

OAKLAND COUNTY EMPLOYEES

RETIREMENT SYSTEM

RESTATED RESOLUTION

1996

AS AMENDED, MAY 2016

(Defined Benefit)

Index to the Oakland County Employees  
Retirement System Restated Resolution

Subject	Section
Accounting	
Assets in DB part not segregated.....	57
Employer contributions.....	54
Interest credits.....	58
Investment income.....	55
Member contributions.....	52
Expense reserve.....	56
Reserve for pension payments.....	53
Actuarial	
Funding of DB part.....	50
Administration	
Annual report.....	45
Appeal of denied claim for benefits.....	39
Application for benefits.....	36
Correction of errors.....	61
Enforcement.....	76
Execution of Instrument.....	70
Indemnification by County.....	71
Internal Revenue Code qualification.....	62
Investments.....	46
Investment Manager.....	75
Liability Insurance.....	72
Limitation on fiduciary liability.....	74
Retirement Commission	
Administrative authority.....	40
Composition.....	41
Compensation.....	48
Employment of services.....	44
Investment authority.....	46
Meetings.....	43
Officers.....	44
Prohibited actions.....	47
Quorum.....	43
Records.....	43
Tables.....	49
Term of office.....	42
Vacancy.....	42
Voting.....	43
Pensions: commencement & termination.....	38
Pensions: payment.....	37
Service in multiple capacities.....	73

Index to the Oakland County Employees  
Retirement System Restated Resolution

Subject	Section
Setoff.....	60
Subrogation.....	60
Credited Service	
Earning.....	8
Forfeiture of.....	9
Intervening military service.....	11
Non-Intervening military service.....	12
Reciprocal Retirement System.....	13
Reinstatement.....	10
Disability Benefits	
Amount of pension.....	24
Duty incurred.....	25
Eligibility.....	23
Limitations on amount of pension.....	26
Re-examination.....	27
Suspension of pension.....	27
Termination of pension.....	27
Member Contributions	
Interest credited.....	58
Refund on termination of employment.....	51
Membership in Retirement System	
Eligibility.....	4
Excluded positions.....	5
Termination of membership.....	6
Termination of Employment.....	68
Vested termination.....	7
Miscellaneous Provisions	
1994 Special Payment.....	34.2
1997 Special Window.....	34.3
2016 One Time Suspension of Application of Redetermination Amount .....	34.6
Benefits not assignable.....	59
Compensation: definition of.....	3
Defined Contribution transfer option	
For "Benefit Group General-Option A".....	34.4
Duration; Termination; Assumption; Merger....	69
Final average compensation: definition of	3
Fraud.....	63
Payment options available.....	22
Post retirement increases.....	34
Repeal.....	65
Retirement Incentive Program.....	34.5
Severability.....	64

Index to the Oakland County Employees  
Retirement System Restated Resolution

<u>Subject</u>	<u>Section</u>
Normal Retirement Benefits	
Age and service requirements.....	17
Amount of pension.....	18
Conditions.....	16
Effect of re-employment.....	21
Eligible Rollover Distributions.....	66
Maximum.....	19
Vested former Members.....	20
Survivor Benefits	
Automatic - amount.....	29
Automatic - composition.....	28
Duty incurred.....	32
Elective - amount.....	31
Elective - composition.....	30
Non-duplication.....	33
Retired Member.....	22
Refund of contributions - active Member.....	51

## Table of Contents

<u>Section</u>	<u>Page No.</u>
1. Retirement System Effective Date; Continuation; Purpose .....	1
2. Short Title; Application; Effective Date of Restatement .....	1
3. Definitions .....	2
(a) Accrued Benefit .....	2
(b) Accumulated Member contributions .....	2
(c) Age .....	2
(d) Anniversary Date .....	2
(e) Beneficiary .....	2
(f) Benefit Groups .....	3
(g) Code .....	3
(h) Compensation .....	3
(i) County or Employer .....	5
(j) Employee .....	5
(k) Final Average Compensation .....	6
(l) Fiscal Year, Limitation Year or Plan Year .....	7
(m) Participant or Member .....	7
(n) Pension .....	7
(o) Retired Member .....	7
(p) Service .....	7
(q) Represented Employee .....	7
4. Membership in Retirement System .....	7
5. Excluded Positions .....	8
6. Termination of Membership .....	8
7. Vested Termination of Membership .....	8
8. Credited Service; Earning of .....	9
9. Credited Service; Forfeiture of .....	9
10. Credited Service; Reinstatement of .....	9
11. Intervening Military Service; Conditions for Credited Service .....	10
12. Non-intervening Military Service; Conditions for Credited Service .....	11
13. Reciprocal Retirement System .....	11
14. Benefit Groups; Effect on Retirement Eligibility .....	12
15. Benefit groups; Effect on Pension Amount .....	12
16. Normal Retirement; Conditions for .....	12
17. Normal Retirement; Age and Service Requirements .....	13
18. Normal Retirement; Pension Amount .....	14
19. Normal Retirement; Pension Maximum .....	15
20. Retirement; Vested Former Member .....	15
21. Reemployment; Effect on Pension Payments .....	15
22. Form of payment of a pension .....	17
23. Disability Retirement; Conditions for .....	19
24. Disability Retirement; Pension or Benefits Amount; Form of Payment .....	20
25. Disability Retirement; Special Provisions if Duty Incurred .....	20
26. Disability Retirement; Limitation on Pension Amount ..	20

## Table of Contents

<u>Section</u>	<u>Page No.</u>
27. Disability Retirement; Continuation Subject to Re-examination; Suspension/Termination of Pension. . . . .	21
28. Survivor Pension; Conditions for Automatic Pension to Spouse. . . . .	22
29. Survivor Pension; Amount of Automatic Pension to Spouse. . . . .	23
30. Survivor Pension; Designated Beneficiary; Conditions for Coverage. . . . .	23
31. Survivor Pension; Designated Beneficiary; Amount of Pension. . . . .	24
32. Survivor Pension; Special Provisions if Duty Incurred. . . . .	24
33. Survivor Pension; Only One Pension Payable. . . . .	25
34. Post-Retirement Benefit Increases . . . . .	25
34.2 1994 Special Payment; One-Time Single Sum Payment To Vested Former Members of the DB Part . . . . .	26
34.3 1997 Special Window for employees transferring from the Oakland county employees retirement system DB part to the DC part . . . . .	27
34.4 Defined Contribution transfer option for Benefit Group General Option A . . . . .	29
34.5 Incentive Retirement Program . . . . .	29
34.6 2016 One Time Suspension of Application of Redetermination Amount . . . . .	30
35. Guaranteed Minimum Aggregate Payout. . . . .	30
36. Pensions; Application for. . . . .	31
37. Pensions; Payment of . . . . .	31
38. Pensions; Commencement, Duration and Change . . . . .	31
39. Denial of Claim for Benefits; Appeal to Retirement Commission. . . . .	32
40. Retirement Commission; Authority and Responsibility. . . . .	32
41. Retirement Commission; Composition of. . . . .	33
42. Retirement Commission; Term of Office; Oath of Office; Vacancies. . . . .	33
43. Retirement Commission Meetings; Quorum; Voting; Record of Proceedings. . . . .	34
44. Retirement Commission; Officers; Services. . . . .	34
45. Retirement Commission; Reports. . . . .	35
46. Retirement Commission; Investment Authority and Restrictions. . . . .	35
47. Retirement Commission; Use of Monies and Assets; Prohibited Actions. . . . .	37
48. Retirement Commission; Compensation. . . . .	37
49. Retirement Commission; Experience Tables and Regular Interest. . . . .	37
50. Financial Objective of the Retirement System; County Contributions. . . . .	38
51. Member Contributions; Refunds. . . . .	42
52. Reserve for Accumulated Member Contributions. . . . .	43
53. Reserve for Pension Payments. . . . .	44

## Table of Contents

<u>Section</u>	<u>Page No.</u>
54. Reserve for Employer Contributions. ....	44
55. Reserve for Undistributed Investment Income. ....	45
56. Reserve for Administrative Expenses. ....	45
57. Assets of DB part not Segregated. ....	45
58. Interest Credited to Reserve Accounts. ....	45
59. Assignments Prohibited. ....	46
60. Subrogation; Right of Setoff. ....	47
61. Correction of Errors; Power to Amend. ....	48
62. Internal Revenue Code Qualification. ....	49
63. Fraud Penalty. ....	50
64. Severability. ....	50
65. Repeal. ....	51
66. Eligible Rollover Distributions. ....	51
67. Adjustment of Account - Other Adjustment. ....	52
68. Termination of Employment. ....	52
69. Duration; Termination; Assumption. ....	52
70. Execution of Instruments. ....	53
71. Indemnification by County. ....	54
72. Liability Insurance. ....	54
73. Service in Multiple Capacities. ....	55
74. Limitations on Fiduciary Liability. ....	55
75. Investment Manager. ....	55
76. Enforcement. ....	56

A RESOLUTION AMENDING AND RESTATING THE OAKLAND COUNTY EMPLOYEES RETIREMENT SYSTEM RESOLUTION TO INCORPORATE ACCUMULATED CHANGES, REMOVE OBSOLETE MATERIAL, TO CONFORM TO APPLICABLE PROVISIONS OF STATE AND FEDERAL LAW AND TO SEPARATE THE DEFINED CONTRIBUTION COMPONENT FROM THE DEFINED BENEFIT COMPONENT.

THE COUNTY OF OAKLAND RESOLVES:

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

1. Retirement System Effective Date;  
Continuation; Purpose

Section 1. The Oakland County Employees Retirement System established effective January 1, 1946 under authority of Section 12a of Act No. 156, Public Acts of 1851, as amended, is continued for the purpose of providing retirement income to qualifying employees and former employees, and survivor income to their qualifying beneficiaries. The Retirement System does not provide health insurance. The Retirement System as it existed before January 1, 1994 consisted solely of a defined benefit plan (sometimes called "DB part"). Effective as hereafter identified, the Retirement System was amended for all employees hired after the appropriate effective date to consist of a defined contribution part (sometimes called "DC part"). Effective as hereinafter identified, Members of the Retirement System who were hired before the appropriate effective date had an election to become a Member of the DC part of this Retirement System. This document relates only to the DB part.

2. Short Title; Application; Effective Date of  
Restatement

Section 2.

(a) This resolution may be cited as the 1996 Oakland County Employees Retirement System Defined Benefit Resolution.



(b) This Restatement will apply to individuals in the employ of the County before the appropriate Effective Date who did not make the election to participate in the DC part of this Retirement System. The retirement rights of an individual whose County employment terminated before the appropriate Effective Date of this Restatement shall be governed by the provisions of the Retirement System Resolution in effect on the date the individual last terminated County employment. The retirement rights of an individual whose County employment began before the appropriate Effective Date shall be governed by the provisions of the Retirement System resolution as in effect on June 30, 1994, unless the individual elects to participate in the DC part of the Retirement System.

(c) This resolution shall not apply to employees hired on or after the appropriate Effective Date upon final passage by the Board of Commissioners of the County of Oakland and approval by the County Pension Plan Committee.

### 3. Definitions

Section 3. As used in this resolution these terms shall have the following meanings unless the context clearly indicates or requires otherwise:

(a) Accrued Benefit for the DB part means the normal retirement benefit determined in Section 18 at any point in time.

