RESOLUTION NO. 14

A RESOLUTION OF THE CITY OF SHORELINE, WASHINGTON, ESTABLISHING A DEFERRED COMPENSATION PLAN WITH ICMA.

WHEREAS, the City has employees rendering valuable services; and

WHEREAS, the establishment of a deferred compensation plan for such employees serves the interests of the City by enabling it to provide reasonable retirement security for its employees, by providing increased flexibility in its personnel management system, and by assisting in the attraction and retention of competent personnel; and

WHEREAS, the City has determined that the establishment of a deferred compensation plan to be administered by the ICMA Retirement Corporation serves the above objectives; and

WHEREAS, the City desires that this deferred compensation plan be administered by the ICMA Retirement Corporation, and that the funds held under such plan be invested in the ICMA Retirement Trust, a trust established by public employers for the collective investment of funds held under their retirement and deferred compensation plans; NOW THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, AS FOLLOWS:

Section 1. Adoption of Plan. The City hereby adopts the deferred compensation plan (the "Plan") in the form of the ICMA Retirement Corporation Deferred Compensation Plan, referred to as Appendix A.

Section 2. Declaration of Trust. The City hereby executes the Declaration of Trust of the ICMA Retirement Trust, referred to as Appendix B, intending this execution to be operative with respect to any retirement or deferred compensation plan where the assets are to be invested in the ICMA Retirement Trust.

Section 3. Plan Coordinator. The City Manager or designee shall be the coordinator for this program; shall receive necessary reports, notices, etc. from the ICMA Retirement Corporation or the ICMA Retirement Trust; shall cast, on behalf of the City of Shoreline, any required votes under the ICMA Retirement Trust; Administrative duties to carry out the plan may be assigned to the appropriate departments, and is authorized to execute all necessary agreements with ICMA Retirement Corporation incidental to the administration of the Plan.

Section 4. Employee Participation Rate. The employer contributions on behalf of all employees shall be equivalent to the Social Security employer and employee combined

rates until and unless the City designates a new retirement plan to substitute for Social Security.

Section 5. Definition of Employee. For the purposes of this plan, all full and part-time employees; councilmembers; the City Manager (if provided for by contract with the City Council), and other contractors as determined by the City Manager shall be covered by this plan.

ADOPTED BY THE CITY COUNCIL ON JULY 10, 1995

Mayor Connie King

ATTEST:

Marie K O'Connell, CMC
Interim City Clerk

Appendix A and B
Resolution No. 14

ICMA Retirement Corporation
457 Deferred Compensation Plan
Retain Booklet

including

- **Plan Document**
- **Declaration of Trust of the ICMA Retirement Trust**

Retain this booklet for your files

Retain

ICMA
RETIREMENT
CORPORATION

USING THE 457 DEFERRED COMPENSATION PLAN RETAIN BOOKLET

This Booklet includes:

- **Plan Document**
- **Declaration of Trust of the ICMA Retirement Trust**

This is one of two booklets containing information relating to your 457 Deferred Compensation Plan with the ICMA Retirement Corporation.

Please read the information and retain it for your files.

If you have any questions concerning information in this booklet, contact the Client Services staff, toll-free at (800) 326-7272.

Deferred Compensation Plan Document

(Appendix A)

ICMA®
RETIREMENT
CORPORATION

DEFERRED COMPENSATION PLAN DOCUMENT

ARTICLE I. INTRODUCTION

The Employer hereby establishes the Employer's Deferred Compensation Plan, hereinafter referred to as the "Plan." The Plan consists of the provisions set forth in this document.

The primary purpose of this Plan is to provide retirement income and other deferred benefits to the Employees of the Employer in accordance with the provisions of Section 457 of the Internal Revenue Code of 1986, as amended (the "Code").

This Plan shall be an agreement solely between the Employer and participating Employees.

ARTICLE II. DEFINITIONS

Section 2.01 Account: The bookkeeping account maintained for each Participant reflecting the cumulative amount of the Participant's Deferred Compensation, including any income, gains, losses, or increases or decreases in market value attributable to the Employer's investment of the Participant's Deferred Compensation, and further reflecting any distributions to the Participant or the Participant's Beneficiary and any fees or expenses charged against such Participant's Deferred Compensation.

Section 2.02 Administrator: The person or persons named to carry out certain nondiscretionary administrative functions under the Plan, as hereinafter described. The Employer may remove any person as Administrator upon 60 days' advance notice in writing to such person, in which case the Employer shall name another person or persons to act as Administrator. The Administrator may resign upon 60 days' advance notice in writing to the Employer, in which case the Employer shall name another person or persons to act as Administrator.

Section 2.03 Beneficiary: The person or persons designated by the Participant in his Joinder Agreement who shall receive any benefits payable hereunder in the event of the Participant's death. In the event that the Participant names two or more Beneficiaries, each Beneficiary shall be entitled to equal shares of the benefits payable at the Participant's death, unless otherwise provided in the Participant's Joinder Agreement. If no beneficiary is designated in the Joinder Agreement, if the Designated Beneficiary predeceases the Participant, or if the designated Beneficiary does not survive the Participant for a period of fifteen (15) days, then the estate of the Participant shall be the Beneficiary.

