

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 9, 2010

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER

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

ISSUE: Consideration of proposed changes to the City of Alexandria Firefighters and Police Officers Pension Plan as Restated January 1, 2009 (the "Plan").

RECOMMENDATION: That City Council adopt the attached resolution (Attachment 1) regarding the proposed First Amendment to the Plan. The changes in this amendment are necessary to:

- Make technical corrections, such as modifications and clarifications, to plan language;
- Comply with the Federal Pension Protection Act of 2006 (PPA);
- Comply with the Federal Heroes Earnings Assistance and Relief Act (HEART Act) signed by Congress in June 2008;
- Comply with the Federal Age Discrimination in Employment Act of 1967, as amended; and
- Facilitate the Plan's compliance with court-ordered decrees (divorce and child support payments).

These changes make no change to benefits, contributions, or eligibility and are cost neutral to the City and to participants. These changes were considered and approved by the City Council Pension and Compensation Committee (Mayor Euille and Councilman Smedberg) as well as the Firefighters and Police Officers Pension Plan Board.

DISCUSSION: The Plan provides both retirement and disability benefits to Firefighters and Police Officers. The Plan was adopted by City Council on February 21, 2004, when the City of Alexandria Retirement Income Plan (the "RIP"), a defined contribution plan for Fire and Police, was converted to a defined benefit plan. (A defined contribution plan links benefits to employer contributions and investment return, while a defined benefit plan links benefits to the employee's salary and years of service.) The Firefighters and Police Officers Disability Income Plan (an existing defined benefit plan) became part of the Plan at the same time.

The Plan has 475 active participants and 129 retired participants. Of the 129 retirees 32 are disabled participants.

The investments of the Plan are managed by the Firefighters and Police Officers Pension Plan Board (the “Board”). The Board has eleven members: two Participant Representatives and one Alternate elected by firefighters; two Participant Representatives and one Alternate elected by police officers; and four City Representatives and one Alternate appointed by the City Manager. In addition to managing the Plan’s investments, the Board may make recommendations to the Plan Administrator (City Manager).

The Board created a Valuation and Technical Corrections Committee (the “Committee”) in response to concerns raised by Fire and Police Board members and staff, who felt that some sections of the Plan Document were unclear or did not accurately reflect actual practices. (A plan document is the formal, written instrument that establishes a retirement plan and its provisions and provides guidance on how the Plan operates.)

The goal of the Committee was to review the Plan Document and propose changes to clarify the Plan, but not to change the Plan. In the course of their work, the Committee also considered changes recommended by the Plan’s attorney to ensure that the Plan continued to comply with Federal laws and maintained its tax-preferred status.

The 37 changes in the proposed First Amendment are grouped into 19 topics. The 19 change topics are divided into five types of changes, which are described below. The attached Summary of Changes Made by the First Amendment (Attachment 2) describes the 19 change topics. Also attached is the List of Changes Made by the First Amendment (Attachment 3), which lists the 37 sections of the Plan Document affected. The complete First Amendment (Attachment 4) is also attached.

The five types of changes in the First Amendment are listed below. The related change numbers of the Plan Amendment are noted in brackets in each of the five sections. The attached documents describe the changes in more detail.

1. Technical Corrections

These changes are made to clarify language in the Plan Document so that the Plan Document and plan administration are in agreement. All of the technical changes are described in the attached Summary of Changes Made by the First Amendment (Attachment 2) [Changes 2-7, 9, 11, 16-17, 20, 22-26, 29-31, 35, and 37].

These technical corrections make no change to participants’ benefits, contributions, or eligibility and are cost neutral to the City.

2. Comply with the Federal Pension Protection Act of 2006 (PPA)

The Plan Document must include certain language required by federal law so that more retirees will be eligible for a tax benefit specifically provided to public safety employees under PPA. PPA provided that eligible firefighters and police officers could receive a tax benefit when their insurance premiums are deducted from their pension checks. To be eligible for the tax benefit, the retiree must retire at Normal Retirement Date (NRD).

NRD for this Plan is currently defined as age 55 with 5 years of service. The Plan also allows employees younger than 55 to retire with full, unreduced benefits if they have 25 years of service. In order to increase the number of retirees eligible for the PPA tax benefit, the Plan definition of NRD is being modified to include anyone retiring at age 50 or later with at least 25 years of service [Changes 8 and 34].

The changes to comply with PPA make no change to the participants' benefits, contributions, or eligibility and are cost neutral to the City. These changes make more retirees eligible to take advantage of tax benefits allowed under PPA. This change becomes effective upon passage.

3. Comply with Federal Heroes Earnings Assistance and Relief Act (HEART Act)

To fully comply with the Federal HEART Act, the Plan Document must include specific language regarding death benefits. This language is being added to indicate that Participants on an approved leave of absence for military service who die while performing military duty are eligible for death benefits from the Plan [Changes 1, 10, and 27].

This change makes no change to the participants' benefits, contributions, or eligibility and is cost neutral to the City.

4. Comply with the Federal Age Discrimination in Employment Act of 1967, as amended

The Plan's attorney notified the City that the Plan Document must change some language to fully comply with the Federal Age Discrimination Act of 1967, as amended. This language indicates that a Participant may be eligible for disability benefits and any COLA on the disability benefits even after they have reached age 55, which is Normal Retirement Age under the plan. Sections of the Plan Document regarding disability and COLAs need to be modified to make this change [Changes 1, 12-15, 18-19, 21, 28, 31-32].

This change makes no change to the participants' benefits, contributions, or eligibility and is cost neutral to the City.

5. Facilitate the Plan's Compliance with Court Orders

Court orders for divorce or child support payments, Qualified Domestic Relations Orders (QDROs) or Domestic Relation Orders (DROs), must comply with both the Plan's and the court's rules, regulations, etc. To ensure this compliance, QDROs and DROs are sent to the Plan's attorney for review, often at significant expense. The Plan's attorney has indicated that since the Plan does not have certain provisions that are standard in private employer pension plans, the QDROs and DROs that the City Plan receives often do not comply with court and legal requirements.

This issue is relieved if the alternate payee (ex-spouse or children) is treated as a participant as far as receiving payments once the Participant retires. The alternate payee could then choose to receive payments over his or her lifetime that do not cease when the Fire or Police Participant dies. This change does not impact participant's rights or benefits, but would increase the ex-spouse's options, facilitate acceptance of QDROs and DROs by the courts and the Plan's attorney, and reduce administrative expenses [Changes 33 and 36].

These changes make no change to the participants' benefits, contributions, or eligibility and are actuarially cost neutral to the City. The changes are expected to reduce legal costs paid out of the Plan's funds.

The Plan requires a 60-day notice to participants. This notice was sent in early April. In addition, staff also contacted public safety employees and retiree groups. The Pension Administration Division held several meetings to explain the changes to participants. Staff answered questions both from the meetings and those asked after the meetings. Participants were sent e-mail with a link to the proposed amendment, a summary explaining the proposed changes, and a list of the sections being changed by the proposed amendment. This information has also been available on the Fire and Police Pension website since the 60-day notice was sent.

FISCAL IMPACT: The First Amendment is cost neutral and will not create additional costs for either the City or the participants.

ATTACHMENTS:

Attachment 1: Resolution

Attachment 2: Summary of Proposed Changes Made by the First Amendment

Attachment 3: List of Changes Made by the First Amendment

Attachment 4: Proposed First Amendment

STAFF:

Bruce Johnson, Chief Financial Officer

Michele Evans, Deputy City Manager

Laura B. Triggs, Finance Director

Steven Bland, Retirement Administrator

CC: Board, Firefighters and Police Officers Pension Plan

RESOLUTION NO. _____

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

WHEREAS, the City of Alexandria desires to adopt and incorporate certain amendments to the Plan as set forth in the Plan attached hereto; and

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

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

ADOPTED _____ (date)

William Euille **Mayor**

ATTEST:

Jackie M. Henderson, City Clerk

The City of Alexandria Firefighters and Police Officers Pension Plan As Amended and Restated as of January 1, 2009

Summary of Proposed Changes Made by the First Amendment

The First Amendment to the City of Alexandria Firefighters and Police Officers Pension Plan as Amended and Restated as of January 1, 2009 (the "Plan"), proposes changes to:

- Make technical corrections, such as modifications and clarifications to plan language;
- Comply with the Federal Pension Protection Act of 2006 (PPA);
- Comply with the Federal Heroes Earnings Assistance and Relief Act (HEART Act) signed by Congress in June 2008;
- Comply with the Federal Age Discrimination in Employment Act of 1967, as amended; and
- Facilitate the Plan's compliance with court-ordered decrees (divorce and child payments).

This amendment makes technical changes as well as changes required to comply with Federal laws. The technical changes **make no change to benefits, contributions, or eligibility**. **Current practices will continue.** In addition to the technical changes, the Plan's attorney has notified staff that there has been a change in how the Federal Age Discrimination in Employment Act of 1967, as amended, is interpreted. Benefits provisions are amended to comply with the Age Discrimination in Employment Act. Since the change is obligatory, benefits have already been provided. (Compliance with federal law supersedes the plan document.) Thus, amending the plan document for compliance will **make no change to benefits, contributions, or eligibility and current practices will continue.**

The Plan's Board—consisting of representatives of the City, Firefighters, and Police Officers—recommends that all of the changes in this amendment be adopted.

This summary of the First Amendment is grouped by the nineteen general change topics and does not address the specific list of modifications. The document *List of Section Changes Made by the First Amendment* identifies all thirty-seven sections of the plan document being modified. To enact the changes summarized here, the wording of the thirty-seven sections on the *List of Section Changes Made by the First Amendment* must be modified.

BACKGROUND

The Plan provides both retirement and disability benefits to Firefighters and Police Officers. The Plan was originally adopted on February 21, 2004, when the City of Alexandria Retirement Income Plan, a defined contribution plan, was converted to a defined benefit plan. (A defined contribution plan links benefits to contributions and investment returns, while a defined benefit plan links benefits to the employee's salary and years of service.) The Firefighters and Police Officers Disability Income Plan became part of the Plan at the same time. The Plan was restated

on January 1, 2009, to combine the original written plan document and amendments one through eight into one document.

The Plan's Board created a Valuation and Technical Corrections Committee (the "Committee") in response to Fire and Police Board members' concerns that some sections of the Plan Document were unclear or did not reflect actual practices. A plan document is the formal, written instrument that establishes a retirement plan and its provisions and describes how the plan operates.

The goal of the Committee was to review the Plan Document and propose changes to clarify the Plan, but not to change the plan. In the course of their work, the Committee also considered changes recommended by the Plan's Attorney to ensure the Plan continued to comply with Federal laws. The Committee is comprised of one representative each from Fire and Police and two representatives from the City.

