

**OFFICIAL  
BOROUGH OF BELL ACRES  
ORDINANCE NO. 326**

**AN ORDINANCE OF THE BOROUGH OF BELL ACRES,  
ALLEGHENY COUNTY, PENNSYLVANIA AMENDING AND  
RESTATING THE BOROUGH OF BELL ACRES NON-UNIFORMED  
EMPLOYEES' PENSION PLAN TO ADD A 401(A) DEFINED  
CONTRIBUTION PLAN FEATURE FOR EXISTING EMPLOYEES  
AND EMPLOYEES HIRED AFTER JANUARY 1, 2024.**

WHEREAS, the Borough of Bell Acres previously established the Borough of Bell Acres Non-Uniformed Employees' Pension Plan (herein referred to as "the Plan") originally effective December 1, 1996 as amended; and

WHEREAS, the Borough of Bell Acres, herein enacts this Ordinance to amend the existing Plan whereby a 401(a) defined contribution feature shall be added for existing eligible Borough employees and future eligible Borough employees hired after January 1, 2024. The provisions of such defined contribution feature are incorporated into the Plan effective January 1, 2023 (attached hereto as Appendix A); and

WHEREAS, the Borough reserves the right to amend the Plan pursuant to Section 10.02; and

WHEREAS, existing participants in the Plan prior to January 1, 2024, will continue to accrue benefits under the provisions of the Plan prior to this amendment and will also be eligible for the defined contribution feature as outlined in Appendix A effective January 1, 2023. Eligible Non-Uniformed employees hired on or after January 1, 2024, will only participate in the defined contribution feature of the Plan as outlined in Appendix A.

NOW, THEREFORE, be it ordained and enacted by the Borough Council of the Borough of Bell Acres, and it is hereby ordained and enacted by and with the authority of the same, incorporating the above recitals by reference, that the Non-Uniformed Employees' Pension Plan is hereby amended and restated as follows:

**BOROUGH OF BELL ACRES**

**NON-UNIFORMED EMPLOYEES' PENSION PLAN**

Amended and Restated  
Effective as of: January 1, 2023

## TABLE OF CONTENTS

INTRODUCTION.....	1
ARTICLE I – DEFINITIONS.....	2
ARTICLE II – PARTICIPATION.....	6
ARTICLE III – CONTRIBUTIONS.....	6
ARTICLE IV – BENEFITS.....	7
ARTICLE V – DISTRIBUTION OF BENEFITS.....	9
ARTICLE VI – FORM OF BENEFITS.....	9
ARTICLE VII – INSURANCE CONTRACTS.....	11
ARTICLE VIII – PLAN ADMINISTRATION .....	14
ARTICLE IX – APPLICABLE PROVISIONS OF THE INTERNAL REVENUE CODE.....	19
ARTICLE X – AMENDMENT AND TERMINATION.....	19
ARTICLE XI – PARTICIPANTS’ RIGHTS .....	20
ARTICLE XII – PROVISIONS TO COMPLY WITH THE MUNICIPAL PLAN FUNDING STANDARD AND RECOVERY ACT OF 1984 .....	21
ARTICLE XIII – MISCELLANEOUS PROVISIONS .....	22
APPENDIX A .....	24

## BOROUGH OF BELL ACRES NONUNIFORMED EMPLOYEES' PENSION PLAN

By resolution dated December 1, 1996, BOROUGH OF BELL ACRES, hereinafter referred to as the "Employer," adopted a retirement program (the "Plan") for the benefit of its nonuniformed employees, to be effective as of January 1996. The Plan was updated and restated pursuant to the following local ordinances:


Ordinance 257	December 8, 2008
Ordinance 263	July 12, 2010
Ordinance 269	September 12, 2011

The basic purpose of the Plan is to provide retirement income. The Plan is also intended to provide benefits which help to insure against loss caused by disability. At all times, the Plan was intended to be a "qualified" plan under Section 401(a) of the Internal Revenue Code, as such provisions apply to governmental plans, so that until distributed, the contribution will be nontaxable to employees. By a separate document, the Employer has entered into an agreement which established a trust to hold, invest and administer the cash, securities and other property set aside for the Participants in the Plan.


This Plan may be executed in any number of counterparts, each of which shall be deemed an original.

The Employer signifies its intention to be legally bound by the provisions of the Plan, as hereinafter set forth, by causing it to be signed this 8<sup>th</sup> day of April, 2024.

ATTEST:

  
Secretary

BOROUGH OF BELL ACRES COUNCIL

By:   
President



## ARTICLE I – DEFINITIONS

As used in this Plan, the following words and phrases shall have the meanings set forth in this Article I, unless the context clearly indicates otherwise. Whenever appropriate, words used in the singular shall include the plural, words in the plural shall include the singular, and the masculine shall include the feminine.

- 1.01 Accrued Benefit shall mean the Normal Retirement Benefit payable to the Participant at this Normal Retirement Date, determined in accordance with Section 4.01(a)(iii). In the event the Participant terminates his employment prior to this Normal retirement Date his Accrued Benefit shall be equal to his Normal Retirement Benefit computed as of the date of the termination of his employment.
- 1.02 Actuarial Equivalent shall mean a form of benefit which is varied in time, manner or duration from a specific benefit provided under the terms of the Plan but which has the same value as the specific benefit and which is determined by using the following mortality assumption and interest rate: 7% interest and 1983 GAM Mortality Table (both pre- and post-retirement) for benefits paid as annuities and for lump sums for those hired on or after January 1, 2009; for benefits to be paid in the form of a lump sum for those hired prior to January 1, 2009 the 1983 GAM Mortality Table (both pre- and post-retirement) and the annual interest rate on 30-year Treasury Securities as specified by the Commissioner of the Internal Revenue Service for the look-back month preceding the stability period. For purposes of the preceding sentence, the stability period is the Plan Year and the look-back month is the month of November preceding the Plan Year in the stability period.
- 1.03 Average Compensation shall mean the average of the Participant's Compensation during the final three (3) years; provided, however, that if the Participant has less than 3 Compensation years, Average Compensation shall mean the average of his Compensation on an annual basis during his entire period of service.
- 1.04 Beneficiary shall mean any person or persons other than the Participant, entitled to receive benefits under this Plan by designation, under law, or in accordance with the provisions of this Plan.
- 1.05 Code shall mean the Internal Revenue Code of 1986, as the same may be amended from time to time.
- 1.06 Compensation shall mean a Participant's wages as defined in Code section 3401(a) and all other payments of compensation by the Employer during the Compensation Year for which the Employer is required to furnish the Participant a written statement under Code section 6041(d), 6051(a)(3) and 6052.
- 1.07 Compensation Year shall mean the Plan Year.

- 1.08 Covered Compensation shall mean, with respect to any Participant, the average (without indexing) of the Taxable Wage Bases in effect for the calendar years within the 35-year period ending with the last day of the calendar year prior to the calendar year in which the Participant attains Social Security Retirement Age. For purposes of determining a Participant's Covered Compensation for a Plan Year, it shall be assumed that the Taxable Wage Base for the current Plan Year and any subsequent Plan Year shall be the Taxable Wage Base in effect on the first day of the Plan Year for which the determination is being made. A Participant's Covered Compensation for a Plan Year prior to the 35-year period described above shall be the Taxable Wage Base in effect on the first day of that Plan Year. A Participant's Covered Compensation for a Plan Year subsequent to the 35-year period described above shall be the Participant's Covered Compensation for the Plan Year in which the Participant attains Social Security Retirement Age. A Participant's Covered Compensation shall be adjusted each Plan Year; provided, however, that a Participant's Accrued Benefit shall not be reduced by any change in his Covered Compensation.
- 1.09 Date of Participation shall mean the date on which an Employee becomes a Participant in the Plan in accordance with the provisions of Section 2.01.
- 1.10 Employee (for the purposes only of this Defined Benefit plan) shall mean any nonuniformed person who is employed by the Employer on a regular full-time basis and was hired prior to December 31, 2023.
- 1.11 Employer shall mean the Borough of Bell Acres, Allegheny County, Pennsylvania.
- 1.12 Employment Commencement Date shall mean the date on which the Employee first completes an Hour of Service.
- 1.13 Hour of Service shall mean each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer, which hours will be credited to the Employee for the Year of Service in which the duties are performed, and each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence; provided, however, that no more than 501 Hours of Service shall be credited to an Employee on account of any single continuous period during which the Employee performs no duties; and provided, further, that Hours of Service shall be calculated and credited hereunder pursuant to United States Department of Labor Regulation Section 2530.200b-2, which is incorporated herein by this reference.

Hour of Service shall include each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same hours of service shall not be credited under both this paragraph and the preceding

paragraph but shall be credited to the Employee for the Year or Years of Service to which the award or agreement pertains rather than the Year of Service in which the award, agreement or payment is made.

Hours of Service will be credited for employment with other members of an affiliated service group, as defined in Code section 414(m), or a controlled group, as defined in Code section 414(b) or 414(c), of which the Employer is a member and any other entity required to be aggregated with the Employer pursuant to Code section 414(o) and the regulations issued thereunder. Hours of Service shall be credited for any individual who is considered to be an employee for purposes of the Plan under Code section 414(n) or 414(o) and the regulations issued thereunder.

