



THE MARYLAND-NATIONAL CAPITAL
Park and Planning Commission

COMMISSION MEETING

December 20, 2023

10:00 a.m. – 12:00 p.m.

**Prince George's
Parks and Recreation Administration**

Auditorium

6600 Kenilworth Avenue
Riverdale, Maryland 20737

and via teleconference

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MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
MEETING AGENDA

Wednesday, December 20, 2023

10:00 am to 12:00 noon

Hybrid – Online & Prince George’s Parks and Recreation Administration Building Auditorium, Riverdale

		<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 – November 15, 2023	(*) Page 3	
3.	General Announcements (10:05 a.m.)		
	a) National Human Rights Month		
	b) National Drunk and Drugged Driving Prevention Month		
	c) Global AIDS Awareness Month		
	d) Prince George’s County Department of Parks and Recreation Winter Festival of Lights at Watkins Park		
	e) Montgomery County Parks Winter Garden of Lights Walk through at Brookside Gardens		
	f) Diversity Council Openings for 2024		
4.	Committee Minutes/Board Reports (For Information Only) (10:10 a.m.)		
	a) Employees Retirement Association Board of Trustees Regular Meeting - November 7, 2023	Page 7	
5.	Action and Presentation Items (10:15 a.m.)		
	a) Amendments to Practice 2-24 Ethics, Section I(G): Post-Employment Restrictions (Harvin/Beckham) (for information only)	Page 11	
	b) Resolution 23-26 Rustic Roads functional Master Plan Update (Pratt)	(*) Page 49	
	c) Resolution 23-30 Henson Creek Sector Plan (Clouatre)	(*) Page 73	
	d) Resolution 23-31 Land Exchange Agreement of Kathmandu Property in Walker Mill Regional Park in exchange for public utility easement and storm drain easement (Sun)	(*) Page 133	
	e) Resolution 23-32 Perpetual Stormwater Management Easement Agreement in Walker Mill Regional Park (Sun)	(*) Page 133	
	f) Resolution 23-27 FY2025 Employer Contribution for Retiree Group Health Insurance (115 Trust) (Cohen)	(*) Page 153	
	g) Resolution 23-28 Employees’ Retirement System Plan Amendment (Rose)	(*) Page 185	
	h) Resolution 23-29 Approval of the FY2025 Proposed Operating and Capital Budget (Knaupe)	(*) LD	
6.	Officers’ Reports (11:40 a.m.)		
	<u>Executive Director’s Report</u>		
	a) Late Evaluation Report, Nov 2023 (For Information Only)	Page 315	
	b) Quarterly Budget Transfers Report (For Information Only)	Page 317	
	c) CAS Annual Report	Page 321	
	<u>Secretary Treasurer</u>		
	<i>No report scheduled</i>		
	<u>General Counsel</u>		
	d) Litigation Report (For Information Only)	Page 351	

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

Commission Meeting
Open Session Minutes
November 15, 2023

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

PRESENT

Prince George's County Commissioners

Peter A. Shapiro, Chair
Dorothy Bailey
William Doerner
Manuel Geraldo

Montgomery County Commissioners

Artie Harris, Vice Chair
Shawn Bartley
Mitra Pedoeem

NOT PRESENT

A. Shuanise Washington

James Hedrick
Josh Linden

Chair Shapiro called the meeting to order at 10:01 a.m.

ITEM 1 APPROVAL OF COMMISSION AGENDA

ACTION: See item 2

ITEM 2 APPROVAL OF COMMISSION MINUTES

Open Session – 10/18/23

Motion by Commissioner Geraldo to adopt the 11/15/23 Agenda and 10/18/23 Open Session Minutes

Seconded by Bailey

7 approved the 11/15/23 agenda

7 approved the 10/18/23 minutes

ITEM 3 GENERAL ANNOUNCEMENTS

- a) Thanksgiving & Employee Appreciation Day Holidays
- b) National American Indian Heritage Month (MD American Indian Heritage Day Nov 24)
- c) "Great American Smoke Out" Nov 16
- d) Military Family Appreciation Month
- e) Upcoming Festival of Lights and Winter Garden Walk through in Prince George's and Montgomery Counties
- f) Upcoming One-Commission Holiday Event
- g) Diversity Council Openings for 2024

ITEM 4 COMMITTEE AND BOARD REPORTS (For Information Only)

- a) Employees' Retirement System Board of Trustees Regular Meeting Minutes, October 3, 2023

ITEM 5

ACTION/PRESENTATION ITEMS

- a) Update on Commission-wide Performance Metrics Project (Martin O'Malley)
Executive Director Asuntha Chiang-Smith introduced former Maryland Governor Martin O'Malley, representing Guidehouse consultants to speak about the development and progress of its M-NCPPC performance metrics project, which began in mid-2022.

Topics discussed included the benefits of studying Performance Metrics for government agencies; assessing the M-NCPPC's Performance Culture; developing the timeline; and identifying three specific areas of study for the project:

- Supplier Diversity/Procurement
- Sustainability (based on the M-NCPPC Sustainability Plans)
- Human Resources (reducing workers compensation/liability claims and time to recruit new employees)

Guidehouse representatives also reviewed what has been learned and measured regarding those study areas, which systems could be identified as optimal performance measurement tools; and the implementation of the performance management system which will inform management decisions to develop policies, employ best practices, and streamline business processes.

Commissioner Pedoeem asked Guidehouse to take the opportunity to interview the new Montgomery County Planning Board since the Board is composed of entirely new members since the beginning of the project. Executive Director Chiang-Smith will speak with the Chair and members of the Montgomery County Planning Board to bring them up to date with Guidehouse's scope of initiatives, including the FY2025 budget impacts.

Chair Shapiro thanked the Guidehouse team and said he was sure there is opportunity to continue to have ongoing and robust discussions between Guidehouse and M-NCPPC's leadership.

- b) Resolution 23-22 Adoption of the Montgomery County Pedestrian Master Plan (Glazier)
Acting Director Stern briefly summarized the plan as reflected in the packet.

Discussion noted that the plan had been shared at several stages of development with surrounding counties, including Prince George's. Commissioner Doerner encouraged the transportation staff in Prince George's to work with Montgomery staff to develop a similar plan for Prince George's County. Acting Director King confirmed a pedestrian plan will be part of the Prince George's Master Plan of Transportation.

ACTION:

Motion by Commissioner Geraldo to adopt Resolution 23-22
Seconded by Commissioner Vice Chair Harris
7 voted in favor

- c) Resolution 23-24 Merit System Board Chair Reappointment: Tanya Upthegrove-Coleman (King)
No discussion.

ACTION:

Motion by Commissioner Bailey to adopt Resolution 23-22

Seconded by Geraldo

7 voted in favor

d) Resolution 23-25 Employer Contribution to the Employees' Retirement System (Rose/Cheiron)

Andrea Rose, Executive Director for the M-NCPPC Employees' Retirement System (ERS), introduced members of Actuarial firm Cheiron, Patrick Belson, Hanna Harris and Jana Bowers to review the actuarial valuation and contribution recommendation for Fiscal Year 2025, which has been vetted by the ERS Board of Trustees. Mr. Nelson presented information reflected in the packet.

Vice-Chair Harris asked if these numbers could be provided earlier in the future, to be reflected in draft budgets. Having an estimate of the contribution increase would have affected how some of the directors presented their departmental budgets. Ms. Rose discussed the timeline for collecting and analyzing data from the last fiscal year to provide the recommendation. Mr. Cranna said sharing salary and COLA negotiations earlier would help inform the contribution recommendation. Commissioner Pedoeem asked if risk factors could also be included in future estimations.

Chair Shapiro said M-NCPPC leadership would share that information with the ERS Board. He thanked Ms. Rose and the Cheiron representatives for their work.

ACTION:

Motion by Commissioner Geraldo to adopt Resolution 23-25

Seconded by Commissioner Doerner

7 voted in favor

e) Amendments to Practice 2-24 Ethics (Harvin/Beckham)

CPMO Director Harvin requested Commissioners to approve amendments to Practice 2-24 to create a comprehensive code of ethics, in compliance with state law. The updates will incorporate conflicts of interest, clarify existing policies, and placing in an omnibus policy, centralizing several different existing policies.

Mr. Beckham, Mr. Doaks and Mr. Stevens reviewed the amended practice, the background of 8 different policies to be combined into this new administrative practice, which would apply to all M-NCPPC employees, including commissioners, appointed officials, and represented and non-represented employees.

Several hypothetical questions were raised during the presentation, which staff said would be addressed by the addition of the position of the Ethics Officer, as laid out in the changes to the policy.

Commissioner Doerner requested changes to the Post-Employment Restrictions, specifically regarding lifetime restriction on topics with which the employee had substantial interest or participation in the topic. Executive Director Chiang-Smith asked Commissioners to forward any specific language changes to her and she would work with the policy team on amending the section.

Commissioners asked for language on post-employment restrictions to be revised. Staff will work with the legal department on the requested revisions and bring it back to the December meeting.

ACTION:

Motion by Commissioner Geraldo to approve the policy amendments, with changes incorporated to the Post-Employment Restrictions section as needed.

Seconded by Vice-Chair Harris

7 voted in favor

ITEM 6 OFFICERS' REPORTS

Executive Director's Report

a) Late Evaluation Report, October 2023 (For Information Only)

Secretary-Treasurer's Report

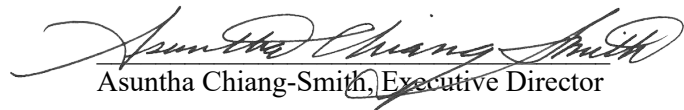
b) Other Post-Employment Benefits Trust Fund, June 30, 2023 (For Information Only)

General Counsel's Report

c) Litigation Report (For information only)

With no other business to discuss, Chair Shapiro adjourned the meeting at 12:38 p.m.


James 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, November 7, 2023; 10:00 a.m.
Kenilworth Office Building, Riverdale, MD
(Virtual Meeting via Microsoft Teams)

The Maryland-National Capital Park and Planning Commission (“Commission”) Employees’ Retirement System (“ERS”) Board of Trustees (“Board”) met virtually via Microsoft Teams with CHAIR SHAPIRO leading the call on Tuesday, November 7, 2023. The meeting was called to order at 10:01 a.m. by CHAIR SHAPIRO.

Board Members Present

Peter A. Shapiro, Board of Trustees Chair, Prince George’s County Commissioner
James Hedrick, Board of Trustees Vice Chair, Montgomery County Commissioner
Gavin Cohen, CPA, M-NCPPC Secretary-Treasurer, Ex-Officio
Sheila Morgan-Johnson, Prince George’s County Public Member
Elaine A. Stookey, Bi-County Open Trustee
Howard Brown, F.O.P Represented Trustee
Asuntha Chiang-Smith, M-NCPPC Executive Director, Ex-Officio
Theodore J. Russell III, Prince George’s County Open Trustee
Caroline McCarthy, Montgomery County Open Trustee
Pamela F. Gogol, Montgomery County Public Member
Lisa Blackwell-Brown, MCGEO Represented Trustee

Joined at 10:05 a.m.

Joined at 10:04 a.m.

ERS Staff Present

Andrea L. Rose, Executive Director
Jaclyn F. Harris, Deputy Executive Director
Sheila Joynes, Accounting Manager
Alicia C. Stanford, Administrative Specialist

Presentations

Cheiron – Janet Cranna, FSA, FCA, EA, MAAA, Patrick Nelson, FSA, CERA, EA, MAAA, and Jana Bowers, FSA, MAAA

ITEM 1. APPROVAL OF THE NOVEMBER 7, 2023, CONSENT AGENDA

ACTION: MR. RUSSELL made a motion, seconded by VICE CHAIR HEDRICK to approve the Consent Agenda of November 7, 2023. The motion PASSED (9-0). (Motion # 23-41).

ITEM 2. CHAIR’S ITEMS – No discussion or questions from the Trustees.

10:04 a.m. - Ms. McCarthy joined the meeting.

10:05 a.m. – Ms. Chiang-Smith joined the meeting.

ITEM 3. MISCELLANEOUS – Ms. Rose introduced the new Senior Retirement Benefits Analyst, Janet Hatcher, and M-NCPPC Office of General Counsel, Deputy General Counsel, Michael ‘Wes’ Aniton, who is replacing Ben Rupert as internal counsel for the ERS.

ITEM 4. CLOSED SESSION

ACTION: At 10:06 a.m., MS. CHIANG-SMITH made a motion, seconded by MS. GOGOL to go into Closed Session under authority of the General Provisions Article of the Annotated Code of Maryland Section 3-305(b)(5) to consider matters directly concerning the actual investment of public funds and Section 3-305(b)(7) to consult with counsel to receive guidance from legal counsel on matters related to such investments under the authority of this Board. The motion PASSED (11-0) (Motion #23-42).

During the Closed Session, the Board considered matters related to the investment of public funds and consulted with counsel to receive guidance from legal counsel on matters related to such investment under the authority of the Board. *Board of Trustees in Closed Session:* Chair Shapiro, Vice Chair Hedrick, Gavin Cohen, Sheila Morgan-Johnson, Theodore Russell III, Elaine Stookey, Caroline McCarthy, Howard Brown, Pamela Gogol, Lisa Blackwell-Brown, and Asuntha Chiang-Smith.

ITEM 5. CONSULTANT RECOMMENDATION

ACTION: MS. CHIANG-SMITH made a motion, seconded by VICE CHAIR HEDRICK to approve the Side Letter and proceed with the investment in Golub Capital Fund 15, L.P. as recommended by the Groom Law Group and to elect Pam Gogol as the ERS Trustee representative on the Fund’s Advisory Board. The motion PASSED (11-0). (Motion # 23-43).

ITEM 6. CONSULTANT PRESENTATION

CHEIRON – Presentation by Janet Cranna, FSA, FCA, EA, MAAA, Patrick Nelson, FSA, CERA, EA, MAAA, and Jana Bowers, FSA, MAAA

Cheiron conducted an educational session on the actuarial valuation process, historical trends, and the identification and assessment of risk prior to presenting the June 30, 2023 actuarial valuation results. As of June 30, 2023, the actuarial value of assets for the ERS increased by 3% to total \$1,136,158,437. Despite achieving asset gains for the fiscal year, the actuarial loss on investments was \$3.7 million. Plan experience for the fiscal year and the actuarial loss on investments resulted in a total actuarial liability loss of \$50.4 million. Therefore, ERS actuarial liability increased by 7% to \$1,293,754,448. As of June 30, 2023, the funded ratio (based on the actuarial value of assets) equaled 87.82%, down from 91.09% in 2022. The source of the actuarial loss can be primarily attributed to salary increases for the prior year being greater than expected, the retiree COLA being more than expected, and known salary adjustments for FY24. To meet the ERS’ funding objectives, Cheiron recommended an Actuarially Determined Contribution (ADC) of \$35,554,919 (17.95% of covered payroll) which is payable July 1, 2024 for fiscal year 2025.

The trustees discussed with Cheiron the impact of inflation and the current salary assumption. Cheiron noted that pay and COLA increases result in higher future benefits which typically lead to higher contributions. Trustees expressed concern that the salary assumption does not align with the actual plan experience. Cheiron explained that assumptions are normally reviewed during experience studies since the assumptions are long-term; however, if salary assumptions were going to remain high, a review could be conducted earlier. Chair Shapiro asked Ms. Rose to

coordinate with the Commission's Executive Director and Cheiron to determine whether a review of the salary assumption was warranted prior to the next experience study.

VICE CHAIR HEDRICK left the meeting at 11:29 p.m. MS. MORGAN-JOHNSON experienced technical difficulties.

ACTION: MR. COHEN made a motion, seconded by MS. McCARTHY to approve an Actuarially Determined Contribution of \$35,554,919 (17.95% of payroll) payable July 1, 2024 for fiscal year 2025. The motion PASSED (9-0). VICE CHAIR HEDRICK and MS. MORGAN-JOHNSON were absent for this vote. (Motion # 23-44).

ITEM 7. COMMITTEE REPORTS/RECOMMENDATIONS

Investment Monitoring Group

There were no comments, questions or action items related to the Investment Monitoring Group report.

ITEM 8. EXECUTIVE DIRECTOR'S REPORT

Ms. Rose presented the Executive Director's Report dated October 31, 2023. Ms. Rose informed the Board that the ERS was affected by the national direct deposit delay issue and staff were working with the ERS' payroll vendor to resolve the issue. Additionally, select members of the Administration & Personnel Oversight Committee ("Personnel Committee") and Staff will be evaluating the Request for Proposal submissions received for the Actuarial Audit. The Personnel Committee will use the November 21, 2023 meeting as a working session to discuss the responses and make a recommendation for the contract award to the Board at the December 5, 2023 meeting. Ms. Rose announced that Audax closed on the \$25 million commitment effective October 28, 2023 for the Audax Senior Loan Fund V investment. Lastly, Ms. Rose informed the Board that staff are working with B.F. Saul on the renewal of the existing cyber security insurance policy. The Commission's Chief Information Office recommended increasing coverage from \$3 million to \$5 million due to a rise in security attacks targeting businesses and government organizations. Travelers Insurance declined to increase the coverage to \$5 million, so B.F. Saul is soliciting additional quotes to acquire the recommended cyber security coverage. There was consensus from the Board to increase the cyber insurance coverage, contingent upon the availability of funds.

The Board meeting of November 7, 2023, adjourned at 12:00 p.m.

Respectfully,

Alicia C. Stanford

Alicia C. Stanford
Administrative Specialist

Andrea L. Rose

Andrea L. Rose
Executive Director

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THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

December 20, 2023

To: The Commission

Via: Tracey Harvin, Corporate Policy and Management Operations Director

From: Michael Beckham, Corporate Policy and Archives Chief

Subject: Post-Employment Restrictions

REQUESTED ACTION

The Commission is asked to approve proposed amendments to the agency's post-employment restrictions contained within the *Code of Ethics*, Administrative Practice 2-24 (Attachment A).

With the Commission's approval, the proposed revisions, which were developed in coordination with the Legal Department, will be finalized and promulgated.

BACKGROUND

At its November 15, 2023, meeting, the Commission approved the revised *Code of Ethics*, on the condition that the Corporate Policy Office work with the Office of General Counsel to determine whether certain revisions can be made to lessen post-employment restrictions. Commissioners asked staff to:

- a. Ensure former Commission employees will not be prohibited from **representing or assisting a State or local governmental entity** on a specific matter if the employee significantly participated in the same matter as a Commission employee. A matter can include a contract, application, permit, etc.;
- b. Revise the **definition of "significant participation"** to remove from its meaning, for example, the concepts of "making recommendations" or "rendering advice." Commissioners stated, by way of example, that a former Planner should not be prohibited indefinitely from working for another party on a project because they made recommendations on the same project as a Commission employee; and
- c. Consider **more lenient restrictions** on former employees who do not have decision-making authority, but rather advise or make recommendations on specific matters. Commissioners encouraged staff to examine federal ethics rules purported to allow for more flexibility and suggested creating a one to two-year ban **on assisting or representing another party on a matter that was the subject of the person's official duties** at the time of Commission employment.

The proposed amendments clarify that an employee may assist or represent another governmental entity, provided an actual or perceived conflict of interest is not created.

However, the Commission’s policy must be consistent with the Maryland Public Ethics Act and therefore cannot modify the definition of “significant participation.” The agency cannot create a more lenient restriction on former employees who do not have decision-making authority, but rather advise or make recommendations on specific matters. As discussed below, this is consistent with federal standards.

ANALYSIS

I. REPRESENTING OR ASSISTING A GOVERNMENTAL ENTITY

To more closely mirror the language used by the Public Ethics Act and emphasize a former Commission employee is not prohibited from assisting or representing a government entity on a specific matter in which the employee significantly participated as a Commission employee, staff recommend revising Section I(G)(1) of Administrative Practice 2-24, *Code of Ethics*, as follows:

1. ~~Except as provided in paragraph 2, a former employee who participated significantly in a particular matter or contract in their Commission position may not, after leaving Commission service,~~ assist or represent another party on a that specific matter or contract for compensation, if the matter involves the Commission and the former employee significantly participated in the matter as a Commission employee.
2. A former employee may assist or represent a governmental entity on a specific matter or contract in which the former employee significantly participated as a Commission employee, for compensation, provided an actual or perceived conflict of interest is not created.

See: Attachment A, Administrative Practice 2-24, Section I(G)(*Post-Employment Restrictions*)

Pursuant to Public Ethics Act, Section 5-823 (adoption of conflict of interest regulations), at a minimum, the conflicts of interest standards applicable to State employees shall apply to Commission employees. Public Ethics Act, Section 5-504(d)(1), on post-employment conflicts of interest standards for former unelected State employees, provides:

Except for a former member of the General Assembly, who shall be subject to the restrictions provided under paragraph (2) of this subsection, a former official or employee may not assist or represent a party, **other than the State**, in a case, a contract, or any other specific matter for compensation if:

- (i) The matter involves State government; and
- (ii) The former official or employee participated significantly in the matter as an official or employee.

[Emphasis added.]

Additional post-employment provisions of the Public Ethics Act apply to lobbying by former elected State officials and a secretary of a principal department of the State. These provisions are not directly applicable to the Commission.

II. **SIGNIFICANT PARTICIPATION**

The definition of “significant participation” included in the *Code of Ethics* cannot be modified, as this is the definition given by the State Ethics Commission.

In Advisory Opinion 21-01, the State Ethics Commission stated, in pertinent part:

Significant participation includes acting or failing to act in one’s official capacity, “personally and substantially, through approval, disapproval, decision, *recommendation, the rendering of advice* [emphasis added], investigation or otherwise.” Opinion No. 80-17. “[W]e have generally viewed participation as not being limited to final authority or responsibility for a matter. Providing advice and recommendations as to a matter, for example, is viewed as participation.” Opinion 97-13.

However, the post-employment restrictions have been “found not to apply where the former employee was only tangentially involved” in a matter. Opinion 83-12. In that opinion, the Commission advised the requestor to “continue to keep in mind the various matters in which he participated as a State employee and avoid any representation or assistance regarding these matters for any party other than the State.”

Here, to the extent a former Commission Planner “makes recommendations” or “renders advice” on a specific matter as a Commission employee, the former employee is prohibited indefinitely from representing or assisting a third party on the same specific matter involving the Commission.

Whether a former employee’s involvement in a specific matter is more than “tangential involvement” will require review, on a case-by-case basis, by the Ethics Officer based on the relevant facts and circumstances.

III. **MORE LENIENT RESTRICTIONS ON FORMER EMPLOYEES WITHOUT DECISION-MAKING AUTHORITY**

The Commission cannot create a more lenient rule that would remove the indefinite ban applicable to former employees who participate significantly in a specific matter as a Commission employee, even if the employee does not have decision-making authority on the matter. To do so would create a standard for Commission employees that is inconsistent with the standard applicable to State employees.

This indefinite prohibition is analogous to the federal rule which also imposes a lifetime ban on a former federal employee communicating with, or appearing before, any employee of the United States, with the intent to influence that employee on behalf of any other person on a particular matter involving specific matters in which the former federal employee participated personally and substantially. *See*, 18 U.S.C. Section 207(a)(1).

Furthermore, the federal government has standards that are more restrictive than the State. Unlike the Maryland Public Ethics Act, the federal government imposes a **two-year** ban on employees from communicating with, or appearing before, any employee of the United States with **the intent to influence that employee on behalf of any other person on a particular matter involving specific parties, and which was pending under the former employee’s official responsibility.** *See*, 18 U.S.C. Section 207(a)(2). For example, under the federal government, a matter is “pending” under an employee’s official responsibility if it has been referred to or is under consideration by any person they supervise. In this case, the employee does not have to have *significant participation* in the matter for the two-year ban to apply. *See*, 5 C.F.R. § 2641.202(j)(2).

Attachment A: Administrative Practice 2-24, *Code of Ethics*

**DRAFT AMENDMENTS TO ADMINISTRATIVE PRACTICE 2-24,
CODE OF ETHICS**

Key to Revisions:

Grey Highlighted: Recommended additions.

~~Strikeout:~~ Recommended deletions.

Bold Italics: Comments to Draft Reviewer.

AUTHORITY

Pursuant to Maryland Public Ethics Law, Article 40A, Annotated Code of Maryland 1957, 1990 replacement volume, and Division II of the Land Use Article of the Annotated Code of Maryland, the Commission approved amendments to this Practice on [TBD].

APPLICATION

This Administrative Practice applies to all employees, including Commissioners, Merit System employees, contract employees, and appointed officials. As to volunteers, only Section I(A) (Standard of Conduct) applies. To the extent an employee is a member of a collective bargaining unit, and any provision of this Code of Ethics directly conflicts with an applicable collective bargaining agreement, the collective bargaining agreement will control with respect to the area of conflict. To the extent other documentation of the employment relationship of an officer, director, or deputy director legally supersedes any provisions referenced herein, that superseding document would control in the event of a conflict. As to Commissioners, to the extent that any provision of this Code of Ethics conflicts with the General Provisions Article of the Maryland Code, Title 5 (Maryland Public Ethics Law), or **Section 15-120 of Division II of the Land Use Article of the Maryland Code**, the Maryland **Code Public Ethics Law** shall prevail.

RESCISSION

Practice 2-14 and accompanying Procedures 03-05, *Non-Commission Employment and Non-Commission Business*; Practice 2-15, *Employee Use of Commission Property*; Practice 2-72, *Conditions for Acceptance of Awards from Outside the Commission*; Practice 2-90, *Solicitations on Commission Property*; and Practice 5-70, *Financial Disclosure* are rescinded and replaced by this Practice.

CONTACT

General questions regarding this policy can be directed to the Policy Office by calling 301-454-1736 or by emailing policyreview@mncppc.org. For questions regarding interpretations and applicability, as well as reporting concerns, contact the Ethics Officer in the Office of the Office of General Counsel at 301-454-1671 (See Section V, Inquiries and Concerns).

1 **PURPOSE/**
2 **BACKGROUND**

The Commission initially approved Practice 2-24, Code of Ethics on June 16, 1991, to create a comprehensive Practice governing the M-NCPPC’s rules and regulations pertaining to conflicts of interest and ethical conduct. Employees of the Commission must maintain high professional and ethical standards in the performance of their official duties. This Code of Ethics establishes the framework for promoting ethical compliance.

This Code of Ethics addresses the ethical standards applicable to employees. Other Commission Administrative Practices and policies specifically address ethical responsibilities uniquely applicable to particular third parties, including but not limited to lobbyists (Practice 5-61, *Lobbying Disclosure*), volunteers, vendors, and others seeking to do business with the Commission (Practice 4-10 and the Commission’s *Procurement Manual*, including Section 2 (Ethics and Sanctions in Purchasing)).

Since its initial adoption, this Practice has been amended, as follows:

- January 9, 2023: Amended to reflect that nominal value is defined by the Executive Director, subject to consultation with the Chair and Vice Chair of the Commission, and in consideration of those amounts set by Prince George’s County, Montgomery County, and the State of Maryland.
- [TBA]: Amended to update Practice 2-24 and create a single, comprehensive, Code of Conduct, consistent with Maryland Public Ethics Act, Section 5-823 and 5-829 requiring the Commission to adopt conflict of interest and financial disclosure regulations substantially similar to those provisions found in Subtitles 5 and 6 of the Act.

30 **REFERENCES**

- Maryland Public Ethics Law, Article 40A, Annotated Code of Maryland 1957, 1990 replacement volume
- Section 15-120 of Division II of the Land Use Article of the Code of Maryland
- Administrative Practice 1-31, *Organization and Functions of the Audit Committee and Office of the Inspector General*
- Administrative Practice 2-28, *Composition, Privacy, and Disposition of Employment Records*
- Administrative Practice 2-16, *Seasonal/Intermittent, Term and Temporary Employment* and its accompanying Procedures 00-02
- Administrative Practice 3-31, *Fraud, Waste & Abuse*
- Administrative Practice 4-10, *Purchasing Policy, and accompanying Procedures 05-02, Procurement Manual*
- Administrative Practice 5-61, *Lobbying Disclosure*

- Administrative Practice 5-81, *Maryland Public Information Act Policy*, and accompanying Procedures 22-01, *MPIA Procedures Manual*
- Administrative Practice 6-10, *Vehicle Use Program*
- Administrative Practice 6-13, *Electronic Communications Policy*
- Administrative Procedures 21-01, *Business and Personal Use of Social Media*
- Administrative Procedures, 99-04, *Time and Attendance*
- Merit System Rules and Regulations

DEFINITIONS

Business means any for-profit or not-for-profit enterprise, including a corporation, general or limited partnership, sole proprietorship, joint venture, association, firm, institute, trust, or foundation. Business does not include a governmental entity.

Ceremonial gift means an item of customary and reasonable value normally given at functions such as dedications, inaugurations, initiations, awards, tributes, and retirements, but not limited to such events, where food, beverages, entertainment, and mementos (souvenirs) may be provided.

Ceremonial occasions mean functions such as dedications, inaugurations, initiations, awards, tributes, and retirements, but not limited to such events, where food, beverages, entertainment, and mementos (souvenirs) may be provided.

The Commission means: (a) the Maryland National Capital Park and Planning Commission which is the organizational entity referred to in this Practice, or (b) the 10-member voting body of the Maryland-National Capital Park and Planning Commission.

Commissioner means a member of the ten-member voting body of the Maryland-National Capital Park and Planning Commission, and a member of the respective five-member Planning Board for Montgomery County or Prince George's County.

Commission resources mean any service, asset, or property, whether physical, digital, electronic, virtual, or intellectual, owned, purchased, leased, or under contract with the Commission. Commission resources include, but are not limited to cash (currency, checks, money orders, credit card receipts); facilities; general equipment and tools; natural items (*e.g.*, plants, trees, mulch, compost, and firewood); vehicles and machinery; office equipment and supplies, including Commission stationery; computer hardware, software, and other electronic equipment; printers and copiers; telecommunication services such as telephones, mobile devices, facsimile machines, internet/intranet, electronic mail; data stored on, received by, or transmitted by the agency's operating systems or servers; Commission issued uniforms, and staff services delivered by Commission

1 employees, contractors, or volunteers; and rights under any license or other
2 agreement relating to intellectual property, know-how, and information of
3 commercial value, whether or not protected by patent, trademark, copyright, or
4 other legal entitlement.
5

6 **Compensation** means any money or thing of value, regardless of form, including
7 the sale or delivery of tangible or intangible property, that an employer pays or
8 agrees to pay for services rendered.
9

10 **Conflict of interest** means any circumstance or set of circumstances which
11 interfere with, appear to interfere with, or have the potential to interfere with, the
12 impartiality and independent judgment of an employee, inclusive of a
13 Commissioner, Appointed Officer, and Department Head. (See also: Maryland
14 Code, Land Use Art., § 15-120, *et seq.*; and Maryland Code, General Provisions
15 Art., §§ 5-501 and 5-502).
16

17 **Employee**, for the purposes of this Practice, means any person employed by the
18 Commission, whether employed on a full-time or part-time basis, as a Merit
19 System employee; Seasonal/Intermittent, Temporary, or Term contract employee;
20 Appointed Officer; Department Head; or, Commissioner, regardless of the
21 manner of entry into Commission service.
22

23 **Employer** means any person who pays or agrees to pay compensation for services
24 rendered.
25

26 **Employment or employ** means engaging in an activity for compensation.
27

28 **Ethics Officers** means employees who are trained and designated to provide advice
29 regarding compliance with the Code of Ethics and recommend appropriate actions.
30

31 **Family member (Employee's relative)** means any individual who is related by
32 blood, marriage, adoption, domestic partnership, or guardianship, including but not
33 limited to a spouse, domestic partner (as qualified under the Commission's Health
34 and Benefits Program), parent or step-parent, spouse's parents, grandparent, or
35 spouse's parents, child or step-child, legal guardian, brother or step-brother, sister
36 or step-sister, the siblings of one's parents and those siblings' children.
37

38 **Fiduciary duty** means a legal obligation that results from a position of trust with
39 respect to a third party's business and assets.
40
41
42

1
2 **Financial interest** means:

- 3 1. Ownership of any interest as the result of which the owner has received within
4 the past three years, or is presently receiving, or in the future is entitled to
5 receive, more than \$1,000 per year; or
6 2. Ownership, or the ownership of securities of any kind representing or
7 convertible into ownership, of more than 3 percent of a business entity by:
8 a. An official;
9 b. An employee; or
10 c. The spouse of an official or employee;
11

12 **Gift** means the transfer of anything of economic value regardless of the form
13 without adequate and lawful exchange of consideration of at least equal value.
14

15 **Gratuity** means anything of value that is presented or promised in anticipation of
16 receiving a consideration, whether the consideration is less than, equal to, or greater
17 than the value presented or promised.
18

19 **Honorarium** means the payment of money or anything of value for:

- 20 1. Speaking to, participating in, or attending a meeting, conference, or other
21 function; or
22 2. Writing an article, other than a book, which has been or is intended to be
23 published.
24

25 Interest means any source of income or any other legal or equitable economic
26 interest, whether subject to an encumbrance or a condition, which is owned or held,
27 in whole or in part, jointly or severally, directly, or indirectly. Interest does not
28 include:

- 29 1. An interest in a time deposit or demand deposit in a financial institution;
30 2. An interest in an insurance policy, endowment policy, or annuity contract under
31 which an insurance company promises to pay a fixed number of dollars either
32 in a lump sum or periodically for life or some other specified period;
33 3. An interest in a mutual fund or exchange-traded fund (EFT);
34 4. An interest held in the capacity of an agent, custodian, fiduciary, personal
35 representative, or trustee, unless the holder has an equitable interest in the
36 subject matter; or
37 5. An interest in a deferred compensation plan that:
38 a. Has more than 25 participants, and
39 b. The Internal Revenue Service has determined qualified as a trust under
40 Sections 401, 507, and 501 of the Internal Revenue Code.
41

1 **Maryland Public Ethics Law** means the general Provisions Article, Title 5, of the
2 Maryland Annotated Code.

3
4 **Non-Commission Business** means activities performed while on duty and which
5 are unrelated to the business of the Commission as further described in this
6 Practice.

7
8 **Non-Commission Employment** means work activities performed for oneself or a
9 third party unrelated to the business of the Commission as further described in this
10 Practice.

11
12 **On-duty** means being engaged in or responsible for an assigned task or duty either
13 on Commission or non-Commission property. An employee is not considered on
14 duty when attending lectures, meetings, training programs, and similar activities if
15 the following four criteria are all met: (a) attendance is outside of the ‘employee’s
16 regular working hours; (b) attendance is in fact voluntary; (c) the course, lecture,
17 or meeting is not directly related to the employee’s job; and (d) the employee does
18 not perform any productive work during such attendance.

19
20 **Person** means an individual, receiver, trustee, guardian, personal representative,
21 fiduciary, corporation, company, association, firm, partnership, joint stock
22 company, or any other organization, institution, or entity.

23
24 **Procurement** means all acts and functions that pertain to the responsibility of the
25 acquisition of any goods, services, equipment, supplies, insurance, construction, or
26 intellectual property, including but not limited to the description of requirements,
27 selection, and solicitation of sources, preparation, and award of contract, or
28 purchase order, and all phases of contract administration.

29
30 **Regulatory Matters** means matters that come before the respective Planning
31 Boards that involve the Planning Board’s exercise of planning and zoning authority
32 as described in the Land Use Article.

33
34 **Vendor** means a party obligated by contract or subcontract to provide goods,
35 services, or property to the Commission for consideration, including contracts and
36 subcontracts for construction and professional services related to construction.

37
38 **POLICY**

39 Commission employees must maintain high professional and ethical standards in
40 the performance of their official duties. This Code of Ethics establishes the
41 framework for promoting compliance.

1 Consistent with the Maryland Public Ethics Law and the Commission’s
2 commitment to public accountability, the Commission recognizes that (i) our
3 system of representative government is dependent in part upon the public
4 maintaining the highest trust in their public officials and employees; and, (ii) the
5 public has a right to know and be assured that the impartiality and independent
6 judgment of public officials and employees shall be maintained.

7
8 To help ensure accountability and awareness of conflicts of interest, this Practice
9 outlines requirements for employees to avoid actual as well as perceived conflicts
10 of interest. This includes those related to solicitation and acceptance of gifts, non-
11 Commission business and employment, use of Commission resources, use of
12 prestige of office, use of confidential information, post-employment restrictions,
13 political activities, and nepotism. This Practice also outlines the requirements for
14 the completion of Financial Disclosure Statements by individuals whose
15 employment or office puts them in a position of influencing decisions that might
16 benefit parties seeking to do business with, doing business with, or regulated by,
17 the Commission. Furthermore, employees are prohibited from aiding, facilitating,
18 or colluding with third parties in violation of this Code of Ethics.

19
20 The Commission intends for this Practice to be liberally construed, to accomplish
21 its purpose.
22

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1 I. **CONFLICTS OF INTEREST**

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A. **Standard of Conduct**

1. An employee must avoid any action, whether or not it is expressly prohibited, that might result in, or create the appearance of a conflict of interest, including, but not limited to:
 - a. Using public office for the private gain of the employee or another.
 - b. Giving preferential treatment to an external party, e.g., vendor, or person seeking to do business with the agency, except in conjunction with the Commission’s supplier diversity program.
 - c. Participating in any matter that involves:
 - i. A business in which the employee or a family member has an economic interest.
 - ii. A business in which the employee or a family member is an officer, director, trustee, partner, or employee;
 - iii. A property in which the employee or a family member has an economic interest.
 - iv. Negotiating or seeking prospective employment for the employee or a family member or any arrangement with a business or entity about employment.
 - v. A business or individual that is a party to an existing contract with the employee or a family member, if the contract could reasonably result in a conflict between private interests and official duties;
 - vi. An entity doing business with the Commission in which a direct financial interest is owned by another entity in which the employee has a direct financial interest, if they may be reasonably expected to know of both direct financial interests; or
 - vii. A creditor or debtor of the employee or their family member if the creditor or debtor can directly and substantially affect an economic interest of the employee or their family member;
 - viii. A case, contract, or other specific matter affecting a party for whom, in the prior year, the employee was required to register to engage in lobbying activity under Practice 5-61, *Lobbying Disclosure*.

1
2 2. Exceptions:

3
4 a. An employee who otherwise would be disqualified from participation under Section
5 II(A)(1) shall disclose the nature and circumstances of the conflict, and may participate or
6 act, if:

7
8 i. The disqualification would leave a body with less than a quorum capable of acting;

9
10 ii. The disqualified employee is required by law to act; or

11
12 iii. The disqualified employee is the only individual authorized to act.

13
14 All disclosures must be filed with the Ethics Officer.

15
16 b. Section II(A)(1) does not apply to an administrative or ministerial duty that does not affect
17 an agency's decision on a matter.

18
19 c. Section II(A)(1) does not apply to a police officer who is exercising the employee's official
20 duties in an emergency affecting a business or property in which the employee or a relative
21 of the employee has an economic interest.

22
23 (See also: Section 2 (Ethics & Standards in Purchasing) of Administrative Procedures 05-02,
24 *Purchasing Manual*.)

25
26 B. **Gifts**

27
28 1. **Gifts from External Parties**

29
30 a. Soliciting Gifts from External Parties. An employee shall not solicit, directly or indirectly,
31 a gift from an external party, except when an exception is authorized by the respective
32 Department Head. The respective Department Head may authorize an exception for an
33 employee to solicit a gift from an external party for a Commission program or initiative, in
34 support of the mission of the M-NCPPC. When an exception is authorized, each of the
35 following conditions must be met:

36
37 i. The solicitation for a gift shall be broad and not be directed at restricted external parties,
38 as defined in Section I(B)(1)(c)(i), below;

39
40 ii. Employees involved in regulatory, or procurement matters may not solicit a gift on
41 behalf of the Commission;

- 1 iii. The solicitation shall not confer any special access or benefit to the external party in
2 dealings with the Commission;
3 iv. The gifts solicited shall not result in personal benefit to the employee; and
4
5 v. All funds and in-kind gifts shall be accounted for in accordance with applicable laws
6 and Commission policy as it relates to fiscal, procurement, or related accounting
7 principles.
8

9 All authorized exceptions shall be forwarded to the Executive Director, to ensure consistent
10 application of policy.
11

- 12 b. Soliciting and Accepting Tips. An employee, including one who interacts with the public
13 (e.g., staff working at snack bars, golf courses, etc.), shall not solicit or accept tips under
14 any circumstances. The use of tip jars is prohibited.
15

16 c. Accepting Gifts from Restricted External Parties
17

- 18 i. *In General*. An employee shall not accept, directly or indirectly, a gift from a restricted
19 external party. A **restricted external party** is a person or entity that:
20

- 21 (a) Has, or is seeking to obtain, contractual or other business or financial relations
22 with the Commission;
23
24 (b) Is engaged in an activity or operation that is regulated or controlled by the
25 Commission; or
26
27 (c) Is acting in the capacity of a lobbyist with respect to matters on which the
28 Commission has oversight.
29
30 (d) Has interests that may be substantially affected by the performance or non-
31 performance of an employee's official duties.
32

- 33 ii. An employee shall not accept a gift listed in subsection (iii) (*Exceptions*), below, if:
34
35 (a) The gift would tend to impair the impartiality and independent judgment of the
36 employee;
37
38 (b) The gift is of significant value, and it would give the appearance of impairing the
39 impartiality and independent judgment of the employee; or
40

1 (c) The gift is of significant value and the employee believes or has reason to believe
2 that the gift is designed to impair the impartiality and independent judgment of the
3 employee.
4

5 iii. *Exceptions.* Subject to Subsection ii, above, the following are exceptions to the
6 prohibition on accepting gifts from restricted external parties covered in Section
7 I(D)(1)(c)(i), above:
8

9 (a) Receipt of gifts or entertainment because of obvious family or personal
10 relationships from a person related by blood, marriage, or legal guardianship;
11 domestic partner; or financially dependent relative, when it is clear that the
12 relationship, rather than the business of the persons concerned, are the motivating
13 factors.
14

15 (b) Ceremonial gifts or awards of insignificant monetary value.
16

17 (c) Attendance at an event (e.g., charitable, cultural, political, community, or
18 professional event), as a representative of the Commission.
19

20 (d) Honoraria for (i) speaking at, or participating in, a meeting, or, (ii) writing an article
21 that has been or is intended to be published, when unsolicited, off duty, and not
22 related to the employee's official position.
23

24 (e) Reasonable expenses for food, travel, lodging, scheduled entertainment, and
25 reasonable and verifiable expenses for the care of a child or dependent adult, which
26 are actually incurred, when these items are provided in return for participation in a
27 meeting, or as a panel member, or as a speaker or participant at a meeting.
28

29 (f) Loans from banks or other financial institutions on customary terms for usual
30 activities of employees, such as home mortgage loans, and consumer loans; and
31

32 (g) Prizes and awards from a person through a "lottery" or through another similar
33 activity where the receipt is selected on a random basis (e.g., a raffle or drawing.)
34

35 (h) Meals/beverages consumed by an employee in the presence of a donor/entity.
36

37 (i) Unsolicited gifts of nominal value not to exceed \$20. Note: In determining the value
38 of a gift and whether it exceeds nominal value, the value of the gift shall be the fair
39 market value.
40

1 (j) Trivial gifts of informational value (e.g., writings, recordings, documents, records,
2 or other items intended primarily to communicate information, not including
3 images intended primarily for display or decoration).

4
5 (k) Any other gifts from external parties that are specifically authorized by the agency.
6

7 iv. Excluding gifts described in Section I(B)(1)(c)(iii)(exceptions), above, an employee
8 who involuntarily receives a gift from a restricted external party shall:

9
10 (a) Return the gift;

11
12 (b) Transfer the gift to an organization that is tax-exempt pursuant to 26 U.S.C.
13 501(c)(3);

14
15 (c) Reimburse the party the market value of the gift; or

16
17 (d) If the gift is perishable and it would not be practical to return it, share it with the
18 office staff, or destroy it.
19

20 2. **Gifts Between Employees**

21
22 a. In General. An employee may not solicit a gift from another employee.

23
24 b. Exceptions: The following are exceptions to the prohibition of an employee soliciting gifts
25 from another employee.

26
27 i. Soliciting voluntary contributions of a reasonable amount for a gift made on a special
28 occasion such as marriage, illness, retirement, or death. Whether a contribution is
29 considered reasonable shall be based on the relevant facts and circumstances. For
30 example, a reasonable contribution for a wedding gift may differ from one for the
31 funeral of a colleague of modest means.

32
33 ii. Soliciting a voluntary contribution for a charitable drive for an external party that is
34 authorized, in writing, by a Department Head or the Executive Director.
35

36 C. **Non-Commission Business and Employment**

37 38 1. **Non-Commission Business**

39
40 a. Non-Commission business is prohibited.

41
42 b. Non-Commission business means activities performed while on duty related to:

- i. Personal business;
 - ii. Non-Commission employment;
 - iii. Third-party business; or
 - iv. Work for an association, club, or any other entity as an employee, representative, or volunteer.
- c. Non-Commission business does not include participation in external activities that (i) relate to the business of the Commission and (ii) are approved in advance, in writing, by an appropriate supervisor and Department Head.
- d. When speaking before a public body, with the media, or with members of the public, an employee may not hold themselves out as representing the agency in their official capacity, unless authorized to do so either explicitly or by the nature of their position.

2. **Non-Commission Employment**

- a. Non-Commission employment includes the following:
- i. Employment or contractual arrangements structured on a salary, fee, commission basis, or pro bono legal representation.
 - ii. Participation in any business ventures as owner, proprietor, partner, or investor.
 - iii. Participation for pay or as a volunteer in any business or non-profit entity involving fiduciary duties or responsibilities in a position such as an officer, manager, or director.
 - iv. Participation in any business or non-profit entity in which the participant holds 5 percent or more of the outstanding voting interests.
 - v. Other similar activities resulting in, or for the purpose of, remuneration.
- b. Non-Commission employment does not include:
- i. Service in the United States Armed Forces (active or reserve, including the National Guard); and

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- ii. Participation in official activities of a union representing M-NCPPC employees. This participation shall be governed by the respective collective bargaining agreement between the M-NCPPC and the union.

- iii. Serving on the board of the M-NCPPC Credit Union or the Employees' Retirement System.

- c. Non-Commission employment is permitted only when participation is specifically approved, in writing, by the employee's Department Head upon a finding that each of the following conditions is met:
 - 1. Engaging in non-Commission employment does not cause the existence of, potential for, or appearance of, a conflict of interest with respect to Commission duties assigned to the employee, or with any Commission policy, procedures, activities, or actions;
 - 2. Engaging in non-Commission Employment does not diminish, interfere with, or detract from the performance of Commission duties;
 - 3. The employee's performance before engaging in non-Commission employment is at a fully satisfactory level;
 - 4. Non-Commission employment does not increase the risk of liability to the Commission during, or from, the employee's performance of Commission-assigned duties including, but not limited to, increased health and safety concerns;
 - 5. Non-Commission employment does not result in the employee using the prestige of their Commission office, official title, or position for private gain, or the gain of another;
 - 6. Engaging in non-Commission employment does not occur while on duty with the Commission;
 - 7. Non-Commission employment does not result in coercing other Commission employees to buy or use goods, services, or other items of value (including interests in land) sold, or offered, as part of their non-Commission employment;
 - 8. Non-Commission employment does not result in an employee working for (a) a person or entities owned by the employee's Commission subordinate or supervisor, or (b) any business subject to the authority of the Commission or that does business with the Commission when there is an actual or perceived conflict of interest;

- 1 9. Confidential information gained through Commission employment is not used for
2 financial gain, or any use other than Commission employment;
3
4 10. Non-Commission employment does not result in the solicitation or acceptance of
5 referrals for any non-Commission employment while on duty;
6
7 11. Non-Commission employment does not result in the unauthorized use of Commission
8 resources;
9 d. Approval for Non-Commission employment by Department Heads and appointed officers
10 must be obtained from the Commission’s Chair and Vice Chair.
11
12 e. The Commission retains the right to deny, rescind, revoke, or modify approval of non-
13 Commission employment if the employment violates any of the conditions in Section
14 I(C)(2)(c) *et seq.*
15

16 **3. Review Process for Non-Commission Employment Requests**
17

- 18 a. Employees must request and receive approval for non-Commission employment before
19 engaging in such employment. Employees must also request approval of changes
20 to previously approved non-Commission employment as soon as any changes are known.
21 Requests must be submitted using Appendix A, “*Request to Participate in Non-*
22 *Commission Employment Form,*” and include:
23
24 i. Employee name, position title, work schedule (days and work hours), and description
25 of Commission job duties;
26
27 ii. Name of non-Commission employer;
28
29 iii. Address where non-Commission employment will be performed;
30
31 iv. Non-Commission employment work schedule (days and work hours) including start
32 date and end date (if known);
33
34 v. A description of non-Commission employment duties; and
35
36 vi. Reasons why Section I(C)(2)(c) *et seq.* will not be violated.
37
38 b. Employees must submit requests to their supervisor. Department heads and appointed
39 officers must submit requests to the Commission Chair and Vice-Chair. In considering a
40 Seasonal/Intermittent Contract employee’s request for non-Commission employment, a
41 reviewer must take into consideration the fact that the Commission may not be the
42 Seasonal/Intermittent Contract employee’s primary employer.

- 1 i. Supervisors must review the “Request to Participate in Non-Commission Employment
2 Form” and send a recommendation of approval or denial to their Division Chief, with
3 a copy to the employee, within seven (7) calendar days of receiving the written request.
4
- 5 ii. If the recommendation is for denial, the supervisor must include the reasoning.
6
- 7 iii. If a supervisor does not forward the recommendation within seven (7) calendar days of
8 receipt of the employee’s written request, the employee may forward the request to
9 the Division Chief.
10
- 11 iv. The Division Chief will review the employee’s requests, and if applicable, the
12 supervisor’s recommendation.
13
- 14 (a) The Division Chief must review the “*Request for Non-Commission Employment*
15 *Form*” and forward it with a recommendation for approval or denial to the
16 Department Head, with a copy to the employee, within seven (7) calendar days of
17 receiving the written request, or longer in extenuating circumstances. If the
18 recommendation is for denial, the Division Chief must include the reasoning.
19
- 20 (b) If the Division Chief does not forward the recommendation within seven (7)
21 calendar days of receipt of the employee’s written request, the employee may
22 forward the request to the Department Head.
23
- 24 v. The Department Head will review all employee requests along with the supervisor’s
25 and Division Chief’s recommendations.
26
- 27 (a) The Department Head’s decision will be made by signing the request form, within
28 seven (7) calendar days of receiving the request from the Division Chief, or longer
29 in extenuating circumstances. An employee’s request shall not be considered
30 approved until and unless approved by the Department Head.
31
- 32 (b) A copy of the decision shall be maintained in the departmental personnel file and a
33 copy forwarded to the Human Resources Information System (HRIS) Office for
34 filing in the official personnel file of the employee.
35
- 36 (c) The Department Head’s decision (i.e., to act or not act) is final.
37
- 38 vi. Approvals are only for the non-Commission employment stated in the request.
39
- 40 (a) If any information provided in the request changes at any time, the employee must
41 provide the supervisor with written notice of the change, immediately.
42

1 (b) Any approval may be suspended or rescinded orally if a conflict of interest arises
2 during the employee’s engagement in the non-Commission employment. The
3 Department Head must provide written notice confirming the action within seven
4 (7) calendar days of the oral action.
5

6
7 (c) If an employee engages in approved non-Commission employment that impairs
8 their ability to perform Commission duties, the employee may be directed to modify
9 or cease participation in the non-Commission employment while employed by the
10 Commission.
11

12 vii. The employee’s supervisor shall review the non-Commission employment, annually
13 during the performance review, to determine if the non-Commission employment has
14 not diminished, interfered with, or detracted from the employee’s job duties.
15

16 viii. During their Annual Performance Review, an employee must inform their supervisor
17 whether their non-Commission employment status has changed during the past year,
18 and if so, complete or update the “*Request to Participate in non-Commission*
19 *Employment Form*” (Appendix A).
20

21 ix. An employee who moves to another department is required to complete and file a new
22 request with the new department for any desired participation in non-Commission
23 employment.
24

25 **D. Use of Commission Resources**
26

27 1. **In General.** Commission resources may be used only for the official business of the agency.
28 Any use of Commission resources for a reason other than official business is prohibited, unless
29 permitted under the “Allowable Exceptions” set forth in the Section below.
30

31 2. **Allowable “De Minimis” Exceptions.** Restricted use of Commission resources is permitted
32 as outlined in other agency policies, including:
33

34 a. Administrative Practice 6-10, *Vehicle Use Program*. Note: Personal use of M-NCPPC
35 vehicles is generally prohibited, however in limited circumstances M-NCPPC may assign
36 a take-home vehicle to an employee, authorizing commuting (between the workplace and
37 home) and *de minimis* personal use of a vehicle, subject to Internal Revenue Service
38 Regulations. Onsite assigned vehicles, take-home vehicles, and pool vehicles may also be
39 used for personal use which is incidental to the business need (i.e., meals and breaks) and
40 temporary overnight use, when approved.
41

- b. Administrative Practice 6-13, *Electronic Communications Policy*, and its accompanying Administrative Procedure; 12-01, “Mobile Technology,” including but not limited to Section IV(A). Note: Although employees may occasionally and incidentally need to use Commission communication technology for personal reasons, such personal use must be kept to a minimum, must be brief, must not interfere with the performance of the employee’s duties and responsibilities, and must be consistent with Commission Practice 6-13, *Electronic Communications* and any other applicable policy directives affecting technology.

3. **Required Oversight by Management**

- a. Managers and supervisors must:
 - i. Reasonably monitor and enforce the proper use of Commission resources by those they manage and supervise; and
 - ii. Report concerns that are related to the inappropriate use of Commission resources to their Department Head, Inspector General, Park Police, or Executive Director in accordance with Commission Practice 3-31, *Fraud, Waste, and Abuse*.
- b. Department Heads must:
 - i. Ensure that their employees comply with Sections I(D)(1-2);
 - ii. Ensure that violations are reported and addressed in a timely and consistent manner; and
 - iii. Report concerns that are related to the inappropriate use of Commission resources to the Inspector General, Park Police, or Executive Director as may be required in Commission Practice 3-31, *Fraud, Waste, and Abuse*.

