

Washington Metropolitan Area Transit Authority
Board Action/Information Summary

<input checked="" type="radio"/> Action <input type="radio"/> Information	MEAD Number: 100239	Resolution: <input checked="" type="radio"/> Yes <input type="radio"/> No
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TITLE:

Restatement of Metro`s 6 Retirement Plan Documents

PURPOSE:

Request Board approval of the resolutions to amend and restate the plan documents for the six Metro retirement plans, and to authorize the General Manager to take such further actions as may be necessary or desirable for the plans to continue qualification under Section 401(a) of the Internal Revenue Code.

DESCRIPTION:

The Internal Revenue Service requires that all qualified retirement plans renew their favorable determination letters every five years. A restatement of the retirement plan document is required as part of the submission request. The restated plan document is designed to make such changes as are required in order for the retirement plan to retain its qualification under Section 401(a) of the Internal Revenue Code of 1986 as amended.

Each of Metro`s six retirement plan documents is to be amended and restated effective February 1, 2009 to meet the Internal Revenue Service requirement. Each of Metro`s retirement plans requires that all plan amendments be made by a written Resolution of the Board of Directors.

FUNDING IMPACT:

No impact on Metro funding.

The \$6,000 in fees (\$1,000 per retirement plan) required by the IRS for the submission of favorable determination status renewals will be paid for by the retirement plan trusts.

RECOMMENDATION:

Approval to amend and restate the plan documents for the six Metro retirement plans, and authorize the General Manager to take such further action as may be necessary or desirable for the plans to continue qualification under Section 401(a) of the Internal Revenue Code.

SUBJECT: RESTATEMENT OF THE WMATA/LOCAL 922 RETIREMENT PLAN

PROPOSED
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, The Internal Revenue Service requires all qualified plans to renew their favorable determination letters every five years; and

WHEREAS, The submission to the Internal Revenue Service requires the restating of the WMATA/Local 922 Retirement Plan; and

WHEREAS, That pursuant to the terms of the Collective Bargaining Agreement between WMATA and the Union, WMATA maintains the WMATA/Local 922 Retirement Plan; and

WHEREAS, That WMATA staff and the representatives of Union have reached agreement on a restated plan document for the WMATA/Local 922 Retirement Plan that is designed to (1) clarify certain provisions of the Plan; and (2) make changes required in order for the Plan to retain its qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, A copy of the restated plan document for the WMATA/Local 922 Retirement Plan is attached to this Resolution; now, therefore be it

RESOLVED, That the WMATA/Local 922 Retirement Plan, as amended and restated effective January 1, 2009, a copy of which is attached to this Resolution, is hereby adopted and approved on behalf of WMATA; and be it further

RESOLVED, That the General Manager is hereby authorized and directed to execute on behalf of WMATA any other changes to the WMATA/Local 922 Retirement Plan as are requested by the Internal Revenue Service, or based on advice of counsel, as are necessary or desirable for the Plan to continue qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended; and be it further

RESOLVED, That the General Manager or the Assistant General Manager for Workforce Services is hereby authorized and directed to execute such other forms, notices, instruments or other documents and to take such further action as may be necessary or desirable (1) to fully implement the WMATA/Local 922 Retirement Plan; (2) to ensure that the Plan is qualified under Section 401(a) of the internal Revenue Code; and (3) to obtain from the Internal Revenue Service a determination letter to the effect that said

Plan continues to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code; and be it finally

RESOLVED, That this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,



Carol B. O'Keeffe
General Counsel

PROPOSED

WMATA/LOCAL 922 RETIREMENT PLAN

Section 1 - Title

The Retirement and Disability Allowance Plan is sometimes herein referred to as "this Plan" or "the Plan" and shall be known as "WMATA/ Local 922 Retirement Plan."

Section 2 - Purpose

The object of the Plan outlined hereinafter is to provide retirement income and disability payments for eligible employees of Washington Metropolitan Area Transit Authority. It is intended that the Plan satisfy the requirements of section 401(a) of the Code in form and operation, to the extent such requirements apply to a governmental plan described in section 414(d) of the Code.

Section 3 - Definitions

- (a) "Authority" shall mean Washington Metropolitan Area Transit Authority, and its successors, lessees, and assigns.
- (b) "Custodian" shall mean any bank or trust company selected to administer the assets of the plan.
- (c) "Employee" shall mean:
 - 1. Any regular full-time employee or part-time bus operator (effective July 1, 1983), of the Authority carried on its payroll and covered by a bargaining agreement between WMATA and Local 922/IBT.
 - 2. Any regular full-time employee or part-time bus operator (effective July 1, 1983), who receives a regular and stated compensation or who is absent on account of leave of absence, sickness or injury, or is on leave of absence because of holding office in the Union or its International Office, the Transit Employees Federal Credit Union.
 - 3. Any employee who, after becoming eligible for participation in this Plan, is transferred to other duties with the Authority which do not require him to be a member of the Union.
- (d) "Trustees" shall mean the Trustees of WMATA/Local 922 Retirement Trust who shall administer the plan as described in the Trust Agreement.
- (e) "Continuous service" shall mean employment with the Authority, or any predecessor, continuously without a break; however, any absence due to leave of absence, sickness or injury not arising out of and in the course of employment with the Authority, or temporary lay-off on account of reduction in force, shall not break the continuity of service, but, if such absence on one or more of the foregoing grounds exceeds three (3) consecutive years, the excess shall be deducted in computing length of service. The period of absence shall not be considered a break in continuous service in the following instances:
 - 1. time spent in the service of the armed forces of the United States or her allies during a period of emergency provided the employee returns to the

- service of the Authority within ninety (90) days from the date of his discharge;
2. absences due to accident or sickness arising out of and in the course of employment with the Authority;
 3. period of discharge, if followed by reinstatement with seniority rights within three (3) years;
 4. periods during which no services were rendered because of strikes or lock-outs.
 5. leave of absence while holding office in or performing duties for the Union or its International Office or the Transit Employees Federal Credit Union. Notwithstanding any provision of the Plan to the contrary, with regard to an employee covered under the Plan who, after serving in the uniformed services, is reemployed on or after December 12, 1994 within the time required by the Uniformed Services Employment and Re-employment Rights Act of 1994, as amended, contributions shall be made and benefits and service credit shall be provided under the Plan with respect to his or her qualified military service (as defined in section 414(u)(5) of the Code) in accordance with section 414(u) of the Code.
- (f) Commencing July 1, 1983, "continuous service" for regular part-time bus operators shall be credited for their part-time employment after July 1, 1983, pro-rated on the basis of actual hours paid in any one (1) year divided by two thousand eighty (2,080) hours.
- (g) "Code" shall mean the Internal Revenue Code of 1986, as amended.
- (h) "Actuarial Assumptions" shall mean those assumptions used in the determination of Actuarial Equivalents in Section 10 or for other pertinent benefit calculations, as set forth in Annex A hereto, as the same may be modified from time to time.
- (i) "Actuarial Equivalent" means a benefit of equivalent dollar value on a specified date, computed on the basis of the Actuarial Assumptions.

Section 4 - Effective Date

The original effective date of this Plan was April 1, 1974. Except as otherwise indicated herein, this restatement of the Plan is effective January 1, 2009.

All employees as defined above who are members of the Union on the effective date, and all who thereafter become members, shall come under this Plan and continue as contributing members as long as they are in the employ of the Authority, and they have completed the probationary period as required by the basic labor agreement between the parties.

Section 5 - Records

The Authority shall keep all records, compile all data, accept all applications for retirement, and submit such applications to the Board of Trustees for certification and forwarding to the Custodian.

The Trustees shall have the right at all times to call for additional information concerning any or all applications forwarded to the Trustees and to examine all records or data pertaining to the Plan.

Section 6 - Contributions to the Fund

- (a) Each employee as defined in Section 3(c) shall contribute to the Fund in the hands of the Custodian two (2) percent of total compensation for each and every week of his employment from and after completion of the appropriate probationary period, commencing with the first month after completion of this probationary period.

The above contributions for all eligible employees receiving compensation from the Authority shall be made by means of a check-off and shall be paid by the Authority to the Custodian.

Effective on September 1, 1996, subsection 6(a) shall be deleted and contributions to the Fund shall be determined as follows: 1) For the remainder of calendar year 1996 from September 1, 1996 to December 31, 1996, the Authority shall contribute the normal cost of the plan, as a percentage of covered payroll, based upon the actuarial valuation produced as of January 1, 1996. 2) Future contributions shall be made by the Authority in accordance with subsection 6(c).

- (b) The right of any employee to any portion of said Fund is limited to the rights herein specifically set forth. Employees of the Authority who are on leave of absence while holding office in or performing duties for the Union or its International Office or the Transit Employees Federal Credit Union and who are covered by this Plan shall currently contribute to the Fund the same percentage of total compensation to a maximum of current top operator's rate and shall have the option of making an additional contribution (employee and employer percentage) for the amount of compensation over and above the top operator's rate to a maximum fixed by the Trustees, said contributions to be transmitted to the Authority directly without notice.

If an employee's contributions should be in arrears because of absence as set forth and defined in Sections 3(e) of this Agreement for more than eight (8) consecutive payroll weeks, he shall have the option of making up his back contributions within a period equal to the period for which he was in arrears after his return to work or of not making up his back contributions and receiving no service credit for the time during which he did not work and provided that for absences less than eight (8) consecutive payroll weeks deduction shall be made upon the employee's return to duty and further provided, however, that an employee shall be given full service credit for all time spent in the service of the armed forces of the United States or her allies (in accordance with Section 3(e)(1) of this Agreement) without being required to make up his back contributions for such time. Back contributions for any period during which the employee received no earnings shall be based on "earnings" computed by

- multiplying forty (40) by the wage rate paid during such period to employees in the same job classification.
- (c) WMATA's required contribution under this provision shall be based upon the actuarial valuation produced annually by the plan actuary. One twelfth (1/12th) of any annual contribution required by the Authority shall be remitted to the trustee at the end of each month. Such valuation shall be performed in accordance with actuarial assumptions, methods and related matters recommended by the plan actuary.
 - (d) Notwithstanding any Plan provision to the contrary, the Authority shall not be required to make any contributions to the Plan during a plan year if the fair market value of the Plan's assets equals or exceeds the actuarial liability under the Plan. The "actuarial liability" for purposes of this section only shall be the Actuarial Accrued Liability (including Normal Cost) determined under the funding method used to determine the Annual Required Contribution in Paragraph 8 of Statement No. 27 of the Governmental Accounting Standards Board (Accounting for Pensions by State and Local Governmental Employers) for the current Plan year by the Plan's actuary.
 - (e) The amount of compensation taken into account for any calendar year in determining an employee's contributions and retirement benefits shall not exceed the dollar limitation under Section 401(a)(17) of the Code in effect for such year, as adjusted for the cost of living in accordance with Section 401(a)(17)(B) of the Code and the regulations and other guidance issued thereunder.

Section 7 - Retirement and Disability Allowances

- (a) **NORMAL RETIREMENT ALLOWANCE** Any employee under this Plan shall become eligible to receive a retirement allowance upon the attainment of age 65 and the completion of 10 years of continuous service. Any employee who has become eligible for a retirement allowance under this Section may elect to retire, or may be retired at the option of the Authority, and upon such retirement shall be entitled to receive the normal retirement allowance provided by this Plan.

The annual normal retirement allowance under this Plan payable to any employee who retires with 10 or more years of service, after attaining the age of 65, shall be for each year (or fraction thereof based on completed months) of service, the sum of:

1. With respect to future service, one and six-tenths percent (1.60%) of the employee's average compensation during those four (4) years of the employee's service during which he earned the highest total pay, effective May 1, 1996, the formula shall be improved to one and sixty-five hundredths percent (1.65%) of average compensation, and, effective with respect to employees with an effective date of retirement on or after November 1, 2001, the formula shall be improved to one and eighty-five hundredths percent (1.85%) of average compensation. Effective with respect to employees with an effective date of retirement on or after November 1, 2007, the formula shall be 1.85% of average compensation

for each year (or fraction thereof based on completed months) of service up to 27 at retirement, plus 1.95% of average compensation for each year (or fraction thereof based on completed months) of service in excess of 27 at retirement.

2. with respect to past service, (prior to May 1, 1973), one (1.0) percent of the employee's average compensation during those four (4) years of the employee's service during which he earned the highest total pay. The annual normal retirement allowance shall be paid in twelve (12) equal monthly installments. For employees on leave of absence while holding office in, or performing duties for, the Union or its International Office or the Transit Employees' Federal Credit Union, compensation shall include sums earned as compensation while holding such office or performing such duties.

However, the minimum monthly normal retirement allowance under this Plan shall be one hundred seventy-five dollars (\$175).

Effective May 1, 1995, a full unreduced retirement will be available to any employee with twenty-seven (27) years of service regardless of age.

Any employee may elect to retire and upon retirement shall receive his normal retirement allowance, provided that the sum of his years of service and attained age is not less than eighty-three (83). For example, an employee who has attained age sixty-four (64) shall receive his normal retirement allowance if he has completed 19 years of service; age sixty-two (62), 21 years of service; age sixty (60), 23 years of service, and age fifty-eight (58), 25 years of service.

- (b) **EARLY RETIREMENT ALLOWANCE** Any employee who has completed fifteen (15) years of service and who has attained the age of fifty-five (55) may elect to retire and upon retirement shall receive an early retirement allowance under the Plan.

The early retirement allowance under the Plan shall be in the amount of the accrued monthly normal retirement allowance reduced by forty-two hundredths percent (0.42%) for each month of retirement before age sixty-five (65), provided, however, that the employee may defer receipt of such retirement allowance to age 65 in which event the forty-two hundredths percent (0.42%) reduction shall not be made.

Any employee who has attained age fifty-five (55) and completed twenty (20) years of service may elect to retire and upon retirement shall receive an early retirement allowance equal to his normal retirement allowance reduced by twenty-one hundredths percent (0.21%) for each month by which his age in years is less than the difference between eighty-three (83) and the number of years of service.

Any employee who has attained age fifty (50) and completed twenty (20) years of service may elect to retire and upon retirement shall receive an early

retirement allowance equal to the employee's normal retirement allowance reduced by twenty-one hundredths percent (0.21%) for each month by which the employee's age in years is less than the difference between eighty-three (83) and the number of years of service. Thus, an employee who has attained age fifty-three (53) years and six (6) months will receive a normal retirement allowance reduced by twenty-three and nine-tenths percent (23.94%) if the employee has completed twenty (20) years of service: (83 less 20 equals 63, less 53.5 equals 9.5: 9.5 years equals 114 months; 114 times .21 equals 23.94%).

(c) TOTAL AND PERMANENT DISABILITY ALLOWANCE

Any employee under this Plan who shall become totally and permanently disabled by reason of an accident or sickness before becoming eligible for benefits in accordance with Subsection (a) hereof, and who shall at the time of becoming so disabled have had continuous service with the Authority for ten (10) years, five (5) years if the disability is due to an occupational accident or sickness or more, shall be entitled to receive a disability allowance from the Fund for the duration of such disability, such allowance to commence on the first day of the calendar month following certification of such disability by the Trustees.

An employee shall be considered to be totally and permanently disabled whenever (after exhausting all direct money benefits to which the employee is entitled under any sick leave, health and welfare, and any group sickness and accident insurance plans negotiated under the basic labor agreement) (provided, however, that the employee shall not be required to exhaust the non-occupational disability benefit under the Health Trust) he is physically or mentally disabled from performing his duties and from following his regular employment with the Authority. In addition, an employee shall be deemed to have become disabled due to an occupational accident or sickness within the meaning of this Section, and shall be entitled to a disability allowance where, as the result of changes in the method of operation, or a change in equipment, an operator is unable to obtain or qualify for another position with the Authority which pays no less than ninety-two (92) percent of the top operators' rate, or in the case of a non-operating employee who is unable to obtain or qualify for another position with the Authority not more than three (3) grades below the job classification then held by him.

The annual amount of the disability allowance shall be computed in the same manner as provided above for the normal retirement allowance, i.e., one and one-half percent (1.50%) of the employee's average compensation during those four (4) years of the employee's service during which he earned the highest pay, multiplied by the number of years (including fractions thereof based on completed months of service) of his service with the Authority. The minimum monthly allowance for disability shall be six-hundred (\$600.00) for all employees meeting the service requirement in paragraph 7(c) above.

No employee shall be entitled to a disability allowance at the same time that he receives either a normal retirement allowance under Subsection (a) or an early retirement allowance under Subsection (b).

An employee shall in no event be entitled to receive a disability allowance if the disability is the result of injuries or disease incurred during (1) Service in the Armed Forces of the United States; (2) Employment other than with the Authority; (3) A leave of absence unless he is on leave of absence while holding office in or performing duties for the Union or its International Office or the Transit Employees Federal Credit Union.

The monthly disability allowance provided herein shall be reduced by fifty percent (50%) of the amount of income earned from any occupation or employment engaged in by the disabled employee in excess of forty percent (40%) of the average monthly earnings the employee had during the twelve (12) months next preceding the disability. On the first anniversary of the effective date of his disability retirement, and every six (6) months thereafter, each employee who receives a disability allowance under this Plan shall report in writing to the Board of Trustees the amount of earnings from employment including self-employment. Absent reasonable cause, the failure of a disability pensioner to report income earned from any occupation or employment to the Board of Trustees in accordance with this provision shall constitute sufficient reason for the Trustees to discontinue or reduce the disability allowance.

The Board of Trustees may establish rules and procedures whereby, in order to receive a disability allowance, any disabled employee shall agree to authorize the release of information regarding his income by the federal Social Security Administration; the Board of Trustees may waive such authorization if the information is not reasonably required, but such waiver may be revoked at any time for any disabled employee or class of disabled employees by the Board of Trustees.

Any disabled employee's disability allowance shall be cancelled if: (1) He does not cooperate in any investigation concerning his disability being conducted by the Trustees or any agent of the Trustees, including physicians selected by the Trustee; (2) The employee does not accept work when offered a job by the Authority in the job classification last held by him and for which, in the opinion of a physician selected by the Trustees, he is able to perform the duties; (3) He has performed work which, for any period of not less than six (6) months, paid him not less than the earnings which would have accrued to him in the job classification last held by him with the Authority. Upon claim by the former employee that his disability has recurred, the Trustee shall reinstate his disability allowance as of the first of the month following the date such claim has been made if in the opinion of a physician selected by the Trustees the disability has recurred and is due to the same physical or mental incapacity as that resulting in the original award.

- (d) In computing the amount of retirement allowance to which an employee retiring from active service is entitled, there shall be added to the years of service multiplier all unused accrued sick leave as of the date of retirement.
- (e) Reduced allowance by waiver — A retired employee who is receiving a monthly retirement allowance, for personal reasons and without disclosure thereof, may

make written request that the Board of Trustees discontinue the payment of all or any part of such monthly retirement allowance payment to him, by filing with the Trustees a written waiver thereof, in such form as the Trustees shall require. The Trustees on receipt of such waiver shall authorize discontinuance in which event the employee shall forfeit all right to the amount or amounts waived but shall retain the right to have the retirement allowance otherwise payable to him hereunder reinstated in full or in part after receipt by the Board of Trustees of written notice that the employee has properly revoked or altered the waiver filed in accordance herewith.

- (f) Interrupted Service — If an employee whose continuous service was interrupted by reason of resignation or dismissal resumes employment with the Authority and subsequently completes five (5) years of continuous service, both periods of service will be treated as a period of continuous service. If an employee who has a break does not complete at least five (5) years of continuous service after resuming employment, the re-hired employee will be treated as a new employee for all purposes of the Fund and the pre and post-break periods of service will be treated as separate periods of service.

This provision shall apply to employees who are re-hired by the Authority on or after January 31, 2000.

- (g) Any employee who has attained eligibility for normal or early retirement under this plan and who has made contributions to the plan as a percentage of payroll prior to September 1, 1996; may at the time of retirement request a refund of those contributions plus interest and receive an actuarially reduced benefit.
- (h) Notwithstanding any other provision of the Plan, in no event shall the retirement benefit provided to an employee under this Plan exceed the limitations of Code Section 415 and the regulations thereunder, including, but not limited to, the final regulations applicable to the Plan's first limitation year beginning on or after July 1, 2007. The foregoing section of the Code and the regulations thereunder are incorporated herein by reference. For purposes of applying the foregoing, the following rules shall apply:
1. The Plan's limitation year is the calendar year.
 2. Any defined benefit payable to a participant under the Plan shall not exceed the applicable limits under section 415(b) of the Code, as periodically adjusted by the Secretary of the Treasury under section 415(d) of the Code. The foregoing limit shall be adjusted pursuant to the requirements of sections 415(b)(2)(C) and (D) of the Code and the regulations thereunder relating to the commencement of benefits at a date prior to age 62 or after age 65.
 3. For purposes of applying the limits in section 415 of the Code, "compensation" means compensation as defined in section 415(c)(3) of the Internal Revenue Code and section 1.415(c)-2(d)(1) of the Treasury Regulations. Compensation shall also include the amount of any elective deferrals, as defined in section 402(g)(3) of the Code, and any amount contributed or deferred by the employer at the election of the employee

and which is not includible in the gross income of the employee by reason of sections 125, 132(f)(4) or 457 of the Code.

4. The application of the final regulations for limitation years commencing on or after July 1, 2007, shall not cause the maximum annual retirement allowance for any member to be less than the member's accrued benefit under all applicable defined benefit plans as of the end of the last limitation year beginning before July 1, 2007, under provisions of the Plan that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of the Plan that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to section 415 of the Code in effect as of the end of the last limitation year beginning before July 1, 2007, as described in section 1.415(a)-1(g)(4) of the regulations.

Section 8 - Payment of Allowances

- (a) Allowance shall be paid monthly to each retired employee hereunder by the Trustee from the Fund within a reasonable time in the month following the month to which the pension applied, following certification by the Trustees to the Custodian of the name of each beneficiary and the amount payable to him.
- (b) In case of incompetency, either mental or physical, of an employee who has retired or is eligible for retirement, payments shall be made to such person or institution that has satisfied the Trustees as to his or its right to receive said payments for such employee.
- (c) Allowances will be suspended during any period of re-employment by the Authority at which time the service prior to the commencement of the allowance will be restored for the purposes of determining eligibility and for the amount of any allowance for which an employee may subsequently become eligible.

Provided, however, that the allowances of retirees who return to work for the Authority as part-time employees shall not be suspended during any period of part-time employment by the Authority and such part-time employment shall not constitute continuous services for any purpose.

- (d) Allowances are in addition to any other income which an employee may have, especially in addition to any benefits provided under the Social Security Act, and any benefits received under Workers' Compensation.
- (e) Notwithstanding anything to the contrary in the Plan, distributions shall be made under the Plan in accordance with section 401(a)(9) of the Code and the regulations and other official guidance issued thereunder. Effective for covered employees who attain age 70-1/2 on or after January 1, 1997, the benefit of each such employee will be distributed or commence to be distributed not later than April 1 of the calendar year next following the calendar year in which the employee attains age 70-1/2 unless the participant remains employed with the Washington Metropolitan Area Transit Authority; provided, however, that if an employee remains employed with the Washington Metropolitan Area Transit

Authority then distribution of the employee's benefit shall commence not later than the April 1 following the calendar year in which the employee retires. Notwithstanding the foregoing, on and after a participant's required beginning date, benefits under the Plan shall be paid in accordance with section 401(a)(9) of the Code, including the minimum distribution incidental benefit rules of section 401(a)(9)(G) of the Code. The Retirement System shall apply a reasonable and good faith interpretation of section 401(a)(9) of the Code as permitted by the Pension Protection Act of 2006 and any applicable regulations.

Section 9 - Annual Adjustment of Allowances

All retirement and disability allowances provided under this Agreement shall be subject to adjustment annually, on each anniversary date of the employee's retirement in accordance with the percentage change, during the preceding year, in the wage rate of the top rated operator. Thus, for example, if on the anniversary date the hourly wage rate of the top rated operator shall have increased four percent (4%) during the preceding year, the employee's allowance payable monthly for life shall be increased by four percent (4%). Such allowance shall be paid until the next anniversary of the employee's retirement, at which time the allowance shall be re-computed in the same manner. The allowance shall not be reduced below the amount of the allowance payable on the first of the month following the employee's retirement.

Section 10 - Optional Retirement Allowances

In lieu of the amount and form of the old age retirement allowance payable to an employee for life on his normal or early retirement as provided for herein above, the employee may, upon written request before his retirement, elect to have an old age retirement allowance of actuarially equal value payable under one of the following options:

- (a) Ten (10) Years Certain — An old age retirement allowance of a lesser amount shall be payable to -the employee for his life, and in the event of his death within the period of ten (10) years after his retirement, the same lesser amount shall be payable for the remainder of such period to a beneficiary designated by him.
- (b) Survivor — An old age retirement allowance of lesser amount shall be payable to the employee during his lifetime, and, following his death such lesser amount, one-half (1/2) such lesser amount, or three-fourths (3/4) of such lesser amount, as the employee may specify in his election, shall be payable to his designated joint pensioner for the life of such survivor.
- (c) Life Annuity With Cash Refund — An old age retirement allowance (which is the actuarial equivalent of a straight life annuity) payable during the life of the employee and upon the employees death, any excess of the original present value of the employee's benefit at the time of retirement, computed on the basis of the actuarial assumptions used to calculate alternative forms of benefits, over the retirement income payments actually received by the employee before his death, will be paid to the employee's beneficiary in a single lump sum. The addition of this option shall apply to benefit elections made with respect to

retirements (normal, early or disability) that are effective on or after March 1, 2000.

- (d) Level Income — An old age retirement allowance (which is the actuarial equivalent of a straight life annuity) payable in a greater amount prior to age 65 and a correspondingly reduced amount, actuarially determined, after age 65, such that the total benefit (including both the adjusted benefit payable under the Plan and the estimated Social Security benefit (as obtained by the employee from the Social Security Administration or as determined by the Trustee)) to which the employee shall be entitled at age 65 shall be as nearly uniform as possible, both before and after commencement of Social Security benefits at age 65.

The addition of this option shall apply to benefit elections made with respect to retirements (normal, early or disability) that are effective on or after March 1, 2000.

- (e) An employee who elects an option under subsection (a) or
- (b) above shall designate the beneficiary or joint pensioner, as the case may be, at the time that he makes application for retirement.
- (f) After the employee's election of an optional form of retirement allowance has been filed with the Board of Trustees, it cannot be changed or revoked without the approval of the Trustees, but the consent of the beneficiary or joint pensioner originally designated by the employee shall not be required in the event of such change or revocation. If either the employee or the beneficiary or joint pensioner designated by him should die before the retirement allowance has become effective, then his election of an optional form of retirement allowance shall become void.
- (g) The determination of the lesser amounts payable upon election of an option hereunder shall be made in accordance with the actuarial tables adopted by the Board of Trustees.

Section 11 - Refunds from Employee's Contributions

- (a) An employee shall not be entitled to borrow against his contributions to the Plan or to withdraw any part of his contributions to the Plan so long as he remains eligible to participate in the Plan. However, an employee who has become eligible to participate in the Plan and who is transferred to other duties with the Authority which do not require him to be a member of the Union may, within one (1) year of such movement and with the consent of the Authority, (which will not be unreasonably withheld) withdraw from the WMATA/Local 922 Plan for the purpose of participating in such other plan as may be provided for employees not members of the Union, and in the event of such withdrawal there shall be transferred from the Local 922 Plan to such other plan on behalf of such employee an amount equal to his total contributions to the Plan together with interest at the rate of five percent (5%) compounded annually, less any amount which shall have been paid to such employee under the provisions of the Plan.

- (b) Any employee leaving the service of the Authority for any cause other than death, or one which entitles him to a retirement or disability allowance under this Plan except refund option in subsection 7(g), shall be entitled upon request to have refunded to him out of the Fund an amount equal to his total contributions to the Fund with interest computed at the rate of five percent (5%) compounded annually, less any benefits which he may have received.

Employees who terminate employment with the Authority for any reason, after (10) years of service, may withdraw all their contribution to the Plan with interest and remain vested for a reduced benefit. Such vested deferred pension shall be actuarially reduced by the Plan Actuary, in accordance with accepted actuarial methods to account for the value of contributions withdrawn.

- (c) If an employee dies before he is entitled to a retirement or a disability allowance under this Plan, there shall be paid in a lump sum from the Fund to such beneficiary or beneficiaries as he shall have designated, or if no beneficiary shall have been designated by him, then to his estate, a sum equal to his total contributions to the Fund, with interest computed at the rate of five percent (5%) compounded annually.

If none of the above described persons survive such decedent, no person whatsoever shall have any right to any refund on account of the death of such decedent, and the amount that would otherwise be refunded shall be and constitute a part of the Fund hereunder. Payment to any of the persons above described shall be made as the Trustees may determine upon evidence satisfactory to it and without the necessity of proof of probate.

- (d) If an employee dies after he is entitled to a retirement or disability allowance under this Plan, there shall be paid in a lump sum from the Fund to such beneficiary or beneficiaries as he shall have designated, or if no such beneficiary shall have been designated by him, then to his estate, a sum equal to the amount by which the aggregate of his contributions to the Fund together with interest at the rate of five percent (5%) compounded annually have exceeded the aggregate of all payments that have been made to him under the Plan.

- (e) Employees shall be entitled to receive a refund of their employee contributions in accordance with the following provisions:

1. Eligibility for Refund - In order to be eligible to receive a refund of employee contributions under this subsection (e), the employee (1) must have been in employment status with the Authority on November 1, 1998, (2) must not have been receiving a pension as of November 1, 1998 and (3) either (i) must have been in employment status with the Authority on January 31, 2000, or (ii) must have either (A) retired from the Authority (normal, early or disability) with an effective date of retirement on or after November 1, 1998, or (B) died on or after November 1, 1998, and, at the time of death, have been married and in employment status with the Authority. Any amount payable with respect to a deceased employee shall be payable only to the employee's surviving spouse.

Employees who commenced employment after November 1, 1998 or who terminated employment with the Authority prior to January 31, 2000 are not eligible for a refund of employee contributions under this subsection (e). Deceased employees who were not married or in employment status with the Authority on the date of their death are not eligible for a refund of employee contributions under this subsection (e). In addition, retired employees whose effective date of retirement (normal, early or disability) from the Authority was before November 1, 1998 are not eligible for a refund of employee contributions under this subsection (e), even if they subsequently resumed employment with the Authority and were in employment status with the Authority on November 1, 1998 and January 31, 2000.

2. Election - On or before April 30, 2000, each employee who is eligible for a refund of employee contributions under this subsection (e) shall elect, in writing on such form as the Trustees may prescribe, either to have the employees total contributions to the Fund (with interest at the rate of five percent (5%) compounded annually through April 30, 2000) (the employee contribution account) distributed on or before June 30, 2000, or to have such amount paid within sixty (60) days after termination of employment with the Authority. If the Trustees do not receive an employee's election (on the form prescribed by the Trustees) on or before April 30, 2000, such employee shall be deemed to have elected to have the employee's contribution account distributed on or before June 30, 2000. If an employee elects to leave the employee contribution account in the Plan, the following provisions shall apply: (i) such employee contribution account shall be maintained as a separate account in the employee's name (for bookkeeping purposes only and without any segregation of assets); (ii) interest will continue to accrue on the employee's contributions (at the rate of five percent (5%) compounded annually) until the employee's contribution account is distributed to the employee at termination of employment); and (iii) the employee shall not be entitled to borrow against the employee contribution account left in the Plan or to withdraw any part of the employee contribution account prior to termination of employment. The employee contribution account of an eligible, deceased employee shall be distributed to the employee's surviving spouse in a single lump sum on or before June 30, 2000.
3. If an employee described in (e)(1) above by virtue of his retirement from the Authority (early, normal or disability) with an effective date of retirement on or after November 1, 1998 elected to receive a reduced monthly pension with a return of his employee contribution account, he will have his monthly pension increased to the full pension amount, effective June 30, 2000. A one-time payment equal to the difference between the two pension amounts, for each month of retirement, also will be made to each such employee on June 30, 2000.

4. Rollovers - To the extent permitted under the Internal Revenue Code, an employee (or the surviving spouse of an eligible deceased employee) who receives a distribution pursuant to this subsection (e) will be permitted to roll over the taxable portion of his distribution to an individual retirement account.
 5. Distribution not included in determining benefits — No portion of any distribution made pursuant to this subsection (e) or any lump sum made pursuant to Section 17 of the collective bargaining agreement will be treated as compensation or included in the calculation of average compensation for purposes of determining any benefit hereunder.
 6. The provisions of subsections (a) through (d) shall not apply to any employee or surviving spouse who is eligible for a refund of employee contributions pursuant to this subsection (e).
- (f) Effective for distributions made on or after January 1, 1993, notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) 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 years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities). Notwithstanding the foregoing, effective for distributions made after December 31, 2001, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible

rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. Notwithstanding the foregoing, effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in section 403(b) of the Code and an eligible plan under section 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and that agrees to separately account for amounts transferred into such plan from this Plan. In addition, the same definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code.

A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse.

A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.

Section 12 - Authority's Contributions

The Authority in no event shall have any right, title, or interest whatsoever in the Fund or in any part thereof or to have any contributions made by it under this Plan returned to it under any conditions or circumstances whatsoever, it being the intent hereof that all contributions made by the Authority to the Fund shall be divested of any interest or claim whatsoever of or by the Authority therein, and no part of said contributions can in any event be returned to the Authority or be subject to its debts, liabilities, or obligations, or be considered a part of its assets or property for any purpose whatsoever.

Section 13 - Distribution of Funds in Event of Abandonment

- (a) While it is the intent of the parties hereto to maintain the Plan permanently, yet, in the event the Plan is abandoned in the future, the Custodian shall determine the assets of the Trust and shall allocate them pursuant to the priority described in (b) below and certified by the actuary employed by the Trustees based on his valuation made as of the date of such abandonment.
- (b) The allocation shall be made in the following sequence:
 - 1. An amount shall be allocated to the account of each participant equal to his contributions to the date of abandonment less any benefits received under the Plan.
 - 2. From the remaining balance an amount shall be allocated to retired employees and to employees eligible for normal retirement or disability

allowances at the date of abandonment, sufficient to provide for the amount of their allowances not already provided under (1).

3. The remaining balance shall be allocated to the active employees in proportion to the excess of the actuarial values of their accrued benefits under the Plan over the amounts allocated under (1).

Should there prove to be insufficient funds to provide the amounts under either (1) or (2) above, all allocations within the group affected will be reduced by the same proportion.

- (c) The Custodian shall liquidate the funds in the Trust and the amounts allocated in accordance with (b) above shall be apportioned to all such participants in cash, or in the form of insured paid-up annuities, or by transfer to another Trust Fund, or otherwise, as the Trustees may direct.
- (d) Participants shall be fully vested in their retirement benefits, to the extent funded under the Plan, upon the termination of the Plan.

Section 14 - Assignments

- (a) Except as provided in subsection (b) of this Section, to the end of making it impossible for retired employees improvidently to imperil the provisions herein made for their support and welfare, by directly or indirectly anticipating, pledging, or disposing of their retirement payments hereunder, it is hereby expressly stipulated that no employee, or retired employee, hereunder, shall have any right to assign, transfer, hypothecate, encumber, commute or anticipate his interest in any retirement payments, and that such payments shall not in any way be subject to any legal process to levy execution upon or attachment or garnishment proceedings against the same for the payment of any claim against any employee, nor shall such payments be subject to the jurisdiction of any bankruptcy court or insolvency proceeding.
- (b) The restrictions of subsection (a) of this Section, shall not apply to qualified Domestic Relations Orders, meeting the requirements established exclusively by the Trustees, issued by a court of competent jurisdiction with respect to a Participant who has separated from service with the Authority and is eligible to receive a benefit or distribution from the Plan and has applied for such benefit. Any action taken by the Trustees in implementing a Qualified Domestic Relations Order shall be final and binding on all parties, and their successors, heirs, executors, administrators and assigns, and shall result in the discharge of the Plan's obligation to the Participant.

Section 15 - Vesting

- (a) Upon termination of employment, for any reason, an employee with at least ten (10) years of service shall be entitled to one hundred percent (100%) of the full pension benefit accrued to the date of termination commencing at age 65. Such deferred benefit shall be paid in lieu of a return of employee's contribution at the employee's option.

- (b) Employees shall be one hundred percent (100%) vested upon the completion of ten (10) years of credited service.
- (c) Forfeitures, if any, must not be applied to increase the pension benefits any Participant would otherwise receive under this Plan.

Section 16 - Pre-retirement Death Survivor Benefits

If an employee dies prior to retirement, but after becoming eligible to receive a normal or early retirement benefit and is survived by a spouse, as designated beneficiary, such spouse shall be entitled to a lifetime annuity equivalent to one-half (1/2) of the reduced retirement allowance to which the employee would have been entitled had he retired on the date of his death and had he duly elected an option under which his survivor would receive one-half (1/2) his reduced allowance upon his death. This annuity will be paid in lieu of a return of employee contributions.

Section 17 Early Retirement Incentive Program

Effective September 15, 1996, the Early Retirement Incentive program contains the following elements:

- (a) Eligibility — Active employees 52 years of age, or older, with 25 years of service who exercise their right to retire within a defined 90-day period. The actual effective dates of retirement shall be staged in a manner, as determined by the Authority, which avoids any disruption in service, provided that all retirements shall be effective within six (6) months following the completion of the election window. Preferences regarding the actual date of separation shall be granted on the basis of seniority.
- (b) Benefit Supplement — Upon retirement, each eligible participant shall receive a lump-sum payment of \$25,000 (which is not to be included in the calculation of the participants' earnings for any purpose under this Plan or the collective bargaining agreement) in addition to the retirement allowance payable under Section 7(a) of this Appendix A.

**Annex A
Actuarial Assumptions**

This Annex A lists the Actuarial Assumptions applicable to the Plan. This Annex is intended to be incorporated by reference into and made a part of the Plan.

Factors Used to Calculate Actuarial Equivalents:

Interest rate:	7 1/2%
Cost of living adjustment:	5%
Healthy mortality table:	UP-1984 Table set forward one year for males UP-1984 Table set backward four years for females
Disabled mortality table:	1985 Disabled Life Mortality Table for males and females blended from ages 40 through 80 into the

UP-1984 (from ages 40 through 90 for females)	
Percent male:	85%
Percent female:	15%
Table construction:	Healthy and disabled mortality rates are equal to 85% of the male rate plus 15% of the female rate for any given age

PROPOSED

SUBJECT: RESTATEMENT OF THE WMATA DEFINED CONTRIBUTION PLAN AND TRUST

PROPOSED
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, The Internal Revenue Service requires all qualified plans to renew their favorable determination letters every five years; and

WHEREAS, The submission to the Internal Revenue Service requires the restating of the WMATA Defined Contribution Plan and Trust; and

WHEREAS, The restated plan document for the WMATA Defined Contribution Plan and Trust is designed to make such changes as are required in order for the Plan to retain its qualification under Section 401(a) of the Internal Revenue Code of 1986 as amended; and

WHEREAS, A copy of the restated plan document for the WMATA Defined Contribution Plan and Trust is attached to this Resolution; and

WHEREAS, The WMATA Defined Contribution Plan and Trust, Section 10.1 requires that all Plan amendments be made by a written Resolution of the Board of Directors; now, therefore be it

RESOLVED, That the WMATA Defined Contribution Plan and Trust, as amended and restated effective February 1, 2009, a copy of which is attached to this Resolution, is hereby adopted and approved on behalf of Metro; and be it further

RESOLVED, That the General Manager is hereby authorized and directed to execute on behalf of Metro any other changes to the WMATA Defined Contribution Plan and Trust as are requested by the Internal Revenue Service, or based on advice of counsel, as are necessary or desirable for the Plan to continue qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended; and be it further

RESOLVED, That the General Manager or the Assistant General Manager for Workforce Services is hereby authorized and directed to execute such other forms, notices, instruments or other documents and to take such further action as may be necessary or desirable (1) to fully implement the WMATA Defined Contribution Plan and Trust; (2) to ensure that the Plan is qualified under Section 401(a) of the internal Revenue Code; and (3) to obtain from the Internal Revenue Service a determination letter to the effect that

said Plan continues to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code; and be it finally

RESOLVED, That this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,



Carol B. O'Keeffe
General Counsel

**WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY DEFINED
CONTRIBUTION PLAN AND TRUST**

Effective: January 1, 1999

Restatement Effective as of: February 1, 2009

**WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY DEFINED
CONTRIBUTION RETIREMENT PLAN AND TRUST**

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WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY DEFINED CONTRIBUTION RETIREMENT PLAN AND TRUST

This Pension Plan and Trust Agreement is made by and between the Washington Metropolitan Area Transit Authority, an interstate compact agency and instrumentality of the Commonwealth of Virginia, State of Maryland, and District of Columbia, created with the consent of the United States Congress, in Public Law 89-774, 80 Stat. 1324 as amended and having its principal place of business in the District of Columbia herein called "Employer" and Carlton Sickles, Dana Kauffman, and Richard Klein herein called "the Board of Trustees."

Whereas, Employer desires to establish and maintain a money purchase pension plan for the benefit of its Employees who shall qualify as Participants hereunder;

Therefore, effective January 1, 1999, and with this Restatement effective February 1, 2009, unless otherwise stated in the Plan, Employer hereby establishes a money purchase pension plan and creates this trust to carry out such plan and trust on the following terms:

ARTICLE I. PURPOSE

§1.1 *Exclusive Benefit*

The Employer has executed this Plan for the exclusive benefit of the Participants hereunder and their Beneficiaries. This Plan shall be interpreted in a manner consistent with this intent and with the intention of the Employer that this Plan satisfy Internal Revenue Code section 401 and section 501. Under no circumstances shall the Trust Fund ever revert to or be used or enjoyed by the Employer, except as provided in Section 11.3.

§1.2 *No Rights of Employment Granted*

The establishment of this Plan shall not be considered as giving any employee the right to be retained in the service of the Employer.

ARTICLE II. DEFINITIONS

§2.1 *Accrued Benefit*

The "Accrued Benefit" is the amount credited to the Employer Account and, if applicable, Rollover Account of a Participant or Beneficiary.

§2.2 *Affiliated Employer*

“Affiliated Employer” shall mean the Employer and any corporation that is a member of a controlled group of corporations (as defined in IRC section 414(b)) which includes the Employer; any trade or business (whether or not incorporated) which is under common control (as defined in IRC section 414(c)) with the Employer; any organization (whether or not incorporated) which is a member of an affiliated service group (as defined in IRC section 414(m)) which includes the Employer; and any other entity required to be aggregated with the Employer pursuant to regulations under IRC section 414(o).

§2.3 *Beneficiary*

A “Beneficiary” is any person, estate or trust, who by operation of law, or under the terms of the Plan, or otherwise, is entitled to receive any Accrued Benefit of a Participant under the Plan. A “designated Beneficiary” is any individual designated or determined according to Section 5.5 except that it shall not include any person who becomes a beneficiary by virtue of the laws of inheritance or intestate succession.

§2.4 *Board of Trustees*

The “Board of Trustees” shall refer to the Board of Trustees, as defined in Section 9.1.

§2.5 *[Reserved for future use]*

§2.6 *Compensation*

“Compensation” shall mean the total basic compensation (excluding any overtime payments, special shift payments, bonuses, or other allowances but including employer paid deferred compensation which is contributed to the WMATA Deferred Compensation Plan and Trust) received by a Participant from the Employer during any calendar month. Compensation will include amounts deferred under an eligible § 457 Plan, flexible spending accounts, and premium conversion plans created under IRC § 125 or any successor statute or amounts excluded from income under IRC § 132(f)(4). Under no circumstances will compensation as defined in this section include more than \$200,000 in any twelve-consecutive month period. The \$200,000 amount shall be adjusted for increases in the cost of living in \$5,000 increments as determined under Internal Revenue Code § 401(a)(17)(B)(ii) or any successor statute.

§2.7 *Custodian*

“Custodian” shall mean the entity or entities designated by the Board of Trustees to exercise physical custody of the Plan assets and to exercise the powers and duties stated in Article VIII of this Plan and Trust. Custodian shall also comply

with the instructions of the Plan Administrator and/or Board of Trustees as described in the Plan. The Custodian may be affiliated with the Plan Administrator.

§2.8 *Early Retirement Age*

“Early Retirement Age” shall be the time at which the Participant attains at least fifty-five (55) years of age with ten (10) years of service from the time he begins initial participation in the Plan. If a Participant separates from service before satisfying the age requirement for early retirement, but has satisfied the service requirement, the Participant will be entitled to elect an early retirement benefit upon satisfaction of such age requirement.

§2.9 *Employee*

“Employee” shall mean any employee of the Employer or of any other employer required to be aggregated with such Employer under IRC sections 414(b), (c), or (o). An “Employee” includes an individual who would be an Employee but who is on a Leave of Absence. The term “Employee” also includes a part-time employee of the Employer or other employer required to be aggregated with such Employer but expressly excludes all persons employed by Employer under a “limited duration temporary” classification regardless of whether that employee is a full-time or part-time employee.

The term Employee shall also include any leased employee deemed to be an employee of any employer described in the previous paragraph as provided in IRC sections 414(n) or (o).

The terms “leased employee” means any person (other than an employee of the recipient) who pursuant to an agreement between the recipient (WMATA) and any other person (“leasing organization”) has performed services for the recipient (or for the recipient and related persons determined under IRC section 414(n)(6)) which are performed under the primary direction or control by the recipient. Contributions or benefits provided a leased employee by the leasing organization which are attributable to services performed for the recipient employer shall be treated as provided by the recipient employer.

A leased employee shall not be deemed an Employee of the recipient if he: (a) does not provide services to the recipient for more than one continuous year or (b) the leasing organization provides a money purchase pension plan providing (i) a nonintegrated employer contribution rate of at least 10% of compensation, as defined in IRC section 415(c)(3), but including amounts contributed pursuant to a salary reduction agreement which are excludable from the employee’s gross income under IRC section 125, section 402(a)(8), section 402(h), or section 403(b), (2) immediate participation, and (3) full and immediate vesting; and (ii) leased employees do not constitute more than 20% of the recipient’s nonhighly compensated workforce.

§2.10 *Employer*

The “Employer” shall mean the Washington Metropolitan Area Transit Authority and shall also include any Affiliated Employer which has adopted the Plan.

§2.11 *Employer Account*

The “Employer Account” is the separate account maintained for each Participant to which all Employer contributions shall be allocated.

§2.12 *Forfeiture*

“Forfeiture” refers to the amount of non-vested Accrued Benefits in a Participant’s Employer Account, the reallocation of which reduces the Employer contribution required pursuant to Section 4.1.

§2.13 *Highly Compensated Employee*

A “Highly Compensated Employee” means a highly compensated active employee and a highly compensated former employee.

A highly compensated active employee includes any Employee who performs service for the Employer during the determination year and who, during the look-back year received compensation from the Employer in excess of \$80,000 (as adjusted pursuant to IRC section 415(d)) and was a member of the top-paid group for such year. The term highly compensated active employee also includes: (i) Employees who are both described in the preceding sentence if the term “determination year” is substituted for the term “look-back year” and the employee is one of the 100 Employees who received the most compensation from the Employer or Affiliated Employer during the determination year; and (ii) Employees who are 5 percent owners at any time during the look-back year or determination year.

If no employee has satisfied the compensation requirement above during either a determination year or look-back year, the highest paid employee for such year shall be treated as a Highly Compensated Employee.

For this purpose, the determination year shall be the calendar year. The look-back year shall be the 12-month period immediately preceding the determination year, or, if elected by the Employer, the calendar year ending with or within the applicable determination year (or, in the case of a determination year that is shorter than 12 months, the calendar year ending with or within the 12-month period ending with the end of the applicable determination year), or, if elected, the calendar year immediately preceding the calendar year determination year.

A highly compensated former employee includes any Employee who separated from service (or was deemed to have separated) prior to the determination year, performs no service for the Employer during the determination year, and was a highly compensated active employee for either the separation year or any determination year ending on or after the Employee's 55th birthday.

§2.14 *Hour of Service*

"Hour of Service" means:

(a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer. These hours will be credited to the Employee for the computation period in which the duties are performed;

(b) Each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or Leave of Absence and during which the Employee's employment relationship with the Employer has not been terminated; and

(c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service will not be credited both under Subsection (a) or Subsection (b), as the case may be, and under this Subsection (c). These hours will be credited to the Employee for the computation periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made.

Hours of Service will be credited for employment with other members of an affiliated service group (under IRC section 414(m)), a controlled group of corporations (under IRC section 414(b)), or a group of trades or businesses under common control (under IRC section 414(c)) of which the adopting Employer is a member, and any other entity required to be aggregated with the Employer pursuant to IRC section 414(o).

Hours of Service will also be credited for any individual considered an Employee for purposes of this Plan under IRC section 414(n) or IRC section 414(o).

Solely for purposes of determining whether a One Year Break in Service, as defined in Section 2.18, for participation and vesting purposes has occurred in a computation period, an individual who is absent from work for maternity or paternity reasons shall receive credit for the Hours of Service in accordance with the second paragraph of Section 2.18.

For purposes of determining an Employee's initial or continued eligibility to participate in the Plan or the nonforfeitable interest in the Participant's Accrued Benefit in the Employer Account, an Employee will receive credit for the aggregate of all time

period(s) commencing with the Employee's first day of employment or reemployment and ending on the date a One Year Break in Service begins. The first day of employment or reemployment is the first day the Employee performs an Hour of Service. Fractional periods of a year will be expressed in terms of hours.

In the case of an individual who is absent from work for maternity or paternity reasons, as further defined in Section 2.18, the Plan Year beginning on the first day of the first Plan Year in which the Employee fails to earn at least 501 Hours of Service shall not constitute a One Year Break in Service.

If the Employer is a member of an affiliated service group (under IRC section 414(m)), a controlled group of corporations (under IRC section 414(b)), a group of trades or businesses under common control (under IRC section 414(c)) or any other entity required to be aggregated with the Employer pursuant to IRC section 414(o), service will be credited for any employment for any period of time for any other member of such group. Service will also be credited for any individual required under IRC section 414(n) or 414(o) to be considered an Employee of any Employer aggregated under IRC section 414(b), (c), or (m).

§2.15 *IRC*

"IRC" refers to the Internal Revenue Code of 1986, as amended.

§2.16 *Leave of Absence*

A "Leave of Absence" shall refer to that period during which the Participant is absent without Compensation and for which the Board of Trustees, in its sole discretion has determined him to be on a "Leave of Absence" instead of having terminated his employment. Such discretion of the Board of Trustees shall be exercised in a nondiscriminatory manner. No more than sixty days of absence without Compensation shall be creditable under this section except for military service which shall be covered by the next sentence. Absence due to military service shall be creditable in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 as it may be amended from time to time or any successor statute and without regard to the 60-day limitation. Absence for military service will come within the meaning of the above provision only if the Participant's military service meets the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994 or any successor statute; and if the Participant returns to employment within three (3) months of his release from military service, or such longer period during which his employment rights are protected by law, except that if the Participant resumes employment with the Employer prior to the expiration of this time period, the Leave of Absence shall end on such date of resumption of employment. The date that the Leave of Absence ends shall be deemed the Termination Date if the Participant does not resume employment with the Employer. In determining a Year of

Service for Accrual of Benefits, all such Leaves of Absence shall be considered to be periods when the Employee is a Participant.

§2.17 Normal Retirement Age

The "Normal Retirement Age" shall be the time at which the Participant attains sixty-five (65) years of age.

§2.18 One Year Break in Service

A "One Year Break in Service" is a Plan Year in which the Employee does not complete at least 501 Hours of Service.

In the case of an individual who is absent from work for maternity or paternity reasons, the Plan Year beginning on the first day of the first Plan Year in which the Employee fails to earn at least 501 Hours of Service shall not constitute a One Year Break in Service. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence (1) by reason of the pregnancy of the individual, (2) by reason of the birth of a child of the individual, (3) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (4) for purposes of caring for such child for a period beginning immediately following such birth or placement.

§2.19 Participant

"Participant" shall refer to every Employee or former Employee who has met the applicable participation requirements of Article III.

§2.20 Plan

"Plan" refers to this Washington Metropolitan Area Transit Authority Defined Contribution Pension Plan and Trust Agreement.

§2.21 Plan Administrator

The "Plan Administrator" shall be the Board of Trustees. The Board of Trustees may designate another person or business entity to perform the duties of the Plan Administrator provided, however, that the final responsibility for all Plan operations remains with the Board of Trustees unless otherwise expressly stated elsewhere in this Plan and Trust Agreement. During the period that the Board of Trustees has so designated another entity to serve as "Plan Administrator," the references to "Plan Administrator" shall apply to that entity and not to the Board of Trustees.

§2.22 *Plan Year*

A "Plan Year" is the period from the first day of January to the last day of December. The first Plan Year shall run concurrent with the definition of "Plan Year," i.e., from January 1, 1999 through December 31, 1999.

§2.23 *Retirement*

"Retirement" refers to the termination of employment of a Participant who has attained at least the Normal Retirement Age or Early Retirement Age. The Participant may work beyond Normal Retirement Age, in which case Employer contributions shall continue to be allocated to the Employer Account of the Participant.

§2.24 *Rollover Contribution*

"Rollover Contribution" means:

(a) amounts (which may include both pre-tax and after-tax employee contributions) transferred directly to this Plan directly from another qualified corporate or qualified noncorporate Section 401(a) or (k) plan; an annuity plan described in Internal Revenue Code section 403(a); an annuity contract described in Internal Revenue Code section 403(b); an eligible plan under Internal Revenue Code section 457 which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; an individual retirement account as described in Internal Revenue Code section 408(a); and an individual retirement annuity as described in Internal Revenue Code section 408(b); and

(b) lump sum distributions received by an Employee from a plan described in section 2.24(a) which are eligible for tax-free rollover treatment and which are transferred by the Employee to this plan within sixty (60) days following his receipt hereof.

§2.25 *Termination Date*

The "Termination Date" shall be the date on which the earliest of the following events occurs: (a) a Participant's retirement, (b) a Participant's termination of employment as a result of Total and Permanent Disability, (c) a Participant's death, or (d) a Participant's termination of employment for any other reason.

§2.26 *Total and Permanent Disability*

"Total and Permanent Disability" shall refer to the Participant who suffers from a physical or mental condition that, as determined by the Trustees, renders him unable to do work in the Participant's given occupation and that may be expected to result in death or be of long and indefinite duration. The claimed disability must render the

Participant incapable of doing any substantial gainful activity for the Employer to meet this definition. The Trustees shall be guided by the findings of the Participant's medical services provider and by any independent medical examination that the Trustees deem to be appropriate to the determination of the Participant's claim of total and permanent disability. A physician who is board-certified in the area of the claimed disability shall perform any independent medical examination requested by the Trustees. The Participant must cooperate with any requested independent medical examination. The Participant's failure to cooperate will render him to be not totally and permanently disabled.

§2.27 Total Service for Vesting

"Total Service for Vesting" shall mean the sum of each separate Year of Service for Vesting credited to the Participant. In the case of a Participant who has three (3) consecutive One Year Breaks in Service, all Years of Service for Vesting after such One Year Breaks in Service are not considered for the purpose of determining whether the Participant was vested in the Accrued benefit in the Employer Account that accrued before the three One Year Breaks in Service. Further, only post-break service will count for the purposes of vesting the Accrued Benefit in the Employer Account that accrues after such three One Year Breaks in Service. Both accounts will share in the earnings and losses of the Trust Fund.

In the case of a Participant who does not have 3 consecutive One Year Breaks in Service, both the pre-break and post-break service will count in vesting both the pre-break and post-break Accrued Benefit in the Employer Account.

§2.28 Trust

"Trust" means the Trust created under this Defined Contribution Pension Plan and Trust Agreement.

§2.29 Trust Fund

The "Trust Fund" consists of assets of the Plan held in the Trust.

§2.30 Year of Service for Vesting

A "Year of Service for Vesting" shall mean a Plan Year during which the Employee had not less than 1,000 Hours of Service. Where an Employee is regularly scheduled to work less than full time then the 1,000 hour requirement shall be prorated based on the number of hours worked by the Employee divided by the number of hours worked by a full time employee in the same or similar job classification. Solely for Participants entering the Plan on its effective date, or within the 3-month period immediately following the Plan's effective date for persons transferring from the WMATA Retirement Plan to this Plan, a Year of Service for Vesting shall also include

years of service with the Employer prior to the effective date of the Plan so long as those years would be creditable as Years of Service for Vesting had the years occurred after the effective date of the Plan.

ARTICLE III. ELIGIBILITY TO PARTICIPATE

§3.1 *Initial Entry*

Every Employee who is not otherwise covered by another pension plan sponsored by Employer (other than as a retiree drawing benefits from that plan) shall participate in the Plan on the first day of the month coincident with or next succeeding the month in which he earns One Hour of Service. Persons from other positions with the Employer covered by other pension plans transferring to positions covered by this Plan may, subject to the applicable collective bargaining agreement, choose to cease participation in their previous plan and participate in this Plan. All Participants shall be required to furnish such information to the Plan Administrator as it may reasonably request for the proper administration of the Plan.

Each Employee will share in Employer contributions for the period beginning on the date the Employee commences participation under the plan and ending on the date on which such Employee severs employment with the Employer or is no longer a member of an eligible class of Employees.

§3.2 *Resumption of Participation*

If a Participant incurs at least a One Year Break in Service his active participation in the Plan shall be suspended until he completes an Hour of Service for Participation following such One Year Break in Service. Following such One Year Break in Service and upon then completing an Hour of Service for participation, measured from his reemployment commencement date, the Participant will be readmitted to active participation in the Plan. For purposes of this Plan, the reemployment commencement date is the first day on which the Employee is credited with an Hour of Service for the performance of duties after the first eligibility computation period in which the Employee incurs a One Year Break in Service.

In the event a Participant is no longer a member of an eligible class of Employees and becomes ineligible to participate but has not incurred a One Year Break in Service, such employee will participate immediately upon returning to an eligible class of Employees. If such Participant incurs a One Year Break in Service, eligibility will be determined under the break in service rules of the Plan.

ARTICLE IV.
CONTRIBUTIONS TO THE TRUST

§4.1 Employer Contributions to Participants

The Employer shall make contributions to the Employer Account of each Participant who is an Employee at the close of each biweekly pay period on the twentieth day following such date or if the twentieth day is not a business day, then on the next business day succeeding the twentieth day. The contribution (including Forfeitures used to reduce the Employer's contribution) shall be an amount equal to 4% of the Compensation of each Participant paid during the pay period preceding the twenty-day period in which the contributions are paid to the Custodian. Additionally, should an Employee place income into the Washington Metropolitan Area Transit Authority's § 457 Deferred Compensation Plan, then Employer will contribute up to an additional 3% of Compensation into the Plan at the same time as the 4% contribution required above. The amount of the additional contribution shall be based on the percentage contributed by the Employee into the § 457 Deferred Compensation Plan.

§4.2 Manner of Allocation

Notwithstanding the provisions of Section 4.1, no Employer contributions may be made in any Plan Year to the extent that they would be allocated to the suspense account created pursuant to Section 5.4.

§ 4.3 Permissible Types of Employer Contributions

Payments on account of the contributions due from the Employer for any year may be made in cash, check, or cash equivalents only.

§ 4.4 Rollover Contributions

(a) Any Employee may make a Rollover Contribution to this Plan; provided, however, that the eligible plan as defined in section 2.24(a) from which the funds are to be transferred must permit the transfer to be made, and provided, further, the Employer is reasonably satisfied that such transfer will not jeopardize the tax exempt status of this Plan or Trust or create adverse tax consequences for the Employer. Rollover Contributions shall be made by delivery to the Custodian for deposit in the Trust. All Rollover Contributions must be in cash or property satisfactory to the Custodian, whose decision in this regard shall be final. The Custodian will not accept rollovers of accumulated deductible employee contributions from a Simplified Employee Pension Plan.

(b) If the Board of Trustees accepts such transfer of funds, upon the recommendation of the Employer, it shall allocate them to a separate or segregated

account established to receive the transferor's funds ("Rollover Account"). These funds shall be invested separately and any appreciation, depreciation, gain, or loss with respect to such account, and any related expenses shall be allocated to such account. Where the Rollover Contribution is composed of both pre-tax and post-tax amounts, each amount shall be kept in a separate subaccount in the Rollover Account with the funds separately invested and any appreciation, depreciation, gain, or loss with respect to such subaccount, and any related expenses shall be allocated to such subaccount.

(c) Rollover Contributions shall not be considered to be Participant contributions for the purpose of calculating the limitations under Section 5.4.

§4.5 Employer Contribution to Trust Expense Account

With the contribution for the pay period covering the first day of January, April, July, and October, the Employer shall also contribute one-quarter of the approved budgeted amount for Trust expenses as described in Section 8.6. Arbitration expenses as required under Section 9.10 shall be contributed by the Employer within thirty (30) days after receipt of the invoice from the Trust or the service provider. All funds contributed under this section shall be kept separate from all other funds contained in the Trust and may be used only for the payment of lawful expenses of the Trust.

4.6 Special Contribution

For the Plan Year 1999, the Employer will make a contribution beyond the contribution required under § 4.1 of this Plan. All Employees of the Employer first hired into positions on or after January 1, 1998 and before January 1, 1999 which Local 2 OPEIU covers or the Employer classifies as nonrepresented will be entitled to the Special Contribution described in this section. The Special Contribution will be 4% of the amount paid by the Employer to the Employee during 1998 which, if paid in 1999, would have constituted Compensation as defined in § 2.6 of this Plan. This Special Contribution will be paid by the Employer with the first contribution payable in April 1999.

