



CITY COUNCIL

Meeting Agenda

***REGULAR MEETING
VIRTUAL MEETING***

***MONDAY, OCTOBER 25, 2021
at the conclusion of the COW Meeting***

The Regular Meetings of City Council are filmed and can be viewed LIVE while the meeting is taking place via the attached Zoom link and dial-in phone number, on Facebook and on BCTV MAC Channel 99 or at your convenience at <https://www.readingpa.gov/content/city-council-video>.

Due to COVID-19, the public is prohibited from physically attending the meeting. In person attendance is permitted in the Penn Room in City Hall – use the 8th Street doors. To attend the meeting via our virtual app, please log-in using the link or the dial-in phone number below. Please see the Public Comment Instructions on Page 2.

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join.

<https://readingpa.zoom.us/j/89962523958?pwd=V1FmRHF3RW1aSWI4TjI6TmJ2TEINZz09>

Passcode: 140677

Or One tap mobile:

+13017158592,,89962523958#,,,,*140677# US (Washington DC)

+13126266799,,89962523958#,,,,*140677# US (Chicago)

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 301 715 8592 or +1 312 626 6799 or +1 646 558 8656 or +1 253 215 8782 or +1 346 248 7799 or +1 720 707 2699

Webinar ID: 899 6252 3958

Passcode: 140677

1. OPENING MATTERS

A. CALL TO ORDER

B. INVOCATION: Pastor Randy Grossman, Grace Bible

C. PLEDGE TO THE FLAG

D. ROLL CALL

E. EXECUTIVE SESSIONS:

2. PROCLAMATIONS AND PRESENTATIONS

Commendation celebrating the 50th anniversary of the Greek Bazaar at Saint Constantine and Helen Greek Orthodox Church

3. PUBLIC COMMENT – AGENDA MATTERS:

Due to COVID-19 the public speaking requirements have been modified. Comments posted in Zoom Chat and on Facebook are not considered public comment and a response may not occur.

Public Comment Instructions:

- To comment at a Regular Business Meeting, citizens can register by calling or emailing the City Clerk's Office by noon on the day of the regular meeting. Instructions to access the virtual meeting app or dial-in will be provided upon registration. Call 610-655-6205 or e-mail council@readingpa.gov
- Public comment for Regular Business meetings will also be accepted in writing by 4pm on the day of the meeting through an e-mail to council@readingpa.gov. The message must clearly be marked as Public Comment. The comment received in writing will be read into the record at the Regular Meeting.
- Those wishing to provide in-person comment at a Regular Meeting in the Penn Room must register with the City Clerk no later than 4 pm on the day of the meeting by calling 610-655-6204 or emailing council@readingpa.gov. The procedure to register to comment by signing a registration sheet before the start of the regular meeting will be suspended until the meetings are fully opened with everyone gathering in Council Chambers.
- Public speaking rules adopted by Council allow those speaking on agenda matters to speak for 5 minutes and 3 minutes for non-agenda matters.

All remarks must be directed to Council as a body and not to any individual Council member or public or elected official in attendance. Any comment that is personally offensive or impertinent will not be read into the record. Comments on agenda matters are limited to 5 minutes in length and comments on non-agenda matters are limited to 3 minutes in length.

4. APPROVAL OF AGENDA & MINUTES

A. AGENDA: Meeting of October 25, 2021

B. MINUTES: October 11th Regular Meeting, and approving the summations of discussion from the October 11th, October 12th, and October 18th COW meetings

5. Consent Agenda Legislation

The Consent Agenda is designed to provide efficient approval of non-controversial legislation that does not require discussion/debate by giving approval via acclimation when the meeting agenda is approved. The President of Council will call Council's attention to the list of Consent Agenda legislation at the meeting before action is taken, which allows Council to remove a piece of legislation for separate consideration.

A. Award of Contract - for the Southwest Fire Station Project to Kinsley Construction Inc. York, PA in the amount of \$138,742.00

B. Award of Contract – for HVAC for the 9th and Marion Fire Station Project to Shannon A Smith, Inc., Myerstown, PA in the amount of \$1,026,120.00.

C. Award of Contract - purchase of two (2) Fire Pumper Trucks for the Fire Department from Glick Fire Equipment, Bird in Hand, in the amount of \$1,290,446.00

D. Resolution - authorizing the City to enter into an agreement with the County of Berks for consolidated Fire and EMS dispatch services for 2022 in the amount of \$390,692.24 – the same rate charged in 2021

E. Resolution – authorizing the reservation of \$31,003.50 payable to the City of Reading or the PennDOT in the event the City does not complete the sidewalk work required for the 9th and Marion fire station project, as required by the PennDOT Highway Occupancy Permit (HOP)

6. ADMINISTRATIVE REPORT

Written report attached.

7. REPORT FROM OFFICE OF THE AUDITOR

Presentation of the 2021 External Audit – C. Turtell, Herbein & Co.

8. REPORT FROM DEPT. DIRECTORS, BOARDS, AUTHORITIES, & COMMISSIONS

Reading Area Water Authority – Executive Director Bill Murray and Chairman Steve McCracken

9. ORDINANCES FOR FINAL PASSAGE

Budget Ordinances

Ordinance – 2022 Real Estate Tax Rate *Introduced at the Oct 4 Special Meeting*

Ordinance – 2022 Non-Resident EIT Tax Rate *Introduced at the Oct 4 Special Meeting*

Ordinance – 2022 Position Ordinance *Introduced at the Oct 4 Special Meeting*

Ordinance – 2022 General Fund Budget *Introduced at the Oct 4 Special Meeting*

Ordinance – 2022 Capital Fund Budget *Introduced at the Oct 4 Special Meeting*

Ordinance – Adjustments to Trash/Recycling Fees *Introduced at the Oct 4 Special Meeting*

Ordinance – ARPA Plan *Introduced at the Oct 4 Special Meeting*

A. Bill 75-2021 – amending the Code of Ordinances Chapter 62 New Officers and Employees Pension Fund, Section 102 to prohibit the participation of new members where the employee is hired or rehired on or after January 1, 2022 *Introduced at the September 27 regular meeting; Tabled at the October 11 regular meeting*

B. Bill 80-2021 – authorizing the transfer of \$29,717 from the Public Works General Fund Street Division Budget to the Public Property Division General Fund Budget to pay for the New Neco Replacement Duplex Water Pressure Booster Pump System at the Public Works Center *Introduced at the October 11 regular meeting*

10. INTRODUCTION OF NEW ORDINANCES

A. Ordinance – authorizing a budget transfer in the Law Dept in the amount of \$70K from Special Counsel Labor Negotiations to General Legal Services

B. Ordinance –

11. RESOLUTIONS

A. Resolution -

12. PUBLIC COMMENT – GENERAL MATTERS

Please see public speaking rules on second page

13. COUNCIL BUSINESS/COMMENTS

14. COUNCIL MEETING SCHEDULE

Monday, October 25

*Committee of the Whole and Budget Review – CD review – 5 pm
Regular Business Meeting – immediately following COW*

Tuesday, October 26

Budget Review – Fire, HR and CDBG Action Plan - 5 pm

Monday, November 1

*Nominations & Appointments Committee – 4 pm
Budget Review – PFM Overview and Police – 5 pm*

Tuesday, November 2

Election Day

Monday, November 8

*Committee of the Whole and Budget Review – Library, HRC – adoption of CDBG Action Plan required
Regular Business Meeting – immediately following COW*

Tuesday, November 9

Budget Review – Law, Charter Board, Ethics Board

Thursday, November 11

Veteran’s Day holiday – City Hall closed

Monday, November 15

Budget Review – Debt Service and Pension

Tuesday, November 16

Conditional Use Hearing – 5 pm

- 238 N 6th – Road to Damascus – temporary women’s shelter

15. ADJOURN

City of Reading City Council
Hybrid Regular Meeting
October 11, 2021
At the conclusion of the COW Meeting

Council President Waltman called the meeting to order at approximately 7:06 pm.

Due to COVID-19, the City changed the meeting format to a hybrid format with Council attending in-person at times and others attending virtually. In addition to providing the public with the ability to observe the Council meetings virtually and via telephone and view live on the BCTV MAC Channel 99 and Facebook Live, the Committee of the Whole and Regular Meetings will be shown in the Penn Room, in the first floor of City Hall – access the Penn Room using the doors on North 8th Street only. Public comment at regular meetings can occur virtually, in writing, via telephone or in-person in the Penn Room through Zoom. The meeting agendas are posted on the City's website 3 days prior to the meeting. All agendas include the Zoom meeting information (LINK and Dial In) to easily 'click and join' the meeting. Access meeting agendas at: https://www.readingpa.gov/council_minutes_agendas.

The invocation was given by Council President Waltman. All present pledged to the flag.

There was an executive session held at the close of the October 4th COW to discuss litigation settlement.

ATTENDANCE

Council President Waltman - electronically
Councilor Sihelnik, District 1 - electronically
Councilor Goodman-Hinnershitz, District 2 – electronically
Councilor Ventura, District 3 – electronically
Councilor Marmarou, District 4 – in person
Councilor Reed, District 5 – electronically
Councilor Cepeda-Freytiz, District 6 – electronically
Solicitor F. Lachat – electronically
City Clerk L. Kelleher – in person
Auditor M. Rodriguez – electronically
Managing Director A. Amoros – electronically
Mayor Moran - electronically

PROCLAMATIONS AND PRESENTATIONS

- Celebrating Hispanic Heritage Month by commending Rosa Julia Parro, El Palo Magazine, and Cory Dahlia Varona Corniel and Nicol Varona Cancelmo
- Commending the I LEAD Team for their work to organize the Puerto Rican parade

PUBLIC COMMENT

Council President Waltman announced that there is one (1) citizen registered to provide public comment on general matters. Councilor Reed read the public speaking rules approved by ordinance.

Elizabeth Bales, 559 N Front St., described the problems her father has with parking in his handicapped parking space at his Front Street home, noting that her father is a handicapped veteran and as others with handicapped placards usually take his space, he is forced to park blocks away. She recognized the parking stress that exists and suggested dedicating special handicapped parking spaces specifically for handicapped veterans. Her father, Frank Salamon, agreed, noting that at one point in time he paid \$50 to have the space added and expressed the belief that this space belongs to him. He questioned why he needs to prove annually that he is still handicapped and requires the space when the State designation lasts for four (4) years.

Council President Waltman referred the issue to a COW meeting for consideration.

APPROVAL OF THE AGENDA & MINUTES

Council President Waltman called Council's attention to the agenda for this meeting and the minutes from the September 27th Regular Meeting, the meeting summaries from the COWs held on September 27th and October 4th and the summary from the October 4th Nominations Committee meeting.

The minutes from the September 27th Regular Meeting, the summations of discussion listed and the agenda were approved by acclimation.

Consent Agenda

The Consent Agenda is designed to provide efficient approval of non-controversial legislation that does not require discussion/debate by giving approval via acclimation when the meeting agenda is approved. The President of Council will call Council's attention to the list of Consent Agenda legislation at the meeting before action is taken, which allows Council to remove a piece of legislation for separate consideration.

None.

ADMINISTRATIVE REPORT

The mayor and managing director read the report provided in writing and attached to the agenda, in summary:

COMMUNITY DEVELOPMENT:

- The Community Development Department was awarded a Housing and Urban Development (HUD) – HOME ARP grant in the amount of \$3,580,856. The monies may be used to acquire and develop non-congregate shelter(s) for individuals or families. The monies may also be utilized to acquire, rehabilitate, or construct NCS Units, acquire improved or unimproved real properties, demolish existing structures for development, and/or capitalize a replacement reserve to cover reasonable and necessary costs of replacing major systems and their components.
- The CD Department's Property Maintenance Division is expanding on ways to address the more significant challenges the Division has identified recently. Some of the action items that are being implemented are assigning inspectors to focus on specific areas and connect with property owners. The Division has also developed a list of chronic violators that inspectors will follow up directly with landlords.

FINANCE:

- The Finance Department's Citizen Service Center received minimal phone calls from property owners regarding the transition to City trash service and new charges on recent bills. Staff was able to address most of the anticipated issues with property owners upon receiving their notification letter.

- The Finance Department is currently working with Public Work's Solid Waste Division to improve the billing process for properties that experience a change of ownership but previously had a Senior Citizen Discount applied to the address.
- The Finance Department met with Berks EIT Tax Collection, and collection rates are as expected for this period.
- The Finance Department's CSC provided information to be distributed at a community table at the Salsa Festival on September 26th in City Park. The event was well attended, which provided a great outreach opportunity for the City.
- The Finance Department's Grant Division gave the following updates:
 - **USDOJ Edward Byrne Memorial Justice Assistance Grant:** Prepared and submitted in August of 2020. The grant benefits City and County law enforcement operations. The grant was awarded to the City and the County, with the City's allotted amount to be \$55,403. The funds will go towards 540 hours of Police Officer special detail overtime and a one-year reporting and record management software subscription.
 - **Recycling 902 Grant:** The grant application was prepared and submitted on September 24th by Public Works.
 - **Schuylkill River Trail - DCED CFA Greenways Trail and Recreation Program Grant:** The City was awarded \$125,000 for upgrades to Schuylkill River Trail with a \$75,000 match required, which will be allocated from CIP funds. The grant project includes design and construction for trail upgrades needed to compliment the current Schuylkill River Trail project, with the activity period ending on June 30, 2022. The City is preparing an extension request which will be submitted by December 31st.
 - **City Park, Baer Park, and 6th & Amity Playground:** City staff is scheduled to meet with Civil and Environmental Consultants to review plans for each site and compare grant project narratives. The first site visit will be to 6th and Amity at the beginning of October.
 - **Penn Street Courtyard:** This project will remove brick walls and include paving, and replace stamped concrete. Existing concrete walls and planters will be coated with sealant and primer for possible mural painting. Also being removed and replaced are the existing drains and stormwater piping.
 - The Finance Department has moved the implementation date for the Defined Contribution Plan to January 1, 2022, to allow for a smoother transition.

FIRE:

- The Fire Department's 9th and Marion Fire Station project had four out of their five construction contracts approved by City Council on September 27th. The fifth contract for Mechanical and HVAC services went out for rebid with a deadline of October 11th. A groundbreaking ceremony will be announced when details are finalized.
- The Fire Department held its Annual Award Ceremony on Saturday, October 9th. This ceremony covered a two-year period due to last year's cancellation related to the pandemic. Many Department members received an award at this event.

HUMAN RELATIONS COMMISSION:

- As of October 6th, HRC has:
 - 1054 total rent and utility assistance applications were received (an addition of 14 applications since last reported).
 - 1014 applications for rental assistance
 - 647 applicants were facing eviction
 - 271 applicants were not actively facing eviction
 - 96 applicants resided outside of the City but within the County.
 - 40 applications for utility assistance

HUMAN RESOURCES:

- The Human Resource Department is reconvening the Wellness Committee, which focuses on the health and well-being of City employees. A kick-off meeting will be held in October.
The Human Resource Department is preparing for the open enrollment period for employee benefits and the Annual Employee Wellness Fair. Both events will take place in early November.

LIBRARY:

- The Reading Public Library's Northwest Branch hosted Hispanic Heritage Month Storytime with Mayor Eddie Moran as the guest reader. Mayor Moran really connected with the kids, many of which were middle school students.
- The RPL's Executive Director attended the Pennsylvania Library Association's Annual Conference, which was held virtually.
- The RPL's signature fundraising event, Cocktails & Classics, was held on Friday, October 1st. The event raised \$127,000 and was attended by close to 300 people.

POLICE:

- The Reading Police Department's Community Outreach Officer, Lt. Lance Lillis, continues to attend recruiting events at area colleges, universities, and other local events. He has partnered with the Transition Assistance Program (TAP), which provides resources to the approximately 200,000 service members that transition to civilian life annually. For anyone interested, an entry-level civil service test is scheduled for October 23rd at Alvernia University.

PUBLIC WORKS:

- Public Works staff has completed 200 out of the 780 streetlights from the LED Streetlight project.
- Public Works has completed the City Park Washington Street Stonewall project.
- Public Work's 18th Ward Bicycle and Pedestrian Trail Construction project continues with pavement restoration occurring at the third traffic island. At the same time, preparations for the concrete curb installation at the sixth traffic island are happening.

Councilor Goodman-Hinnershitz described the complicated situations that exist within the homeless population and the need for a multi-level approach to the issue.

Councilor Reed noted the need to address the unscreened dumpsters on sidewalks within the downtown. She stated that the dumpsters are not regularly emptied and are eyesores. She suggested enforcing the City's regulations to improve the appearance of the downtown.

