STOUGHTON FIREFIGHTERS PENSION TRUST AGREEMENT

This Trust Agreement ("Agreement") is entered into by and between the City of Stoughton, Wisconsin (the "City"), and David P. Ehlinger, the current City Director of Finance/Comptroller (the "Trustee"), effective April 25, 2023.

Since 1911, the City of Stoughton, Wisconsin (the "City"), has maintained a fund ("Fund") to provide pensions for its eligible firefighters and their surviving spouses under a plan set forth in certain rules and regulations ("Pension Plan").

The Pension Plan is a "governmental plan" as defined in section 3(32) of the Employee Retirement Income Security Act of 1974 ("ERISA") and is, accordingly, as provided in ERISA section 4(b)(1), exempt from Title I of ERISA.

According to the City's financial records, as of December 31, 2022, the Fund balance was $905,504, consisting of cash and liquid investments allocated to "Fund 243 Fire Pension Fund."

To help ensure that the Fund has sufficient assets to pay liabilities under the Pension Plan, the City periodically obtains an actuarial valuation report of the liabilities.

As recited in a resolution of the City's Common Council on January 10, 2023, current accounting and actuarial standards do not allow the inclusion of the cash and investments in the actuarial valuation report, because they are not held within an irrevocable trust.

The City wishes to (a) establish an irrevocable trust to hold cash and investments for payment of liabilities and expenses under the Pension Plan, (b) transfer to the trust the current balance of the Fund, and (c) have the City Director of Finance/Comptroller be the trustee of the assets in the trust.

The Trustee is willing to receive, hold, and invest the assets of the Trust in accordance with the terms of this Agreement and to accept the responsibilities and discharge the duties imposed on the Trustee under this Agreement.

The City and the Trustee accordingly agree as follows:

Section 1: Creation of Trust. By execution of this Agreement, the City hereby establishes the Stoughton Firefighters Pension Trust (the "Trust") to hold and administer the Fund and provide a source of money to pay the promised benefits under the Pension Plan and related expenses.

Section 2: Trustee. The City hereby designates the City Director of Finance/Comptroller to be the Trustee of the Trust. The individual who is the City Director of Finance/Comptroller from time to time (or his or her successor), including any interim Director of Finance/Comptroller , shall automatically be the Trustee of the Trust. An individual who ceases to be the City Director of Finance/Comptroller shall automatically cease to be the Trustee of the Trust.

Section 3: Irrevocability of Trust. The Trust is irrevocable.

Section 4: Transfers to Trust. The City shall deposit with the Trustee, to hold and administer according to the provisions of the Pension Plan and this Agreement, the entire current balance of the Fund. The Trustee shall accept all deposits and contributions of cash or liquid investments made by the City with respect to the Pension Plan. The Trustee shall also accept contributions from firefighters, such as dues remitted to the Trust fund. The Trustee may accept money or property from sources other than those described in this section, so long as acceptance from any such other source is permitted by law. The Trustee shall hold, manage, and administer the Trust fund without distinction between principal and income. The Trustee shall be accountable for the money or other property the Trustee receives, but shall not be responsible for the collection of any deposits, contributions, remittances, or transfers due to the Trust.

Section 5: No Diversion. The assets of the Trust can be used only for purposes of paying benefits under the Pension Plan and related expenses. At no time shall any part of the corpus or income of the Trust fund be used for or diverted to purposes other than funding benefits under the Pension Plan or payment of reasonable costs of administration of the Trust and the Pension Plan.

Section 6: No Guarantee. Nothing contained in the Trust or the Pension Plan shall constitute a guarantee that the assets of the Trust fund will be sufficient to pay benefits to any person or make any other payment. This Agreement creates no obligation for the City to deposit or remit any amount to the Trust fund.

Section 7: Payments from the Trust Fund. The Trustee shall make payments from the Trust fund to pay benefits under the Pension Plan as directed by City or its designee. To the extent permitted by law, the Trustee shall (a) be fully protected in making payments out of the Trust fund; (b) have no responsibility to see to the application of such payments or to ascertain whether such payments comply with the terms of the Pension Plan; and (c) not be liable for any payment made by the Trustee in good faith and in the exercise of reasonable care without actual notice or knowledge of the impropriety of such payments hereunder. The Trustee may withhold all or any part of any payment as the Trustee (in the exercise of the Trustee's reasonable discretion) may deem necessary to protect the Trustee and the Trust against any liability or claim on account of any income tax imposed on a firefighter or surviving spouse and may discharge any such tax liability with such withheld amount.

Section 8: Method of Payments. Unless directed otherwise by the City or its designee, the Trustee may make any payment required to be made by the Trustee under this Agreement by direct electronic deposit, electronic funds transfer, or any other similar appropriate manner to the financial institution where the person to whom or to which such payment is to be made maintains an account or by mailing a check in the amount thereof to such person to whom such payment is to be made. If any dispute arises as to the identity or rights of persons who may be entitled to benefits hereunder, the Trustee may withhold payment until such dispute is resolved by a court of competent jurisdiction or, at the discretion of the City, is settled by written stipulation of the parties concerned.

