

**The Pension Plan for Employees of the Town of
Portsmouth, Rhode Island**

(As amended and restated effective September 28, 2020 except as otherwise provided herein)

INTRODUCTION

The purpose of The Pension Plan for Employees of the Town of Portsmouth, Rhode Island (the “Plan”) is to provide periodic income after retirement to covered employees of the Town of Portsmouth, Rhode Island (the “Town”). Covered employees include all employees of the Town who have (a) achieved full time status in the Police, Fire, Town Hall and Public Works Departments and (b) the permanent employee roster of the School Department, as determined and reported by the Town, except teachers in the School Department.

The Plan was previously amended and restated effective January 1, 2002 and again effective July 1, 2005. This amended and restated Plan is effective September 28, 2020 except as otherwise provided herein. The Plan as set forth herein shall be applicable only in respect of persons who are in covered employment on and after September 28, 2020. The benefits and rights of a former employee who is a participant shall be determined under the provisions of the Plan as in effect when the former employee terminated employment and/or retired, except as otherwise expressly provided in this Plan.

The Plan is a defined benefit pension plan designed to meet the requirements of the Internal Revenue Code of 1986, as amended, as they apply to governmental plans.

The capitalized words and phrases used throughout the Plan shall have the meanings set forth in Article I. Unless otherwise plainly required by the context, any gender may be construed to include all genders and the singular or plural may be construed to include the plural or singular, respectively. The article and section headings in the Plan have been inserted for the convenience of reference only and are not to be considered in the interpretation of the Plan.

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ARTICLE I

Definitions

1. **Accrued Benefit** means the benefit determined as of any given date under Article V of this Plan and payable at a Participant's Normal or Early Retirement Date.
2. **Accumulated Contributions** means at any time the total of a Participant's Contributions to this Plan together with Credited Interest thereon.
3. **Actuarially Equivalent or Actuarial Equivalent Value** means a benefit of equivalent value based upon an interest rate of six percent and the 1994 Group Annuity Reserving (94 GAR) table, projected to 2002 (unisex).
4. **Actuary** means a member of the Society of Actuaries who is enrolled by the Joint Board for the Enrollment of Actuaries who has been selected by the Town to provide services to the Plan.
5. **Administrator** means the Town Council.
6. **Authorized Leave of Absence** shall have the meaning provided in Article II.
7. **Beneficiary** means the Participant's designated beneficiary under this Plan or, in the absence of an effective designation, the estate of such Participant.
8. **Code** means the Internal Revenue Code of 1986, as amended.
9. **Contingent Annuitant** means the person designated by the Participant to receive payments upon his death under the Contingent Annuitant Option described in Article VI.
10. **Cost of Living Adjustment** shall mean:
 - a. **For Fire and Public Works Department Participants** who retire on or after July 1, 1987 (but before June 30, 2007 for Fire Department Participants), with twenty (20) or more years of Credited Service (and at age sixty (60) or later for Public Works Department Participants), an amount equal to fifty percent (50%) of the percentage salary increase received the previous July 1 by the active bargaining unit employees in the department from which the Participant retired multiplied by the pension benefit then being received by the Retired Participant. There shall be a two (2) year waiting period following a January 1 retirement; provided, however, that effective July 1, 2000, the waiting period for Fire Department Participants shall be until January 1st following his/her retirement date.

Notwithstanding the foregoing paragraph, for Fire Department Participants who retire on or after June 30, 2007 with twenty (20) or more years of Credited Service, the annual Cost of Living Adjustment shall be three percent (3%) of the pension

benefit received by the Participant in the prior year, commencing the first day of January immediately following his retirement date.

Effective July 1, 2013, for Fire and Public Works Department Participants who retire on or after July 1, 2013, with twenty (20) or more years of Credited Service, the Cost of Living Adjustment shall be one and seven tenths percent (1.7%) per year. The Cost of Living Adjustment shall commence on the Participant's fifth (5th) anniversary of the Participant's Annuity Starting Date. Effective July 1, 2013, Public Works Department Participants who earned at least ten (10) years of Credited Service as of June 30, 2013 and who retire on or after July 1, 2013, with ten (10) or more years of Credited Service, the Cost of Living Adjustment shall be one and seven tenths percent (1.7%) per year. The Cost of Living Adjustment shall commence on the Participant's fifth (5th) anniversary of the Participant's Annuity Starting Date. For the Fire Chief and Fire Deputy who retire on or after July 1, 2013, and the Fire Deputy who retires prior to July 1, 2017, the Cost of Living Adjustment shall be three percent (3%) per year. The Cost of Living Adjustment shall commence on the fifth (5th) anniversary of the Participant's Annuity Starting Date.

- b. **For Police Department Participants** who retire on or after July 1, 2003, with twenty (20) or more years of Credited Service or who retire under the Ordinary or Accidental Disability Benefit, the Cost of Living Adjustment shall be three percent (3%) per year. Effective July 1, 2003, the Cost of Living Adjustment shall commence on the first day of January following the first anniversary of the Participant's date of retirement.

Effective July 1, 2010, for Police Officers hired prior to June 30, 2010 who retire on or after July 1, 2010 with twenty (20) or more years of Credited Service or who retire under the Ordinary or Accidental Disability Benefit, the Cost of Living Adjustment shall be three percent (3%) per year. The Cost of Living Adjustment shall commence on the January 1 following the second anniversary of the Participant's Annuity Starting Date.

- c. **For Town Hall Non-Management Participants** who are members of the Portsmouth Municipal Employees Association (PMEA) who retire on or after July 1, 2003, with twenty (20) or more years of Credited Service and at age sixty (60) or later, the Cost of Living Adjustment shall be two percent (2%) per year. Effective July 1, 2003, the Cost of Living Adjustment shall commence on the first day of January immediately following the first anniversary of the Participant's date of retirement.

Effective July 1, 2005. For Town Hall Non-Management Participants who retire on or after July 1, 2005, with twenty (20) or more years of Credited Service and at age sixty (60) or later, the Cost of Living Adjustment shall be the annual Consumer Price Index (CPI-U, U.S. city average), established on December 31 of the preceding year, but shall not be less than two percent (2%) or more than three

percent (3%) annually commencing on the first anniversary of the Participant's date of retirement.

Effective July 1, 2013, for Town Hall Non-Management Participants who retire on or after July 1, 2013, with twenty (20) or more years of Credited Service and at age sixty (60) or later, the Cost of Living Adjustment shall be one and seven tenths percent (1.7%) per year. The Cost of Living Adjustment shall commence on the fifth (5th) anniversary of the Participant's Annuity Starting Date.

- d. **For Town Hall Management Participants** who retire on or after July 1, 2002 but before July 1, 2004, who have either attained age sixty (60) with twenty (20) or more years of Credited Service or have attained age fifty-five (55) with twenty-five (25) or more years of Credited Service, the Cost of Living Adjustment shall be two percent (2%) per year. There shall be a one (1) year waiting period following retirement.

For Town Hall Management Participants who retire on or after July 1, 2004, who have either attained age sixty (60) with twenty (20) or more years of Credited Service or have attained age fifty-five (55) with twenty-five (25) or more years of Credited Service, the Cost of Living Adjustment shall be three percent (3%) per year, commencing on the first day of January following the first anniversary of the Participant's date of retirement.

Effective July 1, 2013, for Town Hall Management Participants who have either attained age sixty (60) with twenty (20) or more years of Credited Service or have attained age fifty-five (55) with twenty-five (25) or more years of Credited Service, and who retire on or after July 1, 2013, the Cost of Living Adjustment shall be one and seven tenths percent (1.7%) per year. The Cost of Living Adjustment shall commence on the fifth (5th) anniversary of the Participant's Annuity Starting Date.

- e. **For School Management Participants** who retire on or after January 1, 2001, who have either attained age sixty (60) with twenty (20) or more years of Credited Service or who have attained age fifty-five (55) with twenty-five (25) or more years of Credited Service, the Cost of Living Adjustment shall be one and seven tenths percent (1.7%) per year. There shall be a one (1) year waiting period following retirement.

- f. **For Non-Certified School Participants** who retire on or after July 1, 2007, who have attained age sixty (60) with twenty (20) or more years of Credited Service, the Cost of Living Adjustment shall be one and seven tenths percent (1.7%) per year. There shall be a one (1) year waiting period following retirement.

Effective October 1, 2013, for Non-Certified School Participants who retire on or after October 1, 2013 or later and who have attained age sixty (60) with twenty (20) or more years of Credited Service or who have attained age fifty-five (55) with twenty (20) years of Credited Service, the Cost of Living Adjustment shall be one

and seven tenths percent (1.7%) per year. The Cost of Living Adjustment shall commence on the fifth (5th) anniversary of the Participant's Annuity Starting Date.

