

**RESOLUTION**

**NO: 2011-09-242**

**LIVINGSTON COUNTY**

**DATE: September 6, 2011**

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**RESOLUTION TO APPROVE THE FIFTH AMENDMENT TO THE LIVINGSTON COUNTY RETIREE HEALTH CARE PLAN**

The County of Livingston shall adopt the following resolution in accordance with the authority of the Public Employee Health Care Fund Investment Act Public Act 149 of 1999, as amended:

**COUNTY OF LIVINGSTON  
RETIREE HEALTH CARE PLAN**

GENERAL PROVISIONS

***1:100. Purpose.***

The purpose of the Plan is to provide health insurance benefits or such other benefits approved by the County Board of Commissioners (which include hospitalization, medical and dental) or approved by Collective Bargaining Agreements for the welfare of the Retirees who are eligible to receive a retirement benefit from the County of Livingston and the Spouses of such Retirees. Health care benefits under the Plan are provided for by the County pursuant to a health insurance plan(s) administered by a third party administrator as designated by the County Board of Commissioners and/or a self-funded health insurance plan. The County Board of Commissioners reserves the right to enter into substitute contracts with commercial insurance carriers or with health maintenance organizations or preferred provider organizations in order to provide benefits under the Plan.

The Plan is created under the authority of the Public Employee Health Care Fund Investment Act, Public Act 149 of 1999, for the exclusive purpose of accumulating and investing funds to provide benefits through policies issued by duly licensed commercial insurance companies, through a fund of self-insurance, or through any other lawful means of providing group health insurance as determined by County Board of Commissioners decisions and in accordance with any and all applicable Collective Bargaining Agreements between the County and applicable Collective Bargaining Associations for collectively bargained employees and Personnel Policies for the non-union employees, for the benefit of the County of Livingston Retirees and beneficiaries who are eligible to participate in accordance with the Plan. The County intends the benefits to be provided by the establishment and maintenance of a Fund in conformance with all applicable federal statutes and regulations, state and local law.

The County reserves the right to enter into insurance agreements, and to modify, alter or amend such agreements from time to time, with commercial insurance carriers, health maintenance organizations, preferred provider organizations or any other qualified entity currently existing or created for the purpose of providing benefits under the Plan. The Board Chair is authorized to sign any agreement consistent with the Resolution.

***1:101. Short Title.***

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This Plan may be known and cited as the County of Livingston Retiree Health Care Plan ("Plan").

***1:102. Interpretation and law; Construction.***

The Plan is established in accordance with the Public Employee Health Care Fund Investment Act, Public Act 149 of 1999, as may be amended, and shall be administered consistent with applicable federal and Michigan law. If any provisions of the Plan shall be, for any reason, invalid or unenforceable, the remaining provisions nevertheless shall be carried into effect.

Neither the establishment of the Plan nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any person covered under the Plan or other person any legal or equitable right against the County, its elected or appointed officials or employees, the Trustees or any individual Trustee, nor any title or interest in any assets of the County, its elected or appointed officials or employees, or any Trustee except as may otherwise be provided in this Plan.

Neither the County nor the Trustees shall be responsible for the validity of any Insurance Agreement issued in connection with the Plan or for the failure on the part of the Insurer to make payments provided by such Insurance Agreement, or for the action of any person which may delay payment or render an Insurance Agreement null and void or unenforceable in whole or in part.

***1:103. Collective Bargaining Agreements.***

The benefit provisions of this Plan are subject to relevant provisions of applicable Collective Bargaining Agreements between the County and the various uniformed and non-uniformed Collective Bargaining Associations of the County. The provisions of a Collective Bargaining Agreement relative to retiree health care benefits are controlling in the event of a conflict between the terms of the Collective Bargaining Agreement and the Plan.

Nothing contained in this Chapter shall be deemed to modify or limit in any way the rights that the parties to the Collective Bargaining Agreement may have, any supplements or memoranda thereto, or any arbitrator's award to enforce the terms of the Plan, inclusive of the collection of any amounts due to the Fund and the right of the parties to sue for same.

***1:104. Personnel Policies.***

The benefit provisions of this Plan are subject to relevant provisions of the County of Livingston Personnel Policies for Non-Union Employees and, if applicable, elected officials and judges of the County. The provisions of the Personnel Policies for Non-Union Employees relative to retiree health care benefits are controlling in the event of a conflict between the terms of the Personnel Policies and the Plan.

