

# **THE VIRGINIA FIRE CHIEFS' FOUNDATION**

## **ARTICLES OF INCORPORATION**

The undersigned hereby forms a nonstock, nonmember, and not-for-profit corporation under the provisions of the Virginia Nonstock Corporation Act, Chapter 10, Title 13.1 of the Code of Virginia, and adopts articles of incorporation for such a corporation as follows:

### **ARTICLE I NAME**

The name of the corporation is The Virginia Fire Chiefs' Foundation (the "Corporation").

### **ARTICLE II PURPOSE**

The Corporation is organized and shall be operated exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), including for such purposes, the raising of funds, and the distribution of property (including cash), and the funding of education and research in the field of fire safety and prevention.

### **ARTICLE III RIGHTS AND RESTRICTIONS**

No part of the net earnings of the Corporation shall inure to the benefit of, or be distributable to, its incorporator, directors, officers, or other private persons except that the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article II. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate or intervene in (including the publishing or distribution of statements) any political campaign on behalf of, or in opposition to, any candidate for public office. Notwithstanding any other provision of these Articles, the Corporation shall not carry on any activity not permitted to be carried on by an organization exempt from federal income tax under Section 501(c)(3) of the Code or by an organization, contributions to which are deductible under Section 170(c)(2) of the Code.

### **ARTICLE IV DISSOLUTION**

Upon the dissolution of the Corporation, its assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Code or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such

assets not disposed of shall be disposed of by a Court with competent jurisdiction exclusively for such purposes or to such organization or organization as that Court shall determine, which are organized and operated exclusively for such purposes.

## **ARTICLE V MEMBERS**

The Corporation shall have no members.

## **ARTICLE VI DIRECTORS AND TRUSTEES**

6.1 Formation. The Directors of the Corporation shall be designated as its Trustees. The Board of Directors of the Virginia Fire Chiefs Association (“VFCA”) shall select the initial Trustees of the Corporation to serve as its Board of Trustees. While the VFCA remains an organization described under Section 501(c)(6) of the Code, it shall elect any successor Trustee in accordance with the Bylaws. If the VFCA ceases to be an organization described under Section 501(c)(6) of the Code, the Board of Trustees will select any required successor Trustee in accordance with the Bylaws.

6.2 Number. The Board shall consist of no less than 11 and no more than 16 Trustees with the terms and qualifications set forth in the Bylaws.

## **ARTICLE VII REGISTERED OFFICE AND REGISTERED AGENT**

The address of the initial registered agent and office of the Corporation shall be Kurt R. Magette, 2120 Staples Mill Road; Suite 211; Richmond, Virginia 23230, in the County of Henrico, who is a resident of Virginia and a Member of the Virginia State Bar. The President may replace the registered agent at any time.

## **ARTICLE VIII LIMIT ON LIABILITY AND INDEMNIFICATION**

8.1. Definitions. For purposes of this Article, the following definitions shall apply:

- (i) “Corporation” means this Corporation only and no predecessor or other legal entity;
- (ii) “expenses” include counsel fees, expert witness fees, and costs of investigation, litigation, and appeal, as well as any amounts expended in asserting a claim for indemnification;
- (iii) “liability” means the obligation to pay a judgment, settlement, penalty, fine, or other such obligation, including, without limitation, any excise tax assessed with respect to an employee benefit plan;
- (iv) “legal entity” means a corporation, partnership, joint venture, trust,

employee benefit plan, or other enterprise;

(v) “predecessor entity” means a legal entity the existence of which ceased upon its acquisition by the Corporation in a merger or otherwise; and

(vi) “proceeding” means any threatened, pending, or completed action, suit, proceeding or appeal whether civil, criminal, administrative, or investigative and whether formal or informal.

8.2. Limit on Liability. To the full extent that the Virginia Nonstock Corporation Act, as it exists on the date hereof or may hereafter be amended, permits the limitation or elimination of liability of directors or officers of a corporation to the corporation, the liability of the Trustees and Officers to the Corporation shall be so limited or eliminated.

