

MUNICIPALITY OF MONROEVILLE  
ALLEGHENY COUNTY, PENNSYLVANIA

BEFORE MUNICIPAL COUNCIL OF THE MUNICIPALITY OF MONROEVILLE

AN ORDINANCE OF THE MUNICIPALITY )  
OF MONROEVILLE TO CREATE A PLAN )  
AND TRUST TO FUND RETIREE MEDICAL ) ORDINANCE NO. 2371  
AND LIFE INSURANCE BENEFITS )

BE IT ORDAINED AND ENACTED by the Municipal Council of the Municipality of  
Monroeville, Pennsylvania ("Municipality"):

**Section 1:** That the Municipality of Monroeville Uniform (Police) and Non-Uniform  
(Clerical, Public Works, Refuse Collection, and Administrative) Employees Other Post Employment  
Benefit ("OPEB") Retiree Benefits Plan ("Plan") and the related Integral Part Trust ("OPEB Trust")  
be adopted in the form presented to Council.

**Section 2:** That Municipality is hereby appointed as the trustee of the OPEB Trust.

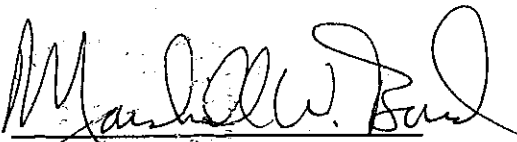
**Section 3:** That \$6 million of Municipal funds (together with any and all interest and  
earnings) currently set aside for the funding of retiree benefits be transferred to the OPEB Trust. The  
Municipality may make additional contributions to the OPEB Trust in the future.

**Section 4.** All ordinances, or parts of ordinances, inconsistent with this ordinance are  
hereby repealed.

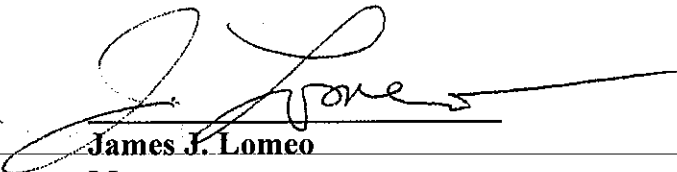
ORDAINED AND ENACTED this 9<sup>th</sup> day of May, 2006.

ATTEST:

MUNICIPALITY OF MONROEVILLE



Marshall W. Bond  
Municipal Manager



James J. Lomeo  
Mayor

ENTERED IN LEGAL BOOK: May 19, 2006

**MUNICIPALITY OF MONROEVILLE**

**UNIFORM (Police)**

**and**

**NON-UNIFORM**

**(Clerical, Public Works,**

**Refuse Collection, and Administrative)**

**EMPLOYEES**

**OTHER POST-EMPLOYEMENT BENEFIT**

**(“OPEB”)**

**RETIREE BENEFITS PLAN**

Drafted by:

Rhoades & Wodarczyk, LLC  
The Grant Building, Suite 1030  
330 Grant Street  
Pittsburgh, PA 15219  
(412) 765-2228

TABLE OF CONTENTS

|              |                                 |    |
|--------------|---------------------------------|----|
| ARTICLE I    | INTRODUCTION .....              | 1  |
| ARTICLE II   | DEFINITIONS.....                | 2  |
| ARTICLE III  | ELIGIBILITY AND BENEFITS.....   | 4  |
| ARTICLE IV   | CLAIMS .....                    | 5  |
| ARTICLE V    | ADMINISTRATION.....             | 6  |
| ARTICLE VI   | AMENDMENT AND TERMINATION ..... | 8  |
| ARTICLE VII  | GENERAL.....                    | 9  |
| ARTICLE VIII | MISCELLANEOUS FEDERAL LAWS..... | 10 |

**ARTICLE I**

**INTRODUCTION**

1.01 **Purpose.** The purpose of this Plan is to help provide life or medical insurance for each participating Retiree, his or her spouse, and his or her eligible Dependents. It is the intention of the Municipality that this Plan qualify as an accident and health plan within the meaning of Internal Revenue Code §105 and that the benefits payable under the Plan be eligible for exclusion from gross income under that section.

1.02 **Effective Date.** The provisions of this Plan are effective as of June 1, 2006.

## ARTICLE II

### DEFINITIONS

When used herein, the following words shall have the following meanings unless the context clearly indicates otherwise:

2.01 **"Collective Bargaining Agreement"** means the collective bargaining agreement between the Municipality and a Union that covers retiree medical benefits for union employees of the Municipality.

2.02 **"Dependent"** means an individual who is a dependent as that term is used in IRC §105(b). As of the date of adoption of this Plan, a "Dependent" was a dependent as defined in IRC §152, determined without regard to IRC §152(b)(1), (b)(2), and (d)(1)(B).

