

**PUBLIC WORKS EMPLOYEES' PENSION FUND OF
THE TOWN OF WESTPORT
2019 Amendment and Restatement**

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AGREEMENT by and between the TOWN OF WESTPORT and LOCAL 1303-385, Council 4, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO, effective as of the Effective Date indicated below.

PREAMBLE

A pension plan for the Employees of the Public Works Department of the Town of Westport, known as the "Public Works Employees' Pension Fund of the Town of Westport," was originally adopted in October 1939 as Special Act No. 430. It was subsequently amended from time-to-time and was most recently amended and restated effective June 30, 2013. The purpose of this amendment and restatement is to reflect the applicable terms of the Collective Bargaining Agreements between the Town and the Union covering the periods between July 1, 2013 through June 30, 2022. Additionally, this amendment and restatement is intended to reflect applicable amendments required under the 2015 Cumulative List (IRS Notice 2015-84), the 2016 Required Amendments List (IRS Notice 2016-80) and the 2017 Required Amendments List (IRS Notice 2017-72). If any provision of the Plan should be subject to more than one interpretation, such provision shall be interpreted in a manner which shall be consistent with the Plan being regarded as a qualified pension plan and the Trust being exempt from tax as aforesaid.

The Plan, as restated herein, shall become effective on July 1, 2019, except as otherwise indicated herein, and constitutes an amendment, restatement and continuation of the Plan, as amended and in effect on June 30, 2019.

ARTICLE 1
DEFINITIONS AND USAGE

The following words and phrases, as used herein, have the following meanings, unless a different meaning is plainly required by the context:

1.1. Allocation Rate means the rate determined by the Town's insurance vendors with respect to premiums payable by Employees for "COBRA" health care continuation coverage under Code Section 4980B, exclusive of any administrative charges.

1.2. Anniversary Date of the Plan means the date of June 30 each year.

1.3. Approved Leave Of Absence means the period during which a Participant absents himself from work, without Compensation but with the approval of or at the direction of the Employer, including a period of layoff, provided that said Participant returns to work for the Employer at such time as the Employer may reasonably require. Service before and after an Approved Leave of Absence shall be regarded as continuous. Such leave, up to 12 months, shall be counted toward Years of Credited Service only if such Participant makes the required contributions to the Plan (without interest) for such period within six months following his return to work.

1.4. Claimant means a Retiree, or his spouse or dependent who has submitted a claim for benefits under the Medical Plan.

1.5. Code means the Internal Revenue Code of 1986, as amended.

1.6. Compensation means, with respect to a Participant, the following:

(a) For all purposes except Section 5.5, base salary, specifically excluding overtime or any other special income, but including any "pick-up" contributions with respect to such Participant which are designated as Employer contributions in accordance with Section 414(h)(2) of the Code.

(b) For purposes of Section 5.5, such Participant's wages for the Plan Year paid by the Employer of the type reported in Box 1 of Form W-2. Such wages shall include amounts within the meaning of Section 3401(a) of the Code plus any other amounts paid to him by the Employer for which the Employer is required to furnish a written statement under Sections 6041(d) and 6051(a)(3) of the Code, determined without regard to any rules that limit the amount required to be reported based on the nature or location of the employment or services performed,

(1) Exclusive of any amounts paid or reimbursed by the Employer for moving expenses which the Employer reasonably believes at the time of such payment to be deductible by the Employee under Section 217 of the Code;

(2) Increased by the amount of any contributions made by the Employer under any salary reduction or similar arrangement to: (i) a qualified cash or deferred arrangement under Code Section 401(k); (ii) a simplified employee pension plan described in

Section 408(k) of the Code; (iii) a SIMPLE arrangement under Code Section 408(p); (iv) an annuity contract described in Section 403(b) of the Code; (v) a deferred compensation plan within the meaning of Section 457(b) of the Code; (vi) a cafeteria plan under Code Section 125; and (vii) a deferred compensation plan under Code Section 457; and

(3) Increased by any amounts contributed or deferred by the Employer at his election and which is not includable in his gross income under Section 132(f)(4) of the Code.

Compensation shall be limited as follows:

(x) In addition to any other applicable limitations set forth in the Plan and notwithstanding any other provision in the Plan to the contrary, for Plan Years beginning after January 1, 1989, and prior to January 1, 1994, the annual Compensation of each Participant taken into account under the Plan shall not exceed \$200,000, as adjusted by the Secretary for increases in the cost of living at the same time and in the same manner as under Section 415(d) of the Code (the "TRA 1986 Limit"). This cost-of-living adjustment for a calendar year shall apply to any period (a "Determination Period") not exceeding 12 months, over which Compensation is determined, beginning in such calendar year. If a Determination Period consists of fewer than 12 months, the TRA 1986 Limit shall be multiplied by a fraction whose numerator is the number of months in the Determination Period and whose denominator is 12. If Compensation for any prior Determination Period is taken into account in determining any Participant's benefits accruing in any Plan Year beginning after January 1, 1989, and prior to January 1, 1994, the Compensation for such prior Determination Period shall be subject to the TRA 1986 limit in effect for such prior Determination Period. For purposes of the preceding sentence, for Determination Periods beginning before the first day of the Plan Year beginning on or after January 1, 1989, the TRA 1986 Limit shall be \$200,000.

(y) In addition to any other applicable limitations set forth in the Plan and notwithstanding any other provision in the Plan to the contrary, for Plan Years beginning on or after January 1, 1994, the annual Compensation of each Participant taken into account under the Plan shall not exceed \$150,000, as adjusted by the Secretary for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code (the "OBRA 1993 Limit"). The cost-of-living adjustment for a calendar year shall apply to any Determination Period beginning in such calendar year. If a Determination Period consists of fewer than 12 months, the OBRA 1993 Limit shall be multiplied by a fraction whose numerator is the number of months in the Determination Period and whose denominator is 12. If Compensation for any prior Determination Period is taken into account in determining any Participant's benefits accruing in the current Plan Year, the Compensation for such prior Determination Period shall be subject to the OBRA 1993 Limit in effect for such prior Determination Period. For purposes of the preceding sentence, for Determination Periods beginning before the first day of the Plan Year beginning on or after January 1, 1994, the OBRA 1993 Limit shall be \$150,000.

Notwithstanding the preceding provisions, the annual Compensation of each Participant taken into account in determining benefit accruals in any Plan Year beginning after December 31, 2001, shall not exceed \$200,000. The \$200,000 limit in the preceding sentence shall be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code. The

cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year.

Effective for Limitation Years beginning after July 1, 2007, there shall be included in a Participant's Compensation for purposes of Subsections (a) and/or (b) above, as the case may be, any payment after termination of his employment only if such payment (i) is regular compensation for services during his regular working hours, or compensation for services outside such regular working hours (such as overtime), bonuses or other similar payments; (ii) would have been paid to him before termination of employment if he had continued in employment with the Employer and if so paid, would have been included in "Compensation" under said Subsections (a) and/or (b), as the case may be; and (iii) is paid by the later of 21/2 months after termination of employment or the end of the Limitation Year including the date of termination of employment.

1.7. Dependent means a person who is (i) a "dependent" within the meaning of Code Section 152 and (ii) entitled to dependent benefits under the Medical Plan.