Additionally, the Employee will have the option of placing up to an additional 3% of the amounts paid by the Employer to the Employee during 1998 (in addition to the 3% referred to in § 4.1 of this Plan) into the Authority's § 457 Deferred Compensation Plan ("the optional contributions"). Should the Employee exercise this option, the Employer will contribute an equivalent amount to this Plan at the same time as the contributions required under § 4.1 are made. The optional contributions will begin with the contribution made by the Employer after the later of the Employee's inclusion into the Plan and the Employee's filing of the appropriate papers with the Authority's § 457 Deferred Compensation Plan. The amount of the optional contributions made under this section will not exceed the amount which would have been made had the amounts paid by the Employer to the Employee in 1998 been paid

in 1999. Should an Employee not be able to fully exercise this option due to limitations on the amount which may be contributed into the Authority's § 457 Deferred Compensation Plan, then the remaining balance of the optional contributions may be made in Plan Year 2000. To the extent that optional contributions are made in Plan Year 2000, the Employer will contribute the equivalent amount at the same time as other contributions required under § 4.1 are made.

This section will not have any effect for any contributions relating to Plan Years other than 1999 except as provided for in the immediately preceding sentence.

ARTICLE V. ADMINISTRATION OF ACCOUNTS

§ 5.1 Investments

The amounts allocated to the Employer and Rollover Accounts, if applicable, shall be invested by the Custodian (except as provided in Section 9.4) in accordance with Article VIII. Participants shall elect how their Employer and Rollover Accounts are to be invested by the Custodian from choices made available by the Plan Administrator. The Plan Administrator shall establish rules for when Participants may change these investment elections and for the investment of accounts for which there have been no Participant investment elections made.

§ 5.2 Invest in Single Fund and Reasonable Rules

The Custodian may cause all contributions paid to it by the Employer and the income therefrom, without distinction between principal and income, to be held and administered as a single fund or may cause the contributions to be invested based on the investment choice into such common funds as may be available for investment by Participants. The Custodian shall not be required to invest separately any share of any Participant except as provided in Sections 4.4 and 7.3. The Plan Administrator may, subject to the approval of the Board of Trustees, adopt reasonable rules for the administration of such common fund or funds and for the determination of the proportionate interest of each Participant in the fund or funds.

§ 5.3 Valuation of Assets and Allocation of Changes

The assets of the Trust Fund will be valued as of the close of the last day of each calendar month at their fair market value and the Employer Account of each Participant (or Employer Accounts if the Participant has Accrued Benefits for service incurred both prior and subsequent to 3 consecutive One Year Breaks in Service), including any Employer Account held in suspense, and, if applicable, the Participant Account and Rollover Account of each Participant shall be adjusted for any net appreciation or net depreciation in the assets of the Plan and any net income or net loss of the Trust for such month, with each account being credited or charged in the

ratio that the amount of the account (as of the close of the last day of the preceding month) bears to the total (as of the close of the last day of the preceding month) of all remaining non-segregated accounts. For the purpose of such adjustment of accounts, any contribution made by the Employer with respect to a given month shall be considered as having been made immediately after such valuation and adjustment, unless such contributions are actually allocated to a Participant's account prior to such valuation. In making the adjustments required by this Section, the value of any amounts segregated in accordance with Sections 4.4 and 7.3 shall not be considered in determining the amount of net appreciation, depreciation, gain or loss allocated to such account. The amount of any net appreciation, depreciation, gain or loss to be allocated to such account. The amount of any net appreciation, depreciation, gain or loss with respect to such cash value or segregated account shall be allocated to the individual account with respect to which it arose. In addition to the valuations required by the first sentence of this Section 5.3, the Trust Fund may be valued at such other times during each month as the Board of Trustees deems appropriate in which case the valuation procedure described above shall be for the values as of the immediately preceding valuation date and the accounts adjusted for any net appreciation nor net depreciation in the assets of the Plan and any net income or net loss of the Trust for the period between the immediately preceding valuation date and the current valuation date. Further, the Board of Trustees, upon a majority vote, shall have the power to permanently change the valuation date to any time period shorter than one month but shall have no power to authorize valuation dates of greater than one month.

§ 5.4 Limitations on Allocations to Each Participant

Notwithstanding any Plan provisions to the contrary, effective for Limitation Years beginning on or after January 1, 2008, to the extent necessary to prevent disqualification under Section 415 of the internal Revenue Code, and subject to the remainder of this Section 5.4, the following limitations will apply.

- (a) (i) If the Participant does not participate in, and has never participated in, another qualified plan maintained by the employer, which provides an Annual Addition as defined in Paragraph (d)(i) of this section, the amount of annual additions which may be credited to the Participant's account for any limitation year will not exceed the lesser of the maximum permissible amount or any other limitation contained in this Plan. If the employer contribution that would otherwise be contributed or allocated to the Participant's account would cause the annual additions for the limitation year to exceed the maximum permissible amount, the amount contributed or allocated will be reduced so that the annual additions for the limitation year will equal the maximum permissible amount.
- (ii) Prior to determining the Participant's actual compensation for the limitation year, the employer may determine the maximum

permissible amount for a Participant on the basis of a reasonable estimation of the Participant's compensation for the limitation year, uniformly determined for all Participants similarly situated.

(iii) As soon as administratively feasible after the end of the limitation year, the maximum permissible amount for the limitation year will be determined on the basis of the Participant's actual compensation for the limitation year.

(iv) If, pursuant to Paragraph (a)(iii) or as a result of an allocation of Forfeitures, there is an excess amount, the excess will be disposed of as follows:

(1) If after the application of subparagraph (1) an excess amount still exists, and the Participant is covered by the Plan at the end of the limitation year, the excess amount in the Participant's account will be used to reduce employer contributions (including any allocation of Forfeitures) for such Participant in the next limitation year, and each succeeding limitation year if necessary.

(2) If after the application of Subparagraph (1) an excess amount still exists, and the Participant is not covered by the Plan at the end of a limitation year, the excess amount will be held unallocated in a suspense account. The suspense account will be applied to reduce employer contributions for all remaining Participants in the next limitation year, and each succeeding limitation year if necessary.

(3) If a suspense account is in existence at any time during a limitation year pursuant to this Section, it will not participate in the allocation of the Trust's investment gains and losses. If a suspense account is in existence at any time during a particular limitation year, all amounts in the suspense account must be allocated and reallocated to Participants' accounts before any employer or Employee contributions may be made to the Plan for that limitation year. Excess amounts may not be distributed to Participants or former Participants.

(b) (i) This Subsection (b) applies if, in addition to this Plan, the Participant is covered under another qualified defined contribution plan maintained by the employer, which provides an annual addition as defined in Paragraph (d)(i), during any limitation year. The annual additions which may be credited to a Participant's

account under this Plan for any such limitation year will not exceed the maximum permissible amount reduced by the annual additions credited to a Participant's account under the other plans for the same limitation year. If the annual additions with respect to the Participant under the other defined contribution plans maintained by the employer are less than the maximum permissible amount and the employer contribution that would otherwise cause the annual additions for the limitation year to exceed this limitation, the amount contributed or allocated will be reduced so that the annual additions under all such plans and funds for the limitation year will equal the maximum permissible amount. If the annual additions with respect to the Participant under such other defined contribution plans in the aggregate are equal to or greater than the maximum permissible amount, no amount will be contributed or allocated to the Participant's account under this Plan for the limitation year.

- (ii) Prior to determining the Participant's actual compensation for the limitation year, the employer may determine the maximum permissible amount for a Participant in the manner described in Paragraph (a)(ii).
- (iii) As soon as is administratively feasible after the end of the limitation year, the maximum permissible amount for the limitation year will be determined on the basis of the Participant's actual compensation for the limitation year.
- (iv) If, pursuant to Paragraph (b)(iii) or as a result of the allocation of forfeitures, a Participant's annual additions under this Plan and such other plans would result in an excess amount for a limitation year, the excess amount will be deemed to consist of the annual additions last allocated.
- (v) If an excess amount was allocated to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, the excess amount attributed to this Plan will be the product of:
 - (1) the total excess amount allocated as of such date, times
 - (2) the ratio of (1) the annual additions allocated to the Participant for the limitation year as of such date under this Plan to (ii) the total annual additions allocated to the Participant for the limitation year as of such date under this and all the other qualified defined contribution plans.

- (vi) Any excess amount attributed to this Plan will be disposed in the manner described in Paragraph (a)(iv).

(c) Other Reductions in Maximum Benefit. In addition to the foregoing, the maximum benefit and contributions shall be reduced 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 retirement plan maintained by the Authority, 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 Authority 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 an affiliated or predecessor employer, as described in regulations under Section 415 of the Internal Revenue Code, or otherwise required to be taken into account under such regulations.

(d) Multiple Benefit Commencement Dates. If a Participant has distributions commencing at more than one Benefit Commencement Date (determined in accordance with Section 415 of the Internal Revenue Code and the regulations thereunder), the benefits payable as of each such Benefit Commencement Date shall satisfy the limitations of this Section 5.4 as of each such date, actuarially adjusting for past and future distributions of benefits commencing at the other Benefit Commencement Dates.

(e) Grandfathered Benefits. The application of the provisions of this section shall not cause the maximum permissible benefit for any Participant to be less than the Participant's Accrued Benefit under this Plan as of the end of the last Limitation Year beginning before July 1, 2007 under provisions of this Plan that were both adopted and in effect before April 5, 2007 and that satisfied the limitations under Section 415 of the Internal Revenue Code as in effect as of the end of the last Limitation Year beginning before July 1, 2007.

(f) For purposes of this Section 5.4, the following words and terms shall have the meanings indicated:

- (i) "Annual additions." Annual Additions shall be defined as the sum of the following items credited to the Participant under this Plan and any other tax-qualified retirement plan sponsored by the

Authority for a Limitation Year and treated as a defined contribution plan for purposes of Section 415 of the Internal Revenue Code: Authority contributions that are separately allocated to the Participant's credit in any defined contribution plan; forfeitures; participant contributions (other than contributions that are picked up by the Authority as described in Section 414(h)(2) of the Internal Revenue Code); and amounts credited after March 31, 1984 to a Participant's individual medical account (within the meaning of Section 415(l) of the Internal Revenue Code). Rollover contributions shall be excluded from Annual Additions to the extent permitted under IRC § 415(c)(2) or any amended or successor statute.

For this purpose, any excess amount applied under (a)(iv) or (b)(vi) in the limitation year to reduce employer contributions will be considered Annual Additions for such limitation year.

- (ii) "Compensation": "Compensation" shall mean all wages within the meaning of 26 U.S.C. § 3401(a) actually paid or includible in the Participant's income but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed. Amounts contributed by the employer at the election of the employee and which are not includible in the gross income of the employee by reason of 26 U.S.C. §§ 125, 132(f)(4) and 457 shall also be included in "Compensation" for purposes of Plan §5.4. Under no circumstances will compensation as defined in this section include more than \$200,000 in any 12 consecutive month period subject to being adjusted for increases in the cost of living in \$5,000 increments as determined under Internal Revenue Code § 401(a)(17)(B) or any successor statute.

For limitation years beginning after December 31, 1991, for purposes of applying the limitations of this Section 5.4, compensation for a limitation year is the compensation actually paid or made available during such limitation year.

Notwithstanding the preceding sentence, compensation for a Participant in a defined contribution plan who is permanently and totally disabled (as defined in IRC section 22(e)(3)) is the compensation such Participant would have received for the limitation year before becoming permanently and totally disabled; such imputed compensation for the disabled Participant may be taken into account only if the Participant is not a Highly Compensated Employee (as defined in IRC section 414(q)) and

contributions made on behalf of such Participant are nonforfeitable when made.

- (iii) "Defined contribution dollar limitation." The defined contribution dollar limitation is \$40,000 or such greater amount as the Secretary shall prescribe. A limit as adjusted under Section 415(d) shall apply to Limitation Years ending with or within the calendar year for which the adjustment applies but a Participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. To the extent that a benefit is payable to a Participant who has terminated employment is limited by the application of this Section 5.4, such limit shall be adjusted to reflect any subsequent adjustments made in accordance with Section 415(d) of the Internal Revenue Code, but the adjusted limit shall apply only to benefits payable on or after January 1 of the calendar year for which the adjustment applies.
- (iv) "Employer." Employer shall mean the employer that adopts this Plan, and all members of a controlled group of corporations (as defined in IRC section 414(b) as modified by IRC section 415(h)), all commonly controlled trades or businesses (as defined in IRC section 414(c) as modified by IRC section 415(h), or affiliated service groups (as defined in IRC section 414(m)) of which the adopting employer is a part, and any other entity required to be aggregated with the employer pursuant to regulations under IRC section 414(o).
- (v) "Excess amount." Excess amount means the excess of the Participant's annual additions for the limitation year over the maximum permissible amount.
- (vi) "Limitation year." The limitation year is the Plan Year, unless the Employer elects in writing a different 12-consecutive month period. All qualified plans maintained by the employer must use the same limitation year. If the limitation year is amended to a different 12-consecutive month period, the new limitation year must begin on a date within the limitation year in which the amendment is made.
- (vii) "Maximum permissible amount." The maximum permissible amount is the maximum annual addition that may be contributed or allocated to a Participant's account under the Plan for any limitation year which shall not exceed the lesser of:

- (1) the defined contribution dollar limitation, or

(2) 100% of the Participant's compensation for the limitation year

If a short limitation year is created because of an amendment changing the limitation year to a different 12-consecutive month period, the maximum permissible amount will not exceed the defined contribution dollar limitation multiplied by the following fraction:

$$\frac{\text{Number of months in the short limitation year}}{12}$$

(g) To the extent a Participant's benefit is subject to provisions of section 415 of the Internal Revenue Code as applied to a governmental plan that have not been set forth in the Plan, such provisions are hereby incorporated by reference into this Plan and for all purposes shall be deemed a part of the Plan.

§ 5.5 *Designation of Beneficiary*

Each Participant may designate from time to time in writing one or more Beneficiaries, who will receive the Participant's vested Accrued Benefit in the event of the Participant's death. If the Participant dies without having made a Beneficiary designation, the Custodian shall distribute such benefits in the following order of priority to the deceased Participant's: (a) spouse, (b) lineal descendants, (c) parents, or (d) estate.

ARTICLE VI. VESTING

§ 6.1 *Rollover Account 100 Percent Vested*

The Accrued Benefit in the Rollover Account of an Employee shall be 100% vested at all times.

§ 6.2 *Employer Account Vesting on Death, Retirement, or Total and Permanent Disability*

If a Participant's employment is terminated for death, for Total and Permanent Disability, or upon a Participant attaining either Normal Retirement Age or Early Retirement Age, 100% of the Accrued Benefit in his Employer Account shall vest in the Participant (or in his Beneficiary, as the case may be) and shall be distributed in accordance with the provisions of Article VII.

§ 6.3 *Employer Vesting on Termination*

If a Participant's employment is terminated prior to attaining Normal Retirement Age or Early Retirement Age except for death or Total and Permanent Disability, the following percentages of the Accrued Benefit in the Employer Account of the Participant shall vest in the Participant and shall be distributed to or set aside for him (or his Beneficiary) in accordance with the provisions of Article VII:

Total Years of Service for Vesting	Vested percentage of Employer Account
less than 3 years	0%
3 years or more	100%

The Accrued Benefit in the Employer Account of a Participant which is not vested as above provided shall be retained by the Custodian and applied to reduce the Employer contributions under the Plan.

§ 6.4 *Restoration of Funds Held in Suspense Account*

If an Employee who is zero percent vested is deemed to receive a distribution pursuant to Section 7.1, and that Employee resumes employment covered under this Plan before the date he or she incurs 3 consecutive One Year Breaks in Service, upon the reemployment of such Employee, the Employer-derived account balance of the Employee will be restored to the amount on the date of such deemed distribution.

If the Participant's suspended Accrued Benefit is restored pursuant to this Section 6.4, the restoration shall be made first out of Forfeitures retained by the Custodian to reduce Employer Contributions, if any, and then by additional Employer contributions.

ARTICLE VII.
DISTRIBUTION OF BENEFITS

§ 7.1 *Method of Distribution of Accounts*

(a) The Participant shall elect to receive distribution of his vested Accrued Benefit in one of the following forms:

- (i) a lump-sum distribution,
- (ii) an installment distribution consisting of approximately equal annual or more frequent installments (subject to the limitations of Section 7.2) over a term certain not to exceed ten (10) years,

(iii) a direct rollover as described in Section 7.12.

(b) Reserved for future use

(c) The Participant must consent to any distribution of his vested Accrued Benefit. The consent of the Participant shall be obtained in writing within the 90-day period ending on the payment date. The payment date is the first day of the first period for which an amount is paid in any form. If no election is made within this time period, then no funds will be distributed until the Participant reaches age 65. The Plan Administrator shall notify the Participant of the right to defer any distribution until the Participant's vested Accrued Benefit is no longer immediately distributable (as described in Paragraph (i) below). Such notification shall include a general description of the material features and an explanation of the relative values of, the optional forms of benefit available under the Plan in a manner that would satisfy the notice requirements of IRC section 417(a)(3), and shall be provided no less than 30 days and no more than 90 days prior to the payment date.

The consent of the Participant's spouse shall not be required to the extent that a distribution is required to satisfy IRC section 401(a)(9) or IRC section 415. In addition, upon termination of this Plan if the Plan does not offer an annuity option (purchased from a commercial provider) and if neither the Employer nor any Affiliated Employer maintains another defined contribution plan (other than an employee stock ownership plan as defined in IRC section 4975(e)(7)), the Participant's vested Accrued Benefit will, without the Participant's consent, be distributed to the Participant. However, if any Affiliated Employer maintains another defined contribution plan (other than an employee stock ownership plan as defined in IRC section 4975(3)(7)), then the Participant's vested Accrued Benefit will be transferred, without the Participant's consent, to the other plan if the Participant does not consent to an immediate distribution.

The Participant's vested Accrued Benefit is immediately distributable if any part of the vested Accrued Benefit could be distributed to the Participant before the Participant attains (or would have attained if not deceased) the later of Normal Retirement Age or age 62.

(d) If distributions are made in installments rather than a lump-sum distribution, then (i) the installments must be over a term not to exceed 10 years or (ii) the amounts of the installment to be distributed each year must be at least an amount equal to the quotient obtained by dividing the Participant's entire interest by the life expectancy of the Participant or the joint and last survivor expectancy of the Participant and his designated Beneficiary. Life expectancy and joint and last survivor expectancy are computed by the use of the return multiples contained in Treasury Regulations section 1.72-9, Table V and VI. For purposes of this computation, a Participant's life expectancy may be recalculated no more frequently than annually, but the life expectancy of a nonspouse Beneficiary may not be recalculated. If the

Participant's spouse is not the designated Beneficiary, the method of distribution selected must assure that at least 50% of the present value of the amount available for distribution is paid within the life expectancy of the Participant.

(e) The value of the Participant's Employer Account and Rollover Account, if any, shall be measured as of the first valuation date immediately succeeding the effective date of the Participant's request for payment.

§ 7.2 *Time of Distribution*

The requirements of this Section 7.2 shall apply to any distribution of a Participant's vested Accrued Benefit and will take precedence over any inconsistent provisions of this Plan. Unless otherwise specified, the provisions of this Section 7.2 apply to calendar years beginning after December 31, 1984. All distributions required under this Section 7.2 shall be determined and made in accordance with IRC section 401(a)(9) and the regulations thereunder, including the minimum distribution incidental benefit requirement of proposed Treasury Regulation section 1.401(a)(9)-2. The provisions of this Section shall apply only to the extent required under section 401(a)(9) of the Internal Revenue code and the regulations thereunder as applied to a governmental plan and if any special rules for governmental plans are not set forth herein, such special rules are hereby incorporated by reference and shall for all purposes be deemed a part of the Plan.

(a) Time and Manner of Distribution

(i) Required Beginning Date. The Participant's entire benefit will be distributed, or begin to be distributed to the Participant no later than the Participant's Required Beginning Date, which is April 1st of the calendar year following the later of (1) the calendar year in which the Participant attains age 70½, or (2) the calendar year in which such Participant terminates employment.

(ii) Death of Participant before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire benefit will be distributed, or will begin to be distributed, no later than as follows:

(1) If the Participant's surviving spouse is the sole designated Beneficiary, then subject to Section 7.2(a)(ii)(5) below, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

(2) If the Participant's surviving spouse is not the sole designated Beneficiary, then subject to Section 7.2(a)(ii)(5) below, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(3) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire benefit will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(4) If the Participant's surviving spouse is the sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 7.2(a)(ii) other than Section 7.2(a)(ii)(1) will apply as if the surviving spouse were the Participant.

(5) If the Participant dies before distributions begin and there is a designated Beneficiary, distribution to the designated Beneficiary is not required to begin by the date specified in Section 7.2(a)(ii)(1) or (2) above, but only if the designated Beneficiary elects to have the Participant's entire benefit distributed to the designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. Such an election by the designated Beneficiary must be made no later than the earlier of September 30 of the calendar year in which the distribution would otherwise be required to begin under Section 7.2(a)(ii)(1) or (2), or September 30 of the calendar year that contains the fifth anniversary of the Participant's death.

For purposes of this Section 7.2(a)(ii) and Section 7.2(d), distributions are considered to begin on the Participant's Required Beginning Date (or, if Section 7.2(a)(ii)(4) applies, the date distributions are required to begin to the surviving spouse under Section 7.2(a)(ii)(1)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 7.2(a)(ii)(1)), the date distributions are considered to begin is the date distributions actually commence.

(iii) Form of Distribution. Unless the Participant's benefit is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Sections 7.2(b), (c) and (d). If the Participant's

benefit is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and applicable Treasury regulations. Any part of the Participant's benefit that is in the form of an individual account described in Section 414(k) of the Internal Revenue Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Internal Revenue Code and the Treasury regulations that apply to individual accounts.

(b) Determination of Amount to be Distributed Each Year

(i) General Annuity Requirements. If the Participant's benefit is paid in the form of annuity distributions under the Plan, payments under the annuity shall satisfy the following requirements:

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

(2) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in Sections 7.2(c) and (d);

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

(4) Payments will either be non-increasing or increase only as follows:

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

b. to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in Section 7.2(c) dies or is no longer the Participant's Beneficiary under a domestic relations order that is treated as a qualified domestic relations order under Section 414(p) of the Internal Revenue Code;

c. to provide cash refunds of employee contributions upon the Participant's death;

d. pay increased benefits that result from a Plan amendment.

(ii) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Section 7.2(a)(ii)(1) or (2)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bimonthly, monthly, semiannually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.

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

(c) Requirements for Annuity Distributions Commencing During Participant's Lifetime

(i) Joint Life Annuities Where Beneficiary Is Not the Participant's Spouse. If the Participant's benefit is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-spouse Beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table in Q&A-2 of Treas. Reg. §1.401(a)(9)-6. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-spouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the period certain.

- (ii) **Period Certain Annuities.** Unless the Participant's spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Treas. Reg. § 1.401(a)(9)-9 for the calendar year that contains the Benefit Commencement Date. If the Benefit Commencement Date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Treas. Reg. § 1.401(a)(9)-9 plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the Benefit Commencement Date. If the Participant's spouse is the Participant's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section 7.2(c)(ii), or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in Treas. Reg. § 1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the Benefit Commencement Date.

(d) **Requirements For Minimum Distributions If Participant Dies Before Distributions Begin**

- (i) **Participant Survived by Designated Beneficiary.** If the Participant dies before the date distribution of his or her benefit begins and there is a designated Beneficiary, the Participant's entire benefit will be distributed, beginning no later than the time described in Section 7.2(a)(ii)(1) or (2), over the life of the designated Beneficiary or over a period certain not exceeding:

(1) unless the Benefit Commencement Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(2) if the Benefit Commencement Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of his or her

birthday in the calendar year that contains the Benefit Commencement Date.

- (ii) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire benefit will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (iii) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his or her benefit begins, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section 7.2(d) will apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 7.2(a)(ii)(1).

(e) Reasonable and Good Faith Interpretation. Notwithstanding anything contained herein to the contrary, any distribution option under the Plan that is consistent with a reasonable and good faith interpretation of Section 401(a)(9) of the Internal Revenue Code shall be permitted under this Section 7.2.

(f) Definitions. For purposes of this Section 7.2, the following words and terms shall have the meanings indicated:

- (i) "Applicable life expectancy." The life expectancy (or joint and last survivor expectancy) calculated using the attained age of the Participant (or designated Beneficiary) as of the Participant's (or designated Beneficiary's) birthday in the applicable calendar year reduced by one for each calendar year which has elapsed since the date life expectancy was first calculated. If life expectancy is being recalculated, the applicable life expectancy shall be the life expectancy as so recalculated. The applicable calendar year shall be the first distribution calendar year, and if life expectancy is being recalculated such succeeding calendar year.
- (ii) "Designated Beneficiary." The individual who is designated as the Beneficiary under the Plan in accordance with IRC section 401(a)(9) and the proposed regulations thereunder.
- (iii) "Distribution calendar year." A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the

calendar year immediately preceding the calendar year which contains the Participant's required beginning date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Subsection 7.2(d) above.

- (iv) "Life expectancy." Life expectancy and joint and last survivor expectancy are computed by use of the expected return multiples in Tables V and VI of Treasury Regulations section 1.72-9.

Unless otherwise elected by the Participant (or Participant's spouse, in the case of distributions described in Subsection 7.2(f)) by the time distributions are required to begin, life expectancies shall be recalculated annually. Such election shall be irrevocable as to the Participant (or spouse) and shall apply to all subsequent years. The life expectancy of a nonspouse Beneficiary may not be recalculated.

- (v) "Participant's benefit."

(1) The vested Accrued Benefit as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions allocated to the vested Accrued Benefit as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date.

(2) For purposes of Subparagraph 1 above, if any portion of the minimum distribution for the first distribution calendar year is made in the second distribution calendar year on or before the required beginning date, the amount of the minimum distribution made in the second distribution calendar year shall be treated as if it had been made in the immediately preceding distribution calendar year.

§ 7.3 *Segregation of Installment Distribution*

The Plan Administrator may determine that the Employer Account and Rollover Account, if applicable, of a Participant who is no longer an Employee shall be segregated and set aside, in which event the Plan Administrator shall direct the Custodian to segregate the vested portion (as defined in Article VI) of the entire balance of the Participant's Employer Account and Rollover Account, if applicable, and to deposit such portion in a separate interest-bearing account at a bank or savings and loan association or such other separate account at the Custodian which provides risk

equivalent to an interest-bearing account at a bank or savings and loan association, and said account shall cease to participate in the income or net loss or appreciation or depreciation of the Trust Fund, as of the beginning of the Plan Year in which such segregation occurs, and instead will be credited with the full amount of interest earned hereon. Whenever the Plan Administrator elects to segregate an installment distribution, the Participant shall be informed that such segregation is a condition of receiving the installment distribution before such election is made by the Participant.

§ 7.4 Non-segregation of Installment Distribution

In the event the Plan Administrator does not segregate (as provided in Section 7.3) the Employer Account of a Participant and Rollover Account, if applicable, said account shall continue to be treated, without interruption, in the same manner as when the Participant was an Employee, in which case the installment distributions shall be adjusted upward or downward to reflect appreciation or depreciation, or income or loss in the Accrued Benefit.

§ 7.5 Distribution After Death of Participant

In the event of the death of a Participant after installment payments have begun, but prior to completion of such payments, the full amount of such unpaid benefits shall continue to be paid in the form of a previously established installments except that the Beneficiary may request that the remaining Accrued Benefit be paid in a lump sum.

In the event of the death of the Participant prior to the start of any payment of his Accrued Benefit, distributions shall be made in the form and at the time or times selected by the Beneficiary pursuant to Sections 7.1 and 7.2.

§ 7.6 Distribution After Death of Beneficiary

In the event of the death of a Beneficiary (or a contingent Beneficiary, if applicable) prior to the completion of payment of benefits due the Beneficiary from the Plan, the full amount of such unpaid benefits shall at once vest in and become the property of the estate of said Beneficiary. In determining the amount of such unpaid benefits, no adjustment shall be made by reason of any net income, or net loss, of the Trust, or any net appreciation or net depreciation by the Trust's assets subsequent to the beginning of the Plan Year in which such final distribution occurs. Upon the death of the Beneficiary or contingent Beneficiary, the unpaid benefits shall be placed in an account either with the Custodian, a bank, or with a savings and loan association which shall have the lowest risk of loss. Upon withdrawal of the assets from this account, any gains shall be transferred to the Trustee Expense account and shall be fully accounted for in the reconciliation of that account.

§ 7.7 *Rollover From Plan*

After having received the prior written consent of the Participant, the Plan Administrator may, in its sole discretion, transfer part or all of the funds credited to such Participant's Employer and Rollover Accounts to a plan described in section 2.24(a) as to which the individual is a Participant at the time of such distribution; provided, however, that transfers to an eligible § 457 plan described in section 2.24(a) may occur only if the receiving eligible § 457 agrees to separately account for amounts rolled into such plan from eligible retirement plans.

§ 7.8 *Suspense Account for Terminated Participants*

If a Participant has terminated his employment but his Employer Account is not 100% vested and he has not had 3 consecutive One Year Breaks in Service subsequent to his termination, all funds in his Employer Account shall be held in suspense until the happening of the soonest of the following: (i) the Participant returning to employment with the Employer, or (ii) the occurrence of 3 consecutive One Year Breaks in Service with respect to the Participant, or (iii) the Participant attaining Normal Retirement Age. At such time the Participant's Employer Account shall cease to be held in suspense. If a Participant has returned to employment prior to incurring 3 consecutive One Year Breaks in Service, his Employer Account which has been held in suspense shall be restored to his credit, less any distribution which is not repaid in accordance with Section 7.10; if his Employer Account is no longer held in suspense at such time, the amounts required to restore the balance to his credit shall be provided through Forfeitures and Employer contributions, in that order. If three consecutive One Year Breaks in Service occur, the nonvested portion of the Employer Account held in suspense will be forfeited and reallocated in accordance with Section 4.1 for the Plan Year in which such Forfeiture occurs; the vested portion shall be distributed in accordance with the provisions of Article VII. In the case of a Participant attaining Normal Retirement Age while his Employer account is being held in suspense, the entire amount will be distributed in accordance with the provisions of Article VII. All funds in the Suspense Account shall be invested in an interest-bearing account with the lowest risk of loss and shall not be invested in any form of equity.

Such suspense account shall share in any appreciation, depreciation, or net income or loss as if it were not in suspense.

If an Employee terminates service, and elects, in accordance with the requirements of Subsection 7.1(a), to receive the value of the Employee's vested Accrued Benefit, the nonvested portion will be treated as a Forfeiture.

§ 7.9 Unable to Locate Participant or Beneficiary

If the Participant or Beneficiary to whom benefits are to be distributed cannot be located, and reasonable efforts have been made to find him, including the sending of notification by certified or registered mail to his last known address, the Plan Administrator may direct the Custodian to take any of the following actions:

(a) Distribute the benefits in question to an interest-bearing savings account established in the name of the Participant or Beneficiary; or, if the benefits are payable to a Participant (as reasonably determined by the Plan Administrator) the Plan Administrator may instruct the Custodian to distribute the funds to the Participant by either placing them in a savings account in the Participant's name, by purchasing U.S. Savings Bonds in the Participant's name and holding them for the Participant, or by holding them in an account with the lowest risk of loss;

(b) If the Plan Administrator has taken the reasonable efforts to locate the Participant, the Plan Administrator may allocate the Participant's Accrued Benefits to a segregated account in the manner described in Section 7.3, as if an installment distributed were being made; however, such funds shall be held in the segregated account for distribution to the Participant when located;

(c) The Participant's Accrued Benefits may be forfeited and reallocated pursuant to Section 4.1; if the Participant subsequently returns, such Forfeiture shall be restored pursuant to Section 7.10 and the restoration shall be made first out of Forfeitures, if any, and then by additional Employer contributions.

§ 7.10 Repayment of Cash-Out or Lump Sum Distribution

If an Employee receives a distribution pursuant to Section 7.1 and the Employee resumes employment covered under this Plan, the Employee's Employer-derived Accrued Benefit will be restored to the amount on the date of distribution if the Employee repays to the Plan the full amount of the distribution attributable to Employer contributions before the earlier of 3 years after the first date on which the participant is subsequently re-employed by the Employer, or the date the participant incurs 3 consecutive One Year Breaks in Service following the date of the distribution. Where an Employee who is zero percent vested is deemed to receive a distribution pursuant to Section 7.1, and that Employee resumes employment covered under this Plan before the date he or she incurs 3 consecutive One Year Breaks in Service, upon reemployment of such Employee, the Employer-derived Accrued Benefit of the Employee will be restored to the amount on the date of such deemed distribution. The permissible sources of restoration of the forfeited portion of a lump sum distribution are Forfeitures and Employer contributions.

§ 7.11 *Domestic Relations Orders*

(a) No Employee shall have the right to assign, transfer, encumber or otherwise subject to lien any of the benefits provided under this Plan. Except as provided in subsection (b), below, the right of any Participant or beneficiary to any benefit or to any payment hereunder or to any separate account shall not be subject to alienation, assignment, attachment, encumbrance, execution, garnishment, lien, sequestration, transfer or other legal, equitable or other process, and no loans shall be made under the Plan on the basis of any account held on behalf of a Participant or former Participant.

(b) The restrictions of subsection (a) above shall not apply to a Domestic Relations Order that meets the requirements of this subsection if:

- (i) It is a judgment, decree, or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child or other dependent of a Participant, and that is made pursuant to a state domestic relations law or the domestic relations law of the District of Columbia; and
- (ii) It creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to the Plan participant; and
- (iii) It clearly specifies the name and the last known mailing address (if any) of the Participant and the name and mailing address of each alternate payee covered by the order; and
- (iv) It clearly specifies the amount or percentage of the Participant's benefits to be paid by the Plan to each such alternate payee, or the manner in which such amount or percentage is to be determined; and
- (v) It clearly specifies the number of payments or period to which such order applies; and
- (vi) It clearly specifies that it applies to the Washington Metropolitan Area Transit Authority Defined Contribution Retirement Plan; and
- (vii) It does not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan; and

- (viii) It does not require the Plan to provide increased benefits (determined on the basis of actuarial value); and
 - (ix) It does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another Domestic Relations Order previously approved by the Trustees; and
 - (x) It does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee in the form of a joint and survivor annuity with respect to the alternate payee and his or her subsequent spouse; and
 - (xi) It does not require the payment of benefits to an alternate payee prior to the time that the Participant has separated from service with the Authority and is eligible to receive a benefit or their distribution from the Plan.
- (c) Additional requirements.
- (i) The term "alternate payee" means any spouse, former spouse, child, or other dependent of a Participant who is recognized by a Domestic Relations Order as having a right to receive all, or a portion of, the benefits payable under a Plan with respect to such participant;
 - (ii) To the extent provided in a Domestic Relations Order meeting the requirements of subsection (b), the former spouse of a Participant may be treated as the Spouse of the Participant for purposes of any form of benefit payable under the Plan, and any spouse of the Participant shall not be treated as a Spouse of the Participant for such purposes;
 - (iii) The decision of the Trustees regarding whether a Domestic Relations Order meets the requirements of subsection (b) shall be final and binding on all parties and their successors, heirs, executors, administrators and assigns. Any claims procedures established by the Trustees will apply to Domestic Relations Orders; and
 - (iv) Any action taken by the Trustees in implementing a Domestic Relations Order under this section shall result in the discharge of the Plan's obligation to the Participant and to each alternate payee to the extent of any payment made pursuant to this section.

§ 7.12 *Direct Rollover*

Notwithstanding any other provision of the Plan, the Plan Administrator shall advise any distributee entitled to receive an eligible rollover distribution, at the same time as the notice required to be given pursuant to Article VII (or such other time as is permitted by law) of his right to elect a direct rollover to an eligible retirement plan, pursuant to the provisions of this Section. To elect a direct rollover the distributee must request in writing to the Plan Administrator that all or a specified portion of the eligible rollover distribution be transferred directly to one or more eligible retirement plans. If more than one direct rollover distribution will be made, the notice specified in the first sentence of this Section must state that the distributee's initial election to make or not to make a direct rollover will remain in effect unless he gives the Plan Administrator written instructions to change the election, in which case the new election will remain in effect until changed.

For purposes of this Section, the following definitions shall apply:

(a) A "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the distributee.

(b) A "distributee" includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's (or former Employee's) spouse or former spouse who is the alternate payee under a domestic relations order, are distributees with regard to the interest of the spouse or former spouse. The term also includes a nonspousal "designated beneficiary" (as defined by Code section 401(a)(9)(E)) of the Participant or former Participant.

(c) An "eligible retirement plan" is a retirement plan which is described in section 2.24(a) of the Plan, the terms of which permit the acceptance of a direct rollover of the distributee's eligible rollover distribution; provided, however, that transfers to an eligible § 457 plan described in section 2.24(a) may occur only if the receiving eligible § 457 agrees to separately account for amounts rolled into such plan from eligible retirement plans. Additionally, a Roth IRA is an "Eligible Retirement Plan" solely for the purpose of receiving a rollover distribution from an Eligible Retirement Plan" under the terms and conditions stated in IRC § 408A(e) that occurs after December 31, 2007. A surviving spouse receiving the eligible rollover distribution shall have the same options for dealing with the eligible rollover distribution as did the Participant for whose account the surviving spouse is receiving the eligible rollover distribution. The Plan Administrator may establish reasonable procedures for ascertaining that the eligible retirement plan meets the preceding requirements.

(d) An "eligible rollover distribution" is any distribution from this Plan on or after May 1, 1998 of all or any portion of the balance to the credit of the distributee, except for distributions (or portions thereof) which are:

- (i) Part of a series of substantially equal periodic payments (not less frequently than annually) made over the life of the Employee (or the joint lives of the Employee and the Employee's designated beneficiary), the life expectancy of the Employee (or the joint life and last survivor expectancy of the Employee and the Employee's designated beneficiary), or a specified period of ten years or more;
- (ii) Required under IRC section 401(a)(9) (relating to the minimum distribution requirements);
- (iii) The portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation in employer securities described in IRC section 402(e)(4)); or
- (iv) Any hardship distribution described in IRC section 402(c)(4)(C).

ARTICLE VIII.
DUTIES AND AUTHORITY OF CUSTODIAN

§ 8.1 *Receive Payments*

The Custodian shall receive from the Employer the payments made by it on account of its contributions under the Plan, and shall receive any Rollover amounts on behalf of Participants but the Custodian shall have no duty to compute any amount due from the Employer or to collect the same.

§ 8.2 *Value Assets*

The Custodian shall value the assets of the Trust Fund as of the close of the last day of each month (unless instructed by the Board of Trustees to value the assets at the close of another time interval at which time the Custodian shall honor the Board of Trustees' instructions instead of the monthly valuation) at their fair market value and the Plan Administrator or its agent will allocate the sums contributed by the Employer and Rollover amounts, if any, plus the net income or minus the net loss of the Trust Fund and plus the net appreciation or minus the net depreciation in the Trust Fund to separate bookkeeping accounts in the names of the respective Participants under the Plan in accordance with the provisions of Article V.

§ 8.3 *Segregation of Accounts*

When directed in writing by the Plan Administrator, the Custodian shall segregate the accounts of terminated Participants in accordance with the provisions

of Section 4.4 or 7.3, and make payments out of the Trust Fund from time to time to the Participants or their Beneficiaries, such payments to be made in the manner and in the amounts as may be specified in the written instructions of the Plan Administrator.

§ 8.4 Tax Returns and Reports

If the Custodian is a corporate fiduciary, then such Custodian shall prepare or cause to have prepared and filed, all tax returns, reports, and related documents, except as otherwise specifically provided in this Plan or unless the Plan Administrator, in writing relieves the Custodian of such obligation, in part or entirely, in which case the Plan Administrator, or the person or persons it designates, shall be responsible for filing the tax returns, reports, and related filings, as provided by the Plan Administrator. The Custodian shall be entitled to rely on the accuracy of any written statement from the Plan Administrator or the Board of Trustees or from an officer of the Employer as to those matters provided in Article IX.

§ 8.5 Powers

Subject to the terms of any contract between the Board of Trustees and the Custodian, the Custodian is authorized and empowered to:

(a) Invest and reinvest the Trust Fund, without distinction between principal and income, in bank accounts, certificates of deposit, common stocks, American Depositary Receipts (ADRs), preferred stocks, mutual funds, bonds, notes, debentures, mortgages, U.S. retirement plan bonds, and in other property, real or personal, so long as the incidents of ownership of such property are within the jurisdiction of the United States, and so long as such investments do not violate applicable law;

(b) Sell, exchange, convey, transfer, or otherwise realize the value of any property held by it;

(c) Convert any stocks, bonds, or other securities; to give general or special proxies or powers of attorney with or without power of substitution; to exercise any warrants, conversion privileges, subscription rights or other options and to make any payment incidental thereto; to consent to or otherwise participate in corporate reorganizations or other changes affecting corporate securities and to delegate discretionary powers to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities or other properties held in the Trust Fund;

(d) Make, execute, acknowledge, and deliver any and all documents to transfer and convey and any other instruments that may be necessary or appropriate to carry out the powers herein granted;

(e) Register any investments held in the Trust Fund in its own name or in the name of a nominee or nominees and to hold any investment in bearer form, but the books and records of the Trustee shall at all times show that all such investments are part of the Trust Fund;

(f) Invest all or part of the Trust Fund in deposits which bear a reasonable rate of interest in a bank or similar financial institution, even though such institution is a Trustee or other fiduciary, as defined in IRC section 4975(e)(3);

(g) Invest in a common or collective trust fund or pooled investment fund maintained by a bank or trust company or a pooled investment fund of an insurance company qualified to do business in a State even though such bank, trust company or insurance company is a disqualified person, as defined in IRC section 4975(e)(2);

(h) Make distributions to Participants or Beneficiaries in cash; and

(i) Perform all such acts, although not specifically mentioned herein, as the Trustee may deem necessary to administer the Trust Fund and to carry out the purpose of the Trust.

§ 8.6 *Expenses*

All brokerage costs, transfer taxes and similar expenses incurred in connection with the investment and reinvestment of the Trust Fund and all taxes of any kind whatsoever which may be levied or assessed under existing or future laws upon or in respect of the Trust Fund, shall be paid from the Trust Fund, and, until paid, shall constitute a charge upon the Trust Fund. Arbitration expenses as described in Section 9.10 shall be paid by the Trust and charged proportionately against the amount standing to the credit of each Participant. All other administrative expenses incurred by the Custodian in the performance of its duties, including such compensation to the Custodian as may be agreed upon from time to time between the Board of Trustees and the Custodian (in accordance with the Custodian's contract in effect from time to time during the time it administers this Trust, if applicable) and all proper charges and disbursements of the Custodian, shall be charged against and paid out of the Trust Expense Account. A lien for the payment thereof shall be impressed solely upon the assets of the Account and not upon the Trust assets generally. However, no person who received full-time pay from the Employer may receive compensation from the Trust, except for reimbursement of expenses properly and actually incurred.

The Custodian, shall not be required to make any inspection of the Employer's records, but shall, in good faith, rely on any statement of the Employer or any of its officers.

§ 8.7 *Litigation*

The Custodian shall not be required to participate in any litigation either for the collection of monies or other property due the Trust Fund, or in defense of any claim against the Trust Fund unless the Custodian shall have been indemnified to its satisfaction against all expenses and liability to which the Custodian might become subject.

§ 8.8 *Written Instructions*

When any act of the Custodian is based upon instructions of the Employer, the Board of Trustees or the Plan Administrator, the Custodian may rely upon instructions in writing, signed by an officer of the Employer, or upon written instructions from the Board of Trustees or the Plan Administrator, as appropriate.

§ 8.9 *Appointment of Investment Manager*

The Board of Trustees, with the written concurrence of the Plan Administrator, may appoint one or more Investment Managers (who may be affiliated with the Plan Administrator), who shall have responsibility for investment of the Trust Fund. The Investment Manager(s) shall have the investment powers granted the Custodian in Section 8.5 except to the extent the Investment Manager's powers are specifically limited by an agreement between the Board of Trustees and the specific Investment Manager.

§ 8.10 *Removal and Resignation of the Custodian*

The Board of Trustees may at any time remove any Custodian acting hereunder or appoint a corporation and/or an individual or individuals to be successor Custodian hereunder in the place of any removed or resigning Custodian. Any Custodian may at any time resign by giving written notice to the Board of Trustees, which resignation shall take effect on the date therein specified and which shall not be less than 60 days from the date of notice unless the Board of Trustees shall agree to an earlier date.

ARTICLE IX. DUTIES AND AUTHORITY OF BOARD OF TRUSTEES

§ 9.1 *Appointment*

This Plan shall be administered by a Board of Trustees, which shall consist of four (4) persons appointed in the following manner:

(a) Two (2) persons appointed by the General Manager/Chief Executive Officer of the Employer;

(b) One (1) person appointed by the Chief Shop Steward of Local 2 OPEIU;
and

(c) One (1) person elected for a two-year term from those Employees covered by the Plan who are not members of Local 2 OPEIU. This member may be reelected for an unlimited number of two year terms.

Each Trustee appointed or elected as above shall signify in writing their acceptance of such appointment. Any member of the Board of Trustees may resign upon giving written notice to both the Chairman of the Board of Trustees and the person who appointed him/her. Where the elected trustee chooses to resign, notice shall be given to the Manager of Benefits in lieu of notice to the appointing person. An election for the remainder of the two-year term shall be held within sixty (60) days after the resignation is received by the Manager of Benefits. Each appointee shall hold office at the pleasure of the appointing party except that the elected trustee shall serve the elected term so long as he/she remains eligible for election. The death of a trustee automatically renders that trustee's seat vacant. The Board of Trustees may act notwithstanding the existence of vacancies so long as there is at least one member of the Board of Trustees.

§ 9.2 *No Discrimination*

The Board of Trustees shall not take any action nor direct either the Plan Administrator or the Custodian to take any action that would result in benefitting one Participant or group of Participants at the expense of another, or discriminating between Participants similarly situated, or applying different rules to substantially similar sets of facts.

§ 9.3 *Majority Action*

The Board of Trustees shall act by a majority (or by all members if there be only one or two members) of the number of members constituting the Board of Trustees at the time of such action, and such action may be taken either by vote at a meeting, in writing without a meeting, or by telephone conference call.

§ 9.4 *Powers*

Except as otherwise provided in the Plan, the Board of Trustees shall have control of the administration of the Plan, with all powers necessary to enable it to carry out its duties in that respect. Not in limitation, but in amplification of the foregoing the Board of Trustees shall have the power to interpret or construe the Plan and to determine all questions that may arise hereunder as to the status and rights of Participants and others hereunder. The Board of Trustees shall have the right, exercisable at any time by delivery to the Custodian of an instrument in writing, to instruct or direct the Custodian with respect to the investment of the Trust fund. The

Board of Trustees may inspect the records of the Plan Administrator or Custodian whenever such inspection may be reasonably necessary in order to determine any fact pertinent to the performance of the duties of the Board of Trustees. The Board of Trustees, however, shall not be required to make such inspection, but may, in good faith, rely on any statement of the Custodian or Plan Administrator or any of its officers or employees.

The Board of Trustees is expressly granted the right to hire and discharge and pay compensation associated with the hiring of such service providers which it deems necessary. Those service providers may include a Plan Administrator, investment managers, actuaries, accountants, legal counsel (who may be counsel to the Employer), and other types of consultants deemed necessary or appropriate by the Board of Trustees to the proper running of the Plan.

The Board of Trustees may delegate any of its powers to a Plan Administrator with the exception of its powers to interpret the Plan, to finally decide all Participant status and rights issues, hire and fire service providers, and its final responsibility for the administration of the Plan.

§ 9.5 Filing Reports

The Board of Trustees shall furnish, or shall see that the Plan Administrator furnishes, a summary of this Plan to all Employees upon enrollment and at such other times as the Board of Trustees deems to be appropriate. The Board of Trustees shall furnish to the Custodian the names of all Employees who become eligible as Participants as and when received from the Employer, and the Board of Trustees shall request the Employer to notify each Employee of his eligibility.

§ 9.6 Records and Information

The Board of Trustees shall keep a complete record of all of its proceedings and all data necessary for the administration of the Plan. The Board of Trustees may delegate its responsibility for keeping data to the Plan Administrator if the Board of Trustees deems that to be a more efficient method to maintain the data.

§ 9.7 Information to Participants

The Board of Trustees shall direct the maintenance of separate accounts of the Participants. It shall give or direct the Plan Administrator to give each Participant, at least once every year, information as to the balance of his Employer Account and Rollover Account, if applicable.

§ 9.8 Compensation of Members of the Board of Trustees

The members of the Board of Trustees shall serve without compensation for their services as such, but shall be reimbursed by the Employer for all necessary expenses incurred in the discharge of their duties. If the Employer advises the Board of Trustees in writing of its determination to make no further contributions to the Plan, the expenses of the Board of Trustees shall thereafter be charged against and paid out of the Trust Fund and a lien for the payment thereof shall be impressed upon the assets of the Trust to be charged proportionately against the amount standing to the credit of each Participant.

§ 9.9 Review of Participant's Claims

In case the claim of any Participant or Beneficiary for benefits under the Plan is denied, the Plan Administrator shall provide within 90 days of receipt of such written claim adequate notice in writing to such claimant, setting forth the specific reasons for such denial. The notice shall be written in a manner calculated to be understood by the claimant. The Plan Administrator shall afford a Participant or Beneficiary, whose claim for benefits has been denied, 60 days from the date notice of such denial is delivered or mailed in which to appeal the decision in writing to the Board of Trustees. If the Participant or Beneficiary appeals the decision in writing within 60 days, the Board of Trustees shall review the written comments and any submissions of the Participant or Beneficiary and render its decision regarding the appeal within 90 days of receipt of the appeal. The Board of Trustees is authorized to establish an appeals procedure to implement this section, which may include the granting of a right to make an in-person presentation to the Participant or Beneficiary. Should the Board of Trustees have a tie vote on the resolution of any appeal, it shall be treated as a Trustee Dispute and resolved in accordance with § 9.10 Trustee Disputes.

§ 9.10 Trustee Disputes

Should the Board of Trustees tie on any vote covering any issue properly before the Board of Trustees, the tie shall be resolved under the following procedure. First, the Trustees shall seek an opinion from the Plan's Counsel regarding the disputed issue. After receiving the opinion of the Plan's Counsel, the Trustees shall again vote on the issue. If the tie remains, the matter shall be submitted to binding arbitration. The arbitration shall follow the procedures used to arbitrate disputes between the Employer and Local 2 OPEIU and shall be funded as set forth below. The parties to the arbitration shall be the two groups of Trustees with each group appointing an arbitrator and those two arbitrators selecting a neutral chairman. The cost of the arbitrators and counsel to present each side of the dispute shall be split equally between the Employer and the Plan Participants. Each Participant's account shall be assessed his share of these costs on a pro rata basis.

§ 9.11 Audit of Plan

The Board of Trustees shall have an audit of the Plan conducted by a Certified Public Accountant every year. Should the Plan Administrator have such an audit of the Plan performed by an independent certified public accountant on an annual basis, this audit may be substituted for the audit required under this section. A copy of such audit shall be provided to Employer and to Local 2 OPEIU.

§ 9.12 Frequency of Meetings

The Board of Trustees shall meet at least once every calendar quarter. The Chairman of the Board of Trustees may call such other meetings of the Board of Trustees as may be requested by at least two Trustees.

§ 9.13 Trust Expense Budget

It is expected that Plan forfeitures will be sufficient to fund the annual administrative operations of the Plan. To the extent that forfeitures are insufficient to fund Plan expenses then, the Trustees shall prepare a budget to cover the anticipated expenses of the Plan other than the investment costs and arbitration costs for each year that the covered Plan expenses exceed the Plan forfeitures. The budget shall then be submitted to the Employer for its approval no less than forty-five days prior to the beginning of the year covered by the proposed budget. The proposed budget shall take into account any remaining funds in the Trust Expense Account from preceding years. Upon approval by the Employer, the budget shall form the basis for the Employer's funding of the Trust Expense Account for that year as set forth in Section 4.5. Should the Employer not consent to the proposed budget, the Employer shall submit its recommended changes to the Trustees for their consideration. The Trustees can either agree with the proposed changes, at which time, the budget shall be approved or reject the proposed changes and suggest a new budget. Until there is an agreed upon budget the Employer shall have no obligation to fund the Trust Expense Account. For the first year, the expense budget shall be submitted to the Employer within thirty days after the creation of the trust with prorated payments based on an approved budget beginning with the January 1, 1999 payment.

ARTICLE X. AMENDMENT AND TERMINATION

§ 10.1 Power to Modify, Amend or Discontinue Plan Reserved

While the Plan is intended to be permanent, the Board of Directors of the Employer reserves the right at any time, and from time to time, by written resolution to modify or amend, in whole or in part, any and all provisions of this Plan or to terminate the Plan. This right is subject to the condition that no part of the assets of the Plan shall, by reason of any modification, amendment or termination, be used for

or diverted to purposes other than for the exclusive benefit of Participants, retired Participants and their beneficiaries under the Plan. With respect to Plan Participants who are represented by Local 2 OPEIU, the Board of Directors of the Employer may make no change to the Plan which is contrary to the terms of the Collective Bargaining Agreement between the Employer and Local 2 OPEIU without either the approval of Local 2 OPEIU or the terms of an arbitration award, unless such change is required by law.

§ 10.2 100% Vesting on Termination of Plan

Upon termination or partial termination of the plan and Trust by formal action of the Employer or for any other reason, or if Employer contributions to the Plan and Trust are permanently discontinued for any reason, there shall be vested 100% in each Participant directly affected by such action the amount allocated to the accounts of each such Participant, and payment to such Participant shall be made in cash or in kind as soon as practicable after liquidation of the assets of the Trust.

§ 10.3 Plan Merger or Consolidation

In the case of any merger or consolidation with, or transfer of any assets or liabilities to, any other plan, each Participant in this Plan must be entitled to receive (if the surviving plan is then terminated) a benefit immediately after the merger, consolidation, or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer (if this Plan had terminated).

§ 10.4 Adoption by Affiliates

(a) Any Affiliated Employer may adopt this Plan with the consent of the Employer. Upon the effective date of the Plan with respect to an Affiliated Employer which adopts the Plan, such adopting Affiliated Employer delegates all fiduciary and administrative responsibilities (including the appointment and removal of fiduciaries) allocated under the Plan to the Employer, the Plan Administrator, and other fiduciaries of the Plan.

(b) An Affiliated Employer adopting the Plan may specify different effective dates for the Plan and may provide for the different options under the Plan than Employer, provided that Employer and the Plan Administrator each consents to the adopting of such options.

(c) Any Affiliated Employer may withdraw its adoption of the Plan at any time without affecting the other Employees in the Plan by delivering to Employer a copy of resolutions to such effect. Employer may, in its absolute discretion, terminate the participation in the Plan of any Affiliated Employer at any time such Affiliated Employer fails to discharge its obligations under the Plan.

ARTICLE XI.
MISCELLANEOUS

§ 11.1 Laws of the District of Columbia To Apply

This Plan shall be construed according to the laws of the District of Columbia, to the extent Federal laws do not control.

§ 11.2 Participant Cannot Transfer or Assign Benefits

None of the benefits, payments, proceeds, claims, or rights of any Participant hereunder shall be subject to any claim of any creditor of the Participant, nor shall any Participant have any right to transfer, assign, encumber, or otherwise alienate, any of the benefits or proceeds which he may expect to receive, contingently or otherwise under this Plan.

Notwithstanding any restrictions on the time of distribution which would otherwise apply under this Plan, distributions with respect to a Domestic Relations Order may be made at any time required by the order and authorized under Plan Section 7.11.

§ 11.3 Reversion of Contributions Under Certain Circumstances

In the event that the Commissioner of Internal Revenue determines that the Plan is not initially qualified under the Internal Revenue Code, any contribution made incident to that initial qualification by the Employer must be returned to the Employer within one year after the date the initial qualification is denied.

If a contribution is made by an Employer by a mistake of fact, the contribution may be returned to the Employer within one year after the payment of the contribution.

Notwithstanding the above, earnings attributable to amounts described in paragraphs one and two of this Section 11.3 shall not be returned to the Employer; losses attributable to such amounts shall reduce the amount returned.

§ 11.4 Chairman of Board of Trustees Agent for Service of Process

The Chairman of the Board of Trustees is designated agent to receive service of legal process on behalf of the Plan.

§ 11.5 Filing Tax Returns and Reports

If the Custodian is not a corporate fiduciary, the Plan Administrator shall prepare, or cause to have prepared, all tax returns, reports, and related documents, except as otherwise specifically provided in this Plan or unless the Board of Trustees provides to the contrary in the manner prescribed in Section 8.4.

§ 11.6 Indemnification

The Employer agrees to indemnify all Employees who serve as members of the Board of Trustees or as Plan staff or service provider against all liability arising in connection with their duties under the Plan, except that this indemnification shall not include acts of embezzlement, or diversion of Trust Funds by the Employee, nor shall it include acts of gross negligence.

§ 11.7 Number and Gender

When appropriate the singular as used in this Plan shall include the plural and vice versa; and the masculine shall include the feminine.

SUBJECT: RESTATEMENT OF THE WMATA TRANSIT POLICE RETIREMENT PLAN

PROPOSED
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, The Internal Revenue Service requires all qualified plans to renew their favorable determination letters every five years; and

WHEREAS, The submission to the Internal Revenue Service requires the restating of the WMATA Transit Police Retirement Plan; and

WHEREAS, The restated plan document for the WMATA Transit Police Retirement Plan is designed to make such changes as are required in order for the Plan to retain its qualification under Section 401(a) of the Internal Revenue Code of 1986 as amended; and

WHEREAS, A copy of the restated plan document for the WMATA Transit Police Retirement Plan is attached to this Resolution; and

WHEREAS, The WMATA Transit Police Retirement Plan Section 14.01 requires that all Plan amendments be made by a written Resolution of the Board of Directors; now, therefore be it

RESOLVED, That the WMATA Transit Police Retirement Plan, as amended and restated effective January 1, 2009, a copy of which is attached to this Resolution, is hereby adopted and approved on behalf of Metro; and be it further

RESOLVED, That the General Manager is hereby authorized and directed to execute on behalf of Metro any other changes to the WMATA Transit Police Retirement Plan as are requested by the Internal Revenue Service, or based on advice of counsel, as are necessary or desirable for the Plan to continue qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended; and be it further

RESOLVED, That the General Manager or the Assistant General Manager for Workforce Services is hereby authorized and directed to execute such other forms, notices, instruments or other documents and to take such further action as may be necessary or desirable (1) to fully implement the WMATA Transit Police Retirement Plan; (2) to ensure that the Plan is qualified under Section 401(a) of the internal Revenue Code; and (3) to obtain from the Internal Revenue Service a determination letter to the effect

that said Plan continues to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code; and be it finally

RESOLVED, That this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,



Carol B. O'Keeffe
General Counsel

PROPOSED

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

TRANSIT POLICE RETIREMENT PLAN

(As Amended and Restated Effective January 1, 2009)

This Restated Retirement Plan is adopted by the Washington Metropolitan Area Transit Authority, an agency and instrumentality of the District of Columbia, State of Maryland and Commonwealth of Virginia, created as a body corporate and politic, with the consent of the Congress of the United States (hereinafter "WMATA" or "AUTHORITY"), effective January 1, 2009, pursuant to a Collective Bargaining Agreement between WMATA and Fraternal Order of Police/Metro Police Labor Committee (hereinafter "UNION"), the representative of sworn Metro Transit Police in the Office of Transit Police and Security.

A R T I C L E 1 NAME, EFFECTIVE DATE AND PURPOSE

1.01 Name. The Name of the Plan is "THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY TRANSIT POLICE RETIREMENT PLAN," hereinafter called the "Plan."

1.02 Effective Date. The original effective date of the Plan was April 2, 1981. The effective date of this restatement is January 1, 2009 (the "Effective Date"). Notwithstanding the foregoing, any provision which is contained in this amended and restated plan and which is required to be effective before the Effective Date in order for the Plan to retain its qualification under Section 401(a) of the Internal Revenue Code shall, nevertheless, be effective as of the effective date required under the Internal Revenue Code.

Except as specifically provided herein, the provisions of this restatement shall apply only to a Participant whose status as an Employee terminates on or after the Effective Date. The rights and benefits, if any, of a Participant whose status as an Employee terminated prior to the Effective Date shall be determined in accordance with the provisions of the Plan that were in effect on the date his or her status as an Employee terminated.

1.03 Purpose of the Plan. It is the purpose of this Plan to recognize the contribution made to the successful operation of the Authority by its Transit Police Force and to reward such contribution by establishing a system of pension benefits for those employees who shall hereafter qualify as Participants under this Plan, and for the beneficiaries designated by such employees in accordance with the provisions of this Plan.

This Plan has been established for the exclusive benefit of the Participants and their beneficiaries. So far as possible, this Plan should be interpreted in a manner consistent with this intent and with the Authority's intention that this Plan satisfy those provisions of the Internal Revenue Code relating to exempt employees' trusts. No income or corpus of this Plan or any funds contributed to the Plan by the Authority shall ever revert to or be used or enjoyed by the Authority, except as may be permitted by the provisions of the Internal Revenue Code relating to exempt employees' trusts.

The establishment of this Plan shall not be construed as giving any employee, or any other person, any legal or equitable rights against the Authority, its Board of Directors, the Union, the Trustees or the Plan, or the corpus or income of this Plan unless such right is specifically provided by the Plan Document.

A R T I C L E 2 DEFINITIONS

When used in this Plan and in the Trust Agreement, the words and phrases defined hereinafter shall have the following meaning, unless a different meaning is clearly required by the context of the Plan or Trust Agreement.

2.01 “Accrued Benefit” shall mean, as of any date prior to the Participant’s Normal Retirement Date, a monthly benefit, commencing on the Participant’s Normal Retirement Date and continuing for his life, calculated in the same manner as a normal retirement benefit and based upon the Credited Service earned by such Participant and the Participant’s Final Average Earnings. As of the Participant’s Normal Retirement Date, the Participant’s Accrued Benefit shall be the monthly benefit described in Section 4.02.

2.02 “Accumulated Employee Contributions” shall mean the total of employee contributions under the Plan as provided for in Section 3.02 plus interest at the rate of five percent (5%) compounded annually from the first day of the Plan Year following the date such contributions were made, to the first day of the month in which employment terminates. Accumulated Employee Contributions shall include contributions made by the Employee that have been transferred from the Washington Metropolitan Area Transit Authority Retirement Plan together with credited interest thereon.