***1:105. Definitions.***

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For the purposes of this chapter, the following words shall have the meanings respectively ascribed to them by this section;

- (1) *Base Plan* means the same health care benefits as provided to active employees at the time of coverage. Accordingly, a change in health care benefits for active employees means a change in the Base Plan benefits to Retirees. Upon the retiree or spouse's attainment of Medicare eligibility, the Base Plan shall be a Medicare supplemental plan.
- (2) *County* means the County of Livingston.
- (3) *Code* means the Internal Revenue Code of 1986, as amended. Reference to any section or subsection of the Code includes reference to any comparable or succeeding provision of any legislation which amends or replaces such section or subsection.
- (4) *Collective Bargaining Agreements* means any written agreement, supplemental agreement, memorandum of understanding, final arbitrator's decision, judicial decision or decision of any public board or agency, by and between applicable Collective Bargaining Associations and the County, and any amendments, continuations, or renewals, which require the County or any other entity to make payments into group health and life insurance programs for employees of the County of Livingston.
- (5) *Collective Bargaining Associations* means those associations which have negotiated to participate in this Plan.
- (6) *Contributions* means the payment required to be made to the Fund by the County under the terms of the Plan for the purpose of providing group health insurance for Retirees and beneficiaries covered by the Plan.
- (7) *Effective Date* means the date of the adoption of this Plan by resolution of the County Board of Commissioners.
- (8) *Employee* means any of the following:
  - (a) A non-union person employed by the County on or before March 17, 2003 who has met the age and service requirements for a normal or reduced pension under the Municipal Employees' Retirement System of Michigan on or before February 28, 2010; or
  - (b) A person who is an elected official or judge of the County elected or appointed on or before March 17, 2003; or
  - (c) A person employed by the County who is a member of a Collective Bargaining Association which has negotiated to participate in this Plan.
- (9) *Fund* means the Declaration of Fund of the County of Livingston Retiree Health Care Plan as provided for in of this Plan.
- (10) *Health Care Benefits* means group health care benefits as currently provided and any other future health care related benefits as may be determined to be part of the Plan pursuant to County Board of Commissioners decisions and/or Collective Bargaining Agreements.(11) *Insurance Agreement* means the health insurance plan(s) and any

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amendment(s) thereto, including any substitute insurance agreement with a commercial insurance carrier, health maintenance organization, preferred provider organization, or any other qualified entity currently existing or created for the purpose of providing benefits under the Plan. The term "Insurance Agreement" shall include the plural where applicable.

- (12) *Insurance Carrier* means a commercial health insurance carrier, health maintenance organization, preferred provider organization or other qualified entity designated by the County Board of Commissioners to provide benefits under the Plan.
- (13) *Major Life Event Changes* means legal separation, divorce, or death.
- (14) *Participant* means an Employee who: (a) is a member of a retirement plan of the County and whose participation has not terminated under other applicable provisions of the Plan; or (b) is an employee granted health coverage under a separation agreement, settlement or court order. No person shall be considered a Participant of the Plan who is compensated for services to the County on a fee or independent contractual basis. In all cases of doubt, the Plan Administrator shall decide who is a Participant within the meaning of the provisions of this Plan provided such decision is consistent with any applicable Collective Bargaining Agreements or established County policy.
- (15) *Personnel Policies* means those personnel policies as adopted by the Board of Commissioners and as contained in the employee manual or other appropriate written document.
- (16) *Plan* means the Retiree Health Care Plan of the County as described in this document and any subsequent amendments, and any Insurance Agreement(s), Collective Bargaining Agreements, the Personnel Policies adopted by the County Board of Commissioners for Non-Union Employees or other applicable insurance policy documents incorporated by reference into the Plan. A description of the health benefits provided to Retirees and Spouses under this plan is maintained by the Plan Administrator.
- (17) *Plan Administrator* means the County Personnel Director or such person, persons, firm, corporation or insurance company or companies, appointed by the County Board of Commissioners to administer the Plan. The Plan Administrator shall be responsible for the day to day operations of the Plan who shall carry out the directives of the County Board of Commissioners.
- (18) *Plan Year* means the period commencing on January 1 and ending on December 31 of each year.
- (19) *Retiree* means (a) an individual receiving a retirement benefit allowance from a Retirement Plan of the County who retired from employment with the County who upon termination of employment had a minimum of 10 years of service with the County, or (b) according to the terms of the applicable Collective Bargaining Agreement, an individual receiving workers compensation who but for the workers compensation payments would otherwise be receiving a retirement benefit allowance from a Retirement Plan of the County of Livingston, or (c) an individual participating in the 2008 Voluntary

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Separation Retirement Incentive program who defers receipt of a retirement benefit allowance from a Retirement Plan of the County who retired from employment with the County who upon termination of employment had a minimum of 10 years of service with the County.

- (20) *Retirement Plan* means those retirement systems (collectively and individually) provided by the County of Livingston for its employees and shall include any retirement program adopted by the County of Livingston administered by the Michigan Municipal Employees Retirement System as provided by Act 135, the Public Acts of 1945, as amended.
- (21) *Spouse* means a Participant's or Retiree's spouse by legal marriage at the time of retirement.
- (22) *Trustee(s) or Board* means the Board of Trustees of the Retiree Health Care Plan or a member of the Board of Trustees as provided for in this Plan.

**1:105. Notice.**

Notice given to all interested parties shall, unless otherwise specified in this Plan, be sufficient if in writing and delivered or sent by prepaid first class mail. Except as otherwise noted, the distribution or delivery of any statements or documents required under the Plan shall be sufficient if delivered in person or prepaid first class mail.