E. **Use of Prestige of Office**

- 1. An employee must not intentionally use the prestige of office or public position:
 - a. For that employee’s private gain or that of another; or
 - b. To influence, except as part of the official duties of the employee, the award of a Commission contract to a specific person.
- 2. An employee may not directly or indirectly request that a person retain the compensated services of a particular regulated lobbyist or lobbying firm.

1 **F. Disclosure or Use of Confidential Information**

- 2
- 3 1. Except in the discharge of an official duty, an employee or former employee may not disclose
- 4 or use confidential information acquired by reason of the official's or employee's position and
- 5 not available to the public.
- 6
- 7 2. An employee or former employee may not use confidential information for:
- 8
- 9 a. Personal economic benefit; or
- 10 b. The economic benefit of another.
- 11
- 12 2. Examples of confidential information include, but are not limited to, privileged documents,
- 13 documents that are confidential pursuant to Practice 2-28, *Composition, Privacy and*
- 14 *Disposition of Employment Records*, and documents that may not be disclosed pursuant to the
- 15 Maryland Public Information Act (Sections 4-301 *et seq.* of the General Provisions Article of
- 16 the Maryland Code).
- 17

18 **G. Post-Employment Restrictions**

- 19
- 20 1. Except as provided in paragraph 2, a former employee who participated significantly in a
- 21 particular matter or contract in their Commission position may not, after leaving Commission
- 22 service, assist or represent another party on a that specific matter or contract for compensation
- 23 if the matter involves the Commission and the former employee significantly participated in
- 24 the matter as a Commission employee.
- 25
- 26 2. A former employee may assist or represent a governmental entity on a specific matter or
- 27 contract in which the former employee significantly participated as a Commission employee,
- 28 for compensation, provided an actual or perceived conflict of interest is not created.
- 29
- 30 3. "Significant participation" means making a decision, approval, disapproval, recommendation,
- 31 rendering of advice, investigation, or similar action taken as an officer or employee. Significant
- 32 participation ordinarily does not include program or legislative oversight, or budget
- 33 preparation, review, or adoption.
- 34

35 **H. Political Activities**

- 36
- 37 1. **In General.**
- 38
- 39 a. Pursuant to Section 1-303 of the Local Government Article of the Maryland Code, an
- 40 employee may freely participate in any political activity and express any political opinion
- 41 and may not be required to provide a political service.
- 42

1 b. Section 1-304 of the Local Government Article of the Maryland Code prohibits employees
2 of bi-county agencies from engaging in political activity while on the job during working
3 hours or advocating the overthrow of the government by unconstitutional or violent means.
4 A bi-county employee who violates Section 1-304 of the Local Government Article of the
5 Maryland Code is guilty of a misdemeanor and is subject to potential fines and
6 imprisonment.

7
8 c. In addition to Sections 1-303 and 1-304 of the Land Use Article of the Maryland Code, the
9 Commission’s expectations of employee conduct are set forth in Chapter 1800 (*Political*
10 *Activities*) of the Merit System Rules and Regulations (Merit Rules) and M-NCPPC Notice
11 22-07, *Employee Conduct With Respect to Political Activities*. The Merit Rules supersede
12 these provisions, which are provided to further elucidate the ethical standards applicable to
13 employees in this area.

14
15 2. **Permissible Activities.** Employees have the responsibility to regulate their political activities
16 in such a manner as not to interfere with their employment. Employees may engage in political
17 activities off-duty, off Commission premises, and without the use of Commission resources.
18 (e.g., Employees may retain membership in political parties; participate in political activities,
19 including seeking candidacy for public office; register and vote as they please; and express
20 their personal opinions on political subjects.)

21
22 3. **Prohibited Activities.** Political activities of employees that interfere with the performance of
23 their official duties and responsibilities are prohibited, whether done in-person or using social
24 media. The following political activities, which include, but are not limited to, are specifically
25 prohibited:

26
27 a. Campaigning, fundraising, or engaging in other partisan political activities on Commission
28 premises while performing duties and responsibilities as an employee;

29
30 b. Using one’s Commission position to engage in political activities or to advance associated
31 goals;

32
33 c. Using public office or political affiliations for private gain that may result in a conflict of
34 interest;

35
36 d. Promising, or appearing to promise, employment, a position, compensation, or any other
37 benefit in consideration, favor, or reward for political activity, especially but not limited
38 to, when such action presents a conflict of interest;

39
40 e. Performing political activities at the direction of a supervisor, appointed officer,
41 Department Head, Commissioner, any other employee, or vendor.

- 1 f. Engaging in political activity that interferes with the Commission’s work or the duties or
2 responsibilities of Commission employees;
3
- 4 g. Soliciting or accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan,
5 or other item of more than the established nominal value, in exchange for another’s
6 participation in political activity, especially when such action presents a conflict of interest
7 as defined in the Code of Ethics;
8
- 9 h. Use of scheduled work hours or unauthorized use of Commission resources for political or
10 partisan activities. (Employees shall use their own accrued annual, personal, or
11 compensatory leave for participation in such activities.)
12
- 13 i. Participating in political activities, whether on or off Commission premises, while
14 receiving administrative leave or other leave not appropriate for such purposes, such as
15 leave to attend union activities (Union Leave), or leave approved to attend Commission-
16 sponsored or -approved programs, training, forums, seminars, or similar career-
17 enhancement functions;
18
- 19 j. Using public office or political affiliation for private gain that may result in, or give the
20 appearance of, a conflict of interest with the Commission;
21
- 22 k. Coercing other Commission employees, including subordinates, to participate in political
23 activities;
24
- 25 l. Lobbying elected officials during work hours on behalf of candidates for appointed or
26 elected positions;
27
- 28 m. The appearance of promising, or an actual promise of, employment, promotion, demotion,
29 dismissal, or any other human resources action, based on partisan political activity;
30
- 31 n. Displaying partisan political signs, banners, posters, or other endorsements, while on duty,
32 on the Commission’s premises, or while representing the Commission. Employees also
33 may not place political bumper stickers, logos, signs, or endorsements on any Commission
34 vehicles, property, or facility, or otherwise engage in electioneering while on duty;
35
- 36 o. Soliciting any person who has business before the Commission, including the employee's
37 office, to engage in political activity;
38
- 39 p. Engaging in political activities while wearing Commission apparel or uniforms, employee
40 identification, or any other items with badges, insignia, or logos that identify the
41 Commission. Notwithstanding these restrictions, the incidental wearing of Commission
42 uniforms or identification while voting off-duty is permissible. (*e.g.*, while in uniform,

1 stopping to vote before or after scheduled work hours would not be considered a violation
2 of this policy);

- 3
- 4 q. Otherwise in any way participating in political activities that involve, or would reasonably
5 appear to involve, a conflict of interest, as defined in this Code of Ethics or that would
6 violate this Code or other Commission Practices;

7

8 Note: Notwithstanding the above, receipt of unsolicited emails of a political nature will not be
9 considered unauthorized use of Commission resources for political activities. If such an email
10 is received, the employee must take every step to unsubscribe from the email list or contact the
11 sender to remove the employee from the email list. If the employee is unsuccessful in
12 unsubscribing, the employee should contact their respective departmental IT division for
13 assistance in blocking messages.

14 I. **Nepotism**

15 Consistent with the Merit Rules Section 155 (*Nepotism*):

- 16
- 17 1. An employee, including a Department Head, may not appoint, promote, reassign, or participate
18 in any employment action affecting a family member as defined in the “Definitions” section
19 (pg.4).
- 20
- 21 2. A Department Head must:
- 22
- 23 a. Not permit the employment of members of a family where it would result in any person
24 having direct or indirect supervisory responsibility over a family member.
- 25
- 26 b. Recuse themselves from employment decisions involving members of their own family
27 and delegate their authority to another such as a Deputy Director.
- 28

29

30 II. **FINANCIAL DISCLOSURE**

31

32 A. **Financial Disclosure Requirements for Designated M-NCPPC Positions**

33

34 1. **In General.**

- 35
- 36 a. This Section identifies those whose positions require them to complete Financial
37 Disclosure Statements in accordance with the form and instructions which are contained in
38 Appendix B, “*Financial Disclosure Statement*.” Specific requirements for the timing and
39 filing of Financial Disclosure Statements are outlined below.
- 40

1 b. Financial Disclosure Statements cover the calendar year (January 1st through December
2 31st) immediately preceding the year of filing and are due by April 30th of each calendar
3 year.
4

5 2. **Individuals Required to File a Statement.** The following individuals must complete a
6 Financial Disclosure Statement form as provided annually by the Executive Director:
7

8 a. Appointed Officers. Appointed officers and deputy appointed officers of the Commission
9 including the Executive Director, Secretary-Treasurer, General Counsel, and their
10 deputies.
11

12 b. Department Heads and Identified Positions.

13
14 i. Department Heads and Deputy Department Heads including:

15 (a) Director of Planning, Montgomery County;

16 (b) Deputy Director(s) of Planning, Montgomery County;

17 (c) Director of Planning, Prince George's County;

18 (d) Deputy Director(s) of Planning, Prince George's County;

19 (e) Director of Parks and Recreation, Prince George's County;

20 (f) Deputy Director(s) of Parks and Recreation, Prince George's County;

21 (g) Director of Parks, Montgomery County; and

22 (h) Deputy Director(s) of Parks, Montgomery County.
23

24 ii. Inspector General and Inspectors within the Office of the Inspector General;

25 iii. Chief Information Officer;

26 iv. Attorneys (as designated by the General Counsel);

27 v. Division Chiefs/Division Directors;

28 vi. Corporate Policy and Archives Chief

29 vii. Risk Management and Workplace Safety Chief; and
30
31
32
33
34
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42

1 viii. Supplier Diversity Program Manager.

2
3 c. Other Individuals Whose Positions Require the Filing.

4
5 i. *Positions Designated by Department Heads:* Department Heads shall designate
6 positions for filing Financial Disclosure Statements (outside of those listed above in
7 Section II(A)(2)(b)), that influence Commission matters because of their ability to take
8 actions, make decisions, or recommendations, or advise on:

9
10 (a) Procurement matters or contracting;

11
12 (b) Administering grants or subsidies;

13
14 (c) Planning, zoning, or otherwise regulating land use;

15
16 (d) Policy or planning decisions that impact the Financial Interest(s) of third parties;

17
18 (e) Land acquisitions or dispositions, land development, and facility planning of
19 Commission assets, whether owned or managed; or

20
21 (f) Other decisions with significant economic impact.

22
23 ii. *Individuals Who are Assigned by Department Heads to Serve on a Board or*
24 *Foundation:* Department Heads shall identify employees in designated positions who
25 are assigned to serve on a board or foundation in their official capacity as a Commission
26 employee.

27
28 3. **Contents of Statements.** The Financial Disclosure Statement for employees must require
29 disclosure of information and interests, if known, for the applicable reporting period pertaining
30 to:

31
32 a. Receipt of any gifts of more than \$20 in value, or a series of gifts from any one person
33 totaling \$100 or more;

34
35 b. Interests in real property;

36
37 c. Interests in corporations and partnerships;

38
39 d. Interests in Business entities doing business with the State, the Commission, Montgomery
40 County, or Prince George's County;

- e. Employment by or interest in business entities doing business with the State, the Commission, Montgomery County, or Prince George's County;
- f. Indebtedness to entity doing business with the State, the Commission, Montgomery County, or Prince George's County;
- g. Family Members Employed by the State, the Commission, Montgomery County, or Prince George's County; and
- h. Sources of earned income.

4. **Filing Deadlines and Procedures.**

- a. Except as provided in subparagraph (d), positions required to file a financial Disclosure Statement must file a statement by April 30th of each year. See Section II(A)(2) for the list of positions required to file.
- b. No later than 30 days before the filing deadline each year, instructions on filing annual Financial Disclosure Statements must be provided by:
 - i. *The Executive Director* to appointed officers, Department Heads, and identified positions named in Section II(A)(2)(a-b).
 - ii. *Each respective Department Head* to positions they designate as required to file, including individuals assigned to serve on a board or foundation in their official capacity as a Commission employee as covered in Section III(A)(2)(c).
- c. Each Department Head must submit to the Executive Director within five (5) business days following April 30th of each year a list of employees who have and who have not submitted their completed Financial Disclosure Statement.
- d. Procedures for New Hires or Appointees, for Individuals Serving in Acting Positions, and Upon Termination:
 - i. *Any newly hired or appointed individual holding a Commission position required to file a Financial Disclosure Statement* must file the statement with the appropriate office at the time of hire. This requirement must be included in job advertisements and communicated and monitored by the hiring department.
 - ii. *Individuals placed in an acting role for a Commission position that requires the filing of a Financial Disclosure Statement* must file a statement when their acting assignment is anticipated to last 60 days or greater. The individual must submit the completed statement within 30 days of the acting assignment.

1
2 iii. *Any individual who leaves a position that requires the filing of a Financial Disclosure*
3 *Statement* must file the statement with the appropriate office during the close-out
4 process, prior to separation. Failure to file a required disclosure form upon separation
5 may result in the delay or withholding of a final paycheck in appropriate circumstances.
6 This requirement must be communicated and monitored by the hiring department.
7

8 **B. Entities Doing Business with the Commission.**
9

- 10 1. The Executive Director must cause to have published annually, either in print or in electronic
11 format, an alphabetized list of non-governmental entities doing business with the State,
12 Montgomery County, Prince George’s County, and the Commission during the preceding year
13 and make it available to individuals for the purpose of filing Financial Disclosure Statements.
14
15 2. The list must be available for public inspection by March 1st of each year.
16
17
18
19
20

21 **C. Maintenance of Financial Disclosure Records**
22

23 **1. Availability for Review**
24

- 25 a. Subject to subparagraph (d), all Financial Disclosure Statements filed pursuant to Section
26 III(A)(3) must be made available for public inspection upon request during normal office
27 hours, subject to such reasonable fees as the Executive Director may establish.
28
29 b. Any person examining or copying these statements shall be required to provide their name,
30 home address, and the name of the person whose disclosure statement was examined or
31 copied.
32
33 c. An employee who has a statement on file is entitled, upon request, to be notified of the
34 name and home address of anyone inspecting their Financial Disclosure Statement.
35
36 d. The above disclosure shall be handled in accordance with Section II(F), "Disclosure or use
37 of confidential information." Namely, an employee’s home address must be redacted from
38 a statement that is made available for examination or copying, if the person has identified
39 it as their home address.
40

41 **2. Retention Requirements**
42

- 1 a. Any person who is required to file a report, statement, or record under this Code of Ethics,
2 must retain each account, bill, receipt, book, paper, or other document necessary to
3 substantiate the filing. Any person who is required to file a report, statement, or record
4 under this Code, must retain each account, bill, receipt, book, paper, or other document
5 necessary to substantiate the filing.
6
7 b. The person must retain the document for three years after:
8
9 i. The date the report, statement, or record was filed; or
10
11 ii. If the report, statement, or record is not filed, the date the report, statement, or record
12 was required to be filed.
13
14 c. All Financial Disclosure Statements filed pursuant to Section II(A)(2)(a-b) shall be
15 maintained by the Executive Director, and those filed pursuant to Section II(A)(2)(c) shall
16 be maintained by the respective Department Heads with whom they have filed.
17
18 d. The Executive Director and the Department Heads shall maintain records of the Financial
19 Disclosure for three years, at which time they shall be sent to the Commission's Archives
20 and Records Office for retention, pursuant to the State-Approved Records Retention and
21 Disposition Schedule.

22 **D. Financial Disclosure Requirements for Commissioners**

23 Commissioners and individuals applying to be a Commissioner should refer to Sections 5-824 and
24 5-825 of the General Provisions Article of the Code of Maryland for Financial Disclosure
25 requirements.
26
27

28 **III. DELEGATION OF AUTHORITY**

- 29
30 A. A Department Head may designate, in writing, a representative to implement any of the provisions
31 of this Practice.
32
33 B. A Department Head may withdraw their designation at any time, which shall also be in writing.
34
35

36 **IV. ETHICS OFFICERS AND DIRECTING CONCERNS**

37 There shall be a Commission-wide ethics officer(s) appointed by the General Counsel who is an
38 attorney in the General Counsel's Office, and who shall have the authority to: (i) advise employees
39 confidentially on the requirements of the Code of Ethics; and, (ii) if needed, investigate known or
40 suspected violations, and take appropriate action. The Ethics Officer shall:
41

- 1 A. Serve as a point of contact for employees regarding inquiries and concerns of conflicts of interest.
2 This includes providing advice and preparing verbal and written responses and guidance regarding
3 the Code of Ethics, and related policies, rules, and regulations. Employees are also encouraged to
4 seek advice from their immediate supervisor and chain of command, provided such staff are not
5 the subject of the inquiry or suspected violation. Note: Pursuant to Administrative Practice 3-31,
6 *Fraud, Waste, and Abuse*, employees are required to report any suspected or known fraud, waste,
7 or abuse, and are provided several reporting options, including: (i) the Department Head
8 responsible for the program in which the fraud, waste, or abuse is suspected; (ii) the Office of the
9 Inspector Generals; (iii) Park Police; and (iv) the Executive Director. See Practice 3-31, for more
10 information.
11
- 12 B. After consultation with the General Counsel, refer matters to the appropriate internal and/or
13 external authorities, where warranted, including but not limited to the Executive Director,
14 Commission, Park Police, County Police, and state and federal authorities.
15
- 16 C. Preparation of an annual report on ethics to address the number and types of inquiries, violations,
17 and corrective measures.
18
19
20
21
22

23

24 V. **REQUIRED TRAINING**

25

- 26 A. Subject to Subsection V(B), immediately below, all employees are required to receive ethics
27 training each calendar year to be provided by the agency's Ethics Officer. Note: Commissioners
28 who attend the training offered by the State of Maryland Ethics Commission satisfy this
29 requirement and may elect to take the Commission's ethics training.
30
- 31 B. Seasonal/Intermittent employees may attend the ethics training provided by the Ethics Officer and
32 will receive orientation on the Code of Ethics as part of their onboarding process.
33
- 34 C. The Ethics Officer is responsible for developing and updating training materials, with input and
35 assistance from the Corporate Policy Office.
36
37

38 VI. **VIOLATIONS**

39

- 40 A. Employees who violate Administrative Practice, 2-24, *Code of Ethics*, may be subject to
41 disciplinary action, up to and including termination.
42

- 1 B. The Commission may refer a violation for criminal investigation and prosecution.
2
3 C. In the case of unauthorized use of Commission resources by an employee, or other loss or damage
4 to the Commission occasioned by the violation, the Commission may recover any loss or damages
5 from the employee through direct repayment by the employee, payroll deduction, or other legal
6 action.
7
8 D. Failure to comply with the requirements of the Code of Ethics due to a lack of knowledge or
9 misinterpretation of the rules and regulations of this Policy or any other applicable Practice(s)
10 cannot be used as an excuse to violate this Code.
11
12 E. An employee shall be provided an opportunity to explain any conflict of interest or appearance of
13 conflict of interest and any other apparent violations of this Practice.
14

15VII. **RESPONSIBILITIES**

16
17 A. **All Employees** are responsible for:

- 18
19 1. Complying with the Code of Ethics.
20
21 2. Avoiding taking any actions that violate or that may give the appearance of violating the Code.
22
23 3. Seeking advice, when needed, and reporting any suspected or known ethics violations,
24 pursuant to Section V(Inquiries and Concerns).
25
26 4. Seeking approval to engage in any non-Commission employment utilizing the Request to
27 Participate in Non-Commission Employment Form (Appendix A).
28
29 5. Submitting a Financial Disclosure Statement, if designated to do so by this Practice or the
30 respective Department Head.
31
32 6. Completing the required ethics training.
33
34 7. Fully cooperating with investigations of potential violations of the Code of Ethics.
35

36 B. **Supervisors** are responsible for:

- 37
38 1. Reviewing the non-Commission employment of employees under their supervision, annually
39 during the performance review, to determine if the non-Commission employment has not
40 diminished, interfered with, or detracted from the employee's job duties.
41

2. Responding to inquiries on ethics issues they receive from employees they supervise and seeking further guidance and/or assistance from the Ethics Officer(s), as needed.
3. Reporting suspected and known violations of this Code of Ethics, as appropriate, pursuant to Section V(Inquiries and Concerns).
4. Ensuring employees under their supervision complete the annual ethics training course.

C. **Department Heads** are responsible for:

1. Approving/disapproving non-Commission employment requests, in a timely manner, utilizing the appropriate form submitted by the employee.
2. Ensuring that all employees under their supervision who are required to submit annual Financial Disclosure Statements (FDS) do so, and reporting annually to the Executive Director those employees who submitted as well as those who did not submit an FDS.
3. Ensuring all staff under their authority receive the required ethics training annually.

D. **The Ethics Officer(s)** is responsible for:

1. Serving as a point of contact for ethics inquiries and complaints; as well as, providing responses and guidance.
2. Referring matters to the appropriate internal and/or external authorities, where warranted, as appropriate.
3. Facilitating the required annual training on ethics for Commission employees. This includes developing training and ancillary material the Ethics Officer(s) determine are necessary to promote compliance with this Code, with the support of the Corporate Policy Office.
4. Preparing an annual report that contains information on conflict of interest issues and regulations during the previous calendar year.

E. **The General Counsel** is responsible for:

1. Appointing one or more Ethics Officers to be the point of contact for inquiries, advice, training, and investigation/resolution of ethics-related issues . The General Counsel may also delegate to others in the Office of the General Counsel certain responsibilities to ensure compliance with the Code of Ethics and to assist the Ethics Officer(s), as necessary.
2. Reviewing and approving the annual ethics report(s) prepared by the Ethics Officer(s).

1 F. **The Executive Director** is responsible for:
2

- 3 1. Receiving information regarding Department Head authorizations for employees in the
4 respective departments to solicit gifts from external parties.
5
6 2. Approving/disapproving, in writing, requests for soliciting voluntary contributions for a
7 charitable drive for an external party.
8
9 3. Maintaining records of Financial Disclosure Statements for designated positions required to
10 file with the Executive Director, for three years, and making them available for public
11 inspection in accordance Section, II(G)(Disclosure or Use of Confidential Information) by
12 ensuring employees' home addresses are not disclosed, when a property is identified as an
13 employee's home address.
14
15
16

17 **APPENDICES**

- 18 A. Request to Participate in Non-Commission Employment Form
19 B. Financial Disclosure Statement Instructions
20 C. Financial Disclosure Statement Form

EXISTING COMMISSION POLICIES FOR RESCISSION

- Attachment C-1: Practice 2-14, *Non-Commission Employment and Non-Commission Business*
- Attachment C-2: Procedures 03-05, *Non-Commission Employment and Non-Commission Business*
- Attachment C-3: Practice 2-15, *Use of Commission Property*
- Attachment C-4: Practice 2-24, *Ethics* [To be replaced by the proposed draft Administrative Practice 2-24, Code of Ethics, as shown in Attachment A.]
- Attachment C-5: Practice 2-72, *Conditions for Acceptance of Awards [of Honoraria] from Outside the Commission*
- Attachment C-6: Practice 2-90, *Solicitations on Commission Property*
- Attachment C-7: Practice 5-70, *Financial Disclosure*

Montgomery Planning
**RESOLUTION OF ADOPTION
FOR THE RUSTIC ROADS
FUNCTIONAL MASTER PLAN UPDATE**



Exceptional Rustic Davis Mill Road

Description

The *Rustic Roads Functional Master Plan Update* is the first comprehensive update to the *Rustic Roads Functional Master Plan* since the original plan was approved in 1996. The master plan had two main purposes: 1) to consider roads that had been nominated for inclusion in the Rustic Roads Program, and 2) to provide the necessary details for several roads that are currently in the program but had incomplete descriptions. The plan also considered the programs and policies instrumental in the implementation of the program.

JFP

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MASTER PLAN INFORMATION

Lead Planners

Jamey Pratt
Roberto Duke

Planning Division

Upcounty Planning Division

Report Date

December 7, 2023

Planning Board Information

MNCPPC
Item No. 5b
12-20-2023



SUMMARY

This document contains a recommendation to approve the Resolution of Adoption of the *Rustic Roads Function Master Plan Update*.

SUMMARY

Attached for your review and approval is M-NCPPC Resolution Number 23-26 to adopt the *Rustic Roads Functional Master Plan Update* (“RRFMP Update”).

The Montgomery County Council, sitting as the District Council, approved the RRFMP Update by Resolution 20-267 on July 25, 2023. The Montgomery County Planning Board approved the adoption of the *Rustic Roads Functional Master Plan Update* by Resolution Number 23-123 on December 7, 2023.

ATTACHMENTS

- MCPB Resolution Number 23-123, M-NCPPC Resolution Number 23-26
- Montgomery County Council Resolution 20-267
- Planning Board Draft of the Rustic Roads Functional Master Plan Update:
 - <https://montgomeryplanning.org/wp-content/uploads/2023/02/Rustic-Roads-Functional-Master-Plan-Update-Volume-I--The-Plan-Planning-Board-Draft.pdf>
 - <https://montgomeryplanning.org/wp-content/uploads/2023/02/Rustic-Roads-Functional-Master-Plan-Update-Volume-II--Road-Profiles-Planning-Board-Draft.pdf>

Resolution No.: 20-267
Introduced: July 25, 2023
Adopted: July 25, 2023

1 **COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND**
2 **SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION**
3 **OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT**
4 **WITHIN MONTGOMERY COUNTY, MARYLAND**
5

6
7 By: County Council
8

9
10 **SUBJECT: Approval of Rustic Roads Functional Master Plan Update**

- 11
- 12 1. On February 24, 2023, the Montgomery County Planning Board transmitted to the County
13 Executive and the County Council the February 2023 Planning Board Draft of the Rustic
14 Roads Functional Master Plan Update.
15
 - 16 2. The February 2023 Planning Board Draft of the Rustic Roads Functional Master Plan Update
17 contains the text and supporting maps for a comprehensive amendment to the approved and
18 adopted 1996 *Rustic Roads Functional Master Plan*, as amended. It also amends the *Master*
19 *Plan of Highways & Transitways*, as amended, and *Thrive Montgomery 2050* (2022). This
20 plan also amends the following area master plans, as amended: *Clarksburg Master Plan &*
21 *Hyattstown Special Study Area* (1994), *Fairland Master Plan* (1997), *Cloverly Master Plan*
22 (1997), *Sandy Spring/Ashton Master Plan* (1998), *Potomac Subregion Master Plan* (2002),
23 *Olney Master Plan* (2005), *Damascus Master Plan* (2006), *Great Seneca Science Corridor*
24 *Master Plan* (2010), *10 Mile Creek Area Limited Amendment* (2014), *Sandy Spring Rural*
25 *Village Plan* (2015), *MARC Rail Communities Sector Plan* (2019), and the *Ashton Village*
26 *Center Sector Plan* (2021).
27
 - 28 3. On April 18, 2023, the County Council held a public hearing on the February 2023 Planning
29 Board Draft of the Rustic Roads Functional Master Plan Update, which was referred to the
30 Council’s Transportation and Environment Committee for review and recommendations.
31
 - 32 4. On July 17, 2023, the Transportation and Environment Committee held a work session to
33 review the February 2023 Planning Board Draft of the Rustic Roads Functional Master Plan
34 Update.
35
 - 36 5. On July 25, 2023, the County Council reviewed the February 2023 Planning Board Draft of
37 the Rustic Roads Functional Master Plan Update and the recommendations of the
38 Transportation and Environment Committee.
39
40

41 **Action**

42

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

46

47 The Planning Board Draft of the Rustic Roads Functional Master Plan Update, dated February
48 2023, is approved with revisions. County Council revisions to the Planning Board Draft of the
49 Rustic Roads Functional Master Plan Update are identified below. Deletions to the text of the
50 Plan are indicated by [brackets], additions by underscoring.

51

52 All page references in this section are to Volume I: The Plan of the February 2023 Planning
53 Board Draft of the Rustic Roads Functional Master Plan Update.

54

55 Page 6 Revise the third paragraph of the “Rustic Roads Program in County Code” section
56 as follows:

57

58 Article 8 also defines the membership and duties of the Rustic Roads Advisory
59 Committee. The committee is currently composed of [seven] nine citizen
60 members appointed by the County Executive and confirmed by the County
61 Council. [In an effort to increase the diversity of the Committee, this plan
62 recommends increasing the membership to nine and reconfiguring the
63 membership criteria. See the Implementation chapter for more details about the
64 proposed membership changes.] The RRAC reviews and advises the County
65 Executive, County Council, Planning Board, Montgomery County Department of
66 Transportation, Department of Permitting Services, and other county agencies on
67 matters concerning rustic roads. Members review and comment upon roadway
68 classifications, policies, subdivision applications, and regulations and promote
69 public awareness of the Rustic Roads Program.

70

71 Page 10 Revise the first sentence of the second paragraph in the “Thrive Montgomery
72 2050” section as follows:

73

74 [The current draft of] *Thrive Montgomery 2050* maintains agriculture as the
75 primary land use in the Agricultural Reserve but supports maximizing the benefits
76 of the Reserve to all county residents by providing numerous opportunities for
77 outdoor recreation and agritourism.

78

79 Page 11 Remove the last sentence:

80

81 [The SRT also included a walking tour along rustic Frederick Road in
82 Hyattstown.]

83

84 Page 15 Revise the last sentence of the “Equity” section as follows:

85

86 [Changes] Due to recommendations in earlier drafts of this plan, the County
 87 Council enacted changes to the membership criteria for the Rustic Roads
 88 Advisory Committee [proposed in this plan are] intended to increase the diversity
 89 of the Committee.

90
 91 Page 22 Revise the first sentence under “(2) Is a narrow road intended for predominantly
 92 local use” as follows:

93
 94 The roadway width for roads that are recommended as rustic varies from 10 feet
 95 for a small gravel road such as Tschiffely Mill Road to [22] 24.5 feet for Old
 96 Hundred Road (MD 109).

97
 98 Page 22 Revise the final paragraph on page 22 as follows:

99
 100 The 1996 RRFMP established a general guideline of a maximum of 3,000 trips
 101 (specified as “average annual daily traffic” or AADT) for a rustic road, although
 102 other criteria can have more weight when classifying the roads. [A few existing
 103 rustic roads have counts higher than this, notably those in the Potomac Subregion,
 104 where some roads have higher counts due to the two-lane road policy in that
 105 area.] The five roads in the program at the outset of this master plan update that
 106 exceed 3,000 AADT are shown in Table 1.

107
 108 Page 23 Revise the text following Table 1, Roads with High Traffic Counts, as follows:

109
 110 In part due to their high traffic counts, this plan removes Frederick Road and a
 111 segment of Old Hundred Road from the Rustic Roads Program. [These] The
 112 traffic counts [and the road segments they apply to] for these two roads are
 113 discussed in the [individual road profiles] individual road recommendations; Glen
 114 Road is discussed below.

115
 116 Page 23 Revise the first sentence of the third paragraph as follows:

117
 118 The rustic segment of Glen Road has [one of] the highest traffic count[s] of the
 119 rustic roads, with a 2019 AADT count of [5031] 5,031 trips, which is
 120 considerably higher than the 3,000-trip threshold used in the 1996 *Rustic Roads*
 121 *Functional Master Plan*.

122
 123 Page 26 Revise the second sentence of the paragraph between Tables 2 and 3 as follows:

124
 125 Out of the 19 nominated roads not removed from consideration, [only Riding
 126 Stable Road, the nominated section of Brighton Dam Road,] three roads and one
 127 portion of Kings Valley Road are not recommended as rustic or exceptional
 128 rustic.

129
 130 Pages 26-27 Revise the following row in Table 3, Recommendations for Nominated Roads:

131

Road Name	Area	Extents	Recommendation
Holsey Road	Damascus	Ridge Road (MD 27) to end of county maintenance	[Rustic] <u>Do not designate rustic</u>

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- Page 28 Revise the first sentence of the “Roads with No Major Changes” section as follows:
- [Thirty-three] Thirty-one of the 99 roads currently in the program have only minor changes that do not affect their designation in the program or change any significant features.
- Pages 28-29 Revise Table 4, Roads with No Major Changes, to remove Bentley Road and Meeting House Road.
- Pages 29-30 Revise Table 5, Extent Changes for Existing Rustic Roads, to add the following rows:

Road Name	Extent Changing	Old Extent	New Extent
<u>Bentley Road</u>	<u>Southern</u>	<u>Olney-Sandy Spring Road (MD 108)</u>	<u>Sandy Spring Museum entry drive</u>
<u>Meeting House Road</u>	<u>Northern</u>	<u>Olney-Sandy Spring Road (MD 108)</u>	<u>CRN/R-200 boundary on the east side of the road</u>

146
147
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149

- Pages 30-31 Revise Table 6, Rustic Roads with Incomplete Descriptions, for Frederick Road (MD 355) as follows:

Road Name	Classification	Extents	Notes
<i>Clarksburg Master Plan and Hyattstown Special Study Area (1994)</i> (pp. 126-130 and appendix pp. 34-42)			
Frederick Road (MD 355)	Rustic	Between recommended Hyattstown Bypass intersections	[In Hyattstown Historic District] <u>Recommended for removal</u>

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- Page 31 Revise the first sentence as follows:
- Complete road profiles were written for each of these roads recommended to remain in the program and the blue page symbol shown above appears at the top of the profile.
- Page 32 Revise the first sentence of the second full paragraph as follows:

159 [Two] Three roads lacking a complete description, Frederick Road, Link Road,
 160 and Boswell Lane, are recommended for removal from the program as discussed
 161 [below] in the recommendations for individual roads.
 162

163 Pages 32-33 Revise Table 7, Roads with Changes to Significant Features, to add the following
 164 row:
 165

Road Name	Master Plan
<u>Elton Farm Road</u>	<u>Rustic Roads</u>

166
 167 Pages 33-34 Revise Table 8, Rustic Roads Recommend as Exceptional Rustic, to remove Elton
 168 Farm Road.
 169

170 Page 34 Revise the final sentence of the paragraph under Roads to Be Removed from the
 171 Program as follows:
 172

173 These roads are shown in Table [7] 9 along with their recommended classification
 174 from [the current road code types;] the *Complete Streets Design Guide*
 175 [recommendation is also shown].
 176

177 Page 34 Revise the title of Table 9, Roads Currently Recommended to Be Removed from
 178 the Program as follows:
 179

180 Table 9, Roads [Currently Recommended] to Be Removed from the Program
 181

182 Remove the “Recommended Classification” column.
 183

184 Revise Table 9 to add or revise the following rows:
 185

Road Name	Master Plan	Current Designation	Complete Streets Design Guide Class.
<u>Frederick Road (MD 355)</u>	<u>Clarksburg</u>	<u>Rustic</u>	<u>Country Connector</u>
<u>Link Road</u>	<u>Cloverly</u>	<u>Rustic</u>	[Unclassified] <u>Country Road</u>

186
 187 Page 35 Revise Figure 4, Rustic Roads as Recommended, to reflect the final status of
 188 roads in the plan.
 189

190 Pages 36-43 Revise Table 10, Summary of Criteria Evaluation of Existing and Nominated
 191 Rustic Roads, as follows:
 192

193 Revise the third column header of Table 10 as follows:
 194

195 Natural, agricultural, or historic features are predominant; compatible land use
 196 goals and zoning

197
198 Revise the following rows in Table 10:

Adopted as Rustic (R) or Exceptional Rustic (E)	Road Name	Rustic						Exceptional Rustic		
		Natural, agricultural, or historic features are predominant	Narrow, intended for local use	Traffic volume consistent with rustic road	Has outstanding natural features along its borders, such as native vegetation, stands of trees, stream valleys	Has outstanding vistas of farm fields and rural landscape or buildings	Provides access to historic resources, follows historic alignments, or highlights historic landscapes	Crash history does not suggest unsafe conditions	Significant contribution to natural, agricultural, or historic characteristics	Has unusual features found on few other roads in the county
R	Bentley Road: <u>Sandy Spring Museum entry drive to end of road</u>	✓	✓	✓	✓	✓	✓			✓
[E] R	Elton Farm Road	✓	✓	✓	✓		✓	✓	[✓]	✓
[R]	Frederick Road (MD 355): Old Hundred Road (MD 109) to Frederick County line	✓	[✓]				✓	✓		✓
[R]	Holley Road	[✓]	✓	✓		✓	✓	✓		
E	Meeting House Road: [Olney-Sandy Spring Road (MD 108)] CRN/R-200 boundary on east side of road to end of county maintenance	✓	✓	✓	✓	✓	✓	✓	✓	✓

199
200 Pages 44-45 Revise the following rows in Table 11, Exceptional Rustic Road Classifications:
201

Road Designation	Road Name	Limits	Min. ROW Width
[E-28	Elton Farm Road	Entire road: Howard Chapel Road to end of road	80’]
E-34	Meeting House Road	[Olney-Sandy Spring Road (MD 108)] <u>CRN/R-200 boundary on the east side of the road</u> to end of county maintenance	60’

202
203 Update all Road Designations as appropriate.

204
205 Pages 45-48 Revise the following rows in Table 12, Rustic Road Classifications:
206

Road Designation	Road Name	Limits	Min. ROW Width
R-78	Bentley Road	[Entire road: Olney-Sandy Spring Rd (MD 108)] <u>Sandy Spring Museum entry drive</u> to end of the road	70'
R-?	<u>Elton Farm Road</u>	<u>Entire road: Howard Chapel Road to end of road</u>	<u>70'</u>
[R-54	Frederick Road (MD 355)	Old Hundred Road (MD 109) to Frederick County line	80']
[R-68	Holsey Road	Entire road: Ridge Road (MD 27) to end of county maintenance	70']

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211

Update all Road Designations as appropriate.
Page 49 Add the following rows to Table 13, Other Roadway Classification:

Map Key	Road Name	Limits	Min. ROW Width
Country Connector			
CC-?	Frederick Road (MD 355)	Old Hundred Road (MD 109) to Frederick County line	60'
Country Road			
CR-?	Bentley Road	Olney-Sandy Spring Rd (MD 108) to Sandy Spring Museum entry drive	70'
CR-?	Holsey Road	Entire road: Ridge Road (MD 27) to end of county maintenance	70'
CR-?	Meeting House Road	Olney-Sandy Spring Rd (MD 108) to the CRN/R-200 boundary on the east side of the road	60'

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Update all Map Keys as appropriate.
Page 50 Revise Figure 5, Roadway Classifications, to reflect the final status of roads in the plan.
Page 51 Revise the “Rustic Roads Advisory Committee” section to reflect the changes approved by Bill 30-23.
Page 52 Remove the final sentence from the “Rustic Roads Advisory Committee” section:
[See the recommendations below for proposed changes to the Committee’s membership and defined responsibilities.]
Page 53 Revise under Recommendation 2 the first sentence of the proposed Executive regulation text, as follows:

228
 229 *A rustic or exceptional rustic road will receive the level of maintenance as*
 230 *necessary to ensure its continued viability as a transportation facility and to allow*
 231 *for safe travel by all users of the road, and by agricultural equipment in*
 232 *particular.*
 233

234 Pages 58-59 Remove the “Rustic Roads Advisory Committee Changes” section. Renumber
 235 any recommendations that follow this section.
 236

237 Page 64 Remove the “Appendixes” heading from above the Individual Road
 238 Recommendations section so that it is the final section of the previous chapter
 239 rather than a plan appendix.
 240

241 Page 66 Revise the first recommendation for Batchellors Forest Road as follows:
 242

243 Update western extent to the Washington Christian Academy entry drive.
 244 Reclassify the segment between Georgia Avenue and the entry drive as a
 245 neighborhood connector.
 246

247 Page 68 Revise recommendation for Bentley Road as follows:
 248

249 [No new recommendations.]
 250

251 Recommendation:
 252

- 253 • Update southern extent to the Sandy Spring Museum entry drive
 254 (approximately 265 feet north of Olney-Sandy Spring Road [MD 108]).
 255 Reclassify Bentley Road as a country road south of the museum entry
 256 drive.
 257

258 For the first 200 feet north of MD 108, the property on the west side of
 259 Bentley Road is in the CRN zone. It is occupied by a gas station, food
 260 market, and auto mechanic shop, with the latter two in a three-story
 261 building resembling a small office building. There is concrete curbing
 262 along the gas station property. Immediately to the north of the service
 263 station, the land is zoned RE-1 and within the Sandy Spring/Ashton Rural
 264 Village Overlay zone.
 265

266 The Sandy Spring Museum entry drive is on the east side of Bentley Road
 267 approximately 265 feet north of the center of its intersection with MD 108.
 268 This is the only vehicular entrance to the museum’s parking lot, which
 269 currently has 35 spaces but has been approved for a total of 47. A new
 270 exit-only connection from the Sandy Spring Museum parking lot onto
 271 Bentley Road has been approved approximately 600 feet north of MD 108.
 272 The museum property and the remainder of the properties along Bentley
 273 Road north of the service station are in the RC zone.

274
 275 The new northern exit point from the parking lot is only expected to be
 276 used to assist with circulation for occasional events and is not expected to
 277 generate large volumes of traffic on a regular basis. On the other hand, the
 278 CRN zoning, the service station and office building, and the presence of
 279 concrete curbing on the southernmost segment of the road indicate a land
 280 use and zoning designation that are incompatible with rural character.
 281 Although the Sandy Spring Museum does not generate much daily traffic,
 282 the many events throughout the year indicate that the initial segment of the
 283 road is not intended only to serve local traffic. The rustic road should
 284 begin past the museum entry drive. The segment south of the entry drive
 285 should be reclassified as a country road.

286
 287 Page 68 Revise recommendation for Boswell Road as follows:
 288
 289 Remove the road from the Rustic Roads program. Reclassify Boswell Road as a
 290 neighborhood connector.

291
 292 Page 69 Revise the final sentence of the Boswell Road recommendation as follows:
 293
 294 The road should be reclassified [primary residential] as a neighborhood
 295 connector.

296
 297 Page 70 Revise the first recommendation for Brookeville Road as follows:
 298
 299 Update eastern extent to new roundabout at the Brookeville Bypass. Reclassify
 300 the segment between the roundabout and old MD 97 as a country road.

301
 302 Page 73 Revise the first recommendation for Dustin Road as follows:
 303
 304 Update the eastern extent of Dustin Road to the roundabout at Old Columbia Pike.
 305 Reclassify the segment between the roundabout and Columbia Pike (US 29) as a
 306 country road.

307
 308 Page 74 Replace the “change classification” symbol with a “revised significant feature”
 309 symbol for the second Elton Farm Road recommendation. Revise the second
 310 recommendation as follows:

- [Change designation from rustic to exceptional rustic.

311
 312 Both the paved and unpaved sections of this road wind gently through the
 313 natural environment while offering views of the countryside and historic
 314 resources. The road has a gravel surface for about half its length. This road
 315 would be very negatively impacted if it were to be improved.]
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- Replace “unpaved road” with “narrow road with trees close to road” as a significant feature of the road.

Both the paved and unpaved sections of this road wind gently through the natural environment while offering views of the countryside and historic resources. The road has a gravel surface for about half its length. Although gravel surfaces are typically noted as significant features of rustic and exceptional rustic roads, one section of the gravel portion of Elton Farm Road has proved to be particularly problematic whenever there is a heavy rainstorm, requiring repeated trips by maintenance crews every year to repair the damage. Although Executive Regulations allow road surfaces to be altered to reduce maintenance problems, such work requires protecting the significant features of the road, which would be difficult if the significant feature were the road surface itself.

Elton Farm Road is a narrow, mostly one-lane road winding through wooded areas and along tree-lined fields. These trees and the width of the road are a significant part of the experience of travelling down the road and should be added as a significant feature.

Page 74

Revise recommendation for Frederick Road (MD 355) as follows:

- [Approve the new road profile and significant features.

When Frederick Road was classified rustic in 1994, the master plan, in its technical appendix, acknowledged the road’s historic alignment and the enclosed feel provided by the trees and the closeness of the buildings to the roadway. The plan specified “[t]he roadway setting, as it goes through the historic district, and the connection between the road and the adjacent houses” as significant features.]

- Remove the road from the Rustic Roads program. Reclassify the rustic segment as a country connector.

The segment of MD 355 between MD 109 and the Frederick County line through Hyattstown has been classified as a Rustic Road since the program began in 1994. The Technical Appendix from the 1994 Clarksburg Master Plan demonstrated that the road met the criteria for a rustic classification, but that the Planning Board and County Council had concerns with designating a segment of MD 355 rustic. The main justification for a rustic classification is that the road is in an area where historic features predominate, but the road was only able to meet the criterion of being low volume and for predominantly local use due to several recommendations in the plan: closing the I-270 interchange at MD 109; constructing a new interchange to the north of the Frederick-Montgomery County line to connect directly to MD 75 north of Hyattstown; and building a bypass to route the main flow of MD 355 traffic

365 to the east of Hyattstown. According to the Technical Appendix, the traffic
 366 volume in 1990 was approximately 9,200 daily trips south of MD 109 (no
 367 traffic volume was available for the rustic segment of the road, which is north
 368 of MD 109). The most recent analysis indicates that there are now close to
 369 16,000 daily trips on the segment of Frederick Road between MD 109 and the
 370 Frederick County Line. This is over five times the general guideline of 3,000
 371 daily trips for a low-volume road. With only one serious crash in the six-year
 372 study period from 2015-2020 out of 20 total non-intersection crashes,
 373 however, the road does not appear to be unsafe.

374
 375 The rustic designation of Frederick Road is entirely within the Hyattstown
 376 Historic District, which largely controls the streetscape. Because it is unlikely
 377 that the transportation projects recommended in the 1994 Clarksburg Master
 378 Plan will be built in the foreseeable future and the non-local traffic volume is
 379 high, the road fails to meet the criteria for a rustic classification and should be
 380 reclassified as a country connector, consistent with the classification of MD
 381 355 south of MD 109.

382
 383 Page 68 Revise recommendation for Georgia Avenue (MD 97) as follows:

- 384
- 385 • Do not designate Georgia Avenue rustic near Brookeville.
- 386

387 Two short segments of Georgia Avenue were suggested as rustic roads, one
 388 on either side of the Town of Barnesville limits and the access points for the
 389 Brookeville Bypass, [currently under construction] which was opened for
 390 traffic between the approval of the Planning Board Draft of the plan and
 391 consideration of the plan by the County Council. The [idea is that the] Bypass
 392 will carry a majority of the traffic, leaving a much lower traffic volume
 393 entering and leaving historic Brookeville. This idea should be reconsidered
 394 once the Bypass has been completed and new traffic patterns have been
 395 established in order to determine if the remaining parts of “Old” Georgia
 396 Avenue, called “High Street” in the Town of Brookeville, meet the criteria for
 397 a rustic designation.

398
 399 Page 78 Revise recommendation for Holsey Road as follows:

400
 401 [Designate Holsey Road rustic.]

402
 403 Do not designate Holsey Road rustic.

404
 405 Area residents, some of whom are descended from the early inhabitants of Holsey
 406 Road and nearby Friendship, an African American kinship community, expressed
 407 a desire to improve properties along Holsey Road in the future and voiced
 408 concerns that a rustic designation would preclude such improvements as
 409 widening, drainage, sidewalks, and lighting. One person expressed additional
 410 concerns regarding safety and fire and rescue access because of the narrow road

411 and curves with limited sight distance, especially given an increase in delivery
412 trucks on the road.

413
414 The first part of Holsey Road has an industrial character because of the land use
415 on the south side of the road. This is followed by several houses, some modern in
416 appearance. The rustic character of the road begins about 1,000 feet east of Ridge
417 Road (MD 27), leaving approximately half a mile of road eligible for a rustic
418 classification. However, because residents in the area have indicated a desire to
419 improve the properties along the road, including improvements to the roadway
420 itself, a rustic designation is not appropriate for Holsey Road.

421
422 Page 81 Revise the first recommendation for Johnson Road as follows:

423
424 Clarify the eastern extent of Johnson Road to begin at the entry drive to James
425 Hubert Blake High School. Reclassify the segment between the entry drive and
426 Norwood Road as a neighborhood connector.

427
428 Page 82 Revise recommendation for Link Road as follows:

429
430 Remove the road from the Rustic Roads program. Reclassify Link Road as a
431 country road.

432
433 Page 83 Revise the final sentence of the Link Road recommendation as follows:

434
435 The road should [revert to unclassified] be reclassified as a country road.

436
437 Page 83 Revise recommendation for Meeting House Road as follows:

438
439 [No new recommendations.]

440
441 Recommendation:

- 442
443 • Update the northern extent of the exceptional rustic classification to the
444 CRN/R-200 boundary on the east side of the road (approximately 300 feet
445 south of Olney-Sandy Spring Road [MD 108]). Reclassify Meeting House
446 Road as a country road north of this boundary.

447
448 The properties on both sides of Meeting House Road are zoned CRN south of
449 MD 108—for approximately 300 feet on the east side and 600 feet on the west
450 side. The road and property along its west side are also in the Sandy Spring
451 Historic District, which continues to the south on the Sandy Spring Friends
452 Meeting House property. There is a parking lot along the east side of the road
453 that serves the commercial uses in the former fire station on the southeast
454 corner of the intersection. There is a parking lot entry drive on the west side of
455 Meeting House Road approximately 100 feet south of MD 108 that serves the
456 uses on the west side of the road. The building in the southwest corner of MD

457 108 and Meeting House Road and the larger building fronting Meeting House
 458 Road were both included in an application in 2021 to adaptively reuse both
 459 buildings as part of a 56-unit age-restricted housing community. Concrete
 460 curbs line both sides of Meeting House Road past the entry on the west, while
 461 on the east side the parking lot merges with the street for another 80 feet,
 462 followed by a short section of fence partially concealing trash receptacles.

463
 464 Although it is within the CRN zone, the design of the building and grounds on
 465 the west side of the road here help reinforce the historic character of the road
 466 and contribute to the experience of Meeting House Road as an exceptional
 467 rustic road, but the retail-serving parking lot and land use on the east side
 468 detract from that character. The exceptional rustic road should begin past the
 469 CRN-zoned property on the east side of the road. The segment north of the
 470 CRN/R-200 boundary should be reclassified as a country road.

471
 472 Page 87 Revise the second recommendation for Old Hundred Road (MD 109) as follows:

473
 474 Update the northern extent of the rustic portion of the road to end at Peach Tree
 475 Road instead of Frederick Road (MD 355). Reclassify this segment of Old
 476 Hundred Road as a country connector.

477
 478 Page 87 Revise the final sentence of the Old Hundred Road (MD 109) recommendations
 479 as follows:

480
 481 The road segment should be reclassified [as an arterial road in the *Master Plan of*
 482 *Highways* and] as a country connector [road per the *Complete Streets Design*
 483 *Guidelines*].

484
 485 Page 91 Revise recommendation for Schaeffer Road as follows:

486
 487 Update the eastern extent of Schaeffer Road so that it ends at Burdette Lane.
 488 Reclassify the segment between the entry drive and Burdette Lane as a
 489 neighborhood connector.

490
 491 Page 92 Revise recommendation for Stringtown Road as follows:

492
 493 Update the southern extent of Stringtown Road from Snowden Farm Parkway to
 494 the Cedarbrook Community Church entry drive. Reclassify the segment between
 495 the entry drive and Snowden Farm Parkway as a neighborhood connector.

496
 497 Page 98 Add an “Appendixes” heading to make “Chapter 49, Article 8. Rustic Roads
 498 Program” the first plan appendix.

499
 500 Page 98 Update the appendix “Chapter 49, Article 8. Rustic Roads Program” to indicate
 501 the changes to the Rustic Roads Advisory Committee enacted by Bill 30-23.

502

- 503 Page 120 Revise fold-out map Rustic Roads as Recommended to reflect the final status of
- 504 roads in the plan.
- 505
- 506 Page 121 Revise fold-out map Roadway Classifications to reflect the final status of roads in
- 507 the plan.
- 508
- 509 Page 122 Revise fold-out Roadway Classifications Map Key to reflect the final status of
- 510 roads in the plan.
- 511
- 512 Pages 120-122 Rearrange the fold-out maps and map key so that the Roadway Classifications
- 513 map and key are on facing pages, with the Rustic Roads as Recommended map
- 514 following.
- 515

516 All page references in this section are to Volume II: Road Profiles of the February 2023 Planning
 517 Board Draft of the Rustic Roads Functional Master Plan Update.

518

519 Page 2 Revise the second sentence in the “Road Characteristics” section as follows:

520

521 The width shown in the table is approximate and is frequently expressed as a

522 range because road widths vary throughout their length and roadway edges are

523 sometimes buried beneath foliage or have deteriorated.

524

525 Page 33 Add the following sentence to the end of the introductory text of the road profile

526 for Bentley Road:

527

528 This plan removes the rustic designation between Olney-Sandy Spring Road (MD

529 108) and the Sandy Spring Museum entry drive.

530

531 Page 33 Revise the second paragraph of the Travelling Experience for Bentley Road as

532 follows:

533

534 A gas station sits close to the road on the west side and the Sandy Spring Museum

535 is located behind groups of trees to the east; the rustic section of the road begins at

536 the museum’s entry drive.

