

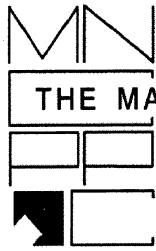
# ITEM 1

**MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
MEETING  
Wednesday, November 19, 2014  
PRA 9:30 a.m. – 11:30 a.m.**

			<u>ACTION</u>	
			Motion	Second
1.	<b>Approval of Commission Agenda</b>	(+*) Page 1		
2.	<b>Approval of Commission Minutes</b>			
	a) October 22, 2014 – Open Session	(+*) Page 3		
	b) October 22, 2014 – Closed Session	(+)**		
3.	<b>General Announcements</b>			
4.	<b>Committee/Board Reports</b> (For Information Only):			
	a) Minutes – Executive Committee Open Session–November 5, 2014	(LD)		
	b) Minutes – Executive Committee Closed Session – November 5, 2014	(++) (LD)		
	c) Minutes of the Regular Board of Trustees Meeting October 7, 2014	(+) Page 11		
5.	<b>Action and Presentation Items</b>			
	a) Resolution #14-30, Easement Termination – The Crescents at Largo Matt Mills)	(+*) Page 17		
	b) Recommendation for Appointment of Golub Capital as a New Investment Manager for the Employees’ Retirement System (Andrea L. Rose, Administrator)	(+*) Page 21		
	c) Recommendation for Adoption of the Employees’ Retirement System Plan Document Restatement Effective January 1, 2015, Except as Specifically Provided with Section 7.5 Marital Status as Required by IRS Guidance (Andrea L. Rose, Administrator)	(+*) Page 23		
	d) Presentation: Recommendation to Approve an Employer Contribution in the Amount of \$27,191,305 for Fiscal Year 2016 (Andrea L. Rose, Administrator, David S. Boomershine, Senior Consulting Actuary and President, Gregory M. Stump, Vice President and Senior Actuary)	(+*) Page 141		
6.	<b>Open Session - Officers’ Reports</b>			
	a) <b>Executive Director</b> – (For Information Only) Employee Evaluations Not Completed by Due Date – (October 2014).....	(+)		
	b) <b>Secretary-Treasurer</b> – (For Information Only) Enterprise Resource Planning (ERP) Briefing			
	c) <b>General Counsel</b> – (For Information Only)			
	1) Litigation Report (October 2014).....	(+)		
	2) Legislative Update.....	(H)		

(+) Attachment      (++) Commissioners Only      (\*) Vote      (H) Handout      (LD) Late Delivery





## THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

### Commission Meeting Open Session Minutes October 22, 2014

The Maryland National Capital Park and Planning Commission met on October 22, 2014, at the Montgomery Regional Office, in Silver Spring, Maryland.

#### PRESENT

##### Prince George's County Commissioners

Elizabeth M. Hewlett, Chair  
Dorothy Bailey (arrived at 10:11 a.m.)  
Manuel Geraldo  
John Shoaff  
A. Shuanise Washington

##### Montgomery County Commissioners

Casey Anderson, Vice-Chair  
Norman Dreyfuss  
Marye Wells-Harley  
Natali Fani-Gonzalez  
Amy Presley

Chair Hewlett convened the meeting at 9:55 a.m. Executive Director Barney requested a change to the agenda: Resolution #14-29 found under Item 5c became Item 5d.

#### ITEM 1 APPROVAL OF COMMISSION AGENDA

ACTION: Motion of Geraldo to approve the agenda as amended by Executive Director Barney  
Second by Washington  
9 Approved the motion (Commissioner Bailey was absent during the vote)

#### ITEM 2 APPROVAL OF COMMISSION MINUTES

September 17, 2014 – Open Session  
September 17, 2014 – Closed Session  
ACTION: Motion of Geraldo  
Second by Dreyfuss  
9 Approved the motion (Commissioner Bailey was absent during the vote)

#### ITEM 3 GENERAL ANNOUNCEMENTS (Hewlett)

Chair Hewlett made the following announcements:

- a) Natali Fani-Gonzalez was welcomed to her first Commission meeting. Commissioner Fani-Gonzalez is the first Hispanic Latino appointed to the Montgomery County Planning Board, and the first Hispanic Latino millennial. Chair Hewlett commented that Ms. Fani-Gonzalez will be a phenomenal addition to the Montgomery County Planning Board and to the Commission.

- b) Remembrance comments were made on behalf of Ben Bradley, a distinguished reporter for the Washington Post.
- c) The Month of October was highlighted for celebration/awareness of the following:
- The Commission-wide Hispanic Heritage event was rescheduled for October 31<sup>st</sup> at Newton White Mansion. Employees are encouraged to attend and celebrate contributions of the community.
  - Lesbian, Gay, Bisexual, and Transgender Pride (LGBT) History Month.
  - National Arts and Humanities Month - The Arts and Cultural Heritage Divisions in Montgomery and Prince George's Counties were thanked for their ongoing efforts to bring the arts to communities.
  - Domestic Violence Awareness Month - Chair Hewlett reminded employees to wear lavender to show support for ending domestic violence in our community.
  - Breast Cancer Awareness Month - Chair Hewlett reminded employees to get examined regularly.
  - National Apple Month.
- d) The Prince George's County Planning Department has been selected to receive two top awards from the National Capital Area Chapter of the American Planning Association (APA). The Plan Prince George's 2035 Approved General Plan was named winner of the APA's Local Chapter Award of Merit for an Outstanding Regional or Comprehensive Plan, and the Prince George's County Downtown Diagnostic Index earned the Outstanding Implemented Project, Program or Tool Award. Both honors will be presented next month at the Chapter's annual awards celebration in Silver Spring, Maryland.
- e) Prince George's County Department of Parks and Recreation and the Montgomery County Parks Department attended the National Recreation and Parks Association Conference. Chair Hewlett shared that Chicago won the 2014 Gold Medal for Class I (population 400,001 and over). She stated that M-NCPPC was a gold medal finalist and still holds the record of having the most gold medals in the world. She firmly believes M-NCPPC will be winning the gold award in 2015. She shared that the agency gave an amazing presentation and the contributing employees should be commended tremendously for the work they do. Chair Hewlett congratulated M-NCPPC for winning the Best-of-the-Best for the Commission for Accreditation of Park and Recreation Agencies (CAPRA). M-NCPPC excelled on 100% of the 151 standards for which they were evaluated, even though the requirement was only 80%.
- f) The Commissioners wished Vice-Chair Anderson a happy birthday.
- g) The week of October 20<sup>th</sup> is National Save for Retirement Week.
- h) The world is facing an Ebola crisis. M-NCPPC is working with the respective health departments, county governments, and the Center for Disease Control to ensure viable policies are in place to protect employees, and to help contain the fear of this disease.

ITEM 4

COMMITTEE/BOARD REPORTS – (For Information Only)

- a) Minutes – Executive Committee Open Session–October 1, 2014
- b) Minutes – Executive Committee Closed Session–October 1, 2014
- c) Minutes – Executive Committee Closed Session–Part 2–October 1, 2014
- d) Minutes of the Regular Employees’ Retirement System Board of Trustees Meeting, September 2, 2014
- e) 115 Trust (OPEB) Meeting Minutes–June 18, 2014

ITEM 5

ACTION AND PRESENTATION ITEMS

a) CAS COST ALLOCATION ANALYSIS (Kroll)

Corporate Budget Manager John Kroll presented the Central Administrative Services (CAS) Allocation Analysis for the FY16 proposed budget. He recommended the Commission adopt the updated labor cost percentages used to allocate CAS department budgets between Montgomery and Prince George’s Counties. Mr. Kroll noted that using the new allocation, approximately \$125,000 in funding would shift from Montgomery County to Prince George’s County. He presented background information and explained the methodology used to allocate the labor cost as contained in the meeting packet.

General Counsel Gardner commented that under the Land Use Article, the government provisions that deal with the Commission budget gives the Commission the responsibility of determining which budget items are jointly allocable to both counties. Historically, the budget allocations were 50/50. Over time, there has been a certain level of attention paid to the allocations, and it was determined that 50/50 may not be correct. The Budget Department goes through the allocation process every year to determine the proper allocation for Montgomery and Prince George’s Counties, respectively. The legal significance under the code is that the Commission presents these allocations in its proposed budget for FY16 as jointly allocable items. Unless both councils agree not to fund an item, the jointly allocable items will be in the budget as proposed.

ACTION: Motion of Washington  
Seconded by Anderson  
10 approved the motion

b) ANNUAL AUDIT COMMITTEE REPORT (Dreyfuss/Shoaff)

Commissioner Shoaff/Audit Committee Member presented the Audit Committee Activity Report for FY14. He stated the report is consistent with the reporting requirements of the Audit Committee as outlined in Practice No. 1-31, Organization and Functions of the Audit Committee. The Practice requires the Audit Committee to review and approve the annual Internal Audit Plan, adopt internal audit operating procedures, and review and approve the Internal Audit Charter.

Commissioner Shoaff stated that the FY14 Report addresses how the Committee discharged its duties and met its responsibilities; provides a summary of significant audit findings as prepared by the Internal Auditor; evaluates the adequacy of internal controls; and reviews the agency’s adherence to financial regulations/policies and any

other significant concerns/complaints that were filed with or identified by the Audit Committee.

For FY14, the Office of Internal Audit issued 15 performance audits, 11 fraud, waste, and abuse reviews; 7 management advisories; and 8 follow-up reviews. The Audit Committee reported there were no significant audit findings and that overall, based on the 41 audits conducted, the design and implementation of internal controls appear to be effective.

Commissioner Shoaff reported that the Office of Internal Audit successfully met four key initiatives identified by the Chief Internal Auditor for FY2014:

- Successful completion of the FY14 audit plan;
- Completion of a Peer Review;
- Completion of a Commission Risk Assessment; and
- Increase Transparency

He also shared that M-NCPPC passed the Audit Peer Review and continues to operate in accordance with Generally Accepted Government Auditing Standards. The Audit Committee recognizes continued compliance with existing policies and timely corrective action by management in response to the audit findings.

Commissioners Shoaff and Dreyfuss noted how indebted the Audit Committee is to Internal Audit Chief Renee Kenney for the exemplary work she has done, and the management team for their support.

At 10:23 a.m., Chair Hewlett called for a motion to move to closed session.

Pursuant to the Maryland State Government Article of the Annotated Code, Section 10-508 (a)(1)(i)(ii)(7) & (8), the Maryland-National Capital Park and Planning Commission met in closed session at 10:23 a.m., in the Montgomery Regional Office auditorium, in Silver Spring, Maryland, to discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or any other personnel matter that affects 1 or more specific individuals; consult with counsel to obtain legal advice; consult with staff, consultants, or other individuals about pending or potential litigation.

ACTION: Motion of Geraldo  
Seconded by Wells-Harley  
10 Approved the motion

Closed session adjourned to open session at 10:38 a.m.

- ITEM 5 d) Executive Director Barney presented Resolution #14-29, Pay Rate Schedule Adjustments for Seasonal/Intermittent Employees to be amended as reflected in closed session. Attachment 2, the Counties' Minimum Wage will be incorporated into the Resolution, with the exception that M-NCPPC will begin the minimum wage change of \$8.40 per hour in November 2014.

ACTION: Motion of Geraldo  
Seconded by Wells-Harley  
10 approved the motion

ITEM 6 OPEN SESSION – OFFICERS' REPORTS

- a) Executive Director (For Information Only)  
Executive Director Barney stated that evaluations are coming in.
- b) Secretary–Treasurer (For Information Only)
- 1) Investment Report (June 2014)  
The Investment Report was generated from the new system; the reports are being caught up quickly. The agency continues to make sparkling returns compared to the benchmark. M-NCPPC is earning .22% average for June, and is not losing any money.
- 2) Enterprise Resource Planning (ERP Briefing)  
The FY14 year-end financial statements are being prepared, auditors are working, and the agency is slightly behind schedule. The treasury management software, Sympro, is working well. Vendor payments are smoothing out and vendors are being paid on time. The Asset Management module for capitalized assets is better than the spreadsheets that were used in the past. Class interfaces for programs and registration systems are working very well. Cash is reconciled through July. Year-end rollover of encumbrances has been done. The issue of the user bulletin will go out later this week on how to retrieve data from the system and get accurate results. The team is still working through capital improvement program set-up issues with the departments. Reporting budget to actual at the accounting unit level is presenting some challenges because of the way the system treats an encumbrance. A solution for this issue will be tested and in production shortly. Improvements in reporting for the Capital Improvement Program are being worked on. The team is continuing to work on improvements to requisitions routing for supply chain. Work has begun on the integration with the Enterprise Asset Management System.

There have been demos of the document archival retrieving system as an add-on to the ERP system, which were well received. This project will continue to move forward expeditiously. In the HR/Payroll module, the team is working through some challenges. It is complex to transfer data from one system to another. The target go-live date is January 2, 2015. Executive Director Barney stated the team is in full scale testing from A through Z. They would like to see the NEOGOV process working in the hiring system.

3) 4<sup>th</sup> Quarter MFD Purchasing Statistics – Briefing on Delay

The Minority Female Disabled (MFD) vendor program reporting is delayed due to challenges with the ERP system. The team is trying to determine the best method to acquire the data. A report is expected in the next two weeks for the end of the fiscal year. Since contract management has not been implemented yet, the team is trying to determine how information will be obtained on sub-contractors. The data retrieval tools are more advantageous than the old system. Mr. Zimmerman stated the program is within budget.

c) General Counsel

1) Litigation Report (September 2014) – (For Information Only)

2) Legislative Items

General Counsel Gardner stated there are no legislative items for discussion at this time, but the deadlines are coming up. The City of Bowie will propose legislation relating to municipal planning and zoning in Prince George’s County. One bill deals with the respective responsibilities of the District Council in Prince George’s County. The City of Bowie has asked for a bill which has not been drafted yet, to be titled “The Regional District Reform Act of 2015”. Bills should be released next week. General Counsel Gardner will present the drafted bills to both Planning Boards or at the next Commission meeting depending when the bills come out.


Commissioner Washington inquired about recent news coverage regarding artificial turf fields. General Counsel Gardner responded there were two types of synthetic turf legislation last year. One was proposed by community environmental groups who wanted to prohibit the use of synthetic turf. The Commission did not support the legislation proposing a prohibition because it was based on old data on materials used. The other proposed legislation was in regards to whether the agency should fund open space to create more fields. Commissioner Shoaff commented there may be a need for further study on the synthetic turf matter. Commissioner Washington requested that the agency be educated on the issue because there will be more interest in this topic this year. Commissioner Wells-Harley shared that Montgomery County Parks Director Mike Riley served on a committee for Montgomery County that investigated whether the county should use turf fields, and that he would be able to share information if needed.

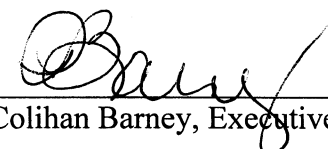
General Counsel Gardner stated we will not likely see a local bill dealing with this subject, as the schedule for local bills that directly affect the agency has already been set. He said the synthetic turf issue will probably arise again in January, and that Prince George’s County Parks and Recreation Director Ronnie Gathers and Montgomery Parks Director Mike Riley should be prepared to advise the Commission on how the agency should deal with that issue when it comes forward.



On a separate matter, Commissioner Wells-Harley referred to a news article that compared the number of lighted fields in Prince George's County with the number of lighted fields in Montgomery County. She inquired if the agency should light the fields so that parents who work during the day can see their children participate in games at night.

There being no further business to discuss, the meeting adjourned to at 11:00 a.m.

  
\_\_\_\_\_  
Gayla A. Williams, Senior Technical Hearing  
Writer/Senior Management Analyst

  
\_\_\_\_\_  
Patricia Colihan Barney, Executive Director







**REGULAR BOARD OF TRUSTEES MEETING  
MINUTES**

**Tuesday, October 7, 2014; 10:00 A.M.  
ERS/Merit Board Conference Room**

The regular meeting of the Board of Trustees convened in the ERS/Merit Board Conference Room on Tuesday, October 7, 2014 at 10:00 a.m. Voting members present were: Khalid Afzal, Josh Ardison, Patricia Colihan Barney, CPA, Jenetha Facey, Pamela F. Gogol, Elizabeth M. Hewlett, Tracy Lieberman and Barbara Walsh. Richard H. Bucher, Ph.D., Mary Wells-Harley and Joseph C. Zimmerman, CPA were absent.

ERS staff included: Andrea L. Rose, Administrator; Heather D. Brown, Senior Administrative Specialist; and, Sheila S. Joynes, Accounting Manager.

Legal counsel included: M-NCPPC Legal Department - LaTonya Reynolds, Associate General Counsel, and the Groom Law Group's Alexander P. Ryan and George M. Gerstein.

Presentations by Wilshire Associates - Mike Dudkowski, Managing Director, (via conference call) and Bradley Baker, Senior Associate (in-person); Golub Capital - Alissa Grad, Managing Director and Gregory Cashman, Senior Managing Director; Guggenheim Investments - Zachary D. Warren, Senior Managing Director, Portfolio Manager; and, Suzanne L. Schechter, Managing Director, Head of Public Funds.

**1. CONSENT AGENDA**

The following items are to be approved or accepted by vote on one motion unless a Board member requests separate consideration:

- A. Approval of the October 7, 2014 Board of Trustees Meeting Agenda
- B. Minutes of Regular Meeting, September 2, 2014
- C. Minutes of Closed Session, September 2, 2014
- D. Minutes of Closed Session, May 6, 2014
- E. Administration & Personnel Oversight Committee's Confidential Report of February 6, 2014
- F. Disbursements Granted Reports – July 2014 and August 2014

Due to the absence of DR. BUCHER, Item 1.D – Minutes of Closed Session, May 6, 2014 and Item 1.E Administration & Personnel Oversight Committee's February 6, 2014 Confidential Report were removed from the consent agenda.

MS. BARNEY made a motion, seconded by MS. WALSH to approve the Consent Agenda, as revised. The motion PASSED unanimously (8-0). (Motion #14-39)

**2. CHAIRMAN'S ITEMS**

- A. Board of Trustees Conference Summary
  - i. Opal's Investment Summit Report by Patricia Barney, CPA

CHAIRMAN HEWLETT welcomed the new Prince George's County Open Trustee, Jenetha Facey.

MS. BARNEY briefly discussed Opal's Investment Summit which she attended in early September. MS. BARNEY noted several interesting legal and compliance trends to be discussed with the ERS' attorneys.

### **3. MISCELLANEOUS**

### **4. CLOSED SESSION**

The Board will meet in closed session, pursuant to State Government Article of the Annotated Code of Maryland Section 10-508(a)(5) and 10-508(a)(7) to discuss investment of public funds and consult with legal counsel

MS. BARNEY made a motion, seconded by MS. WALSH to go in to Closed Session under authority of State Government Article of the Annotated Code of Maryland Section 10-508(a)(5) and 10-508(a)(7) to discuss investment of public funds and consult with legal counsel. The motion PASSED unanimously (8-0). (Motion #14-40)

MS. GOGOL made a motion, seconded by MS. BARNEY to ratify the actions taken in Closed Session. The motion PASSED unanimously (8-0). (Motion #14-44)

### **5. Manager Reports/Presentations**

#### A. Wilshire Associates

Presentations by Mike Dudkowski, Managing Director (via conference call) and Bradley Baker, Senior Associate (in-person)

- i. Middle Market Direct Lending Overview and Search; October 7, 2014

Bradley Baker noted the *Middle Market Lending Overview & Search* document was reviewed by the Investment Monitoring Group (IMG) at its' September 16, 2014 meeting.

Middle market lending represents a potential investment opportunity in the current market environment given the imbalance between low supply of capital for middle market corporate borrowers and high demand from these companies. Securities primarily include first lien senior secured loans or even mezzanine debt, but may also include second lien secured debt, and subordinated debt. Direct lending funds have a limited partner fund structure which includes a dollar commitment, drawdown period (ranges 18 months -3 years), investment term (approximately 6-8 years), leverage (i.e. 2x or 3x), and diversification across borrowers and industries. Targeted net IRR expectations range from 7-15% and fees are similar to private equity fees with a base management fee and a performance fee.

This \$20 million mandate falls within the 7.5% Global Opportunistic Fixed Income allocation. Wilshire analyzed the universe of middle market direct lending managers to identify managers that represent a best fit with the current portfolio. There were five candidates identified; however, two were eliminated prior to preparation of the search document. Golub Capital and Guggenheim were selected by the IMG as finalists to present to the Board.

B. Finalist Presentations – Middle Market Direct Lending Search

i. Golub Capital

Presentations by Alissa Grad, Managing Director and Gregory Cashman, Senior Managing Director

a. Golub Capital Partners 9, L.P. (GCP 9)

Alissa Grad and Gregory Cashman presented the Golub Capital Partners (GCP) funds and the newly formed GCP9 fund. Golub Capital was founded in 1994 and has over \$10 billion of capital under management with over \$8 billion in middle market lending. There are over 175 employees with more than 70 investment professionals. GCP9 takes a credit-driven approach to direct lending, placing equal emphasis on the origination, underwriting, and monitoring process. The strategy's primary objective is to achieve a high level of current income with an emphasis on preservation of capital targeting a 10.5% -13.5% total net return. Primarily invests (75%-90%) in secured 1<sup>st</sup> lien and one-stop loans, with a select allocation (10%-20%) to broadly-syndicated loans, 2<sup>nd</sup> lien loans, subordinated loans, and equity investment. Mr. Cashman noted one advantage of Golub is its recurring business from private equity relationships. Golub has over 100 sponsors that have done multiple financings with the firm; 75% of their deals in 2013 and 2012 were with repeat sponsors. Ms. Grad summarized the terms of GCP9. Ninety percent of capital commitments are expected to be drawn down 18 months after the final closing with the principal re-invested for 5.5 years from final closing date. GCP9 is expected to use approximately 2.0-2.5x leverage. The ERS can expect quarterly distributions beginning with the first full quarter after investment. GCP9 has \$450 million of its \$600 million target and the next closing is January 1, 2015. The presenters covered investment strategy, investment process, performance, fees and case studies.

ii. Guggenheim Investments - Private Debt Fund II

Presentations by Zachary D. Warren, Senior Managing Director, Portfolio Manager; and, Suzanne L. Schechter, Managing Director, Head of Public Funds

a. Private Debt Capabilities; October 2014

Zachary D. Warren and Suzanne L. Schechter presented Guggenheim Investments' Private Debt Funds (PDF) and the newly formed PDF II which is Guggenheim's second fund focusing on private loans to middle market companies. Guggenheim has more than \$210 billion in assets under management as of June 30, 2014 with over \$5.3 billion in middle market lending. There are more than 90 professionals on the corporate credit team with an average of 15 years of investment experience who have worked together for over 10 years. Guggenheim has been investing in private debt securities since 2002; however, their first dedicated fund was launched in 2012. Guggenheim's typical borrower will have \$10 million to \$50 million of EBITDA, while underlying loan sizes will vary from \$20 million to \$120 million (\$30-\$50 on average), with the ability to control tranches up to \$300 million. Approximately 60% of past investments are secured by 1<sup>st</sup> lien or 2<sup>nd</sup> lien loans, or a combination. The PDF II strategy will target a 15% total net return with a maximum leverage level of 3.0x. Guggenheim has long standing relationships with private equity sponsors, 50% of deals are sponsor-backed and significant repeat business. Mr. Warren summarized the terms of PDF II with a term of 8 years from initial closing plus up to 3 additional one-year periods; and an investment period of 4 years from initial closing and quarterly cash distributions. The first close for new investors in the PDF II will be 1Q2015 with a \$1.4 billion target. The presenters covered market opportunity, investment process, sourcing capabilities and performance.

- C. Wilshire Associates Compliance Department
  - i. Conflicts Check Report dated September 25, 2014

- D. Recommendation to Approve Middle Market Direct Lending Manager

Trustees discussed the differences in fund and asset size, leverage and number of funds. Golub Capital's smaller fund and asset size and lower leverage were attractive features to the majority of trustees.

MS. BARNEY made a motion, seconded by MS. GOGOL to approve Golub Capital as a new investment manager for a \$20 million middle market lending mandate. The motion PASSED (8-0). (Motion #14-45)

MS. GOGOL left the meeting at 1:30 p.m.

**6. REPORT OF THE ADMINISTRATOR**

Presentation by Administrator, Andrea L. Rose

- A. Administrator's Report dated September 26, 2014

Andrea Rose presented the Administrator's Report dated September 26, 2014.

**7. COMMITTEE REPORTS/RECOMMENDATIONS**

- A. Investment Monitoring Group

Presentation by Committee Chairman, Patricia Barney, CPA

- i. Regular Report of September 16, 2014

- a. Recommendation to Approve the Engagement of Northern Trust as a Transition Manager
- b. Recommendation to Approve the Revised State Street Global Advisors-Real Asset Fund Investment Guidelines
- c. Recommendation to Approve the Oaktree Real Estate Debt Fund, L.P. Investment Guidelines

- ii. Confidential Report of September 16, 2014

MS. BARNEY presented the regular report for the Investment Monitoring Group's (IMG) meeting of September 16, 2014. Given the ERS' current structure (i.e. mostly commingled funds) and Wilshire's recommendation to utilize Northern Trust's transition management capabilities, the IMG requested Northern Trust present at its September 16, 2014 meeting. Northern Trust has offered transition management services since 1987 via an independent and dedicated transition management team comprising approximately 80 professionals. Northern has transitioned over \$278 billion in assets globally and managed over 1,500 assignments during the past five years. Northern has aligned its business model with its clients and acts as a fiduciary. Northern maintains confidentiality and does not outsource trading to a third party; cross with hedge funds or other active traders; take principal positions against the ERS; cross simply to reduce explicit costs. Using the custodian's transition management team ensures Northern remains a single point of contact allowing for greater risk controls, succinct communication and problem resolution. Sensitive trade information stays within Northern (i.e. elimination of information leakage). As custodian, Northern believes it has more at stake than other transition management providers.

The IMG recommended the Board approve Wilshire's recommendation to engage Northern Trust as a transition manager.

MR. AFZAL made a motion, seconded by MS. BARNEY to approve the engagement of Northern Trust as a Transition Manager. The motion PASSED unanimously (7-0): (Motion #14-46)

As a result of a partnership between Bloomberg Indexes and UBS, the Dow Jones-UBS Roll Select Commodity Index was renamed the Bloomberg Roll Select Commodity Index. Subsequently, the SSgA Dow Jones-UBS Roll Select Commodity Index Non-Lending Fund was renamed the State Street Bloomberg Roll Select Commodity Index Non-Lending Fund and the investment objective for the fund was updated to reflect the new name. As a result, State Street Global Advisors – Real Asset Fund Investment Guidelines were revised to reflect these changes. The IMG recommended the Board approve the revised State Street Global Advisors – Real Asset Fund Investment Guidelines.

MR. AFZAL made a motion, seconded by MS. BARNEY to Approve the Revised State Street Global Advisors – Real Asset Fund Investment Guidelines. The motion PASSED unanimously (7-0). (Motion #14-47)

The Oaktree Real Estate Debt Fund, L.P. Investment Guidelines were developed by Wilshire Associates to reflect the ERS' expectations for the Fund. Since the vehicle for the Oaktree Real Estate Debt Fund is a commingled fund, the guidelines of the Fund's Private Offering Memorandum prevail. The IMG recommended the Board approve the Oaktree Real Estate Debt Fund, L.P. Investment Guidelines.

MR. AFZAL made a motion, seconded by MS. BARNEY to approve the Oaktree Real Estate Debt Fund, L.P. Investment Guidelines. The motion PASSED unanimously (7-0). (Motion #14-48)

B. Administration & Personnel Oversight Committee

Presentation by Committee Chairman, Richard H. Bucher, Ph.D.

i. Regular Report of September 16, 2014

- a. Recommendation to Approve the Memorandum of Understanding between the Maryland-National Capital Park and Planning Commission and the Employees' Retirement System for the term July 1, 2014 – June 30, 2015

In DR. BUCHER's absence, Andrea Rose presented the regular report for the Administration & Personnel Oversight Committee's ("Personnel Committee") meeting of September 16, 2014.

The Personnel Committee recommended the Board approve renewal of the Memorandum of Understanding ("MOU") between the Maryland-National Capital Park and Planning Commission and the Employees' Retirement System for the term July 1, 2014 – June 30, 2015. The MOU is designed to improve technology support for the ERS and CAS-IT.

MR. AFZAL made a motion, seconded by MS. WALSH to approve renewal of the Memorandum of Understanding between the Maryland-National Capital Park and Planning Commission and the Employees' Retirement System for the term July 1, 2014 – June 30, 2015. The motion PASSED unanimously (7-0). (Motion #14-49)



The Personnel Committee reviewed a draft Pension Funding Policy recommended by Boomershine Consulting Group and plans to make a recommendation to the Board within the next couple of months. The Personnel Committee authorized ERS staff to engage in further discussions with Boomershine Consulting Group to flush out the issues and concerns related to a recommendation to change the actuarial equivalence factors.

The Board of Trustees meeting of October 6, 2014 adjourned at 2:00 p.m.

Respectfully,

A handwritten signature in black ink that reads "Andrea L. Rose". The signature is written in a cursive, flowing style.

Andrea L. Rose  
Administrator



# Item 5a



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

## MEMORANDUM

TO: The Maryland-National Capital Park and Planning Commission

FROM: The Office of the General Counsel – Adrian Gardner, Debra Borden, and Matthew Mills

RE: Easement Termination – The Crescents at Largo Town Center

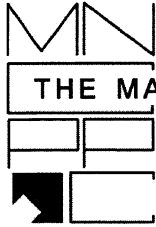
DATE: November 10, 2014

Commissioners:

Circumstances have arisen under which we are recommending the termination of the easement mentioned in the attached Draft Resolution. This action will have no impact upon any of the Commission's operations (present or future).

Further detail will be provided during the Executive Session portion of the meeting.

Thank you.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

M-NCPPC 14-30

**RESOLUTION**

WHEREAS, the Maryland-National Capital Park and Planning Commission (“Commission”) is authorized by Section 17-201 of the Land Use Article of the Annotated Code of Maryland to terminate the public use of any interest in land which it holds pursuant to a duly-adopted resolution; and

WHEREAS, the Commission is further authorized by Section 17-205 of the Land Use Article of the Annotated Code of Maryland to transfer any interest in land which it holds when it is determined by the Commission that it is no longer needed for park or other authorized purposes; and

WHEREAS, on May 21, 1997 the Commission and Nations Bank, N.A. entered into a Cross Parking Easement (“Easement”), a copy of which is attached hereto as Exhibit A, for the purposes of providing parking for proposed recreational facilities to be built pursuant to a Comprehensive Design Plan (CDP) approved pursuant to Prince George’s Planning Board Resolution Number 88-479 and Condition No. 15 of the Order of the County Council of Prince George’s County sitting as the District Council (CDP-8804); and

WHEREAS, the CDP was never implemented and said recreational facilities were never built; and

WHEREAS there is no foreseeable likelihood of said recreational facilities ever being built; and

WHEREAS, by its own terms, the Easement will automatically expire in 2017 due to said recreational facilities never having been built; and

WHEREAS, with the approval of Preliminary Plan of Subdivision 4-13028 (The Crescents at Largo Town Center) on September 11, 2014 by the Prince George’s Planning Board, and the subsequent adoption of Prince George’s Planning Board Resolution Number 14-98-4-13028 (The Crescents at Largo Town Center), the unused Easement has become superfluous, unnecessary, and potentially conflicts with the development rights of the property owner and applicant; and

WHEREAS, the newly-approved residential development was found by the Prince George’s Planning Board to be in compliance with the applicable *Plan Prince George’s 2035 Approved General Plan*, the *2013 Largo Town Center Sector Plan and Sectional Map Amendment*, and the *2009 Approved Countywide Master Plan of Transportation*, and was further found to be adequately served by newly-constructed recreational facilities as the development is built out; and

WHEREAS, the Easement is not needed, and will not ever be needed for park purposes, public use, or any other authorized purposes.

NOW THEREFORE BE IT RESOLVED, that The Maryland-National Capital Park and Planning Commission hereby approves the termination of the Easement, for good and valuable consideration, the receipt and value of which are hereby acknowledged; and

BE IT FURTHER RESOLVED, that in connection with the transaction(s) contemplated herein, the Executive Director is authorized to execute and deliver, on behalf of the Commission, any and all such certificates, documents, and/or instruments, and to do or cause to be done, any and all such acts, as the Executive Director deems necessary, appropriate, and/or proper to make effective or to implement the intended purposes of the foregoing Resolution, without limitation, and the taking of such actions shall be deemed conclusively to be authorized hereby.

\*\*\*\*\*



**MEMORANDUM**



**EMPLOYEES' RETIREMENT SYSTEM**  
The Maryland-National Capital Park and Planning Commission  
6611 Kenilworth Avenue, Suite 100  
Riverdale, Maryland 20737

(301) 454-1415 - Telephone  
(301) 454-1413 - Facsimile  
<http://ers.mnccppc.org>

**BOARD OF TRUSTEES**

Chairman Elizabeth M. Hewlett  
Vice Chairman Marye Wells-Harley

Khalid Afzal  
Patricia Colihan Barney, CPA  
Jenetha Facey  
Tracey Lieberman  
Joseph C. Zimmerman, CPA  
Josh Ardison  
Richard H. Bucher, Ph.D.  
Pamela F. Gogol  
Barbara Walsh

**Andrea L. Rose**  
**Administrator**

TO: The Commission  
Via: Elizabeth M. Hewlett  
Chairman, Board of Trustees  
From: Andrea L. Rose  
ERS Administrator

DATE: November 4, 2014

**SUBJECT: *Recommendation for Appointment of Golub Capital as a New Investment Manager for the Employees' Retirement System***

**RECOMMENDATION**

On behalf of the Board of Trustees ("Board") of the Maryland-National Capital Park and Planning Commission ("Commission") Employees' Retirement System (ERS), I recommend the Commission approve the appointment of Golub Capital as a new investment manager for the ERS.

**BACKGROUND AND EVALUATION**

At its October 7, 2014 meeting, the Board of Trustees approved the engagement of Golub Capital for a middle market direct lending mandate. This \$20 million mandate falls within the 7.5% Global Opportunistic Fixed Income allocation.

Middle market lending represents a potential investment opportunity in the current market environment given the imbalance between low supply of capital for middle market corporate borrowers and high demand from these companies. Securities primarily include first lien senior secured loans or even mezzanine debt, but may also include second lien secured debt, and subordinated debt. Direct lending funds have a limited partner fund structure which includes a dollar commitment, drawdown period, investment term, leverage, and diversification across borrowers and industries. Targeted net IRR expectations range from 7-15% and fees are similar to private equity fees with a base management fee and a performance fee.

The ERS' investment consultant, Wilshire Associates, analyzed the universe of middle market lending managers to identify managers that represent a best fit with the ERS' current portfolio and recommended the Board meet with Golub Capital and Guggenheim Investments. Golub Capital's smaller fund and asset size, lower leverage and consistent returns were attractive features that resulted in selection of Golub Capital.





**MEMORANDUM**



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Barbara Walsh

To: The Commission  
Via: Elizabeth M. Hewlett  
Chairman, Board of Trustees

Date: November 4, 2014

From: Andrea L. Rose  
ERS Administrator

**Subject: *Recommendation for Adoption of Employees' Retirement System Plan Document Restatement Effective January 1, 2015, Except as Specifically Provided with Section 7.5 Marital Status as Required by IRS Guidance***

**RECOMMENDATION**

On behalf of the Board of Trustees ("Board") of the Maryland-National Capital Park and Planning Commission ("Commission") Employees' Retirement System (ERS), I recommend the Commission adopt the ERS Plan Document Restatement effective January 1, 2015, except as specifically provided with Section 7.5 Marital Status as required by IRS guidance.

**BACKGROUND**

At its November 4, 2014 meeting, the Board adopted the attached Plan Document Restatement effective January 1, 2015, except as specifically provided with Section 7.5 Marital Status as required by IRS guidance.

The amended language in Sections C-7.1 Employee Contributions (page 83) and D-7.1 Employee Contributions (page 99) increases the employee contributions by 0.5% effective March 1, 2015 and another 0.5% effective January 1, 2016 as previously approved by Commission Resolution No. 14-20.

The revision in Section 7.5 Marital Status (page 24) clarifies that effective June 26, 2013 the ERS recognized Revenue Ruling 2013-17 in which the IRS held that the term spouse for all Federal tax purposes includes individuals, regardless of sex, who have entered into a legal marriage under the laws of the state or foreign country where the ceremony was performed.

Attachment





EMPLOYEES' RETIREMENT SYSTEM  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

---

# PLAN DOCUMENT

**Plan A**

**Plan B**

**Plan C**

**Plan D**

**Plan E**

---

January 1, 2014-2015

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
EMPLOYEES' RETIREMENT SYSTEM**

**PREAMBLE**

The Maryland-National Capital Park and Planning Commission Retirement Plan was established effective July 1, 1972, and administered by the Board of Trustees in accordance with the Trust Agreement between the Board and the Commission. Until that date, Commission employees were covered under the Employees' Retirement System of the State of Maryland. Employees who had been covered by the State System were given the option of remaining with that system or transferring to the Commission's Plan. For those employees who chose to leave the Maryland State System, an actuarially determined amount of money was transferred from the State System to the Commission's Plan and they were given full credit for service previously credited under the State System.

New employees hired after July 1, 1972, and those employees who had not been covered by the State System, had the option of joining the new M-NCPPC Plan.

Revisions to the Social Security Tax structure and other fiscal considerations persuaded the Commission in 1978 that it was necessary and prudent to develop a new retirement plan and benefit structure based on the principle of Social Security excess, and to make this new plan mandatory for new full-time employees and available to current employees and new part-time employees.

The old Plan - open for new membership from July 1, 1972 until December 31, 1978 - was designated Plan A and two new plans were instituted effective January 1, 1979 and were designated Plans B and C. A new plan for Park Police was instituted effective July 1, 1990 until June 30, 1993 and was designated as Plan D. Plan C was reopened for Park Police July 1, 1993.

Fiscal considerations prompted the Commission to establish a new retirement plan for employees (except Park Police) hired on or after January 1, 2013. This Plan is designated as Plan E.

PLAN A: This Plan was the M-NCPPC Retirement Plan from July 1, 1972 until December 31, 1978. This Plan continues in effect for all employees who were covered under it by December 31, 1978, and who have not chosen to transfer to Plan B, Plan C, or Plan D. The Plan was closed to new members on that date.

PLAN B: This Plan is mandatory for all full-time career Merit System employees (except Park Police) employed on or after January 1, 1979; for individuals employed by the M-NCPPC Employees' Retirement System on or after March 1, 1994; and mandatory, effective January 1, 2009, for part-time career Merit System employees, Appointed Officials, and employees exempted from the Merit System who are appointed by the respective County Planning Board as provided in Land Use Article, Sections 16-102 and 20-204 (formerly Article 28, Sections 2-112(a) and 7-111(c)), respectively, of the Annotated Code of Maryland. Effective January 1, 2013, Plan B is closed to individuals hired or appointed on or after January 1, 2013, except that Plan B is also mandatory for individuals that would otherwise be required to participate in Plan E but, as a result of their prior employment, are current Members of Plan B. Plan B is also mandatory for Participants in Plan A who chose to transfer to Plan B.

PLAN C: This Plan was mandatory for full-time career Park Police hired on or after January 1, 1979, and prior to July 1, 1990. Effective July 1, 1990, all Plan C Members were transferred to Plan D, and Plan C was closed to new members. Effective July 1, 1993, this Plan was amended and reopened as mandatory for full-time Park Police hired after July 1, 1993. Plan C also includes members who elected, on or before October 25, 2002, to transfer from Plan D to Plan C.

