

**CLERMONT FIRE DISTRICT
DEFINED BENEFIT
SERVICE AWARD PROGRAM**

PLAN DOCUMENT

**Prepared by
PENFLEX, INC.
January 2018**

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1. **Purpose:** In accordance with Article 11-A of the New York State General Municipal Law, the Clermont Fire District adopted this Clermont Fire District Defined Benefit Service Award Program (herein the “Program”) for active volunteer firefighters of the Clermont Fire Department. The provisions of a Service Award Program regarding firefighter participation, benefits earned and paid, and program operation must be formally stated in a written Plan Document. This document is the Clermont Fire District Defined Benefit Service Award Program Plan Document, reflecting Program provisions as of January 1, 2018. When formally adopted by the Board of Fire Commissioners of the Clermont Fire District, it shall replace any and all other documents previously adopted by the Board of Fire Commissioners which could be considered written Plan Documents and it shall be the Plan Document.
2. **Type of Program:** Defined Benefit Plan.
3. **Program Sponsor:** Clermont Fire District.
4. **Program Administrator:** Clermont Fire District Board of Fire Commissioners (herein called the “Board”).
5. **Effective Date of Program:** January 1, 2002.
6. **Program Year:** The twelve (12) consecutive month period beginning each January 1 and ending each December 31.
7. **Eligibility to Participate in the Service Award Program:** Any person who is at least 18 years old and was approved as an active volunteer firefighter of the Clermont Fire District before January 1, 2018 shall be eligible to become a Participant in the Service Award Program (called an “Eligible Firefighter”). Any person who is approved as an active volunteer firefighter of the Clermont Fire District on or after January 1, 2018 is not eligible to become a Participant in the Program, but is eligible to become a participant in the Defined Contribution Program, the provisions of which are detailed in the *Clermont Fire District Defined Contribution Service Award Program Plan Document*.
8. **When an Eligible Firefighter Becomes a Participant:** Unless participation is waived, an Eligible Firefighter shall become a Participant on the last day of the Program Year beginning after 2001 during which he or she first earns a year of Service Credit (see #13a).

In addition, an Eligible Firefighter who during calendar years 2002 or 2003 dies or

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becomes totally and permanently disabled shall be considered a program Participant on the date of his or her death or disablement if during calendar year 2002 or 2003 he or she was prevented by his or her death or disablement from earning a year of Service Credit (as determined by the Board).

9. **Waiver of Participation in the Service Award Program:** An Eligible Firefighter may voluntarily waive his or her right to be enrolled in the Program in writing to the Board. Once such waiver is received by the Board and noted for the record, such Eligible Firefighter shall permanently forfeit (see #17) any and all Service Credit (see #13) and Accrued Monthly Service Award (see #12) earned to the date of receipt of the waiver. At any time thereafter, such individual may withdraw the waiver in writing to the Board and may again earn Service Credit and Service Awards in accordance with the terms of this Plan Document from the date the written request is received by the Board.
10. **Entitlement Age:** The later of age 65 or the Eligible Firefighter's age on date he or she becomes a Participant.
11. **Monthly Service Award:** \$20 per year of Service Credit.
12. **Accrued Monthly Service Award:** A Participant's Accrued Monthly Service Award equals a Participant's years of Service Credit times the Monthly Service Award and shall be paid after attainment of the Entitlement Age at the Participant's Benefit Commencement Date in accordance with provision #20 and provision #21. The Accrued Monthly Service Award shall be adjusted for Service Credit earned after attainment of the Entitlement Age in accordance with provision #14.
13. **Service Credit:** An Eligible Firefighter earns points under the Clermont Fire District Service Award Program Point System (i.e. the "Point System"), which is explained in a separate document. The Point System may be amended from time to time by the Board. In addition, points can be awarded for Military Leave (see #13c). Service Credit must be certified, posted and approved in accordance with the Article 11-A of the New York State General Municipal Law.
 - a. **Service Credit On or After Effective Date:** To earn a year of Service Credit during a Program Year beginning on or after the Effective Date of the Program, an Eligible Firefighter must earn 50 or more points during the Program Year.
 - b. **Service Credit Prior to Effective Date:** To qualify to earn Service Credit for active volunteer firefighter service with the Clermont Fire Department prior to the

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Effective Date, an individual must:

- i. be an Eligible Firefighter during 2002 or 2003, and
- ii. earn at least one year of Service Credit under the Point System during 2002 or 2003 unless an extension is granted by the Board to an individual for a severe medical condition. However, this requirement 13(b)(ii) shall not apply to an Eligible Firefighter who dies or sustains a total and permanent disablement which prevents such Eligible Firefighter from earning at least one year of Service Credit in 2002 or 2003, as determined by the Board.

For each Program Year beginning prior to 2002, a year of Service Credit shall be earned for each such Program Year during which, based on review of the available Fire District records, the Eligible Firefighter would have earned 50 points under the Point System, up to a maximum of five (5) years of Service Credit (called "Prior Service" credit).