(b) Accumulated Member contributions means the balance in a Member's individual account in the DB part of this Retirement System and held in reserve for Member contributions to the DB part, if any.

(c) Age means for the purpose of determining normal retirement age, the chronological age of a person. Otherwise, age means age at nearest birthday.

(d) Anniversary Date means December 31.

(e) Beneficiary means an individual who is being paid or is entitled to the future payment of benefits for reason other than the individual's Membership in the Retirement System.

(f) Benefit Groups. The following benefit groups are designated for the purpose of determining benefit eligibility conditions and benefit amounts:

(1) Benefit Group General - option A. All Members not included in Benefit Group Sheriff's Department whose employment agreements with the County indicate that they are Option A Employees.

(2) Benefit Group General - option B. All Members not included in Benefit Group Sheriff's Department whose employment agreements with the County indicate that they are option B employees.

(3) Benefit Group Sheriff's Department - Command Association - option D. All Members employed by the Sheriff's Department who are covered by a bargaining agreement between the County and the Command Officers Association.

(4) Benefit Group Sheriff's Department - Deputy Sheriff's Association - option C. All Members employed by the Sheriff's Department who are covered by a bargaining agreement between the County and the Oakland County Deputy Sheriffs Association.

(5) Benefit Group General - Option E. All members not included in Benefit Group Sheriff's Department whose employment agreements with the county indicate that they are Option E employees.

(6) Benefit Group General - Option F. All members not included in Benefit Group - Sheriff's Department whose employment agreements with the county indicate that they are Option F employees.

(g) Code means the Internal Revenue Code of 1986, as now or hereafter amended, or as superseded by laws of similar effect.

(h) Compensation means the salary or wages paid in money to an employee for personal services rendered the County as reflected on his/her W-2 while a Member of the Retirement System or deferred from current taxation under Code Section 457. Salary and wages shall include overtime pay; longevity pay; payments in consideration of unused vacation and sick leave only to the extent permitted under the Member's collective bargaining agreement or the merit system rules. By way of clarification, and not intended to expand what is included in Compensation:

(1) Lump-sum payments for sick leave or annual leave for Employees hired after December 31, 1977 shall not be included in Compensation;

(2) The following Represented Employees shall not have overtime included in Compensation for purposes of determining their Final Average Compensation as determined by their collective bargaining agreement:

(a) Command officers, Bargaining Unit 15 (hired on or after June 1, 1994);

(b) Deputies, Bargaining Unit 10 (hired on or after January 1, 1993); and

(c) Public Health Nurses, Bargaining Unit 48 (regardless of date of hire).

Compensation shall not include any remuneration or reimbursement not specifically stated to be included. Notwithstanding the above, Compensation shall include any amount which is contributed by the County pursuant to a salary reduction agreement and which is not includible in the gross income of the employee under Code Sections 125, 402(e)(3), 402(h), 403(b) or 457. The annual Compensation of each Member taken into account for any Plan Year beginning on or after January 1, 1996 shall not exceed the OBRA '93 annual compensation limit. The OBRA '93 annual compensation limit is \$150,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Code Section 401(a)(17)(B). The cost of living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the OBRA '93 annual compensation limit shall be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

For Plan Years beginning on or after January 1, 1996, any reference in this Retirement System to the limitation under Code Section 401(a)(17) shall mean the OBRA '93 annual compensation limit set forth in this provision.

If Compensation for any prior determination period is taken into account in determining an employee's benefits accruing in the current Plan Year, the Compensation for that prior determination period is subject to the OBRA '93 annual compensation limit in effect for that prior determination period.

In determining a Member's compensation for purposes of this limitation, the rules of Code Section 414(q)(6) shall apply, except the term "family" shall include only the spouse of the Member and any lineal descendants of the Member who have not attained age 19 before the close of the Plan Year. If, as a result of the application of such rules the adjusted limitation is exceeded, then the limitation shall be allocated to the affected individuals' Compensation (as determined under this Section but before application of this limitation) in the following manner. The limitation shall be prorated among the affected individuals in proportion to each such individual's Compensation as determined under this section prior to the application of this limitation. If the Retirement System determines compensation on a period of time that contains fewer than 12 calendar months, then the annual compensation limit is an amount equal to the annual compensation limit for the calendar year in which the compensation period begins multiplied by the ratio obtained by dividing the number of full months in the period by 12.

(i) County or Employer means Oakland County, State of Michigan, and its various offices, boards and departments, and shall include the Board of County Road Commissioners.

(j) Employee means any person employed by the County.

(1) "Highly Compensated Employees" include highly compensated active employees and highly compensated former employees. A highly compensated active employee includes any employee who performs service for the employer during the "determination year" and who, during the "look-back year:" (i) received compensation greater than seventy-five thousand and 00/100 dollars (\$75,000.00) (As adjusted by Code Section 415(d); (ii) received compensation greater than fifty thousand and 00/100 dollars (\$50,000.00) (As adjusted by Code Section 415(d)) and was a Member of the "top-paid group" for such year; or (iii) was an officer of the employer and received compensation during such year that is greater than fifty percent (50%) of the dollar limitation in effect under Code Section 415(b)(1)(A).

(2) The term highly compensated employee includes: (i) employees who are both described in the preceding sentence if the term "determination year" is substituted for "look-back year" and the employee is one of the one hundred (100) employees who received the most compensation during the determination year; and (ii) employees who are five percent (5%) owners at any time during the look-back year or determination year. If no officer has satisfied the compensation requirement of (iii) during either a

determination year or look-back year, the highest paid officer for such year shall be treated as the only highly compensated employee.

The "Determination Year" shall be the Plan Year. The "look-back year" shall be the twelve (12) month period immediately preceding the "determination year".

A "highly compensated former employee" includes any employee who separated from service (or was deemed to have separated) before the determination year, performs no service for the employer during the determination year, and was a highly compensated active employee for either the separation year or any determination year ending on or after the employee's fifty-fifth (55th) birthday.

If an employee is, during a Determination Year or look-back year, a family member of either a "5 percent owner" who is an active or former employee or a Highly Compensated Employee who is one of the ten (10) most highly compensated employees ranked on the basis of compensation paid by the employer during such year, then the family member and the 5-percent owner or top-ten highly compensated employee shall be aggregated. In such case, the family member and 5-percent owner or top-ten highly compensated employee shall be treated as a single employee receiving compensation and plan contributions or benefits equal to the sum of such compensation and contributions or benefits of the family member and 5-percent owner or top-ten highly compensated employee. For purposes of this section, "family member" includes the spouse, lineal ascendants and descendants of the employee or former employee and the spouses of such lineal ascendants and descendants. The determination of who is a highly compensated employee, including the determinations of the number and identity of employees in the top-paid group, the top one hundred (100) employees, the number of employees treated as officers and the compensation that is considered, will be pursuant to Code Section 414(q) and its regulations.

(k) Final Average Compensation means the average of the annual Compensations paid a Member during any 5 consecutive years of credited service producing the highest average, contained within the 10 years of credited service immediately preceding the Member's last termination of employment with the County, if the Member has at least 5 years of credited service. Final average Compensation means the aggregate amount of compensation paid a Member divided by the Member's years and fraction of a year of credited service if the Member has less than 5 years of credited service.

(l) Fiscal Year, Limitation Year or Plan Year means the calendar year. If the Limitation Year is amended to a different twelve (12) Consecutive month period, the new Limitation Year must begin on a date within the Limitation Year that the amendment is made.

(m) Participant or Member means a person who is eligible, and participates herein.

A Non-vested Participant or Member means a Member who does not have any nonforfeitable right to an accrued benefit.

A Vested Participant or Member means a Member who has a nonforfeitable right to an accrued benefit.

(n) Pension means a series of equal monthly payments by the DB part of the Retirement System. Payment may be for a temporary period or throughout the future life of a retired Member or beneficiary.

(o) Retired Member means an individual who is or was being paid a benefit because of the individual's Membership in the Retirement System.

(p) Service means personal service rendered the County while a Member of the Retirement System and qualifying military service pursuant to Sections 11 and 12.

(q) Represented Employee means an Employee who is represented by a group or entity certified as a collective bargaining representative by the Michigan Employment Relations Commission.

#### 4. Membership in Retirement System

Section 4. An individual who is employed by the County, its offices or departments in a permanent position normally requiring 1000 or more hours of work per year shall be a Member of the Retirement System unless employed in an excluded position enumerated in Section 5. In case of doubt the Retirement Commission shall have the discretion to decide who is a Member.

## 5. Excluded Positions

Section 5. Excluded positions are:

(a) Positions as employees of the Board of County Road Commissioners.

(b) Positions which are compensated on a basis not subject to the withholding of Federal income taxes or FICA taxes by the County or to existing fringe benefits provided by the County.

(c) Positions filled by temporary employees.

(d) Any position held by a retired Member.

(e) Any position held by a person who is included by law in any other pension or Retirement System by reason of the compensation paid by the County, except the Federal Old Age, Survivors and Disability Insurance program.

(f) Positions for which the County pays less than 30 percent of all compensation received by the employee from all governmental units.

## 6. Termination of Membership.

Section 6. An individual shall cease to be a Member upon termination of employment by the County, or upon ceasing to be employed in a position normally requiring 1,000 or more hours of work per year, or upon becoming employed in an excluded position. Upon re-employment by the County, or transfer into a position that is not excluded, the individual shall again become a Member of the DC part of the Retirement System for future benefit accruals.

## 7. Vested Termination of Membership.

Section 7. A Member of the DB part of the Retirement System who ceases to be a Member for a reason other than retirement or death, and who has 8 or more years of credited service and leaves on deposit in the Retirement System the Member's accumulated Member contributions shall be a vested former Member.

8. Credited Service; Earning of.

Section 8. Service rendered by a Member shall be credited to the Member's individual credited service account in accordance with rules the Retirement Commission shall prescribe. A Member of the DB Part of the Retirement System in a position designated by the County as a part-time position shall receive credit for a fraction of a year. The fraction shall be equal to the number of regular hours worked during the year divided by the number of full-time hours for the year. In no case shall

- more than one year of credited service be credited on account of all service rendered by a Member in any one calendar year.

- less than ten days of service in a calendar month be credited as a month of service.

- less than ten months of service in a calendar year be credited as a year of service.

9. Credited Service; Forfeiture of.

Section 9. Credited service shall be forfeited if an individual ceases to be a Member and does not qualify as a Vested former Member. Credited service shall be forfeited if an individual receives a refund of accumulated Member contributions.

10. Credited Service; Reinstatement of.

Section 10. A Member may have forfeited credited service restored upon satisfaction of the following conditions:

(a) The Retirement System is paid the total amount of accumulated Member contributions previously withdrawn plus compound interest from the date of withdrawal to the dates of repayment at rates stipulated by the Retirement Commission;

(b) The repayment is initiated and completed within the time period established by the Retirement Commission, which period shall not end before the first anniversary of the Member's re-employment;



(c) If a Vested Member was re-employed in a County position involving Membership in the Retirement System within 3 years of the Member's last termination of Membership and repays the amount identified in (a), his Forfeited Accrued Benefit shall be restored.

(d) A Member who is re-employed in a County position involving Membership in the Retirement System more than 3 years after the Member's last termination of employment shall not reenter the DB part of the Retirement System but shall become a Member of the DC part as if he was a new hire.

