CITY OF JONESBORO

SECTION 457 PLAN AND TRUST
FOR NON-UNIFORM EMPLOYEES

This Instrument Prepared By:

Friday, Eldredge & Clark

2000 First Commercial Building

400 W. Capitol Ave.

Little Rock, Arkansas 72201-3493

(501) 376-2011

City of Jonesboro Section 457 Plan
For Non-Uniform Employees
Investment Objectives

MONEY MARKET

This objective calls for an investment entirely in money market funds or instruments. The primary objective is to avoid fluctuation of market value. Income is of secondary importance.

INCOME

The primary goal of this objective is to produce income by investing up to 100% in fixed income investments. Investors with a secondary objective of moderate growth will allow for an equity investment of 20% to 40% where the fixed income allocation will be reduced accordingly.

GROWTH AND INCOME

The objective is a relatively equal division between growth and income requirements. Growth and Income portfolios are invested in a diversified mix of fixed income and equity investments. The asset allocation may be 40% to 60%, either way.

LONG TERM GROWTH

The primary goal of Long Term Growth investors is asset appreciation over a long term horizon. Income is a secondary consideration. Equities comprise 60% to 80% and fixed income 20% to 40% of the investment portfolio.

AGGRESSIVE GROWTH

To provide the greatest potential for growth, this portfolio may be invested exclusively in equities or with a limited commitment to fixed income investments. Equities have more frequent price changes than other securities; and, along with the opportunity for significant gains, the highest degree of risk. Equities will comprise 80% to 100% of the portfolio.

No investment is without risk. Except for Money Market, the investment objectives call for investments in assets where the market value will fluctuate and may be higher, lower or the same as the original purchase price depending on financial market conditions. A portion of the investments may be in foreign securities.

______________________________	______________________________
Customer Signature	*write in Chosen Investment Objective*

BENEFIT PAYMENTS

When will they begin? Benefit payments under this Plan will automatically begin upon the occurrence of separation from service, death, disability or attainment of age 70 ½. Benefit payments for a participant who terminates due to death, disability or attainment of Normal Retirement Age will commence as soon as practicable following sixty days after termination. Benefit payments made to a participant for separation of service due to any other reason will commence sixty days after the one year period following the Participant's termination (or as soon as practicable thereafter).

A participant may make a one time irrevocable election to defer the receipt of benefit payments to a date later than the above automatic payment dates. Such an election must be made (in writing) thirty days prior to the date benefits would otherwise commence. However, a participant may make elect a single postponement of commencement of distributions after amounts are available and if distributions have not yet begun.

Benefit distribution may not be delayed beyond the participant's required beginning date which is April 1 of the calendar year following attainment of age 70 ½.

What distribution options are available? The automatic form of payment under the plan will be an annuity for the joint life of the participant and the participant's spouse. You may elect to waive this form of payment and have your benefit paid as either a lump sum distribution or a series of installment payments. If you are married, in order to waive the annuity form of payment, your spouse must consent to the waiver.

DISTRIBUTIONS DUE TO UNFORESEEABLE EMERGENCY

If you experience an unforeseeable emergency, you may request a distribution prior to the occurrence of one of the distribution events mentioned above. In order for this Plan to qualify under Internal Revenue Code Section 457, the Employer must strictly adhere to the IRS definition of unforeseeable emergency.

An unforeseeable emergency is the <u>only</u> type of in-service distribution available under this Plan. An unforeseeable emergency is a severe financial setback resulting from a sudden and unexpected illness or accident of the Participant or a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances.

NOTE: Unforeseeable emergency shall <u>not</u> include the need to send a Participant's child to college, or the desire to purchase a home.

NOTE: Distributions from this plan are <u>not</u> eligible for rollover to an IRA.

ENROLLMENT FORM
CITY OF JONESBORO SECTION 457 PLAN
FOR NON-UNIFORM EMPLOYEES

EMPLOYEE INFORMATION

AME: ______________________________

OC. SEC. #: ______________________ DEPT: ______________________

Birth Date: _____(m)/_____(d)/_____(y) Hire Date: _____(m)/_____(d)/_____(y)

RATE OF CONTRIBUTION

ease deduct the following amount from my compensation each pay period for contributions to the City of Jonesboro Section 457 Plan r Non-Uniform Employees.

________% of each paycheck (whole percentages from 2% to 25%, not to exceed $8,000 per year); or

$________ of each paycheck (not to exceed 25% of annual compensation or $8,000 per year).

ly savings will be contributed directly to the Plan before federal income tax is withheld and will be subject to the distribution estrictions and applicable provisions of Internal Revenue Code Section 457. I understand that I may change my rate of contributions n the first day of the payroll period following any January 1, with written notice which must be submitted at least 10 days prior to that ayroll period.

II. DESIGNATION OF BENEFICIARY

n event of my death, the amounts payable from my account(s) in the City of Jonesbore Section 457 Plan for Non-Uniform Employees are to be paid to:

Name	Name ....
Address	Address ....
City .... State ..... Zip	City .... State ..... Zip ....
Relationship	Relationship ....
Social Security Number	Social Security Number ....

Attach an extra sheet for additional beneficiaries.)

f you designate more than one beneficiary, payments will be made equally to them, unless otherwise indicated on this form or attachment. This beneficiary designation will remain in effect until you submit a "Notice of Change of Beneficiary" Form.

IV. AUTHORIZATION AND SIGNATURE

hereby authorize my Employer to withhold from my compensation the amount identified above as contribution to the City of Jonesboro Section 457 Plan and Trust for Non-Uniformed Employees.

______________________ ______________________

Date Signature

ENROLLMENT FORM
CITY OF JONESBORO SECTION 457 PLAN
FOR NON-UNIFORM EMPLOYEES

EMPLOYEE INFORMATION

NAME: ____

SOC. SEC. #: ______________________ DEPT: ______________________

Birth Date: _____(m)/_____(d)/_____(y) Hire Date: _____(m)/_____(d)/_____(y)

II. RATE OF CONTRIBUTION

Please deduct the following amount from my compensation each pay period for contributions to the City of Jonesboro Section 457 Plan for Non-Uniform Employees.

________% of each paycheck (whole percentages from 2% to 25%, not to exceed $8,000 per year); or

$________ of each paycheck (not to exceed 25% of annual compensation or $8,000 per year).

My savings will be contributed directly to the Plan before federal income tax is withheld and will be subject to the distribution restrictions and applicable provisions of Internal Revenue Code Section 457. I understand that I may change my rate of contributions on the first day of the payroll period following any January 1, with written notice which must be submitted at least 10 days prior to that payroll period.

III. DESIGNATION OF BENEFICIARY

In event of my death, the amounts payable from my account(s) in the City of Jonesbore Section 457 Plan for Non-Uniform Employees are to be paid to:

Name	Name ....
Address	Address ....
City .... State ..... Zip	City .... State ..... Zip ....
Relationship	Relationship ....
Social Security Number	Social Security Number ....

(Attach an extra sheet for additional beneficiaries.)

If you designate more than one beneficiary, payments will be made equally to them, unless otherwise indicated on this form or attachment. This beneficiary designation will remain in effect until you submit a "Notice of Change of Beneficiary" Form.

