

MOTION: BAILEY

**May 18, 2021
Regular Meeting**

SECOND: FRANKLIN

Res. No. 21-297

RE: AMEND AND ADOPT THE 2021 RESTATEMENT OF THE PLAN DOCUMENT OF THE SUPPLEMENTAL PENSION PLAN FOR SWORN AND UNIFORMED PUBLIC SAFETY PERSONNEL

WHEREAS, in 1985, the Prince William Board of County Supervisors (Board) established a Supplemental Pension Plan for Police Officers and Uniformed Fire and Rescue Personnel (the Plan) governed by a Trust Agreement (the Trust) effective July 1, 1985; and

WHEREAS, the Board adopted Resolution Number (Res. No.) 17-472 on October 3, 2017, thereby prospectively amending the Plan's Option 2 Normal and Late benefit provision to make it more equitable to employees – (Amendment 1); and

WHEREAS, the Board adopted Res. No. 18-292 on May 8, 2018, thereby removing the citation of a specific County and Participant contribution percentage (Amendment 2); and

WHEREAS, the Board adopted Res. No. 19-227 on April 30, 2019, thereby expanding the group of employees eligible to participate in the Plan to include uniformed employees of the Sheriff's Office and Prince William-Manassas Regional Adult Detention Center – (Amendment 3); and

WHEREAS, the Board adopted Res. No. 20-540 on July 21, 2020, thereby amending the Plan Document and related Trust Agreement to (1) change the name of the Plan; (2) change the Plan's required beginning date; (3) change the provision for beneficiary designations; (4) provide for the mandatory distributions of small dollar benefits, and (5) make other administrative, clarifying, and corrective changes – (Amendment 4); and

WHEREAS, at the April 13, 2021, meeting of the Board, the County Executive recommended increasing the plan's Option 2 benefit, and all benefits utilizing or derived from the Option 2 benefit, from \$640 to \$790 on a prospective basis effective July 1, 2021, as a budget recap amendment to the Fiscal Year (FY) 2022 Proposed Budget; and

WHEREAS, the recommended modification to the Option 2 benefit, and all benefits utilizing or derived from the Option 2 benefit, from \$640 to \$790 on a prospective basis effective July 1, 2021, can be absorbed by the County's current contribution rate of 1.44%; and

WHEREAS, at the recommendation of the Plan's legal counsel, Mooney, Green, Saindon, Murphy & Welch, P.C., also incorporating the previously adopted Amendments 1, 2, 3 and 4 into a consolidated 2021 Restatement of the Plan Document is recommended to ensure consistent and accurate provisions and terminology throughout the documents; and

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WHEREAS, the Board is requested to approve these changes in accordance with Article XIV, Section 14.01 of the Plan Document;

NOW, THEREFORE, BE IT RESOLVED that the Prince William Board of County Supervisors hereby adopts the Amendment and 2021 Restatement of the Plan Document of the Supplemental Pension Plan for Sworn & Uniformed Public Safety Personnel.

ATTACHMENT: Attachment A – 2021 Restatement of the Plan Document (Redline Version)

Votes:

Ayes: Angry, Bailey, Boddye, Candland, Franklin, Lawson, Vega, Wheeler

Nays: None

Absent from Vote: None

Absent from Meeting: None

ATTEST: _____

Andrea P. Madden

Clerk to the Board

PRINCE WILLIAM COUNTY
SUPPLEMENTAL PENSION PLAN
FOR SWORN & UNIFORMED PUBLIC SAFETY POLICE
OFFICERS AND
UNIFORMED FIRE AND RESCUE DEPARTMENT^[AL1]
PERSONNEL



PLAN DOCUMENT



Original Effective Date: July 1, 1985

- Amended: September 24, 1991
(BoCS Res. #91-775)
- Amended: September 10, 1996
(BoCS Res. #96-907)
- Amended: March 20, 2001
(BoCS Res. #01-268)
- Amended: September 2, 2003
(BoCS Res. #03-685)
- Amended: August 2, 2005
(BoCS Res. #05-726)
- Amended: September 18, 2007
(BoCS Res. #07-791)
- Amended: February 3, 2009
(BoCS Res. #09-61)
- Amended: January 18, 2011
(BoCS Res. # 11-38)
- Amended: July 23, 2013
(BoCS Res. #13-449)
- Amended: July 1, 2014
(BoCS-FY2014 Budget Adoption)
- Amended: August 5, 2014
(BoCS Res #14-489)
- Reinstated: October 3, 2017
(BoCS Res. #17-471)
- Amended: October 3, 2017
(BoCS Res. #17-472)^[AL2]
- Amended: May 8, 2018
(BoCS Res. #18-292)^[AL3]
- Amended: April 30, 2019
(BoCS Res. #19-227)^[AL4]
- Amended: July 21, 2020
(BoCS Res. # 20-540)^[AL5]

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Prince William County, hereinafter called the “County”, hereby adopts the supplemental pension plan covering Police Officers and Uniformed Fire and Rescue Department Personnel of the County.

ARTICLE I

NAME, EFFECTIVE DATE AND PURPOSE

Section 1.01 – Name^[AL8]

The name of the Plan, is previously known as the “Prince William County Supplemental Pension Plan for the Police Officers and Uniformed Fire and Rescue Department Personnel,” is, effective February 20, 2020, the “Prince William County Supplemental Pension Plan for Sworn & Uniformed Public Safety Personnel,” hereinafter called the “Plan.”

Section 1.02 – Effective Date

The effective date of the Plan is July 1, 1985.

Section 1.03 – Purpose^[AL9]

The purpose of the Plan is to provide a systematic plan for the retirement of ~~the Police Officers and Uniformed Fire and Rescue Department Personnel-Employees, as defined in Section 2.11,~~ of the County and, under the conditions set forth herein, to provide a pension upon the retirement of ~~Police Officers and Uniformed Fire Rescue Personnel~~ such Employees, the amount of which takes into account the length of service and the compensation paid by the County to such ~~Police Officers and Uniformed Fire and Rescue Department Personnel-Employees~~ with recognition given to the benefits that will be provided by the Virginia Retirement System (VRS).

ARTICLE II

DEFINITIONS

Section 2.01 – Actual Retirement Date

Shall mean the date on which an Employee retires with an Early Retirement Pension, Late Retirement Pension, or Normal Retirement Pension.

Section 2.02 – Actuarial Equivalent

Shall mean a benefit of equal value when computed in accordance with the UP-84 Mortality Table at eight percent (8%) interest per annum, such assumptions taking into consideration the difference in fund earnings and life expectancy when the benefit commences at a time other than the Normal Retirement Pension commencement date and the value of additional guarantees provided under an option being utilized.

Section 2.03 – Actuary

Shall mean an enrolled actuary as provided for in section 7701(a)(35) of the Internal Revenue Code. The term “enrolled actuary” as defined in section 7701(a)(35) of the Code means a person who is enrolled by the Joint Board for the Enrollment of Actuaries established under subtitle C of the title III of the Employee Retirement Income Security Act of 1974.

Section 2.04 – Age

Shall mean age at last birthday.

Section 2.05 – Compensation

Shall mean the base salary paid to an Employee by the County during twelve (12) consecutive calendar months, plus any Mandatory Employee Contributions picked up under Section 414(h) of the Internal Revenue Code, but excluding any lump sum payments made at termination of employment such as severance pay, pay for unused vacation, sick days, or other similar compensation, provided, however, that any amount of compensation for which the Employee has entered into a deferred arrangement with the Employer shall be credited to the pay period actually earned.

