

**CITY OF ANNAPOLIS POLICE AND
FIRE RETIREMENT PLAN**

*Amendment and Restatement
Effective July 1, 2018*

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CITY OF ANNAPOLIS POLICE AND FIRE RETIREMENT PLAN

Amendment and Restatement

Effective July 1, 2018

This amended and restated Plan, the City of Annapolis Police and Fire Retirement Plan (the "Plan"), is adopted effective July 1, 2018, as provided herein, by the City of Annapolis (the "City"). This amended and restated Plan is designed to afford eligible employees an opportunity to increase their security at retirement through participation in a pension plan during their periods of active employment while this Plan remains in effect.

The City amended and restated the Plan, by amendment to the City Code, effective July 1, 1980. At that time, eligible employees could elect between two benefit structures, the Old Plan or the New Plan. In June 1992, Old Plan Participants could elect to remain in the Old Plan or elect to participate in the Old Plan Revised, and New Plan Participants could elect to remain in the New Plan or participate in the New Plan Revised. Finally, between July 1, 1999, and August 15, 1999, Old Plan Revised Participants or New Plan Participants could elect to remain in their current plans or elect to participate in the New Plan Revised. The City has further amended the Plan since 1999, again by amendment to the City Code. The previous amendment and restatement was effective July 1, 2015, which converted the provisions of the Plan from the City Code to a separate document approved by Resolution, and the City amended the Plan again in 2017. This restated plan incorporates all previous amendments in addition to those added through collective bargaining in 2018.

Accordingly, the City wishes to adopt this amended and restated Plan, generally effective as provided herein, subject, however, to such amendments as may be required by the Internal Revenue Service in order that the Plan may qualify as a tax-qualified defined benefit pension plan.

ARTICLE 1
DEFINITIONS

The following terms, when used in this Plan, shall have the meanings set forth below, unless different meanings are clearly required by the context:

1.1 ACCRUED BENEFIT means the pension benefit earned to any date of reference pursuant to the provisions of Article 3, expressed as the normal form of monthly benefit commencing at Normal Retirement Date or at the date the Participant ceased to be an Employee.

1.2 ACTUARIAL EQUIVALENT OR EQUIVALENT ACTUARIAL VALUE means a benefit differing in time, period or manner of payment from a specific benefit provided under the Plan but having the same value when computed, based upon the following:

Pre-Retirement and Post-Retirement

1971 Group Annuity Mortality Table (GAM 71), female rates and 6% per annum interest rate

Except as provided in Sections 3.9(b)(v) and (vi, 1.31(d), and 2.4, the foregoing factors shall be utilized (whether or not there is a specific reference to this definition) whenever in the administration of the Plan a calculation of actuarial equivalence is to be made.

1.3 ADMINISTRATOR means the Plan Administrator provided for in Article 8 of this Plan.

1.4 ANNUAL EARNINGS equals twenty-six (26) times the Participant's straight-time biweekly Salary as in effect on the date a Participant's death or disability occurs.

1.5 ANNUITY STARTING DATE means the first day of the first period for which an amount is paid as an annuity, or in the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the Participant to such benefit.

1.6 BENEFICIARY means any person or estate entitled to receive any payments due under this Plan as a result of the death of a Participant.

1.7 CITY means the City of Annapolis.

1.8 CODE OR INTERNAL REVENUE CODE means the Internal Revenue Code of 1986 and the regulations promulgated thereunder, as amended from time to time.

1.9 EARLY RETIREMENT DATE For periods prior to July 1, 2006, Early Retirement Date is set forth in Appendix A, Historical Provisions. Effective July 1, 2006, all monthly benefits are payable upon the Participant's Normal Retirement Date, unless otherwise provided for in Section 3.7 (pertaining to service related disability benefits), Section 3.8 (pertaining to non-service related disability benefits), Article 4 (pertaining to death benefits), or Article 5 (pertaining to deferred vested pensions).

1.10 EFFECTIVE DATE means the effective date of this amendment and restatement of the Plan.

1.11 EMPLOYEE means any full-time employee of the City and either (a) a sworn member of the police department, inclusive of police cadets but exclusive of parking meter enforcement officers; or (b) a member of the fire suppression force, fire prevention force or paramedic force of the fire department. For purposes of this Section, full-time means any period in which the employee is carried as a full-time employee on the employment records of the police or fire department, as applicable, or in which the employee's straight-time employment is at a rate which, if annualized, would equal at least two thousand eighty (2,080) straight-time hours per year.

1.12 FINAL EARNINGS means twenty-six (26) times the average straight-time bi-weekly Salary of the highest consecutive seventy-eight (78) biweekly pay periods during the ten (10) year period preceding the date of the Participant's termination of employment as an Employee as defined in this Plan.

1.13 HUMAN RESOURCES MANAGER means the senior Human Resources Official of the City appointed by the City Manager.

1.14 LIMITATION YEAR means, for purposes of the application of the provisions of Section 415 of the Internal Revenue Code, the calendar year.

1.15 OLD PLAN refers to the benefit structure implemented prior to 1980 and covers the following Employees:

(a) Employees hired prior to August 1, 1972, and Employees hired on or after August 1, 1972, but prior to August 1, 1979, who were not eligible or who did not make an election by June 30, 1992, to participate in the Old Plan Revised.

(b) Employees hired on or after August 1, 1972, but prior to July 1, 1980, who did not make an election by June 30, 1980, to participate in the New Plan.

1.16 OLD PLAN REVISED refers to the benefit structure implemented July 1991. The Old Plan Revised covers the following Employees who had not terminated employment as of July 1, 1991, and made the election by June 30, 1992, to participate in the Old Plan Revised:

(a) Employees hired prior to August 1, 1972.

(b) Employees hired on or after August 1, 1972, but prior to August 1, 1979 who did not make an election by June 30, 1980, to participate in the New Plan.

Old Plan Revised Participants did not make an election during the period from July 1, 1999 through August 15, 1999, to become covered under the New Plan Revised.

1.17 NEW PLAN refers to the benefit structure implemented July 1980. The New Plan covered the following Employees:

(a) Employees hired on or after August 1, 1972, but prior to July 1, 1980, who made an election by June 30, 1981, to participate in the New Plan and made a payment to the Retirement Fund of six and one-half percent (6½%) of Salary from July 1, 1980 until the date of the election. "Salary" for these purposes includes Participant Contributions.

(b) Employees hired on and after July 1, 1980, but prior to July 1, 1991.

The Employees described above did not make an election by June 30, 1992, or did not make an election during the period July 1, 1999, through August 15, 1999, to become covered under the New Plan Revised.

1.18 NEW PLAN REVISED refers to the benefit structure implemented July 1991. The New Plan Revised covers the following Employees:

(a) Employees hired on or after August 1, 1972, but prior to July 1, 1980, who made the election described in subsection (a) of Section 1.17 and who made an election by June 30, 1992, to participate in the New Plan Revised.

(b) Employees hired on or after July 1, 1980, but prior to July 1, 1991, who made an election by June 30, 1992, to participate in the New Plan Revised.

(c) Employees in the Old Plan Revised and New Plan who made an election during the period July 1, 1999, through August 15, 1999, to become covered under the New Plan Revised.

(d) Employees hired on and after July 1, 1991.

1.19 NORMAL RETIREMENT DATE means one of the following:

(a) On or after July 1, 2006, a Participant's Normal Retirement Date is the Participant's completion of twenty (20) Years of Active Service

(b) Prior to July 1, 2006, a Participant's Normal Retirement Date is set forth in Appendix A, Historical Provisions.

Credit for accrued sick leave earned by Participants in the Old Plan Revised, New Plan, or New Plan Revised pursuant to Section 1.31(a) shall not be used to determine whether a Participant has reached Normal Retirement Date.

1.20 PARTICIPANT means any Employee who participates in the Plan as provided in Article 2. A Participant shall continue to be a Participant as long as he or she is entitled to receive or is receiving a Plan benefit.

1.21 PARTICIPANT CONTRIBUTIONS for the Old Plan Revised, New Plan, and New Plan Revised means a percentage of a Participant's Salary determined as follows:

(a) For Participants hired before July 1, 2012:

(i) six and one half percent (6½%) of the Participant's Salary for the period from July 1, 2013, through December 31, 2013;

(ii) seven percent (7%) of the Participant's Salary for the period from January 1, 2014, through December 31, 2014;

(iii) seven and one-half percent (7½%) of the Participant's Salary for the period from January 1, 2015, through December 31, 2015; and

(iv) eight percent (8%) of the Participant's Salary effective January 1, 2016.

(b) For Participants hired on or after July 1, 2012, eight percent (8%) of the Participant's Salary.

(c) Contributions shall begin with the date of employment, but no earlier than July 1, 1966, and shall end on the date of termination of employment.

(d) Participant Contributions for periods prior to July 1, 2013, are set forth in Appendix A, Historical Provisions.

1.22 PLAN means the City of Annapolis Police and Fire Retirement Plan as set forth in this document and as amended from time to time.

1.23 PLAN YEAR means the twelve (12) month period beginning each July 1 and ending each June 30 during which this Plan is in effect.

1.24 PUBLIC SAFETY DISABILITY RETIREMENT BOARD means a board composed of five (5) members who shall serve a term of three (3) years. The Mayor of the City shall appoint the members and the Aldermen shall confirm the appointment. One member shall be an active member of the police or fire department with at least fifteen (15) years of continuous service and shall be elected by a majority vote of the members of its respective department. The police and fire departments shall alternate representation in their serving terms of the board. The board chairperson shall be an attorney admitted to practice law in the State of Maryland with experience and training in disability law. The presence of three (3) members of the Public Safety Disability Retirement Board shall constitute a quorum for all purposes.

1.25 RETIREMENT FUND means the account maintained by the City as a means of funding this Plan.

1.26 RETIREMENT PLAN COMMISSION consists of the the City Manager, the Director of Finance, the Human Resources Manager, the Chair of the Finance Committee or a member of the Finance Committee, the Chief of Police or the Chief's designated representative, the Fire Chief or the Chief's designated representative, a member of the bargaining unit represented by the police union (UFCW Local 400) or such other person designated by such union, a member of the bargaining unit represented by the fire union (IAFF Local 1926) or such other person designated by such union and a representative employed by a local financial institution or an individual with experience in managing or advising public sector defined benefit pension plans to be appointed by the Mayor of the City. The representatives for the bargaining units and the financial or experienced representative shall be appointed by the Mayor and confirmed by the City Council and shall serve for terms of three (3) years, or until a successor is appointed and duly qualified, each term commencing on November 1st.

1.27 SALARY means earnings actually paid for normally scheduled duty including authorized annual leave and sick leave, but excluding pay differentials and overtime or emergency response hours while not on scheduled duty. Salary shall include any amount that would have qualified as Salary but for the fact that it constitutes a salary reduction under any plan described in Sections 132(f), 414(h)(2), 457(b) or 125 of the Internal Revenue Code. Salary does not include amounts in excess of the applicable dollar limit in effect as of the first day of the Plan Year under Section 401(a)(17) of the Code and regulations promulgated thereunder, as adjusted by the Commissioner of the Internal Revenue Service for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code.

For years beginning after December 31, 2008, "Salary" will include differential wage payments paid by the City to a service member during his or her period of active military duty.

Other pay differentials included in salary for periods prior to July 1, 2013, are set forth in Appendix A, Historical Provisions.

1.28 SURVIVING SPOUSE means a spouse to whom the Participant is married at his or her retirement and to whom he or she has been legally married for the entire year prior to the date of retirement and to whom the Participant is still married at the time of death.

1.29 TERMINATED VESTED PARTICIPANT means a participant who terminates employment as an Employee as defined in this Plan with the City in either the Police Department or Fire Department with 10 or more Years of Vesting Service but less than 20 Years of Vesting Service and who is under age 55 at the time of such termination of employment.