IV. AUTHORIZATION AND SIGNATURE

I hereby authorize my Employer to withhold from my compensation the amount identified above as contribution to the City of Jonesboro Section 457 Plan and Trust for Non-Uniformed Employees.

______________________ ______________________

Date Signature

CITY OF JONESBORO
SECTION 457 PLAN FOR NON-UNIFORM EMPLOYEES
PLAN SUMMARY

OVERVIEW

A Section 457 Plan is a deferred compensation plan which is available to employees of state and local governments and governmental subdivisions.

The Plan will enable you to save for retirement by contributing a portion of your salary, on a pre-tax basis, to the plan. Your contributions will be deposited directly into a trust, maintained by First Commercial Trust Company, for the exclusive benefit of plan participants.

ELIGIBILITY

In order to be eligible to participate in the Plan, you must complete one Year of Service with the City of Jonesboro (the "Employer"). A "Year of Service" is a 12 consecutive month period during which you complete at least 1,000 hours of service. You must also attain age 21.

You may commence making elective deferrals to the Plan as of the first January following your satisfaction of the above eligibility requirements. For the first Plan Year, which commences May 1, 1998, eligible employees may elect to participate between May 1 and June1. Once you make an election, you may change that election as of any following January 1. Your elections must be made during the election periods established by the Employer. The election will generally be December 11 through 21 of the year preceding the year for which the election is being made.

CONTRIBUTIONS

You may contribute up to the lesser of 25% of taxable compensation or $8,000 (for 1998). The $8,000 dollar amount will be increased for cost of living adjustments in future years. You may qualify for "catch up" elections which will enable you to contribute up to $15,000 in the three year period ending in the year during which you attain age Normal Retirement Age. Normal Retirement Age under this plan is the later of age 65 or 5 years of service.

VESTING

You will always be 100% vested in your employee contribution account in this Plan.

BENEFIT PAYMENTS

When will they begin? Benefit payments under this Plan will automatically begin upon the occurrence of separation from service, death, disability or attainment of age 70 ½. Benefit payments for a participant who terminates due to death, disability or attainment of Normal Retirement Age will commence as soon as practicable following sixty days after termination. Benefit payments made to a participant for separation of service due to any other reason will commence sixty days after the one year period following the Participant's termination (or as soon as practicable thereafter).

A participant may make a one time irrevocable election to defer the receipt of benefit payments to a date later than the above automatic payment dates. Such an election must be made (in writing) thirty days prior to the date benefits would otherwise commence. However, a participant may make elect a single postponement of commencement of distributions after amounts are available and if distributions have not yet begun.

Benefit distribution may not be delayed beyond the participant's required beginning date which is April 1 of the calendar year following attainment of age 70 ½.

What distribution options are available? The automatic form of payment under the plan will be an annuity for the joint life of the participant and the participant's spouse. You may elect to waive this form of payment and have your benefit paid as either a lump sum distribution or a series of installment payments. If you are married, in order to waive the annuity form of payment, your spouse must consent to the waiver.

DISTRIBUTIONS DUE TO UNFORESEEABLE EMERGENCY

If you experience an unforeseeable emergency, you may request a distribution prior to the occurrence of one of the distribution events mentioned above. In order for this Plan to qualify under Internal Revenue Code Section 457, the Employer must strictly adhere to the IRS definition of unforeseeable emergency.

An unforeseeable emergency is the <u>only</u> type of in-service distribution available under this Plan. An unforeseeable emergency is a severe financial setback resulting from a sudden and unexpected illness or accident of the Participant or a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances.

NOTE: Unforeseeable emergency shall <u>not</u> include the need to send a Participant's child to college, or the desire to purchase a home.

NOTE: Distributions from this plan are <u>not</u> eligible for rollover to an IRA.

CITY OF JONESBORO
SECTION 457 PLAN FOR NON-UNIFORM EMPLOYEES
PLAN SUMMARY

OVERVIEW

A Section 457 Plan is a deferred compensation plan which is available to employees of state and local governments and governmental subdivisions.

The Plan will enable you to save for retirement by contributing a portion of your salary, on a pre-tax basis, to the plan. Your contributions will be deposited directly into a trust, maintained by Regions Bank, for the exclusive benefit of plan participants.

ELIGIBILITY

In order to be eligible to participate in the Plan, you must be a non-uniform employee and you complete one Year of Service with the City of Jonesboro (the "Employer"). A "Year of Service" is a 12 consecutive month period during which you complete at least 1,000 hours of service. You must also attain age 21.

You may commence making elective deferrals to the Plan as of the first January following your satisfaction of the above eligibility requirements. For the first Plan Year, which commences July 1, 1998, eligible employees may elect to participate between July 1 and June 1. Once you make an election, you may change that election as of any following January 1. Your elections must be made during the election periods established by the Employer. The election will generally be December 11 through 21 of the year preceding the year for which the election is being made.

CONTRIBUTIONS

You may contribute up to the lesser of 25% of taxable compensation or $8,000 (for 1999). The $8,000 dollar amount will be increased for cost of living adjustments in future years. You may qualify for "catch up" elections which will enable you to contribute up to $15,000 in the three year period ending in the year during which you attain age Normal Retirement Age. Normal Retirement Age under this plan is the later of age 65 or 5 years of service.

VESTING

You will always be 100% vested in your employee contribution account in this Plan.

BENEFIT PAYMENTS

When will they begin? Benefit payments under this Plan will automatically begin upon the occurrence of separation from service, death, disability or attainment of age 70-½. Benefit payments for a participant who terminates due to death, disability or attainment of Normal Retirement Age will commence as soon as practicable following sixty days after termination. Benefit payments made to a participant for separation of service due to any other reason will commence sixty days after the one year period following the Participant's termination (or as soon as practicable thereafter).

A participant may make a one time irrevocable election to defer the receipt of benefit payments to a date later than the above automatic payment dates. Such an election must be made (in writing) thirty days prior to the date benefits would otherwise commence. However, a participant may make elect a single postponement of commencement of distributions after amounts are available and if distributions have not yet begun.

Benefit distribution may not be delayed beyond the participant's required beginning date which is April 1 of the calendar year following attainment of age 70-½.

What distribution options are available? The automatic form of payment under the plan will be an annuity for the joint life of the participant and the participant's spouse. You may elect to waive this form of payment and have your benefit paid as either a lump sum distribution or a series of installment payments. If you are married, in order to waive the annuity form of payment, your spouse must consent to the waiver.

DISTRIBUTIONS DUE TO UNFORESEEABLE EMERGENCY

If you experience an unforeseeable emergency, you may request a distribution prior to the occurrence of one of the distribution events mentioned above. In order for this Plan to qualify under Internal Revenue Code Section 457, the Employer must strictly adhere to the IRS definition of unforeseeable emergency.

An unforeseeable emergency is the <u>only</u> type of in-service distribution available under this Plan. An unforeseeable emergency is a severe financial setback resulting from a sudden and unexpected illness or accident of the Participant or a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances.