PLAN D: This Plan is mandatory for full-time Park Police hired on or after July 1, 1990, and on or prior to July 1, 1993, for all former Plan C Participants, and for Participants in Plan A who choose to transfer. Pursuant to a 2002 collective bargaining agreement, Plan D members were given a one-time irrevocable election to transfer to Plan C on or before October 25, 2002.

PLAN E: This Plan is mandatory for all full-time and part-time career Merit System employees (except Park Police) employed on or after January 1, 2013; for individuals employed by the M-NCPPC Employees' Retirement System on or after January 1, 2013; for Appointed Officials appointed on or after January 1, 2013; and employees exempted from the Merit System who are appointed on or after January 1, 2013 by the respective County Planning Board as provided in Land Use Article, Sections 16-102 and 20-204, respectively, of the Annotated Code of Maryland. Plan E does not apply to individuals who, as a result of their prior employment, are current Members of Plan B.

As part of the responsibility for overseeing the entire M-NCPPC Employees' Retirement System, the Board of Trustees maintains an ongoing evaluation of the retirement provisions. The Board makes recommendations to the Commission for amendments when it deems them to be in the best interest of the membership of the Employees' Retirement System. Also, amendments will be considered and adopted by the Commission at the time changes are negotiated directly with the Commission by a collective bargaining unit. This document will be updated from time to time, when amendments are approved.

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**GENERAL ARTICLE**  
**Sections Applicable to The M-NCPPC Employees' Retirement System**  
**(Retirement Plans A, B, C, D, and E)**

## SECTION 1 - DEFINITIONS

The following words and phrases used in Plan A, Plan B, Plan C, Plan D, and Plan E of the Employees' Retirement System shall have the following meanings, unless a different meaning is plainly required by the context:

- 1.1 Actuarial Equivalent means a benefit provided in the Retirement System Plans, that is determined by the actuary for the System, to be the equivalent of some other benefit provided in this System, based on the interest rate, and the mortality, and other tables and assumptions being used at the time of any such determination, to compute the contributions required to provide the benefits under the System. To the extent not otherwise set forth in the Plans, the actuarial assumptions described in the preceding sentence shall be set forth in a written resolution adopted by the Board of Trustees or its designee, which may be amended from time to time. For purposes of applying the limits in Section 6, the applicable interest rate shall be 5% and the applicable mortality table shall be the mortality table required under Code section 415(b)(2)(E)(v).
- 1.2 Administrator means the person designated under Section 2.7 herein by the Board of Trustees to handle the administrative details of the System.
- 1.3 Annuitant means a retired Member who is entitled to receive benefits as provided by this Retirement System.
- 1.4 Average Annual Earnings for purposes of Plan A, B, C, or D, means the average of the annual Base Pay of a Participant covered in Plan A, B, C, or D while an employee of the Commission or the M-NCPPC Employees' Retirement System during the three consecutive years of Credited Service that produce the highest total earnings prior to the Member's actual retirement date; prior to the date on which the Participant qualifies for and begins receiving benefits under the Commission's Long-Term Disability Plan, or the Commission's Comprehensive Disability Benefits Program for Park Police; or, if less than three years of Credited Service with the Commission or the M-NCPPC Employees' Retirement System, the average of the annual Base Pay for the entire period of Credited Service with the Commission or the M-NCPPC Employees' Retirement System. For a Member who became eligible for Long-Term Disability Benefits under the Commission's Long-Term Disability Plan as amended August 1, 1982, or the Commission's Comprehensive Disability Benefits Program for Park Police, and who has accrued Credited Service while receiving disability benefits under this Long-Term Disability Plan or Comprehensive Disability Benefits Program for at least three years prior to his/her Normal Retirement Date, Average Annual Earnings shall mean the highest Base Pay attained by the Member prior to the date he/she became eligible for Long-Term Disability Benefits or Comprehensive Disability Benefits for Park Police.

For a Member covered by Plan E, for purposes of determining benefits under Plan E, Average Annual Earnings shall mean the average of the annual Base Pay of a Participant while an employee of the Commission or the M-NCPPC Employees' Retirement System during the five consecutive years of Credited Service that produce the highest total earnings prior to the Participant's actual retirement date; prior to the date on which the Participant qualifies for and begins receiving benefits under the Commission's Long-Term Disability Plan; or, if less than five years of Credited Service with the Commission or the M-NCPPC Employees' Retirement System, the average of the annual Base Pay for the entire period of Credited Service with the

Commission or the M-NCPPC Employees' Retirement System. For a Participant who became eligible for Long-Term Disability Benefits under the Commission's Long-Term Disability Plan and who has accrued Credited Service while receiving disability benefits under this Long-Term Disability Plan for at least five years prior to his/her Normal Retirement Date, Average Annual Earnings shall mean the highest Base Pay attained by the Participant prior to the date he/she became eligible for Long-Term Disability Benefits.

For a one-time only period (between October 5, 1988, and December 5, 1988, Participants eligible for, and irrevocably electing, Normal Retirement to begin on or after November 1, 1988, and no later than March 1, 1989), Average Annual Earnings shall mean the current annual Base Pay of the Participant on the final date of employment prior to Normal Retirement.

Effective July 1, 1996, the Base Pay of any Member who becomes a Participant on or after July 1, 1996, for purposes of calculating retirement benefits, shall not exceed \$150,000, as will periodically be adjusted by the Secretary of the Treasury at the same time, and in the same manner, as under Section 415(d) of the Internal Revenue Code.

Notwithstanding the foregoing, effective July 1, 2002, the foregoing limit shall be increased to the amount set forth in Code section 401(a)(17)(A), as amended by EGTRRA, which amount shall be adjusted from time to time as set forth in Code section 401(a)(17)(B). For years beginning prior to July 1, 2002, the amount of Base Pay taken into account shall also be subject to a \$200,000 dollar limitation in lieu of the limit previously established for such year pursuant to the preceding paragraph.

Notwithstanding the foregoing, to the extent that a Member is covered by more than one Plan, Average Annual Earnings shall be calculated with respect to each Plan based only on the compensation, as described above in the preceding paragraphs, credited to the Member while covered by each such Plan.

- 1.5 Base Pay means the established rate of gross earnable compensation at which a Participant is employed by the Commission or the M-NCPPC Employees' Retirement System, exclusive of any overtime pay or additional compensation of any kind.
- 1.6 Beneficiary means retired Participant, Contingent Annuitant, any person or other designee named by the Member, including his/her Executors and Administrators, entitled to receive benefits as provided by this Retirement System.
- 1.7 Board of Trustees means the Board of Trustees provided for in Article 2 hereof, to administer the Retirement System and to hold, invest, and reinvest the assets of the Trust Fund.
- 1.8 Code means the Internal Revenue Code of 1986, as amended from time to time.
- 1.9 Commission means The Maryland-National Capital Park and Planning Commission.
- 1.10 Contingent Annuitant means any person designated by a Participant to receive benefits under the optional form of benefits provided for in Plan A, B, C, D, and E of this Retirement System.
- 1.11 Credited Service means the total period of years and months of completed service as credited under the terms and conditions of this Retirement System. Effective January 1, 1994, part-time

employees electing to participate in the ERS shall begin to accrue credited service in his/her part-time capacity based on the actual number of paid hours in a calendar year divided by the normal (1950 or 2080) full-time hours for the class of work of the position that the part-time employee occupies. In no instance shall a part-time employee accrue more service (weekly, bi-weekly, or annually) than a full-time employee. For part-time employees, eligibility for receipt of benefits will be based upon calendar years and months of service; and for benefit formula purposes accumulated pro rata accrued service will be used. Part-time employees participating in the ERS as of December 31, 1993, will have an option to participate irrevocably in the full pro rated accrual for his/her part-time service, or to retain the 20 hour per week accrual. Further, part-time credited service accrued prior to January 1, 1994, will be retained at 20 hours per week for benefit calculation purposes.

- 1.12 Medical Review Committee means the Committee referred to in the provisions of this Retirement System, with regard to determinations of disability, which shall be appointed by the Board of Trustees, or by the Administrator on its behalf, and shall be composed of three physicians licensed in the State of Maryland, none of whom are employees of the Commission, and at least two of whom should be specialists in the field of medicine primarily involved in the particular disability application.
- 1.13 Member means any individual included in the membership of the Retirement System as provided herein, including Annuitants and former Participants that have not elected to apply for a refund of their accumulated contributions.
- 1.14 Participant means an employee currently employed and making contributions to the Retirement System pursuant to Plan A, Plan B, Plan C, Plan D, or Plan E; or long-term Disability Plan, or an employee previously making contributions to the Retirement System who, subsequent to August 1, 1982, has qualified for and is receiving benefits under the Commission's Comprehensive Disability Benefits Program for Park Police.
- 1.15 Vested Participant means:
- (i) A Participant with five or more years of Credited Service (with respect to Participants in Plan A, Plan B, Plan C, or Plan D);
  - (ii) A Participant with ten or more years of Credited Service (with respect to Participants in Plan E);
  - (iii) An Appointed Official with immediate vesting, who is automatically entitled to a retirement annuity; or
  - (iv) An individual who is vested pursuant to the terms of Section 5 of the Retirement System.
- 1.16 Plan means Plan A, Plan B, Plan C, Plan D, or Plan E of the Employees' Retirement System.
- 1.17 Prior Plan means the Employees' Retirement System of the State of Maryland.
- 1.18 Trust Fund means the assets held in trust by the Board of Trustees under the Trust Agreement.

1.19 Vested Member means a former Participant who has terminated his/her employment with the Commission, has qualified under the Vested Benefits provisions, and has not elected to apply for a refund of his/her accumulated contributions.

**SECTION 2 - ADMINISTRATION OF EMPLOYEES' RETIREMENT SYSTEM –  
BOARD OF TRUSTEES**

- 2.1 **Board of Trustees; Composition.** The Employees' Retirement System shall be administered by a Board of Trustees which shall be properly constituted as provided in this Section.
- 2.1.1 **Commissioners.** The Board of Trustees shall, at all times, include as voting members two (2) members of the Commission, one (1) of whom shall reside in Montgomery County and one (1) of whom shall reside in Prince George's County. The term of office shall be three (3) years. Commissioners appointed as Trustees shall serve at the pleasure of the Commission and hold office until a successor is appointed, and may be re-appointed as a Trustee, provided they retain the qualifications of a Commissioner. A Commissioner appointed as a Trustee may resign by giving notice to the Chairperson and Vice-Chairperson of the Commission and the Commission shall appoint a replacement Trustee.
- 2.1.2 **Officers.** The Board of Trustees shall, at all times, include as voting members the Executive Director and Secretary Treasurer of the Commission. Their terms of office as Trustees shall be concurrent with their tenure in office. In the event of a vacancy in either office, the interim replacement appointed by the Commission shall complete the term as Trustee. Temporary vacancies due to vacation or similar temporary absence shall not be grounds for replacement as a Trustee.
- 2.1.3 **Public Members.** The Board of Trustees shall, at all times, include as voting members two (2) persons who shall be designated as Public Trustees. One (1) shall be a resident of Montgomery County and one (1) shall be a resident of Prince George's County; and neither may be a member, officer or employee of the Commission. One (1) of the Public Trustees, but not both, may be an Annuitant of the Plan. Neither Public Trustee may be a member, officer or employee of the Commission. The terms of the Public Trustees at the time of the adoption of this provision shall expire on June 30, 2002 and thereafter shall be appointed for terms of three (3) years. Public Trustees shall be appointed by the Commission and serve at the pleasure of the Commission. A Public Trustee shall serve until a successor is appointed. In the event of a vacancy in the office of Public Trustee, any successor shall be appointed to fill the remaining term of the person placed. There shall be no limit to the number of terms.
- 2.1.4 **Open Trustees.**
- (a) Except as otherwise provided in this section, the Board of Trustees shall, at all times, include as voting members three (3) persons who shall be designated as Open Trustees. To be eligible to serve as an Open Trustee, a person must be employed by the Commission on a career basis; subject to the Commission's Merit System as provided by Maryland law; and may not be a member or officer of the Commission. One (1) Open Trustee shall be regularly assigned for duty to a unit of the Commission located in Montgomery County; one (1) shall be regularly assigned for duty to a unit of the Commission located in Prince George's County; and, one (1) shall be regularly assigned for duty to the Commission's Department of Human Resources and Management, the Finance Department, or the Legal Department or their applicable successors. No Open

Trustee shall be eligible for appointment as a Represented Trustee, as that term is defined in this section.

- (b) Open Trustees shall be elected from among the persons eligible for selection as an Open Trustee within each of the three (3) classes of regular duty assignment described in this subsection. Polling shall be conducted by the Retirement System staff by written, secret ballot in accordance with its written procedures adopted in advance.
- (c) Open Trustees shall continue in office until their successors are elected. There shall be no limit to the number of terms. In the event of a vacancy in a position, there shall be a special election from among the employees in the category from which the former Trustee was chosen. The replacement Trustee shall serve for the remainder of the term of the Open Trustee who vacated office.
- (d) There shall be five (5) Open Trustees until June 30, 2003. At that time, one each of the Open Trustee positions from Montgomery County and Prince George's County shall expire and those positions shall be abolished. Thereafter, the remaining provisions of this subsection shall apply.

#### 2.1.5 Represented Trustees.

- (a) The Board of Trustees shall, effective as of September 1, 2001, include as voting members two (2) persons designated as Represented Trustees, provided that no Represented Trustee may be a member or officer of the Commission.
- (b) Effective as of September 1, 2001, one (1) Represented Trustee must at all times, be: (1) a sworn Park Police Officer and a member of and represented by the exclusive representative established pursuant to Land Use Article, Section 16-302, Annotated Code of Maryland, as amended from time to time and; (2) employed by the Commission on a career basis and subject to the Commission's Merit System as provided by Maryland law; and, (3) selected pursuant to an internal election process established by such exclusive representative which permits the members of the unit to select the Represented Trustee. In the event of a vacancy in the position after election as the Represented Trustee according to this provision, there shall be a special election from among the employees in the represented class from which the former Trustee was chosen, and the replacement Trustee shall serve for the remainder of the term of the Represented Trustee who vacated the office.
- (c) Effective as of September 1, 2001, and at all times on or before June 30, 2009, one (1) Represented Trustee must be a member of, and represented by the exclusive representative established pursuant to Section 2-112.1, Article 28, Annotated Code of Maryland, as amended from time to time, elected by the members of such exclusive representative. Polling shall be conducted by the Retirement System staff by written, secret ballot in accordance with its written procedures established in advance. In the event of a vacancy in the position after election as the Represented Trustee according to this provision, there shall be a special election from among the employees in the represented class from which

the former Trustee was chosen, and the replacement Trustee shall serve for the remainder of the term of the Represented Trustee who vacated office.

- (d) Effective as of July 1, 2009, one (1) Represented Trustee may be qualified for appointment to the Board by the written designation duly authorized and made for that purpose by the chief executive officer of an exclusive representative established pursuant to Land Use Article, Section 16-202, Annotated Code of Maryland, as amended from time to time, provided, that any Represented Trustee appointed according to this provision may, but need not, be employed by the Commission on a career basis and subject to the Commission's Merit System as provided by Maryland law. In the event of a vacancy in the position after appointment of the Represented Trustee according to this provision, the exclusive representative which made that selection may designate a replacement, and that replacement Trustee shall serve for the remainder of the term of the Represented Trustee who vacated the position.
- (e) Represented Trustees shall continue in office until their successors are elected or appointed according to this section. There shall be no limit to the number of terms. The initial Represented Trustees shall serve concurrently for terms ending June 30, 2004 and for terms of three (3) years thereafter.

2.2 The Board of Trustees shall elect from its voting membership a Chairman and Vice Chairman, who shall serve for a period of two years. The Board shall maintain an accurate record of its proceedings, which shall be available for inspection by the Commission upon reasonable notice. A majority of all the members of the Board shall constitute a quorum for the purpose of taking or authorizing any action or duty under, or pursuant to the Trust Agreement executed in connection with, this Retirement System. Each Trustee who is a voting member shall be entitled to one vote.

2.3 The Board of Trustees shall have power and duty to take all action and make all decisions, which shall be necessary, and proper in order to carry out provisions of the Retirement System and, without limiting the generality of the foregoing, the Board of Trustees shall have the following powers and duties:

- (a) To make and enforce such rules and regulations as it shall deem necessary and proper for the efficient administration of the Retirement System;
- (b) To interpret the Plan provisions of the Retirement System, its interpretation thereof to be final and conclusive;
- (c) To decide questions concerning the Plans of the Retirement System and the eligibility of any employee of the Commission to participate therein, and the right of any person to receive benefits thereunder;
- (d) To determine the mortality and other tables and interest rates to be used from time to time in actuarial and other computations for the purpose of the Retirement System;
- (e) To compute the amount of benefit which shall be payable to any person in accordance with the provisions of the Plans of the Retirement System;



- (f) To disburse and authorize any disbursement required under the Retirement System;
  - (g) To recommend to the Commission the contributions to be made by the Commission under the provisions of the Retirement System;
  - (h) To take or authorize the taking of any legal action which may be necessary for the protection or administration of the Retirement System.
- 2.4 The Board of Trustees may employ or engage an actuary to make actuarial evaluations of the liabilities under the Retirement System, to recommend to it the mortality and other tables and the interest rates to be used from time to time in actuarial and other computations for any purpose of the Retirement System, to recommend to it the amounts of contributions to be made by the Commission and to perform such other services as the Board of Trustees shall deem necessary or desirable in connection with the administration of the Retirement System.
- 2.5 The Board of Trustees shall be authorized to employ and consult with legal counsel who may also be counsel to the Commission, with respect to the meaning or construction of this Retirement System and the obligations and duties of the Trustees hereunder. In addition, the Board shall be authorized to hire such other experts, as it may deem necessary or desirable in connection with the administration of the Retirement System.
- 2.6 Subject to approval by the Commission, the Board of Trustees shall be authorized to employ one or more custodians to hold the assets of the Trust Fund, and maintain accurate and detailed records and accounts of all receipts, investments, disbursements, and other transactions made with respect to the Trust Fund. All such accounts, books, and records relating to the Trust Fund shall be available at all reasonable times for inspection and audit by the Commission.
- 2.7 The Board of Trustees shall be authorized to designate an Administrator of the Retirement System, who shall perform such duties, as the Board shall direct.
- 2.8 Any Member or Beneficiary who wishes to appeal a decision of the Administrator on any matter regarding his/her rights under the Employees' Retirement System may file an appeal, in writing, to the Board of Trustees. Such appeal shall state, in detail, the pertinent facts relative to the action, which he/she is appealing. The Board of Trustees may decide the appeal on the written submission, it may permit oral argument, or it may conduct whatever hearing it deems necessary or desirable. In any appeal, the burden of proof shall be on the applicant to establish the entitlement to benefits, and the burden of proof shall be on the Board of Trustees where it is proposed that benefits be removed from a Member or Beneficiary.
- 2.9 In administering the Retirement System, neither the Board of Trustees nor any individual Trustee, nor any person to whom it may delegate any power or duty in connection with administering the Retirement System, nor any member of the Commission shall be liable for any action or failure to act, except for its own willful malfeasance or misfeasance. The Board of Trustees, and each individual Trustee, and each person to whom it may delegate any duty and power in connection with administering the Retirement System, and the Commission or its duly designated representative, shall be entitled to rely conclusively upon, and shall be fully protected in any action taken by them or any of them in good faith in reliance upon any table, evaluation, certificate, opinion, or report which shall be furnished to them or any of them by

any actuary, accountant, counsel, or other expert who shall be employed or engaged by either the Commission or the Board of Trustees. Unless otherwise directed by the Commission, no bond or other securities shall be required of any member of the Board of Trustees as such.

- 2.10 In order to receive any benefits under the Plans of the Employees' Retirement System, a Participant must furnish to the Administrator such information as may be requested for the purpose of proper administration of the Retirement System.
- 2.11 The Board of Trustees is empowered to act in accordance with the Ethics Policy of the Employees' Retirement System effective December 4, 2007 and as amended from time to time. The Ethics Policy is incorporated herein by reference. Pursuant to the Ethics Policy, the Board of Trustees is authorized to pursue remedies for violation of the Ethics Policy by a Board member, including, but not limited to, removal.

### **SECTION 3 - AMENDMENTS**

The Commission reserves the right at any time, and from time to time, to amend in whole or in part, any or all of the provisions of the Plans of the Employees' Retirement System, provided, however, that no amendment shall affect adversely the benefits that have accrued prior to the effective date of such amendment, except as may be legally required to qualify the Plans of the Retirement System under Section 401(a) of the Internal Revenue Code or any successor thereto of similar importance.

#### SECTION 4 - MISCELLANEOUS

- 4.1 Facility of Payment. In the event it shall be legally determined that any payee receiving benefits under this Retirement System is legally incompetent or incapable of receiving such benefits; payments or any parts thereof may be made to a duly appointed guardian or other legal representative of such payee. Such payment will constitute a full discharge of all liability of the Fund to the extent of the payment.
- 4.2 Non-Assignment. All payments, benefits, and refunds under this Retirement System to a Participant or other payee are for the support and maintenance of such payee, and no such payments, benefits, or refunds shall be assignable or anticipated. All rights and interests of any Participant shall be free from the claim of all creditors to the fullest extent permitted by law. The non-assignment provisions of this Section shall not, however, be construed contrary to Maryland Law concerning Qualified Domestic Relations Orders.
- 4.3 No Enlargement of Employment Rights. The Retirement System shall not be deemed to constitute a contract between the Employer and a Participant. Nothing in this Retirement System shall be deemed to give any Participant the right to be retained in the service of the Commission, and all the Participants shall remain subject to termination to the same extent as if the Retirement System had never existed.
- 4.4 Forfeitures. Forfeitures arising under the Retirement System for any reason cannot be applied to increase the benefits of any Participants at any time prior to the termination of the Retirement System or any of the Plans included therein. Forfeitures must be taken into consideration in the computation of the actuarial cost of the Retirement System and in the amount of the Commission's contributions.
- 4.5 Applicable Law. The provisions of the Employees' Retirement System shall be construed according to the applicable laws of the State of Maryland and the United States.
- 4.6 Gender. Unless otherwise clear from the context, the masculine shall refer also to the feminine and vice versa, and the singular shall include the plural and vice versa.
- 4.7 Electronic Administration. In establishing rules and regulations for the administration of the Retirement System, the Board of Trustees or the Administrator, as applicable, may provide for the use of electronic communications and other media as permitted by applicable Treasury Regulations and other applicable law.
- 4.8 Errors and Misstatements. In the event of any error by any person responsible for the administration of the Retirement System or misstatement, error, or omission of fact by a Member or Beneficiary to the Retirement System resulting in payment of benefits in an incorrect amount, the Retirement System shall promptly cause the amount of future payments to be corrected upon discovery of the facts and shall cause the Retirement System to pay the Member or Beneficiary any underpayment in cash in a lump sum or to recoup any overpayment from future payments to the Member or Beneficiary in such amounts as the Board of Trustees or Administrator shall direct or to proceed against the Member or Beneficiary for recovery of any such overpayment. The foregoing authority shall also empower the Board of Trustees or the Administrator to recover any delinquent contributions from a Member in any manner as permitted by applicable law.

#### **SECTION 5 - TERMINATION OF RETIREMENT SYSTEM**

In the event of the termination of the Employees' Retirement System or a complete or permanent discontinuance of contributions thereunder by the Commission, (1) any individual who is a Participant at such time shall be 100% vested in his/her Employees' Retirement System benefits and (2) the Trust Fund shall be allocated to Members and Beneficiaries, in the order set forth below:

- (a) First, with respect to each Beneficiary to whom payments are being made at the date of discontinuance (hereinafter called the Termination Date) any balance of the Trust Fund which remains unallocated shall be allocated in proportion to the ratio which the actuarial reserve for such Beneficiary at the Termination Date bears to the total of such actuarial reserves for all such Beneficiaries, but in no case shall amounts so allocated exceed the actuarial reserve for such Beneficiary.
- (b) Second, with respect to each of the remaining Members and Beneficiaries, any balance of the Trust Fund which remains unallocated shall be allocated in proportion to the ratio which the actuarial reserve for such Member or Beneficiary at the Termination Date bears to the total of such actuarial reserves for all such Members and Beneficiaries, but in no case shall the amount so allocated exceed the actuarial reserve for such Member or Beneficiary.

The respective amounts to be allocated in accordance with the provisions of this Section shall be determined by the Board of Trustees as of the Termination Date. When the determination of such amounts shall be completed, such amounts shall be allocated to the respective Members and Beneficiaries in the order stated in the foregoing clauses (a) and (b) to the extent to which the Trust Fund shall suffice and in proportion to the total interest of the class described in the particular one of the two clauses (a) and (b) that may be involved. The allocation provided for in this Section shall be accomplished through: (1) a distribution of cash in a lump sum or in payments over such period as may be determined by the Board of Trustees; (2) the purchase of annuity contracts; and/or (3) the continuance of the Trust Fund or the establishment of one or more new Trust Funds, as shall be determined by the Board of Trustees.

## **SECTION 6 - LIMITATION OF BENEFITS**

- 6.1 **General Code Section 415(b) Rule.** In addition to other limitations set forth in the Plans and notwithstanding any other provisions of this Retirement System, the annual accrued benefit payable to a Member or Vested Member under the Plans of this System shall not exceed the limit under Code section 415(b)(1)(A), as periodically adjusted by the Secretary of the Treasury under Code section 415(d). This adjustment shall also apply to a Member or Vested Member who has had a severance from employment or, if earlier, an annuity starting date. Benefits paid by the Retirement System that are subject to Code section 415(b) shall comply with the foregoing limit in each year during which payments are made. The foregoing limit shall be adjusted pursuant to the requirements of Code sections 415(b)(2)(C) and (D) relating to the commencement of benefits at a date prior to age 62 or after age 65, subject to other applicable rules. Any Member or Vested Member whose benefits were limited by the application of Code section 415 immediately prior to its amendment by the Economic Growth and Tax Relief Reconciliation Act of 2001 shall, for limitation years ending on or after July 1, 2002, have his/her benefit increased to the amount computed under the Retirement System, but not in excess of the limits of Code section 415(b)(1)(A), as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001.
- 6.2 **Definition of Code Section 415 Compensation.** For purposes of the limitations set forth in Code section 415, "compensation" shall mean compensation as defined in Code section 415(c)(3) and in Treasury Regulation section 1.415(c)-2(a) after the applicable effective date of the final Code section 415 regulations issued in May 2007 (in Treasury Regulation section 1.415-2(d)(1) prior to the foregoing applicable effective date). Notwithstanding the foregoing, effective July 1, 2001, "compensation" shall include amounts described in Code section 132(f)(4), and effective January 1, 2009, "compensation" shall include amounts received as "differential wage payments" as defined in Code section 3401(h)(2).
- 6.3 **Grandfathered Benefits.** The application of the provisions of this Section 6 shall not cause the maximum annual retirement allowance for any Member or Vested Member to be less than the Member's or Vested Member's accrued benefit under all the defined benefit plans of the Commission or a predecessor of the Commission as of the end of the last limitation year beginning before July 1, 2008 under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to Code Section 415 in effect as of the end of the last limitation year beginning before July 1, 2007, as described in Treasury Regulation section 1.415(a)-1(g)(4).
- 6.4 **Cost of Living Adjustments.** No adjustment shall be required to a benefit described in Treasury Regulation section 1.415(b)-1(c)(5).
- 6.5 **Actuarial Assumptions for Code Section 417(e) Purposes.** To the extent that Code section 415 and the Treasury Regulations thereunder require that an interest rate under Code section 417(e) apply, the applicable lookback month shall be the 1st calendar month preceding the start of the Retirement System's Plan Year.
- 6.6 **Other Code Section 415(b) Requirements.** Notwithstanding any provision of the Retirement System to the contrary, Members' or Vested Member's accrued benefits under the Plans of this

Retirement System shall be determined in accordance with the requirements of Code section 415(b) and the Treasury Regulations thereunder. Notwithstanding the foregoing, effective July 1, 2004, the Plan shall comply with the provisions of the Pension Funding Equity Act of 2004 modifying the rules set forth in Code section 415, to the extent applicable. The limitation year is the Plan Year.

## SECTION 7 - MISCELLANEOUS

- 7.1 (a) **General Rule.** Notwithstanding any provision of the Retirement System, any "eligible rollover distribution" (within the meaning of Code Section 402(c)(4)) may be rolled over to an "eligible retirement plan".
- (b) **Definition of Eligible Retirement Plan.** For purposes of (the preceding sentence) Section 7.1(a), an "eligible retirement plan" is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), or a qualified trust described in Code Section 401(a), that accepts a distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse, an "eligible retirement plan" is an individual retirement account or individual retirement annuity. Effective January 1, 2002, the term "eligible retirement plan" shall also mean an annuity contract described in Code section 403(b) and an eligible plan under Code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. Effective for distributions made after December 31, 2007, an eligible retirement plan shall also mean a Roth IRA described in Code section 408A. The general definition of "eligible retirement plan" shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code section 414(p).
- (c) **Definition of Eligible Rollover Distribution.** For purposes of Section 7.1(a), an "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9); any hardship distribution; the portion of any other distribution(s) that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution(s) that is reasonably expected to total less than \$200 during a year. Effective January 1, 2002, a portion of a distribution shall not fail to be an "eligible rollover distribution" merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Code section 408(a) or (b), or to a qualified defined contribution plan described in Code section 401(a) or 403(a), or after December 31, 2006, to a qualified defined benefit plan described in Code section 401(a) or to an annuity contract described in Code section 403(b), that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.
- (d) **Rollover by Non-spouse Beneficiary.** Effective July 1, 2010, a non-spouse Beneficiary may elect to make a direct rollover to an inherited individual retirement account or annuity described in Code section 408(a) or Code section 408(b), or a Roth individual



retirement account or annuity described in Code section 408A that is established on behalf of the Beneficiary. Such rollover shall be made in a manner consistent with Code section 402(c)(11) and any other applicable guidance.

- (e) Compliance With Code Section 401(a)(31). The election and rollover of an "eligible rollover distribution" shall be effected in a manner consistent with Code Section 401(a)(31) under procedures established by the Board of Trustees.

7.2 Military Leave. Notwithstanding any provision of the Retirement System to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code section 414(u). Effective January 1, 2007, the Beneficiary of a Member on a leave of absence to perform military service with reemployment rights described in Code section 414(u), where the Member cannot return to employment on account of his/her death, shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under the Plan had the Member died as an active Employee, in accordance with Code section 401(a)(37).

7.3 Minimum Required Distributions.

- (a) General Rule. Notwithstanding any provision of the Retirement System to the contrary, on an after a Member's required beginning date, benefits under the Retirement System shall be paid in accordance with Code section 401(a)(9), including the minimum distribution incidental benefit rules of Code section 401(a)(9)(G). The Retirement System shall apply a reasonable and good faith interpretation of Code section 401(a)(9) as permitted by the Pension Protection Act of 2006 and any applicable Treasury Regulations.
- (b) Required Beginning Date. A Member's required beginning date is the April 1 of the calendar year following the later of calendar year in which he/she retires or attains age 70½.

7.4 Special Transfer Rules.

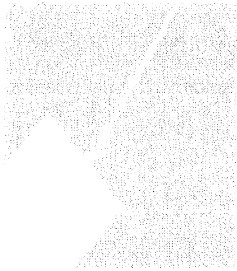
- (a) When a Commission employee participating in Plan A, Plan B, or Plan E transfers from a non-public safety position to a position as a police officer the employee shall be transferred to Retirement Plan C and the officer will be required to either pay 100% of the difference between the amount of contributions the employee made to the former plan and the amount of contributions that would have been required for that same period of participation by Plan C, or alternatively accept an actuarial deficiency at the time of payment of retirement benefits in the amount of the actuarial impact of the difference in contributions.
- (b) The amounts identified in paragraph 7.4(a) above must be paid either in a lump sum by the 3 month anniversary of employment as a police officer, or through pro rata after-tax payroll deductions over a period of 5 calendar years commencing in the first pay period following the 3 month anniversary as a police officer.
- (c) When a Commission employee participating in Retirement Plan C or D transfers from a position as a police officer to a non-police officer position, the employee shall be

transferred to Retirement Plan E. Upon transfer to Plan E, the Participant may apply for and receive a refund of all excess after-tax employee contributions. Excess pre-tax employee contributions shall only be payable at retirement. Excess employee contributions shall be calculated on the basis of the difference between his/her actual contributions made or transferred to Retirement Plan C or D and the amount he/she has now subsequently transferred to Retirement Plan E. Should the Participant not opt to apply for and receive a refund of all excess after-tax employee contributions at the time of transfer to Plan E, the Participant will be eligible for return of the excess employee contributions at or before retirement. All benefits, to which the Participant or his/her designee may thereafter be entitled, shall be pursuant to the provisions and benefit criteria set forth in Plan E.

7.5 Marital Status. Effective June 26, 2013 and in accordance with Revenue Ruling 2013-17, the term "spouse" as used in the Plan will be interpreted to mean any spouse who is in a marriage, including a same-sex marriage, that is legal under the laws of the state or foreign country where the ceremony was performed, without regard to the place a Member or Participant resides or works. For this purpose, the term "state" means any domestic or foreign jurisdiction having the legal authority to sanction marriages.

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**ARTICLE A -**  
**Sections Applicable to Plan A of**  
**The M-NCPPC Employees' Retirement System**

## SECTION A-1 - DEFINITIONS

A-1.1 Disability Retirement Date means the first day of the month, prior to his/her Normal Retirement Date, coinciding with or following a determination of disability of a Participant who, prior to August 1, 1982, filed his/her application for disability retirement under Section A-4.3 of this Plan.

A-1.2 Early Retirement Date means the first day of any month prior to a Participant's Normal Retirement Date as of which:

- (a) He/she has completed 15 or more years of Credited Service and has reached the age of 55; or
- (b) He/she has completed 25 years of Credited Service regardless of age; or
- (c) He/she has completed 20 or more years of Credited Service as a member of the Commission's Park Police.

For part-time employees, eligibility for receipt of benefits will be based upon calendar years and months of service; and for benefit formula purposes accumulated pro rata accrued credited service will be used as calculated in Section A-3.

A-1.3 Effective Date means July 1, 1972.

A-1.4 Employee means (a) any individual employed by the Commission as a career Merit System employee on a continuous full-time, year-round basis; (b) any individual appointed by the Commission to the position of Executive Director, Secretary-Treasurer, General Counsel, or other full-time positions appointed by the Commission and exempted from the Merit System; (c) any individual appointed by the respective County to serve as a Commissioner of The Maryland-National Capital Park and Planning Commission; (d) effective July 1, 1991, any Plan A member, vested, or non-vested, employed by the Commission as a career part-time Merit System employee on a continuance year round basis, eligible to be a Plan A Participant; and (e) an individual exempted from the Merit System, who is appointed by the respective County Planning Board to serve as a Director or as a Deputy Chief of Park Police, as provided in Land Use Article, Sections 16-102, 20-204 and 17-305, respectively, of the Annotated Code of Maryland.

A-1.5 Normal Retirement Date means the earliest of (a) the first day of the month coinciding with or immediately following the date on which a Member covered by this Plan A has both attained age 60 and completed five years of Credited Service; or (b) the first day of the month coinciding with or immediately following the date on which a Member, regardless of age, has completed 30 years of Credited Service; or (c) the first day of the month coinciding with or immediately following the date on which a Member who is a member of the Park Police attains the age of 55; or has completed 25 years of Credited Service as a member of the Park Police. Notwithstanding the foregoing, a Commissioner or a Member who has been appointed by the Commission to the position of Executive Director, Secretary-Treasurer, General Counsel, or another full-time position appointed by the Commission, and exempted from the Merit System reaches his or her Normal Retirement Date once he or she has attained age 60 and five years

have elapsed since he or she was first credited with Credited Service under the Plans, regardless of whether he or she has actually completed five years of Credited Service under the Plans.

For part-time employees, eligibility for receipt of benefits will be based upon calendar years and months of service; and for benefit formula purposes accumulated pro rata accrued credited service will be used as calculated in Section A-3.

- A-1.6 Plan A Participant means an employee who elected to become a member of the Plan prior to January 1, 1979, as provided in Section A-2 and has not (1) terminated his/her employment, (2) retired, (3) died, or (4) elected to transfer to Plan B, Plan C, or Plan D of the Employees' Retirement System under the provisions therein contained.
- A-1.7 Plan A means the Retirement Plan for employees of The Maryland-National Capital Park and Planning Commission established by the Commission effective July 1, 1972, covering employees who prior to January 1, 1979, elected to participate in the Employees' Retirement Plan.
- A-1.8 Represented Plan A Participant means a Plan A Participant who is represented on or after July 1, 2005 for collective bargaining purposes by the exclusive representative elected pursuant to Land Use Article, Title 16, Subtitle 2, Annotated Code of Maryland, as amended from time to time, and represented as of the date upon which any applicable Participant election, action or determination prescribed under this Plan A is permitted or required with respect to a Represented Plan A Participant.

## **SECTION A-2 - REQUIREMENTS FOR PARTICIPATION**

- A-2.1 (a) Employees on June 30, 1972, covered by Prior Plan. An Employee who was covered by the Prior Plan on June 30, 1972, could elect to become a Participant in this Plan on the Effective Date if he/she agreed in writing to turn over to the Trust Fund the entire amount available under the Prior Plan as a result of his/her participation in the Prior Plan. If he/she did not elect to become a Participant in this Plan on the Effective Date, he/she could not thereafter elect to become a Participant in this Plan unless his/her employment with the Commission terminated after the Effective Date and he/she later was reemployed by the Commission as a new employee and was not covered by the Prior Plan at the time of said reemployment.
- (b) Employees on June 30, 1972, not covered by Prior Plan and Employees employed after June 30, 1972, but prior to January 1, 1979. Every Employee on June 30, 1972, who was not covered by the Prior Plan on that date, and every Employee employed after June 30, 1972, but prior to January 1, 1979, could elect on or before December 31, 1978, to become a Participant in this Plan on the first day of any month after the later of June 30, 1972, or the date of his/her employment by the Commission.
- A-2.2 Method of Election to Participate. Each Employee who elected to become a Participant in this Plan filled out, signed, and filed with the Administrator not later than December 31, 1978, an application form furnished by the Administrator, which included an authorization for the deduction by the Commission from the compensation of the Employee, the contributions required of the Employee under the Plan, and the payments of said deducted contributions by the Commission to the Trust Fund under the Plan. This authorization includes, without limitation, an authorization for the recapture by the Commission of deficient contributions. Said applications also contained an agreement by the Employee to be bound by the provisions of the Plan, as then in effect, and as thereafter amended in the manner provided in the Plan.
- A-2.3 Withdrawal of Contributions. A Participant of the Plan may not withdraw his/her contributions from the Plan except upon termination of employment. As is set forth above, no other Participant may discontinue membership except upon termination.

### **SECTION A-3 - CREDITED SERVICE**

A-3.1 **Credited Service** means the total completed years and months of employment of a Member, not to exceed a maximum of 40 years, to be used in computing retirement benefits under the Plan. Effective January 1, 1994, part-time employees electing to participate in the ERS shall begin to accrue credited service in his/her part-time capacity based on the actual number of paid hours in a calendar year divided by the normal (1950 or 2080) full-time hours for the class of work of the position that the part-time employee occupies. In no instance shall a part-time employee accrue more service (weekly, bi-weekly, or annually) than a full-time employee. For part-time employees, eligibility for receipt of benefits will be based upon calendar years and months of service; and for benefit formula purposes accumulated pro rata accrued service will be used. Part-time employees participating in the ERS as of December 31, 1993, will have an option to participate irrevocably in the full pro rated accrual for his/her part-time service, or to retain the 20 hour per week accrual. Further, part-time credited service accrued prior to January 1, 1994, will be retained at 20 hours per week for benefit calculation purposes. Credited service shall be the total of the following:

- (a) Employment by the Commission while a Participant in this Plan.
- (b) Employment by the Commission prior to the Effective Date, which was credited in the Prior Plan, provided the Employee was participating in the Prior Plan on June 30, 1972, and elected to join this Plan on the Effective Date.
- (c) Service of a Member in the uniformed services of the United States provided that the members are reemployed in accordance with federal law.
- (d) Any period prior to his/her Normal Retirement Date while a Participant is receiving disability retirement benefits under the provisions of Plan A (formerly Employees' Retirement Plan).
- (e) Any Credited Service purchased, accrued and applied for a Represented Plan A Participant in accordance with Section A-3.5 of this Plan.

