



## **MARK CARROLL PENSION FUND**

**SERVING DURANGO FIRE RESCUE AUTHORITY  
VOLUNTEERS**

**Version 2011.01**

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**SECTION 1**

**PRELIMINARY MATTERS**

- 1.1 The name of the pension fund shall be “Durango Fire Rescue Authority, Mark Carroll Volunteer Pension Fund.”
- 1.2 The fund embodies a pension plan for the Durango Fire Rescue Authority as hereafter defined. It is for the exclusive benefit of Volunteer members of Hermosa and Animas Combined to form Durango Fire Rescue Authority, and their beneficiaries and shall be interpreted and administered in a manner consistent with the requirements of section 401(a) of the Internal Revenue Code of 1954 and title 31 of article 30, part 11, Colorado revised statutes, or as they may hereafter be amended. Whenever in this trust discretionary powers are given to any part or wherever an interpretation may be necessary, such powers shall be exercised or such interpretations shall be made in a nondiscriminatory manner.
- 1.3 Under no circumstances shall any part of the corpus or income of this trust be used for or diverted to purposes other than for the exclusive benefit of the members of the Durango Fire Rescue Authority or their beneficiaries, until after the satisfaction of all liabilities under the fund to such members and their beneficiaries.
- 1.4 The trust shall be construed according to the laws of the State of Colorado where it is made and where it shall be performed and enforced.
- 1.5 If the continued existence of these rules and regulations beyond a certain period would cause them to fail by operation of law, then they shall continue for the maximum period permitted by law and shall then terminate with the distribution of all assets as hereinafter provided.

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**SECTION 2**

**DEFINITIONS**

- 2.1 The terms defined in this section shall have the meaning shown unless the context requires otherwise.
- A. “Board” means the board of trustees of the volunteer firefighter pension fund that is created in an authority.
  - B. “District” shall mean Animas Fire Protection District and/or Hermosa Cliff Fire Protection District. The term “District” shall also be construed generally to include any successor organization or any other organization which, with the consent of the district, shall assume the obligations of these rules and regulations with respect to the district members. Such assumption shall be in writing and shall be signed by the district, the trustees and the organization assuming the obligations of these rules and regulations.
  - C. “Trustees” shall mean the trustees signatory to this agreement and their successor trustees as provided by law.
  - D. “Members” shall mean any person on the rolls of the Animas, Hermosa, or Durango Fire Rescue Authority who served as a volunteer firefighter. Evidence of membership shall be by certification from the Human Resource Office of the Authority.
  - E. “Beneficiaries” shall mean any person, estate, trust, or organization entitled to receive any payment or benefit under provisions hereof.
  - F. “Age” shall mean age at last past birthday.
  - G. “Active Service” shall mean that period of time from the point a member becomes eligible under these rules and regulations during which such member is on the rolls of the authority. Such period of “active service” shall include leaves of absence from the authority not to exceed one year of continuous time. All leaves of absence must be approved, in writing by the Authorities Chief or his designee. An approved leave of absence shall be an approval for the purposes of the pension fund and shall run concurrently therewith. “Active Service” shall also include periods of absence in connection with military service during which the member’s membership rights are protected by law. There shall also be included and continuous service rendered to any predecessor, affiliated member, or subsidiary organization of the district.

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- H. “Plan” means a program of benefits provided under 31-30-1100 C.R.S.
- I. “Volunteer Firefighter” means a firefighter who renders service to a fire department in a municipality or district and who does not receive compensation under a contract of employment as a firefighter; as stated under C.R.S 31-3-1102(9)
- J. “Normal Retirement Date” shall mean when a firefighter has reached fifty (50) years of age and has achieved twenty (20) years of active service. Normal retirement rate shall at all times be consistent with C.R.S. 31-30-1123, et seq., and all amendments thereto.
- K. “Retired Member” shall mean a person who has been a member of the district and who has commenced to receive retirement benefits.
- L. “Authority” shall mean the department formed by the consolidation of Animas Fire Protection District, Durango Fire Department, Hermosa Cliff Fire Protection District, and Mercy Paramedics.

