

AN ORDINANCE OF MIDDLE SMITHFIELD TOWNSHIP, MONROE COUNTY, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 48 OF THE CODE OF ORDINANCES OF MIDDLE SMITHFIELD TOWNSHIP BY ELECTING TO AMEND ITS NON-UNIFORM MUNICIPAL PENSION PLAN ADMINISTERED BY THE PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM PURSUANT TO ARTICLE IV OF THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW; AGREEING TO BE BOUND BY ALL PROVISIONS OF THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW AS AMENDED AND AS APPLICABLE TO MEMBER MUNICIPALITIES.

WHEREAS, Middle Smithfield Township (the Township), having established a non-uniform municipal pension plan administered by the Pennsylvania Municipal Retirement System (the System), hereby elects to amend its Non-Uniform Municipal Pension Plan administered by the System in accordance with Article IV of the Pennsylvania Municipal Retirement Law, 53 P.S. §881.101 et seq. (Retirement Law), and does hereby agree to be bound by all the requirements and provisions of the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. §895.101 et seq.

WHEREAS, As part of this Ordinance, the Township agrees that the System shall administer and provide the benefits set forth in the amended Non-Uniform Municipal Pension Plan Document entered into between the Pennsylvania Municipal Retirement Board and the Township effective as of the date specified in the Adoption Agreement Amendment attached hereto and marked as Exhibit "A" (the Contract).

WHEREAS, The Township acknowledges that by passage and adoption of this Ordinance, the Township officially accepts and authorizes the execution of the Contract.

WHEREAS, The Township hereby intends to amend Chapter 48 of the Code of Ordinances of Middle Smithfield Township to reflect the adoption and authorization of the Contract.

WHEREAS, The Township intends this Ordinance to be the complete authorization of the Contract and it shall become effective as of the date specified therein, which is the effective date of the Contract.

WHEREAS, The Township hereby approves and adopts the amended Non-Uniform Municipal Pension Plan, as amended by the Contract that is attached hereto and marked as Exhibit "A".

WHEREAS, A duly certified copy of this Ordinance and an executed Contract shall be filed with the System.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, the accompanying Adoption Agreement Amendment (herein referred to as "Contract") is hereby authorized to be executed and

adopted by the Township and Chapter 48 of the Middle Smithfield Township Code of Ordinances is hereby amended accordingly; and,

BE IT FURTHER ORDAINED AND ENACTED, that the above-referenced and attached Contract is hereby specifically approved by the Middle Smithfield Township Board of Supervisors and the Chair or Vice-Chair of the Board of Supervisors, acting alone or together with the Secretary or Assistant Secretary, are hereby authorized and directed on behalf of the Township, (i) to execute and deliver the Contract, and (ii) to execute and deliver such additional instruments, and to take such further actions, as may be necessary or appropriate to carry forth the intent of the Contract and the transactions to be effected under the Contract; and,

BE IT FURTHER ORDAINED AND ENACTED, that the Middle Smithfield Township Board of Supervisors is hereby authorized to take such other action as may be necessary or appropriate to carry out the purposes of this Ordinance and of the Contract; and,

BE IT FURTHER ORDAINED AND ENACTED, that Section 48-2, Pension Plan Contract, of Chapter 48, Pensions, of the Middle Smithfield Township Code of ordinances is hereby amended to read as follows:

#### **§48-2. Pension Plan Contract**

As part of the adoption of this article, the Township agrees that the System shall administer and provide the benefits set forth in the amended Municipal Pension Plan Contract entered into between the Pennsylvania Municipal Retirement Board and the Township effective January 1, 2018, as amended January 1, 2024 (the "Pension Plan Contract" or simply, the "Contract")

#### **REPEALER.**

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

#### **SEVERABILITY.**

If any section, paragraph, sub-section, clause or provision of this Ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole or any part thereof other than that portion specifically declared invalid.

#### **EFFECTIVE DATE**

This Ordinance shall become effective on the first day permitted by law and the Contract shall be effective on January 1, 2024.

**ENACTED AND ORDAINED** this 28 day of December, A.D., 2023, by the Middle Smithfield Township Board of Supervisors in lawful session duly assembled.

