

**TRUST AGREEMENT RESOLUTION
FOR THE
POST-RETIREMENT HEALTH CARE FUND FOR THE
CITY OF MONROE, MICHIGAN**

Effective January 1, 2013

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**TRUST AGREEMENT RESOLUTION FOR THE
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RECITALS

WHEREAS, the City of Monroe, Michigan (the "City") provides retiree health care benefits to eligible Retirees (and their Eligible Dependents) of the City through the Monroe City Retiree Health Care Plan (the "Plan").

WHEREAS, Monroe City has incurred liability under the terms of the Plan with respect to providing retiree health care benefits and Council established the Post-Retirement Health Care Fund (the "Fund") to provide a source of money to assist in meeting its liabilities under the Plan.

WHEREAS, it is the intention of the City to continue to make contributions to the Fund and the City desires to establish this formal Trust Agreement to govern the composition, management, control and disposition of the assets in the Fund (which Trust Agreement replaces and supersedes Resolutions governing the establishment and management of the Fund, as previously adopted by the City).

WHEREAS, the Fund and this Trust Agreement are intended to comply with the requirements of Public Employee Retirement Health Care Fund Investment Act, Public Act 1999, No. 149 (MCL §38.1211 et. seq.), and at all times be established and administered as a tax-exempt trust of a government instrumentality and political subdivision in accordance with Section 115 of the Internal Revenue Code 26 USC 115 ("Code").

WHEREAS, the City Mayor and Council of Monroe, Michigan have authorized the adoption, establishment and execution of this Trust Agreement.

NOW THEREFORE, the Mayor and Council hereby adopt this Trust Agreement Resolution for the Fund (the "Trust") and agree that the Trust shall be comprised, held and disposed of as follows:

ARTICLE I

CREATION, PURPOSE AND DEFINITIONS

Section 1.01 Creation of Trust. This Trust is created under the authority of the City Ordinances and the Public Employee Health Care Fund Investment Act at MCL §38.1211, et. seq. and is created as an essential function trust of the City of Monroe, Michigan under Section 115 of the Code. The creation and operation of the Trust are intended to comply with the requirements of Michigan law and the Code in all relevant aspects.

Section 1.02 Purpose of Trust. The purpose of this Trust is to provide a vehicle for funding and pre-funding retiree health care benefits to Participants as provided and governed by the Plan, which are payable from funds in the Trust or other eligible assets of the City.

Section 1.03 Definitions. When the initial letter of a word or phrase is capitalized, it shall have the meaning ascribed to under this Section 1.03 or as set forth in the Plan.

(a) "Administrator" means the City Manager of the City of Monroe, Michigan, which is charged with the responsibility to administer and oversee the day to day operations of the Plan.

(b) "Accounts" shall have the meaning ascribed to it under 2.01 below.

(c) "Council" means the City Council for the City of Monroe, Michigan.

(d) "Code" means the Internal Revenue Code of 1986, as amended, together with its related treasury regulations and rules. References to any Code provisions shall include successor provisions.

(e) "City" means the City of Monroe, Michigan.

(f) "Custodian" means the Director of Finance for the City of Monroe, Michigan.

(g) "Fiscal Year" means the 12-month period upon which the City operates, performs and reports its financial accounting and statements, beginning on each July 1st and ending the following June 30th.

(h) "Fund" means the Post-Retirement Health Care Fund, originally established by a Resolution of Council.

(i) "Investment Fiduciary" means any party who exercises any discretionary authority or control in the investment of the Fund's assets, or renders investment advice for the Fund for a fee or other direct or indirect compensation.

(j) "Investment Policy Statement" means the investment objectives and guidelines adopted by Council under which the delegated investment fiduciaries of the Fund shall carry out their duties under the Trust Agreement.

(k) "Mayor" means the elected Mayor for the City of Monroe, Michigan.

(l) "Participants" means the City's retired members and/or their eligible dependents who are covered by and entitled to retiree health care benefits under the terms of the Plan.

(m) "Party in Interest" has the meaning ascribed under MCL §38.1132d(4), which generally includes (i) an investment fiduciary, counsel, or employee of the City; (ii) a person providing services to the City; (iii) the City; (iv) an organization, any of whose members are covered by the Plan; (v) a spouse, ancestor, lineal descendant, or spouse of a lineal descendant of an individual described in subdivision (i) or (ii); and (vi) an entity controlled by an individual or organization described in subdivisions (i) to (v).

(n) "Plan" means the Monroe City Retiree Health Care Plan, previously outlined in City Policy Number 002, Section 400 (last revised September 19, 2011) which policy is replaced and wholly superseded by the terms of the written Plan document adopted by the City effective January 1, 2013.

(o) "Property" refers to any property, real or personal, or part interest therein, wherever situated, including, but without being limited to, preferred and common stocks, shares of investment companies, bonds, notes, debentures and mortgages, equipment trust certificates, investment trust certificates, interest in partnerships whether limited or general or in any insurance contract, policy, annuity, or other investment media offered by an insurance company.

(p) "Trust" means the trust established in this Trust Agreement Resolution for the Post-Retirement Health Care Fund.

(q) "Trustee" means the *Monroe City Retiree Health Care Board of Trustees*, created pursuant to Article V below and delegated as the investment fiduciary for the Trust Fund pursuant to MCL §38.1213(a).

(r) "Trust Fund" means all such money, Property, and all investments made therewith and proceeds thereof and all earnings and profits thereon held by the Custodian or Trustee in the Trust, less payments made by the Trustee.

ARTICLE II

TRUST AND TRUST ADMINISTRATION

Section 2.01 Trust Fund Established. A Trust Fund is hereby established by the City and shall be continued for the sole purpose of funding or pre-funding the obligations, liabilities and expenses of the Plan. The Trust Fund shall be held by the Custodian in trust and dealt with in accordance with the provisions of this Trust Agreement. Separate accounts may be created within the Trust Fund as deemed necessary by the Trustee or Council (e.g. to separately account for individual money managers or book keeping accounts to separately account for employee contributions).

