

Issue Analysis Form

Date: December 14, 2021
Item: Adoption of LODA Trust
Membership Document
County Finance / County
Lead Department(s): Human Resources
Contact Person(s): Betsy Drewry / Corrie Hurt



Description and Current Status

The Virginia Line of Duty Act (LODA) provides benefits for qualified uniformed officers that are killed or disabled in the line of duty. In 2011, the cost of this benefit switched from being paid from the state General Fund to being paid by Virginia's political subdivisions. Prince George County purchases LODA coverage from VAcrop for new claims occurring since July 1, 2012.

As part of the 2012 Appropriations Act, the Virginia General Assembly adopted budget language authorizing the creation of trust funds to finance the cost of Line of Duty Act (LODA) claims. Considering this, the VAcrop Supervisory Board created the VAcrop LODA Trust.

LODA covers volunteer and paid hazardous duty personnel and their survivors. This includes providing continued health insurance for disabled uniformed officers and their families, as well as death benefits and continued health insurance for families of officers killed in the line of duty. The VAcrop LODA Trust was created to carry the financial liabilities associated with preexisting claims assigned to our members by:

1. Recording the liabilities for known, pre-existing LODA claims that occurred prior to July 1, 2012; and
2. Recording the liabilities for unknown, pre-existing LODA claims that occurred but were not reported prior to July 1, 2012.

VAcrop members with LODA claims that existed and were reported before opting out of the state fund administered by VRS pay the annual cost of those claims. Sworn Officer Clifford Scott was an existing claim at the time of the LODA transition. Officer Scott's line of duty death occurred in December 1983. As such, this claim preexisted the 2012 date the county opted out of the VRS LODA Trust Fund, so the cost of this claim is borne by the county, including the total financial reserves associated with the claim. The current reserve is \$32,627. For VAcrop to continue to book the liability associated with this LODA claim, the county must join the LODA Trust.

The VAcrop LODA Trust allows the Pool to direct annual contributions for all preexisting or "past liability" claims to the LODA Trust. This enables the Trust to book the liabilities associated with these claims. Absent membership in the VAcrop LODA Trust, the liability for this claim must be carried on the County's financial statements. With the LODA Trust, the financial liability exposure for the Pool and its members is diminished.

To join the VAcrop LODA Trust, the Board of Supervisors must adopt the LODA Trust membership document, which is attached for your review and consideration. There is no membership cost or other administrative fee associated with joining the Trust.

Requested Board Action: Authorize Interim County Administrator to approve the LODA Trust Agreement. A draft resolution is provided for consideration and possible adoption.

Government Path

- | | | |
|--|---|--|
| Does this require IDA action? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does this require BZA action? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does This require Planning Commission Action? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| Does this require Board of Supervisors action? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| Does this require a public hearing? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| If so, before what date? | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

Fiscal Impact Statement

There is no fiscal impact to the County.

County Impact

Adoption of the resolution and approval of the LODA trust agreement will allow VAcrop to continue booking the liability for the existing claim on its' financial statements (rather than the liability being borne by the County).

Notes

VACORP LODA TRUST

The undersigned Counties, Cities, Towns, and Regional Jails of the Commonwealth of Virginia (“Grantors”) being authorized and directed to so, do make this trust agreement dated June 29, 2012 with VACORP, a local government risk sharing pool, which is an instrument of the government of the Commonwealth of Virginia, as Trustee (“the Trustee”). The Trustee and any successor Trustees are all referred to herein as “the Trustee.”

The name of this trust agreement is the “VACORP LODA TRUST dated June 29, 2012” (“Trust”) and is effective July 1, 2012.

ARTICLE 1

TRUST PROVISIONS

- A. Transfer of Assets and Liabilities. Contemporaneously with the execution of this trust, Grantors (hereinafter “Members”) do transfer to the Trustee of the Trust all liabilities appertaining to any claim which they may have prior to July 1, 2012 under the Line of Duty Act pursuant to §9.1-400 et seq. of the 1950 Code of Virginia, as amended (“Act”) and do promise to timely pay for said liabilities.
- B. Line of Duty Act Trust Fund. By entering into this Trust, each Member Acknowledges that they have opted out of the Commonwealth of Virginia Line of Duty Act Trust Fund.
- C. Eligibility of Members. Each member shall purchase liability insurance from Trustee covering claims under the Act. Likewise each member shall timely pay to

the Trustee all premiums for said insurance and monies for claims prior to July 1, 2012. In the event a Member purchases insurance from other than the Trustee, the Trustee and this Trust shall have no liability or obligation to such Member.

