APPENDIX D

COLUMBIA HEIGHTS VOLUNTEER FIRFIGHTERS RELIEF ASSOCIATION

DEFINED CONTRIBUTION RETIREMENT PLAN

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COLUMBIA HEIGHTS VOLUNTEER FIREFIGHTERS RELIEF ASSOCIATION

DEFINED CONTRIBUTION RETIREMENT PLAN

The Board of Trustees of the Relief Association amends the Plan in its entirety and restates its existing defined contribution pension plan for the benefit of its eligible members.

ARTICLE I
NAMES, PURPOSE AND OTHER GENERAL INFORMATION

1.1 Name of Municipality: City of Columbia Heights

1.2 Name of Fire Department: Columbia Heights Fire Department

1.3 Name of Relief Association: Columbia Heights Volunteer Firefighters Relief Association

Address: 825 41st Avenue NE, Columbia Heights, MN 55421

1.4 Federal Taxpayer Identification Number: 41-6028367

1.5 Name of Plan: Columbia Heights Volunteer Firefighters Relief Association Defined Contribution Retirement Plan

1.6 Original Effective Date of Plan: October 11, 1923

1.7 Purpose. The purpose of the Plan is to provide benefits to eligible members of the Relief Association (Participants) and their lawful Beneficiaries.

ARTICLE II
DEFINITIONS AND INTERPRETATION

2.1 General Definitions. The following words and phrases when used herein shall have the following meanings except as otherwise required by the context in which they are used:

(a) **"Account"** means the account established for each Participant for the purpose of recording allocations of state fire aid, Municipal contributions, and forfeitures, as adjusted for any income, expenses, gains, or losses incurred thereon.

(b) **"Active Service"** shall mean active service as defined by the Fire Department, as stated in its policies and procedures, except that Participants shall not receive credit for Active Service for periods during which the Participant is:

(i) a full- or part-time employee of the Fire Department who accrues pension service credit under the Public Employees Retirement Association of

Minnesota Police and Fire Fund for the same firefighting service.

(c) **“Allocation Date”** shall mean each December 31.

(d) **“Alternate Payee”** shall mean a spouse or former spouse of a Participant who is recognized by a Domestic Relations Order as having a right to receive all, or a portion of, a Participant’s Beneficial Interest under the Plan, pursuant to Minnesota Statutes, Section 518.58, Subd. 4.

(e) **“Beneficial Interest”** shall mean the amount of a Participant’s Account that is distributable to the Participant or the Participant’s Beneficiary in accordance with the terms of the Plan.

(f) **“Beneficiary”** shall mean any person entitled to receive benefits that may be payable upon or after a Participant’s death.

(g) **“Board of Trustees”** or **“Board”** shall mean the Board of Trustees of the Relief Association.

(h) **“Break in Service”** shall mean a period as defined by the Fire Department in its policies and procedures, during which the Participant does not meet Active Service requirements. However, service restored pursuant to the uniformed services provisions of Article VIII shall be considered Active Service and shall not be considered a Break in Service.

(i) **“Bylaws”** shall mean the duly adopted bylaws of the Relief Association.

(j) **“Code”** shall mean the Internal Revenue Code of 1986, and amendments thereto.

(k) **“Disability”** or **“Disabled”** shall mean the inability of a Participant to engage in the performance of his or her duties by reason of a medically determinable physical or psychological impairment that can be expected to last for a continuous period of not less than twelve months or can be expected to result in death. Disability may have been incurred in the line-of duty or outside the line-of duty. A Participant’s Disability shall be determined by the Board in its sole discretion.

(l) **“Disability Benefit”** shall mean the benefit, if any, paid to a Participant in lieu of a Retirement Benefit, pursuant to Section 5.4.

(m) **“Domestic Relations Order”** shall mean any judgment, decree or order (including approval of a property settlement agreement) that complies with the provisions of Minnesota Statutes Sections 518.58 or 518.581.

(n) **“Effective Date”** of the Plan shall be the effective date referenced on the first page of the Bylaws.

(o) **"Entry Date"** shall mean the date of hire as defined in the Fire Department policies and procedures.

