







# BAC LOCAL UNION 15 PENSION FUND

PO Box 909500

Kansas City, MO 64190-9500

Telephone (816) 777-2668; (833) 479-9728

## **Retirement Certification**

As I retire and request benefits from the BAC Local Union 15 Pension Fund, I agree to abide by and be bound by the requirements of the Pension Plan Document and Policies and shall not engage in work prohibited by same.

### **Disqualifying Employment and Suspension of Benefits**

I understand that my monthly pension benefits shall be suspended if I work in Disqualifying Employment, as that term is defined in Section 11.05 of the Plan Document. I understand I must notify the Plan in writing within 30 days after starting any work of a type that is or may be Disqualifying Employment under the provisions of the Plan and without regard to the number of hours of such work.

I understand that before returning to employment, I may request an opinion from the Board of Trustees as to whether any work I am considering would constitute Disqualifying Employment. I understand that if I fail to seek an advisory opinion in advance of returning to work, I could be found to be working in Disqualifying Employment, causing the Plan to suspend my pension and demand repayment of benefits.

I further understand that each year after I retire, I must certify in writing that I am not working in Disqualifying Employment. If I do not provide an annual written certification, I understand that I will be required to provide my W-2 and 1099 forms or Form 1040 to demonstrate any employment from the previous year. If I fail to provide the requested certification and tax returns, I understand that the Fund shall presume that I am working in Disqualifying Employment. Such presumption shall trigger the application of the Plan Document Sections 11.05(G)–(J) regarding suspension of benefits and appeal.

By my signature below, I acknowledge that I have read and understand the contents of this Retirement Certification. I also acknowledge receipt of a copy of Section 11.05 of the Plan Document which governs suspension of benefits, a copy of which is attached.

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I agree to inform the Fund Office if I perform any work that may cause my benefit to be suspended. I further agree to annually submit the required certification regarding Disqualifying Employment.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name and last 4 of SS#: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number(s):  
\_\_\_\_\_

**WITNESS OF SIGNATURE**

State of \_\_\_\_\_

County of \_\_\_\_\_

This instrument was signed or acknowledged before me on \_\_\_\_\_

by \_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary or Plan Representative

**Return this completed certification to:**

**Wilson-McShane Corporation  
PO Box 909500  
Kansas City, MO 64190-9500**

**Phone: 816-777-2668**

- F. When the distribution of the Participant's entire interest is not made in a lump sum, the distribution will be made in one (1) or more of the following ways:
1. Over the life of the Participant;
  2. Over the life of the Participant and a Designated Beneficiary;
  3. Over a period certain not extending beyond the Life Expectancy of the Participant; or
  4. Over a period certain not extending beyond the joint life and last survivor expectancy for the Participant and a Designated Beneficiary.

***Section 11.04 – Retirement***

Entitlement of an eligible Participant to receive a pension benefit is subject to retirement and application for benefits, as provided in Article III. Effective January 1, 2013, a Participant will be deemed to be retired if he applies to receive his benefits effective on or after his Normal Retirement Age, as defined in Section 1.22. Or, if a Participant applies to receive his benefit before Normal Retirement Age, then retirement means that a Participant has ceased employment with any Contributing Employer for a period of at least ninety (90) days from the initial date of the Participant's benefit.

***Section 11.05 – Suspension of Benefits***

- A. For a Participant who is receiving Retirement Benefits from the Plan, who has not yet reached Normal Retirement Age, such Retirement Benefit payment shall be suspended beginning with the first month the Participant works any hours in Disqualifying Employment. However, if such Disqualifying Employment is also Covered Employment, suspension will begin with the first month following the month during which the Participant's hours exceeded four hundred (400) hours.