NOTE: Unforeseeable emergency shall <u>not</u> include the need to send a Participant's child to college, or the desire to purchase a home.

NOTE: Distributions from this plan are <u>not</u> eligible for rollover to an IRA.

City of Jonesboro Section 457 Plan
For Non-Uniform Employees
Investment Objectives

MONEY MARKET

This objective calls for an investment entirely in money market securities directly issued by the US Treasury. The primary objective is current income consistent with stability of principal and liquidity.

Current rate = 4.45 %

BALANCED INCOME

This primary objective of this portfolio is to provide a balance between capital appreciation and current income. Providing current income is relatively more important than capital appreciation, thus the allocation emphasizes fixed-income investments.
(Returns through 11-30-99: ytd= 7.87%, 1998 =11.13%, 1997 = 13.43%,1996 = 10.33)

BALANCED GROWTH

The objective is to provide a balance between capital appreciation and current income. Providing capital appreciation is relatively more important than current income, thus the allocation emphasizes equity investments.

(Returns through 11-30-99: ytd= .12.06%, 1998 = 15.56, 1997 = 16.78%, 1996 = 13.87)

GROWTH

This portfolio is designed to provide long-term capital appreciation through a greater concentration on equity investments. Current income is a secondary consideration. The emphasis on equity investments may result in greater short-term volatility.

(Returns through 11-30-99: ytd= 15.85%, 1998 = 18.92, 1997 = 19.88, 1996 = 16.69)

AGGRESSIVE GROWTH

Designed to provide long-term growth of capital. Current income is a minor consideration. Equity investments are more volatile, especially in the short run. However, exposure to all major classes of equity investments is expected to moderate volatility.

(Returns through 11-30-99: ytd = 19.23%, 1998 = 22.56%, 1998 = 22.56%, 1997 = 21.90%, 1996 = 20.33%

No investment is without risk. Except for Money Market, the investment objectives call for investments in assets where the market value will fluctuate and may be higher, lower or the same as the original purchase price depending on financial market conditions. A portion of the investments may be in foreign securities.

_______________________________ _______________________________

Customer Signature *write in Chosen Investment Objective*

PREAMBLE

WHEREAS, the City Council of the City of Jonesboro believes that its employee(s) would benefit from a program which would enhance their retirement security and to receive benefits at retirement, death, separation from service, and for financial hardships due to unforeseeable emergencies; and

WHEREAS, it is intended that such plan comply with the requirements of Section 457 of the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974, as either is now in effect or as hereafter amended, the regulations thereunder, and other applicable laws;

NOW, THEREFORE, the City of Jonesboro. does hereby adopt the Plan as set forth in the following pages.

ARTICLE I

DEFINITIONS

The following terms when used herein shall have the following meaning, unless a different meaning is clearly required by the context.

1.01 **Account**. "Account" means the separate record of each Participant's aggregate Deferrals, Employer Contributions and the income thereon.

1.02 **Beneficiary**. "Beneficiary" means the person(s) or estate entitled to receive benefits under this Plan after the death of a Participant.

1.03 **City Council**. "City Council" means the City Council of the City of Jonesboro, Arkansas.

1.04 **Code**. "Code" means the Internal Revenue code of 1986, as amended, and including all regulations promulgated pursuant thereto.

1.05 **Compensation**. "Compensation" means the remuneration earned as an employee for personal services rendered to the Employer for the Plan year including amounts deferred under this Plan.

1.06 **Deferral**. "Deferral" means the amount of Compensation that a Participant elects to defer receipt of pursuant to a properly executed Voluntary Salary Deferral Agreement.

1.07 **Disability**. "Disability" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to last for a continuous period of not less than twelve (12) months. The Plan Administrator shall have the sole and exclusive ability to determine whether a Participant is disabled.

1.08 **Effective Date**. "Effective Date" means May 1, 1998.

1.09 **Eligible Employee**. "Eligible Employee" means a non-uniform employee of the Employer.

1.10 **Eligible Deferred Compensation Plan or "Eligible Plan"**. "Eligible Deferred Compensation Plan" or "Eligible Plan" means any plan defined in Section 457(b) of the Code and includes this Plan among others.

1.11 **Employer.** "Employer" means the City of Jonesboro.

1.12 **ERISA**. "ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

1.13 **Includable Compensation**. "Includable Compensation" means compensation for services performed for the Employer which is currently includable in gross income as reported on the employee's federal income tax withholding statement (W-2 Form). In other words, it means Compensation reduced by amounts which are deferred under this Plan and amounts which are not includable under Section 125 of the Code.

1.14 **Normal Retirement Age**. "Normal Retirement Age" means the later of age 65 or completion of five (5) Years of Service for Vesting.

1.15 **Participant**. "Participant" means an Eligible Employee or former employee who is or has been enrolled in the Plan and who retains the right to benefits under the Plan.

1.16 **Plan**. "Plan" means this City of Jonesboro Section 457 Plan, as amended from time to time.

1.17 **Plan Administrator**. "Plan Administrator" means a committee which shall be appointed by the City Council.

1.18 **Plan Year**. "Plan Year" means the twelve-month period beginning January 1 and ending December 31. The first Plan Year shall commence May 1, 1998 and end December 31, 1998.

1.19 **Trust. Trust Fund**. "Trust" or "Trust Fund" means the trust fund established under Article VII hereof, as amended from time to time.

1.20 **Trustee.** The "Trustee" means the person or persons (whether corporate, individual, or a combination thereof) appointed by the Employer pursuant to Section 6.02 and any successor thereto. The initial Trustee shall be First Commercial Trust Company.

1.21 **Voluntary Salary Deferral Agreement.** "Voluntary Salary Deferral Agreement" means the agreement between a Participant and the Employer to defer receipt by the Participant of Compensation not yet earned. Such agreement shall state the Deferral amount to be withheld from a Participant's paycheck and shall become effective at the commencement of each Plan Year.

1.22 **Year of Service**. Year of Service for eligibility means a 12-consecutive month period (computation period) during which an Employee has not less than 1,000 Hours of Service with the Employer. The eligibility computation period is the 12-consecutive month period beginning on the date the Employee first performs an Hour of Service for the Employer. The succeeding 12-consecutive-month periods shall commence with the first day of the Plan Year which commences immediately prior to the first anniversary of the date the Employee first performs an Hour of Service for the Employer, regardless of whether the Employee is entitled to be credited with 1,000 Hours of Service during the initial eligibility computation period.

ARTICLE II
PARTICIPATION

2.01 **Eligibility for Participation.** Each Eligible Employee may become a Participant in this Plan on the first day of the Plan Year next following their completion of one (1) year of service with the Employer and attainment of age twenty-one (21). For this purpose, an Eligible Employee who recommences employment following a separation from service shall be treated as a new employee.

2.02 **Enrollment.** Eligible Employees may enroll in the Plan by completing a Voluntary Salary Deferral Agreement and submitting it to the Plan Administrator prior to the commencement of a Plan Year, subject to the approval of the Plan Administrator.

ARTICLE III

SOURCES OF BENEFITS

3.01 **General.** All benefits provided under this Plan shall be paid from the Trust.

