



## City of New Haven

### Signature Copy

Ordinance: OR-2022-0024

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File Number: OR-2022-0024

**ORDINANCE AMENDMENT ADOPTING CHANGES TO ARTICLE 18 (PENSION) OF THE EXECUTIVE MANAGEMENT AND CONFIDENTIAL EMPLOYEES' PERSONNEL AND PROCEDURES MANUAL CLARIFYING THE PENSION BENEFITS OF THE POSITIONS OF CHIEF OF STAFF, BUDGET DIRECTOR AND CHIEF TECHNOLOGY OFFICER; AND INCLUDING THE CITY BUDGET DIRECTOR, CHIEF TECHNOLOGY OFFICER AND MANAGER OF HUMAN RESOURCES AND BENEFITS AS KEY EMPLOYEES**

WHEREAS, on December 19, 2011, the City of New Haven Board of Alders approved an Executive Management and Confidential Employees Personnel and Procedures Manual which sets forth a description of the employee benefit plans offered by the City of New Haven (the "City") to non-bargaining unit employees listed in such manual (the "2011 Manual"); and

WHEREAS, the City of New Haven is seeking Board of Alder approval to appoint the positions of Budget Director, Chief Technology Officer, and Manager of Human Resources and Benefits as key employees as outlined in Article 19 of the Executive Management and Confidential Employees Personnel and Procedures Manual; and

WHEREAS, the provisions concerning pension benefits available to Executive Management and Confidential Employees Personnel and Procedures Manual which are currently set forth in the 2011 Manual, Article 18 - Pensions; and

WHEREAS, the City wishes to update Article 18 of the 2011 Manual to clarify/make changes to the benefits offered to Executive Management and Confidential positions of Chief of Staff, Budget Director and Chief Technology Officer as set forth in Article 18; and

WHEREAS, The City of New Haven is seeking Board of Alder approval for to clarify/make changes to the Executive Management and Confidential Employees Article 18 as referenced below:

**Article 18 - Pensions**

- (1) Membership in the City Employees' Retirement Fund ("CERF")

All Executive Management Employees, all Confidential Employees and all full-time Elected and Appointed Officials (other than members of Local 1303-464), who are currently members of the City Employees Retirement Fund ("CERF") as of the date that this Manual becomes effective under Section 41 of the Charter of the City of New Haven (the "Effective Date") may shall continue to be members of CERF. In addition, all members of CERF,

including but not limited to retired and Conditional Members (as defined in the Articles), and who subsequently are appointed to all Executive Management, Confidential Employees Employee positions, Appointed Official positions or who are elected to full-time Elected Official positions hired on or before the Effective Date who are General Fund Employees and who are not Sworn Services employees may continue to shall be members of CERF, after their appointments or elections to such positions. . Moreover, any full time elected officials whose date of taking office occurs on or before the Effective Date shall be members of CERF. Additionally, any Confidential Employee who is a member of CERF and subsequently becomes an Executive Management Employee on or after the Effective Date shall remain a member of CERF. Notwithstanding the foregoing, or any other provision of this Article, any Executive Management, or Confidential Employee, Appointed Official, or Elected Official who is participating in or receiving benefits from or eligible to participate in any other pension or retirement fund of the City or the State of Connecticut including but not limited to a member of the Policemen and Firemen's Pension Fund ("P&F"), shall not be permitted to join CERF upon being appointed to an Executive Management, Confidential Employee, or Appointed Official position or upon being elected to an Elected Official position, provided, however that an active employee who is a member of P&F may transfer his or her contributions from P&F to CERF, upon being appointed to an Executive, Confidential or Appointed Official position or upon being elected to a full-time Elected Official position pursuant to Article I, Section 12 of the Articles of the Pension Agreement of the Management Contract for members of Local 3144 AFSCME, AFL-CIO July 1, 2015-June 30, 2020- attached hereto as Schedule A (the "Articles") .

(2) Applicable Pension Provisions for Executive Management,,Confidential Employee, Appointed Official, and Elected Official Members of CERF

(3) Except as set forth herein, tThe provisions of the Articles of the Pension Agreement of the Management Contract for members of Local 3144 AFSCME, AFL-CIO (the "Articles") shall apply to the Confidential Employees, and Executive Management Employees, Appointed Officials and Elected Officials who are members of CERF under this Manual. Any amendments or modifications to the Articles shall apply to such employees as permitted by applicable law. Attached as Schedule A is the form of the Articles that was in effect as of June 20, 2010. To the extent that the provisions of the Articles conflict with the provisions of this Manual, including this Article 18, the provisions of this Manual will control.