537

538 Page 34 Revise the Road Characteristics table for Bentley Road as follows:

Extents	[Entire road: Olney-Sandy Spring Rd (MD 108)] <u>Sandy Spring Museum entry drive (approximately 265 feet north of Olney-Sandy Spring Road [MD 108]) to end of the road</u>
Length	[0.49] 0.44 miles
Width	10-18 feet
Surface	Paved
Lanes	No centerline or edge markings
Shoulders	None

540

- 541 Page 35 Revise the map of Bentley Road to reflect the new southern extent.
- 542
- 543 Page 104 At the top of the road profile for Elton Farm Road, indicate that the road is a
- 544 rustic road rather than an exceptional rustic road. Remove the “changed
- 545 classification” symbol and add a “revised significant features” symbol. Remove
- 546 the following line from the introductory text:
- 547
- 548 [This plan reclassifies this road exceptional rustic.]
- 549
- 550 Page 104 Revise the first significant feature of Elton Farm Road as follows:
- 551
- 552 [Unpaved road] Narrow road with trees close to road
- 553
- 554 Page 106 Revise the map of Elton Farm Road to show the road as rustic.
- 555
- 556 Page 111-113 Remove the road profile for Frederick Road.
- 557
- 558 Page 154-157 Remove the road profile for Holsey Road.
- 559
- 560 Page 158 Revise the fourth sentence of the Travelling Experience in the Howard Road
- 561 profile as follows:
- 562
- 563 South of its intersection with Elton Farm Road ([an exceptional] a rustic road), the
- 564 Royer-Brooks Farm (Master Plan Historic Site #23/12) is located on the west side
- 565 of the road.
- 566
- 567 Page 206 Add the following sentence to the end of the introductory text of the road profile
- 568 for Meeting House Road:
- 569
- 570 This plan removes the exceptional rustic designation between Olney-Sandy
- 571 Spring Road (MD 108) and the CRN/R-200 boundary on the east side of the road.
- 572
- 573 Page 206 Revise the second sentence of the Travelling Experience for Meeting House Road
- 574 as follows:
- 575
- 576 The exceptional rustic designation begins after the parking lot behind the former
- 577 fire station on the left. [Passing those and] Past the Montgomery Mutual Building,
- 578 the pavement narrows and the road enters the Sandy Spring Meeting property; the
- 579 1859 “Lyceum” and newer Community House and cemetery are on the east, with
- 580 a former county-champion tulip poplar in the cemetery visible from the road.
- 581
- 582 Page 207 Revise the Road Characteristics table for Meeting House Road as follows:
- 583

Extents	[Olney-Sandy Spring Road (MD 108)] <u>CRN/R-200 boundary on the east side of the road (approximately 300 feet south of Olney-Sandy Spring Road [MD 108]) to end of county maintenance</u>
Length	[0.41] <u>0.35</u> miles
Width	12-20 feet
Surface	Paved
Lanes	No center line or edge markings
Shoulders	None

584

585 Page 208 Revise the map of Meeting House Road to reflect the new northern extent.

586

587 Page 239 Revise the last sentence of the History section in the Mullinix Mill Road profile as follows:

588

589

590 Local tradition holds that families formerly enslaved by Asbury Mullinix were the first settlers along Holsey Road [(a rustic road)] in the early- to mid-19th century.

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592

593

General

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595 All illustrations and tables included in the Plan will be revised to reflect the District Council changes to the Planning Board Draft of the Rustic Roads Functional Master Plan Update (February 2023). 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.

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601 This is a correct copy of Council action.

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604



605

Sara R. Tenenbaum

606

Clerk of the Council



MCPB NO. 23-123

M-NCPPC NO. 23-26

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, *Thrive Montgomery 2050*; 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 November 17, 2022 on the Public Hearing Draft of the *Rustic Roads Functional Master Plan Update*, being an amendment to the *Rustic Roads Functional Master Plan* (1996) and the *Rustic Roads Functional Master Plan, Clarksburg Master Plan & Hyattstown Special Study Area, Boyds Master Plan & Gaithersburg Vicinity Master Plan Amendment* (2004), and *Thrive Montgomery 2050*; being also an amendment to portions of the following functional master plans: the *Master Plan of Highways & Transitways* (2018), and the *Bicycle Master Plan* (2018); and to portions of the following area master plans: the *Clarksburg Master Plan & Hyattstown Special Study Area* (1994), the *Cloverly Master Plan* (1997), the *Fairland Master Plan* (1997), the *Sandy Spring/Ashton Master Plan* (1998), the *Potomac Subregion Master Plan* (2002), the *Olney Master Plan* (2005), the *Damascus Master Plan* (2006), the *Great Seneca Science Corridor Master Plan* (2010), the *Ten Mile Creek Area Limited Amendment* (2014), the *Sandy Spring Rural Village Plan* (2015), the *MARC Rail Communities Sector Plan* (2019), and the *Ashton Village Center Sector Plan* (2021); and

WHEREAS, the Montgomery County Planning Board, after said public hearing and due deliberation and consideration, on February 9, 2023, approved the Planning Board Draft of the *Rustic Roads Functional Master Plan Update*, recommended that it be approved by the Montgomery County Council sitting as the District Council for the portion of the Maryland-Washington Regional District lying within Montgomery County (the “Montgomery County District Council”), and forwarded it to the Montgomery County Executive for recommendations and analysis; and

WHEREAS, the Montgomery County Executive reviewed and made recommendations on the Planning Board Draft of the *Rustic Roads Functional Master Plan Update* and forwarded those recommendations and analysis to the Montgomery County District Council on April 28, 2023; and

WHEREAS, the Montgomery County District Council held a public hearing on April 18, 2023, wherein testimony was received concerning the Planning Board Draft of the *Rustic Roads Functional Master Plan Update*; and

WHEREAS, the District Council, on July 25, 2023 approved the Planning Board Draft of the *Rustic Roads Functional Master Plan Update* subject to the modifications and revisions set forth in District Council Resolution No. 20-267.

NOW, THEREFORE BE IT RESOLVED, that the Montgomery County Planning Board and The Maryland-National Capital Park and Planning Commission do hereby adopt the said *Rustic Roads Functional Master Plan Update*, together with *Thrive Montgomery 2050*, as amended, and as amendments to portions of the following functional master plans: the *Master Plan of Highways & Transitways* (2018), the *Bicycle Master Plan* (2018), the *Rustic Roads Functional Master Plan* (1996), and the *Rustic Roads Functional Master Plan, Clarksburg Master Plan & Hyattstown Special Study Area, Boyds Master Plan & Gaithersburg Vicinity Master Plan Amendment* (2004); as well as to portions of the following area master plans: the *Clarksburg Master Plan & Hyattstown Special Study Area* (1994), the *Cloverly Master Plan* (1997), the *Fairland Master Plan* (1997), the *Sandy Spring/Ashton Master Plan* (1998), the *Potomac Subregion Master Plan* (2002), the *Olney Master Plan* (2005), the *Damascus Master Plan* (2006), the *Great Seneca Science Corridor Master Plan* (2010), the *Ten Mile Creek Area Limited Amendment* (2014), the *Sandy Spring Rural Village Plan* (2015), the *MARC Rail Communities Sector Plan* (2019), and the *Ashton Village Center Sector Plan* (2021); and as approved by the District Council in the attached Resolution No. 20-267; and

BE IT FURTHER RESOLVED, that copies of said *Rustic Roads Functional Master Plan Update* must be certified by The Maryland-National Capital Park and Planning Commission and filed with the Clerk of the Circuit Court for both Montgomery and Prince George's Counties, as required by law.

CERTIFICATION

This is to certify that the foregoing is a true and correct copy of a Resolution No. 23-123 adopted by the Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Hedrick, seconded by Commissioner Bartley, with a vote of 5-0, Chair Harris, Vice Chair Pedoem, and Commissioners Bartley, Hedrick, and Linden, voting in favor of the motion, at its regular meeting held on Thursday, December 7, 2023, in Wheaton, Maryland and via video conference.



Artie L. Harris, Chair
Montgomery County Planning Board

This is to certify that the foregoing is a true and correct copy of Resolution No. 23-26, adopted by The Maryland-National Capital Park and Planning Commission on motion of Commissioner _____, seconded by Commissioner _____, with Commissioners _____, _____, _____, _____, _____, _____, _____, _____, _____, voting in favor of the motion, at its meeting held on Wednesday, December 20, in Riverdale, Maryland.

Executive Director

/s/ Matthew T. Mills

Approved for Legal Sufficiency Date November 30, 2023
Office of the General Counsel, M-NCPPC

CERTIFICATION OF APPROVAL AND ADOPTION
RUSTIC ROADS FUNCTIONAL MASTER PLAN UPDATE

This Comprehensive Amendment to the 1996 *Rustic Roads Functional Master Plan*, as amended; being also an amendment to *Thrive Montgomery 2050*; the 2018 *Master Plan of Highways and Transitways*; the 2018 *Bicycle Master Plan*; the 1994 *Clarksburg Master Plan & Hyattstown Special Study Area*; the 1997 *Cloverly Master Plan*; the 1997 *Fairland Master Plan*; the 1998 *Sandy Spring/Ashton Master Plan*; the 2002 *Potomac Subregion Master Plan*; the 2004 *Rustic Roads Functional Master Plan, Clarksburg Master Plan & Hyattstown Special Study Area, Boyds Master Plan & Gaithersburg Vicinity Master Plan Amendment*; the 2005 *Olney Master Plan*; the 2006 *Damascus Master Plan*; the 2010 *Great Seneca Science Corridor Master Plan*; the 2014 *Ten Mile Creek Area Limited Amendment*; the 2015 *Sandy Spring Rural Village Plan*; the 2019 *MARC Rail Communities Sector Plan*; and the 2021 *Ashton Village Center Sector Plan*, all as amended, has been approved by the Montgomery County Council, sitting as the District Council, by Resolution Number 20-267 on July 25, 2023, and has been adopted by The Maryland-National Capital Park and Planning Commission by Resolution Number 23-26 on December 20, 2023, after duly advertised public hearings pursuant to the Land Use Article – Division II, of the Annotated Code of Maryland.

THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Peter A. Shapiro
Chair

Artie Harris
Vice-Chair

Gavin Cohen
Secretary-Treasurer

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December 20, 2023

MEMORANDUM

TO: The Maryland-National Capital Park and Planning Commission

VIA: Suzann M. King, Acting Planning Director *smk*

FROM: Lyndsey Cloutre, Planner III, Long-Range Planning Section, Community Planning Division *LC*

SUBJECT: **The Maryland-National Capital Park and Planning Commission certification of the adoption and approval of the Minor Master Plan Amendment and concurrent Sectional Map Amendment to the 2006 Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area**

Attached for your review and approval are the draft Full Commission Resolution M-NCPPC No. 2023-30 to adopt and certify the Minor Master Plan Amendment and concurrent Sectional Map Amendment (SMA) to the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area*; a draft Certificate of Adoption; and a copy of the Minor Master Plan Amendment and concurrent Sectional Map Amendment to the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area*, which consists of the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area*, the initiating resolution CR-020-2023, the Prince George's County Planning Board Resolution of Adoption PGCPB No. 2023-93 (minor master plan amendment) and Resolution of Endorsement PGCPB No. 2023-94 (SMA), and the Prince George's County Council Resolutions of Approval CR-106-2023 (minor master plan amendment) and CR-107-2023 (SMA).

RECOMMENDATION

Staff recommend the Full Commission approve Resolution M-NCPPC No. 2023-30, and the Certificate of Adoption and Approval.

Attachments:

1. Draft Full Commission Resolution M-NCPPC No. 2023-30
2. Draft Certificate of Adoption and Approval
3. [2006 Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area](#)
4. [March 28, 2023, Prince George's County District Council's Resolution of Initiation \(CR-020-2023\)](#)
5. [September 14, 2023, Prince George's County Planning Board's Resolution of Minor Master Plan Amendment Adoption \(PGCPB No. 2023-93\)](#)
6. [September 14, 2023, Prince George's County Planning Board's Resolution of SMA Endorsement \(PGCPB No. 2023-94\)](#)



7. [November 14, 2023, Prince George's County District Council's Resolution of Minor Master Plan Amendment Approval \(CR-106-2023\)](#)
8. [November 14, 2023, Prince George's County District Council's Resolution of SMA Approval \(CR-107-2023\)](#)

Signature: *Lyndsey Clouatre*

Email: lyndsey.clouatre@ppd.mncppc.org

Signature: *Suzann King*

Email: suzann.king@ppd.mncppc.org



M-NCPPC No. 2023-30

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission, by virtue of the Land Use Code of the Annotated Code of Maryland, is authorized and empowered, from time to time, to make and adopt, amend, extend, and add to the Prince George's County Approved General Plan ("Plan 2035") for physical development of the Maryland-Washington Regional District; and

WHEREAS, the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission, held a duly advertised joint public hearing with the Prince George's County Council, sitting as the District Council, for that portion of the Maryland-Washington Regional District in Prince George's County, on June 13, 2023, to consider the Henson Creek-South Potomac Planning Area Minor Plan Amendment and its concurrent Sectional Map Amendment; and

WHEREAS, the Minor Plan Amendment amends the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* by modifying guidance for the portions of the Henson Creek-South Potomac Planning Area known as "The Henson Creek Transit Village," "The Broad Creek Transit Village & Medical Park," "The Rosecroft Mixed-Use Area," "Developing Tier," and "Rural Tier"; and;

WHEREAS, the Sectional Map Amendment amends portions of the Prince George's County Zoning Map for portions of Planning Areas 76B and 80 within the Henson Creek-South Potomac Planning Area; and

WHEREAS, the Prince George's County Planning Board on September 14, 2023, after due deliberation and consideration of the public hearing testimony, recommended adoption of the Minor Master Plan Amendment with amendments, as described in the Prince George's County Planning Board Resolution PGCPB No. 2023-93, and endorsed the Sectional Map Amendment with amendments, as described in Prince George's County Planning Board Resolution PGCPB No. 2023-94, and transmitted both to the District Council on September 18, 2023; and

WHEREAS, the Prince George's County Council, convened as the Committee of the Whole, held a work session on October 24, 2023, to consider hearing testimony and the Planning Board Resolutions; and

WHEREAS, the Prince George's County Planning Board provided comments on November 9, 2023, to the District Council's proposed revisions to the Minor Master Plan Amendment and Sectional Map Amendment (SMA); and

WHEREAS, upon consideration of the testimony received through the hearing process, and comment from the Planning Board, the District Council on November 14, 2023, adopted CR-106-



2023 approving the Henson Creek-South Potomac Planning Area Minor Plan Amendment, and adopted CR-107-2023 approving the Henson Creek-South Potomac Planning Area Sectional Map Amendment;

NOW, THEREFORE, BE IT RESOLVED, that the aforementioned recitals are hereby incorporated into this Resolution by reference;

BE IT FURTHER RESOLVED, that The Maryland-National Capital Park and Planning Commission does hereby adopt said Minor Master Plan Amendment and Sectional Map Amendment to the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* as approved by the Prince George's County District Council in attached Resolutions CR-106-2023 and CR-107-2023; and

BE IT FURTHER RESOLVED, that amended copies of said Minor Master Plan shall be certified by The Maryland-National Capital Park and Planning Commission and filed with the Clerk of the Circuit Court of Prince George's County, as required by law; and

BE IT FURTHER RESOLVED, that The Maryland-National Capital Park and Planning Commission does hereby certify the Minor Master Plan Amendment and Sectional Map Amendment to the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area*.

* * * * *

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 the motion of Commissioner X, seconded by Commissioner X, with Commissioners X, X, X, and X and Commissioner X being absent, at its regularly held meeting on December 20, 2023, in Riverdale, Maryland.

Asuntha Chiang-Smith
Executive Director

APPROVED AS TO LEGAL SUFFICIENCY

M-NCPPC LEGAL DEPARTMENT
DATE:

CERTIFICATE OF ADOPTION AND APPROVAL

The Minor Master Plan Amendment and Sectional Map Amendment to the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* modifies guidance for the portions of the Henson Creek-South Potomac Planning Area known as “The Henson Creek Transit Village,” “The Broad Creek Transit Village & Medical Park,” “The Rosecroft Mixed-Use Area,” “Developing Tier,” and “Rural Tier”; and amends portions of the Prince George’s County Zoning Map for portions of Planning Areas 76B and 80 within the Henson Creek-South Potomac Planning Area. The Prince George’s County Planning Board of The Maryland-National Capital Park and Planning Commission adopted the Minor Master Plan Amendment to the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* by Resolution No. 2023-93 and endorsed the Sectional Map Amendment to the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* by Resolution No. 2023-94 on September 14, 2023. The Prince George’s County Council approved the Minor Master Plan Amendment and Sectional Map Amendment by Resolution No. CR-106-2023 (Minor Master Plan Amendment), and Resolution No. CR-107-2023 (SMA), on November 14, 2023, respectively, after a duly advertised public hearing held on June 13, 2023.

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Peter A. Shapiro
Chairman

Artie Harris
Vice Chairman

Gavin Cohen, CPA
Secretary-Treasurer

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2023 Legislative Session

Resolution No. CR-020-2023
Proposed by (The Chair – by request Planning Board)
Introduced by Council Members Watson, Ivey, Dernoga, Blegay, Burroughs, Oriadha, and Fisher
Co-Sponsors _____
Date of Introduction March 28, 2023

RESOLUTION

1 A RESOLUTION concerning

2 2006 *Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac*
3 *Planning Area*—Minor Master Plan Amendment and Sectional Map Amendment—Initiation
4 For the purpose of initiating, pursuant to the local zoning laws for that portion of the Maryland-
5 Washington Regional District situated in Prince George’s County, Maryland, a minor
6 amendment to the 2006 *Master Plan and Sectional Map Amendment for the Henson Creek-South*
7 *Potomac Planning Area*—in particular, to remove and replace certain obsolete development
8 pattern guidelines, policies, and strategies for the physical development of portions of the Master
9 Plan areas known as “The Henson Creek Transit Village,” “The Broad Creek Transit Village &
10 Medical Park,” “The Rosecroft Mixed-Use Area,” “Developing Tier,” and “Rural Tier” to reflect
11 the County’s current development priorities—and initiating a concurrent Sectional Map
12 Amendment for a portion of Planning Areas 76B and 80 of the Maryland-Washington Regional
13 District.

14 WHEREAS, pursuant to its authority set forth in the Regional District Act within the Land
15 Use Article, Annotated Code of Maryland, the County Council of Prince George’s County,
16 sitting as the District Council for that portion of the Maryland-Washington Regional District in
17 Prince George’s County (“District Council”), approved the 2006 *Master Plan and Sectional Map*
18 *Amendment for the Henson Creek-South Potomac Planning Area* via adoption of CR-30-2006 on
19 April 25, 2006; and

20 WHEREAS, in accordance with the procedures set forth in the Zoning Ordinance of Prince
21 George’s County, Maryland, the District Council also approved certain guidelines, policies, and

1 strategies regarding development patterns for the “The Henson Creek Transit Village,” “The
2 Broad Creek Transit Village & Medical Park,” “The Rosecroft Mixed-Use Area,” “Developing
3 Tier,” and “Rural Tier”; and

4 WHEREAS, since the time of the 2006 Master Plan approval, several land use and
5 development pattern recommendations for the Mixed-Use Activity Centers identified in the
6 Master Plan as “The Henson Creek Transit Village,” “The Broad Creek Transit Village &
7 Medical Park,” and “The Rosecroft Mixed-Use Area,” as well as the “Developing Tier” and the
8 “Rural Tier” are outdated and/or no longer relevant as set forth in the Master Plan’s
9 Development Pattern Element; and

10 WHEREAS, Section 27-3502(i) of the Zoning Ordinance provides a process by which the
11 District Council may initiate a minor amendment to approved area master plans, subject to
12 certain requirements; and

13 WHEREAS, the District Council finds that there is a need to amend the Development
14 Pattern Element within the 2006 *Master Plan and Sectional Map Amendment for the Henson
15 Creek-South Potomac Planning Area* to revise the Development Pattern Element for “The
16 Henson Creek Transit Village,” “The Broad Creek Transit Village & Medical Park,” “The
17 Rosecroft Mixed-Use Area,” “Developing Tier,” and “Rural Tier” to eliminate obsolete land use
18 and development pattern guidelines, policies, and strategies for these areas; and

19 WHEREAS, the Master Plan’s comprehensive land use and development pattern should
20 emphasize and reflect the County’s current legislative priorities related to mixed-use transit-
21 oriented development, smart growth, revenue creation, and access to quality healthcare; and

22 WHEREAS, as it specifically relates to the “Henson Creek Transit Village,” the District
23 Council finds that a minor amendment is appropriate to update the Master Plan to incorporate the
24 2021 *Henson Creek Village Area Study* findings concerning current environmental and market
25 constraints, as well as the Study’s recommendations for attracting and supporting new
26 commercial and residential investment while minimizing flooding; and

27 WHEREAS, as it specifically relates to the “Rosecroft Mixed-Use Area,” the District
28 Council finds that a minor amendment is appropriate to update the Master Plan to reflect that the
29 designation of this area as mixed-use is no longer appropriate, given the County’s current
30 legislative priorities and recent development activity; and

1 WHEREAS, the District Council also finds that the proposed minor amendments fall well
 2 within the parameters authorized by the provisions of Section 27-3502(i)(2), as the amendments
 3 proposed herein: (1) advance defined public objectives; (2) involve no more than 50% of the
 4 applicable plan area, but are not limited to a single parcel of land or landowner; and (3) are
 5 limited to specific issues regarding public planning objectives; and

6 WHEREAS, it is the finding of the District Council that the proposed minor amendments
 7 do not fall within the parameters of Section 27-3502(i)(3), as the amendments proposed herein
 8 do not: (1) rezone any land; (2) change a General Plan center designation; (3) require major
 9 transportation or public facilities analysis or revised water and sewer classification; or (4) amend
 10 the County's growth boundary; and

11 WHEREAS, it is the desire of the District Council to process a Sectional Map Amendment
 12 concurrently with this minor amendment to the 2006 *Master Plan and Sectional Map*
 13 *Amendment for the Henson Creek-South Potomac Planning Area* in accordance with Sections
 14 27-3502 and 3503 of the Zoning Ordinance, to provide a strong interrelationship between land
 15 use recommendations in approved plans and the zoning of land and to strategically eliminate the
 16 split zoning of land where possible; and

17 WHEREAS, the boundaries of the proposed Sectional Map Amendment shall be limited to
 18 an area north of and not including the Broad Creek Conservancy, east of Livingston Road, south
 19 of Old Fort Road, and west of MD 210; as well as the area designated as the Rosecroft Mixed-
 20 Use Area (Tax Accounts 1265594, 1226422, 1226430, 1288968, 1292119, 1292481, 1292499,
 21 1292507, 1292515, 1306018, 1329408, 1329416, 1335181, 1335199, 1339787, 1346022,
 22 1349497, 3511813, and 9999999); and

23 WHEREAS, upon approval of this Resolution, and in accordance with applicable law, the
 24 proposed minor amendment to the 2006 *Master Plan and Sectional Map Amendment for the*
 25 *Henson Creek-South Potomac Planning Area* and its concurrent proposed Sectional Map
 26 Amendment shall be subject to all applicable notice and public hearing requirements to seek
 27 public comment on the minor amendment and proposed Sectional Map Amendment.

28 NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's
 29 County, Maryland, sitting as the District Council for that part of the Maryland-Washington
 30 Regional District in Prince George's County, Maryland, that in accordance with Sections 27-
 31 3502 and 3503 of the Zoning Ordinance, the Prince George's County Planning Board of the

1 Maryland-National Capital Park and Planning Commission is hereby directed to initiate a minor
 2 amendment to the 2006 *Master Plan and Sectional Map Amendment for the Henson Creek-South*
 3 *Potomac Planning Area* and the Prince George’s County Planning Director is hereby directed to
 4 prepare a concurrent Sectional Map Amendment for that portion of Planning Area 80 subject to
 5 the proposed minor amendment, as follows:

6 **MINOR AMENDMENT NUMBER ONE**

7 Amend and/or refine “Development Pattern – Rural Tier” on pp. 3–5 to amend and/or
 8 refine the land use development pattern for the areas of the master plan identified as the Rural
 9 and Developing tiers and “Map 1: Plan Concept”:

10 [Recommends development within the Developing Tier adjoining
 11 the historic district be consistent and compatible with the
 12 prevailing Broad Creek historic character.]

13 Recommends residential and commercial development adjoining
 14 the historic district be appropriately buffered from and compatible
 15 with the Broad Creek Historic District.

16 Directs future growth to the proposed mixed-use areas such as the
 17 National Harbor Center, the two activity centers along Indian Head
 18 Highway (MD 210), and the Padgett’s Corner activity center on
 19 Allentown Road[, and the large, undeveloped properties north of
 20 Rosecroft Raceway].

21 Revise “Map 1: Plan Concept” to include the properties at 7707 Kaydot Road (Tax Accounts
 22 0381556, 0374363) within the “Henson Creek Transit Village” and Mixed-Use Development
 23 Area, change the “Rosecroft Mixed-Use Area” shading from Mixed-Use Development Area to
 24 Low Density Residential, and remove the label “Residential-focused mixed-use” for the
 25 “Rosecroft Mixed-Use Area.”

26 Add a note on page 4 as follows:

27 In 2014, Prince George’s County approved a new General Plan, *Plan Prince George’s 2035*
 28 (Plan 2035). Plan 2035 amends this master plan by eliminating designated Corridors, renaming
 29 the Rural Tier to the Rural and Agricultural Area, designating areas of the former Developing
 30 Tier as Established Communities, and reclassifying Oxon Hill as a Neighborhood Center.

MINOR AMENDMENT NUMBER TWO

Amend and/or refine “Development Pattern – Rural Tier,” “Rural Tier | Background,” “Map 5: Rural Tier Conceptual Land Use Plan,” “Rural Tier | Policy 1,” “Rural Tier | Policy 3,” and “Rural Tier | Policy 4” on pp. 17–20:

Along the edge of the Rural [Tier] and Agricultural Area and Historic District, several large properties are available for further development. Each is developed with one or more homes, but there is significant potential for new residential and institutional development on these sites. [Although such development would be compatible with the policies and character of the Developing Tier such density may not be compatible with the semirural character of the historic district.] New construction adjacent to the historic district is not subject to Historic District Design Guidelines.

* * * * *

During preparation of this master plan, the owners of a 21.35-acre tract at 7707 Kaydot Road became aware of the classification to the Rural Tier and also objected. This property is not in the historic district and is oriented away from the historic district toward the Livingston Square Shopping Center, across Old Fort Road, and the major intersection at Indian Head Highway. [It is] At the time of the 2006 master plan process, the property was planned for suburban residential subdivision development that is more characteristic of the [Developing Tier] Established Communities, not the Rural [Tier] and Agricultural Area. For these reasons, the master plan [amends] amended the 2002 General Plan to reclassify the 21.35-acre tract from the Rural Tier to the Developing Tier. In accordance with the recommendations of the 2021 Henson Creek Village Area Study, the property is ideally situated for future development of institutional and healthcare uses to catalyze and support new commercial and residential development within the Henson Creek Transit Village. The District Council should

1 consider rezoning this property, and adjacent properties along
2 Livingston Road, to commercial zones to accommodate future
3 development of institutional healthcare uses on-site and to support
4 future commercial development along Cady Drive and within the
5 larger Henson Creek Transit Village.

6 Revise “Map 5: Rural Tier Conceptual Land Use Plan” as follows:

- 7 1. Recommend the properties at 7707 Kaydot Road (Tax Accounts 0381556, 0374363) as
- 8 Mixed-Use Areas
- 9 2. Recommend the following properties for Commercial/Institutional land uses: Tax
- 10 Accounts 0353656, 0353649, 0283960, 0370635

11 * * * * *

12 Rural or scenic viewsheds along Livingston Road should be
13 protected from adverse architectural or other development with
14 existing woodland or appropriate screening and buffering
15 techniques to [maintain open and continuous] preserve and
16 enhance views of the natural and agricultural landscape.

17 * * * * *

18 [Require District Council review of development proposals
19 adjacent to the Broad Creek Historic District for compatibility with
20 the historic character of the area.]

21 * * * * *

22 Provide a visual buffer using landscape materials and concepts to
23 create a distinct edge along Livingston Road south of Old Fort
24 Road that preserves and enhances the historic streetscape, defines
25 the boundary between the Henson Creek Transit Village and Rural
26 [Tier] and Agricultural Area and provides a transition from the
27 higher density Transit Village to the low-density Rural [Tier] and
28 Agricultural Area.

29 **MINOR AMENDMENT NUMBER THREE**

30 Amend, repeal, and/or refine “Developing Tier | Background,” “Developing Tier | Policy 1,”
31 “Developing Tier | Policy 2,” “Developing Tier | Policy 3,” and “Developing Tier | Policy 6,” on

pp. 21–24:

[The Fort Washington Hospital adjacent to the shopping center at Swan Creek Road is a thriving health care complex that should provide a focal point for existing and new businesses in this area.]

* * * * *

The existing Fort Washington Hospital adjacent to the shopping center at Swan Creek Road is a health care complex that should be evaluated for future redevelopment that complements surrounding commercial and healthcare uses – including the Olde Forte Village Shopping Center. Redevelopment of the existing Fort Washington Hospital site and/or development of a new, contemporary health care facility within the Henson Creek Transit Village Mixed Use Activity Center is desired to serve communities along MD 210.

* * * * *

Design institutional or special exception uses to reflect the scale and character of the surrounding neighborhood (except in the Henson Creek Transit Village Mixed Use Activity Center).

* * * * *

Encourage institutionally based development proposals with a mix of uses that focus on the institutional mission that may include high-quality residential, limited commercial, or community-oriented uses to provide a public benefit, to enhance community character, and are designed for compatibility with the surrounding neighborhood. Institutionally based development proposed should adhere to the following guidelines:

Encourage future development of institutional healthcare uses within the Henson Creek Transit Village Mixed Use Activity Center.

* * * * *

[Policy 2: Encourage the development of compact, pedestrian-oriented residential communities on sites large enough to

1 accommodate a mixture of housing types and sizes, recreation
2 components, neighborhood-serving commercial amenities, and
3 infrastructure.

4 STRATEGY

5 Prepare a detailed small area plan or development application
6 for the undeveloped 200-acre area north of Rosecroft Raceway that
7 conforms to best practices for compact community design and
8 includes the following elements:

- 9 • A traditional neighborhood character with appropriately scaled
10 and located neighborhood services.
- 11 • A mix of housing choices.
- 12 • Density and levels of intensity based on the capacity of
13 transportation facilities or transit options servicing the area and
14 compatibility with adjacent uses.
- 15 • Site plan orientation that focuses development toward a potential
16 transit stop envisioned for the north part of the property as a feeder
17 bus service or a potential future Metro light rail transit connection.
- 18 • An interconnected network of pedestrian-friendly streets,
19 sidewalks and bikeways with multiple connections between new
20 development, adjacent neighborhoods, and areas of activity.
- 21 • Extension of Barrowfield Road for additional access to the site
22 from the adjacent residential neighborhood.
- 23 • An open space trail and pathway system with multiple
24 connections between new development and adjacent parks and
25 open spaces.
- 26 • Additional public parkland needed to serve this area.
- 27 • Accommodating recommendations of the Green Infrastructure
28 Plan for the evaluation area located along the west side of the tract.
- 29 • Defining the relationship to Rosecroft Raceway as an ongoing
30 commercial entertainment venue or, alternatively, considering
31 redevelopment of Rosecroft as an integral part of the proposal.]

* * * * *

Allow a mix of commercial or residential uses to replace or supplement underutilized business areas. In addition to commercial and residential uses, healthcare uses should be prioritized to support underutilized business areas located within or adjacent to the Henson Creek Transit Village Mixed Use Activity Center.

MINOR AMENDMENT NUMBER FOUR

Revise “Map 6: Mixed-Use Activity Center” to include the Kaydot Property within the “Henson Creek Transit Village” boundary on p. 25.

MINOR AMENDMENT NUMBER FIVE

Amend, repeal, and/or refine “Henson Creek Transit Village,” “Henson Creek Transit Village | Guidelines,” “Map 7: Henson Creek Existing Land Use,” and “Map 8: Henson Creek Transit Village Proposed Land Use” on pp. 26–29:

The Henson Creek existing land use is shown on Map 7. The Henson Creek Transit Village is envisioned as a pedestrian-oriented village setting focused on a two- to three-block section of Livingston Road between Palmer Road and Old St. John’s Way [Fort Road]. The master plan proposes redevelopment of the existing commercial buildings to create a “main street” (see Map 9) setting that will orient the majority of pedestrian activity along Livingston Road. The addition of moderate-density residential development along a grid pattern of new streets is proposed along the edges of the village, as is a vertical mix of residential and commercial uses along the main street. Institutional/healthcare uses, specifically the addition of a modern healthcare facility, are envisioned at the southern edge of the village to catalyze future residential and commercial development along the main street. A transit station will be strategically located near MD 210 (Indian Head Highway) to provide express bus or future bus rapid transit service for village residents and workers, as well as surrounding communities.

* * * * *

[Consider the possibility of additional retail commercial development on property located at the southwest corner of MD 210 and Old Fort Road North (known as the Kaydot property) through the filing of a rezoning application that is sensitive to architectural techniques that are compatible with the adjoining historic district.]

Include new “Area C” in “Henson Creek Transit Village | Guidelines”:

Area C

- New, community-serving modern healthcare facilities should be located south of Old Fort Road, east of Livingston Road.
- A wooded buffer should be retained to the extent possible, with additional landscape plantings as appropriate, along Livingston Road south of Old Fort Road to visually buffer future institutional development from the Broad Creek Historic District and the historic Livingston Road streetscape.
- Vehicular access points serving future institutional/healthcare uses along Livingston Road should feature a combination of context-sensitive screening and buffering, as well as appropriate signage for a healthcare facility.
- Compatible gateway signage for the Broad Creek Historic District should be provided along Livingston Road, south of Old Fort Road.

Revise “Map 7: Henson Creek Existing Land Use” to include the Kaydot Property within the “Henson Creek Transit Village” boundary.

Revise “Map 8: Henson Creek Transit Village Proposed Land Use” to include the Kaydot Property and prospective institutional/healthcare uses within the “Henson Creek Transit Village” as “Area C.”

MINOR AMENDMENT NUMBER SIX

Revise “Map 11: Broad Creek Transit Village and Medical Park Land Use and Development Pattern” to reflect planned redevelopment of existing Fort Washington Hospital on “Area 8:

Hospital.”

MINOR AMENDMENT NUMBER SEVEN

Revise “Potential light rail transit alignment and station stop for the Henson Creek/South Potomac development corridor” figure to reflect removal of the Rosecroft Area station stop.

MINOR AMENDMENT NUMBER EIGHT

Amend or refine “Centers and Corridors | Policy 2: Promote development of mixed residential and nonresidential uses at moderate to high densities and intensities at the Oxon Hill Regional Center and in the Oxon Hill Transit Corridor with a strong emphasis on pedestrian- and transit-oriented development | Strategy” and “Centers and Corridors | Policy 4: Promote phased redevelopment of the area with appropriate infrastructure improvements | Strategies” on pp. 54–56:

Area E defines [two] a transition area[s] located [between] adjacent to the Oxon Hill Regional Center and the Indian Head Highway exit from I-495 to the west[and the entrance to Rosecroft Raceway on Brinkley Road to the east]. Educational facilities are encouraged in Area E west of the center. Area E may be designated for future development at lower scale TOD densities and intensities than proposed for the core area in order to serve potential future LRT station stops.

* * * * *

Develop a short- and long-range phasing plan—Given that future development located at National Harbor [and at the undeveloped property north of Rosecroft Raceway] will likely have a significant impact on the economic development of the Oxon Hill Regional Center, many phasing scenarios may be formulated (see Phasing Concept illustration). However, several key concepts may be introduced at this time to initiate discussions between the county and property owners regarding how the Oxon Hill Regional Center may ultimately be revitalized:

MINOR AMENDMENT NUMBER NINE

Amend or refine “Transportation Systems | Background | Roadway Issues,” “Transportation

1 Systems | Transit Element | Policy 1: Encourage a mass transit system of bus and rail service,
2 including public parking facilities that provide efficient and user-friendly service to supplement
3 and, within centers, supplant the private automobile,” on pp. 66–73 and “Map 28: Transit
4 Options and Concepts”:

5 National Harbor/Oxon Hill[/Rosecroft Area]: The transportation
6 network required to effectively and efficiently serve the land use
7 plans for these proposed mixed-use, transit-oriented areas.

8 * * * * *

9 This plan recommends the extension of rail transit between
10 Northern Virginia, National Harbor, Oxon Hill, and the Green
11 Line. This is recommended as a means of enhancing the viability
12 of both Oxon Hill and National Harbor as planned centers. The
13 recommendation recognizes that this facility could be light rail
14 transit (electrified either partially or fully at grade) or Metrorail
15 transit (electrified with a third rail fully grade separated). The
16 recommendation [could include a spur extension to Rosecroft,
17 particularly if light rail transit technology were implemented; this
18 rail transit extension] could include an extension to Andrews Air
19 Force Base [as well]. The conceptual location of this transit line is
20 shown in Map 28: Transit Options and Concepts.

21 * * * * *

22 As the Oxon Hill Regional Center, National Harbor, and the node
23 along Allentown Road develop, improved local bus transit linking
24 these focal points along Brinkley Road will be needed. [In
25 particular, enhanced services will be necessary when
26 redevelopment occurs adjacent to Rosecroft Raceway.] This
27 service is conceptually shown in Map 28: Transit Options and
28 Concepts.

29 Revise “Map 28: Transit Options and Concepts” to remove spur to Rosecroft and Rosecroft
30 station stop.

31 **MINOR AMENDMENT NUMBER TEN**

1 Amend, repeal, and/or refine “Economic Development | Policy: Target economic development
2 efforts to existing commercial centers | Strategies” for “Broad Creek Transit Village” and
3 “Henson Creek Transit Village” on pp. 88–89:

4 The Broad Creek Transit Village has a number of strengths
5 including high visibility from Indian Head Highway, healthcare
6 uses at the existing Fort Washington Hospital site, and the
7 potential for commercial establishments to improve upon their
8 capture of locally generated disposable income. Since Broad Creek
9 cannot compete directly with the Oxon Hill [Regional]
10 Neighborhood Center or National Harbor, it must establish its own
11 identity or market niche. Retailers need to supply the goods
12 demanded by area residents in a more acceptable setting.
13 Considering the planned development of a new modern healthcare
14 facility in the Henson Creek Transit Village, efforts should be
15 made to accommodate potential redevelopment of the hospital site
16 and the immediate area. Easier access to the existing residential
17 areas will be accomplished by the proposed interchange
18 improvements along Indian Head Highway. The provision of
19 improved public transportation along the Indian Head Highway
20 corridor, with a transit stop located at Broad Creek, should help
21 boost local residents’ patronage of commercial establishments
22 along Livingston Road and Swan Creek Road. Residential land use
23 alternatives, such as a senior housing complex, on excess
24 commercial or industrial land could strengthen the local market to
25 support businesses.

26 * * * * *

27 The Henson Creek Transit Village has a number of strengths,
28 including high visibility and access from Indian Head Highway,
29 planned development of a modern healthcare facility at the
30 intersection of Indian Head Highway and Old Fort Road, and the
31 potential for commercial establishments to improve upon their

1 capture of locally generated disposable income. Since Henson
 2 Creek cannot compete directly with the Oxon Hill [Regional]
 3 Neighborhood Center or National Harbor, it must establish its own
 4 identity or market niche. Henson Creek should leverage the
 5 planned development of a modern healthcare facility for purposes
 6 of establishing an identity and market niche within the Plan Area.
 7 The District Council should consider rezoning the Kaydot Property
 8 to accommodate future development of institutional healthcare
 9 uses. In addition to serving residents of the surrounding
 10 community, workers, patrons, and visitors to the healthcare
 11 facility, existing [Existing] retailers need to understand what is
 12 currently not being provided since the area experiences a
 13 significant outflow of disposable income. Improving connectivity
 14 to existing residential areas by providing a link to the Henson
 15 Creek Trail, incorporating a pedestrian-friendly street grid in the
 16 area, capitalizing on the proposed interchange improvements along
 17 Indian Head Highway, and providing for public transportation
 18 along the Indian Head Highway corridor with a transit stop located
 19 at Henson Creek should help boost local residents' patronage of
 20 commercial establishments. Modest increases in residential density
 21 can strengthen the local market by providing additional population
 22 to support local business.

MINOR AMENDMENT NUMBER ELEVEN

24 Amend, repeal, and/or refine "Housing | Policy: Provide opportunities to medium- to high-
 25 density housing within centers, the Oxon Hill Transit Corridor and the Branch Avenue (MD
 26 5)/Allentown Road Corridor Node, mixed-use activity centers, and other designated high-density
 27 Areas | Strategies" on p. 92:

28 [Consider a suburban village including a variety of housing types
 29 for the undeveloped properties north of (and perhaps including
 30 Rosecroft Raceway. The density and intensity of development
 31 should be determined at the time of rezoning application on the

1 basis of transportation accessibility and compatibility with
2 adjoining neighborhoods.]

3 **MINOR AMENDMENT NUMBER TWELVE**

4 Revise “Map 33: Future Mixed-Use Rezoning Areas” to eliminate the “Rosecroft Mixed-Use
5 Area.”

6 **MINOR AMENDMENT NUMBER THIRTEEN**

7 Amend or refine “Appendix C | Public Facility Cost Estimates | Public Facility Totals for
8 Transportation (Transit and Roads)” on p. 92:

9 Establish rail transit service from Virginia through the National
10 Harbor and Oxon Hill Center to connect to the existing Green
11 Line. [A routing of this service could serve planned development
12 north of the Rosecroft Raceway.]

13 **MINOR AMENDMENT NUMBER FOURTEEN**

14 Revise and amend the Land Use, Transportation, and Public Facilities comprehensive plan map
15 insert to reflect the changes in Attachment 1 of this Resolution.

16 BE IT FURTHER RESOLVED that, pursuant to Sections 27-3200 and 27-3307(a)(1) of the
17 County Zoning Ordinance, the Prince George’s County Historic Preservation Commission will
18 review and make a recommendation on the foregoing proposed minor amendment to the 2006
19 *Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning*
20 *Area* and comment on the concurrent proposed Sectional Map Amendment.


21 BE IT FURTHER RESOLVED that, pursuant to Section 27-3502 of the County Zoning
22 Ordinance, the County Council of Prince George’s County, Maryland, sitting as the District
23 Council, and the Prince George’s County Planning Board of the Maryland-National Capital Park
24 and Planning Commission shall conduct a joint public hearing to receive testimony and public
25 comments concerning the foregoing proposed minor amendment to the 2006 *Master Plan and*
26 *Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* and concurrent
27 proposed Sectional Map Amendment, and said joint public hearing will be held on Tuesday, June
28 13, 2023, in accordance with prescriptions of the County’s Zoning Ordinance.

29 BE IT FURTHER RESOLVED that the Clerk of the Council shall transmit a copy of this
30 Resolution to the Prince George’s County Planning Board of the Maryland-National Capital Park

1 and Planning Commission in accordance with the procedural requirements of Section 27-3502
2 of the County Zoning Ordinance.


Adopted this 28th day of March, 2023.

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

BY: 

Thomas E. Dernoga
Chair

ATTEST:



Donna J. Brown
Clerk of the Council

ATTACHMENT 1

Recommended Revisions to Land Use, Transportation, and Public Facilities Map Insert

Address	Tax Account	2006 Future Land Use Category	Amended Future Land Use Category
7707 Kaydot Road	0381566	Residential, Low-Density	Mixed-Use Area
Old Fort Road	0374363	Residential, Low-Density	Mixed-Use Area
Livingston Road	0283960	Residential, Rural Character	Commercial/ Institutional
Livingston Road	0370635	Residential, Rural Character	Commercial/ Institutional
Livingston Road	0353649	Residential, Rural Character	Commercial/ Institutional
9612 Livingston Road	0353656	Residential, Rural Character	Commercial/ Institutional
2101 Brinkley Road	1265594	Mixed-Use Area	Residential Low
2102 Brinkley Road	1346022	Mixed-Use Area	Residential Low
6225 Rosecroft Drive	1226422	Mixed-Use Area	Residential Low
6330 Rosecroft Drive	1226430	Mixed-Use Area	Residential Low
6206 Rosecroft Drive	1288968	Mixed-Use Area	Residential Low
0 Brinkley Road	1292119	Mixed-Use Area	Residential Low
6209 Rosecroft Drive	1292481	Mixed-Use Area	Residential Low
6209 Rosecroft Drive	1292499	Mixed-Use Area	Residential Low
2505 Brinkley Road	1292507	Mixed-Use Area	Residential Low
2423 Brinkley Road	1292515	Mixed-Use Area	Residential Low
2317 Brinkley Road	1306018	Mixed-Use Area	Residential Low
6336 Rosecroft Drive	1329408	Mixed-Use Area	Residential Low
0 Calhoun Street	1329416	Mixed-Use Area	Residential Low
0 Brinkley Road	1335181	Mixed-Use Area	Residential Low
2401 Brinkley Road	1335199	Mixed-Use Area	Residential Low
6207 Rosecroft Drive	1339787	Mixed-Use Area	Residential Low
6211 Rosecroft Drive	1349497	Mixed-Use Area	Residential Low
2601 Brinkley Road	3511813	Mixed-Use Area	Residential Low
Unknown	9999999	Mixed-Use Area	Residential Low

PGCPB No. 2023-93

RESOLUTION

WHEREAS, the Prince George’s County Zoning Ordinance provides procedures for minor amendments of an Area Master Plan or Sector Plan, or Functional Master Plan, pursuant to Sections 27-3502(i); and

WHEREAS, on March 28, 2023, the Prince George’s County Council, sitting as the District Council, pursuant to Sections 27-3502 and 3503 of the Zoning Ordinance, adopted CR-020-2023, initiating a Minor Plan Amendment concurrent with a Sectional Map Amendment to the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area*; and

WHEREAS, CR-020-2023 proposes to remove and replace certain obsolete development pattern guidelines, policies, and strategies for the physical development of portions of the Master Plan areas known as “The Henson Creek Transit Village,” “The Broad Creek Transit Village & Medical Park,” “The Rosecroft Mixed-Use Area,” “Developing Tier,” and “Rural Tier” to reflect the County’s current development priorities; and

WHEREAS, a sectional map amendment was prepared concurrently with this minor plan amendment to implement its zoning recommendations for the plan area; and

WHEREAS, the Prince George’s County Planning Board, in conjunction with the District Council, pursuant to Sections 27-3502 and 27-3307(a)(1) of the Zoning Ordinance, held a properly noticed joint public hearing on the proposed Minor Plan Amendment to the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* on June 13, 2023; and

WHEREAS, a technical staff report has been prepared that analyzes the proposed Minor Plan Amendment to the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area*;

WHEREAS, on September 7, 2023, the Planning Board held a public work session on the proposed Minor Plan Amendment to examine the staff report and the analysis of testimony, transcripts of oral testimony provided at the Joint Public Hearing, and written testimony (exhibits) contained within the hearing record for the Joint Public Hearing held on June 13, 2023, and

WHEREAS, the Prince George’s County Planning Board agrees to amend the proposed Minor Plan Amendment ([See Attachment 1: CR-020-2023 Proposed Minor Plan Amendment](#)) based on its review of the record of the Joint Public Hearing, including deletions and additions from the staff errata provided at the Joint Public Hearing on June 13, 2023 and updated September 7, 2023 ([See Attachment 2: Errata Sheet](#)), and incorporate the recommended staff changes as outlined;

NOW, THEREFORE, BE IT RESOLVED, that the Prince George’s County Planning Board of the Maryland-National Capital Park and Planning Commission does hereby ADOPT WITH AMENDMENTS the Minor Plan Amendment to the 2006 *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area* by this resolution, incorporating therein amendments, deletions, and additions in response to the public hearing record as follows:

Underline indicates language added to the minor plan amendment.
Brackets indicate language deleted from the minor plan amendment.

1. Amend Minor Amendment Number Two to delete reference to “adjacent properties along Livingston Road”, as follows:

Amend and/or refine “Development Pattern – Rural Tier,” “Rural Tier | Background,” “Map 5: Rural Tier Conceptual Land Use Plan,” “Rural Tier | Policy 1,” “Rural Tier | Policy 3,” and “Rural Tier | Policy 4” on pp. 17–20:

Along the edge of the Rural [Tier] and Agricultural Area and Historic District, several large properties are available for further development. Each is developed with one or more homes, but there is significant potential for new residential and institutional development on these sites. [Although such development would be compatible with the policies and character of the Developing Tier such density may not be compatible with the semirural character of the historic district.] New construction adjacent to the historic district is not subject to Historic District Design Guidelines.

* * * * *

During preparation of this master plan, the owners of a 21.35-acre tract at 7707 Kaydot Road became aware of the classification to the Rural Tier and also objected. This property is not in the historic district and is oriented away from the historic district toward the Livingston Square Shopping Center, across Old Fort Road, and the major intersection at Indian Head Highway. [It is] At the time of the 2006 master plan process, the property was planned for suburban residential subdivision development that is more characteristic of the [Developing Tier] Established Communities, not the Rural [Tier] and Agricultural Area. For these reasons, the master plan [amends] amended the 2002 General Plan to reclassify the 21.35-acre tract from the Rural Tier to the Developing Tier. In accordance with the recommendations of the 2021 Henson Creek Village Area Study, the property is ideally situated for future development of institutional and healthcare uses to catalyze and support new commercial and residential development within the Henson Creek Transit Village. The District Council should consider rezoning this property[, and adjacent properties along Livingston Road,] to commercial zones to accommodate future development of institutional healthcare uses on-site and to support future commercial development along Cady Drive and within the larger Henson Creek Transit Village.

2. Amend Minor Amendment Number Two to revise “Map 5: Rural Tier Conceptual Land Use Plan” as follows:
 1. Recommend the properties at 7707 Kaydot Road (Tax Accounts [0381556]**0381566**, 0374363) as Mixed-Use Areas
 2. Recommend the following properties for Commercial/Institutional land uses: Tax Accounts 0353656, 0353649, 0283960, 0370635]
3. Amend Minor Amendment Number Five to refine the language in “Henson Creek Transit Village,” “Henson Creek Transit Village | Guidelines,” “Map 7: Henson Creek Existing Land Use,” and “Map 8: Henson Creek Transit Village Proposed Land Use” on pp. 26–29:

The Henson Creek existing land use is shown on Map 7. The Henson Creek Transit Village is envisioned as a pedestrian-oriented village setting focused on a two- to three-block section of Livingston Road between Palmer Road and Old St. John’s Way[Fort Road]. The master plan proposes redevelopment of the existing commercial buildings to create a “main street” (see Map 9) setting that will orient the majority of pedestrian activity along Livingston Road. The addition of moderate-density residential development along a grid pattern of new streets is proposed along the edges of the village, as is a vertical mix of residential and commercial uses along the main street. Institutional/healthcare uses, specifically [the addition of]a modern healthcare facility, are envisioned for the properties identified by Tax Accounts 0381566 and 0283960 at the southern edge of the village to catalyze future residential and commercial development along the main street. A future healthcare facility and its primary vehicular access are envisioned for the property identified by Tax Account 0381566, the 21.35-acre tract at 7707 Kaydot Road, while the property identified by Tax Account 0283960, the adjoining Livingston Road parcel, is envisioned only as a secondary access point to a future healthcare facility. A transit station will be strategically located near MD 210 (Indian Head Highway) to provide express bus or future bus rapid transit service for village residents and workers, as well as surrounding communities.

4. Amend Minor Amendment Number Five to refine the language in the newly included “Area C” in “Henson Creek Transit Village | Guidelines” as follows:

Area C

- A new, community-serving modern healthcare [facilities]facility should be located south of Old Fort Road, east of Livingston Road.
- A wooded buffer should be retained to the extent possible, with additional landscape plantings as appropriate, along Livingston Road south of Old Fort Road to visually buffer a future healthcare facility from the Broad Creek Historic District and the historic Livingston Road streetscape.
- Vehicular and pedestrian access points along Livingston Road serving a future [institutional/]healthcare [uses]facility [along Livingston Road]should feature a combination of context-sensitive screening and buffering, as well as appropriate signage for a healthcare facility.
- The properties identified by Tax Accounts 0381566 and 0283960, at Kaydot Road and Livingston Road, respectively, have shared ownership and should be

incorporated through the subdivision process into a single development site for the future development of the site with an institutional/healthcare use. Development of any parcel along Livingston Road associated with or as an accessory to a future healthcare facility on the Kaydot Property should be limited to context-sensitive vehicular and pedestrian accessways only.

- Compatible gateway signage for the Broad Creek Historic District should be provided along Livingston Road, south of Old Fort Road.
5. Amend Attachment 1 to Minor Amendment Number Fourteen to delete the following properties from the map revision:

ATTACHMENT 1

Recommended Revisions to Land Use, Transportation, and Public Facilities Map Insert

Address	Tax Account	2006 Future Land Use Category	Amended Future Land Use Category
7707 Kaydot Road	0381566	Residential, Low-Density	Mixed-Use Area
Old Fort Road	0374363	Residential, Low-Density	Mixed-Use Area
[Livingston Road	0283960	Residential, Rural Character	Commercial/ Institutional]
[Livingston Road	0370635	Residential, Rural Character	Commercial/ Institutional]
[Livingston Road	0353649	Residential, Rural Character	Commercial/ Institutional]
[9612 Livingston Road	0353656	Residential, Rural Character	Commercial/ Institutional]
2101 Brinkley Road	1265594	Mixed-Use Area	Residential Low
[2102 Brinkley Road	1346022	Mixed-Use Area	Residential Low]
6225 Rosecroft Drive	1226422	Mixed-Use Area	Residential Low
6330 Rosecroft Drive	1226430	Mixed-Use Area	Residential Low
6206 Rosecroft Drive	1288968	Mixed-Use Area	Residential Low
0 Brinkley Road	1292119	Mixed-Use Area	Residential Low
6209 Rosecroft Drive	1292481	Mixed-Use Area	Residential Low
6209 Rosecroft Drive	1292499	Mixed-Use Area	Residential Low
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2401 Brinkley Road	1335199	Mixed-Use Area	Residential Low
6207 Rosecroft Drive	1339787	Mixed-Use Area	Residential Low
6211 Rosecroft Drive	1349497	Mixed-Use Area	Residential Low
2601 Brinkley Road	3511813	Mixed-Use Area	Residential Low
Unknown	9999999	Mixed-Use Area	Residential Low

BE IT FURTHER RESOLVED that the Prince George's County Planning Board finds that the Minor Plan Amendment has been prepared in accordance with the requirements of Sections 27-3502 of the Zoning Ordinance; and

BE IT FURTHER RESOLVED that, in accordance with Section 27-3502 and Section 27-3503 of the Prince George's County Zoning Ordinance, the adopted minor plan amendment, and a Technical Staff Report analyzing the minor plan amendment, shall be transmitted concurrently with the endorsed sectional map amendment to the District Council for approval; and

BE IT FURTHER RESOLVED that, in accordance with Section 27-3502 and Section 27-3503 of the Prince George's County Zoning Ordinance, a copy of this adopted minor plan amendment and its concurrent Sectional Map Amendment will be transmitted to the County Executive and to each municipality within one mile of the area of the Sectional Map Amendment; and


BE IT FURTHER RESOLVED that the Prince George's County Planning Board finds that the Minor Plan Amendment, as heretofore described, is in conformance with the principles of orderly comprehensive land use planning and staged development, being consistent with the 2014 *Plan Prince Georges 2035 General Plan (Plan 2035)*, and with consideration having been given to the applicable County Laws, Plans, and Policies; and

BE IT FURTHER RESOLVED that Prince George's County Planning Board staff is authorized to make appropriate text and graphical revisions to the minor plan amendment and related master plan to correct errors, reflect updated information and revisions, and incorporate the changes reflected in this Resolution.