1.8. Designated Beneficiary means the beneficiary designated by a Participant, subject to change from time to time by such Participant, on forms provided by the Pension Board; provided, however, that if there be no Designated Beneficiary at the date of death of the Participant (e.g., due to the earlier death of the Designated Beneficiary or due to failure of the Participant to designate a beneficiary) then the Pension Board shall, for any death benefit that may be available under the Plan (other than a monthly benefit payable to any joint annuitant or surviving spouse), designate a beneficiary from the following list taken in priority order:

- (a) the Participant's legal spouse, or, if none survives;
- (b) the Participant's lineal descendants (including any children legally adopted) per stirpes; or if none survives;
- (c) the Participant's parents, share and share alike; or if none survives;
- (d) the Participant's estate,

subject to Sections 14.4, 14.5 and 14.6.

1.9. Disability means a physical or mental condition, or both, which renders a Participant unable to perform all of the required duties of his position in the Public Works Department.

1.10. Disability Retirement Benefit means the benefit specified in Section 7.2, including a benefit payable pursuant to the second paragraph of Section 7.3.

1.11. Disability Retirement Date means the date a Disabled Participant retires in accordance with Article 7.

1.12. Disabled means a Participant who has a Disability.

1.13. Effective Date of the Plan as amended and restated herein is July 1, 2013, except as otherwise provided herein. The original effective date was October 1, 1939.

1.14. Employee means any full-time employee of the Highway, Maintenance, Equipment Maintenance, Sewer Treatment Plant or Solid Waste Divisions of the Public Works Department who has completed his Probationary Period and either is a member of the Union or is eligible to become a member of the Union. The term "Employee" shall not include a "leased employee," meaning, with respect to the Employer, any person (other than an employee of the Employer) who pursuant to an agreement between the Town and any other person has performed services for the Employer (or for the Employer and related persons determined in accordance with Section 414(n)(6) of the Code) and such services are performed under primary direction or control by the Employer. If a Participant ceases to be a member of the Union or (if not a member of the Union) ceases to be eligible to be a member of the Union but continues as a full-time employee of the Highway, Maintenance, Equipment Maintenance, Sewer Treatment Plant and Solid Waste Divisions of the Public Works Department, he shall continue to accrue benefits under this Plan in accordance with its terms.

1.15. Employer means the Town.

1.16. Final Average Compensation means the monthly average of a Participant's final 12 months of Compensation prior to the Participant's Retirement Date. If the Participant remains in employment beyond his 32-1/2 Years of Credited Service, "Final Average Compensation" means the monthly average of his final 12 months of compensation prior to his actual Retirement Date, but in no event shall a Participant receive more than a total of 32-1/2 years of Credited Service.

1.17. Interest means, when used in connection with a Participant's contributions, 3% of contributions for service prior to July 1, 1982 and 5% of contributions for service thereafter.

1.18. Limitation Year means the period from July 1 to the following June 30.

1.19. Medical Expense means an expense which is payable under the Medical Plan and which is an expense for "medical care" under Code Section 213(d)(1).

1.20. Medical Plan means, collectively, the plans or plans maintained by the Town pursuant to which Employees, Retirees and their respective spouses and Dependents receive medical, prescription drug and dental benefits.

1.21. Normal Retirement Date means the date determined under Section 4.1.

1.22. Participant means any Employee who is included in the Plan as provided in Article 3.

1.23. Pension Board means the board appointed to manage and administer the Plan as provided in Article 10.

1.24. Plan means the Public Works Employees' Pension Fund of the Town of Westport as set forth herein, and as it may hereafter be amended from time-to-time.

- 1.25. Plan Year means the period from July 1 to the following June 30.
- 1.26. Probationary Period means the probationary period for new employees of the Highway, Maintenance, Equipment Maintenance, Sewer Treatment Plant or Solid Waste Divisions of the Public Works Department specified in the Town's agreement with the Union.
- 1.27. Public Works Department means the Public Works Department of the Town.
- 1.28. Qualified Military Service means any service in the "uniformed services" (as defined in Chapter 43 of Title 38, United States Code) by any individual if such individual is entitled to reemployment rights under such chapter as to such service.
- 1.29. Retiree means a Participant who has retired under the retirement provisions of Article 4, or under the Disability Retirement provisions of Section 7.2 or who has been awarded a pension under the second paragraph of Section 7.3.
- 1.30. Retirement Date means the date a Participant retires as an Employee on or after his Normal Retirement Date or on his Disability Retirement Date.
- 1.31. RTM means the Representative Meeting of the Town.
- 1.32. Secretary means the Secretary of the Treasury.
- 1.33. "Spouse" means any individual to whom the Participant is legally married under the laws of the state or country in which the marriage was celebrated, without regard to whether such marriage is recognized under the laws of the state or country in which the Participant resides.
- 1.34. Taxable Year Of The Fund means the 12-month period ending on June 30 of each calendar year.
- 1.35. Town means the Town of Westport in the County of Fairfield, State of Connecticut.
- 1.36. Trust Fund or Trust Funds means the funds described in Article 11.
- 1.37. Union means (i) the Westport Public Works Employees Local 1303-385, Council 4, American Federation of State, County and Municipal Employees, AFL-CIO on and after the date it was recognized by the Town as the sole bargaining representative for such employees.
- 1.38. Year Of Credited Service means, with respect to a Participant, a 12-consecutive-month period commencing with his hire date (including his Probationary Period), and succeeding 12-consecutive month periods, during which he was continuously employed by the Employer (including an Approved Leave of Absence of up to 12 months, and including any period during which Disability Retirement Benefits are paid to him) on a full-time basis and during which he has been eligible for participation in the Plan in accordance with Article 2 and has made contributions to the Plan in accordance with Article 9. Each completed month of such continuous

employment shall constitute 1/12 of a Year of Credited Service. The maximum Years of Credited Service in the Plan shall be 32-1/2, in accordance with Section 3.3.

Wherever any words are used herein in the masculine gender they shall be construed as though they were also in the feminine gender, in all cases where they would so apply. Wherever any words are used herein in the singular form, they shall be construed as though they were used in the plural form, and vice versa, in all cases where they would so apply.

ARTICLE 2
ELIGIBILITY

2.1. Eligibility.

Each Employee whose employment with the Town commenced on or before April 30, 2012, shall be eligible to become a Participant as of the date he has completed his Probationary Period. No Employee hired or rehired on or after May 1, 2012 shall be eligible to participate in the Plan.

2.2. Election Not to Participate.

Participation in the Plan shall be mandatory, except that an Employee hired at age 60 or above may elect not to become a Participant by executing and filing the appropriate form with the Pension Board. Such election shall be considered final and irrevocable.

2.3. Termination of Participation.

Participation in the Plan shall terminate if an Employee ceases to remain an Employee other than by reason of retirement, or disablement, under the Plan. Participation shall be continued under an Approved Leave of Absence

2.4. Application for Benefits.

Each Participant, before any benefit shall be payable to him or on his account under the Plan, shall file with the Pension Board such information as it shall require to establish his rights and benefits under the Plan.

ARTICLE 3
RETIREMENT DATES

3.1. Normal Retirement Date.

The Normal Retirement Date of a Participant shall be the first of the month coinciding with or next following the day on which the sum of the Participant's age and his full Years of Credited Service equal 75 (Rule of 75); except that in no case shall a Participant's Normal Retirement Date be earlier than at age 55, regardless of Years of Credited Service, nor before he has achieved at least 10 Years of Credited Service, regardless of age.

EXAMPLES:

- (1) At least 20 Years of Credited Service and having attained age 55; or,
- (2) At least 19 Years of Credited Service and having attained age 56 or,
- (3) At least 13 Years of Credited Service and having attained age 62; or,
- (4) At least 10 Years of Credited Service and having attained age 65.