2.03 **"HIPAA"** means the Health Insurance Portability and Accountability Act of 1996, as amended from time to time. Reference to a specific provision of HIPAA shall include such provision, any valid regulation or ruling promulgated thereunder and any comparable provision of future law that amends, supplements or supersedes such provision.

2.04 **"IRC"** means the Internal Revenue Code of 1986, as amended.

2.05 **"Municipality"** means the Municipality of Monroeville, Allegheny County, Pennsylvania.

2.06 **"Plan"** means this Plan as it shall be amended from time to time.

2.07 **"Plan Administrator"** means the Municipal Manager or the person or entity designated by the Municipality to carry out administrative services as are necessary to implement the Plan.

2.08 **"Plan Year"** means the twelve (12) consecutive-month period ending on December 31. The first Plan Year began on the Effective Date specified in Section 1.01 and ends on December 31, 2006.

2.09 **"Retiree"** means a former employee of the Municipality who terminated employment with the Municipality after meeting the conditions set forth in the applicable bargaining agreement (and for non-uniform, non-bargained former employees, the applicable salary and benefits ordinance) in order to receive retiree medical insurance or life insurance.

2.10 **"Spouse"** means the Retiree's lawful spouse as determined under the laws of Pennsylvania.

2.11 **"Trust"** means the integral part trust that holds the assets of this Plan.

2.12 **"Trustee"** means the trustee or trustees of the integral part trust that holds the assets of this Plan.

2.13 **"Union"** means a union representing employees of the Municipality.

## ARTICLE III

### ELIGIBILITY AND BENEFITS

3.01 **Eligibility.** This Plan covers Retirees, their Spouses, and their Dependents. No other individual shall be entitled to benefits under this Plan; provided that the Plan Administrator may direct that benefits be paid to other individuals if necessary to comply with a court order. Note, no individual shall be eligible for coverage under this Plan unless under the applicable collective bargaining agreement (and for non-uniform, non-bargained former employees, the applicable salary and benefits ordinance) he is entitled to Employer provided retiree medical insurance or life insurance benefits.

3.02 **Benefits.** The Plan Administrator shall direct the Trustee to use Trust funds to provide retiree medical, vision, dental, or life insurance benefits to Retirees, their Spouses, and their eligible Dependents. Benefits must be provided through the purchase of insurance.

A former Union employee shall not have any right to benefits under this Plan other than retiree medical or life insurance benefits to which he is entitled under the terms of the applicable Collective Bargaining Agreement. A former non-union employee shall not have any right to benefits under this Plan other than retiree medical or life insurance benefits to which he is entitled under the terms of his employment arrangement with the Municipality. Furthermore, notwithstanding the above, no Retiree, Spouse or Dependent shall have any right to benefits under this Plan unless there are funds in the Trust sufficient to purchase insurance.

3.03 **Benefits From Another Source.** Notwithstanding Section 3.02, No person shall have any claim for benefits under this Plan to the extent that he has received or is entitled to receive the same benefits under another plan, insurance policy, settlement, or other arrangement that is sponsored, funded, or provided by the Municipality.

**ARTICLE IV****CLAIMS**

4.01 **Claims.** Claims for benefits under this Plan shall be made to the insurance companies on forms maintained by, and in accordance with procedures established by, the insurance companies.



## ARTICLE V

### ADMINISTRATION

5.01 **Plan Administrator.** The Plan Administrator shall have authority and responsibility to control and manage the operation and administration of this Plan. The Plan Administrator shall have discretion to interpret the terms of the Plan, and such interpretation shall be binding on all parties, subject to Article VIII.

5.02 **Documents.** The Plan Administrator shall keep a copy of this plan document and any other disclosure documents relating thereto (including, but not limited to, summary plan descriptions) that are in the public domain on file at his office where participants may inspect them during the Municipality's regular business hours. Upon request, the Plan Administrator shall provide a Retiree, Spouse, or covered Dependent with copies of such documents. When the Plan Administrator provides such documents, the Plan Administrator may charge the requesting party a reasonable charge for photocopying these materials.

5.03 **Conflicts Between Documents.** This document contains all of the operative provisions of this Plan. Any conflict between the provisions of this document and any other document purporting to explain the rights, benefits, or obligations of the parties hereunder shall be resolved in favor of this Plan document. If there is a conflict between this Plan and a Collective Bargaining Agreement, this Plan shall govern, but this section does not prevent a Retiree (or Spouse or Dependent) from claiming benefits from the Municipality under an applicable Collective Bargaining Agreement.