Solely for purposes of determining whether a One-Year Break in Service has occurred, a Participant who is on a "maternity or paternity leave of absence" shall be credited with the Hours of Service with which he would normally be credited by for the absence. In the event such hours cannot be determined, the Participant shall be credited with eight (8) Hours of Service per normal workday of absence; provided, however, that no more than five hundred and one (501) Hours of Service shall be credited for any single maternity or paternity leave of absence. Such Hours of Service shall be credited only (a) in the Plan Year in which the maternity or paternity leave of absence begins, if the crediting of such Hours of Service is necessary to prevent the occurrence of a One-Year Break in Service, or (b) in any other case, in the year immediately following the Plan Year in which the maternity or paternity leave begins. For purposes of this section "maternity or paternity leave of absence" shall mean an absence due to (a) pregnancy, (b) birth of a child, (c) placement of a child with the Participant in connection with the adoption of such child, or (d) caring for a child immediately following such birth or placement.

- 1.14 Leased Employee shall mean, effective as of January 1, 1997, any person (other than an Employee of the recipient) who pursuant to an agreement between the recipient and any other person ("leasing organization") has performed services for the recipient (or for the recipient and related persons determined in accordance with Code section 414(n)(6)) on a substantially full-time basis for a period of at least one year, and such services are under primary direction and control of the recipient.
- 1.15 One-Year Break in Service shall mean a Plan Year during which the Employee does not complete more than five hundred (500) Hours of Service with the Employer.
- 1.16 Participant shall mean any Employee who has attained his Date of Participation and has not become ineligible for any reason to participate further in the plan.
- 1.17 Plan shall mean the retirement plan sponsored by the Employer as embodied herein.
- 1.18 Plan Administrator shall mean the Borough Manager, or such other individual, group or entity as shall be designated by the Employer.

- 1.19 Plan Year shall mean the 12 consecutive month period beginning on January 1 of each year and ending on the following December 31.
- 1.20 Social Security Retirement Age shall mean age 65 (as to any participant born prior to January 1, 1938), age 66 (as to any Participant born after December 31, 1937, but prior to January 1, 1955) and age 67 (as to any participant born after December 31, 1954).
- 1.21 Taxable Wage Base shall mean the contribution and benefit base in effect under Section 230 of the Social Security Act at the beginning of the Plan Year.
- 1.22 Trust or Trust Fund shall mean the assets of the Plan as shall exist from time to time and as shall be administered by the Trustee pursuant to the terms of the trust agreement adopted in connection with this Plan.
- 1.23 Trustee shall mean the person, persons, or entities who, from time to time, are serving as trustees under the trust agreement adopted in connection with this Plan. The Trustee is the Named Fiduciary under the provisions of the Employee Retirement Income Security Act of 1974 (ERISA).
- 1.24 Vested Portion shall mean the portion of a Participant's benefit which is nonforfeitable, and which is determined in accordance with the provisions of Article IV.
- 1.25 Year of Participation shall mean a Plan Year beginning with his Date of Participation during which the Participant completes one thousand (1,000) Hours of Service.
- 1.26 Year of Service shall mean a twelve (12) consecutive month eligibility computation period during which an Employee completes at least one thousand (1,000) Hours of Service, beginning with the Employee's Employment Commencement Date or the anniversary of such Date. After an Employee becomes a Participant, and beginning with his Date of Participation, a Year of Service shall mean a Plan Year during which the Participant completes at least one thousand (1,000) Hours of Service. For benefit accrual purposes, Year of Service shall mean a Plan Year with respect to which the Participant accrues a benefit.

This provision is intended to comply with the terms of USERRA, Chapter 43 of Title 38, which provides that any period of qualified military service is included in years of employment provided that the Participant returns to employment following such period of qualified military service and the employee's absence does not exceed five (5) years.

## ARTICLE II – PARTICIPATION

- 2.01 Date of Participation: Each Employee shall become a Participant in the Plan as of his Employment Commencement Date, provided that the Employee was hired on or before December 31, 2023.
- 2.02 Continuous Employment: Leave of absence, temporary lay-off, service in the Armed Forces of the United States, and service on jury duty shall not be considered to be a termination of employment or a break in the continuity of employment for purposes of this Plan, provided that the absence does not exceed 12 months, or the original enlistment period in the case of absence due to service in the Armed Forces, and provided the Participant returns to his employment with the Employer within 60 days after such absence. If the Participant does not return to his employment with the Employer within that period, he shall be deemed to have terminated his employment at the time the absence commenced. The above provisions shall be interpreted in light of laws that protect the rights of veterans.
- 2.03 Sunset Provision: This Nonuniformed Employees' Pension Plan shall not apply to individuals hired by the Borough of Bell Acres on or after January 1, 2024, who shall be eligible to participate in the Borough's 401 Governmental Money Purchase Plan. The applicable terms of the 401 Governmental Money Purchase Plan are contained in Appendix A, including but not limited to an Administrative Services Agreement, 401 Governmental Money Purchase Plan & Trust Basic Documents and any amendments thereto, as well as any related Ordinances or Resolutions.

## ARTICLE III – CONTRIBUTIONS

- 3.01 Amount of Employer Contributions: The Employer shall contribute to the Trust, from time to time, such amounts as shall be sufficient to provide the benefits that will accrue under the Plan. The sufficiency of such contributions shall be determined in accordance with generally accepted actuarial methods and assumptions and the applicable minimum funding standards.
- 3.02 Voluntary Nondeductible Contributions: A Participant in the Plan is neither required nor permitted to make voluntary nondeductible contributions to the Trust.



## ARTICLE IV – BENEFITS

### 4.01 Retirement Benefits:

- (a) Normal Retirement: A Participant is entitled to receive his Normal Retirement Benefit as of his Normal Retirement Date.
  - (i) Normal Retirement Date shall mean the first day of the month coinciding with or next following the date on which the Participant attains Normal Retirement Age.
  - (ii) Normal Retirement Age shall mean the later of the Participant's 65<sup>th</sup> birthday or the attainment of five (5) years of service.
  - (iii) Normal Retirement Benefit: A Participant's Normal Retirement Benefit shall be equal to 1% of his Average Compensation, multiplied by his Years of Service, computed to the nearest dollar, subject to the limitations of Code section 415, as provided in Article IX.

The Normal Retirement Benefit of each Participant shall not be less than the largest periodic benefit that would have been payable to the Participant upon separation from service at or prior to Normal Retirement Age, exclusive of any Social Security supplements, premiums on disability or term insurance, and the value of disability benefits not in excess of the Normal Retirement Benefit. For purposes of comparing periodic benefits in the same form, commencing prior to and at Normal Retirement Age, the greater benefit is determined by converting the benefit payable prior to Normal Retirement Age into the same form of annuity benefit payable at Normal Retirement Age and comparing the amount of such annuity payments. In the case of a Top-Heavy Plan, the Normal Retirement Benefit shall not be less than the minimum benefit to which the Participant is entitled under Section 9.03.

- (b) Early Retirement: A Participant may elect to retire and receive his Early Retirement as of his Early Retirement Date.
  - (i) Early Retirement Date shall mean the first day of the month coinciding with, or next following, the date on which the Participant attains Early Retirement Age and elects to retire.
  - (ii) Early Retirement Age shall mean the later of age 60 or the attainment of 10 years of service. A Participant who terminates employment with the Employer prior to his Early Retirement Date shall be entitled to receive his Early Retirement Benefit upon his attainment of Early Retirement Age.

(iii) Early Retirement Benefit: A Participant's Early Retirement Benefit shall be equal to this Accrued Benefit, reduced by 5.9 for each month by which his Early Retirement Date precedes his Normal Retirement Date.

(c) Late Retirement: A Participant may continue to be employed beyond his Normal Retirement Date. In such event, the Participant's late retirement benefit shall be his retirement benefit increased due to continued service and compensation beyond Normal Retirement Age.

4.02 Deferred Vested Benefit:

(a) In the event a Participant's employment is terminated for any reason other than a retirement, disability, or death, he shall be entitled to receive the Vested Portion of his Accrued Benefit, determined in accordance with Section 4.03(b), and distribution of such deferred benefit shall be made in accordance with the provisions of Articles V and VI.

(b) The Vested Portion of the Participant's Accrued Benefit shall be determined in accordance with the following schedule:

<u>Years of Vested Service</u>	<u>Vested Portion</u>
Less than 5 years	0%
5 years or more	100%

Notwithstanding the foregoing, a Participant's Vested Portion of his Accrued Benefit shall be 100% upon his Normal Retirement date and, if the Plan provides for early retirement, upon his Early Retirement Date.

4.03 Forfeiture for Cause: No vested benefit under this Plan shall be subject to forfeiture for cause, unless otherwise subject to the mandatory provisions of the Public Employee Pension Forfeiture Act (P.L. 752, No. 140).