**SECTION 3**

**BOARD OF TRUSTEES**

- 3.1 In a Fire Authority, the board must consist of the following members:
  - A. For terms equal to their tenure on the Fire Protection Board: two members of Hermosa Cliff Fire Protection District Board, and two members of Animas Fire Protection District Board.
  - B. Three fire department members elected by the volunteer fire department members for two year terms. Fire department representatives may include current fire department members, retired volunteer members, or retired but returned to active duty volunteer members.
    - (i) The board of trustees shall annually call for nominations of eligible volunteers wanting to sit on the Board of Trustees, prior to holding an election to fill any open seat(s) pursuant to the Bylaws. If more eligible volunteers express interest than there are seats open, an election shall be had through a ballot, with one vote available per eligible volunteer. The person who obtains the most votes in an election shall be appointed to serve on the Board of Trustees.

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- (ii) In the event that a volunteer firefighter resigns from the Board of Trustees or is otherwise unable or ineligible to serve during his or her term of office, there shall be another call for nominations and vote to replace the resigning or ineligible member within ninety (90) days of the member's resignation, to serve for the remainder of the term. If no member volunteers to fill the position, the remaining Trustees may appoint another member to serve until the remainder of the term.
- C. The board shall elect a president, vice president, and secretary/treasurer from its members.
- D. The secretary/treasurer of the board shall obtain a bond paid from the fund in an amount determined by the board.

## **SECTION 4**

### **MEETINGS**

- 4.1 The meetings of the board of trustees shall be held at the principal office of the Durango Fire Rescue Authority; 142 Sheppard Drive, Bodo Park, Durango, Colorado, or at any place within the boundaries of the Authority that a majority of the board of trustees may from time to time by resolution, appoint.

- 4.2 **REGULAR MEETINGS**

The Board of Trustees shall meet not less than quarterly per calendar year. The Board of Trustees may provide, by resolution for the holding of such additional regular meetings, with due notice posted to comply with C.R.S.

- 4.3 **SPECIAL MEETINGS**

Special meetings of the Board of Trustees may be called at any time by the President or by any three members of the Board of Trustees providing one of the three members of the Board of Trustees is a volunteer fire fighter, with due notice posted to comply with C.R.S..

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4.4 NOTICE OF MEETINGS

Written notice of each meeting, setting forth the time and place of the meeting shall be given to each trustee not less than 72 hours prior to the time picked for the meeting, with due notice to comply with C.R.S..

4.5 QUORUM

At meetings of the Board of Trustees, a majority of the directors (four) shall be necessary to constitute a quorum for the transaction of business. If a quorum is present, the action of the majority of trustees in attendance shall be the action of the board providing **one of the trustees in the quorum is a volunteer member of the authority.** A member of the Board of Trustees may participate in a meeting by telephone, but only if his or her voice may be heard by those in attendance and the member may also hear all comments of the other members present at the meeting. Participation by a member in this way shall be deemed to be in attendance at the meeting.

## **SECTION 5**

### **BOARD DUTIES**

- 5.1 Shall adopt necessary rules that are consistent with this plan for the management and discharge of its duties, for its own government and procedure, and for the preservation and protection of the fund.
- 5.2 Shall hear and decide application for benefits under this plan in accordance with section 24-4-105, C.R.S.. Action on an application is final and conclusive. The board may after reconsideration, reverse, an action based on testimony and or information received and validated.
- 5.3 Shall keep and preserve a record of its actions and all other matters brought properly before the board.

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**SECTION 6**

**OFFICERS**

6.1 The officers of the fund shall consist of a president, a vice-president and a secretary/treasurer, all of who shall be members of the Board of Trustees of the fund.