(p) "**Inactive Member"** shall mean an individual who:

(i) was a member of the Relief Association and a Participant in the Plan;

(ii) ceased Active Service with the Fire Department when the individual's Account was 0% vested; and

(iii) whose Account shall be forfeited pursuant to Section 4.1 if the individual does not resume Active Service with the Fire Department within five years of the Participant's Separation Date.

(q) **"Month of Active Service"** for the purposes of allocation of benefits under Section 4.1 shall mean a calendar month of completed Active Service as defined by the Fire Department policies and procedures.

(r) **"Participant"** shall mean a member of the Relief Association who has accrued or is accruing benefits under the Plan.

(s) **"Plan Year"** shall mean the calendar year.

(t) **"Qualification Procedures"** shall mean written procedures adopted by the Board of Trustees to:

(i) determine whether a Domestic Relations Order may be honored under the law and the terms of the Plan; and

(ii) to administer distributions under such orders.

The procedures shall be implemented within a reasonable time after receipt of a domestic relations order by the Board of Trustees. Qualification Procedures must permit an Alternate Payee to designate a representative for receipt of copies of notices sent to the Alternate Payee with respect to a Qualified Domestic Relations Order.

"Qualified Recipient" shall mean an individual who receives a lump sum distribution of pension or retirement benefits, including disability benefits, from the Relief Association for service performed as a Volunteer Firefighter, as it relates to Section 5.7 herein.

(u) **"Retirement Benefit"** shall mean the benefit payable to a Participant pursuant to Section 5.1, but only after the Participant has met all eligibility requirements of Section 5.1.

(v) **“Separation Date”** shall mean the date of retirement or termination as defined in the Fire Department policies and procedures.

(w) **“Special Fund”** shall mean the fund established pursuant to Minnesota Statutes, Section 424A.05 used to fund benefits under the Plan and for other purposes permitted by statute. The assets of the Special Fund shall be invested only in securities authorized by Minnesota Statutes, Section 69.775.

(x) **“Supplemental Benefit”** shall mean the benefit paid to a Qualified Recipient pursuant to Minnesota Statutes, Section 424A.10, Subd. 2(a), as described in Section 5.7.

(y) **“Supplemental Survivor Benefit”** shall mean the benefit, if any, paid to a Surviving Spouse or minor Surviving Children pursuant to Minnesota Statutes, Section 424A.10, Subd. 2(b), as described in Section 5.8.

(z) **“Surviving Children”** shall mean any natural or adopted child of a deceased Participant.**“Surviving Spouse”** shall mean the spouse of a deceased Participant who was legally married to the Participant at the time of death.

(bb) **“Survivor Benefit”** shall mean the benefit paid to a Participant’s Beneficiary pursuant to Section 5.5.

(cc) **“Valuation”** shall mean a determination of the fair market value, as of a given date, of an investment security or Special Fund portfolio. Such determination shall be made by an investment manager, certified public accountant, actuary or other professional as designated by the Board. The fair market value shall be determined based on the value at which the investments could be sold on an open market. Where appropriate, the Board shall have the discretion to use an independent appraiser to value the investments. This definition also applies to the process of revaluing Participants’ Accounts and any other appropriate sections of this Plan where assets or Participants’ Accounts are “valued.”

(dd) **“Valuation Date”** shall mean each December 31, and such other dates designated by the Board of Trustees in their discretion from time to time.

(ee) **“Volunteer Firefighter”** shall mean any person who:

(i) is engaged in providing emergency response services or delivering fire education or prevention services as a firefighter for the Fire Department or Municipality;

(ii) is trained in or is qualified to provide fire suppression duties or to provide fire prevention duties under Minnesota Statutes, Section 424A.001, Subd. 8; and

(iii) meets any other minimum firefighter and service standards established by the Fire Department or Municipality.

(ff) **"Year of Active Service"** for the purposes of allocation of benefits under Section 4.1 shall mean a Plan Year during which the firefighter completed 12 full Months of Active Service with the Fire Department.

