

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 17, 2002

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *PS*

SUBJECT: RESOLUTION TO AMEND THE CITY OF ALEXANDRIA RETIREMENT INCOME PLAN FOR FIREFIGHTERS AND POLICE OFFICERS TO CLARIFY THE PLAN PROVISIONS AND TO PERMIT PLAN PARTICIPANTS WITH LESS THAN FIVE YEARS OF SERVICE TO DIRECT THEIR RETIREMENT ACCOUNT INVESTMENTS

ISSUE: Consideration of proposed revisions to the Retirement Income Plan for Firefighters and Police Officers.

RECOMMENDATION: That City Council adopt the attached resolution (Attachment 1) which:

- (1) amends and restates the City of Alexandria Retirement Income Plan for Firefighters and Police Officers to clarify the plan provisions and to permit participants with less than five years of service to direct their accounts' investments;
- (2) authorizes the City Manager to file a request for a favorable determination letter with the Internal Revenue Service; and
- (3) authorizes the City Manager to make such changes to the Plan and to take such other steps as are necessary or desirable for the Plan to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code.

DISCUSSION: This docket item is necessary to enable the City to amend the City of Alexandria Retirement Income Plan for Firefighters and Police Officers in order to clarify the plan provisions and to permit participants with less than five years of service to direct their accounts' investments. During the review of the Plan for the IRS required changes earlier this year we discovered that a number of Plan provisions do not belong in a retirement plan maintained by a municipality like the City or were simply unclear. Also, the Plan does not permit participants with less than five years of service (who are not fully vested) to direct their fund investments. While we wanted to make these changes earlier, under the terms of the Retirement Income Plan, the City is required to give participants sixty (60) days advance notice

before making any “material” change to the Plan. Therefore, a sixty-day notice period was held from March 29 through May 29, 2002, as required by the Plan. A copy of the Plan and the proposed changes were sent to all participants on March 29. Meetings were held with participants on April 5, April 8, April 12 and April 19 at City Hall. Meetings were also held May 14, May 15 and May 16 at the Fire Training Center. Approximately 40 participants attended these meetings and asked questions about the Plan. During the course of the meetings held with Plan participants, there was no opposition to the proposed Plan amendments.

Changes in the Plan for Firefighters and Police Officers are underlined in Attachment 2. Staff has discussed the proposed changes with representatives of the affected employee and retiree groups. On June 11, City Council’s Pension Committee (Mayor Donley and Councilman Euille) met with staff and employee representatives and discussed the proposed retirement plan changes, and the employee representatives are in favor of the Plan changes.

ATTACHMENTS:

Attachment 1. Resolution

Attachment 2. March 29, 2002 Notice of Proposed amendments to the City of Alexandria Retirement Income Plan for Firefighters and Police Officers (including underlined copy of Plan Changes)

STAFF:

Henry Howard Jr., Director, Personnel Services

Myla Riggs, Benefits and Records Division Chief, Personnel Services

RESOLUTION NO. _____

WHEREAS, the City of Alexandria, Virginia, maintains the City of Alexandria Retirement Income Plan for Firefighters and Police Officers (the "Retirement Plan"); and

WHEREAS, the Retirement Plan is intended to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, on February 26, 2002, the City of Alexandria, Virginia, adopted an amended and restated plan document for the Retirement Plan in order to incorporate certain changes necessary for the Retirement Plan to retain its qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, the City of Alexandria, Virginia, now desires to adopt an amended and restated plan document for the Retirement Plan in order to incorporate certain additional changes deemed necessary or desirable for the Retirement Plan and the employee participants therein; and

WHEREAS, a copy of the amended and restated plan document for the Retirement Plan is attached to this Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL
OF THE CITY OF ALEXANDRIA, VIRGINIA:

1. That the amended and restated plan document for the City of Alexandria Retirement Income Plan for Firefighters and Police Officers, a copy of which is attached to this Resolution, be, and hereby is, recognized, adopted and approved.
2. That the City Manager be, and hereby is, authorized and directed to make on behalf of the City of Alexandria any other changes to the Retirement Plan as amended and restated as may be requested by the Internal Revenue Service, or, based on advice of counsel, as are necessary or desirable for the Retirement Plan as amended and restated to continue qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended; and
3. That the City Manager be, and hereby is, authorized and directed to execute such other forms, notices, instruments or other documents and to take such further action as may be necessary or desirable (1) to fully implement the Retirement Plan as amended and restated, (2) to ensure that the amended and restated Retirement Plan remains qualified under Section 401(a) of the Internal Revenue Code and (3) to obtain from the Internal Revenue Service a determination letter to the effect that the amended and restated Retirement Plan continues to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code; and

4. That this Resolution shall be effective immediately.

Attachment

ADOPTED: _____

KERRY J. DONLEY, MAYOR

ATTEST:

Beverly I. Jett, CMC, City Clerk

**CITY OF ALEXANDRIA RETIREMENT INCOME PLAN
FOR FIREFIGHTERS AND POLICE OFFICERS**

Amended and Restated Effective as
of December 31, 2001

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PREAMBLE

The City of Alexandria Retirement Income Plan for Firefighters and Police Officers, originally effective as of February 13, 1979, is hereby amended and restated in its entirety.

The terms of the Plan, as amended and restated, shall apply only with respect to Plan Years commencing after December 31, 2001; provided, however, that any provision which is contained in this amended and restated Plan (as the same may be further amended from time to time) and which is required to be effective before the effective date of this amended and restated Plan in order to retain the qualification of the Plan under Code Section 401(a) shall, nevertheless, be effective as of its required effective date under the Code.

Except as is otherwise explicitly provided in the Plan or as is required by applicable law, the terms of the Plan, as amended and restated, shall apply only with respect to employees of the Employer on and after December 31, 2001, and the rights, benefits and interests of any employee who died, retired or otherwise terminated his employment with the Employer prior to December 31, 2001, shall be determined under the provisions of the Plan as in effect on the date such former employee died, retired or otherwise terminated his employment with the Employer.

The Plan, as amended and restated hereby, is intended to qualify as a money purchase pension plan under Code Section 401(a) and is a governmental plan as described in Code Section 414(d). The Plan is maintained for the exclusive benefit of eligible employees and their beneficiaries.

ARTICLE I
DEFINITIONS

- 1.1 ACCRUED BENEFIT. The term Accrued Benefit means the value on any applicable date of the Participant's Account.
- 1.2 ACTIVE PARTICIPANT. The term Active Participant means any Participant who (a) performs duties as an Employee for the Employer, and (b) is not an Inactive Participant.
- 1.3 ADMINISTRATOR. The term Administrator means the City Manager or the Person or Persons designated by the City Manager in accordance with Section 2-5-51(d) of the City of Alexandria Code of Ordinances. If more than one Person is designated as the Administrator by the City Manager, the committee thus formed shall be known as the Administrative Committee and all references in the Plan to the Administrator shall be deemed to apply to the Administrative Committee. The Administrator shall signify in writing his acceptance of his responsibility as a Named Fiduciary.
- 1.4 ANNUITY CONTRACT. The term Annuity Contract means the group annuity contract issued by the Insurance Company to the Employer to fund the benefits provided under this Plan, as such contract may hereafter be amended from time to time in accordance with the terms thereof.
- 1.5 BENEFICIARY. The term Beneficiary means the beneficiary or beneficiaries entitled to any benefits under a Participant's Account hereunder upon the death of a Participant or a Beneficiary.
- 1.6 COMPENSATION. The term Compensation means the basic earnings paid by the Employer to the Employee for the period specified in the Plan. Effective as of January 1, 1996, Compensation with respect to any Plan Year shall in no event exceed the dollar limit specified in Section 401(a)(17) of the Code (as adjusted from time to time by the Secretary of the Treasury).
- 1.7 CONTRIBUTION PERIOD. The term Contribution Period means that regular period specified by the Employer for which Employer Contributions and Voluntary Contributions, if any, shall be made. No change in the Contribution Period may be made except as of a Renewal Date.
- 1.8 DISABILITY. The term Disability means a Participant's inability to perform the duties of his occupation because of a medically determinable physical or mental impairment. Such determination of Disability shall be made by the Administrator with the advice of a competent medical authority selected by the City and such determination shall correspond with the determination of disability under the Firefighters and Police Officers Disability Income Plan. All Participants in similar circumstances will be treated alike.

- 1.9 **DISABILITY DATE.** The term Disability Date means the first day of the month after the Administrator has determined that a Participant's inability to perform the duties of his occupation is a Disability.
- 1.10 **EFFECTIVE DATE.** The term Effective Date means February 13, 1979. The effective date of this restatement is December 31, 2001.
- 1.11 **EMPLOYEE.** The term Employee means any individual the employ of the Employer.
- 1.12 **EMPLOYEE CONTRIBUTIONS.** The term Employee Contributions means the amount for any Plan Year which is equal to his Voluntary Contributions.
- 1.13 **EMPLOYER.** The term Employer means the City of Alexandria.
- 1.14 **ENTRY DATE.** The term Entry Date means either the Effective Date or any date thereafter when an Employee who has fulfilled the eligibility requirements commences participation in the Plan.
- 1.15 **FIXED ANNUITY.** The term Fixed Annuity means an annuity providing a series of payments that are payable in specified dollar amounts.
- 1.16 **FORFEITURE.** The term Forfeiture means the amount, if any, by which the value of a Participant's Account exceeds his Vested Interest upon the occurrence of a 1-Year Break in Service following such Participant's Termination of Employment.
- 1.17 **INACTIVE PARTICIPANT.** The term Inactive Participant means any Participant who does not currently meet the requirements to be an Active Participant due to a suspension of the performance of duties for the Employer.
- 1.18 **INSURANCE COMPANY.** The term Insurance Company means Connecticut General Life Insurance Company, a legal reserve life insurance company of Hartford, Connecticut.
- 1.19 **INVESTMENT FUNDS.** The term Investment Funds means the Guaranteed Short Term Account, Guaranteed Long Term Account, Variable Account, and any other separate account made available under the Annuity Contract and designated by the Administrator for the investment of Plan assets.
- 1.20 **JOINT AND SURVIVOR ANNUITY.** The term Joint and Survivor Annuity means a monthly Fixed Annuity payable for the life of the Participant with a survivor annuity for the life of the Participant's spouse. The monthly annuity payment to the spouse shall be equal to 50% (or 100% if so elected by the Participant) of the amount which was payable to the Participant.

- 1.21 LATE RETIREMENT DATE. The term Late Retirement Date means the first day of the month coinciding with or next following the date a Participant is separated from Service with the Employer after his Normal Retirement Age, for any reason other than death.
- 1.22 NORMAL RETIREMENT AGE. The term Normal Retirement Age means the date the Participant attains age 60.
- 1.23 NORMAL RETIREMENT DATE. The term Normal Retirement Date means the first day of the month coinciding with or next following the date a Participant attains his Normal Retirement Age.
- 1.24 PARTICIPANT. The term Participant means any Employee of the Employer, who is or becomes eligible to participate under this Plan in accordance with its provisions and shall include an Active Participant and an Inactive Participant.
- 1.25 PARTICIPANT'S ACCOUNT. The term Participant's Account means each Participant's individual account maintained under the Annuity Contract by the Insurance Company in accordance with the terms of this Plan and the Annuity Contract. Each Participant's Account will be maintained so as to reflect the amount attributable to Employer Contributions and earnings thereon, the amount, if any, attributable to amounts transferred pursuant to Section 3.5 and earnings thereon, the amount, if any, attributable to assets transferred or rolled over to the Plan pursuant to Section 4.3 and earnings thereon, and the amount, if any, attributable to Employee Contributions and earnings thereon. Each Participant's Account shall be equal to the sum of the Investment Funds in which such account is invested.
- 1.26 PARTICIPANT'S GUARANTEED LONG TERM ACCOUNT. The term Participant's Guaranteed Long Term Account means that portion, if any, of the Participant's Account which is invested in the Insurance Company's general portfolio. The amount in the Guaranteed Long Term Account is invested primarily in bonds, mortgages and real estate. Such Participant's Guaranteed Long Term Account shall be credited with interest monthly in accordance with the terms of the Annuity Contract.
- 1.27 PARTICIPANT'S GUARANTEED SHORT TERM ACCOUNT. The term Participant's Guaranteed Short Term Account means that portion, if any, of the Participant's Account which is invested in the Insurance Company's Separate Account 20 (SA-20). Separate Account 20 may be invested in short-term money market instruments having maturities considered appropriate by Connecticut General. Such Participant's Guaranteed Short Term Account shall be credited with interest daily in accordance with the terms of the Annuity Contract.

- 1.28 PARTICIPANT'S VARIABLE ACCOUNT. The term Participant's Variable Account means that portion, if any, of the Participant's Account which is invested in the Insurance Company's Separate Account (SA-3). Separate Account 3 is invested primarily in common stocks. Such Participant's Variable Account shall be valued on each date that the New York Stock Exchange is for open for unrestricted trading and the Insurance Company is open to transact its normal business.
- 1.29 PERSON. The term Person means any natural person, partnership, corporation, trust or estate.
- 1.30 PLAN. The term Plan means the City of Alexandria Retirement Income Plan for Firefighters and Police Officers, the terms of which are set forth herein as it may be amended from time to time.
- 1.31 PLAN YEAR. The term Plan Year means the twelve-month period commencing on January 1 and ending the following December 31.
- 1.32 PRIOR PLAN. The term Prior Plan means the City of Alexandria Pension Plan for Firefighters and Police Officers.
- 1.33 RENEWAL DATE. The term Renewal Date means each January 1 as of which changes in the amount of any Voluntary Contributions may be made. Certain other determinations, transactions, and calculations shall also be made as of each Renewal Date, as more fully indicated in the body of the Plan.
- 1.34 SEPARATE ACCOUNT. The term Separate Account means either Separate Account 3 (Variable Account or SA-3) or Separate Account 20 (Guaranteed Short Term Account or SA-20) which are pooled separate accounts maintained by the Insurance Company with respect to a portion of its assets and which are included in the Annuity Contract.
- 1.35 TERMINATION OF EMPLOYMENT. The term Termination of Employment means a severance of the Employer-Employee relationship which occurs prior to a Participant's Normal Retirement Age for any reason other than Disability or death.
- 1.36 VARIABLE ANNUITY. The term Variable Annuity means an annuity providing a series of payments that increase or decrease to reflect changes in investment performance of the underlying portfolio.
- 1.37 VESTED INTEREST. The term Vested Interest on any date means the nonforfeitable right to an immediate or deferred benefit in the amount which is equal to the sum of (a), (b), (c) and (d) below:

- (a) The value on that date of that portion of the Participant's Account that is attributable to and derived from a Participant's own contributions, if any.
- (b) The value on that date of that portion of the Participant's Account attributable to assets transferred pursuant to Section 3.5, if any.
- (c) The value on that date of that portion of the Participant's Account attributable to assets transferred or rolled over to the Plan pursuant to Section 4.3, if any.
- (d) The value on that date of that portion of the Participant's Account that is attributable to and derived from Employer Contributions multiplied by his Vesting Percentage determined on the date applicable.

1.38 VESTING PERCENTAGE. The term Vesting Percentage means that Participant's nonforfeitable interest in Employer Contributions credited to his account plus the earnings thereon computed as of the date of determining such percentage because of the occurrence of some event in accordance with the following schedule based on Years of Service with the Employer:

<u>Years of Service</u>	<u>Vesting Percentage</u>
Less than 1	0%
1 but less than 2	20%
2 but less than 3	40%
3 but less than 4	60%
4 but less than 5	80%
5 or more	100%

Amounts attributable to the City of Alexandria Pension Plan for Firefighters and Police Officers which have been transferred from GR-574 to the Plan will at all times be 100% vested.

ARTICLE II
SERVICE

- 2.1 PERIOD OF SERVICE. The term Period of Service or Service means the Employer-Employee relationship which begins on the Employee's employment date and continues until his Severance from Service Date.
- 2.2 PERIOD OF SEVERANCE. The term Period of Severance means a period of time commencing on the Participant's Severance from Service Date and ending on the date such individual is re-employed by the Employer.
- 2.3 SEVERANCE FROM SERVICE DATE. The Severance from Service Date shall be the latest of (a), (b), or (c) below.
- (a) The date the Employee terminates employment by reason of a quit, discharge, Disability, retirement or death.
 - (b) Except to the extent provided in Section 2.7, the expiration date from Service on account of an authorized leave to join the United States Armed Forces provided the Employee does not return to work within 90 days of this date.
 - (c) The expiration date of an authorized leave.
- 2.4 1-YEAR BREAK IN SERVICE. The term 1-Year Break In Service shall mean a 12 consecutive month Period of Severance, beginning on the Employee's Severance from Service Date.
- 2.5 YEAR OF SERVICE. For the purpose of determining a Participant's Vesting Percentage, the term Year of Service shall mean Period of Service equaling 12 months. Service counted in computing Years of Service need not be consecutive or continuous, and all fractional Periods of Service shall be aggregated.
- 2.6 RE-EMPLOYMENT. An Employee who is rehired following a Disability shall be eligible to participate in the Plan immediately, provided he is still a member of an eligible class of employees. If such employee again becomes a Participant, all Years of Service shall be taken into account.
- An Employee who is rehired following a Termination of Employment shall be considered a new Employee for all purposes of the Plan.
- 2.7 QUALIFIED MILITARY SERVICE. Notwithstanding any provision of this Plan to the contrary, effective as of December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

ARTICLE III
ELIGIBILITY, ENROLLMENT AND PARTICIPATION

- 3.1 ELIGIBILITY. Each Employee who was a Participant prior to the Effective Date and who is in the Service of the Employer on the Effective Date shall continue as a Participant in the Plan. Each other Employee shall be eligible to become a Participant as of the Effective Date or the Entry Date thereafter when he first meets the following requirements:
- classified as a Firefighter or Police Officer (excluding meter patrol officers) for the City of Alexandria and remains in a sworn police officer or firefighter classification.
- 3.2 ENROLLMENT AND PARTICIPATION. Each eligible Employee shall become a Participant as of his Entry Date and shall complete and deliver to the Administrator as soon as administratively convenient thereafter, an enrollment form provided by the Insurance Company.
- 3.3 RE-EMPLOYED EMPLOYEE. In the case of an individual who ceases to be an Employee and is subsequently rehired as an Employee, the following provisions shall apply in determining his eligibility to again participate in the Plan:
- (a) If the Employee had met the eligibility requirements specified in Section 3.1 prior to his separation from employment, he shall become an Active Participant in the Plan in accordance with Section 3.2 as of the date he is re-employed.
 - (b) If the Employee had not met the eligibility requirements specified in Section 3.1 prior to his separation from employment, he shall be eligible to participate in the Plan on the first Entry Date following his fulfillment of such eligibility requirements.
- 3.4 In the event a Participant becomes ineligible to participate because he is no longer a member of an eligible class of Employees, such Employee shall participate immediately upon his return to an eligible class of Employees.
- 3.5 PRIOR PLAN PARTICIPANTS. Each employee who was a Participant under the Prior Plan as of February 13, 1979, may elect to transfer his coverage to this Plan, subject to the transfer provisions as set forth in the Prior Plan.

ARTICLE IV
CONTRIBUTIONS

- 4.1 EMPLOYER CONTRIBUTIONS. The Employer shall contribute on behalf of each Participant who was an Active Participant on any day of the Contribution Period, an amount equal to 20% of his Compensation for each Contribution Period, subject to the limitation on allocations in accordance with Article IV-A.

The Employer Contribution shall be paid to the Insurance Company at the end of the Contribution Period and shall be reduced by the amount of any Forfeitures available in accordance with Section 9.3.

Unless elected otherwise in accordance with the terms of the Annuity Contract the Employer will contribute to the Plan the amount necessary to pay the expense charges and administration charges described in the Annuity Contract.

- 4.2 CREDITING OF EMPLOYER CONTRIBUTIONS. The Employer Contribution, exclusive of any Annuity Contract charges, shall be credited to the Participant Account of each Participant for whom such Contribution was made, in accordance with the provisions of Article V.

- 4.3 ROLLOVERS AND TRANSFERS. With the written permission of the Administrator and without regard to the limitations imposed under Article IV-A, the Employer may receive assets to be held under the Annuity Contract for the benefit of a Participant which were (1) received by the Participant from another qualified retirement plan or conduit individual retirement account or annuity and were transferred by the Participant to the Fund, provided that such assets qualify under all of the requirements for a rollover contribution as described in any applicable provisions of the Code, or (2) transferred directly from the trustee or other fiduciary of another qualified retirement plan, or in a conduit individual retirement account or annuity, to the Trustee of this Plan. In no event shall the Administrator be required to approve any direct transfer of assets from a plan to be held under this Plan if the Administrator, in its discretion, determines that the acceptance of any such assets may adversely affect the continued qualification of the Plan.

- 4.4 VOLUNTARY CONTRIBUTIONS BY PARTICIPANTS. Each Active Participant may elect to make periodic Voluntary Contributions under the Plan twice each Plan Year by completing and delivering to the Administrator a payroll deduction order provided by the Insurance Company. An Active Participant may elect to make Voluntary Contributions as of his Entry Date or as of any Renewal Date thereafter, and he may designate an amount equal to a percentage (not more than 10% but not less than \$10.00 per pay period) of his Compensation for the Contribution Period as his Voluntary Contribution under the Plan.

Voluntary Contributions shall be deducted by the Employer from the Participant's earnings while he has a payroll deduction order in effect and shall be paid by the Employer to the Insurance Company not less frequently than monthly or four weekly.

Each Participant's Voluntary Contributions to all qualified plans of the Employer shall not exceed 10% of said Participant's aggregate Compensation computed from his Entry Date.

- 4.5 **ADDITIONAL VOLUNTARY CONTRIBUTIONS.** An Active Participant who is making Voluntary Contributions under the Plan may elect to make an additional Voluntary Contribution in a lump sum. Such additional Voluntary Contributions may be made (1) as of the Effective Date; or (2) as of any Renewal Date thereafter provided election is made as of any date which is thirty days before such Renewal Date, in an amount up to, but not in excess of, the difference between (a) 10% of the aggregate of his Compensation while an Active Participant under the Plan, and (b) the aggregate of his Voluntary Contributions made under the Plan prior to such date. For the purposes of determining such amount, Compensation paid to the Participant during the twenty-four month period following a cancellation of Voluntary Contributions shall not be taken into account.

Additional Voluntary Contributions shall be paid by the Employer to the Insurance Company within thirty days after the date such additional Voluntary Contribution is made by the Participant and shall be reported on the appropriate form furnished by the Insurance Company. Additional Voluntary Contributions shall be considered Voluntary Contributions for all other purposes of the Plan, and shall be subject to the terms thereof.

- 4.6 **CREDITING VOLUNTARY CONTRIBUTIONS.** Each Participant's Voluntary Contributions, if any, shall be credited to his Participant's Account in accordance with the provisions of Article V.

- 4.7 **SUSPENSION OF VOLUNTARY CONTRIBUTIONS BY PARTICIPANTS.** The following provisions shall apply with respect to suspension of Voluntary Contributions, if any, by Participants:

- (a) **Voluntary Suspension.** An Active Participant may elect to suspend his payroll deduction order for Voluntary Contributions by filing a written notice thereof with the Administrator at any time. Such notice shall be effective, and his Voluntary Contributions shall be suspended, on the date specified in such notice, which date must be at least fifteen days after such notice is filed. The notice shall specify the period for which such suspension shall be effective, but such period shall be for not less than three months nor more than twenty-four months. A longer period of

suspension of Voluntary Contributions may be approved by the Administrator.

- (b) Suspension for Leave. A Participant who is absent from employment on account of an authorized leave of absence or military leave shall, except as otherwise provided in Section 2.7, be an Inactive Participant and have his payroll deduction order for Voluntary Contributions suspended during such leave. Such suspension of Contributions shall be effective on the date that payment of Compensation by the Employer to him ceases and shall remain in effect until payment of Compensation is resumed.
- (c) Involuntary Suspension. An Active Participant who ceases to meet the eligibility requirements as specified in Section 3.1 but who remains in the employ of the Employer, shall become an Inactive Participant and have his payroll deduction order for his Voluntary Contributions suspended, effective as of the date he ceases to meet the eligibility requirements. Such suspension shall remain in effect until he again meets such eligibility requirements.

At the expiration of the suspension period described in (a), (b) or (c) above, the Participant's payroll deduction order for Voluntary Contributions shall automatically become effective again and the Participant shall resume making Voluntary Contributions. If, however, the Participant does not resume making Voluntary Contributions at the expiration of the suspension period, the terms of Cancellation of Voluntary Contributions shall apply.

- 4.8 CANCELLATION OF VOLUNTARY CONTRIBUTIONS. A Participant may cancel his payroll deduction order for Voluntary Contributions by filing written notice thereof with the Administrator at any time. With the written permission of the Participant, such cancellation of his Voluntary Contributions shall be effective on the date specified in such notice, which date must be at least fifteen days after such notice is filed.

On the effective date of such cancellation, an amount equal to the then value of that portion of his Participant's Account attributable to his Voluntary Contributions, including any gains thereon, shall be distributed to the Participant in accordance with the terms and conditions of Article VI.

Any Participant who has cancelled his payroll deduction order for Voluntary Contributions may elect to again make Voluntary Contributions under this Plan by completing and delivering to the Administrator a new payroll deduction order as if it were an original election in accordance with the terms of Section 4.4. Such election shall be effective on the date specified in such notice, which date must be at least fifteen days after such notice is filed and at least twenty-four months after the date the Participant's Voluntary Contributions were last previously cancelled.

ARTICLE IV-A
LIMITATIONS ON ALLOCATIONS

4A.1 LIMITATIONS ON ALLOCATIONS. Definitions - The following definitions are atypical terms which refer only to terms used in the Limitation on Allocations sections of this Article IV-A.