**1:106. Reporting and Disclosure.**

The County and the Trustees, or their respective designees, shall complete and provide to Participants, Retirees and/or Spouses and to the appropriate government agencies any reports as may be required by the Code, applicable federal, state or local law.

**1:107. Amendments.**

The provisions of the Plan may be amended at anytime by resolution adopted by the County Board of Commissioners in accordance with applicable law. Amendments to date include, but are not limited to, Resolution 2008-10-309, which amended Resolution 603-180, and Resolution 2008-10-316.

HEALTH CARE PLAN

**1:200. Eligibility**

In order to be eligible for post-retirement health care benefits during any Plan Year, an individual must:

- (1) meet all of the following:
- (a) have been a Participant of this Plan; and

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- (b) have been a permanent Employee working a minimum of 30 hours a week with the County; and
  - (c) have been a permanent Employee on the date preceding the effective date of the Retiree's retirement and commencement of pension benefits from the County; and
  - (d) be a Retiree of the County with 10 or more years of actual service with the County; and
  - (e) the Employee has not elected, in writing, to opt out of this Plan and to participate in another plan offered by the County; or
- (2) be a Retiree, who was a Participant of the Plan, receiving duty or non-duty disability benefits from a Retirement Plan of the County; or
  - (3) be a Spouse of an individual who meets the eligibility requirements in subsection (1) or (2) above; or
  - (4) be the surviving Spouse of a former Participant, who on the date preceding the individual's date of death, was an Employee; provided, the surviving Spouse is eligible for duty death and/or non-duty death benefits payable from a Retirement Plan; or
  - (5) be an individual granted health coverage under a settlement agreement between the County and the individual; or
  - (6) be an individual granted health coverage under a court order, provided
    - (a) that the individual produces satisfactory documentation at the time of application for benefits, and
    - (b) that the County reserves the right to challenge the validity of the court order and that if such a challenge proves successful that the cost of any benefits provided be reimbursable to the Fund; or
  - (7) be a Retiree or Retiree's Spouse who was in receipt of benefits at the time of the Effective Date of this Plan (grandfather provision).

**1:201. Commencement of Benefit.**

Subject to all applicable provisions of the Plan and/or Insurance Agreement, a Participant shall commence eligibility for benefits from the Plan on the first day he or she satisfies the eligibility requirements of 1:200, provided the Participant has enrolled for coverage on such date.

**1:202. Enrollment.**

- (1) The County shall give each Participant timely written notice of his or her eligibility and his or her right to enroll for coverage under the Plan. An eligible Participant or Retiree shall have one opportunity to enroll for coverage at any time on or after their date of retirement. In connection with his or her enrollment

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for coverage, the Participant or Retiree shall furnish all pertinent information requested by the County, Plan Administrator and/or the Insurance Carrier, and the Plan Administrator or the Insurance Carrier may rely upon all such forms and information furnished.

- (2) Spouses shall be eligible for coverage as provided in the Plan and/or Insurance agreement and in **1:200 above**. Spouses shall be enrolled for coverage under the Plan by the Participant or Retiree at the time the Participant or Retiree enrolls for coverage under the Plan or as provided for in subsection 3.
- (3) Participants or Retirees must report Major Life Event Changes to the County within thirty (30) days of the event in order to delete persons from their benefit plans (health insurance). Major Life Event Changes may impact eligibility for benefits. If the failure to report the event within thirty (30) days results in additional benefit costs by the Plan due to non termination of benefits, the Participant or Retiree may be held responsible for such costs.
- (4) Once enrolled, a Participant or Retiree's decision to withdraw from participation in this Plan shall be treated as final and irrevocable and that Participant or Retiree shall not be allowed to re-enroll in the Plan unless the Participant or Retiree withdrew from participation or terminated coverage under the Plan due to the provisions of Section 1:203(6).

**1:203. Termination of Benefits.**

Except as provided in 1:204, participation in the Plan shall terminate in accordance with the Plan and/or Insurance Agreement or applicable Collective Bargaining Agreement, on the earliest of:

- (1) termination of the Plan;
- (2) non-payment of any required Participant or Retiree contributions;
- (3) death of the individual receiving benefits under the Plan;
- (4) a Participant's or Retiree's election in writing to cease coverage under the Plan or to opt out and elect coverage under another County provided plan;
- (5) in the case of a Spouse, the date the Spouse ceases to be a Spouse as defined in this Plan;
- (6) in the case of a Retiree and/or a surviving Spouse, if that individual either (a) assumes employment elsewhere; (b) has a Spouse who is eligible for employer provided health care coverage; or (c) or has health care coverage available from a prior employer and, that employer in any of the examples above provides health coverage to its employees. In the event the individual should lose such coverage from the other employer for any reason, including voluntary or involuntary separation of employment, upon production of proof of such loss to the County

and satisfaction of eligibility elsewhere under the Plan, the County's obligation to provide health coverage under the Plan shall recommence immediately upon the satisfactory production of such proof-of-loss.