Section 2.02 Contributions to the Trust Fund. The Council has the sole authority to decide the amount of contributions and deposits into the Trust Fund and may consult with an actuary regarding the funding levels necessary to pre-fund Plan obligations on an actuarial basis. Contributions, as determined in the sole discretion of Council, may consist of the following:

- (i) City contributions to fund or pre-fund retiree health benefits under the Plan.
- (ii) Other eligible funds of the City transferred into the Trust Fund for retiree health benefit-related expenses under the Plan.
- (iii) Mandatory employee contributions, which shall be deducted from active employees' compensation and remitted as the City's employer contributions into the Trust for purposes of federal tax compliance.

Section 2.03 Custodian's Responsibility. The Custodian shall accept, receive and hold all Property paid or remitted by the City or by other transfers and credits designated as assets for the Trust Fund, including the deposit of any existing assets in an account within the City attributable to, designated or earmarked as the Post-Retirement Health Care Fund. The Custodian shall have no authority over or responsibility for the management of the Trust Fund

and shall act as directed by the Trustee or Council pursuant to the terms of this Trust Agreement.

The Custodian shall account for all contributions made to and any payments or disbursements made from the Trust, and account for any cash reserves or other short-term, liquid investments that Council directs the Custodian to hold as set forth below. Within 20 days of the end of the preceding month, the Custodian will prepare a monthly financial report.

Section 2.04 Management of Trust Fund.

(a) Except as otherwise provided under this Agreement (including this section and Articles IV and VI), the Trustee shall act as the investment fiduciary for the Trust with the exclusive power to manage, invest and reinvest the assets of the Trust Fund in accordance with and limited by the terms of this Trust Agreement, the Investment Policy Statement and applicable law. With respect to its appointment as the investment fiduciary of the Fund, the Trustee shall not be subject to the direction of any other person in the discharge of its duties, nor shall its authority be subject to delegation or modification, except that such power is specifically subject to (i) the authority of Council to decide the reasonable level of liquid assets necessary to timely pay for the current and ongoing benefit and administrative expenses incurred under the Plan; (ii) the authority of Council to allocate for management a portion or all of the Trust Fund to an Investment Manager, Insurance Contract or Council itself as set forth in Article IV; or (iii) any term of this Trust Agreement that provides otherwise, including Council's discretion to amend the Trust to provide otherwise.

(b) The Custodian shall carry out the written investment directions given from time to time and shall carry out Council's written direction to hold a specified percentage or portion of the Trust Fund uninvested (in cash) or in other short-term, liquid investments that Council deems necessary to satisfy the current and ongoing benefit and administrative expenses of the Plan.

(c) The Trust Fund shall be invested and reinvested without any distinction between principal and income, as specifically directed by the Trustee.

(d) The Custodian or Trustee shall not be required to maintain separate investments for any Account under the Trust Fund, and no Participant shall have the right to separately direct the investment of any Account.

(e) The Trust shall not be treated as a pension account or asset for any purpose under the City of Monroe Employees' Retirement System Ordinance.

(f) The Trust at all times shall be administered so as to retain tax exempt status under Code Section 115.

Section 2.05 Exclusive Benefit Trust Payments.

(a) This Trust, as a separate and distinct trust fund, is created to perform an essential function of the City to fund and pre-fund retiree health care benefits for Participants pursuant to the terms of the Plan. The assets of this Trust shall be used for the exclusive benefit of Participants and to pay reasonable fees and expenses for the administrative cost and expense in carrying out the duties under the Trust, as approved by Council, for such essential governmental function.

(b) No portion of the principal or income of this Trust shall revert to the City, any creditor of the City or other individual, nor shall it be used for or diverted to any purpose other than the exclusive benefit of Participants or the payment of reasonable administrative expenses of the Trust or Plan, unless all obligations and liabilities of the Plan have been satisfied and such Plan and Trust are terminated.

(c) Any income or earnings of the Trust Fund shall be allocable to the Trust Fund or to each of the Accounts thereunder. Except as otherwise permitted under this Agreement, the Plan and applicable law, assets contributed to this Trust are irrevocable and may not be refused, refunded, or returned to the City or employee making such contribution, except as otherwise required under the terms of the Plan with respect refunding employee contributions, to the extent permitted by law, under the following circumstances:

- (i) When an employee quits, resigns or otherwise terminates his/her employment with the City prior to becoming eligible for retiree health care benefits under the Plan; or
- (ii) When an employee executes a voluntary, irrevocable waiver of retiree health care benefits under the Plan.

(d) Notwithstanding any other provision of this Trust Agreement, upon dissolution of the Trust, any assets remaining after the payment of debts and the satisfaction of liabilities are to be distributed to the City, or, as directed by Council, to one or more states, political subdivisions of states, the District of Columbia, or other organizations the income of which is excluded under Code Section 115(1).

(e) The assets of the Trust and any ability of a Participant to receive retirement health care benefits under the Plan shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or other process of law and shall be unassignable.

Section 2.06 Disbursements. Disbursements from the Trust Fund shall be made by the Custodian only upon written direction received from the Trustee or Council as limited by this Section.

(a) In accordance with and subject to the provisions set forth under this Trust Agreement, the Trustee may direct the Custodian to make disbursements from the Trust Fund solely with respect to management, investment or reinvestment of the assets of the Trust Fund, including payment of reasonable Trust expenses in accordance with Section 5.07, but shall have no authority to request or direct the Custodian to make disbursements from the Trust Fund with respect to benefit payments or other Plan expenses.

(b) The Administrator, upon Council approval, shall have the responsibility for coordinating disbursements or payments from the Trust Fund for the sole purpose of satisfying the obligations and expenses of the Plan. Without limiting the generality of the foregoing, but in furtherance thereof, Council may direct the Custodian to reimburse the City for any Plan benefit or Plan administrative expenses paid from general assets of the City on behalf of the Plan, to pay premiums to insurance companies; reimburse a third party administrator, a health care provider, or a Participant for benefit expenses incurred and payable under the terms of the Plan; or pay reasonable administrative expenses of the Plan. The Administrator shall notify Council of

any significant events or changes in the law that may impact the funding and pre-funding of the Plan's obligations.

