

## City of Alexandria, Virginia

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## MEMORANDUM

DATE: DECEMBER 6, 2002

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER <sup>PS</sup>

SUBJECT: RESOLUTION TO AMEND THE CITY OF ALEXANDRIA PENSION PLAN FOR FIREFIGHTERS AND POLICE OFFICERS

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**ISSUE:** Consideration of proposed revisions to the Pension Plan for Firefighters and Police Officers.

**RECOMMENDATION:** That City Council adopt the attached resolution (Attachment 1) which amends the City of Alexandria Pension Plan for Firefighters and Police Officers in order to incorporate the technical changes required by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), as required by the Internal Revenue Service Code.

**DISCUSSION:** This resolution amends the City of Alexandria Pension Plan for Firefighters and Police Officers to incorporate the provisions of EGTRRA. This pension plan, which has been known as the "Old Plan," covers 183 police and fire retirees or their beneficiaries and one current Fire Department employee. The plan changes are required by the Internal Revenue Service Code. The amendments are all technical in nature, many have no applicability to members of the "Old Plan," and those that do are of benefit to those members. While the technical changes required by the IRS do not require a 60 day notice to employees, staff did provide the information to representatives of the retirees who are covered by the plan, and there was no opposition to the proposed plan amendments.

**ATTACHMENTS:**

Attachment 1. Resolution

Attachment 2. Proposed Amendments to the City of Alexandria Pension Plan for Firefighters and Police Officers

**STAFF:**

Henry Howard Jr., Director, Personnel Services

Myla Riggs, Benefits Division Chief, Personnel Services

Dan Neckel, Director, Finance

**RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, the City of Alexandria maintains the **City of Alexandria Pension Plan for Firefighters and Police Officers** (the "Plan"); and

**WHEREAS**, the City of Alexandria desires to adopt and incorporate certain amendments to the Plan as set forth in the "First Amendment to the City of Alexandria Pension Plan for Firefighters and Police Officers" (the "Plan Amendment") attached hereto; and

**WHEREAS**, the Plan, as amended, is intended to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended, and of the Economic Growth and Tax Relief Reconciliation Act of 2001, as applicable;

**NOW, THEREFORE, BE IT RESOLVED THAT** the Alexandria City Council does hereby recognize, adopt, approve and restate the Plan to incorporate the Plan Amendment attached hereto and incorporated fully herein by reference; and

**BE IT FURTHER RESOLVED THAT** the City Manager be, and he hereby is, authorized and directed to make on behalf of the City of Alexandria any other changes to the Plan as may be requested by the Internal Revenue Service, or, based on the advice of counsel, as may be necessary or desirable for the Plan to meet or continue to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended, and of the Economic Growth and Tax Relief Reconciliation Act of 2001, as applicable; and

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

**ADOPTED:** \_\_\_\_\_

\_\_\_\_\_  
Kerry J. Donley, Mayor

Attest:

\_\_\_\_\_  
Beverly I. Jett, CMC, City Clerk

**FIRST AMENDMENT TO  
THE CITY OF ALEXANDRIA  
PENSION PLAN FOR FIREFIGHTERS AND POLICE OFFICERS**

Pursuant to the powers of amendment reserved under Article XII, paragraph A, Section 1, the City of Alexandria Pension Plan for Firefighters and Police Officers, as amended and restated effective as of December 31, 2001, said Plan shall be and the same is hereby amended by the City of Alexandria (the "City"), effective as of January 1, 2002, as follows:

**FIRST CHANGE**

A new Article XIV shall be added to the Plan as follows:

**“ARTICLE XIV**

**EGTRRA AMENDMENTS**

**A. Effective Date of Article**

This Article XIV is intended to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”) and to demonstrate good faith compliance with the provisions of EGTRRA. The provisions of this Article XIV shall be construed in accordance with EGTRRA and guidance issued thereunder. The provisions of this Article shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Article.

