



RESOLUTION 17-42

Upon a Motion duly made and seconded, the foregoing resolution was adopted by the following vote:

ABSENT AYE
DANNY WILLCOX, CHAIR

[Signature] AYE
CHRISTOPHER RICHARDSON, COMMISSIONER

[Signature] AYE
GRANT THAYER, COMMISSIONER

ATTEST: DALLAS SCHROEDER
COUNTY CLERK

BY: [Signature]
Clerk to the Board



**COLORADO COUNTY OFFICIALS AND
EMPLOYEES RETIREMENT ASSOCIATION
RETIREMENT PLAN AND TRUST AGREEMENT**

401(a) PARTICIPATION AGREEMENT

Amended and Restated Effective as of July 1, 2013

Prepared by

HOLLAND & HART LLP

ATTORNEYS AT LAW

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**COLORADO COUNTY OFFICIALS AND EMPLOYEES
RETIREMENT ASSOCIATION RETIREMENT PLAN AND
TRUST AGREEMENT**

401(a) PARTICIPATION AGREEMENT

Association Member / Participating Employer: Elbert County Government

Association Member Original Participation Date: 7/1/1968

Participation Agreement Effective Date: 4/1/2018

Prior Participation Agreement Information. If this is an amended Participation Agreement, please indicate the effective date of the last Participation Agreement: _____

4/1/2017

PREAMBLE

I. **AGREEMENT.** By this Agreement, by and between Colorado County Officials and Employees Retirement Association (“Association”) and the Association Member specified in this Participation Agreement (“Agreement”), the Association Member adopts as a Participating Employer the Colorado County Officials and Employees Retirement Association Retirement Plan and Trust Agreement (the “Plan”), as amended and restated effective July 1, 2013, and as further amended or supplemented from time to time, subject to the modifications set forth in this Agreement. This Agreement shall amend and supersede any previous participation agreement made by and between the Association Member and the Association.

II. **ADOPTION OF THE PLAN.** The specified Association Member adopts the Plan as a Participating Employer pursuant to the terms of the Plan and this Participation Agreement, effective as of the Participation Agreement Effective Date. The Participating Employer’s participation in the Plan is conditioned on the timely payment by the Participating Employer of its proportional share of contributions under the Plan, and in the case of contributions deducted from a Participant’s Compensation, payment will be made as soon as practicable, but in no event later than the thirtieth (30th) day after such amounts would otherwise have been paid to the Participant.

III. **REVIEW OF THE PLAN.** The Participating Employer has reviewed the Plan, and in particular, Article 15 of the Plan. The Participating Employer has consulted, or had opportunity to consult, with its legal and tax advisors with reference to the Plan and this Participation Agreement.



IV. APPROVAL OF PLAN TRUSTEE AND ADMINISTRATOR. The Participating Employer approves and confirms the Trustee and Administrator designated by the Association in the Plan to serve in each such capacities.

V. ASSOCIATION AS AGENT. The Participating Employer irrevocably designates the Association as its agent as set forth in Article 15 of the Plan for all purposes of the Plan, and authorizes the Association, on behalf of the Participating Employer, to perform the specific acts and to exercise the specific powers granted under the Plan. The Association or its designee shall have authority to make any and all necessary rules or regulations, binding upon the Participating Employer and its Employees, to effectuate the purpose of the Plan.

VI. PARTICIPATING EMPLOYER'S CONTRIBUTIONS. All contributions made by the Participating Employer under the Plan and this Participation Agreement shall be determined separately by each Participating Employer, and shall be allocated only among the eligible Participants of the Participating Employer making the contribution in accordance with Section 3.1 of the Plan.



PARTICIPATING EMPLOYER ELECTIONS

(Paragraphs in this section are numbered to correspond to sections of the Plan.)

Note: Officials may opt out of Plan participation; however, if Officials do participate they do not have to satisfy any minimum eligibility requirements. Accordingly, Sections 2.1(b)(2), 2.4(b) and 2.5(a) below only pertain to Employees. Additionally, Officials are always fully vested in Participating Employer contributions; therefore Sections 5.2(b)(1), 5.2(c), 5.2(d), 5.2(e) and 5.2(g) below only pertain to Employees.