**1:204. COBRA Continuation Coverage.**

Notwithstanding the provisions of 1:203, continuing coverage shall be provided under the Plan to eligible Participants, Retirees and their Spouses in accordance with Internal Revenue Code provisions (currently Section 4980B, and Title XXII of the Public Health Services Act ("COBRA continuation coverage"), as amended).

**1:205. Health Care Benefits, General.**

Beginning on the Effective Date, the County shall provide Health Care Benefits to each eligible Retiree and, if elected, to his or her Spouse, unless modified by an applicable Collective Bargaining Agreement or resolution of County Board of Commissioners. The benefits provided under the Plan are those set forth in the Plan and/or Insurance Agreement, Collective Bargaining Agreements, Personnel Policies and/or resolutions of County Board of Commissioners. The Insurance Agreement(s), Collective Bargaining Agreements, and Personnel Policies are incorporated herein by this reference. A complete description of benefits provided under the Plan and the Insurance Agreement, inclusive of those set forth in the Collective Bargaining Agreements and Personnel Policies, shall be maintained by the County or the Plan Administrator.

In accordance with the Plan and/or Insurance Agreement with the Insurance Carrier, Retirees and their Spouses will be entitled to the benefits in effect for active employees at the time of coverage, or, ("Base Plan"). These benefits may be provided under the same policy or program in place at the Retiree's retirement or under a different policy or program at the discretion of the County.

**1:206. Health Care Benefits, Costs.**

The Retiree Health Care Fund will pay the monthly premiums for Base Plan benefits for eligible Participants subject to the following:

- (1) Benefit Group Elected Officials and non-union employees - Effective August 1, 1995, all retirees shall be responsible for the following percentages of the health insurance costs:

Employee Seniority as of February 28, 2010 (MERS Documented)*	Retiree Share of Cost
10 years but less than 15 years	75%
15 years but less than 20 years	65%
20 years but less than 25 years	50%
25 years but less than 30 years	35%



30 years or more	25%
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\* In those instances where both a husband and wife retire as non-union employees (each with ten or more years of credited MERS service), the cost sharing will be computed by adding the seniority time of the individual with the longer seniority to one-half the seniority time of the other party.

Per Resolution 2008-10-316, Section 1:206 (1) shall be amended as to the benefit provided to employees eligible to participate in the Retiree Health Care Plan who participate in the Voluntary Separation Retirement Incentive Program for the one (1) full year beginning as of the date following the last day of employment.

(2) Benefit Group Sheriffs, Police Officers Association of Michigan - the cost of retiree medical benefits is paid 100% by the County, unless modified by the applicable Collective Bargaining Agreement.

(3) Benefit Group Sergeants, Michigan Association of Police - the cost for retiree medical benefits is paid 100% by the County, unless modified by the applicable Collective Bargaining Agreement.

(4) Benefit Group Lieutenants, Michigan Association of Police - the cost for retiree medical benefits is paid 100% by the County, unless modified by the applicable Collective Bargaining Agreement.

Service or Employee Seniority for purposes of this Section must be actual service rendered with the County. Purchased service or other service recognized for retirement under the Reciprocal Retirement Act (P.A. 88 of 1961, as amended (MCL 38.1102 et. seq.)) shall not be included.

**1:207. Prescription Drug Coverage.**

(1) Current non-union retirees, and their spouses shall not receive prescription drug coverage under this plan after the current non-union retiree has reached the age of 65.

(2) After age 65 current non-union retirees shall be eligible to receive an annual cash payment. The annual cash payment is a partial reimbursement of the cost of Medicare Part B which Retirees and/or Spouses are required to enroll and are obligated to pay for all applicable costs pursuant to Section 1:210 below. The amount of the annual payment shall be determined by the amount of service credit earned by the non-union employee at the time of retirement and shall be a percentage of five hundred (\$500.00) dollars for single coverage and one thousand (\$1,000.00) dollars for two-person coverage as shown in the following table.

Employee seniority as of February 28, 2010 (MERS documented)	Retiree's share of benefit
10 years but less than 15 years	25%

15 years but less than 20 years	35%
20 years but less than 25 years	50%
25 years but less than 30 years	65%
30 years or more	75%

***1:208. Alternative Policies or Programs.***

The County, in its discretion, in addition to the Base Plan, may offer alternative policies or benefit structures to Participants, Retirees and Spouses. In the event that the County chooses to offer alternative policies or benefit structures, Participants or Retirees and their Spouses may transfer from one policy or benefit structure to another policy or benefit structure during open enrollment periods. However, any additional cost above the Base Plan shall be borne by the Participant or Retiree or the Participant's or Retiree's Spouse.

