

Article IV – Funding

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Article IV — Funding

§ 17-401 Employer Contributions.

(a) **In General.** The Employer shall, from time to time, contribute to the Plan and Trust the amounts required to fund all benefits provided under this Plan to the extent they are not funded by employee contributions under § 17-403. The minimum amount of Employer contributions shall be determined in accordance with the requirements of the Municipal Pension Plan Funding Standard and Recovery Act, 53 PA. STAT. ANN. § 895.101 *et seq.*

(b) **Source of Contributions.** Employer contributions may be derived from grants of state aid, disbursements from the Employer's general fund, and other sources.

(c) **Multiple Employers.** For any Plan Year in which more than one employer is included within the definition of "Employer," Employer contributions to fund the benefits accrued by any given Participant shall be made by his/her particular employer.

[Ord. 415 10-29-2003]

§ 17-402 Payment of Employer Contributions.

(a) **In General.** All Employer contributions shall be paid to the Trustees to be held in the Trust. The Trust shall be used to pay all benefits under this Plan. Employer contributions under this Article for a given Plan Year are due to be paid to the Trustees not later than December 31 of the Plan Year.

(b) **Uniformed Service.** Employer contributions under this Article IV for a Participant with respect to any period of service in the uniformed services of the United States shall be made at the *later* of—

(1) the time set forth in subsection (a); **or**

(2) within a reasonable period of time after the Participant returns to employment with the Employer or any Related Employer,

provided that the Participant returns to employment at a time when the Employer or any Related Employer is legally obligated to reemploy the person under the Uniformed Services Employment

and Reemployment Rights Act of 1994, 38 U.S.C. § 4301 *et seq.*, and any amendments, supplements, or successor legislation.

(c) **Additional Contributions for Interest on Late Contributions.** If any amount of Employer contributions for a Plan Year remains unpaid as of December 31 of that Plan Year, the amount of Employer contributions for that Plan Year shall be increased by interest on the unpaid amount as of December 31, from January 1 of the Plan Year until the date of payment at a rate equal to the interest assumption used for the required actuarial valuation report under the Municipal Pension Plan Funding Standard and Recovery Act, 53 PA. STAT. ANN. § 891.101 *et seq.*, or the discount rate applicable to treasury bills issued by the Treasury Department of the United States with a six-month maturity as of the last business day in December of the Plan Year, whichever is greater, expressed as a monthly rate and compounded monthly.

(d) **Mistake of Fact.** If, due to a mistake of fact, the Employer contributes an amount to the Plan for a given Plan Year in excess of the amount the Employer would have contributed had there not been a mistake of fact, the Administrator may direct the Trustees to return the excess to the Employer, or treat the contribution as having been made for the following Plan Year.

[Ord. 415 10-29-2003]

§ 17-403 Employee Contributions.

(a) **In General.** Each month, each Qualified Employee shall contribute an amount equal to five percent (5%) of his/her Compensation for the month to the Trust *via* payroll deduction. The Employer shall transmit the contributions to the Trust within a reasonable period after deduction, and in no case later than thirty (30) days after the date of the paycheck.

(b) **Reduction or Elimination of Employee Contributions for a Plan Year.**

(1) **In General.** Notwithstanding the provisions of subsection (a), if an actuarial study shows that the condition of the Plan and Trust is such that if the contributions specified in subsection (a) are reduced below five percent (5%) of Compensation or eliminated in the following Plan Year, the Employer will not be obligated to contribute any amounts under § 17-401 for that Plan Year (other than amounts derived from grants of state aid which the Employer has elected or will elect to contribute to this Plan), then the governing body of the Sponsor *may*, by Ordinance or Resolution, so reduce or eliminate the contributions required under subsection (a) for the following Plan Year. (The reduction for the Plan Year which includes the Effective Date may be made at any time prior to the Effective Date.)

(2) **Annual Reductions.** No Ordinance or Resolution adopted under paragraph (1) may affect any Plan Year beyond the first Plan Year which begins after the date the Ordinance or Resolution is adopted. Reductions or eliminations of employee contributions must be made on an annual basis.

(c) **Uniformed Service.**

(1) **In General.** No Participant shall be required to make any contributions to this Plan during any period of service in the uniformed services of the United States. If such a Participant returns to employment with the Employer, he/she shall contribute to the Plan an amount equal to the rate in effect under subsections (a) and (b) for the period of uniformed service **mul-**

tiplied by the deemed Compensation of the Participant for such period. (Where more than one rate is in effect during the period of uniformed service, a calculation shall be performed for each portion of the period of uniformed service governed by a separate rate, and the total required contribution shall be equal to the sum of such calculations.)

(2) Time of Contributions. The contribution required under paragraph (1) shall be made during the period beginning with the date of reemployment and whose duration is the **less-er** of—

(A) three (3) times the period of the person’s service in the uniformed services;
or

(B) five (5) years.

(d) Failure or Refusal to Pay. If a Qualified Employee fails or refuses, at any time, to contribute any amounts required under this § 17-403, he/she shall forfeit, in the case of a failure under subsection (c), all benefits under this Plan which are based on service for the period of the uniformed service; and in all other cases, all benefits under this plan which are based on service prior to the refusal and after the Effective Date, *except* for a return of Accumulated Contributions *plus* interest under § 17-304.

(e) Treatment of Employee Contributions as Employer Pick-Up Contributions. The employee contributions under this Section which are made *via* payroll deduction, although designated as employee contributions, shall be treated for federal income tax purposes as salary reductions rather than deductions and thus as being paid by the Employer as “pick up” contributions under Code § 414(h)(2). Under current law, such contributions are not subject to federal income tax at the time of the contributions, but only at the time when Plan benefits are paid. (However, these amounts are considered “wages” subject to current FICA taxation and also current income for Pennsylvania state and local income taxes.) A Qualified Employee shall not have the option of receiving the amount of employee contributions required under this Section directly instead of having them paid by the Employer to the Plan. This subsection shall be construed to include all requirements necessary to satisfy the provisions of Code § 414(h)(2).

(f) Voluntary Contributions. No voluntary employee contributions beyond those mandated by this Section may be made to this Plan by any Qualified Employee.

[Ord. 415 10-29-2003]