2.03 “Actual Retirement Date” shall mean the date the Participant actually retires and becomes eligible to start receiving benefits under the Plan by reason of such retirement.

2.04 “Actuarial Equivalent” shall mean a benefit of equal value when computed in accordance with the actuarial tables last recommended by the Actuary for the Plan and approved by the Board of Trustees of the Plan, taking into consideration the difference in fund earnings and life expectancy when the benefit commences at a time other than the normal benefit commencement date, and the value of additional guarantees provided under an option being utilized. Such actuarial equivalences are set forth in Appendix A.

2.05 “Age” shall mean attained age, not age at nearest birthday.

2.06 “Annuity Starting Date” shall mean the first day of the first period for which an amount is paid as an annuity or, in the case of a single sum payment, the first day on which all events have occurred which entitle the Participant, or his beneficiary (if the Participant has died) to such benefit.

2.07 “Agreement” shall mean the trust established for the accumulation and investment of the funds required to provide the benefits under the Plan.

2.08 “Authority” or “WMATA” shall mean the Washington Metropolitan Area Transit Authority, an agency and instrumentality of the District of Columbia, State of Maryland and Commonwealth of Virginia, a body corporate and politic created with the consent of the United States Congress (Pub. L. 89-774, November 6, 1966, 80 Stat. 1324; Pub. L. 92-349, July 13, 1972, 86 Stat. 466; Pub. L. 92-517, October 21, 1972, 86 Stat. 999; and Pub. L. 94-306, June 4, 1976) by the District of Columbia, State of Maryland and Commonwealth of Virginia. (Resolution of the Board of Commissioners, December 22, 1960; (Md) Ch. 613, Acts of General Assembly, 1959; (Va) Ch. 527, 1958 Acts of Assembly; Resolution of the Board of Commissioners, November 15, 1966, as amended; Ch. 869, Acts of General Assembly, 1965, as amended; and Ch. 2, 1966, Acts of Assembly, as amended) or any successor thereof lawfully empowered as such by the United States Congress, District of Columbia, State of Maryland, and Commonwealth of Virginia. For purposes of this Plan and Trust Agreement, the principal place of business of WMATA shall be considered to be the District of Columbia. For purposes of this Plan and Trust Agreement, the District of Columbia shall be considered a state.

2.09 “Board of Directors” shall mean the Board of Directors of the Authority.

2.10 “Board of Trustees (Trustees)” shall mean the Board of Trustees designated in accordance with the terms of the Trust Agreement.

2.11 “Children (Child)” shall mean the issue of the Participant, any legally adopted child of the Participant, or any legally recognized ward of the Participant or his Spouse who was dependent on the Participant for more than fifty percent (50%) of his support during the year preceding the Participant’s date of death.

2.12 “Code” shall mean Internal Revenue Code of 1986, as amended from time to time. Reference to a Code Section shall include (i) such section and any comparable section or sections of future legislation that amends supplements, or supercedes such section; and (ii) all rulings, regulations, notices, announcements, and other pronouncements issued by the U.S. Treasury Department, the Internal Revenue Service, and any court of competent jurisdiction that relate to such section and that are applicable to governmental plans.

2.13 “Compensation” shall mean the total basic compensation (excluding any overtime payments, special shift payments, bonuses or other allowances) received by a Participant from the Authority during any calendar month. Notwithstanding the foregoing, Compensation:

(a) shall not include (i) contributions, credits, or benefits paid or accrued under this Plan or any other retirement plan, deferred compensation plan, welfare benefit plan or fringe benefit plan of the Authority; (ii) compensation or payments for unused vacation payable in connection with any termination of employment; or (iii) reimbursements for expenses, expense allowances or other special allowances.

(b) shall include any amount which would otherwise be deemed Compensation under this Section but for the fact that it is deferred pursuant to a salary reduction agreement under any plan described in Section 125, 132(f), 457 or 414(h) of Code.

The annual Compensation of each Participant taken into account in determining benefit accruals for any Plan Year beginning after December 31, 2001, shall not exceed

\$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. Annual Compensation means compensation during the plan year or such other consecutive 12-month period over which Compensation is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year. In determining benefit accruals in Plan Years beginning after December 31, 2001, the annual Compensation limit for determination periods beginning before January 1, 2002, shall be \$150,000 for any determination period beginning in 1996 or earlier; \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001.

2.14 “Continuous Service” shall mean the uninterrupted period of service commencing with the Participant’s most recent date of employment. The period of employment shall not be deemed to be interrupted by absence for military service, sick leave, vacation leave or other special leave approved in writing by the Authority, which (except military service) does not exceed twelve (12) months. Absence for military service will come within the meaning of the above provision only if the Participant returns to employment with the Authority during the period in which his employment rights are protected by law.

2.15 “Credited Service” shall mean the number of years (and fractional years measured in completed months) of Continuous Service that the Participant has accumulated prior to his Actual Retirement Date, with the following exceptions:

(a) Credited Service shall include only those of months of Continuous Service after April 1, 1981, with respect to which the Participant made contributions to the Plan in accordance with Section 3.02.

(b) For purposes of determining the amount of the Normal Retirement Pension for a Participant retiring on or after his Normal Retirement Date, Credited Service shall include all unused accrued whole months of sick leave as of the date of retirement.

(c) If a Participant becomes Disabled, recovers from his disability so as to be medically certified to full-time active duty as a law enforcement officer prior to his Normal Retirement Age, and is reemployed by the Authority, his period of disability shall be included in Credited Service for purposes of determining eligibility for the Normal Retirement Pension. To the extent he makes contributions to the Plan in accordance with Section 3.02, his period of disability shall be included in Credited Service for benefit calculation purposes.

2.16 “Disabled” shall mean being totally or partially disabled as determined by the Board of Trustees. Total disability shall mean the inability of a Participant to reasonably perform his duties as a law enforcement officer. Partial disability shall mean the ability of a Participant to perform some part of the duties as a law enforcement officer, such as in administrative or desk assignments.

2.17 “Distribution Calendar Year” shall mean a calendar year for which a minimum distribution is required. For distributions beginning before the Participant’s death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which

contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin under Section 4.05(a)(2).

2.18 "DROP" shall mean the Deferred Retirement Option Program described in Section 4.06.

2.19 "DROP Effective Date" shall mean the date on which the Participant's DROP Election becomes effective. The DROP Effective Date must be the first day of a calendar month.

2.20 "DROP Election" shall mean an election under Section 4.06(c) to participate in the DROP.

2.21 "DROP Retirement Date" shall mean the first day of the month coincident with or next following the retirement date voluntarily elected by an eligible DROP Participant in his or her DROP Election (or such earlier date upon which the Participant voluntarily elects to actually terminate his or her employment with the Authority).

2.22 "Employee" shall mean any person who, on or after the Effective Date of the Plan, is employed by the Authority as a Transit Police Officer, or a person who is employed as a Transit Police Official who was promoted from Transit Police Officer after the Effective Date of the Plan; except that the term "Employee" shall not include a seasonal, part-time or casual worker whose customary employment is for less than thirty (30) hours in any week or for less than five (5) months in any calendar year.

2.23 "Final Average Earnings" shall mean the annualized arithmetic average of the Participant's Compensation paid to him during his highest thirty-six (36) consecutive calendar months prior to the Participant's Normal Retirement Date or Actual Retirement Date, if later, which will produce the highest annual average for the purposes of the benefit being calculated under the Plan.

2.24 "Fiscal Year" shall mean the fiscal year of the trust which shall be the twelve (12) months ending on December 31.

2.25 "Limitation Year" shall mean a calendar year for purposes of Article 10.

2.26 "Normal Retirement Age" shall mean the earlier of (a) the completion of twenty-five (25) years of Credited Service or (b) the attainment of age sixty-five (65).

2.27 "Normal Retirement Date" shall mean the first day of the month next following the date the Participant attains his Normal Retirement Age, or the date he attains Normal Retirement Age if on the first of a month.

2.28 "Normal Retirement Pension" shall mean the monthly benefit to which a Participant is entitled under the provisions of Section 4.02, expressed as a single life annuity commencing at the Participant's Normal Retirement Date.

2.29 “Participant” shall mean any Employee in the employ of the Authority who is eligible to participate in the Plan and makes the required contributions to the Plan.

2.30 “Plan” shall mean “THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY TRANSIT POLICE RETIREMENT PLAN,” as set forth herein, or in any amendments hereto.

2.31 “Plan Year” shall mean the twelve-month period ending on December 31.

2.32 “Required Beginning Date” shall mean the April 1st following the later of (i) the calendar year in which the Participant attains age 70 ½; or (ii) the calendar year in which the Participant actually retires.

2.33 “Spouse” shall mean the person legally married to the Participant.

2.34 “Transit Police Officer” means an employee covered by the terms of the labor agreement between the Authority and the Union representing sworn Transit Police Officers.

2.35 “Transit Police Official” means an individual employed on the Transit Police Force above the rank of Transit Police Officer who is also a sworn police officer.

2.36 “Union” shall mean the exclusive bargaining agent presently representing the Transit Police Officers.

A R T I C L E 3 PARTICIPATION IN THE PLAN

3.01 Eligibility. Each Transit Police Officer employed on the Effective Date of the Plan, who was hired as an Employee on or before May 3, 1976 will become a Participant of this Plan on the effective date of his irrevocable written election to participate in this Plan. Each Transit Police Officer employed on the Effective Date of the Plan, who was hired as an Employee on or before May 3, 1976 and who has not previously made an irrevocable election to participate in this Plan, may elect to do so by June 30, 1986. Participation of such Employees is effective July 1, 1986 and is contingent upon the following:

(a) Employer and Employee contribution, including interest, applicable to the Employee must be transferred from the Washington Metropolitan Area Transit Authority Retirement Plan by September 30, 1986, and

(b) An Employee must pay to the Retirement Plan an amount equal to the amount of Employee contributions he would have made had he become a Participant on the Effective Date of the Plan as provided in Section 3.02, together with interest thereon at the rate of eight percent (8%), compounded annually, in accordance with one of the following payment schedules:

(1) in a lump sum payment by September 30, 1986; or

(2) through payroll deductions over a period of twenty-four (24) months commencing with the first payroll after September 30, 1986. The amount of payroll deduction shall include interest added for the twenty-four (24) month period at the rate of eight percent (8%), compounded annually. If a Participant making payments under this payment schedule terminates employment within the twenty-four (24) month period, his benefits will be determined as follows:

(A) If the total unpaid balance is paid within thirty (30) days of termination, the Participant is eligible for benefits under the applicable provisions of the Plan;

(B) If the total unpaid balance is not paid within thirty (30) days of termination, the Participant may receive a benefit under Section 9.01 only, regardless of whether he meets the age and service requirements for other Plan benefits.

Each Transit Police Officer hired after May 3, 1976 will automatically become a Participant of this Plan at the later of his date of hire, or April 2, 1981.

3.02 Employee Contributions. Each Participant in the Plan shall contribute 4.34%, of his Compensation. Effective with the first day of payroll period beginning on or after October 1, 2001, each Participant in the Plan shall contribute 5.317% of his Compensation. Effective with the first day of payroll period beginning on or after October 1, 2002, each Participant in the Plan shall contribute 6.293% of his Compensation. Effective with the first day of payroll period beginning on or after October 1, 2003, each Participant in the Plan shall contribute 7.27% of his Compensation. A Participant whose contributions shall become in arrears because of a period of Continuous Service or Disability without Compensation must pay the contributions which are in arrears after his return to work with the Authority through either (a) a lump sum payment, or, (b) through double deductions. The election to pay the contributions by lump sum or double deductions shall be made immediately upon his return to work.

Effective July 1, 1997, any Plan Participant whose contributions are in arrears on that date because of a period of Continuous Service or Disability without Compensation shall elect to pay such arrearage by either (a) a lump sum payment payable at the time of such election, or (b) double deductions, which shall commence immediately upon such election.

For all Compensation earned after January 1, 1997, the employee contributions required under this Section 3.02 shall be funded by the Employer as set forth in the Collective Bargaining Agreement between the Employer and Local 246, International Brotherhood of Teamsters, State, County, and Municipal Employees and in compliance with Section 414(h)(2) of the Internal Revenue Code or any amended or successor statute. For income tax purposes, all employee contributions funded by the Employer shall be treated as Employer contributions. Participants shall have no election as to whether to pay the contributions required under Section 3.02 with funds other than from their salary. For all purposes of this Plan, the employee contributions funded by the Employer shall be considered Compensation received by the Participant.

3.03 Authority Contributions. Subject to the qualifications following, the Authority shall pay any remaining cost of the Plan as determined in accordance with generally accepted actuarial practices. The Plan will be funded in accordance with the aggregate funding method

effective with the January 1, 2001 Actuarial Evaluation. Under this method the Annual Employer Cost will be determined by reducing the "Present Value of Future Benefits" by the "Adjusted Assets" and "Present Value of Future Employee Contributions" (the difference not less than zero), the result divided by the "Present Value of Future Salaries" and that result multiplied by "Current Annual Salaries." All capitalized terms used in this paragraph are the same as those defined in the 1999 Mercer Actuarial Valuation of the Plan in the exhibit labeled "3, Recommended Contributions."

The foregoing notwithstanding, the Authority, in its sole discretion, may limit the amount of the contribution it is required to make for any given Plan Year to 17.05% of gross earnings of covered Employees (15.31% of gross earnings for the non-disability portion of the Plan and 1.74% of gross earnings for the disability component of the Plan); provided, however, that the Authority shall not be permitted to utilize such deferral (1) for more than three consecutive Plan Years or (2) for more than a total of four out of any seven consecutive Plan Years. Any amount deferred shall be automatically included in the calculation of the Authority's required contribution in subsequent actuarial valuations of the Plan.

A R T I C L E 4 NORMAL RETIREMENT PENSION

4.01 When Payable. A Normal Retirement Pension shall be granted to each Participant of the Plan who retires on or after the date on which he attains his Normal Retirement Age.

4.02 Amount. Unless an optional method of payment is elected, as described in Section 4.04, the annual Normal Retirement Pension benefit payable in monthly installments to an eligible Participant; who retires or otherwise terminates employment after September 30, 1998 and before October 1, 2001 shall equal two and thirty-four hundredths percent (2.34%) of the Participant's Final Average Earnings multiplied by his years of Credited Service; provided, however, that the resulting pension paid during any month following the Participant's sixty-sixth (66th) birthday shall be reduced as follows: the annual benefit amount payable under this Article shall be reduced by forty-five hundredths of one percent (0.45%) of the Participant's Final Average Earnings multiplied by his years of Credited Service (subject to a maximum of 35 years), and further multiplied by all increases in his Normal Retirement Pension, granted in accordance with the third paragraph of this Section, between the Participant's date of retirement and his sixty-sixth (66th) birthday. The annual benefit amount so reduced shall then be divided by twelve with the resulting amount being paid to the Participant on a monthly basis.

In the case of Participants who retire or otherwise terminate employment on or after October 1, 2001, unless an optional method of payment is elected, as described in Section 4.04, the annual Normal Retirement Pension benefit payable in monthly installments to such eligible Participant shall equal two and fifty-six hundredths percent (2.56%) of the Participant's Final Average Earnings multiplied by his years of Credited Service; provided, however, that the resulting pension paid during any month following the Participant's sixty-sixth (66th) birthday shall be reduced as follows: the annual benefit amount payable under this Article shall be reduced by one-half of one percent (0.5%) of the Participant's Final Average Earnings multiplied by his years of Credited Service, and further multiplied by all increases in his Normal Retirement Pension, granted in accordance with the next paragraph, between the Participant's date of

retirement and his sixty-sixth (66th) birthday. The annual benefit amount so reduced shall then be divided by twelve with the resulting amount being paid to the Participant on a monthly basis.

The Normal Retirement Pension benefit shall be adjusted each January 1st following retirement to the amount determined by multiplying the benefit payment that would otherwise have been paid on January 1st by the ratio of (1) the Consumer Price Index for the month of September of the latest year, to (2) the Consumer Price Index for the month of September one year earlier. As used in this Plan, the Consumer Price Index shall be defined as the Washington Metropolitan Area CPI-W Index. This adjustment shall be limited to six percent (6%) annually, applied on a cumulative basis.

4.03 Period of Payment. Monthly pension benefits shall commence on the Normal Retirement Date of the Participant and shall continue until the first of the month in which the retired Participant dies, unless an optional method of payment has been elected, in which case the monthly pension benefits shall be continued as provided for under the option elected.

4.04 Optional Methods of Payment.

(a) Married Participant. In lieu of a lifetime pension payable monthly to a married Participant, such Participant may elect to receive a joint and survivor pension of Actuarial Equivalent value which would provide a reduced monthly pension payable to the Participant starting with his Actual Retirement Date, with the provision that after his death, pension payments would continue to be paid to, and during the lifetime of, the spouse of the Participant in an amount determined under one of the following options:

(1) Continuation of the same amount of reduced pension that was payable to the Participant, or

(2) Three-fourths of the reduced pension that was payable to the Participant; or

(3) Two-Thirds of the reduced pension that was payable to the Participant; or

(4) One half of the reduced pension that was payable to the Participant.

In the event of the death of the Participant or Spouse prior to the Participant's Actual Retirement Date, the election will be null and void.

In the event of the death of a Participant subsequent to his Normal Retirement Date but prior to his Actual Retirement Date, the option election shall be fully operative and the spouse or other beneficiary shall commence receiving pension payments pursuant to the terms of the elected option. If the spouse should die prior to the Participant but after the Participant's Actual Retirement Date, the actuarially reduced pension shall continue to be payable to the Participant. If a married Participant elects, on or after October 1, 2001, to receive his benefit under the Plan in the optional form described in this Section 4.04(a), and the Participant's Spouse dies prior to the Participant (but after the Participant's Actual Retirement Date), the benefit payment option

shall thereupon become void, and the Participant shall receive, commencing on the 1st day of the month following the spouse's death, the monthly benefit which the Participant would have received had the Participant's benefits originally been payable in the form of a lifetime pension under Section 4.03; provided, however, the resulting lifetime pension shall be actuarially reduced to reflect the cost of the pop-up prior to such payment as a lifetime pension.

(b) Unmarried Participant. In lieu of the pension payable monthly for the life of an unmarried Participant, such Participant may elect to receive a term certain and life thereafter pension of Actuarial Equivalent value which would provide a reduced monthly pension payable to the Participant commencing with his Actual Retirement Date, with the provision that after his death, benefit payments would continue to be paid to his named beneficiary for the remainder, if any, of the term certain, provided that the term certain elected shall not exceed the life expectancy of the Participant or ten years, whichever is longer.

If a beneficiary, named under a term certain and life option, should die prior to the Participant but after his Actual Retirement Date, and at the Participant's death another beneficiary has not been named to receive the remaining benefit payments, the present value of the remaining payments, if any, shall be paid to the Participant's estate.

(c) Besides the options provided in (a) and (b) above, a Participant may elect a pension payable in accordance with any other option (except an "interest only" or lump sum distribution option) which is the Actuarial Equivalent of the Normal Retirement Pension to which the Participant was entitled at Normal Retirement Date, provided, however, that such option (i) provides for equal installments commencing with the Participant's Actual Retirement Date and (ii) may not be expected to cause pension benefits to be payable for a period longer than the life expectancy of the last to die of the employee and his spouse, and provided further that such option is approved by the Trustees and the actuary of the Plan.

(d) In the event that the Participant and his Spouse (if a Joint and Survivor Pension has been elected) die prior to their receiving total monthly benefits equal to the Participant's accumulated Employee Contributions, at the date that the Participant's benefits commence, and there are no future premium benefits payable, any remaining difference shall be paid to the Participant's named beneficiary, or to his estate in the absence of a surviving named beneficiary.

(e) Once an election has been made and accepted by the Trustees, it cannot be rescinded or changed without the written consent of the Trustees in accordance with rules uniformly applied to all Participants similarly situated.

4.05 Minimum Distribution Requirement.

Effective for Calendar years beginning with the 2003 Calendar the provisions of this Section apply for purposes of determining minimum required distributions under Section 401(a)(9) of the Internal Revenue Code and take precedence over any inconsistent provisions of the Plan; provided, however, that these provisions are intended solely to reflect the requirements of Section 401(a)(9) of the Internal Revenue Code (and accompanying Treasury regulations) and are not intended to provide or expand (and shall not be construed as providing or expanding) any

benefit or distribution option not otherwise expressly provided for under the terms of the Plan. The provisions of this Section shall apply only to the extent required under Section 401(a)(9) of the Internal Revenue Code as applied to a governmental plan and if any special rules for governmental plans are not set forth herein, such special rules are hereby incorporated by reference and shall for all purposes be deemed a part of the Plan.

(a) Time and Manner of Distribution

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

(2) Death of Participant before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or will begin to be distributed, no later than as follows:

(A) If the Participant's surviving Spouse is the sole designated Beneficiary, then subject to Section 4.05(a)(2)(E) below, distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70 1/2, if later.

(B) If the Participant's surviving Spouse is not the sole designated Beneficiary, then subject to Section 4.05(a)(2)(E) below, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(C) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(D) If the Participant's surviving Spouse is the sole designated Beneficiary and the surviving Spouse dies after the Participant but before distributions to the surviving Spouse begin, this Section 4.05(a)(2) other than Section 4.05(a)(2)(A) will apply as if the surviving Spouse were the Participant.

(E) If the Participant dies before distributions begin and there is a designated Beneficiary, distribution to the designated Beneficiary is not required to begin by the date specified in Section 4.05(a)(2)(A) or (B) above, but only if the designated Beneficiary elects to have the Participant's entire interest distributed to the designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. Such an election by the designated Beneficiary must be made no later than the earlier of September 30 of the calendar year in which the distribution would otherwise be required to begin under Section 4.05(a)(2)(A) or (B), or September 30 of the calendar year that contains the fifth anniversary of the Participant's death.

For purposes of this Section 4.05(a)(2) and Section 4.05(d), distributions are considered to begin on the Participant's Required Beginning Date (or, if Section 4.05(a)(2)(D) applies, the date distributions are required to begin to the surviving Spouse under Section 4.05(a)(2)(A)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Section 4.05(a)(2)(A)), the date distributions are considered to begin is the date distributions actually commence.

(3) Form of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first Distribution Calendar Year distributions will be made in accordance with Sections 4.05(b), (c) and (d). If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and applicable Treasury regulations. Any part of the Participant's interest which is in the form of an individual account described in Section 414(k) of the Internal Revenue Code will be distributed in a manner satisfying their requirements of Section 401(a)(9) of the Internal Revenue Code and the Treasury regulations that apply to individual accounts.

(b) Determination of Amount to be Distributed Each Year

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

(A) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(B) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in Section 4.05(c) or (d);

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

(D) Payment will either be non-increasing or increase only as follows:

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

(ii) To the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Section 4.05(c) dies or is no longer the Participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Internal Revenue Code;

(iii) To provide cash refunds of employee contributions upon the Participant's death;

(iv) To pay increased benefits that result from a Plan amendment.

(2) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Section 4.05(a)(2)(A) or (B)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first Distribution Calendar Year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.

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

(c) Requirements for Annuity Distributions Commencing During Participant's Lifetime

(1) Joint Life Annuities Where Beneficiary Is Not the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-spouse Beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table in Q&A-2 of Treas. Reg. §1.401(a)(9)-6. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-spouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the period certain.

(2) Period Certain Annuities. Unless the Participant's Spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Treas. Reg. §1.401(a)(9)-9 for the calendar year that contains the Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Treas. Reg. §1.401(a)(9)-9 plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the Annuity Starting Date. If the Participant's Spouse is the Participant's sole designated

Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section 4.05(c)(2), or the joint life and last survivor expectancy of the Participant and the Participant's Spouse as determined under the Joint and Last Survivor Table set forth in Treas. Reg. §1.401(a)(9)-9, using the Participant's and Spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the Annuity Starting Date.

(d) Requirements For Minimum Distributions If Participant Dies Before Distributions Begin

(1) Participant Survived by Designated Beneficiary. Except as provided in Section 4.05(a)(2)(E), if the Participant dies before the date distribution of his interest begins and there is a designated Beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in Section 4.05(a)(2)(A) or (B), over the life of the designated Beneficiary or over a period certain not exceeding:

(A) Unless the Annuity Starting Date is before the first Distribution Calendar Year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(B) If the Annuity Starting Date is before the first Distribution Calendar Year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year that contains the Annuity Starting Date.

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

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Participant dies before the date distribution of his interest begins, the Participant's surviving Spouse is the Participant's sole designated Beneficiary, and the surviving Spouse dies before distributions to the surviving spouse begin, this Section 4.05(d) will apply as if the surviving Spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 4.05(a)(2)(A).

(e) Reasonable and Good Faith Interpretation. Notwithstanding anything contained herein to the contrary, any distribution option under the Plan that is consistent with a reasonable and good faith interpretation of Section 401(a)(9) of the Internal Revenue Code shall be permitted under this Section 4.05.

4.06 Deferred Retirement Option Program

(a) Eligibility for DROP. A Participant (i) who is a Transit Police Official or who is classified as a PO3, step 10, and (ii) who has completed at least 27 years of Credited Service may voluntarily elect, pursuant to this Section 4.06, to retire for purposes of calculating his or her Normal Retirement Pension under Article 4, continue working as a Transit Police Officer for a period of up to three (3) years, and defer commencement of his or her Normal Retirement Pension until his or her DROP Retirement Date. The deferred benefit will be credited to the Participant's DROP Account and credited with interest in accordance with Section 4.06(e). In order for the DROP Election to be effective, the eligible Participant must complete and execute an election and release on a form supplied by the Board of Trustees, and such election and release must be valid and binding on the Participant in accordance with its terms.

A Participant who does not elect to participate in the DROP in accordance with the provisions of this Section 4.06 when first eligible, may elect to participate at any time thereafter provided the Participant has not terminated employment or become Disabled.

(b) Election of Retirement Date. An eligible Participant who voluntarily elects to have the provisions of this Section 4.06 apply shall irrevocably elect to retire no later than three years following the DROP Effective Date on which the participant makes a DROP Election in accordance with Section 4.06(c). The DROP Election is not a commitment to remain employed for a period of up to three (3) years or a guarantee of continued employment. A Participant who makes a DROP Election may retire at any time prior to the date specified in his or her DROP Election and may be terminated by the Authority at any time in accordance with the relevant rules and procedures applicable to terminations of Transit Police Officers.

(c) DROP Election. The election to participate in the DROP in accordance with all of the terms and conditions of this Section 4.06 must be made, if at all, by executing and delivering to the WMATA Benefits Office, a DROP Election on a form provided by the Benefits Office for this purpose. Such form shall include a waiver and release of any age discrimination or other claims relating to the DROP. A DROP Election using the form provided by the Benefits Office must be filed with the Benefits Office at least sixty (60) days prior to the proposed DROP Effective Date. The proposed DROP Effective Date selected by the Participant shall be subject to the approval of the Board of Trustees. A Participant who makes a DROP Election shall have a period of seven (7) calendar days to revoke the DROP Election. If the DROP Election is in effect at the close of regular business hours on the seventh calendar day after the date on which the Participant signs the DROP Election, the DROP Election (including, without limitation, the DROP Effective Date and the commitment to terminate employment and retire on the date specified) shall thereon become irrevocable.

If a Participant makes a valid DROP Election, the amount accrued by a Participant after his or her DROP Effective Date and the amount payable with respect to the Participant's Normal Retirement Pension shall be determined solely and exclusively by the provisions of this Section 4.06 and, except as otherwise specifically provided herein, the Participant shall not be entitled to any other payment, benefit or amount with respect to his or her Normal Retirement Pension.

(d) Effect of Failure to Elect. The rights under the Plan of any Participant who is eligible for the DROP but who does not elect to participate in the DROP in accordance with, and subject to, all of the terms and conditions of this Section 4.06, shall be determined by the remaining terms of the Plan, and the value of any rights created by this Section 4.06 shall not be considered in determining such Participant's Normal Retirement Pension or the Actuarial Equivalent thereof.

(e) Credit to DROP Account.

(1) As of the first day of each calendar month commencing on or after the DROP Effective Date and continuing until the Participant's DROP Retirement Date, the Participant's DROP Account shall be credited with the amount the Participant would have received under Section 4.02 if the Participant had actually retired on the DROP Effective Date and elected to receive his or her Normal Retirement Pension in the form of a straight life annuity. Notwithstanding the forgoing, in lieu of having the amount credited to his or her DROP Account determined under the monthly life annuity form of retirement income, the Participant may elect, as part of his or her DROP Election, to have the amount determined under any of the Actuarial Equivalent forms of benefit specified in Section 4.04.

(2) The amount of the annuity used to determine the amount credited to the DROP Account will be adjusted each January 1 following the DROP Effective Date for changes in the cost of living in accordance with the provisions of Section 4.02.

(3) As of the last day of each full calendar month that has elapsed since the DROP Effective Date, a Participant's DROP Account shall be credited with interest for such full calendar month at the rate of 3% per year, compounded annually. No interest shall be credited for any period less than a full calendar month.

(f) Amount of Retirement Benefit. Subject to the limitations contained in Section 415 of the Internal Revenue Code, an eligible Participant who is subject to a valid and binding DROP Election shall be entitled to receive a monthly retirement income, beginning with the first day of the month coincident with or next following his or her DROP Retirement Date equal to:

(1) His or her Normal Retirement Pension, calculated in accordance with Section 4.02 as if the Participant had terminated employment with the Authority on the Participant's DROP Effective Date.

(2) Additional monthly retirement income that is the Actuarial Equivalent of the value of the Participant's DROP Account on the DROP Retirement Date.

(g) Form of Retirement Benefit. Following the DROP Retirement Date, the Participant's retirement benefit, as determined pursuant to Section 4.06(f), shall be payable in the form of monthly payments for the remainder of the Participant's life, unless an optional form of payment has been elected pursuant to Section 4.04.

A Participant may elect to have his or her benefits following the DROP Retirement Date paid in the form of a joint and survivor annuity or guaranteed period certain under Section 4.04

in accordance with the Plan's procedures for electing optional forms of benefits. The election made by the Participant does not have to be the same as the election made with respect to the amount credited to his or her DROP Account under Section 4.06(e). A Participant may also elect to receive the value of his or her DROP Account (but not his or her Normal Retirement Pension) in the form of a single lump sum payment.

Upon the Participant's commencement of benefits, any election made by the Participant (including the designation of a Beneficiary under any option other than the guaranteed period option) shall be irrevocable.

The benefit payable to the Participant following his or her DROP Retirement Date shall be adjusted beginning as of January 1 of the year following the Participant's DROP Retirement Date for changes in the cost of living in accordance with the provisions of Section 4.02.

(h) Amount of Benefit Accrual and Cessation of Employee Contributions. Except as specifically provided in Section 4.06(i), a Participant who makes a DROP Election shall be treated as if he or she terminated employment as of the DROP Election Date.

(1) The Participant shall not be required to make any Employee contributions with respect to Compensation earned on or after the DROP Effective Date.

(2) Such Participant's Normal Retirement Pension shall be determined based only on years of Credited Service earned as of the DROP Effective Date and shall be determined under the provisions of this Plan in effect as of the DROP Effective Date.

(3) In determining Final Average Earnings under this Plan, only Compensation with respect to employment as a Covered Employee prior to the DROP Effective Date shall be taken into account.

(4) The benefit accrued by the Participant subsequent to the DROP Effective Date shall consist solely of the amounts credited to the Participant's DROP Account under Section 4.06(e).

(i) Disability Benefits. On and after the DROP Effective Date, the Participant shall cease to be eligible for a Disability Retirement Pension under Article 5.

(j) Death Benefits. If a Participant who makes a DROP Election dies before the DROP Effective Date, the DROP Election shall be inoperative, and the death benefits, if any, payable on account of the Participant's death shall be determined in accordance with the remaining provisions of the Plan.

If a Participant who makes a DROP Election dies after the DROP Effective Date but before his or her Normal Retirement Pension (following the DROP Retirement Date) the benefits payable upon the death of the Participant shall be determined as follows:

(1) The Participant's Beneficiary shall receive the amount of the Participant's DROP Account as a single lump sum.

(2) If the Participant elected to have the amount credited to his or her DROP Account determined in one of the optional forms permitted under Section 4.04, then the Participant shall be deemed to have reached his DROP Retirement Date on the day prior to the date of death and to have commenced payment of his or her Normal Retirement Pension according to the form that deferred benefit payments were being credited to the Participant's DROP Account under Section 4.06(e)(1).

If a Participant dies after commencement of his or her Normal Retirement Pension (following the DROP Retirement Date), the benefits, if any, to which the Participant's Beneficiary shall be entitled shall depend upon the form in which the Participant's benefits were payable at the time of his or her death, under the applicable form of benefit.

(k) Sunset. Absent mutual written agreement to the contrary, the provisions of this Section 4.06 shall terminate effective September 30, 2007 and shall be of no further force or effect after such date; provided, however, that notwithstanding the termination of this Section 4.06, the provisions of this Section 4.06 shall continue to apply to (and determine the benefits of) any eligible Participant whose DROP Effective Date occurred on or before September 1, 2007.

A R T I C L E 5 DISABILITY RETIREMENT PENSION

5.01 When Payable. Disability Retirement Income benefits shall be granted to each Participant who becomes Disabled prior to his Normal Retirement Age; however, any Participant becoming partially disabled who shall remain in the police department in a position which he is capable of performing shall not receive a benefit from the Plan until he terminates employment. Participants granted Disability Retirement income benefits for partial disability shall be subject to recall to active service by the Board of Trustees when and if positions are available within the police department that they are capable of performing, in which case benefits shall cease.

A Normal Retirement Pension shall be granted to each Participant who after earning five (5) years of Continuous Service terminates his employment as a result of becoming Disabled and who continues to be Disabled until his Normal Retirement Age.

Upon receiving a Participant's written request for disability benefits and for purposes of Section 5.04, the Board of Trustees shall require such Participant to submit, from a physician of the Participant's choice, a written report of findings and recommendations. The Board shall then select a physician of its choice and require the Participant to submit to a medical examination. In the event there is no clear preponderance of medical evidence from the above two (2) physicians, a third physician will be selected by the original two (2) physicians, who will also examine the Participant and submit a written report of findings and recommendations.

A waiver of examinations, as required by this Section or Section 5.04, may be made by either the Board of Trustees or Participant for justifiable causes; but in no event shall any Participant be granted disability benefits without submitting to at least one (1) medical examination. Failure of any Participant to submit to medical examination as required by this Section or Section 5.04 may result in the denial, loss or reduction of the Participant's disability benefits.

5.02 Amount.

(a) The amount of the annual Disability Retirement Income benefit (payable monthly) for a Participant who has become disabled in the discharge of his official duties shall be:

(1) sixty percent (60%) of his annual Compensation at the participant's date of disability, adjusted each January 15¹ by the ratio of (1) the Consumer Price Index for the month of September of the latest year, to (2) the Consumer Price Index for the month of September one year earlier. This adjustment shall be limited to one and one-half percent (1½%) annually, applied on a cumulative basis, less

(2) the amount of gross outside earnings which, when added to (a) above at any point in time, are in excess of the current rate of gross salary of someone in the same grade and step as the Participant was at his date of disability, less

(3) any periodic workers' compensation benefits payable (excluding attorney's fees incurred in pursuing the claim for Workers' Compensation benefits).

(b) The amount of the annual Disability Retirement Income benefit (payable monthly) for a Participant who has become disabled, but not as a result of activities in the performance of his official duties, shall be the amount determined in paragraph 1 of this Section using fifty percent (50%) instead of sixty percent (60%).

(c) Upon obtaining Normal Retirement Age, the amount of the annual Normal Retirement Pension (payable monthly) shall be determined as:

(1) the Participant's Normal Retirement Pension based on his Final Average Earnings and completed years of Credited Service at date of disability, less

(A) any periodic workers' compensation benefits payable (excluding attorney's fees incurred in pursuing the claim for workers' compensation benefits), less

(B) in the case of an eligible Participant who retires or otherwise terminates employment after September 30, 1998 and before October 1, 2001, the amount resulting from the annual reduction of forty-five hundredths of one percent (0.45%) of Final Average Earnings times his years of Credited Service (subject to a maximum of 35 years). In the case of an eligible Participant who retires or otherwise terminates employment on or after October 1, 2001, the applicable reduction percentage shall be one-half of one percent (0.5%) of Final Average Earnings times his years of Credited Service. The applicable reduction factor, computed on an annual basis, shall apply for any month the benefit is paid following the Participant's sixty-sixth (66th) birthday.

The amount of the resulting benefit shall be increased to reflect all increases that would have applied, in accordance with Section 4.02, to a Normal Retirement Pension during the period from the date of disability to the date of benefit commencement subject to a maximum increase

of six percent (6%) annually, and shall thereafter be subject to annual consumer Price Index adjustments as provided in Section 4.02.

Each Participant receiving Disability Retirement Income benefits shall file with the Board of Trustees, at least annually, by April 15th a statement of his earnings for the previous years on forms furnished by the Board, together with such supporting data as may be requested by the Board to establish a basis for determining earnings for operation of this Section. The Board may from time to time adopt rules and regulations for defining earnings and further outlining procedures consistent with the purposes of this Section. Failure of a Participant receiving Disability Retirement Income benefits to submit required information upon written request by the Board shall subject the Participant receiving Disability Retirement Income benefits to suspension of his Disability Retirement Income payments.

5.03 Period of Payment. For Participants who became Disabled in the discharge of official duties, monthly Disability Retirement Income benefits shall commence on the first day of the month following the conclusion of the period during which the Participant is entitled to receive the Supplemental Worker's Compensation benefit provided under Article 29 of the Collective Bargaining Agreement and any additional period during which the Participant uses accumulated sick leave. Monthly Disability Retirement Income benefits shall commence on the first day of the month following a ninety (90) day waiting period beginning on date of disability for Participants who became disabled for reasons other than the performance of official duties. Disability Retirement Income benefits shall cease on the first day of the month following upon the earlier of the Participant's recovery (in accordance with Section 5.04), or his Normal Retirement Age determined as if he had continued to earn credited Service until his Normal Retirement Age.

Any earned monthly Normal Retirement Pension benefits shall commence on the first of the month coincident with or next following the Normal Retirement Age of the disabled Participant and shall continue until the first of the month in which the Participant dies.

Any remaining difference between total benefits paid and the value of Accumulated Employee Contributions as of the date benefits commence shall be determined and paid as provided for in Section 4.04(d), subject to the limitations contained in Section 4.05.

5.04 Recovery. At least once each year during the first five (5) years following disability and at least once every three years thereafter, the Board of Trustees shall require such Participant to undergo medical examinations as outlined in Section 5.01. In the event that such Participant fails to submit to these medical examinations, benefits shall be discontinued until the Participant submits to the examinations; and should the refusal continue for one (1) year, all rights to disability benefits under this Article shall terminate.

The Board of Trustees may determine, upon receiving supporting medical data from any two (2) physicians, that a disabled Participant has sufficiently recovered to perform a part or all of the duties of a law enforcement officer, or to engage in other gainful employment in which he might reasonably expected to be engaged, in light of education, training or experience. To the extent that such Participant is partially disabled, or was partially or totally disabled but has recovered to some extent, and is unable to be medically certified to full-time active duty as a law

enforcement officer, the Board of Trustees may determine the earnings potential of the Participant based upon the degree of disability then still existing and reduce the benefits payable in accordance with Section 5.02(a)(2). The determination of partial disability shall be based upon the medical record and the ability of the Participant to seek gainful employment in light of education, training, experience, retraining and rehabilitation.

In the event a Disabled Participant recovers from the disability so as to be medically certified to full-time active duty as a law enforcement officer prior to his Normal Retirement Age, such Participant shall be re-employed by the Authority as a law enforcement officer provided the participant meets all required law enforcement certification criteria.

In the event a Disabled Participant recovers from the disability so as to be medically certified to full-time active duty as a law enforcement officer prior to his Normal Retirement Age, and he is not reemployed by the Authority because he fails to meet all required law enforcement certification criteria, or because he refused to take the offered position, his Disability Retirement Income benefits under the Plan shall cease, he shall become ineligible to receive a Normal Retirement Pension benefit and his benefit from the Plan shall be determined as if he had terminated employment on the date of his disability. His period of disability shall not be considered for the purposes of determining Credited Service under the Plan.

In the event a Disabled Participant recovers from the disability prior to Normal Retirement Age, and is reemployed by the Authority, the provisions of Sections 2.15 and 3.02 shall apply.

A R T I C L E 6 EARLY RETIREMENT PENSION

6.01 When Payable. An Early Retirement Pension shall be granted to each Participant who retires prior to becoming eligible to receive a Normal Retirement Pension but on or after the date on which he has attained Age fifty (50) and has completed ten (10) years of Credited Service.

6.02 Amount. Unless an optional method of payment is elected, as described in Section 4.04, the annual Early Retirement Pension benefit payable in monthly installments to an eligible Participant shall equal:

(a) the Normal Retirement Pension to which the Participant would be entitled had he worked to his Normal Retirement Age, but based on his current Final Average Earnings, multiplied by

(b) the ratio of his years of Credited Service at termination to the years of Credited Service he would have had upon attainment of his Normal Retirement Age, and multiplied by

(c) an early retirement reduction factor equal to one (1.00) minus four-tenths of one percent (0.4%) for each complete month by which the early retirement date precedes the Normal Retirement Date provided, however, that in the case of an eligible Participant who retires or otherwise terminates employment after September 30, 1998 and before October 1, 2001, the

resulting pension paid during any month following the Participant's sixty-sixth (66th) birthday shall be reduced as follows: the annual benefit amount payable under this Article shall be reduced by forty-five hundredths of one percent (0.45%) of the Participant's Final Average Earnings multiplied by his total years of Credited Service (subject to a maximum of thirty-five (35) years), and further multiplied by all increases in the Early Retirement Pension, granted in accordance with the next paragraph, between the Participant's date of retirement and his sixty-sixth (66th) birthday. In the case of an eligible Participant who retires or otherwise terminates employment on or after October 1, 2001, the applicable reduction percentage following the Participant's sixty-sixth (66th) birthday shall be one-half of one percent (0.5%) of Final Average Earnings times his total years of Credited Service.

The Early Retirement Pension benefit shall be adjusted each January 1st following retirement to the amount determined by multiplying the benefit payment that would otherwise have been paid on January 1st by the ratio of (1) the Consumer Price Index for the month of September of the latest year, to (2) the Consumer Price Index for the month of September one year earlier. As used in this Plan, the Consumer Price Index shall be defined as the Washington Metropolitan Area CPI-W Index. This adjustment shall be limited to six percent (6%) annually, applied on a cumulative basis.

6.03 Period of Payment. Monthly pension benefits shall commence on the first of the month coincident with or next following the Participant's retirement and shall continue until the first of the month in which the retired Participant dies, unless an optional method of payment has been elected, in which case the monthly pension benefits shall be continued as provided for under the option elected.

6.04 Optional Methods of Payment. Optional methods of payment may be elected in accordance with the provisions of Section 4.04, subject to the limitations contained in Section 4.05.

A R T I C L E 7 VESTED PENSION

7.01 When Payable. A Vested Pension shall be granted to each Participant who terminates employment with ten (10) or more years of Credited Service and who is not eligible for any other pension under this Plan.

7.02 Amount. Unless an optional method of payment is elected, as described in Section 4.04, the annual Vested Pension payable in monthly installments to an eligible Participant shall equal:

(a) the Normal Retirement Pension to which the Participant would be entitled had he worked to his Normal Retirement Age, but based on his current Final Average Earnings, multiplied by

(b) the ratio of his years of Credited Service at termination to the years of Credited Service he would have had upon attainment of his Normal Retirement Age. When a Participant receiving a Vested Pension who retired or otherwise terminated employment after September 30, 1998 and before October 1, 2001 attains age 66, the amount of that Vested

Pension shall be recalculated as follows: the annual benefit amount payable under this Article shall be reduced by forty-five hundredths of one (1) percent (0.45%) of the Participant's Final Average Earnings multiplied by his total years of credited service (subject to a maximum of 35 years). In the case of a Participant receiving a Vested Pension who retired or otherwise terminated employment on or after October 1, 2001, the applicable reduction percentage following the Participant's sixty-sixth (66th) birthday shall be one-half of one percent (0.5%) of Final Average Earnings times his total years of Credited Service.

The Vested Pension shall be adjusted each January 1st following benefit commencement to the amount determined by multiplying the benefit payment that would otherwise have been paid on January 1 by the ratio of (1) the Consumer Price Index for the month of September of the latest year, to (2) the Consumer Price Index for the month of September one year earlier. As used in this Plan, the Consumer Price Index shall be defined as the Washington Metropolitan Area CPI-W Index. This adjustment shall be limited to six percent (6%) annually, applied on a cumulative basis.

7.03 Period of Payment. Monthly Vested Pension benefits shall commence on the first of the month coincident with or next following the sixty-fifth (65th) birthday of the Participant and shall continue until the first of the month in which the Participant dies, unless an optional method of payment has been elected, in which case the monthly pension benefits shall be continued as provided under the option elected.

7.04 Optional Methods of Payment. Optional methods of payment may be elected in accordance with the provisions of Section 4.04, subject to the limitations contained in Section 4.05.

A R T I C L E 8 DEPENDENT PENSION

8.01 When Payable.

(a) Spouse. If a Participant dies before attaining his Actual Retirement Date, while an Employee of the Authority, the Spouse of the deceased Participant shall be entitled to a Dependent Pension, commencing on the first of the month following such Participants date of death.

(b) Children. The benefit amount shall be paid to all Children of the Participant who are, on the date the benefit is paid (1) under age eighteen (18), (2) full-time students at least age eighteen (18), but under age twenty-three (23), or (3) currently and have continuously been incapable of self-support for medically determinable reasons, since the date of the Participant's death.

8.02 Amount. The amount of the Dependent Pension shall be \$750 monthly to the surviving Spouse and \$500 monthly for each dependent Child up to a maximum monthly benefit of \$2,250. The benefit amount shall not be subject to adjustment for changes in the Consumer Price Index. The provisions of this Section 8.02 shall apply to the families of Officer Harry Davis and Officer David Young with respect to payments of the Dependent Pension that are made after May 17, 2001.

8.03 Period of Payment. Monthly pension benefits payable to the Spouse and dependent Children shall commence as of the first of the month following the Participant's date of death and continue until the first of the month in which the Participant's Spouse dies or remarries. Monthly pension benefits payable to the Children shall commence on the first of the month following the death of the Participant and shall continue until the attainment of age eighteen (18) or twenty-three (23) if a full-time student or until the Child marries or becomes self-supporting. After all pension benefits payable under this Article have been paid, any remaining difference between the Accumulated Employee Contributions and the total benefits paid shall be determined and paid as provided for in Section 4.04(d).

8.04 Notwithstanding anything contained herein to the contrary, all distributions made pursuant to the terms of this Section and/or Plan shall comply with the requirements of Section 401(a)(9) of the Internal Revenue Code, which requirements are hereby incorporated by reference into this Plan and for all purposes shall be deemed a part of the Plan.

A R T I C L E 9 OTHER TERMINATION

9.01 Termination Benefit. If a Participant ceases to work for the Authority at any time and for any reason prior to the date on which such Participant has met the age, service, and other requirements essential for a Normal Retirement Pension, a Disability Retirement Pension, an early Retirement Pension, a Vested Pension, or a Dependent Pension, such Participant (or such Participant's beneficiary) shall be eligible to receive the Participant's Accumulated Employee Contributions. If a Participant (or his dependent eligible for Dependent Pension) is eligible for a Normal Retirement Pension, a Disability Retirement Pension, an Early- Retirement Pension, a Vested Pension, or a Dependent Pension payable under this Plan at the time that the Participant ceases to work for the Authority, that Participant or, for a Dependent Pension, the Participant's dependent eligible for Dependent Pension, must irrevocably waive any entitlement to that Pension in order to receive the Participant's Accumulated Employee Contributions.

A R T I C L E 10 LIMITATIONS ON BENEFITS

10.01 Maximum Benefit and Contributions

(a) Notwithstanding any Plan provisions to the contrary, effective for Limitation Years beginning on or after January 1, 2008, to the extent necessary to prevent disqualification under Section 415 of the Internal Revenue Code, and subject to the remainder of this Article 10, the maximum monthly benefit to which any Participant may be entitled in any Limitation Year with respect to his Accrued Benefit pursuant to Sections 4.02, 5.02, 6.02 or 7.02 (hereafter referred to as the "maximum benefit") shall not exceed the defined benefit dollar limit (adjusted as provided in Section 10.02), which limit shall be determined in accordance with the following:

(1) The defined benefit dollar limit shall be \$13,333, as adjusted for the Limitation Year under Section 415(d) of the Internal Revenue Code.

(2) The defined benefit dollar limit as set forth above is the monthly amount payable in the form of a straight life annuity, beginning no earlier than age 62 (except as provided in Section 10.02(b)(1)) and no later than age 65. In the case of a monthly amount payable in a form other than a straight life annuity, or beginning before age 62 or after age 65, the adjustments in Section 10.02 shall apply.

(b) The dollar limits in this Section 10.01 shall be adjusted, effective January 1 of each year, under Section 415(d) of the Internal Revenue Code in such manner as the Secretary shall prescribe. A limit as adjusted under Section 415(d) of the Internal Revenue Code shall apply to Limitation Years ending with or within the calendar year for which the adjustment applies but a Participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. To the extent that the monthly benefit payable to a Participant who has terminated employment is limited by the application of this Section 10.01, such limit shall be adjusted to reflect any subsequent adjustments made in accordance with Section 415(d) of the Internal Revenue Code, but the adjusted limit shall apply only to benefits payable on or after January 1 of the calendar year for which the adjustment applies.

10.02 Actuarial Adjustments Relating to Defined Benefit Dollar Limit

(a) Adjustment for Benefit Payable in Form Other than Straight Life Annuity

(1) If a monthly benefit is payable in a form other than a straight life annuity, before applying the defined benefit dollar limit, the benefit shall be adjusted, in the manner described in Section 10.02(a)(2) or (3), to the actuarially equivalent straight life annuity that begins at the same time. No actuarial adjustment to the benefit shall be made for (a) survivor benefits payable to a surviving Spouse under a qualified joint and survivor annuity (as defined for purposes of Section 415 of the Internal Revenue Code) to the extent such benefits would not be payable if the Participant's benefit were paid in another form, (b) benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits), or (c) in the case of a form of benefit not subject to Section 417(e)(3) of the Internal Revenue Code, the inclusion of a feature under which a benefit increases automatically to the extent permitted to reflect cost of living adjustments and the increase, if any, in the defined benefit dollar limit under Section 415(d) of the Internal Revenue Code.

(2) If the benefit of a Participant is paid in a form not subject to Section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity (without regard to cost-of-living adjustments described in Section 10.01) is equal to the greater of (a) the annual amount of the straight life annuity (if any) payable to the Participant under the Plan commencing at the same time, or (b) the annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the Participant's form of benefit, computed using a 5% interest rate and the applicable mortality designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code.

(3) If the benefit of a Participant is paid in a form subject to Section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity is equal to

the greatest of: (a) the annual amount of the straight life annuity commencing at the Annuity Starting Date that has the same actuarial present value as the Participant's form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in the Plan for adjusting benefits in the same form, (b) the annual amount of the straight life annuity commencing at the time that has the same actuarial present value as the Participant's form of benefit, computed using a 5.5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code, or (c) the annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the Participant's form of benefit, computed using the applicable interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code, divided by 1.05.

(4) For purposes of this Section 10.02, whether a form of benefit is subject to Section 417(e) of the Internal Revenue Code is determined without regard to the status of the Plan as a governmental plan as described in Section 414(d) of the Internal Revenue Code.

(b) Adjustment for Benefit Commencement before Age 62 or after Age 65

(1) If the benefit of a Participant begins prior to age 62, the defined benefit dollar limit applicable to the Participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the Actuarial Equivalent of the defined benefit dollar limit applicable to the Participant at age 62 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code. However, if the Plan provides an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the defined benefit dollar limit is the lesser of: (1) the limitation determined under the immediately preceding sentence, or (2) the defined benefit dollar limit (adjusted for participation of fewer than 10 years, if applicable) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the age of benefit commencement to the annual amount of the immediately commencing straight life annuity under the Plan at age 62, both determined without applying the limitations of this Section. The adjustment in this Section 10.02(b)(1) shall not apply to a Participant who has been credited with at least 15 years of continuous service as a full-time Employee. In addition, the adjustment in this Section 10.02(b)(1) shall not apply as a result of benefits paid on account of Disability under Article 5 or death.

(2) If the benefit of a Participant begins after age 65, the defined benefit dollar limit applicable to the Participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limit applicable at age 65 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code. However, if the Plan provides an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the defined benefit dollar limit is the lesser of (1) the limitation determined under the immediately preceding

sentence, or (2) the defined benefit dollar limit (adjusted for participation of less than 10 years, if applicable) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the age of benefit commencement to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age 65, both determined without applying the limitations of this Section. For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the age of Annuity Starting Date is the annual amount of such annuity payable to the Participant, computed disregarding the Participant's accruals after age 65 but including any actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical participant who is age 65 and has the same accrued benefit as the Participant.

(3) For purposes of this Section 10.02(b), no adjustment shall be made to the defined benefit dollar limit to reflect the probability of a Participant's death between the Annuity Starting Date and age 62, or between age 65 and the Annuity Starting Date, as applicable, if benefits are not forfeited upon the death of the Participant prior to the Annuity Starting Date. To the extent benefits are forfeited upon death before the Annuity Starting Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Participant's death if the Plan does not charge Participants for providing a qualified preretirement survivor annuity (as defined for purposes of Section 415 of the Internal Revenue Code) upon the Participant's death.

10.03 Reduced Dollar Limit

If the Participant has fewer than 10 years of participation in the Plan (as determined under Section 415 of the Internal Revenue Code and the Treasury regulations thereunder), the defined benefit dollar limit shall be multiplied by a fraction, the numerator of which is the number of years (or part thereof) of participation in the Plan and the denominator of which is 10. For this purpose, a Participant who makes a valid DROP Election shall continue to accrue years of participation until his or her DROP Retirement Date. The adjustment in this Section 10.03 shall not apply to benefits paid on account of Disability under Article 5 or as a result of the death of the Participant.

10.04 Other Reductions in Maximum Benefit and Contributions

In addition to the foregoing, the maximum benefit and contributions shall be reduced 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:

(a) Any other tax qualified retirement plan maintained by the Authority, including a defined benefit plan in which an individual medical benefit account (as described in Section 415(1) of the Internal Revenue Code) has been established for the Participant;

(b) Any welfare plan maintained by the Authority 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

(c) Any retirement or welfare plan, as aforesaid, maintained by an affiliated or predecessor employer, as described in Treasury regulations under Section 415 of the Internal Revenue Code, or otherwise required to be taken into account under such Treasury regulations.

10.05 Miscellaneous

(a) Multiple Annuity Starting Dates. If a Participant has distributions commencing at more than one Annuity Starting Date (determined in accordance with Section 415 of the Internal Revenue Code and the Treasury regulations thereunder), the benefits payable as of each such Annuity Starting Date shall satisfy the limitations of this Article 10 as of each such date, actuarially adjusting for past and future distributions of benefits commencing at the other Annuity Starting Dates.

(b) Grandfathered Benefits. The application of the provisions of this Section shall not cause the maximum permissible benefit for any Participant to be less than the Participant's Accrued Benefit under this Plan as of the end of the last Limitation Year beginning before July 1, 2007 under provisions of this Plan that were both adopted and in effect before April 5, 2007 and that satisfied the limitations under Section 415 of the Internal Revenue Code as in effect as of the end of the last Limitation Year beginning before July 1, 2007.

(c) Incorporation of 415 Limits. To the extent that a Participant's benefit is subject to a provision of Section 415 of the Internal Revenue Code that has not been set forth in the Plan, such provision is hereby incorporated by reference into the Plan and shall be deemed to be part of the Plan.

A R T I C L E 1 1 QUALIFIED MILITARY SERVICE

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.

A R T I C L E 1 2 REPAYMENT OF ACCUMULATED EMPLOYEE CONTRIBUTION UPON REHIRE AND TRANSFER TO A POSITION NOT COVERED BY THIS PLAN

12.01 Transfer To A Position Not Covered By This Plan. In the event that a Participant of this Plan transfers to a position within the Authority and not covered by this Plan, the Employee's participation under this Plan shall cease as of such transfer date. In the event, the Employee will be entitled to a benefit under this Plan based upon Credited Service and Final Average Earnings as of the date of transfer; provided, however, that for purpose of determining eligibility for benefits under this Plan, all Continuous Service with the Authority shall be considered. In the event that an Employee transfers to a position within the Authority and not covered by this Plan and returns to coverage under this Plan within one year of first transferring, he will be considered for all purposes to never have left this Plan and will be credited with Credited Service for the period of employment covered by the other Plan.

12.02 Repayment of Accumulated Employee Contribution Upon Rehire. If a Participant who has received a refund of his Accumulated Employee Contribution is rehired in a position covered by this Plan, notwithstanding a waiver of pension benefits as provided in Section 9.01 herein, the Participant may repay his Accumulated Employee Contribution that was withdrawn plus interest at the rate of eight percent (8%) per year compounded annually from the date of receipt of the refund through the date that the repayment, including interest was completed.

Upon such repayment, the Participant's prior service covered by the refunded Accumulated Employee Contribution shall be considered Credited Service and Continuous Service.

To be eligible to repay this Accumulated Employee Contribution, the rehired Participant must be an employee within the meaning of Section 2.22 for three years following rehire and must be able to perform the duties of a transit police officer or be disabled in the discharge of his official duties. The Participant shall be granted a sixty (60) day period commencing three years following rehire during which he must notify the Authority of his election to repay the Accumulated Employee Contribution and the specified interest thereon.

Any current employee who previously received a refund of his Accumulated Employee Contribution and who was rehired as an employee prior to July 1, 1997 shall be granted a one-time opportunity to elect to repay his Accumulated Employee Contribution that was withdrawn plus interest at the rate of eight percent (6%) per year compounded annually from the date of receipt of the refund through the date of repayment. For such employees, the Board of Trustees shall establish a sixty-day (60) time period in which the election must be made.

A Participant repaying his Accumulated Employee Contribution under this Article may elect to pay the amount due the Plan in a lump sum at the time of election or in equal payroll deductions over two (2) years, or a minimum ten percent (10%) lump sum and the remainder in payroll deduction. The period of repayment shall not extend beyond the Participant's actual Retirement Date.

In the event of death, retirement or Other termination of employment, Credited Service shall include only that portion of the Prior Service, which at the time of termination had been paid for by the Participant. The amount of Prior Service to be included shall equal the amount of service purchased reduced by the ratio of total amount of principal paid to the original amount of principal due.

Where a Participant chooses to repay his Accumulated Employee Contribution with the Plan specified interest solely through payroll deduction and files an irrevocable election to that effect, his contributions will be treated as Employer contributions in the same manner as his current contributions under Section 3.02 are treated as Employer contributions, the repayment of Accumulated Employee Contributions and interest through either a lump sum payment or a partial lump sum payment and partial payroll deduction will be treated only as Employee contributions for all purposes and will not be treated as Employer contributions for income tax purposes under Section 414(h)(2) of the Internal Revenue Code.

A R T I C L E 13
ELIGIBLE ROLLOVER DISTRIBUTION PRIVILEGES

13.01 Right To Trustee-To-Trustee Transfer Of Eligible Rollover Distributions. For all Eligible Rollover Distributions (as defined in Section 13.02(c)) occurring after December 31, 1992, a Distributee (as defined in Section 13.02(a)) may elect, at the time and in the manner prescribed by the Plan Trustees, to have any portion of an Eligible Rollover Distribution paid to an Eligible Retirement Plan (as defined in Section 13.02(b)) specified by the Distributee in a direct Plan to receiving Eligible Retirement Plan payment.

13.02 Definitions: The following definitions shall be used in the construction of this Article.

(a) “Distributee” shall include a Participant or former Participant, and the Participant’s or former Participant’s surviving Spouse.

(b) “Eligible Retirement Plan” shall mean:

(1) An individual retirement account described in Section 408(a) of the Internal Revenue Code, including a Roth IRA described in Section 408A of the Internal Revenue Code;

(2) An individual retirement annuity described in Section 408(b) of the Internal Revenue Code, including a Roth IRA described in Section 408A of the Internal Revenue Code;

(3) A qualified trust described in Section 401(a) of the Internal Revenue Code or an annuity plan described in Section 403(a) of the Internal Revenue Code, that accepts the Distributee’s eligible rollover distribution;

(4) An annuity contract described in Section 403(b) of the Internal Revenue Code that accepts the Distributee’s eligible rollover distribution; and

(5) An eligible plan described in Section 457(b) of the Internal Revenue Code, which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, that accepts the Distributee’s eligible rollover distribution and agrees to account separately for amounts transferred into such plan from this Plan.

(c) “Eligible Rollover Distribution” shall mean any distribution of all or any part of the balance to the credit of the Distributee except for distributions (or any portion of distributions) which are (1) a series of substantially equal periodic payments made no less frequently than annually for either the life (or life expectancy) of the Participant or the joint lives (or life expectancies) of the Participant and his/her spouse or other designated beneficiary; (2) a series of substantially equal periodic payments made no less frequently than annually for specific period of time lasting ten or more years; (3) required under the minimum distribution requirements of Section 401(a)(9) of the Internal Revenue Code or any successor statute; or (4)

not included in the Distributee's gross income. Any hardship distribution described in Section 401(k)(2)(B)(i)(iv) of the Internal Revenue Code.