***1:209. Duplicate Coverage Disallowed***

Duplicate coverage will not be provided in the event that there are two or more Participants and/or Retirees who (a) are each independently eligible for health care benefits from the County or the Plan and (b) are each also eligible for health care benefits from the County or the Plan as a Spouse of a Participant or a Retiree. Said parties shall be eligible to participate in only one policy or program so that one party participates in the one policy or program as the principal insured and the other party(ies) participates in the same policy or program as a Spouse of the Participant or Retiree. The Spouse shall suffer no detriment as a result of the disallowance of duplicate coverage.

***1:210. Medicare Eligibility.***

Upon attaining the age of Medicare eligibility, all eligible Retirees and/or Spouses shall enroll in both Medicare A and B, and are obligated to pay for all applicable costs. Once a Retiree is in receipt of Medicare A and B coverage, this Plan will provide complimentary coverage as provided pursuant to any applicable Collective Bargaining Agreement, Personnel Policies and/or the coverage in effect for active employees.

***1:211. Coordination of Benefits***

The County intends that the Plan shall provide each Retiree with payment for health care expenses incurred by the Retiree and, if eligible, his or her Spouse, as provided in the Plan and/or Insurance Agreement. The County does not intend that payment under this Plan shall exceed the amount of the expenses incurred. For this reason, the Plan coordinates benefits with other insurance policies according to industry standards and applicable laws.

(1) Reimbursement.

If an expense is paid under the Plan by the Plan Administrator on behalf of a Retiree and/or his or her Spouse, and such expense subsequently is paid from any other source, in whole or in part, the Retiree and/or his or her Spouse, shall remit to the Plan an amount equal to the duplicated benefits. In addition, the Plan Administrator may reimburse any other Plan, person or entity that has paid an expense on behalf of a Retiree or his or her Spouse which expense was payable under this Plan. In such event, the Plan, Plan Administrator and/or the Insurance Carrier shall be relieved of all further responsibility with respect to that expense.

(2) Subrogation.

In the event any payment is made by the Fund under the Plan, the Plan shall be subrogated and shall succeed to the rights of any Retiree and his or her Spouse against any other plan, person or entity for recovery of health care expenses for which such other plan, person or entity legally is liable. All amounts so recovered, by settlement, judgment or otherwise, shall be paid to the Fund. Retirees and their Spouses shall furnish such information, execute and deliver such assignments, documents or other instruments, and take whatever steps are necessary to secure the rights of the Plan. Retirees and their Spouses shall take no action to prejudice the rights and interests of the Plan hereunder.

(3) Effect of Exclusions.

The provisions of this Section shall not be construed to create any independent right to payment of any benefit under this Plan. Any exclusion or limitation contained in the Plan and/or Insurance Agreement shall supersede any provision of this Section regarding coordination of benefits.

**1:212 Plan Administration, County Duties.**

- (1) The County shall be responsible for the performance of its duties as employer and Plan sponsor under applicable Internal Revenue Code Sections and for complying with the Code's reporting and disclosure requirements.
- (2) The County may delegate all or any part of its Plan administration responsibilities. Any such delegation shall be done in writing. The County may employ one or more professional, clerical or administrative persons to perform those activities which are required in the proper performance of the Plan.
- (3) The County shall furnish the Plan Administrator and/or Insurance Carrier, while this Plan is in effect, any information as may be required, at intervals and in the form prescribed by the Plan Administrator and/or Insurance Carrier, for the enrollment of Retirees and Spouses for coverage under the Plan and for the processing of terminations or other changes in coverage of Retirees and Spouses

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and also shall furnish to the Plan Administrator and/or Insurance Carrier such other information required for the administration of the Plan.

**1:213. Plan Administration, Insurance Carrier Duties.**

Each Insurance Carrier shall have the responsibility for interpreting and administering their respective Insurance Agreement and for processing and paying benefit claims thereunder, and shall provide the County with such information as the County may deem necessary to permit the timely filing of all reports required by law. The Insurance Carrier also shall provide a description of the benefits provided under their respective Insurance Agreement directly to the Retirees and Spouses or to the County for distribution to Retirees and Spouses.

**1:214. Plan Administration, Plan Administrator Duties.**

The Plan Administrator shall have the responsibility establishing such Plan documents and accounts as necessary for the proper performance of the Plan, for interpreting and administering the Plan and for processing and paying benefit claims thereunder. The Plan Administrator shall exercise its authority in a nondiscriminatory manner so that all persons similarly situated shall receive substantially the same treatment. The Plan Administrator shall maintain the appropriate records and accounts necessary in the administration of the Plan and shall provide the Trustees with such information necessary to permit the timely filing of all reports required by applicable laws or regulations governing the Fund.