AUDITOR'S REPORT

The Auditor highlighted the report attached to the agenda and distributed electronically. In summary:

Property Tax Revenue – Update as of September 30, 2021

For the current year, the City budgeted \$24,649,055.00 for Property Taxes which includes Property Tax Current, Property Tax Prior, Penalty & Interest, and Discount & Allowance. And as of September 30, 2021, the City has recorded \$23,733,865.20 or 96.3% of total amount budgeted.

For the same period of 2020, the City recorded \$21,609,595.81 or 87% which is \$2,124,269.39 less than the revenue recorded this year. However \$178,945.00 less was budgeted for this revenue line item in 2021.

User Fees Revenue – Update as of 8/31/2021

For the current year, the City budgeted \$3,028,500.00 for the User Fees Revenue line item and as of August 31, 2021, the City recorded in revenue \$2,169,568.05 or 72% of total amount budgeted.

In 2020, due to the pandemic and the transition of a new company collecting the revenue for the the User Fees; the City had a decrease in revenue of \$790,857.47 for this line item.

2021- Pension State Contributions

For the Pension State Contributions revenue line item, the City budgeted \$3,771,656.00, and on September 28, 2021, the City received \$3,674,718.47 from the State.

2020 Audit – Update

On October 1, 2021, a draft of the 2020 audited financial statements for the City of Reading was received

from Chris Turtell of Herbein & Company. The draft is showing that the General Fund ended with a surplus of \$2.4 million. Part of this surplus was due to a big increase of revenue collected for Real Estate Transfer Tax transactions. Also, due to the pandemic, there were some projects that were not completed or delayed, under the

Public Works and this contributed to some of the cost savings. Police Patrol Personnel, also had a big cost saving. There is only one finding in the 2020 audit. In the 2019 audit, there were 5 findings.

At the moment, the City Auditor and the City Controller are reviewing the 2020 draft audit.

In response to a question the Auditor stated that the 2021 external audit will be presented at the October 25th COW and Regular meetings.

REPORT FROM DEPT. DIRECTORS, BOARDS, AUTHORITIES, & COMMISSIONS.

None

ORDINANCES FOR FINAL PASSAGE

Budget Ordinances

Ordinance – 2022 Real Estate Tax Rate *Introduced at the Oct 4 Special Meeting*

Ordinance – 2022 Non-Resident EIT Tax Rate *Introduced at the Oct 4 Special Meeting*

Ordinance – 2022 Position Ordinance *Introduced at the Oct 4 Special Meeting*

Ordinance – 2022 General Fund Budget *Introduced at the Oct 4 Special Meeting*

Ordinance – 2022 Capital Fund Budget *Introduced at the Oct 4 Special Meeting*

Ordinance – Adjustments to Trash/Recycling Fees *Introduced at the Oct 4 Special Meeting*

Ordinance – ARPA Plan *Introduced at the Oct 4 Special Meeting*

A. Bill No. 66-2021 – vacating and removing from the topographical survey of the City a portion of the city right-of-way for SR 3422, known as “Penn Street,” and authorizing the execution of a deed transferring the vacated portion of the right-of-way of Penn Street to Reading Area Community College *Introduced at the September 13 regular meeting; advertised on Sept 20th, 27th and Oct 4th* Councilor Goodman-Hinnershitz moved, seconded by Councilor Cepeda-Freytiz, to enact Bill No. 66-2021.

The motion to enact Bill No 66-2021 was approved by the following vote:

Yeas: Cepeda-Freytiz, Goodman-Hinnershitz, Marmarou, Reed, Ventura, Sihelnik, Waltman,
President – 7

Nays: None – 0

B. Bill No. 73-2021 – authorizing an increase in the base salary of the Wastewater Treatment Plant Laboratory Supervisor by \$5,000 per annum, payable in equal bi-monthly installments, retroactive to January 1, 2021 due to an increase in responsibilities *Introduced at the Sept 27 regular meeting*

Councilor Reed moved, seconded by Councilor Marmarou, to enact Bill No. 73- 2021.

The motion to enact Bill No 73-2021 was approved by the following vote:

**Yeas: Cepeda-Freytiz, Goodman-Hinnershitz, Marmarou, Reed, Ventura, Sihelnik, Waltman,
President – 7
Nays: None – 0**

C. Bill No. 74-2021 – amending the City Code Chapter 576 Vehicles and Traffic, Part 13 Motorized Devices Section 1306 d by adding the requirement for the ATV/dirt bike owner to provide proof of title and proof of insurance prior to the release of the vehicle ***Introduced at the Sept 27 regular meeting***

Councilor Marmarou moved, seconded by Councilor Reed, to enact Bill No. 74- 2021.

Councilor Goodman-Hinnershitz noted her appreciation for the work performed by the Reading Police to address the public safety problems caused by illegal dirt bikes and ATV's on City streets. She noted that she has observed a major improvement since the Chief revised the policy allowing the officers to pursue if they can do so safely.

The motion to enact Bill No 74-2021 was approved by the following vote:

**Yeas: Cepeda-Freytiz, Goodman-Hinnershitz, Marmarou, Reed, Ventura, Sihelnik, Waltman,
President – 7
Nays: None – 0**

D. Bill No. 75-2021 – amending the Code of Ordinances Chapter 62 New Officers and Employees Pension Fund, Section 102 to prohibit the participation of new members where the employee is hired or rehired on or after January 1, 2022 ***Introduced at the Sept 27 regular meeting***

Councilor Marmarou moved, seconded by Councilor Ventura, to table Bill No. 75- 2021.

The motion to table Bill No 75-2021 was approved by the following vote:

**Yeas: Cepeda-Freytiz, Goodman-Hinnershitz, Marmarou, Reed, Ventura, Sihelnik, Waltman,
President – 7
Nays: None – 0**

E. Bill No. 76-2021 – amending City Code Chapter 23, Part 7 by repealing the Minority Business Procurement Advisory Board and replacing it with the Equal Business Opportunity Advisory Board ***Introduced at the Sept 27 regular meeting***

Councilor Cepeda-Freytiz moved, seconded by Councilor Sihelnik, to enact Bill No. 76- 2021.

The motion to enact Bill No 76-2021 was approved by the following vote:

Yeas: Cepeda-Freytiz, Goodman-Hinnershitz, Marmarou, Reed, Ventura, Sihelnik, Waltman, President – 7

Nays: None – 0

F. Bill No. 77-2021 – amending the Position Ordinance by increasing the base salary of the Auditing Coordinator by \$3,600 which is available from salary savings in the salary line item of the City Auditor 2021 budget; bringing the salary to \$55,000 ***Introduced at the Sept 27 regular meeting***

Councilor Cepeda-Freytiz moved, seconded by Councilor Reed, to enact Bill No. 77- 2021.

The motion to enact Bill No 77-2021 was approved by the following vote:

Yeas: Cepeda-Freytiz, Goodman-Hinnershitz, Marmarou, Reed, Ventura, Sihelnik, Waltman, President – 7

Nays: None – 0

G. Bill No. 78-2021 – amending the Fund 43 City Facilities Construction Fund Budget Ordinance reallocating \$1M in funding for the construction of the New 9th & Marion Fire Station ***Introduced at the Sept 27 regular meeting***

Councilor Marmarou moved, seconded by Councilor Reed, to enact Bill No. 78- 2021.

The motion to enact Bill No 78-2021 was approved by the following vote:

Yeas: Cepeda-Freytiz, Goodman-Hinnershitz, Marmarou, Reed, Ventura, Sihelnik, Waltman, President – 7

Nays: None – 0

H. Bill No. 79-2021 – amending City Code Chapter 62 New Officers and Employees Pension Fund by adding a Defined Contribution Plan for employees hired beginning January 1, 2022 ***Introduced at the Sept 27 regular meeting***

Councilor Cepeda-Freytiz moved, seconded by Councilor Marmarou to table Bill No. 79-2021.

The motion to table Bill No 79-2021 was NOT approved by the following vote:

Yeas: Cepeda-Freytiz, Marmarou– 2

Nays: Goodman-Hinnershitz, Reed, Ventura, Sihelnik, Waltman, President – 5

Councilor Goodman-Hinnershitz moved, seconded by Councilor Sihelnik, to enact Bill No. 79- 2021.

Councilor Cepeda-Freytiz expressed the belief that this ordinance is dependent on Bill 75-2021 which was tabled earlier. She stated that the two are dependent on each other; one cannot exist without the other.

The motion to enact Bill No 79-2021 was approved by the following vote:

Yeas: Goodman-Hinnershitz, Marmarou, Reed, Ventura, Sihelnik, Waltman, President – 6
Nays: Cepeda-Freytiz – 1

INTRODUCTION OF NEW ORDINANCES

Councilor Goodman-Hinnershitz read the following ordinance into the record:

A. Ordinance – authorizing the transfer of \$29,717 from the Public Works General Fund Street Division Budget to the Public Property Division General Fund Budget to pay for the New Neco Replacement Duplex Water Pressure Booster Pump System at the Public Works Center.

RESOLUTIONS

A. Resolution 92-2021 – to approve or disapprove the Certificate of Insufficiency issued to the We The People Circulators Committee for the Toxic Trespass petitions, as per Charter § 1105. Initiative and referendum; procedure after filing, Part b. The Charter requires the collection of 2,000 signatures and 1,737 signatures were submitted, 263 less than the required amount

Councilor Goodman-Hinnershitz moved, seconded by Councilor Sihelnik, to approve the Certificate of Insufficiency issued to the We The People Circulators Committee for the Toxic Trespass petitions, as per Charter § 1105.

Councilor-Cepeda-Freytiz requested an explanation for public benefit.

Council President Waltman explained that Charter Section 1104 requires that initiative and referendum petitions must contain a minimum of 2,000 signatures to move forward.

§ 1104. Initiative and referendum; petitions.

(a) Number of signatures. Initiative and referendum petitions must be signed by 2,000 qualified voters of the City.

Council President Waltman stated that 2,000 signatures were not obtained by the group. The Charter provides the Circulators Committee with the ability to seek Council review of the Certificate and provides Council with the ability to approve or deny the issuance of a Certificate of Insufficiency. He expressed the belief that as 2,000 signatures were not collected, Council is unable to deny the Certificate. He added that the Charter does not contain any hardship language.

The Solicitor agreed, noting the petitions initially submitted had a total of 1,698 signatures, 302 less than the 2,000 required by the Charter. The City Clerk performed the required facial review and striking signatures that were not from Reading addresses. The Circulators Committee filed a request to amend and ended up with a total of 1,737 - 263 short of the required 2,000 signatures. He stated that the Committee is exercising their ability to seek Council review. They also have the ability to seek a final determination by the Court of Common Pleas.

The motion to approve the Certificate of Insufficiency issued to the We The People Circulators Committee for the Toxic Trespass petitions, as per Charter § 1105 was adopted by the following vote:

Yeas: Goodman-Hinnershitz, Marmarou, Reed, Ventura, Sihelnik, Waltman, President – 6

Nays: Cepeda-Freytiz – 1

B. Resolution 93-2021- ratifying the Collective Bargaining Agreement between the City of Reading and the AFSCME Local 2763 for 2021-22 regarding salary changes and other provisions, effective date January 1, 2021

Councilor Cepeda-Freytiz moved to table Resolution 93-2021. The motion failed for the lack of a second.

Councilor Goodman-Hinnershitz moved, seconded by Councilor Reed, to adopt Resolution No. 93-2021.

Councilor Cepeda-Freytiz inquired about the source of funding to cover this expenditure. The Finance Director explained that the 2021 budget allocates funding to cover a 2.5% increase for this bargaining unit and the difference will be covered by the fund balance.

The Council President experienced technical difficulties and the Council Vice President took the meeting chair.

The motion to adopt Resolution No 93-2021 was approved by the following vote:

Yeas: Goodman-Hinnershitz, Marmarou, Reed, Ventura, Sihelnik, Waltman, President – 6

Nays: Cepeda-Freytiz – 1

C. Resolution 94-2021 – appointing Nehemiah Diaz Lopez to the Youth Commission

Councilor Marmarou moved, seconded by Councilor Cepeda-Freytiz, to adopt Resolution No. 94-2021.

Council members spoke about the great point of view Mr. Diaz Lopez will bring to the Youth Commission.

The motion to adopt Resolution No 94-2021 was approved by the following vote:

Yeas: Cepeda-Freytiz, Goodman-Hinnershitz, Marmarou, Reed, Ventura, Sihelnik, Waltman, President – 7

Nays: None – 0

COUNCIL COMMENT

Councilor Marmarou noted that the Greek Bazaar at St Constantine and Helen Orthodox Church is this weekend, noting that this will be the 50th bazaar.

Councilor Cepeda-Freytiz noted the impressive work by the homeless detail and she invited the public to attend the next detail. She described the great event held at the Goggleworks over the past weekend.

The mayor described the Trunk or Treat event his administration is hosting next week from 5:30-8:30 pm. Councilor Sihelnik reminded the mayor that the concept for this event came from Youth Commission member Brandom Hernandez Ruiz.

Councilor Marmarou left the meeting.

Councilor Reed noted the open house at Café Esperanza this week and the diligence of Pastor Mary Wolfe to build this community resource. She noted the open house held by BCTV at the CollegeTown Building on Penn St. noting that it is good to have them back in the downtown. She noted the passing of District 5 community leader MaryAnn Bitting, noting the importance of her role within the Glenside community.

Councilor Goodman-Hinnershitz described the beautiful interactive sidewalk art in front of 10th and Penn Elementary School. She noted her recent visit to a Pennsylvania park community that is very similar to our Mt. Penn and Neversink Mountain. She described the need for our community to show respect for these assets and avoid littering and dumping.

Council Vice President Sihelnik described the indoor/outdoor features at the Greek bazaar this weekend. She reviewed the upcoming meeting schedule.

Councilor Goodman-Hinnershitz moved, seconded by Councilor Ventura, to adjourn the regular meeting of Council.

Linda A. Kelleher CMC, City Clerk

AGENDA MEMO

DEPARTMENT OF ADMINISTRATIVE SERVICES

TO: City Council
FROM: Tammi Reinhart, Purchasing Coordinator
PREPARED BY: Tammi Reinhart, Purchasing Coordinator
MEETING DATE: October 25, 2021
AGENDA MEMO DATE: October 8, 2021
RECOMMENDED ACTION: Awarding of Contract for the Southwest Fire Station Project.

RECOMMENDATION

The recommendation is to award the contract for the Southwest Fire Station Project to Kinsley Construction Inc. 2700 Water Street, York, PA 17403 in the amount of \$138,742.00.

BACKGROUND

The Work included in this Contract consists of furnishing all plant, new materials, equipment, supplies, labor, transportation, fuel and power and performing all Work as required by the Contract, in strict accordance with the Specifications, Schedules and Drawings, and Pennsylvania Department of Transportation Publication 408 specifications, latest edition, and including such detail Drawings as may be furnished by the ENGINEER from time to time during the construction in interpretation of said Drawings. PennDOT Publication 408 shall be adhered to regarding construction methods and materials. Contract administration and measurement and payment basis shall be as specified in these Contract Documents. The Work shall be complete and all Work, materials, and services not expressly called for in the Specifications, or specially indicated on the Drawings, which may be necessary for complete and proper construction to carry out the Contract in good faith, shall be performed, furnished and installed by the CONTRACTOR at no additional cost to the OWNER.

BUDGETARY IMPACT

The fees will be paid out of the Capital Account Code – 32-10-00-4216.

PREVIOUS ACTION

None

SUBSEQUENT ACTION

Formal action by Council is required to award the contract at the October 25, 2021 meeting.

RECOMMENDED BY

Managing Director, Fire Chief, Finance Director, Controller and Purchasing Coordinator

RECOMMENDED MOTION

Approve/Deny the recommendation for the Southwest Fire Station Project so that the contract be awarded to Kinsley Construction.

Drafted by: Law Department
Sponsored/Referred by: Law Department
Introduced on: October 25, 2021
Advertised on: N/A

CITY OF READING
RESOLUTION NO. _____ 2021

**RESOLUTION AUTHORIZING THE CITY TO RESERVE FUNDS AS FINANCIAL SECURITY
FOR PENN DOT HIGHWAY OCCUPANCY PERMIT FOR NINTH AND MARION FIRE
STATION CONSTRUCTION**

WHEREAS, the Pennsylvania Department of Transportation requires financial security for improvements as a condition of its Highway Occupancy Permit process;

WHEREAS, the City needs to submit financial security in the amount of \$31,003.50 as a condition for approval of the Highway Occupancy Permit required for the 9th and Marion Fire Station, a copy of permit application, Application #238205 is attached as Exhibit "A;"

NOW, THEREFORE, BE IT RESOLVED by the City of Reading City Council of Berks County, Pennsylvania, as follows:

The City shall reserve \$31,003.50 which shall be payable to the City of Reading or the Pennsylvania Department of Transportation in the event the City does not complete the work that is described in Exhibit "A."

