the State of Delaware, the non-member party to said civil union shall be treated as a Spouse for all purposes under the Plan except for the purposes of Direct Rollovers as defined in Section 9.5 of the Plan or where explicitly pre-empted by Federal law.

ARTICLE III

Membership in the Plan

Section 3.1. Eligibility. Each employee on the payroll of the City of Newark shall be eligible to participate in the Plan.

An employee who is disabled or whose death is a result of his activities in the discharge of his official duties prior to becoming a member shall be considered to have been a member of the Plan from his date of employment.

Section 3.2. Duties of a Member of the Plan. An employee eligible to join the plan shall file an application on such form as is prescribed by the trustees authorizing the payroll deduction or reduction of his employee contributions and shall submit such statistical information with respect to his birthday, age, date of employment and years of service as the trustees shall request, and shall furnish such other data and sign such other documents as the trustees deem necessary or advisable.

Section 3.3. Duties of the City. The City shall notify each employee who has the right to join the plan and shall explain the rights and duties of a member of the plan. The City expects to pay the cost of the plan not paid by employee contributions or State of Delaware contributions at the time and in the manner described hereinafter.

ARTICLE IV

Normal Retirement Pension

Section 4.1. Eligibility. A normal retirement pension shall be granted to each member of the plan (with the exception of any member who has not contributed to the plan, but is entitled to a benefit based upon State contributions) and who retires upon attainment of normal retirement date.

Section 4.2. Amount of Annual Normal Retirement Pension. For 'Exempt' and 'E.C.' Members making employee contributions after March 31, 1995, unless an optional method of payment is elected as described in Section 4.3, the Annual Normal Retirement Pension payable monthly shall equal two and one-tenth percent (2.1%) of final average compensation multiplied by total number of years and months of Credited Service accumulated.

For a Local 1670 Member making employee contributions after March 31, 1995, unless an optional method of payment is elected as described in Section 4.3, the Annual Normal Retirement Pension payable monthly shall equal two and one-tenth percent (2.1%) of final average compensation multiplied by total number of years and months of Credited Service accumulated.

Each Exempt and Local 1670 Member making employee contributions shall be allowed to accrue additional credited service in lieu of the receipt of other non-pension fringe benefits. Such additional credited service shall be accrued in accordance with the provisions of Section 14.4 of this Plan.

For Special Police Members making employee contributions after March 31, 1995, unless an optional method of payment is elected as described in Section 4.3, the annual Normal Retirement Pension payable monthly to a Special Police member shall equal two and one-tenth percent (2.1%) of final average compensation multiplied by the total number of years and months of Credited Service accumulated. For Police

Members making employee contributions, unless an optional method of payment is elected as described in Section 4.3, the annual Normal Retirement Pension payable monthly to a Police member who retires at Normal Retirement Date shall equal the sum (a), (b), (c) and (d) where (a) is two and two-tenths percent (2.2%) of final average compensation multiplied by the total number of years and months of Credited Service accumulated prior to January 1, 1978, where (b) is two and one-quarter percent (2.25%) of final average compensation multiplied by the total number of years and months of Credited Service accumulated between January 1, 1978 and December 31, 1987, where (c) is two and one-half percent (2.5%) of final average compensation multiplied by the total number of years and months of Credited Service accumulated after December 31, 1987, and where (d) is one percent (1.0%) of final average compensation multiplied by the total number of years and months of Credited Service, in excess of twenty (20) years of Credited Service, accumulated after December 31, 2006. Effective January 1, 2007, the Normal Retirement Pension of each employee shall not be allowed to exceed sixty-seven and one-half percent (67.5%). Each employee who has accumulated more than sixty-seven and one-half percent (67.5%) as of that date shall cease to accumulate additional pension credit. Each employee who accumulates a sixty-seven and one-half percent (67.5%) benefit after that date shall cease to accrue additional pension credit.

In the event that a Police member retires prior to his fifty-fifth (55th) birthday and is also entitled to an additional pension based on a separate membership class, such member shall also be entitled to receive such separate pension commencing at the same date but reduced to the benefit of actuarial equivalent value to the benefit otherwise payable at age sixty-five (65), subject to a maximum reduction of five percent (5%) for each year which his benefit commencement date precedes his sixty-fifth (65th) birthday.

For Police and Special Police members who prior to January 1, 2009, elected

not to make employee contributions, and unless an optional method of payment is elected, as described in Section 4.3, the normal retirement pension (payable monthly) to a member who retires at normal retirement date shall equal that amount, actuarially determined, which can be provided based on the member's accumulated State of Delaware contributions plus credited interest thereon.

For non-police employees who retired prior to January 1, 1969, their annual normal retirement pension payable monthly shall not be less than one thousand three hundred fifty dollars (\$1,350) plus ninety dollars (\$90) for each year of credited service in excess of fifteen (15) years (provided the member has accumulated at least fifteen (15) years of credited service).