3.2. Deferred Retirement Date.

A Participant may continue his employment beyond his Normal Retirement Date; but he shall earn Years of Credited Service only for a period up to a maximum of 32-1/2 years. He shall not be granted more than 32-1/2 Years of Credited Service but he shall continue to contribute to the Plan until his Deferred Retirement Date.

ARTICLE 4
RETIREMENT BENEFITS

4.1. Normal Retirement Benefit.

Each Participant shall be entitled, commencing on his Retirement Date as provided in Sections 3.1, 3.2, 3.3 or 8.2, whichever is applicable, to a monthly pension for life in an amount determined to be 1/12th of the amount by which (a) exceeds (b) below:

(a) For each of his Years of Credited Service (up to a maximum of 32-1/2 years), 2-1/2% of his Final Average Compensation.

(b) Any monthly payments received by the Retiree from any other program of retirement benefits (except Social Security) to which the Employer has made a contribution.

(c) Prior to July 1, 2011, the benefit payable under this Section 4.1 shall be subject to a maximum of 81.25% of Final Average Compensation. Effective July 1, 2011, the benefit payable under this Section 4.1 shall be subject to a maximum of 65% of Final Average Compensation. Any Participant who accrued a benefit in excess of 65% of Final Average Compensation as of June 30, 2011 shall be entitled to a benefit under this Section 4.1 based on the percentage of the Final Average Compensation accrued as of June 30, 2011 but shall not be entitled to accrue a benefit based on a higher percentage. For example, if a Participant had accrued a benefit under 4.1(a) equal to 75% of his Final Average Compensation as of June 30, 2011 his benefit at Normal Retirement Date will be equal to 75% of his Final Average Compensation at his Normal Retirement Date less the amount under Section 4.1(b).

4.2. Form of Benefit Distribution.

(a) For Participants hired prior to January 1, 1999.

The monthly pension described in Section 4.1 shall commence on the Participant's Retirement Date and be payable during his life. Upon the death of the Retiree the Pension Board shall direct that 100% of the Retirement Benefit then being received be paid to his surviving spouse until her death or remarriage, or if there is no surviving spouse, to, or on behalf of, his child or children under 18 years of age and to, or on behalf of, his child or children under 18 years of age after the death or remarriage of his surviving spouse.

(b) For Participants hired on or after January 1, 1999.

The monthly pension described in Section 4.1 shall commence on the Participant's Retirement Date and be payable during his life. Upon the death of the Retiree, the Pension Board shall direct that 75% of the Retirement Benefit then being received be paid to his surviving spouse until her death or remarriage, or if there is no surviving spouse, to, or on behalf of, his child or children under 18 years of age and to, or on behalf of, his child or children under 18 years of age after the death or remarriage of his surviving spouse.

(c) For purposes of Sections 4.2(a) and 4.2(b), if there is more than one child under 18 years of age, each shall be entitled to receive an equal share of the monthly payment.

Payments to any child shall cease when the child attains the age of 18 years and any remaining child under the age of 18 shall continue to receive the share of the monthly benefit as had originally been calculated until such time as that child reaches age 18. Payments due any child shall be made to his legal guardian.

4.3. Minimum Benefit.

Upon cessation of monthly pension payments made in accordance with Section 4.2, any excess of the amount of the Participant's contributions, plus Interest to Retirement Date, over the sum of monthly payments previously made to him and, if applicable, to his surviving spouse and children under 18 years of age, shall be paid in one sum to such Retiree's Designated Beneficiary.

4.4. Continued Coverage under Medical Plans.

Each Retiree shall be entitled to continue his coverage under the Medical Plan in effect at the time of his retirement (including coverage for his spouse and any Dependents, if in effect at that time) by paying the total cost of such coverage until the July 1 following the attainment of age 49 and thereafter by paying 40% of the cost of such coverage annually. The cost of coverage shall be based upon the Allocation Rate, except that no Retiree's increase in any year shall exceed by 10% the amount paid by him in the preceding year for comparable coverage. In the event of a Retiree's death, the cost of coverage for his covered spouse and covered Dependents, if any, shall be paid by them. At age 65 a Retiree or his covered spouse, as the case may be, shall transfer to Medicare and may elect the Medicare supplement under the Medical Plan. Retirees and their covered spouses shall be responsible for the premiums for Medicare Part B (and for Medicare Part A, unless the Retiree or his spouse is entitled to Medicare Part A without the payment of premiums) and shall pay 40% of the cost of such Medicare supplement and thereafter no Retiree's or covered spouse's increase in any one year shall exceed 10% of the amount paid by such Retiree or covered spouse in the preceding year.

The continued Medical Plan coverage made available under the preceding paragraph shall also be made available to the covered spouse and covered Dependents, if any, of a deceased Participant in the event of a pension payable pursuant to Sections 5.1 or 5.3.

4.5. Limits on Benefits.

Notwithstanding any other provision of the Plan, the benefits of a Participant hereunder shall be subject to the following limitation: The maximum Annual Benefit payable to a Participant under the Plan, and under any other defined benefit plan sponsored by the Employer (or any entity aggregated with the Employer pursuant to Section 414 of the Code), for any Limitation Year shall not exceed the limitation set forth in Section 415(b) of the Code. For purposes of Sections 415(b)(2)(E)(i) and Section 415(b)(2)(E)(iii) of the Code, the interest rate shall be 5% per annum, compounded annually. The term "Annual Benefit" shall mean a benefit payable annually in the form of a qualified joint and survivor annuity as defined in Section 417(b) of the Code and Treas. Reg. Sec. 1.401(a)-20, Q & A-25 (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions are made.

4.6. Direct Rollovers of Eligible Rollover Distributions.

Notwithstanding any other provision of the Plan to the contrary which would otherwise limit a Distributee's election under this Section 4.6, a Distributee may elect, at the time and in the manner permitted 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. For purposes of this Section 4.6:

(a) "Direct Rollover" means a payment by the Plan to the Eligible Retirement Plan specified by a Distributee.

(b) "Distributee" means a Participant who is an Employee or former Employee. In addition, (1) such a Participant's spouse or former spouse who is the alternate payee under a "qualified domestic relations order," as defined in Section 414(p) of the Code, and (2) the surviving spouse of a deceased Participant who was an Employee or former Employee, are Distributees with regard to the interest of such spouse or former spouse in the Plan. A distributee includes the Participant's or former Participant's nonspouse designated beneficiary, in which case, the distribution can only be transferred to a traditional or Roth IRA established on behalf of the nonspouse designated beneficiary for the purpose of receiving the distribution.

(c) "Eligible Retirement Plan" means an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, which accepts a Distributee's Eligible Rollover Distribution. However, in the case of an Eligible Rollover Distribution to a Distributee who is surviving spouse, an "Eligible Retirement Plan" means an individual retirement account or individual retirement annuity. The term "Eligible Retirement Plan" shall also include (i) an annuity contract described in Section 403(b) of the Code, (ii) an eligible plan which is maintained under Section 457(b) of the Code and which is maintained by a state or political subdivision of a state or instrumentality of a state and which agrees to separately account for amounts transferred to such plan from this Plan and (iii) a Roth IRA described in Code Section 408A. The definition of "Eligible Retirement Plan" shall apply in the case of a distribution to a surviving spouse of a Participant or to a spouse or former spouse of a Participant who is an alternate payee under a "qualified domestic relations order," as defined in Section 414(p) of the Code.

