

Notice is hereby given by the Town Council of the Borough of Chambersburg, Franklin County, Pennsylvania that Town Council will consider a proposed Ordinance for adoption at the regularly scheduled public meeting of the Borough of Chambersburg on September 12, 2016, at 7:00 p.m. The title of the proposed Ordinance is:

ORDINANCE NO, 2016 - \_\_\_\_

**AN ORDINANCE OF THE BOROUGH OF CHAMBERSBURG, FRANKLIN COUNTY, PENNSYLVANIA AMENDING THE RETIREMENT PLAN FOR FULL-TIME BARGAINING AND ADMINISTRATIVE EMPLOYEES AS ORIGINALLY EFFECTIVE JULY 1, 1960 AS ESTABLISHED BY CHAPTER 60, ARTICLE III OF THE CODE OF THE BOROUGH OF CHAMBERSBURG IN ORDER TO REVISE THE RATE OF MANDATORY EMPLOYEE CONTRIBUTIONS AND TO PROVIDE DEFINED CONTRIBUTION PROVISIONS AS WELL AS APPOINTING ICMA RETIREMENT CORPORATION AS THE INVESTMENT FIRM RELATED TO THE FUNDS.**

WHEREAS, the Borough of Chambersburg previously adopted the Borough of Chambersburg Municipal Retirement Plan for Full-Time Bargaining and Administrative Employees (the "Plan"), which Plan is established and continued in accordance with Chapter 60, Article III of the Code of the Borough of Chambersburg; and

WHEREAS, the Borough of Chambersburg desires to modify the Plan to revise the mandatory employee contributions from Plan participants and to provide for defined contribution provisions; and

WHEREAS, the Borough of Chambersburg desires that its defined contribution accounts be administered by ICMA-Retirement Corporation ("ICMA-RC") and that the funds held in such accounts be invested in Vantage Trust, a trust established for the collective investment of funds held by public employers under their retirement and deferred compensation plans.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Town Council of the Borough of Chambersburg, Franklin County, Pennsylvania and it is hereby enacted and ordained by the authority of the same as follows:

**SECTION 1.** Plan Amendments No. 4 and No. 5, attached hereto and incorporated herein by reference, which modify the "Borough of Chambersburg Municipal Retirement Plan for Full-Time Bargaining and Administrative Employees" effective July 1, 1960 and as amended and restated effective January 1, 2008, are hereby adopted and enacted.

**SECTION 2.** The provisions of the Plan shall be maintained for the exclusive benefit of the eligible employees and their beneficiaries; and

**SECTION 3.** ICMA-RC is hereby appointed to perform all nondiscretionary functions necessary for the administration of the defined contribution accounts.

**SECTION 4.** The Borough of Chambersburg hereby adopts the Declaration of Trust of VantageTrust, intending this adoption to be operative with respect to any retirement or deferred compensation plan subsequently established by the Borough of Chambersburg, if the assets of the plan are to be invested in VantageTrust.

**SECTION 5.** The Borough of Chambersburg hereby agrees to serve as trustee under the Plan and to invest funds held under the Plan in VantageTrust.

**SECTION 6.** Jason Cohen, Finance Director of the Borough of Chambersburg, shall be the coordinator for the Plan; shall receive reports, notices, etc. from ICMA-RC or VantageTrust; shall cast, on behalf of the Borough of Chambersburg, any required votes under VantageTrust; may delegate any administrative duties relating to the Plan to appropriate departments; and is authorized and directed to execute the attached amendments of the Plan.

**SECTION 7.** The Borough Manager and/or Borough Council President is hereby authorized to execute all necessary agreements with ICMA Retirement Corporation incidental to the administration of the Plan.

**SECTION 8. REPEALER:** All provisions of previous Ordinances of the Borough of Chambersburg and the Code of the Borough of Chambersburg which are contrary to this Ordinance are expressly repealed.

**SECTION 9. SAVINGS CLAUSE:** In all other respects, all other Ordinances of the Borough of Chambersburg shall remain as previously enacted and ordained.

**SECTION 10. SEVERABILITY:** The provisions of this Ordinance are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid, unlawful, or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this Ordinance.

EFFECTIVE DATE: This Ordinance shall take effect immediately.

ENACTED this 12<sup>th</sup> day of \_\_\_September, 2016.