(e) Notwithstanding the foregoing, a Vested former Member who did not receive a refund of accumulated Member contributions shall resume coverage in the DB part of the Retirement System on rehire and maintain his Credited Service.

#### 11. Intervening Military Service; Conditions for Credited Service.

Section 11. A Member who leaves the employ of the County to enter any armed service of the United States during any period of compulsory military service shall be entitled to credited service for periods of active duty lasting 30 or more days, if each of the following conditions are satisfied:

(a) The individual is re-employed by the County within 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, plus compound interest from the dates of withdrawal to the dates of repayment;

(c) No more than 5 years of credited service shall be granted on account of all military service of the Member;

(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.

12. Non-intervening Military Service; Conditions for Credited Service.

Section 12. 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 30 or more days, if each of the following conditions are satisfied:

(a) The Member has at least 8 years of credited service with Oakland County, not including any credited service acquired for intervening military service under the provisions of Section 11;

(b) If, in the DB part of the Retirement System Only, the Member pays the Retirement System 5% of the Member's annual, full time rate of Compensation at time of payment multiplied by the period of service being claimed;

(c) Armed service credited a Member under this paragraph shall not exceed the smaller of two (2) years and the difference between five (5) years and the intervening armed service credited the Member under Section 11;

(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;

(e) The Member entered the armed service before June 1, 1980 or entered during a time of war or emergency condition on or after June 1, 1980;

(f) The Member elects to purchase the service and contributes the required amount to the DB part of the Retirement System within one (1) year of the Member's Eligibility Date. The Eligibility Date for County employees whose employment is not subject to collective bargaining is January 1, 1989. The purchase of non-intervening military service will apply to a County employee whose employment is subject to collective bargaining only if included in the applicable bargaining agreement. If included, the Eligibility Date will be as specified in the relevant collective bargaining agreement.

13. Reciprocal Retirement System.

Section 13. The Retirement System is a reciprocal Retirement System under the provisions of Act 88, Public Acts of 1961, as amended.

14. Benefit Groups; Effect on Retirement Eligibility

Section 14. Benefit eligibility conditions shall be those applicable to the Member's benefit group at time of termination of Membership. If the Member has less than 2 years of Credited Service under the Member's last Benefit Group, benefit eligibility conditions shall be those applicable to the benefit group under which the Member last earned at least 2 years of Credited Service.

15. Benefit groups; Effect on Pension Amount

Section 15. Pension amounts in the DB part of the Retirement System shall be separately determined for each benefit group that the Member has credited service with, using the Retirement System provisions in effect at time of termination of Membership. The amount of a pension under optional form of payment SL (Section 18) is equal to the sum of separate amounts determined in accordance with the benefit formula applicable to each benefit group under which the retiring Member has credited service. The amount of pension attributable to credited service under a particular benefit group is equal to a fraction of the amount of pension determined as if the Member's total credited service in force was under the benefit group. The numerator of the fraction is the Member's credited service under the benefit group. The denominator of the fraction is the Member's total credited service.

16. Normal Retirement; Conditions for.

Section 16. An individual may retire with a normal retirement pension from the DB part upon satisfaction of each of the following requirements:

(a) A written application for retirement, in the form prescribed by the Retirement Commission, has been filed with the Retirement System;

(b) Membership is terminated before the date of retirement;

(c) The individual meets the applicable age and/or service requirements for normal retirement.

17. Normal Retirement; Age and Service Requirements.

Section 17. The age and/or service requirements for normal retirement are:

(a) Benefit group general - option A. The individual has attained Age 55 years and has 25 or more years of credited service, or the individual has attained Age 60 years and has 8 or more years of Credited Service.

(b) Benefit group general - option B. The individual has attained Age 55 years and has 25 or more years of credited service, or the individual has attained Age 60 years and has 8 or more years of credited service.

(c) Benefit group Sheriff's Department - Command - option D. The individual has 25 or more years of credited service with the Sheriff's Department, regardless of age, or the individual has attained Age 60 and has 8 or more years of Credited Service.

(d) Benefit Group Sheriff's Department - Deputies - option C. The individual has 25 or more years of credited service with the Sheriff's Department, regardless of age or has attained Age 60 and has 8 or more years of credited service.

(e) Benefit Group General - Option E. The individual has attained age 55 and has 25 or more years of credited service, or the individual has attained age 60 years and has 8 or more years of credited service and member makes a 1% compensation "pickup" contribution in accordance with section 52(d).

(f) Benefit Group General - Option F. The individual has attained age 55 and has 25 or more years of credited service, or the individual has attained age 60 years and has 8 or more years of credited service and member makes a 1% compensation "pickup" contribution in accordance with Section 52(d).

Upon normal retirement as provided in this section an individual shall be paid a pension computed according to Sections 18 and 19.

18. Normal Retirement; Pension Amount.

Section 18. The applicable benefit amount under form of payment SL (Straight Life) for the DB part is computed as follows:

(a) Benefit Group General - Option A. 2 percent (.02) of the Member's Final Average Compensation multiplied by years of credited service.

(b) Benefit Group general - Option B. 1.8 percent (.018) of the Member's Final Average Compensation multiplied by years of credited service.

(c) Benefit Group Sheriff's Department (Command). 2 percent (.02) of the Member's Final Average Compensation multiplied by years of credited service.

(d) Benefit Group Sheriff's Department (Deputies). For Plan Years beginning on or after January 1, 1994, 2.2 Percent (.022) of the Member's Final Average Compensation multiplied by years of credited service.

(e) Benefit Group General - Option E. For members (previously Option A members) who make a 1% of compensation "pickup" contribution after December 18, 1999, or when the employee completes 14 years of service and makes a 1% of compensation "pickup" contribution, 2.0% (.02) of the member's final average compensation multiplied by up to 14 years of credited service and years 15 and beyond shall be multiplied by 2.2% (.022) of the member's final average compensation.

(f) Benefit Group General - Option F. For members (previously Option B members) who make a 1% of compensation "pickup" contribution after December 18, 1999, or when the employee completes 14 years of credited service and makes a 1% of compensation "pickup" contribution, 1.8% (.018) of the member's final average compensation multiplied by up to 14 years of credited service and credited services years of 15 and beyond shall be multiplied by 1.98% (.0198) of the member's final average compensation. For those members eligible to have sick leave and annual leave included in their final average compensation, annual leave days in excess of seventy-two (72) and sick leave days in excess of one hundred (100) will be multiplied by 1.8% (.018) when computing retirement allowance. Annual leave days up to seventy-two (72) and sick leave days up to one hundred (100)

will be multiplied by 1.98% (.0198) when computing the retirement allowance.

If the Member or vested terminated Member has credited service with more than one benefit group, the pension amount shall be computed under Section 15.

19. Normal Retirement; Pension Maximum.

Section 19. The maximum amount of a pension from the DB part and financed by County contributions is 75 percent (.75) of an individual's Final Average Compensation.

20. Retirement; Vested Former Member.

Section 20.

(a) A vested former Member of the DB part may retire

- upon attainment of Age 55 with 25 or more years of credited service.

- upon attainment of Age 60 and 8 years of credited service.

(b) Withdrawal of accumulated Member contributions from the DB part and forfeiture of credited service attributable to a period during which contributions to the Retirement System were required by or on behalf of the vested former Member shall constitute forfeiture of all rights in and to the portion of the pension attributable to the forfeited credited service.

(c) Upon retirement as provided in this section a vested former Member shall be paid a pension computed according to the provisions of Sections 18 and 19 as in effect on the date the employee ceased to be a Member.

21. Re-employment by the County; Effect on Pension Payments.

Section 21. One of the following conditions shall apply to a retired Member who is receiving a pension or retirement benefit from the DB part of the Retirement System if the retired Member becomes re-employed by the County:

(a) Payment of benefits from this Retirement System to the retired Member shall be suspended if the retired Member is re-employed by the County from which the retired Member retired and the retired Member does not meet the requirements of subsection (b). Suspension of the payment of benefits shall become effective the first day of the calendar month that follows the sixtieth day after the retired Member is re-employed by the County. Payment of benefits shall resume on the first day of the calendar month that follows termination of employment with the County. Payment of benefits shall be resumed without change in amount or conditions by reason of re-employment. The retired Member shall not be a Member of this System during the period of re-employment.

(b) Payment of benefits to the retired Member shall continue without change in amount or conditions by reason of re-employment by the County from which the retired Member retired if all of the following requirements are met:

(1) the retired Member meets one of the following requirements:

(a) for any retired Member, is employed by the County for not more than 1,000 hours in any 12-month period as determined by the County's Merit System.

(b) for a retired Member who was not an elected or appointed County official at retirement, is elected or appointed as a County official for a term of office that begins after the retired Member's retirement allowance effective date.

(c) for a retired Member who was an elected or appointed County official at retirement, is elected or appointed as a County official to a different office from which the retired Member retired for a term of office that begins after the retired Member's retirement allowance effective date.

(d) for a retired Member who was an elected or appointed County official at retirement, is elected or appointed as a County official to the same office from which the retired Member retired for a term of office that begins not less than 2 years after the retired Member's retirement allowance effective date.

(2) The retired Member is not eligible for any benefits from the County other than those required by law or otherwise provided to the retired Member by virtue of his or her being a retired Member.

(3) The retired Member is not a Member of this System during the period of reemployment, does not receive additional retirement credits during the period of reemployment, and does not receive any increase in benefits because of the employment under this subsection.

(c) Payment of benefits to the retired Member shall continue without change in amount or conditions by reason of the employment if the retired Member becomes employed by a county other than the county from which the retired Member retired. For the purposes of Membership and potential benefit entitlement under the system of the other county, the retired Member shall be considered in the same manner as an individual with no previous record of employment by that county.

## 22. Form of payment of a pension.

Section 22. A Member may elect to have pension payments from the DB part made under any one, and only one, of the following forms of payment and name a survivor Beneficiary. The election and naming of 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. An election of form of payment may not be changed on or after the date the first pension payment is made. A named survivor Beneficiary may not be changed on or after the date the first pension payment is made if form of payment A, B or D is elected. A named survivor Beneficiary may be changed or may be more than one person if form of payment SL or C is elected.

A named survivor Beneficiary must have an insurable interest in the life of the Member or vested former Member when named.

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

The amount of pension under forms of payment A, B, C, D or E shall have the same actuarial present value, computed as of the effective date of the pension, as the amount of pension under form of payment SL. (Actuarial assumptions used to determine the amount or level of any optional benefit forms shall be actuarially equivalent to the SL Pension). No payments shall be made to a survivor Beneficiary under form of payments A, B, C or D if duty death benefits under Section 32 become payable on account of the death of the retired Member.

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



Form of Payment A - Life Payments with Full Continuation to Survivor Beneficiary. The retired Member is paid a reduced pension for life under form of payment A. Upon the death of the retired Member during the lifetime of the named survivor Beneficiary, the named survivor Beneficiary is paid the full 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 reduced pension for life under form of payment B. Upon the death of the retired Member 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 Ten Years Certain. The retired Member is paid a reduced pension for life under form of payment C. Upon the death of the retired Member, if the retired Member received fewer than 120 monthly pension payments, the named survivor Beneficiary is paid the full amount of reduced pension for the remainder of 120 months. If the named survivor Beneficiary has died before the retired Member, or dies before the 120 months have elapsed, the remaining monthly payments shall be paid to the estate of the last alive of the retired Member and the named survivor Beneficiary.