- (a) Annual Addition - The term Annual Additions shall mean for any Limitation Year commencing on or after January 1, 1987, the sum of those amounts allocated to the Participant's Account under this Plan and under any other qualified defined contribution plan to which the Employer contributes for any Limitation Year, consisting of (1) Employer Contributions, (2) Employee Contributions and (3) forfeitures. In addition to the foregoing, Annual Additions shall also include (1) any amounts allocated to such Participant's individual medical account, as defined in Section 415(l)(1) of the Code, which is part of a defined benefit plan maintained by the Employer, and (2) any contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separate account of such Participant (if he is a key employee, as defined in Section 419A(d)(3) of the Code) under a welfare benefit fund, as defined in Section 419(e) of the Code, maintained by the Employer.
- (b) Compensation - The term Compensation shall mean compensation, as defined in Code Section 415(c)(3) and regulations issued thereunder. Effective for Limitation Years beginning on or after January 1, 1998, the term Compensation shall include elective deferrals within the meaning of Code Section 402(g)(3) or amounts not otherwise includible in gross income under Code Sections 125, 457 or, effective January 1, 2001, 132(f)(4). For purposes of applying the Limitations of this Article, Compensation for a Limitation Year is the Compensation actually paid or includible in gross income during such year.
- (c) Employer - The term Employer shall mean the City of Alexandria and any other employer who is required to be treated as a single employer with the City under Section 414(b), (c), (m) or (o) of the Code. All such employers shall be considered a single employer for purposes of applying the limitations of this Article.
- (d) Limitation Year - The term Limitation Year shall mean the Plan Year.

4A.2 LIMITATIONS ON ALLOCATIONS. Notwithstanding anything contained herein to the contrary, the total Annual Additions credited to a Participant's Account under this Plan (and under all other defined contribution plans, defined benefit plans and welfare benefit funds to which the Employer contributes) for any Limitation Year commencing on or after January 1, 1995, shall in no event

exceed the lesser of (i) \$30,000 (adjusted as provided in Section 415(d) of the Code) or (ii) 25 percent of the Participant's Compensation. In the event that the limitations on Annual Additions described above are exceeded with respect to any Participant in any Limitation Year due to forfeiture allocations, a reasonable error in estimating a Participant's annual compensation, or such other circumstances as are permitted by law, then the contributions allocable to the Participant for such Limitation Year shall be reduced to the minimum extent required by such limitations in the following order of priority (unless otherwise determined by the Administrator according to applicable law):

- (a) All excess Annual Additions attributable first to Employee Contributions (plus attributable earnings) shall be distributed to such Participant.
- (b) If such Participant is covered by the Plan as of the end of the Limitation Year in which such excess arose, all excess Annual Additions allocated to such Participant's Account shall, be used as soon as possible to reduce Employer Contributions allocable to such Participant in the next and succeeding Limitation Years.
- (c) If the Participant is not covered by the Plan as of the end of the Limitation Year in which the excess arose (or any succeeding Limitation Year, if applicable), then such excess amounts shall be credited to an account designated as the limitations account and carried forward to the next and succeeding Limitation Years and shall be used as soon as possible to reduce Employer Contributions for all remaining Participants in the Plan. No investment gains or losses or other income shall be allocated to this limitations account. In the next succeeding Limitation Year, all amounts in the limitations account must be allocated before any Employer Contributions may be made to the Plan for any such Limitation Year.
- (d) The Administrator shall determine to what extent the Annual Additions to any Participant's Account must be reduced in each Limitation Year. In the event the Employer maintains any other plan to which Annual Additions may be credited, and a Participant participates in both plans during any Limitation Year, then the Administrator shall reduce the Annual Additions to such other plan before reducing Annual Additions to this Plan.
- (e) In the event this Plan is terminated, any amounts credited to the limitations account described above which have not been reallocated as set forth herein shall, upon the Employer's request, be returned to the Employer.

To the extent a Participant's benefit is subject to provisions of Section 415 of the Code which have not been set forth in the Plan, such provisions are hereby incorporated by reference into this Plan and for all purposes shall be deemed a part of the Plan.

ARTICLE V
ANNUITY CONTRACT AND PARTICIPANT'S ACCOUNT

- 4.1 ANNUITY CONTRACT. The Employer shall apply for and take the necessary steps to obtain the Annuity Contract from the Insurance Company. All Contributions under the terms of this Plan shall be paid to the Insurance Company in accordance with the further terms of this Plan. All payments to Participants and/or Beneficiaries, payable under the terms of the Plan out of Participants' Accounts, will be paid by the Insurance Company in accordance with the terms of Article VI.
- 4.2 PARTICIPANT'S ACCOUNT. A Participant's Account shall be maintained on behalf of each Participant until such account is used to provide an annuity, or distributed in accordance with the further terms of this Plan and the terms of the Annuity Contract.
- 4.3 PARTICIPANT DIRECTED INVESTMENT OF ACCOUNTS. This Section 5.3 shall apply except to the extent provided in Section 5.4.
- (a) Subject to the provisions of Section 5.4, and subject to such limitations as may from time to time be required by law, imposed by the Administrator or contained elsewhere in the Plan, and subject to such operating rules and procedures as may be imposed from time to time by the Administrator (or the Insurance Company), each Participant (including for this purpose former Participants with a deferred vested benefit, Beneficiaries and/or an alternate payee under a domestic relations order in which a Participant's Account has been validly divided into separate accounts for the Participant and alternate payee) shall have the right to direct the investment of his Participant Account in accordance with the following:
- (b) The Administrator shall designate the Investment Funds offered by the Insurance Company from among which each Participant may direct the investment of his Participant Account. The Administrator may, in its absolute discretion change, modify or limit such Investment Funds and may establish uniform rules and procedures to be followed with respect to the investment of Participants' Accounts in such Investment Funds.
- (c) The Administrator shall determine the manner, period, and frequency of investment elections (e.g., daily, weekly, or monthly). Different terms and conditions may be specified for different Investment Funds (e.g., monthly elections for one Investment Fund and daily elections for another Investment Fund). Any term or condition imposed by the Administrator may apply to an entire Participant's Account or may be applied separately to different subaccounts, different Investment Funds or to different types of contributions (e.g., future contributions versus the current balance of a Participant's Account). Except as the Administrator shall otherwise

determine, any initial or subsequent investment designation shall be in writing, on a form supplied by and filed with the Administrator (or the Insurance Company), and shall be effective on such date as may be specified by the Administrator (or the Insurance Company). The Administrator may provide for telephone or other electronic investment designations to the extent that such facilities are made available by the Insurance Company, and may establish (and thereafter change) a limit on the number of designations that may be made by any Participant during a specified period.

- (d) All contributions and other amounts added to a Participant's Account (except for investment earnings) shall be allocated among the separate Investment Funds in accordance with the then effective investment designation. Except as the Administrator shall otherwise determine, any distributions shall be taken proportionately from each separate Investment Fund in which the Participant's Account is invested at the time of the distribution. As of the effective date of any new investment designation, the entire balance of the Participant's Account at that date shall be reallocated among the designated investment media according to the percentages specified in the investment designations (unless the Administrator permits, and the Participant has designated, different allocations as between existing balances and future contributions), but no reallocations of the Participant's Account are to be made merely to adjust for disproportionate investment growth among such funds (other than in response to a subsequent investment designation filed with respect to the Participant's Account).
- (e) In the event the Administrator (or the Insurance Company) receives an initial or revised investment designation which it deems to be incomplete, unclear, not in accordance with procedures established pursuant to this Section or otherwise improper, the Participant's investment designation then in effect shall remain in effect (or, in the case of a deficiency in an initial designation, the Participant shall be deemed to have filed no designation) until a complete investment designation is filed in accordance with the rules and procedures established by the Administrator (or the Insurance Company).
- (f) It is intended that each Participant be required to direct the investment of his Participant's Account to the extent set forth in this Section. In the event that the Administrator (or the Insurance Company) possesses at any time instructions as to the investment of less than all of a Participant's Account, the Participant shall be deemed to have designated that the non-directed portion of his Account be invested in the Guaranteed Long Term Account (or if the Guaranteed Long Term Account is not available, then in the separate Investment Fund which most closely resembles a money market or stable asset fund). To the extent that the Administrator finds it to be

administratively appropriate to hold a portion of the assets of the Plan out of the operation of this Section, or to the extent that the operation of this Section is suspended or terminated with respect to any portion of the assets of the Plan as aforesaid, then the Administrator shall direct the Insurance Company with respect to the investment.

(g) The Administrator may determine at any time to vary the rules provided above to accord with the requirements of any Investment Fund, for ease in administration, or for any other reason.

(h) Neither the Administrator, the Employer, the Insurance Company nor any other person who may be deemed a fiduciary hereunder shall have any responsibility to determine the appropriateness of any individual Participant's investment direction.

5.4 **AUTOMATIC INVESTMENT IN GUARANTEED LONG TERM ACCOUNT.** Until May 30, 2002, in the case of a Participant with less than five Years of Service, the portion of the Participant Account that is attributable to Employer Contributions and earnings thereon shall be invested in the Guaranteed Long Term Account. Effective as of June 1, 2002, a Participant with less than five Years of Service shall direct the investment of his entire Participant Account in accordance with, and subject to, the provisions of Section 5.3.

5.5 **ACCOUNT STATEMENTS.** Once during each year the Insurance Company shall furnish the Administrator and each Participant with a written report of the value of each Investment Fund in which the Participant's Account is invested.

ARTICLE VI
DISTRIBUTION OF BENEFITS

6.1 DISTRIBUTIONS IN GENERAL. All distributions hereunder, whether in the form of an annuity or cash, or a combination thereof, shall be made by the Insurance Company as of the date specified, in accordance with the terms and conditions set forth in the Annuity Contract. The Insurance Company shall be entitled to receive written instructions and proper notice from the Administrator with respect to any distribution and shall not be required to make such distribution until such instructions have been received in a form which in the opinion of the Insurance Company is sufficiently clear with respect to the distributions required.

6.2 PAYMENT OF BENEFITS. Unless the Participant elects otherwise, the payment of benefits under this Plan to the Participant shall begin not later than the 60th day after the close of the Plan Year in which the later of (a) or (b) occurs.

(a) The date on which the Participant attains his Normal Retirement Age; or

(b) The date on which the Participant terminates his Service (including Termination of Employment, death or Disability) with the Employer.

6.3 The rules and procedures for electing the timing and form of distribution effective for each Participant or Beneficiary shall be formulated and administered by the Administrator in a consistent manner for all Participants in similar circumstances. The distribution shall normally be made in the form of an annuity. However, with respect to that portion of the distribution attributable to Employer Contributions, the Administrator shall have the right to specify that each Participant may elect a distribution in the form of cash or a combination of cash and an annuity. With respect to that portion of the distribution attributable to Employee Contributions, the Participant shall have the right to elect the manner of distribution. Any annuity elected in accordance with this Section may be a Fixed Annuity, or a Variable Annuity, or a combination of both.

Notwithstanding the foregoing paragraph, if the value of the Participant's Account available for the purchase of a retirement annuity is less than three thousand five hundred dollars (\$3,500), the distribution shall be in the form of cash.

6.4 DIRECT ROLLOVER OPTION. Effective as of January 1, 1992, any distribution or portion thereof payable to a Participant (or any other eligible distributee, if applicable) which is an "eligible rollover distribution" (as defined in Section 401(a)(31)(C) of the Code) shall be rolled over directly to another "eligible retirement plan" (as defined in Section 401(a)(31)(D) of the Code), if elected by the Participant (or such other eligible distributee, if applicable) according to rules and procedures adopted by the Administrator from time to

time, so long as such rules and procedures comply with Section 401(a)(31) of the Code and any regulations promulgated thereunder.

6.5 DISTRIBUTION REQUIREMENTS.

- (a) The requirements of this Section shall apply to any distribution of a Participant's Accrued Benefit.
- (b) The vested Accrued Benefit of a Participant shall be distributed (or shall commence being distributed) no later than the April 1st following the later of (1) the calendar year in which such Participant attains age 70½ or (2) the calendar year in which such Participant terminates employment with the Employer ("Required Beginning Date").
- (c) As of the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date ("Distribution Calendar Year"), distributions, if not made in a lump sum payment, may be made only (1) over a term certain not to exceed the life expectancy of the Participant or the joint life expectancies of the Participant and a designated Beneficiary, or (2) over the life of the Participant or the joint lives of the Participant and a designated Beneficiary. Notwithstanding the foregoing, distribution shall in no event extend beyond the maximum permissible period described in Treasury Regulation Section 1.401(a)(9)2.
- (d) The minimum amount which must be distributed during each calendar year, commencing with the Distribution Calendar Year, must be at least an amount equal to the lesser of (1) the Participant's total distributable interest, or (2) the quotient obtained by dividing the Participant's total distributable interest at the beginning of each such calendar year (valued for this purpose as of the Valuation Date immediately preceding the first day of such calendar year, adjusted for contributions allocated and distributions made subsequent to such Valuation Date but prior to the first day of such calendar year) by the lesser of (A) the applicable life expectancy (as described below), or (B) if the Participant's Beneficiary is not his spouse, by the applicable divisor, as described in Treasury Regulation Section 1.401(a)(9)-2.
- (e) For purposes of calculating the applicable life expectancy, the following rules shall apply:
 - (1) Life expectancies shall be calculated pursuant to Treasury Regulation Section 1.401(a)(9)-1, by the use of the return multiples contained in Treasury Regulation Section 1.729, or in such other manner as may otherwise be prescribed or permitted by law.

- (2) For the Distribution Calendar Year, the Participant's life expectancy shall be determined based upon his attained age on his birthday during such Distribution Calendar Year. For the Distribution Calendar Year, the designated Beneficiary's life expectancy shall be determined based upon his attained age on his birthday during such Distribution Calendar Year.
 - (3) Except as provided in subsection (4) below, for each calendar year subsequent to the Distribution Calendar Year, the Participant's life expectancy and his designated Beneficiary's life expectancy, as determined with respect to the Distribution Calendar Year, shall be reduced by one for each calendar year which has begun since the Required Beginning Year.
 - (4) Notwithstanding the rules contained in subsection (3) above, the Participant may elect, prior to his Benefit Starting Date, to have his life expectancy, or the joint life expectancies of the Participant and his spouse (if his spouse is his Beneficiary), recalculated on an annual basis, based upon his (and, if applicable, his spouse's) attained age on his birthday (and, if applicable, his spouse's birthday) during the calendar year for which such recalculation is applicable. In no event, however, may the life expectancy of a non-spouse Beneficiary be recalculated.
- (e) Notwithstanding that distributions under the Plan may have commenced to the Participant before the Distribution Calendar Year, the Participant shall receive no credit under this Section 6.5 for such earlier distributions; rather, the total remaining distributable interest of the Participant, calculated as provided above at the beginning of the Distribution Calendar Year, shall be subject to the minimum distribution requirements contained in this Section 6.5.
- (f) Notwithstanding the rules contained in this Section 6.5, if distribution hereunder is made under an annuity contract purchased from an insurance company, which contract provides for annual (or more frequent) nonincreasing (except as otherwise permitted under applicable Treasury Regulations) payments commencing no later than the April 1st following the Distribution Calendar Year and payable over a period permitted by Section 6.5(c), then the life expectancy of the Participant (and his Beneficiary, if applicable) shall be determined based upon the age of the Participant (and his Beneficiary, if applicable) as of the birthday occurring during the calendar year in which benefits commence, even if such calendar year is prior to the Participant's Distribution Calendar Year, and such calendar year shall be treated as the Distribution Calendar Year. In all events, distribution under any such annuity contract shall comply with

the requirements of Section 401(a)(9) of the Code (and accompanying Treasury Regulations).

- (g) With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2001, the Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Code in accordance with the Treasury Regulations under Section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the Plan to the contrary. This Section 6.5(h) shall continue in effect until the end of the last calendar year beginning before the effective date of final Treasury Regulations under Section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.
- (h) Notwithstanding anything contained herein to the contrary, in the event that a Participant has validly elected a method of distribution other than one permitted under this Section 6.5, payments hereunder shall be made according to such method of distribution, provided that (1) such method was elected by the Participant prior to January 1, 1984, and (2) such method was permitted by law and by the terms of the Plan as of December 31, 1983.

6.6 NON-TRANSFERABLE. The Participant's right to any annuity payments, benefits and refunds is not transferable and shall be free from the claims of all creditors to the fullest extent permitted by law.

5.7 DEATH DISTRIBUTION PROVISIONS. Notwithstanding anything contained herein to the contrary, the payment of death benefits shall comply with the requirements of Section 401(a)(9) of the Code (and accompanying Treasury Regulations), and thus, the following rules shall apply to the extent required thereunder:

- (a) In the event of a Participant's death prior to the April 1st following his Distribution Calendar Year (unless his benefits have irrevocably commenced under an annuity contract meeting the requirements of Section 6.5(g), in which case the provisions of this Section 6.7(a) shall not apply, but rather, the provisions of Section 6.7(b) shall apply), then death benefits, if any, attributable to such Participant shall be completely distributed to his Beneficiary no later than the last day of the calendar year containing the fifth anniversary of the Participant's death, subject to the exceptions contained in Sections 6.7(a)(1) and (2) below:

- (1) If the Participant or Beneficiary has elected that death benefits be paid in installments over a term certain or over the life of the Beneficiary, then such distributions shall be made, as elected, over a term certain not to exceed the life expectancy of the Beneficiary or over the life of the Beneficiary, commencing in either case no later than the last day of the calendar year containing the first

anniversary of the Participant's death. Such method of distribution must comply with Section 6.5, except that the applicable life expectancy shall be that of the Beneficiary.

- (2) If the designated Beneficiary is the Participant's spouse, then the rules contained in Section 6.7(a)(1) above shall be modified as follows:
- (A) The date distributions would otherwise be required to commence in accordance with Section 6.7(a)(1) above shall not be earlier than the later of (i) the last day of the calendar year containing the first anniversary of the Participant's death, or (ii) the last day of the calendar year in which the Participant would have attained age 70½.
- (B) In the event of the spouse's death after the Participant but prior to the spouse's required benefit commencement date, as described in Section 6.7(a)(2)(A), (unless such spouse's benefits have irrevocably commenced under an annuity contract meeting the requirements of Section 6.5(g), but payable over a period permitted by Section 6.7(a), in which case the provisions of this Section 6.7(a)(2)(B) shall not apply, but rather, the provisions of Section 6.7(b) shall apply as if the spouse were the Participant), then subsequent distributions, if any, shall be subject to the 5-year or 1-year rule described above, whichever is applicable, but such rule shall be applied as if the spouse were the Participant; provided, however, that the rules contained in Section 6.7(a)(2)(A) shall not be available to the surviving spouse of the Participant's surviving spouse.
- (f) In the event of a Participant's death (A) subsequent to the April 1st following his Distribution Calendar Year and subsequent to his actual commencement of benefits under a payment option other than an annuity contract described in Section 6.5(g), or (B) subsequent to the irrevocable commencement of benefits under an annuity contract meeting the requirements of Section 6.5(g), then any death benefits payable to the Participant's Beneficiary shall be distributed at least as rapidly as under the method of distribution being utilized as of the date of the Participant's death.
- (g) With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2001, the Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Code in accordance with the Treasury Regulations under Section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the Plan to the contrary. This Section 6.7(c) shall continue in effect until the end of the last calendar year beginning before the effective date of final Treasury

Regulations under Section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.

- (h) Notwithstanding anything contained herein to the contrary, in the event a Participant or Beneficiary has validly elected a method of distribution other than one permitted under this Section 6.7, payments hereunder shall be made according to such method of distribution, provided that (1) such method was elected by the Participant or Beneficiary prior to January 1, 1984, and (2) such method was permitted by law and by the terms of the Plan as of December 31, 1983.

ARTICLE VII
RETIREMENT BENEFITS

- 7.1 NORMAL RETIREMENT. A Participant who attains his Normal Retirement Age shall have a Vesting Percentage of 100%. If a Participant retires from the active Service of the Employer on his Normal Retirement Date he shall receive a distribution of the entire value of his Participant's Account as of his Normal Retirement Date.
- 7.2 LATE RETIREMENT. A Participant may continue in the Service of the Employer after his Normal Retirement Age, and in such event he shall retire on his Late Retirement Date. Such Participant shall continue as a Participant under this Plan until such Late Retirement Date. The Participant shall have a Vesting Percentage of 100% and shall receive a distribution of the entire value of his Participant's Account as of his Late Retirement Date.
- 7.3 All distributions on account of retirement described in this Article shall be further subject to the terms and conditions of Article VI.

ARTICLE VII-A
DISABILITY BENEFITS

7.1A DISTRIBUTION. Upon a Participant's Disability, he shall have a Vesting Percentage of 100% but shall not receive a distribution of the entire value of his Participant's Account attributable to Employer contributions until death, normal retirement or Cessation of Disability without Re-employment, as provided in Articles VIII, VII and IX, respectively.

ARTICLE VIII
DEATH BENEFITS

8.1 FROM PARTICIPANTS' ACCOUNTS.

- (a) Death before Distribution. Upon the death of any Participant prior to the date of distribution on account of his retirement or his Termination of Employment, his Beneficiary shall receive a distribution of the entire value of the Participant's Account. Such distribution shall be further subject to the terms and conditions of Article VI, except that the Beneficiary shall have the right to elect the manner of distribution, unless designated otherwise by the Participant, or prohibited by further provisions contained in this Plan.
- (b) Death after Distribution. Upon the death of any Participant on or after the date of distribution on account of his retirement or his Termination of Employment, the death benefit, if any, attributable to his Participant's Account will be determined in accordance with the form of annuity, if any, provided for the Participant under the Annuity Contract.

8.2 BENEFICIARY. Each Participant shall have the right under the Annuity Contract to designate a Beneficiary and to specify the form of death benefit the Beneficiary is to receive. The Participant may change the Beneficiary and/or the form of death benefit at any time. If any distribution hereunder is made to a Beneficiary in the form of an annuity, then such Beneficiary shall also have the right to designate a Beneficiary and to change the Beneficiary from time to time.

If a Beneficiary has not been designated, or if no designated Beneficiary survives the Participant, the Participant's Account shall be distributed to the Participant's spouse, if living; otherwise in equal shares to any surviving children of the Participant. In the event none of the above named individuals survives the Participant, the Participant's Account shall be paid to the executor or administrator of the Participant's estate.

To the extent not inconsistent with the terms of this Plan, any payment made to a Beneficiary shall be further subject to the terms of the Annuity Contract.

ARTICLE IX
TERMINATION OF EMPLOYMENT

- 9.1 DISTRIBUTION. As of a Participant's Termination of Employment, he shall be entitled to receive a distribution of his entire Vested Interest. Such distribution shall be further subject to the terms and conditions of Article VI.

If at the time of Termination the Participant is not 100% vested, the non-vested portion of his Account shall be placed in a separate account and will become a Forfeiture, to be applied in accordance with Section 9.3, upon the date the terminated Participant incurs a 1-Year Break in Service.

- 9.2 NO FURTHER RIGHTS OR INTEREST. A Participant shall have no further interest in or any rights to any portion of his Participant's Account that becomes a Forfeiture due to his Termination of Employment once the Participant incurs a 1-Year Break in Service in accordance with Section 2.4.

- 9.3 FORFEITURE. Any Forfeiture shall be credited to the Forfeiture account upon the occurrence of a 1-Year Break in Service following the Participant's Termination of Employment.

Any amount in the Forfeiture account shall be used by the Employer to reduce and in lieu of the Employer Contribution next due under Section 4.1 at the earliest opportunity after such Forfeiture becomes available.

ARTICLE X
WITHDRAWALS

10.1 WITHDRAWALS - VOLUNTARY CONTRIBUTIONS. Provided that an Active Participant has made Voluntary Contributions in accordance with Section 4.4 for at least twenty-four consecutive months, he may elect to withdraw from his Participant's Account an amount which is equal to any whole percentage (not exceeding 100%) of the lesser of the amounts specified in (a) and (b) below, where:

- (a) is equal to the aggregate of his Voluntary Contributions which are at the time credited to his Participant's Account, and
- (b) is equal to the then value of that portion of his Participant's Account attributable to such Voluntary Contributions.

Such an election shall become effective in accordance with the Notification section below.

If a Participant elects a withdrawal under the provisions of this section, he may not elect another withdrawal under this section until he has made Voluntary Contributions under this Plan for an additional period of twenty-four consecutive months.

10.2 NOTIFICATION. The Participant shall notify the Administrator in writing of his election to make a withdrawal under Section 10.1. Any such election shall be effective as of the date specified in such notice, which date must be at least fifteen days after such notice is filed. Payment of the withdrawal shall be subject to the terms and conditions of Article VI.

10.3 NON-REPAYMENT. Withdrawals made in accordance with this Article X may not be repaid.

ARTICLE XI
FIDUCIARY DUTIES AND RESPONSIBILITIES

- 11.1 GENERAL FIDUCIARY STANDARD OF CONDUCT. Each Fiduciary of the Plan shall discharge his duties hereunder solely in the interest of the Participants and their Beneficiaries and for the exclusive purpose of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan. Each Fiduciary shall act with the care, skill, prudence and diligence under the circumstances that a prudent man acting in a like capacity and familiar with such matters would use in conducting an enterprise of like character and with like aims, in accordance with the documents and instruments governing this Plan, insofar as such documents and instruments are consistent with this standard.
- 11.2 SERVICE IN MULTIPLE CAPACITIES. Any person or group of persons may serve in more than one Fiduciary capacity with respect to this Plan.
- 11.3 LIMITATIONS ON FIDUCIARY LIABILITY. Nothing in this Plan shall be construed to prevent any Fiduciary from receiving any benefit to which he may be entitled as a Participant or Beneficiary in this Plan, so long as the benefit is computed and paid on a basis which is consistent with the terms of this Plan as applied to all other Participants and Beneficiaries. Nor shall this Plan be interpreted to prevent any Fiduciary from receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred in the performance of his duties with the Plan; except that no Person so serving who already receives full-time pay from an Employer shall receive compensation from this Plan, except for reimbursement of expenses properly and actually incurred.
- 11.4 INVESTMENT MANAGER. When an Investment Manager has been appointed pursuant to Section 12.6 of this Plan, he is required to acknowledge in writing that he has undertaken a fiduciary responsibility with respect to the Plan. The Insurance Company's liability as a Fiduciary is limited to that arising from its management of any assets of the Plan held by the Insurance Company in its Separate Accounts.