Year of Active Service for the purposes of vesting under Article III shall mean each 12-month period commencing with a Participant's Entry Date or anniversary thereof during which the Participant has received credit for Active Service, reduced by the Participant's Breaks in Service. Vesting will not be prorated monthly for fractional years of Active Service pursuant to Minnesota Statutes, Section 424A.02, Subd. 1.Interpretation. The words defined in this Article 2 shall have the meanings assigned to them except where specified otherwise in this instrument. Whenever appropriate, words used herein in the singular shall include the plural, the plural may be read as the singular, and the masculine shall include the feminine.

ARTICLE III
VESTING

3.1 Full Vesting of Account. A Participant shall have a fully vested and non-forfeitable interest in the Participant's Account upon completion of 10 Years of Active Service.

3.2 Partial Vesting of Account. The following vesting schedule shall apply to a Participant with fewer than 10 Years of Active Service:

Years of Active Service	Vested Percentage
5 but less than 6	40%
6 but less than 7	52%
7 but less than 8	64%
8 but less than 9	76%
9 but less than 10	88%
10 or more	100%

3.3 Determining Years of Active Service for Vesting. All Years of Active Service shall be taken into account for purposes of determining a Participant's vested Account, including Years of Active Service with the Fire Department prior to the Effective Date.

ARTICLE IV
DEFINED CONTRIBUTION ACCOUNTS

4.1 Allocation Rules

. Each Participant who has at least one Month of Active Service during a Plan Year is eligible to share in the allocation of contributions for such Plan Year. A Participant's allocation will be equal to the annual amount specified in the written policies and procedures adopted by the

Board. If the Participant did not complete a full Year of Active Service during the Plan Year, the Participant's allocation for the Plan Year shall be prorated for the number of Months of Active Service credited to the Participant for the Plan Year. For purposes of this Section 4.1, "contributions" may consist of:

(a) Any amount of fire state aid received by the Relief Association; and

(b) Any amounts of Municipal contributions to the Relief Association raised from levies on real estate or from other available revenue sources exclusive of fire state aid.

Any Participant that receives a contribution allocation for a Plan Year shall also share in the allocation of amounts that have been forfeited from Participants' Accounts since the preceding Allocation Date, as follows:

(a) Forfeitures of any Inactive Member who, as of the Allocation Date, has not been credited with any Active Service with the Fire Department during the Plan Year that contains the Allocation Date and the previous four Plan Years; or

(b) Forfeitures of the non-vested portion of the Account of any Participant who retired or otherwise terminated from the Fire Department prior to becoming fully vested in the amounts credited to the Participant's Account, provided such Participant has not, as of the Allocation Date, been credited with any Active Service with the Fire Department during the Plan Year that contains the Allocation Date and the previous four Plan Years.

Contributions and forfeitures shall be allocated to an eligible Participant based on the number of Months of Active Service credited to the Participant for the Plan Year, compared to the total number of Months of Active Service credited to all Participants eligible to share in the allocation.

Any moneys or property donated, given, granted or devised by any person which is specified for use for the support of the Special Fund will be allocated in the same manner as contributions and forfeitures to the Accounts of Participants eligible receive an allocation for a Plan Year.

4.2 Adjustment for Earnings. Except as otherwise provided in Section 5.3, investment earnings, gains and losses of the Special Fund will be credited to Accounts as of the most recent Valuation Date based on the ratio that each Participant's Account balance on the prior Valuation Date bears to the total balance of all Accounts on the prior Valuation Date.

4.3 Adjustment for Expenses. Administrative expenses of the Special Fund authorized under Minnesota Statutes, Section 69.80 shall be deducted in equal shares from Account balances. Other fees and expenses for managing the Special Fund shall be deducted in proportion to the share of assets of the Special Fund to the credit of Participants' Accounts.

4.4 Valuation Date Determination. The Participant's benefit to be distributed shall be determined as of the Valuation Date next following the date the Participant's form identified in

Section 5.9 is approved by the Board. Distribution shall not be made as of a Valuation Date that is earlier than the date the Board approves the Participant's benefit payment request.