**1:215. Health Care Benefits, Claims Procedures.**

A claim for benefits under the Plan must be submitted in writing to the Insurance Carrier in accordance with procedures established by the Plan Administrator or the Plan and/or Insurance Carrier as communicated in writing to Retirees and Spouses. The Plan Administrator and/or Insurance Carrier shall provide adequate notice to any Participant or Spouse whose claims for benefits under this Plan have been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the party. The Plan Administrator and/or respective Insurance Carrier has responsibility for the resolution of disputes involving payment of benefits under the portion of the Plan assigned to the Plan Administrator or Insurance Agreement with the Insurance Carrier. The Plan Administrator and/or Insurance Carrier shall afford a reasonable opportunity to any Participant or Spouse whose claim for benefits has been denied for a full and fair review of the decision denying the claim.

**1:216. Funding.**

For the purpose of creating and maintaining the Plan for the payment of benefits payable as provided in this Plan, the County Board of Commissioners shall appropriate an amount sufficient to maintain the Plan subject to the provisions of Section 1:302.

DECLARATION OF RETIREE HEALTH CARE FUND

**1:300. Irrevocable Fund, Established.**

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The Fund established in this Plan is established in accordance with Public Act 149 of 1999, and shall be irrevocable and shall conform to all applicable sections of the Internal Revenue Code, the Collective Bargaining Agreements, the statement of purpose in this Plan, and all statutes, ordinances, rules, regulations, arbitrators' awards and judicial decisions interpreting the foregoing provisions.

The Fund shall consist of County Contributions, all investments made or held under the Fund, and all income therefrom, both received and accrued, and any other property which may be received or held by reason of this Fund. Funds paid by Retirees and Spouses as a result of premium sharing required pursuant to applicable Collective Bargaining Agreements and/or County policy, shall be paid directly to the County and/or the applicable Insurance Carrier and shall not be paid into the Fund

**1:301. Use of Fund Assets.**

- (1) No part of the net earnings of the Fund may inure to the benefit of any Participant, Retiree or other beneficiary other than by benefit payment; or for services provided to the Trustees in their administration of the Fund. The Fund assets shall not be used for or diverted for purposes other than to provide the benefits contemplated under the Plan for the exclusive benefit of Retirees and their Spouses except any administrative expenses for which the Fund is liable. A portion of net earnings may be used for payment for reasonable and necessary professional services, costs and expenses related to assisting the Trustees and Fund Administrator in the operation of the Fund.
- (2) All income, profits, recoveries, Contributions, forfeitures, securities and properties of any kind at anytime received or held by the Trustees hereunder, shall become part of the Fund when received, and shall be held for the use and purposes hereof.

**1:302. Funding.**

- (1) For the purpose of creating and maintaining a fund for the payment of health care benefits payable as provided in this Plan, the County shall be required to pay to the Fund an amount consistent with the actuarial valuations and calculations made by the Actuary for the Fund to result in a pre-funded plan. The County reserves the right to fund these health care benefits on a “pay-as-you-go” basis.
- (2) Subject to the tax provisions of the County ordinances, resolutions and state law, the Trustees may, to the extent matters are not set forth in the Fund, in their discretion decide the manner and means of payments, the procedures to be followed in making the payments, and the forms required to accompany the payments to the Trustees. Upon determination by the Trustees of these matters, the Trustees shall provide written notice to the County and to the Collective Bargaining Associations and require payments by the County to be made pursuant to the rules and regulations of the Fund.

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- (3) Time is of the essence in making and processing all payments to the Fund. The parties recognize that the regular and timely payments of Contributions are essential to the operation of the Fund and the providing of benefits under various insurance programs.

**1:303. Board of Trustees.**

- (1) The Board of Trustees shall serve as the Investment Fiduciary of the Fund and shall consist of ~~four (4)~~ **five (5)** trustees, as follows:
- (a) The County Administrator of the County of Livingston or his/her designee.
  - (b) The County Treasurer of the County of Livingston or his/her designee.
  - (c) The County Financial Officer of the County of Livingston or his/her designee.
  - (d) One (1) representative of the Board of Commissioners as selected from amongst their members.
  - (e) The County Clerk of the County of Livingston or his/her designee.**
- (2) The general administration, management and responsibility for the proper operation of the Fund and for making effective and construing the provisions of the Fund shall be vested in the Board of Trustees established by this Section, consistent with applicable state and federal laws and regulations. A Trustee or other fiduciary under the Fund shall discharge his or her duties with respect to the Fund solely in the interest of the Participants and Spouses for the exclusive purpose of providing benefits to Participants and Spouses and paying reasonable expenses of administering the Fund. A Trustee shall discharge his or her duties with the care, skill, and caution under the circumstances then prevailing which a prudent person, acting in a like capacity and familiar with those matters, would use in the conduct of an activity of like character and purpose.

**1:304. Trustees' Terms of Office.**

- (1) The regular terms of office of the Trustees shall be as follows:
- (a) The term of the County Administrator or his/her designee shall be identical to the County Administrator's term of office.
  - (b) The term of the County Treasurer shall be identical to his/her term of office.
  - (c) The term of the County Financial Officer shall be identical to his/her term of office.

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(d) The representative of the County Board of Commissioners shall serve at the pleasure of the County Board of Commissioners.

(e) The term of the County Clerk shall be identical to his/her term of office.

