

**PRINCE GEORGE'S COUNTY FIRE SERVICE PENSION PLAN
DOCUMENT
(REVISED AND RESTATED EFFECTIVE JULY 1, 2002)**

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PRINCE GEORGE'S COUNTY FIRE SERVICE PENSION PLAN

PREAMBLE

This Plan originally went into effect as of July 1, 1966. The terms of the original Plan were contained in a separate document attached to a contract between the County and New England Mutual Life Insurance, known as Group Annuity Policy No. GA-417. Under this Group Annuity Policy, the contributions to provide the benefits under the Plan were paid over to the Insurance Company for investment, and for payment of such benefits. Both the Plan document and the Group Annuity Policy were amended from time to time.

By Executive Order No. 199-1973, dated October 9, 1973, the Group Annuity Policy was terminated and, the Plan was amended to authorize the transfer of the Plan assets from the Insurance Company to a Trustee for purposes of investment and benefit payment. By Executive Order 72-1974, a separate Plan document was adopted, effective January 1, 1973.

Effective July 1, 1983, the provisions of the Plan effective from and after January 1, 1973, and all amendments made thereafter, were set forth in the revised and restated Plan.

Effective July 1, 1991, the provisions of the Plan effective from and after July 1, 1983, and all amendments made thereafter, were set forth in the revised and restated Plan.

Effective July 1, 1998, the provisions of the Plan effective from and after July 1, 1991, and all amendments made thereafter, were set forth in the revised and restated Plan.

The following revised and restated Plan document, effective July 1, 2002, sets out in full all of the provisions of the Plan, effective as of July 1, 2002. All amendments made from and after July 1, 1998, which are still applicable, are included in this restated Plan.

For the provisions of the Plan at any time prior to this revision, reference should be made to the original Plan documents; to the July 1, 1983, restatement; to the July 1, 1991, restatement; and to the July 1, 1998, restatement; and the amendments thereto, all of which are on file at the Retirement Administrator's office.

PRINCE GEORGE'S COUNTY FIRE SERVICE PENSION PLAN (Revised and Restated Effective July 1, 2002)

Section 1 Definitions

The following words and phrases used in this Plan shall have the following meanings, unless a different meaning is plainly required by the context:

Actual Service means only (i) active service with the Prince George's County Fire Service; (ii) active service with a Prince George's County Volunteer Fire Company that is included in Credited Service as described in 3.2(h) of the 1983 restated Plan; (iii) service in the Armed Forces of the United States immediately following service as an Employee, provided the Employee complies with all requirements of federal law in order to be entitled to reemployment and provided the Employee is reemployed by the County within the period provided by such law; and (iv) active service with the Prince George's County Police Department pursuant to Section 3.1(g) of this Plan.

Actuarial Equivalent means a benefit provided in the Plan that is determined by the Actuary for the Plan to be the equivalent of some other benefit provided in the Plan, based on the interest rate and the mortality and other tables and assumptions adopted for such purposes by the Retirement Administrator and described in the Appendix to the Plan. No amendment to the factors in the Appendix shall cause a Participant's accrued benefit to be decreased below the value of his accrued benefit as calculated on the date immediately preceding such amendment.

Administrative Review Board means the Administrative Review Board established by Section 8.3.

Average Annual Compensation means an amount computed by dividing by two the Compensation of a Participant during whatever period of twenty-four consecutive months of his Continuous Service will provide the largest total Compensation for any such period. For any Participant who retires on or after July 1, 1991, Average Annual Compensation shall be calculated as if the Participant had received, beginning July 14, 1991, the 7% cost of living increase set forth in the original collective bargaining agreement for Fiscal Years 1990 through 1992, rather than not having received the 7% increase until April 5, 1992.

In addition, for any Participant who retires on or after July 1, 1991, a furlough during any period of 24 consecutive months of continuous service shall not reduce a Participant's Average Annual Compensation. Average Annual Compensation shall be calculated as if the Participant had received his or her entire Compensation during such furlough period.

In addition, for any Participant who retires between July 1, 1994, and June 30, 1995, and who experienced or is experiencing a delay in receipt of a merit step increase which he or she otherwise would have been entitled to receive during the period July 1, 1993, through June 30, 1994, Average Annual Compensation shall be calculated as if the Participant had received, on his or her anniversary date during the period from July 1, 1993, through June 30, 1994, the merit step increase which he or she otherwise would have been entitled to receive during that period, rather than not having received this merit step increase until after June 30, 1994. Furthermore, for such a Participant who retires between July 1, 1994, through June 30, 1995, Average Annual Compensation shall be calculated based on the Compensation of such Participant during the twelve consecutive months of his or her Continuous Service which will provide the largest total Compensation for any such period.

For any Employee who retires during the period from July 1, 1996, through June 30, 1999, or who retires during the period from July 1, 2001, through June 30, 2003, Average Annual Compensation will be calculated as if the Employee had received all merit steps in Fiscal Years 1996 and 1997 on his/her anniversary date that the Employee otherwise would have been eligible to receive but for the deferral of such merit step increases in Fiscal Years 1996 and/or 1997.

Beneficiary means any person designated by a Participant or by Domestic Relations Order which complies with Section 11.3 to receive death benefits under this Plan.

Compensation means the basic Compensation received by a Participant for services rendered by the Participant, excluding any overtime pay, bonuses, or other additional Compensation, but, effective July 1, 1988, including education incentive pay. Compensation shall be determined by using the rates of the Participant's basic Compensation from time to time in effect, on the basis that the Participant actually received basic Compensation at such rates at all times while they were in effect. For hourly paid Participants, Compensation shall be determined on the assumption that the Participant had been employed continuously for eight-hour days and five-day weeks, and by applying each of his/her basic hourly rates of pay until changed. There shall be a limit on the Compensation considered for Plan Participants, but only for those first becoming Participants on or after December 31, 1995, which shall be the dollar limit described in Section 401(a)(17) of the Internal Revenue Code, as indexed.

Contingent Annuitant means any person designated by a Participant or by Domestic Relation Order to receive benefits under the optional forms of benefit payment provided for in Section 5.2.

Continuous Service shall mean the most recent unbroken period of employment of a Participant by the County. It shall consist of the number of completed years and months included in that period. For purposes of determining a Participant's Continuous Service, his employment shall not be deemed to be broken by any of the following:

- (a) Termination of employment followed by reemployment within 180 days of the date of termination.
- (b) Layoff followed by reemployment within three years of the date of layoff.
- (c) Leave of absence of not more than twelve months, or absence due to illness or disability, provided that the Employee (i) returns to the employment of the County at the end of any such period of absence, and (ii) is not employed during the period of any such absence unless such employment is approved by the County.
- (d) Service in the Armed Forces of the United States immediately following service as an Employee, provided that the Employee complies with all of the requirements of federal law in order to be entitled to reemployment and provided that the Employee is reemployed by the County within the period provided by such law.

County means Prince George's County, Maryland.

Credited Service means all service of a Participant for which credit is given under this Plan for the purpose of computing any benefit provided by this Plan, as determined by the provisions of Section 3.1.

Disability Retirement Date means the first day of the month coinciding with or immediately following the date of termination of a Participant's paid employment by the County as a result of a disability coming within the definition of disability in Section 4.3(a).

Domestic Relations Order means a court order which complies with Section 11.3.

Early Retirement Date means the first day of any month prior to a Participant's Normal Retirement Date as of which he has both attained age 50 and completed 20 years of Credited Service.

Emergency Response Technician means any person employed by the County on or after July 1, 1999, as an Emergency Response Technician I, Emergency Response Technician II, Emergency Response Technician III, emergency Response Technician Lieutenant, Emergency Response Technician Captain, and Emergency Response Technician Battalion Chief.

Employee means any person employed by the County as a Fire Fighter, and, effective September 5, 1984, any person employed on or after September 5, 1984, by the County as a Paramedic, who is so employed customarily for more than 20 hours per week and for more than five months in any calendar year, and, effective July 1, 1999, any person employed on or after July 1, 1999, by the County as an Emergency Response Technician.

Normal Retirement Date means the first day of the month coinciding with or immediately following the earlier of the date on which the Participant has attained age 55 or the date on which he has completed 20 years of Actual Service, provided that service of a Participant prior to July 1, 1990, which is transferred to the Plan pursuant to Article 73B, Section 32 or Section 32B of the Maryland Annotated Code, or which could have been so transferred but for the fact it is already included under a "Purchased Service" rule of Section 3.1, shall be considered as Actual Service for the purpose of determining his/her Normal Retirement Date.

Paramedic means any person employed by the County on or after September 5, 1984, as a paramedic to provide paramedic service in the Mobile Intensive Care Unit of the County Fire Service, but excluding any fire fighter who was both: (i) employed by the County as a fire fighter prior to September 5, 1984, and (ii) working as a paramedic on September 5, 1984.

Participant means an Employee who participates in the Plan as provided in Section 2.

Plan means the retirement Plan as herein set forth and as it may from time to time be amended. The Plan may be referred to as "Prince George's County Fire Service Pension Plan."

Plan Year means the calendar year.

Retirement Administrator means the person designated as the administrator of the Plan as provided in Section 8.1.

Trust Agreement means the Trust Agreement entered into between the County and the trustee or trustees named therein pursuant to the terms of the Plan, as it may be amended from time to time, which Trust Agreement forms a part of the Plan.

Trust Fund means the property held from time to time in trust by the Trustee under the Trust Agreement.

Trustee means the person or persons who, at the particular time, shall be the trustee or trustees under the Trust Agreement.

Section 2 Requirements for Participation

2.1 Who May Participate.

- (a) **Employees Participating on July 1, 1998** - Every Employee who is a Participant in this Plan on July 1, 1998, shall continue to be a Participant in this Plan, subject to all provisions of this Plan from time to time in effect.

(b) Employees Employed on or After July 1, 1998 - Every Employee employed by the County after July 1, 1998, shall become a Participant in this Plan on the date of his employment by the County.

(c) Fire Chief - Effective July 1, 1996, a Fire Chief hired after July 1, 1996, may waive participation in the Plan. A Fire Chief who waives participation shall do so irrevocably, and shall not thereafter earn or purchase Credited Service under the Plan, nor make contributions required under this Plan at Section 7.1, nor in any way participate under the Plan.

2.2 Method of Becoming a Participant. Each Employee shall fill out, sign, and file with the Retirement Administrator any and all forms or other instruments that may be required by the rules adopted by the Retirement Administrator from time to time.

Section 3 Service

3.1 Credited Service. Credited Service of a Participant shall consist of the years and completed months equal to the total of the following periods of service up to a maximum of 30 years.

(a) Continuous Service while a Participant in this Plan and while making the Employee contributions from time to time required by this Plan which remain in the Trust Fund.

(b) Continuous Service while disabled as defined in Section 4.3 and while receiving approved disability or sick leave pay.

(c) Service in the Armed Forces of the United States which is included in Actual Service.

(d) Service, prior to absence for military service that is included in Continuous Service, that would have been included in Continuous Service if the Participant had not withdrawn his contributions to the Trust Fund, provided that he returns to the Trust Fund (i) the full amount he received as a result of his withdrawal of contributions, and (ii) interest thereon at the rate of 5% per annum during the period between such withdrawal and repayment.