ARTICLE XII
THE ADMINISTRATOR

- 11.1 DUTIES AND RESPONSIBILITY. The Administrator shall administer the Plan for the exclusive benefit of the Participants and their Beneficiaries in a nondiscriminatory manner subject to the specific terms of the Plan.

The Administrator shall perform all such duties as are necessary to operate, administer, and manage the Plan in accordance with the terms thereof. This shall include notification to the Insurance Company of any adjustment made to a Participant's Account in accordance with Article IV-A.

Furthermore, the Administrator shall take the necessary steps to notify the appropriate interested parties whenever an application is made to the Secretary of the Treasury for a determination letter in accordance with section 7476 of the Internal Revenue Code as amended.

- 11.2 EXPENSES AND COMPENSATION. The expenses necessary to administer the Plan shall be borne by the Employer, including but not limited to those involved in retaining necessary professional assistance from an attorney, an accountant, an actuary, or an investment adviser. Nothing shall prevent the Administrator from receiving reasonable compensation for services rendered in administering this Plan, provided the Administrator is not a full-time Employee of the Employer.
- 11.3 INFORMATION FROM EMPLOYER. To enable the Administrator to perform his functions, the Employer shall supply full and timely information to the Administrator on all matters relating to this Plan as the Administrator may require.
- 11.4 ADMINISTRATIVE COMMITTEE; MULTIPLE SIGNATURES. In the event that more than one person has been duly nominated to serve on the Administrative Committee and has signified in writing the acceptance of such designation, the signature(s) of one or more Persons may be accepted by an interested party as conclusive evidence that the Administrative Committee has duly authorized the action therein set forth and as representing the will of and binding upon the whole Administrative Committee. No Person receiving such documents or written instructions and acting in good faith and in reliance thereon shall be obliged to ascertain the validity of such action under the terms of this Plan. The Administrative Committee shall act by a majority of its members at the time in office and such action may be taken either by a vote at a meeting or in writing without a meeting.
- 11.5 RESIGNATION AND REMOVAL; APPOINTMENT OF SUCCESSOR. A Person appointed by the City Manager to serve as Administrator may resign at any time by delivering to the City Manager a written notice of resignation, to take

effect at a date specified therein, which shall not be less than thirty (30) days after the delivery thereof, unless such notice shall be waived.

A Person appointed by the City Manager to serve as Administrator may be removed with or without cause by the City Manager by delivery of written notice of removal, to take effect at a date specified therein, which shall be not less than thirty (30) days after delivery thereof, unless such notice shall be waived.

The City Manager, upon receipt of or giving notice of the resignation or removal of a Person appointed by the City Manager to serve as Administrator, shall promptly designate a successor Person to serve as Administrator. In the event no successor is appointed, the City Manager will function as the Administrator (until such time as the City Manager designates another Person to serve as Administrator).

- 11.6 The Administrator shall have the power, to the extent permitted by law, to delegate the performance of such Fiduciary and non-Fiduciary duties, responsibilities and functions as the Administrator shall deem advisable for the proper management and administration of the Plan in the best interests of the Participants and their Beneficiaries.

ARTICLE XIII
PARTICIPANTS' RIGHTS

13.1 GENERAL RIGHTS OF PARTICIPANTS AND BENEFICIARIES. The Plan is established and the Plan assets are held for the exclusive purpose of providing benefits for such Employees and their Beneficiaries as have qualified to participate under the terms of the Plan.

13.2 FILING A CLAIM FOR BENEFIT. A Participant or Beneficiary or the Employer acting in his behalf, shall notify the Administrator of a claim of benefits under the Plan. Such request shall be in writing to the Administrator and shall set forth the basis of such claim and shall authorize the Administrator to conduct such examinations as may be necessary to determine the validity of the claim and to take such steps as may be necessary to facilitate the payment of any benefits to which the Participant or Beneficiary may be entitled under the terms of the Plan.

A decision by the Administrator shall be made promptly and not later than 90 days after the Administrator's receipt of the claim of benefits under the Plan, unless special circumstances require an extension of the time for processing in which case a decision shall be rendered as soon as possible, but not later than 90 days after receipt of the claim of benefits under the Plan.

13.3 DENIAL OF CLAIM. Whenever a claim for benefits by any Participant or Beneficiary has been denied by a Plan Administrator, a written notice, prepared in a manner calculated to be understood by the Participant, must be provided, setting forth (1) the specific reasons for the denial; (2) the specific reference to pertinent Plan provisions on which the denial is based; (3) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and (4) an explanation of the Plan's claim review procedure.

13.4 REMEDIES AVAILABLE TO PARTICIPANTS. A Participant or Beneficiary (1) may request a review by a Named Fiduciary, other than the Administrator, upon written application to the Plan; (2) may review pertinent Plan documents; and (3) may submit issues and comments in writing to a Named Fiduciary. A Participant or Beneficiary shall have 60 days after receipt by the claimant of written notification of a denial of a claim to request a review of a denied claim.

A decision by a Named Fiduciary shall be made promptly and not later than 60 days after the Named Fiduciary's receipt of a request for review, unless special circumstances require an extension of the time for processing in which case a decision shall be rendered as soon as possible, but not later than 120 days after receipt of a request for review. The decision on review by a Named Fiduciary shall be in writing and shall include specific reasons for the decision, written in a

manner calculated to be understood by the claimant, and specific references to the pertinent Plan provisions on which the decision is based.

A Participant or Beneficiary shall be entitled, either in his own name or in conjunction with any other interested parties, to bring such actions in law or equity or to undertake such administrative actions or to seek such relief as may be necessary or appropriate to compel the disclosure of any required information, to enforce or protect his rights, to recover present benefits due to him or to clarify his rights to future benefits under the Plan.

13.5 LIMITATION OF RIGHTS. Participation hereunder shall not grant any Participant the right to be retained in the Service of the Employer or any other rights or interest in the Plan fund other than those specifically herein set forth.

13.6 PARTICIPANT CONTRIBUTIONS. Each Participant, regardless of his length of Service with the Employer, shall be fully vested (100%) at all times in any portion of his Participant's Account attributable to (a) and/or (b) below, as applicable:

- (a) Voluntary Contributions; or
- (b) Tax-free rollovers.

13.7 MERGERS OR TRANSFERS. In the case of any merger with or transfer of assets or liabilities to any other defined contribution plan after September 2, 1974, the following conditions must be met:

- (a) The sum of the Account balances in each plan shall equal the fair market value (determined as of the date of the merger or transfer) of the entire plan assets.
- (b) The assets of each plan shall be combined to form the assets of the plan as merged (or transferred).
- (c) Immediately after the merger (or transfer), each Participant in the plan merged (or transferred) shall have an Account balance equal to the sum of the Account balances the Participant had in the plans immediately prior to the merger (or transfer).

ARTICLE XIV
THE INSURANCE COMPANY

- 14.1 DUTIES AND RESPONSIBILITIES. The Insurance Company shall issue the Annuity Contract and thereby assumes all the duties and responsibilities set forth therein. The terms of the Annuity Contract may be changed as provided therein without amending this Plan, provided such changes shall conform to the requirements for qualification under Section 401(a) of the Internal Revenue Code, as amended from time to time.
- 14.2 RELATION TO EMPLOYER, ADMINISTRATOR AND PARTICIPANT. The Insurance Company may receive the statement of the Administrator or, if the Administrator so designates, the Employer, as conclusive evidence of any of the matters decided in the Plan and the Insurance Company shall be fully protected in taking or permitting any action on the basis thereof and shall incur no liability or responsibility for so doing. The Insurance Company shall not be required to question any action by the Employer or the Administrator or any Participant nor to determine that such action is properly taken under the Plan. The Insurance Company shall be fully discharged from any and all liability with respect to any payment to any Participant hereunder in accordance with the terms of the Annuity Contract. The Insurance Company shall not be required to take any action contrary to its normal rules and practices.

ARTICLE XV
AMENDMENT OR TERMINATION OF THE PLAN

- 14.1 AMENDMENT OF PLAN. The Employer shall have the right from time to time to modify or amend, in whole or in part any or all provisions of the Plan. Upon any such modification or amendment, the Administrator shall be furnished a copy thereof. No amendment shall deprive any Participant or Beneficiary of any Vested Interest hereunder.

The City shall give notice to Participants prior to making any material changes to this Plan, except those required by statutes, and shall be available to receive and consider comments of Participants as to proposed changes. When the City Staff, City Council or a committee of the City Council has formulated the substance of a proposed material change, notice of the substance of the proposed change will be given to Participants at least sixty (60) days before City Council votes on the proposal. This notice will contain a "plain language" explanation of the substance of the proposed changes. Employees will have access to the Staff during such sixty (60) day period. If requested in writing by at least five (5) Participants, a meeting shall be held between the Staff and interested Participants at which time the Staff will explain the proposal and answer any questions. These questions and areas of concern must be submitted in writing by interested Participants at least five (5) days prior to the scheduled meeting. At least seven (7) days notice shall be given of the time and place of such meeting.

- 15.2 CONDITIONS OF AMENDMENT. The Employer shall not make any amendment which would cause the Plan to lose its status as a qualified plan within the meaning of Section 401(a) of the Internal Revenue Code.
- 15.3 TERMINATION OF THE PLAN. The Employer intends to continue the Plan indefinitely for the benefit of its Employees, but reserves the right to terminate the Plan at any time by resolution. Upon such termination, the liability of the Employer to make the Employer Contributions hereunder shall terminate.
- 15.4 FULL VESTING. Upon the termination or partial termination of the Plan, the rights of all affected Participants in and to the amounts credited to each such Participant's Account shall be 100% vested and nonforfeitable. Thereupon, each Participant shall receive a total distribution of his Participant's Account (including any amounts in the Forfeiture Account allocated in accordance with Section 15.5) in accordance with the terms and conditions of Article VI and the Annuity Contract.
- 15.5 APPLICATION OF FORFEITURES. Upon the termination of the Plan, any amount in the Forfeiture account which has not been applied as of such termination to reduce the Employer Contribution shall be credited on a pro rata basis to the Participant's Account of the then Active Participants in the same manner as the last Employer Contribution made under the Plan.

15.6 SUBSEQUENT UNFAVORABLE DETERMINATION. If the Employer is notified subsequent to initial favorable qualification that the Plan is no longer qualified within the meaning of Section 401(a) of the Internal Revenue Code, and if the Employer shall fail within a reasonable time to make any necessary changes in order that the Plan shall so qualify, the Participants' Accounts under the Annuity Contract shall be fully vested and nonforfeitable and shall be disposed of in the manner set forth in Sections 15.4 and 15.5 above; with respect to a Plan which is no longer qualified, all assets thereunder shall be segregated apart from all other assets held under the Annuity Contract for any other Employer.

ARTICLE XVI
SUBSTITUTION OF PLANS

- 16.1 **SUBSTITUTION OF PLANS.** Subject to the provisions of Section 13.7 the Employer may substitute an individually designed plan or a master or prototype plan for this Plan without terminating this Plan as embodied herein and this shall be deemed to constitute an amendment and restatement in its entirety of this Plan as heretofore adopted by the Employer; provided, however that the Employer shall have certified to the Insurance Company that this Plan is being continued on a restated basis which meets the requirements of Section 401(a) of the Internal Revenue Code.
- 16.2 **TRANSFER OF ASSETS.** Upon 90 days written notification from the Employer (unless the Insurance Company shall accept a shorter period of notification) that a different plan meeting the requirements set forth in Section 16.1 above has been executed and entered into by the Administrator and the Employer, and after the Insurance Company has been furnished the Employer's certification in writing that the Employer intends to continue the Plan as a qualified plan under Section 401(a) of the Internal Revenue Code, the Insurance Company shall transfer the value of all Participants' Accounts under the Annuity Contract in accordance with the terms of the Annuity Contract, to the Employer or such person or persons as may be entitled to receive same. The Insurance Company may rely fully on the representations or directions of the Employer with respect to any such transfer made in accordance with such representations, instructions, or directions.

ARTICLE XVII
MISCELLANEOUS

- 17.1 NON-REVERSION. This Plan has been established by the Employer for the exclusive benefit of the Participants and their Beneficiaries. Except as otherwise provided in Section 17.7, under no circumstances shall any funds contributed hereunder at any time revert to or be used by the Employer, nor shall any such funds or assets of any kind be used other than for the benefit of the Participants or their Beneficiaries.
- 17.2 GENDER AND NUMBER. When necessary to the meaning hereof, and except when otherwise indicated by the context, either the masculine or the neuter pronoun shall be deemed to include the masculine, the feminine, and the neuter, and the singular shall be deemed to include the plural.
- 17.3 REFERENCE TO THE CODE. Any reference to any section of the Internal Revenue Code herein or to any other statute or law shall be deemed to include any successor law of similar import.
- 17.4 GOVERNING LAW. The Plan shall be governed and construed in accordance with the laws of the Commonwealth of Virginia.
- 17.5 COMPLIANCE WITH THE CODE. This Plan is intended to comply with all requirements for qualification under the Internal Revenue Code, and if any provision hereof is subject to more than one interpretation or any term used herein is subject to more than one construction, such ambiguity shall be resolved in favor of that interpretation or construction, such ambiguity shall be resolved in favor of that interpretation or construction which is consistent with the Plan being so qualified. If any provision of the Plan is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions, and this Plan shall be construed and enforced as if such provision had not been included.
- 17.6 NON-ALIENATION. It is a condition of the Plan, and all rights of each Participant shall be subject thereto, that no right or interest of any Participant in the Plan shall be assignable or transferable in whole or in part, either directly or by operation of law or otherwise, including, but without limitation, execution, levy, garnishment, attachment, pledge, bankruptcy or in any manner, and no right or interest of any Participant in the Plan shall be liable for or subject to any obligation or liability of such Participant.
- 16.7 CONTRIBUTION RECAPTURE. Notwithstanding any other provisions of this Plan, in the case of a contribution which is made by an Employer by a mistake of fact, Section 17.1 shall not prohibit the return of such contribution to the Employer within one year after the payment of the contribution. The amount which may be returned to the Employer is the excess of (1) the amount contributed over (2) the amount that would have been contributed had there not

occurred a mistake of fact or a mistake in determining the deduction. Earnings attributable to the excess contribution may not be returned to the Employer, but losses attributable thereto must reduce the amount to be so returned. Furthermore, if the withdrawal of the amount attributable to the mistaken contribution would cause the balance of the individual account of any Participant to be reduced to less than the balance which would have been in the account had the mistaken amount not been contributed, then the amount to be returned to the Employer would have to be limited so as to avoid such reduction.

- 16.8 DOMESTIC RELATIONS ORDERS. Notwithstanding any other provisions of this Plan, the Participant's Account may be segregated and distributed pursuant to a domestic relations order which creates or recognizes the existence of an alternate payee's right to receive all or a portion of the benefits payable to a Participant under the Plan.

*City of Alexandria, Virginia*MEMORANDUMNOTICE OF PROPOSED AMENDMENTS TO THE CITY OF ALEXANDRIA
RETIREMENT INCOME PLAN FOR FIREFIGHTERS AND POLICE OFFICERS

DATE: MARCH 29, 2002

TO: PARTICIPANTS IN THE CITY OF ALEXANDRIA RETIREMENT INCOME
PLAN FOR FIREFIGHTERS AND POLICE OFFICERS

FROM: HENRY HOWARD, JR, DIRECTOR, PERSONNEL SERVICES *H. HOWARD*

SUBJECT: OPPORTUNITY TO REVIEW AND PROVIDE COMMENTS REGARDING
PROPOSED PLAN AMENDMENTS

As you know, the City maintains the Retirement Income Plan for Firefighters and Police Officers for the benefit of sworn firefighters and police officers. Certain provisions of the Retirement Income Plan were recently amended in order to maintain the qualification of the Plan under the Internal Revenue Code and to comply with required changes in the law. When making these required changes, we discovered that a number of Plan provisions did not belong in a retirement plan maintained by a municipality like the City or were simply unclear. The City now proposes to amend the Retirement Income Plan in order to clarify other provisions and to remove those provisions that do not belong in the Plan. The City also proposes to change the plan provisions relating to participant directed investments, so that participants who have less than five years of service can direct the investment of their account. Currently only participants with more than five years of service are able to direct their accounts' investments.

Under the terms of the Retirement Income Plan, the City is required to give participants sixty days advance notice of any "material" change to the Plan. While we believe that the only material change now being proposed involves the change that allows participants with less than five years of service to direct their own investments, we want to provide an opportunity for participants to ask questions and provide the City with comments concerning all of the proposed changes.

The proposed amendment of the Plan will be considered by the City Council in June, 2002. The City has set aside the following dates and times for meetings at which staff will explain the proposed amendment and answer any questions:

April 5, 2002 from 1:00 pm to 3:00pm at City Hall (301 King Street, Alexandria, Virginia) in Room 2000

April 8, 2002 from 9:00 am to 10:00am at City Hall (301 King Street, Alexandria, Virginia) in Room 2000

April 12, 2002 from 8:00 am to 10:00am at City Hall (301 King Street, Alexandria, Virginia) in Room 2000

April 19, 2002 from 10:00 am to 12:00pm at City Hall (301 King Street, Alexandria, Virginia) in Room 2000

If you have any questions or comments that you would like to have addressed at the meeting, it would be helpful if they were submitted (in writing or via e-mail) to the Director of Personnel, Henry Howard, at least five days prior to the scheduled date of the first meeting, so that the City has time to consider and respond to these questions or comments. Henry Howard's telephone number is (703) 838-4425 and his e-mail address is henry.howard@ci.alexandria.va.us.

You are not *required* to submit your questions or comments in advance of the meeting. We will respond to questions or comments that are not submitted in advance, but we may need additional time to respond and may not be able to respond during a meeting.

If you are not able to attend the meeting, or have other questions or comments, you can contact Henry Howard or Myla Riggs at (703) 838-4425.

Attached to this Notice is a copy of the Plan document that compares the proposed Plan amendments to the current Plan document (as approved by the City Council on February 26, 2002). The proposed changes are highlighted, with proposed deletions appearing as overstrikes and proposed additions appearing as double underline text.

The proposed changes are summarized as follows:

1. Section 1.3 – Definition of Administrator – Section 1.3 of the Plan currently provides that the administrator is the “Employer and any successor thereto.”

Section 2-5-51(d) of the Code of the City of Alexandria, 1981, as amended, provides that the Plan will be administered by the City Manger or his designee. The proposed change to the definition of Administrator is intended to conform the Plan to the provisions of Section 2-5-51(d) of the City Code.

2. Section 1.11 – Definition of Employee – The definition of “employee” in Section 1.13 of the Plan currently includes a reference to “proprietors or partners.” These references are not appropriate in a municipal retirement plan (but are typically found in retirement plans maintained by private businesses) and are being eliminated from the definition.
3. Section 1.13 – Definition of Employer – Section 1.13 of the Plan indicates that the term “Employer” includes the City and “any successor organization.” The reference

to a “successor organization” is not appropriate to a City government, and is being eliminated from the definition.

4. Section 1.19 – Definition of Investment Funds – A new definition of “Investment Funds” is being added to the Plan for clarity. This definition will encompass all of the funds available for investment under the Plan. (Also, see the discussion under Section 5.3 regarding Participant Directed Investments.)
5. Section 1.25 – Definition of Participant’s Account – The definition of a “Participant’s Account” is being amended to clarify that amounts that were transferred from the “old” Pension Plan to the Retirement Income Plan are included in a “Participant’s Account.” In addition, the reference to the various CIGNA funds was replaced with a reference to the definition of “Investment Funds” that is being added to the Plan as Section 1.19.
6. Section 1.37 – Definition of Vested Interest – The definition of a “Vested Interest” is being amended to clarify that amounts rolled over to the Retirement Income Plan from another qualified retirement plan are fully (100%) vested when rolled over to the Plan.
7. Section 5.3 – Participant Directed Investment of Accounts – Plan participants who have completed five or more years of service have been allowed to direct the investment of their account since 1992. The amendment to this section of the Plan incorporates the procedures for participant directed investments that are currently in effect and are being followed by CIGNA.
8. Section 5.4 – Automatic Investment in Guaranteed Long-Term Account – The accounts of participants who have less than five years of service are now invested automatically in CIGNA’s Guaranteed Long-Term Account. This provision is being changed effective June 1, 2002. Beginning June 1, 2002, participants with less than five years of service will be allowed to direct the investment of their account.
9. Section 5.5 – Account Statements – The current Plan provides that participants will receive account statements once per year. The amendment recognizes that participants receive quarterly statements.
10. Section 11.4 and Section 12.1 – The current Plan indicates that the “Administrator” must sign the Plan. Inasmuch as the Plan is adopted by resolution of the City Council, the requirement that the “Administrator” sign the Plan is not appropriate. Consequently, the provision is being deleted, so that the Plan is effective upon approval of the City Council.
11. Section 12.5 – Resignation and Removal of Administrator – Currently, Section 12.5 provides procedures for the resignation and removal of the “Administrator.” The proposed change clarifies that those persons designated by the City Manager in accordance with Section 2-5-51(d) of the Code of the City of Alexandria can resign.

It also clarifies that the City Manager is authorized to remove his designee from the position of "Administrator" and appoint a successor.

12. Section 15.1 – Amendment of Plan – The Plan currently provides that the Plan amendments must be signed by the "Employer" and the "Administrator." The proposed amendment reflects that plan amendments are adopted by resolution of the City Council and are effective upon approval by the City Council.

The current Plan contained language regarding "election procedures" following the adoption of a Plan amendment, but this language is not linked to any requirement for a participant "election" regarding a Plan amendment and is, therefore, being deleted.

13. Section 16.1 – Substitution of Plans – Section 16.1 of the current Plan allows the City to substitute a new Plan document for the current Plan document, provided certain certifications are made to CIGNA, including a certification that the new Plan document meets the requirements of the Internal Revenue Code and ERISA (the Employee Retirement Income Security Act of 1974). The proposed amendment eliminates the requirement that the certification include a reference to ERISA. This certification is not necessary since ERISA exempts governmental retirement plans from its requirements.
14. Section 17.4 – Governing Law – The proposed change clarifies that Virginia law governs the Plan.
15. Section 17.5 – Compliance with the Code – The title for this Section contained a reference to ERISA, but the text of the Section did not contain any reference to ERISA (since governmental retirement plans are exempt from the ERISA requirements). The proposed change deletes the extraneous reference to ERISA in the title of the Section.
16. Section 17.7 – Contribution Recapture – The proposed change deletes the reference to "nondeductible contributions" inasmuch as the City, as a governmental entity, is not subject to federal income taxes.
17. Section 17.8 – Domestic Relations Orders – The proposed amendment allows the Plan to recognize a valid "domestic relations" order of a Court that requires the distribution of all or a portion of a participant's account to an "alternate payee" (e.g., the participant's ex-spouse).

Again, If you have any questions or comments regarding these proposed amendments, please convey them, as described above to the Director of Personnel, Henry Howard.

This redlined draft, generated by CompareRite (TM) - The Instant Redliner, shows the differences between

original document : E:\CITY OF ALEXANDRIA RETIREMENT INCOME PLAN FOR
FIREFIGHTERS AND POLICE OFFICERS 2-26-02.DOC

and revised document: E:\CITY OF ALEXANDRIA PROPOSED AMENDMENTS TO PLAN FOR
FIREFIGHTERS AND POLICE OFFICERS.DOC

CompareRite found 61 change(s) in the text

Deletions appear as Overstrike text

Additions appear as Double Underline text

**CITY OF ALEXANDRIA RETIREMENT INCOME PLAN
FOR FIREFIGHTERS AND POLICE OFFICERS**

Amended and Restated Effective as of
December 31, 2001

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PREAMBLE

The City of Alexandria Retirement Income Plan for Firefighters and Police Officers, originally effective as of February 13, 1979, is hereby amended and restated in its entirety.

The terms of the Plan, as amended and restated, shall apply only with respect to Plan Years commencing after December 31, 2001; provided, however, that any provision which is contained in this amended and restated Plan (as the same may be further amended from time to time) and which is required to be effective before the effective date of this amended and restated Plan in order to retain the qualification of the Plan under Code Section 401(a) shall, nevertheless, be effective as of its required effective date under the Code.

Except as is otherwise explicitly provided in the Plan or as is required by applicable law, the terms of the Plan, as amended and restated, shall apply only with respect to employees of the Employer on and after December 31, 2001, and the rights, benefits and interests of any employee who died, retired or otherwise terminated his employment with the Employer prior to December 31, 2001, shall be determined under the provisions of the Plan as in effect on the date such former employee died, retired or otherwise terminated his employment with the Employer.

The Plan, as amended and restated hereby, is intended to qualify as a money purchase pension plan under Code Section 401(a) and is a governmental plan as described in Code Section 414(d). The Plan is maintained for the exclusive benefit of eligible employees and their beneficiaries.