- D. Administration of Claims. During the existence of this Trust, the Trustee shall administer all pre-July 1, 2012 claims of its members under this Trust, shall provide the administration of all claims and shall provide insurance to insure against claims under the Act to all Members on or after July 1, 2012.
- E. Insurance & Payments by Members. Each Member is obligated to purchase liability insurance for claims under the Act from the Trustee and pay the Trustee those payments for insurance and claims as provided for under the Act, which payments must be timely made. If a payment is overdue by thirty (30) days, or if an insurance premium payment is not made within thirty (30) days of the invoice date, then the Trustee shall not provide claims administration, insurance or payment to claimants, until payments are brought current and all insurance coverage is purchased from the Trustee.

ARTICLE II

TRUSTEE PROVISIONS

- A. Trustee's Management Powers. The Trustee shall have the powers granted by law and the powers in Sections 64.2-105, 64.2-777 and 64.2-778 of the 1950 Code of Virginia, as amended, as in effect on the date of the signing of this agreement. These sections are incorporated in this agreement by this reference.

- B. Trustee's Compensation. The Trustee, or any successor Trustee, shall receive compensation for services rendered. The corporate Trustee, or any successor corporate Trustee, shall receive compensation for services rendered according to their list of fees published from time to time.
- C. Resignation of Trustee. The Trustee may resign as Trustee by notice to the Members. The resignation shall take effect upon the effective appointment of a successor Trustee.
- D. Successor Trustee. The Trustee shall have the right to designate a successor Trustee who shall be any natural person or corporation having trust powers, which shall be effective upon the resignation or termination of corporate existence of the Trustee. Such designation shall be made while such Trustee is serving as Trustee by an instrument executed by the Trustee during and by the successor Trustee. In the event that the Trustee does not appoint a successor Trustee or a successor Trustee does not appoint its successor Trustee, which it shall have the privilege to do hereunder, the Members shall have the right to appoint a Trustee.
- E. Actions of Prior Trustee. No Trustee serving under this agreement shall be responsible for or required to inquire into any acts or omissions of a prior Trustee.

ARTICLE III

RIGHTS RESERVED BY MEMBERS

- A. Revocation and Amendment. Members reserve the right to opt out of this Trust by a writing signed by the Member and delivered to the Trustee. All obligations of Member to the Trust shall be paid by Member prior to opting out. Any amendment that changes the duties or compensation of the Trustee shall require the consent of the Trustee.
- B. New Members. Members agree that new members as defined by the Act may become Members if the Trustee accepts them.

ARTICLE IV

MISCELLANEOUS PROVISIONS

- A. Protection from Claims. To the extent permitted by law, the principal and income of any trust shall not be liable for the debts of any beneficiary or subject to alienation or anticipation by a beneficiary, except as otherwise provided.
- B. Governing Law. This agreement shall be governed by the laws of Virginia.
- C. Signatures. This trust may be executed in counterparts and electronically.

WITNESS the following signatures and seals:

The Trustee accepts the terms of the VACORP LODA TRUST dated June 29, 2012.

VACORP

By: _____
Administrator, Officer

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF _____, To-wit:

The foregoing instrument was acknowledged before me this ___ day of _____,
_____, by _____, Trustee, _____ of VACORP, on
behalf of VACORP, who is identified and known to me.

Notary Public

Prince George County

By: _____
Authorized Person

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF _____, To-wit:

The foregoing instrument was acknowledged before me this ___ day of _____,
_____ by _____, on behalf of _____, Grantor, who
is identified and known to me.

Notary Public

Board of Supervisors
County of Prince George, Virginia

Resolution

At a regular meeting of the Board of Supervisors of the County of Prince George held in the Boardroom, Third Floor, County Administration Building, 6602 Courts Drive, Prince George, Virginia this 14th day of December, 2021:

Present:

Floyd M. Brown, Jr., Chairman
Marlene J. Waymack, Vice-Chair
Alan R. Carmichael, Jr.
Donald R. Hunter
T. J. Webb

Vote:

A-5

On motion of _____, seconded by _____, which carried unanimously, the following Resolution was adopted:

RESOLUTION; ADOPTION OF LODA (LINE OF DUTY ACT) TRUST AGREEMENT WITH VACORP

WHEREAS, Prince George County began purchasing Line of Duty Act (LODA) coverage from VAcorp on July 1, 2012 to provide benefits for qualified uniformed officers who are killed or disabled in the line of duty; and

WHEREAS, the Virginia General Assembly adopted budget language authorizing VAcorp to create trust funds to finance the cost of LODA claims that existed prior to July 1, 2012; and.

WHEREAS, a trust fund has been established for one claim existing prior to July 1, 2012, and in order for VAcorp to continue to account for the claim liability on its' financial statements, the Prince George County Board of Supervisors must join the LODA trust and adopt a LODA trust agreement with VAcorp.

NOW, THEREFORE, BE IT RESOLVED That the Board of the Supervisors of the County of Prince George this 14th day of December, 2021, hereby adopts the LODA Trust Agreement with VAcorp and authorizes the Interim County Administrator to execute the trust agreement between Prince George County and VAcorp.

A Copy Teste:

Jeffrey D. Stoke
Interim County Administrator