

MONROE COUNTY EMPLOYEES RETIREMENT PLAN RESTATED ORDINANCE

AN ORDINANCE AMENDING AND RESTATING THE MONROE COUNTY EMPLOYEES RETIREMENT SYSTEM ORDINANCE TO INCORPORATE ADDITIONAL AND ACCUMULATED CHANGES AND MODIFICATIONS, TO REMOVE OBSOLETE MATERIAL, AND TO CONFORM TO APPLICABLE PROVISIONS OF STATE AND FEDERAL LAW.

THE COUNTY OF MONROE, STATE OF MICHIGAN, RESOLVES:

That the Monroe County Employees Retirement System Ordinance is hereby amended and restated in its entirety to read as follows:

ARTICLE I

Retirement System Effective Date; Continuation; Purpose.

Section 1.1. The Monroe County Employees Retirement System established effective July 1, 1965 under authority of section 12a of Act No. 156, Public Acts of 1851, as amended, is continued for the purpose of providing retirement benefits for the members of the Monroe County Employees Retirement System and survivor benefits to their qualifying beneficiaries.

Short Title.

Section 1.2. This Ordinance may be cited as the Monroe County Employees Retirement System Ordinance.

Multi-Employer Plan; Participating Employers.

Section 1.3. The Monroe County Employees Retirement System (the "Retirement System") is continued for the purpose of providing retirement benefits for the members of the Retirement System and shall be maintained as a multi-employer defined benefit pension plan providing retirement benefits and related benefits to eligible employees of Monroe County and participating public employers.

As of the effective date of this Ordinance, the participating employers in the Retirement System are:

- Monroe County
- Monroe County Road Commission
- Monroe County Community Mental Health Authority
- Monroe County Library System

Each participating employer shall participate in the Retirement System in accordance with the provisions of this Ordinance and any applicable collective bargaining agreements.

ARTICLE II

Definitions.

Section 2.1. The following words and phrases wherever used in this Ordinance, unless a different meaning is clearly required by the context, shall have the following meanings:

- (a) "Accumulated contributions" means the sum of all amounts deducted from a member's compensations and credited to an individual account in the members deposit fund, together with regular interest thereon.

- (b) “Actuarial Equivalent” means a payment or series of payments which have the same actuarial present value, as of a given date, as another payment or series of payments. The actuarial present value shall be determined using the appropriate rate or rates of experience and rate or rates of interest adopted by the Board.
- (c) “Beneficiary” means an individual who is being paid or who has entitlement to the future payment of a pension on account of a reason other than the individual’s membership in the retirement system.
- (d) “Board of Trustees” or “Board” means the Board of Trustees of the Monroe County Employees Retirement System.
- (e) “Compensation” means the salary or wages paid a member for personal services rendered the County while a member of the retirement system. Salary and wages shall include longevity pay; overtime pay; shift differentials; pay for periods of absence from work by reason of employer approved vacation, holiday, and sickness; deferred compensation amounts under Board of Trustees recognized deferred compensation programs. Compensation shall not include any remuneration or reimbursement not specifically stated to be included: such as allowances for clothing, equipment, cleaning and travel; reimbursement of expenses; bonuses; termination pay; severance pay; payments in consideration of unused vacation and sick leave; the value of any fringe benefit.
- (f) “County” means Monroe County, and shall include its several offices, boards and departments. Further, for purposes of this retirement ordinance only, reference to the “County” shall be deemed to include the Monroe County Community Mental Health Authority established pursuant to section 205(8) of the Michigan Mental Health Code, Public Act 258 of 1974, as amended by Public Act 152 of 1996 (MCL 330.1001 et seq.), except as specifically provided herein. Notwithstanding the foregoing, employees of the Monroe County Community Mental Health Authority are not employees of Monroe County and that the Monroe County Community Mental Health Authority is the employer with regard to all applicable laws.

The term “County” shall not include the Monroe County Road Commissioners, the Monroe County Library System, or the Monroe County Community Mental Health Authority with respect to its employees who are covered under another retirement plan supported in whole or in part by the Monroe County Road Commission, Monroe County Library System, or the Monroe County Community Mental Health Authority.
- (g) “Credited service” means service credited to a member by the Board of Trustees to the extent provided in this Ordinance.
- (h) “Employee” means any person in the employ of the County who receives from funds of the County more than fifty percent (50%) of all compensation received by him or her for personal services rendered to all governmental units, and members of the judiciary.
- (i) “Final average compensation” means the average of the compensations paid a member during a defined consecutive period of employment as specified in Article VIII.
- (j) “Interest” means such rate or rates of interest per annum, compounded annually, as the Board of Trustees shall from time to time adopt.
- (k) “Member” means any person who is included in the membership of the retirement system.

- (l) “Pension” means a series of monthly payments payable by the retirement system throughout the future lifetime of a person or for a temporary period as provided in this Ordinance.
- (m) “Retirement” means a member’s withdrawal from County employment with a pension payable by the retirement system.
- (n) “Retiree” means a former employee who has terminated employment and is receiving retirement benefits under the plan.
- (o) “Service” means personal service rendered the County while a member of the retirement system and qualifying military service pursuant to Article V.
- (p) “Temporary employee” is defined as (1) any County employee not employed in a budgeted regular full-time position; (2) any County Library System employee not employed in a position which is budgeted at 1000 hours or more in a calendar year.
- (q) “Vested former member” means a former member who ceased to be a member for a reason other than retirement and has eight (8) or more years of credited service, or the years of credited service specified in the member’s collective bargaining agreement, and who does not withdraw their accumulated contributions
- (r) The masculine gender shall include the feminine gender, and words of the plural number with respect to persons shall include the singular number and vice versa.

ARTICLE III

Board of Trustees; Authority and Responsibility.

Section 3.1. The administration, management and responsibility for the proper operation of the retirement system, and for interpreting and making effective the provisions of the retirement system are vested in a Board of Trustees.

Board of Trustees; Composition of.

Section 3.2. The Board of Trustees shall be a quasi-judicial body consisting of the following nine (9) individuals:

- (a) The Chairperson or the Vice-Chairperson of the Board of County Commissioners at the discretion and prerogative of the Chairperson.
- (b) A member of the Board of County Commissioners to be selected by and to serve at the pleasure of the Board of County Commissioners.
- (c) A citizen, who is an elector of Monroe County, to be selected by and to serve at the pleasure of the Board of County Commissioners.
- (d) Three (3) members of the retirement system, to be elected by the members of the retirement system. The three (3) trustees shall be from different benefit groups and County departments and shall not be elected officials.
- (e) One (1) member appointed by the Monroe County Library Board to serve for a term of three (3) years, and for each consecutive three (3) year period thereafter.

- (f) One (1) member elected from the Monroe County Road Commission, to serve for a term of three (3) years, and for each consecutive three (3) year period thereafter.
- (g) One (1) member who is a retiree and beneficiary of the retirement system, to be elected by the Association of County Retired Employees, Inc., to serve for a term of three (3) years, and for each consecutive three (3) year period thereafter.

Section 3.3. The elections required in paragraph (d) of Section 3.2 shall be held under the following rules to be used for electing employee representative as trustee of the Monroe County Employees Retirement System.

- (a) The Board of Trustees of the Monroe County Employees Retirement System shall conduct elections pursuant to its policy.
- (b) Petitions be filed with the Board of Trustees, fifteen (15) days prior to election.
- (c) Election to be held in November or December of each year when an election is to be held, with the date set by the Board of Trustees.
- (d) Ten percent (10%) of membership signatures needed on petitions, excluding members of the Monroe County Library System, and Monroe County Road Commission.
- (e) No member to sign more than one (1) petition.
- (f) Elections be held pursuant to the election policy of the Board of Trustees.
- (g) That department heads allow employees to vote during working hours.
- (h) Appointment of three (3) election inspectors be made by the Board of Trustees for each election.
- (i) If one (1) of the election inspectors is unable to serve the remaining two (2) inspectors will appoint the third member.
- (j) Upon closing of the polls the election inspectors will tally the vote and certify the winner.
- (k) The Board of Trustees shall establish such additional rules and regulations for the elections as it deems necessary.

Board of Trustees; Term of Office; Oath of Office.

Section 3.4.