(d) Nonspouse Beneficiary. A nonspouse beneficiary of a deceased Participant is also a distributee for the purposes of this Article 13, provided, however, in the case of a nonspouse beneficiary, the direct rollover may be made only to an individual retirement account or annuity under Section 408 of the Internal Revenue Code that is established on behalf of the nonspouse beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Section 402(c)(11) of the Internal Revenue Code. The determination of the extent to which a distribution to a nonspouse beneficiary is required under Section 401(a)(9) of the Internal Revenue Code shall be made in accordance with IRS Notice 2007-7, Q&A-17 and 18, 2007-5 I.R.B. 395.

A R T I C L E 1 4 MODIFICATION, AMENDMENT AND DISCONTINUANCE OF THE PLAN

14.01 Power To Modify, Amend Or Discontinue Plan Reserved. The provisions of this Plan may be modified or amended, or the Plan may be terminated subject to the terms and conditions of the collective bargaining agreements and any applicable law or regulation. Any modifications or amendments required for qualification of the Plan under the Internal Revenue Code may be made by written resolution of the Board of Trustees. These rights are subject to the condition that no part of the assets of the Plan shall, by reason of any modification, amendment or termination, be used for or diverted to purposes other than for the exclusive benefit of Participants, retired Participants and their beneficiaries under the Plan, unless and until all liabilities of the Plan have been satisfied, in which case any remaining assets may revert to the Authority.

By written resolution, the Board of Trustees may recommend changes in the language of this Plan that are not required as a condition of qualification under the Internal Revenue Code to the appropriate representatives of the Union and the Authority for their consideration. The recommended changes shall not be effective until both the Union and the Authority have agreed to those changes in writing.

14.02 Distribution Upon Termination Of The Plan. If the plan is terminated at any time or there is a complete discontinuance of contributions to the Plan, the rights of all Participants to the benefits accrued to the date of termination or discontinuance, to the extent then funded, shall be fully vested and non-forfeitable. All participants shall be entitled to the value of their Accumulated Employee Contributions. The funds then held by the Trustees in excess of the value of Accumulated Employee Contributions shall be allocated and applied by the Trustees in amounts which, when added to the value of Accumulated Employee Contributions, will provide the benefits contemplated by the Plan in the following order of priority:

(a) First, to provide for the continued payment of retirement benefits to all retired or former Participants and their beneficiaries who as of the date of termination or discontinuance were receiving benefits under this Plan. Any reduction in the retirement benefits within the group necessitated by any insufficiency of assets at or after the date of termination or

discontinuance of the Plan shall be shared proportionately on the basis of similar annuity values, taking into consideration the contingent benefits attributable to the benefit being paid.

(b) Second, if any such assets remain after complete allocation for the purposes of (a) above, to provide retirement pensions computed under Article 4 to all Participants and former Participants who, at the date of termination or discontinuance of the Plan, have reached their Normal Retirement Date and have not as yet received retirement benefits under this Plan. The amount, if any, to be allocated for this purpose shall be based on immediate annuity values applicable to the Participant and such other contingent annuitants that may receive benefits attributable to the Participant, and shall be subject to any reduction necessitated by any insufficiency of assets as in (a) above.

(c) Third, if any such assets remain after complete allocation for the purposes of (a) and (b) above, to provide Early Retirement Pensions computed under Article 5 to Participants who, at the date of termination or discontinuance of the Plan, have satisfied the conditions of Section 6.01. The amount, if any to be allocated shall be based on immediate annuity values, as in (b) above, and shall be subject to reduction for insufficiency of assets as in (a) and (b) above.

(d) Fourth, if any such assets remain after complete allocation for the purposes of (a), (b), and (c) above, to provide vested Pensions computed under Article 7 to Participants and former Participants, who would be or who previously have become eligible to receive a Vested Pension but who have not yet received retirement benefits under the Plan and to Disabled Participants in accordance with Article 5 who have not yet received retirement benefits under this Plan. The amounts, if any, to be allocated shall be based on deferred life annuity values and shall be subject to reduction for insufficiency of assets in (a), (b), and (c) above.

(e) Fifth, if any such assets remain after complete allocation for the purposes of (a), (b), (c), and (d) above, to provide accrued pensions computed under Article 7 for all other Participants in the Plan as of the date of termination or discontinuance. The amount, if any, to be allocated for this purpose shall be determined as in (d) above.

Any funds that may remain after having provided in full for the benefits of all persons in the groups identified above shall be deemed an amount due to erroneous actuarial computation and shall be returned to the Authority.

The distribution of benefits in accordance with this Section 14.02 may be carried out through the continuance of the existing Trust, the retention and/or purchase of insurance of annuity contract, the creation of a new trust or trusts, or by payment of cash, or by any combination of the foregoing, as the Board of Trustees shall determine.

14.03 Effect Of Merger Or Consolidation. In the event that the Authority is merged into or consolidated with, or substantially all of the assets of the Authority are transferred to, another agency (hereinafter called the "successor"), with the result that Employees of the Authority covered by the Plan become employees of the successor and the successor undertakes to assume all of the rights and obligations of the Authority under this Plan, then such action shall not constitute a discontinuance or termination of the Plan, and the Plan shall continue in effect for

the Participants in accordance with its terms. If the Plan is assumed by a successor, the Credited Service or Continuous Service of any Participant who is continued in the employ of such successor shall not be deemed to have been terminated or interrupted for any purpose under the Plan as a result of such merger, consolidation or purchase of substantially all of the assets of the Authority. The assumption of the Plan by the successor may be evidenced by the terms of the agreement of merger, consolidation or purchase or may be evidenced by resolution of the governing body of the successor adopted within ninety (90) days after the date of the transaction.

14.04 Diversion Of Assets. No part of the assets accumulated for the Plan under the Trust shall be used directly or indirectly for any purpose other than the exclusive benefit of Participants under the Plan as it is established, or as the Plan may be changed by modification, amendment or termination, prior to the satisfaction of all liabilities under the Plan.

14.05 Applicable Law. Nothing contained in either the Plan documents or the Trust Agreement is intended to violate the express provisions of or exceed the powers vested in WMATA by, Pub. L. 89-774, November 6, 1966, 80 Stat. 1324; Pub. L. 92-349, July 13, 1972, 86 Stat. 466; Pub. L. 92-517, October 21, 1972, 86 Stat. 999, and Pub. L. 94-306, June 4, 1976, the consent legislation of the District of Columbia, State of Maryland, and Commonwealth of Virginia, and any future amendment to any of the above statutes (hereinafter known collectively as the WMATA Compact). In the event of a conflict or inconsistency between the WMATA Compact and any other State or Federal statute or common law, or this Plan or Trust Agreement, it is the intent of the Union and WMATA that the WMATA Compact govern.

A R T I C L E 1 5 ADMINISTRATION OF THE PLAN

15.01 The Trust And Board Of Trustees. The Authority and the Union have entered into an Agreement with the Board of Trustees for the establishment of the trust including provisions with respect to the power and authority of the Trustees, limitations on the liability of the Trustees, and that, with respect to any payments to or for the benefit of any Participant or beneficiary under this Plan, the Trustees shall make said payments in accordance with the terms of the Agreement. The Agreement shall be deemed to form a part of this Plan, and any and all rights or benefits, which may accrue to any person under this Plan, shall be subject to the terms and provisions of the Agreement.

15.02 Investment Of Contributions. The contributions made shall be invested through the trust fund established by the Agreement and in accordance with the provisions of the Agreement of which this Plan is a part. The Agreement covers the detailed provisions with respect to the responsibility of the Trustees for the investment of the funds received.

15.03 Delegation Of Authority. The Board of Trustees shall be designated as “Plan Sponsor” and “Plan Administrator.” The Authority shall maintain, or cause to be maintained, records on the employment and compensation history of each Participant in sufficient detail to permit an accurate determination of any benefits to which the Participant may be entitled under the Plan, The Board of Trustees shall direct their duties with respect to the Plan solely in the interest of the Plan’s Participants and beneficiaries for the exclusive purpose of providing

benefits to the Plan's Participants and beneficiaries and defraying reasonable expenses of administering the Plan.

15.04 Conduct of Board of Trustees Business. The Board of Trustees shall conduct its business and hold meetings as determined by it from time to time. A majority of the Trustees shall have the power to act, and the concurrence of any member may be by telephone, telegram or letter. The Board of Trustees may delegate any one of its members to carry out specific duties and to sign appropriate forms and authorizations. In carrying out its duties, the Board of Trustees may, from time to time, employ an administrative organization and agents and may delegate to them ministerial and limited discretionary duties as it sees fit, and may consult with counsel, who may be of counsel to the Authority.

15.05 Board of Trustees Officers, Committees and Agents. The Board of Trustees shall elect from its members a Chairman and a Secretary and shall appoint such committees as it shall deem necessary and appropriate, and may authorize one or more of its number or any agent to execute or deliver any instrument on its behalf and do any and all other things necessary and proper in the administration of the Plan.

15.06 Expenses Of The Board Of Trustees And Plan Costs. The expenses of administering the Plan, including the printing of literature and forms related thereto, the disbursement of benefits thereunder, the compensation of administrative organizations, agents, actuary, counsel, or Trustees shall be paid by the Trustees from the Trust Fund.

15.07 Records Of The Board Of Trustees. The Board of Trustees shall keep a record of all its proceedings, which shall be open to inspection by the Authority and the Union.

15.08 Board of Trustee's Right To Administer And Interpret The Plan. The Board of Trustees shall have the power and authority to administer and interpret the Plan and to adopt such rules and regulations as in the opinion of the Board of Trustees are necessary or advisable to implement, administer and interpret the Plan, or to transact its business. Such rules and regulations as are adopted by the Trustees, shall be binding upon any persons having an interest in or under the Plan.

15.09 Claims Procedure. The Trustees shall establish the procedure for the submission, processing and disposition of claims for benefits and requests for interpretations of the Plan submitted by Employees.

15.10 Jurisdiction. Jurisdiction and venue of all litigation against this Plan, Trustees or the Trust Agreement shall be exclusively in the United States District Court for the District of Columbia. The Plan and Trust Agreement shall be construed, administered and enforced pursuant to statutes and common law of the District of Columbia, except as otherwise provided herein. The Union and the Authority agree that ERISA is inapplicable to this Plan and Trust Agreement.

15.11 No Waiver Of Rights Or Limitations. The naming of Trustees to this Plan and Trust Agreement by WMATA shall not be construed as a waiver of any rights granted or limitations imposed on WMATA by the WMATA Compact.

15.12 Trustee Power To Recover Overpayment Of Benefits. The Board of Trustees shall have the power to recover overpaid benefits from any Participant, Participant's estate, or beneficiary receiving benefits on the Participant's earnings and service credit, by whatever way the Board of Trustees deems appropriate. Both WMATA and the Union expressly agree that all legal means may be used to recover overpayments, including but not limited to withholding the amount of the overpayment from succeeding benefit payments, making payment plan arrangement with the recipient of the overpayment, and filing suit.

A R T I C L E 1 6 GENERAL PROVISIONS

16.01 Right To Employment. Nothing contained in the Plan or the establishment of the Trust hereunder or any modification thereof, or the creation of any fund or account for the payment of any benefit shall be construed to give any Employee, Participant or beneficiary any right to employment or continued employment with the Authority or any legal or equitable rights against the Authority, any member of the Board of Directors, officer, agent or employee of the Authority, against the Union, or any officer or agent of the Union, or against the Trustees or their agents or employees, except as herein provided.

16.02 Incapacity. In the event that any retired Participant is unable to care for his affairs because of illness or accident, any payment due (unless a duly qualified guardian or other legal representative has been appointed) may be paid to the Participant's Spouse, parent, brother, sister or other person deemed by the Trustees to have incurred expenses for the care of such retired Participant.

16.03 Reports To Participants. Each Participant will be notified on an annual basis of the total amount of his Accumulated Employee Contributions. The form and manner of notification will be adopted by the Trustees.

16.04 Assignment And Loan. No employee shall have the right to assign, transfer, encumber or otherwise subject to lien any of the benefits provided under this Plan. The right of any Participant, Employee or beneficiary to any benefit or to any payment hereunder or to any separate account shall not be subject to alienation, transfer, assignment or encumbrance or otherwise subject to lien, and no loans shall be made under the Plan on the basis of any account held on behalf of a Participant or former Participant.

16.05 Settlement Of Small Pensions. In the event that the pension provided for any Participant of the Plan is less than \$20 a month, the Trustees may, but shall not be required to, cause such pension to be satisfied by the payment to the Participant entitled thereto of a pension of Actuarial Equivalent value in quarterly, semi-annual or annual installments or in a lump sum which the Trustees determine to be the Actuarial Equivalent of the pension to which the Participant is entitled.

16.06 Forfeitures. Forfeitures, if any, must not be applied to increase the pension benefits any Participant would otherwise receive under the Plan.

16.07 Gender And Pronoun. The masculine pronoun, wherever used, shall include the feminine pronoun, and the singular number shall include the plural number, unless the context of the Plan requires otherwise.

16.08 Liability. No liability shall attach to or be incurred by the Authority, any member of the Board of Directors, officer, agent or employee of the Authority, the Union, any officer or agent or agent of the Union, the Trustees or their agents or employees by reason of the terms, conditions or agreements contained in this Plan or in the Agreement executed in connection herewith. The Authority, any member of the Board of Directors, officer, agent or employee of the Authority, the Union, any officer or agent of the Union, and the Trustees or their agents or employees shall be entitled to rely upon any and all certificates and reports or opinions given by any duly appointed accountant, actuary, investment advisor or legal counsel (who may be counsel for the Authority), and shall be fully protected against any action taken in good faith in reliance upon such tables, valuations, certificates, reports or opinions.

16.09 Tax Qualification. This Plan has been adopted and is based upon the condition precedent that the Plan be initially qualified by the Internal Revenue Service as meeting the requirements of the Internal Revenue Code and Treasury regulations issued thereunder with respect to qualified pension plans, so as to exempt the Trust established as a part of the Plan from tax on its income. Notwithstanding any other provisions of the Plan, if the Commissioner of Internal Revenue or his delegate determines that the Plan or the amended Plan as it may be amended by the Board of Trustees in an effort to receive such approval, does not initially qualify under the applicable provisions of the Internal Revenue Code, the Board of Trustees will make such changes as required to so qualify the Plan.

16.10 Employee Choice of Benefits. Where a Participant shall be eligible to receive more than one benefit under this Plan at the same time, that Participant shall make an irrevocable election as to which of the benefits he chooses to receive. No Participant shall receive more than one benefit under this Plan at the same time. However, nothing in this Section shall be construed to deny any Participant the right to receive a dependent pension at the same time as the Participant receives a benefit based on his/her own earnings and service.

A R T I C L E 17 PLAN EXECUTION

17.01 Number Of Counterparts. The Plan may be executed in any number of counterparts, each of which when duly executed by the Authority shall be deemed to be an original, but all of which shall together constitute but one instrument which may be evidenced by any counterpart.

17.02 Section Headings. All section headings used throughout this Plan are for the purposes of identification only and are not to be used in construing this instrument.

IN WITNESS WHEREOF, this document has been executed this ____ day of _____, 2009.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

By: _____
John B. Catoe, Jr.
General Manager

Date: _____

By: _____
D. Richard Froelke
Director
Office of Employee & Labor Relations

Date: _____

FRATERNAL ORDER OF POLICE

By: _____

Date: _____

By: _____

Date: _____

SUBJECT: RESTATEMENT OF THE WMATA/LOCAL 2 RETIREMENT PLAN

PROPOSED
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, The Internal Revenue Service requires all qualified plans to renew their favorable determination letters every five years; and

WHEREAS, The submission to the Internal Revenue Service requires the restating of the WMATA/Local 2 Retirement Plan; and

WHEREAS, The restated plan document for the WMATA/Local 2 Retirement Plan is designed to make such changes as are required in order for the Plan to retain its qualification under Section 401(a) of the Internal Revenue Code of 1986 as amended; and

WHEREAS, A copy of the restated plan document for the WMATA/Local 2 Retirement Plan is attached to this Resolution; and

WHEREAS, The WMATA/Local 2 Retirement Plan, Section 10.01 requires that all Plan amendments be made by a written Resolution of the Board of Directors; now, therefore be it

RESOLVED, That the WMATA/Local 2 Retirement Plan, as amended and restated effective February 1, 2009, a copy of which is attached to this Resolution, is hereby adopted and approved on behalf of Metro; and be it further

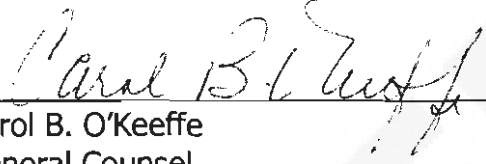
RESOLVED, That the General Manager is hereby authorized and directed to execute on behalf of Metro any other changes to the WMATA/Local 2 Retirement Plan as are requested by the Internal Revenue Service, or based on advice of counsel, as are necessary or desirable for the Plan to continue qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended; and be it further

RESOLVED, That the General Manager or the Assistant General Manager for Workforce Services is hereby authorized and directed to execute such other forms, notices, instruments or other documents and to take such further action as may be necessary or desirable (1) to fully implement the WMATA/Local 2 Retirement Plan; (2) to ensure that the Plan is qualified under Section 401(a) of the internal Revenue Code; and (3) to obtain from the Internal Revenue Service a determination letter to the effect that said Plan continues

to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code; and be it finally

RESOLVED, That this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,



Carol B. O'Keeffe
General Counsel

PROPOSED

**THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY/LOCAL 2
RETIREMENT PLAN**

PLAN DOCUMENT

ADOPTED: September 25, 2003

RESTATEMENT EFFECTIVE AS OF FEBRUARY 1, 2009

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PROPOSED

**THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY/LOCAL 2
RETIREMENT PLAN**

This Retirement Plan, adopted the 25th day of September 2003, by the Washington Metropolitan Area Transit Authority, a body corporate and politic, (the "Authority" or "WMATA"), and the separate Trust Agreement executed contemporaneously by and between the Authority and Jackie Simpson, Nancy Grzeisik, Richard Froelke, Eric Starin, and Rose Kelly-Mitchell, as Trustees, (the "Trustees"), constitutes a complete statement of the WMATA/Local 2 Retirement Trust maintained by the Authority for their eligible employees, retirees, and beneficiaries, as more fully described herein.

The Authority hereby creates the WMATA/Local 2 Retirement Trust and the WMATA/Local 2 Retirement Plan entered into contemporaneously and forming a part thereof.

ARTICLE I.

Name, Effective Date and Purpose

1.01 **Name.** The Name of the Plan is "THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY/LOCAL 2 RETIREMENT PLAN," hereinafter called the "Plan."

1.02 **Effective Date.** The effective date of the Plan is September 30, 2003. This Restatement is effective as of February 1, 2009. The previous version of the Plan applies to Participants who have earned no Credited Service on or after February 1, 2009

1.03 **Purpose of the Plan.** The purpose of this Agreement is to recognize the contribution made by its various employees to the successful operation of the Authority, and to reward such contribution by establishing a system of pension benefits for those employees who will qualify as Participants under this Plan, and for the beneficiaries designed by such employees.

This Agreement has been executed for the exclusive benefit of the Participants and their beneficiaries. As far as possible this Agreement should be interpreted consistent with this intent and with the Authority's intention that this plan satisfies those provisions of the Internal Revenue Code relating to exempt employees' trusts except as specified herein.

The establishment of this Plan will not be construed as giving any employee, or any other person, any legal or equitable rights against the Authority, its Board of Directors, the Trustees who operate the Plan, the Committee or the corpus or income of this Plan unless such right is specifically provided for in this Agreement, nor will the establishment or continuation of the Plan be construed as giving any employee the right to be retained in the service of the Authority.

ARTICLE II.
Participation in the Plan

2.01 Eligibility. Each Full Time Employee who was represented by Local 2 Office and Professional Employees International Union ("Local 2") on August 31, 2003, and who was a participant in the WMATA Retirement Plan on August 31, 2003 shall become a participant in this Plan as of the Effective Date. Additionally, persons reemployed by the Authority on or after August 31, 2003 will participate in this Plan if:

- (a) they were previously a participant in this Plan or the WMATA Retirement Plan;
- (b) their previous Authority employment either (i) caused them to be entitled to a Deferred Vested Retirement Pension under this Plan or the WMATA Retirement Plan or (ii) if not entitled to a Deferred Vested Retirement Pension, their period of separation from the Authority was less than the amount of Credited Service they had accrued under this Plan or the WMATA Retirement Plan in their previous period of employment with the Authority,

AND

- (c) they are reemployed in a position represented by Local 2.

No person transferring from another pension plan to which the Authority contributes on or after January 1, 1999 will participate in this Plan unless that person had at least one year of Credited Service in this Plan or in the WMATA Retirement Plan at the time of the transfer.

2.02 Employee Contributions. There are no employee contributions. However, this section will not be construed as requiring the refund of any contributions required under any previous version of Section 2.02 of the WMATA Retirement Plan. Refunds permitted under other sections of the Plan may continue according to the terms of those sections of the Plan.

2.03 Authority Contributions. That portion of the entire cost of the Plan which is not funded by investment earnings shall be paid by the Authority for all Participants. Subject to its right to amend or terminate the Plan, and the required adjustments to Participants' required contributions, the Authority agrees to contribute from time to time to the Trustees as provided for in Article XI, such additional sums as are required to provide the pension described herein, following generally accepted actuarial practices. In the event the Authority amends this Plan from time to time to provide

additional benefits to the Participants and such additional benefits result in increased cost as finally determined by an actuarial study, the Authority will fund the increased cost in accordance with the provisions of the following paragraph.

In each case, the required Authority contributions will include the normal cost of the Plan; the amount required to amortize the share of the unfunded past service liability for Local 2 Participants resulting from the 1973 Restatement of the WMATA Retirement Plan over a thirty (30) year period commencing on the effective date of the 1973 Restatement of the WMATA Retirement Plan; and the amount required to amortize any unfunded actuarial accrued liability due to changes in plan benefits, assumptions, or actuarial gains and losses over a fifteen (15) year period beginning on the effective date of the change giving rise to the unfunded actuarial accrued liability, all determined according to the aggregate accrual modification of the entry age normal method of funding. In no case will the Authority be required to make contributions when the Plan has a surplus which can cover the normal cost of the Plan plus any unfunded past service liability and any unfunded actuarial accrued liability.

2.04 Interpretation of Conflicts Between the Plan and Any Collective Bargaining Agreement Covering a Plan Participant. If there is a conflict concerning participation in this Plan between the terms of the Plan and the terms of any applicable collective bargaining agreement, the terms of the collective bargaining agreement will prevail over the terms of this Plan, as of the effective date of the collective bargaining agreement.

ARTICLE III.

Normal Retirement Pension

3.01 When Payable. The Plan will grant a Normal Retirement Pension to each Participant of the Plan who retires at the end of the month coinciding with or immediately following the 65th birthday of the Participant. A Participant of the Plan who has attained his Normal Retirement Date may continue to work for the Authority following his Normal Retirement Date. In such event, the Plan will pay the benefits earned by such Participant under the provisions of Article V.

3.02 Amount. Unless an optional method of payment is elected, as described in Section 3.05, the annual Normal Retirement Pension benefit payable in monthly installments to an eligible Participant will equal:

- (a) For the Participant's first twenty (20) years of Credited Service.
 - (i) one and six-tenths percent (1.6%) of the Participant's Final Average Earnings, up to the Participant's Social Security Breakpoint multiplied by the number of years of Credited Service up to and including 20 years, plus
 - (ii) two and one-half percent (2.5%) of the Participant's Final Average Earnings greater than his Social Security Breakpoint multiplied by the number of years of Credited Service up to and including 20 years, plus,
- (b) For the Participant's years of Credited Service greater than twenty (20), one and six-tenths percent (1.6%) of the Participant's Final Average Earnings multiplied by the number of years of Credited Service greater than 20 years.

The benefit amount determined above will not be greater than eighty percent (80%) of the Participant's Final Average Earnings nor less than the benefit amount that would have been determined under the WMATA Retirement Plan as it was in effect prior to the effective date of 1973 Restatement of that Plan using the amount of the Participant's five year average monthly compensation as defined in the WMATA Retirement Plan as it existed prior to the 1973 Restatement as of the effective date of the Participant's retirement.

3.03 Period of Payment. Monthly pension benefits will begin on the Normal Retirement Date of the Participant and will continue until the first of the month in which the retired Participant dies and thereafter as provided in Section 3.04, unless an optional method of payment has been elected, in which case the monthly pension benefits will be continued as provided for under the option elected. The Plan will make benefit payments in arrears.

3.04 Death After Retirement. Upon the death of the Participant receiving pension benefits under the terms of Article III, Article IV, Article V, or Article VI, the Spouse of the Participant will be eligible to receive monthly pension benefits equal to fifty percent (50%) of the monthly benefit previously received by the Participant, unless an optional method of payment has been elected. If an optional method has been elected, then the monthly pension benefits will be continued as provided for under the option elected. The benefit payable to the Spouse will commence on the first of the month following the Participant's date of death and will continue until the first of the month in which the Spouse dies. If the Participant and his Spouse both die before receiving total monthly benefits equal to the Participant's accumulated employee contribution, including interest determined according to Article IX up to the date the Participant's benefit commenced, the Plan will pay any remaining difference to the Participant's named beneficiary, or to his estate in the absence of a surviving named beneficiary.

3.05 Optional Methods of Payment.

- (a) **Married Participant.** Instead of a joint and fifty percent (50%) survivor pension payable monthly to a married Participant, such Participant may elect to receive a joint and survivor pension of Actuarial Equivalent value that would provide a reduced monthly pension payable to the Participant starting with his Actual Retirement Date, with the provision that after his death, pension payments would continue to be paid to, and during the lifetime of, the Spouse of the Participant at an amount determined under one of the following options.
- (i) Continuation of the same amount of reduced pension that was payable to the Participant; or
 - (ii) Three-fourths of the reduced pension that was payable to the Participant; or
 - (iii) Two-thirds of the reduced pension that was payable to the Participant.
- (b) **Unmarried Participant.** Instead of the pension payable monthly for the life of an unmarried Participant, such Participant may elect to receive a term certain and life thereafter pension of Actuarial Equivalent value which would provide a reduced monthly pension payable to the Participant starting with his Actual Retirement Date, with the provision that after his death, benefit payments would continue to be paid to his named beneficiary for the remainder, if any, of the term certain, provided that the term certain elected will not exceed the life expectancy of the Participant or ten years, whichever is longer. Any unmarried Participant may designate a beneficiary to receive the return of the Participant's contribution plus interest at 4% compounded annually in the event the participant has no vested rights or other benefits due under the Plan.

- (c) **Nonspousal Optional Method.** Instead of a pension in its normal form, a Participant may elect to receive a joint and survivor pension that is of Actuarial Equivalent value to a life annuity for an unmarried Participant which would provide a reduced monthly pension payable to the Participant starting with his Actual Retirement Date, with the provision that after his death, pension payments would continue to be paid to the named beneficiary, for the life of the named beneficiary, in an amount equal to fifty percent (50%) of the monthly benefit previously received by the Participant.

This benefit will be subject to annual cost of living adjustments as computed under Plan Article XVIII. Solely for the purposes of Section 3.05(d), a named beneficiary under this optional form of payment will be treated as a Spouse. Any children or other persons dependent on the Participant who otherwise meets the requirements for a dependent pension under Article VII will, upon the death of the Participant and the named beneficiary, be eligible for benefits under the Article. If there are both a named beneficiary and children qualifying for benefits under Article VII, then the children's rights to benefits are to be given priority over the rights of the named beneficiary but only where the Participant dies before actual retirement.

- (d) **General.** Where the Participant or joint pensioner dies before reaching Normal Retirement Date, the optional benefit election will be void, provided the Participant was not already receiving an Early Retirement Pension previously reduced to reflect the elected form of benefit continuation to the Spouse, or other beneficiary.

Where a Participant dies after his Normal Retirement Date but before his Actual Retirement Date, the optional benefit election will be fully operative and the Spouse or other beneficiary will begin receiving pension payments under the terms of the elected option. If the Spouse should die before the Participant but after his Normal Retirement or Actual Retirement Date, the Participant's pension benefit amount will revert to that as computed under Section 3.02 for all future payments. A Participant is entitled to this benefit more than once with his benefit being adjusted prospectively. Further, the Spouse in such a remarriage will be eligible for the benefit described in Section 3.04.

If another beneficiary, named under a term certain and life option, should die prior to the Participant but after his Normal Retirement or Actual Retirement Date and at the Participant's death another beneficiary has not been named to receive the remaining benefit payments, the present value of the remaining payments, if any, will be paid to the Participant's estate. Once an election has been made and accepted by the Trustees, it cannot be rescinded or changed

without the written consent of the Trustees under rules uniformly applied to all similarly situated Participants.

Beside the options provided in (a) through (c) above, a Participant may elect a pension payable in accordance with any other option (except an "interest only" or lump sum distribution option) which is the Actuarial Equivalent of the Normal Retirement Pension, including the fifty percent (50%) Spouse benefit if married, to which the Participant was entitled at Normal Retirement Date, provided, however, that such option (i) provides for equal installments beginning with the Participant's Actual Retirement Date, (ii) may not be expected to cause pension benefits to be payable for a period longer than the life expectancy of the last to die of the Employee and his Spouse and (iii) does not cause the Spouse of a married Participant to receive less than the benefit the Spouse would have been entitled to receive if no election had been made, and (iv) is approved by the Trustees of the Plan. The Participant will pay all costs, including actuarial costs, incurred by the Plan in reviewing and calculating the requested optional form of benefit.

ARTICLE IV.
Early Retirement Pension

4.01 When Payable. An Early Retirement Pension will be granted to each Participant of the Plan who retires before becoming eligible to receive a Normal Retirement Pension but on or after the end of the month preceding his Early Retirement Date.

4.02 Amount. The amount of an annual Early Retirement Pension, payable in monthly installments for the lifetime of the Participant, will be:

- (a) The amount of the Normal Retirement Pension calculated under Section 3.02 to which the Participant would be entitled based on his Credited Service to his Normal Retirement Date and his Final Average Earnings determined at his Actual Retirement Date,

multiplied by

- (b) The ratio of the Participant's Credited Service earned to his Actual Retirement Date and his Credited Service that would have accumulated to his Normal Retirement Date, such amount to be reduced by 0.166667% for each month that the Participant's Actual Retirement Date precedes his Full Retirement Date.

For purposes of this Article IV, the Full Retirement Date for a Participant who ends his or her employment with the Authority on or after the end of the month preceding the Participant's Early Retirement Date and whose age plus years of Credited Service will not reach 83 as computed below at any time before reaching age 65, even if he or she remained employed with the Authority, is the Participant's Normal Retirement Date. For a Participant who ends his or her employment with the Authority on or after the end of the month preceding the Participant's Early Retirement Date and who, if he or she remained employed with the Authority would reach 83 points as computed below at some time before reaching age 65, the Participant's Full Retirement Date is the first day of the month following or coinciding with the first date where the sum of the Participant's age (measured in years and complete months) and his Credited Service equals or exceeds eighty-three (83).

In no event will the benefit amount determined in this manner be less than the benefit amount that would have been determined under the WMATA Retirement Plan as it was in effect before the 1973 Restatement, using the amount of the Participant's five (5) year average monthly compensation as it would have been determined on the date of retirement.

The benefit amount so determined will be subject to the annual Consumer Price Index adjustment as provided for under Article XVIII.

4.03 Period of Payment. Monthly pension benefits will begin on the Actual Retirement Date of the Participant and will continue until the first of the month in which the Participant dies. Monthly pension benefits will thereafter continue to Spouse of the Participant as provided for in Section 3.04, unless an optional method of payment has been elected. In that case, the monthly benefit will continue as provided for under the option elected. Any remaining difference between total benefits paid and the value of accumulated employee contributions will be determined and paid as provided for in Section 3.04. Optional forms of payments may be elected according to such rules and regulations as are provided under Section 3.05.

4.04 Special Supplemental Pension. Any Participant retiring under the provisions of this Article IV with at least ten (10) years of Credited Service will also receive a Special Supplemental pension, payable in monthly installments, equal to:

- (a) one percent (1%) of the Participant's Final Average Earnings, up to the Participant's Social Security Breakpoint,
times
- (b) the Participant's years of Credited Service, up to a maximum of twenty (20) years.

This Special Supplemental Pension will begin on the Participant's Actual Retirement Date and will continue to be payable, at the same time as the Participant's Early Retirement Pension, until the Participant's sixty-fifth (65th) birthday or such earlier date that he is, or would become upon application, entitled to unreduced Social Security benefits.

4.05 Entitlement to Early Retirement Pension by Persons on Long Term Disability. A Participant entitled to an Early Retirement Pension under this Article IV will receive the Plan benefits unless the Participant is currently receiving benefits from an Authority-sponsored Long Term Disability program. Benefits under this Article IV will become payable upon application by the Participant and the termination of the receipt of the Authority-sponsored Long Term Disability benefits.

ARTICLE V.

Postponed Retirement Pension

5.01 **When Payable.** Upon the retirement of a Participant of the Plan after his Normal Retirement Date, a pension will be paid to such retired Participant commencing on the first day of the month coincident with or next following his Actual Retirement Date.

5.02 **Amount.** The amount of the annual pension, payable monthly, will be the amount determined under Section 3.02, based on the Participant's Final Average Earnings and Credited Service determined on his Actual Retirement Date. The benefit amount will be subject to the annual Consumer Price Index adjustment as provided for in Article XVIII.

5.03 **Period of Payment.** Monthly pension benefits will begin on the Actual Retirement Date of the Participant and will continue until the first of the month in which the Participant dies. The monthly pension benefits will thereafter continue to the Spouse of the Participant as provided for in Section 3.04, unless an optional method of payment has been elected. In that case, the monthly benefit will continue as provided for under the option elected. Any remaining difference between total benefits paid and the value of accumulated Employee contributions will be determined and paid as provided for in Section 3.04. Optional forms of payments may be elected according to such rules and regulations as are provided under Section 3.05.

ARTICLE VI.

Disability Retirement Pension

6.01 **When Payable.** A Disability Retirement Pension will be granted to each Participant who becomes unable to provide work to the Authority as a result of becoming Disabled and who continues to be Disabled until he retires on his Normal Retirement Date. The annual benefits, payable monthly, under this Article will begin on the Participant's Normal Retirement Date.

6.02 **Amount.** The amount of the annual Disability Retirement Pension (payable monthly) will be calculated under Section 3.02(a) based on Credited Service that would have accumulated by the Participant if he continued to work for the Authority until his Normal Retirement Date and his Final Average Earnings determined at the time that he became unable to work for the Authority due to becoming Disabled. The amount of the benefit will be multiplied by the ratio of the most recent Consumer Price Index preceding the date when benefits first become payable to the most recent Consumer Price Index preceding the Participant's date of becoming Disabled and will thereafter be subject to the Annual Consumer Price Index adjustment as provided in Article XVIII.

6.03 **Period of Payment.** Monthly pension benefits will begin on the Normal Retirement Date of the Disabled Participant and will continue until the first of the month in which the Participant dies, and will thereafter continue to the Spouse of the Participant as provided for in Section 3.04. Any remaining difference between total benefits paid and the value of accumulated Employee contributions will be determined and paid as provided for in Section 3.04. A Disabled Participant may not elect optional benefit forms.

6.04 **Death Before Normal Retirement Date.** In the event a Disabled Participant dies without having recovered and before his Normal Retirement Date, the Spouse or other eligible beneficiaries of the Disabled Participant will be eligible to receive the benefits provided under Article VII.

6.05 **Recovery.** In the event that, prior to the Participant's Normal Retirement Date, a Participant recovers from the disability, so that he ceases to be Disabled, and he is not returned to a position by the Authority, his benefits under the Plan will be determined as if he had terminated employment on the date of his recovery. If he is returned to a position by the Authority, his period of disability will be considered as sick leave for the purposes of determining Credited Service or Continuous Service under the Plan.

ARTICLE VII.
Dependent Pension

7.01 When Payable.

- (a) **Spouse.** If a Participant dies before attaining his Normal Retirement Date, and (i) while an Employee of the Authority or (ii) while a Disabled Participant eligible to receive a benefit commencing on his Normal Retirement Date, the Spouse of the deceased Participant will be entitled to a Dependent Pension, commencing on the first of the month following such Participant's or Disabled Participant's date of death.

- (b) **Children.** In the absence of a Spouse eligible to receive the Dependent Pension, or upon the death of such a Spouse, the benefit amount will be paid in equal shares to all children *per stirpes* of the Participant who are, on the date the benefit is paid, (i) under age nineteen (19); (ii) full time students at least age nineteen (19), but under age twenty-three (23); or (iii) currently, and since the date of the Participant's death, have continuously been incapable of self-support for medically determinable reasons. For the purposes of this Article, children will include the issue of the Participant, any legally adopted child of the Participant, or any legally recognized ward of the Participant or his Spouse who was dependent on the Participant for more than fifty percent (50%) of his support during the year preceding the Participant's date of death.

- (c) **Others.** In the absence of a Spouse, or children eligible to receive the Dependent Pension, or upon the last to die of the Spouse and all eligible children, the benefit amount will be paid in equal shares to all blood relatives of the Participant or his Spouse, in direct ascending line, who are living and eligible to receive such benefits on the date such benefits are payable. A lineal ancestor will be eligible to share in such benefit payments for life provided he was dependent on the Participant for more than fifty percent (50%) of his support during the year preceding the Participant's date of death. A lineal descendent will be eligible to share in such benefit payment so long as he meets the age and/or criteria established above for children, and provided further, that he was dependent on the Participant for more than fifty percent (50%) of his support during the year preceding the Participant's date of death.

7.02 Amount. The amount of the Dependent Pension will be fifty percent (50%) of the Participant's Normal Retirement Pension calculated under Section 3.02, based on the Credited Service that would have accumulated on the Participant's Normal Retirement Date and his Final Average Earnings determined on the Participant's termination of employment (or if based on a Disabled Participant the date on which the Participant became Disabled), such amount to be multiplied by the ratio of the Credited

Service that accumulated or would have accumulated on the Participant's date of death, to the total Credited Service that would have accumulated for the Participant on his Normal Retirement Date, such amount to be further multiplied in the case of any Participant by the ratio of the most recent Consumer Price Index for the period preceding the date when benefits begin to the Consumer Price Index for the period preceding such Participant's termination of employment or becoming Disabled. The benefit amount will thereafter be subject to the annual Consumer Price Index adjustment as provided for in Article XVIII.

In the event the total benefit paid to all parties eligible to receive benefits under this Article is less than the greater of (a) the accumulated value of Employee contributions including interest determined in accordance with Article IX to the date benefits first commenced under this Article, or (b) the amount of death benefit that would have been payable on behalf of the Participant if the Prior Plan had been continued. The balances will be paid to the named beneficiary or estate in a lump sum.

Instead of the Dependent Pension provided above, the Participant may elect to provide, to his named beneficiary, the death benefit that would have been payable on behalf of the Participant if the Prior Plan had been continued. In the event of such election, the death benefit amount will be paid to the Participant's named beneficiary, or in the absence of a surviving named beneficiary to the Participant's estate, in a lump sum.

7.03 Period of Payment. In the absence of an election to have the prior death benefit paid to a named beneficiary, monthly pension benefits payable to the Spouse will begin as of the first of the month following the Participant's date of death and continue until the first of the month in which the Participant's Spouse dies. Monthly pension benefits payable to the children will begin on the first of the month following the death of the participant's Spouse, or the first of the month following the death of the Participant in the absence of a Spouse eligible to receive the Dependent Pension and will continue so long as there remains at least one child eligible to receive the Dependent Pension. The pension benefit payable to other dependents will begin on the first of the month following the last payment to the Spouse or any eligible child and will continue so long as there remains at least one such eligible dependent to receive the Dependent Pension.

ARTICLE VIII.
Deferred Vested Pension

8.01 When Payable. Any Participant of the Plan who ends his employment with the Authority before attaining his Early Retirement Date, and who has completed five (5) or more years of Credited Service, will be eligible to receive a Deferred Vested Pension commencing on the Participant's Normal Retirement Date, or an Early Deferred Vested Pension, with the completion of ten (10) or more years of Credited Service, on the Participant's Early Retirement Date.

8.02 Amount. The amount of the annual Deferred Vested Pension, payable monthly, will be determined as follows.

- (a) The amount of Normal Retirement Pension will be calculated under Section 3.02 on the basis of the Participant's years of Credited Service to his Normal Retirement Date and his Final Average Earnings determined at his termination of employment.
- (b) That amount will be multiplied by the ratio of the Participant's Credited Service that accumulated at his termination of employment to the Credited Service that the Participant would have accumulated on his Normal Retirement Date.
- (c) The amount produced under Section 8.02(a) and (b) will be multiplied by the amount shown on the following vesting schedule. The vesting schedule is 0% for up to five (5) years of credited service and 100% for five (5) years of credit service or more.

In no event will the benefit determined under (a), (b), and (c) above be less than the benefit that the Participant would have been eligible to receive if the Prior Plan had been continued.

The benefit determined by use of Sections 8.02(a), (b) and (c) will be subject to the annual Consumer Price Index adjustment following the date benefit payments began as provided for in Article XVIII.

- (d) If the Participant elects an early retirement date the benefit as determined above will be payable under Section 4.03 and will be reduced $1/180$ for each of the first sixty (60) months and $1/360$ for each additional month in excess of sixty (60) months that the participant's Actual Retirement Date precedes his Normal Retirement Date.

8.03 Period of Payment. The monthly pension benefit will begin on the Participant's Normal Retirement Date or Early Retirement Date and continue until the

first of the month in which the Participant dies, unless an optional method of payment has been elected, in which case, the monthly pension benefit will be continued as provided for under the option elected. If the Participant dies before or after his Normal Retirement Date, without having effectively elected an optional benefit form, and such Participant has not received monthly benefit equal to his accumulated Employee contribution including interest determined in accordance with Article IX to his Normal Retirement Date or date of death if earlier, any remaining difference will be paid to the Participant's named beneficiary, or in the absence of a named beneficiary, to his estate.

8.04 Options. A Participant eligible to receive a Deferred Vested Pension (payable for the lifetime of the Participant) may elect to receive, in lieu thereof, a deferred benefit of Actuarial Equivalent value under any option described in Section 3.05, provided such option is elected in accordance with the provisions of Section 3.05 and provide such option becomes effective only upon the Participant reaching his Normal Retirement Date. In addition, but subject to the same restrictions, such Participant may elect to receive a reduced monthly pension commencing on his Normal Retirement Date with continuation of one-half of the reduced amount for the remaining life of his Spouse following his death. If the Participant dies before his Normal Retirement Date, any option elected according to this section will be void.

ARTICLE IX.
Other Termination

9.01 Non-Vested Termination. If a Participant ceases to work for the Authority at any time and for any reason prior to the date on which such Participant has met the age, service, and other requirements essential for a Normal Retirement Pension, a Postponed Retirement Pension, a Disability Retirement Pension, a Deferred Vested Pension, or a Dependent Pension, such Participant (or such Participant's beneficiary) will be eligible to receive the accumulated amount of the Participant's contributions to the Plan including interest at four percent (4%) compounded annually from the later of the effective date of this Restatement or the first day of the Fiscal Year following the date such contributions were made, to the first day of the month in which employment terminates.

9.02 Reemployment of Former Participant.

- (a) **Prior Credited Service Under This Plan.** If a Participant of the Washington Metropolitan Area Transit Authority/Local 2 Retirement Plan terminates his employment with the Authority and is subsequently reemployed by the Authority and again becomes a Participant for a period of one (1) year, prior Credited Service (including that accrued under the WMATA Retirement Plan for the period prior to the effective date of this Plan) will be reinstated if and only if, (i) the Participant refunds to the Trustees within two years of reemployment any Employer funds previously paid to him, together with interest at the rate of eight percent (8%) compounded annually; and (ii) either (A) the Participant eligible to receive to a deferred vested benefit under the provisions of Article VII on the day prior to his reemployment; or (B) his period of severance is less than his Credited Service at the time of his earlier termination of employment. If a Participant's prior Credited Service has been reinstated, his period of severance will not be considered for the purpose of determining Final Average Earnings. The Savings Provision of Article XIV will not apply to Participants who are credited with prior service under the provisions of this subsection. For the purpose of determining the amount of any lump sum payment which may be payable to or on behalf of a Participant who has made payments to the Trustees under this subsection, all such payments made by the Participant to the Trustees will be treated as Employer contributions.
- (b) **Prior Credited Service Under Former Plan.** In the event that a Participant who has been active in this Plan (or the WMATA Retirement Plan for time periods before the effective date of this Plan) for at least two years was previously a Participant of one or both of the Prior Plans consolidated with the WMATA Retirement Plan under the provisions of Article XV (Consolidation with Other Plans after May 18, 1973); but, due to a break in service starting prior to

July 1, 1973, the Participant is not entitled to benefits with respect to such service under the provisions of Article XV, the Participant may purchase such prior period(s) of forfeited Credited Service by paying to the Trustees within two years of becoming a Participant of this Plan (or by June 30, 1980, if later) the full actuarial value of the additional benefits expected to be paid with respect to such service. The amount of such actuarial value will be determined on the basis on the actuarial assumptions used in the most recent actuarial valuation of this Plan (including anticipated post retirement cost-of-living increases) except that the Participant will be assumed to have retired at age sixty-five (65). For the purpose of determining the amount of any lump sum payment which may be payable to or on behalf of a Participant who has purchased service credit under this subsection, all payments made by the Participant to the Trustees will be treated as Employee contributions.

ARTICLE X

Modification, Amendment and Discontinuance of the Plan

10.01 Power to Modify, Amend or Discontinue Plan Reserved. While the Plan is intended to be permanent, the Board of Directors reserves the right at any time, and from time to time, by written resolution to modify or amend, in whole or in part, any and all provisions of this Plan or to terminate the Plan. This right is subject to the condition that no part of the assets of the Plan will, by reason of any modification, amendment or termination, be used for or diverted to purposes other than for the exclusive benefit of Participants, retired Participants and their beneficiaries under the Plan, unless and until all liabilities of the Plan have been satisfied, in which case any remaining assets may revert to the Authority. Further, to the extent that the Plan has an actuarial surplus (*i.e.*, the fair market value of plan assets exceeds the actuarial accrued liability), the Authority has the absolute right, without further consent or approval, to amend the Plan to include the provision of any ancillary or other benefit (such as death benefits or disability benefits) for employees represented by Local 2 (including current employees, terminated employees having a deferred vested benefit, retirees, and beneficiaries of employees) provided that such amendment does not adversely affect the qualification of the Plan under Section 401(a) of the Code.

10.02 Distribution Upon Termination of the Plan. If the Plan is terminated at any time or there is a complete discontinuance of Employer contributions to the Plan, the rights of all Participants to the benefits, subject to the Special Limitations under Section 10.04, accrued to the date of termination or discontinuance, to the extent then funded, will be fully vested and nonforfeitable. The funds then held by the Trustees in excess of the value of accumulated Employee contributions will be allocated and applied by the Trustees in amounts which, when added to the value of accumulated Employee contributions, will provide the benefits contemplated by the Plan in the following order of priority:

- (a) First, to provide for the continued payment of retirement benefits to all retired or former Participants and their beneficiaries who as of the date of termination or discontinuance were receiving benefits under this Plan. Any reduction in the retirement benefits within the group necessitated by any insufficiency of assets at or after the date of termination or discontinuance of the Plan will be shared proportionately on the basis of similar annuity values, taking into consideration the contingent benefits attributable to the benefit being paid.
- (b) Second, if any such assets remain after complete allocation for the purposes of (a) above, to provide Postponed Retirement Pensions computed under Article V to all Participants and former Participants who, at the date of termination or discontinuance of the Plan, have reached their Normal Retirement Date and have not as yet received retirement benefits under this Plan. The amount, if any, to

be allocated for this purpose will be based on immediate annuity values applicable to the Participant and such other contingent annuitants that may receive benefits attributable to the Participant, and will be subject to any reduction necessitated by any insufficiency of assets as in (a) above.

- (c) Third, if any such assets remain after complete allocation for the purposes of (a) and (b) above, to provide Early Retirement Pensions computed under Article IV to Participants and former Participants who, at the date of termination or discontinuance of the Plan, have reached their Early Retirement Date or who are Disabled Participants in accordance with Article VI and have not as yet received retirement benefits under this Plan. The amount, if any to be allocated will be based on immediate annuity values, as in (b) above, and will be subject to reduction for insufficiency of assets as in (a) and (b) above.
- (d) Fourth, if any such assets remain after complete allocation for the purposes of (a), (b), and (c) above, to provide Deferred Vested Pensions computed under Article VIII to Participants (but without multiplication by the percentage in 8.02 (c), and former Participants who would or who previously have become eligible to receive a Deferred Vested Pension but who have not as yet received retirement benefits under the Plan. The amounts, if any to be allocated will be based on deferred life annuity values and will be subject to reduction for insufficiency of assets in (a), (b), and (c) above.
- (e) Fifth, if any such assets remain after complete allocation for the purposes of (a), (b), (c), and (d) above, to provide Deferred Vested Pensions computed under Article VIII for all other Participants in the Plan as of the date of termination or discontinuance. The amount, if any, to be allocated for this purpose will be determined as in (d) above.

Any funds that may remain after having provided in full for the benefits of all persons in the groups identified above will be deemed an amount due to erroneous actuarial computation and will be returned to the Authority.

The distribution of benefits in accordance with this Section 10.02 may be carried out through the continuance of the existing Trust, the retention and/or purchase of insurance or annuity contracts, the creation of a new trust or trusts, or by the payment of cash, or by any combination of the foregoing, as the Board of Directors will determine.

10.03 Effect of Merger or Consolidation. In the event that the Authority is merged into or consolidated with, or substantially all of the assets of the Authority are transferred to, another agency (the "successor"), with the result that Employees of the Authority covered by the Plan become employees of the successor and the successor

undertakes to assume all of the rights and obligations of the Authority under this Plan, then such action will not constitute a discontinuance or termination of the Plan, and the Plan will continue in effect for the Participants in accordance with its terms, including the right of the successor to modify, amend or discontinue the Plan. If the Plan is assumed by a successor, the Credited Service or Continuous Service of any Participant who is continued in the employ of such successor will not be deemed to have been terminated or interrupted for any purpose under the Plan as a result of such merger, consolidation or purchase of substantially all of the assets of the Authority. The assumption of the Plan by the successor may be evidenced by the terms of the agreement of merger, consolidation or purchase or may be evidenced by resolution of the governing body of the successor adopted within ninety (90) days after the date of the transaction.

Any merger or consolidation with or transfer of assets or liabilities to, any other plan will be valid only if each Participant in the Plan would receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation or transfer.

10.04 Diversion of Assets. No part of the assets accumulated for the Plan under the Trust will be used directly or indirectly for any purpose other than the exclusive benefit of Participants or their beneficiaries under the Plan as it is established, or as the Plan may be changed by modification, amendment, or termination, prior to the satisfaction of all liabilities under the Plan.

ARTICLE XI.

Administration of the Program

11.01 The Trust and Trustees. The Board of Directors has entered into an Agreement with the Trustees for the creation and administration of the Trust in such form and containing such provisions as the Authority deems appropriate, including, but not limited to, provisions with respect to the powers and authority of the Trustees, limitations on the liability of the Trustees, the Authority, and the Board of Directors, and the Board of Directors' power to settle the accounts of the Trustees on behalf of all persons having any interest in the Trust. The Trustees will make any payments to or for the benefit of any Participant or beneficiary under this Plan in accordance with the terms of the Agreement. The Agreement will be deemed to form a part of this Plan, and any and all rights or benefits which may accrue to any person under this Plan will be subject to the terms and provisions of the Agreement.

11.02 Investment of Contributions. The contributions made will be invested through the Trust Fund established by the Agreement and in accordance with the provisions of the Agreement of which this Plan is a part. The Agreement covers the detailed provisions with respect to the responsibility of the Trustees for the investment of the funds received.

11.03 Delegation of Authority. The Authority is designated as "Plan Sponsor" and the Trustees as the "Plan Administrator." Specific duties will be delegated to fiduciaries including the Trustees and the Retirement Committee. The Authority will maintain, or cause to be maintained, records on the employment and compensation history of each Participant in sufficient detail to permit an accurate determination of any benefits to which the Participants may be entitled under the Plan. The Retirement Committee and the Trustees will direct their duties with respect to the Plan solely in the interest of the Plan's participants and beneficiaries for the exclusive purpose of providing benefits to the Plan's Participants and beneficiaries and defraying reasonable expenses of administering the Plan.

11.04 Appointment of the Retirement Committee. The day-to-day administration of the Plan, as provided in the Plan document, including the supervision of the payment of all benefits to retired Participants, their joint pensioners and beneficiaries, will be vested in and be the responsibility of the Retirement Committee. The members of the Retirement Committee, as constituted in Plan Section 13.08 "Committee," will serve without compensation unless otherwise determined by the Authority.

11.05 Conduct of Retirement Committee Business. The Retirement Committee will conduct its business and hold meetings as determined by it from time to time. A majority of the Retirement Committee will have the power to act, and the concurrence of any member may be in person or by telephone, telegram, facsimile transmission,

letter, or if approved by the Trustees, by electronic mail. The Retirement Committee may delegate any one of its members to carry out specific duties and to sign appropriate forms and authorizations. In carrying out its duties, the Retirement Committee may, from time to time, employ an administrative organization and agents and may delegate to them ministerial and limited discretionary duties as it sees fit. The Retirement Committee may consult with counsel, who may be of counsel to the Authority.

11.06 Retirement Committee Officers, Subcommittees and Agents. The Retirement Committee will elect from its members a Chairman and will appoint such subcommittees as it will deem appropriate, and may authorize one or more of its number or any agent to execute or deliver any instrument on its behalf and do any and all other things necessary and proper in the administration of the Plan.

11.07 Expenses of the Retirement Committee and Plan Costs. The expenses of administering the Plan, including the printing of literature and forms related thereto, the disbursement of benefits thereunder, the compensation of administrative organizations, agents, actuary, counsel, Retirement Committee or Trustees will be paid by the Trustees from the Trust Fund.

11.08 Records of the Retirement Committee. The Retirement Committee will keep a record of all its proceedings, which will be open to inspection by the Trustees.

11.09 Retirement Committee's Right to Administer and Interpret the Plan. The Retirement Committee will have the power and authority to administer and interpret the Plan and to adopt such rules and regulations as in the opinion of the Retirement Committee are necessary or advisable to implement, administer and interpret the Plan, or to transact its business; provided, however, that any rules or regulations approved by the Retirement Committee which involve a question of policy, as contrasted with a ministerial function, will first be submitted to and approved by the Trustees before they are put into effect. Such rules and regulations as are adopted by the Retirement Committee, and where required, approved by the Trustees, will be binding upon any persons having an interest in or under the Plan.

11.10 Claims Procedure. The Trustees will establish the procedure for the submission, processing and disposition of claims for benefits and requests for interpretations of the Plan submitted by employees or their beneficiaries.

11.11 Responsibility and Authority of the Retirement Committee. The responsibility and authority of the Retirement Committee will not exceed the limitations of this Article XI. The Retirement Committee may direct the appropriate trust department of a bank or an insurance company to pay Plan Participants and their beneficiaries benefits as provided under the Plan and to pay the expenses of the Retirement Committee. The

Retirement Committee will have no authority or liability with respect to the handling of the assets of the Trust Fund. The Authority will indemnify the Retirement Committee and its members for any claim against the Retirement Committee or any member of the Retirement Committee for any action made in good faith and without gross negligence. The Authority may purchase appropriate insurance to protect the Retirement Committee and its members, but the Authority's obligation to indemnify the Retirement Committee and its members will not be limited by such insurance policy.

PROPOSED

ARTICLE XII.
General Provisions

12.01 Right to Employment. Nothing contained in the Plan or the establishment of the Trust hereunder or any modification thereof, or the creation of any fund or account for the payment of any benefit will be construed to give any Employee, Participant or beneficiary any right to employment or continued employment with the Authority or any legal or equitable rights against the Authority, any member of the Board of Directors, officer, agent or employee of the Authority, or against the Committee, the Trustee or their agents or employees, except as herein provided.

12.02 Incapacity. In the event that any retired Participant or beneficiary is unable to care for his affairs because of illness or accident, any payment due may be paid to the Participant's or beneficiary's spouse, parent, brother, sister or other person deemed by the Committee to have incurred expenses for the care of such retired Participant unless a duly qualified guardian or other legal representative has been appointed.

12.03 Report to Participants. Each Participant will be notified on an annual basis of the facts of his specific participation in the Plan and the participation of the Authority as it pertains to both his account and to the overall Plan. The form and manner of the notification will be adopted by the Retirement Committee.

12.04 Assignment and Loan.

- (a) No Employee will have the right to assign, transfer, encumber or otherwise subject to lien any of the benefits provided under this Plan. Except as provided in subsection (b), below, the right of any Participant or beneficiary to any benefit or to any payment hereunder or to any separate account will not be subject to alienation, assignment, attachment, encumbrance, execution, garnishment, lien, sequestration, transfer or other legal, equitable or other process, and no loans will be made under the Plan on the basis of any account held on behalf of a Participant or former Participant.
- (b) The restrictions of subsection (a) above will not apply to a Domestic Relations Order that meets the requirements of this subsection if:
 - (i) It is a judgment, decree, or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child or other dependent of a Participant, and that is made pursuant to a state domestic relations law or the domestic relations law of the District of Columbia; and

- (ii) It creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to the Plan participant; and
- (iii) It clearly specifies the name and the last known mailing address (if any) of the Participant and the name and mailing address of each alternate payee covered by the order; and
- (iv) It clearly specifies the amount or percentage of the Participant's benefits to be paid by the Plan to each such alternate payee, or the manner in which such amount or percentage is to be determined; and
- (v) It clearly specifies the number of payments or period to which such order applies; and
- (vi) It clearly specifies that it applies to the Washington Metropolitan Area Transit Authority/Local 2 Retirement Plan; and
- (vii) It does not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan; and
- (viii) It does not require the Plan to provide increased benefits (determined on the basis of actuarial value); and
- (ix) It does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another Domestic Relations Order previously approved by the Trustees; and
- (x) It does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee in the form of a joint and survivor annuity with respect to the alternate payee and his or her subsequent spouse; and
- (xi) It does not require the payment of benefits to an alternate payee prior to the time that the Participant has separated from service with the Authority and is eligible to receive a benefit or their distribution from the Plan.

(c) Additional requirements.

- (i) The term "alternate payee" means any spouse, former spouse, child, or other dependent of a Participant who is recognized by a Domestic

Relations Order as having a right to receive all, or a portion of, the benefits payable under a Plan with respect to such participant;

- (ii) To the extent provided in a Domestic Relations Order meeting the requirements of subsection (b), the former spouse of a Participant may be treated as the Spouse of the Participant for purposes of any form of benefit payable under the Plan, and any spouse of the Participant will not be treated as a Spouse of the Participant for such purposes;
- (iii) The decision of the Trustees regarding whether a Domestic Relations Order meets the requirements of subsection (b) will be final and binding on all parties and their successors, heirs, executors, administrators and assigns. The Plan's claims procedures will apply to Domestic Relations Orders; and
- (iv) Any action taken by the Trustees in implementing a Domestic Relations Order under this section will result in the discharge of the Plan's obligation to the Participant and to each alternate payee to the extent of any payment made pursuant to this section.

12.05 Settlement of Small Pensions. In the event that the pension provided for any Participant of the Plan is less than \$50 a month, the Participant may, but will not be required to, receive such pension by the payment to the Participant entitled thereto of a lump sum of Actuarial Equivalent value to the pension to which the Participant is otherwise entitled. In the absence of an affirmative election by the Participant, the pension shall be paid monthly or in quarterly, semiannual or annual installments which the Retirement Committee determines to be the Actuarial Equivalent of the pension to which the Participant is entitled. Should the Actuarial Equivalent value of the pension equal or exceed \$5,000.00 this section shall not be applicable and the pension will be paid out as otherwise provided in the Plan.

12.06 Settlement of Small Death Benefits. In the event that a death benefit totaling less than \$1,000 is payable to a beneficiary under the Plan and the Participant's named beneficiary has not survived to receive such sum, or in the absence of the Participant making a specific beneficiary designation, the Trustees may direct the payment of the amount payable to any person they determine to be the recipient of the Participant's bounty.

12.07 Forfeitures. Forfeitures, if any, must not be applied to increase the pension benefits any Participant would otherwise receive under this Plan.

12.08 Gender and Pronoun. The masculine pronoun, wherever used, will include the feminine pronoun, and the singular number will include the plural number, unless the context of the Plan requires otherwise.

12.09 Permissible Purchase of Annuity Contracts. The Trustees, in lieu of paying the pension to which a Participant of this Plan is entitled directly from the funds of the Trust, may purchase from an insurance company, any type of annuity contract which will provide retirement benefits in an amount identical to that to which the retired Participant was entitled under this Plan, provided such annuity is not transferrable by the Participant. Upon the purchase of any annuity contract for the benefit of a retired Participant, such contract may either be assigned to the retired Participant, or retained by the Trustees for the benefit of the retired Participant.

12.10 Liability. The Committee, the Trustees, employees of the Authority or officers or members of the Board of Directors of the Authority will not be liable to any person, business entity, or government agency by reason of the terms, conditions or agreements contained in the Plan or in the Agreement executed in connection herewith. The Board of Directors, officers, employees of the Authority, the Committee, and the Trustees will be entitled to rely upon any and all certificates and reports or opinions given by any duly appointed accountant, actuary, investment advisor or legal counsel (who may be counsel for the Authority), and will be fully protected against any action taken in good faith in reliance upon such tables, valuations, certificates, reports or opinions.

12.11 Governing Law. The Plan will be construed, administered and enforced in accordance with the laws of the District of Columbia.

12.12 Tax Qualification. This Plan has been adopted and is based upon the condition precedent that the Plan, as amended, be initially qualified by the Internal Revenue Service as meeting the requirements of the Internal Revenue Code and regulations issued thereunder with respect to qualified pension plans, so as to exempt the Trust established as a part of the Plan from tax on its income. Notwithstanding any other provisions of the Plan, as amended, if the Commissioner of Internal Revenue or his delegate determines that the Plan, as amended, or the amended Plan as it may be further amended by the Board of Directors in an effort to receive such approval, does not initially qualify under the applicable provisions of the Internal Revenue Code, the Plan will be void and the Participants will be returned to the WMATA Retirement Plan in accordance with the provisions in effect prior to the establishment of this Plan.