If applicable, the Cost of Living Adjustment for any Participant shall be added to the Participant's pension benefit on the January 1 following the July 1 date on which the Cost of Living Adjustment is calculated.

There is no Cost of Living Adjustment on a Deferred Vested Benefit or a Pre-Retirement Death Benefit.

11. **Credited Interest** means interest on Participant Contributions, compounded annually, at the rate of 5% per annum.
12. **Disability or Disabled, including Accidental Disability and Ordinary Disability**, as applied to a Police Department Participant or a Fire Department Participant shall have the meaning provided in the collective bargaining agreement covering such Participant at the time of such Disability, the terms of which are expressly incorporated in this Plan by this reference.

Disability or Disabled as applied to any other Participant shall mean bodily or mental injury or disease which prevents the Participant from engaging in any occupation with the Town and which is assumed to be permanent and continuous during the remainder of the Participant's lifetime, but shall not include any disability resulting from self-inflicted injury or the habitual use of narcotics or alcohol. Proof of Disability shall be submitted to the Administrator upon request but shall not be required more frequently than once every six (6) months.

13. **Disability Benefits** means the benefits payable to a Participant pursuant to Article XIII.
14. **Early Retirement Date** means the date specified in Article IV.
15. **Effective Date** means June 1, 1965; provided, however, that the effective date of this amendment and restatement of the Plan means July 1, 2015 except as otherwise provided herein.
16. **Employee** means any person enrolled on the active employment rolls of the Employer on or after the Effective Date of this Plan.
17. **Employer** or **Town** means the Town of Portsmouth, Rhode Island.
18. **Final Earnings** with respect to a Town Hall Management Participant means such Participant's highest Gross Annual Salary earned during the last three (3) years ending prior to such Participant's retirement or other termination of employment.

Final Earnings with respect to any other Participant shall be determined on an annual basis in accordance with the collective bargaining agreement that governs such Participant's employment with the Town as in effect on the date of such Participant's retirement or other

termination of employment, the terms of which are expressly incorporated in this Plan by this reference or as expressly stated in this Plan Restatement.

Notwithstanding the foregoing, for purposes of determining a Participant's Pre-Retirement Death Benefit as provided in Article VI, Final Earnings shall mean such Participant's average Gross Annual Salary earned during the last five (5) years ending prior to such Participant's death.

If a Participant's service with the Employer is continued during a period of leave of absence as provided in Article II, such Participant shall be deemed to continue to receive the Gross Annual Salary he was receiving at the time such leave commenced.

Notwithstanding the foregoing, for all purposes under this Plan, Gross Annual Salary taken into account in determining benefit accruals in any Plan Year beginning after December 31, 2001 shall not exceed \$200,000. This \$200,000 limit shall be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code (\$220,000 in 2006). The cost-of-living adjustment in effect for a calendar year applies to Gross Annual Salary for the determination period that begins with or within such calendar year.

19. **Fire Department Employees** means full-time Employees of the Town's Fire Department.
20. **Fire Department Participants** means Fire Department Employees who have satisfied the participation requirements described in Article III.
21. **Gross Annual Salary** means a Participant's annual regular earnings plus longevity pay, EMT bonus and compensation deferred under the Town of Portsmouth Deferred Compensation Plan, but excluding overtime, holiday pay or any other form of compensation, except as otherwise specified in the Plan. For Town Hall Non-Management Participants, Gross Annual Salary does not include longevity pay.

Gross Annual Salary is used in the determination of the Participant Contributions.

22. **Non-Certified School Participants** means School Department Employees who are not management employees as determined by the Town who have satisfied the participation requirements described in Article III.
23. **Normal Retirement Date** means the date specified in Article IV.
24. **Participant** means an Employee or former Employee who has, on or after the Effective Date of this Plan, met the requirements of Article III hereof.
25. **Participant Contributions or Participant's Contributions** means contributions required from a Participant.
26. **Plan** means the Pension Plan for Employees of the Town of Portsmouth, Rhode Island as it may from time to time be amended.
27. **Plan Year** means the period of twelve consecutive months beginning each July 1.

28. **Police Department Employees** means full-time Employees of the Town's Police Department.
29. **Police Department Participants** means Police Department Employees who have satisfied the participation requirements described in Article III.
30. **Public Works Department Employees** means full-time Employees of the Town's Public Works Department.
31. **Public Works Department Participants** means Public Works Department Employees who have satisfied the participation requirements described in Article III.
32. **Required Beginning Date** means April 1 of the calendar year following the later of the calendar year in which the participant i) attains age 70 ½, or ii) retires, as defined in Section 401(a)(9)(C) of the Code.
33. **Retired Participant** means a former Participant who is retired under this Plan and who is receiving Retirement Benefits provided for hereunder.
34. **Retirement Benefit** means the monthly payments to which a Participant is entitled hereunder.
35. **School Department Employees** means the permanent employee roster of the School Department, as determined and reported by the Town, other than teachers, to the extent they are eligible to participate in the Plan on or after October 1, 2013 in accordance with Section 2.c. of Article III.
36. **School Management Participants** means School Department Employees who are management employees as determined by the Town who have satisfied the participation requirements described in Article III.
37. **Spouse** means the person to whom a Participant, Retired Participant or Terminated Participant is legally married.
38. **Town Hall Employees** means full-time Employees not classified elsewhere.
39. **Town Hall Non-Management Participants** means Town Hall Employees who are not management employees as determined by the Town who have satisfied the participation requirements described in Article III.
40. **Town Hall Management Employees** means Town Hall Employees who are management employees as determined by the Town.
41. **Town Hall Management Participants** means Town Hall Management Employees who have satisfied the participation requirements described in Article III.

ARTICLE II

Types of Service

For purposes of this Plan, a Participant's years of service with the Employer shall be determined and reported by the Administrator in accordance with the following:

1. Credited Service

For Town Hall Management Participants, Non-Certified School Participants and School Management Participants, Credited Service shall mean the number of full years and fractions (based on number of days worked) of continuous service completed by the Participant from his date of employment to his date of termination of employment, up to a maximum of twenty-seven (27) years for Town Hall Management Participants.

For Police, Fire, and Public Works Department Participants and for Participants who are members of the Portsmouth Municipal Employees Association, Credited Service shall mean the number of full years and fractions (based on number of days worked) of continuous service completed by the Participant from his date of employment to his date of termination of employment up to a maximum of twenty-seven (27) years for Fire Department Participants, Public Works Department Participants, and Participants who are members of the Portsmouth Municipal Employees Association, and twenty-five (25) years for Police Department Participants.

For Public Works Department Participants

Employees hired on or before June 30, 2010 who had 10 or more years of Credited Service with the Town as of June 30, 2013:

Employees shall maintain all Credited Service earned through June 30, 2013. No Credited Service shall be credited after June 30, 2013 and shall be frozen as of June 30, 2013.

Employees hired on or before June 30, 2010 who did not have 10 or more years of Credited Service with the Town as of June 30, 2013:

Employees shall maintain all Credited Service earned through June 30, 2013 and shall continue to earn Credited Service until the Employee has earned 10 years of Credited Service. Upon completion of 10 years of Credited Service, no additional Credited Service shall be earned.

Effective July 1, 1991, a Participant covered by the Municipal Retirement System, with 10 or more years of Credited Service, who shall have rendered part-time service on a daily basis in accordance with the established workweek of the respective department, immediately prior to such Participant's permanent full-time employment, with the exception of an Authorized Leave of Absence, shall be given credit for such part-time service in an amount not to exceed four (4) years, provided the Participant pays to the Plan

a lump sum amount equal to the value of such service credit as determined by the Plan Actuary pursuant to a uniform method. For purposes of this section, Employees who have rendered part-time service on a daily basis in accordance with the established workweek of the respective department shall not include those Employees who rendered only temporary, seasonal or on-call services, regardless of whether they were available to render such services on a daily or full-time basis. Eligible employees must make written requests to the Administrator.

A Participant covered by the Municipal Retirement System who shall have rendered service as an elected official of the Town shall be given credit for such service, not to exceed three (3) years, provided the Participant pays to the Plan a lump sum amount equal to the value of such credit as determined by the Plan Actuary pursuant to a uniform method.

2. Continuous service with the Town shall not be broken in the event of an Authorized Leave of Absence, which shall include:
 - a. absence with the consent of the Town during any period not in excess of one year, except that the Town may consent to extend the period of leave and, to the extent not covered by the foregoing, any period of absence which constitutes leave permitted under the Family and Medical Leave Act of 1993;
 - b. any absence from work because of occupational injury or illness, incurred as a result of employment with the Town, for which absence a Participant is eligible to receive Workers' Compensation payments; and
 - c. any absence in the service of the Armed Forces of the United States, provided the Participant shall re-enter the employ of the Town within the statutory period during which his right to re-employment is guaranteed after he has first become eligible for discharge or separation from active duty.

