

MONROVIA POLICE ASSOCIATION

**RETIREE MEDICAL REIMBURSEMENT
PLAN AND TRUST**

OCTOBER 1, 1995

MONROVIA POLICE ASSOCIATION

RETIREE MEDICAL REIMBURSEMENT PLAN AND TRUST

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SECTION 1. GENERAL

1.1 Establishment of the Plan and Trust

Whereas, the Monrovia Police Association (hereafter known as MPA) agrees to make contributions to a trust established for the purpose of funding a retiree medical care contributing reimbursement plan for certain eligible Members of the Monrovia Police Association; and

Whereas, the parties desire to establish this Trust constituting a trust under Section 501 (c) (9) of the Internal Revenue Code; and

Whereas, it is the intent of the parties that this Trust to qualify for the special exception for tax exempt organizations under Code Section 512 (a) (3) (E) (iii) and that no income of the Trust shall be taxable as unrelated business taxable income. Contributions to fund post-retirement medical benefits provided hereunder are contingent upon the Trust meeting the exemption referenced above;

Now, therefore, the MONROVIA POLICE ASSOCIATION RETIREE MEDICAL REIMBURSEMENT PLAN AND TRUST is hereby established effective as of JULY 1, 1995, however, the parties desire to delay all benefit payments under Section 5 of the Plan until JULY 1, 2005.

1.2 Purpose of Trust

The primary purpose of this Trust is to pay (from principal or income or both) a portion or all of the cost for coverage of certain Qualified Health and Welfare Benefits for certain retired Members, Surviving Spouses and Surviving Dependents of the Monrovia Police Association who meet the eligibility requirements of the Plan on or after JULY 1, 1995.

The Trust Fund and the Plan established pursuant to the Trust, are to be used for the purpose of providing Qualified Health and Welfare Benefits for the Participants and Surviving Spouses and Surviving Dependents as defined in the Plan; and the Trust Fund shall further provide for financing the operation and administration of the Trust Fund in accordance with this Trust Agreement.

1.3 Trust Irrevocable

The Trust shall be irrevocable (although it may be terminated or amended per Section 8.1 as hereafter provided) and no part of its corpus or income shall ever revert to or inure to the benefit of MPA or the City of Monrovia, except for the return of mistaken contributions as provided hereinafter.

SECTION 2. DEFINITIONS

2.1 Definitions

Whenever used in the Plan the following terms shall have the respective meanings set forth below unless otherwise expressly provided herein, and when the defined meaning is intended, the term is capitalized:

- (a) **Active Service** means the number of years of service with the City of Monrovia as a represented employee for Plan purposes.
- (b) **Aggregate Payout** means the annual amount of benefits paid plus annual administrative, legal and investment costs.
- (c) **Board of Trustees** means the board which maintains and administers the Plan and Trust as described in Section 7 hereof, collectively appointed under the terms of the Plan and Trust.
- (d) **Disability** means any disability of a Member recognized as a disability by the City of Monrovia or a plan adopted by City of Monrovia or the MPA.
- (e) **Effective Date** means JULY 1, 1995.
- (f) **Fiduciary** means the Trustees and all persons appointed or engaged by them who:
 - (1) Exercise any discretionary authority or discretionary control respecting the management or disposition of the Trust funds;
 - (2) Render any investment advice for a fee or other compensation; or
 - (3) Exercise any discretionary authority or responsibility for Plan administration.
- (g) **Medical Reimbursement** means an amount paid to an insured, insurer or other self-insured plan sponsor to purchase Qualified Health and Welfare Benefits for a Participant or eligible Surviving Spouse or eligible Surviving Dependent. Reimbursement shall be made upon receipt of acceptable documentation of payment due or paid.
- (h) **Member** means an employee of the City of Monrovia who is a member of a bargaining unit represented by the Monrovia Police

Association, or an individual who has been previously covered by the Plan or who has left the bargaining unit and who has maintained his/her status as a member in good standing of the Monrovia Police Association.

- (i) **Monthly Medical Care Amount** means the dollar amount determined by the Board of Trustees and influenced by the investment returns of the Trust which shall be used to calculate the amount of benefit payable to a Participant.
- (j) **Participant** means a Member who has met the eligibility requirements of the plan and who is enrolled in the Plan.
- (k) **Plan** means the MONROVIA POLICE ASSOCIATION RETIREE MEDICAL REIMBURSEMENT PLAN AND TRUST as described herein and as hereafter amended.
- (l) **Plan Administrator** means the Board of Trustees or their duly appointed agent.
- (m) **Plan Year** means each 12-month period beginning January 1 and ending the following December 31.
- (n) **Qualified Retirement** means the date upon which a Member has retired from employment with the City of Monrovia. In order to collect benefits, the member must have attained age 50.
- (o) **Qualified Health and Welfare Benefits** means medical payments made by Members or the Trustees to purchase medical coverage, Surviving Spouse coverage or to reimburse qualified medical expenses or any benefit established by the Board of Trustees and which benefit will be in compliance with IRC Sec. 501 (c) (9).
- (p) **Severance From Service** means a period of service as determined in accordance with subsection 4.2.
- (q) **Surviving Dependent** means a natural or legally adopted child of a Member who, at the time of a Participant's death, meets the following requirement:
 - (1) Is a dependent under the age of 18.

The Board of Trustees may require proof of dependency.

- (r) **Surviving Spouse** means the person to whom a Participant was legally married to on the date of such Participant's death for a period of at least one year.
- (s) **Trust** means the MONROVIA POLICE ASSOCIATION RETIREE MEDICAL REIMBURSEMENT PLAN AND TRUST as described herein and as hereafter amended.
- (t) **Trustee** means a member of the Board of Trustees appointed/elected to act as trustees of the assets of the Trust as provided in subsection 7 hereof.
- (u) **Trust Fund** means all of the assets which are held by the Board of Trustees for the purposes of this Plan.
- (v) **Vested Percentage** means the percentage of Monthly Reimbursement amount available to a Participant as follows:

To obtain reimbursement, the member must contribute a minimum of \$20.00 per pay period. This amount will be periodically adjusted for inflation.

