

**EXHIBIT A**  
**NINTH AMENDMENT TO THE**  
**ST. MARY’S COUNTY SHERIFF’S OFFICE RETIREMENT PLAN**

First Change – Section 1.05(j) shall be amended to read as follows:

(j) *Compensation*. "Compensation" means the Participant's base annual salary, determined without regard to:

- (1) Overtime, bonuses and other extra Remuneration;
- (2) Amounts in excess of the applicable dollar limit under Section 401(a)(17) of the Internal Revenue Code and regulations promulgated thereunder, as adjusted by the Commissioner of the Internal Revenue Service for increases in the cost of living in accordance with Section 401(a)(17)(b) of the Internal Revenue Code;
- (3) Contributions, credits or benefits under this Plan or under any other retirement, deferred compensation, fringe benefit or employee welfare benefit plan; ~~or~~
- (4) **Differential wage payments as defined in Title 26, Section 3401(h) of the United States Code (referring to an employer payment to an Employee called to active duty in the uniformed services for more than 30 days that represents all or a portion of the pay he would have received from the County if he were performing services for the County); or**
- (5) Direct reimbursement for expenses[delete:  ~~; provided.~~]

**Provided**, however, that Compensation shall include any amount that would have qualified as Compensation but for the fact that it constitutes salary reduction under any Plan described in Section 414(h)(2), 132(f), 457 or 125 of the Internal Revenue Code.

Second Change – Section 1.05(o) shall be amended to read as follows:

(o) *Employee*. “Employee” means any person employed by the County **including any person eligible to receive differential wage payments as defined in Title 26, Section 3401(h) of the United States Code (referring to an employer payment to an Employee called to active duty in the uniformed services for more than 30 days that represents all or a portion of the pay he would have received from the County if he were performing services for the County).**

Third Change – Section 1.05(p)(1) shall be amended to read as follows:

- (1) The contributions made by the Participant through salary reduction and “picked up” by the County, as described in Section [delete: 3.04(a)(i)] **3.04(a)(1)**, (but not 3.04(a)(3)); plus

Fourth Change - Section 4.04 shall be amended by the addition of the following subsection 4.04(e)(7):

**(7) *Disability as a result of Military Service.*** A Participant who reaches a Termination Date by reason of a total and permanent disability incurred during and as a result of the Participant's Military Service shall be eligible to apply for ordinary, but not line of duty, disability benefits under this Section 4.04 in accordance with Section 414(u) of the Code effective July 1, 2009.

Fifth Change – Section 4.06 shall be amended to read as follows:

**Section 4.06 Maximum Limitation on Benefits.**

Notwithstanding any Plan provisions to the contrary:

**To the extent necessary to prevent disqualification under Section 415 of the Internal Revenue Code, and subject to the remainder of this Section 4.06, the maximum monthly benefit to which any Participant may be entitled at any time pursuant to this ARTICLE IV (hereafter referred to as the "Maximum Benefit") shall not exceed the benefit determined in accordance with Section 415 of the Code, and the regulations promulgated thereunder, both as amended from time to time, (such amount, as adjusted by the Internal Revenue Service for C/L Increases, hereafter referred to as the "monthly dollar limit"). The rate of benefit accruals shall be frozen or reduced accordingly to comply with the limitations. In addition to the foregoing, the Maximum Benefit shall be reduced, and the rate of benefit accrual shall be frozen or reduced accordingly, to the extent necessary to prevent disqualification of the Plan under Section 415 of the Internal Revenue Code, with respect to any Participant who is also a Participant in: (i) any other tax-qualified pension plan maintained by the County, including a defined benefit plan in which an individual medical benefit account (as described in Section 415(l) of the Internal Revenue Code) has been established for the Participant; (ii) any welfare plan maintained by the County in which a separate account (as described in Section 419A(d) of the Internal Revenue Code) has been established to provide post-retirement medical benefits for the Participant; and/or (iii) any retirement or welfare plan, as aforesaid, maintained by a related employer, as described in Section 414(b), (c), (m) or (o) of the Internal Revenue Code. For purposes of this Section 4.06, the "Limitation Year" shall be defined as the calendar year, except as otherwise provided by adoption of a written resolution by the County.**