(d) "Eligible Rollover Distribution" means any distribution of all or any portion of the balance to the credit of the Distributee under the Plan, except that an Eligible Rollover Distribution shall not include: (1) any distribution which 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 10 years or more; (2) any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; and (3) the portion of any distribution which is not includible in gross income. The enumeration in the preceding sentence of any form of payment shall not imply that any person has the right to receive benefits under the Plan in such form unless otherwise specifically provided under the Plan. The term "Eligible Rollover Distribution" shall also include a direct trustee-to-trustee

transfer of all or any portion of a distribution from the Plan from the benefit of a deceased Participant to an individual retirement account described in Code Section 408(a), or an individual retirement annuity described in Code Section 408(b) (other than an endowment contract), established for the purposes of receiving such distribution or portion thereof on behalf of an individual who is a Designated Beneficiary, within the meaning of Section 7.6(b), who is not the surviving spouse of such Participant.

If, pursuant to Section 8.1 or 8.3, a distribution of more than \$1,000 is payable to a Participant whose employment has terminated, and such Participant does not elect to receive such distribution directly or, pursuant to this Section 4.6, to have such distribution paid to an Eligible Retirement Plan in a direct rollover, the Pension Board shall cause such distribution to be paid in a direct rollover to an individual retirement account described in Section 408(a) of the Code or to an individual retirement annuity described in Section 408(b) of the Code.

4.7. Qualified Military Service.

(a) Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit as to Qualified Military Service shall be provided in accordance with Section 414(u) of the Code.

(b) In the case of a Participant who dies while performing Qualified Military Service, his survivors shall be entitled to any additional benefits (other than benefit accruals related to the period of Qualified Military Service) that may be provided under the Plan had he then resumed and terminated employment on account of death.

ARTICLE 5
BENEFITS IN CASE OF DEATH

5.1. Service Connected Death Benefit.

(a) Upon receipt of proof, satisfactory to the Pension Board of the death of a Participant prior to the commencement of benefits under the Plan, such death having occurred during actual performance of duty, or resulting from the effects of any injury received, disease contracted, or exposure endured while in the actual discharge of his duties, the Pension Board, by the affirmative vote of a majority of its whole number, shall direct a benefit to be paid as follows:

(1) For Participants hired prior to January 1, 1999, the greater of (i) or (ii) below:

(i) One half of the average of such Participant's last one year's annualized Compensation prior to his date of death; or

(ii) An amount equal to the benefit as calculated under Section 4.1.

(2) For Participants hired on or after January 1, 1999, 75% of the greater of (i) or (ii) below:

(i) One half of the average of such Participant's last one year's annualized Compensation prior to his date of death; or

(ii) An amount equal to the benefit as calculated under Section 4.1.

(b) The benefit specified in Section 5.1(a) shall be paid annually to his surviving spouse until her death or remarriage, or, if there is no surviving spouse, to, or on behalf of, his child or children under 18 years of age and to, or on behalf of, his child or children under 18 years of age after the death or remarriage of his surviving spouse. If there is more than one child under 18 years of age, each shall be entitled to receive an equal share of the monthly payment. Payments to any child shall cease when the child attains the age of 18 years and any remaining children under the age of 18 shall continue to receive the share of the monthly benefit as had been originally calculated until they reach 18 years. Payments due any child shall be made to his legal guardian.

5.2. Nonservice Connected Death Benefit.

Upon receipt of proof, satisfactory to the Pension Board, of the death of a Participant prior to the commencement of benefits under the Plan, such death not resulting from his actual performance of duty or effects therefrom, the amount of his contributions, plus accrued Interest, at the time of his death shall be paid in one lump sum to his Designated Beneficiary.

5.3. Alternate Nonservice Connected Death Benefit.

In lieu of the lump-sum payment specified in Section 5.2, the Pension Board, by a majority vote, may in its sole discretion and for each such case individually considered without precedent, provide that a monthly pension shall be paid to the surviving spouse or children of a Participant described in Section 5.2 in accordance with the terms and conditions of Section 5.1, as follows:

(a) For Participants hired prior to January 1, 1999, such pension shall not exceed 50% of such Participant's Final Average Compensation; and

(b) For Participants hired on or after January 1, 1999, such pension shall not exceed 75% of the pension which could be payable pursuant to Section 5.3(a).

5.4. Minimum Death Benefit.

Upon cessation of monthly pension payment made in accordance with Sections 5.1 or 5.3, any excess of the amount of the Participant's contributions, plus accrued Interest, over the sum of the monthly pension payments previously made shall be paid in one sum to the Participant's Designated Beneficiary.

5.5. Beneficiary Designation.

A Participant's Beneficiary must be designated by written notice received by the Employer at the time of participation in the Plan. A Participant may change his Beneficiary at any time by written notice received by the Employer prior to such Participant's death.

**ARTICLE 6
DISABILITY BENEFITS**

6.1. Disability Benefit: General.

A request for retirement of a Participant based on Disability may be initiated by either such Participant or by the Town, and all Pension Board members shall be notified that such a request has been made and that such Participant is being sent for evaluation by the appropriate physicians.

6.2. Service Connected Disability Benefit.

(a) Upon certification by at least three physicians that a Participant is Disabled, such condition having occurred during actual performance of duty, or resulting from the effects of an injury received, disease contracted, or exposure endured while in the actual discharge of his duties, without fault on his part, such Participant shall be retired and receive a monthly pension equal to the greater of (1) or (2) below:

(1) One half of the average of his last one year's annualized Compensation prior to his Disability Retirement Date; or

(2) An amount equal to the benefit as calculated under Section 4.1.

Such retirement shall be deemed permanent retirement when such Participant shall have reached his Normal Retirement Date.

(b) Upon the death of a Participant described in Section 6.2(a):

(1) For Participants hired prior to January 1, 2002: 100% of the monthly pension specified in Section 6.2(a) shall be continued to his surviving spouse until her death or remarriage, or, if there is no surviving spouse, to, or on behalf of, his child or children under 18 years of age and to, or on behalf of, his child or children under 18 years of age after the death or remarriage of his surviving spouse.

(2) For Participants hired on or after January 1, 2002: 75% of such monthly pension specified in Section 6.2(a) shall be continued to his surviving spouse until her death or remarriage, or, if there is no surviving spouse, to, or on behalf of, his child or children under 18 years of age and to, or on behalf of, his child or children under 18 years of age after the death or remarriage of his surviving spouse

(c) For purpose of Sections 6.2(b)(1) and 6.2(b)(2), if there is more than one child under 18 years of age, each shall be entitled to receive an equal share of the monthly payment. Payments to any child shall cease when the child attains the age of 18 years, and any remaining children under the age of 18 shall continue to receive the share of the monthly benefit as had been originally calculated until they reach 18 years. Payments due any child shall be made to his legal guardian.

6.3. Nonservice Connected Disability Benefit.

(a) Upon receipt of proof, satisfactory to the Pension Board, that a Participant is Disabled, such condition not resulting from his actual performance of duty or effects therefrom, he shall be entitled to receive his contributions, plus accrued Interest, to his date of Disability.

(b) In lieu of such lump sum payment, the Pension Board, by a majority vote may in their sole discretion and for each such case individually considered without precedent provide that such Participant be retired on account of Disability and receive a monthly pension of up to the amount which would have been provided in accordance with Section 6.2 if that section were applicable.