**Town Council of the Borough of  
Chambersburg, Franklin County,  
Pennsylvania**

By: \_\_\_\_\_  
Allen B. Coffman, President

ATTEST:

\_\_\_\_\_  
Jamia Wright, Secretary

\_\_\_\_\_  
Mayor of the Borough of Chambersburg

**AMENDMENTS 4 and 5 TO THE  
BOROUGH OF CHAMBERSBURG RETIREMENT PLAN FOR  
FULL-TIME BARGAINING AND ADMINISTRATIVE EMPLOYEES**

As authorized by Section 9.2 of the Borough of Chambersburg (the "Borough") Retirement Plan for Full-Time Bargaining and Administrative Employees ("Plan") as Amended and Restated effective January 1, 2008 (the "Plan"), the employer, the Borough, hereby amends the Plan to change the rate of employee contributions to the Plan and add defined contribution provisions to the Plan. These amendments shall be effective as provided herein. These amendments shall supersede the provisions of the Plan to the extent those provisions are inconsistent with the provisions of these amendments.

#### **Amendment No. 4**

The employer hereby amends the Plan in the following manner:

**FIRST:** Section 2.2 is amended to read as follows:

#### **Section 2.2 – Plan Participation**

##### **(a) Eligibility**

- (1) **Service Requirements** – An employee who is a member of the eligible class of employees shall be eligible for Plan participation after completion of his/her probationary period with the employer.
- (2) **Eligible Class of Employees** – All full-time and part-time employees of the employer shall be eligible to be covered under the Plan except for employees in the following category(ies):
  - Individuals not directly employed by the employer as defined in Section 1.6. An employee of an entity that is not a participating employer in this plan shall not participate in this Plan.
  - Employees employed as police officers.
  - Employees employed as paid firemen.
  - Employees who participate under the Defined Contribution Provisions of Article XI hereof. An employee shall be ineligible to participate in the Defined Benefit Provisions as of the date his participation in the Defined Contribution Provisions is effective.

For purposes of the Plan, a "full-time" employee is an employee who performs 40 or more hours of service per week year round for the employer and a "part-time" employee is an employee who performs an average of 20 or more hours of service per week but less than 40 hours of service per week year round for the employer.

- (b) **Entry Date** – An eligible employee shall participate in the Plan on the first day after completing his/her probationary period.

**SECOND:** Mandatory Employee Contributions:

Section 6.2 is amended to provide that participants will be required to make mandatory employee contributions as provided below. As amended, Section 6.2(a) through (c) shall read as follows:

- (a) **Mandatory Contribution Amount** – As a condition of participation in this Plan, each active participant must contribute on an after tax basis, a percentage of his gross compensation as established for each year. This mandatory contribution shall be at the percentage of the participant’s compensation as provided below:

Prior to the first full pay after the Defined Contribution enrollment period begins: 4% of compensation;

Commencing with the first full pay after the Defined Contribution Provisions open enrollment period begins: 4.75% of compensation;

Commencing with the first full pay of 2017: 5.5% of compensation;

Commencing with the first full pay of 2018 and continuing thereafter: 6% of compensation.

The employer may reduce or eliminate the contribution required provided any reduction or elimination of contributions is authorized on an annual basis by an ordinance or resolution by the employer. A different rate of contribution may be set for participants covered by a collective bargaining agreement and those participants who are not so covered.

The mandatory employee contributions shall only apply to the first \$125,000.00 of gross compensation each employee earns each year. Therefore, employees shall not contribute any amount for gross compensation in excess of \$125,000.00 per year.

- (b) **Employee Contributions** – The employer shall remit employee contributions (if any) to the trust of the Plan as soon as administratively feasible.

- (c) **Determination of Accrued Benefit** – The accrued benefit derived from a participant’s mandatory employee contributions as of any applicable date is an annual benefit, in the form of a straight life annuity (without ancillary benefits) commencing at his normal retirement date, equal to the actuarial equivalent of the participant’s accumulated contributions. The participant’s accumulated contributions shall be equal to his mandatory employee contributions with interest.

The interest rate to be credited shall be 2.000% per annum. Such interest shall be credited annually in the form of a compound interest rate.

A participant shall be 100% vested in his accumulated contributions.