An Employee shall not receive Credited Service for any Authorized Leave of Absence, but shall retain Credited Service accrued prior to such absence and upon return to active employment with the Town shall recommence to accrue Credited Service. Notwithstanding the foregoing, in the event of an absence specified in Section 2.b. above that is less than six (6) months in duration, an Employee shall receive Credited Service for such absence and in the event of an absence specified in Section 2.c. above, Credited Service and Retirement Benefits shall be provided in accordance with Section 414(u) of the Code and any Employee returning from such absence shall be eligible to pay any contributions that may have been required by Article III of this Plan during his absence. (Compliance with the applicable provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, is intended, for the purposes of this section and for the entire Plan.)

Compliance with the applicable provisions of the Heroes Earnings Assistance and Relief Tax Act (HEART) of 2008, and as amended, is intended for the purposes of this Section and for the entire Plan.

3. Except as otherwise provided in Section 2 above, any absence shall be considered a termination of employment. Any Participant whose employment has been terminated shall, for purposes of this Plan, be deemed a new Employee upon resumption of his employment.

ARTICLE III

Participation

1. Eligible Employees

Employees eligible to participate in this Plan include Fire, Police, Public Works, and School Department Employees (excluding teachers) and Town Hall Employees.

2. Conditions for Participation

- a. Police, Fire, Public Works and School Department Employees and Town Hall Employees who participated in this Plan prior to July 1, 2005, the Effective Date of the prior amendment and restatement of the Plan were entitled to continue to participate in the Plan.
- b. Any Employee who becomes a Police, Fire, Public Works or School Department Employee or Town Hall Employee on or after July 1, 2005, but prior to the applicable dates set forth in subsection (c) below, the effective date of this amendment and restatement of the Plan shall become a Participant on the first day of the month coincident with or next following his date of employment.
- c. Employees hired on or after the following dates are not eligible to participate in this Plan:
 - (1) Firefighters hired on or after July 1, 2013 are not eligible to participate in this Plan, except that such employee could become eligible for the Ordinary or Accidental Disability Benefit, as described in Article XIII.
 - (2) Police Officers hired on or after July 1, 2010 are not eligible to participate in this Plan, except that such employee could become eligible for the Ordinary or Accidental Disability Benefit, as described in Article XIII.
 - (3) Public Works Employees hired on or after July 1, 2010 are not eligible to participate in this Plan except that such employee could become eligible for the Ordinary or Accidental Disability Benefit, as described in Article XIII.
 - (4) School Department Employees who are Non-Certified School Participants, hired on or after July 1, 2012 shall cease to participate in this Plan as of September 30, 2013.

School Department Employees who are not School Management Participants, hired on or after October 1, 2013 are not eligible to participate in this Plan.

School Management Employees hired on or after September 9, 2020 or promoted to a School Management position on or after September 9, 2020 are not eligible to participate in this plan.

- (5) Town Hall Employees hired on or after July 1, 2012 are not eligible to participate in this Plan.

3. **Participant Contributions**

a. School Department Employee.

- (1) Effective July 1, 1991, each School Department Employee hired on or after July 1, 1991 shall make Participant Contributions to this Plan while he remains a Participant hereunder in an amount equal to six percent (6%) of his Gross Annual Salary. Effective July 1, 2001, each School Department Employee hired prior to July 1, 1991 shall make Participant Contributions to this Plan while he remains a Participant hereunder in an amount equal to two percent (2%) of his Gross Annual Salary.
- (2) Effective October 1, 2013, each Non-Certified School Participant who is participating in the Plan shall make Participant Contributions to this Plan while he remains a Participant hereunder in an amount equal to four percent (4%) of his annual salary.

Effective October 1, 2013, each School Management Participant shall make Participant contributions in accordance with subsection a.(1) above.

b. Police and Fire Department Employees.

- (1) Effective July 1, 2001, each Police and Fire Department Employee shall make Participant Contributions to this Plan while he remains a Participant hereunder in an amount equal to eight percent (8%) of his Gross Annual Salary and longevity pay. An exception is the Fire Chief and two Deputy Fire Chiefs who shall make Participant Contributions to this Plan while they remain participants hereunder in an amount equal to five and ½ percent (5.5%) of their Gross Annual Salary and longevity pay.
- (2) Effective July 1, 2013, each Fire Department Employee shall make Participant Contributions to this Plan while he remains a Participant hereunder in an amount equal to four percent (4%) of his annual salary, exclusive of any other form of compensation. An exception is the Fire Chief and two Deputy Fire Chiefs who shall make Participant Contributions to this Plan while they remain participants hereunder in an amount equal to ten percent (10%) of their annual salary, including holiday pay, longevity pay and EMT bonus, exclusive of any other form of compensation.

Effective July 1, 2010, each Police Officer shall make Participant Contributions to this Plan while he remains a Participant hereunder in an amount equal to nine percent (9%) of his gross annual salary, including longevity pay but exclusive of overtime, holiday pay and any other form of compensation.

c. Town Hall or non-union Public Works Department Employee.

- (1) Effective July 1, 1991, each Town Hall or non-union Public Works Department Employee with a date of employment on or subsequent to July 1, 1991 (but before July 1, 2004 for Town Hall Management Employees) shall make Participant Contributions to this Plan while he remains a Participant hereunder in an amount equal to five percent (5%) of his Gross Annual Salary and longevity pay.

Effective July 1, 2004, each Town Hall Management Employee with a date of employment on or after July 1, 2004 shall make Participant contributions to this Plan while he remains a Participant hereunder in an amount equal to five and one-half percent (5.5%) of his Gross Annual Salary and longevity pay.

- (2) Effective July 1, 2013, each Public Works Department Employee shall make Participant Contributions to this Plan while he remains a Participant hereunder in an amount equal to four percent (4%) of his annual salary including longevity pay.

Effective July 1, 2013, each Town Hall Employee shall make Participant Contributions to this Plan while he remains a Participant hereunder in an amount equal to five percent (5%) of his annual salary.

Effective July 1, 2014, each Town Hall Employee shall make Participant Contributions to this Plan while he remains a Participant hereunder in an amount equal to six percent (6%) of his annual salary, except Town Hall Management Employees; no further contributions shall be required.

Notwithstanding the foregoing provisions of this subsection “c”, Town Hall Management Participants whose benefit would exceed the maximum retirement benefit under Article V, Section 1 “b” and “f” herein shall no longer be required to make contributions to the Plan.

d. Effective on the following dates, Participant Contributions to this Plan shall be made on a pre-tax basis:

- (1) Fire Department Participants: January 1, 1999
- (2) Police Department Participants: April 1, 1999
- (3) Town Hall Non-Management Participants: May 1, 2000
- (4) Town Hall Management Participants: April 1, 2003
- (5) School Department Employees: July 1, 2007.

ARTICLE IV

Retirement Dates

1. Normal Retirement Date

The Normal Retirement Date for a Police Department Participant shall be the first day following the date of such Participant's completion of twenty (20) years of Credited Service.

The Normal Retirement Date for a Fire Department Participant shall be the first day following the date of such Participant's completion of twenty (20) years of Credited Service.

The Normal Retirement Date for a Public Works Department Participant shall be the first day following the date of such Participant's attainment of age sixty (60) and completion of ten (10) years of Credited Service.

The Normal Retirement Date for a Town Hall Management and Non-Management Participant shall be the first day following the date of such Participant's attainment of age sixty (60) and completion of ten (10) years of Credited Service.

The Normal Retirement Date for a Non-Certified School Participant or School Management Participant shall be the first day following the date of such Participant's attainment of age sixty (60) and completion of ten (10) years of Credited Service.

A Participant shall be fully vested in his Accrued Benefit upon his Normal Retirement Date, provided he has completed ten years of Credited Service.

2. Early Retirement Date

A School Management Participant or a Public Works Department Participant who has attained age fifty-five (55) and completed twenty (20) years of Credited Service may elect an Early Retirement Benefit that will not include a Cost of Living Allowance (COLA). A School Management Participant or a Town Hall Management Participant who has attained age fifty-five (55) and completed twenty-five (25) years of Credited Service may elect an Early Retirement Benefit that will include a COLA. A Non-Certified School Participant who has attained age fifty-five (55) and completed twenty (20) years of Credited Service may elect an Early Retirement Benefit that will include a COLA. Payment of this Retirement Benefit may be deferred to his Normal Retirement Date or may commence on the first day of any month between the date the election is made and the Participant's Normal Retirement Date, as specified by the Participant in his election.