3.02 **Deferral of Compensation.** Pursuant to a Voluntary Salary Deferral Agreement, each Participant's Deferral amount shall be deducted from his or her paychecks in approximately equal increments throughout the year. The Deferral amount shall not be included as gross income on a Participant's federal income tax withholding statement (W-2 Form). Such Deferrals shall be accounted for in the Participant's Employee Contribution Account within the Trust.

3.03 **Minimum Deferral.** A Participant must comply with any minimum monthly deferral requirements which may be set by the Employer from time to time on a nondiscriminatory basis.

3.04 **Changing Deferrals.** A Participant may change or cancel Deferrals with respect to Compensation not yet earned by executing a new Voluntary Salary Deferral Agreement only prior to the beginning of each Plan Year or within thirty (30) days of receiving notice of a Plan amendment or by written notice of cancellation. The change or cancellation shall be effective on the first day of the month coinciding with or following completion of a new Agreement and acceptance by the Plan Administrator.

3.05 **Suspension of Deferrals.**

(a) A Participant may suspend Deferrals by giving the Plan Administrator written notice. Following suspension, a Participant may reinstate Deferrals only prior to the beginning of any subsequent Plan Year by executing a new Voluntary Salary Deferral Agreement and delivering it to the Plan Administrator. Reinstatement shall be effective on the first day of the Plan Year coinciding with or following completion of the new Agreement and acceptance by the Plan Administrator.

(b) Deferrals shall automatically be suspended for any month in which there are insufficient monies available to make the entire deduction agreed upon and automatically reinstated in the next month that Compensation is sufficient to make the agreed upon Deferral.

3.06 **Employer Contributions.** There will be no Employer Contributions to the Plan.

3.07 **Maximum Deferrals.**

(Primary Limitation. The Deferral amount for a single Participant in any taxable year may not exceed the lesser of:

(1) the dollar limit in effect under IRC Section 457(b)(2), as indexed. For 1998, the limit is $8,000.

(2) 33 1/3% of the Participant's Includable Compensation.

(b) Catch-Up Limitation:

(1) A Participant may trigger the catch-up limitation by electing a Normal Retirement age pursuant to Section 4.01. The maximum Deferral amount for each of a Participant's last three (3) taxable years ending before he or she attains Normal Retirement Age, is the lesser of:

(i) $15,000, or

(ii) the primary limitation amount determined under Section 3.03(a) for the current year, plus so much of the primary limitation amount that was not utilized in prior taxable years in which the employee was eligible to participate in the Plan. A Participant may use a prior year only if the Deferrals under the Plan in existence during that year were subject to the maximum deferral amount described in Treas. Reg. Section 1.457-2(e).

(2) The catch-up limitation is available to a Participant only during one three-year period. If a Participant uses the catch-up limitation and then postpones Normal Retirement Age or returns to work after retiring, the limitation shall not be available again before a subsequent retirement.

(c) Coordination With Other Plans. If a Participant participates in more than one Eligible Deferred Compensation Plan, the total deferral under all plans shall be subject to the maximum limitations specified this section 3.07. If a Participant participates in a plan provided for in Section 403(b) of the Code, amounts excluded from gross income in any taxable year under such plan shall reduce the primary limitation amount determined under section 3.07(a) and (b), and the $15,000 limitation in section 3.07(b)(1)(i).

3.08 **Vesting of Employer Contributions.** A Participant will always be vested in 100% of the balance of the Participant's Employee Contribution Account.

ARTICLE IV

TIME OF BENEFIT PAYMENT

4.01 **Eligibility for Payment.**

(a) Distribution of Vested Accounts shall be made only after separation from service or an approved financial hardship that results from an unforeseeable emergency.

(b) For purposes of this Section, "Separation from Service" means the severance of a Participant's employment with the Employer, whether as a result of voluntary or involuntary termination, death, disability or attainment of Normal Retirement Age.

(c) A Participant may request a withdrawal from the Participant's Employee Contribution Account for hardship by submitting a written request to the Plan Administrator, accompanied by evidence that his or her financial condition warrants an advance release of funds and results from an unforeseeable emergency which is beyond the Participant's control. The Plan Administrator shall review the request and determine whether payment of any amount is justified. If payment is justified, the amount shall be limited to an amount reasonably needed to meet the emergency. The Plan Administrator shall determine the amount and form of payment. The remaining portion of the Account shall continue to be subject to the provisions of this Plan.

(d) For purposes of this Section, a "hardship" means a severe financial setback of the Participant resulting from a sudden and unexpected illness or accident of the Participant or a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances, arising from events beyond the Participant's control. Whether circumstances constitute an unforeseeable emergency depends on the facts of each case, but, in any case, payment may not be made to the extent that such hardship is or may be relieved:

(1) through reimbursement or compensation by insurance or otherwise;

(2) by liquidation of the Participant's assets, to the extent that liquidation itself would not cause severe financial hardship; or

(3) by cessation of Deferrals under the Plan.

Unforeseeable emergencies shall not include the need to send a Participant's child to college, or the desire to purchase a home.

(e) Once regular installment payments to a Participant have commenced under the Plan, the Participant may request payment acceleration if the Participant suffers a hardship as defined above. If the Participant is married, his spouse must consent in writing to such request. The Plan Administrator may permit accelerated payments, however, the amount of an accelerated payment shall not exceed the amount needed to meet the emergency. Any amount remaining in the Account after such accelerated payment shall be distributed in accordance with the provisions of this Plan.

4.02 **Application for Payment of Vested Accounts.** When a Participant or Beneficiary desires to receive or commence a distribution of the balance of the Participant's Vested Accounts under the Plan, he may file an application for distribution with the Plan Administrator. The application shall be in a form provided by or available from the Plan Administrator and shall indicate the form of payment the applicant prefers. The application will be acted upon by the Plan Administrator in accordance with Section 6.11.

4.03 **Benefit Commencement Date.**

(a) Benefit payments to a Participant shall commence within sixty (60) days (or as soon as possible thereafter) after the Participant's termination as a result of death, disability or attainment of Normal Retirement Age. Benefit payments to a Participant shall commence within sixty (60) days (or as soon as possible thereafter) after the end of a one (1) year period after the Participant's termination for any reason other than as a result of death, disability or attainment or Normal Retirement Age. A Participant or Beneficiary may make a one-time irrevocable election with the consent of the Plan Administrator to defer commencement of benefits to a date later than the automatic commencement time under this paragraph (a). An election to defer benefit commencement must be completed at least 30 days prior to the date benefits would otherwise commence. Provided, however, that a participant may elect a single postponement of commencement of distributions under the plan after amounts are available under Section 457(d)(1)(A) and if distributions have not yet begun..

(b) The payment or commencement of payment of benefits to a Participant may not be delayed without the consent of such Participant to a date later than the sixtieth (60th) day after the latest of the close of the Plan Year in which (i) the Participant attains the earlier of age sixty-five (65) or Normal Retirement Age or (ii) the Participant terminates his service with the Employer.

