

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 3, 2009

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER *J*

SUBJECT: CONSIDERATION OF A RESOLUTION TO AMEND THE CITY OF ALEXANDRIA SUPPLEMENTAL RETIREMENT PLAN TO INCORPORATE CHANGES IN THE APPROVED FY 2010 OPERATING BUDGET REGARDING CONTRIBUTIONS

ISSUE: Consideration of proposed changes to the City of Alexandria Supplemental Retirement Plan, as amended and restated January 1, 2009 (the "Plan").

RECOMMENDATION: That City Council adopt the attached resolution (Attachment 2) regarding the proposed First Amendment to the Plan. The changes in this amendment are necessary:

- To comply with the Approved FY 2010 Operating Budget for contributions to the plan;
- To comply with the federal Pension Protection Act of 2006 (PPA) so that the Plan will maintain its tax-preferred status;
- To comply with the Heroes Earnings Assistance and Relief Act of 2008 (HEART Act);
- To make technical corrections of Plan document language to clarify Plan administration.

DISCUSSION: The Plan provides both retirement and disability benefits in a defined benefit form to all benefited full-time and part-time employees who work at least 50 percent time and who are not firefighters or police officers. The Plan also covers employees of the Virginia Department of Health who work at the Alexandria Health Department. The Plan was originally effective August 1, 1970, and was restated January 1, 1999, and January 1, 2009. The January 1, 1999, Restatement was adopted by City Council on February 26, 2002. The January 1, 2009, Restatement was adopted on December 9, 2008. There are currently 2,057 active participants and 250 retired participants.

The proposed First Amendment is required to implement changes from the Approved FY 2010 Operating Budget for contributions to the Plan. The remaining changes are required by PPA, the HEART Act and technical changes to provide further clarification to the plan. The attached

“List of Section Changes Made by the First Amendment” (Attachment 1) lists all of the changes of the proposed First Amendment and the corresponding Plan sections. The changes can be broken into four types:

1. Compliance with the Approved FY 2010 Operating Budget (“First Change”)

As discussed in the FY 2010 Proposed Operating Budget, the Budget Work Session of February 18, 2009, and Budget Memos 51, 86, and 106, the Approved FY 2010 Operating Budget made changes to the Plan as cost-saving measures. The plan must be amended to include these changes:

- a) Employees who commence or re-commence participation in the plan on or after July 1, 2009, will make the two percent pick-up, or employee, contributions to the plan on a pre-tax basis. The City has been making these contributions since July 1982. The change will apply to the following persons defined in Plan section 1.1(r) as employees: A regular Full-time employee, a regular Part-time employee scheduled to work at least 20 hours per week, and members of City Council. As directed by City Council during “add-delete”, this change *will not apply* to employees employed beginning July 1, 2009, or later, as a Sheriff, Deputy Sheriff, Emergency Rescue Technician, or Fire Marshal.
- b) The City will no longer characterize the two percent pick-up contributions to the Plan as employee contributions for employees who were employed prior to July 1, 2009. The City has been making these contributions since July 1982. The City will continue to make contributions necessary to fund retirement benefits for these employees and for any employee hired on or after July 1, 2009, as a Sheriff, Deputy Sheriff, Emergency Rescue Technician, or Fire Marshal. However, these contributions will be labeled employer contributions.

Employees who were participants prior to July 1, 2009, and who terminate service with the City may elect to receive a refund of the pick-up contributions plus interest earned (the “accumulated contributions”). In doing so, such employees forfeit the right to receive a lifetime monthly benefit when eligible.

Employees who were participants in the Plan prior to July 1, 2009, will continue to have the option to take a refund of the accumulated contributions. However, no additional “pick up” contributions will be added after July 1, 2009. Pick up contributions made prior to July 1, 2009, continue to be refundable and to earn interest. Any Sheriff, Deputy Sheriff, Emergency Rescue Technician, or Fire Marshal hired on or after July 1, 2009, will not have any pick up contributions eligible for refund at termination.

Employees who commence participation on or after July 1, 2009, who are not the Sheriff, Deputy Sheriffs, Emergency Rescue Technicians, or Fire Marshals and who terminate service with the City will be able to receive a refund of the

accumulated contributions that will include all pick up contributions that they have made.

- c) Employees of the Virginia Department of Health (“VDH”) who work at the Alexandria Health Department are also defined as Employees and, therefore, participants in the Plan. VDH employees have been contributing employee contributions that are called mandatory contributions instead of pick up contributions. VDH employees have been contributing one percent mandatory contributions and the City has contributed another one percent contribution.