Base salary includes any pay supplements approved by the County and VRS as constituting part of base pay, including but not limited to, career development pay, incentive pay, Retention Bonuses, and any other pay supplements that are reportable for average final computation calculations.

Effective January 1, 2002, annual compensation on which pension benefits and employee contributions shall be calculated shall be limited to \$200,000 or such greater amount as determined by the Secretary of the Treasury or his delegate as of January 1 of any calendar year.

From January 1, 1993 to December 31, 2001, annual compensation on which pension benefits and employee contributions was calculated was limited to \$150,000 or such greater amount as determined by the Secretary of the Treasury or his delegate as of January 1 of any calendar year.

Section 2.06 – Benefit Commencement Date

Shall mean the effective date of the commencement of benefit payments.

Section 2.07 – Board of County Supervisors

Shall mean the Supervisors of Prince William County.

Section 2.08 – County

Shall mean Prince William County, Virginia.

Section 2.09 – Credited Service^[AL10]

Credited Service shall mean the number of years and months of service as an Employee with the County following ~~his-the~~ Employee's most recent date of hire including: (a) any military service provided such military service commenced after the Participant completed ~~his-the~~ probationary period and the Participant was drafted, called or otherwise required by law to enter military service, or enlisted either in lieu of being legally required to serve or during a period of national emergency, and the individual returned to employment and plan participation within three (3) months after separation from military service, or such longer period during which ~~his-the~~ individual's employment rights are protected by law, and (b) any approved Leave of Absence of not more than twelve (12) months.

Notwithstanding any provision of this Plan to the contrary, effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with IRC Section 414(u).

Credited Service shall not include any years and months as an Employee prior to the most recent date of employment, unless the Participant has been credited with such previous credited service in accordance with Section 3.04 or is reemployed following benefit commencement in accordance with Section 17.01.

~~Credited Service shall also include the years and months of service as an Employee holding a law enforcement position with the County Sheriff's Department prior to the establishment of the Police Department.~~^[AL11]

For purposes of determining Credited Service, dates of hire, termination, retirement, etc., the effective date will be considered to occur on the first day of the month if it occurs on or before the fifteenth day of the month. Otherwise, it will be treated as occurring on the first day of the following month. Effective January 1, 2014, Credited Service will be considered to begin with and will be rewarded for each month in which an Employee is employed with the County as of the first business day of such month.^[AL12]

Credited Service shall also include years and months of service as an Employee holding a law enforcement position with the County Sheriff's Office prior to the establishment of the Police Department. However, Credited Service shall not include years and months of service as a sworn Employee of the Sheriff's Office or the Prince William Manassas Regional Adult Detention Center on or after establishment of the Police Department and prior to July 1, 2019.^[AL13]

Section 2.10 – Early Retirement Pension

Shall mean the pension as provided in Article VII.

Section 2.11 – Employee

Employee s shall mean any Police Officers and Uniformed Fire and Rescue Department Personnel of the County, ~~excluding for the purposes of the Plan any other individual who is receiving remuneration for service with the County.~~ Effective July 1, 2019, Employee shall also mean any employees of the Prince William County Sheriff's Office and employees of the Prince William Manassas Regional Adult Detention Center who are employed in positions eligible to receive benefits pursuant to Virginia Code Sections 51.1-138(B)(i) or (iv). ^[AL14] Any employee on a Leave of Absence of not more than twelve (12) months shall continue to be an Employee of the County.

Section 2.12 – Final Average ~~Monthly~~ ^[AL15] Earnings

For Participants hired or rehired before July 1, 2010, Final Average ~~Monthly~~ Earnings shall mean the Participant's highest Compensation received during the thirty-six (36) consecutive months of Credited Service which produces the highest average; or if the Participant has less than thirty-six (36) consecutive months of Credited Service with the County, the average Annual Compensation received during the entire period of Credited Service prior to his termination of employment.

For Participants hired or rehired on or after July 1, 2010, Final Average ~~Monthly~~ Earnings shall mean the Participant's highest Compensation received during the sixty (60) consecutive months of Credited Service which produces the highest average; or if the Participant has less than sixty (60) consecutive months of Credited Service with the County, the average Annual Compensation received during the entire period of Credited Service prior to his termination of employment.

Section 2.13 – Internal Revenue Code

Shall mean the Internal Revenue Code of 1986, as amended.

Section 2.14 – Investment Manager

Shall mean an entity that (a) has the power to manage, acquire or dispose of Plan assets and (b) acknowledges fiduciary responsibility to the Plan in writing. Such entity must be a person, firm, or corporation registered as an investment adviser under the Investment Advisers Act of 1940, a bank, or an insurance company.

Section 2.15 – Late Retirement Pension

Shall mean a pension as provided in Article VI.

Section 2.16 – Leave of Absence

Shall mean the period of time in which an Employee remains absent from service without pay for any reason other than quit, discharge, retirement or death including, but not limited to, approved leave of absence, layoff, maternity leave and military leave.

Section 2.17 – Mandatory Participant Contributions

Shall mean contributions made in accordance with Section 4.01 of the Plan.

Section 2.18 – Normal Retirement Date

Shall mean the earlier of (i) the Participant's fifty-fifth (55th) birthday or (ii) the completion of twenty-five (25) years of Credited Service.

Section 2.19 – Normal Retirement Pension

Shall mean the pension provided in Article V.

Section 2.20 – Participant

Shall mean any employee who becomes a Participant of the Plan as provided in Article III.

Section 2.21 – Pension Trustees or Board of Trustees

Shall mean the Trustees as provided in Article XIII.

Section 2.22 – Plan Anniversary

Shall mean each July 1.

Section 2.23 – Plan Year

Shall mean the twelve (12) month period commencing on a Plan Anniversary.

Section 2.24 – Pre-Retirement Death Benefits

Shall mean the benefit provided under Article VIII.

Section 2.25 – Trust

Shall mean the legal entity resulting from the trust agreement between the County and the Trustees who receive the contributions of the County and hold, invest and disburse funds to or for the benefit of Participants and their beneficiaries.

Section 2.26 – Trust Fund

Shall mean the total contributions made by the County and the Participants to the Trust pursuant to the Plan, increased by profits, gains, income and recoveries received and decreased by losses, depreciation, benefits paid and expenses incurred in the administration of the Trust and Plan. Trust Fund includes all assets acquired by investment and reinvestment which are held in the Trust by the Trustees.

Section 2.27 – Trustees

Shall mean the parties named in the trust agreement executed by the County and the Trustees and any duly appointed additional or successor Trustees or Trustees acting hereunder.

Section 2.28 – Withdrawal Benefit

Shall mean the benefit as provided in Article IX.

ARTICLE III

PARTICIPATION IN THE PLAN

Section 3.01 – Eligibility

Each Police Officer and Uniformed Fire and Rescue Department Employee:

- (a) who was employed by Prince William County prior to July 1, 1985;
- (b) who is covered by and participates in the Virginia Retirement System; and
- (c) who elects, pursuant to Section 3.02, to participate in the pPlan, will be a Participant of this Plan.

Each Police Officer and Uniformed Fire and Rescue Department Employee of the County hired after June 30, 1985 automatically becomes a Participant of the Plan on ~~his~~ the Employee's Date of Employment.