- (2) Each Trustee shall serve until the expiration of his or her term of office or until his or her death, incapacity, resignation or removal.
- (3) A vacancy or vacancies in the office of the Trustees shall not impair the powers of the remaining Trustees to administer the affairs of the Fund, provided there are sufficient Trustees to constitute a quorum,

**1:305. Officers and Administration.**

- (1) At its meeting in February of each year, the Trustees shall select a chairperson, a vice-chairperson and a secretary from the group of the then existing Trustees and the chairperson, vice-chairperson and secretary shall serve a term of one year or until a new chairperson, vice-chairperson and secretary is elected.
- (2) Consistent with applicable state and federal laws and regulations, the Trustees shall have the power to promulgate rules and regulations for the day-to-day management of the Fund, the investment of monies held by the Fund, to determine all questions regarding the interpretation of the Fund, and such other Fund related subjects as shall be deemed necessary and proper by the Trustees. If any rule or regulation of the Fund or part thereof is found to be in conflict with any Collective Bargaining Agreement, law, statute, judicial decision, arbitration decision or any other competent body or tribunal, such rule or regulation or part thereof shall be deemed voided and, all other rules and regulations of the Fund shall remain in full force and effect.
- (3) Whenever the signature of a Trustee is required on any document, signature of the chairperson or acting chairperson and secretary or acting secretary shall be required.
- (4) In the event of any suit brought against the Trustees arising out of the acts within the scope and powers and duties of the Trustees, or in the event of any lawsuit brought by the Trustees as authorized by this Plan, the cost of defense or prosecution of such lawsuit shall be charged to the Fund, and shall be paid directly from the Fund, provided such costs are not incurred by reason of bad faith, gross negligence, or breach of a fiduciary obligation to the Fund or to the beneficiaries thereof.
- (5) The Board of Trustees may employ such clerical personnel or administrative personnel to perform whatever administrative activities are required in the proper performance of the Fund. In addition thereto, the Trustees may, if they desire, contract with an administrator to perform such clerical and administrative duties as they may in their sole discretion, determine is reasonably and prudently necessary to carry out the Fund's activities and purposes. Under no circumstances

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shall said administrator have control or authority with respect to the management of the Fund or its assets. The said administrator shall not be clothed with any type of authority or power which will constitute the administrator as a fiduciary. Said administrator will not have the power or authority to act as an investment counselor or manager and will not be authorized to furnish investment advice.

- (6) The Board of Trustees may utilize County staff for such functions as personnel administration, accounting, banking and purchasing and will comply with all established County control procedures and policies related to these services. The Board will annually reimburse the County for actual costs of these services as determined by a method jointly agreed upon by the Board and the County Board of Commissioners.
- (7) County employees, upon the request of the Board of Trustees, may also be assigned to the Fund for the proper operation of the Fund. Said employees shall be subject to the supervision of the Board. The Board shall have the authority to establish job descriptions and promulgate rules and regulations appropriate for the Fund in addition to those adopted by County Board of Commissioners. The Board will annually reimburse the County for the actual costs of these employees as determined by a method jointly agreed upon by the Board and the County Board of Commissioners.
- (8) The Trustees may employ (an) investment manager(s) to manage the assets of the Fund. Such investment manager(s) must be registered under the Investment Advisor's Act of 1940, as amended, and must meet any applicable state and federal requirements to act as an investment manager. The Trustees may, if they deem proper in their discretion, or if the circumstances require it, appoint such investment manager, managers, banks or insurance companies as fiduciaries and enter into an agreement with such institutions, naming it a fiduciary and conveying to such fiduciary all or a portion of the assets of the Fund, so that said fiduciary may handle, manage and hold those assets conveyed to it. All assets conveyed to said fiduciary shall be subject to the provision of the agreement or agreements between the Trustees and the fiduciary.
- (9) The Trustees may employ legal counsel with whom they may seek advice, consult, require attendance at meetings and to otherwise represent the Trustees in matters relating to the Plan and Fund.
- (10) The Trustees may authorize the purchase of insurance for the Fund and for the Trustees to cover liability or losses occurring for any reason, including but not limited to, an act or omission (errors or omissions) of a fiduciary, including the Trustees; provided however, that such insurance policy permits recourse by the insured against the fiduciary, including the Trustee or Trustees involved, in case of breach of fiduciary obligation by the fiduciary.
- (11) The Trustees shall appoint an Actuary who shall advise the Trustees on the actuarial operation of the Plan and Fund. The Trustees shall, from time to time,



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adopt such mortality and other tables of experience and a rate or rates of regular interest as are necessary in the operation of the Fund on an actuarial basis.