- (1) The term of office of the member elected trustees shall be three (3) years, one (1) such term of office to expire annually. The term of office of the citizen trustee selected by the Board of County Commissioners shall be three (3) years. The term of office of the Road Commission and Library trustees shall be three (3) years. The term of office of the retiree trustee shall be three (3) years.
- (2) Each trustee shall, prior to taking office, take an oath of office administered by any qualified person legally authorized to administer oaths within the jurisdiction, including members of the judiciary, county officials, court personnel, or commissioned notaries public. Each trustee shall continue to serve as trustee until a successor has qualified for the office of trustee.

Vacancy on Board; How Filled.

Section 3.5. In the event a trustee provided for in Section 3.2, paragraphs (c) and (d), fails to attend three (3) consecutive meetings of the Board of Trustees, unless in each case excused for cause by the remaining trustees attending such meetings, or in the event a member trustee leaves the employ of the County, he shall be considered to have resigned from the Board and the Board shall, by resolution, declare his office of trustee vacated as of the date of such resolution. If a vacancy occurs in the office of trustee the vacancy shall be filled, for the unexpired portion of the term, in the same manner as the office was previously filled.

Board of Trustees; Quorum; Record of Proceedings.

Section 3.6. Five trustees shall constitute a quorum at any meeting of the Board of Trustees. At least five (5) concurring votes shall be required for a valid action by the Board of Trustees. The Board of Trustees shall keep a written record of its proceedings.

Meeting of Board.

Section 3.7. The Board shall hold meetings regularly, at least one (1) in each calendar quarter, and shall designate the time and place thereof. All meetings of the Board shall be public and shall be held in accordance with the Open Meetings Act.

Section 3.8. Each trustee shall be entitled to one (1) vote on each question before the Board of Trustees. A majority vote shall be required for a decision.

Section 3.9. The trustees shall serve without compensation for their services as trustee. The trustees shall be entitled to their expenses, including mileage, actually and necessarily incurred in attending meetings of the Board of Trustees and in performing required services as members of the Board.

Board of Trustees; Officers; Services.

Section 3.10. The Board of Trustees shall select from its membership a Chairperson and a Vice Chairperson. It shall prescribe its own rules of procedure and shall keep a record of its proceedings.

Section 3.11. The election of officers of the Monroe County Employees Retirement System shall be held at the first meeting of the Board of Trustees of the calendar year.

Section 3.12. The Board of Trustees shall appoint a Retirement Specialist to serve as the administrative officer of the retirement system.

Section 3.13. The Board of Trustees shall appoint a chartered bank or trust company to serve as the custodian.

Section 3.14. The Board of Trustees shall retain legal counsel

Section 3.15. The Board of Trustees shall designate an actuary who shall advise the board on the actuarial operation of the retirement system. Actuary shall mean a member of the American Academy of Actuaries or an individual who has demonstrated the educational background necessary to effectively render actuarial advice to the retirement system and who has at least five (5) years of relevant pension actuarial experience. A partnership or corporation may be designated as actuary if the duties of actuary are performed by or under the direct supervision of an individual who meets the preceding requirements.

Section 3.16. The Board of Trustees shall employ competent investment counsel with experience in the field of pension plan or insurance company investments.

Section 3.17. The Board of Trustees is authorized and empowered to employ such professional and other services as it requires for the proper discharge of its responsibilities. The Board of Trustees may utilize the services of County employees if made available.

Board of Trustees; Reports.

Section 3.18. The Board of Trustees shall prepare an annual report for each fiscal year. The annual report shall contain information about the financial, actuarial and other activities of the retirement system during the fiscal year. A copy of the annual report shall be furnished the Board of County Commissioners and each employer group as soon as administratively feasible.

The Board of Trustees shall furnish the Board of County Commissioners such other information about the retirement system as the Board of County Commissioners may from time to time request.

Board of Trustees; Investment Authority and Restrictions.

Section 3.19. The Board of Trustees are the trustees of the monies and assets of the retirement system. The Board of Trustees has the authority and power to invest and reinvest the monies and assets of the retirement system subject to all terms, conditions, limitations and restrictions imposed by the State of Michigan on the investments of public employee retirement systems. The Board of Trustees may employ investment counsel to advise the Board in the making and disposition of investments.

In exercising its discretionary authority with respect to the management of the monies and assets of the retirement system, the Board of Trustees shall exercise the care, skill, prudence, and diligence, under the circumstances then prevailing, that an individual of prudence acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and similar objectives.

Board of Trustees; Use of Monies and Assets; Prohibited Actions.

Section 3.20.

- (1) All monies and assets of the retirement system shall be held in trust and invested for the exclusive benefit of the participants and beneficiaries of the retirement system and for the payment of administrative expenses of the Retirement System.
- (2) Members of the Board of Trustees and its employees are prohibited from:
 - (a) Having a beneficial interest, direct or indirect, in an investment of the retirement system.
 - (b) Borrowing money or assets of the retirement system.
 - (c) Receiving any pay or emolument from any individual or organization, other than compensation for personal services or reimbursement of authorized expenses paid by the retirement system, providing services to the retirement system.
- (3) No payment shall be made unless it has been authorized in advance by a specific or continuing resolution of the Board of Trustees.

ARTICLE IV

Membership.

Section 4.1.

- (a) The membership of the retirement system shall consist of the following persons, except as provided in paragraphs (b) through (c) of this section.
 - (i) All persons who are employees of the County, or County Library System on the effective date of the retirement system and who continue in the employ of the County, the Library System or the Monroe County Community Mental Health Authority on or after the effective date of the retirement system.
 - (ii) All persons who become employees of the County, County Library System, County Road Commission, (Local 543 effective January 1, 1984, other Road Commission employees effective January 1, 1987), the Monroe County Community Mental Health Authority (effective January 1, 1997), or members of the Judiciary (Circuit Court effective July 31, 1977, District Court effective December 27, 1977, Probate Court effective July 1, 1965), after the effective date of the retirement system.
- (b) The membership of the retirement system shall not include:
 - (i) Temporary employees.
 - (ii) The retirement board medical director, actuary, legal advisor and investment counsel of the retirement system.
 - (iii) Persons employed by County Road Commission who are covered under another retirement plan supported in whole or in part by the County Road Commission.
 - (iv) Any person who is included by law in any other pension or retirement system, except the Federal Social Security old-age, survivors' and disability insurance program, by reason of his compensation paid by the County.
 - (v) Positions which are compensated on a basis not subject to the withholding of Federal income taxes or FICA taxes by the County, County Library System, County Road Commission or the Monroe County Community Mental Health Authority.
 - (vi) Any position held by a Retiree.
- (c) In any case of doubt as to who is a member within the provisions of this resolution, the Board of Trustees shall decide the question.

Board of Commissioners Eligibility.

Section 4.2. The members of the Monroe County Board of Commissioners are eligible to participate in the retirement plan because they provide services to the County on a continuing part time basis and are paid an annual salary, but by the nature of such services they are not required to perform them on a regular scheduled basis.

Termination of Membership.

Section 4.3. An individual shall cease to be a member upon termination of employment by the County, County Library System, County Road Commission, or the Monroe County Community Mental Health Authority, or upon ceasing to be employed in a position normally requiring 1,000 or more hours of work in a year, or upon becoming employed in an excluded position.

ARTICLE V

Credited Service; Requirement for.

Section 5.1. In determining service credit for a member:

- (a) Ten (10) or more days of service rendered in a calendar month shall be credited as a month of service for that calendar month. If a member renders less than ten (10) days of service in a calendar month he shall not receive service credit for that calendar month.
- (b) In no case shall more than twelve (12) months of service be credited any member for all service rendered by him in any calendar year.

Credited Service; Forfeiture of.

Section 5.2. Credited service attributable to service rendered during a period in which the member was required to contribute to the retirement system shall be forfeited if the individual's accumulated contributions are withdrawn from the retirement system.

Credited Service; Reinstatement.

Section 5.3. A member may have forfeited credited service attributable to service rendered during a period in which the member was required to contribute to the retirement system restored upon satisfaction of each of the following conditions:

- (a) The retirement system is paid the total amount of accumulated member contributions previously withdrawn plus compound interest from the dates of withdrawal to the dates of repayment as calculated by the retirement system's actuary; and
- (b) The repayment is completed prior to separation from service or retirement.

Intervening Military Service; Conditions for Credited Service.

Section 5.4. A member who leaves the employ of the County to enter any armed service of the United States shall be entitled to credited service for periods of active duty lasting thirty (30) or more days, if each of the following conditions are satisfied:

- (a) The individual is re-employed by the County within one (1) year from and after the date of termination of active duty;
- (b) The individual becomes a member and pays the retirement system the total amount of accumulated member contributions previously withdrawn, if any, plus compound interest from the dates of withdrawal to the dates of repayment.
- (c) No more than five (5) years of credited service shall be granted on account of all military service of the member. Armed service credit purchased under this section and section 5.5, if applicable, shall not exceed the maximum of five (5) years as otherwise provided by

collective bargaining or other applicable law.