(c) The Custodian shall accept written directions by facsimile or through other electronic communications, which shall have the same effect as a writing delivered by mail or in person. The Administrator, Council or Trustee shall ensure that any payment or disbursements that it directs under this Section conforms to the provisions of the Plan, this Trust Agreement and the provisions of any applicable law, and may direct the Custodian to pay such disbursement directly to the person or persons, natural or otherwise, at such time and in such amounts as specified in the Administrator's, Council's or Trustee's authorized directions to the Custodian.

ARTICLE III

SPECIFIC POWERS AND DUTIES OF THE TRUSTEES

Section 3.01 Trustee Duties.

The Trustee, as the investment fiduciary, shall discharge its duties as follows:

(a) Invest the assets of the Trust Fund in accordance with the written Investment Policy Statement that shall be adopted by Council and subject to the terms of this Trust Agreement.

(b) In consultation with its appointed investment advisor, recommend to Council changes to the Investment Policy Statement from time to time as necessary to carry out its investment fiduciary duties hereunder or to comply with applicable law.

(c) Communicate to any investment advisor or manager appointed under this Trust Agreement the investment goals, objectives, performance standards, financial, actuarial or any other information or matters that bear upon the proper investment management of the Fund, including providing a copy of this Investment Policy Statement to such party and any material changes that may subsequently occur.

(d) Act with the same care, skill, prudence and diligence under the circumstances then prevailing that a prudent person, acting in a similar capacity and familiar with those matters, would use in the conduct of a similar enterprise with similar aims.

(e) Act with due regard for the management, reputation and stability of the issuer and the character of the particular investments being considered.

(f) Discharge its duties solely in the interest of the City and make investments for the exclusive purpose of providing retiree health care benefits to Participants under the terms of the Plan and defraying reasonable expenses of investing the assets of the Trust Fund.

(g) Give appropriate consideration to those facts and circumstances that the Trustee knows or should know are relevant to the particular investment or investment course of action involved, and act accordingly. For purposes of this subsection, "appropriate consideration" includes, but is not limited to, a determination by the investment fiduciary that a particular investment or investment course of action is reasonably designed, as part of the investments of the Trust Fund, to further the purposes of the Trust and Fund, taking into consideration the risk

of loss and the opportunity for gain or other return associated with the investment or investment course of action; and consideration of the following factors as they relate to the investment or investment course of action:

- (i) The diversification of the investments of the system.
- (ii) The liquidity and current return of the investments of the system relative to the anticipated cash flow requirements of the system.
- (iii) The projected return of the investments of the system relative to the funding objectives of the system.

(h) Give appropriate consideration to investments that would enhance the general welfare of this City and its citizens if those investments offer the safety and rate of return comparable to other investments permitted by applicable law and this Agreement and available to the Trustee at the time the investment decision is made.

(i) Monitor the investment of the assets with regard to the limitations on those investments pursuant to this Agreement, the Investment Policy Statement for the Trust Fund and applicable law, as well as monitor the performance of any investment advisor or manager duly appointed under this Agreement. Upon discovery that an investment causes the Trust to exceed a limitation so prescribed or the advisor or manager fails to perform as mutually expected, the Trustee shall reallocate assets in a prudent manner in order to comply with the prescribed limitation and or take corrective action to remove or remediate the action of such advisor or manager.

(j) Within its written accounting report submitted to Council each Fiscal Year under Article VII, annually publish and make available to Council a list of all expenses paid by soft dollars (i.e. brokerage commissions that are used by the Trust Fund to purchase goods or services) to the extent required by the Public Employee Retirement System Investment Act (MCL 38.1132, et. seq.).

Section 3.02 Trustee Powers. The Trustee shall have the right, power and authority to take any action and to enter into and carry out every agreement with respect to the Trust Fund that may be necessary or advisable to discharge its responsibilities with respect to the Trust Fund; provided, however, that powers and duties shall be discharged in accordance or compliance with and subject to this Trust Agreement, the Investment Policy Statement adopted by Council and applicable law. Such powers shall include:

(a) To use a portion of the income of the Trust Fund to defray the costs of investing, managing, and protecting the assets of the Trust Fund.

(b) To retain, manage, improve, repair, operate and control all property, real or personal, at any time comprising part of the Trust Fund.

(c) To purchase, subscribe or otherwise acquire for the Trust Fund any securities or other property. In making investments, the Trustee shall diversify the investments so as to minimize the risk of large losses, unless under the circumstances it is the Trustee's opinion it is not prudent to do so.

(d) To sell, exchange, convey, convert, redeem, transfer, grant options upon, lend or otherwise dispose of any securities or property held by the Trust Fund, by private contract or at public auction, for cash or on credit, and no person dealing with the Trustee shall be required to see to the application of the purchase money or to inquire into the validity, expediency or propriety of any such sale, action or other disposition.

(e) To the extent approved by Council, to settle, compromise or arbitrate any claims, debts or damages, due or owing to or from the Trust; to commence or defend suits or legal proceedings; and to represent the Trust in all suits or legal proceedings.

(f) To exercise any conversion privilege or subscription right in connection with any securities or other property of the Trust Fund; to consent or object to the reorganization, consolidation, merger or readjustment of the finances of, or to the sale, mortgage, pledge or lease of the property of any corporation or association, any of the securities of which are in the Trust Fund; to do any act with reference to the above, including the exercise of options, making of agreements and payment of expenses or assessments which may be deemed necessary or advisable in connection therewith; and to hold and retain any securities or other property which it may so acquire.

(g) To vote, personally or by general or limited proxy, any stock in the Trust Fund and similarly to exercise, personally or by general or by limited power of attorney, any right appurtenant to any securities or other property in the Trust Fund.

(h) To the extent approved by Council, to borrow money in such amounts and upon such terms and conditions as shall be deemed advisable or proper to carry out the purposes of the Trust and to pledge any securities or other property in the Trust Fund for the repayment of any such loan.

(i) To renew or extend or participate in the renewal or extension of any mortgage, upon such terms as may be deemed advisable and to agree to reduction in the rate of interest on, or to any other modification or change in the terms of, any mortgage or any guarantee pertaining thereto, in any manner and to any extent that may be deemed advisable for preserving the value of the investment; to waive any default in the performance of any covenant or condition of any mortgage or in the performance of any guarantee, or to enforce any such default in such manner and to such extent as may be deemed advisable; to exercise and enforce any and all rights of foreclosure, to bid on property in foreclosure, to take a deed in lieu of foreclosure with or without paying a consideration therefor and in connection therewith to release the obligation on the bond secured by such mortgage and to exercise and enforce in any proceeding at law or in equity any rights or remedies in respect to any such mortgage or guarantee.