DULY ADOPTED this ____ day of _____, 2021, by the City of Reading City Council of Berks County, Pennsylvania, in lawful session duly assembled.

By: _____
President

Attest: _____
City Clerk

AGENDA MEMO

DEPARTMENT OF ADMINISTRATIVE SERVICES

TO: City Council
FROM: Tammi Reinhart, Purchasing Coordinator
PREPARED BY: Tammi Reinhart, Purchasing Coordinator
MEETING DATE: October 25, 2021
AGENDA MEMO DATE: October 20, 2021
RECOMMENDED ACTION: Awarding of Contract for 9th and Marion Fire Station – Mechanical Contracting

RECOMMENDATION

The recommendation is to award the contract for the 9th and Marion Fire Station – Mechanical Shannon A Smith, Inc., 420 South Cherry Street, Myerstown, PA 17067 in the amount of \$1,026,120.00.

BACKGROUND

This work shall include all labor, supervision, material, tools, equipment, shop drawings, submittals, layout, unloading, scaffolding, ladders, hoisting, transportation, permits, engineering, support functions, insurance, bonds, and any other items or services necessary for and reasonably incidental to the proper execution and completion of the work, whether temporary or permanent, in accordance with all drawings, specifications, addenda, general conditions, requirements, and other related documents.

BUDGETARY IMPACT

The fees for this part of the project will be paid from:

In 2021, CIP Line 34-09-34-4801 - \$28,000

In 2022, Construction Fund Line 43-09-34-4801 - \$998,120.00

PREVIOUS ACTION

None

SUBSEQUENT ACTION

Formal action by Council is required to award the contract at the October 25, 2021 meeting.

RECOMMENDED BY

Managing Director, Fire Chief, Finance Director, Controller and Purchasing Coordinator

RECOMMENDED MOTION

Approve/Deny the recommendation for the 9th and Marion Fire Station – General Contracting so that the contract can be awarded to Perrotto Builders.

October 19, 2021

To the Mayor
City Hall
Reading, PA

The following bids were opened and scheduled, with a Contract to be awarded or the bids rejected.

BID: 9th and Marion Fire Station – Mechanical Re Bid

<u>BIDDER</u>	<u>TOTAL BID PRICE</u>
Shannon A. Smith, Inc. 420 South Cherry Street Myerstown, PA 17067	\$1,026,120.00

AGENDA MEMO

DEPARTMENT OF ADMINISTRATIVE SERVICES

TO: City Council
FROM: Tammi Reinhart, Purchasing Coordinator
PREPARED BY: Tammi Reinhart, Purchasing Coordinator
MEETING DATE: October 25, 2021
AGENDA MEMO DATE: October 20, 2021
RECOMMENDED ACTION: Awarding of Contract for the Purchase of Two (2) Fire Pumper Trucks

RECOMMENDATION

The recommendation is to award the contract for the purchase of two (2) Fire Pumper Trucks to Glick Fire Equipment, 350 Mill Creek Road, Bird in Hand, PA 17505 in the amount of \$1,290,446.00.

BACKGROUND

The bids were received on Monday, October 18, 2021 for the purchase of (2) 1500 GPM Fire pumper apparatuses.

BUDGETARY IMPACT

The fees will be paid out of 32-10-00-4216, project code – 32-10-41.

PREVIOUS ACTION

None

SUBSEQUENT ACTION

Formal action by Council is required to award the contract at the October 25, 2021 meeting.

RECOMMENDED BY

Managing Director, Fire Chief, Community Development Director, Finance Director, Controller and Purchasing Coordinator

To the Mayor

City Hall

Reading, PA

The following bids were opened and scheduled, with a Contract to be awarded or the bids rejected.

PURCHASE OF FIRE PUMPER FOR THE FIRE DEPARTMENT

CITY OF READING, PENNSYLVANIA

Name of Company	Option 1 - City pays 90% of the costs at bid award and 10% upon delivery	Option 2 - City pays 50% of the costs at bid award and 50% upon delivery	Option 3 - City pays 0% of the costs at bid award and 100% upon delivery
Glick Fire Equipment, Inc. 350 Mill Creek Road Bird in Hand, PA 17505	\$1,290,446.00	\$1,300,446.00	\$1,330,840.00
First Choice Fire Apparatus, LLC 111 Oxford Street, Hanover Township, PA 18706	\$1,298,550.24	\$1,314,565.24	\$1,334,584.00

Drafted by: Law Department
Sponsored/Referred by: Managing Director
Introduced on: October 25, 2021
Advertised on: N/A

CITY OF READING
RESOLUTION NO. _____ 2021

**RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT WITH THE
COUNTY OF BERKS FOR CONSOLIDATED DISPATCH SERVICES**

WHEREAS, the County of Berks has provided dispatch services to the City for several decades;

WHEREAS, the County is requiring participating municipalities to enter into agreements setting an annual fee which will be adjusted each year in accordance with the Consumer Price Index;

WHEREAS, whereas the agreement with the City, a copy of which is attached as Attachment A sets the initial annual rate for the City of Reading for the year 2022 at \$390,692.24 which is the amount it currently pays in 2021;

NOW, THEREFORE, BE IT RESOLVED by the City of Reading City Council of Berks County, Pennsylvania, as follows:

The City is authorized to enter into the Agreement with the County of Berks for consolidated dispatch services.

DULY ADOPTED this ____ day of _____, 2021, by the City of Reading City Council of Berks County, Pennsylvania, in lawful session duly assembled.

By: _____
President

Attest: _____
City Clerk

ATTACHMENT "A"

AGREEMENT TO PROVIDE DISPATCH SERVICES

THIS AGREEMENT ("Agreement"), dated this ____ day of _____, 2021 (the "Effective Date"), by and between Reading, a City of the County of Berks, Commonwealth of Pennsylvania ("Local Unit"), and the County of Berks, a third class county of the Commonwealth ("County").

BACKGROUND

A. Pursuant to an agreement or agreements, the County has been providing consolidated dispatching services to municipalities located in the County as well as Port Clinton Borough in Schuylkill County.

B. Such services have been provided by the County to the Local Unit in consideration of fees paid to the County, which are subject to an annual increase that is currently decided solely at the discretion of the Berks County Commissioners.

C. The Local Unit has requested the County continue to provide dispatch services which may include Police, Fire, and Emergency Medical Services ("EMS").

D. In consideration of the County fixing its annual fee for such services at the rate for fiscal year 2021 with only inflation index increases thereafter, the County is willing to make available the dispatch services subject to the execution of this Agreement by the Local Unit on or before December 31, 2021.

E. Under the Pennsylvania Intergovernmental Cooperation Act, 53 Pa. C.S. §2301, et seq., a municipality may enter into an intergovernmental cooperation agreement upon the passage of a resolution as deemed appropriate by its governing body in the exercise or performance of its governmental functions, powers or responsibilities.

NOW, THEREFORE, intending to be legally bound, the parties agree as follows:

1. **Background.**

The background clauses set forth above are incorporated herein by reference.

2. **Emergency Communication Services.**

(a) The County shall provide the Local Unit with emergency communication dispatch services as designated on Exhibit A attached hereto and incorporated herein by reference (the "Services") for the

calendar year commencing January 1, 2022. The Services shall include the dispatching of the Local Unit's designated fire, police and/or EMS providers as set forth on Exhibit A from time to time under the policies and processes of the County's Department of Emergency Services ("DES") as may be in force at the time of such dispatch.

(b) The Services shall be provided in calendar year 2022 for the aggregate fees set forth on Exhibit A ("Fees"), which are at the same rate as paid by the Local Unit in 2021. For each calendar year following 2022 for which this Agreement is in place, there shall be an annual increase in Fees based on the Consumer Price Index-All Urban Consumers (CPI-U) for the Northeast Region (the "Index") as published by the US Department of Labor. The twelve-month average published each December shall be used to adjust the cost increase for the succeeding year. In the event the Index no longer uses Northeast Region, the County may substitute U.S. City Average.

(c) The County shall invoice the Local Unit for Fees for calendar years subsequent to 2022 on or before February 28. All payments of Fees shall be made to the County on or before June 1 of each year.

(d) Any increase in capital costs that are directly and solely attributed to the Local Unit shall be paid by the Local Unit.

3. **Addition or Deletion of Services.**

(a) The Local Unit may request the County add Services for emergency services disciplines not being dispatched by the County at that time no less than ninety (90) days prior to the intended commencement of such revised Services, which, if the County agrees, shall be set forth as an amendment to Exhibit A. Payment for such additional Services will also be set forth on amended Exhibit A and will be based on the costs being paid by other Local Units for which the County provides Services at the time of the request.

(b) The Local Unit may notify the County to delete Services no less than 90 days prior to the date intended for said deletion to go into effect; provided, however, that there shall be no refund of Fees previously paid for the calendar year.

4. **Termination of All Services.**

So as to allow for a transition to another dispatch service provider in a way that will not impair public safety, the Local Unit shall notify the County of an intent to terminate this Agreement for the subsequent calendar year no later than September 30 of the current year. Such notice shall include instructions as to how and where requests for emergency assistance in the Local Unit shall be directed after termination.

5. **Maintenance of Public Records.**

Records generated and/or related to Services provided by the County to the Local Unit under this Agreement shall comply with relevant requirements of any applicable law or regulation. The County shall retain such records in accordance with applicable law and shall produce such records pursuant to requests for records in accordance with applicable law. The County shall make records available to the Local Unit and its emergency response organizations under the terms of DES's Release of 9-1-1 Records Policy as may be in effect at the time of the request.

6. **Limitation of Liability; Defense of Claims**

(a) Neither the County nor the Local Unit are responsible for the independent acts and/or omissions of the other party, or their officers, employees, or agents. Each party shall be responsible for the negligent, willful, or intentional acts or omissions of their respective personnel.

(b) Each party shall process and defend, at its own expense, any and all claims of whatsoever kind or nature, with respect to that party's acts or omissions relating to 911 emergency or non-emergency dispatch calls.

7. Miscellaneous.

(a) **Amendment.** This Agreement may not be amended or modified for any reason without the express prior written consent of both parties hereto.

(b) **Severability.** In the event that any provision of this Agreement shall be held to be invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(c) **Entire Agreement.** This Agreement sets forth all the promises, covenants, agreements, conditions and undertakings between the parties hereto with respect to the subject matter hereof, and supersedes all prior or contemporaneous agreements and undertakings, inducements, or conditions, express or implied, oral or written between the parties hereto.

(d) **Further Assurances and Corrective Instruments.** The Local Unit and the County shall execute, acknowledge and deliver, or cause to be executed, any such instruments as may be reasonably required for correcting any inconsistent or ambiguities of this Agreement.

(e) **Headings.** The Article and Section headings in this Agreement are included herein for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

(f) **Non-Waiver.** It is understood and agreed that nothing which is contained in this Agreement shall be construed as a waiver on the part of the parties, or any of them, of any right which is not explicitly waived in this Agreement.

(g) **Notices.** All notices, requests, demands and communications hereunder will be given by first class certified mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notices will be addressed to the parties as follows:

If to County: County of Berks
Attention: County Commissioners
633 Court Street
Reading, PA 19601

With a copy to: County of Berks
Attention: Solicitor
633 Court Street
Reading, PA 19601

Berks County Department of Emergency Services
Attention: Director
2561 Bernville Road
Reading, PA 19605

If to Local Unit: _____

Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

(h) **Governing Law.** The terms of this Agreement shall be governed by and construed, interpreted, and enforced in accordance with the laws of the Commonwealth of Pennsylvania, including all matters of enforcement, validity and performance.

(i) **Electronic Copies.** Any signed copy of this Agreement that is reproduced via facsimile, photocopy or other electronic means shall be as valid and enforceable as an originally signed document for all purposes.

(j) **Previous Agreements.** Any previous agreements between the County and Local Unit regarding dispatch of fire, police or EMS services are hereby terminated as of the Effective Date.

[Signature page follows]

ATTEST:

COUNTY OF BERKS

Chief Clerk

By: _____
Brian A. Gottschall
Director of Emergency Services

ATTEST:

CITY OF READING

City Clerk

By: _____
Mayor

EXHIBIT A
City of Reading

<u>Service</u>		<u>2022 Cost</u>
Fire	Yes <input checked="" type="checkbox"/> No	\$197,139.34
Police	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Fire	Yes <input checked="" type="checkbox"/> No	\$193,552.90

Administrative Report

COMMUNITY DEVELOPMENT:

- The Community Development Department held the public hearing required for the HUD action plan on October 6th. Two public entities attended; Neighborhood Housing Services (NHS) and Habitat for Humanity. Public comment closes on November 5th, with the intent to present to City Council on November 8th.
- The CD Department's Property Maintenance Division conducted the following since the last report:
 - 510 Property Inspections
 - 172 Quality of Life (QOL) citations
 - 24 Illegal Rental Units discovered/reported
 - 20 of those illegal rental units are in the process of legalizing their status
 - 120 Notice of Violation issued to chronic QOL violators
 - 404 Notice of Violation issued to properties that are not compliant with Property Maintenance ordinances
- The CD Department took part in the October 5th presentation by the Passenger Rail Steering Committee to several municipalities in Berks County. The presentation included a summary of activities, including discussions with SEPTA, AMTRAK, and Norfolk Southern. To capitalize on this momentum, the City will develop two (2) new zoning districts to add to the zoning ordinance; Transportation Revitalization Improvement District (TRID) and Transit-Oriented Development (TOD).
- On October 12th, the Goggleworks Center for the Arts Executive Director and Chairperson to the Board presented plans for extensive improvements to the center. Phase 1 of the upgrades is currently underway, with funding secured by private entities. ARP or DCED funding in the amount of \$2M is being sought to fund Phase 2 and Phase 3 of the project.
- The CD Department continues to work with Stantec as it finalizes the DownTowne Plus study. More details will be shared as they are made available.

FINANCE:

- The Finance Department's Information Technology Division is on track to migrate to the new City website and cloud server on November 1st. The quantitative data reflecting the Division's work necessary to create the new website is as follows:
 - **2,278 pages** – 45 weeks averaging 50 pages per week
 - **3,751 graphics** – 45 weeks averaging 83 graphics per week, including utility graphics
 - **1,175 PDFs** – mostly meeting agendas and minutes – file reductions conducted to reduce the footprint on the server
 - **53 custom site templates** – site templates for each section allowing for customization
 - **41 electronic forms** - many additional forms to be converted and added once the site goes live
 - **5 dashboards** – home pages for the five sections of the website with visual aids to assist in user navigation in one click
 - **34 slideshows** – rebuilt to improve legibility and function on mobile devices
- The Finance Department continues to work on the conversion to the Tyler Munis accounting system. Recently a spreadsheet consolidating all of the system fees, descriptions, amounts, and GL numbers from Hansen was created and will include accounts receivables when future meetings occur to assist in the conversion.
- The Finance Department's held various individual staff meetings with departments to understand the accounting workflow better. Information gathered will be utilized in the conversion to the Tyler Munis accounting system.

FIRE:

- The Fire Department's 9th and Marion Fire Station project ceremonial groundbreaking will be held on November 5th.
- The Fire Department's Non-Firefighter Paramedic application process is open through December 1st. Applicants must already be a paramedic or enrolled in a program and be certified at the time of hire.

HUMAN RELATIONS COMMISSION:

- As of October 6th, HRC has:
 - 1069 total rent and utility assistance applications were received (an addition of 15 applications since last reported).
 - 1035 applications for rental assistance
 - 653 applicants were facing eviction
 - 283 applicants were not actively facing eviction
 - 99 applicants resided outside of the City but within the County.
 - 48 applications for utility assistance

HUMAN RESOURCES:

- The Human Resource Department would like to welcome newly hired City of Reading employees, which include:
 - As of October 1st, Shelly Keehn, Executive Assistant to the Director of Finance, and Juan Ruiz, Pension Coordinator
 - As of October 4th, Emily Diaz-Melendez, Zoning Inspector
 - As of October 18th, Jeannette Fonseca, Municipal Aide in the Citizen's Service Center, Jason Youtz, Property Maintenance Inspector, and Kemar Bates as a part-time General Laborer in Public Works
 - As of October 19th, Zoila Rodriguez, as a part-time Custodian in Public Works

LIBRARY:

- The Reading Public Library's Cocktails and Classics fundraiser was held on October 1st. The event was successful with an updated total of \$133,000.
- The RPL's Executive Director Search Committee has narrowed down the field to three final candidates. The next step is for in-person meetings in October.
- The RPL's new strategic plan will be presented to the Library Board of Trustees the week of October 18th. When the Board approves it, it will then be shared with other stakeholders.
- The RPL's Staff Development Day will be held on November 2nd (Election Day) at the Doubletree Hotel. Please contact Bronwen Gamble or Carl Long at the RPL's Main Branch for more information.