Monthly pension benefits shall commence on the normal retirement date of the member and shall continue until the first of the month in which the retired member dies. If he has not received in pension benefits an amount equal to his employee contributions plus credited interest thereon, and presuming no optional method of payment is in effect, the balance shall be paid to the member's designated beneficiary, or in the absence thereof, his estate.

Section 4.3. Optional Methods of Payment. In lieu of the normal retirement pension payable for the life of the member, subject to the refund of employee contributions, a member may elect, at the time and in the manner prescribed by the trustees, to receive:

- (a) a joint and survivor pension of equivalent actuarial value in accordance with any one of the following options:
 - 1) a reduced pension payable to, and during the lifetime of, the retired member with the provision that after his death such reduced pension shall continue to be paid to, and during the lifetime of, the spouse of the member.
 - 2) a reduced pension payable to, and during the lifetime of, the retired

member with the provision that after his death a pension at the rate of three-fourths (3/4), two-thirds (2/3) or one-half (1/2) of his reduced pension shall then be paid to, and during the lifetime of, the spouse of the member.

Such election must be in writing and must be filed with the trustees by the member at least one (1) year prior to the date on which the payments are to begin, except that if the member can furnish evidence satisfactory to the trustees of his good health, such election may be made at any time prior to actual retirement. In any event of the death of the member prior to normal retirement date and prior to the date when such reduced payments commence, the election will be null and void and no payments will be made to the spouse.

In the event of the death of a member subsequent to his normal retirement date but prior to the date of actual retirement, the provisions of Section 4.3 shall govern. If the spouse should die after the election of an option, but before pension payments have actually commenced for the member, the election will be null and void and the member's normal pension will be paid to him as though he had made no election. If the spouse should die prior to the member but after the reduced pension payments have commenced, only the reduced pension shall continue to be paid to the member. Once an election has been made and accepted by the trustees, it cannot be rescinded or changed without written consent of the trustees in accordance with rules of uniform application to all members similarly situated.

- (b) a pension payable in accordance with any other option which is the actuarial equivalent of the normal retirement pension to which the member was entitled at normal retirement date, provided that such option is approved by the trustees and the actuary for the plan. In any event such option shall provide for a benefit where at least fifty percent (50%) of the actuarial value of the total benefits is used to provide the

member with a benefit payable while living.

Section 4.4. Limitations on Benefits. Pursuant to Treasury Regulation Section 1.415(a)-1(d)(3) ("Section 415 Regulations"), effective for Plan Years beginning on or after January 1, 1976, the limitations on benefits under Section 415 of the Code and the Section 415 Regulations applicable to governmental plans as defined in Section 414(d) of the Code are hereby incorporated by reference. For purposes of the application of the limitations under Section 415 of the Code, a member's compensation shall be as determined in Treasury Regulation Section 1.415(c)(2)(b) and (c).

Section 4.5. Military Service. Effective December 12, 1994, notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code."

ARTICLE V

Retirement or Death After Normal Retirement Date

Section 5.1. Eligibility. A member of the Plan who has attained normal retirement date may continue to work. Benefit payments earned by such member shall be deferred to date of actual retirement from their current employment classification as defined in Section 2.6 of this Plan.

Section 5.2. Amount of Late Retirement Pension. Upon retirement of a member of the plan subsequent to his normal retirement date, a pension shall be paid to such retired member commencing with the month in which actual retirement occurs.

Where he has been making Employee Contributions, the amount of pension shall be computed in the same manner as the Normal Retirement Pension described in Section 4.2 based on his Credited Service and Final Average Compensation as of his Late Retirement Date.

Where a Police or Special Police member had not been making Employee Contributions, the amount of the pension shall equal that amount, actuarially determined, which can be provided based on the member's accumulated State of Delaware contributions plus credited interest thereon.

Members who postpone their retirement past their Normal Retirement Date shall be required to continue to make contributions until their actual retirement; provided, however, effective January 1, 2007, a Police member who has accumulated a sixty-seven and one-half percent (67.5%) Normal Retirement Pension benefit shall be allowed to cease making employee contributions.

All optional methods of payment of the pension shall be made available to such member, irrespective of whether he had made Employee Contributions, in accordance with such terms and conditions as prescribed by the Trustees.

ARTICLE VI

Vested Deferred Early Retirement, Total and Permanent Disability or Spouse's and Children's Pension

Section 6.1. Eligibility. Any member of the Plan not eligible for a Normal Retirement or Late Retirement pension who has completed five (5) years of Credited Service shall be eligible for a Vested Deferred Pension, pursuant to Section 6.2.

An Exempt, Employees Council or Local 1670 Member who is age fifty-five (55) or more and has completed fifteen (15) or more years of credited service shall be eligible for a voluntary early retirement pension pursuant to Section 6.3.