REASONS FOR AMENDMENT

The Plan is being amended at this time to:

- Clarify sections of the plan and make provisions of the plan document accurately reflect long-standing administrative practices;
- Offer benefits to retirees that are allowed under the Pension Protection Act (PPA);
- Comply with the HEART Act;
- Comply with the Age Discrimination in Employment Act of 1967, as amended; and
- Facilitate compliance with court-ordered decrees (divorce and child payments).

The benefits newly allowed under PPA are now recommended since the changes required by PPA were added to the Plan as part of the restatement of January 1, 2009.

FIRST CHANGE TOPIC: Compensation, Average Monthly Compensation

Background

Compensation and Average Monthly Compensation, as defined in the Plan, are part of the formula used in determining a participant's retirement benefit. Both can be expressed as of the date earned or as of the date paid.

The Plan defines compensation used in pension calculations ("pensionable earnings") as regular earnings and excludes overtime and other special pay.

Reason for Change

Since the inception of the Plan and its predecessor plans, the intent and administrative practice has been to define Compensation as base pay. The Plan Document describes Compensation as

paid instead of earned. For those Plan members on irregular shifts, particularly firefighters, the number of hours actually worked may vary significantly from pay period to pay period.

The Plan's intent and administrative practice has always been to calculate Average Monthly Compensation (AMC) based on pay period end date, i.e., when pay is **earned**. However, the plan document states that pension calculations are to be based on wages paid, i.e., when pay is **received**. Additionally, the intent and administrative practice has always been to calculate AMC based on the scheduled pay rate. This takes into consideration the typical plan member on shift work who works a different number of hours each pay period and who also receives adjustments throughout the year that are provided under the Fair Labor Standards Act (FLSA).

The Plan must describe Compensation and Average Compensation as earned rather than as paid to reflect the plan's intent and administrative practice. This change makes administration consistent with the plan document.

The Plan defines Compensation as regular earnings and **excludes** overtime and other special pay. In certain cases, the regular shift **includes** overtime, so the plan needs to clarify what is included in Compensation. An example is the Police patrol officers' regular two-week work schedule that includes seven 11 ½ hours shifts, totaling 80 ½ hours. The 80 hours has always been treated as pensionable earnings and the half hour not. The half hour is treated as overtime at the straight rate (not time and a half). This was the practice prior to the Plan's creation in 2004 and has continued since then.

Change – Technical Correction

Plan Section 1.6 Definitions is modified to clarify the terms "Compensation" and "Average Monthly Compensation." A definition is also added to this section for "Actively Employed or Active Employee," which is necessary to further clarify the previous two terms.

SECOND CHANGE TOPIC: Eligibility for Recruit Service and Excluding Special Police Officers

Background

The Plan Document defines who is an eligible participant.

Reasons for Change

Since inception of the Plan and its predecessor plans, the intent and administrative practice has been to provide service credit to Firefighters and Police Officers for time spent training as Recruits in their respective academies. The Plan Document does not clearly state that Recruits shall receive service credit.

Additionally, the intent and administrative practice has always been to exclude Special Police Officers as covered employees since Special Police Officers are sworn officers with limited authority and are covered by other City retirement plans.

Human Resources and the Police and Fire Departments may occasionally create a new job classification or re-title an existing one. It is burdensome to seek City Council approval to change the pension plan document to include new job classifications as covered positions. This change alleviates this problem by listing covered job classes instead of individual job titles. The change also allows the City Manager to revise the list of job classes as needed.

Change – Technical Correction

Section 1.6 Definitions is modified so that the definition of the term “Covered Employee” **includes** Recruits and **excludes** Special Police Officers.

Appendix C is added to clarify the term “Covered Employee” by listing covered job classes. The City Manager, after consultation with the Board, may amend the job classes listed as covered under the Plan.

THIRD CHANGE TOPIC: Cost of Living Adjustments (COLAs) – Cap on Total Increase

Background

The initial disability benefit and subsequent COLAs are subject to certain offsets from the Plan and the Participant’s Retirement Income Account (if applicable). Pension plans often limit, or cap, the amount a benefit may increase as a result of COLAs. This includes service retirement, disability, and survivor benefits. COLAs may be limited by either the cap on the total benefit paid or on the increase in the benefit paid.

Reasons for Change

Since the inception of the Plan and its predecessor plans, the intent and administrative practice has been to cap COLAs when the benefit is 200% of the initial periodic benefit. The current plan wording in relation to the disability COLA cap is ambiguous. COLA-related sections refer alternately to the amount of increase and the total benefit. This inconsistency can lead to confusion.

Change – Technical Correction

Section 1.6 Definitions is modified by adding a definition of Base Disability Benefit to clarify how the COLA total cap is determined.

Section 6.11(b)(4) is modified to clarify that the COLAs payable on a disability or pension benefit will not increase benefits to more than 200% of the Base Pension Benefit or Base Disability Benefit.

Section 6.11(b)(6) is modified to clarify that the COLAs payable on the combined disability and pension benefit will not increase benefits to more than 200% of the original Base Disability Benefit.

FOURTH CHANGE TOPIC: Cost of Living Adjustments – CPI

Background

Annual Cost of Living Adjustments (COLAs) are based on changes in the Consumer Price Index – All Urban Consumers (CPI-U) U.S. City Average, All Items, (1982-84=100). The Consumer Price Index is produced by the U.S. Department of Labor’s Bureau of Labor Statistics.

Reasons for Change

There are two variations of each Consumer Price Index, one with seasonal adjustment and one without seasonal adjustment. The Plan Document should but does not specify which variation must be used.

Change – Technical Correction

Plan Section 1.6 Definition of CPI: The definition will state that the Plan will use the Bureau of Labor Statistics Consumer Price Index – All Urban Consumers (CPI-U) U.S. City Average, All Items, (1982-84=100) - based on the index that is not seasonally adjusted. This is the same index used in the old defined benefit pension plan, the Plan for Firefighters and Police Officers. The Plan Document will be consistent with current and historical practice.

FIFTH CHANGE TOPIC: Cost of Living Adjustments – Disability to Retirement Conversion

Background

Disabled plan participants have a benefit recalculation once they reach Normal Retirement Date. Part of this calculation includes determining a value of a monthly benefit that is actuarially equivalent to their account value.

Reasons for Change

The Plan Document does not specify whether the conversion to annuity should include a COLA. The practice has been to include a COLA in the disability conversions, which has been advantageous to plan participants.

Change – Technical Correction

Plan Section 5.18(a)(3) and (4) as well as 5.18(b)(3) and (4) are changed to clarify that the conversion calculation will include a COLA.

SIXTH CHANGE TOPIC: Credited Service for Full Calendar Month of Work

Background

Service credit is provided for working through an entire month.

Reasons for Change

A Police Officer or Firefighter must work the entire month to receive service credit for that month. The intention and administrative practice has been to provide service credit for the last month if the participant works through the last scheduled workday (shift) of the month.

Change – Technical Correction

Plan Section 1.6 Definitions is modified in several places. The definitions of “Year of Service” and “Year of Credited Service” are amended to state that a Police Officer or Firefighter working his or her last scheduled day of the month (shift) will receive service credit for that month.

Sections 6.1 (Normal Retirement) and 6.2 (Early Retirement) are modified to enable the participant to work through the last scheduled day (shift) of the month, which is not necessarily the last day of the month, and receive service credit for that month.

SEVENTH CHANGE TOPIC: Pension Deductions for Health Insurance Premiums - Compliance

Background

PPA provides eligible disability and service retirees an exemption from taxable income for certain health insurance premiums if they retire on or after the Normal Retirement Date (NRD). This PPA provision allows certain uniformed officers to exclude from taxable income amounts paid for medical insurance and long-term care premiums up to the annual dollar limitation contained in Section 402(l)(2) of the Internal Revenue Code. This limit is currently \$3,000. The premiums must be deducted directly from monthly pension payments.

Reasons for Change

The Internal Revenue Service requires that the plan insert certain technical language in order to provide eligible members tax exemption for certain health insurance premiums. The Plan does not currently provide any exemption.

Change – Comply with PPA 2006

Plan Section 7.6 is added to provide information on premiums that are eligible for tax exemption. This section is required for federal compliance.

EIGHTH CHANGE TOPIC: Pension Deductions for Health Insurance Premiums – Normal Retirement Date

Background

PPA provides disability and service retirees an exemption from taxable income for certain health insurance premiums up to the annual dollar limitation contained in Section 402(1)(2) of the Internal Revenue Code if they retire on or after the Normal Retirement Date (NRD).

Reasons for Change

NRD was set at age 55 with 5 years of service at the plan's inception. However, participants are eligible to retire with full, unreduced benefits after 25 years of service. There is no age requirement connected with this retirement eligibility. For example, a participant age 52 with 26 years of service may retire with a full, unreduced benefit. Many Police Officers and Firefighters who take advantage of this plan provision to retire before age 55 after a full career with the City are not eligible to take advantage of PPA tax exemption since they retired before NRD. PPA allows the Plan to recognize the 25 years of service pre-age 55 as being at NRD to enable more plan participants to benefit from PPA tax exemption. This will have no impact on eligibility, benefits, or contributions.

Change – Comply with PPA 2006

Plan Section 1.6 Definitions is modified. Normal Retirement Date is changed to:

- Age 55 with 5 years of service, or
- Age 50 with 25 years of service.

This will have no impact on Plan benefit eligibility but will enable more plan participants to take advantage of PPA tax benefit.

NINTH CHANGE TOPIC: Deferred Retirement Option Program (DROP) Account

Background

Participants who have at least thirty years of service may choose to enter the DROP, which allows them to continue working for up to three years and have monthly retirement benefits accumulated in a DROP Account. Plan Section 6.4(e) describes how COLAs and interest are to be applied to the DROP Account.

Reasons for Change

A participant who enters the DROP is considered to have a DROP Account. The DROP Account is the amount of monthly benefits that the participant accumulates while still working as a covered employee. The Drop Account is calculated at the time the participant exits the DROP and retires. COLAs and interest are applied as specified in the Plan Document. The term DROP Account is not a new term, but has not been defined previously in the Plan Document. Additionally, the Plan Document does not specifically address interest accruals once the participant exits the DROP. The Plan's attorney has advised that it is improper to credit interest after the participant exits the DROP.

Change – Technical Correction

Plan Section 1.6 is amended to include a definition for DROP Account. Plan Section 6.4 is amended to state that interest stops accruing to the member's account once he or she exits the DROP.

TENTH CHANGE TOPIC: Disability and Social Security

Background

The Plan's eligibility standards for both Service-Connected Total Disability and Non-Service-Connected Total Disability require the participant be awarded Social Security Disability benefits.

Reasons for Change

Frequently, Social Security Disability is initially denied by the federal Social Security Administration and then awarded months later in the appeal process. It has been the Pension Plan's practice to allow members applying for either of the total disability benefits under Sections 5.1 and 5.2 to apply and receive one of the partial disability benefits provided under Sections 5.3 and 5.4 while waiting for the award of Social Security Disability benefits. The Plan Document should reflect administrative practice.