4.5 Valuation of Special Fund and Account Statements to Participants. A Valuation of the Special Fund and the Account of each Participant shall be made as of each Valuation Date. At least annually, the Relief Association will provide each Participant with a statement of the Participant's Account balance as of the most recent Valuation Date and provide to the Participant upon request their vested percentage and any Account transactions such as distributions, contributions, forfeitures and plan expenses that occurred during the Plan Year.

4.6 Negative Value Accounts. For an Inactive Member's Account that has a negative Valuation when determined at the Valuation Date, the Account shall be set to a zero value for the duration of the Inactive Member's status. No Allocations, Beneficial Interest, adjustment for earnings, or adjustment for expenses shall be credited to the Inactive Member's Account. Once an Inactive Member's Account is set to zero and that member is notified through an annual statement for the year when that Valuation was determined, that member shall no longer receive an annual statement. However, the Account shall still be maintained in the database until the scheduled forfeiture date of the Inactive Member. If an Inactive Member were to return to Active Service after the valuation of said Member's Account was set to zero, that Participant shall accrue Benefits based on the Valuation of the Participant's Account upon return to Active Service.

ARTICLE V
BENEFITS

5.1 Retirement Benefit. (a) *Eligibility*. To be eligible to receive a Retirement Benefit a Participant must satisfy each of the following requirements:

(i) Have retired or ceased Active Service with the Fire Department;

~~(ii) Be at least 50 years of age;~~

(iii) Have been a Volunteer Firefighter in the Fire Department;

(iv) Have been a member in the Relief Association; and

(v) Have the minimum Years of Active Service required for a non-forfeitable interest (vested) in the Participant's Accrued Benefit.

(b) *Amount*. If so provided in Section 3.2, a Participant's Retirement Benefit shall be determined as follows:

Account balance of the Participant	multiplied by	Vesting percentage for completed Years of Active Service

However, if the Participant had a Break in Service, the Participant's benefit level shall be determined as described in Section 5.2.

Such Retirement Benefit shall not be paid before the later of the Participant's Separation Date or the date the Participant attains age 50. The Retirement Benefit shall be paid at the time requested by the Participant in a properly completed and accepted Retirement Benefit Payment Request Form.

5.2 Return to Service. (a) *Return to Service Before Payment of Retirement, Disability or Survivor Benefit*. If a Participant:

(i) ceases Active Service with the Fire Department (incurs a Separation Date),

(ii) has not received a Retirement Benefit distribution from the Plan of the Participant's vested Accrued Benefit, and

(iii) subsequently returns to Active Service after at least 60 days have elapsed, the Participant's Account shall be credited with additional allocations and adjusted for expenses under Article IV and Years of Active Service during the resumption period.

(b) *Return to Service After Payment of Retirement Benefit*. If a Participant:

(i) ceases Active Service with the Fire Department (incurs a Separation Date),

(ii) receives a Retirement Benefit distribution from the Plan of the Participant's vested Accrued Benefit, and

(iii) subsequently returns to Active Service after at least 60 days have elapsed, the Participant shall be credited with additional allocations and adjusted for expenses under Article IV and Years of Active Service during the resumption period. A Participant's Retirement, Disability or Survivor Benefit at the Participant's later Separation Date shall be determined as follows:

New Account balance of the Participant	multiplied by	Vesting percentage for *Additional* completed Years of Active Service

No Participant may be paid a service pension twice for the same period of Active Service.

5.3 Deferred Interest. The Board of Trustees shall adjust for earnings a Participant's unpaid

Retirement Benefit amount in the same manner as provided under Section 4.2.

5.4 Disability Benefit. A Participant who becomes Disabled while in Active Service may be eligible for a Disability Benefit in lieu of a Retirement Benefit. A Participant who becomes Disabled while on leave for uniformed services under Article VIII shall be deemed to have become Disabled while in Active Service. A Participant's Disability Benefit shall be equal of 100% of the Participant's Account balance.

Any Disability Benefit paid in accordance with this Section 5.4 shall be in lieu of all rights to further service pension and survivors benefits.

The Participant shall be eligible to receive the Disability Benefit upon approval of the Board of Trustees. A written report of a physician of the Participant's choice shall be required for payment of a Disability Benefit. The report shall set forth the diagnosis and prognosis of the Disability, disease or injury of the Participant and its probable duration of permanence. A Participant's statement as to pain or other symptoms will not alone be conclusive evidence of Disability.