2.1(b)(2) **STATUS OF EMPLOYEE.** "Employee" means the following: *[Specify one option only.]*

Every employee of the Participating Employer who: *[Complete either (a) and (b) together or (c) only.]*

(a) works at least 12 months per year, and

(b) who works at least 30 hours per week; or

(c) who works at least _____ hours per year.

All Employees. Every employee of the Participating Employer.

2.1(b)(2) **ELIGIBILITY SERVICE PERIOD.** To become eligible to participate in the Plan, an Employee must continuously perform the type of service required above (e.g., a certain number of hours per week) for the period of time specified below: *[Specify one option only.]*

None. Every Employee meeting the criteria above may begin participation upon the first day of the payroll period following the Employee's Date of Hire.

Twelve month period.

Six month period.

_____ month period. (Reminder, maximum vesting period is ten years.)

2.4(b)

RE-EMPLOYMENT MORE THAN THIRTY (30) DAYS AFTER TERMINATION.
[Specify one option only.]

- The Participating Employer shall grant prior service credit for purposes of **eligibility** service in the event an Employee terminates employment with an Association Member (including the Participating Employer) more than thirty (30) days before his most recent Date of Hire with the Participating Employer.
- In accordance with the default provisions of Section 2.4(b) of the Plan, the Participating Employer shall not grant prior service credit for purposes of **eligibility** service in the event an Employee terminates employment with an Association Member (including the Participating Employer) more than thirty (30) days before his most recent Date of Hire with the Participating Employer.
- Not Applicable. **Eligibility** service has been selected above as immediate (none).

2.5(a)

CHANGE IN STATUS. *[Specify one option only.]*

- A Participant who continues in the employ of the Participating Employer but ceases to be employed in the capacity required for eligibility as defined above will be deemed to satisfy the eligibility provisions and will continue to make contributions to the Plan under Plan Section 3.3, and will be entitled to participate in the allocation of any contribution of the Participating Employer made under Plan Section 3.1 and 3.2, despite the change in status.
- In accordance with the default provisions of Section 2.5(a) of the Plan, a Participant who continues in the employ of the Participating Employer but ceases to be employed in the capacity required for eligibility as defined above will no longer satisfy the eligibility provisions.
[If this option is chosen, select one of the following.]
 - Upon return to an employment status meeting the eligibility criteria, the Employee must complete the applicable Eligibility Service Period (which shall commence as of the date the Employee returns to such employment status) before recommencing participation in the Plan.
 - Upon return to an employment status meeting the eligibility criteria, the Employee will recommence participation as of the first day of the month following the date the Employee returns to such employment status.



3.1(a)

PARTICIPATING EMPLOYER CONTRIBUTIONS. The Participating Employer shall make a contribution for each Participant for each Plan Month as specified below: *[Specify one option only.]*

- The Participating Employer will contribute 3% of the Compensation of such Participant for the Plan Month.
- The Participating Employer will contribute 4% of the Compensation of such Participant for the Plan Month.
- The Participating Employer will contribute 5% of the Compensation of such Participant for the Plan Month.
- The Participating Employer will contribute 6% of the Compensation of such Participant for the Plan Month.
- The Participating Employer will contribute 7% of the Compensation of such Participant for the Plan Month.
- The Participating Employer will contribute ___% of the Compensation of such Participant for the Plan Month.
- The Participating Employer's contribution for each Participant will equal an amount directed by each Participant, with a minimum of _____% (a whole percentage, no less than three percent (3%)) and a maximum of _____% of the Compensation of such Participant. **Once an election is made, it is an irrevocable election until a new Participation Agreement is adopted.**
- The Participating Employer will contribute to each Participant _____% (a whole percentage, no less than three percent (3%)) of the Compensation of such Participant for the Plan Month based on _____ attained Years of Service; _____% (a whole percentage, no less than three percent (3%)) of the Compensation of such Participant for the Plan Month based on _____ attained Years of Service; _____% (a whole percentage, no less than three percent (3%)) of the Compensation of such Participant for the Plan Month based on _____ attained Years of Service; and _____% (a whole percentage, no less than three percent (3%)) of the Compensation of such Participant for the Plan Month based on _____ attained Years of Service.
- For Participants hired after March 31, 1986, the Participating Employer will contribute the percentage of Compensation of such Participant for the Plan Month corresponding to the rate required of the employer share portion of Social Security (Old Age, Survivors, and Disability) under the Federal Insurance Contributions Act, as defined in C.R.S. Section 24-53-101 for that Plan Month. Contributions for a Participant will stop once such Participant's earnings have reached the social security annual maximum taxable