6.4. Minimum Disability Benefit.

Upon the later of either the death of the Participant or the cessation of monthly pension payments to the Participant's surviving spouse or children, made in accordance with Sections 6.2 or 6.3, any excess of the amount of the Participant's contributions, plus accrued Interest to his Disability Retirement Date, over the sum of the monthly pension payments previously made to him, and if applicable, to his surviving spouse and children under 18 years of age, shall be paid in one sum to the Participant's Designated Beneficiary.

6.5. Medical Examination.

Once each year the Pension Board may require any Participant who receiving a Disability Retirement Benefit, and who has not reached his Normal Retirement Date, to undergo a medical examination by a physician or physicians designated by the Pension Board, such examination to be made at the place of residence of such Participant or other place mutually agreed upon. Should any such Participant refuse to submit to such medical examination, his Disability Retirement Benefit shall be discontinued until his withdrawal of such refusal, and should his refusal continue for a year, all rights in and to the Disability Retirement Benefit shall cease. If the Pension Board finds from such medical examination that the Disability of a Retiree receiving a Disability Retirement Benefit who has not reached his Normal Retirement Date has been removed and that he has regained his ability to perform some duty in the Public Works Department, he shall return to service, and his Disability Retirement Benefit shall be discontinued until he retires. Any Years of Credited Service to which he is entitled when he retired shall be restored to him and if his Disability Retirement was granted under the provisions of Section 6.2 his period of Disability shall be taken into account for purposes of determining his Years of Credited Service. If his Disability Retirement was granted under Section 6.3, upon subsequent retirement his allowance shall be based on his Compensation and Credited Service before and after the period of prior retirement and an amount equal to the actuarial reserve held for the part of his Pension provided by his contributions shall be credited to him as accumulated contributions.

ARTICLE 7 REQUIRED DISTRIBUTIONS

7.1. General Rules.

The provisions of this Article 7 shall take precedence over any inconsistent provisions of the Plan. All distributions required under this Article 7 shall be determined and made in accordance with the Treasury regulations under Code Section 401(a)(9).

7.2. Time and Manner of Distribution.

(a) A Participant's entire vested interest in the Plan (as determined pursuant to Section 8.1) shall be distributed, or begin to be distributed, to him no later than his Required Beginning Date.

(b) If a Participant dies before distributions begin, his entire vested interest in the Plan shall be distributed, or begin to be distributed, no later than as follows:

(1) If such Participant's surviving spouse is his sole Designated Beneficiary, then distributions to such surviving spouse shall begin by December 31 of the calendar year immediately following the calendar year in which such Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70-1/2, if later.

(2) If such Participant's surviving spouse is not his sole Designated Beneficiary, then distributions to his Designated Beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which such Participant died.

(3) If there is no Designated Beneficiary as of September 30 of the year following the year of such Participant's death, such Participant's entire vested interest in the Plan shall be distributed by December 31 of the calendar year containing the fifth anniversary of such Participant's death.

(4) If such Participant's surviving spouse is his sole Designated Beneficiary and such surviving spouse dies after such Participant but before distributions to such surviving spouse begin, this Section 7.2(b), other than Section 7.2(b)(1), shall apply as if the surviving spouse were the Participant.

For purposes of this Section 7.2(b) and Section 7.5, distributions shall be considered to begin on a Participant's Required Beginning Date or, if Section 7.2(b)(4) applies, the date distributions are required to begin to the surviving spouse under Section 7.2(b)(1). If annuity payments irrevocably commence to a Participant before his Required Beginning Date or to his surviving spouse before the date distributions are required to begin to such surviving spouse under Section 7.2(b)(1), the date distributions shall be considered to begin is the date distributions actually commence.

Unless a Participant's vested interest in the Plan is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before his Required Beginning

Date, as of the first Distribution Calendar Year distributions shall be made in accordance with Sections 7.3, 7.4 and 7.5. If a Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury regulations.

7.3. Determination of Amount to be Distributed Each Year.

(a) If a Participant's interest is paid in the form of annuity distributions under the Plan, such distributions shall satisfy the following requirements:

(1) The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;

(2) The distribution period shall be over a life (or lives) or over a period certain not longer than the period described in Section 7.4.

(3) Once payments have begun over a period certain, the period certain shall not be changed even if the period certain is shorter than the maximum permitted;

(4) Payments shall either be non-increasing or shall increase only to pay increased benefits that result from a Plan amendment.

(b) The amount which must be distributed on or before a Participant's Required Beginning Date or, if such Participant dies before distributions begin, the date distributions are required to begin under Sections 7.2(b)(1) or 7.2(b)(2) is the payment which is required for one Payment Interval. The second payment need not be made until the end of the next Payment Interval even if that Payment Interval ends in the next calendar year. All of a Participant's benefit accruals as of the last day of the first Distribution Calendar Year shall be included in the calculation of the amount of the annuity payments for Payment Intervals ending on or after his Required Beginning Date.

(c) Any additional benefits accruing to a Participant in a calendar year after the first Distribution Calendar Year shall be distributed beginning with the first Payment Interval ending in the calendar year immediately following the calendar year in which such amount accrues.

7.4. Requirements for Minimum Distributions Where Participant Dies Before Date Distributions Begin.

(a) If a Participant dies before the date distribution of his vested interest in the Plan begins and there is a Designated Beneficiary, such Participant's entire vested interest shall be distributed, beginning no later than the time described in Sections 7.2(b)(1) or 7.2(b)(2), over the life of the Designated Beneficiary or over a period certain not exceeding:

(1) Unless the Annuity Starting Date is before the first distribution calendar year, the life expectancy of such Designated Beneficiary determined using his age as of his birthday in the calendar year immediately following the calendar year of such Participant's death; or

(2) If the Annuity Starting Date is before the first Distribution Calendar Year, the life expectancy of such Designated Beneficiary determined using his age as of his birthday in the calendar year which contains the Annuity Starting Date.

(b) If a Participant dies before the date distribution of his entire vested interest in the Plan begins and there is no Designated Beneficiary as of September 30 of the year following the year of such Participant's death, distribution of such Participant's entire vested interest in the Plan shall be completed by December 31 of the calendar year containing the fifth anniversary of such Participant's death.

(c) If a Participant dies before the date distribution of his entire vested interest in the Plan begins and his surviving spouse is the Participant's sole Designated Beneficiary, and such surviving spouse dies before distributions to such surviving spouse begin, this Section 7.4 shall apply as if such surviving spouse were the Participant, except that the time by which distributions must begin shall be determined without regard to Section 7.2(b)(1).

7.5. Life Expectancy.

For purposes of this Article 7, life expectancy shall be computed by use of the Single Life Table in Treasury Regulation Section 1.401(a)(9)-9.

7.6. Definitions.

For purposes of Sections 7.1 to 7.5:

(a) "Annuity Starting Date" means: (1) The first day of the first period for which an amount is payable as an annuity or other distribution under the Plan; or (2) In the case of a benefit not payable in the form of an annuity, the first day on which all events have occurred which entitle the recipient to such benefit.

(b) "Designated Beneficiary" means the individual who is designated as the beneficiary under Section 1.8 of the Plan and is the "designated beneficiary" under Code Section 401(a)(9) and Treasury Regulation Section 1.401(a)(9)-4, Q&A-1.

(c) "Distribution Calendar Year" means a calendar year for which a minimum distribution is required under this Article 7. For distributions beginning before a Participant's death, the first Distribution Calendar Year shall be the calendar year immediately preceding the calendar year which contains his Required Beginning Date. For distributions beginning after a Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin pursuant to Section 7.2(b).

