

MIDLAND FIREMEN'S RELIEF AND RETIREMENT FUND

Plan Effective January 1, 2024



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The participating members of the Midland Firemen's Relief and Retirement Fund held a secret ballot as required under Section 7 of Article 6243e, Vernon's Texas Civil Statutes (which may be cited as the Texas Local Firefighters Retirement Act - TLFFRA) concluding on July 21, 2023 with 81.53% of the 249 participating members voting in the election. TLFFRA requires that at least 50% of the participating members must vote. Of the 203 voting members, 176 members voted in favor of using 60 consecutive months of pay and excluding unscheduled overtime pay beginning in 2024 for determining the Highest 60-Month Average Salary. The below table identifies and incorporates the amendments, including definitions, to the Midland Firemen's Relief and Retirement Fund as approved by the vote of the members as more fully set forth herein below.

Highest 60-Month Average Salary	<ul style="list-style-type: none"> •For those hired 2013 and before (but see grandfathered group exception below): <ul style="list-style-type: none"> -Select the highest consecutive 60 months of pay over entire career -Determine the average of the above •For those hired 2014 and after: <ul style="list-style-type: none"> -Select the last consecutive 60 months of pay before termination date (or DROP date) -Determine the average of the above
Unscheduled OT Pay	Excluded beginning in 2024 for the months in the above average
Grandfathered Group	For those within two years of retirement eligibility (or already eligible) on December 31, 2023, both of the above changes would NOT be applicable.
Frozen Accrued Minimum Monthly Benefit	For all firefighters, the new monthly benefit will not be less than "Frozen Accrued Minimum Monthly Benefit." This frozen minimum will be determined on December 31, 2023 with Present Plan provisions as if termination on December 31, 2023 with service and pay history frozen on that date.
Pension Contributions	Continue to be Determined Including Unscheduled OT Pay

The Board of Trustees met on July 27, 2023 and approved the changes elected by the voting participating members as described above.

Previous Plan changes include:

A secret ballot was held as required under Section 7 of Article 6243e, Vernon's Texas Civil Statutes, which may be cited as TLFFRA concluding on September 15, 2008, with 59.47% of the 190 participating members voting in the election. TLFFRA requires that at least 50% of the participating members must vote. Of the 113 voting members, 111 voted in favor of revising the effective date of awarding a COLA when conditions are met and 2 members voted against it.

The Board of Trustees met on September 24, 2008, and approved the changes elected by the participating members as described above.

A secret ballot was held as required under Section 7 of Article 6243e, Vernon's Texas Civil Statutes, which may be cited as TLFFRA concluding on January 20, 2003 with 60.0% of the 180 participating members voting in the election. TLFFRA requires that at least 50% of the participating members must vote. Of the 108 voting members, 107 members voted in favor of Combined Forward and Retroactive DROP Option and 1 member voted against the measure.

The Board of Trustees met on January 22, 2003 and approved the changes elected by the voting participating members as described above.

A secret ballot was held as required under Section 7 of Article 6243e, Vernon's Texas Civil Statutes (which may be cited as the Texas Local Firefighters Retirement Act - TLFFRA) concluding on November 21, 2002 with 55.6% of the 180 participating members voting in the election. TLFFRA requires that at least 50% of the participating members must vote. Of the 100 voting members, 98 members voted in favor of expanding the Death Benefit to allow a surviving spouse to receive 75% of the calculated lump sum and 75% of the benefit associated with the DROP option chosen by the widow or widower and 2 voted against the measure.

The Board of Trustees met on November 27, 2002 and approved the changes elected by the voting participating members as described above.

The following provisions are applicable to all members of the firefighter's pension fund on the effective date of the plan and to those who enter the department thereafter.

The following provisions shall be construed and administered in such a manner that the Midland Firemen's Relief and Retirement Fund will be a qualified plan under Section 401 of the Internal Revenue Code (26 U.S.C. Section 401), hereinafter the "Code". The Board of Trustees may modify these provisions to the extent necessary for the Midland Firemen's Relief and Retirement Fund to be a qualified plan.

A. BASIS FOR DETERMINING RETIREMENT BENEFIT:

1. "Includable Pay" means and includes:
 - (i) regular, longevity and regularly scheduled overtime pay, and
 - (ii) pay received during a period of PTO, and
 - (iii) unscheduled overtime pay before January 1, 2024, and
 - (iv) PTO buy back and one time pays.And excludes:
 - (v) any unscheduled overtime pay on and after January 1, 2024, and
 - (vi) any lump sum distributions for unused PTO, etc.

The amount of benefit payable upon retirement will depend upon the firefighter's age when the member retires and upon the number of years of "Service" and "Highest 60-Month Average Salary," as described below:

2. "**Service**" will be equal to the firefighter's number of years and months of continuous employment. For the period prior to August 18, 1978, the number of years of continuous employment will be determined from the records of the fire department of the City of

Midland, Texas. The number of years of continuous employment after August 18, 1978 will include the period of uninterrupted employment after that date with the Fire Department of the City of Midland, Texas. If a firefighter's service is terminated after August 18, 1978, the member will be treated in the same manner as a new employee if later re-employed. However, if a firefighter elects to leave contributions in the Fund after termination, and is later re-employed by the City of Midland Fire Department, prior service will be retained and added to the additional service earned. Absence from the active service of the department by reason of leave of absence will not terminate a firefighter's service provided the member returns to active employment prior to the expiration of their leave except that if they withdraw their contributions from the Midland Firemen's Relief and Retirement Fund, the member will be treated in the same manner as though service had been terminated even though they return to active employment prior to the expiration of their leave. Service shall be credited for periods of service with the Uniformed Service to the extent required by, and in accordance with, the Uniformed Services Employment and Re-employment Act of 1994 and Section 414(u) of the Code.

