

**RETIREMENT PLAN**  
*for the*  
**LAW ENFORCEMENT EMPLOYEES**  
*of the*  
**TOWN of VIENNA,**  
**VIRGINIA**

***Effective Date***  
December 7, 1981

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## INTRODUCTION

The purpose of this document is to identify the extent to which the Town of Vienna desires to supplement the retirement income of law enforcement officers employed by the Town. It is the intent of the Town that the primary retirement income of covered employees shall be provided through the employees' participation in the Virginia Retirement System (VRS)/State Police Officers Retirement (SPORS) and their coverage under Social Security. However, with special recognition that law enforcement duties are unique, requiring certain specialized mental and physical capabilities, this program of supplementation has been established, effective December 7, 1981.

Prior to participation under this Plan, each participant will be required to sign a Joinder Agreement, a copy of which is attached hereto. This Joinder Agreement will supersede any other contractual arrangement between the Town and the Employee, the purpose of which is to provide retirement benefits supplementary to the VRS.

This document is intended to replace the provisions of the former Police Retirement Payment Contracts, entered into by the Town and individual police officers, which contract was first approved by the Vienna Town Council on July 24, 1972, and thereafter from time to time amended.

All contributions made by or on behalf of such police officers pursuant to the prior contracts, shall carry over and be incorporated into this Plan for the benefit of those police officers.

Acceptance of this Plan, as a complete replacement of the prior individual contracts, and the termination of those contracts, is acknowledged and accepted by those officers, as is witnessed by the execution of the Joinder Agreement attached hereto.

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## ARTICLE I

### DEFINITIONS

As used herein, the following words and phrases shall have the meanings indicated, unless otherwise required by the context:

- 1.01 ACTUARIAL EQUIVALENT means a benefit of equivalent value when computed on the basis of the following interest and mortality tables for use in the computation of actuarial equivalents under the Plan:
- Interest: 6%.
  - Mortality: 1971 Group Annuity Mortality Table
- 1.02 AVERAGE FINAL COMPENSATION means for any Participant, as of any date, the average annual compensation of the Participant during the three consecutive years of his Credited Service, during which his Compensation was highest, or during the entire period of his Credited Service if less than three years.
- 1.03 COMMITTEE means the Administrative Committee provided for in Article VIII hereof.
- 1.04 COMPENSATION means, for any Eligible Employee, the base compensation paid to him by the Town, excluding overtime or other compensation not a part of the set scale for an established normal working period, and excluding contributions by the Town to this or any other employee benefit program.
- 1.05 CONTINGENT ANNUITANT means the surviving spouse or parent, or parents, and none other, designated by a Participant to receive retirement benefits, after the death of the Participant, under the Joint and Last Survivor Option of Article IV.
- 1.06 CONTINUOUS SERVICE shall mean daily performance of assigned duties as an Officer of the Police Department of the Town, beginning with the first day upon which the Officer entered upon such duties. Regularly scheduled days off, annual leave or vacation, sick leave, and absence for other reasons with advance written approval from the Chief of Police or the Manager of the Town, or the person designated to act as such in the absence of either, shall be included in calculating the Officer's continuous service. Should the Officer at any time be suspended from duty as a policeman of the Town, the period of such suspension shall be included in calculating, the continuous service of the Officer, pending final disposition of the cause giving rise to such suspension. However, if upon final

disposition of any such cause, the Officer is suspended for disciplinary reasons, the duration of such disciplinary suspension shall not be included as any part of continuous service. Continuous service shall, however, resume upon restoration to duty of the Officer involved. Active service in the Armed Forces of the United States when compelled by (1) a call to active duty as a reserve member of any of the Armed Services of the United States, or (2) a valid order issued under authority of the Selective Service Act, or any amendment thereto, shall not be included in calculating continuous service. The Officer shall, however, upon completion of any such service in the Armed Forces of the United States, and return to duty as a policeman of the Town, be given full credit for prior service as a policeman of the Town of Vienna in calculating his record of continuous service if he shall return to such duty as a policeman of the Town within ninety (90) days after being released from such active military duty. No such credit shall be given the Officer for prior service as a policeman of the Town if his service in the Armed Forces of the United States is not compelled pursuant to subparagraphs (1) or (2) of this paragraph.