6.2 **GENERAL DUTIES**

All officers and agents of the fund and the members shall have the authority and shall perform such duties as may be provided in these rules and regulations or as may be determined by resolution of the Board of Trustees not inconsistent with these rules and regulations or the statutes of the State of Colorado. In all cases where the duties of any officer, agent or employee are not prescribed by the rules and regulations, by statute, or by the Board of Trustees such officers, agent or employee shall be under the order and instructions of the president.

6.3 **VACANCIES**

When a vacancy occurs in the office of the president vice-president or treasurer, the same shall be filled by the election to those offices by the Board of Directors of the predecessor. In the event that any of the volunteer members of the district serving as director shall resign or shall be unable to fulfill his term of office, the volunteer members of the Authority shall call an election at which the volunteer of the Authority shall elect a successor to serve the remaining term of the office.

6.4 **REMOVAL**

An officer of the fund may be removed by the Board of Trustees, whenever, by a majority vote of such Trustees, it is in the best interest of the fund to do so.

6.5 **PRESIDENT**

The president shall be the chief executive officer of the fund and shall have general supervision of its business and management. The president shall preside at all meetings of the trustees and discharge the duties of a presiding officer and shall perform what other duties the Board of Trustees may from time to time prescribe.

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6.6 VICE-PRESIDENT

The vice-president shall in the absence of the president perform all duties as the Chief Executive Officer of the fund. The vice president shall preside at all meetings of the Trustees and discharge the duties of a presiding officer and shall perform what other duties the Board of Trustees may from time to time prescribe.

6.7 SECRETARY/TREASURER

The secretary/treasurer shall keep or cause to be kept in books provided for the purpose, the minutes of the meetings of the trustees; shall see that all notices are duly given in accordance with the provisions of these rules and regulations and as required by law; shall be custodian of the records of the fund. The secretary/treasurer shall oversee disbursement of the fund, and shall render to the President or the Board of Trustees, whenever they may require an account of his transactions as secretary/treasurer and of the financial condition of the fund. They shall cause to be filed all reports and certifications required by State Statutes. They shall have such other powers and perform such other duties as may be from time to time prescribed by the Board of Trustees or the President.

6.8 BOND

The secretary/treasurer of the fund shall be required to supply bond in an amount designated by the Board of Trustees of the fund and said bond shall be paid for by the fund.

6.9 TERM OF OFFICE

The officers of the fund shall be elected every two years by the Board of Trustees to serve a two-year term of office. The election shall take place at the October meeting of the Board of Trustees. Notice shall be posted to comply with C.R.S..

## **SECTION 7**

### **ELIGIBILITY AND PARTICIPATION**

7.1 Each member shall be, as defined in paragraph 2.D, eligible to become a participant.

7.2 Each member shall be notified by the authority or by the trustees of the existence of the plan and of its provisions. Each member shall be provided a copy of the rules and regulations of the fund.

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- 7.3 To become a participant a volunteer firefighter must be in active service as defined in section 2.1 Paragraph G.
- 7.4 Active members must meet the requirement of 48 hours of annual training set by the DFRA Training Division or any pre-approved out of district trainings, conferences, or educational opportunities.
- 7.5 Any member who shall cease to be a member without qualifying for benefits under the provisions of the statute or of these rules and regulations shall forfeit any right or interest in the fund. A leave of absence for military service during which the member's employment or membership rights were protected by law, or as authorized by the Board of Trustees consistent with section 2.1, Paragraph G of these rules and regulations shall not be construed as termination of membership, provided the member returns to the membership rolls of the fire department on or prior to the expiration date of such leave of absence or within ninety (90) days of his separation from military service. If the members do not return to service during these periods, he shall be deemed to have terminated his membership at the end of such leave.

**SECTION 8**

**FUND INVESTMENT**

- 8.1 The board may invest all or any part of fund moneys as prescribed by C.R.S. 31-30-1113.

**SECTION 9**

**REVISION OF BYLAWS**

- 9.1 These Bylaws may be altered, amended or repealed, in writing, by a majority of the elected Board of Trustees at any regular or special meeting: after changes or amendments have been provided to the board members at a previous open and legal session of the Board of Trustees.