## ARTICLE V – DISTRIBUTION OF BENEFITS

5.01 Distribution of Retirement Benefits: Subject to the provisions of this Article V, distribution of a Participant's Normal or Early Retirement Benefit shall commence as soon as administratively feasible following the Participant's attainment of his Normal or Early Retirement date, unless the Participant elects otherwise. Distribution shall be made in accordance with the provisions of Article VI.

5.02 Mandatory Commencement Date:

- (a) Unless the Participant elects otherwise, distribution of each Participant's benefits shall begin not later than the 60<sup>th</sup> day following the close of the Plan Year in which the latest of the following occurs:
- (i) The Participant attains age 65 or Normal Retirement Age, if earlier;
  - (ii) There occurs the 10<sup>th</sup> anniversary of the Participant's Date of Participation; or
  - (iii) The Participant terminates his employment with the Employer.
- (b) Distribution of benefits shall begin not later than the 1<sup>st</sup> day of April of the calendar year following the calendar year in which the later of the following occurs: (i) the Participant attains age 72 (or 73, if the employee turns 72 after December 31, 2022) or (ii) the Participant terminates employment. Such date shall be the Participant's "Required Commencement Date."

5.03 Cash-Out Distribution: The Trustee shall not make distribution of benefits to any Participant whose employment with the Employer has been terminated for reasons other than death or retirement prior to the date required under Section 5.02.

## ARTICLE VI – FORM OF BENEFITS

6.01 Normal Form of Benefit: As to any Participant who is credited with at least one (1) Hour of Service on or after August 23, 1984, the Normal Form of Benefit shall be a Life Annuity, unless an election is made, as provided in this Article VI, not to receive the benefits in such form. For purposes of this Plan, "Life Annuity" shall mean an immediate annuity for the life of the Participant.

6.02 Alternate Form of Benefit

- (a) Notwithstanding the foregoing, any Participant who becomes entitled to benefits at or prior to retirement may elect to receive distribution of benefits in any of the forms listed in subparagraph (b) below, provided that the election is made in writing, on a form to be furnished by the Plan



Administrator, and designates a Beneficiary, including any class of beneficiaries or any contingent beneficiaries, in the case of a lump sum.

(b) The Alternate forms of benefits are:

(i) A lump sum; and

(ii) Joint and 50% survivor annuity. Such annuity shall be an immediate annuity for the life of the Participant with a survivor annuity for the life of the Participant's beneficiary which is equal to one-half (1/2) of the amount of the annuity payable during the joint lives of the Participant and his Beneficiary and which is the Actuarial Equivalent, determined in accordance with Section 6.05, of a single life annuity for the life of the Participant.

6.03 Pre-Retirement Survivor Annuity: In the event of the death of a vested Participant prior to his actual retirement date, a death benefit will be payable as a Joint and 50% survivor annuity to the surviving Beneficiary, if:

(a) In the case of a Participant who dies before attaining eligibility for early retirement, his Beneficiary will receive the same benefit that would have been payable if the Participant had:

(i) separated from service on the earlier of his actual separation from service date or his date of death;

(ii) survived to Early Retirement Age;

(iii) retired at Early Retirement Age with an immediate Joint and 50% survivor annuity; and

(iv) died on the day after he had retired.

(b) In the case of a Participant who dies after attaining eligibility for early retirement but prior to his actual retirement date, his Beneficiary will receive the same benefit that would have been payable if the Participant had:

(i) retired with an immediate joint and 50% survivor annuity; and

(ii) died on the day after he had retired.

6.04 Actuarial Reductions: The present value of any benefit provided under the terms of this Plan shall be actuarially equivalent to the normal form of benefits as provided in Section 6.01. Actuarial equivalence shall be determined on the basis of the mortality and interest rates specified in Section 1.02.

## ARTICLE VII – INSURANCE CONTRACTS

- 7.01 Trustee's Option: The Trustee may purchase insurance policies on the lives of Participants on a uniform, proportionate and nondiscriminatory basis. The Trustee shall apply for, and will be the owner of, any insurance contract purchased under the terms of this Section 7.01. Each insurance contract must provide that proceeds will be payable to the Trustee; however, the Trustee shall be required to pay over all proceeds of such contract to the Participant's spouse or other designated Beneficiary, in accordance with the provisions of Article IV.
- 7.02 Limitation on Purchase of Insurance: The Trustee may not use any of the contract value to continue life insurance for the Participant after his employment has terminated. However, a Participant whose service is terminated may purchase from the Trust at a price equal to the accumulated cash value any insurance or annuity contract purchased on his behalf. If a Participant is determined to be uninsurable, the Trustee shall not be required to purchase any life insurance contract on the life of such Participant.
- 7.03 Insurance Company: No insurance company which issues policies under the Plan shall be deemed to be a party to the Plan for any purpose. The company's sole duties shall be to honor the contract terms and to provide such information regarding the policies as is required by law. In the event of any conflict between the terms of this Plan and the terms of any insurance contract purchased hereunder, the Plan provisions shall control.

## ARTICLE VIII – PLAN ADMINISTRATION

- 8.01 Plan Administrator: The Plan Administrator shall have the power and authority to do all acts and to execute, acknowledge and deliver all instruments necessary to implement and effectuate the purpose of this Plan. The Plan Administrator may delegate authority to act on its behalf to any persons it deems appropriate.
- 8.02 Nonuniformed Employees' Pension Committee: The Borough may establish a Non-Uniformed Pension Plan Committee. The Committee shall be advisory only.
- 8.03 Authority and Duties of the Plan Administrator: The Plan Administrator shall have full power and authority to do whatever shall, in its judgment, be reasonably necessary for the proper administration and operation of the Plan. The interpretation or construction placed upon any term or provisions of the Plan by the Plan Administrator, or any action of the Plan Administrator taken in good faith shall, upon Council's review and approval thereof, be final and conclusive upon all parties hereto, whether Employees, Participants or other persons concerned. By way of specification and not limitation and except as specifically limited hereafter, the Plan Administrator is authorized:

- (a) to construe this Plan;
- (b) to determine all questions affecting the eligibility of any Employee to participate herein;
- (c) to compute the amount and source of any benefit payable hereunder to any Participant or Beneficiary;
- (d) to authorize any and all disbursements;
- (e) to prescribe any procedure to be followed by any Participant and/or other person in filing any application or Election;
- (f) to prepare and distribute, in such manner as may be required by law or as the Plan Administrator deems appropriate, information explaining the Plan;
- (g) to require from the Employer or any Participant such information as shall be necessary for the proper administration of the Plan; and
- (h) to appoint and retain any individual to assist in the administration of the Plan, including such legal, clerical, accounting and actuarial services as may be required by any applicable law or laws.

The Plan Administrator shall have no power to add to, subtract from or modify the terms of the Plan or change or add to any benefits provided by the Plan, or to waive or fail to apply any requirements of eligibility for benefits under the Plan. Further, the Plan Administrator shall have no power to adopt, amend, or terminate the Plan, to select or appoint any Trustee or to determine or require any contributions to the Plan, said powers being exclusively reserved to Council.

8.04 Plan Administrator Costs: The Plan Administrator shall serve without compensation for services unless otherwise agreed by Council in writing. All reasonable expenses incident to the functioning of the Plan Administrator, including, but not limited to, fees of accountants, counsel, actuaries and other specialists and other costs of administering the Plan, may be paid from the Pension Fund upon approval by Council to the extent permitted under applicable law and not otherwise paid by the Employer.

8.05 Hold Harmless: No Council person, the Plan Administrator, nor any other officer or employee of the Borough involved in the administration of the Plan shall be liable to any person on account of any act or failure to act which is taken or omitted to be taken in good faith in performing their respective duties under the terms of this Plan. To the extent permitted by law, the Employer shall, and hereby does agree to, indemnify and hold harmless the Plan Administrator and each successor and each of any such individual's heirs, executors and administrators, and the delegates and appointees (other than any person, bank, firm or corporation which is independent of the Employer and which renders services to the Plan for a fee) from any and all liability and expenses, including counsel fees, reasonably incurred in any action, suit or proceeding to which he is or may be made a party by reason of being or having been a member, delegate or appointee of the Plan Administrator, except in matters involving criminal liability, intentional or

willful misconduct. If the Employer purchases insurance to cover claims of a nature described above, then there shall be no right of indemnification except to the extent of the amount the claims exceed the insured amount.