1.30 WITHDRAWAL BENEFIT means a Participant's Participant Contributions plus interest credited under Section 6.3.

1.31 YEARS OF ACTIVE SERVICE means credit for service determined in accordance with the following:

(a) A Participant's years of employment performed as an Employee measured from date of hire calculated to the nearest one-twelfth of a year. To receive credit for Years of Active Service, a Participant must have made all required Participant Contributions, including Participant Contributions with respect to pay periods during which the Participant is on paid or unpaid leave of absence. Except where otherwise excluded, Participants receive credit for Years of Active Service for accrued unused sick leave at the rate of one (1) month for twenty-two (22) days of accrued sick leave to a maximum of twenty (20) months.

(b) Old Plan Revised and New Plan Revised Participants will receive Years of Active Service for military service, including Years of Active Service in determining eligibility for benefits, as follows: Up to three (3) Years of Active Service will be credited if the Participant is drafted or called to active duty and returns to service under the Plan within ninety (90) days after becoming eligible for release from active duty. A Participant's active duty with the armed forces of the United States which was completed honorably prior to employment with the City will be credited as Years of Active Service, provided that:

(i) Years of Active Service credited for such military service will not exceed three (3) years;

- (ii) Such service will not increase the Participant's benefit unless he or she completes twenty (20) Years of Active Service for the City;
- (iii) Such service will not count for purposes of completing the ten (10) or more Years of Active Service required for a deferred pension benefit in accordance with Section 5.1;
- (iv) No service will be credited if it would cause the Participant's Years of Active Service to exceed any applicable Plan limit; and
- (v) The Participant provides written verification of such service in such form as is satisfactory to the City's Human Resources Manager.

(c) Service credit with respect to qualified military service will be provided in accordance with Section 38-103 of the State Personnel and Pensions Article of the Annotated Code of Maryland and, effective December 12, 1994, in accordance with Section 414(u) of the Internal Revenue Code.

(d) Effective July 1, 2018, a Participant may elect to receive credit for up to three Years of Active Service (as defined in the Plan), including Years of Active Service in determining eligibility for a Normal Retirement Benefit, for employment with an employer that is the State of Maryland or any political subdivision within the State of Maryland, or prior service with the City and provided the service was rendered as a sworn member of the police department (other than service as a parking meter enforcement officer), police communications operator or a sworn member of the fire department.

(i) Cost of purchase.

(1) A Participant who elects to purchase credit for service hereunder shall pay the full actuarial cost of the credit for service on the date of the participant's retirement or termination of employment with the City as a Terminated Vested Participant as defined herein.

(2) The cost of the purchase shall be equal to the present value of the Participant's Accrued Benefit calculated using the Participant's Final Earnings as of that date and including the credit for the service purchased hereunder and calculated on the basis of the Participant's Retirement Date, less the present value of the Participant's projected Accrued Benefit without the service credit purchased hereunder.

(3) Present value will be determined using the interest, post-retirement mortality, post-retirement benefit increase and pay increase assumptions used by the enrolled actuary to perform the most recent actuarial examination of the Plan.

(ii) Any administrative procedures developed by the City to facilitate the purchase of service credit pursuant to this Section 1.31(d) shall be set forth in Appendix B. In addition, the Participant's election of the method of payment for purchased service may be modified by the City to the extent necessary to conform to Section 415 of the Internal Revenue Code.

1.32 YEARS OF VESTING SERVICE means a Participant's years of employment performed as an Employee measured from date of hire calculated to the nearest one-twelfth of a year. To receive credit for Years of Vesting Service, a Participant must have made all required Participant Contributions, including Participant Contributions with respect to pay periods during which the Participant is on paid or unpaid leave of absence

1.33 YEARLY EARNINGS means the total amount of straight-time Salary paid during the twenty-six (26) biweekly pay periods immediately preceding the date of retirement or death.

ARTICLE 2
ELIGIBILITY FOR PARTICIPATION

2.1 **ELIGIBILITY.** Each Employee shall become a Participant in the Plan on the date he or she becomes an Employee.

2.2 **REHIRED PARTICIPANTS.** Except as permitted under Section 1.31(d), if a Participant is rehired as a full-time Employee, he or she will not receive any credit for Years of Active Service earned prior to his or her termination of employment unless he or she earned a minimum of ten (10) Years of Active Service during their prior service with the City and the Participant did not receive a Withdrawal Benefit under Section 5.2.

If after termination of employment as an Employee, a Participant remains an employee with the City and subsequently becomes a Participant with no break of employment with the City, the Participant's Years of Active Service will include Years of Active Service standing to the Participant's credit upon his or her prior termination of employment as an Employee, unless the Participant received a Withdrawal Benefit under Section 5.2. In the event the individual receives a Withdrawal Benefit, all prior Years of Active Service shall be disregarded. In no event will a Participant receive service credit for employment with the City in a capacity other than as an Employee as defined in Article I.

2.3 **NOTIFICATION.** The City shall notify each Employee when he or she becomes a Participant and shall supply each Employee with a description of the Plan.

2.4 **PARTICIPATION BY HIGHLY COMPENSATED EMPLOYEES.** Highly Compensated Employees shall have the option to participate in the Plan. If a Highly Compensated Employee is not a Participant at the time of his or her appointment, he or she may elect to become a Participant. If the Highly Compensated Employee elects to become a Participant more than thirty (30) days after his or her appointment, the Highly Compensated Employee may purchase service credit to be used in determining eligibility for, and calculating the amount of, Plan benefits, retroactive to the date of appointment. When such an election is made, the Highly Compensated Employee (a) is solely responsible for the cost of making the necessary contributions to the Plan to purchase the additional service credit, (b) shall make contributions in an amount equal to the actuarial cost of the service credit, as determined by the Plan's actuary using the basis described in Section 1.31(d)(i), and (c) shall pay any actuarial fee associated with such calculation.

For purposes of this Section 2.4, a Highly Compensated Employee is defined as the Police Chief and Fire Chief.

ARTICLE 3
RETIREMENT BENEFITS

3.1 **NORMAL RETIREMENT BENEFITS.** Subject to any limitations provided under the Plan, each Participant who is an Employee on his or her Normal Retirement Date shall be entitled to receive a monthly pension under this Plan. Benefits shall commence at the later of the Participant's Normal Retirement Date or the first day of the month coincident with or next following the date of the Participant's actual retirement. Benefits will continue for the life of the Participant and, subject to Section 3.5, the Participant's spouse. The benefit shall be one-twelfth of the following amount:

(a) The benefit for a Participant whose actual retirement date occurs on or after July 1, 2007, is fifty percent (50%) of Final Earnings, plus:

- (i) two and one-fourth percent (2¼%) of Final Earnings multiplied by each Year of Active Service between 20 and 24, plus
- (ii) two and one-half percent (2½%) of Final Earnings multiplied by each Year of Active Service in excess of 24.

The maximum benefit under this Section 3.1(a) shall not exceed seventy percent (70%) of Final Earnings.

(b) The Benefit for a Participant whose Retirement Date occurs on or after July 1, 2018, shall be that set forth in subsection 3.1 (a), provided that a Participant who retires on or after July 1, 2018, with 30 or more Years of Active Service shall receive a benefit of 75% of Final Earnings. The maximum benefit under this Section 3.1 for Participants whose Retirement Date is on or after July 1, 2018, shall not exceed 75% of Final Earnings.

(c) The benefit for a Participant whose actual retirement date occurs before July 1, 2007 is set forth in Appendix A, Historical Provisions.

3.2 **COST OF LIVING ADJUSTMENT.**

(a) New Plan and New Plan Revised Effective July 1, 2013, and each July 1st thereafter, each Participant or survivor of a Participant in the New Plan or New Plan Revised entitled to receive a retirement benefit as of June 30th of any year shall receive a fixed annual two percent (2%) increase above the amount the Participant or survivor had received on June 30th of the same year.

(b) Old Plan: Each Participant or survivor of a Participant receiving benefits under the Old Plan shall receive an increase in benefits by the same percentage as any increase in the pay scale for Employees of the same rank and years of service who

are on active duty. If no increase in the pay scale for Employees of the same rank and years of service who are on active duty is provided in the annual budget, then the Participant's benefits shall be increased effective July 1st of that year, by such cost-of-living adjustment as the City Council of the City of Annapolis shall provide by resolution. An increase to the benefit of the survivor of a Participant shall not exceed three percent (3%) of the amount the survivor was receiving immediately before the date an adjustment is made.

(c) Old Plan Revised: Each Participant or survivor of a Participant receiving benefits under the Old Plan Revised shall receive an increase in benefits by the same percentage as any increase in the pay scale for Employees of the same rank and years of service who are on active duty. If no increase in the pay scale for Employees of the same rank and years of service who are on active duty is provided in the annual budget, then the Participant's benefits shall be increased effective July 1st of that year, by such cost-of-living adjustment as the City Council of the City of Annapolis shall provide by resolution. An increase to the benefit of a Participant's survivor shall not exceed three percent (3%) of the amount the survivor was receiving immediately before the date an adjustment is made. The annual adjustment to a Participant's benefit shall not exceed four percent (4%) of the amount the Participant was receiving immediately before the date an adjustment is made.

(d) Cost of living adjustments prior to July 1, 2013, for Participants in the New Plan and New Plan Revised are set forth in Appendix A, Historical Provisions.

3.3 LATE RETIREMENT BENEFITS. If a Participant continues employment with the City after the Participant's Normal Retirement Date, the Participant's retirement benefits under the Plan shall not commence until the first day of the month coincident with or next following the date of the Participant's actual retirement.

3.4 EARLY RETIREMENT BENEFITS. Effective July 1, 2006, monthly retirement benefits will be payable only at a Participant's Normal Retirement Date unless otherwise provided for in Section 3.7 (pertaining to service related disability benefits), Section 3.8 (pertaining to non-service related disability benefits), Article 4 (pertaining to death benefits), or Article 5 (pertaining to deferred vested pensions). For periods prior to July 1, 2006, Early Retirement Benefits are set forth in Appendix A, Historical Provisions.

3.5 FORMS OF BENEFITS.

(a) Normal Form of Benefit for New Plan and New Plan Revised. The normal form of benefit for a New Plan Participant or a New Plan Revised Participant is the Participant's monthly pension benefit, as computed in Section 3.1 above, continuing for the life of the Participant. Payments shall begin not later than the first day of the month following the Participant's actual retirement date and shall cease at the Participant's death. Upon the death of the Participant, the designated Beneficiary shall receive, in a

lump sum, the remainder, if any, of the Participant's Withdrawal Benefit, determined at the Participant's actual retirement date, minus the total payment already paid to the Participant.

(b) Normal Form of Benefit for Old Plan and Old Plan Revised. The normal form of benefit for an Old Plan Participant or an Old Plan Revised Participant shall be a 50% joint and survivor annuity with a monthly benefit payable during the Participant's lifetime and continuing after his or her death to his or her Surviving Spouse at fifty percent (50%) of the Participant's benefit at time of death for the remainder of such spouse's life or until his or her remarriage. Upon the remarriage of the Surviving Spouse, he or she shall receive the remainder, if any, of the Participant's Withdrawal Benefit, determined at the Participant's actual retirement date, minus the total payment already paid to the Participant. If the Participant dies without a Surviving Spouse, the remainder, if any, of the Participant's Withdrawal Benefit, determined at the Participant's actual retirement date, minus the total payment already paid, shall be paid to the Participant's estate.

(c) Lump Sum. Notwithstanding any other provision of the Plan, a single lump sum payment shall be made if monthly payments would be fifty dollars (\$50.00) or less. The lump sum will be the Actuarial Equivalent of the monthly payments to which the Participant or Beneficiary would be otherwise entitled. Effective with respect to distributions made after March 27, 2005, the Participant or Beneficiary must affirmatively elect to receive a lump sum payment in excess of \$1,000.

(d) Optional Forms of Benefit. In lieu of the normal form of retirement income, a Participant may elect, within the time period set forth in paragraph (e), to receive a benefit, which is its Actuarial Equivalent, payable in one of the following forms.