The minimum vesting contribution amount equals \$5,200 which equals 25% total vesting. This amount shall be periodically adjusted for inflation.

The maximum vesting contribution amount equals \$20,800, which equals 100% vesting. This amount will be periodically adjusted for inflation.

The Board of Trustees will periodically adjust the minimum and maximum contribution rates for newly hired or re-entering employees, in order to adjust for inflation.

2.2 Gender and Number

Except when otherwise indicated by the context, any masculine terminology herein shall also include the feminine, and the definition of any term herein in the singular shall also include the plural.

2.3 Titles and Heading Not to Control

The titles of titles, table of contents and headings of paragraphs in this Agreement are placed herein only for convenience of reference, and in case of any conflict, the text of this Agreement rather than such titles or headings shall control.

2.4 Waiver of Notice

Any notice required under this Agreement or any Plan adopted by the Trustees may be waived by the person entitled thereto as long as such waiver is in accordance with any applicable federal or state law.

2.5 Standards of Interpretation

This Trust Agreement is designed and intended to comply with the standards set by ERISA, as amended, even though the trust is not covered by ERISA and such construction shall be consistent with the laws of the United States. The Trustees are vested with the power to interpret this Trust and any Plan established thereunder, and their interpretation, if not in conflict with the plain meaning of this Trust Agreement and any Plan established thereunder, and/or any applicable law or government regulation, shall be final and conclusive.

SECTION 3. ELIGIBILITY AND PARTICIPATION

3.1 Eligibility and Participation

A member shall become a Participant of the Plan on the first day of the month following his hiring or after the Effective Date.

3.2 When Participation Ends

A Participant's coverage under the Plan shall end on the first to occur of the following except for benefits payable pursuant to Section 5:

- (a) The date of a Participant's death.
- (b) The date the Plan is terminated.

3.3 Payments of Claims

No Plan benefit shall be paid unless a Member has first submitted a written claim form to the Plan Administrator at: Monrovia Police Association Medical Trust, 140 East Lime, Monrovia, California 91016.

Upon receipt of a properly documented claim as outlined in Appendix A, or the applicable insurance policy claim form, the Plan Administrator shall direct the payment of the benefit provided under this Plan as soon as is administratively feasible. The Participant must also submit such evidence as the Plan Administrator shall reasonably require to substantiate the nature, the amount, and the timeliness of any claim incurred for which Plan benefits are claimed. A Participant or Surviving Spouse or Dependent must submit a claim within the three month period beginning with the date the claim is incurred and ending three months thereafter.

3.4 Procedure if Benefits are Denied

Any Member, Participant, Surviving Spouse, Surviving Dependent or duly authorized representative of a Member may file a claim for a Plan benefit to which the claimant believes that he is entitled and in accordance to subsection 3.3. Within ninety (90) days from the receipt of such claim, the Administrator shall send to the claimant notice of the grant or denial, in whole or part, of such claim, unless special circumstances require an extension of time for processing the claim. In no event may the extension exceed ninety (90) days from the end of the initial period. If the notice of the denial of a claim is not furnished in accordance with this section, the claim shall be paid.

The Plan Administrator shall provide to every claimant who is denied a claim for benefits, written notice setting forth in a manner calculated to be understood by the claimant:

- (a) the specific reason or reasons for the denial;
- (b) specific reference to pertinent Plan provisions on which the denial is based;
- (c) a description of any additional material or information necessary for the claimant to perfect the claim, and an explanation of why such material is necessary; and
- (d) an explanation of the Plan's claim review procedure.

Within sixty (60) days after the receipt by the claimant of written notification of the denial in whole or in part of his claim, the claimant or his duly authorized representative, upon application to the Plan Administrator, in person or by certified mail, postage prepaid, may request a review of such denial, may review pertinent documents, and may submit issues and comments in writing. Final resolution of disputed claims rests solely with the Board of Trustees as described in the Trust.

SECTION 4. SERVICE

4.1 Active Service

Active Service means a Member's period or periods of employment by the City of Monrovia Police Department and as a member of the bargaining unit represented by the Monrovia Police Association. This is determined in accordance with reasonable and uniform standards and policies adopted by the Board of Trustees which standards and policies shall be consistently observed; provided, however, that:

- (a) Any member precluded from paying dues by a law or ordinance may be an honorary member of the MPA and continue to be a participant in the Trust. Members retiring prior to July 1, 2005 may choose to continue to make contributions to increase their vesting credit, up to July 1, 2005. No MPA dues are required for continued membership. This option is allowed on a one-time only basis at the time of retirement, for those who qualify. This provision expires JUNE 30, 2005.
- (b) In the event a member of the City of Monrovia Police Association is no longer employed by the City, that member shall be allowed to continue contributing to the Trust to increase their vesting percentage.
- (c) All Current dues must be paid for the purpose of continuing membership in the Monrovia Police Association. The Monrovia Police Association will determine membership status and inform the Trust of any changes.

4.2 Severance From Service

Severance From Service means the occurrence of one of the events listed in (a) or (b) below. The date of the Severance From Service will be the date as indicated in either (a) or (b) below as the case may be. However, if an event listed in (a) below occurs prior to the first twelve months as described in (b) below, then the date of the Severance From Service will be the date the event in (a) below occurs:

- (a) The date the Member quits, resigns, retires, is discharged, dies, terminates, or fails to return to work on the expiration of an approved leave of absence or upon recall after a layoff, or notifies the Board of Trustees of Severance From Service.
- (b) The first anniversary of the date the Member is first absent for any other reason such as disability, vacation, authorized unpaid leave of absence or layoff; except that a Severance From Service does not occur because of:
 - (1) Periods in which he is eligible to receive sick pay.

