



**ICMA RETIREMENT CORPORATION
GOVERNMENTAL 457 DEFERRED COMPENSATION
PLAN & TRUST AMENDMENT FOR
THE HEROES EARNINGS ASSISTANCE AND RELIEF TAX ACT OF 2008**

Pursuant to Section XII of the ICMA Retirement Corporation 457 Governmental Deferred Compensation Plan & Trust (the “Plan”) to add a new Appendix B as follows, effective as provided therein.

Appendix B

**ARTICLE I
PREAMBLE**

- 1.01 **Applicability.** This Appendix memorializes the operation of the Plan in accordance with the Heroes Earnings Assistance and Relief Tax Act.
- 1.02 **Superseding of Inconsistent Provisions.** This Appendix supersedes the provisions of the Plan and Adoption Agreement to the extent those provisions are inconsistent with the provisions of this Appendix.
- 1.03 **Construction.** Except as otherwise provided herein, any reference to “Section” in this Appendix refers only to sections within this Appendix and is not a reference to the Plan. The Article and Section numbering in this Appendix is solely for purposes of this Appendix and does not relate to any Plan article, section, or other numbering designations.

**ARTICLE II
ACCRUAL OF ADDITIONAL BENEFITS**

- 2.01 **Death Benefits with Respect to Qualified Military Service.** In the case of a Participant who dies on or after January 1, 2007 while performing qualified military service (as defined in Code section 414(u)) with respect to the Employer, his/her Beneficiary shall have a Nonforfeitable Interest in all employer contributions to the Participant to the extent that he/she would have had had the Participant resumed and then terminated employment on account of death.
- 2.02 **Benefit Accruals with Respect to Qualified Military Service.** Notwithstanding any provision of the Plan to the contrary, effective as elected by the Employer but no earlier than January 1, 2007, if the Employer so elects, Participants who die or become Disabled while

performing qualified military service (as defined in Code section 414(u)) with respect to the Employer shall receive Plan contributions as permitted under Code section 414(u)(9).

2.03 Benefit Accruals with Respect to Differential Wage Payments. If the Employer so elects, effective as elected by the Employer but no earlier than January 1, 2009, Plan contributions shall be made based on differential wage payments (as such term is defined in Code section 3401(h)(2)).

2.04 Deemed Severance from Employment.

(a) Unless otherwise elected by the Employer, effective January 1, 2009, a Participant shall be deemed to have a severance from employment solely for purposes of eligibility to receive distributions from the Plan during any period the individual is performing service in the uniformed services (as defined in chapter 43 of title 38, United States Code) for more than 30 days.

(b) If a Participant receives a distribution pursuant to subsection (a), then the Participant shall not be permitted to defer compensation during the six-month period beginning on the date of the distribution.

(c) If a Participant receives a distribution which could be attributable to:

(i) a deemed severance from employment described in subsection (a); or

(ii) another distribution event under the Plan,

then the distribution shall be considered made pursuant to the distribution event referenced in paragraph (ii), and the Participant shall not be subject to the limitation on Deferred Compensation as set forth in subsection (b).