(e) Up to thirty-six months of his service in the Armed Forces of the United States, not included in his Credited Service under any other provisions of this Plan, if he makes the payments into the Trust Fund provided for in this Section 3.1(e).

For purposes of this Section 3.1(e), the definition "service in the Armed Forces of the United States" shall be any full time active or reserve military service in the Armed Forces or Reserve Armed Forces of the United States prior to a Participant's employment by the County for which the Participant can provide proof to the Retirement Administrator.

(1) Participants Who Complete Five Years of Continuous Service After October 1, 1985. A Participant who completes five years of Continuous Service after October 1, 1985, and who became an Employee of the County must elect in writing, within sixty days before the date on which he completes five years of Continuous Service, to make the payments provided for in this subsection (e)(1). For each month of his military service for which he wishes a month of Credited Service, he must agree to pay into the Trust Fund an amount that will reimburse the Plan for all costs associated with the additional benefits which he wishes to purchase. The Retirement Administrator will establish and advise each Participant making the election called for herein of the dollar amount which such Participant must pay in order to make his purchase at no cost to the Plan.

If the Participant pays said amount into the Trust Fund within thirty (30) days after the date on which he completes five (5) years of Continuous Service, he shall receive Credited Service for the number of months of military service covered by such payment. If the Participant wishes to pay said amount over a period of time, he may elect to do so pursuant to rules established by the Retirement Administrator and at an interest rate established by the Retirement Administrator. A Participant who has agreed to pay said amount over a period of time may elect at any time to make no further payments, and will receive Credited Service for all months of his prior military service that he has fully paid for. He may not thereafter resume such payments.

(2) Effective January 1, 1985, upon retirement at or after the Normal Retirement Date, if a Participant has:

(i) accrued Credited Service in excess of the maximum specified in the first paragraph of this Section 3.1; and,

(ii) previously purchased Credited Service for military service pursuant to this paragraph (e) of this Section 3.1,

such Participant shall receive a refund of the payments made for such military service which is in excess of the maximum Credited Service permitted, with interest thereon at a rate of five percent per annum.

(f) Maryland State Service. For purposes of subparagraphs (1) and (2) described below, the Pension System for Employees for the State of Maryland shall be treated as if it were the Employees' Retirement System.

(1) For all Participants in this Plan as of November 16, 1988, if the State System transfers to the Trust Fund the accumulated contributions of such Employee held in said System on behalf of such Employee, and the Employee is not otherwise entitled to Credited Service under Section 3.2, the Employee will be credited under the Plan with the number of years and months of service which the accumulated contributions and reserve (i.e., employer contributions attributable to such Employee) can purchase or could have purchased from the Plan without generating any additional cost to the Plan, whether or not such reserve actually had been transferred to the Plan as required by the Maryland Annotated Code at Article 73B, Section 32, as in effect immediately prior to July 1, 1988. The Fund's actuary shall determine, based on reasonable actuarial assumptions and standard actuarial principles, the amount of Credited Service to be given under this Plan that is the Actuarial Equivalent of accumulated contributions and reserve.

(2) For any Employee who becomes a Participant in this Plan after November 16, 1988, if the State System transfers to the Trust Fund the accumulated contributions of such Employee held in said System on behalf of such Employee, and the Employee is not otherwise entitled to Credited Service under Section 3.2, the Employee will be credited under the Plan with the number of years and months of service which such accumulated contributions and any additional Employee contributions actually contributed by the Employee, or otherwise contributed on behalf of the Employee, up to the amount of the reserve, can purchase from the Plan without generating any additional costs to the Plan. The Fund's actuary shall determine, based on reasonable actuarial assumptions and standard actuarial principles, the actuarial reserve that is associated with such Service, and the amount of Credited Service to be given under this Plan that is the Actuarial Equivalent of the Employee contributions and any additional Employee contributions up to the amount of the reserve.

(g) Credited Service under the Prince George's County Police Pension Plan provided that there are transferred to the Trust Fund his/her contributions and the County's contributions made on his behalf under the Police Pension Plan. For purposes of the Plan definition of Normal Retirement Date, such service shall be treated as if it were Actual Service.

(h) Service in the County Fire Service prior to a break in such service of more than 180 days if the Participant is reemployed in the Prince George's County Fire Service, he had completed five or more years of Credited Service prior to his reemployment, and either

(1) He had elected to have his contributions to the Trust Fund during such years of prior Credited Service returned to him, and therefore not to receive benefits under Section 4.5(b) of this Plan, and, within sixty days of such reemployment, agrees to pay into the Trust Fund for each month of such service for which he wishes a month of Credited Service an amount equal to the sum of:

(i) the current monthly contribution required to be made by him under the Plan at his current rate of Compensation at the time of such reemployment; plus,

(ii) interest at the rate of 5% per year compounded for the number of years of his said break in service, or

(2) He had not elected to have his contributions to the Trust Fund during such years of prior Credited Service returned to him, and, within sixty days of such reemployment, agrees to pay into the Trust Fund for each month of such service for which he wishes a month of Credited Service an amount equal to the sum of:

(i) the current monthly contribution required to be made by him under the Plan at his current rate of Compensation at the time of such reemployment less his prior contributions to the Trust Fund; plus,

(ii) interest at the rate of 5% per year compounded for the number of years of his said break in service.

If the Participant wishes to pay said amount over a period of time, he/she may elect to do so pursuant to rules established by the Retirement Administrator. Any unpaid balance will be subject to a charge at the rate of 5% per year.

(i) A Participant who, after January 1, 1973, may become entitled to any Credited Service under more than one of subparagraph (e) of this Section 3.1 of the current Plan or subparagraphs 3.2(h) and (l) of the 1983 restated Plan (regardless of whether such Credited Service is for service before or after January 1, 1973) may not receive Credited Service under such subparagraphs, taken together, that exceeds the longest period of Credited Service he could receive under any one of such subparagraphs, taken alone.

(j) A Participant who has obtained Credited Service under subparagraphs (e), (f), or (h) of this Section 3.1 of the current Plan or subparagraphs (h), (j), (l), (m), (n) and (o) of Section 3.2 of the 1983 restated Plan, may, prior to the date of his retirement, or, in the case of a Participant who retires as a result of a disability,

prior to the date his disability occurred, elect to withdraw the payments made by him to obtain such Credited Service. If he does so, such payments will be returned to him with interest thereon at the rate of interest at which he obtained such Credited Service, compounded annually, and his Credited Service shall be reduced by the amount of Credited Service he had obtained as a result of such payments. An election under this provision is irrevocable. Accordingly, a Participant who makes the election provided for in this paragraph may not thereafter obtain any Credited Service under subparagraphs (e), (f) or (h) of this Section 3.1 of the current Plan or subparagraphs (h), (j), (l), (m), (n), and (o) of Section 3.2 of the 1983 restated Plan. An election under this paragraph may be made annually within 30 days after the Retirement Administrator shall have mailed written notice of the availability of this election to all Participants. It shall be made in the manner and form prescribed by the Retirement Administrator.

(k) Service from June 1994 required to be credited under a Partial Settlement Agreement and Release made by the County and dated June 6, 1997, in settlement of certain claims for service credit under the Fire Service Pension Plan. Such service shall be treated as if Actual Service as an Employee.

3.2 Credit for Service Transferred Pursuant to State Law.

(a) The provisions of this section apply to any Participant of the Plan who:

(1) became a Participant in the Plan on or before June 30, 1990;

(2) was a member of a retirement or pension system operated on an actuarial basis by the State or a political subdivision of the State immediately prior to transferring employment to a position in which participation in the Plan is mandatory;

(3) at the time he/she became a member of the Plan was eligible to claim Service Credit under Article 73B, Section 32 or Section 32B of the Annotated Code of Maryland or under Chapter 327 of the Laws of Maryland of 1986;

(4) is not otherwise entitled to credit for the service under Section 3.1; and,

(5) files a claim for such Service Credit with the Retirement Administrator on or before August 30, 1991. For purposes of (2), a member was a member of another system immediately prior to transferring employment if his termination of employment prior to his transfer was within 180 days of the date of transfer.

(b) A Participant who meets the requirements of Subsection (a) of this section is eligible to claim transfer of Service Credit for retirement eligibility and retirement allowance purposes as defined in this Plan under the following circumstances:

(1) A Participant who transfers membership from a retirement or pension system which did not require Employee contributions will receive service credit for all service to his credit as a member of the Transferor (prior) Plan upon the filing of a claim of Transfer of Service pursuant to this section.

(2) A Participant who transfers membership from a retirement or pension system which required Employee contributions will receive service credit for all service to his credit as a member of the Transferor (prior) Plan upon (i) the filing of a Claim of Transfer of Service pursuant to this section and (ii) payment of an amount equal to his/her contributions to the Transferor (prior) Plan plus interest which was or could have been credited by the prior Plan to such contributions for service which is claimed. Such payments may be made immediately, but may also be paid over five years following the filing of the Claim for Credit, with interest calculated on the outstanding balance, provided, however, that if the Participant retires prior to paying the full amount of Employee contributions plus interest owed under this subsection, and does not pay off the balance due, the remaining amount shall be deducted from accumulated annual and sick leave paid to him, and if said accumulated annual and sick leave payments are insufficient, the remaining amount, with interest, shall be deducted from his/her monthly retirement allowance in equal installments over the next twelve months. If a balance due still remains at the twelfth month of payments, benefits shall be recalculated to reflect a reduced credit under this Section 3.2. The reduced credit shall be that proportion of the balance originally due that has been paid.

(3) Effective July 1, 2002, a Participant who was a member of a retirement system by reason of employment with The Maryland National Capital Park and Planning Commission shall receive service credit for all service to his credit as a member of the Transferor Plan upon: (i) the filing of a claim for transfer of credit pursuant to this section and Section 37-206 of the State Personnel and Pensions Article; and, (ii) the transfer of the Participant's contributions and the employer's contributions on his behalf to the Plan within one year of the filing of the claim for credit provided, however, that if the Participant withdrew his contributions, he shall pay those contributions in accordance with the provisions of subsection (b)(2) of this section. The employer contributions to be transferred shall be determined in accordance with Section 37-206 of the State Personnel and pensions Article of the Annotated Code of Maryland.

3.3 Purchased Service. Service credited under this Plan, effective for years after 1997, for service at another employer shall always be credited in accordance with the limits and requirements of the Internal Revenue Code and the Taxpayer Relief Act of 1997 as in effect from time to time for permissive service credit.

3.4 Participants Who Serve in the Military. Notwithstanding any provision of the Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code.

Section 4 Retirement Benefits

4.1 Retirement At or After Normal Retirement Date.

(a) Participants Who Retire on or After July 1, 1989. The retirement benefit payable monthly upon retirement at or after Normal Retirement Date to a Participant who retires on or after July 1, 1989, shall be one-twelfth of the sum of (i) the amount determined by multiplying 3% of the Participant's Average Annual Compensation by his Credited Service up to a maximum of 20 years; and (ii) the amount determined by multiplying his Credited Service in excess of 20 years by 2% of his Average Annual Compensation.

For the purpose of the benefit calculations described in this Section, effective July 1, 1993, Credited Service for any Participant that is determined under Section 3.1 (but not including service credited under Section 3.2) and that is in excess of 20 years of Credited Service shall be multiplied by 2.5% rather than 2% of Average Annual Compensation for any Participant who retires on or after July 1, 1993. No retroactive benefit payments shall be made, however, for months prior to July 1, 1994.