According to the current Plan Document, the member's partial disability benefit is increased to the total disability benefit after he or she provides evidence of the Social Security Disability

award. The Plan Document does not explicitly address whether or not the increase should be retroactive to the date they began receiving partial disability benefits. However, current practice has been to make the benefit increase retroactive.

Change – Technical Correction

Plan Section 5.11(d) is modified to allow a participant applying for total disability benefits to receive partial disability benefits while waiting for the award of Social Security disability benefits. The section is also modified to clarify when the participant is entitled to receive increased benefits after receiving an award of Social Security Disability benefits. This change makes the Plan Document consistent with ongoing practice.

ELEVENTH CHANGE TOPIC: Eligibility for Disability

Background

Disability benefit eligibility consists of two phases. The first phase is an initial disability benefit payable from disability to Normal Retirement Date (NRD). The second phase occurs at NRD when disability benefits are recalculated and the participant begins receiving a retirement benefit that may partially or fully offset the disability benefit. Disability benefits end at NRD for many participants because the disability benefit is offset by the pension benefit, which is often larger. The retirement benefit and any recalculated disability benefit are payable for life. The Plan currently provides coverage for disability benefits before NRD, but not after.

Reasons for Change

The Plan's attorney believes that recent court cases related to the Age Discrimination in Employment Act of 1967, as amended, put the Plan at risk for non-compliance since it does not currently allow for a disability benefit that commences after NRD. This change may affect benefits but should be completed to comply with current laws.

Change – Comply with Age Discrimination in Employment Act of 1967, as amended

The following Plan sections have been changed to delete the requirement that disability occur prior to NRD:

- Section 5.1(a) Service Connected Total Disability
- Section 5.2(a) Non-Service Connected Total Disability
- Section 5.3(a) Service Connected Partial Disability
- Section 5.4(a) Non-Service Connected Partial Disability

Additionally, the following Pension Plan Sections have been changed as noted:

- Section 1.6 Definitions is amended to add a definition for “Actively Employed or Active Employee” to clarify eligibility for disability.

- Section 5.11 no longer indicates disability payments cease at NRD.
- Section 5.13 is amended to reflect that conversion from disability to retirement may occur after NRD.
- Section 5.18(b)(1) is modified to allow annuity purchase with funds from the Retirement Income Plan after NRD.
- Section 6.9(f)(2) is amended to enable the participant to select the joint and contingent annuity option.
- Section 6.11(b)(6) is amended to facilitate payment of COLAs on a disability that occurs after NRD.
- Section 6.11(b)(7) is added to clarify the Cost of Living Adjustments for participants becoming disabled after the NRD.

TWELFTH CHANGE TOPIC: – Disabled after Normal Retirement Date - Cost of Living Adjustments

Background

The Plan Document does not anticipate a disability retirement following Normal Retirement Date (NRD). COLA provisions do not provide annual increases for participants becoming disabled after NRD.

Reasons for Change

COLAS are provided to those who become disabled prior to NRD. To comply with the Age Discrimination in Employment Act a COLA must also be provided to those disabled after the NRD.

Change – Comply with Age Discrimination in Employment Act of 1967, as amended

Plan section 6.11(b)(7) is added to comply with the Age Discrimination in Employment Act.

THIRTEENTH CHANGE TOPIC: Disability and Workers' Compensation Offsets

Background

Disability benefits are designed for income replacement. If a plan participant receives monthly Workers' Compensation benefits, then the disability benefit is offset by the Workers' Compensation benefit.

Reasons for Change

Virtually all Workers' Compensations awards are "for lost wages." However, on occasion there are payments for "loss of use." As written, the Plan Document does not clearly state the disability benefit is meant to only be offset by Workers' Compensation "for lost wages."

Change – Technical Correction

Article 5.7 and 5.9 are amended to clarify the disability benefit is only offset by Workers' Compensation benefits "for lost wages."

FOURTEENTH CHANGE TOPIC: Disability and Compliance

Background

Section 5.11 covers Commencement and Cessation of Disability Benefits. Section 5.11(a) was recently added to clarify the commencement of disability benefits.

Reasons for Change

When Section 5.11(a) was added, all the sections in 5.11 were renumbered. References to Section 5.11 throughout the plan document should have been renumbered at the same time. Section 5.6(b)(2)(i) references Section "5.11(a)(6) or (b)(3)". The reference should have changed to 5.11(b)(6) or (c)(3).

Change – Technical Correction

In Section 5.6(b)(2)(i), the reference to Section 5.11(a)(6) or (b)(3) is changed to Section 5.11(b)(6) or (c)(3).

FIFTEENTH CHANGE TOPIC: Disability Coverage While On Leave of Absence

Background

Coverage for Non-Service Connected Partial Disability is totally funded through contributions (premiums). The premiums are deducted from employees' paychecks.

Reasons for Change

Coverage for Non-Service Connected Partial Disability does not include periods of leaves of absence.

Change – Technical Correction

Article 4.3(b) is added to permit a participant on an authorized leave of absence to continue coverage for Non-Service Connected Partial Disability by making the employee contribution (currently set at 0.6% of regular compensation).

SIXTEENTH CHANGE TOPIC: HEART Act

Background

The Heroes Earnings Assistance and Relief Act (HEART Act) was enacted by Congress and signed by the president in June 2008. Under the HEART Act, if a participant dies during qualified military service, the Plan must treat the participant as if he died during covered employment.

Reasons for Change

Section 6.9(d) must be changed to make the Plan compliant with the HEART Act.

Change – Comply with HEART Act

Section 1.6 Definitions is amended to add the definition of “Actively Employed or Active Employee” to clarify the sections on death benefits.

Section 3.1 is modified to clarify how Years of Service and Credited Service are accrued and how they are affected by an Authorized Leave of Absence for military service.

Section 6.9(d) has been changed to provide a death benefit to the beneficiary of a qualifying plan participant as if he or she had died while still employed as an active City of Alexandria employee. The change is retroactive to January 1, 2007.

SEVENTEENTH CHANGE TOPIC: Court-Ordered Payments

Background

In the event of a divorce or the awarding of child support, the courts may create a Qualified Domestic Relations Order (QDRO or DRO). The QDRO or DRO may direct a portion of the pension benefit to an ex-spouse but may not alter the Plan provisions.

Reasons for Change

Court orders for QDROs or DROs must comply with both the Plan’s and the court’s rules, regulations, etc. To ensure this compliance, QDROs and DROs are sent to the Plan’s attorney for review – often at significant expense. Since the Plan does not have certain provisions that are

standard in private employer pension plans, the QDROs and DROs received are often unacceptable. This issue is relieved if the alternate payee, typically an ex-spouse, were treated as a participant as far as receiving payments once the Participant retires. The alternate payee could choose a benefit payable over his or her lifetime rather than over the life of the Participant.

Change – Administration

Article 7.5(c) is added and Article 13.3 amended to permit greater flexibility in making court-ordered payments on an actuarially equivalent basis (at no expected cost to the pension system).

EIGHTEENTH CHANGE TOPIC: Annuity Purchase - COLA Provisions

Background

The Plan provides an option for a participant with a Retirement Income Account to annuitize their balance at the earlier of termination or Normal Retirement Date. The purchased annuity is not subject to annual COLA increases.

Reasons for Change

To date, no Plan participant has utilized the optional annuity purchase provisions of the Plan. However, the Plan administration requires the Plan to have annuity factors available in case the option is used. The option factors are developed by a consulting actuary who charges \$300 per hour to prepare the factors. The administrators would like to eliminate this expense.

The core benefits provided by the plan do provide COLAS. Having the purchased annuity also provide a COLA makes for consistency, ease of communication, and simpler administration.

Providing a COLA will be on an actuarially equivalent basis. Adding the COLA provision to the purchased annuity makes the initial benefits lower while making later benefits subject to increases. The expected cost to the plan is zero.

Change – Technical Correction

Plan Section 6.6 and 6.11 are changed so the purchased annuity option includes a COLA.

NINETEENTH CHANGE TOPIC: PARTICIPANT REPRESENTATIVES

Background

Section 10.3 describes how Participant Representatives and Alternates are elected and their terms of office. Section 10.3(c)(2) was recently added to further clarify the terms of office effective January 1, 2011.

Reasons for Change

When Section 10.3(c)(2) was added the years 2012 in section (i) and 2014 in section (ii) were incorrectly typed as 2013 and 2015.

Change – Technical Correction

In Section 10.3(c)(2) the years 2013 and 2015 are corrected to be 2012 and 2014.

List of Section Changes Made by the First Amendment

The City of Alexandria Firefighters and Police Officers Pension Plan As Amended and Restated as of January 1, 2009

This document lists the sections changed as a result of the First Amendment. The **subject** of the change is mentioned. A separate document provides greater detail on the changes. This document does **not** list minor modifications to capitalization, punctuation, renumbering, spelling, and spacing.

Section Changed	Change	Amendment Change No.	Discussed in Summary Change Topic No.
Article 1.6 Definitions			
Actively Employed or Active Employee	The definition of this term is added to clarify 1) the term Compensation, 2) plan participants being able to extend disability coverage during leaves of absence, 3) eligibility for disability, and 4) the sections on death benefits.	1	1 st 11 th 16 th
Average Monthly Compensation	The definition of this term is modified to be consistent with administrative practices. Pay is attributed to the last day of the pay period (when earned) rather than on the date paid. Also, pay is based on scheduled pay that appears in the Salary Scale charts published by Human Resources.	2	1 st
Base Disability Benefit	The definition of this term is added to clarify Cost of Living Adjustments (COLAs) provided to disabled participants.	3	3 rd
Compensation	The definition of this term is modified to be consistent with administrative practices. Pay is based on pay periods as opposed to pay dates. Pay is also based on scheduled pay that appears in the Salary Scale chart published by Human Resources. Police Officers on an 80 ½ hour patrol schedule per pay period will have only 80 hours considered as pensionable earnings. The half hour overtime is excluded from pensionable earnings.	4	1 st
Covered Employee	The definition of this term clarifies that recruits/cadets are covered under the plan. Special Police Officers are not covered.	5	2 nd
CPI – Consumer Price Index	This definition is modified to clarify that COLA adjustments will use the CPI that is not seasonally adjusted.	6	4 th