VDH employees who were employed prior to July 1, 2009, will continue to make the one percent mandatory contributions. However, the City will not make the additional one percent contributions. As with the City employees, the City will make the contributions necessary to fund retirement benefits for these employees.

VDH employees hired on or after July 1, 2009, will be required to make the full two percent mandatory contributions.

2. Compliance with PPA (“Second Change”)

The federal government establishes pension plan rules and guidelines for both public and private pensions. Along with providing favorable tax treatment for pension plans, the government sets limits on benefits, contributions, and the timing of payouts. Generally, these rules are designed to prevent abuses of pension plans created for small business owners or for highly paid individuals. While these rules rarely affect participants in public pension plans, the Internal Revenue Service (IRS) requires that these provisions appear in our Plan Document to maintain favorable tax status for the Plan. Congress enacted PPA in 2006, but the IRS and the Department of Labor (DOL) did not update their regulations for over a year.

The First Amendment adds language so the Plan complies with PPA. This change allows qualified retirees to exclude qualified health insurance premiums of up to \$3,000 from gross income. This may result in a tax savings for eligible retirees.

There is no change to benefits, contributions, or eligibility.

3. Compliance with HEART Act (“Third Change”)

The HEART Act was enacted by Congress and signed by the President in June 2008. This Act requires plans to treat participants who die while on an approved leave of absence for military duty to be considered employees and therefore eligible for death benefits to be paid to their beneficiaries. These are the same death benefits that the beneficiary of any participant, whether actively employed or not, is eligible to receive. The required language is added to the Plan document in order to comply with the HEART Act.

There is no change to benefits, contributions or eligibility.

4. Provide Technical Changes (“Fourth Change”)

Technical changes made to the Plan to provide clarification to the administration of the Plan include:

- a) The definition of Employee in section 1.1(r) clarifies that the term also refers to employees of the Virginia Department of Health working at the Alexandria Health Department. These employees are already participants in this plan. There is no change in benefits, contributions, or eligibility as these employees have been treated as being part of the Plan.
- b) Section 2.2 on Transfers clarifies that a covered employee who transfers to other City employment that is not covered by the Supplemental Plan will continue to earn vesting service under the Supplemental Plan. This may make the employee eligible for a retirement benefit when later leaving City employment. There is no change in benefits, contributions, or eligibility and current practices continue.
- c) Section 10.1 on Suspension of Benefits now includes a section to cover employees who retire, receive a lump sum payment instead of a monthly benefit, and then return to covered employment with the City. There is no change in benefits, contributions, and eligibility and current practices continue.

FISCAL IMPACT: Changes in paragraph #1 above related to the employee pickup of what has been previously paid by the City as the employer but labeled “employee contribution,” as well as the two percent pickup for new employees, will result in savings to the City that will grow every year for several decades until all employees are under these new regulations. The other changes in paragraphs #2, 3 and 4 are cost neutral.

ATTACHMENTS:

Attachment 1: List of Section Changes Made by the First Amendment

Attachment 2: Resolution

Attachment 3: Proposed First Amendment

STAFF:

Bruce Johnson, Chief Financial Officer

Michele Evans, Deputy City Manager

Laura B. Triggs, Finance Director

Steven Bland, Retirement Administrator

List of Section Changes Made by the First Amendment

The City of Alexandria Supplemental Retirement Pension Plan

This document lists the sections changed as a result of the First Amendment. The *subject* of the change is mentioned, but minor modifications to grammar, spelling, spacing, etc. are not listed.