Section 2.04 Deferred Compensation: The amount of Normal Compensation otherwise payable to the Participant which the Participant and the Employer mutually agree to defer hereunder, any amount credited to a Participant's Account by reason of a transfer under section 6.03, or any other amount which the Employer agrees to credit to a Participant's Account.

Section 2.05 Employee: Any individual who provides services for the Employer, whether as an employee of the Employer or as an independent contractor, and who has been designated by the Employer as eligible to participate in the Plan.

Section 2.06 Includible Compensation: The amount of an Employee's compensation from the Employer for a taxable year that is attributable to services performed for the Employer and that is includible in the Employee's gross income for the taxable year for federal income tax purposes; such term does not include any amount excludable from gross income under this Plan or any other plan described in Section 457(b) of the Code or any other amount excludable from gross income for federal income tax purposes. Includible Compensation shall be determined without regard to any community property laws.

Section 2.07 Joinder Agreement: An agreement entered into between an Employee and the Employer, including any amendments or modifications thereof. Such agreement shall fix the amount of Deferred Compensation, specify a preference among the investment alternatives designated by the Employer, designate the Employee's Beneficiary or Beneficiaries, and incorporate the terms, conditions, and provisions of the Plan by reference.

Section 2.08 Normal Compensation: The amount of compensation which would be payable to a Participant by the Employer for a taxable year if no Joinder Agreement were in effect to defer compensation under this Plan.

Section 2.09 Normal Retirement Age: Age 70-1/2, unless the Participant has elected an alternate Normal Retirement Age by written instrument delivered to the Administrator prior to Separation from Service. A Participant's Normal Retirement Age determines the period during which a Participant may utilize the catch-up limitation of Section 5.02 hereunder. Once a Participant has to any extent utilized the catch-up limitation of Section 5.02, his/her Normal Retirement age may not be changed.

A Participant's alternate Normal Retirement Age may not be earlier than the earliest date that the Participant will become eligible to retire and receive unreduced retirement benefits under the Employer's basic retirement plan covering the Participant and may not be later than the date the Participant will attain age 70-1/2. If a Participant continues employment after attaining age 70-1/2, not having previously elected an alternate Normal Retirement Age, the Participant's alternate Normal Retirement Age shall not be later than the mandatory retirement age, if any, established by the Employer, or the age at which the Participant actually separates from service if the Employer has no mandatory retirement age. If the Participant will not become eligible to receive benefits under a basic retirement plan maintained by the Employer, the Participant's alternate Normal Retirement Age may not be earlier than age 55 and may not be later than age 70-1/2.

Section 2.10 Participant: Any Employee who has joined the Plan pursuant to the requirements of Article IV.

Section 2.11 Plan Year: The calendar year.

Section 2.12 Retirement: The first date upon which both of the following shall have occurred with respect to a participant: Separation from Service and attainment of age 65.

Section 2.13 Separation from Service: Severance of the Participant's employment with the Employer which constitutes a "separation from service" within the meaning of Section 402(e)(4)(A)(iii) of the Code. In general, a Participant shall be deemed to have severed his employment with the Employer for purposes of this Plan when, in accordance with the established practices of the Employer, the employment relationship is considered to have actually terminated. In the case of a Participant who is an independent contractor of the Employer, Separation from Service shall be deemed to have occurred when the Participant's contract under which services are performed has completely expired and terminated, there is no foreseeable possibility that the Employer will renew the contract or enter into a new contract for the Participant's services, and it is not anticipated that the Participant will become an Employee of the Employer.

ARTICLE III. ADMINISTRATION

Section 3.01 Duties of Employer: The Employer shall have the authority to make all discretionary decisions affecting the rights or benefits of Participants which may be required in the administration of this Plan.

Section 3.02 Duties of Administrator: The Administrator, as agent for the Employer, shall perform nondiscretionary administrative functions in connection with the Plan, including the maintenance of Participants' Accounts, the provision of periodic reports of the status of each Account, and the disbursement of benefits on behalf of the Employer in accordance with the provisions of this Plan.

ARTICLE IV. PARTICIPATION IN THE PLAN

Section 4.01 Initial Participation: An Employee may become a Participant by entering into a Joinder Agreement prior to the beginning of the calendar month in which the Joinder Agreement is to become effective to defer compensation not yet earned.

Section 4.02 Amendment of Joinder Agreement: A Participant may amend an executed Joinder Agreement to change the amount of compensation not yet earned which is to be deferred (including the reduction of such future deferrals to zero) or to change his investment preference (subject to such restrictions as may result from the nature or terms of any investment made by the Employer). Such amendment shall become effective as of the beginning of the calendar month commencing after the date the amendment is executed. A Participant may at any time amend his Joinder Agreement to change the designated Beneficiary, and such amendment shall become effective immediately.

ARTICLE V. LIMITATIONS ON DEFERRALS

Section 5.01 Normal Limitation: Except as provided in section 5.02, the maximum amount of Deferred Compensation for any Participant for any taxable year shall not exceed the lesser of $7,500.00 or 33-1/3 percent of the Participant's Includible Compensation for the taxable year. This limitation will ordinarily be equivalent to the lesser of $7,500.00 or 25 percent of the Participant's Normal Compensation.