Form of Payment D - Life Payments with Continuation to Survivor Beneficiary with Pop-up.

(1) Full Continuation - The retired Member is paid a reduced pension for life under form of payment D-1. Upon the death of the retired Member during the lifetime of the named survivor Beneficiary, the named survivor Beneficiary is paid the full amount of reduced pension until death. Should the named survivor Beneficiary die before the retired Member, the retired Member's pension shall be recomputed (pop-up) to a straight life pension (form of payment SL).

(2) One-Half Continuation - The retired Member is paid a reduced pension for life under form of payment D-2. Upon the death of the retired Member during the lifetime of the named survivor Beneficiary, the named survivor Beneficiary is paid one-half the amount of reduced pension until death. Should the named survivor Beneficiary die before the retired Member, the retired Member's pension shall be recomputed (pop-up) to a straight life pension (form of payment SL).

Form of Payment E - Life Payments with Social Security Equating. The retired Member is paid an increased pension until Age 65 and a reduced pension for life thereafter under form of payment E. The increased pension payable until Age 65 shall approximate the sum of the reduced pension payable after

Age 65 and the retiring Member's estimated Age 65 Social Security primary insurance amount. Form of payment E is available only to Members who retire after attaining Age 60 and before attaining Age 65. All payments stop upon the death of the retired Member.

### 23. Disability Retirement; Conditions for.

Section 23. The Retirement Commission may retire a Member of the DB Part who is incapacitated from continued employment by the County if each of the following conditions are met:

(a) Application for disability retirement is filed with the Retirement Commission by either the Member or the Member's Department Head;

(b) The Member has 10 or more years of credited service;

(c) The Member undergoes all medical examinations and tests ordered by the Retirement Commission, and releases to the Retirement Commission all medical reports and records requested by the Retirement Commission;

(d) The medical director certifies to the Retirement Commission in that:

- (1) the Member is mentally or physically totally incapacitated for continued employment by the County,
- (2) the incapacity is likely to be permanent and
- (3) the Member should be retired.

The effective date of a disability retirement shall not predate:

- (1) the date of disability, or
- (2) the date the Member ceases to be paid by the County for actual services;

(e) If the Member does not concur in the opinion of the medical director, a medical committee shall be appointed. The medical committee shall be composed of the medical director, one physician named by the Member and one physician named by the other two physicians. If the medical committee certifies to the Retirement Commission in writing, by majority opinion, that:

- (1) the Member is mentally or physically totally incapacitated for continued employment by the County and
- (2) the incapacity is likely to be permanent,

the majority opinion of the medical committee shall supersede the certification of the medical director.

24. Disability Retirement; Pension or Benefits Amount; Form of Payment.

Section 24. The amount of a disability pension from the DB part shall be computed in the same manner as a normal retirement pension, based upon the Member's credited service and Compensation earned until the termination of County employment. The maximums under Section 19 shall apply. The disability retired Member who is in the DB part shall have the right to elect form of payment SL, A, B, C or D provided in Section 22.

25. Disability Retirement; Special Provisions if Duty Incurred

Section 25. The following exceptions to the provisions of Sections 23 and 24 shall apply if the Retirement Commission 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:

- the requirement of 10 years of credited service shall be waived;
- credited service shall include years and fraction of a year, if any, between the effective date of the disability pension and the date the Member would attain age 60 years;
- the Member shall be 100% vested in his accrued benefit in the DB part.

26. Disability Retirement; Limitation on Pension Amount.

Section 26.

(a) The amount of a disability pension from the DB part shall not exceed the difference between one hundred percent of the disability retired Member's gross annual rate of compensation at date of retirement and the amount of the disability retired Member's considered income.

(b) A disability retired Member's considered income is the annualized sum of the following amounts:

(1) Remuneration for personal services rendered in any gainful employment;

(2) Worker's compensation weekly benefits, redemptions and settlements on account of the same disability for which the Member retired. If there is a redemption or settlement of the Worker's compensation benefits, the Actuarial Equivalent of the settlement or redemption shall be applied to reduce the amount of pension under form of payment SL. Worker's compensation benefits for bona fide medical expenses, as determined by the Retirement Commission, shall not be considered income;

(3) Unemployment insurance or similar payments by reason of the Member's County employment.

If a disability retired Member's considered income for a year exceeds the Member's gross annual rate of compensation at date of retirement, such excess shall be carried forward as considered income for the following year.

(c) Application of the limitation shall be to the amount of pension under form of payment SL. The effect of an election of any other form of payment shall be taken into account after application of the provisions of this section.

(d) The Retirement Commission shall periodically request substantiated income information from the retired Member. 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 by the Retirement Commission.

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

### Section 27.

(a) At least once each calendar year during the first 5 calendar years following a Member's retirement for disability and at least once in every 3 calendar year period thereafter, the Retirement Commission may require a disability retired Member to undergo a medical or other re-evaluation by the medical director if the individual has not attained Age 60 years. If the disability retired Member refuses to submit to re-evaluation, payment of the pension may be suspended by the

Retirement Commission. If the refusal continues for 12 continuous months, the Retirement Commission may revoke the disability retired Member's rights in and to the disability pension. A disability pension shall be terminated if the medical director reports that the disability retired Member is no longer mentally or physically totally incapacitated for continued employment by the County and the Retirement Commission concurs with the report.

(b) The Membership status of a terminated disability retired Member who is returned to County employment shall be governed by the provisions of Sections 4 and 5 except that they shall become a Member of the DC part for future benefits.

Actual credited service at time of disability retirement shall be restored when the Member again acquires Membership. Credited service shall not be granted for the period of disability retirement unless the Member was in receipt of a disability pension on account of a disability arising out of and in the course of County employment.

(c) A disability retired Member whose benefit has been terminated who does not reacquire 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.

## 28. Survivor Pension; Conditions for Automatic Pension to Spouse.

Section 28. A pension shall be paid for life to the surviving spouse of a deceased Member of the DB part if the following conditions are met:

(a) The Member was married to the surviving spouse at time of death; and either

(b) The Member had 10 or more years of credited service and died while an Employee of the County; or

(c) The Member was a vested former Member who had 20 or more years of credited service.

29. Survivor Pension; Amount of Automatic Pension to Spouse.

Section 29. The amount of the automatic survivor pension from the DB part shall be computed as if the deceased Member had retired the day preceding death with a normal retirement benefit (Sections 16-19) and nominated the spouse as the survivor Beneficiary. If the deceased Member had 15 or more years of credited service or attained Age 60, the survivor pension will be calculated as if form of payment A (Section 22) had been elected. If the deceased Member had more than 10 years of credited service but less than 15 years of credited service, the survivor pension will be calculated as if form of payment B (Section 22) had been elected. The spouse pension shall commence at the time stipulated in Section 38. Upon the death of the spouse, the pension shall terminate.

30. Survivor Pension; Designated Beneficiary; Conditions for Coverage.

Section 30.

(a) A Member may designate a beneficiary for the exclusive purpose of being paid a pension under the provisions of this section. The naming of a beneficiary shall be made on a form provided by and filed with the Retirement System. The named beneficiary may be changed or the election revoked at any time.

(b) A pension shall be paid to the named beneficiary, for life, if the deceased Member was in the DB part of the Retirement System and if each of the following conditions are met:

(1) The Member dies while an employee of the County.

(2) The Member had 25 or more years of credited service; or, was Age 60 years or older and had 10 or more years of credited service.

(3) The designated beneficiary is found by the Retirement Commission to have been dependent upon the deceased Member for at least 50 percent of the individual's financial support.

31. Survivor Pension; Designated Beneficiary; Amount of Pension.

Section 31. The amount of pension paid to the designated beneficiary from the DB part shall be computed as if the deceased Member had retired under the applicable normal retirement provisions (Sections 16 - 19) the day preceding death, elected form of payment A, and named the designated beneficiary as survivor beneficiary. The pension shall terminate upon the death of the designated beneficiary.

32. Survivor Pension; Special Provisions if Duty Incurred.

Section 32. In the event a Member of the DB part dies, or disability retired Member dies within 3 years of the date of retirement, and the Retirement Commission finds that the death is the direct and proximate result of the Member's or disability retired Member's performance of duty as an employee of the County and if worker's compensation is granted on account of the death arising out of and in the course of County employment, the following provisions shall apply in lieu of Sections 28 through 31:

(a) If the Member had not retired, the accumulated Member contributions shall be refunded in accordance with Section 51;

(b) The surviving spouse of the deceased Member or retired Member shall receive a pension equal to the spouse's weekly worker's compensation converted to an annual basis. The spouse's pension shall begin upon termination of the statutory period for payment of the worker's compensation and shall continue until the earlier of the spouse's remarriage or death.

As used in this section, the term spouse means the person to whom the Member or retired Member was married at the time the Member's or retired Member's last employment with the County was terminated;

(c) If the deceased Member or retired Member leaves an unmarried child or children under age 18 years, each such child shall receive a pension equal to the child's weekly worker's compensation converted to an annual basis. The child's pension shall begin upon termination of the statutory period for payment of the worker's compensation and shall continue until the earliest of the child's adoption, marriage, attainment of age 18 years or death. If there is no spouse to receive a spouse's pension or the spouse's pension is terminated, each such child's

pension shall be increased by an equal share of the spouse's pension;

(d) The deceased Member's or retired Member's parents shall each receive a pension equal to such parent's weekly worker's compensation converted to an annual basis. The parent's pension shall begin upon termination of the statutory period for payment of the parent's worker's compensation and shall continue until death;

(e) In no case shall the sum of the annual benefits provided in paragraphs (b), (c) and (d) of this section exceed the greater of (i) \$4,800 and (ii) 2 percent of the deceased Member's or retired Member's final average compensation multiplied by the Member's or retired Member's credited service not to exceed 37.5 years.

### 33. Survivor Pension; Only One Pension Payable.

Section 33. No pension payments shall be made under the provisions of Sections 28 and 29 if any pension is or will be paid under the provisions of Sections 30 and 31. No pension payments shall be made under the provisions of Sections 28, 29, 30 and 31 if any pension is or will be paid under the provisions of Section 32.

### 34. Post-Retirement Benefit Increases

Section 34. Each monthly pension which becomes effective on or after January 1, 1969 shall be redetermined each May 1 that is at least 12 full months after the effective date of the pension. The redetermined amount shall be the amount of the pension otherwise payable increased by 1.5 percent for each full year between the effective date of the pension and the date of redetermination. The redetermined amount shall not exceed the amount resulting from multiplying (a) times (b) and dividing the product by (c), where

(a) is the amount of the pension otherwise payable,

(b) is the average of the C. P. I. - W for the calendar year immediately preceding the date of the redetermination, and

(c) is the average of the C. P. I. - W for the calendar year immediately preceding the effective date of the pension.

The redetermined amount shall not be less than the amount of the pension otherwise payable. "The amount of the pension



otherwise payable" means the monthly amount of pension which would be payable disregarding these provisions redetermining benefit amounts after retirement. "C. P. I. - W" means the Consumer Price Index for Urban Wage Earners and Clerical Workers - United States City Average as determined by the United States Department of Labor and in effect for January 1988. If the C. P. I. - W is restructured after 1988 in a manner materially changing its character, the Retirement Commission, after receiving the advice of the Actuary, shall change the application of the C. P. I. - W so that, as far as is practicable, the general effect of using the restructured C. P. I. - W shall be similar to the general effect of using the C. P. I. - W before restructuring.