(b) Guaranteed Minimum Monthly Benefit as of July 1, 1984. Notwithstanding any other provisions of this Section 4.1, the retirement benefit payable monthly upon retirement at or after Normal Retirement Date to a Participant who retires on or after July 1, 1984, shall in no event be less than \$100, calculated without regard to the form of benefits selected under Section 5.2.

Notwithstanding the immediately preceding paragraphs, the Retirement Benefit payable monthly upon the retirement at or after Normal Retirement Date to Participant who retires on or after June 1, 1990, and who transferred membership to the Plan on or before June 30, 1990, pursuant to Article 73B, Section 32 or Section 32B of the Maryland Annotated Code shall be one-twelfth of the sum of (i) the amount determined by multiplying 3% of his Average Annual Compensation by his Credited Service as defined in Section 3.1 of the Plan up to a maximum of 20 years; and (ii) the amount determined by multiplying his Credited Service as

defined in Section 3.1 of the Plan in excess of 20 years, (not to exceed 10 years) by 2% of his Average Annual Compensation; and (iii) the amount the Participant would have received under the Transferor System for service transferred to the Plan pursuant to Section 3.2, using Average Annual Compensation as defined in the Plan and the Benefit Formula of the Transferor System as calculated at retirement, provided, however, that the total percentage produced by multiplying total Credited Service under (i), (ii) and (iii) shall not exceed 80%. The calculations under this Subsection (iii) of this paragraph shall exclude the Credited Service described in Section 3.1 of the Plan that is otherwise included in calculations of the monthly benefit under (i) or (ii) and shall not be subject to reductions for retirement prior to the normal age of retirement set forth in Article 73B of the Annotated Code of Maryland or in any other term of a Transferor Plan.

For the purpose of the benefit calculations described in this Section, effective July 1, 1993, Credited Service for any Participant that is determined under Section 3.1 (but not including service credited under Section 3.2) and that is in excess of 20 years of Credited Service shall be multiplied by 2.5% rather than 2% of Average Annual Compensation for any Participant who retires on or after July 1, 1993. No retroactive benefit payments shall be made, however, for months prior to July 1, 1994.

(c) Participants Who Retire On or After July 1, 1992, and Who Receive a Service-Connected Disability Retirement Benefit. The retirement benefit payable monthly upon retirement at or after Normal Retirement Date to a Participant who retires on or after July 1, 1992, and who receives a Service-Connected Disability Retirement Benefit pursuant to Section 4.3(c)(1)(a) of the Plan, shall be an amount equal to:

- (1) one-twelfth of the sum of: (i) the amount determined by multiplying 3% of the Participant's Average Annual Compensation by his Credited Service up to a maximum of 20 years; and, (ii) the amount determined by multiplying his Credited Service in excess of 20 years by 2% of his Average Annual Compensation; minus,
- (2) one-twelfth of 55% of his Average Annual Compensation reduced pursuant to Section 4.3(d).

For the purpose of the benefit calculations described in this Section, effective July 1, 1993, Credited Service for any Participant that is determined under Section 3.1 (but not including service credited under Section 3.2) and that is in excess of 20 years of Credited Service shall be multiplied by 2.5% rather than 2% of Average Annual Compensation for any Participant who retires on or after July 1, 1993. No retroactive benefit payments shall be made, however, for months prior to July 1, 1994.

4.1(A) Benefits for Participants Who Have 20 Years of Service on or Before June 30, 1992.

(a) Plan Participants who have completed the service required to have reached their Normal Retirement Date by June 30, 1992, (i.e., 20 years) shall also be entitled to the benefits described in this Section. Such Participants shall have no benefits related to sick and annual leave accumulations under Section 16-221.2 of the County Personnel Law or any successor provision, in consideration of the benefits described herein.

(b) Participants who satisfy the criteria set forth in subsection (a) shall have a benefit in addition to that usually provided to Participants, as set forth in Section 4.1. This additional benefit shall be calculated, alternatively, at the Participant's election as either:

(i) a lump sum benefit equal to 115% of all or any portion of the sum of (A) the Participant's annual leave balance multiplied by the Participant's final base hourly rate of pay, plus (B) 50% of the Participant's sick leave balance multiplied by the Participant's final base hourly rate of pay multiplied by a fraction, the numerator of which is the number of years of service with the Prince George's County Government and the denominator of which shall be 20; or

(ii) an increase to the monthly pension benefit otherwise provided under the Plan, calculated by converting one week (i.e., 40 hours) of annual leave to one month of Credited Service, and two weeks (i.e., 80 hours) of sick leave to one month of Credited Service, and adding this additional Credited Service to the Credited Service calculated under other Plan provisions.

The benefits described in (b)(i) and (b)(ii) above shall be paid in the form of a lump sum or increase to the monthly pension benefit, as chosen by the Participant. A Participant may choose to receive part or all of his benefits under either (i) or (ii) of this subsection by allocating annual and sick leave credits between these benefits, as he chooses, and then calculating the respective benefits.

(c) Notwithstanding the above, a Participant who has been involuntarily separated from employment with the County for disciplinary reasons is not entitled to any benefits under this Section for sick leave accumulated at the time of separation.

(d) Notwithstanding the above, if a Participant elects to retain or transfer all or any portion of his sick and annual leave balances pursuant to Section 16-221.2(a)(1) or (2) of the County Personnel Law, or any successor provision, no credits shall exist under this Plan for the retained or transferred portion and, therefore, no benefits shall be provided under this Section for the retained or transferred portion.

4.1(B) Benefits for Participants with Accumulated Sick and Annual Leave.

(a) Effective for the 1997 leave year, for Participants terminating employment on or after January 5, 1997, all Plan Participants shall also be entitled to the benefits provided in this Section. Participants shall not have benefits related to sick and annual leave accumulations under the County Personnel Law, as it may be set from time to time as described below, in consideration of the benefits provided herein. To the extent the Participant is entitled to a benefit under this Section which would exceed that allowed by Section 4.8, the immediately preceding sentence shall not be effective as to that part of the benefit which is based on sick or annual leave accumulations and is in excess of such limits. County Personnel Law shall be consulted to determine what, if any, benefits are payable in this circumstance.

(b) Participants who satisfy the criteria set forth in this section shall have a benefit in addition to that usually provided to Participants under the other provisions of this Plan. This additional benefit, in general, shall be calculated as an increase to the monthly benefit otherwise provided under the Plan and shall be calculated by converting one week (i.e., 40 hours) of annual leave to one month of Credited Service, and two weeks (i.e., 80 hours) of sick leave to one month of Credited Service, and added to Credited Service calculated under other Plan provisions. Annual leave accumulated with respect to employment before January 5, 1997, (hereafter "old annual leave") may continue to be held without limit. Annual leave accumulated with respect to employment after January 4, 1997, (hereafter "new annual leave") that is accumulated in excess of 360 hours automatically converts to sick leave credit at the end of the leave year. Converted sick leave can be used to purchase credit at the rate of 40 hours per month provided that the combined total of old and new annual leave is less than 1,040 hours. In such case, the number of converted sick leave hours permitted to be used at the rate of 40 hours per month may not exceed the number necessary to bring the combined total of annual leave, new annual leave, and converted sick leave up to a maximum of 1,040 hours. Otherwise, converted sick leave may be used to purchase credit at the rate of 80 hours per month. New annual leave, new sick leave, and converted sick leave, when added, may not be accumulated in excess of 1,040 hours.

(c) In lieu of the monthly benefit just described, that portion of unused sick leave accumulated as of January 4, 1997, may be converted from a monthly benefit and paid as a cash lump sum at the rate of 2.5% for each year of service multiplied by the Employee's base rate of pay at the date of separation of employment, provided said rate does not exceed that of \$38,399, or in the case of a Participant who has attained a higher rate at January 1997, that rate applicable in January 1997. Notwithstanding the preceding, Participants with less than 20 years of Actual Service who terminate employment due to death or disability shall have a monthly benefit conversion at the rate of 50% rather than the rate of 2.5%

for each year of service. This special cash lump sum payment rule shall also apply with respect to sick leave accumulated after January 4, 1997, with respect to those Participants terminating employment as a result of death.

(d) Notwithstanding the above, a Participant who has been involuntarily separated from employment with the County for disciplinary reasons is not entitled to any benefits under this Section for sick leave accumulated at the time of separation.

(e) A portion of annual leave accumulated as of separation from employment and after Normal Retirement Date may be converted from a monthly benefit and paid as a cash lump sum at 100% of the base rate of pay at date of separation of employment, provided that the cash lump sum shall not exceed an amount based on the greater of the number of hours accumulated as of January 4, 1997, or 360 hours.

(f) Months of Credited Service determined as provided in this Section shall not be used to determine whether or not the Participant satisfied requirements of service for Normal Retirement Date, or for purposes of determining vesting.

(g) Notwithstanding the above, if a Participant elects to retain or transfer all or any portion of his sick and annual leave balances pursuant to Section 16-221.02(a)(1) or (2) or Section 16-148(a)(8) of the County Personnel Law, or any successor provisions, no credits shall exist under this Plan for the retained or transferred portion and therefore, no benefits shall be provided under this Section for the retained or transferred portion.

4.2 Retirement at Early Retirement Date. The retirement benefit payable monthly to a Participant who has retired at an Early Retirement Date on or after January 1, 1973, shall be an amount equal to the monthly retirement benefit that would have been payable to the Participant under Section 4.1 if his Early Retirement Date had been his Normal Retirement Date, payable monthly commencing with the date that would have been his Normal Retirement Date but for his early retirement. If the Participant so elects in writing, filed with the Retirement Administrator, prior to his Early Retirement Date, the monthly benefit shall commence on his Early Retirement Date, but shall be reduced by .55% for each full month by which his Early Retirement Date precedes the date that would have been his Normal Retirement Date.

4.3 Retirement at Disability Retirement Date.

(a) Definition of Disability. A Participant shall be retired on a Disability Retirement if he meets all of the following conditions on or after January 1, 1973:

(1) The Participant is so disabled, mentally or physically that he is unable to fill any position then available to him as an Employee.

(2) His disability is likely to be of long duration.

(3) His disability has not resulted from service in the Armed Forces of any country for which he receives a military pension, was not caused or connected with use of drugs prohibited by law, or resulted from his engaging in a criminal act or an effort to bring about the injury of himself or any other person.

(b) Determination of Disability.

(1) All determinations of disability shall be made by the Disability Review Board, which shall be composed of the Director of Finance or his designee, the Director of Personnel and Labor Relations or his designee, the Deputy Chief Administrative Officer or his designee, the Fire Chief or his designee, the Chief of Police or his designee, the President of International Association of Fire Fighters Local No. 1619 or his designated permanent alternate, and the President of Fraternal Order of Police Lodge No. 89 or his designated permanent alternate, in accordance with the rules of procedure of the Disability Review Board as shall be in effect from time to time and as are set forth in the Appendix. The Director of Personnel and Labor Relations shall serve as Chairman of the Disability Review Board.