This is to certify that the foregoing is a true and correct copy of a resolution, as revised, approved by the Prince George's County Planning Board of the Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Doerner, with Commissioners Doerner, Shapiro, and Washington voting in favor of the motion and Commissioners Bailey and Geraldo absent at its regular meeting held on Thursday, September 7, 2023.

Adopted by the Prince George's County Planning Board this 14th day of September, 2023.

Peter A. Shapiro
Planning Board Chair

By 
Jessica Jones
Planning Board Administrator

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner
M-NCPPC Legal Department
Date: September 18, 2023

PGCPB No. 2023-94

RESOLUTION

WHEREAS, the Prince George’s County Zoning Ordinance provides procedures for the comprehensive rezoning of all planning areas in Prince George’s County by adoption of a Sectional Map Amendment; and

WHEREAS, on March 28, 2023, the County Council of Prince George’s County, Maryland, sitting as the District Council, pursuant to Sections 27-3502 and 3503 of the Zoning Ordinance, adopted CR-020-2023, thereby authorizing initiation of a Sectional Map Amendment concurrent with the initiation of a minor amendment to the 2006 *Approved Master Plan for the Henson Creek-South Potomac Planning Area*; and

WHEREAS, the boundaries of the proposed Sectional Map Amendment shall be limited to an area north of and not including the Broad Creek Conservancy, east of Livingston Road, south of Old Fort Road, and west of MD 210; as well as the area designated as and adjacent to the Rosecroft Mixed-Use Area (Tax Accounts 1265594, 1226422, 1226430, 1288968, 1292119, 1292481, 1292499, 1292507, 1292515, 1306018, 1329408, 1329416, 1335181, 1335199, 1339787, 1346022, 1349497, 3511813, and 9999999); and

WHEREAS, pursuant to Sections 27-3502 and 27-3503 of the Zoning Ordinance, this Sectional Map Amendment was prepared and reviewed concurrently with a minor amendment to the 2006 *Approved Master Plan for the Henson Creek-South Potomac Planning Area*; and

WHEREAS, this Sectional Map Amendment covers the portion of the Prince George’s County Zoning Map identified in 0 1 of this Resolution within Planning Areas 76B and 80, adopted into the Maryland-Washington Regional District on April 26, 1927; and

WHEREAS, the Zoning Map for this plan area became effective on April 1, 2022, pursuant to approval of Council Resolution CR-136-2021, the Countywide Sectional Map Amendment, on November 29, 2021; and

WHEREAS, comprehensive rezoning of the plan area previously occurred on April 25, 2006, pursuant to approval of CR-30-2006, the *Approved Master Plan and Sectional Map Amendment for the Henson Creek-South Potomac Planning Area*; and

WHEREAS, additional amendments of the Zoning Map are necessary to implement, and bring the zoning of Planning Areas 76B and 80 into conformance with, the *Approved Master Plan for the Henson Creek-South Potomac Planning Area* as amended by the concurrent minor plan amendment; and

Underline indicates language added to the proposed SMA pursuant to the motion of the Planning Board at its September 7, 2023 Work Session.

[Brackets] indicate language deleted from the proposed SMA pursuant to the motion of the Planning Board at its September 7, 2023 Work Session.

WHEREAS, pursuant to Section 27-3200 and Section 27-3307(a)(1) of the Zoning Ordinance, the Prince George's County Historic Preservation Commission reviewed the proposed sectional map amendment and provided comment to the Planning Board; and

WHEREAS, pursuant to Section 27-3407(b) of the Zoning Ordinance, the Planning Board notified all owners of land within the boundaries of this Sectional Map Amendment for which a change in zoning is proposed about the joint public hearing to receive testimony on this proposed Sectional Map Amendment; and

WHEREAS, pursuant to Sections 27-3407(b) and 27-3502(d)(3) of the Zoning Ordinance, the municipality of Forest Heights lies within one mile of the boundaries of the land subject to this Sectional Map Amendment and has received appropriate notification of this Sectional Map Amendment; and

WHEREAS, pursuant to Section 27-3503(a)(5)(A) of the Zoning Ordinance, no property was zoned by zoning map amendment within five years prior to the initiation of this Sectional Map Amendment; and

WHEREAS, pursuant to Section 27-3503(a)(5)(B) of the Zoning Ordinance, no property may be zoned to a less intense category if, based on existing physical development at the time of adoption of the sectional map amendment, the zoning would create a nonconforming use, but this zoning may be approved, however, if there is a significant public benefit to be served by the zoning based on facts peculiar to the subject property and the immediate neighborhood, and in recommending the zoning, the Planning Board shall identify these properties and provide written justification supporting the zoning at the time of transmittal; and

WHEREAS, the property at 2101 Brinkley Road, Tax Map and Grid 96E4, Tax Account 1265594, is being recommended for a less-intense zone resulting in the creation of a nonconforming use and, pursuant to Section 27-3503(a)(5)(B) of the Zoning Ordinance, the Planning Board will provide written justification supporting the zoning recommendation under Zoning Change [3]2 below; and

WHEREAS, pursuant to Section 27-3503(b)(4)(D)(i) of the Zoning Ordinance, the acceptance and processing of Zoning Map Amendment applications within the subject planning area shall be postponed until final action on this Sectional Map Amendment by the District Council; and

WHEREAS, pursuant to Section 27-3503(b)(4)(D)(ii) of the Zoning Ordinance, the Department of Permitting, Inspections and Enforcement shall postpone the processing and issuance of building permits within the area of this Sectional Map Amendment until after final action on this Sectional Map Amendment if the lot or parcel of land on which construction is proposed is in a Nonresidential zone, is proposed by the Planning Board for a zone in which the proposed use is not permitted, and is undeveloped; and

WHEREAS, pursuant to Section 27-3503(b)(4)(D)(iii) of the Zoning Ordinance, the processing of Zoning Map Amendment applications within the subject planning area by the District Council shall be postponed until final action on this Sectional Map Amendment; and

WHEREAS, pursuant to Section 27-3502(d)(2) of the Zoning Ordinance, this proposed Sectional Map Amendment was released for public review and comment on April 14, 2023; and

WHEREAS, pursuant to Section 27-3502(d)(3) of the Zoning Ordinance, a copy of this proposed Sectional Map Amendment was transmitted to the County Executive and each municipality whose territorial boundaries are within or are located within one mile of the area of this Sectional Map Amendment for their comments; and

WHEREAS, the purpose of this proposed Sectional Map Amendment is to protect the health, safety, and general welfare of all citizens in Prince George's County; and

WHEREAS, approval of this Sectional Map Amendment will result in the revision of the official 1 inch = 200 feet scale Zoning Maps for Planning Areas 76B and 80; and

WHEREAS, on June 13, 2023, the County Council, sitting as the District Council, and the Prince George's County Planning Board, held a Joint Public Hearing to receive testimony from the public; and

WHEREAS, on September 7, 2023, the Prince George's County Planning Board held a public work session to examine the analysis of testimony, transcripts of oral testimony provided at the joint public hearing, and written testimonies (exhibits) contained within the Joint Public Hearing records; and

WHEREAS, this Sectional Map Amendment conforms with the applicable requirements of Sections 27-3502 and 27-3503 of the Zoning Ordinance;

NOW, THEREFORE, BE IT RESOLVED, that the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission does hereby endorse this Sectional Map Amendment for the Henson Creek-South Potomac Planning Area by this resolution and recommends that it be approved as an amendment to the Zoning Map for that portion of the Maryland-Washington Regional District in Prince George's County;

BE IT FURTHER RESOLVED that, in accordance with Section 27-3502(f)(6)(B) of the Prince George's County Zoning Ordinance, a copy of this endorsed Sectional Map Amendment and its concurrent adopted minor master plan amendment will be transmitted to the County Executive and to each municipality within one mile of the area of the Sectional Map Amendment; and

BE IT FURTHER RESOLVED that the Prince George's County Planning Board finds that the Sectional Map Amendment has been prepared in accordance with the requirements of Sections 27-3502 and 27-3503 of the Zoning Ordinance; and

BE IT FURTHER RESOLVED that the endorsed Sectional Map Amendment comprises the text, tables, maps, and graphics set forth in this resolution, and the following areas are reclassified as part of this action, consistent with the recommendations of the 2006 *Approved Master Plan for the Henson Creek-South Potomac Planning Area*, as amended by PGCPB No. 2023-XX:

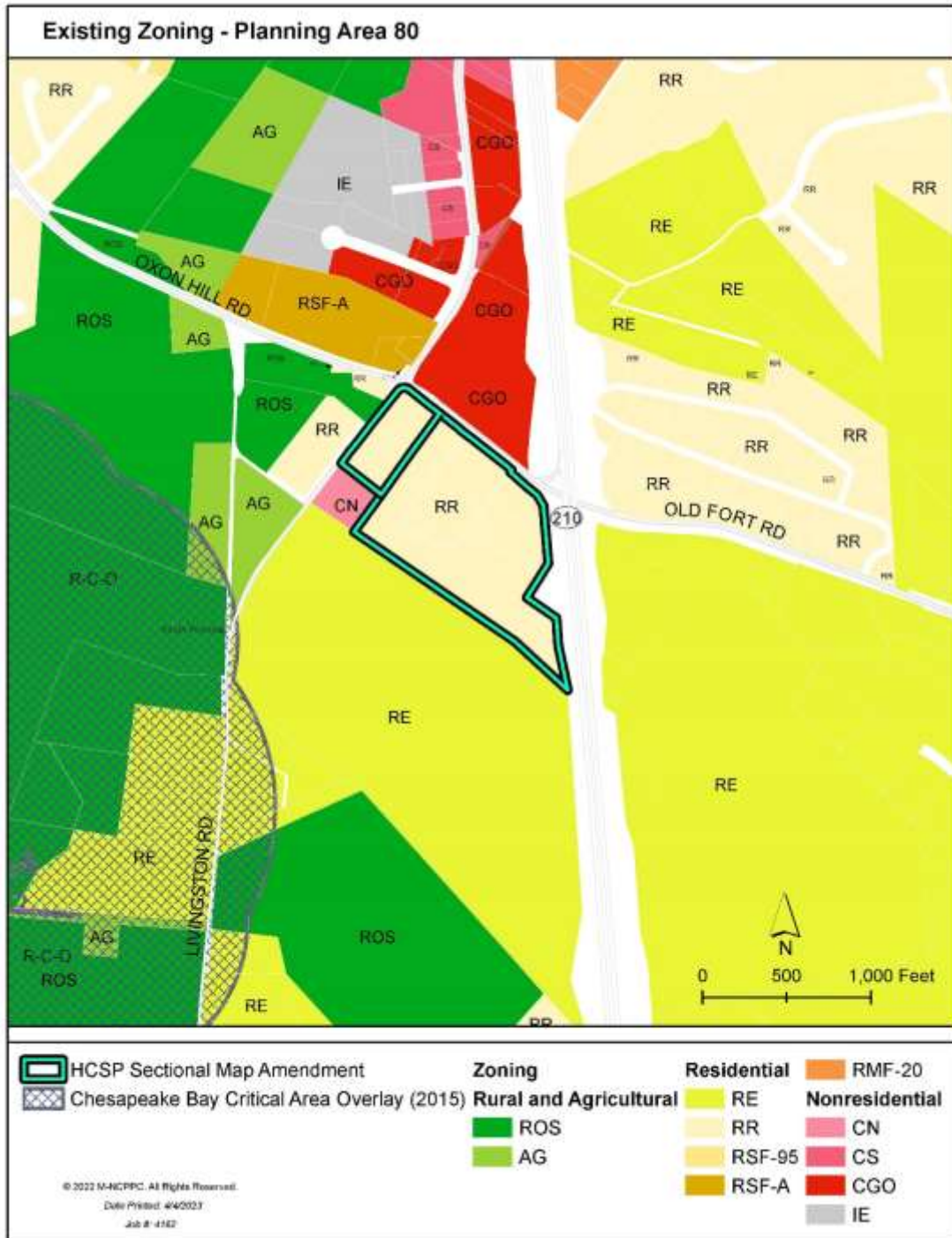
Table 1: Comprehensive Rezoning Changes

Change	Zoning Change	Acreage
1	RR to CGO	<u>22.04</u> [21.36]
[2]	RR to CN	3.92]
[3] <u>2</u>	CGO/RMF-12/RR to RR	24.84
[4]	CGO/RMF-12 to RR	14.85]

Table 2: Zoning Inventory (in acres), Base Zones

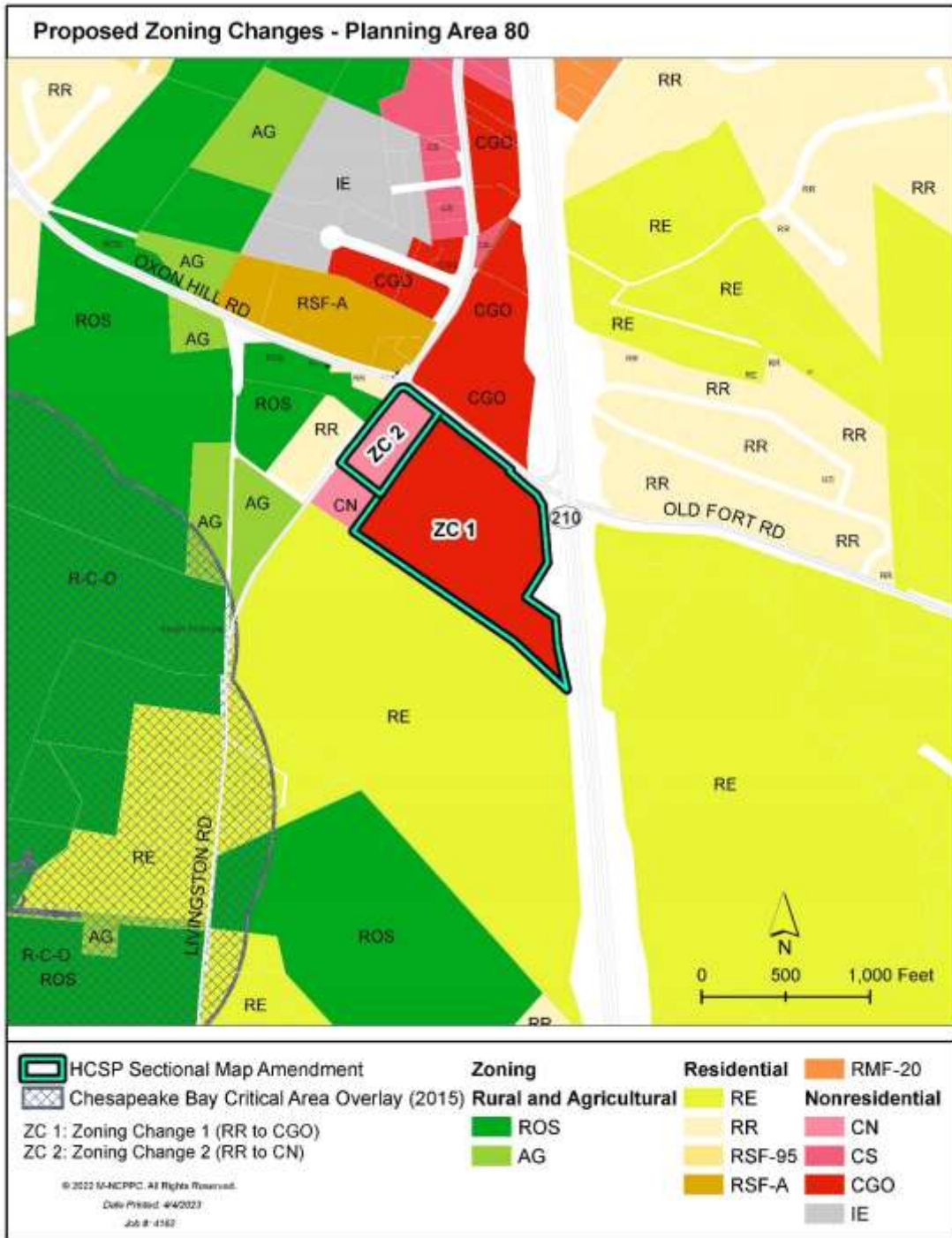
Zoning Class	Proposed Acreage	Existing Acreage	Change in Acreage
RR	<u>28.09</u> [39.69]	38.53	<u>-10.44</u> [1.16]
CN	<u>0</u> [3.92]	0	<u>0</u> [3.92]
CGO	<u>28.23</u> [21.36]	12.79	<u>15.44</u> [8.57]
RMF-12	<u>8.66</u> [0]	13.65	<u>-4.99</u> [-13.65]

Map 1: Existing Zoning – Planning Area 80

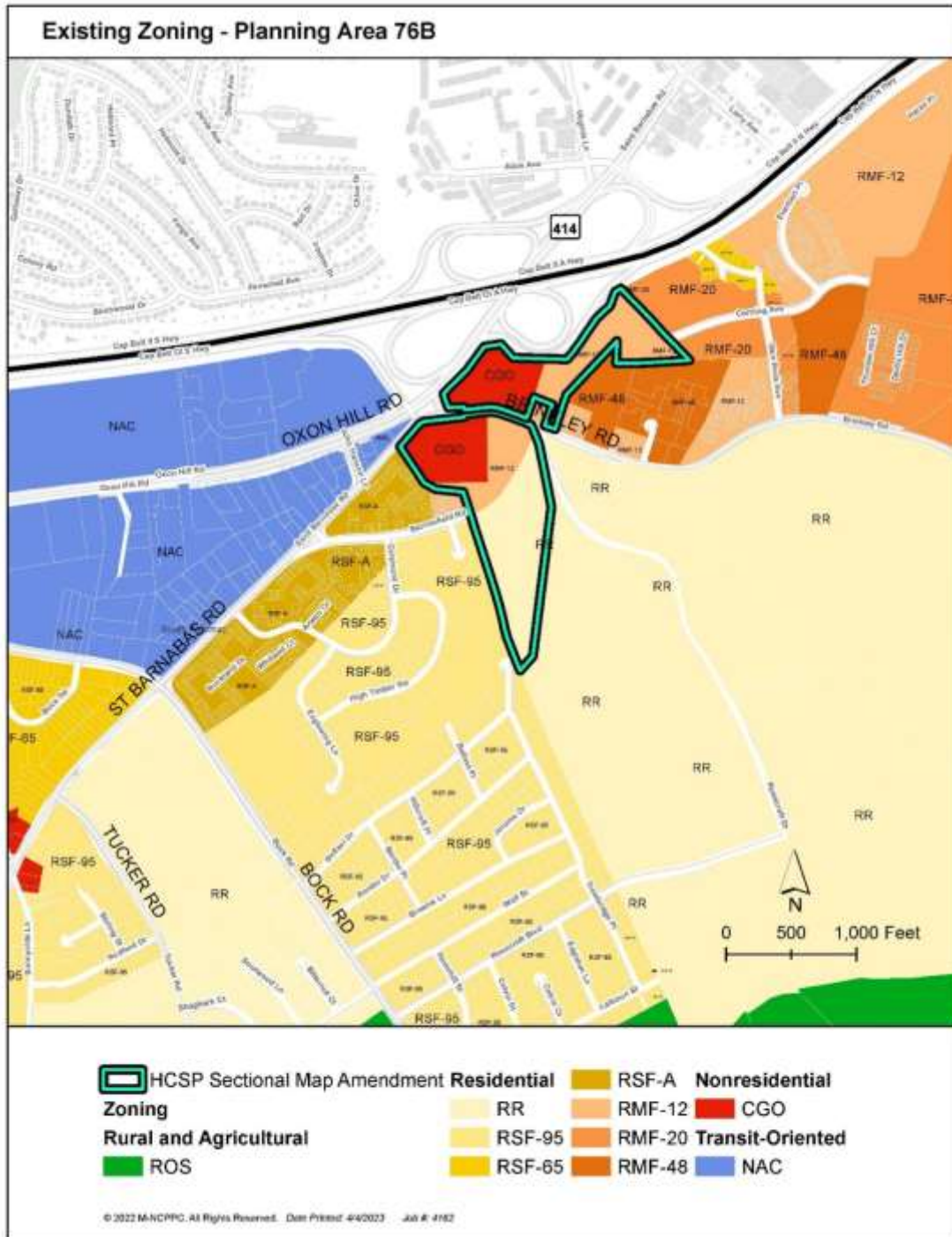


Source: Prince George’s County Planning Department, *GIS Open Data Portal*, 2023, <https://gisdata.pgplanning.org/opendata/>.

Map 2: Proposed Zoning Changes – Planning Area 80[

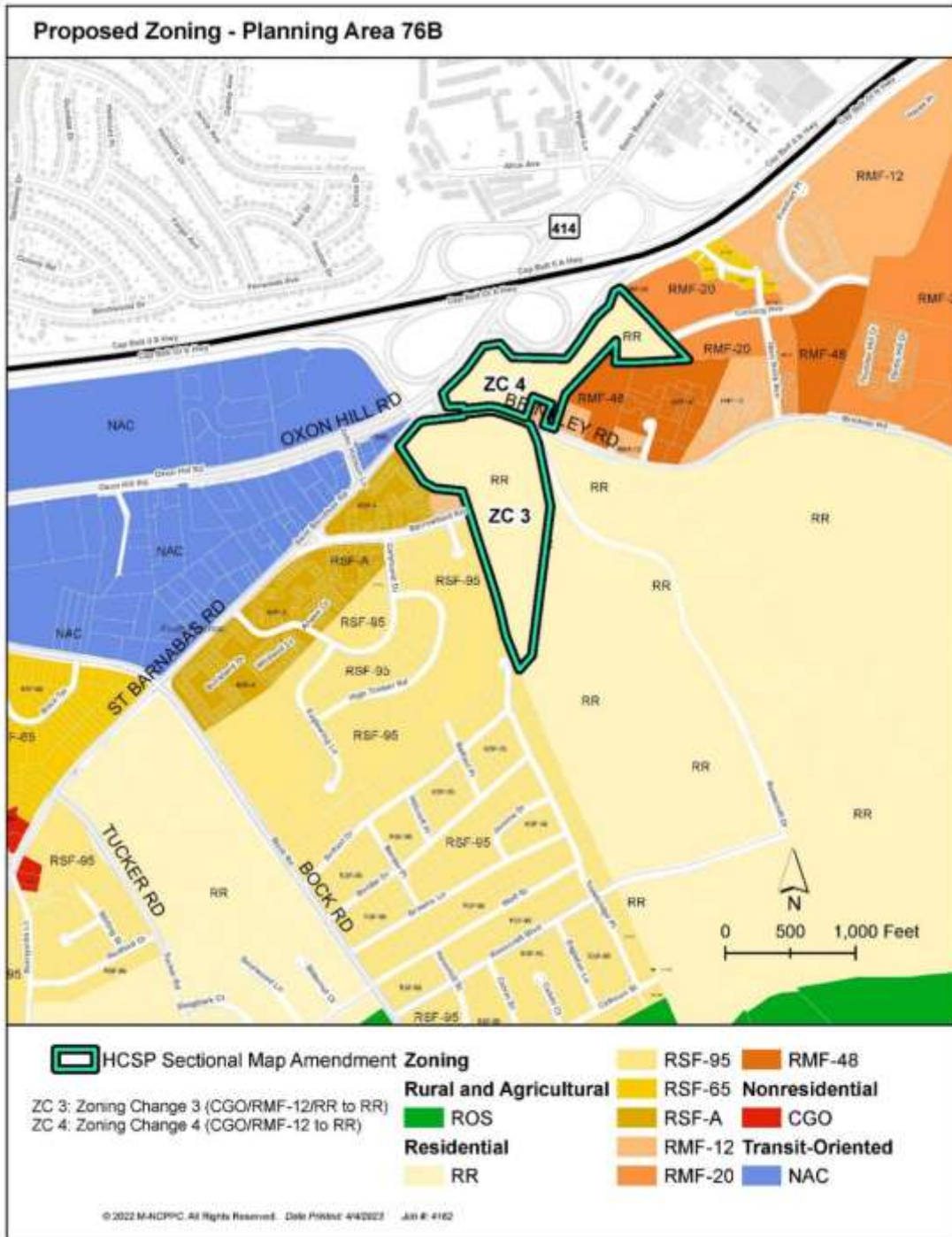


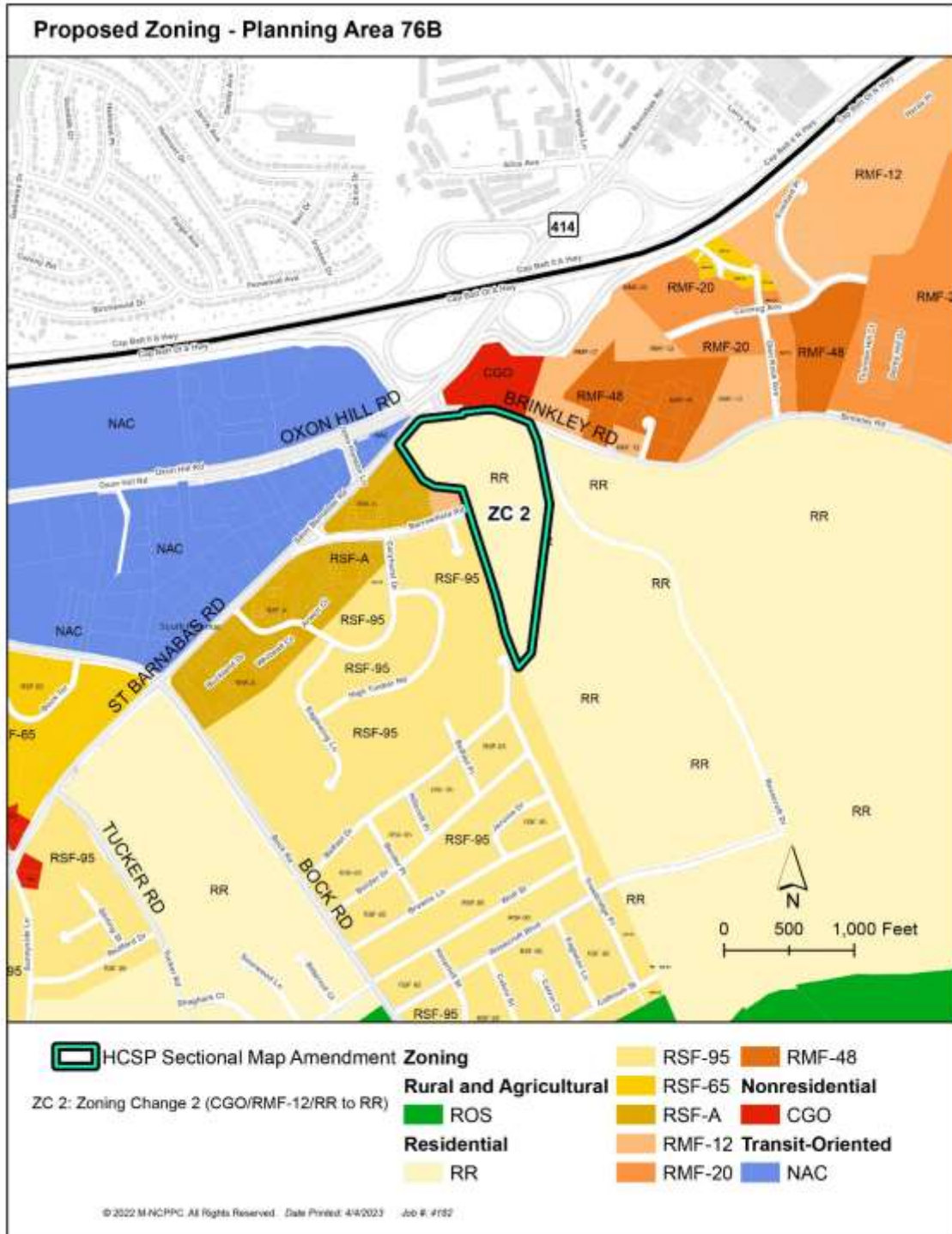
Map 3: Existing Zoning – Planning Area 76B



Source: Prince George's County Planning Department, GIS Open Data Portal, 2023, <https://gisdata.pgplanning.org/opendata/>.

Map 4: Proposed Zoning Changes – Planning Area 76B[





Source: Prince George's County Planning Department, *GIS Open Data Portal*, 2023, <https://gisdata.pgplanning.org/opendata/>.

Zoning Change 1: RR to CGO¹

Change Number	Zoning Change	Area of Change (Acres)	Approved CMA/SMA/TDOZMA/ZMA/SE Number	Approved CMA/SMA/TDOZMA/ZMA/SE Date	200' Scale Index Map
1	RR to CGO	[21.36]	CMA	April 1, 2022	213SE01
		<u>22.04</u>	SMA	April 25, 2006	

Two of these properties (7707 Kaydot Road and a Prince George’s County-owned right-of-way parcel on Old Fort Road) are located in the Established Communities as defined by Plan 2035 and in the Henson Creek Mixed Use Activity Center as defined by the Adopted Minor Amendment (PGCPB No. 2023-XX) to the 2006 Approved Master Plan for the Henson Creek-South Potomac Planning Area. The Future Land Use Map in the Adopted Minor Master Plan Amendment recommends a mix of uses [in this area] on these properties. The third subject property is located in the Rural and Agricultural Area as defined by Plan 2035 and is located within the Broad Creek Historic District pursuant to the 2010 Approved Historic Sites and Districts Plan, and the Adopted Minor Master Plan Amendment recommends residential low uses on this property. (See Map 5: Zoning Change (ZC) 1: RR to CGO.)

These parcels are currently classified in the Rural Residential Zone, which is incompatible with the recommendation of the Adopted Minor Master Plan Amendment for a mix of commercial, institutional, and healthcare uses on the subject properties[y as part of the broader plan for the Henson Creek Transit Village.] The proposed Commercial, General/Office (CGO) Zone supports the recommended mix of commercial, institutional, and healthcare uses.

Section 27-4203(d) articulates the purposes of the CGO Zone:

The purposes of the Commercial, General and Office (CGO) Zone are:

(A) To provide lands for a diverse range of business, civic, and mixed-use development, typically at or near major intersections where visibility and good access are important, in a form that supports connections and a balance between automobile access and pedestrian-friendliness;

(B) To incorporate development with multiple uses, shared parking, and coordinated signage and landscaping; and

(C) To accommodate higher-density residential uses as part of vertically or horizontally mixed-use development.

The CGO Zone is the most appropriate zone for the subject parcels because it allows for a broad range of healthcare uses on Tax Accounts 0381566 and 0374363 (7707 Kaydot Road) while ensuring secondary vehicular access to any future development on the larger parcel via Tax Account 0283960, also zoned

¹ The acreages shown in the tables in this Sectional Map Amendment are estimates of acreage to be rezoned; the actual acreage will depend on future engineering surveys. In approving the Zoning Maps, the District Council is approving the boundary lines, not a precise acreage amount.

CGO and under the same private ownership. Common zoning between the parcels eliminates the potential risk that a future development may face regarding legal access through a secondary driveway built on an adjoining lot under the same ownership.

Tax Account 0283960 is within a designated Historic District and all development will be subject to the Historic Area Work Permit requirements of Subtitle 29, Division 4 of the Prince George’s County Code.

[The proposed Commercial, General/Office (CGO) Zone supports the recommended mix of commercial, institutional, and healthcare uses.]

Zoning Change	Address	Tax Map and Grid	Tax Account	Description	Lot	Block	Parcel	Ownership
ZC 1	7707 Kaydot Road	0123 00A1	0381566	Near Broadcreek L 5272 F 529	N/A	N/A	0180	Private
	Old Fort Road	0114 00A4	0374363	N/A	N/A	N/A	0009	County
	<u>Livingston Road</u>	<u>0114 00A4</u>	<u>0283960</u>	<u>Nr Broad Creek</u>	<u>N/A</u>	<u>N/A</u>	<u>0188</u>	<u>Private</u>



Source: Prince George's County Planning Department, *GIS Open Data Portal*, 2023, <https://gisdata.pgplanning.org/opendata/>

[Zoning Change 2: RR to CN

Change Number	Zoning Change	Area of Change (Acres)	Approved CMA/SMA/TDOZMA/ZMA/SE Number	Approved CMA/SMA/TDOZMA/ZMA/SE Date	200' Scale Index Map
2	RR to CN	3.92	CMA	April 1, 2022	213SE01
			SMA	April 25, 2006	

The subject properties are located in the Rural and Agricultural Area as defined by Plan 2035 and are located within the Broad Creek Historic District pursuant to the 2010 *Approved Historic Sites and Districts Plan*. The Future Land Use Map in the Adopted Minor Master Plan Amendment recommends commercial uses on these properties. (See Map 6: Zoning Change (ZC) 2: RR to CN.)

The properties at 9612 and 9700 Livingston Road (Parcels 186, 187, and 222) are in common ownership and are currently zoned CN and RR. This reclassification will facilitate uniform development across a single common-ownership property. Parcel 188 is part of a common ownership property to the east recommended for a mix of commercial, institutional, and healthcare uses. Parcel 189 is owned by a public utility but is located on a key intersection abutted on the east and north by the Henson Creek Transit Village.

Section 27-4203(b) articulates the purposes of the Commercial, Neighborhood (CN) Zone:

The purposes of the Commercial, Neighborhood (CN) Zone are:

- (A) To provide lands for a range of small-scale, low-intensity retail and service commercial development that provides goods and services primarily serving the daily needs of residents of the immediately surrounding neighborhoods; and
- (B) To ensure uses, development intensities, and development forms that are consistent with a pedestrian-friendly and neighborhood-scale, traditional main street character, that are well-connected to and compatible with surrounding areas, and that do not attract significant traffic from outside the surrounding neighborhoods.

The CN Zone is the most appropriate zone to ensure that commercial development of the subject properties is of a scale and intensity compatible with the Rural and Agricultural Area and the Broad Creek Historic District. Development of these properties through more intense commercial zones would facilitate inappropriate densities and uses for the protected area.

These properties are within a designated Historic District and all development will be subject to the Historic Area Work Permit requirements of Subtitle 29, Division 4 of the Prince George’s County Code.

The subject property is currently classified in the Residential, Rural (RR) Zone, which does not support the commercial development recommended by the Adopted Minor Master Plan Amendment.

Zoning Change	Address	Tax Map and Grid	Tax Account	Description	Lot	Block	Parcel	Ownership
ZC 2	Livingston Road	0114 00A4	0370635	Broad Creek Public Utility Operating Property	N/A	N/A	0189	Potomac Electric Power Company
	Livingston Road	0114 00A4	0283960	Nr Broad Creek	N/A	N/A	0188	Private
	Livingston Road	0114 00A4	0353649	Nr Broad Creek	N/A	N/A	0222	Private
	9612 Livingston Road	0114 00A4	0353656	Nr Broad Creek	N/A	N/A	0187	Private

Map 6: Zoning Change (ZC) 2: RR to CN



Source: Prince George's County Planning Department, *GIS Open Data Portal*, 2023, <https://gisdata.pgplanning.org/opendata/>.

Zoning Change [3]2: RR/CGO/RMF-12 to RR

Change Number	Zoning Change	Area of Change (Acres)	Approved CMA/SMA/TDOZMA/ZMA/SE Number	Approved CMA/SMA/TDOZMA/ZMA/SE Date	200' Scale Index Map
[3]2	CGO/RMF-12/RR to RR	11.59	CMA	April 1, 2022	208SE02
			SMA	April 25, 2006	

The property at 2101 Brinkley Road is located in the Established Communities as defined by Plan 2035. This address is located within the Developing Tier identified in the 2006 *Approved Master Plan for the Henson Creek-South Potomac Planning Area* and within the Residential, Low-Density future land use category as defined by the Adopted Minor Amendment (PGCPB No. 020-2023) to the 2006 *Approved Master Plan for the Henson Creek-South Potomac Planning Area*. The Future Land Use designation in the Adopted Minor Master Plan Amendment, Residential Low, recommends a maximum density of 3.5 dwelling units per acre (primarily single-family detached). (See Map 7: Zoning Change (ZC) 3: CGO/RMF-12/RR to RR.)

The parcel is split zoned CGO/RMF-12/RR, with 6.6 acres located in the CGO Zone, 4.99 acres located in the RMF-12 zone, and 13.25 acres of the parcel located in the RR zone. This is incompatible with the recommendation of the Adopted Minor Master Plan Amendment, which recommends low-density single-family detached dwellings compatible with the existing local character and density. The proposed Residential, Rural (RR) Zone supports the recommended low-density single-family detached dwellings, as it prescribes a maximum density of 2.17 single-family detached dwelling units per acre. Further, this reclassification will eliminate the split zoning across the parcel.

Zoning Change	Address	Tax Map and Grid	Tax Account	Description	Lot	Block	Parcel	Ownership
ZC [3]2	2101 Brinkley Road	0096 00E4	1265594	N/A	N/A	N/A	0301	Private

Zoning Change [3]2: Justification of Nonconforming Use

Section 27-3503(a)(5)(B) of the Zoning Ordinance states:

No property may be zoned to a less intense category (see Section 27-4102(b)) if...[b]ased on existing physical development at the time of adoption of the sectional map amendment, the zoning would create a nonconforming use. This zoning may be approved, however, if there is a significant public benefit to be served by the zoning based on facts peculiar to the subject property and the immediate neighborhood. In recommending the zoning, the Planning Board shall identify these properties and provide written justification supporting the zoning at the time of transmittal. The failure of either the Planning Board or property owner to identify these properties, or a failure of the Planning Board to provide the written justification, shall not invalidate any District Council action in the approval of the sectional map amendment.

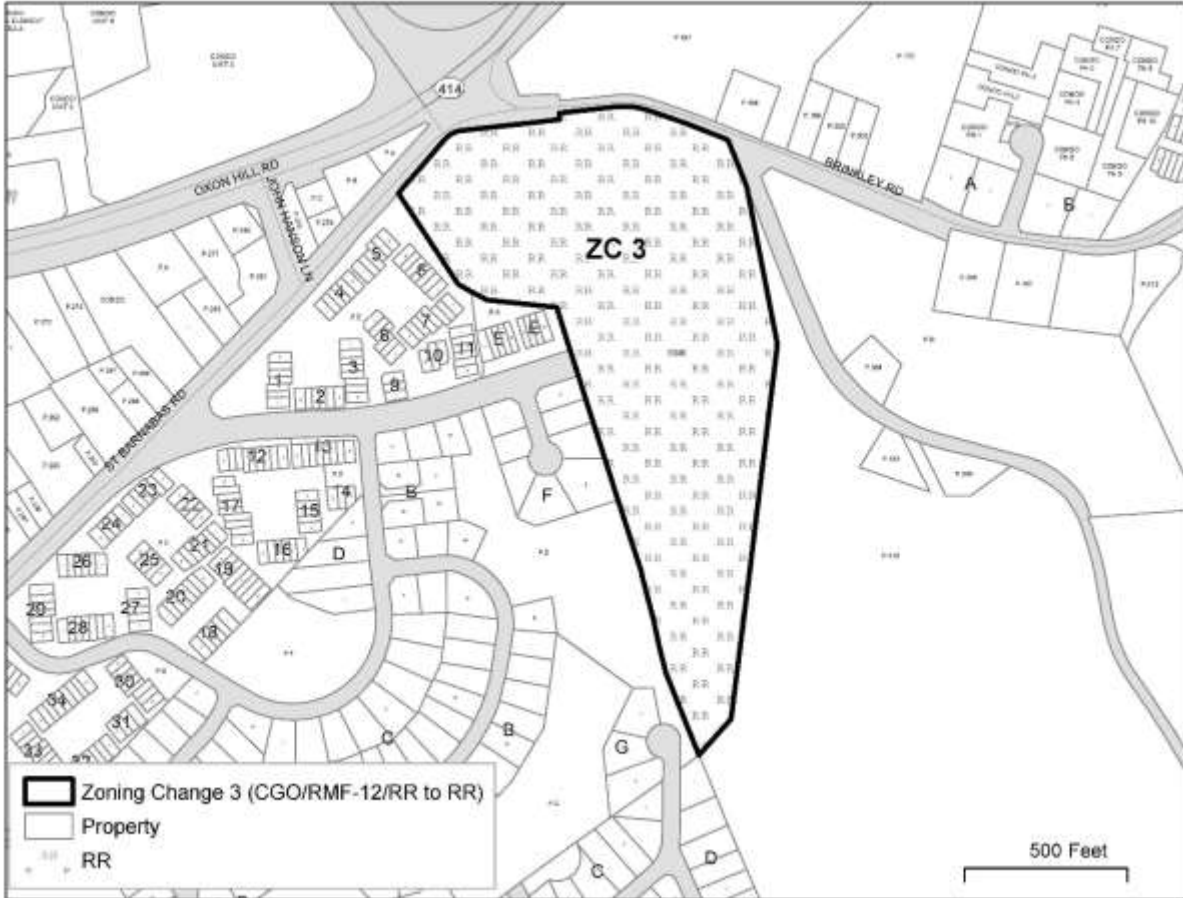
Zoning Change [3]2, if approved, [will]may create a nonconforming use.

A florist shop with an accessory structure for a nursery previously operated on the portion of 2101 Brinkley Road zoned CGO; the shop closed in early 2021. This use conformed with both the CGO zone and the property's location within the Rosecroft Mixed-Use Area, which was designated in the 2006 *Approved Master Plan for the Henson Creek-South Potomac Planning Area* and encouraged neighborhood-serving commercial amenities.

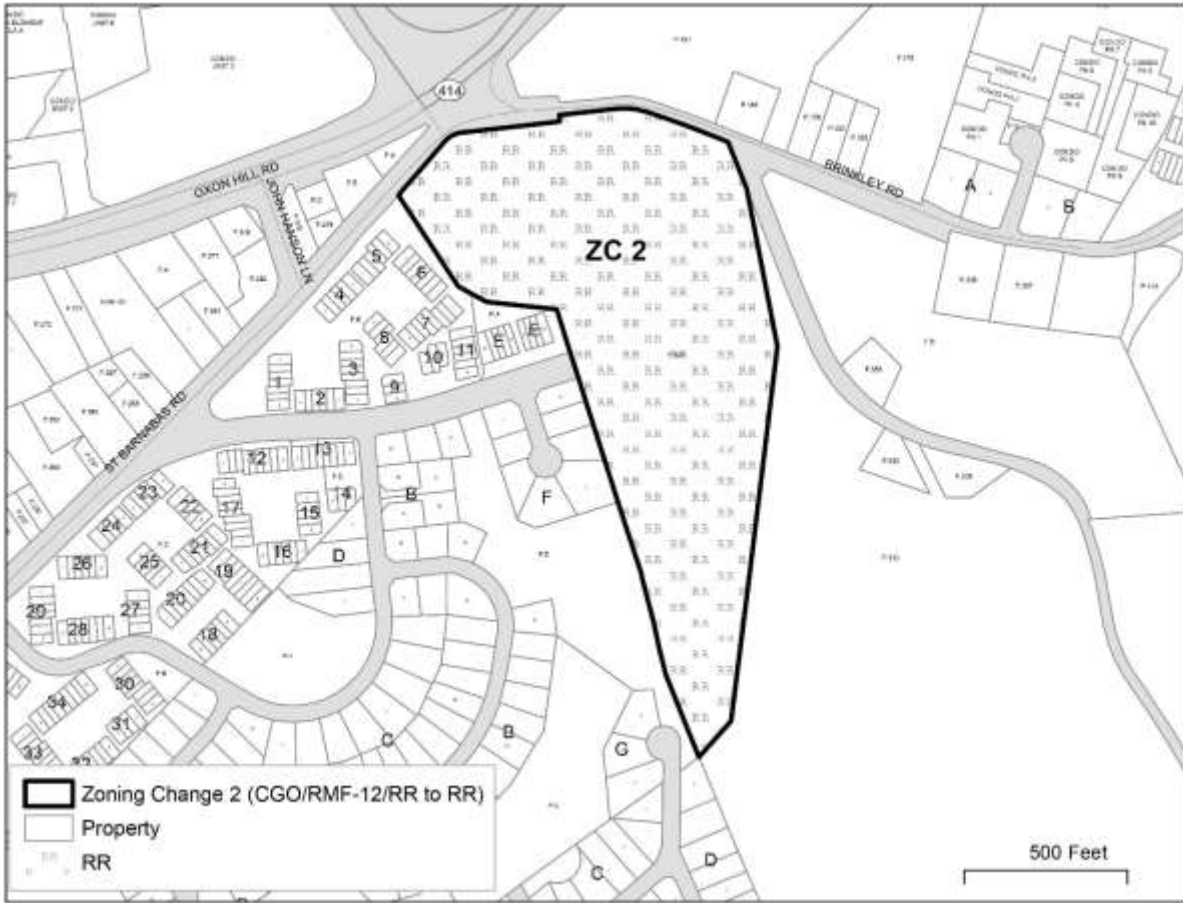
The proposed reclassification of the subject property to the RR zone, a lower-intensity zone, makes the subject retail facility nonconforming because a consumer goods establishment is prohibited in the RR zone and a nursery is only permitted as an accessory to an agricultural use in the RR zone.

The adopted minor plan amendment for the Henson Creek-South Potomac Planning area, pursuant to PGCPB No. 2023-XX, recommends elimination of the Rosecroft Mixed-Use Area. A mixed-use future land use designation is no longer appropriate here given recent development activity, lack of viability of a light rail station at Rosecroft, and the County's current legislative priorities related to mixed-use focused on transit-oriented development. Rezoning the 11.59 acres (of the total 24.84-acre property) currently zoned CGO and RMF-12 to RR would allow for redevelopment of the property with the low-density single-family detached dwellings that are compatible with the Low Density Residential land use recommendation in the adopted amendment to the master plan (see PGCPB No. 2023-XX) and consistent with the land use and zoning recommendations of adjacent parcels. This is also supported by Plan Prince George's 2035 Land Use Policy 7 ("Limit future mixed-use land uses outside of the Regional Transit Districts and Local Centers.") and LU7.1 ("Reevaluate mixed-use land use designations outside of the Regional Transit Districts and Local Centers as master plans are updated."). This reclassification is necessary because there is a significant public benefit to be served by the zoning based on facts peculiar to the subject property and the immediate neighborhood, namely for the reasons stated above.

Map [7]6: Zoning Change (ZC) [3]2: CGO/RMF-12/RR to RR[



]



Source: Prince George's County Planning Department, *GIS Open Data Portal*, 2023, <https://gisdata.pgplanning.org/opendata/>.

[Zoning Change 4: CGO/RMF-12 to RR

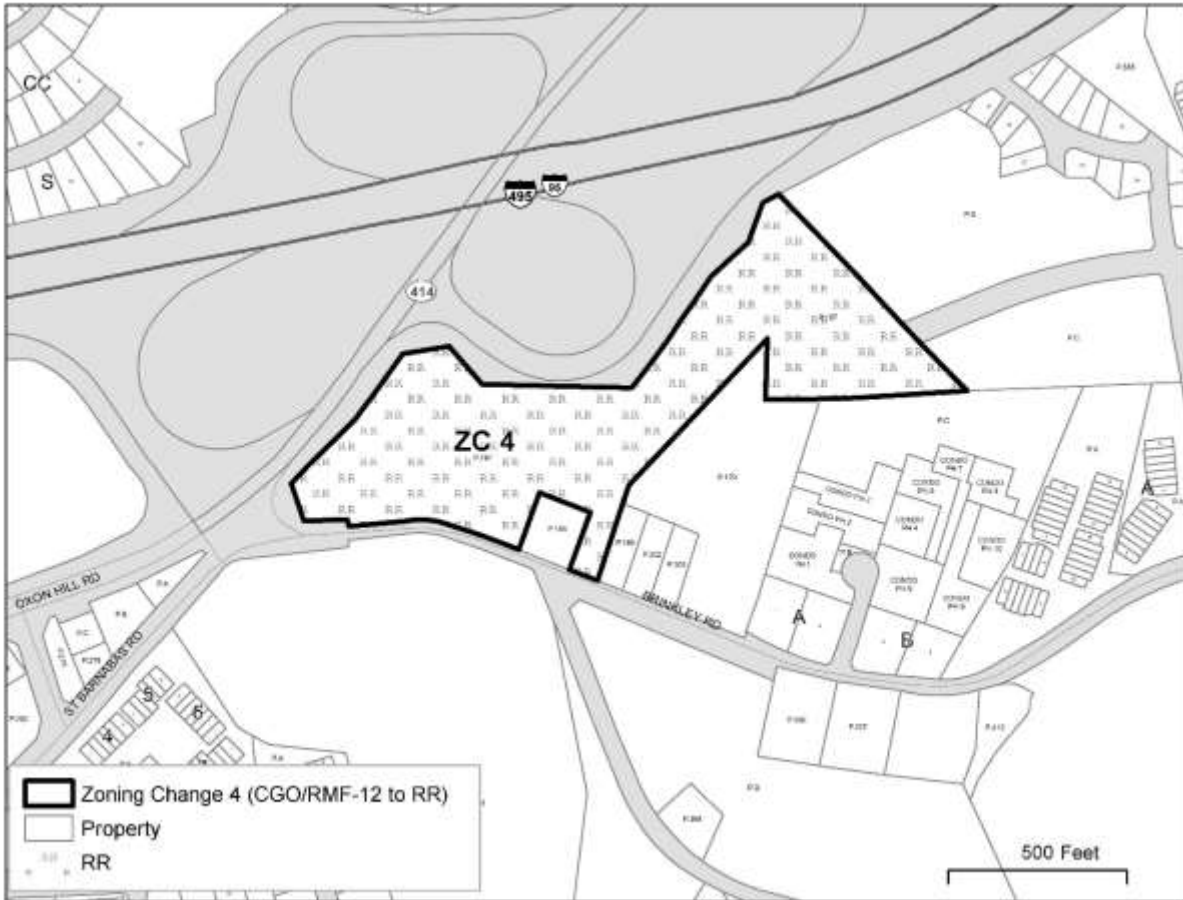
Change Number	Zoning Change	Area of Change (Acres)	Approved CMA/SMA/TDOZMA/ZMA/SE Number	Approved CMA/SMA/TDOZMA/ZMA/SE Date	200' Scale Index Map
4	CGO/RMF-12 to RR	14.85	CMA	April 1, 2022	208SE02
			SMA	April 25, 2006	

The property at 2112 Brinkley Road is located in the Established Communities Growth Policy Area as defined by Plan 2035. This address is located within the Developed Tier identified in the 2006 *Approved Master Plan for the Henson Creek-South Potomac Planning Area* and within the Residential, Low-Density future land use category as defined by the Adopted Minor Amendment (PGCPB No. 2023-XX) to the 2006 *Approved Master Plan for the Henson Creek-South Potomac Planning Area*. The Future Land Use designation in the Adopted Minor Master Plan Amendment, Residential Low, recommends a maximum density of 3.5 dwelling units per acre (primarily single-family detached). (See Map 8: Zoning Change (ZC) 4: CGO/RMF-12 to RR below.)

The parcel is split zoned CGO/RMF-12, with 6.19 acres of the parcel located in the CGO Zone and 8.66 acres located in the RMF-12 zone. This is incompatible with the recommendation of the Adopted Master Plan Amendment, which recommends low-density single-family detached dwellings. The proposed Residential, Rural (RR) Zone supports the recommended low-density single-family detached dwellings, as it prescribes a maximum density of 2.17 single-family detached dwelling units per acre. Further, this reclassification will eliminate the split zoning across the parcel.

Zoning Change	Address	Tax Map and Grid	Tax Account	Description	Lot	Block	Parcel	Ownership
ZC 4	2112 Brinkley Road	0096 00E3	1346022	(Cor Use)	N/A	N/A	0167	Private

Map 8: Zoning Change (ZC) 4: CGO/RMF-12 to RR



Source: Prince George's County Planning Department, *GIS Open Data Portal*, 2023, <https://gisdata.pgplanning.org/opendata/>.


BE IT FURTHER RESOLVED that the Prince George's County Planning Department is hereby authorized to make appropriate textual and graphical revisions to the master plan and any amendments to correct identified errors, reflect updated information and revisions, and otherwise incorporate the changes reflected in this Resolution; and

BE IT FURTHER RESOLVED that the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission finds that this Sectional Map Amendment, as heretofore described, is in conformance with the principles of orderly comprehensive land use planning and staged development being consistent with the 2006 *Approved Master Plan for the Henson Creek-South Potomac Planning Area*, as amended by PGCPB No. 2023-93, and with consideration having been given to the applicable County Laws, Plans, and Policies.

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Doerner, with Commissioners Doerner, Shapiro, and Washington voting in favor of the motion and Commissioners Bailey and Geraldo absent at its regular meeting held on Thursday, September 7, 2023, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 14th day of September, 2023.