- 1.07 CONTRIBUTIONS means the payment to the Fund by the Town and/or the Participants as provided for herein.
- 1.08 COUNCIL means the Town Council of the Town of Vienna, Virginia.
- 1.09 CREDITED SERVICE means, for any Participant as of any date, the period or periods determined in years and months of continuous service, and completed thirty (30) calendar days prior thereto, during which he shall have been in the employ of the Town as an Eligible Employee. In addition to his period or periods of full-time employment, the Credited Service of a Participant shall include the following periods:
  - (a) Vacation, or any other absence from the employment of the Town, for which the Participant shall have received Compensation;
  - (b) Notwithstanding the foregoing, the Credited Service of any Participant shall not include any period or periods of employment prior to the date of the Participant's first contributions under this Plan or a predecessor program if the Participant declined to commence Contributions when first eligible to do so.
- 1.10 EFFECTIVE DATE means December 7, 1981.
- 1.11 ELIGIBLE EMPLOYEE means any person employed by the Town on a full-time basis as a member of the Police Department, having police powers, whose customary employment is forty hours per week, fifty-two weeks per year, excluding vacation.



- 1.12 FUND means the assets created under the terms of this Plan, consisting of the cash, securities, and other assets held by the Town pursuant to the terms of the Plan.
- 1.13 PARTICIPANT means an Eligible Employee or a former Eligible Employee who has become a Participant in the Plan as provided in Article II hereof, or is prospectively entitled to future benefits under the terms of the Plan.
- 1.14 PLAN means the Retirement Plan for the Law Enforcement Employees of the Town of Vienna, Virginia, as contained herein or as duly amended.
- 1.15 TOWN means the Town of Vienna, Virginia, or any municipal corporation successor thereto, or the authority of the Town having the power to appoint an employee to office or employment.

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## ARTICLE II

### PARTICIPATION

Each Eligible Employee, who on the Plan's effective date is covered under the terms of an executed individual deferred compensation agreement with the Town, shall be eligible to participate in this Plan in place of the deferred compensation agreement at any time up until March 8, 1982. Each such Eligible Employee covered under the terms of an executed individual deferred compensation agreement with the Town shall be eligible to participate in this Plan in place of the deferred compensation agreement by substituting this Plan in place thereof at any time during the month of January of each succeeding year. Each other Eligible Employee on March 8, 1982, and each person who becomes an Eligible Employee after such date, shall be eligible to participate in the Plan as of the first day of the month coinciding with or next following his date of employment as an Eligible Employee.

Each Eligible Employee shall become a Participant of the first day of the month coinciding with or next following his date of hire as police officer. He shall complete an application for participation (hereinafter known as a "Joinder Agreement") which shall authorize the Town to deduct from the Compensation thereafter payable to him by the Town the contributions provided for in Article VII hereof. Any Eligible Employee who is not covered under the terms of an executed individual deferred compensation agreement with the Town, and who declines to become a Participant when first eligible may, nevertheless, become a Participant as of the first day of the month following the submission of a completed Joinder Agreement to the committee; however, in accordance with Section 1.09, he shall not receive credit for any service rendered between the date he first became eligible to participate and the actual date he became a Participant. Each person who becomes a Participant shall remain a Participant so long as he remains an Eligible Employee and continues to make Contributions, or is entitled to future benefits under the terms of the Plan.

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## ARTICLE III

### RETIREMENT

#### 3.01 RETIREMENT DATE

Each Participant may have the right to retire under the terms of the Plan on the first day of any month after he has completed twenty (20) years of Credited Service.

#### 3.02 RETIREMENT ALLOWANCE

The Officer shall, upon the completion of service as a full-time regularly employed Officer of the Police Department of the Town for a continuous period of twenty (20) consecutive years, thereupon be entitled to retire from such service, and, if he so retires from such service, shall be paid by the Town for the remainder of his life, or as otherwise provided herein, an annual payment equal in amount to forty percent (40%) of the average base salary paid him as a policeman during the consecutive three (3) years in which his total salary as a policeman for such consecutive three (3) year period exceeded that for all other such consecutive three (3) year periods; such annual payments to be disbursed to the Officer so retired in twelve (12) equal installments, one such installment to be paid on the last day of each month.