5.04 **Agents and Expenses.** The Plan Administrator may employ agents to assist it in its duties and may rely upon the written certificates of any agent, counsel, accountant, investment manager, actuary or physician. The Plan Administrator shall be entitled to reimbursement from the Trust (unless the Municipality at its discretion makes reimbursement) for all other proper charges and expenses incurred in carrying out its duties under this Plan, including compensation of agents and payment of litigation costs. The Plan Administrator may be paid such reasonable compensation as shall from time to time be agreed upon in writing by the Municipality and the Plan Administrator. However, an individual serving as Plan Administrator who already receives full-time pay from the Municipality or who is a member of the governing body of the Municipality shall not receive compensation from the Trust except for reimbursement of expenses properly and actually incurred.

5.05 **Uniformity of Discretion.** Wherever, under the provisions of this Plan, the Plan Administrator is granted discretionary powers which shall affect the rights and benefits of participants, such discretion shall be exercised uniformly so that all participants similarly situated shall be similarly treated.

5.06 **Indemnification.** The Municipality shall indemnify the Plan Administrator and any individual who may be appointed pursuant to this Article against

any and all claims, losses, damages, expenses and liabilities arising from their duties and responsibilities pursuant to the provisions of this Plan, unless the same is determined to be due to gross negligence or willful misconduct.

**ARTICLE VI****AMENDMENT AND TERMINATION**

6.01 **Amendment.** Any or all of the provisions of this Plan may be amended at any time and from time to time, in whole or in part, by an instrument in writing by the municipality. No such amendment shall authorize or permit any part of the Trust (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to purposes other than for the exclusive benefit of the Retirees, their Spouses, or their Dependents; no such amendment shall cause or permit any portion of the Trust to revert to or become the property of the Municipality; and no such amendment which affects the rights or duties of the Trustee may be made without the Trustee's written consent.

The Trust is intended to be an integral part trust in accordance with U. S. Treasury regulation §301.7701-1(a)(3). To the extent that any amendment is needed for the Trust to be or remain an integral part trust, such amendment will be deemed to have been made on a timely basis.

6.02 **Termination.** This Plan may be terminated at any time by the Municipality, and upon such termination, the Trust shall be paid out by the Trustee as and when directed by the Plan Administrator or the Municipality, in accordance with the provisions of the Trust Agreement and the terms of the Plan. Notwithstanding Section 7.01, upon termination of this Plan and upon the satisfaction of all liabilities under the Plan to provide benefits or pay administrative expenses, any assets remaining in the Trust shall be returned to the Municipality.

## ARTICLE VII

### GENERAL

7.01 **Source of Funds.** The Trust shall constitute the sole source of funds that may be used to purchase insurance under the Plan, and the Trustee shall not be liable in any way or in any manner to purchase insurance beyond those monies that have been contributed to the Trust.

7.02 **Limited Effect of Plan and Trust.** Neither the establishment of the Plan nor the Trust nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits, shall be construed as giving to any person covered under the Plan or other person any legal or equitable right against the Trustee, the Municipality, or any officer or employee thereof, except as may otherwise be provided in the Plan or in the Trust. Under no circumstances shall the term of employment of any employee be modified or in any way affected by the Plan or the Trust.

7.03 **Protective Clause.** Neither the Municipality nor the Trustee shall be responsible for the validity of any contract of insurance issued in connection with the Plan or Trust or for the failure on the part of the insurer to make payments provided by such contract, or for the action of any person which may delay payment or render a contract null and void or unenforceable in whole or in part.

7.04 **Construction of Plan.** This Plan shall be construed and enforced according to the laws of the Commonwealth of Pennsylvania. If any provision of this Trust shall be held illegal or invalid for any reason, such determination shall not affect the remaining provisions of the Plan.

7.05 **Gender and Number.** Wherever any words are used herein in the masculine, feminine or neuter, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

7.06 **Headings.** The headings and sub-headings of this Trust have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

7.07 **Spendthrift.** The interests and benefits under this Plan of any participant, Spouse or Dependent shall not be subject to assignment, alienation, pledge, attachment, garnishment, sequestration or other legal process, or to the claims of creditors, except as required by law.

**ARTICLE VIII****MISCELLANEOUS FEDERAL LAWS**

**8.01 Continuation Coverage.** All persons whose health benefits would otherwise terminate may have rights to Continuation Coverage at their own expense due to a qualifying event described in IRC §4980B. To the extent that the law or regulations require Continuation Coverage under this Plan:

- (a) Any participant eligible for Continuation Coverage shall be notified of such eligibility within the period of time that is the maximum allowable;
- (b) All periods of coverage or election shall be for the minimum required by law; and
- (c) Premiums may be chargeable at the maximum rate allowed by law.