Peter A. Shapiro
Chair


By Jessica Jones
Planning Board Administrator

APPROVED AS TO LEGAL SUFFICIENCY



David S. Warner
M-NCPPC Legal Department
Date: September 18, 2023

1 directing the initiation and preparation of a minor plan amendment and concurrent sectional map
2 amendment for the Henson Creek-South Potomac Planning Area by the Planning Board of the
3 Maryland-National Capital Park and Planning Commission; and

4 WHEREAS, a sectional map amendment was prepared concurrently with this minor plan
5 amendment to implement said plan, as amended; and

6 WHEREAS, the District Council and the Planning Board held a duly-advertised joint
7 public hearing on the Henson Creek-South Potomac Planning Area Minor Plan Amendment and
8 its concurrent Sectional Map Amendment on June 13, 2023; and

9 WHEREAS, on September 7, 2023, the Prince George's County Planning Board held a
10 public work session to examine the analysis of testimony, transcripts of oral testimony provided
11 at the Joint Public Hearing (on June 13, 2023), as well as written testimony and other exhibits
12 contained within the joint public hearing record; and

13 WHEREAS, on September 14, 2023, the Planning Board, upon consideration of the
14 record and staff digest, adopted the Henson Creek-South Potomac Planning Area Minor Plan
15 Amendment with revisions in Prince George's County Planning Board Resolution of Plan
16 Adoption PGCPB No. 2023-93, and transmitted the adopted Minor Plan Amendment to the
17 District Council on September 19, 2023; and

18 WHEREAS, pursuant to Section 27-3502(i)(6) of the Zoning Ordinance, the Planning
19 Board transmitted the Adopted Minor Plan Amendment, technical staff report, and Endorsed
20 Sectional Map Amendment, with their respective recommendations as to same, to the District
21 Council on September 19, 2023; and

22 WHEREAS, on October 24, 2023, the District Council held a public work session,
23 convened as the Committee of the Whole, to examine the Planning Board adopting resolution,
24 staff's technical report, the analysis of testimony prepared by the staff, as well as the array of
25 exhibits and other testimony within the record of public hearing testimony; and

26 WHEREAS, after questions and discussion regarding the record of hearing testimony for
27 the adopted Minor Plan Amendment by members of the District Council, the Committee of the
28 Whole voted favorably on October 24, 2023, to direct staff to prepare a Resolution of Approval
29 of the Henson Creek-South Potomac Planning Area Minor Plan Amendment, incorporating
30 revisions, specifically, to approve Amendments Numbered 1 and 14, respectively, to the 2006

1 master plan as proposed concerning the property located at 2112 Brinkley Road (Tax Account
2 1346022); and

3 WHEREAS, it is the intention of the District Council to approve a Master Plan
4 amendment to reflect revisions to “Map 1: Plan Concept” to include 2112 Brinkley Road and
5 change map shading from “Medium to High Intensity Residential Area” to “Low Density
6 Residential” and move label so it no longer points to this property; and

7 WHEREAS, the District Council has reviewed the Planning Board’s adopted
8 recommendation as to the Henson Creek-South Potomac Planning Area Minor Amendment
9 embodied within PGCPB Res. No. 2023-93; and

10 WHEREAS, the District Council finds that the proposed change to “Map 1: Plan
11 Concept” concerning 2112 Brinkley Road was in fact incorporated—perhaps as an oversight—
12 within the Planning Board in its Adopting Resolution and Recommendation, by way of the
13 Board’s adoption of Attachment 2, “Errata Sheet for the Proposed Henson Creek-South Potomac
14 Minor Master Plan Amendment,” within PGCPB Res. No. 2023-93, attached hereto as
15 Attachment A and incorporated as if fully restated herein; and

16 WHEREAS, notwithstanding the apparent prior inclusion of the revisions to “Map 1:
17 Plan Concept” within Attachment 2 to PGCPB Res. No. 2023-93, the District Council finds that,
18 for purposes of clarity and consistency, its Resolution of Approval should include the stated
19 revision to approve the Minor Plan Amendment as proposed in its March 2023 Resolution of
20 Initiation as to 2112 Brinkley Road, in its Resolution of Approval, as articulated in its motion at
21 the public work session conducted on October 24, 2023; and

22 WHEREAS, after introducing the proposed Resolution of Approval at a public session,
23 the Council referred the Resolution with proposed Revisions to the Planning Board for
24 comments in accordance with law; and

25 WHEREAS, on November 9, 2023, the Planning Board reviewed the proposed
26 Resolution of Approval with proposed Revisions and issued comments in the manner prescribed
27 in the local zoning laws; and

28 WHEREAS, on November 14, 2023, the Council convened as the Committee of the
29 Whole to review the Planning Board’s comments on the proposed Resolution of Approval with
30 proposed Revisions as to the Minor Amendment to the Henson Creek-South Potomac Master
31 Plan; and, after discussion, voted for a favorable recommendation on the legislation.

1 NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's
2 County, Maryland, sitting as the District Council for that part of the Maryland-Washington
3 Regional District in Prince George's County, Maryland, that the 2023 Henson Creek-South
4 Potomac Planning Area Minor Plan Amendment as adopted by Planning Board and embodied
5 within the resolution adopted on September 14, 2023, PGCPB No. 2023-93, being set forth in
6 Attachment A, which is attached hereto and incorporated as if restated fully herein, be and the
7 same is hereby APPROVED, subject to the following revisions, in accordance with express
8 prescriptions of law:

9 **REVISION NUMBER ONE:**

10 Revise “Map 1: Plan Concept” to include 2112 Brinkley Road and change map shading
11 from “Medium to High Intensity Residential Area” to “Low Density Residential”; and move the
12 label on the map so that it no longer points to this property.

13 **REVISION NUMBER TWO:**

14 Revise and amend the Land Use, Transportation, and Public Facilities comprehensive plan
15 Map 14 (insert) to reflect the following designations as to referenced property.

16 Address: 2112 Brinkley Road

17 Tax Account: 1346022

18 2006 Future Land Use Category: Residential Medium

19 Amended Future Land Use Category: Residential Low

1 BE IT FURTHER RESOLVED that the planning staff is authorized to make appropriate
2 textual and graphical revisions to the Master Plan, as amended, to correct identified errors,
3 reflect updated information and revisions, and otherwise incorporate the changes reflected in this
4 Resolution.

5 BE IT FURTHER RESOLVED that the provisions of this Resolution are severable. If any
6 provision, sentence, clause, section, zone, zoning map, or part thereof is held illegal, invalid,
7 unconstitutional, or unenforceable, such illegality, invalidity, unconstitutionality, or
8 unenforceability shall not affect or impair any of the remaining provisions, sentences, clauses,
9 sections, zones, zoning maps, or parts hereof or their application to other zones, persons, or
10 circumstances. It is hereby declared to be the legislative intent that this Resolution would have
11 been adopted as if such illegal, invalid, unconstitutional, or unenforceable provision, sentence,
12 clause, section, zone, zoning map, or part had not been included therein.
13

Adopted this 14th day of November, 2023.

COUNTY COUNCIL OF PRINCE GEORGE'S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE'S COUNTY,
MARYLAND

BY: Thomas E. Dernoga
Thomas E. Dernoga
Chair

ATTEST:

Donna J. Brown
Donna J. Brown
Clerk of the Council

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL
2023 Legislative Session

Resolution No. CR-107-2023

Proposed by Council Member Burroughs

Introduced by Council Members Burroughs, Watson, Ivey, Harrison, Dernoga, Fisher,
Blegay and Hawkins

Co-Sponsors _____

Date of Introduction October 31, 2023

RESOLUTION

1 A RESOLUTION concerning

2 The Henson Creek-South Potomac Planning Area Sectional Map Amendment–Approval
3 For the purpose of approving, with certain revisions herein that is based on the joint public
4 hearing record of testimony, as an Act of the County Council of Prince George’s County,
5 Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional
6 District in Prince George’s County, the Henson Creek-South Potomac Planning Area Sectional
7 Map Amendment (SMA), thereby setting forth and adopting detailed zoning proposals for the
8 Henson Creek-South Potomac Planning Area, generally comprised of properties located in an
9 area north of and not including the Broad Creek Conservancy, east of Livingston Road, south of
10 Old Fort Road, and west of MD 210; as well as parcel 1265594, generally located in an area
11 south of St. Barnabas Road and Brinkley Road and east of Rosecroft Drive, and parcel 1346022,
12 generally located in an area north of Brinkley Road and east of the Capital Beltway.

13 WHEREAS, upon approval by the District Council, this SMA will amend portions of the
14 Prince George’s County Zoning Map for portions of Planning Areas 76B and 80 within the
15 Henson Creek-South Potomac Planning Area; and

16 WHEREAS, on March 28, 2023, the County Council of Prince George’s County,
17 Maryland, sitting as the District Council, pursuant to Sections 27-3502 and 3503 of the Zoning
18 Ordinance, adopted CR-020-2023, thereby authorizing initiation of a Sectional Map Amendment
19 concurrent with the initiation of the Henson Creek-South Potomac Planning Area Minor Plan
20 Amendment; and

1 WHEREAS, the boundaries of this Sectional Map Amendment are located within the
2 Henson Creek-South Potomac Planning Area; and

3 WHEREAS, pursuant to Sections 27-3502 and 3503 of the Zoning Ordinance, this
4 Sectional Map Amendment was prepared and reviewed concurrently with the Henson Creek-
5 South Potomac Planning Area Minor Plan Amendment; and

6 WHEREAS, the District Council and the Prince George’s County Planning Board of The
7 Maryland-National Capital Park and Planning Commission held a duly advertised joint public
8 hearing on June 13, 2023; and

9 WHEREAS, the Planning Board held a work session on September 7, 2023 to review
10 comments contained in the public hearing record and staff recommendations thereon; and

11 WHEREAS, pursuant to Section 27-3502(i)(5) of the Zoning Ordinance, the Planning
12 Board adopted the concurrent Henson Creek-South Potomac Planning Area Minor Plan
13 Amendment, with amendments, on September 14, 2023, and, pursuant to this Section and
14 Section 27-3503(b)(4) of the Zoning Ordinance, adopted Resolution PGCPB No. 2023-94,
15 endorsing the Henson Creek-South Potomac Planning Area Sectional Map Amendment, with
16 amendments, and recommending approval, to the District Council; and

17 WHEREAS, pursuant to Section 27-3502(i)(6) of the Zoning Ordinance, the Planning
18 Board transmitted the Adopted Minor Plan Amendment, technical staff report, and Endorsed
19 Sectional Map Amendment, with their respective recommendations as to same, to the District
20 Council on September 19, 2023; and

21 WHEREAS, on October 24, 2023, the District Council held a public work session in
22 accordance with applicable law and procedures to consider the record of public hearing
23 testimony and the Planning Board’s recommendations embodied in PGCPB No. 2023-94; and,
24 upon discussion, voted favorably to direct staff to prepare a Resolution of Approval for the
25 Amendment, in accordance with the recommendation of the Planning Board, with one revision,
26 based on the evidence within the record of public hearing testimony; and

27 WHEREAS, after the introducing the proposed Resolution of Approval at a public session,
28 the Council referred the Resolution with proposed Revisions to the Planning Board for
29 comments in accordance with law; and

1 WHEREAS, on November 9, 2023, the Planning Board reviewed the proposed Resolution
2 of Approval with Revisions and issued comments in the manner prescribed in the local zoning
3 laws; and

4 WHEREAS, November 14, 2023, the Council convened as the Committee of the Whole to
5 review the Planning Board’s comments on the proposed Resolution of Approval with Revisions
6 as to the Henson Creek-South Potomac Sectional Map Amendment; and, after discussion, voted
7 for a favorable recommendation on the legislation.

8 NOW, THEREFORE, BE IT RESOLVED by the County Council of Prince George's
9 County, Maryland, sitting as the District Council for that part of the Maryland-Washington
10 Regional District in Prince George's County, Maryland, that the Henson Creek-South Potomac
11 Planning Area Sectional Map Amendment, as endorsed on September 14, 2023 by PGPCB No.
12 2023-94, be and the same and is hereby approved with the following revision:

13 **REVISION NUMBER ONE:**

14 Amend the Planning Board recommendation within the Endorsed Minor Amendment to the
15 *Henson Creek-South Potomac Sectional Map Amendment* to approve Zoning Change 4,
16 concerning the zoning classification of the property located at 2112 Brinkley Road, as follows:

Property Address	Acreage	Tax Map and Grid	Tax Account	Existing Zone	Proposed Zone	Planning Board Recommended Zone	Approved Zone
2112 Brinkley Road, Fort Washington, MD 20744	14.85	0096 00E3	1346022	CGO/RMF-12	RR	CGO/RMF-12	RR


17 BE IT FURTHER RESOLVED that the planning staff is authorized to make appropriate
18 textual, graphical, and map revisions to correct identified errors, reflect updated information and
19 revisions, and incorporate the zoning map changes reflected in this Resolution.

20 BE IT FURTHER RESOLVED that this Sectional Map Amendment is an amendment to
21 the official Zoning Map for the Maryland-Washington Regional District in Prince George’s
22 County. The zoning changes approved by this Resolution shall be depicted on the official Zoning
23 Map of the County.

1 BE IT FURTHER RESOLVED that the provisions of this Resolution are severable. If any
2 provision, sentence, clause, section, zone, zoning map, or part thereof is held illegal, invalid,
3 unconstitutional, or unenforceable, such illegality, invalidity, unconstitutionality, or
4 unenforceability shall not affect or impair any of the remaining provisions, sentences, clauses,
5 sections, zones, zoning maps, or parts hereof for their application to other zones, persons, or
6 circumstances. It is hereby declared to be the legislative intent that this Resolution would have
7 been adopted as if such illegal, invalid, unconstitutional, or unenforceable provision, sentence,
8 clause, section, zone, zoning map, or part had not been included therein.

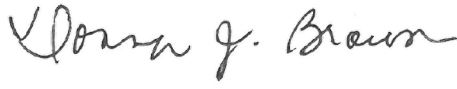
Adopted this 14th day of November , 2023.

COUNTY COUNCIL OF PRINCE GEORGE’S
COUNTY, MARYLAND, SITTING AS THE
DISTRICT COUNCIL FOR THAT PART OF
THE MARYLAND-WASHINGTON REGIONAL
DISTRICT IN PRINCE GEORGE’S COUNTY,
MARYLAND

BY: 

Thomas E. Dernoga
Chair

ATTEST:



Donna J. Brown
Clerk of the Council



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks and Recreation

6600 Kenilworth Avenue Riverdale, Maryland 20737

MEMORANDUM

DATE: December 6, 2023

TO: The Maryland-National Capital Park and Planning, Full Commission

FROM: Paul J. Sun, Land Acquisition Specialist *PJS*
Park Planning and Environmental Stewardship
Department of Parks and Recreation

SUBJECT: **PGCPB Resolution No. 2023-107 (M-NCPPC No. 23-31), and PGCPB Resolution No. 2023-125 (M-NCPPC No. 23-32) for Full Commission**

Attached, please find the above referenced Resolutions regarding the disposal of Commission owned property (Walker Mill Regional Park located in Capitol Heights) to Prince George's County.

The Commission agrees to grant this Disposal via the terms of a land exchange agreement. The land will be used for the needed right-of-way for proposed Eastwood Drive. Also included in the land exchange agreement is a grant of easement for a 10' wide public utility easement along Eastwood Drive and a 30' storm drain easement to Prince George's County.

Additionally, there is a request for a grant of easement for a perpetual stormwater management easement as indicated on Resolution # 2023-125.

We request that these two Prince George's County Planning Board Resolutions be scheduled for adoption by the Full Commission in December of 2023.

Thank you for your attention to this matter.

Attachment:

- M-NCPPC Resolution No. 2023-31
- M-NCPPC Resolution No. 2023-32

Open Session October 19, 2023

AGENDA

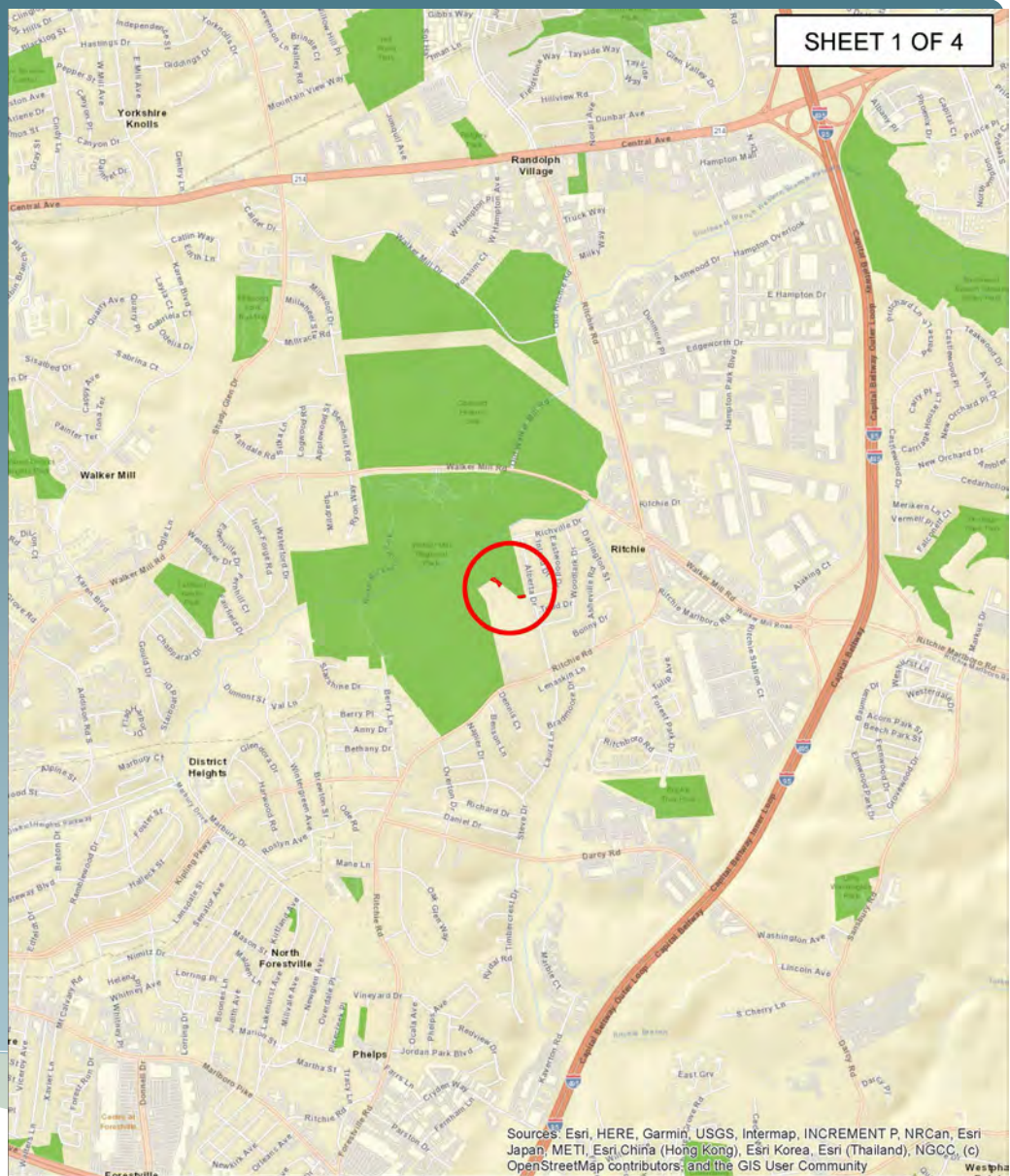
- **Land Exchange – Walker Mill Regional Park
(Item 3D)**






Land Exchange Agreement: Walker Mill Regional Park

Property of The Maryland-National
Capital Park and Planning
Commission (M-NCPPC) and
Kathmandu Village, LLC

Tax Map 74, Grid B3 & B 4

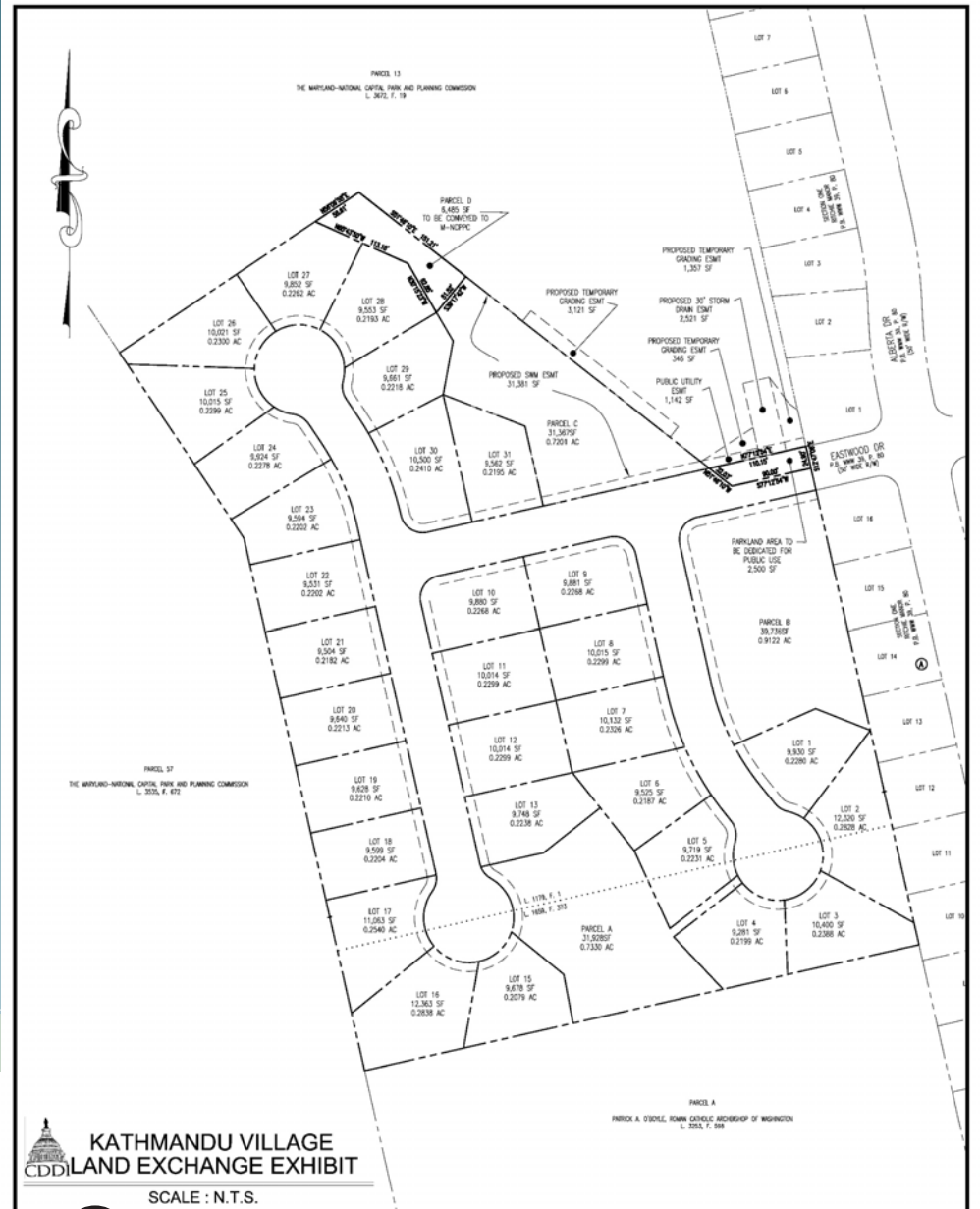


Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri,China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community

	Part of Parcel 13 & Part of Parcel 137 M-NCPPC and KATHMANDU VILLAGE LLC	This information may not be reproduced, stored in a retrieval system or transmitted in any form, including electronic or by photographic reproduction, without the express written permission of the Maryland National Capital Park and Planning Commission.	DATE: 08/16/2022	
			SCALE: 2,000 Feet	

Land Exchange Agreement: Walker Mill Regional Park

- Kathmandu Village (4-20013) was approved by the Planning Board on May 6, 2021

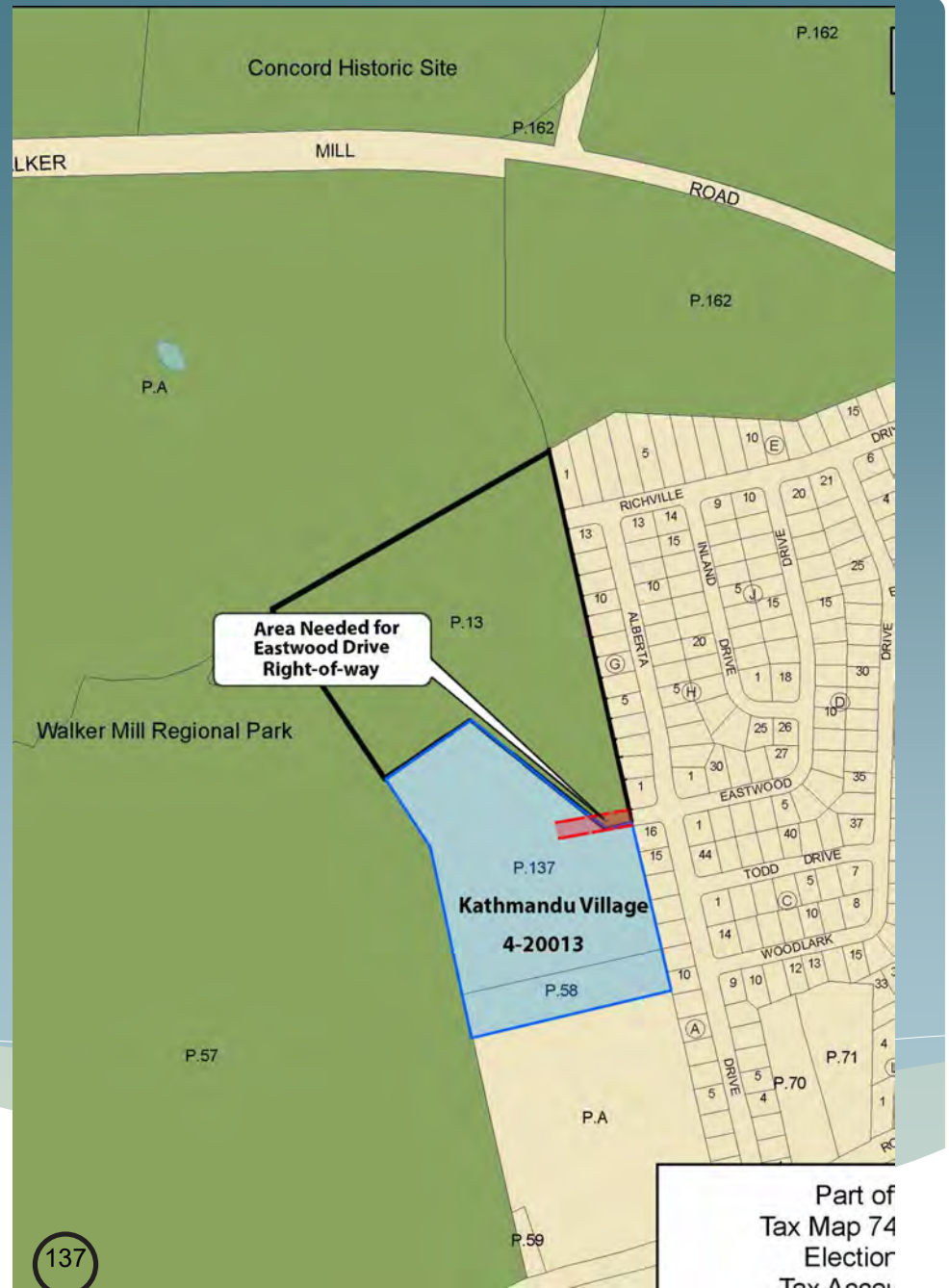


Preliminary Plan of Subdivision

Land Exchange Agreement: Walker Mill Regional Park

As a condition of the approval of the Preliminary Plan, the applicant was required to enter into a land exchange agreement with DPR to acquire the land needed for the Eastwood Drive right-of-way.

Tax Map 74, Grid B 4



Land Exchange Agreement: Walker Mill Regional Park

- The needed area for the right-of-way is 2,500 square feet.
- The applicant proposes to convey 6,485 square feet of land adjacent to existing parkland.
- Staff is in agreement with the proposed exchange and finds that the 2,500 s.f area will no longer be needed for Park purposes.



Land Exchange Agreement: Walker Mill Regional Park

The exchange agreement also includes:

- A 1.142 s.f. Public Utility Easement as required by the Subdivision Ordinance (shown in yellow).
- A 2,521 s.f. Storm Drain Easement as required by Prince George's County (shown in orange).



STAFF RECOMMENDATION

Approval
(Tyler/McNeal/Sun)

* Subject to approval by the Full Commission

End

Open Session November 30, 2023

AGENDA

Stormwater Management Easement:

Walker Mill Regional Park

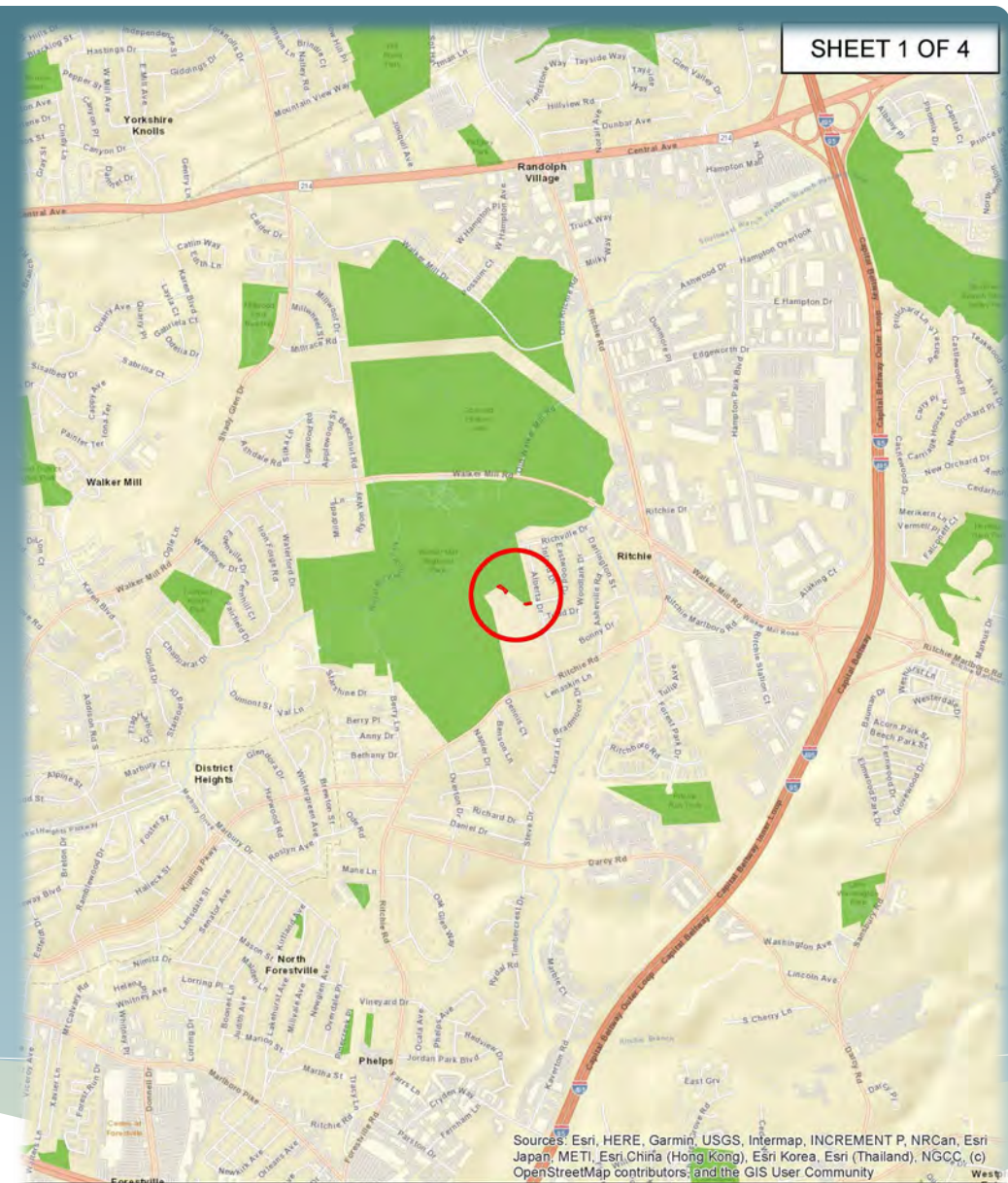
Item #3D



Walker Mill Regional Park

Property of The Maryland-National
Capital Park and Planning
Commission (M-NCPPC) and
Kathmandu Village, LLC

Tax Map 74, Grid B3 & B 4



Sources: Esri, HERE, Garmin, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri, China (Hong Kong), Esri Korea, Esri (Thailand), NGCC, (c) OpenStreetMap contributors, and the GIS User Community



Part of Parcel 13
& Part of Parcel 137
M-NCPPC and
KATHMANDU VILLAGE LLC

This information may not be reproduced, stored in a retrieval system or transmitted in any form, including electronic or by photographic reproduction, without the express written permission of the Maryland National Capital Park and Planning Commission.

DATE: 08/16/2022
SCALE: 2,000 Feet



Walker Mill Regional Park

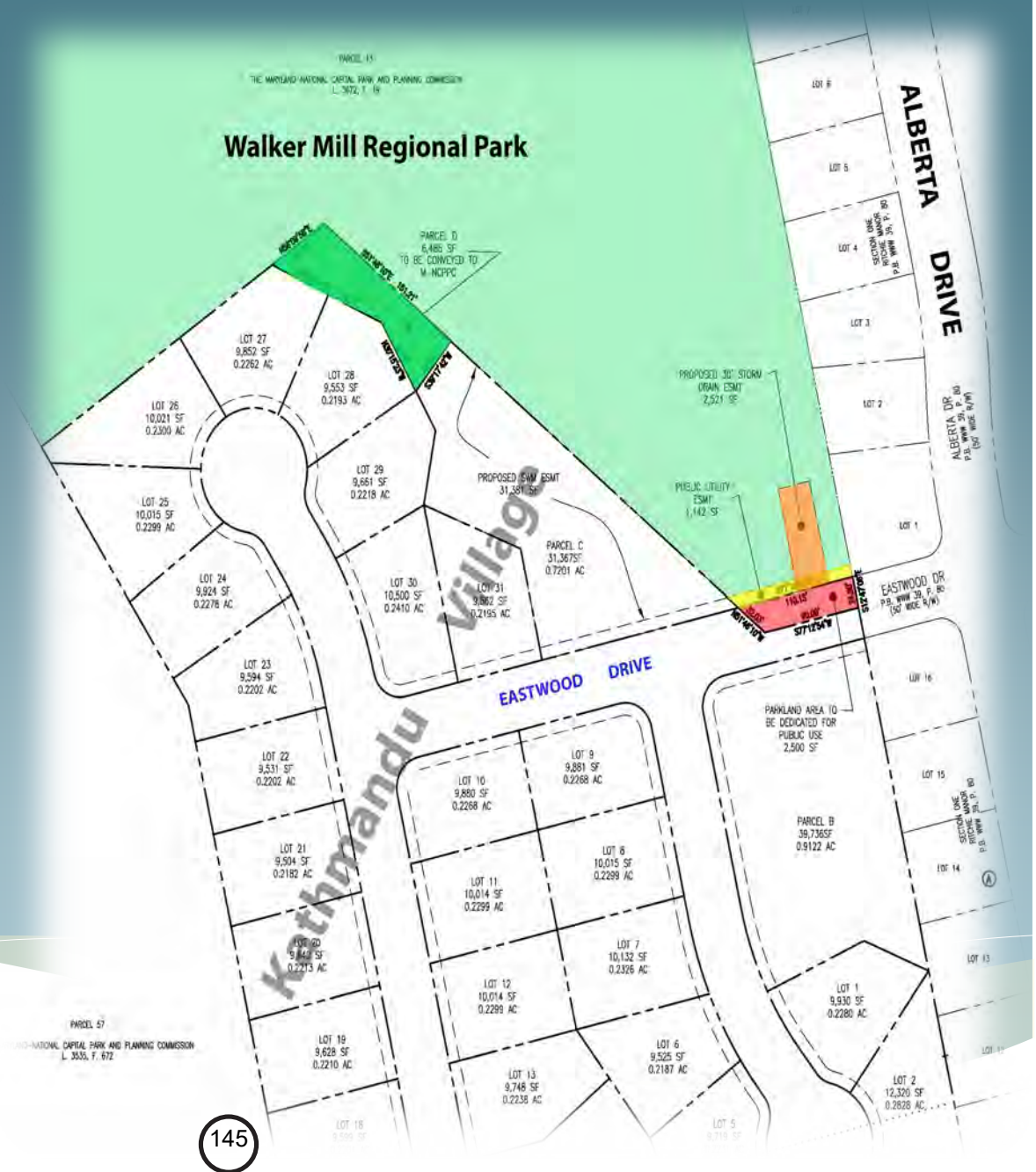
- Kathmandu Village (4-20013) was approved by the Planning Board on May 6, 2021



Land Exchange Agreement: Walker Mill Regional Park

On October 19, 2003 the Planning Board approved a land exchange agreement to allow for a continuation of the Eastwood Drive right-of-way. Also included was:

- A 1,142 s.f. Public Utility Easement as required by the Subdivision Ordinance (shown in yellow).
- A 2,521 s.f. Storm Drain Easement as required by Prince George's County (shown in orange).



Walker Mill Regional Park

- DPIE has requested the grant of a 3,121 square foot permanent easement to Prince George’s County.
- The easement will prohibit trees and shrubs on M-NCPPC property within 15’ of the proposed SWM facility for the Kathmandu Development
- There will be no cost considerations for the granting of this easement.



STAFF RECOMMENDATION

Approval
(Tyler/McNeal/Sun)

* Subject to approval by the Full Commission

End



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks and Recreation

6600 Kenilworth Avenue Riverdale, Maryland 20737

PGCPB No. 2023-107
MNCPPC No. 2023-31

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission (“Commission”) is authorized under the Annotated Code of Maryland, Land Use Article § 17-101, et seq. to acquire property located within the metropolitan district for parks, forests, roads, and other public ways, grounds, and spaces; and

WHEREAS, as a condition of Prince George’s Planning Board’s approval of Preliminary Plan of Subdivision 4-20013 on May 6, 2021, Kathmandu Village LLC (“Kathmandu”) was required to enter into a Land Exchange Agreement with the Commission to provide for the land needed for the Eastwood Drive right-of-way; and

WHEREAS, Kathmandu is the owner of 6,485 square feet or 0.1489 acres of property in the 6th Election District of Prince George’s County, Maryland, Parcel 137, being part of the property conveyed to Kathmandu by deed from The Lois M. Neil Living Trust, dated April 23, 2019, and recorded among the Land Records of Prince George’s County, Maryland, at Liber 42183, folio 350, depicted as Parcel D on a plat entitled “PLAT TWO, KATHMANDU VILLAGE, LOTS 21-29 AND PARCEL D” which plat is to be recorded among the Land Records of Prince George’s County (the “Kathmandu Property”); and

WHEREAS, the Commission desires to acquire the Kathmandu Property from Kathmandu as an addition to its Walker Mill Regional Park, and Kathmandu desires to convey the Kathmandu Property to the Commission; and

WHEREAS, the Commission is the owner of certain property in the 6th Election District known as Walker Mill Regional Park, Parcel 13, shown on Tax Map 74, Grid B-3 (2,500± square feet or 0.057 acres) (Tax Account No. 0561233)(the “Commission Property”); and

WHEREAS, pursuant to a Land Exchange Agreement with Kathmandu, the Commission will (a) dedicate the Commission Property for public use as the right-of-way for Eastwood Drive; (b) dedicate a 10’ wide, 1,142 square foot (0.0262 acre) public utility easement; and (c) grant to Prince George’s County a 30’ wide, 2,521 square foot storm drain easement; and

WHEREAS, the Commission is authorized under the Annotated Code of Maryland, Land Use Article § 17-205, to dispose of land that it determines not to be needed for park purposes; and

WHEREAS, the Commission Property is no longer needed for park purposes because the Commission will receive the Kathmandu Property.

NOW, THEREFORE BE IT RESOLVED that the Commission may acquire the Kathmandu Property from Kathmandu in even exchange (no cash changing hands) for the Commission’s agreement to dedicate the Commission Property to Prince George’s County (subject to a finding by full Commission that the Commission Property is not needed for park purposes and is eligible for disposal); and

BE IT FURTHER RESOLVED, that in connection with the transactions contemplated herein, the Executive Director is authorized to execute and deliver, on behalf of the Commission, any and all such agreements (including Land Exchange Agreement), certificates, and/or instruments, and to do or cause to be done, any and all such acts, as the Executive Director deems necessary or appropriate to make effective or to implement the intended



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks and Recreation
6600 Kenilworth Avenue Riverdale, Maryland 20737

purposes of the foregoing resolutions, without limitation, and the taking of such actions shall be deemed conclusively to be authorized hereby.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Geraldo, with Commissioners Shapiro, Doerner, Washington, Bailey, and Geraldo voting in favor of the motion, during open session, at its regularly held meeting on Thursday, October 19, 2023, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 30th day of November 2023.

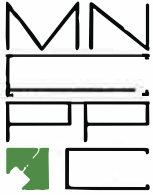
Peter A. Shapiro
Chairman

APPROVED AS TO LEGAL SUFFICIENCY

Justin O. Mancini
M-NCPPC Legal Department

Date 12/1/23

By: *Jessica Jones*
Jessica Jones
Planning Board Administrator



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

Department of Parks and Recreation
6600 Kenilworth Avenue Riverdale, Maryland 20737

PGCPB No. 2023-125

MNCPPC No. 2023-32

RESOLUTION

WHEREAS, The Maryland-National Capital Park and Planning Commission (“Commission”) is authorized under the Annotated Code of Maryland, Land Use Article §17-205 to transfer any land held by it and deemed by the Commission not to be needed for park purposes or other authorized purposes; and

WHEREAS, the Commission owns certain property in the 6th Election District known as Walker Mill Regional Park; and

WHEREAS, Prince George’s County, Maryland (“the County”) has requested that the Commission grant to it, for no monetary consideration, a ±3,121 square foot perpetual stormwater management easement agreement in Walker Mill Regional Park, to serve the Kathmandu subdivision; and

WHEREAS, the Commission desires to grant to the County, for no monetary consideration, such 3,121 ± s.f. perpetual stormwater management easement agreement as requested by the County.

NOW, THEREFORE BE IT RESOLVED that the Planning Board hereby approves the grant of the above-referenced easement to the County, subject to the approval of the full Commission.

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

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George’s County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Washington, seconded by Commissioner Geraldo, with Commissioners Shapiro, Doerner, Washington, Bailey, and Geraldo voting in favor of the motion, during open session, at its regularly held meeting on Thursday, November 30, 2023, in Upper Marlboro, Maryland.

Adopted by the Prince George’s County Planning Board this 30th day of November 2023.

Peter A. Shapiro
Chairman

APPROVED AS TO LEGAL SUFFICIENCY

[Signature]
M-NCPPC Legal Department

Date 12/1/23

[Signature]

By: Jessica Jones
Planning Board Administrator

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The Maryland-National Capital Park and Planning Commission
6611 Kenilworth Avenue, Suite 302
Riverdale, Maryland 20737
(301) 454-1592 – Telephone
[Email: 115trust@mnccppc.org](mailto:115trust@mnccppc.org)

MEMORANDUM

TO: Commissioners Date: December 20, 2023

FROM: **Gavin Cohen**, Secretary-Treasurer

SUBJECT: **Recommendation to Approve the FY2025 Other Post-Employment Benefits (OPEB) Trust - Employer Contribution for Retiree Group Health Insurance for \$9,006,000**

RECOMMENDATION/ACTION:

Staff recommends that the Trustees:

1. Approve the Actuarial Valuation Report as presented by Bolton Partners, Inc. that sets the Actuarial Determined Contribution (ADC) for Fiscal Year 2025 and;
2. Approve the Maryland-National Capital Park and Planning Commission (Plan Sponsor), [Resolution #23-27 for the Fiscal Year 2025 Employer Contribution for Retiree Group Health Insurance payment of \\$9,006,000 to the Section 115 Trust Fund.](#)

BACKGROUND:

The Commission currently maintains the Post-Retirement Insurance Benefits Program (Trust) to provide health insurance benefits for qualified Commission retirees. The Commission pre-funds these benefits through an IRS Section 115 Trust which is managed by a separate Board of Trustees consisting of : one Trustee from the Montgomery County Planning Board, one Trustee from the Prince George's County Planning Board, the Executive Director, Human Resources Director, and the Secretary-Treasurer. The Commission's Corporate Treasury and Investment's Manager is appointed as Trust Administrator.

DISCUSSION:

Each Year, the Departments of Finance and Human Resource Management have an independent actuarial valuation performed to determine the funding requirements of the OPEB (115) Trust. The Trust contracted with Bolton Partners, Inc. to provide the actuary services. The actuarial valuation is designed to measure the current and future cost of retiree health benefits. The actuary recommends an Employer Contribution to ensure sufficient assets are available for future benefits.

The primary purpose of the valuation report is to provide a picture of how the Trust is performing and to establish the employer contribution for the upcoming fiscal year. The Trust is pre-funded which means that money is set aside annually as recommended by the actuary to pay for future benefits. The results of the Actuarial Report were presented on November 1, 2023, by Tom Vicente, Timothy Barry, and Rebecca Trauger of Bolton Partners, Inc.



The Maryland-National Capital Park and Planning Commission
6611 Kenilworth Avenue, Suite 302
Riverdale, Maryland 20737
(301) 454-1592 – Telephone
[Email: 115trust@mncppc.org](mailto:115trust@mncppc.org)

Two Key financial indicators reflected in the valuation report were as follows:

1. Funded status on July 1, 2024, is 27% with an upward projected trend.
2. [Employer Contribution for July 1, 2024 is \\$9,006,000](#) (previous fiscal year amount was \$8,556,000 on July 1, 2023).

At its November 1, 2023, meeting, the M-NCPPC Post Retirement Benefits (115) Trust Board made a motion and approval to recommend the Commission adopt a resolution for the FY25 Other Post-Employment Benefits (OPEB) Trust Employer Contribution of \$9,006,000.

Attachment(s):

M-NCPPC Other Post-Employment Benefits Actuarial Valuation Report as of July 1, 2025

M-NCPPC Resolution #23-27 Approval of Fiscal Year 2025 Employer Contribution for Retiree Group Health Insurance



The Maryland-National Capital Park & Planning Commission

Other Post-Employment Benefits

Actuarial Valuation as of July 1, 2023
to Determine the Commission's FYE 2025 Contribution

Bolton

Submitted by:

Tom Vicente, FSA, MAAA, EA
Senior Consulting Actuary
(443) 573-3918
tvicente@boltonusa.com

Rebecca Trauger, FSA, FCA, MAAA
Consulting Actuary
(845) 239-2496
rtrauger@boltonusa.com

Timothy Barry, ASA, MAAA
Actuary
(667) 218-6926
tbarry@boltonusa.com



Employee Benefits, Actuarial & Investment Consulting

November 10, 2023

Abbey Rodman
Maryland-National Capital Park and Planning Commission
6611 Kenilworth Ave.
Riverdale, MD 20737

Dear Abbey:

The following sets forth the Actuarial Determined Contribution (ADC) for the Maryland-National Capital Park & Planning Commission (M-NCPPC) for FYE 2025. Section I of the report provides a high-level summary of the valuation while Sections II through VI contain the development of the Commission's contribution for FYE 2025 along with a summary of the census data, plan provisions, and actuarial assumptions and methods used in the valuation. Section VII provides a glossary of many of the terms used in this report, and the appendix provides a 10-year cash flow projection.

Methodology, Reliance, and Certification

This report has been prepared for the M-NCPPC for the purposes of determining the FYE 2025 ADC. It is neither intended nor necessarily suitable for other purposes. Bolton is not responsible for the consequences of any other use, or its reliance by another party.

As requested by M-NCPPC, we are also including a budget forecast that projects the ADC and estimated contribution requirement for M-NCPPC over the next five years. For the budget forecast, it is assumed that the discount rate and expected investment rate of return will remain 6.70% after FY2025.

M-NCPPC is responsible for selecting the plan's funding policy and assumptions. For certain demographic assumptions (retirement, termination, disability, and salary scale), we relied upon the assumptions developed for the Commission's pension valuation. The policies, methods and assumptions used in this valuation are found in Section VI. M-NCPPC is solely responsible for communicating to Bolton Partners, Inc. any changes required thereto. The actuarial methods and assumptions used in this report comply with ASOP 6 and the actuarial standards of practice promulgated by the American Academy of Actuaries.

Future medical care cost increase rates are unpredictable and could be volatile. They will depend upon the economy, future health care delivery systems and emerging technologies. The trend rate selected is based on an economic model developed by a health care economist for the Society of Actuaries. Future medical trend increases could vary significantly from the model. Model inputs will be updated periodically based on the best estimate of the economy at that time. Small changes in the model inputs can result in large actuarial gains or losses. The sensitivity of results to a one percent increase in the current trend assumption is shown in the report.

Methodology, Reliance, and Certification

This report is based on assets, plan provisions, census data, and claims information submitted by the M-NCPPC and their providers. We have not performed an audit of the data and have relied on this information for purposes of preparing this report. The accuracy of the results presented in this report is dependent upon the accuracy and completeness of the underlying information. The plan sponsor is solely responsible for the validity and completeness of this information.

We make every effort to ensure that our calculations are accurately performed. However, given the complexity of these calculations, there may be errors. We reserve the right to correct any potential errors by amending the results of this report or by including the corrections in a future valuation report.

The report is conditioned on the assumption of an ongoing plan and is not meant to present the actuarial position of the plan in the case of plan termination. Future actuarial measurements may differ significantly from the current measurements presented in this report due to such factors as the following: retiree group benefits program experience differing from that anticipated by the assumptions; changes in assumptions; increases or decreases expected as part of the natural operation of the methodology used for these measurements (such as the end of an amortization period); and changes in retiree group benefits program provisions or applicable law. Retiree group benefits models necessarily rely on the use of approximations and estimates and are sensitive to changes in these approximations and estimates. Small variations in these approximations and estimates may lead to significant changes in actuarial measurements. Due to the limited scope of our assignment, we did not perform an analysis of the potential range of future measurements.

The COVID-19 pandemic has impacted many aspects of OPEB valuations, including increasing mortality rates, fluctuating medical plan costs, creating supply shortages which increased inflation, and causing new trends in turnover and retirement rates. The impact of this pandemic through the valuation date is already reflected in the census data and premium rates provided. However, since OPEB valuations are long-term estimates of future costs, we (along with the entire actuarial profession) are closely monitoring experience of all assumptions to determine what the long-term impacts of the COVID-19 pandemic will be. Given the current levels of uncertainty, we have not made any changes to the assumptions to account for any potential long-term impacts but will continue to monitor emerging experience and make changes as necessary.

The Inflation Reduction Act (IRA), which was signed into law in August 2022, is expected to make numerous changes to prescription drug costs, including capping member out of pocket spending, other plan design changes beginning in 2025 that will change the cost sharing arrangement between Medicare, the Part D plan, and participants, and requiring the federal government to negotiate drug prices for certain high-cost drugs starting in 2026. However, the impact of these changes is difficult to quantify at this time as we are still awaiting additional guidance from CMS on how they will be implemented. Therefore, we have not made any adjustments to the current assumptions to account for the potential impact of the IRA at this time.

The valuation was completed using both proprietary and third-party models (including software and tools). We have tested these models to ensure they are used for their intended purposes, within their known limitations, and without any known material inconsistencies unless otherwise stated.



Methodology, Reliance, and Certification

Bolton Partners is completely independent of the Maryland-National Capital Park & Planning Commission, its programs, activities, officers, and key personnel. Bolton Partners, and anyone closely associated with us, does not have any relationship which would impair or appear to impair our independence on this assignment.

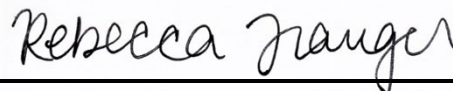
Bolton Partners, Inc. ("Bolton") does not practice law and, therefore, cannot and does not provide legal advice. Any statutory interpretation on which this report is based reflects Bolton's understanding as an actuarial firm. Bolton recommends that recipients of this report consult with legal counsel when making any decisions regarding compliance with ERISA, the Internal Revenue Code, or any other statute or regulation.

The undersigned credentialed actuaries are Members of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained in this report.

Respectfully submitted,



Tom Vicente, FSA, MAAA, EA
Senior Consulting Actuary



Rebecca Trauger, FSA, FCA, MAAA
Consulting Actuary



Timothy Barry, ASA, MAAA
Actuary





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Section I. Executive Summary

Background

Bolton Partners, Inc. has prepared the following report that sets forth the FYE 2025 Actuarial Determined Contribution (ADC) for the M-NCPPC. The accounting results under GASB 75 were disclosed in a separate report.

This report has been prepared for budgeting purposes. M-NCPPC contributes to the Trust based on an Actuarial Determined Contribution (ADC). The Commission has elected to determine the ADC using the same method as used to determine the ARC under GASB 45.

OPEB Trust Arrangement and Funding Policy

M-NCPPC has established an irrevocable Trust for its OPEB plan. The market value of the assets in the Trust as of June 30, 2023 is \$145,595,093 as reported by M-NCPPC. Pay-go benefits are paid from general revenue. M-NCPPC's contribution policy is to contribute the ADC minus expected benefit payments and federal reimbursements paid annually to the Trust.

Implications of the Sponsor's Funding Policy

We anticipate the Plan's funded status will gradually improve as M-NCPPC continues to contribute the ADC to its OPEB Trust annually. We anticipate the expected benefit payments will increase 86% over the next ten years (please refer to the Appendix for the expected benefit payment stream). This means the M-NCPPC's contribution to the Plan will increase at a rate higher than the rate of payroll increase.

Significant assumptions used in the assessment are:

- No future changes to plan provisions, assumptions or methods (except for the expected rate of return and discount rate, which is expected to decrease by 0.05% annually);
- No significant demographic changes in the future;
- Investment returns and claims experience are consistent with the assumptions.

The funded status shown in this report is not appropriate for assessing the sufficiency of plan assets to cover the estimated cost of settling the plan's benefit obligations.

The funded status is appropriate for assessing the need for or the amount of future actuarially determined contributions.