- 8.06 Approval of Benefits: The Plan Administrator shall review and approve or deny any application for retirement benefits within thirty (30) days following receipt thereof or within such longer time as may be necessary under the circumstances. Any denial of an application for retirement benefits shall be in writing and shall specify the reason for such denial.
- 8.07 Appeal Procedure: Any person whose application for retirement benefits is denied, who questions the amount of benefit paid, who believes a benefit should have commenced which did not so commence or who has some other claim arising under the Plan ("Claimant"), shall first seek a resolution of such claim under the procedure hereinafter set forth.
- (a) Any Claimant shall file a Notice of the claim with the Plan Administrator which shall fully describe the nature of the claim. The Plan Administrator shall review the claim and make an initial determination approving or denying the claim.
  - (b) If the claim is denied in whole or in part, the Plan Administrator shall, within ninety (90) days (or such other period as may be established by applicable law) from the time the application is received, mail Notice of such denial to the Claimant. Such ninety (90) day period may be extended by the Plan Administrator if special circumstances so require for up to ninety (90) additional days by the Plan Administrator's delivering Notice of such extension to the Claimant within the first ninety (90) day period. Any Notice hereunder shall be written in a manner calculated to be understood by the Claimant and, if a Notice of denial, shall set forth (i) the specific Plan provisions on which the denial is based, (ii) an explanation of additional material or information, if any, necessary to perfect such claim and a statement of why such material or information is necessary, and (iii) an explanation of the review procedure.
  - (c) Upon receipt of Notice denying the claim, the Claimant shall have the right to request a full and fair review by Council of the initial determination. Such request for review must be made by Notice to Council within sixty (60) days of receipt of such Notice of denial. During such review, the Claimant or a duly authorized representative shall have the right to review any pertinent documents and to submit any issues or comments in writing. Council shall, within sixty (60) days after receipt of the Notice requesting such review, (or in special circumstances, such as where Council in its sole discretion holds a hearing, within one hundred and twenty (120) days of receipt of such Notice), submit its decision in writing to the person or persons whose claim has been denied, written in a manner calculated to be understood by the Claimant and shall contain specific references to the pertinent Plan

provisions on which the decision is based. The Claimant shall have the right to appeal the decision of Council pursuant to the Local Agency Law, 2 Pa. C.S. § 101 et. seq. If not so appealed the decision shall be final, conclusive and binding on all parties.

- (d) Any Notice of a claim questioning the amount of a benefit in pay status shall be filed within ninety (90) days following the date of the first payment which would be adjusted if the claim is granted unless the Plan Administrator allows a later filing for good cause shown.
- (e) A Claimant who does not submit a Notice of a claim or a Notice requesting a review of a denial of a claim within the time limitations specified above shall be deemed to have waived such claim or right to review.

### ARTICLE IX – APPLICABLE PROVISIONS OF THE INTERNAL REVENUE CODE

9.01 Definitions: The following definitions apply for purposes of this Article only:

- (a) Leased Employee shall mean, effective as of January 1, 1997, any person (other than an employee of the recipient) who pursuant to an agreement between the recipient and any other person (“leasing organization”) has performed services for the recipient (or for the recipient and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full-time basis for a period of at least one year, and such services are performed under primary direction or control by the recipient.
- (b) Limitation Year shall mean the Plan Year.

9.02 Leased Employees and Independent Contractors: Leased Employees and Independent Contractors are not eligible to participate in this Plan. Any person whom the Council does not regard as being an Employee shall not be eligible to participate.

9.03 Maximum Annual Benefit

- (a) General Rule: Effective January 1, 1989, except as otherwise provided, this Plan shall at all times comply with the provisions of Code section 415 and the regulations thereunder, the terms of which are specifically incorporated herein by reference. If a benefit payable to a Participant under this Plan would otherwise exceed the limit under Code section 415(b)(1)(A), as adjusted pursuant to Code section 415(d), the benefit will be reduced to the maximum permissible benefit.
- (b) Effective Date: If there is more than one permissible effective date for any required change in the Code section 415(b) provisions, then the change shall be effective as of the latest permissible effective date; however, any adjustment in the dollar limit under Code section 415(b)(1)(A), whether



required or permissible, shall take effect automatically as of the earliest permissible effective date. The “applicable mortality table” in Rev. Rul. 2001-62 is effective from December 31, 2002 through December 31, 2007. Effective as of January 1, 2008, the “applicable mortality table” and “applicable interest rate” are found in Rev. Rul. 2007-67.

- (c) No Reduction in Accrued Benefits: Notwithstanding the above, no change in the limits under this Article shall reduce the benefit of any Participant.
- (d) Multiple Plans: If a Participant also participates in one or more other plans that are required to be aggregated with this Plan for purposes of determining the limits under Code section 415(b), and if the aggregated benefits would otherwise exceed the limit under Code section 415(b), then benefits shall be reduced first under this Plan.
- (e) Mandatory Contributions: Participant Contributions are annual additions, and any benefit attributable to Participant Contributions is not included in the benefit subject to the limits of Code section 415(b). This subsection does not apply to contributions “picked-up” in accordance with Code section 414(h).
- (f) Permissive Service Credit: Effective as of January 1, 1998, if a Participant makes a purchase of permissive service credit (within the meaning of Code section 415(n)) under the Plan, the benefit derived from the contributions made to purchase the service credit shall be treated as part of the benefit subject to the limitations under this section.

#### 9.04 Limit on Annual Additions

- (a) Annual Additions: Effective January 1, 1989, except as otherwise provided, annual additions (which include Participant Contributions) under this Plan shall at all times comply with the provisions of Code section 415(c) and the regulations thereunder, the terms of which are specifically incorporated herein by reference. If an annual addition would otherwise exceed the limit under Code section 415(c), the excess annual addition will be eliminated in accordance with method permitted under Rev. Proc. 2008-50 (Rev. Proc. 2006-27 prior to 2009) or its successor.
- (b) Multiple Plans: If a Participant also participates in one or more other plans that are required to be aggregated with this Plan for purposes of determining the limits under Code section 415(c), and if the annual additions would otherwise exceed the limit under Code section 415(c), annual additions will first be reduced under the other plan. If there is more than one other plan, annual additions will first be reduced under the plan with the greatest amount of annual additions.
- (c) Effective Date: The limits under Code section 415(c) are adjusted periodically in accordance with changes in the law or cost of living adjustments without the need for a plan amendment. If there is more than one permissible effective date for any required change relating to Code

section 415(c), then the change shall be effective as of the earliest permissible effective date.

- (d) 415(c) Compensation: For the purposes of this Section, "compensation" includes only those items specified in Treas. Reg. § 1.415(c)-2(b)1 or (2) and excludes all items listed in Treas. Reg. § 1.415(c)-2(c), the terms of which are specifically incorporated herein by reference. Effective as of January 1, 2009, to the extent required by the Heroes Earning Assistance Tax Relief Act of 2008 (HEART Act), differential wage payments shall be included in the Compensation.
- 9.05 Multiple Plan Reduction: Code section 415(e) applied for Limitation Years beginning prior to 2000.
- 9.06 Limit on Compensation: Effective January 1, 1993, Compensation is subject to the limitation under Code section 401(a)(17). The limit is automatically adjusted periodically, without formal amendment, for changes in the law and cost-of-living adjustments under Code section 401(a)(17).
- 9.07 Vesting Upon Plan Termination: Effective September 1, 1974, upon the termination of this Plan, or complete or partial discontinuance of contributions (within the meaning of pre-ERISA Code section 401(a)(7)) to this Plan, each Employee (who is not already 100% vested) as of the date of such termination or discontinuance shall become vested to the extent that the Plan is funded.
- 9.08 Required Distributions: Effective January 1, 1986, notwithstanding any provision in this Plan to the contrary, the distribution of a Participant's benefits shall be made in accordance with the requirements of Code section 401(a)(9). For purposes of complying with Code section 401(a)(9), life expectancies were determined in accordance with the 1987 proposed regulations prior to January 1, 2003, and with the final regulations (§ 1.401(a)(9)-1 through § 1.401(a)(9)-9) on or after January 1, 2003.
- (a) Distribution of a Participant's benefits shall begin not later than April 1<sup>st</sup> of the calendar year following the later of:
- (i) the calendar year in which the Participant attains seventy-two (72) (or seventy-three (73) if the Participant attains age 72 after December 31, 2022), or
  - (ii) the calendar year in which the Participant retires.
- Distributions must be made over a period not exceeding the life of the Participant or the joint lives of a Participant and his Beneficiary.
- (b) Distributions to a Participant and his Beneficiaries shall only be made in accordance with the incidental death benefit requirements of Code section 401(a)(9)(G) and the regulations thereunder. If a Participant receives a joint and survivor annuity and the beneficiary is not the Participant's spouse, life

expectancy shall be determined using the Uniform Lifetime Table of Treasury Regulation § 1.401(a)(9)-9.

- (c) This section does not authorize the payment of any benefit in any form not permitted under another provision of the Plan.
- (d) The terms of any annuity purchased with Trust assets must comply with the requirements of Code section 401(a)(9) and the regulations thereunder.

9.09 Domestic Relations Order: Effective January 1, 1985, all rights and benefits, including elections, provided to a Participant in this Plan may be subject to the rights afforded to any "alternate payee" pursuant to a domestic relations order as provided by applicable state law.

9.10 Direct Rollover

- (a) This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (b) For purposes of this Section, the following definitions shall apply:

- (i) An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: (I) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; (II) any distribution to the extent such distribution is required under Code section 401(a)(9); (III) the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and (IV) effective as of January 1, 2002, any hardship distribution.

Effective as of January 1, 2002, clause (III) does not apply to any after-tax Participant contributions that are paid to an Individual Retirement Account or annuity described in Code section 408(a) or (b), or to a qualified defined contribution plan described in Code section 401(a) or 403(a) or effective as of January 1, 2007, any 403(b) annuity contract that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.