If a Participant has attained Normal Retirement Age, the Participant's monthly benefit shall be suspended for any month the Participant has worked or was paid for more than thirty-nine and one-half (39½) hours in any month in Disqualifying Employment. However, if such Disqualifying Employment is also Covered Employment, such Participant's monthly benefits shall only be suspended for any month the Participant has worked or was paid for a cumulative calendar year total of eight hundred (800) hours and the Participant's monthly hours for which the Participant worked or was paid exceeds thirty-nine and one-half (39½) hours. Once a Participant reaches age seventy and one-half (70½), there are no restrictions on the amount of work such Participant performs.

The term "Disqualifying Employment" shall mean:

1. Before Normal Retirement Age:
  - a. For Hours of Service on or after January 1, 2013, employment or self-employment for wages or profit that is: i) Covered Employment; or ii) in the construction industry in the geographic area covered by the Plan. For Hours of Service worked prior to January 1, 2013, Disqualifying Employment has the same meaning as Disqualifying Employment after Normal Retirement Age in Subsection 11.05 A.2.

- b. Hours of Service on or after April 1, 2013 as an estimator, consultant or in supervisory work above individual project levels shall not be Disqualifying Employment if performed for a Contributing Employer. Supervisory work as a working foreman, or any other such work for which tools historically and traditionally used by employees performing work covered by the BAC Local 15 Collective Bargaining Agreement are required, is Disqualifying Employment; and
  - c. Maintenance work of the type done by the BAC Local 15 Collective Bargaining Agreement is Disqualifying Employment. Other maintenance work may be determined by the Trustees in each situation to be Disqualifying Employment.
2. On or after Normal Retirement Age:
- a. An industry in which the Employee covered by the Plan was employed and earned benefits under the Plan at the time payment of benefits commenced (or would have commenced had the Employee not returned to employment);
  - b. A trade or craft in which the Employee was employed at any time under the Plan; and
  - c. The geographic area covered by the Plan at any time payment of benefits commenced (or would have commenced had the Employee not returned to employment) or outside the geographic area covered by the Plan if such employment results in the transfer to this Plan of any Employer contributions through reciprocity agreements;
  - d. However, if a Participant worked in Covered Employment only in a skilled trade or craft that is, as a bricklayer, employment or self-employment shall be "Disqualifying Employment" only if it is work that involves the skill or skills of that trade or craft directly, or as in the case of supervisory work, indirectly. In any event, any work for which contributions are required to be made to the Plan shall be "Disqualifying Employment."
- B. The term "industry covered by the Plan" means any work within the jurisdiction of the International Union of Bricklayers and Allied Craftworkers ("BAC employment") (a copy of the definition of "BAC employment" is available upon request from the Fund Office) and any other industry in which employees covered by the Plan were employed when the Participant's pension began or, but for suspension under this Article, would have begun.
- C. The term "geographic area covered by the Plan when the Participant's pension began" means the geographic area covered by the Plan when the Participant's pension began or, but for suspension under this Article, would have begun, as well as any geographic area in which the Participant works, if such work results in transfer to the Plan of Employer contributions through reciprocity agreements.

D. If a retired Participant re-enters Covered Employment to an extent sufficient to cause a suspension of benefits, and such retired Participant's pension payments are subsequently resumed, the industry and geographic area covered by the Plan "when the Participant's pension began" shall be the industry and geographic area covered by the Plan when the retired Participant's pension was resumed, as well as any geographic area in which the Participant works, if such work results in transfer to the Plan of Employer contributions through reciprocity agreements.

E. Paid non-work time shall be counted toward the measure of the cumulative earnings required for suspension if paid for vacation, holiday, illness, or other incapacity, layoff, jury duty or other leave of absence. However, time compensated under a workers' compensation or temporary disability benefits law shall not be so counted.

F. Definition of Suspension:

"Suspension of Benefits" for a month means non-entitlement to benefits for the month. If benefits were paid for a month for which benefits were later determined to be suspended, the overpayment shall be recoverable through deductions from future pension payments pursuant to Subsection 11.05 J.2.