Section Changed	Change	Amendment Change No.	Discussed in Summary Change Topic No.
DROP Account	The definition of this term is added as the term is already being used in the plan but is not defined.	7	9 th
Normal Retirement Date	This definition is changed to enable more retirees to benefit from a provision of the Pension Protection Act of 2006 that requires retirement on or after Normal Retirement Date.	8	8 th
Year of Credited Service	The definition is modified to clarify that the participant will receive service credit for the month when working through the last scheduled workday (shift) of the month *, which may not be the last day of the month.	9	6 th
Year of Service	The definition is modified to clarify that the participant will receive service credit for the month when working through the last scheduled workday (shift) of the month *, which may not be the last day of the month.	9	6 th
ARTICLES 3 – 7, 13			
Article 3.1	The section title has been changed from Authorized Leave of Absence to Determining Years of Service and Years of Credited Service Credited Under the Plan. This section is modified to clarify how Service and Credited Service accrue and how they are affected by an Authorized Leave of Absence for military service.	10	16 th
Article 4.3(b)	The Employee Disability Contributions section is added to permit the employee to extend coverage for non-service connected partial disability during an authorized leave of absence.	11	15 th
Article 5.1(a)	The Eligibility for Service Connected Total and Permanent Disability Benefit section is amended to extend eligibility beyond Normal Retirement Date as required for compliance with the Age Discrimination in Employment Act.	12	11 th
Article 5.2(a)	The Eligibility for Non-Service Connected Total and Permanent Disability Benefit section is amended to extend eligibility beyond Normal Retirement Date as required for compliance with the Age Discrimination in Employment Act.	13	11 th
Article 5.3(a)	The Eligibility for Service Connected Partial Disability Benefit section is amended to extend eligibility beyond Normal Retirement Date as required for compliance with the Age Discrimination in Employment Act.	14	11 th

Section Changed	Change	Amendment Change No.	Discussed in Summary Change Topic No.
Article 5.4(a)	The Eligibility for Non-Service Connected Partial Disability Benefit section is amended to extend eligibility beyond Normal Retirement Date as required for compliance with the Age Discrimination in Employment Act.	15	11 th
Article 5.6(b)(2)(i)	Typographical errors are corrected as 5.11(a)(6) or (b)(3) is changed to 5.11(b)(6) or (c)(3).	16	14 th
Article 5.7	The Amount of Disability Benefit on Account of Service Connected Total and Permanent Disability section is clarified to indicate that the Workers' Compensation offset of disability benefits includes payments "for lost wages" only. There is no offset for "loss of use."	17	13 th
Article 5.9	The Amount of Disability Benefit on Account of Service Connected Partial Disability section is clarified to indicate that the Workers' Compensation offset of disability benefits includes payments "for lost wages" only. There is no offset for "loss of use."	17	13 th
Article 5.11	The Commencement and Cessation of Disability Benefits section is amended to comply with the Age Discrimination in Employment Act.	18	11 th
Article 5.11(d)	This subsection of Commencement and Cessation of Disability Benefits clarifies that it is permissible to provide retroactive benefit increases when Social Security is retroactively approved.	18	10 th
Article 5.13	The Disability Benefits After Normal Retirement Date section is amended to facilitate administration of disability benefits for disability occurring after Normal Retirement Date, as required for compliance with the Age Discrimination in Employment Act.	19	11 th
Article 5.18(a)(3) & (4)	The Special Election to Use City Funded Retirement Income Account to Purchase Retirement Income at Normal Retirement Date section is modified to clarify that the purchased annuity includes Cost of Living Adjustment (COLA) provisions.	20	5 th
Article 5.18(b)(1)	The Special Election to Use City Funded Retirement Income Account to Purchase Retirement Income at Normal Retirement Date section is amended to facilitate administration of disability benefits for disability occurring after Normal Retirement Date, as required for compliance with the Age Discrimination in Employment Act.	21	11 th

Section Changed	Change	Amendment Change No.	Discussed in Summary Change Topic No.
Article 5.18(b)(3) & (4)	The Participants Who Become Disabled After June 12, 2007 subsection 5.18(b)(3)(ii) is added to clarify that the purchased annuity includes Cost of Living Adjustment (COLA) provisions.	22	5 th
Article 6.1(a)	The Normal Retirement section is modified to clarify that working to the end of the month means working through the last scheduled work day (shift) and not necessarily the last calendar day.	23	6 th
Article 6.2	The Early Retirement section is modified to clarify the administrative practice that requires the participant to work through the last scheduled workday (the last scheduled shift*) of the month, which may not be the last calendar day of the month.	24	6 th
Article 6.4(e)	The Credit to the DROP Account section is clarified to state that interest is not credited on or after the DROP Retirement Date.	25	9 th
Article 6.6	The optional annuitization of Retirement Income Accounts will include COLAs in the actuarial equivalence calculations	26	18 th
Article 6.9(d)	The Death While on Authorized Leave of Absence section is amended to comply with the HEART Act.	27	16 th
Article 6.9(f)(2)	The Death of a Participant Receiving Disability Benefits section is modified as required for IRS compliance.	28	11 th
Article 6.11(a)	The Cost of Living Adjustments (COLAs) section is amended to include annuitization of the Retirement Income Account	29	18 th
Article 6.11(b)(4)	The Cost of Living Adjustments (COLAs) section is modified to clarify that COLAs may not increase the benefit beyond twice the original benefit (pension or disability).	30	3 rd
Article 6.11(b)(6)	The Cost of Living Adjustments section is amended to facilitate applying a Cost of Living Adjustment to disability benefits for disability occurring after Normal Retirement Date, as required for compliance with the Age Discrimination in Employment Act. Language is modified to clarify that COLAs on the combined pension and disability benefit may not increase the benefit beyond twice the original Base Disability Benefit amount.	31	3 rd 11 th

Section Changed	Change	Amendment Change No.	Discussed in Summary Change Topic No.
Article 6.11(b)(7)	The Cost of Living Adjustments section is added to facilitate applying a COLA to disability benefits for disability occurring after Normal Retirement Date, as required for compliance with the Age Discrimination in Employment Act.	32	11 th 12 th
Article 7.5(c)	The provisions on administration of court-ordered payments for decrees (divorce & child support payments) are rewritten to permit greater flexibility on a cost-neutral basis.	33	17 th
Article 7.6	The Qualified Health Insurance Premium Distributions section is added to enable qualifying participants to receive a tax benefit, as required for IRS compliance under PPA 2006.	34	7 th
Article 10.3(c)(2)	The Participant Representatives section is amended to correct two typographical errors. The years 2013 in subsection (i) and 2015 in subsection (ii) are changed to 2012 and 2014.	35	19
Article 13.3	The provisions on administration of court-ordered payments for decrees (divorce & child support payments) are rewritten to permit greater flexibility on a cost-neutral basis.	36	17 th
APPENDIX C	Appendix C Covered Employee is added to clarify that employees in certain positions are covered employees.	37	2 nd

*Last scheduled work day (shift) of the month means the last workday that the Participant's unit, team, or assigned group is scheduled to work for the month.

**FIRST AMENDMENT TO
THE CITY OF ALEXANDRIA FIREFIGHTERS
AND POLICE OFFICERS PENSION PLAN,
AS AMENDED AND RESTATED EFFECTIVE AS OF JANUARY 1, 2009**

Pursuant to the powers of amendment reserved under Section 12.1 of The City of Alexandria Firefighters and Police Officers Pension Plan, as amended and restated effective as of January 1, 2009 (the "Plan"), said Plan shall be and the same is hereby amended by the City of Alexandria, Virginia (the "City"), effective as of January 1, 2010, or such earlier or later dates as may be specified herein, as follows:

FIRST CHANGE

The following definition of "Actively Employed" is hereby added to Section 1.6.

Actively Employed or Active Employee

"Actively Employed" or "Active Employee" means the period during which a Participant is receiving Compensation from the City as a Covered Employee (including, without limitation, any period of paid leave). Notwithstanding the forgoing, for purposes of Article 5, a Participant who is on an Authorized Leave of Absence for military service shall not be considered to be actively employed during such period of military leave.

SECOND CHANGE

The definition of "Average Monthly Compensation" in Section 1.6 is hereby deleted and the following is inserted in lieu thereof effective as of January 1, 2004:

Average Monthly Compensation

"Average Monthly Compensation" means 1/48th of the total amount of a Participant's Compensation for the forty-eight (48) consecutive full calendar months of the Participant's employment as a Covered Employee in which his or her Compensation was the highest. In the event a Participant's entire period of employment consists of less than forty-eight

(48) consecutive full calendar months of employment as a Covered Employee, the Participant's Average Monthly Compensation shall be determined by averaging (on a monthly basis) the Participant's Compensation during the number of full calendar months that the Participant was employed as a Covered Employee. Notwithstanding anything herein, in determining a Participant's Average Monthly Compensation under this Plan, (1) only Compensation earned during a calendar month that is included in calculating the Participant's Years of Credited Service shall be taken into account (provided, however, if a Participant is Disabled prior to accruing 1/12th of a Year of Credited Service, Average Monthly Compensation shall be determined by the Administrator based on the scheduled monthly pay for the Participant's grade and step), (2) the determination of Average Monthly Compensation shall include Compensation earned prior to the Effective Date, and (3) all Compensation for a payroll period shall be attributed to (and deemed to have been earned) on the Participant's last day of employment in the payroll period.

THIRD CHANGE

The definition of "Base Disability Benefit" in Section 1.6 is hereby deleted and the following is inserted in lieu thereof effective as of January 1, 2004:

Base Disability Benefit

"Base Disability Benefit" means the annual amount of the Disability Benefit payable under Section 5.7, 5.8, 5.9 or 5.10 (as determined on the date that Disability Benefits commence to the Participant and without regard to any adjustment made pursuant to Section 5.13). In the case of a Disability Benefit payable pursuant to the contingent annuitant option, the Base Disability Benefit shall be determined as if the Participant had died on the day following his or her Disability Retirement Date and benefits had immediately commenced to such contingent annuitant on such date.

FOURTH CHANGE

The first paragraph of the definition of "Compensation" in Section 1.6 is hereby deleted and the following paragraph is inserted in lieu thereof effective as of January 1, 2004:

"Compensation" means the amount classified by the City as retirement base compensation (i.e., regular or base salary or wages for personal services rendered as a Covered Employee, based on the Covered

Employee's grade and step). Such term excludes any and all overtime (including amounts classified as overtime, but paid on a straight time basis), differentials, allowances, premiums, bonuses, FLSA adjustments, or any form of extra compensation.

A Participant's Compensation under this Plan shall be determined in accordance with the following provisions: (1) Compensation shall be determined based on pay periods during which the Participant was a Covered Employee (and only Compensation earned as a Covered Employee shall be taken into account), (2) Compensation for a pay period shall be determined based on the scheduled annual pay for the Participant's grade and step, divided by 26 (provided, however, if the Participant is not actively employed for the entire pay period for any reason (including retirement, Disability, death, termination of employment or a leave of absence), the amount of the Participant's Compensation for such pay period shall be based on the Participant's actual Compensation for the pay period), and (3) if a Participant receives a retroactive adjustment to Compensation (i.e., a retroactive adjustment to regular or base salary), the determination of Compensation for a pay period shall include the retroactive adjustment paid during the pay period (notwithstanding that a portion of such adjustment may relate to prior pay periods) and Compensation for any prior pay period covered by such retroactive adjustment shall continue to be computed without regard to the retroactive portion of such adjustment.