- (2) Absence for military service with the armed forces of the United States provided that he returns to work for the City of Monrovia's Police Department within the time prescribed by law for reinstatement of employment rights. However, if he fails to return to employment with the City of Monrovia within the period prescribed by law for reinstatement of employment rights, his Severance From Service shall be deemed to have occurred on the first anniversary of the date of his entry into such military service.
- (3) A Member's authorized paid leave of absence.

4.3 Active Service for Disabled Participants

No benefits will be payable for disability retirement prior to age fifty (50).

4.4. Reemployment with the City of Monrovia

Notwithstanding the foregoing, if a Member who has had a Severance From Service on or after the Effective Date is subsequently reemployed by the City of Monrovia's Police Department as a Member he will receive full credit for his prior payments and vesting under the plan. Upon reentry, vesting percentages will be determined by the vesting schedule then in effect for new hires.

SECTION 5. BENEFITS

5.1 Benefit Amount

A Participant shall receive monthly reimbursement for his qualified health and welfare benefit expenses determined by multiplying the Monthly Medical Care Amount by the Participant's Vested Percentage. In no case shall this amount exceed 100% of the two-party premium for the most expensive medical plan offered by the PERS Medical system each year. Such reimbursement shall be made by the Plan Administrator only upon application by the Participant which shall include satisfactory evidence of the Participant's payment of such Medical premiums or medical expenses within three (3) months of incurring such payment, and following the procedures outlined in Appendix A or under the insurance policy, if applicable.

The monthly Medical Reimbursement Amount will be determined annually by the Board of Trustees as described in subsection 6.2.

5.2 No Duplication of Benefits

A Participant shall not receive benefits as set forth in subsection 5.1 above during any period that he is eligible to receive, at no cost, comparable coverage through his own or his spouse's employment. This provision shall only be in effect during the period that such comparable coverage is available. If benefits are available through current employment with the City of Monrovia, benefits from the Trust shall not be paid.

5.3 Survivor's Benefit

- (a) The Plan provides a survivor's benefit for an eligible Surviving Spouse with Surviving Dependent(s) or for eligible Surviving Dependent(s) if there is no Surviving Spouse as follows:
 - (1) *Pre-retirement:* The Surviving Spouse and/or Surviving Dependent(s) of a Member who has not yet retired from employment with the City of Monrovia Police Department, shall receive reimbursement for her/their Medical Care costs up to 100% of the amount the Participant would have received had he reached his Qualified Retirement on the day immediately preceding his death, provided the Surviving Spouse does not remarry within that time. **In no event shall any benefit paid prior to ten years from the effective date of the Trust.**
 - (2) *Post-retirement:* The Surviving Spouse and/or Surviving Dependent(s) of a Participant who has reached his Qualified Retirement under the Plan prior to the date of his death, shall receive

reimbursement for her/their Medical Care costs up to 100% of the amount the Participant had been receiving and provided the Surviving Spouse does not remarry within that time.

- (b) The Plan provides a survivor's benefit for an eligible Surviving Spouse with no Surviving Dependents, equal to 50% of the amounts determined and (a) (1) and (2) above, respectively.

5.4 Commencement of Benefits

No benefit will commence for any Member, Surviving Spouse or Surviving Dependent under the Plan for a period of ten (10) years from the effective date of the Plan.

SECTION 6. METHOD OF FINANCING

6.1 Contribution to the Trust Fund

The City of Monrovia shall, pursuant to a future collective bargaining agreement with the Monrovia Police Association, deliver periodic payments to the Board of Trustees that are contributed on behalf of eligible Participants under the Plan to the Trust Fund in accordance with the funding policy determined by the Board of Trustees. The funding policy may be changed by the Board of Trustees as appropriate. The Board of Trustees shall be accountable for all delivered contributions. The MPA and certain qualified members may also make periodic contributions. All contributions become assets of the Trust and all assets may only be distributed by the pertinent sections of this plan and by the allowing provisions of the IRC.

6.2 Determination of the Monthly Contribution Amount

The Monthly Medical Care Contribution Amount will be determined by the Board of Trustees based on the contribution by the members or the City of Monrovia, if any, principal and investment returns of the trust and other factors. The Monthly Medical Care Contribution Amount will be announced prior to the change of the cost of medical insurance as announced by the City, but the amount and announcement of the amount may be changed at any time at the sole discretion of the Board of Trustees.

6.3 Liability of Trust

Except as herein expressly provided, neither the City of Monrovia making contributions, nor the Trust Fund, shall in any manner be liable for or subject to, the debts, contracts or liabilities of Monrovia Police Association, or any Member or current or future Participant of the Plan.

Except as herein expressly provided, neither the City of Monrovia making contributions nor the Monrovia Police Association shall in any manner be liable for or subject to, the debts, contracts or liabilities of the Trust Fund, any Member or current or future Participant of the Plan.

6.4 Payments from the Trust Fund

Payments shall be made from the Trust Fund by the Board of Trustees at the direction of the Plan Administrator. Unless the Plan and Trust established hereunder shall for any reason fail to be granted qualified status under Internal Revenue Code Section 501 (c) (9), it shall be impossible at any time for any part of the principal or income of the Trust Fund to be used for or diverted to purposes

other than providing benefits to the Participants under the Plan or for payment of taxes or administration expenses as provided hereunder.

SECTION 7. BOARD OF TRUSTEES

7.1 Establishment of Board of Trustees

The Trust Fund shall be administered by the Board of Trustees which shall consist of five (5) individual trustees collectively elected by the Monrovia Police Association membership. Each person elected as a Trustee shall be a Member in good standing of the Monrovia Police Association. Each Trustee shall serve a term of two (2) years on the Board of Trustees; except for the initial election which will elect three Trustees for a three (3) year term and two Trustees for a two (2) year term. Each Trustee shall serve the designated term or until death, incapacity, resignation or removal, whichever comes first. Any active Trustee who retires from employment with the City of Monrovia during his tenure as Trustee may continue to serve out his term. Elections shall be conducted according to the procedures provided for in the By-Laws of the Monrovia Police Association. No more than one current member of the MPA board of directors may serve on the Board of Trustees at any one time.