Section Changed	Change	Change No.
Article 1.1 Definitions		
Employee	The definition of the term Employee is clarified in reference to employees of the Virginia Department of Health (VDH) who participate in this plan.	1
Pick Up Contributions	The definition of the term Pick Up Contributions is changed to state that new hires as of July 1, 2009, (or the effective date of this act) will contribute 2% of pay to the pension plan on a pre-tax basis.	2
ARTICLES 2 -10		
Article 2.2	This section on Transfers is changed to state that a plan participant may vest in this plan following five years of service with the employer, but not necessarily five years in this plan.	3
Article 3.1	The section on Participation is changed to state that new hires as of July 1, 2009, (or the effective date of this act) will contribute 2% of pay to the pension plan on a pre-tax basis.	4
Article 3.2	The section on Pick Up Contributions is changed for employees hired before July 1, 2009. The City will no longer make these contributions beginning July 1, 2009. All future contributions made by the City will be considered employer contributions.	5
Article 3.3	The section on Mandatory Employee Contributions is changed for VDH employees hired before July 1, 2009. The City will no longer make one percent of the two percent Mandatory Employee Contributions for these employees. VDH employees hired on or after July 1, 2009, will pay the full two percent mandatory Employee Contributions.	6
Article 3.4	The section on Suspension of Mandatory Employee Contributions and Pick Up Contributions is changed to reflect that new hires as of July 1, 2009, (or the effective date of this act) will contribute 2% of pay to the pension plan on a pre-tax basis.	7
Article 3.6	The section on Participation Upon Reemployment is changed to state that employees re-hired as of July 1, 2009, (or the effective date of this act) will contribute 2% of pay to the pension plan on a pre-tax basis.	8
Article 8.6	The wording in the old section Effect of Reemployment on Form of Payment is moved to Section 10.1. Section 8.6 is renamed Qualified Health Insurance Premium Distributions , which allows eligible retirees to deduct qualified insurance premiums from monthly benefit payments and exclude up to \$3,000 from gross income.	9

Article 10.1	The section on Suspension of Benefits is amended to include wording that was previously in section 8.6. The section is also changed to clarify how benefits are determined for a re-hired employee who received a lump-sum payment at retirement.	10
Article 15.4	The section on Veterans Reemployment Rights amends death benefits for an employee who dies while on an approved leave of absence for military duty. This change is required due to the Heroes Earnings Assistance and Relief Act (HEART Act) which extends benefits previously required under the Uniformed Service Employment and Reemployment Rights Act of 1994 (USERRA).	11

RESOLUTION NO. _____

WHEREAS, the City of Alexandria maintains the “City of Alexandria Supplemental Retirement Plan” (the “Plan”); and

WHEREAS, the City of Alexandria desires to adopt and incorporate the First Amendment to the Plan attached hereto; and

WHEREAS, the City of Alexandria desires to amend the Plan hereto; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ALEXANDRIA, VIRGINIA THAT the Alexandria City Council does hereby recognize, adopt, amend, and approve the Plan to incorporate the amendment attached hereto and incorporated fully herein by reference; and

BE IT FURTHER RESOLVED THAT this Resolution shall be effective immediately; provided however, that the amendments hereby approved shall be effective as stated in the Plan.

ADOPTED _____ (date)

William D. Euille **Mayor**

ATTEST:

Jackie M. Henderson, City Clerk

**FIRST AMENDMENT TO
THE CITY OF ALEXANDRIA SUPPLEMENTAL RETIREMENT PLAN,
AS AMENDED AND RESTATED EFFECTIVE AS OF JANUARY 1, 2009**

Pursuant to the powers of amendment reserved under Section 14.1 of The City of Alexandria Supplemental Retirement Plan, as amended and restated effective as of January 1, 2009 (the "Plan"), said Plan shall be and the same is hereby amended by the City of Alexandria, Virginia (the "City"), effective as of July 1, 2009 (or such other dates as specified herein), as follows:

FIRST CHANGE

The following sentence shall be added at the end of Section 1.1(r):

To the extent that this Plan refers to termination of employment with the City or retirement from the City, a Health Department Employee shall be deemed to have terminated employment, or retired from employment, with the City when he or she ceases to be an Employee.

SECOND CHANGE

Section 1.1(hh) shall be amended to read as follows:

(hh) A Participant's "**Pick-Up Contributions**" mean:

- (1) In the case of a City Employee who commenced participation in the Plan prior to July 1, 2009, "**Pick-Up Contributions**" mean the contributions contributed by the City to the Plan prior to July 1, 2009 on behalf of the Participant and which were treated as employer contributions pursuant to Code Section 414(h)(2).
- (2) In the case of a City Employee (other than the Sheriff, a deputy sheriff, an emergency medical technician or a fire marshal) who commences or re-commences participation in the Plan on or after to July 1, 2009, "**Pick-Up Contributions**" mean the contributions required to be made by a Participant to accrue a benefit hereunder and which are treated as employer contributions pursuant to Code Section 414(h)(2).

