



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

COMMISSION MEETING

July 21, 2021

10:00 a.m. – 12:00 noon

via teleconference

and live-streamed by

**Department of Parks and Recreation,
Prince George's County**

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**MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MEETING AGENDA
Wednesday, July 21, 2021**

**Via videoconference live-streamed by
The Department of Parks and Recreation, Prince George's County
10:00 a.m. – 12 noon**

		<u>ACTION</u>
		Motion Second
1.	Approval of Commission Agenda (10:00 a.m.)	(+*) Page 1
2.	Approval of Commission Minutes (10:05 a.m.)	
	a) Open Session – June 16, 2021	(+*) Page 3
	b) Closed Session – June 16, 2021	(++*)
	c) Special Commission Meeting Open Session – July 1, 2021	(+*) Page 7
	d) Special Commission Meeting Closed Session – July 1, 2021	(++*)
3.	General Announcements (10:05 a.m.)	
	a) National Recreation and Parks Association (NRPA) – National Parks and Recreation Month (July)	
	b) Bereaved Parents' Month (July)	
	c) Parents' Day (July 25)	
	d) National Aviation Day (August 19)	
	e) Labor Day Commission Holiday (September 6)	
	f) Upcoming Hispanic Heritage Month (September 15-October 15)	
4.	Committee Minutes/Board Reports (For Information Only) (10:10 a.m.)	
	a) Executive Committee Meeting – Open Session – July 7, 2021	(+) Page 9
	b) Executive Committee Meeting – Closed Session – July 7, 2021	(++)
	c) Employees' Retirement System Board of Trustees Regular Meeting – May 4, 2021	(+) Page 13
5.	Action and Presentation Items (10:15 a.m.)	
	a) Resolution 21-17, Merit System Board Reappointment – Carolyn Scriber (Chiang-Smith)	(+*) Page 19
	b) Resolution 21-18, Adoption of the Approved Ashton Village Center Sector Plan (Pratt/Butler)	(+*) Page 21
	c) Resolution 21-19, Delegation of Authority for Plat Signatories (Borden)	(+*) Page 29
	d) Resolution 21-20, Recommendation for Adoption of Employees Retirement System Plan Document Amendments, Effective August 1, 2021 (Rose)	(+*) Page 33
	e) Ratification of Actions taken during June 16 Commission Meeting Closed Session <i>(Mask Use – Commissioners please refer to the June 16, 2021 closed session Commission minutes)</i>	(*)
<i>Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (1.ii), (7), (9 & 10), a closed session is proposed to consult with counsel to discuss personnel matters, to consult with counsel for legal advice, consider matters that relate to negotiation and to discuss public cyber security matters.</i>		
6.	Closed Session (10:20 a.m.)	
	a) Collective Bargaining and Compensation Discussion (Chiang-Smith/Bennett/Spencer) Discussion will be followed by a vote in open session.	
	b) Follow-up on Security Awareness Training Options (Chilet)	(++)
Open Session Resumes.		
7.	Action and Presentation Items (10:45 a.m.)	
	The following Resolutions are under review as of the date of Commission Packet publication. They are listed as placeholders and only will be presented as handouts if wage decisions have been finalized.	
	a) Resolution 21-12-A, Amended Fiscal Year 2022 Wage Adjustments for Park Police Officers at the Command Ranks of Lieutenant, Captain and Commander (Chiang-Smith/Bennett)	(H*)

- b) Resolution 21-14-A, Amended Fiscal Year 2022, Merit Increase/Anniversary Pay Increments, and Other Adjustments for Certain Non-Represented Merit System and Term Contract Employees (Excluding Park Police Officers and Park Police Candidates) (Chiang-Smith/Bennett) (H*)
- c) Resolution 21-16, Ratification of MCGEO Collective Bargaining Agreement 3 Year Contract (2021-2024) and Fiscal Year 2022 Wage Adjustments (Chiang-Smith/Bennett) (H*)

8. Officers' Reports (11:15 a.m.)

Executive Director's Report

- a) Late Evaluation Report, May/June 2021 (For Information Only) (+) Page 157
- b) Changes to Prescription Plan Benefit for Calendar Year 2022 (For Information Only) (+) Page 159

Secretary Treasurer

- c) No reports

General Counsel

- d) Litigation Report (For Information Only) (+) Page 163

(+) 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 Minutes
June 16, 2021

The Maryland-National Capital Park and Planning Commission met via videoconference with the Chair initiating the meeting at the Montgomery County Park and Planning Headquarters in Wheaton, Maryland. The meeting was broadcast by the Montgomery County Planning Department.

PRESENT

Prince George's County Commissioners

Elizabeth M. Hewlett, Chair
Dorothy Bailey
William Doerner
Manuel Geraldo
A. Shuanise Washington

Montgomery County Commissioners

Casey Anderson, Vice-Chair
Gerald Cichy
Natali Fani-Gonzalez
Tina Patterson

NOT PRESENT

Partap Verma

Chair Hewlett called meeting to order at 10:02 a.m.

Item 1: Approval of Commission Agenda

Amend agenda so that item 6 and item 9 are moved up to follow item 3, general announcements.

ACTION: Motion of Commissioner Geraldo to approve the agenda.

Seconded by Commissioner Bailey.

9 approved the motion.

Commissioner Verma was not in attendance for this vote.

Item 2: Approval of Commission Minutes

Open Session – May 19, 2021

Closed Session – May 19, 2021

ACTION: Motion of Commissioner Geraldo to approve the minutes.

Seconded by Commissioner Bailey.

9 approved the motion.

Commissioner Verma was not in attendance for this vote.

Item 3: General Announcements

Item 3a: National Caribbean American Heritage Month

Item 3b: Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) Pride Month

Item 3c: Juneteenth, June 19, 2021

Additional Announcements:

- It is National Men's Health month and currently, National Men's Health week.
- Happy early Birthday to Deputy General Counsel, Debra Borden
- Happy 60th Birthday to General Counsel, Adrian Gardner

Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (7) & (9), a closed session is proposed to discuss public security issues related to the agency's information systems, consider matters that relate to negotiation, and consult with counsel for legal advice.

Chair Hewlett asked for a motion to move to closed session. Commissioner Geraldo moved, Vice Chair Anderson seconded. All 9 Commissioners in attendance voted for the measure and the meeting moved to closed session at 10:08 a.m. Commissioner Verma was not in attendance for this vote; however, joined the closed session.

Following closed session, Commissioners voted to return to open session at 12:05 pm. Commissioners Partap Verma and Tina Patterson did not join the second open session.

Item 4: Committee Minutes/Board Reports

- a) Executive Committee Meeting – Open Session, June 2, 2021
- b) Executive Committee Meeting – Closed Session, June 2, 2021
- c) Employees’ Retirement System Board of Trustees Regular Meeting, May 4, 2021

Item 5: Action and Presentation Items

5a) Policy Approval – Merit Board Recommendations for Minor Updates to Sick Leave Policy to Comply with Maryland Healthy Working Families Act

No discussion.

ACTION: Motion of Commissioner Cichy to approve.

Seconded by Commissioner Doerner.

8 approved the motion. Commissioners Patterson and Verma were not in attendance for this vote

5b) Resolution 21-09, Approval of FY22 Employer Contribution for Retiree Group Health Insurance (115 Trust)

Standard annual resolution, no additional discussion.

ACTION: Motion of Commissioner Washington to approve.

Seconded by Commissioner Bailey.

8 approved the motion.

Commissioners Patterson and Verma were not in attendance for this vote

5c) Resolution 21-10, Adoption of the FY22 Commission Operating and Capital Budgets

John Kroll reviewed changes of note, all of which pertained to the final balancing of the Montgomery County budget. Montgomery County:

- Reduced the two tax rates for the administration fund and the park fund;
- Increased the use of the fund balance in the administration fund, decreased the use of the fund balance in the park fund; and
- Transferred \$225,000 from the administration fund to the park fund for final balancing.

ACTION: Motion of Commissioner Geraldo to approve.

Seconded by Commissioner Bailey.

8 approved the motion.

Commissioners Patterson and Verma were not in attendance for this vote

5d) Approval for the FY2022 Operating Budget for the Employees’ Retirement System

No discussion.

ACTION: Motion of Commissioner Cichy to approve.

Seconded by Commissioner Bailey.

8 approved the motion.

5e) Commission’s Response to I-495 / I-270 Managed Lanes Study

- i. Revised Recommended Preferred Alternative: Alternative 9 for Phase 1 South, the American Legion Bridge I-270 to I-370 with no action at this time on I-495 east of the I-270 eastern spur; and

- ii. Internal process moving forward.

ACTION: Motion of Commissioner Cichy to approve.
Seconded by Commissioner Anderson
8 approved the motion.
Commissioners Patterson and Verma were not in attendance for this vote.

5f) Resolution 21-13, Grant Application: Rebuilding American Infrastructure with Sustainability and Equity

Kristin Maneval from the Office of General Counsel asked the Commission for approval to submit an application for \$20 million to the U.S. Department of Transportation.

ACTION: Motion by Commission Washington to approve.
Seconded by Commissioner Geraldo.
8 approved the motion.
Commissioners Patterson and Verma were not in attendance for this vote.

Item 7: Collective Bargaining/Compensation Resolutions

- a) Resolution 21-11 FOP
ACTION: Motion by Commission Washington to approve.
Seconded by Commissioner Geraldo.
8 approved the motion.
Commissioners Patterson and Verma were not in attendance for this vote.

- b) Resolution 21-12 Park Police Command Staff
ACTION: Motion by Commission Washington to approve.
Seconded by Commissioner Geraldo.
8 approved the motion.
Commissioners Patterson and Verma were not in attendance for this vote.

Item 8: Officers' Reports

Executive Director's Report

- a) Late Evaluation Report, April 2021 (For Information Only)

Secretary Treasurer

- b) Investment Report – 3rd Quarter

General Counsel

- c) Litigation Report (For Information Only)

Chairman Hewlett adjourned the meeting at 12:31 pm.



Nina Ward, Acting for Technical Writer James Adams



Asuntha Chiang-Smith, Executive Director

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
6611 Kenilworth Avenue • Riverdale, Maryland 20737

Special Commission Meeting Minutes
July 1, 2021

The Maryland-National Capital Park and Planning Commission met for a special meeting via videoconference with the Chair initiating the meeting at the Prince George's County Planning Department Headquarters in Upper Marlboro, Maryland. The meeting was broadcast by the Montgomery County Planning Department.

PRESENT

Prince George's County Commissioners

Elizabeth M. Hewlett, Chair

Dorothy Bailey

William Doerner

Manuel Geraldo

A. Shuanise Washington

Montgomery County Commissioners

Casey Anderson, Vice-Chair

Gerald Cichy

Natali Fani-Gonzalez

Tina Patterson

Partap Verma

Chair Hewlett called the meeting to order at 2:40 pm.

Chair Hewlett requested a moment of silence to recognize the passing of former Commissioner, Dr. Allison Bryant.

Item 1: Approval of Commission Agenda

No discussion.

ACTION: Motion of Commissioner Washington to approve the agenda.

Seconded by Commissioner Bailey.

Commissioners unanimously approved the motion.

Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (7) and (9), a closed session is proposed to consult with counsel to obtain legal advice and for collective bargaining discussions and consider matters that relate to negotiation.

Chair Hewlett asked for a motion to move to closed session. Commissioner Geraldo moved, Commissioner Bailey seconded. Commissioners unanimously approved the motion and the meeting moved to closed session at 2:43 p.m.

Following closed session, Commissioners voted to return to open session at 3:10 pm.

Item 3: Open Session – Action Items

- a) Resolution 21-14, Fiscal Year 2022, Merit Increase/Anniversary Pay Increments, and Other Adjustments for Certain Non-Represented Merit System and Term Contract Employees (Excluding Park Police Officers and Park Police Candidates Contract)
ACTION: Motion by Commissioner Washington to approve with amendments to return at a later date on top of grade discussions.
Seconded by Geraldo.
Commissioners unanimously approved the motion.

- b) Resolution 21-15, Fiscal Year 2022 Pay Increment Adjustments for Seasonal/Intermittent Contract Employees

ACTION: Motion by Commissioner Washington to approve.

Seconded by Commissioner Geraldo.

Commissioners unanimously approved the motion.

- c) Resolution 21-16, Fiscal Year 2022 Wage Adjustment for MCGEO Bargaining Unit Employees
Item deferred. Will be voted on at a later date.

Chair Hewlett adjourned the meeting at 3:13 pm.



Nina Ward, Acting for Technical Writer James Adams



Asuntha Chiang-Smith, Executive Director



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

**EXECUTIVE COMMITTEE MEETING MINUTES
July 7, 2021**

On July 7, 2021, the Maryland-National Capital Park and Planning Commission’s Executive Committee met via teleconference. Present were Chair Elizabeth M. Hewlett, Vice Chair Casey Anderson, and Executive Director Asuntha Chiang-Smith. Also present were:

Department Heads

- Andree Checkley, Director, Prince George’s County Planning (PGPL)
- Adrian Gardner, General Counsel
- Mike Riley, Director, Montgomery County Parks (MCPK)
- Alvin McNeil, Deputy Director, Prince George’s County Parks and Recreation, for Director Bill Tyler (PGPR)
- Gwen Wright, Director, Montgomery County Planning (MCPL)
- Joe Zimmerman, Secretary-Treasurer

Presenters/Staff

- James Adams, Senior Technical Writer
- Anju Bennett, Corporate Policy and Management Operations (CPMO) Director
- Debra Borden, Deputy General Counsel
- Mazen Chilet, Chief Information Officer
- Brian Coburn, Acting Budget and Management Services Chief, (CPMO)
- Cynthia Henderson, Benefits Specialist, (CHR)
- John Kroll, Corporate Budget Director
- Jennifer McDonald, Benefits Manager, (CHR)
- William Spencer, Corporate Human Resources (CHR) Director

Executive Director Chiang-Smith convened the meeting at 10:06 a.m.

ITEM 1a – APPROVAL OF EXECUTIVE COMMITTEE AGENDA	
Discussion	No modification to Agenda
ACTION	See 1c
ITEM 1b – APPROVAL OF COMMISSION MEETING AGENDA for July 21, 2021	
Discussion	No modification to Commission Agenda
ACTION/Follow-up	See 1c
ITEM 1c – ROLLING AGENDA FOR UPCOMING COMMISSION MEETINGS	
Discussion	No modification to Rolling Agenda
ACTION/Follow-up	Motion of Chair Hewlett to approve the agendas, second by Vice Chair Anderson. Agendas for items 1a-1c approved unanimously.

ITEM 2 – June 2, 2020, EXECUTIVE COMMITTEE MEETING MINUTES	
Discussion	June 2, 2021, Open Session June 2, 2021, Closed Session
ACTION	Motion of Chair Hewlett, second by Vice-Chair Anderson. Minutes approved unanimously.