Each sworn employee of the Prince William County Sheriff's Office and sworn employee of the Prince William Manassas Regional Adult Detention Center shall automatically become a Participant of the Plan on the later of the individual's date of hire or July 1, 2019; for the purposes of determining Credited Service, earnings, and benefit eligibility under this Plan, date of hire shall mean July 1, 2019 for those Employees of the Sheriff's Office and Adult Detention Center who become Participants on July 1, 2019. [AL16]

A retired Participant automatically becomes a Participant of this Plan if ~~he the Participant~~ returns to employment with the County as an eEmployee.^[AL17]

Section 3.02 – Election Procedure

- (a) All Police Officers or Uniformed Fire and Rescue Department Personnel, employed by Prince William County and covered by and participating in the Virginia Retirement System shall have the right to elect to become Participants of this Plan only if they elect to do so pursuant to the procedure outlined in Subsection (b) of this section.
- (b) The election procedure shall be as follows:
 - (1) On or after May 15, 1985, the Employee shall be given written notice of the right of election.
 - (2) An Employee shall have until July 1, 1985 to elect to become a Participant of this Plan provided, however, an Employee shall have the right to change any election made prior to July 1, 1985 until July 1, 1985. Failure to elect within the periods described above shall be considered an irrevocable decision to not participate in this Plan.
 - (3) An Employee's election shall be in writing.
 - (4) A Participant's effective Date of Election shall be July 1, 1985, regardless of his actual election date.
 - (5) On July 1, 1985, a Participant's election to join or not to join the Plan shall be irrevocable.

Section 3.03 – Notification - Description of Plan

The County shall notify each Employee when he becomes a Participant and shall supply each Employee with a description of this Plan.

Section 3.04 – Crediting ~~of~~^[AL18] Prior Periods of Employment

A former Participant who returns to employment as an Employee with the County prior to the first anniversary of his termination of employment as an Employee with the County shall have his Credited Service include the number of years and months of Credited Service credited at the end of this most recent period of employment as an Employee of the County, provided that if the Participant has received his Withdrawal Benefit, he pays into the plan the amount of the Withdrawal Benefit plus interest thereon from the date the Withdrawal Benefit was paid until the date it is redeposited in this Plan. The rate of interest will be eight and one-half percent (8.5%) per annum, compounded annually, or such other rate as may be determined by the Board of Trustees from time to time.

Any election to purchase Credited Service under this section must have been made on or before September 2, 2005 or within one (1) month of the Participant's reemployment as an Employee of the County, whichever is later. The Participant's election shall be final once this date has passed. The Board may enter into agreements with Participants purchasing Credited Service under the provisions of this subsection to pay the contributions due from them in installments over a period of up to six (6) months, provided that such Participant shall not be entitled to such Credited Service until all payments under such agreements have been made.

Notwithstanding any other provision of this subsection, no Participant shall be permitted to pay into this Plan and receive Credited Service under this or any other Section of this document if such purchase or purchases would cause the Plan to fail to meet the requirements of Section 401(m) of the Internal Revenue Code.

A former Participant who returns to employment as an Employee with the County subsequent to the first anniversary of his termination of employment is not eligible to purchase prior Credited Service.

~~Notwithstanding any other provision of this subsection, Employees may not receive Credited Service or pay into the Plan to receive Credited Service for years and months of service with the Sheriff's Office or Prince William Manassas Regional Adult Detention Center for periods prior to July 1, 2019.~~^[AL19]

ARTICLE IV

CONTRIBUTIONS

Section 4.01 – Mandatory Participant Contributions

Each Participant of the Plan shall contribute to the Trust Fund with respect to each pay period during which he is an active Participant, a percentage of his Annual Compensation with respect to such pay period. ~~The percentage shall be determined in accordance with Section 4.02.~~^[AL20] The Participant shall be fully vested in these contributions at all times.

Any Participant on a leave of absence with pay shall continue to make Mandatory Participant Contributions, in which event he shall continue to be credited with Credited Service.

~~The percentage of Annual Compensation to be contributed by Participants as Mandatory Participant Contributions shall be determined in accordance with Section 4.02 and approved by the Supervisors in accordance with Section 4.06.~~

~~Mandatory Participant Contributions will be credited with interest thereon from the last day of the Plan Year in which the contributions are made to the end of the month preceding the date of distribution subject to the proviso that interest will not be credited beyond the end of the month immediately preceding the first anniversary of the termination of employment. The rate of~~

~~interest will be four percent (4%) per annum, compounded annually, or such other rate as may be determined by the Board of Trustees from time to time.~~

~~The contributions to the fund made by each member shall be matched by the County. The total contribution rate shall be determined in accordance with Section 4.02 of the Plan Document.~~^[AL21]

Section 4.02 – Determination of Contribution Rate

The total annual contribution rate, as a percentage of payroll, shall be determined by the County based on the Actuary's recommendation and shall continue in force until a new determination is made.

Section 4.03 – County Contributions

~~Mandatory Participant Contributions shall be matched by the County, with the total contribution rate determined in accordance with Section 4.02.~~^[AL22] ~~The County contributions shall be remitted to the Trust Fund at the same time as Employee contributions are remitted. Effective September 2, 2003, the County contribution rate increased to 1.37% of pay. The percentage of Annual Compensation to be contributed by the County shall be determined in accordance with Section 4.02 and approved by the Supervisors in accordance with Section 4.06.~~^[AL23]

Section 4.04 – ~~Mandatory Participant Interest on~~^[AL24] Contributions

~~Effective September 2, 2003, Mandatory Participant Contributions decreased by 0.61% of the Annual Compensation from 1.98% to 1.37% of pay. The percentage of Annual Compensation to be contributed by Participants as Mandatory Participant Contributions shall be determined in accordance with Section 4.02 and approved by the Supervisors in accordance with Section 4.06.~~

~~Participant Contributions and County Contributions will be credited with interest thereon from the last day of the Plan Year in which the Contributions are made to the end of the month preceding the date of distribution subject to the proviso that interest will not be credited beyond the end of the month immediately preceding the first anniversary of the termination of employment. The rate of interest will be four percent (4%) per annum, compounded annually, or such other rate as may be determined by the Board of Trustees from time to time.~~^[AL25]

Section 4.05 – Payments Not to be a Charge on Any Other Fund

Payments made under the provisions of this Article shall not be a charge on any other fund in the treasury of the County, or under its control, save this Plan.

Section 4.06 – Approval of Future Contribution Rates

Effective March 30, 2001, all contribution rate increases, after that date, under this Article IV are subject to the approval of both the Board of Trustees and the Prince William County Board

of Supervisors. Any contribution rate changes shall be subject to the approval of the Board of Trustees.

Section 4.07 – Termination of Contributions

Effective July 1, 2007, for current Participants in the Plan, who have achieved both 50 years of age and 25 years of Credited Service^[AL26], the requirement for their payment of the Mandatory Participant Contribution and the requirement of the County to make the County contribution with respect to that Participant as specified by this Article shall be terminated, so long as the termination of the contributions are actuarially determined and will not adversely impact the benefits generally available under the Plan. The termination of contributions depends upon global actuarial calculations and this termination can be revoked by vote if Plan assets fall below liabilities.

Effective July 1, 2012, the Trustees revoked the termination of contributions under this Section 4.07 based upon the Plan's funded status.

ARTICLE V

NORMAL RETIREMENT PENSION

Section 5.01 – Eligibility

A Normal Retirement Pension shall be granted to each Participant who retires upon attaining his Normal Retirement Date.