A-3.2 **Credited Service** shall include all periods while on approved leave of absence, for whatever purpose and whether with or without pay, provided that the Employee returns to active service at the end of the leave period, and provided that, in cases where no employee contribution has been made, the Employee pays to the Employees' Retirement System within 90 days of return to active duty, an after-tax sum equal to the employee contributions which would have been paid had normal contributions been made. Additionally, as of July 1, 1991, Credited Service shall include pro-rated service for all periods while a member in approved part-time career status, provided that, in cases where no employee contribution has been made, the Employee pays to the Employees' Retirement System within ninety (90) days of return to active participation, an after-tax sum equal to the Employee contributions which would have been paid had normal contributions been made. If he/she does not, then no portion of the period while on leave of absence shall be counted as Credited Service. All leaves of absence shall be granted in accordance with a uniform and non-discriminatory leave policy of the Commission.

A-3.3 **Creditability for Accumulated Sick Leave**. In computing Credited Service for Normal or Early Retirement (as may be applicable pursuant to the terms of Plan A), a Member who is entitled to



a benefit under this Plan A shall be entitled to receive an additional credit for earned and unused sick leave, except that such credit shall not apply for meeting minimum retirement eligibility requirements for age nor for the purpose of determining the highest three years for Average Annual Earnings. A maximum of 301 workdays of earned and unused sick leave may be used to qualify for length of service. To be entitled to such additional credit, a Member must have accumulated unused sick leave, which would equate to a minimum of one full month of service credit (twenty-two [22] work days). After allowing for the appropriate amount of additional credit on the basis of full months (twenty-two [22] work days), an additional month of Credited Service will be given for any remainder equating to fifteen (15) or more work days, but no credit will be given for any remainder of less than fifteen (15) work days.

A-3.4 For Members who qualify to receive benefits under the Commission's Long-Term Disability Insurance Plan subsequent to August 1, 1982, Credited Service shall include the total of full months in which the Member, prior to his/her Normal Retirement Date, received or was entitled to receive disability benefits. Should a Member who has been receiving disability benefits subsequently be disqualified for further benefits, then the accrual of Credited Service under this provision shall cease simultaneously with the cessation of benefits under the Commission's Long Term Disability Insurance Plan.

A-3.5 Purchase of Credited Service by Represented Plan A Participants.

- (a) Service Eligible for Purchase. Effective as of July 1, 2009 during the period from 90 to 120 days immediately following the date of adoption of this Section A-3.5 or between 60 and 31 days immediately prior to the date of a Participant's actual retirement as permitted under Sections A-4.1 and A-4.2, a Represented Plan A Participant may elect to purchase additional Credited Service not to exceed a total of five (5) years for certain time in public service and qualified as follows:
- (1) Any period of employment by the Commission prior to retirement under this Plan and during which the Participant was eligible to participate in either this Plan or the Prior Plan, but was not a Participant in this Plan or the Prior Plan, respectively.
  - (2) Except to the extent that credit for that period already is allowed under this Plan as a result of a transfer of eligible service credit or credit pursuant to Code section 414(u), any period during which the Participant was in an active duty status of a uniformed service of the United States (limited to the United States Army, Navy, Air Force, Marine Corps, Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, the Public Health Service of the United States, or active duty service in the National Guard of any state of the United States as set forth in applicable Department of Labor Regulations) and not an active Participant in this Plan, the Prior Plan, or any other contributory retirement plan of an agency of a state, federal or local government.
  - (3) Except to the extent that credit for that period already is allowed under this Plan as a result of a transfer of eligible service credit, any period during which that Participant was a member/participant in the retirement plan of another agency of state or local government in the State of Maryland prior to retirement under this

Plan, and during which period the Participant was not a participant in this Plan or the Prior Plan. The foregoing shall only be available if the Participant will no longer receive credit for service for the same period of time under the other plan referenced in this subsection.

- (4) Notwithstanding other provisions of this Section, and except as expressly required under federal law, a Participant must not be granted or permitted to purchase credited service for any period of actual or credited service under another retirement system if that Participant is receiving retirement benefits or has retained a vested right to retirement benefits from that system and all purchases of service credit shall comply with Code section 415(n).
- (b) Irrevocable Election. An election to purchase additional Credited Service is irrevocable. When an election to purchase service is made 60 to 31 days before the proposed retirement date, the election to retire becomes immediately irrevocable notwithstanding any other provision of this Plan.
- (c) Calculation of Service Cost.
  - (1) The Participant shall contribute to the Plan the entire cost of his/her additional credit determined as the Actuarial Equivalent of additional benefits attributable to the additional Credited Service.
  - (2) For Participants who elect to purchase service during the election window commencing 90 days after the adoption of the Plan amendment, adding this Section A-3.5 to the Plan, the Participant cost to purchase additional service will be the present value of the increase in the accrued benefit at the election date due to the additional service. For the purpose of this calculation the present value will be based on an assumed benefit commencement date that will be the later of the election date or the projected normal retirement date. For the purpose of this calculation, the present value will be based on the Plan's definition of Actuarial Equivalent.
  - (3) For Participants who elect to purchase service between 60-31 days prior to their retirement, the Participant cost to purchase additional service will be the present value of the increase in the accrued benefit at the actual date of retirement due to the additional service. For the purpose of this calculation, the present value will be based on the Plan's definition of Actuarial Equivalent.
- (d) Contribution Methods. The electing Represented Plan A Participant shall contribute the cost for additional Credited Service before retirement in (1) a lump sum or sums paid within thirty (30) days of the Participant's election, or (2) in a number of equal installments payable over no more than five (5) years from the date of such election, provided that installments must be collected by after-tax payroll deduction made while the Participant is employed by the Commission and all of which must be paid before retirement. A lump sum payment made within the thirty (30) days required pursuant to this Section A-3.5(d) may be made by a plan-to-plan transfer from a Code section 403(b) or Code section 457(b) plan in which the Participant also participates that permits such a transfer in a manner consistent with the Code. Under any circumstance,

the Retirement System has no obligation to accept payment of any installment or a partial payment that is not the final payment in any manner other than by after-tax payroll deduction transmitted by the Commission on behalf of the electing Participant. If the electing Participant makes the contributions required in any installment payable after thirty (30) days of the election, interest shall compound and accrue on the outstanding principal balance of the electing Participant's outstanding contribution obligation, computed at the same rate applicable for a refund by the Trust Fund of Participant contributions determined according to Section A-5, such that the principal balance of the Participant's total contribution obligation for additional Credited Service is amortized on a normal basis over the number of installments elected. A Represented Plan A Participant who elects to purchase additional Credited Service in this manner and to pay his/her contribution obligation in any number of installments may prepay all, but not part, of the obligation and accrued interest at any time after the election is made and before retirement. Pre-tax payment is not permitted except by means of a plan-to-plan transfer from a Code section 403(b) or Code section 457(b) plan.

- (e) Effect of Failure to Make Contributions. If a Participant who has elected to purchase service credit under this Section A-3.5 elects to make installment payments and does not qualify for any reason for Commission payroll deductions (either at the time of the election or at a later date during which installments are still being paid) or (2) otherwise fails without legal excuse to pay within ten (10) days of when due all or part of any payment (installment or lump sum) required in accordance with his/her election, that election shall lapse, be of no further force or effect, and the Participant shall not be entitled to vest in any additional Credited Service that has not yet been paid for pursuant to Section A-3.5(d). If the electing Participant makes the contributions required in any installment payable after ten (10) days of when due, interest shall compound and accrue on the outstanding principal balance of the electing Participant's outstanding contribution obligation, computed at the same rate applicable for a refund by the Trust Fund of Participant contributions determined according to Section A-5, such that the principal balance of the Participant's total contribution obligation for additional Credited Service is amortized on a normal basis over the number of installments elected. Unless and until the electing Participant pays his/her total contribution obligation in full, together with any interest accrued, the additional Credited Service shall vest and apply for purposes of this Plan A only on a pro rata basis determined by a fraction, the numerator of which is the sum of all installments paid excluding any interest paid or accrued, and the denominator of which is the Participant's total contribution obligation determined pursuant to Section A-3.5(c).
- (f) Limited Recognition of Purchased Service. Notwithstanding any provision of the Plan to the contrary, additional credit purchased pursuant to this Section A-3.5 does not apply for meeting minimum retirement eligibility requirements for age, vesting, nor for the purpose of determining the highest three years for Average Annual Earnings or for any purpose under this Plan other than for the calculation of service credit for the purpose of determining the amount of the benefit.

## SECTION A-4 - RETIREMENT BENEFITS

- A-4.1 Retirement at or after Normal Retirement Date. The annual amount of retirement benefit payable to an Annuitant who retires on or after his/her Normal Retirement Date shall be an amount equal to 2% of his/her Average Annual Earnings, multiplied by his/her Credited Service. The annual benefit payable, however, shall not be in excess of 100% of his/her Average Annual Earnings.
- A-4.2 Retirement at Early Retirement Date. The annual amount of retirement benefit payable to an Annuitant who retires at an Early Retirement Date shall be an amount equal to the benefit he/she would have been entitled to under Section A-4.1 hereof if his/her Early Retirement Date had been his/her Normal Retirement Date, but based on his/her Credited Service and Average Annual Earnings at his/her Early Retirement Date, reduced by 1/180 for each month by which the commencement date of the early retirement benefit precedes the date that would have been his/her Normal Retirement Date if he/she had continued as a Participant. An Annuitant who retires on an Early Retirement Date may elect to have his/her retirement benefits commence on the first day of any month thereafter, beginning with his/her Early Retirement Date. His/her retirement benefits must commence no later than the date that would have been his/her Normal Retirement Date if he/she had continued to be a Participant.
- A-4.3 Retirement at Disability Retirement Date.
- (a) Retirement Benefit Prior to Normal Retirement Date. The annual retirement benefit payable prior to his/her Normal Retirement Date to a Participant who files an application for Disability Retirement prior to August 1, 1982, and retires at a Disability Retirement Date shall be computed as provided in this Section A-4.3. Effective August 1, 1982, Disability Retirement Benefits are prospectively discontinued under this Retirement System in favor of a comprehensive Commission-sponsored Long-Term Disability Insurance Plan.
- (1) Service-Connected Disability. Upon approval of the application of a Plan A Participant or the Head of his/her Department, filed prior to August 1, 1982, if: (i) the Participant is so disabled, mentally or physically, that he/she cannot perform the duties of his/her job, or of a substantially equivalent job with the Commission that is available for him/her, (ii) the disability is not due to his/her willful act, (iii) the disability is likely to be permanent, and (iv) the disability resulted from an accident, illness, or disease occurring or incurred while the Participant was engaged in the performance of the duties of his/her employment with the Commission, the Participant shall be entitled to an annual retirement benefit in an amount equal to the greater of the following (but not to exceed his/her Average Annual Earnings):
- (A) Two-thirds of his/her Average Annual Earnings as of his/her Disability Retirement Date, plus an annuity which shall be the actuarial equivalent of his/her accumulated contributions at the time of retirement;
- (B) The retirement benefit computed under Section A-4.1 hereof on the basis that his/her Disability Retirement Date was his/her Normal Retirement Date.

- (2) Non-Service-Connected Disability. Upon approval of the application of a Plan A Participant or the Head of his/her Department filed prior to August 1, 1982, if (i) the Participant has five years of Credited Service, (ii) is so disabled mentally or physically, that he/she cannot perform the duties of his/her job, or of a substantially equivalent job with the Commission that is available for him/her, (iii) the disability is not due to his/her willful act, (iv) the disability is likely to be permanent, and (v) the disability is not covered by Section A-4.3(a)(1) hereof, the Participant shall be entitled to an annual retirement benefit in an amount equal to the greater of the following:
- (A) The retirement benefit computed under Section A-4.1 hereof on the basis that his/her Disability Retirement Date was his/her Normal Retirement Date; or
  - (B) 30% of his/her Average Annual Earnings.
- (b) Retirement Benefit After Normal Retirement Date. From and after the date that would have been his/her Normal Retirement Date if he/she had not retired on a Disability Retirement Date, the annual retirement benefit payable to a Participant who retires on a Disability Retirement Date, and is still receiving benefits under Section A-4.3(a) hereof at said Normal Retirement Date, shall be in an amount computed under Section A-4.1, based on his/her Average Annual Earnings at his/her Disability Retirement Date and his/her Credited Service to said Normal Retirement Date.
- (c) Determination of Disability. In no event shall an application for disability retirement be permitted, or disability retirement benefits granted, on behalf of a Participant who has attained his/her Normal Retirement Date, or who has applied for a disability retirement on or after August 1, 1982. All determinations shall be made by the Merit System Board, with a recommendation to the Board of Trustees, whose determination shall be final. A disability determination shall be begun upon written application of a Participant, or the Head of his/her Department, filed with the Administrator, and referred to the Merit System Board.
- Before making its determination, the Merit System Board shall obtain a written opinion from the Medical Review Committee with regard to the nature, cause, degree of permanence, and effect of alleged disability. The Medical Review Committee so conducts such inquiry as it deems necessary and proper under the circumstances in order to give said opinion, in addition to its medical examination of the Participant.
- In cases of doubt, or upon request of the Participant or the Board of Trustees, the Merit System Board shall hold a hearing for the purpose of reviewing medical and other testimony pertinent to the Participant's application for disability retirement.
- (d) Continuation of Disability Retirement Benefits. Disability Retirement Benefits shall continue so long as the Participant remains disabled, as defined in this Section A-4.3. The Merit System Board may require a physical re-examination from time to time to determine the continuance of disability. The Merit System Board may also require the Participant to participate in a program of rehabilitation, provided at no expense to the

Participant, to attempt to ameliorate or remove the disability. If the Participant does not participate in such a program in good faith, in the opinion of the Merit System Board, his/her Disability Retirement Benefits shall cease forthwith, and shall not begin again until he/she does so participate. Disability Retirement Benefits shall not be terminated after a Participant has reached what would have been his/her Normal Retirement Date under this Plan if he/she had not retired on a Disability Retirement Date.

- (e) Reemployment of Member Receiving Disability Retirement Benefits - Payment of Rehabilitation Stipend. This provision is intended to facilitate offering of career opportunities to disability retirees. Should a Member, retired under the Disability Retirement provisions of this Retirement System, be reemployed by the Commission in a career Merit System position, the Member's Disability Retirement benefits shall cease on the first of the month coinciding with or immediately following his/her reemployment. If the Annual Base Pay (Mid-Point Salary Level) for the position in which the Member is reemployed, should be less than the Member's Base Pay immediately preceding his/her Disability Retirement Date, a monthly Rehabilitation Stipend shall be paid to the Member until the earlier of his/her Normal Retirement Date, or the first of the month coinciding with or immediately following the date upon which the Member attains a salary level in his/her new position which, at that point in time, is equal to or greater than the maximum salary then being paid for the position held by the Member immediately preceding his/her Disability Retirement Date. The amount of the monthly stipend shall be calculated as one-twelfth of the difference between the annual Base Pay of the Member immediately preceding his/her Disability Retirement Date and the initial annual Base Pay (Mid-Point Salary Level) for the new position which the Member is assuming, but in no event shall the Rehabilitation Stipend exceed the Disability Retirement benefits being paid to the Member immediately preceding his/her reemployment. The Member shall again become a Participant in the Plan in which he/she participated at Disability Retirement Date; he/she shall again make employee contributions as a percentage of Base Pay provided for by that Plan; and, he/she shall again accrue Credited Service as a participating Member of the Employees' Retirement System. The Member's Normal Retirement Benefits shall subsequently be based on his/her total Credited Service and his/her Average Annual Earnings, based on actual annual Base Pay without regard to any Rehabilitation Stipends received.

#### A-4.4 Change in Amount of Retirement Benefits Due to Change in Cost-of-Living Index.

- (a) Adjustments Due to Change in Consumer Price Index. The retirement benefits payable under this Plan may be increased or decreased as of each July 1st after the Effective Date, for any Beneficiary who had been receiving his/her retirement benefits for at least six months. The increase or decrease shall be determined by the percentage increase or decrease in the Consumer Price Index--All Items Annual Average, Urban Index for Major U. S. Cities, for the preceding 12 months, prepared by the United States Department of Labor, above or below the level of said Index on the immediately preceding December 31st. If the percentage increase or decrease in the Consumer Price Index, for any year, is 3% or less, the retirement benefits payable shall be adjusted by 100% of the increase or decrease. If the percentage increase or decrease in the Consumer Price Index, for any year, is greater than 3%, the retirement benefits payable shall be adjusted by 3% plus one-half of the percentage increase or decrease above 3%. The maximum adjustment for any year shall be 5%. No decrease shall reduce the

retirement benefit below its initial amount. No decrease shall be made except to the extent that the retirement benefit is, at that time, in excess of the level it would have then attained if it had been increased by the total percentage increase in the Index since the first July 1st on which an adjustment under this paragraph could have been made without regard to the limitations provided in this paragraph.

Notwithstanding the foregoing, (1) effective July 1, 2012, retirement benefits payable under this Plan shall not be decreased because of a decrease in the Consumer Price Index described above; (2) effective July 1, 2012, the portion of a person's retirement benefits attributable to Credited Service (other than Credited Service based on earned and unused sick leave as which shall be governed by (3) below) credited for periods on or after July 1, 2012, shall be subject to a maximum adjustment of 2.5% in any Plan year; and, (3) effective January 1, 2013, Credited Service based on earned and unused sick leave pursuant to the terms of the Plan attributable to full pay periods beginning on or after January 1, 2013, shall be subject to a maximum adjustment of 2.5% in any Plan year. For purposes of interpreting the preceding sentence, (A) Credited Service attributable to a transfer or purchase of service credit not commenced prior to July 1, 2012, pursuant to procedures established for the Plan, shall be considered attributable to a pay period beginning on or after July 1, 2012, and thus subject to the 2.5% maximum adjustment and (B) Credited Service attributable to after-tax payments within ninety (90) days after a leave of absence shall be deemed to relate to the period of the leave of absence.

- (b) Supplemental Adjustment to Benefits Payable to Certain Beneficiaries. Effective January 1, 1984, the monthly annuity of any Beneficiary with an initial benefit commencement date prior to December 31, 1981, shall be increased by one percent (1%) for each two (2) years he or she, or the original Annuitant in the case of a Contingent Annuitant, was entitled to receive benefits between July 1, 1974, and December 31, 1981. The Supplemental Adjustment for months equating to less than a full year will be pro-rated. The amount of Supplemental Adjustment to which a Beneficiary is entitled shall, on January 1, 1984, be added to his/her base annuity for the purpose of any future adjustments to be made under the provisions of Paragraph (a), Section A-4.4.

A-4.5 Payment of Retirement Benefits. Retirement benefits under Plan A shall be payable in equal monthly installments, unless some other payment schedule has been established as provided in the Plan. The first payment of Normal or Early Retirement Benefits may be made on the date a Beneficiary first becomes entitled to the retirement benefit. The first payment of Disability Retirement Benefits shall be made on the date established by the Board of Trustees, but not later than the first of the month following approval by the Board of Trustees of the application for Disability Retirement. The last payment shall be made on the first day of the calendar month in which the Beneficiary dies, unless (a) payments have been made for less than 10 years, or (b) the Member had selected an optional form of benefit payment under Section A-4.6 of the Plan. If said retirement benefits have been paid for less than 10 years, the Beneficiary designated by the Member shall receive the remaining payments that would have been made to the Member until benefits have been paid for 10 years. If an optional form of benefit payment has been selected, payments will be made as required by the option selected.

#### A-4.6 Optional Forms of Benefit Payments.

- (a) **Options Available.** A Member may elect one of the following forms of payment of his/her retirement benefit payable at Normal Retirement Date, Early Retirement Date, or Disability Retirement Date, in place of the method of payment provided in Section A-4.5 of this Plan. Each of these optional methods of payment shall be the actuarial equivalent of said retirement benefit as payable under Section A-4.5. The optional methods of payment are as follows:
- (1) A Member may elect to receive a reduced retirement benefit during his/her lifetime, and to have all or a specified portion of such reduced retirement benefit paid to a Contingent Annuitant. The Board of Trustees shall make uniform rules as to what portion or portions of the reduced retirement benefits may be made payable to a Contingent Annuitant, subject to the restrictions in the next paragraph hereof.
  - (2) A Member may elect to receive a benefit described in Section A-4.6(a)(1) that provides that, on the death of the Contingent Annuitant prior to the death of the Member, a Member's retirement benefit will revert to the amount that would have been payable as a single life annuity when the Member's retirement benefit originally commenced (as adjusted for cost-of-living adjustments granted since benefit commencement). There shall be no additional right of survivorship after the death of a Contingent Annuitant.
  - (3) A Member may elect any other optional method of payment of his/her monthly retirement income that is acceptable to the Board of Trustees, but no option may be elected that would (a) permit the interest of any Member to be retained in the Trust Fund after the Member becomes entitled to retirement benefits under this Plan, and only the interest thereon to be paid to the Member during his/her lifetime, the balance to be paid after the death of the Member; or (b) permit installment payments to a Contingent Annuitant to continue for a longer period than the longest of (i) the life of the Member's spouse, (ii) the life expectancy of the Member on the commencement date of his/her retirement benefits, or (iii) the joint life and last survivor expectancy of the Member and his/her spouse on the commencement date of the Member's retirement benefit, or (c) permit installment payments in other than equal amounts, except to the extent that, in accordance with uniform rules adopted by the Board of Trustees, the Member may elect to receive a greater retirement benefit prior to the commencement of his/her Federal Social Security Act benefits and a lesser retirement benefit thereafter, in order to provide him/her with retirement benefits in the aggregate of equivalent actuarial value which will give him/her, insofar as practicable, a level total income for life under the Plan and the Social Security Act.
  - (4) A fully Vested Member, whose employment with the Commission terminated on or after the date he/she was eligible for Early Retirement benefits, may elect in writing to defer benefits until his/her Normal Retirement Date, rather than receive an actuarially reduced Early Retirement benefit. A Member, who has made this election, may irrevocably elect any of the foregoing optional forms of



payment, which shall be effective with the commencement of benefits at Normal Retirement Date. Should the Member die prior to Normal Retirement Date, his/her Contingent Annuitant shall be entitled to receive, effective with the date that would have been the Member's Normal Retirement Date, the appropriate income, as survivor, under the option selected.

- (b) Exercise of Election and Designation of Contingent Annuitant. The election of an optional method of payment and the designation of a Contingent Annuitant must be in writing. It must be filed with the Board of Trustees prior to the commencement date of the Member's retirement benefits under the Plan. With the exception of an irrevocable election under Section A-4.6(a)(4), either the election, or the designation, or both, may be changed by the Member, from time to time, at any time prior to the commencement date of his/her retirement benefits under this Plan.
- (c) Revocation of Election by Occurrence of Certain Events. If a Member who has elected an optional form of payment dies before the commencement date of his/her retirement benefits under this Plan, no retirement annuity shall be paid to his/her Contingent Annuitant. The payment shall be made in accordance with the provisions of Section A-6: Death Benefits. If a Contingent Annuitant dies prior to the commencement date of the Member's retirement benefits under the Plan, the election and the designation shall be void, irrespective of when made, except in the case of a Vested Member who has selected an option under the provisions of Section A-4.6(a)(4). If a Contingent Annuitant dies after the commencement date of the Member's retirement benefits under this Plan, the Annuitant shall continue to receive the appropriate retirement benefit to which he/she is entitled under the option he/she selected. If a Vested Member, who has selected an option under the provisions of Section A-4.6(a)(4), dies prior to the commencement date of his/her retirement benefits, his/her Contingent Annuitant shall receive the appropriate retirement benefit to which he/she is entitled under the option selected, commencing with what would have been the Vested Member's Normal Retirement Date. If both the Annuitant and his/her designated primary Beneficiary die prior to completion of payments under an option providing for a guaranteed number of payments, the commuted value of the balance of the payments shall be paid in a lump sum to the next Beneficiary designated in writing by the Annuitant or, in the absence of such designation, if a person so designated is not then living, to the estate of the last to die of the Annuitant and his/her primary Beneficiary.

A-4.7 Monthly Payments of Less than Twenty-Five Dollars. Anything in the Plan to the contrary notwithstanding, if monthly payments that shall be payable to any Beneficiary under the Plan shall be less than \$25.00; then, if the Board of Trustees shall so direct, the aggregate of the amounts which shall be payable to him or her hereunder in any year shall be paid in quarterly, semi-annual, or annual payments or, with the payee's approval, the actuarial lump sum value of the amounts that shall be payable to him/her hereunder shall be paid in one sum of payments over a specified period of time.

A-4.8 Incapacity of Beneficiary. If, for any reason, the Board of Trustees shall determine that it is not desirable, because of the incapacity of the person who shall be entitled to receive any payment in accordance with the provisions of this Plan, to make such payment direct to such person, the Board of Trustees shall give notice to said person of its intention to make alternate payment. Said person shall be advised of the time, date, and place of the meeting at which such action

shall take place, and the basis upon which the Board proposes to alter the manner of payment. The Beneficiary shall have the right to be represented by counsel, at his/her own expense, and to present witnesses and testimony in opposition to the Board's action. In any such proceeding, the burden of proof shall be on the Board. The Board's decision shall be based upon the evidence presented at the hearing. If the Board of Trustees is presented with a certified copy of a judicial decree of a court of competent jurisdiction, determining that a Beneficiary entitled to receive benefits is incompetent and appointing a guardian, the Board of Trustees shall be entitled to act upon that court order without further inquiry. In the event the Board proposes to act on the basis of a court order, it shall give advance notice of the time, date, and place of the meeting at which such action shall take place.

A-4.9 Missing Member or Beneficiary. If the Board of Trustees is not able to locate any person to whom a benefit is due under this Plan, after making all reasonable efforts to do so, such benefit shall not be payable to such person until he/she has been located. Reasonable efforts shall mean the use of the Social Security Administration Employer Reporting Service or any other methodology deemed appropriate by the Board of Trustees or its delegate. If, after a period of two years and eleven months from the date on which the earliest unpaid benefit was due, he/she is not located, the person's interest in the Plan and any unpaid benefits to which he/she would otherwise be entitled shall be forfeited. If the person later makes a request for the forfeited benefit, such benefit shall be reinstated and paid to the person, but without earnings or interest thereon.

A-4.10 Reduction of Benefits by Benefits Under Other Plans. If a Member under this Plan is entitled to benefits under any other retirement plan, or would have been entitled to said benefits if he/she had not elected to receive a refund of his/her contributions under said plan, on account of service that is also Credited Service under this Plan, the benefits under this Plan shall be actuarially reduced by the benefits under the other retirement plan attributable to said service. Social Security benefits, to which a Member is entitled, are specifically exempted from this provision.

A.4.11 Early Retirement Window for Certain Participants. Effective January 1, 2009, 2011, 2013, and 2015, a Represented Plan A Participant with not less than twenty-nine (29) years of Credited Service and not more than thirty (30) years of Credited Service under Plan A may apply to retire any time prior to reaching thirty (30) years of Credited Service and have that date deemed the Participant's Normal Retirement Date for the purpose of his/her Plan and shall have his or her benefit determined under Section A-4.1.

**SECTION A-5 - BENEFITS UPON TERMINATION OF EMPLOYMENT OTHER THAN BY DEATH OR RETIREMENT**

A-5.1 A Member, whose employment with the Commission terminates, other than by death, or retirement on a Disability Retirement Date, an Early Retirement Date, or Normal Retirement Date, shall be entitled to one or the other of the following:

(a) Refund of Contributions. He/she may elect to receive a lump sum cash refund of his/her contributions to the Trust Fund, with interest thereon at the rate of 4-1/2% per year. Said election shall be in lieu of any other benefits under the Plan.

(b) Vested Benefits.

(1) If a Member, who has completed five or more years of credited service, terminates employment on or after September 1, 2001 and does not elect to receive a refund of required Member contributions, the Member shall be entitled to receive an annual benefit, commencing with what would have been his/her Normal Retirement Date assuming continued active participation in the Plan. The benefits shall be computed as provided in Section A-4.1 of this Plan, on the basis that the first of the month coinciding with or next following his/her date of termination of employment is his/her Normal Retirement Date. Members whose employment terminated prior to September 1, 2001 shall have benefits calculated utilizing the following vesting schedule and the completed years and months of service as of the date of termination:

<u>Completed Years of Credited Service</u>	<u>Percentage</u>
5	50%
6	60%
7	70%
8	80%
9	90%
10 or More	100%

Payment of said benefits shall be made in accordance with Sections A-4.5 and A-4.6 of this Plan.

(2) A Member whose job is abolished and who is not offered a substantially equal job with the Commission, and a Member whose employment by the Commission is on an appointive basis and is not renewed at the end of his/her term of appointment, shall be entitled to receive, commencing with what would have been his/her Normal Retirement Date if his/her participation in the Plan had continued, a maximum annual benefit computed as provided in Section A-4.1 of the Plan on the basis that the first of the month coinciding with or next following the date of his/her termination of employment had been his/her Normal Retirement Date, and payable in accordance with Sections A-4.5 and A-4.6 of the Plan. A Commissioner or a Member who has been appointed by the Commission to the position of Executive Director, Secretary-Treasurer, General Counsel, or another full-time position appointed by the Commission, and

exempted from the Merit System, and who has otherwise reached his or her Normal Retirement Date with his or her eligibility for Normal Retirement intact, shall be entitled to 100% vesting regardless of years of service, and shall be entitled to a maximum annual benefit as set forth above.

## SECTION A-6 - DEATH BENEFITS

A-6.1 Spouse's and Children's Benefits – Death During Participation. If a Participant is survived by a spouse, who has not been specifically excluded by the Participant for entitlement to survivor death benefits, and the Participant died either (a) as a result of a service-connected accident or illness, as that term is defined in Section A-4.3(a) or (b) after completing at least ten years of Credited Service, the spouse shall be entitled to an annual benefit, commencing with the first of the month coinciding with or next following the date of death of the Participant, in an amount equal to the larger of the following:

- (a) An amount computed under Section A-4.1 of this Plan on the basis that the deceased had continued as a Participant to what would have been his/her Normal Retirement Date, at the same annual earnings received during his/her last completed year of employment with the Commission; effective January 1, 1994, for part-time Participants this will be the average base salary of the Participant for the 36 calendar month period, or for the 12 calendar month period if greater, immediately preceding his/her death;
- (b) 25% of the Final Annual Base Pay of the Participant; effective January 1, 1994, for part-time Participants this will be the average base salary of the Participant for the 36 calendar month period, or for the 12 calendar month period if greater, immediately preceding his/her death;
- (c) If the Participant does not leave a surviving spouse entitled to the benefits provided in Section A-6.1, Paragraphs (a) or (b) of this Plan; or if a surviving spouse entitled to the benefits herein should die, and there are one or more surviving children under the age of 18, under the age of 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support; then the benefits provided under Section A-6.1, Paragraph (a) or (b) of this Plan shall be payable to the surviving children of the Participant under the age of 18, or under the age of 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support.

In the event the accumulated total benefit paid under this provision is less than the benefit, which would have been paid under Section A-6.2(a), the difference shall be paid in a lump sum to the surviving children, regardless of age. In the absence of any such eligible Beneficiaries, the difference shall be paid to the estate of the Participant.

### A-6.2 Ordinary Death Benefits.

- (a) General Rule. If a Participant or Vested Member dies prior to retiring on a Disability Retirement Date, an Early Retirement Date or, at or after Normal Retirement Date, without an option selection made under the provisions of Section A-4.6(a)(4), and does not leave a surviving spouse or children entitled to the benefits provided for in Section A-6.1 of this Plan, the Beneficiary designated by him/her, in a written instrument filed with the Administrator, shall be entitled to a lump sum cash payment in an amount equal to the sum of the following:

- (1) 50% of his/her Average Annual Earnings; plus

(2) His/her total contributions to the Trust Fund, with interest thereon at the rate of 4-1/2% per annum.

(b) Special Rule for Vested Members With An Option Selection on File. If a Vested Member dies prior to retiring on a Disability Retirement Date, an Early Retirement Date or, at or after Normal Retirement Date, with an option selection made under the provisions of Section A-4.6(a)(4), the benefit payable shall be the survivor benefit, if any, under the option selected under Section A-4.6(a)(4).

A-6.3 Post-Retirement Death Benefits. Upon the receipt of proper proof of the death of a retired member on or after July 9, 1986, there shall be paid to such person as the member shall have designated and filed with the Board of Trustees, otherwise to his/her estate, a lump sum benefit in the amount of \$10,000. A member may designate a trust or any other entity as the beneficiary of the lump sum benefit, so long as the trust or entity has legal status as identified by a Federal Tax ID number, and so long as the designation is otherwise properly on file with the Board of Trustees.

## SECTION A-7 - CONTRIBUTIONS

- A-7.1 Employee Contributions. Each Plan A Participant who is not a member of the Park Police shall contribute to the Trust Fund 6.5% of his/her Base Pay for each pay period. Each Plan A Participant who is a member of the Park Police shall contribute to the Trust Fund 7% of his/her Base Pay for each pay period. Notwithstanding the foregoing, effective July 1, 2014, each Plan A Participant who is not a member of the Park Police shall contribute to the Trust Fund 7% of his/her Base Pay for each pay period.

Effective January 1, 1984, the Commission shall pick up the employee contributions required by this Section for all Base Pay earned after December 31, 1983, and the contributions so picked up shall, subject to approval by the Internal Revenue Service, be treated as employer contributions in determining Federal and State income tax treatment under Section 414(h) of the United States Internal Revenue Code. These contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The Commission shall pay these employee contributions from the same source of funds, which is used in paying earnings to the employee. The Commission may pick up these contributions by a reduction in the cash salary of the employee or by an offset against a future salary increase or by a combination of a reduction in salary and offset against a future salary increase. If employee contributions are picked up, they shall be treated for all purposes of this Section A-7 in the same manner and to the same extent as employee contributions made prior to the date picked up.

- A-7.2 Employer Contributions. The Commission shall contribute to the Trust Fund from time to time such amounts as are actuarially determined to be required to provide for the benefits under the Plans of this Retirement System.
- A-7.3 No Reversion of Employer Contributions. No contributions to the Trust Fund by the Commission shall be used for or diverted to purposes other than for the exclusive benefit of Members and Beneficiaries, prior to the satisfaction of all liabilities under this Retirement System.

**ARTICLE B**  
**Sections Applicable to Plan B of the M-NCPPC**  
**Employees' Retirement System**

**EFFECTIVE JANUARY 1, 2013, PLAN B IS GENERALLY CLOSED TO NEW**  
**MEMBERS WITH INDIVIDUALS WHO WOULD HAVE BEEN COVERED BY PLAN B**  
**NOW COVERED BY PLAN E.**



## SECTION B-1 - DEFINITIONS

- B-1.1 Appointed Officials means Commissioners of The Maryland-National Capital Park and Planning Commission; and, the Executive Director, the General Counsel and Secretary-Treasurer, serving at the pleasure of the Commission.
- B-1.2 Condition of Employment means mandatory participation in this Retirement Plan for any individual other than Park Police employed by the Commission on or after January 1, 1979, as a career full-time Merit System Employee, and for individuals employed by the M-NCPPC Employees' Retirement System on or after March 1, 1994. Effective January 1, 2009, Condition of Employment also means mandatory participation in this Retirement Plan for Appointed Officials, employees exempted from the Merit System who are appointed by the respective County Planning Board as provided in Land Use Article, Sections 16-102 and 20-204, respectively, of the Annotated Code of Maryland, and eligible career Part-Time Employees. Effective January 1, 2013, Condition of Employment also means mandatory participation in this Retirement Plan for individuals that would otherwise be required to participate in Plan E but, as a result of prior employment, remain as (vested or non-vested) Members of Plan B on rehire.
- B-1.3 Credited Service means the total period of years and months of completed service credited under this Retirement Plan, computed, as provided in Section B-3 of this Plan. Effective January 1, 1994 for part-time employees electing to participate in the ERS and effective January 1, 2009 for part-time employees required to participate in the ERS, part-time employees shall accrue credited service in his/her part-time capacity based on the actual number of paid hours in a calendar year divided by the normal (1950 or 2080) full-time hours for the class of work of the position that the part-time employee occupies. In no instance shall a part-time employee accrue more service (weekly, bi-weekly, or annually) than a full-time employee. For part-time employees, eligibility for receipt of benefits will be based upon calendar years and months of service; and for benefit formula purposes accumulated pro rata accrued service will be used. Part-time employees participating in the ERS as of December 31, 1993, will have an option to participate irrevocably in the full pro rated accrual for his/her part-time service, or to retain the 20 hour per week accrual. Further, part-time credited service accrued prior to January 1, 1994, will be retained at 20 hours per week for benefit calculation purposes.
- B-1.4 Disability Retirement Date means the first day of the month, prior to his/her Normal Retirement Date, coinciding with or following a determination of disability of a Plan B Participant who, prior to August 1, 1982, filed his/her application for disability retirement under Section B-4.3 of this Plan.
- B-1.5 Early Retirement Date means the first day of any month prior to a Participant's Normal Retirement Date as of which:
- (a) He/she has both completed 15 or more years of Credited Service and has reached the age of 55; or
  - (b) He/she has completed 25 years of Credited Service regardless of age.

For part-time employees, eligibility for receipt of benefits will be based upon calendar years and months of service; and for benefit formula purposes accumulated pro rata accrued credited service will be used as calculated in Section B-3.

- B-1.6 Employee means (a) any individual employed by the Commission as a career full-time Merit System employee except Park Police; (b) any individual appointed by the Commission to the position of Executive Director, Secretary-Treasurer, General Counsel, or other full-time position appointed by the Commission and exempted from the Merit System; (c) any individual appointed by the respective County to serve as a Commissioner of The Maryland-National Capital Park and Planning Commission; (d) any individual exempted from the Merit System, who is appointed by the respective County Planning Board, as provided in Land Use Article, Sections 16-102 and 20-204, respectively, of the Annotated Code of Maryland; (e) any individual employed by the Commission as a career part-time Merit System employee on a year-round basis; and (f) any individual employed by the M-NCPPC Employees' Retirement System.
- B-1.7 Integrated Retirement Plan means Plan B, which provides full retirement benefits until the retired Member is eligible for full Social Security retirement benefits, and provides supplemental benefits thereafter.
- B-1.8 Normal Retirement Date means the earlier of (a) the first day of the month coinciding with or immediately following the date on which a Member of Plan B has both attained age 60 and completed five years of Credited Service; or (b) the first day of the month coinciding with or immediately following the date on which a Member of Plan B, regardless of age, has completed 30 years of Credited Service. For part-time employees, eligibility for receipt of benefits will be based upon calendar years and months of service; and for benefit formula purposes accumulated pro rata service will be used as calculated in Section B-3. Notwithstanding the foregoing, a Commissioner or a Participant who has been appointed by the Commission to the position of Executive Director, Secretary-Treasurer, General Counsel, or another full-time position appointed by the Commission, and exempted from the Merit System reaches his or her Normal Retirement Date once he or she has attained age 60 and five years have elapsed since he or she was first credited with Credited Service under the Plans, regardless of whether he or she has actually completed five years of Credited Service under the Plans.
- B-1.9 Part-Time Employee means a career Merit System employee who is employed on a year-round part-time basis, but working not less than half of a normal workweek.
- B-1.10 Plan B Participant means an employee who (a) has enrolled in Plan B as a Condition of Employment or (b) elected to transfer to Plan B from Plan A pursuant to the provisions of Article A, Section A-2.4 of this Retirement System.
- B-1.11 Social Security Wage Base means the annual taxable wages under the Federal Social Security Act.
- B-1.12 Social Security Covered Compensation Level is the average (without indexing) of the taxable wage bases in effect for each calendar year during the 35-year period ending with the last day of the calendar year in which a Member attains Social Security retirement age. For purposes of this Section B-1.12, Social Security retirement age is rounded up to the next integer age.