G. Notices:

1. Upon commencement of pension payments, the Trustees shall notify the Pensioner of the Plan rules governing suspension of benefits, including identity of the industries and geographic area covered by the Plan. If benefits have been suspended and payments resumed, new notification shall, upon resumption, be given to the Participant, if there has been any material change in the suspension rules or the identity of the industries or geographic area covered by the Plan.

2. A Pensioner shall notify the Plan in writing within thirty (30) days after starting any work of a type that is or may be disqualifying under the provisions of the Plan and without regard to the number of hours of such work. If a Pensioner has worked in Disqualifying Employment (as defined in Subsection 11.05 A.) in any month and has failed to give timely notice to the Plan of such employment, the Trustees shall presume that such individual worked for at least forty (40) hours in such month and any subsequent month before the Participant gives notice that the Participant has ceased Disqualifying Employment. The Participant shall have the right to overcome such presumption by establishing to the satisfaction of the Trustees that the Participant's work was not in fact an appropriate basis, under the Plan, for suspension of the Participant's benefits.

The Trustees shall inform all retirees at least once every twelve (12) months of the reemployment notification requirements and the presumptions set forth in this paragraph.



3. A Pensioner whose pension has been suspended shall notify the Plan when Disqualifying Employment has ended. The Trustees shall have the right to hold back benefit payments until such notice is filed with the Plan.
4. A Participant may ask the Trustees whether a particular employment will be disqualifying. The Trustees shall provide the Participant with their determination.
5. The Trustees shall inform a Participant of any suspension of the Participant's benefits by notice given by personal delivery or first class mail during the first calendar month in which the Participant's benefits are withheld.

H. Review:

A Participant shall be entitled to a review of a determination suspending the Participant's benefits by written request filed with the Trustees within ninety (90) days of the notice of suspension.

The same right of review shall apply, under the same terms, to a determination by or on behalf of the Trustees that contemplated employment will be disqualifying.

I. Waiver of Suspension:

The Trustees may, upon their own motion or request of a Participant, waive suspension of benefits subject to such limitations as the Trustees in their sole discretion may determine, including any limitations based on the Participant's previous record of benefit suspensions or non-compliance with reporting requirements under this Article.

J. Resumption of Benefit Payments:

1. Benefits shall be resumed for the months after the last month for which benefits were suspended, with payments beginning no later than the third month after the last calendar month for which the Participant's benefit was suspended, provided the Participant has complied with the notification requirements of Subsection 11.05 G3.
2. Overpayments attributable to payments made for any month or months for which benefits were determined to be suspended shall be deducted from pension payments otherwise paid or payable subsequent to the period of suspension. A deduction from a monthly benefit for a month after the Participant attained Normal Retirement Age shall not exceed twenty-five percent (25%) of the pension amount (before deduction), except that the Plan may withhold up to one hundred percent (100%) of the first pension payment made upon resumption after a suspension. If a Pensioner dies before recoupment of overpayments has been completed, deductions shall be made from the benefits payable to such Participant's Beneficiary or Spouse receiving a pension subject to the twenty-five percent (25%) limitation on the rate of deduction.

## **SIXTH AMENDMENT TO THE BAC LOCAL UNION 15 PENSION FUND**

As Amended and Restated Effective January 1, 2018

WHEREAS, Trustees of the Plan are authorized and responsible for the administration of the Plan; and

NOW, THEREFORE, in accordance with Article XI, Section 11.05G, the following enforcement policy is hereby enacted.