earnings limit. For Participants hired on or before March 31, 1986, the Participating Employer will contribute the percentage of Compensation of the Participant for the Plan Month corresponding to the rate required for the employer share of both the Social Security and Medicare components of the Federal Insurance Contributions Act, as defined in C.R.S. Section 24-53-101 for that Plan Month. For Participants hired on or before March 31, 1986, the Social Security component of the Participating Employer Contribution will stop once such Participant's earnings have reached the Social Security annual maximum taxable earnings limit.

3.2 **PRIOR SERVICE BENEFITS.** The Participating Employer may elect to make a Prior Service Benefit contribution to each Eligible Official and Eligible Employee. The Participating Employer shall contribute to each Eligible Official and each Eligible Employee the percentage (elected below) of such Eligible Official's or Eligible Employee's annual Compensation for the elected Prior Service Period. The Prior Service Benefits shall be paid in equal monthly installments during the Pay Out Period. *[Specify one option only.]*

The Participating Employer elects not to make a Prior Service Benefit contribution.

The Participating Employer will contribute to each Eligible Official and each Eligible Employee ____% (a whole percentage no less than three percent (3%) of the annual Compensation of each Eligible Official and Eligible Employee during the Prior Service Period. *[Complete both A and B.]*

A. The Prior Service Period is ____ (number from one to five) twelve (12) month period(s) of continuous employment of such Eligible Official and Eligible Employee ending on the Effective Date. *[Specify one option only.]*

Continuous employment is counted for employment with the Participating Employer only.

Continuous employment is counted for employment with Association Members only.

B. Prior Service Benefit contributions shall be made in equal monthly installments over ____ (number from one to 36) continuous calendar month(s).



3.3 MANDATORY PARTICIPANT CONTRIBUTIONS. Mandatory Participant Contributions shall be: *[Specify one option only.]*

- Before-tax in accordance with C.R.S. Section 24-54-104(4) and Internal Revenue Code Section 414(h)(2).*
- After-tax.

3.3(a) MANDATORY PARTICIPANT CONTRIBUTIONS FOR SOCIAL SECURITY REPLACEMENT PLANS. If Section 3.1(a) of this Participation Agreement is completed to indicate that the Participating Employer will contribute the percentage of Compensation of such Participant for the Plan Month corresponding to the rate provided under the Federal Insurance Contributions Act, as defined in C.R.S. Section 24-53-101, then the amount of the Mandatory Participant Contributions

- shall
- shall not

be required to equal the amount of the Participating Employer Contributions made pursuant to Plan Section 3.3(a). In no event may the Mandatory Participant Contribution under this Section 3.3(a) be less than 3% of a Participant's Compensation.

4.7 FORFEITURES ACCOUNT. Forfeitures shall be:

- Applied to reduce future Participating Employer contributions.
- Allocated among the Accounts of active Participants in the Plan.
- Not Applicable. **Vesting** has been selected below as immediate.

5.2(b)(1) VESTING OF PARTICIPANT'S ACCOUNTS. In accordance with Section 5.2(b)(1) of the Plan, an Employee-Participant becomes vested in Employer Contributions and Prior Service Benefit contributions as follows: *[Specify one option only.]*

- Ten-Year Vesting.** A Participant shall vest each Plan Month at the rate which equals the product of 1/12 multiplied by 10%.