Section 5.02 Catch-Up Limitation: For each of the last three (3) taxable years of a Participant ending before his attainment of Normal Retirement Age, the maximum amount of Deferred Compensation shall be the lesser of: (1) $15,000 or (2) the sum of (i) the Normal Limitation for the taxable year, and (ii) the Normal Limitation for each prior taxable year of the Participant commencing after 1978 less the amount of the Participant's Deferred Compensation for such prior taxable years. A prior taxable year shall be taken into account under the preceding sentence only if (i) the Participant was eligible to participate in the Plan for such year (or in any other eligible deferred compensation plan established under Section 457 of the Code which is properly taken into account pursuant to regulations under section 457), and (ii) compensation (if any) deferred under the Plan (or such other plan) was subject to the deferral limitations set forth in Section 5.01.

Section 5.03 Other Plans: The amount excludable from a Participant's gross income under this Plan or any other eligible deferred compensation plan under section 457 of the Code shall not exceed $7,500.00 (or such greater amount allowed under Section 5.02 of the Plan), less any amount excluded from gross income under section 403(b), 402(a)(8), or 402 (h)(1)(B) of the Code, or any amount with respect to which a deduction is allowable by reason of a contribution to an organization described in section 501(c)(18) of the Code.

ARTICLE VI. INVESTMENTS AND ACCOUNT VALUES

Section 6.01 Investment of Deferred Compensation: All investments of Participant's Deferred Compensation made by the Employer, including all property and rights purchased with such amounts and all income attributable thereto, shall be the sole property of the Employer and shall not be held in trust for Participants or as collateral security for the fulfillment of the Employer's obligations under the Plan. Such property shall be subject to the claims of general creditors of the Employer, and no Participant or Beneficiary shall have any vested interest or secured or preferred position with respect to such property or have any claim against the Employer except as a general creditor.

Section 6.02 Crediting of Accounts: The Participant's Account shall reflect the amount and value of the investments or other property obtained by the Employer through the investment of the Participant's Deferred Compensation. It is anticipated that the Employer's investments with respect to a Participant will conform to the investment preference specified in the Participant's Joinder Agreement, but nothing herein shall be construed to require the Employer to make any particular investment of a Participant's Deferred Compensation. Each Participant shall receive periodic reports, not less frequently than annually, showing the then-current value of his Account.

Section 6.03 Transfers: (a) Incoming Transfers: A transfer may be accepted from an eligible deferred compensation plan maintained by another employer and credited to a Participant's Account under the Plan if (i) the Participant has separated from service with that employer and become an Employee of the Employer, and (ii) the other employer's plan provides that such transfer will be made. The Employer

may require such documentation from the predecessor plan as it deems necessary to effectuate the transfer, to confirm that such plan is an eligible deferred compensation plan within the meaning of Section 457 of the Code, and to assure that transfers are provided for under such plan. The Employer may refuse to accept a transfer in the form of assets other than cash, unless the Employer and the Administrator agree to hold such other assets under the Plan. Any such transferred amount shall not be treated as a deferral subject to the limitations of Article V, except that, for purposes of applying the limitations of Sections 5.01 and 5.02, an amount deferred during any taxable year under the plan from which the transfer is accepted shall be treated as if it has been deferred under this Plan during such taxable year and compensation paid by the transferor employer shall be treated as if it had been paid by the Employer.

(b) Outgoing Transfers: An amount may be transferred to an eligible deferred compensation plan maintained by another employer, and charged to a Participant's Account under this Plan, if (i) the Participant has separated from service with the Employer and become an employee of the other employer, (ii) the other employer's plan provides that such transfer will be accepted, and (iii) the Participant and the employers have signed such agreements as are necessary to assure that the Employer's liability to pay benefits to the Participant has been discharged and assumed by the other employer. The Employer may require such documentation from the other plan as it deems necessary to effectuate the transfer, to confirm that such plan is an eligible deferred compensation plan within the meaning of section 457 of the Code, and to assure that transfers are provided for under such plan. Such transfers shall be made only under such circumstances as are permitted under section 457 of the Code and the regulations thereunder.

Section 6.04 Employer Liability: In no event shall the Employer's liability to pay benefits to a Participant under Article VI exceed the value of the amounts credited to the Participant's Account; the Employer shall not be liable for losses arising from depreciation or shrinkage in the value of any investments acquired under this Plan.

ARTICLE VII. BENEFITS

Section 7.01 Retirement Benefits and Election on Separation from Service: Except as otherwise provided in this Article VII, the distribution of a Participant's Account shall commence as of April 1 of the calendar year after the Plan Year of the Participant's Retirement, and the distribution of such Retirement benefits shall be made in accordance with one of the payment options described in Section 7.02. Notwithstanding the foregoing, the Participant may irrevocably elect within 60 days following Separation from Service to have the distribution of benefits commence on a fixed or determinable date other than that described in the preceding sentence which is at least 60 days after the date such election is delivered in writing to the Employer and forwarded to the Administrator, but not later than April 1 of the year following the year of the Participant's Retirement or attainment of age 70-1/2, whichever is later.

Section 7.02 Payment Options: As provided in Sections 7.01, 7.04, and 7.05, a Participant or Beneficiary may elect to have the value of the Participant's Account distributed in accordance with one of the following payment options, provided that such option is consistent with the limitations set forth in Section 7.03:

(a) Equal monthly, quarterly, semi-annual or annual payments in an amount chosen by the Participant, continuing until his Account is exhausted;

(b) One lump-sum payment;

(c) Approximately equal monthly, quarterly, semi-annual or annual payments, calculated to continue for a period certain chosen by the Participant.