3. **Deferred Retirement Date**

A Participant may continue employment after his Normal Retirement Date. The Deferred Retirement Date of any Participant who is in employment beyond his Normal Retirement Date shall be the first day following the date the Participant terminates employment with the Employer.

ARTICLE V

Accrued Benefits and Retirement Benefits

1. Accrued Benefit

- a. School Management Participant: Effective January 1, 2001, the monthly Accrued Benefit shall be an amount equal to one-twelfth (1/12) of two and one-half percent (2.5%) of such Participant's Final Earnings multiplied by his years of Credited Service at such date of determination, multiplied by a fraction, not to exceed one (1), the numerator of which is the total number of years of Credited Service completed by such Participant and the denominator of which is twenty (20).

Non-Certified School Participant:

- (1) Effective July 1, 2001, the monthly Accrued Benefit shall be an amount equal to one-twelfth (1/12) of two and one-half percent (2.5%) of such Participant's Final Earnings multiplied by his years of Credited Service at such date of determination, multiplied by a fraction, not to exceed one (1), the numerator which is the total number of years of Credited Service completed by such Participant and the denominator of which is twenty (20).
- (2) Effective October 1, 2013, the monthly Accrued Benefit as of any date of the determination on or subsequent to such Participant's Normal Retirement Date shall be the amount equal to one-twelfth (1/12) of the following formula:
- (A) For Credited Service earned prior to October 1, 2013 - Participant's Final Earnings times two and one-half percent (2.5%) for each year, plus
- (B) For Credited Service on and after October 1, 2013 – Participant's Final Earnings time one percent (1%) for each year earned after October 1, 2013; multiplied by
- (C) a fraction, not to exceed one (1), the numerator which is the total number of years of Credited Service completed by such Participant and the denominator of which is twenty (20).

Final Earnings shall be based on the Participant's base annual salary and longevity pay, during the final three years preceding the Participant's retirement.

b. Fire Department Participant:

- (1) Effective July 1, 2000, the monthly Accrued Benefit as of any date of determination on or subsequent to such Participant's Normal Retirement

Date shall be an amount equal to one-twelfth (1/12) of sixty percent (60%) of such Participant's Final Earnings, plus an additional two percent (2%) of such Participant's Final Earnings for each additional year of Credited Service completed by such Participant in excess of twenty (20) years, subject to a maximum Retirement Benefit of one-twelfth (1/12) of seventy-four percent (74%) of such Participant's Final Earnings. The monthly Accrued Benefit as of any date of determination prior to such Participant's Normal Retirement Date shall be an amount equal to one-twelfth (1/12) of sixty percent (60%) of such Participant's Final Earnings multiplied by a fraction, not to exceed one (1), the numerator of which is the total number of years of Credited Service completed by such Participant and the denominator of which is twenty (20).

- (2) Effective July 1, 2013, the monthly Accrued Benefit as of any date of the determination on or subsequent to such Participant's Normal Retirement Date shall be the amount equal to one-twelfth (1/12) of the following formula:
 - (A) For Credited Service earned prior to July 1, 2013 - Participant's Final Earnings times three percent (3%) for each year to a maximum of 20 years, plus two percent (2%) times each year in excess of twenty (20) years, plus
 - (B) For Credited Service on and after July 1, 2013 – Participant's Final Earnings time one percent (1%) for each year earned after July 1, 2013;
 - (C) The sum of (A) plus (B) are subject to a maximum of seventy four percent (74%) of the Participant's Final Earnings.

Final Earnings shall be Participant's highest Gross Annual Salary earned during the three (3) twelve-month periods of 365 or 366 days immediately preceding the retirement date (or date of termination if earlier). Gross Annual Salary for this calculation includes the Participant's base annual salary, longevity and EMT bonus, but excludes overtime, clothing allowance, holiday pay and any other form of compensation.

- (3) Effective July 1, 2013, the monthly Accrued Benefit as of any date of determination on or subsequent to the Fire Chief or Fire Deputy's Normal Retirement Date shall be an amount equal to the formula described in subparagraph (1) of this subsection (b).

c. Police Department Participant:

- (1) Effective July 1, 2000, the monthly Accrued Benefit as of any date of determination on or subsequent to such Participant's Normal Retirement Date shall be an amount equal to one-twelfth (1/12) of sixty percent (60%) of such Participant's Final Earnings, plus an additional two percent (2%) of

such Participant's Final Earnings for each additional year of Credited Service completed by such Participant in excess of twenty (20) years, subject to a maximum Retirement Benefit of one-twelfth (1/12) of seventy percent (70%) of such Participant's Final Earnings, The monthly Accrued Benefit as of any date of determination prior to such Participant's Normal Retirement Date shall be an amount equal to one-twelfth (1/12) of sixty percent (60%) of such Participant's Final Earnings multiplied by a fraction, not to exceed one (1), the numerator of which is the total number of years of Credited Service completed by such Participant and the denominator of which is twenty (20).

- (2) Effective July 1, 2010, the formula shall remain the same, however, the Final Earnings shall be based on the Participant's base annual salary and longevity pay, excluding overtime, clothing allowance, holiday pay and any other form of compensation during the three twelve-month periods of 365 or 366 days immediately preceding the retirement date or termination date, if earlier.

d. Town Hall Non-Management Participant:

- (1) Effective July 1, 1998, the monthly Accrued Benefit shall be an amount equal to one-twelfth (1/12) of fifty percent (50%) of such Participant's Final Earnings, plus an additional two and one half percent (2.5%) of such Participant's Final Earnings for each additional year of Credited Service completed by such Participant in excess of twenty (20) years, subject to a maximum Retirement Benefit of one-twelfth (1/12) of sixty seven and one half percent (67.5%) of such Participant's Final Earnings. The monthly Accrued Benefit as of any date of determination prior to such Participant's Normal Retirement Date shall be an amount equal to one-twelfth (1/12) of fifty percent (50%) of such Participant's Final Earnings multiplied by a fraction, not to exceed one (1), the numerator of which is the total number of years of Credited Service completed by such Participant and the denominator of which is twenty (20).
- (2) Effective July 1, 2013, the monthly Accrued Benefit as of any date of the determination on or subsequent to such Participant's Normal Retirement Date shall be the amount equal to one-twelfth (1/12) of the following formula:
 - (A) For Credited Service earned prior to July 1, 2013 - Participant's Final Earnings times two and one-half percent (2.5%) for each year to a maximum of 67.5%, plus
 - (B) For Credited Service on and after July 1, 2013 – Participant's Final Earnings times one percent (1%) for each year earned after July 1, 2012;

- (C) The sum of (A) plus (B) are subject to a maximum of sixty seven and one-half percent (67.5%) of the Participant's Final Earnings.

Final Earnings shall be Participant's highest Gross Annual Salary earned during the three (3) twelve-month periods of 365 or 366 days immediately preceding the retirement date (or date of termination if earlier). Gross Annual Salary for this calculation includes the Participant's base annual salary plus longevity pay.

e. Public Works Participant:

- (1) Effective June 1, 1990, the monthly Accrued Benefit shall be an amount equal to one-twelfth (1/12) of fifty percent (50%) of such Participant's Final Earnings, plus an additional two and one half percent (2.5%) of such Participant's Final Earnings for each additional year of Credited Service completed by such Participant in excess of twenty (20) years, subject to a maximum Retirement Benefit of one-twelfth (1/12) of sixty seven and one half percent (67.5%) of such Participant's Final Earnings. The monthly Accrued Benefit as of any date of determination prior to such Participant's Normal Retirement Date shall be an amount equal to one-twelfth (1/12) of fifty percent (50%) of such Participant's Final Earnings multiplied by a fraction, not to exceed one (1), the numerator of which is the total number of years of Credited Service completed by such Participant and the denominator of which is twenty (20).
- (2) Effective July 1, 2013, for Participants hired on or before June 30, 2010 who have earned ten (10) or more years of Credited Service as of June 30, 2013, Credited Service is frozen as of July 1, 2013. Final Earnings shall be based on the average of the Participant's base annual salary and longevity pay, during the last five years preceding the Participant's retirement. The monthly Accrued Benefit shall be an amount equal to one-twelfth (1/12) of fifty percent (50%) of such Participant's Final Earnings, plus an additional two and one half percent (2.5%) of such Participant's Final Earnings for each additional year of Credited Service completed by such Participant in excess of twenty (20) years, subject to a maximum Retirement Benefit of one-twelfth (1/12) of sixty seven and one half percent (67.5%) of such Participant's Final Earnings. The monthly Accrued Benefit as of any date of determination prior to such Participant's Normal Retirement Date shall be an amount equal to one-twelfth (1/12) of fifty percent (50%) of such Participant's Final Earnings multiplied by a fraction, not to exceed one (1), the numerator of which is the total number of years of Credited Service completed by such Participant and the denominator of which is twenty (20).
- (3) Effective July 1, 2013, for Participants hired on or before June 30, 2010, who have earned less than ten (10) years of Credited Service as of June 30, 2013, the Participant will continue to earn Credited Service under the