Section 9: Excessive Payments. If the Trustee or the City determines that any payment under the Trust or the Pension Plan is excessive or improper, the recipient shall make repayment

thereof immediately following receipt of written notice from the Trustee or the Trustee's agent. If the recipient fails to make repayment to the Trustee or Trustee's agent of such excessive or improper payment by the date requested by the Trustee or the Trustee's agent, the Trustee may deduct the amount of such excessive or improper payment from any other amounts thereafter payable to such person or may pursue repayment. Until repaid to the Trustee or Trustee's agent, the amount of said excessive or improper payment shall not be included in the Trust fund.

Section 10: Unclaimed Benefit Payments. If any check or other payment of a benefit hereunder has been mailed by regular U.S. mail to the last address of the payee furnished to the Trustee by the City is returned unclaimed, the Trustee shall notify the City and shall discontinue further payments to such payee until it receives further instructions of the City.

Section 11: Trust Accounting. The Trustee shall keep accurate and detailed records of all investments, receipts, disbursements, and all other transactions required to be made.

Section 12: Responsibility of Trustee. The Trustee shall act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, provided, however, that the Trustee shall incur no liability to any person for any action taken pursuant to a direction, request, or approval given by the City which is contemplated by, and in conformity with, the terms of the Pension Plan. The Trustee may consult with legal counsel (who may also be counsel for the City generally) with respect to any of the Trustee's duties or obligations under this Agreement. If the Trustee undertakes or defends any litigation arising in connection with the Trust, the City will indemnify the Trustee against the Trustee's costs, expenses and liabilities (including, without limitation, attorneys' fees and expenses) relating to that litigation.

Section 13: Powers of Trustee. The Trustee shall have, without exclusion, all powers conferred on trustees by applicable law. The powers shall expressly include the power to:

(a) Hold cash in interest-bearing on non-interest-bearing accounts, bonds, stocks, mutual investment funds, or other investments permitted by applicable law, including accounts at commercial financial institutions or the Wisconsin Investment Fund;

(b) Sell, redeem, or exchange any property in the Trust fund,

(c) Employ, for the benefit of the Trust fund, suitable agents, actuaries, accountants, investment counselors, legal counsel, and consultants and to pay their reasonable expenses and compensation;

(d) Begin, maintain, or defend any litigation necessary in connection with the administration of the Trust, except that the Trustee shall not be obligated or required to do so unless the Trustee has been indemnified to the Trustee's satisfaction against expenses and liabilities;

(e) Settle, compromise, or submit to arbitration any claims, debts, or damages to or owing to or from the Trust fund; and

(f) Do all acts which the Trustee may deem necessary or proper to exercise any and all powers of the Trustee under this Agreement

Section 14: Determination of Rights. The Trustee shall have no power, authority, or duty under this Agreement in respect to the determination of the eligibility of any person for coverage under the Pension Plan or the entitlement of any person to benefits or payments from the Pension Plan.

Section 15: Trustee Compensation. The Trustee shall be paid no compensation from the Trust for services under this Agreement. Nevertheless, the Trustee shall be reimbursed by the City for any reasonable expenses, including reasonable counsel, actuarial, and accounting fees, incurred by the Trustee in the administration of the Trust fund.

Section 16: Accounting Year. The accounting year of the Trust shall be the same as the City's fiscal year.

Section 17: Tax-Exempt Status. Because the provision of pension benefits to volunteer firefighters is an "essential governmental function" as that term is used in Internal Revenue Code ("Code") section 115, the Trust income is exempt from federal income taxes as described in Code section 115 and the Trust is not required by Code section 6012(a)(4) to file a federal income tax return.

Section 18: Amendment. Any or all of the provisions of this Agreement may be amended at any time and from time to time, in whole or in part, by an instrument in writing. No such amendment shall authorize or permit any part of the Trust fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to purposes other than for the exclusive benefit of individuals covered by the Pension Plan. No such amendment shall cause or permit any portion of the Trust fund to revert to or become the property of the City. No amendment that affects the rights or duties of the Trustee may be made without the Trustee's written consent.

Section 19: Termination. This Trust Agreement may be terminated at any time by the City, and upon such termination, after payment of benefits accrued under the Pension Plan to the time of termination, any balance in the Trust fund shall be paid out by the Trustee as and when directed by the City, in accordance with the terms of the Pension Plan and applicable law. In no event may any amounts be returned to the City.

Section 20: Limited Effect of Plan and Trust. Neither the establishment of the Pension Plan nor the Trust nor any modification thereof, nor the creation of any fund or account, nor the payment of any benefits under the Pension Plan, shall be construed as giving to any person any legal or equitable right against the Trustee, the City, or any officer or employee thereof, except as may otherwise be provided in the Pension Plan or in this Agreement.

Section 21: Severability of Provisions. Any provision of this Agreement that is prohibited by law shall be ineffective to the extent of any such prohibition, without invalidating the remaining provisions of this Agreement.

Section 22: Non-Assignability. Benefits payable to firefighters or surviving spouses under this Agreement may not be anticipated, assigned (either at law or in equity), alienated, pledged, encumbered, or subjected to attachment, garnishment, levy, execution, or other legal or equitable process.

Section 23: Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin.

CITY OF STOUGHTON

By: _____ Date: _____
Tim Swadley, Mayor

TRUSTEE

_____ Date: _____
David P.. Ehlinger, City Director of Finance/Comptroller