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**SECTION 10**

**EXEMPTION FROM LEVEY**

- 10.1 Except for an assignment for child support purposes as provided in sections 14-10-119 (1) and 14-14-107, as they existed prior to July 1 1996, and except for income assignments for child support purposes pursuant to section 13-13-111 C.R.S and writ of garnishment that is the result of a judgment taken or arrearages for child support or for child support debt, no part of the fund, wither before or after any order of distribution of the fund to a fire department member, retired fire department member, or beneficiary of the fund or the surviving spouse or guardian of any child of a deceased or disabled fire department member or a deceased, disabled, or retired fire department member shall be held, seized, taken, subjected to, detained, or levied on by virtue of any attachment, execution, protest or proceeding of any nature whatsoever issued out of or by any court in this or any other state for the payment or satisfaction of all or part of any debt, damages, claim demand, judgment, fine, or amercement of the municipality or district or of a fire department member, retired fire department member, or their surviving spouses, dependent children, or designated beneficiaries.
- 10.2 The fund must be kept, secured, and distributed for the purpose of issuing pensions and protecting the persons named in this plan and for no other purpose whatsoever; except that the board may annually spend moneys as it deems proper and necessary from the fund for necessary expenses connected with the fund.

**SECTION 11**

**DISABILITY PENSION-RULES-HEARING**

- 11.1 If a volunteer firefighter is injured while in the line of duty as a volunteer firefighter, the board shall pay to the volunteer firefighter:
- (A) A short-term disability monthly annuity for not more than one year in an amount it determines is proper and equitable, considering the financial condition of the fund, but not more than one-half the amount paid by the board pursuant to section 12.1 or two hundred twenty five dollars, which ever is greater; or

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- (B) A long- term disability monthly annuity for a disability that deprives the volunteer firefighter of an earning capacity and that extends beyond one year in an amount it determines is proper and necessary but not more than the amount paid by the board pursuant to section 12.1 or four hundred fifty dollars, whichever is greater.
- 11.2 Disability-pension applicants shall be examined by one or more physicians selected by the board and may be examined by one or more physicians selected by the applicant. The board shall pay from the fund the expenses of the physician chosen by the board.
- 11.3 The board shall adopt rules it deems proper concerning the examination of persons who are receiving disability benefits under this section to determine periodically the fitness of these persons. A person who is receiving benefits under this section and who is either fifty year of age or has completed twenty years of active duty in the fire department before the date disability benefits under this section are first provided shall not be reexamined. A person receiving benefits shall not be examined before one year after the date disability benefits under this section are first provided and not more often than annually after this date.
- 11.4 The board shall terminate the disability benefits under this section of a person who the board finds has recovered sufficiently from the disability that resulted in the receipt of these benefits, is under the age of fifty years, and has served less than twenty years of active duty. A person who benefits are terminated under this subsection (4) may file a written protest within thirty days after the termination date stating the objection to the termination and requesting a hearing. The decision of the board is suspended pending a hearing on the protest. At the hearing, the member may appear and be represented by counsel.

## **SECTION 12**

### **RETIREMENT PENSION**

- 12.1 The DFRA Mark Carroll Volunteer Pension Fund Board shall pay a retirement pension to a volunteer firefighter who has twenty years of active service and who is over the age of fifty years. The retirement pension shall be an amount determined by the board of not more than one hundred dollars per month, unless an actuarial review indicates a higher payment is actuarially sound. A volunteer firefighter who leaves the department after ten years or more of service but has not reached the age of fifty shall be vested and may receive a pro rata pension at fifty years of age.