Plan to a maximum of ten (10) years of Credited Service. The monthly Accrued Benefit shall be an amount equal to one-twelfth (1/12) of two and one half percent (2.5%) of such Participant's Final Earnings for each year of Credited Service completed by such Participant, subject to a maximum Retirement Benefit of one-twelfth (1/12) of twenty five percent (25%) of such Participant's Final Earnings. Final Earnings shall be based on the Participant's base annual salary and longevity pay, during the last five years preceding the Participant's retirement.

f. Town Hall Management Participant:

- (1) Effective July 1, 2004, the monthly Accrued Benefit shall be an amount equal to one-twelfth (1/12) of sixty percent (60%) of such Participant's Final Earnings, plus an additional two percent (2%) of such Participant's Final Earnings for each additional year of Credited Service completed by such Participant in excess of twenty (20) years, subject to a maximum Retirement Benefit of one-twelfth (1/12) of seventy-four percent (74%) of such Participant's Final Earnings. The monthly Accrued Benefit as of any date of determination prior to such Participant's Normal Retirement Date shall be an amount equal to one-twelfth (1/12) of sixty percent (60%) of such Participant's Final Earnings multiplied by a fraction, not to exceed one (1), the numerator of which is the total number of years of Credited Service completed by such Participant and the denominator of which is twenty (20).
- (2) Effective July 1, 2012, the monthly Accrued Benefit for a Town Hall Management Employee shall be an amount equal to one-twelfth (1/12) of the Participant's Final Earnings times three percent (3%) for each year up to 20 years, plus two percent (2%) for each year in excess of 20 years, up to a maximum of 74%. Credited Service is frozen as of July 1, 2014.

Final Earnings shall be the Participant's highest Gross Annual earned during the three (3) twelve-month periods of 365 or 366 days immediately preceding the retirement date (or date of termination if earlier). Gross Annual Salary for this calculation includes the Participant's base annual salary and longevity pay.

- g. In computing the Retirement Benefit for other than Police and Fire Department Participants, it will be assumed that such Benefit shall be payable in accordance with the terms of the Life Annuity form as set forth in Article VI. Benefits payable in accordance with any other form will be Actuarially Equivalent to the Life Annuity form.

In computing the Retirement Benefit for Police and Fire Department Participants, it will be assumed that such benefit shall be payable in the form of a Joint and Survivor Annuity as set forth in Article VI. Benefits payable in accordance with any other form will be Actuarially Equivalent to the Joint and Survivor Annuity form.

2. **Normal Retirement Benefit**

The amount of Retirement Benefit payable to a Participant who retires on his Normal Retirement Date shall be equal to his Accrued Benefit determined as of such Participant's Normal Retirement Date.

3. **Early Retirement Benefit for Public Works, Town Hall Management and School Department Employees**

The amount of Retirement Benefit payable to a School Department Employee, Public Works Department or Town Hall Management Participant who retires on his Early Retirement Date shall be equal to his Accrued Benefit determined as of such Early Retirement Date. As an alternative, a Participant may elect to defer commencement of benefits to his Normal Retirement Date, in which case there would be no reduction for early commencement.

The early retirement benefit is calculated as follows: the participant's Accrued Benefit is multiplied by a fraction not to exceed one, the numerator of which is the total number of years of credited service completed by such participant and the denominator of which is the number of years of credited service which would have been credited had the participant remained in service until his normal retirement date.

4. **Deferred Retirement Benefit**

The amount of Retirement Benefit payable to a Participant who retires on a Deferred Retirement Date shall be equal to his Accrued Benefit determined as of such Deferred Retirement Date.

5. **Employment After Retirement Benefits Commence**

If a Retired Participant is re-employed by the Town and is pension eligible as defined in Article I as a Fire, Police, Public Works or School Department Employee or a Town Hall Employee, his Retirement Benefit payments shall cease with the last payment due immediately prior to his re-employment as such. Retirement Benefit payments shall again become payable on the first day of the month following his subsequent termination of employment. No additional benefit will be earned upon reemployment after retirement.

6. **Maximum Retirement Benefits**

Notwithstanding the foregoing provisions of this Article V, the Retirement Benefit payable to any Participant shall not exceed the maximum amount permitted under Section 415 of the Code, the provisions of which are hereby incorporated herein by reference.

ARTICLE VI

Form of Payment of Benefits

1. Definitions

The following definitions shall be used solely for the purposes of this Article:

- a. **Earliest Retirement Age** means the earliest Early Retirement Date on which, under the Plan, a Participant who separates from service (including death) could receive Retirement Benefits assuming, if appropriate under the circumstances, he would have survived to such date or, in the case of a Participant who separates from service (including death) and who would not be eligible to receive Retirement Benefits on an Early Retirement Date, his Normal Retirement Date.
- b. **Normal Form of Retirement Benefit** means
 - (1) the Life Annuity form for other than Police and Fire Department Participants. This form of benefit shall provide for the payment of Retirement Benefits to the Retired Participant during his lifetime. Retirement Benefits shall commence on the first day of the month coincident with or next following the date the Participant actually retires and shall cease upon his death. No Retirement Benefits will be payable under this form if the Participant dies before his first Retirement Benefit payment becomes due except as provided in paragraph 5 hereof.
 - (2) the Joint and Survivor form for Police and Fire Department Participants. Benefits shall commence on the Participant's actual retirement date and cease upon his death. Such benefits, in accordance with Section 45-21.3-1, General Laws of Rhode Island (1956) ("RIGL"), shall be continued to the surviving Spouse or surviving dependent child or children of a deceased retired fireman or policeman. Benefits shall continue to the Spouse as long as the Spouse lives and remains unmarried. Benefits shall continue to a surviving dependent child or children until the last dependent child reaches age 18. If there is no surviving Spouse or surviving dependent child or children, then upon such death of the Retired Participant, there shall be payable to his Beneficiary, or if there is no Beneficiary, to his estate, the amount, if any, by which the Retired Participant's Accumulated Contributions, as of the date for commencement of his Retirement Benefit, exceeds the aggregate of Retirement Benefit payments due before such Retired Participant's death. Further, upon the death of the surviving Spouse or surviving dependent child or children of a deceased retired Police or Fire Department Participant, there shall be payable to his Beneficiary, or if there is no Beneficiary, to his estate, the amount, if any, by which the Retired Participant's Accumulated Contributions, as of the date for

commencement of his Retirement Benefit, exceeds the aggregate of Retirement Benefit payments paid to said Retired Participant prior to his death, plus the benefit payments paid to said deceased Retired Participant's Spouse or surviving dependent child or children.

- c. **Annuity Starting Date** is the first day of the first period for which an amount is paid as an annuity or in any other form. For purposes of determining a Participant's Annuity Starting Date, the payment of any Disability Benefits pursuant to Article XIII shall be disregarded. In the case of an Annuity Starting Date that occurs on or after the Participant's Normal Retirement Date, such date shall apply to any additional benefit accruals after the Annuity Starting Date, to the extent earned. In the case of an Annuity Starting Date that occurs prior to the Participant's Normal Retirement Date, such date shall not apply to any additional benefit accruals after the Annuity Starting Date.

2. **Optional Annuity Form**

a. **Contingent Annuitant Option**

- (1) In lieu of the Normal Form of Retirement Benefit called for in Section 1 above, a Participant may elect a Contingent Annuitant Option which provides for an Actuarially Equivalent benefit payable to the Retired Participant during his lifetime and for the continuance of such Retirement Benefit in the percentage amount elected by the Participant at retirement, to a Contingent Annuitant, if living, after the Retired Participant's death. The optional percentages are 50, 66 2/3, 75 and 100.
- (2) The monthly payment to the Contingent Annuitant shall commence on the first day of the month following the month in which the Retired Participant dies, if the Contingent Annuitant is then living, and shall continue monthly with the last payment due for the month in which the Contingent Annuitant's death occurs.
- (3) If a Contingent Annuitant dies before the Participant's Annuity Starting Date is attained, the Normal Form of Retirement Benefit will, if applicable, automatically become payable as if a Contingent Annuitant Option had not been elected. If the Contingent Annuitant pre-deceases the Retired Participant on or after the Annuity Starting Date is attained, the Retirement Benefit payments will cease upon the Retired Participant's death.
- (4) No monthly benefit will be payable under this form to a Contingent Annuitant if the Participant dies before his Annuity Starting Date unless such death occurs prior to his Deferred Retirement Date. For the School Department refer to Death Benefits, Article VI section 3. An exception applies to Fire and Police Participants per RIGL 45-21.3-2.