12.13 Minimum Distribution Requirement. The provisions of this section apply for purposes of determining minimum required distributions under Section 401(a)(9) of the Internal Revenue Code and take precedence over any inconsistent provisions of the Plan; provided, however, that these provisions are intended solely to reflect the

requirements of Section 401(a)(9) of the Internal Revenue Code (and accompanying Treasury Regulations) and do not provide or expand (and shall not be construed as providing or expanding) any benefit or distribution option not otherwise expressly provided for under the terms of the Plan. The provisions of this section shall apply only to the extent required under Section 401(a)(9) of the Internal Revenue Code as applied to a governmental plan and if any special rules for governmental plans are not set forth herein, such special rules are hereby incorporated by reference and shall for all purposes be deemed a part of the Plan.

(a) Time and Manner of Distribution

(i) Required Beginning Date. The Participant's entire benefit will be distributed, or begin to be distributed to the Participant no later than the Participant's Required Beginning Date, which is April 1st of the calendar year following the later of (i) the calendar year in which the Participant attains age 70½, or (ii) the calendar year in which such Participant terminates employment.

:

(ii) Death of Participant before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or will begin to be distributed, no later than as follows:

(1) If the Participant's surviving spouse is the sole designated Beneficiary, then subject to Section 12.13(a)(ii)(5) below, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

(2) If the Participant's surviving spouse is not the sole designated Beneficiary, then subject to Section 12.13(a)(ii)(5) below, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(3) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(4) If the Participant's surviving spouse is the sole designated beneficiary and the surviving spouse dies after the Participant

but before distributions to the surviving spouse begin, this Section 12.13(a)(ii) other than Section 12.13(a)(ii)(1) will apply as if the surviving spouse were the Participant.

(5) If the Participant dies before distributions begin and there is a designated Beneficiary, distribution to the designated Beneficiary is not required to begin by the date specified in Section 12.13(a)(ii)(1) or (2) above, but only if the designated Beneficiary elects to have the Participant's entire benefit distributed to the designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. Such an election by the designated Beneficiary must be made no later than the earlier of September 30 of the calendar year in which the distribution would otherwise be required to begin under Section 12.13(a)(ii)(1) or (2), or September 30 of the calendar year that contains the fifth anniversary of the Participant's death.

For purposes of this Section 12.13(a)(ii) and Section 12.13(d), distributions are considered to begin on the Participant's Required Beginning Date (or, if Section 12.13(a)(ii)(4) applies, the date distributions are required to begin to the surviving spouse under Section 12.13(a)(ii)(1)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 12.13(a)(ii)(1)), the date distributions are considered to begin is the date distributions actually commence.

- (iii) Form of Distribution. Unless the Participant's benefit is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Sections 12.13(b), (c) and (d). If the Participant's benefit is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and applicable Treasury regulations. Any part of the Participant's benefit which is in the form of an individual account described in Section 414(k) of the Internal Revenue Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Internal Revenue Code and the Treasury regulations that apply to individual accounts.

(b) **Determination of Amount to be Distributed Each Year**

- (i) **General Annuity Requirements.** If the Participant's benefit is paid in the form of annuity distributions under the Plan, payments under the annuity shall satisfy the following requirements:
- (1) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;
 - (2) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in Sections 12.13(c) and (d);
 - (3) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
 - (4) Payments will either be non-increasing or increase only as follows:
 - a. by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index based on prices of all items and issued by the Bureau of Labor Statistics;
 - b. to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in Section 12.13(c) dies or is no longer the Participant's Beneficiary under a domestic relations order that is treated as a qualified domestic relations order under Section 414(p) of the Internal Revenue Code;
 - c. to provide cash refunds of employee contributions upon the Participant's death;
 - d. pay increased benefits that result from a Plan amendment.
- (ii) **Amount Required to be Distributed by Required Beginning Date.** The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin

under Section 12.13(a)(ii)(1) or (2) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bimonthly, monthly, semiannually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.

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

(c) **Requirements for Annuity Distributions Commencing During Participant's Lifetime**

- (i) Joint Life Annuities Where Beneficiary Is Not the Participant's Spouse. If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-spouse Beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table in Q&A-2 of Treas. Reg. §1.401(a)(9)-6. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-spouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the period certain.
- (ii) Period Certain Annuities. Unless the Participant's spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Treas. Reg. §1.401(a)(9)-9 for the calendar year that contains the Benefit Commencement

Date. If the Benefit Commencement Date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Treas. Reg. §1.401(a)(9)-9 plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the Benefit Commencement Date. If the Participant's spouse is the Participant's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section 12.13(c)(ii), or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in Treas. Reg. §1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the Benefit Commencement Date.

(d) **Requirements For Minimum Distributions If Participant Dies Before Distributions Begin**

(i) Participant Survived by Designated Beneficiary. If the Participant dies before the date distribution of his or her benefit begins and there is a designated Beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in Section 12.13(a)(ii)(1) or (2), over the life of the designated Beneficiary or over a period certain not exceeding:

(1) unless the Benefit Commencement Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(2) if the Benefit Commencement Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of his or her birthday in the calendar year that contains the Benefit Commencement Date.

(ii) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's

death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

- (iii) **Death of Surviving Spouse Before Distributions to Surviving Spouse Begin.** If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section 12.13(d) will apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 12.13(a)(ii)(1).
- (e) **Reasonable and Good Faith Interpretation.** Notwithstanding anything contained herein to the contrary, any distribution option under the Plan that is consistent with a reasonable and good faith interpretation of Section 401(a)(9) of the Internal Revenue Code shall be permitted under this Section 12.13.
- (f) **Required Minimum Distribution Requirement Definitions.** For purposes of this Section 12.13, the following terms shall be defined as follows:
 - (i) **Designated Beneficiary.** The Beneficiary designated by the Participant and who is the designated Beneficiary under Section 401(a)(9) of the Internal Revenue Code Internal Revenue Code and Treas. Reg. § 1.401(a)(9)-4.
 - (ii) **Distribution Calendar Year.** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year that contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 12.13(a)(ii).
 - (iii) **Life Expectancy.** Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

12.14 Overall Limitation on Benefits. (a) Notwithstanding any Plan provisions to the contrary, effective for Limitation Years beginning on or after January 1, 2008, to the extent necessary to prevent disqualification under Section 415 of the Internal Revenue Code, and subject to the remainder of this Section 12.14, the maximum

annual benefit, as adjusted from time to time pursuant to Article XVIII, payable in any Limitation Year to a Participant under this Plan (and any other defined benefit plan maintained by the Authority) shall not exceed the Defined Benefit Dollar Limit (adjusted as provided in Section 12.14(b)). The Defined Benefit Dollar Limit shall be \$160,000, as adjusted for the Limitation Year under Section 415(d) of the Internal Revenue Code, payable in the form of a straight life annuity, beginning no earlier than age 62 and no later than age 65. In the case of a benefit payable in a form other than a straight life annuity, or beginning before age 62 or after age 65, the adjustments in Section 12.14(b) shall apply.

The Defined Benefit Dollar Limit shall not apply to benefits that are actuarially funded by participant contributions (other than contributions that are picked up by the Authority as described in Section 414(h)(2) of the Internal Revenue Code), as determined under the rules of Section 411(c) of the Internal Revenue Code (using the actuarial assumptions thereunder) applied as if the Plan were subject to such Section 411(c).

In addition to the foregoing, to the extent necessary to prevent disqualification under Section 415 of the Internal Revenue Code, and subject to the remainder of this Section 12.14, the maximum Annual Additions for any Limitation Year shall be equal to the lesser of:

- (i) \$40,000, as adjusted as adjusted for the Limitation Year under Section 415(d) of the Internal Revenue Code; or
- (ii) 100% of the Participant's Compensation as defined in this Section 12.14.

The dollar limits in this Section shall be adjusted, effective January 1 of each year, under Section 415(d) of the Internal Revenue Code in such manner as the Secretary shall prescribe. A limit as adjusted under Section 415(d) shall apply to Limitation Years ending with or within the calendar year for which the adjustment applies but a Participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. To the extent that the monthly benefit payable to a Participant who has terminated employment is limited by the application of this Section 12.14, such limit shall be adjusted to reflect any subsequent adjustments made in accordance with Section 415(d) of the Internal Revenue Code, but the adjusted limit shall apply only to benefits payable on or after January 1 of the calendar year for which the adjustment applies.

(b) **Actuarial Adjustments Relating to Defined Benefit Dollar Limit**

(i) **Adjustment for Benefit Payable in Form Other than Straight Life Annuity**

(1) If a monthly benefit is payable in a form other than a straight life annuity, before applying the Defined Benefit Dollar Limit, the benefit shall be adjusted, in the manner described in Section 12.14(b)(i)(2) or (3), to the actuarially equivalent straight life annuity that begins at the same time. No actuarial adjustment to the benefit shall be made for (a) survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity (as defined for purposes of Section 415 of the Internal Revenue Code) to the extent such benefits would not be payable if the Participant's benefit were paid in another form, (b) benefits that are not directly related to retirement benefits (such as a qualified disability benefit, pre-retirement incidental death benefits, and post-retirement medical benefits), or (c) in the case of a form of benefit not subject to Section 417(e)(3) of the Internal Revenue Code, the inclusion of a feature under which a benefit increases automatically to the extent permitted to reflect cost of living adjustments and the increase, if any, in the defined benefit dollar limit under Section 415(d) of the Internal Revenue Code.

(2) If the benefit of a Participant is paid in a form not subject to Section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity (without regard to cost-of-living adjustments described in this Section 12.14) is equal to the greater of (a) the annual amount of the straight life annuity (if any) payable to the Participant under the Plan commencing at the same time, or (b) the annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the Participant's form of benefit, computed using a 5% interest rate and the applicable mortality designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code.

(3) If the benefit of a Participant is paid in a form subject to Section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity is equal to the greatest of: (a) the annual amount of the straight life annuity commencing at the Benefit Commencement Date that has the same actuarial present value as the Participant's form of benefit, computed using the

interest rate and mortality table (or other tabular factor) specified in Section 13.02 of the Plan for adjusting benefits in the same form, (b) the annual amount of the straight life annuity commencing at the time that has the same actuarial present value as the Participant's form of benefit, computed using a 5.5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code, or (c) the annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the Participant's form of benefit, computed using the applicable interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code, divided by 1.05.

(4) For purposes of this Section 12.14(b)(i), whether a form of benefit is subject to Section 417(e) of the Internal Revenue Code is determined without regard to the status of the Plan as a governmental plan as described in Section 414(d) of the Internal Revenue Code.

(ii) Adjustment for Benefit Commencement before Age 62 or after Age 65

(1) If the benefit of a Participant begins prior to age 62, the Defined Benefit Dollar Limit applicable to the Participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the Actuarial Equivalent of the Defined Benefit Dollar Limit applicable to the Participant at age 62 (adjusted for participation of fewer than 10 years if applicable) computed using a 5% interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code. However, if the Plan provides an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the Defined Benefit Dollar Limit is the lesser of: (1) the limitation determined under the immediately preceding sentence, or (2) the Defined Benefit Dollar Limit (adjusted for participation of fewer than 10 years if applicable) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the age of benefit commencement to the annual amount of the immediately commencing straight life annuity under the Plan at age 62, both

determined without applying the limitations of this section. The adjustment in this Section 12.14(b)(ii)(1) shall not apply as a result of benefits paid on account of Disability under Article VI or as a result of the death of a Participant under Article VII.

(2) If the benefit of a Participant begins after age 65, the Defined Benefit Dollar Limit applicable to the Participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is the Actuarial Equivalent of the Defined Benefit Dollar Limit applicable at age 65 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code. However, if the Plan provides an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the Defined Benefit Dollar Limit is the lesser of (1) the limitation determined under the immediately preceding sentence, or (2) the Defined Benefit Dollar Limit (adjusted for participation of less than 10 years if applicable) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the age of benefit commencement to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age 65, both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the age of benefit commencement date is the annual amount of such annuity payable to the Participant, computed disregarding the Participant's accruals after age 65 but including any actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical participant who is age 65 and has the same accrued benefit as the Participant.

(3) Mortality Adjustments. For purposes of this Section 12.14(b)(ii), no adjustment shall be made to the Defined Benefit Dollar Limit to reflect the probability of a Participant's death between the Benefit Commencement Date and age 62, or between age 65 and the Benefit Commencement Date, as applicable, if benefits are not forfeited upon the death of the Participant prior to the Benefit Commencement Date. To the extent benefits are forfeited upon

death before the Benefit Commencement Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Participant's death if the Plan does not charge Participants for providing a qualified preretirement survivor annuity (as defined for purposes of Section 415 of the Internal Revenue Code) upon the Participant's death.

- (c) **Reducing Dollar Limit.** If the Participant has fewer than 10 years of participation in the Plan (as determined under Section 415 of the Internal Revenue Code and the regulations thereunder), the Defined Benefit Dollar Limit shall be multiplied by a fraction, the numerator of which is the number of years (or part thereof) of participation in the Plan and the denominator of which is 10. The adjustment in this Section 12.14(c) shall not apply to benefits paid on account of disability under Article VI or as a result of the death of a Participant under Article VII.
- (d) **Other Reductions in Maximum Benefit.** In addition to the foregoing, the maximum benefit and contributions shall be reduced 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 retirement plan maintained by the Authority, 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 Authority 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 an affiliated or predecessor employer, as described in regulations under Section 415 of the Internal Revenue Code, or otherwise required to be taken into account under such regulations.
- (e) **Multiple Benefit Commencement Dates.** If a Participant has distributions commencing at more than one Benefit Commencement Date (determined in accordance with Section 415 of the Internal

Revenue Code and the regulations thereunder), the benefits payable as of each such Benefit Commencement Date shall satisfy the limitations of this Section 12.14 as of each such date, actuarially adjusting for past and future distributions of benefits commencing at the other Benefit Commencement Dates.

- (f) **Grandfathered Benefits.** The application of the provisions of this section shall not cause the maximum permissible benefit for any Participant to be less than the Participant's Accrued Benefit under this Plan as of the end of the last Limitation Year beginning before July 1, 2007 under provisions of this Plan that were both adopted and in effect before April 5, 2007 and that satisfied the limitations under Section 415 of the Internal Revenue Code as in effect as of the end of the last Limitation Year beginning before July 1, 2007.
- (g) **Annual Additions.** Annual Additions shall be defined as the sum of the following items credited to the Participant under this Plan and any other tax-qualified retirement plan sponsored by the Authority for a Limitation Year and treated as a defined contribution plan for purposes of Section 415 of the Internal Revenue Code: Authority contributions that are separately allocated to the Participant's credit in any defined contribution plan; forfeitures; participant contributions (other than contributions that are picked up by the Authority as described in Section 414(h)(2) of the Internal Revenue Code); and amounts credited after March 31, 1984 to a Participant's individual medical account (within the meaning of Section 415(l) of the Internal Revenue Code).
- (h) **Compensation.** Solely for purposes of this Section 12.14, the term "Compensation" which is used in the Plan's definition of "Final Average Earnings" will be defined as all wages within the meaning of 26 U.S.C. § 3401(a) actually paid or includible in the Participant's income but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed. Amounts contributed by the employer at the election of the employee and which are not includible in the gross income of the employee by reason of 26 U.S.C. §§ 125, 132(f)(4) and 457 will also be included in "Compensation" for purposes of Plan §12.14. Under no circumstances will compensation as defined in this section include more than \$200,000 in any twelve (12) consecutive month period subject to being adjusted for increases in the cost of living

in \$5,000 increments as determined under Internal Revenue Code § 401(a)(17)(B) or any successor statute.

- (i) **Incorporation of Section 415 Limits.** To the extent a Participant's benefit is subject to provisions of Section 415 of the Internal Revenue Code that have not been set forth in the Plan, such provisions are hereby incorporated by reference into this Plan and for all purposes shall be deemed a part of the Plan.

PROPOSED

ARTICLE XIII.
Definitions

When used in this Plan and in the Agreement, the words and phrases defined in this section will have the following meaning, unless a different meaning is clearly required by the context of the Plan or the Agreement.

13.01 "**Actual Retirement Date**" means the date the Participant actually retires and becomes eligible to start receiving benefits under the Plan by reason of such retirement.

13.02 "**Actuarial Equivalent**" will mean a benefit of equal value when computed in accordance with a blended rate of the UP84 Mortality Table and the UP84 Mortality Table set back five years. The exact percentages will be based on the assumption that the Plan is composed of 50% male participants and 50% female participants. The UP84 Mortality Table will be applied for male participants and the same table set back 5 years will be applied for female participants. The Plan will utilize an 8.5% interest assumption and will take into consideration the difference in life expectancy when the benefit commences at a time other than the normal benefit commencement date, and the value of additional guarantees provided under an option being utilized.

13.03 "**Age**" will mean attained age, not age at nearest birthday.

13.04 "**Agreement**" will mean the trust document establishing the Trust for the accumulation and investment of the funds required to provide the benefits under the Plan as it may be amended from time to time.

13.05 "**Authority**" will mean the Washington Metropolitan Area Transit Authority, a body corporate and politic with its principal office in the District of Columbia, or any predecessor or any successor thereto.

13.06 "**Board of Directors**" will mean the Board of Directors of the Authority.

13.07 "**Bonus Credited Service**" will mean that time in years (and fractional years measured in completed months) which, by vote of the Board of Directors of the Authority, will be added to the Credited Service of a Participant otherwise accrued under the terms of the Plan. Any such award of Bonus Credited Service will be signed by the Chairman of the Board of Directors and transmitted to the Plan Secretary for inclusion in the Participant's file.

13.08 "**Committee**" will mean the Retirement Committee composed of the General Manager, the Treasurer, and the Director of the Office of Human Resources Management & Planning. Each member of the Retirement Committee may act through a designated representative. The Committee is vested with the responsibility for day-

to-day administration of the Plan under the direction of the Trustees, including the execution of any documents, papers, or other forms required in their day-to-day administration.

13.09 **"Compensation"** will mean the total basic compensation (excluding any overtime payments, special shift payments, bonuses, or other allowances) received by a Participant from the Authority during any calendar month. For all Participants accruing Continuous Service on or after December 12, 1994, "Compensation" shall also include the total basic compensation described above that would have been paid by the Authority to the Participant but for the Participant's being on military leave. The immediately preceding sentence shall apply only if the Participant's military service meets the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994 or any successor statute; and if the Participant returns to employment within three (3) months of his release from military service, or such longer period during which his employment rights are protected by law. After January 1, 1993 and before January 1, 2002, under no circumstances will compensation as defined in this section include more than \$150,000 in any twelve (12) consecutive month period. The \$150,000 amount will be adjusted for increases in the cost of living in \$10,000 increments as determined under Internal Revenue Code § 401(a)(17)(B) or any successor statute. After December 31, 2001, compensation will not exceed \$200,000 in any twelve (12) consecutive month period subject to being adjusted for increases in the cost of living in \$5,000 increments as determined under Internal Revenue Code § 401(a)(17)(B) or any successor statute. For any portion of a twelve (12) month period beginning before January 1, 2002, compensation will not exceed the amount allowed by law for the year encompassing the first month of that twelve (12) month period.

13.10 **"Continuous Service"** will be defined as the uninterrupted period of service commencing with the Participant's most recent date of employment. The period of employment will not be deemed to be interrupted by absence for military service, sick leave, maternity leave, vacation leave, approved Workers' Compensation, or Local 2 leave. Additionally, unpaid Family & Medical Leave Act leave will receive Continuous Service for all time not exceeding ninety (90) days. Other special leave approved in writing by the Authority does not interrupt Continuous Service if it does not exceed ninety (90) days for Participants on approved special leave for all other reasons besides workers' compensation. Participants already on an approved special leave as of July 1, 1997 may continue to accrue Continuous Service while on that special leave for the lesser of: (1) the duration of the unextended special leave or (2) twelve (12) months. Absence for military service will come within the meaning of the above provision only if the Participant's military service meets the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994 or any successor statute; and if the Participant returns to employment within three (3) months of his release from military service, or such longer period during which his employment rights are protected by law. For an Employee retiring on or after June 1, 1974 or at or after his Full Retirement Date, if earlier, all unused accrued whole months of sick leave as of the date of retirement will

be included in computing total years of Continuous Service for all purposes under this Plan, including the calculation of "Projected Credited Service." This crediting will be allowed only after an Employee has attained either normal retirement eligibility or full retirement eligibility. For Participants accruing credited service after June 30, 1997, sick leave as computed above will be added to the Continuous Service of that Participant after the Participant has attained either normal retirement eligibility, early retirement eligibility, or full retirement eligibility.

13.11 "**Credited Service**" will be defined in terms of years (and fractional years measured in completed months) of Continuous Service of the Participant accumulated prior to his Normal Retirement Date (or after Normal Retirement Date for purposes of an Article V Postponed Retirement Pension), to the extent that the Participant received Compensation from the Authority with respect to such Continuous Service. Credited Service will also include any Bonus Credited Service that has been awarded to the Participant.

13.12 "**Disabled**" will mean being totally and permanently unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment. In no event will a Participant be determined to be totally and permanently disabled if his disability does not qualify the Participant to receive disability benefits under the Social Security Act.

13.13 "**Early Retirement Date**" will mean the first day of the month coinciding with or next following (1) the fifty-fifth (55th) birthday of the Participant, or (2) the completion of ten (10) years of Credited Service, whichever occurs later.

13.14 "**Employee**" will mean any person who, on or after the effective date of this Plan is employed by the Authority except that the term "Employee" will not include a seasonal, part-time or casual worker whose customary employment is for less than thirty (30) hours in any week or for less than five (5) months in any calendar year. The term "Employee" will not include any person who is classified by the Authority as working or providing services in a capacity other than as an employee of the Authority (including, without limitation, a person classified as an independent contractor or any person performing services for the Authority under a contract between the Authority and a leasing or other third party organization), notwithstanding the later reclassification by a court or any governmental agency of the person as a common law employee of the Authority. The term "Full Time Employee" will mean a regular employee whose normal work schedule for each biweekly pay period is at least 60 hours. The terms "Employee" and "Full Time Employee" will include a person who transfers from a full-time permanent position with the Authority to a full-time temporary position covered by Local 2 after March 1, 1987. The definition of "Full Time Employee" used above will be effective for all Employees working for the Authority on or after August 1, 1989.

13.15 "**Final Average Earnings**" will mean the annualized arithmetic average of the Participant's Compensation paid to him during any thirty-six (36) consecutive months prior to the Participant's Normal Retirement Date which will produce the highest annual average for the purposes of the benefit being calculated under the Plan.

13.16 "**Fiscal Year**" will mean the fiscal year of the Trust which will be twelve (12) months ended June 30.

13.17 "**Leased Employee**" will mean any individual who is considered to be a leased employee of the Authority under Internal Revenue Code § 414(n) or any amended or successor statute. Leased Employees will not be eligible to participate in this Plan.

13.18 "**Normal Retirement Date**" will mean the first day of the month coincident with or next following the sixty-fifth (65) birthday of the Participant.

13.19 "**Participant**" will mean any Employee in the employ of the Authority who is eligible to participate in the Plan.

13.20 "**Plan**" will mean "THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY/LOCAL 2 RETIREMENT PLAN" as set forth herein, or in any amendments hereto.

13.21 "**Projected Credited Service**" will mean the amount of Credited Service which would accrue to a Participant if he were to work until age 65. In addition, Projected Credited Service will include all whole months of sick leave and Bonus Credited Service that are included in Credited Service.

13.22 "**Social Security Breakpoint**" will mean the estimated annual amount which would be expected to be used by the Social Security Administration in determining the Participant's Social Security benefit on the date the Participant attains age sixty-five (65) determined to the nearest \$600, on the basis of the Participant having received compensation at least equal to the Taxable Wage Base applicable to each calendar year which would be included by the Social Security Administration in making that calculation, and in accordance with the Social Security Act in effect at the time the Participant's benefit is determined, as such Act may be known from time to time in the future. Should a Participant retire from the Authority after attaining the age of sixty-five, the amount to be used will be the amount which would be expected to be used by the Social Security Administration in determining the Participant's Social Security Benefit determined to the nearest \$600 on the basis of the Participant having received compensation at least equal to the Taxable Wage Base applicable to each calendar year which would be included by the Social Security Administration in making that calculation, and in accordance with the Social Security Act in effect at the time the Participant's benefit is determined, as such Act may be known from time to time in the

future for the year of the Participant's retirement even though the Participant's age exceeds sixty-five (65) years. Alternatively, instead of the above method to determine the Social Security Breakpoint, the Social Security Breakpoint shall consist of the Special Social Security Breakpoint whenever, by vote of the Board of Directors of the Authority, the Chairman signs and transmits formal notice of the award of a Special Social Security Breakpoint for any Participant to the Plan Secretary. Such notice shall be maintained in the affected Participant's file.

13.23 "**Special Social Security Breakpoint**" will mean a Social Security Breakpoint in an amount established by the Board of Directors of the Authority.

13.24 "**Spouse**" will mean the person legally married to the Participant.

13.25 "**Taxable Wage Base**" will mean the maximum amount of wages received during the calendar year on which Social Security taxes are payable by the Employee and by the Authority, as such amount is defined in Section 3121(a) of the Internal Revenue Code of 1986, or as that section may be amended or superseded from time to time in the future.

13.26 "**Trustee**" will mean the Board of Trustees designated in accordance with the terms of the Agreement.

ARTICLE XIV.
Savings Provision
(Grandfather Clause)

14.01 Savings Provision (Grandfather Clause). Nothing contained in this "WMATA/Local 2 Retirement Plan" will be construed to supersede any rights or benefits both vested and non-vested for any Participant who would otherwise have been entitled to benefits under the WMATA Retirement Plan prior to the effective date of the 1973 "Restatement." In the event a Participant desired to take his or her benefits under the Plan as they existed prior to the effective date of the 1973 "Restatement," of the WMATA Retirement Plan that Participant may so elect, and in such event the benefits payable will be calculated at the last employment period of the Participant in order to give maximum benefits hereunder. Any participating Employee under the WMATA Retirement Plan prior to the effective date of the 1973 "Restatement" who has previous credited service with the Employer, will have his years of credited participation for purposes of this Article computed from the date his employment commenced.

14.02 Treatment of Participants Under This Article Who Retire After Age 65. Where a Participant: (a) works past the age of sixty-five (65); (b) elects to have his retirement benefit computed under this Article, and (c) retires after January 1, 1988, then that Participant will not be restricted by the terms of the Prior Plan which terminated credited participation at age sixty-five (65). All of his credited participation, including the credited participation occurring after the Participant reached age sixty-five (65), will be computed under the remaining terms of the Prior Plan. No other terms of the Prior Plan will be affected by this change.

ARTICLE XV.

Consolidation With Other Plans After May 19, 1973

(Covering Former Employees of AB&W Transit Company and D.C. Transit Systems, Inc.)

15.01 Consolidation. Effective July 1, 1973 ("the date of consolidation"), Employees who were formerly Participants of the D.C. Transit Systems, Inc. Salaried Retirement Plan or AB&W Transit Company Salaried Retirement Plan (for the remainder of this Article referred to as Prior Plans) and as of the date of consolidation became Participants of the WMATA Retirement Plan and who are currently represented by Local 2 are automatically eligible to become Participants in this Plan for benefits as described in Section 15.02, Section 15.03 and Section 15.04.

15.02 Benefits for Service Prior to Date of Consolidation. Benefits for service accruing before the date of consolidation will be based upon the provisions of the Prior Plan to which the Participant belonged, based on employment and earnings history prior to the date of consolidation except that:

- (a) All benefits for Participants who retire on or after July 1, 1973 will be subject to annual Consumer Price Index adjustments as provided under Article XVIII;
- (b) Service with the Washington Metropolitan Area Transit Authority after the date of consolidation will be counted solely for the purpose of determining eligibility for benefits;
- (c) Retirement benefits payable early will be reduced as provided in Section 4.02;
- (d) Subsection (a) will not apply to any active Participant in the WMATA Retirement Plan on December 31, 1990 who was a member of the Local 2 bargaining unit on that date. Instead, the following language will be substituted. Any active Participant in the Plan, who is a member of the Local 2 bargaining unit, will have his retirement benefit earned under the Prior Plan increased by a factor of 2.991. The adjusted retirement benefit as of December 31, 1990 will be subject to annual Consumer Price Index adjustments as provided under Article XVIII. The Consumer Price Index adjustment will be first payable on January 1, 1992. The adjusted retirement benefit provided for in this subsection will not be applicable for purposes of the minimum benefit amount provided in Section 15.04. For purposes of Section 15.04, the unadjusted retirement benefit earned under the Prior Plan will be used.

15.03 Benefits for Service After the Date of Consolidation. Benefits payable under this Plan for service after the effective date of consolidation even if before the effective date of this Plan will be based upon the provisions of this Plan and the assumption that the Employee was a new Employee as of the date of consolidation, except that for the purposes of determining whether the Employee's Age and service add up to 83 as required in Section 4.02, service credit under the Prior Plan will be considered.

15.04 Minimum Benefit. The sum of the benefits payable under Section 15.02 and Section 15.03 will never be less than the benefits the Participant would have received had he continued in the Prior Plan and had the Prior Plan remained as in effect on the date prior to consolidation. This minimum benefit will be subject of annual Consumer Price Index adjustments as provided in Article XVIII and retirement benefits payable early will be reduced in accordance with the provisions of Section 4.02. The provisions of this Section 15.04 will not apply if a Participant is enrolled in a long term disability benefit program from a Plan to which the Washington Metropolitan Area Transit Authority contributes or upon his death prior to retirement provided he is covered by a group life insurance plan to which the Washington Metropolitan Area Transit Authority contributes.

15.05 Former Benefit Under Prior Plan. The provisions of this Section 15.05 apply to benefits accrued under a Prior Plan in which an Employee was not an active Participant on June 30, 1973. In the event that:

- (a) An Employee becomes a Participant of this Plan or of the WMATA Retirement Plan if prior to the effective date of this Plan and then transfers to this Plan; and
- (b) He is entitled to a benefit under the provisions of a Prior Plan in which he was not an active Participant on June 30, 1973; and
- (c) the payment of Prior Plan benefit had not commenced as of July 1, 1973; then
 - (i) the vested benefit under the former Prior Plan will be determined subject to the provisions of such plan, based on the Employee's annual earnings history through the date he ceased to be an active Participant of the former Plan except that:
 - (A) such benefit will be subject to annual Consumer Price Index adjustments as provided under Article XVIII; and
 - (B) the Participant may elect to have the Prior Plan benefit begin before age 65 in order that it coincides with the payment of the

pension benefits under this Plan, in which event his benefit will reduce $1/180$ th for each of the first sixty (60) and $1/360$ th for each additional month over sixty (60) that the benefit commencement date precedes the Normal Retirement Date; and

- (ii) the Employee's service on which such benefit is based will be used for the purposes of determining eligibility (including application of Rule of 83) for benefits under this Plan and under a Prior Plan covered by Section 15.03.

PROPOSED

ARTICLE XVI.

Transfers to and from the WMATA Retirement Plan Transfers from the Plan to an Authority Sponsored Plan Other Than the WMATA Retirement Plan

16.01 Transfers from the WMATA Retirement Plan to this Plan. The transfer of the benefit liabilities for Participants transferring from the WMATA Retirement Plan to this Plan shall occur in accordance with the terms of the Transfer Agreement to be signed by the Authority, the Chairman of the Board of Trustees for the WMATA Retirement Plan, and the Chairman of the Board of Trustees for this Plan within thirty days after the Effective Date of this Plan. A copy of the Transfer Agreement to be signed is attached to this Plan as Exhibit A. The Participant shall be eligible for all benefit forms and options which the Participant was eligible for under the WMATA Retirement Plan provided that those benefit forms or options are permitted under this Plan.

16.02 Effective Date of Transfer. The effective date of the transfer of any Participant into this Plan shall be as set forth in the Transfer Agreement described in Plan Section 16.01.

16.03 Transfers from this Plan to the WMATA Retirement Plan. The transfer of the benefit liabilities for Participants transferring from the WMATA Retirement Plan to this Plan shall occur in accordance with the terms of the Transfer Agreement described in Plan Section 16.01.

16.04 Transfers of Plan Assets to Cover Transfers of Participants Under Sections 16.01 and 16.03 of this Plan. At the close of every Plan Year, the transfer of assets to cover the transfer of participants between this Plan and the WMATA Retirement Plan shall occur. The methodology and procedures for such transfer of assets, including the initial transfer of Plan Assets, shall be as described in the Transfer Agreement described in Plan Section 16.01.

16.05 Transfer to a Union Plan. In the event that a Participant of this Plan transfers to a position covered by Local 689, ATU of the AFL-CIO; Local 639, IBT; or Local 922, IBT (a "Union Plan"), the Employee's participation under this Plan will cease as of such transfer date. In this event, the Employee will be entitled to a benefit under this Plan based upon Credited Service and final earnings as of the date of transfer; provided, however, that for purposes of determining eligibility for benefits under this Plan, service both under this Plan and the Union Plan will be considered. In the event that an Employee transfers to a Union Plan and returns to coverage under this Plan within one year of first transferring to a Union Plan, he will be considered for all

purposes to never have left this Plan and will be credited with Credited Service for the period of employment covered by the Union Plan.

PROPOSED

ARTICLE XVII.

Miscellaneous Provisions

17.01 Former WMA Employees. Former WMA employees who became Participants in the WMATA Retirement Plan on April 1, 1973 and subsequently become Participants of this Plan may elect to receive additional benefits and service credits for their service with WMA. For those Participants electing coverage under this section: (a) the annual retirement benefit determined under Section 3.02 will be increased by \$10 for each complete month of continuous service as a WMA employee through May 30, 1973 (up to a maximum increase of \$2,100); (b) such additional service will be included in the determination of eligibility conditions under the Plan; (c) such benefit will be subject to post-retirement cost-of-living increases provided in the Plan; provided, however (d) the Participants electing coverage under this section will *not* be eligible for benefits under the Savings Provisions of Article XIV. Eligible Participants who retired prior to April 1, 1979 may elect to be covered under provisions of this section as effective April 1, 1979.

ARTICLE XVIII.
Cost of Living Adjustments

18.01 **Benefits Eligible for Cost of Living Adjustments.** All benefits payable under Articles III, IV, V, VI, VII, VIII, XIV, XV, XVI, or XVII of this Plan shall be eligible for an annual Cost of Living Adjustment as computed under Section 18.02 of this Plan.

18.02 **Computation of Annual Cost of Living Adjustment.** The annual benefit adjustment for Participants who retire from the Washington Metropolitan Area Transit Authority shall be computed as set forth in this section. The monthly pension benefit of all parties receiving benefits will be adjusted effective with the benefit payment to be made January 1st of the following year, to be the amount determined by multiplying the benefit payment that would otherwise have been paid on January 1st of the following year by the ratio of (1) the Consumer Price Index for the month of September of the latest year, to (2) the Consumer Price Index for the month of September, one year earlier. The exact portion of the increase so determined that is payable to the Participant will be computed as follows:

- (a) One hundred percent (100%) of the adjustment computed above will be applied to the dollar value of the monthly benefit accrued before July 1, 1997

which is added to

- (b) eighty percent (80%) of the adjustment computed above which is applied to the dollar value of the monthly benefit accrued after June 30, 1997.

The resulting number obtained from adding subsections (a) and (b) of this section will be the adjustment due the Participant under this Article. As used in this Plan the Consumer Price Index will be defined as the total Consumer Price Index (CPI-U) for the greater Washington Metropolitan Area or any other local index which geographically embraces the greater Washington Metropolitan Area. Should the Consumer Price Index no longer report data as of September, then the data for the month closest to September which is reported in the Consumer Price Index will be used.

ARTICLE XIX.

Eligible Rollover Distribution Privileges

19.01 **Right to Trustee-to-Trustee Transfer of Eligible Rollover Distributions.** For all Eligible Rollover Distributions (as defined in Plan § 19.02(c)) occurring after December 31, 1992, a Distributee (as defined in Plan § 19.02(a)) may elect, at the time and in the manner prescribed by the Retirement Committee, to have any portion of an Eligible Rollover Distribution paid to an Eligible Retirement Plan (as defined in § 19.02(b)) specified by the Distributee in a direct Plan to receiving Eligible Retirement Plan payment.

19.02 **Definitions.** The following definitions will be used in the construction of this Article.

- (a) **“Distributee”** will include a Participant or former Participant. In addition, the Participant’s or former Participant’s surviving spouse and the Participant’s/former Participant’s spouse or former spouse who is the alternate payee under a qualified domestic relations order as described in Plan § 12.04(b) are distributees with regard to the interest of the spouse or former spouse. “Distributee” also includes a nonspousal “designated beneficiary” (as defined by Code Section 401(a)(9)(E)) of the Participant or former Participant.
- (b) **“Eligible Retirement Plan”** will mean an individual retirement account as described in Internal Revenue Code § 408(a), an individual retirement annuity as described in Internal Revenue Code § 408(b), an annuity plan as described in Internal Revenue Code § 403(a), or a defined contribution plan qualified under Internal Revenue Code § 401(a) which has elected to accept Eligible Rollover Distributions. After December 31, 2001, the term “Eligible Retirement Plan” will also include an annuity contract as described in Internal Revenue Code § 403(b) and an eligible plan under Internal Revenue Code § 457 which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. This definition is also applicable, for purposes of an Eligible Rollover Distribution, to a surviving spouse or to a former spouse who is the Alternate Payee under a Domestic Relations Order. A Roth IRA is an “Eligible Retirement Plan” solely for the purpose of receiving a rollover distribution from an Eligible Retirement Plan under the terms and conditions stated in Code §408A(e) that occurs after December 31, 2007.
- (c) **“Eligible Rollover Distribution”** will mean any distribution of all or any part of the balance to the credit of the Distributee except for distributions (or any portion of distributions) which are (i) a series of substantially equal periodic

payments made no less frequently than annually for either the life (or life expectancy) of the Participant or the joint lives (or life expectancies) of the Participant and his/her Spouse or other designated beneficiary; (ii) a series of substantially equal periodic payments made no less frequently than annually for a specified period of time lasting 10 or more years; (iii) required under the minimum distribution requirements of Internal Revenue Code § 401(a)(9) or any successor statute; (iv) any distribution that is made upon hardship of the employee or (v) not includible in the Distributee's gross income.

PROPOSED

ARTICLE XX.
Retiree Health Benefits Account

20.01. Definitions.

For purposes of this Article XX, the following definitions shall apply:

- (a) **"Applicable Authority Cost"** for any Fiscal Year shall mean the amount determined by dividing the amount of the Authority's Qualified Current Retiree Health Liabilities for such Fiscal Year (without regard to the reduction set forth in Section 20.01(e)(iii) of the Plan), by the number of Retirees and their spouses and dependents for whom coverage for Retiree Health Benefits was provided for such Fiscal Year. The Authority may, in its sole discretion, elect to determine the "Applicable Authority Cost" separately with respect to individuals who are eligible for Medicare benefits under Title XVIII of the Social Security Act at any time during the Fiscal Year, and with respect to individuals who are not so eligible.
- (b) **"Cost Maintenance Period"** with respect to any Qualified Transfer shall mean the period of five (5) Fiscal Years, beginning with the Fiscal Year in which the Qualified Transfer occurs.
- (c) **"Excess Pension Assets"** shall mean the excess (if any) of the less of 1) the fair market value of the plan's assets (reduced by the prefunding balance and funding standard carryover balance determined under Code Section 430(f); or 2) the value of plan assets as determined under Code Section 430(g)(3) after reduction under Code Section 430(f) over 125 percent of the sum of the funding shortfall and the target normal cost determined under code Section 430 for such plan year.
- (d) **"Key Employee"** shall have the same meaning as provided in Section 416(i)(1) of the Code.
- (e) **"Qualified Current Retiree Health Liabilities"** shall mean, with respect to any Fiscal Year, the aggregate amounts (including administrative expenses) that would have been allowable as a deduction to the Authority for such Fiscal Year with respect to Retiree Health Benefits provided during such Fiscal Year, if (1) the Authority were subject to the Federal Income Tax, (2) such benefits were provided directly by the Authority, and (3) the Authority used the cash receipts and disbursements method of accounting. For purposes of calculating the amount of Qualified Current Retiree Health Liabilities for any Fiscal Year, the following shall apply:

- (i) Retiree Health Benefits shall be treated as having been provided at the time such Benefits would have been includible in the gross income of the Retiree (or his spouse or dependents) receiving such Benefits, if such Benefits had been provided directly by the Authority (or would have been so includible but for any provision of the Code excluding such Retiree Health Benefits from gross income); and
 - (ii) There shall be excluded the amount of Retiree Health Benefits provided to any Key Employee, or his spouse or dependents; and
 - (iii) There shall be a reduction equal to an amount which bears the same ratio to the amount of Qualified Current Retiree Health Liabilities as the value (determined as of the last day of the Plan Year preceding the year of a Qualified Transfer) of the assets in all health benefit accounts or welfare benefit funds (as defined in Section 419(e)(i) of the Code) that have been set aside to pay for Qualified Current Retiree Health Liabilities, bears to the present value of the Qualified Current Retiree Health Liabilities for all Plan Years, determined without regard to the reduction of this subparagraph (iii).
- (f) "**Qualified Transfer**" shall mean a transfer of Excess Pension Assets to a Retiree Health Benefits Account under the Plan that meets all of the requirements of this Article XXII.
- (g) "**Retiree**" shall mean a Participant currently receiving a benefit from the Plan and who, immediately before the Qualified Transfer, is entitled to receive Retiree Health Benefits upon his retirement from the Authority, and who is also entitled to receive a Retirement Benefit (but not a Deferred Vested Benefit) under the Plan.
- (h) "**Retiree Health Benefits**" shall mean benefits or coverage provided by the Authority for the sickness, accident, hospitalization, or medical expenses of Retirees, their spouses and dependents.
- (i) "**Retiree Health Benefits Account**" shall mean a separate account established under the Plan, in accordance with Section 401(h) of the Code, which provides for the payment of Retiree Health Benefits and which meets the requirements of this Article XXII.
- (j) "**Fiscal Year**" shall mean the Fiscal Year of the Authority.

20.02. Establishment of Retiree Health Benefits Account. Effective as of July 1, 2001, the WMATA Retirement Plan has established a Retiree Health Benefits Account under the Plan. Effective upon establishment of this Plan, the Trustees shall establish a Retiree Health Benefits Account under this Plan. Any costs under this Article for the period of July 1, 2001 until Plan establishment shall be accounted for as part of the asset transfer from the WMATA Retirement Plan. The Retiree Health Benefits Account shall be funded in the manner described in Section 20.03 of the Plan, subject to the limitations and restrictions set forth in Sections 20.05, 20.06 and 20.07 of the Plan.

20.03. Transfers to the Retiree Health Benefits Account; Full Vesting of Accrued Benefits.

- (a) For each Fiscal Year beginning on or after July 1, 2001, the Authority, in its sole discretion, may direct the Trustees make a Qualified Transfer to the Retiree Health Benefits Account, subject to the limitations described in Section 20.06 of the Plan. The Authority, in its sole discretion, shall determine when the Qualified Transfer shall be made during the Fiscal Year; provided, that only one Qualified Transfer may be made per Fiscal Year. Notwithstanding the foregoing, no Qualified Transfer may be made in any Fiscal Year beginning after December 31, 2005 (or such later date as may be established under Section 420(b)(5) of the Code or any amendments thereto).
- (b) The amount of a Qualified Transfer made to the Retiree Health Benefits Account for any Fiscal Year shall be determined by the Authority, in its sole discretion, subject to the limitations described in Section 20.06 of the Plan; provided, however, that the amount of such Qualified Transfer may not exceed the amount which is reasonably estimated to be the amount which the Authority will pay (whether directly or through reimbursement) for Qualified Current Retiree Health Liabilities for the Fiscal Year in which the Qualified Transfer is made. In making this determination, the Authority shall be entitled to rely upon the reasonable estimates of any insurance companies, health maintenance organizations, or other health care providers or administrators that are providing or administering Retiree Health Benefits to or for the Retirees, their spouses and their dependents.
- (c) In the event that a Qualified Transfer is made to the Retiree Health Benefits Account under this Article XX, and notwithstanding any language in Article VIII to the contrary, the Accrued Benefits of Participants as of the date of the Qualified Transfer shall become fully vested and nonforfeitable, as if the Plan had terminated immediately prior to the Qualified Transfer. In addition, the Accrued Benefits of all Terminated

Participants who separated during the one-year period immediately preceding the date of the Qualified Transfer shall be fully vested and nonforfeitable, as if the Plan had terminated immediately prior to such separation.

20.04. Adjustment and Evaluation of Retiree Health Benefits Account. All amounts transferred to the Retiree Health Benefits Account, in accordance with Section 20.03 of the Plan, shall continue to be held as part of the Fund. On each valuation date, the Retiree Health Benefits Account shall be adjusted to reflect its proportionate share of the net income, loss, appreciation or depreciation in the value of the Fund since the preceding valuation date.

20.05. Payment of Benefits From Retiree Health Benefits Account.

- (a) Subject to the limitations described in Section 20.06 of the Plan, the amount (if any) of a Qualified Transfer made to the Retiree Health Benefits Account for a Plan Year, as adjusted in accordance with Section 20.04 of the Plan, shall be used for the exclusive purpose of paying Qualified Current Retiree Health Liabilities for the Fiscal Year of the Qualified Transfer, whether such payment is made directly or through reimbursement to the Authority.
- (b) To the extent that the amount of a Qualified Transfer for a Plan Year exceeds the amount of Qualified Current Retiree Health Liabilities for such Fiscal Year, the Authority shall direct the Trustees to promptly distribute such excess assets from the Retiree Health Benefits Account and transfer such excess assets (as adjusted in accordance with Section 20.04 of the Plan) back to the portion of the Trust Fund that provides for the payment of retirement benefits to Participants.
- (c) Except as otherwise provided in this Section 20.05, no amounts held under the Retiree Health Benefits Account shall be diverted or returned to the Authority prior to the full payment and satisfaction of the Authority's Qualified Current Retiree Health Liabilities for each Fiscal Year.

20.06. Limitations. Notwithstanding any of the foregoing provisions of this Article XX, the following limitations shall apply to the maintenance and administration of the Retiree Health Benefits Account:

- (a) No part of the Excess Pension Assets transferred to the Retiree Health Benefits Account as part of a Qualified Transfer shall be used to provide Retiree Health Benefits for any Key Employee, or his spouse or dependents.

- (b) A Qualified Transfer to a Retiree Health Benefits Account shall be permitted only if the Applicable Authority Cost for each Fiscal Year during the Cost Maintenance Period shall not be less than the higher of the Applicable Authority Costs for each of the two (2) Fiscal Years immediately preceding the Fiscal Year of the Qualified Transfer, or if the Retiree Health benefits provided by this Article become described in Internal Revenue Code §420(f)(2)(E)(i)(III), then the Qualified Transfer shall be permitted only if the Plan meets the requirements of Internal Revenue Code §420(f)(2)(D)(i)(II). If a Fiscal Year is in two (2) or more overlapping Cost Maintenance Periods, the Cost Maintenance Period with respect to a Qualified Transfer shall be determined by taking into account the highest Applicable Authority Cost required to be provided for such Fiscal Year.
- (c) The total amount of contributions made to the Plan in respect of the Qualified Current Retiree Health Liabilities shall not exceed twenty-five percent (25%) of the aggregate contributions to the Plan made after the Plan first includes such medical benefits and excluding such contributions made for past service credits. To the extent that this limitation shall be changed by statute or by regulation issued by the Internal Revenue Service, this section shall automatically be deemed to incorporate the new limitation so provided.

ARTICLE XXI.
Plan Execution

21.01 **Number of Counterparts.** The Plan may be executed in any number of counterparts, each of which when duly executed by the Authority will be deemed to be an original, but all of which will together constitute but one instrument which may be evidence by any counterpart.

21.02 **Section Headings.** All section headings used throughout this Plan are for the purposes of identification only and are not to be used in construing this instrument.

SUBJECT: RESTATEMENT OF THE TRANSIT EMPLOYEES RETIREMENT PLAN

PROPOSED
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, The Internal Revenue Service requires all qualified plans to renew their favorable determination letters every five years; and

WHEREAS, The submission to the Internal Revenue Service requires the restating of the Transit Employees Retirement Plan; and

WHEREAS, The restated plan document for the Transit Employees Retirement Plan is designed to make such changes as are required in order for the Plan to retain its qualification under Section 401(a) of the Internal Revenue Code of 1986 as amended; and

WHEREAS, A copy of the restated plan document for the Transit Employees Retirement Plan is attached to this Resolution; and

WHEREAS, The Transit Employees Retirement Plan Section 14.01 requires that all Plan amendments be made by a written Resolution of the Board of Directors; now, therefore be it

RESOLVED, That the Transit Employees Retirement Plan, as amended and restated effective July 1, 2008, a copy of which is attached to this Resolution, is hereby adopted and approved on behalf of Metro; and be it further

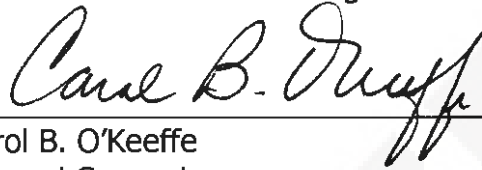
RESOLVED, That the General Manager is hereby authorized and directed to execute on behalf of Metro any other changes to the Transit Employees Retirement Plan as are requested by the Internal Revenue Service, or based on advice of counsel, as are necessary or desirable for the Plan to continue qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended; and be it further

RESOLVED, That the General Manager or the Assistant General Manager for Workforce Services is hereby authorized and directed to execute such other forms, notices, instruments or other documents and to take such further action as may be necessary or desirable (1) to fully implement the Transit Employees Retirement Plan; (2) to ensure that the Plan is qualified under Section 401(a) of the internal Revenue Code; and (3) to obtain from the Internal Revenue Service a determination letter to the effect that said

Plan continues to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code; and be it finally

RESOLVED, That this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,



Carol B. O'Keeffe
General Counsel

THE TRANSIT EMPLOYEES' RETIREMENT PLAN
(AS AMENDED AND RESTATED EFFECTIVE July 1, 2008)

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THE TRANSIT EMPLOYEES' RETIREMENT PLAN
(As Amended and Restated Effective July 1, 2008)

The Transit Employees' Retirement Trust Agreement and Plan, heretofore executed and amended, is hereby amended and restated to read in its entirety as follows:

ARTICLE I
NAME, EFFECTIVE DATE AND PURPOSE

1.01 **Name.** The Name of the Plan is "The Transit Employees' Retirement Plan" hereinafter called the "Plan."

1.02 **Effective Date.** The Transit Employees' Retirement Plan was originally adopted July 1, 1945. The Plan, as amended and restated by this Plan document, is effective as of July 1, 2008 (the "Effective Date"). Notwithstanding the forgoing, any provision which is contained in this amended and restated Plan and which is required to be effective before the Effective Date in order for the Plan to retain its qualification under Section 401(a) of the Internal Revenue Code shall, nevertheless, be effective as of the effective date required under the Internal Revenue Code.

Except as specifically provided herein, the provisions of this amending restatement shall apply only to a Participant whose status as an Employee commences, resumes or terminates on or after the Effective Date. The rights and benefits, if any, of a Participant whose status as an Employee terminated prior to the Effective Date (including a Participant who has withdrawn from the Plan but who continues to be employed by the Authority) shall be determined in accordance with the provisions of the Plan that were in effect on the date his or her status as an Employee terminated. Notwithstanding the preceding sentence, a Participant whose status as an Employee terminated prior to the Effective Date and who is entitled to a Retirement Allowance under the Plan shall be entitled to elect any optional form of benefit that is available under the Plan at the time the Retirement Allowance is scheduled to commence.

1.03 **Purpose of the Plan.** The Plan is designed to provide retirement income and disability payments for eligible employees of Washington Metropolitan Area Transit Authority who are represented by Local 689 of the Amalgamated Transit Union, AFL-CIO.

ARTICLE II DEFINITIONS

When used in this Plan, the words and phrases defined hereinafter shall have the following meaning, unless a different meaning is clearly required by the context of the Plan:

2.01 “**Accrued Benefit**” means, as of any date prior to the Participant’s Normal Retirement Date, a monthly Retirement Allowance, commencing on the first day of the month coincident with or next following the Participant’s Normal Retirement Date and continuing for the Participant’s life, calculated in accordance with Section 5.01, but based upon the Average Compensation and Years of Continuous Service as of the date of determination. The Accrued Benefit on the Participant’s Normal Retirement Date shall be the monthly Retirement Allowance described in Section 5.01.

2.02 “**Actuarial Assumptions**” means those assumptions used in the determination of Actuarial Equivalents or for other pertinent benefit calculations, as set forth in Appendix A hereto, as the same may be modified from time to time.

2.03 “**Actuarial Equivalent**” means a benefit of equivalent dollar value on a specified date, computed on the basis of the Actuarial Assumptions.

2.04 “**Actuarial Reduction** or “**Actuarially Reduced**” means a reduction which will cause a Retirement Allowance or Survivor Allowance with a commencement date that precedes a Participant’s Normal Retirement Date to be the Actuarial Equivalent of the Retirement Allowance or Survivor Allowance that would have otherwise been payable beginning on first day of the month coincident with or next following the Participant’s Normal Retirement Date. Notwithstanding the foregoing, in the case of (1) a Participant who Retires or dies after attaining age fifty-five (55) and completing fifteen (15) Years of Continuous Service, or (2) a Participant who Retires, terminates employment with the Authority or dies after completing twenty (20) Years of Continuous Service, the following factors shall be used to compute the required reduction in the Participant’s Retirement Allowance or the Spouse’s Survivor Allowance for commencement prior to the Participant’s Normal Retirement Date:

(a) **Retirement or Death on or after age 55 with 15 Years of Continuous Service:** If the Participant Retires or dies after attaining age fifty-five (55) and completing fifteen (15) Years of Continuous Service, the amount of the Retirement Allowance or Survivor Allowance otherwise payable at the Participant’s Normal Retirement Date shall be reduced by forty-two hundredths percent (0.42%) for each full month by which the Participant’s Retirement Allowance or the Spouse’s Survivor Allowance commences in advance of the first day of the month coincident with or next following the Participant’s sixty-fifth (65th) birthday (or in the case of a Spouse’s Survivor Allowance, the date on which the Participant would have attained age sixty-five (65) if he or she had not died).

(b) **Retirement, Termination of Employment or Death with 20 Years of Continuous Service:** If the Participant Retires, terminates employment with the Authority or dies after completing twenty (20) Years of Continuous Service, the amount of the Retirement

Allowance or Survivor Allowance otherwise payable at the Participant's Normal Retirement Date shall be reduced by twenty-one hundredths percent (0.21%) for each full month by which the Participant's age (or in the case of a Spouse's Survivor Allowance, the age the Participant would have attained if he or she had not died) on the date the Allowance commences is less than the difference between eighty-three (83) and the number of Years of Continuous Service which the Participant had completed as of his or her date of Retirement, termination of employment or death.

2.05 “**Age**” means attained age except when used to calculate the Actuarial Equivalent of an optional form of Retirement Allowance. When used to calculate an Actuarial Reduction or the Actuarial Equivalent of an optional form of Retirement Allowance, age means age at nearest birthday.

2.06 “**Allowance**” means a Retirement Allowance, Disability Allowance or Survivor Allowance payable under the Plan.

2.07 “**Alternate Payee**” means a person other than the Participant who is receiving a share of the Participant's Allowance pursuant to a Domestic Relations Order accepted by the Plan.

2.08 “**Authority**” means the Washington Metropolitan Area Transit Authority, and its predecessors, successors, leasees and assigns.

2.09 “**Appointment Date**” means the date of hire for an Employee whose first employment with the Authority is in the Maintenance and Construction or Administrative and Clerical seniority district or the day following completion of initial training for an Employee whose first employment with the Authority is in the Operating Employees seniority district.

2.10 “**Average Compensation**” means the average annual Compensation of a Participant over the four (4) calendar years (which do not have to be consecutive) that produce the highest average.

2.11 “**Beneficiary**” means the person or persons designated by the Participant in accordance with the provisions of Section 8.03 to receive any benefits payable upon or after the death of a Participant.

2.12 “**Benefit Commencement Date**” means the first day of the first period for which a Participant's Allowance is due to be paid.

2.13 “**Board of Directors**” means the Board of Directors of the Authority.

2.14 “**Collective Bargaining Agreement**” means the Agreement between the Authority and Local 689, as in effect from time to time. To the extent the provisions of the Collective Bargaining Agreement are referenced in the Plan, such referenced provisions are hereby incorporated in the Plan (and made a part thereof).

2.15 “**Committee**” means the Retirement Allowance Committee created under Article XI.

2.16 “**Compensation**” means:

(a) For all purposes other than Sections 4.07 and 4.08, the wages received by an Employee from the Authority during a Plan Year for personal services rendered (including overtime, spread penalty, longevity, attendance bonus, holiday premiums and shift differentials).

(b) For purposes of Sections 4.07 and 4.08, the base wages or salary received by an Employee from the Authority during a Plan Year for personal services rendered (excluding overtime, bonuses, premium pay and differentials).

(c) Notwithstanding the foregoing, Compensation:

(1) shall not include (i) contributions, credits, or benefits paid or accrued under this Plan or any other retirement plan, deferred compensation plan, welfare benefit plan or fringe benefit plan of the Authority; (ii) compensation or payments for unused vacation payable in connection with any termination of employment or payments for unused vacation made when an Employee commences a leave of absence (including payments under Section 115(h), (k) or (n) of the CBA); (iii) reimbursements for expenses, expense allowances or other special allowances granted to an Employee under the Collective Bargaining Agreement (such as allowances for tools or uniforms); or (iv) compensation paid to a Pensioned Part-Time Employee.

(2) shall include any amount which would otherwise be deemed Compensation under this section but for the fact that it is deferred pursuant to a salary reduction agreement under any plan described in Section 125, 132(f), 457 or 414(h) of the Internal Revenue Code. Amounts under Section 125 of the Internal Revenue Code include any amounts not available to the Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Section 125 of the Internal Revenue Code only if the Authority or the Transit Employees’ Health and Welfare Trust does not request or collect information regarding the Participant’s other health coverage as part of the enrollment process for the health plan.

(d) In the case of (1) an Employee who is on a leave of absence without pay from the Authority to hold an office in the Union or its International Office, or a State or local AFL-CIO Central Body or (2) an Employee who is otherwise performing duties for the Union or its International Office, or a State or local AFL-CIO Central Body, any compensation paid by such entity to the Employee which would constitute Compensation if paid by the Authority shall be deemed to be Compensation paid by the Authority for purposes of this Plan, provided that the Union or its International Office reports such compensation to the Authority within ninety (90) days after the close of the Plan Year to which it relates. Such report shall include the Employee’s name, social security number, and the amount of compensation (which would constitute Compensation if paid by the Authority) paid to such Employee by the Union or its International Office during such Plan Year.

(e) The annual Compensation of each Participant taken into account in determining benefit accruals for any Plan Year beginning after December 31, 2001, shall not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. Annual Compensation means compensation during the plan year or such other consecutive 12-month period over which Compensation is otherwise determined under the Plan (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year. In determining benefit accruals in Plan Years beginning after December 31, 2001, the annual Compensation limit for determination periods beginning before January 1, 2002, shall be \$150,000 for any determination period beginning in 1996 or earlier, \$160,000 for any determination period beginning in 1997, 1998, or 1999; and \$170,000 for any determination period beginning in 2000 or 2001.

2.17 “**Continuous Service**” means employment with the Authority as an Employee continuously without a break in employment. Notwithstanding the forgoing, “Continuous Service” does not include service as a Pensioned Part-Time Employee. Except as otherwise provided in Article IV, a Participant’s Continuous Service shall end on the date he or she ceases to be an Employee for any reason.

2.18 “**Disability Allowance**” means the benefit that a Participant who is an Employee becomes eligible pursuant to Article VI.

2.19 “**Disability Termination Date**” means the date on which a Participant terminates employment with the Authority on account of a Total and Permanent Disability.

2.20 “**Domestic Relations Order**” means any judgment, decree or order (including approval of a property settlement agreement) which relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a Participant in the Plan, and is made pursuant to a State domestic relations law (including a community property law).

2.21 “**Early Retirement Date**” means the earliest date on which a Participant (while accruing Continuous Service under the Plan):

(a) attains age fifty-five (55) and completes of fifteen (15) Years of Continuous Service; or

(b) attains age fifty (50) and completes twenty (20) Years of Continuous Service.

2.22 “**Employee**” means:

(a) Any employee of the Authority who is required by the terms of the Collective Bargaining Agreement or the Supplemental Agreement to be a member of the Union;

(b) Any individual described in Section 2.22(a) who is on a leave of absence while holding office in or performing duties for the Union or its International Office, or a State or local AFL-CIO Central Body, and any employee who remains eligible to participate in the Plan while on a leave of absence pursuant to the provisions of the Letter of Understanding between the Authority and the Union dated June 15, 2006;

(c) Any individual described in 2.22(a) with five (5) or more years of Continuous Service who transfers to a position with the Authority that is represented by another bargaining unit and who does not elect to withdraw from the Plan in accordance with Section 4.07(b); or

(d) Any individual described in 2.22(a) who becomes a Non-Represented Employee and who does not elect to withdraw from the Plan in accordance with Section 4.08.

Except as specifically provided herein, an individual shall only be considered an Employee during the period he or she (1) is employed by the Authority in a position covered under the Collective Bargaining Agreement or the Supplemental Agreement; (2) is on a leave of absence while holding office in or performing duties for the Union or its International Office, or a State or local AFL-CIO Central Body; (3) elects to remain in the Plan in accordance with the provisions of Section 4.07(b) after transferring to a position with the Authority that is represented by another bargaining unit; or (4) elects to remain in the Plan in accordance with the provisions of Section 4.08 after becoming a Non-Represented Employee.