(c) Notwithstanding the provisions of paragraph (a) and (b) hereof, the balance of the Vested Accounts of each Participant shall be distributed to him commencing not later than the required beginning date (as hereinafter defined). If payment is not paid in a lump sum, it shall be distributed commencing not later than the required beginning date (i) over the life of such Participant or over the lives of such Participant and a designated beneficiary, or (ii) over a period not extending beyond the life expectancy of such Participant or the life expectancy of such Participant and a designated Beneficiary. In addition, at least two-thirds (2/3) of the present value of the total payments to be paid with respect to a Participant shall be paid during the life expectancy of the Participant (determined at the date benefits commence). The life expectancy of a Participant shall not be recalculated after the required beginning date.

(d) For purposes of this Section, the required beginning date of a distribution shall be April 1 of the calendar year following the calendar year in which the Participant attains age 70 1/2.

(e) In the event that distribution has begun to a Participant under paragraph (c)(ii) and such Participant dies before his entire interest has been distributed to him, the remaining portion of such Participant's interest shall be distributed at least as rapidly as under the method of distribution being used as of the Participant's date of death. Any distributions made prior to the required beginning date shall be disregarded for these purposes unless payment was being made in the form of an annuity.

(f) Notwithstanding any provision of this Plan which may be to the contrary, all distributions under the plan shall comply with Sections 401(a)(9) and 457(d) of the Code, which provision shall override any inconsistent distribution options in the Plan. Such distribution shall comply with such additional requirements as are provided by the Secretary of the Treasury in regulations adopted under such Sections.

4.04 **Form of Distribution of Vested Accounts.**

(a) When a Participant becomes entitled to distribution of his Account otherwise than due to hardship or death, and has filed an application for such benefit, the Plan Administrator may transfer the balance of the Participant's Vested Accounts to an insurance carrier or annuity company selected by it and shall purchase a single premium annuity on behalf of such Participant and the Participant's spouse if the Participant so elects.

(b) A Participant may elect not to receive the form of retirement benefit described in paragraph (a) above. Any such election shall be made in writing at any time during the 90-day period ending on the Annuity Starting Date. An election under this paragraph shall not take effect unless (i) the spouse of the Participant consents in writing to such election, such election designates a Beneficiary (or a form of benefits) which may not be changed without spousal consent (or the consent of the spouse expressly permits designations by the Participant without any requirement of further consent by the spouse), and the spouse's consent acknowledges the effect of such election and is witnessed by the Plan Administrator or a notary public, or (ii) it is established to the satisfaction of the Plan Administrator that the consent required under this paragraph may not be obtained because there is no spouse, because the spouse cannot be located, or because of such other circumstances as may be permitted by law. Any consent by a spouse (or establishment that the consent of a spouse may not be obtained) under the preceding sentence shall be effective only with respect to such spouse.

(c) In the event that a Participant elects under paragraph (b) not to receive an annuity, he may select one of the following methods of payment of the balance of his Vested Accounts:

(1) A single lump-sum payment;

(2) Payment in equal monthly, quarterly, semiannual, or annual cash installments over a period of not less than three (3) nor more than fifteen (15) years or the Participant's life expectancy, including such Participant's share of earnings of the Trust Fund;

(d) Distribution from this Plan must be made primarily for the benefit of Participants. Any payment form specified above must be such that benefits payable to a Beneficiary are not more than incidental. Benefits payable to a Beneficiary shall be incidental if the total amount payable to the Participant exceeds one-half the maximum payable to a Participant and Beneficiary together. Also, all benefits, payable to a Beneficiary shall be paid in full within (1) the life of the Beneficiary, if the Beneficiary is the Participant's surviving spouse, or (2) within 15 years after the death of a Participant for all other Beneficiaries.

4.05 **Plan-to-Plan Transfers**. If distribution of the Vested Accounts by a former Participant of this Plan do not commence upon Separation from Service, such amounts may be transferred to another Eligible Deferred Compensation Plan, of which the former Participant has become a Participant, if: (i) the Plan receiving such amounts provides for their acceptance; and (ii) a Participant Separates from Service with the Employer in order to accept employment with another "eligible" entity and (iii) the Employer consents to such transfer.

This Plan will accept the transfer of amounts previously deferred by a Participant under another Eligible Deferred Compensation Plan which will be accounted for as a part of the Participant's Employee Contribution Account.

ARTICLE V

DEATH BENEFITS

5.01 **Designation of Beneficiary**.

(a) A Participant may designate one or more Beneficiaries to receive the balance of the Participant's Accounts in the event of the Participant's death on such form as supplied by the Plan Administrator. A Participant may by similar action designate a change of Beneficiary at any time, which change shall be effective only upon receipt by the Plan Administrator of said notice. The last such designation form filed with the Plan Administrator shall control.

(b) In the event the Participant has failed to execute a beneficiary designation or in the event all beneficiaries designated predecease the Participant, the balance of the Participant's Accounts shall be paid to the Participant's surviving spouse, or if there is no surviving spouse, the executors or administrators of the estate of the Participant.

(c) In the absence of a written designation, or in the event a Participant dies without a Beneficiary surviving him, the amount which would otherwise be payable to his Beneficiary shall be paid to the surviving spouse of such Participant or if none, to such Participant's estate. A Beneficiary shall have no interest or rights under the Plan during the lifetime of the Participant, except as may be provided otherwise in the Plan, ERISA or the Code.

5.02 **Death Prior to Commencement of Benefits**.

(a) If a Participant dies before the distribution of his interest has begun, the entire interest of such Participant shall be distributed prior to December 31 of the calendar year which includes the fifth anniversary of the death of such Participant. Any distributions prior to the required beginning date shall be disregarded for these purposes unless payment is made in the form of an annuity.

(b) If any portion of such Participant's interest is payable to or for the benefit of a designated Beneficiary, such portion shall be distributed (in accordance with the regulations of the Secretary of the Treasury) over a period not exceeding the lesser of fifteen (15) years or the life expectancy of such beneficiary and provided, that such distribution shall begin not later than December 31 of the calendar year immediately following the Participant's death or such later date as the Secretary of the Treasury may prescribe by regulations. Notwithstanding the foregoing, if the designated beneficiary of such Participant is the surviving spouse of such Participant, or if the Plan Administrator maintains a separate record for any portion of the Participant"s Vested Account balance payable to such spouse, the distribution of such Participant's benefit payable to such spouse shall begin, if requested by such spouse, as soon as reasonably possible after the Participant"s death and the allocation to his Accounts of any amounts to which he may be entitled for the Plan Year in which such death occurs, or may be delayed at the request of such spouse until a date not later than December 31 of the calendar year in which the Participant would have attained age 70 1/2. Such distribution shall be made over the life of such spouse or over a period not extending beyond the spouse's life expectancy.

(c) In the event that both the Participant and the surviving spouse die prior to the commencement of benefits hereunder, and if the surviving spouse was to be the primary beneficiary of the Participant, the entire interest of the Participant shall be distributed prior to December 31 of the calendar year which includes the fifth anniversary of the death of the surviving spouse. For these purposes, distributions shall not be treated as having commenced before the spouse's death if such spouse dies before the distributions are required to commence.