- (ii) An eligible retirement plan is an individual retirement account described in Code section 408(a), and individual retirement annuity described in Code section 408(b), an annuity plan described in Code section 403(a), or a qualified trust described in Code section 401(a), that accepts the distributee's eligible rollover distribution. Effective as of January 1, 2002, an "eligible retirement plan" includes an annuity contract described in Code section 403(b) and an eligible plan under Code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan. Effective January 1, 2008, a Roth IRA is an "eligible retirement plan." Prior to January 1, 2002, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan was an individual retirement account or individual retirement annuity.
  - (iii) A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse of former spouse.
  - (iv) A direct rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.
- (c) Non-Spouse Beneficiaries: Effective as of January 1, 2007, if a Beneficiary who is not a surviving spouse is entitled to receive what would otherwise be an "eligible rollover distribution," the Beneficiary may, in accordance with Code section 402(c)(11), make a trustee-to-trustee transfer of that amount to an IRA or individual retirement annuity (other than an endowment contract) provided that:
- (i) the transfer is made not later than the end of the fourth year after the year of the Participant's death.
  - (ii) the account or annuity to which the amount is transferred is treated as an inherited IRA or individual retirement annuity in accordance with Code section 408(d)(3)(C).

9.11 Heroes Earnings Assistance Relief Tax Act of 2008 (HEART Act): Except where otherwise specifically provided to the contrary in this Plan, effective for deaths occurring on or after January 1, 2007, the Plan will provide retirement benefits and service credit to the extent that the Plan is required and mandated by the HEART Act to provide said benefits and/or service credit.

9.12 Consent for Lump-Sum Distributions: Effective January 1, 2006, notwithstanding any other provision of the Plan, any distribution to a Participant made prior to the earlier of age 62 or Normal Retirement Age of an amount in excess of \$1,000 that is

an eligible rollover distribution as set forth in the Plan and the Code shall be made only upon consent of the Participant.

- 9.13 Credit for Qualified Military Service: Effective December 12, 1994, notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with section 414(u) of the Code.
- 9.14 Forfeitures: Effective September 1, 1974, forfeitures shall not be used to increase the benefits of any Participant in this Plan but may be used to reduce Employer contributions to the Plan.
- 9.15 Vesting at Normal Retirement Age – Effective September 1, 1974, upon attainment of Normal Retirement Age, a Participant shall be 100% vested in his Normal Retirement Benefit.

#### ARTICLE X – AMENDMENT AND TERMINATION

- 10.01 General: The Employer expects to continue the Plan to the extent and for the duration necessary to provide for all Eligible Participants under the Plan, subject to the sunset provision in section 2.03, but is not contractually bound to do so. In order to protect both Employees and the Employer against unforeseen contingencies, the Employer reserves the right to amend or terminate the Plan or to discontinue contributions at any time without the consent of any other party.
- 10.02 Amendment: All amendments to the Plan or Trust shall be in writing and, except for those items which, under the terms of the Plan may be adopted by the Trustee alone, shall be approved by formal action of the Employer. No amendment which affects the rights, duties or responsibilities of the trustee shall be effective as to the Trustee, if the Trustee, within 30 days after receipt of notice of the amendment, shall notify the Employer that it does not intend to be bound by such change and shall tender its written resignation as Trustee.
- No amendment shall be effective, as to any Employee who is a Participant on the later of the date such amendment is adopted or the date on which it becomes effective, to reduce his Vested Portion, as determined under Article IV.
- 10.03 Termination: Upon complete or partial termination of the Plan or complete discontinuance of contributions, each affected Participant shall be fully vested in his Accrued Benefit to the extent said Accrued Benefit is funded.

If there is any balance remaining in the Trust Fund after the satisfaction of all liabilities to participants and their beneficiaries, such balance shall revert and be distributed to the Employer.

## ARTICLE XI – PARTICIPANTS’ RIGHTS

11.01 Merger and Consolidation: In the event of a merger or consolidation of the Plan with any other plan or the transfer of the assets or liabilities of the Plan to any other plan, each Participant shall be entitled to receive a benefit, if the Plan then terminated, which is at least equal to the benefit to which he would have been entitled if the Plan had terminated immediately prior to such merger, consolidation or transfer.

11.02 Spendthrift:

- (a) No benefit under the Plan shall be liable for, or subject to, the contract, debts, liabilities or torts now or hereafter made, contracted, incurred or committed by any Participant, former Participant, or Beneficiary thereof; nor shall such benefit be subject to attachment, garnishment or legal or equitable process. Except as provided by law, no assignment, alienation, pledge or encumbrance of any benefit made by a Participant, former Participant or Beneficiary thereof shall be valid, and such benefit shall be paid by the Trustee directly to or for the benefit of the person(s) entitled thereto, without regard to any assignment, order, attachment or claim whatsoever.
- (b) Subparagraph (a) of this Section 11.02 shall apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a Participant pursuant to a Domestic Relations Order, but shall not apply if such Order is determined, in accordance with provisions of that Article, to be an Approved Domestic Relations Order under Section 9.09.

11.03 Inability to Locate Participant or Beneficiary

- (a) In the event the Trustee, after diligent effort, is unable to locate any Participant or Beneficiary entitled to a distribution of benefits, the present value of such benefits shall be converted to cash and deposited into a separate, interest-bearing account, to be held there until 7 years, or such lesser period of time as required for escheat under the laws of the state in which the Employer is located, shall have elapsed from the date on which such benefits became payable, unless and until the Participant or Beneficiary shall have been located.
- (b) Upon the expiration of such period, or upon the termination of the Plan, if earlier, the segregated account and all interest accrued thereof, shall be forfeited and inure to the Trust.

**ARTICLE XII – PROVISIONS TO COMPLY WITH THE MUNICIPAL PENSION  
PLAN FUNDING STANDARD AND RECOVERY ACT OF 1984**

12.01 Actuarial Valuations: The Plan's Actuary shall perform an actuarial valuation biennially, unless the Employer is applying for or has applied for supplemental state assistance pursuant to section 603 of the Municipal Pension Plan Funding Standard and Recovery Act of 1984, whereupon actuarial valuation reports shall be made annually.

Such biennial actuarial valuation report shall be made as of the beginning of each Plan Year occurring in an odd-numbered calendar year, beginning with the year 1985. Such actuarial valuation shall be prepared and certified by an approved Actuary, as such term is defined in the Act.

The expenses attributable to the preparation of any actuarial valuation report or investigation required by the Act or any other expense which is permissible under the terms of the Act and which are directly associated with administering the Plan shall be an allowable administrative expense payable from the assets of the Pension Fund. Such allowable expenses shall include but not be limited to the following:

- (a) investment costs associated with obtaining authorized investments and investment management fees;
- (b) accounting expenses;
- (c) premiums for insurance coverage on Fund assets;
- (d) reasonable and necessary counsel fees incurred for advice or to defend the Fund; and
- (e) legitimate travel and education expenses for Plan officials; provided, however, that the municipal officials of the Employer, in their fiduciary role, shall monitor the services provided to the Plan to ensure that the expenses are necessary, reasonable and benefit the Plan; and further provided, that the Plan Administrator shall document all such expenses item by item, and where necessary, hour by hour.

12.02 Duties of Chief Administrative Officer: Such actuarial reports shall be prepared and filed under the supervision of the Chief Administrative Officer.

The Chief Administrative Officer of the Plan shall determine the financial requirements of the Plan on the basis of the most recent actuarial report and shall determine the Minimum Municipal Obligation of the Employer with respect to funding the Plan for any given Plan Year. The Chief Administrative Officer shall submit the financial requirements of the Plan and the Minimum Municipal Obligation of the Employer to Council annually and shall certify the accuracy of such calculations and their conformance with the Act.

12.03 Benefit Plan Modifications: Prior to the adoption of any benefit plan modification by the Employer, the Chief Administrative Officer of the Plan shall provide to Council a cost estimate of the proposed benefit plan modification. Such estimate

shall be prepared by an approved Actuary, which estimate shall disclose to Council the impact of the proposed benefit plan modification on the future financial requirements of the Plan and the future Minimum Municipal Obligation of the Employer with respect to the Plan.