- (a) The Officer shall, upon the completion of service as a full-time regularly employed Officer of the Police Department of the Town for a continuous period of twenty-five (25) years, thereupon be entitled to retire from such service, and if he so retires from such service, shall be paid by the Town for the remainder of his life an annual payment equal in amount to fifty percent (50%) of the average base salary, paid him as a policeman during the consecutive three (3) year period in which his total salary as a policeman for such consecutive three (3) year period exceeded that for all other such consecutive three (3) year periods; such annual payments to be disbursed to the Officer so retired in twelve (12) equal installments, one such installment to be paid on the last day of each month.
- (b) Should the Officer elect not to retire upon completion of twenty (20) years service and not to accept those benefits available for retirement upon twenty (20) years service and, should the Officer retire at some time after completion of twenty (20) years service, but prior to completion of twenty-five (25) years service, then and in that event, the 40% of average base salary provided for shall be

increased by two percent (2%) per year for each completed continuous year over twenty (20) years completed continuous service, provided that, under no circumstance, shall the Officer receive payment exceeding 50% of average base salary after twenty-five (25) continuous years as provided hereinabove.

- (c) The Officer shall, and hereby promise that during the full period of his employment subsequent to March 27, 1969, as a Police Officer by the Town he will, contribute to the retirement program herein provided for an amount of money equal to one percent (1%) of his gross annual base salary; and subsequent to October 23, 1980, an amount of money equal to one and one-half (1.5%) percent of his gross annual base salary to be deducted in equal installments each pay period from funds paid to him by the Town as salary for his service as a Police Officer. In addition, the Officer hereby expressly agrees and promises to continue his participation in, and contribution to, the Virginia Retirement System/State Police Officers Retirement System so long as he is employed by the Town of Vienna as a Police Officer.

If, at the time the Officer retires from service as a member of the Police Department of the Town pursuant to provisions herein, he shall be entitled to receive periodic retirement benefits from the Virginia Retirement System/State Police Officers Retirement System, the full amount of such Virginia Retirement System/State Police Officers Retirement System benefits entitlement shall be deducted from the benefits paid to him by the Town, exclusive of the Social Security Supplement portion of the Virginia Retirement System/State Police Officers Retirement System benefits.

If, at the time the officer retires from service as a member of the Police Department of the Town pursuant to provisions herein, he is entitled to receive from the Virginia Retirement System monthly periodic retirement payments (exclusive of the Social Security supplement) that are greater than provided for him under this plan, he shall receive a refund of his previous contributions into this plan and the Town is thereby released of a further liability to the member.

If, at any time while an officer is actively employed by the Town of Vienna the estimated value of the officer's future retirement benefits under the Virginia Retirement System/State Police Officers Retirement System exceeds the estimated value of the officer's future retirement benefits under the Vienna retirement plan, the officer's personal contribution to the Vienna retirement system shall cease.

- (d) If, at the time the Officer retires from service as a member of the Police Department of the Town, he shall not be entitled to receive such periodic benefits from the Virginia Retirement System/State Police Officers Retirement System, but shall be entitled to a lump sum payment or refund therefrom, the Officer shall, at the option of the Town, either thereupon apply for, accept, and pay over to the Town the full amount of such lump sum entitlement, or leave such amount on deposit with the Virginia Retirement System/State Police Officers Retirement System until he shall be entitled to receive periodic payments therefrom or until he shall be requested to do otherwise by the Town. Upon such entitlement of the Retirement System, then and in that event, any benefits to which he is entitled under this Plan from the Town of Vienna, shall be reduced by the amount of those benefits he receives from the VRS by reason only of disability retirement.
- (e) As used throughout this section 3.02, the words "entitled" and "entitlement," or any derivative thereof, shall refer to and include any early, normal or late retirement pension an Officer could receive from the Virginia Retirement System whether or not the Officer has in fact applied for such retirement pension benefit, or benefits, and any pension benefits for which the Officer may be eligible but which he is precluded from receiving pursuant to any laws of the Commonwealth by virtue of his acceptance of employment with the Commonwealth of Virginia or any agency or political subdivision thereof.
- (f) In the event that the Officer dies after retirement, not having elected Joint and Last Survivor option, and having begun receiving benefits hereunder, but prior to the time the Town shall have paid to him benefits the total amount of which is equal to any lump sum which the Officer shall have paid over to the Town pursuant to Paragraph (d) hereof, the difference, if any, between such lump sum so paid by the Officer to the Town and the total amount of benefits paid by the Town to the Officer, prior to his death, shall thereupon be paid by the Town to such person as the Officer shall have designated to receive same, and, if no such person shall have been so designated by the Officer, then to his estate.
- (g) Notwithstanding anything herein to the contrary, in the event a Participant's retirement is occasioned by his disability to the effect that he is in receipt of a disability benefit from the Virginia Retirement System/State Police Officers Retirement System, then and in that event, any benefits to which he is entitled under this Plan from the Town of Vienna, shall be reduced by the amount of

