

City of Philadelphia



(Bill No. 130486)

AN ORDINANCE

Amending the Ordinance approved July 12, 1968, as last amended December 21, 2011, relating to pension benefits for employees working on behalf of Philadelphia Gas Works by revising the Philadelphia Gas Works Pension Plan to incorporate amendments thereto, clarify the operation thereof, and add certain provisions as required by the Internal Revenue Code of 1986, as amended.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. The Ordinance approved July 12, 1968 and amended December 14, 1973, March 8, 1979, February 26, 1981, March 4, 1982, December 19, 1983, November 14, 1986, July 17, 1987, December 20, 1988, March 6, 1995, January 1, 1999, June 26, 2002, July 1, 2004 and December 21, 2011 relating to retirement benefits for employees working on behalf of the Philadelphia Gas Works, is hereby amended as follows:

PHILADELPHIA GAS WORKS PENSION PLAN

* * *

SECTION 1 DEFINITIONS

Sec. 1.49 “Survivor” shall mean the Participant’s Death Beneficiary, mother, father, brother, sister, son, ~~or~~ daughter, *or a Special Needs Trust*, as designated by the Participant in the form and manner prescribed by the Plan Administrator to receive Survivor’s benefits. The designated Survivor shall be one individual *or Special Needs Trust*.

Sec. 1.61 “Special Needs Trust” shall be a trust under then current federal and/or state law for the sole benefit of a Participant’s son or daughter who meets the definition of an individual with a disability under the Social Security Act, and which trust operates in a manner that (a) permits the disabled individual to qualify for public benefits, (including but not limited to those under the Social Security Act such as Supplemental Security Income and Medical Assistance); and (b) by its terms terminates upon the death of the disabled individual. The “lifetime” of the Special Needs Trust shall be deemed coterminous with that of the disabled beneficiary of the Special Needs Trust.

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Sec. 1.62 “Contingent Survivor” shall mean a Special Needs Trust designated by the Participant in the form and manner prescribed by the Plan Administrator to receive benefits in the event that the Participant and his or her designated Survivor both predecease the named beneficiary of the Special Needs Trust. The Contingent Survivor shall consist of no more than one Special Needs Trust.

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SECTION 10

METHOD AND TIMING OF BENEFIT DISTRIBUTION

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Sec. 10.02 Joint and Survivor Annuity Options

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(f) A Participant who elects to receive a Joint and Survivor Annuity may also elect on or before his Retirement Date to name a Contingent Survivor whose benefit shall be payable for the period set forth in Section 18.16(b)(1) if both the Participant and the Survivor predecease the beneficiary of the Special Needs Trust designated as the Contingent Survivor. The amount of the monthly benefit payable to the Contingent Survivor shall be equivalent to: (i) under Option 2 above, the monthly benefit payable to the Survivor, or (ii) under Options 1 or 3 above, the final monthly benefit payable to the surviving party (Participant or Survivor); provided that, any benefit to a Participant, Survivor and Contingent Beneficiary shall be the Actuarial Equivalent of the Participant’s Accrued Benefit in the Normal Form as set forth in Section 3. Any election of a Contingent Survivor may be altered, amended or revoked by the Participant or former Participant prior to his/her Retirement Date. However, the election may not be so changed on or after his/her Retirement Date, except as otherwise provided in this Plan.

* * *

Sec. 10.06 Direct Rollover Option of Aggregate Pickup Contribution.

(a) A Participant or a Participant’s ~~surviving Spouse~~ Death Beneficiary (or an alternate payee under an ADRO) who is to receive an “eligible rollover distribution” as defined in Subsection (c) may elect to have the amount of such distribution transferred directly in a direct rollover to an “eligible retirement plan” (as defined in Subsection (d)).

(b) If a Participant or ~~surviving Spouse~~ Death Beneficiary or alternate payee is to receive an eligible rollover distribution of more than \$100, he may choose to have part of the distribution transferred directly in a direct rollover to an eligible

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retirement plan and to have the remainder paid to him. The amount that is to be transferred must be at least \$100.

(c) An “eligible rollover distribution” shall mean any distribution of all or any portion of the sum set forth in Section 10.05, except that an eligible rollover distribution does not include:

(1) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee 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;

(2) Any distribution to the extent such distribution is required under section 401(a)(9) of the Code;

(3) The portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and

(d) An “eligible retirement plan” shall mean 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, that accepts a distributee’s eligible rollover distribution). *Effective April 1, 2008, an eligible retirement plan shall include a Roth individual retirement account described in Code Section 408A(a).* However, in the case of an eligible rollover distribution to a ~~surviving Spouse~~, *Death Beneficiary*, an eligible retirement plan is an individual retirement account or individual retirement annuity.

For purposes of the direct rollover provisions in Section 10.05 of the Plan, an eligible retirement plan shall also mean an annuity contract described in section 403(b) of the Code and an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a ~~surviving Spouse~~ *Death Beneficiary* or former spouse who is the alternate payee under an ADRO.

(e) (1) The Committee shall provide to the Participant or ~~surviving Spouse~~ *Death Beneficiary* or alternate payee an explanation of his right to elect a direct rollover and the federal tax withholding consequences to him if he does not elect a direct rollover. The Participant, ~~surviving Spouse~~ *Death Beneficiary* or alternate payee shall then have at least 30 days (but not more than 90 days) in which to elect a direct rollover.

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(2) A Participant or ~~surviving Spouse~~ *Death Beneficiary* or alternate payee who elects a direct rollover must provide all information that the Committee may require to complete the direct rollover.

(3) A Participant or alternate payee who is entitled to elect a direct rollover with respect to all or any portion of a distribution from the Plan but who does not make any election shall be deemed to have rejected the direct rollover option.