**B. Limitations on Benefits**

(a) **Defined benefit dollar limitation.** The “defined benefit dollar limitation” is \$160,000, as adjusted, effective January 1 of each year, under Section 415(d) of the Code in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Section 415(d) of the Code will apply to limitation years ending with or within the calendar year for which the adjustment applies.

(b) **Maximum permissible benefit:** The “maximum permissible benefit” is the defined benefit dollar limitation (as adjusted where required, as provided in (1) and, if applicable, in (2) or (3) below).

(1) If the Participant has fewer than 10 years of participation in the

Plan, the defined benefit dollar limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of participation in the Plan and (ii) the denominator of which is 10.

(2) Subject to the provisions of Section 415(b)(2)(G) (relating to qualified police or firefighters), if the benefit of a Participant begins prior to age 62, the defined benefit dollar limitation applicable to the Participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the Participant at age 62 (adjusted under (1) above, if required). The defined benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser of (i) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in Exhibit A of the Plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate and the applicable mortality table as defined in Exhibit A of the Plan. Any decrease in the defined benefit dollar limitation determined in accordance with this paragraph (2) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the Participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

(3) If the benefit of a Participant begins after the Participant attains age 65, the defined benefit dollar limitation applicable to the Participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the Participant at age 65 (adjusted under (1) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as (i) the lesser of the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in Exhibit A of the Plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate assumption and the applicable mortality table as defined in Exhibit A of the Plan. For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.

(c) Benefit increases resulting from the increase in the limitations of Section 415(b) of the Code shall be provided to all employees participating in the Plan who have one Hour of Service on or after the first day of the first limitation year ending after December 31, 2001.

**C. Increase in Earnings Limit**

(a) The annual Earnings of each Participant taken into account in determining benefit accruals for any Plan Year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. Annual Earnings means Earnings during the plan year or such other consecutive 12-month period over which Earnings are otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual Earnings for the determination period that begins with or within such calendar year.

(b) In determining benefit accruals in Plan Years beginning after December 31, 2001, the annual Earnings limit in Article I, Section 14 for determination periods beginning before January 1, 2002, shall be \$150,000 for any determination period beginning in 1996 or earlier, \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001.

**D. Direct Rollovers of Plan Distributions**

(a) This Section shall apply to distributions made after December 31, 2001.

(b) Modification of definition of eligible retirement plan. For purposes of the direct rollover provisions of the Plan, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relation order, as defined in Section 414(p) of the Code.

(c) Modification of definition of eligible rollover distribution to include after-tax employee contributions. For purposes of the direct rollover provisions of the Plan, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so

includible.”

## SECOND CHANGE

A new Article XV shall be added to the Plan as follows:

### “ARTICLE XV

#### MINIMUM DISTRIBUTION REQUIREMENTS

##### A. General Rules.

(1) The provisions of this Article XV will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.

(2) The requirements of this Article XV will take precedence over any inconsistent provisions of the Plan.

(3) All distributions required under this Article XV will be determined and made in accordance with the Treasury Regulations under Section 401(a)(9) of the Internal Revenue Code.

##### B. Time and Manner of Distribution.

(1) The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

(2) If the Participant dies before distributions begin, the Participant's entire interest (if any) will be distributed, or begin to be distributed, no later than as follows:

(a) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70-1/2, if later.

(b) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then distributions to the Designated Beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the participant died.

(c) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest (if

any) will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(d) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section B, other than Section B(2)(a), will apply as if the surviving spouse were the Participant.

For purposes of this Section B and Section E, distributions are considered to begin on the Participant's Required Beginning Date (or, if Section B(2)(a) applies, the date distributions are required to begin to the surviving spouse under Section B(2)(a)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section B(1)), the date distributions are considered to begin is the date distributions actually commence.

(c) Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with Sections C, D and E. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury Regulations.

#### **C. Determination of Amount to be Distributed Each Year.**

(1) If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

(a) the annuity distributions will be paid in periodic payments made at intervals not longer than 1 year;

(b) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Sections D or E;

(c) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;

(d) payments will either be nonincreasing or increase only as follows:

(1) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(2) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Section D dies or is no longer the Participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p);

(3) to provide cash refunds of employee contributions upon the Participant's death; or

(4) to pay increased benefits that result from a Plan amendment.