A disability determination shall commence upon written application of a Participant, the Retirement Administrator, or the appointing authority filed with the Medical Advisory Board. The Medical Advisory Board shall be composed of nine (9) physicians selected by the County Executive, consisting of at least two (2) general or family practitioners and seven physicians who are representative of the medical specialties established by the American Board of Medical Specialties. In addition, the President of International Association of Fire Fighters Local No. 1619, or his designated permanent alternate, shall serve as a non-voting member of the Medical Advisory Board in cases involving Participants who are represented for purposes of collective bargaining by International Association of Fire Fighters Local No. 1619. The Medical Advisory Board shall conduct such inquiry as it deems necessary and proper under the circumstances, including a medical examination of the Participant by one or more members of the Medical Advisory Board, or by a physician or physicians selected for that purpose by the Medical Advisory Board, as the Medical Advisory Board deems necessary in order to give the Disability Review Board a written opinion with regard to the nature, cause, degree of permanence and effect of the alleged disability. The Disability Review Board shall review the written opinion of the Medical Advisory Board and render a preliminary determination as to disability. The preliminary determination of the Disability Review Board shall be communicated to the Participant. If the Participant disagrees with the preliminary determination of the Disability Review Board, he may request a formal hearing which shall be held before

the Disability Review Board or a hearing examiner appointed by the Disability Review Board. Following this formal hearing, the Disability Review Board will render a final determination. If no formal hearing is requested, the preliminary determination shall become final.

(2) At the formal hearing, if so requested, the Participant whose disability is being determined shall be given the opportunity to examine any evidence presented to, or otherwise obtained by, the Disability Review Board in connection therewith, to comment on such evidence, and to introduce further evidence with respect thereto.

(3) Effective July 1, 2001, a disability determination shall include, in all cases where the Disability Review Board finds that a Participant is disabled within the definition of disability in Section 4.3(a)(1), a determination by the Disability Review Board whether said disability was or was not caused by an injury or sickness suffered as a result of his performance of his duties as an Employee. Such determination shall be based on all of the evidence presented to the Disability Review Board, or otherwise obtained by it, in connection with its determination of disability. For the purpose of determining eligibility for service-connected disability retirement benefits, if the disability is determined by the Disability Review Board to have resulted from lung disease, heart disease, or hypertension, or any condition or impairment of health caused by lung disease, heart disease or hypertension resulting in total or partial disability, the Disability Review Board shall find that such disability was caused by an injury or sickness suffered as a result of the performance of his duties as an Employee, unless said evidence shall demonstrate to a reasonable degree of medical certainty that his disability was not caused by an injury or sickness suffered as a result of his performance of his duties as an Employee.

In determining whether an injury or illness is service connected, the Participant must show that the injury or illness was directly and substantially caused by an employment-related accident, occurrence or condition. A pre-existing physical or mental condition found in the Participant which is aggravated by an employment related accident, occurrence or condition and renders the Participant disabled, does not give rise to a service-connected disability.

(c) Amount of Disability Retirement Benefit for Participants. The retirement benefit payable monthly upon retirement at a Disability Retirement Date to a Participant shall be determined as follows:

(1) Service-Connected Disability.

(a) The retirement benefit payable monthly upon retirement to a Participant who retires due to a disability caused by an injury or

sickness as a result of his performance of his duties as an Employee, shall be a monthly benefit equal to one-twelfth of 55% of his Average Annual Compensation, reduced pursuant to subsection (d). Such benefit shall be payable whether or not this Disability Retirement Date occurs prior to or after his Normal Retirement Date.

(b) An Employee who is permanently and totally disabled in the line of duty such that he is unable to perform the duties of any occupation will receive a 90% disability benefit regardless of years of service. The loss of both hands, or both arms, or both feet, or both legs, or both eyes, or any two thereof, in the line of duty creates a rebuttable presumption that the Employee is totally and permanently disabled within the meaning of this provision.

(2) Non-Service Connected Disability. If his disability was not caused by an injury or sickness suffered as a result of his performance of his duties as an Employee, he shall be entitled to a monthly benefit only if he has completed at least five (5) years of Credited Service. If so, his monthly benefit shall be one-twelfth the sum of (i) 50% of his Average Annual Compensation plus (ii) the amount determined by multiplying 2.5% of his Average Annual Compensation by his Credited Service in excess of twenty (20) years, reduced by subsection (d).

(d) Reduction of Disability Benefits. The monthly disability retirement benefit shall, in each case, be reduced by the sum of the following:

(1) One-half of any monthly Primary Insurance Amount payable to the Participant under the federal Social Security Act as a result of his disability when the same first becomes payable and without regard to any subsequent increases; and

(2) The monthly rate of any other disability benefits to which the Participant may become entitled by law, including Workers' Compensation periodic payments or lump-sum payments in lieu of periodic payments.

(e) Continued Evaluation of Disabled Participants. A Participant who is receiving disability benefits under this Section 4.3, and has not been reemployed by the Fire Department of Prince George's County prior to September 20, 1989, must certify to the Retirement Administrator annually, on forms provided by the Retirement Administrator, that (i) the Participant is not providing any compensated services of any kind to the Fire Department of Prince George's County; and (ii) the Participant is not performing services substantially similar to the duties he performed as an Employee. The annual completion of this form is a prerequisite to a Participant's continued entitlement to such disability benefits.

If the Participant is providing any compensated services to the Fire Department of Prince George's County, benefits paid under this Plan shall permanently cease

during such period of employment. Benefits shall commence again only if such employment ceases, and the Participant provides the certification described in the immediately preceding paragraph. Benefits that do commence again shall not be adjusted for benefits suspended, but shall be in the same amount as before the suspension. If the Participant is performing services substantially similar to the duties he performed as an Employee, the Retirement Administrator will require the Participant to re-establish his disabled status before the Medical Advisory Board and the Disability Review Board. Regardless of the above paragraph, the Retirement Administrator may require the Participant to re-establish his disabled status before the Medical Advisory Board and the Disability Review Board at any time. The Medical Advisory Board shall conduct such inquiry as it deems necessary and proper in the circumstances in order to determine whether the Participant is not disabled as provided in Section 4.3(a), which inquiry may include a medical examination of the Participant by one or more members of the Medical Advisory Board, or by a physician or physicians selected for that purpose by the Medical Advisory Board. The Medical Advisory Board shall report on its findings to the Disability Review Board. If the Medical Advisory Board determines that the Participant is not disabled as provided in Section 4.3(a), the Disability Review Board shall hold a hearing and if the Disability Review Board determines that the Participant is not disabled as provided in Section 4.3(a), no further disability benefits shall be paid to or on account of the Participant under Section 4.3, unless he again becomes retired on a Disability Retirement after returning to the employ of the County as an Employee.

(f) Optional Form of Payment. Effective July 1, 2001, a Participant who becomes entitled to receive a disability benefit under this Section may choose a Contingent Annuitant form of payment as described in Section 5.2.

4.4 Supplemental Disability Retirement Benefits.

(a) Service-Connected Disability Retirement Benefits Upon Attainment of Normal Retirement Date. Any Participant whose Disability Retirement Date was prior to January 1, 1973, and who is receiving a monthly disability benefit pursuant to the Plan in effect prior to January 1, 1973, based upon his service-connected disability, shall upon his attainment of Normal Retirement Date (as defined in the Plan as in effect at his Disability Retirement Date) receive a Supplemental Disability Retirement Benefit as provided herein that is in addition to the benefit to which he is otherwise entitled under the Plan. Such Supplemental Disability Retirement Benefit shall be equal to the difference between (i) the monthly disability benefit paid to the Participant prior to his attaining Normal Retirement Date, and (ii) the monthly pension benefit to which the Participant is entitled pursuant to the provision of the Plan as in effect at his Disability Retirement Date after attaining Normal Retirement Date, but only where (i) is greater than (ii).

(b) Non-Service Connected Disability Retirement Benefits Upon Attainment of Normal Retirement Date. Any Participant whose Disability Retirement Date was

prior to January 1, 1973, and who is receiving a monthly disability benefit pursuant to the Plan in effect prior to January 1, 1973, based upon his non-service connected disability, shall upon his attainment of Normal Retirement Date (as defined in the Plan as in effect at his Disability Retirement Date) receive a Supplemental Disability Retirement Benefit as provided herein that is in addition to the benefit to which he is otherwise entitled under the Plan. Such Supplemental Disability Retirement Benefit shall be paid only if the Participant completed fewer than 25 years of Credited Service at his Disability Retirement Date, and shall be equal to the difference between the benefit to which he is otherwise entitled, and the benefit he would receive if he had completed 25 years of Credited Service at his Disability Retirement Date.

(c) Reinstatement of Benefits Previously Reduced Upon Attainment of Normal Retirement Date. Any Participant whose Disability Retirement Date was prior to January 1, 1973, who was receiving a monthly disability benefit which was subsequently reduced upon his attaining Normal Retirement Date shall receive a Supplemental Disability Retirement Benefit, beginning July 1, 1983, as provided herein. Such Supplemental Disability Retirement Benefit shall be equal to the difference between (i) the monthly disability benefit to which he would be entitled under Section 4.4(a) or (b) as applicable if his Normal Retirement Date had been after the effective date of this amendment, and (ii) the monthly pension benefit to which the Participant is entitled, pursuant to the provisions of the Plan as in effect at his Disability Retirement Date, after attaining Normal Retirement Date.

4.5 Termination of Employment Before Retirement. A Participant whose employment as an Employee terminates, other than by death or by retirement on a Disability Retirement Date or an Early Retirement Date, prior to his Normal Retirement Date, shall be entitled to one of the following:

(a) Refund of Contributions. He may elect to receive a lump sum cash refund of his contributions to the Trust Fund, with interest thereon at the rate of 5% per annum, compounded annually. Said election shall be in lieu of any other benefits under the Plan.

(b) Vested Benefit. If the Participant has completed five or more years of Credited Service at the time of his termination of employment and does not elect to have his contributions refunded to him and does not return to service as an Employee, he shall be entitled to receive a monthly benefit, commencing with the date that would have been his Normal Retirement Date if his participation in the Plan had continued, computed as follows:

(i) There shall first be computed the amount of the monthly benefit he would have been entitled to under Section 4.1, if the first day of the month coinciding with or next following the date of his termination of employment had been his Normal Retirement Date;

(ii) The amount computed shall be for completed years of Credited Service under Section 3.1 and completed years of service transferred under Section 3.2 multiplied by the applicable percentage from the following table:

Completed Years of Credited Service	Percentage
5	50%
6	55%
7	60%
8	65%
9	70%
10	75%
11	80%
12	85%
13	90%
14	95%
15 or more	100%

4.6 Supplemental Retirement Benefit.

(a) In January of each year, beginning in January 1990, two-thirds (2/3) of the total investment return on the Trust Fund (on a market value basis excluding any investment expenses incurred but including realized and unrealized capital gains and losses, as well as interest and dividends) in excess of the interest assumption for the previous Plan Year will be transferred to a "post-retirement increase fund," with the exception that in January 1990 the calculation will be from the previous two (2) years. Such fund shall be contained within the Trust Fund and shall not require the addition of a separate entity.

(b) On January 31 of each year, beginning on January 31, 1990, every retiree and every Contingent Annuitant, and every alternate payee who is specifically granted such benefit by Domestic Relations Order which complies with Section 11.3, who is then receiving a benefit under Sections 4.1, 4.2 or 4.3 will receive a permanent increase in his or her retirement benefit as calculated in paragraph (c).