* Note if contributions are being picked up and paid by the Employer in lieu of employee contributions, the contributions will be treated as "picked-up" and paid by the Employer on a prospective basis only, from the date this Participation Agreement is formally adopted. Participants may not opt out of the "pick-up" nor may they receive the contributed amounts directly instead of having them paid by the Participating Employer to the Plan.



- Five-Year Vesting.** A Participant shall vest each Plan Month at the rate which equals the product of 1/12 multiplied by 20%.
- Other Vesting.** A Participant shall vest each Plan Month at the rate which equals the product of 1/12 multiplied by ___% (*must be more than 10%*).
- Immediate Vesting.** A Participant shall be 100% vested upon participation in the Plan.
- Specified Vesting.** A Participant shall vest according to the following schedule:
 - 1st Year: _____ %
 - 2nd Year: _____ %
 - 3rd Year: _____ %
 - 4th Year: _____ %
 - 5th Year: _____ %

5.2(c)

RE-EMPLOYMENT MORE THAN THIRTY (30) DAYS AFTER TERMINATION.
[Specify one option only.]

- The Participating Employer shall grant prior service credit for purposes of **vesting** service in the event an Employee terminates employment with an Association Member (including the Participating Employer) more than thirty (30) days before his most recent Date of Hire with the Participating Employer.
- In accordance with the default provisions of Section 5.2(c), the Participating Employer shall not grant prior service credit for purposes of **vesting** service in the event an Employee terminates employment with an Association Member (including the Participating Employer) more than thirty (30) days before his most recent Date of Hire with the Participating Employer.
- Not Applicable. **Vesting** has been selected above as immediate.

5.2(e)

SERVICE WITH PARTICIPATING EMPLOYER PRIOR TO ADOPTION OF PLAN.
[Select the following option if desired.]

- Past Service Credit.** At the time this Participation Agreement is executed, all Employees presently employed by the Participating Employer shall have all periods of employment service credited towards the vesting schedule referenced above in Section 5.2(b)(1).



8.1

LOANS TO ELIGIBLE BORROWERS. *[Specify one option only.]*

- Participant loans are allowed in accordance with Article 8 of the Plan and loan procedures adopted by the Plan Administrator.
- Participant loans are *not* allowed.

17.9

DEFINITION OF COMPENSATION. For purposes of calculating contributions, the Participating Employer **excludes** the following from the definition of Compensation (as defined in Section 17.9 of the Plan): *[Select as many EXCLUSIONS as applicable.]*

- Overtime pay.
- Premiums for shift differential.
- Bonuses.
- Fringe benefits, expense reimbursements, deferred compensation, and welfare benefits.
- Holiday pay.
- Vacation pay.
- Sick pay.
- All post-severance compensation. (all amounts paid after a Participant's Termination Date)
- Post-severance qualified military service pay. (amounts paid while a Participant does not perform services for the Participating Employer by reason of performing qualified military services – within the meaning of Code Section 414(u)(1))
- Post-severance disability pay. (amounts paid while a Participant does not perform services for the Participating Employer by reason of total and permanent disability within the meaning of Plan Section 5.1(b))
- Mandatory Employee Contributions, pre-tax contributions to a cafeteria plan or a Code Section 457 plan, and qualified transportation fringes under Code Section 132(f)(4).
- Other *[please specify]*: _____.



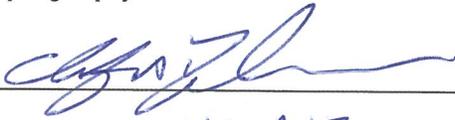
The Participating Employer and the Colorado County Officials and Employees Retirement Association have executed this Participation Agreement and have accepted its terms.

Dated this 13th day of DECEMBER, 2017.

Participating Employer
Participating Employer

By: _____

Title: _____


CHRISTOPHER A. RICHARDSON

Dated this _____ day of _____, 20____.

COLORADO COUNTY OFFICIALS AND
EMPLOYEES RETIREMENT ASSOCIATION
Plan Sponsor

By: _____

Title: _____

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