(j) To hold part or all of the Trust Fund uninvested, without liability for payment of interest thereon for a reasonable period of time.

(k) To the extent approved by Council and for no longer than a two year term, to employ suitable providers, vendors, advisers, attorneys or other professionals as may be necessary or desirable, in the opinion of the Trustee or pursuant to the Investment Policy Statement, in the administration of the Trust Fund, and to pay them reasonable expenses and compensation as may be agreed upon as an administrative expense of the Trust Fund. All outside professionals must agree in writing to be bound by the City's Code of Ethics Ordinance. The Trustee must review the performance of such professionals at least annually and make

recommended changes to Council as necessary. Except as otherwise waived by Council, at the end of the two-year term, the Trustee must solicit and evaluate, at a minimum, two competitive bids or request for proposals (in addition to any resubmitted proposal by the preceding professional), and submit its recommendation for such the third party services for Council approval.

(l) To hold any securities in bearer form or by electronic book entry.

(m) To execute and deliver deeds, leases, mortgages, conveyances, contracts, waivers, releases or other instruments necessary or proper for accomplishing the foregoing powers.

Section 3.03 Restrictions on Trustee Powers.

(a) The Trustee shall not cause the Trust to engage in a transaction if the Trustee knows or should know that the transaction is any of the following, either directly or indirectly:

- (i) A sale or exchange or a leasing of any property from the Trust to a Party in Interest for less than the fair market value, or from a Party in Interest to the Trust for more than the fair market value.
- (ii) A lending of money or other extension of credit from the Trust to a Party in Interest without the receipt of adequate security and a reasonable rate of interest, or from a Party in Interest to the Trust with the provision of excessive security or at an unreasonably high rate of interest.
- (iii) A transfer to, or use by or for the benefit of, the City of any assets of the Trust for less than adequate consideration (except for purposes of providing benefits under the Plan or defraying reasonable administrative expenses of the Plan or Trust Agreement).
- (iv) The furnishing of goods, services, or facilities from the Trust to a Party in Interest for less than adequate consideration, or from a Party in Interest to the Trust for more than adequate consideration.

(b) The Trustee shall have no authority to administer the Plan or direct the Custodian to make disbursements that are related to benefits or expenses incurred under or attributable to administering the Plan. Subject to Council's reserved authority to amend the Plan or Trust, the Administrator shall have the authority to determine the benefit program structure and to administer and oversee the day to day operations of the Plan, including the determination of plan design and benefit structure; Participant cost sharing requirements; and retention and procurement of all service providers, actuaries, insurers or other third party administrators necessary for the proper administration of the Plan. The Council has exclusive authority to determine the portion of Trust Fund assets that should be held by the Custodian in cash or other short-term, liquid investments and direct disbursements from the Trust Fund to ensure the timely payment of benefit and administrative expenses incurred under the Plan.

(c) With respect to the Trust Fund, the Trustee shall not do any of the following:

- (i) Deal with the assets of the Trust in his or her own interest or for his or her own account.

- (ii) In his or her individual or any other capacity act in any transaction involving the Trust on behalf of a party whose interests are adverse to the interests of the Trust or the interest of the Participant covered under the Plan.
- (iii) Receive any consideration from any party dealing with the Trust in connection with a transaction involving the assets of the Trust Fund (other than for the benefit of the Trust Fund).
- (iv) Invest in a debt instrument issued by a foreign country that has been identified by the United States state department as engaging in or sponsoring terrorism.

(d) Notwithstanding the foregoing, this section does not prohibit an investment fiduciary from doing any of the following:

- (i) Receiving any benefit to which he or she may be entitled as a Participant covered under the Plan.
- (ii) Receiving any reimbursement of expenses properly and actually incurred in the performance of his or her duties as Trustee for the Trust Fund and in accordance with City policies providing for reimbursement of expenses.
- (iii) Serving as an investment fiduciary in addition to being an officer, employee, agent, or other representative of the City.
- (iv) Receiving agreed upon compensation for services rendered to the City not related to services as Trustee.

ARTICLE IV

INVESTMENT MANAGERS, INSURANCE CONTRACTS AND COUNCIL DIRECTION

Section 4.01 Appointment of Investment Managers or Insurance Contracts.

(a) The Council, from time to time by written instrument delivered to the Trustee, may designate any part or all of the Trust Fund to be allocated to one or more separate investment accounts ("Separate Investment Accounts"), or separate insurance contract accounts ("Separate Insurance Contract Accounts"). With respect to each Separate Investment Account, Council shall:

- (i) appoint an investment manager that (x) is a registered investment adviser under either the investment advisers act of 1940, 15 USC 80b-1 to 80b-21, the uniform securities act, 1964 PA 265, MCL 451.501 to 451.818, or the uniform securities act (2002), 2008 PA 551, MCL 451.2101 to 451.2703, (y) is a bank as defined under the investment advisers act of 1940, 15 USC 80b-1 to 80b-21, or (z) is an insurance company qualified under MCL section 38.1136(3), who shall acknowledge by written instrument delivered to Council that it is a fiduciary with respect to the Separate Investment Account, and

- (ii) deliver to the Trustee a copy of the written instrument described in (i) above and evidence satisfactory to the Trustee that the investment manager satisfies these requirements.

With respect to each Separate Insurance Contract Account, Council shall cause to be paid, or shall direct the Custodian or Trustee to pay, such sums to such insurance company or companies as Council shall designate to purchase or continue in effect such contracts, including, but not limited to, contracts of the deposit administration type, annuity and/or policies of life insurance issued by such life insurance company or companies, whether or not on a group basis, as Council shall specify, and any such contract may be allocated by the insurance company or companies to its general account or to one or more of its separate accounts. In addition, Council may at any time, or from time to time, deposit with the Custodian or Trustee as part of the Trust Fund such a contract or contracts, and such contract or contracts, whether contracted for and purchased by Council or by the Trustee, shall be treated as assets to the Trust Fund. The Council may from time to time remove an investment manager or insurance company, and may, from time to time, direct the Custodian or Trustee to transfer assets from one separate account to another, or to transfer assets to or from the Trust Fund to a Separate Investment Account or Separate Insurance Contract Account. The Council shall by written instrument delivered to the Custodian and Trustee notify them of the name and specimen signature of each individual who is authorized to act for an investment manager or insurance company. With respect to each separate account, the Custodian and Trustee may rely conclusively upon a written instrument appointing an investment manager or insurance company and designating the person or persons authorized to act for the investment manager or insurance company, until such time as the Trustee receives notice of the removal of the investment manager or insurance company, or the change of the designated person or persons authorized to act with respect to the separate account.