7.2 Acceptance of Office

The Monrovia Police Association expressly designates the Trustees of the Board of Trustees as fiduciaries who shall have exclusive authority and discretion to control and manage the operation and administration of the Plan and Trust. Each Trustee accepts designation as a fiduciary and a Trustee by the written acceptance and signature of this document and assumes the duties, responsibilities and obligations of the Board of Trustees as created and established hereunder and under applicable law. Any Trustee named hereafter shall do likewise by signing this document or a form thereof approved and filed with the Board of Trustees.

7.3 Resignation or Removal

The Monrovia Police Association may remove a Trustee of the Board of Trustees with the recommendation of the majority of the Board of Trustees and upon a majority vote to remove a Trustee by the voting members of the Monrovia Police Association. The Trustee shall be notified in writing of such action. A Trustee may resign from the Board of Trustees by giving 30 days written notice of the intended action to the Board of Trustees. A vacancy on the Board of Trustees shall not impair the power of the Board of Trustees acting to administer the Plan and Trust as provided herein.

Upon removal or resignation of a Trustee, a successor shall be appointed by the MPA Police Association board of directors to fill the remaining term. The successor Trustee shall have the same rights, duties, powers and immunities as the predecessor Trustee being succeeded. Any resigning or removed Trustee shall execute all documents and do all acts necessary to vest the rights, duties and

powers in the successor Trustee. If an additional vacancy occurs while an appointed position is still in effect, a special election of the MPA shall be called to fill this vacancy.

In the event a Trustee is appointed to fill a vacancy caused by the resignation or removal of a Trustee, the successor Trustee shall serve the remaining portion of the term as specified in subsection 7.1.

In the event of the temporary absence or inability to act of any of the Trustees, an alternate Trustee empowered to act in such Trustee's place may be designated by the Board of Directors of the Monrovia Police Association. Such alternate Trustees shall have the same duties, powers and responsibilities as the designated Trustees.

A resigning or removed Trustee shall, within five (5) days, forward to the Board of Trustees any and all records, documents, monies and other items belonging to the Trust Fund which were received by such Trustee in his capacity as a member of the Board of Trustees.

7.4 Trustee Expenses

The Trustees of the Board of Trustees may receive reasonable compensation for their services on behalf of the Plan and Trust and shall be reimbursed by the Trust Fund for all reasonable expenses incurred in connection with the performance of their official duties as Trustees and authorized by the Board of Trustees.

7.5 Meetings and Manner of Voting

The Board of Trustees shall select a chairperson to run the meetings and may select other officers if it is deemed advisable. The Board of Trustees shall determine the time and place of its meetings and may establish a regular meeting schedule, but shall meet no less than four times per year. The chairperson shall give written notice of the meetings to each Trustee at least 10 days prior to the scheduled meeting. Additional meetings may be scheduled as needed when proper notice and disclosure is made.

Any action taken by the Board of Trustees shall be by majority vote of the total number of Trustees in attendance at a meeting which a quorum is present, with abstentions deemed not to be votes. A quorum exists if there are a majority of Trustees present at a duly called meeting of the Board of Trustees. A Trustee may be present in order to cast a vote and no proxy may be substituted. All meetings shall be conducted pursuant to Robert's Rules of Order (Amended).

SECTION 8. POWERS AND DUTIES OF THE BOARD OF TRUSTEES

8.1 Powers of the Board of Trustees

The Board of Trustees shall have exclusive authority to control and manage the operation and administration of the Plan and Trust. The Board of Trustees is the named fiduciary of the Plan and Trust and is the Plan Administrator of the Plan and Trust. The powers granted to the Trustees herein are in addition to, and not in limitation of, all powers granted to the Trustees by common law, statute, and other provisions of the Trust Agreement are exercisable from time to time, and are not powers to be considered exhausted by their exercise on one or more occasions, and are exercisable in the sole discretion of the Trustees. Unless specifically limited by law or by this Plan and Trust, the Board of Trustees shall have the power to act in the best interest of the Plan, Trust, Participant or Surviving Spouse, or Surviving Dependent, and to exercise any or all of the following powers:

- (a) To establish such plans of benefits to be provided and determine eligibility requirements and any other matters applicable to such plan.
- (b) To invest and reinvest (or encumber) funds of the Trust in any investments as set forth in Section 9 and as permitted by law.
- (c) To maintain or exercise delinquency controls and to enforce the payment of contributions to the Trust by the City of Monrovia under the applicable collective bargaining agreement by legal action in the name of the Board of Trustees, or the name of the Trust or by any other appropriate means.
- (d) To specifically limit and define the individuals entitled to interpret the provisions of the Plan and Trust.
- (e) To sue or to be sued on behalf of the Plan and Trust and to be the only necessary parties, plaintiff or defendant, in any such action.
- (f) To accept, compromise, arbitrate or otherwise settle any obligation, liability or claim involving this Plan and Trust, including any claim asserted for taxes under present or future law. The Board of Trustees may also enforce or contest any such obligation, liability or claim by appropriate legal proceedings, but they shall not be obliged to do so unless, in its judgment, it is in the best interests of the Plan and Trust to do so.
- (g) To receive contributions from the City of Monrovia, the MPA or certain qualified members, at the discretion of the Board of Trustees, to deposit such monies in a bank, savings and loan or other financial institution, subject to the supervision of appropriate state or federal authorities.