#### 34.2 1994 Special Payment; One-Time Single Sum Payment To Vested Former Members of the DB Part

##### Section 34.2. One-Time Single Sum Payment To Vested Former Members of the DB Part

The Retirement Commission shall undertake the following with respect to vested former Members of the DB Part:

(a) As of October 1, 1994, determine who the vested former Members of the DB Part are;

(b) Determine each such vested former Member's Pension as defined in Section 18;

(c) Determine the present value, as of October 1, 1994, of the lump-sum actuarially equivalent benefit of each such vested former Member's Pension using all of the Retirement Commission's actuarial assumptions as in effect for funding purposes for the December 31, 1993 annual actuarial valuation;

(d) Make the same determination in (c), except without the use of a Disability factor; and

(e) Notify each such vested former Member in writing that they have an irrevocable, one-time election continuing for no less than thirty (30) days nor more than ninety (90) days in which to decide as to whether they want to receive a single sum payment of the value determined in (d) on or about October 1, 1994 in lieu of any further Pension from this System and specifically waiving any rights to benefits from the Oakland County Retirees' Health Care Trust.

34.3 1997 Special Window for employees transferring from the Oakland county employees retirement system DB part to the DC part

Section 34.3. special window period for employees transferring from the Oakland county employees retirement system DB part to the DC part

The retirement commission shall undertake the following for members of the DB part:

(a) Determine who the members of the DB part are as of December 31, 1996;

(b) Determine each such members accrued benefit as of December 31, 1996, as defined in section 18 of the DB part;

(c) Determine the actuarial present value as of December 31, 1996 of each member's accrued benefit using the assumptions from the December 31, 1996 annual actuarial valuation, as approved by the retirement commission, with regard to interest, post-retirement mortality and annual post-retirement increases. Post-retirement mortality rates will be a blend of 50% male and 50% female mortality, so that gender will not be a factor. The assumed retirement date shall be as stipulated in paragraph e(3) below;

(d) Notify each such member in writing that they have an irrevocable election continuing for sixty(60) days after such notice in which to decide whether to participate in the dc part and thereby have the value determined in (c) transferred to the dc part of the system hereafter identified in subparagraph (h) but with benefit accruals under the DB part ceasing as of December 31, 1996;

(e) In determining the actuarial present value, the following shall control:

- (1) final average compensation, fac shall be calculated as though the member were leaving the county's employ on December 31, 1996;
- (2) in determining the members normal retirement date, it shall be assumed that the member will retire on the first day the member would otherwise satisfy the normal retirement age and service requirements of section 17 of the DB part if he were to continue as a full-time employee of the county;

- (3) no redetermination shall be made to give credit for any future raises or interest rate changes in the definition of actuarial equivalence used in the DB part;
- (4) the retirement commission shall include in final average compensation such additional items of earned or accrued employment related compensation as it determines to be reasonable and non-discriminatory;
- (5) each member's accrued benefit shall be based on actual years of credited service at December 31, 1996.

(f) In making the transfer from the DB part to the dc part, interest from December 31, 1996 to the date hereafter identified in subparagraph (h) shall be added to the present value as of December 31, 1996 at the rate of 7.5% per annum;

(g) A member who elected to participate in the DC part as provided herein shall enter same on the first day of the month following the end of the 60 day election period and shall cease participation in the DB part on the last day of the month immediately preceding entry into the dc part;

(h) Establishment of account balances. Those members of the DB part who elect to participate in the dc part under this special election shall have separate accounts established for the transfer of assets to the dc part (transferred account) at the end of the month following the end of the 60 day election period of subparagraph (d) and be fully vested in the transferred account but subject to the vesting schedule of section 7 of the dc part for the county's contributions after entry into the DC part;

(i) Effect on 415. Amounts transferred pursuant to this section shall not be taken into account in determining the component of the annual additional attributable to employee contributions;

(j)

(1) amounts in a members transferred account may not be withdrawn by, or distributed to the member, in whole or in part, except as provided in subparagraph (2);

(2) at the members normal retirement date, or such other date when the member shall be entitled to receive a distribution from the dc part, the fair market value of the members transferred account shall be added to the amounts otherwise available.

(3) the members transferred account shall share in income earned, investment gains and losses attributable thereto, less any expenses in the same manner as any other account.

#### 34.4 Defined Contribution transfer option for Benefit Group General Option A

Section 34.4. The retirement commission shall undertake the following with respect to members of Benefit Group General - Option A who are not represented employees and represented employees whose collective bargaining agreement provides for these benefit modifications:

(a) As of December 31, 1999 determined who the members are that are eligible to make a current election;

(b) Determine each such members pension as defined in Section 18 of the defined benefit part of the retirement system;

(c) Determine the present value, as of December 31, 1999 of the lump-sum actuarial equivalent accrued benefit of each such vested members pension using all of the retirement commission's actuarial assumptions as in effect for funding purposes for the September 30, 1999 annual actuarial valuation;

(d) Make the same determination in (c), except without the use of a disability factor using for funding purposes; and

(e) Notify each vested member in writing that they have an irrevocable one-time election continuing for no less than seven (7) days nor more than ninety (90) days in which to decide as to whether they want to have the single sum payment of the value determined in (d) on or about April 1, 2000 in lieu of any further pension from this system.

#### 34.5 Incentive Retirement Program

Section 34.5. The Retirement Commission shall undertake the following for all members of the Oakland County Retirement System, regardless of whether they are a member of the DB part or DC part if they satisfy the following conditions:

(a) This program shall be open to non-represented members and all represented members excluding employees represented by the Oakland County deputy sheriff's association, the Oakland County command officer's association and elected officials of the county ('covered class');

(b) The covered class shall be further limited to those members who are eligible to retire by December 31, 2002 or whose age and service, including military service credits and Michigan reciprocal retirement act service time totals 75 by that date, with a minimum of twenty (20) years and a minimum age of fifty (50);

(c) Those members of the covered class who so qualify must file written application with the Retirement Commission not less than thirty (30) days in advance of their requested retirement date, on the appropriate form, but in no event later than January 31, 2003, with the proposed retirement date being no sooner than November 15, 2002 and no later than March 31, 2003;

(d) Those members who file such application for payment of the incentive retirement from the Retirement System shall receive lump sum retirement incentive pay of 26 weeks salary determined as of September 30, 2002 (i.e. base salary + longevity but not including overtime or shift premium pay);

(e) This lump sum retirement incentive pay shall not be included in either the final average compensation (FAC) for employees in the DB part of the Retirement System or in the amount of either employee or county contribution to the DC part of the retirement system.

#### 34.6 2016 One Time Suspension of Application of Redetermination Amount

Section 34.6. Effective May 1, 2016, the first sentence of the last full paragraph of Section 34 shall be amended to read as follows:

The redetermined amount calculated for 2016 shall not be less than the redetermined amount calculated for 2015. This amendment shall be void and shall have no further force and effect as of April 30, 2017.

#### 35. Guaranteed Minimum Aggregate Payout.

Section 35. If all pension payments permanently terminate before there has been paid an aggregate amount equal to the retired Member's, deceased Member's, or deceased vested former Member's accumulated Member contributions at time of retirement, 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 the individual who was being paid a pension or the named individuals.

36. Pensions; Application for.

Section 36. The date of a Member's retirement from the DB part shall be not less than 30 days nor more than 90 days after the Member files with the Retirement Commission, on forms provided by the Board, a written application for retirement.

37. Pensions; Payment of

Section 37. All payments from the Retirement System shall be made according to the provisions of law, this resolution and procedures approved by the Retirement Commission.

38. Pensions; Commencement, Duration and Change

Section 38.

(a) A normal or disability pension shall commence on the date of the Member's or vested former Member's retirement. A survivor pension for a Member who died while employed by the County shall commence as of the day following the Member's death. A survivor pension for a vested former Member shall commence on the date the vested former Member would have been eligible to retire (Section 20) based upon the credited service and retirement provisions in effect on the date of the Member's death. A post-retirement survivor pension shall commence the day following the retired Member's death.

(b) Pensions from the DB part are paid in 12 equal installments on the last day of each month. If the commencement date of a pension is not the first day of a calendar month, the amount of the first pension payment shall be pro-rated in proportion to the number of days between the commencement date and the last day of the calendar month containing the commencement date.

(c) A pension from the DB part shall terminate at the end of the calendar month in which the event causing the termination occurred.

(d) A change in the amount of a pension shall occur, if not specified elsewhere, on the first day of the calendar month next following the date of the event causing the change.

39. Denial of Claim for Benefits; Appeal to Retirement Commission.

Section 39.

(a) A benefit claimant shall be notified in writing, within 30 days, of a denial of a claim for benefits. The notification shall contain the basis for denial. The benefit claimant may appeal the denial and request a hearing before the Retirement Commission. The appeal shall be in writing and filed with the Retirement Commission within 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 Retirement Commission shall schedule a hearing of the appeal within 60 days of receipt of the request for appeal.

(b) Protection from Reprisal. No person may be discharged, fined, suspended, expelled, disciplined, or otherwise discriminated against for exercising any right that he is entitled to or for cooperation with any inquiry or investigation under the provisions of this Retirement System or any governing law or regulations.

No person shall, directly or indirectly, through the use or threatened use of fraud, force or violence, restrain, coerce or intimidate any Member or Beneficiary for the purpose of interfering with or preventing the exercise of or enforcement of any right, remedy or claim that he is entitled to under the Retirement System or any governing law or regulations.

40. Retirement Commission; Authority and Responsibility.

Section 40. The administration, management and responsibility for the proper operation of the Retirement System, and for interpreting and making effective the provisions of the retirement resolution are vested in a Retirement Commission. The Retirement Commission shall have power to construe this resolution, any such construction made in good faith shall be final and conclusive. The Retirement Commission shall have the power to correct any defect, supply any omission, or reconcile any inconsistencies in such manner and to such extent as it shall deem proper to carry out the objectives of this resolution. The Retirement Commission shall be the sole, final and conclusive judge of such propriety and shall act in a uniform and non-discriminatory manner.

41. Retirement Commission; Composition of.

Section 41. The Retirement Commission shall consist of the following nine individuals:

(a) The chairperson of the Board of County Commissioners or designee by virtue of that office;

(b) The County Executive or designee by virtue of that office;

(c) The chairperson of the County Finance Committee or designee by virtue of that office;

(d) The County Treasurer or designee by virtue of that office;

(e) A citizen, who is an elector in Oakland County who is not eligible for Membership in the Retirement System or benefits under the Retirement System and who does not hold any other office or appointment with the County, to be selected by the Board of County Commissioners.

(f) Three Members of the Retirement System who are not elected officials, to be elected by the Members of the Retirement System. The three Commissioners shall be from different County departments.

(g) A retired Member of the Retirement System who resides in Oakland County, to be elected by the retired Members of the Retirement System.

The Retirement Commission shall establish rules and regulations for elections required by paragraph (f) and (g).

42. Retirement Commission; Term of Office; Oath of Office; Vacancies.

Section 42.