(b) The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Section D) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first Distribution Calendar Year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.

(c) Any additional benefits accruing to the Participant in a calendar year after the first Distribution Calendar Year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

**D. Requirements For Annuity Distributions That Commence During Participant's Lifetime.**

(1) If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-spouse beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the Designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury Regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-spouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the Designated Beneficiary after the expiration of the period certain.

(2) Unless the Participant's spouse is the sole Designated Beneficiary and



the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's spouse is the Participant's sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section D, or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

**E. Requirements For Minimum Distributions Where Participant Dies Before Date Distributions Begin.**

(1) If the Participant dies before the date distribution of his or her interest begins and there is a Designated Beneficiary, the Participant's entire interest (if any) will be distributed, beginning no later than the time described in Section B(2)(a) or (2)(b), over the life of the Designated Beneficiary or over a period certain not exceeding:

(a) unless the annuity starting date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(b) if the annuity starting date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(2) If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest (if any) will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving spouse is the Participant's sole Designated

Beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section E will apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section B(2)(a).

**F. Definitions.**

(a) **Designated Beneficiary** means the individual who is designated as the beneficiary under Section E and is the Designated Beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury Regulations.

(b) **Distribution Calendar Year** means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section B.

(c) **Life Expectancy** means life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury Regulations.

(d) **Required Beginning Date** means the date specified in Article IX, Section F.”

**THIRD CHANGE**

Effective for distributions with annuity starting dates on or after December 31, 2002, notwithstanding any Plan provisions to the contrary, the “GATT Mortality Table” used for purposes of applying the limitations on benefits placed thereon by Section 415 of the Internal Revenue Code and Article XIII of the Plan is the mortality table prescribed in Revenue Ruling 2001-62.

The City of Alexandria Pension Plan for Firefighters and Police Officers, as amended and restated effective as of December 31, 2001 and as amended by the foregoing changes is hereby ratified and confirmed in all respects.

**IN WITNESS WHEREOF**, The City has caused this First Amendment to be executed this \_\_\_\_ day of \_\_\_\_\_, 2002.

**THE CITY OF ALEXANDRIA**

By: \_\_\_\_\_  
Phillip G. Sunderland, City Manager

## RESOLUTION NO. 2054

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

WHEREAS, the City of Alexandria desires to adopt and incorporate certain amendments to the Plan as set forth in the "First Amendment to the City of Alexandria Pension Plan for Firefighters and Police Officers" (the "Plan Amendment") attached hereto; and

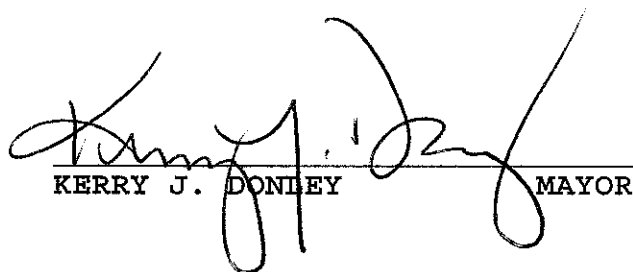
WHEREAS, the Plan, as amended, is intended to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended, and of the Economic Growth and Tax Relief Reconciliation Act of 2001, as applicable;

NOW, THEREFORE, BE IT RESOLVED that the Alexandria City Council does hereby recognize, adopt, approve and restate the Plan to incorporate the Plan Amendment attached hereto and incorporated fully herein by reference; and

BE IT FURTHER RESOLVED that the City Manager be, and he hereby is, authorized and directed to make on behalf of the City of Alexandria any other changes to the Plan as may be requested by the Internal Revenue Service, or, based on the advice of counsel, as may be necessary or desirable for the Plan to meet or continue to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended, and of the Economic Growth and Tax Relief Reconciliation Act of 2001, as applicable; and

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

ADOPTED: December 10, 2002

  
KERRY J. DONLEY MAYOR

ATTEST:

  
Beverly I. Jett, CMC City Clerk

**FIRST AMENDMENT TO  
THE CITY OF ALEXANDRIA  
PENSION PLAN FOR FIREFIGHTERS AND POLICE OFFICERS**

Pursuant to the powers of amendment reserved under Article XII, paragraph A, Section 1, the City of Alexandria Pension Plan for Firefighters and Police Officers, as amended and restated effective as of December 31, 2001, said Plan shall be and the same is hereby amended by the City of Alexandria (the "City"), effective as of January 1, 2002, as follows:

**FIRST CHANGE**

A new Article XIV shall be added to the Plan as follows:

**“ARTICLE XIV**

**EGTRRA AMENDMENTS**

**A. Effective Date of Article**

This Article XIV is intended to reflect certain provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (“EGTRRA”) and to demonstrate good faith compliance with the provisions of EGTRRA. The provisions of this Article XIV shall be construed in accordance with EGTRRA and guidance issued thereunder. The provisions of this Article shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Article.

**B. Limitations on Benefits**

(a) **Defined benefit dollar limitation.** The “defined benefit dollar limitation” is \$160,000, as adjusted, effective January 1 of each year, under Section 415(d) of the Code in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under Section 415(d) of the Code will apply to limitation years ending with or within the calendar year for which the adjustment applies.

(b) **Maximum permissible benefit:** The “maximum permissible benefit” is the defined benefit dollar limitation (as adjusted where required, as provided in (1) and, if applicable, in (2) or (3) below).

(1) If the Participant has fewer than 10 years of participation in the

Plan, the defined benefit dollar limitation shall be multiplied by a fraction, (i) the numerator of which is the number of years (or part thereof) of participation in the Plan and (ii) the denominator of which is 10.

(2) Subject to the provisions of Section 415(b)(2)(G) (relating to qualified police or firefighters), if the benefit of a Participant begins prior to age 62, the defined benefit dollar limitation applicable to the Participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the Participant at age 62 (adjusted under (1) above, if required). The defined benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser of (i) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in Exhibit A of the Plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate and the applicable mortality table as defined in Exhibit A of the Plan. Any decrease in the defined benefit dollar limitation determined in accordance with this paragraph (2) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the Participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

(3) If the benefit of a Participant begins after the Participant attains age 65, the defined benefit dollar limitation applicable to the Participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the Participant at age 65 (adjusted under (1) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as (i) the lesser of the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in Exhibit A of the Plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate assumption and the applicable mortality table as defined in Exhibit A of the Plan. For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.

(c) Benefit increases resulting from the increase in the limitations of Section 415(b) of the Code shall be provided to all employees participating in the Plan who have one Hour of Service on or after the first day of the first limitation year ending after December 31, 2001.

### **C. Increase in Earnings Limit**

(a) The annual Earnings of each Participant taken into account in determining benefit accruals for any Plan Year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. Annual Earnings means Earnings during the plan year or such other consecutive 12-month period over which Earnings are otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual Earnings for the determination period that begins with or within such calendar year.

(b) In determining benefit accruals in Plan Years beginning after December 31, 2001, the annual Earnings limit in Article I, Section 14 for determination periods beginning before January 1, 2002, shall be \$150,000 for any determination period beginning in 1996 or earlier, \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001.

### **D. Direct Rollovers of Plan Distributions**

(a) This Section shall apply to distributions made after December 31, 2001.

(b) Modification of definition of eligible retirement plan. For purposes of the direct rollover provisions of the Plan, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relation order, as defined in Section 414(p) of the Code.

(c) Modification of definition of eligible rollover distribution to include after-tax employee contributions. For purposes of the direct rollover provisions of the Plan, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so

includible.”

## SECOND CHANGE

A new Article XV shall be added to the Plan as follows:

### “ARTICLE XV

#### MINIMUM DISTRIBUTION REQUIREMENTS

##### **A. General Rules.**

(1) The provisions of this Article XV will apply for purposes of determining required minimum distributions for calendar years beginning with the 2003 calendar year.