- (h) To provide for the administration of the Plan and Trust by delegating administrative functions to the Plan Administrator, who may be an independent contractor with his own office and staff, or alternatively, the Board of Trustees may engage the services of an administrator and delegate any of the functions the Board of Trustees may deem proper. The Plan Administrator shall be a "fiduciary" and shall have duties specified in a written agreement with the Trust.
- (i) To procure a policy or policies, of medical, life, accidental death and dismemberment, disability insurance or other allowable plans on either an individual or group basis, for the provision of any benefit under the Plan and Trust, and to do any and all acts necessary or advisable to effectuate such group or individual insurance plan.
- (j) To employ (or terminate) one or more persons to assist the Board of Trustees in administering the Plan, to provide collection and payment services, to render investment or administrative advice or to perform such other fiduciary functions as the Board of Trustees considers advisable. All such engagements involving delegation of fiduciary duties shall be pursuant to a written contract between the consultants and the Board of Trustees, which contract shall constitute acceptance by the consultant to be bound by, and subject to, the fiduciary obligations of the Trust and which contract shall clearly set forth the responsibilities delegated to, and accepted by, the consultant. Investment of the Trust Fund may be by segregated funds under different investment management.
- (k) To delegate to a state or national banking or savings and loan association, an investment firm or association, an investment consultant, or to an insurance company, as fiduciary, the duty of managing the funds and assets of the Plan and Trust, including the duties of collection and payment, investments and reinvestments, in such manner and to the extent considered desirable by the Board of Trustees and permitted under the terms of the Trust and under applicable law.
- (l) To enter into loan, subordination and/or guarantee agreements, which, in the business judgment of the Board of Trustees, are desirable to protect or enhance any investment in which the Trust holds an interest.
- (m) To purchase on behalf of the Plan, Trust, Board of Trustees and fiduciaries, errors and omissions policies, general liability policies, directors and officers policies or other appropriate coverage in order to protect the trust and the trustees. To the extent permitted by law, to facilitate the purchase on behalf of the individual fiduciaries, rider coverage on their individual behalf to protect against individual recourse.

- (n) To establish and maintain any office for the Plan and Trust which shall be staffed in such manner as the Board of Trustees deems appropriate.
- (o) To enter into reciprocity agreements with the trustees of other qualified trusts upon terms mutually agreeable, actuarially sound and lawful.
- (p) To establish and to accumulate such reserve funds as the Board of Trustees deems appropriate in accordance with the Trust and federal law and any lawful regulations issued thereunder.
- (q) To adopt uniform procedures, rules and regulations for the administration of the Plan and Trust which are consistent with the terms and intent of the Plan and Trust.
- (r) To authorize such persons or entities as they deem appropriate to execute checks drawn on any bank account, or to issue checks bearing facsimile signatures of such persons or to execute any contracts or other legal documents on behalf of the Trust so authorized by the Board of Trustees.
- (s) To establish and periodically review any wages and salaries of any employees of the Plan and Trust.
- (t) To interpret, construe and apply the provisions of this Plan and Trust, including motions, resolutions, administrative rules and regulations, contracts, instruments or writings that have been adopted or entered into on behalf of the Plan and Trust, and any such interpretation adopted by the Board of Trustees shall be binding upon all Participants, Surviving Spouses and Surviving Dependents.

The Board of Trustees shall make the final decision concerning the eligibility for benefits and the extent of benefits payable to Participants, which decision shall be binding on all persons to the fullest extent of the law. No action of the Board of Trustees may be revised, changed or modified by any arbitrator, court or other entity unless the party seeking such action has exhausted all of its administrative remedies under the Plan and Trust and is able to show by clear and convincing evidence that the decision of the Board of Trustees was arbitrary and capricious in considering the information available at the time of its decision.

8.2 Duties of Fiduciaries

In addition to any fiduciary obligations which may be provided for elsewhere in this Plan and Trust or any obligations established by law, the fiduciaries must perform as follows:

- (a) To maintain accurate and detailed records and accounts of all properties of the Trust Fund and all investments, receipts, disbursements and other transactions under the Plan and Trust.
- (b) To open to inspection and audit at all reasonable times all the accounts, books and records of the Plan and Trust to any member or person designated by law to have access to such accounts, books and records.
- (c) To engage annually an independent, qualified certified public accountant who shall conduct an examination of any financial statements of the Plan and Trust required by law and any financial statements considered necessary by such accountant and which meet the requirements established by the IRS or other regulatory agency.
- (d) To file with local, state and federal agencies all reports required by law.
- (e) To manage the Plan and Trust solely in the interests of Participants, Surviving Spouses, and Surviving Dependents and for the exclusive purpose of providing benefits to Participants, Surviving Spouses and Surviving Dependents.
- (f) To discharge duties with the care, prudence and diligence that a prudent person, familiar with such matters and acting in a like capacity and under similar circumstances, would use in the conduct of a similar business.
- (g) To diversify the investments of the Trust Fund in order to minimize the risk of large losses, unless, under circumstances, it is clearly prudent not to do so.

8.3 Breach of Fiduciary Duty

A fiduciary who, while acting as or serving as a fiduciary, breaches any of the responsibilities, obligations or duties imposed upon him by the Plan and Trust or by law shall be personally liable to make good to the Trust Fund any losses resulting from such breach, and to restore to the Trust Fund any profits which may have been made through the use of the Trust assets. In addition, such fiduciary shall be subject to other equitable or remedial relief as the court may deem appropriate, including his removal as a fiduciary and reimbursement to the Trust Fund of attorneys' fees and costs incurred by the Plan and Trust as a result of such breach.

8.4 Restrictions Upon Actions

- (a) A fiduciary shall not:
 - (1) Utilize the assets of the Trust in his or her own interest or for his or her own account.