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- 12.2 To apply for a pension from the DFRA Mark Carroll Volunteer Pension Fund, the volunteer firefighter, must present, in writing a request for a pension at one meeting. It will then be acted upon at the following quarterly meeting, after being authenticated by the Human Resource Director.
- 12.3 Notwithstanding subsection (1) of this section, the board shall pay a retirement pension to a volunteer firefighter who has less than twenty years of active service if the district's fund is actuarially sound. The board has determined the period of active service necessary to qualify for this retirement pension, to be ten years. The board shall not pay this retirement pension, until the volunteer firefighter is fifty years of age. The amount of this retirement pension shall be determined by prorating the amount of the retirement pension under subsection (1) of this section based on the volunteer firefighter's years of service.
- 12.4 Whenever the board increases the retirement pension benefit payable pursuant to subsection (1) of this section, such increase shall also be applied to the pension benefit of any retired volunteer firefighter receiving the pension benefit specified in subsection (1) of this section at the time of of such increase. The applicable pro rata of any such increase, based upon the number of years of service, shall also be applied to the pension benefit of any retired volunteer firefighter receiving the pension benefit specified in subsection (3) of this section.

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**SECTION 13**

**RETIREMENT PENSION - SOURCES OF PAYMENT**

13.1 The retirement pension of a volunteer firefighter who has earned twenty years of active service, as a volunteer firefighter for any one district shall be paid from the fund of that district, and no other fund shall pay a pension to that volunteer firefighter. The retirement pension of a volunteer firefighter who earns twenty years of active service as a volunteer after June 2, 1977, by serving more than one district shall be paid from the fund of each district for which the volunteer firefighter served at least five years. The amount paid by each fund for each year of service with the particular district, shall equal one-twentieth of the particular district. The retirement pension of a volunteer firefighter who earns twenty years of active service as a volunteer firefighter by serving more than one district shall be paid only by the district last served by that volunteer firefighter if any part of the twenty years of service was earned on or before June 2, 1977. In no event shall a volunteer firefighter receive a total retirement benefit from all volunteer firefighter pension funds exceeding the maximum amount paid by the board from such funds pursuant to section 12.1 or four hundred fifty dollars whichever is greater.

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**SECTION 14**

**COMPLIANCE-INSUFFICIENT MONEYS**

- 14.1 The board may require information including proof of years of service, and establish procedures as it deems necessary to ensure compliance with the requirements and limitations of sections 12 and 13.
- 14.2 If at any time money or other property in the fund is insufficient to pay the full amount per month to which each volunteer firefighter receiving a pension under this plan and other beneficiary of the fund is entitled, an equal percentage of the monthly payment shall be made to those volunteer firefighter and other beneficiaries until the fund is replenished in an amount that permits payment in full to those volunteer firefighters and other beneficiaries.

**SECTION 15**

**SUPPLEMENTAL RETIREMENT PENSION**

- 15.1 In addition to the monthly retirement pension provided by section 12, the board shall pay a supplemental monthly retirement pension to a volunteer firefighter who is fifty years of age and who has been in active service more than twenty years if:
- (A) An actuarial review indicates a supplemental monthly pension payment is actuarially sound; and
  - (B) Sixty-five percent of the total number of volunteer department members and retired fire department members give prior approval.
- 15.2 The supplemental monthly pension payment shall not exceed five percent of the monthly pension payment provided by section 12 multiplied by the number of years of active service in excess of twenty years, up to a maximum of ten years; except that the total of the monthly retirement pension payment provided by section 12 and the supplemental monthly pension payment shall not exceed an amount that is actuarially sound.

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**SECTION 16**

**RETIRED FIREFIGHTER-RETURN TO ACTIVE SERVICE-BENEFITS**

- 16.1 If the board of the fire authority, by resolution, determines that a fire department is in need of additional volunteer firefighters, a retired fire department member shall be eligible to serve as an active volunteer firefighter of such fire department. Any retired fire department member who, subsequent to retirement, serves as an active volunteer firefighter for a fire department pursuant to this section shall continue to receive benefits from the volunteer firefighter pension fund under this article during the period in which the person is an active volunteer firefighter of the fire department. During the period such person is receiving a pension and acting as an active volunteer firefighter pursuant to this section, such person shall not receive service credit for the purpose of increasing such pension.

