

RESOLUTION NO. 37-84
CITY OF CENTERVILLE, OHIO

SPONSORED BY COUNCILMAN Bernard Samples ON THE 19th DAY
OF November, 1984.

A RESOLUTION OF THE CITY OF CENTERVILLE, OHIO, ADOPTING
THE DECLARATION OF TRUST FOR THE ICMA RETIREMENT TRUST.

WHEREAS, the City of Centerville (the "Employer") maintains a
deferred compensation plan for its employees which is administered by the
ICMA Retirement Corporation (the "Administrator"); and

WHEREAS, other public employers have joined together to establish
the ICMA Retirement Trust for the purpose of representing the interests of
the participating employers with respect to the collective investment of funds
held under their deferred compensation plans; and

WHEREAS, said Trust is a salutary development which further
advances the quality of administration for plans administered by the ICMA
Retirement Corporation:

NOW THEREFORE, THE MUNICIPALITY OF CENTERVILLE HEREBY RESOLVES:

SECTION 1. That the Employer hereby executes the ICMA Retirement
Trust, attached hereto and incorporated herein, marked Exhibit "A"; and

SECTION 2. That the City Manager shall be the coordinator for this
program and shall receive necessary reports, notices, etc. from the ICMA
Retirement Corporation as Administrator, and shall cast, on behalf of the
Employer, any required votes under the program. Administrative duties to
carry out the plan may be assigned to the appropriate departments.

SECTION 3. This Resolution shall take effect at the earliest date
allowed by law.

PASSED this 19th day of November, 1984.

Shirley F. Herbst
Mayor of the City of Centerville, Ohio

ATTEST:

Marilyn J. Saughel
Clerk of the Council of the City
of Centerville, Ohio

CERTIFICATE

The undersigned, Clerk of the Council of the City of Centerville,
Ohio, do hereby certify that this is a correct and true copy of Resolution
Number 37-84, passed by the Council of the City of Centerville, Ohio,
on the 19th day of November, 1984.

Marilyn J. Saughel
Clerk of the Council

Approved as to form, consistency
with existing ordinances, the
charter and constitutional provisions.

Department of Law
Robert N. Farquhar
Municipal Attorney

DECLARATION OF TRUST of ICMA RETIREMENT TRUST

ARTICLE I. Name and Definitions

SECTION 1.1. Name. The Name of the Trust created hereby is the ICMA Retirement Trust.

SECTION 1.2. Definitions. Wherever they are used herein, the following terms shall have the following respective meanings:

- (a) **By-Laws.** The By-Laws referred to in Section 4.1 hereof, as amended from time to time.
- (b) **Deferred Compensation Plan.** A deferred compensation plan established and maintained by a Public Employer for the purpose of providing retirement income and other deferred benefits to its employees in accordance with the provisions of section 457 of the Internal Revenue Code of 1954, as amended.
- (c) **Guaranteed Investment Contract.** A contract entered into by the Retirement Trust with insurance companies that provides for a guaranteed rate of return on investments made pursuant to such contract.
- (d) **ICMA.** The International City Management Association.
- (e) **ICMA/RC Trustees.** Those Trustees elected by the Public Employers who, in accordance with the provisions of Section 3.1(a) hereof, are also members of the Board of Directors of ICMA or RC.
- (f) **Investment Adviser.** The Investment Adviser that enters into a contract with the Retirement Trust to provide advice with respect to investment of the Trust Property.
- (g) **Employer Trust.** A trust created pursuant to an agreement between RC and a Public Employer for the purpose of investing and administering the funds set aside by such employer in connection with its deferred compensation agreements with its employees.
- (h) **Portfolios.** The Portfolios of investments established by the Investment Adviser to the Retirement Trust, under the supervision of the Trustees, for the purpose of providing investments for the Trust Property.
- (i) **Public Employee Trustees.** Those Trustees elected by the Public Employers who, in accordance with the provisions of Section 3.1(a) hereof, are full-time employees of Public Employers.
- (j) **Public Employer.** A unit of state or local government, or any agency or instrumentality thereof, that has adopted a Deferred Compensation Plan and has executed this Declaration of Trust.
- (k) **RC.** The International City Management Association Retirement Corporation.
- (l) **Retirement Trust.** The Trust created by this Declaration of Trust.
- (m) **Trust Property.** The amounts held in the Retirement Trust on behalf of the Public Employers. The Trust Property shall include any income resulting from the investment of the amounts so held.
- (n) **Trustees.** The Public Employee Trustees and ICMA/RC Trustees elected by the Public Employers to serve as members of the Board of Trustees of the Retirement Trust.