(4) Notwithstanding the foregoing, Schedule A, Article II, Section 6(e) of the Articles shall not apply to Executive Management, and Confidential Employees, Appointed Officials or Elected Officials who are members of CERF under this Manual.. Rather, any Elected Oofficial whose period in office expires or any (i)\_ or elected official or Aappointed Oofficial (other than members of Local 1303-464), (ii) (including Coordinators appointed pursuant to Article V, Section 11 of the Charter of the City of New Haven or a successor Charter ) or (iii) the Budget Director, Chief Technology Officer, and the Chief of Staff or an employee who is performing the essential functions of such positions on the effective date of this Manual if such positions are subsequently renamed or eliminated and who is appointed by the Mayor under Article III, Section 4A of the Charter or a successor Charter, whose service is terminated involuntarily, not due to malfeasance or misfeasance in office, or who resigns after completion of ten (10) years of Credited Service, shall subsequently receive, commencing upon the attainment of the age of sixty (60) or upon qualification for disability annuity or upon satisfying the eligibility requirements of Article II, Section 4(b) of the Articles as such Section 4(b) may be amended from time to time, an annuity for life equal to forty percent (40%) of the greater of (i) the last fiscal year budgeted salary or (ii) his or her average annual rate of pay averaged over those five (5) years of service producing the highest average, plus two percent (2%) of such average

annual rate of pay for each full year of service in excess of ten (10) years, provided such annuity shall not exceed seventy percent (70%) of his or her average annual rate of pay averaged over those five (5) years of service producing the highest average (the "Appointed Official's Benefit"). There shall be no early retirement Appointed Official's benefit.. No provision of this Manual shall preclude an Executive Management, Confidential Employee, Appointed Official, or Elected Official from electing to receive another form benefit to which she or he is entitled to under the Articles.

(A) Contributions by Executive Management,, Confidential Employee, Appointed Official, and Elected Official Members of CERF

The contribution rate of all Executive Management, and Confidential Employees, Appointed Officials and Elected Officials who are members of CERF shall be the higher of (i) the FICA rate or (ii) the contribution rate of CERF members of Local 3144, at the time that such contributions are made..

(B) Social Security and Section 457 Plan

(1) All Executive Management. Confidential Employees, Appointed Officials, and Elected Officials who are not eligible to join CERF under this Manual Employees whose initial hire date into City service is on or after July 1, 2008, all Executive Management Employees and elected officials who are rehired into City service or in the case of elected officials assume office on or after the Effective Date who are not members of CERF or members of the Policemen and Firemen's Pension Plan (the "P&F Plan") at the time of their rehire or assumption of elected office and all Confidential employees whose hire date or rehire date into City service is on or after the Effective Date and who are not members of CERF or P&F (aggregately the "New Hires") shall be covered by Social Security. In addition, for these employees, the City shall contribute 7.5% of their base pay into a Section 457 defined contribution plan (the "Section 457 DC Plan"). The DC Plan shall be established by the Director of Labor Relations in coordination with the Department of Finance, the Department of Human Resources, and the Department of Management and Budgets

(2) Executive Management, Confidential Employees, Appointed Officials, and Elected Officials who are eligible to participate in CERF under this Manual, may within thirty (30) days of becoming an Executive Management Employee, a Confidential Employee, an Appointed Official or an Elected Official elect to be enrolled in the Section 457 Plan and to be covered by Social Security. If such Executive Management Employee, Confidential Employee, Appointed Official or Elected Official chooses to participate in the Section 457 Plan rather than CERF and is vested in the payment of benefits from CERF, then the employee shall not be eligible to receive benefit payments from CERF until such time as the employee retires from City service, and time served while a participant in the Section 457 Plan shall not count towards Credited Service for purposes of determining the retirement pension benefit payable to such employee from CERF. In addition, earnings received during the time of participation in the Section 457 Plan shall not be taken into consideration for purposes of determining the retirement pension benefit payable to such employee from CER..

E. Withdrawal of Contributions

An Executive Management, Confidential Employee, Appointed Official or an Elected Official member of CERF shall not be permitted to withdraw his or her contributions to CERF until he or she terminates employment with the City.

F. Membership in P&F

All Executive Management and Confidential Employees in a All Sworn Services capacity (Police and Fire) who are currently members of P&F may continue to be members of P&F. In addition all employees who are members of the "P&F Plan" at the time of becoming Confidential Employees or Executive Management Employees may remain as members of

the P&F Plan provided that they remain in a Sworn Services capacity. (Police or Fire). Any Confidential Employee who is a Sworn Services Employee hired before the Effective Date shall be permitted to become a member of the P&F Plan. Any Executive Management or Confidential Employee in a Sworn Services capacity who is participating in or receiving benefits from any other pension or retirement fund of the City, including but not limited to a member CERF, shall not be permitted to join P&F upon being appointed as an Executive Management or Confidential Employee in a Sworn Services capacity. Provided, however that an active employee who is a member of CERF who becomes an Executive Management or a Confidential Employee in a Sworn Services capacity may transfer his or her contributions from CERF to P&F, upon such appointment as permitted by the applicable Police Contract or the Local 825 Agreement.