If this Plan or a prior Plan is or has been amended so as to no longer require employee mandatory contributions, the participant’s employee-provided accrued benefit and employer-provided accrued benefit shall be determined as if the Plan required contributions of the employee as a condition of participation at the time of termination of employment. This Section, however, shall not apply to the extent the contributions the participant has made to the Plan (or prior Plan) have been refunded to him.

**THIRD:** The above amendment is effective \_\_\_\_\_, 2016.

## **Amendment No. 5**

A new Article XI is added to the Plan as of January 1, 2016 as follows:

### **ARTICLE XI – DEFINED CONTRIBUTION PROVISIONS BEGINNING JANUARY 1, 2016**

#### **Section 11.1 – Eligibility for Participation in Defined Contribution (DC) Features**

Eligibility for Participation in this Article XI is limited to eligible Employees who so elect to participate in the defined contribution provisions and who complete any forms required by the Plan Administrator (the “Defined Contribution Employee” – See Section 11.3(c) hereof). The benefits in this Article XI shall be the exclusive benefits provided to eligible electing Employees under this Plan. Notwithstanding anything to the contrary in this Plan, any Participant participating in this Article XI shall not be eligible to participate in the Defined Benefit Provisions, Articles III through VI of this Plan for the same period of service.

#### **DEFINED CONTRIBUTION PROVISIONS AND ELECTION**

#### **Section 11.2 – Defined Contribution Provisions**

The Plan contains defined benefit provisions as set forth mainly in Articles III through VI (the “Defined Benefit Provisions”). Effective January 1, 2016 the Plan is amended to add the Defined Contribution Provisions of this Article XI effective as soon as administratively feasible after January 1, 2016. To participate in the Defined Contribution Provisions, a Plan Participant who is an Employee (and for new hires who have completed their probationary period) on or after January 1, 2016, must elect to participate. Such election must be pursuant to the terms and conditions hereof:

- (1) The Election shall be permitted once a year during the open enrollment period pursuant to such forms and procedures that the Plan Administrator shall establish. The Election shall only be available to Defined Contribution Employees as defined in Section 11.3(c) hereof. A Defined Benefit participant whose benefit is subject to a domestic relations order (see Section 3.9 hereof) may not make an election to participate in the Defined Contribution Provisions except as may be permitted by court order acceptable to the Plan Administrator modifying the domestic relations order.
- (2) Once a Participant elects to participate in the Defined Contribution Provisions, the election is irrevocable and he shall be a Participant in the Defined Contribution Provisions until terminated as provided in Section 11.2 (5) and may not switch back to the Defined Benefit Provisions.
- (3) Participants who are vested (have 12 or more Years of Service) upon election into the Defined Contribution Provisions shall have their accrued Defined Benefit frozen as of the date of their election and shall no longer accrue any additional Defined Benefit. Such electing participant’s defined benefit shall be based upon his compensation and years of service on the day prior to the effective date of his election. After election, the Defined Contribution Employee shall no longer be eligible for a disability benefit under Section 3.6 hereof. Thereafter, the electing Defined Contribution Employee shall participate in

the Defined Contribution Provisions of this Article XI. The frozen Defined Benefit shall be payable as provided in Section 5.2 hereof. Should such electing employee terminate employment and begin receiving a Defined Benefit and thereafter be rehired by the Borough, payment of his pension benefits shall cease while he is employed. Such rehired electing employee shall once again participate in the Defined Contribution Provisions and be ineligible to participate in the Defined Benefit Provisions and shall not be required to elect to enroll in the Defined Contribution Provisions in order to again participate in the Defined Contribution Provisions.

- (4) Participants who are not vested (have less than 12 Years of Service) upon the date of their election into the Defined Contribution Provisions of this Article XI will have credited as his contribution to his Employee Post Tax Contribution Account his total accumulated employee contributions, if any, together with accrued interest as provided in Section 6.2(c). Thereafter the Defined Contribution Employee shall accrue no further benefit under the Defined Benefit Provisions but rather shall be a Participant in the Defined Contribution Provisions of this Article XI.
- (5) A Defined Contribution Employee upon termination of employment as a full-time or part-time employee as defined in Section 11.3(c) hereof shall no longer participate in the Defined Contribution Provisions of the Plan. Should such a terminated employee be rehired as a full-time or part-time employee as defined in Section 11.3(c) hereof such an employee shall once again participate in the Defined Contribution Provisions and shall be ineligible to participate in the Defined Benefit Provisions of the Plan and shall not be required to elect to participate in the Defined Contribution Provisions in order to again participate in the Defined Contribution Provisions.