(d) Annual Payments equal to the minimum distributions required under Section 401(a)(9) of the Code over the life expectancy of the Participant or over the life expectancies of the Participant and his/her Beneficiary.

(e) Payments equal to payments made by the issuer of a retirement annuity policy acquired by the Employer.

(f) Any other payment option elected by the Participant and agreed to by the Employer and Administrator, provided that such option must provide for substantially nonincreasing payments for any period after the latest benefit commencement date under Section 7.01.

A Participant's or Beneficiary's election of a payment option must be made at least 30 days before the payment of benefits is to commence. If a Participant or Beneficiary fails to make a timely election of a payment option, benefits shall be paid monthly under option (c) above for a period of five years.

Section 7.03 Limitation on Options: No payment option may be selected by a Participant or Beneficiary under Sections 7.02, 7.04, or 7.05 unless it satisfies the requirements of Sections 401(a)(9) and 457(d)(2) of the Code, including that payments commencing before the death of the Participant shall satisfy the incidental death benefits requirement under Section 457(d)(2)(B)(i)(I). Unless otherwise elected by the Participant, all determinations under Section 401(a)(9) shall be made without recalculation of life expectancies.

Section 7.04 Post-retirement Death Benefits: (a) Should the Participant die after he/she has begun to receive benefits under a payment option, the remaining payments, if any, under the payment option shall be payable to the Participant's Beneficiary commencing within the 30-day period commencing with the 61st day after the Participant's death, unless the Beneficiary elects payment under a different payment option that is available under Section 7.02 within 60 days of the Participant's death. Any different payment option elected by a Beneficiary under this section must provide for payments at a rate that is at least as rapid as under the payment option that was applicable to the Participant. In no event shall the Employer or Administrator be liable to the Beneficiary for the amount of any payment made in the name of the Participant before the Administrator receives proof of death of the Participant.

(b) If the designated Beneficiary does not continue to live for the remaining period of payments under

the payment option, then the commuted value of any remaining payments under the payment option shall be paid in a lump sum to the estate of the Beneficiary. In the event that the Participant's estate is the Beneficiary, the commuted value of any remaining payments under the payment option shall be paid to the estate in a lump sum.

Section 7.05 Pre-retirement Death Benefits: (a) Should the Participant die before he/she has begun to receive the benefits provided by Section 7.01, the value of the Participant's Account shall be payable to the Beneficiary commencing within the 30-day period commencing on the 91st day after the Participant's death, unless the Beneficiary irrevocably elects a different fixed or determinable benefit commencement date within 90 days of the Participant's death. Such benefit commencement date shall be not later than the later of (i) December 31 of the year following the year of the Participant's death, or (ii) if the Beneficiary is the Participant's spouse, December 31 of the year in which the Participant would have attained age 70-1/2.

(b) Unless a Beneficiary elects a different payment option prior to the benefit commencement date, death benefits under this Section shall be paid in approximately equal annual installments over five years, or over such shorter period as may be necessary to assure that the amount of any annual installment is not less than $3,500. A Beneficiary shall be treated as if he/she were a Participant for purposes of determining the payment options available under Section 7.02, provided, however, that the payment option chosen by the Beneficiary must provide for payments to the Beneficiary over a period no longer than the life expectancy of the Beneficiary, and provided that such period may not exceed fifteen (15) years if the Beneficiary is not the Participant's spouse.

(c) In the event that the Beneficiary dies before the payment of death benefits has commenced or been completed, the remaining value of the Participant's Account shall be paid to the estate of the Beneficiary in a lump sum. In the event that the Participant's estate is the Beneficiary, payment shall be made to the estate in a lump sum.

Section 7.06 Unforeseeable Emergencies: (a) In the event an unforeseeable emergency occurs, a Participant may apply to the Employer to receive that part of the value of his Account that is reasonably needed to satisfy the emergency need. If such an application is approved by the Employer, the Participant shall be paid only such amount as the Employer deems necessary to meet the emergency need, but payment shall not be made to the extent that the financial hardship may be relieved through cessation of deferral under the Plan, insurance or other reimbursement, or liquidation of other assets to the extent such liquidation would not itself cause severe financial hardship.

(b) An unforeseeable emergency shall be deemed to involve only circumstances of severe financial hardship to the Participant resulting from a sudden unexpected illness, accident, or disability of the Participant or of a dependent (as defined in Section 152(a) of the Code) of the Participant, loss of the Participant's property due to casualty, or other similar and extraordinary unforeseeable circumstances arising as a result of events beyond the control of the Participant. The need to send a Participant's child to college or to purchase a new home shall not be considered unforeseeable emergencies. The determination as to whether such an unforeseeable emergency exists shall be based on the merits of each individual case.

Section 7.07 Transitional Rule for Pre-1989 Benefit Elections: In the event that, prior to January 1 1989, a Participant or Beneficiary has commenced receiving benefits under a payment option or has irrevocably elected a payment option or benefit commencement date, then that payment option or election shall remain in effect notwithstanding any other provision of this Plan.

ARTICLE VIII. NON-ASSIGNABILITY

Section 8.01 In General: Except as provided in Section 8.02, no Participant or Beneficiary shall have any right to commute, sell, assign, pledge, transfer or otherwise convey or encumber the right to receive any payments hereunder, which payments and rights are expressly declared to be non-assignable and non-transferable.