A member who is found by the Trustees to be unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which can be expected to result in death or be of a long continued and indefinite duration shall be eligible for a Total and Permanent Disability Pension pursuant to Section 6.4. For the purpose of this section, substantial gainful activity shall mean a position with the City with equal pay and equal benefits. If any actively employed member of the plan dies, the surviving spouse and/or children up to age eighteen (18) of the deceased member (if said spouse was legally married to the deceased at his death) shall be entitled to a spouse's and/or children's pension pursuant to Section 6.5. If any actively employed member of the plan dies without leaving a spouse or children eligible for a monthly pension, then the designated beneficiary (or in the absence of a beneficiary designation, the estate of the deceased) shall be eligible to receive the refund of his employee contributions plus credited interest.

A Police Member who has completed fifteen (15) or more years of credited service and who terminates employment no more than five (5) years prior to the member's Normal Retirement Date shall be eligible to receive a retirement pension

benefit commencing on the first of the month following the member's Normal Retirement Date.

Section 6.2. Amount of Vested Deferred Pension. The amount of monthly Vested Deferred Pension commencing at Normal Retirement Date or Early Retirement Date shall be equal to the following percentages of the value of the member's accumulated pension credits in accordance with the provisions of Section 4.2:

<u>Total Years of Credited Service on Date of Resignation or Discharge</u>	<u>Vested Entitlement for Accumulated Pension Credit</u>
5	50%
6	60
7	70
8	80
9	90
10	100

The vested entitlement assumes that the member leaves all employee contributions he may have made to the plan in the plan. His voluntary withdrawal of these employee contributions shall result in his forfeiture of benefits except for those for Police employees and Special Police employees attributable to State of Delaware contributions.

A member eligible to receive a vested deferred pension for life with the assurance that no less than the value of the employee contributions plus credited interest thereon will be paid, may elect to receive, in lieu thereof, a benefit of equivalent actuarial value in accordance with any option described in Section 4.3, provided such option is elected in accordance with the rules and regulations prescribed by the trustees. If the member dies prior to normal retirement date, a refund of the employee contributions plus credited interest thereon shall be made to the designated beneficiary, or in the absence of a beneficiary designation, to the estate of the deceased.

Within 90 days of termination of employment, the member may voluntarily elect a Lump Sum Equivalent Benefit in lieu of any other benefit paid by the Plan. The Lump Sum Equivalent Benefit may not be less than 150%, nor more than 300%, of the member's employee contributions plus interest credited thereon. Existing terminated members entitled to a benefit from this Section will be provided a 90-day window beginning March 1, 2017 and ending May 31, 2017. The Lump Sum Equivalent Benefit equals the present value of the member's vested deferred pension payable at Normal Retirement Date. The present value will be based on the interest and mortality factors, reflecting any projections for mortality improvement to the year of determination, used in the most recent actuarial valuation.

Section 6.3. Amount of Early Retirement Pension.

(a) A monthly early retirement pension may commence to be paid on the first day of any month subsequent to the actual retirement of a member of the plan and prior to his normal retirement date. The amount of early retirement pension shall be equal to the value of the member's accumulated pension credits in accordance with the provisions of Section 4.2, but shall then be reduced for Exempt, E.C. and Local 1670 members in accordance with Exhibit A, to take into account the fact that payments commence prior to normal retirement date and accordingly can be expected to extend over a longer period of time.

EXHIBIT A

Percentage Factors for Voluntary
Retirement Pension

Age When
Benefits
Commence

65 - 100%										
64 - 95	100%									
63 - 90	95	100%								
62 - 85	90	95	100%							
61 - 80	85	90	95	100%						
60 - 75	80	85	90	95	100%					
59 - 70	75	80	85	90	95	100%				
58 - 65	70	75	80	85	90	95	100%			
57 - 60	65	70	75	80	85	90	95	100%		
56 - 55	60	65	70	75	80	85	90	95	100%	
55 - 50	55	60	65	70	75	80	85	90	95	100%
15-20	21	22	23	24	25	26	27	28	29	30
SERVICE YEARS										

NOTE: After ten (10) years of service at age sixty-five (65), a participant will receive a one hundred percent (100%) factor.

For purposes of the preceding paragraph, total continuous service shall include service of other membership classes and both continuous service and age shall be measured in years and completed months. An optional method of payment will be permitted if elected in accordance with such rules and regulations as are prescribed by the trustees.

(b) Limited Enhanced Early Retirement Option. For a period of 91 days beginning July 1, 2014 and ending September 29, 2014, an Exempt, E.C. or 1670 member of the Plan who is at least 50 years old may terminate employment and have five (5) years added to his age for purposes of determining such member's Percentage Factor for Voluntary Retirement Pension under Exhibit A in Section 6.3(a) above if such Exempt, E.C. or 1670 member of the Plan commences his Early Retirement Benefit no later than the first day of the month following the date that such Exempt, E.C. or 1670 member of the Plan terminates his employment with the city. For example, if an individual who is 52 years of age and has 20 Service Years elects an Early Retirement Pension under the provision of this Section 6.3(b) and commences his Early Retirement Benefit no later than the first day of the month following his termination of employment, such individual shall be considered to be age 57 upon Early Retirement and shall have a 60% factor applied to determine his Early Retirement Pension.