A Disability Benefit Payment Request form shall be submitted to the Board of Trustees within six months after such Participant's Separation Date with the Fire Department. The form shall describe the nature and cause of such Disability. The form shall be under oath by the Participant or his/her immediate family. The determination of Disability shall be tabled until the next Board meeting so that a physician of the Participant's choice may examine the Participant. The Board of Trustees has the discretion to request that another doctor, selected by the Board of Trustees, examine the Participant. Final determination of Disability will be based on the reports of at least one doctor, and shall be determined by the Board of Trustees at the subsequent Board meeting.

If the Participant who applied for a Disability Benefit disagrees with the Board's determination, the Participant may, within sixty (60) days from notice of such action of the Board of Trustees, file a written appeal of the Board of Trustees' determination. The appeal will be decided under the appeal procedures described in Article VI.

5.5 Survivor Benefit. (a) *Eligibility*. For a Participant's Beneficiary to be eligible to receive a Survivor Benefit the Participant must have satisfied the following requirements:

(i) Have died in Active Service with the Fire Department; or

(ii) Have died prior to receiving his Retirement Benefit.

A Participant who dies while on leave from uniformed service under Article VIII shall be deemed to have died while in Active Service.

(b) *Amount*. If a Participant in Active Service dies, the Participant's Beneficiary shall receive a lump sum payment equal to 100% of the Participant's Account.

If a Participant who has retired from or ceased Active Service dies, the Participant's Beneficiary shall receive a lump-sum Survivor Benefit determined as follows:

Account balance of the Participant	multiplied by	Vesting percentage for completed Years of Active Service

Such Survivor Benefit shall be paid to the Participant's Beneficiary as soon as administratively feasible following the Participant's death and the approval of the Survivor Benefit Payment Request form.

A Participant's Beneficiary shall be as follows:

(a) the Participant's Surviving Spouse; or

(b) if no Surviving Spouse, the Participant's Surviving Children or if so designated as a Beneficiary by the Participant, a trust for the benefit of the Participant's Surviving Children created under Chapter 501B; or

(c) if no Surviving Spouse or Surviving Children, the Participant's designated Beneficiary or Beneficiaries. To designate a Beneficiary, the Participant shall complete, sign and file with the Relief Association a designation of Beneficiary on a form to be provided by the Relief Association or by other written form acceptable to the Relief Association. On said form, the Participant shall designate a Beneficiary, which must be a natural person, or a designated trust created under Chapter 501B of Minnesota Statutes that shall be paid any sum that may be payable on account of the Participant's death (reserving, however, to the Participant the power to change the designation of Beneficiary using the Change of Beneficiary Designation form); or

(d) if no designated Beneficiary or Beneficiaries, to the estate of the Participant.

If there is a Surviving Spouse, but no Surviving Children, the Surviving Spouse may waive in writing all or a part of the Survivor Benefit otherwise payable to the Surviving Spouse, in which event, the Survivor Benefit waived shall be paid as if the spouse had predeceased the Participant.

5.6 <u>Funeral Benefit</u>. No Funeral Benefit shall be paid under this Plan.

5.7 <u>Supplemental Benefit</u>. Upon payment of a lump sum distribution, the Relief Association must pay a Supplemental Benefit to the Qualified Recipient. The Supplemental Benefit may be paid from the Special Fund. The amount of the Supplemental Benefit equals ten percent of the lump sum distribution, but in no case may the Supplemental Benefit exceed $1,000.

5.8 <u>Supplemental Survivor Benefit</u>. Upon payment of a Survivor Benefit, the Relief Association must pay a Supplemental Survivor Benefit to the Surviving Spouse, or, if none, the *minor* Surviving Child(ren) of a Participant who had at least one (1) month of Active Service. The Supplemental Survivor Benefit shall be paid in lieu of the Supplemental Benefit and shall be paid from the Special Fund. The amount of the Supplemental Survivor Benefit equals twenty

(20) percent of the lump sum distribution, but in no case may the Supplemental Survivor Benefit exceed $2,000.