Section 8.02 Domestic Relations Orders: (a) Allowance of Transfers: To the extent required under a final judgment, decree, or order (including approval of a property settlement agreement) made pursuant to a state domestic relations law, any portion of a Participant's Account may be paid or set aside for payment to a spouse, former spouse, or child of the Participant. Where necessary to carry out the terms of such an order, a separate Account shall be established with respect to the spouse, former spouse, or child who shall be entitled to make investment selections with respect thereto in the same manner as the Participant; any amount so set aside for a spouse, former spouse, or child shall be paid out in a lump sum at the earliest date that benefits may be paid to the Participant, unless the order directs a different time or form of payment. Nothing in this Section shall be construed to authorize any amount to be distributed under the Plan at a time or in a form that is not permitted under Section 457 of the Code. Any payment made to a person other than the Participant pursuant to this Section shall be reduced by required income tax withholding; the fact that payment is made to a person other than the Participant may not prevent such payment from being includible in the gross income of the Participant for withholding and income tax reporting purposes.

(b) Release from Liability to Participant: The Employer's liability to pay benefits to a Participant shall be reduced to the extent that amounts have been paid or set aside for payment to a spouse, former spouse, or child pursuant to paragraph (a) of this Section. No such transfer shall be effectuated unless the Employer or Administrator has been provided with satisfactory evidence that the Employer and the Administrator are released from any further claim by the Participant with respect to such amounts. The Participant shall be deemed to have released the Employer and the Administrator from any claim with respect to such amounts, in any case in which (i) the Employer or Administrator has been served with legal process or otherwise joined in a proceeding relating to such transfer, (ii) the Participant has been notified of the pendency of such proceeding in the manner prescribed by the law of the jurisdiction in which the proceeding is pending

for service of process in such action or by mail from the Employer or Administrator to the Participant's last known mailing address, and (iii) the Participant fails to obtain an order of the court in the proceeding relieving the Employer or Administrator from the obligation to comply with the judgment, decree, or order.

(c) Participation in Legal Proceedings: The Employer and Administrator shall not be obligated to defend against or set aside any judgment, decree, or order described in paragraph (a) or any legal order relating to the garnishment of a Participant's benefits, unless the full expense of such legal action is borne by the Participant. In the event that the Participant's action (or inaction) nonetheless causes the Employer or Administrator to incur such expense, the amount of the expense may be charged against the Participant's Account and thereby reduce the Employer's obligation to pay benefits to the Participant. In the course of any proceeding relating to divorce, separation, or child support, the Employer and Administrator shall be authorized to disclose information relating to the Participant's Account to the Participant's spouse, former spouse, or child (including the legal representatives of the spouse, former spouse, or child), or to a court.

ARTICLE IX. RELATIONSHIP TO OTHER PLANS AND EMPLOYMENT AGREEMENTS

This plan serves in addition to any other retirement, pension, or benefit plan or system presently in existence or hereinafter established for the benefit of the Employer's employees, and participation hereunder shall not affect benefits receivable under any such plan or system. Nothing contained in this Plan shall be deemed to constitute an employment contract or agreement between any Participant and the Employer or to give any Participant the right to be retained in the employ of the Employer. Nor shall anything herein be construed to modify the terms of any employment contract or agreement between a Participant and the Employer.

ARTICLE X. AMENDMENT OR TERMINATION OF PLAN

The Employer may at any time amend this Plan provided that it transmits such amendment in writing to the Administrator at least 30 days prior to the effective date of the amendment. The consent of the Administrator shall not be required in order for such amendment to become effective, but the Administrator shall be under no obligation to continue acting as Administrator hereunder if it disapproves of such amendment. The Employer may at any time terminate this Plan.

The Administrator may at any time propose an amendment to the Plan by an instrument in writing transmitted to the Employer at least 30 days before the effective date of the amendment. Such amendment shall become effective unless, within such 30-day period, the Employer notifies the Administrator in writing that it disapproves such amendment, in which case such amendment shall not become effective. In the event of such disapproval, the Administrator shall be under no obligation to continue acting as Administrator hereunder. If this Plan document constitutes an amendment and restatement of the Plan as previously adopted by the Employer, the amendments contained herein shall become effective on January 1, 1989, and the terms of the preceding Plan document shall remain in effect through December 31, 1988.

Except as may be required to maintain the status of the Plan as an eligible deferred compensation plan under Section 457 of the Code or to comply with other applicable laws, no amendment or termination of the Plan shall divest any Participant of any rights with respect to compensation deferred before the date of the amendment or termination.

ARTICLE XI. APPLICABLE LAW

This Plan shall be construed under the laws of the state where the Employer is located and is established with the intent that it meet the requirements of an "eligible deferred compensation plan" under Section 457 of the Code, as amended. The provisions of this Plan shall be interpreted wherever possible in conformity with the requirements of that section.

ARTICLE XII.

Any notice to a party of this plan document shall be given at the last address provided in writing from one party to another party. Any notice such mailed shall be determined to have been received by such party.

Declaration of Trust of the ICMA Retirement Trust (Appendix B)

DECLARATION OF TRUST OF ICMA RETIREMENT TRUST

ARTICLE I. NAME AND DEFINITIONS

Section 1.1 Name: The Name of the Trust created hereby is the ICMA Retirement Trust.