(d) "Payment Intervals" means the periods for which payments are received, such as bi-monthly, monthly, semi-annually or annually.

(e) "Required Beginning Date" means, with respect to a Participant, April 1 of the calendar year following the later of (i) the calendar year in which such Participant attains age 70-1/2 or (ii) the calendar year in which such Participant retires. The benefit of a Participant which does not commence by April 1 of the calendar year following the calendar year in which

he attains age 70-1/2 shall be actuarially increased for the period beginning April 1 of the calendar year following the calendar year in which he attains age 70-1/2 and ending on the date after retirement that his benefits commence in an amount sufficient to satisfy the requirements of Section 401(a)(9) of the Code. The amount of actuarial increase payable as of the end of such period shall equal the Actuarial Equivalent of such Participant's pension benefit which would have been payable as of the date such actuarial increase must commence plus the Actuarial Equivalent of additional benefits accrued after such date and reduced by the Actuarial Equivalent of any benefits paid after such date. For purposes of this Section 7.6(e), "Actuarial Equivalent" means a benefit of equivalent value when computed on the basis of the rate of interest of 7% and mortality rates in accordance with the 1983 Group Annuity Mortality Table (unisex based on 50% male/50% female).

ARTICLE 8
VESTING AND TERMINATION BENEFITS

8.1. Termination of Employment Prior to Vesting.

If the employment of a Participant shall be terminated (otherwise than by retirement under Article 4, death under Article 5, or Disability under Article 6), and before he has completed 10 Years of Credited Service, he shall be entitled only to receive his contributions, plus accrued Interest to his date of termination. In the event of the death of such Participant prior to payment of his contributions plus Interest, payment shall be made in accordance with Section 5.2.

8.2. Termination of Employment after Vesting.

After 10 Years of Credited Service, a Participant shall be fully vested as to the benefits accrued to date. Payment of such benefits shall begin as of his Normal Retirement Date. In the event of the death of such a Participant after termination of employment with the Town, but prior to his Normal Retirement Date, Section 5.2 shall apply, except if the Pension Board shall provide a pension pursuant to Section 5.3.

8.3. Impact Felony Conviction on Benefit.

If a Participant is still employed after 10 Years of Credited Service and if the Participant's employment is terminated on account of being convicted of a felony against the Town, or Town Employees, such Participant's benefits shall be limited to the return of his contributions, plus accrued Interest, made to the date of termination.

**ARTICLE 9
CONTRIBUTIONS**

9.1. Employee Contributions.

(a) Each Participant shall make contributions to the Plan at the rate of 9% of Compensation, except that Employees hired on or after July 1, 1999 shall contribute at the rate of 10% of Compensation. The Town's Finance Director shall deduct such contributions from the bi-weekly Compensation of Participants and shall transmit the sums so deducted to the Public Works Pension Fund.

(b) Notwithstanding Section 9.1(a) and subject to Section 9.1(d), any Participant who has accrued the maximum benefit under Section 4.1(c) as of July 1, 2018, shall be required to make contributions to the Plan as follows:

- (1) Effective July 1, 2019, the contribution is reduced to 6% of Compensation;
- (2) Effective July 1, 2020, the contribution is reduced to 3% of Compensation; and
- (3) Effective July 1, 2021 and thereafter, the contribution is reduced to 0% of Compensation.

(c) Any Participant who has accrued the maximum benefit under Section 4.1(c) after July 1, 2018, may elect to freeze the benefit he has accrued under this Plan by submitting his election to the Pension Board and agreeing to reduce his Contributions under Section 9.1(a) as follows:

- (1) For the first twelve month period following the election to freeze benefit Contributions will equal 6% of Compensation;
- (2) For the second twelve month period following the election to freeze benefit, Contributions will equal 3% of Compensation; and
- (3) Commencing on the first day of the third twelve month period following the election to freeze benefit, no further Contributions will be required under Section 9.1(a).

(d) The retirement benefit determined under Section 4.1 for any Participant who reduces contributions to the Plan pursuant Sections 9.1(b) or 9.1(c), will be based on the Participant's Final Average Compensation determined as of the day before the date reduced contribution are first made to the Plan. Any Participant eligible for reduced contributions under Section 9.1(b) or 9.1(c) can elect instead to reduce contributions to 9% of Compensation so that Final Average Compensation will be determined as of the Participant's Normal or Deferred Retirement Date.

9.2. Employer Contributions.

The Employer shall make such contributions to the Fund for each fiscal year to insure sufficient funds in the Plan to pay all benefits required to be paid by the Plan in that fiscal year.

9.3. "Pick-Up of Employee Contributions.

In accordance with Section 414(h)(2) of the Code, the Employer shall "pick up" the contributions required of Participants hereunder, such that the contributions so picked up shall be considered contributions of the Employer rather than Participant contributions under the Code. Although such contributions are designated as Participant contributions, they shall be treated as being paid by the Employer in lieu of contributions by Participants. No Participant shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the Employer to the Plan.

**ARTICLE 10
PENSION BOARD**

10.1. Pension Board Members.

(a) The Plan shall be administered by the Pension Board, which shall be responsible for carrying out the provisions of the Plan. The Pension Board shall consist of the Chairman of the Board of Finance, the First Selectman or First Selectwoman, the Town's Finance Director, the Town Clerk, the Director of Public Works, and two members of the Public Works Department to be designated by the Union, or its successor, biannually.

(b) The Chairperson of the Board of Finance shall be Chairperson of the Pension Board, the First Selectman or First Selectwoman shall be the Vice Chairperson and the Town Clerk shall be Secretary and Clerk. The Secretary's duties shall be to keep a true record of all proceedings of the Pension Board.

10.2. Plan Expenses.

All costs incurred in the administration and operation of the Plan shall be paid by the Employer.

10.3. Employees and Advisors.

The Pension Board may appoint from their number or employ any other agent to receive and invest the assets of the Fund, or execute or deliver any instrument or make any payment in their behalf, and may employ such clerks, counsel, accountants, actuaries, Trustees and investment advisors as may be required in carrying out the provisions of the Plan.

10.4. Meetings.

The Pension Board shall hold meetings upon such notice at such time, and at such place, as it may determine.

10.5. Quorum.

A majority of the members of the Pension Board at the time in office shall constitute a quorum for the transaction of business, provided that the members constituting such quorum include either the Chairperson or the Vice Chairperson of the Pension Board. All resolutions or other actions taken by the Pension Board shall be by vote of a majority of those present at a meeting, but not less than four, or in writing by all the members at the time in office, if they act without a meeting. For purposes of the preceding sentence, a member of the Pension Board shall be considered present at a meeting if he or she is present in person or is connected by telephone. A meeting of the Pension Board may take place by having a quorum of members thereof all connected by telephone, provided that the members constituting such quorum include either the Chairperson or the Vice Chairperson of the Pension Board.

10.6. Compensation.

No member of the Pension Board who is also an employee of the Town of Westport shall receive any compensation for his services as such, but the Plan may reimburse any member of any necessary expenses incurred.

10.7. Plan Administration and Interpretation.

The Pension Board shall from time-to-time establish rules for the administration of the Plan and the transaction of its business. Except as herein otherwise expressly provided, the Pension Board shall have the exclusive right to interpret the Plan and to decide any matters arising thereunder in connection with the administration of the Plan. It shall endeavor to act by general rules so as not to discriminate in favor of any person. Its decisions and the records of the Pension Board shall be conclusive and binding upon the Employer and all other persons having any interest under the Plan.