those benefits he receives from the VRS by reason only of disability retirement.

- (h) Should the officer, upon retirement, hereunder elect other than the Joint and Last Survivors option, he shall certify, in writing under oath, that upon retirement under the Virginia Retirement System, he will not elect the Joint and Last Survivors option under that plan.

If, thereafter, upon his retirement under the Virginia Retirement System, the officer does elect the Joint and Last Survivors option under that plan, his benefits under the Town Plan shall thereupon be reduced by an amount equal to the difference between the amount of his original entitlement under the Town Plan and the amount he would have received from the Town under the Town Plan had he not elected the Joint and Last Survivors option under the Virginia Retirement System Plan.

The certification hereinabove provided for shall constitute an assignment to the Town by the officer and his beneficiaries of all such amounts, and shall constitute a debt in such amounts of the officer and his estate owing to the Town, and a lien in favor of the Town, in such amounts against the estate of the said officer and his entitlement to benefits under the Virginia Retirement System to the extent permitted by law.

### 3.03 PARTICIPANTS RE-EMPLOYED AFTER RETIREMENT

If a Participant is re-employed by the Town as an Eligible Employee after the commencement of a retirement allowance under this Plan, his retirement allowance shall thereupon cease and his rights to any further payments thereunder shall be suspended until again retired. His rights to benefits under the Plan shall be subject to predetermination upon any subsequent termination of employment or retirement under the Plan, in accordance with the provisions of the Plan then in effect. Any benefits thereafter payable shall be reduced on an Actuarial Equivalent basis to reflect the value of the retirement allowance payments received by the Participant during his prior period of receipt of a retirement allowance.

### 3.04 CESSATION OF DISABILITY

In the event that a Participant who is in receipt of a retirement allowance under the provisions of Section 3.02 wherein Section 3.02(f) is applicable should recover from his disability to the extent that benefits under the Virginia Retirement System/State Police Officers Retirement System are no longer payable, and if such Participant does not return to the employ of the Town, the allowance theretofore paid under Section 3.02(f) shall



thereupon cease, and in lieu thereof, the Participant shall commence to receive a monthly retirement allowance computed and payable in accordance with the provisions of Section 3.02 without regard to said Section 3.02(f).

### 3.05 SUPPLEMENTAL RETIREMENT ALLOWANCE

In addition to the monthly retirement allowance computed herein, with or without the optional modification of Article IV, and payable to a Participant after the attainment of age fifty-five or, if earlier, the first date on which he qualifies for disability benefits under Social Security, a retirement allowance shall be payable in accordance with the following provisions:

The amount of any such supplemental retirement allowance shall be determined as a percentage of the allowance being supplemented, such percentage being determined as the percentage increase, if any, in the Consumer Price Index-All Urban Consumers (C.P.I.-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, from its value for the month in which the Participant retired, died, or attained the age of fifty-five or became disabled (whichever is applicable to initiate eligibility of the supplement) to its value for the month of March next preceding the date as of which the percentage is being determined provided, however, that no increase in the Consumer Price Index of more than five percent in any twelve-month period shall be taken into account in the determination of the amount of any supplemental retirement allowance. In no event shall the application of this addendum serve to reduce the amount of retirement allowance that would be payable in any case were it not for this Section.