- (5) If a Participant who has elected this option shall die after his Normal Retirement Date and prior to his Deferred Retirement Date, the Contingent Annuitant, if living, shall become entitled to benefits, payable for his further lifetime, in a monthly amount equal to the amount which would have been payable to the Contingent Annuitant had the Participant retired on the date of his death with the Contingent Annuitant Option operative.

b. Election of Optional Annuity Form

- (1) An Optional Annuity Form may be elected by the Participant by written notice to the Administrator at least six (6) months before the Participant's Annuity Starting Date, or at any time prior to his Annuity Starting Date . An election of an Optional Annuity Form may be revoked in writing by the Participant at any time prior to his Annuity Starting Date. In no event shall the consent of any person entitled to receive payments upon the death of the Participant be required as a condition to the right of a Participant to revoke or change any option previously elected. After an Optional Annuity Form has been revoked, another election of an Optional Annuity Form may be made.
- (2) Notwithstanding any contrary provision of this Plan, in no event may the Participant elect an Optional Annuity Form which does not satisfy, with respect to such Participant, the requirements of Code Section 401(a)(9) and the regulations there under.

3. Death Benefits

a. Pre-Retirement Death Benefit

The monthly amount of benefit payable upon the death of a Police, Fire, or Public Works Department, or Town Hall Employee prior to his Annuity Starting Date shall be an amount equal to one twelfth (1/12) of thirty percent (30%) of such Participant's Final Earnings (five year average), which benefit shall be payable to his Spouse so long as she shall live and remain unmarried, plus one-twelfth (1/12) of ten percent (10%) of his Final Earnings (five year average), which benefit shall be payable to each minor child of such Participant who is under age twenty-one (21), subject to a maximum death benefit of one-twelfth (1/12) of fifty percent (50%) of such Participant's Final Earnings (five year average).

The monthly amount of benefit payable to the Spouse of a School Department Employee (excluding teachers) who has completed ten (10) years of Credited Service in the event of the death of such Non-Certified School Participant prior to his Annuity Starting Date shall be an amount equal to the monthly Retirement Benefit to which the Participant would have been entitled had the Participant terminated employment on the day before his death, survived to his Earliest Retirement Age, elected the 100% Contingent Annuitant Option and then died. If a Non-Certified School Participant dies without a surviving Spouse, no Pre-

Retirement Death Benefit is payable. The death benefit is payable to the surviving Spouse commencing at the later of the Participant's death or the Participant's Normal Retirement Date or an Actuarially Equivalent death benefit is payable at the Spouse's election, at the Participant's Early Retirement Date. There is no reduction for electing a 100% contingent annuitant option. The benefit shall be payable to his surviving Spouse for her lifetime as long as she remains unmarried.

- b. In the event of the death of a Participant who is not covered by RIGL 45-21.3-1 prior to his eligibility for any Retirement Benefit under this Plan, there shall be payable to his named Beneficiary a lump sum death benefit equal to his Participant Contributions with Credited Interest, if any, to the last day of the month in which the death occurred.

4. **Payment of Benefits**

a. **General Rules.**

- (1) **Effective Date.** The provisions of this Section will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year, as well as required minimum distributions for the 2002 distribution calendar year that are made on or after October 1, 2002.
- (2) **Coordination with Minimum Distribution Requirements Previously in Effect.** If the total amount of 2002 required minimum distributions under the Plan made to the distributee prior to the effective date of this Section equals or exceeds the required minimum distributions determined under this Section, then no additional distributions will be required to be made for 2002 on or after such date to the distributee. If the total amount of the 2002 required minimum distributions under the Plan made to the distributee prior to the effective date of this Section is less than the amount determined under this Section, then required minimum distributions for 2002 on and after such date will be determined so that the total amount of required minimum distributions for 2002 made to the distributee will be the amount determined under this Section.
- (3) **Precedence.** The requirements of this Section will take precedence over any inconsistent provisions of the Plan.
- (4) **Requirements of Treasury Regulations Incorporated.** All distributions required under this Section will be determined and made in accordance with the Treasury regulations under Code Section 401(a)(9).

b. **Time and Manner of Distributions.**

- (1) **Required Beginning Date.** The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the

Participant's Required Beginning Date, as defined in Article I section 32 herein.

- (2) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's Pre-Retirement Survivor Annuity interest will be distributed, or begin to be distributed, no later than as follows:
- (A) If the Participant's surviving spouse is the Participant's sole designated Beneficiary, then distributions to the surviving spouse will begin by December 31st of the calendar year immediately following the calendar year in which the Participant died, or by December 31st of the calendar year in which the Participant would have attained age 70½, if later.
 - (B) If the Participant's surviving Spouse is not the Participant's sole designated Beneficiary, then, except as provided in Section 4(b)(2)(C), distributions to the designated Beneficiary will begin by December 31st of the calendar year immediately following the calendar year in which the Participant died.
 - (C) If the Participant dies before distributions begin and there i) is no designated Beneficiary or ii) there is a designated Beneficiary (other than the Participant's surviving Spouse), distribution to the designated Beneficiary is not required to begin by the date specified in Section 4(b)(2)(B), but the Participant's Pre-Retirement Survivor Annuity interest will be distributed to the designated Beneficiary or, if none, the Participant's estate, by December 31st of the calendar year containing the fifth anniversary of the Participant's death.
 - (D) If the Participant's surviving Spouse is the Participant's sole designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 4(b)(2), other than Section 4(b)(2)(A), will apply as if the surviving Spouse were the Participant.

For purposes of this Section 4(b)(2) and Section 4(e), distributions are considered to begin on the Participant's required beginning date (or, if Section 4(b)(2)(D) applies, the date distributions are required to begin to the surviving Spouse under Section 4(b)(2)(A)). If annuity payments irrevocably commence to the Participant before the Participant's required beginning date (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section

4(b)(2)(A)), the date distributions are considered to begin is the date distributions actually commence.

- (3) Form of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Sections 4(c), 4(d) and 4(e) of this Section. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury regulations. Any part of the Participant's interest which is in the form of an individual account described in Code Section 414(k) will be distributed in a manner satisfying the requirements of Code Section 401(a)(9) and the Treasury regulations that apply to individual accounts.

c. **Determination of Amount to be Distributed Each Year.**

- (1) General Annuity Requirements. If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:
 - (A) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;
 - (B) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Section 4(d) or 4(e);
 - (C) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
 - (D) payments will either be non-increasing or increase only as follows:
 - (i) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;
 - (ii) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in Section 4(d) dies or is no longer the Participant's Beneficiary pursuant to a qualified

domestic relations order within the meaning of Code Section 414(p);

- (iii) to provide cash refunds of Employee contributions upon the Participant's death; or
- (iv) to pay increased benefits that result from a Plan amendment.

(2) **Amount Required to be Distributed by Required Beginning Date.** The amount that must be distributed on or before the Participant's required beginning date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Section 4(b)(2)(A) or (B)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's required beginning date.

(3) **Additional Accruals After First Distribution Calendar Year.** Any additional as accruing to the Participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

d. Requirements For Annuity Distributions That Commence During Participant's Lifetime.

(1) **Joint Life Annuities Where the Beneficiary Is Not the Participant's Spouse.** If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a nonspouse Beneficiary, annuity payments to be made on or after the Participant's required beginning date to the designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a nonspouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the period certain.

- (2) Period Certain Annuities. Unless the Participant's Spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Section 1.401 (a)(9)-9 of the Treasury regulations for the calendar year that contains the Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the Annuity Starting Date. If the Participant's Spouse is the Participant's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section 4(d)(2), or the joint life and last survivor expectancy of the Participant and the Participant's Spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the calendar year that contains the Annuity Starting Date.

e. **Requirements For Minimum Distributions Where Participant Dies Before Date Distributions Begin.**

- (1) Participant Survived by Designated Beneficiary. Except as provided in Section 4(e)(2), if the Participant dies before the date distribution of his or her interest begins and there is a designated Beneficiary, the Participant's Pre-Retirement Survivor Annuity interest will be distributed, beginning no later than the time described in Section 4(b)(2)(A) or (B), over the life of the designated Beneficiary or over a period certain not exceeding:
- (A) unless the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or
 - (B) if the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the Annuity Starting Date.
- (2) If the Participant dies before distributions begin and there i)is no designated Beneficiary or ii) there is a designated Beneficiary (other than

the Participant's surviving Spouse), distribution to the designated Beneficiary is not required to begin by the date specified in Section 4(b)(2)(B), but the Participant's Pre-Retirement Survivor Annuity interest will be distributed to the designated Beneficiary or, if none, the Participant's estate, by December 31st of the calendar year containing the fifth anniversary of the Participant's death.