Board of Supervisors of Middle Smithfield Township

By: Annette Atkinson

Annette Atkinson, Chair

By: Mark Oney

Mark Oney, Vice-Chair

By: Michael J. Dwyer

Michael J. Dwyer, Supervisor

ATTEST:

Michael J. Dwyer

Township Secretary

[TOWNSHIP SEAL]

## Exhibit A

**PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM  
CASH BALANCE PLAN  
Adoption Agreement Amendment**

The undersigned, Middle Smithfield Township, Pennsylvania ("Municipality" with a PERC number of 45-027-5 N), pursuant to Article XVI of the Base Plan Document, is amending its Adoption Agreement having the effective date and the expiration date as shown below. The Municipality makes the following elections granted under the provisions of the Base Plan Document:

**PLAN AMENDMENT**

<b>Amendment Effective Date:</b>	<b>January 1, 2024</b>
<b>Adoption Agreement Effective Date:</b>	<b>January 1, 2018</b>
<b>Application:</b>	<b>General</b>
<b>Amendment Expiration Date:</b>	<b>N/A</b>
<b>General Description:</b>	Eliminates in-service distributions, establishes the eligibility period, optional member contribution rate and vesting schedule for all active members as of January 1, 2024
<b>Affected Members:</b>	All Active Members as of January 1, 2024

**AMENDED ADOPTION AGREEMENT SECTIONS**

The Sections of the Adoption Agreement below are applicable to this Amendment and will be effective for the Affected Members between Amendment Effective Date and the Amendment Expiration Date. All other sections of the applicable Defined Benefit Plan Adoption Agreement 001 remain the same during the period between the Amendment Effective Date and the Amendment Expiration Date.

**1.61 NORMAL RETIREMENT AGE (Applicable to In-Service Distributions)**

- In-Service Distributions Not Allowed
- In-Service Distributions Allowed in Accordance with Section 10.05  
(Continuing Employment after Normal Retirement Age)
- In-Service Distributions Allowed in Accordance with Section 10.06  
(Re-employment after Benefit Commencement Date)

Normal Retirement Age for Allowable In-Service Distributions

- Eligible Employees (Select all that apply below)
  - Date the Member attains age sixty-five (65)
  - Date the Member attains age sixty-two (62)
  - The later of the date:
    - Member attains age sixty (60) and
    - Member completes five (5) Years of Vesting Service
  - The later of the date:
    - Member attains age fifty-five (55) and
    - Member completes ten (10) Years of Vesting Service

- [ -- ] Date the Member's age plus completed Years of Vesting Service equals or exceeds eighty (80)
- [ -- ] Date the Member's age plus completed Years of Vesting Service equals or exceeds \_\_\_\_\_ (\_\_\_\_) (The numerical value shall not be less than eighty (80))
- [ -- ] Date the Member completes twenty-five (25) Years of Vesting Service  
(Must be combined with one of the other options)

To use the three options below, the date the Member meets the specified conditions cannot be greater than the date the member attains age 65 nor less than the date the member attains age 55 and, in any event, may not be less than the representative typical retirement date for such Member's occupation.

- [ -- ] Date the Member attains age \_\_\_\_\_
- [ -- ] The later of the date:
  - Member attains age \_\_\_\_\_ (\_\_\_\_)
  - Member completes \_\_\_\_\_ (\_\_\_\_) Years of Vesting Service
- [ -- ] Other: \_\_\_\_\_

- [ -- ] Police Officers, Firefighters and other qualified public safety employees as defined under Code Section 72(t)(10) have the following additional options (Select all that apply below)
- [ -- ] Date the Member attains age fifty (50)
- [ -- ] Date the Member completes twenty (20) Years of Vesting Service
- [ -- ] Date the Member's age plus completed Years of Vesting Service equals or exceeds seventy (70)
- [ -- ] Date the Member's age plus completed Years of Vesting Service equals or exceeds \_\_\_\_\_ (\_\_\_\_) (The numerical value shall not be less than seventy (70))

To use the three options below, the date the Member meets the specified conditions cannot be greater than the date the member attains age 65 nor less than the date the member attains age 50 and, in any event, may not be less than the representative typical retirement date for such Member's occupation.