Amounts of supplemental retirement allowance shall be determined annually on each July 1, with respect to retirement allowances in course of payment on each such date. No change in the amount of any supplemental retirement allowance shall be effected between determination dates, except as necessary to reflect changes in the amount of the allowance being supplemented, to the end that any such supplement shall remain, until the following determination date, a constant percentage of the respective allowance being supplemented, nor shall any new supplements be commenced except as of a determination date. The supplemental retirement allowance determined, as of any determination date, shall become effective as of the payment date coinciding with such determination date, and shall be in lieu of any supplemental retirement allowance previously payable, which shall thereupon be terminated.

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## ARTICLE IV

### JOINT AND LAST SURVIVOR OPTION

The Officer may, at his option, elect to accept payment of retirement benefits at a reduced rate during his lifetime and thereby provide benefits to his survivor upon his death, provided such election is exercised not less than ninety (90) days prior to the Officer's retirement and provided further that such election once exercised shall be irrevocable and not subject to adjustment.

It is mutually understood and agreed that any such election, hereafter referred to as the Joint and Last Survivor Option, shall upon and after the Officer's death, endure only to the benefit of the surviving spouse or a parent or parents of the said Officer and none other shall be considered an eligible survivor hereunder.

At the time of electing the Joint and Last Survivor Option, the Officer shall select one of the following:

- Option 1: Full Survivorship - Both the Officer and the beneficiary would receive identical retirement benefits.
- Option 2: Split Survivorship - The Officer would receive a benefit that is higher than the amount paid to the beneficiary. Upon the death of the Officer, the beneficiary would then be paid an annuity that is one-half (1/2) of the value of the Officer's annuity.

If one of the above options is selected, the amount of annuity shall be reduced depending upon the difference between the age of the Officer and the age of the beneficiary. The amount of the annuity under this option shall be the actuarial equivalent, as identified in the Virginia Retirement System's "Joint and Survivor Factors" chart, of the amount that would have been paid to the Officer under Section III. After retirement allowance payments have commenced, no further election or adjustments in the amount or kind of retirement allowance will be permitted under any circumstances.

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## ARTICLE V

### BENEFITS ON DEATH

#### 5.01 DEATH PRIOR TO RETIREMENT

- (a) All rights to any benefits under the Plan will cease, upon a Participant's death, prior to retirement. If the Officer was not eligible for retirement benefits at the time of death, all contributions made by the Participant into the Plan shall be returned to the designated beneficiary.
- (b) In the event that the Officer was eligible for retirement benefits at the time of death, and if the designated beneficiary named is a spouse, minor child, mother, or father, a death in service benefit shall be awarded. Under these circumstances, the beneficiary shall elect to receive either a refund on the Participant's contributions into the fund or an annuity determined upon the Participant's service time under the joint and last survivor retirement option. If the beneficiary is a child, benefits will cease when the child reaches the age of 18.

If the beneficiary is not a spouse, minor child, mother, or father, the individual shall then receive a refund of the Officer's contributions into the Plan.

#### 5.02 DEATH SUBSEQUENT TO RETIREMENT

In the event of the death of a Participant subsequent to retirement, all rights to any benefits under the Plan will cease, except as otherwise provided for herein.

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## ARTICLE VI

### TERMINATION OF EMPLOYMENT

All rights to benefits under the Plan with respect to any Participant will cease upon his termination of employment with the Town prior to retirement.

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## ARTICLE VII

### FUNDING

#### 7.01 CONTRIBUTIONS BY THE PARTICIPANTS

Each Participant, while an Eligible Employee, shall contribute to the Plan one and one-half percent (1.5%) of his Compensation as a condition of participation hereunder. Participant Contributions shall be made by payroll deduction in a uniform and nondiscriminatory manner as determined by the Committee to facilitate the orderly administration of the Plan. The election to contribute hereunder shall be irrevocable and Contributions may not be discontinued.

The Plan will return to the Participant all contributions made by the Participant upon separation from service prior to retirement. In the event of the death of the Participant, these contributions will then be returned to the designated beneficiary.

#### 7.02 CONTRIBUTIONS BY THE TOWN

The cost of benefits under the Plan, in excess of that portion of the cost provided through Contributions by the Participant, shall be borne by the Town through the Fund. From time to time, but at least every three years, the Town shall retain an actuary to determine the amount of the annual Contributions by the Town that are necessary to meet its obligations under the Plan. The Town shall transmit its contributions to the Fund each year, in such amounts and at such times as it may deem appropriate, in the aggregate amount actuarially determined, as necessary, to provide the benefits of the Plan. Reserves in the Fund released through terminations of employment shall be applied to reduce the Town's future Contributions.