### **Section 11.3 – Definitions**

- (a) **Account Balance** means the balance of a Participant's account held under this Article XI. A Participant's Account Balance shall be composed of all amounts allocated under this Article XI hereof (including the Employer Contribution Participant Account, the Employee Post Tax Contribution Account, if any) and all related earnings, net of expenses thereon.
- (b) **Administrator or Plan Administrator** means the individual or firm appointed by the Employer to administer the Plan. If no Administrator is appointed, the Administrator shall be the Borough Manager.
- (c) **Defined Contribution Employee** shall mean any electing individual who is a non-uniformed employee employed by Chambersburg Borough on or after January 1, 2016 on a full-time or part-time basis who has completed his probationary period and who is not a police officer or paid fireman and who is not eligible to participate under the provisions of any other pension plan employed by the Employer. For the purpose of this Article XI, a "full-time" employee is an employee who performs 40 or more hours of service per week year round for the employer and a "part-time" employee is an employee who performs an average of 20 or more hours of service per week but less than 40 hours of service per week year round for the employer.
- (d) **Gross Pay** means the Defined Contribution Employee's gross annual Compensation. Compensation is defined in Section 1.3 hereof

- (e) **Normal Retirement** means attaining age 65.
- (f) **Plan Year** means the calendar year.
- (g) **Trustee** means the individual or entity selected by the Employer to hold the assets of this Article XI in trust for the Participants. Unless and until another appointment is made, the Employer shall be the Trustee of the assets of the Plan and does by adoption of these provisions accept Trustee status.
- (h) **Valuation Date** means the last day of the calendar year and any other date selected by the Employer. However, to the extent any assets are invested with an insurance or other investment company, Valuation Dates shall be determined in accordance with the investment contract or arrangement.

#### **Section 11.4 – Contributions**

- (a) **Employer** – For each calendar year beginning January 1, 2016, the Employer shall make a contribution to the Plan that will be sufficient to satisfy the requirements of Section 11.5.
- (b) **Employee** – Other than the initial contribution for those Participant's with less than 12 Years of Service into the Employee Post Tax Contribution Account (See Paragraph (4) of Section 11.2) there shall be no employee contributions to the Defined Contribution arrangement.

#### **Section 11.5 – Allocation of Contributions**

- (a) **Separate Accounts:** The Administrator shall maintain separate Employer Contribution Participant Accounts for each Participant and Employee Post Tax Contribution Accounts for certain Participants (See Paragraph (4) of Section 11.2).. The Administrator shall make the allocations among such Employer Contribution Participant Accounts as set forth in this Section.
- (b) **Employer Contributions** (made under 11.4(a) above) shall be allocated as of each allocation date among the Employer Contribution Participant Accounts of eligible Participants in the amount of \$3,400 annually for full-time Defined Contribution Employees and \$1,700 annually for part-time Defined Contribution Employees, subject to proration as of the effective date of election into the Defined Contribution Provisions and where a Defined Contribution Employee is employed for less than the full Plan Year. The last day of the Plan Year and any interim date chosen by the Employer and the Administrator shall be allocation dates. Subject to any collective bargaining limitations, the amount of the Employer contribution may be amended or stopped all together.

#### **Section 11.6 – Vesting**

A Participant shall be 100% vested in his Employer Contribution Participant Account.

A Participant shall be 100% vested in his Employee Post Tax Contribution Account.

#### **Section 11.7 – Allocation of Gain or Loss**

- (1) **General Pooled Assets:** As of each Valuation Date, the Administrator shall determine the fair market value of all assets in the Plan that are not held in suspense accounts, segregated accounts or insurance contracts. Any gain or loss on such assets since the previous Valuation Date shall be allocated among all Participant Accounts (except those Accounts held in segregated accounts) in proportion to Account Balances as of the previous Valuation Date.
- (2) **Segregated Accounts (including Participant-Directed Investment Accounts):** As of each Valuation Date, the Administrator shall determine the market value of all assets held in each segregated account. A separate allocation of gain or loss shall be made for each segregated account. If there is more than one Participant Account within a segregated account, the gain or loss since the previous Valuation Date for that segregated account shall be allocated in proportion to the Account Balances as of the previous Valuation Date.
- (3) **Holding Account:** Contributions made between allocation dates shall be allocated to a holding account which shall also hold any related earnings all of which shall be allocated to Participant Accounts pursuant to the process established by the Administrator and the Employer.
- (4) **Investment Contracts:** Notwithstanding subsections (1), (2), and (3) immediately above, if any Plan assets are invested through any arrangement with an insurance company or other investment organization, Accounts shall be valued and gains, losses, costs, and expenses shall be allocated (but not less frequently than annually) in accordance with the terms of the applicable investment contract or arrangement.

