

## **CITY OF ERIE OFFICERS AND EMPLOYEES DEFERRED RETIREMENT OPTION PLAN**

The City of Erie (the "City") established a Deferred Retirement Option Plan (hereinafter referred to as the "Drop Plan" or "Plan") for its participants, the terms of which are hereinafter set forth. The purpose of the Plan is to provide additional retirement income for the benefit of its eligible participants and their beneficiaries, but limited to those who qualify in accordance with the terms and conditions of the Drop Plan as set forth herein.

The provisions of this Plan shall only apply to eligible employees of the City of Erie and grandfathered Erie Water Works employees who elect to participate in the Drop Plan and who satisfy the Drop Plan conditions

### **HIGHLIGHTS**

- **Must be 62 and eligible for normal retirement**
- **It is non-revocable**
- **Pension contributions end from your payroll check**
- **Up to 3 years**
- **Once the drop is taken, it will not reflect any further pay increases**

### **ARTICLE 1.**

#### **Title**

**1.1 Name of Plan.** This Plan shall be known as the City of Erie Officers and Employees Deferred Retirement Option Plan.

### **ARTICLE 2.**

#### **Definitions**

As used in this Plan, unless otherwise plainly required by the context, the following terms shall have the meanings as indicated in this Article 2. Any words used herein in the masculine shall be read and construed in the feminine where they would so apply. In addition, terms used in the singular shall be read and construed in the plural where the plural would so apply.

**2.1 City.** The City of Erie, PA.

**2.2 Drop Plan.** The Deferred Retirement Option Plan is an optional form of deferred compensation for all eligible City of Erie & Erie Water Works employees, who participate in the City of Erie Officers & Employees Pension Fund.

**2.3 Drop Plan Participant.** Employees who are eligible to participate in the Drop Plan pursuant to Paragraph 3.1, of this document and who elect to participate pursuant to the election procedure outlined in Paragraph 3.3. of this document.

**2.4 Employee.** Employee refers to actively employed: all eligible employees participating in the Officers & Employees Retirement Option Plan. Active employment does not include: short or long term disability leaves of absence; workers compensation leaves of absence; or any unpaid leave of absence from performing regular employment duties with the employer.

**2.5 Normal Retirement Benefit.** The retirement benefits payable to the employee from the Retirement Plan on or after the date on which the employee satisfies the age and service requirements for full, unreduced retirement benefits.

**2.6 Retirement Plan.** Refers to The City of Erie Officers and Employees Retirement Plan for Employees of the City of Erie and grandfathered Erie Water Works employees.

**2.7 Drop Participant Account.** The separate Drop Plan Participant Account established for a Drop Plan Participant within the Retirement Plan.

### **ARTICLE 3.**

#### **Participation**

Participation in the Drop Plan shall be governed by the following provisions:

**3.1 Eligibility.** An Employee that has not retired prior to the implementation of the Drop Plan, but who is eligible for Normal Retirement Benefits under the Retirement Plan or who will be eligible for such benefits prior to participation in the Drop Plan, who is not an elected official, and has reached the age of 62 is eligible to participate in the Drop Plan by filing a written application with the plan administrator at least thirty (30) days before the employee's commencement date of the drop.

**3.2 Election.** An eligible employee may elect to participate in the Drop Plan for a period not to exceed three (3) years.

**3.3 Participation Election.** Upon deciding to participate in the Drop Plan, the eligible employee shall submit to the plan administrator:

3.3.1 A binding and irrevocable letter of resignation from regular employment that discloses the employee's intent to retire on a certain date, not more than three years from the date that the employee begins participation in the Drop Plan.

3.3.2 An irrevocable written election to participate in the Drop Plan that:

3.3.2.1 Includes an agreement to forgo:

A. Active membership in the Retirement Plan.

B. Any inclusion of growth in the salary base used for calculating the Normal Retirement Benefit under the Retirement Plan.

C. Any additional benefit accrual under the Retirement Plan for retirement purposes, including, but not limited to, service increments.

3.3.2.2 Specifies the effective date of participation in the Drop Plan, which shall be the day after the date specified for cessation of benefit accrual under the Retirement Plan.

3.3.2.3 Specifies the date of termination of employment and simultaneous termination of participation in the Drop Plan which shall be no longer than three years after the date which specifies the beginning of participation in the Drop Plan.

3.3.2.4 The effective date of election shall be any day of the year for a term no more than three years.

**3.4 Termination of Drop Plan Participation.** Upon either regular or early termination of participation in the Drop Plan:

3.4.1 The participant in the Drop Plan shall be separated from employment with the employer.

3.4.2 The plan administrator shall pay the balance in the Drop Plan participant's Subsidiary Drop Participant Account to the terminating Drop Plan participant as provided in Article 4, below.

3.4.3 The participant in the Drop Plan shall not be eligible to reenroll in the Drop Plan thereafter even if the former Drop Plan participant is

reemployed with the employer with renewed active membership in the Retirement Plan.