POLICE:

- The Reading Police Department launched a Pink Patch initiative to raise money for Breast Cancer Support Services of Berks County. Officers are wearing pink patches for the month of October and also selling commemorative patches to the public for \$20. Those interested can contact the Police Traffic Office at 610-655-6294.
- The RPD continues to join other community partners on Homeless Coalition details, with the next scheduled for the week of October 25th.
- RPD Community Outreach Officer Lt. Lance Lillis, continues to attend recruiting events several days a week. He has attended Southeastern and South Central Pennsylvania colleges, universities, and technical school fairs and set up an informational table. He has also continued the partnership with the Transition Assistance Program (TAP), specifically with the liaison at Fort Dix, to recruit service members transitioning to civilian life.
- On October 6th, RPD Community Outreach Officer Lt. Lillis organized National Coffee with a Cop Day at two Wawa locations in the city. Thank you to Wawa on Lancaster Avenue and Rockland Street for hosting the event.

PUBLIC WORKS:

- Public Works staff has completed 250 out of the 780 streetlights from the LED Streetlight project. An increase of 50 streetlights since last reported on September 27th.
- Public Works reports that paving season is soon coming to an end. By the end of the season, it is expected to have milled and paved nearly 9 miles of City streets as part of the Mayor's three-year paving plan. The contractor gave a paving update for the 200 and 300 blocks of Penn Street, which began on October 4th. The paving of these blocks was expected to take three weeks and is now expected to take five weeks.
- Public Works expects Pagoda traffic improvements to be completed by October 22nd, weather permitting.

Drafted by Finance/Law
Sponsored by/Referred by Finance Director
Introduced on September 27, 2021
Advertised on Oct 4, 2021

BILL NO. _____ 2021

ORDINANCE TO AMEND READING, PA CODE OF ORDINANCES TO ADOPT THE CITY OF READING OFFICERS AND EMPLOYEES DEFINED CONTRIBUTION PLAN

THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Chapter 62, Pensions, is hereby amended as follows:

§ 62-601.

The City of Reading has adopted the City of Reading Officers and Employees Defined Contribution Plan which is incorporated into this Chapter as Appendix “B.”

SECTION 2. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

SECTION 3. This Ordinance shall become effective ten (10) days after its adoption in accordance with Sections 219 & 221 of the City of Reading Home Rule Charter.

Enacted by Council _____, 2021

President of Council

Attest:

City Clerk

Sent to Mayor _____

Signed by Mayor _____

Date: _____

Vetoed by Mayor: _____

Date: _____

Over-ridden by Council:

Date: _____

Appendix B

City of Reading Officers and Employees Defined Contribution Plan

**Effective
JANUARY 1, 2022**

City of Reading Officers and Employees Defined Contribution Plan

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City of Reading Officers and Employees Defined Contribution Plan

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This plan document has been created from the model document developed by Conrad M. Siegel, Inc. For further information regarding the drafter's intended meaning of plan provisions contact Conrad M. Siegel, Inc. by letter (P.O. Box 5900, Harrisburg, Pennsylvania 17110-0900) or telephone (717-652-5633). You may also contact us through our website at conradsiegel.com.

PREAMBLE

This plan, executed on the date indicated at the end hereof, is made effective as of January 1, 2022, except as provided otherwise in Section 1.3(c), by City of Reading, a government agency/instrumentality, with its principal office located in Reading, Pennsylvania.

WITNESSETH:

WHEREAS, the employer desires to establish a permanent qualified money purchase pension plan in order to provide its employees and their beneficiaries with financial security in the event of retirement, disability, or death;

NOW THEREFORE, the premises considered, the following are the provisions of the qualified plan of the employer.

ARTICLE I – DEFINITIONS

Section 1.1 – References

- (a) **Act 205** means the Municipal Pension Plan Funding Standard and Recovery Act, act of December 18, 1984, P.L. 1005 no. 205, as amended, 53 P.S. 895.101, *et seq.* as enacted by the Commonwealth of Pennsylvania.
- (b) **ERISA** means the Employee Retirement Income Security Act of 1974, as amended.
- (c) **IRC** means the Internal Revenue Code of 1986, as it may be amended from time to time.

Section 1.2 – Compensation

- (a) **Compensation** means, except as provided in Section 1.2(b) hereof, any earnings reportable as W-2 wages for federal income tax withholding purposes plus elective contributions, for the determination period. For this purpose, the determination period is the plan year.

Picked-up contributions under IRC section 414(h)(2) shall be included in the participant's compensation. Such earnings shall include any amount contributed to a Roth elective deferral account under a qualified plan. However, compensation shall not include any earnings reportable as W-2 wages that are payable following the termination of employment pursuant to a severance agreement.

Elective contributions are amounts excludable from the employee's gross income and contributed by the employer, at the employee's election to:

- A cafeteria plan (excludable under IRC section 125 and as provided in Section 5.1(c)(2));
- A IRC section 401(k) arrangement (excludable under IRC section 402(e)(3));
- A simplified employee pension (excludable under IRC section 402(h));
- A tax sheltered annuity (excludable under IRC section 403(b));
- A deferred compensation plan excludable under IRC section 457(b); or
- A IRC section 132(f)(4) qualified transportation fringe benefit plan.

Any reference in this plan to compensation shall be a reference to the definition in this Section 1.2, unless the plan reference specifies a modification to this definition. The plan administrator shall take into account only compensation actually paid by the employer for the relevant period. A compensation payment includes compensation by the employer through another person under the common paymaster provisions in IRC sections 3121 and 3306. Compensation from an employer that is not a participating employer under this plan shall be excluded.

- (b) **Exclusions From Compensation** – Notwithstanding the provisions of Section 1.2(a), the following types of remuneration shall be excluded from the participant's compensation:
 - No exclusions.
- (c) **Limitations on Compensation** – For any plan year beginning after December 31, 2001, the plan administrator shall take into account only \$200,000 (as adjusted for cost-of-living increases in accordance with IRC section 401(a)(17)(B) for plan years beginning on or after January 1, 2003) of any participant's annual compensation for determining all benefits provided under the plan. The compensation dollar limitation for a plan year shall be the limitation amount in effect on January 1 of the calendar year in which the plan year begins. Annual compensation means compensation during the plan year or such other 12-consecutive-month period over which compensation is otherwise determined under the plan (the determination period for purposes of Section 1.2). If compensation for any prior determination period is taken into account in

determining a participant's allocations for the current plan year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period. For any plan year beginning on or before January 1, 2002, the plan administrator shall take into account only \$200,000. For any plan year beginning after December 31, 1995, the plan administrator shall take into account only \$150,000 (or beginning January 1, 1995, as adjusted for cost-of-living increases in accordance with IRC section 401(a)(17)(B)) of any participant's compensation for determining all benefits provided under the plan for a determination period. If the plan should determine compensation on a period of time that contains less than 12 calendar months (such as for a short plan year), the annual compensation dollar limitation shall be an amount equal to the compensation dollar limitation for the plan year multiplied by the ratio obtained by dividing the number of full months in the period by 12.

Notwithstanding the preceding, in the case of an eligible participant, the annual compensation dollar limitation shall not apply to the extent that the application of the limitation would reduce the amount of compensation that is allowed to be taken into account under the plan below the amount that was allowed to be taken into account under this plan as in effect on July 1, 1993. For this purpose, an eligible participant is an individual who first became a participant in the plan during a plan year prior to the first day of the first plan year beginning after December 31, 1995.

Section 1.3 – Dates

- (a) **Accounting Date** means the date(s) on which investment results are allocated to participants' accounts as set forth below:

December 31

- (b) **Allocation Date** means the last day of the of the plan year. The allocation period for the employer contribution shall be the plan year.
Employee nondeductible contributions shall be allocated as of the last day of each payroll period.
- (c) The **Effective Date** of the plan is January 1, 2022.
- (d) **Plan Entry Date** means the participation date(s) specified in Article II.
- (e) **Plan Year** means the 12-consecutive-month period beginning January 1, 2022 and ending December 31, 2022 and each succeeding 12-consecutive-month period beginning on January 1 and ending on December 31.
- (f) **Limitation Year** means the plan year.

Section 1.4 – Employee

- (a) **Employee** means any person employed by the employer. The term employee shall include any employee of the employer maintaining the plan or of any other employer required to be aggregated with such employer under IRC section 414(b), (c), (m), or (o). The term employee shall also include any leased employee deemed to be an employee of any such employer as provided in IRC section 414(n) or (o) and as defined in Section 1.4(b).
- (b) **Leased Employee** means an individual (who otherwise is not an employee of the employer) who, pursuant to a leasing agreement between the employer and any other person, has performed services for the employer (or for the employer and any persons related to the employer within the meaning of IRC section 414(n)(6)) on a substantially full time basis for at least one year and such services are performed under the primary direction or control of the employer. If a leased employee is treated as an employee by reason of this Section 1.4(b), compensation from the leasing organization that is attributable to services performed for the employer shall be considered as compensation under the plan. Contributions or benefits provided a leased employee by the leasing organization that are attributable to services performed for the employer shall be treated as provided by the employer.

Section 1.5 – Employer

Employer means City of Reading, a political subdivision of the Commonwealth of Pennsylvania (or agency or authority thereof), or any successor entity that may assume the obligations of this plan with respect to its employees by becoming a party to this plan.

In compliance with the exclusive benefit requirements of IRC section 401(a), the sponsorship of this plan may not be transferred to an unrelated entity if the transfer is not in connection with a transfer of business assets or operations from the employer to such entity.

Section 1.6 – Fiduciaries

- (a) **Chief Administrative Officer** means the person appointed by the employer or the employer's Board of Trustees as described in Section 6.2 who has primary responsibility for the execution of the administrative affairs of the plan.
- (b) **Plan Administrator** means the person or persons appointed by the employer to administer the plan.
- (c) **Trustee** means the trustee named in the trust agreement executed pursuant to this plan, or any duly appointed successor trustee.
- (d) **Investment Manager** means a person or corporation other than the trustee appointed for the investment of plan assets.

Section 1.7 – Participant/Beneficiary/Spouse

- (a) **Participant** means an eligible employee of the employer who becomes a member of the plan pursuant to the provisions of Article II, or a former employee who has an accrued benefit under the plan.
- (b) **Beneficiary** means a person designated by a participant who is or may become entitled to a benefit under the plan. A beneficiary who becomes entitled to a benefit under the plan remains a beneficiary under the plan until the trustee has fully distributed his benefit to him. A beneficiary's right to (and the plan administrator's, or a trustee's duty to provide to the beneficiary) information or data concerning the plan shall not arise until he first becomes entitled to receive a benefit under the plan.
- (c) **Spouse** means the person married to the participant at the time of the determination as evidenced by a marriage certificate issued pursuant to a license valid under the laws of the place of issuance.
- (d) **Dependent** means a dependent as defined by IRC section 152 without regard to section 152(d)(1)(B).

Section 1.8 – Participant Accounts

- (a) **Accrued Benefit** means the total of the participant's account balance(s) as of the accounting date falling on or before the day on which the accrued benefit is being determined.
- (b) **Money Purchase Account** means the balance of the separate account derived from employer contributions provided under Section 3.2, including forfeitures (if any).
- (c) **Employee Contribution Account** means the balance of the separate account derived from the participant's employee contributions as provided under Section 3.3.
- (d) **Rollover/Transfer Account** means the balance of the separate account derived from rollover contributions and/or transfer contributions as provided under Section 3.4.

Section 1.9 – Plan

Plan means City of Reading Officers and Employees Defined Contribution Plan as set forth herein and as it may be amended from time to time.

Section 1.10 – Service

- (a) **Application of This Section** – The definitions and provisions of Section 1.10(c) hour of service rules shall apply for the purpose of determining vesting service. The definitions and provisions of Section 1.10(d) elapsed time rule shall apply for the purpose of determining eligibility service.
- (b) **Service** means any period of time the employee is in the employ of the employer. Separation from service means that the employee no longer has an employment relationship with the employer.
- (c) **Service Determined by Hours of Service Credited**

- (1) (A) **Hour of Service** means:

- (i) Each hour for which an employee is paid, or entitled to payment, for the performance of duties for the employer. These hours shall be credited to the employee for the computation period in which the duties are performed; and
- (ii) 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. No more than 501 hours of service shall be credited under this paragraph for any single continuous period (whether or not such period occurs in a single computation period). An hour of service shall not be credited to an employee under this paragraph if the employee is paid, or entitled to payment, under a plan maintained solely for the purpose of complying with applicable worker's compensation or unemployment compensation or disability insurance laws; and
- (iii) 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 both under clause (i) or clause (ii), as the case may be, and under this clause (iii). These hours shall be credited to the employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement, or payment is made.

Hours of service shall be determined on the basis of actual hours for which an employee is paid or entitled to payment. The above provisions shall be construed so as to resolve any ambiguities in favor of crediting employees with hours of service.

- (B) Solely for purposes of determining whether a break in service for participation and vesting purposes has occurred in a computation period, an individual who is absent from work on unpaid leave under the Family and Medical Leave Act shall receive credit for the hours of service that would otherwise have been credited to such individual but for such absence, or in any case in which such hours cannot be determined, 8 hours of service per day of such absence. Such an individual shall be treated as actively employed for the purposes of participation and eligibility for an allocation of any employer contribution that may be provided under this plan. Notwithstanding the preceding, this paragraph shall not apply if the employer or the particular employee is not subject to the requirements of the Family and Medical Leave Act at the time of the absence.
- (C) If the employer is a member of an affiliated service group under IRC section 414(m) or a controlled group of corporations under IRC section 414(b), or any other entity required to be aggregated with the employer pursuant to IRC section 414(o) as these Internal Revenue Code provisions are applied to a governmental entity, service shall be credited for any employment for any period of time for any other member of such group. Service shall also be credited for any leased employee who is considered an employee for purposes of this plan under IRC section 414(n) or IRC section 414(o).

- (2) **Break in Service (or One Year Break in Service)** means a 12-consecutive-month computation period during which a participant or former participant does not complete the specified number of hours of service with the employer as set forth in Section 2.1(b) (eligibility service) and Section 4.1(b) (vesting service), as applicable per Section 1.10(a).
- (3) **Year of Service** means a 12-consecutive-month computation period during which the employee completes the required number of hours of service with the employer as specified in Section 2.1(a) (eligibility service) and Section 4.1(a) (vesting service), as applicable per Section 1.10(a). For purposes of crediting years of service, hours of service credited in accordance with Section 1.10(c)(1)(C) shall be taken into account.
- (d) **Service Determined by Elapsed Time**
- (1) **Hour of Service** means each hour for which an employee is paid or entitled to payment for the performance of duties for the employer.
- (2) **Break in Service** means a period of severance of at least 12 consecutive months.
- (3) (A) **Period of Severance** means a continuous period of time during which the employee is not employed by the employer and is not credited with an hour of service. Such period begins on the date the employee retires, terminates service, or if earlier, the date on which the employee was otherwise first absent from service.
- (B) If the employer is subject to the Family and Medical Leave Act of 1993 due to its employment of fifty employees, in the case of an individual who is absent from work for maternity or paternity reasons, the 12-consecutive-month period beginning on the first anniversary of the first date of such absence shall not constitute a break in service. For purposes of this paragraph, an absence from work for maternity or paternity reasons means an absence: (i) by reason of the pregnancy of the individual, (ii) by reason of the birth of a child of the individual, (iii) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or (iv) for purposes of caring for such child for a period beginning immediately following such birth or placement.
- (4) **Other Service Credited** – If the employer is a member of an affiliated service group under IRC section 414(m) or a controlled group of corporations under IRC section 414(b), or any other entity required to be aggregated with the employer pursuant to IRC section 414(o) as these Internal Revenue Code provisions are applied to a governmental entity, service shall be credited for any employment for any period of time for any other member of such group. Service shall also be credited for any leased employee who is considered an employee for purposes of this plan under IRC section 414(n) or (o).
- (5) **Year of Service** means 12 months of service, excluding any breaks in service. For purposes of determining an employee's initial year of service upon his employment or re-employment, the initial year of service shall commence on the employee's first day of employment or re-employment. The first day of employment is the first day the employee performs an hour of service. The first day of re-employment is the first day the employee performs an hour of service following a break in service. An initial year of service shall end on the day immediately preceding the first anniversary of the employee's date of hire or rehire. Any subsequent year of service shall commence on the day following the completion of the immediately preceding year of service.
- (e) **Crediting Years of Service** – Generally, no service shall be credited for periods during which the employee performs no services for the employer. Further, no more than one year of service will be credited for any 12-consecutive-month period.
- (f) **Predecessor Service** – If the employer maintains the plan of a predecessor employer, service with such predecessor employer shall be treated as service for the employer. If the employer does not maintain the plan of a predecessor employer, then service as an employee of a

predecessor employer shall not be considered as service under the plan, unless this plan is so amended.