(c) The permanent increase will be determined by actuarially calculating the lifetime benefit that can be provided each such eligible retiree, alternate payee and Contingent Annuitant and every alternate payee who is specifically granted such benefit by Domestic Relations Order which comply with Section 11.3, from the post-retirement increase fund, determined pursuant to paragraph (a), provided:

(1) Each such eligible retiree and Contingent Annuitant will receive an identical dollar amount increase. An alternate payee shall receive this benefit only if so specifically granted such an increase, and only in the

amount specifically granted, and the retiree benefit shall be reduced to the extent the alternate payee is to receive all or a portion of this benefit.

(2) The maximum increase provided shall not exceed \$100.00 per month. Effective January 1, 1995, the maximum increase will be \$125.00 per month. Effective January 1, 2002, the maximum increase will be \$150.00 per month.

(3) No increase shall be provided if the amount in the post-retirement increase fund is not sufficient to provide at least \$10.00 per month benefit increase.

(d) Any amount in the "post-retirement increase fund" described in paragraph (a) in excess of the amount necessary to fund the maximum permanent retirement increase described in paragraph (c)(2) or less than an amount necessary to provide the minimum benefit described in paragraph (c)(3) will be transferred (returned) to the general pension fund assets.

(e) Effective with the calculation done in January 1990, the phrase "actuarially calculating the lifetime benefit" in subparagraph (c)(3), above, means that the Plan's actuary will use the same procedures utilized in 1988 for calculating the cost of living benefit but will also include an assumption that the pool of assets that has been determined to be available for cost of living purposes, if any, will earn interest at the same rate of return that is assumed for the Pension Fund itself. Also effective with the calculation done in January 1990, any negative performance of the Pension Fund (the percentage by which actual returns fall short of the interest assumption) will be carried forward to successive calculations under this procedure until totally absorbed by future positive earnings.

4.7 Reemployed Participants. Benefits being paid to a Participant or to an alternate payee under this Plan shall, upon the Participant's reemployment as an Employee, cease. Such reemployed Participant shall receive Credited Service for his months of additional service under the normal Plan rules for crediting service, including limits on maximum service considered. For purposes of recalculating benefits at the Participant's subsequent retirement, notwithstanding the definition in Section 1, if the Participant has retired at or after his Normal Retirement Date, and is reemployed at the direction of the County Executive, Average Annual Compensation shall mean the Compensation of a Participant during whatever period of twelve months of his Continuous Service will provide the largest total Compensation, and shall include service prior to reemployment, if months of Credited Service after reemployment are less than twelve, and would otherwise be used in this calculation.

4.8 Limitation on Benefits. The maximum benefit under this Plan shall be as provided in Section 415 of the Internal Revenue Code, as amended from time to time.

As of January 1 of each calendar year, the dollar limitation on benefits imposed by Internal Revenue Code Section 415, as determined by the Commissioner of Internal Revenue for that calendar year, will become effective as the maximum permissible dollar amount for the Plan for that calendar year. The maximum permissible dollar amount for a calendar year applies to limitation years ending with or within that calendar year. Effective January 1, 1997, the dollar limitation shall apply to benefits only as required by the Taxpayer Relief Act of 1997. Effective January 1995, the 100% of Compensation limitation shall not apply.

As of January 1 of each calendar year, the average Compensation limitation on benefits imposed by Internal Revenue Code Section 415, as adjusted by an annual adjustment factor, will become effective as the maximum permissible Compensation limitation for the Plan for that calendar year. The maximum permissible Compensation limitation for a calendar year applies to limitation years ending with or within that calendar year. For any year beginning after an employment separation occurs, the annual adjustment factor is a fraction, the numerator of which is the adjusted dollar limitation for the limitation year in which the Compensation limitation is being adjusted and the denominator of which is the adjusted dollar limitation for the year in which employment separation occurred.

In those cases where benefits are limited by Section 415 of the Internal Revenue Code, subsequent adjustments to benefits, in addition to the Supplemental Retirement Benefits adjustment required under Section 4.6, shall be made to the extent it is possible to add such a post-retirement adjustment without exceeding that subsequent year's limits on benefits as required by this Section. This adjusted benefit, however, shall not exceed the initial benefit, unreduced by this Section, but as supplemented by the Supplemental Benefits under Section 4.6, as if those were paid in full in all years since retirement. For this purpose, the initial benefit shall not include sick and annual leave accumulations paid by the County under Section 16-221.02 of the County Personnel Law, or successor provisions.

4.9 Reduction of Benefits. Any benefits payable under this Plan, as a result of County contributions, to a Participant who has been given prior service credit under Section 3.1 or credit for transferred service under Section 3.2 shall be reduced by the Actuarial Equivalent of any benefits he may be entitled to receive from another employer for such service.

Section 5 Payment of Retirement Benefits

5.1 General Rule. Except as otherwise provided in this Section 5, retirement benefits payable under the Plan shall be paid monthly. The first payment shall be paid on the date he/she first becomes entitled to the retirement benefit, and, unless an optional form of benefit payment has been elected by the Participant and is effective, the last payment shall be paid on the first day of the calendar month in which such Participant shall die.

5.2 Optional Forms of Benefit Payment.

(a) Options Available. A Participant may elect or a Court may order pursuant to a Domestic Relations Order one of the following optional forms of payment of his retirement benefits payable at or after the Participant's Normal Retirement Date (but not if he has retired at a Disability Retirement Date prior to July 1, 2001), in place of the method of payment provided for in Section 5.1. Optional forms must be elected or ordered before benefits have begun under the Plan. Each of these optional forms of payment shall be the Actuarial Equivalent of said retirement benefit as payable under Section 5.1. The optional forms of payment are as follows:

(1) A Participant may elect or a Court may order pursuant to a Domestic Relations Order to receive a reduced retirement benefit during his lifetime, and to have all or a specified portion of such reduced retirement benefit paid to a Contingent Annuitant. In the event the Contingent Annuitant so named predeceases the Participant, or the Contingent Annuitant so named has, as of the date of acceptance by the Plan been granted a valid and final decree of divorce from the Participant, the monthly benefit payable to the Participant shall be increased to the level it would have been had this reduced retirement benefit form never been elected, with no additional cost to the Participant. The increase shall be effective for the month following the Contingent Annuitant's date of death or date of the Plan's acceptance of a valid and final decree of divorce, but shall not affect previously paid benefits. The Retirement Administrator shall make uniform rules as to what portion of the reduced retirement benefit may be made payable to a Contingent Annuitant.

(2) A Participant may elect any other optional method of payment of his monthly retirement benefit that is acceptable to the Retirement Administrator in accordance with uniform rules adopted by the Retirement Administrator.

(b) Limitations. No optional form of benefit payment may be elected by a Participant that would (i) permit the interest of a Participant to be retained in the Trust Fund after the Participant becomes entitled to retirement benefits under this Plan, and only the interest therein to be paid to the Participant during his lifetime, the balance to be paid after the death of the Participant; or (ii) reduce the benefit payable to a Participant by 50% or more of the benefit he would have been entitled to but for his exercise of the option, if the Contingent Annuitant designated by the Participant is not his spouse; or (iii) permit installment payments in other than equal amounts except to the extent that, in accordance with uniform rules adopted by the Retirement Administrator, the Participant may elect to receive a greater retirement benefit prior to the commencement of his federal Social Security Act benefits and a lesser retirement benefit thereafter, in order to provide him with retirement benefits in the aggregate of equivalent actuarial value which

will give him, insofar as practical, a level total income for life under the Plan and the Social Security Act.

(c) Exercise of Election and Designation of Contingent Annuitant. The election or order of an optional form of benefit payment and the designation of a Contingent Annuitant must be in writing. It must be filed with the Retirement Administrator prior to the commencement date of the Participant's retirement benefit under the Plan. Either the election, or the designation, or both, may be changed by the Participant, or by Domestic Relations Order, from time to time, at any time prior to the commencement date of his retirement benefit under the Plan.

(d) Revocation of Election by Occurrence of Certain Events. If a Participant who has elected an optional form of benefit payment dies before the commencement date of his retirement benefit under the Plan, no payment shall be made to his Contingent Annuitant unless the Participant's death occurs after his Normal Retirement Date, in which case his Contingent Annuitant shall be entitled to the appropriate retirement income, as survivor, under the option selected. If a Contingent Annuitant dies, or is divorced or legally separated from any Participant, prior to the commencement date of the Participant's retirement benefits under the Plan, the election and the designation shall be void, irrespective of when made unless otherwise ordered by Domestic Relations Order. If both the Participant and the Contingent Annuitant die prior to completion of payment 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 persons and in the proportions designated in writing by the Participant or ordered by Domestic Relations Order, or, in the absence of such designation or Order of if the designated or ordered person is not then living, to the estate of the last to die of the Participant and his Contingent Annuitant.

(e) Free Joint and Survivor Annuity. Effective July 1, 1994, notwithstanding the form of retirement benefit actually elected (or ordered pursuant to a Domestic Relations Order), if the Participant dies within 12 months of the commencement date of his retirement benefit under the Plan, and is survived by a spouse, the surviving spouse will receive a benefit equal to 100% of the reduced benefit the Participant would have received if the Participant had elected the 100% Contingent Annuitant benefit for his or her spouse.

If a Participant elects any Contingent Annuitant optional form of benefit providing a benefit to the surviving spouse of the Participant, the Participant will receive an unreduced pension benefit for the first 12 months after the commencement date of his retirement benefit. After that first 12 month period, the Participant will receive the reduced pension benefit selected.

If a Participant elects any Contingent Annuitant other than his spouse, this subsection shall not apply at all.

5.3 Incapacity of Recipient. If for any reason the Retirement Administrator 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 the Plan, to make such payment directly to such person, the Retirement Administrator may apply such payment for the benefit of such person in any way that the Retirement Administrator shall deem advisable or the Retirement Administrator may make such payment to any third person, who, in the judgment of the Retirement Administrator, will apply such payment for the benefit of the person entitled thereto. The Retirement Administrator, having made payment as provided in this section, shall be discharged from any further liability for such payment. The Retirement Administrator may withhold the payment of any amount that shall be payable in accordance with the provisions of the Plan to a person under legal disability until a representative of such person competent to receive such payment on his behalf shall have been appointed pursuant to law.

5.4 Disappearance of Recipient. If the Retirement Administrator is not able to locate any person to whom a benefit is due under the Plan, after making all reasonable efforts to do so, such benefit shall not be payable to such person until he has been located. If he is not located within three years of the date on which the earliest unpaid benefit payment was due him, he shall have no further interest in any benefits under the Plan. In such event, he will be treated for all purposes of the Plan as if he had died on the date such earliest benefit payment was due him. If he is located prior to the expiration of such three-year period, he shall then be entitled to receive payment of all unpaid benefits that would have been payable to him but for his disappearance.