- (i) Joint and survivor spousal annuity. The joint and survivor option is a monthly income payable during the Participant's lifetime and continuing after his or her death as a percentage equal to fifty percent (50%), sixty-six and two-thirds percent ($66\frac{2}{3}\%$), seventy-five percent (75%) or one hundred percent (100%) (as elected by the Participant) of the benefit the Participant was receiving at time of death to his or her Surviving Spouse until the such spouse's death or remarriage.
- (ii) Level Income Annuity. A level income annuity provides the Participant with a series of payments which, when combined with Social Security benefits received by the Participant, provide a series of substantially equal payments over the lifetime of the Participant. Participants must provide the Plan Administrator with the date he or she will begin receiving

Social Security benefits and the amount of such benefits. Participants may elect this option effective as of July 1, 1999.

(e) General Provisions Applicable to Options

- (i) Election Procedures. An election of any optional form of benefit described in Section 3.5, or any revocation or change of such election, must be made by a Participant in writing, on a form supplied by or acceptable to the City. The Participant will be allowed at least ninety (90) days, following his or her receipt of descriptive information concerning optional payments forms in which to select an optional form. All elections become effective on the Annuity Starting Date. A Participant may, by written election, revoke an election prior to the thirtieth (30th) day before the effective date of the election. If the Participant fails to file an election before the thirtieth (30th) day prior to the date on which benefits are to begin, benefits will be paid in the normal form. In the event of death of the Participant's annuitant prior to the effective date of the election, the election shall be null and void. In no event may a Participant revoke or change his or her election after benefit payments have commenced.
- (ii) In the Event of Death. In the event of the death of a Participant prior to the date on which his or her benefits are due to commence under the terms of the Plan, no benefits shall be payable to his or her spouse or other Beneficiary except as provided in Article 4, regardless of whether or not the Participant has elected an optional form of benefit pursuant to this Section 3.5.

3.6 PAYMENTS TO MINORS AND INCOMPETENTS. If the Administrator shall receive satisfactory evidence that:

- (a) A Participant or Beneficiary entitled to receive any benefit under this Plan is, at the time when such benefit becomes payable, a minor, or is physically or mentally incompetent to receive such benefit and to give a valid release for it,
- (b) Another person or an institution is then maintaining or has custody of such Participant or Beneficiary, and

(c) No guardian, committee or other representative of the estate of such Participant or Beneficiary has been duly appointed, The Administrator may authorize the Retirement Plan Commission to make payment of the benefit otherwise payable to such Participant or Beneficiary to such other person or institution, including a custodian under a Uniform Gifts to Minors Act or corresponding legislation (who shall be an adult, a guardian of the minor or a trust company), and the release given by such other person or institution shall be a valid and complete discharge of the Plan for the payment of such benefit.

3.7 SERVICE RELATED DISABILITY BENEFITS.

(a) If a Participant terminates employment before or after his or her Normal Retirement Date, by reason of total and permanent disability incurred during service, he or she shall be entitled to elect to receive as of the first of the month coincident with or next following the termination of employment, a monthly benefit hereunder in an amount equal to one-twelfth (1/12) of sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) of the Participant's Final Earnings minus the amount received from any gainful employment and Social Security disability benefits in the preceding calendar year that when added to the disability pension is in excess of one hundred percent (100%) of the maximum step of the preceding July 1 salary range of employees in the same classification the Participant was in on the date of disability. At the Participant's election, service related disability benefits may be paid in any of the optional forms of benefit described in Section 3.5(d) including the Joint and Survivor Annuity Benefits set forth in Section 3.5 (d)(i). Service related disability benefits continuing after the Participant's Normal Retirement Date shall be in lieu of, and not in addition to, the Normal Retirement Benefits described in Section 3.1.

(b) For purposes of this Section, the total and permanent disability must have occurred as the natural and proximate result of:

- (i) bodily injury incurred in the performance of the Participant's regular occupation at some definite time and place, and without the willful negligence of the Participant; or
- (ii) occupational disease incurred in the performance of the Participant's regular occupation at some definite time and place, and without the willful negligence of the Participant.

Total and permanent disability for purposes of this Section means a determination by one or more physicians selected by the Human Resources Manager that the Participant is permanently unable to engage in the Participant's regular occupation.

(c) In addition, a total and permanent disability excludes a disability which resulted from:

- (i) chronic alcoholism or addiction to narcotics;
- (ii) the Participant being found guilty of a felony;
- (iii) the Participant engaging in a willful effort to cause injury or illness to the Participant or another person; or
- (iv) services in the armed forces of any country.

(d) In order to receive benefits under this subsection, the Participant must have:

- (i) exhausted applicable sick leave and accident and sickness benefits from programs, exclusive of Social Security, to which the City makes contributions;
- (ii) been making Participant Contributions immediately prior to the disability;
- (iii) not be eligible for non-service disability; and
- (iv) incurred the disability as a result of an injury ruled compensable under the Maryland workers' compensation law and filed a claim with the Maryland Workers' Compensation Commission.

(e) A Participant will cease to qualify for benefits under this subsection if the Human Resources Manager determines on the basis of a medical examination by one or more physicians selected by the Human Resources Manager that the Participant no longer has a total and permanent disability that incapacitates the Participant for duty or for re-employment by the City in another position. If any such Participant refuses to permit such examination, such refusal shall be justification for the determination that the disability no longer exists, provided that the Participant is not required to undergo more than one examination per year.

(f) If a Participant subsequently engages in employment for remuneration or profit, other than for rehabilitation as approved by the Human Resources Manager, the employment shall be considered gainful employment and the Participant must advise the Human Resources Manager of any employment within thirty (30) days of the commencement of the employment. In addition, the Participant must provide the Human Resources Manager with documents reporting the earnings.

A Participant must submit a report of all Social Security disability benefits received.

A Participant will cease to qualify for benefits if he or she fails to submit a report of total earnings from gainful employment or Social Security disability benefits to the Human Resources Manager.

(g) If a Participant ceases to qualify for benefits under this Section, the amount of, and eligibility for, other retirement benefits under Article 3 or benefits on account of termination of employment under Article 5 shall be determined based on the Participant's Years of Active Service and Final Earnings prior to his or her termination of employment by reason of total and permanent disability.

3.8 NON-SERVICE RELATED DISABILITY BENEFITS:

(a) If a Participant terminates employment before or after his or her Normal Retirement Date, by reason of total and permanent disability, the Participant shall be entitled to elect to receive as of the first of the month coincident with or next following the termination of employment, a monthly benefit hereunder in an amount equal to the Accrued Benefit at the date of termination minus the amount received from any gainful employment and Social Security disability benefits in the preceding calendar year that, when added to the disability pension, is in excess of one hundred percent (100%) of the maximum step as of the preceding July 1 salary range of employees in the same classification the Participant was in on the date of the Participant's disability. The monthly benefit shall, in no event, be less than twenty percent (20%) of the Participant's Final Earnings. At the Participant's election, non-service related disability benefits may be paid in any of the optional forms of benefit described in Section 3.5(d). Non-service related disability benefits continuing after the Participant's Normal Retirement Date shall be in lieu of, and not in addition to, the Normal Retirement Benefits described in Section 3.1.

(b) Total and permanent disability for purposes of this Section means a determination by one or more physicians selected by the Human Resources Manager that, as a result of bodily injury or disease, the Participant is totally and permanently prevented from engaging in any occupation or employment for remuneration or profit or continuing in the capacity of an Employee. The total and permanent disability must not have occurred as a result of bodily injury in the performance of duty or the occupational disease incurred in the performance of duty.

(c) In addition a total and permanent disability excludes a disability which resulted from:

- (i) chronic alcoholism or addition to narcotics;
- (ii) the Participant being found guilty of a felony;

- (iii) the Participant engaging in a willful effort to cause injury or illness to the Participant or another person; or
- (iv) services in the armed forces of any country.

(d) In order to receive benefits under this Section, the Participant must have (i) exhausted sick leave and accident and sickness benefits from programs, exclusive of Social Security, to which the City makes contributions; (ii) been making Participant Contributions immediately prior to the disability; (iii) been credited with five (5) Years of Active Service; (iv) not been eligible for benefits under Section 3.7(a); and (v) been determined to be eligible for benefits for disability under the Social Security Act as of the date the Participant becomes eligible for benefits under this Section.

(e) A Participant will cease to qualify for benefits under this Section if the Human Resources Manager determines on the basis of a medical examination by one or more physicians selected by the Human Resources Manager that the Participant no longer has a total and permanent disability that prevents the Participant from engaging in an occupation or employment for remuneration or profit. If any such Participant refuses to permit such examination, such refusal shall be justification for the determination that the disability no longer exists, provided that the Participant is not required to undergo more than one examination per year.

(f) If a Participant subsequently engages in employment for remuneration or profit, other than for rehabilitation as approved by the Human Resources Manager, the employment shall be considered gainful employment and the Participant must advise the Human Resources Manager of any employment within thirty (30) days of the commencement of the employment. In addition, the Participant must provide the Human Resources Manager with documents reporting the earnings.

A Participant must submit a report of all Social Security disability benefits received.

A Participant will also cease to qualify for benefits if he or she fails to submit a report of total earnings from gainful employment or Social Security disability benefits to the Human Resources Manager.

(g) If a Participant ceases to qualify for benefits under this Section, the amount of, and eligibility for, other retirement benefits under Article 3 or benefits on account of termination of employment under Article 5 shall be determined based on the Participant's Years of Active Service and Final Earnings prior to his or her termination of employment by reason of total and permanent disability.

3.9 MAXIMUM LIMITATION ON BENEFITS.

(a) Maximum Benefit. To the extent necessary to prevent disqualification under Section 415 of the Internal Revenue Code, and subject to the remainder of this Section, the maximum monthly benefit to which any Participant may be entitled at any time (the "Maximum Benefit") shall be equal to \$13,333, as adjusted by Cost of Living Increases (the "Dollar Limit"). The rate of benefit accrual shall be frozen or reduced accordingly to comply with the limitations.

(b) Actuarial Adjustment of Dollar Limit. The Dollar Limit shall be subject to actuarial adjustment as follows:

- (i) If the benefit is payable in any form other than a single life annuity or a qualified joint and survivor annuity (as defined for purposes of Section 415 of the Internal Revenue Code), the maximum benefit shall be reduced so that it is the Actuarial Equivalent of the single life annuity.
- (ii) With respect to a benefit beginning before age 62, the dollar limit shall be reduced to the Actuarial Equivalent of a dollar limit applicable to a benefit beginning at age 62, but in no event less than \$6,250.00.
- (iii) Notwithstanding the foregoing, however, in no event shall the dollar limit applicable to benefits beginning before age 62 be reduced below \$13,333 (as adjusted by Cost of Living Increases), but only with respect to Participants who have Years of Active Service totaling at least fifteen years: (i) in employment as a full time Employee in a position providing police protection, fire fighting services or emergency medical services, or (ii) in military service, or (iii) in a combination of (i) and (ii).
- (iv) With respect to a benefit beginning after age 65, the dollar limit shall be increased so that it is the Actuarial Equivalent of a dollar limit applicable to a benefit beginning at age 65.
- (v) Applicable Mortality Tables. Notwithstanding any other Plan provisions to the contrary, for purposes of adjusting any benefit or limitation under 415(b)(2)(B), (C), or (D) of the Internal Revenue Code, the mortality table used shall be the applicable mortality table (within the meaning of Section 417(e)(3)(B) of the Code).

- (vi) Minimum Interest Rates. Notwithstanding any other Plan provisions to the contrary, for purposes of adjusting the Dollar Limit or adjusting benefits payable in other forms under this Section 3.9(b), the interest rate assumption shall not be less than the greatest of the applicable interest rates described in Section 415(b)(2) of the Internal Revenue Code.

For any distribution with an annuity starting date on or after the effective date of this section and before the adoption date of this section, if application of the amendment as of the annuity starting date would have caused a reduction in the amount of any distribution, such reduction is not reflected in any payment made before the adoption date of this section. However, the amount of any such reduction that is required under 415(b)(2)(B) of the Internal Revenue Code must be reflected actuarially over any remaining payments to the Participant.

(c) Reducing Dollar Limit. The Dollar Limit shall be reduced (but not by more than 90%) by 1/10th for each Year of Active Service less than ten, considering only those Years of Active Service during any part of which the Participant was participating in the Plan.