THIRD CHANGE

Section 2.2 shall be amended to read as follows:

2.2 Transfers

Notwithstanding the foregoing, the determination of a Participant's Service and Credited Service shall be subject to the following:

- (a) If an individual, who is employed by the City in a capacity other than as an Employee, directly transfers or retransfers to employment with the City as an Employee (without a break in employment with the City), such individual shall be credited with Service and Credited Service beginning on the date he becomes an Employee covered hereunder. However, for purposes of determining vesting in his Employer Derived Benefit following his commencement of participation in the Plan, such individual shall receive credit for any period of continuous employment with the City (without a break in employment) that occurred immediately prior to the Employee's first Hour of Service as an Employee.
- (b) If an Employee directly transfers to employment with the City in a capacity other than as an Employee (without a break in employment with the City), such Employee shall be deemed to have terminated employment with the City for purposes of determining (1) his Service or Credited Service as of the date he ceases to be an Employee, and (2) eligibility for a Disability Benefit. However, such individual shall not be deemed to have terminated his employment as an Employee for purposes of determining vesting in his Employer Derived Benefit (unless he elects a cash distribution of his Accumulated Contributions pursuant to Section 9.1). An Employee who transfers to employment with the City in a capacity other than as an Employee shall not be eligible for an early retirement benefit (under Article V) or a deferred vested retirement benefit (under Article VI) until such time as he is no longer in the employment of the City or reaches his Normal Retirement Date.

FOURTH CHANGE

Section 3.1 shall be amended to read as follows:

3.1 Participation

Participation in the Plan is mandatory.

Each City Employee who was hired on or after July 1, 1982, or who was hired prior to July 1, 1982 and made a one-time election to continue as an Active Participant hereunder, shall automatically participate in the Plan.

Each Employee who was an Active Participant immediately prior to January 1, 2009, shall continue as an Active Participant hereunder. Each other person shall become an Active Participant as of the Entry Date coinciding with or immediately following the date on which he becomes an Employee.

A City Employee (other than the Sheriff, a deputy sheriff, an emergency medical technician or a fire marshal) who commences or re-commences participation in the Plan on or after July 1, 2009 is required to make Pick-Up Contributions to the Plan in accordance with Section 3.2(b).

Notwithstanding the foregoing, no person who is a Health Department Employee shall become an Active Participant hereunder unless he makes Mandatory Employee Contributions to the Plan as provided in Section 3.3. A Health Department Employee who would otherwise have become an Active Participant hereunder as of an Entry Date but for his failure to make the required Mandatory Employee Contributions to the Plan shall become an Active Participant as of any subsequent Entry Date as of which he actually begins to make the required Mandatory Employee Contributions to the Plan.

FIFTH CHANGE

Section 3.2 shall be amended to read as follows:

3.2 Pick-Up Contributions

Pick-Up contributions to the Plan shall be handled as follows:

- (a) In the case of a City Employee who commenced participation in the Plan prior to July 1, 2009, the City shall make a Pick-Up Contribution on behalf of such City Employee equal to two percent of his Earnings for periods prior to July 1, 2009. On and after July 1, 2009, no Pick-Up Contributions shall be required with respect to (i) a City Employee who commenced participation in the Plan prior to July 1, 2009, or (ii) the Sheriff, a deputy sheriff, an emergency medical technician or a fire marshal who commences or re-commences participation in the Plan on or after July 1, 2009 (i.e., the Plan shall be non-contributory with respect to these City Employees).
- (b) A City Employee (other than the Sheriff, a deputy sheriff, an emergency medical technician or a fire marshal) who commences or re-commences participation in the Plan on or after July 1, 2009,

shall make Pick-Up Contributions to the Plan equal to two percent of his Earnings for the Plan Year. Such Pick-Up Contribution shall be deducted from the Earnings of such City Employee on a pre-tax basis.

No Pick-Up Contributions shall be required with respect to be made by a Participant on or after the earliest of (1) the Participant's Employment Severance Date, (2) the date the Participant ceases to be an Employee, or (3) the Participant's Annuity Starting Date.

A Participant who commenced participation in the Plan prior to July 1, 2009, but reached his Employment Severance Date or ceased to be an Employee, and who re-commences participation in the Plan on or after July 1, 2009, shall be required to make the Pick-Up Contribution to the extent required under subsection (b) above and shall have the Pick-Up Contribution deducted from his Earnings on a pre-tax basis.

SIXTH CHANGE

Section 3.3 shall be amended to read as follows:

3.2 Mandatory Employee Contributions

A Health Department Employee who commenced participation in the Plan prior to July 1, 2009 shall make Mandatory Employee Contributions to the Plan equal to two percent for periods prior to July 1, 2009. Effective July 1, 2009, a Health Department Employee who commenced participation in the Plan prior to July 1, 2009 shall make Mandatory Employee Contributions to the Plan equal to one percent of his Earnings for the Plan Year.