**8.02 HIPAA.** Any benefit subject to HIPAA may, with respect to a participant or beneficiary, impose a preexisting condition exclusion only if:

- (a) such exclusion relates to a condition described in IRC §9801(a)(1);
- (b) such exclusion extends for a period no greater than the period described in IRC §9801(a)(2); and
- (c) the period of any such preexisting condition exclusion is reduced by a period no less than the period described in IRC §9801(a)(3).

To the extent required by HIPAA, the Plan Administrator shall provide a certificate of creditable coverage, provide special enrollment periods for eligible participants, their Spouses, and their Dependents and meet the requirements otherwise mandated by HIPAA.

In adoption of this Plan document, the responsible officer(s) of the Municipality have set forth their signatures below, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**MUNICIPALITY OF MONROEVILLE**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**DECLARATION OF TRUST OF THE  
MUNICIPALITY OF MONROEVILLE**

**INTEGRAL PART TRUST  
(OPEB)**

Declaration of Trust made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Municipality of Monroeville, Allegheny County, Pennsylvania (hereinafter referred to as the "Employer") and \_\_\_\_\_ or its designee (hereinafter referred to as the "Trustee"),

**RECITALS**

WHEREAS, the Employer is a political subdivision of the Commonwealth of Pennsylvania and is exempt from federal income tax under the Internal Revenue Code of 1986;

WHEREAS, the Employer provides for the security and welfare of its eligible employees (hereinafter referred to as "Participants"), their Spouses, and Dependents by the maintenance of one or more post-retirement welfare benefit plans, programs or arrangements which provide for life insurance or health care insurance known as OPEB (collectively the "Plan");

WHEREAS, it is an essential function and integral part of the exempt activities of the Employer to assist Participants, their Spouses, and Dependents by making contributions to and accumulating assets in the trust, a segregated fund, for post-retirement medical and life insurance benefits under the Plan;

WHEREAS, the authority to conduct the general operation and administration of the Plan is vested in the Employer or its designee, who has the authority and shall be subject to the duties with respect to the trust specified in this Declaration of Trust; and

WHEREAS, the Employer wishes to establish this trust as an integral part trust in accordance with U.S. Treasury regulation §301.7701-1(a)(3) to hold assets and income of the Plan for the exclusive benefit of Plan Participants, their Spouses, and Dependents;

NOW, THEREFORE, the parties hereto do hereby establish this trust (hereinafter referred to as the "Trust").

## ARTICLE I

### DEFINITIONS

When used herein, the following words shall have the following meanings unless the context clearly indicates otherwise:

1.01 **"Dependent"** means an individual who is a dependent as that term is used in IRC §105(b). As of the date of adoption of this Trust, a "Dependent" was a dependent as defined in IRC §152, determined without regard to IRC §152(b)(1), (b)(2), and (d)(1)(B).

1.02 **"Employer"** means the Municipality of Monroeville, Allegheny County, Pennsylvania, which shall take action through its Council.

1.03 **"IRC"** means the Internal Revenue Code of 1986, as amended.

1.04 **"Plan"** means the Municipality of Monroeville Uniform (Police), Clerical, Public Works, and Administrative Employees Retiree Benefits Plan.

1.05 **"Plan Administrator"** means the Municipal Manager or the person or entity designated by the Employer to carry out administrative services as are necessary to implement the Plan.

1.06 **"Spouse"** means the Participant's lawful spouse as determined under the laws of Pennsylvania.

1.07 **"Trust"** means the trust established by this Declaration.

1.08 **"Trustee"** means the Employer or the person(s) or entity appointed by the Employer to serve in that capacity.



**ARTICLE II**  
**CONTRIBUTIONS TO AND**  
**PAYMENTS FROM THE TRUST FUND**

2.01 **Receipt of Contributions.** The Trustee shall receive any contributions paid to it in cash or in the form of such other property as it may from time to time deem acceptable and which shall have been delivered to it. All contributions so received, together with the income there from and any other increment thereon shall be held, invested, reinvested and administered by the Trustee pursuant to the terms of this Agreement without distinction between principal and income. The Trustee shall not be responsible for the calculation or collection of any contribution under the Plan, but shall be responsible only for property received by it pursuant to this Agreement.

2.02 **Participant Contributions.** Participants are currently not required to contribute.

2.03 **Payments Directed by Plan Administrator.** The Trustee shall from time to time at the Plan Administrator's direction make payments out of the Trust Fund to the persons or entities to whom such monies are to be paid in such amounts and for such purposes as may be specified in the Plan Administrator's directions. To the extent permitted by law, the Trustee shall be under no liability for any payment made pursuant to the direction of the Plan Administrator. Any direction of the Plan Administrator shall constitute a certification that the distribution or payment so directed is one which the Plan Administrator is authorized to direct.