Periods of leave of absence, determined by the policy of the City of Midland, shall be deemed continuous employment.

3. "Highest 60-Month Average Salary"

- a. For those firefighters hired after December 31, 2013, the "Highest 60-Month Average Salary" will be equal to the average of the firefighter's Includable Pay for the last consecutive 60 calendar months of service with the department before the earlier of the member's termination of employment or if applicable their DROP Effective Retirement Date or DROP election date as determined in Section J below.
- b. For those firefighters hired on or before December 31, 2013, and not in the Grandfathered Group, the "Highest 60-Month Average Salary" will be equal to the average of the firefighter's Includable Pay for the consecutive 60 calendar months of service with the department over his employment period that results in the highest 60-month average. The "Highest 60-Month Average Salary" is determined at the earlier of the member's termination of employment or if applicable, their DROP Effective Retirement Date or DROP election date as determined in Section J below.
- c. For those firefighters in the Grandfathered Group, the "Highest 60-Month Average Salary" will be equal to the average of the firefighter's total pay for the highest 60 calendar months of service with the department. The "Highest 60-Month Average Salary" is determined at the earlier of the member's termination of employment or if applicable, their DROP Effective Retirement Date or DROP election date as determined in Section J below. Total pay includes:
 - (i) regular, longevity and all overtime pay, and
 - (ii) pay received during a period of PTO, and
 - (iii) PTO buy back and one time pays.And excludes:
 - (iv) any lump sum distributions for unused PTO, etc.
- d. If at the time of death or disability the firefighter has less than 60 months of service, the member's average salary will be computed as though they had been employed for the previous 60 months. For the period prior to employment, the firefighter is deemed to have held the same rank at which they entered the department. Their pay, based upon the rank mentioned above, is assumed to be the amount they would have received if they had been employed by the fire department during that period.

4. **“Grandfathered Group”** includes the firefighters who on December 31, 2023 either had at least 18 years of service and were at least age 48 or had at least 23 years of service and later retire when eligible for an unreduced benefit.

For those members who are: (i) within two years of retirement eligibility, or (ii) already eligible on December 31, 2023, their benefit will be calculated using the plan document effective December 14, 2011.

5. **“Frozen Accrued Minimum Monthly Benefit”** for each active firefighter as of December 31, 2023 is determined on the plan provisions that were in effect on December 31, 2023 as if the firefighter had terminated employment with the department on December 31, 2023 with service and pay history as of that date.

B. SERVICE RETIREMENT BENEFIT:

1. Normal Service Retirement Benefit.

- a. Eligibility for Normal Service Retirement Benefits - A firefighter will be eligible for a normal service retirement benefit after the member meets both the following requirements:
 - i. attainment of age 50; and
 - ii. completion of 20 years of service.
- b. Amount of Normal Service Retirement Benefit - Subject to the restrictions of Internal Revenue Code Section 415 which determine maximum service retirement benefits, a firefighter who qualifies for a normal service retirement benefit will receive a monthly retirement benefit equal to the sum of:
 - i. a standard benefit equal to 75% of such member’s “Highest 60-Month Average Salary”

plus
 - ii. an additional benefit in an amount equal to \$80.00 per month for each whole year of service in excess of 20 years of service. A partial year of service will be given credit based on number of months completed in excess of whole years.

Notwithstanding the preceding sentence, the normal service retirement benefit will not be less than the “Frozen Accrued Minimum Monthly Benefit.” This meets the minimum vested accrued benefit requirement of Section 7(e) of TLFFRA. The normal service retirement benefit can not exceed the “Maximum Service Retirement Benefit”.

2. **25-Year Service Retirement Benefit.** Subject to the restrictions of Internal Revenue Code Section 415 and L.6., below, which determine maximum service retirement benefits, a firefighter under age 50 who completes 25 or more years of service will be eligible for an immediate retirement benefit in the same amount as that paid for a normal service retirement benefit. Such a retiree will not be eligible for the Supplemental Retirement Benefit.

3. Early Service Retirement Benefit.

- a. Eligibility for Early Service Retirement Benefit - A firefighter will be eligible for an immediate, early service retirement benefit after attaining age 45 and completing 20 or more years of service.

b. Amount of Early Service Retirement Benefit - Subject to the restrictions of Internal Revenue Code Section 415 which determine maximum service retirement benefits, a firefighter who qualifies for an early service retirement benefit will receive a monthly retirement benefit equal to the sum of:

i. a standard benefit equal to a percentage of the member's "Highest 60-Month Average Salary"

plus

ii. an additional benefit in an amount per month for each whole year of service in excess of 20 years of service. A partial year of service will be given partial credit based on the number of months completed in excess of whole years.