#### **ARTICLE 4.**

#### **Payment and Form of Benefits**

**4.1 Fixed Retirement Benefit and Drop Plan Dates.** Effective the date of cessation of benefit accrual under the Retirement Plan, which shall be the day immediately preceding the effective date for participation in the Drop Plan, the employee's Retirement Benefit under the Retirement shall be fixed.

4.1.1 Effective Dates.

4.1.1.1 An employee's effective date of participation in the Drop Plan shall begin the day following the effective date of cessation of benefit accrual under the Retirement Plan.

4.1.1.2 An employee's participation in the Drop Plan shall end upon the earlier of three years after the effective beginning date of Drop Plan participation or on the date of the employee's termination or separation of employment for any reason from the employer.

**4.2 Benefit Payment and Accruals.** Subject to such reduction as may be required by any Qualified Domestic Relations Order (QDRO) or other applicable law or Court Order, all of the Drop Plan participant's Normal Retirement Benefit at the assigned rate shall be credited to the Drop Plan participant's Subsidiary Drop Participant Account in the Retirement Plan trust fund and a separate accounting of the Participant's Subsidiary Drop Account shall be calculated annually and provided to the Drop Plan participant.

**4.3 Payment.** On the effective date of a Drop Plan participant's termination or separation of employment with the employer, participation in the Drop Plan shall cease and the Retirement Plan shall calculate and pay to the participant the participant's total accumulated Drop Plan benefits in the Drop Plan participant's Subsidiary Drop Participant Account subject to the following provisions:

4.3.1 Except as provided in Paragraph 4.3.2., the terminating Drop Plan participant or, if deceased, the participant's named beneficiary, shall elect on a form provided by the Retirement Plan administration to receive payment of the Drop Plan benefits in accordance with one of the following options:

4.3.1.1 The balance in the Drop Plan participant's Subsidiary Drop Participant Account less withholding taxes, if any, remitted to the applicable taxing authorities shall be paid within forty-five (45) days by the Retirement Plan from the account to the Drop Plan participant or the surviving beneficiary.

4.3.1.2 The balance in the Participant's Subsidiary Drop Participant Account shall be paid within forty-five (45) days by the Retirement Plan from the account directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code of 1986 (the "Code"), or, in the case of an eligible rollover distribution to the surviving spouse of a deceased Drop Plan Participant, an eligible retirement plan that is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Code.

A. A distributee may elect to have an eligible rollover distribution paid directly to an eligible retirement plan by way of a direct rollover.

B. For these purposes, a "distributee" includes a Drop Plan Participant, a Drop Plan designated beneficiary and a Drop Plan Participant's former spouse who is an alternative payee pursuant to a qualified domestic relations order.

C. "Eligible Rollover Distribution" has the meaning given the term by Section 402(f)(2)(A) of the Code, except that a qualified trust shall be considered an eligible retirement plan only if it accepts the distributee's eligible rollover distribution and, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan is an "individual retirement account" or an "individual retirement annuity" as those terms are defined in Section 408(a) and (b) of the Code.

4.3.2 If the Drop Plan Participant or beneficiary fails to elect a method of payment within sixty (60) days after the participant's termination or separation date, the Retirement Plan shall pay the balance as a lump sum as provided in Paragraph 4.3.1.1.

4.3.3 The form of payment selected by the Drop Plan Participant or the surviving beneficiary shall comply with the minimum distribution requirements of the Code.

**4.4 Assignment or Alienation.** Except as provided in Code §414(p) relating to Qualified domestic relations orders, neither a participant nor a beneficiary may anticipate, assign, or alienate (either at law or in equity) any benefit provided under the Drop Plan and no trustee or custodian will recognize any such anticipation, assignment or alienation. Furthermore, except as provided by Code §401(a)(13) or other applicable law, a benefit under the Drop Plan is not subject to attachment, garnishment, levy, execution or other legal or equitable process.

**4.5 Disability.** If a Drop Plan participant becomes eligible for a disability pension benefit and terminates employment, participation in the Drop Plan shall terminate immediately upon termination of employment.

**4.6 Eligibility.** Except for those benefits specified under Paragraph 3.3.2 as forgone by the employee, a Drop Plan participant shall be eligible for any employee benefits provided to active employees while the participants is still employed.

## **ARTICLE 5.**

### **Death Benefits Under the Drop Plan**

**5.1 Beneficiary.** A Drop Plan participant may designate a beneficiary of the Drop Benefit, which Drop beneficiary may, but need not be the same as the participant's Retirement Plan beneficiary, provided however, that in the event a person other than the Participant's spouse is designated as beneficiary, the Participant's spouse must consent to the designation. If no Drop beneficiary is designated, the Retirement Plan beneficiary, if any, shall be the default Drop beneficiary, and if there is no Retirement Plan beneficiary designated, then the default beneficiary established under the terms of the Retirement Plan shall also be the default Drop beneficiary. If a Drop Plan participant dies, the Drop Plan participant's designated beneficiary shall be entitled to apply for

and receive the benefits accrued in the participant's Subsidiary Drop Participant Account as provided in Paragraph 4.3.