10.8. Accounts and Reports.

The Pension Board shall maintain accounts showing the fiscal transactions of the Plan, and in connection therewith shall require the Trustees to submit any necessary reports, and shall keep in convenient form such data as may be necessary for the determination of the assets and liabilities of the Plan and giving a brief account of the operation, of the Plan for the past year. Such report shall be filed in the office of the Secretary of the Pension Board where it shall be open to inspection by any Participant of the Plan.

10.9. Limitation of Liability; Indemnification.

The members of the Pension Board and the Officials of the Town shall be entitled to rely upon all certificates and reports made by any duly appointed Trustee, accountant, and upon all opinions given by any duly appointed legal counsel. The members of the Pension Board and the Officials of the Town shall be fully protected against any action taken in good faith in reliance upon any such certificates, reports or opinions. All actions so taken shall be conclusive upon each of them and upon all persons having any interest under the Plan. No member of the Pension Board shall be personally liable by virtue of any instrument executed by him or on his behalf as a member of the Pension Board or for any mistake of judgment made by himself or any other member of the Pension Board or for any neglect, omission or wrongdoing of any other member or anyone employed by the Town or for any loss unless resulting from his own negligence or willful misconduct. Each member of the Pension Board shall be indemnified by the Town against expenses reasonably incurred by him in connection with any action to which he may be a party by reason of his membership in the Pension Board, except in relation to matters as to which he shall be adjudged in such action to be liable for negligence or willful misconduct in the performance of his duty as such member. The foregoing right of indemnification shall be in addition to any other rights to which any such member may be entitled as a matter of law.

ARTICLE 11
TRUST FUNDS

11.1. Trust Fund.

All assets for providing the benefits of the Plan shall be held by a Trustee or Trustees appointed by the Board as Trust Funds for the exclusive benefit of Participants and Beneficiaries under the Plan, and no part of the corpus or income shall be used for, or diverted to, purposes other than for the exclusive benefit of Participants and Beneficiaries under the Plan prior to the satisfaction of all liabilities with respect to the Participants and their Beneficiaries. No Participant or Beneficiary under the Plan, nor any person, shall have any interest in or right to any part of the earnings of the Trust, or any rights in, to or under the Trust or any part of its assets, except to the extent expressly provided in the Plan.

11.2. Disbursement.

The Pension Board shall determine the manner in which the Trust Funds of the Plan shall be disbursed in accordance with the Plan including the form of voucher or warrant to be used in making disbursements and the qualifications of persons authorized to make disbursements of such funds.

**ARTICLE 12
MODIFICATIONS AND PLAN TERMINATION**

12.1. Mutual Consent to Modify.

No change or modification of any provisions of this Plan may be made prior to July 1, 2022 except by mutual consent of the parties hereto.

12.2. Termination.

The Plan may be terminated by mutual consent of the parties hereto. Upon termination of the Plan, or upon the complete discontinuance of contributions, the accrued benefits of Participants to the date of such termination or discontinuance shall be nonforfeitable to the extent then funded.

12.3. Distributions upon Plan Termination.

(a) In the event of the termination of the Plan, the Pension Board, after reserving an amount sufficient to pay all expenses of the Plan, shall allocate all assets of the Trust Funds or their proceeds in order of preference as hereinafter set forth (but only to the extent that an individual's pension benefit is not fully funded):

(1) The portion derived from a Participant's own contributions, with Interest (if any).

(2) In the case of the pension benefit of a Participant, surviving spouse or child, the benefit which was in pay status as of the date of such termination.

(3) To provide benefits to Participants who were eligible to retire in accordance with Articles 4 or 6 as of the date of such termination.

(4) To all other nonforfeitable pension benefits under the Plan.

(b) If the assets in the Trust Funds applicable to any of the benefits listed in Sections 12.3(a)(1) through (4) are insufficient to provide for all persons listed in such categories, then the assets shall be allocated among those persons in the last category to which the assets are available in the same proportion which the present value, as determined by the Plan's enrolled actuary, of each person's benefit bears to the present value of all benefits attributable to that category.

(c) Any assets of the Trust which remain after payment of the benefits listed in Sections 12.3(a)(1) through (4) shall be paid to the Town.

ARTICLE 13
RETIREE MEDICAL EXPENSES

13.1. Effective Date.

This Article 13 shall apply to Medical Expenses incurred on or after the date specified by resolution of the Pension Board for implementation of this Article 13.

13.2. Payment of Retiree Medical Expenses.

The Plan may provide for the payment of any or all Medical Expenses of Retirees and their covered spouses and Dependents in accordance with Code Section 401(h). Payments will occur within a reasonable time after a Claimant has submitted a claim for payment under the Medical Plan.

13.3. Separate Account.

A separate account shall be established and maintained under the Plan with respect to contributions to fund Medical Expenses under the arrangement set forth in this Article 13. Such contributions shall come from the Employer and from Retirees and covered spouses and Dependents, as specified in Section 4.4. Such separate account shall be for recordkeeping purposes only, and the Trust Funds allocated to such account need not be separately invested. The Employer's contributions to such separate account shall be reasonable and ascertainable and at the time a contribution to the Plan is made by the Employer, the Employer shall designate that portion of such contribution which is allocable to the funding of Medical Expenses. The aggregate actual contributions to the Plan for Medical Expenses shall not exceed 25% of the total actual contributions to the Plan (other than contributions to fund past service credits) after the date this Article 13 is implemented. It shall be impossible, at any time prior to the satisfaction of all liabilities under the Plan to provide Medical Expenses, for any part of the principal or income of such separate account to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of Medical Expenses. Notwithstanding the provisions of Section 401(h)(2) of the Code, upon the satisfaction of all liabilities under the Plan to provide Medical Expenses, any amount remaining in such separate account shall be returned to the Employer.

13.4. Key Employee.

In the case of a Retiree who is a "key employee" within the meaning of Section 416(i) of the Code at any time during the Plan Year or any preceding Plan Year during which contributions were made by the Employer on behalf of him or his covered spouse and covered Dependents, if any, a separate account shall be established and maintained for Medical Expenses payable to him (and his covered spouse and covered Dependents, if any) and such benefits (to the extent attributable to Plan Years beginning after March 31, 1984, for which such Retiree is a "key employee") shall only be payable to or on behalf of such Retiree (and his covered spouse and covered Dependents, if any) from such separate account.

13.5. Co-Ordination with other Coverage.

If Medical Expenses are paid from other sources as well as from the Plan, the benefits payable from the Plan shall be paid before any other sources are used.

13.6. Use of Forfeitures.

In the event an individual's interest in such separate account shall be forfeited prior to the termination of the Plan, an amount equal to the amount of such forfeiture shall be applied as soon as possible to reduce the Employer's contributions to the Plan to fund Medical Expenses.