The percentage of "Highest 60-Month Average Salary" and the amount per month used in determining the additional benefit will be based on the firefighter's early retirement age as shown below:

**Percentage of Highest 60-Month Average Salary
Based on Early Retirement Age in Completed Years and Months
at Date of Early Retirement**

Age Years	MONTHS											
	0	1	2	3	4	5	6	7	8	9	10	11
45	47.98%	48.36%	48.72%	49.09%	49.46%	49.83%	50.19%	50.56%	50.93%	51.29%	51.66%	52.02%
46	52.38%	52.79%	53.19%	53.61%	54.01%	54.41%	54.82%	55.22%	55.62%	56.03%	56.43%	56.83%
47	57.13%	57.68%	58.13%	58.57%	59.02%	59.47%	59.92%	60.36%	60.81%	61.25%	61.70%	62.14%
48	62.59%	63.07%	63.57%	64.07%	64.55%	65.05%	65.53%	66.02%	66.51%	67.01%	67.50%	67.99%
49	68.48%	69.02%	69.57%	70.11%	70.66%	71.19%	71.74%	72.28%	72.83%	73.37%	73.91%	74.45%
50	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%	75.00%

**Additional Seniority Benefit for Each Whole Year
of Service in Excess of 20 Years Based on Early Retirement
Age in Completed Years and Months at Date of Early Retirement**

Age Years	MONTHS											
	0	1	2	3	4	5	6	7	8	9	10	11
45	\$51.19	\$51.57	\$51.98	\$52.36	\$52.76	\$53.14	\$53.55	\$53.93	\$54.33	\$54.72	\$55.11	\$55.51
46	55.90	56.32	56.76	57.18	57.61	58.04	58.47	58.90	59.32	59.75	60.21	60.63
47	61.06	61.54	62.01	62.47	62.95	63.43	63.91	64.38	64.85	65.33	65.82	66.29
48	66.76	67.27	67.82	68.33	68.85	69.38	69.91	70.42	70.95	71.48	72.00	72.53
49	73.06	73.62	74.22	74.78	75.37	75.95	76.53	77.11	77.67	78.29	78.84	79.43
50	80.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00	80.00

Notwithstanding the preceding sentence, the early service retirement benefit will not be less than the "Frozen Accrued Minimum Monthly Benefit" but adjusted with the early retirement adjustment factors used in the above tables. This meets the minimum vested accrued benefit requirement of Section 7(e) of TLFRA.

C. DISABILITY BENEFIT:

1. **Eligibility for Disability Benefit.** Pursuant to the provisions of Sections 9e and 14 of Article 6243e of Vernon's Texas Civil Statutes cited as the Texas Local Firefighters Retirement Act (TLFFRA), an active firefighter will qualify for a disability benefit if the member becomes disabled from any cause except a pre-existing condition prior to eligibility for unreduced Plan benefits whatsoever for either physical or mental reasons. In order to be entitled to benefits for the first 2.5 years of such benefit payment, the firefighter need only be disabled to the extent of being unable to perform the duties of a position in the fire department providing the firefighter would have been receiving a regular salary in their original position had the disability not occurred and they continued in their former position with the Fire Department; thereafter, the member must be unable to perform the duties of any occupation for which they are reasonably suited by education, training and experience.
2. **Amount of Disability Benefit.** The disability payments will commence after the firefighter's regular salary, including PTO pay and Workers' Compensation including determination of an impairment rating and settlement, has ceased as the result of the member's disability and will continue thereafter as long as the firefighter remains alive and is eligible under C.1. above; provided, however, that if the retiring firefighter receives a lump sum of accumulated PTO pay from the City of Midland, the disability benefit will not commence until a period of time has elapsed equal to the period of time that would have passed had the firefighter received their accumulated PTO pay in regular biweekly payments instead of a lump sum. The monthly disability benefit will equal the sum of:
 - a. A standard benefit equal to 75% of the member's "Highest 60-Month Average Salary" as computed through the last full month in which the firefighter received a salary;

plus

 - b. An additional benefit in an amount equal to \$80.00 per month for each whole year of service in excess of 20 years of service. A partial year of service will be given credit based on number of months completed in excess of whole years.

Notwithstanding the preceding sentence, the disability benefit will not be less than the "Frozen Accrued Minimum Monthly Benefit", before any subsequent adjustment to the disability benefit as determined under C.3. below.

3. **Termination, Reduction or Reinstatement of Disability Benefit.** The Board of Trustees shall have the power to continue, terminate, reduce or reinstate a firefighter's disability benefits subject to the following constraints:
 - a. During the first 2.5 years, the Board of Trustees may terminate the firefighter's disability benefit if the firefighter recovers to the extent that the member is able to perform the duties of a position in the Fire Department providing the firefighter with pay that is greater than or equal to the pay the disabled firefighter would have been receiving in their original position had the disability not occurred and they continued in their former position with the Fire Department.
 - b. After the disabled firefighter has received disability benefits from the fund for at least 2.5 years, the Board of Trustees may terminate the firefighter's disability benefit if the firefighter has recovered to the extent that they are able to perform the duties of a job

outside the Fire Department and they are able to earn at least as much money in a new job as they would have had they continued in their former position with the Fire Department.