5.9 Benefit Payment Requests. Requests for benefit payment shall be in writing and filed with the Relief Association not less than 90 days prior to the next Board meeting, unless permitted earlier by the Board. Such request shall be made on the appropriate form described below:

Requested Benefit	**Required Benefit Form**
Retirement	Retirement Benefit Payment Request
Survivor	Survivor Benefit Payment Request
Disability	Disability Benefit Payment Request (if applicable)

Requests for Plan benefits shall be considered valid when approved by the Board. Upon approval of the request, the Board shall provide notices to the Participant as required by state or federal law with respect to pension or benefit payments, including, if required, the Special Tax Notice Regarding Plan Payments.

5.10 Forms of Payment. Plan benefits payable to a Participant or Beneficiary shall be made in single lump sum payment. The Participant shall specify that the payment be made in the manner of:

(a) a check payment payable to the Participant or Beneficiary, subject to federal income tax withholding, as may be required; or

(b) a direct rollover to an individual retirement account described in Section 408(a) of the Code to the extent permitted by law, or

(c) a transfer to the Participant's account in the Minnesota Deferred Compensation Plan , to the extent permitted by law and the Minnesota Deferred Compensation Plan.

No other forms of distributions are allowed under the Plan.

5.11 Maximum Limitation on Benefits. Notwithstanding any provision of the Plan to the contrary, a Participant's annual addition under the Plan shall not exceed the maximum amount permitted under Section 415 of the Code.

5.12 Required Distributions. Notwithstanding any provision of the Plan to the contrary, a Participant's account shall be paid to the Participant by April 1 of the calendar year following of the calendar year in which the Participant attains age 70½ or ceases Active Service, whichever is later. Such distributions shall be determined and made in accordance with Section 401(a)(9) of the Code and regulations promulgated thereunder, including the minimum distribution incidental benefit requirement of Treasury Reg. Section 1.401(a)(9)-2, the provisions of which are incorporated herein by reference.

5.13 Unclaimed Benefits. If the Relief Association is unable with reasonable effort to locate a Participant or person/estate entitled to a Survivor Benefit under the Plan or applicable law, the benefit distributable to such Participant or person/estate shall be forfeited and will be credited to the Special Fund. Efforts to locate a Participant or person/estate must be documented. Forfeiture shall occur no earlier than thirty-six (36) months after the Board concludes the Relief Association was unable to locate such Participant or person/estate despite reasonable efforts to do so.

ARTICLE VI
APPEALS PROCEDURE

6.1 Right of Appeal. In the event the Board of Trustees denies a written request for a Retirement, Disability or Survivor Benefit, the Participant or Beneficiary whose request was denied (a "claimant") shall be entitled to appeal the determination.

6.2 Denial of Benefits. If a written request is not approved, the Board shall return the form to the claimant within 30 days, noting which requirements the claimant does not meet. Thereafter, the claimant shall be furnished with the opportunity to be heard by the Board, on the question of whether the claimant meets all of the eligibility requirements. A claimant who intends to appeal must furnish the Board with a written notice of intent to appeal within 30 days of receiving an adverse determination.

6.3 Review Procedure. Upon receipt of the written notice of intent to appeal, the Board of Trustees shall hold a special meeting within 60 days. Timely notice of the meeting shall be given to the claimant at least 15 days prior to the special meeting. The claimant shall have the reasonable opportunity to be heard by the Board of Trustees at the special meeting with regard to the negative determination. The Board shall decide the appeal and shall give the claimant written notice of its decision.

The exhaustion of these claims procedures is mandatory for resolving every claim and dispute arising under these Bylaws. Any legal action to recover benefits or to enforce or clarify rights under the Bylaws must be commenced in the proper forum within 120 days after the claimant has exhausted the claims procedures. For all purposes, knowledge of all facts that the Participant knew or reasonably should have known shall be imputed to every claimant who is or claims to be a beneficiary of the Participant or otherwise claims to derive an entitlement by reference to the Participant. The Board has full discretion to determine benefit claims under the Bylaws. Any interpretation, determination or other action of the Board shall be subject to review only if it is arbitrary or capricious or otherwise an abuse of discretion. Any review of a final decision or action of the Board shall be based only on such evidence presented to or considered by the Board at the time it made the decision that is the subject of review.