(2) The requirements of this Article XV will take precedence over any inconsistent provisions of the Plan.

(3) All distributions required under this Article XV will be determined and made in accordance with the Treasury Regulations under Section 401(a)(9) of the Internal Revenue Code.

##### **B. Time and Manner of Distribution.**

(1) The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.

(2) If the Participant dies before distributions begin, the Participant's entire interest (if any) will be distributed, or begin to be distributed, no later than as follows:

(a) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70-1/2, if later.

(b) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, then distributions to the Designated Beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the participant died.

(c) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest (if



any) will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(d) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section B, other than Section B(2)(a), will apply as if the surviving spouse were the Participant.

For purposes of this Section B and Section E, distributions are considered to begin on the Participant's Required Beginning Date (or, if Section B(2)(a) applies, the date distributions are required to begin to the surviving spouse under Section B(2)(a)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section B(1)), the date distributions are considered to begin is the date distributions actually commence.

(c) Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with Sections C, D and E. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury Regulations.

#### **C. Determination of Amount to be Distributed Each Year.**

(1) If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

(a) the annuity distributions will be paid in periodic payments made at intervals not longer than 1 year;

(b) the distribution period will be over a life (or lives) or over a period certain not longer than the period described in Sections D or E;

(c) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;

(d) payments will either be nonincreasing or increase only as follows:

(1) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(2) to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Section D dies or is no longer the Participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p);

(3) to provide cash refunds of employee contributions upon the Participant's death; or

(4) to pay increased benefits that result from a Plan amendment.

(b) The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Section D) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first Distribution Calendar Year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.

(c) Any additional benefits accruing to the Participant in a calendar year after the first Distribution Calendar Year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

#### **D. Requirements For Annuity Distributions That Commence During Participant's Lifetime.**

(1) If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-spouse beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the Designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury Regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-spouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the Designated Beneficiary after the expiration of the period certain.

(2) Unless the Participant's spouse is the sole Designated Beneficiary and

the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the annuity starting date. If the Participant's spouse is the Participant's sole Designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section D, or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

**E. Requirements For Minimum Distributions Where Participant Dies Before Date Distributions Begin.**

(1) If the Participant dies before the date distribution of his or her interest begins and there is a Designated Beneficiary, the Participant's entire interest (if any) will be distributed, beginning no later than the time described in Section B(2)(a) or (2)(b), over the life of the Designated Beneficiary or over a period certain not exceeding:

(a) unless the annuity starting date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(b) if the annuity starting date is before the first Distribution Calendar Year, the Life Expectancy of the Designated Beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(2) If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest (if any) will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving spouse is the Participant's sole Designated

Beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section E will apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section B(2)(a).

**F. Definitions.**

(a) **Designated Beneficiary** means the individual who is designated as the beneficiary under Section E and is the Designated Beneficiary under Section 401(a)(9) of the Internal Revenue Code and Section 1.401(a)(9)-1, Q&A-4, of the Treasury Regulations.

(b) **Distribution Calendar Year** means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section B.

(c) **Life Expectancy** means life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury Regulations.

(d) **Required Beginning Date** means the date specified in Article IX, Section F.”

**THIRD CHANGE**

Effective for distributions with annuity starting dates on or after December 31, 2002, notwithstanding any Plan provisions to the contrary, the “GATT Mortality Table” used for purposes of applying the limitations on benefits placed thereon by Section 415 of the Internal Revenue Code and Article XIII of the Plan is the mortality table prescribed in Revenue Ruling 2001-62.

The City of Alexandria Pension Plan for Firefighters and Police Officers, as amended and restated effective as of December 31, 2001 and as amended by the foregoing changes is hereby ratified and confirmed in all respects.

**IN WITNESS WHEREOF**, The City has caused this First Amendment to be executed this \_\_\_\_ day of \_\_\_\_\_, 2002.

**THE CITY OF ALEXANDRIA**

By: \_\_\_\_\_  
Phillip G. Sunderland, City Manager