(d) Cost of Living Increase. "Cost of Living Increase" means an automatic increase (without necessity of Plan amendment) in a dollar value set forth or described in the Plan, for the purpose of reflecting increases in the cost of living to the extent prescribed in or pursuant to regulations under Section 415(d) of the Internal Revenue Code, but only to the extent permitted by the operative Code or regulatory provision specifically governing the dollar value in question.

(e) Other Reductions in Maximum Benefit. In addition to the foregoing, the maximum benefit shall be reduced, and the rate of benefit accrual shall be frozen or reduced accordingly, to the extent necessary to prevent disqualification of the Plan under Section 415 of the Internal Revenue Code, with respect to any Participant who is also a Participant in:

- (i) any other tax-qualified pension plan maintained by the City, including a defined benefit plan in which an individual medical benefit account (as described in Section 415(l) of the Internal Revenue Code) has been established for the Participant;
- (ii) any welfare plan maintained by the City in which a separate account (as described in Section 419A(d) of the Internal Revenue Code) has been established to provide post-retirement medical benefits for the Participant; and/or

- (iii) any retirement or welfare plan, as aforesaid, maintained by a related employer, as described in Section 414(b), (c), (m) or (o) of the Internal Revenue Code.

3.10 DISTRIBUTION REQUIREMENTS. Notwithstanding any other provision in the Plan to the contrary, distribution shall be made only in accordance with Section 401(a)(9) of the Internal Revenue Code. To the extent required thereby, distribution of benefits shall comply with the following limitations:

(a) Except as otherwise provided below, distribution shall begin not later than the calendar year (hereinafter referred to as the "Commencement Year") in which the Participant reaches age 70½ or in which he subsequently retires. Distribution shall be made over the life of the Participant or the lives of the Participant and his Beneficiary, and/or over a period certain not extending beyond the life expectancy of the Participant or the joint life and last survivor expectancy of the Participant and his Beneficiary.

(b) A required distribution shall be deemed to have been made during the Commencement Year if actually made by the following April 1, but such delayed distribution shall not change the amount of such distribution, and the distribution otherwise required during the subsequent calendar year shall be calculated as if the first distribution had been made on the last day of the Commencement Year.

(c) Benefits paid prior to the Commencement Year shall reduce the aggregate amount subject to (but shall not otherwise negate) the minimum distribution requirements described herein.

(d) Nothing contained in this Section 3.10 shall prevent distribution of annuity benefits providing for non-increasing payments (except as otherwise permitted in Treasury Regulation §1.401(a)(9)-6)) beginning not later than the Commencement Year (except as provided in (c) above) and payable at least annually over a period permitted by this Section 3.10 (for which purpose, if benefit commencement under the annuity precedes the Commencement Year, each relevant life expectancy shall be based on the individual's attained age as of his birthday occurring in the calendar year in which benefit commencement occurs). Any benefits accruing after the Commencement Year shall be treated as a separate identifiable component distributable in accordance with this Section 3.10 beginning in the payment year following the year of accrual.

(e) With respect to distributions under the Plan made pursuant to distribution options in effect on April 17, 2002, the Plan will satisfy Section 401(a)(9) of the Internal Revenue Code based on a reasonable and good faith interpretation of Section 401(a)(9). For distribution options (if any) adopted after April 17, 2002, the Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Code in accordance with the Treasury Regulation §1.401(a)(9)-6.

3.11 DIRECT ROLLOVERS. Notwithstanding any other provision of the Plan to the contrary, any Distributee who is to receive an Eligible Rollover Distribution may elect the direct trustee-to-trustee rollover of the distribution to an Eligible Retirement Plan. A direct rollover election must be made pursuant to the procedures established by the Plan Administrator and must specify the Eligible Retirement Plan to which the direct rollover is to be made. If the Distributee elects a direct rollover as permitted hereunder, the Plan Administrator shall make the rollover as elected.

For purposes of this Section, the term “Eligible Rollover Distribution” has the meaning given such term in Section 401(a)(31)(D) of the Internal Revenue Code and currently means any distribution of all or any portion of the balance to the credit of the Distributee, except (i) any distribution that is one of a series of substantially equal periodic payments (not less frequent than annual) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee’s designated beneficiary, or for a specified period of ten (10) years or more, (ii) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code, and (iii) any distribution which is made upon hardship of the employee.

For purposes of this Section, the term Eligible Retirement Plan has the meaning given such term in Section 401(a)(31)(E) of the Internal Revenue Code and currently means (i) an Individual Retirement Account described in Section 408(a) of the Code, (ii) an Individual Retirement Annuity described in Section 408(b) of the Code (other than an endowment contract), (iii) an annuity plan described in Section 403(a) of the Code, (iv) an eligible deferred compensation plan described in Section 457(b) of the Code which is maintained by an eligible employer described in Section 457(e)(1)(A) of the Code, (v) an annuity contract described in Section 403(b) of the Code and (vi) a qualified trust described in Section 401(a) of the Code, the terms of which permit the acceptance of direct rollovers.

For purposes of this Section, the term Distributee includes the Participant and the Participant’s Surviving Spouse. In addition, Distributee includes the Participant’s spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in Section 414(p) of the Internal Revenue Code, with respect to the payee’s interest under the Plan.

Effective for Plan Years beginning on or after July 1, 2010, if, with respect to any portion of a distribution in the event of death, a direct trustee-to-trustee transfer is made to an Individual Retirement Account described in Section 408(a) of the Internal Revenue Code or an Individual Retirement Annuity described in Section 408(b) of the Code on behalf of a Beneficiary who is not the Employee’s spouse, the transfer shall be treated as an eligible rollover distribution for purposes of this Section.

ARTICLE 4
DEATH BENEFITS

4.1 **PRE-RETIREMENT DEATH BENEFITS.**

(a) Service Related Death. If a Participant dies prior to termination of employment while in the line of duty, the surviving spouse of the Participant shall be entitled to receive a death benefit until his or her death or remarriage. For purposes of this Section, surviving spouse means a spouse to whom the Participant is legally married at the time of his or her death.

If upon the death or remarriage of the surviving spouse, the surviving children of the Participant are under age eighteen (18), the children shall be eligible to receive a death benefit. For purposes of this Section, children of the Participant means the surviving biological and adopted children of the Participant on the date of the surviving spouse's death.

If a Participant dies without a surviving spouse, the Participant's Withdrawal Benefit will be paid to the Participant's estate in a lump sum.

New Plan and New Plan Revised: The death benefit shall be a monthly benefit equal to one-twelfth of fifty percent (50%) of the Participant's Accrued Benefit. For purposes of this calculation, accumulated sick leave is excluded and the minimum amount of the annual benefit shall be thirty percent (30%) of the Participant's Annual Earnings plus five percent (5%) of the Participant's Annual Earnings for each unmarried child under eighteen (18) years old to a maximum of forty percent (40%) of the Participant's Annual Earnings. In the event of the death or remarriage of the surviving spouse with the benefit amount becoming payable to children of the Participant, the amount shall be allocated in equal shares to the surviving children under age eighteen (18) on the date the benefit payment is made. The benefit shall commence as of the first day of the month following the Participant's death and continue through the first of the month in which the last of the children of the Participant attains age eighteen (18). Upon the termination of the benefits under this Section, the remainder, if any, of the Participant's Withdrawal Benefit, determined at the Participant's actual retirement date, minus the total payment already paid to the Participant and his or her surviving spouse and children, shall be paid in a lump sum to the surviving spouse or to the surviving spouse's estate, except that if the children of the Participant were receiving benefits, the children will receive the remainder in equal shares.

Old Plan and Old Plan Revised: The death benefit payable to the surviving spouse of a Participant shall be a monthly benefit equal to one-twelfth (1/12) of fifty percent (50%) of the Participant's Yearly Earnings. In the event of the death or remarriage of the surviving spouse with the benefit amount becoming payable to children of the Participant, the amount shall be allocated in equal shares to the surviving

children under age eighteen (18) on the date of the benefit payment being made. The benefit shall commence as of the first day of the month following the Participant's death and continue through the first of the month in which the last of the children of the Participant attains age eighteen (18). If the surviving spouse remarries at a time when there are one or more children of the Participant under age eighteen (18), the surviving spouse will continue to receive fifty percent (50%) of the monthly payment the surviving spouse was receiving prior to his or her marriage until the youngest child reaches age eighteen (18). Upon the termination of the benefits under this Section, the remainder, if any, of the Participant's Withdrawal Benefit determined at the Participant's actual retirement date, minus the total payment already paid to the Participant's surviving spouse and children shall be paid in a lump sum to the surviving spouse or to the surviving spouse's estate, except that if the children of the Participant were receiving benefits, the children will receive the excess in equal shares.

(b) Non-Service Related Death.

(i) Vested Participants. If a Participant dies prior to termination of employment but after completing ten (10) Years of Active Service, as further defined in paragraphs (A) and (B) as applicable, the surviving spouse of the Participant shall be entitled to receive a monthly benefit in the amounts set forth in paragraphs (A) or (B), as applicable, with payments ending upon the remarriage or death of the surviving spouse. For purposes of this Section, surviving spouse means a spouse to whom the Participant is legally married at the time of his or her death. Upon the termination of benefits under this Section, any excess of the Participant's Withdrawal Benefit over the total sum of the benefits paid to the Participant's surviving spouse shall be paid to the surviving spouse or the estate of the surviving spouse. If a Participant dies without a surviving spouse, the Participant's Withdrawal Benefit will be paid to the Participant's estate in a lump sum.

(1) New Plan and New Plan Revised: The death benefit payable to the surviving spouse of a New Plan or New Plan Revised Participant shall be an annual benefit of fifty percent (50%) of the Participant's Accrued Benefit as of the date of the Participant's death. Solely for purposes of determining whether a Participant has completed ten (10) Years of Active Service, such that the Participant's surviving spouse is entitled to receive a monthly benefit under this Section 4.1(b)(i)(A), a Participant's accumulated sick leave shall be counted.

(2) Old Plan and Old Plan Revised: The death benefit payable to the surviving spouse of an Old Plan or Old Plan Revised Participant shall be an annual benefit of ten percent (10%) of Yearly Earnings plus one percent (1%) of Yearly Earnings for each Year of Active Service (excluding accumulated sick leave) in excess of ten (10) to a maximum of thirty (30) years. However, the death benefit payable to the surviving spouse of an Old Plan or Old Plan Revised Participant who elected, prior to July 1, 1992, to receive a normal retirement benefit equal to two and one-quarter percent (2 ¼%) of Final Earnings times Years of Active Service (including accumulated sick leave) to a maximum of sixty-seven and one-half percent (67 ½%) of Final Earnings shall equal fifty percent (50%) of Yearly Earnings. For purposes of determining whether a Participant has completed ten (10) Years of Active Service, a Participant's accumulated sick leave shall not be counted.

(ii) Non-Vested Participants. If a Participant dies prior to termination of employment and prior to completing ten (10) Years of Active Service, the Participant's Withdrawal Benefit will be paid to the Participant's named beneficiary in a lump sum. If the Participant has not designated a named beneficiary, then the Withdrawal Benefit shall be paid to the Participant's estate in a lump sum.

4.2 LIMITATIONS. All death benefits payable pursuant to this Article 4 shall be distributed only in accordance with Section 401(a)(9) of the Internal Revenue Code. To the extent required thereby, such benefits shall be distributed in full not later than the last day of the calendar year containing the fifth anniversary of the death of the Participant, except as follows:

(a) Unless the Participant or his Beneficiary irrevocably elects pursuant to any elective provision which may be then present in the Plan (which election must be made prior to the earliest date on which distribution would be otherwise required pursuant to this Section 4.2) to have the aforesaid five year limit apply, benefits payable to or for the benefit of the Participant's Beneficiary, and which begin not later than the last day of the calendar year containing the first anniversary of the Participant's death, may be distributed over the life of the Beneficiary or a period certain not extending beyond the life expectancy of the Beneficiary, under a method of distribution which meets the requirements of Section 3.10 (but with life expectancy based upon the Beneficiary's attained age as of the Beneficiary's birthday in the calendar year in which falls: (i) the date

on which non-annuity benefits are required to commence pursuant to this Section 4.2(a), or (ii) if earlier, the date on which annuity benefits actually commence).