Actuarially Determined Contribution

The Actuarially Determined Contribution is equal to the Normal Cost plus an amortization of the unfunded liability. The amortization period was initially set up as a closed 30-year period (22 years remaining as of FY2025), but was reset to 25 years for FY2025. The unfunded liability is amortized on a level percentage of payroll basis, with payroll assumed to increase 3.0% per year (previously 2.5% per year).



Section I. Executive Summary

Comparison with Previous Valuation

The gross Actuarially Determined Contribution (ADC) and the Net Trust Contribution (after accounting for Pay-Go and Federal Subsidies) increased from the previous valuation. The ADC increased from \$37.9M for FYE 2024 to \$39.4M for FYE 2025, and the Net Trust Contribution increased from \$8.6M to \$9.0M. These increases were primarily due to unfavorable claims experience and the update in the healthcare cost trend assumption, but were partially offset by favorable demographic experience, adjusting the spousal coverage assumption to reflect that a portion of current and future retirees covering a dependent are covering a child rather than a spouse, updating the payroll growth assumption, and resetting the amortization period from 22 to 25 years. Below is a chart reconciling the ADC and Net Trust Contribution from FYE 2024 to FYE 2025. Amounts are rounded to the nearest thousand.

Comparison of Current and Previous Valuations

Data as of	July 1, 2022	July 1, 2023
Data is used to calculate ADC for FYE	2024	2025
Census Data – Participants with Medical and/or Rx coverage¹		
Active Employees ²	1,829	1,867
Retirees	1,321	1,360
Dependents of Retirees ³	658	672
Total	3,808	3,899
Census Data – Participants with any Benefit (medical, Rx, dental, and/or vision)		
Active Employees ²	1,909	1,943
Retirees	1,440	1,467
Dependents of Retirees ³	734	742
Total	4,083	4,152
	Gross ADC	Net Trust Contribution
Reconciliation		
FYE 2024 ADC (Previous Valuation)	\$37,943,000	\$8,556,000
Increase/(Decrease) due to the Passage of Time	1,423,000	(499,000)
Increase/(Decrease) due to a Higher-than-Expected FY2023 Federal Reimbursement	0	(47,000)
Increase/(Decrease) due to Lower-than-Expected FY2023 Net Contribution (less Benefit Payments)	198,000	198,000
Increase/(Decrease) due to FY2023 Investment Experience	(388,000)	(388,000)
Increase/(Decrease) due to Demographic Experience ⁴	(2,402,000)	(345,000)
Increase/(Decrease) due to Claims Experience	2,955,000	1,941,000
Increase/(Decrease) due to Updating the Healthcare Cost Trend Assumption	5,711,000	5,081,000
Increase/(Decrease) due to Updating the Mortality Improvement Scale to MP-2021	146,000	141,000
Increase/(Decrease) due to Assuming 90% of current pre-Medicare retirees and 85% of active employees with dependent coverage are covering a spouse	(2,734,000)	(2,154,000)
Increase/(Decrease) due to Increasing the Payroll Growth Assumption from 2.5% to 3.0%	(1,255,000)	(1,255,000)
Increase/(Decrease) due to Updating the Normal Cost and Federal Subsidy Increase Rate Assumption to 3.78%	(28,000)	(12,000)
Increase/(Decrease) due to Resetting the FY2025 Amortization Period to 25 years	(2,211,000)	(2,211,000)
FYE 2025 ADC (Current Valuation)	\$39,358,000	\$9,006,000

¹ As of July 1, 2023, only participants with medical and/or Rx coverage are included in the valuation.

² Active employee counts include participants on leave or long-term disability.

³ As of July 1, 2023, 10% of pre-Medicare retirees covering a dependent are assumed to be covering a child rather than a spouse. Therefore, the number of dependents included in the valuation as of July 1, 2023 is estimated to be 651, since dependent children are not explicitly valued.

⁴ Includes impact of only including retirees & spouses with medical and/or Rx coverage in the FY2023 valuation, and only applying election rates to active employees with medical & Rx coverage for FY2023.



Section I. Executive Summary

Funding Measures

Below is a summary of the Market Value of Assets and Liabilities for FYE 2025:

<i>Funding Measures</i>	<i>July 1, 2024</i>
(1) Actuarial Accrued Liability	\$ 601,553,000
(2) Expected Market Value of Assets	\$ 164,479,000
(3) Funded Ratio (2 / 1)	27.34%

Plan Provisions

Retirees and beneficiaries of the Maryland-National Capital Park & Planning Commission (M-NCPPC) who had health, prescription drug, dental, and/or vision coverage as active employees are eligible for coverage if they retire from active service after:

- Attaining eligibility to retire directly from active service and are receiving retirement benefits from retirement programs sponsored by M-NCPPC, including the M-NCPPC Employees' Retirement System (ERS), and
- Having maintained coverage continuously for the 36-month period immediately prior to retirement with the Commission's Plan or another employer plan.

The subsidy for employees depends on job category, date of hire, and health coverage. Please see Section IV for more details.

Census Data

Census data as of July 1, 2023 was provided to us by M-NCPPC. This data included current medical coverage for current employees and retirees.

Although we have not audited this data, we have no reason to believe that it is inaccurate.

Cost Information

The per capita claims costs are based on monthly paid claims and enrollment information for retirees through June 30, 2023. Claims were split by benefit and provided separately for pre-Medicare and Medicare retirees. Although we have not audited the claims data, we have no reason to believe that it is inaccurate.

The published insurance rates for persons prior to Medicare eligibility are based on a blend of active and pre-Medicare retiree experience, and because there are significantly more active employees, the rates are primarily based on their healthcare usage. However, because retirees tend to use healthcare at a higher rate than active employees, using these blended rates creates an implicit subsidy for the retiree group. Actuarial Standards of Practice (ASOP) 6 and GASB 74/75 require that the cost assumption we use for this valuation be based on the retiree cost. Therefore, we have relied on the claims and enrollment information for retirees only when setting the per capita claims costs for the non-Medicare eligible retirees, rather than relying on the premiums, which are a blend of active and retiree experience, or the claims and enrollment data for active employees. The liabilities could be reduced by publishing rates for retirees prior to Medicare eligibility that more closely reflect the true cost of healthcare for each group.



Section I. Executive Summary

Demographic Assumptions

Demographic assumptions (retirement, termination, disability, and salary scale) are based on an experience study performed for the M-NCPPC Employees' Retirement System by Cheiron in 2021. The mortality assumption is based on the SOA Pub 2010 headcount-weighted mortality tables, projected using mortality improvement scale MP-2021. The election rate and spousal coverage assumptions are based on the experience studies performed by Bolton in 2022 and 2023.

Additional information regarding these assumptions is provided in Section VI.

Economic Assumptions

The results are presented based on an expected rate of return assumptions of 6.70%. For the budget forecast, it is assumed that the discount rate and expected investment rate of return will remain at 6.70%.

The healthcare cost trend assumption was developed using the 2023 version of the Society of Actuaries (SOA) Long-Term Medical Cost Trend Model. This model is designed to estimate the trend after 2024. For 2023, the trend rate was set to 8.0%, decreasing by 0.5% each year until 2026. This is greater than the initial trends in the past valuation due to recent inflation, which we estimate will result in higher medical costs as providers renew their contracts. This rate is expected to decrease to 5.24% by 2030 and 3.93% by 2040, ultimately leveling off at 3.78% in 2045.

The SOA Long-Term Medical Cost Trend Model and its projection are based on an econometric analysis of historical U.S. medical expenditures and the judgments of experts in the field. The long-run baseline projection and input variable ranges have been developed under the guidance of an SOA Project Oversight Group.

Payroll is assumed to increase at 3.00% (previously 2.50%) per annum based on the Commission's ERS wage inflation assumption. This assumption is used to determine the level percentage of payroll amortization factor.

The normal cost and expected federal subsidies in the budget projection are expected to increase by 3.78% per year, which is based on the ultimate rate used in the healthcare cost trend assumption.

Inflation Reduction Act (IRA)

The Inflation Reduction Act (IRA), which was signed into law in August 2022, is expected to make numerous changes to prescription drug costs, including capping member out of pocket spending, other plan design changes beginning in 2025 that will change the cost sharing arrangement between Medicare, the Part D plan and participants, and requiring the federal government to negotiate drug prices for certain high-cost drugs starting in 2026. However, the impact of these changes is difficult to quantify at this time as we are still awaiting additional guidance from CMS on how they will be implemented. Therefore, we have not made any adjustments to the current assumptions to account for the potential impact of the IRA at this time.



Section II. Actuarially Determined Contribution

FYE 2025 Actuarially Determined Contribution

Below is a summary of the calculations of the Plan's Actuarially Determined Contributions (ADC) based on current plan provisions. Item (8) shows the impact of a 1% increase in trend on the ADC. Results are rounded to the nearest thousand.

	FYE 2025
(1) Interest Rate	6.70%
(2) Accrued Liability	
(a) Active Employees	\$ 241,180,000
(b) Deferred Vested Terminations	0
(c) Retirees and Spouses	<u>\$ 360,373,000</u>
(d) Total (a + b + c)	\$ 601,553,000
(3) Estimated Assets	\$ 164,479,000
(4) Unfunded Accrued Liability (2. – 3.)	\$ 437,074,000
(5) ERI Amortizations	
(a) ERI Remaining Years	1
(b) ERI Amount Remaining	\$ 537,000
(c) ERI Amortization Factor	1.0000
(d) ERI Amortization Amount (b / c)	\$ 537,000
(6) Gain/Loss Amortizations	
(a) G/L Remaining Years	25
(b) G/L Amount Remaining	\$ 436,537,000
(c) G/L Amortization Factor	16.9039
(d) G/L Amortization Amount (b / c)	\$ 25,824,000
(7) Actuarial Determined Contribution	
(a) Normal Cost	\$ 12,997,000
(b) Amortization of Unfunded Accrued Liability	\$ 26,361,000
(c) Total Actuarial Determined Contribution (a + b)	\$ 39,358,000
(8) 1% Sensitivity (ADC)	\$ 48,602,000
(9) Expected Employer Contributions	
(a) Estimated Implicit Subsidy	\$ 8,699,000
(b) Net Explicit Subsidy	\$ 18,186,000
(c) Federal Subsidy*	\$ 3,467,000
(d) Additional Employer Contributions	\$ 9,006,000
(e) Total Expected Contributions (a + b + c + d)	\$ 39,358,000

* The expected reimbursements are not reflected in the claims development and thus will not decrease the employer contribution requirement.



Section III. Plan Projections

Projection of ADC through FY2029

Below is a summary of the Plan's projected ADC for the next 5 years, assuming a 6.70% expected rate of return and discount rate for FY2025. The projection assumes M-NCPPC contributes the ADC to the Trust each year and that the expected rate of return assumption will remain at 6.70%.

	07/01/2023	07/01/2024	07/01/2025	07/01/2026	07/01/2027	07/01/2028
	06/30/2024	06/30/2025	06/30/2026	06/30/2027	06/30/2028	06/30/2029
Assumptions:						
Trust Investment Return	6.70%	6.70%	6.70%	6.70%	6.70%	6.70%
Discount Rate	6.70%	6.70%	6.70%	6.70%	6.70%	6.70%
Payroll Growth Rate	2.50%	3.00%	3.00%	3.00%	3.00%	3.00%
Normal Cost Increase	4.00%	3.78%	3.78%	3.78%	3.78%	3.78%
ERI Remaining Amortization	2	1	-	-	-	-
# Years to Amortize	23	25	24	23	22	21
Unfunded Accrued Liability:						
EAN Liability BOY	534,819,000	601,553,000	627,939,000	654,339,000	680,667,000	707,015,000
Estimated Assets BOY	<u>142,946,215</u>	<u>164,479,000</u>	<u>185,108,000</u>	<u>205,705,000</u>	<u>226,798,000</u>	<u>248,576,000</u>
Unfunded EAN Liability	391,872,785	437,074,000	442,831,000	448,634,000	453,869,000	458,439,000
Percent Funded	27%	27%	29%	31%	33%	35%
BOY ADC (Actuarially Determined Contribution):						
Normal Cost	11,903,000	12,997,000	13,488,000	13,998,000	14,527,000	15,076,000
Amortization	<u>26,040,000</u>	<u>26,361,000</u>	<u>26,879,000</u>	<u>27,985,000</u>	<u>29,148,000</u>	<u>30,371,000</u>
Total (ADC)	37,943,000	39,358,000	40,367,000	41,983,000	43,675,000	45,447,000
Expected Employer Contributions:						
Implicit Subsidy	10,401,000	8,699,000	9,449,000	10,274,000	11,073,000	11,869,000
Federal Subsidies	3,304,000	3,467,000	3,598,000	3,734,000	3,875,000	4,021,000
Net Explicit Subsidy	15,682,000	18,186,000	19,640,000	21,123,000	22,557,000	24,002,000
Additional Contribution	<u>8,556,000</u>	<u>9,006,000</u>	<u>7,680,000</u>	<u>6,852,000</u>	<u>6,170,000</u>	<u>5,555,000</u>
Total Contribution	37,943,000	39,358,000	40,367,000	41,983,000	43,675,000	45,447,000
Trust Assets:						
Beginning of Year Amount *	145,595,000	164,479,000	185,108,000	205,705,000	226,798,000	248,576,000
Return on Investments	9,755,000	11,020,000	12,402,000	13,782,000	15,195,000	16,655,000
BOY Contributions**	8,556,000	9,006,000	7,680,000	6,852,000	6,170,000	5,555,000
Return on Contributions	<u>573,000</u>	<u>603,000</u>	<u>515,000</u>	<u>459,000</u>	<u>413,000</u>	<u>372,000</u>
End of Year Amount	164,479,000	185,108,000	205,705,000	226,798,000	248,576,000	271,158,000
Benefit Payments	26,083,000	26,885,000	29,089,000	31,397,000	33,630,000	35,871,000
Benefit Payment as percent of expense	69%	68%	72%	75%	77%	79%

* FYE 2024 Beginning of Year amount updated to actual assets.

** The FYE 2024 contribution is based on the previous valuation (report issued December 14, 2022). The FYE 2025 contribution is based on the current valuation (please refer to page 5). All contributions are assumed to be made at the beginning of the fiscal year.



Section IV. Summary of Principal Plan Provisions

The following summary describes principal plan provisions assumed in calculating the cost of the OPEB Plan.

General Eligibility Rules

Retirees and beneficiaries of the Maryland-National Capital Park & Planning Commission (M-NCPPC) who had medical, prescription drug, dental, and/or vision coverage as active employees are eligible for coverage if they retire from active service after:

- Attaining eligibility to retire directly from active service and are receiving retirement benefits from retirement programs sponsored by M-NCPPC, including the M-NCPPC Employees' Retirement System (ERS), and
- Having maintained coverage continuously for the 36-month period immediately prior to retirement with the Commission's Plan or another employer plan.

Dependents that are not eligible for coverage at the time of retirement cannot be added at a later date.

Retirement Eligibility

The retirement eligibility requirements of M-NCPPC depend upon job category and date of hire as summarized below:

Plan B (General Employees hired before January 1, 2013)

- Age 60 with 5 years of service
- 30 years of service
- Age 55 with 15 years of service (early retirement)
- 25 years of service (early retirement)

Plan C (Police Employees)

- Age 55 with 5 years of service
- 25 years of service
- 20 years of service (early retirement)

Plan E (General Employees on or after January 1, 2013)

- Age 62 with 10 years of service
- 30 years of service
- Age 57 with 15 years of service (early retirement)
- 25 years of service (early retirement)

Disability Retirement

No disability retirement benefit is provided.



Section IV. Summary of Principal Plan Provisions

General Eligibility Rules (continued)

Death Benefits

Members who meet the eligibility requirements for normal or early retirement at time of death are eligible for lifetime coverage for their surviving spouse. Spouses may continue coverage in an M-NCPPC retiree healthcare plan and receive the same subsidy as the member. Benefits end if the survivor remarries.

Surviving spouses of members who did not meet the eligibility requirements for normal or early retirement at time of death receive:

- 6 months of medical and prescription drug coverage under the plan at no cost; M-NCPPC will pay 100% of the medical and Rx premium cost of benefits already elected. Survivors are required to pay the applicable premium co-pay for vision and dental coverage if previously enrolled in those plans.
- 18 months of coverage paid at the same cost sharing percentage with M-NCPPC as active employees.
- 12 months of COBRA coverage at the normal federally allowed percentage.

Benefits Offered

M-NCPPC offers 3 medical plans for pre-Medicare retirees: a Kaiser HMO, UHC POS, and UHC EPO. Medicare eligible retirees can also choose between 3 plans: the UHC EPO, UHC Medicare complement plan, and the Kaiser HMO plan. A summary of the premium rates for retirees is provided below:

Plan	Monthly Premium Rates		
	Single	Two Person	Family
Pre-Medicare Plans			
Kaiser HMO (includes Rx)	\$557.08	\$1,114.16	\$1,671.24
UHC Choice Plus POS (medical only)	\$771.71	\$1,543.42	\$2,315.13
UHC Select EPO (medical only)	\$672.59	\$1,345.18	\$2,017.77
Caremark Prescription Drug (Rx only)	\$270.11	\$540.22	\$810.33
Medicare Plans			
Kaiser HMO (includes Rx)	\$294.81	\$589.62	\$884.43
UHC EPO Medicare (medical only)	\$433.05	\$866.10	\$1,299.15
UHC Medicare Complement (medical only)	\$288.65	\$577.30	\$865.95
Caremark Prescription Drug (Rx only)	\$270.11	\$540.22	\$810.33
Dental & Vision Plans			
Delta Dental PPO	\$35.00	\$70.17	\$129.76
Delta Dental HMO	\$18.59	\$36.15	\$52.38
Vision Service Plan - Low	\$3.75	\$7.55	\$11.30
Vision Service Plan - Medium	\$6.50	\$13.03	\$19.55
Vision Service Plan - High	\$11.31	\$22.64	\$34.20

Section IV. Summary of Principal Plan Provisions

Coordination with Medicare

All Medicare eligible retirees, surviving spouses, disability recipients, and all eligible dependents are required to enroll in Medicare Parts A and B in order to continue to be eligible for insurance coverage under the plan. The amount payable under the M-NCPPC health plan will be reduced by the amount payable under Medicare for those expenses that are covered by both.

Medicare eligible participants are required to choose between enrolling in the Federal Part D prescription drug plan and the M-NCPPC plan. Participants enrolled in both will be required to disenroll from the M-NCPPC plan.

Employer Subsidy

The subsidy for employees depends on job category, date of hire, and health coverage as follows:

- General Employees hired before January 1, 2013 receive an 80% subsidy from M-NCPPC
- Police Employees hired before January 1, 2014 receive a 78% subsidy from M-NCPPC
- General Employees hired on or after January 1, 2013 and Police Employees hired on or after January 1, 2014 receive a subsidy based on years of service as follows:

Years of Service	General Employees	Police Employees
10	50.00%	50.00%
11	51.50%	52.33%
12	53.00%	54.67%
13	54.50%	57.00%
14	56.00%	59.33%
15	57.50%	61.67%
16	59.00%	64.00%
17	60.50%	66.33%
18	62.00%	68.67%
19	63.50%	71.00%
20	65.00%	73.33%
21	66.50%	75.67%
22	68.00%	78.00%
23	69.50%	78.00%
24	72.00%	78.00%
25+	75.00%	78.00%

- All participants receive an 80% employer subsidy for dental and M-NCPPC subsidizes 80% of the premium rate for the lowest cost vision plan

Changes in plan provisions since prior valuation

None.



Section V. Valuation Data

Comparison of Current and Prior Data

The following table compares the census data used in the current and prior valuations.

	July 1, 2022	July 1, 2023
Number of Participants¹		
Active Employees ²	1,909	1,867
Retirees	1,440	1,360
Dependents of Retirees ³	734	672
Total	4,083	3,899
Active Statistics		
Average Age	47.4	47.1
Average Service	13.0	12.7
Retiree Statistics		
Average Age (Pre-Medicare)	59.7	60.2
Average Age (Medicare Age)	74.5	74.8

Active Age - Service Distribution

Shown below is a distribution by age and service as of July 1, 2023 for all active employees enrolled in medical coverage.

Age	Years of Service									Total
	<1	1-4	5-9	10-14	15-19	20-24	25-29	30-34	35+	
<25	9	6	2	0	0	0	0	0	0	17
25 – 29	22	48	37	14	0	0	0	0	0	121
30 – 34	29	69	76	27	15	0	0	0	0	216
35 – 39	27	66	63	41	34	21	0	0	0	252
40 – 44	19	44	60	32	39	34	8	0	0	236
45 – 49	18	41	41	30	42	27	21	8	0	228
50 – 54	16	22	40	30	38	45	33	10	3	237
55 – 59	13	32	38	27	38	53	31	22	12	266
60 – 64	6	17	32	26	36	20	16	15	16	184
65 – 70	1	1	11	16	16	12	12	9	9	87
70+	0	0	0	3	7	6	2	2	3	23
Total	160	346	400	246	265	218	123	66	43	1,867

¹ July 1, 2022 counts include participants enrolled in any benefit (medical, Rx, dental, and/or vision), while July 1, 2023 counts only include participants currently enrolled in medical and/or Rx coverage.

² Includes participants on leave or long-term disability.

³ As of July 1, 2023, 10% of pre-Medicare retirees covering a dependent are assumed to be covering a child rather than a spouse. Therefore, the number of dependents included in the valuation as of July 1, 2023 is estimated to be 651, since dependent children are not explicitly valued.



Section V. Valuation Data

Retiree and Spouse Age Distribution

The following table shows the distribution by age of retirees and dependents¹ who are currently receiving medical and/or Rx benefits as of July 1, 2023.

Age	Retirees	Dependents of Retirees ²	Total
<50	5	11	16
50 – 55	24	31	55
55 – 60	100	74	174
60 – 65	198	126	324
65 – 70	283	166	449
70 – 75	313	131	444
75 – 80	216	76	292
80 – 85	111	39	150
85+	110	18	128
Total	1,360	672	2,032

¹ As of July 1, 2023, 10% of pre-Medicare retirees covering a dependent are assumed to be covering a child rather than a spouse. Therefore, the number of dependents included in the valuation as of July 1, 2023 is estimated to be 651, since dependent children are not explicitly valued.

² Since retiree dependents' dates of birth were not provided, retiree dependents counts by age band were determined based on the valuation assumption that husbands are 3 years older than wives.



Section VI. Valuation Methods and Assumptions

Actuarial Valuation Date

July 1, 2023

Measurement Date

July 1, 2024

Roll Forward Method

Liabilities are rolled forward from actuarial valuation date to the measurement date through the use of a standard roll forward method. Liabilities are adjusted for passage of time by adding normal cost minus benefit payments all adjusted with interest.

Actuarial Cost Method

Entry Age Normal Funding Method calculated on an individual basis with level percentage of payroll.

Asset Valuation Method

Market value of assets

Party Responsible for Assumptions and Methods

Maryland-National Capital Park and Planning Commission

Expected Rate of Return on Assets

6.70%

Payroll Growth Rate

3.00% per annum based on the ERS wage inflation assumption

Expected Increase in Normal Cost for Budget Projections

3.78% per annum, based on the ultimate rate used in the healthcare cost trend assumption

Amortization of Unfunded Actuarial Accrued Liability

The additional liability attributable to the Early Retirement Incentive (ERI) offered in 2010 was amortized over a 15-year closed period as level-percentage of pay. As of July 1, 2023, there are 2 years remaining. Any future Early Retirement Incentives offered will be amortized over 5 years.

The Non-ERI unfunded liability is amortized as level percentage of payroll. The amortization period is closed, but was reset to 25 years as of July 1, 2024.



Section VI. Valuation Methods and Assumptions

Election Rate

97.5% of active employees who are currently enrolled in medical and/or Rx coverage are to elect coverage in the plan at retirement, based on the Bolton experience study dated September 30, 2022. All active employees who are currently waiving medical and/or Rx coverage are assumed not to enroll at a later date and therefore not be eligible for benefits upon retirement.

Spousal Coverage and Age

Actual coverage status is used for retirees, but only 90% of pre-Medicare retirees with dependent coverage are assumed to be covering a spouse. The remaining 10% are assumed to be covering a dependent child, which are not explicitly included in this valuation. This is based on an analysis by Bolton performed in October 2023.

63.375% of active employees who are currently enrolled in medical and/or Rx coverage are assumed to elect dependent coverage at retirement, based on the Bolton experience study dated September 30, 2022. Of those electing dependent coverage, 85% are assumed to be covering a spouse, and the remaining 15% are assumed to be covering a child. This is based on an analysis by Bolton performed in October 2023.

Females are assumed to be 3 years younger than male spouses.

Salary Scale

Salaries are assumed to increase for individuals at the following rates based on employee type (Police or General employee) and years of service. This assumption is based on an experience study performed for the M-NCPPC Employees' Retirement System by Cheiron in 2021.

Years of Service	Police	Years of Service	General
0-1	6.30%	0-1	5.40%
2	6.20%	2-4	5.20%
3	6.00%	5	5.00%
4	5.70%	6-9	4.60%
5-6	5.50%	10-11	4.50%
7-10	5.30%	12	4.30%
11-13	4.70%	13-14	4.20%
14-16	4.50%	15	4.10%
17-19	4.00%	20	3.60%
20-25	3.50%	25	2.85%
		30	2.60%



Section VI. Valuation Methods and Assumptions

Trend Assumption

The healthcare cost trend assumption was developed using the 2023 version of the Society of Actuaries (SOA) Long-Term Medical Cost Trend Model. The SOA model is flexible and allows for adjustments that ultimately control how quickly the current trend converges to the percentage increase in the GDP. M-NCPPC has selected the following assumptions as input variables into the SOA model:

Rate of Inflation	2.5%
Rate of Growth in Real Income / GDP per capita	1.25%
Excess Medical Growth	0.8%
Expected Health Share of GDP in 2028	19.8%
Health Share of GDP Resistance Point	15.0%
Year for Limiting Cost Growth to GDP Growth	2045

The SOA Long-Term Healthcare Cost Trend Model is designed to estimate the trend after 2024. For 2023, the trend rate was set to 8.0%, decreasing by 0.5% each year until 2026. This is greater than the initial trends in the past valuation due to recent inflation, which we estimate will result in higher medical costs as providers renew their contracts. This rate is expected to decrease to 5.24% by 2030 and 3.93% by 2040, ultimately leveling off at 3.78% in 2045.

The SOA Long-Term Medical Cost Trend Model and its projection are based on an econometric analysis of historical U.S. medical expenditures and the judgments of experts in the field. The long-run baseline projection and input variable ranges have been developed under the guidance of an SOA Project Oversight Group

The trend for selected years is shown below:

Year	Trend Rate
2023	8.00%
2024	7.50%
2025	7.00%
2030	5.24%
2035	4.14%
2040	3.93%
2045+	3.78%

Dental and vision costs are assumed to increase at 4.00% per annum.

Future federal subsidies received estimated for budget projections are expected to increase at 3.78% per annum, consistent with the ultimate trend rate above.



Section VI. Valuation Methods and Assumptions

Decrement Assumptions

Below is a summary of decrements used in this valuation; sample retirement, disability, and termination rates are illustrated in the tables below. These assumptions are based on an experience study performed for the M-NCPPC Employees' Retirement System by Cheiron in 2021.

Mortality

Status/Group	Description of Mortality Assumption
Active Employees	
General	SOA Pub-2010 General Employees Headcount-Weighted Mortality Table, projected on a fully generational basis with mortality improvement scale MP-2021
Police	Pub-2010 Safety Employees Headcount-Weighted Mortality Table, projected on a fully generational basis with mortality improvement scale MP-2021
Healthy Retirees and Covered Spouses	
General	Pub-2010 General Retirees Headcount-Weighted Mortality Table, projected on a fully generational basis with mortality improvement scale MP-2021
Police	Pub-2010 Safety Retirees Headcount-Weighted Mortality Table, projected on a fully generational basis with mortality improvement scale MP-2021
Disabled Retirees	
General	Pub-2010 General Disabled Retirees Headcount-Weighted Mortality Table, projected on a fully generational basis with mortality improvement scale MP-2021
Police	Pub-2010 Safety Disabled Retirees Headcount-Weighted Mortality Table, projected on a fully generational basis with mortality improvement scale MP-2021

Disability

Age	Police	General
25	0.25%	0.05%
30	0.50%	0.05%
35	0.75%	0.10%
40	0.75%	0.25%
45	1.00%	0.50%
50	1.00%	0.50%
55	1.00%	0.50%
60	1.00%	0.50%



Section VI. Valuation Methods and Assumptions

Decrement Assumptions (continued)

Retirement

Police

Years of Service	Probability of Retirement
0 – 20	5.00%
21 – 24	10.00%
25 – 29	15.00%
30+	100.00%

100% retirement is assumed at age 65. Age 55 or 20 years of service is the minimum requirement for early retirement.

General Employees

Age	Probability of Retirement
45	2.50%
46	3.00%
47	3.50%
48	4.00%
49	4.50%
50	5.00%
51	5.50%
52	6.00%
53	6.50%
54-57	7.00%
58	9.00%
59	14.00%
60-64	11.00%
65	15.00%
66-69	20.00%
70+	100.00%

100% retirement is assumed at age 70. Age 55 or 25 years of service is the minimum requirement for early retirement.



Section VI. Valuation Methods and Assumptions

Decrement Assumptions (continued)

Termination

Police

Years of Service	Probability of Termination
0	9.00%
1-2	6.51%
3-4	4.07%
5-6	2.76%
7-8	1.92%
9-10	1.35%
11-12	0.76%
13+	0.06%

General Employees

Years of Service	Probability of Termination
0-1	10.83%
2-3	8.18%
4-5	6.42%
6-7	5.00%
8-9	4.02%
10-11	3.15%
12-13	2.26%
14-15	1.62%
16-17	1.23%
18-19	1.03%
20+	1.00%

Section VI. Valuation Methods and Assumptions

Expected Per Capita Costs

The per capita claims costs are based on claims and enrollment information through June 30, 2023. This information was reviewed separately for Medicare and non-Medicare eligible retirees, and claims were split between medical and prescription drug (Rx) benefits. Per capita costs were developed separately for Medicare and non-Medicare eligible retirees as well as for medical and Rx benefits, and were calculated as follows:

- Total claims (net of Rx rebates) were divided by the average enrollment during the period and then projected to the midpoint of the measurement period using 5% trend for medical benefits and 8% trend for Rx benefits.
- Expected per capita costs were developed based on a weighted average of experience during FY2021 through FY2023, with weights of 20%, 30%, and 50% applied to FY2021, FY 2022, and FY2023 experience, respectively.
- Additional loads of 7% and 22% were applied to the medical costs for pre-Medicare and Medicare retirees, respectively, to account for administrative fees and stop-loss premiums, based on the average portion they made up of the claims over the past four years.
- Additional loads of 1% and 3% were applied to the Rx costs for pre-Medicare and Medicare retirees, respectively, to account for administrative fees, based on the average portion they made up of the claims over the past four years.
- There was no adjustment made to account for EGWP reimbursements.

The resulting average per capita claims costs were age adjusted using the Health Care Cost Institute aging curve. Per capita costs for pre-Medicare dependent spouses were assumed to be 1.36 times the cost for a retiree in the same age band. Per capita costs for Medicare-eligible spouses were assumed to be the same as those for Medicare-eligible retirees in the same age band.

Retiree contributions were based on the average retiree rates for the pre-Medicare and Medicare plans separately using a blend of the FY2023 premium rates based on enrollment as of the valuation date.



Section VI. Valuation Methods and Assumptions

Expected Per Capita Costs (continued)

The following chart shows the average premium (split by Medicare and non-Medicare) as well as the expected medical and Rx per capita costs for various age bands.

FY2024 Costs			
Average Medical & Rx Premium			
Pre-Medicare Retiree			\$12,253
Post-Medicare Retiree			7,383
Retiree Per Capita Costs	Medical	Rx	Total
Under Age 50	7,350	3,016	\$10,366
Age 50-54	8,913	3,823	12,736
Age 55-59	10,701	4,861	15,562
Age 60-64	12,957	5,966	18,923
Age 65-64	3,674	5,572	9,245
Age 70-64	3,580	6,624	10,204
Age 75-64	3,780	7,059	10,839
Age 80-64	4,176	7,014	11,191
Age 85+	4,643	6,394	11,038

Additional costs of \$420 and \$78 were assumed for participants with dental and vision coverage, respectively.

Other Assumptions

- All participants are assumed to elect the Vision Service Moderate Plan for purposes of this valuation.
- All active participants in the FOP bargaining group were assumed to participate in Plan C.
- All general participants hired before January 1, 2013 were assumed to participate in Plan B. Those hired on or after January 1, 2013 were assumed to participate in Plan E.
- Active decrements were assumed to occur in the middle of the year.
- Date of birth and gender were not provided for retirees in the current or prior valuations. For participants that were included in the July 1, 2021 valuation, these fields were populated based on the information provided in that data. Participants that could not be found in the prior databases (generally new surviving spouses) were assumed to be female with a date of birth equal to the average of all retirees in the first year they appeared on the data (7/3/1951 for new participants as of July 1, 2022, and 3/20/1952 for new participants as of July 1, 2023).



Section VI. Valuation Methods and Assumptions

Changes in methods and assumptions since prior valuation

- The per capita cost assumption was updated to include claims experience through June 30, 2023.
- The healthcare cost trend assumption was updated based on the 2023 version of the SOA Getzen Model.
- The mortality improvement scale was updated to MP-2021.
- The expected rate of return and discount rate assumptions were left at 6.70%, which is a change from the previous valuation which assumed these rates decreased by 5 basis points annually.
- Adjusted the spousal coverage assumption to reflect that only 90% of current pre-Medicare retirees and 85% of active employees with dependent coverage are expected to be covering a spouse, based on an analysis by Bolton performed in October 2023.
- Updated the Payroll Growth Assumption from 2.5% to 3.0%.
- Set the Normal Cost Increase Rate Assumption equal to the Long-Term Healthcare Trend of 3.78% (previously was 4.00%).
- Reset the FY2025 Amortization Period for Funding the Unfunded Liability to 25 years (previously there were 22 years remaining in the initial 30-year closed amortization period).

Section VII. Glossary

Actuarially Determined Contribution

For Plans with irrevocable trusts, the recommended contribution to the Plan (determined in conformity with Actuarial Standards of Practice) that is projected to result in assets equaling the actuarial accrued liability within a period of time.

Covered Group

Plan members included in an actuarial valuation.

Discount Rate (Expected Rate of Return)

The rate used to adjust a series of future payments to reflect the time value of money.

Election Rate

The percentage of retiring employees assumed to elect coverage.

Employer's Contributions

Contributions made in relation to the actuarially determined contributions of the employer. An employer has made a contribution in relation to the actuarially determined contribution if the employer has (a) made payments of benefits directly to or on behalf of a retiree or beneficiary, (b) made premium payments to an insurer, or (c) irrevocably transferred assets to a trust, or an equivalent arrangement, in which plan assets are dedicated to providing benefits to retirees and their beneficiaries in accordance with the terms of the plan and are legally protected from creditors of the employer(s) or plan administrator.

Entry Age Normal Funding Method

A method under which the actuarial present value of the projected benefits of each individual included in an actuarial valuation is allocated on a level basis over the earnings or service of the individual between entry age and assumed exit.

Funded Ratio

The actuarial value of assets expressed as a percentage of the actuarial accrued liability.

Healthcare Cost Trend Rate

The rate of change in per capita health claim costs over time as a result of factors such as medical inflation, utilization of healthcare services, plan design, and technological developments.

Section VII. Glossary

OPEB Plan

An OPEB plan having terms that specify the amount of benefits to be provided at or after separation from employment. The benefits may be specified in dollars (for example, a flat dollar payment or an amount based on one or more factors such as age, years of service, and compensation), or as a type or level of coverage (for example, prescription drugs or a percentage of healthcare insurance premiums).

Other Post-Employment Benefits

Post-employment benefits other than pension benefits. Other post-employment benefits (OPEB) include post-employment healthcare benefits, life insurance, regardless of the type of plan that provides them, and all post-employment benefits provided separately from a pension plan, excluding benefits defined as termination offers and benefits.

Pay-as-you-go (PAYGO)

A method of financing a benefit plan under which the contributions to the plan are generally made at about the same time and in about the same amount as benefit payments and expenses becoming due.

Payroll Growth Rate:

An actuarial assumption with respect to future increases in total covered payroll attributable to inflation; used in applying the level percentage of projected payroll amortization method.

Plan Liabilities

Obligations payable by the plan at the reporting date, including, primarily, benefits and refunds due and payable to plan members and beneficiaries, and accrued investment and administrative expenses. Plan liabilities do not include actuarial accrued liabilities for benefits that are not due and payable at the reporting date.

Section VII. Glossary

Plan Members

The individuals covered by the terms of an OPEB plan. The plan membership generally includes employees in active service, terminated employees who have accumulated benefits but are not yet receiving them, and retired employees and beneficiaries currently receiving benefits.

Post-employment

The period between termination of employment and retirement as well as the period after retirement.

Post-employment Healthcare Benefits

Medical, dental, vision, and other health-related benefits provided to terminated or retired employees and their dependents and beneficiaries.

Select and Ultimate Rates

Actuarial assumptions that contemplate different rates for successive years. Instead of a single assumed rate with respect to, for example, the investment return assumption, the actuary may apply different rates for the early years of a projection and a single rate for all subsequent years. For example, if an actuary applies an assumed investment return of 8% for year 2000, 7.5% for 2001, and 7% for 2002 and thereafter, then 8% and 7.5% are select rates, and 7% is the ultimate rate.

Service Cost

That portion of the Actuarial Present Value of plan benefits and expenses which is allocated to a valuation year by the Actuarial Cost Method.

Valuation Date

The as-of date for employee census data. Under GASB 75, the valuation date must be within 30 months of the last day of the fiscal year.



Appendix I. 10 Year Projected Benefit Payments

FYE	Implicit Subsidy	Explicit Subsidy	Total Expected Benefit Payments
2024	\$7,868,000	\$16,647,000	\$24,515,000
2025	8,699,000	18,186,000	26,885,000
2026	9,449,000	19,640,000	29,089,000
2027	10,274,000	21,123,000	31,397,000
2028	11,073,000	22,557,000	33,630,000
2029	11,869,000	24,002,000	35,871,000
2030	12,700,000	25,437,000	38,137,000
2031	13,442,000	26,814,000	40,256,000
2032	14,283,000	28,195,000	42,478,000
2033	15,075,000	29,518,000	44,593,000

Please note:

- *The expected benefit payment stream shown above assumes:*
 - *That the covered population is a closed group, i.e., there are no new entrants or re-entrants, and*
 - *There will be no changes to the plan provisions, assumptions, or methods in the future.*
- *The expected benefit payments shown are net of retiree contributions.*
- *The Plan's actual benefit payments may be greater than or less than the amounts shown, depending on actual demographic experience and claims experience.*



M-NCPPC RESOLUTION NO. 23-27

**APPROVAL OF FISCAL YEAR 2025 EMPLOYER CONTRIBUTION
FOR RETIREE GROUP HEALTH INSURANCE**

WHEREAS, the Maryland-National Capital Park and Planning Commission (the “Commission”) as “Plan Sponsor” entered into an Amended and Restated Post-Retirement Insurance Benefits Program Trust Agreement as of July 1, 2007 (“the Agreement”); and

WHEREAS, Section 1.1 of the Agreement states that the Plan Sponsor shall contribute such amounts as it deems necessary, in its sole discretion, from time to time, to meet its benefit obligations under the Group Health Insurance Plan (“Plan”). Contributions shall be made to the Trust Fund (“Section 115 Trust Fund”) on a periodic basis or in a lump-sum in the discretion of the Plan Sponsor. The Plan Sponsor shall not be required to make contributions unless (and only to the extent) it has obligated itself to do so by resolution; and

WHEREAS, although the Commission expects to continue the Group Health Insurance Plan (the “Plan”), it is the Commission’s position that there is no implied contract between employees and the Commission to do so and that the creation of a retiree health benefit was not the product of collective bargaining negotiations. Therefore, the Commission reserves the right at any time and for any reason to amend or terminate the Plan, subject to the needs of the Commission and subject to any applicable collective bargaining; and

WHEREAS, the Plan Sponsor engaged Bolton Partners, Inc. (“the Actuary”) to prepare a Retiree Healthcare Programs Actuarial Valuation as of July 1, 2023; and

WHEREAS, after consideration of the Retiree Healthcare Programs Actuarial Valuation as of July 1, 2023, projected a Fiscal Year 2025 Plan Sponsor contribution consisting of \$9,006,000 for prefunding the Section 115 Trust Fund; and

WHEREAS, funding of the current portion will come from the Commission and the Maryland-National Capital Park and Planning Commission Employees’ Retirement System (for its retirees) in the amounts of \$8,975,700 and \$30,300, respectively.

NOW THEREFORE, BE IT RESOLVED, that the Commission as Plan Sponsor approves a \$9,006,000 payment to the Section 115 Trust Fund: and

BE IT FURTHER RESOLVED, that the Maryland-National Capital Park and Planning Commission does hereby authorize the Executive Director and other officers to take action as may be necessary to implement this resolution.

APPROVED FOR LEGAL SUFFICIENCY:

/s/ Michael W. Aniton

Deputy General Counsel
Office of the General Counsel
M-NCPPC
November 13, 2023

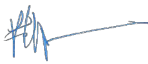
MEMORANDUM

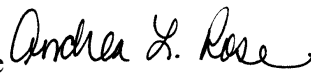


EMPLOYEES' RETIREMENT SYSTEM
The Maryland-National Capital Park and Planning Commission
6611 Kenilworth Avenue, Suite 100
Riverdale, Maryland 20737

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

To: The Commission Date: December 5, 2023

Via: Peter A. Shapiro 
Chairman, Board of Trustees

From: Andrea L. Rose 
Executive Director

Subject: Resolution #23-28 - Recommendation for Adoption of Employees' Retirement System Plan Document Restatement Effective January 1, 2024

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 #23-28 to adopt a Plan Document Restatement effective January 1, 2024.

BACKGROUND

At its February 15, 2023 meeting, the Commission approved Resolution No. 23-04 which included negotiated retirement changes with the Fraternal Order of Police ("FOP") Lodge #30. Additionally, changes were included for compliance with certain provisions of the SECURE 2.0 Act of 2022 ("SECURE 2.0", as included in the Consolidated Appropriations Act of 2023).

At its December 5, 2023 meeting, the Board adopted the attached Plan Document Restatement effective January 1, 2024, as recommended by legal counsel. The changes are reflected in the restatement are effective January 1, 2024, unless stated otherwise, as follows:

- Section 4.8 (page 18): the requirements for recoupment of an overpayment were clarified to provide flexibility in the event of an inadvertent benefit overpayment, as set forth in Section 301 of SECURE 2.0.
- Section 7.3(b) (page 24): the definition of required beginning date was updated to reflect the increase to age 73 under Section 107 of SECURE 2.0.
- Section C-3.2(a) (page 71): the creditability for accumulated sick leave section was clarified to update a cross-reference.
- Section C-3.2(b) (page 72): a new subsection was added to the creditability for accumulated sick leave section to allow for a lower conversion rate of earned and unused sick leave to Credited Service after a Member has met the normal retirement date requirements under Section C-1.6(a) (i.e., age 55 and 5 years of Credited Service), completed 13 years of Credited Service, and is at least age 56.
- Section D-3.2(a) (page 91): the creditability for accumulated sick leave section was clarified to update a cross-reference.

These changes were generally made as a result of recent changes enacted as part of SECURE 2.0 regarding the treatment and recoupment of overpayments. Generally, for public plans, SECURE 2.0 allows for Plan determinations on the necessity of recouping certain overpayments (i.e., inadvertent benefit overpayments). Pending IRS guidance, many public plans are seeking direction on required actions in the event of an overpayment, and specifically, an inadvertent benefit overpayment. The Board also approved an “Overpayment Policy” that will guide future actions regarding Plan overpayments, and which may be modified as IRS guidance is received.

Attachment

1. Plan Document Restatement effective January 1, 2024

- Section D-3.2(b) (page 91): a new subsection was added to the creditability for accumulated sick leave section to allow for a lower conversion rate of earned and unused sick leave to Credited Service after a Member has met the normal retirement date requirements under Section D-1.6(a) (i.e., age 55 and 5 years of Credited Service), completed 13 years of Credited Service, and is at least age 56.

Attachment

1. Plan Document Restatement effective January 24, 2023

Attachment- Plan Document Restatement Effective July 1, 2022



M-NCPPC RESOLUTION NO. 23-28

**ADOPTION OF EMPLOYEES' RETIREMENT SYSTEM PLAN
DOCUMENT RESTATEMENT EFFECTIVE JANUARY 1, 2024**

WHEREAS, The Maryland-National Capital Park and Planning Commission (the "Commission"), as Plan Sponsor, entered into a Pension Trust Agreement ("the Agreement") as of July 26, 1972, with the Employees' Retirement System of the Maryland-National Capital Park and Planning Commission ("ERS" or the "Plan"), which was subsequently amended on June 13, 1979; 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 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, At its February 15, 2023 meeting, the Commission approved Resolutions No. 23-04 which included negotiated retirement changes with the Fraternal Order of Police ("FOP") Lodge #30. Additionally, changes were included for compliance with certain provisions of the SECURE 2.0 Act of 2022 ("SECURE 2.0", as included in the Consolidated Appropriations Act of 2023).

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Section 4.8 to clarify the requirements for recoupment of an overpayment to provide flexibility in the event of an inadvertent benefit overpayment, as set forth in Section 301 of SECURE 2.0.

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Section 7.3(b) to update the definition of required beginning date to reflect the increase to age 73 under Section 107 of SECURE 2.0.

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Section C-3.2(a) to clarify the creditability for accumulated sick leave section to update a cross-reference.

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Section C-3.2(b) to add a new subsection to the creditability for accumulated sick leave section to allow for a lower conversion rate of earned and unused sick leave to Credited Service after a Member has met the normal retirement date requirements under Section C-1.6(a) (i.e., age 55 and 5 years of Credited Service), completed 13 years of Credited Service, and is at least age 56.

WHEREAS, the ERS Board of Trustees voted to recommend amendment to Section D-3.2(a) to clarify the creditability for accumulated sick leave section to update a cross-reference.

WHEREAS, the ERS Board of Trustees voted to approve an "Overpayment Policy" that will guide future actions regarding Plan overpayments, and which may be modified as IRS guidance is received.



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

WHEREAS, the Board of Trustees recommends that the Plan Restatement be effective January 1, 2024.

NOW THEREFORE, BE IT RESOLVED THAT, that the Maryland-National Capital Park and Planning Commission does hereby adopt the attached Plan Restatement effective January 1, 2024.

Asuntha Chiang-Smith, Executive Director

APPROVED FOR LEGAL SUFFICIENCY:

/s/ *Michael W. Aniton*

Deputy General Counsel
Office of the General Counsel
M-NCPPC
November 30, 2023

Overpayment Policy

I. Overpayment

- (a) Definition. A payment to a member or beneficiary that exceeds (1) the amount payable under the terms of the Employees' Retirement System of the Maryland-National Capital Park and Planning Commission ("Plan") or (2) a limitation provided in the Internal Revenue Code (the "Code") or Treasury Regulations.
- (b) Rollover. Except as provided under Section III(b), an overpayment is not eligible for favorable tax treatment, and if an overpayment was previously treated as eligible for favorable tax treatment, the recipient must be notified that the overpayment is not eligible for rollover.

II. Correction

- (a) Correction Methods.
 - (i) Amendment. Retroactive amendment to conform to the Plan's operation (e.g., increase benefits under the Plan to the amount actually paid, so long as no limit under the Code/Regulations is exceeded).
 - (ii) Return of Overpayment. Repayment of the overpayment (adjusted for earnings) to the Plan by the recipient (e.g., in a lump sum or through an installment agreement). In addition, future benefit payments (if any) to the recipient must be reduced to the correct amount payable (under the Plan and/or the Code/Regulations, as applicable).
 - (iii) Adjustment of Future Payments.
 - (A) In the case of Plan benefits that are being distributed in the form of periodic payments, payments made to the recipient on or after the date of correction are reduced so that they do not exceed the correct amount payable (under the terms of the Plan and/or Code/Regulations). An additional reduction is made to recoup the overpayment (over a period not longer than the remaining payment period) so that the actuarial present value of the additional reduction, determined as of the date of correction, is equal to the overpayment (plus interest).
 - (B) The recipient's total benefit payment, amount of the reduction, hardship, and life expectancy may be considered when determining the length of the repayment period.
 - (C) If a member who received an overpayment is receiving payments in the form of a lifetime benefit with a contingent annuitant benefit, the reduction of future annuity payments to reflect the correct amount payable reduces the amount of benefits payable

during the lives of both the member and contingent annuitant. However, any reduction to the member's benefit to recoup overpayments received by the member does not reduce the amount of the contingent annuitant's survivor benefit (regardless of whether the overpayments have been recouped fully during the member's lifetime).

- (b) Recoupment. Any amounts repaid under the Return of Overpayment method should be deposited into an unallocated account and used consistent with forfeitures under the Plan.
- (c) Interest/Earnings.
 - (i) Return of Overpayment. For repayment by check, interest will be calculated using the Plan's earnings rate from the date of the overpayment to the date of recoupment. The rate for the entire period may be calculated by determining the Plan's earnings rate for each year from the year of the overpayment until the year of recoupment (with the rate prorated for partial years in the year of overpayment and the year of recoupment).
 - (ii) Adjustment of Future Payments. For offsets of future payments, the applicable interest rate is the interest rate used by the Plan to determine actuarial equivalence, which shall be applied over the period beginning on the date of the overpayment and ending on the date the future benefit payments are first offset.

III. No Recoupment Necessary

- (a) Recovery of Small Overpayments. Generally, if the total amount of an overpayment to a recipient is \$250 or less, no correction or recoupment is required, and the recipient is not required to be notified that the amount is ineligible for rollover.
- (b) Inadvertent Benefit Overpayment.¹
 - (i) General Rule. The Plan is not required to recoup an "inadvertent benefit overpayment"² or may otherwise amend the Plan to permit the increased benefit.

¹ Consideration should be given as to whether state fiduciary rules would limit the use of this exception.

² "Inadvertent benefit overpayment" is not defined in SECURE 2.0. However, legislative history indicates that overpayment is defined under EPCRS, references payments "mistakenly" received, and includes an analogous term "eligible inadvertent failure" that is defined as a failure that occurs despite the existence of practices and procedures which satisfy the standards set forth in section 4.04 of Rev. Proc. 2021-30, and which is not egregious, does not relate to a diversion or misuse of plan assets, or is not directly or indirectly related to an abusive tax avoidance transaction. Pending additional IRS guidance, these parameters can reasonably be applied to inadvertent benefit overpayments.

- (A) If an inadvertent benefit overpayment is rolled over, the portion of such overpayment with respect to which recoupment is not sought is treated as an eligible rollover distribution (if the payment would have been an eligible rollover distribution but for being an overpayment), and the portion of such overpayment with respect to which recoupment is sought will be treated as an eligible rollover distribution to the Plan (to the extent made).
- (B) Notwithstanding the foregoing, benefit payments should still be reduced to the correct amount payable going forward (unless the Plan is amended as set forth in Section II(a)(i)).
- (ii) Code Limit Exception. Any overpayment caused by a violation of Code section 401(a)(17) or 415 remains subject to the general recoupment rules:
 - (A) The recipient's current benefit must be reduced to avoid future violations of the applicable Code section, and
 - (B) Recoupment of past overpayments should be sought (see Sections II(a)(ii) and (iii)).

IV. Reporting

(a) Return of Overpayment.

- (i) Repayment in the Same Tax Year as the Overpayment. If the full or partial repayment occurs in the same taxable year as the overpayment, the recipient's gross income does not include any part of the overpayment amount that has been repaid (i.e., the repayment reduces the taxable amount received by the recipient as a distribution). The Form 1099-R for the year of overpayment should reflect only the net distribution amount (after offset for any repayment made), as taxable, subject to a 10% early distribution tax under Code section 72(t) (for a member, if no exception applies), and any remaining overpayment is not eligible for rollover treatment (unless eligible under Section III(b)).
- (ii) Repayment in a Tax Year after the Year of the Overpayment.
 - (A) If repayment is made by the recipient in a taxable year or years subsequent to the year of the overpayment, no corrected Form 1099-R for the year in which the overpayment occurred should be issued, unless the overpayment was directly rolled over and was not eligible (i.e., not an inadvertent benefit overpayment under Section III(b)), as taxes were correctly payable on the overpayment amount in the year the recipient received the overpayment. If amounts repaid in a later year exceed \$3,000, the recipient is

entitled to a deduction or credit on their current Form 1040 for the prior taxes paid. *See* Code section 1341.

- (B) If the overpayment amount was directly rolled over by the recipient, and was not eligible for rollover (i.e., not an inadvertent benefit overpayment under Section III(b)), the Form 1099-R for the year of distribution must be corrected to reflect that the overpayment is taxable, may be subject to a 10% early distribution tax under Code section 72(t) (for payments to a member), and is not eligible for rollover treatment.
 - (C) If the overpayment was rolled over into an IRA, and was not eligible for rollover (i.e., not an inadvertent benefit overpayment under Section III(b)), the recipient should be notified that there is an annual 6% excise tax that may be imposed on such rollover. An overpayment recovery letter should also be sent to the IRA custodian or successor plan trustee, as applicable, indicating the amount of the overpayment that was not eligible for rollover treatment. A copy of the letter to the IRA custodian or successor trustee should be directed to the recipient of the overpayment.
- (b) Adjustment of Future Payments. If the overpayment is recovered by offsetting future payments to the recipient (whether in the same year as the overpayment or a later year), only the net amount of the future payments actually received by the recipient (after the offset) is reported on Form 1099-R and is taxable to the recipient.

V. Effective Date

This policy may be applied to any overpayments (and corrections) that occur on or after December 29, 2022.