- c. **Service Credit for Military Leave:** A Participant whose volunteer fire service is interrupted by full-time extended obligatory military service or by a single voluntary enlistment not to exceed four years in the armed forces of the United States shall be considered on military leave. During such period of military leave, the Participant shall be eligible to be earn a year of Service Credit under the Point System (50 points) for each complete Program Year on military leave. For periods of military leave of less than one Program Year, the Participant shall be eligible to be awarded pro-rated points. Provided, however, such Participant on military leave must again become an Eligible Firefighter of the Clermont Fire Department within one year after his military leave expires and subsequently earn one year of Service Credit under the Point System before any Service Credit is granted for military leave. Military leave Service Credit shall be automatically granted to any Participant on military leave from the Clermont Fire Department who dies or is totally and permanently disabled while in active military duty.
14. **Service Credit Earned After Entitlement Age:** Eligible Firefighters who continue to be active volunteer firefighter members of the Clermont Fire Department after attaining the Entitlement Age and have commenced payment of their Accrued Monthly Service Award shall continue to have the opportunity to earn Service Credit. The additional Monthly Service Award (see #11) earned for each year of Service Credit during or after the Program Year of a Participant's Benefit Commencement Date (see #20) shall be added to the Participant's Accrued Monthly Service Award effective the January 1st following the Program Year in which the Service Credit was earned.

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15. **Maximum Years of Service Credit:** The maximum number of years of Service Credit that shall be earned by any Participant is twenty (20) years.

16. **Vesting of Accrued Monthly Service Award:** A Participant's Accrued Monthly Service Award shall become 100% Vested (i.e. he or she shall earn a nonforfeitable right to 100% of his or her Accrued Monthly Service Award) after he or she meets one of the following criteria:
 - a. Earns and does not forfeit five (5) years of Service Credit;
 - b. Attains the Entitlement Age while an Eligible Firefighter;
 - c. Is awarded a Total and Permanent Disability Benefit by the Board;
 - d. Dies while an Eligible Firefighter.

17. **Forfeiture:** Forfeiture shall occur after one of the following conditions is met:
 - a. The earned Service Credit and Accrued Monthly Service Award of a non-vested Participant shall be forfeited as of December 31 of the year the non-vested Participant ceases to be an Eligible Firefighter (i.e. is no longer an active volunteer firefighter of the Clermont Fire District). However, if such former non-vested Participant again becomes an active volunteer firefighter of the Clermont Fire District within five years of the effective date of the forfeiture and subsequently earns at least one year of Service Credit under the Point System during a Program Year after having again become an active volunteer firefighter, the former non-vested Participant's forfeited Service Credit and Accrued Monthly Service Award shall be restored effective the December 31st of the Program Year the additional Service Credit is earned. If a former non-vested Participant again becomes an active volunteer firefighter of the Clermont Fire District after five years of the effective date of forfeiture, he/she cannot participate in this Program, but can participate in the Clermont Fire District Defined Contribution Service Award Program.
 - b. A Participant who is convicted of the crime of arson in any degree as defined in the penal law shall not be eligible to receive benefits from a service award program and shall forfeit any and all rights he or she may have had to past or future benefits pursuant to a service award program.
 - c. An Eligible Firefighter waives his or her right to be enrolled in the Program (see #9).

18. **Pre-Entitlement Age Total and Permanent Disability:**
 - a. **Definition of Total and Permanent Disability:** A Pre-Entitlement Age Participant shall be awarded a Total and Permanent Disability by the Board only if he or she is awarded benefits before attaining the Entitlement Age and before the

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Participant's "Benefit Commencement Date" (see #20) for a total and permanent disability from the Social Security Administration, any entity which pays benefits under the Volunteer Firefighters' Benefit Law or from any other authority approved by the Board and only if the Participant was an Eligible Firefighter of the Clermont Fire Department after the Effective Date of the Program and before such disability commenced.

- b. **Total and Permanent Disability Benefit:** If a Total and Permanent Disability is awarded by the Board in accordance with 18(a), a lump-sum shall be paid to the Participant equal to the discounted actuarial present value of the Participant's Accrued Monthly Service Award earned as of the date such disability payment is awarded by the Board. For the purposes of determining discounted actuarial present value, the actuarial assumptions used shall be the same as those used to determine the annual cost of the Program.

Participants who are paid a Total and Permanent Disability Benefit who subsequently recover from their disability and again become Eligible Firefighters of the Clermont Fire Department shall be considered new volunteers as of the day they again become Eligible Firefighters of the Clermont Fire Department and except for vesting purposes shall not again receive Service Credit for volunteer firefighter service prior to that date.