ITEM 3 – DISCUSSION/PRESENTATION ITEMS	
Discussion	<p><u>3a. Prescription Plan Design (McDonald/Spencer)</u></p> <p>Benefits Manager McDonald requested approval from the Executive Committee on a prescription copay program to save the agency and its employees' money for specialty drugs. The program was reviewed at the Department Heads' meeting and received support to proceed to Executive Committee. Ms. McDonald reviewed details as reflected in packet materials.</p> <p>Executive Director Chiang-Smith asked if the agency was unhappy with the plan, if it could revert to the prior program, or was the program locked in place for a certain time period. Ms. McDonald said the agency could cancel and revert back to the old program at any time.</p> <p>The Executive Committee supported the program. Ms. McDonald asked if this was something that could be approved by the Executive Committee, or if it should proceed to the full Commission. General Counsel Gardner replied since it was adding to or making a change to an existing benefit, the change could be approved by the Executive Committee. He advised providing an information item memo to the full Commission at its next meeting.</p>
ACTION/follow-up	Chair Hewlett moved approval of the program, with a memo of approval to be presented to the full Commission as an information item. Executive Director Chiang-Smith seconded. Approved unanimously
Discussion	<p><u>3b. Follow-up on Security Awareness Training Options (Chilet)</u></p> <p>CIO Chilet reviewed Security Awareness Compliance options as discussed by the working group created at the June 26 Department Heads meeting. The working group included senior management from all departments and identified six guidelines to consider to improve the agency's security awareness and training:</p> <ol style="list-style-type: none"> 1. Top-level management to lead by example 2. Include security awareness training requirements into performance evaluations 3. Hold employees accountable in real time 4. Employees who do not maintain training requirements may face disciplinary action 5. Hold supervisors accountable for employees' success 6. Lock out employees who are not at 100% compliance <p>CIO Chilet specified for item five, that management had discretion to use a variety of tools to encourage employees to complete training, including incentive programs. Executive Director Chiang-Smith noted how well a pilot program in DHRM worked, offering a lottery for gift cards or administrative leave that any employee who was current on their quarterly training was eligible to win. She said compliance rose above 90 percent.</p>

	<p>CIO Chilet stressed that locking out an employees' access should be among the last alternatives to consider for a delinquent employee.</p> <p>Vice-Chair Andersons asked if a specific party was responsible for cutting an employee's access, or if it was an automated system. CIO Chilet replied the system will not be automated; the supervisor has the discretion to restrict access, and the Department Head would make and approve the final decision.</p> <p>Vice-Chair Anderson supported, provided staff would only be accountable for current training modules, as opposed to the collected body of trainings which may have been missed over the past two years. Chair Hewlett said several Commissioners had stressed the need to disable the accounts of employees who habitually did not complete their training. She also stressed that employees should be warned and advised that non-compliant staff may have their access restricted. Executive Director Chiang-Smith said the workgroup will discuss that at its next meeting. CIO Chilet also noted all the components of this process need to be developed and approved before putting this in action.</p> <p>The work group's other upcoming topics include alternatives for replacement of the ERP software and the assessment of our IT security posture, especially with regard to ransomware attacks and recommendations for improving security.</p>
ACTION/Follow-up	The workgroup will discuss development and implementation of these factors prior to launching the program.
Discussion	<p><u>3c. Recruitment Process Updates (Chiang-Smith/Spencer)</u></p> <p>Corporate Human Resources Director Spencer will have a working group discussion with department heads regarding proposed changes to the recruitment process, to allow hiring managers the opportunity to review all applications before or after the recruiter screening process if they desire. The current position is to provide hiring managers an opportunity to ensure screeners do not remove eligible candidates.</p>
Action/Follow up	
Discussion	<p><u>3d. May 2021 Investment Report (Zimmerman) (information item only)</u></p> <p>No discussion.</p>

Pursuant to Maryland General Provisions Article of the Annotated Code of Maryland, Section 3-305(b) (7) & (9), a closed session is proposed to consult with counsel for legal advice and consider matters that relate to negotiation.

Vice-Chair Hewlett motioned for the meeting to move into Closed Session at 10:51 a.m. Vice Chair Anderson seconded. Motion approved unanimously.

With no further business to discuss, the meeting adjourned from Closed Session at 11:02 a.m.



James F. Adams, Senior Technical Writer



Asuntha Chiang-Smith, Executive Director



EMPLOYEES' RETIREMENT SYSTEM
The Maryland-National Capital Park and Planning Commission

BOARD OF TRUSTEES MEETING
MINUTES
Tuesday, May 4, 2021; 10:00 a.m.
County Administration Building, Upper Marlboro, MD
(Due to COVID -19 Attend via Microsoft Teams)

Due to COVID-19, the Maryland-National Capital Park and Planning Commission (“Commission”) Employees’ Retirement System (“ERS”) Board of Trustees (“Board”) met virtually through Microsoft Teams with CHAIRMAN HEWLETT leading the call from the County Administration Building in Upper Marlboro, Maryland on Tuesday, May 4, 2021. The meeting was called to order at 10:00 a.m. by CHAIRMAN HEWLETT.

Board Members Present

- Elizabeth M. Hewlett, Board of Trustees Chairman, Prince George’s County Commissioner
- Gerald R. Cichy, Board of Trustees Vice Chairman, Montgomery County Commissioner
- Asuntha Chiang-Smith, M-NCPPC Executive Director, Ex-Officio
- Melissa D. Ford, Prince George’s County Open Trustee
- Pamela F. Gogol, Montgomery County Public Member
- Caroline McCarthy, Montgomery County Open Trustee arrived at 10:05 a.m.
- Amy Millar, MCGEO Represented Trustee
- Sheila Morgan-Johnson, Prince George’s County Public Member
- Elaine A. Stookey, Bi-County Open Trustee
- Joseph C. Zimmerman, CPA, M-NCPPC Secretary-Treasurer, Ex-Officio

Board Member Not Present

Howard Brown, FOP Represented Trustee

ERS Staff Present

- Andrea L. Rose, Administrator
- Sheila S. Joynes, ERS Accounting Manager
- Heather D. Van Wagner, Senior Administrative Specialist
- Ann McCosby, IT Systems Manager
- Charles Curtis, Accountant

Presentations

- Cheiron - Janet H. Cranna, FSA, FCA, EA, MAAA, Patrick Nelson, FSA, CERA, EA, MAAA, and Jana Austin, ASA
- Wilshire Associates - Bradley A. Baker, Managing Director
- M-NCPPC Legal Department – Tracey Harvin, Senior Counsel

ITEM 1 APPROVAL OF THE MAY 4, 2021 CONSENT AGENDA

ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MS. GOGOL to approve the Consent Agenda. The motion PASSED unanimously (9-0). (Motion #21-19)

MS. McCARTHY arrived at 10:05 a.m.

ITEM 2 CHAIRMAN’S ITEMS

The terms for the Prince George’s County Open Trustee and the Montgomery County Open Trustee serving on the ERS Board will expire June 30, 2021. In accordance with the ERS’ Election Procedures,

A Notice of Vacancies on the Board of Trustees was placed in Update, on the ERS' website and the Commission's Intranet site with applications due in the ERS Office, March 19, 2021 by 5:00 p.m. Melissa D. Ford submitted an application for the Prince George's County Open Trustee and Caroline McCarthy submitted an application for the Montgomery County Open Trustee and no other applications were received. Ms. Ford and Ms. McCarthy are determined to have won by acclamation.

ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MR. ZIMMERMAN to Acknowledge Melissa D. Ford as the Prince George's County Open Trustee and Caroline McCarthy as the Montgomery County Open Trustee for the three-year term ending June 30, 2024. The motion PASSED unanimously (10-0). (Motion #21-20)

ITEM 3 MISCELLANEOUS

No items reported.

ITEM 4 MANAGER REPORTS/PRESENTATIONS

Cheiron

Presentations by Janet H. Cranna, FSA, FCA, EA, MAAA, Patrick Nelson, FSA, CERA, EA, MAAA, and Jana Austin, ASA

Janet Cranna, Patrick Nelson, and Jana Austin presented the Actuarial Experience Study (the "Study") July 1, 2015 through June 30, 2020. The Study compared the actual experience with the actuarial assumptions of the ERS' economic and demographic experience over a five-year period ending June 30, 2020. The economic assumptions include salary merit increases, price and wage inflation, cost-of-living adjustments, and discount rate. The demographic assumptions include retirement, termination, disability, mortality, and marriage. These assumptions are intended to be long-term in nature. A change in an assumption generally occurs when the current assumption is not reflecting the actual experience or expected future trends. Cheiron discussed each of the economic and demographic assumptions and recommend changes.

A summary of assumption changes follows:

	Current Assumptions		Proposed Assumptions	
	Plans A, B, & E	Plans C & D	Plans A, B, & E	Plans C & D
Mortality	RP-2000 and Scale BB	RP-2000 and Scale BB	PubG-2010 and Scale MP-2020	PubS-2010 for retirees, disabled retirees, and employees PubG-2010 for beneficiaries Scale MP-2020 for all
Retirement	Varies by member's age	Varies by member's service	Varies by member's age with updated rates	Varies by member's service with updated rates for 20 and 25-29 years of service
Termination	Varies by member's age and gender	Varies by years of service	Varies by member's age with updated rates	Varies by member's service with updated rates
Disability	Increases by age	Increases by age	Simplified rates, increasing by age	Simplified rates, increasing by age
Marriage	Males three-years older 90% of males and 50% of females are married	Males three-years older 90% of males and 50% of females are married	Males three-years older 75% of males and 40% of females are married	Males three-years older 75% of males and 40% of females are married
Salary Increases	Decreases with years of service	Decreases with years of service	Modified rates decreasing with years of service	Modified rates decreasing with years of service

Cost-of-Living Adjustments	2.40% for benefits accrued up to July 1, 2012 and sick leave accrued until January 1, 2013; 2.00% thereafter	2.40% for benefits accrued up to July 1, 2012 and sick leave accrued until January 1, 2013; 2.00% thereafter	2.25% for benefits accrued up to July 1, 2012 and sick leave accrued until January 1, 2013; 1.90% thereafter	2.25% for benefits accrued up to July 1, 2012 and sick leave accrued until January 1, 2013; 1.90% thereafter
Discount Rate (Investment Rate of Return)	6.80%		6.75%	

Cheiron recommended the ERS use the Society of Actuaries recent study of public plan data. These tables are based on job classifications for both general and public safety members; separate rates for males and females; weighted by salary/pension benefit amount; and reflect improvements using the MP-2020 projection scale. These recent tables are most often required by the auditors and all public plans are expected to adopt these tables.

Adoption of the economic and demographic assumption changes will increase the actuarial liabilities by approximately \$7.5 million; the net normal cost by \$1.9 million; the employer contribution by \$2.8 million; and reduce the funded ratio from 91.2% to 90.6%.

Ms. Cranna presented the discount rate review. Factors to consider in selecting the discount rate or investment rate of return are the system's tolerance for risk, industry trends, expectations for the future, plan maturity, and historical experience. Cheiron looked at the Public Pension Plan Investment Return Assumptions report and survey by NASRA, updated February 2021, and the ERS' investment returns over the last five-year period ending June 30, 2020.

Cheiron recommended a change to the investment return assumption from 6.80% to 6.75%. Based on a thirty-year horizon the probability of achieving 6.75% investment return on the target allocation is 53.3% with an expected risk of 10.85%. Wilshire's Brad Baker supported the decrease based upon Wilshire's forward-looking assumptions.

Adoption of a change in the investment return assumption from 6.80% to 6.75% will increase the actuarial liabilities by \$6.3 million; the net normal cost by \$269 thousand; the employer contribution by \$919 thousand; and, reduce the funded return from 90.6% to 90%.

ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MS. MILLAR to accept the economic and demographic assumption changes as recommended by Cheiron. The motion PASSED unanimously (10-0). (Motion #21-21)

ACTION: MR. ZIMMERMAN made a motion, seconded by VICE CHAIRMAN CICHY to reduce the discount rate (investment rate of return) from 6.80% to 6.75% effective with the July 1, 2021 actuarial valuation. The motion PASSED unanimously (10-0). (Motion #21-22)

Based on adoption of the new assumption changes, Cheiron will review the actuarial equivalence and the actuarial deficiency factors and recommend any edits to the ERS' Funding Policy.

Wilshire Associates

Presentation by Bradley A. Baker, Managing Director

Mr. Baker said the 6.75% discount rate assumption is consistent with Wilshire's asset class assumptions and can be used to help support the actuarial investment return decision.

Mr. Baker recommended an Asset Liability Valuation Analysis be conducted at the end of 2021 or beginning of 2022.

ITEM 5

REPORT OF THE ADMINISTRATOR

Andrea L. Rose presented the Administrator's Report dated April 22, 2021

Ms. Rose requested approval to allow ERS employees to continue to maintain annual leave balances until December 31, 2021 at which time the excess annual rollover will be rolled over consistent with the ERS Employees Handbook. The Commission approved Resolution 21-06 that permits merit system employees to continue to maintain their annual leave balances until December 31, 2021 which the ERS generally follows.

ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MS. CHIANG-SMITH to allow ERS employees to continue to maintain annual leave balances until December 31, 2021 at which time the excess annual rollover will be rolled over consistent with the ERS Employees Handbook. The motion PASSED unanimously (10-0). (Motion #21-23)

ITEM 6

COMMITTEE REPORTS/PRESENTATIONS

Audit Committee – Report of March 31, 2021

The Audit Committee Chairman, Joe Zimmerman, recommended awarding the Auditing Services Agreement to SB & Company for a three-year term, May 4, 2021 through May 4, 2024, with a two-year renewal option, May 4, 2026.

ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MS. GOGOL to Award the Auditing Services Agreement to SB & Company for a three-year Term, May 4, 2021 Through May 4, 2024, with a two-year Renewal Option, May 4, 2026. The motion PASSED unanimously (10-0). (Motion #21-24)

Administration & Personnel Oversight Committee – Report of April 20, 2021

The Administration & Personnel Oversight Committee ("Personnel Committee") Chairman, Joe Zimmerman, reported the Personnel Committee concurred with Staff's Proposed FY2022 Operating Budget of \$2,695,705, contingent upon potential revisions. Ms. Rose discussed revisions for imaging and actuarial fees for slightly less than \$30,000. Therefore, approval of a Proposed FY2022 Operating Budget of \$2,724,685, a decrease of 13.1% from FY2021, was recommended.

ACTION: MR. ZIMMERMAN made a motion, seconded by MS. FORD to approve the FY2022 Operating Budget of \$2,724,685. The motion PASSED unanimously (10-0). (Motion #21-25)

MR. ZIMMERMAN said the FY2022 Operating Budget includes the cost for an additional Retirement Benefits Analyst Position as detailed in the Personnel Committee's report of April 20, 2021.

Investment Monitoring Group – Report of March 16, 2021

Ms. Rose asked if there were any questions on the Investment Monitoring Group's March 16, 2021 meeting report. Having no questions, the Board moved into Closed Session.

ERS staff: Ann McCosby and Charles Curtis; Presenters from Cheiron and Wilshire Associates; and, Others Present left the meeting.

ITEM 7 CLOSED SESSION

At 12:16 p.m. CHAIRMAN HEWLETT requested a motion to go into Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(7) to consult with counsel to obtain legal advice.

ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MS. CHIANG-SMITH to go into Closed Session. The motion PASSED unanimously (10-0). (Motion #21-26)

During Closed Session, the following action was taken:

1. The Board discussed Conflicts of Interest.
2. The Board discussed Eaton Vance's Letter Dated April 5, 2021.

The Board moved back into Open Session at 12:22 p.m.

ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MS. GOGOL to approve the amended Ethics Policy, as recommended by legal counsel. The motion PASSED unanimously (10-0). (Motion #21-28)

ACTION: VICE CHAIRMAN CICHY made a motion, seconded by MS. FORD to consent to participate in transactions exempted under PTS 2000-29, as amended from time to time, between Eaton Vance and Morgan Stanley. The motion PASSED unanimously (10-0). (Motion #21-29)

The Board meeting of May 4, 2021 adjourned at 12:26 p.m.

Respectfully,

Heather D. Van Wagner

Heather D. Van Wagner
Senior Administrative Specialist

Andrea L. Rose

Andrea L. Rose
Administrator

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M-NCPPC RESOLUTION No. 21-17

July 21, 2021

MERIT SYSTEM BOARD REAPPOINTMENT – CAROLYN SCRIBER

WHEREAS, pursuant to Section 16-103 of the Land Use Article of the Annotated Code of Maryland (“Land Use Article”) and the Merit System Rules and Regulations, the Maryland-National Capital Park and Planning Commission (the “Commission”) shall have the authority, obligation and responsibility to appoint a Merit System Board to oversee the Merit System;

WHEREAS, on July 28, 2019 the Commission appointed Ms. Carolyn Scriber, Member of the Merit System Board, to fulfill the remaining term of the vacancy created by Mr. Steven Cohen’s retirement;

WHEREAS, Ms. Scriber has discharged the duties as Member of the Merit System Board faithfully, and continues to meet the requirements in Section 16-103 of the Land Use Article for membership on the Merit System Board, including substantial knowledge and experience in personnel matters; and,

WHEREAS, Section 16-103 of the Land Use Article allows for the reappointment of Merit System Board Members for a four-year term, at the pleasure of the Commission.

NOW, THEREFORE, BE IT RESOLVED, that the Commission hereby ratifies and memorializes the reappointment of Ms. Carolyn Scriber as a Member of the Merit System Board for a term ending December 1, 2024. This term reflects a four-year contract period and fulfillment of Mr. Cohen’s former position; and,

AND BE IT FURTHER RESOLVED, that Ms. Scriber’s appointment to the Merit System Board shall be pursuant to the same terms and conditions as her current contract, and/or as authorized by the Commission budget for each fiscal year.