ARTICLE I
DEFINITIONS

- 1.1 ACCRUED BENEFIT. The term Accrued Benefit means the value on any applicable date of the Participant's Account.
- 1.2 ACTIVE PARTICIPANT. The term Active Participant means any Participant who (a) performs duties as an Employee for the Employer, and (b) is not an Inactive Participant.
- 1.3 ADMINISTRATOR. The term Administrator means the City Manager or the Person or Persons designated by the Employer and any successor(s) thereto City Manager in accordance with Section 2-5-51(d) of the City of Alexandria Code of Ordinances. If more than one Person ~~shall be~~ is designated as the Administrator by the City Manager, the committee thus formed shall be known as the Administrative Committee and all references in the Plan to the Administrator shall be deemed to apply to the Administrative Committee. The Administrator shall signify in writing his acceptance of his responsibility as a Named Fiduciary.
- 1.4 ANNUITY CONTRACT. The term Annuity Contract means the group annuity contract issued by the Insurance Company to the Employer to fund the benefits provided under this Plan, as such contract may hereafter be amended from time to time in accordance with the terms thereof.
- 1.5 BENEFICIARY. The term Beneficiary means the beneficiary or beneficiaries entitled to any benefits under a Participant's Account hereunder upon the death of a Participant or a Beneficiary.
- 1.6 COMPENSATION. The term Compensation means the basic earnings paid by the Employer to the Employee for the period specified in the Plan. Effective as of January 1, 1996, Compensation with respect to any Plan Year shall in no event exceed the dollar limit specified in Section 401(a)(17) of the Code (as adjusted from time to time by the Secretary of the Treasury).
- 1.7 CONTRIBUTION PERIOD. The term Contribution Period means that regular period specified by the Employer for which Employer Contributions and Voluntary Contributions, if any, shall be made. No change in the Contribution Period may be made except as of a Renewal Date.
- 1.8 DISABILITY. The term Disability means a Participant's inability to perform the duties of his occupation because of a medically determinable physical or mental impairment. Such determination of Disability shall be made by the Administrator with the advice of a competent medical authority selected by the City and such determination shall correspond with the determination of disability under the Firefighters and Police Officers Disability Income Plan. All Participants in similar circumstances will be treated alike.
- 1.9 DISABILITY DATE. The term Disability Date means the first day of the month after the Administrator has determined that a Participant's inability to perform the duties of his occupation is a Disability.
- 1.10 EFFECTIVE DATE. The term Effective Date means February 13, 1979. The effective date of this restatement is December 31, 2001.
- 1.11 EMPLOYEE. The term Employee means any individual, ~~other than a sole proprietor or partner,~~ in the employ of the Employer.
- 1.12 EMPLOYEE CONTRIBUTIONS. The term Employee Contributions means the amount for any Plan Year which is equal to his Voluntary Contributions.
- 1.13 EMPLOYER. The term Employer means the City of Alexandria ~~and any successor organization to such Employer which elects to continue the Plan.~~

- 1.14 ENTRY DATE. The term Entry Date means either the Effective Date or any date thereafter when an Employee who has fulfilled the eligibility requirements commences participation in the Plan.
- 1.15 FIXED ANNUITY. The term Fixed Annuity means an annuity providing a series of payments that are payable in specified dollar amounts.
- 1.16 FORFEITURE. The term Forfeiture means the amount, if any, by which the value of a Participant's Account exceeds his Vested Interest upon the occurrence of a 1-Year Break in Service following such Participant's Termination of Employment.
- 1.17 INACTIVE PARTICIPANT. The term Inactive Participant means any Participant who does not currently meet the requirements to be an Active Participant due to a suspension of the performance of duties for the Employer.
- 1.18 INSURANCE COMPANY. The term Insurance Company means Connecticut General Life Insurance Company, a legal reserve life insurance company of Hartford, Connecticut.
- 1.19 INVESTMENT FUNDS. The term Investment Funds means the Guaranteed Short Term Account, Guaranteed Long Term Account, Variable Account, and any other separate account made available under the Annuity Contract and designated by the Administrator for the investment of Plan assets.
- 1.20 JOINT AND SURVIVOR ANNUITY. The term Joint and Survivor Annuity means a monthly Fixed Annuity payable for the life of the Participant with a survivor annuity for the life of the Participant's spouse. The monthly annuity payment to the spouse shall be equal to 50% (or 100% if so elected by the Participant) of the amount which was payable to the Participant.
- ~~1.20~~ 1.21 LATE RETIREMENT DATE. The term Late Retirement Date means the first day of the month coinciding with or next following the date a Participant is separated from Service with the Employer after his Normal Retirement Age, for any reason other than death.
- ~~1.21~~ 1.22 NORMAL RETIREMENT AGE. The term Normal Retirement Age means the date the Participant attains age 60.
- ~~1.22~~ 1.23 NORMAL RETIREMENT DATE. The team Normal Retirement Date means the first day of the month coinciding with or next following the date a Participant attains his Normal Retirement Age.
- ~~1.23~~ 1.24 PARTICIPANT. The term Participant means any Employee of the Employer, who is or becomes eligible to participate under this Plan in accordance with its provisions and shall include an Active Participant and an Inactive Participant.
- ~~1.24~~ 1.25 PARTICIPANT'S ACCOUNT. The term Participant's Account means each Participant's individual account maintained under the Annuity Contract by the Insurance Company in accordance with the terms of this Plan and the Annuity Contract. Each Participant's Account will be maintained so as to reflect the amount attributable to Employer Contributions and earnings thereon, the amount, if any, attributable to amounts transferred pursuant to Section 3.5 and earnings thereon, the amount, if any, attributable to assets transferred or rolled over to the Plan pursuant to Section 4.3 and earnings thereon, and the amount, if any, attributable to Employee Contributions and earnings thereon. Each Participant's Account shall be equal to the sum of the ~~Participant's Guaranteed Long Term Account, if any, the participant's Variable Account, if any, and the participant's Guaranteed Short Term Account, if any.~~ Investment Funds in which such account is invested.
- ~~1.25~~ 1.26 PARTICIPANT'S GUARANTEED LONG TERM ACCOUNT. The term Participant's Guaranteed Long Term Account means that portion, if any, of the Participant's Account which is

invested in the Insurance Company's general portfolio. The amount in the Guaranteed Long Term Account is invested primarily in bonds, mortgages and real estate. Such Participant's Guaranteed Long Term Account shall be credited with interest monthly in accordance with the terms of the Annuity Contract.

~~1.26~~ 1.27 PARTICIPANT'S GUARANTEED SHORT TERM ACCOUNT. The term Participant's Guaranteed Short Term Account means that portion, if any, of the Participant's Account which is invested in the Insurance Company's Separate Account 20 (SA-20). Separate Account 20 may be invested in short-term money market instruments having maturities considered appropriate by Connecticut General. Such Participant's Guaranteed Short Term Account shall be credited with interest daily in accordance with the terms of the Annuity Contract.

~~1.27~~ 1.28 PARTICIPANT'S VARIABLE ACCOUNT. The term Participant's Variable Account means that portion, if any, of the Participant's Account which is invested in the Insurance Company's Separate Account (SA-3). Separate Account 3 is invested primarily in common stocks. Such Participant's Variable Account shall be valued on each date that the New York Stock Exchange is for open for unrestricted trading and the Insurance Company is open to transact its normal business.

~~1.28~~ 1.29 PERSON. The term Person means any natural person, partnership, corporation, trust or estate.

~~1.29~~ 1.30 PLAN. The term Plan means the City of Alexandria Retirement Income Plan for Firefighters and Police Officers, the terms of which are set forth herein as it may be amended from time to time.

~~1.30~~ 1.31 PLAN YEAR. The term Plan Year means the twelve-month period commencing on January 1 and ending the following December 31.

~~1.31~~ 1.32 PRIOR PLAN. The term Prior Plan means the City of Alexandria Pension Plan for Firefighters and Police Officers.

~~1.32~~ 1.33 RENEWAL DATE. The term Renewal Date means each January 1 as of which changes in the amount of any Voluntary Contributions may be made. Certain other determinations, transactions, and calculations shall also be made as of each Renewal Date, as more fully indicated in the body of the Plan.

~~1.33~~ 1.34 SEPARATE ACCOUNT. The term Separate Account means either Separate Account 3 (Variable Account or SA-3) or Separate Account 20 (Guaranteed Short Term Account or SA-20) which are pooled separate accounts maintained by the Insurance Company with respect to a portion of its assets and which are included in the Annuity Contract.

~~1.34~~ 1.35 TERMINATION OF EMPLOYMENT. The term Termination of Employment means a severance of the Employer-Employee relationship which occurs prior to a Participant's Normal Retirement Age for any reason other than Disability or death.

~~1.35~~ 1.36 VARIABLE ANNUITY. The term Variable Annuity means an annuity providing a series of payments that increase or decrease to reflect changes in investment performance of the underlying portfolio.

~~1.36~~ 1.37 VESTED INTEREST. The term Vested Interest on any date means the nonforfeitable right to an immediate or deferred benefit in the amount which is equal to the sum of (a), (b), (c) and ~~(b)~~(d) below:

- (a) The value on that date of that portion of the Participant's Account that is attributable to and derived from a Participant's own contributions, if any.

- (b) (b) The value on that date of that portion of the Participant's Account attributable to assets transferred pursuant to Section 3.5, if any.
- (c) The value on that date of that portion of the Participant's Account attributable to assets transferred or rolled over to the Plan pursuant to Section 4.3, if any.
- (d) (c) The value on that date of that portion of the Participant's Account that is attributable to and derived from Employer Contributions multiplied by his Vesting Percentage determined on the date applicable.

~~1.37~~ 1.38 VESTING PERCENTAGE. The term Vesting Percentage means that Participant's nonforfeitable interest in Employer Contributions credited to his account plus the earnings thereon computed as of the date of determining such percentage because of the occurrence of some event in accordance with the following schedule based on Years of Service with the Employer:

<u>Years of Service</u>	<u>Vesting Percentage</u>
Less than 1	0%
1 but less than 2	20%
2 but less than 3	40%
3 but less than 4	60%
4 but less than 5	80%
5 or more	100%

Amounts attributable to the City of Alexandria Pension Plan for Firefighters and Police Officers which have been transferred from GR-574 to the Plan will at all times be 100% vested.

ARTICLE II
SERVICE

- 2.1 PERIOD OF SERVICE. The term Period of Service or Service means the Employer-Employee relationship which begins on the Employee's employment date and continues until his Severance from Service Date.
- 2.2 PERIOD OF SEVERANCE. The term Period of Severance means a period of time commencing on the Participant's Severance from Service Date and ending on the date such individual is re-employed by the Employer.
- 2.3 SEVERANCE FROM SERVICE DATE. The Severance from Service Date shall be the latest of (a), (b), or (c) below.
- (a) The date the Employee terminates employment by reason of a quit, discharge, Disability, retirement or death.
 - (b) Except to the extent provided in Section 2.7, the expiration date from Service on account of an authorized leave to join the United States Armed Forces provided the Employee does not return to work within 90 days of this date.
 - (c) The expiration date of an authorized leave.
- 2.4 1-YEAR BREAK IN SERVICE. The term 1-Year Break In Service shall mean a 12 consecutive month Period of Severance, beginning on the Employee's Severance from Service Date.
- 2.5 YEAR OF SERVICE. For the purpose of determining a Participant's Vesting Percentage, the term Year of Service shall mean Period of Service equaling 12 months. Service counted in computing Years of Service need not be consecutive or continuous, and all fractional Periods of Service shall be aggregated.
- 2.6 RE-EMPLOYMENT. An Employee who is rehired following a Disability shall be eligible to participate in the Plan immediately, provided he is still a member of an eligible class of employees. If such employee again becomes a Participant, all Years of Service shall be taken into account.
- An Employee who is rehired following a Termination of Employment shall be considered a new Employee for all purposes of the Plan.
- 2.7 QUALIFIED MILITARY SERVICE. Notwithstanding any provision of this Plan to the contrary, effective as of December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

ARTICLE III
ELIGIBILITY, ENROLLMENT AND PARTICIPATION

- 3.1 ELIGIBILITY. Each Employee who was a Participant prior to the Effective Date and who is in the Service of the Employer on the Effective Date shall continue as a Participant in the Plan. Each other Employee shall be eligible to become a Participant as of the Effective Date or the Entry Date thereafter when he first meets the following requirements:
- classified as a Firefighter or Police Officer (excluding meter patrol officers) for the City of Alexandria and remains in a sworn police officer or firefighter classification.
- 3.2 ENROLLMENT AND PARTICIPATION. Each eligible Employee shall become a Participant as of his Entry Date and shall complete and deliver to the Administrator as soon as administratively convenient thereafter, an enrollment form provided by the Insurance Company.
- 3.3 RE-EMPLOYED EMPLOYEE. In the case of an individual who ceases to be an Employee and is subsequently rehired as an Employee, the following provisions shall apply in determining his eligibility to again participate in the Plan:
- (a) If the Employee had met the eligibility requirements specified in Section 3.1 prior to his separation from employment, he shall become an Active Participant in the Plan in accordance with Section 3.2 as of the date he is re-employed.
 - (b) If the Employee had not met the eligibility requirements specified in Section 3.1 prior to his separation from employment, he shall be eligible to participate in the Plan on the first Entry Date following his fulfillment of such eligibility requirements.
- 3.4 In the event a Participant becomes ineligible to participate because he is no longer a member of an eligible class of Employees, such Employee shall participate immediately upon his return to an eligible class of Employees.
- 3.5 PRIOR PLAN PARTICIPANTS. Each employee who was a Participant under the Prior Plan as of February 13, 1979, may elect to transfer his coverage to this Plan, subject to the transfer provisions as set forth in the Prior Plan.

ARTICLE IV
CONTRIBUTIONS

- 4.1 **EMPLOYER CONTRIBUTIONS.** The Employer shall contribute on behalf of each Participant who was an Active Participant on any day of the Contribution Period, an amount equal to 20% of his Compensation for each Contribution Period, subject to the limitation on allocations in accordance with Article IV-A.

The Employer Contribution shall be paid to the Insurance Company at the end of the Contribution Period and shall be reduced by the amount of any Forfeitures available in accordance with Section 9.3.

Unless elected otherwise in accordance with the terms of the Annuity Contract the Employer will contribute to the Plan the amount necessary to pay the expense charges and administration charges described in the Annuity Contract.

- 4.2 **CREDITING OF EMPLOYER CONTRIBUTIONS.** The Employer Contribution, exclusive of any Annuity Contract charges, shall be credited to the Participant Account of each Participant for whom such Contribution was made, in accordance with the provisions of Article V.

- 4.3 **ROLLOVERS AND TRANSFERS.** With the written permission of the Administrator and without regard to the limitations imposed under Article IV-A, the Employer may receive assets to be held under the Annuity Contract for the benefit of a Participant which were (1) received by the Participant from another qualified retirement plan or conduit individual retirement account or annuity and were transferred by the Participant to the Fund, provided that such assets qualify under all of the requirements for a rollover contribution as described in any applicable provisions of the Code, or (2) transferred directly from the trustee or other fiduciary of another qualified retirement plan, or in a conduit individual retirement account or annuity, to the Trustee of this Plan. In no event shall the Administrator be required to approve any direct transfer of assets from a plan to be held under this Plan if the Administrator, in its discretion, determines that the acceptance of any such assets may adversely affect the continued qualification of the Plan.

- 4.4 **VOLUNTARY CONTRIBUTIONS BY PARTICIPANTS.** Each Active Participant may elect to make periodic Voluntary Contributions under the Plan twice each Plan Year by completing and delivering to the Administrator a payroll deduction order provided by the Insurance Company. An Active Participant may elect to make Voluntary Contributions as of his Entry Date or as of any Renewal Date thereafter, and he may designate an amount equal to a percentage (not more than 10% but not less than \$10.00 per pay period) of his Compensation for the Contribution Period as his Voluntary Contribution under the Plan.

Voluntary Contributions shall be deducted by the Employer from the Participant's earnings while he has a payroll deduction order in effect and shall be paid by the Employer to the Insurance Company not less frequently than monthly or four weekly.

Each Participant's Voluntary Contributions to all qualified plans of the Employer shall not exceed 10% of said Participant's aggregate Compensation computed from his Entry Date.

- 4.5 **ADDITIONAL VOLUNTARY CONTRIBUTIONS.** An Active Participant who is making Voluntary Contributions under the Plan may elect to make an additional Voluntary Contribution in a lump sum. Such additional Voluntary Contributions may be made (1) as of the Effective Date; or (2) as of any Renewal Date thereafter provided election is made as of any date which is thirty days before such Renewal Date, in an amount up to, but not in excess of, the difference between (a) 10% of the aggregate of his Compensation while an Active Participant under the Plan, and (b) the aggregate of his Voluntary Contributions made under the Plan prior to such date. For the purposes of determining such amount, Compensation paid to the Participant during the twenty-

four month period following a cancellation of Voluntary Contributions shall not be taken into account.

Additional Voluntary Contributions shall be paid by the Employer to the Insurance Company within thirty days after the date such additional Voluntary Contribution is made by the Participant and shall be reported on the appropriate form furnished by the Insurance Company. Additional Voluntary Contributions shall be considered Voluntary Contributions for all other purposes of the Plan, and shall be subject to the terms thereof.

4.6 CREDITING VOLUNTARY CONTRIBUTIONS. Each Participant's Voluntary Contributions, if any, shall be credited to his Participant's Account in accordance with the provisions of Article V.

4.7 SUSPENSION OF VOLUNTARY CONTRIBUTIONS BY PARTICIPANTS. The following provisions shall apply with respect to suspension of Voluntary Contributions, if any, by Participants:

(a) Voluntary Suspension. An Active Participant may elect to suspend his payroll deduction order for Voluntary Contributions by filing a written notice thereof with the Administrator at any time. Such notice shall be effective, and his Voluntary Contributions shall be suspended, on the date specified in such notice, which date must be at least fifteen days after such notice is filed. The notice shall specify the period for which such suspension shall be effective, but such period shall be for not less than three months nor more than twenty-four months. A longer period of suspension of Voluntary Contributions may be approved by the Administrator.

(b) Suspension for Leave. A Participant who is absent from employment on account of an authorized leave of absence or military leave shall, except as otherwise provided in Section 2.7, be an Inactive Participant and have his payroll deduction order for Voluntary Contributions suspended during such leave. Such suspension of Contributions shall be effective on the date that payment of Compensation by the Employer to him ceases and shall remain in effect until payment of Compensation is resumed.

(c) Involuntary Suspension. An Active Participant who ceases to meet the eligibility requirements as specified in Section 3.1 but who remains in the employ of the Employer, shall become an Inactive Participant and have his payroll deduction order for his Voluntary Contributions suspended, effective as of the date he ceases to meet the eligibility requirements. Such suspension shall remain in effect until he again meets such eligibility requirements.

At the expiration of the suspension period described in (a), (b) or (c) above, the Participant's payroll deduction order for Voluntary Contributions shall automatically become effective again and the Participant shall resume making Voluntary Contributions. If, however, the Participant does not resume making Voluntary Contributions at the expiration of the suspension period, the terms of Cancellation of Voluntary Contributions shall apply.

4.8 CANCELLATION OF VOLUNTARY CONTRIBUTIONS. A Participant may cancel his payroll deduction order for Voluntary Contributions by filing written notice thereof with the Administrator at any time. With the written permission of the Participant, such cancellation of his Voluntary Contributions shall be effective on the date specified in such notice, which date must be at least fifteen days after such notice is filed.

On the effective date of such cancellation, an amount equal to the then value of that portion of his Participant's Account attributable to his Voluntary Contributions, including any gains thereon, shall be distributed to the Participant in accordance with the terms and conditions of Article VI.

Any Participant who has cancelled his payroll deduction order for Voluntary Contributions may elect to again make Voluntary Contributions under this Plan by completing and delivering to the Administrator a new payroll deduction order as if it were an original election in accordance with the terms of Section 4.4. Such election shall be effective on the date specified in such notice, which date must be at least fifteen days after such notice is filed and at least twenty-four months after the date the Participant's Voluntary Contributions were last previously cancelled.

ARTICLE IV-A
LIMITATIONS ON ALLOCATIONS

4A.1 LIMITATIONS ON ALLOCATIONS. Definitions - The following definitions are atypical terms which refer only to terms used in the Limitation on Allocations sections of this Article IV-A.

- (a) Annual Addition - The term Annual Additions shall mean for any Limitation Year commencing on or after January 1, 1987, the sum of those amounts allocated to the Participant's Account under this Plan and under any other qualified defined contribution plan to which the Employer contributes for any Limitation Year, consisting of (1) Employer Contributions, (2) Employee Contributions and (3) forfeitures. In addition to the foregoing, Annual Additions shall also include (1) any amounts allocated to such Participant's individual medical account, as defined in Section 415(l)(1) of the Code, which is part of a defined benefit plan maintained by the Employer, and (2) any contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separate account of such Participant (if he is a key employee, as defined in Section 419A(d)(3) of the Code) under a welfare benefit fund, as defined in Section 419(e) of the Code, maintained by the Employer.
- (b) Compensation - The term Compensation shall mean compensation, as defined in Code Section 415(c)(3) and regulations issued thereunder. Effective for Limitation Years beginning on or after January 1, 1998, the term Compensation shall include elective deferrals within the meaning of Code Section 402(g)(3) or amounts not otherwise includible in gross income under Code Sections 125, 457 or, effective January 1, 2001, 132(f)(4). For purposes of applying the Limitations of this Article, Compensation for a Limitation Year is the Compensation actually paid or includible in gross income during such year.
- (c) Employer - The term Employer shall mean the City of Alexandria and any other employer who is required to be treated as a single employer with the City under Section 414(b), (c), (m) or (o) of the Code. All such employers shall be considered a single employer for purposes of applying the limitations of this Article.
- (d) Limitation Year - The term Limitation Year shall mean the Plan Year.

4A.2 LIMITATIONS ON ALLOCATIONS. Notwithstanding anything contained herein to the contrary, the total Annual Additions credited to a Participant's Account under this Plan (and under all other defined contribution plans, defined benefit plans and welfare benefit funds to which the Employer contributes) for any Limitation Year commencing on or after January 1, 1995, shall in no event exceed the lesser of (i) \$30,000 (adjusted as provided in Section 415(d) of the Code) or (ii) 25 percent of the Participant's Compensation. In the event that the limitations on Annual Additions described above are exceeded with respect to any Participant in any Limitation Year due to forfeiture allocations, a reasonable error in estimating a Participant's annual compensation, or such other circumstances as are permitted by law, then the contributions allocable to the Participant for such Limitation Year shall be reduced to the minimum extent required by such limitations in the following order of priority (unless otherwise determined by the Administrator according to applicable law):

- (a) All excess Annual Additions attributable first to Employee Contributions (plus attributable earnings) shall be distributed to such Participant.
- (b) If such Participant is covered by the Plan as of the end of the Limitation Year in which such excess arose, all excess Annual Additions allocated to such Participant's Account shall, be used as soon as possible to reduce Employer Contributions allocable to such Participant in the next and succeeding Limitation Years.

- (c) If the Participant is not covered by the Plan as of the end of the Limitation Year in which the excess arose (or any succeeding Limitation Year, if applicable), then such excess amounts shall be credited to an account designated as the limitations account and carried forward to the next and succeeding Limitation Years and shall be used as soon as possible to reduce Employer Contributions for all remaining Participants in the Plan. No investment gains or losses or other income shall be allocated to this limitations account. In the next succeeding Limitation Year, all amounts in the limitations account must be allocated before any Employer Contributions may be made to the Plan for any such Limitation Year.
- (d) The Administrator shall determine to what extent the Annual Additions to any Participant's Account must be reduced in each Limitation Year. In the event the Employer maintains any other plan to which Annual Additions may be credited, and a Participant participates in both plans during any Limitation Year, then the Administrator shall reduce the Annual Additions to such other plan before reducing Annual Additions to this Plan.
- (e) In the event this Plan is terminated, any amounts credited to the limitations account described above which have not been reallocated as set forth herein shall, upon the Employer's request, be returned to the Employer.

To the extent a Participant's benefit is subject to provisions of Section 415 of the Code which have not been set forth in the Plan, such provisions are hereby incorporated by reference into this Plan and for all purposes shall be deemed a part of the Plan.

ARTICLE V
ANNUITY CONTRACT AND PARTICIPANT'S ACCOUNT

- 5.1 ANNUITY CONTRACT. The Employer shall apply for and take the necessary steps to obtain the Annuity Contract from the Insurance Company. All Contributions under the terms of this Plan shall be paid to the Insurance Company in accordance with the further terms of this Plan. All payments to Participants and/or Beneficiaries, payable under the terms of the Plan out of Participants' Accounts, will be paid by the Insurance Company in accordance with the terms of Article VI.
- 5.2 PARTICIPANT'S ACCOUNT. A Participant's Account shall be maintained on behalf of each Participant until such account is used to provide an annuity, or distributed in accordance with the further terms of this Plan and the terms of the Annuity Contract.

~~With respect to Employer Contributions, the Administrator shall have the responsibility to decide the portion of the amount of contributions made under this Plan for each Participant that shall be paid to the Participant's Guaranteed Long Term Account, the portion that shall be paid to the Participant's Variable Account and the portion that shall be paid to the Participant's Guaranteed Short Term Account. Such responsibility shall be applied in a uniform manner to all Participants. However, the Administrator may delegate this responsibility to each Participant, provided that this is done in a consistent and nondiscriminatory manner.~~

~~With respect to Employee Contributions, the Participant shall have the right to decide the amount that shall be paid to the Participant's Guaranteed Long Term Account, the amount that shall be paid to the Participant's Variable Account, and the amount that shall be paid to the Participant's Guaranteed Short Term Account.~~

~~The Administrator or the Participant, as the case may be, may change such amounts once during a Plan Year, in accordance with the terms of the Annuity contract.~~

~~5.3 TRANSFERS BETWEEN THE GUARANTEED LONG TERM, VARIABLE AND GUARANTEED SHORT TERM ACCOUNTS. Where permitted by the terms and limitations of the Annuity Contract, amounts in a Participant's Account may be transferred between the Participant's Guaranteed Long Term Account and the Participant's Variable Account, and from the Participant's Guaranteed Short Term Account to the Participant's Guaranteed Long Term Account and/or the Participant's Variable Account once during a calendar year, where applicable. With respect to that portion of the Participant's Account attributable to Employer Contributions, the Administrator shall have the responsibility to designate that portion of such Account to be transferred between the Participant's Guaranteed Long Term Account and the Participant's Variable Account and the portion of the Guaranteed Short Term Account to be transferred to the Guaranteed Long Term Account and/or the Variable Account. Such responsibility shall be applied in a uniform manner to all Participants. However, the Administrator may delegate this responsibility to each Participant provided that this is done in a consistent and nondiscriminatory manner.~~

~~With respect to the portion of a Participant's Account attributable to his Employee Contributions, the Participant may designate the portion to be transferred between the Participant's Guaranteed Long Term Account and the Participant's Variable Account and the portion to be transferred from the Guaranteed Short Term Account to the Guaranteed Long Term Account and/or the Variable Account.~~

5.4 Once during each year the Insurance Company shall furnish the Administrator and each Participant with a written report of (a) the value of each such Participant's Guaranteed Long Term Account, (b) the fair market value of each such Participant's Variable Account, and (c) the value of each such Participant's Guaranteed Short Term Account. 5.3 PARTICIPANT DIRECTED

INVESTMENT OF ACCOUNTS. This Section 5.3 shall apply except to the extent provided in Section 5.4.