8.3. Indemnification of Trustees and Officers. The Corporation shall indemnify any individual who is, was, or is threatened to be made a party to a proceeding (including a proceeding by, or in the right of, the Corporation) because such individual is or was a Trustee or Officer of the Corporation, or because such individual is or was serving the Corporation or any other legal entity in any capacity at the request of the Corporation while a Trustee or Officer of the Corporation, against all liabilities and reasonable expenses incurred in the proceeding except such liabilities and expenses as are incurred because of such individual’s willful misconduct or knowing violation of the criminal law. Service as a Trustee or Officer of a legal entity controlled by the Corporation shall be deemed service at the request of the Corporation. The determination that indemnification under this Section 8.3 is permissible and the evaluation as to the reasonableness of expenses in a specific case shall be made as provided by law; provided, however, that if a majority of the Trustees has changed after the date of the alleged conduct giving rise to a claim for indemnification, such determination and evaluation shall, at the option of the person claiming indemnification, be made by special legal counsel agreed upon by the Board and such person. Unless a determination has been made that indemnification is not permissible, the Corporation may make advances and reimbursements for expenses a Trustee or Officer incurs in a proceeding upon receipt of an undertaking from such Trustee or officer to repay the same if it is ultimately determined that such Trustee or Officer is not entitled to indemnification. Such undertaking shall be an unlimited, unsecured general obligation of the Trustee or Officer and shall be accepted without reference the ability of such Trustee or Officer to make repayment. The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of *nolo contendere* or its equivalent shall not of itself create a presumption that a Trustee or Officer acted in such a manner as to make such Trustee or Officer ineligible for indemnification. The Corporation is authorized to contract in advance to indemnify and make advances and reimbursements for expenses to any of its Trustee or Officer to the same extent provided in this Section 8.3.

8.4. Indemnification of Others. The Corporation may, to a lesser extent or to the same extent that it is required to provide indemnification and make advances and reimbursements for expenses to its Trustee or Officer pursuant to Section 8.3, provide indemnification and make advances and reimbursements for expenses to its employees and agents, the members, officers, employees, and agents of its subsidiaries and predecessor entities, and any person serving any other legal entity in any capacity at the request of the

Corporation, and may contract in advance to do so. The determination that indemnification under this Section 8.4 is permissible, the authorization of such indemnification, and the evaluation as to the reasonableness of expenses in a specific case shall be made as authorized from time to time by general or specific action of the Board, which action may be taken before or after a claim for indemnification is made, or as otherwise provided by law. The provisions of this Section 8.4 shall not limit any person's rights under Section 8.3 of this Article.

8.5 Miscellaneous. The rights of each person entitled to indemnification under this Article shall inure to the benefit of such person's heirs, executors, and administrators. Special legal counsel selected to make determinations under this Article may be counsel for the Corporation. Indemnification pursuant to this Article shall not be exclusive of any other right of indemnification to which any person may be entitled, including indemnification pursuant to a valid contract, indemnification by legal entities other than the Corporation, and indemnification under policies of insurance purchased and maintained by the Corporation or others. However, no person shall be entitled to indemnification by the Corporation to the extent he is indemnified by another, including an insurer. The Corporation is authorized to purchase and maintain insurance against any liability it may have under this Article or to protect any of the persons named above against any liability arising from their service to the Corporation or any other legal entity at the request of the Corporation regardless of the Corporation's power to indemnify against such liability. The provisions of this Article shall not be deemed to preclude the Corporation from entering into contracts otherwise permitted by law with any individuals or legal entities, including those named above. If any provision of this Article or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity shall not affect other provisions or applications of this Article, and to this end the provisions of this Article are severable.

8.6 Amendments. No amendment, modification, or repeal of this Article shall diminish the rights provided hereunder to any person arising from conduct or events occurring before the adoption of such amendment, modification, or repeal.

**ARTICLE IX**  
**INTERNAL REVENUE CODE**

Each reference in these Articles of Incorporation to a Section of the Code means such Section of the Internal Revenue Code of 1986, as amended, or the corresponding provisions of any subsequent federal tax law.

Dated: July 17, 2007

By: \_\_\_\_\_  
Kurt R. Magette, Incorporator