2.04 **Impossibility of Diversion.** It shall be impossible at any time prior to the termination of the Plan for any part of the Trust Fund to be used for, or diverted to, purposes other than to provide the benefits contemplated under the Plan for the exclusive benefit of Participants, their Spouses, or their Dependents, except that any taxes and administration expenses (including litigation costs) for which the Trust is liable may be made from the Trust Fund as provided for herein.

## ARTICLE III

### POWERS OF TRUSTEE

3.01 **Authority.** The Employer shall from time to time furnish the Trustee with the name(s) of the Plan Administrator and shall provide the Trustee with a written list of the names, signatures, and extent of authority of all persons authorized by the Employer to direct the Trustee with respect to this Agreement. Unless the Trustee receives notice to the contrary from the Employer, the Trustee shall be fully protected in assuming that any appointment or delegation described above remains in effect unchanged. In its discretion the Trustee may accept oral instruction from any person so named by Employer above and shall be fully protected in acting in accordance with those instructions where it reasonably believes those instructions were given by a person identified by the Employer as having authority to direct the Trustee. All such oral instructions must be memorialized after the fact by a writing from the person giving the instruction.

3.02 **Investments.** Except to the extent that the Employer has informed the Trustee of restrictions on his authority, Trustee is hereby authorized to invest any asset of the Trust Fund or to dispose of any asset of the Trust Fund and invest the proceeds of the disposition as it deems suitable without distinction as to principle or income in any such securities or other such property, real or personal, wherever situate, whether or not income producing including any stocks (preferred or common), bonds, notes, securities, warrants, debentures or other obligations of any corporation, domestic or foreign; money market funds, mutual funds, including mutual funds to which Trustee or any affiliate of Trustee provides services; any bonds, securities, certificates or obligations of the United States Government, of any state, county, municipality or other governmental body in the United States or of any foreign government or political subdivision thereof; any bonds or notes of any borrower which are secured by mortgages on real estate, wherever situated, including but not limited to participations in mortgages; and deposits which yield a reasonable rate of interest in any subsidiary of Trustee and other financial institutions.

Any of the investments of the Trust are hereafter referred to individually as "Security", and all of such investments are hereafter referred to collectively as "Securities."

The Securities held as assets of the Trust shall meet the requirements of Pennsylvania law including the Prudent Person Rule as set forth in the applicable portions of the Probate, Estates and Fiduciaries Code.

3.03 **Powers of the Trustee with Respect to Securities.** Trustee is hereby authorized and empowered to manage, supervise and administer the Securities in the Trust Fund in such manner as Trustee deems advisable consistent with Pennsylvania law. Without limitation of the general powers to it herein granted, Trustee is specifically authorized to:

- (a) Sell, exchange or otherwise dispose of any Securities and reinvest the proceeds of such sale, exchange or disposition.
  - (b) Vote any securities in the Trust Fund and execute proxies for such purpose.
  - (c) Approve, adopt or join in any plan or agreement of reorganization, consolidation, merger, sale of the assets or any other action of any corporation, the securities of which shall constitute a part of the Trust Fund.
  - (d) Exercise all conversion privileges, options and rights to subscribe for additional stock or other securities or both.
  - (e) Exercise all rights, powers, options, privileges and other powers incidental to the ownership of the securities as may be exercised by any person owning such securities in his own right.
  - (f) Hold any securities as a book entry or in negotiable or unregistered form in the name of Trustee as Trustee, in the name of the Trustee individually (without disclosing the agency relationship) or in the name of a nominee of the Trustee; or to hold any securities in any way permissible under the law at that time.
  - (g) Collect interest, dividends, and other forms of income from the securities in the Trust Fund, and to collect the principal of any of the securities having a maturity date.
  - (h) Execute all declarations, affidavits and certificates of ownership, now or hereafter required, with respect to all coupons, registered interest, dividends or other income on any securities, payments of principal, redemption of any of the securities, or otherwise required in exercising rights incidental to the ownership of any of the securities, and to disclose the identity of Employer to companies of which Employer may be a bondholder or stockholder from time to time, or to their Trustees, upon request, without further consent from Employer.
- 
- (i) To hold uninvested, from time to time, without liability for interest thereon, such amounts as are necessary for the cash requirements of the Plan and to hold assets of the Trust Fund in cash or equivalents, government securities, or straight debt securities in varying proportions when and for so long as, in the opinion of the Trustee, prevailing market and economic considerations indicate that it is in the best interest of the Trust Fund to do so.

3.04 **Income from Securities.** All dividends, interest and other income, after payment of the expenses and Trustee's compensation, shall be disposed as Employer directs in writing, and if no direction is made, shall be held in the account and reinvested.