- (d) Credited service shall not be granted for periods of military service which are or could be used for obtaining or increasing a benefit from another retirement system, except for service that is or would be credited under the federal government for service in the reserves.

Non-intervening Military Service; Conditions for Credited Service.

Section 5.5. A member who has served in any armed service of the United States shall be entitled to credited service for periods of active duty lasting thirty (30) or more days, if each of the following conditions are satisfied:

- (a) The member has at least eight (8) years of credited service, not including any credited service acquired for intervening military service under the provisions of section 5.4.
- (b) A member purchasing armed service credit shall pay the plan five percent (5.00%) of the member's annual compensation multiplied by the period of credited service being purchased;
- (c) Armed service credited a member under this section shall not exceed either five (5) years or the difference between five (5) years and the intervening armed service credited the member under section 5.4;
- (d) Credited service shall not be granted for periods of military service which are or could be used for obtaining or increasing a benefit from another federal, state or local publicly supported retirement system, except for service that is or would be credited under the federal government for service in the reserves;
- (e) Only military service of members who entered the armed service of the United States before June 1, 1980 or who entered the armed service of the United States on or after June 1, 1980 during a time of war or emergency conditions as described in M.C.L. 35.61 and other applicable law is eligible for crediting under this section.

ARTICLE VI

Benefit Groups; Composition of.

Section 6.1. The following benefit groups are designated for the purpose of determining benefit eligibility conditions, benefit amounts, and member contribution rates.

- (a) Benefit group General. All members not included in another benefit group.
- (b) Benefit group Management. All members who are designated to be a management employee of the County, including all elected officials of the County who are otherwise members of the Retirement System.
- (c) Benefit group Non-union. All members who are designated to be a non-union employee by the County.
- (d) Benefit group Sheriff Deputy. All members employed in the sheriff's office who are state certified police officers under the rank of command officer.
- (e) Benefit group Sheriff Command Officer. All members employed in the sheriff's office who are state certified police officers holding the rank of command officer.

- (f) Benefit group Road Commission. All members employed by the Board of County Road Commissioners.
- (g) Benefit group Library. All members employed by the County Library System.
- (h) Benefit group Mental Health Authority. All members employed by the Monroe County Community Mental Health Authority.

In case of doubt, the Board of Trustees shall determine the benefit group(s) that apply to a member.

Benefit Groups; Effect on Retirement Eligibility and Pension Amounts.

Section 6.2. Benefit eligibility conditions shall be those applicable to the member's benefit group at time of termination of membership.

Section 6.3. Pension amounts shall be separately determined for each benefit group for which the member has credited service, using retirement system provisions, as amended by the member's applicable collective bargaining agreement, if any, in effect at time of termination of membership.

ARTICLE VII

Normal Retirement; Requirements.

Section 7.1. An individual may retire upon satisfaction of each of the following requirements:

- (a) A written application for retirement, in the form prescribed by the Board of Trustees, has been filed with the retirement system not less than thirty (30) days nor more than ninety (90) days prior to the date of retirement.
- (b) Membership is terminated prior to the date of retirement.
- (c) The individual meets any applicable age and/or service requirements for normal retirement.

Normal Retirement; Age and Service Requirements.

Section 7.2. The age and/or service requirements for normal retirement shall be as specified in the member's applicable collective bargaining agreement in effect at the time of termination of membership, except as indicated below with regard to non-union members:

- (a) Benefit group Non-union. The individual has attained age sixty (60) years or older and has eight (8) or more years of credited service; or, the individual has attained age fifty-five (55) years or older and has thirty (30) or more years of credited service.
- (b) Benefit group Library. The individual has attained age sixty (60) years or older and has eight (8) or more years of credited service; or, the individual has attained age fifty-five (55) years or older and has thirty (30) or more years of credited service.
- (c) Benefit group Road Commission. The individual has attained age sixty (60) years or older and has eight (8) or more years of credited service; or the individual has attained age fifty-five (55) years or older and has thirty (30) or more years of credited service.

- (d) Benefit group Mental Health Authority. The individual has attained age sixty (60) years or older and has eight (8) or more years of credited service; or, the individual has attained age fifty-five (55) years or older and has thirty (30) or more years of credited service

Section 7.3. Upon normal retirement as provided in this section an individual shall be paid a pension computed according to Section 8.1.

Section 7.4. Reserved.

Deferred Retirement.

Section 7.5.

- (1) A member who ceases to be a member for a reason other than retirement or death shall be eligible to become a vested former member if the member has eight (8) or more years of credited service and the individual's accumulated contributions have not been refunded. A vested former member may retire upon satisfaction of the requirements of Section 7.1, or corresponding section of the Retirement Ordinance in effect on the date the former member ceased to be an employee and shall be entitled to a pension computed according to the age and service retirement provisions in effect at the time of said member's separation from covered employment. A vested former member shall not receive service credit while absent from County employment.
- (2) Withdrawal of accumulated member contributions and forfeiture of credited service attributable to a period during which the vested former member was required to contribute to the retirement system shall constitute forfeiture of all rights in and to the portion of the pension attributable to the forfeited credited service.

ARTICLE VIII

Age and Service Pension Terminal Payments:

Pension Amount; Calculation Formulas.

Section 8.1. The benefit formula applicable to members upon retirement shall be as specified in the member's applicable collective bargaining agreement in effect at the time of termination of membership, except as indicated below with regard to non-union members:

- (a) Benefit group Non-union. Two and one half percent (2.50%) of final average compensation multiplied by credited service. For benefit group Non-union, the final average compensation is the monthly average of compensations paid a member during the period of thirty six (36) consecutive months of credited service, producing the highest average, contained within the period of one hundred twenty (120) months of credited service immediately preceding the date employment with the County last terminates.
- (b) Benefit group Library. Two percent (2.00%) of final average compensation multiplied by credited service. For benefit group Library, the final average compensation is the monthly average of compensations paid a member during the period of thirty six (36) consecutive months of credited service, producing the highest average, contained within the period of one hundred twenty (120) months of credited service immediately preceding the date employment with the County Library System last terminates.
- (c) Benefit group Road Commission. Two percent (2.00%) of final average compensation multiplied by credited service. For benefit group Road Commission, the final average

compensation is the monthly average of compensation paid a member during the period of sixty (60) consecutive months of credited service, producing the highest average, contained within the period of one hundred twenty (120) months of credited service immediately preceding the date employment with the County Road Commission last terminates. If the member has less than sixty (60) months of credited service, final average compensation shall be the monthly average of the compensations paid a member over the total period of credited service.

In no case shall the amount of pension be less than the amount of pension, if any, accrued to the member on December 31, 1986 under the Monroe County Road Commission pension plan provided that such member has deposited the cash value of such accrued pension with County Retirement System.

- (d) Benefit group Mental Health Authority. Two percent (2.00%) of final average compensation multiplied by credited service. For benefit group Mental Health Authority, the final average compensation is the monthly average of compensations paid a member during the period of sixty (60) consecutive months of credited service, producing the highest average, contained within the period of one hundred twenty (120) months of credited service immediately preceding the date employment with the Monroe County Community Mental Health Authority last terminates. If the member has less than sixty (60) months of credited service, final average compensation shall be the monthly average of the compensations paid a member over the total period of credited service.

Pension Amount; Maximum.

Section 8.2. The maximum amount of a pension is seventy-five percent (75%) of an individual's final average compensation.

Pension Amount; Reduction If Accumulated Member Contributions Withdrawn.

Section 8.3 The amount of an individual's pension shall be actuarially reduced if the individual is paid all or any part of the individual's accumulated member contributions as provided in Section 11.3, subsection (3). The actuarial present value of pension reduction shall be equal to the amount of accumulated member contributions withdrawn. The actuarial present value shall be computed using the interest rate and mortality tables adopted by the Board of Trustees as recommended by the Retirement System's Actuary.

Pension Payments Suspended If Re-employed by County.