(b) If the Participant's Beneficiary is his Surviving Spouse, then, unless the Participant or his spouse irrevocably elects pursuant to any elective provision which may be then present in the Plan (which election must be made prior to the earliest date on which distribution would be otherwise required pursuant to this Section 4.2) to have the aforesaid five year limit apply, benefits payable to or for the benefit of the spouse, and which begin not later than the later of the last day of the calendar year containing the first anniversary of the Participant's death, or the last day of the calendar year in which the Participant would have reached age 70 ½, may be distributed over the life of the Surviving Spouse or a period certain not extending beyond the life expectancy of the Surviving Spouse, under a method of distribution which meets the requirements of Section 3.10 (but with life expectancy based upon the spouse's attained age as of the spouse's birthday in the calendar year in which falls: (i) the date on which non-annuity benefits are required to commence pursuant to this Section 4.2(b), or (ii) if earlier, the date on which annuity benefits actually commence).

(c) If benefits are payable in accordance with Section 4.2(b), and the Surviving Spouse dies after the Participant but prior to: (i) the date on which non-annuity benefits are required to commence pursuant to Section 4.2(b), or (ii) the date on which annuity distributions meeting the requirements of Section 4.2(b) actually commence, then, in either case, the aforesaid five year limit, and the alternate limit set forth in Section 4.2(a), are to be applied as if the spouse were the Participant, so that such limits shall be measured from the death of the spouse.

(d) If annuity benefits meeting the requirements of Section 4.2(a) had commenced prior to the Participant's death, then the death benefits payable pursuant to this Article 4 may be distributed without regard to the aforesaid five year limit, but must be distributed to the Participant's Beneficiary at least as rapidly as they would have been under the pre-death method of distribution.

(e) With respect to distributions under the Plan made pursuant to distribution options in effect on April 17, 2002, the Plan will satisfy Section 401(a)(9) of the Internal Revenue Code based on a reasonable and good faith interpretation of Section 401(a)(9). For distribution options (if any) adopted after April 17, 2002, the Plan will apply the minimum distribution requirements of Section 401(a)(9) of the Code in accordance with the Treasury Regulation §1.401(a)(9)-6.

ARTICLE 5
TERMINATION OF EMPLOYMENT

5.1 **DEFERRED PENSION BENEFITS**

(a) **New Plan and New Plan Revised:** If a New Plan or New Plan Revised Participant terminates employment as a member of the Plan for any reason other than death or disability prior to his or her Early Retirement Date or Normal Retirement Date but after completing ten (10) or more Years of Active Service, the Participant shall be entitled to a monthly benefit equal to his or her Accrued Benefit. The Accrued Benefit of a Participant who terminates employment under this Section 5.1(a) on or after July 1, 2004, will be two and one-quarter percent (2¼%) of Final Earnings multiplied by his or her Years of Active Service.

Benefits payable pursuant to this Section 5.1(a) shall commence on the Participant's fifty-fifth (55th) birthday. The Participant must request from, complete, and return to the Plan Administrator the required paperwork in order for the benefits to begin. In the event of the Participant's death prior to his or her 55th birthday and prior to the commencement of payments pursuant to this Section 5.1(a), the Participant's Withdrawal Benefit will be paid in a lump sum to the Participant's estate. The benefit payable shall be calculated in accordance with amount determined in accordance with 3.1 but excluding accumulated sick leave. If the Participant receives a Withdrawal Benefit under Section 5.2, he or she is not entitled to a benefit under this Section 5.1.

(b) **Old Plan and Old Plan Revised:** If an Old Plan or Old Plan Revised Participant terminates employment for any reason other than death or disability prior to his or her Normal Retirement Date, he or she is not entitled to any benefits under the Plan except as provided under Section 5.2.

5.2 **WITHDRAWAL BENEFIT.** Each Participant who terminates employment for a reason other than death or disability and prior to becoming eligible for any benefits under Article 3 or Article 5 shall be eligible to receive a Withdrawal Benefit. Each Participant who terminates employment for a reason other than death or disability and is eligible for benefits under Article 3 or Article 5 may elect to receive a Withdrawal Benefit but will not be entitled to any other benefits under this Plan.

ARTICLE 6
CONTRIBUTIONS

6.1 **CITY CONTRIBUTIONS**. The funding of the Plan and payment of benefits hereunder shall be provided by the Retirement Fund. The City, from time to time, but no less frequently than annually, shall make contributions to the Retirement Fund in the amount recommended by the actuary for the plan, unless the City Manager with approval by vote of a majority of the City Council determines otherwise.

6.2 **DISPOSITION OF FORFEITURES**. Any forfeiture arising under the provisions of the Plan shall be used to reduce the then current or future costs of funding the benefits provided in the Plan.

6.3 **MANDATORY PARTICIPANT CONTRIBUTIONS**. Each Participant shall contribute to the Retirement Fund Participant Contributions in the amounts described in Section 1.20 with respect to each pay period during which he or she is an active Participant. At all times, the Participant shall be fully vested in these contributions.

Participant Contributions will be credited with interest for the number of full months from the July 1 following the date the contribution was made to the date the interest is being computed. Participant Contributions made after July 1, 1980, shall be credited with interest at the rate of five percent (5%) per annum, compounded annually, or such other rate as may be determined by the Retirement Plan Commission from time to time. Participant Contributions made prior to June 30, 1980, shall be credited with interest at the rate of two percent (2%) per annum.

In the event that a Participant is on an unpaid leave of absence, the Participant should contact the City's Human Resources Manager prior to commencement of the leave to make arrangements to pay Participant Contributions to the Retirement Fund.

Participant Contributions shall not exceed the applicable limitations on annual additions in Section 415(c) of the Code. If an Employee is a Participant and also participates in another defined contribution plan or plans maintained by the City, the annual additions under this Plan and under all other defined contribution plans of the City shall not exceed these limits, and the annual additions under this Plan shall be reduced to the extent necessary to comply. Any excess annual additions shall be corrected under the Employee Plans Compliance Resolution System (EPCRS). For purposes of these limits, a Participant's compensation is defined in Section 415(c)(3) of the Code, and includes all items includible as compensation under Treasury Regulation §1.415(c)-2(b), compensation paid after severance from employment unless specifically prohibited by Treasury Regulation §1.415(c)-2(e)(3), and differential wage payments under Section 414(u)(2) of the Code. Compensation shall exclude those items listed in

Treasury Regulation §1.415(c)-2(c), such as pick-up contributions under Section 414(h)(2) of the Code.

6.4 MILITARY SERVICE BENEFITS. Notwithstanding any provision of this Plan to the contrary, effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code and, except as otherwise required by Title 38 of the State Personnel and Pensions Article of the Annotated Code of Maryland or other applicable law, Participants must pay Participant Contributions in accordance with Section 414(u) of the Internal Revenue Code.

With respect to deaths occurring on or after January 1, 2007, if a Participant dies while performing qualified military service (as defined in Section 414(u) of the Internal Revenue Code) the Participant's survivors are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Participant resumed and then terminated employment on account of death.

ARTICLE 7
AMENDMENT AND TERMINATION

7.1 CITY'S RIGHT TO AMEND. The City shall have the right to amend this Plan in any and all respects at any time and from time to time, including the right to reduce or suspend contributions; provided, however:

(a) that no amendment shall increase the duties or liabilities of the Retirement Plan Commission without its consent;

(b) that no amendment shall deprive any Participant of any vested Accrued Benefit, the term of monthly payments or delay payment of benefits to any Participant or Beneficiary;

(c) that no amendment shall provide for the use of the Retirement Fund other than for the benefit of Participants and Beneficiaries; and

(d) that no amendment shall deprive any Participant of any vested interest in his or her Accrued Benefit.

Any amendment to the Plan shall be by resolution of the City, and a certified copy of an amendment shall be filed with the Retirement Plan Commission. The Participants shall be notified if any provision of the Plan is substantially changed by an amendment.

7.2 TERMINATION OF THE PLAN.

(a) The City reserves the right to terminate all or any portion of the Plan at any time. Any such termination shall be by resolution and a certified copy of such resolution shall be delivered to the Retirement Plan Commission and the City shall notify the Participants, including retirees entitled to receive or receiving a Plan benefit, and any Beneficiaries receiving benefits.

(b) In the event of a termination (or partial termination, as determined under applicable Internal Revenue Service regulations and rulings) of the Plan, all affected Participants on the date of the termination or partial termination, to the extent required by law, shall have a nonforfeitable right to benefits under this Plan accrued on the date of the termination or partial termination to the extent the same are funded as of such date.

(c) Upon termination or partial termination of the Plan as described above, the Administrator, to the extent necessary, shall make provision for any expenses of the Plan, and the Administrator shall allocate the assets of the Fund, as appropriate. Upon such allocation of assets, the Administrator shall have the authority to direct the liquidation and distribution of the Fund.

(d) The assets of the Plan upon Plan termination will be allocated for the purposes set forth below and in the order set forth below, to the extent the assets are sufficient therefor. The allocations may be implemented by the purchase and distribution by the Retirement Plan Commission of annuity contracts. The allocation of assets of the Plan shall be made pursuant to the following order of priorities:

- (i) to pay any expenses, fees and other charges under the Plan not previously paid;
- (ii) to provide the portion of each Participant's benefit attributable to mandatory Participant contributions;
- (iii) if not already done, to provide vested benefits under the Plan;
- (iv) if not already done, to provide all other Accrued Benefits under the Plan.

(e) The purchase of annuities will be in the order set forth below. The necessary assets of the Retirement Fund, determined by the City on the basis of an actuarial valuation, will be fully allocated for all members of one class before any assets are allocated to the next class. The amount of retirement benefit will be determined as of the date of termination of the Plan, based, in the case of active Participants, on Years of Active Service and Final or Annual Earnings, whichever is applicable, as of the date of Plan termination. If any balance remains after these priorities have been satisfied, the balance shall become the property of the City. The order of priority is as follows:

- (i) to provide retirement benefits for Participants and Beneficiaries then receiving retirement benefits for which annuities have not been purchased;
- (ii) to provide retirement benefits, starting at age sixty-five (65), for active Participants who have completed thirty (30) or more Years of Active Service;
- (iii) to provide retirement benefits, starting at age sixty-five (65), for active Participants who have completed twenty-five (25) Years of Active Service years but less than thirty (30) Years of Active Service;
- (iv) to provide retirement benefits, starting at age sixty-five (65), for active Participants who have completed twenty (20) years of Active Service but less than twenty-five (25) Years of Active Service;

(v) to provide retirement benefits, starting at age sixty-five (65), for all other active Participants.

(f) For purposes of the allocation of funds within each priority, as set forth above, funds will be credited to each Participant to provide the Accrued Benefits to which he or she is so entitled, but only to the extent that such Accrued Benefits have not been provided under a preceding priority. Any reductions in Accrued Benefits within a particular priority (or within any particular preference set forth in that priority or preference) shall be allocated pro-rata on the basis of then present values of the respective Accrued Benefits described in that priority (or preference) for each such Participant. Any reference to Accrued Benefits payable to Participants shall be deemed to include Accrued Benefits payable to Beneficiaries of deceased Participants.

ARTICLE 8
ADMINISTRATION

8.1 **ADMINISTRATION**. This Plan in all events shall be administered on the basis of uniform rules and practices applied in a nondiscriminatory manner which will be binding on all persons affected by them. The Administration of this Plan shall be the responsibility of the following named fiduciaries:

(a) The Retirement Plan Commission shall be responsible for the management, control and investment of the Retirement Fund and for the payment of benefits to Participants and their beneficiaries. The Commission shall have the authority to invest and reinvest the pension fund in any securities, insurance company contract (including but not limited to the issue of a contract for the purpose described in Section 3.36.290), trust company account or any other investment as is lawful. The Commission, from time to time, may employ an agent, including an investment advisor, for the purpose of directing the investment and reinvestment of all or a portion of the pension fund. The Commission shall report on the status of the Plan on an annual basis to the City Council. The Director of Finance shall have the responsibility to carry out all decisions which the Commission makes regarding the investment of the assets of the plan.