FIFTH CHANGE

The definition of "Covered Employee" in Section 1.6 is hereby deleted and the following is inserted in lieu thereof effective as of January 1, 2004:

Covered Employee

"Covered Employee" means, except as noted below, an Employee who is employed by the City as (i) a sworn Police Officer or Firefighter or (ii) a fire or police recruit (but only during the period of time that such Employee is employed by the City as a sworn Police Officer or Firefighter or a fire or police recruit).

Appendix C sets forth the positions that represent Covered Employees under the Plan. Appendix C may be amended from time to time by the City Manager (after consultation with the Board) without the need for a formal amendment to the Plan and any such change shall be deemed to amend the definition of Covered Employee and shall become part of the Plan.

The term "Covered Employee" does not include (i) an Employee who is covered under the City of Alexandria Pension Plan for Firefighters and Police Officers, (ii) an Employee who is covered by and accruing benefits under the City of Alexandria Supplemental Plan or the Retirement Income Plan for Deputy Sheriffs, Emergency Medical Technicians and Fire Marshals, or (iii) the Employee who was serving as the Chief of the Fire Department on the Effective Date. The term "Covered Employee" does include any Employee subsequently designated as Chief of the Fire Department.

SIXTH CHANGE

The definition of "CPI" in Section 1.6 is hereby deleted and the following is inserted in lieu thereof effective as of January 1, 2004:

CPI

"CPI" means the Consumer Price Index - All Urban Consumers (CPI-U), U.S. City Average, All Items, (1982-84=100) (based on the index that is not seasonally adjusted), published and revised by the Bureau of Labor Statistics, U.S. Department of Labor, or the successor to such index.

SEVENTH CHANGE

The following definition of "DROP Account" is hereby added to Section 1.6 effective as of January 1, 2004:

DROP Account

"DROP Account" means the record reflecting the amount to which a Participant is entitled under Section 6.4(e).

EIGHTH CHANGE

The definition of "Normal Retirement Date" in Section 1. 6 is hereby deleted and the following is inserted in lieu thereof:

Normal Retirement Date

"Normal Retirement Date" means:

- (1) In the case of a Participant who commenced employment as a Covered Employee on or after the Effective Date, the first day of

the month coincident with or next following the attainment of age 55 with at least 5 Years of Credited Service or the attainment of age 50 with at least 25 Years of Credited Service.

- (2) In the case of a Participant who commenced employment as a Covered Employee prior to the Effective Date, the first day of the month coincident with or next following the attainment of age 55 or the attainment of age 50 with at least 25 Years of Credited Service.

Notwithstanding the forgoing, for purposes of Section 5.13, a Participant's Normal Retirement Date shall be the first day of the month coincident with or next following the attainment of age 55.

NINTH CHANGE

The following sentence is hereby added to the definition of "Year of Credited Service" and "Year of Service" in Section 1.6 effective as of January 1, 2004:

A Participant who is employed from the first day of a month through the last scheduled working day of a month shall be considered as having been employed for the entire month.

TENTH CHANGE

Section 3.1 is hereby deleted and the following new Section 3.1 is inserted in lieu thereof effective as of January 1, 2004:

3.1 Determining Years of Service and Years of Credited Service Credited Under Plan

- (a) All Years of Service and Years of Credited Service completed by a Participant shall be counted in determining his or her vested interest in, and benefits under, the Plan in accordance with (and subject to) the provisions of this Article 3.
- (b) Except as otherwise provided in Section 3.4 or 3.5, a Participant shall not be credited with Years of Credited Service (or 1/12th increments thereof) for any calendar month prior to the Effective Date.
- (c) Except as otherwise provided in Section 3.1(d) or as required by law, a Participant shall not be credited with Years of Service or

Years of Credited Service (or 1/12th increments thereof), during an Authorized Leave of Absence.

- (d) If a Participant incurs an Authorized Leave of Absence on account of military service, the Participant shall receive credit for Years of Service and Years of Credited Service upon reemployment for the period of such Authorized Leave of Absence to the extent required by the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended, and Section 414(u) of the Internal Revenue Code or any other law (but without any requirement for such a Participant to make contributions upon his or her reemployment for the period of his or her military service).
- (e) A Participant shall not be deemed to have reached his or her Termination Date on account of an Authorized Leave of Absence.

ELEVENTH CHANGE

Section 4.3(b) is hereby deleted and the following new Section 4.3(b) is inserted in lieu thereof:

(b) Employee Disability Contributions

- (1) On and after the Date of Adoption, each Participant shall make an Employee Disability Contribution in an amount required to offset the cost (as determined by the Actuary based upon reasonable actuarial assumptions, funding methods and related matters) to provide for Disability Benefits attributable to a Non-Service Connected Partial Disability under Sections 5.4 and 5.10. Such Employee Disability Contribution shall continue until the earlier of the Participant's (1) Termination Date, or (2) the last day of the pay period immediately preceding the DROP Effective Date. Effective July 1, 2008, the amount of the Employee Disability Contribution shall be 0.6% of each Participant's Compensation. The rate of the Employee Disability Contribution shall be adjusted thereafter to the extent that the Actuary determines that such change is necessary to maintain proper funding. The amount of the Employee Disability Contribution shall not be picked up by the City under Section 414(h)(2) of the Internal Revenue Code. The Employee Disability Contribution shall only be used to pay for Disability Benefits on account of a Non-Service Connected Partial Disability.
- (2) A Participant who is on an Authorized Leave of Absence (and who is not considered to be Actively Employed during the period of such Authorized Leave of Absence) may make a written election, at the

time the Authorized Leave of Absence commences, to continue coverage for Disability Benefits attributable to a Non-Service Connected Partial Disability under Sections 5.4 and 5.10. A Participant who makes such an election shall pay the Employee Disability Contribution during the period of the Authorized Leave of Absence in accordance with such procedures as may be established by the Administrator for such payments. The amount of such required Employee Disability Contribution shall be based upon the percentage of Compensation required to be contributed by an Active Employee and the salary schedule (as adjusted from time to time) applicable to the rank and grade held by the Employee at the time the Authorized Leave of Absence commences.

TWELFTH CHANGE

Subsection (a) of Section 5.1 is hereby deleted and the following is inserted in lieu thereof effective as of January 1, 2004:

- (a) The Participant is Totally Disabled while actively employed as a Covered Employee;

THIRTEENTH CHANGE

Subsection (a) of Section 5.2 is hereby deleted and the following is inserted in lieu thereof effective as of January 1, 2004:

- (a) The Participant is Totally Disabled while actively employed as a Covered Employee (and prior to his or her DROP Effective Date, if applicable);

FOURTEENTH CHANGE

Subsection (a) of Section 5.3 is hereby deleted and the following is inserted in lieu thereof effective as of January 1, 2004:

- (a) The Participant is Partially Disabled while actively employed as a Covered Employee;

FIFTEENTH CHANGE

Subsection (a) of Section 5.4 is hereby deleted and the following is inserted in lieu thereof effective as of January 1, 2004:

- (a) The Participant is Partially Disabled while actively employed as a Covered Employee (and prior to his or her DROP Effective Date, if applicable);

SIXTEENTH CHANGE

In Section 5.6(b)(2)(i), the reference to Section 5.11(a)(6) or (b)(3) shall be changed to read "Section 5.11(b)(6) or (c)(3)" effective as of January 1, 2004.

SEVENTEENTH CHANGE

In Section 5.7 and 5.9, the phrase "for lost wages" is hereby added after "the annual gross amount of periodic payments payable" effective as of January 1, 2004.

EIGHTEENTH CHANGE

Section 5.11 is hereby deleted and the following new Section 5.11 is inserted in lieu thereof effective as of January 1, 2004:

5.11 Commencement and Cessation of Disability Benefits

- (a) Disability Benefits shall be paid monthly commencing on the Participant's Disability Retirement Date.
- (b) Subject to the provisions of Section 5.13 and 5.15, Disability Benefits for a Participant who is Totally Disabled and entitled to benefits under Sections 5.1 or 5.2, will cease on the first day of the month coincident with or next following the earliest of the dates specified below:

- (1) The date the administrator determines that the Participant is no longer Totally Disabled, on the basis of a medical examination by an independent diagnostic clinic or physician(s) selected by the Administrator.
 - (2) The date the Participant refuses to undergo a medical examination requested by the Administrator, provided the Participant may not be required to undergo such medical examination more often than twice a year.
 - (3) The date that the Participant's disability payments under Social Security cease.
 - (4) The date the Participant returns to a regular occupation or employment.
 - (5) The date the Participant refuses any employment that the Participant is required to accept pursuant to Section 5.6.
 - (6) The date on which the Participant dies.
- (c) Subject to the provisions of Section 5.13 and 5.15, Disability Benefits for a Participant who is Partially Disabled and entitled to benefits under Sections 5.3 or 5.4, will cease on the first day of the month coincident with or next following the earliest of the dates specified below:
- (1) The date the Administrator determines that the Participant is no longer Partially Disabled, on the basis of a medical examination by an independent diagnostic clinic or physician(s) selected by the Administrator.
 - (2) The date the Participant refuses to undergo a medical examination requested by the Administrator, provided the Participant may not be required to undergo such medical examination more often than twice a year.
 - (3) The date the Participant refuses any employment that the Participant is required to accept pursuant to Section 5.6.
 - (4) The date on which the Participant dies.
- (d) A Participant who is Totally Disabled (and who would be entitled to a Service or Non-Service Connected Total and Permanent Disability Benefit, but for an award of Social Security disability benefits) shall be entitled to receive a Service or Non-Service Connected Partial Disability Benefit (pending receipt of an award of

Social Security disability benefits). Upon the award of Social Security disability benefits, the Participant will be entitled to a Service or Non-Service Connected Total and Permanent Disability Benefit effective as of the later of (i) the date on which the Participant has been Totally Disabled for a period of six (6) months, (ii) the Participant's Disability Retirement Date, or (iii) the date the Participant applied for an award of Social Security disability benefits.