### ARTICLE XIII- MISCELLANEOUS PROVISIONS

- 13.01 Plan Not a Contract of Employment: No employee of the Employer nor anyone else shall have any rights whatsoever against the Employer or Plan Administrator as a result of this Plan except those expressly granted to them hereunder. Nothing herein shall be construed to give any employee the right to remain an employee of the Employer.
- 13.02 Masculine/Feminine & Singular/Plural: For purposes of this Plan, the masculine shall be read for the feminine and the singular shall be read for the plural, wherever the person or context shall plainly so require.
- 13.03 Construction of Document: This Plan may be executed and/or conformed in any number of counterparts, each of which shall be deemed an original and shall be construed and enforced according to the laws of the Commonwealth, excepting such Commonwealth's choice of law rules.
- 13.04 Headings: The headings of articles are included solely for convenience of reference, and if there is any conflict between such headings and the text of the Plan, the text shall control.
- 13.05 Severability of Provisions: In case any provisions of this Plan shall be held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining parts of this Plan, and the Plan shall be construed and enforced as if said illegal and invalid provisions had never been inserted therein.
- 13.06 Incapacity of Participant: If any Participant shall be physically or mentally incapable of receiving or acknowledging receipt of any payment of pension benefits hereunder, the Plan Administrator, upon the receipt of satisfactory evidence that such Participant is so incapacitated and that another person or institution is maintaining him, may provide for such payment of pension benefits hereunder to such person or institution so maintaining him, and any such payments so made shall be deemed for every purpose to have been made to such Participant.
- 13.07 Liability of Officers of the Plan Administrator and/or Employer: Subject to the provision of the Act and unless otherwise specifically required by other applicable laws, no past, present or future officer of the Employer shall be personally liable to any Participant, Beneficiary, or other person under any provision of the Plan.
- 13.08 Assets of the Fund: Nothing contained herein shall be deemed to give any Participant or Beneficiary any interest in any specific property of the Pension Fund or any right except to receive such distributions as are expressly provided for under the Fund.

13.09

Pension Fund for Sole Benefit of Participants: The income and principal of the Pension Fund are for the sole use and benefit of the Participants covered hereunder, and to the extent permitted by law, shall be free, clear and discharged from and are not to be in any way liable for debts, contracts or agreements, now contracted or which may hereafter be contracted, and from all claims and liabilities now or hereafter incurred by any Participant or Beneficiary.

**APPENDIX A**

***Applicability: This Appendix A shall only apply to Eligible Employees as defined in Section A-1.08 (or Participants who were hired on or after January 1, 2024)***

**BOROUGH OF BELLACRES NON-UNIFORMED MONEY PURCHASE  
PENSION PLAN**

**Effective January 1, 2023**



**TABLE OF CONTENTS**

ARTICLE A-I – DEFINITIONS ..... 26

ARTICLE A-II – PARTICIPATION ..... 28

ARTICLE A-III – CONTRIBUTIONS..... 29

ARTICLE A-IV – LIMITATIONS ON CONTRIBUTIONS..... 30

ARTICLE A-V – ADMINISTRATIVE PROVISIONS..... 31

ARTICLE A-VI – RETIREMENT DISTRIBUTIONS ..... 32

ARTICLE A-VII – BENEFICIARY DESIGNATION..... 32

ARTICLE A-VIII – VESTING PROVISIONS..... 33

ARTICLE A-IX – METHODS AND TIMING OF DISTRIBUTIONS..... 34

ARTICLE A-X – ADMINISTRATION ..... 38



## ARTICLE A-I – DEFINITIONS

- A-1.01 Account shall mean the entire interest of a Participant in the Plan. Unless otherwise specified, the value of a Participant's Account shall be determined as of the Valuation Date coincident with or next following the occurrence of the event to which reference is made and shall consist of all Employer contributions pursuant to Section A-3.01(b) of the Plan, and the earnings and accretions attributable thereto.
- A-1.02 Beneficiary shall mean the persons or entities designated by the Participant in writing to be his/her Beneficiaries in accordance with Section A-702.
- A-1.03 Commencement Date shall mean the first day of the first period for which an amount is paid in any form.
- A-1.04 Compensation:
- (a) In General: Compensation shall mean the Participant's base pay before any payroll deductions. Compensation shall exclude any amounts paid after termination of employment and shall exclude other compensation such as overtime, bonuses, commissions, fringe benefits, expense allowances, and longevity pay.
  - (b) Limitation on Applicable Compensation: In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, the Compensation of each Participant taken into account under the Plan shall not exceed \$330,000, as adjusted by the Commissioner of Internal Revenue for increases in the cost of living in accordance with Code Sec. 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which compensation is determined (determination period) beginning with or within such calendar year. If a determination period consists of fewer than 12 months, the annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12. Notwithstanding the foregoing, Compensation may not include amounts that are not included in compensation for purposes of the limit imposed under Section A-4.01.
- A-1.05 Computation Period shall mean the period of twelve (12) consecutive months designated as the Vesting Computation Period, as indicated by the context of usage.
- A-1.06 Effective Date shall mean January 1, 2023.
- A-1.07 Employee shall mean any nonuniformed person who is employed by the Employer on a regular full-time basis.
- A-1.08 Employer shall mean the Borough of Bell Acres, Allegheny County, Pennsylvania.

- A-1.09 Fund shall mean all money, property and investments held and invested in the name of the Plan.
- A-1.10 Internal Revenue Code or Code shall mean the Internal Revenue Code of 1986 as the same may be amended from time to time.
- A-1.12 Normal Retirement Age shall mean the date on which the Participant attains age sixty-five (65).
- A-1.13 Participant shall mean any person who has been admitted to participation in this Plan pursuant to the provisions of Article A-II. The term "Participant" shall include Active Participants (those who are currently eligible to share in Employer contributions to the Plan), Retired Participants (those former Employees presently receiving distributions under the Plan or immediately entitled to receive such payments), and Vested Participants (Employees and former Employees who are no longer Active Participants, any of whom are or may become entitled at some future date to distributions from this Plan by reason of their having been Active Participants herein).
- A-1.14 Plan shall mean the Borough of Bell Acres Non-Uniformed Money Purchase Pension Plan as set forth in this Appendix A and as the same may from time-to-time hereafter be amended. This Plan is intended to satisfy the requirements of Code section 401(a) as a governmental money purchase pension plan.
- A-1.15 Plan Administrator shall mean the person or committee named as such pursuant to the provisions hereof, or, in the absence of any such appointment, the Employer.
- A-1.16 Plan Year shall mean the twelve-month period commencing January 1 and ending on the subsequent December 31.
- A-1.17 Required Beginning Date shall mean the April 1 of the calendar year next following the calendar year in which the Participant attains age 72 (or 73 if the Participant attains age 72 after December 31, 2022), or if later, the April 1 of the calendar year next following the calendar year in which the Participant retires.
- A-1.18 Spouse shall mean (a) the person to whom the Participant was married on his/her Commencement Date, or (b) if the Participant's Commencement Date had not occurred at the time of his/her death, the person to whom the Participant was married at the time of his/her death.
- A-1.19 Total and Permanent Disability shall mean that a Participant is disabled, as a result of sickness or injury, to the extent that the Participant is prevented from engaging in any substantially gainful activity with the employer indefinitely or is eligible for and receives a disability benefit under Title II of the Federal Social Security Act.

A-1.20 Valuation Date shall mean each interim date during the Plan Year on which a valuation of the Fund is made.

A-1.21 Vesting Computation Period shall mean each 12-month period of employment with the Employer in which the Employee completes at least one thousand (1,000) Hours of Service, beginning on the Employee's date of hire and ending on the Employee's date of termination of employment.

For the purpose of this provision, "Hour of Service" will have the same meaning as is used in Section 1.13 of the Defined Benefit portion of the Non-Uniformed Pension Plan.

A-1.22 Year of Service shall have the following meanings when used in this Plan:

- (a) When applied to vesting provisions, a "Year of Service" shall mean each Vesting Computation Period.
- (b) For a Participant who terminates employment prior to completing one (1) Year of Service, such Service Time shall be disregarded upon rehire. For a Participant who has completed one (1) or more consecutive Years of Service, all prior Years of Service shall be reinstated upon rehire.
- (c) All Years of Service which are disregarded under (b) shall cease to be Years of Service for all purposes under the Plan.

#### **ARTICLE A-II – PARTICIPATION ELIGIBILITY**

A-2.01 Initial Eligibility: Employees hired on or after January 1, 2024 shall become eligible for Plan participation on his/her date of hire, subject to the vesting provisions in Article VIII. Employees hired before January 1, 2024 become eligible for Plan participation as of the Effective Date of the Plan, subject to the vesting provisions in Article VIII.

A-2.02 Procedure for and Effect of Admission: Each Employee who becomes eligible for admission to participation in this Plan shall complete such forms and provide such data as are reasonably required by the Plan Administrator to become a Participant. By becoming a Participant, each Employee shall for all purposes be deemed conclusively to have assented to the terms and provisions of this Plan and to all Plan amendments.

## ARTICLE A-III – CONTRIBUTIONS

### A-3.01 Determination of Amount

- (a) Employer Contributions: For Participants hired on or after January 1, 2024, the Employer shall contribute an amount equal to ten percent (10%) of each Participant's Compensation as of the last date of each payroll period.

For Participants hired before December 31, 2023, the Employer shall contribute an amount equal to five percent (5%) of such Participant's Compensation as of the last date of each payroll period. This percentage may be adjusted periodically without resolution to reflect actuarial or administrative changes in the Defined Benefit Plan.

- (b) Changing Contribution Intervals: The Employer hereby reserves the right to unilaterally change the frequency with which contributions are made. No such change may lessen the value of annual contributions without formal resolution.
- (c) Rollover Contributions: No rollover contributions shall be accepted by the Plan.