(a) The term of office of the Member elected Commissioners shall be 4 years. The term of office of the citizen Commissioner shall be 4 years, one term expiring each year. The term of office of the retired Member Commissioner shall be 2 years.

(b) Each Commissioner shall, prior to taking office, take an oath of office administered by the County Clerk.



(c) A vacancy shall occur on the Retirement Commission if a Member elected Commissioner ceases to be a Member. A vacancy shall occur on the Retirement Commission if a Commissioner resigns. If a Member elected Commissioner becomes employed in the same County department as another Member elected Commissioner, the transferring Commissioner shall be considered to have resigned. A vacancy shall occur if at any time the Retirement Commission determines that a Commissioner does not meet the requirements specified in Section 41 for his or her position on the Retirement Commission. A vacancy shall be filled within 90 days, for the unexpired term, in the same manner as the position was previously filled.

#### 43. Retirement Commission Meetings; Quorum; Voting; Record of Proceedings.

##### Section 43.

(a) The Retirement Commission shall hold meetings regularly, at least one in each calendar month and shall designate the time and place thereof. All meetings of the Retirement Commission shall be public. Notice of the meetings will be posted in the County building prior to the meeting date.

(b) Five attending commissioners shall constitute a quorum at any meeting of the Retirement Commission.

(c) Each attending commissioner shall be entitled to 1 vote on each question before the Retirement Commission. At least 4 concurring votes shall be required for a valid action by the Retirement Commission.

(d) The Retirement Commission shall adopt its own rules of procedure and shall keep a written record of its proceedings.

#### 44. Retirement Commission; Officers; Services.

##### Section 44.

(a) The Retirement Commission shall elect from its Membership a chairperson and a vice chairperson.

(b) The Retirement Commission shall appoint an individual who shall be the secretary to the Retirement Commission and the administrative officer of the Retirement System.

(c) The County Treasurer shall be the treasurer of the Retirement System. The treasurer shall be custodian of the assets of the Retirement System except as to such assets as the

Retirement Commission may from time to time place in the custody of a nationally chartered bank or trust company.

(d) The Corporation Counsel shall be legal advisor to the Retirement Commission.

(e) The Retirement Commission shall designate as the medical director a physician who is not eligible to participate in the Retirement System as a Member, retired Member or Beneficiary. The medical director shall hold office at the pleasure of the Commission.

(f) The Retirement Commission 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. 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 requirement.

(g) The Retirement Commission is authorized and empowered to employ such professional and other services as it requires for the proper discharge of its responsibilities. Such services shall be engaged and compensated in the same manner that similar services are engaged and compensated by other departments of the County. The Retirement Commission may utilize the services of County employees if made available.

#### 45. Retirement Commission; Reports.

Section 45. The Retirement Commission 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 to the Board of County Commissioners. The Retirement Commission 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.

#### 46. Retirement Commission; Investment Authority and Restrictions.

Section 46.

(a) The Retirement Commission is the trustee of the monies and assets of the Retirement System. The Retirement Commission has the authority and power to invest and re-invest 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 Retirement Commission shall have full power to hold, sell, assign, transfer and dispose of any securities of the Retirement System. The Retirement Commission 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 Retirement Commission 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. This shall include diversifying the Retirement System's investments so as to minimize the risk of large losses, unless under the circumstances it appears not prudent to do so. This standard shall not be applied to investments in isolation but rather in the context of the Retirement System's portfolio and as a part of the overall investment strategy, which shall incorporate risk and return objectives reasonably suited to the Retirement System.

(b) Except for fraud, gross neglect or malfeasance, judicially determined, no officer, director, or employee of the County, fiduciary or Retirement Commission shall be personally liable for acts done hereunder, or for the making, retention or sale of any investment or reinvestment made as provided herein, or for the failure to invest or reinvest any funds of the trust, or for any loss to or diminution of the trust nor shall the Retirement Commission or any fiduciary be personally liable for or answerable to any Member or any other person in connection with the exercise of any discretion under this Retirement System. No trustee or other fiduciary shall be liable or responsible for the acts or omissions of any other trustee or fiduciary.

(c) Notwithstanding Paragraph (b), no fiduciary with respect to the Retirement System shall be excused from liability for a breach of fiduciary responsibility of another trustee or other fiduciary of the Retirement System in the following circumstances:

(1) If he participates knowingly in, or knowingly undertakes to conceal, an act or omission of a trustee or fiduciary, knowing such act is a breach of fiduciary responsibility;

(2) If, by his failure to comply with subparagraph (1) in the administration of his specific responsibilities as a fiduciary of the Retirement System, he has enabled the other fiduciary to commit a breach of fiduciary responsibility; or

(3) If he has knowledge of a breach by another fiduciary unless he makes reasonable efforts under the circumstances to remedy the breach.

47. Retirement Commission; Use of Monies and Assets; Prohibited Actions.

Section 47.

(a) All monies and assets of the Retirement System shall be held and invested for the sole purpose of meeting the legitimate obligations of the Retirement System and shall be used for no other purpose.

(b) Members of the Retirement Commission and its employees are prohibited from:

(1) Having a beneficial interest, direct or indirect, in an investment of the Retirement System.

(2) Borrowing money or assets of the Retirement System.

(3) Receiving any pay or emolument from any individual or organization providing services to the Retirement System other than compensation for personal services or reimbursement of authorized expenses paid by the Retirement System.

48. Retirement Commission; Compensation.

Section 48. The Commissioners, except for the employee Member Commissioners and the retired Member Commissioner, shall be paid a per diem for attending meetings of the Commission. All Commissioners shall be reimbursed for the actual and necessary expenses they incur in performing their duties as Commissioners.

49. Retirement Commission; Experience Tables and Regular Interest.

Section 49. The Retirement Commission shall from time to time adopt such mortality and other tables of experience, and a rate or rates of regular interest, as are necessary in the proper operation of the DB part of the Retirement System on an actuarial basis. "Actuarial Basis" means a form of benefit

differing in time, period, or manner of payment from a specific benefit provided by the Retirement System but having the same value.

In the event this section is amended, the actuarial equivalent of a Member's Accrued Benefit on or after the date of change shall be determined as the greater of (1) the actuarial equivalent of the accrued benefit as of the date of change computed on the old basis, or (2) the actuarial equivalent of the total Accrued Benefit computed on the new basis.

## 50. Financial Objective of the Retirement System; County Contributions.

Section 50.

(a) The financial objective of the DB part of the Retirement System is to receive contributions each fiscal year that 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 40 years.

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

(b) The Retirement Commission shall certify to the Board of County Commissioners the amount of annual contribution needed to meet the financial objective and the Board of County Commissioners shall appropriate and cause the contribution to be paid to the Retirement System.

(c) Limitation.

(1) Notwithstanding anything contained herein to the contrary, and pursuant to Tax Reform Act of 1986 section 1106(h), this Retirement System hereby incorporates the limitations of Code Section 415 by this reference. Pursuant to this incorporation by reference,

- i. Any Member who participates or participated in both defined benefit plan(s) [as defined in ERISA section 3(35)] and/or defined contribution plan(s) shall have their Annual Addition further limited. In no event shall the sum of the defined benefit fraction and the defined contribution fraction exceed 1.0 ("Combined Plan Fraction").

ii.

- 1) the defined benefit fraction is a fraction--
  - (a) the numerator of which is the Member's accrued benefit in all defined benefit plans maintained by the County (whether or not terminated) (determined as of the close of the Plan Year), and (b) the denominator of which is the lesser of -
    - I. the product of 1.25 Multiplied by the Code Subsection 415(b)(1)(A) dollar limitation for such Plan Year, or
    - II. the product of -
      - (A) 1.4, Multiplied by
      - (B) the amount which may be taken into account under Code Subsection 415(b)(1)(B) for such individual for the Plan Year.
- 2) Notwithstanding the above, if the Member participated in a plan in existence on July 1, 1982, the denominator of this fraction shall not be less than 125% of the sum of the annual benefits under such plan which the Member had accrued as of the later of September 30, 1983 or the end of the last limitation year beginning before January 1, 1983. The preceding sentence applies only if the defined benefit plans individually and in the aggregate satisfied the requirements of Code Section 415 as in effect at the end of the 1982 limitation year.
- 3) Notwithstanding the limitations in (ii)(1), if the Member was a participant as of the first day of the first limitation year beginning after December 31, 1986, in one or more defined benefit plans maintained by the County which were in existence on May 6, 1986, the denominator of this fraction will not be less than 125 percent of the sum of the annual benefits under such plan which the Member had accrued as of the close of the last limitation year beginning before January 1, 1987, disregarding any changes in the terms and conditions of the plan after

May 5, 1986. The preceding sentence applies only if the defined benefit plans individually and in the aggregate satisfied the requirements of section 415 for all limitation years beginning before January 1, 1987.

iii. the defined contribution fraction is a fraction --  
(a) the numerator of which is the sum of the annual additions as of the close of the Plan Year for all defined contribution plans (whether or not terminated) maintained by the County for the current and all prior limitation years (including the annual additions attributable to the Member's nondeductible employee contributions to all defined benefit plans, whether or not terminated, maintained by the County), and the annual additions attributable to all welfare benefit funds, as defined in Code Section 419(e), and individual medical accounts, as defined in Code Section 415(I)(2), maintained by the County) and  
(b) the denominator of which is the sum of the lesser of the following amounts determined separately for such Plan Year and for each prior year of service with the County (regardless of whether a defined contribution plan was maintained by the County):

- 1) The product of 1.25, multiplied by the applicable dollar limitation for such Plan Year [determined without regard to Code Subsection 415(c)(6)], or
- 2) the product of
  - I. 1.4, Multiplied by -
  - II. the amount which may be taken into account under Code Subsection 415(c)(1)(B) for the Member for that Plan Year.

(2) If the combined plan fraction exceeds 1.0, the annual additions to the employer's defined contribution plans shall be limited notwithstanding any formula or provision, to such amount as will reduce such sum to 1.0. Steps to reduce such fraction shall first be by limiting or eliminating any voluntary contributions; second by reallocating any forfeitures to other Members; and lastly by reducing the contribution formula. If, due to a reasonable error in estimating a Member's compensation, or due to the allocation of forfeitures, an excess annual addition exists, such excess shall be disposed of as follows:

- i. non-deductible voluntary employee contributions shall be returned to the Member as necessary;
- ii. if an excess still exists, the excess amount shall be used to reduce employer contributions for such Member in the next, and succeeding, limitation years. If the Member was not covered by the plan at the end of the limitation year, such excess shall be applied to reduce the County's contributions for all remaining Members in the next, and succeeding, limitation years.

(3) If the employer contribution that would otherwise be allocated to the Member's Account would cause the annual additions for the limitation year to exceed the maximum permissible amount, the amount allocated shall be reduced so that the annual additions for the limitation year equal the maximum permissible amount.