- (g) **Qualified Military Service** – Notwithstanding any provision of this plan to the contrary, effective December 12, 1994, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with IRC section 414(u) and the applicable Pennsylvania statutes. An employee reemployed after qualified military service shall not be treated as having incurred a break in service, for purposes of vesting and benefit accruals, solely because of an absence due to qualified military service.

Effective with respect to deaths occurring on or after January 1, 2007, in the case of a participant who dies while performing qualified military service, the beneficiary(ies) of the participant shall be entitled to any benefits payable under Section 4.2(a)(5) that would have been payable had the participant resumed and then immediately terminated employment on account of death.

Section 1.11 – Trust

- (a) **Trust** means the qualified trust created under the employer's plan.
- (b) **Trust Fund** means all property held or acquired by the plan.

ARTICLE II – PARTICIPATION

Section 2.1 – Eligibility Service

For purposes of determining an employee's initial or continued eligibility to participate in the plan, an employee shall receive credit for the aggregate of all time periods commencing with the employee's first day of employment or re-employment and ending on the date a break in service begins, except for periods of service disregarded under Section 2.4. The first day of employment or re-employment is the first day the employee performs an hour of service. Fractional periods of a year will be expressed in terms of days.

Section 2.2 – Plan Participation

(a) **Eligibility**

(1) **Eligibility for Purposes of Employee Contributions**

(A) **Age/Service Requirements** – An employee who is a member of the eligible class of employees shall be eligible for the purpose of making employee contributions (and any rights pertaining thereto) after he has satisfied the following participation requirement(s):

- (i) Completion of one hour of service with the employer.
- (ii) No age requirement.

(B) **Eligible class of employees** – All employees of the employer shall be eligible to be covered under the plan except for employees in the following categories:

- Individuals not directly employed by the employer as defined in Section 1.5. An employee of an entity that is not a participating employer in this plan shall not participate in this plan.
- Employees employed as police officers.
- Employees employed as paid firemen.
- Employees hired before January 1, 2022 who are covered under the City of Reading Officers and Employees Pension Plan.
- Leased employees who are considered employees under the plan.

- Employees who are non-resident aliens (as defined in IRC section 7701(b)(1)(B)) and who receive no earned income (as defined in IRC section 911(d)(2)) from the employer that constitutes income from sources within the United States (as defined in IRC section 861(a)(3)).

(2) Eligibility for All Other Purposes

(A) Age/Service Requirements – An employee who is a member of the eligible class of employees shall be eligible for participation for all purposes under the plan after he has satisfied the following participation requirement(s):

- Completion of 36 months of employment. An employee shall not be required to complete any specified number of hours of service to receive credit for such months of employment.
- No age requirement.
- Completion of the form consenting to mandatory employee contributions under the plan.

(B) Eligible class of employees – All employees of the employer shall be eligible to be covered under the plan except for employees in the following categories:

- Individuals not directly employed by the employer as defined in Section 1.5. An employee of an entity that is not a participating employer in this plan shall not participate in this plan.
- Employees employed as police officers.
- Employees employed as paid firemen.
- Employees hired before January 1, 2022 who are covered under the City of Reading Officers and Employees Pension Plan.
- Leased employees who are considered employees under the plan.
- Employees who are non-resident aliens (as defined in IRC section 7701(b)(1)(B)) and who receive no earned income (as defined in IRC section 911(d)(2)) from the employer that constitutes income from sources within the United States (as defined in IRC section 861(a)(3)).

(b) Entry Date

(1) Entry Date for Purposes of Employee Contribution Account Contributions – An eligible employee shall participate in the plan for the purpose of making employee contributions as of the first day for which he is credited with an hour of service.

(2) Entry Date for All Other Purposes – An eligible employee shall participate in the plan for all purposes as of the first day of the first payroll period commencing on or after the date on which he has met the age and service requirements, provided he is employed on that date.

Section 2.3 – Termination of Participation

A participant shall continue to be an active participant of the plan so long as he is a member of the eligible class of employees and he does not terminate employment. He shall become an inactive participant when he terminates employment or ceases to be a member of the eligible class of employees. He shall cease participation completely upon the later of his receipt of a total distribution of his nonforfeitable account balance under the plan or the forfeiture of the nonvested portion of the account balance.

Section 2.4 – Re-Participation

(a) A former participant shall be deemed a new employee for participation purposes.

- (b) If a participant becomes an inactive participant, because he is no longer a member of the eligible class of employees; such inactive participant shall become an active participant immediately upon returning to the eligible class of employees. In the event an employee who is not a member of an eligible class of employees becomes a member of an eligible class, such employee shall participate immediately.

ARTICLE III – CONTRIBUTIONS TO PARTICIPANT ACCOUNTS

Section 3.1 – General Provisions

- (a) **Maintenance of Participant Accounts** – The plan administrator shall maintain one or more separate accounts covering each participant under the plan. Such account(s) shall be increased by contributions, reallocation of forfeitures (if any), investment income, and market value appreciation of the fund. It shall be decreased by market value depreciation of the fund, forfeiture of nonvested amounts, benefit payments, withdrawals, and expenses.
- (b) **Amount and Payment of Employer Contribution**
 - (1) **Amount of Contribution** – For each plan year, the employer contribution to the plan shall be the amount that is determined under the provisions of this Article; provided, however, that the employer may not make a contribution to the plan for any plan year to the extent the contribution would exceed the participants' maximum permissible amounts under IRC section 415. Further, the employer contribution shall not exceed the maximum amount that would be deductible under IRC section 404.
 - (2) **Payment of Contribution** – The employer shall make its contribution to the plan within the time prescribed by the IRC or applicable Treasury regulations. The employer shall notify the trustee in writing as to the amount being contributed with respect to each group of participants where this plan covers more than one division, participating employer, eligible group, or classification.
- (c) **Limitations and Conditions** – Notwithstanding the contribution amount set forth in this Article, the contribution otherwise contributable to a participant's account under this plan shall be limited or reduced as provided in Section 5.1.

In any limitation year in which the contribution otherwise contributable to a participant's account under this plan would exceed the maximum permissible amount due to a contribution otherwise allocable to the participant under another defined contribution plan that the employer also sponsors, the contribution shall first be limited or reduced under such other sponsored plan so that the annual additions for the limitation year will equal the maximum permissible amount.

Section 3.2 – Allocation of Contributions and Forfeitures to Money Purchase Account

- (a) **Conditions for Allocations** – An active participant shall be eligible for an allocation of the employer contribution and forfeitures as of an allocation date, provided that he completed at least one hour of service during the current allocation period.
- (b) (1) **Contribution Formula**

The employer will contribute a matching contribution for each allocation period in an amount equal to:

 - (A) 100% of the amount contributed by the participant up to 5%

A participant's contributions in excess of 15% of his compensation shall be disregarded for purposes of allocating the employer contribution.
- (2) **Compensation** – For this purpose, compensation means compensation as defined in Section 1.2(a) and (b) (subject to the limitations of Section 1.2(c)) for the allocation period. Compensation includable under Section 1.2(a) and (b) but not paid through payroll shall be

treated as being paid as of the last day of the plan year or the last day of employment, if earlier.

(c) **Allocation of Forfeitures**

Forfeitures for the plan year shall be used to reduce employer contributions for the plan year in which such forfeitures occur.

Section 3.3 – Employee Contribution Account

- (a) **Mandatory Contribution Amount** – As a condition of participation in this plan, each active participant must contribute 5% of his compensation each year on an after-tax basis.
- (b) The employer shall contribute an amount equal to the mandatory employee contribution amount set forth in Section 3.3(a) as a pick-up contribution (pursuant to IRC section 414(h)(2)) in lieu of the prior mandatory employee contribution. The contribution shall be made on a pre-tax basis, and there shall be a corresponding reduction in compensation paid to the participant. The contribution shall be credited to the participant's employee contribution account.
- (c) **Availability of Elective Employee Contributions** – An active participant may contribute, on an after-tax basis, a nondeductible amount not to exceed 85% of his compensation (mandatory contributions inclusive). The contribution shall be credited to the participant's employee contribution account. The plan administrator may limit the amount of employee contributions, if he determines that such limitation is necessary to meet the requirements under Code section 415, and regulations issued pursuant thereto, as set forth in Sections 5.1.
- (d) **Election Procedures** – A notice of a participant's desire to make employee contributions shall be given to the plan administrator in the manner established by the plan administrator. The plan administrator shall provide a written notice to all participants of the required procedures for making an election and the date as of which an election will be effective. A participant may make contributions in a single sum, or he may make periodic contributions by authorizing the employer to withhold contributions from the compensation paid to him by the employer. A participant electing to make periodic contributions will be deemed to desire to continue to contribute at the same rate, unless he notifies the plan administrator of his desire to contribute at a different rate. The revised contribution election shall be effective in accordance with the plan administrator's published procedures. Contributions through employer withholding may be discontinued at any time upon proper notice in the manner established by the plan administrator.

Section 3.4 – Rollover/Transfer Account

- (a) **Rollover Contributions** – An active participant may contribute to his rollover/transfer account any amounts that he previously received either as a lump sum distribution (as defined in IRC section 402(e)(4)(D)) provided that he transfers such distribution to this plan within sixty (60) days after receipt.

Before accepting a rollover contribution, the trustee may require an employee to furnish satisfactory evidence that the proposed transfer is in fact a "rollover contribution" that the IRC permits an employee to make to a qualified plan. If and to the extent the transferring plan is represented to be a retirement plan qualified under 401(a) that is not sponsored by a church or governmental agency, the employee shall not be required to furnish such evidence, except with respect to Roth or other after-tax accounting. Further, no evidence shall be required when the check is issued by a financial institution indicating that the distribution is from an individual retirement account, 403(b) account, or a governmental entity 457(b) account previously maintained for the benefit of the employee. The acceptable sources for a rollover contribution shall be as set forth in Section 3.7(b). Notwithstanding the preceding or the provisions of Section 3.7(b), this plan will not accept a rollover from a Roth elective deferral account or an IRC section 408A Roth individual retirement account.

- (b) **Transfer Contributions** – With the consent of the plan administrator, an active participant may have funds transferred directly to this plan from another qualified plan. Consent shall not be

given if the optional forms of payment to which the funds are subject under the prior plan are not properly disclosed by the prior plan or cannot be accommodated by this plan and trust.

Effective for requests received on or after January 1, 2002, with the consent of the plan administrator, the participant may have the following transfers made on his behalf directly to this plan (or may make the following rollover contributions as permitted below):

- A direct rollover of an eligible rollover distribution from a qualified plan described in IRC section 401(a) or 403(a), including after-tax employee contributions
- Transfers from a Roth elective deferral account under a qualified IRC section 401(a) plan shall not be permitted.
- A direct rollover of an eligible rollover distribution from an annuity contract described in IRC section 403(b), including after-tax employee contributions.
- Transfers from a Roth elective deferral account under a IRC section 403(b) account shall not be permitted.
- A direct rollover or a participant contribution of an eligible rollover distribution from an eligible plan under IRC section 457(b) that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.
- A participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in IRC section 408(a) or 408(b) (including an account more specifically described under IRC section 408(k) or (p)) that is eligible to be rolled over and would otherwise be includable in gross income.

If the plan administrator later determines that the contribution was an invalid transfer contribution, the plan administrator shall distribute the amount of the invalid contribution, plus any earnings attributable thereto, to the employee within a reasonable time after such determination.

- (c) **Contributions Before Plan Entry Date** – An employee, (who is in the eligible class of employees) prior to satisfying the plan's eligibility conditions, may make a rollover or transfer contribution to the plan to the same extent and in the same manner as a participant. If an employee makes a rollover or transfer contribution to the plan before satisfying the plan's eligibility conditions, the plan administrator and trustee will treat the employee as a participant for all purposes of the plan, except the employee is not a participant for purposes of sharing in employer contributions or forfeitures under the plan until he actually becomes a participant in the plan. If the employee has a separation from service prior to becoming a participant, the trustee will distribute his rollover/transfer account to him.
- (d) **Distribution** – The participant's rollover/transfer account shall be held subject to separate accounting and shall always be 100% vested and nonforfeitable. The rollover/transfer account shall be subject to distribution in the same manner as the money purchase account.

Section 3.5 – Allocation of Investment Results

(a) **General Allocation Procedure**

Investment income and market value appreciation or depreciation shall be allocated and credited to each account of each participant who has accrued benefits in proportion to the respective account balances on each accounting date. For this purpose, each account balance shall be equal to the average balance for the period commencing on the day following the prior accounting date and ending on the current accounting date.

(b) **Investment Elections**

A participant may elect to have his employee contribution account and any rollover/transfer account invested in such investment fund or combination of investment funds as may be established by the trustee and made available for the benefit of participants; provided, however,

that in no event may the participant direct that any portion of his account be invested in collectibles (as defined in IRC section 408(m)). A participant's investment election shall not apply to any portion of the account that may be invested in a participant loan sub-account established under Section 4.4. The investment results shall be allocated to the participant's account based upon earnings and losses on the participant's share in such investment fund or funds.

The terms and conditions for investment direction shall be established by the plan administrator. An election may be revoked only by another election and will remain in effect until such revocation. If no initial election is timely received by the plan administrator, the plan administrator shall invest the account in a fund designated for such purpose.

ARTICLE IV – PAYMENT OF PARTICIPANT ACCOUNTS

Section 4.1 – Vesting Service Rules

- (a) **Vesting Year of Service** means a vesting computation period during which the employee completes at least 1,000 hours of service with the employer. All of an employee's years of service with the employer shall be counted to determine the nonforfeitable percentage in the employee's account balance derived from employer contributions, except:
 - (1) Years of service disregarded under the break in service rules in Section 4.1(d).
 - (2) Years of service before the employer maintained this plan or a predecessor plan.
- (b) **One Year Break in Service** means for the purposes of this Article IV a vesting computation period during which the employee or former employee does not complete more than 500 hours of service with the employer.
- (c) **Vesting Computation Period** means the 12-consecutive-month period coinciding with the plan year.
- (d) **Break in Service Rules**
 - (1) **Vested Participant** – A former participant who had a nonforfeitable right to all or a portion of his account balance derived from employer contributions at the time of his termination from service shall retain credit for all vesting years of service prior to a break in service as that term is defined in Section 4.1(b).
 - (2) **Nonvested Participant or Employee** – In the case of a former participant or employee who did not have any nonforfeitable right to his account balance derived from employer contributions at the time of his termination from service, years of vesting service before a period of consecutive one-year breaks in service shall not be taken into account in computing service if the number of consecutive one-year breaks in service in such period equals or exceeds the aggregate number of years of vesting service before such breaks in service. Such aggregate number of years of service shall not include any years of service disregarded under the preceding sentence by reason of prior breaks in service.

Section 4.2 – Vesting of Participant Accounts

- (a) **Determination of Vesting**
 - (1) **Normal Retirement** – An employee's right to his accrued benefit shall be 100% vested and nonforfeitable upon the attainment of age 65, the normal retirement age. The vesting of an inactive participant who terminates employment prior to normal retirement age shall remain subject to the provisions of the vesting schedule following attainment of such specified age. Distributions shall be administered in accordance with termination from employment provisions of Section 4.3(a)(3).
 - (2) **Late Retirement** – If a participant remains employed after his normal retirement age, his accrued benefit shall remain 100% vested and nonforfeitable. Such participant shall continue to receive allocations to his account as he did before his normal retirement age.