### A-3.02 Timing of Contributions: Employer shall pay its contribution made with respect to any payroll period as early as administratively feasible following the timing set forth in A-3.01(a).

Employees are only entitled to Employer Contributions for periods in which they are actively employed and compensated by the Employer.

### A-3.03 Contingent Nature of Contributions: Each contribution made by the Employer pursuant to the provisions of Section A-3.01 hereof is hereby made expressly contingent on the exclusion thereof for Federal income tax purposes with respect to the Participants for whom contribution is made.

### A-3.04 Exclusive Benefit; Refund of Contributions: All contributions made by the Employer are made for the exclusive benefit of the Participants and their Beneficiaries, and such contributions shall not be used for nor diverted to purposes other than for the exclusive benefit of the Participants and their Beneficiaries (including the costs of maintaining and administering the Plan). Notwithstanding the foregoing, to the extent that such refunds do not, in themselves, deprive the Plan of its qualified status, refunds of contributions shall be made to the Employer under the following circumstances and subject to the foregoing limitations:

- (a) Mistake of Fact: In the case of a contribution which is made in whole or in part by reason of a mistake of fact (for example, incorrect information as to the eligibility or compensation of a Participant, or a mathematical error), so much of the Employer contribution as is attributable to the mistake of fact shall be returnable to the Employer upon demand. Repayment must be

effectuated within one (1) year after the payment of the contribution to which the mistake applies.

- (b) Exclusive Benefit; Refund of Contributions: In the event that any refund of amounts contributed pursuant to Section A-3.01(b) is paid to the Employer hereunder, such refund shall be made without interest and shall be deducted from among the Participants' Accounts, as the case may be, except to the extent that the amount of the refund can be identified to one or more specific Participants (as in the case of certain mistakes of fact) in which case the amount of the refund identifiable to each such Participant's Account shall be deducted directly from such Account.

#### ARTICLE A-IV – LIMITATIONS ON CONTRIBUTIONS

##### A-4.01 Annual Additions Limitations

- (a) Incorporation of Code section 415 by Reference: Notwithstanding anything contained in this Article to the contrary, the limitations, adjustments, and other requirements prescribed in Section A-4.01 shall at all times comply with the provisions of Code section 415 and the Regulations thereunder (as such apply to governmental plans), the terms of which are specifically incorporated herein by reference.
- (b) Compliance with Treasury Regulations: The Plan will comply with the final Treasury regulations under Code section 415, which are incorporated into the Plan by reference. Consistent with those regulations, a Participant's compensation, only for purposes of the limit imposed under this Section A-4.01, includes regular compensation for services during an employee's regular working hours, or compensation for services outside of regular working hours (such as overtime and shift differential), commissions, bonuses or other similar payments if (i) such amounts would have been paid to the employee prior to severance of employment if employment had continued and (ii) such amounts are actually paid by the later of 2½ months after severance of employment or the end of the limitation year in which severance of employment occurs (the "latest permissible date"). Compensation for purposes of the limit imposed under this Section A-4.01 includes:
- (i) Any payments for unused accrued bona fide sick, vacation or other leave if (1) the employee would have been able to use the leave if employment had continued and (2) such payments were actually paid by the latest permissible date.
- (ii) Any amounts received by an employee pursuant to a nonqualified deferred compensation plan if (1) the amount would have been paid to the employee if the employee had continued employment, (2) only to the extent the amounts are includible in the employee's gross



income and (3) such payments were actually paid by the latest permissible date.

(iii) Any amounts of salary continuation payments made to an individual during periods in which the individual does not perform services due to qualified military service (as defined in Code Section 414(u)(1)) to the extent the payments do not exceed the amounts the individual would have received if the individual would have continued performing services.

(iv) Any amounts of salary continuation payments made to an individual who is permanently and totally disabled (as defined in Code section 22(e)(3)).

(c) Compensation Includes Differential Pay: Notwithstanding anything contained in Section A-4.01 to the contrary, a Participant's Compensation, for purposes of the limit imposed under this Section A-4.01, includes military wage differential payments (as such term is used in IRS Notice 2010-15).

A-4.02 Elimination of Excess Amount: If the limit imposed under Section A-4.01 is exceeded with respect to any Participant for a limitation year, the Plan shall eliminate such excess amount in accordance with the Internal Revenue Service's Employee Plans Compliance Resolution System or pursuant to any other correction method permitted by law.

#### ARTICLE A-V – ADMINISTRATIVE PROVISIONS

A-5.01 Investment of Assets: All contributions shall be invested at the sole discretion of the Employer or any individual or firm designated by the Employer. The Employer reserves the right to have the Plan invested as an unallocated fund or pooled assets, with individual Participant Accounts valued as of each Valuation Date, or more frequent intervals as determined by the Employer.

A-5.02 Allocation of Net Income (or Loss) of the Trust Fund: The net asset value of each fund of the Fund shall be determined as of each Valuation Date. The net asset value of each fund within the Fund shall be measured so as to include all realized and unrealized gains and losses with respect to the Fund assets. The gain or loss in the net asset value of each fund within the Fund since the preceding Valuation Date shall be allocated among the Accounts of all Participants participating in each such fund in the ratio that the Account of each Participant in such fund as of the immediately preceding Valuation Date bears to the Accounts of all Participants in such fund as of the immediately preceding Valuation Date. For each Participant's Account, the end of year balance shall equal the beginning of the year balance plus earnings or losses credited on that balance at the rate earned by the plan for the Plan Year, plus current year contributions.

A-5.03 Loans: Loans shall not be permitted from the Plan.

A-5.04 Communication to Participants: The Plan Administrator shall convey to each Participant the total value of the Account as determined pursuant to this Article A-V at least annually; provided, however, that neither the maintenance of Accounts nor the allocations of contributions to Accounts shall operate to vest in any Participant any right or interest in or to any assets of the Pension Fund except as the Plan specifically provides. The Plan Administrator may, in its discretion, provide more frequent communication to Participants of Account balances and other information and/or provide Participants the ability to electronically access their Accounts.

A-5.05 State Aid Reporting: If necessary, when submitting Certification Form AG-385, plan administrators will ensure that Participants who are eligible for inclusion in both the Defined Benefit plan and this Defined Contribution plan are not reported twice.

#### ARTICLE A-VI – RETIREMENT DISTRIBUTIONS

A-6.01 Normal Retirement Distribution: The Normal Retirement Distribution payable with respect to any Participant retiring at their Normal Retirement Age shall be equal to 100% of their Account as of the appropriate Valuation Date coincident with or following the Participant's retirement, regardless of whether the Participant has attained five (5) years of service.

A-6.03 Deferred Vested Distributions: A Participant shall be entitled to receive deferred vested distributions in accordance with Section A-9.02(c).

A-6.04 Vesting as a Result of Disability: A Participant who incurs a Total and Permanent Disability shall be deemed to be 100% vested in their Account as of the date that their employment with the Employer terminates as a result of the Total and Permanent Disability.

#### ARTICLE A-VII – BENEFICIARY DESIGNATION

A-7.01 Beneficiary Designation:

- (a) Beneficiary Designation Right: Each Participant shall have the right to designate one or more primary and one or more contingent Beneficiaries to receive any distribution becoming payable pursuant to this Article VII. All Beneficiary designations shall be in writing in a form satisfactory to the Plan Administrator. Each Participant shall be entitled to change his/her Beneficiary designations at any time and from time to time as provided in this Section A-7.02.

In the event a Participant does not designate a Beneficiary, the primary Beneficiary of each married Participant shall their spouse, and if there is no spouse or if the Participant is unmarried, the Participant's estate.

- (b) Termination of Beneficiary Designation: Any designation of Beneficiary by a Participant pursuant to paragraph (a) of this section shall become null and void upon the marriage of the Participant subsequent to the date on which such designation was made.
- (c) Miscellaneous: Changes in Beneficiary designations shall become effective only upon receipt of the form by the Plan Administrator, but upon such receipt the change shall relate back to and take effect as of the date the Participant signed the request (which shall be presumed to be the date appearing on such form, or, if there be none, then the date of the Participant's death) whether or not the Participant is living at the time of such receipt. The Plan Administrator shall not be liable by reason of any payment made before the receipt of any acceptable form designating or changing the designation of the Beneficiary.

Any change of Beneficiary designation filed in proper form with the Plan Administrator shall revoke all prior Beneficiary designations. The Plan Administrator shall be the sole determinant of the acceptability of a Beneficiary designation or change of Beneficiary designation.

### ARTICLE A-VIII – VESTING PROVISIONS

- A-8.01 Deferred Vested Interests: The Participant's vested interest in his/her Account shall be determined from the following table as of any date of reference:

<u>Participant's Years of Service</u>	<u>Participant's Vested Percentage</u>
Less than 5	0%
5 Years of Service or more	100%

Years of service for employees hired prior to the Effective Date, January 1, 2023, shall be counted towards vesting.

- A-8.02 Forfeiture of Non-Vested Accounts: Accounts of non-vested Participants shall be forfeited upon termination of employment and shall not be subject to reinstatement.