It is understood that the proceeds (including capital gains) from the sale of assets in the Trust Fund not representing income shall be reinvested or held for reinvestment by Trustee without further instructions from Employer. The proceeds of any payments for maturing obligations, of any redemptions of securities, or of any other principal payments shall be reinvested or accumulated for reinvestment without further instructions from Employer.

Employer may at any time change the instructions contained in this section by written notice thereof.

3.05 **Administrative Powers of Trustee.** With respect to all assets hereunder, the Trustee is authorized:

- (a) To sell any such property, by private contract or at public auction, for cash or credit, without notice or advertisement. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity, expediency, or propriety of any such sale or other disposition.
- (b) To exchange, mortgage or lease any such property on such terms and conditions, as it may deem appropriate.
- (c) To grant or take options for any duration to purchase any such property, whether personal or real.
- (d) To settle, compromise, or submit to arbitration any claims, debts, or damage due or owing to or from the Trust Fund, to commence or defend suits or legal or administrative proceedings, and to represent the Trust Fund in all legal and administrative proceedings; provided, however, the Trustee shall not be obligated to take any action or to appear and participate in any action which would subject it to expense or liability unless it is first indemnified in an amount and manner satisfactory to it or is furnished with funds sufficient, in its sole judgment to cover the same.
- (e) To borrow money for the purposes of the Trust from any person and to pledge assets of the Trust Fund as security for replacement.
- (f) To purchase any bonds or other items required by any federal, state, or local government and to pay any insurance premium or other type of assessment required by said governments as part of the operation of such Trust.

- (g) To employ suitable agents, advisors, accountants, and to pay their reasonable expenses and compensation.
- (h) In addition to the foregoing powers, the Trustee shall also have all of the powers, rights, privileges and restrictions applicable to trustees under the fiduciary laws of the Commonwealth of Pennsylvania and the power to do all acts, take all proceedings, and execute all rights and privileges, although not specifically mentioned herein, as the Trustee may deem necessary to administer the Trust Fund and to carry out the purposes of this Trust.

**3.06 More Than One Trustee.** If there shall be more than one trustee, they shall act by a majority of their number, but may authorize any one or more of them to sign papers and instruments on their behalf.

**3.07 Fees and Expenses.** The Trustee may be paid such reasonable compensation as shall from time to time be agreed upon in writing by the Employer and the Trustee. An individual serving as Trustee who already receives full-time pay from the Employer or who is a member of the governing body of the Employer shall not receive compensation from this Trust except for reimbursement of expenses properly and actually incurred. In addition, the Trustee shall be reimbursed for any reasonable expenses, including reasonable counsel and accounting fees, incurred by the Trustee in the administration of the Trust Fund (including litigation costs). Such compensation and expenses shall be paid from the Trust Fund. All taxes of any kind and all kinds whatsoever that may be levied or assessed under existing or future laws upon, or in respect of, the Trust Fund or the income thereof shall be paid by the Trustee from the Trust Fund.

**3.08 Investment Manager.** The Employer may appoint one or more investment managers to manage and control all or part of the assets of the Trust, and the Employer shall notify the Trustee in writing of any such appointment and of how such appointment affects the duties and powers of the Trustee. If such an appointment is made, the Trustee will not be liable for any act or omission of such investment manager, or for following the directions of the investment manager, except as provided by law. The Investment Manager shall keep accurate and detailed records of all investments under its control.

ARTICLE IV

TRUSTEE'S DUTIES

4.01 **General.** The Trustee shall discharge its duties under this Agreement solely in the interest of the Participants, their Spouses, and their Dependents and for the exclusive purpose of providing benefits to such persons and defraying reasonable expenses of administering the Trust. The duties and obligations of the Trustee as such shall be limited to those expressly imposed upon it by this Agreement notwithstanding any reference herein to the Plan, or the provisions thereof.

4.02 **Consultation and Indemnification.** The Trustee may consult with counsel, and the Trustee shall not be deemed imprudent by reason of its taking or refraining from taking any action in accordance with the opinion of counsel. The Trustee shall not be liable for any action, inaction, decision, omission, investment or reinvestment regarding any assets of the Trust Fund or for any loss to, or diminution of the Trust fund, or for any other loss or damage which may result from the discharge of its duties hereunder except to the extent it is determined by a court of competent jurisdiction that the Trustee has failed to exercise the care skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and like aims. The Trustee shall not be required to give any bond or any other security for the faithful performance of its duties under this Agreement, except such as may be required by a law which prohibits the waiver thereof.

4.03 **Limitation on Trustee's Liability.** The Plan Administrator shall administer the Plan as provided therein, and the Trustee shall not be responsible in any respect for administering the Plan nor shall the Trustee be responsible for the adequacy of contributions to the Trust Fund to meet or discharge any payments or liabilities under the Plan. The Trustee shall be entitled conclusively to rely upon any notice, instruction, direction or other communication of the Plan Administrator or of the investment manager.