(b) The Retirement Plan Commission shall be responsible for determining appeals with respect to denied claims for benefits, other than disability retirement benefits under Sections 3.7 or 3.8.

(c) The Public Safety Disability Retirement Board shall be responsible for determining appeals with respect to denied claims relating to disability retirement benefits under Sections 3.7 or 3.8.

(d) Except as otherwise specifically provided herein, The City's Human Resources Manager shall be the Administrator responsible for controlling and managing the administration and operation of the Plan as hereinafter set forth. The City's Human Resources Manager may designate other persons to carry out some or all of his or her fiduciary responsibility.

(e) The Human Resources Manager shall provide such reports to the Retirement Plan Commission as to the administration of the Plan as the Commission may request from time to time.

(f) The authority of each named fiduciary in its designated area of responsibility as aforesaid shall be exclusive, and no named fiduciary shall have either authority or responsibility to exercise any discretion or control other than as specifically delegated to the named fiduciary hereunder. Any person or group of persons or entity may serve in more than one fiduciary capacity with respect to the Plan.

8.2 HUMAN RESOURCES MANAGER The Human Resources Manager shall have the following powers and responsibilities:

- (a) Enroll all eligible Participants;
- (b) Collect and maintain such information with respect to each Participant, retired Participant, survivor and Beneficiary receiving benefits as he or she considers necessary or appropriate to discharge his or her duties and to provide for the proper administration of the Plan;
- (c) Determine in the first instance the benefit payable to a Participant under the terms of the Plan; determine the amount of service to be credited to a Participant and determine all other matters pertaining to the eligibility for and amount of any benefit provided for in this Plan;
- (d) Provide information to Participants regarding the Plan, eligibility for participation, accrued service and calculation of benefits;
- (e) Resolve in the first instance all disputes under the Plan, including all matters pertaining to eligibility to participate in the Plan, and amount of benefits under the Plan; provided, that any person aggrieved by the Human Resources Manager's determination has the right to appeal to the Retirement Plan Commission (with recusal of the Human Resources Manager) for reconsideration, except in the case of disability retirement pension determinations, which shall be appealed to the Public Safety Disability Retirement Board;
- (f) Construe the Plan, supply any omission in it and reconcile any inconsistency in it to the extent necessary to take any action authorized by the Plan;
- (g) Seek legal counsel to the extent he/she deems necessary in connection with taking any action authorized by the Plan;
- (h) To the extent he or she considers it desirable, establish rules and regulations for carrying out the provisions of the Plan.

8.3 THE RETIREMENT PLAN COMMISSION, HUMAN RESOURCES MANAGER AND ANY OF THEIR DELEGATES OR MEMBERS: The Retirement Plan Commission, Human Resources Manager and any of their members and delegates (including any paid investment advisor or investment manager of a separately-managed account) shall discharge his or her duties:

- (a) For the exclusive purpose of providing benefits hereunder and defraying the reasonable expenses of operating the Plan, (

(b) With the skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, and

(c) so as not to:

- (i) deal with the assets of the Plan in his own interest or for his own account,
- (ii) in his individual or in any other capacity act in any transaction involving the Plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the Plan or the interests of its participants or beneficiaries, or
- (iii) receive any consideration for his own personal account from any party dealing with the Plan in connection with a transaction involving the assets of the Plan. For purposes of clause (iii) of this paragraph, any activity that would be considered an exempted prohibited transaction under Section 406(b) of the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), shall not be deemed to violate the terms of this Plan.

8.4 CLAIMS PROCEDURE.

(a) Generally. Any person claiming a benefit under the Plan (a “Claimant”) shall present the claim, in writing, to the Human Resources Manager. Such claim shall be made no later than 180 days after the date on which the claimant knows or should have known that he or she may be entitled to a benefit under the Plan. No later than 120 days after the Human Resources Manager receives the written claim, he or she shall respond in writing. If the claim is denied, the written notice of denial shall state the specific reason or reasons for denial.

(b) Disability Claims. The responsibility and duties of the Human Resources Manager with respect to applications for disability retirement pensions shall be as follows:

- (i) to review and decide all applications for disability retirement from Participants or from the appointing authority of the Police Department and Fire Department of the City of Annapolis;
- (ii) to obtain, as part of that process, from one or more physicians selected by the Human Resources Manager, such medical

evaluations and examinations of the Claimant's condition as the Human Resources Manager considers appropriate;

- (iii) to conduct hearings, as the Human Resources Manager deems appropriate, for the review of applications for disability retirement;
- (iv) within thirty calendar days of the review of an application for disability retirement, the Human Resources Manager shall decide:
 - (1) to retire the Participant on a service related disability pension;
 - (2) to retire the member on a non-service related disability pension;
 - (3) to deny a disability retirement pension;
 - (4) to continue the review of the application for a disability retirement pension to a date not to exceed ninety (90) days from the date of the continuance;
- (v) to review, annually, during the first five (5) years of a disability retirement, the continuation of retirement status and allowances and, after the first five (5) years, at such times as the Human Resources Manager deems appropriate;
- (vi) to perform such other duties as are implicitly or explicitly imposed upon the Human Resources Manager by the Plan.

8.5 APPEALS.

(a) Any Claimant whose claim for benefits other than for disability benefits is denied (or such Claimant's authorized representative) may request a review of the denial by notice given, in writing, to the Retirement Plan Commission within 90 days after the date of denial of the claim. Upon such a request for review, the claim shall be reviewed by the Retirement Plan Commission and the decision of the Retirement Plan Commission shall be final and binding upon all parties, except that a party aggrieved by a decision of the board may file an appeal to the Circuit Court for Anne Arundel County pursuant to Maryland Rules, Title 7, Chapter 200 or its successors and, thereafter, to the Maryland Court of Special Appeals and, if appropriate, the Maryland Court of Appeals.

(b) Any Claimant whose claim is for disability retirement benefits is denied (or such Claimant's authorized representative) may request a review of the denial

by notice given, in writing, to the Public Safety Disability Retirement Board within 90 days after the date of denial of the claim. Upon such a request for review, the Public Safety Disability Retirement Board shall conduct a hearing. The City attorney shall represent the City's interests in all contested hearings before the Public Safety Disability Retirement Board and shall not advise the Public Safety Disability Retirement Board or act as legal counsel to it in regard to the hearing. The decision of the Public Safety Disability Retirement Board shall be final and binding upon all parties, except that a party aggrieved by a decision of the board may file an appeal to the Circuit Court for Anne Arundel County pursuant to Maryland Rules, Title 7, Chapter 200 or its successors and thereafter to the Maryland Court of Special Appeals and if appropriate, to the Maryland Court of Appeals.

8.6 PUBLIC SAFETY DISABILITY RETIREMENT BOARD. The Public Safety Disability Retirement Board shall conduct a hearing on the record to review and decide all appeals from police and fire department disability retirement pension decisions made by the Human Resources Manager. Additionally, the board shall conduct hearings on the record and decide such other matters as may be assigned to it under the Plan from time to time. A party aggrieved by a decision of the board may file an appeal to the Circuit Court for Anne Arundel County pursuant to Maryland Rules, Title 7, Chapter 200 or its successors, and thereafter to the Maryland Court of Special Appeals and if appropriate, to the Maryland Court of Appeals.

8.7 ADVICE The Human Resources Manager and/or the Retirement Plan Commission may secure specialized advice or assistance as it deems necessary or desirable in connection with the administration and operation of the Plan and shall be entitled to rely conclusively upon, and shall be fully protected in any action or omission taken by it in good faith reliance upon, any advice or opinion so obtained.

8.8 DELEGATION Subject to Section 8.1(d), the Human Resources Manager as Administrator shall have the power and authority to delegate from time to time by written instrument all or any part of his/her duties, powers or responsibilities under the Plan, both ministerial and nondiscretionary, as he/she deems appropriate, to any person, and in the same manner to revoke any such delegation of duties, powers or responsibilities. Any action of such person in the exercise of duties, powers or responsibilities delegated to such person shall have the same force and effect for all purposes hereunder as if such action had been taken by the Human Resources Manager. Further, the Human Resources Manager may authorize one or more persons to execute any certificate or document on behalf of the Human Resources Manager, in which event any person notified by the Human Resources Manager of such authorization shall be entitled to accept and conclusively rely upon any such certificate or document executed by such person as representing action by the Human Resources Manager until such third person shall have been notified of the revocation of such authority.

8.9 LIABILITY AND INDEMNIFICATION. The City shall indemnify and hold harmless the Retirement Plan Commission and Human Resources Manager (collectively, the Indemnitees”) from the effects and consequences of their acts, omissions and conduct with respect to the Plan, except to the extent that such effects and consequences shall result from their own willful misconduct, gross negligence or violation of clause (iii) of Section 8.3. . The foregoing right to indemnification shall be in addition to such other rights as the Indemnitees may enjoy as a matter of law or by reason of insurance coverage of any kind. Rights granted hereunder shall be in addition to and not in lieu of any rights to indemnification to which the Indemnitees may be entitled pursuant to the City Code. In all computations, the Indemnitees shall be entitled to rely fully upon data furnished to the City on behalf of an Employee or Employees or Beneficiaries.

8.10 INSURANCE The Plan may purchase, as an expense of the Plan, liability insurance for the Plan and/or for its fiduciaries to cover liability or losses occurring by reason of an act or omission by a fiduciary. In addition, any fiduciary may purchase, from and for the fiduciary’s own account, insurance to protect the fiduciary in the event of a breach of fiduciary duty, and the City may also purchase insurance to cover the potential liability of one or more persons who serve in a fiduciary capacity with regard to the Plan.

8.11 PLAN RECORDS The Human Resources Manager shall keep or cause to be kept records reflecting administration of the Plan, which records shall be subject to audit by the City. A Participant may examine only those records pertaining directly to the Participant.

ARTICLE 9
PROVISION TO PREVENT DISCRIMINATION

This Plan shall be administered and construed in a uniform and non-discriminatory manner, treating similarly situated Participants alike.

ARTICLE 10
MISCELLANEOUS

10.1 NO RIGHT TO EMPLOYMENT Participation in this Plan shall not give any person the right to be retained in the employ of the City, or any right or interest in this Plan other than as herein provided.

10.2 GOVERNING LAW This Plan shall be construed, administered and governed in all respects under and by the laws of the State of Maryland, except to the extent Maryland law shall have been pre-empted by other applicable law.

10.3 INFORMATION TO BE FURNISHED BY PARTICIPANTS AND BENEFICIARIES A Participant or Beneficiary shall provide the City with a current mailing address and shall notify the City of any subsequent change in his or her mailing address. Any communication, statement or notice addressed to a Participant or Beneficiary at his or her last post office address filed with the City, or if no such address was filed with the City, then at his or her last post office address as shown on the City's records, shall be binding on the Participant or Beneficiary for all purposes of the Plan. In the event a Participant or Beneficiary cannot be located, the Human Resources Manager shall make a reasonable effort to locate the Participant or Beneficiary using certified mail, checking related Plan and employer records, using free electronic search tools such as Internet search engines, and checking with designated Beneficiaries; however, neither the Retirement Plan Commission nor the City shall be obliged to search further for any Participant or Beneficiary. If the City notifies any Participant or Beneficiary that he or she is entitled to an amount under the Plan and the Participant or Beneficiary fails to claim such amount or make his or her location known to the City within six (6) years thereafter, the City shall have the right to direct that the amount payable shall be deemed to be a forfeiture, except that the dollar amount of the forfeiture shall be reinstated if a claim for the benefit is made by the Participant or Beneficiary to whom it was payable. If any benefit payable to an unlocated Participant or Beneficiary is subject to escheat pursuant to applicable state law, neither the Retirement Plan Commission nor the City shall be liable to any person for any payment made in accordance with such law.