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

PLAN DOCUMENT

Plan A

Plan B

Plan C

Plan D

Plan E

January 1, 2024

Deleted: July 1, 2022

GLG-873315.5

**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.

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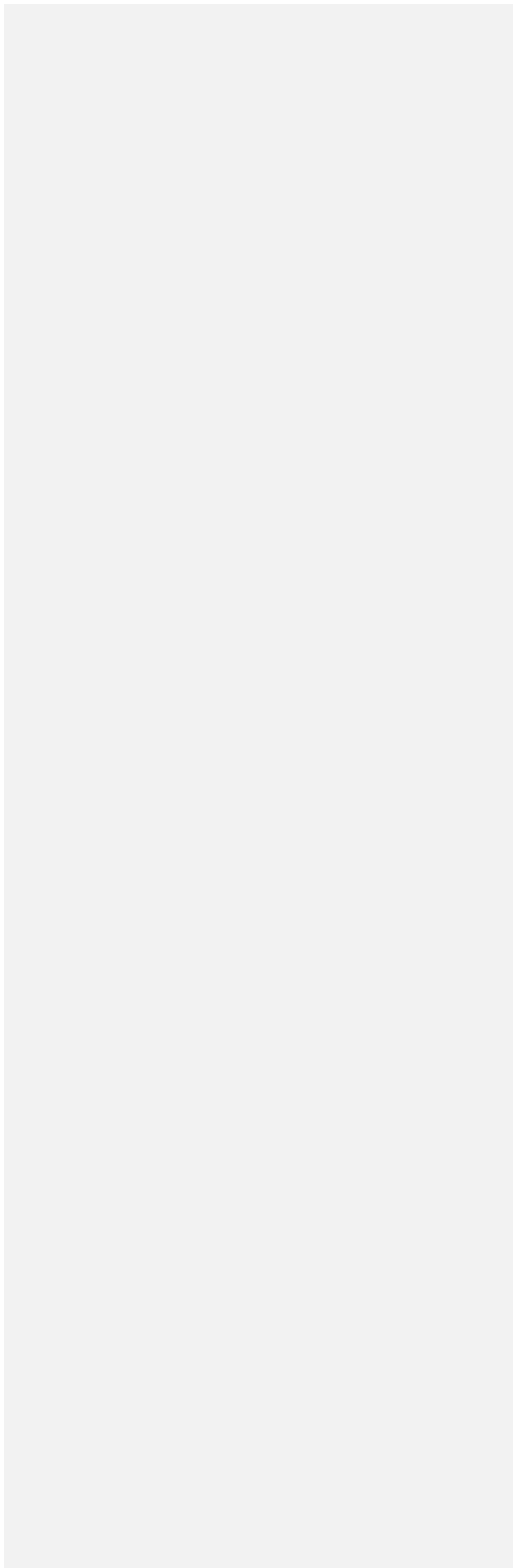
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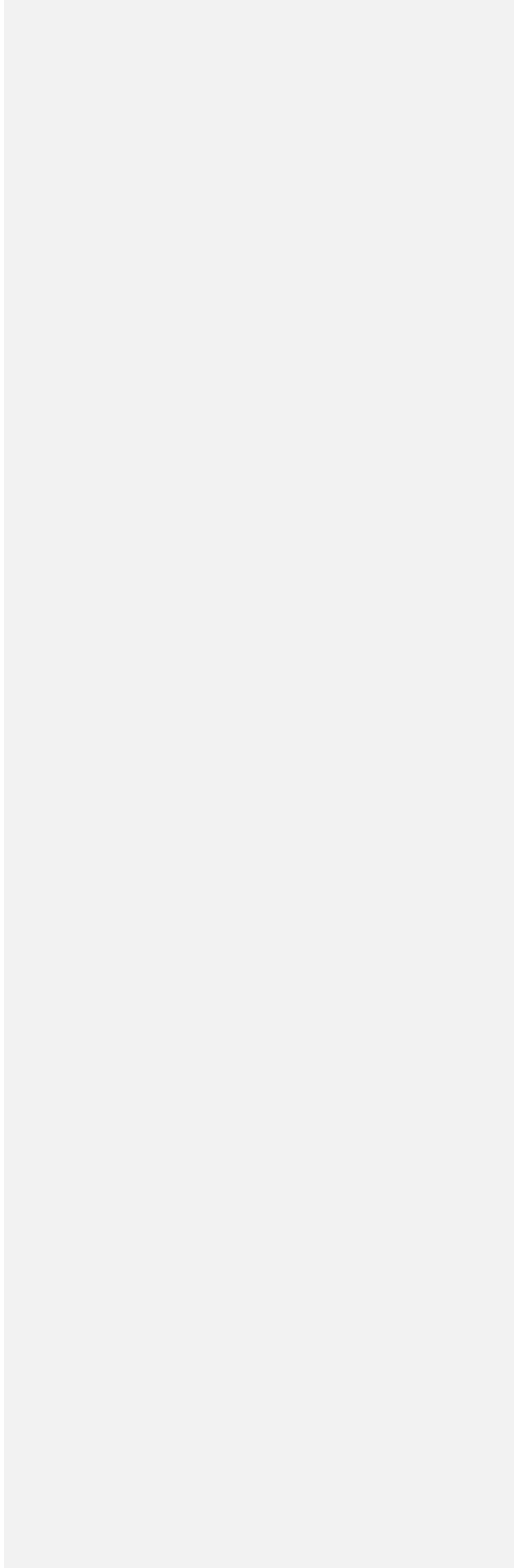
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GENERAL ARTICLE
Sections Applicable to The M-NCPPC Employees' Retirement System
(Retirement Plans A, B, C, D, and E)



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.

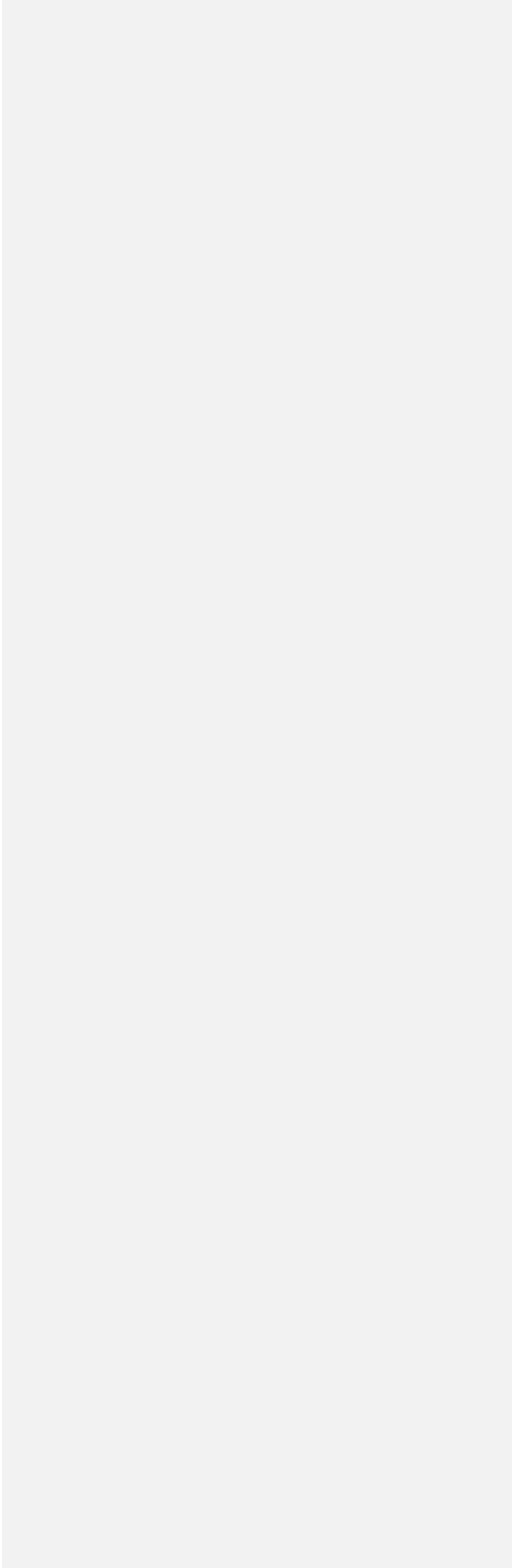
Notwithstanding the foregoing, effective July 1, 2002, the foregoing limit shall be increased to the amount set forth in Code section 401(a)(17)(A), as amended by EGTRRA, which amount shall be adjusted from time to time as set forth in Code section 401(a)(17)(B). For years beginning prior to July 1, 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.

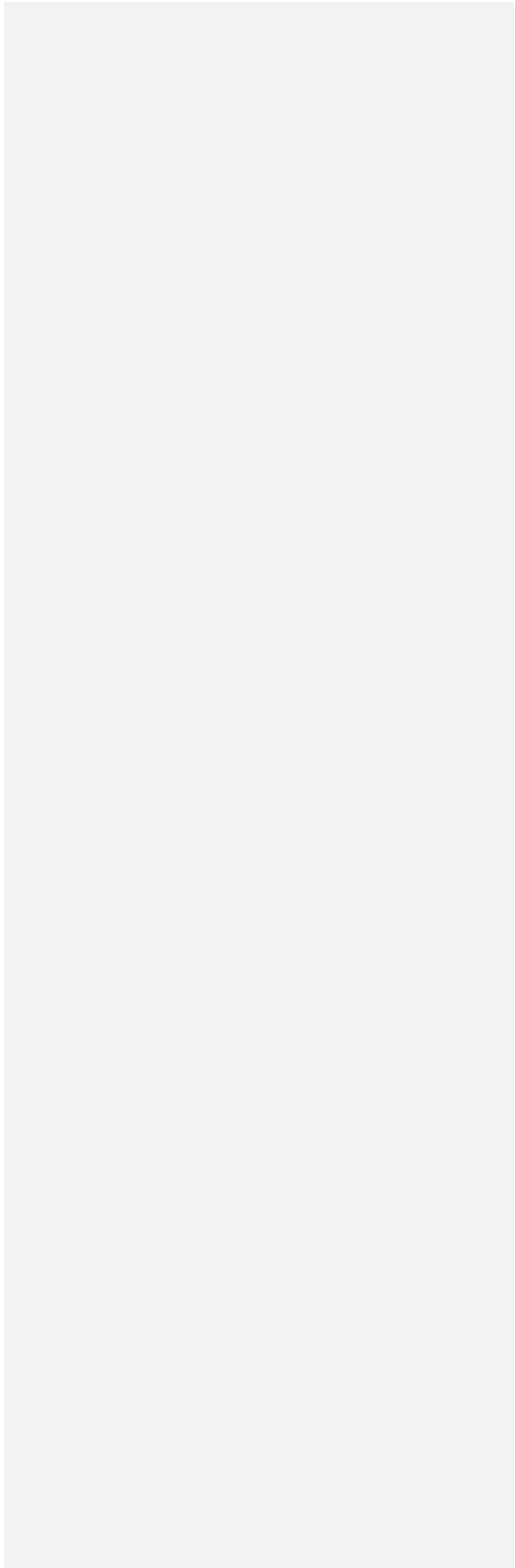
SECTION 4 - MISCELLANEOUS

- 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. ~~The Retirement System shall generally~~ recoup any overpayment from future payments to the Member or Beneficiary in such amounts as the Board of Trustees or Administrator shall direct or proceed against the Member or Beneficiary for recovery of any such overpayment ~~(including, but not limited to, through electronic funds transfers from a bank account).~~ However, on and after December 29, 2022, the Retirement System is not required to recoup an "inadvertent benefit overpayment", in accordance with

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| applicable IRS guidance. 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.

- (a) General Rule. Notwithstanding any provision of the Retirement System, any "eligible rollover distribution" (within the meaning of Code Section 402(c)(4)) may be rolled over to an "eligible retirement plan".

- (b) Definition of Eligible Retirement Plan. For purposes of (the preceding sentence) Section 7.1(a), an "eligible retirement plan" is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), or a qualified trust described in Code Section 401(a), that accepts a distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse, an "eligible retirement plan" is an individual retirement account or individual retirement annuity. Effective January 1, 2002, the term "eligible retirement plan" shall also mean an annuity contract described in Code section 403(b) and an eligible plan under Code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. Effective for distributions made after December 31, 2007, an eligible retirement plan shall also mean a Roth IRA described in Code section 408A. The general definition of "eligible retirement plan" shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code section 414(p).

- (c) Definition of Eligible Rollover Distribution. For purposes of Section 7.1(a), an "eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9); any hardship distribution; the portion of any other distribution(s) that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and any other distribution(s) that is reasonably expected to total less than \$200 during a year. Effective January 1, 2002, a portion of a distribution shall not fail to be an "eligible rollover distribution" merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Code section 408(a) or (b), or to a qualified defined contribution plan described in Code section 401(a) or 403(a), or after December 31, 2006, to a qualified defined benefit plan described in Code section 401(a) or to an annuity contract described in Code section 403(b), that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

- (d) Rollover by Non-spouse Beneficiary. Effective July 1, 2010, a non-spouse Beneficiary may elect to make a direct rollover to an inherited individual retirement account or annuity described in Code section 408(a) or Code section 408(b), or a Roth individual retirement account or annuity described in Code section 408A that is established on behalf of the Beneficiary. Such rollover shall be made in a manner consistent with Code section 402(c)(11) and any other applicable guidance.
- (e) Compliance With Code Section 401(a)(31). The election and rollover of an "eligible rollover distribution" shall be effected in a manner consistent with Code Section 401(a)(31) under procedures established by the Board of Trustees.

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

7.3 Minimum Required Distributions.

- (a) General Rule. Notwithstanding any provision of the Retirement System to the contrary, on an after a Member's required beginning date, benefits under the Retirement System shall be paid in accordance with Code section 401(a)(9), including the minimum distribution incidental benefit rules of Code section 401(a)(9)(G). The Retirement System shall apply a reasonable and good faith interpretation of Code section 401(a)(9) as permitted by the Pension Protection Act of 2006 and any applicable Treasury Regulations.
- (b) Required Beginning Date. A Member's required beginning date is the April 1 of the calendar year following the later of calendar year in which he/she (1) retires or (2) effective January 1, 2020, attains age 72 (70½ if he/she was born before July 1, 1949) or effective January 1, 2023, age 73 (if he/she attains age 72 after December 31, 2022 and age 73 before January 1, 2033).

7.4 Special Transfer Rules.

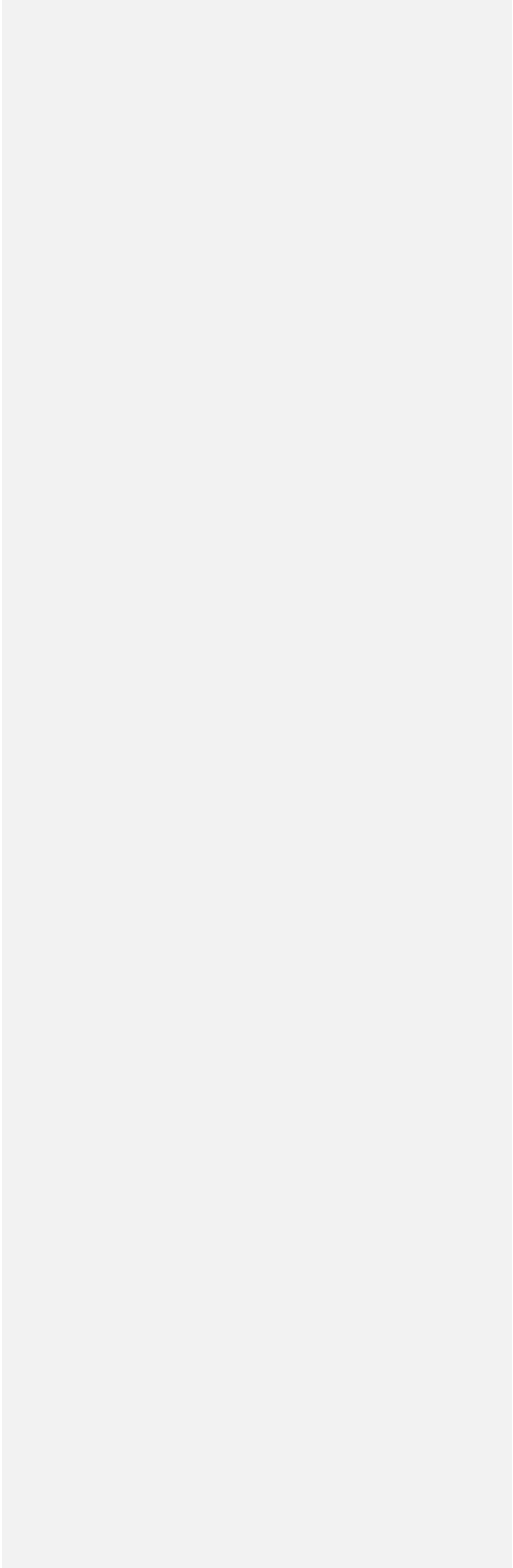
- (a) When a Commission employee participating in Plan A, Plan B, or Plan E transfers from a non-public safety position to a position as a police officer the employee shall be transferred to Retirement Plan C and the officer will be required to either pay 100% of the difference between the amount of 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 prior provisions 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.

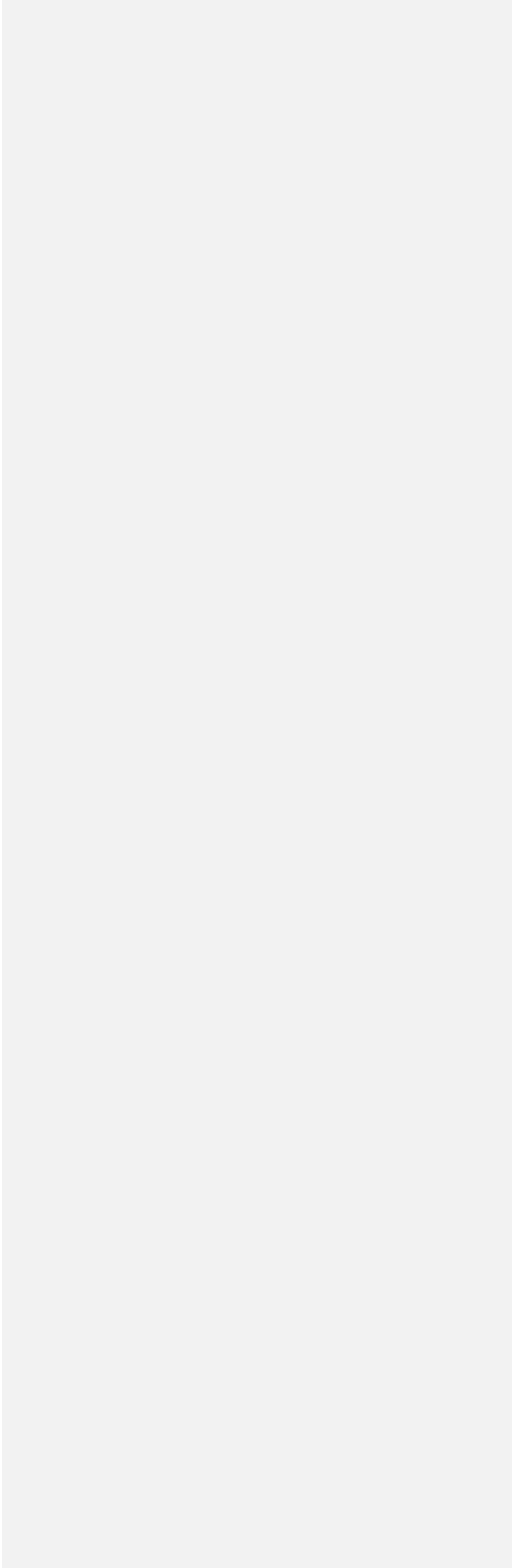
The Social Security Covered Compensation Level is the result determined above, rounded to the next lower multiple of 12. The determination of the Covered Compensation Level as of any date shall be calculated without regard to increases in the Maximum Taxable Wage Base occurring after that date. Social 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.

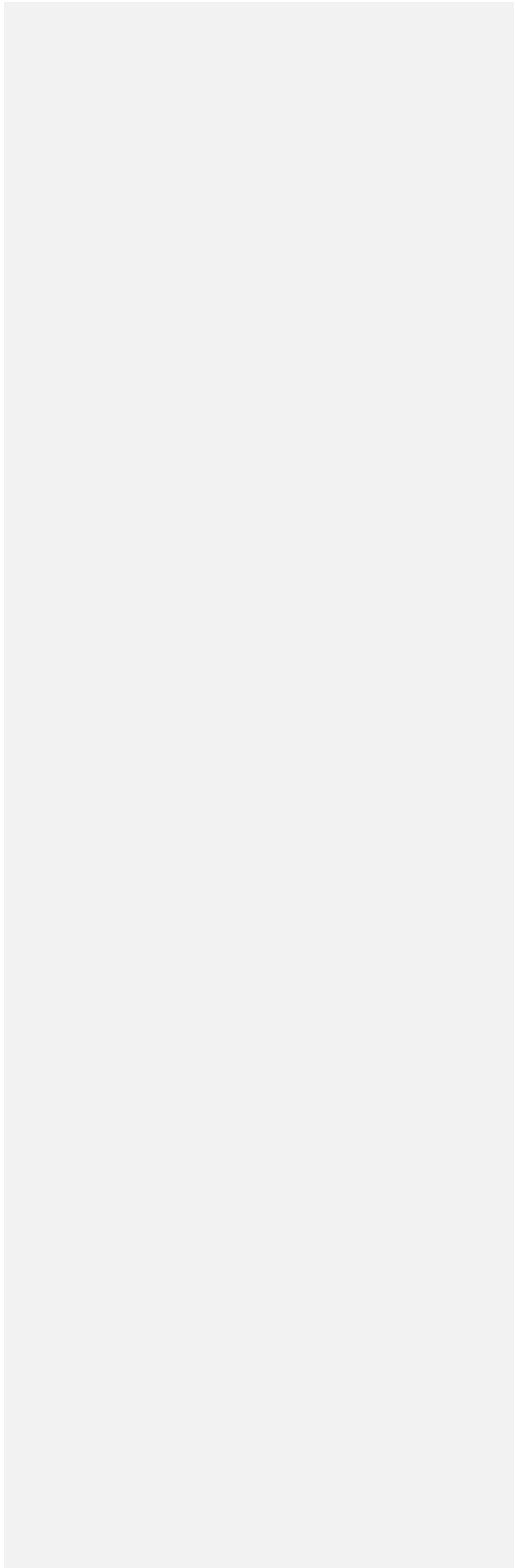
(1) If a Member, who has completed five (5) or more years of credited service, terminates employment on or after September 1, 2001 and does not elect to receive a refund of required Member contributions, the Member shall be entitled to receive an annual benefit, commencing with what would have been his/her 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) Transferred to Plan C from Plan A, B, or E pursuant to the provisions of Section 7.4 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, B, or E pursuant to Section 7.4, 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.

- (a) Effective April 1, 2023, for a Member who has completed 25 years of Credited Service determined pursuant to Sections C-3.1, C-3.3, C-3.4, and C-3.5 (and exclusive of any credit granted pursuant to this Section) or has been determined to be disabled, one full month of service credit shall be granted for accumulated unused sick leave of eleven (11) work days. After allowing for appropriate credit on the basis of full months (eleven (11) work days), an additional month of credited service will be given for any remainder equating to seven and one-half (7.5) work days, but no credit will be given for any remainder of less than seven and one-half (7.5) work days. A determination of disability shall be made by the applicable party designated in accordance with the procedures established by the Commission for making such determinations, and shall not be subject to the discretion of the Commission. The provisions of this paragraph shall not apply in

computing Credited Service for purposes of determining eligibility for Normal or Early Retirement, which shall instead remain subject to the rules in paragraph C-3.2.

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(b) Effective January 1, 2024, for a Member who (i) qualifies for a benefit pursuant to C-1.6(a); (ii) who has completed 13 years of Credited Service determined pursuant to Sections C-3.1, C-3.3, C-3.4, and C-3.5 (and exclusive of any credit granted pursuant to this Section); and (iii) who has reached a minimum age of 56, one full month of service credit shall be granted for accumulated unused sick leave of eleven (11) work days. After allowing for appropriate credit on the basis of full months (eleven (11) work days), an additional month of credited service will be given for any remainder equating to seven and one-half (7.5) work days, but no credit will be given for any remainder of less than seven and one-half (7.5) work days. The provisions of this paragraph shall be conditioned upon the Member meeting all three (i, ii, and iii) conditions for qualification and shall not apply in computing Credited Service for purposes of determining eligibility for Normal Retirement, which will instead remain subject to the rules in paragraph C-3.2.

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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:

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(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

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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.

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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).

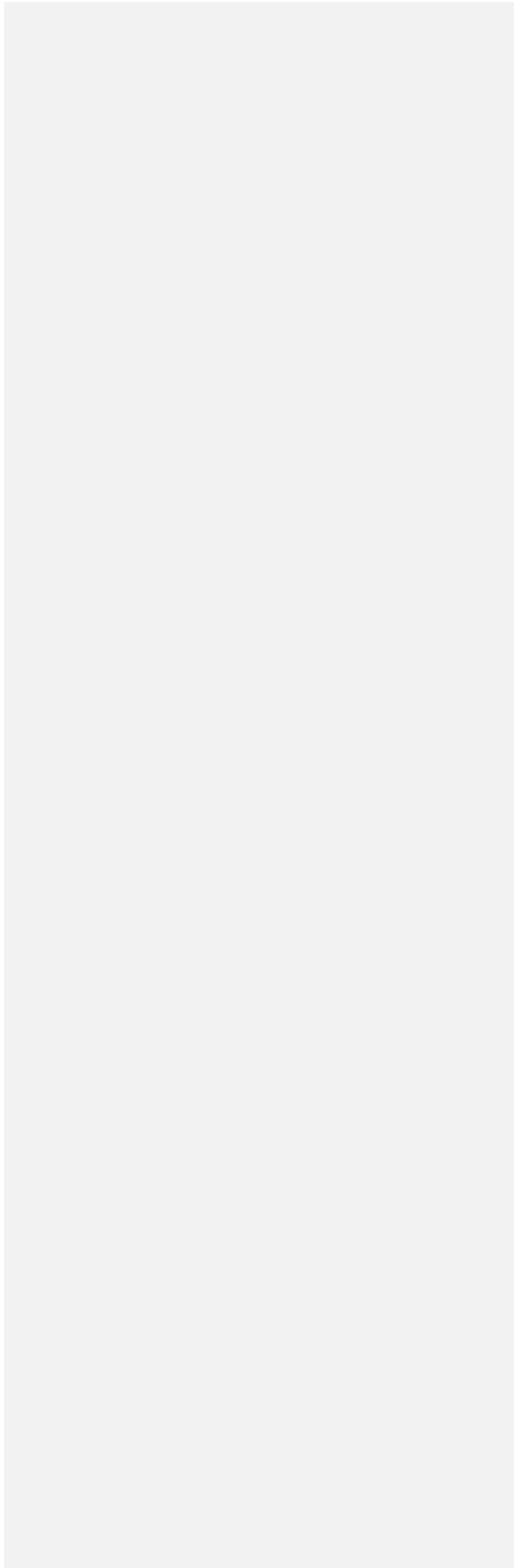
C-6.3 Post-Retirement Death Benefits. Upon the receipt of proper proof of the death of a retired member on or after July 9, 1986, there shall be paid to such person as the member shall have designated and filed with the Board of Trustees, otherwise to his/her estate, a lump sum benefit in the amount 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. Effective for pay periods beginning on or after April 1, 2023, each Participant of Plan C shall contribute 9.5% 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 D, Section D-2.1(a), 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 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.

(a) Effective April 1, 2023, for a Member who has completed 25 years of Credited Service determined pursuant to Section D-3.1 (and exclusive of any credit granted pursuant to this Section), D-3.3, and D-3.4, or has been determined to be disabled, one full month of service credit shall be granted for accumulated unused sick leave of eleven (11) work days. After allowing for appropriate credit on the basis of full months (eleven (11) work days), an additional month of credited service will be given for any remainder equating to seven and one-half (7.5) work days, but no credit will be given for any remainder of less than seven and one-half (7.5) work days. A determination of disability shall be made by the applicable party designated in accordance with the procedures established by the Commission for making such determinations, and shall not be subject to the discretion of the Commission. The provisions of this paragraph shall not apply in computing Credited Service for purposes of determining eligibility for Normal or Early Retirement, which shall instead remain subject to the rules in paragraph D-3.2.

(b) Effective January 1, 2024, for a Member who (i) qualifies for a benefit pursuant to D-1.6(a); (ii) who has completed 13 years of Credited Service determined pursuant to Sections D-3.1, D-3.3, and D-3.4, (and exclusive of any credit granted pursuant to this

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Section); and (iii) who has reached a minimum age of 56, one full month of service credit shall be granted for accumulated unused sick leave of eleven (11) work days. After allowing for appropriate credit on the basis of full months (eleven (11) work days), an additional month of credited service will be given for any remainder equating to seven and one-half (7.5) work days, but no credit will be given for any remainder of less than seven and one-half (7.5) work days. The provisions of this paragraph shall be conditioned upon the Member meeting all three (i, ii, and iii) conditions for qualification and shall not apply in computing Credited Service for purposes of determining eligibility for Normal Retirement, which will instead remain subject to the rules in paragraph D-3.2.

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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).

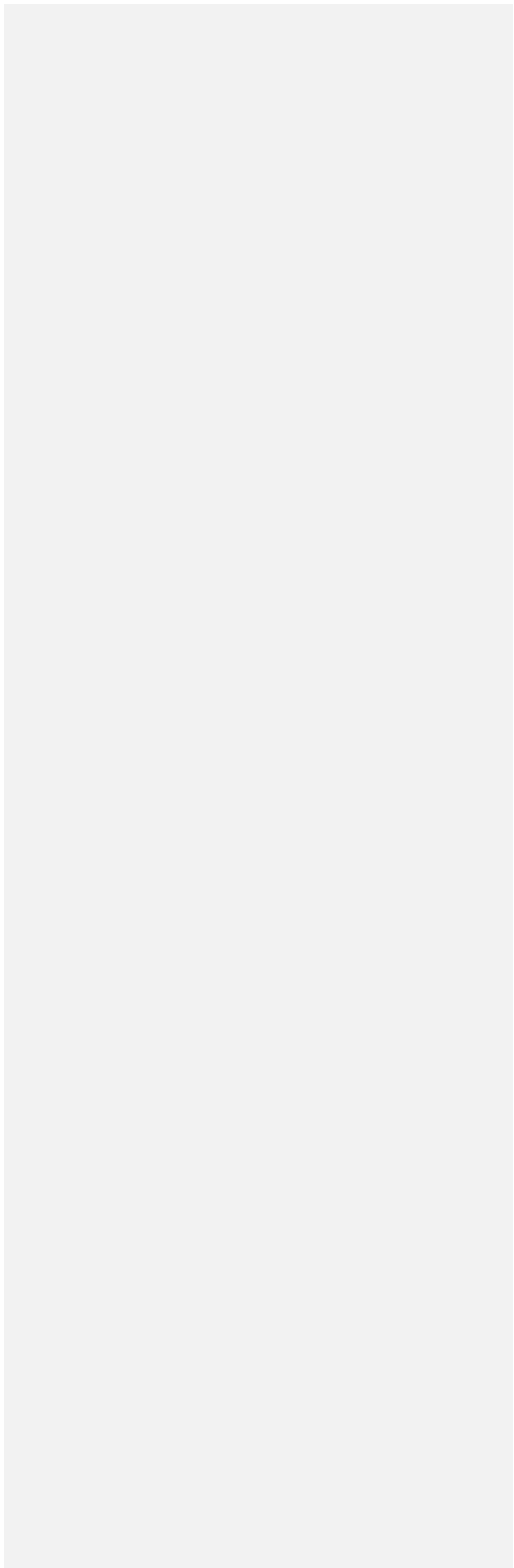
D-6.3 Post-Retirement Death Benefits. Upon the receipt of proper proof of the death of a retired member on or after July 9, 1986, there shall be paid to such person as the Member shall have designated and filed with the Board of Trustees, otherwise to his/her estate, a lump sum benefit in the amount 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

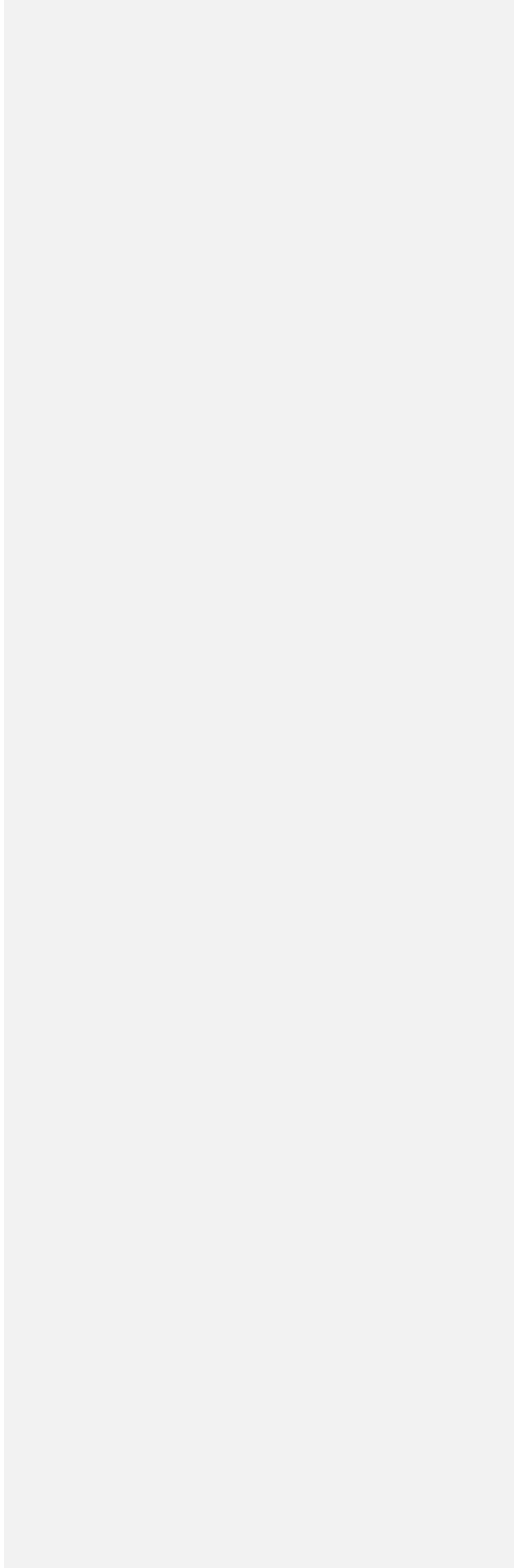
- D-7.1 **Employee Contributions.** Each Participant of Plan D of this Retirement System shall contribute to the Trust Fund 7% of his/her Base Pay. Effective January 1, 1984, the Commission shall pick up the employee contributions required by this Section for all Base Pay earned after December 31, 1983, 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.

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).

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 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 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.

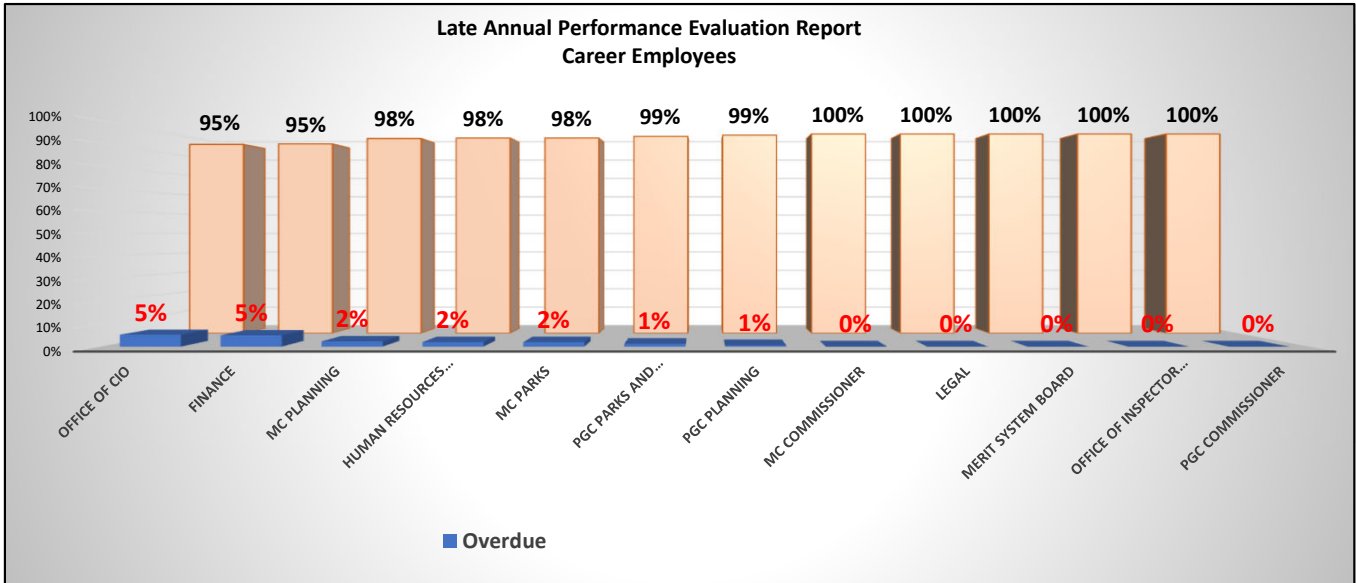
E-7.2 **Employer Contributions.** The Commission shall contribute to the Trust Fund, from time to time, such amounts as are actuarially determined to be required to provide for the benefits under the Plans of this Retirement System.

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 NOVEMBER 2023**

	<u>31 - 60 DAYS</u>		<u>61 - 90 DAYS</u>		<u>91 + DAYS</u>		<u>DEPARTMENT TOTALS</u>	
	<u>Oct-23</u>	<u>Nov-23</u>	<u>Oct-23</u>	<u>Nov-23</u>	<u>Oct-23</u>	<u>Nov-23</u>	<u>Oct-23</u>	<u>Nov-23</u>
CHAIRMAN, MONTGOMERY COUNTY	0	0	0	0	0	0	0	0
CHARIMAN, PRINCE GEORGE'S COUNTY	0	0	0	0	0	0	0	0
OFFICE OF CIO	0	0	0	0	1	2	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	2	0	0	0	0	1	1
LEGAL DEPARTMENT	0	0	0	0	0	0	0	0
FINANCE DEPARTMENT	0	1	0	0	1	1	1	2
PRINCE GEORGE'S PLANNING	2	1	0	0	0	0	2	1
PRINCE GEORGE'S PARKS & RECREATION	16	10	0	0	1	1	17	12
MONTGOMERY COUNTY PARKS	19	17	0	1	1	0	20	14
MONTGOMERY COUNTY PLANNING	3	3	0	1	0	0	3	3
DEPARTMENT TOTAL BY DAYS LATE	41	34	0	2	4	4		
COMMISSION-WIDE TOTAL							45	34

**DEPARTMENTS HAVE BEEN NOTIFIED OF LATE EVALUATIONS.



*Data as of November 30, 2023

Employee Count	Evaluation Status		Total Employees
	Compliant	Overdue	
Finance	38	2	40
Human Resources and Mgt	49	1	50
Legal	25		25
MC Commissioner	3		3
MC Parks	695	14	709
MC Planning	128	3	131
Merit System Board	1		1
Office of CIO	18	1	19
Office of Inspector General	6		6
PGC Commissioner	9		9
PGC Parks and Recreation	979	12	991
PGC Planning	173	1	174
Total Employees	2,124	34	2,158



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

To: The Commission
From: Katie Knaupe, Acting Corporate Budget Director
Date: December 6, 2023
Subject: Q1 2024 Budget Transfer Report

BACKGROUND

Commission *Practice 3-60, Budget Adjustments (Amendments and Transfers)* requires the Corporate Budget Office to provide a summary of all approved operating budget and capital project budget transfers and amendments to the Commission on a quarterly basis.

REPORT (For Information Only – No Action Required)

The attached report provides details for the following Operating and Capital budget transfers approved during the fourth quarter of FY23 and first quarter of FY24:

- Transfer #23-28 approved by the Commission
- Transfer #24-1 approved by the Commission
- Transfer #24-2 approved by the Commission
- Transfer #24-3 approved by the Commission

I would be happy to answer any questions relating to this report or individual budget adjustments.

Attachment

Operating Budget Adjustment Log

BA #	Date	Transfer From					Transfer To					Description	Approval
		Fund	Fund Name	Department	Division	Amount	Fund #	Fund Name	Department	Division	Amount		
23-28	10/4/2023	101	PGC Admin	Finance	Admin	352,250	535	CWIT	CIO	CWIT Projects	617,980	Moving salary savings to CWIT for the ERP upgrade	Commission
		201	MC Admin			265,730							
24-1	8/18/2023	101	PGC Admin	Non-Departmental		1,449,878	101	PGC Admin	Multiple	Multiple	1,449,878	Transfer salary marker to departmental budgets	Commission
		102	PGC Park	Non-Departmental		3,059,439	102	PGC Park	PGC Parks & Recreation	Multiple	3,059,439		
		103	PGC Recreation	Non-Departmental		1,317,896	103	PGC Recreation	PGC Parks & Recreation	Multiple	1,317,896		
		201	MC Admin	Non-Departmental		1,181,935	201	MC Admin	Multiple	Multiple	1,181,935		
		202	MC Park	Non-Departmental		3,003,700	202	MC Park	MC Parks	Multiple	3,003,700		
24-2	9/1/2023	202	MC Park	Non-Departmental		88,971	202	MC Park	MC Parks	Multiple	88,971	Transfer class/comp marker to divisions	Commission
24-3	9/1/2023	101	PGC Admin	DHRM		151,073	101	PGC Admin	DHRM	Multiple	254,760	Transfer class/comp marker to divisions	Commission
		201	MC Admin			103,687	201	MC Admin					

Capital Budget Adjustment Log

BA#	Date	Transfer From					Transfer To					Description	Approval
		Fund #	Department	Project #	Project	Amount	Fund #	Department	Project #	Project	Amount		
23-28	10/4/2023						535	CWIT	96067	ERP Upgrade	617,980	Transfer savings to the ERP upgrade project	Commission

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*M-NCPPC
Central
Administrative
Services
FY23 Annual
Report*

July 1, 2022 - June 30, 2023



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

A Note from the Executive Director

I am proud to once again share a few of the highlights of Fiscal Year 2023 for the Maryland-National Capital Park and Planning Commission's Department of Human Resources and Management, Department of Finance, Office of the General Counsel, Office of the Inspector General, Office of the Chief Information Officer, and the Merit System Board.

This Annual Report briefly summarizes the work performed by the bi-county Central Administrative Services during the past Fiscal Year. We are sharing statistics, highlights and awards that provide insight into the functions, programs, services, and tasks that support the Commission's highest standards of excellence across all administrative services.

Our employees are dedicated, award winning, and committed to providing value, support, and innovation to fulfil our mission and goals.

These highlights reflect a small window into the broad spectrum and variety of support services that enable all departments to service our communities in the most impactful, efficient, and meaningful ways.

We are so proud of the dedication and commitment shown by our employees over the past year.

On behalf of the bi-county Central Administrative Services, we appreciate you and look forward to continuing to serve you in FY 2024!

Asuntha Chiang-Smith, Executive Director



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CENTRAL ADMINISTRATIVE SERVICES Our Bi-County Corporate Departments



* Office of Inspector General reports to the Audit Committee

OVERVIEW


The **Department of Human Resources and Management** (DHRM) delivers executive and operational leadership through corporate governance for the agency, including:

- Corporate budgeting and prudent fiscal planning.
- Human resources administration and programs that ensure equal employment opportunities and fair practices.
- Organizational standards, promoting public accountability, organizational effectiveness, and a preferred workplace.

The mission of the **Office of the General Counsel** is to provide cost effective legal advice and representation of the highest quality to The Maryland-National Capital Park and Planning Commission (M-NCPPC) as a corporate entity. Primary emphasis of the work program is providing proactive counsel, preventive advice, and early intervention to support decision-makers with a clear picture of all their lawful options.

The mission of the **Finance Department** is to provide comprehensive financial services and planning, financial controls, and management information systems using advanced technologies to Commission management and staff, Montgomery and Prince George's County governments, and other relevant outside entities as a means of maintaining a financially sound organization to support Commission programs and to assure fiscal accountability.

Overview, Continued




The **Merit System Board** makes recommendations and decisions regarding the M-NCPPC's Merit System. The Board's mission is to oversee the Commission's Merit System, uphold employee rights guaranteed under the Merit System, recommend employment and compensation policies to the Commission, and serve as the final administrative appellate body for employment matters pertaining to non-represented Merit System career employees.

The **Office of the Inspector General** (OIG) assists the Commission by providing independent evaluation and recommendations regarding opportunities to:

- Improve the effectiveness, productivity, or efficiency of Commission programs, policies, practices, and operations.
- Ensure public accountability by preventing, investigating, and reporting instances of fraud, waste, and abuse of Commission property or funds.
- Examine, evaluate, and report on the adequacy and effectiveness of the systems of internal controls and their related accounting, financial, technology, and operational policies.
- Preserve the Commission's reputation.

The **OCIO**, as led by the Chief Information Officer (CIO), defines, implements, monitors, and maintains Enterprise Information Technology (EIT) for the agency. The OCIO works with M-NCPPC IT organizations to ensure transparency and maximize value to the taxpayer. The CIO strives to ensure the right EIT is in the right place, at the right time, working with the Chief Technology Officers of each department. Together, they assign EIT across the agency, to deliver highly reliable and secure services and products.



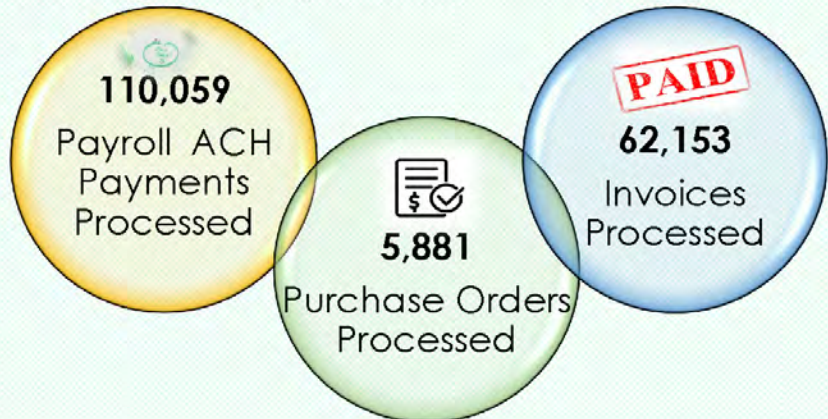
FY23

Finance Department

Did You Know?

The Department of Finance operates under the direction of the Secretary-Treasurer. The Finance Department is organized into three divisions: 1) Corporate Business Services & Finance Administration, 2) Corporate Accounting Services, and 3) Corporate Procurement Services and is responsible for Corporate Financial Policy, Management of Debt and Investments, Payroll Administration and Disbursements, Accounting and Financial Reporting, Procurement, and Enterprise Resource Planning (ERP) Program Management. The Finance Department provides financial expertise and guidance to M-NCPPC operating departments and serve as a technical resource to ensure a financially sound organization.

FY23 Department Highlights and Initiatives



- 6,550 W-2s issued.
- 6,900 employees were paid in FY 2023.
- Paychecks issued in FY 2023 totaled 122,569 of which 12,510 were printed checks.



- 27,699 receipts processed totaling \$666,223,916.
- Receipts by ACH/Wire: 77%
- Offered 49 Infor Enterprise Financial Management (EFM) Training courses for 374 attendees.
- 177 ACH signups for Accounts Payable (AP)
- 87% of invoices processed in 30 days or less.
- \$465,237,814 in invoice payments processed.
- 16,664 payments processed; 40% by ACH/Wire transfer.



- \$11,075,147 processed in 22,788 purchase cards transactions.
- 819 NEW vendors registered and onboarded.
- 62 solicitations processed across five departments.
- 739 contracts routed.
- Total active vendors – 12,144.



FY23



Finance Department



Corporate Business Services & Finance Administration

- RFP for Financial Advisory Services was completed and awarded to Davenport.
- A recommendation was made to the Commission for Practice 3-70 Memberships, to pay full memberships and remove check and cash payments from the practice.
- Deployed Kronos leave management to the Finance Department.
- Payroll setup automated messaging for employees to approve their timecards.
- 115 Trust selected a new property manager to manage the real estate portfolio.



TIMECARDS



Corporate Accounting Services

- 50th consecutive year to receive GFOA Certificate of Achievement for Excellence in Financial Reporting for the Annual Comprehensive Financial Report (ACFR).
- Annual Audit FY2022: Received a Clean Opinion.
- General Obligation Bond Sale: Montgomery Co. \$13.1 million; Prince George's Co. \$12.0 million.
- Policy and Practice Updates:
 - 115 Trust Investment Policy Statement (IPS)
 - Provided input for Capital and Controlled Assets Procedures and Professional Memberships Practice.
- Implemented:
 - Automation of the publishing of the Annual Comprehensive Financial Report (ACFR)
 - Automation the new Lease Accounting Standard GASB 87, which fundamentally changes lease recognition, measurement, and related disclosures for lessees and lessors.



Corporate Procurement Services

- Automated Contract Routing Process in SharePoint.
- Attended 6 Outreach Events.
- Co-Sponsored the Prince Georges County Breaking Barriers to Procurement Summit 2023.
- Conducted 17 Procurement Trainings, 10 purchase card training and 24 RQC (Requisition) trainings.
- \$4 million in documented cost savings.





FY23 HIGHLIGHTS

NextGen > OGC

Litigation Matters

- 22 New Cases
- 28 Closed Cases
- 23 Pending State and Federal Courts

Closed Cases in 2023

- 4 Closed Tort Claims
- 5 Closed Employment Claims
- 5 Closed Worker's Compensation Appeals
- 1 Closed Forfeiture Matter
- 1 Closed Contract Disputes
- 4 Merit Board Appeals

OFFICE OF THE GENERAL COUNSEL ABOUT US

The Office of the General Counsel (OGC or Legal Department) delivers a comprehensive program of legal services to the Commission, supporting almost every facet of the agency's work program. The OGC guides the Commission's internal corporate operations; advises planning staff and the Planning Boards as they navigate their important quasi-judicial and regulatory responsibilities, advocates on the Commission's behalf in litigation before the state and federal courts; and participates in cross-functional teams assembled periodically to develop creative solutions to new challenges facing the Commission.

LEGAL SUPPORT FOR COMMISSION POLICIES & INITIATIVES

- Legal support to rewrites of the County's new Zoning Ordinance, extensive work on Department of Parks and Recreation land development issues. Updated the Development Review Administrative Regulations (last approved in 2017);
- Completed a new lease at Prince George's Stadium for the Bowie Baysox baseball team;
- Acquisition of University of Maryland Global Campus complex in Largo as the new home of the Prince George's Planning Department and the Department of Parks and Recreation (DPR); a tri-party.

LEGISLATIVE SUPPORT

- Extensive work on priority issues such as the forest conservation act, stream restoration, cannabis reform, county street parking, standing to sue land use and zoning requests, and off-street parking bills.

FY 23

Highlights



OFFICE OF THE CHIEF INFORMATION OFFICER (OCIO)

FY23

OCIO

100%

Compliance Quarterly Security Awareness Training (5,667 modules)



The Chief Information Officer maintains an unwavering commitment to security.

Website Redesign:

Worked tirelessly on the Parks and Rec web redesign. Collaborated with Department web manager to review thousands of existing web pages and reduce average number of clicks from 7 to 3. Added multiple language features and incorporated ADA compliance to meet most recent ADA rules and be responsive to the diversity of our residents.

Leadership was delighted with the outcome.

Additional Highlights

- Began implementing first agency-wide Learning Management System to consolidate existing training into single system.
- Continued to improve Digitized Performance Evaluation process for greater efficiency.
- Responded to 1,324 OnPoint tickets for EOB IT issues, with excellent response rate and customer service satisfaction.

ERP Replacement Project

A modern ERP will enable us to be able to attract, hire and retain young talent by implementing systems that are easy to use.

- Began planning and budgeting for replacement / upgrade, and to collaborate with departments to analyze business need, and gather requirements.
- Anticipate releasing RFP by January 2024.

MERIT SYSTEM BOARD



Merit System Board

FY23

28

Cases on Docket

22

Cases Closed

5

Case Types of New Appeals

5

Classification Series Reviews



ABOUT The MERIT SYSTEM BOARD

The Merit System Board is authorized by M-NCPPC's enabling legislation. The Board makes recommendations and decisions regarding M-NCPPC's Merit System. Its mission is to oversee the Commission's Merit System, uphold employee rights guaranteed under the Merit System, recommend employment and compensation policies to the Commission, and serve as the final administrative appellate body for employment matters pertaining to non-represented Merit System career employees. Board Members are experienced in personnel and employment issues, and committed to fair and impartial research, due diligence, and decisions on M-NCPPC policy and systems that adhere to best practices in employment.

FY23 HIGHLIGHTS



17 New Appeals:

- 10 Reclassifications
- 2 Terminations
- 2 Suspensions
- 2 Grievances
- 1 Change to a Lower Grade



1 Hearing Held (Termination)



11 Appeals Carried over from FY22



Case Status: Closed 22 Cases; 6 Cases Carried over to FY24



Reviewed and Approved Five Classification Series Reviews/ Classification Review from Classification and Compensation:

- Corporate Business Operations Series
- Corporate HR Series
- Help Desk Series
- Public Safety Communications Series
- Licensed Trades Specifications for Pay Adjustments



Reviewed and Approved 3 New Position Classifications:

- Corporate Supplier Diversity and Inclusion Program Specialist Specification
- Deputy Executive Director Specification
- Legislative Analyst Specification

DEPARTMENT OF HUMAN RESOURCES AND MANAGEMENT (DHRM)

DHRM: Office of the Executive Director - Corporate Communications

Corporate COMMUNICATIONS FY23

1,155 Social Media and Emails

138 Documents

37 Newsletters

26 Presentations

ABOUT CORPORATE COMMUNICATIONS

The Corporate Communications Office assists DHRM and other CAS departments and offices with writing, editing, graphic design, desktop publishing, marketing, and presentations. Corporate Communications handles agency-wide employee communications, including newsletters for approximately 3,000 employees and retirees, as well as monitoring, routing and responding to agency-wide emails and social media. The Office also coordinates communications between the OED and operating departments' Public Affairs Offices.