Section 6.4. Disability Pension.

(a) Non-Job-Related Disability – A monthly disability pension benefit shall commence to be paid on the first day of the month following termination as an active member. The amount of a monthly disability

pension benefit shall be calculated as (A) less (B), but not less than zero (0), where (A) is the amount determined in accordance with the applicable paragraph of Section 4.2 based on Credited Service as of the date of termination but not less than fifty percent (50%) of the member's Final Average Compensation plus five percent (5%) of Final Average Compensation for each dependent up to a maximum of twenty percent (20%), and (B) is the amount of any benefit that the member receives from the City's long-term disability insurance program. The additional five percent (5%) benefit for the member's spouse shall cease if the spouse and member are no longer married or if the spouse dies. The additional five percent (5%) benefit for each dependent child shall cease for each respective dependent child upon the earlier of the child's death or when the child reaches eighteen (18) years of age. If the disabled member dies while receiving a disability pension benefit, the surviving spouse and any dependent children, under the age of eighteen (18), shall receive a Survivors' Pension benefit in accordance with Section 6.5 below.

- (b) Police/Special Police Job-Related Disability – If a Police Member, or Special Police Member, becomes disabled as a result of the member's activities in the discharge of his official duties, a monthly disability pension benefit shall commence to be paid on the first day of the month following termination as an active member. The amount of a monthly disability pension benefit shall be calculated as (A) less (B), but not less than zero (0), where (A) is seventy-five percent (75%) of the member's Final Average Compensation plus ten percent (10%) of Final Average Compensation for each dependent up to a maximum of twenty-five percent (25%) and (B) is the amount of any benefit that the

member receives from the City's long-term disability insurance program. The additional ten percent (10%) benefit for the member's spouse shall cease if the spouse and member are no longer married or if the spouse dies. The additional ten percent (10%) benefit for each dependent child shall cease for each respective dependent upon the earlier of the dependent's death or when the dependent reaches eighteen (18) years of age. If the disabled member dies while receiving a disability pension benefit, the surviving spouse and any dependent children, under the age of eighteen (18), shall receive a survivors' pension benefit in accordance with Section 6.5 below.

Section 6.5. Survivor's Pension. A monthly Survivor's pension benefit for the spouse of the deceased member shall commence to be paid to the spouse of the deceased member on the first day of the month subsequent to the death of the member and shall be equal to fifty percent (50%) of the member's Final Average Compensation. The benefit shall cease upon the spouse's death or remarriage. However, in the case of a Police/Special Police member, if death resulted from the member's activities in the discharge of his official duties, the Survivor's Pension shall be fifty percent (50%) of the deceased member's Final Average Compensation for the surviving spouse, plus ten percent (10%) of the deceased member's Final Average Compensation for each dependent child up to age eighteen (18), subject to a maximum of twenty-five percent (25%). The fifty percent (50%) benefit for the deceased member's spouse shall cease upon the spouse's death or remarriage. The additional ten percent (10%) benefit for each dependent child shall cease for each respective dependent upon the earlier of the dependent's death or when the dependent reaches eighteen (18) years of age.

Section 6.6. Recovery From Disability. In the event that a disabled member receiving payments under Section 6.4 recovers from disability prior to his normal

retirement date, benefits under Section 6.4 shall cease. In the event the member recovers prior to the member's normal retirement date and is re-employed by the City, the member's continuous service and credited service as of his date of disability shall be reinstated and the period of disability shall be ignored when calculating any benefits under this plan. In the event the member is not re-employed by the City following recovery prior to the member's normal retirement date, the member shall be considered to have terminated employment with the City on the date of the member's disability. In either case, a member's employee contributions plus credited interest account will not be credited with any additional interest during the member's period of disability. Furthermore, the member's employee contributions plus credited interest account shall be reduced by the amount of any disability retirement pension paid to the member. The trustees may verify by medical examination at any time whether a member who is receiving a disability retirement pension has ceased to be disabled. If any such member should refuse to permit such examination, such refusal shall be justification for the determination that the disability no longer exists.

Section 6.7. Required Minimum Distributions. The Required Minimum Distribution provisions of Section 401(a)(9) of the Code and Treasury Regulations Section 1.401(a)(9)-1 through Section 1.401(a)(9)-9 applicable to governmental plans as defined in Section 414(d) of the Code are hereby incorporated by reference. All distributions from the Plan shall be made in accordance with Treasury Regulations Section 1.401(a)(9)-1 through Section 1.401(a)(9)-9 and the provisions of Section 401(a)(9) override any distribution options in the Plan that are inconsistent with Section 401(a)(9). This incorporation by reference shall include the provisions of Section 401(a)(9)(G).