- c. After the disabled firefighter has received disability benefits from the Fund for at least 2.5 years, the Board of Trustees may review the situation of the disabled firefighter to determine the status of their disability. If the firefighter has recovered to the extent that they are able to perform the duties of a job outside the Fire Department, but they are not able to earn as much money in a new job as they would have had they continued in their former position with the Fire Department, then the Board of Trustees may, at their discretion,
 - i. continue to pay a full disability benefit to the disabled firefighter; or
 - ii. elect to pay the disabled firefighter a partial disability benefit equal to one-half of the original disability benefit.
- d. The Board of Trustees shall have the power to reinstate any disability benefit which has been previously terminated or reduced provided the disabled firefighter's condition has worsened due to the same cause for which they were originally disabled.
- e. Compliance for Disability Benefit - the Board of Trustees may request that a firefighter provide documentation, including both current medical records and copies of their federal tax return to help them determine eligibility. The Board of Trustees may also request that a firefighter undergo professional evaluations at the Board's discretion and Fund's expense to assist in determining eligibility. The firefighter must cooperate with the Board's requests and any Board appointed examiner's requests in a timely manner for the Board to accurately assess the member's status. If the firefighter does not timely comply with any part of this Section, the lack of compliance could be grounds for denial of a disability benefit.

4. *Recovery from Disability.*

- a. Prior to completion of 10 years of service, if a disabled firefighter recovers to the extent that their disability allowance is terminated and the member does not return to the employ of the Fire Department, then an amount equal to the excess, if any, of the firefighter's own contributions (without interest) over the amount of payments which have been made on their behalf will be paid the member in a lump sum payment.
- b. After completion of 10 years of service a disabled firefighter will become eligible for the vested termination benefit described in Section (D) below if the member recovers to the extent that their disability allowance would otherwise be terminated or reduced and is unable to return to the employ of the Fire Department.

D. *VESTED TERMINATION RETIREMENT BENEFIT:*

Subject to the restrictions of Internal Revenue Code Section 415 and L.6., below, which determine maximum benefits, if a firefighter has completed at least 10 years of service but less than 20 years of service and has not reached normal retirement date at the time of the termination of service, the member will be entitled to receive a deferred retirement benefit commencing at the end of the month in which normal retirement date would have occurred, or age 60 if earlier. A firefighter's normal retirement date is the earliest date at which the firefighter will be at least age 50 and would have had at least 20 years of service had they not terminated employment. The amount of the firefighter's vested accrued benefit will be equal to the benefit the firefighter would have received had they become disabled on the date of termination of employment multiplied by the fraction $n/20$, where n is the firefighter's

number of completed years and months of service at date of termination; but n must be less than or equal to 20 so that the fraction is always less than or equal to 1.

If a firefighter has completed at least 20 years of service but has not attained the age of 50 at the time of termination of service, the member will be entitled to receive a deferred retirement benefit commencing at the end of the month in which they attain age 50 in an amount equal to the normal retirement benefit in B.1.b. above, determined as if they had retired on the day employment terminated. Such retiree will not be eligible for the Supplemental Retirement Benefit.

This benefit is payable only to firefighters who terminate employment on or after December 1, 1994. To be entitled to receive this vested termination retirement benefit, the firefighter is not required to make additional contributions between the date of termination of employment and the date they begin receiving benefits but they are required to leave their accumulated contributions in the Fund.

E. DEATH BENEFITS:

1. Lump-Sum Death Benefit

A lump-sum payment in an amount equal to \$10,000 will be paid to a beneficiary (or beneficiaries) of a deceased firefighter who was designated by the firefighter.

2. Qualification of Surviving Spouse

In order for a retired or terminated firefighter's spouse to qualify for the benefit below, they must have been married to the firefighter before the first to occur of their date of retirement or date of termination of service.

For those retired prior to December 1, 1994, if the widowed spouse of a firefighter remarries, their pension ceases. If the new spouse dies or if the widow(er) and their new spouse are later divorced, the spouse's pension shall be reinstated including any increases that the widow(er) would have received had the pension not been terminated. The pre-December 1, 1994 provision outlined in the preceding sentence does not apply to the spouses of firefighters who are employed in the Fire Department on December 1, 1994, or who enter the Fire Department on or after December 1, 1994; the spouses of all firefighters who are retired on or after December 1, 1994; and all spouses whose pensions began on or after December 1, 1994.

3. Benefits Payable - Surviving Spouse

Monthly benefits being paid to a surviving spouse of a firefighter who died before October 1, 2000 shall continue to be paid to such surviving spouse for as long as they are alive in the same amount that was being paid as of December 31, 2008, subject to the provisions of this Section and Section F, below.

In the event of a firefighter's death on or after October 1, 2000, the firefighter's spouse will receive an immediate monthly benefit for as long as they are alive, under the conditions and in the amounts described below:

- a. If the firefighter's death occurred while an employee of the Fire Department, a benefit equal to 75% of the benefit the firefighter would have been entitled to as a normal service retirement benefit, based upon the salary and service at the time of death;
- b. If the firefighter's death occurred after normal service retirement, a benefit equal to 75% of the benefit the firefighter would have been entitled to as a normal

service retirement benefit, based upon the salary and service at the time of death;

- c. If the firefighter's death occurred after disability benefit, a benefit equal to 75% of the benefit the member was receiving at the time of death;
- d. If the firefighter's death occurred after early service retirement, a benefit equal to 75% of the benefit the member was receiving at the time of death;
- e. If the firefighter's death occurred after termination of employment with 10 or more years of service, a benefit equal to 75% of the "Vested Termination Retirement Benefit" defined in Section D. above.

