



MERS REVISED UNIFORM DEFINED CONTRIBUTION
PROGRAM RESOLUTION
Charter Township of Brighton
Resolution No. 09-014

WHEREAS, the MERS Plan Document of 1996, effective October 1, 1996, authorized a defined contribution option (Section 19A, Benefit Program DC) as a new benefit program that a participating municipality or court may adopt for MERS members to be administered under the discretion of the Municipal Employees' Retirement Board as trustee and fiduciary, directly by (or through a combination of) MERS or MERS' duly-appointed third-party administrator.

WHEREAS, as a new provision, Section 19A, along with the remainder of the Plan, received from the Internal Revenue Service a Letter of Favorable Determination (dated July 8, 1997) that the Plan is a qualified Plan under Section 401 of the Internal Revenue Code, and an exempt trust under Section 501.

WHEREAS, on May 5, 1997, the Municipal Employees' Retirement Board entered into an Alliance Agreement with ICMA-RC (the International City Management Association Retirement Corporation) as third-party administrator for the defined contribution plans under Plan Document Section 19A.

WHEREAS, on November 14, 2001, following MERS' due diligence search and review, the Retirement Board and ICMA-RC entered into the Amended and Restated Alliance Agreement (the "2001 Alliance Agreement") (Attachment 1) for third-party administrator services. Participating employees of MERS' municipalities and courts adopting Benefit Program DC receive enhanced services and favorable decreased participant fees under the 2001 Agreement. Additionally, such services and fees shall also be available where the participating municipality or court adopting Benefit Program DC has in effect (or subsequently establishes) an IRC section 457 deferred compensation plan or section 401(k) plan. Approval of this Revised Uniform Resolution by each MERS participating municipality and court which adopts or has adopted MERS Benefit Program DC is necessary and required in order that the benefits available under the 2001 Alliance Agreement may be extended to covered participants.

WHEREAS, this Revised Uniform Resolution has been approved by the Board under the Authority of 1996 PA 220, Section 36(2)(a), MCL 38.1536(2)(a), declaring that the Retirement Board "shall determine . . . and establish" all provisions of the retirement system. Under this authority, the Board authorized Section 19A, the Defined Contribution Benefit Program, which shall not be implemented unless in strict compliance with the terms and conditions of this Revised Resolution.

- It is expressly agreed and understood as an integral and nonseverable part of this Revised Resolution that Section 43B of the Plan Document shall not apply to this Revised Uniform Resolution and its administration or interpretation.
- In the event any alteration of the terms or conditions stated in this Revised Uniform Resolution is made or occurs, under Section 43B or other plan provision or other law, it is expressly recognized that MERS and the Retirement Board, as sole trustee and fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty: to administer (or to have administered) the Defined Contribution Benefit Program; to authorize the transfer of any defined benefit assets to the Defined Contribution

Benefit Program; or to continue administration by the third-party administrator or by MERS directly.

WHEREAS, concurrent with this Revised Resolution, and as a continuing obligation, this governing body has completed and approved, and submitted to MERS documents necessary for adoption and implementation of the MERS Benefit Program DC. This obligation applies to any documents deemed necessary to the operation of the defined contribution program by MERS' third-party administrator.

NOW, THEREFORE, BE IT RESOLVED that the governing body adopts (or readopts) MERS Benefit Program Defined Contribution as provided below.

I. NEW EMPLOYEES

Effective April 7, 2009, (to be known as the **ADOPTION DATE**), the
Charter Township of Brighton hereby adopts Benefit Program
(MERS municipality/court)

DC for TOWNSHIP MANAGER / SUPERINTENDENT
(specify division #s)

first hired or rehired or transferred to the division at any time on and after the Adoption Date, and optional participation for any employee or officer of this municipality otherwise eligible to participate in MERS under Section 2B(3)(a) of the Plan Document who has previously elected to not participate in MERS. **ONLY THOSE EMPLOYEES ELIGIBLE FOR MERS MEMBERSHIP (SECTIONS 2B(3) AND 3 OF THE PLAN DOCUMENT) SHALL BE ELIGIBLE TO PARTICIPATE.**

(A) **CONTRIBUTIONS** shall be as allowed and specified in the MERS Defined Contribution Program Adoption Agreement (Attachment 2, completed and approved and a certified copy submitted to MERS concurrent with and incorporated by reference in this Resolution) **subject to the provisions of the Plan Document. A member is immediately vested 100% in any employee contributions (Section 19A(3)), and is vested in employer contributions under the employer vesting schedule (Section 19A(4)).**

(B) **EARNINGS** under the Adoption Agreement shall include items of “Compensation” under Section 2A(6) of the MERS Plan Document, being the Medicare taxable wages reported on the member’s W-2 statement.