ARTICLE VII

Reserved

ARTICLE VIII

Termination of Employment

Section 8.1. General. If a member ceases to work for the City at any time and for any reason, including death disability, and involuntary termination prior to the date on which such member meets the age and service requirements essential for a normal retirement pension, a late retirement pension, an early retirement pension, a vested deferred pension, a total and permanent disability pension, or a spouse's or a children's pension, such terminated member shall have no rights whatsoever under the plan. The member shall, in any event, be assured of receiving a refund of his employee contributions plus credited interest thereon.

ARTICLE IX

Other Provisions With Respect to the Payment of Benefits

Section 9.1. Application Must Be Filed; Only One (1) Type of Benefit Payable. Any member who is entitled to benefits hereunder must file a written application therefore with the trustees on the form or forms prescribed by the trustees. Such application must be filed not earlier than eighteen (18) months prior to nor later than three (3) years from the date any benefit is first payable. No more than one (1) type of regular benefit (i.e., normal retirement, late retirement, vested deferred, early retirement, total and permanent disability, spouse's pension or children's pension) may be payable on behalf of one member's employment with the City.

Section 9.2. Permissible Purchase of Annuity Contracts. The trustees, in lieu of instructing the fiduciary trustee to pay the pension to which a member of this plan is entitled directly from the funds of the pension trust may instruct the fiduciary trustee to purchase from a triple A rated insurance company who provides immediate and/or deferred annuity contracts, an annuity contract which will provide pension benefits, or pay benefits without the purchase of an annuity contract, in an amount identical to that which the retirement member was entitled under this plan.

Section 9.3. Settlement of Small Pensions. In the event that the pension provided for any member of the plan is less than twenty dollars (\$20) per month, the trustees may, but shall not be required to, cause such pension to be satisfied by the payment to the member entitled thereto of a pension of equivalent actuarial value in quarterly, semi-annual or annual installments or in a lump sum which the trustees determine to be the actuarial equivalent of the pension to which the member is entitled.

Section 9.4. Forfeitures. Forfeitures, if any, must not be applied to increase the pension benefits any employee would otherwise receive under the plan.

Section 9.5. Direct Rollovers. This Section applies to refunds made on or after January 1, 1993 of employee contributions plus interest credited thereon. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Plan, a Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a direct rollover.

- (a) **Eligible Rollover Distribution:** An Eligible Rollover Distribution is any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). For distributions made after December 31, 2001, a portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions which are not includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified

defined contribution plan described in Sections 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable.

- (b) **Eligible Retirement Plan:** An Eligible Retirement Plan is an Individual Retirement Account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, a Roth Individual Retirement Account described in Section 408A of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the Distributee's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to the surviving spouse, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity. For distributions made after December 31, 2001, an Eligible Retirement Plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of Eligible Retirement Plan shall also apply in the case of a distribution to a surviving spouse or former spouse who is the alternate payee under a qualified domestic relation order, as defined in Section 414(p) of the Code.
- (c) **Distributee:** A Distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse

and the employee's or former employee' spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are Distributees with regard to the interest of the spouse or former spouse. For distributions made after December 31, 2001, Distributee shall include the designated beneficiary of a participant who is not the surviving spouse of a participant but only with respect to Eligible Rollover Distribution to an Individual Retirement Account described in Section 408(a) of the Code or an individual retirement annuity described in Section 408(b) of the Code. If the participant dies before his or her required beginning date and the non-spouse beneficiary rolls over to an IRA the maximum amount eligible for rollover, the beneficiary may elect to use either the 5-year rule or the life expectancy rule, pursuant to Treas. Reg. §1.401(a)(9)-3, A-4(c), in determining the required minimum distributions from the IRA that receives the non-spouse beneficiary's distribution.

- (d) Direct Rollover: A Direct Rollover is a payment by the Plan to the eligible Retirement Plan specified by the Distributee.

ARTICLE X

Administration of the Plan

Section 10.1. Appointment of the Trustees. The administration of the plan, as provided herein, including the supervision of the payment of all benefits to retired members and their joint pensioners, shall be vested in and shall be the responsibility of the trustees which shall consist of such number of persons, not less than three (3), as shall from time to time be determined by the City Council. The trustees and their successors shall be appointed from time to time by said City Council and shall serve at their pleasure, without compensation, unless otherwise determined by said City Council.

Section 10.2. Conduct of Trustee Business. The trustees shall conduct their business and hold meetings as determined by them from time to time. A majority of the trustees shall have the power to act, and the concurrence of any member may be by telephone, wire, cablegram or letter. In the administration of the plan, the trustees may, from time to time, employ agents and may delegate to them ministerial and limited discretionary duties as it sees fit and may, from time to time, consult with counsel, who may be of counsel to the City.

Section 10.3. Officers, Subcommittees and Agents. The trustees shall elect a chairman who shall be a trustee, and a secretary who may or may not be a trustee and shall appoint such subcommittees as it shall deem appropriate, and may authorize one (1) or more of its number or any agent to execute or deliver any instrument on its behalf and to do any and all other things necessary and proper in the administration of the plan.