The widow(er) of a firefighter may elect to receive upon the death of the firefighter a payment equal to the excess of the firefighter's contributions to the fund over the amount of benefits which have been paid on behalf of the firefighter; however, if the widow(er) makes such an election, they will thereby forfeit their right to the spouse's monthly benefit described above. The amount refunded shall not include any interest accumulated on account of the firefighter's contributions.

If the spouse of a firefighter chooses to receive, upon their remarriage, a refund of the excess of the firefighter's contributions to the Fund over the amount of benefits which have been paid on behalf of the firefighter and then later becomes eligible for a spouse's pension due to either divorce or death of their new spouse, the spouse's pension will be delayed until the total of the payments not received equals the amount of contributions the spouse was earlier refunded.

If a firefighter dies after November 1, 2002, while still employed by the fire department and while eligible to make a DROP election, the surviving spouse may elect any DROP Option the firefighter would have been eligible to elect on the date of death. If the surviving spouse makes such an election, the spouse shall receive a lump sum equal to 75% and a monthly benefit equal to 75% of the respective lump sum and monthly benefit the firefighter would have received if the member had made the same election on the date of death and retired on that date. This election is available only to a surviving spouse who would otherwise have been eligible to receive a monthly benefit under Subsection E.3.

4. *Benefits Payable – Child's Benefits*

- a. The child's benefit payable upon the death of a firefighter who began receiving service or disability benefits or who terminated employment with 10 or more years of service prior to December 1, 1994 and would otherwise have been entitled to a Vested Termination Retirement Benefit is as follows:
 - i. each unmarried child will receive a monthly benefit of 9.56% of the firefighter's "Highest 60-Month Average Salary" until age 22;
 - ii. if the spouse dies, (or if applicable remarries), after being entitled to their allowance or if there is no spouse, each unmarried child will receive a monthly benefit of 19.12% of the firefighter's "Highest 60-Month Average Salary" until age 22.
- b. The child's benefit payable upon the death of a firefighter who was employed in the Fire Department on December 1, 1994 or who enters the Fire Department after December 1, 1994, but whose death occurred prior to October 1, 2000, is as follows:
 - i. each unmarried child will receive a monthly benefit of 9.67% of the firefighter's "Highest 60-Month Average Salary" until age 22;

- ii. if the spouse dies, (or if applicable remarries), after being entitled to their allowance or if there is no spouse, each unmarried child will receive a monthly benefit of 19.33% of the firefighter's "Highest 60-Month Average Salary" until age 22.
- c. The child's benefit payable upon the death of a firefighter whose death occurred on or after October 1, 2000 is as follows:
 - i. each unmarried child will receive a monthly benefit of 11.25% of the firefighter's "Highest 60-Month Average Salary" until age 22;
 - ii. if the spouse dies, (or if applicable remarries), after being entitled to their allowance or if there is no spouse, each unmarried child will receive a monthly benefit of 22.50% of the firefighter's "Highest 60-Month Average Salary" until age 22.

The benefits described in a., b. and c. above are payable to age 22. If the child becomes totally disabled as a result of a physical or mental illness, injury or intellectual developmental disorder, the benefits described in 3. and 4. above are payable after age 21 and for as long as the child remains totally disabled. In order for a natural child to be eligible to receive a death benefit under this Section, the child's date of birth must be no later than 10 months following the first to occur of the date the firefighter retires, dies or terminates service with a vested benefit. In order for an adopted child to be eligible to receive a death benefit under this Section, the child must have been adopted prior to the first to occur of the date the firefighter retires or terminates service with a vested benefit.

For purposes of the benefits described in a., b. and c. above, a child shall be defined as the unmarried, dependent offspring, either natural-born or adopted, of a firefighter.

5. *Benefits Payable – Dependent Parents*

If no spouse or child is entitled to a benefit as noted in Section E above at the time of the firefighter's death, the amount the spouse would have received will be paid to the firefighter's dependent parents, if any.

6. *Maximum Survivor Benefits*

The sum of all survivor benefits paid or payable at any point in time shall not exceed:

- a. For a retired firefighter, the amount of service or disability benefit the firefighter was receiving;
- b. For a firefighter who was not retired but was eligible for normal service retirement at time of death, the normal service retirement benefit the firefighter would have received had the member retired on their date of death; and
- c. For a firefighter who has not retired and was not eligible for normal service retirement at time of death, the disability benefit the firefighter would have received had they become disabled on their date of death.
- d. In no event shall the total amount of benefits paid on behalf of a deceased firefighter exceed the Maximum Service Retirement Benefit.

If the sum of all benefits payable on behalf of the firefighter's spouse and children would otherwise exceed the limits set forth above, the benefit attributable to the spouse and each child shall be reduced by the same percentage so that the sum of the reduced benefits equals the applicable limit. If the benefit for the spouse or one of more of the children should subsequently be terminated then the benefits for the remaining

beneficiaries shall be recalculated to provide the full benefits specified in this plan or a larger pro-rata share of those benefits if the sum of the benefits still exceeds the above-mentioned limit.

