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

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

## FIRST CHANGE

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

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

## SECOND CHANGE

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

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

(1) In the case of a City Employee who commenced participation in the Plan prior to July 1, 2009, "**Pick-Up Contributions**" mean the contributions contributed by the City to the Plan prior to July 1, 2009 on behalf of the Participant and which were treated as employer contributions pursuant to Code Section 414(h)(2).

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

## THIRD CHANGE

Section 2.2 shall be amended to read as follows:

### 2.2 Transfers

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

(a) If an individual, who is employed by the City in a capacity other than as an Employee, directly transfers or retransfers to employment with the City as an Employee (without a break in employment with the City), such individual shall be credited with Service and Credited Service beginning on the date he becomes an Employee covered hereunder. However, for purposes of determining vesting in his Employer Derived Benefit following his commencement of participation in the Plan, such individual shall receive credit for any period of continuous employment with the City (without a break in employment) that occurred immediately prior to the Employee's first Hour of Service as an Employee.

(b) If an Employee directly transfers to employment with the City in a capacity other than as an Employee (without a break in employment with the City), such Employee shall be deemed to have terminated employment with the City for purposes of determining (1) his Service or Credited Service as of the date he ceases to be an Employee, and (2) eligibility for a Disability Benefit. However, such individual shall not be deemed to have terminated his employment as an Employee for purposes of determining vesting in his Employer Derived Benefit (unless he elects a cash distribution of his Accumulated Contributions pursuant to Section 9.1). An Employee who transfers to employment with the City in a capacity other than as an Employee shall not be eligible for an early retirement benefit (under Article V) or a deferred vested retirement benefit (under Article VI) until such time as he is no longer in the employment of the City or reaches his Normal Retirement Date.

## FOURTH CHANGE

Section 3.1 shall be amended to read as follows:

### 3.1 Participation

Participation in the Plan is mandatory.

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

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

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

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

## FIFTH CHANGE

Section 3.2 shall be amended to read as follows:

### 3.2 Pick-Up Contributions

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

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

(b) A City Employee (other than the Sheriff, a deputy sheriff, an emergency medical technician or a fire marshal) who commences

or re-commences participation in the Plan on or after July 1, 2009, shall make Pick-Up Contributions to the Plan equal to two percent of his Earnings for the Plan Year. Such Pick-Up Contribution shall be deducted from the Earnings of such City Employee on a pre-tax basis.

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

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

## SIXTH CHANGE

Section 3.3 shall be amended to read as follows:

### 3.2 Mandatory Employee Contributions

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

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

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

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

## SEVENTH CHANGE

Section 3.4 shall be amended to read as follows:

**3.4 Suspension of Mandatory Employee Contributions and Pick-Up Contributions**

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

(a) an unpaid temporary absence from active service as a City Employee for a specified period which is not treated as a termination of employment and which is granted or extended by the City pursuant to its regular personnel policies, or

(b) any period during which a Participant is not eligible to accrue Credited Service under the Plan.

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

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

## EIGHTH CHANGE

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

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

## NINTH CHANGE

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

**8.6 Qualified Health Insurance Premium Distributions**

(a) A Participant who is an Eligible Retired Public Safety Officer and is receiving monthly annuity benefits from the Plan may elect to have Qualified Health Insurance Premium Distributions made in accordance with procedures established by the Administrator.

(b) Qualified Health Insurance Premium Distributions may be excluded from the gross income of the Eligible Retired Public Safety Officer under Section 402(l) of the Code, subject to the annual dollar limitation therein of $3,000.

(c) The following definitions apply for purposes of this Section 7.6:

(1) An "Eligible Retired Public Safety Officer" is a Participant who separated from service with the City as the Chief of the Fire Department, the Sheriff, a deputy sheriff, or a emergency rescue technician (1) by reason of a total disability (under Section 7.1) or (2) at or after his or her Normal Retirement Date.

(2) A "Qualified Health Insurance Premium Distribution" is an amount deducted from an Eligible Retired Public Safety Officer's benefit payment and paid directly to the insurer providing coverage for which Qualified Health Insurance Premiums are paid. Such amount may not exceed the amount of the Qualified Health Insurance Premiums.

(3) "Qualified Health Insurance Premiums" means premiums for coverage for the Eligible Retired Public Safety Officer (and his or her spouse and dependents, if applicable) under accident and health insurance (including an accident or health plan within the meaning of Section 105(e) of the Code) or a qualified long-term care insurance contract as defined in Section 7702B(b) of the Code.

## TENTH CHANGE

Section 10.1 shall be amended to read as follows:

**10.1 Suspension of Benefits**

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

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

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

## ELEVENTH CHANGE

The following sentence shall be added to Section 15.4:

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

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

CITY OF ALEXANDRIA

By:_____
James K. Hartmann, City Manager

**RESOLUTION NO. 2344**

City of Alexandria Supplemental Retirement Plan" (the "Plan")

**WHEREAS**, the City of Alexandria maintains the "City of Alexandria Supplemental Retirement Plan" (the "Plan"); and

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

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

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

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

ADOPTED: June 9, 2009

**WILLIAM D. EUILLE** **MAYOR**

ATTEST:

Jacqueline M. Henderson, CMC City Clerk