Supported Operating Departments' Public Affairs Divisions:

- 900 social media posts monitored/routed/shared;
- 255 email inquiries routed;
- 30 Agency-wide Comms Meetings hosted for integrated responses to emergent issues.

Produced communication materials for OED, CAS, and agency-wide Diversity Council and Sustainability Committees:

76 Desktop Publishing Documents	17 PowerPoint Presentations
62 Memos, Articles, Emails, etc.	9 Videos

Broadcast 130 emails to alert employees to important news re: weather alerts, announcements, agency-wide events, etc.

Produced CAS Annual Report, providing at-a-glance highlights of CAS' achievements and functions.

INITIATIVES

- Led refresh of inSite intranet front page.
- Began compiling agency-wide land/facilities list for Benefits and Recruitment purposes.
- Spearheaded Agency-wide Personal Electronics Recycling Initiative for OCIO.
- Established CAS Employee Garden Club Pilot Project as part of CAS' Sustainability Plan.

Corporate Budget

FY23



ABOUT CORPORATE BUDGET

The Corporate Budget Division provides agency-wide budgetary planning, analysis and reporting. The Division oversees the Commission's budget preparation process, and provides strategic information, central budget coordination, and fiscal planning for the agency.

FY23 DIVISION HIGHLIGHTS



Achieved 37th Distinguished Budget Presentation Award from Government Finance Officers Association of the United States and Canada (GFOA).



Developed annual budget over an 11-month process:

- **6 presentations** to the Planning Boards and Commission.
- **6 presentations** to Montgomery and Prince George's counties.
- **2 public budget forums** for Prince George's operations.



Provided budget and procurement support for DHRM and OCIO through:

- Processing **254 requisitions**.
- Routing **71 contract additions** and **extensions**.
- Creating **154 purchase orders**.
- Administering **departmental procurement**
- Overseeing development and management of **8 operational budgets**.

Additional Accomplishments



Unions: Supported collective bargaining teams by costing out **negotiation scenarios**.



Provided budget data for **state legislation** reviews and the Prince George's **Blue Ribbon Committee study**.

Corporate

FY23

Human Resources



ABOUT CORPORATE HUMAN RESOURCES

Corporate Human Resources provides expert guidance and advice on human resources matters for the agency. The Division also provides oversight of all programs and activities relating to employment and working conditions: compensation, benefits, wellness, labor relations, records, and recruitment. Additional services include training coordination, employment for disabled persons, and personnel management reviews.

Classification and Compensation

Health and Benefits

Employee and Labor Relations

Employee Records/HRIS

Recruitment and Selection Services

Learning and Organizational Development

FY23 DIVISION HIGHLIGHTS



Processed **40,542** job applications (20% increase from FY22); 555 hires (68% increase from FY22).



Processed **25,100** Personnel Actions.



Managed **21,186** enrollments in Benefit Plans for employees, retirees and survivors.



Processed **2,206** compensation changes.



Processed **438** unemployment claims – avoiding state penalties.



Covered **36 union** and management topics.



Expanded Leadership Training across the Commission.

Corporate Policy

FY23

& Management Operations

ABOUT CPMO

The Division is responsible for managing the system of agency-wide policies, implementing programs which safeguard employees, patrons and agency assets, and administering corporate programs which support the mission of the agency and best practices. The Division also conducts management studies, research and analysis to promote public accountability, transparency, and workplace efficiency; develops and administers workplace safety and risk management programs; and recommends and develops programs and standards for best practices and preferred workplace initiatives.

Corporate Policy

Corporate Records and Archives

Supplier Diversity and Inclusion Office

Risk Management and Workplace Safety

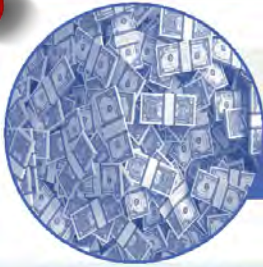
Admin Services and EOB Facility Operations

FY23 DIVISION HIGHLIGHTS

- Reviewed and processed **395 workers compensation and liability claims**.
- Processed **278 MPIA** and **research requests**.
- Followed-up on **605** positive COVID-19 cases.
- Issued/updated **18 policies** and organized **27 agency-wide management meetings**.

INITIATIVES

- Began implementing the agency's Supplier Diversity Program.
- Commenced the formation of the agency's Continuation of Operations Plan and an early warning/emergency notification system.
- Laid the groundwork for implementing Performance Measurements Program.



Classification and Compensation

FY23

13,907

System Transactions

2,206

Compensation Changes
Processed

388

Employee/Candidate
Analyses



ABOUT CLASSIFICATION and COMPENSATION

The Team is responsible for the development, implementation, administration, and maintenance of equitable classification and pay plans for all agency employees and positions. The Team provides guidance and customer-service to the operating departments and administers the classification plan that analyzes and evaluates positions based upon duties, responsibilities, and minimum qualifications. Additionally, the Team maintains salary schedules, conducts salary surveys, updates and maintains the position management system, reviews and assists in reorganizations, and manages the Internship and Apprenticeship Programs.

FY23 HIGHLIGHTS

- **Processed 2,206 Compensation Changes:** provided all required calculations to the HRIS team for inputting changes in pay including cost-of-living allowance (COLA) increases, park police step increases, and lump sum calculations.
- **13,907 Transactions** in the position management module of the Enterprise Resource Planning (ERP) System.
- **Provided 388 analyses** for candidates and employees, including Merit System Board Appeals, individual reclassification requests, retention incentives, salary exceptions, salary equity analyses and instructor vettings.
- **Published the 29th edition** of the Personnel Management Review Employee Demographic Profile (PMR), a valuable tool for both workforce planning and budget work sessions with the County Councils.
- **Approved 30 internship** requests and **6 apprenticeship** opportunities.

Class Study Description

- Reviewed **116 Specifications** (including 43 new specs approved by the Merit System Board).
- Completed **95 Allocation Reports**.
- Multi-year study is approximately 82% complete.



Additional Highlights

- ▶ **Developed and implemented seasonal/intermittent pay schedules** for Summer Camp and Playgrounds, Child Care, Disability Services, and Sign Language Interpreters.
- ▶ Worked with Dep't of Parks and Recreation on lowering lifeguard age to 15.
- ▶ Developed **New Youth Apprenticeship Program**; approved by Maryland Department of Labor.

* Link to the PMR is

https://www.mncbpc.org/DocumentCenter/View/22933/PMR-FY22_FinalWebVersion



Employee Health and Benefits

FY23

21,186

Enrollments Managed

14,157

Inquiries

3,700

Enrollees

1,051

Enrollments/Changes



ABOUT EMPLOYEE HEALTH and BENEFITS

The Health and Benefits Team is responsible for the development, implementation, administration, and maintenance of health and welfare benefits plans for employees, retirees, and their eligible dependents. The Team also administers the agency's occupational health services.

FY23 HIGHLIGHTS

- ✦ Managed **21,186 enrollments** in Benefit Plans for employees, retirees and survivors, and their dependents.
- ✦ Responded to **14,157 inquiries** from employees, retirees, and dependents.
- ✦ Handled benefits for approximately **3,700 employees and retirees**.
- ✦ Processed **1,051 enrollments** and changes.

INITIATIVES

- Introduced **virtual platform for open enrollment** fairs. 650+ attendees spent 1,127 hours at the fairs.
- **Implemented Hinge Health**, a digital solution for musculoskeletal conditions, in conjunction with Workplace Wellness. Program provides all tools needed (e.g., physical therapist, personalized exercise program, constant engagement) from the comfort of members' home. 158 employees enrolled since April 2023 launch.
- **Expanded outreach** by attending approximately 12 departmental staff meetings, town halls, employee picnics, and meet & greets. This afforded the Team additional opportunities to educate employees about benefits of which they may not be aware.
- **Conducted one on one meetings** to over 200 new hires to provide private, personalized, detailed benefits information. This made a positive impact on their impression of the Commission as an agency that cares.
- **Obtained \$222,766** while conducting Requests for Proposals for the agency's medical plans and benefits consultant. While no changes were made in vendors, we received \$100,000 more from UnitedHealthcare to support our wellness initiatives and a 9.2% reduction in administrative fees, (\$122,766).



Employee

FY23

and Labor Relations

650+
ELR Inquiries

350
Employees
Trained

26
Grievances
and Disputes

36
Union & Mgmt.
Topics



ABOUT EMPLOYEE and LABOR RELATIONS

Employee and Labor Relations (ELR) fosters management and employee partnerships and assists in handling complex employment concerns. ELR investigates complaints; manages the various grievance and dispute resolution processes; reviews disciplinary and performance issues and other complex employment matters; and administers the Performance Management Programs. ELR functions also include: providing guidance on employment policy and collective bargaining contracts; assisting with union negotiations; providing ongoing training on Commission policies and human resources topics for managers and employees; and reviewing reasonable accommodation requests for compliance with the Americans with Disabilities Act. ELR also facilitates several Labor-Management Relations Committees (LMRC).

FY23 HIGHLIGHTS

- Handled **26** total **Grievances** and **Disputes** (24% increase from FY22's 21 disputes (grievances and complaints not related to Covid).
- Provided consultation and guidance on approximately **650+ ELR inquiries**. This included: 73 disciplinary actions/adverse actions reviews and 52 labor relations concern inquiries from the Union.
- Covered **36 union and management topics** while facilitating six (6) formal Labor-Management Relations Committee meetings. LMRC meetings and other ELR meetings with Union Representatives have increased positive labor relations with the collaborative discussions and better understanding.

INITIATIVES

- Partnered with HRIS and OCIO to design, implement and **provide training** on the new automated annual **performance evaluation tool** released in FY23. Since the early 2023 launch, live training was provided to more than **350** supervisors, employees, and HR representatives, and **149** annual evaluations were completed.
- Digitized** and started catalog of 15+ years of disputes and grievances for advanced automated reviews of employee relations trends and implementing best practices.



Employee Records/HRIS

FY23

25,100

Personnel Actions
Processed

438

DLLR Inquiries
Reviewed

2,500

Employment
Verifications

1,400

Retroactive Payments
Analyzed



ABOUT EMPLOYEE RECORDS/HRIS

The Human Resources Information Systems (HRIS) Team is responsible for ensuring the security and integrity of official employee records, both physical and electronic, in compliance with Federal and State regulations. They manage employees' HR data, maintain the HRIS Infor system, and continuously improve processes. The team handles all employee lifecycle actions, such as hires, rehires, conversions, pay increases, and terminations, in accordance with personnel policy and collective bargaining agreements. Additionally, they respond to all MD State unemployment claims and inquiries, submit quarterly unemployment reimbursement bills, and complete employment verifications. The HRIS team also supports ad hoc and government regulatory employee data reporting, as well as data integrations with downstream systems.

FY23 HIGHLIGHTS

- Processed **25,100 Personnel Actions** (9% increase from FY22).
- Processed **438 DLLR unemployment inquiries** in calendar year 2022. Verified employment history and wages. Ensured responses to DLLR inquiries were timely, maintained clear documentation and materials relevant for each case and submitted quarterly bill payments to Treasury and Accounts Payable.
- Completed approximately **2,500 employment verifications**.
- Analyzed **1,400 backdated salary actions** that yielded **860 retroactive** employee payments.
- Managed the **Digital Personnel Action (DPA) Tool** by closely supporting users and resolving any system-related issues through custom enhancements.
- Performed **full HRIS functionality testing** for **ERP Infor/Lawson updates**; end-of-year patch installation and other Infor-triggered system changes.
- Implemented the **Performance Management Automation Tool** to automate the Performance Evaluation Process. **Over 135 automated evaluations** were processed during the pilot phase.
- Continued to facilitate, coordinate, and manage the **Commission-wide Corporate Employee Orientation Program** (approximately 300 employees onboarded during 26 biweekly sessions).

INITIATIVES

- Partnered with the DHRM Archives Office to develop an electronic repository and convert all HRIS paper-based Merit and Contract employee personnel files to digitally accessible documents. **7,000 employee files** (243 boxes) were digitized.





Recruitment and Selection Services

FY23

40,542

Applications Processed

607

Vacancies Posted

2,596

Seasonal Background Checks

342

Applicants Fingerprinted



ABOUT RECRUITMENT

Recruitment and Selection Services (RSS) supports the M-NCPPC's efforts to attract and maintain a diverse, skilled, and effective workforce. Staff provides lifecycle recruitment activities to the agency from advertising, testing, application processing, selection, and employment/promotion offers. This team manages an outsourced online applicant tracking system. Related tasks involve administration of background/ reference checks, language proficiency testing, and Park Police entry, lateral, and advancement testing.

FY23 HIGHLIGHTS

- ▶ **40,542 Candidates** Applied (20% increase from FY22)
- ▶ Posted **607 Vacancies; 555 Total Hires** (68% increase from FY22)
- ▶ **Fingerprinted 342** Merit Applicants
- ▶ Processed **2,596** Seasonal **Background Checks**
- ▶ **Processed 165** new employees' **Sign-On Bonuses** for hard-to-fill positions (average of \$1,984.20 each; total \$327,392.65)
- ▶ Generated **875 Letters** (555 Merit/Career Offer Letters; 320 Orientation Letters for External Hires)
- ▶ Attended/Supported **15 Job Fairs and Events** including Re-entry Career Path; Employ Prince George's Quarterly (multiple); WorkSource Montgomery (multiple), Homes Not Borders, National Disability Employment Awareness Month, DPR Seasonal Hiring (multiple), PRIDE DC Festival
- ▶ Completed implementation of **NEOGOV Onboard module**
- ▶ **Continued CAS Time-to-Fill Pilot Initiative**
- ▶ **Relocated** RSS unit staff from EOB to Walker Drive facility



INITIATIVES



Implemented NEOGOV Attract Module for department Human Resources staff use. Collaborated with HRIS and Classification and Compensation to successfully integrate transition of recruitment activity data from NEOGOV to Infor.



Learning and Organizational Development

FY23

100+

Leadership Program Applicants

11

Mentor Fellows

10

Topics / Areas

6

Trainings / Demonstrations



ABOUT Learning and Organizational Development

The Learning and Organizational Development unit has a responsibility to develop and implement agency-wide learning programs, events, and activities. Areas of impact are learning, professional development, workplace wellness, and Diversity, Equity and Inclusion.

TRAINING

- ✦ **Began implementing the Learning Management System (LMS)**—a central place to house, register for, deliver, and manage learning events and succession planning-related activities. Cornerstone was confirmed as the LMS vendor of choice on September 29, 2022. Partnered with Office of the Chief Information Officer's Project Management Office to lead the agency-wide LMS implementation. Representatives from all four operating departments are participants on the project team. The platform will be live by December 2023.
- ✦ **Expanded Leadership Training across the Commission.** Expanded Montgomery Parks' Professional Development and Advanced Leadership cohort programs to allow all eligible Merit employees to apply. More than 100 employees applied for the 50 available seats. Due to this overwhelming response, an additional session will launch ahead of schedule (September 2023 - May 2024).
- ✦ **Instituted Mentor Fellows Cohort (MFC) Program** to support participants enrolled in the leadership development cohort programs. Members have previous mentoring experience and an interest in further developing their leadership skills. They participate in an action learning environment, where such topics as active listening, managing unconscious bias, and psychological safety are discussed. The 8-month program will last from May–December, 2023.

Workplace Wellness

- 🍏 **Conducted 6 trainings** and demonstrations, better acclimating over 1000 employees to the Workplace Wellness Office.
- 🍏 **Developed fitness partnership initiatives** benefiting over 2,000 employees.
- 🍏 **Instituted mental health campaign**, yielding 76 trained and/or certified in Mental Health First Aid.
- 🍏 **Launched Hinge Health** Digital Musculoskeletal Program in partnership with the Health and Benefits Office; 158 participants.
- 🍏 **Managed the Stay Well Earn Well Incentive Program** for over 300 employees.



CORPORATE POLICY

FY23

➤ 18 Policies Updated or Issued

➤ 6 Special Projects Completed



ABOUT CORPORATE POLICY

The Corporate Policy Office conducts research and analysis of organizational needs, regulatory mandates, and best practices for greater efficiency, cost containment, and effective programs. The Office develops recommendations for agency-wide policies in areas such as organizational functions, employment regulations, workplace standards, and internal controls. Policies are developed through a collaborative review with input from departments, the Merit System Board, union representatives, and other stakeholders.

FY23 HIGHLIGHTS

- **18 policies** updated or issued.
- Responded to **47 inquiries** regarding agency-wide policies, on topics including use of administrative leave, telework, and records retention.
- **6 special projects**
 - Created 3 training presentations for staff on the: Controlled Substance and Alcohol-Free Workplace Policy; Maryland Public Information Act; and Business and Personal Use of Social Media.
 - Benchmarked annual leave buyback programs provided by surrounding jurisdictions.
 - Began monitoring and surveying select grant opportunities for the Commission.
 - Began leading a CAPRA review team for agency-wide standards.
- Initiated **work sessions** with **Legal** on:
 - A public-facing Lobbying Disclosure Portal.
 - A single Code of Ethics for the Commission.
 - Updating Commission policies, including Disputes, Access to Electronic Data, and an "Omnibus Resolution" related to duties and functions of Department Heads and Officers.



CORPORATE RECORDS AND ARCHIVES

FY23

144

MPIA Requests

87

Requests Processed

188

Cubic Feet Digitized

144

Requests Processed



ABOUT CORPORATE RECORDS and ARCHIVES

The Corporate Records function includes the M-NCPPC Archives Office and records of corporate meetings of the agency. The Archives Office maintains the historical and corporate records of the agency, in compliance with State laws.

FY23 HIGHLIGHTS

- ▶ 144 MPIA requests coordinated.
- ▶ 87 requests processed.
- ▶ 37 record groups transferred.
- ▶ 188 cubic feet digitized.
- ▶ 370 cubic feet of records securely destroyed.



SUPPLIER DIVERSITY AND INCLUSION OFFICE

FY23

This program is designed to ensure that small-local-owned business enterprises and minority, female, and disabled-owned business enterprises have the same opportunities to do business with the Commission as any other potential vendor.

- ▶ Worked with agency staff and outside consultant to establish the foundations for the Program.
- ▶ Participated in local outreach programs aimed at small and disadvantaged businesses.
- ▶ Assumed the tracking and reporting of agency spend with minority, female and disabled-owned businesses.



RISK MANAGEMENT **FY23** AND WORKPLACE SAFETY

605

COVID-19 Cases

560

Drug and Alcohol Tests

4,090

Loss Workdays

138

Claims Reviewed



ABOUT RISK MANAGEMENT & WORKPLACE SAFETY

The Risk Management and Workplace Safety Office develops and implements programs that protect employees and patrons, protect and secure the agency's assets, and mitigate losses. The Office:

- Conducts training on workplace safety, regulatory compliance, and accident prevention
- Develops and administers safety and loss control programs
- Ensures compliance with Federal/State safety regulations
- Manages the workers' compensation claims program and the liability program
- Performs risk analysis, inspections, and accident investigations
- Manages agency-wide Insurance portfolio (Self-Insurance and commercial policies)

FY23 HIGHLIGHTS

- **605 COVID-19 cases** reported and **followed-up on** (21% increase from FY22).
- **560 Drug and Alcohol test results** received and reviewed.
- **257 workers compensation cases** reviewed and processed.
- **138 liability claims** reviewed and/or **processed**.
- **144 site-specific emergency action plans** submitted and reviewed.
- **4,090 loss workdays tracked**.
- **30 Workplace Safety Facility/Program Audits**.
- **39 facility safety inspections** completed.
- **34 safety compliance and awareness trainings conducted**.
- **20 safety complaints** reviewed and **responded**.





FY23

PERFORMANCE and ADMIN

SERVICES; EOB FACILITY OPERATIONS

Organized agency-wide:

- **Communicate with Confidence! Program**
- **27 management meetings**



ABOUT PERFORMANCE and ADMIN SERVICES; EOB FACILITY OPERATIONS

Performance and Admin Services carries out agency-wide and departmental operational activities including coordinating and supporting corporate meetings of the Commission, Executive Discussions, Directors, and other ad hoc or standing committees; commencing the agency's new performance management program; administering departmental procurement; overseeing the development, and management of the EOB operational budget and its operations.

Performance and Admin Services

Organized:

- **27 agency management meetings** (including packets and minutes) for Department Heads, Executive discussion and Commission.
- **7 agency-wide and departmental events** including the Service Awards Ceremony, Communicate with Confidence! Program for 28 students, etc.

EOB Facility Operations

- **Completed 170 EOB service requests** to ensure the EOB is properly maintained and remains a welcoming workplace environment.
- Started or completed several **large-scale renovation projects** within the EOB, including: began renovation of 8 restrooms to replace aging infrastructure with updated, environmentally-friendly facilities; installed large, grant-funded mural on 1st floor lobby; and renovation of the OED lobby and conference room to accommodate additional space needs for management meetings and staff collaboration.

INITIATIVES

- Commencement of the new Performance Measurement and Management Program, which will track selected agency-wide metrics to determine the effectiveness of particular programs.



Government Finance Officers Association

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**Maryland-National Capital Park
and Planning Commission**

For its Annual Comprehensive
Financial Report
For the Fiscal Year Ended

June 30, 2022

Christopher P. Morrell

Executive Director/CEO

FY23 AWARDS, Continued



GOVERNMENT FINANCE OFFICERS ASSOCIATION

**Distinguished
Budget Presentation
Award**

PRESENTED TO

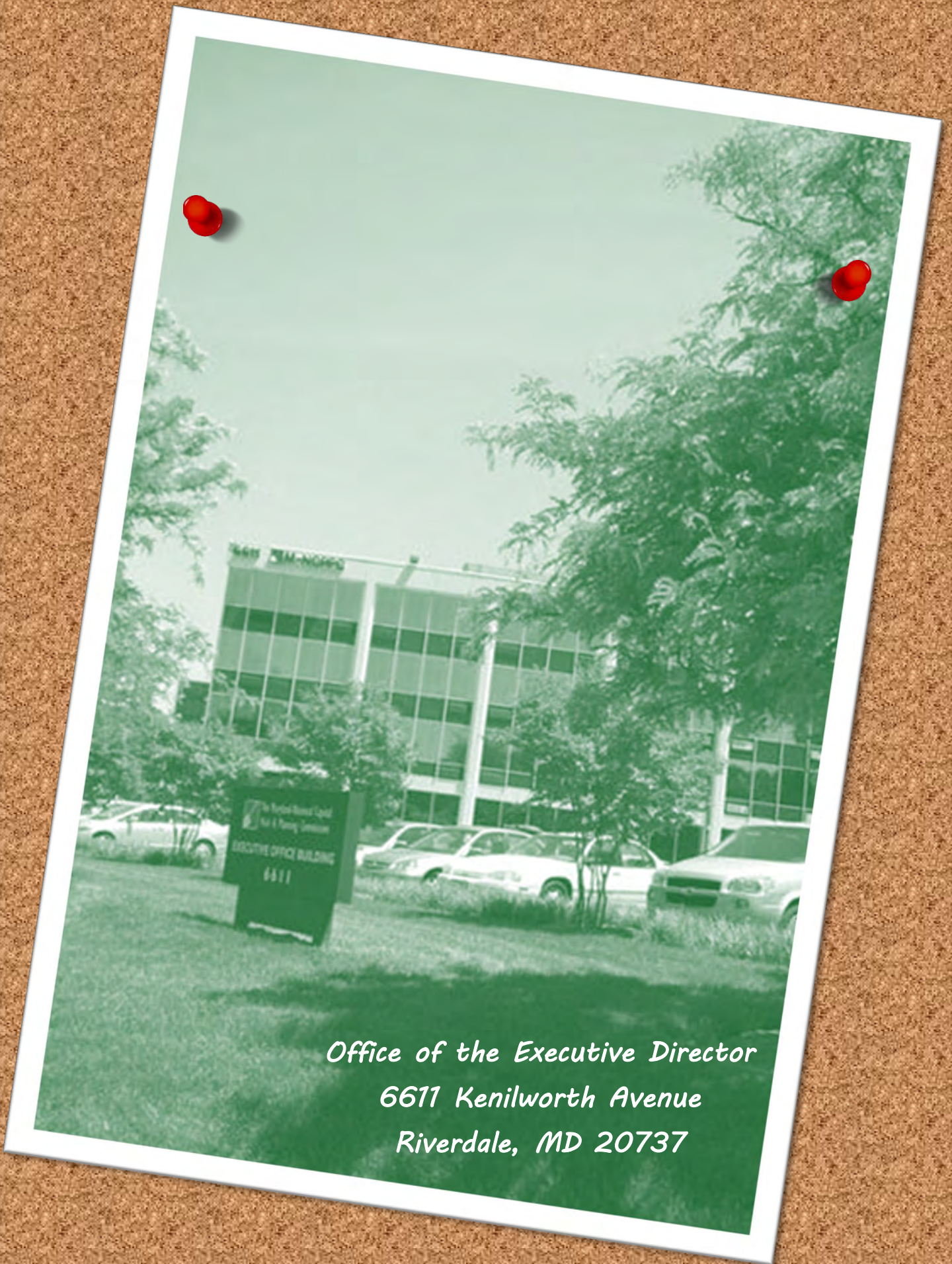
**Maryland-National Capital Park & Planning Comm
Maryland**

For the Fiscal Year Beginning
July 01, 2023

Christopher P. Morill
Executive Director







*Office of the Executive Director
6611 Kenilworth Avenue
Riverdale, MD 20737*



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

Reply To

December 4, 2023

Debra S. Borden
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: Debra S. Borden
General Counsel

RE: Litigation Report for November 2023 – FY 2024

Please find the attached litigation report we have prepared for your meeting scheduled on Wednesday, December 20, 2023. As always, please do not hesitate to call me in advance if you would like me to provide a substantive briefing on any of the cases reported.

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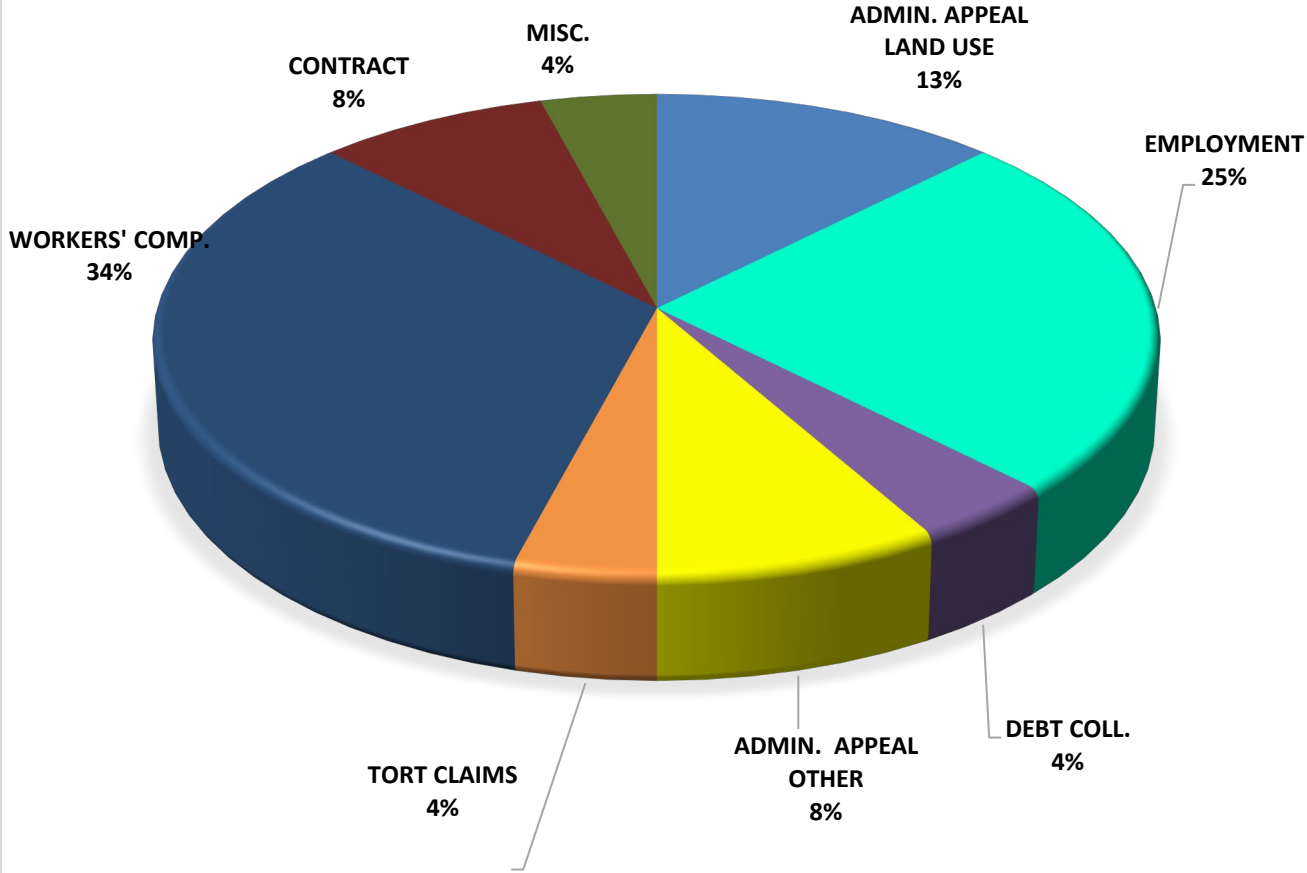
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November 2023
Composition of Pending Litigation

(Sorted by Subject Matter and Forum)

	STATE TRIAL COURT	APPELLATE COURT OF MARYLAND	SUPREME COURT OF MARYLAND	FEDERAL TRIAL COURT	FEDERAL APPEALS COURT	U.S. SUPREME COURT	SUBJECT MATTER TOTALS
ADMIN APPEAL: LAND USE	1	2					3
ADMIN APPEAL: OTHER	3						3
BANKRUPTCY							
CIVIL ENFORCEMENT							
CONTRACT DISPUTE	1	1					2
DEBT COLLECTION	1						1
EMPLOYMENT DISPUTE	3			2	1		6
LAND USE DISPUTE							
MISCELLANEOUS	1						1
PROPERTY DISPUTE	1						1
TORT CLAIM	1						1
WORKERS' COMPENSATION	8						8
PER FORUM TOTALS	20	3		2	1		26

OVERVIEW OF PENDING LITIGATION



November 2023 Litigation Activity Summary

	COUNT FOR MONTH			COUNT FOR FISCAL YEAR 2024			
	Pending Oct. 2023	New Cases	Resolved Cases	Pending Prior F/Y	New Cases F/YTD**	Resolved Cases F/YTD**	Pending Current Month
Admin Appeal: Land Use (AALU)	4		1	4	3	4	3
Admin Appeal: Other (AAO)	2	1		2			3
Bankruptcy (B)							
Civil Enforcement (CE)							
Contract Disputes (CD)	2			2			2
Debt Collection (D)	1			2		1	1
Employment Disputes (ED)	6			3	5	1	6
Land Use Disputes (LD)				1		1	
Miscellaneous (M)	1			1	1	2	1
Property Disputes (PD)		1			1		1
Tort Claims (T)	2		1	2	1	2	1
Workers' Compensation (WC)	9		1	6	8	3	8
TOTALS	27	2	3	23	19	14	26

**INDEX OF YTD NEW CASES
(7/1/2023 TO 6/30/24)**

A. <u>New Trial Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Wright v. Commission	MC	Misc.	Mar.
Mays v. Commission, et al.	Charles County	ED	July
Wallace v. Commission, et al.	PG	ED	July
Celey v. Commission	PG	ED	July
In the Matter of Pocahontas Drive Homeowners	MC	AALU	July
Fennell v. Commission	PG	ED	Aug.
In the Matter of Jeanne Kavinsky	PG	WC	Sept.
In the Matter of Jeanne Kavinsky	PG	WC	Sept.
In the Matter of Jeanne Kavinsky	PG	WC	Sept.
In the Matter of Jeanne Kavinsky	PG	WC	Sept.
Carolyn Gray v. Commission, et al.	PG	PD	Oct.
Paige Industrial Services, Inc. v. Commission	MC	AAO	Nov.

B. <u>New Appellate Court Cases.</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
Brij Bhargava, et al. v. Prince George's County Public Schools Proposed Southern K-8 Middle School, et al.	PG	AALU	May
Friends of Ten Mile Creek v. Montgomery County Planning Board	MC	AALU	Aug.

**INDEX OF YTD RESOLVED CASES
(7/1/2023 TO 6/30/2024)**

<u>A. Trial Court Cases Resolved</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
English-Figaro v. Planning Board of Prince George's County	PG	AALU	June
Fairwood Community Association, Inc. v. Prince George's County Planning Board	PG	AALU	July
Citizen Association of Kenwood, Inc. v. Commission	MC	LUD	Aug.
In the Matter of James Montville	PG	WC	Aug.
Wilmington Savings Fund Society FSB v. Burke, et al.	PG	Misc.	Aug.
Commission v. Faulk	PG	DC	Aug.
Deakins v. Commission, et al.	MC	ED	Sept.
Troublefield v. Prince George's County, et al.	PG	Tort	Oct.
In the Matter of Kenneth Rogers	PG	WC	Nov.

<u>B. Appellate Court Cases Resolved</u>	<u>Unit</u>	<u>Subject Matter</u>	<u>Month</u>
In the Matter of Friends of Ten Mile Creek, et al.	MC	AALU	July
In the Matter of Friends of Ten Mile Creek, et al.	MC	AALU	Oct.

Disposition of FY24 Closed Cases Sorted by Department		
CLIENT	PRINCIPAL CAUSE OF ACTION IN DISPUTE	DISPOSITION
Employees Retirement System		
Finance Department		
Department of Human Resources & Management		
Montgomery County Department of Parks		
Deakins v. Commission, et al.	Complaint by former employee relating to Commission's COVID-19 vaccination mandate. Complaint alleged disability discrimination and unreasonable failure to accommodate	09/25/2023 – Case settled.
Montgomery County Park Police		
Montgomery County Planning Board		
Citizen Association of Kenwood, Inc. v. Maryland-National Park and Planning Commission	Complaint to prevent implementation of road diet project for Little Falls Parkway in Montgomery County.	08/01/2023 - Voluntary Dismissal Without Prejudice
In the Matter of Friends of Ten Mile Creek, et al.	Appeal of decision affirming the Montgomery County Planning Board's approval of Site Plan 820200160 – Creekside at Cabin Branch.	07/18/2023 – Judgment of the Circuit Court for Montgomery County affirmed.
In the Matter of Friends of Ten Mile Creek, et al.	Petitioner seeks appeal of Decision of the Appeal's Court of Maryland affirming the Appeal of decision affirming the Montgomery County Planning Board's approval of Site Plan 820200160 – Creekside at Cabin Branch.	10/24/2023 – Petition denied.

Prince George's County Department of Parks and Recreation		
In the Matter of James Montville	Claimant sought judicial review of Workers' Compensation Commission decision dated October 3, 2022, which determined that he has a 12% permanent partial disability. Claimant was seeking an award that was much higher.	08/10/2023 - Case remanded to Workers' Compensation Commission for approval of agreement.
Commission v. Faulk	Subrogation action to recover losses for damage(s) to Commission property	08/28/2023 - Judgment in favor of the Commission for \$3,546.13.
Wilmington Savings Fund Society FSB v. Burke, et al.	Lawsuit to quiet title to deed of trust and extinguish the lien and debt associated with that deed, establishing that Plaintiff's deed is in full force and effect and has first priority over the Commission's lien on property owned by Tomel Burke, judgment Debtor.	08/30/2023 - Judgment by Consent against the Commission in favor of the Plaintiff
Troublefield v. Prince George's County, et al.	Tort suit for injuries allegedly sustained while attending a graduation ceremony at Show Pace Arena.	10/13/2023 – Case settled and dismissed.
In the Matter of Kenneth Rogers	Claimant sought judicial review of Workers' Compensation Commission decision dated March 30, 2023, which determined that the Claimant did not suffer from a serious disability.	10/19/2023 – Case settled and remanded to Workers' Compensation Commission for approval of agreement.
Prince George's County Planning Board		
English-Figaro v. Planning Board of Prince George's County	Petition for Judicial Review of Planning Board's approval of Preliminary Plan of Subdivision 4-2104.	06/01/2023 Case voluntarily dismissed with prejudice.
Fairwood Community Association, Inc. v. Prince George's County Planning Board	Petition for Judicial Review of Planning Board's approval of Preliminary Plan of Subdivision 4-2104.	07/27/2023 - Case voluntarily dismissed without prejudice.
Prince George's Park Police		
Office of Internal Audit		

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DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND

Commission v. Build A Barn, LLC

Case No. D-06-CV-23-013209 (C)

Lead Counsel: Johnson
Other Counsel:

Abstract: Breach of Contract matter to recover funds expended for sheds that were never received.

Status: Case to be sent to Judge for ruling of affidavit judgment.

Docket:

05/11/2023	Complaint filed
08/18/2023	Defendant served
11/29/2023	Hearing

DISTRICT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Commission v. Lindsey

Case No. 050200183742022 (D)

Lead Counsel: Johnson
Other Counsel:

Abstract: Action to recover losses for damage(s) to Commission property.

Status: Motion for Alternative Service granted.

Docket:

09/12/2022	Complaint filed
12/05/2022	Request for summons renewal filed
05/02/2023	Request for summons renewal filed
06/26/2023	Affidavit of Non-service filed
07/18/2023	Motion for Alternative Service denied
08/25/2023	Second Motion for Alternative Service filed
09/12/2023	Order of the Court. Motion for Alternative Service Granted
10/26/2023	Request for summons renewal filed

CIRCUIT COURT FOR CHARLES COUNTY, MARYLAND

Beth Mays v. Maryland-National Park and Planning Commission, et al.

Case No. C-08-CV-23-000516 (ED)

Lead Counsel: Ticer (Foster)
Other Counsel: Crowe

Abstract: Employee terminated from the Commission for her COVID vaccination status has brought suit alleging several employment-related claims, such as religious and genetic discrimination, retaliation, and wrongful discharge

Status: Hearing on Motion to Dismiss set.

Docket:

07/03/2023	Complaint filed
07/12/2023	Commission served
08/07/2023	Commission's Motion to Dismiss filed
08/21/2023	Consent Stipulation to Extend time for Plaintiff to Respond to Motion to Dismiss
09/05/2023	Response in Opposition to Motion to Dismiss
09/05/2023	Amended Complaint
09/13/2023	Order to Extend time
09/20/2023	Motion to Dismiss Amended Complaint
10/05/2023	Response in Opposition to Motion to Dismiss
10/16/2023	Reply to Plaintiff's Opposition to Motion to Dismiss
12/20/2023	Hearing to issue ruling on Motion to Dismiss

CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

In the Matter of Joshua P. Scully
Case No. C-15-CV-23-002546 (WC)

Lead Counsel: Ticer (Foster)
Other Counsel:

Abstract: Claimant seeks judicial review of Workers' Compensation Order finding that claimant at maximum medical improvement and denying right shoulder surgery.

Status: Hearing set.

Docket:

06/27/2023	Petition for Judicial Review filed
12/01/2023	Hearing set

In the Matter of Pocahontas Drive Homeowners
Case No. C-15-CV-23-002634 (AALU)

Lead Counsel: Mills
Other Counsel:

Abstract: Petitioners seeks Judicial Review of the Montgomery County Planning Department's approval of Forest Conservation Act Exemption 4203166E to Davis Airport.

Status: Matter taken under advisement.

Docket:

07/05/2023	Petition for Judicial Review filed
07/14/2023	Response to Petition for Judicial Review
09/05/2023	Motion to Extend time for Filing of the Administrative Record
09/15/2023	Order Granting Motion to Extend Time
09/18/2023	Notice of Record Issued
10/06/2023	Memorandum
10/26/2023	Responsive Memorandum
11/14/2023	Hearing held. Matter taken under advisement.

Paige Industrial Services, Inc. v. The Maryland-National Park and Planning Commission

Case No. C-15-CV-23-004219 (AAO)

Lead Counsel: Rupert
Other Counsel: Mills (CCRC)

Abstract: Judicial review of the decision of the CCRC, dated October 17, 2023, relating to contractor's claim for additional payments for construction at Rock Creek Maintenance Yard.

Status: Appeal filed.

Docket:

11/10/2023	Petition for Judicial Review
11/30/2023	Scheduling and Briefing Order of Court issued

Wright v. Commission

Case No. C-15-CV-23-000909 (Misc.)

Lead Counsel: Patterson (Marcus Bonsib)
Other Counsel: Marcus

Abstract: Plaintiff is seeking to enforce a request under the Maryland Public Information Act.

Status: Trial set.

Docket:

03/09/2023	Complaint
04/13/2023	Motion for Summary Judgment
05/26/2023	Opposition to Motion for Summary Judgment
08/14/2023	Motions Hearing
08/14/2023	Court takes under advisement Plaintiff's Motion for Discovery and Defendant's Motion for Summary Judgment
08/25/2023	Motion for Summary Judgment Denied. Motion for Discovery deferred for 30 days
09/25/2023	Motion for Reconsideration and revise order denying Motion for Summary Judgment and request for hearing
10/17/2023	Consent Motion to Extend Time
10/25/2023	Opposition to Motion to Revise Judgment and request for hearing
11/14/2023	Order of Court denying Motion for Reconsideration
01/18/2024	Trial

CIRCUIT COURT FOR PRINCE GEORGE’S COUNTY, MARYLAND

Tiffany Celey v. Maryland-National Capital Park and Planning Commission

Case No. C-16-CV-23-003168 (ED)

Lead Counsel: Ticer (Foster)
Other Counsel: Johnson

Abstract: Defendant is alleging discrimination based upon race, sex, retaliation, and disability.

Status: Commission has yet to be served.

Docket:

07/12/2023	Complaint filed
09/26/2023	Summons reissued

In the Matter of William Dickerson

Case No. C-16-CV-23-001402 (AAO)

Lead Counsel: Gates (Groom Law Group)
Other Counsel:

Abstract: Claimant seeks judicial review of Employees Retirement System (“ERS”) decision dated February 21, 2023, which denied a reconsideration of the COLA calculation.

Status: Petition for Judicial Review filed.

Docket:

03/28/2023	Petition for Judicial Review filed
04/05/2023	ERS served
04/25/2023	Administrative Record received
05/26/2023	Stipulation for Extension of Time for Petition to File Opening Memorandum
06/20/2023	Petitioner’s Memorandum of Law in Support of Petition for Judicial Review
06/29/2023	Stipulation for Extension of Time for Respondent to File Answering Memorandum
06/30/2023	Order Granting Extension of Time
07/31/2023	Response to Petitioner’s Memorandum
08/12/2023	Reply Memorandum

Carolyn Gray v. Maryland-National Capital Park and Planning Commission, et al.

Case No. C-16-CV-23-004509 (PD)

Lead Counsel: Rupert
Other Counsel:

Abstract: Plaintiff alleges the Commission caused damage to her property.

Status: Complaint filed.

Docket:

09/30/2023	Complaint filed
10/13/2023	Commission served
11/20/2023	AEB Properties Motion to Dismiss

In the Matter of Danielle Jones-Dawson

Case No. C-16-CV-22-000675 (AAO)

Lead Counsel: Crowe
Other Counsel: Ticer (Foster)

Abstract: Claimant seeks judicial review of Merit Board decision (October 20, 2022) denying claimant's appeal of her termination due to non-compliance with Notice 21-07, COVID-19 Vaccination Requirements.

Status: Hearing set.

Docket:

11/20/2022	Petition for Judicial Review filed
11/29/2022	Response to Petition for Judicial Review
02/08/2023	Memorandum for Petitioner
03/09/2023	Commission's Answering Memorandum
11/20/2023	Motion for Continuance
01/29/2024	Hearing set

In the Matter of Jeanne Kavinski

Case No. C-16-CV-23-001821, C-16-CV--23-001826, C-16-CV-23-001827 (WC)

Lead Counsel: Ticer (Foster)
Other Counsel:

Abstract: Claimant filed the same issues in three claims with overlapping body parts seeking authorization for treatment and causal relationship of a new injury. In addition, the Commission contested whether a compensable injury occurred in a new claim (D/A:4/28/2021). The Commission was successful in defending the authorization for treatment and against the new claim. Claimant has appealed the determination in all three claims.

Status: Response filed. Discovery Pending in C-16-CV-23-001827. Other cases consolidated. Trial set.

Docket:

04/18/2023	Petition for Judicial Review filed
05/02/2023	Response to Petition for Judicial Review filed in all three cases
05/02/2023	Commission's Designation of Experts filed in case number C-16-CV-23-001827
06/27/2023	Order of the Court. Cases C-16-CV23-001821 and C-16-CV-23-001826 are consolidated. Case - C-16-CV-23-001821 to serve as the lead case
08/29/2023	Scheduling Order issued in C-16-CV23-001827
05/08/2024	Trial in case C-16-CV23-001827

In the Matter of Jeanne Kavinsky

Case No. C-16-CV-23-004139 (WC)

Lead Counsel: Ticer (Foster)
Other Counsel: Crowe

Abstract: Claimant sought a finding that treatment to her left ankle, to include surgery, and associated indemnity benefits were causally related to any of the subject claims; all treatment and related benefits were denied. Claimant also sought a finding of permanent disability related to head injuries; the Commission found no permanent disability. Claimant has appealed all findings.

Status: Trial set.

Docket:

09/08/2023	Petition for Judicial Review filed
09/29/2023	Response to Petition for Judicial Review
09/29/2023	Expert Designation
06/10/2024	Settlement Hearing
08/13/2024	Trial

In the Matter of Jeanne Kavinsky
Case No. C-16-CV-23-004296 (WC)

Lead Counsel: Ticer (Foster)
Other Counsel: Crowe

Abstract: Claimant sought a finding that treatment to her left ankle, to include surgery, and associated indemnity benefits were causally related to any of the subject claims; all treatment and related benefits were denied. Claimant also sought a finding of permanent disability related to head injuries; the Commission found no permanent disability. Claimant has appealed all findings.

Status: Trial set.

Docket:

09/19/2023	Petition for Judicial Review filed
09/29/2023	Response to Petition for Judicial Review
09/29/2023	Expert Designation
06/10/2024	Settlement Hearing
08/13/2024	Trial

In the Matter of Jeanne Kavinsky
Case No. C-16-CV-23-004297 (WC)

Lead Counsel: Ticer (Foster)
Other Counsel: Crowe

Abstract: Claimant sought a finding that treatment to her left ankle, to include surgery, and associated indemnity benefits were causally related to any of the subject claims; all treatment and related benefits were denied. Claimant also sought a finding of permanent disability related to head injuries; the Commission found no permanent disability. Claimant has appealed all findings.

Status: Petition for Judicial Review filed.

Docket:

09/19/2023	Petition for Judicial Review filed
09/29/2023	Response to Petition for Judicial Review
09/29/2023	Expert Designation
10/07/2024	Trial

In the Matter of Jeanne Kavinsky
Case No. C-16-CV-23-004298 (WC)

Lead Counsel: Ticer (Foster)
Other Counsel:

Abstract: Claimant sought a finding that treatment to her left ankle, to include surgery, and associated indemnity benefits were causally related to any of the subject claims; all treatment and related benefits were denied. Claimant also sought a finding of permanent disability related to head injuries; the Commission found no permanent disability. Claimant has appealed all findings.

Status: Trial set.

Docket:

09/19/2023	Petition for Judicial Review filed
09/29/2023	Response to Petition for Judicial Review
09/29/2023	Designation of Experts
07/30/2024	Trial set.

Simmons v. Commission, et al.
Case No. C-16-CV-23-000873 (Tort)

Lead Counsel: Thornton
Other Counsel: Crowe

Abstract: Tort suit for injuries allegedly sustained while attending Therapeutic Recreations Programs, Kids' Care After-School Program at Cedar Heights Community Center.

Status: In discovery.

Docket:

02/24/2023	Complaint filed
02/28/2023	Commission served
03/28/2023	Motion to Dismiss filed.
03/30/2023	Prince George's County's Motion to Dismiss
04/14/2023	Stipulation of Dismissal as to Defendants Prince George's County and Maryland-National Park and Planning Commission
04/20/2023	Answer of Defendant Chatman
05/09/2023	Scheduling Order issued
06/05/2023	Order Granting Plaintiff's Consent Motion to Extend Time to Respond to Motion to Dismiss
08/21/2023	Line to Correct Misnomer, Entry of Appearance and Notice of Discovery filed
05/06/2024	Trial

Rakiya-Rae Wallace v. Commission, et al. v. Commission, et al.

Case No. C-16-CV-23-003055 (ED)

Lead Counsel: Ticer (Foster)
Other Counsel: Johnson

Abstract: Employee terminated from the Commission for her COVID vaccination status has brought suit alleging several employment-related claims, such as religious and genetic discrimination, retaliation, and wrongful discharge

Status: Motion to Dismiss pending.

Docket:

07/03/2023	Complaint filed
07/12/2023	Commission served
08/07/2023	Motion to Dismiss and Supporting Memorandum
08/21/2023	Consent Stipulation to Extend Time to Respond to Motion to Dismiss
09/05/2023	Response in Opposition to Defendants' Motion to Dismiss
09/05/2023	Amended Complaint
09/18/2023	Order of Court. Motion to Dismiss Denied as Moot
09/22/2023	Motion to Dismiss Amended Complaint
10/06/2023	Response in Opposition to Dismiss Amended Complaint
10/18/2023	Reply to Opposition to Motion to Dismiss

APPELLATE COURT OF MARYLAND

Brij Bhargava, et al. v. Prince George's County Public Schools
Proposed Southern K-8 Middle School

Case No. ACM REG – 0659-2023 (AALU)
(Originally filed under CAL21-13945 in Prince George's County)

Lead Counsel: Warner
Other Counsel:

Abstract: Appeal of decision affirming the Prince George's County Planning Board's decision to affirm the Planning Director's approval of a tree conservation plan, a revision of that tree conservation plan, and variances to the Woodland Conservation Ordinance that allowed removal of specimen trees.

Status: Appeal filed.

Docket:

05/31/2023	Appeal filed
06/27/2023	Order to Proceed
08/25/2023	Briefing Notice
08/30/2023	Joint Stipulation to Modify Briefing Schedule
10/11/2023	Record Extract
10/13/2023	Appellant Brief
12/01/2023	Appellees Brief due

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

Case No. ACM- REG-0840-2023 (CD)
(Originally filed under 483255-V in Montgomery County)

Lead Counsel: Rupert
Other Counsel: Mills (CCRC)

Abstract: Appeal of decision affirming CCRC decision denying HMF's demand that an allowance be made, and additional monies be paid by the Commission to HMF for construction at Greenbriar Local Park.

Status: Settlement reached.

Docket:

06/26/2023	Notice of Appeal
07/11/2023	Civil Information Report
08/03/2023	Order to Proceed
09/19/2023	Briefing Notice
10/28/2023	Notice of Settlement

Wolf, et al. v. Planning Board of Prince George's County
Case No. ACM-REG-2099-2022 (AALU)
(Originally filed under CAL20-14895 in Prince George's County)

Lead Counsel: Warner
Other Counsel:

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

Status: Oral held. Awaiting decision.

Docket:

02/02/2023	Notice of Appeal
02/23/2023	Show Cause Issued to Appellant. Civil Appeal Information Report due March 10, 2023.
02/28/2023	Motion
03/03/2023	Order
03/08/2023	Motion
03/20/2023	Order to Proceed
05/19/2023	Briefing Notice
07/03/2023	Appellant's Brief filed
08/04/2023	Appellee's Brief filed
08/24/2023	Reply Brief
08/25/2023	Reply Brief
09/25/2023	Scheduling Notice
11/01/2023	Oral argument held. Awaiting decision.

SUPREME COURT OF MARYLAND

No Pending Matters

U.S. DISTRICT COURT OF MARYLAND

Fennell v. The Maryland-National Capital Park and Planning Commission
8:23-cv-02314-DLB (ED)

Lead Counsel: Ticer (Foster)
Other Counsel: Thornton; Rupert

Abstract: Fennell has filed suit arising out of her termination from employment related to her COVID vaccination status.

Status: Complaint filed. Commission has yet to be served.

Docket:

08/24/2023	Complaint filed
09/07/2023	Disclosure statement by Fennell
10/31/2023	Correspondence regarding Waiver of Service, Extension of Time and/or Stay
10/31/2023	Order Granting Extension of Time
11/29/2023	Case Reassigned to Judge D. Boardman

Izadjoo v. Commission, et al.
8:23-cv-00142 GLS (ED)

Lead Counsel: Ticer (Foster)
Other Counsel: Thornton

Abstract: Former Montgomery Parks employee alleging employment discrimination

Status: Motion pending.

Docket:

01/19/2023	Complaint filed
01/25/2023	Case Management Order
02/07/2023	Commission served
02/13/2023	Request for Pre-Motion Conference re: Intent to File Motion to Dismiss
09/01/2023	Order granting Defendant Leave to file Proposed Motion
09/06/2023	Consent to Magistrate Judge
09/08/2023	Order referring case to Magistrate
09/22/2023	Motion to Dismiss for Failure to State a Claim
10/06/2023	Response in Opposition to Motion to Dismiss

U.S. COURT OF APPEALS FOR THE FOURTH CIRCUIT

Evans v. Commission, et al.
Case No. 23-1475
(Appeal from 8:19-cv-02651) (ED)

Lead Counsel: Ticer (Foster)
Other Counsel: Levan

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

Status: District Court decision affirmed.

Docket:

04/25/2023	Appeal filed
05/25/2023	Briefing Order filed
07/05/2023	Joint Appendix by Evans
07/05/2023	Brief of Evans
08/04/2023	Brief of Commission, et al.
08/07/2023	Docket Correction requested by Commission, et al.
08/08/2023	Brief of Commission, et al.
08/25/2023	Evans' Reply Brief filed
11/21/2023	Order of Court affirming decision of the District Court