APPROVED FOR LEGAL SUFFICIENCY:

/s/Tracey Harvin

M-NCPPC Legal Department

Date: June 24, 2021

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**M-NCPPC
Item No.
Date: 7/21/2021**

Resolution of Adoption of the Approved Ashton Village Center Sector Plan



Jamey Pratt, Senior Planner, Upcounty Planning, jamey.pratt@montgomeryplanning.org, 301-495-4588



Patrick Butler, Division Chief, Upcounty Planning, patrick.butler@montgomeryplanning.org, 301-495-4561

Completed 7/8/2021

Recommendation

Approve the Resolution of Adoption.

Summary

Attached for your review and approval is M-NCPPC Resolution Number 21-18 to adopt the *Ashton Village Center Sector Plan*. The Montgomery County Council, sitting as the District Council, approved the *Ashton Village Center Sector Plan* by Resolution Number 19-904 on June 15, 2021. The Montgomery County Planning Board approved the adoption of the *Ashton Village Center Sector Plan* by Resolution Number 21-057 on July 8, 2021.

Attachments:

1. Montgomery County Planning Board Resolution No. 21-057; M-NCPPC Resolution No. 21-18
2. Montgomery County Council Resolution No. 19-904



MCPB NO. 21-057

M-NCPPC NO. 21-18

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission, by virtue of the Land Use Article of the Annotated Code of Maryland, is authorized and empowered, from time to time, to make and adopt, amend, extend and add to *The General Plan (On Wedges and Corridors) for the Physical Development of the Maryland-Washington Regional District Within Montgomery and Prince George's Counties*; and

WHEREAS, the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission, pursuant to procedures set forth in the Montgomery County Code, Chapter 33A, held a duly advertised public hearing on September 17, 2020 on the Public Hearing Draft *Ashton Village Center Sector Plan*, being also an amendment to portions of the approved and adopted 1998 *Sandy Spring/Ashton Master Plan*; *The General Plan (On Wedges and Corridors) for the Physical Development of the Maryland-Washington Regional District Within Montgomery and Prince George's Counties*, as amended; the *Master Plan of Highways and Transitways*, as amended; and the *Bicycle Master Plan*, as amended; and

WHEREAS, the Montgomery County Planning Board, after said public hearing and due deliberation and consideration, on December 3, 2020, approved the Planning Board Draft *Ashton Village Center Sector Plan*, recommended that it be approved by the District Council, and forwarded it to the County Executive for recommendations and analysis; and

WHEREAS, the Montgomery County Executive reviewed and made recommendations on the Planning Board Draft *Ashton Village Center Sector Plan* and forwarded those recommendations to the District Council on March 1, 2021; and

WHEREAS, the Montgomery County Executive provided a Fiscal Impact Analysis on the Planning Board Draft *Ashton Village Center Sector Plan* and forwarded that analysis to the District Council on March 26, 2021; and

WHEREAS, the Montgomery County Council sitting as the District Council for the portion of the Maryland-Washington Regional District lying within Montgomery County, held a public hearing on March 2, 2021, wherein testimony was received concerning the Planning Board Draft *Ashton Village Center Sector Plan*; and

Resolution No.: 19-904
Introduced: June 15, 2021
Adopted: June 15, 2021

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

Lead Sponsor: County Council

SUBJECT: Approval of December 2020 Ashton Village Center Sector Plan

1. On January 11, 2021, the Montgomery County Planning Board transmitted to the County Executive and the County Council the December 2020 Planning Board Draft of the Ashton Village Center Sector Plan.
2. The December 2020 Planning Board Draft of the Ashton Village Center Sector Plan contains the text and supporting maps for an amendment to portions of the approved and adopted 1998 Sandy Spring/Ashton Master Plan, as amended. It also amends The General Plan (On Wedges and Corridors) for the Physical Development of the Maryland-Washington Regional District in Montgomery and Prince George’s Counties, as amended; the Master Plan of Highways and Transitways, and the Bicycle Master Plan, as amended.
3. On March 2, 2021, the County Council held a virtual public hearing on the December 2020 Planning Board Draft of the Ashton Village Center Sector Plan, which was referred to the Council’s Planning, Housing, and Economic Development Committee for review and recommendations.
4. On March 26, 2021, the Office of Management and Budget transmitted to the County Council the County Executive’s Fiscal Impact Statement for the December 2020 Planning Board Draft of the Ashton Village Center Sector Plan.
5. On April 5, 2021 and April 19, 2021, the Planning, Housing, and Economic Development Committee held work sessions to review the issues raised in connection with the December 2020 Planning Board Draft of the Ashton Village Center Sector Plan.
6. On May 4, 2021, the County Council reviewed the December 2020 Planning Board Draft of the Ashton Village Center Sector Plan and the recommendations of the Planning, Housing, and Economic Development Committee.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following resolution:

The Ashton Village Center Sector Plan, dated December 2020, is approved with revisions. County Council revisions to the Planning Board Draft of the Ashton Village Center Sector Plan are identified below. Deletions to the text of the Plan are indicated by [brackets], additions by underscoring. All page references are to the December 2020 Planning Board Draft of the Ashton Village Center Sector Plan.

Page 37: Revise the eighth recommendation under “Community Design Recommendations” as follows:

8. Building heights should vary between adjacent buildings, with lower heights closer to the edge of the Village Core neighborhood and higher heights closer to the MD 108/650 intersection. Taller buildings may also be located interior to a site to take advantage of natural grade and screening from other buildings, limiting their visibility from the main roads [(see Figure 4)].

Page 39: Delete the right half of Figure 4 and revise the Figure 4 caption as follows:

Figure 4. Existing building heights [(left) and maximum proposed building heights (right)] in the Village Core neighborhood and [surroundings, including suggested building heights for buildings in the southeast quadrant showing the tallest buildings in the interior of the quadrant and maintaining a transition along the state highways] surrounding areas. The building heights shown along Porter Road are for the approved Ashton Market development (M-NCPPC Site Plan No. 820180160).

Page 41: Revise “Table 1: Road Classifications” as follows:

Add a “Target Speed” column and assign each road in the table a target speed of 25 mph.

Include a footnote to the “ROW Width” column that states: “Reflects minimum right-of-way and may not include right-of-way needed for on-street parking and pedestrian, bicycle, transit, and stormwater management facilities.”

Page 56: Revise the first and second paragraphs under “Public Schools” as follows:

Ashton is served by Sherwood High School, William H. Farquhar Middle School, and Sherwood Elementary School. [A school cluster adequacy test for 2024] The most recent Growth and Infrastructure Preliminary FY2022 School Test shows that at the elementary, middle, and high school levels [in the Sherwood High School Cluster], an additional [142, 159, and 222] 50, 203, and 235 students, respectively, could be accommodated before

exceeding the [current program capacity] Tier 1 Utilization Premium Payment requirement.

[At an individual school level, Sherwood Elementary School would require an additional 120 students to reach the utilization rate that would trigger a residential building moratorium in the school's service area. William H. Farquhar Middle School is 238 students away from reaching a moratorium utilization rate.] Given the modest residential density increases included in this plan and analyzed in the Plan appendix, all school levels have sufficient capacity to accommodate the number of students that would be generated by the zoning recommended in this Plan.

Page 57: Revise the ninth recommendation under "Open Space Recommendations" as follows:

9. [Designate the] Consider the designation of proposed [public] open spaces [within] for inclusion in the Legacy Open Space Functional Master Plan.

Page 74: Revise the last paragraph as follows:

The southeast quadrant also presents the best opportunity for creating a new, meaningful public open space and gathering place. During the time of development, the open space requirements mandated by zoning should be clustered to create a publicly accessible green, ideally located to take advantage of the on-site environmental features while remaining accessible to the public. Woodlands and wetlands have been previously identified in the eastern part of the quadrant and should be protected during any development application. At the corner in front of the existing bank, large canopy trees serve as a landmark in Ashton and should be protected if possible. [Designation within] Potential designation for inclusion in the Legacy Open Space Functional Master Plan as important open spaces [will] would provide an additional [tools] tool to support the creation of these spaces.

Page 75: Revise the first full paragraph as follows:

In the southeast quadrant, the proposed zoning should be consistent with the other three quadrants at CRN-0.5 total FAR, but [the] with a maximum allowable height [is] of 45 feet instead of 35 feet. The additional 45-foot height [should] must be limited to buildings that [are interior to the site (to take advantage of the natural grade) and to buildings where the additional height helps to define a focal point that stands out from the rest of the block] do not front on MD 108 or MD 650. [In any event, the] The 45-foot maximum building height [should] must be applied selectively; this], taking advantage of natural grade where possible (see Figure 10). This maximum is not intended to apply across all new buildings in the quadrant [(see Figure 10)]. The BG&E property is an exception that should remain under its current zone, R-60.

Page 76: Modify Figure 10 to primarily show properties in the southeast quadrant and revise the text of the Figure 10 caption as follows:

Figure 10. [Maximum proposed building heights in the Village Core neighborhood and surroundings, including suggested] Suggested building heights for buildings in the southeast quadrant [showing the tallest buildings in the interior of the quadrant and maintaining a transition along the state highways], where the tallest buildings must not front on MD 108 or MD 650, and where building heights maintain a transition along MD 108 and MD 650 starting from the edge of the Village Core to the intersection of these roadways.

Page 89: Delete the third and fourth paragraphs under section “5.2.2.1 Building Types” as follows:

[With the exception of multi-use or general building types, new buildings along the two state roadways should be 80 feet or less in width to maintain a building massing that replicates the building forms found along MD 108 and MD 650. Multi-use and general buildings may be up to 120 feet wide along the state roads to accommodate mixed-use tenants, but if they are wider than 80 feet, they may only be built to the maximum allowed height for two thirds of the total building width, with the remainder of the building having a readily apparent transition in roofline or number of actual stories to reflect a change in scale to the structure. On non-state road street frontages, buildings should be no wider than 120 feet to remain compatible with the vision for Ashton.]

[Buildings may be deeper than their road frontage if the depth is not highly visible. Buildings at the recommended maximum width, or that are deeper than wide, should be carefully located to ensure that they are dispersed throughout the Village Core and not clustered in one area.]

Page 92: Insert the deleted third and fourth paragraphs under section “5.2.2.1 Building Types” after the first paragraph of section “5.2.2.3 Building Massing and Composition” as follows:

With the exception of multi-use or general building types, new buildings along the two state roadways should be 80 feet or less in width to maintain a building massing that replicates the building forms found along MD 108 and MD 650. Multi-use and general buildings may be up to 120 feet wide along the state roads to accommodate mixed-use tenants, but if they are wider than 80 feet, they may only be built to the maximum allowed height for two thirds of the total building width, with the remainder of the building having a readily apparent transition in roofline or number of actual stories to reflect a change in scale to the structure. On non-state road street frontages, buildings should be no wider than 120 feet to remain compatible with the vision for Ashton.

Buildings may be deeper than their road frontage if the depth is not highly visible. Buildings at the recommended maximum width, or that are deeper than wide, should be carefully located to ensure that they are dispersed throughout the Village Core and not clustered in one area.

Page 98: Revise the first sentence of the first guideline under section “5.4.1.1 Connection Elements” as follows:

- 1. Public/Private Streets - [The size of existing public rights-of-way] Existing pavement widths should not be expanded (except to provide on-street parking and in-road bikeways), ensuring that crossing distances are minimized for pedestrians and that drivers do not speed.

Page 103: Revise the first and second paragraphs under section “6.5 Implementation Advisory Committee” as follows:

This Plan supports the creation of an advisory group to address its implementation. The formation of any new advisory group should be staffed by the Planning Department in close coordination with the [Ashton Alliance] civic/neighborhood groups within the Ashton area.

This advisory group would work in coordination with [the Ashton Alliance (or successor group) and] the Regional Services Center that covers the area of a project by providing specific community and redevelopment expertise. It would also serve as an interface between community members, county agencies, and developers in implementing recommendations of the Ashton Village Center Sector Plan. This new group should be structured to include representatives from the various constituencies interested in successful implementation of the Plan. Notification and participation in the development review process should occur at the earliest stage of the process.

Page 105: Revise “Lead Agency” in row seventeen of “Table 3. Capital Improvements Program” by replacing “MCDGS” with “M-NCPPC”.

General

All illustrations and tables included in the Plan will be revised to reflect the District Council changes to the Planning Board Draft of the Ashton Village Center Sector Plan (December 2020). The text and graphics will be revised as necessary to achieve and improve clarity and consistency, to update factual information, and to convey the actions of the District Council. Graphics and tables will be revised and re-numbered, where necessary, to be consistent with the text and titles.

This is a correct copy of Council action.



 Selena Mendy Singleton, Esq.
 Clerk of the Council



M-NCPPC 21-19

RESOLUTION

WHEREAS, the Maryland-National Capital Park and Planning Commission (the “Commission”), is a bi-county agency created by and subject to Division II of the Land Use Article of the Annotated Code of Maryland (known as the “Regional District Act”); and,

WHEREAS, pursuant to Section 15-113 of the Regional District Act (“RDA”), the Commission can exercise the powers, duties, and functions provided in the RDA; and,

WHEREAS, pursuant to Section 20-202 of the RDA, the Montgomery County Planning Board and the Prince George’s County Planning Board are responsible for planning, subdivision, and zoning functions that are primarily local in scope and each respective planning board has exclusive jurisdiction over local functions, including the administration of its subdivision regulations; and,

WHEREAS, Section 23-102 of the RDA provides that a subdivision plat cannot be recorded in the respective land records of Montgomery County or Prince George’s County unless it has been approved by the respective planning board, and endorsed by the chair of the respective planning board and the secretary-treasurer of the Commission in writing on the plat; and,

WHEREAS, Section 23-302 of the RDA further provides that a subdivision plat cannot be recorded unless the plat has been endorsed in writing by the respective planning board; and,

WHEREAS, the Commission’s Practice No. 1-30 charges the Commission’s Secretary-Treasurer (the “Secretary-Treasurer”) with, among other things, the function of signing all record plats; and,

WHEREAS, Section 15-113 of the RDA provides that the Commission can take any corporate act necessary to carry out the RDA; and,

WHEREAS, in the interest of increased efficiency it would better serve the Commission and both planning boards if the specific authority of the Secretary-Treasurer to endorse all plats in writing were delegated to: i) the Department Program Administrator and the Administrative Specialist II in the Montgomery County Commissioner’s Office and the Legal Assistant in the Montgomery Land Use Unit of the General Counsel’s Office in Montgomery County (collectively, the “Montgomery Plat Signatories”), for the sole and limited purpose of endorsing plats on behalf of the Secretary-Treasurer in Montgomery County; and, ii) the Planning Board Administrator and a Technical Hearing Writer in the Prince George’s County Commissioner’s Office (collectively, the “Prince George’s Plat Signatories”), for the sole and limited purpose of endorsing plats on behalf of the Secretary-Treasurer in Prince George’s County; and

WHEREAS, by this resolution, the Commission desires to delegate to the Montgomery Plat Signatories, acting in their respective official capacities in such positions, the sole and limited authority to endorse in writing, for and on behalf of the Secretary-Treasurer, any final subdivision

plat approved hereafter by the Montgomery County Planning Board in accordance with the RDA; and,

WHEREAS, by this resolution, the Commission desires to delegate to the Prince George's Plat Signatories, acting in their respective official capacities in such positions, the sole and limited authority to endorse in writing, for and on behalf of the Secretary-Treasurer, any final subdivision plat approved hereafter by the Prince George's County Planning Board in accordance with the RDA; and,

WHEREAS, Resolution 10-25 of the Commission is no longer necessary and is rescinded and no longer in effect after approval of this resolution.

NOW THEREFORE, BE IT RESOLVED, that the Montgomery Plat Signatories, acting in their respective official capacities in such positions, be and hereby are designated and appointed the sole and limited authority to endorse in writing, for and on behalf of the Secretary-Treasurer, any final subdivision plat approved hereafter by the Montgomery County Planning Board.