10.4 NO ASSIGNMENT OF BENEFITS AND FORFEITURE OF BENEFITS FOR CRIME Except as expressly provided herein, no benefits under the Plan may be assigned or alienated, and the Retirement Plan Commission shall pay all amounts payable hereunder, and shall distribute all assets distributable hereunder, to any person, into the hands of such person and not unto any other person or corporation whatsoever, whether claiming by his or her authority or otherwise; nor may said payments be anticipated. Except as expressly provided herein, the interest of any Participant hereunder may not be assigned or encumbered, nor shall it be subject to attachment or other judicial process. However, deposit to the credit of the account of any person in a bank or trust company designated by such person in writing shall be deemed to be the equivalent of payment into the hands of such person. Notwithstanding the foregoing, the Retirement Plan

Commission shall fully recognize the creation, assignment or recognition of a right to any benefit payable with respect to a Participant pursuant to a "Qualified Domestic Relations Order." 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 material property rights and (a) which clearly specifies: (i) the names and last known mailing addresses of the Participant and each payee, (ii) 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), (iii) the number of payments or period to which such order relates; and (b) which does not (i) require this Plan to provide increased benefits, or (ii) require the payment of the same benefits to any payee which are payable to another payee pursuant to a prior Qualified Domestic Relations Order.

10.5 EXCLUSIVE BENEFIT The Retirement Fund shall be held by the Retirement Plan Commission for the exclusive purpose of providing benefits to Participants and their beneficiaries and defraying reasonable expenses of administering the Plan. No part of the Retirement Fund shall ever inure to the benefit of the City prior to the satisfaction of all liabilities to all Participants and their beneficiaries, except that:

(a) Any contribution made to the Retirement Fund by the City which is attributable to a mistake of fact may be returned to the City within one year after such contribution was made;

(b) In the case of the termination of the Plan, any residual assets of the Plan shall be distributed to the City at the direction of the Administrator if all liabilities of the Plan to Participants and their Beneficiaries have been satisfied and the distribution does not contravene any provision of law.

IN WITNESS WHEREOF, this Plan is signed this _____ day of

_____.

CITY OF ANNAPOLIS, MARYLAND

By: _____

APPENDIX A
HISTORICAL PROVISIONS

ARTICLE 1
DEFINITIONS - HISTORICAL

1.9 EARLY RETIREMENT DATE for periods prior to July 1, 2006, means for Old Plan Revised, New Plan or New Plan Revised Participants, any date that precedes the Participant's Normal Retirement Date and that coincides with or follows the Participant's completion of twenty (20) Years of Active Service. There is no Early Retirement Date for Old Plan Participants.

1.16 NORMAL RETIREMENT DATE for periods prior to July 1, 2006, means one of the following:

(a) For periods between July 1, 2004, and June 30, 2005, the Normal Retirement Date of a Participant (other than an Old Plan Participant hired prior to August 1, 1972) is the earlier of (1) the Participant's fifty-fifth (55th) birthday and completion of twenty (20) Years of Active Service or (2) the Participant's completion of twenty two (22) Years of Active Service. The Normal Retirement Date of an Old Plan Participant hired prior to August 1, 1972, is the Participant's completion of twenty (20) Years of Active Service.

(b) For periods between July 1, 2005, and June 30, 2006, the Normal Retirement Date of a Participant (other than an Old Plan Participant hired prior to August 1, 1972) is the earlier of (1) the Participant's fifty-fifth (55th) birthday and completion of twenty (20) Years of Active Service or (2) the Participant's completion of twenty-one (21) Years of Active Service. The Normal Retirement Date of an Old Plan Participant hired prior to August 1, 1972, is the Participant's completion of twenty (20) Years of Active Service.

(c) Credit for accrued sick leave earned by New Plan Revised Participants, Old Plan Revised Participants, and New Plan Participants pursuant to Section 1.29(a) shall not be used to determine whether a Participant has reached Normal Retirement Date.

1.20 PARTICIPANT CONTRIBUTIONS, for periods prior to July 1, 2013, means a percentage of a Participant's Salary determined as follows:

(a) Old Plan: Three percent (3%) of Salary.

(b) Old Plan Revised, New Plan, New Plan Revised:

(i) For Participants hired on or after July 1, 2012, eight percent (8%) of the Participant's Salary.

(ii) For Participants hired on or after July 1, 2010, but before July 1, 2012, six and one-half percent (6½%) of the Participant's Salary.

(iii) For Participants hired before July 1, 2010, five and one half percent (5½%) of the Participant's Salary for the Plan Year beginning July 1, 2012, and three and one-half (3½%) of the Participant's Salary for the Plan Year beginning July 1, 2011, and earlier Plan Years.

Contributions shall begin with the date of employment, but no earlier than July 1, 1966, and shall end on the date of termination of employment.

1.26 SALARY will include the following pay differentials for the periods below:

(a) Emergency Medical Technicians-Basic (EMT-B): Employees who are assigned as Emergency Medical Technicians-Basic (EMT-B) and employees who are certified as Cardiac Rescue Technicians (CRT) or Emergency Medical Technician-Paramedic (EMT-P) but who are not assigned to an authorized position:

Fiscal Year	July 1, 2004, to June 30, 2005,	July 1, 2005, to June 30, 2006,	July 1, 2006, to June 30, 2007,
Pay Differential included in Salary	0.66%	1.33%	2.00%

(b) Cardiac Rescue Technicians (CRT): A Firefighter or Firefighter First Class who fills an authorized Cardiac Rescue Technicians (CRT) position or Emergency Medical Technician-Paramedic (EMT-P) but who are not assigned to an authorized position:

Fiscal Year	July 1, 2004, to June 30, 2005,	July 1, 2005, to June 30, 2006,	July 1, 2006, to June 30, 2007,
Pay Differential included in Salary	3.33%	6.66%	10.00%

(c) Emergency Medical Technician-Paramedic (EMT-P): A Firefighter or Firefighter First Class who fills an authorized Emergency Medical Technician-Paramedic (EMT-P) position:

Fiscal Year	July 1, 2004, to June 30, 2005,	July 1, 2005, to June 30, 2006,	July 1, 2006, to June 30, 2007,
Pay Differential included in Salary	5.00%	10.00%	15.00%

1.27 SOCIAL SECURITY means 42 U.S. Code Chapter 7, Subchapter II - Federal Old-Age, Survivors, and Disability Insurance Benefits, or the benefits provided thereunder.

1.29 YEARS OF ACTIVE SERVICE or ACTIVE SERVICE:

Any police officer hired on or before February 25, 2008, may, on or before December 31, 2008, exercise his or her rights to receive service credit in accordance with the provisions of Section 1.29(d).

During the period July 1, 2010, to June 30, 2012, and pursuant to such administrative procedures as the City may develop, Community Service Officers shall be eligible to buy into the Plan consistent with the amount of time spent in the qualified Community Service Officer program, and shall be required to pay into the Retirement Fund an amount equal to the average of an entry level police officer between the years 1997 to 2000, which amount is approximately \$28,312, at five percent (5%), which is the rate of current contributions totaling \$1,415 per year or a fraction thereof.

ARTICLE 3 RETIREMENT BENEFITS - HISTORICAL

3.1 NORMAL RETIREMENT BENEFITS for a Participant whose actual retirement date occurs before July 1, 2007, shall be one-twelfth of the following amount:

(a) The benefit for a Participant whose actual retirement date occurs on or after July 1, 2006, but prior to July 1, 2007, is fifty percent (50%) of Final Earnings plus the product of: (A) 17.5% multiplied by (B) a fraction, the numerator of which equals to the Participant's whole and fractional Years of Active Service in excess of twenty (20), and the denominator of which equals 8. The maximum benefit shall be equal to sixty-seven and one-half percent (67½%) of Final Earnings.

(b) The benefit for a Participant whose actual retirement date occurs during the fiscal year ending June 30, 2006, is fifty percent (50%) of Final Earnings plus two and one-fourth percent (2¼%) of Final Earnings multiplied by Years of Active Service in excess of twenty-one (21) up to a maximum of sixty-seven and one-half percent (67½%) of Final Earnings.

(c) The benefit for a Participant whose actual retirement date occurs during the fiscal year ending June 30, 2005, is fifty percent (50%) of Final Earnings plus two and one-fourth percent (2¼%) of Final Earnings multiplied by Years of Active Service in excess of twenty-two (22) up to a maximum of sixty-seven and one-half percent (67½%) of Final Earnings.

3.2 COST OF LIVING ADJUSTMENT Prior to July 1, 2013, cost of living adjustments will be made as follows:

(a) New Plan and New Plan Revised: Each Participant or survivor of a Participant receiving a benefit under the New Plan or New Plan Revised on any June 30th shall receive an adjustment effective the following October 1st of a percentage equal to the percentage of change in the Consumer Price Index for Urban Wage Earners and Clerical Workers, November 1996=100, all items, published by the U.S. Department of Labor, as applied to the Washington-Baltimore DC-MD-VA-WV area over the twelve (12) month period ending on the June 30th immediately preceding the October 1st as of which the adjustment is being made. If the U.S. Department of Labor fails to publish that index, then the adjustment of the benefits shall be measured by another index measuring the cost of living as the City selects. The annual adjustment to a benefit shall not exceed three percent (3%) of the amount the Participant or survivor was receiving immediately before the date an adjustment is made.

3.4 EARLY RETIREMENT BENEFITS For periods prior to July 1, 2006, if a Participant shall, for any reason except death or disability, retire on or after his or her Early Retirement Date and before his or her Normal Retirement Date, the Participant's retirement shall be considered as Early Retirement. Such Participant may elect to receive an Early Retirement benefit (payable in accordance with the provisions of Section 3.5) which shall commence on the Participant's Normal Retirement Date or, at the election of the Participant, may commence on the first day of any month following his or her Early Retirement Date and on or before his or her Normal Retirement Date.

If a Participant's Early Retirement benefit commences on or after July 1, 2004, such benefit shall be two and one-quarter percent (2¼%) of Final Earnings multiplied by Years of Active Service, but reduced by one-half of one percent (0.5%) for each month and fraction thereof that the Participant's Years of Active Service is less than the years required to be eligible for normal retirement benefits under Section 3.1(a).

If a Participant's Early Retirement benefit commences prior to July 1, 2004, such benefit shall be the pension benefit as computed under Section 3.1, but reduced by one-half of one percent (0.5%) for each month and fraction thereof that the Participant's Years of Active Service is less than twenty-five (25) years.

----- End of Appendix A -----

APPENDIX B
ADMINISTRATIVE PROCEDURES

Procedures to Request Purchase of Previous Service

POLICE DEPARTMENT

1. The Employee completes the **Police and Fire Retirement Plan Request to Purchase Previous Service** form and returns it to the Human Resources Department.
2. The Human Resources Department completes the **Verification of Previous Employment** form and sends it to the previous employer.
3. Once the **Verification of Previous Employment** form is returned by the previous employer to the Human Resources Department, the Employee's information is forwarded to the Plan Actuary to request a calculation.
4. Once the calculation is sent by the Plan Actuary to the Human Resources Department, the Human Resources Department forwards the information to the Employee.

FIRE DEPARTMENT

1. The Employee completes the **Police and Fire Retirement Plan Request to Purchase Previous Service** form and returns it to the Human Resources Department.
2. The Human Resources Department completes the **Verification of Previous Employment** form and sends it to the previous employer.
3. Once the **Verification of Previous Employment** form is returned by the previous employer to the Human Resources Department, the Employee's information is forwarded to the Plan Actuary to request a calculation.
4. Once the calculation is sent by the Plan Actuary to the Human Resources Department, the Human Resources Department forwards the information to the Employee.
5. The Employee has 90 days from the date the calculation is sent to him/her to pay the calculated amount in order to purchase their previous service. The Employee

sends a check made payable to "City of Annapolis" and forwards it to the Human Resources Department for processing with the Plan's Third Party Administrator.

If the Employee does not pay the calculated amount within 90 days, the Employee may request another calculation at a later date, but the Plan Actuaries will prepare a new calculation using updated financial information. The Employee has until their retirement date to purchase previous service.

APPENDIX C
DEFERRED RETIREMENT OPTION PROGRAM
(DROP PLAN)

Definitions

In this subtitle, the following words have the meanings indicated.