**5.2 Final Benefit.** The monthly benefit accrued in the participant's Subsidiary Drop Participant Account during the month of the participant's death shall be the final monthly benefit credited for Drop Plan participation.

**5.3 Termination of Eligibility.**

5.3.1 A Drop Plan Participant's eligibility to participate in the Drop Plan terminates upon the death of the Drop Plan Participant. If a Drop Plan Participant dies on or after the effective date of participation in the Drop Plan but before the monthly benefit of the Drop Plan Participant accruable for the month has accrued in the participant's Subsidiary Drop Participant Account, the Authority shall pay the monthly benefits as though the participant had not elected Drop Plan participation and had died while in service and prior to distribution of any Retirement Plan benefit.

5.3.2 During any period that an employee is not actively employed by the employer, which by way of an example includes, but is not limited to such periods as, short or long term disability leave, workers compensation leave, or any unpaid leave of absence from performing the employee's regular duties with the employer, DROP Plan participation and benefit payments will be suspended. During any suspension period, no DROP payment shall be made to the Participant's Subsidiary DROP Account, during the period of suspension, or be made in a manner that is attributable to the period of suspension. Neither the termination of employment date, nor participation in the DROP plan shall be extended because of any period of suspension.

**ARTICLE 6.**

**Drop Plan Participation Account**

**6.1 City's Account.** Upon the effective date of this Drop Plan, the City of Erie Officers and Employees Retirement Plan shall establish a Drop Plan Participant Account as a ledger (paper) account in the City of Erie Officers and Employees Retirement Plan. The account balance shall be accounted for separately but need not be physically segregated from other pension trust fund assets.

**6.2 Subsidiary Drop Participant Account.** A separate Subsidiary Drop Participant Account shall be established for each Drop Plan participant. While a Drop Participant is employed, the monthly, Normal Retirement Benefit therein shall be credited to the participant's Subsidiary Drop Participant Account pursuant to Paragraph 4.2.

**6.3 Termination of Employment.** When a Drop Plan Participant terminates employment with the employer, the Drop Plan Participant's total accumulated benefits shall be calculated, charged to the participant's Subsidiary Drop Participation Account and paid out of the Retirement Plan pursuant to Paragraph 4.3.1.

**ARTICLE 7.**

**Miscellaneous**

**7.1 Employment Status.** Participation in the Drop Plan does not guarantee the Drop Plan Participant's employment by the employer.

**7.2 Subsequent Employment.** After both the termination of a Drop Plan and Participant's employment with the employer, a former Drop Plan Participant shall be subject to such reemployment limitations as other terminated employees.

**7.3 Amendments.** The Retirement Plan shall be deemed amended by the terms and provisions of this Drop Plan. Separate amendatory language, which is not inconsistent with this Drop Plan, may be incorporated into or appended to the Retirement Plan so as to implement the Drop Plan features.

**7.4 Governing Statutes.** Continuation of the Drop Plan requires compliance with all applicable Federal, State and local statutes and regulations and the Drop Plan will be operated in accordance with all such applicable statutes and regulations.

**7.5 Drop Plan Expenses.** The Drop Plan is maintained by the City of Erie Officers and Employees Pension Plan. All costs of administration, including maintaining and accounting for the Subsidiary Drop Participant Account shall be Plan expenses, paid by the Plan or City of Erie Officers and Employees Pension Plan.

**7.6 Return to Work.** Upon termination of the Drop Participant's employment from the employer, former Drop Participant may apply for re-employment. The employer has no obligation whatsoever to re-employ a former Drop Participant and the former Drop Participant has no preference relative to being rehired. The decision regarding the rehiring of a former Drop Participant is solely at the discretion of the employer. In the event a former Drop Participant is rehired, his or her Retirement Plan benefits, and distribution thereof, shall be determined in the manner prescribed for re-employed participants, but the re-employed former Drop Participant shall not again participate in the Drop Plan.

**7.7 Amendment or Termination of the Plan.** The City and the recognized bargaining units of any members of the City of Erie Officers and Employees Pension Board shall have the right to negotiate amendments to the Plan at any time and from time-to-time, in whole or in part. The City and the recognized bargaining units of any members of the City of Erie Officers and Employees Pension Plan may negotiate to terminate or discontinue the Plan in whole or in part at any time without any liability for such discontinuance or termination. All DROP benefits accrued prior to discontinuance or termination shall remain in City of Erie Officers and Employees Pension Plan until distributed. The City and City of Erie Officers and Employees Pension Board shall notify Employees and Participants of any amendment, discontinuance or termination.