(b) Should an investment manager at any time elect to place security transactions directly with a broker or dealer, the Custodian or Trustee shall not recognize such transaction unless and until it has received instructions or confirmation of such fact from the investment manager. Should the investment manager direct the Custodian or Trustee to utilize the services of any person with regard to the assets under its management or control, such instructions shall be in writing and shall specifically set forth the actions to be taken by the Custodian or Trustee as to such services.

(c) In the event that an investment manager places security transactions directly or directs the utilization of a service, the investment manager shall be solely responsible for the acts of such persons. The sole duty of the Custodian or Trustee as to such transactions shall be incident to its duties as custodian.

(d) Notwithstanding any other provision of this Agreement, an investment manager shall not have the power to lend assets of the Trust Fund unless the exercise of such power by the investment manager has been authorized in writing by Council and the Custodian and Trustee shall not accept any direction by an investment manager to exercise such power unless it shall have received satisfactory evidence that Council has granted such authority to the investment manager.

Section 4.02 Duties Relating to Separate Investment Accounts. If a Separate Investment Account is established, the Custodian and Trustee shall act upon the written instructions of the duly appointed investment manager to complete receipt or delivery of assets purchased or sold with respect to such account. The investment manager shall have sole

responsibility for determining how any corporate securities held in such account are to be voted and the Trustee may not vote any such securities except in the manner directed by such investment manager. The Trustee shall have responsibility and authority for determination of the fair market value of assets held in a Separate Investment Account, but may rely conclusively upon the certification of the investment manager as to the value of any such assets. The Trustee shall be under no obligation to make any investment review or to consider the propriety of holding or selling any securities or property in a Separate Investment Account. Upon the establishment of a Separate Investment Account, the Trustee shall be relieved and released of all investment duties, responsibilities and liabilities with respect to the assets of such Account.

Section 4.03 Transfer of Assets to Investment Manager. If a Separate Investment Account is established, the Trustee may, upon direction of Council, permit the investment manager to hold such portion or all of the assets allocated to the Separate Investment Account for the purpose of investing such assets in accordance with Section 4.07. The Trustee shall be under no obligation to make any investment review or to consider the propriety of holding or selling any securities or property held by an investment manager, nor shall the Trustee have any duty to account for or value the assets held by an investment manager other than to consolidate the valuations received by the Trustee from the investment manager for purposes of rendering the accounts. The Trustee may rely conclusively upon the certification by the investment manager of the value of the assets held in the Separate Investment Account.

Section 4.04 Duties Relating to Insurance Contracts. If a Separate Insurance Contract Account is established, the Trustee shall enter into such insurance contract or contracts as Council shall direct, or Council shall enter into any such contract(s) which it determines to be appropriate, and the insurance company shall have exclusive responsibility for the investment and management of any amounts held under such contract or contracts. The Trustee shall be under no obligation to make any investment review or to consider the propriety of holding or selling any securities or property held by the insurance company under any contract, nor shall the Trustee have any duty to account for or value assets held by the insurance company other than to consolidate the valuations received by the Trustee from the insurance company for purposes of rendering the accounts. The Trustee may rely conclusively upon the certification by the insurance company of the value of the assets held by the insurance company.

Section 4.05 Investment of Cash. Except to the extent an investment manager does so, the Trustee or Custodian shall invest the cash of a Separate Investment Account, for short term purposes by purchasing, holding and selling United States Treasury Bills, commercial paper, banker's acceptances, certificates of deposits, money market mutual funds, and similar short term investments, including undivided interests or participations therein and participations in common or collective funds composed of temporary or short-term investments, including such funds maintained by the Trustee.

Section 4.06 Limitation of Liability of Trustee. To the extent Council exercises its powers under this Article IV, the investment managers and insurance companies shall be allocated all fiduciary responsibility with respect to investments in a Separate Investment Account or a Separate Insurance Contract Account under the management of such investment manager or insurance company (except to the extent the Trustee invests cash as hereinbefore provided). The Trustee shall not have any duty or obligation to review any investments to be acquired, held or disposed of pursuant to the directions of an investment manager or insurance company nor to review, or make recommendations with respect to, the retention or disposition of any such investment. Except as otherwise may be provided by applicable state or federal

law, the Trustee shall not incur any liability for any loss of any kind which may result from the Trustee's acting without question on the direction of, or failing to act in the absence of any direction from, an investment manager or insurance company. Nevertheless, Council shall indemnify the Trustee and hold it harmless from all damages, liabilities, claims, costs and expenses, including reasonable attorney fees, incurred by or assessed against the Trustee by reason of its acting upon any direction of an investment manager or insurance company or by reason of its failure to act in the absence of any such direction, except any claim or liability by reason of its failure to invest cash balances in accordance with Section 4.05 hereof. The Trustee shall not be deemed to be a party to or to have any obligations under any agreement with any investment manager. On receipt of directions from an investment manager or insurance company, the Trustee shall promptly make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out such directions. The Trustee shall be fully protected in relying upon any telegram, facsimile, telecopy, letter or other communication purporting to have been sent by the investment manager which the Trustee believes in good faith to be genuine.

Section 4.07 Powers of Investment Manager and Insurance Company. An investment manager or insurance company shall, except as otherwise provided in Section 4.01(d) hereof, have the investment powers and duties hereinbefore granted to or imposed upon the Trustee in Article IV.