ARTICLE VII
CLAIMS AGAINST BENEFICIAL INTEREST

7.1 Nonassignability. No Participant or Beneficiary shall have any transmissible interest in the Plan or in the Participant's separate Beneficial Interest therein, either before or after the vesting thereof, or in any of the assets comprising the same prior to actual payment and distribution thereof, and shall have no power to alienate, dispose of, pledge or encumber the same, while in the possession or control of the Plan, nor shall the Plan recognize any assignment thereof, either in whole or in part, nor shall the interest of any Participant or Beneficiary be subject to attachment, garnishment, execution or other legal process while in the hands of the Plan, except as provided in Minnesota Statutes, Section 518A.53 or as otherwise provided herein.

7.2 Charge for Litigation. In the event that any Participant or any person claiming by or through a Participant should commence any equitable or legal proceedings against the Relief Association, the result of which is adverse to the plaintiff, or in the event that the Relief Association should find it necessary to commence any such proceeding against any Participant or any person claiming by or through a Participant, the result of which is adverse to the defendant, the cost to the Relief Association of defending or bringing the proceeding, as the case may be, shall be charged, to the extent possible and permitted by law, to the Account of the Participant and only the excess of such cost over the amount of the Participant's Account shall be included as an expense of administration.

7.3 Domestic Relations Orders. Notwithstanding any provision to the contrary herein, the Board of Trustees may assign the interest of a Participant in the Plan to an Alternate Payee pursuant to a Domestic Relations Order. In the event the Plan receives a Domestic Relations Order with respect to a Participant's Beneficial Interest in the Plan, the following provisions shall apply:

(a) The Board shall promptly give written notification to the Participant and to the Alternate Payee of receipt of a domestic relations order and of Plan Qualification Procedures. The Board shall then proceed with Qualification Procedures to determine whether the order is a Domestic Relations Order and can be honored. The Board shall then notify the Participant and Alternate Payee (or the Alternate Payee's designated representative) of its determination.

(b) Disputed funds shall be disposed of as follows:

(i) During the period in which the Qualification Procedures are in progress, the Board shall separately account for any amounts that would be payable to an Alternate Payee if the Domestic Relations Order can be honored.

(ii) If it is determined the Domestic Relations Order can be honored within the 18-month period commencing on the date payments are to begin under the order, the Board shall pay the amounts designated in the order, including any interest, to the Alternate Payee.

(iii) If the Board determines that the Domestic Relations Order cannot be honored or if the 18-month period described in (ii) above elapses and the qualification dispute has not been resolved, the Board shall pay the segregated amounts, together with earnings or losses, if required, to the persons who would have received the amounts if the order had not been issued.

(iv) If an order is qualified after expiration of the 18-month period described in (ii) above, payment of benefits to an Alternate Payee shall proceed prospectively and the Plan shall not be liable to an Alternate Payee for benefits attributable to the period prior to qualification.

(c) Payment of benefits pursuant to a Domestic Relations Order shall be made only as permitted under the Plan. Payment to an Alternate Payee may not commence until the Participant submits a valid Retirement Benefit Request form and the Participant's benefit becomes payable.

(d) If a Domestic Relations Order does not address and determine the payment of the Supplemental Benefit payable under Section 5.7 in connection with the payment of a Retirement Benefit, the Supplemental Benefit shall be divided between the Participant and the Alternate Payee in the same proportion as the Retirement Benefit is so divided. In addition, the Board cannot honor a Domestic Relations Order requiring that Supplemental Survivor Benefits be paid to anyone other than the persons listed in Section 5.8 in the order there listed.

(e) To the extent permitted by law and except as otherwise provided under a Domestic Relations Order, the Board may, on a uniform basis, charge the reasonable and necessary expenses associated with the review of a domestic relations order and the implementation of a Domestic Relations Order to the accounts of the Participant and Alternate Payee.