NINETEENTH CHANGE

Section 5.13 is hereby deleted and the following new Section 5.13 is inserted in lieu thereof effective as of January 1, 2004:

5.13 Disability Benefits After Normal Retirement Date

- (a) Upon the later of the Participant's Normal Retirement Date or Disability Retirement Date, a Participant who is receiving (or entitled to receive) Disability Benefits shall begin receiving his or her Accrued Pension Benefit in accordance with the provisions of Article 6 and may elect to have his or her Accrued Pension Benefit paid in any of the optional annuity forms permitted under Section 7.2(a) or (b) (but not under Section 7.2(c)). The Actuarial Equivalence of the optional annuity forms shall be determined using the Actuarial Equivalence for Disabled Participants (for determining Actuarial Equivalence under Section 5.13) set forth in Appendix A.
- (b) In the case of a Participant whose Disability Retirement Date occurs before his or her Normal Retirement Date, Disability Benefits under this Plan shall be recomputed as of the Participant Normal Retirement Date, so that the Participant's Disability Benefits under Article 5 and the sum of the Participant's Accrued Pension Benefit under Article 6 and, if applicable, the amount of his or her City Funded Retirement Income Account (all expressed in the form in which Disability Benefits were payable prior to the Participant's Normal Retirement Date) is actuarially equal in value to the amount of payments that the Participant would have received under Article 5 if the Participant (i) had not been Disabled, (ii) had continued to be employed by the City at the same rank and grade he or she had attained immediately prior to his or her Disability, (iii) for the prior forty-eight (48) months, had received the amount of pay applicable to such rank and grade (including any cost of living wage adjustment granted by the City but ignoring any step increases for such rank and grade), and (iv) had become Disabled and begun receiving Disability Benefits under this Article 5 immediately prior to

his or her Normal Retirement Date. If the amount of pay applicable to the Participant's rank and grade is modified by a change in the City's compensation or classification system, then the Participant shall be assigned to an equivalent rank and grade within such revised compensation or classification system for purposes of applying clauses (ii) and (iii) of this Section 5.13(b).

- (c) Following the recalculation under Section 5.13(b), the Disability Benefits under Article 5 shall continue to be paid to the Participant following his or her Normal Retirement Date in the same form as such Benefits were being paid prior to the Participant's Normal Retirement Date (i.e., either in the normal form or under the contingent annuitant option), but only to the extent necessary to provide that the Disability Benefits under Article 5 and the retirement benefits under Article 6 (including for this purpose any retirement benefits payable with respect to the Participant's City Funded Retirement Income Account) are Actuarially Equivalent to the recalculated Disability Benefits the Participant would have received under Article 5, as computed in accordance with Section 5.13(b). In the event that the Participant's retirement benefits under Article 6 (including for this purpose any retirement benefits payable with respect to the Participant's City Funded Retirement Income Account) are equal to or greater than such recalculated Disability Benefit, then all Disability Benefits payable under this Article 5 shall cease on the Participant's Normal Retirement Date.
- (d) In the case of a Participant who becomes Disabled on or after reaching his or her Normal Retirement Date, the Participant's Disability Benefits under this Plan shall be equal to the Participant's Disability Benefits, as computed under Article 5, less the sum of the Participant's Accrued Pension Benefit under Article 6 and, if applicable, the amount of his or her City Funded Retirement Income Account. For purposes of this calculation, the Participant's Accrued Pension Benefit and City Funded Retirement Income Account shall be expressed in the form in which Disability Benefits are payable to the Participant. Following such calculation, the Disability Benefits under Article 5 shall immediately commence to the Participant in accordance with the provisions of this Article 5. In the event that the Participant's retirement benefits under Article 6 (including for this purpose any retirement benefits payable with respect to the Participant's City Funded Retirement Income Account) are equal to or greater than the Disability Benefit computed in accordance with this paragraph, then no Disability Benefits shall be payable under this Article 5.
- (e) For purposes of the determinations required under this Section 5.13:

- (1) The amount of retirement income that is payable with respect to a Participant's City Funded Retirement Income Account (based on the value as of the Date of Adoption and any subsequent Investment Adjustments) shall be determined by the Actuary using the Actuarial Equivalence for Disabled Participants (for determining Actuarial Equivalence under Section 5.13) set forth in Appendix A, as in effect on the Participant's Normal Retirement Date (for purposes of Section 5.13(b) and (c)) or Disability Retirement Date (for purposes of Section 5.13(d)).
- (2) In the case of a Participant whose Accrued Pension Benefit is subject to a qualified domestic relations order (within the meaning of Section 13.3(c)(5)), such qualified domestic relations order shall be ignored in determining the amount of the Participant's Accrued Pension Benefit under Article 6 (so that the Participant's entire Accrued Pension Benefit is taken into account in determining the extent to which the Participant's retirement benefits are equal to or greater than the Participant's recalculated Disability Benefit and the amount of any Disability Benefit payable to the Participant following his or her Normal Retirement Date or Disability Retirement Date, as the case may be).
- (3) In the case of a Participant whose Retirement Income Account is subject to a qualified domestic relations order (within the meaning of Section 13.3(c)(5)), such qualified domestic relations order shall be ignored in determining the amount of retirement income that is payable with respect to a Participant's City Funded Retirement Income Account. To the extent that the Participant's Retirement Income Account has been divided into separate accounts pursuant to a qualified domestic relations order, the amount of retirement income that is payable with respect to a Participant's City Funded Retirement Income Account shall be determined by including in the value of the Participant's City Funded Retirement Income Account an amount equal to (i) the portion of the Participant's City Funded Retirement Income Account assigned to the alternate payee, and (ii) imputed earnings on such amount, computed based on the interest rate used for determining Actuarial Equivalence under Appendix A (as in effect on the date such determination is being made), from the date of assignment to the Participant's Normal Retirement Date or Disability Retirement Date, as the case may be.

TWENTIETH CHANGE

Section 5.18(a)(3) and (4) are hereby amended to read as follows effective as of June 12, 2007:

- (3) "Upon a Participant's election pursuant to Section 5.18(a)(2) above, the Participant's City Funded Retirement Income Account shall be transferred to and become a part of the Fund and shall be available to provide benefits to all Participants under the defined benefit portion of the Plan. Upon such transfer, the Participant shall be entitled to receive deferred monthly retirement income from the defined benefit portion of the Plan, with such retirement benefit commencing on the Participant's Normal Retirement Date (or in the case of a Participant that has already reached his or her Normal Retirement Date, on the first day of the month following the date of election) and continuing for the remainder of the Participant's life (with no survivor benefits). The amount of such retirement income shall not exceed the amount of the Participant's Disability Benefits as of the Participant's Normal Retirement Date (as recalculated pursuant to Section 5.13 of the Plan or 4.07 of the Disability Income Plan, as the case may be). For this purpose:
- (i) The amount of retirement income shall not exceed the Actuarial Equivalent of the Participant's City Funded Retirement Income Account.
 - (ii) The deferred monthly retirement income from the defined benefit portion of the Plan (and Actuarial Equivalence) shall be determined taking into account the cost of living adjustment under Section 6.11 that is applicable to any amount payable as an annuity.
 - (iii) Actuarial Equivalence shall be determined on the Actuarial Equivalence for Disabled Participants (for conversion of City Funded Retirement Income Account under Section 5.18), as set forth in Appendix A.
 - (iv) In no event may the amount of retirement income purchased with the Participant's City Funded Retirement Income Account exceed the amount of the Participant's Disability Benefits as of the Participant's Normal Retirement Date (as recalculated pursuant to

Section 5.13 of the Plan or 4.07 of the Disability Income Plan, as the case may be). If the Participant had previously elected the contingent annuitant option under Section 5.15 of the Plan or Section 5.02 of the Disability Income Plan, as the case may be, then the amount of retirement income purchased with the Participant's City Funded Retirement Income Account shall not exceed the Actuarial Equivalent of the Participant's Disability Benefits as of the Participant's Normal Retirement Date. In the event that the amount of retirement income purchased with a Participant's City Funded Retirement Income Account is limited by the application of this subsection, the excess of the value of the City Funded Retirement Income Account over the amount actually used to purchase retirement income (determined as of the Participant's Normal Retirement Date) shall be re-credited to the Participant's Retirement Income Account. Such amount shall be credited on the Participant's Normal Retirement Date and shall include earnings on such excess based on the interest rate used for determining Actuarial Equivalence under Appendix A (as in effect on the Participant's date of election under Section 5.18(a)(2)) from the date the Retirement Income Account was transferred to the Pension Plan to the Participant's Normal Retirement Date.

- (v) In the case of a Participant who reached his or her Normal Retirement Date after September 1, 2006, the amount of retirement income purchased with the Participant's City Funded Retirement Income Account (and the determination of whether the value of the Participant's City Funded Retirement Income Account exceeds the amount of the Participant's Disability Benefits) shall be made as if the purchase and transfer occurred on the Participant's Normal Retirement Date.
- (4) In lieu of the straight life retirement annuity described in Section 5.18(a)(3), a Participant who has not reached his or her Normal Retirement Date may elect, at the time the Participant reaches his or her Normal Retirement Date, to receive monthly retirement income in the form of a joint and survivor option or guaranteed period option, subject to the following restrictions:

- (i) Such election shall be made in accordance with the provisions of Section 7.2.
- (ii) The joint and survivor option shall be limited to the option that provides a monthly income during the Participant's lifetime and continuing after his or her death at a 50% rate (i.e., the 66 2/3% and 100% survivor options are not available).
- (iii) The designated contingent annuitant under the joint and 50% survivor option must be the Participant's Spouse.
- (iv) The guaranteed period option shall be limited to the 5 or 10 year guaranteed period option (i.e., the 15 or 20 year guaranteed period options are not available).

Any optional form of retirement income elected by a Participant pursuant to this Section 5.18(a)(4) shall be the Actuarial Equivalent of the life annuity described in Section 5.18(a)(3), as determined based on the Actuarial Equivalence for Disabled Participants (for determining Actuarial Equivalence under Section 5.18(a)(4)) set forth in Appendix A, and shall include any cost of living adjustment applicable to a joint and survivor option or guaranteed period option to the extent provided under Section 6.11."

TWENTY-FIRST CHANGE

Section 5.18(b)(1) is hereby deleted and the following is inserted in lieu thereof effective as of June 12, 2007:

(b) Participants Who Become Disabled After June 12, 2007

- (1) Each Participant:
 - (i) who reaches their Disability Retirement Date after June 12, 2007; and
 - (ii) who still has a City Funded Retirement Income Account;

may elect to use his or her City Funded Retirement Income Account to purchase retirement income commencing on the later of the Participant's Normal Retirement Date or Disability Retirement Date. The amount of such retirement income shall be determined in

accordance with the provisions of Section 5.18(b)(3) and shall be used to determine the extent to which the Participant's Disability Benefits continue following the Participant's Normal Retirement Date or Disability Retirement Date in accordance with Section 5.13.