4.04 **Indemnification of Employer.** The Trustee shall and hereby does indemnify and hold harmless the Employer from any and all actions, claims, demands, liabilities, losses, damages and reasonable expenses of whatsoever kind and nature in connection with or arising out of: (i) the Trustee's failure to follow the lawful directions of the Employer, the Plan Administrator, the investment manager, or agents thereof; (ii) any disbursements made without the direction of the Employer, the Administrator, the investment manager or agents thereof; and (iii) the Trustee's negligence, willful misconduct, or recklessness with respect to the Trustee's duties under this Trust.

**4.05 Establishment of Funding Policy/Contributions.** The Employer or Plan Administrator may, pursuant to the Plan, establish and carry out a funding policy consistent with the purposes of the Plan and the requirements of applicable law, as may be appropriate from time to time. As part of such funding policy, the Employer or Plan Administrator shall from time to time direct the Trustee to exercise its investment discretion so as to provide sufficient cash assets in an amount determined by the Employer or Plan Administrator, under the funding policy then in effect, to be necessary to meet the liquidity requirements for the administration of the Plan. Additional contributions may be made by Resolution of the Employer.

**4.06 Trustee's Adherence to Funding Policy.** The Trustee's (or if an investment manager has been appointed, the investment manager's) discretion in investing and reinvesting the principal and income of the Trust Fund shall be subject to the funding policy, and any changes thereof from time to time, as the Employer or Plan Administrator may, pursuant to the Plan, adopt from time to time and communicate to the Trustee in writing. The Trustee shall have the duty to act strictly in accordance with such funding policy, and any changes therein, as so communicated to the Trustee from time to time in writing.

## ARTICLE V

### RECORDS

5.01 **Records.** The Trustee shall keep accurate and detailed accounts of all investments, receipts and disbursements and other transactions hereunder and mail to Employer a copy of the account either quarterly or annually as requested by Employer. Trustee shall mail Employer an inventory of the Trust Fund either quarterly or as requested by Employer. All accounts, books and records relating thereto shall be open at all reasonable times to inspection and audit by any person designated by the Employer

5.02 **Preservation of Records.** All records and accounts maintained by the Trustee with respect to the Trust fund shall be preserved for such period as may be required under any applicable law. Upon the expiration of such period, the Trustee may destroy such records and accounts after notifying the Employer in writing of its intentions and transferring to the Employer any of such records and accounts which the Employer requests. The Trustee shall have the right to preserve all records and accounts in original form or in any such media as it so chooses.

5.03 **Valuation.** As of the close of each plan year or at such other times as shall be agreed to by the Trustee and the Employer, the Trustee shall file with Employer an accounting of the activities of the Trust fund including a record of the investments, receipts, disbursements and other transactions during the fiscal year and the fair market values of the assets of the Trust Fund, determined according to procedures customarily used by the Trustee or procedures agreed to by the Trustee and Employer.



**ARTICLE VI****RESIGNATION, REMOVAL AND SUCCESSION OF TRUSTEE**

6.01 **Resignation.** The Trustee may resign at any time by giving 90 days' notice in writing to the Employer.

6.02 **Removal.** The Employer may remove the Trustee at any time upon 30 days' notice in writing to the Trustee.

6.03 **Successor Trustee.** Upon the resignation or removal of the Trustee, the Employer shall appoint a successor trustee who shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon acceptance of such appointment by the successor trustee, the Trustee shall assign, transfer, and pay over to such successor trustee the funds and properties then constituting the Trust Fund. The Trustee is authorized, however, to reserve such reasonable sum of money, as it may deem advisable, for payment of its fees and expenses in connection with the settlement of its account or otherwise, and any balance of such reserve remaining after the payment of such fees and expenses shall be paid over to the successor trustee.

6.04 **Report by Trustee.** Within 60 days after the resignation or removal of the Trustee, the Trustee must furnish to the Employer or Plan Administrator a written statement of account with respect to the portion of the year for which the Trustee served, unless this obligation of written statement is waived by the Employer or Plan Administrator. The Employer or Plan Administrator, forthwith upon his receipt of such statement of account, shall acknowledge receipt thereof in writing and advise the Trustee of his approval or disapproval thereof. Failure by the Plan Administrator to disapprove any such statement of account within sixty (60) days after its receipt thereof shall be deemed approval thereof. The approval by the Plan Administrator of the statement of account shall serve to release and discharge the Trustee from any liability or accountability to the Employer as respects the propriety of the Trustee's acts or transactions shown in the statement of account, except with respect to any acts or transactions as to which the Plan Administrator shall file written objections with the Trustee within the 60-day time period prescribed.