7. *Benefits Payable – No Beneficiaries*

If no spouse, child or dependent parent is entitled to an allowance in Section E as noted above, an amount equal to the excess, if any, of the firefighter's own contributions (without interest) over the amount of payments which have been made to the firefighter, spouse, child or dependent parent will be paid to the member's estate.

8. *100% Joint and Survivor Option*

In lieu of the above described death benefits a firefighter retiring after December 1, 1994 may elect to have their benefits paid as a 100% joint and survivor annuity. If the firefighter is married at the time of retirement, the spouse must agree in writing to this change. The firefighter's benefit will be reduced by 10% plus .4% per year that the beneficiaries' age is less than the firefighter's age and minus .4% per year that the beneficiaries' age is greater than the firefighter's to reflect this change. This reduction will not be applied to the Supplemental Retirement Benefit payable to the firefighter (if applicable). Upon the death of the firefighter, the Supplemental Retirement Benefit will be reduced to \$375 (75% of the firefighter's benefit) and will be payable to the widow(er) of the firefighter.

9. *Military Service Death*

If a firefighter dies, on or after January 1, 2007, while performing qualified military service, as defined in Section 414(u) of the Code, the death benefits payable with respect to the firefighter shall include any additional benefits (other than benefit accruals relating to the period of the qualified military service) that would have been provided if the firefighter had resumed service as a firefighter on the date of death and immediately died.

F. INCREASED BENEFITS TO RETIRED FIREFIGHTERS, SPOUSES, AND CHILDREN:

Effective September 1, 1998, current and future retired firefighters and beneficiaries will receive an automatic 2.0% cost-of-living adjustment after having received benefits for 5 years, provided the Fund's investment performance does not fall below a rolling audited 5-year average of 8.25%. The cost-of-living adjustment will become payable on the August 1 following the fifth full audited year of receipt of benefits by a firefighter and following a firefighter's physical departure from the Fire Department. DROP participation does not constitute time credited to the 5-year requirement.

This cost-of-living adjustment enables the particular class of benefit recipients described in the previous paragraph to possibly share in the favorable earnings of the Fund. It does not apply to the Supplemental Retirement Benefit (\$500 monthly benefit amount payable to the firefighter or \$375 monthly benefit payable to the widow(er) of the firefighter, if applicable), or to payments awarded to an alternate payee under a Qualified Domestic Relations Order.

G. RETURN OF FIREFIGHTER'S OWN CONTRIBUTIONS:

A firefighter who retires, resigns or whose service is terminated may elect to receive, at the time of retirement, resignation or termination, an amount equal to their own contributions to the Fund, less the amount of benefits which had previously been received from the Fund. If a firefighter makes such an election, the member will forfeit their right to all benefits which they otherwise would have been entitled to receive under this Fund. The amount refunded

shall not include any interest accumulated on account of the firefighter's contributions. A firefighter may elect to leave their own contributions in the Fund.

H. CONTRIBUTIONS:

1. Effective November 4, 2018, each firefighter will make contributions of 14.20% of total pay (including regular, longevity and overtime pay, pay received during a period of PTO and amounts of Workers' Compensation benefits received, and excluding lump sum distributions for unused PTO). All overtime pay shall be included for purposes of determining contributions by each firefighter.
2. Effective January 1, 2024, the City of Midland will make contributions of 24.20% of each firefighter's total pay (including regular, longevity and overtime pay, pay received during a period of PTO and amounts of Workers' Compensation benefits received, and excluding lump sum distributions for unused PTO). All overtime pay shall be included for purposes of determining contributions by the City of Midland as a percent of each firefighter's pay.

I. SUPPLEMENTAL RETIREMENT BENEFIT:

1. **Eligibility for Supplemental Retirement Benefit.** A firefighter will be eligible for this benefit upon retirement from active service after attaining age 50 with 20 years of service.
2. **Amount of Supplemental Retirement Benefit.** The supplemental benefit amount will be \$500 a month payable from the date of retirement for the member's lifetime and upon their death, 75% of the Supplemental Retirement Benefit will be continued to the surviving spouse for the remainder of their lifetime.

The Supplemental Retirement Benefit shall be actuarially converted to a life only benefit for purposes of determining the "Maximum Service Retirement Benefit".

The Supplemental Retirement Benefit is not payable to:

- a. Firefighters who retire prior to age 50;
- b. Firefighters who receive a Disability Benefit; or
- c. Firefighters who retire with a Vested Termination Retirement Benefit.

The Supplemental Retirement Benefit will not be increased by the automatic cost-of-living adjustment.

J. DEFERRED RETIREMENT OPTION PLAN (DROP):

1. **Eligibility for DROP Benefit.** A firefighter will be eligible for this benefit at any age upon retirement after attaining 25 years of active service or after attaining age 50 with 20 years of service. In the event a firefighter who has elected DROP participation earns regular compensation beyond the DROP period, said firefighter will not be entitled to receive either a refund of such DROP contributions or interest on such DROP contributions when such amounts are attributable to regular compensation earned beyond the DROP period. Further, any compensation earned in addition to regular compensation will not be included in the DROP program. Compensation earned in addition to regular compensation includes, but is not limited to, bonuses, golden parachute payments and payments for future services.