- (a) Subject to the provisions of Section 5.4, and subject to such limitations as may from time to time be required by law, imposed by the Administrator or contained elsewhere in the Plan, and subject to such operating rules and procedures as may be imposed from time to time by the Administrator (or the Insurance Company), each Participant (including for this purpose former Participants with a deferred vested benefit, Beneficiaries and/or an alternate payee under a domestic relations order in which a Participant's Account has been validly divided into separate accounts for the Participant and alternate payee) shall have the right to direct the investment of his Participant Account in accordance with the following:
- (b) The Administrator shall designate the Investment Funds offered by the Insurance Company from among which each Participant may direct the investment of his Participant Account. The Administrator may in its absolute discretion change, modify or limit such Investment Funds and may establish uniform rules and procedures to be followed with respect to the investment of Participants' Accounts in such Investment Funds.
- (c) The Administrator shall determine the manner, period, and frequency of investment elections (e.g., daily, weekly, or monthly). Different terms and conditions may be specified for different Investment Funds (e.g., monthly elections for one Investment Fund and daily elections for another Investment Fund). Any term or condition imposed by the Administrator may apply to an entire Participant's Account or may be applied separately to different subaccounts, different Investment Funds or to different types of contributions (e.g., future contributions versus the current balance of a Participant's Account). Except as the Administrator shall otherwise determine, any initial or subsequent investment designation shall be in writing, on a form supplied by and filed with the Administrator (or the Insurance Company), and shall be effective on such date as may be specified by the Administrator (or the Insurance Company). The Administrator may provide for telephone or other electronic investment designations to the extent that such facilities are made available by the Insurance Company, and may establish (and thereafter change) a limit on the number of designations that may be made by any Participant during a specified period.
- (d) All contributions and other amounts added to a Participant's Account (except for investment earnings) shall be allocated among the separate Investment Funds in accordance with the then effective investment designation. Except as the Administrator shall otherwise determine, any distributions shall be taken proportionately from each separate Investment Fund in which the Participant's Account is invested at the time of the distribution. As of the effective date of any new investment designation, the entire balance of the Participant's Account at that date shall be reallocated among the designated investment media according to the percentages specified in the investment designations (unless the Administrator permits, and the Participant has designated, different allocations as between existing balances and future contributions), but no reallocations of the Participant's Account are to be made merely to adjust for disproportionate investment growth among such funds (other than in response to a subsequent investment designation filed with respect to the Participant's Account).
- (e) In the event the Administrator (or the Insurance Company) receives an initial or revised investment designation which it deems to be incomplete, unclear, not in accordance with procedures established pursuant to this Section or otherwise improper, the Participant's investment designation then in effect shall remain in effect (or, in the

case of a deficiency in an initial designation, the Participant shall be deemed to have filed no designation) until a complete investment designation is filed in accordance with the rules and procedures established by the Administrator (or the Insurance Company).

- (f) It is intended that each Participant be required to direct the investment of his Participant's Account to the extent set forth in this Section. In the event that the Administrator (or the Insurance Company) possesses at any time instructions as to the investment of less than all of a Participant's Account, the Participant shall be deemed to have designated that the non-directed portion of his Account be invested in the Guaranteed Long Term Account (or if the Guaranteed Long Term Account is not available, then in the separate Investment Fund which most closely resembles a money market or stable asset fund). To the extent that the Administrator finds it to be administratively appropriate to hold a portion of the assets of the Plan out of the operation of this Section, or to the extent that the operation of this Section is suspended or terminated with respect to any portion of the assets of the Plan as aforesaid, then the Administrator shall direct the Insurance Company with respect to the investment.
- (g) The Administrator may determine at any time to vary the rules provided above to accord with the requirements of any Investment Fund, for ease in administration, or for any other reason.
- (h) Neither the Administrator, the Employer, the Insurance Company nor any other person who may be deemed a fiduciary hereunder shall have any responsibility to determine the appropriateness of any individual Participant's investment direction.

5.4 AUTOMATIC INVESTMENT IN GUARANTEED LONG TERM ACCOUNT. Until May 30, 2002, in the case of a Participant with less than five Years of Service, the portion of the Participant Account that is attributable to Employer Contributions and earnings thereon shall be invested in the Guaranteed Long Term Account. Effective as of June 1, 2002, a Participant with less than five Years of Service shall direct the investment of his entire Participant Account in accordance with, and subject to, the provisions of Section 5.3.

5.5 ACCOUNT STATEMENTS. Once during each year the Insurance Company shall furnish the Administrator and each Participant with a written report of the value of each Investment Fund in which the Participant's Account is invested.

ARTICLE VI
DISTRIBUTION OF BENEFITS

- 6.1 DISTRIBUTIONS IN GENERAL. All distributions hereunder, whether in the form of an annuity or cash, or a combination thereof, shall be made by the Insurance Company as of the date specified, in accordance with the terms and conditions set forth in the Annuity Contract. The Insurance Company shall be entitled to receive written instructions and proper notice from the Administrator with respect to any distribution and shall not be required to make such distribution until such instructions have been received in a form which in the opinion of the Insurance Company is sufficiently clear with respect to the distributions required.
- 6.2 PAYMENT OF BENEFITS. Unless the Participant elects otherwise, the payment of benefits under this Plan to the Participant shall begin not later than the 60th day after the close of the Plan Year in which the later of (a) or (b) occurs.
- (a) The date on which the Participant attains his Normal Retirement Age; or
 - (b) The date on which the Participant terminates his Service (including Termination of Employment, death or Disability) with the Employer.
- 6.3 The rules and procedures for electing the timing and form of distribution effective for each Participant or Beneficiary shall be formulated and administered by the Administrator in a consistent manner for all Participants in similar circumstances. The distribution shall normally be made in the form of an annuity. However, with respect to that portion of the distribution attributable to Employer Contributions, the Administrator shall have the right to specify that each Participant may elect a distribution in the form of cash or a combination of cash and an annuity. With respect to that portion of the distribution attributable to Employee Contributions, the Participant shall have the right to elect the manner of distribution. Any annuity elected in accordance with this Section may be a Fixed Annuity, or a Variable Annuity, or a combination of both.
- Notwithstanding the foregoing paragraph, if the value of the Participant's Account available for the purchase of a retirement annuity is less than three thousand five hundred dollars (\$3,500), the distribution shall be in the form of cash.
- 6.4 DIRECT ROLLOVER OPTION. Effective as of January 1, 1992, any distribution or portion thereof payable to a Participant (or any other eligible distributee, if applicable) which is an "eligible rollover distribution" (as defined in Section 401(a)(31)(C) of the Code) shall be rolled over directly to another "eligible retirement plan" (as defined in Section 401(a)(31)(D) of the Code), if elected by the Participant (or such other eligible distributee, if applicable) according to rules and procedures adopted by the Administrator from time to time, so long as such rules and procedures comply with Section 401(a)(31) of the Code and any regulations promulgated thereunder.
- 6.5 DISTRIBUTION REQUIREMENTS.
- (a) The requirements of this Section shall apply to any distribution of a Participant's Accrued Benefit.
 - (b) The vested Accrued Benefit of a Participant shall be distributed (or shall commence being distributed) no later than the April 1st following the later of (1) the calendar year in which such Participant attains age 70½ or (2) the calendar year in which such Participant terminates employment with the Employer ("Required Beginning Date").

- (c) As of the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date ("Distribution Calendar Year"), distributions, if not made in a lump sum payment, may be made only (1) over a term certain not to exceed the life expectancy of the Participant or the joint life expectancies of the Participant and a designated Beneficiary, or (2) over the life of the Participant or the joint lives of the Participant and a designated Beneficiary. Notwithstanding the foregoing, distribution shall in no event extend beyond the maximum permissible period described in Treasury Regulation Section 1.401(a)(9)-2.
- (d) The minimum amount which must be distributed during each calendar year, commencing with the Distribution Calendar Year, must be at least an amount equal to the lesser of (1) the Participant's total distributable interest, or (2) the quotient obtained by dividing the Participant's total distributable interest at the beginning of each such calendar year (valued for this purpose as of the Valuation Date immediately preceding the first day of such calendar year, adjusted for contributions allocated and distributions made subsequent to such Valuation Date but prior to the first day of such calendar year) by the lesser of (A) the applicable life expectancy (as described below), or (B) if the Participant's Beneficiary is not his spouse, by the applicable divisor, as described in Treasury Regulation Section 1.401(a)(9)-2.
- (e) For purposes of calculating the applicable life expectancy, the following rules shall apply:
- (1) Life expectancies shall be calculated pursuant to Treasury Regulation Section 1.401(a)(9)-1, by the use of the return multiples contained in Treasury Regulation Section 1.72-9, or in such other manner as may otherwise be prescribed or permitted by law.
 - (2) For the Distribution Calendar Year, the Participant's life expectancy shall be determined based upon his attained age on his birthday during such Distribution Calendar Year. For the Distribution Calendar Year, the designated Beneficiary's life expectancy shall be determined based upon his attained age on his birthday during such Distribution Calendar Year.
 - (3) Except as provided in subsection (4) below, for each calendar year subsequent to the Distribution Calendar Year, the Participant's life expectancy and his designated Beneficiary's life expectancy, as determined with respect to the Distribution Calendar Year, shall be reduced by one for each calendar year which has begun since the Required Beginning Year.
 - (4) Notwithstanding the rules contained in subsection (3) above, the Participant may elect, prior to his Benefit Starting Date, to have his life expectancy, or the joint life expectancies of the Participant and his spouse (if his spouse is his Beneficiary), recalculated on an annual basis, based upon his (and, if applicable, his spouse's) attained age on his birthday (and, if applicable, his spouse's birthday) during the calendar year for which such recalculation is applicable. In no event, however, may the life expectancy of a non-spouse Beneficiary be recalculated.
- (f) Notwithstanding that distributions under the Plan may have commenced to the Participant before the Distribution Calendar Year, the Participant shall receive no credit under this Section 6.5 for such earlier distributions; rather, the total remaining distributable interest of the Participant, calculated as provided above at the beginning of the Distribution Calendar Year, shall be subject to the minimum distribution requirements contained in this Section 6.5.

(g) Notwithstanding the rules contained in this Section 6.5, if distribution hereunder is made under an annuity contract purchased from an insurance company, which contract provides for annual (or more frequent) nonincreasing (except as otherwise permitted under applicable Treasury Regulations) payments commencing no later than the April 1st following the Distribution Calendar Year and payable over a period permitted by Section 6.5(c), then the life expectancy of the Participant (and his Beneficiary, if applicable) shall be determined based upon the age of the Participant (and his Beneficiary, if applicable) as of the birthday occurring during the calendar year in which benefits commence, even if such calendar year is prior to the Participant's Distribution Calendar Year, and such calendar year shall be treated as the Distribution Calendar Year. In all events, distribution under any such annuity contract shall comply with the requirements of Section 401(a)(9) of the Code (and accompanying Treasury Regulations).

(h) With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2001, the Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Code in accordance with the Treasury Regulations under Section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the Plan to the contrary. This Section 6.5(h) shall continue in effect until the end of the last calendar year beginning before the effective date of final Treasury Regulations under Section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.

(i) Notwithstanding anything contained herein to the contrary, in the event that a Participant has validly elected a method of distribution other than one permitted under this Section 6.5, payments hereunder shall be made according to such method of distribution, provided that (1) such method was elected by the Participant prior to January 1, 1984, and (2) such method was permitted by law and by the terms of the Plan as of December 31, 1983.

6.6 **NON-TRANSFERABLE.** The Participant's right to any annuity payments, benefits and refunds is not transferable and shall be free from the claims of all creditors to the fullest extent permitted by law.

6.7 **DEATH DISTRIBUTION PROVISIONS.** Notwithstanding anything contained herein to the contrary, the payment of death benefits shall comply with the requirements of Section 401(a)(9) of the Code (and accompanying Treasury Regulations), and thus, the following rules shall apply to the extent required thereunder:

(a) In the event of a Participant's death prior to the April 1st following his Distribution Calendar Year (unless his benefits have irrevocably commenced under an annuity contract meeting the requirements of Section 6.5(g), in which case the provisions of this Section 6.7(a) shall not apply, but rather, the provisions of Section 6.7(b) shall apply), then death benefits, if any, attributable to such Participant shall be completely distributed to his Beneficiary no later than the last day of the calendar year containing the fifth anniversary of the Participant's death, subject to the exceptions contained in Sections 6.7(a)(1) and (2) below:

(1) If the Participant or Beneficiary has elected that death benefits be paid in installments over a term certain or over the life of the Beneficiary, then such distributions shall be made, as elected, over a term certain not to exceed the life expectancy of the Beneficiary or over the life of the Beneficiary, commencing in either case no later than the last day of the calendar year containing the first anniversary of the Participant's death. Such method of distribution must comply with Section 6.5, except that the applicable life expectancy shall be that of the Beneficiary.

(2) If the designated Beneficiary is the Participant's spouse, then the rules contained in Section 6.7(a)(1) above shall be modified as follows:

(A) The date distributions would otherwise be required to commence in accordance with Section 6.7(a)(1) above shall not be earlier than the later of (i) the last day of the calendar year containing the first anniversary of the Participant's death, or (ii) the last day of the calendar year in which the Participant would have attained age 70½.

(B) In the event of the spouse's death after the Participant but prior to the spouse's required benefit commencement date, as described in Section 6.7(a)(2)(A), (unless such spouse's benefits have irrevocably commenced under an annuity contract meeting the requirements of Section 6.5(g), but payable over a period permitted by Section 6.7(a), in which case the provisions of this Section 6.7(a)(2)(B) shall not apply, but rather, the provisions of Section 6.7(b) shall apply as if the spouse were the Participant), then subsequent distributions, if any, shall be subject to the 5-year or 1-year rule described above, whichever is applicable, but such rule shall be applied as if the spouse were the Participant; provided, however, that the rules contained in Section 6.7(a)(2)(A) shall not be available to the surviving spouse of the Participant's surviving spouse.

(b) In the event of a Participant's death (A) subsequent to the April 1st following his Distribution Calendar Year and subsequent to his actual commencement of benefits under a payment option other than an annuity contract described in Section 6.5(g), or (B) subsequent to the irrevocable commencement of benefits under an annuity contract meeting the requirements of Section 6.5(g), then any death benefits payable to the Participant's Beneficiary shall be distributed at least as rapidly as under the method of distribution being utilized as of the date of the Participant's death.

(c) With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2001, the Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Code in accordance with the Treasury Regulations under Section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the Plan to the contrary. This Section 6.7(c) shall continue in effect until the end of the last calendar year beginning before the effective date of final Treasury Regulations under Section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.

(d) Notwithstanding anything contained herein to the contrary, in the event a Participant or Beneficiary has validly elected a method of distribution other than one permitted under this Section 6.7, payments hereunder shall be made according to such method of distribution, provided that (1) such method was elected by the Participant or Beneficiary prior to January 1, 1984, and (2) such method was permitted by law and by the terms of the Plan as of December 31, 1983.

ARTICLE VII
RETIREMENT BENEFITS

- 7.1 **NORMAL RETIREMENT.** A Participant who attains his Normal Retirement Age shall have a Vesting Percentage of 100%. If a Participant retires from the active Service of the Employer on his Normal Retirement Date he shall receive a distribution of the entire value of his Participant's Account as of his Normal Retirement Date.
- 7.2 **LATE RETIREMENT.** A Participant may continue in the Service of the Employer after his Normal Retirement Age, and in such event he shall retire on his Late Retirement Date. Such Participant shall continue as a Participant under this Plan until such Late Retirement Date. The Participant shall have a Vesting Percentage of 100% and shall receive a distribution of the entire value of his Participant's Account as of his Late Retirement Date.
- 7.3 All distributions on account of retirement described in this Article shall be further subject to the terms and conditions of Article VI.

ARTICLE VII-A
DISABILITY BENEFITS

7.1A DISTRIBUTION. Upon a Participant's Disability, he shall have a Vesting Percentage of 100% but shall not receive a distribution of the entire value of his Participant's Account attributable to Employer contributions until death, normal retirement or Cessation of Disability without Re-employment, as provided in Articles VIII, VII and IX, respectively.

ARTICLE VIII
DEATH BENEFITS

8.1 FROM PARTICIPANTS' ACCOUNTS.

- (a) Death before Distribution. Upon the death of any Participant prior to the date of distribution on account of his retirement or his Termination of Employment, his Beneficiary shall receive a distribution of the entire value of the Participant's Account. Such distribution shall be further subject to the terms and conditions of Article VI, except that the Beneficiary shall have the right to elect the manner of distribution, unless designated otherwise by the Participant, or prohibited by further provisions contained in this Plan.
- (b) Death after Distribution. Upon the death of any Participant on or after the date of distribution on account of his retirement or his Termination of Employment, the death benefit, if any, attributable to his Participant's Account will be determined in accordance with the form of annuity, if any, provided for the Participant under the Annuity Contract.

8.2 BENEFCIARY. Each Participant shall have the right under the Annuity Contract to designate a Beneficiary and to specify the form of death benefit the Beneficiary is to receive. The Participant may change the Beneficiary and/or the form of death benefit at any time. If any distribution hereunder is made to a Beneficiary in the form of an annuity, then such Beneficiary shall also have the right to designate a Beneficiary and to change the Beneficiary from time to time.

If a Beneficiary has not been designated, or if no designated Beneficiary survives the Participant, the Participant's Account shall be distributed to the Participant's spouse, if living; otherwise in equal shares to any surviving children of the Participant. In the event none of the above named individuals survives the Participant, the Participant's Account shall be paid to the executor or administrator of the Participant's estate.

To the extent not inconsistent with the terms of this Plan, any payment made to a Beneficiary shall be further subject to the terms of the Annuity Contract.

ARTICLE IX
TERMINATION OF EMPLOYMENT

- 9.1 **DISTRIBUTION.** As of a Participant's Termination of Employment, he shall be entitled to receive a distribution of his entire Vested Interest. Such distribution shall be further subject to the terms and conditions of Article VI.

If at the time of Termination the Participant is not 100% vested, the non-vested portion of his Account shall be placed in a separate account and will become a Forfeiture, to be applied in accordance with Section 9.3, upon the date the terminated Participant incurs a 1-Year Break in Service.

- 9.2 **NO FURTHER RIGHTS OR INTEREST.** A Participant shall have no further interest in or any rights to any portion of his Participant's Account that becomes a Forfeiture due to his Termination of Employment once the Participant incurs a 1-Year Break in Service in accordance with Section 2.4.

- 9.3 **FORFEITURE.** Any Forfeiture shall be credited to the Forfeiture account upon the occurrence of a 1-Year Break in Service following the Participant's Termination of Employment.

Any amount in the Forfeiture account shall be used by the Employer to reduce and in lieu of the Employer Contribution next due under Section 4.1 at the earliest opportunity after such Forfeiture becomes available.

ARTICLE X
WITHDRAWALS

10.1 WITHDRAWALS - VOLUNTARY CONTRIBUTIONS. Provided that an Active Participant has made Voluntary Contributions in accordance with Section 4.4 for at least twenty-four consecutive months, he may elect to withdraw from his Participant's Account an amount which is equal to any whole percentage (not exceeding 100%) of the lesser of the amounts specified in (a) and (b) below, where:

- (a) is equal to the aggregate of his Voluntary Contributions which are at the time credited to his Participant's Account, and
- (b) is equal to the then value of that portion of his Participant's Account attributable to such Voluntary Contributions.

Such an election shall become effective in accordance with the Notification section below.

If a Participant elects a withdrawal under the provisions of this section, he may not elect another withdrawal under this section until he has made Voluntary Contributions under this Plan for an additional period of twenty-four consecutive months.

10.2 NOTIFICATION. The Participant shall notify the Administrator in writing of his election to make a withdrawal under Section 10.1. Any such election shall be effective as of the date specified in such notice, which date must be at least fifteen days after such notice is filed. Payment of the withdrawal shall be subject to the terms and conditions of Article VI.

10.3 NON-REPAYMENT. Withdrawals made in accordance with this Article X may not be repaid.

ARTICLE XI
FIDUCIARY DUTIES AND RESPONSIBILITIES

- 11.1 **GENERAL FIDUCIARY STANDARD OF CONDUCT.** Each Fiduciary of the Plan shall discharge his duties hereunder solely in the interest of the Participants and their Beneficiaries and for the exclusive purpose of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan. Each Fiduciary shall act with the care, skill, prudence and diligence under the circumstances that a prudent man acting in a like capacity and familiar with such matters would use in conducting an enterprise of like character and with like aims, in accordance with the documents and instruments governing this Plan, insofar as such documents and instruments are consistent with this standard.
- 11.2 **SERVICE IN MULTIPLE CAPACITIES.** Any person or group of persons may serve in more than one Fiduciary capacity with respect to this Plan.
- 11.3 **LIMITATIONS ON FIDUCIARY LIABILITY.** Nothing in this Plan shall be construed to prevent any Fiduciary from receiving any benefit to which he may be entitled as a Participant or Beneficiary in this Plan, so long as the benefit is computed and paid on a basis which is consistent with the terms of this Plan as applied to all other Participants and Beneficiaries. Nor shall this Plan be interpreted to prevent any Fiduciary from receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred in the performance of his duties with the Plan; except that no Person so serving who already receives full-time pay from an Employer shall receive compensation from this Plan, except for reimbursement of expenses properly and actually incurred.
- 11.4 **INVESTMENT MANAGER.** When an Investment Manager has been appointed pursuant to Section ~~12.7~~ 12.6 of this Plan, he is required to acknowledge in writing that he has undertaken a fiduciary responsibility with respect to the Plan. The Insurance Company's liability as a Fiduciary is limited to that arising from its management of any assets of the Plan held by the Insurance Company in its Separate Accounts.

ARTICLE XII
THE ADMINISTRATOR

~~12.1 DESIGNATION AND ACCEPTANCE. The Employer shall designate a Person or Persons to serve as Administrator under the Plan and such Person, by joining in the execution of this Plan accepts such appointment and agrees to act in accordance with the terms of the Plan.~~

~~12.2~~ DUTIES AND RESPONSIBILITY. The Administrator shall administer the Plan for the exclusive benefit of the Participants and their Beneficiaries in a nondiscriminatory manner subject to the specific terms of the Plan.

The Administrator shall perform all such duties as are necessary to operate, administer, and manage the Plan in accordance with the terms thereof. This shall include notification to the Insurance Company of any adjustment made to a Participant's Account in accordance with Article IV-A.

Furthermore, the Administrator shall take the necessary steps to notify the appropriate interested parties whenever an application is made to the Secretary of the Treasury for a determination letter in accordance with section 7476 of the Internal Revenue Code as amended.

~~12.3~~ 12.2 EXPENSES AND COMPENSATION. The expenses necessary to administer the Plan shall be borne by the Employer, including but not limited to those involved in retaining necessary professional assistance from an attorney, an accountant, an actuary, or an investment adviser. Nothing shall prevent the Administrator from receiving reasonable compensation for services rendered in administering this Plan, provided the Administrator is not a full-time Employee of ~~any the Employer adopting this Plan.~~

~~12.4~~ 12.3 INFORMATION FROM EMPLOYER. To enable the Administrator to perform his functions, the Employer shall supply full and timely information to the Administrator on all matters relating to this Plan as the Administrator may require.

~~12.5~~ 12.4 ADMINISTRATIVE COMMITTEE; MULTIPLE SIGNATURES. In the event that more than one person has been duly nominated to serve on the Administrative Committee and has signified in writing the acceptance of such designation, the signature(s) of one or more Persons may be accepted by an interested party as conclusive evidence that the Administrative Committee has duly authorized the action therein set forth and as representing the will of and binding upon the whole Administrative Committee. No Person receiving such documents or written instructions and acting in good faith and in reliance thereon shall be obliged to ascertain the validity of such action under the terms of this Plan. The Administrative Committee shall act by a majority of its members at the time in office and such action may be taken either by a vote at a meeting or in writing without a meeting.

~~12.6~~ 12.5 RESIGNATION AND REMOVAL; APPOINTMENT OF SUCCESSOR. ~~The A Person appointed by the City Manager to serve as Administrator, or any member of the Administrative Committee, may resign at any time by delivering to the Employer City Manager a written notice of resignation, to take effect at a date specified therein, which shall not be less than thirty (30) days after the delivery thereof, unless such notice shall be waived.~~

~~The A Person appointed by the City Manager to serve as Administrator may be removed with or without cause by the Employer City Manager by delivery of written notice of removal, to take effect at a date specified therein, which shall be not less than thirty (30) days after delivery thereof, unless such notice shall be waived.~~

~~The Employer City Manager, upon receipt of or giving notice of the resignation or removal of the a Person appointed by the City Manager to serve as Administrator, shall promptly designate a successor Person to serve as Administrator who must signify acceptance of this position in~~

~~writing. In the event no successor is appointed, the Board of Directors of the Employer City Manager will function as the Administrative Committee until a new Administrator has been appointed and has accepted such appointment. Administrator (until such time as the City Manager designates another Person to serve as Administrator).~~

~~12.7~~ 12.6 The Administrator shall have the power, to the extent permitted by law, to delegate the performance of such Fiduciary and non-Fiduciary duties, responsibilities and functions as the Administrator shall deem advisable for the proper management and administration of the Plan in the best interests of the Participants and their Beneficiaries.