Section 4.08 Council Direction. Notwithstanding any other provision of this Agreement, Council shall have the authority to direct the investment and reinvestment of all or any portion of the Trust Fund in one or more investments as permitted by Article IV hereof and to exercise the powers set forth therein. In the event that Council elects to exercise its authority under this Section 4.08, the following provisions shall apply and override contrary provisions:

(a) Council shall deliver to the Custodian and Trustee a resolution of Council directing the investment or reinvestment of all or any portion of the Trust Fund or designating the individuals who are authorized to exercise on behalf of Council the authority set forth in this Section 4.08. The Custodian and Trustee shall be entitled to rely upon such resolution until a subsequent resolution of Council is delivered to them. Any direction to the Custodian or Trustee pursuant to this Section 4.08 shall be in writing and each such written direction shall constitute Council's certification that the direction given or confirmed thereby is a proper direction.

(b) The Council shall be the named investment fiduciary with respect to any directed investments pursuant to this Section 4.08. The Custodian or Trustee shall follow the directions of Council with respect to investment and reinvestment of the portion of the Trust Fund under the control of Council and shall not have any duty to review any investment to be made pursuant to such directions or to make any recommendation with respect to the disposition or continued retention of any such investment. Nevertheless, Council hereby agrees to indemnify the Custodian and Trustee and hold them harmless from any claims, damages, losses, costs and expenses, including reasonable attorney fees, incurred by or asserted against the Custodian or Trustee by reason of its acting on any direction of Council or by reason of its failure to act in the absence of any such direction, including, without limitation, any claims which arise out of any allegation that, as a result of any Council-directed investment, the Custodian or Trustee has become liable for, or on account of, any breach by Council, or any other person or entity, of any of their respective responsibilities, obligations or duties under applicable law.

(c) The Council shall have sole responsibility for determining how any corporate securities purchased by the Trustee pursuant to the direction of Council are to be voted and the

Trustee may not vote any such securities except in the manner directed by Council. The indemnification provisions set forth above shall be applicable to any claims, damages, losses, costs and expenses, including reasonable attorney fees, incurred by or asserted against the Trustee as a result of any voting of securities by the Trustee in accordance with the direction of Council or any failure by the Trustee to vote securities in the absence of such direction.

(d) In the event that Council desires to relinquish its authority to direct the investment of any portion of the Trust Fund as exercised under this Section 4.08, it shall provide written notice thereof to the Custodian and Trustee at least sixty (60) days in advance of the date upon which it will discontinue exercising such authority. Within thirty (30) days after its receipt of such notice, the Trustee, in its sole discretion, shall either (i) advise Council in writing that, at the expiration of such sixty (60) day period, it will manage the investment of such portion of the Trust Fund or (ii) advise Council in writing that it will not manage such portion of the Trust Fund, in which event Council shall continue to manage such portion of the Trust Fund until an investment manager or an insurance company is appointed to manage such portion of the Trust Fund in accordance with Section 4.01 hereof.

ARTICLE V

CONCERNING THE TRUSTEE

Section 5.01 Trustee-Members. The Monroe City Retiree Health Care Board of Trustees shall serve as the Trustee of this Trust Fund (except as otherwise provided under Article IV above). The Council shall have the sole and exclusive authority to prudently select and appoint each trustee-member of the Monroe City Retiree Health Care Board of Trustees, in accordance with the following guidelines:

(a) The Monroe City Retiree Health Care Board of Trustees shall be comprised of no fewer than three (3) and no more than nine (9) trustee-members, as determined by Council.

(b) One member may be the Mayor or a Councilperson of the City of Monroe, Michigan, as selected by Council.

(c) At Council's discretion, one member may be from the City's Manager, Finance or Human Resources Department, for whom is tasked with the day to day operation and administration of the Plan.

(d) The Monroe City Clerk/Treasurer or his/her designee shall not be appointed as a trustee-member.

(e) All trustee-members appointed should be, in the judgment of Council:

- (i) financially literate (i.e. have the ability to read and understand financial statements and ask relevant questions regarding financial risks);
- (ii) have an understanding of fiduciary duties with the aptitude and fortitude to actively participate in decisions and contested matters; and
- (iii) have the ability to comprehend actuarial valuations and their impact on funding obligations.

Section 5.02 Oath of Offices. Each trustee-member shall take an oath of office administered by the City Clerk/Treasurer, and agree to discharge his or her duties in accordance with all provisions of this Trust Agreement and in a manner consistent with and subject to City Code of Ethics Ordinances.

Section 5.03 Chairperson, and Vice Chairperson. The Trustee members shall appoint a Chairperson and Vice Chairperson for the Retiree Health Care Board of Trustees from the existing Trustee-members. The Chairperson shall preside over the meetings of the Trustee. If the Chairperson is unable to preside over a meeting, the Vice Chairperson shall preside over that meeting.

Section 5.04 Monitoring, Resignation, Removal, and Vacancies of Trustee-Members.

(a) **Monitoring.** Council shall periodically evaluate the performance of the appointed Trustee-members, Chairperson and Vice Chairperson and, in its sole discretion, make any changes to member appointments or composition of the Board of Trustees.

(b) **Resignation.** Any trustee-member (including the Chair or Vice Chairperson) may resign by giving thirty (30) days' advance, written notice of intention to do so to the Mayor or such shorter notice as Council may approve.

(c) **Removal.** The Council may remove any trustee-member (including the appointed Chair or Vice Chairperson) at a meeting of Council without any advance notice. The Council will notify the trustee-member of his or her removal by certified mail within ten (10) business days following Council's removal decision.

(d) **Automatic Removal.** If a trustee-member (including the Chair or Vice Chairperson) is a City Council member, City officer or employee or Participant when appointed as a trustee-member, then such individual shall be automatically removed as trustee-member at the earliest time such individual ceases to be a City Council member, officer, employee or Participant. Any trustee-member who fails to attend three consecutive meetings shall be automatically removed, unless excused for cause by the trustee-members attending the meeting. The removal under this paragraph shall occur automatically and without any requirements for action by Council or any notice to the individual so removed.

(e) **Vacancies.** When any person appointed as a trustee-member ceases to be a trustee-member, the remaining trustee-members then serving, or successor trustee-members subsequently appointed, as the case may be, shall become vested with full powers of the Trustee as set forth and subject to the terms of this Trust Agreement.