- (3) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving Spouse is the Participant's sole designated Beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section 4(e) will apply as if the surviving Spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 4(b)(2)(A).

f. **Definitions.**

- (1) Designated Beneficiary. The individual who is designated as the Beneficiary under the Plan and is the designated Beneficiary under Code Section 401(a)(9) and Section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.
- (2) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 4(b)(2).
- (3) Life expectancy. Life expectancy as computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.
- (4) Required Beginning Date. The date defined in Article I section 32 and Article VI section 4(b) of the Plan.

ARTICLE VII

Termination of Employment

1. A Participant shall be fully vested in his monthly Accrued Benefit upon attaining his Normal Retirement Date as set forth in Article IV and, upon termination of employment thereafter, he shall be entitled to receive his monthly Accrued Benefit determined as of the date of his termination of employment.
2. A Participant who has completed ten (10) years or more of Credited Service and who terminates his employment with the Employer prior to his Normal Retirement Date shall retain a nonforfeitable right to his monthly Accrued Benefit determined as of his date of termination of employment. The Participant's nonforfeitable monthly Accrued Benefit shall be payable on the Participant's Normal Retirement Date in a form as determined in accordance with Article VI. If both criteria for an early retirement, i.e., years of Credited Service and age, are not met, then the Participant must wait to receive his Accrued Benefit until his Normal Retirement Date. Any Participant who terminates employment without being entitled to any Disability, Retirement, or vested Deferred Benefits from this Plan shall be entitled to a return of his Participant Contributions (if any) with Credited Interest to the last day of the month in which his termination of employment occurs.

Any Participant who terminates employment with a Disability, Retirement, or vested Deferred Benefit payable shall not be entitled to a return of his Participant Contributions but shall have such Participant Contributions with Credited Interest thereon applied to the cost of his benefit.

3. Should a Participant's termination of employment with the Employer be caused by the Participant's death or should the Participant die subsequent to his date of termination and prior to his Early Retirement Date or Normal Retirement Date he shall not, in the absence of any contrary provision of Article VI, retain any nonforfeitable rights hereunder.
4. A Participant who terminates employment and retains a nonforfeitable right to a Retirement Benefit hereunder shall have the amount of nonforfeitable benefit determined in accordance with the provisions of the Plan in effect as of the date of such Participant's termination of employment.

ARTICLE VIII

Funding

1. The Employer shall adopt a funding policy for this Plan which is consistent with the requirements of the Internal Revenue Code.
2. For the purpose of carrying out any such funding policy, the Employer may enter into and make periodic payments under a group annuity contract. Any amounts so paid may, at the direction of the Employer be held in an equity account maintained in conjunction therewith. The Employer expressly reserves the right to change funding agencies or vehicles at any time at its own election and without the consent of any person or organization.
3. No part of the funds held under this Plan shall be used for or diverted to purposes other than for the exclusive benefit of Participants, their spouses, or their beneficiaries covered under this Plan prior to the satisfaction of all liabilities hereunder with respect to them, provided that any funds under this Plan may be used to pay reasonable Plan administration expenses.

Any provisions of this Plan to the contrary notwithstanding, Employer contributions under this Plan are expressly conditioned upon the initial qualification of the Plan under Section 401 of the Internal Revenue Code and upon the deductibility of such contributions under Section 404 of such Code. Upon the Employer's written request, a contribution which was made by a mistake of fact, or conditioned upon the initial qualification of the Plan, or upon the deductibility of the contribution shall be returned to the Employer within one year after the mistaken payment of such contribution, denial of the initial qualification, or the disallowance of the deduction (to the extent disallowed), whichever is applicable. Earnings attributable to a contribution which occurred due to a mistake of fact or conditioned upon deductibility may not be returned to the Employer and losses attributable thereto shall reduce the amount to be so returned. The return of a contribution to the Employer conditioned upon initial qualification of the Plan shall apply only if the application for the determination is made by the time prescribed by law for filing the Employer's tax return for the taxable year in which the Plan was adopted, or such later date as the Secretary of the Treasury may prescribe.

4. No person shall have any interest in or right to any of the funds contributed to or held under this Plan except as expressly provided in this Plan and the group annuity contract and then only to the extent that such funds have been contributed by the Employer.

ARTICLE IX

Administration

1. The Portsmouth Town Council shall act as the Administrator.
2. The Administrator shall determine the benefits payable under this Plan, shall administer the Plan in accordance with the terms of the Plan, shall have the power to determine all questions arising in connection with the administration, interpretation, and application of the terms of this Plan (subject to the provision that such power shall be consistently applied in a nondiscriminatory manner among all Participants), and may require Participants to apply in writing to the Administrator for benefits hereunder and to furnish satisfactory evidence of their date of birth and marital status and such other information as may from time to time be deemed necessary.
3. If a Participant's application for Retirement Benefits has been rejected by the Administrator, then the Administrator shall notify the Participant of such rejection in writing setting forth the specific reasons for such rejection. Such written explanation shall be written in a manner calculated to be understood by the Participant.
4. The Administrator shall also afford to any Participant whose claim for Retirement Benefits has been rejected a reasonable opportunity for a full and fair review of the rejection decision.

ARTICLE X

Discontinuance of Employer Contributions Plan Amendments and Mergers

1. The Employer intends to continue its sponsorship of this Plan and payment of contributions to this Plan indefinitely; but continuance of such sponsorship and such contributions is not assumed as a contractual obligation, or other obligation, of the Employer and the right is reserved by the Employer to cease its sponsorship of this Plan or to reduce, suspend, or discontinue its contributions hereunder at any time. In the event of a suspension of contributions which ripens into discontinuance, such discontinuance shall be retroactive to the date the last suspension of contributions commenced.

2. The Employer shall have the right to amend this Plan at any time and to any extent that it may deem advisable. No such amendment, however, shall:
 - a. vest in the Employer any interest or control over the funds accumulated in accordance with this Plan or the benefits provided hereunder; or

 - b. deprive any Participant who has retired under this Plan, prior to the date of amendment, of any benefit under this Plan or change the provisions thereof, provided, however, that any change or modification for the purpose of conforming this Plan to the requirements of the Internal Revenue Code of the United States or of any other pertinent provisions of Federal or State Law, or of any regulation or ruling of any duly constituted authority in connection therewith, may be made effective at any time with retroactive effect.

ARTICLE XI

Plan Termination Procedures

This Plan shall be discontinued upon written notice by the Town to the Participants covered hereunder of discontinuance of this Plan. In the event of discontinuance of contributions, the Participants will become fully vested in their Accrued Benefits.

In the event this Plan shall be discontinued, no further payments shall be made by the Town to the Pension Fund. The Pension Fund shall become vested in said Participants covered under this Plan at the date of discontinuance in the manner hereinafter indicated.

1. Any funds which shall be available for distribution upon discontinuance of this Plan shall be applied to provide benefits for Participants eligible on that date for a Normal Retirement hereunder in amounts to which said Participants shall be entitled under this Plan to the extent that sufficient funds therefore shall be available.
2. Any funds which shall be available for distribution after the provision for the benefits described in (a) above shall be applied to provide benefits for Participants eligible on that date for Early Retirement hereunder in amounts to which said Participants shall be entitled under this Plan to the extent that sufficient funds therefore shall be available.
3. Any funds which shall be available for distribution after the provision for the Retirement Benefits described in (a) and (b) above shall be applied to provide benefits at the date of discontinuance for Participants and former Participants retaining a vested interest under this Plan, as described in Article VII hereof, in amounts to which said Participants or former Participants shall be entitled under this Plan to the extent that sufficient funds therefore shall be available.
4. Any funds which shall be available for distribution after the provision for the benefits described in (a), (b), and (c) above shall be applied to all other Participants in amounts to which said Participants shall be entitled under this Plan to the extent that sufficient funds therefore shall be available.

Said available funds contributed by the Employer shall be used to completely provide for the benefits in any one class as described above before being used for subsequent classes. In the event the funds available for a class are insufficient to completely provide for the benefits for such class, they shall be applied pro-rata within the class to provide for such benefits to the extent that such funds are sufficient.

Any funds which shall be available for distribution after the provision in full for all the benefits described in (a), (b), (c), and (d) above shall be paid in cash to the Employer.