A Health Department Employee who commences or re-commences participation in the Plan on or after July 1, 2009 shall make Mandatory Employee Contributions to the Plan equal to two percent of his Earnings for the Plan Year.

A Health Department Employee must authorize the Commonwealth of Virginia to withhold the required Mandatory Employee Contributions to the Plan from his Earnings and to contribute such amounts to the Plan.

Notwithstanding the foregoing, a Health Department Employee shall no longer be required or eligible to make Mandatory Employee Contributions to the Plan beginning on the earliest of (1) the Participant's Employment Severance Date, (2) the date the Participant ceases to be an Employee, or (3) the Participant's Annuity Starting Date.

SEVENTH CHANGE

Section 3.4 shall be amended to read as follows:

3.4 Suspension of Mandatory Employee Contributions and Pick-Up Contributions

Any applicable Pick-Up Contributions required with respect to a Participant or any Mandatory Employee Contributions shall automatically be suspended in accordance with rules established by the Administrator during:

- (a) an unpaid temporary absence from active service as a City Employee for a specified period which is not treated as a termination of employment and which is granted or extended by the City pursuant to its regular personnel policies, or
- (b) any period during which a Participant is not eligible to accrue Credited Service under the Plan.

Applicable Mandatory Employee Contributions or Pick-Up Contributions shall automatically resume as of the date the Participant returns from such approved unpaid temporary leave of absence or is once more eligible to accrue Credited Service under the Plan.

To the extent that Mandatory Employee Contributions or Pick-Up Contributions are suspended with respect to a Participant pursuant to this Section, such Participant shall not accrue a benefit hereunder for the period such suspension is in effect; provided, however, that in the case of Pick-Up contributions suspended for a City Employee, the Administrator may (but is not required to) prescribe rules under which a City Employee can make Pick-Up Contributions (and receive Credited Service) with respect to an approved unpaid temporary absence from active service.

EIGHTH CHANGE

Section 3.6 shall be amended by adding the following paragraph at the end thereof:

If a former Employee who was a Participant hereunder is reemployed as an Employee on or after July 1, 2009, such Employee shall be required to make Pick-Up Contributions to the extent required under Section 3.2(b) and shall have such Pick-Up Contribution deducted from his Earnings.

NINTH CHANGE

Section 8.6 shall be deleted and the following new Section 8.6 inserted in lieu thereof:

8.6 Qualified Health Insurance Premium Distributions

- (a) A Participant who is an Eligible Retired Public Safety Officer and is receiving monthly annuity benefits from the Plan may elect to have Qualified Health Insurance Premium Distributions made in accordance with procedures established by the Administrator.
- (b) Qualified Health Insurance Premium Distributions may be excluded from the gross income of the Eligible Retired Public Safety Officer under Section 402(l) of the Code, subject to the annual dollar limitation therein of \$3,000.
- (c) The following definitions apply for purposes of this Section 7.6:
 - (1) An “Eligible Retired Public Safety Officer” is a Participant who separated from service with the City as the Chief of the Fire Department, the Sheriff, a deputy sheriff, or a emergency rescue technician (1) by reason of a total disability (under Section 7.1) or (2) at or after his or her Normal Retirement Date.
 - (2) A “Qualified Health Insurance Premium Distribution” is an amount deducted from an Eligible Retired Public Safety Officer's benefit payment and paid directly to the insurer providing coverage for which Qualified Health Insurance Premiums are paid. Such amount may not exceed the amount of the Qualified Health Insurance Premiums.
 - (3) “Qualified Health Insurance Premiums” means premiums for coverage for the Eligible Retired Public Safety Officer (and his or her spouse and dependents, if applicable) under accident and health insurance (including an accident or health plan within the meaning of Section 105(e) of the Code) or a qualified long-term care insurance contract as defined in Section 7702B(b) of the Code.

TENTH CHANGE

Section 10.1 shall be amended to read as follows:

10.1 Suspension of Benefits

Attachment 3

Subject to the provisions of Section 10.6, if a Participant who is receiving benefits under this Plan resumes employment with the City as an Employee, his benefits shall be suspended until his subsequent retirement, termination of employment or death.

If a Participant's benefits are suspended pursuant to this Section 10.1, any benefit payable upon his subsequent retirement, termination of employment or death shall be actuarially reduced or offset, if and as necessary, to avoid duplication of any benefits paid with respect to his prior employment.