**[Delete:** (a) *Maximum Benefit.* To the extent necessary to prevent disqualification under Section 415 of the Internal Revenue Code, and subject to the remainder of this Section, the maximum monthly benefit to which any Participant may be entitled at any time (the "Maximum Benefit") shall be equal to one-twelfth (1/12<sup>th</sup>) of the amount set forth in Section 415(b)(1)(A) of the Internal Revenue Code, as adjusted by C/L Increases, (the "Monthly Dollar Limit"). The rate of benefit accrual shall be frozen or reduced accordingly to comply with the limitations.

(b) *Actuarial Adjustment of Dollar Limit.* The Dollar Limit shall be subject to actuarial adjustment as follows:

**[Continued Deletion:]**

- (1) If the benefit is payable in any form other than a single life annuity or a qualified joint and survivor annuity (as defined for purposes of Section 415 of the Internal Revenue Code), the maximum benefit shall be reduced so that it is the Actuarial Equivalent of the single life annuity.
  - (2)
    - (i) With respect to a benefit beginning before age 62, the Monthly Dollar Limit shall be reduced to the Actuarial Equivalent of a monthly benefit in the amount of the Monthly Dollar Limit beginning at age 62.
    - (ii) Notwithstanding the foregoing, however, in no event shall the Monthly Dollar Limit applicable to benefits beginning before age 62 be reduced for Participants who have been credited with at least 15 Years of Credited Service:
      - A. As a full-time Covered Employee of the County;
      - B. In Military Service; or
      - C. In a combination of A. or B.
  - (3) With respect to a benefit beginning after age 65, the Monthly Dollar Limit shall be increased so that it is the Actuarial Equivalent of a Monthly Dollar Limit applicable to a benefit beginning at age 65.
  - (4) For purposes of this subsection (b), “Actuarial Equivalent” shall be as defined in Section 1.05(b), except that the interest rate assumption for purposes of a computation under paragraph (1) or (2) above shall not be less than five percent or any higher rate specified in the definition of “Actuarial Equivalent.” For purposes of a computation under paragraph (3) above, the interest rate assumption shall not be greater than five percent or any lower rate specified in the definition of “Actuarial Equivalent.”
- (c) *Reducing Dollar Limit.* The Monthly Dollar Limit shall be reduced (but not by more than 90%) by 1/10th for each Year of Credited Service less than ten, considering only those Years of Credited Service during any part of which the Participant was participating in the Plan (including those periods for which he or she elected to transfer service pursuant to Sections 2.04 through 2.06).
- (d) *Limits on Combined Defined Benefit Plan and Defined Contribution Plan.* Except as otherwise provided by Section 415 of the Internal Revenue Code, in any case in which an individual has at any time participated in a defined benefit plan and a defined contribution plan maintained by the County, the sum of the defined benefit plan fraction and the defined contribution plan fraction for any Limitation Year may not exceed 1.0. For this purpose:
- (1) *Defined Benefit Plan Fraction.* The defined benefit plan fraction for any Limitation Year is a fraction, the numerator of which is the projected annual benefit of the individual under the Plan

**[Continued Deletion]**

(determined as of the close of the Limitation Year, and assuming continued employment until Normal Retirement Date and constancy of all other relevant factors), and the denominator of which is .25 times the Dollar Limit for such Limitation Year; or

- (2) *Defined Contribution Plan Fraction.* The defined contribution plan fraction for any Limitation Year is a fraction, the numerator of which is the sum of the annual additions to the individual's account as of the close of the Limitation Year, and the denominator of which (unless the County elects otherwise pursuant to Section 415(e)(5) of the Internal Revenue Code) is the sum of the product of 1.25 times the Dollar Limit for the applicable Limitation Year under Section 415(c)(1)(A) of the Internal Revenue Code, determined separately for such Limitation Year and for each prior Limitation Year during which the individual had any hours of service.
- (3) *Limitation Year.* Limitation Year shall be defined as the calendar year, except as otherwise provided by adoption of a written resolution by the County.
- (4) *If 1.0 Limitation is Exceeded.* In the event that the 1.0 limitation has been exceeded, provisions contained in the defined contribution plan to freeze or reduce annual additions to a level necessary to prevent disqualification under Section 415 of the Internal Revenue Code shall be applied prior to application of provisions contained in the defined benefit plan to freeze or reduce the rate of benefit accrual to a level necessary to prevent such disqualification.