- A-8.03 Allocation of Forfeitures: Forfeitures arising under the Plan shall first be used to reduce any Employer Contributions payable during the Plan Year or, at the employer's discretion, to reduce Employer Contributions payable during the Plan Year immediately subsequent to the Plan Year in which the forfeitures arose.

Any forfeitures remaining (if any) at the end of the Plan Year, subject to the Employer's option to use forfeitures for the subsequent Plan Year's Contributions,



shall then be reallocated to other Plan Participants using the following ratio: the individual's Account balance to the total of individual Account balances (excluding balances distributed during the year) as of the prior allocation date.

- A-8.04 Incorporation of Forfeiture Act: This Plan will comply with the Pennsylvania Public Employee Pension Forfeiture Act (43 P.S. § 1311, et seq.), such that no Participant who is found guilty of one of the crimes specifically enumerated in 43 P.S. § 1312 (or its federal equivalent) related to their public office or employment or pleads guilty or nolo contendere to any such crime shall be entitled to distributions from their Account, regardless of whether they are fully vested. Forfeited accounts under this provision will be subject to the Allocation provision in A-8.03.

#### **ARTICLE A-IX – METHODS AND TIMING OF DISTRIBUTIONS**

- A-9.01 Normal Form of Distributions: Distributions shall be paid as single-sum distributions.

- A-9.02 Distribution Commencement Dates:

- (a) Distributions Due to Retirement: Distributions payable by reason of a Participant's retirement are payable as soon as administratively practicable following the Valuation Date of the Plan coincident with or next following the event entitling the Participant to such distribution. However, if a Participant does not submit a request describing the date that his distributions are to commence, the Participant will be deemed to have elected to postpone commencement until the time such Participant elects (in the form and manner prescribed by the Plan Administrator) to commence payments. Notwithstanding the foregoing, the Participant's Commencement Date shall in no event be later than his/her Required Beginning Date.
- (b) Deferred Vested Distributions: Amounts payable to a Participant by reason of a separation from service (other than due to retirement or death) prior to his/her retirement shall be payable, as of the date that would have been the Participant's Normal Retirement Age, and shall not, in any event, be deferred beyond the Participant's Required Beginning Date. Notwithstanding the foregoing, a terminated Vested Participant shall have the right to request any distribution to which he/she is entitled pursuant to Article A-VIII as of any earlier Valuation Date coincident with or next following the date of such request, and the Plan Administrator shall have the right to pay any such distributions, if the Participant consents to such distribution in writing. No distribution shall occur prior to termination of employment.

- A-9.03 Direct Rollover:

- (a) In General: Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this section, a

Distributee may elect, at the time and in the manner prescribed by the Plan Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

(b) For purposes of this section, the following definitions shall apply:

- (i) Eligible Rollover Distribution is any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under Code section 401(a)(9); and the portion of any distribution that is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities), and any hardship distribution.

For purposes of the direct rollover provisions in this section of the Plan, a portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in Code section 408(a) or (b), or to a qualified defined contribution plan described in Code sections 401(a) or 403(a) or any qualified trust or Code section 403(b) plan that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

- (ii) Eligible Retirement Plan is a qualified trust or individual retirement account described in Code section 401(a), an individual retirement annuity described in Code section 408(b), an annuity plan described in Code section 403(a), an annuity contract described in Code section 403(b), or an eligible plan under Code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan.

- (iii) Distributee includes a Participant or former Participant. In addition, the Participant's or former Participant's surviving spouse and the Participant's or former Participant's spouse or former spouse who is

the alternate payee under a qualified domestic relations order, as defined in Code section 414(p), are Distributees with regard to the interest of the spouse or former spouse.

- (iv) Direct Rollover is a payment by the Plan to the eligible retirement plan specified by the Distributee or the Plan Administrator if the Distributee does not make an election.

Direct Rollovers may be made to a Roth IRA described in Code section 408(a) to the extent that the applicable requirements of Code section 408(a) are satisfied with respect to any direct rollover to such Roth IRA.

- (c) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Nonspouse Beneficiary's election under this section, a Nonspouse Beneficiary may elect to have any portion of a Plan distribution (that is payable to such Nonspouse Beneficiary due to a Participant's death) paid in a direct trustee-to-trustee transfer to an individual retirement account described in Code section 408(a) or to an individual retirement annuity described in Code section 408(b) (other than an endowment contract) that has been established for the purposes of receiving the distribution on behalf of such Nonspouse Beneficiary.

For these purposes, a "Nonspouse Beneficiary" is an individual who is a designated beneficiary (as defined by Code section 401(a)(9)(E)) of a Participant and who is not the surviving spouse of such Participant.

#### A-9.04 Required Distributions:

- (a) Notwithstanding any other provision of this Plan, the entire distribution of any Participant who becomes entitled to distributions prior to death shall be distributed either:
- (i) not later than the Required Beginning Date, or
  - (ii) over a period beginning not later than the Required Beginning Date and extending over the life of such Participant or over the lives of such Participant and a designated Beneficiary (or over a period not extending beyond the life expectancy of such Participant, or the joint life expectancies of such Participant and a designated Beneficiary).

If a Participant who is entitled to payments under this Plan dies prior to the date when the entire interest has been distributed after distribution has begun in accordance with paragraph (a)(ii) above, the remaining portion shall be distributed at least as rapidly as under the method of distribution being used under paragraph (a)(ii) as of the date of the death.

- (b) If a Participant who is entitled to payments under this Plan dies before distribution has begun, the entire interest of such Participant shall be distributed within ten (10) years of the death of such Participant, unless the following sentence is applicable. If any portion of the Participant's interest is payable to (or for the benefit of) a designated Beneficiary, such portion shall be distributed over the life of such designated Beneficiary (or over a period not extending beyond the life expectancy of such Beneficiary), and such distributions begin not later than one (1) year after the date of the Participant's death or such later date as provided by regulations issued by the Secretary of the Treasury, then for purposes of the ten-year rule set forth in the preceding sentence, the amount payable to the Beneficiary shall be treated as distributed on the date on which such distributions begin. Provided, however, that notwithstanding the preceding sentence, if the designated Beneficiary is the surviving spouse of the Participant, then the date on which distributions are required to begin shall not be earlier than the date upon which the Participant would have attained age seventy-two (72) (or 73, if the employee turns 72 after December 31, 2022) and, further provided, if the surviving spouse dies before the distributions to such spouse begin, this subparagraph shall be applied as if the surviving spouse were the Participant.
- (c) For purposes of this section, the following definitions and procedures shall apply:
- (i) Required Beginning Date shall mean April 1 of the calendar year following the later of the calendar year in which the Participant attains age seventy-two (72) (or 73, if the employee turns 72 after December 31, 2022) or the calendar year in which the Participant retires.
  - (ii) Designated Beneficiary shall mean any individual designated by the Participant under this Plan according to its rules.
  - (iii) Any amount paid to a child shall be treated as if it had been paid to the surviving spouse if such amount will become payable to the surviving spouse upon such child's reaching majority (or other designated event permitted under regulations issued by the Secretary of the Treasury).
  - (iv) For purposes of this section, the life expectancy of a Participant or the Participant's spouse (other than in the case of a life annuity) may be redetermined but not more frequently than annually.
- (d) General Rules: The requirements of Section A-9.04 will take precedence over any inconsistent provisions of the Plan. All distributions required under



this Section A-9.04 will be determined and made in accordance with Code section 401(a)(9) and the Treasury regulations thereunder, and the Employer's good faith interpretation of such Code and Regulations.

A-9.05 Veterans' Survivor Benefits: Notwithstanding any other provision of the Plan to the contrary, in the case of the death of a Participant while performing qualified military service (as defined in Code section 414(u)), the survivors of the Participant are entitled to any additional benefits under the Plan (if any, other than benefit accruals related to the period of such service which wouldn't otherwise be credited) had the Participant resumed and then terminated employment on account of death.

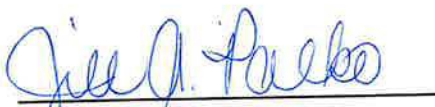
### ARTICLE A-X – ADMINISTRATION

The Plan is administrated in accordance with Article VIII, Article IX, Article X, Article XI, Article XII and Article XIII of the Borough of Bell Acres Non-Uniformed Pension Plan, which Articles are incorporated herein by reference, and all applicable provisions of Pennsylvania's Municipal Pension Plan Funding Standard and Recovery Act of 1984 (also referred to as "Act 205") (53 P.S. §895.101 et seq.). Notwithstanding any other provision in such Articles, all assets held in trust for this Money Purchase Plan shall be segregated and shall not be comingled with any assets, nor used to pay any benefits, under the Defined Benefit Pension Plan or any other Pension Plan sponsored by the Employer.

ORDAINED AND ENACTED this 8<sup>th</sup> day of April, 2024.

ATTEST:

BOROUGH OF BELL ACRES COUNCIL

  
Secretary

  
President of Council

EXAMINED AND APPROVED this 8<sup>th</sup> day of April, 2024.

  
Mayor