In lieu of receiving a Normal Retirement Pension pursuant to Sections 5.02 and 5.04 (“Option 1”), a Participant may make an irrevocable election to receive either an Option 2 or Option 3 benefit as follows^[AL27]:

- (a) Option 2:^[AL28] for Participants whose most recent date of hire is prior to January 1, 2018 and who are^[AL29] employed^[AL30] have Credited Service on or after March 30, 2001 and prior to January 1, 2018^[AL30], a guaranteed monthly benefit of \$640 payable for 180 months ~~(“Option 2”)~~; for Participants whose most recent date of hire is on or after January 1, 2018 and who retire with at least twenty-five (25) years of Credited Service, a guaranteed monthly benefit of \$640 payable for 180 months^[AL31]; for Participants with Credited Service on or after July 1, 2021, the Option 2 benefit shall be applied by substituting \$790 for \$640, or
- (b) Option 3:^[AL32] a lump sum benefit of ~~the all~~ Participant Contributions with interest in accordance with Article ~~IVX~~, and County Contributions with interest, made in accordance with Article IV ~~plus the employer's contributions~~^[AL33] during the Participant's period of employment ~~(“Option 3”)~~^[AL34].

Section 5.02 – Amount of Option 1 Normal Retirement Pension

The annual Normal Retirement Pension benefit to an eligible Participant shall be the larger of:

- (a) One and one-half percent (1.5%) of the Participant's Final Average Earnings times the Participant's years of Credited Service, or
- (b) One and sixty-five hundredths percent (1.65%) of the Participant's Final Average Earnings in excess of \$1,200 times the Participants' years of Credited Service.

Section 5.03 – Period of Payment of Option 1 Normal Retirement Pension

The Normal Retirement Pension benefit shall commence on the first of the month coinciding with or next following the Participant's Normal Retirement Date and shall continue in equal monthly installments as provided in Article X, until termination of benefits under Section 5.05.

Section 5.04 – Supplemental Pension for Option 1 Normal Retirement Pension

In addition to the annual Normal Retirement Pension payable under Section 5.02, an eligible Participant shall receive a supplemental annual allowance (payable monthly) of \$3,000 until termination of benefits under Section 5.05. No benefits are payable under this section to any otherwise eligible Participant, who has earned less than twenty (20) years of Credited Service.

Section 5.05 – Coordination of Option 1 Normal Retirement Pension Benefits

Any Normal Retirement Pension payable under Section 5.02 and/or Section 5.04 shall be reduced by any benefit that the Participant is eligible to receive under the Virginia Retirement System. As used in this section, "eligible" refers to any retirement pension the Participant could receive whether or not the Participant has in fact applied for such benefit.

Furthermore, whenever, for any reason whatsoever, the annual pension payable from the Virginia Retirement System is increased or decreased, the pension due to the Participant under Section 5.02 and/or Section 5.04, when applied in conjunction with the first paragraph of Section 5.05, shall be redetermined.

In any event, Option 1 Normal Retirement Pension benefits payable under 5.02 and/or 5.04 shall cease at age 50.

Section 5.06 – Current Retirees

Individuals who were drawing benefits on March 30, 2001, and elected option 5.01(a) shall have the time the benefit is payable extended by 60 months.

Section 5.07 – Vesting

Participants shall vest 100% in the benefit provided by the County under the Plan upon attainment of the Participant's Normal Retirement Date.

ARTICLE VI

LATE RETIREMENT PENSION

Section 6.01 – Eligibility

A Participant of the Plan who has attained the Normal Retirement Date may retire on the first day of any month following his Normal Retirement Date. In such event, the payment of benefits to which such Participant has earned entitlement ("Late Retirement Pension") shall be deferred until his Actual Retirement Date.

In lieu of receiving a ~~Late Retirement benefit Pension~~^[AL35] pursuant to Sections 6.02 and 6.04 ("Option 1"), a Participant may make an irrevocable election to receive either an Option 2 or Option 3 benefit as follows^[AL36]:

- (a) Option 2: for Participants whose most recent date of hire is^[AL37] before January 1, 2018 and who are employed^[AL38] is employed have Credited Service on or after March 30, 2001 ~~and prior to January 1, 2018~~, a guaranteed monthly benefit of \$640 payable for 180 months ~~("Option 2")~~; for Participants whose most recent date of hire is on or after January 1, 2018 and who retire with at least twenty-five (25) years of Credited Service, a guaranteed monthly benefit of \$640 payable for 180 months^[AL39]; for Participants with Credited Service on or after July 1, 2021, the Option 2 benefit shall be applied by substituting \$790 for \$640, or
- (b) Option 3:^[AL40] a lump sum benefit of ~~the all~~ Participant Contributions with interest and County Contributions with interest, made^[AL41] in accordance with Article ~~IVIX~~ plus the employer's contributions^[AL42] during the Participant's period of employment ~~("Option 3")~~^[AL43].

Section 6.02 – Amount of Option 1 Late Retirement Pension

The annual Late Retirement Pension shall be the amount determined in accordance with the Normal Retirement Benefit described in Section 5.02 based on Credited Service and Final Average Earnings at the Participant's Actual Retirement Date.

Section 6.03 – Period of Payment of Option 1 Late Retirement Pension

The Late Retirement Pension benefit shall commence as of the first of the month following or coinciding with the Participant's Actual Retirement Date and shall continue in equal monthly installments as provided in Article X until termination of benefits under Section 6.05.

Section 6.04 – Supplemental Pension Option 1 Late Retirement Pension

In addition to the annual Late Retirement Pension payable under Section 6.02, an eligible Participant shall receive a supplemental annual allowance (payable monthly) of \$3,000 until termination of benefits under Section 6.05. No benefits are payable under this section to any otherwise eligible Participant who has earned less than twenty (20) years of Credited Service.

Section 6.05 – Coordination of Option 1 Late Retirement Pension Benefits

Any Late Retirement Pension benefits payable under Section 6.02 and/or Section 6.04 shall be reduced by any benefit that the Participant is eligible to receive under the Virginia Retirement System. As used in this section, “eligible” refers to any retirement pension the Participant could receive whether or not the Participant has in fact applied for such benefit.

Furthermore, whenever, for any reason whatsoever, the annual pension payable from the Virginia Retirement System is increased or decreased, the pension due to the Participant under Section 6.02 and/or Section 6.04, when applied in conjunction with the first paragraph of Section 6.05, shall be redetermined.

In any event, Option 1 Late Retirement Pension benefits payable under Section 6.02 and/or 6.04 shall terminate at age 50.

Section 6.06 – Current Retirees

Individuals who were drawing benefits on March 30, 2001, and elected option 6.01(a) shall have the time the benefit is payable extended by 60 months.

ARTICLE VII

EARLY RETIREMENT PENSION

Section 7.01 – Eligibility

An Early Retirement Pension shall be granted to each Participant of the Plan who retires prior to becoming eligible to receive a Normal Retirement Pension but on or after the date he completes twenty (20) years of Credited Service. A Participant who is eligible for an Early Retirement Pension may make an irrevocable election to receive either:

- (a) for Participants employed-with Credited Service on or after March 30, 2001, a guaranteed monthly benefit of \$640 payable for 180 months multiplied by 50% and then multiplied by the ratio of years of eCredited sService [AL44] to 25 (“Option 2”);

for Participants with Credited Service on or after July 1, 2021, the Option 2 benefit shall be applied by substituting \$790 for \$640, or

- (b) a lump sum benefit ~~of equal to (i) all~~ the Participant ~~e~~Contributions with interest in accordance with Article ~~IVIX~~, plus the ~~employer's contributions~~ ~~County Contributions with interest in accordance with Article IV~~ ^[AL45] times the ratio of years of ~~e~~Credited ~~s~~Service to 25 ("Option 3").

ARTICLE VIII

PRE-RETIREMENT DEATH BENEFIT

Section 8.01 – Eligibility

(a) If a Participant dies prior to termination of employment from injuries or causes occurring while in the discharge of his duties, the Designated Beneficiary(s) shall be entitled to a death benefit in the form of a lump sum payment.