5.5 Required Distributions. Notwithstanding any other provision in the Plan to the contrary, the entire interest of each Participant shall be distributed to such Participant not later than the required beginning date specified below, or will be distributed, beginning not later than the required beginning date, over the life of such Participant or over the lives of such Participant and a beneficiary or over a period not extending beyond the life expectancy of such Participant or the life expectancy of such Participant and a beneficiary. For this purpose, the term "required beginning date" means April 1 of the calendar year following the calendar year in which the Participant attains age 70-1/2. If a Participant dies after distribution of the Participant's interest has begun, the remaining portion, if any, of such interest shall be distributed at least as rapidly as under the method of distributions being used as of the date of his death. If a Participant dies before distribution of the Participant's interest has begun, any death benefit shall be distributed within five years after the death of such Participant, unless (i) any portion of the Participant's interest is payable to (or for the benefit of) a beneficiary, (ii) such portion will be distributed over the life of such beneficiary or over a period not extending beyond the life expectancy of such beneficiary, and (iii) except when the beneficiary is the Participant's surviving spouse, such distributions begin not later than one year after the date of the Participant's death or such later date as the Secretary of the Treasury may by regulations prescribe. If the Beneficiary is the surviving spouse of the Participant, (i) distributions shall begin on or before the latest of one year after the date of the Participant's death, such later date as the Secretary of the Treasury may by regulations prescribe, or the date on which the Participant should have attained age 70-1/2, and (ii) if

the surviving spouse dies before the distributions to such spouse begin, the distribution rules specified in this paragraph shall be applied as if the surviving spouse were the Participant.

Notwithstanding the preceding paragraph, effective January 1, 1997, a Participant's distribution must be made under the rules of this paragraph. The distribution of benefits to a Participant who continues employment beyond the Participant's Normal Retirement Date must commence by the first day of April of the calendar year following the later of the calendar year in which the Participant terminates employment or the calendar year in which the Participant attains age 70 1/2. Notwithstanding the preceding, a Participant who attains age 70 1/2 shall be permitted, but shall not be required, to elect to commence the receipt of distribution by the first day of April of the calendar year following the calendar year in which the Participant attains age 70 1/2. The Plan shall permit those Participants whose distributions were required to commence prior to January 1, 1997, but who are not required to receive distributions under the law in effect for tax years beginning after December 31, 1996, to cease receiving distributions until so required.

5.6 Eligible Rollover Distributions.

(a) This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to any eligible retirement Plan specified by the distributee in a direct rollover.

(b) Definitions:

(i) Eligible rollover distributions: 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 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 Section 401(a)(9) of the Code; and the portion of any distribution that is not includible in gross income.

(ii) Eligible retirement Plan: An 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, an 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 distributee's 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.

(iii) **Distributee:** A 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.

(iv) **Direct Rollover:** A direct rollover is a payment of the Plan to the eligible retirement Plan specified by the distributee.

(c) **EGTRRA Provisions.** This subsection shall apply to distributions made after December 31, 2001. For purposes of the direct rollover provisions in this section, an eligible retirement Plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible Plan under Section 457(b) of the Code 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. The 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 Section 414(p) of the code. For purposes of the direct rollover provision in this section, 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 only be paid to an individual retirement account or annuity described in Section 408(a) or (b) of the Code that agrees to separately account for the 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.

Section 6 Death Benefits

6.1 General Rule. Upon the death of a Participant, or upon the later death of a contingent annuitant designated by a Participant who survives the Participant, there shall be payable to the Beneficiary an amount equal to the difference, if any, between (a) the total contributions of the Participant, together with interest thereon at 5% per year compounded annually to the earlier of the date of his death or the date his retirement benefit commenced and (b) the total amount of benefits under the Plan received by the Participant, or by the Participant and his contingent annuitant and all Alternate Payees, together, as the case may be. In the absence of the designation of a Beneficiary, or if the designated beneficiary is not then living, payment shall be made to the estate of the later to die of the Participant and his Contingent Annuitant.

6.2 Surviving Spouse Benefit. The spouse of a Participant who dies at or after his Normal Retirement Date while an Employee shall receive a monthly benefit for the spouse's life in an amount equal to the benefit the spouse would have received if the Participant had retired on the day before he died and had elected to receive a reduced benefit for his life with a 100% Contingent Annuitant benefit payable to his spouse.

A surviving spouse shall not receive a benefit under this Section if that spouse is to receive a benefit as a contingent annuitant, or if the Participant has selected any benefit form permitted under the Plan providing benefits to any individual after the Participant's death, and based on his monthly benefit.

Effective July 1, 2001, the spouse of a Participant with fifteen or more years of Actual Service but less than twenty years of Actual Service who dies while an Employee shall receive a monthly benefit for the spouse's life in an amount equal to the benefit the spouse would have received if the Participant had terminated employment on the day before the date of death and then survived until the Normal Retirement Date and elected a joint and 50% contingent annuitant benefit with the spouse named to receive the benefit. The spouse's benefit shall be payable as of the first day of the month following the Employee's death, and there shall be no actuarial reduction for payment prior to what would have been the Participant's Normal Retirement Date.

Section 7 Contributions

7.1 Employee Contributions. Each Employee shall contribute to the Trust Fund one percent of his Compensation, excluding education incentive pay, for each full pay period beginning on or after July 1, 1984. Notwithstanding any provision herein to the contrary, each Employee who is a Paramedic shall contribute to the Trust Fund, from and after September 5, 1984, 8% of his Compensation for each full pay period, and from and after July 1, 1988, 4% of his Compensation. Effective the first full pay period beginning on or after June 30 in each of the three years, 1990, 1991 and 1992, the Employee contribution shall be reduced by 1% to contribution rates of 3%, 2% and 1%, respectively. Effective the first full pay period beginning on or after July 1, 1995, the Employee contributions to the retirement trust fund shall increase from one (1%) to four (4%) percent of salary, excluding education incentive pay.

7.2 Employer Contributions. The County 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 Plan. An actuarial valuation of the Plan shall be obtained at intervals of not more than two years in order to determine the required contributions of the County.

7.3 No Reversion of Employer Contributions. No contributions to the Trust Fund by the County shall be used for or diverted to purposes other than for the exclusive

benefit of Participants and their contingent annuitants and beneficiaries, prior to the satisfaction of all liabilities under the Plan to any of the foregoing.

7.4 Pick Up Plan.

- (a) The County shall pick up, within the meaning of Section 414(h)(2) of the Internal Revenue Code, the Employee contributions required by Section 7.1 hereof.
- (b) Such amounts:
 - (1) are designated as Employee contributions to be picked up by the County within the meaning of Section 414(h)(2) of the Internal Revenue Code and shall be treated as employer contributions in determining the tax treatment of such amounts under that section;
 - (2) shall reduce the taxable Compensation of the Employee in an amount that equals the Employee contributions picked up by the County;
 - (3) shall be paid by the County from the same source of funds that is used to pay Compensation to the Employee;
 - (4) shall, for all other purposes, be treated in the same manner and to the same extent as Employee contributions made before establishment of the pick up Plan.
- (c) Participants shall not be entitled to receive such amounts directly in lieu of having such amounts picked up by the County.
- (d) This pick up Plan becomes effective for pay periods beginning on or after April 12, 1998. The County shall apply to the Internal Revenue Service for a private letter ruling or other approval with respect to the pick up Plan, but neither the application nor the receipt of such a ruling or approval are prerequisites to the implementation of the pickup Plan.

Section 8 Administration of Plan

8.1 Retirement Administrator. The Plan shall be administered by a Retirement Administrator, who shall be appointed by the County Executive. Unless otherwise directed by the County Executive, no bond or other security shall be required of the Retirement Administrator.

8.2 Powers of Retirement Administrator. Subject to action by the County Executive, the Retirement Administrator shall have the power and duty to take all actions

and to make all decisions necessary or proper to carry out the provisions of the Plan, and, without limiting the generality of the foregoing, the Retirement Administrator shall have the following powers and duties:

- (a) to make and enforce such rules and regulations as deemed necessary or proper for the efficient administration of the Plan;
- (b) to interpret the Plan;
- (c) to decide questions concerning the Plan and the eligibility of any Employee to participate therein and the rights of any person to receive benefits thereunder;
- (d) to determine 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 Plan;
- (e) to compute the amount of benefits which shall be payable to any person in accordance with the provisions of the Plan;
- (f) to authorize disbursements by the Trustees; and
- (g) to recommend to the County the amounts of contributions to be made by the County from time to time under the provisions of the Plan.

8.3 Administrative Review Board. There shall be an Administrative Review Board, consisting of the Chief Administrative Officer, who shall act as Chairman, the Director of Management and Budget, the Director of Finance, the Fire Chief of the County, the Director of Personnel and Labor Relations, the President of the International Association of Fire Fighters, Local 1619, the Director of Public Safety and two past or present bargaining unit members, such members to be as designated by the President of Local 1619 of the IAFF.

The Administrative Review Board shall convene at a regular time and place at least as often as quarterly, and the Retirement Administrator shall report quarterly to the Administrative Review Board for its review of all significant actions and decisions made by the Retirement Administrator pursuant to the powers and duties given to the Retirement Administrator in Section 8.2. Any persons having or claiming an interest under the Plan may request the Administrative Review Board to review any action of the Retirement Administrator which may have an effect on the interest of such person under the Plan, in accordance with the rules and regulations established by the Administrative Review Board. The decision of the Administrative Review Board resulting from such request for review shall be final and conclusive. The Administrative Review Board shall adopt such rules and regulations governing the conduct of its business, including procedural rules regarding claims review, as it may deem necessary or desirable from time to time. All decisions of the Administrative Review Board shall require the concurrence of a majority of its members. The Retirement Administrator may at any time request the Administrative Review Board to review any proposed administrative action

prior to taking such action. Any such prior review shall not deny to any person whose interest under the Plan may be affected by the action of the Retirement Administrator the right to request a further review of said action of the Retirement Administrator by the Administrative Review Board, to the same extent as if there had been no such prior review of such action by the Administrative Review Board.

If the County Executive so indicates, a person holding an office in an acting capacity shall be a member of the Administrative Review Board.

8.4 Employment of Experts. The Retirement Administrator may employ or engage an actuary to make actuarial valuations of the liabilities under the Plan, to recommend to the Retirement Administrator 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 Plan, to recommend to the Retirement Administrator the amounts of contributions to be made by the County and to perform such other services as the Retirement Administrator shall deem necessary or desirable in connection with the administration of the Plan. The Retirement Administrator may also employ or engage such accountants, counsel, other experts and other persons as deemed necessary or desirable in connection with the administration of the Plan.

8.5 Limitation of Liability. In administering the Plan, neither the Retirement Administrator, nor the members of the Administrative Review Board, nor any person to whom may be lawfully delegated any power or duty in connection with administering the Plan, shall be liable for any action or failure to act, except for their own willful and intentional malfeasance or misfeasance. The Retirement Administrator, members of the Administrative Review Board and each person to whom may be lawfully delegated any duty or power in connection with administering the Plan 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, valuation, certificate, opinion or report which shall be furnished to them or any of them by the Trustees or any actuary, accountant, counsel or other expert who shall be employed or engaged by the County or the Retirement Administrator.

8.6 Expenses. All expenses that shall arise in connection with the investment of the Trust Fund (including brokerage costs, Federal and State transfer taxes, shipping expenses and charges presented by any custodial banks of the Trustee) and any income or other taxes of any kind whatsoever which may be levied or assessed upon or in respect of the Trust Fund shall be paid by the Trustee out of the Trust Fund. Except as otherwise expressly provided in the Trust Agreement, all other expenses relative to the Trust Fund, including, but not limited to, the Compensation of any actuary, accountant, custodian, counsel, other expert or other person who shall be employed by the Retirement Administrator in connection with the administration thereof, shall be paid by the Trust Fund.