The Social Security Covered Compensation Level is the result determined above, rounded to the next lower multiple of 12. The determination of the Covered Compensation Level as of any date shall be calculated without regard to increases in the Maximum Taxable Wage Base occurring after that date. Social Security Covered Compensation Level will be determined at the time of separation from service for any Member who, at the time of such separation, has a non-forfeitable right to benefits

B-1.13 Represented Plan B Participant means a Plan B Participant who is represented on or after July 1, 2005, for collective bargaining purposes by an exclusive representative elected pursuant to Land Use Article, Title 16, Subtitle 2, Annotated Code of Maryland, as amended from time to time, and represented as of the date upon which any Participant applicable election, action or determination prescribed under this Plan B is permitted or required with respect to a Represented Plan B Participant.

## **SECTION B-2 - REQUIREMENTS FOR PARTICIPATION**

- B-2.1 (a) Employees on December 31, 1978, not covered by Plan A of the Employees' Retirement System. Any eligible employee, other than Park Police employees, who was not a Plan A Participant on December 31, 1978, may elect to become a Participant in Plan B on the first day of any month on or after January 1, 1979.
- (b) New Employees Hired by the Commission on or After January 1, 1979 and Employees Hired by the M-NCPPC Employees' Retirement System on or after March 1, 1994 and Prior to January 1, 2013. Every Employee, other than the categories of individuals listed in sub-section B-2.1(c) below, hired by the Commission between January 1, 1979 and December 31, 2012 or hired by the M-NCPPC Employees' Retirement System between March 1, 1994 and December 31, 2012, shall as a Condition of Employment become a Participant in Plan B of the Employees' Retirement System on the first day of the month following the date of his/her employment.
- (c) Appointed Officials, Employees Exempted From the Merit System and Part-Time Employees. Effective January 1, 2009, Appointed Officials, employees exempted from the Merit System who are appointed by the respective County Planning Board as provided in Land Use Article, Sections 16-102 and 20-204, respectively, of the Annotated Code of Maryland, and part-time Merit System employees appointed or hired prior to January 1, 2013 shall, as a Condition of Employment, become a Participant in Plan B of the Employees' Retirement System on the later of the first day of the month following the date of his/her employment and January 1, 2009.
- (d) Members of Plan B Hired or Appointed On or After January 1, 2013. Employees hired or appointed on or after January 1, 2013 that, as a result of prior employment or appointment with the Commission or Employees' Retirement System, are Members of Plan B shall as a Condition of Employment become a Participant in Plan B of the Employees' Retirement System on the first day of the month following the date of his/her reemployment.
- (e) Participation in the Plan shall be mandatory and may not be waived under any circumstances.
- (f) Except as provided in Sections B-2.1(a) and B-2.1(d) above, effective January 1, 2013 Plan B is closed to new Plan B Participants.
- B-2.2 Method of Election to Participate. Each Employee, who as a Condition of Employment must participate in Plan B shall fill out, sign, and file with the Administrator, an application form furnished by the Administrator, which shall include an authorization for the deduction by the Commission from the compensation of the Employee, the contributions required of the Employee under Plan B, and the payment of said deducted contributions by the Commission to the Trust Fund under this Plan. This authorization includes, without limitation, an authorization for the recapture by the Commission of deficient contributions. Said application shall also contain an agreement by the Employee to be bound by the provisions of the Plan, and the Employees' Retirement System, as then in effect, and as thereafter amended in the manner provided for in the Retirement System. A Member of this Plan may not withdraw his/her

contributions from the Retirement System except upon termination of employment. As is set forth above, no other Employee may discontinue membership except upon termination.

### **SECTION B-3 - CREDITED SERVICE**

B-3.1 **Credited Service** means the total completed years and months of employment of a Member, not to exceed a maximum of 35 years, to be used in computing Retirement Benefits under Plan B, and shall be the total of the following:

- (a) Employment by the Commission in pay status while a contributing Participant in Plan B of this Retirement System.
- (b) Service transferred to this Retirement System pursuant to Title 37 of the State Personnel and Pensions Article of the Annotated Code of Maryland, as applicable at the time of transfer.
- (c) Service transferred to Plan B from Plan A of the M-NCPPC Employees' Retirement System.
- (d) Service of a Member in the uniformed services of the United States provided that the members are reemployed in accordance with federal law.
- (e) Any Credited Service purchased, accrued and applied for a Represented Plan B Participant in accordance with Section B-3.4 of this Plan.

B-3.2 **Creditability for Accumulated Sick Leave**. In computing Credited Service for Normal or Early Retirement (as may be applicable pursuant to the terms of Plan B), a Member who is entitled to a benefit under this Plan B shall be entitled to receive an additional credit for earned and unused sick leave, except that such credit shall not apply for meeting minimum retirement eligibility requirements for age, nor for the purpose of determining the highest three years of Average Annual Earnings. A maximum of 301 workdays of earned and unused sick leave may be used to qualify for length of service. To be entitled to such additional credit, a Member must have accumulated unused sick leave, which would equate to a minimum of one full month of service credit (twenty-two [22] work days). After allowing for the appropriate amount of additional credit on the basis of full months (twenty-two [22] work days), an additional month of Credited Service will be given for any remainder equating to fifteen (15) or more work days, but no credit will be given for any remainder of less than fifteen (15) work days.

B-3.3 For Members who qualify to receive benefits under the Commission's Long Term Disability Insurance Plan subsequent to August 1, 1982, Credited Service shall include the total of full months in which the Member, prior to his or her Normal Retirement Date, received or was entitled to receive disability benefits. Should a Member who has been receiving disability benefits subsequently be disqualified for further benefits, and then the accrual of Credited Service under this provision shall cease simultaneously with the cessation of benefits under the Commission's Long-Term Disability Insurance Plan.

B-3.4 **Purchase of Credited Service by Represented Plan B Participants**.

- (a) **Service Eligible for Purchase**. Effective as of July 1, 2009 during the period from 90 to 120 days immediately following the date of adoption of this Section B-3.4 or at least 31 but not more than 60 days immediately prior to the date of a Participant's actual retirement as permitted under Sections B-4.1 and B-4.2, a Represented Plan B

Participant may elect to purchase additional Credited Service not to exceed a total of five (5) years for certain time in public service and qualified as follows:

- (1) Any period of employment by the Commission prior to retirement under this Plan and during which the Participant was eligible to participate in either this Plan or the Prior Plan, but was not a Participant in this Plan or the Prior Plan, respectively.
  - (2) Except to the extent that credit for that period already is allowed under this Plan as a result of a transfer of eligible service credit or credit pursuant to Code section 414(u), any period during which the Participant was in an active duty status of a uniformed service of the United States (limited to the United States Army, Navy, Air Force, Marine Corps, Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, the Public Health Service of the United States, or active duty service in the National Guard of any state of the United States as set forth in applicable Department of Labor regulations) and not an active Participant in this Plan, the Prior Plan, or any other contributory retirement plan of an agency of a state, federal or local government.
  - (3) Except to the extent that credit for that period already is allowed under this Plan as a result of a transfer of eligible service credit, any period during which that Participant was a member/participant in the retirement plan of another agency of state or local government in the State of Maryland prior to retirement under this Plan, and during which period the Participant was not a participant in this Plan or the Prior Plan. The foregoing shall only be available if the Participant will no longer receive credit for service for the same period of time under the other plan referenced in this subsection.
  - (4) Notwithstanding other provisions of this Section, and except as expressly required under federal law, a Participant must not be granted or permitted to purchase credited service for any period of actual or credited service under another retirement system if that Participant is receiving retirement benefits or has retained a vested right to retirement benefits from that system and all purchases of service credit shall comply with Code section 415(n).
- (b) Irrevocable Election. An election to purchase additional Credited Service is irrevocable. When an election to purchase service is made at least 31 but not more than 60 days before the proposed retirement date, the election to retire becomes immediately irrevocable notwithstanding any other provision of this Plan.
- (c) Calculation of Service Cost.
- (1) The Participant shall contribute to the Plan the entire cost of his/her additional credit determined as the Actuarial Equivalent of additional benefits attributable to the additional Credited Service.
  - (2) For Participants who elect to purchase service during the election window commencing 90 days after the adoption of the Plan amendment, adding this

Section B-3.4 to the Plan, the participant cost to purchase additional service will be the present value of the increase in the accrued benefit at the election date due to the additional service. For the purpose of this calculation the present value will be based on an assumed benefit commencement date that will be the later of the election date or the projected normal retirement date. For the purpose of this calculation, the present value will be based on the Plan's definition of Actuarial Equivalent.

- (3) For Participants who elect to purchase service at least 31 but not more than 60 days prior to their retirement, the Participant cost to purchase additional service will be the present value of the increase in the accrued benefit at the actual date of retirement due to the additional service. For the purpose of this calculation, the present value will be based on the Plan's definition of Actuarial Equivalent.
- (d) Contribution Methods. The electing Represented Plan B Participant shall contribute the cost for additional Credited Service before retirement in (1) a lump sum or sums paid within thirty (30) days of the Participant's election, or (2) in a number of equal installments payable over no more than five (5) years from the date of such election, provided that installments must be collected by after-tax payroll deduction made while the Participant is employed by the Commission and all of which must be paid before retirement. A lump sum payment made within the thirty (30) days required pursuant to this Section B-3.5(d) may be made by a plan-to-plan transfer from Code section 403(b) or Code section 457(b) plan in which the Participant also participates that permits such a transfer in a manner consistent with the Code. Under any circumstance, the Retirement System has no obligation to accept payment of any installment or a partial payment that is not the final payment in any manner other than by after-tax payroll deduction transmitted by the Commission on behalf of the electing Participant. If the electing Participant makes the contributions required in any installment payable after thirty (30) days of the election, interest shall compound and accrue on the outstanding principal balance of the electing Participant's outstanding contribution obligation, computed at the same rate applicable for a refund by the Trust Fund of Participant contributions determined according to Section B-5, such that the principal balance of the Participant's total contribution obligation for additional Credited Service is amortized on a normal basis over the number of installments elected. A Represented Plan B Participant who elects to purchase additional Credited Service in this manner and to pay his/her contribution obligation in any number of installments may prepay all, but not part, of the obligation and accrued interest at any time after the election is made and before retirement. Pre-tax payment is not permitted except by means of a plan-to-plan transfer from a Code section 403(b) or Code section 457(b) plan.
- (e) Effect of Failure to Make Contributions. If a Participant who has elected to purchase service credit under this Section B-3.4 elects to make installment payments and does not qualify for any reason for Commission payroll deductions (either at the time of the election or at a later date during which installments are still being paid) or (2) otherwise fails without legal excuse to pay within ten (10) days of when due all or part of any payment (installment or lump sum) required in accordance with his/her election, that election shall lapse, be of no further force or effect, and the Participant shall not be entitled to vest in any additional Credited Service that has not yet been paid for pursuant to B-3.4(d). If the electing Participant makes the contributions required in any



installment payable after ten (10) days of when due, interest shall compound and accrue on the outstanding principal balance of the electing Participant's outstanding contribution obligation, computed at the same rate applicable for a refund by the Trust Fund of Participant contributions determined according to Section B-5, such that the principal balance of the Participant's total contribution obligation for additional Credited Service is amortized on a normal basis over the number of installments elected. Unless and until the electing Participant pays his/her total contribution obligation in full, together with any interest accrued, the additional Credited Service shall vest and apply for purposes of this Plan B only on a pro rata basis determined by a fraction, the numerator of which is the sum of all installments paid excluding any interest paid or accrued, and the denominator of which is the Participant's total contribution obligation determined pursuant to Section B-3.5(c).

- (f) Limited Recognition of Purchased Service. Notwithstanding any provision of the Plan to the contrary, additional credit purchased pursuant to this Section B-3.4 does not apply for meeting minimum retirement eligibility requirements for age, vesting, nor for the purpose of determining the highest three years for Average Annual Earnings or for any purpose under this Plan other than for the calculation of service credit for the purpose of determining the amount of the benefit.

## **SECTION B-4 - RETIREMENT BENEFITS**

### **B-4.1 Integrated Retirement Benefits at or after Normal Retirement Date.**

- (a) The annual amount of retirement benefits payable to a Plan B Annuitant from date of retirement to date of attaining statutory age of eligibility for full Social Security retirement benefits shall be 2% of Average Annual Earnings multiplied by years of Credited Service up to a maximum of 35 years, plus sick leave credit. Years of Credited Service of less than a full year will be prorated. The annual benefit payable, however, shall not be in excess of 100% of his/her Average Annual Earnings.
- (b) Commencing September 1, 2001, for members who have reached the eligibility date for full Social Security retirement benefits, the amount of retirement benefits payable from the Plan shall be one and one half percent (1½%) of Average Annual Earnings up to the Social Security Covered Compensation Level, plus 2% of Average Annual Earnings in excess of the Social Security Covered Compensation Level, multiplied by years of Credited Service, up to a maximum of thirty-five (35) years, plus sick leave credit, together with any accumulated cost-of-living adjustments received from the date of retirement to the eligibility date for full Social Security retirement benefits. Years of Credited Service of less than a full year will be prorated.

**B-4.2 Retirement at Early Retirement Date.** The annual amount of retirement benefits payable to a Plan B Annuitant who retires on an Early Retirement Date, shall be an amount equal to the benefit he/she would have been entitled to receive under Sections B-4.1(a) and (b), if his/her Early Retirement Date had been his/her Normal Retirement Date, but based on his/her Credited Service and Average Annual Earnings at his/her Early Retirement Date, reduced by 1/180 for each month by which the commencement date of the Early Retirement Benefit precedes the date that would have been his/her Normal Retirement Date if he/she had continued as a Participant. An Annuitant who retires on an Early Retirement Date may elect to have his/her retirement benefits commence on the first day of any month thereafter, beginning with his/her Early Retirement Date. His/her retirement benefits must commence no later than the date that would have been his/her Normal Retirement Date if he/she had continued to be a Participant.

**B-4.3 Retirement at Disability Retirement Date.** The annual retirement benefit payable to an Annuitant who retires at a Disability Retirement Date shall be computed as provided in this Section B-4.3. Effective August 1, 1982, Disability Retirement Benefits are prospectively discontinued under this Retirement System in favor of a comprehensive Commission-sponsored Long-Term Disability Insurance Plan.

- (a) **Service-Connected Disability.** Upon approval of the application of a Participant or of the Head of his/her Department, filed prior to August 1, 1982, any Participant who has been totally and permanently incapacitated for any duty with the Commission as a result of an accident, illness, or disease occurring or incurred while the Participant was engaged in the performance of the duties of his/her employment with the Commission, without willful negligence on his/her part, the Participant shall be entitled to an annual retirement benefit in an amount equal to the greater of the following (but not to exceed his/her Average Annual Earnings):

- (1) Two-thirds of his/her Average Annual Earnings as of his/her Disability Retirement Date, plus an annuity which shall be the actuarial equivalent of his/her accumulated contributions at the time of disability retirement;
  - (2) The retirement benefit computed under Section B-4.1(a) hereof on the basis that his/her Disability Retirement Date was his/her Normal Retirement Date.
- (b) Ordinary Disability. Upon approval of the application of a Participant or of the Head of his/her Department, filed prior to August 1, 1982, if (1) the Participant has five years or more of Credited Service, (2) is so disabled mentally or physically, that he/she cannot perform the duties of his/her job, or of a substantially equivalent job with the Commission that is available for him/her, (3) disability is not due to his/her willful act, (4) the disability is likely to be permanent, and (5) the disability is not covered by Section B-4.3(a) hereof, the Participant shall be entitled to an annual retirement benefit in an amount equal to the greater of the following:
- (1) The retirement benefit computed under Section B-4.1(a) hereof on the basis that his/her Disability Retirement Date was his/her Normal Retirement Date; or
  - (2) 30% of his/her Average Annual Earnings.
- (c) Benefit Limitations. If the retirement benefit payable to a member retired on a disability retirement, plus disability benefits which the member receives from Social Security and any other Commission-sponsored insurance program, exceeds 100% of his/her final Base Pay, the Member's Disability Retirement Benefits shall be reduced to the extent that the total initial benefit from all sources equals, but does not exceed, 100% of his/her final Base Pay.
- (d) Determination of Disability. In no event shall an application for disability retirement be permitted or Disability Retirement Benefits granted on behalf of a Participant who has attained his/her Normal Retirement Date, or who has applied for a disability retirement on or after August 1, 1982. All determinations shall be made by the Merit System Board, with a recommendation to the Board of Trustees, whose determination shall be final. A disability determination shall be begun upon written application of a Participant or the Head of his/her Department, filed with the Administrator and referred to the Merit System Board. Before making its determination, the Merit System Board shall obtain a written opinion from the Medical Review Committee with regard to the nature, cause, degree of permanence, and effect of alleged disability. The Medical Review Committee conducts such inquiry as it deems necessary and proper under the circumstances in order to give said opinion, in addition to its medical examination of the Participant. In cases of doubt, or upon request of the Participant or the Board of Trustees, the Merit System Board shall hold a hearing for the purpose of reviewing medical and other testimony pertinent to the Participant's application for disability retirement.
- (e) Continuation of Disability Retirement. Disability Retirement Benefits shall continue so long as the Member remains disabled, as defined in this Section B-4.3. The Merit System Board may require physical re-examination from time to time to determine the continuance of disability. The Merit System Board may also require the Member to

participate in a program of rehabilitation, provided at no expense to the Member, to attempt to ameliorate or remove the disability. If the Member does not participate in such a program in good faith, in the opinion of the Merit System Board, his/her disability retirement shall cease forthwith, and shall not begin again until he/she does so participate. Disability Retirement Benefits shall not be terminated after a Member has reached what would have been his/her Normal Retirement Date under this Plan if he/she had not retired on a Disability Retirement Date.

- (f) Reemployment of Member Receiving Disability Retirement Benefits - Payment of Rehabilitation Stipend. This provision is intended to facilitate offering of career opportunities to disability retirees. Should a Member, retired under the Disability Retirement provisions of this Retirement System, be reemployed by the Commission in a career Merit System position, the Member's Disability Retirement Benefits shall cease on the first of the month coinciding with or immediately following his/her reemployment. If the Annual Base Pay (Mid-Point Salary Level) for the position in which the Member is reemployed, should be less than the Member's Base Pay immediately preceding his/her Disability Retirement Date, a monthly Rehabilitation Stipend shall be paid to the Member until the earlier of his/her Normal Retirement Date, or the first of the month coinciding with or immediately following the date upon which the Member attains a salary level in his/her new position which, at that point in time, is equal to or greater than the maximum salary then being paid for the position held by the Member immediately preceding his/her Disability Retirement Date. The amount of the monthly stipend shall be calculated as one-twelfth of the difference between the annual Base Pay of the Member immediately preceding his/her Disability Retirement Date and the initial annual Base Pay (Mid-Point Salary Level) for the new position which the Member is assuming, but in no event shall the Rehabilitation Stipend exceed the Disability Retirement benefit being paid to the Member immediately preceding his/her reemployment. The Member shall again become a Participant in the Plan in which he/she participated at Disability Retirement Date; he/she shall again make employee contributions as a percentage of Base Pay provided for by the Plan; and he/she shall again accrue Credited Service as a participating Member of the Employees' Retirement System. The Member's Normal Retirement Benefits shall subsequently be based on his/her total Credited Service and his/her Average Annual Earnings, based on actual annual Base Pay without regard to any Rehabilitation Stipends received.

B-4.4 Change in Amount of Retirement Benefits Due to Change in Cost-Of-Living Index. The retirement benefits payable under this Plan may be increased or decreased as of each July 1st, after the Effective Date, for any Beneficiary who had been receiving his/her retirement benefits for at least six months. The increase or decrease shall be determined by the percentage increase or decrease in the Consumer Price Index - All Items Annual Average, Urban Index for Major U.S. Cities, for the preceding 12 months, prepared by the United States Department of Labor, above or below the level of said Index on the immediately preceding December 31st. If the percentage increase or decrease in the Consumer Price Index, for any year, is 3% or less, the retirement benefits payable shall be adjusted by 100% of the increase or decrease. If the percentage increase or decrease in the Consumer Price Index, for any year, is greater than 3%, the retirement benefits payable shall be adjusted by 3% plus one-half of the percentage increase or decrease above 3%. The maximum adjustment for any year shall be 5%. No decrease shall reduce the retirement benefit below its initial amount. No decrease shall be made except to the extent that the retirement benefit is, at that time, in excess of the level it would have then

attained if it had been increased by the total percentage increase in the Index since the first July 1st on which an adjustment under this paragraph could have been made without regard to the limitation provided in this paragraph.

Notwithstanding the foregoing, (1) effective July 1, 2012, retirement benefits payable under this Plan shall not be decreased because of a decrease in the Consumer Price Index described above; (2) effective July 1, 2012, the portion of a person's retirement benefits attributable to Credited Service (other than Credited Service based on earned and unused sick leave as which shall be governed by (3) below) credited for periods on or after July 1, 2012, shall be subject to a maximum adjustment of 2.5% in any Plan year; and, (3) effective January 1, 2013, Credited Service based on earned and unused sick leave pursuant to the terms of the Plan attributable to full pay periods beginning on or after January 1, 2013, shall be subject to a maximum adjustment of 2.5% in any Plan year. For purposes of interpreting the preceding sentence, (A) Credited Service attributable to a transfer or purchase of service credit not commenced prior to July 1, 2012, pursuant to procedures established for the Plan, shall be considered attributable to a pay period beginning on or after July 1, 2012, and thus subject to the 2.5% maximum adjustment and (B) Credited Service attributable to after-tax payments within ninety (90) days after a leave of absence shall be deemed to relate to the period of the leave of absence.

**B-4.5 Payment of Retirement Benefits.** Retirement benefits under Plan B shall be payable in equal monthly installments, unless another payment schedule has been established as provided in the Plan. The first payment of Normal or Early Retirement Benefits may be made on the date a Beneficiary first becomes entitled to the retirement benefit. The first payment of Disability Retirement Benefits shall be made on the date established by the Board of Trustees, but not later than the first of the month following approval by the Board of Trustees of the application for Disability Retirement. The last payment shall be made on the first day of the calendar month in which the Beneficiary dies, unless he/she has elected an optional form of benefits. If the Beneficiary has not elected an optional form of benefits and dies before receiving benefits in an amount equal to the Member's contributions plus credited interest, the difference will be payable to the surviving Beneficiary or Beneficiaries.

**B-4.6 Optional Forms of Benefit Payments Available.** A Member may elect one of the following optional forms of payment of his/her retirement benefit payable at Normal Retirement Date, Early Retirement Date, or Disability Retirement Date, in place of the method of payment provided in Section B-4.5 of this Plan. Each of these optional methods of payment shall be the actuarial equivalent of said retirement benefit as payable under Section B-4.5. The optional methods of payment are as follows:

- (a) A Member may elect to receive a reduced retirement benefit during his /her lifetime and to have all or a specified portion of such reduced retirement benefits paid to the Contingent Annuitant. The Board of Trustees shall make uniform rules as to which portion or portions of the reduced retirement benefits may be made payable to a Contingent Annuitant, subject to the restrictions in the next paragraph hereof.
- (b) A Member may elect to receive a benefit described in Section B-4.6(a) that provides that, on the death of the Contingent Annuitant prior to the death of the Member, a Member's retirement benefit will revert to the amount that would have been payable as a single life annuity when the Member's retirement benefit originally commenced (as

adjusted for cost-of-living adjustments granted since benefit commencement). There shall be no additional right of survivorship after the death of a Contingent Annuitant.

- (c) A Member may elect any other optional method of payment of his/her monthly retirement income that is acceptable to the Board of Trustees in accordance with uniform rules adopted by the Board of Trustees, but no option may be elected that would:
  - (1) Permit the interest of a Member to be retained in the Trust Fund after the Member becomes entitled to retirement benefits under this Plan, and only the interest thereon to be paid to the Member during his/her lifetime, the balance to be paid after the death of the Member; or
  - (2) Would permit installment payments to a Contingent Annuitant to continue for a longer period than the longest of the life of the Member's spouse, the life expectancy of the Member on the commencement date of his/her retirement benefits, or the joint life and last survivor expectancy of the Member and his/her spouse on the commencement date of the Member's retirement benefit.
- (d) A fully Vested Member, whose employment with the Commission terminated on or after the date he/she was eligible for Early Retirement Benefits, may elect in writing to defer benefits until his/her Normal Retirement Date, rather than receive an actuarially reduced Early Retirement Benefit. A Member, who has made this election, may irrevocably elect any of the foregoing optional forms of payment, which shall be effective with the commencement of benefits at Normal Retirement Date. Should the Member die prior to Normal Retirement Date, his/her Contingent Annuitant shall be entitled to receive, effective with the date that would have been the Member's Normal Retirement Date, the appropriate income, as survivor, under the option selected.

**B-4.7 Exercise of Election and Designation of Contingent Annuitant.** The election of an optional method of payment and the designation of a Contingent Annuitant must be in writing. It must be filed with the Board of Trustees prior to the commencement date of the Member's retirement benefits under this Plan. With the exception of an irrevocable election under Section B-4.6(d), either the election, or the designation, or both, may be changed by the Member, from time to time, at any time prior to the commencement date of his/her retirement benefits under this Plan.

**B-4.8 Revocation of Election by Occurrence of Certain Events.** If a Member who has elected an optional form of payment dies before the commencement date of his/her retirement benefits under this Plan, no retirement annuity shall be paid to his/her Contingent Annuitant. The payment shall be made in accordance with the provisions of Section B-6: Death Benefits. If a Contingent Annuitant dies prior to the commencement date of the Member's retirement benefits under this Plan, the election and the designation shall be void, irrespective of when made, except in the case of a Vested Member who has selected an option under the provisions of Section B-4.6(d). If a Contingent Annuitant dies after the commencement date of the Member's retirement benefits under this Plan, the Annuitant shall continue to receive the appropriate retirement to which he/she is entitled under the option, which he/she selected. If a Vested Member, who has selected an option under the provisions of Section B-4.6(d), dies prior to the commencement date of his/her retirement benefits, his/her Contingent Annuitant shall receive the appropriate retirement benefit to which he/she is entitled under the option selected,

commencing with what would have been the Vested Member's Normal Retirement Date. If both the Annuitant and his/her designated primary Beneficiary die prior to completion of payments under an option providing for a guaranteed number of payments, the commuted value of the balance of the payments shall be paid in a lump sum to the next Beneficiary designated in writing by the Annuitant or, in the absence of such designation, or if a person so designated is not then living, to the estate of the last to die of the Annuitant and his/her primary Beneficiary.

**B-4.9 Incapacity of Beneficiary.** If, for any reason, the Board of Trustees shall determine that it is not desirable, because of the incapacity of the person who shall be entitled to receive any payment in accordance with the provisions of this Plan, to make such payment direct to such person, the Board of Trustees shall give notice to said person of its intention to make alternate payment. Said person shall be advised of the time, date, and place of the meeting at which such action shall take place, and the basis upon which the Board proposes to alter the manner of payment. The Beneficiary shall have the right to be represented by counsel, at his/her own expense, and to present witnesses and testimony in opposition to the Board's action. In any such proceeding, the burden of proof shall be on the Board. The Board's decision shall be based upon the evidence presented at the hearing. If the Board of Trustees is presented with a certified copy of a judicial decree of a court of competent jurisdiction, determining that a Beneficiary entitled to receive benefits is incompetent and appointing a guardian, the Board of Trustees shall be entitled to act upon that court order without further inquiry. In the event the Board proposes to act on the basis of a court order, it shall give advance notice of the time, date, and place of the meeting at which such action shall take place.

**B-4.10 Missing Member or Beneficiary.** If the Board of Trustees is not able to locate any person to whom a benefit is due under this Plan, after making all reasonable efforts to do so, such benefit shall not be payable to such person until he/she has been located. Reasonable efforts shall mean the use of the Social Security Administration Employer Reporting Service or any other methodology deemed appropriate by the Board of Trustees or its delegate. If, after a period of two years and eleven months from the date on which the earliest unpaid benefit was due, he/she is not located, the person's interest in the Plan and any unpaid benefits to which he/she would otherwise be entitled, shall be forfeited. If the person later makes a request for the forfeited benefit, such benefit shall be reinstated and paid to the person, but without earnings or interest thereon.

**B-4.11 Reduction of Benefits by Benefits Under Other Plans.** If a Member under this Plan is entitled to benefits under any other retirement plan, for service that is also Credited Service under this Plan, the benefits under this Plan shall be actuarially reduced by the benefits under the other retirement plan attributable to said service. Social Security benefits, to which a Member is entitled, are specifically exempted from this provision.

**B-4.12 Early Retirement Window for Certain Participants.** Effective January 1, 2009, 2011, 2013, and 2015, a Represented Plan B Participant with not less than twenty-nine (29) years of Credited Service and not more than thirty (30) years of Credited Service under Plan B may apply to retire any time prior to reaching thirty (30) years of Credited Service and have that date deemed the Participant's Normal Retirement Date for the purpose of his/her Plan and shall have his or her benefit determined under Section B-4.1.

**SECTION B-5 - BENEFITS UPON TERMINATION OF EMPLOYMENT OTHER THAN BY DEATH OR RETIREMENT**

B-5.1 A Member, whose employment with the Commission terminates, other than by death, or retirement on a Disability Retirement Date, an Early Retirement Date, or Normal Retirement Date, shall be entitled to one or the other of the following:

(a) Refund of Contributions. He/she may elect to receive a lump sum cash refund of his/her contributions to the Trust Fund, with interest thereon at the rate of 4-1/2% per year. Said election shall be in lieu of any other benefits under the Plan.

(b) Vested Benefits.

(1) If a Member, who has completed five (5) or more years of credited service, terminates employment on or after September 1, 2001 and does not elect to receive a refund of required Member contributions, the Member shall be entitled to receive an annual benefit, commencing with what would have been his/her Normal Retirement Date assuming continued active participation in the Plan. The benefit shall be computed as provided in Section B-4.1 of this Plan, on the basis that the first of the month coinciding with or next following his/her date of termination of employment is his/her Normal Retirement Date. Members whose employment terminated prior to September 1, 2001 shall have benefits calculated utilizing the following vesting schedule and the completed years and months of service as of the date of termination:

<u>Completed Years of Credited Service</u>	<u>Percentage</u>
5	50%
6	60%
7	70%
8	80%
9	90%
10 or More	100%

Payment of said benefits shall be made in accordance with Sections B-4.5 and B-4.6 of this Plan.

(2) A Member whose job is abolished and who is not offered a substantially equal job with the Commission shall be entitled to receive, commencing with what would have been his/her Normal Retirement Date if his/her participation in the Plan had continued, a maximum annual benefit computed, as provided in Section B-4.1 of this Plan, on the basis that the first of the month coinciding with or next following the date of his/her termination of employment had been his/her Normal Retirement Date, and payable in accordance with Sections B-4.5 and B-4.6 of this Plan. Appointed Officials and employees exempted from the Merit System who are appointed by the respective County Planning Board as provided in Land Use Article, Sections 16-102 and 20-204, respectively, of the Annotated Code of Maryland, and who has otherwise reached his or her Normal



**Retirement Date with his or her eligibility for Normal Retirement intact, shall be entitled to 100% vesting regardless of years of service.**

## **SECTION B-6 - DEATH BENEFITS**

### **B-6.1 Spouse's and Children's Benefits – Death During Participation.**

(a) **Service-Connected Death.**

- (1) If a Participant is survived by a spouse, who has not been specifically excluded by the Participant for entitlement to survivor death benefits, and the Participant dies as a result of a service-connected accident or illness, as that term is defined in Section B-4.3(a) of the Plan, the spouse shall be entitled to an annual benefit, payable until death, commencing with the first of the month coinciding with or next following the date of death of the Participant, in an amount equal to the greater of the following:
  - (A) An amount computed under Section B-4.1(a) and (b) of this Plan on the basis that the deceased had continued as a Participant to what would have been his/her Normal Retirement Date, at the same Base Pay received during his/her last completed year of employment with the Commission. If the spouse is receiving benefits on the date the Participant would have otherwise reached his/her eligibility date for full Social Security retirement benefits, the amount which the spouse is receiving shall be calculated as provided in Section B-4.1(b). Effective January 1, 1994, Final Annual Base Pay for part-time Participants will be the average base salary of the Participant for the 36 calendar month period, or for the 12 calendar month period if greater, immediately preceding his/her death; or
  - (B) 25% of the Final Annual Base Pay of the Participant. Effective January 1, 1994, Final Annual Base Pay for part-time Participants will be the average base salary of the Participant for the 36 calendar month period, or for the 12 calendar month period if greater, immediately preceding his/her death.
- (2) If the Participant does not leave a surviving spouse entitled to the benefits provided in Section B-6.1, Paragraph (a)(1) of this Plan; or, if a surviving spouse entitled to the benefits provided therein should die and there are one or more surviving children under the age of 18, under the age of 23 if a full-time student or regardless of age if totally disabled and incapable of self-support; then the benefits provided under Section B-6.1, Paragraph (a)(1) of this Plan shall be payable to the surviving children of the Participant, under the age of 18, or under age 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support.
- (3) In the event the accumulated total benefit paid under this provision is less than the benefit, which would have been paid under Section B-6.2(a), the difference shall be paid in a lump sum to the surviving children, regardless of age. In the absence of any such eligible Beneficiaries, the difference shall be paid to the estate of the Participant.

(b) Non-Service-Connected Death.

- (1) If a Participant is survived by a spouse, who has not been specifically excluded by the Participant for entitlement to survivor death benefits, and the Participant dies as a result of a non-service-connected accident or illness, the spouse shall be entitled to an annual benefit until death, commencing with the first day of the month coinciding with or next following the date of death of the Participant, in an amount equal to 25% of the Final Annual Base Pay of the Participant. Effective January 1, 1994, Final Annual Base Pay for part-time Participants will be the average base salary of the Participant for the 36 calendar month period, or for the 12 calendar month period if greater, immediately preceding his/her death.
- (2) If the Participant does not leave a surviving spouse entitled to the benefits provided in Section B-6.1, Paragraph (b)(1) of this Plan; or, if a surviving spouse entitled to the benefits provided therein should die, and there are one or more surviving children under the age of 18, under the age of 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support; then the benefits provided under Section B-6.1, Paragraph (b)(1) of this Plan shall be payable to the surviving children of the Participant under the age of 18, under the age of 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support.
- (3) In the event the accumulated total benefit paid under this provision is less than the benefit, which would have been paid under Section B-6.2(a), the difference shall be paid in a lump sum to the surviving children, regardless of age. In the absence of any such eligible Beneficiaries, the difference shall be paid to the estate of the Participant.
- (4) No Beneficiary entitled to benefits under Section B-6.1(a) shall receive any benefits on account of Non-Service-Connected Death.

**B-6.2 Ordinary Death Benefits.**

- (a) General Rule. If a Participant or Vested Member dies prior to retiring on a Disability Retirement Date, an Early Retirement Date, or at or after Normal Retirement Date, without an option selection made under the provisions of Section B-4.6(d), and does not leave a surviving spouse or surviving children entitled to the benefits provided in Section B-6.1 of this Plan, the Beneficiary designated by him/her, in a written instrument filed with the Administrator, shall be entitled to a lump sum cash payment in an amount equal the sum of the following:
  - (1) 50% of his/her Average Annual Earnings; plus
  - (2) His/her total contributions to the Trust Fund, with interest thereon at a rate of 4-1/2% per annum.
- (b) Special Rule for Vested Members With An Option Selection on File. If a Vested Member dies prior to retiring on a Disability Retirement Date, an Early Retirement Date

or, at or after Normal Retirement Date, with an option selection made under the provisions of Section B-4.6(d), the benefit payable shall be the survivor benefit, if any, under the option selected under Section B-4.6(d).

**B-6.3 Post-Retirement Death Benefits.** Upon the receipt of proper proof of the death of a retired member on or after July 9, 1986, there shall be paid to such person as the member shall have designated and filed with the Board of Trustees, otherwise to his/her estate, a lump sum benefit in the amount of \$10,000. A member may designate a trust or any other entity as the beneficiary of the lump sum benefit, so long as the trust or entity has legal status as identified by a Federal Tax ID number, and so long as the designation is otherwise properly on file with the Board of Trustees.

## **SECTION B-7 - CONTRIBUTIONS**

**B-7.1 Employee Contributions.** Each Participant of Plan B of this Retirement System shall contribute to the Trust Fund 3.5% of his/her Base Pay for each pay period in a calendar year up to the maximum Social Security Wage Base for that year, and 6.5% of his/her Base Pay in excess of the Social Security Wage Base for each calendar year. Effective July 1, 2014, each Participant of Plan B of this Retirement System shall contribute to the Trust Fund 4% of his/her Base Pay for each pay period in a calendar year up to the maximum Social Security Wage Base for that year, and 7% of his/her Base Pay in excess of the Social Security Wage Base for each calendar year.

Effective January 1, 1984, the Commission shall pick up the employee contributions required by this Section for all Base Pay earned after December 31, 1983, and the contributions so picked up shall, subject to approval by the Internal Revenue Service, be treated as employer contributions in determining Federal and State Income Tax treatment under Section 414(h) of the United States Internal Revenue Code. These contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The Commission shall pay these employee contributions from the same source of funds, which is used in paying earnings to the employee. The Commission may pick up these contributions by a reduction in the cash salary of the employee or by an offset against a future salary increase or by a combination of a reduction in salary and offset against a future salary increase. If employee contributions are picked up, they shall be treated for all purposes of this Section B-7 in the same manner and to the same extent as employee contributions made prior to the date picked up.

**B-7.2 Employer Contributions.** The Commission shall contribute to the Trust Fund, from time to time, such amounts as are actuarially determined to be required to provide for the benefits under the Plans of this Retirement System.

**B-7.3 No Reversion of Employer Contributions.** No contributions to the Trust Fund by the Commission shall be used for, or diverted to, purposes other than for the exclusive benefit of Members and Beneficiaries, prior to the satisfaction of all liabilities under this Retirement System.

**ARTICLE C**  
**Sections Applicable to Plan C of The M-NCPPC**  
**Employees' Retirement System – Park Police Retirement Plan**

EFFECTIVE JULY 1, 1990, PLAN C IS CLOSED TO NEW MEMBERS AND ALL PLAN C MEMBERS ARE MANDATORILY TRANSFERRED TO PLAN D OF THE M-NCPPC EMPLOYEES' RETIREMENT SYSTEM. EFFECTIVE JULY 1, 1993, A MODIFIED PLAN C WAS REOPENED FOR MANDATORY PARTICIPATION OF PARK POLICE OFFICERS HIRED AFTER JULY 1, 1993, AND PLAN D WAS CLOSED TO NEW MEMBERS.