Section 1.2 Definitions: Wherever they are used herein, the following terms shall have the following respective meanings:

(a) **By-laws.** The By-laws referred to in Section 4.1 hereof, as amended from time to time.

(b) **Deferred Compensation Plan.** A deferred compensation plan established and maintained by a Public Employer for the purpose of providing retirement income and other deferred benefits to its employees in accordance with the provision of section 457 of the Internal Revenue Code of 1986, as amended.

(c) **Employees.** Those employees who participate in Qualified Plans.

(d) **Employer Trust.** A trust created pursuant to an agreement between RC and a Public Employer, or an agreement between RC and a Public Employer for administrative services that is not a trust, in either case for the purpose of investing and administering the funds set aside by such Employer in connection with its Deferred Compensation agreements with its employees or in connection with its Qualified Plan.

(e) **Investment Contract.** A non-negotiable contract entered into by the Retirement Trust with a financial institution that provides for a fixed rate of return on investment.

(f) **ICMA.** The International City/County Management Association.

(g) **ICMA/RC Trustees.** Those Trustees elected by the Public Employers who, in accordance with the provisions of Section 3.1(a) hereof, are also members of the Board of Directors of ICMA or RC (or in the case of RC, former members of the RC Board).

(h) **Investment Adviser.** The Investment Adviser that enters into a contract with the Retirement Trust to provide advice with respect to investment of the Trust Property.

(i) **Portfolios.** The separate commingled accounts of investment established by the Investment Adviser to the Retirement Trust, under the supervision of the Trustees, for the purpose of providing investments for the Trust Property.

(j) **Public Employee Trustees.** Those Trustees elected by the Public Employers who, in accordance with the provision of Section 3.1(a) hereof, are full-time employees of Public Employers.

(k) **Public Employer Trustees.** Public Employers who serve as trustees of the Qualified Plans.

(l) **Public Employer.** A unit of state or local government, or any agency or instrumentality thereof, that has adopted a Deferred Compensation Plan or a Qualified Plan and has executed this Declaration of Trust.

(m) **Qualified Plan.** A plan sponsored by a Public Employer for the purpose of providing retirement income to its employees which satisfies the qualification requirements of Section 401 of the Internal Revenue Code, as amended.

(n) **RC.** The International City Management Association Retirement Corporation.

(o) **Retirement Trust.** The Trust created by this Declaration of Trust.

(p) **Trust Property.** The amounts held in the Retirement Trust on behalf of the Public Employers in connection with Deferred Compensation Plans and on behalf of the Public Employer Trustees for the exclusive benefit of Employees pursuant to Qualified Plans. The Trust Property shall include any income resulting from the investment to the amounts so held.

(q) **Trustees.** The Public Employee Trustees and ICMA/RC Trustees elected by the Public Employers to serve as members of the Board of Trustees of the Retirement Trust.

ARTICLE II. CREATION AND PURPOSE OF THE TRUST; OWNERSHIP OF TRUST PROPERTY

Section 2.1 Creation: The Retirement Trust was created by the execution of this Declaration of Trust by the initial Trustees and Public Employers and is established with respect to each participating Public Employer by adoption of this Declaration of Trust.

Section 2.2 Purpose: The purpose of the Retirement Trust is to provide for the commingled investment of funds held by the Public Employers in connection with their Deferred Compensation and Qualified Plans. The Trust Property shall be invested in the Portfolios, in Investment Contracts, and in other investments recommended by the Investment Adviser under the supervision of the Board of Trustees. No part of the Trust Property will be invested in securities issued by Public Employers.

Section 2.3 Ownership of Trust Property: The Trustees shall have legal title to the Trust Property. The Public Employers shall be the beneficial owners of the portion of the Trust Property allocable to the Deferred Compensation Plans. The portion of the Trust Property allocable to the Qualified Plans shall be held for the Public Employer Trustees for the exclusive benefit of the Employees.

ARTICLE III. TRUSTEES

Section 3.1 Number and Qualification of Trustees: (a)The Board of Trustees shall consist of nine Trustees. Five of the Trustees shall be full-time employees of a Public Employer (the Public Employee Trustees) who are authorized by such Public Employer to serve as Trustee. The remaining four Trustees shall consist of two persons who, at the time of election to the Board of Trustees, are members of the Board of Directors of ICMA and two persons who, at the time of election, are members or former members of the Board of Directors of RC (the ICMA/RC Trustees). One of the Trustees who is a director of ICMA, and one of the Trustees who is a director of RC, shall, at the time of election, be full-time employees of Public Employers. (b) No person may serve as a Trustee for more than two terms in any ten-year period.

Section 3.2 Election and Term: (a) Except for the Trustees appointed to fill vacancies pursuant to Section 3.5 hereof, the Trustees shall be elected by a vote of a majority of the voting Public Employers in accordance with the procedures set forth in the By-Laws. (b) At the first election of Trustees, three Trustees shall be elected for a term of three years, three Trustees shall be elected for a term of two years and three Trustees shall be elected for a term of one year. At each subsequent election, three Trustees shall be elected, each to serve for a term of three years and until his or her successor is elected and qualified.

Section 3.3 Nominations: The Trustees who are full-time employees of Public Employers shall serve as the Nominating Committee for the Public Employee Trustees. The Nominating Committee shall choose candidates for Public Employee Trustee in accordance with the procedures set forth in the By-Laws.