- (1) "DROP" means the Deferred Retirement Option Program in which a participant agrees to delay receipt of the employee's retirement benefit while the employee continues to work. Each participant receives the accumulated retirement benefit from the period of participation at retirement.
- (2) "DROP account" means the separate financial account established under this policy from which a participant is paid a lump sum distribution at retirement.
- (3) "DROP participant" means a participant who is eligible and who elects to participate in the DROP.
- (4) "DROP participation period" means the time that an employee participates in the DROP while actively employed by the City.
- (5) "Cost Neutral" means the City will not be required to expend additional funds to support the DROP program nor will the program adversely affect the funding status of the Pension Plan.
- (6) "Plan Year" means a calendar year commencing January 1 and ending December 31st.

Applicability

There is a Deferred Retirement Option Program in the City of Annapolis New and New Revised Police and Fire Retirement Plans.

Cost Neutral

The DROP program is designed to be cost neutral and an actuarial analysis will be performed every three years and the plan actuary will include a report on whether the DROP is meeting the cost neutrality objective. In the event the DROP is not cost neutral, the City and the Public Safety Unions shall meet and amend as needed the DROP to achieve cost neutrality. In the event the parties cannot come to an agreement, no new participants shall be enrolled until such time as the parties agree to and implement changes necessary to achieve cost neutrality.

Eligibility

Sworn Police and Fire personnel will have the option to elect DROP beginning on the date of eligibility for normal retirement, (20 years for those hired prior to 7/1/2012; 25 years for those hired on or after 7/1/2012). During the DROP the City will continue to make the employer contributions to the Retirement Plan. For those employees who commenced participation in DROP on or before June 30, 2018, who defer their DROP entry to normal retirement date plus 5 or more years of additional service, no employee contribution shall be required during the DROP period; for all other employees, the employee contribution shall be required.

Credit for Military Service

Up to three years of active duty service with the armed forces of the United States may be counted towards the 5 additional years of service beyond the normal retirement date needed for an employee to be relieved of the obligation to make employee contributions during the DROP period. However, periods of active duty service will not be credited towards the years of active service required to reach normal retirement in order to elect DROP. The Participant must provide written verification of active duty service at such time and in such form as is satisfactory to the Administrator.

Years of Service to Qualify for DROP	Military Service (towards additional 5 years of service beyond NRD)	Total Active Years of Service	Employee Contributions CONTINUE or WAIVED during DROP
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Employees Hired On or Before June 30, 2012,

20	3	23	Continue
21	3	24	Continue
22	3	25	Waived

Employees Hired On or After July 1, 2012,

25	3	28	Continue
26	3	29	Continue
27	3	30	Waived

Applications

- (a) **Application required.** An employee who wants to participate in the DROP shall complete an application on the form required by the Administrator.
- (b) **Beginning date.** In addition to providing information requested by the Administrator, the employee shall specify a beginning date of the employee's DROP participation period that corresponds to the requirements of the participation period noted in (c) below.
- (c) **When submitted.** An application shall be submitted to the Administrator at least 90 days before the beginning date of the employee's DROP participation period. An application may be submitted before an employee is eligible to participate in the DROP, provided that the employee is eligible as of the beginning date of the DROP participation period.

Limitation on the number of participants

- (a) **Generally.** No more than 24 employees (12 Fire & 12 Police) may be participating in the DROP at any one time.
- (b) **Initial participants.** Upon inception of the DROP participation in the DROP will be limited to eight (8) participants (4 Fire & 4 Police) per plan year until a maximum of 24 participants is realized.
- (c) **When fewer than 24 employees are participating.** If there are fewer than 24 employees participating in the DROP as of the first day of any subsequent Plan Year, the number of additional employees who may begin participating in the DROP on that day shall be limited to the number that does not cause the total number of DROP participants to exceed 24, split evenly between Police and Fire to a maximum of 12 slots each.
- (d) **Selection by seniority.** If the application of this section requires the number of participants to be limited, participants shall be selected by seniority as determined by the Administrator on the basis of the amount of actual plan service of the applicants. Annually, in conjunction with the open enrollment period, applications for participation in the DROP will be received by the Human Resources Department.

In the event of a tie in seniority which will affect whether an employee may enroll in the DROP, the following methods will be used to break the tie:

For employees in Fire, a random selection method will be used to break the tie. For employees in Police, please refer to language in the Collective Bargaining Agreement which specifies how to proceed.

Participation period -- mandatory retirement upon expiration

- (a) **Generally.** A DROP participation period begins on the first day of a Plan Year and expires on the last day of a Plan Year.
- (b) **Term of participation period.** The term of a DROP participation period is three (3) years for employees commencing participation in DROP on or before June 30, 2018, and for employees who commenced participation in DROP on or after June 1, 2018, the DROP participation period shall be four (4) years.
- (c) **Expiration before end of term.** A DROP participation period expires before the end of the current term if the DROP participant dies, voluntarily terminates or is involuntarily terminated from employment; retires (normal or disability); or becomes ineligible to participate in the plan for any reason, including a transfer to a position not covered by the plan.
- (d) **Expiration of DROP participation.** Except as otherwise provided in this subtitle, a DROP participant shall terminate service and begin receiving a retirement benefit as of the first day of the month following expiration of the DROP participation period. A participant who fails to submit the documents requesting termination and retirement shall be involuntarily terminated and retired as provided in subsection (c).

Status during participation

- (a) **Active employee.** A DROP participant is an active employee of the City and, except as provided in this subtitle, is entitled to the benefits of that employment and is subject to the laws, regulations, and policies governing that employment.
- (b) **Police and Fire Retirement Plan.** A DROP participant is a participant in the Police and Fire Retirement Plan under the conditions described in the respective plan, except that a DROP participant will have exercised the option to elect DROP subject to the following conditions:

Anyone who has elected and entered the DROP beginning on the date of eligibility for normal retirement, (20 years for those hired prior to 7/1/2012; 25 years for those hired on or after 7/1/2012,) shall continue to make the required employee contribution. During the DROP the City will continue to make the employer contributions to the Plan. Those employees who commenced participation in DROP on or before June 30, 2018, who defer their DROP entry to normal retirement date plus 5 or more years of additional service no employee contribution shall be required during the DROP period. Those employees who commenced participation on or after July 1, 2018, shall pay 4% of pay during their stay in DROP.

DROP account

- (a) **Account established.** The Administrator shall establish an account in the pension fund for recording the actions required by this section and is not required to establish an individual account for each DROP participant.
- (b) **Retirement benefits.** The Administrator shall determine, based on the standard actuarial calculation accounting for years of service and salary, the annual retirement benefit under the Police and Fire Retirement Plan a DROP participant is entitled as of the first day of the DROP participation period. The retirement benefit excludes service and salary during the DROP participation period for purposes of calculating the entitlement to and amount of the retirement benefit.
- (c) **Account balance.** The account balance credited to a DROP participant is subject to the following:
 - (1) it includes the amount of the retirement benefit determined under subsection (b);
 - (2) For employees who commenced participation in DROP on or after January 1, 2018, the rate includes credited interest calculated under the Composite Corporate Bond Rate, based on an average of the June-November rates from the prior year for the Plan Year ahead;
 - (i) compounded on the account balance as of the first day of each month;
 - (ii) credited to the DROP participant from the beginning to the expiration of the DROP participation period.
 - (iii) amounts in the account are NOT increased by COLA granted to actual retirees.

- (3) For employees who commence participation in DROP on or after July 1, 2018, the credited interest rate shall be 3.25%.
- (d) **Statement of account balance.** At least once a year, the Administrator shall provide to a DROP participant a statement of the account balance credited to the DROP participant as described in subsection (c).

Early withdrawal from participation

- (a) **Election to withdraw.** Except as provided in subsection (b), a DROP participant may elect to withdraw from participation in the DROP only by terminating employment with the City.
- (b) **Withdrawal before end of participation period.** A DROP participant whose participation ends prior to the end of the DROP participation period because of a termination of employment or ineligibility to participate in the plan for any reason:
 - (1) forfeits any entitlement to the DROP benefit and
 - (2) if otherwise eligible, shall have a retirement benefit determined that includes service and salary during the DROP participation period for purposes of calculating the entitlement to and amount of the retirement benefit and that is reduced by an amount actuarially equivalent to the employee contributions not made during the DROP participation period.
 - (3) Interest shall not accrue on an account balance for any period of DROP participation that is less than a full year.

Disability during participation

- (a) **Permitted.** A DROP participant may apply for a disability pension during the DROP participation period.
- (b) **Effect of disability pension.** If a DROP participant receives a disability pension:
 - (1) the benefit includes service and salary during the DROP participation period for purposes of calculating the amount of the benefit and is reduced by an amount actuarially equivalent to the employee contributions not made during the DROP participation period; and
 - (2) the participant forfeits any entitlement to the DROP benefit.

- (a) **Generally.** If a DROP participant dies during the DROP participation period, the beneficiary or beneficiaries of the participant as described in the Fire & Police Retirement Program are entitled to a death benefit under the retirement plan.
- (b) **Death result of active duty.** If the death occurs as the direct result of the active performance of duties as described in the City Code, the death benefit includes service and salary during the DROP participation period for purposes of calculating the amount of the benefit and is reduced by the actuarial equivalent of the employee contributions not made during the DROP participation period.
- (c) **Death not result of active duty.** If the death does not occur as a direct result of the active performance of duties, the death benefit excludes service and salary during the DROP participation period for purposes of calculating the amount of the benefit and is not reduced by an amount actuarially equivalent to the employee contributions not made during the DROP participation period.
- (d) **Beneficiaries.** If a DROP participant dies during the DROP participation period, the beneficiary or beneficiaries of the participant as described in the City Code are entitled to a lump sum payment in cash of the account balance credited to the DROP participant as of the date of the death of the participant. Any payment(s) of the annuity will be determined by the election the employee made upon entering the DROP.

Retirement benefits of participants

- (a) **Generally.** On the first day of the month following expiration of the DROP participation period and the DROP participant's termination from City employment, the participant is entitled to receive the first payment of an annual retirement benefit under the Police and Fire Retirement Plan.
- (b) **Benefit** determined as if the participant had retired on the first day of the DROP participation period, using final average basic pay and including credit for residual unused sick leave for the determination of the final benefit at separation of service;
- (c) **Payment.** The participant shall receive payment of the account balance credited to the DROP participant.

Manner of payment

- (a) **Lump sum payment.** Unless elected otherwise by a DROP participant, payment of the account balance shall be made in a lump sum to the participant within 30 days of the first day of the month following expiration of the DROP participation period and the DROP participant's termination from City employment.

- (b) **One-time deferral of the lump sum payment.** The participant may elect a one-time deferral of the lump sum payment of the account balance on the form required by the Human Resources Manager, provided the election is submitted no later than the expiration of the DROP participation period; the participant is not entitled to interest on the account balance because of the deferral; and payment is made within 30 days after a request is submitted to the Human Resources Manager on the form required on or before the participant is 70½ years of age.
- (c) **Payment in cash; exception.** Unless otherwise elected by a DROP participant, a lump sum payment under subsection (a) or subsection (b) shall be made in cash. If permitted by federal law at the time of the payment, payment may be made by transfer or direct rollover to an eligible retirement plan as defined in the Internal Revenue Code.
- (d) **An increase in the monthly annuity amount.** The participant may elect to use the DROP balance to increase the monthly annuity payment amount by the actuarial equivalent based form of payment election at DROP entry and the ages of the participant and, if applicable, the beneficiary at DROP exit date.
- (e) **Sole responsibilities of participant.** Selection of the retirement account, plan, or annuity and the tax consequences of a transfer or direct rollover under subsection (c) are the sole responsibility of the participant and, upon transfer or direct rollover of the account balance to the retirement account, plan, or annuity, the City has no further obligation regarding the account balance credited to the participant.

Beneficiaries

A DROP participant's beneficiary is the beneficiary on file for the pension plan with the Human Resources Department.

Future Employment

If an employee exits the DROP and is retired from the City, and subsequently is re-employed by the City in a position which is covered by the Police and Fire Retirement Plan, the employee shall not be eligible to participate in the Plan.

----- End of Appendix C -----