ARTICLE VIII
UNIFORMED SERVICE (MILITARY SERVICE)

Subject to restrictions stated in this section, a Participant who is absent from firefighting service due to service in the uniformed services, as defined in the Uniformed Services Employment and Reemployment Rights Act ("USERRA"), will share in contributions and investment returns pursuant to Section 4.1 and 4.2 of the Plan for the period of the uniformed service, not to exceed five years, unless a longer period is required under USERRA.

To be eligible for such allocation of contributions and investment returns, the Participant must return to firefighting service with coverage by the Relief Association (or by the successor to the Relief Association) upon discharge from service in the uniformed service within the time frame required in USERRA. However, allocation of contributions and investment returns is not authorized if the Participant separates from uniformed service with a dishonorable or bad conduct discharge or under other than honorable conditions.

Allocation of contributions and investment returns is not authorized if the Participant fails to provide notice to the Fire Department that the Participant is leaving to provide service in the uniformed service, unless it is not feasible to provide that notice due to the emergency nature of the situation.

If the Participant does not return to Active Service with the Fire Department within the time frame required in USERRA, then except as otherwise provided in the following sentence, it shall be conclusively presumed that the Participant's Active Service terminated as of the date that the leave for uniformed services began. A Participant who dies or becomes Disabled while the Participant is on leave for uniformed services shall be deemed to have returned to Active Service and shall be deemed to have accrued years of Active Service during the period of leave for uniformed services.

ARTICLE IX
RIGHT TO AMEND, DISCONTINUE OR TERMINATE

9.1 Amendment. The Relief Association shall have the right to amend this Plan, pursuant to Section 12.3 of the Bylaws, at any time to any extent that it may deem advisable. Such amendment will be stated in an instrument in writing executed by the Relief Association. Upon adoption and execution of such instrument, this Plan shall be deemed to have been amended in the manner therein set forth, and Participants shall be bound thereby.

9.2 Termination of Plan. Upon dissolution of the Relief Association, after the settlement of nonbenefit legal obligations of the Special Fund, the Board shall transfer the remaining assets of the Special Fund, as securities or in cash, as applicable, to the chief financial official of the Municipality. The Board shall also compile a schedule of Participants to whom a service pension is or will be owed, any Beneficiary to whom a benefit is owed, the amount of the service pension or benefit payable based on the Bylaws and state law and the service rendered to the date of the dissolution, and the date on which the pension or benefit would first be payable under the Bylaws and state law.

The Municipality receiving the remaining assets of the Special Fund shall establish a separate account in the municipal treasury to function as a trust fund for Participants and their Beneficiaries eligible for Plan benefits. Upon submission of the proper form, on or after the initial date on which the service pension or benefit is payable, the municipal treasurer shall pay the pension or benefit due, based on the schedule described above and the other records of the dissolved Relief Association. The trust fund must be invested and managed consistent with Minnesota Statutes Section 69.775 and Chapter 356A. Upon payment of the last service pension or benefit due and owing, any remaining assets in the trust fund may be transferred to the general fund of the municipality.

ARTICLE X
MISCELLANEOUS

10.1 Governing Law. This Plan shall be construed, administered, and governed in all respects under the laws of the State of Minnesota, except as preempted by federal law.

If any Minnesota laws are applicable solely to the Relief Association, then an Appendix F will be included to describe such laws.

10.2 Binding Effect. This Plan shall be binding upon and inure to the benefit of the heirs, personal representatives, successors and assigns of any and all of the parties hereto.

10.3 Effective Date Application. If a member's Separation Date is prior to the Effective Date, the member's status and benefit under the Plan, if any, attributable to Active Service, shall be determined and paid in accordance with the provisions of the Plan in effect at the Separation Date.

If a member had a Separation Date prior to the Effective Date, but returns to complete a Year of Active Service that ends after the Effective Date, the member's status and benefits under the Plan for all Active Service shall be determined in accordance with the provisions of the Plan in effect at the subsequent Separation Date.

10.4 Authority of Board of Trustees. The Board of Trustees shall have full power, authority and discretion to do each and every act and thing which it is specifically required or permitted to do under the provisions of the Plan and to determine conclusively for all parties all questions arising in the interpretation or administration of the Plan.