(f) If the aggregate value of the Pickup Contributions is \$1,000 or less, the Plan shall immediately distribute to the Participant the entire amount of Pickup Contributions. If the value of Pickup Contributions exceeds \$1,000 and the Participant has not yet attained Normal Retirement Date, the Plan Administrator shall distribute the payment in a direct rollover to an individual retirement account or individual retirement annuity designated by the Plan Administrator for the benefit of the Participant, unless the Participant elects to have such payment (i) paid directly to an eligible retirement plan, as defined above, specified by the Participant in a direct rollover, or (ii) paid directly to the Participant.

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SECTION 18

MISCELLANEOUS PROVISIONS

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Sec. 18.15 Heroes Earnings Assistance and Relief Tax Act of 2008

(a) Death Benefits. *In the case of a death or disability occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Code Section 414(u)), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had resumed and then terminated employment on account of death.*

(b) Differential Wage Payments. *For years beginning after December 31, 2008, (1) an individual receiving a differential wage payment, as defined by Code Section 3401(h)(2), shall be treated as an employee of the employer making the payment, (2) the differential wage payment shall be treated as Compensation, and (3) the Plan shall not be treated as failing to meet the requirements of any provision described in Code Section 414(u)(1)(C) by reason of any contribution or benefit which is based on the differential wage payment.*

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Sec. 18.16 Redesignation of Special Needs Trust as Survivor for a certain period; Adding a Special Needs Trust as Contingent Survivor and permitting retroactive election thereof for a certain period.

(a) Notwithstanding any provision of this Plan to the contrary, a Participant who retired on or after December 31, 2008 may retroactively designate a Special Needs Trust as the Participant's Survivor, in place of the originally named Survivor, provided that:

(1) The total benefit payable to the Participant and the Special Needs Trust shall be actuarially equivalent to the total benefit payable to the Participant and the originally named Survivor; and

(2) On or before the 90th day following the Effective Date of this Ordinance, the Participant files a completed application with the Plan Administrator requesting redesignation of Special Needs Trust as Participant's Survivor. Such application shall be in the form as designated by the Plan Administrator and shall include:

a. A copy of the trust instrument which identifies the beneficiary of the Special Needs Trust;

b. Proof of disability of the beneficiary of the Special Needs Trust;

c. Written waiver of Survivor's benefits by current Survivor; and

d. Such other data, as is reasonably required by the Plan Administrator to effectuate such redesignation.

(3) Upon application, Participant shall be provided a recalculation of Participant's lifetime annuity based upon redesignation of Special Needs Trust as Survivor. Approval of the redesignation of Survivor shall not be contingent upon Participant's agreement to repay any aggregate excess payments previously made to Participant.

(b) In accordance with Section 10.02(f), a Participant may name a Contingent Survivor eligible, upon the death of the last of the Participant and his or her Survivor, to receive a monthly benefit, provided that:

(1) The limited benefit period during which a Contingent Survivor shall receive a benefit, if at all, shall commence upon the first month following

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the death of the last of Participant and his or her Survivor, and shall terminate on that date which is the earlier of: (a) the date of death of the beneficiary of the Special Needs Trust designated as the Contingent Survivor, or (b) the 10th, 20th, or 30th anniversary of the first day on which the Participant began receiving benefits hereunder. The Participant shall elect the applicable 10, 20 or 30 year limited benefit period at the time Participant designates the Contingent Survivor;

(2) The total benefit payable to the Participant, his or her Survivor and the Contingent Survivor shall be calculated at the time of retirement of the Participant as the Actuarial Equivalent of the Participant's Accrued Benefit in the Normal Form as set forth in Section 3, and in all cases the limited benefit payable to the Contingent Survivor shall calculated as set forth in Section 10.02(f);

(3) The Participant files a completed application with the Plan Administrator requesting designation of the Contingent Survivor and electing a Contingent Survivor benefit period of 10, 20 or 30 years, calculated as set forth in Section 18.21(b)(1) above from the first date on which the Participant begins receiving benefits hereunder. Such application shall be in the form as designated by the Plan Administrator and shall include:

a. A copy of the trust instrument which identifies the beneficiary of the Special Needs Trust designated as the Contingent Survivor;

b. Proof of disability of the beneficiary of the Special Needs Trust designated as the Contingent Survivor; and

c. Such other data, as is reasonably required by the Plan Administrator to effectuate such designation.

(4) Upon application, Participant shall be provided a calculation of Participant's lifetime annuity, Survivor's lifetime annuity and the Contingent Survivor's limited monthly benefit; and

(5) Notwithstanding any provision of this Plan to the contrary, a Participant who retired on or after December 31, 2008 may retroactively designate a Contingent Survivor by making application for such designation on or before the 90th day following the Effective Date of this Ordinance, in accordance with the requirements of this Section. Upon application, Participant shall be provided a recalculation of benefits based upon the addition of a Contingent Survivor. If requested by the Plan Administrator, the Participant must provide a written acknowledgment by the Survivor acknowledging the addition of a Contingent Survivor. Approval of the addition of a Contingent Survivor shall not be contingent upon Participant's agreement to repay any aggregate excess payments previously made to Participant.

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Sec. 18.45/7 Controlling Law. This Plan shall be construed and enforced according to the laws of The City of Philadelphia and the Commonwealth of Pennsylvania except to the extent Federal law applies. Citation to any statutory provision shall include any successor provisions thereto.

SECTION 2. Effective Date. This Ordinance shall be effective immediately.

Explanation:

~~Strikethrough~~ indicates matter deleted.
Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on June 12, 2014. The Bill was Signed by the Mayor on June 27, 2014.

A handwritten signature in cursive script, reading "Michael A. Decker".

Michael A. Decker
Chief Clerk of the City Council