Section 3.4 Resignation and Removal: (a) Any Trustee may resign as Trustee (without need for prior or subsequent accounting) by an instrument in writing signed by the Trustee and delivered to the other Trustees and such resignation shall be effective upon such delivery, or at a later date according to the terms of the instrument. Any of the Trustees may be removed for cause, by a vote of a majority of the Public Employers. (b) Each Public Employee Trustee shall resign his or her position as Trustee within sixty days of the date on which he or she ceases to be a full-time employee of a Public Employer.

Section 3.5 Vacancies: The term of office of a Trustee shall terminate and a vacancy shall occur in the event his or her death, resignation, removal, adjudicated incompetence or other incapacity to perform the duties of the office of a Trustee. In the case of a vacancy, the remaining Trustees shall appoint such person as they in their discretion shall see fit (subject to the limitations set forth in this Section), to serve for the unexpired portion of the term of the Trustee who has resigned or otherwise ceased to be a Trustee. The appointment shall be made by a written instrument signed by a majority of the Trustees. The person appointed must be the same type of Trustee (i.e., Public Employee Trustee or ICMA/RC Trustee) as the person who has ceased to be a Trustee. An appointment of a Trustee may be made in anticipation of a vacancy to occur at a later date by reason of retirement or resignation, provided that such appointment shall not become effective prior to such retirement or resignation. Whenever a vacancy shall occur, until such vacancy is filled as provided in this Section 3.5, the Trustees in office, regardless of their number, shall have all the powers granted to the Trustees and shall discharge all the duties imposed upon the Trustees by this Declaration. A written instrument certifying the existence of a vacancy signed by a majority of the Trustees shall be conclusive evidence of the existence of such vacancy.

Section 3.6 Trustees Serve in Representative Capacity: By executing this Declaration, each Public Employer agrees that the Public Employee Trustees elected by the Public Employers are authorized to act as agents and representatives of the Public Employers collectively.

ARTICLE IV. POWERS OF TRUSTEES

Section 4.1 General Powers: The Trustees shall have the power to conduct the business of the Trust and to carry on its operations. Such power shall include, but shall not be limited to, the power to:

(a) receive the Trust Property from the Public Employers, Public Employer Trustees or the trustee or administrator under any Employer Trust;

(b) enter into a contract with an Investment Adviser providing, among other things, for the establishment and operation of the Portfolios, selection of the Investment Contracts in which the Trust Property may be invested, selection of the other investments for the Trust Property and the payment of reasonable fees to the Investment Adviser and to any sub-investment adviser retained by the Investment Adviser;

(c) review annually the performance of the Investment Adviser and approve annually the contract with such Investment Adviser;

(d) invest and reinvest the Trust Property in the Portfolios, the Investment Contracts and in any other investment recommended by the Investment Adviser, but not including securities issued by Public Employers, provided that if a Public Employer has directed that its monies be invested in one or more specified Portfolios or in an Investment Contract, the Trustees of the Retirement Trust shall invest such monies in accordance with such directions;

(e) keep such portion of the Trust Property in cash or cash balances as the Trustees, from time to time, may deem to be in the best interest of the Retirement Trust created hereby without liability for interest thereon;

(f) accept and retain for such time as they may deem advisable any securities or other property received or acquired by them as Trustees hereunder, whether or not such securities or other property would normally be purchased as investment hereunder;

(g) cause any securities or other property held as part of the Trust Property to be registered in the name of the Retirement Trust or in the name of a nominee, and to hold any investments in bearer form, but the books and records of the Trustees shall at all times show that all such investments are a part of the Trust Property;

(h) make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(i) vote upon any stock, bonds, or other securities; give general or special proxies or powers of attorney with or without power of substitution; exercise any conversion privileges, subscription rights, or other options, and make any payments incidental thereto; oppose, or consent to, or otherwise participate in, corporate reorganizations or to other changes affecting corporate securities, and delegate discretionary powers and pay any assessments or charges in connection therewith; and generally exercise any of the powers of an owner with respect to stocks, bonds, securities or other property held as part of the Trust Property;

(j) enter into contracts or arrangements for goods or services required in connection with the operation of the Retirement Trust, including, but not limited to, contracts with custodians and contracts for the provision of administrative services;

(k) borrow or raise money for the purposes of the Retirement Trust in such amount, and upon such terms and conditions, as the Trustees shall deem advisable, provided that the aggregate amount of such borrowings shall not exceed 30% of the value of the Trust Property. No person lending money to the Trustees shall be bound to see the application of the money lent or to inquire into its validity, expediency or propriety or any such borrowing;

(l) incur reasonable expenses as required for the operation of the Retirement Trust and deduct such expenses from of the Trust Property;

(m) pay expenses properly allocable to the Trust Property incurred in connection with the Deferred Compensation Plans, Qualified Plans, or the Employer Trusts and deduct such expenses from that portion of the Trust Property to which such expenses are properly allocable;

(n) pay out of the Trust Property all real and personal property taxes, income taxes and other taxes of any and all kinds which, in the opinion of the Trustees, are properly levied, or assessed under existing or future laws upon, or in respect of, the Trust Property and allocate any such taxes to the appropriate accounts;

(o) adopt, amend and repeal the By-laws, provided that such By-laws are at all times consistent with the terms of this Declaration of Trust;