### **SECTION C-1 - DEFINITIONS**

- C-1.1 **Condition of Employment** means mandatory participation in Plan C of this Retirement System for any Park Police officer appointed by the Commission after July 1, 1993, as a career full-time employee.
- C-1.2 **Credited Service** means the total period of years and months of completed service credited under this Retirement Plan, completed as provided in Section C-3 of this Plan.
- C-1.3 **Disability Retirement Date** means the first day of the month, prior to his/her Normal Retirement Date, coinciding with or following a determination of disability of a Plan C Participant who, prior to August 1, 1982, filed his/her application for disability retirement under Section A-4.3, B-4.3, or C-4.3 of this Plan.
- C-1.4 **Early Retirement Date** means the first day of any month prior to a Participant's Normal Retirement Date as of which he/she has completed 20 or more years of Credited Service, regardless of age.
- C-1.5 **Employee** means a career Park Police officer appointed by the Commission, or a Park Police officer exempted from the Merit System and appointed by the respective County Planning Board, as provided in Land Use Article, Sections 16-102 and 17-305, respectively, of the Annotated Code of Maryland.
- C-1.6 **Normal Retirement Date** means the earlier of:
- (a) The first day of the month coinciding with or immediately following the date on which a Plan C Participant has both attained the age of 55 and completed 5 years of Credited Service; or
  - (b) The first day of the month coinciding with or immediately following the date on which a Plan C Participant has completed 25 years of Credited Service.
- C-1.7 **Plan C Participant** means a Park Police Officer who has:
- (a) Enrolled in Plan C as a Condition of Employment; or
  - (b) Elected to transfer to Plan C from Plan A pursuant to the provisions of Article A, Section A-2.4 of this Retirement System; or
  - (c) Elected to transfer to Plan C from Plan D pursuant to the provisions of Article D, Section D-2.3 of this Retirement System.

## **SECTION C-2 - REQUIREMENTS FOR PARTICIPATION**

- C-2.1 **New Employees appointed by the Commission after July 1, 1993.** Every full-time Employee (Park Police Officer) who is appointed by the Commission after July 1, 1993, shall, as a Condition of Employment, become a Participant in Plan C of the Employees' Retirement System on the first day of the month following the date of his/her appointment. Participation in the Plan shall be mandatory and may not be waived under any circumstances.
- C-2.2 **Method of Election to Participate.** Each Employee who, as a Condition of Employment, must participate in Plan C shall fill out, sign, and file with the Administrator, an application form furnished by the Administrator, which shall include an authorization for the deduction by the Commission from the compensation of the Employee, the contributions required of Employees under Plan C, and the payment of said deducted contributions by the Commission to the Trust Fund under this Plan. This authorization includes, without limitation, an authorization for the recapture by the Commission of deficient contributions. Said application shall also contain an agreement by the Employee to be bound by the provisions of the Plan and the Employees' Retirement System, as then in effect, and as thereafter amended in the manner provided for in the Retirement System. A Member of this Plan may not withdraw his/her contributions from the Retirement System, except upon termination of employment.
- C-2.3 **Transfer from Plan C to Plan D.** All Members of Plan C as of June 30, 1990, were transferred to Plan D effective July 1, 1990. Each Member's Credited Service under Plan C was transferred and credited under Plan D. All benefits to which the Member and/or his/her Beneficiary may be entitled shall be calculated pursuant to the provisions and the benefit criteria as set forth in Article D applicable to Plan D of the Employees' Retirement System.
- C-2.4 **Transfer from Plan D to Plan C.** Each Plan D Member who elected pursuant to Section D-2.3 of this Retirement System to transfer from Plan D to this Plan C shall become a Plan C Participant as of November 1, 2002.



### **SECTION C-3 - CREDITED SERVICE**

C-3.1 **Credited Service** means the total completed years and months of employment of a Member, not to exceed a maximum of thirty-years, to be used in computing Retirement Benefits under Plan C, and shall be the total of the following:

- (a) Employment by the Commission in pay status while a contributing Participant in Plan C of this Retirement System.
- (b) Service transferred to this Retirement System pursuant to Title 37 of the State Personnel and Pensions Article of the Annotated Code of Maryland, as applicable at the time of transfer.
- (c) Service transferred to Plan C from Plan A pursuant to Article A, Section A-2.4, and Article C, Section C-2.1(a) of the M-NCPPC Employees' Retirement System.
- (d) Service of a Member in the uniformed services of the United States provided that the members are reemployed in accordance with federal law.
- (e) Service transferred to Plan C from Plan D pursuant to Article D, Section D-2.3, and Article C, Section C-2.4 of the M-NCPPC Employees' Retirement System.

C-3.2 **Creditability for Accumulated Sick Leave**. In computing Credited Service for Normal or Early Retirement (as may be applicable pursuant to the terms of Plan C), a Member who is entitled to a benefit under this Plan C shall be entitled to receive an additional credit for earned and unused sick leave, except that such credit shall not apply for meeting minimum retirement eligibility requirements for age, nor for the purpose of determining the highest three years of Average Annual Earnings. A maximum of 301 workdays of earned and unused sick leave may be used to qualify for length of service. To be entitled to such additional credit, a Member must have accumulated unused sick leave, which would equate to a minimum of one full month of service credit (twenty-two [22] work days). After allowing for appropriate credit on the basis of full months (twenty-two [22] work days) an additional month of credited service will be given for any remainder equating to fifteen (15) or more work days, but no credit will be given for any remainder of less than fifteen (15) work days.

C-3.3 For Participants Members who qualify to receive benefits under the Commission's Long Term Disability Insurance Plan or Comprehensive Disability Benefits Program subsequent to August 1, 1982, Credited Service shall include the total of full months in which the Member, prior to his/her Normal Retirement Date, received or was entitled to receive disability benefits. Should a Member who has been receiving disability benefits subsequently be disqualified for further benefits, then the accrual of Credited Service under this provision shall cease simultaneously with the cessation of benefits under the Commission's Long Term Disability Insurance Plan or Comprehensive Disability Benefits Program.

C-3.4 For Members who have attained 10 or more years of Credited Service earned by employment with the Commission as a career Park Police Officer, Credited Service shall include all periods while on approved leave of absence (after the 10 year minimum), for whatever purpose and whether with or without pay, provided that the employee returns to active service at the end of the leave period, and provided that, in cases where no employee contribution has been made,

the Employee pays to the Employees' Retirement System within ninety (90) days of return to active duty, an after-tax sum equal to the employee contributions which would have been paid had normal contributions been made. If he/she does not, then no portion of the period while on leave of absence shall be counted as Credited Service.

For Members who have attained less than 10 years of Credited Service earned by employment with the Commission as a career Park Police Officer, Credited Service shall include all periods while on approved leave of absence (before the 10 year minimum), for whatever purpose and whether with or without pay, provided that the employee returns to active service at the end of the leave period, and provided that, in cases where no employee contribution has been made, the employee pays to the Employees' Retirement System within ninety (90) days of return to active duty, an after-tax sum equal to the employer and employee contributions which would have been paid had normal contributions been made. If he/she does not, then no portion of the period while on leave of absence shall be counted as Credited Service.

This provision shall not be construed so as to remove any Credited Service that a Member had attained prior to July 1, 1990.

**SECTION C-4 - RETIREMENT BENEFITS**

C-4.1 Retirement at or After Normal Retirement Date. The annual amount of retirement benefits payable to a Plan C Annuitant who retires on or after his/her Normal Retirement Date shall be in an amount equal to 2.4% of his/her Average Annual Earnings, multiplied by his/her Credited Service up to 25 years. For a Plan C Annuitant who retires with exactly 25 years of Credited Service, the annual amount of his/her retirement benefits shall be 60% of his/her Average Annual Earnings. The annual amount of retirement benefits payable to a Plan C Annuitant who retires with more than 25 years of Credited Service shall be in an amount equal to 60% of his/her Average Annual Earnings plus 2% of his/her Average Annual Earnings multiplied by his/her Credited Service in excess of 25 years. The annual benefit payable, however, shall not be in excess of 70% of his/her Average Annual Earnings (except as may occur pursuant to the operation of Section C-3.2).

C-4.2 Retirement at Early Retirement Date. The annual amount of retirement benefits payable to a Plan C Annuitant who retires at an Early Retirement Date shall be an amount equal to an applicable percentage of the benefit he/she would have been entitled to receive under Section C-4.1 hereof if his/her Early Retirement Date had been his/her Normal Retirement Date, but based on his/her Credited Service and Average Annual Earnings at his/her Early Retirement Date adjusted by applying the following percentages to account for the number of years and months by which a Plan C Annuitant's Early Retirement Date precedes his/her Normal Retirement Date:

		Years					
		0	1	2	3	4	5
M o n t h s	0	100.00	99.00	98.00	91.00	86.00	80.00
	1	99.92	98.92	97.42	90.58	85.50	
	2	99.83	98.83	96.84	90.17	85.00	
	3	99.75	98.75	96.26	89.75	84.50	
	4	99.67	98.67	95.68	89.33	84.00	
	5	99.58	98.58	95.10	88.92	83.50	
	6	99.50	98.50	94.52	88.50	83.00	
	7	99.42	98.42	93.94	88.08	82.50	
	8	99.33	98.33	93.36	87.67	82.00	
	9	99.25	98.25	92.78	87.25	81.50	
	10	99.17	98.17	92.20	86.83	81.00	
	11	99.08	98.08	91.62	86.42	80.50	

A Plan C Annuitant who retires on an Early Retirement Date may elect to have his/her retirement benefit commence on the first day of any month thereafter, beginning with his/her

Early Retirement Date. His/her retirement benefits must commence no later than the date that would have been his/her Normal Retirement Date if he/she had continued to be a Participant.

C-4.3 Retirement at Disability Retirement Date. The annual retirement benefit payable to a Plan C Annuitant who retires at a Disability Retirement Date shall be computed, as provided in this Section C-4.3. Effective August 1, 1982, Disability Retirement Benefits are prospectively discontinued under this Retirement System in favor of a comprehensive Commission-sponsored Long-Term Disability Insurance Plan.

- (a) Service-Connected Disability. Upon approval of the application of a Plan C Participant, or of the Head of his/her Department, filed prior to August 1, 1982, any Participant who has been totally and permanently incapacitated for any duty with the Commission as a result of an accident, illness, or disease occurring or incurred while the Participant was engaged in the performance of the duties of his/her employment with the Commission, without willful negligence on his/her part, the Participant shall be entitled to an annual retirement benefit in an amount equal to the greater of the following (but not to exceed his/her Average Annual Earnings):
  - (1) Two-thirds of his/her Average Annual Earnings as of his/her Disability Retirement Date, plus an annuity which shall be the actuarial equivalent of his/her accumulated contributions at the time of disability retirement;
  - (2) The retirement benefit computed under Section C-4.1 hereof on the basis that his/her Disability Retirement Date was his/her Normal Retirement Date.
- (b) Ordinary Disability. Upon approval of the application of a Participant, or of the Head of his/her Department, filed prior to August 1, 1982, if: (1) the Participant has five years or more of Credited Service, (2) is so disabled mentally or physically that he/she cannot perform the duties of his/her job, or of a substantially equivalent job with the Commission that is available for him/her, (3) the disability is not due to his/her willful act, (4) the disability is likely to be permanent, and (5) the disability is not covered by Section C-4.3(a) hereof, the Participant shall be entitled to an annual retirement benefit in an amount equal to the greater of the following:
  - (1) The retirement benefit computed under Section C-4.1 hereof on the basis that his/her Disability Retirement Date was his/her Normal Retirement Date; or
  - (2) 30% of his/her Average Annual Earnings.
- (c) Benefit Limitations. If the retirement benefit payable to a member retired on a disability retirement, plus disability benefits which the member receives from Social Security and any other Commission-sponsored insurance program, exceeds 100% of final Base Pay, the Member's Disability Retirement Benefits shall be reduced to the extent that the total initial benefit from all sources equals, but does not exceed, 100% of his/her final Base Pay.
- (d) Determination of Disability. In no event shall an application for disability retirement be permitted or Disability Retirement Benefits granted, on behalf of a Participant who has attained his/her Normal Retirement Date, or who has applied for a disability retirement

on or after August 1, 1982. All determinations shall be made by the Merit System Board, with a recommendation to the Board of Trustees, whose determination shall be final. A disability determination shall be begun upon written application of a Participant or the Head of his/her Department, filed with the Administrator and referred to the Merit System Board. Before making its determination, the Merit System Board shall obtain a written opinion from the Medical Review Committee with regard to the nature, cause, degree of permanence, and effect of alleged disability. The Medical Review Committee conducts such inquiry as it deems necessary and proper under the circumstances in order to give said opinion, in addition to its medical examination of the Participant. In cases of doubt, or upon request of the Participant or the Board of Trustees, the Merit System Board shall hold a hearing for the purpose of reviewing medical and other testimony pertinent to the Participant's application for disability retirement.

- (e) Continuation of Disability Retirement. Disability Retirement Benefits shall continue so long as the Member remains disabled, as defined in this Section C-4.3. The Merit System Board may require physical re-examination from time to time to determine the continuance of disability. The Merit System Board may also require the Member to participate in a program of rehabilitation, provided at no expense to the Member, to attempt to ameliorate or remove the disability. If the Member does not participate in such a program in good faith, in the opinion of the Merit System Board, his/her disability retirement shall cease forthwith, and shall not begin again until he/she does so participate. Disability Retirement Benefits shall not be terminated after a Member has reached what would have been his/her Normal Retirement Date under this Plan if he/she had not retired on a Disability Retirement Date.
  
- (f) Reemployment of Member Receiving Disability Retirement Benefits - Payment of Rehabilitation Stipend. This provision is intended to facilitate offering of career opportunities to disability retirees. Should a Member, retired under the Disability Retirement provisions of this Retirement System, be reemployed by the Commission in a career Merit System position, the Member's Disability Retirement Benefits shall cease on the first of the month coinciding with or immediately following his/her reemployment. If the Annual Base Pay (Mid-Point Salary Level) for the position in which the Member is reemployed, should be less than the Member's Base Pay immediately preceding his/her Disability Retirement Date, a monthly Rehabilitation Stipend shall be paid to the Member until the earlier of his/her Normal Retirement Date, or the first of the month coinciding with or immediately following the date upon which the Member attains a salary level in his/her new position which, at that point in time, is equal to or greater than, the maximum salary then being paid for the position held by the Member immediately preceding his/her Disability Retirement Date. The amount of the monthly Stipend shall be calculated as one-twelfth of the difference between the Annual Base Pay of the Member immediately preceding his/her Disability Retirement Date and the initial Annual Base Pay (Mid-Point Salary Level) for the new position which the Member is assuming, but in no event shall the Rehabilitation Stipend exceed the Disability Retirement Benefit being paid to the Member immediately preceding his/her reemployment. The Member shall again become a Participant in the Plan in which he/she participated at Disability Retirement Date; he/she shall again make employee contributions as a percentage of Base Pay provided for by that Plan; and, he/she shall again accrue Credited Service as a participating Member of the Employees'

Retirement System. The Member's Normal Retirement Benefits shall subsequently be based on his/her total Credited Service and his/her Average Annual Earnings, based on actual annual Base Pay without regard to any Rehabilitation Stipends received.

- C-4.4 Change in Amount of Retirement Benefits Due to Change in Cost-of-Living Index. The retirement benefits payable under this Plan may be increased or decreased as of each July 1<sup>st</sup> after the Effective Date, for any Beneficiary who had been receiving his/her retirement benefits for at least six months. The increase or decrease shall be determined by the percentage increase or decrease in the Consumer Price Index – All Items Annual Average, Urban Index for Major U.S. Cities, for the preceding twelve months, prepared by the United States Department of Labor, above or below the level of said Index on the immediately preceding December 31<sup>st</sup>. If the percentage increase or decrease in the Consumer Price Index, for any year, is 3% or less, the retirement benefits payable shall be adjusted by 100% of the increase or decrease. If the percentage increase or decrease in the Consumer Price Index, for any year, is greater than 3%, the retirement benefits payable shall be adjusted by 3% plus one-half of the percentage increase or decrease above 3%. The maximum adjustment for any year shall be 5%. No decrease shall reduce the retirement benefit below its initial amount. No decrease shall be made except to the extent that the retirement benefit is, at that time, in excess of the level it would have then obtained if it had been increased by the total percentage increase in the Index since the first July 1<sup>st</sup> on which an adjustment under this paragraph could have been made without regard to the limitation provided in this paragraph.

Notwithstanding the foregoing, (1) effective July 1, 2012, retirement benefits payable under this Plan shall not be decreased because of a decrease in the Consumer Price Index described above; (2) effective July 1, 2012, the portion of a person's retirement benefits attributable to Credited Service (other than Credited Service based on earned and unused sick leave as which shall be governed by (3) below) credited for periods on or after July 1, 2012, shall be subject to a maximum adjustment of 2.5% in any Plan year; and, (3) effective January 1, 2013, Credited Service based on earned and unused sick leave pursuant to the terms of the Plan attributable to full pay periods beginning on or after January 1, 2013, shall be subject to a maximum adjustment of 2.5% in any Plan year. For purposes of interpreting the preceding sentence, (A) Credited Service attributable to a transfer or purchase of service credit not commenced prior to July 1, 2012, pursuant to procedures established for the Plan, shall be considered attributable to a pay period beginning on or after July 1, 2012, and thus subject to the 2.5% maximum adjustment and (B) Credited Service attributable to after-tax payments within ninety (90) days after a leave of absence shall be deemed to relate to the period of the leave of absence.

- C-4.5 Payment of Retirement Benefits. Retirement benefits under Plan C shall be payable in equal monthly installments, unless another payment scheduled has been established as provided in the Plan. The first payment of Normal or Early Retirement Benefits may be made on the date a Beneficiary first becomes entitled to the retirement benefit. The first payment of Disability Retirement Benefits shall be made on the date established by the Board of Trustees, but not later than the first of the month following approval by the Board of Trustees of the application for Disability Retirement. The last payment shall be made on the first day of the calendar month in which the Beneficiary dies, unless: (a) payments have been made for less than 10 years; or (b) the Member had selected an optional form of benefit payment under Section C-4.6 of the Plan. If said retirement benefits have been paid for less than 10 years, the Beneficiary designated by the Member shall receive the remaining payments that would have been made to

the Member until benefits have been paid for 10 years. If an optional form of benefit payment has been selected, payments will be made as required by the option selected.

C-4.6 Optional Forms of Benefit Payments. A Member may elect one of the following forms of payment of his/her retirement benefit payable at Normal Retirement Date, Early Retirement Date, or Disability Retirement Date, in place of the method of payment provided in Section C-4.5 of this Plan. Each of these optional methods of payment shall be the actuarial equivalent of said retirement benefit as payable under Section C-4.5. The optional methods of payment are as follows:

- (a) A Member may elect to receive a reduced retirement benefit during his/her lifetime, and to have all or a specified portion of such reduced retirement benefit paid to a Contingent Annuitant. The Board of Trustees shall make uniform rules as to what portion or portions of the reduced retirement benefits may be made payable to a Contingent Annuitant, subject to the restrictions in the next paragraph hereof.
- (b) A Member may elect to receive a benefit described in Section C-4.6(a) that provides that, on the death of the Contingent Annuitant prior to the death of the Member, a Member's retirement benefit will revert to the amount that would have been payable as a single life annuity when the Member's retirement benefit originally commenced (as adjusted for cost-of-living adjustments granted since benefit commencement). There shall be no additional right of survivorship after the death of a Contingent Annuitant.
- (c) A Member may elect any other optional method of payment of his/her monthly retirement income that is acceptable to the Board of Trustees, in accordance with uniform rules adopted by the Board of Trustees, but no option may be elected that would:
  - (1) Permit the interest of a Member to be retained in the Trust Fund after the Member becomes entitled to retirement benefits under this Plan, and only the interest thereon to be paid to the Member during his/her lifetime, the balance to be paid after the death of the Member; or
  - (2) Would permit installment payments to a Contingent Annuitant to continue for a longer period than the longest of the life of the Member's spouse, the life expectancy of the Member on the commencement date of his/her retirement benefits, or the joint life and last survivor expectancy of the Member and his/her spouse on the commencement date of the Member's retirement benefit.
  - (3) Permit installment payments in other than equal amounts, except to the extent that, in accordance with uniform rules adopted by the Board of Trustees, the Member may elect to receive a greater retirement benefit prior to the commencement of his/her Federal Social Security Act benefits and a lesser retirement benefit thereafter, in order to provide him/her with retirement benefits in the aggregate of equivalent actuarial value which will give him/her, insofar as practicable, a level total income for life under the Plan and the Social Security Act.

- (d) A fully Vested Member, whose employment with the Commission terminated on or after the date he/she was eligible for Early Retirement Benefits, may elect in writing to defer benefits until his/her Normal Retirement Date, rather than receive an actuarially reduced Early Retirement Benefit. A Member, who has made this election, may irrevocably elect any of the foregoing optional forms of payment, which shall be effective with the commencement of benefits at Normal Retirement Date. Should the Member die prior to Normal Retirement Date, his/her Contingent Annuitant shall be entitled to receive, effective with the date that would have been the Member's Normal Retirement Date, the appropriate income, as survivor, under the option selected.
- (e) Anything in the Plan to the contrary notwithstanding, if monthly payments that shall be payable to any Beneficiary under the Plan shall be less than \$25.00; then if the Board of Trustees shall so direct, the aggregate of the amounts which shall be payable to him/her hereunder in any year shall be paid in quarterly, semi-annual, or annual payments, or, with the payee's approval, the actuarial lump sum value of the amounts that shall be payable to him/her hereunder shall be paid in one sum of payments over a specified period of time.

C-4.7 Exercise of Election and Designation of Contingent Annuitant. The election of an optional method of payment and the designation of a Contingent Annuitant must be in writing. It must be filed with the Board of Trustees prior to the commencement date of the Member's retirement benefits under this Plan. With the exception of an irrevocable election under Section C-4.6(d), either the election, or the designation, or both, may be changed by the Member, from time to time, at any time prior to the commencement date of his/her retirement benefits under this Plan.

C-4.8 Revocation of Election by Occurrence of Certain Events. If a Member who has elected an optional form of payment dies before the commencement date of his/her retirement benefits under this Plan, no retirement annuity shall be paid to his/her Contingent Annuitant. The payment shall be made in accordance with the provisions of Section C-6: Death Benefits. If a Contingent Annuitant dies prior to the commencement date of the Member's retirement benefits under this Plan, the election and the designation shall be void, irrespective of when made, except in the case of a Vested Member who has selected an option under the provisions of Section C-4.6(d). If a Contingent Annuitant dies after the commencement date of the Member's retirement benefits under this Plan, the Annuitant shall continue to receive the appropriate retirement to which he/she is entitled under the option, which he/she selected. If a Vested Member, who has selected an option under the provisions of Section C-4.6(d), dies prior to the commencement date of his/her retirement benefits, his/her Contingent Annuitant shall receive the appropriate retirement benefit to which he/she is entitled under the option selected, commencing with what would have been the Vested Member's Normal Retirement Date. If both the Annuitant and his/her designated primary Beneficiary die prior to completion of payments under an option providing for a guaranteed number of payments, the commuted value of the balance of the payments shall be paid in a lump sum to the next Beneficiary designated in writing by the Annuitant; or, in the absence of such designation, or if a person so designated is not then living, to the estate of the last to die of the Annuitant and his/her primary Beneficiary.

C-4.9 Incapacity of Beneficiary. If, for any reason, the Board of Trustees shall determine that it is not desirable, because of the incapacity of the person who shall be entitled to receive any payment in accordance with the provisions of this Plan, to make such payment direct to such person, the



Board of Trustees shall give notice to said person of its intention to make alternate payment. Said person shall be advised of the time, date, and place of the meeting at which such action shall take place, and the basis upon which the Board proposes to alter the manner of payment. The Beneficiary shall have the right to be represented by counsel, at his/her own expense, and to present witnesses and testimony in opposition to the Board's action. In any such proceeding, the burden of proof shall be on the Board. The Board's decision shall be based upon the evidence presented at the hearing. If the Board of Trustees is presented with a certified copy of a judicial decree of a court of competent jurisdiction, determining that a Beneficiary entitled to receive benefits is incompetent and appointing a guardian, the Board of Trustees shall be entitled to act upon that court order without further inquiry. In the event the Board proposes to act on the basis of a court order, it shall give advance notice of the time, date, and place of the meeting at which such action shall take place.

C-4.10 Missing Member or Beneficiary. If the Board of Trustees is not able to locate any person to whom a benefit is due under this Plan, after making all reasonable efforts to do so, such benefit shall not be payable to such person until he/she has been located. Reasonable efforts shall mean the use of the Social Security Administration Employer Reporting Service or any other methodology deemed appropriate by the Board of Trustees or its delegate. If, after a period of two years and eleven months from the date on which the earliest unpaid benefit was due, he/she is not located, the person's interest in the Plan and any unpaid benefits to which he/she would otherwise be entitled, shall be forfeited. If the person later makes a request for the forfeited benefit, such benefit shall be reinstated and paid to the person, but without earnings or interest thereon.

C-4.11 Reduction of Benefits by Benefits Under Other Plans. If a Member under this Plan is entitled to benefits under any other retirement plan for service that is also Credited Service under this Plan, the benefits under this Plan shall be actuarially reduced by the benefits under the other retirement plan attributable to said service. Social Security benefits, to which a Member is entitled, are specifically exempted from this provision.

**SECTION C-5 - BENEFITS UPON TERMINATION OF EMPLOYMENT OTHER THAN BY DEATH OR RETIREMENT**

C-5.1 A Member, whose employment with the Commission terminates, other than by death, or retirement on a Disability Retirement Date, an Early Retirement Date, or Normal Retirement Date, shall be entitled to one or the other of the following:

- (a) Refund of Contributions. He/she may elect to receive a lump sum cash refund of his/her contributions to the Trust Fund, with interest thereon at the rate of 4 1/2% per year. Said election shall be in lieu of any other benefits under the Plan.
  
- (b) Vested Benefits.
  - (1) If a Member, who has completed five (5) or more years of credited service, terminates employment on or after September 1, 2001 and does not elect to receive a refund of required Member contributions, the Member shall be entitled to receive an annual benefit, commencing with what would have been his/her Normal Retirement Date assuming continued active participation in the Plan. The benefit shall be computed as provided in Section C-4.1 of this Plan, on the basis that the first of the month coinciding with or next following his/her date of termination of employment is his/her Normal Retirement Date. Members whose employment terminated prior to September 1, 2001 shall have benefits calculated utilizing the following vesting schedule and the completed years and months of service as of the date of termination:

<u>Completed Years of Credited Service</u>	<u>Percentage</u>
5	50%
6	60%
7	70%
8	80%
9	90%
10 or More	100%

Payment of said benefits shall be made in accordance with Sections C-4.5 and C-4.6 of this Plan.

- (2) A Member whose job is abolished and who is not offered a substantially equal job with the Commission shall be entitled to receive, commencing with what would have been his/her Normal Retirement Date if his/her participation in the Plan had continued, a maximum annual benefit computed as provided in Section C-4.1 of this Plan on the basis that the first of the month coinciding with or next following the date of his/her termination of employment had been his/her Normal Retirement Date, and payable in accordance with Sections C-4.5 and C-4.6 of this Plan.

## **SECTION C-6 - DEATH BENEFITS**

### **C-6.1 Spouse's and Children's Benefits – Death During Participation.**

(a) **Service-Connected Death or Death of Long-Term Participant.**

(1) If a Participant is survived by a spouse, who has not been specifically excluded by the Participant for entitlement to survivor death benefits, and the Participant died either: (a) as a result of a service-connected accident or illness; as that term is defined in Section C-4.3(a) of the Plan or (b) after the Participant had attained 10 or more years of Credited Service earned by employment with the Commission as a career Park Police Officer, the spouse shall be entitled to an annual benefit, payable until death, commencing with the first of the month coinciding with or next following the date of death of the Participant, in an amount equal to the greater of the following:

(A) An amount computed under Section C-4.1 of this Plan on the basis that the deceased had continued as a Participant to what would have been his/her Normal Retirement Date, at the same Base Pay received during his/her last completed year of employment with the Commission; or

(B) 25% of the Final Annual Base Pay of the Participant.

(2) If the Participant does not leave a surviving spouse entitled to the benefits provided in Section C-6.1, Paragraph (a)(1) of this Plan; or, if a surviving spouse entitled to the benefits provided therein should die and there are one or more surviving children under the age of 18, under the age of 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support; then the benefits provided under Section C-6.1, Paragraph (a)(1) of this Plan shall be payable to the surviving children of the Participant, under the age of 18, or under age 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support.

(3) In the event the accumulated total benefit paid under this provision is less than the benefit, which would have been paid under Section C-6.2(a), the difference shall be paid in a lump sum to the surviving children, regardless of age. In the absence of any such eligible Beneficiaries, the difference shall be paid to the estate of the Participant.

(b) **Other Deaths.**

(1) If a Participant is survived by a spouse, who has not been specifically excluded by the Participant for entitlement to survivor death benefits, and the Participant died as a result of a non-service-connected accident or illness, and the Participant had less than 10 years of Credited Service earned by employment with the Commission as a career Park Police Officer, the spouse shall be entitled to an annual benefit until death, commencing with the first day of the month coinciding with or next following the date of death of the Participant, in an amount equal to 25% of the Final Annual Base Pay of the Participant.

- (2) If the Participant does not leave a surviving spouse entitled to the benefits provided in Section C-6.1, Paragraph (b)(1) of this Plan; or, if a surviving spouse entitled to the benefits provided therein should die and there are one or more surviving children under the age of 18, under the age of 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support; then the benefits provided under C-6.1, Paragraph (b)(1) of this Plan shall be payable to the surviving children of the Participant, under the age of 18, under age 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support.
- (3) In the event the accumulated total benefit paid under this provision is less than the benefit, which would have been paid under Section C-6.2(a), the difference shall be paid in a lump sum to the surviving children, regardless of age. In the absence of any such eligible Beneficiaries, the difference shall be paid to the estate of the Participant.
- (4) No Beneficiary entitled to benefits under Section C-6.1(a) shall receive any benefits under Section C-6.1(b).

#### C-6.2 Ordinary Death Benefits.

- (a) General Rule. If a Participant or Vested Member dies prior to retiring on a Disability Retirement Date, an Early Retirement Date, or at or after Normal Retirement Date, without an option selection made under the provisions of Section C-4.6(d), and does not leave a surviving spouse or surviving children entitled to the benefits provided in Section C-6.1 of this Plan, the Beneficiary designated by him/her, in a written instrument filed with the Administrator, shall be entitled to a lump sum cash payment in an amount equal to the sum of the following:
  - (1) 50% of his/her Average Annual Earnings; plus
  - (2) His/her total contributions to the Trust Fund, with interest thereon at the rate of 4 1/2% per annum.
- (b) Special Rule for Vested Members With An Option Selection on File. If a Vested Member dies prior to retiring on a Disability Retirement Date, an Early Retirement Date or, at or after Normal Retirement Date, with an option selection made under the provisions of Section C-4.6(d), the benefit payable shall be the survivor benefit, if any, under the option selected under Section C-4.6(d).

C-6.3 Post-Retirement Death Benefits. Upon the receipt of proper proof of the death of a retired member on or after July 9, 1986, there shall be paid to such person as the member shall have designated and filed with the Board of Trustees, otherwise to his/her estate, a lump sum benefit in the amount of \$10,000. A member may designate a trust or any other entity as the beneficiary of the lump sum benefit, so long as the trust or entity has legal status as identified by a Federal Tax ID number, and so long as the designation is otherwise properly on file with the Board of Trustees.

## **SECTION C-7 - CONTRIBUTIONS**

- C-7.1 **Employee Contributions.** Each Participant of Plan C of this Retirement System shall contribute to the Trust Fund 8% of his/her Base Pay as of the first pay period following November 1, 2002 (7% of his/her Base Pay for prior pay periods). Effective January 1, 1984, the Commission shall pick up the employee contributions required by this Section for all Base Pay earned after December 31, 1983, and the contributions so picked up shall, subject to approval by the Internal Revenue Service, be treated as employer contributions in determining Federal and State Income Tax treatment under Section 414(h) of the United States Internal Revenue Code. These contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The Commission shall pay these employee contributions from the same source of funds, which is used in paying earnings to the employee. The Commission may pick up these contributions by a reduction in the cash salary of the employee or by an offset against a future salary increase or by a combination of a reduction in salary and offset against a future salary increase. If employee contributions are picked up, they shall be treated for all purposes of this Section C-7 in the same manner and to the same extent as employee contributions made prior to the date picked up. Effective for pay periods beginning on or after March 1, 2015, each Participant of Plan C shall contribute 8.5% of his/her Base Pay for each pay period. Effective for pay periods beginning on or after January 1, 2016, each Participant of Plan C shall contribute 9% of his/her Base Pay for each pay period.
- C-7.2 **Employer Contributions.** The Commission shall contribute to the Trust Fund from time to time such amounts as are actuarially determined to be required to provide for the benefits under the Plans of this Retirement System.
- C-7.3 **No Reversion of Employer Contributions.** No contributions to the Trust Fund by the Commission shall be used for, or diverted to, purposes other than for the exclusive benefit of Members and Beneficiaries, prior to the satisfaction of all liabilities under this Retirement System.

**ARTICLE D**  
**Sections Applicable to Plan D of The M-NCPPC**  
**Employees' Retirement System – Park Police Retirement Plan**

EFFECTIVE JULY 1, 1993, PLAN D WAS CLOSED TO NEW MEMBERS.

### **SECTION D-1 - DEFINITIONS**

- D-1.1 **Condition of Employment** means mandatory participation in Plan D of this Retirement System for any Park Police Officer appointed by the Commission on or after July 1, 1990, through July 1, 1993, as a career full-time Merit System employee.
- D-1.2 **Credited Service** means the total period of years and months of completed service credited under this Retirement Plan, completed as provided in Section D-3 of this Plan.
- D-1.3 **Disability Retirement Date** means the first day of the month, prior to his/her Normal Retirement Date, coinciding with or following a determination of disability of a Plan D Participant who, prior to August 1, 1982, filed his/her application for disability retirement under Section A-4.3, B-4.3, or C-4.3 of these Plans.
- D-1.4 **Early Retirement Date** means the first day of any month prior to a Participant's Normal Retirement Date as of which he/she has completed 20 or more years of Credited Service, regardless of age.
- D-1.5 **Employee** means a career Park Police Officer appointed by the Commission, or a Park Police officer exempted from the Merit System and appointed by the respective County Planning Board, as provided in Land Use Article, Sections 16-102 and 17-305, respectively, of the Annotated Code of Maryland.
- D-1.6 **Normal Retirement Date** means the earlier of:
- (a) The first day of the month coinciding with or immediately following the date on which a Plan D Participant has both attained the age of 55 and completed 5 years of Credited Service; or
  - (b) The first day of the month coinciding with or immediately following the date on which a Plan D Participant has completed 22 years of Credited Service.
- D-1.7 **Plan D Participant** means a Park Police Officer who has:
- (a) Enrolled in Plan D as a Condition of Employment and did not elect to transfer to Plan C pursuant to Article D, Section D-2.3; or
  - (b) Elected to transfer to Plan D from Plan A pursuant to the provisions of Article A, Section A-2.4, of this Retirement System; or
  - (c) Participated in Plan C and, in accordance with a collective bargaining agreement, was mandatory transferred to Plan D, effective July 1, 1990, and did not elect to transfer to Plan C pursuant to Article D, Section D-2.3.

## **SECTION D-2 - REQUIREMENTS FOR PARTICIPATION**

- D-2.1(a) Park Police Officers employed on December 31, 1978, covered by The Maryland-National Capital Park and Planning Commission Employees' Retirement Plan (hereinafter designated as Plan A of the Employees' Retirement System). Beginning March 1, 1992, a Park Police Officer who is a Plan A Participant may upon written notification to the Administrator, during the month of March each year, elect to transfer from Plan A to Plan D. All benefits to which the Participant and/or his/her Beneficiary may be entitled shall be calculated pursuant to the provisions and the benefit criteria, as set forth in Article D, applicable to Plan D of the Employees' Retirement System.
- (b) Park Police Officers on June 30, 1990, not covered by Plan A or Plan C of the Employees' Retirement System. Any eligible Employee (Park Police Officer) who was not a Plan A or Plan C Participant on June 30, 1990, may elect to become a Participant in Plan D on the first day of any month on or after July 1, 1990.
- (c) All Plan C Members as of June 30, 1990. Effective July 1, 1990, all Plan C Members shall mandatorily be transferred to Plan D of the Employees' Retirement System.
- (d) New Employees appointed by the Commission on or after July 1, 1990. Every full-time Merit System Employee (Park Police Officer) who was appointed by the Commission on or after July 1, 1990, was to become, as a Condition of Employment, a Participant in Plan D of the Employees' Retirement System on the first day of the month following the date of his/her appointment. Effective July 1, 1993, Plan D was closed.
- D-2.2 Method of Election to Participate. Each Employee who, as a Condition of Employment, must participate in Plan D; and shall fill out, sign, and file with the Administrator, an application form furnished by the Administrator, which shall include an authorization for the deduction by the Commission from the compensation of the Employee, the contributions required of Employee under Plan D, and the payment of said deducted contributions by the Commission to the Trust Fund under this Plan. This authorization includes, without limitation, an authorization for the recapture by the Commission of deficient contributions. Said application shall also contain an agreement by the Employee to be bound by the provisions of the Plan and the Employees' Retirement System, as then in effect, and as thereafter amended in the manner provided for in the Retirement System. A Member of this Plan may not withdraw his/her contributions from the Retirement System, except upon termination of employment.
- D-2.3 Election to Transfer from Plan D to Plan C. Beginning February 1, 2002, and ending October 25, 2002, any Plan D Participant may, upon his/her written notification to the Administrator on a form provided by the Administrator, elect to transfer from Plan D to Plan C. Any election to transfer from Plan D to Plan C shall be final and non-reversible, and the Participant's Credited Service under Plan D shall be transferred and credited under Plan C as of November 1, 2002. All benefits to which the Member and/or his/her Beneficiary may be entitled shall be calculated pursuant to the provisions and the benefit criteria as set forth in Article C applicable to Plan C of the Employees' Retirement System. Notwithstanding the foregoing, an election pursuant to this Section D-2.3 shall not take effect unless such Member is a Participant on November 1, 2002.



### **SECTION D-3 - CREDITED SERVICE**

D-3.1 Credited Service means the total completed years and months of employment of a Member, not to exceed a maximum of thirty-two (32) years, to be used in computing Retirement Benefits under Plan D, and shall be the total of the following:

- (a) Employment by the Commission while a contributing Participant in Plan D of this Retirement System.
- (b) Service transferred to this Retirement System pursuant to Title 37 of the State Personnel and Pensions Article of the Annotated Code of Maryland, as applicable at the time of transfer.
- (c) Service transferred to Plan D from Plan A or Plan C, pursuant to Article A, Section A-2.4, Article C, Section C-2.3, and Article D, Section D-2.1 of the M-NCPPC Employees' Retirement System.
- (d) Service of a Member in the uniformed services of the United States provided that members are reemployed in accordance with federal law.

D-3.2 Creditability for Accumulated Sick Leave. In computing Credited Service for Normal or Early Retirement (as may be applicable pursuant to the terms of Plan D), a Member who is entitled to a benefit under this Plan D shall be entitled to receive an additional credit for earned and unused sick leave, except that such credit shall not apply for meeting minimum retirement eligibility requirements for age, nor for the purpose of determining the highest three years of Average Annual Earnings. A maximum of 301 workdays of earned and unused sick leave may be used to qualify for length of service. To be entitled to such additional credit, a Member must have accumulated unused sick leave, which would equate to a minimum of one full month of service credit (twenty-two [22] work days). After allowing for appropriate credit on the basis of full months (twenty-two [22] work days) an additional month of credited service will be given for any remainder equating to fifteen (15) or more work days, but no credit will be given for any remainder of less than fifteen (15) work days.