Notwithstanding the forgoing, to the extent that a Participant receives a single sum payment pursuant to Section 8.2(h) hereof or a distribution of Accumulated Contributions pursuant to Section 9.1, such Participant shall be treated as a new Employee upon his resumption of employment, and his prior period of employment shall be ignored for purposes of determining his Accrued Benefit upon until his subsequent retirement, termination of employment or death.

ELEVENTH CHANGE

The following sentence shall be added to Section 15.4:

A Participant who dies on or after January 1, 2007 while on a leave of absence for qualified military service under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, shall be treated as having died while actively employed as a Employee.

IN WITNESS WHEREOF, the City has caused this First Amendment to be executed by its City Manager on this ____ day of _____, 2009.

CITY OF ALEXANDRIA

By: _____
James K. Hartmann, City Manager

RESOLUTION NO. 2344

City of Alexandria Supplemental Retirement Plan” (the “Plan”)

WHEREAS, the City of Alexandria maintains the “City of Alexandria Supplemental Retirement Plan” (the “Plan”); and

WHEREAS, the City of Alexandria desires to adopt and incorporate the First Amendment to the Plan attached hereto; and

WHEREAS, the City of Alexandria desires to amend the Plan hereto; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ALEXANDRIA, VIRGINIA THAT the Alexandria City Council does hereby recognize, adopt, amend, and approve the Plan to incorporate the amendment attached hereto and incorporated fully herein by reference; and

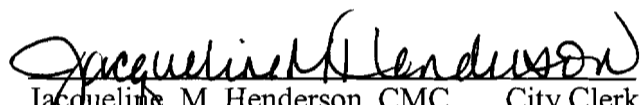
BE IT FURTHER RESOLVED THAT this Resolution shall be effective immediately; provided however, that the amendments hereby approved shall be effective as stated in the Plan.

ADOPTED: June 9, 2009



WILLIAM D. EULLE MAYOR

ATTEST:


Jacqueline M. Henderson, CMC City Clerk

**FIRST AMENDMENT TO
THE CITY OF ALEXANDRIA SUPPLEMENTAL RETIREMENT PLAN,
AS AMENDED AND RESTATED EFFECTIVE AS OF JANUARY 1, 2009**

Pursuant to the powers of amendment reserved under Section 14.1 of The City of Alexandria Supplemental Retirement Plan, as amended and restated effective as of January 1, 2009 (the “Plan”), said Plan shall be and the same is hereby amended by the City of Alexandria, Virginia (the “City”), effective as of July 1, 2009 (or such other dates as specified herein), as follows:

FIRST CHANGE

The following sentence shall be added at the end of Section 1.1(r):

To the extent that this Plan refers to termination of employment with the City or retirement from the City, a Health Department Employee shall be deemed to have terminated employment, or retired from employment, with the City when he or she ceases to be an Employee.

SECOND CHANGE

Section 1.1(hh) shall be amended to read as follows:

(hh) A Participant’s “**Pick-Up Contributions**” mean:

- (1) In the case of a City Employee who commenced participation in the Plan prior to July 1, 2009, “**Pick-Up Contributions**” mean the contributions contributed by the City to the Plan prior to July 1, 2009 on behalf of the Participant and which were treated as employer contributions pursuant to Code Section 414(h)(2).
- (2) In the case of a City Employee (other than the Sheriff, a deputy sheriff, an emergency medical technician or a fire marshal) who commences or re-commences participation in the Plan on or after to July 1, 2009, “**Pick-Up Contributions**” mean the contributions required to be made by a Participant to accrue a benefit hereunder and which are treated as employer contributions pursuant to Code Section 414(h)(2).

THIRD CHANGE

Section 2.2 shall be amended to read as follows:

2.2 Transfers

Notwithstanding the foregoing, the determination of a Participant's Service and Credited Service shall be subject to the following:

- (a) If an individual, who is employed by the City in a capacity other than as an Employee, directly transfers or retransfers to employment with the City as an Employee (without a break in employment with the City), such individual shall be credited with Service and Credited Service beginning on the date he becomes an Employee covered hereunder. However, for purposes of determining vesting in his Employer Derived Benefit following his commencement of participation in the Plan, such individual shall receive credit for any period of continuous employment with the City (without a break in employment) that occurred immediately prior to the Employee's first Hour of Service as an Employee.
- (b) If an Employee directly transfers to employment with the City in a capacity other than as an Employee (without a break in employment with the City), such Employee shall be deemed to have terminated employment with the City for purposes of determining (1) his Service or Credited Service as of the date he ceases to be an Employee, and (2) eligibility for a Disability Benefit. However, such individual shall not be deemed to have terminated his employment as an Employee for purposes of determining vesting in his Employer Derived Benefit (unless he elects a cash distribution of his Accumulated Contributions pursuant to Section 9.1). An Employee who transfers to employment with the City in a capacity other than as an Employee shall not be eligible for an early retirement benefit (under Article V) or a deferred vested retirement benefit (under Article VI) until such time as he is no longer in the employment of the City or reaches his Normal Retirement Date.