A firefighter meeting these requirements may irrevocably elect to have their benefits paid in this optional form.

2. ***DROP Plan Benefits.***

a. ***Option 1 (Forward DROP):***

- i. the firefighter must retire within 3 years of their DROP election;
- ii. the monthly benefit the member will receive from the Plan will be determined based upon their salary and service at the time of their DROP election;
- iii. at the conclusion of the DROP period the firefighter will be paid an amount which is the sum of their employee contributions from the DROP period plus the product of the monthly benefit amount (including the Supplemental Retirement Benefit in Section I, if applicable) times the number of months of the DROP period including interest at a rate of 4% compounded annually determined as of the end of each calendar year or partial year within the DROP period. This amount must be paid within three years in no more than 3 installments. Interest will be calculated using the balance at year end. No interest shall be paid after the conclusion of the DROP period.

b. ***Option 2 (Reverse DROP).*** Upon normal or 25-year service retirement, a firefighter may elect to receive 90% of their regular monthly benefit, including the Supplemental Retirement Benefit in Section I, if applicable (with all survivor benefits appropriately reduced) for life and a lump-sum equal to twenty-four times this reduced monthly benefit. This amount must be paid within three years in no more than 3 installments.

c. ***Option 3 (Retroactive DROP).*** If a firefighter has at least 20 years of service and is at least 50 years old or has 25 years of active service at any age, the member may at any time after that elect to retire and have their "effective retirement date" no earlier than the date they actually had at least 20 years of service and was at least 50 years old, or had attained 25 years of active service at any age. The period of time between the "effective retirement date" and the actual retirement date will be the DROP period and will not exceed 3 years. The monthly benefit will be calculated based upon their salary and service at the time of the earlier "effective retirement date".

The sum of their employee contributions during the DROP period plus the product of the monthly benefit amount (including the Supplemental Retirement Benefit in Section I, if applicable) times the number of months of the DROP period including interest at an annual rate of 4% compounded annually as of the end of each calendar year or partial year within the DROP period. This amount will be paid on the actual retirement date or, at the member's election, within three years in no more than 3 installments. No interest shall be paid after the conclusion of the DROP period.

d. ***Option 4 Combined (Forward and Retroactive) DROP:***

- i. the firefighter must retire within 3 years of their Combined (Forward and Retroactive) DROP. DROP period total may not exceed 3 years;
- ii. the monthly benefit the member will receive from the Plan will be determined based upon their salary and service at the beginning of their DROP period;

- iii. at the conclusion of the DROP period, the firefighter will be paid an amount which is the sum of their employee contributions from the Forward DROP portion of the period plus the product of the monthly benefit amount (including the Supplemental Retirement Benefit in Section I, if applicable) times the number of months of the Forward DROP portion of the Combined (Forward and Retroactive) DROP period;

plus

- iv. a monthly benefit calculated based upon the firefighter's salary and service at the time of their "effective retirement date" consisting of their contributions during the Retroactive portion of the Combined (Forward and Retroactive) DROP period plus the product of the monthly benefit amount (including the Supplemental Retirement Benefit in Section I, if applicable) times the number of months of the Retroactive DROP period.

This Combined (Forward and Retroactive) DROP amount shall include interest compounded annually at the rate of 4% determined as of the end of each calendar year or partial year within the Combined (Forward and Retroactive) DROP period. The DROP amount may be paid to the retired firefighter on their actual retirement date or, at their election, within three years in no more than 3 installments. No interest shall be paid after the conclusion of the DROP period.

DROP benefits will be actuarially converted to a life only benefit for purposes of determining the "Maximum Service Retirement Benefit."

K. DIRECT ROLLOVER OF ELIGIBLE ROLLOVER DISTRIBUTIONS:

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 prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the Distributee in a direct rollover.

a. Definitions:

- i. **Eligible Rollover Distribution.** An Eligible Rollover Distribution is any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary or for a specified period of ten years or more; or any distribution to the extent such distribution is required under Section 401(a)(9) of the Code.
- ii. **Eligible Retirement Plan.** An Eligible Retirement Plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, a qualified Trust described in Section 401(a) of the Code, an annuity plan described in Section 403(a) of the Code, an eligible deferred compensation plan described in Section 457(b) of the Code which is maintained by an eligible employer described in Section 457(e)(1)(A) of the Code or an annuity contract described in Section 403(b) of the Code, that accepts the Distributee's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to a designated beneficiary, an Eligible Retirement Plan is only an Individual Retirement Account or Individual Retirement Annuity.
- iii. **Distributee.** A Distributee includes an employee or former employee or an employee's or former employee's surviving spouse or designated beneficiary. In

addition, the employee's or former employee's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order ("QDRO"), as defined in Section 414(p) of the Code, is a Distributee with regard to the interest of the spouse or former spouse.

- iv. **Direct Rollover.** A Direct Rollover is a payment by the plan to the Eligible Retirement Plan specified by the Distributee.