Section 10.4. Expenses of the Trustees. The expenses of administering the plan and the compensation of all employees, agents, or counsel of the trustees, including the actuary's fees, shall be paid by the trustee from employer contributions

or by the City.

Section 10.5. Records of the Trustees. The trustees shall keep a record of all their proceedings, which shall be open to inspection by the members of the City Council. The trustees shall obtain from the fiduciary trustee and/or the insurance company not less often than annually a report with respect to the cost and market value of the assets held in the trust fund and/or immediate participation guarantee fund in such form as is requested by the trustees.

Section 10.6. Trustees' Rights to Administer and Interpret the Plan. The trustees shall have the power and discretionary authority to administer and to interpret the plan and to adopt such rules and regulations as in the opinion of the trustees are necessary or advisable to implement, administer and interpret the plan, or to transact its business. Such rules and regulations as are adopted by the trustees shall be binding upon any persons having any interest in or under the plan.

Section 10.7. Liability of Trustees. The trustees shall use ordinary care and reasonable diligence in the performance of their duties, but no trustee shall be personally liable on account of any action taken on any contract, agreement, bond or other instrument made or executed by him or in his behalf as a trustee nor for any mistake in judgment made in good faith, nor for any loss, unless resulting from his own gross negligence or willful misconduct, and no trustee shall be liable for any neglect, omission or wrongdoing of any agent or counsel of the trustees, provided reasonable care shall have been exercised in their selection, nor for any neglect, omission or wrongdoing of the fiduciary trustee and/or insurance company. The trustees may rely and shall be fully protected in acting upon the advice of counsel, who may be of counsel to the City. The City expressly agrees to indemnify and reimburse the trustees for any out-of-pocket expenses incurred in the performance of their duties.

Section 10.8. Triennial Review of Retirement Pensions. The trustees shall conduct a triennial review of the possibility of increasing benefits payable to those members who have retired and are in receipt of benefits. The trustees, in their sole discretion, may increase retirement benefits currently being paid.

ARTICLE XI

Benefits Not Assignable

Section 11.1. General. Subject to the exceptions provided in Section 11.2 below, no benefit under the plan shall in any manner or to any extent be assignable or transferable by any member, retired member, former member, spouse or child (including its guardian) of a deceased member, or joint pensioner under the plan or subject to attachment, garnishment or other legal process. No attempted assignment or transfer of any benefit under the plan shall be recognized and, notwithstanding any provisions of the plan to the contrary as to benefits, the trustees shall, upon proof of any attempt on the part of any such member, retired member, former member, spouse or child (including its guardian) of a deceased member or joint pensioner to transfer or to assign his benefits, declare the pension of such member, retired member, former member, spouse or child (including its guardian) of a deceased member or joint pensioner to be forfeited; provided that the trustees shall give such member, retired member, former member, spouse or child (including its guardian) of a deceased member or joint pensioner notice in writing of the effect of the provisions of this Section upon his benefits and if prior to the time he shall cease to be an employee or within thirty (30) days after such notice, whichever is longer, as to such member, or within thirty (30) days after such notice as to such retired member, former member, spouse or child (including its guardian) of a deceased member or joint pensioner, valid cancellation of such attempted transfer or assignment shall have been effected and satisfactory proof thereof furnished to the trustees, then such member, retired member, former member, spouse or child (including its guardian) of a deceased member or joint pensioner shall be entitled to the same (but no greater) benefits under this plan as in the case he had not attempted to make any such assignment or transfer.

Section 11.2. Exception for Qualified Domestic Relations Orders. Section 11.1 shall not apply to a 'qualified domestic relations order' defined in Internal Revenue Code, Section 414(p), or against an amount that the member is ordered or required to pay the plan with respect to a judgment, order or decree issued, or a settlement entered into in accordance with Internal Revenue Code, Sections 401(a)(13)(C) and (D).

ARTICLE XII

Certain Rights and Obligations of the City

Section 12.1. Right to Amend or Terminate the Plan. It is the intention of the City to continue the plan indefinitely. The City expressly reserves the right, however, to terminate the plan at any time if the City Council shall determine that financial or other good causes make it necessary or desirable to do so; and the City, by resolution of its City Council, expressly reserves the right to amend the plan at any time and in any particular provided, however, that any such action shall not operate to deprive any member, retired member, former member, spouse or child of a deceased member or joint pensioner under the plan of any vested right which he may have hereunder.

Section 12.2. Vesting and Distributions Upon Termination of the Plan. Upon termination of the plan or upon the complete (and permanent) discontinuance of contributions under the plan, the rights of all members not continuing in the employ of an employer superseding the City of Newark, Delaware, to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall be nonforfeitable, and upon the occurrence of either of such events the then assets of the fund with respect to said members shall be distributed to said discontinuing members, retired members, former members, spouses or children of deceased members and joint pensioners at such time or times and in such nondiscriminatory manner as is directed by the trustees.