- (2) In his or her individual or in any other capacity, act in a transaction involving the Trust on behalf of a party whose interests are adverse to the interests of the Trust or its participants.
 - (3) Receive consideration for his or her own personal account from any party dealing with the Trust in connection with a transaction involving the assets of the Trust.
 - (4) Maintain the indicia of ownership of Plan assets outside the jurisdiction of the District Court of the United States.
- (b) Nothing in this section shall be interpreted to prohibit a fiduciary from:
- (1) Receiving any benefits to which he or she may be entitled as a participant or beneficiary of the Trust.
 - (2) Receiving reasonable compensation for loss of salary while engaged in services for the trust or for the reimbursement of expenses properly and actually incurred in the performance of duties as a fiduciary of the Trust.
 - (3) Serving as a fiduciary in addition to being an officer, employee, agent, or other representative of a party in interest.

8.5 Allocation of Fiduciary Responsibilities

Fiduciary responsibilities may be allocated or delegated as follows, so long as the allocation or delegation meets the fiduciary standards set forth above and is evidenced by an appropriate resolution of the Board of Trustees:

- (a) Any responsibility to manage or control Plan assets may be allocated only among the Trustees and any Fund Custodian, except insofar as such responsibility is delegated to an Investment Manager as provided hereafter.
- (b) Other responsibilities may be allocated or delegated to any person, but any participant or beneficiary whose claim for benefits is denied shall have the right to have the denial ultimately reviewed by the Board of Trustees itself except insofar as it may be permissible under ERISA for any other firm or person to make a final decision on review.

8.6 Breach of Co-Fiduciary

- (a) The fiduciaries shall jointly manage and control the assets of the Trust, unless the Trust Agreement or the Trustees specifically allocate responsibilities, obligations or duties among the fiduciaries, and each fiduciary shall use reasonable care to prevent a co-fiduciary from committing

8.9 Appointment of Administrator

The Board of Trustees may employ or contract for an Administrator and/or other clerical and professional assistants to implement the functions and duties of the Board of Trustees. The Administrator's salary shall be paid from the Trust funds. The Administrator shall also be reimbursed for reasonable expenses incurred in the course of his or her duties as Administrator.

8.10 Payment of Benefits

Unless specifically provided by law, the Trustees shall not make any payments on behalf of or distributions to any person entitled to any benefits except to the beneficiary personally; provided, however, that, if a beneficiary is considered by the Trustees to be incompetent, then any payment due may be paid to such person and in such manner as the Trustees, in their sole discretion, consider to be in the best interest of the beneficiary for whom the payment is made. The Trustees shall not be under any duty to see to the application of funds so paid, provided due care was exercised in the selection of the person to whom funds were paid, and the receipt of the person to whom funds were paid shall be full acquittance to the Trustees. The Trustees shall not be liable to any person for a determination made in good faith that a beneficiary is incompetent.

8.11 Administrator Responsibilities

The Administrator, also known as the "Trust Administrator" or "Insurance Administrator", shall conduct the routine business of the Board at the direction of said Trustees. The Administrator's duties and responsibilities shall be determined by the Board of Trustees and shall be set forth in an agreement or be reflected in the Trust meeting minutes.

a breach of a fiduciary responsibility. A fiduciary shall be liable for a breach of fiduciary responsibility of another co-fiduciary in the event:

- (1) He or she knowingly participates in, or undertakes to conceal, an act or omission of the co-fiduciary, knowing such act or omission is a breach;
 - (2) If, by his or her failure to discharge his or her duties prudently and in accordance with the obligations set forth in this Trust Agreement, he or she has enabled the co-fiduciary to commit the breach; or
 - (3) If he or she has knowledge of a breach by a co-fiduciary and makes no reasonable effort under the circumstances to remedy such breach.
- (b) In the event the responsibilities of the Trustees are allocated specifically to each of the Trustees or to other fiduciaries, an individual fiduciary shall not be liable for an act or omission of another fiduciary in carrying out such responsibility, except to the extent that the appointing fiduciary failed to use prudence or failed to consider the interests of the participants or beneficiaries (1) in the appointment of the fiduciary; (2) in the allocation of the responsibility; (3) with respect to the establishment or implementation of the procedures under which the responsibilities were allocated; or (4) in continuing to prevent such allocation or designation.
- (c) To the extent allowed by law, fiduciaries are not to be liable with respect to a breach of a fiduciary duty if such breach was committed before they became fiduciaries or after they ceased to be fiduciaries.

8.7 Fiduciary Insurance

Noting in this Article shall preclude:

- (a) The Trust from purchasing insurance for its fiduciaries or for itself to cover liabilities or losses occurring by reason of the act or omission of a fiduciary, if such insurance permits recourse by the insured against the fiduciary in the case of the breach of a fiduciary obligation by such fiduciary; or
- (b) A fiduciary from purchasing insurance to cover liability under this part from or for his or her own account.

8.8 Persons Prohibited From Being Fiduciaries

No person who has been convicted of, or who has been imprisoned as a result of his or her conviction of, those crimes set forth in ERISA Section 411 shall be permitted to serve as an Administrator, fiduciary, officer, Trustee, custodian, counsel, agent or employee of the Trust, or as a consultant to the Trust.

SECTION 9. INVESTMENT OF THE TRUST FUND

9.1 Investment Policies

The Board of Trustees shall establish and carry out funding and investment policies and methods consistent with the objectives of the Plan and Trust and the requirements of the Act.

9.2 Investment Decisions

The Board of Trustees may itself invest and otherwise manage Plan and Trust assets or it may delegate all or some of these powers, including the power to acquire and dispose of assets to an "investment manager" that qualifies as such under the Act and acknowledges in writing that it is a fiduciary with respect to the Plan and Trust. The appointment, selection and retention of any investment managers shall be solely the responsibility of the Board of Trustees and shall be revocable by it at any time.

The Board of Trustees may also utilize the services of investment advisors, brokers, consultants, attorneys, administrators or other persons in making investment decisions.