D-3.3 For Members who qualify to receive benefits under the Commission's Long-Term Disability Insurance Plan or Comprehensive Disability Benefits Program subsequent to August 1, 1982, Credited Service shall include the total of full months in which the Member, prior to his/her Normal Retirement Date, received or was entitled to receive disability benefits. Should a Member who has been receiving disability benefits subsequently be disqualified for further benefits, then the accrual of Credited Service under this provision shall cease simultaneously with the cessation of benefits under the Commission's Long-Term Disability Insurance Plan or Comprehensive Disability Benefits Program.

D-3.4 For Members who have attained 10 or more years of Credited Service earned by employment with the Commission as a career Park Police Officer, Credited Service shall include all periods while on approved leave of absence (after the 10-year minimum), for whatever purpose and whether with or without pay, provided that the employee returns to active service at the end of the leave period, and provided that, in cases where no employee contribution has been made, the Employee pays to the Employees' Retirement System within ninety (90) days of return to active duty, an after-tax sum equal to the employee contributions which would have been paid

had normal contributions been made. If he/she does not, then no portion of the period while on leave of absence shall be counted as Credited Service.

For Members who have attained less than 10 years of Credited Service earned by employment with the Commission as a career Park Police Officer, Credited Service shall include all periods while on approved leave of absence (before the 10 year minimum), for whatever purpose and whether with or without pay, provided that the employee returns to active service at the end of the leave period, and provided that, in cases where no employee contribution has been made, the employee pays to the Employees' Retirement System within ninety (90) days of return to active duty, an after-tax sum equal to the employer and employee contributions which would have been paid had normal contributions been made. If he/she does not, then no portion of the period while on leave of absence shall be counted as Credited Service.

This provision shall not be construed so as to remove any Credited Service that a Participant had attained prior to July 1, 1990.

#### **SECTION D-4 - RETIREMENT BENEFITS**

D-4.1 **Retirement at or after Normal Retirement Date.** The annual amount of retirement benefits payable to a Plan D Annuitant who retires on or after his/her Normal Retirement Date shall be in an amount equal to 2.27% of his/her Average Annual Earnings, multiplied by his/her Credited Service up to 22 years. For a Plan D Annuitant who retires with exactly 22 years of Credited Service, the annual amount of his/her retirement benefits shall be 50% of his/her Average Annual Earnings. The annual amount of retirement benefits payable to a Plan D Annuitant who retires with more than 22 years of Credited Service shall be in an amount equal to 50% of his/her Average Annual Earnings plus 2% of his/her Average Annual Earnings multiplied by his/her Credited Service in excess of 22 years. The annual benefit payable, however, shall not be in excess of 100% of his/her Average Annual Earnings.

D-4.2 **Retirement at Early Retirement Date.** The annual amount of retirement benefits payable to a Plan D Annuitant who retires at an Early Retirement Date shall be an amount equal to the benefit he/she would have been entitled to receive under Section D-4.1 hereof if his/her Early Retirement Date had been his/her Normal Retirement Date, but based on his/her Credited Service and Average Annual Earnings at his/her Early Retirement Date, reduced by 1/180 for each month by which the commencement date of the Early Retirement Benefit precedes the date that would have been his/her Normal Retirement Date if he/she had continued as a Participant. A Plan D Annuitant who retires on an Early Retirement Date may elect to have his/her retirement benefit commence on the first day of any month thereafter, beginning with his/her Early Retirement Date. His/her retirement benefits must commence no later than the date that would have been his/her Normal Retirement Date if he/she had continued to be a Participant.

D-4.3 **Retirement at Disability Retirement Date.** The annual retirement benefit payable to a Plan D Annuitant who retires at a Disability Retirement Date shall be computed as provided in this Section D-4.3. Effective August 1, 1982, Disability Retirement Benefits were prospectively discontinued under this Retirement System in favor of a comprehensive Commission-sponsored Long-Term Disability Insurance Plan.

(a) **Service-Connected Disability.** Upon approval of the application of a Plan D Participant or of the Head of his/her Department, filed prior to August 1, 1982, any Participant who has been totally and permanently incapacitated for any duty with the Commission as a result of an accident, illness, or disease occurring or incurred while the Participant was engaged in the performance of the duties of his/her employment with the Commission, without willful negligence on his/her part, the Participant shall be entitled to an annual retirement benefit in an amount equal to the greater of the following (but not to exceed his/her Average Annual Earnings):

- (1) Two-thirds of his/her Average Annual Earnings as of his/her Disability Retirement Date, plus an annuity which shall be the actuarial equivalent of his/her accumulated contributions at the time of disability retirement;
- (2) The retirement benefit computed under Section D-4.1 hereof on the basis that his/her Disability Retirement Date was his/her Normal Retirement Date.

- (b) Ordinary Disability. Upon approval of the application of a Participant, or of the Head of his/her Department, filed prior to August 1, 1982, if: (1) the Participant has five years or more of Credited Service, (2) is so disabled mentally or physically that he/she cannot perform the duties of his/her job, or of a substantially equivalent job with the Commission that is available for him/her, (3) the disability is not due to his/her willful act, (4) the disability is likely to be permanent, and (5) the disability is not covered by Section D-4.3(a) hereof, the Participant shall be entitled to an annual retirement benefit in an amount equal to the greater of the following:
- (1) The retirement benefit computed under Section D-4.1 hereof on the basis that his/her Disability Retirement Date was his/her Normal Retirement Date; or
  - (2) 30% of his/her Average Annual Earnings.
- (c) Benefit Limitations. If the retirement benefit payable to a Member retired on a disability retirement, plus disability benefits which the Member receives from Social Security and any other Commission-sponsored insurance program, exceeds 100% of final Base Pay, the Member's Disability Retirement Benefits shall be reduced to the extent that the total initial benefit from all sources equals, but does not exceed, 100% of his/her final Base Pay.
- (d) Determination of Disability. In no event shall an application for disability retirement be permitted or Disability Retirement Benefits granted, on behalf of a Participant who has attained his/her Normal Retirement Date, or who has applied for a disability retirement on or after August 1, 1982. All determinations shall be made by the Merit System Board, with a recommendation to the Board of Trustees, whose determination shall be final. A disability determination shall be begun upon written application of a Participant or the Head of his/her Department, filed with the Administrator and referred to the Merit System Board. Before making its determination, the Merit System Board shall obtain a written opinion from the Medical Review Committee with regard to the nature, cause, degree of permanence, and effect of alleged disability. The Medical Review Committee conducts such inquiry as it deems necessary and proper under the circumstances in order to give said opinion, in addition to its medical examination of the Participant. In cases of doubt, or upon request of the Participant or the Board of Trustees, the Merit System Board shall hold a hearing for the purpose of reviewing medical and other testimony pertinent to the Participant's application for disability retirement.
- (e) Continuation of Disability Retirement. Disability Retirement Benefits shall continue so long as the Member remains disabled, as defined in this Section D-4.3. The Merit System Board may require physical re-examination from time to time to determine the continuance of disability. The Merit System Board may also require the Member to participate in a program of rehabilitation, provided at no expense to the Member, to attempt to ameliorate or remove the disability. If the Member does not participate in such a program in good faith, in the opinion of the Merit System Board, his/her disability retirement shall cease forthwith, and shall not begin again until he or she does so participate. Disability Retirement Benefits shall not be terminated after a Member has reached what would have been his or her Normal Retirement Date under this Plan if he or she had not retired on a Disability Retirement Date.

- (f) Reemployment of Member Receiving Disability Retirement Benefits - Payment of Rehabilitation Stipend. This provision is intended to facilitate offering of career opportunities to disability retirees. Should a Member, retired under the Disability Retirement provisions of this Retirement System, be reemployed by the Commission in a career Merit System position, the Member's Disability Retirement Benefits shall cease on the first of the month coinciding with or immediately following his or her reemployment. If the Annual Base Pay (Mid-Point Salary Level) for the position in which the Member is reemployed, should be less than the Member's Base Pay immediately preceding his/her Disability Retirement Date, a monthly Rehabilitation Stipend shall be paid to the Member until the earlier of his/her Normal Retirement Date, or the first of the month coinciding with or immediately following the date upon which the Member attains a salary level in his/her new position which, at that point in time, is equal to or greater than the maximum salary then being paid for the position held by the Member immediately preceding his/her Disability Retirement Date. The amount of the monthly stipend shall be calculated as one-twelfth of the difference between the Annual Base Pay of the Member immediately preceding his/her Disability Retirement Date and the initial Annual Base Pay (Mid-Point Salary Level) for the new position which the Member is assuming, but in no event shall the Rehabilitation Stipend exceed the Disability Retirement Benefit being paid to the Member immediately preceding his/her reemployment. The Member shall again become a Participant in the Plan in which he/she participated at Disability Retirement Date; he/she shall again make employee contributions as a percentage of Base Pay provided for by that Plan; and, he/she shall again accrue Credited Service as a participating Member of the Employees' Retirement System. The Member's Normal Retirement Benefits shall subsequently be based on his/her total Credited Service and his/her Average Annual Earnings, based on actual annual Base Pay without regard to any Rehabilitation Stipends received.

D-4.4 Change in Amount of Retirement Benefits Due to Change in Cost-of-Living Index. The retirement benefits payable under this Plan may be increased or decreased as of each July 1st after the Effective Date, for any Beneficiary who had been receiving his/her retirement benefits for at least six months. The increase or decrease shall be determined by the percentage increase or decrease in the Consumer Price Index - All Items Annual Average, Urban Index for Major U. S. Cities, for the preceding twelve months, prepared by the United States Department of Labor, above or below the level of said Index on the immediately preceding December 31st. If the percentage increase or decrease in the Consumer Price Index, for any year, is 3% or less, the retirement benefits payable shall be adjusted by 100% of the increase or decrease. If the percentage increase or decrease in the Consumer Price Index, for any year, is greater than 3%, the retirement benefits payable shall be adjusted by 3% plus one-half of the percentage increase or decrease above 3%. The maximum adjustment for any year shall be 5%. No decrease shall reduce the retirement benefit below its initial amount. No decrease shall be made except to the extent that the retirement benefit is, at that time, in excess of the level it would have then obtained if it had been increased by the total percentage increase in the Index since the first July 1st on which an adjustment under this paragraph could have been made without regard to the limitation provided in this paragraph.

Notwithstanding the foregoing, (1) effective July 1, 2012, retirement benefits payable under this Plan shall not be decreased because of a decrease in the Consumer Price Index described above; (2) effective July 1, 2012, the portion of a person's retirement benefits attributable to

Credited Service (other than Credited Service based on earned and unused sick leave as which shall be governed by (3) below) credited for periods on or after July 1, 2012, shall be subject to a maximum adjustment of 2.5% in any Plan year; and, (3) effective January 1, 2013, Credited Service based on earned and unused sick leave pursuant to the terms of the Plan attributable to full pay periods beginning on or after January 1, 2013, shall be subject to a maximum adjustment of 2.5% in any Plan year. For purposes of interpreting the preceding sentence, (A) Credited Service attributable to a transfer or purchase of service credit not commenced prior to July 1, 2012, pursuant to procedures established for the Plan, shall be considered attributable to a pay period beginning on or after July 1, 2012, and thus subject to the 2.5% maximum adjustment and (B) Credited Service attributable to after-tax payments within ninety (90) days after a leave of absence shall be deemed to relate to the period of the leave of absence.

**D-4.5 Payment of Retirement Benefits.** Retirement Benefits under Plan D shall be payable in equal monthly installments, unless another payment schedule has been established as provided in the Plan. The first payment of Normal or Early Retirement Benefits may be made on the date a Beneficiary first becomes entitled to the retirement benefit. The first payment of Disability Retirement Benefits shall be made on the date established by the Board of Trustees, but not later than the first of the month following approval by the Board of Trustees of the application for Disability Retirement. The last payment shall be made on the first day of the calendar month in which the Beneficiary dies, unless: (a) payments have been made for less than 10 years; or (b) the Member had selected an optional form of benefit payment under Section D-4.6 of the Plan. If said retirement benefits have been paid for less than 10 years, the Beneficiary designated by the Member shall receive the remaining payments that would have been made to the Member until benefits have been paid for 10 years. If an optional form of benefit payment has been selected, payments will be made as required by the option selected.

**D-4.6 Optional Forms of Benefit Payments Available.** A Member may elect one of the following optional forms of payment of his/her retirement benefit payable at Normal Retirement Date, Early Retirement Date, or Disability Retirement Date, in place of the method of payment provided in Section D-4.5 of this Plan. Each of these optional methods of payment shall be the actuarial equivalent of said retirement benefit as payable under Section D-4.5. The optional methods of payment are as follows:

- (a) A Member may elect to receive a reduced retirement benefit during his/her lifetime, and to have all or a specified portion of such reduced retirement benefit paid to the Contingent Annuitant. The Board of Trustees shall make uniform rules as to what portion or portions of the reduced retirement benefit may be made payable to a Contingent Annuitant, subject to the restrictions in the next paragraph hereof.
- (b) A Member may elect to receive a benefit described in Section D-4.6(a) that provides that, on the death of the Contingent Annuitant prior to the death of the Member, a Member's retirement benefit will revert to the amount that would have been payable as a single life annuity when the Member's retirement benefit originally commenced (as adjusted for cost-of-living adjustments granted since benefit commencement). There shall be no additional right of survivorship after the death of a Contingent Annuitant.
- (c) A Member may elect any other optional method of payment of his/her monthly retirement income that is acceptable to the Board of Trustees, in accordance with

uniform rules adopted by the Board of Trustees, but no option may be elected that would:

- (1) Permit the interest of a Member to be retained in the Trust Fund after the Member becomes entitled to retirement benefits under this Plan, and only the interest thereon to be paid to the Member during his/her lifetime, the balance to be paid after the death of the Member; or
  - (2) Permit installment payments to a Contingent Annuitant to continue for a longer period than the longest of the life of the Member's spouse, the life expectancy of the Member on the commencement date of his/her retirement benefits, or the joint life and last survivor expectancy of the Member and his/her spouse on the commencement date of the Member's retirement benefit; or
  - (3) Permit installment payments in other than equal amounts, except to the extent that, in accordance with uniform rules adopted by the Board of Trustees, the Member may elect to receive a greater retirement benefit prior to the commencement of his/her Federal Social Security Act benefits and a lesser retirement benefit thereafter, in order to provide him/her with retirement benefits in the aggregate of equivalent actuarial value which will give him/her, insofar as practicable, a level total income for life under the Plan and the Social Security Act.
- (d) A fully vested Member, whose employment with the Commission terminated on or after the date he/she was eligible for Early Retirement Benefits, may elect in writing to defer benefits until his/her Normal Retirement Date, rather than receive an actuarially reduced Early Retirement Benefit. A Member, who has made this election, may irrevocably elect any of the foregoing optional forms of payment, which shall be effective with the commencement of benefits at Normal Retirement Date. Should the Member die prior to Normal Retirement Date, his/her Contingent Annuitant shall be entitled to receive, effective with the date that would have been the Member's Normal Retirement Date, the appropriate income, as survivor, under the option selected.
- (e) Anything in the Plan to the contrary notwithstanding, if monthly payments that shall be payable to any Beneficiary under the Plan shall be less than \$25.00; then if the Board of Trustees shall so direct, the aggregate of the amounts which shall be payable to him/her hereunder in any year shall be paid in quarterly, semi-annual, or annual payments, or, with the payee's approval, the actuarial lump sum value of the amounts that shall be payable to him/her hereunder shall be paid in one sum of payments over a specified period of time.

**D-4.7 Exercise of Election and Designation of Contingent Annuitant.** The election of an optional method of payment and the designation of a Contingent Annuitant must be in writing. It must be filed with the Board of Trustees prior to the commencement date of the Member's retirement benefits under this Plan. With the exception of an irrevocable election under Section D-4.6(d), either the election, or the designation, or both, may be changed by the Member, from time to time, at any time prior to the commencement date of his/her retirement benefits under this Plan.

D-4.8 Revocation of Election by Occurrence of Certain Events. If a Member who has elected an optional form of payment dies before the commencement date of his/her retirement benefits under this Plan, no retirement annuity shall be paid to his/her Contingent Annuitant. The payment shall be made in accordance with the provisions of Section D-6: Death Benefits. If a Contingent Annuitant dies prior to the commencement date of the Member's retirement benefits under this Plan, the election and the designation shall be void, irrespective of when made, except in the case of a Vested Member who has selected an option under the provisions of Section D-4.6(d). If a Contingent Annuitant dies after the commencement date of the Member's retirement benefits under this Plan, the Annuitant shall continue to receive the appropriate retirement to which he/she is entitled under the option, which he/she selected. If a Vested Member, who has selected an option under the provisions of Section D-4.6(d), dies prior to the commencement date of his/her retirement benefits, his/her Contingent Annuitant shall receive the appropriate retirement benefit to which he/she is entitled under the option selected, commencing with what would have been the Vested Member's Normal Retirement Date. If both the annuitant and his/her designated primary Beneficiary die prior to completion of payments under an option providing for a guaranteed number of payments, the commuted value of the balance of the payments shall be paid in a lump sum to the next Beneficiary designated in writing by the Annuitant; or, in the absence of such designation, or if a person so designated is not then living, to the estate of the last to die of the Annuitant and his/her primary Beneficiary.

D-4.9 Incapacity of Beneficiary. If, for any reason, the Board of Trustees shall determine that it is not desirable, because of the incapacity of the person who shall be entitled to receive any payment in accordance with the provisions of this Plan, to make such payment direct to such person, the Board of Trustees shall give notice to said person of its intention to make alternate payment. Said person shall be advised of the time, date, and place of the meeting at which such action shall take place, and the basis upon which the Board proposes to alter the manner of payment. The Beneficiary shall have the right to be represented by counsel, at his/her own expense, and to present witnesses and testimony in opposition to the Board's action. In any such proceeding, the burden of proof shall be on the Board. The Board's decision shall be based upon the evidence presented at the hearing. If the Board of Trustees is presented with a certified copy of a judicial decree of a court of competent jurisdiction, determining that a Beneficiary entitled to receive benefits is incompetent and appointing a guardian, the Board of Trustees shall be entitled to act upon that court order without further inquiry. In the event the Board proposes to act on the basis of a court order, it shall give advance notice of the time, date, and place of the meeting at which such action shall take place.

D-4.10 Missing Member or Beneficiary. If the Board of Trustees is not able to locate any person to whom a benefit is due under this Plan, after making all reasonable efforts to do so, such benefit shall not be payable to such person until he/she has been located. Reasonable efforts shall mean the use of the Social Security Administration Employer Reporting Service or any other methodology deemed appropriate by the Board of Trustees or its delegate. If, after a period of two years and eleven months from the date on which the earliest unpaid benefit was due, he/she is not located, the person's interest in the Plan and any unpaid benefits to which he/she would otherwise be entitled, shall be forfeited. If the person later makes a request for the forfeited benefit, such benefit shall be reinstated and paid to the person, but without earnings or interest thereon.



D-4.11 Reduction of Benefits by Benefits Under Other Plans. If a Member under this Plan is entitled to benefits under any other retirement plan for service that is also Credited Service under this Plan, the benefits under this Plan shall be actuarially reduced by the benefits under the other retirement plan attributable to said service. Social Security benefits, to which a Member is entitled, are specifically exempted from this provision.

**SECTION D-5 - BENEFITS UPON TERMINATION OF EMPLOYMENT OTHER THAN BY DEATH OR RETIREMENT**

D-5.1 A Member, whose employment with the Commission terminates, other than by death, or retirement on a Disability Retirement Date, an Early Retirement Date, or Normal Retirement Date, shall be entitled to one or the other of the following:

(a) **Refund of Contributions.** He/she may elect to receive a lump sum cash refund of his/her contributions to the Trust Fund, with interest thereon at the rate of 4 1/2% per year. Said election shall be in lieu of any other benefits under the Plan.

(b) **Vested Benefits.**

(1) If a Member, who has completed five (5) or more years of credited service, terminates employment on or after September 1, 2001 and does not elect to receive a refund of required Member contributions, the Member shall be entitled to receive an annual benefit, commencing with what would have been his/her Normal Retirement Date assuming continued active participation in the Plan. The benefit shall be computed as provided in Section D-4.1 of this Plan, on the basis that the first of the month coinciding with or next following his/her date of termination of employment is his/her Normal Retirement Date. Members whose employment terminated prior to September 1, 2001 shall have benefits calculated utilizing the following vesting schedule and the completed years and months of service as of the date of termination:

<u>Completed Years of Credited Service</u>	<u>Percentage</u>
5	50%
6	60%
7	70%
8	80%
9	90%
10 or More	100%

Payment of said benefits shall be made in accordance with Sections D-4.5 and D-4.6 of this Plan.

(2) A Member whose job is abolished and who is not offered a substantially equal job with the Commission shall be entitled to receive, commencing with what would have been his/her Normal Retirement Date if his/her participation in the Plan had continued, a maximum annual benefit computed as provided in Section D-4.1 of this Plan on the basis that the first of the month coinciding with or next following the date of his/her termination of employment had been his/her Normal Retirement Date, and payable in accordance with Sections D-4.5 and D-4.6 of this Plan.

## **SECTION D-6 - DEATH BENEFITS**

### **D-6.1 Spouse's and Children's Benefits – Death During Participation.**

(a) **Service-Connected Death or Death of Long-Term Participant.**

(1) If a Participant is survived by a spouse, who has not been specifically excluded by the Participant for entitlement to survivor death benefits, and the Participant died either: (a) as a result of a service-connected accident or illness; as that term is defined in Section D-4.3(a) of the Plan or (b) after the Participant had attained 10 or more years of Credited Service earned by employment with the Commission as a career Park Police Officer, the spouse shall be entitled to an annual benefit, payable until death, commencing with the first of the month coinciding with or next following the date of death of the Participant, in an amount equal to the greater of the following:

(A) An amount computed under Section D-4.1 of this Plan on the basis that the deceased had continued as a Participant to what would have been his/her Normal Retirement Date, at the same Base Pay received during his/her last completed year of employment with the Commission; or

(B) 25% of the Final Annual Base Pay of the Participant.

(2) If the Participant does not leave a surviving spouse entitled to the benefits provided in Section D-6.1, Paragraph (a)(1) of this Plan; or, if a surviving spouse entitled to the benefits provided therein should die and there are one or more surviving children under the age of 18, under the age of 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support; then the benefits provided under Section D-6.1, Paragraph (a)(1) of this Plan shall be payable to the surviving children of the Participant, under the age of 18, or under age 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support.

(3) In the event the accumulated total benefit paid under this provision is less than the benefit, which would have been paid under Section D-6.2(a), the difference shall be paid in a lump sum to the surviving children, regardless of age. In the absence of any such eligible Beneficiaries, the difference shall be paid to the estate of the Participant.

(b) **Other Deaths.**

(1) If a Participant is survived by a spouse, who has not been specifically excluded by the Participant for entitlement to survivor death benefits, and the Participant died as a result of a non-service-connected accident or illness, and the Participant had less than 10 years of Credited Service earned by employment with the Commission as a career Park Police Officer, the spouse shall be entitled to an annual benefit until death, commencing with the first day of the month coinciding with or next following the date of death of the Participant, in an amount equal to 25% of the Final Annual Base Pay of the Participant.

- (2) If the Participant does not leave a surviving spouse entitled to the benefits provided in Section D-6.1, Paragraph (b)(1) of this Plan; or, if a surviving spouse entitled to the benefits provided therein should die and there are one or more surviving children under the age of 18, under the age of 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support; then the benefits provided under Section D-6.1, Paragraph (b)(1) of this Plan shall be payable to the surviving children of the Participant, under the age of 18, or under age 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support.
- (3) In the event the accumulated total benefit paid under this provision is less than the benefit, which would have been paid under Section D-6.2(a), the difference shall be paid in a lump sum to the surviving children, regardless of age. In the absence of any such eligible Beneficiaries, the difference shall be paid to the estate of the Participant.
- (4) No Beneficiary entitled to benefits under Section D-6.1(a) shall receive any benefits under Section D-6.1(b).

#### D-6.2 Ordinary Death Benefits.

- (a) General Rule. If a Participant or Vested Member dies prior to retiring on a Disability Retirement Date, an Early Retirement Date or, at or after Normal Retirement Date, without an option selection made under the provisions of Section D-4.6(d) and does not leave a surviving spouse or surviving children entitled to the benefits provided in Section D-6.1 of this Plan, the Beneficiary designated by him/her, in a written instrument filed with the Administrator, shall be entitled to a lump sum cash payment in an amount equal to the sum of the following:
  - (1) 50% of his/her Average Annual Earnings; plus
  - (2) His/her total contributions to the Trust Fund, with interest thereon at the rate of 4 1/2% per annum.
- (b) Special Rule for Vested Members With An Option Selection on File. If a Vested Member dies prior to retiring on a Disability Retirement Date, an Early Retirement Date or, at or after Normal Retirement Date, with an option selection made under the provisions of Section D-4.6(d), the benefit payable shall be the survivor benefit, if any, under the option selected under Section D-4.6(d).

D-6.3 Post-Retirement Death Benefits. Upon the receipt of proper proof of the death of a retired member on or after July 9, 1986, there shall be paid to such person as the Member shall have designated and filed with the Board of Trustees, otherwise to his/her estate, a lump sum benefit in the amount of \$10,000. A member may designate a trust or any other entity as the beneficiary of the lump sum benefit, so long as the trust or entity has legal status as identified by a Federal Tax ID number, and so long as the designation is otherwise properly on file with the Board of Trustees.

## **SECTION D-7 - CONTRIBUTIONS**

- D-7.1 **Employee Contributions.** Each Participant of Plan D of this Retirement System shall contribute to the Trust Fund 7% of his/her Base Pay. Effective January 1, 1984, the Commission shall pick up the employee contributions required by this Section for all Base Pay earned after December 31, 1983, and the contributions so picked up shall, subject to approval of the Internal Revenue Service, be treated as employer contributions in determining Federal and State Income Tax treatment under Section 414(h) of the United States Internal Revenue Code. These contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The Commission shall pay these employee contributions from the same source of funds, which is used in paying earnings to the employee. The Commission may pick up these contributions by a reduction in the cash salary of the employee, or by an offset against a future salary increase, or by a combination of a reduction in salary and offset against a future salary increase. If employee contributions are picked up they shall be treated for all purposes of this Section D-7 in the same manner and to the same extent as employee contributions made prior to the date picked up. Effective for pay periods beginning on or after March 1, 2015, each Participant of Plan D shall contribute 7.5% of his/her Base Pay for each pay period. Effective for pay periods beginning on or after January 1, 2016, each Participant of Plan D shall contribute 8% of his/her Base Pay for each pay period.
- D-7.2 **Employer Contributions.** The Commission shall contribute to the Trust Fund from time to time such amounts as are actuarially determined to be required to provide for the benefits under the Plans of this Retirement System.
- D-7.3 **No Reversion of Employer Contributions.** No contributions to the Trust Fund by the Commission shall be used for, or diverted to, purposes other than for the exclusive benefit of Members and Beneficiaries, prior to the satisfaction of all liabilities under this Retirement System.

**ARTICLE E**  
**Sections Applicable to Plan E of The M-NCPPC**  
**Employees' Retirement System**

## SECTION E-1 - DEFINITIONS

- E-1.1 Appointed Officials means Commissioners of The Maryland-National Capital Park and Planning Commission; and, the Executive Director, the General Counsel and Secretary-Treasurer, serving at the pleasure of the Commission.
- E-1.2 Condition of Employment means mandatory participation in this Retirement Plan for any Employee, as defined in Section E-1.5 below, hired or appointed on or after January 1, 2013.
- E-1.3 Credited Service means the total period of years and months of completed service credited under this Retirement Plan, computed, as provided in Section E-3 of this Plan. Part-time employees participating in the ERS shall accrue credited service in his/her part-time capacity based on the actual number of paid hours in a calendar year divided by the normal (1950 or 2080) full-time hours for the class of work of the position that the part-time employee occupies. In no instance shall a part-time employee accrue more service (weekly, bi-weekly, or annually) than a full-time employee. For part-time employees, eligibility for receipt of benefits will be based upon calendar years and months of service; and for benefit formula purposes accumulated pro rata accrued service will be used.
- E-1.4 Early Retirement Date means the first day of any month prior to a Participant's Normal Retirement Date as of which:
- (a) He/she has both completed 15 or more years of Credited Service and has reached the age of 57; or
  - (b) He/she has completed 25 years of Credited Service regardless of age.
- For part-time employees, eligibility for receipt of benefits will be based upon calendar years and months of service; and for benefit formula purposes accumulated pro rata accrued credited service will be used as calculated in Section E-3.
- E-1.5 Employee means (a) any individual employed by the Commission as a career full-time Merit System employee, except Park Police; (b) any individual appointed by the Commission to the position of Executive Director, Secretary-Treasurer, General Counsel, or other full-time position appointed by the Commission and exempted from the Merit System; (c) any individual appointed by the respective County to serve as a Commissioner of The Maryland-National Capital Park and Planning Commission; (d) any individual exempted from the Merit System, who is appointed by the respective County Planning Board, as provided in Land Use Article, Sections 16-102 and 20-204, respectively, of the Annotated Code of Maryland; (e) any individual employed by the Commission as a career part-time Merit System employee on a year-round basis; and (f) any individual employed by the M-NCPPC Employees' Retirement System.
- E-1.6 Integrated Retirement Plan means Plan E, which provides full retirement benefits until the retired Member is eligible for full Social Security retirement benefits, and provides supplemental benefits thereafter.

- E-1.7 Normal Retirement Date means the earlier of (a) the first day of the month coinciding with or immediately following the date on which a Member of Plan E has both attained age 62 and completed ten years of Credited Service; or (b) the first day of the month coinciding with or immediately following the date on which a Member of Plan E, regardless of age, has completed 30 years of Credited Service. For part-time employees, eligibility for receipt of benefits will be based upon calendar years and months of service; and for benefit formula purposes accumulated pro rata service will be used as calculated in Section E-3. Notwithstanding the foregoing, a Commissioner or a Participant who has been appointed by the Commission to the position of Executive Director, Secretary-Treasurer, General Counsel, or another full-time position appointed by the Commission, and exempted from the Merit System reaches his or her Normal Retirement Date once he or she has attained age 62 and ten years have elapsed since he or she was first credited with Credited Service under the Plans, regardless of whether he or she has actually completed ten years of Credited Service under the Plans.
- E-1.8 Part-Time Employee means a career Merit System employee who is employed on a year-round part-time basis, but working not less than half of a normal workweek.
- E-1.9 Plan E Participant means an employee who has enrolled in Plan E as a Condition of Employment.
- E-1.10 Social Security Wage Base means the annual taxable wages under the Federal Social Security Act.
- E-1.11 Social Security Covered Compensation Level is the average (without indexing) of the taxable wage bases in effect for each calendar year during the 35-year period ending with the last day of the calendar year in which a Member attains Social Security retirement age. For purposes of this Section E-1.11, Social Security retirement age is rounded up to the next integer age.

The Social Security Covered Compensation Level is the result determined above, rounded to the next lower multiple of 12. The determination of the Covered Compensation Level as of any date shall be calculated without regard to increases in the Maximum Taxable Wage Base occurring after that date. Social Security Covered Compensation Level will be determined at the time of separation from service for any Member who, at the time of such separation, has a non-forfeitable right to benefits

- E-1.12 Represented Plan E Participant means a Plan E Participant who is represented for collective bargaining purposes by an exclusive representative elected pursuant to Land Use Article, Title 16, Subtitle 2 of the Annotated Code of Maryland, as amended from time to time, and represented as of the date upon which any Participant applicable election, action or determination prescribed under this Plan E is permitted or required with respect to a Represented Plan E Participant.



**SECTION E-2 - REQUIREMENTS FOR PARTICIPATION**

- E-2.1 (a) New Employees Hired or Appointed on or After January 1, 2013. Except individuals described in sub-section E-2.1(b) below, every Employee, as defined in E-1.5, hired or appointed on or after January 1, 2013 shall as a Condition of Employment become a Participant in Plan E of the Employees' Retirement System on the first day of the month following the date of his/her employment. Participation in the Plan shall be mandatory and may not be waived under any circumstances.
- (b) Notwithstanding sub-section E-2.1(a) above, Employees hired or appointed on or after January 1, 2013 that, as a result of prior employment or appointment with the Commission or Employees' Retirement System, are Members of Plan B shall be required to Participate in Plan B as a Condition of Employment pursuant to Section B-2.1(d).
- E-2.2 Method of Election to Participate. Each Employee, who as a Condition of Employment must participate in Plan E shall fill out, sign, and file with the Administrator, an application form furnished by the Administrator, which shall include an authorization for the deduction by the Commission from the compensation of the Employee, the contributions required of the Employee under Plan E, and the payment of said deducted contributions by the Commission to the Trust Fund under this Plan. This authorization includes, without limitation, an authorization for the recapture by the Commission of deficient contributions. Said application shall also contain an agreement by the Employee to be bound by the provisions of the Plan, and the Employees' Retirement System, as then in effect, and as thereafter amended in the manner provided for in the Retirement System. A Member of this Plan may not withdraw his/her contributions from the Retirement System except upon termination of employment. As is set forth above, no other Employee may discontinue membership except upon termination.

### **SECTION E-3 - CREDITED SERVICE**

E-3.1 **Credited Service** means the total completed years and months of employment of a Member, not to exceed a maximum of 35 years, to be used in computing Retirement Benefits under Plan E, and shall be the total of the following:

- (a) Employment by the Commission in pay status while a contributing Participant in Plan E of this Retirement System.
- (b) Service transferred to this Retirement System pursuant to Title 37 of the State Personnel and Pensions Article of the Annotated Code of Maryland, as applicable at the time of transfer.
- (c) Service of a Member in the uniformed services of the United States provided that the members are reemployed in accordance with federal law.
- (d) Any Credited Service purchased, accrued and applied for a Represented Plan E Participant in accordance with Section E-3.4 of this Plan.

E-3.2 **Creditability for Accumulated Sick Leave**. In computing Credited Service for Normal or Early Retirement (as may be applicable pursuant to the terms of the Plan E), a Member who is entitled to a benefit under this Plan E shall be entitled to receive an additional credit for earned and unused sick leave, except that such credit shall not apply for meeting minimum retirement eligibility requirements for age, nor for the purpose of determining the highest five years of Average Annual Earnings. A maximum of 301 workdays of earned and unused sick leave may be used to qualify for length of service. To be entitled to such additional credit, a Member must have accumulated unused sick leave, which would equate to a minimum of one full month of service credit (twenty-two [22] work days). After allowing for the appropriate amount of additional credit on the basis of full months (twenty-two [22] work days), an additional month of Credited Service will be given for any remainder equating to fifteen (15) or more work days, but no credit will be given for any remainder of less than fifteen (15) work days.

E-3.3 For Members who qualify to receive benefits under the Commission's Long Term Disability Insurance Plan, Credited Service shall include the total of full months in which the Member, prior to his or her Normal Retirement Date, received or was entitled to receive disability benefits. Should a Member who has been receiving disability benefits subsequently be disqualified for further benefits, and then the accrual of Credited Service under this provision shall cease simultaneously with the cessation of benefits under the Commission's Long-Term Disability Insurance Plan.

E-3.4 **Purchase of Credited Service by Represented Plan E Participants**.

- (a) **Service Eligible for Purchase**. Effective at least 31 but not more than 60 days immediately prior to the date of a Participant's actual retirement as permitted under Sections E-4.1 and E-4.2, a Represented Plan E Participant may elect to purchase additional Credited Service not to exceed a total of five (5) years for certain time in public service and qualified as follows:

- (1) Any period of employment by the Commission prior to retirement under this Plan and during which the Participant was eligible to participate in either this Plan or the Prior Plan, but was not a Participant in this Plan or the Prior Plan, respectively.
  - (2) Except to the extent that credit for that period already is allowed under this Plan as a result of a transfer of eligible service credit or credit pursuant to Code section 414(u), any period during which the Participant was in an active duty status of a uniformed service of the United States (limited to the United States Army, Navy, Air Force, Marine Corps, Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, the Public Health Service of the United States, or active duty service in the National Guard of any state of the United States as set forth in applicable Department of Labor regulations) and not an active Participant in this Plan, the Prior Plan, or any other contributory retirement plan of an agency of a state, federal or local government.
  - (3) Except to the extent that credit for that period already is allowed under this Plan as a result of a transfer of eligible service credit, any period during which that Participant was a member/participant in the retirement plan of another agency of state or local government in the State of Maryland prior to retirement under this Plan, and during which period the Participant was not a participant in this Plan or the Prior Plan. The foregoing shall only be available if the Participant will no longer receive credit for service for the same period of time under the other plan referenced in this subsection.
  - (4) Notwithstanding other provisions of this Section, and except as expressly required under federal law, a Participant must not be granted or permitted to purchase credited service for any period of actual or credited service under another retirement system if that Participant is receiving retirement benefits or has retained a vested right to retirement benefits from that system and all purchases of service credit shall comply with Code section 415(n).
- (b) Irrevocable Election. An election to purchase additional Credited Service is irrevocable. When an election to purchase service is made at least 31 but not more than 60 days before the proposed retirement date, the election to retire becomes immediately irrevocable notwithstanding any other provision of this Plan.
- (c) Calculation of Service Cost.
- (1) The Participant shall contribute to the Plan the entire cost of his/her additional credit determined as the Actuarial Equivalent of additional benefits attributable to the additional Credited Service.
  - (2) For Participants who elect to purchase service at least 31 but not more than 60 days prior to their retirement, the Participant cost to purchase additional service will be the present value of the increase in the accrued benefit at the actual date of retirement due to the additional service. For the purpose of this calculation, the present value will be based on the Plan's definition of Actuarial Equivalent.

- (d) Contribution Methods. The electing Represented Plan E Participant shall contribute the cost for additional Credited Service before retirement in a lump sum or sums paid within thirty (30) days of the Participant's election, all of which must be paid before retirement. A lump sum payment made within the thirty (30) days required pursuant to this Section E-3.4(d) may be made by a plan-to-plan transfer from Code section 403(b) or Code section 457(b) plan in which the Participant also participates that permits such a transfer in a manner consistent with the Code.
  
- (e) Limited Recognition of Purchased Service. Notwithstanding any provision of the Plan to the contrary, additional credit purchased pursuant to this Section E-3.4 does not apply for meeting minimum retirement eligibility requirements for age, vesting, nor for the purpose of determining the highest five years for Average Annual Earnings or for any purpose under this Plan other than for the calculation of service credit for the purpose of determining the amount of the benefit.

## **SECTION E-4 - RETIREMENT BENEFITS**

### **E-4.1 Integrated Retirement Benefits at or after Normal Retirement Date.**

- (a) The annual amount of retirement benefits payable to a Plan E Annuitant from date of retirement to date of attaining statutory age of eligibility for full Social Security retirement benefits shall be 2% of Average Annual Earnings multiplied by years of Credited Service up to a maximum of 35 years, plus sick leave credit. Years of Credited Service of less than a full year will be prorated. The annual benefit payable, however, shall not be in excess of 100% of his/her Average Annual Earnings.
- (b) For members who have reached the eligibility date for full Social Security retirement benefits, the amount of retirement benefits payable from the Plan shall be one and one half percent (1½%) of Average Annual Earnings up to the Social Security Covered Compensation Level, plus 2% of Average Annual Earnings in excess of the Social Security Covered Compensation Level, multiplied by years of Credited Service, up to a maximum of thirty-five (35) years, plus sick leave credit, together with any accumulated cost-of-living adjustments received from the date of retirement to the eligibility date for full Social Security retirement benefits. Years of Credited Service of less than a full year will be prorated.