ARTICLE II. Creation and Purpose of the Trust; Ownership of Trust Property

SECTION 2.1. Creation. The Retirement Trust is created and established by the execution of this Declaration of Trust by the Trustees and the participating Public Employers.

SECTION 2.2. Purpose. The purpose of the Retirement Trust is to provide for the commingled investment of funds held by the Public Employers in connection with their Deferred Compensation Plans. The Trust Property shall be invested in the Portfolios, in Guaranteed Investment Contracts and in other investments recommended by the Investment Adviser under the supervision of the Board of Trustees.

SECTION 2.3. Ownership of Trust Property. The Trustees shall have legal title to the Trust Property. The Public Employers shall be the beneficial owners of the Trust Property.

ARTICLE III. Trustees

SECTION 3.1. Number and Qualification of Trustees.

- (a) The Board of Trustees shall consist of nine Trustees. Five of the Trustees shall be full-time employees of a Public Employer (the Public Employee Trustees) who are authorized by such Public Employer to serve as Trustee. The remaining four Trustees shall consist of two persons who, at the time of election to the Board of Trustees, are members of the Board of Directors of ICMA and two persons who, at the time of election, are members of the Board of Directors of RC (the ICMA/RC Trustees). One of the Trustees who is a director of ICMA, and one of the Trustees who is a director of RC, shall, at the time of election, be full-time employees of a Public Employer.
- (b) No person may serve as a Trustee for more than one term in any ten-year period.

SECTION 3.2. Election and Term.

- (a) Except for the Trustees appointed to fill vacancies pursuant to Section 3.5 hereof, the Trustees shall be elected by a vote of a majority of the Public Employers in accordance with the procedures set forth in the By-Laws.
- (b) At the first election of Trustees, three Trustees shall be elected for a term of three years, three Trustees shall be elected for a term of two years and three Trustees shall be elected for a term of one year. At each subsequent election, three Trustees shall be elected for a term of three years and until his or her successor is elected and qualified.

SECTION 3.3. Nominations. The Trustees who are full-time employees of Public Employers shall serve as the Nominating Committee for the Public Employee Trustees. The Nominating Committee shall choose candidates for Public Employee Trustees in accordance with the procedures set forth in the By-Laws.

SECTION 3.4. Resignation and Removal.

- (a) Any Trustee may resign as Trustee (without need for prior or subsequent accounting) by an instrument in writing signed by the Trustee and delivered to the other Trustees and such resignation shall be effective upon such delivery, or at a later date according

to the terms of the instrument. Any of the Trustees may be removed for cause, by a vote of a majority of the Public Employers.

(b) Each Public Employee Trustee shall resign his or her position as Trustee within sixty days of the date on which he or she ceases to be a full-time employee of a Public Employer.

SECTION 3.5. Vacancies. The term of office of a Trustee shall terminate and a vacancy shall occur in the event of the death, resignation, removal, adjudicated incompetence or other incapacity to perform the duties of the office of a Trustee. In the case of a vacancy, the remaining Trustees shall appoint such person as they in their discretion shall see fit (subject to the limitations set forth in this Section), to serve for the unexpired portion of the term of the Trustee who has resigned or otherwise ceased to be a Trustee. The appointment shall be made by a written instrument signed by a majority of the Trustees. The person appointed must be the same type of Trustee (i.e., Public Employee Trustee or ICMA/RC Trustee) as the person who has ceased to be a Trustee. An appointment of a Trustee may be made in anticipation of a vacancy to occur at a later date by reason of retirement or resignation, provided that such appointment shall not become effective prior to such retirement or resignation. Whenever a vacancy in the number of Trustees shall occur, until such vacancy is filled as provided in this Section 3.5, the Trustees in office, regardless of their number, shall have all the powers granted to the Trustees and shall discharge all the duties imposed upon the Trustees by this Declaration. A written instrument certifying the existence of such vacancy signed by a majority of the Trustees shall be conclusive evidence of the existence of such vacancy.