**SECTION 17**

**SURVIVOR BENEFIT**

- 17.1 Except as otherwise provided in subsection (3) of this section, upon the death of a retired fire department member or a volunteer firefighter who, regardless of age, has served the requisite number of years for retirement under section 12 and who leaves a surviving spouse, the board shall pay an annuity of not more than fifty percent of the current pension payment for a retired fire department member if the fund is actuarially sound. If the volunteer firefighter had less than twenty years of active service, the annuity to the surviving spouse shall be prorated based upon the number of years of service and paid at what would have been the firefighters 50th birthday.
- 17.2 This annuity to the surviving spouse shall cease if the surviving spouse remarries. Dissolution of a subsequent marriage does not reinstate the annuity. A surviving spouse shall not receive both an annuity under section 18 and an annuity under this section.
- 17.3 The benefits under this section shall be increased in the same manner as post-retirement benefit increases as provided in section 12 (4).

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**SECTION 18**

**SURVIVOR BENEFIT-DEATH FROM INJURIES IN THE LINE OF DUTY**

- 18.1 Except as otherwise provided in subsection (4) of this section if a firefighter dies from injuries received while in the line of duty, as a volunteer and leaves a surviving spouse, the board shall pay the surviving spouse a monthly annuity of not more than one-half the amount paid pursuant to section 15.1 or one-half a twenty year pension, whichever is greater. The annuity shall cease if the surviving spouse remarries. Dissolution of a subsequent marriage does not reinstate the annuity.
- 18.2 Except as otherwise provided in subsection (4) of this section, if there is no surviving spouse as provided in subsection (1) of this section but there is a surviving child of the deceased volunteer firefighter under eighteen years of age, the board shall pay a monthly annuity, but not more than one-half the amount paid by the board pursuant to section 15.1 or one-half a twenty year pension. The board shall pay this annuity to the guardian of the child on behalf of the child. The annuity shall cease when the child is eighteen years of age.
- 18.3 Except as otherwise provided in subsection (4) of this section, if there is no surviving spouse or child as provided in subsection (1) and (2) of this section but there is a surviving dependent parent of the deceased volunteer firefighter, the board shall pay the dependent parent a monthly annuity of not more than one-half the amount paid pursuant to section 15.1 or one-half of a twenty year pension. The annuity shall cease if the dependent parent remarries, dissolution of a subsequent marriage does not reinstate the annuity.
- 18.4 The benefits under this section:
- (A) Are in addition to the educational benefits under section 23-3-3-205 CRS
  - (B) Shall be increased in the same manner as post-retirement benefit increases as provided in section 12 (3).

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**SECTION 19**

**FUNERAL BENEFIT**

- 19.1 When an active volunteer firefighter or retired fire department member dies, the board shall pay funeral benefit to assist in the proper burial of the deceased firefighter in an amount determined by the board of not more than twice the amount determined by the board under section 12, but not less than one hundred dollars. The board shall pay this funeral benefit to any person who pays the necessary funeral expenses.

**SECTION 20**

**FIRE DEPARTMENT DISSOLUTION**

- 20.1 If a fire department dissolves and the service of the volunteer firefighters or the fire department are discontinued:
- (A) The benefits paid under this plan to volunteer firefighters or their surviving spouses, dependent parents, children, and other beneficiaries at the time of the dissolution shall continue.
  - (B) Assets of the fund shall be transferred with other assets of the fire department and shall be administered by the Board of Trustees of the successor pension fund:
  - (C) In no event shall the rate of compensation be altered either after commencement of proceedings for dissolution has occurred or after its completion:
  - (D) A volunteer firefighter who has accrued ten or more years of active service at the time of the dissolution's shall be granted an annuity after the firefighter is fifty years of age. The annuity shall be prorated in accordance with the number of years of service and the amount of annuity being paid for age and service pensions by the board at the time of the dissolution.