TWENTY-SECOND CHANGE

Section 5.18(b)(3) and (4) are hereby amended to read as follows effective as of June 12, 2007:

- (3) Upon a Participant's election pursuant to Section 5.18(b)(2) above, the Participant's City Funded Retirement Income Account shall be transferred to and become a part of the Fund and shall be available to provide benefits to all Participants under the defined benefit portion of the Plan. Upon such transfer, the Participant shall be entitled to receive deferred monthly retirement income from the defined benefit portion of the Plan, with such retirement benefit commencing on the Participant's Normal Retirement Date and continuing for the remainder of the Participant's life (with no survivor benefits). The amount of such retirement income shall be the Actuarial Equivalent of the Participant's City Funded Retirement Income Account, provided, however, that:
 - (i) The deferred monthly retirement income from the defined benefit portion of the Plan (and Actuarial Equivalence) shall be determined taking into account the cost of living adjustment under Section 6.11 that is applicable to any amount payable as an annuity.
 - (ii) Actuarial Equivalence shall be determined on the Actuarial Equivalence for Disabled Participants (for conversion of the City Funded Retirement Income Account under Section 5.18), as set forth in Appendix A.
 - (iii) In no event may the amount of retirement income purchased with the Participant's City Funded Retirement Income Account exceed the amount of the Participant's Disability Benefits as of the Participant's Normal Retirement Date (as recalculated pursuant to Section 5.13). If the Participant had previously elected the contingent annuitant option under Section 5.15, then the amount of retirement income purchased with

the Participant's City Funded Retirement Income Account shall not exceed the Actuarial Equivalent of the Participant's Disability Benefits as of the Participant's Normal Retirement Date. In the event that the amount of retirement income purchased with a Participant's City Funded Retirement Income Account is limited by the application of this subsection, the excess of the value of the City Funded Retirement Income Account over the amount actually used to purchase retirement income (determined as of the Participant's Normal Retirement Date) shall be re-credited to the Participant's Retirement Income Account. Such amount shall be credited on the Participant's Normal Retirement Date and shall include earnings on such excess based on the interest rate used for determining Actuarial Equivalence under Appendix A (as in effect on the Participant's date of election under Section 5.18(b)(2)) from the date the Retirement Income Account was transferred to the Pension Plan to the Participant's Normal Retirement Date.

- (4) In lieu of the straight life retirement annuity described in Section 5.18(b)(3), a Participant may elect, at the time the Participant reaches his or her Normal Retirement Date, to receive monthly retirement income in the form of a joint and survivor option or guaranteed period option, subject to the following restrictions:
- (i) Such election shall be made in accordance with the provisions of Section 7.2.
 - (ii) The joint and survivor option shall be limited to the option that provides a monthly income during the Participant's lifetime and continuing after his or her death at a 50% rate (i.e., the 66 2/3% and 100% survivor options are not available).
 - (iii) The designated contingent annuitant under the joint and 50% survivor option must be the Participant's Spouse.
 - (iv) The guaranteed period option shall be limited to the 5 or 10 year guaranteed period option (i.e., the 15 or 20 year guaranteed period options are not available).

Any optional form of retirement income elected by a Participant pursuant to this Section 5.18(b)(4) shall be the

Actuarial Equivalent of the life annuity described in Section 5.18(b)(3), as determined based on the Actuarial Equivalence for Disabled Participants (for determining Actuarial Equivalence under Section 5.18(b)(4)) set forth in Appendix A, and shall include any cost of living adjustment applicable to a joint and survivor option or guaranteed period option to the extent provided under Section 6.11.”

TWENTY-THIRD CHANGE

Subsection (a) of Section 6.1 is hereby deleted and the following is inserted in lieu thereof:

- (a) Upon the Participant’s retirement on the first day of a month or the last scheduled workday of the month following his or her Normal Retirement Date, or the termination of the Participant’s status as a Covered Employee following his or her Normal Retirement Date, the Participant shall be entitled to receive a monthly retirement income, beginning with the first day of the month coincident with or next following his or her retirement and continuing for the remainder of the Participant’s life. A Participant who is Disabled prior to his or her Normal Retirement Date and who is receiving Disability Benefits under Article 5 shall begin receiving a retirement benefit under this Article 6 as of the first day of the month coincident with or next following the attainment of age 55, as provided in Section 5.13.

TWENTY-FOURTH CHANGE

Section 6.2 is hereby deleted and the following is inserted in lieu thereof:

6.2 Early Retirement

- (a) Upon the Participant’s termination of employment with the City on the first day of a month or the last scheduled workday of the month following his or her Early Retirement Date, the Participant shall be entitled to receive, commencing on the first day of the month coincident with or next following the Participant’s 55th birthday, a monthly benefit equal to the Participant’s Accrued Pension Benefit, determined as of his or her Early Retirement Date.
- (b) At the election of the Participant, payment of his or her vested Accrued Pension Benefit may commence at any time on or after the first day of the month coincident with or next following the

Participant's termination of employment with the City following his or her Early Retirement Date and prior to his or her 55th birthday, in which case such Accrued Pension Benefit shall be reduced (in order to reflect early commencement of payments) to an amount that is the Actuarial Equivalent of the Participant's Accrued Pension Benefit.

- (c) Notwithstanding the foregoing, a Participant who has completed at least 25 Years of Credited Service prior to attaining age 50 shall be entitled to a monthly benefit equal to the Participant's Accrued Pension Benefit (determined as of his or her Early Retirement Date) commencing on the first day of the month coincident with or next following the date of his or her termination of employment with the City (i.e., the Participant's benefit shall not be actuarially reduced for commencement prior to age 55).

TWENTY-FIFTH CHANGE

Subsection (e) of Section 6.4 is hereby deleted and the following is inserted in lieu thereof effective as of January 1, 2004:

(e) Credit to DROP Account

- (1) As of the first day of each calendar month commencing on or after the DROP Effective Date and continuing until (but not including) the Participant's DROP Retirement Date, the Participant's DROP Account shall be credited with the amount the Participant would have received under Section 6.1 or 6.2(c) if the Participant had actually retired on the DROP Effective Date and elected to receive his or her Accrued Pension Benefit in the form of a straight life annuity. Notwithstanding the foregoing, in lieu of having the amount credited to his or her DROP Account determined under the monthly life annuity form of retirement income, the Participant may elect, as part of his or her DROP Election, to have the amount determined under any of the Actuarial Equivalent forms of benefit specified in Section 7.2(a) or (b).
- (2) The initial annuity amount will be adjusted each May 1 (beginning May 1, 2005) for changes in the cost of living in accordance with the provisions of Section 6.11.
- (3) As of the last day of each full calendar month that has elapsed since the DROP Effective Date and continuing until (but not including) the Participant's DROP Retirement Date, a Participant's DROP Account shall be credited with interest

for such full calendar month at the rate of 3%, compounded annually. No interest shall be credited on or after the Participant's DROP Retirement Date or for any period less than a full calendar month.

TWENTY-SIXTH CHANGE

The first sentence of Section 6.6 is hereby amended to read as follows:

In addition to any benefit payable with respect to his or her Accrued Pension Benefit, a Participant with a Retirement Income Account under the Plan shall also be entitled to receive additional monthly retirement income, beginning with the first day of the month coincident with or next following the earlier of his or her Termination Date or Normal Retirement Date and continuing for the remainder of the Participant's life that is the Actuarial Equivalent of the value of his or her Retirement Income Account on the Participant's Benefit Commencement Date (with Actuarial Equivalence determined after taking into account the cost of living adjustment provided under Section 6.11 with respect to such annuity).

TWENTY-SEVENTH CHANGE

Subsection 6.9(d) is hereby deleted and the following is inserted in lieu thereof effective January 1, 2007:

(d) **Death While on Authorized Leave of Absence or Military Service**

The Beneficiary of a Participant who dies while a Covered Employee and on an Authorized Leave of Absence for reasons other than military service shall be entitled to receive death benefits pursuant to this Section 6.9. A Participant who dies on or after January 1, 2007 while on Authorized Leave of Absence for qualified military service as defined in Section 414(u)(5) of the Internal Revenue Code shall be treated as having died while actively employed as a Covered Employee.

TWENTY-EIGHTH CHANGE

Subsection (ii) of Section 6.9(f)(2) is hereby deleted and the following is inserted in lieu thereof effective as of January 1, 2004:

- (ii) If the Participant has elected the contingent annuitant option in accordance with Section 5.15, then the Disability Benefit (as modified in accordance with Section 5.13) shall be payable to the contingent annuitant.

TWENTY-NINTH CHANGE

The first sentence of Section 6.11(a) is hereby amended by deleting the phrase "any amount payable as an annuity under Sections 6.1, 6.2, 6.3, 6.4, 6.5 or 6.9(b) or (f)..." and substituting in its place "any amount payable as an annuity under Sections 6.1, 6.2, 6.3, 6.4, 6.5, 6.6 or 6.9(b) or (f)..."

THIRTIETH CHANGE

Subsection 6.11(b)(4) is hereby amended effective as of January 1, 2004 to add the following sentence at the end thereof:

Once the two hundred percent (200%) limit has been reached, no further cost-of-living adjustments (positive or negative) shall be made with respect to the Base Pension Benefit or Base Disability Benefit, as the case may be.

THIRTY-FIRST CHANGE

Subsection 6.11(b)(6) is hereby deleted and the following is inserted in lieu thereof effective as of January 1, 2004:

- (6) The following special rules shall apply in determining the cost of living adjustments with respect to a Participant who commenced Disability Benefits prior to his or her Normal Retirement Date and who continues to receive a Disability Benefit following his or her Normal Retirement Date:
 - (i) Separate cost of living adjustment shall be made with respect to the payment of the Participant's Disability Benefit and Accrued Pension Benefit following the

Participant's Normal Retirement Date (subject to all of the limitations and provisions of this Section 6.11).

- (ii) Following the Participant's Normal Retirement Date, the next adjustment made under Section 6.11(a) to the Participant's Disability Benefit and Accrued Pension Benefit shall be May 1 occurring on or after the first anniversary of the Participant's Normal Retirement Date. Such adjustment shall be based on changes in the cost of living that occurred during the calendar year preceding the May 1 date of such adjustment.
- (iii) In the case of an adjustment to a Disability Benefit payable after the Participant's Normal Retirement Date, the cost of living adjustment and the application of the three percent (3%) limitation shall be applied as if the Disability Benefit payable immediately after the Participant's Normal Retirement Date (i.e., the Disability Benefit after the offset under Section 5.13) had been in effect on January 1 of the preceding fiscal year (so that the cost of living adjustment is calculated with respect to the recalculated Disability Benefit and not the Disability Benefit payable prior to the Participant's Normal Retirement Date).
- (iv) The combined Disability Benefits payable under Article 5 and the retirement benefits payable under Article 6 relating to the Participant's Accrued Pension Benefit after the application of this Section 6.11 shall never exceed:
 - a. Two hundred percent (200%) of the Base Disability Benefit, less
 - b. the amount of the benefit provided by the Participant's City Funded Retirement Income Account (determined as of the Participant's Normal Retirement Date and expressed in the same form of payment as the Disability Benefit using the Actuarial Assumptions in effect on such date).