**E-4.2 Retirement at Early Retirement Date.** The annual amount of retirement benefits payable to a Plan E Annuitant who retires on an Early Retirement Date, shall be an amount equal to the benefit he/she would have been entitled to receive under Sections E-4.1(a) and (b) if his/her Early Retirement Date had been his/her Normal Retirement Date, but based on his/her Credited Service and Average Annual Earnings at his/her Early Retirement Date, reduced by 1/180 for each month by which the commencement date of the Early Retirement Benefit precedes the date that would have been his/her Normal Retirement Date if he/she had continued as a Participant. An Annuitant who retires on an Early Retirement Date may elect to have his/her retirement benefits commence on the first day of any month thereafter, beginning with his/her Early Retirement Date. His/her retirement benefits must commence no later than the date that would have been his/her Normal Retirement Date if he/she had continued to be a Participant.

**E-4.3 Change in Amount of Retirement Benefits Due to Change in Cost-Of-Living Index.** The retirement benefits payable under this Plan may be increased as of each July 1st, after the Effective Date, for any Beneficiary who had been receiving his/her retirement benefits for at least six months. The increase shall be determined by the percentage increase in the Consumer Price Index - All Items Annual Average, Urban Index for Major U.S. Cities, for the preceding 12 months, prepared by the United States Department of Labor, above the level of said Index on the immediately preceding December 31st. If the percentage increase in the Consumer Price Index, for any year, is 2.5% or less, the retirement benefits payable shall be adjusted by 100% of the increase. The maximum adjustment for any year shall be 2.5%.

**E-4.4 Payment of Retirement Benefits.** Retirement benefits under Plan E shall be payable in equal monthly installments, unless another payment schedule has been established as provided in the Plan. The first payment of Normal or Early Retirement Benefits may be made on the date a Beneficiary first becomes entitled to the retirement benefit. The last payment shall be made on the first day of the calendar month in which the Beneficiary dies, unless he/she has elected an optional form of benefits. If the Beneficiary has not elected an optional form of benefits and

dies before receiving benefits in an amount equal to the Member's contributions plus credited interest, the difference will be payable to the surviving Beneficiary or Beneficiaries.

**E-4.5 Optional Forms of Benefit Payments Available.** A Member may elect one of the following optional forms of payment of his/her retirement benefit payable at Normal Retirement Date or Early Retirement Date, in place of the method of payment provided in Section E-4.4 of this Plan. Each of these optional methods of payment shall be the actuarial equivalent of said retirement benefit as payable under Section E-4.4. The optional methods of payment are as follows:

- (a) A Member may elect to receive a reduced retirement benefit during his/her lifetime, and to have all or a specified portion of such reduced retirement benefits paid to the Contingent Annuitant. The Board of Trustees shall make uniform rules as to which portion or portions of the reduced retirement benefits may be made payable to a Contingent Annuitant, subject to the restrictions in the next paragraph hereof.
- (b) A Member may elect to receive a benefit described in Section E-4.5(a) that provides that, on the death of the Contingent Annuitant prior to the death of the Member, a Member's retirement benefit will revert to the amount that would have been payable as a single life annuity when the Member's retirement benefit originally commenced (as adjusted for cost-of-living adjustments granted since benefit commencement). There shall be no additional right of survivorship after the death of a Contingent Annuitant.
- (c) A Member may elect any other optional method of payment of his/her monthly retirement income that is acceptable to the Board of Trustees in accordance with uniform rules adopted by the Board of Trustees, but no option may be elected that would:
  - (1) Permit the interest of a Member to be retained in the Trust Fund after the Member becomes entitled to retirement benefits under this Plan, and only the interest thereon to be paid to the Member during his/her lifetime, the balance to be paid after the death of the Member; or
  - (2) Would permit installment payments to a Contingent Annuitant to continue for a longer period than the longest of the life of the Member's spouse, the life expectancy of the Member on the commencement date of his/her retirement benefits, or the joint life and last survivor expectancy of the Member and his/her spouse on the commencement date of the Member's retirement benefit.
- (d) A fully Vested Member, whose employment with the Commission terminated on or after the date he/she was eligible for Early Retirement Benefits, may elect in writing to defer benefits until his/her Normal Retirement Date, rather than receive an actuarially reduced Early Retirement Benefit. A Member, who has made this election, may irrevocably elect any of the foregoing optional forms of payment, which shall be effective with the commencement of benefits at Normal Retirement Date. Should the Member die prior to Normal Retirement Date, his/her Contingent Annuitant shall be entitled to receive, effective with the date that would have been the Member's Normal Retirement Date, the appropriate income, as survivor, under the option selected.

- E-4.6 Exercise of Election and Designation of Contingent Annuitant. The election of an optional method of payment and the designation of a Contingent Annuitant must be in writing. It must be filed with the Board of Trustees prior to the commencement date of the Member's retirement benefits under this Plan. With the exception of an irrevocable election under Section E-4.5(d), either the election, or the designation, or both, may be changed by the Member, from time to time, at any time prior to the commencement date of his/her retirement benefits under this Plan.
- E-4.7 Revocation of Election by Occurrence of Certain Events. If a Member who has elected an optional form of payment dies before the commencement date of his/her retirement benefits under this Plan, no retirement annuity shall be paid to his/her Contingent Annuitant. The payment shall be made in accordance with the provisions of Section E-6: Death Benefits. If a Contingent Annuitant dies prior to the commencement date of the Member's retirement benefits under this Plan, the election and the designation shall be void, irrespective of when made, except in the case of a Vested Member who has selected an option under the provisions of Section E-4.5(d). If a Contingent Annuitant dies after the commencement date of the Member's retirement benefits under this Plan, the Annuitant shall continue to receive the appropriate retirement to which he/she is entitled under the option, which he/she selected. If a Vested Member, who has selected an option under the provisions of Section E-4.5(d), dies prior to the commencement date of his/her retirement benefits, his/her Contingent Annuitant shall receive the appropriate retirement benefit to which he/she is entitled under the option selected, commencing with what would have been the Vested Member's Normal Retirement Date. If both the Annuitant and his/her designated primary Beneficiary die prior to completion of payments under an option providing for a guaranteed number of payments, the commuted value of the balance of the payments shall be paid in a lump sum to the next Beneficiary designated in writing by the Annuitant or, in the absence of such designation, or if a person so designated is not then living, to the estate of the last to die of the Annuitant and his/her primary Beneficiary.
- E-4.8 Incapacity of Beneficiary. If, for any reason, the Board of Trustees shall determine that it is not desirable, because of the incapacity of the person who shall be entitled to receive any payment in accordance with the provisions of this Plan, to make such payment direct to such person, the Board of Trustees shall give notice to said person of its intention to make alternate payment. Said person shall be advised of the time, date, and place of the meeting at which such action shall take place, and the basis upon which the Board proposes to alter the manner of payment. The Beneficiary shall have the right to be represented by counsel, at his/her own expense, and to present witnesses and testimony in opposition to the Board's action. In any such proceeding, the burden of proof shall be on the Board. The Board's decision shall be based upon the evidence presented at the hearing. If the Board of Trustees is presented with a certified copy of a judicial decree of a court of competent jurisdiction, determining that a Beneficiary entitled to receive benefits is incompetent and appointing a guardian, the Board of Trustees shall be entitled to act upon that court order without further inquiry. In the event the Board proposes to act on the basis of a court order, it shall give advance notice of the time, date, and place of the meeting at which such action shall take place.
- E-4.9 Missing Member or Beneficiary. If the Board of Trustees is not able to locate any person to whom a benefit is due under this Plan, after making all reasonable efforts to do so, such benefit shall not be payable to such person until he/she has been located. Reasonable efforts shall mean the use of the Social Security Administration Employer Reporting Service or any other methodology deemed appropriate by the Board of Trustees or its delegate. If, after a period of

two years and eleven months from the date on which the earliest unpaid benefit was due, he/she is not located, the person's interest in the Plan and any unpaid benefits to which he/she would otherwise be entitled, shall be forfeited. If the person later makes a request for the forfeited benefit, such benefit shall be reinstated and paid to the person, but without earnings or interest thereon.

**E-4.10 Reduction of Benefits by Benefits Under Other Plans.** If a Member under this Plan is entitled to benefits under any other retirement plan, for service that is also Credited Service under this Plan, the benefits under this Plan shall be actuarially reduced by the benefits under the other retirement plan attributable to said service. Social Security benefits, to which a Member is entitled, are specifically exempted from this provision.



**SECTION E-5 - BENEFITS UPON TERMINATION OF EMPLOYMENT OTHER THAN BY  
DEATH OR RETIREMENT**

E-5.1 A Member, whose employment with the Commission terminates, other than by death, or retirement on an Early Retirement Date or Normal Retirement Date, shall be entitled to one or the other of the following:

- (a) Refund of Contributions. He/she may elect to receive a lump sum cash refund of his/her contributions to the Trust Fund, with interest thereon at the rate of 4-1/2% per year. Said election shall be in lieu of any other benefits under the Plan.
  
- (b) Vested Benefits.
  - (1) If a Member, who has completed ten (10) or more years of credited service, terminates employment and does not elect to receive a refund of required Member contributions, the Member shall be entitled to receive an annual benefit, commencing with what would have been his/her Normal Retirement Date assuming continued active participation in the Plan. The benefit shall be computed as provided in Section E-4.1 of this Plan, on the basis that the first of the month coinciding with or next following his/her date of termination of employment is his/her Normal Retirement Date.

Payment of said benefits shall be made in accordance with Sections E-4.4 and E-4.5 of this Plan.

- (2) A Member whose job is abolished and who is not offered a substantially equal job with the Commission shall be entitled to receive, commencing with what would have been his/her Normal Retirement Date if his/her participation in the Plan had continued, a maximum annual benefit computed, as provided in Section E-4.1 of this Plan, on the basis that the first of the month coinciding with or next following the date of his/her termination of employment had been his/her Normal Retirement Date, and payable in accordance with Sections E-4.4 and E-4.5 of this Plan. Appointed Officials and employees exempted from the Merit System who are appointed by the respective County Planning Board as provided in Land Use Article, Sections 16-102 and 20-204, respectively, of the Annotated Code of Maryland, and who has otherwise reached his or her Normal Retirement Date with his or her eligibility for Normal Retirement intact, shall be entitled to 100% vesting regardless of years of service.

## SECTION E-6 - DEATH BENEFITS

### E-6.1 Spouse's and Children's Benefits – Death During Participation.

(a) Service-Connected Death.

- (1) If a Participant is survived by a spouse, who has not been specifically excluded by the Participant for entitlement to survivor death benefits, and the Participant dies as a result of a service-connected accident or illness, occurring or incurred while the Participant was engaged in the performance of the duties of his/her employment with the Commission, without willful negligence on his/her part, as that term is defined in Section E-4.3(a), the spouse shall be entitled to an annual benefit, payable until death, commencing with the first of the month coinciding with or next following the date of death of the Participant, in an amount equal to the greater of the following:
  - (A) An amount computed under Section E-4.1(a) and (b) of this Plan on the basis that the deceased had continued as a Participant to what would have been his/her Normal Retirement Date, at the same Base Pay received during his/her last completed year of employment with the Commission. If the spouse is receiving benefits on the date the Participant would have otherwise reached his/her eligibility date for full Social Security retirement benefits, the amount which the spouse is receiving shall be calculated as provided in Section E-4.1(b). Final Annual Base Pay for part-time Participants will be the average base salary of the Participant for the 36 calendar month period, or for the 12 calendar month period if greater, immediately preceding his/her death; or
  - (B) 25% of the Final Annual Base Pay of the Participant. Final Annual Base Pay for part-time Participants will be the average base salary of the Participant for the 36 calendar month period, or for the 12 calendar month period if greater, immediately preceding his/her death.
- (2) If the Participant does not leave a surviving spouse entitled to the benefits provided in Section E-6.1, Paragraph (a)(1) of this Plan; or, if a surviving spouse entitled to the benefits provided therein should die and there are one or more surviving children under the age of 18, under the age of 23 if a full-time student or regardless of age if totally disabled and incapable of self-support; then the benefits provided under Section E-6.1, Paragraph (a)(1) of this Plan shall be payable to the surviving children of the Participant, under the age of 18, or under age 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support.
- (3) In the event the accumulated total benefit paid under this provision is less than the benefit, which would have been paid under Section E-6.2(a), the difference shall be paid in a lump sum to the surviving children, regardless of age. In the absence of any such eligible Beneficiaries, the difference shall be paid to the estate of the Participant.

(b) Non-Service-Connected Death.

- (1) If a Participant is survived by a spouse, who has not been specifically excluded by the Participant for entitlement to survivor death benefits, and the Participant dies as a result of a non-service-connected accident or illness, the spouse shall be entitled to an annual benefit until death, commencing with the first day of the month coinciding with or next following the date of death of the Participant, in an amount equal to 25% of the Final Annual Base Pay of the Participant. Final Annual Base Pay for part-time Participants will be the average base salary of the Participant for the 60 calendar month period, or for the 12 calendar month period if greater, immediately preceding his/her death.
- (2) If the Participant does not leave a surviving spouse entitled to the benefits provided in Section E-6.1, Paragraph (b)(1) of this Plan; or, if a surviving spouse entitled to the benefits provided therein should die, and there are one or more surviving children under the age of 18, under the age of 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support; then the benefits provided under Section E-6.1, Paragraph (b)(1) of this Plan shall be payable to the surviving children of the Participant under the age of 18, under the age of 23 if a full-time student, or regardless of age if totally disabled and incapable of self-support.
- (3) In the event the accumulated total benefit paid under this provision is less than the benefit, which would have been paid under Section E-6.2(a), the difference shall be paid in a lump sum to the surviving children, regardless of age. In the absence of any such eligible Beneficiaries, the difference shall be paid to the estate of the Participant.
- (4) No Beneficiary entitled to benefits under Section E-6.1(a) shall receive any benefits on account of Non-Service-Connected Death.

E-6.2 Ordinary Death Benefits.

- (a) General Rule. If a Participant or Vested Member dies prior to retiring on an Early Retirement Date or at or after Normal Retirement Date, without an option selection made under the provisions of Section E-4.5(d), and does not leave a surviving spouse or surviving children entitled to the benefits provided in Section E-6.1 of this Plan, the Beneficiary designated by him/her, in a written instrument filed with the Administrator, shall be entitled to a lump sum cash payment in an amount equal the sum of the following:
  - (1) 50% of his/her Average Annual Earnings; plus
  - (2) His/her total contributions to the Trust Fund, with interest thereon at a rate of 4-1/2% per annum.
- (b) Special Rule for Vested Members With An Option Selection on File. If a Vested Member dies prior to retiring on an Early Retirement Date or, at or after Normal

Retirement Date, with an option selection made under the provisions of Section E-4.5(d), the benefit payable shall be the survivor benefit, if any, under the option selected under Section E-4.5(d).

E-6.3 Post-Retirement Death Benefits. Upon the receipt of proper proof of the death of a retired member, there shall be paid to such person as the member shall have designated and filed with the Board of Trustees, otherwise to his/her estate, a lump sum benefit in the amount of \$10,000. A member may designate a trust or any other entity as the beneficiary of the lump sum benefit, so long as the trust or entity has legal status as identified by a Federal Tax ID number, and so long as the designation is otherwise properly on file with the Board of Trustees.

## SECTION E-7 - CONTRIBUTIONS

E-7.1 Employee Contributions. Each Participant of Plan E of this Retirement System shall contribute to the Trust Fund 4% of his/her Base Pay for each pay period in a calendar year up to the maximum Social Security Wage Base for that year, and 8% of his/her Base Pay in excess of the Social Security Wage Base for each calendar year.

The Commission shall pick up the employee contributions required by this Section for all Base Pay earned on or after January 1, 2013, and the contributions so picked up shall, subject to approval by the Internal Revenue Service, be treated as employer contributions in determining Federal and State Income Tax treatment under Section 414(h) of the United States Internal Revenue Code. These contributions shall not be included as gross income of the employee until such time as they are distributed or made available. The Commission shall pay these employee contributions from the same source of funds, which is used in paying earnings to the employee. The Commission may pick up these contributions by a reduction in the cash salary of the employee or by an offset against a future salary increase or by a combination of a reduction in salary and offset against a future salary increase. If employee contributions are picked up, they shall be treated for all purposes of this Section E-7 in the same manner and to the same extent as employee contributions made prior to the date picked up.

E-7.2 Employer Contributions. The Commission shall contribute to the Trust Fund, from time to time, such amounts as are actuarially determined to be required to provide for the benefits under the Plans of this Retirement System.

E-7.3 No Reversion of Employer Contributions. No contributions to the Trust Fund by the Commission shall be used for, or diverted to, purposes other than for the exclusive benefit of Members and Beneficiaries, prior to the satisfaction of all liabilities under this Retirement System.



**MEMORANDUM**



**EMPLOYEES' RETIREMENT SYSTEM**  
The Maryland-National Capital Park and Planning Commission  
6611 Kenilworth Avenue, Suite 100  
Riverdale, Maryland 20737

(301) 454-1415 - Telephone  
(301) 454-1413 - Facsimile  
<http://ers.mnccppc.org>

**BOARD OF TRUSTEES**

Chairman Elizabeth M. Hewlett  
Vice Chairman Marye Wells-Harley

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Josh Ardison  
Richard H. Bucher, Ph.D.  
Pamela F. Gogol  
Barbara Walsh

TO: The Commission  
VIA: Elizabeth M. Hewlett  
Chairman, Board of Trustees

DATE: November 4, 2014

FROM: Andrea L. Rose  
ERS Administrator

Subject: ***Recommendation to Approve an Employer Contribution in the Amount of \$27,191,305 for Fiscal Year 2016***

**RECOMMENDATION**

At its November 4, 2014 meeting, the Employees' Retirement System (ERS) Board of Trustees ("Board") accepted the July 1, 2014 Actuarial Valuation presented by Boomershine Consulting Group. As a result, the Board recommends the Commission approve an employer contribution in the amount of \$27,191,305 (20.14% of covered payroll) for fiscal year 2016.

**BACKGROUND**

Each year the ERS has an independent actuarial valuation performed to determine the funding requirements for the ERS. The actuarial valuation is designed to measure the current and future cost of retiree benefits based on employee demographics, assets and liabilities, plan provisions, and actuarial assumptions and methods. The actuary recommends an employer contribution in order to ensure sufficient assets are available for future benefits.

A pension plan is well funded when it has enough money in reserve to meet all expected future obligations to participants. The ERS' funding objective is to meet long-term benefit promises through employee and employer contributions that remain approximately level as a percent of member payroll. The July 1, 2014 actuarial valuation indicated the funded ratio of the actuarial value of assets to the actuarial accrued liability for benefits was 87.2%, which is up from 83.1% in 2013.

The July 1, 2014 actuarial valuation includes reductions in the investment return and salary assumptions which were approved earlier this year following a recommendation by Boomershine

Consulting Group and the ERS' investment consultant, Wilshire Associates. The valuation also includes changes in employee contributions for Plans A and B.

In order to meet the ERS' funding objectives, the recommended employer contribution of \$27,191,305 (20.14% of covered payroll) is payable July 1, 2015 for fiscal year 2016. The recommended employer contribution decreased slightly from \$28,149,976 (21.8% of covered payroll) as of July 1, 2013 primarily due to a gain in the actuarial asset value.

Boomershine Consulting Group's David S. Boomershine, Senior Consulting Actuary and President, and Gregory M. Stump, Vice President and Senior Actuary, will present the attached presentation at the Commission's November 18, 2014 meeting.

Thank you in advance for your consideration.

**Attachment**

1. Employees' Retirement System Review as of July 1, 2014





# Employees' Retirement System Review

as of July 1, 2014

November 2014



# Demographic Highlights

	7/1/2013	7/1/2014	% Change
<b>Number of Members</b>			
Active	2,064	2,070	0.3%
Terminated Vested	227	244	7.5%
Retirees, Disableds and Beneficiaries	<u>1,235</u>	<u>1,272</u>	<u>3.0%</u>
Total	3,526	3,586	1.7%
<b>Active Participants</b>			
Annual Compensation	\$129,134,125	\$135,041,803	4.6%
Average Annual Compensation	\$63,270	\$66,238	4.3%
Average Age	47.48	47.78	0.6%
Average Service	12.69	12.92	1.8%

# Market Value of Assets Changes

Market Value of Assets as of 7/1/2013		\$722,718,480
Employer Contributions for 2014-15 Plan Year	\$28,750,323	
Less Receivable for 2014 Plan Year	(28,750,323)	
Employee Contributions	5,413,595	
Net Investment Income	107,897,795	
Benefit Payments	(38,407,073)	
Administrative Expenses	<u>(1,487,210)</u>	
Market Value of Assets as of 6/30/2014		\$796,135,587
Receivable Contribution as of 7/1/2014		\$28,149,976
Market Value of Assets as of 7/1/2014		\$824,285,563

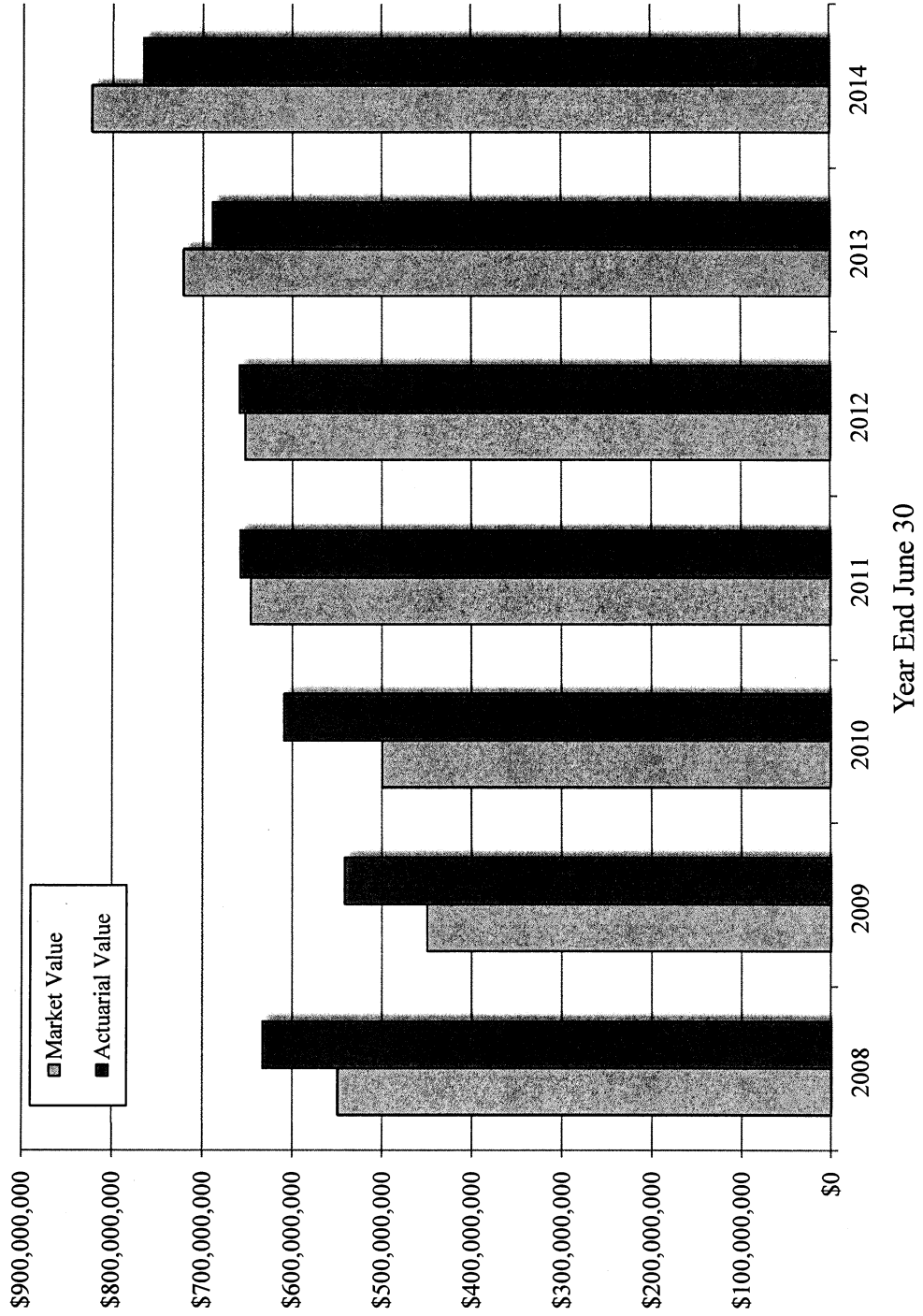
# Plan Assets: Market Value and Actuarial Value

	7/1/2013	7/1/2014
Market Value	\$722,718,480	\$824,285,563
Investment Return	11.41%	15.28%
Actuarial Value	\$690,539,998	\$766,531,514
Investment Return	5.34%	12.22%

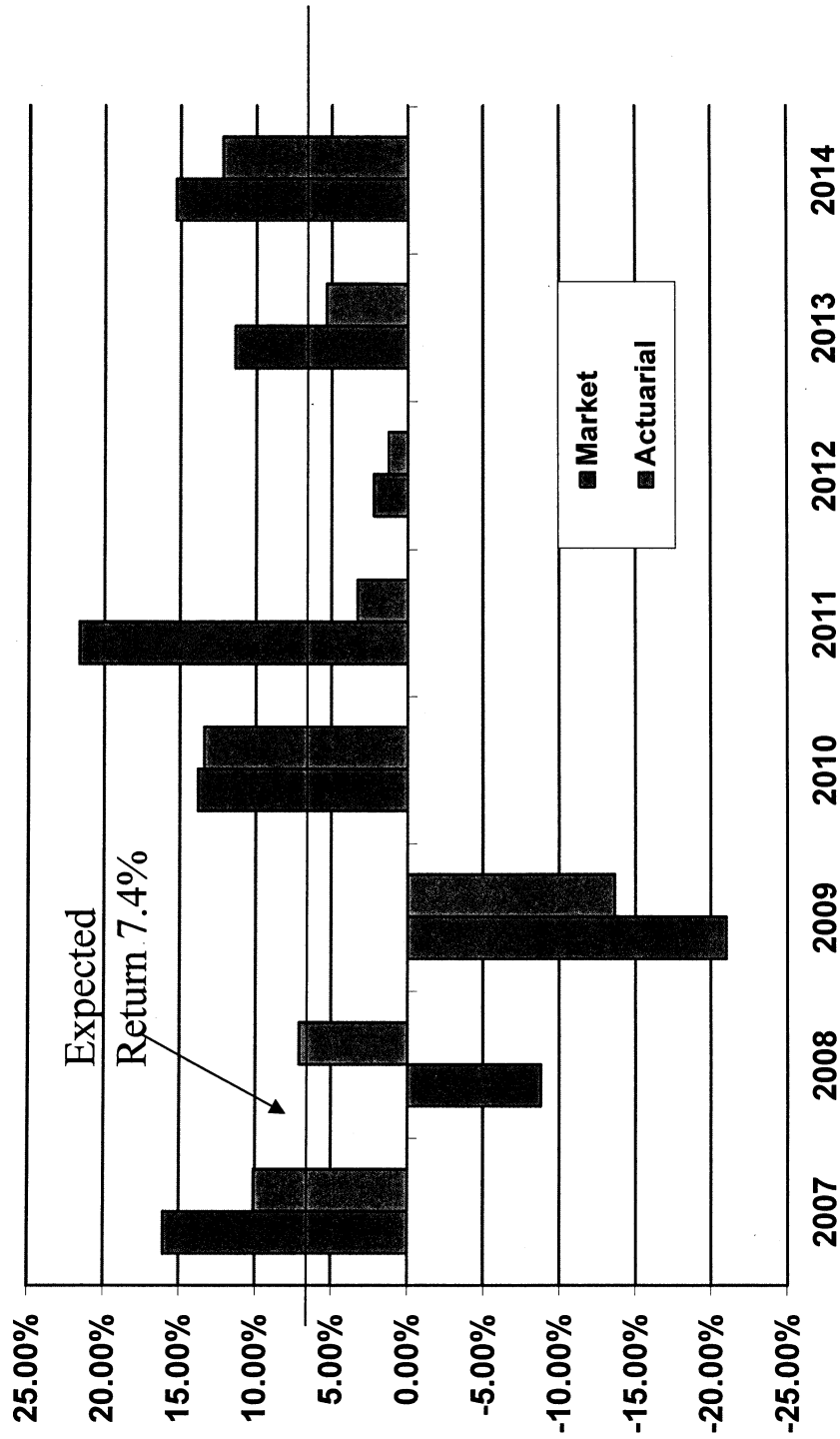
## 5-Year Average Return

	7/1/2013	7/1/2014
Market Value	4.50%	12.70%
Actuarial Value	1.58%	7.04%

# 7-Year History of Plan Asset Values



# Rates of Return on Plan Asset Values



Year end June 30

# 2014 Valuation Assumptions

Note: Separate assumptions for Police and Non-Police

Investment Return	7.3%
Unused Sick Leave	0.25 additional months per year of service
Salary Increases	2.8% per year plus additional merit increases for 2014 and later
Retirement Age	Rate of Retirement based on years of service
Mortality	RP 2000 projected to 2010 and Generational method applied using Scale AA factors after 2010
Disability	Specific Tables
Withdrawal	Table based on years of service
Spouses	90% of males and 50% of females assumed married
Post Retirement Adjustment	3% compounded annually for benefits based on credited service accrued until July 1, 2012, and sick leave accrued until January 1, 2013, 2.5% compounded annually thereafter
Expenses	0.2% of total liability
Asset Valuation	5 year asset return smoothing method*

\* Based on 80%/120% corridor around market value

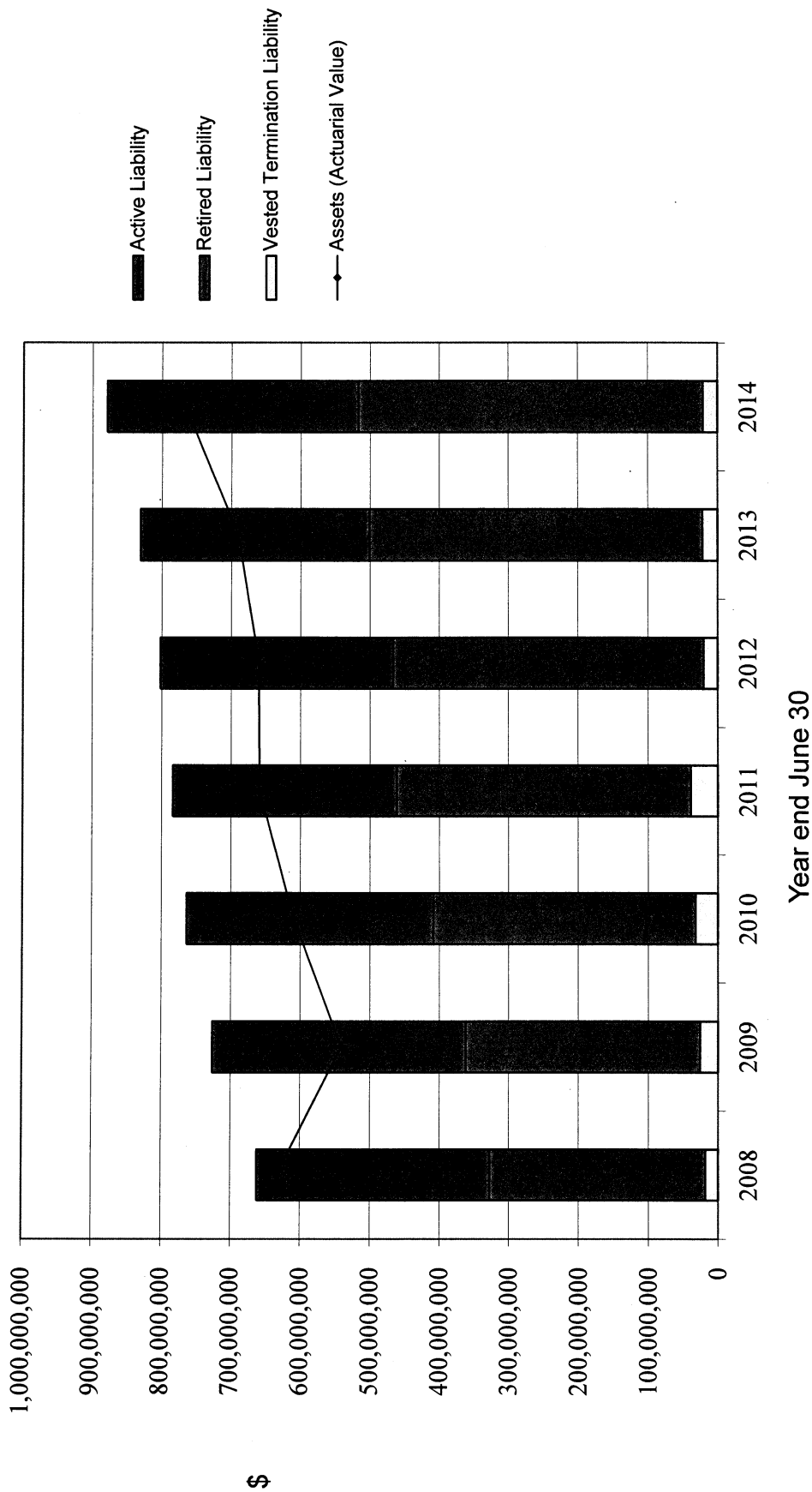
# Total Funded Status

	7/1/2013	7/1/2014
Actuarial Accrued Liability	\$831,199,592	\$879,190,389
Actuarial Value of Assets	690,539,998	766,531,514
Unfunded Actuarial Accrued Liability	140,659,594	112,658,875
Funded Ratio	83.1%	87.2%

Present Value of Accumulated Benefits	\$784,589,761	\$830,223,456
Market Value of Assets	722,718,480	824,285,563
Unfunded PV of Accumulated Benefits	61,871,281	5,937,893
Funded Ratio	92.1%	99.3%



# 7-Year History of Funded Status



# Net Actuarial (Gain)/Loss at July 1, 2014

	July 1, 2014 Amount	% of Liability/Assets
Salary Increases More than Expected	\$6,585,600	0.8
New Hires	1,403,959	0.2
New Terminations and Retirements	4,500,061	0.5
Cost of Living Increase less than Expected	(6,566,715)	(0.8)
Other Experience	(5,438,218)	(0.6)
Total Liability (Gain)/Loss	484,686	0.1
Actuarial Asset Value (Gain)/Loss	(32,019,579)	(4.2)
Net Actuarial (Gain)/Loss	(31,534,893)	

# Total Recommended Contribution

	2013	2014	Change
Normal Cost	\$11,465,417	\$13,023,696	\$1,558,279
Normal Cost as a % of Payroll	8.9%	9.6%	0.7%
Amortization of Unfunded	\$14,744,989	12,317,687	\$(2,427,302)
Total Recommended Contribution Payable at the Beginning of the Year	\$26,210,406	25,341,383	\$(869,023)
As a % of Payroll	20.3%	18.8%	(1.5)%
Total Recommended Contribution Payable at the End of the Year	\$28,149,976	\$27,191,305	\$(958,671)
As a % of Payroll	21.8%	20.1%	(1.7)%

# Commentary

- Funded Ratios
  - Increase on Funding Basis using Actuarial Value of Assets
    - 83.1 % to 87.2%
  - Increase on an Accrued Benefit Basis using Market Value of Assets
    - 92.1 % to 99.3%
- Recommended Contributions
  - Percent of Pay cost decreased from 21.8% to 20.1% (based on payment at end of year)
  - Primarily due to actuarial asset value gains

# 5-Year Contribution Projection

Dollar amounts in millions

Payable July 1	Prior Year Participant Payroll	Employer Normal Cost	Amortization of Unfunded	Interest to End of Year	Total Employer Cost	Employer Cost as a % of Payroll
2015	\$135.04	\$13.02	\$12.32	\$1.85	\$27.19	20.1%
2016	\$138.96	\$13.30	\$9.80	\$1.69	\$24.79	17.8%
2017	\$142.99	\$13.59	\$8.83	\$1.64	\$24.06	16.8%
2018	\$147.13	\$13.88	\$7.24	\$1.54	\$22.67	15.4%
2019	\$151.40	\$14.18	\$6.32	\$1.50	\$22.00	14.5%
2020	\$155.79	\$14.49	\$6.64	\$1.54	\$22.67	14.6%

**Assumptions**

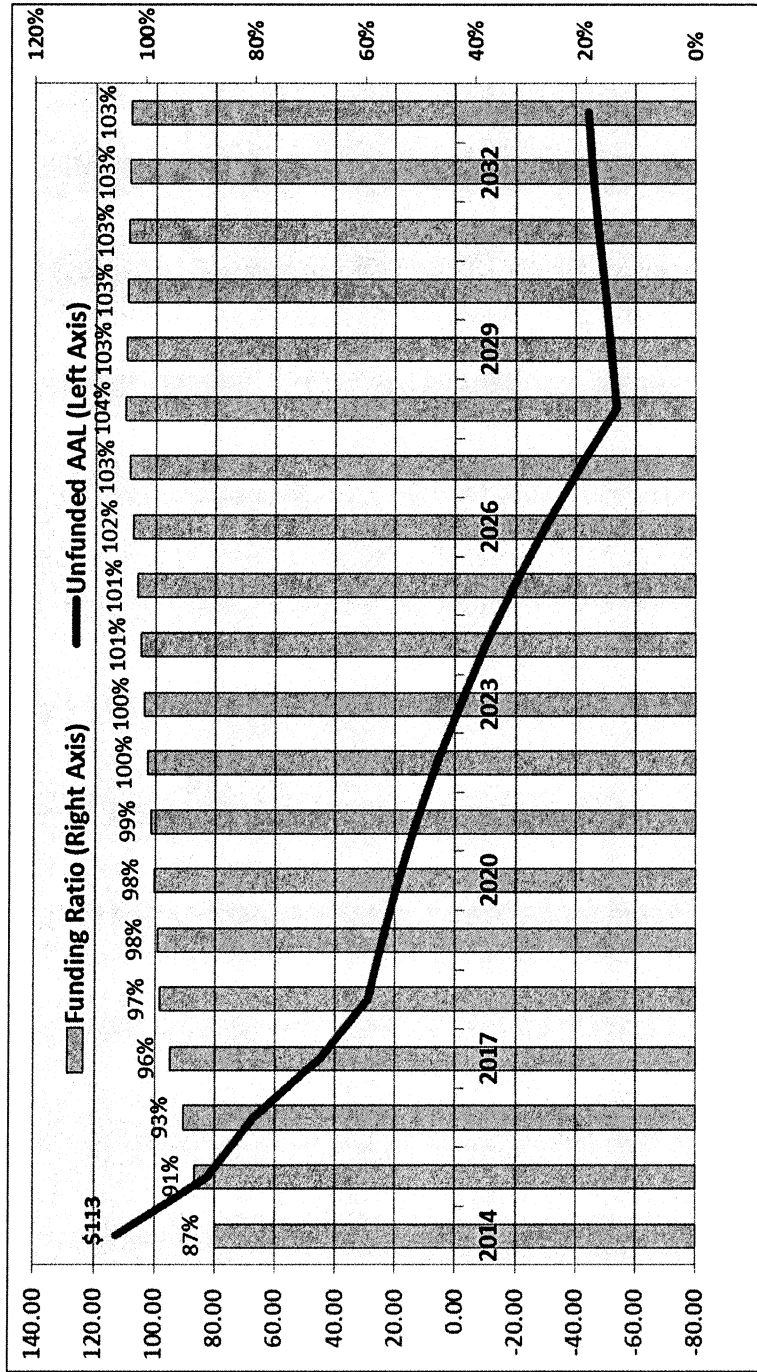
Valuation interest rate = 7.3%

Future investment return = 7.3%

Payroll increases = 2.9%

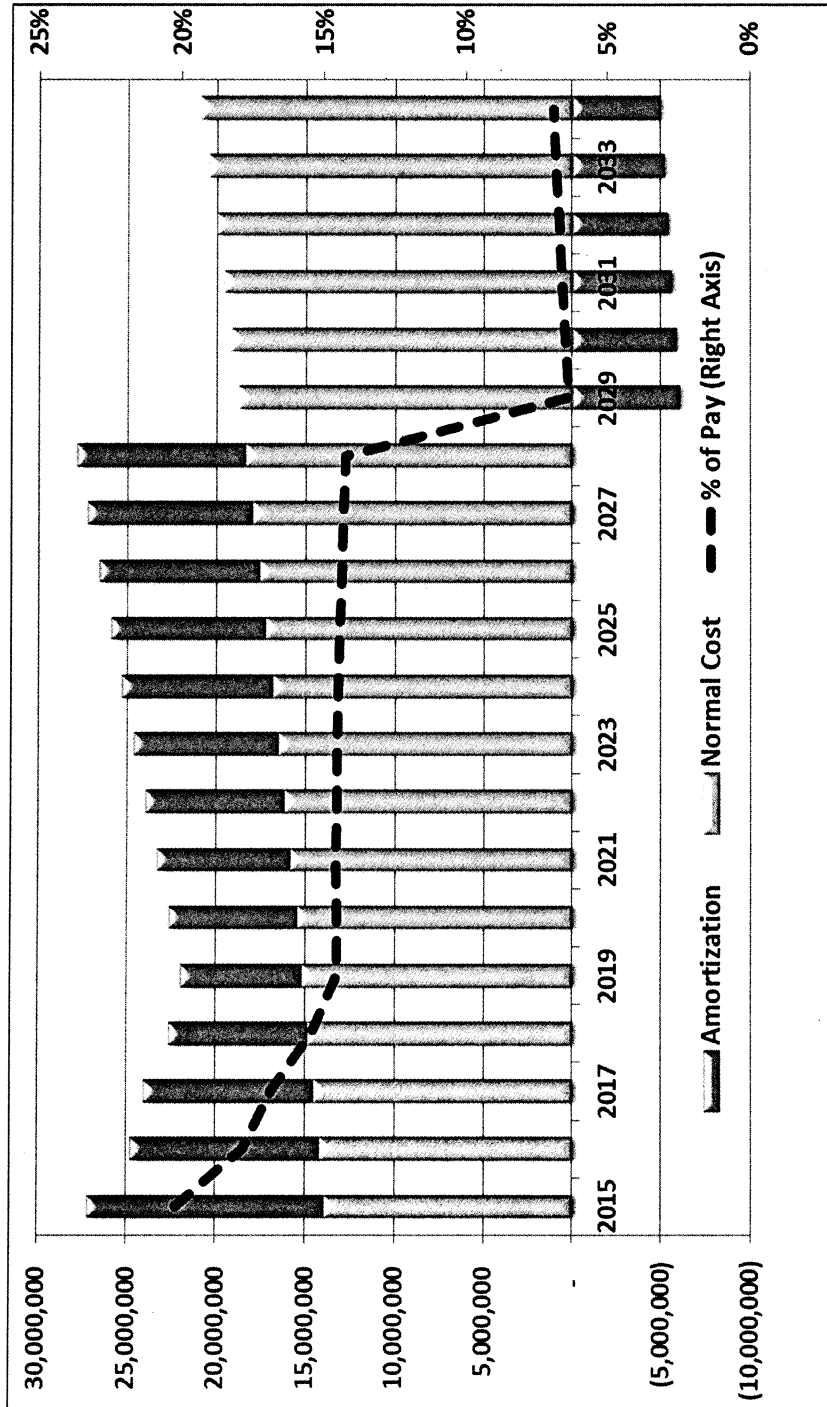
No future gains or losses

# Baseline Funding Projection



**Assumptions**  
 Valuation interest rate = 7.3%  
 Future investment return = 7.3%  
 Payroll increases = 2.9%  
 No future gains or losses

# Baseline Contribution Projection



Total contribution =  
 Normal Cost + interest,  
 offset by any negative  
 amortization.