ARTICLE VI

ADMINISTRATION

6.01 **Fiduciaries.**

(a) Any fiduciary shall have only those powers, duties, responsibilities, and obligations which are specifically allocated to them under the Plan. Notwithstanding the foregoing, any person may serve in more than one fiduciary capacity.

(b) Each fiduciary warrants that any directions given, information furnished, or action taken by it shall be in accordance with the provisions of the Plan authorizing or providing for such direction, information or action. Furthermore, each fiduciary may rely upon any such direction, information or action of any other named fiduciary as being proper under the Plan, and is not required to inquire into the propriety of any such direction, information or action. No fiduciary shall be deemed to have guaranteed the Trust Fund in any manner against investment loss or depreciation in asset value.

6.02 **Powers and Responsibilities of the Employer.**

(a) The City Council shall determine the number of, and shall be empowered to appoint and remove, the Trustee(s) and such committees as it deems necessary for the proper administration of the Plan.

(b) The City Council shall appoint an investment manager (as defined in Section 3(38) of ERISA) and/or investment committee to manage the Trust Fund. The Trustee shall follow the directive of the investment manager or committee in investing the assets of the Plan managed by the investment manager or committee and shall not be liable for the acts or omissions of such investment manager or committee except as otherwise required by ERISA.

(c) The Employer shall supply such information as may be requested by the Plan Administrator or the Trustee, including information with respect to compensation, service, age, retirement, death, disability or termination of employment of any Employee or Participant.

(d) The Employer shall receive and review reports of the receipts and disbursements of the Trust Fund from the Trustee;

(e) The Employer shall employ an independent qualified public accountant, to the extent required by law, to examine the books, records, and any financial statements and schedules which are required to be included in the annual report;

(f) The Employer shall file or cause to be filed with the appropriate government agency (or agencies) any required reports, summary plan description, and any other pertinent documents.

6.03 **Investment Manager or Committee.**

(a) If an investment manager and/or investment committee is appointed by the City Council, such investment manager or committee shall serve at the pleasure of the City Council, except that any such appointee may resign at any time. No member of any investment committee shall receive any compensation for services as such, but shall be reimbursed for expenses reasonably incurred in the performance of his duties.

(b) Any investment manager or committee shall be the named fiduciary for asset management and control and at all times have the responsibility for investment decisions involving the acquisition and disposition of assets over which it exercises discretionary investment authority.

6.04 **Plan Administrator.**

The "named fiduciary" of the Plan is the Committee designated under Section 1.17 as the Plan Administrator. All members of the Committee shall serve at the pleasure of the City Council and may be removed by the City Council at any time with or without cause.

(b) In lieu of appointing the Committee, the City Council may administer the Plan. In such event, the City Council shall have all of the powers and duties assigned to the Committee under the Plan.

6.05 **Powers and Responsibilities of the Plan Administrator.** The Plan Administrator shall carry out the daily management of the Plan in accordance with its terms and shall have the power to determine all questions arising in connection with the administration, interpretation, and application of the Plan. Any such determination by the Plan Administrator shall be conclusive and binding upon all persons. The Plan Administrator may correct any defect, supply any information, or reconcile any inconsistency in such manner and to such extent as shall be deemed necessary or advisable to carry out the purpose of this Plan; provided, however, that any interpretation or construction shall be made and applied in a nondiscriminatory manner. The Plan Administrator shall have such powers and duties, unless otherwise provided herein, as may be necessary to discharge its duties hereunder, including, but not limited to, the power and duty:

(a) to construe and interpret the Plan, decide all questions of eligibility for payment of any benefits hereunder;

(b) to adopt such rules, such procedures and forms as it deems appropriate;

(c) to make a determination as to the right of any person to a benefit and to afford any person dissatisfied with such determination the right to a hearing thereon;

(d) to receive from the Employer and from Employees such information as shall be necessary for the proper administration of the Plan;

(e) to delegate to one or more of the members of the Committee the right to act in its behalf in all matters connected with the administration of the Plan and Trust and to delegate ministerial matters to its agents or employees, who need not be members of the Committee;

(f) to furnish any Employee and each Beneficiary receiving benefits hereunder a summary plan description explaining the Plan unless exempted under ERISA;

(g) to furnish any Employee or Beneficiary who requests in writing statements indicating such Employee's or Beneficiary's Account balance;

(h) to maintain all records necessary for verification of information required to be filed with any governmental agency;

(i) to report to the Trustee all available information regarding the amount of benefits payable to each Participant, the computations with respect to the allocation of assets, and any other information which the Trustee may require in order to terminate the Plan;

(j) to retain such agents, and employees, including legal counsel (which may be counsel for the Employer), as it deems appropriate for the discharge of its duties hereunder.

6.06 Committee Procedures. Any committee appointed by the Employer may act at a meeting or in writing without a meeting. Such committee shall elect one of its members as chairman, appoint a secretary who need not be a member of the committee, and shall advise the Trustee of such actions in writing. The Secretary shall keep a record of all meetings and forward all necessary communications to the Employer, the Trustee or other appropriate persons. The committee may adopt such bylaws and regulations as it deems desirable for the conduct of its affairs. All decisions of the committee shall be made by the vote of the majority including actions in writing taken without a meeting. A dissenting member of the committee who, within a reasonable time after he has knowledge of any action or failure to act by the majority, registers his dissent in writing delivered to the other committee members, the Employer and the Trustee shall not be responsible for any such action or failure to act.

6.07 Voting of Securities. The Plan Administrator may direct the Trustee or as to the manner in which voting, dissenter's or other stockholder's rights of securities held by the Trust are to be exercised.

6.08 Decisions of the Plan Administrator. The decisions of the Plan Administrator shall be conclusive and binding upon the Employer, the Trustee and all Employees, Participants and Beneficiaries. All decisions of the Plan Administrator which involve the exercise of discretion shall be made upon the basis of uniform principles established in this Plan and by the Plan Administrator and in such manner as to avoid any discrimination among Participants.

6.09 Records and Statements. The Plan Administrator shall such records as may be required by law, the Plan or as it otherwise deems appropriate for the administration of the Plan. Such records shall be subject to the inspection of the Employer and of any Participant or Beneficiary, but only to the extent that they apply to him.

6.10 Payment of Expenses. All expenses incident to the administration, termination or protection of the Plan and Trust, including but not limited to, legal, accounting, actuarial and Trustee's fees shall be paid by the Employer, but the Employer may, at its own option, charge such expenses against the Accounts in any manner that it deems equitable.

6.11 Benefit Claims Procedure. The Plan Administrator shall make all determinations as to the right of any such person to any benefit under the Plan. Any Participant, Beneficiary, or the authorized representative of either of the foregoing may file a request for benefits under the Plan. Such request shall be deemed filed when made in writing addressed or hand-delivered to the Plan Administrator in care of the Employer. Such request shall be on such form and pursuant to such rules as are adopted by the Plan Administrator and shall set forth the basis of such claim. Upon receipt of such claim, the Plan Administrator shall conduct such examinations as may be necessary to determine the validity of the claims and, if appropriate, shall take such steps as may be necessary to facilitate the payment to which the claimant is entitled.