Section 8.4. Unless otherwise provided by the County Pension Plan Act (MCL 46.12a), payment of the pension or retirement benefit to a Retiree shall be suspended if the Retiree is re-employed by Monroe County. Suspension of the payment of the pension or retirement benefit shall become effective the first day of the calendar month that follows the sixtieth day after the Retiree is employed by Monroe County. Payment of the pension or retirement benefit shall resume on the first day of the calendar month that follows termination of Monroe county re-employment. Payment of the pension or retirement benefit shall be resumed without change in amount or conditions at termination of such re-employment. The Retiree shall not be a member of the plan during the period of re-employment.

Section 8.5. Reserved.

Post Retirement Pension Adjustments.

Section 8.6. Annually, in consultation with its actuary, the Board of Trustees shall determine the rate of investment return necessary to maintain the actuarial integrity and viability of the retirement system. Each year, after the establishment of the level of return, the Board of Trustees may determine the amount, or

percentage, of funds which will be available for post retirement adjustments to pensions then being paid. This information shall be provided to the County Board of Commissioners, who may authorize post retirement redetermination of pensions in an amount not greater than the amount of pension otherwise payable multiplied by the sum of 100% of the amount of pension otherwise payable plus a percentage the County Board of Commissioners determines appropriate for each full year, excluding a fraction of a year, in the period from the effective date of payment of the pension and the date as of which the redetermination is being made, without regard to the maximum pension amounts set forth in Section 8.2. Payment of any post retirement adjustments shall be by separate check to all those receiving a pension and shall in no way be construed as a permanent increase in pension payments. While there will be annual consideration by the Board of Trustees of post retirement adjustments to pensions, it will be available excess earned income which will guide the Board of Trustees in determining the amount of available funds for such post retirement adjustments. The Board of County Commissioners is under no requirement to make post retirement adjustments and must consider both the present and future needs of the retirement system in approving such adjustments. The Board of Trustees may set aside excess earnings in any given year in order to permit future consideration of post retirement adjustments in years when earnings do not exceed the funding requirements. The provisions of Section 8.6 shall not apply to Retirees and beneficiaries of the Monroe County Road Commission, County Library System, or Monroe County Community Mental Health Authority.

Pension Payment Options.

Section 8.7. A member may elect to have pension payments made under any one of the following forms of payment and to name a survivor beneficiary. The election and naming of a survivor beneficiary shall be made on a form furnished by and filed with the retirement system prior to the date the first pension payment is made. Once selected, an election of form of payment may not be changed. Once selected, a named survivor beneficiary may not be changed if form of payment A or B is elected. Form of payment C is not available to benefit group Local 543 or benefit group Employees Association.

A named survivor beneficiary may be more than one person only if form of payment Straight Life or form of payment C is elected. A named survivor beneficiary shall have an insurable interest in the life of the member or vested former member at the time of naming.

Payment shall be made under form of payment Straight Life if there is not a timely election of another form of payment.

Form of payment SL - Straight Life Pension. The Retiree is paid a pension for life under form of payment SL. All payments stop upon the death of the retired.

Form of payment A - Life Payments with Full Continuation to Survivor Beneficiary. The Retiree is paid a percent of the form of payment SL pension amount, for life, under form of payment A. The percent is eighty percent if the Retiree and named survivor beneficiary are the same age on the Retiree's retirement date. The percent shall be increased by one-half of one percent of each year the named survivor beneficiary's age is more than the Retiree's age, to a maximum of ninety percent. The percent shall be reduced by one-half of one percent for each year the named survivor beneficiary's age is less than the Retiree's age, to a minimum of fifty percent. Upon the death of the Retiree during the lifetime of the named survivor beneficiary, the named survivor beneficiary is paid the same amount of reduced pension until death.

Form of payment B - Life Payments with One-Half Continuation to Survivor Beneficiary. The retired member is paid a percent of the form of payment SL pension amount, for life, under form of payment B. The percent is ninety percent if the Retiree and named survivor beneficiary are the same age on the Retiree's retirement date. The percent shall be increased by one-half of one percent for each year the named survivor beneficiary's age is more than the Retiree's age, to a maximum of ninety-five percent. The percent shall be reduced by one-half of one percent for each

year the named survivor beneficiary's age is less than the Retiree's age, to a minimum of sixty percent. Upon the death of the Retiree during the lifetime of the named survivor beneficiary, the named survivor beneficiary is paid one-half the amount of reduced pension until death.

Form of payment C - Life Payments with Period Certain Guarantee. The Retiree is paid a reduced pension for life under form of payment C. The amount of reduced pension under form of payment C shall have the same actuarial present value, computed as the Retiree's date of retirement, as the amount of pension under form of payment SL. Upon the death of the Retiree during the guaranteed period, the named survivor beneficiary is paid the full amount of the reduced pension for the remainder of the guaranteed period. The guaranteed period shall be selected by the member or vested former member at the time of election of form of payment C. The guaranteed period shall be either sixty (60) months or one hundred twenty (120) months. The actuarial present value of the remaining guaranteed payments shall be paid to the legal representative of the Retiree or the named survivor beneficiary, if both the retired member and the named survivor beneficiary die during the guaranteed period.

ARTICLE IX

Disability Retirement; General Conditions.

Section 9.1. The Board of Trustees may retire a member who becomes incapacitated for continued employment by the County, County Library System, County Road Commission, or the Monroe County Community Mental Health Authority, if each of the following conditions are met:

- (a) Application for disability retirement is filed with the Retirement System by either the member or the County, County Library System, County Road Commission, or the Monroe County Community Mental Health Authority within one (1) year of the date the member ceases to be paid by the County, County Library System, County Road Commission, or the Monroe County Community Mental Health Authority.
- (b) The member has ten (10) or more years of credited service.
- (c) The member undergoes all medical examinations and tests ordered by the retirement system, and releases to the retirement system all medical reports and records requested by the retirement system.
- (d) The medical advisor selected by the Board of Trustees reports that (i) the member is mentally or physically incapacitated for any continued employment by the County, County Library System, County Road Commission, or the Monroe County Community Mental Health Authority, in the same or similar job classification in which the member was employed at the time of disability, (ii) the incapacity is likely to continue for at least one (1) year, and (iii) the member should be retired. The member or the County, County Library System, County Road Commission, or the Monroe County Community Mental Health Authority, as applicable, shall be afforded a reasonable opportunity to review the Board's medical advisor's report, and if deemed necessary, obtain an independent second medical opinion by a physician in the field of the claimed disability. In the event the two (2) medical opinions are inconsistent or inconclusive, the Board shall require a further medical examination by a mutually selected third physician. The effective date of a disability retirement shall not predate (i) the date of disability, or (ii) the date the member ceases to be paid by the County, County Library System, the County Road Commission, or the Monroe County Community Mental Health Authority.
- (e) The Board of Trustees concurs with the certification of the medical advisor.

Disability Pension; Amount; Form of Payment.

Section 9.2. The amount of a disability pension shall be computed according to Article VIII and the disability Retiree shall have the right to elect a form of payment provided in Section 8.7.

Disability Pension; Credited Service Requirement Waived If Duty Incurred.

Section 9.3. The following exceptions to the provisions of Section 9.1 shall apply if the Board of Trustees finds that the member's disability is the direct and proximate result of the member's performance of duty as an employee of the County, County Library System, County Road Commission, or the Monroe County Community Mental Health Authority:

- (a) The requirement of ten (10) years of credited service shall be waived.
- (b) The amount of pension shall be computed as if the member had ten (10) years of credited service if the member has less than ten (10) years of credited service.

Disability Pension; Limitation on Amount.

Section 9.4.

- (1) The provisions of this section shall apply during the period, if any, between the effective date of a disability pension and the date the disability Retiree attains age sixty (60) years. Application of the limitation shall be to the amount of pension under form of payment Straight Life. The effect of an election of any other form of payment shall be taken into account after application of the provisions of this section.
- (2) The amount of a disability pension shall not exceed the difference between one hundred percent of the disability Retiree's final average compensation and the amount of the disability Retiree's considered income.
- (3) A disability Retiree's considered income is the annualized sum of the following amounts:
 - (i) Remuneration for personal services rendered in any gainful employment. Gainful employment existing at time of disability retirement, other than with the County, County Library System, County Road Commission, or Monroe County Community Mental Health Authority shall not be considered to the extent of the amount of remuneration earned during the last calendar year preceding the calendar year of disability retirement.
 - (ii) Worker's compensation weekly benefits, redemptions, and settlements, on account of the same disability for which retired. Worker's compensation benefits for bona fide medical expenses, as determined by the Board of Trustees, shall not be considered.
 - (iii) Payments from any program of salary continuance, sickness and accident benefits, disability benefits, or program of similar purpose, financed in whole or in part by the County, County Library System, County Road Commission, or the Monroe County Community Mental Health Authority.
 - (iv) Payments from the federal social security old-age, survivors, disability and health insurance programs.
- (4) Cost of living increases in the amount of considered income specified in items (ii), (iii),

and (iv) of subsection (3) shall be disregarded.