**1:306. Board Meetings.**

- (1) The Trustees shall meet at least once quarterly. The Trustees shall determine the time for the regular meetings of the Trustees and the place or places where such meetings shall be held. The secretary of the Trustees or his or her designee, shall be responsible for giving notice of the time and place of such meetings to the other Trustees.
- (2) Notice and conduct of all meetings of the Trustees, both regular and special, shall be given in accordance with applicable law including the Michigan Open Meetings Act.
- (3) The Board shall adopt its own rules of procedure and shall keep a record of its proceedings. Three (3) Trustees shall constitute a Quorum at any meeting of the Board. Each Trustee shall be entitled to one vote on each question before the Board and at least three (3) concurring votes shall be necessary for a decision of the Board.

**1:307. Compensation.**

All Trustees shall serve without compensation as members of the Board. Trustees may also be reimbursed by the Fund for reasonable and necessary costs and expenses of the Trustees in performing their duties as Trustees and related to the operation of the Plan.

**1:308. Trustees' Powers and Responsibilities.**

The Trustees shall hold all powers that are necessary to carry out the purposes of the Fund and that are generally available to Trustees under the laws of the State of Michigan, except as limited by the Fund and by federal law and regulations. The Trustees shall take no action nor make any determination inconsistent with any qualification or ruling of the Internal Revenue Service, an arbitrator or the courts with respect to the Fund. In the case of amendments to the Internal Revenue Code or changes to regulations of the Internal Revenue Service or the Labor Department, the Trustees are empowered to take all necessary action authorized by this Plan, federal and state law and regulations. In carrying out the purposes of the Fund, the Trustees shall have the following powers and duties:

- (1) The Trustees shall, in order to effectuate the purposes of the Fund, be bound by the terms of the Plan and any applicable Collective Bargaining Agreements between the County Board of Commissioners and the Collective Bargaining Associations, or applicable Personnel Policies adopted by County Board of Commissioners for non-union employment groups.
- (2) The Trustees shall establish a uniform system for the timely transmission of required reports and contributions from the County on behalf of the Participants and/or Spouses to the Fund.

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- (3) The Trustees shall maintain, or cause to be maintained, proper books of accounts and records of and for the administration of the Fund, including the minutes of all meetings, make them available for inspection at the permanent office of the Fund during reasonable business hours by the County, by any Collective Bargaining Association, or any Participant or Spouse covered by the Plan and Fund.
  - (4) The Trustees shall be authorized to retain such professional, clerical, or administrative personnel as necessary to maintain the proper performance of the Fund.
  - (5) The Trustees shall be authorized, pursuant to Public Act 149 of 1999, as amended, to invest the assets of the Fund in accordance with the provisions of Public Act 314 of 1965, as amended and in accordance with the Investment Policy as established by the Investment Fiduciary.

***1:309. Fund Liabilities.***

- (1) Neither the County, nor any Participant or Spouse or Trustee shall be liable for any debts, liabilities or obligations of the Fund except as provided for in this Plan. Neither the County nor any Participant and/or Spouse shall have any right to the return of any money properly paid into the Fund, except as otherwise specifically provided in this Plan, or to money improperly paid which has already been invested or distributed. Any contribution improperly paid into the Fund by the County or on behalf of a Participant or Spouse shall be returned by the Trustees upon the request of the County, the Participant or the Spouse or upon discovery by the Trustees that such monies have been improperly paid into the Fund, unless those monies have already been invested or distributed.
- (2) No part of the Fund or any benefits payable by the Trustees shall be subject to alienation, sale, transfer, assignment, pledge or encumbrance charge by any person. No Participant or Spouse shall be entitled to receive any part of the Contributions made by the County or payments required to be made by the Fund, in lieu of such benefits provided under the Plan as determined by the Trustees in accordance with the Fund.

***1:310. Termination of the Fund.***

- (1) Subject to the limitations of this Plan, the parties hereby contemplate that new employment benefit decisions may be made by the County Board of Commissioners and/or new Collective Bargaining Agreements may be entered into which continue or modify the provisions of the Fund. The Fund shall continue during such period or time as may be necessary to carry out the provisions of any Plan or Collective Bargaining Agreement and the fact that such Collective Bargaining Agreements or employment benefit decisions are not extended shall not by itself terminate the Fund, which shall continue for a period of time sufficient to wind up the affairs of the Fund.

- (2) Provided there are no longer any Retirees or Spouses eligible for benefits from the Fund, the Fund may be terminated at any time by the Trustees so long as the termination is not inconsistent with any then existing ordinance, resolution or Collective Bargaining Agreement. It shall not be necessary for the County Board of Commissioners or the Collective Bargaining Associations to execute such an agreement for the Fund to terminate.
- (3) If the Fund shall terminate, the Trustees shall forthwith notify any Insurance Carrier or Carriers then providing insurance to Retirees and Spouses in the Fund.
- (4) In the event of the termination of the Fund, the remaining funds available after providing for all the outstanding obligations, shall be used in a manner as will, in the opinion of the Trustees, best effectuate the purposes of the Fund, including, but not limited to, the purchase of insurance benefits.

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**MOVED: Commissioner Mantey**  
**SECONDED: Commissioner Williams**  
**CARRIED: 9-0-0**