BE IT FURTHER RESOLVED, that the Prince George's Plat Signatories, acting in their respective official capacities in such positions, be and hereby are designated and appointed the sole and limited authority to endorse in writing, for and on behalf of the Secretary-Treasurer, any final subdivision plat approved hereafter by the Prince George's County Planning Board.

BE IT FURTHER RESOLVED, that each endorsement undertaken by any of the Montgomery Plat Signatories shall be for, and on behalf of, the Secretary-Treasurer, and indicated for this purpose in the following manner on the plat:

Montgomery Plat Signatory for Secretary-Treasurer

BE IT FURTHER RESOLVED, that each endorsement undertaken by any of the Prince George's Plat Signatories shall be for, and on behalf of, the Secretary-Treasurer, and indicated for this purpose in the following manner on the plat:

Prince George's Plat Signatory for Secretary-Treasurer

BE IT FURTHER RESOLVED, that the designation and appointment effected by this resolution shall be effective immediately.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

.....

This is to certify that the foregoing is a true and correct copy of a resolution adopted by the Maryland-National Capital Park and Planning Commission on motion of Commissioner _____, seconded by Commissioner _____, with Commissioners _____, _____, _____, _____, and _____ voting in favor of the motion, (note absence of any Commissioner), at its regular meeting held on _____, _____, 2021, at the _____ Auditorium in _____, Maryland.

Asuntha Chiang-Smith
Executive Director

REVIEWED AND APPROVED FOR LEGAL SUFFICIENCY:

s\ Debra S. Borden

M-NCPPC Legal Department
June 30, 2021

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

M-NCPPC RESOLUTION NO. 21-20

ADOPTION OF EMPLOYEES' RETIREMENT SYSTEM PLAN DOCUMENT
AMENDMENTS EFFECTIVE AUGUST 1, 2021.

WHEREAS, the Maryland-National Capital Park and Planning Commission Employees' Retirement System (ERS) was established effective July 1, 1972 and amended from time to time; and

WHEREAS, the ERS currently consists of five (5) plans, Plans A, B, C, D and E; and

WHEREAS, Section 3 of the Plan Document reserves the right of the Maryland-National Capital Park and Planning Commission ("Commission"), as Plan Sponsor, to amend any or all of the provisions of the Plans from time to time, provided that, no amendments shall adversely affect benefits that have accrued prior to the effective date of any such amendments; and

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Plan Section 7.3 to reflect the increase in date age (from 70 1/2 to 72) under the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act); and

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Plan Sections A-6.2(a)(2), B-B-4.5, B-6.2(a)(2), C-6.2(a)(2), D-6.2(a)(2), E-4.4 and E6.2(a)(2) to clarify the accumulation of interest on a Participant or Vested Member's contributions will cease upon his/her death and payment of benefits to a beneficiary to provide that the accumulation of interest will cease upon the Member's death; and

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Plan Sections B-2.1(d), E-1.2 and E-2.1(b) and (C) to clarify that a former Member of Plan B who elected a refund or transfer of contributions will no longer be a Member of Plan B and will become a Member of Plan E upon a subsequent reemployment or appointment; and

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Plan Section E-6.1(a) and (b) to transition the calculation of service connected death benefit from a 36-month Final Annual Base Pay calculation to a 60-month Final Annual Base Pay calculation to a 60-month Final Annual Base Pay calculation for consistency in calculation of benefits under Plan E; and

WHEREAS, the Board of Trustees recommends that the amendments be effective August 1, 2021, as provided for in the amendments.

NOW THEREFORE, BE IT RESOLVED, that the Maryland-National Capital Park and Planning Commission does hereby adopt the amendments to the ERS Plan Document as presented in the Attachment 2 effective August 1, 2021.

APPROVED FOR LEGAL
SUFFICIENCY
William Dickerson,
M-NCPPC Legal Department
July 14, 2021

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.mncppc.org>

Andrea L. Rose
Administrator

To: The Commission

Date: July 13, 2021

Via: Elizabeth M. Hewlett *EMH*
Chairman, Board of Trustees

From: Andrea L. Rose *Andrea L. Rose*
ERS Administrator

Subject: *Resolution #21-20 - Recommendation for Adoption of Employees' Retirement System Plan Document Amendments Effective August 1, 2021*

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 Resolution #21-20 which adopts the ERS Plan Document amendments effective August 1, 2021.

BACKGROUND

At its July 13, 2021 meeting, the Board adopted the attached Plan Document amendments effective August 1, 2021.

The amended language in Section 7.3 reflects the increase in the required beginning date age (from 70 ½ to 72) under the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act).

The amended language in Sections A-6.2(a)(2), B-B-4.5, B-6.2(a)(2), C-6.2(a)(2), D-6.2(a)(2), E-4.4, and E-6.2(a)(2) was added to clarify the accumulation of interest on a Participant or Vested Member's contributions will cease upon his/her death and payment of benefits to a beneficiary to provide that the accumulation of interest will cease upon a Member's death.

The amended language in Sections B-2.1(d), E-1.2, and E-2.1 (b) and (c) was added to clarify that a former Member of Plan B who elected a refund or transfer of contributions will no longer be a Member of Plan B and will become a Member of Plan E upon a subsequent reemployment or appointment.

The amended language in Section E-6.1(A) and (B) was added to transition the calculation of service connected death benefit from a 36-month Final Annual Base Pay calculation to a 60-month Final Annual Base Pay calculation for consistency in the calculation of benefits under Plan E.

Attachment- Plan Document Restatement Effective August 1, 2021



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

PLAN DOCUMENT

Plan A

Plan B

Plan C

Plan D

Plan E

~~October 1, 2018~~
August 1, 2021

GLG-358124.1

**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. Effective October 1, 2017, Plan B is mandatory for individuals appointed to the position of Inspector General pursuant to Land Use Article, Section 15-503 of the Annotated Code of Maryland if, as a result of prior employment, the individual is a current Member of 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. Effective October 1, 2017, Plan E is mandatory for individuals appointed to the position of Inspector General pursuant to Land Use Article, Section 15-503 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.

TABLE OF CONTENTS

GENERAL ARTICLE SECTIONS APPLICABLE TO THE M-NCPPC EMPLOYEES' RETIREMENT SYSTEM (RETIREMENT PLANS A, B, C, D, AND E)..... 7

SECTION 1 - DEFINITIONS 8

SECTION 2 - ADMINISTRATION OF EMPLOYEES' RETIREMENT SYSTEM – BOARD OF TRUSTEES 12

SECTION 3 - AMENDMENTS 17

SECTION 4 - MISCELLANEOUS 18

SECTION 5 - TERMINATION OF RETIREMENT SYSTEM 19

SECTION 6 - LIMITATION OF BENEFITS 20

SECTION 7 - MISCELLANEOUS 22

ARTICLE A - SECTIONS APPLICABLE TO PLAN A OF THE M-NCPPC EMPLOYEES' RETIREMENT SYSTEM..... 25

SECTION A-1 - DEFINITIONS 26

SECTION A-2 - REQUIREMENTS FOR PARTICIPATION 28

SECTION A-3 - CREDITED SERVICE 29

SECTION A-4 - RETIREMENT BENEFITS 33

SECTION A-5 - BENEFITS UPON TERMINATION OF EMPLOYMENT OTHER THAN BY DEATH OR RETIREMENT 40

SECTION A-6 - DEATH BENEFITS 42

SECTION A-7 - CONTRIBUTIONS 44

ARTICLE B SECTIONS APPLICABLE TO PLAN B OF THE M-NCPPC EMPLOYEES' RETIREMENT SYSTEM..... 45

SECTION B-1 - DEFINITIONS 46

SECTION B-2 - REQUIREMENTS FOR PARTICIPATION 49

SECTION B-3 - CREDITED SERVICE 51

SECTION B-4 - RETIREMENT BENEFITS 55

SECTION B-5 - BENEFITS UPON TERMINATION OF EMPLOYMENT OTHER THAN BY DEATH OR RETIREMENT 61

SECTION B-6 - DEATH BENEFITS 63

SECTION B-7 - CONTRIBUTIONS 66

ARTICLE C SECTIONS APPLICABLE TO PLAN C OF THE M-NCPPC EMPLOYEES' RETIREMENT SYSTEM – PARK POLICE RETIREMENT PLAN..... 67

SECTION C-1 - DEFINITIONS 68

SECTION C-2 - REQUIREMENTS FOR PARTICIPATION 69

SECTION C-3 - CREDITED SERVICE 70

SECTION C-4 - RETIREMENT BENEFITS 75

SECTION C-5 - BENEFITS UPON TERMINATION OF EMPLOYMENT OTHER THAN BY DEATH OR RETIREMENT 82

SECTION C-6 - DEATH BENEFITS 83

SECTION C-7 - CONTRIBUTIONS 85

ARTICLE D SECTIONS APPLICABLE TO PLAN D OF THE M-NCPPC EMPLOYEES' RETIREMENT SYSTEM – PARK POLICE RETIREMENT PLAN..... 87

SECTION D-1 - DEFINITIONS 88

SECTION D-2 - REQUIREMENTS FOR PARTICIPATION 89

SECTION D-3 - CREDITED SERVICE 90

SECTION D-4 - RETIREMENT BENEFITS..... 92

SECTION D-5 - BENEFITS UPON TERMINATION OF EMPLOYMENT OTHER THAN BY
DEATH OR RETIREMENT 98

SECTION D-6 - DEATH BENEFITS..... 99

SECTION D-7 - CONTRIBUTIONS..... 101

ARTICLE E SECTIONS APPLICABLE TO PLAN E OF THE M-NCPPC EMPLOYEES'
RETIREMENT SYSTEM..... 103

SECTION E-1 - DEFINITIONS 104

SECTION E-2 - REQUIREMENTS FOR PARTICIPATION 106

SECTION E-3 - CREDITED SERVICE..... 107

SECTION E-4 - RETIREMENT BENEFITS 111

SECTION E-5 - BENEFITS UPON TERMINATION OF EMPLOYMENT OTHER THAN BY
DEATH OR RETIREMENT 115

SECTION E-6 - DEATH BENEFITS 116

SECTION E-7 - CONTRIBUTIONS 120



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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.

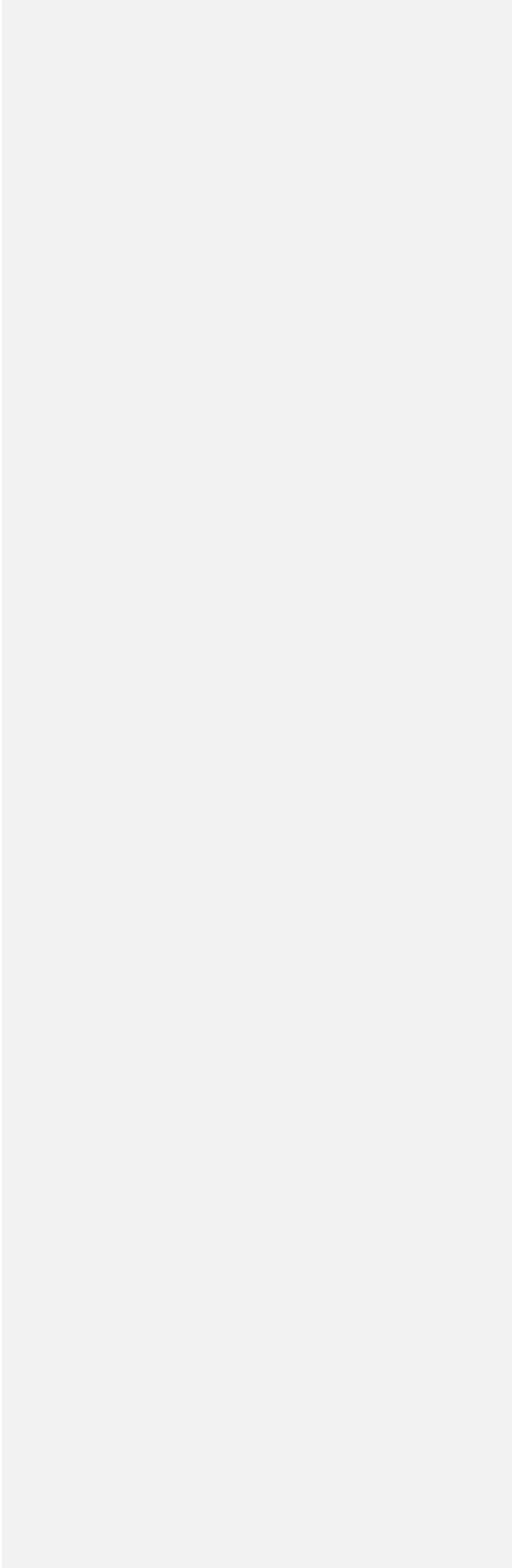
Notwithstanding the foregoing, effective July 1, 2002, the foregoing limit shall be increased to the amount set forth in Code section 401(a)(17)(A), as amended by EGTRRA, which amount shall be adjusted from time to time as set forth in Code section 401(a)(17)(B). For years beginning prior to July 1, 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) A Participant of Plan E with five or more years of Credited Service, who has been appointed to the position of Inspector General at any time during his or her employment;
 - (iv) An Appointed Official with immediate vesting, who is automatically entitled to a retirement annuity; or
 - (v) 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 Eligible Rollover Distributions.

- ~~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.

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- (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~~ 72 (70½ if he/she was born before July 1, 1949).

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.

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 until his/her date of death, 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 or appointment.
- 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 appointed to the position of Inspector General pursuant to Land Use Article, Section 15-503 of the Annotated Code of Maryland; (f) any individual employed by the Commission as a career part-time Merit System employee on a year-round basis; and (g) 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, except the position of Inspector General, 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 current 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 or appointment. For purposes of clarity, notwithstanding the preceding sentence, an Employee who elects a refund of his/her contributions to the Trust Fund under subsection B-5.1(a) or a transfer of his/her contributions or benefits under the Employees' Retirement System shall no longer be a Member of Plan B as of the date of such refund or transfer and shall not be eligible to participate in Plan B upon his/her reemployment or appointment. Such Employee 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 reemployment or appointment.
- (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 Plan B Participants.

- (a) Service Eligible for Purchase by Represented Plan B Participants. 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-3.4(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 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-3.4(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.
- (g) Service Eligible for Purchase by Non-Represented Participants. Effective October 1, 2018, the purchase of credited service under the provisions of this Section B-3.4 is open to non-represented Plan B Participants under the same terms and conditions provided in Section B-3.4(a) through (f) except:
 - (1) Any non-represented Plan B Participant who was hired or appointed prior to January 1, 2019 may exercise the option to purchase Credited Service pursuant to this Section B-3.4(g) during the period that:
 - (A) begins on January 15, 2019 and ends on February 14, 2019; or
 - (B) is 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.
 - (2) Any non-represented Plan B Participant who was re-hired or appointed on or after January 1, 2019 may exercise the option to purchase Credited Service pursuant to this Section B-3.4(g) during the period that:
 - (A) begins on the date of the Participant's re-hire or appointment and ends 45 days after the Participant's re-hire or appointment; or
 - (B) is at least 31 but not more than 60 days immediately prior to the date of the Participant's actual retirement as permitted under Sections B-4.1 and B-4.2.

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 until the Member's date of death, 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) Effective July 1, 2018, 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 the benefit corresponding to the membership status of the Participant at the time of the Participant's death.

(A) Non-Vested Participant.

The spouse of a Participant who has not met the vesting requirements as stated in Section 1.15 shall be entitled to, at his/her election, (i) an annual benefit until death, commencing as of 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 (default) or (ii) a lump sum benefit equal to fifty percent (50%) of the Participant's Average Annual Earnings plus total contributions to the Trust Fund with interest thereon as calculated in Section B-6.2(a)(2).

(B) Vested Participant.

The spouse of a Vested Participant shall be entitled to an annual benefit until death, commencing as of the first day of the month coinciding with or next following the date of death of the Participant, in an amount equal to, at his/her election, (i) the benefit payable under the 100% joint and survivor optional form of payment computed under Section B-4.6(a) of this Plan, on the basis that the deceased had retired at the end of the day immediately preceding the date of death, excluding any early retirement penalty that would have been applicable (default) or (ii) 25% of the Final Annual Base Pay of the Participant.