(b) If a Participant dies prior to termination of employment from causes not attributable to his active duties in his Department, and that Participant is eligible for a Normal, Early or Late Retirement Pension at the time of death, the Designated Beneficiary of the Participant shall receive a lump sum benefit of ~~the all~~ Participant Contributions with interest ~~and County Contributions with interest made~~ in accordance with Article ~~IVIX plus the employer's contributions~~ ^[AL46] during the Participant's period of employment ("Option 3"). The Designated Beneficiary of a former Participant entitled to a Normal, Early or Late Retirement Pension whose benefits did not commence prior to his death or termination is entitled to receive the Participant's lump sum benefit.

Section 8.02 – Benefit Amount

The amount of pre-retirement death benefit, as described in paragraph (a) of Section 8.01, paid to the Designated Beneficiary shall be a lump sum of \$115,200. ~~The benefit is based on \$640.00 per month, times 12 months, times 15 years.~~ ^[AL47] ~~For Participants with Credited Service on or after July 1, 2021, the pre-retirement death benefit shall be a lump sum of \$142,200.~~

Section 8.03 – No Coordination of Benefits

The pre-retirement death benefit shall not be coordinated with any benefit from the Virginia Retirement System.

ARTICLE IX

WITHDRAWAL BENEFIT

Section 9.01 – Eligibility

Each Participant of the Plan who ceases to be an Employee for reasons other than death or eligibility for and receipt of a line-of-duty disability retirement under Article XVI, prior to becoming eligible for a Normal Retirement Pension or Early Retirement Pension shall receive a Withdrawal Benefit. In the event of the death of said Participant, the Participant's Designated Beneficiary will receive the Withdrawal Benefit.

Section 9.02 – Amount

The amount of the Withdrawal Benefit shall be the Participant's Mandatory Participant Contributions plus interest thereon, credited in accordance with Section 4.01. ~~The Withdrawal Benefit shall be paid within sixty (60) days of the Participant's termination of employment unless the Participant defers receipt of the withdrawal benefit. The period of deferral may not extend beyond the first anniversary of the termination of employment.~~ [AL48] The Withdrawal Benefit is payable in a lump sum (or rollover).

Effective February 20, 2020, Withdrawal Benefit with a present value of \$1,000 or less shall be automatically paid in a lump sum (or rollover) within sixty (60) days of the Participant's termination of employment, regardless of whether the Participant has submitted an application for benefits. [AL49]

ARTICLE X

NORMAL FORM OF PENSION

Section 10.01 – Normal Form of Pension

The Normal Form of pension for a Participant eligible for a Normal or Late Retirement Pension shall be a pension payable monthly for such period as provided for under the terms of the Plan. In the event a Participant is eligible for a pension under the Virginia Retirement System, the Normal Form of pension shall be reduced by the amount of the Virginia Retirement System benefit. In most cases, this would result in benefits from this plan being terminated. Upon the death of a Participant receiving the Normal Form of pension ("Option 1"), his Designated Beneficiary shall receive, in a lump sum, the excess, if any, of his lump sum benefit, as described in Paragraph (b) of Section 8.01, determined at his Actual Retirement Date over the total payment paid by this Plan to the Participant. Upon the death of a Participant receiving a guaranteed monthly benefit payable for 180 months ("Option 2"), the remainder of the monthly benefit payments, if any, will be paid to the Participant's Designated Beneficiary.

Section 10.02 – Commencement of Benefits

The effective date of benefits payable under this Plan will be as provided in the applicable section of this Plan, but for benefits other than a Withdrawal Benefit^{AL501}, no earlier than the date the latest of the following events occur.

- (a) the date the Participant terminates his service with the County;
- (b) the date specified in the Participant's application for benefits to the Board of Trustees;
- (c) the date the application for benefits is filed with the Board of Trustees.

Notwithstanding the above paragraph, benefits will begin by March 31 of the year following the year the Participant attains age 70 ½, or for distributions on or after February 20, 2020, age 72^{AL51}. Notwithstanding anything in the Plan to the contrary, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the Code in accordance with Treasury Regulation Sections 1.401(a)(9)-1 through 1.401(a)(9)-9 that were issued on April 17, 2002 and June 15, 2004, including the incidental death benefit requirement of Treasury Regulations 1.401(a)(9)-5.

Unless a Participant elects otherwise and except as provided in Section 9.02^{AL52}, actual payment of benefits with respect to a Participant or his Designated Beneficiary must begin no later than sixtieth (60th) day after the date a proper application is filed with the Board of Trustees. If the Board of Trustees is unable to effect commencement of benefits because of inability to locate the Participant or Designated Beneficiary, the commencement of benefits may be delayed until sixty (60) days after the Participant or Designated Beneficiary is located. In the event that actual commencement of periodic benefits is later than the date specified in the application, retroactive payment will be made to such effective date, but in no case earlier than the date the application was filed with the Board of Trustees.

ARTICLE XI

POST-RETIREMENT PENSION INCREASES

Section 11.01 – Eligibility

Except for a benefit elected under Sections 5.01(b), 5.04, 6.01(b), 6.04, or 7.01(b) and subject to the limitations in Section 11.03, any Participant or Spouse receiving a monthly pension-benefit provided by the Plan shall be eligible on each July 1st (effective with the August 1st annuity check) to receive a Post-Retirement Pension Increase if pension benefits have been in payment status for at least one (1) year.

Section 11.02 – Determination of Post-Retirement Pension Increase

The amount of the Post-Retirement Pension Increase shall be based on the ratio of the monthly average Customer Price Index for the previous calendar year to the monthly average of the Consumer Price Index for the second previous calendar year. The monthly average Consumer

Price Index shall be determined based on all Urban Consumers (CPI-U) for all items as published by the Bureau of Labor Statistics. For Participants hired before July 1, 2010 (other than those who took a lump sum distribution and were subsequently rehired on or after July 1, 2010), the Participant or spouse shall be entitled to one-hundred percent (100%) of the first three percent (3%) increase in the CPI-U plus fifty percent (50%) of the increase in the CPI-U in excess of three percent (3%). However, the maximum increase in the CPI-U to calculate the Post-Retirement Pension Increase shall be seven percent (7%), for a maximum Increase under the Plan of five percent (5%).

For Participants hired on or after July 1, 2010 (or who were hired prior to July 1, 2010, took a lump sum distribution and were rehired on or after July 1, 2010), the Participant or spouse shall be entitled to one-hundred percent (100%) of the first two percent (2%) increase in the CPI-U plus fifty percent (50%) of the increase in the CPI-U in excess of two percent (2%). However, the maximum increase in the CPI-U to calculate the Post-Retirement Pension Increase shall be six percent (6%), for a maximum Increase under the Plan of four percent (4%).

Section 11.03 – Limitations on Post-Retirement Pension Increases

At no time shall any pension being payable pursuant to Section 5.04 or Section 6.04 be eligible for a Post-Retirement Pension Increase.

At no time shall any pension being payable pursuant to Article VII be eligible for a Post-Retirement Pension Increase unless the Participant has attained his Normal Retirement Age.

ARTICLE XII

INTERNAL REVENUE CODE BENEFIT LIMITATIONS

Section 12.01 – Limitations Generally

Notwithstanding any other provision of this Document, the annual retirement allowance to which any Participant may be entitled from this Plan and from any other plan to which the Plan sponsor contributes shall not exceed the limits on benefits set forth in Section 415 of the Internal Revenue Code and the Treasury Regulations issued thereunder, as adjusted from time to time pursuant to section 415(d) of the Code.