8.7 Information from Participants. In order to receive any benefits under the Plan, a Participant must furnish to the Retirement Administrator such information as he may request for the purpose of the proper administration of the Plan.

8.8 Interpretation and Regulations Are Binding on Participants and Beneficiaries. The Administrative Review Board, and the Retirement Administrator subject to the Board's approval, have the final authority to interpret this Plan Document and to adopt such rules and regulations as in their opinion are necessary or advisable to implement and administer the Plan. Such interpretations and rules or regulations, once adopted, are binding upon all Participants and beneficiaries and upon any other persons claiming an interest under the Plan.

8.9 Court Action at Discretion of Administrative Review Board. The Administrative Review Board, if it desires, may require any fact or other question to be adjudicated in court before taking any action.

Section 9 The Trust Fund

9.1 The Trust Fund shall be held and disbursed by the Trustee in trust in accordance with the provisions of the Trust Agreement for use in accordance with the provisions of this Plan and of the Trust Agreement. No person shall have an interest in, or rights to, the Trust Fund or any part thereof, except as expressly provided in the Plan and the Trust Agreement.

9.2 Removal and replacement of the Trustee shall be accomplished in the manner provided for in the Trust Agreement at the time thereof.

9.3 The Trustee shall at any time have such powers to hold, invest, reinvest, control and disburse the Trust Fund as shall at that time be set forth in the Trust Agreement.

9.4 No part of the assets of the Trust Fund shall, by reason of any modification, amendment, termination, or otherwise be used for or diverted to purposes other than for the exclusive benefit of Participants, Contingent Annuitants, or their designated beneficiaries or estates.

9.5 A Trustee may be a Participant in the Plan, and such participation will not result in any limitation of powers or other disqualification to act in the capacity of Trustee.

Section 10 Reservations and Limitations of Rights

10.1 Neither the County, the Retirement Administrator, nor the Trustee assume as a contractual obligation the continuance of this Plan or the payment of contributions thereunder. Each Participant, contingent annuitant, beneficiary or other person who shall claim the right to any payment or benefit under the Plan, shall be entitled to look only to the Trust Fund for any such payment or benefit and shall not have any right, claim or demand therefore against the County, the Retirement Administrator, or the Trustee.

10.2 The Plan shall not be deemed to constitute a contract between the County and any Participant or to be a consideration for, or an inducement for, the employment of any Participant by the County. Nothing contained in the Plan shall be deemed to give any Participant the right to be retained in the service of the County or to interfere with the right of the County to discharge any Participant at any time without regard to the effect which such discharge shall have upon his rights, if any, under the Plan.

10.3 All of the provisions of Section 10 limiting the obligations of the County under the Plan or the rights of Participants in the Plan shall not be effective to the extent otherwise provided by the terms of any contract to which the County is a party, including the Agreement between the County and the International Association of Firefighters Local No. 1619, as it shall be in effect from time to time.

Section 11 Non-Alienation of Benefits

Except as otherwise provided in Section 11.3, any benefit which shall be payable under the Plan shall not be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge any such benefit shall be void except for the withholding of federal income tax to the extent required by law; and any such benefits shall not in any manner be liable for or subject to the debts, contracts, liabilities, engagements or torts of the person who shall be entitled to such benefit, nor shall it be subject to attachment or legal process for or against such person.

Except as otherwise provided in Section 11.3, if any person who shall be entitled to any benefit under this Plan shall become bankrupt or shall attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge such benefit, or if any person shall attempt to attach, garnish, execute or otherwise encumber a benefit payable or to become payable under this Plan to any Participant or any other person entitled thereto, the Retirement Administrator, in his/her sole discretion, may terminate the interest in such benefit of such Participant or such other person. In that event, the Retirement Administrator shall cause such benefit, or any part thereof, to be held or applied for the benefit of such Participant or any other person or spouse, children or other relatives or

dependents, or all or any of them, in such manner as the Retirement Administrator shall determine, and any such application shall be a complete discharge of all liability with respect to such benefit.

11.1 Treatment of Domestic Relations Orders. The prohibitions contained in the preceding paragraphs of this Section 11 shall not apply to payments or transfers made pursuant to a Domestic Relations Order which complies with the provisions of this paragraph.

The Plan will comply with a Domestic Relations Order, provided it meets the following conditions:

- (1) The Domestic Relations Order must be a judgment, decree, or order made pursuant to a State domestic relations law;
- (2) The Domestic Relations Order must relate to the payment of child support, alimony, or a marital property award to a spouse or former spouse of a Participant (alternate payee);
- (3) In the case of alimony, child support or orders pertaining to payment of arrearage or monetary award judgments, the domestic relations order must, as described in paragraphs (1) and (2) above, order payment from a Participant's benefits under the Plan if, as and when paid to the Participant, and must specifically identify each benefit that is subject to such order;
- (4) In the case of marital property awards, the Domestic Relations Order, as described in paragraphs (1) and (2) above, must create or recognize an alternate payee as an owner or a co-owner of an interest of Participant under the Plan, must specifically identify each interest that is subject to such order and must specifically order the direct transfer of each such interest to such alternate payee.
- (5) No Domestic Relations Order shall require the Plan (i) to provide any type or form of benefit not otherwise provided by the Plan; nor (ii) to provide increased benefits; nor (iii) to pay benefits to an alternate payee which are required to be paid to another alternate payee under another previously applicable domestic relations order.
- (6) The Plan shall establish procedures to determine whether a Domestic Relations Order is qualified and to administer distributions under such Domestic Relations Orders.
- (7) Any benefits payable or interest transferred under this Section 11.3 pursuant to a Domestic Relations Order shall be computed before determining the benefit payable under any other Section of the Plan, and shall reduce the amount payable under any other Section.

Section 12 Amendment and Termination

12.1 Amendment.

(a) General Rule. The County shall have the right at any time or from time to time to modify or amend the Plan in whole or in part; except to the extent otherwise provided by any contract to which the County is a party, including the Agreement between the County and the International Association of Firefighters Local No. 1619, as it shall be in effect from time to time, provided, however, that any modification or amendment of the Plan shall not affect, unless expressly set forth in the amendment or modification, or adversely affect in any case, any rights or benefits under the Plan existing at the date of such modification or amendment in respect of any Participant who shall have retired, been retired or otherwise caused to be in the employ of the County prior to said date, or adversely affect any rights or benefits under the Plan existing at said date because of subsequent retirement or death in respect of any Participant who at said date shall be in the employ of the County and shall not have reached his/her Normal Retirement Date.

(b) Exception. Anything in subsection (a) to the contrary notwithstanding, the County may make any and all modifications and amendments of the Plan which it shall deem to be necessary or appropriate in order to qualify this Plan and the Trust Agreement, or to keep the Plan and the Trust Agreement qualified, under the Internal Revenue Code and the regulations thereunder or any amendment of such code or such regulations.

12.2 Termination.

(a) Priorities. Upon termination of the Plan, or upon complete discontinuance of the County contributions, the rights of all Participants to benefits accrued to the date of said termination or discontinuance (the Termination Date), to the extent then funded, shall be nonforfeitable, and the assets of the Trust Fund shall be allocated as follows, after payment of all proper expenses:

(1) First, to provide the benefits called for by the Plan for each Participant, contingent annuitant or beneficiary, to whom payments are being made at the termination date.

(2) Second, if any assets remain after completion of the allocation provided for in subsection (a)(1), to provide the retirement benefits called for by the Plan for (i) each Participant who has reached his Normal Retirement Date on the termination date, but who has not begun to receive his benefits as of such date and (ii) each Participant who is eligible for early retirement benefits at the termination date.

(3) Third, if any assets remain after completion of the allocation provided for in subsection (a)(2), to provide the retirement benefits called for by the Plan for each Participant whose employment with the County has terminated and who is entitled to receive retirement benefits under Section 4.5, or who would be entitled to receive retirement benefits under Section 4.5, if employment had terminated as of the Termination Date.

(4) Fourth, if any assets remain after completion of the allocation provided for in subsection (a)(3), to provide retirement benefits for each of the remaining Participants.

(b) Method of Allocation of Assets. Assets shall be allocated on the basis of the actuarial reserve required at the termination date to provide the particular benefit in question. If the assets are insufficient to provide in full the total of the actuarial reserves required to provide the benefits for all persons in any of the foregoing classes, the assets shall be allocated among the person in such class in proportion to the ratio which the actuarial reserve for each person in that class at the Termination Date bears to the total of the actuarial reserves for all persons in that class at the Termination Date.

(c) The respective amounts to be allocated in accordance with the provisions of this Section 12 shall be determined by the Retirement Administrator, subject to the approval of the Administrative Review Board, as of the date of termination or discontinuance, and the allocation shall be accomplished through (i) the distribution of cash in a lump sum or in payments over such period as may be determined by the Retirement Administrator, (ii) the purchase of annuity contracts, or (iii) the continuance of the Trust Fund or the establishment of one or more new trust funds, or a combination thereof, as shall be determined by the Retirement Administrator.

Section 13 Miscellaneous

13.1 Temporary Limitations. In the event that the Plan is terminated or the full current costs attributable to the additional benefits, as hereinafter defined, have not been met at any time before ten years after the effective date of any such additional benefits, the additional benefits which any of the twenty-five highest paid Employees, as hereinafter defined, may receive, shall not exceed those which can be provided from the County contributions not in excess of the larger of the following sums:

(a) \$20,000

(b) An amount equal to 20% of the first \$50,000 of the Participant's average Compensation for the preceding five years multiplied by the number of years since the effective date of any additional benefits.

If, on or before ten years after the effective date of any additional benefits, the full current costs attributable to the additional benefits are not met, the restrictions will continue to apply until such current costs are funded for the first time.

These conditions shall not restrict the current payment of full retirement benefits called for by the Plan for any retired Participant while the Plan is in full effect and its full current costs have been met. In the event that any funds are realized by the operation of the restrictions set forth in this Section 13.1, they shall be used to reduce subsequent County contributions to the Plan, but if the County has ceased its contributions to the Plan, they shall be used for the benefit of Participants, other than those restricted by this Section 13.1, on a basis which shall not result in substantial discrimination in favor of the more highly compensated Employees.

For the purposes of this Section 13.1, the following definitions shall apply:

(i) "Additional benefits" shall mean the benefits provided by this Plan from and after January 1, 1991, over and above those provided by this Plan immediately prior to January 1, 1991.

(ii) "Twenty-five highest paid Employees" shall mean the twenty-five highest paid Employees as of the effective date of any additional benefits, including any Employees who are not Participants at that time but who may later become Participants, but excluding any Employee whose annual benefits are not at that time expected to exceed \$1,500.

Any limitations on benefits under this Plan, similar to those contained in this Section 13.1, that were in effect on December 31, 1990, shall remain in effect in accordance with their terms.

13.2 The Plan shall be construed and its provisions enforced and administered in accordance with the laws of the State of Maryland only to the extent that Maryland law is not preempted by Federal law.

13.3 Whenever used herein, unless the context otherwise indicates, words in the masculine form shall be deemed to refer to females as well as males.