ARTICLE XIII
PARTICIPANTS' RIGHTS

13.1 **GENERAL RIGHTS OF PARTICIPANTS AND BENEFICIARIES.** The Plan is established and the Plan assets are held for the exclusive purpose of providing benefits for such Employees and their Beneficiaries as have qualified to participate under the terms of the Plan.

13.2 **FILING A CLAIM FOR BENEFIT.** A Participant or Beneficiary or the Employer acting in his behalf, shall notify the Administrator of a claim of benefits under the Plan. Such request shall be in writing to the Administrator and shall set forth the basis of such claim and shall authorize the Administrator to conduct such examinations as may be necessary to determine the validity of the claim and to take such steps as may be necessary to facilitate the payment of any benefits to which the Participant or Beneficiary may be entitled under the terms of the Plan.

A decision by the Administrator shall be made promptly and not later than 90 days after the Administrator's receipt of the claim of benefits under the Plan, unless special circumstances require an extension of the time for processing in which case a decision shall be rendered as soon as possible, but not later than 90 days after receipt of the claim of benefits under the Plan.

13.3 **DENIAL OF CLAIM.** Whenever a claim for benefits by any Participant or Beneficiary has been denied by a Plan Administrator, a written notice, prepared in a manner calculated to be understood by the Participant, must be provided, setting forth (1) the specific reasons for the denial; (2) the specific reference to pertinent Plan provisions on which the denial is based; (3) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and (4) an explanation of the Plan's claim review procedure.

13.4 **REMEDIES AVAILABLE TO PARTICIPANTS.** A Participant or Beneficiary (1) may request a review by a Named Fiduciary, other than the Administrator, upon written application to the Plan; (2) may review pertinent Plan documents; and (3) may submit issues and comments in writing to a Named Fiduciary. A Participant or Beneficiary shall have 60 days after receipt by the claimant of written notification of a denial of a claim to request a review of a denied claim.

A decision by a Named Fiduciary shall be made promptly and not later than 60 days after the Named Fiduciary's receipt of a request for review, unless special circumstances require an extension of the time for processing in which case a decision shall be rendered as soon as possible, but not later than 120 days after receipt of a request for review. The decision on review by a Named Fiduciary shall be in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, and specific references to the pertinent Plan provisions on which the decision is based.

A Participant or Beneficiary shall be entitled, either in his own name or in conjunction with any other interested parties, to bring such actions in law or equity or to undertake such administrative actions or to seek such relief as may be necessary or appropriate to compel the disclosure of any required information, to enforce or protect his rights, to recover present benefits due to him or to clarify his rights to future benefits under the Plan.

13.5 **LIMITATION OF RIGHTS.** Participation hereunder shall not grant any Participant the right to be retained in the Service of the Employer or any other rights or interest in the Plan fund other than those specifically herein set forth.

13.6 **PARTICIPANT CONTRIBUTIONS.** Each Participant, regardless of his length of Service with the Employer, shall be fully vested (100%) at all times in any portion of his Participant's Account attributable to (a) and/or (b) below, as applicable:

(a) Voluntary Contributions; or

(b) Tax-free rollovers.

13.7 **MERGERS OR TRANSFERS.** In the case of any merger with or transfer of assets or liabilities to any other defined contribution plan after September 2, 1974, the following conditions must be met:

- (a) The sum of the Account balances in each plan shall equal the fair market value (determined as of the date of the merger or transfer) of the entire plan assets.
- (b) The assets of each plan shall be combined to form the assets of the plan as merged (or transferred).
- (c) Immediately after the merger (or transfer), each Participant in the plan merged (or transferred) shall have an Account balance equal to the sum of the Account balances the Participant had in the plans immediately prior to the merger (or transfer).

ARTICLE XIV
THE INSURANCE COMPANY

- 14.1 **DUTIES AND RESPONSIBILITIES.** The Insurance Company shall issue the Annuity Contract and thereby assumes all the duties and responsibilities set forth therein. The terms of the Annuity Contract may be changed as provided therein without amending this Plan, provided such changes shall conform to the requirements for qualification under Section 401(a) of the Internal Revenue Code, as amended from time to time.
- 14.2 **RELATION TO EMPLOYER, ADMINISTRATOR AND PARTICIPANT.** The Insurance Company may receive the statement of the Administrator or, if the Administrator so designates, the Employer, as conclusive evidence of any of the matters decided in the Plan and the Insurance Company shall be fully protected in taking or permitting any action on the basis thereof and shall incur no liability or responsibility for so doing. The Insurance Company shall not be required to question any action by the Employer or the Administrator or any Participant nor to determine that such action is properly taken under the Plan. The Insurance Company shall be fully discharged from any and all liability with respect to any payment to any Participant hereunder in accordance with the terms of the Annuity Contract. The Insurance Company shall not be required to take any action contrary to its normal rules and practices.

ARTICLE XV
AMENDMENT OR TERMINATION OF THE PLAN

15.1 AMENDMENT OF PLAN. The Employer shall have the right from time to time to modify or amend, in whole or in part any or all provisions of the Plan, ~~provided that the modification or amendment is signed by the Employer and the Administrator.~~ Upon any such modification or amendment, the Administrator shall be furnished a copy thereof. No amendment shall deprive any Participant or Beneficiary of any Vested Interest hereunder.

~~The period during which the election must be made in writing by the Participant shall begin no later than the date the Plan amendment is adopted and end no later than after the latest of the following dates~~

~~(a) The date which is 60 days after the day the amendment is adopted;~~

~~(b) The date which is 60 days after the day the amendment becomes effective;~~

~~(c) The date which is 60 days after the day the Participant is issued written notice of the amendment by the Employer or Administrator.~~

~~Such written election by a Participant shall be made to the Administrator, who shall then give written notice to the Insurance Company.~~

The City shall give notice to Participants prior to making any material changes to this Plan, except those required by statutes, and shall be available to receive and consider comments of Participants as to proposed changes. When the City Staff, City Council or a committee of the City Council has formulated the substance of a proposed material change, notice of the substance of the proposed change will be given to Participants at least sixty (60) days before City Council votes on the proposal. This notice will contain a "plain language" explanation of the substance of the proposed changes. Employees will have access to the Staff during such sixty (60) day period. If requested in writing by at least five (5) Participants, a meeting shall be held between the Staff and interested Participants at which time the Staff will explain the proposal and answer any questions. These questions and areas of concern must be submitted in writing by interested Participants at least five (5) days prior to the scheduled meeting. At least seven (7) days notice shall be given of the time and place of such meeting.

15.2 CONDITIONS OF AMENDMENT. The Employer shall not make any amendment which would cause the Plan to lose its status as a qualified plan within the meaning of Section 401(a) of the Internal Revenue Code.

15.3 TERMINATION OF THE PLAN. The Employer intends to continue the Plan indefinitely for the benefit of its Employees, but reserves the right to terminate the Plan at any time by resolution. Upon such termination, the liability of the Employer to make the Employer Contributions hereunder shall terminate.

15.4 FULL VESTING. Upon the termination or partial termination of the Plan, the rights of all affected Participants in and to the amounts credited to each such Participant's Account shall be 100% vested and nonforfeitable. Thereupon, each Participant shall receive a total distribution of his Participant's Account (including any amounts in the Forfeiture Account allocated in accordance with Section 15.5) in accordance with the terms and conditions of Article VI and the Annuity Contract.

15.5 APPLICATION OF FORFEITURES. Upon the termination of the Plan, any amount in the Forfeiture account which has not been applied as of such termination to reduce the Employer Contribution shall be credited on a pro rata basis to the Participant's Account of the then Active Participants in the same manner as the last Employer Contribution made under the Plan.

15.6 **SUBSEQUENT UNFAVORABLE DETERMINATION.** If the Employer is notified subsequent to initial favorable qualification that the Plan is no longer qualified within the meaning of Section 401(a) of the Internal Revenue Code, and if the Employer shall fail within a reasonable time to make any necessary changes in order that the Plan shall so qualify, the Participants' Accounts under the Annuity Contract shall be fully vested and nonforfeitable and shall be disposed of in the manner set forth in Sections 15.4 and 15.5 above; with respect to a Plan which is no longer qualified, all assets thereunder shall be segregated apart from all other assets held under the Annuity Contract for any other Employer.

ARTICLE XVI
SUBSTITUTION OF PLANS

- 16.1 **SUBSTITUTION OF PLANS.** Subject to the provisions of Section 13.7 the Employer may substitute an individually designed plan or a master or prototype plan for this Plan without terminating this Plan as embodied herein and this shall be deemed to constitute an amendment and restatement in its entirety of this Plan as heretofore adopted by the Employer; provided, however that the Employer shall have certified to the Insurance Company that this Plan is being continued on a restated basis which meets the requirements of Section 401(a) of the Internal Revenue Code and ERISA.
- 16.2 **TRANSFER OF ASSETS.** Upon 90 days written notification from the Employer (unless the Insurance Company shall accept a shorter period of notification) that a different plan meeting the requirements set forth in Section 16.1 above has been executed and entered into by the Administrator and the Employer, and after the Insurance Company has been furnished the Employer's certification in writing that the Employer intends to continue the Plan as a qualified plan under Section 401(a) of the Internal Revenue Code, the Insurance Company shall transfer the value of all Participants' Accounts under the Annuity Contract in accordance with the terms of the Annuity Contract, to the Employer or such person or persons as may be entitled to receive same. The Insurance Company may rely fully on the representations or directions of the Employer with respect to any such transfer made in accordance with such representations, instructions, or directions.

ARTICLE XVII
MISCELLANEOUS

- 17.1 NON-REVERSION. This Plan has been established by the Employer for the exclusive benefit of the Participants and their Beneficiaries. Except as otherwise provided in Section 17.7, under no circumstances shall any funds contributed hereunder at any time revert to or be used by the Employer, nor shall any such funds or assets of any kind be used other than for the benefit of the Participants or their Beneficiaries.
- 17.2 GENDER AND NUMBER. When necessary to the meaning hereof, and except when otherwise indicated by the context, either the masculine or the neuter pronoun shall be deemed to include the masculine, the feminine, and the neuter, and the singular shall be deemed to include the plural.
- 17.3 REFERENCE TO THE CODE. Any reference to any section of the Internal Revenue Code herein or to any other statute or law shall be deemed to include any successor law of similar import.
- 17.4 GOVERNING LAW. The Plan shall be governed and construed in accordance with the laws of the state where the Employer has its principal office Commonwealth of Virginia.
- 17.5 COMPLIANCE WITH THE CODE AND ERISA. This Plan is intended to comply with all requirements for qualification under the Internal Revenue Code, and if any provision hereof is subject to more than one interpretation or any term used herein is subject to more than one construction, such ambiguity shall be resolved in favor of that interpretation or construction, such ambiguity shall be resolved in favor of that interpretation or construction which is consistent with the Plan being so qualified. If any provision of the Plan is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions, and this Plan shall be construed and enforced as if such provision had not been included.
- 17.6 NON-ALIENATION. It is a condition of the Plan, and all rights of each Participant shall be subject thereto, that no right or interest of any Participant in the Plan shall be assignable or transferable in whole or in part, either directly or by operation of law or otherwise, including, but without limitation, execution, levy, garnishment, attachment, pledge, bankruptcy or in any manner, and no right or interest of any Participant in the Plan shall be liable for or subject to any obligation or liability of such Participant.
- 17.7 CONTRIBUTION RECAPTURE. Notwithstanding any other provisions of this Plan, ~~(1) in the case of a contribution which is made by an Employer by a mistake of fact, Section 17.1 shall not prohibit the return of such contribution to the Employer within one year after the payment of the contribution, and (2) if a contribution is conditioned upon the deductibility of the contribution under Section 404 of the Internal Revenue Code of 1986, then, to the extent the deduction is disallowed, Section 17.1 shall not prohibit the return to the Employer of such contribution (to the extent disallowed) within one year after the disallowance of the deduction.~~ The amount which may be returned to the Employer is the excess of (1) the amount contributed over (2) the amount that would have been contributed had there not occurred a mistake of fact or a mistake in determining the deduction. Earnings attributable to the excess contribution may not be returned to the Employer, but losses attributable thereto must reduce the amount to be so returned. Furthermore, if the withdrawal of the amount attributable to the mistaken contribution would cause the balance of the individual account of any Participant to be reduced to less than the balance which would have been in the account had the mistaken amount not been contributed, then the amount to be returned to the Employer would have to be limited so as to avoid such reduction.
- 17.8 DOMESTIC RELATIONS ORDERS. Notwithstanding any other provisions of this Plan, the Participant's Account may be segregated and distributed pursuant to a domestic relations order which creates or recognizes the existence of an alternate payee's right to receive all or a portion of the benefits payable to a Participant under the Plan.

RESOLUTION NO. 2035

WHEREAS, the City of Alexandria, Virginia, maintains the City of Alexandria Retirement Income Plan for Firefighters and Police Officers (the "Retirement Plan"); and

WHEREAS, the Retirement Plan is intended to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, on February 26, 2002, the City of Alexandria, Virginia, adopted an amended and restated plan document for the Retirement Plan in order to incorporate certain changes necessary for the Retirement Plan to retain its qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, the City of Alexandria, Virginia, now desires to adopt an amended and restated plan document for the Retirement Plan in order to incorporate certain additional changes deemed necessary or desirable for the Retirement Plan and the employee participants therein; and

WHEREAS, a copy of the amended and restated plan document for the Retirement Plan is attached to this Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF ALEXANDRIA, VIRGINIA:

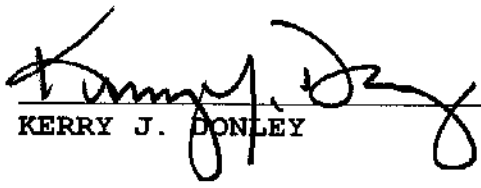
1. That the amended and restated plan document for the City of Alexandria Retirement Income Plan for Firefighters and Police Officers, a copy of which is attached to this Resolution, be, and hereby is, recognized, adopted and approved.

2. That the City Manager be, and hereby is, authorized and directed to make on behalf of the City of Alexandria any other changes to the Retirement Plan as amended and restated as may be requested by the Internal Revenue Service, or, based on advice of counsel, as are necessary or desirable for the Retirement Plan as amended and restated to continue qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended; and

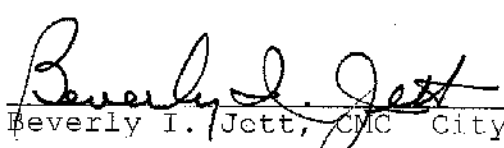
3. That the City Manager be, and hereby is, authorized and directed to execute such other forms, notices, instruments or other documents and to take such further action as may be necessary or desirable (1) to fully implement the Retirement Plan as amended and restated, (2) to ensure that the amended and restated Retirement Plan remains qualified under Section 401(a) of the Internal Revenue Code and (3) to obtain from the Internal Revenue Service a determination letter to the effect that the amended and restated Retirement Plan continues to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code; and

4. That this Resolution shall be effective immediately.

Adopted: June 25, 2002


KERRY J. DONLEY MAYOR

ATTEST:


Beverly I. Jett, CMC City Clerk

**CITY OF ALEXANDRIA RETIREMENT INCOME PLAN
FOR FIREFIGHTERS AND POLICE OFFICERS**

Amended and Restated Effective as
of December 31, 2001

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PREAMBLE

The City of Alexandria Retirement Income Plan for Firefighters and Police Officers, originally effective as of February 13, 1979, is hereby amended and restated in its entirety.

The terms of the Plan, as amended and restated, shall apply only with respect to Plan Years commencing after December 31, 2001; provided, however, that any provision which is contained in this amended and restated Plan (as the same may be further amended from time to time) and which is required to be effective before the effective date of this amended and restated Plan in order to retain the qualification of the Plan under Code Section 401(a) shall, nevertheless, be effective as of its required effective date under the Code.

Except as is otherwise explicitly provided in the Plan or as is required by applicable law, the terms of the Plan, as amended and restated, shall apply only with respect to employees of the Employer on and after December 31, 2001, and the rights, benefits and interests of any employee who died, retired or otherwise terminated his employment with the Employer prior to December 31, 2001, shall be determined under the provisions of the Plan as in effect on the date such former employee died, retired or otherwise terminated his employment with the Employer.

The Plan, as amended and restated hereby, is intended to qualify as a money purchase pension plan under Code Section 401(a) and is a governmental plan as described in Code Section 414(d). The Plan is maintained for the exclusive benefit of eligible employees and their beneficiaries.

ARTICLE I
DEFINITIONS

- 1.1 ACCRUED BENEFIT. The term Accrued Benefit means the value on any applicable date of the Participant's Account.
- 1.2 ACTIVE PARTICIPANT. The term Active Participant means any Participant who (a) performs duties as an Employee for the Employer, and (b) is not an Inactive Participant.
- 1.3 ADMINISTRATOR. The term Administrator means the City Manager or the Person or Persons designated by the City Manager in accordance with Section 2-5-51(d) of the City of Alexandria Code of Ordinances. If more than one Person is designated as the Administrator by the City Manager, the committee thus formed shall be known as the Administrative Committee and all references in the Plan to the Administrator shall be deemed to apply to the Administrative Committee. The Administrator shall signify in writing his acceptance of his responsibility as a Named Fiduciary.
- 1.4 ANNUITY CONTRACT. The term Annuity Contract means the group annuity contract issued by the Insurance Company to the Employer to fund the benefits provided under this Plan, as such contract may hereafter be amended from time to time in accordance with the terms thereof.
- 1.5 BENEFICIARY. The term Beneficiary means the beneficiary or beneficiaries entitled to any benefits under a Participant's Account hereunder upon the death of a Participant or a Beneficiary.
- 1.6 COMPENSATION. The term Compensation means the basic earnings paid by the Employer to the Employee for the period specified in the Plan. Effective as of January 1, 1996, Compensation with respect to any Plan Year shall in no event exceed the dollar limit specified in Section 401(a)(17) of the Code (as adjusted from time to time by the Secretary of the Treasury).
- 1.7 CONTRIBUTION PERIOD. The term Contribution Period means that regular period specified by the Employer for which Employer Contributions and Voluntary Contributions, if any, shall be made. No change in the Contribution Period may be made except as of a Renewal Date.
- 1.8 DISABILITY. The term Disability means a Participant's inability to perform the duties of his occupation because of a medically determinable physical or mental impairment. Such determination of Disability shall be made by the Administrator with the advice of a competent medical authority selected by the City and such determination shall correspond with the determination of disability under the Firefighters and Police Officers Disability Income Plan. All Participants in similar circumstances will be treated alike.

- 1.9 DISABILITY DATE. The term Disability Date means the first day of the month after the Administrator has determined that a Participant's inability to perform the duties of his occupation is a Disability.
- 1.10 EFFECTIVE DATE. The term Effective Date means February 13, 1979. The effective date of this restatement is December 31, 2001.
- 1.11 EMPLOYEE. The term Employee means any individual the employ of the Employer.
- 1.12 EMPLOYEE CONTRIBUTIONS. The term Employee Contributions means the amount for any Plan Year which is equal to his Voluntary Contributions.
- 1.13 EMPLOYER. The term Employer means the City of Alexandria.
- 1.14 ENTRY DATE. The term Entry Date means either the Effective Date or any date thereafter when an Employee who has fulfilled the eligibility requirements commences participation in the Plan.
- 1.15 FIXED ANNUITY. The term Fixed Annuity means an annuity providing a series of payments that are payable in specified dollar amounts.
- 1.16 FORFEITURE. The term Forfeiture means the amount, if any, by which the value of a Participant's Account exceeds his Vested Interest upon the occurrence of a 1-Year Break in Service following such Participant's Termination of Employment.
- 1.17 INACTIVE PARTICIPANT. The term Inactive Participant means any Participant who does not currently meet the requirements to be an Active Participant due to a suspension of the performance of duties for the Employer.
- 1.18 INSURANCE COMPANY. The term Insurance Company means Connecticut General Life Insurance Company, a legal reserve life insurance company of Hartford, Connecticut.
- 1.19 INVESTMENT FUNDS. The term Investment Funds means the Guaranteed Short Term Account, Guaranteed Long Term Account, Variable Account, and any other separate account made available under the Annuity Contract and designated by the Administrator for the investment of Plan assets.
- 1.20 JOINT AND SURVIVOR ANNUITY. The term Joint and Survivor Annuity means a monthly Fixed Annuity payable for the life of the Participant with a survivor annuity for the life of the Participant's spouse. The monthly annuity payment to the spouse shall be equal to 50% (or 100% if so elected by the Participant) of the amount which was payable to the Participant.

- 1.21 LATE RETIREMENT DATE. The term Late Retirement Date means the first day of the month coinciding with or next following the date a Participant is separated from Service with the Employer after his Normal Retirement Age, for any reason other than death.
- 1.22 NORMAL RETIREMENT AGE. The term Normal Retirement Age means the date the Participant attains age 60.
- 1.23 NORMAL RETIREMENT DATE. The term Normal Retirement Date means the first day of the month coinciding with or next following the date a Participant attains his Normal Retirement Age.
- 1.24 PARTICIPANT. The term Participant means any Employee of the Employer, who is or becomes eligible to participate under this Plan in accordance with its provisions and shall include an Active Participant and an Inactive Participant.
- 1.25 PARTICIPANT'S ACCOUNT. The term Participant's Account means each Participant's individual account maintained under the Annuity Contract by the Insurance Company in accordance with the terms of this Plan and the Annuity Contract. Each Participant's Account will be maintained so as to reflect the amount attributable to Employer Contributions and earnings thereon, the amount, if any, attributable to amounts transferred pursuant to Section 3.5 and earnings thereon, the amount, if any, attributable to assets transferred or rolled over to the Plan pursuant to Section 4.3 and earnings thereon, and the amount, if any, attributable to Employee Contributions and earnings thereon. Each Participant's Account shall be equal to the sum of the Investment Funds in which such account is invested.
- 1.26 PARTICIPANT'S GUARANTEED LONG TERM ACCOUNT. The term Participant's Guaranteed Long Term Account means that portion, if any, of the Participant's Account which is invested in the Insurance Company's general portfolio. The amount in the Guaranteed Long Term Account is invested primarily in bonds, mortgages and real estate. Such Participant's Guaranteed Long Term Account shall be credited with interest monthly in accordance with the terms of the Annuity Contract.
- 1.27 PARTICIPANT'S GUARANTEED SHORT TERM ACCOUNT. The term Participant's Guaranteed Short Term Account means that portion, if any, of the Participant's Account which is invested in the Insurance Company's Separate Account 20 (SA-20). Separate Account 20 may be invested in short-term money market instruments having maturities considered appropriate by Connecticut General. Such Participant's Guaranteed Short Term Account shall be credited with interest daily in accordance with the terms of the Annuity Contract.

- 1.28 **PARTICIPANT'S VARIABLE ACCOUNT.** The term Participant's Variable Account means that portion, if any, of the Participant's Account which is invested in the Insurance Company's Separate Account (SA-3). Separate Account 3 is invested primarily in common stocks. Such Participant's Variable Account shall be valued on each date that the New York Stock Exchange is for open for unrestricted trading and the Insurance Company is open to transact its normal business.
- 1.29 **PERSON.** The term Person means any natural person, partnership, corporation, trust or estate.
- 1.30 **PLAN.** The term Plan means the City of Alexandria Retirement Income Plan for Firefighters and Police Officers, the terms of which are set forth herein as it may be amended from time to time.
- 1.31 **PLAN YEAR.** The term Plan Year means the twelve-month period commencing on January 1 and ending the following December 31.
- 1.32 **PRIOR PLAN.** The term Prior Plan means the City of Alexandria Pension Plan for Firefighters and Police Officers.
- 1.33 **RENEWAL DATE.** The term Renewal Date means each January 1 as of which changes in the amount of any Voluntary Contributions may be made. Certain other determinations, transactions, and calculations shall also be made as of each Renewal Date, as more fully indicated in the body of the Plan.
- 1.34 **SEPARATE ACCOUNT.** The term Separate Account means either Separate Account 3 (Variable Account or SA-3) or Separate Account 20 (Guaranteed Short Term Account or SA-20) which are pooled separate accounts maintained by the Insurance Company with respect to a portion of its assets and which are included in the Annuity Contract.
- 1.35 **TERMINATION OF EMPLOYMENT.** The term Termination of Employment means a severance of the Employer-Employee relationship which occurs prior to a Participant's Normal Retirement Age for any reason other than Disability or death.
- 1.36 **VARIABLE ANNUITY.** The term Variable Annuity means an annuity providing a series of payments that increase or decrease to reflect changes in investment performance of the underlying portfolio.
- 1.37 **VESTED INTEREST.** The term Vested Interest on any date means the nonforfeitable right to an immediate or deferred benefit in the amount which is equal to the sum of (a), (b), (c) and (d) below:

- (a) The value on that date of that portion of the Participant's Account that is attributable to and derived from a Participant's own contributions, if any.
- (b) The value on that date of that portion of the Participant's Account attributable to assets transferred pursuant to Section 3.5, if any.
- (c) The value on that date of that portion of the Participant's Account attributable to assets transferred or rolled over to the Plan pursuant to Section 4.3, if any.
- (d) The value on that date of that portion of the Participant's Account that is attributable to and derived from Employer Contributions multiplied by his Vesting Percentage determined on the date applicable.

1.38 VESTING PERCENTAGE. The term Vesting Percentage means that Participant's nonforfeitable interest in Employer Contributions credited to his account plus the earnings thereon computed as of the date of determining such percentage because of the occurrence of some event in accordance with the following schedule based on Years of Service with the Employer:

<u>Years of Service</u>	<u>Vesting Percentage</u>
Less than 1	0%
1 but less than 2	20%
2 but less than 3	40%
3 but less than 4	60%
4 but less than 5	80%
5 or more	100%

Amounts attributable to the City of Alexandria Pension Plan for Firefighters and Police Officers which have been transferred from GR-574 to the Plan will at all times be 100% vested.