(C) For the purposes of this Section B-6.1(b), the surviving spouse subject to an election under Paragraphs (A) and (B) above shall make an election within sixty (60) calendar days from the date of the ERS notification to the spouse regarding the entitlement to benefits. If the spouse fails to make an election within sixty (60) days, the spouse shall receive the applicable default benefit identified in each Sub-section.

(D) Active Employees that are Members of the Plan but not actively making contributions, including, but not limited to, employees in a leave-without-pay or absent-without-leave status or who have reached the maximum allowed credited service, shall be considered a Participant for the purposes of this Section B-6.1. For clarity, the provisions of B-6.1(b) specifically exclude Members who have accrued Credited Service in the Plan as a result of prior participation but are currently employed by the Commission in an employment category that is excluded from participation in the ERS.

(E) 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)(A)(i) 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 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 until his/her date of death, 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.
 - (f) Any Credited Service purchased, accrued and applied in accordance with Section C-3.5 of this Plan.
- 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.

C-3.5 Purchase of Credited Service.

(a) Service Eligible for Purchase. Effective as of July 1, 2017, a Participant in Plan C may elect to purchase additional Credited Service not to exceed a total of two (2) years for certain time in public service and qualified as follows:

- (1) 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.

(b) Period of Election.

- (1) Any Plan C Participant who was appointed as a Park Police Officer prior to July 1, 2017 may exercise the option to purchase Credited Service pursuant to this Section C-3.5 during the period that:
 - i. begins on the date of the adoption of this Section C-3.5 and ends on February 1, 2018; or
 - ii. is at least 31 but not more than 60 days immediately prior to the date of a Participant's actual retirement as permitted under Sections C-4.1 and C-4.2.

- (2) Any Plan C Participant who was appointed as a Park Police Officer on or after July 1, 2017 may exercise the option to purchase Credited Service pursuant to this Section 3.5 during the period that:
- i. begins on the date of the adoption of this Section C-3.5 and ends 45 days after the date of adoption of this Section C-3.5; or
 - ii. begins on the date of the Participant's appointment as a Park Police Officer and ends 45 days after the Participant's appointment as a Park Police Officer; or
 - iii. is at least 31 but not more than 60 days immediately prior to the date of the Participant's actual retirement as permitted under Sections C-4.1 and C-4.2.
- (c) 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.
- (d) 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 an election window under Section C-3.5(b)(1)(i) or Sections C-3.5(b)(2)(i) or (ii), 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.
 - (4) Participants may request a calculation of the Actuarial Equivalent of additional benefits attributable to the additional Credited Service purchased under this Section C-3.5 prior to making the election to purchase the additional Credited Service however, if the Participant decides not to elect to purchase the additional Credited Service, the Participant shall pay to ERS the full cost of the actuary's calculation.

- (e) Contribution Methods. The electing Plan C 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 C-3.5(e) 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 C-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 Plan C 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.
- (f) Effect of Failure to Make Contributions. If a Participant who has elected to purchase service credit under this Section C-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 C-3.5(e). 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 C-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 C 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 C-3.5(d).

- (g) Limited Recognition of Purchased Service. Notwithstanding any provision of the Plan to the contrary, additional credit purchased pursuant to this Section C-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 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 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.

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 until his/her date of death, 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.



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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 until his/her date of death, 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.



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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. For purposes of clarity, notwithstanding the preceding sentence, an Employee who is a current Member of Plan B on his/her date of reemployment or appointment 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 or appointment, pursuant to Section B-2.1(d).
- 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 appointed to the position of Inspector General pursuant to Land Use Article, Section 15-503 of the Annotated Code of Maryland; (f) any individual employed by the Commission as a career part-time Merit System employee on a year-round basis; and (g) 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, if the Member has been appointed to the position of Inspector General at any time during his or her employment, the first day of the month coinciding with or immediately following the date on which said Member of Plan E has both attained age 62 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 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, except the Inspector General, 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) Current Members of Plan 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 current Members of Plan B shall be required to Participate in Plan B as a Condition of Employment pursuant to Section B-2.1(d).
- (c) Former Plan B Members Reemployed or Appointed on or After January 1, 2013. For purposes of clarity, pursuant to subsection B-2.1(d), Employees who were formerly Members of Plan B but elected a refund of contributions under subsection B-5.1(a) or a transfer of his/her contributions or benefits under the Employees' Retirement System 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 reemployment or appointment.
- 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.

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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 Plan E Participants.

- (a) Service Eligible for Purchase by Represented Plan E Participants. 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.
- (f) Service Eligible for Purchase by Non-Represented Participants. Effective October 1, 2018, the purchase of credited service under the provisions of this Section E-3.4 is open to non-represented Plan E Participants under the same terms and conditions provided in Section E-3.4(a) through (e) except:
- (1) Any non-represented Plan E Participant who was hired or appointed prior to January 1, 2019 may exercise the option to purchase Credited Service pursuant to this Section E-3.4(f) during the period that:
 - (A) begins on January 15, 2019 and ends on February 14, 2019; or
 - (B) is 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.
 - (2) Any non-represented Plan E Participant who was hired or appointed on or after January 1, 2019 may exercise the option to purchase Credited Service pursuant to this Section E-3.4(f) during the period that:
 - (A) begins on the date of the Participant's hire or appointment and ends 45 days after the Participant's hire or appointment; or
 - (B) is at least 31 but not more than 60 days immediately prior to the date of the Participant's actual retirement as permitted under Sections E-4.1 and E-4.2.
 - (3) Contribution Methods. The electing non-represented Plan E 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 E-3.4(f) 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 E-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 non-represented Plan E 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.

- (4) Effect of Failure to Make Contributions. If a non-represented Participant who has elected to purchase service credit under this Section E-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 E-3.4. 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 E-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 E 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 E-3.4(c).

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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 until the Member's date of death, 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, or a Member who has been appointed to the position of Inspector General and has completed five (5) 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~~greater of (i) the 36 calendar month period, or for the 12 calendar month period if greater, immediately preceding August 1, 2021; or (ii) for the 60 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~~greater of (i) the 36 calendar month period, or for the 12 calendar month period if greater, immediately preceding August 1, 2021; or (ii) 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 (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 the benefit corresponding to the date of hire and membership status of the Participant at the time of the Participant's death.

(A) Non-Vested Participants Hired On or Before September 30, 2018.

Effective for deaths on or after July 1, 2018, the spouse of a Participant, who was hired on or before September 30, 2018 and who had not met the vesting requirements as stated in Section 1.15 on or before the date of death, shall be entitled to, at his/her election, (i) an annual benefit until death, commencing as of 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 (default) or (ii) a lump sum benefit equal to fifty percent (50%) of the Participant's Average Annual Earnings plus total contributions to the Trust Fund with interest thereon as calculated in Section E-6.2(a)(2).

(B) Vested Participants Hired or Appointed On or Before September 30, 2018.

Effective for deaths on or after July 1, 2018, the spouse of a Vested Participant, who was hired or appointed on or before September 30, 2018, shall be entitled to an annual benefit until death, commencing as of the first day of the month coinciding with or next following the date of death of the Participant, in an amount equal to, at his/her election, (i) the benefit payable under the 100% joint and survivor optional form of payment computed under Section E-4.5(a) of this Plan on the basis that the deceased had retired at the end of the day immediately preceding the date of death, excluding any early retirement penalty that would have been applicable (default) or (ii) 25% of the Final Annual Base Pay of the Participant.

(C) Non-Vested Participants Hired On or After October 1, 2018.

The spouse of a Participant, who was hired on or after October 1, 2018 and who had not met the vesting requirements as stated in Section 1.15 on or before the date of death, shall be entitled to a lump sum benefit equal to fifty percent (50%) of the Participant's Average Annual Earnings plus total contributions to the Trust Fund with interest thereon as calculated in Section E-6.2(a)(2).

(D) Vested Participants Hired or Appointed On or After October 1, 2018.

The spouse of a Vested Participant, who was hired or appointed on or after October 1, 2018, shall be entitled to an annual benefit until death, commencing as of the first day of the month coinciding with or next

following the date of death of the Participant, in an amount equal to the benefit payable under the 100% joint and survivor optional form of payment computed under Section E-4.5(a) of this Plan on the basis that the deceased had retired at the end of the day immediately preceding the date of death, excluding any early retirement penalty that would have been applicable.

- (E) For the purposes of this Section E-6.1(b)(1), the surviving spouse subject to an election under Paragraphs (A) and (B) above shall make an election within sixty (60) calendar days from the date of the ERS notification to the spouse regarding the entitlement to benefits. If the spouse fails to make an election within sixty (60) days, the spouse shall receive the applicable default benefit identified in the applicable Paragraph.
 - (F) Active Employees that are Members of the Plan but not actively making contributions, including, but not limited to, employees in a leave-without-pay or absent-without-leave status or who have reached the maximum allowed credited service, shall be considered a Participant for the purposes of this Section E-6.1. For clarity, the provisions of E-6.1(b) specifically exclude Members who have accrued Credited Service in the Plan as a result of prior participation but are currently employed by the Commission in an employment category that is excluded from participation in the ERS.
 - (G) 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)(A)(i) 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 until his/her date of death, 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.

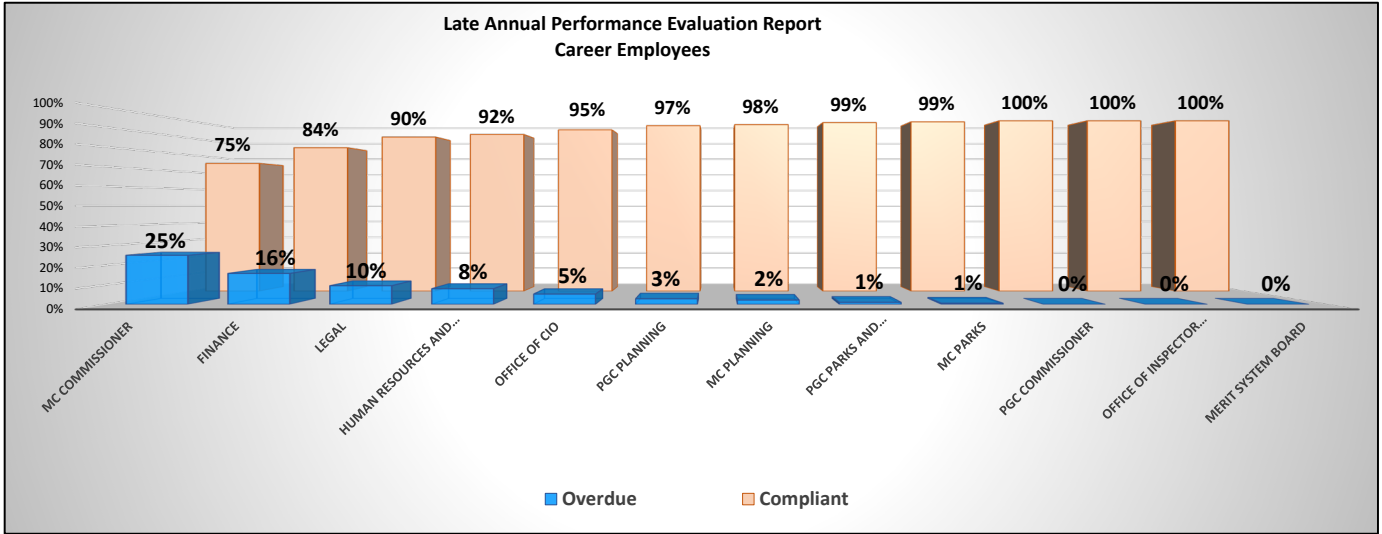
The Commission shall pick up the employee contributions required by this Section for all Base Pay earned on or after January 1, 2013, and the contributions so picked up shall, subject to approval by the Internal Revenue Service, be treated as employer contributions in determining Federal and State Income 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.

**THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
EMPLOYEE PERFORMANCE EVALUATIONS NOT COMPLETED BY DUE DATE
BY DEPARTMENT AS OF JUNE 2021**

	<u>31 - 60 DAYS</u>		<u>61 - 90 DAYS</u>		<u>91 + DAYS</u>		<u>DEPARTMENT TOTALS</u>	
	May-21	Jun-21	May-21	Jun-21	May-21	Jun-21	May-21	Jun-21
CHAIRMAN, MONTGOMERY COUNTY	1	1	0	0	0	0	1	1
CHARIMAN, PRINCE GEORGE'S COUNTY	0	0	0	0	0	0	0	0
OFFICE OF CIO	1	0	0	0	0	1	1	1
OFFICE OF INSPECTOR GENERAL	0	0	0	0	0	0	0	0
EXECUTIVE COMMITTEE/CHAIRS	0	0	0	0	0	0	0	0
DEPT. OF HUMAN RESOURCES & MGT.	1	3	0	0	3	1	4	4
LEGAL DEPARTMENT	5	2	1	0	1	0	7	2
FINANCE DEPARTMENT	2	0	1	2	3	4	8	6
PRINCE GEORGE'S PLANNING	6	4	0	1	0	0	6	5
PRINCE GEORGE'S PARKS & RECREATION	9	11	0	0	0	0	9	11
MONTGOMERY COUNTY PARKS	15	4	0	0	0	0	15	4
MONTGOMERY COUNTY PLANNING	6	3	0	0	0	0	6	3
DEPARTMENT TOTAL BY DAYS LATE	46	28	2	4	7	6		
COMMISSION-WIDE TOTAL							57	37

**DEPARTMENTS HAVE BEEN NOTIFIED OF LATE EVALUATIONS.



*Data As Of June 30, 2021

Employee Count Department	Evaluation Status		Total Employees
	Overdue	Compliant	
Finance	6	32	38
Human Resources and Mgt	4	46	50
Legal	2	19	21
MC Commissioner	1	3	4
MC Parks	4	677	681
MC Planning	3	133	136
Merit System Board		1	1
Office of CIO	1	18	19
Office of Inspector General		4	4
PGC Commissioner		9	9
PGC Parks and Recreation	11	1,045	1,056
PGC Planning	5	171	176
Total Employees	37	2,158	2,195



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

July 7, 2021

TO: The Maryland-National Capital Park and Planning Commission

VIA: Asuntha Chiang-Smith, Executive Director
William Spencer, Human Resources Director

FROM: Jennifer McDonald, Benefits Manager
Cynthia Henderson, Principal Benefits Specialist

SUBJECT: Change to Prescription Plan for Calendar Year 2022

We all know that the cost of prescription medications is constantly rising. This is especially true of specialty drugs. Specialty drugs are described as high cost, high complexity and/or high touch that are injectables or infused to treat complex or rare conditions such as cancer, rheumatoid arthritis, hemophilia, HIV and hepatitis C. For example, there is one member, covered under the agency's prescription plan, who is taking a specialty medication with a gross cost of \$33,000 per prescription filled. CVS/Caremark, the agency's pharmacy benefit manager, is offering the opportunity to leverage existing drug manufacturers' copay cards to provide savings to the agency, employees and their dependents, a win-win situation.

Copay Cards

Also referred to as copay savings programs, copay coupons, or copay assistance cards, manufacturer copay cards are savings programs offered by drug makers. They help patients afford expensive prescription drugs by reducing or eliminating their out-of-pocket costs, which in turn fosters brand loyalty. Copay coupons are typically for expensive, brand name drugs without a generic equivalent. As an example, you can get a brand-name arthritis medication like Humira for as little as \$5 per month through manufacturer Abbvie's copay card.

The idea behind copay cards is to reduce the total out-of-pocket expense for the patient. When you use one, your health insurance pays some of the cost and then the drug manufacturer pays part or all of the cost you are responsible for through your copay or coinsurance. If your insurer does not cover the drug you are taking, the manufacturer will simply cover all or some of your costs. Copay cards are usually accessed through the medication or manufacturer websites and through physicians' offices. For most copay cards, there are 2 main requirements:

1. You must have commercial or private insurance.
2. You cannot have government health insurance, such as Medicare or Medicaid. (Retirees on Medicare are not eligible to participate in this program.)