### **ARTICLE XI – BENEFIT APPLICATION, ELECTION AND CLAIMS REVIEW PROCEDURE AND BENEFIT SUSPENSION**

11.05G Notices:

1. Upon commencement of pension payments, the Trustees, pursuant to the Fund's Suspension of Benefits Enforcement Policy, shall notify the Pensioner of the Plan rules governing suspension of benefits, including identity of the industries and geographic area covered by the Plan. If benefits have been suspended and payments resumed, new notification shall, upon resumption, be given to the Participant, if there has been any material change in the suspension rules or the identity of the industries or geographic area covered by the Plan.
2. A Pensioner shall notify the Plan in writing within thirty (30) days after starting any work of a type that is or may be disqualifying under the provisions of the Plan and without regard to the number of hours of such work. If a Pensioner has worked in Disqualifying Employment (as defined in Subsection 11.05 A.) in any month and has failed to give timely notice to the Plan of such employment, or has failed to provide the required certification on tax documents, pursuant to the Fund's Suspension of Benefits Enforcement Policy, the Trustees shall presume that such individual worked for at least forty (40) hours in such month and any subsequent month before the Participant gives notice that the Participant has ceased Disqualifying Employment. The Participant shall have the right to overcome such presumption by establishing to the satisfaction of the Trustees that the Participant's work was not in fact an appropriate basis, under the Plan, for suspension of the Participant's benefits.

The Trustees shall inform all Pensioners at least once every twelve (12) months of the reemployment notification requirements and the presumptions set forth in this paragraph. The Trustees shall adopt a policy to enforce this Article XI.

IN WITNESS WHEREOF, this 6th Amendment to the BAC Local Union 15 Pension Fund effective January 1, 2018, and adopted by the Board of Trustees on May 17, 2017, do hereby affix their signatures on February 21, 2018.

Margery O'Donoghue  
Trustee

C. J. Han  
Trustee

# THE BAC LOCAL UNION 15 PENSION FUND

## Notice to All Retirees Regarding Suspension of Benefits Rules

This notice summarizes the Pension Plan's suspension of benefit rules and policies and your responsibilities under same.

Your pension benefits may be suspended if you return to work after your retirement in Disqualifying Employment. "Suspension of Benefits" means non-entitlement to benefits. If benefits were paid for a month for which benefits were later determined to be suspended, the overpayment shall be recoverable through deductions from future pension payments or may be sought from you.

Before returning to employment, you may request an opinion from the Board of Trustees as to whether any work you are considering is Disqualifying Employment. If you fail to seek an advisory opinion in advance of returning to work, you may be found to be working in Disqualifying Employment, causing the Plan to suspend your pension and demand repayment of benefits.

You must comply with the suspension of benefit rules at Section 11.05 of the Plan Document, which are summarized in this Notice. First, you must comply with the restrictions on the types and amount of work you may perform. Second, you must provide an annual recertification to affirm that you have complied with these restrictions.

### **I. Return to Work Before Normal Retirement Age**

Retirement benefit payment shall be suspended beginning with the first month you work any hours in Disqualifying Employment. However, if such Disqualifying Employment is also employment for which the employer is obligated to make contributions to the Pension Fund, suspension will begin with the first month following the month during which your hours exceeded four hundred (400) hours.

### **Disqualifying Employment**

- 1) For that portion of your benefit earned on or after January 1, 2013, Disqualifying Employment is employment or self-employment for wages or profit that is: i) Covered Employment; or ii) in the construction industry in the geographic area covered by the Plan. For Hours of Service earned prior to January 1, 2013, Disqualifying Employment has the same meaning as Disqualifying Employment after Normal Retirement Age as stated below;
- 2) Also, Hours of Service on or after April 1, 2013 as an estimator, consultant or in supervisory work above individual project levels shall not be Disqualifying Employment if performed for a Contributing Employer. Supervisory work as a working foreman, or any other such work for which tools historically and traditionally used by employees performing work covered by the BAC Local 15 Collective Bargaining Agreement are required, is Disqualifying Employment; and

- 3) Finally, maintenance work of the type covered under the BAC Local 15 Collective Bargaining Agreement is Disqualifying Employment. Other maintenance work may be determined by the Trustees in each situation to be Disqualifying Employment.