# GASB 67 Implementation

## Board Information

- ERS will now be reporting under GASB 67
- Two separate actuarial reports annually:
  - Funding, for cash contributions
  - Accounting, for disclosures and audit
- All assumptions, methods, and data are the same for both purposes
- Differences are in timing and asset value (no smoothing)
- Full report published in September
- Accounting vs. Funding Separation – less clarity
- Pension Funding Policy



# GASB 67 - Net Pension Liability

- The Net Pension Liability (NPL) is a measure of unfunded liability
- as of 6/30/14:
  - Total Pension Liability = \$869 million
  - Plan Fiduciary Net Position (assets) = \$796 million
  - System’s Net Pension Liability = \$73 million
  - Funding ratio (for GASB) = 92%



# Questions



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION  
 EMPLOYEE PERFORMANCE EVALUATIONS NOT COMPLETED BY DUE DATE  
 BY DEPARTMENT AS OF OCTOBER 2014

	31 - 60 DAYS		61 - 90 DAYS		91 + DAYS		DEPARTMENT TOTALS	
	09/14	10/14	09/14	10/14	09/14	10/14	09/14	10/14
CHAIRMAN, MONTGOMERY COUNTY	0	0	0	0	0	0	0	0
CHAIRMAN, PRINCE GEORGE'S COUNTY	0	0	0	0	0	0	0	0
OFFICE OF CIO	0	0	0	0	0	0	0	0
INTERNAL AUDIT	0	0	0	0	0	0	0	0
EXECUTIVE COMMITTEE/CHAIRS	0	0	0	0	0	0	0	0
DEPT. OF HUMAN RESOURCES & MGT.	0	1	0	0	0	0	0	1
LEGAL DEPARTMENT	0	0	1	0	0	0	1	0
FINANCE DEPARTMENT	3	0	0	0	0	0	3	0
PRINCE GEORGE'S PLANNING	0	2	0	0	0	0	0	2
PRINCE GEORGE'S PARKS & RECREATION	0	1	0	0	0	0	0	1
MONTGOMERY COUNTY PARKS	4	0	0	0	0	0	4	0
MONTGOMERY COUNTY PLANNING	2	3	0	0	0	0	2	3
**DEPARTMENT TOTAL BY DAYS LATE**	9	7	1	0	0	0	10	7
<b>COMMISSION WIDE TOTAL:</b>							<b>10</b>	<b>7</b>

\*DEPARTMENTS WITH RATINGS MORE THAN 60 DAYS LATE HAVE BEEN CONTACTED.







**Office of the General Counsel  
Maryland-National Capital Park and Planning Commission**

*Reply To*

November 3, 2014

**Adrian R. Gardner**  
General Counsel  
6611 Kenilworth Avenue, Suite 200  
Riverdale, Maryland 20737  
(301) 454-1670 • (301) 454-1674 fax

**MEMORANDUM**

**TO:** The Maryland-National Capital Park and Planning Commission  
**FROM:** Adrian R. Gardner  
General Counsel  
**RE:** Litigation Report for the Month of October, 2014

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Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, November 19, 2014. As always, please do not hesitate to call me in advance if you would like me to provide a substantive briefing on any of the cases reported.

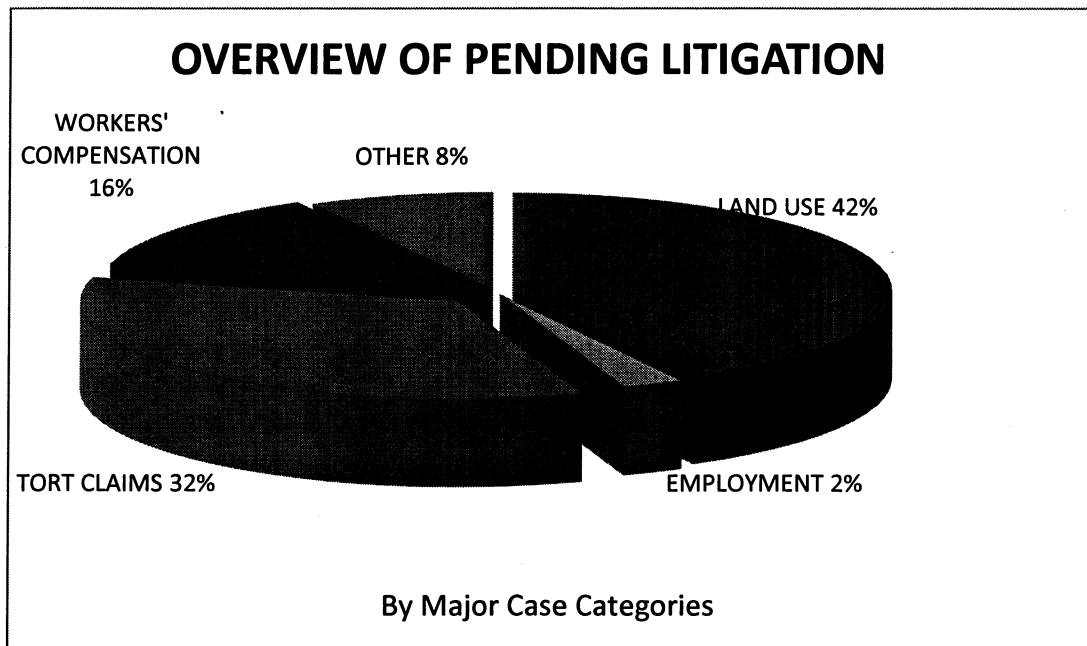
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## October 2014 Composition of Pending Litigation

(Sorted By Subject Matter and Forum)

	State Trial Court	Federal Trial Court	Maryland COSA	Maryland Court of Appeals	Federal Appeals Court	U.S. Supreme Court	Subject Matter Totals
Admin Appeal: Land Use			5	1			6
Admin Appeal: Other							0
Land Use Dispute	1						1
Tort Claims	13						13
Employment Dispute		1					1
Contract Dispute	3	1	1				5
Property Dispute	2		1	1			4
Civil Enforcement	2						2
Workers' Compensation	5						5
Debt Collection							0
Bankruptcy							0
Miscellaneous		1					1
<b>Per Forum Totals</b>	<b>26</b>	<b>3</b>	<b>7</b>	<b>2</b>			<b>38</b>





## October 2014 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2015			
	Pending Last Month	New Cases	Resolved Cases	Pending Prior F/Y	New Cases F/YTD**	Resolved Cases F/YTD**	Pending Current Month
<b>Admin Appeal: Land Use (AALU)</b>	7	1	2	9	2	5	6
<b>Admin Appeal: Other (AAO)</b>	0			-			0
<b>Land Use Disputes (LD)</b>	1			1			1
<b>Tort Claims (T)</b>	13	1		10	6	2	13
<b>Employment Disputes (ED)</b>	1			1			1
<b>Contract Disputes (CD)</b>	6	1	2	4	3	2	5
<b>Property Disputes (PD)</b>	4			4			4
<b>Civil Enforcement (CE)</b>	2			1	1		2
<b>Workers' Compensation (WC)</b>	7		3	10		6	5
<b>Debt Collection (D)</b>	0			-			0
<b>Bankruptcy (B)</b>	0			-			0
<b>Miscellaneous (M)</b>	1			1			1
<b>Totals</b>	42	3	7	41	12	15	38

**INDEX OF YTD NEW CASES  
(7/1/2014 TO 6/30/15)**

<b><u>A. New Trial Court Cases.</u></b>	<b><u>Unit</u></b>	<b><u>Subject Matter</u></b>	<b><u>Month</u></b>
Glessner v. Commission	PGParks	Tort	July 2014
Jones v. Commission	PGParks	Tort	July 2014
Hawkins v. Commission	PGParks	Tort	July 2014
Howard Entertainment v. Commission	PGParks	CD	July 2014
Commission v. Paniagua	MC	CD	Aug 2014
Commission v. Pirtle	MC	CE	Aug 2014
Prince George's County v. Damell	PG	Tort	Aug 2014
Moore v. Perry, et al	PG	Tort	Sep 2014
Commission v. Kernan, et al	MC	CD	Oct 2014
Jackson v. Commission	MCParks	Tort	Oct 2014
<b><u>B. New Appellate Court Cases.</u></b>	<b><u>Unit</u></b>	<b><u>Subject Matter</u></b>	<b><u>Month</u></b>
Rock Creek Hills Citizens Assoc. v. Commission	MCPB	AALU	July 2014
Kaviani v. Montgomery County Planning Board	MCPB	AALU	Oct 2014

**INDEX OF YTD RESOLVED CASES  
(7/1/2014 TO 6/30/15)**

<b><u>C. Trial Court Cases Resolved.</u></b>	<b><u>Unit</u></b>	<b><u>Subject Matter</u></b>	<b><u>Month</u></b>
Commission v. Sweeney	PG	WC	July 2014
Commission v. Ferman	MC	WC	July 2014
Beatty v. Montgomery County, et al	MC	Tort	July 2014
Commission v. Rivera	PG	WC	July 2014
Bundi v. Soresi	PG	Tort	Aug 2014
Letke Security Contract v. Commission	MC	CD	Sept/Oct 2014
Commission v. Paniagua	MC	CD	Sept/Oct 2014
Reijerson v. Commission	PG	WC	Sept/Oct 2014
White v. Commission	PG	WC	Sept/Oct 2014
Kaviani v. Montgomery County Planning Board	MCPB	AALU	Oct 2014
Butler v. Commission	PGPR	Tort	Oct 2014

**D. Appellate Court Cases Resolved.**

Slover et al. v. Montgomery County Planning Board	MCPB	AALU	July 2014
Rock Creek Hills Citizens Assoc. v. Commission	MCPB	AALU	July 2014
Arking, et al v. MCPB	MCPB	AALU	July 2014
Kelly Canavan, et al v. Commission	PGPB	AALU	Oct 2014

## Disposition of FY15 Closed Cases Sorted By Department

CLIENT	PRINCIPAL CAUSE OF ACTION IN DISPUTE	DISPOSITION
<b>Employees Retirement System</b>		
<b>Finance Department</b>		
<b>Department of Human Resources and Management</b>		
<b>Montgomery County Department of Planning</b>		
Commission v. Paniagua	Claim for breach of rental contract	Dismissed on 09/10/14.
Kaviani v. Montgomery County Planning Board	Petition for judicial review of Montgomery County Planning Board's enforcement order in MCPB No. 13-118, regarding Citation number EPD000007.	Order of Court affirming Planning Board Decision on 8/25/14.
Letke Security Contract v. Commission	Defense of claim for breach of contract	Complaint dismissed on 09/03/14.
Slover et al. v. Montgomery County Planning Board	Petition for Judicial review of the Planning Board decision to approve two-lot subdivision located at 9490 River Road in Potomac filed by project opponents.	Order of Court of Special Appeals affirming Judgment on 06/20/14.
Rock Creek Hills Citizens Association, et al v. Commission	Declaratory Judgment in Montgomery County Circuit Court attempting to stop transfer & development of Commission owned property as Association lacks standing to pursue the Federal Land and Water Conservation Fund claims.	Opinion from Court of Special Appeals affirming Montgomery County judgment on 05/27/14.
<b>Montgomery County Department of Parks</b>		
Beatty v. Montgomery County, et al.	Claimant is suing for tort arising from slip and fall.	Order by Court of Special Appeals affirming Judgment on 06/4/14.
Commission v. Fermin	WCC awarded 15% permanent partial disability under "other cases" and Commission appealed.	Case Settled and Dismissed on 04/11/14.
<b>Montgomery County Park Police</b>		

<b>Montgomery County Planning Board</b>		Petition for writ of certiorari seeking review of Court of Special Appeals order affirming Planning Board re-subdivision approval.	Petition for Writ of Certiorari denied on 04/21/14.
<b>Prince George's County Department of Parks and Recreation</b>			
Bundi v. Soresi		Defense of claim for injuries sustained in a motor vehicle accident in a vehicle allegedly operated by Commission employee.	Trial. Judgment for Plaintiff in amount of \$7,510.10 on 08/13/14.
Commission v. Rivera		Commission is appealing the WCC's decision regarding permanency award	Case dismissed on 06/25/14.
Commission v. Sweeney		WCC ordered temporary total disability and Commission appealed. CAL 13-35118	Case settled and dismissed on 3/24/14.
Reijerson v. Commission		WCC found claimant sustained 10% permanent partial disability under "other cases" and claimant appealed	Case remanded to WCC on 09/25/14.
White v. Commission		WCC ordered certain surgery not causally related to accident injury and claimant appealed	Case remanded to WCC on 09/24/14.
<b>Prince George's County Planning Department</b>			
<b>Prince George's County Planning Board</b>			
Kelly Canavan, et al v. Commission		Petition for writ of certiorari seeking review of Court of Special Appeals order affirming Prince George's County Circuit Court decision on 02/19/13 to uphold the Planning Board's approval of Saddle Creek's preliminary Plan of Subdivision.	Petition for Writ of Certiorari denied on 07/21/14.
<b>Prince George's Park Police</b>			
Butler v. Commission		Defense of claim seeking damages for injuries sustained in an accident with a vehicle driven by a Park Police officer	Case settled and dismissed on 08/22/14.

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**DISTRICT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND**

**GEICO v. Ness, et al**  
Case No. 050200328172013 (T)

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of claim for property damage to a motor vehicle involving a vehicle allegedly operated by Commission employee.

Status: Case stayed; in arbitration.

Docket:

12/11/13	Complaint filed
08/22/14	Request to stay pending arbitration granted

**Prince George's County v. Darnell**  
Case No. 0502-0020253-2014 (Tort)

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of claim for personal injury and property damages to motor vehicle involving a vehicle allegedly operated by Commission employee.

Status: Pending Trial

Docket:

08/28/14	Complaint filed.
09/17/14	Notice of Intention to Defend filed.
01/14/15	Trial



**DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND**

**Commission v. Kernan, et al**  
Case No. 34666 (CD)

Lead Counsel: Harvin  
Other Counsel:

Abstract: Claim for breach of rental contract.

Status: Complaint filed

Docket:

10/08/14	Complaint filed
11/03/14	Trial date

**Jackson v. Commission**  
Case No. 06010016078-2014 (Tort)

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Defense of tort claim for claimed slip and fall alleged broken sidewalk at Jessup Blair Park in Silver Spring, Maryland.

Status: Complaint filed

Docket:

09/26/14	Complaint filed
01/21/15	Trial date

**CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND**

**Anderson v. Commission**  
Case No. CAL14-07980 (T)

Lead Counsel: Harvin  
Other Counsel: Dickerson

Abstract: Defense of claim seeking damages for injuries to a minor sustained in an altercation while attending Rollingcrest/Chillum Community Center Park.

Status: Complaint filed.

Docket:

04/07/14	Complaint filed
05/30/14	Motion to Dismiss filed by Commission
08/06/14	Motion to Dismiss denied.
01/27/15	Pretrial conference

**Bell v. Commission**  
Case No. CAL13-35417 (T)

Lead Counsel: Harvin  
Other Counsel: Dickerson

Abstract: Defense of claims seeking damages for injuries sustained at the Sports & Learning Complex.

Status: Case settled and dismissed.

Docket:

11/19/13	Complaint filed
12/09/13	Answer filed
04/23/14	Pretrial Conference
10/02/14	Case settled and dismissed.

**Commission v. 6509 Rhode Island Realty Corp.**  
Case No. CAL 13-20939 (PD)

Lead Counsel: Mills  
Other Counsel: Johnson, Borden

Abstract: Condemnation initiated by the Commission.

Status: Complaint filed.

Docket:

07/19/13	Complaint for condemnation filed
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**Commission v. Fleming**  
CAL 14-15514 (Tort)

Lead Counsel: Aleman  
Other Counsel: Dickerson

Abstract: Commission filed a lawsuit seeking subrogation recovery for amount due for personal injuries sustained by Commission employee.

Status: Complaint filed.

Docket:

06/20/14	Complaint filed
07/31/14	Defendant served via certified mail
08/29/14	Defendant filed answer
09/16/14	Court accepts Defendant's letter as answer to complaint
02/15/15	Pretrial conference

**Commission v. MARCOPOLO GF Co.**  
Case No. CAL 13-20940 (PD)

Lead Counsel: Mills  
Other Counsel: Johnson, Borden

Abstract: Condemnation initiated by the Commission.

Status: Complaint filed.

Docket:

07/19/13	Complaint for condemnation filed.
07/16/14	Motion for Order of Default filed.
08/29/14	Order of Default entered
09/23/14	Order of Default granted against MARCOPOLO GF Co.
11/14/14	Ex Parte Hearing on Damages

**Duval v. Commission**  
CAL14-13457 (LD)

Lead Counsel: Aleman  
Other Counsel: Dickerson

Abstract: Defense of claim for land dispute.

Status: Case dismissed.

Docket:

05/30/14	Complaint filed.
06/13/14	Amended Complaint filed.
07/09/14	Motion to Dismiss or in the Alternative for a More Definitive Statement filed by Commission.
08/13/14	Amended Complaint filed.
08/22/14	Motion to Dismiss Amended Complaint filed on or About August 13, 2014 by Commission.

08/28/14	Order by Court granting Commission's Motion for More Definite Statement.
10/17/14	Commission's Motion to Dismiss granted by Court.; case dismissed

**Glessner v. Surratt House**  
CAL 14-17158 (T)

Lead Counsel: Harvin  
Other Counsel: Dickerson

Abstract: Defense of tort claim against a Commission employee and facility based on the alleged slander of authenticity regarding a photograph the plaintiff purports to be of Abraham Lincoln.

Status: Complaint filed-never served.

Docket:

07/02/14	Complaint filed; no summons issued for service on Commission.
08/06/14	Motion to Enter Judgment filed by Plaintiff, despite lack of service
10/21/14	Complaint filed; Court orders Request for Waiver of fees granted

**Hawkins v. Commission**  
CAL14-17950 (T)

Lead Counsel: Harvin  
Other Counsel: Dickerson

Abstract: Defense of tort claim for claimed near drowning while taking swimming lessons at Prince George's Sports and Learning Center in Landover, Maryland.

Status: In discovery.

Docket:

05/30/14	Complaint filed.
09/05/14	Answer filed.

**Jones v. Commission**  
CAL14-17154 (T)

Lead Counsel: Aleman  
Other Counsel: Dickerson

Abstract: Defense of claim for trip and fall on alleged broken concrete and loose gravel at Tucker Road Community Center.

Status: In discovery.

Docket:

07/15/14	Complaint filed.
08/22/14	Answer filed by Commission; Discovery requests filed.
01/20/15	Pretrial conference scheduled.

**Kelly v. Commission**  
CAL 14-13688 (T)

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of claim for injuries sustained in alleged slip and fall at Newton White Mansion.

Status: In discovery.

Docket:

06/12/14	Complaint filed; transferred from District Court, jury trial prayed
08/04/14	Answer filed.
10/23/14	Pre-trial conference
05/11/15	Trial

**Litrenta v. Commission, et al.**  
Case No. CAL13-15566 (T)

Lead Counsel: Aleman  
Other Counsel: Dickerson

Abstract: Defense of tort claim for personal injuries allegedly sustained when the plaintiff was the passenger on a Commission golf cart and fell out while his acquaintance was driving. The driver is also named as a defendant.

Status: Case settled

Docket:

06/04/13	Complaint filed
07/24/13	Motion to Dismiss filed
09/20/13	Answer to Plaintiff's Amended Complaint filed
10/03/13	Commission filed cross-claim against Co-Defendant Lao
11/05/13	Cross-Defendant/Co-Defendant filed a Motion to Dismiss

	Plaintiff's original complaint for insufficient service of process.
01/27/14	Co-Defendant's Answer to Commission's Cross Claim filed
01/29/14	Co-Defendant's Line Withdrawing Motion to Dismiss filed
05/12/14	Second Amended Complaint filed
05/22/14	Commission filed Answer to Second Amended Complaint
05/30/14	Commission filed for Motion for Discovery Sanctions against Litrenta
06/05/14	Commission withdraws Motion for Sanctions
08/04/14	Pre-Trial conference held
08/04/14	Motion for Summary Judgment filed
08/11/14	Co-Defendant's Opposition to Commission's Motion for Summary Judgment
10/08/14	Case settled and dismissed.

**Moore v. Perry, et al**  
CAL14-22308(Tort)

Lead Counsel: Harvin  
Other Counsel: Dickerson

Abstract: Defense of claim for personal injury involving vehicle allegedly operated by Commission employee.

Status: In discovery.

Docket:

08/18/14	Complaint filed.
02/19/15	Pretrial conference

**Phoenix v. Commission**  
**Commission v. Greater Washington Umpires Association**  
Case No. CAL13-29010 (T)

Lead Counsel: Harvin  
Other Counsel: Dickerson

Abstract: Defense of claim seeking damages for injuries sustained during a baseball game at Fletcher's Field. Commission filed a third party complaint against game officials.

Status: In discovery

Docket:

10/03/13	Complaint filed
12/09/13	Answer filed
04/10/14	3 <sup>rd</sup> Party Complaint filed
10/21/14	Pre-trial conference
11/24/14	Follow up ADR Conference
12/02/14	Trial

**Rivera v. Commission**  
CAL13-37715 (WC)

Lead Counsel: Chagrin  
Other Counsel:

Abstract: Claimant/employee is appealing the WCC's decision regarding permanency award.

Status: Pending Pre-Trial Conference

Docket:

12/19/13	Petition filed
01/14/14	Response to Petition filed
03/24/15	Trial

**Savoy, D. v. Commission**  
Case No. CAL14-09608 (WC)

Lead Counsel: Chagrin  
Other Counsel:

Abstract: WCC found claimant sustained 9% permanent partial disability under "other cases" and claimant appealed.

Status: Pending Trial

Docket:

04/29/14	Petition for Judicial Review filed
05/08/14	Response to Petition filed
09/04/14	Pretrial statement and Expert Designation filed
06/04/15	Trial

**Savoy, G. v. Commission**  
Case No. CAL14-09719 (WC)

Lead Counsel: Chagrin  
Other Counsel:

Abstract: WCC found claimant sustained 2% permanent partial disability of right hand and claimant appealed.

Status: Pending Trial

Docket:

05/02/14	Petition for Judicial Review filed
05/14/14	Response to Petition filed
10/15/14	Expert Witness and Pretrial statement filed by Commission
11/03/14	Pretrial Conference

**CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND**

**Commission v. Johnson**  
Case No. 366677-V (CE)

Lead Counsel: Aleman  
Other Counsel: Dickerson

Abstract: Commission requesting finding of contempt in case in which the Court already granted the Commission's Petition for Judicial enforcement of Administrative Decision by the Planning Board Concerning Forest Conservation Easement violation.

Status: Further collection action.

Docket:

11/22/13	Petition for Issuance of Show Cause Order Filed
01/16/14	Contempt Hearing held and Judicial Order issued
01/22/14	Order-Defendant must respond to Plaintiff's Interrogatories by 2/17/14

**Commission v. Pirtle**  
Case No. 394157-V (CE)

Lead Counsel: Aleman  
Other Counsel: Dickerson

Abstract: Commission filed Petition for Judicial enforcement of Administrative Decision by the Planning Board Concerning Forest Conservation Easement violation.

Status: Pending Motions hearing.

Docket:

08/12/14	Petition filed.
09/02/14	Affidavit of Service on Defendant filed.
10/07/14	Motion to Dismiss/Summary Judgment filed by Defendant
10/27/14	Motion in Opposition to Defendant's Motion to Dismiss filed; and Plaintiff's Motion to Dismiss Counterclaim filed.
11/12/14	Motions Hearing on Dismiss/Summary Judgment

**Fort Myer Construction Corporation v. Commission**  
**Commission v. URS Corporation (Third-party claim by Commission)**  
Case No. 369478-V (CD)

Lead Counsel: Saul Ewing (Garry Boehlert)  
Other Counsel: Dickerson; MarcusBonsib, LLC (Bruce L. Marcus)

Abstract: Plaintiff filed complaint for alleged delays and damages associated with the erection of a steel girder pedestrian bridge in Montgomery County. Commission filed third party complaint for alleged breach of contract seeking contribution and indemnity, and defense from URS Corporation.

Status: Awaiting trial on damages against Defendant URS.



Docket:

10/12/12	Complaint filed
01/10/13	Motion to Dismiss for Failure to Exhaust Administrative Remedies
01/10/13	Motion to Dismiss for Insufficient Service
01/11/13	Scheduling Hearing
01/11/13	Plaintiff's Designation of Experts
01/28/13	Commission's Notice of Service of Discovery
01/28/13	Plaintiff's Opposition to Motions to Dismiss
01/30/13	Plaintiff's First Amended Response to Motions to Dismiss
02/04/13	Commission's Reply in Further Support of Motion to Dismiss
02/04/13	Commission's Reply to Plaintiff's Response to Motion to Dismiss
02/11/13	Orders Denying Commission's Motion to Dismiss
02/26/13	Commission's Answer
03/12/13	Commission's Designation of Experts
03/27/13	Commission's Third Party Complaint
05/09/13	Third Party's Answer to Third Party Complaint
11/19/13	Commission's Motion for Discovery Sanctions Against Ft. Myer filed
12/20/13	Hearing on pending discovery motions held and court refers case to Special Discovery Master for recommendations on appropriate sanctions against Ft. Myer and other pending discovery issues.
02/27/14	URS Motion to Dismiss Ft. Myer's Complaint against Commission, or alternatively Motion for Summary Judgment
03/31/14	Motions hearing held
03/31/14	Fort Myer's case dismissed without prejudice
03/31/14	Motions of URS and Commission regarding third party claim taken under advisement
04/11/14	Commission's Motion for Sanctions for Lack of Substantial Justification of Attorney's Fees and Costs against Fort Myers Construction
04/11/14	URS's Motion for Sanctions
04/28/14	Court granted Motion for Sanctions and awarded Commission's Attorney's Fees and Costs against Fort Myer Construction in the amount of \$376,597.68.
04/28/14	Court granted Motion for Sanctions by URS and awarded Attorney's Fees and Costs against Fort Myer Construction in the amount of \$248,638.31.
05/05/14	Court enters Judgment in amount of \$103,420 in favor of URS on Counterclaim against Commission.
05/05/14	Court rules in favor of Commission on Third Party Complaint against URS holding that URS owed Commission a duty to defend.
05/15/14	Commission files Motion to Set Hearing on damages associated with failure of URS to defend issue.
05/15/14	URS files notice of appeal on duty to defend issue
05/23/14	Appearance of new counsel entered for Fort Myer
05/30/14	URS files opposition to Commission's Motion to Set Hearing on Damages
06/02/14	Court enters judgment in favor of Commission and URS for

	sanctions Court awarded against Fort Myer.
06/02/14	Court denied Motion for Sanctions filed by Fort Myer.
06/04/14	Notice of Appeal filed with COSA by Plaintiff
06/12/14	Motion of Stay of Execution of Judgment filed by Plaintiffs.
06/16/14	Commission's reply to URS's Opposition to Commission's Motion to Set Hearing on Damages
07/14/14	Order of Court granting Stay of Execution of Judgment and acceptance of supersedeas bonds pending appeal.
08/27/14	Order of Court granting Commission's request for hearing on damages and denying Motion of URS to exclude evidence.
09/05/14	Motion for Appropriate Relief to determine liability issues filed by URS
09/23/14	Motion in Opposition filed by Commission
10/07/14	Court grants Motion for Appropriate Relief to determine liability issues
11/13/14	Evidentiary hearing to determine quantum of Commission's damages against URS

**Howard Entertainment, Inc. v. Commission**

Case No. 393333-V (CD)

(Originally filed in District Court under Case #0602-0009462-2014)

Lead Counsel: Harvin  
Other Counsel: Dickerson

Abstract: Plaintiff filed complaint for breach of contract of payment for services for Southern Area Operations Festival of Nations

Status: In discovery.

Docket:

06/06/14	Complaint filed in District Court
07/14/14	Commission filed Intent to Defend and Request for Jury Trial
07/23/14	Bill of Complaint transferred to Circuit Court
12/30/14	Pretrial conference

**Munoz-Saucedo v. Commission**

Case No. 388096 -V (WC)

Lead Counsel: Chagrin  
Other Counsel:

Abstract: WCC found claimant sustained 5% permanent partial disability under "other cases" and claimant appealed.

Status: Pending Trial

Docket:

03/10/14	Petition for Judicial Review filed
03/19/14	Commission Response filed
08/15/14	Pre-Trial Conference
12/02/14	Trial

**Munoz-Saucedo v. Commission**  
Case No. 388097 -V (WC)

Lead Counsel: Chagrin  
Other Counsel:

Abstract: WCC found claimant sustained 5% permanent partial disability to first (index) finger on left hand and claimant appealed.

Status: Pending Trial

Docket:

03/10/14	Petition for Judicial Review filed
03/19/14	Commission Response filed
08/15/14	Pre-Trial Conference
12/09/14	Trial

**MARYLAND COURT OF SPECIAL APPEALS**

**Bernardo Rene Flores v. Commission**  
September Term 2013, Case No. 01239(PD)

Lead Counsel: Mills  
Other Counsel:

Abstract: Defense against Petition for Declaratory Judgment to invalidate Owner's Dedication of Green Space despite tax sale.

Status: Awaiting decision

Docket:

08/26/13	Notice of Appeal
09/02/14	Oral Argument held.

**Fort Myer Construction Corporation v. Commission**  
September Term 2014, Case No. 00471(CD)

Lead Counsel: Saul Ewing (Garry Boehlert)  
Other Counsel: Dickerson; MarcusBonsib, LLC (Bruce L. Marcus)

Abstract: Third Party Defendant noted appeal from Court's ruling in Commission's favor that URS owed the Commission duty to defend litigation. Plaintiff noted appeal from Court's award of monetary sanctions against it in favor of the Commission and URS Corporation.

Status: Appeal dismissed.

Docket:

05/15/14	Notice of Appeal filed by Third Party Defendant, URS
06/04/14	Notice of Appeal filed by Plaintiff
09/25/14	Order of Court of Special Appeals that the consent motion to stay is denied; and that the appeal is dismissed pursuant to Md Rule 8-602 (a) (1) with leave to file a notice of appeal from a final judgment.

**Hall, et al. v. Commission**  
September Term 2009, No. 01247 (AALU)

Lead Counsel: Johnson  
Other Counsel:

Abstract: Defense against Petition for Judicial Review of Planning Board's decision to approve Bundy's Subdivision of Birdlawn Preliminary Plan 4-06158.

Status: Awaiting decision

Docket:

07/24/09	Petitioners Aimee Gray and the Estate of Affie Gray filed Notice of Appeal
09/11/14	Oral Argument held.

**Kaviani v. Montgomery County Planning Board**

September Term 2014, No. 01554 (AALU)

Lead Counsel: Dumais  
Other Counsel: Lieb

Abstract: Appeal filed from the Circuit Court rule in the case of Montgomery County Planning Board's enforcement order in MCPB No. 13-118, regarding Citation number EPD000007.

Status: Pending scheduling of oral argument

Docket:

09/23/14	Notice of Appeal
10/10/14	Court orders appeal to proceed without pre-hearing conference

**McClure v. Montgomery County Planning Board**

September Term 2013, No. 01031 (AALU)

Lead Counsel: Lieb  
Other Counsel:

Abstract: Appeal filed from the Circuit Court ruling in the case of 21611 Ripplemead Drive; rejecting property owner's claim that lot not covered by conservation easement.

Status: Awaiting oral agrument.

Docket:

08/01/13	Notice of Appeal
11/12/14	Oral argument.

**Sahady v. Montgomery County Planning Board**

September Term 2013, No. 01032 (AALU)

Lead Counsel: Lieb  
Other Counsel:

Abstract: Appeal filed in the Circuit Court ruling in the case of 21611 Ripplemead Drive wherein Court rejected property owner's claim that his lot is not covered by a valid conservation easement

Status: Awaiting Decision

Docket:

08/01/13	Notice of Appeal
06/04/14	Oral Argument held.

**Smith v. Montgomery County Planning Board**  
September Term 2013, No. 00774 (AALU)

Lead Counsel: Lieb  
Other Counsel:

Abstract: Commission appealed Circuit Court ruling for forest conservation violations at 21627 Ripplemead Drive.

Status: Awaiting Decision.

Docket:

06/21/13	Notice of Appeal filed
03/07/14	Commission's Brief filed
05/15/14	Reply Brief filed
06/11/14	Oral Argument held.

**MARYLAND COURT OF APPEALS**

**Rock Creek Hills Citizens Association, et al v. Commission**  
September Term 2014, Petition Docket No. 213 (AALU)

Lead Counsel: Mills  
Other Counsel:

Abstract: Declaratory Judgment attempting to stop transfer & development of Commission owned property

Status: Awaiting decision

Docket:

06/09/14	Petition for Writ of Certiorari filed.
07/28/14	Commission's Response filed to Petition for Writ of Certiorari

**Rounds v. Commission**

September Term 2014, No. 00019 (PD)

Lead Counsel: Gardner  
Other Counsel: Dickerson

Abstract: Defense of claim for violations of the Maryland Constitution and declaratory relief concerning alleged Farm Road easement.

Status: Awaiting oral argument.

Docket:

11/01/13	Petition for Writ of Certiorari
11/12/13	Answer in Opposition to Petition for Writ of Certiorari
12/20/13	Cert Granted
06/30/14	Order re-scheduling case to November, 2014 session
11/12/14	Oral Argument

**U.S. DISTRICT COURT OF MARYLAND**

**American Humanist Association, et al v. Commission**

Case #8:14-CV550-DKC (M)

Lead Counsel: Dickerson  
Other Counsel: Gardner

Abstract: Defense of claim alleging religious advancement on public property

Status: Answer filed.

Docket:

02/25/14	Complaint filed in U. S. District Court for the District of MD
04/28/14	Answer filed
04/25/14	Motion for Leave to submit Amicus filed by interested Marylanders
05/01/14	Motion to Intervene filed by American Legion entities
05/06/14	Opposition filed by American Humanist Association
05/23/14	American Legion's Reply in Support of Motion to Intervene
09/18/14	Court grants Motion of Eleven Marylanders for Leave to Appear Jointly as Amicus Curiae in Support of Defendants and grants Motion to Intervene by The American Legion, The American Legion Department of Maryland and The American Legion Colmar Manor Post 131
09/18/14	Scheduling Order filed by Court

**Hartford Casualty Insurance Company v. Commission**

Case No. 8:13-cv-01765 (CD)

Lead Counsel: Ober, Kaler, Grimes & Shriver (Michael A. Schollaert)  
Other Counsel: Dickerson, Chagrin

Abstract: Plaintiff bonding company filed complaint seeking alleged damages associated with surety work after taking over Fort Washington Forest Park and the North Forestville Projects in Prince George's County.

Status: Case stayed.

Docket:

06/18/13	Complaint filed
05/27/14	Plaintiff filed Consent Motion to Stay
05/28/14	Court stays case
09/25/14	Joint Status Report filed.
09/26/14	Court extends stay through 01/23/15.



**Streeter v. Commission**  
Case No. 12-CV-0976 RWT(ED)

Lead Counsel: Harvin  
Other Counsel:

Abstract: Defense of claim alleging discrimination and retaliatory termination.

Status: Awaiting Court Order.

Docket:

01/17/12	Complaint filed in Circuit Court for Prince George's County
04/03/12	Case removed to U.S. District Court
04/10/12	Commission's Preliminary Motion to Dismiss filed
01/07/13	Motion granted with conditions
03/27/14	Commission's Motion to Dismiss Complaint w/prejudice filed

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