PrudentRx Copay Program

The PrudentRx Copay Optimization program is designed to help Caremark clients incrementally manage specialty pharmacy spend. The solution uses an innovative plan design that targets all specialty medications, including those in highly utilized classes such as Hepatitis C, Autoimmune, Oncology and Multiple Sclerosis, to create maximum value for the agency while providing plan members with zero out-of-pocket costs. Integrated and personalized outreach helps to ensure a best-in-class experience for members. While manufacturers' copay card programs offer savings to members only, the PrudentRx program is currently the only third-party program to calculate shared savings for both the member and the client company using the value of existing copay cards. During calendar year 2020, the total spend for the Commission on specialty medication was \$4,585,288 paid by the agency and \$24,275 by members. Implementing the program will have a projected savings of \$558,238 annually. See Exhibit A.

Changes Required for Implementation

To participate in this program the agency must have an exclusive specialty distribution setup with CVS/Caremark. The agency currently has an exclusive specialty distribution in place with Caremark. Secondly, the member cost share design for specialty medications must change from a flat copay to a coinsurance. The current copay structure for prescription plan is \$8 for generics, \$16 for preferred brands, \$25 for non-preferred brands and 50% coinsurance for lifestyle drugs. The plan design must be changed to add a fifth tier for specialty medications with a 30% coinsurance. The PrudentRx program will cover the entire coinsurance amount for the member, resulting in \$0 member out of pocket. The agency will benefit financially as well because the cost picked up will be 70% of the cost of the drug instead of the full cost less the flat copay amount. Using the example of the \$33,000 medication, the member currently pays \$25 of the \$33,000 and the agency picks up the balance of \$32,975. Under the 30% coinsurance design, the PrudentRx program will leverage the existing copay card program to cover the member's 30% coinsurance of \$9,900. The agency will be responsible for paying \$23,100 (70% of \$33,000), instead of \$32,975 under the flat copay design. The PrudentRx program fee is 25% of the saving. In this example the agency would pay \$25,575 (\$23,100 + \$2,475 (fee to PrudentRx)) instead of \$32,975 under the current plan design, a savings of \$7,400 each time the prescription is filled.

Any drug not eligible for the PrudentRx copay card program will remain subject to the current copay structure of \$8 for generics, \$16 for preferred brands, \$25 for non-preferred brands and 50% coinsurance for lifestyle drugs.

High-touch Member Experience

There are currently 110 users of specialty drugs in the agency's prescription plan. All eligible members will be automatically enrolled in the PrudentRx Copay Program. Following enrollment, the member receives a welcome letter explaining the program and may choose to opt

out, which is strongly advised against. Members must call PrudentRx within 5 days to opt out. If the member ultimately chooses to opt-out of the program, or does not affirmatively enroll in any copay assistance as required by a manufacturer, the member will be responsible for the full 30 percent coinsurance on specialty medications that are eligible for the PrudentRx program. Less than one percent of members opt out of the program. PrudentRx will continue to reach out to these members to get them engaged.

PrudentRx will work with members and manufacturers to get copay card assistance and will manage enrollments and renewals. Members will continue to fill prescriptions as usual through CVS/Caremark Specialty pharmacy, using their current CVS/Caremark prescription drug card. The only difference is now there will be a zero copay. If someone opted out the program, enrollment can be done at the point of sale in about 10 minutes but may take longer depending on the manufacturer's process. The member will be informed throughout the process. If a member is not currently taking a specialty medication, but later is prescribed one, the member can reach out to PrudentRx, or they will be proactively contacted. When a new specialty prescription is received and processed by CVS Specialty, there is an administrative process to capture the claim and reach out to the member. If a member participates in the program, the out-of-pocket cost for specialty drugs will always be \$0, even for drugs that do not have a manufacturer copay card.

Recommendation and Approval

Aon, the agency's benefit consultant, recommends implementation of the program. Montgomery College implemented the program for calendar year 2021 and is achieving expected results. Other local government agencies, such as WSSC and Montgomery County Government are currently considering the program for 2022. The Health & Benefits staff recommended implementation of the PrudentRx for the 2022 calendar year. On June 22, 2021, the Department Heads gave their support and on July 7, 2021, the Executive Committee approved the implementation of the program.

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

Reply To

July 6, 2021

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 June 2021 – FY 2021

Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, July 14, 2021. 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.

Table of Contents – June 2021 – FY 2021 Report

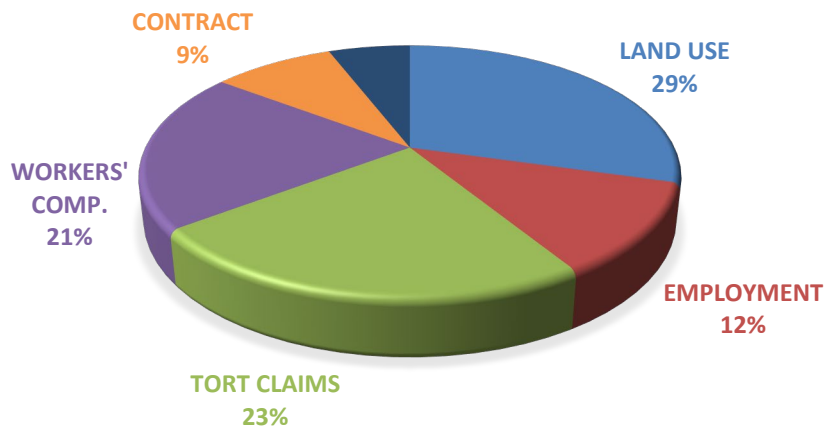
Composition of Pending Litigation.....	Page 01
Overview of Pending Litigation (Chart).....	Page 01
Litigation Activity Summary	Page 02
Index of New YTD Cases (FY21)	Page 03
Index of Resolved YTD Cases (FY21)	Page 04
Disposition of FY21 Closed Cases Sorted by Department	Page 05
Index of Reported Cases Sorted by Jurisdiction.....	Page 08
Litigation Report Ordered by Court Jurisdiction.....	Page 10

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June 2021
Composition of Pending Litigation
(Sorted by Subject Matter and Forum)

	STATE TRIAL COURT	MARYLAND COSA	MARYLAND COURT OF APPEALS	FEDERAL TRIAL COURT	FEDERAL APPEALS COURT	U.S. SUPREME COURT	SUBJECT MATTER TOTALS
ADMIN APPEAL: LAND USE	6	3	1				10
ADMIN APPEAL: OTHER							
BANKRUPTCY							
CIVIL ENFORCEMENT							
CONTRACT DISPUTE	3						3
DEBT COLLECTION							
EMPLOYMENT DISPUTE	2			2			4
LAND USE DISPUTE							
MISCELLANEOUS	2						2
PROPERTY DISPUTE							
TORT CLAIM	8						8
WORKERS' COMPENSATION	7						7
PER FORUM TOTALS	28	3	1	2			34

OVERVIEW OF PENDING LITIGATION



June 2021 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2021			
	Pending May 2021	New Cases	Resolved Cases	Pending Prior F/Y	New Cases F/YTD**	Resolved Cases F/YTD**	Pending Current Month
Admin Appeal: Land Use (AALU)	11		1	8	13	11	10
Admin Appeal: Other (AAO)							
Bankruptcy (B)							
Civil Enforcement (CE)							
Contract Disputes (CD)	3				4	1	3
Debt Collection (D)							
Employment Disputes (ED)	4			3	3	2	4
Land Use Disputes (LD)							
Miscellaneous (M)	2				2	1	2
Property Disputes (PD)							
Tort Claims (T)	9		1	5	6	2	8
Workers' Compensation (WC)	7			3	6	2	7
Totals	36	0	2	19	28	15	34

**INDEX OF YTD NEW CASES
(7/1/2020 TO 6/30/21)**

A. <u>New Trial Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Getnet v. M-NCPPC	PG	Tort	July 20
HMF Paving Contractors, Inc. v. M-NCPPC	MC	Contract	July 20
Snyder v. State of Maryland, et al.	PG	Tort	July 20
Kathryn A. Nuzback Revocable Trust	PG	Misc.	July 20
Amica Mutual Insurance Company v. Montgomery County, Maryland, et al.	MC	Tort	Aug. 20
Uzlyan v. Montgomery County, Maryland, et al.	MC	Tort	Aug. 20
Heard v. M-NCPPC	PG	AALU	Aug. 20
Wolf, et al. v. Planning Board of Prince George's County	PG	AALU	Aug. 20
Structural Engineering Group Inc. v. M-NCPPC	MC	Contract	Aug. 20
Concerned Citizens of Cloverly, et al v. Montgomery County Planning Board	MC	AALU	Sep. 20
Shipkovitz v. Montgomery County Planning Board	MC	AALU	Sep. 20
Coakley & Williams v. Commission	PG	Contract	Sep. 20
Gibson v. Commission	PG	WC	Sep. 20
Murray v. Commission	PG	WC	Sep. 20
Newton, et al. v. Prince George's County Planning Board	PG	AALU	Sep. 20
Dana v. Lenk, et al.	MC	Tort	Oct. 20
HMF Paving Contractors, Inc. v. M-NCPPC	MC	Contract	Oct. 20
Hoenig v. Commission (case should be on prior reports as filed in March)	PG	WC	Dec. 20
Simmons, et al. v. Prince George's County Planning Board	PG	AALU	Jan. 21
Beck v. Montgomery County Department of Parks	MC	ED	Jan. 21
Snoot v. M-NCPPC	MC	WC	Mar. 21
Hitchcock v. M-NCPPC	MC	WC	Apr. 21
Izadjoo v. M-NCPPC	MC	ED	Apr. 21
Melito v. M-NCPPC	PG	ED	Apr. 21
Frederick Bey v. Dick	PG	Tort	May 21
Deutsche Bank v. M-NCPPC	PG	Misc.	May 21
B. <u>New Appellate Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Benton v. Woodmore Overlook Commercial, LLC	PG	AALU	Aug. 20
Benton v. Woodmore Overlook Commercial, LLC	PG	AALU	Sep. 20
Estreicher v. Montgomery County Planning Board	MC	AALU	Sep. 20
Benton v. Woodmore Overlook Commercial LLC	PG	AALU	Sep. 20
West Montgomery County Citizens Association, Inc. v. Montgomery County Planning Board, et al.	MC	AALU	Dec. 20
M-NCPPC v. Mail My Meds, LLC	AC	WC	Jan. 21
Jan A.J. Bove, et al. v. Montgomery County Planning Board	MC	AALU	Jan. 21
Stewart v. P.G. Planning Board	PG	AALU	Mar. 21
Benton v. Woodmore Overlook Commercial, LLC	PG	AALU	May 21

**INDEX OF YTD RESOLVED CASES
(7/1/2020 TO 6/30/2021)**

A. <u>Trial Court Cases Resolved.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
McCourt v. Commission	PG	ED	Sep. 20
Estreicher v. Montgomery County Planning Board	MC	AALU	Sep. 20
Uzlyan v. Montgomery County, et al.	MC	Tort	Oct. 20
Newton, et al. v. Prince George's County Planning Board	PG	AALU	Nov. 20
M-NCPPC v. Mail My Meds, LLC	AC	WC	Dec. 20
Jan A.J. Bove, et al. v. Montgomery County Planning Board	MC	AALU	Dec. 20
Coe v. Commission	PG	ED	Feb. 21
Dana v. Lenk, et al.	PG	Misc.	Mar. 21
HMF Paving Contractors Inc. v. M-NCPPC	PG	CD	Mar. 21
Stewart, et al. v. Prince George's Planning Board, et al.	PG	AALU	Mar. 21
Shipkovitz v. Montgomery County Planning Board	MC	AALU	Apr. 21
Pumphrey v. Wilson	PG	Tort	May 21

B. <u>Appellate Court Cases Resolved.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Benton v. Woodmore Overlook Commercial, LLC	PG	AALU	July 20

(Appeared on the June report in error. The Commission was not a party to this suit)

Gaspard v. Montgomery County Planning Board	MC	AALU	Oct. 20
Benton v. Woodmore Overlook Commercial, LLC	PG	AALU	Oct. 20
M-NCPPC v. Mail My Meds, LLC	AA	WC	Feb. 21
Estreicher v. Montgomery County Planning Board	MC	AALU	Mar. 21
West Montgomery County Citizens Association, Inc.v. Montgomery County Planning Board, et al.	MC	AALU	Mar. 21
Jan A.J. Bove, et al. v. Montgomery County Planning Board	MC	AALU	Apr. 21

Disposition of FY21 Closed Cases Sorted by Department

CLIENT	PRINCIPAL CAUSE OF ACTION IN DISPUTE	DISPOSITION
Employees Retirement System		
Finance Department		
Department of Human Resources & Management		
McCourt v. Commission	Judicial Review of Merit Board Decision related to reclassification under the Administrative Series	09/04/20 – Decision of Merit Board Affirmed.
Commission v. Mail My Meds, LLC	Judicial Review of WCC decision regarding mail order prescription medication.	11/23/20 – Decision of WCC Affirmed.
Commission v. Mail My Med, LLC	Appeal of Circuit Court decision affirming WCC decision regarding mail order prescription medication	02/03/21 – Appeal voluntarily dismissed.
Montgomery County Department of Planning		
Montgomery County Department of Parks		
Uzylan v. Montgomery Count, Maryland, et al.	Personal injuries matter as a result of a tulip poplar tree striking a home.	10/15/20 - Case Consolidated with Case No. 483068-V.
Dana v. Lenk, et al.	Plaintiff disputes the existence of, and access to, a right-of-way-utilized by an adjacent property owner.	03/22/2021 – Line of Dismissal with prejudice.
Montgomery County Park Police		
Montgomery County Planning Board		
Gaspard v. Montgomery County Planning Board	Judicial Review of decision affirming Planning Board's approval of Preliminary Plan 120160180 Glen Mill – Parcel 833	10/29/2020 – Judgment of Circuit Court Affirmed.
Jan A.J. Bove, et al. v. Montgomery Planning Board	Judicial Review of Planning Board's approval of 7025 Longwood Drive subdivision no. 62019100.	12/02/2020 – Resolution of Planning Board Affirmed.
Estreicher v. Montgomery County Planning Board	Appeal of August 28, 2020 Order reversing Planning Board Resolution MCPB No. 19-108 approving Sketch Plan 320190100 and remanding the matter to the Planning Board for further proceedings pursuant to the Court's findings.	03/01/2021 – Voluntary Dismissal

West Montgomery County Citizens Association, Inc. v. Montgomery County Planning Board, et al.	Appeal of August 28, 2020 Oder reversing Planning Board Resolution MCPB No. 19-108 approving Sketch Plan 320190100 and remanding the matter to the Planning Board for further proceedings pursuant to the Court's findings.	03/01/2021 – Petition for Writ of Certiorari denied by COA.
Jan A.J. Bove, et al. v. Montgomery Planning Board	Bove appealed a decision approving the subdivision to the Circuit Court and the Court affirmed the Planning Board. Bove Appealed to the Court of Special Appeals.	04/08/2021 – Notice of Voluntary Dismissal filed.
Shipkovitz v. Montgomery County Planning Board	Petition for Judicial Review of Planning Board Approval of 12500 Ardennes Avenue Site Plan 820200080.	04/27/2021 – Petitioner's Motion for Reconsideration denied. Order of February 3, 2021, granting Motion to Dismiss Affirmed.
Prince George's County Department of Parks and Recreation		
HMF Paving Contractors Inc. v. M-NCPPC	Construction suit alleging failure to pay two pay applications.	03/15/2021 – Joint Line of Dismissal with prejudice.
Pumphrey v. Wilson	Automobile accident with vehicle driven by now deceased former Commission employee.	05/7/2021 – Case Dismissed pursuant to settlement agreement.
Prince George's County Planning Department		
Prince George's County Planning Board		
Benton v. Woodmore Overlook Commercial, LLC	Judicial Review of decision of Prince George's County Planning Board	10/23/2020 – Petition for Writ of Cert. denied. Matter still pending in Court of Special Appeals.
Newton, et al. v. Prince George's County Planning Board	Judicial review of Prince Georges County Planning Board's approval of preliminary plan of subdivision 4 -19048	11/09/2020 - Petition dismissed by Petitioner.
Stewart, et al. v. Prince George's Planning Board	Judicial review of Prince Georges County Planning Board's approval of GB Mall Limited Partnership/Quantum Company Preliminary Plan Case No. 4-19023	03/08/2021 – Notice of Appeal to COSA filed.