(4) "Section 415 Compensation." For purposes of the limitation contained in this section, the following shall apply. "Section 415 Compensation" is a Member's earned income, wages, salaries, and fees for professional services and other amounts received for personal services actually rendered in the course of employment with the County (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses), and excluding the following:

- i. Employer contributions to a plan of deferred compensation which are not includible in the employee's gross income for the taxable year in which contributed, or employer contributions under a simplified employee pension plan to the extent such contributions are deductible by the employee, or any distributions from a plan of deferred compensation;
- ii. Amounts realized from the exercise of a non-qualified stock option, or when restricted stock (or property) held by the employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture;
- iii. Amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; and
- iv. Other amounts which received special tax benefits, or contributions made by the employer (whether or not under a salary reduction agreement) towards



the purchase of an annuity described in Code Section 403(b) (whether or not the amounts are actually excludible from the gross income of the employee).

## 51. Member Contributions; Refunds.

### Section 51.

(a) An individual who is in the DB part of the Retirement System can have his accumulated Member contributions refunded if the following conditions are met:

(1) Membership in the Retirement System has been terminated for at least 30 days, or the individual has been laid off for at least 30 days;

(2) The individual has not met the applicable age and service condition for normal retirement (Section 17);

(3) A disability pension (Sections 23 - 25) is not payable or being paid to the individual;

(4) A non-duty survivor pension (Sections 28 - 31) is not payable or being paid on the individual's behalf; and

(5) The individual makes application for the refund on a form provided by and filed with the Retirement System.

(b) 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. Absent such instructions or if the individuals who are to be paid the refund are no longer alive, the accumulated Member contributions shall be refunded to the legal representative of the deceased individual Member.

(c) Payments of refunds of accumulated contributions, as provided for in this resolution, may be made in monthly installments according to such rules and regulations as the Retirement Commission shall from time to time adopt.

(d) Except as otherwise provided in this resolution, after 3 years from the date an employee ceases to be a Member, any balance of accumulated contributions standing to the Member's credit, in the reserve for accumulated Member contributions unclaimed by the Member or the Member's legal representative, shall be transferred to the reserve for undistributed investment income.

## 52. Reserve for Accumulated Member Contributions.

### Section 52.

(a) The reserve for accumulated Member contributions is the account in the DB part where there is accumulated the Member contributions deducted from the compensation of Members and which shall be charged with refunds of accumulated Member contributions and transfers 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, if any. 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 except as to benefits provided in this resolution. Compensation before deduction of any Member contributions shall be considered the Member's compensation for purposes of satisfying minimum compensation requirements.

(b) The officer or officers responsible for preparing the payroll shall certify to the Retirement Commission on each payroll the amount of contribution to be deducted from the compensation of each Member. Each of these amounts shall be deducted, and when deducted shall be paid to the Retirement System. Each such amount shall be credited to the account of the individual Member from whose compensation the deduction was made.

(c) 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.

(d) Each member in Benefit Group General-Option A shall be offered the opportunity to make an irrevocable election to participate in the "pickup part" of the DB part of the retirement system effective January 1, 2000. Such irrevocable election for each non-represented Member and represented members whose collective bargaining agreement provides for these benefit modifications shall require a member contribution of 1% of compensation after completing 14 years of service. Such contributions shall only be effective for compensation paid after December 31, 1999 and will only affect benefits paid to members who have credited service after December 31, 1999.

(e) Each member in Benefit Group General - Option B shall be offered the opportunity to make an irrevocable election to participate in the "pickup part" of the DB part of the retirement system effective January 1, 2000. Such irrevocable

election for each nonrepresented member and represented members whose collective bargaining agreements provide for these benefit modifications shall require a member contribution of 1% of compensation after completing 14 years of service. Such contributions shall only be effective for compensation paid after December 31, 1999, and will only affect benefits paid to members who have credited service after December 31, 1999.

### 53. Reserve for Pension Payments.

#### Section 53.

(a) The reserve for pension payments is the account in the DB part that is credited with transfers from the reserve for accumulated Member contributions and the reserve for employer contributions and which is charged with all pension payments and refunds of accumulated Member contributions which have been transferred to this account.

(b) If a disability pension is terminated and the individual again becomes a Member or becomes a vested former Member, any 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.

(c) Each year following receipt of the report of the annual actuarial valuation for the DB part, if the balance in the reserve for pension payments is less than the actuarial present value of Pensions being paid retired Members and beneficiaries, a transfer of the difference between the present value and the reserve balance shall be authorized from the reserve for employer contributions. The pending transfer shall be taken into account by the actuary when making the actuarial valuation. If the balance in the reserve for pension payments is greater than the actuarial present value of pensions being paid, the Retirement Commission may, in its discretion, authorize a transfer of not more than the difference between the reserve balance and the present value to the reserve for employer contributions.

### 54. Reserve for Employer Contributions.

Section 54. The reserve for employer contributions in the DB part is the account to which is credited County contributions and from which shall be made transfers to the reserve for pension payments.

55. Reserve for Undistributed Investment Income.

Section 55. The reserve for undistributed investment income in the DB part 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 this reserve account all amounts required to credit interest to the other reserve accounts. Any balance remaining after interest has been credited to the other reserve accounts shall be transferred to the reserve for employer contributions.

56. Reserve for Administrative Expenses.

Section 56.

(a) The reserve for administrative expenses is the account to which shall be credited all money provided by the County to pay the administrative expenses of the Retirement System and to which shall be charged all budgeted and authorized administrative expenses.

(b) Whenever the Retirement Commission 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.

57. Assets of DB part not Segregated.

Section 57. The descriptions of the reserve accounts in the DB part 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.

58. Interest Credited to Reserve Accounts.

Section 58.

(a) The Retirement Commission shall annually credit interest on the individual beginning of year balances in the reserve for accumulated Member contributions, and on the mean balance in each of the other reserves of the DB part of the Retirement System for the preceding fiscal year. No interest shall be credited to the balances in the reserve for accumulated

Member contributions for Members whose County employment has terminated by the end of the year unless the Member is a vested former Member. The amounts of interest so credited shall be charged to the reserve for undistributed investment income.

(b) The Retirement Commission shall determine the rate or rates of interest to be used for crediting of interest.

## 59. Assignments Prohibited.

### Section 59.

(a) The right of an individual to a pension, to a refund of accumulated Member contributions, the pension itself, or any other right accrued or accruing to any individual, and the monies and assets of the Retirement System, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or other process of law, except as provided in Section 60(b) or as specifically required by State of Michigan or Federal law and shall be unassignable except as provided in Section 59 (b) or (c) or as required by State of Michigan or Federal law.

(b) If an individual is covered under a group insurance or prepayment plan participated in by the County, and makes a permitted election to continue such coverage as a retired Member or as a Beneficiary, the individual may authorize the Retirement Commission to deduct from the individual's payments such amount as required to continue coverage under such group insurance or prepayment plan.

(c) The prohibition of subparagraph (a) shall not apply to the creation, assignment, or recognition of a right to any benefit payable to a Member pursuant to a domestic relations order, if such order is determined by the Retirement Commission to be in accordance with the eligible domestic relations order act, MCL 38.1701, June 27, 1991 ("EDRO Act").

(d) No Rights Against County. Nothing contained herein shall be construed as giving an employee or any other person, any legal or equitable rights against the County or the Retirement Commission, except as expressly granted herein, or as giving any person the right to be retained in the service of the County, and an employee shall remain subject to control and to discharge to the same extent as heretofore.

## 60. Subrogation; Right of Setoff.

### Section 60.

(a) If an individual or an individual's estate or beneficiary becomes entitled to a pension, or any other benefit payable upon retirement, by the County or the Oakland County Employees Retirement System (the "System") as the result of an accident or injury caused by the act or omission of any third party(s), the County and the System shall be subrogated to the rights of said individual against such third party(s) to the extent of the benefits the County and the System pays or becomes liable to pay, either to or on behalf of an employee, retired Member, and/or beneficiary. For the purposes of this section, the subrogation rights of the County and the System extend to and include the actuarially determined, present day value of all payments and benefits which the County or the System either pays, provides for in a reserve account, or becomes liable to pay, either to, or on behalf of, an employee, retired Member, and/or beneficiary. The County and the System shall be subrogated to any and all rights to, or recovery of, damages (including actual, consequential, or punitive damages, and costs or fees) by an employee, retired Member, and/or beneficiary from any third party(s) even where the damages recoverable from a third party(s) were not for the same items of injury as those for which the County of Oakland and the System benefits were paid, provided for in reserve, or payable. Upon request, the employee, retired Member, and/or beneficiary will execute and deliver to the County and the System an assignment and/or such other instruments that may be required and do whatever else is necessary to secure such rights for the County and the System. If an individual (or his or her beneficiary) becomes entitled to a pension or any other benefit payable upon retirement, by the County or the System, as the result of an accident or injury caused by the act or omission of any third party(s), such individual (or his or her beneficiary or estate) shall not commence or institute any claim or action against the third party(s) without (1) prior written notice to the County and the System, (2) permitting the County and/or the System, within their discretion, to join such claim or action (as its interest appears by reason of this section), and (3) assigning all or a portion of any recovery from such claim or action to the County and/or the System, as provided above, in order to effectuate the purposes of this section. The claimant(s) in such claim or action shall at all times advise the County and System of the nature of the claim and action, the defenses asserted, the ongoing status of the claim and action, and all settlement discussions and negotiations. The claimant(s) shall promptly furnish the County and System with copies of all relevant court papers, pleadings, medical reports, and other such documents. The claimants shall not release, settle, waive, or modify any

such claim without the prior written consent of the County and System. Failure to comply with the requirements set forth in this Section 60(a) shall (1) constitute a waiver of all rights and a release of all claims, up to the amount of the claim, by an employee, retired Member, or beneficiary to a pension or other benefits from the County and the System (which waiver shall be effective notwithstanding the prior commencement of benefit payments), and (2) give to the County and System, in addition to all other rights available to them in law or equity, the right of recovery against the employee, retired Member, his estate, or beneficiary, as to any monies previously paid. In no event, will the subrogation (or waiver and release) provided for herein reduce any benefit to which the employee, retired Member, beneficiary, or estate, but for a disability may be eligible.

(b) The System shall have the right of setoff to recover overpayments made by the System and the County shall have the right of setoff to satisfy any claim arising from embezzlement or fraud committed by a Member, retired Member, vested former Member, beneficiary, or other individual having a claim to benefits.

## 61. Correction of Errors; Power to Amend

### Section 61.

(a) The Retirement Commission shall correct errors in the records of the Retirement System. The Retirement Commission 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.

(b) The County reserves the right to amend this resolution. The County specifically reserves the right to amend the Retirement System retroactively in order to comply with Code Section 401(a). No reason is necessary for the amendment, regardless of whether: (1) for reasons of business necessity; or (2) for the purpose of causing the Retirement System and trust to qualify, and continue to qualify, under the code as set forth in the recitals. No such amendment, except upon written consent, shall increase the duties or liabilities of the Retirement Commission or diminish its compensation, or deprive any Member or Beneficiary of any then vested equitable interest in the Retirement System. A decision of the Retirement Commission shall, except in the absence of good faith, be binding upon the Members, beneficiaries, and all other persons interested, as to whether or not any amendment does deprive a

Member or any other person of any vested interest already existing or does adversely affect such interest. In no event shall any amendment have the effect of vesting in the County any right, title or interest to any assets held as part of the trust. Any amendment shall be effective when signed by the duly authorized officer or officers of the Board of Commissioners, approved by the County Pension Plan Committee under M.C.L. 46.12a, and filed with the Retirement Commission. If the County amends or has amended the vesting schedule, the percentage then nonforfeitable or vested shall not be reduced as a result of such amendment. Any Member with three (3) years of credited service determined at the end of the election period shall have an irrevocable election to have the nonforfeitable percentage of his accrued benefit derived from County contributions determined under the vesting schedule as amended or a prior vesting schedule. Such election shall commence on the date the amendment was adopted and shall terminate no later than sixty (60) days after the later of: (i) the effective date of the amendment; (ii) the date of adoption of the amendment to the vesting schedule; or (iii) the date each Member who is eligible to make such election receives written notice of the amended vesting schedule becoming operational.