9.3 General Investment Powers

The Trust assets, or any part thereof, may be invested in individual policies of life insurance, securities issued by the United States Government and/or state governments, in common or preferred stock, in corporate bonds, in other securities listed on any exchange or traded in any over-the-counter market (including shares of mutual investment companies in pooled investment portfolios), in improved real estate, in notes, in short-term investment mutual funds or similar investment contract, in mortgages, in certificates of deposit of any bank, in commercial paper, in bankers' acceptances or in any other properties in which this Trust may lawfully invest. If any assets are ever held in which this Trust may not properly invest, they shall be disposed of as promptly as is prudent under the circumstances.

9.4 Specific Investment Powers

Whoever holds title to Trust assets shall have all rights and powers with respect to investing the Trust property that an absolute owner would have, subject only to any written directions previously received from another fiduciary authorized hereunder to give such directions.

These investment powers shall include, without limitation, the following powers in addition to those set forth elsewhere hereunder and other given by law.

- (a) To hold in cash in a non-interest bearing account such portion of the Trust assets as may be reasonably required for the day-to-day administration of the Trust and disbursement of benefits, by depositing the same in any financial institution such as a bank or savings and loan (including any bank acting as Fund Custodian hereunder) subject to the rules and regulations governing such deposits. Additional cash shall be placed in interest-bearing accounts and/or obligations (which may be with the Fund Custodian) until such times as it is otherwise invested;
- (b) To participate in any plan of lease, merger, consolidation, exchange, foreclosure or reorganization affecting securities held hereunder at any time;
- (c) To deposit stocks under voting agreements;
- (d) To subscribe for stock or bond privileges;
- (e) To vote with respect to all securities or other assets in person or by proxy, except that where an Investment Manager has been appointed and is acting, proxies and other shareholder material with respect to assets under its supervision will be forwarded to it if it so requests;
- (f) To register securities in the name of a nominee, or to hold the same unregistered and in such form that they will pass by deliver;
- (g) To lease, repair, alter, or improve real estate or other assets;
- (h) To sell any securities, real estate, or other assets at public or private sale for such prices and upon such terms as it may deem proper, without liability on the part of the purchasers to see to the application of the purchase money;
- (i) To borrow money and to secure the repayment thereof by mortgage on real estate, pledge of securities, or otherwise, without liability on the part of the lenders as to the application of the assets loaned;
- (j) To invest Trust assets collectively with funds of other trusts in one or more of the investment funds for employee benefit trusts established by a Fund Custodian or any other common or commingled fund now or hereafter maintained by any Fund Custodian as the same may be amended from time to time; and if any portion of the Trust is so invested, the declaration creating such funds shall be deemed to be incorporated into this Trust Agreement the same as if fully set forth here;
- (k) To lend stock certificates and other securities constituting part of the Trust assets to securities brokers and others; provided, that the terms and conditions of each such loan shall be established in accordance with, and

shall comply with the applicable Plan, this Trust Agreement and all applicable rules, regulations and laws governing the Board, the applicable Plan and this Trust.

SECTION 10. AMENDMENT OR TERMINATION

10.1 Amendment of the Plan and Trust

The Board of Trustees may, by majority vote, amend the Plan and Trust from time to time in accordance with the Internal Revenue Code, except that no such amendment may permit the return or repayment to the City of Monrovia of any property held or acquired by the Board of Trustees, or the proceeds thereof, or result in or permit the distribution of any property for the benefit of anyone other than Participants, Surviving Spouses, or Surviving Dependents except as allowed by the Act or other applicable law.

10.2 Termination of the Plan and Trust

Subject to the applicable collective bargaining agreement between the City of Monrovia and MPA, the Board of Trustees shall have the right to discontinue or to terminate this Plan and Trust in whole or in part.

10.3 Distribution of Assets Upon Termination

In the event of termination of the Plan and Trust, the assets of the Trust Fund shall be distributed as follows:

- (a) First, to the payment of all reasonable and necessary expenses of managing and administering the Plan and Trust;
- (b) Second, to the payment of benefits to eligible Participants, Surviving Spouses or Surviving Dependents for benefits described under the Plan and Trust;
- (c) Third, to the payment of benefits described in Section 501(c) (9) of the Internal Revenue Code to eligible Members or designated beneficiaries of the Monrovia Police Association except that a disproportionate amount of benefits shall not be provided to officers or highly compensated Members of the MPA.

Upon final distribution of the Trust Fund, the Board of Trustees shall be relieved from all further liability for all amounts paid under this subsection 10.3.

10.4 Transfer of Assets To or From Another Trust

Notwithstanding anything above to the contrary, the Board of Trustees may, if the Trust is wholly or partially terminated, transfer the Trust assets or any portion thereof to any other trust or non-profit entity which provides similar benefits or may

receive assets from any other trust or non-profit entity which is wholly or partially terminated.

SECTION 11. GENERAL PROVISIONS

11.1 Nonalienation of Benefits

No Member, Participant, Surviving Spouse or Surviving Dependent shall have the right to sell, transfer, assign, hypothecate or otherwise dispose of any right or interest under the Plan and Trust and the Board of Trustees shall not recognize or be required to recognize any such sale, transfer, assignment, hypothecation or other disposition; and any right or interest under this Plan and Trust shall not be subject in any manner to voluntarily transfer, or to transfer by operation of law or otherwise, and shall be exempt from the claims of creditors or other claimants and from all orders, decrees, garnishments, executions or other legal or equitable process or proceeding to the fullest extent permissible by law. The Board of Trustees shall, however, comply with a Qualified Domestic Relations Order, to the extent that a contribution is attributable to a Member.

11.2 Applicable Law

The Plan and Trust and the performance thereunder shall be governed by and construed according to the Act and other applicable federal law and, to the extent that federal law is not applicable, according to the laws of the State of California.

11.3 Severability

If any provision of this Plan and Trust is held illegal or invalid for any reason, this illegality or invalidity shall not affect the remaining parts of this Plan and Trust, but this instrument shall be construed and enforced as if the illegal and invalid provisions had never been inserted in this Plan and Trust.