Prince George's Park Police		
Coe v. Commission	Judicial Review of decision to terminate employment following LEOBR police disciplinary hearing	02/03/2021 – Court affirmed hearing board decision to terminate employment.
Office of Internal Audit		

INDEX OF CASES

DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND 10

DISTRICT COURT FOR PRINCE GEORGE’S COUNTY, MARYLAND 10

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND 10

Amica Mutual Insurance Company v. Montgomery County, Maryland, et al. 10

Concerned Citizens of Cloverly, et al. v. Montgomery County Planning Board..... 11

HMF Paving Contractors Inc. v. Maryland-National Park and Planning Commission 11

Hitchcock v. Maryland-National Park and Planning Commission 12

Izadjoo v. Maryland-National Park and Planning Commission 12

Kosary v. Montgomery County Planning Board 12

Snoots v. Commission 13

Structural Engineering Group Inc. v. Maryland-National Capital Park and Planning Commission..... 13

CIRCUIT COURT FOR PRINCE GEORGE’S COUNTY, MARYLAND 14

6525 Belcrest Road, LLC v. Dewey, L.C., et al. 14

Alexander v. Proctor..... 15

Frederick Bey v Dick, et al. 16

Brown v. City of Bowie, et al. 16

Coakley & Williams Construction v. Commission 17

Commission v. Batson 18

Deutsche Bank National Trust Company v Commission 18

Getnet v. Maryland-National Capital Park and Planning Commission 19

Gibson v. Commission 19

Heard v. Maryland-National Capital Park and Planning Commission..... 20

Hoenig v. Commission 20

Jackson v. Prince George’s County Sports & Learning Complex..... 21

King v. Commission 21

Melito v Commission 22

Montague v. Newton White Mansion 22

Murray v. Commission 22

Nuzback, Kathryn A. , Revocable Trust v. Commission 23

Simmons, et al. v. Prince George’s Planning Board 23

Snyder v. State of Maryland, et al. 24

Wolf, et al. v. Planning Board of Prince George’s County 24

MARYLAND COURT OF SPECIAL APPEALS 25

Benton v. Woodmore Overlook Commercial, LLC 25

Benton v. Woodmore Overlook Commercial, LLC 26
Stewart, et al. v. Prince George’s Planning Board, et al. 26
MARYLAND COURT OF APPEALS..... **27**
Benton v. Woodmore Overlook Commercial, LLC 27
U.S. DISTRICT COURT OF MARYLAND **27**
Beck v. Montgomery County Department of Parks, et al. 27
Evans v. Commission, et al. 28

DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND

No Pending Cases

DISTRICT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

No Pending Cases

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

Amica Mutual Insurance Company v. Montgomery County, Maryland, et al.
Case No. 483068-V (Tort)

Lead Counsel: Adams
Other Counsel:

Abstract: Subrogation suit for damages caused by a tulip poplar tree striking home.

Status: In discovery.

Docket:

08/06/2020	Complaint filed.
08/19/2020	Commission served.
09/08/2020	Plaintiff's Motion to Consolidate with Case 483039-V
09/18/2020	Defendant Montgomery County Maryland's Answer to Complaint
09/22/2020	Commission's Motion to Dismiss
09/22/2020	Commission's Motion to Consolidate with Case 483039-V
10/15/2020	Order of the Court Granting Motion to Consolidate. All future pleadings to be filed in case 483068V.

Concerned Citizens of Cloverly, et al. v. Montgomery County Planning Board

Case No. 483411-V (AALU)

Lead Counsel: Mills
Other Counsel:

Abstract: Judicial Review of Montgomery County Planning Board's approval of RCCG Jesus House Preliminary Plan 120160040

Status: Planning Board's decision affirmed.

Docket:

09/10/2020	Petition for Judicial Review filed
10/01/2020	Planning Board's Response to Petition for Judicial Review filed
01/04/2021	RCCG Jesus House DC's Motion to Strike
01/19/2021	Petitioner's Opposition to Motion to Strike
02/10/2021	Oral Argument held. Court grants Defendant's Motion to Supplement Record and takes matter under advisement.
03/01/2021	Plaintiff's Supplemental Memorandum of Judicial Review
03/19/2021	RCCG Jesus House DC's and Defendant's Joint Supplemental Post Hearing Memorandum of Law
03/19/2021	Plaintiff's Supplemental Memorandum of Statutory Requirements
06/04/2021	Planning Board's decision affirmed.

HMF Paving Contractors Inc. v. Maryland-National Park and Planning Commission

Case No. 483255-V (CD)

Lead Counsel: Adams
Other Counsel:

Abstract: Dispute over whether or not an allowance should be made and additional monies paid regarding the measurement (and relative cost) of the retaining wall at Greenbriar Local Park.

Status: Matter stayed.

Docket:

08/25/2020	Complaint filed
11/01/2020	Commission served
11/25/2020	Motion to Dismiss
12/28/2020	Opposition to Motion to Dismiss
03/12/2021	Consent motion to postpone hearing and stay case.
03/15/2021	Order of Court. Matter stayed for 90 days.

Hitchcock v. Maryland-National Park and Planning Commission

Case No. 485337-V (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Hitchcock filed appeal of Workers' Compensation Commission determination that he did not sustain a compensable accidental injury on June 5, 2020.

Status: In discovery.

Docket:

04/06/2021	Petition for Judicial Review filed
04/06/2021	Response to Petition
09/10/2021	Pretrial hearing

Izadjoo v. Maryland-National Park and Planning Commission

Case No. 485175-V (ED)

Lead Counsel: Harvin
Other Counsel:

Abstract: Izadjoo filed an appeal of the Merit Board decision of February 25, 2021 denying his appeal of the Montgomery County Department of Parks' denial of grievance 20-14 regarding his 2020 Annual Performance Evaluation.

Status: Awaiting Oral Argument.

Docket:

03/22/2021	Petition for Judicial Review filed
04/19/2021	Response to Petition
08/20/2021	Oral Argument

Kosary v. Montgomery County Planning Board

Case No. 476283-V (AALU)

Lead Counsel: Mills
Other Counsel:

Abstract: Judicial Review of Montgomery County Planning Board's approval of Primrose School Preliminary Forest Conservation Plan CU-18-08.

Status: Case stayed.

Docket:

12/06/2019	Petition for Judicial Review filed
12/11/2019	Planning Board's Motion to Dismiss filed
12/12/2019	Response to Petition for Judicial Review filed
12/19/2019	Petitioner's Supplemental Petition for Judicial Review filed
12/23/2019	Petitioner's Response to Motion to Dismiss filed.

01/21/2020	Motion to Dismiss denied as moot.
01/22/2020	Petitioner's Motion for Stay and Request for Hearing.
02/06/2020	Primrose School Opposition to Motion to Stay.
02/28/2020	Motion for Stay Granted
03/03/2020	Case stayed pending resolution from County Hearing Examiner
03/26/2020	Petitioner's interim report on status of administrative proceedings
03/24/2021	Petitioner's second interim report on status of administrative proceedings.
03/24/2021	Petitioner's Motion to Defer entry of dismissal
03/26/2021	Order of Court. Motion to Defer dismissal granted.

Snoots v. Commission
Case No. 485170-V (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Petition for Judicial Review of Workers' Compensation Commission determination that not permanently totally disabled.

Status: Appeal resolved via full and final settlement of claim.

Docket:

03/19/2021	Petition for Judicial Review filed.
03/23/2021	Response to Petition and Cross- Petition

Structural Engineering Group Inc. v. Maryland-National Capital Park and Planning Commission
Case No. 483234-V (CD)

Lead Counsel: Dickerson
Other Counsel: Johnson

Abstract: Construction change order dispute and time delay claim related to greenhouse at Brookside Gardens.

Status: In discovery.

Docket:

08/21/2020	Complaint filed.
08/31/2020	Commission served.
09/29/2020	Motion to Dismiss or in the Alternative for Summary Judgment filed.
10/09/2020	Opposition to Motion to Dismiss filed.
12/09/2020	Motions hearing held.
12/09/2020	Motion to Dismiss or in the alternative for Summary Judgment denied.
12/28/2020	Answer to Complaint filed.
01/27/2021	Order of Court for Alternative Dispute Resolution

CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

6525 Belcrest Road, LLC v. Dewey, L.C., et al.

Case No. CAE 20-11589 (AALU)

Lead Counsel: Dickerson
Other Counsel: Harvin

Abstract: Declaratory Judgment Action filed over a dispute involving a parking parcel. Plaintiff contends that Defendants have misconstrued prior approvals of the Planning Board regarding the need for parking in a manner that will harm their interests. Plaintiff seeks to enjoin the Planning Board from approving a Detailed Site Plan.

Status: Case stayed.

Docket:

04/14/2020	Complaint filed
06/05/2020	Commission served
07/06/2020	Answer filed by Commission
07/21/2020	Motion to Dismiss filed by Defendant Dewey, L.C.
07/23/2020	Motion to Dismiss filed by BE UTC Dewey Parcel, LLC
08/20/2020	Opposition to Motion to Dismiss
09/14/2020	Defendant, Dewey, L.C.'s Reply Response in Support of its Motion to Dismiss or Stay and Request for hearing
09/16/2020	Defendant, BE UTC Dewey Parcel, LLC's Reply in Support of Motion to Dismiss and Request for hearing
10/22/2020	Motions Hearing continued
10/26/2020	Defendants Dewey L.C. and Bald Eagle Partners, Inc. Line Requesting Judicial Notice of Arbitrator's Decision
12/23/2020	Motions hearing held. Court takes under advisement.
01/11/2021	Order of Court - case is stayed pending resolution of the current arbitration proceedings; further ordered that a status hearing in this matter be scheduled.
02/17/2021	Arbitrator's decision filed.
04/02/2021	Status hearing.
05/20/2021	Suggestion of Bankruptcy filed.
05/24/2021	Case stayed.
06/28/2021	Defendants Dewey L.C. and Bald Eagle Partners, Inc.'s Request to Lift Stay.

Alexander v. Proctor
Case No. CAL19-37187 (Tort)

Lead Counsel: Adams
Other Counsel:

Abstract: Officer Proctor deployed his Commission issued pepper spray when an unknown individual was observed wearing police-type gear and approaching our police substation. The individual failed/refused to stop leading to the Officer deploying his pepper spray to stop and subsequently arrest the individual. Mr. Alexander (the individual) asserts that the stop was without Reasonable Articulate Suspicion/Probable Cause and therefore was unlawful and the amount of force used was excessive.

Status: In discovery.

Docket:

11/20/2019	Complaint filed
12/06/2019	Proctor served
12/09/2019	Commission served
01/03/2020	Commission's Motion to Dismiss filed
01/23/2020	Motion to Dismiss denied. Plaintiff to file Amended Complaint on or before 02/07/2020.
02/08/2020	Amended Complaint filed
02/21/2020	Motion to Strike Amended Complaint or in the alternative to Dismiss
03/09/2020	Opposition to Motion to Strike
03/27/2020	Court orders matter to be set in for hearing on Motion
05/06/2020	Motion to Quash and for Protective Order
05/06/2020	Plaintiff's Opposition to Motion to Quash and for Protective Order
05/22/2020	Order of Court – Motion to Quash and for Protective Order held in abeyance
06/19/2020	Motions Hearing postponed due to COVID-19
09/16/2020	Motions Hearing held.
9/23/2020	Order of Court – Motion to Strike or in the alternative Motion to Dismiss denied. Motion to Quash and for Protective Order moot. Case to continue to due course.
9/30/2020	Answer to Amended Complaint filed.
6/08/2021	Stipulated Order Regarding Confidentiality of Discovery Material

Frederick Bey v Dick, et al.
Case No. CAL20-04013 (Tort)

Lead Counsel: Dickerson
Other Counsel: Johnson

Abstract: Plaintiff claims injury in the course of using weight room at Allentown Splash and Fitness Center allegedly due a defect in the equipment as a result of negligence on the part of Commission staff and has sued a Commission employee who has not been properly served.

Status: Court vacated contemplated dismissal due to inactivity.

Docket:

02/03/2020	Complaint filed
03/20/2020	Affidavit of Service – claims served Romekia Dick on 3/12/20 by certified mail –was only mailed to a facility address where she no longer worked and was never served.
03/30/2021	Notice to Parties of Contemplated Dismissal of Case
04/21/2021	Motion for Show Cause Order of Default filed
05/24/2021	Order of Court, Plaintiff's Motion granted. Plaintiff to file a Request for Order of Default within 30 days if the Defendant does not file an answer beforehand.
06/01/2021	Request for Default Judgment
06/15/2021	Commission's Motion to Dismiss filed

Brown v. City of Bowie, et al.
Case No. CAL19-35931 (Tort)

Lead Counsel: Harvin
Other Counsel:

Abstract: Injuries resulting from an event at Trap and Skeet location owned by the Commission. Defendants include the individual who discharged a weapon, a volunteer assigned to the group that day and Shooting Stars Shotgun Sports, LLC, an entity that provides shooting instructors at that location.

Status: In discovery.

Docket:

11/15/2019	Complaint filed
01/27/2020	Defendant City of Bowie's Motion to Dismiss or in the Alternative for Summary Judgment
02/05/2020	Summons reissued for Commission
02/13/2020	Opposition to City of Bowie's Motion to Dismiss
02/26/2020	Defendant Daughtery's answer filed
03/13/2020	Commission served
04/08/2020	Commission's Answer filed
05/15/2020	Motions Hearing on City's Motion to Dismiss – continued due to pandemic
9/18/2020	Amended Complaint and Jury Trial

9/21/2020	Second Amended Complaint
9/24/2020	Hearing on Defendant City of Bowie's Motion to Dismiss and/or Summary Judgment. Motion to Dismiss is denied. Motion for Summary Judgment is granted based upon governmental immunity.
10/28/2020	Third Amended Complaint filed
12/08/2020	Answer to complaint by Defendant Knode
02/16/2022	Trial

Coakley & Williams Construction v. Commission

Case No. CAL 20-13593 (CD)

Lead Counsel: Adams
Other Counsel: Dickerson

Abstract: Breach of contract regarding work done at the Southern Area Aquatics Recreation Center.

Status: Motions pending.

Docket:

07/15/2020	Complaint filed
09/15/2020	Commission served
10/08/2020	Motion to Dismiss filed
10/27/2020	Opposition to Motion to Dismiss
01/11/2021	Motion to Quash and for Protective Order
04/02/2021	Order of Court. Motion to Quash denied.
04/02/2021	Order of Court. Motion to Dismiss Granted in part. Plaintiff to amend complaint within 15 days to correct the legal name of Defendant. The remaining issues in the Motion to Dismiss are denied.
04/14/2021	First Amended Complaint filed
05/04/2021	Commission Answer to First Amended Complaint and Jury Demand
07/25/2021	Pretrial Conference

Commission v. Batson
Case No. CAL19-24204 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: The Commission filed for Judicial Review on the record of WCC order regarding surgical authorization for leg causally related to accidental injury.

Status: Case settled and dismissed. Remanded to Workers' Compensation Commission.

Docket:

07/26/2019	Petition for Judicial Review filed
08/19/2019	Batson's Notice of Intent to Participate, Jury Demand
08/22/2019	Commission's Motion to Strike Request for De Novo Review and Request for Jury Demand
09/03/2019	Opposition to Motion to Strike filed
09/06/2019	Memo in Support of on the record Judicial Review filed
10/02/2019	Order of Court- Commission's Motion to Strike Request for De Novo Review and Request for Jury Trial denied. Case to proceed De Novo before a jury.
11/21/2019	Motion to Bifurcate filed by Commission in an attempt to litigate the dispositive legal issue preliminarily before any de novo trial.
12/16/2019	Motion to Bifurcate denied.
05/21/2021	Motion to Dismiss Appeal and Remand to Workers' Compensation Commission.
06/03/2021	Order of the Court. Case Dismissed and Remanded to the Workers' Compensation Commission for consideration and approval of the Agreement of Final Compromise and Settlement.

Deutsche Bank National Trust Company v Commission
Case No. CAE21-03810 (Misc.)

Lead Counsel: Dickerson
Other Counsel: Johnson

Abstract: Action seeking to quiet title as to alleged encroachment on Commission land.

Status: Complaint filed.

Docket:

04/08/2021	Complaint filed
05/07/2021	Commission served
06/21/2021	Commission's Motion to Dismiss filed

Getnet v. Maryland-National Capital Park and Planning Commission

Case No. CAL 20-13268(Tort)

Lead Counsel: Harvin
Other Counsel: Johnson

Abstract: Tort suit for injuries allegedly sustained when visitor fell through decking at a historic property not owned by the Commission.