SECTION 3.6. Trustees Serve in Representative Capacity. By executing this Declaration, each Public Employer agrees that the Public Employee Trustees elected by the Public Employers are authorized to act as agents and representatives of the Public Employers collectively.

ARTICLE IV. Powers of Trustees

SECTION 4.1. General Powers. The Trustees shall have the power to conduct the business of the Trust and to carry on its operations. Such power shall include, but shall not be limited to, the power to:

- (a) receive the Trust Property from the Public Employers or from a Trustee of any Employer Trust;
- (b) enter into a contract with an Investment Adviser providing, among other things, for the establishment and operation of the Portfolios, selection of the Guaranteed Investment Contracts in which the Trust Property may be invested, selection of other investments for the Trust Property and the payment of reasonable fees to the Investment Adviser and to any sub-investment adviser retained by the Investment Adviser;
- (c) review annually the performance of the Investment Adviser and approve annually the contract with such Investment Adviser;
- (d) invest and reinvest the Trust Property in the Portfolios, the Guaranteed Investment Contracts and in any other investment recommended by the Investment Adviser, provided that if a Public Employer has directed that its monies be invested in specified Portfolios or in a Guaranteed Investment Contract, the Trustees of the Retirement Trust shall invest such monies in accordance with such directions;
- (e) keep such portion of the Trust Property in cash or cash balances as the Trustees, from time to time, may deem to be in the best interest of the Retirement Trust created hereby, without liability for interest thereon;
- (f) accept and retain for such time as they may deem advisable any securities or other property received or acquired by them as Trustees hereunder, whether or not such securities or other property would normally be purchased as investments hereunder;
- (g) cause any securities or other property held as part of the Trust Property to be registered in the name of the Retirement Trust or in the name of a nominee, and to hold any investments in bearer form, but the books and records of the Trustees shall at all

times show that all such investments are a part of the Trust Property;

(h) make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(i) vote upon any stock, bonds, or other securities; give general or special proxies or powers of attorney with or without power of substitution; exercise any conversion privileges, subscription rights, or other options, and make any payments incident thereto; oppose, or consent to, or otherwise participate in corporate reorganizations or other changes affecting corporate securities, and delegate discretionary powers, and pay assessments or charges in connection therewith; and generally exercise any of the powers of an owner with respect to stock, bonds, securities or other property held as part of the Trust Property;

(j) enter into contracts or arrangements for goods or services required in connection with the operation of the Retirement Trust, including, but not limited to, contracts with custodians and contracts for the provision of administrative services;

(k) borrow or raise money for the purpose of the Retirement Trust in such amount, and upon such terms and conditions, as the Trustees shall deem advisable, provided that the aggregate amount of such borrowings shall not exceed 30% of the value of the Trust Property. No person lending money to the Trust shall be bound to see the application of the money lent or to inquire into its validity, expediency or propriety of any such borrowing;

(l) incur reasonable expenses as required for the operation of the Retirement Trust and deduct such expenses from the Trust Property;

(m) pay expenses properly allocable to the Trust Property incurred in connection with the Deferred Compensation Plans of the Employer Trusts and deduct such expenses from that portion of the Trust Property beneficially owned by the Public Employers to whom such expenses are properly allocable;

(n) pay out of the Trust Property all real and personal property taxes, income taxes and other taxes of any and all kinds which, in the opinion of the Trustees, are properly levied, or assessed under existing or future laws upon, or in respect of, the Trust Property and allocate any such taxes to the appropriate account;

(o) adopt, amend and repeal the By-Laws, provided that such By-Laws are at all times consistent with the terms of this Declaration of Trust;

(p) employ persons to make available interests in the Retirement Trust to employers eligible to maintain a deferred compensation plan under section 457 of the Internal Revenue Code, as amended;

(q) issue the Annual Report of the Retirement Trust, and to disclose documents and other literature used by the Retirement Trust;

(r) make loans, including the purchase of debt obligations provided that all such loans shall bear interest at the current market rate;