Section 12.3. City Contributions. That portion of the entire cost of the pension plan described herein not paid by employee contributions or State of Delaware insurance tax proceeds will be paid by the City. Subject to its right to amend or terminate the plan, and acknowledging that State of Delaware contributions are for the exclusive benefit of Police employees, the City agrees to contribute from time to

time to the trustee and/or the insurance company such sums as are required to provide the pensions described herein in accordance with generally accepted actuarial practices.

Section 12.4. Trust Funds Must Be Used for Exclusive Benefit of Members of the Plan and Their Beneficiaries. It shall be impossible for any part of the corpus or income of the trust fund or insurance company contract to be used for, or diverted to purposes other than the exclusive benefit of the members, retired members, former members, spouses or children of deceased members and joint pensioners prior to the satisfaction of all liabilities under the plan with respect to such persons.

Section 12.5. Limitation on Benefits if Plan is In Effect for Less Than Ten (10) Years. Any provision of this plan to the contrary notwithstanding, the following restriction shall be placed upon the amount of retirement or other benefits (except a spouse or child pension) payable to any member of the plan in the event that "the full current costs" of the plan, as defined hereinafter, are not paid by the City to the trustee and/or insurance company during the first ten (10) years following the effective date of the plan. The restriction is as follows: If at any time prior to ten (10) years from the effective date of this plan, an amount equal to "the full current costs of the plan" as defined hereinafter, has not been paid by the City to the trustee, then the contributions of the City which may be used by the trustee or the fiduciary trustee to provide pension or other benefits for any of the twenty-five (25) highest paid employees on the payroll of the City as of the effective date of this plan, shall not exceed whichever of the following amounts is the greater: (1) twenty thousand dollars (\$20,000) or (2) an amount equal to twenty percent (20%) of the first fifty thousand dollars (\$50,000) of the employee's compensation multiplied by the number of years between establishment of the plan and the occurrence of the event causing such restriction.

The foregoing restriction shall not apply to that portion of benefits which would not have been restricted had the provisions of the predecessor plan remained in

effect.

Nor shall the foregoing restriction apply in the case of a member covered by the plan whose pension payable from the trust fund does not exceed one thousand five hundred dollars (\$1,500) per year, nor shall the foregoing provisions restrict the amount of any pension payments to any member at any time when an amount equal to "the full current costs of the plan" as defined hereinafter, has been paid by the City to the trustee.

For purposes of the Section, "the full current costs of the plan" shall mean an amount equal to the sum of the normal annual costs of the plan for each year following its adoption as defined in the Commissioner's regulations plus interest for such period on all unfunded past service liabilities under the plan.

If the benefits payable to a member covered by the plan are restricted at any time under the provisions of this Section, the funds so restricted shall continue to be held by the fiduciary trustee to provide additional benefits, in a nondiscriminatory manner, for all members who are not subject to the restrictions of this Section, as determined by the trustee.

ARTICLE XIII

Revocation of Membership

Section 13.1. Willful Act Harmful to the City. If the trustees after a hearing at which the former member who was retired or otherwise terminated shall be entitled to be present, shall find that he has, at any time, willfully engaged in any activity which is harmful to the interest of the City including, but not limited to, the theft or embezzlement of City funds or the commission of a fraudulent act, all rights of such former member to any payments under this plan shall be forthwith cancelled and, when he has previously made employee contributions, they shall be refunded with credited interest thereon.

Section 13.2. Annual Registration Required For Participants Receiving Benefits From the Plan. The Finance Director shall require an annual certified registration of all retired employees, spouses of retired or deceased employees, and dependents of retired or deceased employees. An annual registration shall be on forms prescribed by the Finance Director.

Falsifying of the information supplied on the annual registration forms by a retired employee, the spouse of a retired or deceased employee or the dependents of a retired or deceased employee receiving benefits may result in the forfeiture of all rights to any payments under this plan.

ARTICLE XIV

Miscellaneous

Section 14.1. Titles are for Reference Only. The Titles are for reference only. In the event of a conflict between a title and the content of a Section, the content of the Section shall control.

Section 14.2. Employment Status of Members Unchanged by Plan. The establishment and existence of the Plan shall not be construed as a consideration for employment or continuance of employment or as conferring any legal rights as against the City upon any employee or member or any other person nor shall it interfere with the right of the City to discharge or lay off any employee or member or otherwise to sever or discontinue his employment or to treat him without regard to the existence of the Plan or the effect which such treatment might have upon him under the Plan.

Section 14.3. Delaware Law Governs. The provisions of the Plan shall be interpreted in accordance with the laws of the State of Delaware.

Section 14.4. Sick Leave/Retirement Incentive Benefit. Each Exempt and Local 1670 member may make an irrevocable election to participate in this incentive benefit. Each current member shall have not less than thirty (30) calendar days nor more than ninety (90) calendar days after the adoption of this amendment to make an irrevocable election. Each newly hired member shall have not less than thirty (30) calendar days nor more than ninety (90) calendar days after the member's date of enrollment in the pension plan to make an irrevocable election.