ARTICLE II
SERVICE

- 2.1 PERIOD OF SERVICE. The term Period of Service or Service means the Employer-Employee relationship which begins on the Employee's employment date and continues until his Severance from Service Date.
- 2.2 PERIOD OF SEVERANCE. The term Period of Severance means a period of time commencing on the Participant's Severance from Service Date and ending on the date such individual is re-employed by the Employer.
- 2.3 SEVERANCE FROM SERVICE DATE. The Severance from Service Date shall be the latest of (a), (b), or (c) below.
- (a) The date the Employee terminates employment by reason of a quit, discharge, Disability, retirement or death.
 - (b) Except to the extent provided in Section 2.7, the expiration date from Service on account of an authorized leave to join the United States Armed Forces provided the Employee does not return to work within 90 days of this date.
 - (c) The expiration date of an authorized leave.
- 2.4 1-YEAR BREAK IN SERVICE. The term 1-Year Break In Service shall mean a 12 consecutive month Period of Severance, beginning on the Employee's Severance from Service Date.
- 2.5 YEAR OF SERVICE. For the purpose of determining a Participant's Vesting Percentage, the term Year of Service shall mean Period of Service equaling 12 months. Service counted in computing Years of Service need not be consecutive or continuous, and all fractional Periods of Service shall be aggregated.
- 2.6 RE-EMPLOYMENT. An Employee who is rehired following a Disability shall be eligible to participate in the Plan immediately, provided he is still a member of an eligible class of employees. If such employee again becomes a Participant, all Years of Service shall be taken into account.
- An Employee who is rehired following a Termination of Employment shall be considered a new Employee for all purposes of the Plan.
- 2.7 QUALIFIED MILITARY SERVICE. Notwithstanding any provision of this Plan to the contrary, effective as of December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Code.

ARTICLE III
ELIGIBILITY, ENROLLMENT AND PARTICIPATION

- 3.1 **ELIGIBILITY.** Each Employee who was a Participant prior to the Effective Date and who is in the Service of the Employer on the Effective Date shall continue as a Participant in the Plan. Each other Employee shall be eligible to become a Participant as of the Effective Date or the Entry Date thereafter when he first meets the following requirements:
- classified as a Firefighter or Police Officer (excluding meter patrol officers) for the City of Alexandria and remains in a sworn police officer or firefighter classification.
- 3.2 **ENROLLMENT AND PARTICIPATION.** Each eligible Employee shall become a Participant as of his Entry Date and shall complete and deliver to the Administrator as soon as administratively convenient thereafter, an enrollment form provided by the Insurance Company.
- 3.3 **RE-EMPLOYED EMPLOYEE.** In the case of an individual who ceases to be an Employee and is subsequently rehired as an Employee, the following provisions shall apply in determining his eligibility to again participate in the Plan:
- (a) If the Employee had met the eligibility requirements specified in Section 3.1 prior to his separation from employment, he shall become an Active Participant in the Plan in accordance with Section 3.2 as of the date he is re-employed.
 - (b) If the Employee had not met the eligibility requirements specified in Section 3.1 prior to his separation from employment, he shall be eligible to participate in the Plan on the first Entry Date following his fulfillment of such eligibility requirements.
- 3.4 In the event a Participant becomes ineligible to participate because he is no longer a member of an eligible class of Employees, such Employee shall participate immediately upon his return to an eligible class of Employees.
- 3.5 **PRIOR PLAN PARTICIPANTS.** Each employee who was a Participant under the Prior Plan as of February 13, 1979, may elect to transfer his coverage to this Plan, subject to the transfer provisions as set forth in the Prior Plan.

ARTICLE IV
CONTRIBUTIONS

- 4.1 EMPLOYER CONTRIBUTIONS. The Employer shall contribute on behalf of each Participant who was an Active Participant on any day of the Contribution Period, an amount equal to 20% of his Compensation for each Contribution Period, subject to the limitation on allocations in accordance with Article IV-A.

The Employer Contribution shall be paid to the Insurance Company at the end of the Contribution Period and shall be reduced by the amount of any Forfeitures available in accordance with Section 9.3.

Unless elected otherwise in accordance with the terms of the Annuity Contract the Employer will contribute to the Plan the amount necessary to pay the expense charges and administration charges described in the Annuity Contract.

- 4.2 CREDITING OF EMPLOYER CONTRIBUTIONS. The Employer Contribution, exclusive of any Annuity Contract charges, shall be credited to the Participant Account of each Participant for whom such Contribution was made, in accordance with the provisions of Article V.

- 4.3 ROLLOVERS AND TRANSFERS. With the written permission of the Administrator and without regard to the limitations imposed under Article IV-A, the Employer may receive assets to be held under the Annuity Contract for the benefit of a Participant which were (1) received by the Participant from another qualified retirement plan or conduit individual retirement account or annuity and were transferred by the Participant to the Fund, provided that such assets qualify under all of the requirements for a rollover contribution as described in any applicable provisions of the Code, or (2) transferred directly from the trustee or other fiduciary of another qualified retirement plan, or in a conduit individual retirement account or annuity, to the Trustee of this Plan. In no event shall the Administrator be required to approve any direct transfer of assets from a plan to be held under this Plan if the Administrator, in its discretion, determines that the acceptance of any such assets may adversely affect the continued qualification of the Plan.

- 4.4 VOLUNTARY CONTRIBUTIONS BY PARTICIPANTS. Each Active Participant may elect to make periodic Voluntary Contributions under the Plan twice each Plan Year by completing and delivering to the Administrator a payroll deduction order provided by the Insurance Company. An Active Participant may elect to make Voluntary Contributions as of his Entry Date or as of any Renewal Date thereafter, and he may designate an amount equal to a percentage (not more than 10% but not less than \$10.00 per pay period) of his Compensation for the Contribution Period as his Voluntary Contribution under the Plan.

Voluntary Contributions shall be deducted by the Employer from the Participant's earnings while he has a payroll deduction order in effect and shall be paid by the Employer to the Insurance Company not less frequently than monthly or four weekly.

Each Participant's Voluntary Contributions to all qualified plans of the Employer shall not exceed 10% of said Participant's aggregate Compensation computed from his Entry Date.

- 4.5 **ADDITIONAL VOLUNTARY CONTRIBUTIONS.** An Active Participant who is making Voluntary Contributions under the Plan may elect to make an additional Voluntary Contribution in a lump sum. Such additional Voluntary Contributions may be made (1) as of the Effective Date; or (2) as of any Renewal Date thereafter provided election is made as of any date which is thirty days before such Renewal Date, in an amount up to, but not in excess of, the difference between (a) 10% of the aggregate of his Compensation while an Active Participant under the Plan, and (b) the aggregate of his Voluntary Contributions made under the Plan prior to such date. For the purposes of determining such amount, Compensation paid to the Participant during the twenty-four month period following a cancellation of Voluntary Contributions shall not be taken into account.

Additional Voluntary Contributions shall be paid by the Employer to the Insurance Company within thirty days after the date such additional Voluntary Contribution is made by the Participant and shall be reported on the appropriate form furnished by the Insurance Company. Additional Voluntary Contributions shall be considered Voluntary Contributions for all other purposes of the Plan, and shall be subject to the terms thereof.

- 4.6 **CREDITING VOLUNTARY CONTRIBUTIONS.** Each Participant's Voluntary Contributions, if any, shall be credited to his Participant's Account in accordance with the provisions of Article V.

- 4.7 **SUSPENSION OF VOLUNTARY CONTRIBUTIONS BY PARTICIPANTS.** The following provisions shall apply with respect to suspension of Voluntary Contributions, if any, by Participants:

- (a) **Voluntary Suspension.** An Active Participant may elect to suspend his payroll deduction order for Voluntary Contributions by filing a written notice thereof with the Administrator at any time. Such notice shall be effective, and his Voluntary Contributions shall be suspended, on the date specified in such notice, which date must be at least fifteen days after such notice is filed. The notice shall specify the period for which such suspension shall be effective, but such period shall be for not less than three months nor more than twenty-four months. A longer period of

suspension of Voluntary Contributions may be approved by the Administrator.

- (b) Suspension for Leave. A Participant who is absent from employment on account of an authorized leave of absence or military leave shall, except as otherwise provided in Section 2.7, be an Inactive Participant and have his payroll deduction order for Voluntary Contributions suspended during such leave. Such suspension of Contributions shall be effective on the date that payment of Compensation by the Employer to him ceases and shall remain in effect until payment of Compensation is resumed.
- (c) Involuntary Suspension. An Active Participant who ceases to meet the eligibility requirements as specified in Section 3.1 but who remains in the employ of the Employer, shall become an Inactive Participant and have his payroll deduction order for his Voluntary Contributions suspended, effective as of the date he ceases to meet the eligibility requirements. Such suspension shall remain in effect until he again meets such eligibility requirements.

At the expiration of the suspension period described in (a), (b) or (c) above, the Participant's payroll deduction order for Voluntary Contributions shall automatically become effective again and the Participant shall resume making Voluntary Contributions. If, however, the Participant does not resume making Voluntary Contributions at the expiration of the suspension period, the terms of Cancellation of Voluntary Contributions shall apply.

- 4.8 CANCELLATION OF VOLUNTARY CONTRIBUTIONS. A Participant may cancel his payroll deduction order for Voluntary Contributions by filing written notice thereof with the Administrator at any time. With the written permission of the Participant, such cancellation of his Voluntary Contributions shall be effective on the date specified in such notice, which date must be at least fifteen days after such notice is filed.

On the effective date of such cancellation, an amount equal to the then value of that portion of his Participant's Account attributable to his Voluntary Contributions, including any gains thereon, shall be distributed to the Participant in accordance with the terms and conditions of Article VI.

Any Participant who has cancelled his payroll deduction order for Voluntary Contributions may elect to again make Voluntary Contributions under this Plan by completing and delivering to the Administrator a new payroll deduction order as if it were an original election in accordance with the terms of Section 4.4. Such election shall be effective on the date specified in such notice, which date must be at least fifteen days after such notice is filed and at least twenty-four months after the date the Participant's Voluntary Contributions were last previously cancelled.

ARTICLE IV-A
LIMITATIONS ON ALLOCATIONS

4A.1 LIMITATIONS ON ALLOCATIONS. Definitions - The following definitions are atypical terms which refer only to terms used in the Limitation on Allocations sections of this Article IV-A.

- (a) Annual Addition - The term Annual Additions shall mean for any Limitation Year commencing on or after January 1, 1987, the sum of those amounts allocated to the Participant's Account under this Plan and under any other qualified defined contribution plan to which the Employer contributes for any Limitation Year, consisting of (1) Employer Contributions, (2) Employee Contributions and (3) forfeitures. In addition to the foregoing, Annual Additions shall also include (1) any amounts allocated to such Participant's individual medical account, as defined in Section 415(l)(1) of the Code, which is part of a defined benefit plan maintained by the Employer, and (2) any contributions paid or accrued after December 31, 1985, in taxable years ending after such date, which are attributable to post-retirement medical benefits allocated to the separate account of such Participant (if he is a key employee, as defined in Section 419A(d)(3) of the Code) under a welfare benefit fund, as defined in Section 419(e) of the Code, maintained by the Employer.
- (b) Compensation - The term Compensation shall mean compensation, as defined in Code Section 415(c)(3) and regulations issued thereunder. Effective for Limitation Years beginning on or after January 1, 1998, the term Compensation shall include elective deferrals within the meaning of Code Section 402(g)(3) or amounts not otherwise includible in gross income under Code Sections 125, 457 or, effective January 1, 2001, 132(f)(4). For purposes of applying the Limitations of this Article, Compensation for a Limitation Year is the Compensation actually paid or includible in gross income during such year.
- (c) Employer - The term Employer shall mean the City of Alexandria and any other employer who is required to be treated as a single employer with the City under Section 414(b), (c), (m) or (o) of the Code. All such employers shall be considered a single employer for purposes of applying the limitations of this Article.
- (d) Limitation Year - The term Limitation Year shall mean the Plan Year.

4A.2 LIMITATIONS ON ALLOCATIONS. Notwithstanding anything contained herein to the contrary, the total Annual Additions credited to a Participant's Account under this Plan (and under all other defined contribution plans, defined benefit plans and welfare benefit funds to which the Employer contributes) for any Limitation Year commencing on or after January 1, 1995, shall in no event

exceed the lesser of (i) \$30,000 (adjusted as provided in Section 415(d) of the Code) or (ii) 25 percent of the Participant's Compensation. In the event that the limitations on Annual Additions described above are exceeded with respect to any Participant in any Limitation Year due to forfeiture allocations, a reasonable error in estimating a Participant's annual compensation, or such other circumstances as are permitted by law, then the contributions allocable to the Participant for such Limitation Year shall be reduced to the minimum extent required by such limitations in the following order of priority (unless otherwise determined by the Administrator according to applicable law):

- (a) All excess Annual Additions attributable first to Employee Contributions (plus attributable earnings) shall be distributed to such Participant.
- (b) If such Participant is covered by the Plan as of the end of the Limitation Year in which such excess arose, all excess Annual Additions allocated to such Participant's Account shall, be used as soon as possible to reduce Employer Contributions allocable to such Participant in the next and succeeding Limitation Years.
- (c) If the Participant is not covered by the Plan as of the end of the Limitation Year in which the excess arose (or any succeeding Limitation Year, if applicable), then such excess amounts shall be credited to an account designated as the limitations account and carried forward to the next and succeeding Limitation Years and shall be used as soon as possible to reduce Employer Contributions for all remaining Participants in the Plan. No investment gains or losses or other income shall be allocated to this limitations account. In the next succeeding Limitation Year, all amounts in the limitations account must be allocated before any Employer Contributions may be made to the Plan for any such Limitation Year.
- (d) The Administrator shall determine to what extent the Annual Additions to any Participant's Account must be reduced in each Limitation Year. In the event the Employer maintains any other plan to which Annual Additions may be credited, and a Participant participates in both plans during any Limitation Year, then the Administrator shall reduce the Annual Additions to such other plan before reducing Annual Additions to this Plan.
- (e) In the event this Plan is terminated, any amounts credited to the limitations account described above which have not been reallocated as set forth herein shall, upon the Employer's request, be returned to the Employer.

To the extent a Participant's benefit is subject to provisions of Section 415 of the Code which have not been set forth in the Plan, such provisions are hereby incorporated by reference into this Plan and for all purposes shall be deemed a part of the Plan.

ARTICLE V
ANNUITY CONTRACT AND PARTICIPANT'S ACCOUNT

- 4.1 ANNUITY CONTRACT. The Employer shall apply for and take the necessary steps to obtain the Annuity Contract from the Insurance Company. All Contributions under the terms of this Plan shall be paid to the Insurance Company in accordance with the further terms of this Plan. All payments to Participants and/or Beneficiaries, payable under the terms of the Plan out of Participants' Accounts, will be paid by the Insurance Company in accordance with the terms of Article VI.
- 4.2 PARTICIPANT'S ACCOUNT. A Participant's Account shall be maintained on behalf of each Participant until such account is used to provide an annuity, or distributed in accordance with the further terms of this Plan and the terms of the Annuity Contract.
- 4.3 PARTICIPANT DIRECTED INVESTMENT OF ACCOUNTS. This Section 5.3 shall apply except to the extent provided in Section 5.4.
- (a) Subject to the provisions of Section 5.4, and subject to such limitations as may from time to time be required by law, imposed by the Administrator or contained elsewhere in the Plan, and subject to such operating rules and procedures as may be imposed from time to time by the Administrator (or the Insurance Company), each Participant (including for this purpose former Participants with a deferred vested benefit, Beneficiaries and/or an alternate payee under a domestic relations order in which a Participant's Account has been validly divided into separate accounts for the Participant and alternate payee) shall have the right to direct the investment of his Participant Account in accordance with the following:
- (b) The Administrator shall designate the Investment Funds offered by the Insurance Company from among which each Participant may direct the investment of his Participant Account. The Administrator may, in its absolute discretion change, modify or limit such Investment Funds and may establish uniform rules and procedures to be followed with respect to the investment of Participants' Accounts in such Investment Funds.
- (c) The Administrator shall determine the manner, period, and frequency of investment elections (e.g., daily, weekly, or monthly). Different terms and conditions may be specified for different Investment Funds (e.g., monthly elections for one Investment Fund and daily elections for another Investment Fund). Any term or condition imposed by the Administrator may apply to an entire Participant's Account or may be applied separately to different subaccounts, different Investment Funds or to different types of contributions (e.g., future contributions versus the current balance of a Participant's Account). Except as the Administrator shall otherwise

determine, any initial or subsequent investment designation shall be in writing, on a form supplied by and filed with the Administrator (or the Insurance Company), and shall be effective on such date as may be specified by the Administrator (or the Insurance Company). The Administrator may provide for telephone or other electronic investment designations to the extent that such facilities are made available by the Insurance Company, and may establish (and thereafter change) a limit on the number of designations that may be made by any Participant during a specified period.

- (d) All contributions and other amounts added to a Participant's Account (except for investment earnings) shall be allocated among the separate Investment Funds in accordance with the then effective investment designation. Except as the Administrator shall otherwise determine, any distributions shall be taken proportionately from each separate Investment Fund in which the Participant's Account is invested at the time of the distribution. As of the effective date of any new investment designation, the entire balance of the Participant's Account at that date shall be reallocated among the designated investment media according to the percentages specified in the investment designations (unless the Administrator permits, and the Participant has designated, different allocations as between existing balances and future contributions), but no reallocations of the Participant's Account are to be made merely to adjust for disproportionate investment growth among such funds (other than in response to a subsequent investment designation filed with respect to the Participant's Account).
- (e) In the event the Administrator (or the Insurance Company) receives an initial or revised investment designation which it deems to be incomplete, unclear, not in accordance with procedures established pursuant to this Section or otherwise improper, the Participant's investment designation then in effect shall remain in effect (or, in the case of a deficiency in an initial designation, the Participant shall be deemed to have filed no designation) until a complete investment designation is filed in accordance with the rules and procedures established by the Administrator (or the Insurance Company).
- (f) It is intended that each Participant be required to direct the investment of his Participant's Account to the extent set forth in this Section. In the event that the Administrator (or the Insurance Company) possesses at any time instructions as to the investment of less than all of a Participant's Account, the Participant shall be deemed to have designated that the non-directed portion of his Account be invested in the Guaranteed Long Term Account (or if the Guaranteed Long Term Account is not available, then in the separate Investment Fund which most closely resembles a money market or stable asset fund). To the extent that the Administrator finds it to be

administratively appropriate to hold a portion of the assets of the Plan out of the operation of this Section, or to the extent that the operation of this Section is suspended or terminated with respect to any portion of the assets of the Plan as aforesaid, then the Administrator shall direct the Insurance Company with respect to the investment.

(g) The Administrator may determine at any time to vary the rules provided above to accord with the requirements of any Investment Fund, for ease in administration, or for any other reason.

(h) Neither the Administrator, the Employer, the Insurance Company nor any other person who may be deemed a fiduciary hereunder shall have any responsibility to determine the appropriateness of any individual Participant's investment direction.

5.4 AUTOMATIC INVESTMENT IN GUARANTEED LONG TERM ACCOUNT. Until May 30, 2002, in the case of a Participant with less than five Years of Service, the portion of the Participant Account that is attributable to Employer Contributions and earnings thereon shall be invested in the Guaranteed Long Term Account. Effective as of June 1, 2002, a Participant with less than five Years of Service shall direct the investment of his entire Participant Account in accordance with, and subject to, the provisions of Section 5.3.

5.5 ACCOUNT STATEMENTS. Once during each year the Insurance Company shall furnish the Administrator and each Participant with a written report of the value of each Investment Fund in which the Participant's Account is invested.

ARTICLE VI
DISTRIBUTION OF BENEFITS

- 6.1 DISTRIBUTIONS IN GENERAL. All distributions hereunder, whether in the form of an annuity or cash, or a combination thereof, shall be made by the Insurance Company as of the date specified, in accordance with the terms and conditions set forth in the Annuity Contract. The Insurance Company shall be entitled to receive written instructions and proper notice from the Administrator with respect to any distribution and shall not be required to make such distribution until such instructions have been received in a form which in the opinion of the Insurance Company is sufficiently clear with respect to the distributions required.
- 6.2 PAYMENT OF BENEFITS. Unless the Participant elects otherwise, the payment of benefits under this Plan to the Participant shall begin not later than the 60th day after the close of the Plan Year in which the later of (a) or (b) occurs.
- (a) The date on which the Participant attains his Normal Retirement Age; or
 - (b) The date on which the Participant terminates his Service (including Termination of Employment, death or Disability) with the Employer.
- 6.3 The rules and procedures for electing the timing and form of distribution effective for each Participant or Beneficiary shall be formulated and administered by the Administrator in a consistent manner for all Participants in similar circumstances. The distribution shall normally be made in the form of an annuity. However, with respect to that portion of the distribution attributable to Employer Contributions, the Administrator shall have the right to specify that each Participant may elect a distribution in the form of cash or a combination of cash and an annuity. With respect to that portion of the distribution attributable to Employee Contributions, the Participant shall have the right to elect the manner of distribution. Any annuity elected in accordance with this Section may be a Fixed Annuity, or a Variable Annuity, or a combination of both.

Notwithstanding the foregoing paragraph, if the value of the Participant's Account available for the purchase of a retirement annuity is less than three thousand five hundred dollars (\$3,500), the distribution shall be in the form of cash.

- 6.4 DIRECT ROLLOVER OPTION. Effective as of January 1, 1992, any distribution or portion thereof payable to a Participant (or any other eligible distributee, if applicable) which is an "eligible rollover distribution" (as defined in Section 401(a)(31)(C) of the Code) shall be rolled over directly to another "eligible retirement plan" (as defined in Section 401(a)(31)(D) of the Code), if elected by the Participant (or such other eligible distributee, if applicable) according to rules and procedures adopted by the Administrator from time to

time, so long as such rules and procedures comply with Section 401(a)(31) of the Code and any regulations promulgated thereunder.

6.5 DISTRIBUTION REQUIREMENTS.

- (a) The requirements of this Section shall apply to any distribution of a Participant's Accrued Benefit.
- (b) The vested Accrued Benefit of a Participant shall be distributed (or shall commence being distributed) no later than the April 1st following the later of (1) the calendar year in which such Participant attains age 70½ or (2) the calendar year in which such Participant terminates employment with the Employer ("Required Beginning Date").
- (c) As of the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date ("Distribution Calendar Year"), distributions, if not made in a lump sum payment, may be made only (1) over a term certain not to exceed the life expectancy of the Participant or the joint life expectancies of the Participant and a designated Beneficiary, or (2) over the life of the Participant or the joint lives of the Participant and a designated Beneficiary. Notwithstanding the foregoing, distribution shall in no event extend beyond the maximum permissible period described in Treasury Regulation Section 1.401(a)(9)2.
- (d) The minimum amount which must be distributed during each calendar year, commencing with the Distribution Calendar Year, must be at least an amount equal to the lesser of (1) the Participant's total distributable interest, or (2) the quotient obtained by dividing the Participant's total distributable interest at the beginning of each such calendar year (valued for this purpose as of the Valuation Date immediately preceding the first day of such calendar year, adjusted for contributions allocated and distributions made subsequent to such Valuation Date but prior to the first day of such calendar year) by the lesser of (A) the applicable life expectancy (as described below), or (B) if the Participant's Beneficiary is not his spouse, by the applicable divisor, as described in Treasury Regulation Section 1.401(a)(9)-2.
- (e) For purposes of calculating the applicable life expectancy, the following rules shall apply:
 - (1) Life expectancies shall be calculated pursuant to Treasury Regulation Section 1.401(a)(9)-1, by the use of the return multiples contained in Treasury Regulation Section 1.729, or in such other manner as may otherwise be prescribed or permitted by law.

- (2) For the Distribution Calendar Year, the Participant's life expectancy shall be determined based upon his attained age on his birthday during such Distribution Calendar Year. For the Distribution Calendar Year, the designated Beneficiary's life expectancy shall be determined based upon his attained age on his birthday during such Distribution Calendar Year.
 - (3) Except as provided in subsection (4) below, for each calendar year subsequent to the Distribution Calendar Year, the Participant's life expectancy and his designated Beneficiary's life expectancy, as determined with respect to the Distribution Calendar Year, shall be reduced by one for each calendar year which has begun since the Required Beginning Year.
 - (4) Notwithstanding the rules contained in subsection (3) above, the Participant may elect, prior to his Benefit Starting Date, to have his life expectancy, or the joint life expectancies of the Participant and his spouse (if his spouse is his Beneficiary), recalculated on an annual basis, based upon his (and, if applicable, his spouse's) attained age on his birthday (and, if applicable, his spouse's birthday) during the calendar year for which such recalculation is applicable. In no event, however, may the life expectancy of a non-spouse Beneficiary be recalculated.
- (e) Notwithstanding that distributions under the Plan may have commenced to the Participant before the Distribution Calendar Year, the Participant shall receive no credit under this Section 6.5 for such earlier distributions; rather, the total remaining distributable interest of the Participant, calculated as provided above at the beginning of the Distribution Calendar Year, shall be subject to the minimum distribution requirements contained in this Section 6.5.
- (f) Notwithstanding the rules contained in this Section 6.5, if distribution hereunder is made under an annuity contract purchased from an insurance company, which contract provides for annual (or more frequent) nonincreasing (except as otherwise permitted under applicable Treasury Regulations) payments commencing no later than the April 1st following the Distribution Calendar Year and payable over a period permitted by Section 6.5(c), then the life expectancy of the Participant (and his Beneficiary, if applicable) shall be determined based upon the age of the Participant (and his Beneficiary, if applicable) as of the birthday occurring during the calendar year in which benefits commence, even if such calendar year is prior to the Participant's Distribution Calendar Year, and such calendar year shall be treated as the Distribution Calendar Year. In all events, distribution under any such annuity contract shall comply with

the requirements of Section 401(a)(9) of the Code (and accompanying Treasury Regulations).