### **Section 11.8 – Participant-Directed Investments**

Notwithstanding the provisions of the other sections of this Article, if the Administrator establishes such a policy, any Participant, Beneficiary, or alternate payee with an Account Balance under this Article may direct how to invest all, or a certain portion, of his Participant Account. The Employer or Administrator shall have sole discretion to determine what investment options will be made available to the Participants. All contributions, expenses, income or losses shall be allocated in accordance with the policies established under this section. To the extent that the Participants do not exercise their rights under this section, the allocation of expenses, income or losses may be made pursuant to Section 11.7 above or such other provisions set forth by the Plan Administrator and the Employer and the investment of their Accounts may be made pursuant to Section 11.7 immediately above or such other provisions set forth by the Plan Administrator and the Employer. To the extent permitted by law, the Trustee and Administrator shall be relieved of any fiduciary responsibility for investment decisions made pursuant to this section, provided, however, that the Plan Administrator or Trustee have followed the instructions of the Participant and that said instructions are in accordance with applicable law. Upon the death or incapacity of the Participant, the powers granted to the Participant under this section shall inure to the benefit of the Participant's beneficiary, trustee or legal representative.

### **Section 11.9 – Distributions**

- (a) **Applicability:** This section governs the distribution of vested Account Balances. Furthermore, distributions are subject to the requirements of applicable provisions of the Internal Revenue Code as set forth in this Plan document.
- (b) **General Rule:** Distribution of a Participant's vested Account Balance shall be made in a lump sum as soon as it is administratively feasible to make distribution following a Participant's termination of employment with the Employer and subject to such limitations and conditions utilized by the Administrator. A Participant's Account Balance shall be valued as of the Valuation Date coincident with or immediately preceding the date of distribution. In the event that a Participant does not consent to accept a distribution pursuant to this provision, his Account Balance shall be rolled over to an Individual Retirement Account.
- (c) **Annuity Option:** Notwithstanding subsection (b) immediately above, if a Participant has a vested Account Balance in excess of \$5,000 and the Participant desires to convert his lump-sum benefit into an annuity, he may do so under the rules and conditions established by the Employer and the Administrator. This annuity shall be purchased from a third-party insurance firm selected by the Employer or the Administrator.
- (d) **Death Benefit:** Each participant shall complete a beneficiary designation form designating the person to whom his Account Balance shall be paid upon his death. If no beneficiary designation form has been completed, the Participant's Account Balance shall be paid to his spouse, or if no spouse, to his issue, to be divided equally and, if no issue, to his Estate. All payments shall be made in a lump sum payment.
- (e) **Loans and Hardship Distributions:** Loans and hardship distributions of Plan assets are not permitted.

#### **Section 11.10 – Amendment**

The Employer may amend the provisions of this Article XI subject to any collective bargaining or state law conditions and limitations. The power to amend specifically includes the power to increase, decrease or stop Employer or Employee contributions.

#### **Section 11.11 – Document Coordination**

The Defined Contribution provisions of this Article XI shall be construed in conformance with the following provisions of the Plan document except where Coordinated Provisions conflict with the Defined Contribution provisions of this Article XI: (All of the provisions below shall be referred to collectively as the "Coordinated Provisions"): Article I (Definitions), the Rollover Distribution, Unclaimed Benefits and Written Explanation provisions of Section 3.7, as well as the DRO provisions of Section 3.9, the provisions of Article VII (Qualification Rules) as they apply to governmental defined contribution plans, Article VIII (Administration of the Plan); Article IX (Amendment/Termination of Plan) and Article X (Miscellaneous Provisions).

Executed this \_\_\_\_ day of \_\_\_\_\_, 2016, by the duly authorized agent of the Borough of Chambersburg.

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Title: \_\_\_\_\_