L. INTERNAL REVENUE CODE QUALIFICATION REQUIREMENTS:

1. **Fund Assets May Not Be Diverted.** The assets of the Fund shall be held for the exclusive benefit of the firefighters who are or become participating members of the Fund and their beneficiaries. It shall be impossible for any part of the corpus or income of the Fund to be used for or diverted to, purposes other than the exclusive benefit of such members or their beneficiaries, whether by operation or natural termination of the Fund, by power of revocation or amendment, by the happening of a contingency, by collateral arrangement or by other means.
2. **Vesting.** The retirement benefit earned by a firefighter shall be fully vested no later than the date the member becomes eligible for a normal service retirement benefit. Benefits of affected firefighters shall also become vested, to the extent funded, upon the termination or partial termination of the Fund or the complete discontinuance of contributions to the Fund.
3. **Forfeitures May Not Increase Benefits.** Forfeitures resulting from a termination of employment or a withdrawal of a firefighter's own contributions may not be used to increase benefits to remaining firefighters. This shall not preclude an increase in benefits by amendment to the benefit formula made possible by favorable investment results or for any other reason.
4. **Latest Date for Commencement of Benefits.** A firefighter's benefits shall be distributed, or commence to be distributed to the firefighter no later than April 1 of the year following the later of the calendar year in which such firefighter attains age the "applicable age" as defined in Section 401(a)(9)(C)(v) of the Code or terminates employment.

Distributions to the firefighter and the firefighter's beneficiary shall be made in accordance with Section 401(a)(9) of the Code, including Section 401(a)(9)(D) thereof relating to incidental death benefits.

Except as otherwise provided in this Section, payments of death benefits to the beneficiary of a firefighter who dies before any retirement benefits have been paid shall commence no later than one year after the death of the firefighter. Payments on behalf of any deceased firefighter, including lump sum payments, need not commence within the one-year period if all such payments on behalf of the deceased firefighter are completed within five years after the firefighter's death. Furthermore, if the deceased firefighter's spouse is the sole beneficiary, benefits to the spouse may begin as late as December 31 of the year the member would have attained the "applicable age" as defined in Section 401(a)(9)(C)(v) of the Code had such firefighter lived.

If a firefighter dies after retirement benefits have commenced, benefits must continue to be distributed to the beneficiary at least as rapidly as provided for under the option elected by the firefighter before their death.

5. **Maximum Benefit.** Notwithstanding any other provisions of this plan, the annual benefit provided with respect to any firefighter may not exceed the benefits allowed under Section 415(b) of the Code for a governmental defined benefit plan qualified under

Section 401 of the Code. The annual additions under this plan including the firefighter contributions described in Section H.2. shall not exceed the limit set forth in Section 415(c) of the Code for any year. The maximum annual benefits allowed under this Section shall increase each year to the extent permitted by annual cost-of-living increase adjustments announced by the Secretary of the Treasury under Section 415(d) of the Code and the increased benefit limits shall apply to firefighters who have terminated employment, including firefighters who have commenced to receive benefits before the effective date of the adjustment. If the benefits or contributions under this Fund when combined with the benefits or contributions under another qualified plan maintained by the City of Midland would otherwise exceed the limits under Section 415 of the Code, then the contributions or benefits under the Fund, as applicable, shall be reduced to the extent necessary to satisfy the limits. If the preceding sentence would cause a reduction in the annual additions on behalf of any firefighter for any year, the firefighter's otherwise required contributions to the Fund shall be reduced to the extent necessary to assure that the limits are met.

6. **Limit On Average Salary.** Effective for Plan Years beginning on and after December 31, 1995, the annual compensation limit imposed by Section 401(a)(17) of the Code shall apply to limit the average salary of each non-eligible firefighter that may be considered for any Fund purpose, to the extent required by guidelines issued by the Internal Revenue Service. That limit shall not apply to an eligible participant. For purposes of this paragraph, an eligible participant is any firefighter who first became a member of the Fund before January 1, 1996. A non-eligible participant is any member who is not an eligible participant. For this purpose, a firefighter's annual compensation is all wages and other compensation paid to the participant which the City of Midland is required to report on Form W-2, determined without regard to any rules under Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or services performed (such as the exception for agricultural labor), plus any elective deferrals described in Section 402(g)(3) of the Code and any amount that is contributed or deferred by the City of Midland at the election of the firefighter and which is not includible in the gross income of the firefighter by reason of Sections 125, 132(f) or 457 of the Code.

7. **Actuarial Assumptions.** If the amount of any benefit is to be determined on the basis of actuarial assumptions that are not prescribed by the Internal Revenue Service or set forth in this plan, the mortality assumption shall be taken from the UP 1994 Mortality Table, Male Rates, and the interest assumption shall be eight percent (8%) per annum, compounded annually. These rates may be changed upon the recommendation of the plan's actuary if approved by the Board.

M. THESE CHANGES BECAME EFFECTIVE January 1, 2024.

Trustee Signatures:

<u>Signed copy on file</u> Justin Graham Chairman	<u>Signed copy on file</u> Matt Marshall Vice Chairman	<u>Signed copy on file</u> Eric Stewart Secretary/Treasurer	<u>Signed copy on file</u> Chad Clark
<u>Signed copy on file</u> Morgan Rittenberry	<u>Signed copy on file</u> Lori Blong	<u>Signed copy on file</u> Christy Weakland	

Date Reviewed and Approved: November 14, 2024