6.12 Claims Review Procedure. If any claim for benefits is denied, the Plan Administrator shall notify the claimant in writing. The notice of the denial of benefits shall state the specific reason for such denial and cite any applicable provisions of the Plan upon which the denial is based. If the claim can be corrected, a request for such information shall be made and the reason for requesting such additional information shall be stated in the notice to the claimant. The claimant shall be entitled to appeal the decision to the Plan Administrator for a period of sixty (60) days after receipt of the notification of denial. The claimant shall be advised that the failure to perfect and appeal within such sixty (60) day period shall make the Plan Administrator's decision conclusive. The Plan Administrator shall furnish the claimant or his personal representative any Plan information needed to perfect his appeal.

6.13 **Unclaimed Benefits.** Each Participant and Beneficiary of a deceased Participant shall file with the Plan Administrator from time to time in writing, his home address and each change of home address. Any communication addressed to the Participant or the Beneficiary at his last home address filed with the Plan Administrator, or if no such address was filed, then at his last home address as shown on the Employer's records, shall be binding on the Participant or Beneficiary for all purposes of the Plan. The Plan Administrator shall not be obligated to search for or ascertain the whereabouts of any Participant or Beneficiary. If the Plan Administrator furnishes notice to any Participant or Beneficiary of a deceased Participant, that he is entitled to a distribution and the Participant or Beneficiary fails to claim such distribution or make his whereabouts known to the Plan Administrator, such benefit shall be retained by the Plan until the earliest of (i) the date the Participant's benefit must be distributed under Section 4.03, (ii) the date of the Plan is terminated without the establishment of a successor plan, or (iii) the date the Employer is liquidated. Such Participant's benefit shall then be disposed of as follows:

(a) If the Participant has not been located by the time of distribution of assets, and that the whereabouts of the Beneficiary of such Participant then is known to the Plan Administrator, payment shall be made to such Beneficiary.

(b) If the whereabouts of both such Participant and his beneficiary are unknown to the Plan Administrator, the Plan Administrator may direct the distribution of such Participant's benefit to the Employer.

6.14 **Indemnification.** The Employer shall indemnify each member of each committee appointed by it and each other fiduciary with respect to the Plan from and against any and all liabilities, costs, damages or expenses occasioned by any act or omission, to the extent required by the Employer's Bylaws, court decision or individual agreement with such fiduciary, but not in any event when the same is judicially determined to be due to the gross negligence willful misconduct or fraud of such member. The Employer may purchase insurance to the extent deemed appropriate in connection with such indemnification.

ARTICLE VII

FUNDING AND RELATED MATTERS

7.01 **Compliance With Applicable Law.**

(a) It is the intent of the Employer in establishing this Plan to comply with the requirements of Section 457 of the Code which requires that Plan assets be held in trust, for the exclusive benefit of Plan participants.

of Section 457 of the Code.

(b) The following Sections of this Article provide for the establishment of a trust to hold the Deferrals made by Participants and any earnings thereon for the exclusive benefit of Plan participants. such conditions are met at any time during the existence of the Plan. This Article shall be applicable only if and to the extent that any Deferrals by Participants, Employer Contributions

7.02 **Acceptance of Trust.** Subject to the foregoing, the Trustee named in section 1.20 is hereby appointed as the Trustee of the Trust, to take, hold, invest, administer, and distribute the Trust Fund in accordance with the provisions of the Plan and Trust effective as of the date hereof, and such Trustee hereby accepts such appointment in accordance with the terms of this Trust as of the date hereof. No duties or obligations shall be imposed upon the Trustee with respect to the Trust Fund unless they have been specifically undertaken by the Trustee by the express terms of this Trust.

7.04 **Receipt of Money and Other Assets.**

(a) The Trustee shall receive such sums of money and other assets as are paid or transferred to it by the Employer or which are received as income from investments of the Trust Fund, in accordance with the provisions of this Trust. The Trustee shall be under no duty to compute the amount of any Voluntary Salary Deferral to be paid to it by the Employer or any Participant, to collect such amount, or to compute the amount which Participants are entitled to receive as benefits under the Plan, but shall be responsible only for property received by it pursuant to this Trust.

(b) A Trustee shall invest and reinvest the principal and income of the Trust Fund in such securities or in such other property, real or personal, tangible or intangible, as the Trustee shall deem advisable; provided, however, that investments shall be so diversified as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so in the sole judgment of the Trustee.

(c) The Trustee shall retain the funds received and invested by it and all increments and profits thereon until such time as it shall, from time to time, receive written directions from the Plan Administrator, directing it to make disposition of any portion of the Trust Fund. At such time the Trustee shall make the disbursement or payment directed by the Plan Administrator. Unless otherwise agreed, the Plan Administrator, not the Trustee, shall maintain accounts or other appropriate records showing the interest of each Participant in the Plan.

(d) Participant Directed Accounts: The Employer may provide each Participant with the right to direct the investment of the participant's account under the Plan. To that extent, the Trustee shall invest such Participant's account in accordance with the Participant's instructions and shall be considered a "directed Trustee" with no discretionary authority over the investment of such Participant's account.

7.06 **Valuation of Assets.** As of the last day of each Plan Year, and at such other times as the Plan Administrator shall direct, the Trustee shall ascertain the fair market value of the Accounts as of such day, and, within sixty (60) days thereafter, such valuation shall be certified to the Plan Administrator. Whenever the term "balance of the Accounts" is used herein this shall mean the balance of the Participant's Accounts as of the last valuation date.

7.07 **Report of Trustee.** Not later than ninety (90) days after the last day of each Plan Year and not later than ninety (90) days-following the termination of the Plan or the Trust, the Trustee shall render a detailed accounting of its transactions to the Plan Administrator. Each such accounting shall set forth all investments, receipts, disbursements, and other transactions effected by the Trustee during such Plan Year or during the period from the closing date of such last preceding accounting to the date of the termination of the Plan or Trust. As a part of each such accounting, the Trustee shall (i) set forth in summary form the receipts and disbursements of the Trustee for the applicable accounting period, (ii) include a description and the cost and proceeds of sale of all securities and other property purchased or sold during the period, (iii) itemize all money, securities, real property, insurance policies, and any other assets held in the Trust Fund at the end of such period. In the absence of notice to the Trustee by the Plan Administrator of any objections to any such accounting or part thereof within ninety (90) days after its receipt, the Plan Administrator shall be deemed to have approved the accounting.

7.08 **Powers of the Trustee.** The Trustee shall have all of the powers, rights and privileges conferred upon, and granted to, Trustees in the governing provisions of the statutes and laws of the State of Arkansas and the common law of trusts developed thereunder. Without limiting the generality of the foregoing, the Trustee or shall be authorized to buy and sell property on such terms as it deems advisable, to enter into contracts and leases, to borrow money and to mortgage or pledge any Trust property, to employ agents, to engage in litigation as plaintiff or defendant, to exercise all rights of ownership of stock owned by the Trust and to pay any expenses or assessments against the Trust or its property.

7.09 **Multiple Trustees.** If there shall be more than one Trustee, a majority of the Trustees shall control. Such Trustees may, however, allocate the responsibility for management of the Trust among themselves in such manner as they desire. Any such allocation of responsibility shall be evidenced by a written resolution of the Trustees.