**G. Applicable Pension Provisions for Executive Management and Confidential Employee Members of P&F**

(1) **Police Members** The provisions of the pension article (Article 14) of the collective bargaining agreement between the City and New Haven Police Union Elm LocalCity, Local, CACP July 1, 2016-June 30, 2022 530 and Council 15, AFSCME, AFL-CIO in effect on the Effective Date (the "Local 530 Agreement"), (the "Police Contract") as such provisions may be amended from time to time and as permitted by law, shall apply to Executive Management and Confidential Employees members of the P&F Plan who are police employees. Notwithstanding the foregoing, Article 145, Section 1(W) of the Police Contract Local 530 Agreement, which provides that Police employees "hired in or prior to 1990 who at the time of retirement have a four (4) year average that is not more than the employee's base salary, said employee's total annual earnings shall be the equivalent of the annual salary of an employee's holding the next higher rank to that held by the retiring employee prior to retirement," or language substantially similar thereto which may be included in any future collective bargaining agreement between the City and Local CACP 530 shall not apply to the calculation of pension benefits from under the P&F Plan of to Executive Management and Confidential Employees who are Police employees. Further, notwithstanding the provisions of Article 14, Section 1(T). Executive Management and Confidential Employees who are police employees shall be permitted to exchange their sick time for pension credits in accordance with the provisions of that section but shall not be counted in the cap of the 20 employees who are permitted to purchase such sick time To the extent that the provisions of the Police Contract 530 Agreement conflict with the provisions of this Manual, including this Article 18, the provisions of this Manual will control.

(2) **Fire Members** The provisions of the pension article (Article XXXII) of the collective bargaining agreement between the City and New Haven Fire Union, Local 825 International Association of Fire Fighters, AFL-CIO July 1, 2018-June 30, 2024 in effect on the Effective Date (the "Local 825 Agreement"), as such provisions may be amended from time to time and as permitted by law, shall apply to Executive Management and Confidential Employees members of the P&F Plan who are fire fighters. To the extent that the provisions of the Local 825 Agreement conflict with the provisions of this Manual, including this Article 18, the provisions of this Manual will control.

**(H) Contributions by Sworn Services Executive Management and Confidential Employees**

The contribution rate for Sworn Services Executive Management Employees and Confidential Employees who are members of P&F Plan shall be the higher of (i) the FICA rate or (ii) the contribution rate contained in the applicable collective bargaining agreement (Police or Fire) at the time of the contribution.

**(I) Social Security and Section 457 Plan**

(1) Sworn Services Executive Management and Confidential Employees who are not eligible to join P&F members shall be covered by Social Security. In addition, the City shall contribute 7.5% of their base pay into the Section 457 Plan.

(2) Alternatively, Sworn Services Executive Management and Confidential Employees who



are eligible to participate in the P&F Plan may within thirty (30) days of becoming an Executive Management Employee or a Confidential Employee elect to be enrolled in the Section 457DC Plan and to be covered by Social Security. If such Executive Management Employee or Confidential Employee chooses to participate in the Section 457DC Plan rather than the P&F Plan and has a vested benefit payable from P&F, then the employee shall not be eligible for benefit payments from under the P&F Plan until such time as the employee retires from City service, and time served while a participant in the Section 457 DC Plan shall not count towards Credited Service for purposes of determining the retirement pension benefit payable to such employee from under the P&F. Plan. In addition, earnings received during the time of participation in the Section 457 DC Plan shall not be taken into consideration for purposes of determining the retirement pension benefit payable to such Executive Management Employee or Confidential Employee from under the P&F. Plan. The contribution rate of all Executive Management and Confidential Employees who are members of CERF shall be the higher of (i) the FICA rate or (ii) the contribution rate of CERF members of Local 3144. For Sworn Services Executive Management Employees and Confidential Employees who are participants of the P&F Plan, the contribution rate shall be the higher of (i) the FICA rate or (ii) the contribution rate contained in the appropriate collective bargaining agreement (Police or Fire at the time of the contribution).

J. Withdrawal of Contributions

A Sworn Services Executive Management or Confidential Employee member of P&F shall not be permitted to withdraw his or her contributions from P&F until he or she terminates employment with the City

Any Executive Management Employee or Confidential Employee who (1) has continuous City service since the date of his or her initial hire to the Election Period Termination Date (as defined below) but was not a member of CERF during a portion of the period when he or she was a General Fund Employee, (2) is employed by the City as a General Fund Employee on the date of his or her Election, (3) is not a Sworn Services employee on such date, and (4) in the case of an Executive Management Employee, was employed by the City on June 30, 2008, and in the case of a Confidential Employee, is employed by the City on June 30, 2011, shall be allowed to purchase pension credit for past General Fund service time up to the Maximum Period (as defined below).