(C) **VESTING** shall be as allowed and specified under:
(1) Plan Section 19A(4); and
(2) the Adoption Agreement.

STOP *If covering new employees only, skip II and go to III on page 5.* ***STOP***

II. OPTIONAL PROVISION FOR CURRENT MERS MEMBERS WHERE DC PROGRAM FOR NEW EMPLOYEES ESTABLISHED (Plan Sec 19A(9)-(12))

THIS OPTIONAL PROVISION SHALL ONLY BE SELECTED WHERE THE TOTAL FUNDED PERCENT OF AGGREGATE ACCRUED LIABILITIES AND VALUATION ASSETS OF ALL RESERVES SPECIFIED IN TABLE 13 (OR SUCCESSOR TABLE) FOR THE PARTICIPATING MUNICIPALITY OR COURT, AND FOR THE AFFECTED MERS BENEFIT PROGRAM CLASSIFICATION(S) OF THE MOST RECENT MERS ANNUAL ACTUARIAL VALUATION REPORT IS AT LEAST SIXTY PERCENT (60%).

IT IS ADDITIONALLY RESOLVED, as provided in each of the following paragraphs:

(A) Effective on the **Adoption Date**, pursuant to Plan Section 19A(9) (select either (1) or (2))

(1) all current MERS defined benefit members who are members of the same employee classification described in Section I above on the **Adoption Date** shall:

**THE GOVERNING BODY SHALL
SELECT ONLY ONE OF THE FOLLOWING**

- where vested under this municipality’s MERS vesting program (10, 8, or 6 years)
- where the employee has at least the following number of years of credited service for this municipality on **Adoption Date**: _____ (insert whole number less than vesting program)
- without regard to vesting

be offered the opportunity to irrevocably elect coverage under Benefit Program DC, under the detailed procedures provided in Plan Section 19A(10)-(12).

Section 19A(10) specifies an employee's written election to participate shall be filed with MERS: (a) not earlier than the last day of the third month after this Resolution is adopted and received by MERS; and (b) not later than the first day of the first calendar month that is at least six months after MERS receives this Resolution. This means each eligible employee will have about 90 days to make the decision.

After MERS receives this Resolution, this governing body's authorized official and eligible employees will be advised by MERS of the election window timelines and other information to consider in making the irrevocable decision whether to participate in Benefit Program DC.

Participation for those electing coverage shall be effective the first day of the first calendar month at least six (6) months after MERS' receipt of the Resolution, here designated as being the month of _____, 20____, (insert month and year) which shall be known as the "**CONVERSION DATE.**"

The opportunity for current employees on the Adoption Date to participate in the DC Program shall (select 1 of the following 2 choices):

- apply to all employees who separate from or terminate employment with this municipality after the **Adoption Date** and before the **Conversion Date**, so long as the employee does not receive a retirement allowance (including distributions from Benefit Programs DC or H) from MERS based on service for this municipality.
- not apply to any employee who separates from or terminates employment with this municipality after the **Adoption Date**.
- (2)** all current members of the retirement system shall be mandatorily covered under, and deemed to elect, Benefit Program DC so long as the conditions of Section 19A(9) (a), (b) and (c) are met.

(B) CONTRIBUTIONS shall be as provided in Section I (A) above.

(C) EARNINGS shall be as provided in Section I (B) above.

(D) VESTING shall be as provided in Section I (C) above, and participants shall be credited, on participant written request and MERS' verification of such service, with all eligible service, if any, specified in Plan Section 19A(13) which states:

Where a member has previously acquired in the employ of any participating municipality or participating court:

- (a) not less than 1 year of defined benefit service in force with a participating municipality or participating court;
- (b) eligible credited service where the participating municipality or participating court has adopted the Reciprocal Retirement Act, 1961 PA 88;
- (c) at least 12 months in which employer contributions by a participating municipality or participating court have been made on behalf of the member under Benefit Program DC,

such service shall be applied toward satisfying the vesting schedule for employer contributions.

(E) For each employee irrevocably electing to participate in Benefit Program DC, then under Plan Section 19A(12), MERS shall transfer to the member's credit (as adjusted through MERS' records to the **Conversion Date**) the **greater** of:

- (1) The member's accumulated contributions; or
- (2) The actuarial present value (as determined in Paragraph (F) below).

The transfer shall be made approximately 30 calendar days after the **Conversion Date**, and the transfer amount shall include pro-rated regular interest at the regular Board-established rate for crediting of interest on member's accumulated contribution in the defined benefit program, measured from the **Conversion Date** to the actual transfer date.