(e) *Other Reductions in Maximum Benefit.* In addition to the foregoing, the maximum benefit shall be reduced, and the rate of benefit accrual shall be frozen or reduced accordingly, to the extent necessary to prevent disqualification of the Plan under Section 415 of the Internal Revenue Code, with respect to any Participant who is also a Participant in:

- (1) Any other tax-qualified pension plan maintained by the County, including a defined benefit plan in which an individual medical benefit account (as described in Section 415(l) of the Internal Revenue Code) has been established for the Participant;
- (2) Any welfare plan maintained by the County in which a separate account (as described in Section 419A(d) of the Internal Revenue Code) has been established to provide post-retirement medical benefits for the Participant; and/or
- (3) Any retirement or welfare plan, as aforesaid, maintained by a related employer, as described in Section 414(b), (c), (m) or (o) of the Internal Revenue Code.

(f) For Limitation Years beginning on and after January 1, 2001, for purposes of applying the limitations of this Section 4.06, compensation paid or made available during such Limitation Years shall include elective amounts that are not includible in the gross income of the employee by reason of Section 132(f)(4) of the Internal Revenue Code.]

Sixth Change – Section 5.01 is amended to read as follows:

The only benefits payable under the Plan in the event of the death of a Participant shall be paid to those persons designated in accordance with Section 7.01 as follows:

(a) *Death Benefit.* In the event of the death of a Participant prior to his or her Benefit Commencement Date, the Participant's Beneficiary shall be entitled to receive either the benefits described in (1), (2) or (3), as applicable:

(1) *General Benefit.* The Beneficiary shall be entitled to receive:

- (i) The Participant's Employee Contributions Benefit, payable in one or more installments over a period which meets the requirements of Section 5.02 and which is designated by the Participant, or, if the Participant has made no designation, by his or her Beneficiary; plus
- (ii) **If the Participant had not reached a Termination Date as of the date of death**, an amount, payable as a single lump sum, equal to the Participant's Compensation determined as of the date of death.

(2) *Surviving Spouse Annuity Benefit.*

- (i) If all of the following conditions are met, then the surviving spouse of a deceased Participant shall be entitled to receive a survivor annuity, in lieu of any other plan benefit:
  - A. The Participant is married on the date of death;
  - B. The Participant's death occurs before the Participant's [delete: Benefit Commencement] **Termination** Date and after the Participant has completed at least five Years of Eligibility Service; and
  - C. The spouse does not elect to receive the benefit provided in (a)(1) above.
- (ii) For purposes of this subsection, a survivor annuity is an annual income commencing in the month next following the Participant's death, and continuing for the remainder of the surviving spouse's life, or until the surviving spouse's remarriage, in an amount equal to 1.6%, multiplied by the Participant's Average Compensation, multiplied by the Participant's Years of Credited Service, to a maximum of 35 years.

(3) *Surviving Children's Benefit.*

- (i) If all of the following conditions are met, then the surviving children of a deceased Participant shall receive a survivor benefit, in lieu of any other plan benefit:
  - A. The Participant's death occurs before the Participant's [delete: Benefit Commencement] **Termination** Date and the Participant has completed at least five Years of Eligibility Service;
  - B. The Participant is not married on the Participant's date of death;