All Contributions by the Town shall be irrevocable, and may be used only for the benefit of Participants and their Contingent Annuitants, except as otherwise provided in Section 9.02.

#### 7.03 FUND

The Town shall establish a Fund for the payment of benefits under the Plan.

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## ARTICLE VIII

### ADMINISTRATION OF THE PLAN

#### 8.01 RESPONSIBILITY OF THE TOWN

Council shall be responsible for, and have control of, the operation and administration of the Plan and the adoption of such rules and regulations as may be necessary for the efficient operation and administration of the Plan. Council shall appoint an Administrative Committee, to which it shall delegate such powers as it may see fit for the operation and administration of the Plan.

#### 8.02 ADMINISTRATIVE COMMITTEE

Council shall appoint the original members of the Administrative Committee who shall remain in office at the will of Council, and Council may from time to time remove any of said members with or without cause, and shall appoint their successors. The Committee shall consist of four members. One member shall be appointed by the Vienna Town Council from among its members; one shall be as elected by the Vienna Policeman's Association to serve as long as so designated by the majority of the Association; one shall be the Director of Finance of the Town of Vienna; and one shall be appointed by the Town Council from persons in the Vienna business community who are knowledgeable in banking, finance and investments. The Town Manager and the Town Attorney shall be ex-officio members of the Committee.

The members of this Committee shall also constitute the membership of the Vienna Local Employees (non-sworn) Retirement Plan Committee. However, the Police Association member shall have no rights to vote on items pertaining to the non-sworn Plan.

The member of the Town Council appointed to the Committee shall serve for a term not to exceed two years, and may be appointed to serve successive two-year terms without limit, so long as he or she is a member of the Council. The representative from the Policeman's Association shall serve on the Committee so long as he continues to be so designated by a majority vote of that Association and that election thereto is held at least once annually. The Director of Finance of the Town of Vienna shall serve on the Committee so long as he shall hold such position. The person selected from the business community to serve on the Committee shall serve an initial term of one year, and shall be eligible for appointment to successive terms of two years, each without limit. In the event of a vacancy on the Committee caused by the prolonged absence, resignation

or death of a member selected by the Town Council, the Council shall appoint a substitute member to serve out the unexpired term.

The members of the Committee shall elect a Chairman. They shall also elect a Secretary who may be, but need not be, a member of the Committee. The Committee may appoint from its membership such subcommittees with such powers as the Committee shall determine and may authorize one or more of its members or any agent to make, execute, or deliver any instrument on behalf of the Committee. Any action of the Committee shall be determined by the vote or other expression of a majority of its members.

The Committee shall hold meetings upon such notice, at such place or places, and at such time or times, as it may from time to time determine. Meetings may be called by the Chairman or any two members. A majority of the members of the Committee, at that time in office, shall constitute a quorum for the transaction of business. The Committee shall meet at least twice annually.

All acts and determinations of the Committee shall be duly recorded by the Secretary thereof, and all such records, together with such other documents as may be necessary for the administration of the Plan, shall be preserved in the custody of such Secretary. Such records and documents shall, at all times, be open for inspection and for the purpose of making copies by any person designated by Council. The records of the proceedings of the Committee shall be conclusive proof of the facts of the operation of the Plan.

No fee or compensation shall be paid to any member of the Committee for his services as such. The Fund shall pay the reasonable expenses of the Committee in the administration of the Plan. The Committee may, with approval of the Town Council, employ such advisors as it may require in carrying out the provisions of the Plan, and pay the salaries, wages, fees, commissions, and charges incurred thereby from the Fund.

The Committee, on behalf of the Fund, will receive, invest, and administer all Contributions made under the Plan. Monies in the Fund may be invested only in:

- (1) obligations of the United States Treasury
- (2) securities issued by agencies of the Federal Government
- (3) certificates of deposit or accounts in banks or savings and loan associations located in Virginia, provided such certificates of deposit or accounts are fully insured by the respective agency of the United States Government or covered under the Virginia Security for Public Deposits Act of January 1, 1974.