The Council shall have the sole discretion and exclusive authority to fill any trustee-member vacancies, subject to the guidelines set forth in Section 5.01. The Council will immediately appoint, at a special meeting of Council called for this purpose, a successor trustee-member if the vacancy results in fewer than 3 trustee-members remaining on the Monroe City Retiree Health Care Board of Trustees.

Section 5.05 Meeting, Quorum, and Voting.

(a) **Open Meetings.** The Monroe City Retiree Health Care Board of Trustees shall hold meetings and shall designate the time and place of each meeting. Such Trustee meeting shall be held regularly, at least quarterly, except during any period in which the Council has delegated management of all Trust assets to another party under Article IV. All Trustee meetings shall be public and shall be held subject to the provisions of the Open Meetings Act. Notice of the meetings will be posted at the Monroe City Hall prior to each meeting.

(b) **Quorum and Voting.** A quorum of the Monroe City Retiree Health Care Board of Trustees shall consist of a majority of the then serving trustee-members. When a quorum is present at any meeting, a majority of the trustees-members present and voting shall decide any questions brought before such meeting, and the action of the trustee-members present and voting, so long as a quorum is present, shall be valid and binding as the action of the Trustee. Each trustee-member present at the meeting where a quorum is present shall only have one vote. If a dissenting trustee-member, within a reasonable time after he or she has knowledge of any action or failure to act by the majority, registers his or her dissent in writing and delivers such dissent to the other trustee-members and to Council, the dissenting member will not be responsible for any such action or failure to act.

Section 5.06 Role of City Clerk/Treasurer and Record of Proceedings. The Monroe City Clerk/Treasurer, or his/her designee, shall act as the clerk and secretary to the Trustee and shall attend all Trustee meetings. The Clerk/Treasurer, or his/her designee, shall keep a written record and minutes of all Trustee meetings and decisions, which shall be made available to all trustee-members within seven (7) calendar days in advance of the next Trustee meeting and will be made available to the Mayor and Council at the same time. Such record and minutes of the Trustee meetings and decisions shall be duly approved by the Trustee at the next Trustee meeting. The Clerk/Treasurer, or his/her designee, shall not serve or be appointed as a trustee-member under this Trust Agreement.

Section 5.07 Compensation and Expenses. The trustee-members shall serve without additional compensation for their services as trustee-members. Trustee-members who are employees of the City shall continue to be paid their regular compensation for performance of their regular duties with the City, which may include fulfilling their duties as Trustees; provided that no additional compensation shall be paid or owing to such employee solely with respect to such employee's performance of additional services, allocation of additional time and effort in his/her role as a trustee-member.

No later than one hundred twenty (120) days before the beginning of each Fiscal Year, or such other reasonable period as consented to by Council, the Trustee shall prepare, or cause to be prepared, and file with Council an estimated fiscal budget for the reasonable and necessary costs and expenses expected to be incurred by the Trustee for performance of trustee duties under this Trust Agreement for the upcoming Fiscal Year. The fiscal budget must be approved by Council before the Trustee-members will be entitled to reimbursement for any such costs and/or expenses incurred by them. If the Trustee-members incur reasonable and necessary costs or expenses in excess of the fiscal budget approved by Council, the Trustee must submit a revised budget for Council approval. Reimbursements within the approved budget for reasonable and necessary costs and expenses shall be paid from the Trust Fund if not paid directly from the City.

Section 5.08 Education. In addition to Section 5.07, upon the approval and direction of Council, each trustee-member may attend educational conferences, trainings and seminars that take place solely within the State of Michigan (unless outside of Michigan venue is otherwise approved by Council) to enable the trustee-member to competently fulfill his/her duties and obligations as the investment fiduciary of the Trust Fund. The Chairperson of the Monroe City Retiree Health Care Board of Trustees shall present a proposal to Council at least once a Fiscal Year of the proposed education for the year. The trustee-members shall be entitled to reimbursement for all reasonable and necessary cost, expenses and disbursement incurred by them in attending the educational conference, training or seminar that has been approved by Council. Notwithstanding the foregoing, trustee-members are encouraged to attend, at their own expense, other educational conferences, training or seminars throughout the duration of their appointment as trustee-members of the Trust Fund to enable them to prudently fulfill their roles as investment fiduciaries for the Trust Fund.

ARTICLE VI

LIMITATIONS OF RESPONSIBILITY/INDEMNIFICATION

Section 6.01 Trustee Responsibilities. The Trustee's responsibilities and liabilities shall be subject to the following limitations and other limitations as set forth by law:

- (a) The Trustee shall have no duties other than those expressly set forth in this Trust Agreement, or those imposed on the Trustee by applicable laws.
- (b) The Trustee shall be responsible only for money and property actually received and held in trust by the Custodian under this Trust Fund.
- (c) The Trustee shall have no liability for the (i) acts or omissions with respect to Council's disbursement requests to the Custodian from the Trust Fund to pay for the benefits or administrative expenses incurred under the Plan, (ii) acts or omissions with respect to Council's exercise of power under Article IV, or (iii) the acts or omissions regarding any aspect related to establishing, operating and administering the Plan.
- (d) The Trustee shall be protected in acting in good faith upon any paper or document believed by such Trustee to be genuine and believed to have been made, executed, or delivered by the parties purporting to have made, executed, or delivered the same. So long as the Trustee commits no act of willful misconduct, bad faith or gross negligence, the Trustee shall not be held personally answerable nor personally liable for either (i) any liability or debt contracted by it as Trustee or for the non-fulfillment of contracts, or (ii) for any error of judgment or for any loss arising out of any act or omission, whether or not performed at the request of the Trustee or any employee, agent or attorney elected or appointed by or working for the Trustee, to the fullest extent allowed by law.
- (e) The Trustee shall not be responsible for the adequacy of the Trust Fund to meet and discharge any obligations under the Plan. The Council shall have the sole discretion and exclusive authority to decide the amount and timing of all contributions to be made to the Trust Fund.
- (f) The Trustee shall neither be required to take action to enforce the payment of any contribution or appropriation to the Trust Fund nor determine that the contributions

deposited in the Trust Fund comply with the provisions of applicable law, the Plan, applicable collective bargaining agreements or any resolution of Council.