- [ -- ] Date the Member attains age \_\_\_\_\_ (\_\_\_\_):
- [ -- ] The later of the date:
  - Member attains age \_\_\_\_\_ (\_\_\_\_)
  - Member completes \_\_\_\_\_ (\_\_\_\_) Years of Vesting Service
- [ -- ] Other: \_\_\_\_\_

(Normal Retirement Age designation cannot be earlier than Superannuation Retirement Pension eligible under Section 5.01.)

## 2.01 MEMBERSHIP ELIGIBILITY.

Eligibility Date (Select One)

- [ -- ] Employee's Employment Commencement Date
- [ X ] Date on which the Employee completes three (3) months of Eligibility Service
- [ -- ] Date on which the Employee completes \_\_\_\_\_ (\_\_\_\_) days of Eligibility Service
- [ -- ] Other date (specify): \_\_\_\_\_  
(Service requirements cannot exceed twelve (12) months.)

**4.02 MEMBER AFTER-TAX CONTRIBUTIONS.**

Contribution Requirement (Select all that apply)

Not Permitted

Required in an amount equal to two percent (2.00%) of Compensation (Section 4.02(a))

Optional After Tax Contributions in an amount not to exceed twenty percent (20.00%) of Compensation (Section 4.02(b))

Contribution Remittance (Select One)

On a payroll period basis

Per Weekly Period

Per Bi-Weekly Period

Per Semi-Monthly Period

Per Monthly Period

Per Other Period: \_\_\_\_\_

On a monthly basis

On a quarterly basis

**8.05 VESTING SCHEDULE**

<input type="checkbox"/> 100% Vested upon Plan Entry Date		
<input type="checkbox"/> 100% Vested upon Specified Years of Vesting Service		% Vested
Less than _____ ( ) years of Vesting Service		0%
Equal to or greater than _____ ( ) years of Vesting Service (Not to exceed fifteen (15) years of Vesting Service)		100%
<input checked="" type="checkbox"/> Percent Vested upon Completed Years of Vesting Service		% Vested
one (1) years		25%
two (2) years		50%
Three (3) years		75%
four (4) years		100%
		(Not to exceed twenty (20) years of Vesting Service)

**10.05 CONTINUATION OF EMPLOYMENT AFTER NORMAL RETIREMENT AGE.**

A Member continuing as an Employee (as defined in Section 1.34 of this Adoption Agreement) after Normal Retirement Age:

- [ -- ] May elect to Retire and commence payment of Superannuation Retirement Benefit without a Severance from Credited Service or a Termination of Employment
- [ X ] Shall not be able to commence Superannuation Retirement Benefit without a Termination of Employment or Retirement

The Municipality hereby agrees to the provisions of this Adoption Agreement Amendment, and in witness of its agreement, the Municipality by its duly authorized officers has executed this Adoption Agreement Amendment, on the date specified below.

IN WITNESS WHEREOF, we have hereunto set our hands and seal the day, month and year above written.

ATTEST:

BY Michelle Y. Cleaver

DATE: 12/29/2023

MIDDLE SMITHFIELD TOWNSHIP

BY

  
Head of Governing Authority

ATTEST

PENNSYLVANIA MUNICIPAL  
RETIREMENT BOARD

BY: \_\_\_\_\_  
Secretary

BY: \_\_\_\_\_  
Board Chair

DATE: \_\_\_\_\_

Approved as to form and legality:

BY: \_\_\_\_\_  
Chief Counsel, PMRS

BY 49-FA-1.0  
Office of General Counsel

BY: 49-FA-1.0  
Office of Attorney General

This Plan is an important legal document. Failure to properly fill out this Adoption Agreement Amendment may result in disqualification of this Plan. PMRS will inform you of any amendments made to the Base Plan Document. The address of PMRS is 1721 North Front Street, Harrisburg, PA 17102.

You may rely on an opinion letter issued by the Internal Revenue Service as evidence that this Plan is qualified under Code Section 401 only to the extent provided in Revenue Procedure 2015-36.

You may not rely on the opinion letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the opinion letter issued with respect to the Plan and in Revenue Procedure 2015-36. In order to have reliance in such cases, an individual application for a determination letter must be made to Employee Plans Determinations of the Internal Revenue Service.