The Committee shall have the duty and authority to interpret and construe the provisions of the Plan, to decide any disputes which may arise with regard to the rights of employees, Participants, or Contingent Annuitants under the terms of the Plan, and in general, to direct the administration of the Plan. However, the Committee shall have no power to modify, alter, add to, or subtract from any provisions of the Plan.

All disbursements from the Fund, shall be made upon, and in accordance with, the written directions of the Committee.

The Committee shall prepare and distribute to the Participants, at the expense of the Fund and in such manner as it shall deem appropriate, information concerning the Plan.

The Committee shall establish rules and procedures to be followed by the Participants and Contingent Annuitants in filing applications for benefits and for furnishing and verifying proofs necessary to establish age, years of Credited Service, Compensation, and any other matters required in order to establish the rights to benefits in accordance with the Plan.

The Committee shall receive all applications for benefits. Upon receipt by the Committee of such an application, it shall determine all facts that are necessary to establish the rights of the applicants to benefits under the provisions of the Plan and the amount thereof as herein provided. Upon request, the Committee will afford any applicant the right of a hearing with respect to any finding of fact or determination.

The decision of the Committee, in any matter within its action, shall be final, binding, and conclusive upon the Fund and upon each employee, Participant, Contingent Annuitant, and any other party interested or concerned. Any decision made by the Committee in its administration of the Plan shall be made on a uniformly equitable and nondiscriminatory basis, equally applicable to all Participants in like circumstances.

Any person or persons jointly or severely aggrieved by any decision of the Committee may appeal such decision to the Town Council by filing with the Town Clerk a written request for appeal. Such appeals are to be filed within thirty (30) days after the decision has been made by the Committee.

The Town Council shall, within thirty (30) days of receipt of such written request, or within a longer period if agreed upon by the applicant, grant such applicant a full hearing at a public meeting,

Within thirty (30) days of such hearing, and after consultation with the Committee, the Council may reverse or modify the decision of the

Committee in whole or in part, or it may affirm the decision of the Committee.

No member of the Committee who is a Participant of the Plan shall have the right to vote or decide upon any matter relating solely to himself or to any of his rights or benefits under the Plan.

To enable the Committee to perform its functions, the Town shall supply full and timely information to the Committee of all matters relating to all Participants, their length of service, their retirement, death, or other cause for termination of employment, and such other pertinent facts as the Committee may require for the effective discharge of its duties.

Members of the Committee and the Town shall be entitled to rely upon all tables, valuations, certificates, and reports furnished by an actuary designated by the Committee or Council, upon all certificates and reports made by an accountant selected or approved by Council, and upon all opinions given by any counsel selected or approved by Council; the members of the Committee and Council shall be fully protected in respect to any action taken, or suffered by them, in good faith in reliance upon the advice or opinion of any such actuary, accountant, or counsel; and, any action so taken or suffered shall be conclusive upon each of them and upon all employees, Participants, or other persons interested in the Plan.

The members of the Committee, and each of them, shall be free from all liability, joint or several, for their acts, omissions, and conduct, and for the acts, omissions, and conduct of their duly constituted agents, in the administration of the Plan and the Town shall indemnify and save them and each of them, harmless from the effects and consequences of their acts, omissions, and conduct in their official capacity, except to the extent that such effects and consequences shall result from their own willful misconduct or gross negligence.

#### 8.03 REFUNDS OF OFFICER'S CONTRIBUTIONS

Whenever under this plan a refund of an officer's personal contribution is required, there shall be paid, to the officer, in addition to such refund, interest at the rate of four percent (4%) per annum compounded annually on June 30 of each year.

## ARTICLE IX

### AMENDMENT AND TERMINATION OF THE PLAN

#### 9.01 AMENDMENT OF THE PLAN

Council shall have the right, at any time, to modify, alter, or amend the Plan in whole or in part; provided, however, that the amount of benefits, which at the time of any such modification, alteration, or amendment, shall have accrued for any Participant or Contingent Annuitant, shall not be affected adversely thereby; and provided, further, that no amendment affecting the responsibilities or immunities of the Committee shall be adopted without the written consent of the Committee.