ARTICLE XII

Miscellaneous

1. Inclusion in this Plan shall not be construed as giving the Participant any right to be retained in the service of the Employer without the Employer's consent, nor shall it interfere with the right of the Employer to discharge the Participant, nor shall it give the Participant any right, claim or interest in any Retirement Benefits herein described except upon fulfillment of the provisions and requirements of this Plan.
2. No person entitled to benefits under this Plan shall have the right to assign, commute or encumber the benefits herein provided. To the maximum extent permitted by law, the benefits or payments herein provided shall not in any way be liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied by any legal or equitable process, to pay any debt or liability of such person. Notwithstanding the foregoing, in the event that a Qualified Domestic Relations Order (as defined in Code Section 414(p)) is received by the Plan Administrator, benefits shall be payable in accordance with such order and with Code Section 414(p). The amount payable to the Participant and to any other person other than the alternate payee named in the order shall be adjusted accordingly. The Plan Administrator is authorized to issue procedures to effectuate the requirements for administering Qualified Domestic Relations Orders. If the Plan Administrator is in receipt of a domestic relations order, the Plan Administrator may take such action as necessary in order to administer the Plan consistently with the terms of any such Qualified Domestic Relations Order.
3. This Plan shall be construed and enforced under the laws of the State of Rhode Island and all of the provisions hereof shall be administered in accordance with the laws of that State.
4. Directed Transfer of Eligible Rollover Distributions

- a. General

This Section applies to distributions made on or after January 1, 2001. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner subject to the administrative rules 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.

- b. Eligible Rollover Distribution

An Eligible Rollover Distribution is any distribution of all or any portion of the eligible 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's and the Distributee's designated

beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; any distribution which is made upon hardship of the employee, if applicable; and the portion of any distribution that is not includible in gross income, unless the exception provided in Section 402(c)(2) applies.

c. Eligible Retirement Plan

Effective January 1, 2002, pursuant to Section 402(c)(8)(B) of the Code, 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 qualified trust described in Section 401(a) of the Code, an annuity plan or contract described in Sections 403(a) or 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 when aggregate to separately account for amounts transferred into such plan from this Plan. This definition of an Eligible Retirement Plan shall also apply in the case of a distribution to a surviving Spouse, or to a Spouse or former Spouse who is the alternative payee under a qualified domestic relations order, as defined in Section 414(p) of the Code. Effective for distributions made after January 1, 2008, an eligible retirement plan shall also include a Roth individual retirement account or Roth individual retirement annuity described in Section 408A of the Code.

d. 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's 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.

Effective January 1, 2010, a non-spouse Beneficiary of a deceased Participant is also a distributee for purposes of this Section; provided, however, that in the case of a non-spouse Beneficiary, the direct rollover may be made only to an individual retirement account or annuity described in Section 408 or 408A of the Code that is established on behalf of the non-spouse Beneficiary and will be treated as an inherited individual retirement account or annuity pursuant to Section 402(c)(11) of the Code.

e. Direct Rollover

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

ARTICLE XIII

Permanent and Total Disability

1. A Participant who terminates employment prior to his Normal Retirement Date as a result of a Disability shall be entitled to Disability Benefits as provided herein. Disability Benefits shall not be paid to a Participant whose employment terminated prior to his becoming Disabled.
2. The monthly Disability Benefit payable to a Police Department Participant who has an Accidental Disability shall be an amount equal to one-twelfth of sixty-seven percent (67%) of such Participant's annual salary and longevity pay that is payable at the time of such Accidental Disability, increased by three percent (3%) each January 1 following the commencement of such Participant's Disability Benefit.

For a Police Department Participant who is hired on or after July 1, 2010 and becomes eligible for a monthly Disability Benefit, the amount of the Disability Benefit will be offset by the monthly annuity value of the Participant's 401(a) Money Purchase Plan benefit distribution.

3. The monthly Disability Benefit payable to a Police Department Participant who has an Ordinary Disability shall be an amount equal to one-twelfth of fifty percent (50%) of such Participant's average annual salary during any two (2) consecutive year period preceding such Participant's Disability that produces the highest such average, increased by three percent (3%) each January 1 following the commencement of such Participant's Disability Benefit.
4. The monthly Disability Benefit payable to a Fire Department Participant who has a work-related Accidental Disability shall be an amount equal to one of the following formulas:
 - a. **Effective July 1, 2004**, the benefit will be one-twelfth of seventy-two percent (72%) of such Participant's annual salary and longevity pay that is payable at the time of such Accidental Disability, increased each January 1 following the commencement of such Participant's Disability Benefit by an amount equal to fifty percent (50%) of the average percentage salary increase received by the active bargaining unit employees of the Fire Department the previous July 1, multiplied by the amount of such Participant's Disability Benefit otherwise payable on such January 1; or
 - b. **Effective July 1, 2010, if the disability prevents the Fire Department Participant from performing any work for gainful employment:** one-twelfth of sixty-six and two thirds percent (66 2/3%) of such Participant's annual salary, longevity pay and EMT Bonus that is payable at the time of such Accidental Disability, increased each January 1 immediately following the commencement of such Participant's Disability Benefit by an amount equal to three percent (3%),

multiplied by the amount of such Participant's Disability Benefit otherwise payable on such January 1; or

- c. **Effective July 1, 2010, if the disability prevents the Fire Department Participant from performing only work as a firefighter:** one-twelfth of fifty percent (50%) of such Participant's annual salary, longevity pay and EMT Bonus that is payable at the time of such Accidental Disability, increased each January 1 immediately following the 5th anniversary of the commencement of such Participant's Disability Benefit by an amount equal to one and seven tenths percent (1.7%) multiplied by the amount of such Participant's Disability Benefit otherwise payable on such January 1.
5. The monthly Disability Benefit payable to a Fire Department Participant who has an Ordinary Disability shall be an amount equal to one-twelfth of fifty percent (50%) of such Participant's average annual rate of earnings during any three (3) consecutive year period preceding such Participant's Disability that produces the highest such average. Effective for Ordinary Disability retirement on or after July 1, 2004, the benefit shall be increased each January 1 following the commencement of such Participant's Disability Benefit by an amount equal to fifty percent (50%) of the average percentage salary increase received by the active bargaining unit employees of the Fire Department the previous July 1, multiplied by the amount of such Participant's Disability Benefit otherwise payable on such January 1. Effective for Ordinary Disability retirements on or after July 1, 2010, the benefit shall be increased each January 1 following the commencement of such Participant's Disability Benefit by an amount equal to three (3%) multiplied by the amount of such Participant's Disability Benefit otherwise payable on such January 1

For a Fire Department Participant who becomes eligible for a monthly Disability Benefit on or after July 1, 2013, the amount of the Disability Benefit will be offset by the monthly annuity value of the Participant's 401(a) Money Purchase Plan benefit distribution.

6. The monthly Disability Benefit payable to any other Participant in this Plan who has a Disability shall be his monthly Accrued Benefit, which shall be deemed fully vested and determined as of the date his Disability first commences in accordance with the Plan provisions in effect at the time of Disability, multiplied by a fraction, the numerator of which is the number of years of Credited Service completed by such Participant as of such date of Disability and the denominator of which is the number of years of Credited Service which such Participant would have completed had he remained employed by the Town until his Normal Retirement Date.

For a Public Works Department Participant who becomes eligible for a monthly Disability Benefit on or after July 1, 2010, the amount of the Disability Benefit will be offset by the monthly annuity value of the Participant's 401(a) Money Purchase Plan benefit distribution.

7. A participant shall receive monthly Disability Benefit payments commencing as of the first day of the month following his Disability. Monthly Disability Benefit payments will cease with the last payment due for the month immediately preceding the earliest of the following:
 - a. the date the Participant is deemed to be no longer Disabled, or
 - b. the Participant's date of death, or
 - c. the Participant's attainment of his Early Retirement Date, or
 - d. the Participant's attainment of his Normal retirement Date.

Notwithstanding the foregoing, this Section 7(d) shall not apply to a police officer or firefighter whose disability is governed by RIGL §45-19-19 and any respective collective bargaining agreements.

8. If the monthly Disability Benefit payments cease as of a result of the Participant reaching his Early or Normal Retirement Date as provided in Section 7(c) or (d) above, the Participant shall begin to receive his Early or Normal Retirement Benefit as applicable under the circumstances. The form, amount and payment of the Early or Normal Retirement Benefit will be in accordance with and subject to the provisions and restrictions of Articles V and VI. If both criteria for an early retirement, i.e., years of Credited Service and age, are not met, then the Participant must wait to receive his Accrued Benefit until his Normal Retirement Date.

This amended and restated Plan shall take effect as of July 1, 2015 unless otherwise stated herein.

Executed this 22nd day of February, 2016.

ATTEST:

Town of Portsmouth, Rhode Island

By: Keith E. Hamilton

Official Title: Town Council President

Witnessed by: Joanne M. Mower

Official Title: Town Clerk