An employee who wishes to join CERF and/or purchase past service credit under the terms set forth in this Article 18 shall notify the CERF Retirement Board of his her desire to join CERF and/or purchase past service credit and the period of time for which the employee wishes to purchase past service credit (the "Election Notice"). The Election Notice shall be in writing and received by the CERF Retirement Board no later than June 30, 2012 (the "Election Period Termination Date")., No employee shall be permitted to purchase past service credit in excess of the Maximum Period (ten (10) years of service credit subject to a downward adjustment as described below), except as set forth below.

The amount that an employee shall be required to pay to purchase past service credit shall be as follows (i) for the first two years of past service credit or any fraction thereof, the employee shall pay the amount of contributions that such employee would have made to CERF for that period of prior serviced plus Interest (as defined below); (ii) for the subsequent three years of past service credit or any fraction thereof that the employees wishes to purchase, the employee shall pay one and one-half (1 ½ ) times the amount of contributions such employee would have made to CERF for that period of prior service plus Interest; and (iii) for the subsequent five years of past service or any fraction thereof that an employee wishes to purchase (except to the extent that the Maximum Period is adjusted to less than ten (10) years as hereinafter provided), the employee shall pay twice the amount of contributions that the employee would have made to CERF for that period of prior service plus Interest. In the event that an employee wishes to purchase past service credit in excess of ten (10) years and/or in

excess of the Maximum Period if the Maximum Period is less than ten (10) years (an "Excess Purchase"), then the CERF Retirement Board shall notify the employee of the pension liability to the City resulting from the Excess Purchase, and in addition to the amounts that the employee is required to pay to purchase his or her past service as described above, the employee shall pay the City's Pension Liability arising out of the Excess Purchase in order to make an Excess Purchase.

Subsequent to the Election Period Termination, the City shall determine (without consideration of any request to purchase past service credit in excess of ten (10) years), the total pension liability to the City resulting from all of the elections by eligible employees to join CERF and/or buyback past service credit under the provisions of this Article 18 (the "Total Pension Liability"). If the Total Pension Liability exceeds seventy-five thousand dollars (\$75,000), the CERF Retirement Board shall adjust the Maximum Period downward from ten (10) years of past service credit until the Total Pension Liability does not exceed seventy-five thousand dollars (\$75,000). Interest on an employee's purchase of past service credit (including the City's pension liability arising out of an Excess Purchase, if applicable) shall be (i) 3% interest compounded annually on such sums if payment is to be made no later than 6 months after the Election Period Termination Date or (ii) Prime Rate plus 2% compounded annually on the amount of contributions, if the Purchase Amount is to be paid later than 6 months after the Election Period Termination Date. Prime Rate is the prime rate charged by CERF's custodian bank at the time of receipt of the Election Period Termination Date. The total amount that an employee shall pay to purchase past service credit under this Article 18 shall be paid by a lump sum contribution or in equal installments over a period not to exceed three years and may be paid by voluntary payroll deduction on a pre-tax basis or other arrangement approved by the CERF Retirement Board.

**(K) Illegal Conduct**


Notwithstanding any language in this Article or any prior provisions of this Manual or any provisions of Schedule A or the Police Contract or the Local 825 Agreement, P&F Plan, any employee covered by this Manual who engages in illegal conduct performed while acting as if the actions are under the color of law or in the course and scope of his or her employment or during which time the employee was being paid to perform work for the City, and is terminated from employment by the City for such conduct, shall forfeit his or her rights to all pension and other retirement benefits and only be allowed to recover funds that said employee actually contributed to CERF or to the P&F Plan, as the case may be, plus an interest rate as determined by the applicable retirement board, to the extent permitted by law.

NOW, THEREFORE, BE IT ORDAINED by the New Haven Board of Alders that:


Section 1. The positions of Budget Director, Chief Technology Officer, and Manager of Human Resources and Benefits be established as Key employees as outlined in Article 19 of the Executive Management and Confidential Employees Personnel and Procedures Manual.

Section 2. That Article 18 of the Executive Management and Confidential Employees Personnel and Procedures Manual be updated as described in the body of the ordinance.

This Ordinance was Approved by the Board of Alders on 10/3/2022.

Attest, City Clerk 

Date 9/19/2022

Signed, City Clerk 

Date 10/24/2022

Signed, Mayor 

Date 11/3/2022