- (5) The retirement system shall compute the initial amount of pension on the presumption the Retiree is receiving social security disability benefits and worker's compensation weekly benefits. The presumed amounts shall be estimated by the retirement system using the Retiree's final average compensation and the single person statutory benefits. The Retiree may, at any time, submit evidence of receipt of a lesser amount of social security or worker's compensation benefits. The retirement system shall adjust the amount of pension to reflect actual social security and worker's compensation benefits if it finds the submitted evidence substantiates the Retiree's claim.
- (6) The Retiree may submit an affidavit declaring that an application for social security or worker's compensation benefits will not be made, thereby voiding application of the presumption of receipt. The affidavit shall also contain the promise to immediately notify the retirement system should an application be made for social security or worker's compensation benefits.
- (7) The retirement system shall periodically request substantiated income information from Retirees subject to this section. Failure to provide the requested information within ninety (90) days of the request shall cause suspension of payment of the pension until the information is received.

Disability Pension; Continuation Subject to Re-examination; Suspension/Termination of Pension.

Section 9.5.

- (1) At least once each year during the first five (5) years following the member's retirement for disability and at least once in every three (3) year period thereafter, the retirement system may require a disability Retiree to undergo periodic medical or other re-evaluation, as provided for in Section 9.1(d), if the individual has not attained age sixty (60) years. If the disability Retiree refuses to submit to re-evaluation, payment of the pension may be suspended by the Board of Trustees. If the refusal continues for one (1) year, the Board of Trustees may revoke the disability Retiree's rights in and to the disability pension. A disability pension shall be terminated if the medical advisor selected by the Board of Trustees, or medical committee, reports that the disability Retiree is no longer mentally or physically incapacitated for any continued employment by the County, County Library System, County Road Commission, or the Monroe County Community Mental Health Authority in the same or similar job classification in which the member was employed at the time of disability, and the Board of Trustees concurs with the report.
- (2) The membership status of the terminated disability Retiree who is returned to County, County Library System, County Road Commission, or the Monroe County Community Mental Health Authority employment shall be governed by the provisions of Article IV. Actual credited service at time of disability retirement shall be restored upon again acquiring membership. Credited service shall not be granted for the period of disability retirement.
- (3) A terminated disability Retiree who does not re-acquire membership and restoration of credited service shall have actual credited service at time of disability retirement restored if such restoration enables the individual to become a vested former member.

ARTICLE X

Survivor Pension; Conditions for Automatic Pension to Spouse.

Section 10.1. A pension shall be paid for life to the surviving spouse of a deceased member if each of the following conditions are met:

- (a) The member has fifteen (15) or more years of credited service; or, the member is sixty (60) years or older and ten (10) or more years of credited service.
- (b) The member was married to the surviving spouse at the time of death.
- (c) The member died while an employee of the County, County Library System, County Road Commission, or the County Community Mental Health Authority.

Survivor Pension; Amount of Automatic Pension to Spouse.

Section 10.2.

- (1) The amount of an automatic pension payable to the spouse shall be computed as if the deceased member had retired the day preceding death under the normal retirement provisions (Article VII) and elected form of payment A (Section 8.7) and nominated the said spouse as survivor beneficiary.
- (2) If the member was covered by the Monroe County Road Commission pension plan on December 31, 1983, and is in Benefit Group Local 543, the spouse shall be paid the difference, if any, between the actuarial present value of the pension and the lump sum death benefit provided the deceased member on December 31, 1983 under the Monroe County Road Commission pension plan, provided that such member has deposited the cash value of his Road Commission pension with the County Retirement System.
- (3) If the member was covered by the Monroe County Road Commission pension plan on December 31, 1986, and is in Benefit Group Employees Association, the spouse shall be paid the difference, if any, between the actuarial present value of the pension and the lump sum death benefit provided the deceased member on December 31, 1986 under the Monroe County Road Commission pension plan, provided that such member has deposited the cash value of his Road Commission with the County Retirement System.

Survivor Pension; Special Conditions If Death in Line of Duty.

Section 10.3. If the death of a member is found by the Board of Trustees to be the direct and proximate result of the member's performance of duty as an employee of the County, County Library System, ~~or~~ County Road Commission, or the Monroe County Community Mental Health Authority and worker's compensation periodic benefits are paid on account of the death, the following additional provisions shall apply to Section 10.1 and 10.2:

- (a) The credited service requirement shall be waived.
- (b) The amount of pension shall not be less than the amount computed as if the deceased member had fifteen (15) years of credited service at time of death.

Survivor Pension; No Automatic Pension If Election Made under Section 10.5.

Section 10.4. No pension payments shall be made under the provisions of sections 10.1 through 10.3 if

any pension is or will be paid under the provisions of Section 10.5.

Survivor Pension; Elected Beneficiary; Conditions for Coverage.

Section 10.5.

- (1) A member may name a contingent survivor beneficiary for the exclusive purpose of being paid a pension under the provisions of this section. The naming of a contingent survivor beneficiary shall be made on a form provided by and filed with the retirement system. The named contingent survivor beneficiary may be changed at any time.
- (2) A pension shall be paid to the named contingent survivor beneficiary, for life, if each of the following conditions are met:
 - (a) The member dies while an employee of the County, County Library System, County Road Commission, or the Monroe County Community Mental Health Authority.
 - (b) The member, at time of death, has fifteen (15) or more years of credited service; or, is age sixty (60) years or older and has ten (10) or more years of credited service.
 - (c) The named contingent survivor beneficiary is found by the Board of Trustees to have an insurable interest in the life of the deceased member.

Survivor Pension; Elective Beneficiary; Amount of Pension.

Section 10.6. The amount of pension paid to the elected beneficiary shall be computed as if the deceased member had retired under the normal retirement provisions (Article VII) the day preceding death, elected form of payment A (Section 8.7), and named the elected beneficiary as survivor beneficiary.

The actuarial present value of the pension payable to the widow or widower of a member employed by the Board of County Road Commissioners shall not be less than the amount of lump sum death benefit that would have been paid under the Monroe County Road Commission Pension Plan had the member died December 31, 1983. If the present value is less, the difference shall be paid in a lump sum or the amount of pension shall be increased appropriately, at the election of the widow or widower, provided that such member has deposited the cash value of his Road Commission pension with the County Retirement System.

The actuarial present value of the pension payable to the widow or widower of a benefit group Employee's Association member employed by the Board of County Road Commissioners shall not be less than the amount of lump sum death benefit that would have been paid under the Monroe County Road Commission Pension Plan had the member died December 31, 1986. If the present value is less, the difference shall be paid in a lump sum or the amount of pension shall be increased appropriately, at the election of the widow or widower, provided that such member has deposited the cash value of this Road Commission pension with this Retirement System.

ARTICLE XI

Member Contributions; Amounts.

Section 11.1. Member contributions to the retirement system shall be made in accordance with the member's applicable collective bargaining agreement in effect at the time of termination of membership, except as indicated below with regard to non-union members:

- (a) Benefit group Non-union. Five percent (5.00%) of annual compensation.
- (b) Benefit group Library. Contributions are not required.
- (c) Benefit group Road Commission: Three and one quarter percent (3.25%) of annual compensation and such amounts as may change from time to time pursuant to the applicable collective bargaining agreement.
- (d) Benefit group Mental Health Authority. Three percent (3.00%) of the first \$7,800 of annual compensation plus five percent (5.00%) of the portion, if any, of annual compensation in excess of \$7,800, unless otherwise provided in applicable collective bargaining agreements.

Internal Revenue Code Section 414(h) Pickup of Member Contributions.

Section 11.2. The County, County Library System, and the Monroe County Community Mental Health Authority shall pick up the contributions required of members on account of compensation paid after the effective date specified in the resolution of the Board of County Commissioners activating the provisions of this section. The picked up contributions shall be treated as County contributions for the purpose of tax treatment under the United States Internal Revenue Code. The specified effective date shall not be prior to ninety (90) days after the retirement system has received notification from the Internal Revenue Service that pursuant to Section 414(h) of the United States Internal Revenue Code the member contributions picked up shall not be included in gross income for income tax purposes until such time as the picked up contributions are distributed. The County shall pick up the member contributions from funds established and available in the retirement deduction account, which funds would otherwise have been designated as member contributions and paid to the retirement system. The member shall not have the option of receiving the amounts picked up directly instead of having said amounts paid to the retirement system. Member contributions picked up pursuant to this section shall be treated for all other purposes, in the same manner and to the same extent, as member contributions made prior to the effective date.