Section 12.02 – Additional Limitation Rules

- (a) The limitation set forth in Section 12.01 shall not apply if the annual pension benefit payable to a Participant does not exceed \$10,000 and the Participant was never a participant in a defined contribution plan of the County.
- (b) Adjustment for Different Form of Payment. For the purposes of Article XII, if the annual pension is not a single life annuity or a qualified joint and survivor annuity, the annual

pension benefit shall be adjusted so that it is the Actuarial Equivalent of a single life annuity form. The interest rate assumption used to determine the Actuarial Equivalent of any benefit shall be five percent (5%).

- (c) Adjustment of Dollar Limit for Early Retirement. For the purposes of Article XII, if a Participant's benefit payments begin prior to age sixty-two (62), the dollar limit under Section 12.01 shall be adjusted so that it is the Actuarial Equivalent of the dollar limitation for a benefit beginning at age sixty-two (62), except where such Participant is a Qualified Participant as defined under Regulation 1.415(b)-1(d)(3) or such payments commence on account of the Participant's disability or death. In determining the Actuarial Equivalent, the interest rate used shall be five percent (5%).
- (d) Adjustment of Limitation for Years of Service or Participation.
 - (1) If a Participant has fewer than ten (10) years of participation in the Plan, the dollar limitation set forth in Section 12.01 shall be multiplied by a fraction, the numerator of which is his years of participation in the Plan and the denominator of which is ten (10), except where such Participant's payments commence on account of the Participant's disability or death.
 - (2) In no event shall the adjustment described in subparagraph (1) above reduce the limitations provided under sections 415(b)(1) – (4) of the Code to an amount less than one-tenth (1/10) of the applicable limitation (as determined without regard to this paragraph (d)).
- (e) Plan Aggregation. If a Participant is a participant in any other qualified defined benefit plan of the County, such plan shall be aggregated with the Plan for purposes of applying the limitation in Section 12.01.
- (f) Effective for distributions commencing on January 1, 2000 and prior to December 31, 2002, the applicable mortality table used for purposes of adjusting any benefit or limitation under sections 415(b)(2)(B), (C), or (D) of the Code, to the extent applicable to governmental plans, is the 1983 Group Annuity Mortality Table (50% Male, 50% Female) or other mortality table prescribed by the Secretary of Treasury in accordance with section 417(e)(3) of the Code and the regulations thereunder. Effective for distributions commencing on or after December 31, 2002, the applicable mortality table is the table prescribed in Revenue Ruling 2001-62 or such other mortality table as may be prescribed by the Secretary of Treasury in accordance with section 417(e)(3) of the Code and the regulations thereunder.
- (g) For purposes of this Article XII, "compensation" means remuneration received from the County, as defined in Treasury Regulation §1.415(c)-2, and shall be subject to the following rules:

- (1) Compensation must be paid within the limitation year, and paid or treated as paid before severance from employment in accordance with the general timing rule of § 1.415(c)-2(e)(1).
- (2) Compensation must include amounts paid by the later of 2½ months after severance from employment or the end of the limitation year that includes the severance from employment date in accordance with §1.415(c)-2(e)(3)(i). Such post-severance compensation includes regular pay as defined in §1.415(c)-2(e)(3)(ii).
- (3) Compensation must include, for years beginning after December 31, 2008, military differential wage payments (as defined in section 3401(h) of the code).
- (4) Compensation for a Participant for any limitation year shall in no event exceed the dollar limit specified in Code Section 401(a)(17), as adjusted in accordance with Code Section 401(a)(17)(B).

ARTICLE XIII

ADMINISTRATION OF THE PLAN

Section 13.01 – Authority

The County shall be designated as the Plan Sponsor, and shall appoint the Board of Trustees. The County shall maintain, or cause to be maintained, records on the employment and compensation history of each Participant in sufficient detail to permit an accurate determination of any benefits to which the Participant may be entitled under the Plan. The County, Board of the Trustees and any other Plan fiduciaries shall direct their duties with respect to the Plan solely in the interest of the Plan's participants and beneficiaries and defraying reasonable expenses of administering the Plan.

Section 13.02 – Duties of the Board of Trustees

Under a delegation of authority from the County, the Board of Trustees shall have responsibility for pension planning, administration and accounting of the Plan. The Board of Trustees shall develop recommendations for changes to the Plan, report such recommendations to the Board of County Supervisors and the Trustees shall implement such changes as are approved by the Board of County Supervisors. The Board of Trustees will also serve as trustees of the Trust Fund. The Board of Trustees shall appoint the Plan Administrator. If said Plan Administrator is a County employee, said person shall be responsible solely to the Board of Trustees with respect to duties performed with respect to this Plan.

Section 13.03 – Appointment of the Board of Trustees

The designated Board of Trustees are the trustees provided for in the Prince William County Supplement Pension Plan for Police Officers and Uniformed Fire and Rescue Department Personnel Trust Agreement.

Section 13.04 – Conduct of Business

The Board of Trustees shall conduct its business and hold meetings from time to time. A majority of the Board shall have the power to act, and the concurrence of any member may be by telephone, telegram or letter. In carrying out its duties, the Board of Trustees may, from time to time, employ an administrative organization and agents and may delegate to them ministerial and limited discretionary duties as they see fit, and may consult with counsel, who may be of counsel to the County.

Section 13.05 – Expenses of the Board of Trustees

The expenses of administering the Plan, including the printing of literature and forms related thereto, the disbursement of benefits thereunder, the compensation of administrative organizations, agent, Actuary, counsel or Trustee shall be paid by the Trust Fund.

The costs of providing benefits under the Plan shall be paid as described in Article IV. The Board of Trustees, as often as is necessary but at least every two years, shall have actuarial computations made in order to determine what amount contributed at a particular time shall be sufficient to fund the benefits called for under this Plan.

In this determination the Board of Trustees shall engage the services of an Actuary on behalf of all Participants.

Section 13.06 – Board of Trustees’ Right to Administer and Interpret the Plan

The Board of Trustees shall have the power and authority to administer and interpret the Plan and to adopt such rules and regulations as in the opinion of the Board of Trustees are necessary and advisable to implement, administer and interpret the Plan, or to transact its business. Such rules and regulations as adopted by the Board of Trustees shall be binding upon any persons having interest in or under the Plan. The Board of Trustees may delegate its authority to administer the Plan to the Plan Administrator. When it makes such a delegation in whole or in part, the Board of Trustees shall retain responsibility for the acts of the Plan Administrator.

Section 13.07 – Records of the Board of Trustees

The Board of Trustees shall keep a record of all its proceedings with regard to the Plan.

Section 13.08 – Claims Procedure

A claim for benefits under the Plan must be made to the Board of Trustees in writing. The Claim for benefits or any other claim must be made no later than 120 calendar days from the date

of the notice of the benefits to be paid or 120 days after the discovery of the circumstances giving rise to the claim but in no event later than one year after the date of retirement. The Board of Trustees shall provide adequate notice in writing to any Participant or beneficiary whose claim for benefits under the Plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the Participant or beneficiary. If a claim is denied, in whole or in part, the Board of Trustees shall provide the claimant a notice of denial explaining the reasons for denial of the claim. A claimant whose claim has been denied, or his authorized representative, may request a review of the denial but such a request must be in writing, and must be submitted to the Board of Trustees within sixty (60) days of the receipt of the request for review unless the Board of Trustees determines that special circumstances required additional time, in which case a decision shall be rendered not later than one hundred twenty (120) days after receipt of the request for review. The decision on the review shall be in writing and shall include specific reasons for the decision, written in a manner calculated to be understood by the claimant, and specific references to pertinent Plan provisions on which the decision is based.