Status: In discovery.

Docket:

07/06/2020	Complaint filed
07/29/2020	Commission served
08/20/2020	Motion to Dismiss filed
09/10/2020	Amended Complaint
09/11/2020	Opposition to Motion to Dismiss
09/22/2020	Amended Complaint
10/09/2020	Answer filed.
11/02/2020	2 nd Amended Complaint filed
11/06/2020	Defendant Montgomery County's Motion to Dismiss 2 nd Amended Complaint
12/03/2020	Case dismissed as to Montgomery County only
03/04/2021	3 rd Amended Complaint filed
04/19/2021	Defendant/Cross-Plaintiff, Kadcon Corporation's Cross-Claim against Defendants/Cross-Defendants filed
05/19/2021	Robert Stillman Associates Answer to 3 rd Amended Complaint and Cross-Claim
05/19/2021	Bell Architects Answer to 3 rd Amended Complaint and Cross-Claim
02/22/2022	Trial

Gibson v. Commission

Case No. CAL 20-15318 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Claimant seeks judicial review of an order from the Workers' Compensation Commission denying causal connection of back injury to the accidental injury of October 20, 2017.

Status: Case Remanded to Workers' Compensation Commission

Docket:

09/03/2020	Petition for Judicial Review filed
09/18/2020	Response to Petition and Expert Designation
05/10/2021	Appeal resolved. Motion to Dismiss Appeal and remand to Worker's Compensation Commission filed.
06/02/2021	Joint Motion to Remand to Workers' Compensation Commission

06/10/2021	Order of Court. Case remanded to Workers' Compensation Commission
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Heard v. Maryland-National Capital Park and Planning Commission

Case No. CAL 20-14095(AALU)

Lead Counsel: Warner
Other Counsel: Goldsmith

Abstract: Judicial review of the Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-05068 and denial of March 31, 2020, request for document under the Maryland Public Information Act.

Status: Petition for Judicial Review filed.

Docket:

07/30/2020	Petition filed
08/16/2020	Commission notified by Court.
08/31/2020	Response to Petition for Judicial Review filed.
03/02/2021	Notice of Partial Voluntary Dismissal (MPIA claim) against Commission
09/24/2021	Oral Argument

Hoening v. Commission

Case No. CAL 20-07257 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Claimant seeks judicial review of February 7, 2020 order from the Workers' Compensation Commission regarding extent of disability.

Status: Case Remanded to Workers' Compensation Commission

Docket:

03/04/2020	Petition for Judicial Review filed
03/16/2020	Response to Petition and Expert Designation
05/24/2021	Joint Motion to Dismiss Appeal and Remand to Workers' Compensation Commission.
06/02/2021	Order of Court. Case Dismissed and Remanded to Workers' Compensation Commission.

Jackson v. Prince George's County Sports & Learning Complex

Case No. CAL19-21516 (Tort)

Lead Counsel: Harvin
Other Counsel:

Abstract: Injury to a minor allegedly related to use of equipment at the Sports & Learning Complex.

Status: In discovery.

Docket:

07/15/2019	Complaint filed
01/22/2020	Commission accepted service
01/27/2020	Complaint to be amended to reflect Commission as party.
02/04/2020	Amended Complaint filed
03/18/2020	Commission served
04/08/2020	Commission's answer filed.
09/02/2021	Trial

King v. Commission

Case No. CAL 19-30096 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Claimant seeks judicial review of an order from the Workers' Compensation Commission denying authorization for neck surgery.

Status: Awaiting trial.

Docket:

09/23/2019	Petition for Judicial Review filed
10/03/2019	Commission filed Response to Petition.
04/7/2022	Trial

Melito v Commission
Case No. CAL 21-03760 (ED)

Lead Counsel: Dickerson
Other Counsel:

Abstract: Plaintiff seeks to secure administrative meeting or hearing on termination, former employee claims were denied.

Status: Motions pending.

Docket:

04/01/2021	Complaint filed
04/22/2021	Commission served
05/20/2021	Motion to Dismiss filed
06/04/2021	Plaintiff's Opposition to Motion to Dismiss filed.

Montague v. Newton White Mansion
Case No. CAL 20-05753 (Tort)

Lead Counsel: Harvin
Other Counsel:

Abstract: Claim related to slip and fall on ice at Newton White Mansion.

Status: In discovery.

Docket:

02/13/2020	Complaint filed.
06/19/2020	Amended Complaint filed.
07/21/2020	Answer filed.
09/15/2021	Trial.

Murray v. Commission
Case No. CAL 20-16372 (WC)

Lead Counsel: Foster
Other Counsel:

Abstract: Claimant seeks judicial review of an order from the Workers' Compensation Commission that held claimant is not permanently and totally disabled.

Status: In discovery.

Docket:

09/18/2020	Petition for Judicial Review filed
10/05/2020	Response to Petition for Judicial Review and Expert Designation
10/13/2020	Subsequent Injury Fund's Response to Petition for Judicial Review
10/13/2020	Subsequent Injury Fund's Cross-Petition for Judicial Review

10/21/2020	Claimant's Response to Cross-Petition
10/27/2020	Commission's Response to Cross-Petition
10/27/2020	Notice of Cross-Appeal
08/11/2021	Trial

Nuzback, Kathryn A. , Revocable Trust v. Commission

Case No. CAL 20-13248 (Misc.)

Lead Counsel: Harvin
Other Counsel: Dickerson

Abstract: Action filed against the Commission and Prince George's County to obtain documents pertaining to a Maryland Public Information Act request.

Status: Awaiting hearing.

Docket:

07/01/2020	Complaint filed.
10/09/2020	Commission Answer filed
01/14/2021	Line Requesting Order of Default against Prince George's County Department of Permitting Inspection Enforcement
05/25/2021	Order of Default against Defendant Prince George's County Department of Permitting Inspection Enforcement
05/27/2021	Certified Judgment Notice as to Prince George's County Department of Permitting Inspection and Enforcement
06/28/2021	Hearing

Simmons, et al. v. Prince George's Planning Board

Case No. CAL 21-00308 (AALU)

Lead Counsel: Warner
Other Counsel: Goldsmith

Abstract: Judicial Review of Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-20006 (Freeway Airport)

Status: Petition for Judicial Review filed.

Docket:

01/07/2021	Petition for Judicial Review filed
01/27/2021	Commission's Response to Petition
02/10/2021	Response to Petition for Judicial Review by Freeway Realty, LLC
06/11/2021	Oral Argument held. Prince George's County Planning Board's Motion to Dismiss Granted.
06/17/2021	Case Dismissed.

Snyder v. State of Maryland, et al.
Case No. CAL 20-13024 (Tort)

Lead Counsel: Adams
Other Counsel:

Abstract: Tort suit for injuries allegedly sustained when tennis player allegedly tripped in hole of divider net and broke clavicle.

Status: In discovery.

Docket:

06/19/2020	Complaint filed.
07/27/2020	Commission's Motion to Dismiss
07/27/2020	Motion to Transfer Venue
08/11/2020	Opposition to Motion to Dismiss
08/25/2020	State of Maryland's Motion to Dismiss
09/10/2020	Amended Complaint.
10/30/2020	2 nd Amended Complaint filed
04/21/2021	Order of Court. Consent Motion Granted; and the Defendants, M-NCPPC and L. Gertzog, shall have until 5/5/2021 to file a response to the second Amended Complaint.
05/04/2021	Commission and L. Gertzog's Answer to 2 nd Amended Complaint

Wolf, et al. v. Planning Board of Prince George's County
Case No. CAL20-14895 (AALU)

Lead Counsel: Warner
Other Counsel: Goldsmith

Abstract: Judicial Review of the Prince George's County Planning Board's approval of Preliminary Plan of Subdivision 4-18001 (Magruder Pointe).

Status: Awaiting decision on Motions.

Docket:

08/19/2020	Petition for Judicial Review filed.
09/29/2020	Notice of Intent to Participate
09/29/2020	Motion to Dismiss filed by Werrlein WSSC, LLC
10/13/2020	City of Hyattsville's Notice of Intent to Participate
10/19/2020	Response to Petition for Judicial Review
10/19/2020	Planning Board's Motion to Dismiss filed
10/27/2020	City of Hyattsville's Opposition to Motion to Dismiss filed
11/30/2020	Motion to Consolidate with cases CAL19-21492, City of Hyattsville v. Prince George's County District Council and CAL19-22819 Eisen v. Prince George's County District Council
12/28/2020	Opposition to Motion to Dismiss
03/03/2021	Motions hearing held. Taken under advisement.

MARYLAND COURT OF SPECIAL APPEALS

Benton v. Woodmore Overlook Commercial, LLC

CSA-REG-2118-2019 (AALU)

(Originally filed under CAL19-14488 in Prince George's County)

Lead Counsel: Borden
Other Counsel: Goldsmith

Abstract: Judicial Review of decision of the Prince George's County Planning Board No. 19-32, File No. 4-180007. Benton failed to appear at judicial review hearing in Circuit Court and his petition was dismissed without an opinion. Benton filed for reconsideration which was also denied. Benton appealed the denial of the motion for reconsideration.

Status: Petition for Writ of Certiorari filed.

Docket:

12/19/2019	Appeal filed
02/11/2020	Show Cause issued by Court regarding non-lawyer representing corporate entities
02/25/2020	Response to Show Cause filed
03/04/2020	Order of Court. Show Cause satisfied, appeal to proceed.
05/07/2020	Motion for Emergency Ex Parte Temporary Restraining Order Pending Appeal and Order to Show Cause Why a Preliminary Injunction Should Not Be Issued
05/13/2020	Commission's Response to Motion filed.
05/18/2020	Appellant's Motion for Leave & Notice of Intent to Respond to Commission's Opposition to Temporary Restraining Order Pending Appeal
05/26/2020	Appellant's Motion for Leave of the Maryland Rules Regard the Page Limit, Word Count, Content or Form of Appellant's Motion for Temporary, Preliminary and Permanent Injunction.
06/03/2020	Woodmore Overlook's Motion to Join in Commission's Opposition and Response to Appellant's Motion for Temporary Restraining Order and Preliminary Injunction.
06/04/2020	Order of the Court. Appellant's Motion's denied.
06/23/2020	Appellant Brief and Record Extract filed
06/30/2020	Order – Appellee to refile brief in compliance with Maryland Rules by 8/28/2020
08/03/2020	Petition for Writ of Certiorari
10/22/2020	Summary Notice from Court. Matter to be decided without oral argument
10/23/2020	Petition for Writ of Certiorari denied
03/18/2021	Circuit Court decision affirmed.
04/20/2021	Mandate. Circuit Court decision affirmed. Costs to be paid by appellant.
05/21/2021	Petition for Writ of Certiorari

Benton v. Woodmore Overlook Commercial, LLC

CSA-REG-0707-2020 (AALU)

(Originally filed under CAL20-13237 in Prince George's County)

Lead Counsel: Warner
Other Counsel: Goldsmith

Abstract: Judicial Review of decision of the Prince George's County Planning Board on Preliminary Plan of Subdivision 4-18007, Woodmore Overlook Commercial. Before the parties filed legal memoranda, in the Circuit Court and before the court held oral argument, and before the Planning Board had a chance to transmit the agency record, the developer's attorney filed a motion to dismiss based on, among other things, lack of standing. The Circuit Court granted the motion to dismiss. Benton appealed.

Status: Appeal filed.

Docket:

09/09/2020	Appeal filed
10/27/2020	Motion to Dismiss
11/18/2020	Motion to Dismiss denied

Stewart, et al. v. Prince George's Planning Board, et al.

Case No. CSA-REG-0038-2021 (AALU)

(Originally filed as Case No. CAL20-11215 in Circuit Court Prince George's County)

Lead Counsel: Goldsmith
Other Counsel:

Abstract: Appeal from Circuit decision affirming Prince George's County Planning Board's approval of GB Mall Limited Partnership/Quantum Company Preliminary Plan Case No.4-19023

Status: In mediation.

Docket:

03/08/2021	Appeal filed
06/07/2021	Mediation

MARYLAND COURT OF APPEALS

Benton v. Woodmore Overlook Commercial, LLC

COA-PET-0113-2021(AALU)

(Petition from CSA-REG-2118-2019, originally filed under CAL19-14488 in Prince George's County)

Lead Counsel: Borden
Other Counsel: Goldsmith

Abstract: Judicial Review of decision of the Prince George's County Planning Board No. 19-32, File No. 4-180007. Benton failed to appear at judicial review hearing in Circuit Court and his petition was dismissed without an opinion. Benton filed for reconsideration which was also denied. Benton appealed the denial of the motion for reconsideration.

Status: Petition for Cert. filed.

Docket:

05/21/2021	Petition for Writ of Cert.
06/08/2021	Joint Motion to Dismiss filed

U.S. DISTRICT COURT OF MARYLAND

Beck v. Montgomery County Department of Parks, et al.

8:20-cv-03305 PX (ED)

Lead Counsel: Dickerson
Other Counsel: Foster

Abstract: Plaintiff alleges discrimination on the basis of disability under the ADA and FMLA.

Status: In discovery.

Docket:

11/14/2020	Complaint filed
01/13/2021	Commission served
02/02/2021	Answer filed

Evans v. Commission, et al.
8:19-cv-02651 TJS (ED)

Lead Counsel: Dickerson
Other Counsel: Foster

Abstract: Plaintiff, police lieutenant, filed a complaint against the Commission and four individual defendants, alleging discrimination, retaliation and assorted negligence and constitutional violations.

Status: In discovery.
Docket:

09/11/2019	Complaint filed
10/23/2019	Notice of Intent to file Motion for More Definite Statement filed by Defendants Commission, McSwain, and Riley
10/24/2019	Notice of Intent to file Motion for More Definite Statement filed by J. Creed on behalf of Defendant Murphy
10/28/2019	Notice of Intent to File a Motion for More Definite Statement filed by attorney C. Bruce on behalf of Defendant Uhrig
11/26/2019	Status Report filed by Plaintiff agreeing to file Amended Complaint specifying against whom each claim is asserted and dates of alleged events.
12/10/2019	Amended Complaint filed.
12/23/2019	Notice of Intent to file a Motion to Dismiss filed by all defendants
01/09/2020	Order granting Plaintiff leave to file Amended Complaint
01/16/2020	Second Amended Complaint filed
02/14/2020	Joint Motion to Dismiss filed by all Defendants
03/20/2020	Opposition to Motion to Dismiss
03/20/2020	Motion for Leave to file Third Amended Complaint
03/20/2020	Third Amended Complaint
04/17/2020	Plaintiff's Reply to Defendants' joint Opposition to Plaintiff's Motion for Leave to file Third Amended Complaint.
05/07/2020	Order granting Motion for Leave to File Third Amended Complaint; denying as moot Defendants' Joint Motion to Dismiss; granting defendants leave to renew their Joint Motion to Dismiss by May 22, 2020.
06/05/2020	Joint Motion to Dismiss for Failure to State a Claim filed by Commission, McSwain, Murphy, Riley and Uhrig.
07/10/2020	Motion for Leave to File Excess Pages
07/16/2020	Order granting in part and denying in part Motion for Leave to file Excess Pages and directing the Plaintiff to file a brief by 7/23/2020
07/23/2020	Response in Opposition to Joint Motion to Dismiss for Failure to State a Claim
08/06/2020	Response to Motion for Leave to file Excess Pages.
08/06/2020	Reply to Opposition to Joint Motion to Dismiss.

11/13/2020	Defendants' Motion to Dismiss granted in part. Counts 4, 5, part of 6 and 7 -10, part of 11, and 12 dismissed. Counts, 1 -3, part of 6 and 11, 13 -15 will proceed at this stage. Defendants to file an answer to remaining claims.
11/27/2020	Answer filed.
01/11/2021	Order – Case referred to Magistrate Judge Timothy J. Sullivan generally and to Magistrate Judge Jillyn K. Schulze for mediation
01/15/2021	Joint Consent to Proceed before Magistrate
01/28/2021	Order of Court re mediation week of May 17, 2021.
06/08/2021	Order Regarding Confidentiality of Discovery Material.