Member Contributions; Refunds.

Section 11.3.

- (1) An individual's accumulated member contributions shall be refunded to the individual if the following conditions are met:
 - (a) Membership in the retirement system has been terminated for at least thirty (30) days.
 - (b) The individual has not met an applicable age and service condition for normal retirement (Section 7.2).
 - (c) The individual makes application for the refund on a form provided by and filed with the retirement system.
- (2) If an individual dies and no pension becomes or will become payable on account of the death, the individual's accumulated member contributions shall be refunded in accordance with the deceased individual's instructions made on a form provided by and filed with the retirement system. If there be no such instructions or if the individuals who are to be paid the refund no longer live, the accumulated member contributions shall be refunded to the legal representative of the deceased individual.

- (3) A member of benefit group: General, Management, Non-union, Sheriff Deputy or Sheriff Command Officer who retires under the normal retirement (Article VII) or disability retirement (Article IX) provisions may elect, prior to the date the first payment of the normal or disability pension is made, to be paid the individual's accumulated member contributions. The election shall be made on a form furnished by and filed with the retirement system. The amount of pension paid to an individual making an election under the provisions of this subsection shall be reduced in accordance with the provisions of Section 8.3.

Denial of Benefit Claim; Appeal.

Section 11.4. A benefit claimant shall be notified in writing, within thirty (30) days of the Board's denial of or decision concerning a claim for benefits. The notification shall contain the basis for the denial. The benefit claimant may appeal the denial and request a hearing before the Board of Trustees. The appeal shall be in writing and filed with the retirement system within ninety (90) days of the date of the notification of denial. The request for appeal shall contain a statement of the claimant's reasons for believing the denial to be improper. The Board of Trustees shall schedule a hearing of the appeal within ninety (90) days of receipt of the request to appeal but may be extended upon the request of the benefit claimant.

Pensions; Commencement and Duration.

Section 11.5.

- (1) A normal or disability pension shall commence the first day of the calendar month next following the member's or vested former member's date of retirement. A pre-retirement survivor pension shall commence the first day of the calendar month next following the month in which occurs the death causing payment of the pension. A post-retirement survivor pension shall commence the first day of the calendar month next following the death causing payment of the pension.
- (2) Termination of payment of a pension shall occur at the end of the calendar month in which occurred the event causing termination. Payment shall be made for the full month of termination.
- (3) A change in the amount of a pension shall occur the first day of the calendar month next following the date of the event causing the change.

Guaranteed Minimum Aggregate Payout.

Section 11.6. If all pension payments terminate before there has been paid an aggregate amount equal to the Retiree's, deceased member's, or deceased vested former member's accumulated member contributions, the difference between the amount of accumulated member contributions and the aggregate amount of pension payments made shall be paid to such individual or individuals as the former member may have named on a form provided by and filed with the retirement system. If no such named individual survives, the difference shall be paid to the legal representative of the last to survive of an individual who was being paid a pension or the named individuals.

ARTICLE XII

Financial Objective of the Retirement System; County Contributions.

Section 12.1.

- (1) The financial objective of the retirement system is to receive contributions each fiscal year

which are sufficient to (i) fund the actuarial cost of benefits likely to be paid on account of credited service earned by members during the fiscal year, and (ii) fund the unfunded actuarial cost of benefits likely to be paid on account of credited service earned by members prior to the fiscal year over a period of not more than forty (40) years.

Contribution requirements shall be determined by annual actuarial valuation using a generally recognized level percent of payroll actuarial cost method.

- (2) The Board of Trustees shall certify to the Board of County Commissioners and the County Administrator, County Library System, County Road Commission, and the Monroe County Community Mental Health Authority the amount of annual contribution needed to meet the financial objective and the Board of County Commissioners, County Library System, County Road Commission, and the Monroe County Community Mental Health Authority shall appropriate and cause the contribution to be paid to the retirement system with each payroll.

Reserve for Accumulated Member Contributions.

Section 12.2.

- (1) The reserve for accumulated member contributions is the account in which is accumulated the contributions deducted from the compensation of members, or otherwise paid to the retirement system by the member or on the member's behalf, and which shall be charged with refunds of accumulated member contributions as provided in this resolution. Continuation of employment by the member shall constitute consent and agreement to the deduction of the applicable member contribution. Payment of compensation less the deduction shall be full and complete discharge of all claims and demands for compensation for personal service rendered the County, County Library System, County Road Commission, or the County Community Mental Health Authority.
- (2) The County, County Road Commission, or the County Community Mental Health Authority shall cause the applicable member contributions to be deducted from the compensation of each member. The deducted member contributions shall be paid to the retirement system with each payroll and shall be credited to the member's individual sub-accounts.
- (3) A member's accumulated contributions shall be transferred from the reserve for accumulated member contributions to the reserve for pension payments if a pension becomes payable on account of the member's retirement or death.

Reserve for Pension Payments.

Section 12.3.

- (1) The reserve for pension payments is the account which is charged with all pension payments and refunds of accumulated member contributions which have been transferred to this account. If a disability pension is terminated and the individual again becomes a member or becomes a vested former member, an excess of the accumulated member contributions transferred to this account as a result of the disability retirement over the aggregate amount of pension paid shall be transferred to the reserve for member contributions.
- (2) Each year following receipt of the report of the annual actuarial valuation, the balance in

the reserve for pension payments shall be set equal to the actuarial present value of pensions being paid Retirees and beneficiaries by a transfer to or from the reserve for employer contributions. The pending transfer shall be taken into account by the actuary when making the actuarial valuation.

Reserve for Employer Contributions.

Section 12.4. The reserve for employer contributions is the account to which is credited County, County Library System, County Road Commission, and the County Community Mental Health Authority contributions and from which shall be made transfers to the reserve for pension payments and the reserve for undistributed investment income.

Reserve for Undistributed Investment Income.

Section 12.5.

- (1) The reserve for undistributed investment income is the account to which is credited all interest, dividends, and other income from retirement system assets; all gifts and bequests; and, all other monies received by the retirement system the disposition of which is not specifically provided. There shall be transferred from the reserve account all amounts required to credit interest to the other reserve accounts.
- (2) Whenever the Board of Trustees determines the balance in the account is more than sufficient to cover current charges, the excess of any part thereof may be used to fund contingency reserves or meet special requirements of the other reserve accounts. Whenever the balance in the account is insufficient to cover current charges, the amount of the insufficiency shall be transferred to the account from the reserve for employer contributions.

Reserve for Administrative Expenses.

Section 12.6. The reserve for administrative expenses is the account to which shall be charged all budgeted and authorized administrative expenses.

Assets Not Segregated.

Section 12.7. The descriptions of the reserve accounts shall be interpreted to refer to the account records of the retirement system and not to the segregation of monies or assets by reserve account.

Interest Credited to Reserve Accounts.

Section 12.8.

- (1) The Board of Trustees shall at the beginning of each fiscal year credit interest on the individual balances in the reserve for accumulated member contributions, and on the balances in the reserve for pension payments and the reserve for employer contributions. The amounts of interest so credited shall be charged to the reserve for undistributed investment income.
- (2) The Board of Trustees shall determine the rate or rates of interest to be used for crediting of interest.

ARTICLE XIII

Management of Funds.

Section 13.1 The Board of Trustees shall be the trustees of the assets of the retirement system and shall have full power to invest and reinvest such assets pursuant to Act 314, Public Acts of 1965, as amended. The Board shall have full power to hold, sell, assign, transfer and dispose of any securities and investments in which any of the moneys of the system have been invested as well as the proceeds of such investments and any moneys belonging to the system. All assets of the system shall be held for the sole purpose of meeting disbursements authorized by this Ordinance and shall be used for no other purpose whatsoever.

Section 13.2. The various funds of the retirement system shall be interpreted to refer to the accounting records of the retirement system and not to the actual segregation of moneys in the various funds of the retirement system.

Section 13.3. All payments from funds of the retirement system shall be made upon written authority signed by two (2) persons designated by the Board of Trustees. A duly attested copy of a resolution designating such persons and bearing upon its face their specimen signatures shall be filed with the County Treasurer. No payment shall be made from funds of the retirement system unless it shall have been previously authorized by a specific or continuing resolution adopted by the Board.