Section 13.09 – Trust Fund

All assets of the Plan shall be held in a Trust Fund. The responsibility for investment management of the assets of the Plan shall be responsibility of the Board of Trustees. The Board shall have the authority to delegate its fiduciary duties and responsibilities with respect to all or part of the funds, including the determination of the portion of assets to be held in cash, equities and debt investments, to an Investment Manager in which event the Investment Manager will become a fiduciary of the Plan and have responsibility for investment of the Trust Fund.

The Investment Manager shall have the investment powers granted herein except to the extent the investment powers are specifically limited by an agreement between the Trustees and the Investment Manager. The Board shall cause to be prepared no less frequently than annually, a report with respect to the value of the assets accumulated under the Plan and the transactions of the Trust Fund. Copies of this report will be furnished to the Actuary.

Section 13.10 – Qualified Domestic Relations Orders

All right and benefits, including elections, provided to a Participant in this Plan shall be subject to the rights afforded to any “alternate payee” under a “qualified domestic relations order.” Furthermore, a distribution to an “alternate payee” shall be permitted if such distribution is authorized by a “qualified domestic relations order,” even if the affected Participant has not separated from service and has not reached the earliest retirement age. For the purposes of this section “alternate payee,” “qualified domestic relations order,” and “domestic relations order” have the same meaning as in Internal Revenue Code Sections 414(p)(1)(A) and (B).

Once a domestic relations order is received by the Plan, the Plan Administrator shall promptly notify the Participant and each alternate payee of the receipt of the order, and the Plan’s procedures for determining the qualified status of a domestic relations order. The alternate payee may designate a representative to receive notices on their behalf.

After the parties involved are notified, the Plan Administrator will determine if the domestic relations order is a qualified domestic relations order. A domestic relations order is a judgment, decree, or order that relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a Participant. Pursuant to Internal Revenue Code Section 414(p)(1)(A)(i), a qualified domestic relations order is a domestic relations order that creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a Participant under the Plan. If the Plan receives the order after the death of the Participant, the qualified domestic relations order will not be invalidated simply because the Plan was not notified of the order while the Participant was alive.

While the Plan Administrator is determining whether the order is a qualified domestic relations order, the Plan Administrator will separately account for the amounts ("segregated amounts") which would have been payable to the alternate payee during such period if the order had been determined a qualified domestic relations order. If within an 18-month period beginning with the date on which the first payment would be required to be made under the order, the Plan Administrator determines that the order is a qualified domestic relations order, the Plan Administrator shall pay the segregated amounts (including any accrued interest) to the alternate payee(s). Once benefits have been distributed, the obligations of the Plan and its fiduciaries to the affected Participant and the alternate payee(s) with respect to the distribution are discharged.

If it is determined that the order is not a qualified domestic relations order or the Plan Administrator is unable to make a final determination with an 18-month period, the Plan Administrator shall pay the segregated amounts (including any accrued interest) to the person or persons who would have been entitled to those amounts had there been no order. Any determination that an order is a qualified domestic relations order that is made after the close of this 18-month period shall be applied prospectively only.

ARTICLE XIV

AMENDMENT AND TERMINATION OF THE PLAN

Section 14.01 – Amendment of Plan

The County shall have the right to amend this Plan in any and all respects at any time and from time to time; provided, however (a) no amendment shall be made unless an Actuarial report has been filed with the County as to its effect upon the Plan and (b) that no amendment shall reduce the accrued benefits of any Participant or beneficiary below the extent to which they are then

covered by accumulated reserves, which reserves shall constitute a trust fund for the payment of such benefits.

Section 14.02 – Termination of Plan

The County reserves the right to terminate its participation in this Plan at any time. Such termination shall be by resolution, a certified copy of such resolution shall be delivered to the Board of Trustees and the County shall notify its Employees. The Plan shall also terminate upon the County's complete discontinuance of contributions to the Plan. Should such an event occur, the County shall give written notice of such termination to the parties indicated in the second sentence of this Section.

Section 14.03 – Action to be Taken on Termination of Plan

Upon termination, or partial termination, or the Plan by the County, or upon the County's permanent discontinuance of contributions to the Plan, the rights of each affected Participant shall be fully vested and non-forfeitable and the County shall instruct the Board of Trustees to apply the funds in the following order of priority.

First, the expenses, fees and other charges under this Plan not previously paid shall be paid.

Second, provide that portion of each Participant's retirement income attributable to Mandatory Employee contributions.

Third, if the same has not already been done, provide all other accrued benefits under the Plan, reduced to reflect any allocations made pursuant to the foregoing.

Fourth, if the same has not already been done, provided all other accrued benefits under Plan, reduced to reflect any allocations made pursuant to the foregoing.

If the retirement income or other benefit to which the Participants or beneficiaries of any of the above-described classes are entitled cannot be provided, then the funds available for such class of Participants or beneficiaries shall be allocated pro rata among such Participants or beneficiaries based on the actuarial reserve for the retirement income described in that class.

If after following the order of allocations set forth above, there is any amount remaining, then such amount shall be returned to the County. The Actuary to the Plan shall certify that what is being returned to the County is not needed to satisfy all of liabilities under the Plan as to the Participants and their beneficiaries.

ARTICLE XV

MISCELLANEOUS PROVISIONS

Section 15.01 – Employees’ Trust

This Plan is created for the exclusive benefit of the Employees of the County and shall be interpreted in a manner consistent with its being interpreted in a manner consistent with its being an Employees’ trust, as defined in Section 401(a) of the Internal Revenue Code. Therefore, under no circumstances shall any funds contributed to this Plan or any assets of this Plan or Trust ever revert to or be used or enjoyed by the County, nor shall any funds or assets ever be used other than for the benefit of Employees of the County and their beneficiaries, prior to the satisfaction of all liabilities under this Plan to the Employees.

Section 15.02 – Additional Limitations on Liability

Neither the County nor the Board of Trustees in any guarantees this Plan against loss or depreciation, nor do they guarantee the payment from the trust of any benefit which may become due hereunder to any present or former Participant.

Section 15.03 – General Undertaking of All Parties

All parties to this Plan and all persons claiming any interest whatsoever hereunder agree to perform any and all acts and execute any and all documents and papers which may be necessary or desirable for the carrying out of this Plan or any of its provisions.

Section 15.04 – Agreement to Bind Heirs, Etc.

This agreement shall be binding upon the heirs, executors, administrators, successors and assigns, as such terms shall apply, of any and all parties hereto present and future.

Section 15.05 – Spendthrift Clause

No Participant shall have the right to alienate or assign, transfer, encumber, borrow against or otherwise subject to lien any benefits provided under this Plan.

Section 15.06 – Invalidity of Certain Provisions

If any provision of this Plan shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof and this Plan shall be construed and enforced as if such provision had been included.

Section 15.07 – Right to Employment

Nothing contained in the Plan or the establishment of trust hereunder or any modification thereof, or the creation of any fund or account for the payment of any benefit, shall be construed to give any Employee, Participant or beneficiary any right to employment or continued employment with the County which he would not have had, the Plan not been created.

Section 15.08 – Incapacity

In the event that any Participant is unable to care for his affairs because of illness or accident, any payment due (unless a duly qualified guardian or other legal representative has been appointed) may be paid to the Participant's spouse, parent, brother, sister or other person deemed by the Board of Trustees to have incurred expenses for the care of such Participant.

Section 15.09 – Acceptance of Employment

Upon acceptance of employment, every Participant shall be deemed to consent and agree to any deductions from his compensation required by this Plan and to all other provisions thereof.