FOURTH CHANGE

Section 3.1 shall be amended to read as follows:

3.1 Participation

Participation in the Plan is mandatory.

Each City Employee who was hired on or after July 1, 1982, or who was hired prior to July 1, 1982 and made a one-time election to continue as an Active Participant hereunder, shall automatically participate in the Plan.

Each Employee who was an Active Participant immediately prior to January 1, 2009, shall continue as an Active Participant hereunder. Each other person shall become an Active Participant as of the Entry Date coinciding with or immediately following the date on which he becomes an Employee.

A City Employee (other than the Sheriff, a deputy sheriff, an emergency medical technician or a fire marshal) who commences or re-commences participation in the Plan on or after July 1, 2009 is required to make Pick-Up Contributions to the Plan in accordance with Section 3.2(b).

Notwithstanding the foregoing, no person who is a Health Department Employee shall become an Active Participant hereunder unless he makes Mandatory Employee Contributions to the Plan as provided in Section 3.3. A Health Department Employee who would otherwise have become an Active Participant hereunder as of an Entry Date but for his failure to make the required Mandatory Employee Contributions to the Plan shall become an Active Participant as of any subsequent Entry Date as of which he actually begins to make the required Mandatory Employee Contributions to the Plan.

FIFTH CHANGE

Section 3.2 shall be amended to read as follows:

3.2 Pick-Up Contributions

Pick-Up contributions to the Plan shall be handled as follows:

- (a) In the case of a City Employee who commenced participation in the Plan prior to July 1, 2009, the City shall make a Pick-Up Contribution on behalf of such City Employee equal to two percent of his Earnings for periods prior to July 1, 2009. On and after July 1, 2009, no Pick-Up Contributions shall be required with respect to (i) a City Employee who commenced participation in the Plan prior to July 1, 2009, or (ii) the Sheriff, a deputy sheriff, an emergency medical technician or a fire marshal who commences or re-commences participation in the Plan on or after July 1, 2009 (i.e., the Plan shall be non-contributory with respect to these City Employees).
- (b) A City Employee (other than the Sheriff, a deputy sheriff, an emergency medical technician or a fire marshal) who commences or re-commences participation in the Plan on or after July 1, 2009,

shall make Pick-Up Contributions to the Plan equal to two percent of his Earnings for the Plan Year. Such Pick-Up Contribution shall be deducted from the Earnings of such City Employee on a pre-tax basis.

No Pick-Up Contributions shall be required with respect to be made by a Participant on or after the earliest of (1) the Participant's Employment Severance Date, (2) the date the Participant ceases to be an Employee, or (3) the Participant's Annuity Starting Date.

A Participant who commenced participation in the Plan prior to July 1, 2009, but reached his Employment Severance Date or ceased to be an Employee, and who re-commences participation in the Plan on or after July 1, 2009, shall be required to make the Pick-Up Contribution to the extent required under subsection (b) above and shall have the Pick-Up Contribution deducted from his Earnings on a pre-tax basis.

SIXTH CHANGE

Section 3.3 shall be amended to read as follows:

3.2 Mandatory Employee Contributions

A Health Department Employee who commenced participation in the Plan prior to July 1, 2009 shall make Mandatory Employee Contributions to the Plan equal to two percent for periods prior to July 1, 2009. Effective July 1, 2009, a Health Department Employee who commenced participation in the Plan prior to July 1, 2009 shall make Mandatory Employee Contributions to the Plan equal to one percent of his Earnings for the Plan Year.

A Health Department Employee who commences or re-commences participation in the Plan on or after July 1, 2009 shall make Mandatory Employee Contributions to the Plan equal to two percent of his Earnings for the Plan Year.

A Health Department Employee must authorize the Commonwealth of Virginia to withhold the required Mandatory Employee Contributions to the Plan from his Earnings and to contribute such amounts to the Plan.

Notwithstanding the foregoing, a Health Department Employee shall no longer be required or eligible to make Mandatory Employee Contributions to the Plan beginning on the earliest of (1) the Participant's Employment Severance Date, (2) the date the Participant ceases to be an Employee, or (3) the Participant's Annuity Starting Date.