13.7. Excess Pension Assets.

There may be transferred to the separate account referred in Section 13.3 "excess pension assets" of the Plan, within the meaning of Section 420(e)(2) of the Code, subject to the following provisions:

- (a) Only one transfer may be made in a taxable year of the Employer.
- (b) The amount transferred shall not exceed the amount which is reasonably estimated to be the amount the Employer will pay out (whether directly or through reimbursement) of such separate account during the taxable year of the transfer for "qualified current retiree health liabilities," within the meaning of Code Section 420(e)(1).
- (c) No such transfer shall be made after December 31, 2013.
- (d) Any assets transferred, and any income allocable to such assets, shall be used only to pay "qualified current retiree health liabilities" for the taxable year of transfer.
- (e) Any amounts transferred to such separate account (and income attributable to such amounts) which are not used to pay "qualified current retiree health liabilities" shall be transferred back to the defined benefit portion of the Plan.
- (f) Amounts paid out of such separate account shall be treated as paid first out of transferred assets and income attributable to such assets.
- (g) The accrued pension benefits for Participants and Beneficiaries of the Plan shall become nonforfeitable as if the Plan had terminated immediately prior to the transfer (or in the case of a Participant who separated during the one-year period ending on the date of transfer immediately before such separation).
- (h) A transfer will be permitted only if the Medical Plan provides that the "applicable employer cost" for each taxable year during the "cost maintenance period" shall not be less than the higher of the "applicable employer costs" for each of the two taxable years immediately preceding the taxable year of the "qualified transfer" within the meaning of Code Section 420(b)(1). For purposes of the preceding sentence:

(1) The term “applicable employer cost” means, with respect to any taxable year, the amount determined by dividing

(i) The “qualified current retiree health liabilities” within the meaning of Code Section 420(e)(1)(A) of the Employer for such taxable year determined (I) without regard to any reduction under Code Section 420 (e)(1)(B), and (II) in the case of a taxable year in which there was no “qualified transfer,” in the same manner as if there had been such a transfer at the end of the taxable year,

by

(ii) (The number of individuals to whom coverage for “applicable health benefits” within the meaning of Code Section 420(e)(1)(C) was provided during such taxable year.

(2) The term “cost maintenance period” means the period of five taxable years beginning with the taxable year in which the “qualified transfer” occurs. If a taxable year is in two or more overlapping “cost maintenance periods,” the preceding sentence shall be applied by taking into account the highest “applicable employer cost” required to be taken into account for purposes of the first sentence of Section 13.7(h) for such taxable year.

(i) The requirements of Code Section 420(c)(3) shall be satisfied separately with respect to individuals eligible for benefits under Title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

(j) Transferred assets may not be used to provide Medical Expenses for “key employees” and their covered spouses and covered Dependents, if any.

13.8. Definitions.

As used in this Article 13, the following terms shall have the meanings indicated:

(a) “Claimant” means a Retiree, or his covered spouse or covered dependent child, who has submitted a claim for benefits under the Medical Plan.

(b) “Medical Expense” means an expense which is payable under the Medical Plan and which is an expense for “medical care” under Code Section 213(d)(1).

(c) “Medical Plan” means, collectively, the plan or plans maintained by Town pursuant to which Retirees and their covered spouses and dependents receive medical, prescription drug and dental benefits.

13.9. Annual Limitations.

For any Limitation Year, the Annual Additions on behalf of any Participant shall not exceed, in the aggregate, the lesser of (i) 100% of such Participant’s Compensation for such Limitation Year; or (ii) \$40,000, subject to cost-of-living adjustments under Section 415(d)(1)(C) of the Code. The term “Annual Addition” shall mean, for purposes of this Section

13.9, the sum of the following:

(a) Employer contributions allocable to such Participant for such Limitation Year under any qualified defined contribution plan maintained by the Employer;

(b) Forfeitures, if any, allocable to such person for such Limitation Year under any qualified defined contribution plan maintained by the Employer;

(c) Such person's voluntary non-deductible contributions under any other qualified plan of the Employer for such Limitation Year;

(d) Amounts allocated, after March 31, 1984, to an individual medical account, as defined in Section 415(1)(2) of the Code, which is part of a pension or annuity plan maintained by the Employer; and

(e) Amounts derived from contributions paid or accrued after December 31, 1985, in taxable years ending after said date, which are attributable to post-retirement medical benefits allocated to the separate account of such Participant, under a welfare benefit fund, as defined in Section 419(e) of the Code, maintained by the Employer.

The term "Compensation," for purposes of this Section 13.9, shall mean "Compensation" within the meaning of Clause (b) of the definition of "Compensation" in Article 1 of the Plan.

ARTICLE 14
MISCELLANEOUS

14.1. Alienation.

No benefit payable under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, any action by way of anticipating, alienating, selling, transferring, assigning, pledging, encumbering or charging the same shall be void and of no effect; nor shall any benefit be in any manner liable for or subject to the debts, contracts, liabilities, engagements, or torts of the person entitled to such benefit, except as specifically provided in the Plan.

14.2. Participant Bankruptcy.

If any Participant or Beneficiary under the Plan shall become bankrupt or attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber or charge any benefit, except as specifically provided in the Plan, then such benefit shall, in the discretion of the Pension Board, cease and terminate. In that event, the Pension Board shall hold or apply the benefit thereof to or for such Participant or Beneficiary, his spouse, children, or other dependents, or any of them, in such manner and in such proportions as the Pension Board shall in its sole discretion determine.

14.3. Participant's Rights.

The establishment of the Plan shall not be construed as conferring any rights upon any Employee or any person for a continuation of employment, and shall not be construed as limiting in any way the right of the Employer to discharge any Employee or to treat him without regard to the effect which such treatment might have upon him as a Participant of the Plan.

14.4. Distribution for Minor Beneficiary.

If any person entitled to receive any benefits from the Fund is, in the judgment of the Pension Board, legally, physically, or mentally incapable of personally receiving and receipting for any distribution, the Pension Board may make distribution to such other person, persons, or institutions as, in the judgment of the Pension Board, are then maintaining or have custody of such distributee.

14.5. Conclusive Determination.

The determination of the Pension Board as to the identity of the proper payee of any benefit under the Plan and the amount of such benefit properly payable shall be conclusive, and payment in accordance with such determination shall constitute a complete discharge of all obligations on account of such benefit.

14.6. Location of Beneficiary Unknown.

In the event any amount shall become payable from the Plan to a Designated Beneficiary or the executor or administrator of any deceased person and if, after written notice from the Pension Board mailed to such person's last known address, such person or such executor or

administrator shall not have presented himself to the Pension Board within two years after the mailing of such notice, the Pension Board shall distribute such amount due to such Beneficiary or such executor or administrator among one or more of the spouse and blood relatives of such deceased person designated by the Pension Board.

14.7. Status of Former Participant Upon Rehire.

Except as otherwise provided in this Agreement, if any Employee whose employment had previously terminated is restored to active service as an Employee, he shall be treated as any other newly employed person.

14.8. Headings.

Headings of articles of this Agreement are inserted for convenience of reference. They constitute no part of this Agreement and are not to be considered in the construction thereof.

14.9. Governing Law.

This Plan shall be construed according to the laws of the State of Connecticut.

The foregoing, executed this ___ day of _____, 2021, constitutes the PUBLIC WORKS PENSION FUND OF THE TOWN OF WESTPORT effective July 1, 2019 (except as otherwise indicated herein).

LOCAL 1303-385, Council 4, AMERICAN
FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES,
AFL-CIO

TOWN OF WESTPORT

By: _____
Joseph Izzo, President

By: _____
Jim S. Marpe, First Selectman

John Miller
Council 4, AFSCME, AFL-CIO Representative

The above and foregoing is a true and attested copy of the PUBLIC WORKS EMPLOYEES' PENSION FUND OF THE TOWN OF WESTPORT as amended and restated effective July 1, 2019.

Attest: _____
Jeffrey Dunkerton, Town Clerk