- (3) **Early Retirement** – No accelerated vesting based on age shall be provided prior to the participant's attainment of normal retirement age.
- (4) **Disability** – No accelerated vesting shall be provided due to the participant's disability.
- (5) (A) **Death** – In the event of the death of a participant who has an accrued benefit under the plan, (whether or not he is an active participant), 100% of the participant's accrued benefit as of the date of death shall be paid to his designated beneficiary.
- (B) **Beneficiary Designation** – The participant shall have the right to designate his beneficiaries, including a contingent death beneficiary, and shall have the right at any time to change such beneficiaries. The designation shall be made in writing, either on a form signed by the participant and supplied by and filed with the plan administrator or through an electronic procedure established by the plan administrator. If the participant fails to designate a beneficiary, or if the designated person or persons predecease the participant, "beneficiary" shall mean the spouse, children, parents, siblings (by the whole blood or adoption), or estate of the participant, in the order listed. For this purpose, the terms children, parents, and siblings shall exclude step relationships.

In the absence of a beneficiary designation duly filed or otherwise recorded, if a designated beneficiary dies after the participant has died but before the plan has commenced distribution to the designated beneficiary, the plan shall be administered as set forth in this paragraph. The death benefit will be paid to the designated beneficiary's estate in one lump sum. If the deceased designated beneficiary was not the participant's surviving spouse, distribution will be completed by December 31 of the fifth year following the participant's date of death. If the deceased designated beneficiary was the participant's surviving spouse, distribution will be completed by December 31 of the fifth year following the beneficiary's date of death.

For purposes of this Section 4.2(a)(5), if the designated beneficiary of the participant dies simultaneously with the participant, the participant shall be deemed to be the survivor and to have died subsequent to such designated beneficiary. Likewise, if a beneficiary named by a designated beneficiary dies simultaneously with a designated beneficiary, the designated beneficiary shall be deemed to be the survivor and to have died subsequent to the beneficiary named by the designated beneficiary.

If a participant designates his spouse as the beneficiary and the participant and such spouse are legally divorced subsequent to the date of such designation; then, the designation shall be administered as if such spouse had predeceased the participant unless the participant, subsequent to the legal divorce, reaffirms the designation by completing a new beneficiary designation and duly filing or otherwise recording it with the plan administrator.

- (6) **Termination From Service** – If a participant separates from the service of the employer other than by retirement, disability, or death, his vested interest in his money purchase account shall be equal to the account balance multiplied by the applicable vesting percentage based on his vesting years of service as follows:

Years of Service	Vesting Percentage
0–2 Years	0%
3 or More Years	100%

- (7) **Forfeiture for Malfeasance** – Notwithstanding any other provision of this plan, a participant who is convicted or pleads guilty to engaging in criminal misconduct which constitutes a "crime related to public office or public employment," as that phrase is defined in Pennsylvania Pension Forfeiture Act, 43 P.S. 1311-1314 and interpreted thereunder, shall forfeit his right to receive a pension benefit under this plan. In such a case, the participant

shall only be entitled to receive the contributions, if any, he made under Section 3.3, without interest.

(b) Forfeitures

(1) **Time of Forfeiture** – If a participant terminates employment before his account balance derived from employer contributions is fully vested, the nonvested portion of his account shall be forfeited on the earlier of:

- (A) The last day of the vesting computation period in which the participant first incurs a one-year breaks in service, or
- (B) The date the participant receives his entire vested account balance.

If a participant returns to employment with the employer, and if the forfeited amount is restored pursuant to Section 4.2(b)(2)(B), then any amount required to restore such forfeitures shall be deducted from forfeitures occurring in the plan year of restoration. If forfeitures are insufficient for the restoration, the employer may make a contribution to the plan for such plan year to satisfy the restoration. However, by the end of the plan year following the plan year of restoration, sufficient forfeitures or employer contributions shall be credited to the account to satisfy the restoration.

(2) Cashout Distributions and Restoration

(A) **Cashout Distribution** – If an employee terminates service and the value of his vested account balance(s) derived from employer and employee contributions is not greater than \$5,000, the employee shall receive a distribution of the value of the entire vested portion of such account balance(s) and the nonvested portion will be treated as a forfeiture. If an employee would have received a distribution under the preceding sentence but for the fact that the employee's vested account balance exceeded \$5,000 when the employee terminated service and if at a later time such account balance is reduced such that it is not greater than \$5,000, the employee will receive a distribution of such account balance and the nonvested portion will be treated as a forfeiture. For purposes of this section, if the value of an employee's vested account balance is zero, he shall be deemed to have received a distribution of such vested account balance. For the purpose of determining the value of a participant's vested account balance, prior distributions shall be disregarded if distributions have not commenced under an optional form of payment described in Section 4.3.

The value of a participant's vested account balance shall be determined without regard to the account balance that is attributable to rollover contributions (and earnings allocable thereto) within the meaning of IRC sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16).

If an employee terminates service and elects, in accordance with the requirements of Section 4.3, to receive the value of his vested account balance, the nonvested portion shall be treated as a forfeiture as of the date of distribution. If the employee elects to have distributed less than the entire vested portion of the account balance derived from employer contributions, the part of the nonvested portion that will be treated as a forfeiture is the total nonvested portion multiplied by a fraction, the numerator of which is the amount of the distribution attributable to employer contributions and the denominator of which is the total value of the vested employer-derived account balance.

(B) **Restoration of Account** – If an employee receives a cashout distribution pursuant to this section and resumes employment covered under this plan before he incurs a break in service, his employer-derived account balance shall be restored to the amount on the date of distribution, if he repays to the plan the full amount of the distribution attributable to employer contributions before the earlier of one year after the first date on which he is subsequently re-employed by the employer, or the date he incurs a break in service

following the date of the distribution. If an employee is deemed to receive a distribution pursuant to this Section 4.2(b)(2), and he resumes employment covered under this plan before he incurs a break in service, upon the re-employment of such employee his employer-derived account balance will be restored to the amount on the date of such deemed distribution.

- (c) **Withdrawal of Employee Nondeductible Contributions** – No forfeitures shall occur solely as a result of an employee's withdrawal of employee nondeductible contributions.

Section 4.3 – Payment of Participant Accounts

(a) **Time of Payment**

- (1) **Commencement of Benefits** – Subject to the limitations of this plan, the plan administrator shall have full authority to determine the time of payment of any benefit.
- (2) **Payment Upon Retirement, Disability, or Death** – Subject to the provisions set forth in the Distribution Requirements of Section 5.2, if the participant terminates employment due to retirement, disability, or death, his account(s) shall be paid as soon as administratively possible after the occurrence of the event creating the right to a distribution.
- (3) **Payment Upon Other Termination of Employment** – Subject to the provisions set forth in the Distribution Requirements of Section 5.2, if the participant terminates employment other than by retirement, disability, or death, his account(s) shall be paid as soon as administratively possible after the date of severance of employment.

Notwithstanding the preceding, an alternate payee may elect to have paid the amount determined under the qualified domestic relations order as soon as administratively possible following the date permitted under Section 4.5.

- (4) Notwithstanding the foregoing, the failure of a participant to consent to a distribution while a benefit is immediately distributable shall be deemed to be an election to defer commencement of payment of any benefit sufficient to satisfy this section. An account balance is immediately distributable if any part of the account balance could be distributed to the participant (or surviving spouse) before the participant attains (or would have attained if not deceased) the later of normal retirement age or age 62.
- (b) **Form of Payment** – A participant or beneficiary may elect to receive distribution of his account(s) as a lump sum benefit payment. The participant or beneficiary shall make a request for benefits through the procedures established by the plan administrator before payment will be made. The lump sum benefit payment shall be made in cash from the fund. However, if the vested accrued benefit is no more than \$5,000, benefits shall automatically be paid in a lump sum.

If a distribution is required under the Distribution Requirements of Section 5.2, the participant fails to elect payment, and the vested balance of the account(s) exceeds \$5,000, the trustee shall pay the benefit in installment payments that meet the requirements of Section 5.2 over the joint life and last survivor expectancy of the participant and his designated beneficiary. If the vested balance of the account(s) does not exceed \$5,000, the trustee shall distribute the entire account balance in a lump sum.

(c) **General Payment Provisions**

- (1) All distributions due to be made under this plan shall be made on the basis of the amount to the credit of the participant as of the accounting date coincident with or immediately preceding the date of distribution.

If a distributable event occurs after an allocation date and before allocations have been made to the account of the participant, the distribution shall also include the amounts allocable to the account as of such allocation date.

- (2) If any person entitled to receive benefits hereunder is physically or mentally incapable of receiving or acknowledging receipt thereof, and if a legal guardian or power of attorney has been appointed for him, the plan administrator may direct the benefit payment to be made to such legal representative. The plan administrator may cause benefits to be paid to any other individual recognized by the state law under which the plan trust has been established.

In the event a distribution is to be made to a minor beneficiary, then the plan administrator may direct that such distribution be paid to the legal guardian, or if none, to a parent of such beneficiary or a responsible adult with whom the beneficiary maintains his residence, or to the custodian for such beneficiary under the Uniform Gift to Minors Act or the Gift to Minors Act, if such is permitted by the laws of the state in which said beneficiary resides. Such a payment to the legal guardian, custodian or parent of a minor beneficiary shall fully discharge the trustee, employer, plan administrator, and plan from further liability on account thereof.

- (3) Any annuity contract distributed herefrom shall be nontransferable. The terms of any such annuity contract purchased and distributed by the plan shall comply with the requirements of this plan. The ownership of the annuity contract shall reside with the participant.

Any dividend, refund or recovery on an annuity contract shall be credited to the participant or beneficiary for whom the annuity contract was purchased.

- (4) The participant's election of a form of benefit payment shall be irrevocable as of the annuity starting date, subject to the notice requirements contained in Section 4.3(e).

(d) Eligible Rollover Distributions

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.

- (1) **Eligible Rollover Distribution** – 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: 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 years or more; any distribution to the extent such distribution is required under IRC section 401(a)(9) including any portion of such distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); any hardship withdrawal; and any other distribution(s) that is reasonably expected to total less than \$200 during a year.

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 transferred only to: (A) a traditional individual retirement account or annuity described in IRC section 408(a) or (b) (traditional IRA) or a Roth individual retirement account or annuity described in IRC section 408A (Roth IRA); or (B) a qualified plan or an annuity contract described in IRC section 401(a) and 403(b), respectively, that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.

- (2) **Eligible Retirement Plan** – An eligible retirement plan is a traditional IRA, a Roth IRA, an annuity plan described in IRC section 403(a), an annuity contract described in IRC section 403(b), a qualified plan described in IRC section 401(a), that accepts the distributee's eligible rollover distribution, or an eligible plan under IRC section 457(b) that 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 that agrees to separately account for amounts transferred into such plan from this plan. The definition of eligible retirement plan shall also apply in the case of a

distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in IRC section 414(p).

- (3) **Distributee** – A distributee includes an employee or former employee. 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 IRC section 414(p), are distributees with regard to the interest of the spouse or former spouse. Effective for death benefit distributions made on or after January 1, 2007, a distributee shall include a nonspouse beneficiary but only with respect to a direct transfer to an inherited traditional IRA or Roth IRA established on his behalf for the purpose of receiving the distribution.
- (4) **Direct Rollover** – A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee.
- (5) **Automatic Rollovers** - In the event of a mandatory distribution greater than \$1,000 in accordance with the provisions of Section 4.2(b)(2)(A), if the participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the participant in a direct rollover or to receive the distribution directly in accordance with Section 4.3(e), then the plan administrator shall pay the distribution in a direct rollover to an individual retirement plan designated by the plan administrator. For purposes of determining whether a mandatory distribution is greater than \$1,000, the portion of the participant's distribution attributable to any rollover contribution shall be included.

If a distribution of \$5,000 or less is made to a participant but the check remains uncashed for 24 months, the plan administrator shall pay the distribution in a direct rollover to an individual retirement plan designated by the plan administrator. If the distribution is \$1,000 or less, such disbursement shall be made only to the extent the financial institution will accept the amount.

(e) **Payment Election Procedures**

An account balance in excess of \$5,000 shall not be immediately distributed without the consent of the participant. For any distribution in excess of \$200, the plan administrator shall give the participant a written notice of his eligible rollover distribution rights as required under IRC section 402(f) no less than 30 days and no more than 180 days before the proposed distribution date. A participant may elect to waive any requirement that the written explanation and notice be given at least 30 days before the annuity starting date, provided that:

- (1) The participant is provided with information that clearly states that the participant has a right to a period of at least 30 days after receiving the written explanation and notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and
- (2) The participant, after receiving the written explanation and notice, affirmatively elects a distribution.

If and to the extent the participant elects multiple destinations for his direct rollover distributions, he may designate the allocation of the pretax amounts. In the event of a mandatory distribution greater than \$1,000 in accordance with the provisions of Section 4.2(b)(2)(A), if the participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the participant in a direct rollover or to receive the distribution directly in accordance with Section 4.3(d), then the plan administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the plan administrator.

Section 4.4 – In-Service Payments

- (a) **Withdrawals** – An employee may not withdraw amounts from his account(s) before his separation from service, except under the circumstances and only to the extent provided below.

No payments shall be made before separation from service.

(b) **Participant Loans** – No participant loans shall be permitted under this plan.

Section 4.5 – Distributions Under Domestic Relations Orders

Nothing contained in this plan prevents the trustee, in accordance with the direction of the plan administrator, from complying with the provisions of a qualified domestic relations order (as defined in IRC section 414(p)).

This plan specifically permits distribution to an alternate payee under a qualified domestic relations order at any time, irrespective of whether the participant has attained his earliest retirement age (as defined under IRC section 414(p)) under the plan. A distribution to an alternate payee prior to the participant's attainment of earliest retirement age is available only if the order specifies distribution at that time or permits an agreement between the plan and the alternate payee to authorize an earlier distribution. If the present value of the alternate payee's benefits under the plan exceeds \$5,000 and the order requires, the alternate payee must consent to any distribution occurring prior to the participant's attainment of earliest retirement age.

Nothing in this Section gives a participant a right to receive distribution at a time otherwise not permitted under the plan nor does it permit the alternate payee to receive a form of payment not otherwise permitted under the plan.

The plan administrator shall establish reasonable procedures to determine the qualified status of a domestic relations order. Upon receiving a domestic relations order, the plan administrator promptly will notify the participant and any alternate payee named in the order, in writing, of the receipt of the order and the plan's procedures for determining the qualified status of the order. Within a reasonable period of time after receiving the domestic relations order, the plan administrator shall determine the qualified status of the order and shall notify the participant and each alternate payee, in writing, of its determination. The plan administrator shall provide notice under this paragraph by mailing to the individual's address specified in the domestic relations order.

If any portion of the participant's nonforfeitable accrued benefit is payable during the period the plan administrator is making its determination of the qualified status of the domestic relations order, the plan administrator shall make a separate accounting of the amounts payable. If the plan administrator determines the order is a qualified domestic relations order within 18 months of the date amounts first are payable following receipt of the order, it shall direct the trustee to distribute the payable amounts in accordance with the order. If the plan administrator does not make its determination of the qualified status of the order within the 18-month determination period, it shall direct the trustee to distribute the payable amounts in the manner the plan would distribute if the order did not exist and shall apply the order prospectively if it later determines the order is a qualified domestic relations order.

ARTICLE V – ADDITIONAL QUALIFICATION RULES

Section 5.1 – Limitations on Allocations Under IRC Section 415

(a) **Single Plan Limitations**

- (1) If the participant does not participate in, and has never participated in another qualified plan maintained by the employer, or a welfare benefit fund (as defined in IRC section 419(e)) maintained by the employer, or an individual medical account (as defined in IRC section 415(l)(2)) maintained by the employer, that provides an annual addition as defined in Section 5.1(c)(1), the amount of annual additions that may be credited to the participant's account for any limitation year will not exceed the lesser of the maximum permissible amount or any other limitation contained in this plan. If the employer contribution that would otherwise be contributed or allocated to the participant's account would cause the annual additions for the limitation year to exceed the maximum permissible amount, the amount

contributed or allocated will be reduced so that the annual additions for the limitation year will equal the maximum permissible amount.

- (2) Prior to determining the participant's actual compensation for the limitation year, the employer may determine the maximum permissible amount for a participant on the basis of a reasonable estimation of the participant's compensation for the limitation year, uniformly determined for all participants similarly situated.
- (3) As soon as is administratively feasible after the end of the limitation year, the maximum permissible amount for the limitation year will be determined on the basis of the participant's actual compensation for the limitation year.
- (4) If a participant elects to make employee nondeductible contributions that together with any contribution the employer is obligated to make under the terms of this plan would otherwise cause the annual additions for the limitation year to exceed the maximum permissible amount, the contribution election of the participant shall be limited before any employer contribution is reduced so that the annual additions for the limitation year will equal the maximum permissible amount.