SEVENTH CHANGE

Section 3.4 shall be amended to read as follows:

3.4 Suspension of Mandatory Employee Contributions and Pick-Up Contributions

Any applicable Pick-Up Contributions required with respect to a Participant or any Mandatory Employee Contributions shall automatically be suspended in accordance with rules established by the Administrator during:

- (a) an unpaid temporary absence from active service as a City Employee for a specified period which is not treated as a termination of employment and which is granted or extended by the City pursuant to its regular personnel policies, or
- (b) any period during which a Participant is not eligible to accrue Credited Service under the Plan.

Applicable Mandatory Employee Contributions or Pick-Up Contributions shall automatically resume as of the date the Participant returns from such approved unpaid temporary leave of absence or is once more eligible to accrue Credited Service under the Plan.

To the extent that Mandatory Employee Contributions or Pick-Up Contributions are suspended with respect to a Participant pursuant to this Section, such Participant shall not accrue a benefit hereunder for the period such suspension is in effect; provided, however, that in the case of Pick-Up contributions suspended for a City Employee, the Administrator may (but is not required to) prescribe rules under which a City Employee can make Pick-Up Contributions (and receive Credited Service) with respect to an approved unpaid temporary absence from active service.

EIGHTH CHANGE

Section 3.6 shall be amended by adding the following paragraph at the end thereof:

If a former Employee who was a Participant hereunder is reemployed as an Employee on or after July 1, 2009, such Employee shall be required to make Pick-Up Contributions to the extent required under Section 3.2(b) and shall have such Pick-Up Contribution deducted from his Earnings.

NINTH CHANGE

Section 8.6 shall be deleted and the following new Section 8.6 inserted in lieu thereof:

8.6 Qualified Health Insurance Premium Distributions

- (a) A Participant who is an Eligible Retired Public Safety Officer and is receiving monthly annuity benefits from the Plan may elect to have Qualified Health Insurance Premium Distributions made in accordance with procedures established by the Administrator.
- (b) Qualified Health Insurance Premium Distributions may be excluded from the gross income of the Eligible Retired Public Safety Officer under Section 402(l) of the Code, subject to the annual dollar limitation therein of \$3,000.
- (c) The following definitions apply for purposes of this Section 7.6:
 - (1) An “Eligible Retired Public Safety Officer” is a Participant who separated from service with the City as the Chief of the Fire Department, the Sheriff, a deputy sheriff, or a emergency rescue technician (1) by reason of a total disability (under Section 7.1) or (2) at or after his or her Normal Retirement Date.
 - (2) A “Qualified Health Insurance Premium Distribution” is an amount deducted from an Eligible Retired Public Safety Officer's benefit payment and paid directly to the insurer providing coverage for which Qualified Health Insurance Premiums are paid. Such amount may not exceed the amount of the Qualified Health Insurance Premiums.
 - (3) “Qualified Health Insurance Premiums” means premiums for coverage for the Eligible Retired Public Safety Officer (and his or her spouse and dependents, if applicable) under accident and health insurance (including an accident or health plan within the meaning of Section 105(e) of the Code) or a qualified long-term care insurance contract as defined in Section 7702B(b) of the Code.

TENTH CHANGE

Section 10.1 shall be amended to read as follows:

10.1 Suspension of Benefits

Subject to the provisions of Section 10.6, if a Participant who is receiving benefits under this Plan resumes employment with the City as an Employee, his benefits shall be suspended until his subsequent retirement, termination of employment or death.

If a Participant's benefits are suspended pursuant to this Section 10.1, any benefit payable upon his subsequent retirement, termination of employment or death shall be actuarially reduced or offset, if and as necessary, to avoid duplication of any benefits paid with respect to his prior employment.

Notwithstanding the forgoing, to the extent that a Participant receives a single sum payment pursuant to Section 8.2(h) hereof or a distribution of Accumulated Contributions pursuant to Section 9.1, such Participant shall be treated as a new Employee upon his resumption of employment, and his prior period of employment shall be ignored for purposes of determining his Accrued Benefit upon until his subsequent retirement, termination of employment or death.

ELEVENTH CHANGE

The following sentence shall be added to Section 15.4:

A Participant who dies on or after January 1, 2007 while on a leave of absence for qualified military service under the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, shall be treated as having died while actively employed as a Employee.

IN WITNESS WHEREOF, the City has caused this First Amendment to be executed by its City Manager on this ____ day of _____, 2009.

CITY OF ALEXANDRIA

By: _____
James K. Hartmann, City Manager