1. Actuarial Information For Contingent Annuitant Benefits.

For Participants who retire on or after October 9, 1991, the interest rate is 8% for purposes of contingent annuitant benefits. The mortality table is the UP-1984.

DISABILITY REVIEW BOARD

RULES OF ADMINISTRATIVE PROCEDURE

Determination of Disability

1. Initiation of Review Procedure.

To begin the disability determination procedure, a Participant, the appointing authority, or the Retirement Administrator may request that the medical records of the Participant be reviewed by the Medical Advisory Board for consideration of a disability retirement.

2. Medical Advisory Board.

The Medical Advisory Board shall examine all evidence concerning the case, including if necessary, a medical examination of the Participant by a physician or physicians selected for that purpose by the Medical Advisory Board, or by one or more members of the Medical Advisory Board, and provide a written opinion to the Disability Review Board (hereinafter referred to as the "DRB"), of the nature, cause, degree of permanence, and effect of the alleged disability.

3. Disability Review Board Composition and Quorum.

The DRB shall be comprised of the following members in accordance with Section 4.2(b) of the Police Pension Plan and Section 4.3(b) of the Fire Service Pension Plan:

1. Director of Finance or designee
2. Director of Personnel and Labor Relations or designee
3. Chief Administrative Officer or designee
4. Fire Chief or designee
5. Chief of Police or designee
6. President of the International Association of Fire Fighters Local 1619 or his designated permanent alternate

7. President of the Fraternal Order of Police Lodge No. 89 or his designated permanent alternate

Four voting members of the DRB shall constitute a quorum. A quorum must be present for the conduct of any business or hearing before the DRB.

4. Disability Review Board Administrative Session.

Within ten (10) calendar days after the Medical Advisory Board Meeting, the DRB shall meet in administrative session to review the recommendations of the Medical Advisory Board and render a preliminary determination as to disability and the service or non-service classification of such disability.

5. Notification of Preliminary Determination and Right to a Formal Hearing.

Within five (5) working days of the administrative session, notice of the DRB's preliminary determination shall be sent certified mail, return receipt requested, to the Participant from the Retirement Administrator.

The notice shall contain the following:

- a. A statement of the DRB's preliminary determination.
- b. A statement that the Participant may request a formal hearing within fifteen (15) calendar days of the date of the notice and how such request shall be made.
- c. A statement that if a request for a formal hearing is not made within fifteen (15) calendar days of the date of the notice, the preliminary determination of the DRB shall become final as of the sixteenth (16th) calendar day after the date of the notice. Further, that administrative action to implement the final determination, such as administrative action to return to duty, separate or retire shall be instituted without further delay.
- d. A statement that if a formal hearing is timely requested but is not held within sixty (60) calendar days of the date of the notice, administrative action to implement the preliminary determination of the DRB shall be instituted as of the sixty-first (61st) calendar day following the date of the notice. Further, that if the preliminary decision of the DRB is modified at a formal hearing held on a later date, all benefits will be retroactively implemented.
- e. A statement that if the Participant requests a formal hearing, the Participant shall be given access to the evidence presented to, or otherwise obtained by, the DRB in making its preliminary determination.

f. A statement that if a request for a formal hearing is made and the hearing is not held within one (1) year from the date of the notice, and the delay in the holding of the hearing was not caused by the Retirement Administrator or the DRB, then the preliminary determination of the DRB shall become a final determination and the Participant shall have no further right to a formal hearing.

g. A copy of these Rules of Administrative Procedure.

6. Procedure for Requesting Formal Hearing.

A Participant shall request a formal hearing on or before the fifteenth (15th) day following the date of the notice of the DRB's preliminary determination, by returning a copy of the notice to the DRB along with a statement, on the form provided with the notice, if any, requesting a formal hearing and stating the name, address and telephone number of the attorney representing the Participant, if any.

7. Confirmation of Hearing.

Upon receipt of a request for a formal hearing, the Retirement Administrator shall either schedule a formal hearing before the DRB or refer the request to a hearing examiner appointed by the DRB. If the case is assigned to a hearing examiner, the hearing examiner will contact the parties and schedule a formal hearing date within sixty (60) days of the date of the request for formal hearing.

8. Formal Hearing.

A formal hearing shall be held before the DRB or a hearing examiner appointed by the Disability Review Board.

A formal hearing shall be held on a date upon which the parties shall mutually agree, but not later than sixty (60) days following the date of the request for formal hearing.

If a Participant or attorney representing a Participant wishes to cancel or postpone a formal hearing, the Participant or attorney must notify the DRB or the hearing examiner at least five (5) calendar days prior to the date scheduled for the formal hearing or the Participant shall bear the cost of all experts who were to attend the formal hearing.

If the DRB or hearing examiner wishes to cancel or postpone a formal hearing, the Retirement Administrator must notify the Participant and attorney of record at least (5) calendar days prior to the date scheduled for the formal hearing or the DRB or hearing examiner shall bear the cost of all experts who were to attend the formal hearing, unless the hearing was cancelled due to illness or emergency.

9. Conduct of Formal Hearing, Evidence.

- a. Each Participant appearing before the DRB or the hearing examiner for a formal hearing shall be given full opportunity to present such testimony under oath or affirmation and to produce such witnesses to give testimony under oath or affirmation as he may desire. Further he shall be entitled to the benefit of counsel and to have his attorney appear on his behalf before the DRB or the hearing examiner at the formal hearing.
- b. At least seven (7) working days prior to the formal hearing, a Participant shall submit to the Retirement Administrator and the DRB or hearing examiner a list of witnesses which the Participant intends to call and any additional written evidence which the Participant believes the DRB or the hearing examiner should consider.
- c. The Chairman of the DRB or another member of the DRB so designated by the Chairman or the hearing examiner shall preside at the formal hearing. The Chairman or his designee shall have full authority at all times to maintain orderly procedure and to restrict the formal hearing to material and relevant testimony and other evidence so that it may make a fair and impartial final determination.
- d. The formal hearing shall be considered an administrative adjudicatory proceeding. All witnesses shall testify under oath or affirmation and a record of the proceedings shall be made and kept. Members of the DRB or the hearing examiner shall have the power to administer oaths and to examine all witnesses under oath in relation to any matter properly involved in the formal hearing.
- e. The formal hearing shall be open to the public.
- f. The Participant shall personally appear before the DRB or the hearing examiner unless the Medical Advisory Board presents medical testimony or a certificate to the satisfaction of the DRB or the hearing examiner that the Participant is unable to appear because of the extreme severity of his physical or mental condition. In the absence of the Participant, the DRB, in its discretion, may consider the case on the basis of the medical findings presented by the Medical Advisory Board or contained in his records. In the alternative, the DRB or the hearing examiner may visit and examine the Participant at such place where he/she may be.
- g. The Participant shall proceed first at the formal hearing and shall have the burden of providing by a preponderance of the evidence both the disability and its service connection, unless the disability, in the case of a fire fighter, is alleged to have been caused by heart disease, lung disease or hypertension; and effective July 1, 1993, in the case of a paramedic, is alleged to have been caused by heart disease. In such case, it will be the Pension Plan's burden to overcome a

presumption of service connection. For police officers under Plan B only, any condition or impairment of health caused by heart disease or hypertension shall be presumed to be a service connected disability unless evidence is produced which shall demonstrate to a reasonable degree of medical certainty that the Employee's impairment of health or disability is not related to his/her employment.

h. In determining whether an injury or illness is service- connected, the Participant must show that the injury or illness was directly and substantially caused by an employment related accident, occurrence or condition. A pre-existing physical or mental condition found in the Participant which is aggravated by an employment related accident, occurrence or condition and renders the Participant disabled, does not give rise to a service-connected disability.

i. A Participant and the attorney for the Pension Plan shall present such witnesses as they deem necessary. Every party and member of the DRB or the hearing examiner shall have the right to cross-examine the witnesses who testify.

j. All evidence, including records and documents offered and received by the DRB or the hearing examiner from the Medical Advisory Board or during the formal hearing, shall be made a part of the record in the case and no other evidence shall be considered in the determination of the case. Documentary evidence may be received in the form or copies of excerpts or be incorporated by reference. The DRB or hearing examiner may, at their sole discretion, direct the parties to submit pre-hearing or post-hearing briefs summarizing record evidence, the parties' positions and relevant points of law.

k. The DRB or the hearing examiner, either on their own or at the request of either party, may require the Participant or the Pension Plan to produce additional evidence for a complete determination of the issues to be resolved.

l. The formal hearing may be transcribed by any means selected at the sole discretion of the DRB or hearing examiner. The parties shall equally share the cost of any transcription of the formal hearing.

m. The DRB or the hearing examiner, with notice to the parties, may take notice of facts and general knowledge, or general, technical or scientific facts within its specialized knowledge. The DRB or the hearing examiner may also take notice of laws, statutes, ordinances, regulations and executive orders of the United States, the states, local political subdivisions and municipal corporations. The parties shall be afforded an opportunity to contest facts or laws so noticed. The DRB or the hearing examiner may utilize its experience, technical competence and specific knowledge in the evaluation of evidence presented. The Board shall receive and may consider all evidence which is relevant and material.

n. At the conclusion of each formal hearing, the parties may make a closing argument if they so desire or are so directed by the DRB or the hearing examiner.

10. Final Determinations.

All final determinations of the DRB shall be made in accordance with one of the following procedures:

(a) If the hearing was held before the DRB, by a majority of the members of the DRB who were present at the formal hearing or who have fully considered the evidence introduced thereat and have reviewed the full record of the proceedings the members shall vote. Any member of the DRB who was not present at the formal hearing and who has not fully considered the evidence and record as set forth above, shall not vote nor be counted as a member of the DRB for the purposes of rendering a decision by majority vote concerning such formal hearing; or,

(b) If the hearing was held before a hearing examiner, the hearing examiner will, within twenty (20) calendar days of the close of the record or receipt of the transcript, if any, present written findings of facts, conclusions and recommendations along with all evidence, records, and documents submitted at the formal hearing, to the DRB. A majority of the members of the DRB shall then review such findings of facts, conclusions and recommendations and render a final determination by majority vote.

The DRB shall make every reasonable effort to render its decision within thirty (30) calendar days after receipt of the hearing examiner's findings. The DRB's final determination and accompanying findings of facts shall be filed in its official file which shall be maintained by the Retirement Administrator. A copy of the final determination shall be sent by certified mail to the Participant and/or his attorney of record. The pension Plan attorney, appointing authority and any other party of record shall also be notified in writing.

11. Motion for Reconsideration.

Within ten (10) calendar days from the date of receipt of the final determination of the DRB, the Participant, the Pension Plan or any other party of record may file with the DRB a motion for rehearing, but only on the grounds of error of law or newly discovered evidence which the movant could not with due diligence have discovered prior to the DRB's final determination. The calculation of the period of ten (10) days referred to in this rule shall commence on the day after the date of delivery of the notice of the final determination of the DRB as evidenced by the certified mail return receipt.

The party appealing the final determination of the DRB shall pay the expenses of transcribing the record of the formal hearing.

12. Implementation of Final Determination.

Within twelve (12) calendar days from the date of the mailing of its final determination, administrative action to effect the final determination may be instituted without further delay.

These rules of administrative procedure have been adopted by the Disability Review Board of the Prince George's County Police and Fire Service Pension Plans at a meeting held on the 8th day of February 1990.