2.23 “**Full-Time Employee**” means an Employee who is classified as a full-time Employee under the Collective Bargaining Agreement.

2.24 “**Insured Disability Allowance**” means the Disability Allowance payable under, and subject to the terms and conditions of, the Long-Term Disability Policy.

2.25 “**Internal Revenue Code**” means the Internal Revenue Code of 1986, as amended.

2.26 “**Limitation Year**” means the Plan Year.

2.27 “**Long-Term Disability Policy**” means the Long-Term Disability Policy issued by Metropolitan Life Insurance Company, or any new, supplemental or replacement long-term disability policy issued to the Trust. The Long-Term Disability Policy, as in effect from time to time shall be attached hereto as Exhibit 1 and the terms of the Long-Term Disability Policy are hereby incorporated herein and made a part of this Plan. Any amendment to the Long-Term Disability Policy shall be deemed to constitute an amendment to the Plan.

2.28 “**Minimum Disability Allowance**” means the Disability Allowance provided under Section 6.03.

2.29 “**Non-Represented Employee**” means an employee of the Authority that is not included within a bargaining unit represented by Local 689 or any other union.

2.30 “**Normal Retirement Date**” means the earliest date on which a Participant:

- (a) attains age seventy (70);
- (b) attains age sixty-five (65) with at least ten (10) Years of Continuous Service;
- (c) completes twenty-seven (27) Years of Continuous Service (while accruing Continuous Service under the Plan); or
- (d) has attained Age and Continuous Service (when added together) that are equal to or greater than eighty-three (83) (while accruing Continuous Service under the Plan).

Solely for purposes of Article VI, a Participant who is receiving a Minimum Disability Allowance shall be deemed to have reached his or her Normal Retirement Date on the earlier of (i) the date determined under Section 2.30(a), (b) or (c) above; or (ii) the date on which the Participant’s attained Age and Continuous Service (when added together) are equal to eighty-three (83) (even though the Participant is not accruing Continuous Service at that time).

2.31 “**Occupational Disability**” means, in the case of the Minimum Disability Allowance, a Total and Permanent Disability due to an occupational accident or sickness arising out of and in the course of employment with the Authority. Further, solely for purposes of the Minimum Disability Allowance, a Participant shall be deemed to be Disabled on account of an Occupational Disability if, as the result of changes in the method of operation, or a change in equipment, such as, for example, the Authority’s conversion from streetcar to bus operation, an operator is unable to obtain or qualify for another position with the Authority which pays no less than ninety-two percent (92%) of the top operators’ rate (or in the case of a non-operating Participant who is unable to obtain or qualify for another position with the Authority which is not more than three (3) grades below the job classification then held by that Participant). No Participant who declines a job offer paying ninety-two percent (92%) or more of the job class from which the Participant was physically disqualified shall be considered to be Totally and Permanently Disabled for purposes of the Minimum Disability Allowance.

2.32 “**Part-Time Employee**” means an Employee who is classified as a part-time Employee pursuant to Section 220 of the Collective Bargaining Agreement.

2.33 “**Participant**” means an Employee who is currently accruing benefits under the Plan. Where appropriate to the context of the Plan, the term “Participant” also includes a former Employee who is no longer accruing benefits under the Plan (including an individual whose status as an Employee terminated prior to the Effective Date) but who remains entitled to receive an Allowance under the Plan.

2.34 “**Pensioned Part-Time Employee**” means a Part-Time Employee who is receiving an Allowance (other than a Survivor Allowance) from the Plan.

2.35 “**Plan**” means “The Transit Employees’ Retirement Plan” as set forth herein, and including any amendments hereto.

2.36 “**Plan Year**” means the twelve-month period ending on December 31.

2.37 “**Prior Plan**” means the Plan in effect immediately prior to the Effective Date.

2.38 “**Probationary Period**” means the probationary period under Section 108 of the Collective Bargaining Agreement.

2.39 “**Retirement**” or “**Retires**” means termination of employment on or after the Participant’s Early or Normal Retirement Date.

2.40 “**Retirement Allowance**” means the benefit for which a Participant becomes eligible pursuant to Article V.

2.41 “**Spouse**” means the person legally married to the Employee on the relevant date.

2.42 “**Supplemental Agreement**” means the Supplemental Agreement between the Authority and Local 689, as in effect from time to time. To the extent the provisions of the Supplemental Agreement are referenced in the Plan, such provisions are hereby incorporated in the Plan (and made a part thereof).

2.43 “**Survivor Allowance**” means the benefit payable to a surviving Spouse or to the Participant’s Beneficiary following the death of the Participant under the terms of the Plan.

2.44 “**Trust**” or “**Fund**” means the trust fund constituting all assets of whatsoever kind and nature from time to time held by the Trustee pursuant to the Trust Agreement without distinction as to income or principal.

2.45 “**Trust Agreement**” means the trust agreement dated December 1, 1996 by and between the Authority and the Trustee, together with any and all amendments or supplements thereto.

2.46 “**Trustee**” means SunTrust or such other Trustee jointly selected by the Authority and the Union to hold the assets of the Plan, or its or their successors.

2.47 “**Totally and Permanently Disabled,**” “**Total and Permanent Disability,**” “**Disability**” or “**Disabled**” means:

(a) In the case of the Insured Disability Benefit, such terms have the meaning contained in and assigned by the Long-Term Disability Policy.

(b) In the case of the Minimum Disability Allowance, such terms mean the total and permanent disability of a Participant while an Employee, based on proof satisfactory to the Committee. A Participant shall be considered permanently and totally disabled if, based on

medical evidence, the Participant has become totally disabled by reason of bodily injury or physical or mental disease to the extent that the Participant is prevented from performing the duties of the Participant's regular employment with the Authority.

2.48 **“Union”** or **“Local 689”** means Local 689 of the Amalgamated Transit Union AFL-CIO and its successors.

2.49 **“Years of Continuous Service”** means the number of complete months of Continuous Service divided by twelve (12).

**ARTICLE III
PARTICIPATION IN THE PLAN**

3.01 Commencement of Plan Participation.

(a) **Employees Covered by Collective Bargaining Agreement.** An Employee whose employment is subject to, and governed by, the Collective Bargaining Agreement shall become a Participant in the Plan on the day following the completion of his or her Probationary Period.

(b) **Employees Covered by Supplemental Agreement.** An Employee whose employment is subject to, and governed by, the Supplemental Agreement shall become a Participant in the Plan on the day following the completion of one (1) Year of Continuous Service.

(c) **Employees Covered by Supplemental Agreement who Become Subject to Collective Bargaining Agreement.** An Employee whose employment is subject to, and governed by, the Supplemental Agreement but who transfers to a position that is subject to, and governed by, the Collective Bargaining Agreement before he or she completes one (1) year of Continuous Service shall become a Participant in the Plan on the later of (1) the day following the completion of his or her Probationary Period or (2) the day he or she commences employment in a position covered by the Collective Bargaining Agreement.

3.02 Termination of Benefit Accrual. A Participant shall cease to accrue benefits under the Plan on the earlier of the date the Participant (a) ceases to be an Employee for any reason (including resignation, discharge, death, Disability or Retirement), (b) becomes a Pensioned Part-Time Employee, (c) is removed from the Plan in accordance with Section 4.07(a), or (d) elects to withdraw from the Plan in accordance with the provisions of Section 4.07(b) or 4.08. The extent to which a Participant who ceases to accrue benefits under the Plan is entitled to credit for Continuous Service completed after such date shall be determined in accordance with the provisions of Article IV.

3.03 Resumption of Benefit Accrual.

(a) If a Participant ceases to accrue benefits under the Plan in accordance with Section 3.02 and the individual subsequently becomes an Employee without experiencing a break in Continuous Service, such individual shall resume benefit accruals under the Plan on the date the individual subsequently becomes an Employee. Notwithstanding the forgoing, an Employee who returns as a Pensioned Part-Time Employee shall not resume benefit accruals under the Plan.

(b) If a Participant ceases to accrue benefits under the Plan in accordance with Section 3.02 and the individual subsequently becomes an Employee after experiencing a break in Continuous Service, such individual shall be required to satisfy the eligibility requirements contained in Section 3.01 before resuming benefit accruals under the Plan. In addition, unless the pre and post-break Continuous Service is bridged in accordance with the provisions of Section 4.04, the individual's pre and post-break periods of Continuous Service will be treated

as separate periods of employment and separate periods of Continuous Service for all purposes of the Plan.

3.04 Transfer to Non-Represented Position. If an Employee becomes a Non-Represented Employee, the Employee shall continue to accrue benefits under the Plan, unless and until such Participant withdraws from the Plan in accordance with the provisions of Section 4.08.

3.05 Transfer to Another Bargaining Unit. If a Participant ceases to be an Employee because he or she becomes employed by the Authority in a position that is within a bargaining unit represented by another union, then the determination of whether such Participant ceases to accrue benefits under the Plan upon transferring to another bargaining unit shall be made in accordance with Section 4.07.

ARTICLE IV CREDITING SERVICE

4.01 **Calculation of Continuous Service.** The following provisions shall apply in calculating a Participant's Continuous Service:

(a) Except as otherwise provided in this Article IV, an Employee's period of Continuous Service shall begin on his Appointment Date and shall end on the earlier of (1) the date of the Employee's resignation or discharge; (2) the date on which an Employee incurs a break in Continuous Service; (3) the expiration of a period of absence described in Section 4.01(f)(1), (2), (3) and (5) without a return to active employment; (4) the date an Employee ceases to be an Employee (even though he or she may continue to be employed by the Authority); or (5) such earlier date as may be specified by this Article IV.

(b) Only complete months of Continuous Service shall be taken into account.

(c) Except as provided otherwise in this Section 4.01, the end of a period of Continuous Service shall constitute a break in Continuous Service.

(d) Except as provided in Section 4.04, separate periods of Continuous Service (*i.e.*, Continuous Service separated by a break) will be treated separately for all purposes of the Plan. Separate periods of Continuous Service may not be aggregated for any purpose (including the determination of whether a Participant met the ten (10) year Continuous Service requirement for an Retirement Allowance under Section 5.03, has reached his or her Early or Normal Retirement Date or is eligible for a Disability Allowance under Article VI).

(e) Employment with the Authority as a Pensioned Part-Time Employee shall not constitute Continuous Service for any purpose under the Plan.

(f) The following periods of absence shall be treated as Continuous Service:

(1) A period of absence, while remaining an Employee, due to sickness or injury arising out of and in the course of employment with the Authority; provided, however, that credit for Continuous Service will cease (and a break in Continuous Service shall occur) on the earlier of the date of: (i) the Employee's resignation or discharge; (ii) the commencement of a Minimum Disability Allowance to the Employee under Article VI of the Plan; (iii) three years after the commencement of an Insured Disability Allowance to the Employee under Article VI of the Plan; or (iv) the commencement of long-term disability benefits under any other (non-Local 689) long-term disability plan maintained by the Authority.

(2) A period of absence, while remaining an Employee, due to sickness or injury not arising out of and in the course of employment with the Authority; provided, however, that credit for Continuous Service will cease (and a break in Continuous Service shall occur) on the earlier of the date of: (i) the Employee's resignation or discharge; (ii) the commencement of a Minimum Disability Allowance to the Employee under Article VI of the Plan; or (iii); or (iv) three (3) years from the date the period of absence commenced.

(3) The period covering a leave of absence while holding office in or performing duties for the Union or its International Office, or a State or local AFL-CIO Central Body;

(4) In the case of an Employee described in Section 2.22(a) who was discharged by the Authority and who is reinstated pursuant to the Collective Bargaining Agreement through agreement of the Authority and the Union or by judgment of a Board of Arbitration, the period between discharge and reinstatement; and

(5) Periods during which no services were rendered because of strikes or lockouts.

(6) In the case of an Employee described in Section 2.22(a), who is temporarily laid-off, the period between the date of termination due to a temporary lay-off and the date of recall; provided that the Employee immediately returns to active employment with the Authority upon being re-called. If an Employee who is terminated due to a temporary lay-off fails to return to work upon being re-called to employment, the Employee shall be deemed to have terminated employment with the Authority on the original date of termination and the Employee shall be deemed to have incurred a break in Continuous Service as of the original date of termination.

(g) If an Employee becomes a Non-Represented Employee or ceases to be an Employee because he or she becomes a member of another bargaining unit, the calculation of the Employee's Continuous Service shall be subject to the provisions of Section 4.07 and 4.08. If such individual subsequently returns to a position as an Employee, the provisions of Section 4.04 shall apply and the provisions of Section 4.07 and 4.08 shall not apply.

(h) In no event shall an employee receive credit for more than one (1) month of Continuous Service during any calendar month or for more than one (1) year during any twelve (12) month period.

4.02 Years of Continuous Service for Eligibility and Vesting Purposes. A Participant shall receive credit for all Years of Continuous Service (regardless of the number of hours worked) in determining whether the Employee (1) has met the eligibility requirements to participate in the Plan; (2) has met the eligibility requirements to receive a Disability Allowance; (3) has reached his or her Normal or Early Retirement Date; and (4) has met the ten (10) year Continuous Service requirement for an Retirement Allowance under Section 5.03 of the Plan.

4.03 Years of Continuous Service for Benefit Purposes.

(a) A Participant who is a Full-Time Employee shall receive credit for all Years of Continuous Service in determining the amount of any Allowance under the Plan.

(b) A Participant who is a Part-Time Employee (other than a Pensioned Part-Time Employee) or an Employee whose employment is subject to, and governed by, the

Supplemental Agreement shall be credited with Continuous Service for purposes of determining the amount of the Participant's Allowance under the Plan as follows:

(1) A Participant who is a Part-Time Employee (other than a Pensioned Part-Time Employee) shall be credited with Continuous Service completed as a Part-Time Employee on or after July 1, 1983.

(2) The amount of Continuous Service credited to a Participant in any one (1) year shall be the actual hours for which the Employee is paid for such year, divided by two thousand eighty (2,080) hours (but in no event shall the Participant receive credit for more than one Year of Continuous Service for any one (1) year).

(c) In the case of a Participant who Retires on or after his or her Early Retirement Date, the amount of the Participant's unused accrued sick leave as of the date of Retirement shall be included in the number of Years of Continuous Service used to calculate the Participant's Retirement Allowance (but not for any other purpose under the Plan).

4.04 Interrupted Service. If an Employee described in Section 2.22(a) or (b) incurs a break in Continuous Service, and subsequently resumes employment with the Authority as an Employee, the following provisions shall apply:

(a) Unless the re-hired Employee has been continuously employed by the Authority in a position other than as an Employee since the date of his or her break in Continuous Service, or unless the break was attributable solely to a Disability, then the Employee's pre and post-break periods of Continuous Service will be treated as separate periods of employment (and separate periods of Continuous Service) for all purposes of the Plan. Once the Employee completes five (5) years of Continuous Service following resumption of employment with the Authority as an Employee, the period of Continuous Service completed subsequent to the Employee's date of re-hire and the prior period of Continuous Service will be added together and treated as a single period of Continuous Service. However, if the Employee does not complete five (5) years of Continuous Service following resumption of employment with the Authority as an Employee, the Employee will be treated as a new Employee as of his or her date of rehire for all purposes of the Plan and the Employee's pre and post-break periods of Continuous Service will be treated as separate periods of employment and separate periods of Continuous Service for all purposes of the Plan (including, without limitation, in calculating the amount of any Allowance and in determining whether the Employee (1) has met the eligibility requirements to participate in the Plan; (2) has met the eligibility requirements to receive a Disability Allowance; (3) has reached his or her Normal or Early Retirement Date; and (4) has met the ten (10) year Continuous Service requirement for an Retirement Allowance under Section 5.03 of the Plan). This provision shall only apply to Employees whose five (5) years of Continuous Service following re-hire is completed on or after May 1, 1998.

(b) If the Employee has been continuously employed by the Authority (in a capacity other than as an Employee) since the date of his or her break in Continuous Service, then the period of Continuous Service completed subsequent to the date the individual resumes his or her status as an Employee will be added together and treated as a single

period of Continuous Service employment with the Authority. In addition, the individual's employment with the Authority in a capacity other than as an Employee shall be treated as employment completed while an Employee for (1) purposes of determining whether the Participant has met the ten (10) year Continuous Service requirement for an Retirement Allowance under Section 5.03; (2) has met the eligibility requirements to receive a Disability Allowance; and (3) has reached his or her Normal or Early Retirement Date (but not any other purpose, including, without limitation, for determining whether the Participant has met the eligibility requirements to participate in the Plan, for determining the amount of an Allowance, or for determining entitlement to any minimum Allowance).

(c) If the break was attributable solely to a Disability, then the period of Continuous Service completed subsequent to the Employee's return from the Disability and the period of Continuous Service prior to the date of the Employee's Disability will be added together and treated as a single period of Continuous Service for all purposes of the Plan.

4.05 Military Service. Effective as of December 12, 1994, and notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credits with respect to qualified military service will be provided to the extent required by Section 414(u) of the Internal Revenue Code.

4.06 Transfer to Local 689 Bargaining Unit Position. If an individual who is employed by the Authority becomes an Employee, employment with the Authority prior to the date the individual became an Employee shall be treated as employment completed while an Employee for (1) purposes of determining whether the Participant has met the ten (10) year Continuous Service requirement for an Retirement Allowance under Section 5.03; (2) has met the eligibility requirements to receive a Disability Allowance; and (3) has reached his or her Normal or Early Retirement Date (but not any other purpose, including, without limitation, for determining whether the Participant has met the eligibility requirements to participate in the Plan, for determining the amount of an Allowance, or for determining entitlement to any minimum Allowance). For purposes of determining whether the Participant has met the eligibility requirements to participate in the Plan and in determining the Participant's Accrued Benefit, the Participant shall be treated as having commenced employment with the Authority as of the date the Participant becomes an Employee. This provision shall not apply to an individual who was previously employed by the Authority as an Employee. The extent to which such individual is entitled to credit for employment with the Authority prior to the date the individual resumes employment as an Employee shall be determined in accordance with the provisions of Section 4.04.

4.07 Transfer to Another Bargaining Unit. If an Employee transfers to a position with the Authority that is represented by another bargaining unit, the following provisions shall apply:

(a) If the Employee has less than five (5) years of Continuous Service (determined at the time of the transfer), the Employee's participation in this Plan shall cease as of the date the Employee transfers to a position that is represented by another bargaining unit. In calculating the amount of any Allowance with respect to the Employee:

(1) Only Years of Continuous Service completed prior to the date of transfer shall be taken into account (*i.e.*, for purposes of determining any Allowance or for determining entitlement to any minimum Allowance, Continuous Service completed on or after the transfer date shall not be taken into account).

(2) The Employee shall continue to receive credit for Continuous Service completed after the date of transfer for (i) purposes of determining whether the Employee has met the ten (10) year Continuous Service requirement for an Retirement Allowance under Section 5.03; and (ii) has reached his or her Normal or Early Retirement Date (but not any other purpose).

(3) “Compensation” received by the Employee from the Authority following the transfer date shall be taken into account in calculating the Average Compensation applied to the Employee’s pre-transfer Years of Continuous Service.

(b) If the Employee has five (5) or more years of Continuous Service (determined at the time of the transfer), and the retirement plan covering employees represented by such bargaining unit does not require that the Employee become a member of such retirement plan, then such Employee may elect to remain a Participant in this Plan or withdraw from this Plan for the purpose of participating in a Authority sponsored retirement plan covering employees represented by such bargaining unit. Such election must be made within ninety (90) days of the effective date of the Employee’s transfer to a position represented by such other bargaining unit. If the Employee makes such election within such ninety (90) day period, the Employee shall be deemed to have withdrawn from the Plan and will cease to accrue benefits effective as of the date he/she becomes covered by another Authority sponsored retirement plan (but not later than the first day of the month following the end of the 90 day election period contained in this Section 4.07(b)). In the event the Employee fails to make an election within such ninety (90) day period, the Employee shall be deemed to have irrevocably elected to remain in the Plan. If the Employee becomes a participant in an Authority sponsored retirement plan covering employees represented by such bargaining unit (other than solely for the purpose of making elective (pre-tax) employee contributions) or the Employee affirmatively elects to withdraw from this Plan within the aforementioned ninety (90) day period, then the Employee’s participation in this Plan shall cease as of the date of such withdrawal. In calculating the amount of any Allowance with respect to an Employee who has withdrawn (or who is deemed to have withdrawn) from the Plan:

(1) Only Years of Continuous Service completed prior to the date of withdrawal shall be taken into account (*i.e.*, for purposes of determining any Allowance or for determining entitlement to any minimum Allowance, Continuous Service completed on or after the date the Employee withdraws from the Plan shall not be taken into account).

(2) The Employee shall continue to receive credit for Continuous Service completed after the date of withdrawal for (i) purposes of determining whether the Employee has met the ten (10) year Continuous Service requirement for an Retirement

Allowance under Section 5.03; and (ii) has reached his or her Normal or Early Retirement Date (but not any other purpose).

(3) “Compensation” received by the Employee from the Authority following the date of withdrawal from the Plan shall be taken into account in calculating the Average Compensation applied to the Employee’s pre-withdrawal Years of Continuous Service.

4.08 Transfer to Authority Plan For Non-Represented Employees. If an Employee becomes a Non-Represented Employee, such Employee may withdraw from the Plan for the purpose of participating in such other plan sponsored by the Authority as may be provided for Non-Represented Employees. A request for withdrawal must be made within one (1) year of the date the Employee becomes a Non-Represented Employee and the Authority must consent to such withdrawal (which consent will not be unreasonably withheld). In the event the Employee elects to withdraw from this Plan, the Employee’s participation in this Plan shall cease as of the date such withdrawal is approved by the Authority. In calculating the amount of any Allowance with respect to the Employee:

(a) Only Years of Continuous Service completed prior to the date of withdrawal shall be taken into account (*i.e.*, for purposes of determining any Allowance or for determining entitlement to any minimum Allowance, Continuous Service completed on or after the date the Employee withdraws from the Plan shall not be taken into account).

(b) The Employee shall continue to receive credit for Continuous Service completed after the date of withdrawal for (i) purposes of determining whether the Participant has met the ten (10) year Continuous Service requirement for an Retirement Allowance under Section 5.03; and (ii) has reached his or her Normal or Early Retirement Date (but not any other purpose).

(c) “Compensation” received by the Employee from the Authority following the date of withdrawal from the Plan shall be taken into account in calculating the Average Compensation applied to the Employee’s pre-withdrawal Years of Continuous Service.

4.09 Transfer From Another Authority Plan. If an Employee who withdrew from the Plan pursuant to Section 4.08 later returns to a position covered by the Collective Bargaining Agreement, then the following provisions shall apply:

(a) For purposes of determining whether the Participant (1) has met the eligibility requirements to participate in the Plan; (2) has met the ten (10) year Continuous Service requirement for an Retirement Allowance under Section 5.03; (3) has met the eligibility requirements to receive a Disability Allowance; and (4) has reached his or her Normal or Early Retirement Date (but not any other purpose, including, without limitation, for determining the amount of an Allowance or for determining entitlement to any minimum Allowance), the Employee will be credited with the Employee’s full period of Continuous Service (as if the Employee had always been employed in a position covered by the Collective Bargaining Agreement)

(b) For purposes of determining the Participant's Accrued Benefit, the Participant shall be treated as (1) having terminated his or her status as an Employee on the date the Participant withdrew from the Plan pursuant to Section 4.08; and (2) re-commencing employment with the Authority as of the date the Participant resumes his or her status as an Employee; provided, however, that notwithstanding the provisions of Section 4.04, the period of Continuous Service completed subsequent to the Employee's return to a position covered by the Collective Bargaining Agreement and the period of Continuous Service prior to the date of the Employee withdrew from the Plan will be added together and treated as a single period of Continuous Service for all purposes of the Plan.

**ARTICLE V
RETIREMENT ALLOWANCE**

5.01 **Normal Retirement.** A Participant who elects to Retire on or after reaching his or her Normal Retirement Date shall receive a monthly Retirement Allowance, payable in the form of a straight-life annuity for the life of the Participant commencing on the first day of the month coincident with or next following the Participant's date of Retirement, equal to 1/12th of the following amount:

1.85% of Average Compensation times the number of Years of Continuous Service up to 27 (or fraction thereof based on completed months) at Retirement, plus

1.95% of Average Compensation times the number of Years of Continuous Service in excess of 27 (or fraction thereof based on completed months) at Retirement.

Notwithstanding the benefit resulting from the application of the above formula, the minimum monthly Retirement Allowance under this Plan, payable to any Participant who is an Employee and who Retires on or after his or her Normal Retirement Date shall be six hundred dollars (\$600). The minimum Retirement Allowance is only applicable to a Participant who is an Employee on the date he or she Retires and who actually Retires on or after his or her Normal Retirement Date. In addition, in determining whether a Participant is entitled to the minimum Retirement Allowance because the Participant has reached his or her Normal Retirement Date, only years of Continuous Service completed as an Employee shall be taken into account (*i.e.*, years of Continuous Service credited pursuant to Article IV in a capacity other than as an Employee shall be ignored). The minimum Retirement Allowance does not apply to (and is not relevant for calculating) the Retirement Allowance payable under Section 5.02 or 5.03. The six hundred dollar (\$600) minimum Retirement Allowance shall be pro-rated for Part-Time Employees (based on the average annual number of hours of service completed during the period used to compute the Participant's Average Compensation over the number of hours normally worked by a Full-Time Employee during such period (*i.e.*, two thousand eighty (2,080) per year).

In lieu of receiving a Retirement Allowance in the form of a straight-life annuity, a Participant can elect to receive his or her Retirement Allowance in any of the optional forms permitted under Article VIII (in which case the option selected by the Participant shall be the Actuarial Equivalent of a Retirement Allowance in the form of a straight-life annuity commencing on the first day of the month following the Participant's Retirement).

A Participant who elects to continue employment with the Authority after reaching his or her Normal Retirement Date (other than as a Pensioned Part-Time Employee) shall not be entitled to receive a Retirement Allowance until he or she actually Retires.

5.02 **Early Retirement.**

(a) A Participant who Retires on or after reaching his or her Early Retirement Date shall be entitled to receive, commencing on the first day of the month following the

Participant's Normal Retirement Date, a monthly Retirement Allowance equal to his or her Accrued Benefit, determined as of his or her Early Retirement Date.

(b) A Participant who Retires on or after reaching his or her Early Retirement Date may elect to commence the payment of his or her Retirement Allowance as of the first day of any month coincident with or next following his or her Early Retirement Date and prior to his or her Normal Retirement Date. If a Participant who Retires on or after reaching his or her Early Retirement Date elects to have the Retirement Allowance commence prior to his or her Normal Retirement Date, the amount of the Participant's Retirement Allowance shall be Actuarially Reduced (in order to reflect early commencement of payments).

5.03 Vested Deferred Allowance. If a Participant does not complete ten (10) years of Continuous Service, the Participant shall not be entitled to a Retirement Allowance under this Plan. A Participant whose status as an Employee terminates for any reason (other than death) prior to his or her Early or Normal Retirement Date, but after completing ten (10) years of Continuous Service, shall be entitled to receive, commencing on his or her Normal Retirement Date, a Retirement Allowance equal to the Participant's Accrued Benefit, determined as of the date of the Participant's status as an Employee terminated. A Participant whose status as an Employee terminates for any reason (other than death) prior to his or her Early or Normal Retirement Date, but after completing at least fifteen (15) but less than twenty (20) years of Continuous Service, may elect to have his or her Retirement Allowance commence at any time on or after attainment of age fifty-five (55). A Participant whose status as an Employee terminates for any reason (other than death) prior to his or her Early or Normal Retirement Date, but after completing at least twenty (20) years of Continuous Service, may elect to have his or her Retirement Allowance commence at any time on or after attainment of age fifty (50). If the Participant elects to commence his or her Retirement Allowance prior to his or her Normal Retirement Date, the Retirement Allowance payable to the Participant shall be Actuarially Reduced in order to reflect such early commencement of payments.

5.04 Suspension of Benefits Upon Resumption of Employment.

(a) Payment of a Retirement Allowance to a Participant who resumes employment with the Authority shall, except as otherwise provided below, be suspended until the Participant's subsequent Retirement or death. The Retirement Allowance of a Participant who returns to work for the Authority as a Pensioned Part-Time Employee shall not be suspended during any period of part-time employment by the Authority and such part-time employment shall not constitute Continuous Service for any purpose.

(b) If the Retirement Allowance paid to a Participant is suspended under Section 5.04(a) above, the Participant's Continuous Service prior to the commencement of the Retirement Allowance will be restored for the purposes of determining eligibility and for the amount of any Retirement Allowance for which the Participant may subsequently become eligible. However, the Participant's future Retirement Allowance shall be Actuarially Reduced or offset, if and as necessary, to avoid duplication of any Retirement Allowance previously paid to the Participant.

ARTICLE VI DISABILITY ALLOWANCE

6.01 Eligibility for Disability Allowance. If a Participant who is an Employee becomes Totally and Permanently Disabled prior to his or her Normal Retirement Date (and while an Employee), he or she shall be entitled to receive a Disability Allowance in accordance with, and subject to, the terms and conditions of this Article VI. A Disability Allowance shall be in lieu of any Retirement Allowance (*i.e.*, a Participant receiving a Disability Allowance shall not be entitled to receive a Retirement Allowance). A Participant whose employment is subject to, and governed by, the Supplemental Agreement shall be eligible for a Minimum Disability Benefit, but shall not be eligible for the Insured Disability Allowance.

6.02 Insured Disability Allowance. If a Participant whose employment is subject to, and governed by, the Collective Bargaining Agreement and who is a full-time Employee incurs an illness or injury on or after January 1, 2002 (while a full-time Employee) that gives rise to a disability, such Participant will be eligible for an Insured Disability Allowance in accordance with, and subject to all of the terms, conditions and requirements (including eligibility requirements) of the Long-Term Disability Policy.

6.03 Minimum Disability Allowance.

(a) A Participant (1) who is an Employee; (2) who is not eligible for (or who ceases to be eligible for) an Insured Disability Allowance; (3) who has completed at least ten (10) Years of Continuous Service when he or she first becomes Disabled; and (4) who becomes Totally and Permanently Disabled prior to his or her Normal Retirement Date due to an illness or injury sustained while an Employee, shall be entitled to receive a Minimum Disability Allowance in accordance with, and subject to, the terms and conditions of this Section 6.03. If the Participant becomes disabled due to an Occupational Disability, the Participant shall be required to have only five (5) years of Continuous Service when he or she first becomes Disabled instead of the ten (10) years required in the preceding sentence.

(b) The amount of the annual Minimum Disability Allowance shall be a monthly Allowance calculated in the same manner as provided in Section 5.01 for a Retirement Allowance (but based upon the Participant's Continuous Service and Average Compensation on his or her Disability Termination Date). Notwithstanding the foregoing, the minimum monthly Minimum Disability Allowance payable to a Participant who has completed the requisite five (5) or ten (10) years of Continuous Service as a Employee (*i.e.*, ignoring, for this purpose any years of Continuous Service credited pursuant to Article IV in a capacity other than as an Employee) shall be six hundred dollars (\$600.00).

(c) The Minimum Disability Allowance computed in accordance with Section 6.03(b) shall be reduced by fifty percent (50%) of the amount of income earned from any occupation or employment engaged in by an Employee who receives a Minimum Disability Allowance to the extent such income exceeds forty percent (40%) of the average monthly Compensation the Employee had during the twelve (12) months immediately preceding the Employee's Disability Termination Date. On the first anniversary of the effective date of the

Employee's Disability Termination Date, and every six (6) months thereafter, each Employee who receives a Minimum Disability Allowance under this Plan shall report in writing to the Committee the amount of earnings from employment (including self-employment). Absent reasonable cause, the failure of a Participant receiving a Minimum Disability Allowance to report income earned from any occupation or employment to the Committee in accordance with this provision shall constitute sufficient reason for the Committee to discontinue or reduce the Disability Allowance.

(d) The Minimum Disability Allowance shall be paid monthly during the period that the Participant remains Permanently and Totally Disabled. A Participant may not elect any optional forms of payment with respect to the Disability Allowance. However, a Participant's surviving Spouse will be entitled to a Survivor Allowance in accordance with, and subject to, the provisions of Section 6.05 if the Participant dies prior to his or her Normal Retirement Date.

(e) The Minimum Disability Allowance shall commence on the first day of the calendar month, or as soon thereafter as administratively feasible, following the later of (1) the Participant's Disability Termination Date; (2) the certification of the Participant's Total and Permanent Disability by the Committee; and (3) the termination or exhaustion of all direct money benefits to which the Employee is entitled under any sick leave, health and welfare, and any group sickness and accident insurance plans negotiated under the Collective Bargaining Agreement. The Minimum Disability Allowance shall continue until the first of the month in which the Participant dies, ceases to be Permanent and Totally Disabled, reaches his or her Normal Retirement Date or has his or her Disability Retirement Allowance cancelled as provided for in Section 6.03(g).

(f) Notwithstanding any other term of this Plan, a Participant shall not be eligible for a Minimum Disability Allowance if any of the following events occur:

(1) The Participant is currently receiving a Retirement Allowance from this Plan;

(2) The Participant becomes Permanently and Totally Disabled after reaching his or her Normal Retirement Date;

(3) The Participant suffers a disability as a result of injuries or disease incurred during service in the Armed Forces of the United States, any other sovereign nation, or the National Guard of any State of the United States;

(4) The Participant suffers a disability as a result of injuries or disease incurred during employment other than with the Authority; or

(5) The Participant suffers a disability as a result of injuries or disease incurred during a leave of absence (unless the Participant is on a leave of absence while holding office in or performing duties for the Union or its International Office, or a State or local AFL-CIO Central Body).

(g) A Participant's Minimum Disability Retirement Allowance shall be cancelled if:

(1) The Participant does not cooperate in any investigation concerning his or her disability being conducted by the Committee or any agent of the Committee, including physicians selected by the Committee;

(2) The Committee determines that such Allowance should be cancelled or reduced because the Participant failed to report income earned from any occupation or employment to the Committee in accordance with Section 6.03(c).

(3) The Participant does not accept work when offered a job by the Authority in a job classification last held by the Participant and for which, in the opinion of a physician selected by the Committee, the Participant is able to perform the duties; or

(4) The Participant has performed work which, for any period of not less than six (6) months, paid not less than the earnings which would have accrued to the Participant in the job classification last held by the Participant with the Authority.

6.04 Eligibility for Retirement Allowance. If a Participant whose Disability Allowance ends is eligible for a Retirement Allowance, such Participant shall be entitled to receive his or her Retirement Allowance in accordance with, and subject to, the provisions of Article V.

6.05 Eligibility for Survivor Allowance. If a Participant who is receiving a Disability Allowance dies prior to reaching his or her Normal Retirement Date, the Participant's surviving Spouse shall be eligible for a Survivor Allowance in accordance with Article VII (and subject to the provisions of Section 7.03(a)).

**ARTICLE VII
SURVIVOR ALLOWANCE**

7.01 **Types.** Except for the Survivor Allowance payable under Section 7.02 and 7.03, no Survivor Allowance or other amount is payable under this Plan in the event of the death of a Participant.

7.02 **Survivor Allowance Payable After Benefit Commencement.** If a Participant dies after his or her Benefit Commencement Date, no Survivor Allowance or other amount shall be payable to the Participant's Beneficiary unless the form in which the Participant's Retirement Allowance was payable at the time of the Participant's death provided for such payments.

7.03 **Pre-Retirement Surviving Spouse Allowance.**

(a) If all of the following conditions are met on the date of the Participant's death, then the surviving Spouse of a deceased Participant shall be entitled to receive a pre-retirement Survivor Allowance:

- (1) The Participant is legally married to the Spouse;
- (2) The Participant is an Employee;
- (3) The Participant has completed fifteen (15) Years of Continuous Service; and
- (4) The Participant has not reached his or her Benefit Commencement Date.

(b) The pre-retirement Survivor Allowance payable to a surviving Spouse of a Participant who dies after completing fifteen (15) Years of Continuous Service shall be a monthly Allowance commencing on the first day of the month next following the later of the Participant's death or what would have been the Participant's Normal Retirement Date and continuing for the remainder of the Spouse's life, in an amount equal to the amount the Spouse would have received under joint and survivor option described in Article VIII (with the Participant's Spouse as the Beneficiary and a 50% Survivor Allowance, and subject to any required Actuarial Reduction) had the Participant terminated employment with the Authority on the day before the date of his or her death and died one day later. Notwithstanding the foregoing, if a Participant has retired (but has not yet reached his or her Benefit Commencement Date) and has filed a benefit election with the Committee that provides for a Joint and 75% Survivor Option, with the Participant's surviving Spouse as the contingent annuitant, then the Participant's surviving Spouse shall receive a 75% Survivor Allowance instead a 50% Survivor Allowance.

(c) The surviving Spouse may elect to:

- (1) Commence the Survivor Allowance under this Section 7.03 as of the first day of any month coincident with or next following the date of the Participant's death, in

which case the Allowance shall be Actuarially Reduced in order to reflect such early commencement of the Survivor Allowance; or

(2) Commence the Survivor Allowance as of any date prior to what would have been the Participant's Normal Retirement Date (within the limits set forth in Section 10.07, in which case the Allowance shall be computed as if the Participant (i) terminated employment with the Authority on the date of his or her death; (ii) survived until the commencement date elected by the surviving Spouse; (iii) elected to commence benefits on such date under joint and survivor option described in Article VIII (with the Participant's Spouse as the Beneficiary and a 50% Survivor Allowance and subject to any required Actuarial Reduction); and (iv) died one day later.

ARTICLE VIII
OPTIONAL FORMS OF RETIREMENT ALLOWANCES

8.01 **Availability of Optional Forms of Retirement Allowances.** In lieu of receiving a Retirement Allowance in the form of a straight life annuity, the Participant may, pursuant to the election procedures established by the Committee, elect to receive a Retirement Allowance under any of the optional forms listed in Section 8.02, each of which shall be the Actuarial Equivalent of the straight life annuity provided under Article V. An optional form of payment may not be elected with respect to a Disability Allowance under Article VI or a Survivor Allowance under Article VII.

8.02 **Optional Forms of Retirement Allowances.** Subject to the limitations imposed by Section 10.06, in lieu of a straight life annuity, a Participant may elect to have his or her Retirement Allowance paid in one or more of the following forms (each which shall be the Actuarial Equivalent of a straight life annuity):

(a) **Joint and Survivor Option.** A Participant may elect to receive a reduced monthly Retirement Allowance payable during the Participant's life and continuing after his or her death at a 75% or 50% rate (according to the election of the Participant) to the Participant's surviving Beneficiary for the remainder of such Beneficiary's life. If the Participant's Beneficiary dies before the Participant's Benefit Commencement Date, the election of a joint and survivor option shall thereupon become void. If the Participant's Beneficiary dies after the Participant's Benefit Commencement Date, but before the date of the Participant's death, the Retirement Allowance payable to the Participant following the Beneficiary's death shall be increased prospectively (following the date of death) to the amount the Participant would have received if the Participant had elected a life annuity instead of the Joint and Survivor Option. The application of this provision shall not result in a further actuarial reduction in the Participant's Retirement Allowance.

(b) **Guaranteed Period Option.** A Participant may elect to receive a reduced monthly Retirement Allowance, payable during the Participant's life and guaranteed to continue to the Participant or the Participant's designated Beneficiary for a period certain of ten (10) years after the commencement of the Retirement Allowance to the Participant, regardless of whether the Participant survives such period certain. If the Participant's Beneficiary dies before the Participant, the Participant shall have the right to designate another Beneficiary. If the Participant's Beneficiary dies after the Participant and after the retirement Allowance has commenced, benefits for the remainder of the period certain will be continued to the estate of the Beneficiary, unless the Participant shall have designated another Beneficiary to receive such benefits.

(c) **Life Annuity With Cash Refund Option.** A Participant may elect to receive a reduced monthly Retirement Allowance payable during the life of the Participant and, upon the Participant's death, any excess of the original present value of the Participant's Retirement Allowance on the Participant's Benefit Commencement Date, computed on the basis of the actuarial assumptions used to calculate alternative forms of benefits, over the retirement income payments actually received by the Participant before his or her death, will be paid to the

Participant's designated Beneficiary in a single lump sum. If the Participant's Beneficiary dies before the Participant, the Participant shall have the right to designate another Beneficiary.

(d) **Level Income Option.** A Participant may elect to receive a reduced monthly Retirement Allowance payable in a greater amount prior to age 65 and a correspondingly reduced amount, actuarially determined, after age 65, such that the total Allowance (including both the adjusted Allowance payable under the Plan and the estimated Social Security benefit (as obtained by the Participant from the Social Security Administration or as determined by the Committee)) to which the Participant shall be entitled at age 65 shall be as nearly uniform as possible, both before and after commencement of Social Security benefits.

8.03 **Designation of Beneficiary.** A Participant who elects an optional form of Retirement Allowance under this Article shall designate, in writing, in such form as the Committee shall prescribe, the Beneficiary at the time that the Participant makes application for retirement. Such designation shall be delivered to the Committee, and shall be effective when received by the Committee. The Committee shall keep a record of all such designations. The Participant shall have the right to change a Beneficiary designation under the Guaranteed Payment Option or Life Annuity With Cash Refund Option by notice in writing to the Committee. Such change of Beneficiary shall become effective upon its receipt by the Committee. Any such change shall be deemed to revoke all prior designations. If a Participant shall fail to validly designate a Beneficiary under the Guaranteed Payment Option or Life Annuity With Cash Refund Option or if no designated Beneficiary survives the Participant, amounts payable after the Participant's death, if any, shall be paid to the person or persons in the first of the following classes of successive preference beneficiaries surviving at the death of the Participant: the Participant's (1) Spouse, (2) lineal descendants, *per stirpes*, (3) parents, (4) estate. The Committee shall decide which beneficiaries, if any, shall have been validly designated and the Committee's decision shall be binding and conclusive on all persons.

8.04 **Changes to Election of Optional Retirement Allowance.** Once a Retirement Allowance has commenced, the form of the Retirement Allowance cannot be changed. If a Participant's election of an optional form of Retirement Allowance has been filed with the Committee, but payments have not yet commenced, the Participant's election of an optional form of Retirement Allowance may be changed or revoked only with the approval of the Committee. The consent of the Beneficiary originally designated by the Participant shall not be required in the event of such change or revocation. If either the Participant or the Beneficiary designated by the Participant should die before the Participant's Benefit Commencement Date, then the Participant's election of an optional form of Retirement Allowance shall become void.

ARTICLE IX
ANNUAL ADJUSTMENT OF ALLOWANCES

9.01 **Annual Adjustment for the Cost of Living.** Subject to the limitations of Section 10.06, all Allowances provided under this Plan shall be subject to adjustment annually on each January 1, in accordance with the percentage change during the preceding year in the wage rate for operators hired after July 1, 1999 who are in their 8th year of service (without regard to any longevity increase), such adjustments to be compounded on an annual basis. An Allowance shall not be reduced below the amount of the Allowance payable on the first of the month following the commencement of the Allowance.

Notwithstanding the forgoing, the first adjustment to a Retirement or Disability Allowance under the preceding paragraph shall be equivalent to the percentage change in the wage rate for operators hired after July 1, 1999 who are in their 8th year of service from the commencement date of the Retirement or Disability Allowance up to January 1 of the next succeeding year. All subsequent adjustments to the Retirement or Disability Allowance shall be made in accordance with the preceding paragraph.

The first adjustment to a Survivor Allowance shall be based upon the percentage change during the preceding year in the wage rate for operators hired after July 1, 1999 who are in their 8th year of service, regardless of the date on which the Survivor Allowance commenced.

ARTICLE X
PAYMENT OF ALLOWANCES; LIMITATIONS ON ALLOWANCES

10.01 **Timing and Commencement of Payments.** After certification by the Committee to the Trustee of the name of each payee and the amount payable, the applicable Allowance shall be paid monthly to each person entitled to payment hereunder by the Trustee from the Fund beginning with the first month following the month in which the application is filed.

10.02 **Continuation of Allowances Previously Authorized.** All Retirement and Disability Retirement Allowances in effect on June 30, 2008 shall be continued in effect under this Plan.

10.03 **Allowances In Addition to Other Income.** Except as provided in Article VI, Allowances paid under this Plan are in addition to any other income which a Participant may have and any benefits received under Workers' Compensation.

10.04 **Misstatement in Application for Benefit.** If a Participant, in any application for an Allowance, or in response to any request of the Authority or the Committee for information, makes any statement which is erroneous, or omits any material fact, or fails before receiving his or her first benefit payment to correct any incorrect information previously furnished to the Authority or the Committee for their records, then the amount of the Participant's Allowance shall be adjusted on the basis of the correct facts and the amount of any overpayment or underpayment theretofore made to such Participant shall be deducted from or added to his or her next succeeding payments as the Committee shall direct.

10.05 **Payments Due Missing Persons.** The Committee shall make a reasonable effort to locate all persons entitled to benefits under the Plan, which shall include the mailing of a registered letter to such persons at their last known addresses. However, notwithstanding any provision of the Plan to the contrary, if, after a period of five (5) years from the date such benefit shall be due, any such persons entitled to benefits have not been located, their rights under the Plan shall stand suspended and any amounts due to them shall be deemed forfeitures. However, if a person subsequently makes a valid claim with respect to such forfeited amounts, such benefits shall be reinstated. Notwithstanding the foregoing, if a benefit payable to a missing person is subject to escheat pursuant to any applicable state law, then payment of such benefit may be made in accordance with such state law and such missing person shall not thereafter have any rights with respect to such benefit.

10.06 **Limitation on Allowances.**

(a) Notwithstanding any Plan provisions to the contrary, effective for Limitation Years beginning on or after January 1, 2008, to the extent necessary to prevent disqualification under Section 415 of the Internal Revenue Code, and subject to the remainder of this Section 10.06, the maximum monthly Retirement Allowance, as adjusted from time to time pursuant to Section 9.01, payable in any Limitation Year to a Participant under this Plan (and any other defined benefit plan maintained by the Authority) shall not exceed the Defined Benefit Dollar Limit (adjusted as provided in Section 10.06(b)), which limit shall be determined in accordance with the following:

(1) The Defined Benefit Dollar Limit shall be \$13,333, as adjusted for the Limitation Year under Section 415(d) of the Internal Revenue Code.

(2) The Defined Benefit Dollar Limit as set forth above is the monthly amount payable in the form of a straight life annuity, beginning no earlier than age 62 and no later than age 65. In the case of a monthly amount payable in a form other than a straight life annuity, or beginning before age 62 or after age 65, the adjustments in Section 10.06(b) shall apply.

The Defined Benefit Dollar Limit shall not apply to benefits that are actuarially funded by participant contributions (other than contributions that are picked up by the Authority as described in Section 414(h)(2) of the Internal Revenue Code), as determined under the rules of Section 411(c) of the Internal Revenue Code (using the actuarial assumptions thereunder) applied as if the Plan were subject to such Section 411(c).

In addition to the foregoing, to the extent necessary to prevent disqualification under Section 415 of the Internal Revenue Code, and subject to the remainder of this Section 10.06, the maximum annual additions for any Limitation Year shall be equal to the lesser of:

(1) \$40,000, as adjusted as adjusted for the Limitation Year under Section 415(d) of the Internal Revenue Code; or

(2) 100% of the Participant's Compensation.

The dollar limits in this Section shall be adjusted, effective January 1 of each year, under Section 415(d) of the Internal Revenue Code in such manner as the Secretary shall prescribe. A limit as adjusted under Section 415(d) shall apply to Limitation Years ending with or within the calendar year for which the adjustment applies but a Participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. To the extent that the monthly benefit payable to a Participant who has terminated employment is limited by the application of this Section 10.06, such limit shall be adjusted to reflect any subsequent adjustments made in accordance with Section 415(d) of the Internal Revenue Code, but the adjusted limit shall apply only to benefits payable on or after January 1 of the calendar year for which the adjustment applies.

(b) Actuarial Adjustments Relating to Defined Benefit Dollar Limit

(1) Adjustment for Benefit Payable in Form Other than Straight Life Annuity

(i) If a monthly benefit is payable in a form other than a straight life annuity, before applying the defined benefit dollar limit, the benefit shall be adjusted, in the manner described in Section 10.06(b)(1)(ii) or (iii), to the actuarially equivalent straight life annuity that begins at the same time. No actuarial adjustment to the benefit shall be made for (a) survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity (as defined for purposes of Section 415 of the Internal Revenue Code) to the extent such benefits would not be payable if the Participant's benefit were paid in another form; (b) benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death

benefits, and postretirement medical benefits); or (c) in the case of a form of benefit not subject to Section 417(e)(3) of the Internal Revenue Code, the inclusion of a feature under which a benefit increases automatically to the extent permitted to reflect cost of living adjustments and the increase, if any, in the defined benefit dollar limit under Section 415(d) of the Internal Revenue Code.

(ii) If the benefit of a Participant is paid in a form not subject to Section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity (without regard to cost-of-living adjustments described in this Section 10.06) is equal to the greater of (a) the annual amount of the straight life annuity (if any) payable to the Participant under the Plan commencing at the same time; or (b) the annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the Participant's form of benefit, computed using a 5% interest rate and the applicable mortality designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code.

(iii) If the benefit of a Participant is paid in a form subject to Section 417(e) of the Internal Revenue Code, the actuarially equivalent straight life annuity is equal to the greatest of: (a) the annual amount of the straight life annuity commencing at the Benefit Commencement Date that has the same actuarial present value as the Participant's form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in Appendix A1 of the Plan for adjusting benefits in the same form; (b) the annual amount of the straight life annuity commencing at the time that has the same actuarial present value as the Participant's form of benefit, computed using a 5.5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code; or (c) the annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the Participant's form of benefit, computed using the applicable interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code, divided by 1.05.

(iv) For purposes of this Section 10.06(b)(1), whether a form of benefit is subject to Section 417(e) of the Internal Revenue Code is determined without regard to the status of the Plan as a governmental plan as described in Section 414(d) of the Internal Revenue Code.

(2) Adjustment for Benefit Commencement before Age 62 or after

Age 65

(i) If the benefit of a Participant begins prior to age 62, the Defined Benefit Dollar Limit applicable to the Participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the Actuarial Equivalent of the Defined Benefit Dollar Limit applicable to the Participant at age 62 (adjusted for participation of fewer than 10 years if applicable) computed using a 5% interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code.

However, if the Plan provides an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the Defined Benefit Dollar Limit is the lesser of: (1) the limitation determined under the immediately preceding sentence; or (2) the Defined Benefit Dollar Limit (adjusted for participation of fewer than 10 years if applicable) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the age of benefit commencement to the annual amount of the immediately commencing straight life annuity under the Plan at age 62, both determined without applying the limitations of this section. The adjustment in this Section 10.06(b)(2)(i) shall not apply as a result of benefits paid on account of Disability under Article VI or as a result of the death of a Participant under Article VII.

(ii) If the benefit of a Participant begins after age 65, the Defined Benefit Dollar Limit applicable to the Participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the Defined Benefit Dollar Limit applicable at age 65 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code. However, if the Plan provides an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the Defined Benefit Dollar Limit is the lesser of (1) the limitation determined under the immediately preceding sentence; or (2) the Defined Benefit Dollar Limit (adjusted for participation of less than 10 years if applicable) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the age of benefit commencement to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age 65, both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the age of benefit commencement date is the annual amount of such annuity payable to the Participant, computed disregarding the Participant's accruals after age 65 but including any actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical participant who is age 65 and has the same accrued benefit as the Participant.

(iii) **Mortality Adjustments.** For purposes of this Section 10.06(b)(2), no adjustment shall be made to the Defined Benefit Dollar Limit to reflect the probability of a Participant's death between the Benefit Commencement Date and age 62, or between age 65 and the Benefit Commencement Date, as applicable, if benefits are not forfeited upon the death of the Participant prior to the Benefit Commencement Date. To the extent benefits are forfeited upon death before the Benefit Commencement Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Participant's death if the Plan does not charge Participants for providing a qualified preretirement survivor annuity (as defined for purposes of Section 415 of the Internal Revenue Code) upon the Participant's death.

(c) **Reducing Dollar Limit.** If the Participant has fewer than 10 years of participation in the Plan (as determined under Section 415 of the Internal Revenue Code and the regulations thereunder), the Defined Benefit Dollar Limit shall be multiplied by a fraction, the numerator of which is the number of years (or part thereof) of participation in the Plan and the denominator of which is 10. The adjustment in this Section 10.06(c) shall not apply to benefits paid on account of disability under Article VI or as a result of the death of a Participant under Article VII.

(d) **Other Reductions in Maximum Benefit.** In addition to the foregoing, the maximum benefit and contributions shall be reduced 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:

(1) any other tax-qualified retirement plan maintained by the Authority, 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;

(2) any welfare plan maintained by the Authority 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

(3) any retirement or welfare plan, as aforesaid, maintained by an affiliated or predecessor employer, as described in regulations under Section 415 of the Internal Revenue Code, or otherwise required to be taken into account under such regulations.

(e) **Multiple Benefit Commencement Dates.** If a Participant has distributions commencing at more than one Benefit Commencement Date (determined in accordance with Section 415 of the Internal Revenue Code and the regulations thereunder), the benefits payable as of each such Benefit Commencement Date shall satisfy the limitations of this Section 10.06 as of each such date, actuarially adjusting for past and future distributions of benefits commencing at the other Benefit Commencement Dates.

(f) **Grandfathered Benefits.** The application of the provisions of this section shall not cause the maximum permissible benefit for any Participant to be less than the Participant's Accrued Benefit under this Plan as of the end of the last Limitation Year beginning before July 1, 2007 under provisions of this Plan that were both adopted and in effect before April 5, 2007 and that satisfied the limitations under Section 415 of the Internal Revenue Code as in effect as of the end of the last Limitation Year beginning before July 1, 2007.

(g) **Annual Additions.** Annual Additions shall be defined as the sum of the following items credited to the Participant under this Plan and any other tax-qualified retirement plan sponsored by the Authority for a Limitation Year and treated as a defined contribution plan for purposes of Section 415 of the Internal Revenue Code: Authority contributions that are separately allocated to the Participant's credit in any defined contribution plan; forfeitures; participant contributions (other than contributions that are picked up by the Authority as

described in Section 414(h)(2) of the Internal Revenue Code); and amounts credited after March 31, 1984 to a Participant's individual medical account (within the meaning of Section 415(l) of the Internal Revenue Code).

(h) **Incorporation of Section 415 Limits.** To the extent a Participant's benefit is subject to provisions of Section 415 of the Internal Revenue Code which have not been set forth in the Plan, such provisions are hereby incorporated by reference into this Plan and for all purposes shall be deemed a part of the Plan.

10.07 Minimum Distribution Requirements. The provisions of this Section apply for purposes of determining minimum required distributions under Section 401(a)(9) of the Internal Revenue Code and take precedence over any inconsistent provisions of the Plan; provided, however, that these provisions are intended solely to reflect the requirements of Section 401(a)(9) of the Internal Revenue Code (and accompanying Treasury Regulations) and are not intended to provide or expand (and shall not be construed as providing or expanding) any benefit or distribution option not otherwise expressly provided for under the terms of the Plan. The provisions of this Section shall apply only to the extent required under Section 401(a)(9) of the Internal Revenue Code as applied to a governmental plan and if any special rules for governmental plans are not set forth herein, such special rules are hereby incorporated by reference and shall for all purposes be deemed a part of the Plan.

(a) **Time and Manner of Distribution**

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

(2) **Death of Participant before Distributions Begin.** If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or will begin to be distributed, no later than as follows:

(i) If the Participant's surviving spouse is the sole designated Beneficiary, then subject to Section 10.07(a)(2)(v) below, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.

(ii) If the Participant's surviving spouse is not the sole designated Beneficiary, then subject to Section 10.07(a)(2)(v) below, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.

(iii) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(iv) If the Participant's surviving spouse is the sole designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 10.07(a)(2) other than Section 10.07(a)(2)(i) will apply as if the surviving spouse were the Participant.

(v) If the Participant dies before distributions begin and there is a designated Beneficiary, distribution to the designated Beneficiary is not required to begin by the date specified in Section 10.07(a)(2)(i) or (ii) above, but only if the designated Beneficiary elects to have the Participant's entire interest distributed to the designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. Such an election by the designated Beneficiary must be made no later than the earlier of September 30 of the calendar year in which the distribution would otherwise be required to begin under Section 10.07(a)(2)(i) or (ii), or September 30 of the calendar year that contains the fifth anniversary of the Participant's death.

For purposes of this Section 10.07(a)(2) and Section 10.07(d), distributions are considered to begin on the Participant's Required Beginning Date (or, if Section 10.07(a)(2)(iv) applies, the date distributions are required to begin to the surviving spouse under Section 10.07(a)(2)(i)). If annuity payments irrevocably commence to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 10.07(a)(2)(i)), the date distributions are considered to begin is the date distributions actually commence.

(3) **Form of Distribution.** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Sections 10.07(b), (c) and (d). If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and applicable Treasury regulations. Any part of the Participant's interest which is in the form of an individual account described in Section 414(k) of the Internal Revenue Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Internal Revenue Code and the Treasury regulations that apply to individual accounts.

(b) **Determination of Amount to be Distributed Each Year.**

(1) **General Annuity Requirements.** If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity shall satisfy the following requirements:

(i) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(ii) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in Sections 10.07(c) and (d);

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

(iv) Payments will either be non-increasing or increase only as follows:

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

b. to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in Section 10.07(c) dies or is no longer the Participant's Beneficiary under a domestic relations order that is treated as a qualified domestic relations order under Section 414(p) of the Internal Revenue Code;

c. to provide cash refunds of employee contributions upon the Participant's death;

d. pay increased benefits that result from a Plan amendment.

(2) **Amount Required to be Distributed by Required Beginning Date.** The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Section 10.07(a)(2)(i) or (ii) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, *e.g.*, bi-monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.

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

(c) **Requirements for Annuity Distributions Commencing During Participant's Lifetime.**

(1) **Joint Life Annuities Where Beneficiary Is Not the Participant's Spouse.** If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-spouse Beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the designated Beneficiary

after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table in Q&A-2 of Treas. Reg. §1.401(a)(9)-6. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-spouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the period certain.

(2) **Period Certain Annuities.** Unless the Participant's spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Treas. Reg. §1.401(a)(9)-9 for the calendar year that contains the Benefit Commencement Date. If the Benefit Commencement Date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Treas. Reg. §1.401(a)(9)-9 plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the Benefit Commencement Date. If the Participant's spouse is the Participant's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section 10.07(c)(2), or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in Treas. Reg. §1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the Benefit Commencement Date.

(d) **Requirements For Minimum Distributions If Participant Dies Before Distributions Begin.**

(1) **Participant Survived by Designated Beneficiary.** If the Participant dies before the date distribution of his or her interest begins and there is a designated Beneficiary, the Participant's entire interest will be distributed, beginning no later than the time described in Section 10.07(a)(2)(i) or (ii), over the life of the designated Beneficiary or over a period certain not exceeding:

(i) unless the Benefit Commencement Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(ii) if the Benefit Commencement Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of his or her birthday in the calendar year that contains the Benefit Commencement Date.

(2) **No Designated Beneficiary.** If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year

following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) **Death of Surviving Spouse Before Distributions to Surviving Spouse Begin.** If the Participant dies before the date distribution of his or her interest begins, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section 10.07(d) will apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 10.07(a)(2)(i).

(e) **Reasonable and Good Faith Interpretation.** Notwithstanding anything contained herein to the contrary, any distribution option under the Plan that is consistent with a reasonable and good faith interpretation of Section 401(a)(9) of the Internal Revenue Code shall be permitted under this Section 10.07.

(f) **Required Minimum Distribution Requirement Definitions.** For purposes of this Section 10.07, the following terms shall be defined as follows:

(1) **Designated Beneficiary.** The Beneficiary designated under Section 8.03 by the Participant and who is the designated Beneficiary under Section 401(a)(9) of the Internal Revenue Code Internal Revenue Code and Treas. Reg. 1.401(a)(9)-4.

(2) **Distribution Calendar Year.** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 10.07(a)(2).

(3) **Life Expectancy.** Life expectancy as computed by use of the Single Life Table in §1.401(a)(9)-9 of the Treasury regulations.

(4) **Required Beginning Date.** April 1st following the later of (i) the calendar year in which the Participant attains age 70½, or (ii) the calendar year in which such Participant terminates employment.

10.08 **Direct Rollover Option.**

(a) Any distribution or portion thereof payable to a Participant (or any other eligible distributee, if applicable) which is an "eligible rollover distribution" shall be rolled over directly to another "eligible retirement plan," if elected by the Participant (or such other eligible distributee, if applicable) according to rules and procedures adopted by the Committee from time

to time, so long as such rules and procedures comply with Section 401(a)(31) of the Internal Revenue Code and any regulations promulgated thereunder.

(b) For purposes of this Section 10.08:

(1) Eligible rollover distribution shall be defined as in Section 401(a)(31)(D) of the Internal Revenue Code, *i.e.*, any distribution other than (i) a distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Participant (or eligible distributee), for the joint lives (or joint life expectancies) of the Participant and the Participant's (or eligible distributee's) designated beneficiary, or for a specified period of 10 years or more, or (ii) any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code. No portion of a distribution shall fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity under Section 408(a) or (b) of the Internal Revenue Code or to a qualified trust or annuity plan under Section 401(a) or 403(a) of the Internal Revenue Code or a tax-sheltered annuity contract under Section 403(b) of the Internal Revenue Code if such trust or annuity plan or contract provides for separate accounting for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) Eligible retirement plan shall be defined as in Section 401(a)(31)(E) of the Internal Revenue Code, *i.e.*, an individual retirement account or annuity under Section 408 of the Internal Revenue Code (including a Roth IRA under Section 408A of the Internal Revenue Code), a qualified trust under Section 401(a) of the Internal Revenue Code, a qualified annuity under section 403(a) of the Internal Revenue Code, a tax-sheltered annuity under section 403(b) of the Internal Revenue Code, or an eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code maintained by a governmental employer.