Notwithstanding the preceding paragraph, a Member's Accrued Benefit may be reduced to the extent permitted under Code Section 412(c)(8). For purposes of this paragraph, a plan amendment which has the effect of decreasing a Member's provisional account or eliminating an optional form of benefit, with respect to benefits attributable to service before the amendment shall be treated as reducing an accrued benefit. Further, no amendment to the Retirement System shall have the effect of decreasing a Member's vested interest determined without regard to such amendment as of the later of the date such amendment is adopted or the date it becomes effective.

## 62. Internal Revenue Code Qualification.

### Section 62.

(a) The County intends the Retirement System to be a qualified pension plan under Code Section 401, and that the trust be an exempt organization under Code Section 501. The Retirement Commission may adopt, or recommend to the Board of County Commissioners for adoption, such additional provisions to the Retirement System as are necessary to fulfill this intent.

The County shall not be entitled to receive or recover any part of its contributions to the trust or the earnings thereof.



(b) Retirement benefits provided under this Resolution shall not exceed the governmental plan limits set forth in Internal Revenue Code Section 415 and the regulations thereunder.

(c) The corpus of income of the trust may not be diverted to or used for other than the exclusive benefit of the Members or their beneficiaries.

(d)

(1) All plan distributions shall be determined and made in accordance with the proposed regulations under Code Section 401(a)(9), including the minimum distribution incidental benefit requirement of section 1.401(a)(9)-2 of the proposed regulations.

(2) The required beginning date of distributions to a Member shall be the later of April 1 of the calendar year following the calendar year in which the Member (A) attains Age 70 1/2; or (B) retires from employment with the County, State of Michigan or any of its political subdivisions.

(e) In the event of termination or partial termination of this Retirement System, the rights of all affected employees to benefits accrued to the date of such termination or partial termination (to the extent funded as of such date) shall be nonforfeitable.

### 63. Fraud Penalty.

Section 63. Whoever with intent to deceive shall make any statement or report under this resolution 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 resolution as it may from time to time be amended, with intent to deceive, shall be guilty of a misdemeanor and upon conviction shall be fined not in excess of \$500, or shall be imprisoned for not more than 90 days, or both, in the discretion of the court, together with payment of costs of prosecution.

### 64. Severability.

Section 64. This resolution shall be governed by the laws of the State of Michigan. Wherever necessary, pronouns of any gender shall be deemed synonymous, as shall singular and plural pronouns. The table of contents and the headings of sections and paragraphs are included solely for convenience and shall not affect, or be used in connection with, the interpretation of

this resolution. 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.

#### 65. Repeal.

Section 65. All resolutions or other provisions of law inconsistent with the provisions of this resolution are hereby repealed to the extent of such inconsistency as far as authority is vested in the Board of Commissioners to repeal same.

#### 66. Eligible Rollover Distributions

Section 66. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Retirement System 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 Retirement Commission, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. As of January 1, 1993 the only Lump Sum payments permitted by the DB part of the Retirement System are for non-vested Members who terminate service.

#### **Definitions**

(1) 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 a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9), and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

(2) Eligible Retirement Plan: An Eligible Retirement Plan is an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), an annuity plan described in Code Section 403(a), or a qualified trust described in Code Section 401(a), that accepts 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 only.

(3) 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 an Eligible Qualified Domestic Relations Order, as defined in MCL 38.1701, are Distributees with regard to the interest of the spouse or former spouse.

(4) Direct Rollover: A Direct Rollover is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

#### 67. Adjustment of Account - Other Adjustment.

Section 67. Expenses. The expenses of the DB part of the Retirement System (including but not limited to legal fees, administrative costs and Retirement Commission's compensation) shall (unless paid by the County) be paid and accounted for as part of the earnings and losses of the DB part of the Retirement System.

#### 68. Termination of Employment.

Section 68. The Retirement Commission shall determine the Nonforfeitable interest of a Member who terminates his employment for reasons other than Death, Disability, or attainment of Normal Retirement Age. Nothing contained herein shall be interpreted as allowing the forfeiture of a Member's otherwise Nonforfeitable benefits for cause.

#### 69. Duration; Termination; Assumption

Section 69.

(a) Duration. This Retirement System shall continue until the assets have been paid out and distributed.

(b) Termination; Assumption. It is the County's present intention to permanently maintain the Retirement System and continue to make contributions provided, however, that:

(1) The Retirement System shall automatically terminate upon the County's legal dissolution, or upon its adjudication as a bankrupt or insolvent, or upon its making a

general assignment for the benefit of creditors, or upon a receiver being appointed for its assets.

(2) In the event of any termination or partial termination, the County and the Retirement Commission shall give prompt notice thereof to the Commissioner of Internal Revenue; and, subject to Subparagraph (c) below each Member's Accrued Benefit shall become fully vested and Nonforfeitable. In the case of a partial termination, this Paragraph shall apply only to that portion of the Retirement System terminated.

(c) Liquidation of Trust. In the event of the DB part of this Retirement System's termination, the Retirement Commission shall liquidate all investments and determine the value of each Member's Accrued Benefit as of the date of termination as follows:

(1) Before making any payments, distributions or assignments, however, the Retirement Commission and its legal counsel, shall first be paid their expenses and charges incident to the operation of the Trust and the termination thereof, by the County. If the County does not pay such expenses and charges, the Retirement Commission shall have a lien on the cash and other property remaining in its hands, the assets distributable to the Members being liable for a pro rata share thereof until the Retirement Commission and their counsel have been paid.

(2) In any event, the Retirement Commission shall not be required to make any distributions until written evidence of approval by the Commissioner of Internal Revenue of such termination and distribution has been submitted to the Retirement Commission.

(3) Each Member's Accrued Benefit shall be determined and benefits provided, to the extent funded.

(d) Termination of Trust. Notwithstanding termination of the Retirement System, the Retirement System shall terminate when and if, but not until, the assets have been entirely paid out and distributed in accordance with this Resolution.

## 70. Execution of Instruments.

### Section 70.

(a) Any instrument or document to be provided by the County shall be properly executed if executed in the name of the County by any officer or officers thereof; or where provided by the Retirement Commission, if executed as follows:

(1) If executed in the Retirement Commission's name by either the Treasurer or Secretary of the Retirement Commission, and

(2) In the case of any corporate trustee (whether or not the sole trustee), if executed as trustee in the name of the corporation under its corporate name by any officer or officers thereof; provided, further that any interested parties shall be fully protected in relying upon any instrument or document so executed, and, such execution shall be conclusive proof that any signature is duly authorized and that any such information is true and correct.

(b) County Actions. Whenever the County is permitted or required to do or perform any act or execute any document, it shall be done, performed or executed by or at the direction of its Board of Commissioners or by officers or authorized agents of the County, and may be evidenced by resolutions certified by the County Clerk.

#### 71. Indemnification by County.

Section 71. The County hereby agrees to indemnify and save harmless any Member of the Retirement Commission or other fiduciary against any liabilities incurred by any of them in the exercise and performance of their powers and duties, except where attributable to their fraud, gross neglect or malfeasance, as judicially determined; if same can be done without affecting the Code Section 401(a) qualification of the Retirement System, any amounts paid by the County shall be reimbursed to the County out of the Trust, if sufficient funds are available, and shall be an expense for purposes of Section 67 (Expenses).

#### 72. Liability Insurance.

Section 72. The Retirement Commission may purchase, as an authorized expense of the Retirement System, liability insurance for the Retirement System and/or for its fiduciaries to cover liability or losses occurring by reason of an act or omission of a fiduciary. Such insurance contract may permit recourse by an insurer against the fiduciary for breach of a fiduciary obligation.

Any fiduciary may purchase insurance to protect himself in the event of a breach of fiduciary duty and the County may also purchase insurance to cover the potential liability of one or more persons who serve in a fiduciary capacity.

73. Service in Multiple Capacities.

Section 73. Any person or group of persons may serve in more than one fiduciary capacity as to this Retirement System, specifically including service both as a trustee and as plan administrator.

74. Limitations on Fiduciary Liability.

Section 74. Nothing in this Retirement System shall prevent a fiduciary from receiving any benefit that he is otherwise entitled to as a Member or Beneficiary. However, the benefit must be computed and paid consistent with the terms of this Retirement System as applied to all other Members and Beneficiaries. This Retirement System shall not be interpreted to prevent any fiduciary from receiving reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred in the performance of his duties with the Retirement System; except that no person so serving who already receives full-time pay from the County shall receive compensation from this Retirement System, except for reimbursement of expenses properly and actually incurred. A fiduciary is also entitled to serve in this capacity in addition to being an officer, employee, agent, or other representative of any party-in-interest.

75. Investment Manager.

Section 75. When an Investment Manager has been appointed, he is required to acknowledge in writing that he has undertaken a fiduciary responsibility with respect to the Retirement System.

In order to serve as an Investment Manager a person must qualify as:

(a) A registered investment adviser under the Investment Adviser Act of 1940; or

(b) A bank, as defined in that Act; or

(c) An insurance company duly authorized to perform such services under the laws of more than one state; or

(d) Be an individual or business entity, whether a corporation, partnership or limited liability company whose primary profession is acting as an investment counselor and advisor.

## 76. Enforcement.

Section 76. The Retirement Commission shall consult with any Investment Manager, when acting, with respect to any and all investment decisions, other than ministerial decisions and shall cooperate with the Investment Manager to carry out such investment plans, programs, strategies and acts as may be conceived by the Investment Manager; provided, however, and notwithstanding the foregoing, upon receipt of written recommendations from the duly appointed Investment Manager, the Retirement Commission shall be accorded a reasonable time to examine and review the overall investment plan and strategy, initially and from time to time, before implementing the same, and may refuse to implement the same, in whole or in part, if the Retirement Commission shall determine, in the exercise of its fiduciary responsibility, that implementation of all or any part of said investment plan and strategy would not be reasonably prudent in the circumstances. Written notice of such determination shall be given by a trustee, the investment advisor and the other trustees. Notwithstanding anything else herein or as provided by statute or regulation to the contrary, no trustee shall be liable for any loss or detriment arising directly or indirectly from any act or omission to act as directed by an Investment Manager or from any sale, failure to sell, retention of assets or investment activity or failure of activity based upon a result, directly or indirectly from the directions from Investment Management or from the failure or refusal of any trustee, acting in discharge of its fiduciary responsibility hereunder, to implement all or any part of the investment plan and strategy of any Investment Manager. If necessary to protect the interests of the Retirement System or any Member or Beneficiary, a fiduciary shall seek the assistance of such civil or criminal courts of competent jurisdiction or such regulatory or administrative agencies as may be appropriate under the circumstances.

K:\HumanRes\Retirement\Plan Documents\Current Plan Docs\DB Plan\DB Plan Doc with 34.6 added - final.doc