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(l)(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 emption 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 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.