(3) Eligible distributee includes an alternate payee who is the spouse or former spouse of a participant or the surviving spouse of a deceased participant. A nonspouse beneficiary of a deceased participant is also an eligible distributee, provided, however, in the case of a nonspouse beneficiary, the direct rollover may be made only to an individual retirement account or annuity under Section 408 of the Internal Revenue Code that is established on behalf of the nonspouse beneficiary and that will be treated as an inherited IRA pursuant to the provisions of Section 402(c)(11) of the Internal Revenue Code. In this case, the determination of any required minimum distribution under Section 401(a)(9) of the Internal Revenue Code that is ineligible for rollover shall be made in accordance with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.

10.09 Incapacity. In case of incompetency, either mental or physical, of a Participant who is entitled to an Allowance, payments shall be made to such person or institution that has satisfied the Committee as to their right to receive said Allowance for such Participant.

ARTICLE XI FUNDING OF BENEFITS

11.01 Authority Contributions and Forfeitures.

(a) Except as otherwise provided in Section 11.01(c), the Authority shall, from time to time, make contributions to the Fund in amounts necessary, according to sound actuarial principles, to fund the benefits under this Plan and to maintain the actuarial integrity of the Fund.

(b) The contribution required by the Authority under this provision shall be expressed as a percentage of Compensation and shall be based upon the actuarial valuation produced annually by the Plan actuary. Such valuation shall be based on the aggregate funding method. Changes in the actuarial assumptions, methods and related matters used in such actuarial valuation shall not be made except by resolution of the Retirement Allowance Committee. In the event the Retirement Allowance Committee cannot reach agreement concerning any requested changes or modifications in the assumptions, methods and related matters contained in the actuarial valuation produced by the Plan actuary, then the matters in dispute shall be subject to the provisions of Section 12.04.

(c) The rate of the Authority's contributions shall be periodically adjusted in accordance with the actuarial valuation produced annually by the Plan actuary, with changes in the Authority's rate of contributions (expressed as a percentage of Compensation) effective sixty (60) days after receipt of the report unless the Retirement Allowance Committee acts affirmatively to reject an actuarial report within the sixty (60) day period. In such a case, the Authority's then existing contribution obligation shall continue in effect until modified by operation of this Section following receipt of a new actuarial report.

(d) One twelfth (1/12th) of any annual contribution required by the Authority shall be remitted to the Trustee at the end of each month.

(e) The Insured Disability Benefit provided in Section 6.02 shall be funded out of the actuarial reserve or through additional Authority contributions; provided, however that the amount charged against such actuarial reserve or the amount of such Authority contributions shall not exceed 0.88% of gross payroll. In the event any premium increase causes the premium on the Long-Term Disability Policy to exceed 0.88% of gross payroll, the excess over 0.88% of gross payroll shall be funded by employee contributions, absent agreement of the parties (or an arbitration award) to the contrary.

(f) Any forfeitures arising under the Plan for any reason shall not be applied to increase the benefit of any person hereunder, but rather, shall be applied to pay administrative expenses of the Plan and Fund, if and as directed by the Committee, and/or be used to reduce the Authority's contribution under the Plan.

11.02 Erroneous Contribution. Notwithstanding any provisions of this Plan to the contrary, upon the Authority's request, a contribution that was made by a mistake of fact, shall be returned to the Authority by the Trustee within one year after the payment of the contribution. Any portion of a contribution returned pursuant to this Section 11.02 shall be adjusted to reflect

its proportionate share of the losses of the Fund, but shall not be adjusted to reflect any earnings or gains. Notwithstanding anything contained herein to the contrary, the right or claim of any Participant or Beneficiary to any asset of the Fund or any benefit under this Plan shall be subject to and limited by the provisions of this Section 11.02.

11.03 Employee Contributions. Effective July 1, 1983, the Plan became non-contributory and Employees are no longer required to contribute to this Plan (unless such contributions become required under Section 11.01(c)). Pursuant to the terms of the Prior Plan and the Collective Bargaining Agreement, contributions made by Participants were returned to those Employees who (1) were in employment status with the Authority on May 1, 1998, and (2) either (i) were in employment status with the Authority on May 30, 1999, or (ii) either (A) Retired (normal, early or disability) with an effective date of Retirement on or after May 1, 1998, or (B) died on or after May 1, 1998, and, at the time of death, were married and in employment status with the Authority. To the extent the prior contributions made by a Participant were not returned in accordance with the terms of the Collective Bargaining Agreement and the Prior Plan, then the following provisions shall apply:

(a) A Participant whose employment status with the Authority terminated for any reason other than death prior to his or her Benefit Commencement Date shall be entitled to request a refund of the Participant's total contributions to the Fund with interest computed at the rate of five percent (5%) compounded annually, less any Disability Allowance which the Participant may have received. If the Participant's contributions are withdrawn, the Participant's Allowance shall be actuarially reduced to account for the contributions refunded to the Participant.

(b) Each Participant who was eligible for a refund of employee contributions under the terms of the Memorandum Of Understanding between the Authority and the Union dated October 25, 1999, and who, pursuant to the terms of the Memorandum Of Understanding elected to have his or her contributions to the Fund (with interest through July 31, 1999) transferred to a separate employee contribution account and paid upon termination of employment shall receive the amount of his or her separate employee contributions account (with interest from July 31, 1999 credited at the rate of five percent (5%) and compounded annually) within sixty (60) days after termination of employment with the Authority.

(c) If a Participant who is entitled to payment of his or her contributions to the Fund under subsection (a) dies before becoming entitled to a Retirement or Disability Allowance under this Plan, there shall be paid in a lump sum from the Fund to the Participant's designated Beneficiary, a sum equal to the Participant's total contributions to the Fund, with interest computed at the rate of five percent (5%) compounded annually. If a Participant under subsection (b) dies before receiving his or her employee contribution account, then the amount of the Participant's employee contribution account (with all accrued interest) shall be paid in a lump sum from the Fund to the Participant's designated Beneficiary. If a Participant shall fail to validly designate a Beneficiary or if no designated Beneficiary survives the Participant, the amount payable after the Participant's death shall be paid to the person or persons in the first of the following classes of successive preference beneficiaries surviving at the death of the Participant: the Participant's (1) Spouse, (2) lineal descendants, *per stirpes*, (3) parents,

(4) estate. The Committee shall decide which the person or person are entitled to payment based on evidence satisfactory to it and without the necessity of proof of probate and the Committee's decision shall be binding and conclusive on all persons.

(d) If a Participant dies after becoming entitled to a Retirement or Disability Allowance under this Plan, there shall be paid in a lump sum from the Fund to the Participant's designated Beneficiary, a sum equal to the amount by which the aggregate of the Participant's contributions to the Fund together with interest at the rate of five percent (5%) compounded annually have exceeded the aggregate of all payments that have been made to the Participant (or payable to the Participant's Beneficiary) under the Plan. If a Participant shall fail to validly designate a Beneficiary or if no designated Beneficiary survives the Participant, the amount payable after the Participant's death shall be paid to the person or persons in the first of the following classes of successive preference beneficiaries surviving at the death of the Participant: the Participant's (1) Spouse, (2) lineal descendants, *per stirpes*, (3) parents, (4) estate. The Committee shall decide which the person or person are entitled to payment based on evidence satisfactory to it and without the necessity of proof of probate and the Committee's decision shall be binding and conclusive on all persons.

11.04 Actuarial Examination. At least annually, the Committee shall cause the liabilities of the Plan to be evaluated by the Plan actuary who shall report to the Committee as to:

(a) The soundness and solvency of the Fund in relation to the aforesaid liabilities; and

(b) The amount of the annual Authority contributions necessary to fund the benefits under this Plan in accordance with the provisions of Section 11.01.

11.05 Refund of Authority Contributions. Except as provided in Section 11.02, the Authority shall not have any right, title, or interest whatsoever in the Fund or in any part thereof or to have any contributions made by it under this Plan returned to it under any conditions or circumstances whatsoever, it being the intent hereof that all contributions made by the Authority to the Fund shall be divested of any interest or claim whatsoever of or by the Authority therein, and no part of said contributions can in any event be returned to the Authority or be subject to its debts, liabilities, or obligations, or be considered a part of its assets or property for any purpose whatsoever.

ARTICLE XII
RETIREMENT ALLOWANCE COMMITTEE

12.01 **Composition of Retirement Allowance Committee.** The “Retirement Allowance Committee” shall consist of six (6) members. Three (3) members shall be appointed by the Authority and three (3) by the Union. Each party shall have the right to replace any member appointed by it at any time.

12.02 **Powers of the Retirement Allowance Committee.** The Retirement Allowance Committee shall have the following powers:

- (a) To administer the Plan in accordance with the provisions of this document.
- (b) To make and to change from time to time and to enforce such rules and regulations, consistent with the provisions of this Plan, as may be necessary or desirable for the carrying out of its duties, and for the efficient administration of the Plan.
- (c) Finally and conclusively to determine, according to the provisions set forth in this Plan, the eligibility of a Participant for an Allowance under this Plan and, if eligible, the Participant’s rights hereunder.
- (d) To determine all questions regarding the nature, amount and duration of the Allowance to be provided pursuant to this Plan.
- (e) To exercise its sole discretionary right and authority to interpret and construe terms of this Plan and any rules and regulations that the Retirement Allowance Committee might make.
- (f) To establish a bank account or bank accounts or such other accounts in investment or financial institutions to the extent deemed necessary in their discretion.
- (g) To pay out of the Plan, reasonable and necessary expenses incurred in the establishment and maintenance of the Plan, including but not limited to, reasonable expenses of Committee members’ attendance at seminars, conferences or other programs of an educational nature pertaining to Committee members’ duties and responsibilities.
- (h) To retain such employees, agents, actuaries, consultants, accountants, attorneys, and service providers as may be necessary for the efficient administration of the Plan.
- (i) To allocate and delegate fiduciary responsibilities among named fiduciaries, and to designate persons other than named fiduciaries to carry out fiduciary responsibilities under the Plan.
- (j) To invest and reinvest, or cause to be invested or reinvested, the assets of the Plan and to take any and all action with respect to holding, buying, selling or maintaining such investments as the Committee members, in their sole discretion, deem appropriate.

(k) To appoint one or more investment managers and to delegate to said investment managers full and complete authority to manage some or all of the assets of the Plan, consistent with any investment guidelines that the Committee may establish from time to time. If appointed, such investment managers shall accept fiduciary responsibility to manage Plan assets in the best interests of the Plan's participants and beneficiaries. To the extent the Committee decides to appoint one or more investment managers, the Committee shall be forever released and discharged to the extent permitted by applicable law from any responsibility or liability with respect to any assets which they may commit to such investment manager(s).

(l) To compromise, settle, or release claims or demands in favor of or against the Plan or the Committee on such terms as the Committee may deem reasonable and prudent.

(m) To purchase from Plan assets, insurance for Plan fiduciaries or for the Plan itself to cover liabilities or losses incurred by reason of any act or omission of a fiduciary.

(n) To amend or replace the Long-Term Disability Policy provided such amendment or replacement does not alter or change the basic level of coverage provided under the Collective Bargaining Agreement (*e.g.*, the benefit level or elimination period).

(o) To do all acts, whether or not expressly authorized herein, which the Committee deems necessary to accomplish the general purposes of this Plan, provided, however, that the Committee shall have no authority to amend the terms of the Plan.

12.03 Retirement Allowance Committee Officers and Agents. The Retirement Allowance Committee shall elect from its members a Chairman and a Secretary and shall appoint such subcommittees as it shall deem necessary and appropriate, and may authorize one or more of its number or any agent to execute or deliver any instrument on its behalf and do any and all other things necessary and proper in the administration of the Plan. The Retirement Allowance Committee shall have the power to appoint an Assistant Secretary and Vice Chairman who shall perform such duties, including the duties of the Secretary and Chairman, as may be assigned by the Retirement Allowance Committee. The Retirement Allowance Committee shall perform its duties with respect to the Plan without compensation and solely in the interest of the Plan's Participants and beneficiaries for the exclusive purpose of providing benefits to the Plan's Participants and beneficiaries and defraying reasonable expenses of administering the Plan.

12.04 Conduct of Retirement Allowance Committee Business. The Retirement Allowance Committee shall conduct its business and hold meetings as determined by it from time to time, but not less than four (4) meetings per year or when either party, the Authority or the Union, requests a special meeting. One member appointed by the Authority and one member appointed by the Union shall constitute a quorum. The members appointed by the Authority and the members appointed by the Union shall vote as a unit, and each party shall be entitled to an equal vote regardless of the number of members of the Committee present at any meeting. The majority of the Union or Authority members present shall determine the vote of the Authority or the Union. The concurrence of any member may be by telephone, electronic communication or letter.

The Retirement Allowance Committee may delegate any one of its members to carry out specific duties and to sign appropriate forms and authorizations. In carrying out its duties the Retirement Allowance Committee may, from time to time, employ an administrative organization and agents and may delegate to them ministerial and limited discretionary duties as it sees fit.

The Committee may, in its discretion, employ accountants, actuaries, investment advisors, consultants and legal counsel (who may be counsel to the Authority or the Union) to advise it.

The Chairman and the Secretary (and any duly appointed Assistant Secretary or Vice Chairman), notwithstanding their official position, shall each be entitled to a vote at all meetings of the Retirement Allowance Committee. In the event of a tie vote by the Committee, the question or questions in issue shall be submitted to a board of arbitration upon demand of either party. The board of arbitration shall be selected in accordance with the procedure for arbitration of questions and grievances that may arise during the life of this Plan as set forth in the Collective Bargaining Agreement of which this Plan is a part. Each of the parties shall bear the expense of its own arbitrator and the Authority and the Union shall jointly bear the expense of the third arbitrator.

12.05 Required Reports.

(a) The Authority shall keep all records, compile all data, accept all applications for an Allowance, and submit such applications to the Retirement Allowance Committee for certification and forwarding to the Trustee. The Committee shall have the right at all times to call for additional information concerning any or all applications forwarded to the Committee and to examine all records or data pertaining to the Plan.

(b) The Retirement Allowance Committee shall instruct the plan actuary to conduct annual valuations and furnish copies of such reports directly to the General Manager and the Local 689 President, or their designees, in addition to the Retirement Allowance Committee. The Retirement Allowance Committee shall furnish copies of the annual financial audit directly to the General Manager and Union President.

(c) The Authority or the Union may require the Retirement Allowance Committee to make an annual report to the Authority and to the Union, and shall make such other reports of the operation of the Plan as the Committee shall deem necessary. At least once a year the Committee shall have an audit made of the funds forwarded to, disbursed by, and held by the Trustee, by a recognized firm of certified public accountants. The Committee shall publish such audit annually.

12.06 Payment of Expenses. All necessary expenses incurred by the Retirement Allowance Committee shall be certified by the Committee to and paid by the Trustee out of the funds held by it.

12.07 Liability. No liability shall attach to or be incurred by the Retirement Allowance Committee, employees of the Authority, officers or members of the Board of Directors of the Authority, employees of the Union or officers or members of the Executive Board of the Union by reasons of the terms, conditions or agreements contained in the Plan or in the Collective Bargaining Agreement executed in connection herewith. The Board of Directors, officers, employees of the Authority, the Executive, officers, employees of the Union and the Retirement Allowance Committee shall be entitled to rely upon any and all certificates and reports or opinions given by any duly appointed accountant, actuary, investment advisor, consultant or legal counsel (who may be counsel for the Authority or the Union), and shall be fully protected against any action taken in good faith in reliance upon such tables, valuations, certificates, reports or opinions.

12.08 Liability of Members For Actions. No member of the Retirement Allowance Committee shall be liable for any action taken or omitted by the member in good faith but shall be liable only for any loss or damage due to willful misconduct and then such liability shall be charged against only the members of the Committee who have individually committed such breach of their duties. Excepting only liability for loss or damage due to willful misconduct, the members of the Committee shall be and are hereby indemnified by the Fund against any and all liability and expenses reasonably incurred in connection with any action to which they may be a party by reason of their membership on the Committee.

12.09 Paperless Communications. Notwithstanding anything contained herein to the contrary, the Committee from time to time may establish uniform procedures whereby with respect to any or all instances herein where a writing is required, including but not limited to any required written notice, election, consent, authorization, instruction, direction, designation, request or claim, communication may be made by any other means designated by the Committee, including by paperless communication, and such alternative communication shall be deemed to constitute a writing to the extent permitted by applicable law, provided that such alternative communication is carried out in accordance with such procedures in effect at such time.

ARTICLE XIII
TRUSTEE

13.01 **Power to Appoint Trustee.** The Authority and the Union shall jointly select and appoint a Trustee for the purpose of administering the Trust contributed by the Authority and the Participants. Any successor Trustee, if one shall be necessary, shall be similarly selected. If the Authority and Union cannot agree upon the Trustee or a successor, if any, the matter shall be submitted to arbitration as hereinabove provided at the option of either party.

13.02 **Charges By Trustee.** All trustee charges shall be paid out of the Trust held by the Trustee in the name of the Plan, with the approval of the Committee.

13.03 **Liability of Trustee.** It is agreed that the Trustee shall have no liability as to the correctness of the amounts to be paid as Allowances or on account of expenses of administration when such amounts are determined and certified to the Trustee by the Committee, nor shall the Trustee have any liability as to the correctness of the amounts to be received from the Authority and from the Participants for the purpose of depositing the same with the Trustee when such amounts are determined and certified to the Trustee by the Committee.

13.04 **Committee's Power to Enter Into Agreements With Trustee.** The Committee is authorized to enter into any and all agreements whatsoever with the Trustee that the Committee may deem advisable for carrying out the provisions of this Plan and for the administration of the Trust to be created hereunder, including, if delegated to the Trustee, the discretionary powers to be exercised by the Trustee in making investments and reinvestments to the end that the Trust shall at all times be invested to obtain the greatest practicable yield consistent with prudent investment policy, the compensation and expenses of the Trustee, and any and all other matters in accordance with the terms of the Plan deemed desirable by the Committee, and such agreements shall be binding and conclusive on the parties hereto, the Committee, and all Participants and beneficiaries entitled to Allowances or refunds hereunder, and the Trustee, acting thereunder and in accordance therewith, shall thereby incur no obligation whatsoever except as provided thereby and in this Plan.

ARTICLE XIV
MODIFICATION, AMENDMENT AND DISCONTINUANCE OF THE PLAN

14.01 **Power to Modify, Amend or Discontinue Plan Reserved.** While the Plan is intended to be permanent, the Authority and the Union reserve the right at any time, and from time to time, by written agreement or arbitral award to modify or amend, in whole or in part, any and all provisions of this Plan or to terminate the Plan.

Notwithstanding anything to the contrary:

(a) The Plan may be amended at any time, retroactively if necessary, in order to conform the provisions of the Plan to the requirements of the Internal Revenue Code and any regulations promulgated thereunder applicable to governmental plans that qualify under the provisions of Section 401(a) of the Internal Revenue Code, and the Plan shall be administered in accordance with any changes in such requirements notwithstanding the deferred adoption of any amendment to the Plan with respect thereto.

(b) The Retirement Allowance Committee may agree to an amendment of the Long-Term Disability Policy or replace such Policy to the extent provided in Section 12.02(n) (even though such amendment or replacement is deemed to be an amendment to the Plan).

The right to amend or terminate the Plan is subject to the condition that no part of the assets of the Plan shall, by reason of any modification, amendment or termination, be used for or diverted to purposes other than for the, exclusive benefit of Participants and their beneficiaries under the Plan, unless and until all liabilities of the Plan have been satisfied. Upon termination of the Plan, the Accrued Benefits, to the extent funded, of all Participants shall become fully vested and nonforfeitable.

14.02 **Distribution Upon Termination of the Plan.** In the event that the Plan shall be terminated pursuant to Section 14,01, the Administrator shall determine on the basis of actuarial valuation the share of the Fund allocable to each person entitled thereto, in the following order:

(a) First, all unpaid expenses, fees and other charges under this Plan shall be paid.

(b) Second an amount shall be allocated to the account of each Participant that has not received a return of Participant contributions equal to the Participant's contributions to the date of abandonment less any benefits received under the Plan.

(c) Third, if any such assets remain after complete allocation for the purposes of (a) and (b) above, an amount shall be allocated to Retired Participants (including the survivors of Retired Participants and survivors receiving a pre-retirement Survivor Allowance) and to Participants eligible for Normal Retirement or Disability Retirement Allowances at the date of abandonment, sufficient to provide for the amount of their allowances not already provided for under subsection (b).

(d) Fourth, any remaining balance shall be allocated to the active Participants in proportion to the excess of the actuarial values of their Accrued Benefits under the Plan over the amounts allocated under subsections (b) and (c).

Should there prove to be insufficient funds to provide the amounts required to fully satisfy any subsection, then the allocation to all persons covered by that subsection will be reduced by the same proportion.

The Trustee shall liquidate the funds in the Trust and the amounts allocated in accordance with this section shall be apportioned to all such participants in cash, or in the form of insured paid-up annuities, or by transfer to another Trust Fund, or otherwise, as the Committee may direct.

14.03 Effect of Sale or Transfer by the Authority. In the event that the Authority shall dispose of its transit properties and business by sale or other transfer or shall lease the same, the Authority shall make it a condition of such sale or transfer or lease that the purchaser or transferee or lessee shall assume the obligations of and become party to this Plan, and the Trust shall be jointly administered by the purchaser or transferee or lessee and the Union for the purpose of this Plan. The Authority will execute such legal instruments as may be necessary to effectuate the transfer of the Trust to joint administration by the Union and the purchaser or transferee or lessee.

14.04 Diversion of Assets. No part of the assets accumulated for the Plan under the Trust shall be used directly or indirectly for any purpose other than the exclusive benefit of Participants and their beneficiaries under the Plan as it is established, or as the Plan may be changed by modification, amendment, or termination, prior to the satisfaction of all liabilities under the Plan.

ARTICLE XV GENERAL PROVISIONS

15.01 Right to Employment. Nothing contained in the Plan or the establishment of the Trust hereunder or any modification thereof, or the creation of any fund or account for the payment of any benefit shall be construed to give any Participant, Retired Participant or Beneficiary any right to employment or continued employment with the Authority or any legal or equitable rights against the Authority, any member of the Board of Directors, officer, agent or employee of the Authority, or against the Union, the Committee, the Trustee or their agents or employees, except as herein provided.

15.02 Assignment.

(a) Except as provided in subsection (b) and (c) of this Section, to the end of making it impossible for Participants or Retired Participants improvidently to imperil the provisions made in this Plan for their support and welfare, by directly or indirectly anticipating, pledging, or disposing of their Allowance hereunder, it is expressly stipulated that no Participant shall have any right to assign, transfer, hypothecate, encumber, commute, or anticipate his or her interest in any Allowance, and that such payments shall not in any way be subject to any legal process to levy execution upon or attachment or garnishment proceedings against the same for the payment of any claim against any Participant, nor shall such payments be subject to the jurisdiction of any bankruptcy court or insolvency proceeding.

(b) Notwithstanding subsection (a) above, a Retired Participant may authorize the Plan (1) to deduct and make payable to the Transit Employees' Health & Welfare Plan such amounts as may be necessary to pay for retiree health and life insurance coverage under the rules and regulations of the Transit Employees' Health & Welfare Plan; (2) to deduct and make payable to ATU COPE, contributions to the ATU Committee on Political Education; and (3) to deduct and make payable to Local 689, ATU union dues and assessments; provided that such authorization shall be voluntary and revocable at any time by the Retired Participant.

(c) Notwithstanding subsection (a) above, in the event that the Plan receives from a court of competent jurisdiction a garnishment, attachment, child support order, a Domestic Relations Order or other legal process purporting to attach a Participant's Retirement Allowance, which is currently being paid to the Participant, for either child support or alimony, such Allowance or portion of that Allowance shall be paid out in accordance with the terms of the court order directing the attachment of the Allowance, provided however, that the time and frequency of the payment shall not be changed from that usually followed by the Plan. No order directing the division or attachment of any Allowance that is to begin payment in the future shall be honored. The Committee will adopt and implement such procedures as may be required to determine whether such attachment, garnishment, child support order, Domestic Relations Order or other legal process complies with the terms of this subsection and to provide for timely notice to any Plan participant or Beneficiary whose Allowance become subject to such legal process.

15.03 Gender and Pronoun. The masculine pronoun, wherever used, shall include the feminine pronoun, and the singular number shall include the plural number, unless the context of the Plan requires otherwise.

15.04 Governing Law. The Plan shall be construed, administered and enforced in accordance with the laws of the District of Columbia.

15.05 Limitation on Liability of Authority and Union. Any person having a right or claim under the Plan shall look solely to the assets of the Fund. Neither the Authority nor the Union (nor any person connected with either the Authority or the Union) shall be liable to any person on account of any claim arising by reason of the provisions of the Plan or of any instrument or instruments implementing its provisions, or for the tax consequences to any Participant, Beneficiary or any other person resulting from participation in the Plan or any distribution therefrom. Neither the Authority nor the Union (nor any person connected with either the Authority or the Union) shall have any liability to any Participant, Beneficiary or any other person by reason of the failure of the Plan and/or Trust to attain and/or maintain qualification or tax exempt status under Sections 401(a) and 501(a) of the Internal Revenue Code, regardless of whether such failure is due to any act or omission of the Authority or the Union (or any person connected with either the Authority or the Union).

15.06 Construction. This Plan is intended to comply with all requirements for qualification under Section 401(a) of the Internal Revenue Code and, if any provision of the Plan is subject to more than one interpretation or construction, such ambiguity shall be resolved in favor of the interpretation or construction that is consistent with the continued qualification of the Plan under Section 401(a) of the Internal Revenue Code. If the Commissioner of Internal Revenue or his or her delegate determines that the Plan, as amended, or an amendment to the Plan, adversely affects the continued qualification of the Plan under Section 401(a) of the Internal Revenue Code, the Plan amendment shall be void and the Plan shall be reestablished in accordance with the provisions in effect prior to the amendment.

If any provision of the Plan is determined to be illegal or void, such illegality or invalidity shall not affect the remaining provisions of the Plan, but shall be fully severable, and the Plan shall be construed and enforced as if the illegal or invalid provision had never been included in the Plan.

15.07 Number of Counterparts. The Plan may be executed in any number of counterparts, each of which when duly executed by the Authority and the Union shall be deemed to be an original, but all of which shall together constitute but one instrument which may be evidenced by any counterpart.

15.08 Section Headings. All section headings used throughout this Plan are for the purposes of identification only and are not to be used in construing this instrument.

**ARTICLE XVI
TERM OF PLAN**

16.01 **Term of Plan.** This Plan, originally effective as of July 1, 1945, as amended, shall continue in effect through the term of the Collective Bargaining Agreement, and from year to year thereafter unless change is requested by either of the parties hereto by written notice ninety (90) calendar days prior to the expiration of the term of the Collective Bargaining Agreement. Nothing in this section shall limit the power of the parties to amend this Plan under Section 14.01.

16.02 **Arbitration of Disputes.** In the event the parties cannot reach agreement upon proposed changes or modifications, then the matters in dispute shall be subject to the provisions of Section 106 of the Collective Bargaining Agreement.

Executed this _____ day of _____, 2009.

For the Authority:

For the Union:

John B. Catoe, Jr.
General Manager

Date

Jackie L. Jeter
President/Business Agent

Date

D. Richard Froelke
Director, Office of Employee
and Labor Relations

Date

Esker K. Bilger
Financial Secretary/Treasurer

Date

**APPENDIX A1
ACTUARIAL ASSUMPTIONS**

This Appendix A lists the Actuarial Assumptions applicable to the Plan. This Appendix is intended to be incorporated by reference into and made a part of the Plan. No amendment to this Appendix A shall reduce any Participant's Accrued Benefit calculated as of the later of the effective date or the adoption of such an amendment.

Factors Used to Calculate Actuarial Equivalents:

Interest rate:	7½%
Cost of living adjustment:	5%
Healthy mortality table:	UP-1984 Table set forward one year for males UP-1984 Table set backward four years for females
Disabled mortality table:	1985 Disabled Life Mortality Table for males and females blended from ages 40 through 80 into the UP-1984 (from ages 40 through 90 for females)
Percent male:	85%
Percent female:	15%
Table construction:	Healthy and disabled mortality rates are equal to 85% of the male rate plus 15% of the female rate for any given age

SUBJECT: RESTATEMENT OF THE WMATA RETIREMENT PLAN

PROPOSED
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, The Internal Revenue Service requires all qualified plans to renew their favorable determination letters every five years; and

WHEREAS, The submission to the Internal Revenue Service requires the restating of the WMATA Retirement Plan; and

WHEREAS, The restated plan document for the WMATA Retirement Plan is designed to make such changes as are required in order for the Plan to retain its qualification under Section 401(a) of the Internal Revenue Code of 1986 as amended; and

WHEREAS, A copy of the restated plan document for the WMATA Retirement Plan is attached to this Resolution; and

WHEREAS, The WMATA Retirement Plan § 10.01 requires that all Plan amendments be made by a written Resolution of the Board of Directors; now, therefore be it

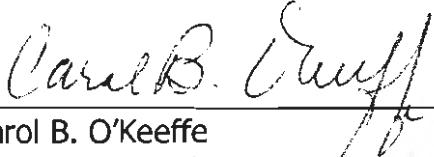
RESOLVED, That the WMATA Retirement Plan, as amended and restated effective February 1, 2009, a copy of which is attached to this Resolution, is hereby adopted and approved on behalf of WMATA; and be it further

RESOLVED, That the General Manager is hereby authorized and directed to execute on behalf of WMATA any other changes to the WMATA Retirement Plan requested by the Internal Revenue Service or based on advice of counsel, as are necessary or desirable for the Plan to continue qualification under Section 401(a) of the Internal Revenue Code of 1986, as amended; and be it further

RESOLVED, That the General Manager or the Assistant General Manager for Workforce Services is hereby authorized and directed to execute such other forms, notices, instruments or other documents and to take such further action as may be necessary or desirable to (1) fully implement the WMATA Retirement Plan; (2) ensure that the Plan is qualified under Section 401(a) of the internal Revenue Code; and (3) obtain from the Internal Revenue Service a determination letter to the effect that the Plan continues to meet the requirements for qualification under Section 401(a) of the Internal Revenue Code; and be it finally

RESOLVED, That this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,



Carol B. O'Keeffe
General Counsel

THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

RETIREMENT PLAN

RESTATEMENT

PLAN DOCUMENT ADOPTED: OCTOBER 1, 1967

RESTATEMENTS ADOPTED: MAY 18, 1973 & MAY 16, 2002

THIRD RESTATEMENT EFFECTIVE FEBRUARY 1, 2009

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PROPOSED

**RESTATEMENT OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY
RETIREMENT PLAN**

This Retirement Plan, adopted the 18th day of May, 1973, by the Washington Metropolitan Area Transit Authority, a body corporate and politic, (the "Authority" or "WMATA"), and the separate Trust Agreement executed contemporaneously by and between the Authority and Stanley J. Anderson, Cleatus E. Barnett, Herbert E. Harris, II, Albert J. Roohr, and Peter J. Sheehan, as Trustees, (the "Trustees"), constituted a complete restatement and continuation of the WMATA Retirement Trust maintained by the Authority for their employees, as more fully described herein.

WHEREAS, the Washington Metropolitan Area Transit Authority, by Trust Agreement dated the 5th day of March, 1968, entered into with Frederick A. Babson, James P. Gleason, and Walter E. Fauntroy, the then Trustees, did establish THE WMATA RETIREMENT TRUST; and

WHEREAS, the Authority has continuously maintained the WMATA Retirement Trust, as amended, for the benefit of its employees; and

WHEREAS, the Authority now desires to amend and restate the WMATA Retirement Trust in certain respects pursuant to the provisions of Section 20.05 of the WMATA Retirement Trust, and to establish a Plan Document separate from the Trust Agreement to continue THE WMATA RETIREMENT PLAN, as amended by this restatement, hereby amends the WMATA Retirement Plan and the Trust Agreement entered into contemporaneously and forming a part thereof.

ARTICLE I

Name, Effective Date and Purpose

1.01 **Name.** The Name of the Plan is "THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY RETIREMENT PLAN," hereinafter called the "Plan."

1.02 **Effective Date.** The effective date of the Plan is October 1, 1967, with the first restatement being effective July 1, 1973 and second restatement being effective May 30, 2002. The effective date of the Plan as amended and restated by this Plan document is February 1, 2009. The previous version of the Plan applies to Participants who have earned no Credited Service on or after February 1, 2009.

1.03 **Purpose of the Plan.** The purpose of this Agreement is to recognize the contribution made by its various employees to the successful operation of the Authority, and to reward such contribution by establishing a system of pension benefits for those employees who will qualify as Participants under this Plan, and for the beneficiaries designed by such employees.

This Agreement has been executed for the exclusive benefit of the Participants and their beneficiaries. As far as possible this Agreement should be interpreted consistent with this intent and with the Authority's intention that this plan satisfies those provisions of the Internal Revenue Code relating to exempt employees' trusts except as specified herein.

The establishment of this Plan will not be construed as giving any employee, or any other person, any legal or equitable rights against the Authority, its Board of Directors, the Trustees who operate the Plan, the Committee or the corpus or income of this Plan unless such right is specifically provided for in this Agreement, nor will the establishment or continuation of the Plan be construed as giving any employee the right to be retained in the service of the Authority.

ARTICLE II
Participation in the Plan

2.01 Eligibility. Each Full Time Employee who, prior to January 1, 1999, was not a Participant in any other pension plan to which the Authority contributes will participate in this Plan. Except as otherwise expressly provided herein, no Employee who commenced employment with the Authority on or after January 1, 1999, and no Person who is re-employed by the Authority on or after January 1, 1999, shall be eligible to participate in this Plan. Persons reemployed by the Authority on or after January 1, 1999 will participate in this Plan if:

(a) their previous Authority employment either (i) caused them to be entitled to a Deferred Vested Retirement Pension under this Plan or (ii) if not entitled to a Deferred Vested Retirement Pension, their period of separation from the Authority was less than the amount of Credited Service they had accrued under this Plan in their previous period of employment with the Authority,

AND

(b) they are reemployed in a position which, but for the date of reemployment, would have made them Participants in this Plan.

Employees covered by a collective bargaining agreement with Local 639 (Special Police) will participate in this Plan even if first hired by the Authority after January 1, 1999.

No person transferring from another pension plan to which the Authority contributes on or after January 1, 1999 will participate in this Plan unless that person had at least one year of Credited Service in this Plan at the time of the transfer.

Persons first hired by the Authority other than as a Special Police Officer or first transferring from a long term temporary classification into a position covered by this Plan (other than as a Special Police Officer) between January 1, 1998 and January 1, 1999 had a one-time irrevocable option to elect coverage under this Plan or under the new WMATA Defined Contribution Retirement Plan. This option had to have been elected in writing no later than March 31, 1999. Any such election was filed with the Authority's Director of Human Resources Management & Planning with a copy to the Plan's Secretary. If no option was filed by the deadline, that employee is considered a member of this Plan.

Leased Employees will not be eligible to participate in this Plan.

2.02 Employee Contributions. There are no employee contributions. However, this section will not be construed as requiring the refund of any contributions required under any previous version of Section 2.02. Refunds permitted under other sections of the Plan may continue according to the terms of those sections of the Plan.

2.03 Authority Contributions. That portion of the entire cost of the Plan which is not funded by investment earnings shall be paid by the Authority for all Participants. Subject to its right to amend or terminate the Plan, and the required adjustments to Participants' required contributions, the Authority agrees to contribute from time to time to the Trustees as provided for in Article XI, such additional sums as are required to provide the pension described herein, following generally accepted actuarial practices.

In the event the Authority amends this Plan from time to time to provide additional benefits to the Participants and such additional benefits result in increased cost as finally determined by an actuarial study, the Authority will fund the increased cost in accordance with the provisions of the following paragraph.

In each case, the required Authority contributions will include the normal cost of the Plan; the amount required to amortize the unfunded past service liability as of the effective date of the 1973 Restatement over a thirty (30) year period commencing on that date; and the amount required to amortize any unfunded actuarial accrued liability due to changes in plan benefits, assumptions, or actuarial gains and losses over a fifteen (15) year period beginning on the effective date of the change giving rise to the unfunded actuarial accrued liability, all determined according to the aggregate accrual modification of the entry age normal method of funding. In no case will the Authority be required to make contributions when the Plan has a surplus which can cover the normal cost of the Plan plus any unfunded past service liability and any unfunded actuarial accrued liability.

2.04 Interpretation of Conflicts Between the Plan and Any Collective Bargaining Agreement Covering a Plan Participant. If there is a conflict concerning participation in this Plan between the terms of the Plan and the terms of any applicable collective bargaining agreement, the terms of the collective bargaining agreement will prevail over the terms of this Plan, as of the effective date of the collective bargaining agreement.

ARTICLE III

Normal Retirement Pension

3.01 When Payable. The Plan will grant a Normal Retirement Pension to each Participant of the Plan who retires at the end of the month coinciding with or immediately following the 65th birthday of the Participant. A Participant of the Plan who has attained his Normal Retirement Date may continue to work for the Authority following his Normal Retirement Date. In such event, the Plan will pay the benefits earned by such Participant under the provisions of Article V.

3.02 Amount. Unless an optional method of payment is elected, as described in Section 3.05, the annual Normal Retirement Pension benefit payable in monthly installments to an eligible Participant will equal:

- (a) For the Participant's first twenty (20) years of Credited Service.
 - (i) one and six-tenths percent (1.6%) of the Participant's Final Average Earnings, up to the Participant's Social Security Breakpoint multiplied by the number of years of Credited Service up to and including 20 years, plus
 - (ii) two and one-half percent (2.5%) of the Participant's Final Average Earnings greater than his Social Security Breakpoint multiplied by the number of years of Credited Service up to and including 20 years, plus,
- (b) For the Participant's years of Credited Service greater than twenty (20), one and six-tenths percent (1.6%) of the Participant's Final Average Earnings multiplied by the number of years of Credited Service greater than 20 years.

The benefit amount determined above will not be greater than eighty percent (80%) of the Participant's Final Average Earnings nor less than the benefit amount that would have been determined under the Plan as it was in effect prior to the effective date of 1973 Restatement of the Plan using the amount of the Participant's five year average monthly compensation as defined in the Plan as it existed prior to the 1973 Restatement as of the effective date of the Participant's retirement.

3.03 Period of Payment. Monthly pension benefits will begin on the Normal Retirement Date of the Participant and will continue until the first of the month in which the retired Participant dies and thereafter as provided in section 3.04, unless an optional method of payment has been elected, in which case the monthly pension benefits will be continued as provided for under the option elected. The Plan will make benefit payments in arrears.

3.04 Death After Retirement. Upon the death of the Participant receiving pension benefits under the terms of Article III, Article IV, Article V, or Article VI, the Spouse of the Participant will be eligible to receive monthly pension benefits equal to fifty percent (50%) of the monthly benefit previously received by the Participant, unless an optional method of payment has been elected. If an optional method has been elected, then the monthly pension benefits will be continued as provided for under the option elected. The benefit payable to the Spouse will commence on the first of the month following the Participant's date of death and will continue until the first of the month in which the

Spouse dies. If the Participant and his Spouse both die before receiving total monthly benefits equal to the Participant's accumulated employee contribution, including interest determined according to Article IX up to the date the Participant's benefit commenced, the Plan will pay any remaining difference to the Participant's named beneficiary, or to his estate in the absence of a surviving named beneficiary.

3.05 Optional Methods of Payment.

- (a) **Married Participant.** Instead of a joint and fifty percent (50%) survivor pension payable monthly to a married Participant, such Participant may elect to receive a joint and survivor pension of Actuarial Equivalent value that would provide a reduced monthly pension payable to the Participant starting with his Actual Retirement Date, with the provision that after his death, pension payments would continue to be paid to, and during the lifetime of, the Spouse of the Participant at an amount determined under one of the following options.
 - (i) Continuation of the same amount of reduced pension that was payable to the Participant; or
 - (ii) Three-fourths of the reduced pension that was payable to the Participant; or
 - (iii) Two-thirds of the reduced pension that was payable to the Participant.
- (b) **Unmarried Participant.** Instead of the pension payable monthly for the life of an unmarried Participant, such Participant may elect to receive a term certain and life thereafter pension of Actuarial Equivalent value which would provide a reduced monthly pension payable to the Participant starting with his Actual Retirement Date, with the provision that after his death, benefit payments would continue to be paid to his named beneficiary for the remainder, if any, of the term certain, provided that the term certain elected will not exceed the life expectancy of the Participant or ten years, whichever is longer. Any unmarried Participant may designate a beneficiary to receive the return of the Participant's contribution plus interest at 4% compounded annually in the event the participant has no vested rights or other benefits due under the Plan.
- (c) **Nonspousal Optional Method.** Instead of a pension in its normal form, a Participant may elect to receive a joint and survivor pension that is of Actuarial Equivalent value to a life annuity for an unmarried Participant which would provide a reduced monthly pension payable to the Participant starting with his Actual Retirement Date, with the provision that after his death, pension payments would continue to be paid to the named beneficiary, for the life of the named beneficiary, in an amount equal to fifty percent (50%) of the monthly benefit previously received by the Participant.

Solely for the purposes of Section 3.05(d), a named beneficiary under this optional form of payment will be treated as a Spouse. Any children or other persons dependent on the Participant who otherwise meet the requirements for a dependent pension under Article VII will, upon the death of the Participant and the named beneficiary, be eligible for benefits under the Article. If there are both a named beneficiary and children qualifying for benefits under Article VII, then the children's rights to benefits are to be given priority over the rights

of the named beneficiary but only where the Participant dies before actual retirement.

- (d) **General.** Where the Participant or joint pensioner dies before reaching Normal Retirement Date, the optional benefit election will be void, provided the Participant was not already receiving an Early Retirement Pension previously reduced to reflect the elected form of benefit continuation to the Spouse, or other beneficiary.

Where a Participant dies after his Normal Retirement Date but before his Actual Retirement Date, the optional benefit election will be fully operative and the Spouse or other beneficiary will begin receiving pension payments under the terms of the elected option. Unless otherwise addressed in a Domestic Relations Order, the person lawfully married to the Participant at the time of the Participant's death (or for elections made under section 3.05(c) the person designated as the beneficiary) shall be considered to be the Spouse. If the Spouse should die before the Participant but after his Normal Retirement or Actual Retirement Date, the optional benefit amount shall cease to be paid and the Participant's pension benefit amount will revert to that as computed under Section 3.02 for all future payments. A Participant may elect this benefit more than once with his benefit being adjusted prospectively. Further, the Spouse in such a remarriage will be eligible for the benefit described in Section 3.04.

If another beneficiary, named under a term certain and life option, should die prior to the Participant but after his Normal Retirement or Actual Retirement Date and at the Participant's death another beneficiary has not been named to receive the remaining benefit payments, the present value of the remaining payments, if any, will be paid to the Participant's estate. Once an election has been made and accepted by the Trustees, it cannot be rescinded or changed without the written consent of the Trustees under rules uniformly applied to all similarly situated Participants.

Beside the options provided in (a) through (c) above, a Participant may elect a pension payable in accordance with any other option (except an "interest only" or lump sum distribution option) which is the Actuarial Equivalent of the Normal Retirement Pension, including the fifty percent (50%) Spouse benefit if married, to which the Participant was entitled at Normal Retirement Date, provided, however, that such option (i) provides for equal installments beginning with the Participant's Actual Retirement Date, (ii) may not be expected to cause pension benefits to be payable for a period longer than the life expectancy of the last to die of the Employee and his Spouse and (iii) does not cause the Spouse of a married Participant to receive less than the benefit the Spouse would have been entitled to receive if no election had been made, and (iv) is approved by the Trustees of the Plan. The Participant will pay all costs, including actuarial costs, incurred by the Plan in reviewing and calculating the requested optional form of benefit.

ARTICLE IV

Early Retirement Pension

4.01 When Payable. An Early Retirement Pension will be granted to each Participant of the Plan who retires before becoming eligible to receive a Normal Retirement Pension but on or after the end of the month preceding his Early Retirement Date.

4.02 Amount. The amount of an annual Early Retirement Pension, payable in monthly installments for the lifetime of the Participant, will be:

- (a) The amount of the Normal Retirement Pension calculated under section 3.02 to which the Participant would be entitled based on his Credited Service to his Normal Retirement Date and his Final Average Earnings determined at his Actual Retirement Date, multiplied by
- (b) The ratio of the Participant's Credited Service earned to his Actual Retirement Date and his Credited Service that would have accumulated to his Normal Retirement Date,

such amount to be reduced by 0.166667% for each month that the Participant's Actual Retirement Date precedes his Full Retirement Date.

In no event will the benefit amount determined in this manner be less than the benefit amount that would have been determined under the Plan as it was in effect on May 15, 2002, using the amount of the Participant's five (5) year average monthly compensation as it would have been determined on the date of retirement.

4.03 Period of Payment. Monthly pension benefits will begin on the Actual Retirement Date of the Participant and will continue until the first of the month in which the Participant dies. Monthly pension benefits will thereafter continue to Spouse of the Participant as provided for in section 3.04, unless an optional method of payment has been elected. In that case, the monthly benefit will continue as provided for under the option elected. Any remaining difference between total benefits paid and the value of accumulated employee contributions will be determined and paid as provided for in Section 3.04. Optional forms of payments may be elected according to such rules and regulations as are provided under Section 3.05.

4.04 Special Supplemental Pension. Any Participant retiring under the provisions of this Article IV with at least ten (10) years of Credited Service will also receive a Special Supplemental pension, payable in monthly installments, equal to:

- (a) one percent (1%) of the Participant's Final Average Earnings, up to the Participant's Social Security Breakpoint, times
- (b) the Participant's years of Credited Service, up to a maximum of twenty (20) years.

This Special Supplemental Pension will begin on the Participant's Actual Retirement Date and will continue to be payable, at the same time as the Participant's Early Retirement Pension, until the Participant's sixty-fifth (65th) birthday or such earlier date that he is, or would become upon application, entitled to unreduced Social Security benefits.

4.05 Entitlement to Early Retirement Pension by Persons on Long Term Disability. A Participant entitled to an Early Retirement Pension under this Article IV will receive the Plan benefits unless the Participant is currently receiving benefits from an Authority-sponsored Long Term Disability program. Benefits under this Article IV will become payable upon application by the Participant and the termination of the receipt of the Authority-sponsored Long Term Disability benefits.

ARTICLE V
Postponed Retirement Pension

5.01 **When Payable.** Upon the retirement of a Participant of the Plan after his Normal Retirement Date, a pension will be paid to such retired Participant commencing on the first day of the month coinciding with or next following with his Actual Retirement Date.

5.02 **Amount.** The amount of the annual pension, payable monthly, will be the amount determined under section 3.02, based on the Participant's Final Average Earnings and Credited Service determined on his Actual Retirement Date.

5.03 **Period of Payment.** Monthly pension benefits will begin on the Actual Retirement Date of the Participant and will continue until the first of the month in which the Participant dies. The monthly pension benefits will thereafter continue to the Spouse of the Participant as provided for in section 3.04, unless an optional method of payment has been elected. In that case, the monthly benefit will continue as provided for under the option elected. Any remaining difference between total benefits paid and the value of accumulated Employee contributions will be determined and paid as provided for in Section 3.04. Optional forms of payments may be elected according to such rules and regulations as are provided under Section 3.05.

ARTICLE VI
Disability Retirement Pension

6.01 **When Payable.** A Disability Retirement Pension will be granted to each Participant who becomes unable to provide work to the Authority as a result of becoming Disabled and who continues to be Disabled until he retires on his Normal Retirement Date. The annual benefits, payable monthly, under this Article will begin on the Participant's Normal Retirement Date.

6.02 **Amount.** The amount of the annual Disability Retirement Pension (payable monthly) will be calculated under Section 3.02(a) based on Credited Service that would have accumulated by the Participant if he continued to work for the Authority until his Normal Retirement Date and his Final Average Earnings determined at the time that he became unable to work for the Authority due to becoming Disabled. The amount of the benefit will be multiplied by the ratio of the most recent Consumer Price Index preceding the date when benefits first become payable to the most recent Consumer Price Index preceding the Participant's date of becoming Disabled.

6.03 **Period of Payment.** Monthly pension benefits will begin on the Normal Retirement Date of the Disabled Participant and will continue until the first of the month in which the Participant dies, and will thereafter continue to the Spouse of the Participant as provided for in Section 3.04. Any remaining difference between total benefits paid and the value of accumulated Employee contributions will be determined and paid as provided for in Section 3.04. A Disabled Participant may not elect optional benefit forms.

6.04 **Death Before Normal Retirement Date.** In the event a Disabled Participant dies without having recovered and before his Normal Retirement Date, the Spouse or other eligible beneficiaries of the Disabled Participant will be eligible to receive the benefits provided under Article VII.

6.05 **Recovery.** In the event that, prior to the Participant's Normal Retirement Date, a Participant recovers from the disability, so that he ceases to be Disabled, and he is not returned to a position by the Authority, his benefits under the Plan will be determined as if he had terminated employment on the date of his recovery. If he is returned to a position by the Authority, his period of disability will be considered as sick leave for the purposes of determining Credited Service or Continuous Service under the Plan.

ARTICLE VII

Dependent Pension

7.01 When Payable.

- (a) **Spouse.** If a Participant dies before attaining his Normal Retirement Date, and (i) while an Employee of the Authority or (ii) while a Disabled Participant eligible to receive a benefit commencing on his Normal Retirement Date, the Spouse of the deceased Participant will be entitled to a Dependent Pension, commencing on the first of the month following such Participant's or Disabled Participant's date of death.
- (b) **Children.** In the absence of a Spouse eligible to receive the Dependent Pension, or upon the death of such a Spouse, the benefit amount will be paid in equal shares to all children *per stirpes* of the Participant who are, on the date the benefit is paid, (i) under age nineteen (19), (ii) full time students at least age nineteen (19), but under age twenty-three (23), or (iii) currently, and since the date of the Participant's death, have continuously been incapable of self-support for medically determinable reasons. For the purposes of this Article, children will include the issue of the Participant, any legally adopted child of the Participant, or any legally recognized ward of the Participant or his Spouse who was dependent on the Participant for more than fifty percent (50%) of his support during the year preceding the Participant's date of death.
- (c) **Others.** In the absence of a Spouse, or children eligible to receive the Dependent Pension, or upon the last to die of the Spouse and all eligible children, the benefit amount will be paid in equal shares to all blood relatives of the Participant or his Spouse, in direct ascending line, who are living and eligible to receive such benefits on the date such benefits are payable. A lineal ancestor will be eligible to share in such benefit payments for life provided he was dependent on the Participant for more than fifty percent (50%) of his support during the year preceding the Participant's date of death. A lineal descendent will be eligible to share in such benefit payment so long as he meets the age and/or criteria established above for children, and provided further, that he was dependent on the Participant for more than fifty percent (50%) of his support during the year preceding the Participant's date of death.

7.02 **Amount.** The amount of the Dependent Pension will be fifty percent (50%) of the Participant's Normal Retirement Pension calculated under Section 3.02, based on the Credited Service that would have accumulated on the Participant's Normal Retirement Date and his Final Average Earnings determined on the Participant's termination of employment (or if based on a Disabled Participant the date on which the Participant became Disabled), such amount to be multiplied by the ratio of the Credited Service that accumulated or would have accumulated on the Participant's date of death, to the total Credited Service that would have accumulated for the Participant on his Normal Retirement Date, such amount to be further multiplied in the case of any Participant by the ratio of the most recent Consumer Price Index for the period preceding the date when benefits begin to the Consumer Price Index for the period preceding such Participant's termination of employment or becoming Disabled. The

benefit amount will thereafter be subject to the annual Consumer Price Index adjustment as provided for in Section 3.02.

In the event the total benefit paid to all parties eligible to receive benefits under this Article is less than the greater of (a) the accumulated value of Employee contributions including interest determined in accordance with Article IX to the date benefits first commenced under this Article, or (b) the amount of death benefit that would have been payable on behalf of the Participant if the Prior Plan had been continued. The balances will be paid to the named beneficiary or estate in a lump sum.

Instead of the Dependent Pension provided above, the Participant may elect to provide, to his named beneficiary, the death benefit that would have been payable on behalf of the Participant if the Prior Plan had been continued. In the event of such election, the death benefit amount will be paid to the Participant's named beneficiary, or in the absence of a surviving named beneficiary to the Participant's estate, in a lump sum.

7.03 Period of Payment. In the absence of an election to have the prior death benefit paid to a named beneficiary, monthly pension benefits payable to the Spouse will begin as of the first of the month following the Participant's date of death and continue until the first of the month in which the Participant's Spouse dies. Monthly pension benefits payable to the children will begin on the first of the month following the death of the participant's Spouse, or the first of the month following the death of the Participant in the absence of a Spouse eligible to receive the Dependent Pension and will continue so long as there remains at least one child eligible to receive the Dependent Pension. The pension benefit payable to other dependents will begin on the first of the month following the last payment to the Spouse or any eligible child and will continue so long a there remains at least one such eligible dependent to receive the Dependent Pension.

ARTICLE VIII

Deferred Vested Pension

8.01 When Payable. Any Participant of the Plan who ends his employment with the Authority before attaining his Early Retirement Date, and who has completed five (5) or more years of Credited Service, will be eligible to receive a Deferred Vested Pension commencing on the Participant's Normal Retirement Date, or an Early Deferred Vested Pension, with the completion of ten (10) or more years of Credited Service, on the Participant's Early Retirement Date.

8.02 Amount. The amount of the annual Deferred Vested Pension, payable monthly, will be determined as follows.

- (a) The amount of Normal Retirement Pension will be calculated under section 3.02 on the basis of the Participant's years of Credited Service to his Normal Retirement Date and his Final Average Earnings determined at his termination of employment.
- (b) That amount will be multiplied by the ratio of the Participant's Credited Service that accumulated at his termination of employment to the Credited Service that the Participant would have accumulated on his Normal Retirement Date.
- (c) The amount produced under section 8.02(a) and (b) will be multiplied by the amount shown on the following vesting schedule. The vesting schedule is 0% for up to five (5) years of credited service and 100% for five (5) years of credit service or more.

In no event will the benefit determined under (a), (b), and (c) above be less than the benefit that the Participant would have been eligible to receive if the Prior Plan had been continued.

The benefit determined by use of Sections 8.02(a), (b) and (c) will be subject to the annual cost of living adjustment following the date benefit payments began as provided for in Section 3.02.

- (d) If the Participant elects an early retirement date the benefit as determined above will be payable under section 4.03 and will be reduced $\frac{1}{180}$ for each of the first sixty (60) months and $\frac{1}{360}$ for each additional month in excess of sixty (60) months that the participant's Actual Retirement Date precedes his Normal Retirement Date.

8.03 Period of Payment. The monthly pension benefit will begin on the Participant's Normal Retirement Date or Early Retirement Date and continue until the first of the month in which the Participant dies, unless an optional method of payment has been elected, in which case, the monthly pension benefit will be continued as provided for under the option elected. If the Participant dies before or after his Normal Retirement Date, without having effectively elected an optional benefit form, and such Participant has not received monthly benefit equal to his accumulated Employee contribution including interest determined in accordance with Article IX to his normal Retirement Date or date of death if earlier, any remaining difference will be paid to the Participant's named beneficiary, or in the absence of a named beneficiary, to his estate.

8.04 Options. A Participant eligible to receive a Deferred Vested Pension (payable for the lifetime of the Participant) may elect to receive, in lieu thereof, a deferred benefit

of Actuarial Equivalent value commencing on his Normal Retirement Date with continuation of one-half of the reduced amount for the remaining life of his Spouse following his death, provided such option becomes effective only upon the Participant reaching his Normal Retirement Date. If the Participant dies before his Normal Retirement Date, any option elected according to this section will be void. If the Participant has previously elected to receive a reduced Early Deferred Vested Pension, the reductions for both the early receipt of the Deferred Vested Pension and the 50% benefit to the Spouse shall be cumulative.

ARTICLE IX

Other Termination

9.01 Non-Vested Termination. If a Participant ceases to work for the Authority at any time and for any reason prior to the date on which such Participant has met the age, service, and other requirements essential for a Normal Retirement Pension, a Postponed Retirement Pension, a Disability Retirement Pension, a Deferred Vested Pension, or a Dependent Pension, such Participant (or such Participant's beneficiary) will be eligible to receive the accumulated amount of the Participant's contributions to the Plan including interest at four percent (4%) compounded annually from the later of the effective date of this Restatement or the first day of the Fiscal Year following the date such contributions were made, to the first day of the month in which employment terminates.

9.02 Reemployment of Former Participant.

(a) Prior Credited Service Under This Plan. If a Participant of the Washington Metropolitan Area Transit Authority Retirement Plan terminates his employment with the Authority and is subsequently reemployed by the Authority and again becomes a Participant for a period of one (1) year, prior Credited Service will be reinstated if and only if, (i) the Participant refunds to the Trustees within two years of reemployment any Employer funds previously paid to him, together with interest at the rate of eight percent (8%) compounded annually, and (ii) either (A) the Participant eligible to receive to a deferred vested benefit under the provisions of Article VII on the day prior to his reemployment, or (B) his period of severance is less than his Credited Service at the time of his earlier termination of employment. If a Participant's prior Credited Service has been reinstated, his period of severance will not be considered for the purpose of determining Final Average Earnings. The Savings Provision of Article XIV will not apply to Participants who are credited with prior service under the provisions of this subsection. For the purpose of determining the amount of any lump sum payment which may be payable to or on behalf of a Participant who has made payments to the Trustees under this subsection, all such payments made by the Participant to the Trustees will be treated as Employer contributions.

(b) Prior Credited Service Under Former Plan. In the event that a Participant who has been active in this Plan for at least two years was previously a Participant of one or both of the Prior Plans consolidated with this Plan under the provisions of Article XV (Consolidation with Other Plans after May 18, 1973); but, due to a break in service starting prior to July 1, 1973, the Participant is not entitled to benefits with respect to such service under the provisions of Article XV, the Participant may purchase such prior period(s) of forfeited Credited Service by paying to the Trustees within two years of becoming a Participant of this Plan (or by June 30, 1980, if later) the full actuarial value of the additional benefits expected to be paid with respect to such service. The amount of such actuarial value will be determined on the basis on the actuarial assumptions used in the most recent actuarial valuation of this Plan (including anticipated post retirement cost-of-living increases) except that the Participant will be assumed to have retired at age sixty-

five (65). For the purpose of determining the amount of any lump sum payment which may be payable to or on behalf of a Participant who has purchased service credit under this subsection, all payments made by the Participant to the Trustees will be treated as Employee contributions.

PROPOSED

ARTICLE X

Modification, Amendment and Discontinuance of the Plan

10.01 Power to Modify, Amend or Discontinue Plan Reserved. While the Plan is intended to be permanent, the Board of Directors reserves the right at any time, and from time to time, by written resolution to modify or amend, in whole or in part, any and all provisions of this Plan or to terminate the Plan. This right is subject to the condition that no part of the assets of the Plan will, by reason of any modification, amendment or termination, be used for or diverted to purposes other than for the, exclusive benefit of Participants, retired Participants and their beneficiaries under the Plan, unless and until all liabilities of the Plan have been satisfied, in which case any remaining assets may revert to the Authority.

10.02 Distribution Upon Termination of the Plan. If the Plan is terminated at any time or there is a complete discontinuance of Employer contributions to the Plan, the rights of all Participants to the benefits, subject to the Special Limitations under Section 10.04, accrued to the date of termination or discontinuance, to the extent then funded, will be fully vested and nonforfeitable. The funds then held by the Trustees in excess of the value of accumulated Employee contributions will be allocated and applied by the Trustees in amounts which, when added to the value of accumulated Employee contributions, will provide the benefits contemplated by the Plan in the following order of priority:

- (a) First, to provide for the continued payment of retirement benefits to all retired or former Participants and their beneficiaries who as of the date of termination or discontinuance were receiving benefits under this Plan. Any reduction in the retirement benefits within the group necessitated by any insufficiency of assets at or after the date of termination or discontinuance of the Plan will be shared proportionately on the basis of similar annuity values, taking into consideration the contingent benefits attributable to the benefit being paid.
- (b) Second, if any such assets remain after complete allocation for the purposes of (a) above, to provide Postponed Retirement Pensions computed under Article V to all Participants and former Participants who, at the date of termination or discontinuance of the Plan, have reached their Normal Retirement Date and have not as yet received retirement benefits under this Plan. The amount, if any, to be allocated for this purpose will be based on immediate annuity values applicable to the Participant and such other contingent annuitants that may receive benefits attributable to the Participant, and will be subject to any reduction necessitated by any insufficiency of assets as in (a) above.
- (c) Third, if any such assets remain after complete allocation for the purposes of (a) and (b) above, to provide Early Retirement Pensions computed under Article IV to Participants and former Participants who, at the date of termination or discontinuance of the Plan, have reached their Early Retirement Date or who are Disabled Participants in accordance with Article VI and have not as yet received retirement benefits under this Plan. The amount, if any to be allocated will be based on immediate annuity values, as in (b) above, and will be subject to reduction for insufficiency of assets as in (a) and (b) above.

- (d) Fourth, if any such assets remain after complete allocation for the purposes of (a), (b), and (c) above, to provide Deferred Vested Pensions computed under Article VIII to Participants (but without multiplication by the percentage in 8.02(c), and former Participants who would or who previously have become eligible to receive a Deferred Vested Pension but who have not as yet received retirement benefits under the Plan. The amounts, if any to be allocated will be based on deferred life annuity values and will be subject to reduction for insufficiency of assets in (a), (b), and (c) above.
- (e) Fifth, if any such assets remain after complete allocation for the purposes of (a), (b), (c), and (d) above, to provide Deferred Vested Pensions computed under Article VIII for all other Participants in the Plan as of the date of termination or discontinuance. The amount, if any, to be allocated for this purpose will be determined as in (d) above.

Any funds that may remain after having provided in full for the benefits of all persons in the groups identified above will be deemed an amount due to erroneous actuarial computation and will be returned to the Authority.