- C. The Participant has at least one natural or adopted child: (1) under age 18 if not a full-time student, (2) under age 23 if a full time student, or (3) who is institutionalized by reason of physical or mental infirmity, as of the date of the Participant's death ("Eligible Child" or "Eligible Children"); and
  - D. The Eligible Children, or their guardians, do not elect to receive the benefit provided in (a)(1) above.
- (ii) For purposes of this subsection, the surviving children's benefit is an annual income commencing in the month next following the Participant's death in an amount equal to 1.6%, multiplied by the Participant's Average Compensation, multiplied by the Participant's Years of Credited Service, to a maximum of 35 years and paid, in the aggregate, to the Participant's Eligible Children.
  - (iii) The benefits payable to any child of the Participant pursuant to this subsection shall continue until the first day of the month preceding the earlier of:
    - 1. The death of the child; or
    - 2. The child's ceasing to be an Eligible Child.
  - (iv) The benefits payable to any child of the Participant pursuant to this subsection shall not increase as a result of the cessation of payments to any other child of the Participant pursuant to subsection (iii) above.

(b) *Benefits Payable after Benefit Commencement Date.* If a Participant dies after the Participant's Benefit Commencement Date, the benefits, if any, to which his or her Beneficiary shall be entitled shall depend upon the form in which the Participant's benefits were payable at the time of death, under the applicable form of benefit described in Article VI.

(c) *Distribution to Non-Spouse Beneficiaries.* Notwithstanding any provision of the Plan to the contrary that would otherwise limit the option of the Beneficiary of a deceased Participant who is not a Distributee, within the meaning of Section 6.04(a)(3), the Plan Administrator shall, upon the request of such a Beneficiary, transfer a lump sum distribution to the trustee of an individual retirement account established under Section 408 of the Internal Revenue Code in accordance with the provisions of Section 402(c)(11) of the Internal Revenue Code.

**(d) *Death as a result of Military Service.* The Beneficiary of a Participant who reaches a Termination Date by reason of death during and as a result of the Participant's Military Service shall be eligible to apply for death benefits under this Section 5.01, in accordance with Section 414(u) of the Code effective July 1, 2009.**

Seventh Change – Section 6.04(a)(2) shall be amended to read as follows:

(2) *Eligible Retirement Plan.*

(i) An "Eligible Retirement Plan" is:

A. An individual retirement account described in Section 408(a) of the

Internal Revenue Code;

- B. An individual retirement annuity described in Section 408(b) of the Internal Revenue Code; or
  - C. A qualified trust described in Section 401(a) of the Internal Revenue Code that accepts the Distributee's Eligible Rollover Distribution.
  - D. An annuity plan described in Section 403(a) of the Internal Revenue Code;
  - E. An annuity contract described in Section 403(b) of the Internal Revenue Code;
  - F. An eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code maintained by a governmental employer within the meaning of Section 457(e)(1)(A) of the Internal Revenue Code.
  - G. For distributions made after December 31, 2007, a Roth IRA within the meaning of Section 408A of the Internal Revenue Code.
- (ii) However, in the case of an Eligible Rollover Distribution to the surviving spouse of a Participant or former Participant, an Eligible Retirement Plan is an individual retirement account or individual retirement annuity.
- (iii) **With respect to distributions made after December 31, 2006, to the extent the Eligible Rollover Distribution consists of amounts not includible in the Participant's or former Participant's taxable income, an "Eligible Retirement Plan" is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, a qualified trust described in Section 401(a) of the Code, or an annuity contract described in Section 403(b) of the Code that separately accounts for the non-taxable amounts transferred, and earnings thereon.**

Eighth Change – Section 8.01(b) shall be amended to read as follows:

(b) The County shall have the right to amend the Plan, at any time, and all parties thereto or claiming any interest thereunder shall be bound thereby. Notwithstanding any other provision of County law, no County resolution or ordinance which relates to the subject matter of the Plan or conflicts with, narrows, or expands any term of this Plan shall be effective unless the County acts by [delete: ordinance] **resolution** which specifically amends the provisions of this Plan and which has been passed in accordance with the procedures required by the County. **A public hearing will be required for all amendments to the Plan.** No amendment which affects the rights, duties, responsibilities or immunities of the Trustees shall be binding upon the Trustees in the absence of their consent thereto.