- (g) With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2001, the Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Code in accordance with the Treasury Regulations under Section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the Plan to the contrary. This Section 6.5(h) shall continue in effect until the end of the last calendar year beginning before the effective date of final Treasury Regulations under Section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.
- (h) Notwithstanding anything contained herein to the contrary, in the event that a Participant has validly elected a method of distribution other than one permitted under this Section 6.5, payments hereunder shall be made according to such method of distribution, provided that (1) such method was elected by the Participant prior to January 1, 1984, and (2) such method was permitted by law and by the terms of the Plan as of December 31, 1983.

6.6 NON-TRANSFERABLE. The Participant's right to any annuity payments, benefits and refunds is not transferable and shall be free from the claims of all creditors to the fullest extent permitted by law.

5.7 DEATH DISTRIBUTION PROVISIONS. Notwithstanding anything contained herein to the contrary, the payment of death benefits shall comply with the requirements of Section 401(a)(9) of the Code (and accompanying Treasury Regulations), and thus, the following rules shall apply to the extent required thereunder:

- (a) In the event of a Participant's death prior to the April 1st following his Distribution Calendar Year (unless his benefits have irrevocably commenced under an annuity contract meeting the requirements of Section 6.5(g), in which case the provisions of this Section 6.7(a) shall not apply, but rather, the provisions of Section 6.7(b) shall apply), then death benefits, if any, attributable to such Participant shall be completely distributed to his Beneficiary no later than the last day of the calendar year containing the fifth anniversary of the Participant's death, subject to the exceptions contained in Sections 6.7(a)(1) and (2) below:

- (1) If the Participant or Beneficiary has elected that death benefits be paid in installments over a term certain or over the life of the Beneficiary, then such distributions shall be made, as elected, over a term certain not to exceed the life expectancy of the Beneficiary or over the life of the Beneficiary, commencing in either case no later than the last day of the calendar year containing the first

anniversary of the Participant's death. Such method of distribution must comply with Section 6.5, except that the applicable life expectancy shall be that of the Beneficiary.

(2) If the designated Beneficiary is the Participant's spouse, then the rules contained in Section 6.7(a)(1) above shall be modified as follows:

(A) The date distributions would otherwise be required to commence in accordance with Section 6.7(a)(1) above shall not be earlier than the later of (i) the last day of the calendar year containing the first anniversary of the Participant's death, or (ii) the last day of the calendar year in which the Participant would have attained age 70½.

(B) In the event of the spouse's death after the Participant but prior to the spouse's required benefit commencement date, as described in Section 6.7(a)(2)(A), (unless such spouse's benefits have irrevocably commenced under an annuity contract meeting the requirements of Section 6.5(g), but payable over a period permitted by Section 6.7(a), in which case the provisions of this Section 6.7(a)(2)(B) shall not apply, but rather, the provisions of Section 6.7(b) shall apply as if the spouse were the Participant), then subsequent distributions, if any, shall be subject to the 5-year or 1-year rule described above, whichever is applicable, but such rule shall be applied as if the spouse were the Participant; provided, however, that the rules contained in Section 6.7(a)(2)(A) shall not be available to the surviving spouse of the Participant's surviving spouse.

(f) In the event of a Participant's death (A) subsequent to the April 1st following his Distribution Calendar Year and subsequent to his actual commencement of benefits under a payment option other than an annuity contract described in Section 6.5(g), or (B) subsequent to the irrevocable commencement of benefits under an annuity contract meeting the requirements of Section 6.5(g), then any death benefits payable to the Participant's Beneficiary shall be distributed at least as rapidly as under the method of distribution being utilized as of the date of the Participant's death.

(g) With respect to distributions under the Plan made for calendar years beginning on or after January 1, 2001, the Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Code in accordance with the Treasury Regulations under Section 401(a)(9) that were proposed on January 17, 2001, notwithstanding any provision of the Plan to the contrary. This Section 6.7(c) shall continue in effect until the end of the last calendar year beginning before the effective date of final Treasury

Regulations under Section 401(a)(9) or such other date as may be specified in guidance published by the Internal Revenue Service.

- (h) Notwithstanding anything contained herein to the contrary, in the event a Participant or Beneficiary has validly elected a method of distribution other than one permitted under this Section 6.7, payments hereunder shall be made according to such method of distribution, provided that (1) such method was elected by the Participant or Beneficiary prior to January 1, 1984, and (2) such method was permitted by law and by the terms of the Plan as of December 31, 1983.

ARTICLE VII
RETIREMENT BENEFITS

- 7.1 NORMAL RETIREMENT. A Participant who attains his Normal Retirement Age shall have a Vesting Percentage of 100%. If a Participant retires from the active Service of the Employer on his Normal Retirement Date he shall receive a distribution of the entire value of his Participant's Account as of his Normal Retirement Date.
- 7.2 LATE RETIREMENT. A Participant may continue in the Service of the Employer after his Normal Retirement Age, and in such event he shall retire on his Late Retirement Date. Such Participant shall continue as a Participant under this Plan until such Late Retirement Date. The Participant shall have a Vesting Percentage of 100% and shall receive a distribution of the entire value of his Participant's Account as of his Late Retirement Date.
- 7.3 All distributions on account of retirement described in this Article shall be further subject to the terms and conditions of Article VI.

ARTICLE VII-A
DISABILITY BENEFITS

7.1A DISTRIBUTION. Upon a Participant's Disability, he shall have a Vesting Percentage of 100% but shall not receive a distribution of the entire value of his Participant's Account attributable to Employer contributions until death, normal retirement or Cessation of Disability without Re-employment, as provided in Articles VIII, VII and IX, respectively.

ARTICLE VIII
DEATH BENEFITS

8.1 FROM PARTICIPANTS' ACCOUNTS.

- (a) Death before Distribution. Upon the death of any Participant prior to the date of distribution on account of his retirement or his Termination of Employment, his Beneficiary shall receive a distribution of the entire value of the Participant's Account. Such distribution shall be further subject to the terms and conditions of Article VI, except that the Beneficiary shall have the right to elect the manner of distribution, unless designated otherwise by the Participant, or prohibited by further provisions contained in this Plan.
- (b) Death after Distribution. Upon the death of any Participant on or after the date of distribution on account of his retirement or his Termination of Employment, the death benefit, if any, attributable to his Participant's Account will be determined in accordance with the form of annuity, if any, provided for the Participant under the Annuity Contract.

8.2 BENEFICIARY. Each Participant shall have the right under the Annuity Contract to designate a Beneficiary and to specify the form of death benefit the Beneficiary is to receive. The Participant may change the Beneficiary and/or the form of death benefit at any time. If any distribution hereunder is made to a Beneficiary in the form of an annuity, then such Beneficiary shall also have the right to designate a Beneficiary and to change the Beneficiary from time to time.

If a Beneficiary has not been designated, or if no designated Beneficiary survives the Participant, the Participant's Account shall be distributed to the Participant's spouse, if living; otherwise in equal shares to any surviving children of the Participant. In the event none of the above named individuals survives the Participant, the Participant's Account shall be paid to the executor or administrator of the Participant's estate.

To the extent not inconsistent with the terms of this Plan, any payment made to a Beneficiary shall be further subject to the terms of the Annuity Contract.

ARTICLE IX
TERMINATION OF EMPLOYMENT

- 9.1 **DISTRIBUTION.** As of a Participant's Termination of Employment, he shall be entitled to receive a distribution of his entire Vested Interest. Such distribution shall be further subject to the terms and conditions of Article VI.

If at the time of Termination the Participant is not 100% vested, the non-vested portion of his Account shall be placed in a separate account and will become a Forfeiture, to be applied in accordance with Section 9.3, upon the date the terminated Participant incurs a 1-Year Break in Service.

- 9.2 **NO FURTHER RIGHTS OR INTEREST.** A Participant shall have no further interest in or any rights to any portion of his Participant's Account that becomes a Forfeiture due to his Termination of Employment once the Participant incurs a 1-Year Break in Service in accordance with Section 2.4.

- 9.3 **FORFEITURE.** Any Forfeiture shall be credited to the Forfeiture account upon the occurrence of a 1-Year Break in Service following the Participant's Termination of Employment.

Any amount in the Forfeiture account shall be used by the Employer to reduce and in lieu of the Employer Contribution next due under Section 4.1 at the earliest opportunity after such Forfeiture becomes available.

ARTICLE X
WITHDRAWALS

10.1 WITHDRAWALS - VOLUNTARY CONTRIBUTIONS. Provided that an Active Participant has made Voluntary Contributions in accordance with Section 4.4 for at least twenty-four consecutive months, he may elect to withdraw from his Participant's Account an amount which is equal to any whole percentage (not exceeding 100%) of the lesser of the amounts specified in (a) and (b) below, where:

- (a) is equal to the aggregate of his Voluntary Contributions which are at the time credited to his Participant's Account, and
- (b) is equal to the then value of that portion of his Participant's Account attributable to such Voluntary Contributions.

Such an election shall become effective in accordance with the Notification section below.

If a Participant elects a withdrawal under the provisions of this section, he may not elect another withdrawal under this section until he has made Voluntary Contributions under this Plan for an additional period of twenty-four consecutive months.

10.2 NOTIFICATION. The Participant shall notify the Administrator in writing of his election to make a withdrawal under Section 10.1. Any such election shall be effective as of the date specified in such notice, which date must be at least fifteen days after such notice is filed. Payment of the withdrawal shall be subject to the terms and conditions of Article VI.

10.3 NON-REPAYMENT. Withdrawals made in accordance with this Article X may not be repaid.

ARTICLE XI
FIDUCIARY DUTIES AND RESPONSIBILITIES

- 11.1 GENERAL FIDUCIARY STANDARD OF CONDUCT. Each Fiduciary of the Plan shall discharge his duties hereunder solely in the interest of the Participants and their Beneficiaries and for the exclusive purpose of providing benefits to Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan. Each Fiduciary shall act with the care, skill, prudence and diligence under the circumstances that a prudent man acting in a like capacity and familiar with such matters would use in conducting an enterprise of like character and with like aims, in accordance with the documents and instruments governing this Plan, insofar as such documents and instruments are consistent with this standard.
- 11.2 SERVICE IN MULTIPLE CAPACITIES. Any person or group of persons may serve in more than one Fiduciary capacity with respect to this Plan.
- 11.3 LIMITATIONS ON FIDUCIARY LIABILITY. Nothing in this Plan shall be construed to prevent any Fiduciary from receiving any benefit to which he may be entitled as a Participant or Beneficiary in this Plan, so long as the benefit is computed and paid on a basis which is consistent with the terms of this Plan as applied to all other Participants and Beneficiaries. Nor shall this Plan be interpreted to prevent any Fiduciary from receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred in the performance of his duties with the Plan; except that no Person so serving who already receives full-time pay from an Employer shall receive compensation from this Plan, except for reimbursement of expenses properly and actually incurred.
- 11.4 INVESTMENT MANAGER. When an Investment Manager has been appointed pursuant to Section 12.6 of this Plan, he is required to acknowledge in writing that he has undertaken a fiduciary responsibility with respect to the Plan. The Insurance Company's liability as a Fiduciary is limited to that arising from its management of any assets of the Plan held by the Insurance Company in its Separate Accounts.

ARTICLE XII
THE ADMINISTRATOR

- 11.1 DUTIES AND RESPONSIBILITY. The Administrator shall administer the Plan for the exclusive benefit of the Participants and their Beneficiaries in a nondiscriminatory manner subject to the specific terms of the Plan.

The Administrator shall perform all such duties as are necessary to operate, administer, and manage the Plan in accordance with the terms thereof. This shall include notification to the Insurance Company of any adjustment made to a Participant's Account in accordance with Article IV-A.

Furthermore, the Administrator shall take the necessary steps to notify the appropriate interested parties whenever an application is made to the Secretary of the Treasury for a determination letter in accordance with section 7476 of the Internal Revenue Code as amended.

- 11.2 EXPENSES AND COMPENSATION. The expenses necessary to administer the Plan shall be borne by the Employer, including but not limited to those involved in retaining necessary professional assistance from an attorney, an accountant, an actuary, or an investment adviser. Nothing shall prevent the Administrator from receiving reasonable compensation for services rendered in administering this Plan, provided the Administrator is not a full-time Employee of the Employer.
- 11.3 INFORMATION FROM EMPLOYER. To enable the Administrator to perform his functions, the Employer shall supply full and timely information to the Administrator on all matters relating to this Plan as the Administrator may require.
- 11.4 ADMINISTRATIVE COMMITTEE; MULTIPLE SIGNATURES. In the event that more than one person has been duly nominated to serve on the Administrative Committee and has signified in writing the acceptance of such designation, the signature(s) of one or more Persons may be accepted by an interested party as conclusive evidence that the Administrative Committee has duly authorized the action therein set forth and as representing the will of and binding upon the whole Administrative Committee. No Person receiving such documents or written instructions and acting in good faith and in reliance thereon shall be obliged to ascertain the validity of such action under the terms of this Plan. The Administrative Committee shall act by a majority of its members at the time in office and such action may be taken either by a vote at a meeting or in writing without a meeting.
- 11.5 RESIGNATION AND REMOVAL; APPOINTMENT OF SUCCESSOR. A Person appointed by the City Manager to serve as Administrator may resign at any time by delivering to the City Manager a written notice of resignation, to take

effect at a date specified therein, which shall not be less than thirty (30) days after the delivery thereof, unless such notice shall be waived.

A Person appointed by the City Manager to serve as Administrator may be removed with or without cause by the City Manager by delivery of written notice of removal, to take effect at a date specified therein, which shall be not less than thirty (30) days after delivery thereof, unless such notice shall be waived.

The City Manager, upon receipt of or giving notice of the resignation or removal of a Person appointed by the City Manager to serve as Administrator, shall promptly designate a successor Person to serve as Administrator. In the event no successor is appointed, the City Manager will function as the Administrator (until such time as the City Manager designates another Person to serve as Administrator).

- 11.6 The Administrator shall have the power, to the extent permitted by law, to delegate the performance of such Fiduciary and non-Fiduciary duties, responsibilities and functions as the Administrator shall deem advisable for the proper management and administration of the Plan in the best interests of the Participants and their Beneficiaries.

ARTICLE XIII
PARTICIPANTS' RIGHTS

- 13.1 GENERAL RIGHTS OF PARTICIPANTS AND BENEFICIARIES. The Plan is established and the Plan assets are held for the exclusive purpose of providing benefits for such Employees and their Beneficiaries as have qualified to participate under the terms of the Plan.
- 13.2 FILING A CLAIM FOR BENEFIT. A Participant or Beneficiary or the Employer acting in his behalf, shall notify the Administrator of a claim of benefits under the Plan. Such request shall be in writing to the Administrator and shall set forth the basis of such claim and shall authorize the Administrator to conduct such examinations as may be necessary to determine the validity of the claim and to take such steps as may be necessary to facilitate the payment of any benefits to which the Participant or Beneficiary may be entitled under the terms of the Plan.

A decision by the Administrator shall be made promptly and not later than 90 days after the Administrator's receipt of the claim of benefits under the Plan, unless special circumstances require an extension of the time for processing in which case a decision shall be rendered as soon as possible, but not later than 90 days after receipt of the claim of benefits under the Plan.

- 13.3 DENIAL OF CLAIM. Whenever a claim for benefits by any Participant or Beneficiary has been denied by a Plan Administrator, a written notice, prepared in a manner calculated to be understood by the Participant, must be provided, setting forth (1) the specific reasons for the denial; (2) the specific reference to pertinent Plan provisions on which the denial is based; (3) a description of any additional material or information necessary for the claimant to perfect the claim and an explanation of why such material or information is necessary; and (4) an explanation of the Plan's claim review procedure.
- 13.4 REMEDIES AVAILABLE TO PARTICIPANTS. A Participant or Beneficiary (1) may request a review by a Named Fiduciary, other than the Administrator, upon written application to the Plan; (2) may review pertinent Plan documents; and (3) may submit issues and comments in writing to a Named Fiduciary. A Participant or Beneficiary shall have 60 days after receipt by the claimant of written notification of a denial of a claim to request a review of a denied claim.

A decision by a Named Fiduciary shall be made promptly and not later than 60 days after the Named Fiduciary's receipt of a request for review, unless special circumstances require an extension of the time for processing in which case a decision shall be rendered as soon as possible, but not later than 120 days after receipt of a request for review. The decision on review by a Named Fiduciary shall be in writing and shall include specific reasons for the decision, written in a

manner calculated to be understood by the claimant, and specific references to the pertinent Plan provisions on which the decision is based.

A Participant or Beneficiary shall be entitled, either in his own name or in conjunction with any other interested parties, to bring such actions in law or equity or to undertake such administrative actions or to seek such relief as may be necessary or appropriate to compel the disclosure of any required information, to enforce or protect his rights, to recover present benefits due to him or to clarify his rights to future benefits under the Plan.

- 13.5 **LIMITATION OF RIGHTS.** Participation hereunder shall not grant any Participant the right to be retained in the Service of the Employer or any other rights or interest in the Plan fund other than those specifically herein set forth.
- 13.6 **PARTICIPANT CONTRIBUTIONS.** Each Participant, regardless of his length of Service with the Employer, shall be fully vested (100%) at all times in any portion of his Participant's Account attributable to (a) and/or (b) below, as applicable:
- (a) Voluntary Contributions; or
 - (b) Tax-free rollovers.
- 13.7 **MERGERS OR TRANSFERS.** In the case of any merger with or transfer of assets or liabilities to any other defined contribution plan after September 2, 1974, the following conditions must be met:
- (a) The sum of the Account balances in each plan shall equal the fair market value (determined as of the date of the merger or transfer) of the entire plan assets.
 - (b) The assets of each plan shall be combined to form the assets of the plan as merged (or transferred).
 - (c) Immediately after the merger (or transfer), each Participant in the plan merged (or transferred) shall have an Account balance equal to the sum of the Account balances the Participant had in the plans immediately prior to the merger (or transfer).

ARTICLE XIV
THE INSURANCE COMPANY

- 14.1 DUTIES AND RESPONSIBILITIES. The Insurance Company shall issue the Annuity Contract and thereby assumes all the duties and responsibilities set forth therein. The terms of the Annuity Contract may be changed as provided therein without amending this Plan, provided such changes shall conform to the requirements for qualification under Section 401(a) of the Internal Revenue Code, as amended from time to time.
- 14.2 RELATION TO EMPLOYER, ADMINISTRATOR AND PARTICIPANT. The Insurance Company may receive the statement of the Administrator or, if the Administrator so designates, the Employer, as conclusive evidence of any of the matters decided in the Plan and the Insurance Company shall be fully protected in taking or permitting any action on the basis thereof and shall incur no liability or responsibility for so doing. The Insurance Company shall not be required to question any action by the Employer or the Administrator or any Participant nor to determine that such action is properly taken under the Plan. The Insurance Company shall be fully discharged from any and all liability with respect to any payment to any Participant hereunder in accordance with the terms of the Annuity Contract. The Insurance Company shall not be required to take any action contrary to its normal rules and practices.

ARTICLE XV
AMENDMENT OR TERMINATION OF THE PLAN

- 14.1 AMENDMENT OF PLAN. The Employer shall have the right from time to time to modify or amend, in whole or in part any or all provisions of the Plan. Upon any such modification or amendment, the Administrator shall be furnished a copy thereof. No amendment shall deprive any Participant or Beneficiary of any Vested Interest hereunder.

The City shall give notice to Participants prior to making any material changes to this Plan, except those required by statutes, and shall be available to receive and consider comments of Participants as to proposed changes. When the City Staff, City Council or a committee of the City Council has formulated the substance of a proposed material change, notice of the substance of the proposed change will be given to Participants at least sixty (60) days before City Council votes on the proposal. This notice will contain a "plain language" explanation of the substance of the proposed changes. Employees will have access to the Staff during such sixty (60) day period. If requested in writing by at least five (5) Participants, a meeting shall be held between the Staff and interested Participants at which time the Staff will explain the proposal and answer any questions. These questions and areas of concern must be submitted in writing by interested Participants at least five (5) days prior to the scheduled meeting. At least seven (7) days notice shall be given of the time and place of such meeting.

- 15.2 CONDITIONS OF AMENDMENT. The Employer shall not make any amendment which would cause the Plan to lose its status as a qualified plan within the meaning of Section 401(a) of the Internal Revenue Code.
- 15.3 TERMINATION OF THE PLAN. The Employer intends to continue the Plan indefinitely for the benefit of its Employees, but reserves the right to terminate the Plan at any time by resolution. Upon such termination, the liability of the Employer to make the Employer Contributions hereunder shall terminate.
- 15.4 FULL VESTING. Upon the termination or partial termination of the Plan, the rights of all affected Participants in and to the amounts credited to each such Participant's Account shall be 100% vested and nonforfeitable. Thereupon, each Participant shall receive a total distribution of his Participant's Account (including any amounts in the Forfeiture Account allocated in accordance with Section 15.5) in accordance with the terms and conditions of Article VI and the Annuity Contract.
- 15.5 APPLICATION OF FORFEITURES. Upon the termination of the Plan, any amount in the Forfeiture account which has not been applied as of such termination to reduce the Employer Contribution shall be credited on a pro rata basis to the Participant's Account of the then Active Participants in the same manner as the last Employer Contribution made under the Plan.

15.6 SUBSEQUENT UNFAVORABLE DETERMINATION. If the Employer is notified subsequent to initial favorable qualification that the Plan is no longer qualified within the meaning of Section 401(a) of the Internal Revenue Code, and if the Employer shall fail within a reasonable time to make any necessary changes in order that the Plan shall so qualify, the Participants' Accounts under the Annuity Contract shall be fully vested and nonforfeitable and shall be disposed of in the manner set forth in Sections 15.4 and 15.5 above; with respect to a Plan which is no longer qualified, all assets thereunder shall be segregated apart from all other assets held under the Annuity Contract for any other Employer.

ARTICLE XVI
SUBSTITUTION OF PLANS

- 16.1 **SUBSTITUTION OF PLANS.** Subject to the provisions of Section 13.7 the Employer may substitute an individually designed plan or a master or prototype plan for this Plan without terminating this Plan as embodied herein and this shall be deemed to constitute an amendment and restatement in its entirety of this Plan as heretofore adopted by the Employer; provided, however that the Employer shall have certified to the Insurance Company that this Plan is being continued on a restated basis which meets the requirements of Section 401(a) of the Internal Revenue Code.
- 16.2 **TRANSFER OF ASSETS.** Upon 90 days written notification from the Employer (unless the Insurance Company shall accept a shorter period of notification) that a different plan meeting the requirements set forth in Section 16.1 above has been executed and entered into by the Administrator and the Employer, and after the Insurance Company has been furnished the Employer's certification in writing that the Employer intends to continue the Plan as a qualified plan under Section 401(a) of the Internal Revenue Code, the Insurance Company shall transfer the value of all Participants' Accounts under the Annuity Contract in accordance with the terms of the Annuity Contract, to the Employer or such person or persons as may be entitled to receive same. The Insurance Company may rely fully on the representations or directions of the Employer with respect to any such transfer made in accordance with such representations, instructions, or directions.

ARTICLE XVII
MISCELLANEOUS

- 17.1 **NON-REVERSION.** This Plan has been established by the Employer for the exclusive benefit of the Participants and their Beneficiaries. Except as otherwise provided in Section 17.7, under no circumstances shall any funds contributed hereunder at any time revert to or be used by the Employer, nor shall any such funds or assets of any kind be used other than for the benefit of the Participants or their Beneficiaries.
- 17.2 **GENDER AND NUMBER.** When necessary to the meaning hereof, and except when otherwise indicated by the context, either the masculine or the neuter pronoun shall be deemed to include the masculine, the feminine, and the neuter, and the singular shall be deemed to include the plural.
- 17.3 **REFERENCE TO THE CODE.** Any reference to any section of the Internal Revenue Code herein or to any other statute or law shall be deemed to include any successor law of similar import.
- 17.4 **GOVERNING LAW.** The Plan shall be governed and construed in accordance with the laws of the Commonwealth of Virginia.
- 17.5 **COMPLIANCE WITH THE CODE.** This Plan is intended to comply with all requirements for qualification under the Internal Revenue Code, and if any provision hereof is subject to more than one interpretation or any term used herein is subject to more than one construction, such ambiguity shall be resolved in favor of that interpretation or construction, such ambiguity shall be resolved in favor of that interpretation or construction which is consistent with the Plan being so qualified. If any provision of the Plan is held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provisions, and this Plan shall be construed and enforced as if such provision had not been included.
- 17.6 **NON-ALIENATION.** It is a condition of the Plan, and all rights of each Participant shall be subject thereto, that no right or interest of any Participant in the Plan shall be assignable or transferable in whole or in part, either directly or by operation of law or otherwise, including, but without limitation, execution, levy, garnishment, attachment, pledge, bankruptcy or in any manner, and no right or interest of any Participant in the Plan shall be liable for or subject to any obligation or liability of such Participant.
- 16.7 **CONTRIBUTION RECAPTURE.** Notwithstanding any other provisions of this Plan, in the case of a contribution which is made by an Employer by a mistake of fact, Section 17.1 shall not prohibit the return of such contribution to the Employer within one year after the payment of the contribution. The amount which may be returned to the Employer is the excess of (1) the amount contributed over (2) the amount that would have been contributed had there not

occurred a mistake of fact or a mistake in determining the deduction. Earnings attributable to the excess contribution may not be returned to the Employer, but losses attributable thereto must reduce the amount to be so returned. Furthermore, if the withdrawal of the amount attributable to the mistaken contribution would cause the balance of the individual account of any Participant to be reduced to less than the balance which would have been in the account had the mistaken amount not been contributed, then the amount to be returned to the Employer would have to be limited so as to avoid such reduction.

- 16.8 DOMESTIC RELATIONS ORDERS. Notwithstanding any other provisions of this Plan, the Participant's Account may be segregated and distributed pursuant to a domestic relations order which creates or recognizes the existence of an alternate payee's right to receive all or a portion of the benefits payable to a Participant under the Plan.