Section 6.02 Indemnification. To the fullest extent allowed by law and to the extent not covered by insurance or indemnified by a third party, the City and Trust Fund shall indemnify and hold harmless each trustee-member from any personal liability to which the trustee-member may be subjected by reason of any act done or omitted to be done in his or her official capacity as Trustee, unless such personal liability arises out of or result from the willful misconduct, gross negligence or intentional wrongdoing of the trustee-member.

Section 6.03 Suit and Proceeding. The cost and expenses of any action, suit, or proceeding brought by or against the Trustee, which costs and expenses shall include attorney fees, shall be paid from the Trust Fund, to the extent not covered by insurance, except in relation to matters as to which it shall be adjudged in such action, suit, or proceeding that the Trustee was acting in bad faith, was grossly negligent or was guilty of willful misconduct in the performance of such Trustee's duties. Such reimbursement shall be to the fullest extent allowed by law, except that the Trust may not reimburse the Trustee for expenses covered by insurance or reimbursed by any third party.

Section 6.04 Errors and Omissions Insurance. The Council may direct the City or the Trust Fund to purchase insurance to cover liability or losses incurred by reason of the act or omission of a Trustee or other fiduciary of the Trust or Plan.

ARTICLE VII

ACCOUNTING AND RECORD KEEPING

Section 7.01 Accounting. The Custodian issues its accounting and report to Council and Trustee as required under Section 2.03 above. The Trustee also shall maintain or cause to be maintained its own suitable records, data, and information relating to its Trust responsibilities. The Trustee's books and records relating thereto shall be open to inspection and audit to Council and to any others as required by law at reasonable times.

Within sixty (60) days following the close of each Fiscal Year, or such other reasonable period as consented to by Council, the Trustee shall prepare, or cause to be prepared, and file with Council a written account setting forth all investments, receipts, disbursements and other transactions effected by the Trustee or the Custodian during the Fiscal Year, including a description of all securities and investments purchased and sold, with the cost or net proceeds of such purchases or sales, and showing all cash, securities and other property held, including values at the end of such Fiscal Year, in such form as determined by the Trustee, or as otherwise directed by Council.

The Trustee also shall render such further reports from time to time as may be requested by Council and shall submit its final report and account to Council when the Monroe City Retiree Health Care Board of Trustees shall cease to be the Trustee of this Trust Fund.

Section 7.02 Audit. As required by law or at the direction of Council, an audit shall be conducted of the Trustee's financial statements by a qualified independent certified accounting firm selected by Council in accordance with generally accepted auditing standards. The Trustee shall cause the results of any such audit to be included within the comprehensive annual financial report submitted to Council.

Section 7.03 Actuarial Review of the Trust Fund. An actuarial review of the Trust Fund, including the funding progress of the Trust and the liabilities and obligations under the Plan shall be prepared at least once every two (2) years, or on a more frequent basis as directed by Council. The actuary shall be retained by the Administrator as a function of the administration and day to day operations of the Plan and shall issue its written actuarial report to Council and a copy shall be served on the Trustee, and the Administrator.

Section 7.04 Record Retention. The Trustee shall retain its records relating to the Trust as long as necessary for the proper administration of the Trust and Plan, and for at least a period of seven years or longer period required by law.

ARTICLE VIII

GENERAL PROVISIONS

Section 8.01 Construction and Governing Law. This Trust Agreement shall be construed, enforced and administered in accordance with the Code and laws of the State of Michigan. If any provision of the Trust Agreement is held to violate the Code or to be illegal or invalid for any other reason, that provision shall be deemed to be null and void, but the invalidation of that provision shall not otherwise affect the Trust.

The headings and subheadings in this Trust Agreement are inserted for convenience of reference only and are not to be considered in the construction of any provision of the Trust Agreement.

In resolving any conflict among provisions of this Trust Agreement and in resolving any other uncertainty as to the meaning or intention of any provision of this Trust Agreement, the interpretation that (i) causes the Trust to be exempt from federal taxation as an integral part of the City, (ii) causes the Trust to comply with all applicable requirements of the Code, and (iii) causes the Trust to comply with applicable State law, shall in that order prevail over any different interpretation.

Section 8.02 Duration of Trust. Unless sooner terminated, the Trust created under the Trust Agreement shall continue for the maximum period of time permitted by the laws of the State.

Section 8.03 Amendment. The Council has the sole discretion and exclusive authority to amend this Trust at any time and in any manner permitted by applicable law.

Section 8.04 Termination of Trust. This Trust Agreement and the Trust created hereby may be terminated at any time. In the event that contributions to the Trust have terminated completely and all assets of the Trust have been distributed in accordance with the purposes and provisions of this Trust Agreement, the Plan and applicable law, Council may terminate the Trust completely by appropriate resolution specifying the date of such termination and any residual assets shall revert to the City in accordance with law, including Code Section 115.

Section 8.05 Parties Bound. This Trust Agreement shall be binding upon the Trustee, Council, the Custodian, the Administrator and all Participants, and, as the case may be, the heirs, executors, administrators, successors, and assigns of each of them.

Section 8.06 Severability. If any provision of the Trust Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of the Trust Agreement shall continue to be fully effective.

EXECUTION PAGE

In Witness Whereof, the City of Monroe, Michigan, through its City Council and Mayor, has caused this Trust Agreement to be effective as of January 1, 2013, and, hereby agrees to the provisions of this Trust.

CITY COUNCIL OF THE CITY OF MONROE, MICHIGAN

Dated: 12-6-, 2012



By: Robert E. Clark
Its: Mayor for the City of Monroe, Michigan



By: Charles Evans
Its: Clerk/Treasurer for the City of Monroe, Michigan

Dated: 12-6-, 2012

The Trustee, Custodian and Administrator, by signing below, hereby accept the Trust and their positions, and agree to all of the obligations, responsibilities and duties imposed upon the Trustee, Custodian and Administrator under this Trust Agreement and applicable law.

MONROE CITY RETIREE HEALTH CARE BOARD OF TRUSTEES

Dated: 12/13, 2012



By:
Its: Chairperson

CUSTODIAN

Dated: 12/13, 2012



By: Edward Sell
Its: Director of Finance, City of Monroe, Michigan

ADMINISTRATOR

Dated: 12/13, 2012



By: George Brown
Its: City Manager