(b) Combined Limitations – Other Defined Contribution Plan

- (1) This Section 5.1(b) applies if, in addition to this plan, the participant is covered under another qualified defined contribution plan maintained by the employer, a welfare benefit fund maintained by the employer, or an individual medical account maintained by the employer, that provides an annual addition as defined in Section 5.1(c)(1), during any limitation year. The annual additions that may be credited to a participant's account under this plan for any such limitation year will not exceed the maximum permissible amount reduced by the annual additions credited to a participant's account under the other plans welfare benefit funds, and individual medical accounts for the same limitation year. If the annual additions with respect to the participant under other qualified defined contribution plans, welfare benefit funds, and individual medical accounts maintained by the employer are less than the maximum permissible amount and the employer contribution that would otherwise be contributed or allocated to the participant's account under this plan would cause the annual additions for the limitation year to exceed this limitation, the amount contributed or allocated will be reduced so that the annual additions under all such plans and funds for the limitation year will equal the maximum permissible amount. If the annual additions with respect to the participant under such other qualified defined contribution plans, welfare benefit funds, and individual medical accounts in the aggregate are equal to or greater than the maximum permissible amount, no amount will be contributed or allocated to the participant's account under this plan for the limitation year.
- (2) Prior to determining the participant's actual compensation for the limitation year, the employer may determine the maximum permissible amount for a participant in the manner described in Section 5.1(a)(2).
- (3) As soon as is administratively feasible after the end of the limitation year, the maximum permissible amount for the limitation year will be determined on the basis of the participant's actual compensation for the limitation year.
- (4) If, pursuant to Section 5.1(b)(3) or as a result of the allocation of forfeitures, a participant's annual additions under this plan and such other plans would result in an excess amount for a limitation year, the excess amount will be deemed to consist of the annual additions last allocated, except that annual additions attributable to a welfare benefit fund or individual medical account will be deemed to have been allocated first regardless of the actual allocation date.
- (5) If an allocation date of this plan coincides with an allocation date of another plan and the employee or employer contribution that would otherwise be contributed or allocated to a participant's account under the plans would cause the annual additions for the limitation year

to exceed the maximum permissible amount, Section 3.1(c) shall control which contribution or allocation will be reduced so that the annual additions for the limitation year will equal the maximum permissible amount.

(c) Definitions (IRC Section 415 Limitations)

- (1) **Annual Additions** – The sum of the following amounts credited to a participant's account for the limitation year: (A) employer contributions; (B) employee contributions (excluding catch-up contributions made in accordance with IRC section 414(v)); (C) forfeitures; and (D) amounts allocated, after March 31, 1984, to an individual medical account as defined in IRC section 415(l)(2), that is part of a pension or annuity plan maintained by the employer are treated as annual additions to a defined contribution plan. Also, amounts derived from contributions paid or accrued after December 31, 1985 (in taxable years ending after such date), that are attributable to postretirement medical benefits allocated to the separate account of a key employee (as defined in IRC section 419A(d)(3)) under a welfare benefit fund (as defined in IRC section 419(e)) maintained by the employer are treated as annual additions to a defined contribution plan. Picked-up contributions under IRC section 414(h)(2) shall not be included as an annual addition with respect to a participant.

Restorative payments allocated to a participant's account including restorative payments made pursuant to Section 4.2(b)(2)(B) and payments made to restore losses to the plan resulting from actions (or a failure to act) by a fiduciary for which there is a reasonable risk of liability under an applicable federal or state law (where similarly situated participants are treated similarly) shall not give rise to an annual addition for any limitation year.

- (2) **Compensation** – A participant's earned income and any earnings reportable as W-2 wages for federal income tax withholding purposes. W-2 wages means wages as defined in IRC section 3401(a) but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in IRC section 3401(a)(2)). Picked-up contributions under IRC section 414(h)(2) shall not be included in the participant's compensation.

For purposes of applying the limitations of this Section 5.1, compensation for a limitation year is the compensation actually paid or includable in gross income during such limitation year. Compensation for a limitation year shall include amounts earned but not paid during the limitation year solely because of the timing of pay periods and pay dates, provided the amounts are paid during the first few weeks of the next limitation year, the amounts are included on a uniform and consistent basis with respect to all similarly situated employees, and no compensation is included in more than one limitation year.

Back pay, within the meaning of Treasury Regulation section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

Compensation in excess of the limitations of Section 1.2(c) shall not be taken into account. In order to be taken into account for a limitation year, compensation must be paid or treated as paid prior to severance from employment with the employer. Effective for limitation years beginning on or after July 1, 2007, an includable payment shall be treated as paid prior to severance from employment if it is paid by the later of 2½ months after severance or the last day of the limitation year that includes the severance date. For this purpose, includable payments are those that absent the severance would have been paid and are regular compensation for services during regular working hours or compensation for services outside regular working hours (such as overtime or shift differentials), commissions, bonuses, or other similar compensation. Includable payments shall also include unused accrued sick, vacation, or other leave if such payments would have been included in compensation as defined in Section 1.2 if they were paid prior to the employee's severance from employment.

Any payments not described herein as an includable payment shall not be considered compensation if paid after severance from employment, even if they are paid by the later of 2½ months after the date of severance from employment or the end of the limitation year that includes the severance date.

For limitation years beginning after December 31, 2008, compensation for a limitation year shall include amounts paid as differential wages to a participant on qualified military service leave of more than 30 days and otherwise meeting the requirements of IRC section 3401(h)(2).

Compensation shall include elective contributions as defined in Section 1.2(a) and elective contributions under a IRC section 501(c)(18) plan. Elective contribution amounts under a cafeteria plan excludable under IRC section 125 shall include any amounts not available to a participant in cash in lieu of group health coverage solely because the participant is unable to certify that he has other health coverage (deemed section 125 compensation). Amounts are deemed section 125 compensation only if the employer does not request or collect information regarding the participant's other health coverage as part of the enrollment process for the health plan.

Notwithstanding the preceding, compensation for a participant who is permanently and totally disabled (as defined in IRC section 22(e)(3)) is the compensation such participant would have received for the limitation year if the participant had been paid at the rate of compensation paid immediately before becoming permanently and totally disabled; such imputed compensation for the disabled participant may be taken into account only if contributions made on behalf of such participant are nonforfeitable when made.

- (3) **Defined Contribution Dollar Limitation** – \$40,000, as adjusted under IRC section 415(d).
- (4) **Employer** – For purposes of this Section 5.1, employer shall mean the employer that adopts this plan and any entity required to be aggregated with the employer pursuant to regulations.
- (5) **Excess Amount** – The excess of the participant's annual additions for the limitation year over the maximum permissible amount.
- (6) **Limitation Year** – The 12-consecutive-month period defined in Section 1.3(f).
- (7) **Maximum Permissible Amount** – The maximum annual addition that may be contributed or allocated to a participant's account under the plan for any limitation year shall not exceed the lesser of:
 - (A) the defined contribution dollar limitation as defined in Section 5.1(c)(3); or
 - (B) 100% of the participant's compensation for the limitation year.

If a short limitation year is created because of an amendment changing the limitation year to a different 12-consecutive-month period, the maximum permissible amount will not exceed the defined contribution dollar limitation multiplied by the following fraction:

$$\frac{\text{Number of months in the short limitation year}}{12}$$

If the plan is terminated as of a date other than the last day of the limitation year, the plan shall be deemed to have been amended to change its limitation year and the maximum permissible amount shall be determined by prorating it for the resulting short limitation year.

Section 5.2 – Distribution Requirements

Effective for calendar years beginning after December 31, 1984, the requirements of this Section 5.2 shall apply to any distribution of a participant's interest and will take precedence over any inconsistent provisions of this plan. With respect to distributions under the plan made on or after August 1, 2002 for calendar years beginning on or after January 1, 2002, the plan will apply the minimum distribution requirements of IRC section 401(a)(9) as set forth in this Section 5.2. Distributions made prior to

August 1, 2002 are subject to the provisions of the plan as in effect before this amendment and restatement of the plan.

With respect to calendar year 2009, the provisions of Section 5.2 shall be applied subject to IRC section 401(a)(9)(H). Although the plan administrator shall calculate any required minimum distribution under Section 5.2 and pay it separately to any participant or beneficiary commencing distribution during 2009, such recipient shall be eligible to deposit such amount in a qualified employer plan or individual retirement account. Any participant receiving or due to commence such distributions shall not receive a required minimum distribution with respect to 2009 in the absence of an affirmative election. To the extent that a participant's entire interest is otherwise required to be distributed to a beneficiary by December 31 of the calendar year containing the fifth anniversary of the participant's death, such 5-year period shall be determined without regard to calendar year 2009.

- (a) **Required Beginning Date** – The entire interest of a participant must be distributed, or begin to be distributed, no later than the participant's required beginning date.
- (b) **Limits on Distribution Periods** – As of the first distribution calendar year, distributions to a participant, if not made in a single sum, may only be made over one of the following periods (or a combination thereof):
 - (1) the life of the participant;
 - (2) the joint lives of the participant and a designated beneficiary;
 - (3) a period certain not extending beyond the life expectancy of the participant; or
 - (4) a period certain not extending beyond the joint life and last survivor expectancy of the participant and a designated beneficiary.
- (c) **Death of Participant Before Distributions Begin** – If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:
 - (1) If the participant's surviving spouse is the participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 70½, if later. If the surviving spouse so elects, the participant's entire interest will be distributed to such surviving spouse by December 31 of the calendar year containing the fifth anniversary of the participant's death. If no election is received, distributions to the surviving spouse will begin by December 31 of the calendar year in which the participant would have attained age 70½, or the participant's entire interest will be distributed to such surviving spouse by December 31 of the calendar year containing the fifth anniversary of the participant's death, if later.
 - (2) If the participant's surviving spouse is not the participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died. If the designated beneficiary so elects or if no election is received, the participant's entire interest will be distributed to such designated beneficiary by December 31 of the calendar year containing the fifth anniversary of the participant's death.
 - (3) If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.
 - (4) If the participant's surviving spouse is the participant's sole designated beneficiary and the surviving spouse dies after the participant but before distributions to the surviving spouse are required to begin, this Section 5.2(c), other than Section 5.2(c)(1), will apply as if the surviving spouse were the participant.

For purposes of this Section 5.2(c) and Section 5.2(f), unless Section 5.2(c)(4) applies, distributions are considered to begin on the participant's required beginning date. If Section 5.2(c)(4) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 5.2(c)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the participant before the participant's required beginning date (or to the participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 5.2(c)(1)), the date distributions are considered to begin is the date distributions actually commence.

- (d) **Forms of Distribution** – Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year distributions will be made in accordance with Section 5.2(e) and (f). If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of IRC section 401(a)(9) and the Treasury regulations.

To the extent the participant has an employee nondeductible contribution account or after-tax contributions for which there is separate accounting under his rollover/transfer account, such funds shall be distributed first before any taxable distribution is made to satisfy the minimum distribution requirement. After the exhaustion of such accounts, distributions shall be debited from a participant's accounts to the extent funded first from any rollover/transfer account and then from his money purchase pension account.

- (e) **Required Minimum Distributions During Participant's Lifetime** - If a participant's benefit is to be distributed over (1) a period not extending beyond the life expectancy of the participant or the joint life and last survivor expectancy of the participant and the participant's designated beneficiary or (2) a period not extending beyond the life expectancy of the designated beneficiary, the amount required to be distributed for each calendar year, beginning with distributions for the first distribution calendar year, must at least equal the quotient obtained by dividing the participant's benefit by the applicable life expectancy.

(1) **Amount of Required Minimum Distribution For Each Distribution Calendar Year** –

During the participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

- (A) The quotient obtained by dividing the participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Regulation section 1.401(a)(9)-9, using the participant's age as of the participant's birthday in the distribution calendar year; or
- (B) If the participant's sole designated beneficiary for the distribution calendar year is the participant's spouse, the quotient obtained by dividing the participant's account balance by the number in the Joint and Last Survivor Table set forth in Regulation section 1.401(a)(9)-9, using the participant's and spouse's attained ages as of the participant's and spouse's birthdays in the distribution calendar year.

- (2) **Lifetime Required Minimum Distributions Continue Through Year of Participant's Death** – Required minimum distributions will be determined under this Section 5.2(e) beginning with the first distribution calendar year and continuing up to and including the distribution calendar year that includes the participant's date of death.

(f) **Required Minimum Distributions After Participant's Death**

- (1) **Death On or After Date Distributions Begin** – If the participant dies after distribution of his interest has begun, the remaining portion of such interest will continue to be distributed at least as rapidly as under the method of distribution being used prior to the participant's death.
- (A) **Participant Survived by Designated Beneficiary** – If the participant dies on or after the date distributions begin and there is a designated beneficiary, the minimum amount that

will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the longer of the remaining life expectancy of the participant or the remaining life expectancy of the participant's designated beneficiary, determined as follows:

- (i) The participant's remaining life expectancy is calculated using the age of the participant in the year of death, reduced by one for each subsequent year.
- (ii) If the participant's surviving spouse is the participant's sole designated beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the participant's death using the surviving spouse's age as of the spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.
- (iii) If the participant's surviving spouse is not the participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the participant's death, reduced by one for each subsequent year.

(B) **No Designated Beneficiary** – If the participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the participant's death, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the participant's remaining life expectancy calculated using the age of the participant in the year of death, reduced by one for each subsequent year.

(2) **Death Before Date Distributions Begin**

(A) **Participant Survived by Designated Beneficiary** – If the participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the participant's death is the quotient obtained by dividing the participant's account balance by the remaining life expectancy of the participant's designated beneficiary, determined as provided in Section 5.2(f)(1).

(B) **No Designated Beneficiary** – If the participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(C) **Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin** – If the participant dies before the date distributions begin, the participant's surviving spouse is the participant's sole designated beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 5.2(c), this Section 5.2(f)(2) will apply as if the surviving spouse were the participant.

(g) **Definitions (IRC Section 401(a)(9) Requirements)**

(1) **Designated Beneficiary** – The individual who is designated as the beneficiary of the participant's interest under the plan and who is the designated beneficiary under IRC section 401(a)(9) and Regulation section 1.401(a)(9)-4.

(2) **Distribution Calendar Year** – A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is

the calendar year immediately preceding the calendar year that contains the participant's required beginning date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin pursuant to Section 5.2(c). The required minimum distribution for the participant's first distribution calendar year will be made on or before the participant's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the participant's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

- (3) **Life Expectancy** – Life expectancy as computed by use of the Single Life Table in Regulation section 1.401(a)(9)-9.
- (4) **Participant's Account Balance** – The account balance as of the last valuation date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

If any portion of the minimum distribution for the first distribution calendar year is made in the second distribution calendar year on or before the required beginning date, the amount of the minimum distribution made in the second distribution calendar year shall be treated as if it had been made in the immediately preceding distribution calendar year.

- (5) **Required Beginning Date** – The required beginning date of a participant is April 1 of the calendar year following the later of: (i) the calendar year in which the participant attains age 70½, or (ii) the calendar year in which the participant retires.

ARTICLE VI – ADMINISTRATION OF THE PLAN

Section 6.1 – Fiduciary Responsibility

- (a) **Management and Control of Plan Assets** – The governing body of the employer shall designate the persons responsible for the management and control of plan assets. Such person shall discharge their duties with respect to the plan in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the applicable provisions of the Internal Revenue Code.
- (b) A fiduciary of this plan is required to exercise the judgment and care under the circumstances then prevailing that men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.
- (c) **Allocation of Responsibility**
 - (1) When the plan administrator is required to follow the directions of the trustee or the trustee is required to follow the directions of the plan administrator, they shall not be deemed to share such responsibility. Instead, the responsibility of the person giving the directions shall be deemed to be his sole responsibility and the responsibility of the person receiving directions shall be to follow those directions insofar as such instructions on their face are proper under applicable law.
 - (2) The plan administrator or trustee under this plan may employ one or more persons, including independent accountants, attorneys and actuaries to render advice with regard to any responsibility such person has under the plan.

- (d) **Liability and Indemnification** – Subject to Act 205, no past, present, or future officer of the employer nor of any participating employer shall be personally liable to any participant, beneficiary, or other person under any provision of the plan or trust or any insurance policy or contract issue pursuant thereto. No individual fiduciary shall be liable for any act or omission of any other fiduciary. Unless resulting from the gross negligence, willful misconduct or lack of good faith on the part of the fiduciary, the employer shall indemnify and save harmless such fiduciary from, against, for and in respect of any and all damages, losses, obligations, liabilities, liens, deficiencies, costs and expenses, including without limitation, reasonable attorney's fees and other costs and expenses incident to any suit, action, investigation, claim or proceedings suffered in connection with his acting as a fiduciary under the plan.