- 19. **Pre-Entitlement Age Vested Participant Death:** If a vested Participant dies before attaining the Entitlement Age and before the Participant's "Benefit Commencement Date" (see #20), a lump-sum shall be paid to the vested Participant's Designated Beneficiary (or estate if no beneficiary is designated) equal to the discounted actuarial present value of the vested Participant's Accrued Monthly Service Award earned as of the date of death. For the purposes of determining discounted actuarial present value, the actuarial assumptions used shall be the same as those used to determine the annual cost of the Program.
- 20. **Commencement of Payments:** In the case of Pre-Entitlement Age Total and Permanent Disability or Pre-Entitlement Age Vested Participant Death, the payment of the lump-sum shall be made as soon as possible after a completed application from a Participant or a Participant's beneficiary and the required point certification are received by Penflex, Inc. Upon attainment of the Entitlement Age, the "Benefit Commencement Date" shall be the first day of the month coinciding with or next following the date the Participant attained the Entitlement Age. Payment of the Accrued Monthly Service Award shall commence effective on the Benefit Commencement Date.

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21. **Form of Payment of Accrued Monthly Service Award:** At Benefit Commencement Date, a Participant's Accrued Monthly Service Award shall be paid on the first day of every month for the lifetime of a Participant or for ten years (i.e., 120 payments), whichever is greater. If a Participant dies before 120 monthly payments have been made from the Benefit Commencement Date, monthly payments shall continue to the Participant's Designated Beneficiary until 120 payments have been paid altogether between the Participant and the Designated Beneficiary (i.e., payments shall cease after the 120th payment). The Designated Beneficiary may elect to be paid in one single lump sum payment equal to the discounted actuarial present value of the payments owed to the Designated Beneficiary. All payments due to a Participant's or a Designated Beneficiary's estate shall be made as an actuarially equivalent lump sum. For the purposes of determining discounted actuarial present value, the actuarial assumptions used shall be the same as those used to determine the annual cost of the Program. Payment to the Designated Beneficiary shall not be extended past 120 payments from the Participant's Benefit Commencement Date for Service Credit earned after Entitlement Age.
22. **Program Costs:** The administration costs of operating the Program shall be paid from the Clermont Fire District's general operating fund. The Clermont Fire District shall contribute to the Clermont Fire District Defined Benefit Service Award Program Trust Fund an amount at least equal to the amount calculated by the actuary retained by the Board as owed to the Trust Fund for each Program Year beginning on or after the Effective Date of the Program.
23. **Calculation of Annual Program Cost:** The amount calculated by the actuary retained by the Board as the annual cost of the Program shall be based upon generally accepted actuarial funding methods, cost calculation procedures and assumptions appropriate for volunteer firefighter service award program funding cost calculations.
24. **Investment of Service Award Program Funds:** A Service Award Program Trust Fund shall be established and maintained by the Board. The Board shall be the Service Award Program Trustee and shall invest the trust fund assets.
25. **Service Award Program Administration:** The Program shall be administered by the Clermont Fire District in accordance with Article 11-A of the New York State General Municipal Law, the Plan Document and all other applicable statutes, rules and regulations.

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26. **Amendment of Service Award Program:** Unless voter approval is required by Article 11-A of the New York State General Municipal Law, amendments to this Plan Document shall be adopted by resolution of the Board. Within one hundred eighty days after the date of adoption by the Board of a resolution amending the Program or, after the date of approval by voters of a required referendum amending the Program, a written notice and explanation of such amendment shall be distributed to all persons who participate or are eligible to participate in the Program. Copies of such written notice and explanation shall be available upon request to the Board to all other persons.
27. **Termination of the Service Award Program:** The Board may terminate the Program at any time in accordance with Article 11-A of the New York General Municipal Law, which requires approval by eligible voters residing in the Clermont Fire District. In the event that the Program shall be terminated, all benefits shall be paid in accordance with the resolution adopted by the Board and the proposition approved by such eligible voters of the Clermont Fire District.
28. **Compliance With Laws:** The Program shall comply with Article 11-A of the New York State General Municipal Law and all applicable federal laws including but not limited to compliance with those provisions of the Internal Revenue Code that shall result in the payment of federal income tax by a participating volunteer only after the participating volunteer or his or her beneficiary shall actually be paid a Service Award. Any additional provision(s) of this Program required for such compliance not explicitly stated in this Plan Document shall be automatically included within these provisions. Any written program provision set forth in this Plan Document deemed to be prohibited by the law, rule or regulation shall be ineffective to the extent of any such prohibition without invalidating the remaining program provisions set forth in the Plan Document.

January 2018

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EXECUTION

By their signatures affixed hereto, the Board of Fire Commissioners of the Clermont Fire District does hereby, on behalf of said Fire District, adopt this Clermont Fire District Defined Benefit Service Award Program Plan Document.

Susan Ruffalo
Commissioner

2/19/18
Date

Laurence Sapp
Commissioner

2/19/18
Date

Ronald Miller
Commissioner

2/19/18
Date

Ron Bawa
Commissioner

2/19/18
Date

Ronald F. Sapp
Commissioner

2/19/18
Date

Signatures witnessed by:

Mary Helen Shamus
Fire District Secretary

2/22/18
Date

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