(F) Per Plan Section 19A(12)(b), the Retirement Board has established the assumptions for calculation of the actuarial present value of a member's accrued benefit that may be

transferred. The assumptions are:

(1) **The Interest rate in effect as of the Adoption Date, to determine actuarial Present value, shall be the Board-established investment earnings rate Assumption (currently eight percent (8.00%)).**

(2) **The funded level for the member's specific MERS division (total funded Percentage of the present value of accrued benefits and valuation assets of all reserves) as of the Adoption Date** from the most recent MERS annual actuarial valuation report data provided by MERS' actuary. In the APV calculation, the funded level used shall be:

**THE GOVERNING BODY SHALL
SELECT ONLY ONE OF THE FOLLOWING**

- Funded level for the division (not to exceed 100% funded level).
- If greater than the division's funded level but not more than 100% funded level, then MERS is directed to compute the funded percentage for the transfer calculation on _____% funded basis (insert number not less than funded level percentage and not more than 100%). Where less than 100% funded level exists, this governing body recognizes that such direction shall increase its pension funding liability. MERS shall not implement such direction unless the governing body forwards to MERS sufficient cash up to the funded level selected for all members prior to the **Conversion Date**; if sufficient cash is not forwarded, then the governing body expressly covenants with MERS and directs, as a condition of this selection, to MERS billing and the governing body remitting to MERS all contributions necessary to fund the unfunded liability occasioned by the aggregate transfer of the difference between the actual funded level for the division and funded level directed above over a period of four (4) years.

III. IMPLEMENTATION DIRECTIONS FOR MERS BENEFIT PROGRAM DC THIRD-PARTY ADMINISTRATOR

(A) The governing body of this MERS participating municipality or court as Employer desires that MERS Benefit Program DC be administered by MERS' duly-designated third-party administrator and that some or all of the funds held under such plan be invested in the TPA's retirement trust established for the collective investment of funds held under the Employer's retirement, defined contribution, and deferred compensation plans.

(B) The Employer hereby establishes MERS Benefit Program Defined Contribution as authorized by Section 19A of the Municipal Employees' Retirement System of Michigan Plan Document, in the form of the third-party administrator's IRS-qualified retirement trust.

(C) The Declaration of Trust (Attachment 2, Appendix A, approved and adopted concurrent with and incorporated by reference in this Resolution) is operative and applies with respect to any MERS Benefit Program DC plan or deferred compensation plan previously or subsequently established by the Employer, if the assets are to be invested in the third-party administrator's retirement trust.

(D) **Daniel Bishop, TOWNSHIP MANAGER**
4363 BUNO ROAD, BRIGHTON MI 48114 - 9298
810.494.0710
MANAGER@BRIGHTONTWP.COM
(name and title of official, address, telephone number, and email address)

shall be the Employer's MERS Benefit Program Defined Contribution Plan coordinator; shall receive necessary reports, notices, etc., from the third-party administrator or its retirement trust; shall cast, on behalf of the Employer, any required votes under the retirement trust; may delegate any administrative duties relating to the defined contribution plan to appropriate departments.

(E) The Municipal Employees' Retirement Board retains full and unrestricted authority over the administration of MERS Benefit Program Defined Contribution, including but not limited

to the appointment and termination of the third-party administrator, or MERS' self-administration of the defined contribution program in whole or in part.

IV. EFFECTIVENESS OF THIS REVISED RESOLUTION

BE IT FINALLY RESOLVED: This Resolution shall have no legal effect under the MERS Plan Document until a certified copy of this adopting Resolution shall be filed with MERS, and MERS determines that all necessary requirements under Plan Document Section 19A, the 2001 Alliance Agreement, the Adoption Agreement, and this Resolution have been met. All dates for implementation of Benefit Program DC under Section 19A shall be determined by MERS from the date of filing with MERS of this Revised Resolution in proper form and content. Upon MERS determination that all necessary documents have been submitted to MERS, MERS shall record its formal approval upon this Resolution, and return a copy to the Employer's defined contribution plan coordinator identified in Section III (D) above.

In the event an amendatory Resolution or other action by the municipality is required, such Resolution or action shall be deemed effective as of the date of the initial Resolution or action where concurred in by this governing body and MERS (and the third-party administrator if necessary). Section 54 of the Plan Document shall apply to this Resolution and all acts performed under its authority. The terms and conditions of this Revised Resolution supersede and stand in place of any prior resolution, and its terms are controlling.

AYES: Bollin, Doughty, Theis, Slaton, Kovitz, Rogers, Murphy

NAYS: None

ABSENT: None

Thomas E. Murphy, Supervisor

Ann M. Bollin, Clerk

I hereby certify that the above is a true copy of a Resolution adopted at the official meeting held on April 6, 2009.

(Signature of authorized official)

Please send MERS fully executed copy of: this Revised Resolution; Part II (Administrative Services Agreement) of the 2001 Alliance Agreement; Adoption Agreement with Declaration of Trust and certified minutes stating governing body approval, and/or union contract language.

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: _____, 20_____

(Authorized MERS signatory)

Att.