Under this incentive benefit, a member making employee contributions shall receive, in lieu of payment for unused Sick Leave, additional credited service as follows:

- (a) Exempt members shall receive:
 - (1) One (1) month of additional credited service for each complete calendar year after 1996 in which the member uses no sick leave.
 - (2) One-half (1/2) month of additional credited service for each complete calendar year after 1996 in which the member uses no more than fifteen (15) hours of sick leave.
 - (3) At termination of employment, one-half (1/2) month of additional credited service for each twenty (20) days of unused sick leave.
- (b) Local 1670 members shall receive:
 - (1) One (1) month of additional credited service for each complete calendar year after 1996 in which the member uses no more than sixteen (16) hours of sick leave.
 - (2) One-half (1/2) month of additional credited service for each complete calendar year after 1996 in which the member uses more than sixteen (16) and up to forty (40) hours of sick leave.
 - (3) At termination of employment, one-half (1/2) month of additional credited service for each twenty (20) days of unused sick leave.

Each Local 1670 member hired between January 1, 1992 and December 31, 1996 may make an irrevocable election to participate in this incentive benefit retroactive to the first of January immediately following the member's date of hire.

Sick leave shall be defined in accordance with either the agreement between the City and Local 1670 or the city ordinance covering exempt employees in effect at the time the sick leave is accrued.

ARTICLE XV
Pension Committee

Section 15.1. Establishment. The Pension Committee is hereby created as established by Council through Section 2-98.4 of the Code of the City of Newark, Delaware.

Section 15.2. Duties. The Pension Committee is responsible for carrying out the following duties:

- (a) Advise and assist Council in meeting its mandate with respect to the plan.
- (b) Recommend, document the selection process for, and monitor external advisors to Council including, but not limited to Pension Counsel, the Third Party Administration Provider, Actuary, Investment Managers and Trustee/Custodian. The selection process for said external advisors, when applicable, will be in accordance with the City of Newark's Policy for Selection of professional service contracts. Said external advisors shall report to the Pension Committee.
- (c) Review the objectives, mission statement and design of the Plan on at least a triennial basis.
- (d) Ensure that all documents related to the Plan are consistent and compliant with all applicable legislation and guidelines.
- (e) Prepare and present an annual report to Council and the City's Independent Auditors that includes the following:
 - (1) Confirmation that the required reports have been filed and the required disclosure information has been provided to the plan members.

- (2) Confirmation that the Plan has been administered in accordance with the applicable legislation and guidelines.
- (f) Present to Council any recommended administrative clarification amendments.
- (g) Review procedures in place at least once every two years for handling Plan member terminations, retirements and deaths; procedures in place for payments from the fund; and samples of employee communication material including annual member statements.
- (h) Draft the Statement of Investment Policy, Objectives and Guidelines (SIPO&G) for Council approval.
- (i) Establish a recommended funding policy for the Plan in conjunction with the Actuary.
- (j) Review the annual actuarial report and the recommended funding level and make necessary changes, in conjunction with the Actuary, prior to the presentation of the report to Council.
- (k) Review the annual audit of the financial statements of the Plan conducted by the City's Independent Auditors.
- (l) Review the Investment Managers' performance to ensure compliance with the applicable legislation and the SIPO&G via quarterly measurement reports.
- (m) Conduct an investment review meeting at least annually with the Investment Managers and the Actuary and prepare an annual report for Council that includes the following:
 - (1) Financial statements of the Plan.
 - (2) Summary reports that the Committee has received from the Investment Manager measuring the pension fund performance in

relation to the SIPO&G.

- (3) Confirmation that the SIPO&G has been reviewed, any required amendments have been made and this review has been reported to the regulators.
- (n) Engage internal staff, including but not limited to the Deputy City Manager and/or the Director of Finance, to carry out or delegate the following functions:
 - (1) Identifying two or more individuals who will have the authority to sign the authorizations of payments from the fund.
 - (2) Establishing and maintaining the written agreements with the external advisors approved by Council that will outline the services they will provide, the fees associated with such services, privacy policies that are in place and performance measurement criteria.
 - (3) Supervising the handling of communications from and to Plan members.
 - (4) Ensuring quality control and compliance from internal staff and external advisors regarding communications provided to Plan members.
 - (5) Recommending selected actuarial methods and assumptions for the valuation of the Plan, in conjunction with the Actuary.
 - (6) Reviewing the financial statements prepared by the custodian, at least quarterly, to ensure that contributions are being made according to the Plan documents, funding policy and actuarial report and are remitted in a timely manner in compliance with applicable law.

- (7) Validating all payments from the fund are in accordance with the authorization of payments.
- (8) Ensuring that payments are permissible distributions in accordance with the Plan and applicable legislation and ensure Plan's investments and funding are in accordance with the SIPO&G.