Section 15.10 – Forfeitures

Forfeitures, if any, will not be applied to increase the pension benefits any Participant would otherwise receive under the Plan.

Section 15.11 – Permissible Purchase of Annuity Contracts

The Board of Trustees, in lieu of paying the pension to which a Participant is entitled directly from the funds of the trust, may purchase from an insurance company any type of annuity contract which will provide retirement benefits in an amount identical to that which the retired Participant was entitled under this Plan. Upon the purchase of an annuity contract for the benefit of a retired Participant, such contract may either be assigned to the retired Participant or retained by the trustees for the benefit of the retired Participant. In the event of delivery to the retired Participant, such annuity contract shall be endorsed as nontransferable.

Section 15.12 – Withholding Taxes

The Board of Trustees may make any appropriate arrangements to deduct from all amounts paid under the Plan any taxes required to be withheld by any government or government agency. The Participant and/or his beneficiary shall bear all taxes on amounts paid under the Plan to the extent that no taxes are withheld, irrespective of whether withholding is required.

Section 15.13 – Governing Law

The Plan shall be construed, administered and enforced in accordance with the laws of the Commonwealth of Virginia.

Section 15.14 – Number of Counterparts

This Plan may be executed in any number of counterparts, each of which when duly executed by the County shall be deemed to be an original, but all of which shall together constitute but one instrument which may be evidenced by any counterpart.

Section 15.15 – Masculine, Feminine, Singular and Plural

The masculine shall include the feminine and the singular shall include the plural and the plural the singular wherever the person or entity or context shall plainly so require.

Section 15.16 – Recovery of Overpayment

If at any time it is determined that an overpayment of benefits has been made to a Participant or his beneficiary, the Plan shall seek recovery of the amount that has been overpaid, unless the cost of recoupment is prohibitively expensive to the Fund. Methods of recovery include, but are not limited to, off-setting the Participant's future benefits until the full amount has been recovered, a lump sum re-payment, or any other method deemed appropriate by the Board of Trustees.

ARTICLE XVI

DISABILITY FORM OF PENSION

Section 16.01 – Eligibility for Disability Pension

The disability pension benefit for a Participant shall be \$320 payable monthly for 15 years. The disability benefit is available only to those Participants who have been approved for a line-of-duty disability retirement benefit by the Virginia Retirement System and who have less than 20 years of **Credited Service**^[AL53]. In lieu of receiving a monthly benefit, line-of-duty disability retirees may elect to withdraw their contributions plus interest in accordance with Article IX.

Participants who have 20 or more years of **Credited Service**^[AL54] and who have separated from County employment as the result of a line-of-duty injury compensable under Workers' Compensation, may elect to receive the disability pension benefit of \$320 payable monthly for 15 years, or they may elect to withdraw a lump sum benefit of the Participant's contributions with interest in accordance with Article IX, plus the employer's contributions during the Participant's period of employment ("Option 3").

For Participants with Credited Service on or after July 1, 2021, the disability pension benefit under this Section 16.01 shall be applied by substituting \$395 for \$320.

Section 16.02 – Commencement of Benefits

The effective date of benefits payable under this Article will be as provided no earlier than the date the latest of the following events occur.

- (a) the date the Participant terminates his service with the County;
- (b) the date specified in the Participant's application for benefits to the Board of Trustees;
- (c) the date the application for benefits is filed with the Board of Trustees.

Unless a Participant elects otherwise, actual payment of benefits with respect to a Participant or his Designated Beneficiary must begin no later than the sixtieth (60th) day after the date a proper application is filed with the Board of Trustees. If the Board of Trustees is unable to effect commencement of benefits because of an inability to locate the Participant or Designated Beneficiary, the commencement of benefits may be delayed until sixty (60) days after the Participant or Designated Beneficiary is located. In the event that actual commencement of periodic benefits is later than the date specified in the application, retroactive payment will be made to such effective date, but in no case earlier than the date the application was filed with the Board of Trustees.

ARTICLE XVII

ADDITIONAL BENEFIT PROVISIONS

Section 17.01 – Suspension of Benefits

In the event a Participant who is receiving benefits under this Plan is reemployed on a full-time basis as an Employee of the County, as defined in Section 2.11, payment of such benefits shall cease during the period of such Participant's reemployment.

Upon termination of reemployment, if the Participant was not considered an Employee for purposes of this plan, his benefit payments shall resume at the level that would have been payable the Participant continued to receive his benefits without suspension.

Upon termination of reemployment, if the Participant was considered an Employee for purposes of the Plan, he is entitled to have his benefit payments recomputed to take into account Creditable Service and Compensation attributable to this period of reemployment for which his payments were suspended under this Section. The recomputed amount may not be less than the amount that would have been payable had the Participant continued to receive his benefits without suspension.

For the purpose of this Section, an employee is considered to be reemployed by the County or its Agencies, if the employee holds a position in the "competitive service of the County as a non-exempt employee" as the cited phrase is defined in the County Code, regulations, or personnel

or administrative except that this section applies equally to non-probationary employees as well as probationary employees.

Section 17.02 - Beneficiary Designations^[AL55]

Death benefits or survivor benefits, if any, payable under the Plan shall be paid to the beneficiary (“Designated Beneficiary”) designated to receive retirement benefits by the Participant on a completed “Form VRS-2 - Designation of Beneficiary” submitted to VRS. Effective July 1, 2020, beneficiary designations shall be effected by completing and submitting to the Plan a beneficiary designation form provided by the Plan or its Administrator. If a Participant has not designated such a beneficiary ~~on a valid Form VRS-2 in accordance with this paragraph~~, death benefits under this Plan will be paid according to the following order of precedence:

- (a) To the spouse;
- (b) If no surviving spouse, to the children and descendants of deceased children per stirpes;
- (c) If none of the above, to the parents;
- (d) If none of the above, to the duly appointed executor or administrator of the estate;
or
- (e) If no executor is named, to the next of kin under the laws of the state where the member resided at the time of death.

Section 17.03 – Direct Rollover

Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee’s election under the Plan, a Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have the benefit under the Plan paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

For purposes of this section the following definitions will apply:

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 the 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 Distributees and the Distributees Designated Beneficiary, or for a specified period of ten years or more; any distribution to the extent such as distribution is required under Section 401(a) of the Code; and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

Eligible Retirement Plan is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the Distributees eligible rollover distribution. However, in the case of an eligible

rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. Effective for distributions on or after January 1, 2002, Eligible Retirement Plan also includes an eligible governmental 457(b) plan or a 403(b)-annuity plan that accepts the Distributees eligible rollover distributions.

Distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are Distributees with regard to the interest of the spouse or former spouse.

Direct Rollover is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

Section 17.04 – HEART Act

Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service shall be provided as required by Section 401(a)(37) of the Internal Revenue Code (HEART Act).

Amended Res. #91-775; 09/24/91
Amended Res. #97-907; 09/10/96
Amended Res. #01-268; 03/20/01
Amended Res. #03-685; 09/02/03
Amended Res. #05-726; 05/01/04
Amended Res. #07-791; 09/18/07
Amended Res. #09-61; 2/3/09
Amended Res. #11-38; 1/18/11
Amended Res. #13-449; 7/23/13
Amended: BoCS Budget Adoption: 7/1/14
Amended Res. #14-489; 8/5/14
Restated: Res. #17-471; 10/3/17
Amended: Res. #17-472; 10/3/17
Amended: Res. # 18-292; 5/8/18
Amended: Res. # 19-227; 4/30/19^[AL56]