The distribution of benefits in accordance with this Section 10.02 may be carried out through the continuance of the existing Trust, the retention and/or purchase of insurance or annuity contracts, the creation of a new trust or trusts, or by the payment of cash, or by any combination of the foregoing, as the Board of Directors will determine.

10.03 Effect of Merger or Consolidation. In the event that the Authority is merged into or consolidated with, or substantially all of the assets of the Authority are transferred to, another agency (the "successor"), with the result that Employees of the Authority covered by the Plan become employees of the successor and the successor undertakes to assume all of the rights and obligations of the Authority under this Plan, then such action will not constitute a discontinuance or termination of the Plan, and the Plan will continue in effect for the Participants in accordance with its terms, including the right of the successor to modify, amend or discontinue the Plan. If the Plan is assumed by a successor, the Credited Service or Continuous Service of any Participant who is continued in the employ of such successor will not be deemed to have been terminated or interrupted for any purpose under the Plan as a result of such merger, consolidation or purchase of substantially all of the assets of the Authority. The assumption of the Plan by the successor may be evidenced by the terms of the agreement of merger, consolidation or purchase or may be evidenced by resolution of the governing body of the successor adopted within ninety (90) days after the date of the transaction.

Any merger or consolidation with or transfer of assets or liabilities to, any other plan will be valid only if each Participant in the Plan would receive a benefit immediately after the merger, consolidation or transfer which is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation or transfer.

10.04 Diversion of Assets. No part of the assets accumulated for the Plan under the Trust will be used directly or indirectly for any purpose other than the exclusive benefit of Participants or their beneficiaries under the Plan as it is established, or as the Plan may be changed by modification, amendment, or termination, prior to the satisfaction of all liabilities under the Plan.

ARTICLE XI
Administration of the Program

11.01 **The Trust and Trustees.** The Board of Directors has entered into an Agreement with the Trustees for the continuation of the Trust in such form and containing such provisions as the Authority deems appropriate, including, but not limited to, provisions with respect to the powers and authority of the Trustees, limitations on the liability of the Trustees, the Authority, and the Board of Directors, and the Board of Directors' power to settle the accounts of the Trustees on behalf of all persons having any interest in the Trust. The Trustees will make any payments to or for the benefit of any Participant or beneficiary under this Plan in accordance with the terms of the Agreement. The Agreement will be deemed to form a part of this Plan, and any and all rights or benefits which may accrue to any person under this Plan will be subject to the terms and provisions of the Agreement.

11.02 **Investment of Contributions.** The contributions made will be invested through the Trust Fund established by the Agreement and in accordance with the provisions of the Agreement of which this Plan is a part. The Agreement covers the detailed provisions with respect to the responsibility of the Trustees for the investment of the funds received.

11.03 **Delegation of Authority.** The Authority is designated as "Plan Sponsor" and the Trustees as the "Plan Administrator." Specific duties will be delegated to fiduciaries including the Trustees. The Authority will maintain, or cause to be maintained, records on the employment and compensation history of each Participant in sufficient detail to permit an accurate determination of any benefits to which the Participants may be entitled under the Plan. The Trustees will direct their duties with respect to the Plan solely in the interest of the Plan's participants and beneficiaries for the exclusive purpose of providing benefits to the Plan's Participants and beneficiaries and defraying reasonable expenses of administering the Plan.

11.04 **Day-to-Day Administration of the Plan.** The day-to-day administration of the Plan, as provided in the Plan document, including the supervision of the payment of all benefits to retired Participants, their joint pensioners and beneficiaries, will be vested in and be the responsibility of the Trustees as part of their duties as Trustees.

11.05 **Conduct of Business.** The Trustees will conduct their business and hold meetings as determined by it from time to time. A majority of the Trustees will have the power to act. The concurrence of any Trustee may be in person or by telephone, telegram, facsimile transmission, letter, or if approved by the Trustees, by electronic mail. The Trustees may designate any one of its members to carry out specific duties and to sign appropriate forms and authorizations. In carrying out its duties, the Trustees may, from time to time, employ an administrative organization and agents and may delegate to them ministerial and limited discretionary duties as they see fit. The Trustees may consult with counsel, who may be of counsel to the Authority.

11.06 **Trustee Subcommittees and Agents.** The Trustees will appoint such subcommittees as it will deem appropriate, and may authorize one or more of its number or any agent to execute or deliver any instrument on its behalf and do any and all other things necessary and proper in the administration of the Plan.

11.07 Expenses of the Trustees and Plan Costs. The expenses of administering the Plan, including the printing of literature and forms related thereto, the disbursement of benefits thereunder, the compensation of administrative organizations, agents, actuary, counsel, or Trustees will be paid by the Trustees from the Trust Fund.

11.08 Reserved for future use.

11.09 Trustees' Right to Administer and Interpret the Plan. The Trustees will have the power and authority to administer and interpret the Plan and to adopt such rules and regulations as in the opinion of the Trustees are necessary or advisable to implement, administer and interpret the Plan, or to transact its business. Such rules and regulations as are adopted by the Trustees, will be binding upon any persons having an interest in or under the Plan.

11.10 Claims Procedure. The Trustees will establish the procedure for the submission, processing and disposition of claims for benefits and requests for interpretations of the Plan submitted by employees or their beneficiaries.

11.11 Responsibility and Authority of the Trustees. The responsibility and authority of the Trustees shall be as set forth in the Trust Agreement. The Trustees may direct the appropriate trust department of a bank or an insurance company to pay Plan Participants and their beneficiaries benefits as provided under the Plan and to pay the expenses of the Trustees. The Authority will indemnify the Trustees and its members for any claim against the Trustees for any action made in good faith and without gross negligence. The Authority may purchase appropriate insurance to protect the Trustees and its members, but the Authority's obligation to indemnify the Trustees and its members will not be limited by such insurance policy.

ARTICLE XII

General Provisions

12.01 Right to Employment. Nothing contained in the Plan or the establishment of the Trust hereunder or any modification thereof, or the creation of any fund or account for the payment of any benefit will be construed to give any Employee, Participant or beneficiary any right to employment or continued employment with the Authority or any legal or equitable rights against the Authority, any member of the Board of Directors, officer, agent or employee of the Authority, or against the Committee, the Trustee or their agents or employees, except as herein provided.

12.02 Incapacity. In the event that any retired Participant or beneficiary is unable to care for his affairs because of illness or accident, any payment due may be paid to the Participant's or beneficiary's spouse, parent, brother, sister or other person deemed by the Committee to have incurred expenses for the care of such retired Participant unless a duly qualified guardian or other legal representative has been appointed.

12.03 Report to Participants. Each Participant will be notified on an annual basis of the facts of his specific participation in the Plan and the participation of the Authority as it pertains to both his account and to the overall Plan. The Trustees will adopt the form and manner of the notification.

12.04 Assignment and Loan.

- (a) No Employee will have the right to assign, transfer, encumber or otherwise subject to lien any of the benefits provided under this Plan. Except as provided in subsection (b), below, the right of any Participant or beneficiary to any benefit or to any payment hereunder or to any separate account will not be subject to alienation, assignment, attachment, encumbrance, execution, garnishment, lien, sequestration, transfer or other legal, equitable or other process, and no loans will be made under the Plan on the basis of any account held on behalf of a Participant or former Participant.
- (b) The restrictions of subsection (a) above will not apply to a Domestic Relations Order that meets the requirements of this subsection if:
 - (i) It is a judgment, decree, or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child or other dependent of a Participant, and that is made pursuant to a state domestic relations law or the domestic relations law of the District of Columbia; and
 - (ii) It creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to the Plan participant; and
 - (iii) It clearly specifies the name and the last known mailing address (if any) of the Participant and the name and mailing address of each alternate payee covered by the order; and
 - (iv) It clearly specifies the amount or percentage of the Participant's benefits to be paid by the Plan to each such alternate payee, or the manner in which such amount or percentage is to be determined; and

- (v) It clearly specifies the number of payments or period to which such order applies; and
 - (vi) It clearly specifies that it applies to the Washington Metropolitan Area Transit Authority Retirement Plan; and
 - (vii) It does not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan; and
 - (viii) It does not require the Plan to provide increased benefits (determined on the basis of actuarial value); and
 - (ix) It does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another Domestic Relations Order previously approved by the Trustees; and
 - (x) It does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee in the form of a joint and survivor annuity with respect to the alternate payee and his or her subsequent spouse; and
 - (xi) It does not require the payment of benefits to an alternate payee prior to the time that the Participant has separated from service with the Authority and is eligible to receive a benefit or their distribution from the Plan.
- (c) Additional requirements.
- (i) The term "alternate payee" means any spouse, former spouse, child, or other dependent of a Participant who is recognized by a Domestic Relations Order as having a right to receive all, or a portion of, the benefits payable under a Plan with respect to such participant;
 - (ii) To the extent provided in a Domestic Relations Order meeting the requirements of subsection (b), the former spouse of a Participant may be treated as the Spouse of the Participant for purposes of any form of benefit payable under the Plan, and any spouse of the Participant will not be treated as a Spouse of the Participant for such purposes;
 - (iii) The decision of the Trustees regarding whether a Domestic Relations Order meets the requirements of subsection (b) will be final and binding on all parties and their successors, heirs, executors, administrators and assigns. The Plan's claims procedures will apply to Domestic Relations Orders; and
 - (iv) Any action taken by the Trustees in implementing a Domestic Relations Order under this section will result in the discharge of the Plan's obligation to the Participant and to each alternate payee to the extent of any payment made pursuant to this section.

12.05 Settlement of Small Pensions. Reserved for future use.

12.06 Settlement of Small Death Benefits. In the event that a death benefit totaling less than \$1,000 is payable to a beneficiary under the Plan and the Participant's named beneficiary has not survived to receive such sum, or in the absence of the Participant making a specific beneficiary designation, the Trustees may direct the payment of the amount payable to any person they determine to be the recipient of the Participant's bounty.

12.07 Forfeitures. Forfeitures, if any, must not be applied to increase the pension benefits any Participant would otherwise receive under this Plan.

12.08 **Gender and Pronoun.** The masculine pronoun, wherever used, will include the feminine pronoun, and the singular number will include the plural number, unless the context of the Plan requires otherwise.

12.09 **Permissible Purchase of Annuity Contracts.** The Trustees, in lieu of paying the pension to which a Participant of this Plan is entitled directly from the funds of the Trust, may purchase from an insurance company, any type of annuity contract which will provide retirement benefits in an amount identical to that to which the retired Participant was entitled under this Plan, provided such annuity is not transferrable by the Participant. The right to purchase such an annuity is limited, however, with respect to those individuals whose benefits under the Plan would be reduced if the full current costs of the Plan had not been met. The amount of WMATA contributions which may be used to purchase the reduced benefit is the amount which would be calculated under Section 10.04 and any excess benefits will be paid from the funds of the Trust to the extent otherwise permissible under Section 10.04, unless the annuity purchased provides for the limitations under Section 10.04. Upon the purchase of any annuity contract for the benefit of a retired Participant, such contract may either be assigned to the retired Participant, or retained by the Trustees for the benefit of the retired Participant.

12.10 **Liability.** The Committee, the Trustees, employees of the Authority or officers or members of the Board of Directors of the Authority will not be liable to any person, business entity, or government agency by reason of the terms, conditions or agreements contained in the Plan or in the Agreement executed in connection herewith. The Board of Directors, officers, employees of the Authority, the Committee, and the Trustees will be entitled to rely upon any and all certificates and reports or opinions given by any duly appointed accountant, actuary, investment advisor or legal counsel (who may be counsel for the Authority), and will be fully protected against any action taken in good faith in reliance upon such tables, valuations, certificates, reports or opinions.

12.11 **Governing Law.** The Plan will be construed, administered and enforced in accordance with the laws of the District of Columbia.

12.12 **Tax Qualification.** This Amendment and Restatement to the Plan has been adopted and is based upon the condition precedent that the Plan, as amended, be initially qualified by the Internal Revenue Service as meeting the requirements of the Internal Revenue Code and regulations issued thereunder with respect to qualified pension plans, so as to exempt the Trust established as a part of the Plan from tax on its income. Notwithstanding any other provisions of the Plan, as amended, if the Commissioner of Internal Revenue or his delegate determines that the Plan, as amended, or the amended Plan as it may be further amended by the Board of Directors in an effort to receive such approval, does not initially qualify under the applicable provisions of the Internal Revenue Code, the Plan amendment will be void and the Plan will be reestablished in accordance with the provisions in effect prior to this Amendment.

12.13 **Minimum Distribution Requirement.** The provisions of this Section apply for purposes of determining minimum required distributions under Section 401(a)(9) of the Internal Revenue Code and take precedence over any inconsistent provisions of the Plan; provided, however, that these provisions are intended solely to reflect the requirements of Section 401(a)(9) of the Internal Revenue Code (and accompanying Treasury Regulations) and do not provide or expand (and shall not be construed as providing or

expanding) any benefit or distribution option not otherwise expressly provided for under the terms of the Plan. The provisions of this Section shall apply only to the extent required under Section 401(a)(9) of the Internal Revenue Code as applied to a governmental plan and if any special rules for governmental plans are not set forth herein, such special rules are hereby incorporated by reference and shall for all purposes be deemed a part of the Plan.

(a) Time and Manner of Distribution

- (i) Required Beginning Date. The Participant's entire benefit will be distributed, or begin to be distributed to the Participant no later than the Participant's Required Beginning Date, which is April 1st of the calendar year following the later of (1) the calendar year in which the Participant attains age 70½, or (2) the calendar year in which such Participant terminates employment.
- (ii) Death of Participant before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire benefit will be distributed, or will begin to be distributed, no later than as follows:
 - (1) If the Participant's surviving spouse is the sole designated Beneficiary, then subject to Section 12.13(a)(ii)(5) below, distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
 - (2) If the Participant's surviving spouse is not the sole designated Beneficiary, then subject to Section 12.13(a)(ii)(5) below, distributions to the designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died.
 - (3) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire benefit will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
 - (4) If the Participant's surviving spouse is the sole designated beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 12.13(a)(ii) other than Section 12.13(a)(ii)(1) will apply as if the surviving spouse were the Participant.
 - (5) If the Participant dies before distributions begin and there is a designated Beneficiary, distribution to the designated Beneficiary is not required to begin by the date specified in Section 12.13(a)(ii)(1) or (2) above, but only if the designated Beneficiary elects to have the Participant's entire benefit distributed to the designated Beneficiary by December 31 of the calendar year containing the fifth anniversary of the Participant's death. Such an election by the designated Beneficiary must be made no later than the earlier of September 30 of the calendar year in which the distribution would otherwise be required to begin under Section 12.13(a)(ii)(1) or (2), or September 30 of the calendar year that contains the fifth anniversary of the Participant's death.

For purposes of this Section 12.13(a)(ii) and Section 12.13(d), distributions are considered to begin on the Participant's Required Beginning Date (or, if Section 12.13(a)(ii)(4) applies, the date distributions are required to begin to the surviving spouse under Section 12.13(a)(ii)(1)). If annuity payments irrevocably commence

to the Participant before the Participant's Required Beginning Date (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 12.13(a)(ii)(1)), the date distributions are considered to begin is the date distributions actually commence.

(iii) Form of Distribution. Unless the Participant's benefit is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Sections 12.13(b), (c) and (d). If the Participant's benefit is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and applicable Treasury regulations. Any part of the Participant's benefit that is in the form of an individual account described in Section 414(k) of the Internal Revenue Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Internal Revenue Code and the Treasury regulations that apply to individual accounts.

(b) Determination of Amount to be Distributed Each Year

(i) General Annuity Requirements. If the Participant's benefit is paid in the form of annuity distributions under the Plan, payments under the annuity shall satisfy the following requirements:

- (1) The annuity distributions will be paid in periodic payments made at intervals not longer than one year;
- (2) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in Sections 12.13(c) and (d);
- (3) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;
- (4) Payments will either be non-increasing or increase only as follows:
 - a. by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index based on prices of all items and issued by the Bureau of Labor Statistics;
 - b. to the extent of the reduction in the amount of the Participant's payments to provide for a survivor benefit upon death, but only if the Beneficiary whose life was being used to determine the distribution period described in Section 12.13(c) dies or is no longer the Participant's Beneficiary under a domestic relations order that is treated as a qualified domestic relations order under Section 414(p) of the Internal Revenue Code;
 - c. to provide cash refunds of employee contributions upon the Participant's death;
 - d. pay increased benefits that result from a Plan amendment.

(ii) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Participant's Required Beginning Date (or, if the Participant dies before distributions begin, the date distributions are required to begin under Section 12.13(a)(ii)(1) or (2)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, e.g., bi-

monthly, monthly, semi-annually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's Required Beginning Date.

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

(c) Requirements for Annuity Distributions Commencing During Participant's Lifetime

- (i) Joint Life Annuities Where Beneficiary Is Not the Participant's Spouse. If the Participant's benefit is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a non-spouse Beneficiary, annuity payments to be made on or after the Participant's Required Beginning Date to the designated Beneficiary after the Participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table in Q&A-2 of Treas. Reg. §1.401(a)(9)-6. If the form of distribution combines a joint and survivor annuity for the joint lives of the Participant and a non-spouse Beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated Beneficiary after the expiration of the period certain.
- (ii) Period Certain Annuities. Unless the Participant's spouse is the sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Participant's lifetime may not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Treas. Reg. §1.401(a)(9)-9 for the calendar year that contains the Benefit Commencement Date. If the Benefit Commencement Date precedes the year in which the Participant reaches age 70, the applicable distribution period for the Participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Treas. Reg. §1.401(a)(9)-9 plus the excess of 70 over the age of the Participant as of the Participant's birthday in the year that contains the Benefit Commencement Date. If the Participant's spouse is the Participant's sole designated Beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the Participant's applicable distribution period, as determined under this Section 12.13(c)(ii), or the joint life and last survivor expectancy of the Participant and the Participant's spouse as determined under the Joint and Last Survivor Table set forth in Treas. Reg. §1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the calendar year that contains the Benefit Commencement Date.

(d) Requirements For Minimum Distributions If Participant Dies Before Distributions Begin

- (i) Participant Survived by Designated Beneficiary. If the Participant dies before the date distribution of his or her benefit begins and there is a designated Beneficiary, the Participant's entire benefit will be distributed, beginning no later than the time

described in Section 12.13(a)(ii)(1) or (2), over the life of the designated Beneficiary or over a period certain not exceeding:

- (1) unless the Benefit Commencement Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of the Beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or
 - (2) if the Benefit Commencement Date is before the first distribution calendar year, the life expectancy of the designated Beneficiary determined using the Beneficiary's age as of his or her birthday in the calendar year that contains the Benefit Commencement Date.
- (ii) **No Designated Beneficiary.** If the Participant dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire benefit will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
- (iii) **Death of Surviving Spouse Before Distributions to Surviving Spouse Begin.** If the Participant dies before the date distribution of his or her benefit begins, the Participant's surviving spouse is the Participant's sole designated Beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this Section 12.13(d) will apply as if the surviving spouse were the Participant, except that the time by which distributions must begin will be determined without regard to Section 12.13(a)(ii)(1).
- (e) **Reasonable and Good Faith Interpretation.** Notwithstanding anything contained herein to the contrary, any distribution option under the Plan that is consistent with a reasonable and good faith interpretation of Section 401(a)(9) of the Internal Revenue Code shall be permitted under this Section 12.13.
- (f) **Required Minimum Distribution Requirement Definitions.** For purposes of this Section 12.13, the following terms shall be defined as follows:
- (i) **Designated Beneficiary.** The Beneficiary designated by the Participant and who is the designated Beneficiary under Section 401(a)(9) of the Internal Revenue Code Internal Revenue Code and Treas. Reg. 1.401(a)(9)-4.
 - (ii) **Distribution Calendar Year.** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year that contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 12.13(a)(ii).
 - (ii) **Life Expectancy.** Life expectancy as computed by use of the Single Life Table in §1.401(a)(9)-9 of the Treasury regulations.

12.14 Overall Limitation on Benefits.

- (a) Notwithstanding any Plan provisions to the contrary, effective for Limitation Years beginning on or after January 1, 2008, to the extent necessary to prevent disqualification under Section 415 of the Internal Revenue Code, and subject to the remainder of this Section 12.14, the maximum annual benefit under this Plan, as adjusted from time to time pursuant to Article XX (and any other defined benefit plan maintained by the Authority), payable in any Limitation Year to a Participant shall not

exceed the Defined Benefit Dollar Limit (adjusted as provided in Section 12.14(b)). The Defined Benefit Dollar Limit shall be \$160,000, as adjusted for the Limitation Year under Section 415(d) of the Internal Revenue Code, payable in the form of a straight life annuity, beginning no earlier than age 62 and no later than age 65. In the case of a benefit payable in a form other than a straight life annuity, or beginning before age 62 or after age 65, the adjustments in Section 12.14(b) shall apply.

The Defined Benefit Dollar Limit shall not apply to benefits that are actuarially funded by participant contributions (other than contributions that are picked up by the Authority as described in Section 414(h)(2) of the Internal Revenue Code), as determined under the rules of Section 411(c) of the Internal Revenue Code (using the actuarial assumptions thereunder) applied as if the Plan were subject to such Section 411(c).

In addition to the foregoing, to the extent necessary to prevent disqualification under Section 415 of the Internal Revenue Code, and subject to the remainder of this Section 12.14, the maximum Annual Additions for any Limitation Year shall be equal to the lesser of:

- (i) \$40,000, as adjusted as adjusted for the Limitation Year under Section 415(d) of the Internal Revenue Code; or
- (ii) 100% of the Participant's Compensation as defined in this Section 12.14.

The dollar limits in this Section shall be adjusted, effective January 1 of each year, under Section 415(d) of the Internal Revenue Code in such manner as the Secretary shall prescribe. A limit as adjusted under Section 415(d) shall apply to Limitation Years ending with or within the calendar year for which the adjustment applies but a Participant's benefits shall not reflect the adjusted limit prior to January 1 of that calendar year. To the extent that the monthly benefit payable to a Participant who has terminated employment is limited by the application of this Section 12.14, such limit shall be adjusted to reflect any subsequent adjustments made in accordance with Section 415(d) of the Internal Revenue Code, but the adjusted limit shall apply only to benefits payable on or after January 1 of the calendar year for which the adjustment applies.

(b) Actuarial Adjustments Relating to Defined Benefit Dollar Limit

(i) Adjustment for Benefit Payable in Form Other than Straight Life Annuity

- (1) If a monthly benefit is payable in a form other than a straight life annuity, before applying the Defined Benefit Dollar Limit, the benefit shall be adjusted, in the manner described in Section 12.14(b)(i)(2) or (3), to the Actuarial Equivalent straight life annuity that begins at the same time. No actuarial adjustment to the benefit shall be made for:
 - a. survivor benefits payable to a surviving spouse under a qualified joint and survivor annuity (as defined for purposes of Section 415 of the Internal Revenue Code) to the extent such benefits would not be payable if the Participant's benefit were paid in another form;
 - b. benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or
 - c. in the case of a form of benefit not subject to Section 417(e)(3) of the Internal Revenue Code, the inclusion of a feature under which a benefit increases automatically to the extent permitted to reflect cost of living adjustments and

- the increase, if any, in the Defined Benefit Dollar Limit under Section 415(d) of the Internal Revenue Code.
- (2) If the benefit of a Participant is paid in a form not subject to Section 417(e) of the Internal Revenue Code, the Actuarial Equivalent straight life annuity (without regard to cost-of-living adjustments described in this Section 12.14) is equal to the greater of:
 - a. the annual amount of the straight life annuity (if any) payable to the Participant under the Plan commencing at the same time; or
 - b. the annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the Participant's form of benefit, computed using a 5% interest rate and the applicable mortality designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code.
 - (3) If the benefit of a Participant is paid in a form subject to Section 417(e) of the Internal Revenue Code, the Actuarial Equivalent straight life annuity is equal to the greatest of:
 - a. the annual amount of the straight life annuity commencing at the Benefit Commencement Date that has the same actuarial present value as the Participant's form of benefit, computed using the interest rate and mortality table (or other tabular factor) specified in Section 13.02 of the Plan for adjusting benefits in the same form;
 - b. the annual amount of the straight life annuity commencing at the time that has the same actuarial present value as the Participant's form of benefit, computed using a 5.5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code; or
 - c. the annual amount of the straight life annuity commencing at the same time that has the same actuarial present value as the Participant's form of benefit, computed using the applicable interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code, divided by 1.05.
 - (4) For purposes of this Section 12.14(b)(i), whether a form of benefit is subject to Section 417(e) of the Internal Revenue Code is determined without regard to the status of the Plan as a governmental plan as described in Section 414(d) of the Internal Revenue Code.
- (ii) Adjustment for Benefit Commencement before Age 62 or after Age 65
- (1) If the benefit of a Participant begins prior to age 62, the Defined Benefit Dollar Limit applicable to the Participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the Actuarial Equivalent of the Defined Benefit Dollar Limit applicable to the Participant at age 62 (adjusted for participation of fewer than 10 years if applicable) computed using a 5% interest rate and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code. However, if the Plan provides an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the Defined Benefit Dollar Limit is the lesser

of:

- a. the limitation determined under the immediately preceding sentence, or
- b. the Defined Benefit Dollar Limit (adjusted for participation of fewer than 10 years if applicable) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the Plan at the age of benefit commencement to the annual amount of the immediately commencing straight life annuity under the Plan at age 62,

both determined without applying the limitations of this section. The adjustment in this Section 12.14(b)(ii)(1) shall not apply as a result of benefits paid on account of Disability under Article VI or as a result of the death of a Participant under Article VII.

- (2) If the benefit of a Participant begins after age 65, the Defined Benefit Dollar Limit applicable to the Participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is the Actuarial Equivalent of the Defined Benefit Dollar Limit applicable at age 65 (adjusted for participation of fewer than 10 years, if applicable) computed using a 5% interest rate assumption and the applicable mortality table designated by the Secretary of the Treasury from time to time pursuant to Section 417(e)(3) of the Internal Revenue Code. However, if the Plan provides an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the Defined Benefit Dollar Limit is the lesser of:

- a. the limitation determined under the immediately preceding sentence, or
- b. the Defined Benefit Dollar Limit (adjusted for participation of less than 10 years if applicable) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the Plan at the age of benefit commencement to the annual amount of the adjusted immediately commencing straight life annuity under the Plan at age 65,

both determined without applying the limitations of this section. For this purpose, the adjusted immediately commencing straight life annuity under the Plan at the age of benefit commencement date is the annual amount of such annuity payable to the Participant, computed disregarding the Participant's accruals after age 65 but including any actuarial adjustments even if those actuarial adjustments are used to offset accruals; and the adjusted immediately commencing straight life annuity under the Plan at age 65 is the annual amount of such annuity that would be payable under the Plan to a hypothetical participant who is age 65 and has the same accrued benefit as the Participant.

- (3) Mortality Adjustments. For purposes of this Section 12.14(b)(ii), no adjustment shall be made to the Defined Benefit Dollar Limit to reflect the probability of a Participant's death between the Benefit Commencement Date and age 62, or between age 65 and the Benefit Commencement Date, as applicable, if benefits are not forfeited upon the death of the Participant prior to the Benefit Commencement Date. To the extent benefits are forfeited upon death before the Benefit Commencement Date, such an adjustment shall be made. For this purpose, no forfeiture shall be treated as occurring upon the Participant's death if the Plan does not charge Participants for providing a qualified preretirement survivor annuity (as defined for purposes of Section 415 of the Internal Revenue Code) upon the Participant's death.

- (c) **Reducing Dollar Limit.** If the Participant has fewer than 10 years of participation in the Plan (as determined under Section 415 of the Internal Revenue Code and the regulations thereunder), the Defined Benefit Dollar Limit shall be multiplied by a fraction, the numerator of which is the number of years (or part thereof) of participation in the Plan and the denominator of which is 10. The adjustment in this Section 12.14(c) shall not apply to benefits paid on account of disability under Article VI or as a result of the death of a Participant under Article VII.
- (d) **Other Reductions in Maximum Benefit.** In addition to the foregoing, the maximum benefit and contributions shall be reduced 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 retirement plan maintained by the Authority, 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 Authority 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 an affiliated or predecessor employer, as described in regulations under Section 415 of the Internal Revenue Code, or otherwise required to be taken into account under such regulations.
- (e) **Multiple Benefit Commencement Dates.** If a Participant has distributions commencing at more than one Benefit Commencement Date (determined in accordance with Section 415 of the Internal Revenue Code and the regulations thereunder), the benefits payable as of each such Benefit Commencement Date shall satisfy the limitations of this Section 12.14 as of each such date, actuarially adjusting for past and future distributions of benefits commencing at the other Benefit Commencement Dates.
- (f) **Grandfathered Benefits.** The application of the provisions of this section shall not cause the maximum permissible benefit for any Participant to be less than the Participant's Accrued Benefit under this Plan as of the end of the last Limitation Year beginning before July 1, 2007 under provisions of this Plan that were both adopted and in effect before April 5, 2007 and that satisfied the limitations under Section 415 of the Internal Revenue Code as in effect as of the end of the last Limitation Year beginning before July 1, 2007.
- (g) **Annual Additions.** Annual Additions shall be defined as the sum of the following items credited to the Participant under this Plan and any other tax-qualified retirement plan sponsored by the Authority for a Limitation Year and treated as a defined contribution plan for purposes of Section 415 of the Internal Revenue Code: Authority contributions that are separately allocated to the Participant's credit in any defined contribution plan; forfeitures; participant contributions (other than contributions that are picked up by the Authority as described in Section 414(h)(2) of the Internal Revenue Code); and amounts credited after March 31, 1984 to a Participant's individual medical account (within the meaning of Section 415(l) of the Internal Revenue Code).
- (h) Solely for purposes of this § 12.14, the term "Compensation" which is used in the Plan's definition of "Final Average Earnings" will be defined as all wages within the

meaning of 26 U.S.C. § 3401(a) actually paid or includible in the Participant's income but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed. Amounts contributed by the employer at the election of the employee and which are not includible in the gross income of the employee by reason of 26 U.S.C. §§ 125, 132(f)(4) and 457 will also be included in "Compensation" for purposes of Plan §12.14. Under no circumstances will compensation as defined in this section include more than \$200,000 in any twelve consecutive month period subject to being adjusted for increases in the cost of living in \$5,000 increments as determined under Internal Revenue Code § 401 (a)(17)(B) or any successor statute.

- (i) **Incorporation of Section 415 Limits.** To the extent a Participant's benefit is subject to provisions of Section 415 of the Internal Revenue Code that have not been set forth in the Plan, such provisions are hereby incorporated by reference into this Plan and for all purposes shall be deemed a part of the Plan.

ARTICLE XIII

Definitions

When used in this Plan and in the Agreement, the words and phrases defined in this section will have the following meaning, unless a different meaning is clearly required by the context of the Plan or the Agreement.

13.01 "Actual Retirement Date" means the date the Participant actually retires and becomes eligible to start receiving benefits under the Plan by reason of such retirement.

13.02 "Actuarial Equivalent" means a benefit of equal value when computed in accordance with a blended rate of the UP84 Mortality Table and the UP84 Mortality Table set back five years. The exact percentages will be based on the assumption that the Plan is composed of 50% male participants and 50% female participants. The UP84 Mortality Table will be applied for male participants and the same table set back 5 years will be applied for female participants. The Plan will utilize an 8.5% interest assumption and will take into consideration the difference in life expectancy when the benefit commences at a time other than the normal benefit commencement date, and the value of additional guarantees provided under an option being utilized.

13.03 "Age" means attained age, not age at nearest birthday. For purposes of determining a Participant's entitlement to an Early Retirement Pension or Normal Retirement Pension (but not for any other purposes), "age" will also include any Bonus Credited Age that has been awarded to the Participant.

13.04 "Agreement" means the 1973 restated trust document continuing the Trust previously established for the accumulation and investment of the funds required to provide the benefits under the Plan as it may be amended from time to time.

13.05 "Authority" means the Washington Metropolitan Area Transit Authority, a body corporate and politic with its principal office in the District of Columbia, or any predecessor or any successor thereto.

13.06 "Board of Directors" means the Board of Directors of the Authority.

13.07 "Bonus Credited Service" means that time in years (and fractional years measured in completed months) which, by vote of the Board of Directors of the Authority, will be added to the Credited Service of a Participant otherwise accrued under the terms of the Plan. Any such award of Bonus Credited Service will be signed by the Chairman of the Board of Directors and transmitted to the Plan Secretary for inclusion in the Participant's file.

13.08 "Bonus Credited Age" means that time in years and/or completed months which, by vote of the Board of Directors of the Authority, will be added to the attained age of a Participant for purposes of determining the Participant's Normal Retirement Age or the Participant's entitlement to benefits under the Plan (including, without limitation, an Early Retirement Pension). Any such award of Bonus Credited Age will be signed by the Chairman of the Board of Directors and transmitted to the Plan Secretary for inclusion in the Participant's file.

13.09 "Compensation" means the total basic compensation (excluding any overtime payments, special shift payments, bonuses, or other allowances but including employer paid deferred compensation which is contributed to the WMATA Deferred Compensation Plan & Trust) received by a Participant from the Authority during any calendar month. For all Participants accruing Continuous Service on or after December 12, 1994, "Compensation" shall also include the total basic compensation described

above that would have been paid by the Authority to the Participant but for the Participant's being on military leave. The immediately preceding sentence shall apply only if the Participant's military service meets the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994 or any successor statute; and if the Participant returns to employment within three (3) months of his release from military service, or such longer period during which his employment rights are protected by law. If an Employee is an Employee who is on a leave of absence while either holding office or performing duties for Local 639 International Brotherhood of Teamsters, then the total basic compensation (excluding any overtime payments, special shift payments, bonuses, or other allowances) received from Local 639 International Brotherhood of Teamsters received during any calendar month shall, for purposes of this Plan, be treated as compensation received from the Authority. After January 1, 1993 and before January 1, 2002, under no circumstances will compensation as defined in this section include more than \$150,000 in any twelve consecutive month period. The \$150,000 amount will be adjusted for increases in the cost of living in \$10,000 increments as determined under Internal Revenue Code § 401 (a)(17)(B) or any successor statute. After December 31, 2001, compensation will not exceed \$200,000 in any twelve consecutive month period subject to being adjusted for increases in the cost of living in \$5,000 increments as determined under Internal Revenue Code § 401 (a)(17)(B) or any successor statute. For any portion of a twelve month period beginning before January 1, 2002, compensation will not exceed the amount allowed by law for the year encompassing the first month of that twelve month period.

Notwithstanding the foregoing, Compensation shall include any amount which would otherwise be deemed Compensation under the above definition but for the fact that it is deferred pursuant to a salary reduction agreement under a plan described in Internal Revenue Code § 457, 414(h), or 125.

13.10 "Continuous Service" is defined as the uninterrupted period of service commencing with the Participant's most recent date of employment. The period of employment will not be deemed to be interrupted by absence for military service, sick leave, maternity leave, vacation leave, approved Workers' Compensation, Local 2 leave, or a leave of absence while holding office in or performing duties for Local 639. Additionally, unpaid Family & Medical Leave Act leave will receive Continuous Service for all time not exceeding ninety (90) days. Other special leave approved in writing by the Authority does not interrupt Continuous Service if it does not exceed ninety (90) days for Participants on approved special leave for all other reasons besides workers' compensation. Participants already on an approved special leave as of July 1, 1997 may continue to accrue Continuous Service while on that special leave for the lesser of: (1) the duration of the unextended special leave or (2) twelve (12) months. Absence for military service will come within the meaning of the above provision only if the Participant's military service meets the requirements of the Uniformed Services Employment and Reemployment Rights Act of 1994 or any successor statute; and if the Participant returns to employment within three (3) months of his release from military service, or such longer period during which his employment rights are protected by law. For an Employee retiring on or after June 1, 1974 or at or after his Full Retirement Date, if earlier, all unused accrued whole months of sick leave as of the date of retirement will be included in computing total years of Continuous Service for all purposes under this Plan, including the calculation of "Projected Credited Service". This crediting will be allowed only after an

Employee has attained either normal retirement eligibility or full retirement eligibility. For Participants accruing credited service after June 30, 1997, sick leave as computed above will be added to the Continuous Service of that Participant after the Participant has attained either normal retirement eligibility, early retirement eligibility, or full retirement eligibility.

13.11 "Credited Service" is defined in terms of years (and fractional years measured in completed months) of Continuous Service of the Participant accumulated prior to his Normal Retirement Date (or after Normal Retirement Date for purposes of an Article V Postponed Retirement Pension), to the extent that the Participant received Compensation from the Authority with respect to such Continuous Service. Credited Service will also include any Bonus Credited Service that has been awarded to the Participant.

13.12 "Disabled" means being totally and permanently unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment. In no event will a Participant be determined to be totally and permanently disabled if his disability does not qualify the Participant to receive disability benefits under the Social Security Act.

13.13 "Early Retirement Date" means the first day of the month coinciding with or next following (1) the fifty-fifth (55th) birthday of the Participant, or (2) the completion of ten (10) years of Credited Service, whichever occurs later.

13.14 "Early Retirement Pension" means an early retirement benefit payable in accordance with Article IV hereof.

13.15 "Employee" means any person who, on or after the effective date of this Plan is employed by the Authority as a non-represented employee or an employee represented by Local 639 of the International Brotherhood of Teamsters, except that the term "Employee" will not include a seasonal, part-time or casual worker whose customary employment is for less than thirty (30) hours in any week or for less than five (5) months in any calendar year. The term "Employee" does not include any person who is classified by the Authority as working or providing services in a capacity other than as an employee of the Authority (including, without limitation, a person classified as an independent contractor or any person performing services for the Authority under a contract between the Authority and a leasing or other third party organization), notwithstanding the later reclassification by a court or any governmental agency of the person as a common law employee of the Authority. The term "Full Time Employee" will mean a regular employee whose normal work schedule for each biweekly pay period is at least 60 hours. The terms "Employee" and "Full Time Employee" will include a person who transfers from a full-time permanent position with the Authority to a full-time temporary position not covered by any collective bargaining agreement after August 1, 2000. The definition of "Full Time Employee" used above will be effective for all Employees working for the Authority on or after August 1, 1989. The terms "Employee" and "Full Time Employee" also shall include an employee of the Authority who is on a leave of absence while either holding office in or performing full time duties for Local 639 of the International Brotherhood of Teamsters.

13.16 "Final Average Earnings" means the annualized arithmetic average of the Participant's Compensation paid to him during any thirty-six (36) consecutive months which precede the Participant's retirement, death or other termination of employment and which produce the highest annual average for the purposes of the benefit being calculated under the Plan.

13.17 "Fiscal Year" means the fiscal year of the Trust which will be twelve (12) months ended June 30.

13.18 "Full Retirement Date" means the date on or after the Participant's Early Retirement Date on which the Participant's age (measured in years and complete months) and his Credited Service equals eighty-three (83). The Full Retirement Date for a Participant who ends his or her employment with the Authority on or after the end of the month preceding the Participant's Early Retirement Date and whose age plus years of Credited Service will not reach 83 at any time before reaching age 65, even if he or she remained employed with the Authority, is the Participant's Normal Retirement Date. For a Participant who ends his or her employment with the Authority on or after the end of the month preceding the Participant's Early Retirement Date and whose age plus years of Credited Service, if he or she remained employed with the Authority, would total 83 at some time before reaching age 65, the Participant's Full Retirement Date is the first day of the month following or coinciding with the first date where the sum of the Participant's age (measured in years and complete months) and the Participant's Credited Service equals or exceeds eighty-three (83).

13.19 "Leased Employee" means any individual who is considered to be a leased employee of the Authority under Internal Revenue Code § 414(n) or any amended or successor statute.

13.20 "Normal Retirement Date" means the first day of the month coincident with or next following the sixty-fifth (65) birthday of the Participant.

13.21 "Normal Retirement Pension" means a normal retirement benefit payable in accordance with Article III hereof.

13.22 "Participant" means any Employee in the employ of the Authority who is eligible to participate in the Plan.

13.23 "Plan" means "THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY RETIREMENT PLAN" as set forth herein, or in any amendments hereto.

13.24 "Projected Credited Service" means the amount of Credited Service which would accrue to a Participant if he were to work until age 65. In addition, Projected Credited Service will include all whole months of sick leave or Bonus Credited Service that are included in Credited Service.

13.25 "Social Security Breakpoint" means the estimated annual amount which would be expected to be used by the Social Security Administration in determining the Participant's Social Security benefit on the date the Participant attains age sixty-five (65) determined to the nearest \$600, on the basis of the Participant having received compensation at least equal to the Taxable Wage Base applicable to each calendar year which would be included by the Social Security Administration in making that calculation, and in accordance with the Social Security Act in effect at the time the Participant's benefit is determined, as such Act may be known from time to time in the future. Alternatively, instead of the above method to determine the Social Security Breakpoint, the Social Security Breakpoint shall consist of the Special Social Security Breakpoint whenever, by vote of the Board of Directors of the Authority, the Chairman signs and transmits formal notice of the award of a Special Social Security Breakpoint for any Participant to the Plan Secretary. Such notice shall be maintained in the affected Participant's file.

13.26 "Special Social Security Breakpoint" means a Social Security Breakpoint in an amount established by the Board of Directors of the Authority.

13.27 "Spouse" means the person legally married to the Participant.

13.28 "Taxable Wage Base" means the maximum amount of wages received during the calendar year on which Social Security taxes are payable by the Employee and by the Authority, as such amount is defined in Section 3121(a) of the Internal Revenue Code of 1986, or as that section may be amended or superseded from time to time in the future.

13.29 "Trustee" means the Board of Trustees designated in accordance with the terms of the Agreement.

PROPOSED

ARTICLE XIV
Savings Provision
(Grandfather Clause)

14.01 Savings Provision (Grandfather Clause). Nothing contained in this "Restatement of the WMATA Retirement Plan" will be construed to supersede any rights or benefits both vested and non-vested for any Participant who would otherwise have been entitled to benefits under this Plan prior to the effective date of the 1973 "Restatement." In the event a Participant desired to take his or her benefits under the Plan as they existed prior to the effective date of the 1973 "Restatement," that Participant may so elect, and in such event the benefits payable will be calculated at the last employment period of the Participant in order to give maximum benefits hereunder. Any participating Employee under the Plan prior to the effective date of the 1973 "Restatement" who has previous credited service with the Employer, will have his years of credited participation for purposes of this Article computed from the date his employment commenced.

14.02 Treatment of Participants Under This Article Who Retire After Age 65. Where a Participant: (a) works past the age of sixty-five (65), (b) elects to have his retirement benefit computed under this Article, and (c) retires after January 1, 1988, then that Participant will not be restricted by the terms of the Prior Plan which terminated credited participation at age sixty-five (65). All of his credited participation, including the credited participation occurring after the Participant reached age sixty-five (65), will be computed under the remaining terms of the Prior Plan. No other terms of the Prior Plan will be affected by this change.

ARTICLE XV

Consolidation With Other Plans After May 19, 1973

(Covering Former Employees of AB&W Transit Company and D.C. Transit Systems, Inc.)

15.01 Consolidation. Effective July 1, 1973 (“the date of consolidation”), Employees who were formerly Participants of the D.C. Transit Systems, Inc. Salaried Retirement Plan or AB&W Transit Company Salaried Retirement Plan (for the remainder of this Article referred to as Prior Plans) are automatically eligible to become Participants in this Plan for benefits as described in Section 15.02, Section 15.03 and Section 15.04.

15.02 Benefits for Service Prior to Date of Consolidation. Benefits for service accruing before the date of consolidation will be based upon the provisions of the Prior Plan to which the Participant belonged, based on employment and earnings history prior to the date of consolidation except that:

- (a) All benefits for Participants who retire on or after July 1, 1973 will be subject to annual cost of living adjustments as provided under Article XX;
- (b) Service with the Washington Metropolitan Area Transit Authority after the date of consolidation will be counted solely for the purpose of determining eligibility for benefits;
- (c) Retirement benefits payable early will be reduced as provided in Section 4.02;
- (d) Subsection (a) will not apply to any active Participant in the Plan on December 31, 1990 who is a member of the Local 2 bargaining unit. Instead, the following language will be substituted. Any active Participant in the Plan, who is a member of the Local 2 bargaining unit, will have his retirement benefit earned under the Prior Plan increased by a factor of 2.991. The adjusted retirement benefit as of December 31, 1990 will be subject to annual cost of living adjustments as provided under Article XX. The cost of living adjustment will be first payable on January 1, 1992. The adjusted retirement benefit provided for in this subsection will not be applicable for purposes of the minimum benefit amount provided in Section 15.04. For purposes of Section 15.04, the unadjusted retirement benefit earned under the Prior Plan will be used.

15.03 Benefits for Service After the Date of Consolidation. Benefits payable under this Plan for service after the effective date of consolidation will be based upon the provisions of this Plan and the assumption that the Employee was a new Employee as of the date of consolidation, except that for the purposes of determining whether the Employee's Age and service add up to 83 as required in Section 4.02, service credit under the Prior Plan will be considered.

15.04 Minimum Benefit. The sum of the benefits payable under Section 15.02 and Section 15.03 will never be less than the benefits the Participant would have received had he continued in the Prior Plan and had the Prior Plan remained as in effect on the date prior to consolidation. This minimum benefit will be subject of annual cost of living adjustments as provided in Article XX and retirement benefits payable early will be reduced in accordance with the provisions of Section 4.02. The provisions of this Section 15.04 will not apply if a Participant is enrolled in a long term disability benefit program

from a Plan to which the Washington Metropolitan Area Transit Authority contributes or upon his death prior to retirement provided he is covered by a group life insurance plan to which the Washington Metropolitan Area Transit Authority contributes.

15.05 Former Benefit Under Prior Plan. The provisions of this Section 15.05 apply to benefits accrued under a Prior Plan in which an Employee was not an active Participant on June 30, 1973. In the event that:

- (a) An Employee becomes a Participant of this Plan; and
- (b) He is entitled to a benefit under the provisions of a Prior Plan in which he was not an active Participant on June 30, 1973; and
- (c) the payment of Prior Plan benefit had not commenced as of July 1, 1973; then
 - (i) the vested benefit under the former Prior Plan will be determined subject to the provisions of such plan, based on the Employee's annual earnings history through the date he ceased to be an active Participant of the former Plan except that:
 - (A) such benefit will be subject to annual cost of living adjustments as provided under Article XX; and
 - (B) the Participant may elect to have the Prior Plan benefit begin before age 65 in order that it coincides with the payment of the pension benefits under this Plan, in which event his benefit will reduce 1/1 80th for each of the first sixty (60) and 1/360th for each additional month over sixty (60) that the benefit commencement date precedes the Normal Retirement Date; and
 - (ii) the Employee's service on which such benefit is based will be used for the purposes of determining eligibility (including application of Rule of 83) for benefits under this Plan and under a Prior Plan covered by Section 15.03.

ARTICLE XVI

Transfer From Or To Union Plans

16.01 Coverage. Sections 16.01 through 16.08 of this Article cover employees who on or after January 14, 1973 move from a position covered by Local 689, ATU of the AFL-CIO or Local 922, IBT (or other union local covering employees of the Authority that enters into an agreement with the Authority to be covered under the provisions of this Article) to a position as a salaried Employee of the Authority. Such an Employee prior to the first anniversary of his becoming a salaried Employee or February 24, 1978, if later, may upon proper application to the Trustees of this Plan and with the consent of the Authority (which will not unreasonably withheld), withdraw from the pension plan covering the employees represented by the Union (Union Plan) and become a Participant of this Plan. Section 16.08 of this Article covers Employees transferring to a Union Plan.

16.02 Effective Date of Transfer. For Employees who transfer to a salaried status, the effective date of transfer (Transfer Date) will be the date the Employee becomes a salaried Employee.

16.03 Transfer of Funds. The other provisions of this Article XVI notwithstanding, transfer from a Union Plan to this Plan will not be final until the Trustees of this Plan receive from the Trustees of the Union Plan on behalf of the transferred Employee, an amount equal to (a) the Employee's total contributions to the Union Plan, plus (b) an amount equal to the Employer's total contributions to the Union Plan (whether made on behalf of WMATA or some other employer) on behalf of that Employee, plus (c) credited interest on item (a) and (b) at the rate credited on Employee contributions by the Union Plan and less (d) any amounts which will have been paid to the Employee under the provisions of the Union Plan.

16.04 Benefits Prior to the Transfer Date. The accrued benefit credited to an Employee for service prior to the Transfer Date will equal the accrued normal retirement benefit as of the Transfer Date determined under the provisions of the Union Plan as in effect on the Transfer Date and based upon credited service and final average earnings as defined in the Union Plan determined as of the Transfer Date. All eligibility conditions and adjustments to benefits payable under this Plan (including but not necessarily limited to Normal Retirement, Early Retirement, Postponed Retirement, Disability Retirement, Deferred Vested Retirement, Dependent Pensions and cost-of-living increases) will be determined on the basis of this Plan, taking into consideration Credited Service earned under either this Plan or the Union Plan.

16.05 Benefits After the Transfer Date. Benefits payable under this Plan for service after the Transfer Date will be based on the provisions of this Plan, based on the assumption that the Employee was a new Employee as of the Transfer Date except that for purposes of determining eligibility for benefits, service under the Union Plan as well as service under this Plan will be considered. The Grandfather Clause outlined in Article XIV is not applicable to Employees covered under this Article XVI.

16.06 Minimum Benefit for Union Transfers. The sum of the benefits payable under Section 16.04 and Section 16.05 will never be less than the benefits the Participant would have received had he continued in the Union Plan and had the Union

Plan remained as in effect on the Transfer Date. This minimum benefit will be actuarially adjusted to be in the same form as benefits payable under this Plan (as provided in Sections 3.03, 3.04, and 3.05). This minimum benefit will be subject to the annual cost of living adjustment as provided under Article XX of this Plan and not to any of the post-retirement adjustments which may have otherwise been provided by the Union Plan.

16.07 Employee Contributions From Union Plan. In the event that an Employee's funds are transferred to this Plan as provided in Section 16.03, the funds representing Employee contributions to the Union Plan and credited interest will continue to be credited with interest as provided by this Plan.

16.08 Transfer to a Union Plan. In the event that a Participant of this Plan transfers to a position covered by a Union Plan, the Employee's participation under this Plan will cease as of such transfer date. In this event, the Employee will be entitled to a benefit under this Plan based upon Credited Service and final earnings as of the date of transfer; provided, however, that for purposes of determining eligibility for benefits under this Plan, service both under this Plan and the Union Plan will be considered. In the event that an Employee transfers to a Union Plan and returns to coverage under this Plan (as provided in Section 16.01) within one year of first transferring to a Union Plan, he will be considered for all purposes to never have left this Plan and will be credited with Credited Service for the period of employment covered by the Union Plan. In the event that a Participant of this Plan who has previously transferred from the Union Plan (as provided in Section 16.01) subsequently transfers again to a position covered by the same Union Plan, all funds previously transferred to this Plan (as provided in Section 16.03) together with interest at the rate of five percent (5%) compounded annually will be returned to the Union Plan and the benefits provided for in Section 16.04 and Section 16.05 will be canceled.

16.09 Transfers to and from the WMATA/Local 2 Retirement Plan. The terms and conditions of the transfer of assets, benefit liabilities, and Participants between the WMATA/Local 2 Retirement Plan and this Plan shall be as set forth in the Transfer Agreement to be signed by the Authority, the Chairman of the Board of Trustees for the WMATA/Local2 Retirement Plan, and the Chairman of the Board of Trustees for this Plan within thirty days after the effective date of the WMATA/Local 2 Retirement Plan. The Participant shall be eligible for all benefit forms and options which the Participant was eligible for under the WMATA/Local2 Retirement Plan provided that those benefit forms or options are permitted under this Plan.

ARTICLE XVII

Miscellaneous Provisions

17.01 **Former WMA Employees.** Former WMA employees who became Participants of this Plan on April 1, 1973 may elect to receive additional benefits and service credits for their service with WMA. For those Participants electing coverage under this section: (a) the annual retirement benefit determined under Section 3.02 will be increased by \$10 for each complete month of continuous service as a WMA employee through May 30, 1973 (up to a maximum increase of \$2,100); (b) such additional service will be included in the determination of eligibility conditions under the Plan; provided, however (c) the Participants electing coverage under this section will *not* be eligible for benefits under the Savings Provisions of Article XIV. Eligible Participants who retired prior to April 1, 1979 may elect to be covered under provisions of this section as effective April 1, 1979.

ARTICLE XVIII
Refund of Employee Contributions

18.01 **Actuarial Reduction of Benefits.** There will be no actuarial reduction of a Participant's benefit on account of any election to receive a refund of his employee contributions under the opportunity provided under the 1994 version of this Article.

PROPOSED

ARTICLE XIX

Eligible Rollover Distribution Privileges

19.01 Right to Trustee-to-Trustee Transfer of Eligible Rollover Distributions. For all Eligible Rollover Distributions (as defined in Plan § 19.02(c)) occurring after December 31, 1992, a Distributee (as defined in Plan § 19.02(a)) may elect, at the time and in the manner prescribed by the Trustees, to have any portion of an Eligible Rollover Distribution paid to an Eligible Retirement Plan (as defined in § 19.02(b)) specified by the Distributee in a direct Plan to receiving Eligible Retirement Plan payment.

19.02 Definitions. The following definitions will be used in the construction of this Article.

(a) “Distributee” will include a Participant or former Participant. In addition, the Participant’s or former Participant’s surviving spouse and the Participant’s/former Participant’s spouse or former spouse who is the alternate payee under a qualified domestic relations order as described in Plan § 12.04(b) are distributees with regard to the interest of the spouse or former spouse. “Distributee” also includes a non-spousal “designated beneficiary” (as defined by Internal Revenue Code § 401(a)(9)(E)) of the Participant or former Participant.

(b) “Eligible Retirement Plan” will mean an individual retirement account as described in Internal Revenue Code § 408(a), an individual retirement annuity as described in Internal Revenue Code § 408(b), an annuity plan as described in Internal Revenue Code § 403(a), or a defined contribution plan qualified under Internal Revenue Code § 401(a) which has elected to accept Eligible Rollover Distributions. After December 31, 2001, the term “Eligible Retirement Plan” will also include an annuity contract as described in Internal Revenue Code § 403(b) and an eligible plan under Internal Revenue Code § 457 which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. This definition is also applicable, for purposes of an Eligible Rollover Distribution, to a surviving spouse or to a former spouse who is the Alternate Payee under a Domestic Relations Order. A Roth IRA is an “Eligible Retirement Plan” solely for the purpose of receiving a rollover distribution from an Eligible Retirement Plan under the terms and conditions stated in Internal Revenue Code §408A(e) that occurs after December 31, 2007.

(c) “Eligible Rollover Distribution” will mean any distribution of all or any part of the balance to the credit of the Distributee except for distributions (or any portion of distributions) which are (i) a series of substantially equal periodic payments made no less frequently than annually for either the life (or life expectancy) of the Participant or the joint lives (or life expectancies) of the Participant and his/her Spouse or other designated beneficiary; (ii) a series of substantially equal periodic payments made no less frequently than annually for a specified period of time lasting 10 or more years; (iii) required under the minimum distribution requirements of Internal Revenue Code § 401(a)(9) or any successor statute; or (iv) any distribution that is made upon hardship of the employee, or (v) not includible in the Distributee’s gross income.

ARTICLE XX

Cost of Living Adjustments

20.01 **Benefits Eligible for Cost of Living Adjustments.** All benefits payable under Articles III, IV, V, VI, VII, VIII, XIV, XV, XVI, or XVII of this Plan shall be eligible for an annual Cost of Living Adjustment as computed under section 20.02 of this Plan.

20.02 **Computation of Annual Cost of Living Adjustment.** The annual benefit adjustment for Participants who retire from the Washington Metropolitan Area Transit Authority shall be computed as set forth in this section. The monthly pension benefit of all parties receiving benefits will be adjusted effective with the benefit payment to be made January 1st of the following year, to be the amount determined by multiplying the benefit payment that would otherwise have been paid on January 1 st of the following year by the ratio of (1) the Consumer Price Index for the month of September of the latest year, to (2) the Consumer Price Index for the month of September, one year earlier. The exact portion of the increase so determined that is payable to the Participant will be computed as follows:

- (a) One hundred percent (100%) of the adjustment computed above will be applied to the dollar value of the monthly benefit accrued before July 1, 1997 which is added to
- (b) eighty percent (80%) of the adjustment computed above which is applied to the dollar value of the monthly benefit accrued after June 30, 1997.

The resulting number obtained from adding subsections (a) and (b) of this section will be the adjustment due the Participant under this Article. As used in this Plan the Consumer Price Index will be defined as the total Consumer Price Index (CPI-U) for the greater Washington Metropolitan Area or any other local index which geographically embraces the greater Washington Metropolitan Area. Should the Consumer Price Index no longer report data as of September, then the data for the month closest to September which is reported in the Consumer Price Index will be used.

ARTICLE XXI
Plan Execution

21.01 **Number of Counterparts.** The Plan may be executed in any number of counterparts, each of which when duly executed by the Authority will be deemed to be an original, but all of which will together constitute but one instrument which may be evidence by any counterpart.

21.02 **Section Headings.** All section headings used throughout this Plan are for the purposes of identification only and are not to be used in construing this instrument.

PROPOSED

ARTICLE XXII EARLY RETIREMENT INCENTIVE PROGRAM

22.01 **Early Retirement Incentive Program ("ERIP").** Any ERIP Eligible Participant who, pursuant to § 22.05, voluntarily elects on or before 5:00 P.M. Eastern Time on May 30, 2003 to retire by July 1, 2003, shall be entitled to receive (subject to the limitations of Section 415 of the Code) the additional retirement benefits described in § 22.03. For the election to be effective, the ERIP Eligible Participant must complete and execute an election, waiver and release on a form supplied by the Authority (as well as any other documents required by the Authority as a part of the Early Retirement Incentive Program), and such election, waiver and release must be valid and binding on the ERIP Eligible Participant in accordance with its terms.

22.02 **ERIP Eligibility.** The following Participants are eligible to participate in the Early Retirement Incentive Program (an "ERIP Eligible Participant"): a Participant who 1) is employed by the Authority and in a paid employment status on March 20, 2003, 2) is not covered by a collective bargaining agreement on March 20, 2003, 3) is not a member of the Executive Leadership Team, 4) has attained age 55 by June 30, 2003, 5) has completed at least ten (10) years of Credited Service by June 30, 2003, 6) does not elect to receive his Plan benefits under Article XIV, 7) is a Participant in the WMATA Retirement Plan on March 20, 2003 and remains a Participant in the WMATA Retirement Plan through his or her Actual Retirement Date and 8) executes (and does not revoke) the election, waiver and release (and who completes and executes any other documents required by the Authority as a part of the Early Retirement Incentive Program).

22.03 **Benefits.** An ERIP Eligible Participant who retires in accordance with the terms and conditions of the ERIP shall receive the benefit enhancements described in § 22.03(a) and (b) in the calculation of his Normal, Early, Late and (where applicable) Special Supplemental Pension and shall be offered the special election described in § 22.03(c). The enhancements conferred by this § 22.03 are intended to supplement the benefits that the Participant is otherwise entitled to receive under other provisions of this Plan (except for Article XIV):

- (a) The ERIP Eligible Participant's Normal, Early, or Late Retirement Pension will be calculated as if the Participant commenced participation in the WMATA Retirement Plan two years before his actual commencement of participation;
- (b) To the extent that the ERIP Eligible Participant is entitled to receive the Special Supplemental Pension under § 4.04, the Participant will receive an additional Special Supplemental Pension computed as follows: one-half of one percent (0.5%) of the Participant's Final Average Earnings, up to the Participant's Social Security Breakpoint times the Participant's years of Credited Service (including the Credited Service provided under Plan § 22.03(a)), up to a maximum of twenty (20) years. Such additional Special Supplemental Pension shall be payable under the same terms and conditions and for the same duration as the Special Supplemental Pension provided for in Plan § 4.04; and

- (c) In lieu of receiving additional Continuous Service for unused accrued whole months of sick leave pursuant to § 13.10, an ERIP Eligible Participant may elect to receive a series of six (6) special payments totaling thirty percent (30%) of the value of his accrued unused sick leave (calculated based on his rate of Compensation as of his Actual Retirement Date). Such special payments will be paid at the same time as the Participant's first six (6) monthly retirement checks. Nothing in this § 22.03 shall be construed to authorize an ERIP Eligible Participant to receive a Normal, Early, or Late benefit computed under other sections of the Plan and a separate Normal, Early, or Late benefit computed under the terms of this section.

22.04 Date of Retirement. In order to receive the benefits conferred by Section 22.03, an ERIP Eligible Participant must elect to retire on May 1, June 1 or July 1, 2003. In order to ensure an orderly transition and processing of retirement benefits, the Authority shall have the right to change the retirement date elected by an ERIP Eligible Participant to a date that is earlier or later than the one elected by the Participant. Further, the Authority may postpone a ERIP Eligible Participant's actual retirement date beyond July 1, 2003 (but not beyond January 1, 2004), to the extent that it determines, in its discretion, that such later retirement date is desirable in light of the Authority's operational needs.

22.05 ERIP Election. The election to voluntarily retire accordance with this Article XXI I must be made, if at all, by executing and, during the period commencing March 21, 2003 and ending May 30, 2003, delivering to the person or persons designated by the Authority, an election, waiver and release form, as well as any other forms or documents required by the Authority in connection with the election to voluntarily retire under the ERIP. The election will become irrevocable at 5:00P.M. Eastern Time on the seventh day after the date on which an ERIP Eligible Participant signs and returns his election, waiver and release form.

22.06 Effect of Failure to Elect. The rights under the Plan of any Participant who is not an ERIP Eligible Participant, or of any ERIP Eligible Participant who does not voluntarily elect to retire in accordance with this Article XXII (using the election, waiver and release form provided by the Authority), will be determined by the remaining terms of the Plan, and the value of any rights created by this Article XXII will not be considered in determining any benefit of the Participant under the terms of the Plan.