#### 9.02 TERMINATION OF THE PLAN

The Town expects to continue the Plan indefinitely. However, the Town reserves the right to terminate the Plan, at any time, by action of Council. If the Town terminates or partially terminates the Plan, or it is otherwise terminated or partially terminated, the Committee shall continue to administer the Fund, in accordance with the provisions hereof, and the Expenses of the Plan shall be paid out of the assets then remaining in the Fund.

In the event of termination of the Plan, as provided in this Section, the Fund shall be administered for the sole benefit of the then Participants, any Contingent Annuitants then receiving benefits in accordance with Article IV hereof and any Contingent Annuitants entitled to receive future benefits in accordance with Article IV hereof.

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## ARTICLE X

### MISCELLANEOUS

The headings and subheadings in this instrument have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof. In the construction of the Plan, the masculine shall include the feminine and the singular the plural, in all cases, where such meanings are indicated by the context.

The Plan shall be construed in accordance with the laws of the Commonwealth of Virginia, and all contributions hereunder shall be deemed to have been made in that Commonwealth.

Participation in the Plan shall not give any employee the right to be retained in the Town's employ nor, upon dismissal or upon his voluntary termination of employment, to have any right or interest in the Fund other than as is herein provided. The Town shall not be liable for the payment of any benefit provided for herein, so long as payments are made to the Fund in accordance with the provisions of paragraph 7.02. All benefits hereunder shall be payable only from the Fund, and only to the extent that such is sufficient therefor.

Any payment to a Participant or Contingent Annuitant, or to their legal representatives, in accordance with the provisions of the Plan shall, to the extent thereof, be in full satisfaction of all claims hereunder against the Committee and the Town, any of whom may require such recipient, as a condition precedent to such payment, to execute a receipt and release therefor in such form as shall be determined by the Committee or the Town, as the case may be.

This Plan shall not be deemed or construed nor is it intended to confer any rights on either party hereto except those expressly and specifically herein set forth. The right to receive any benefits or payments under this Plan shall, under no circumstances, vest in the Officer prior to the rendering by him of continuous service as a policeman of the Town for a period of twenty (20) consecutive years.

Except as specifically and expressly set forth in Section 3.02(e) hereof, this Plan is not intended, does not, and shall not be construed to confer any benefits upon the Officer or any of his dependents, heirs, assigns, or personal representatives by reason of his death or injury, from any cause whatsoever, and whether or not arising from his performance of duties as a police officer.

Nothing contained in this agreement shall be construed in any way to impair the rights and powers of the Town to suspend or remove from office any Police Officer of the Town of Vienna in accordance with applicable law and adopted Town personnel policies.

If any retirement allowance payable under the Plan would be at a rate of less than \$100.00 per month, such allowance may be, at the discretion of the Committee, paid at less frequent intervals, including a single lump sum payment, in such amounts so that the value of such payments is the Actuarial Equivalent of the monthly allowance that otherwise would be payable. The Committee will not approve the election of any optional method of payment under Article IV if the resultant monthly allowance would be less than \$10.00 before or after the death of the Participant.

Except insofar as may be contrary to any applicable law, no benefit hereunder shall be subject in any manner to alienation, anticipation, sale, transfer, assignment, pledge, encumbrance, garnishment, attachment, execution, or levy of any kind.

If a Participant or Contingent Annuitant is a minor or is, in the judgment of the Committee, otherwise legally incapable of personally receiving and giving a valid receipt for any payment due him under the Plan, the Committee may, unless and until claim, shall have been made by a duly appointed guardian or committee of such person, make such payment or any part thereof to such person, make such payment or any part thereof to such person's spouse, child, brother or sister, or other person deemed by the Committee to have incurred expense for, or assumed responsibility for, the expenses of such person. Any payment so made shall be a complete discharge of any liability under the Plan for such payment.

ARTICLE XI

ADOPTION OF PLAN

As evidence of its adoption of the Plan, the Town has caused this instrument to be signed by the Mayor and the members of Council, this 6th day of December, 1981.

THE TOWN OF VIENNA, VIRGINIA

By: Charles A. Robinson, Jr.  
Mayor

By: Raymond E. Hicks  
Councilman

By: Donald E. Williams  
Councilman

By: R. J. Robinson  
Councilman

By: Frank M. Allen  
Councilman

By: W. E. Smith  
Councilman

By: F. Ross Buckner  
Councilman

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