11.4 Payments to Minors and Incompetents

If a Participant, Surviving Spouse, or Surviving Dependent entitled to receive any benefits hereunder is a minor or is deemed by the Board of Trustees or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, benefits will be paid to such persons as the Board of Trustees designates or to the duly appointee guardian. Such payment shall, to the extent made, be deemed a complete discharge of any liability for such payment under the Plan and Trust.

11.5 Agent for Service of Legal Process

The Board of Trustees shall be designated Agent for Service of Legal Process for all matters arising under the Plan and Trust.

11.6 Binding Effect

This Plan and Trust shall be binding upon all Members or former Members claiming to have any interest under the Plan or Trust, their heirs, executors, administrators, conservators and assigns, and upon the City of Monrovia, the Monrovia Police Association, the Board of Trustees and their respective successors and assigns.

11.7 Application for Benefits and Appeal of Denial of Claims

The Plan Administrator shall establish the procedures for the application of benefits provided hereunder and shall make all determinations as to the right of any person to a benefit under the Plan. Subject to and in accordance with the specific procedures contained in applicable regulations under the Act then in effect:

- (a) Any denial of a claim for benefits under the Plan shall be stated in writing by the Plan Administrator and delivered or mailed to the person claiming the benefit;
- (b) Each notice denying benefits shall set forth the specific reasons for the denial, written in a manner that may be understood without legal or actuarial counsel; and
- (c) The Plan Administrator shall afford a reasonable opportunity to any one whose claim for benefits has been denied for a review of the decision denying the claim.
- (d) In the event of any dispute or question arising under this agreement as referenced above, concerning the beneficiaries to whom benefits should be paid, whether any other payments should be made, or to whom any other assets of the trust should be delivered, the Trustees, or any of them, may withhold such action until the dispute or question is determined under the appropriate provisions of the plan and this Trust Agreement. The Trustees may, in the event of competing claims, in their discretion, may deposit any sum claimed by two or more parties in escrow and notify the disputants of the willingness of the trust to deliver the sum so deposited to whomever should establish the right to the sum through appropriate court action and, in such an event, the Trustee shall have no obligation to participate in any litigation between the disputants.

11.8 Governing Provisions

Each fiduciary under the Trust shall discharge his or her duties solely in the interest of Participants and their Dependents and Beneficiaries and with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of a like enterprise of a like character and with like aims.

11.9 Applicable Agreements

The rights and duties of all parties (so far as they relate to this Trust and Trust Fund), including participants and their beneficiaries and Trustees shall be governed by the provisions of this Trust Agreement, the acts of the Trustees and the By-laws of the Trust Fund.

11.10 Agreement Binding on Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the Monrovia Police Association or any organization who hereafter may become a successor to the MPA.

11.11 Governing Law

The Trust Agreement and the performance thereunder shall be governed by and construed according to ERISA and other applicable federal law, and to the extent that federal law is not applicable, according to the laws of the State of California.

11.12 Costs and Expenses of Suits

The cost and expense of any suit or proceeding brought against the Trust Fund or against the Trustees or any of them (including reasonable attorneys' fees), in any matter arising out of or under this Trust Agreement, shall be paid from the Trust Fund; provided, however, that such expenses or fees shall not be payable for any proceeding brought against a fiduciary or fiduciaries on behalf of the Trust Fund to recover from a fiduciary or fiduciaries for damage or loss sustained on account of an alleged breach of fiduciary duty of defendant fiduciary or fiduciaries.

In an action filed by the Trust or any or all of the trustees against a current or former fiduciary, the Trust shall not be obligated to pay to reimburse such current or former fiduciary (being sued) for his or her attorneys' fees, costs and other expenses, unless ordered to do so by a court.

11.13 Interference with Rights Protected by Law

- (a) It shall be unlawful for any person to discharge, fine, suspend, discipline or discriminate against a participant or a beneficiary for exercising any right to which he or she is entitled under the provisions of the Trust Agreement, federal or state law.
- (b) It shall be unlawful for any person to discharge, fine, suspend, expel or discriminate against any person because he or she has given information or has testified or is about to testify in an inquiry or proceeding relating to federal or state law.

- © It shall be unlawful for any person through the use of fraud, force, violence or threat of the use of force or violence to restrain, coerce or intimidate any participant or beneficiary for the purpose of interfering with or preventing the exercise of any right to which he or she is or may become entitled under the Trust Agreement, ERISA, or other federal or state law.

We hereby acknowledge that this document dated October 1, 1995 is the complete and accurate trust document related to the Monrovia Police Officers Association Retirees Medical Trust Fund. The original trustees did not sign the document in 1995. The signatures below are those of the current trustees.

Executed this 14th day of May, 2003

Trustee [Signature]

5/14/03
Date

Trustee Carmen Acosta

5/14/03
Date

Trustee Jane Whitte

5/14/03
Date

Trustee [Signature]

5-14-03
Date

APPENDIX A

REQUIREMENTS FOR REIMBURSEMENT

Each Participant, Surviving Spouse, or Surviving Dependent must complete a form that certifies that:

1. He has been covered under a policy or self-insured plan for the past twelve months (or said period if he has been eligible for less than twelve months).
2. All amounts received from the Trust have been and will be used solely for reimbursement of Qualified Health and Welfare Benefit contribution expenses.
3. The amount spent on Qualified Health and Welfare Benefit contribution expenses equals or exceeds the amount the retiree receives from the Trust.

Each Participant, Surviving Spouse, or Surviving Dependent must also provide the Trust with the:

1. Name of the provider of Qualified Health and Welfare Benefits or plan sponsor.
2. Police or group number.
3. Amount of contribution paid each month.
4. Date and to whom payment was made.

Failure to return forms or provide information results in suspension of benefits until information is received.