THIRTY-SECOND CHANGE

The following new subsection (7) is hereby added after Section 6.11(b)(6) (and the existing Sections 6.11(b)(7), (8) and (9) are hereby renumbered as Section 6.11(b)(8), (9) and (10)) effective as of January 1, 2004:

- (7) For purposes of determining the cost of living adjustments with respect to a Participant who first begins receiving a Disability Benefit (as calculated under Section 5.13(d)) following his or her Normal Retirement Date, the following special rules shall apply:
 - (i) Separate cost of living adjustment shall be made with respect to the payment of the Participant's Disability Benefit and Accrued Pension Benefit following the Participant's Disability Retirement Date (subject to all of the limitations and provisions of this Section 6.11).
 - (ii) Following the Participant's Disability Retirement Date, the first adjustment made under Section 6.11(a) to the Participant's Disability Benefit and Accrued Pension Benefit shall be May 1 occurring on or after the first anniversary of the Participant's Disability Retirement Date. Such adjustment shall be based on changes in the cost of living that occurred during the calendar year preceding the May 1 date of such adjustment.
 - (iii) In the case of an adjustment to a Disability Benefit payable after the Participant's Disability Retirement Date, the cost of living adjustment and the application of the three percent (3%) limitation shall be applied separately to the Disability Benefit payable immediately upon the Participant's Disability Retirement Date (i.e., the Disability Benefit calculated under Section 5.13(d)) and the Participant's Accrued Pension Benefit.
 - (iv) The aggregate cost of living adjustments made pursuant to this Section 6.11 with respect to the Disability Benefit payable under Article 5 Benefit shall not cause the Disability Benefit to exceed two

hundred percent (200%) of the Base Disability Benefit.

- (v) The aggregate cost of living adjustments made pursuant to this Section 6.11 with respect to the retirement benefits payable under Article 6 relating to the Participant's Accrued Pension Benefit shall not cause the Participant's Accrued Pension Benefit to exceed two hundred percent (200%) of the Base Pension Benefit.

THIRTY-THIRD CHANGE

The following new Section 7.5(c) is hereby added as follows effective as of January 1, 2007:

(c) Required Notices for Plan Distributions

Effective for Plan Years beginning on or after December 31, 2006, benefits under the Plan shall not be paid until at least 30 days (or shorter period as may be permitted by law) but not more than 180 days after a Participant's receipt of all required distribution notice and election forms pursuant to Section 402(f) of the Internal Revenue Code. Such notices must include a description of the Participant's right (if any) to defer receipt of a distribution, the consequences of failing to defer receipt of the distribution, and such other information as may be required by applicable regulations and guidance.

THIRTY-FOURTH CHANGE

The following new Section 7.6 is hereby added as follows:

7.6 Qualified Health Insurance Premium Distributions

- (a) A Participant who is an Eligible Retired Public Safety Officer and is receiving monthly annuity benefits from the Plan may elect to have Qualified Health Insurance Premium Distributions made in accordance with procedures established by the Administrator.
- (b) Qualified Health Insurance Premium Distributions may be excluded from the gross income of the Eligible Retired Public Safety Officer under Section 402(l) of the Internal Revenue Code, subject to the annual dollar limitation contained in Section 402(l)(2).
- (c) The following definitions apply for purposes of this Section 7.6:

- (1) An "Eligible Retired Public Safety Officer" is a Participant who separated from service with the City as a sworn police officer or firefighter (1) by reason of Disability or (2) at or after his or her Normal Retirement Date.
- (2) A "Qualified Health Insurance Premium Distribution" is an amount deducted from an Eligible Retired Public Safety Officer's benefit payment and paid directly to the insurer providing coverage for which Qualified Health Insurance Premiums are paid. Such amount may not exceed the amount of the Qualified Health Insurance Premiums.
- (3) "Qualified Health Insurance Premiums" means premiums for coverage for the Eligible Retired Public Safety Officer (and his or her spouse and dependents, if applicable) under accident and health insurance (including an accident or health plan within the meaning of Section 105(e) of the Internal Revenue Code) or a qualified long-term care insurance contract as defined in Section 7702B(b) of the Internal Revenue Code.

THIRTY-FIFTH CHANGE

Subsection 10.3(c)(2) is hereby deleted and the following is inserted in lieu thereof:

- (2) Beginning with the term commencing January 1, 2011, Participant Representatives and alternates shall serve staggered terms as follows:
 - (i) one Participant Representative who is employed by the City as a Firefighter and one Participant Representative who is employed by the City as a Police Officer shall be appointed to serve a two-year term ending December 31, 2012.
 - (ii) The other Participant Representative who is employed by the City as a Firefighter and the other Participant Representative who is employed by the City as a Police Officer, as well as both alternates, shall be appointed to serve a four-year term ending December 31, 2014.

- (iii) Thereafter, all Participant Representatives and alternates shall be appointed to serve a four-year term.

THIRTY-SIXTH CHANGE

Subsection 13.3(c) is hereby deleted and the following is inserted in lieu thereof:

(c) Prohibition Against Assignment of Benefits

- (1) Except as provided below or as specifically provided by law, no benefit payable at any time under this Plan shall be subject in any manner to anticipation, alienation, attachment, garnishment, sale, transfer, assignment (either at law or in equity), execution, levy, pledge, encumbrance, charge, or other legal and equitable process.
- (2) The prohibitions of subsection (c)(1) shall not preclude, and the trustee (at the direction of the Administrator or to the extent necessary to comply with a directive of a court or other government agency of competent jurisdiction) shall honor (i) the enforcement of a federal tax levy made pursuant to Section 6331 of the Internal Revenue Code; (ii) the collection by the United States on a judgment resulting from an unpaid tax assessment or (iii) the creation, assignment, or recognition of a right to any benefit payable with respect to a participant pursuant to a "qualified domestic relations order."
- (3) Furthermore, the prohibitions of subsection (c)(1) shall not preclude any arrangement for: (a) the withholding of taxes from Plan benefit payments, (b) the recovery by the Plan of overpayments of benefits previously made to a Participant, (c) the transfer of benefit rights from the Plan to another plan, or (d) the direct deposit of benefit payments to an account in a banking institution (if not part of an arrangement constituting an assignment or alienation).
- (4) Notwithstanding the foregoing, a Participant's benefit under the Plan may be offset by the amount that the Participant is ordered or required to pay to the Plan if:
 - (i) the order or requirement to pay arises (i) under a judgment of conviction for a crime involving the Plan or the Fund, or (ii) under settlement agreement or a civil judgment (including a consent order or decree) entered by a court in an action brought in connection with a violation (or alleged violation) of

- a fiduciary or other obligation of the Participant with respect to the Plan or the Fund, and
- (ii) the judgment, order, decree, or settlement agreement expressly provides for the offset of all or part of the amount ordered or required to be paid to the Plan against the Participant's benefits provided under the Plan.
- (5) For the purposes hereof, a qualified domestic relations order shall mean a judgment, decree, or order made pursuant to a state domestic relations law which relates to the provision of child support, alimony payments, or marital property rights, and
- (i) which clearly specifies:
 - a. the names and last known mailing addresses of the participant and each payee;
 - b. the amount or percentage of the participant's benefits to be paid by this Plan to each payee (or the manner in which such amount or percentage is to be determined);
 - c. the number of payments or period to which such order relates;
 - (ii) which does not:
 - a. require the Plan to provide any type or form of benefit, or any option, not otherwise provided under this Plan (including any pre-retirement death benefit to an alternate payee who is a former spouse, or the payment or commencement of any benefit prior to the Participant's Termination Date or, if later, the first date on which the Participant would be entitled to distribution or commencement of benefits under the Plan);
 - b. require the Plan to provide increased benefits (determined on the basis of actuarial value); or
 - c. require the payment of the same benefits to any alternate payee which are payable to another alternate payee pursuant to a prior qualified domestic relations order.
- (6) For purposes of the Plan, a qualified domestic relations order may:

- (i) Treat an alternate payee as a spouse for purposes of Section 7.2(a)(2) (but not for any other purpose, including Section 5.15 and Section 6.9(b));
- (ii) Designate the alternate payee as a Beneficiary for purposes of Section 6.9 (but not as a surviving spouse for purposes of Section 6.9(b)); and
- (iii) Either:
 - a. Provide that a portion of any benefit payment that would otherwise be paid to the Participant shall instead be paid to the alternate payee at the same time that it would have been paid to the Participant, or
 - b. Upon the Participant's Termination Date, divide the Participant's Accrued Benefit into two separate benefits: one benefit for the alternate payee's sole interest, and one benefit (the remaining portion of the Participant's Accrued Benefit) for the Participant's sole interest, such that the Administrator may and shall deal separately and exclusively with each party with respect to that party's benefit, and neither the other party nor the other party's estate, future spouse if any, Beneficiaries, heirs or assigns shall have any rights with respect thereto. In such event, the alternate payee may elect to have the portion of the Participant's Accrued Benefit assigned to the alternate payee paid in any form of payment (other than a joint and survivor annuity with a subsequent spouse as the contingent annuitant) which would be available to the Participant under the Plan as of the date of the commencement of benefits to the alternate payee. In the absence of a written election by the alternate payee in accordance with the terms of the Plan, the alternate payee's benefit shall be paid in the form of a life annuity.

THIRTY-SEVENTH CHANGE

The following new Appendix C is hereby added as follows effective as of January 1, 2004:

APPENDIX C

COVERED EMPLOYEE

The purpose of this Appendix is to clarify and delineate which Employees are Covered Employees under the Plan. This Appendix may be amended from time to time by the City Manager (after consultation with the Board), without the necessity of formal amendment to the Plan, to make necessary adjustments in positions included or excluded under the definition of a Covered Employee. This Appendix, as amended from time to time, is intended to be incorporated by reference into and made a part of the Plan. The following positions are specifically included under the definition of a Covered Employee:

POSITION	CODE
Police Officer I	PS-4045/09
Police Officer II	PS-4049/09
Police Officer III	PS-4046/11
Police Officer IV	PS-4049/12
Police Sergeant	PS-3057/14
Police Lieutenant	PS-2012/16
Police Captain	PS-2013/19
Deputy Police Chief	PS-1063/22
Police Chief	GS-1062/31
Firefighter Rescuer	PS-4077/09
Firefighter I	PS-4075/09
Firefighter II	PS-4074/10
Fire Lieutenant	PS-3833/14
Fire Captain	PS-2010/16
Fire Battalion Chief	PS-1116/20
Assistant Fire Chief	PS-1234/22
Fire Chief	GS-1079/31 (other than the Employee who was serving as the Fire Chief on the Effective Date)

IN WITNESS WHEREOF, the City has caused this Amendment to be executed

by its City Manager on this ____ day of _____, 2010.

CITY OF ALEXANDRIA

By: _____
James K. Hartmann, City Manager

RESOLUTION NO. 2410

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

WHEREAS, the City of Alexandria desires to adopt and incorporate certain amendments to the Plan as set forth in the Plan attached hereto; and

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

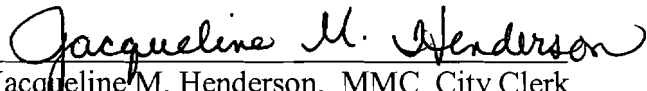
BE IT FURTHER RESOLVED THAT, this Resolution shall be effective immediately; provided however, that the amendments hereby approved shall be effective as stated in the Plan

Adopted: June 22, 2010



WILLIAM D. EULLE MAYOR

ATTEST:



Jacqueline M. Henderson, MMC City Clerk