Section 6.2 – Plan Administrator

(a) **Appointment of Plan Administrator**

The governing body of the employer shall be responsible for the administration of the plan. It may appoint one or more members of itself to be the plan administrator. The employer shall review at regular intervals the performance of those members appointed to be the plan administrator(s) and shall re-evaluate the appointment of such plan administrator(s).

(b) **Duties and Powers of Plan Administrator**

The plan administrator shall have the following duties and discretionary powers and such other duties and discretionary powers as relate to the administration of the plan:

- (1) To determine in a nondiscriminatory manner all questions relating to the eligibility of employees to become participants.
- (2) To determine in a nondiscriminatory manner eligibility for benefits and to determine and certify the amount and kind of benefits payable to participants.
- (3) To authorize all disbursements from the fund.
- (4) To appoint or employ any independent person to perform necessary plan functions and to assist in the fulfillment of administrative responsibilities as he deems advisable, including the retention of a third party administrator, custodian, auditor, accountant, actuary, or attorney.
- (5) When appropriate, to select an insurance company and annuity contracts that, in his opinion, will best carry out the purposes of the plan.
- (6) To construe and interpret any ambiguities in the plan and to make, publish, interpret, alter, amend or revoke rules for the regulation of the plan that are consistent with the terms of the plan and with the applicable provisions of the Internal Revenue Code.
- (7) To prepare and distribute, in such manner as determined to be appropriate, information explaining the plan.

(c) **Miscellaneous Provisions**

- (1) **Expenses** – The plan administrator shall serve without compensation for service as such. All reasonable expenses of the plan administrator shall be paid by the employer.
- (2) **Examination of Records** – The plan administrator shall make available to any participant for examination during business hours such of the plan records as pertain only to the participant involved.
- (3) **Information to the Plan Administrator** – To enable the plan administrator to perform the administrative functions, the employer shall supply full and timely information to the plan administrator on all participants as the plan administrator may require.

Section 6.3 – Claims Procedure

(a) **Notification of Claim Determination** – The plan administrator shall notify each participant in writing of its determination of benefits. If the plan administrator denies any benefit, such written denial shall include:

- The specific reasons for denial;
- Reference to provisions on which the denial is based;
- A description of and reason for any additional information needed to process the claim; and
- A description of the plan's review procedures.

(b) **Appeal** – The participant or his duly authorized representative may:

- Make a written request for a review of the participant's case by the employer;
- Review pertinent documents;
- Submit issues and comments in writing.

The written request for review must be submitted no later than 60 days after receiving written notification of denial of benefits.

(c) **Review** – The **[Administration employer / pension board]** must render a decision no later than 60 days after receiving the written request for review, unless circumstances make it impossible to do so; but in no event shall the decision be rendered later than 120 days after the request for review is received.

(d) **Limitation on Time Period for Litigation of a Benefit Claim** – Following receipt of the written rendering of the **[Administration employer / pension board]**'s decision under Section 6.3(c), the participant shall have 365 days in which to file suit in the appropriate court. Thereafter, the right to contest the decision shall be waived.

Section 6.4 – Trust Fund

(a) **Creation and Maintenance of the Fund** – The trust fund shall be created and maintained in the following manner:

- (1) All funds on deposit and held for pension or retirement benefits of the participants shall continue to be part of the trust fund created and maintained hereby subject to any liabilities that may exist against such fund.
- (2) The employer shall allocate to the fund the payments made by the Treasurer of the Commonwealth of Pennsylvania from monies received from taxes paid upon premiums by foreign casualty insurance companies and foreign fire insurance companies pursuant to the General Municipal Pension System State Aid Program.
- (3) The fund shall accept and maintain any payments made by other gifts, grants, devises, or bequests to the fund.
- (4) The employer shall contribute to the fund the payments that are authorized to be made from the general revenue of the employer.

All such payments received shall be part of the trust fund and shall not be applied to any other account or disbursed in any manner except as provided by this plan. Payments required under the plan shall be a charge only upon the trust fund and not upon other monies or funds of the employer.

(b) **Appointment of Trustee**

The employer, or its delegee, shall appoint a trustee for the proper care and custody of all funds, securities and other properties in the trust, and for investment of plan assets (or for execution of

such orders as it receives from an investment manager appointed for investment of plan assets). The duties and powers of the trustee shall be set forth in a trust agreement executed by the employer, which is incorporated herein by reference. The employer shall review at regular intervals the performance of the trustee and shall re-evaluate the appointment of such trustee. After the employer has appointed the trustee and has received a written notice of acceptance of its responsibility, the fiduciary responsibility with respect to the proper care and custody of plan assets shall be considered as the responsibility of the trustee. Unless otherwise allocated to an investment manager, the fiduciary responsibility with respect to investment of plan assets shall likewise be considered as the responsibility of the trustee.

(c) Appointment of Corporate Custodian

The employer, or its delegee, may appoint a corporate custodian to hold and invest the fund. The corporate custodian shall carry out its responsibilities in accordance with the terms of the custodial agreement and the investment policy and guidance as the employer shall, from time to time provide. The employer shall review at regular intervals no less frequently than annually, the performance of such corporate custodian and shall re-evaluate the appointment of such corporate custodian.

(d) Appointment of Investment Manager

The employer, or its delegee, may appoint an investment manager who is other than the trustee, which investment manager may be a bank or an investment advisor registered with the Securities and Exchange Commission under the Investment Advisors Act of 1940. Such investment manager, if appointed, shall have sole discretion in the investment of plan assets, subject to the funding policy. The employer shall review at regular intervals no less frequently than annually, the performance of such investment manager and shall re-evaluate the appointment of such investment manager. After the employer has appointed an investment manager and has received a written notice of acceptance of its responsibility, the fiduciary responsibility with respect to investment of plan assets shall be considered as the responsibility of the investment manager.

(e) Funding Policy

The employer, or its delegee, shall determine and communicate in writing to the person responsible for investment of plan assets the funding policy for the plan. The funding policy shall set forth the plan's short-range and long-range financial needs, so that said person may coordinate the investment of plan assets with the plan's financial needs.

(f) Valuation of the Fund

The fund shall be valued by the trustee on the anniversary date of each year and as of any interim allocation date determined by the plan administrator. The valuation shall be made on the basis of the current fair market value of all property in the fund.

(g) Expenses

The trust fund may pay the expenses incurred in the administration of the plan and the investment of the fund, provided the cost is reasonable. Such expenses shall include legal fees incurred by the plan administrator or the trustee, provided such fiduciaries are not proven to have committed a prohibited transaction. If the trust fund pays the expenses, the expenses generally shall be allocated against the participant accounts on a pro rata basis. Certain expenses incurred with respect to a particular participant or beneficiary shall be allocated against the participant's account on a direct basis.

ARTICLE VII – AMENDMENT AND TERMINATION OF PLAN

Section 7.1 – Right to Discontinue and Amend

It is the expectation of the employer that it will continue this plan indefinitely and make the payments of its contributions hereunder, but the continuance of the plan is not assumed as a contractual obligation of the employer and the right is reserved by the employer, at any time, to reduce, suspend or discontinue its contributions hereunder.

Section 7.2 – Amendments

Except as herein limited, the employer shall have the right to amend this plan at any time to any extent that it may deem advisable. Such amendment shall be stated in writing and shall be by ordinance or resolution of the governing body of the employer. The employer's right to amend the plan shall be limited as follows:

- (a) No amendments shall have the effect of vesting in the employer any interest in or control over any contracts issued pursuant hereto or any other property in the fund.
- (b) No amendment to the vesting schedule adopted by the employer hereunder shall deprive a participant of his vested portion of his employer-derived accrued benefit to the date of such amendment.

Section 7.3 – Protection of Benefits in Case of Plan Merger

In the event of a merger or consolidation with, or transfer of assets or liabilities to any other plan, each participant will receive a benefit immediately after such merger, consolidation or transfer (if the plan then terminated) that is at least equal to the benefit the participant was entitled to immediately before such merger, consolidation or transfer (if the plan had terminated).

The transfer of amounts from this trust to a nonqualified foreign trust shall be treated as a distribution from this plan. Further, the transfer of assets and liabilities from this plan to a plan that satisfies Puerto Rico Code section 1165 shall also be treated as a distribution from this plan.

Section 7.4 – Termination of Plan

- (a) **When Plan Terminates** – This plan shall terminate upon the legal dissolution of the employer or the termination of the plan by the amendment action of the employer. Subject to the provisions of the Municipal Pension Plan Funding Standard and Recovery Act (P.L. 1005, Act 205 of 1984) governing financial distressed municipalities, the liability of the employer to make contributions to the plan shall automatically terminate upon liquidation or dissolution of the employer, upon its adjudication as a bankrupt, or upon the making of a general assignment for the benefit of its creditors.
- (b) **Allocation of Assets** – Upon termination or partial termination, the account balance of each affected participant who is an active participant or who is not an active participant but has neither received a complete distribution of his vested accrued benefit nor incurred a one-year break in service shall be 100% vested and nonforfeitable. The amount of the fund assets shall be allocated to each participant, subject to provisions for expenses of administration of the liquidation, in the ratio that such participant's account bears to all accounts.

ARTICLE VIII – MISCELLANEOUS PROVISIONS

Section 8.1 – Exclusive Benefit – Non-Reversion

The plan is created for the exclusive benefit of the employees of the employer and shall be interpreted in a manner consistent with its being a qualified plan as defined in IRC section 401(a). The sponsorship of this plan may not be transferred to an unrelated entity if the transfer is not in connection with a transfer of business assets or operations from the employer to such entity. The corpus or income of the trust may not be diverted to or used for other than the exclusive benefit of the participants or their beneficiaries (except for defraying reasonable expenses of administering the

plan). Notwithstanding the preceding, any contribution made by the employer because of a mistake of fact must be returned to the employer within one year of the contribution.

Section 8.2 – Inalienability of Benefits

No benefit or interest available hereunder including any annuity contract distributed herefrom shall be subject to assignment or alienation, either voluntarily or involuntarily. The preceding sentence shall also 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, unless such order is determined to be a qualified domestic relations order as defined in IRC section 414(p), or any domestic relations order entered before January 1, 1985.

Section 8.3 – Employer-Employee Relationship

This plan is not to be construed as creating or changing any contract of employment between the employer and its employees, and the employer retains the right to deal with its employees in the same manner as though this plan had not been created.

Section 8.4 – Binding Agreement

This plan shall be binding on the heirs, executors, administrators, successors and assigns as such terms may be applicable to any or all parties hereto, and on any participants, present or future.

Section 8.5 – Inconsistency or Conflict of Prior Ordinances or Resolutions

Any ordinance or resolution with an effective date prior to the adoption date of this amendment and restatement of the plan shall be of no effect.

Section 8.6 – Separability

If any provision of this plan shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof and this plan shall be construed and enforced as if such provision had not been included.

Section 8.7 – Construction

The plan shall be construed in accordance with the laws of the Commonwealth of Pennsylvania and with the applicable portions of the Internal Revenue Code.

Section 8.8 – Copies of Plan

This plan may be executed in any number of counterparts, each of which shall be deemed as an original, and said counterparts shall constitute but one and the same instrument that may be sufficiently evidenced by any one counterpart.

Section 8.9 – Interpretation

Wherever appropriate, words used in this plan in the singular may include the plural or the plural may be read as singular, and the masculine may include the feminine.

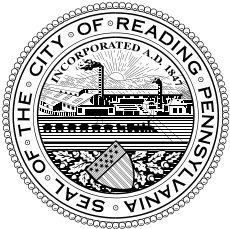
IN WITNESS WHEREOF, the Employer has caused this plan to be executed this ____ day of _____, _____.

Employer:

City of Reading

By: _____

Title: _____



AGENDA MEMO

PUBLIC WORKS DIRECTOR

TO: City Council
FROM: Stan Rugis, Public Works Director
MEETING DATE: October 11, 2021
AGENDA MEMO DATE: September 29, 2021

RECOMMENDED ACTION: Request for City Council to approve the transfer of funds for payment for the replacement of the existing Public Works Duplex Water Pressure Booster Pump System.

RECOMMENDATION: Recommended by the Public Works Operations Manager

BACKGROUND: For the Upgrading and Replacement of aging Booster Pumps System at the Public Works Center Facility. A water pressure booster system is necessary to supply water for vital activities such as flushing toilets, washing hands, and drinking. The system is original equipment installed 17 years ago and is beyond it's useful life. We have been experiencing increased failures over the last few months. This facility cannot operate effectively without this equipment. The new system will also provide at least 30% energy savings over the existing system.

BUDGETARY IMPACT: None

PREVIOUS ACTION: None

SUBSEQUENT ACTION: None

RECOMMENDED BY: Public Works Public Property Division

RECOMMENDED MOTION: Approve/Deny the recommendation for the approval of Transfer for the funding for the Neco Systems Duplex Water Pressure Booster Pump System.

Drafted by:	Acting PW Dir
Sponsored/Referred by:	Acting PW Dir
Introduced on:	Oct 11, 2021
Advertised on:	N/A

BILL NO. _____ - 2021

AN ORDINANCE

AN ORDINANCE REQUESTING AUTHORIZATION TO TRANSFER FUNDS FROM THE PUBLIC WORKS GENERAL FUND STREET DIVISION BUDGET TO THE PUBLIC PROPERTY DIVISION GENERAL FUND BUDGET TO PAY FOR THE NEW NECO REPLACEMENT DUPLEX WATER PRESSURE BOOSTER PUMP SYSTEM AT THE PUBLIC WORKS CENTER.

THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Authorizing the transfer of \$29,717.00 from the General Fund Streets Division Budget (01-07-52-4815) Maintenance of Roads/Bridges to General Fund (01-07-74-4216) Public Property Contracted Services.

SECTION 2. This ordinance shall become effective ten (10) days after its adoption, in accordance with Sections 219 & 221 of the City of Reading Home Rule Charter.

Enacted _____, 2021

President of Council

Attest:

City Clerk



AGENDA MEMO

CHARTER BOARD

TO: City Council
FROM: Fred Lachat, City Solicitor
PREPARED BY: Fred Lachat, City Solicitor
MEETING DATE: October 25, 2021
AGENDA MEMO DATE: October 20, 2021
REQUESTED ACTION: Authorize the Transfer of Funds within the Law Department Budget for outside counsel.

RECOMMENDATION

The Law Department requests a budget transfer to pay for legal services rendered to the Board. Authorizing the total transfer of \$70,000 from the Law, Special Counsel, Legal Services line item (01-12-25-4224-000) to the Law, Law, Legal Services line item (01-12-12-4224-000).

BACKGROUND

The City has incurred legal expenses for outside counsel for several matters in which the Law Department cannot handle, many due to conflict both real and alleged. The Law Department will be under budget for outside counsel in the account transferred from which pays for legal support in labor negotiations. A transfer of \$70,000 will pay for legal services rendered through the end of 2021.

BUDGETARY IMPACT

These transfers will reduce the Special Counsel, Legal Services line item.

PREVIOUS ACTIONS

None.

SUBSEQUENT ACTION

Council approval of this ordinance to authorize the transfer of funds.

RECOMMENDED BY

Finance Director, Solicitor

RECOMMENDED MOTION

Approve the ordinance authorizing the transfer of funds as listed.

Drafted by: Law Department
Referred by: Law Department, Finance Director
Introduced on: October 25, 2021
Advertised on:

**BILL ____ -2021
AN ORDINANCE**

AN ORDINANCE AUTHORIZING THE TRANSFER OF FUNDS WITHIN THE 2021
GENERAL FUND BUDGET FOR LEGAL SERVICES

THE CITY OF READING CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Authorizing the total transfer of \$70,000 from Law, Special Counsel, Legal Services line item (01-12-25-4224-000) to the Charter Board line item (01-17-91-4777-000) to the Law, Law, Legal Services line item (01-12-12-4224-000).

SECTION 2. This ordinance shall become effective ten (10) days after its adoption, in accordance with Sections 219 & 221 of the City of Reading Home Rule Charter.

Enacted _____ 2021

President of Council

Attest:

City Clerk

Submitted to Mayor: _____

Date: _____

Received by the Mayor's Office: _____

Date: _____

Approved by Mayor: _____

Date: _____

Vetoed by Mayor: _____

Date: _____