(p) employ persons to make available interests in the Retirement Trust to employers eligible to maintain a Deferred Compensation Plan under Section 457 or a Qualified Plan under Section 401 of the Internal Revenue Code, as amended;

(q) issue the Annual Report of the Retirement Trust, and the disclosure documents and other literature used by the Retirement Trust;

(r) in addition to conducting the investment program authorized in Section 4.1(d), make loans, including the purchase of debt obligations, provided that all such loans shall bear interest at the current market rate;

(s) contract for, and delegate any powers granted hereunder to, such officers, agents, employees, auditors and attorneys as the Trustees may select, provided that the Trustees may not delegate the powers set forth in paragraphs (b), (c) and (o) of this Section 4.1 and may not delegate any powers if such delegation would violate their fiduciary duties;

(t) provide for the indemnification of the Officers and Trustees of the Retirement Trust and purchase fiduciary insurance;

(u) maintain books and records, including separate accounts for each Public Employer, Public Employer Trustee or Employer Trust and such additional separate accounts as are required under, and consistent with, the Deferred Compensation or Qualified Plan of each Public Employer; and

(v) do all such acts, take all such proceedings, and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustees may deem necessary or appropriate to administer the Trust Property and to carry out the purposes of the Retirement Trust.

Section 4.2 Distribution of Trust Property: Distributions of the Trust property shall be made to, or on behalf of, the Public Employer or Public Employer Trustee, in accordance with the terms of the Deferred Compensation Plans, Qualified Plans or Employer Trusts. The Trustees of the Retirement Trust shall be fully protected in making payments in accordance with the directions of the Public Employers, Public Employer Trustees or trustees or administrators of any Employer Trust without ascertaining whether such payments are in compliance with the provisions of the applicable Deferred Compensation or Qualified Plan or Employer Trust.

Section 4.3 Execution of Instruments: The Trustees may unanimously designate any one or more of the Trustees to execute any instrument or document on behalf of all, including but not limited to the signing or endorsement of any check and the signing of any applications, insurance and other contracts, and the action of such designated Trustee or Trustees shall have the same force and effect as if taken by all the Trustees.

ARTICLE V. DUTY OF CARE AND LIABILITY OF TRUSTEES

Section 5.1 Duty of Care: In exercising the powers hereinbefore granted to the Trustees, the Trustees shall perform all acts within their authority for the exclusive purpose of providing benefits for the Public Employers in connection with Deferred Compensation Plans and Public Employer Trustees pursuant to Qualified Plans, and shall perform such acts with the care, skill, prudence and diligence in the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

Section 5.2 Liability: The Trustees shall not be liable for any mistake of judgment or other action taken in good faith, and for any action taken or omitted in reliance in good faith upon the books of account or other records of the Retirement Trust, upon the opinion of counsel, or upon reports made to the Retirement Trust by any of its officers, employees or agents or by the Investment Adviser or any sub-investment adviser, accountant, appraiser or other expert or consultant selected with reasonable care by the Trustees, officers or employees of the Retirement Trust. The Trustees shall also not be liable for any loss sustained by the Trust Property by reason of any investment made in good faith and in accordance with the standard of care set forth in Section 5.1.

Section 5.3 Bond: No Trustee shall be obligated to give any bond or other security for the performance of any of his or her duties hereunder.

ARTICLE VI. ANNUAL REPORT TO SHAREHOLDERS

The Trustees shall annually submit to the Public Employers and Public Employer Trustees a written report of the transactions of the Retirement Trust, including financial statements which shall be certified by independent public accountants chosen by the Trustees.

ARTICLE VII. DURATION OR AMENDMENT OF RETIREMENT TRUST

Section 7.1 Withdrawal: A Public Employer or Public Employer Trustee may, at any time, withdraw from this Retirement Trust by delivering to the Board of Trustees a written statement of withdrawal. In such statement, the Public Employer or Public Employer Trustee shall acknowledge that the Trust Property allocable to the Public Employer is derived from compensation deferred by employees of such Public Employer pursuant to its Deferred Compensation Plan or from contributions to the accounts of Employees pursuant to a Qualified Plan, and shall designate the financial institution to which such property shall be transferred by the Trustees of the Retirement Trust or by the trustee or administrator under an Employer Trust.

Section 7.2 Duration: The Retirement Trust shall continue until terminated by the vote of a majority of the Public Employers, each casting one vote. Upon termination, all of the Trust Property shall be paid out to the Public Employers, Public Employer Trustees or the trustees or administrators of the Employer Trusts, as appropriate.

Section 7.3 Amendment: The Retirement Trust may be amended by the vote of a majority of the Public Employers, each casting one vote.

Section 7.4 Procedure: A resolution to terminate or amend the Retirement Trust or to remove a Trustee shall be submitted to a vote of the Public Employers if: (i) a majority of the Trustees so direct, or; (ii) a petition requesting a vote signed by not less that 25 percent of the Public Employers, is submitted to the Trustees.

ARTICLE VIII. MISCELLANEOUS

Section 8.1 Governing Law: Except as otherwise required by state or local law, this Declaration of Trust and the Retirement Trust hereby created shall be construed and regulated by the laws of the District of Columbia.

Section 8.2 Counterparts: This Declaration may be executed by the Public Employers and Trustees in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.