Adoption of Experience Tables.

Section 13.4. The Board of Trustees shall from time to time adopt such mortality and other tables of experience as are necessary in the operation of the retirement system on an actuarial basis.

ARTICLE XIV

Assignments Prohibited.

Section 14.1. The right of a person to a pension, to the return of accumulated contributions, the pension itself, any optional benefit, any other right accrued or accruing to any member, retirant or beneficiary under the provisions of this resolution, and the moneys belonging to the retirement system shall not be subject to the execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any process of law whatsoever, and shall be unassignable, except as is specifically provided in this Ordinance, or as required by State of Michigan or Federal law. The Board of Trustees of the Monroe County Employees Retirement System will honor Domestic Relations Orders provided such Orders comply with applicable law both in form and substance. Such Orders will be strictly construed as being an exception to the prohibition of assignments provisions. Further, nothing in this subsection shall be construed to permit or require a benefit to be paid or to be provided that is not otherwise available under the terms and provisions of this plan and applicable law.

Subrogation; Right of Set-off.

Section 14.2.

- (1) If an individual becomes entitled to a pension or other benefit payable by the retirement system as a result of an accident or injury caused by the act of a third party, the County shall be subrogated to the rights of the individual against the third party to the extent of County financed benefits which the retirement system pays or becomes liable for payment.
- (2) The retirement system shall have the right of set off to recover overpayments made by the retirement system and to satisfy any claim arising from embezzlement or fraud committed by a member, Retiree, vested former member, beneficiary, or other individual having a

claim to benefits.

Correction of Errors.

Section 14.3 The retirement system shall correct errors in the records of the retirement system. The retirement system shall seek to recover overpayments and shall make up underpayments. Recovery of overpayments may be accomplished by reducing the amount of future payments so that the actuarial present value of actual payments to the recipient is equal to the actuarial present value of the payments to which the recipient was correctly entitled.

ARTICLE XV

Internal Revenue Code Qualifications.

Section 15.1. The Retirement System is intended and has been administered to be a qualified pension plan under Section 401 of the Internal Revenue Code, as amended, or successor provisions of law. The Retirement System is a governmental plan under IRC § 414(d) and is administered for the exclusive benefit of the plan's participants and their beneficiaries. The Trust is an exempt organization under Section 501 of the Internal Revenue Code. The Retirement System shall operate and be administered so as to fulfill the purpose of maintaining a tax-qualified Retirement System. The Board of Trustees may adopt such additional provisions to the retirement system as are necessary to fulfill this intent.

Limitations on Benefits and Contributions.

Section 15.2. Notwithstanding any other provision of this Ordinance, all benefits payable under the Retirement System shall be limited to the maximum extent permitted under Section 415 of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder. The annual benefit payable to a member under this Retirement System, when expressed as a single life annuity, shall not exceed the limitation set forth in Section 415(b) of the Internal Revenue Code, as adjusted for cost-of-living increases, age at commencement of benefits, and form of payment, in accordance with applicable Treasury Regulations. The Retirement System shall not pay any benefit that would exceed the benefit limitations for governmental plans as set forth in Section 415 of the Internal Revenue Code and regulations, as amended.

Distributions.

Section 15.3. Notwithstanding any provision in the Plan to the contrary, distributions to a member shall be made in accordance with the following requirements and shall otherwise comply with Code Section 401(a)(9) and the Regulations thereunder.

- (a) Distributions to Members. Distribution of a member's benefits shall begin no later than the member's required beginning date, as defined in Section 401(a)(9) of the Internal Revenue Code and applicable regulations. Distributions shall be made over the life of the member, or the lives of the member and the member's designated beneficiary, or over a period not extending beyond the period permitted under Section 401(a)(9) and applicable regulations. If a member dies before distributions begin, the member's entire interest shall be distributed to the member's designated beneficiary in accordance with Section 401(a)(9) of the Internal Revenue Code and applicable regulations, including the minimum distribution requirements applicable to designated beneficiaries. All distributions required under this Section shall be determined and made in accordance with the Treasury Regulations under Section 401(a)(9), including, but not limited to, the minimum distribution incidental benefit requirements and the rules governing distributions to designated beneficiaries.

- (b) In the case of a distribution in the form of a joint and survivor annuity, if the survivor beneficiary is not the Member's Spouse, the method of payment selected must assure that the periodic annuity payable to the survivor annuitant must not at any time on or after the Member's Required Beginning Date, as defined above and in applicable Treasury Regulations, exceed the applicable percentage of the annuity payment payable to the Member using the table prescribed in the applicable provisions of Treasury Regulation Section 1.401(a)(9)-6.
- (c) Effective September 8, 2009, the U.S. Department of Treasury issued final regulations under Code Section 401(a)(9) to permit a governmental plan to comply with the required minimum distribution rules of Code Section 401(a)(9) by using a reasonable and good faith interpretation of the statute. The Retirement System shall be administered accordingly.

Required Minimum Distributions – Compliance with Code §401(a)(9), SECURE Act, and SECURE 2.0 Act.

Section 15.4 Distributions under the Retirement System shall be made in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code of 1986, as amended, including the provisions of the Setting Every Community Up for Retirement Enhancement Act of 2019 ("SECURE Act") and the SECURE 2.0 Act of 2022, and all applicable Treasury Regulations and other guidance. Distribution of a member's benefits shall begin no later than the member's required beginning date, as defined under Section 401(a)(9), taking into account the applicable age thresholds established under federal law (including age 73 and age 75, as applicable), and as such thresholds may be adjusted by subsequent legislation or guidance.

Except as otherwise permitted under Section 401(a)(9), if a member dies after December 31, 2019, the member's entire interest shall be distributed to the member's designated beneficiary no later than the end of the tenth (10th) calendar year following the year of the member's death. If the designated beneficiary is an eligible designated beneficiary, distributions may be made over the life expectancy of such beneficiary, as permitted under Section 401(a)(9). An eligible designated beneficiary shall have the meaning set forth in Section 401(a)(9)(E)(ii) of the Internal Revenue Code and applicable guidance.

Upon the death of an eligible designated beneficiary, any remaining interest shall be distributed within ten (10) years after the death of such eligible designated beneficiary, except as otherwise permitted under applicable law. All distributions under this Section shall be determined and made in accordance with applicable Treasury Regulations and other guidance, including any requirement for annual minimum distributions during any applicable distribution period.

The Retirement Board is authorized to interpret and administer this Section in accordance with Section 401(a)(9) of the Internal Revenue Code, as amended, including the SECURE Act and SECURE 2.0 Act, and to adopt such rules, procedures, and interpretations as are necessary or appropriate to ensure compliance, including reliance on reasonable, good faith interpretations of federal law.

Rollover Distributions.

Section 15.5. This subsection 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 subsection, a distributee may elect, at the time and in the manner prescribed by the Retirement Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee as a direct rollover. The following definitions shall apply with regard to this subsection.

- (a) Eligible rollover distribution. 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 series of substantially equal

periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more, and any distribution to the extent such distribution is required under section 401(a)(9) of the Code. For purposes of the direct rollover provision, 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 includable in gross income. However, such portion may be paid only to an individual retirement account or annuity described in IRC § 408(a) or (b), or to a qualified plan described in §§ 401(a) or 403(b) of the IRC, that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

- (b) Eligible retirement plan. An eligible retirement plan is: (1) an individual retirement account described in section 408(a) of the Code, (2) an individual retirement annuity described in section 408(b) of the Code, (3) an annuity plan described in section 403(a) of the Code, (4) effective January 1, 2002, an annuity contract described in IRC § 403(b); (5) effective January 1, 2002, an eligible plan under IRC § 457 which is maintained by a state or 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 Retirement System, (6) a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution, or (7) effective January 1, 2008, a Roth IRA, subject to the requirements of IRC § 408A(c)(3).
- (c) Distributee. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse or former spouse who is an alternate payee under a domestic relations order is a distributee with regard to the interest of the surviving spouse or former spouse. Effective July 1, 2010, the non-spouse beneficiary of a Member or former Member also may be a distributee with regard to the interest of the non-spouse beneficiary that is directly transferred to an individual retirement account described in IRC § 408(a) or an individual retirement annuity described in IRC § 408(b).
- (d) Direct rollover. A direct rollover is a payment by the Retirement System to the eligible retirement plan specified by the distributee.
- (e) Direct Rollover Notice (Internal Revenue Code §402(f)). The Retirement System shall provide to any member, former member, or beneficiary who is entitled to receive an eligible rollover distribution, within the meaning of Section 402(c)(4) of the Internal Revenue Code, a written explanation in accordance with Section 402(f) of the Internal Revenue Code. Such notice shall describe the recipient's right to elect a direct rollover of all or any portion of the eligible rollover distribution to an eligible retirement plan, the tax consequences of not electing a direct rollover, and such other information as required under applicable law and Treasury Regulations. The Retirement Board is authorized to adopt, amend, and implement a standard form of notice and such procedures as are necessary to ensure compliance with Section 402(f) of the Internal Revenue Code and applicable guidance, including updating such notice from time to time to reflect changes in federal law.