7.10 **Bonding of Trustee.** The Trustee shall be covered by such fidelity bond if required by the Plan Administrator. The cost of any such bond shall be an expense of the Trust paid by the Trust if not paid by the Employer.

7.11 **Dealings with the Trustee.** No person purchasing from the Trustee or paying money or delivering property to the Trustee, or having any other transaction with the Trustee, shall be obligated to see that the money or other thing of value received by the Trustee is actually needed or properly applied or otherwise as to the proprieties or expediencies of any act of the Trustee.

7.12 **Compensation of the Trustee.** The Trustee shall be entitled to reasonable compensation for its services in administering and distributing the Trust Fund (unless such Trustee is an Employee of the Employer) and to reimbursement for expenses. It is the Employer's intention to pay the Trustee for all expenses. However, until the Trustee receives payment from the Employer, it may retain out of the monies belonging to the Trust reasonable compensation for its services and reimbursement for expenses.

7.13 **Indemnification of the Trustee.** The Employer shall indemnify and hold harmless the Trustee from any liability, claim, expense, or damages which the Trustee incurs by reason of or which results in whole or in part from the Trustee's reliance on any facts or any directions and elections, communicated in writing by the Employer or the Plan Administrator or from the failure of the Employer or the Plan Administrator to communicate any facts, directions and/or elections under the Plan or any changes therein required to be given by the Plan Administrator to the Trustee under the provisions of the Plan or the Trust.

7.14 **Resignation and Removal of Trustee.** The City Council may remove the Trustee at any time by giving thirty (30) days written notice to the Trustee, and the Trustee may resign at any time, by giving thirty (30) days written notice to the City Council, or such shorter notice as may be acceptable to the City Council. On resignation of a Trustee a Successor Trustee shall be named by the City Council.

7.15 **Protective Clause.** Neither the Employer, the City Council, the Trustee nor the Plan Administrator shall be responsible for the validity of any contract of insurance issued in connection with the Plan or Trust or for the failure on the part of the insurer to make payments provided by such contract, or for the action of any person which may delay payment or render a contract null and void or unenforceable in whole or in part.

ARTICLE VIII

AMENDMENT AND TERMINATION

8.01 **Amendment.** The City Council shall have the right to amend this Plan, at any time and from time to time, in whole or in part. The City Council shall notify each Participant in writing of any Plan amendment.

8.02 **Termination.** Although the Employer has established this Plan with a bona fide intention and expectation to maintain the Plan indefinitely, the City Council may terminate or discount the Plan in whole or in part at any time without any liability for such termination or discontinuance. Upon Plan termination, all Deferrals and

Employer Contributions shall cease. The Employer shall retain all Deferrals until each Participant separates from services or incurs a Hardship and benefits commence under Article IV or V.

ARTICLE IX

MISCELLANEOUS

9.01 **Limitation of Rights; Employment Relationship.** Neither the establishment of this Plan nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving a Participant or other person any legal or equitable right against the Employer except as provided in the Plan. In no event shall the terms of employment of any employee be modified or in any way be affected by the Plan.

9.02 **Limitation on Assignment.**

(a) Participant accounts held in Trust under this Plan may not be assigned or alienated by any Participant. A Participant's or Beneficiary's interest in benefits under the Plan shall not be subject to debts or liabilities incurred by the Participant and shall not be subject to attachment, garnishment or other legal process as a result of any of the Participant's debts or liabilities. All assets held in the Trust created herein shall be held for the exclusive purpose of providing benefits to Plan participants.

(b) The provisions of this Section shall not apply to the extent a Participant or Beneficiary is indebted to the Trust Fund, for any reason. At the time a distribution is to be made to or for his benefit, such proportion of the amount distributed as shall equal such indebtedness shall be paid by the Trustee to the Trust Fund to apply against or discharge such indebtedness.

(c) The restrictions contained in paragraph (a) shall not apply to a Qualified Domestic Relations Order, as defined in Section 414 of the Code. In the event that the Plan Administrator receives an order of a court which requires the Plan to pay the benefit or any part thereof, of a Participant to any person other than such Participant, the Plan Administrator shall refer such order to legal counsel for the Plan to advise it whether such order is a qualified domestic relations order. Simultaneously, the Plan Administrator shall notify the affected Participant and any other alternate payee that such order was served on the Plan. Upon receiving counsel's advice as to the status of the order, the Participant and each alternate payee, or his designated representative, shall be advised of such legal advice. If it has been determined that the order is a qualified domestic relations order, the terms and directions as to payment and entitlement contained in the order will be promptly communicated to each payee or his designated representative at the address specified in the order.

(d) The Plan Administrator shall, as soon as practical, ascertain the dollar amount payable to each payee pursuant to the order. If current payment is required, the Plan Administrator shall direct the Trustee to disburse the amounts payable to each payee. If current payment is not required, the Plan Administrator shall maintain a separate record for such amount.

9.03 **Representations.** The Employer does not represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will result from participation in this Plan. A Participant should consult with professional tax advisors to determine the tax consequences of his or her participation. Furthermore, the Employer does not represent or guarantee successful investment of Deferrals or Employer Contributions and shall not be required to repay any loss which may result from such investment or lack of investment.

9.04 **Plan Merger or Transfer of Assets.**

(a) This Plan may be merged or consolidated with, or some or all of the assets of the Plan transferred to any other Eligible Deferred Compensation Plan maintained for the benefit of some or all of the Participants. Such merger, consolidation or transfer of assets may be authorized by resolutions adopted by the City Council of Directors of the Employer; provided, however, that at the time of such transfer, each Participant shall be entitled to receive a benefit immediately after the merger, consolidation or transfer which is at least equal to the benefit the Participant would have been entitled to receive immediately before the merger, consolidation or transfer if the Plan had been then terminated.

(b) The Plan Administrator may agree to accept transfers to this Plan from any other Eligible Deferred Compensation Plan in connection with a merger or consolidation of such plans or a direct transfer of assets from such plans. The Plan Administrator may also provide for the establishment of separate accounts or records for such amounts if it deems such account to be necessary or expedient.

9.05 **Severability.** In the event that any provision of this Plan shall be held illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining provisions of this Plan, but shall be fully severable and the Plan shall be construed and enforced as if the illegal or invalid provision had never been inserted herein.

9.06 **Governing Law.** The validity, construction, and effect of this Plan and its enforcement shall be determined by the laws of the State of Arkansas and by the common law of trusts as developed thereunder.

9.07 **Binding Effect.** The provisions of this Plan shall be binding upon each Participant and each Beneficiary or other person entitled to any Benefits hereunder, their heirs, personal representatives, and assigns.

IN WITNESS WHEREOF, THE EMPLOYER AND TRUSTEE HAVE CAUSED THIS AGREEMENT to be duly executed this ___ day of ________________, 1998

CITY OF JONESBORO.

By:______________________________

Title:____________________________

The undersigned hereby accepts its appointment as Trustee of the above mentioned trust and agrees to serve as such under the terms of this Agreement.

TRUSTEE

By: Carle Carson

Title: Trust Officer