(s) contract for, and delegate any powers granted hereunder to such officers, agents, employees, auditors and attorneys as the Trustees may select, provided that the Trustees may not delegate the powers set forth in paragraphs (b), (c) and (o) of this Section 4.1 and may not delegate any powers if such delegation would violate their fiduciary duties;

(t) provide for the indemnification of the officers and Trustees of the Retirement Trust and purchase fiduciary insurance;

(u) maintain books and records, including separate accounts for each Public Employer or Employer Trust and such additional separate accounts as are required under, and consistent with, the Deferred Compensation Plan of each Public Employer; and

(v) do all such acts, take all such proceedings, and exercise all such rights and privileges, although not specifically mentioned herein, as the Trustees may deem necessary or appropriate to administer the Trust Property and to carry out the purposes of the Retirement Trust.

SECTION 4.2. Distribution of Trust Property. Distributions of the Trust Property shall be made to, or on behalf of, the Public Employer, in accordance with the terms of the Deferred Compensation Plans or Employer Trusts. The Trustees of the Retirement Trust shall be fully protected in making payments in accordance with the directions of the Public Employers or the Trustees of the Employer Trusts without ascertaining whether such payments are in compliance with the provisions of the Deferred Compensation Plans or the agreements creating the Employer Trusts.

SECTION 4.3. Execution of Instruments. The Trustees may unanimously designate any one or more of the Trustees to execute any instrument or document on behalf of all, including but not limited to the signing or endorsement of any check and the signing of any applications, insurance and other contracts, and the action of such designated Trustee or Trustees shall have the same force and effect as if taken by all the Trustees.

ARTICLE V. Duty of Care and Liability of Trustees

SECTION 5.1. Duty of Care. In exercising the powers hereinbefore granted to the Trustees, the Trustees shall perform all acts within their authority for the exclusive purpose of providing benefits for the Public Employers, and shall perform such acts with the care, skill, prudence and diligence in the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

SECTION 5.2. Liability. The Trustees shall not be liable for any mistake of judgment or other action taken in good faith, and for any action taken or omitted in reliance in good faith upon the books of account or other records of the Retirement Trust, upon the opinion of counsel, or upon reports made to the Retirement Trust by any of its officers, employees or agents or by the Investment Adviser or any sub-investment adviser, accountants, appraisers or other experts or consultants selected with reasonable care by the Trustees, officers or employees of the Retirement Trust. The Trustees shall also not be liable for any loss sustained by the Trust Property by reason of any investment made in good faith and in accordance with the standard of care set forth in Section 5.1.

SECTION 5.3. Bond. No Trustee shall be obligated to give any bond or other security for the performance of any of his or her duties hereunder.

ARTICLE VI. Annual Report to Shareholders

The Trustees shall annually submit to the Public Employers a written report of the transactions of the Retirement Trust, including financial statements which shall be certified by independent public accountants chosen by the Trustees.

ARTICLE VII. Duration or Amendment of Retirement Trust

SECTION 7.1. Withdrawal. A Public Employer may, at any time, withdraw from this Retirement Trust by delivering to the Board of Trustees a statement to that effect. The withdrawing Public Employer's beneficial interest in the Retirement Trust shall be paid out to the Public Employer or to the Trustee of the Employer Trust, as appropriate.

SECTION 7.2. Duration. The Retirement Trust shall continue until terminated by the vote of a majority of the Public Employers, each casting one vote. Upon termination, all of the Trust Property shall be paid out to the Public Employers or the Trustees of the Employer Trusts, as appropriate.

SECTION 7.3. Amendment. The Retirement Trust may be amended by the vote of a majority of the Public Employers, each casting one vote.

SECTION 7.4. Procedure. A resolution to terminate or amend the Retirement Trust or to remove a Trustee shall be submitted to a vote of the Public Employers if: (a) a majority of the Trustees so direct, or (b) a petition requesting a vote, signed by not less than 25% of the Public Employers, is submitted to the Trustees.

ARTICLE VIII. Miscellaneous

SECTION 8.1. Governing Law. Except as otherwise required by state or local law, this Declaration of Trust and the Retirement Trust hereby created shall be construed and regulated by the laws of the District of Columbia.

SECTION 8.2. Counterparts. This Declaration may be executed by the Public Employers and Trustees in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.