## **II. Return to Work On or After Normal Retirement Age**

Retirement benefit payments shall be suspended for any month you have worked or were paid for more than thirty-nine and one-half (39 ½) hours in any month in Disqualifying Employment. However, if such Disqualifying Employment is also employment for which the employer is obligated to make contributions to the Pension Fund, your monthly benefits shall only be suspended for any month you worked or were paid for a cumulative calendar year total of eight hundred (800) hours and your monthly hours for which you worked or were paid exceeds thirty-nine and one-half (39 ½) hours.

Once you reach age seventy and one-half (70 ½), there are no restrictions on the amount of work you may perform.

### **Disqualifying Employment**

The term “Disqualifying Employment” shall mean any employment in:

1. An industry in which you worked and accrued benefits under the Plan at the time payment of benefits started;
2. A trade or craft in which you worked at any time under the Plan; and
3. In the geographical area covered by the Plan at the time the payment of benefits started, or outside the geographical area covered by this Plan if such employment results in the transfer to this Plan of any Employer contributions through Reciprocity Agreements.

## **III. Your Responsibilities**

In order to receive your pension benefits and to prevent a suspension of benefits, you must comply with the following:

### **Back to Work Notification**

You must notify the Plan in writing within thirty (30) days after starting any work of a type that is or may be disqualifying under the provisions of the Plan, without regard to the number of hours of such work. If you have worked in Disqualifying Employment in any month and have failed to give timely notice to the Plan of such employment, or have failed to provide the required certification on tax documents, pursuant to the Fund’s Suspension of Benefits Enforcement Policy, the Trustees shall presume that you worked for at least forty (40) hours in such month and any subsequent month before you give notice that you have ceased Disqualifying Employment. You shall have the right to overcome such presumption by establishing to the satisfaction of the Trustees that your work was not in fact an appropriate basis, under the Plan, for suspension of your benefits.

### **Initial Retirement Certification**

Prior to the commencement of benefits, and as a part of an application for pension benefits, you shall submit a retirement certification (Exhibit B) stating that you are not working in Disqualifying Employment as defined in the Plan Document. The retirement certification must either be notarized or signed by a Plan Representative (Wilson-McShane Corporation Pension Department Employee). The completed certification shall be submitted as part of the benefit application and before your benefits can be approved.

### **Annual Recertification**

After commencement of pension payments, you must annually certify in writing, in a form provided by the Fund Administrator, that you are not working in Disqualifying Employment. The annual recertification must either be notarized or signed by a Plan Representative (Wilson-McShane Corporation Pension Department Employee).

If you do not provide such written annual certification, the Fund Administrator shall request that you provide your W-2 and 1099 forms to demonstrate any employment from the previous year. If these tax documents are not provided, the Fund Administrator shall request a Form 1040 from you.

If you fail to provide the requested certification and tax returns, the Fund shall presume that you are working in Disqualifying Employment. Such presumption shall trigger the application of the Plan Document Sections 11.05(G)–(J) regarding suspension of benefits and appeal. A copy of Section 11.05 of the Plan Document is attached to your retirement certification.

# INSTRUCTIONS TO PENSION APPLICANTS

## PROOF OF AGE

**In order to be eligible for retirement benefits, you must furnish proof of your age. You must also provide proof of your spouse's age.**

The following list shows the type of documents, which may serve as proof of your age. Some of the documents are better proof than others. This list is arranged starting with the best type of proof and continues down to the less desirable types of documents. **You are required to furnish the best type of proof that is available, ideally a Birth Certificate.** It is recognized that, in certain instances, a birth certificate may not be available, particularly for those who were born outside of the United States. In such cases, you should secure the best type of proof. Photostat copies of the document may be submitted. Additional proof may be requested, if the document submitted is not convincing proof.

**You may supply any one (1) of the following documents as proof of age**

1. A Birth Certificate
2. Current (unexpired) Passport
3. Naturalization records
4. Military record
5. Marriage records showing date of birth (application for marriage license or church record, certified by custodian of such record; or marriage certificate)
6. Immigration papers
7. A baptismal certificate or a statement as to the date of birth shown by a church record, certified by the custodian of such record