6.05 **Waiver of Notice.** In the event of any resignation or removal of the Trustee, the Trustee and the Employer may in writing waive any notice of resignation or removal as may be provided hereunder.

## ARTICLE VII

### AMENDMENT AND TERMINATION OF AGREEMENT

7.01 **Amendment.** Any or all of the provisions of this Agreement may be amended at any time and from time to time, in whole or in part, by an instrument in writing by the Employer. No such amendment shall authorize or permit any part of the Trust Fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to purposes other than for the exclusive benefit of the Participants, their Spouses, or their Dependents; no such amendment shall cause or permit any portion of the Trust Fund to revert to or become the property of the Employer; and no such amendment which affects the rights or duties of the Trustee may be made without the Trustee's written consent.

This trust is intended to be an integral part trust in accordance with U. S. Treasury regulation §301.7701-1(a)(3). To the extent that any amendment is needed for the trust to be or remain an integral part trust, such amendment will be deemed to have been made on a timely basis.

7.02 **Termination.** This Agreement may be terminated at any time by the Employer, and upon such termination, the Trust Fund shall be paid out by the Trustee as and when directed by the Plan Administrator or the Employer, in accordance with the provisions of Article II hereof and the terms of the Plan. Notwithstanding Section 7.01, upon termination of this Trust and upon the satisfaction of all liabilities under the Plan to provide benefits or pay administrative expenses, any assets remaining in the Trust shall be returned to the Employer.

## ARTICLE VIII

### GENERAL

8.01 **Source of Funds.** This Trust shall constitute the sole source of funds which may be used to pay the welfare benefits awarded under the Plan, and the Employer shall not be liable (under the Plan or Trust) in any way or in any manner for any such benefits or payments beyond those monies which have been contributed to this Trust.

8.02 **Limited Effect of Plan and Trust.** Neither the establishment of the Plan nor the Trust nor any modification thereof, nor the creation of any fund or account, nor the payment of any welfare benefits, shall be construed as giving to any person covered under the Plan or other person any legal or equitable right against the Trustee, the Employer, or any officer or employee thereof, except as may otherwise be provided in the Plan or in the Trust. Under no circumstances shall the term of employment of any employee be modified or in any way affected by the Plan or this Trust.

8.03 **Protective Clause.** Neither the Employer nor the Trustee shall be responsible for the validity of any contract of insurance issued in connection with the Plan or Trust or for the failure on the part of the insurer to make payments provided by such contract, or for the action of any person which may delay payment or render a contract null and void or unenforceable in whole or in part.

8.04 **Construction of Trust.** This Trust shall be construed and enforced according to the laws of the Commonwealth of Pennsylvania. If any provision of this Trust shall be held illegal or invalid for any reason, such determination shall not affect the remaining provisions of the Trust.

8.05 **Gender and Number.** Wherever any words are used herein in the masculine, feminine or neuter, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

8.06 **Headings.** The headings and sub-headings of this Trust have been inserted for convenience of reference and are to be ignored in any construction of the provisions hereof.

8.07 **Notice to Employer and Plan Administrator.** Any notice or statement in writing required or permitted to be given hereunder by Trustee to Employer or Plan Administrator shall be deemed to have been sufficiently given if in writing and personally delivered or mailed in an envelope duly stamped and addressed to Employer or Plan Administrator at its last known address or at such other address as either may from time to time direct in writing.

8.08 **Notice to Trustee.** Any notice or statement in writing required or permitted to be given hereunder by Employer or Plan Administrator to Trustee shall be deemed to have been sufficiently given if in writing and personally delivered or mailed in an envelope duly stamped and addressed to Trustee at its last known address or at such other address as Trustee may from time to time to direct in writing.

8.09 **Successors Bound.** This agreement shall bind the heirs, distributees, executors, administrators, legal representatives and assigns of Employer and shall bind the successors and assigns of Trustee and all rights arising hereunder shall be determined according to the laws of the Commonwealth of Pennsylvania.

8.10 **No Third Party Beneficiaries.** The provisions of this Agreement are intended to benefit only the parties hereto, their respective successors and assigns, and Participants, their Spouses, and their Dependents under the Plan. There are no other third party beneficiaries.

8.11 **Spendthrift.** The interests and benefits under this Trust of any Participant, Spouse or Dependent shall not be subject to assignment, alienation, pledge, attachment, garnishment, sequestration or other legal process, or to the claims of creditors, except as required by law.

IN WITNESS WHEREOF, the Employer and the Trustee have executed this Declaration by their respective duly authorized officers, as of the date first hereinabove mentioned.

**MUNICIPALITY OF MONROEVILLE:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**TRUSTEES:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_