Maximum Annual Earnings.

Section 15.6. The annual compensation taken into account in determining benefits for any member under the Plan with respect to any Plan Year beginning on or after January 1, 1989 shall be made in accordance with I.R.C. Section 401(a)(17) and shall not exceed \$200,000, as adjusted by the Secretary of Treasury at the same time and in the same manner as under Section 415(d) of the Code. For Plan years beginning on

or after January 1, 1994, the annual compensation of each employee taken into account shall not exceed the annual compensation limit as amended by the Omnibus Budget Reconciliation Act of 1993 ("OBRA '93") (\$160,000). This limit may be adjusted for inflation, based in part on the adjustment made under Code Section 415(d). Participants who first become members of the Plan prior to the *earlier* of (1) December 31, 1995, or (2) the last day of the Plan Year during which amendments made by the OBRA '93 were adopted and made effective by the Employer, are considered "eligible participants" and are not subject to the revised limit of \$160,000 so long as the compensation taken into account does not exceed the limit in effect on July 1, 1993 (\$235,840). In the case of governmental plans described in section 414(d), section 401(a)(17) is considered satisfied for plan years beginning before the later of January 1, 1996 or 90 days after the opening of the first legislative session beginning on or after January 1, 1996, of the governing body with authority to amend the plan, if that body does not meet continuously. These limits may be adjusted as required by federal law for qualified governmental plans and shall be further adjusted for inflation in the manner provided by IRC § 401(a)(17). Annual compensation means compensation during the plan year or such other consecutive 12 month period over which compensation is otherwise determined under the plan. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year.

Actuarial Assumptions.

Section 15.7. Actuarial equivalence will be determined on the basis of the interest rate and mortality tables adopted by the Board of Trustees. Actuarial assumptions that will be used to determine the amount or level of any optional benefit forms will be the actuarial equivalent of the normal retirement benefit. Optional benefits provided under the plan shall be actuarially adjusted in relation to the straight life annuity in accordance with IRC § 415(b)(2), as amended, which is incorporated by reference. For purposes of determining the IRC § 415 limitations for benefits paid in a form to which IRC § 417(e)(3) applies, the interest rate assumption will not be less than the greater of (i) five and one half percent (5.5%), (ii) the rate that provides a benefit of not more than 105% of the benefit that would be provided if the applicable interest rate (as defined in IRC § 417(e)(3)) were the interest rate assumption, or (iii) the rate specified in the plan for determining actuarial equivalence for the particular form of retirement benefit. The actuarial early retirement reduction and reduction of the Dollar Limit if the Employee has less than ten (10) years of participation do not apply to income received as a pension or annuity as a result of personal injury or sickness in accordance with I.R.C. Section 415(b)(2)(I), as amended.

Forfeitures.

Section 15.8. Upon a member's termination date, the value of any forfeitable accrued benefit shall be forfeited by the member as of the termination date. The value of such forfeitures shall be used to reduce the employer's future contributions under the Plan in accordance with I.R.C. Section 401(a)(8). No forfeitures under the Plan shall be applied to increase the benefits that any member or beneficiary would otherwise receive at any time prior to the time when the Plan may be terminated. If a member whose employment has terminated does not retain a vested benefit under the Plan, he/she shall no longer be a member or retain or earn credited service under the Plan unless and until he again becomes an employee.

Forfeitability of Accrued Benefits.

Section 15.9. An employee's right to his/her normal retirement benefit (defined benefit plan) is nonforfeitable on the attainment of his/her normal retirement age as defined in I.R.C. Section 411(a)(8) and in accordance with Rev. Rul. 66-11 and IRC § 411(e)(2). The accrued financial benefits of each member and/or beneficiary of the Retirement System shall be a contractual obligation thereof, and shall not be diminished or impaired as defined and protected by Article 9 Section 24 of the State of Michigan Constitution. In the event of termination or partial termination of the defined benefit plan, a member's interest is nonforfeitable to the extent funded in conformity with applicable sections of the Internal Revenue Code and Regulations.

Prohibition Against Reversion.

Section 15.10. The Retirement System and trust have been created for the exclusive benefit of the members and beneficiaries as set forth herein. The funds thereof have been established for the benefit of the members and for the operation of the Retirement System. No part of the principal and income of any of the funds of the system and trust shall revert to or be returned to the County prior to the satisfaction of all liabilities hereunder to all members, beneficiaries and anyone claiming by or through them.

Vesting.

Section 15.11. Pursuant to I.R.C. Section 411(e) as in effect in 1974, a member shall be 100% vested in his/her accrued benefit when he or she attains Normal Retirement Age.

Actuarial Reports.

Section 15.12. Annually, or more frequently, the Retirement Board shall obtain from an enrolled Actuary actuarial computations as to the contributions necessary to fund the benefits provided by the plan on a reasonable basis in accordance with any applicable regulations, and such actuary shall certify such amounts to the Employer. Contributions accumulated under the plan, along with the earnings thereon, will be distributed in accordance with the terms of the plan.

Military Service.

Section 15.13. 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 IRC § 414(u) and related Treasury regulations.

Assignment of Benefits.

Section 15.14. None of the benefits, payments, proceeds, claims, or rights of any Participant or their beneficiary hereunder shall be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or other process of law, nor shall any Participant or beneficiary have any right to transfer, assign, encumber, or otherwise alienate, any of the benefits or proceeds which the Participant may expect to receive, contingently or otherwise under the Plan, except as provided under a domestic relations order and in accordance with Public Act 100 of 2002, as amended, being MCL 38.1681 *et seq.*, and Public Act 350 of 1994, as amended, being MCL 38.2701 *et seq.*

Plan Year.

Section 15.15. The plan year shall be the 12 consecutive month period commencing on January 1 and each anniversary thereafter.

ARTICLE XVI**Mandatory Bargaining Subjects.**

Section 16.1 Notwithstanding any other provisions of this Ordinance, any matter relating to the Retirement System provided by this Ordinance applicable to current employees represented by a collective bargaining agent is a mandatory subject of bargaining under the Public Employment Relations Act, Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.216 of the Michigan Compiled Laws.

Plan Amendments.

Section 16.2. The Board of County Commissioners, the Monroe County Library Board, the Monroe County Road Commission, and the Monroe County Community Mental Health Authority shall be vested with the authority for the establishment of benefits provided in this Retirement System for their respective employees. The Monroe County Library Board, the Monroe County Road Commission, and the Monroe County Community Mental Health Authority shall provide for said benefits by a duly adopted resolution.

Reciprocal Retirement Act.

Section 16.3 The Retirement System is a Reciprocal Retirement System under the provisions of Act 88, Public Acts of 1961 of the State of Michigan, as amended. Section 6 of Act 88 has not been adopted by the County.

Fraud Penalty.

Section 16.4 Whoever with intent to deceive shall make any statement or report under this Ordinance which is untrue, or shall falsify or permit to be falsified any record or records of the Retirement System, or who shall otherwise violate the provisions of this Ordinance as it may from time to time be amended, with intent to deceive, shall be guilty of a misdemeanor and upon convictions shall be fined not to exceed \$500 plus costs of prosecution, or shall be imprisoned for not to exceed 90 days, or both, in the discretion of the Court.

Severability/validity.

Section 16.5. If any section or part of a section of this resolution is for any reason held to be invalid or unconstitutional, such holding shall not be construed as affecting the validity of the remaining sections of the resolution or the resolution in its entirety.

Regular Review.

Section 16.6 The Board of Trustees shall, at least every 10 years, review the Ordinance provisions and make recommendations to the County Board of Commissioners as needed.

Repeal.

Section 16.7. All resolutions or other provisions of law inconsistent with the provisions of this resolution are hereby repealed to the extent of such inconsistency.