

**TOWN OF CANTON  
Consulting Agreement**

This Agreement between **The Segal Company** (Eastern States) ("Segal"), a Delaware corporation and **the Town of Canton** (the "Client") is entered into as of **July 18, 2016**.

Accordingly, and in consideration of the mutual premises and provisions hereof, the parties hereby agree as follows:

**1. DESCRIPTION OF SERVICES**

Segal shall provide to the Client two (2) valuations, July 1, 2016 and July 1, 2018, as well as four (4) GASB disclosures, June 30, 2017, June 30, 2018, June 30, 2019, and June 30, 2020.

**2. CHANGES IN SCOPE OF SERVICES**

Any worked requested by the Client that is not included in Item 1 or any revisions of work requested by the Client shall be subject to a written agreement. Prior to performing any services not contemplated in the Proposal, the parties must reach agreement on the terms of the change(s) and signify their agreement in writing. Any such accepted change shall be attached hereto as an Exhibit to this Agreement.

From time to time, the Client may request or Segal may propose in writing future services. If such proposal is accepted by the parties, then such additional services will be governed by the terms and conditions of this Agreement and any such proposal shall be attached hereto as an Exhibit to this Agreement.

**3. RESPONSIBILITY OF CLIENT**

**A. Data Request.** The biennial actuarial valuation OPEB report, any required government filings and any required present value calculations and other reports or analyses of benefit and compensation programs require extensive data from the Client. Segal will prepare a detailed data request outlining what is necessary to perform these services. Segal will also request the financial data required and any other data or information needed to complete its analysis, including a copy of the up-to-date plan provisions and any plan amendments. Data will be requested in a computer format compatible with Segal's computer system and year 2000 compliant (that is, appears in a four-digit year representation, for example 2004, instead of '04).

Upon receipt of the data, Segal will examine it for missing information and internal consistency. There may be additional fees based on hourly time charge rates to convert data not presented in the format requested and for the additional processing time required to reconcile data that contains errors, duplicate records or missing information.

**B. Timely Provision of Information.** Client will assure that its other professionals and vendors cooperate with Segal and provide the information requested or needed by Segal on a timely basis.

#### 4. PAYMENT TERMS

**A. Basic Annual Services.** Our fee for providing the basic services described in Item 1 will be \$4,000 for the July 1, 2016 and July 1, 2018 valuations and \$2,000 for the GASB disclosures as of June 30, 2017, June 30, 2018, June 30, 2019 and June 30, 2020. Travel is included for up to six (6) meetings per year.

Invoices will be upon completion of each report.

Fees will be paid within 30 days of receipt of an invoice.

Routine expenses such as photocopying, telephone calls, facsimiles, mailing costs, and secretarial and word processing services are included in our fees. Unusual or unexpected expenses for the basic services will be discussed with the Client and may be billed separately.

In the event we are required to spend significantly more time than anticipated because of circumstances beyond our control, we will inform you and bill separately for those services.

If this Agreement is terminated or authorized services or projects are suspended, Segal will be reimbursed for all time charges incurred to the date of termination or suspension, up to a maximum of the fee and travel expenses, incurred up to that date.

**B. Supplemental and Specialized Consulting Services.** Fees for Specialized Consulting Services and Supplemental Services generally will be charged on a time charge basis or, in some instances, may be charged on a project basis. Segal will provide an estimate of such charges before the work is commenced. The time charges shall be based on Segal's time charge rates unless otherwise agreed to. Supplemental and Specialized Consulting Service charges will be billed monthly [in advance] unless agreed to otherwise.

**Projects Outside the Scope:** Fees for projects outside the scope of this Agreement will be mutually agreed upon with the Client before beginning work on the project.

**C. Commissions.** If Segal will be compensated by commissions for the placement and on-going maintenance of insurance, other than Fiduciary Liability Insurance, that arrangement must be included in the retainer agreement. The retainer should then specify that the commissions will offset our fees in appropriate cases and use the language below.

We will be compensated for the placement and ongoing maintenance of insurance (other than Fiduciary Liability Insurance) by commissions paid by the insurance carrier with whom the coverage is placed. The Commissions will offset our fees in appropriate cases. The amount of commission we will receive each year is a percentage of the policy or bond premium. The Trustees will be notified in writing of the rate and amount of commissions we receive each year for these services.

#### 5. NON-APPROPRIATION

Funding for this Agreement between the Client and Segal is dependent at all times upon the appropriation of funds by the organization authorized to appropriate such funds. In the event that funding to support this Agreement is not appropriated, whether in whole or in part, then the Agreement may be terminated effective the last day for which appropriated funding is available.

## 6. TERM OF AGREEMENT

This Agreement will be for a period of four (4) years from July 1, 2016 (beginning date) through the June 30, 2020 disclosure (ending date).

Upon mutual agreement of the parties, this Agreement may be extended for four additional one (1) year periods.

## 7. TERMINATION OF AGREEMENT

Either party may terminate this Agreement on thirty (30) days written notice to the other party. Segal will continue to provide services hereunder to the effective date of any such termination and will cooperate with the Client to provide for an orderly transition of the Services to the Client at the time of any such termination. Notwithstanding the foregoing, in the event that the Client is not current in the payment of Segal's invoices at the time that such notice is given, then Segal may choose not to provide Services during the aforementioned thirty (30) day period. Segal will render final billing to the Client after the date of any such termination, and the Client will pay the same in accordance with Section 4.

## 8. PROFESSIONAL STANDARDS

All Services will be performed by competent personnel with the care, skill, prudence and diligence under the circumstances that a prudent consultant would use in discharging its services and in accordance with applicable professional standards. If any element of the Services does not conform to the foregoing, Segal will re-perform such element in a manner that does conform, except that if such re-performance is impracticable, Segal will refund the fees allocable to such nonconforming element.

## 9. CONFIDENTIALITY

Both parties acknowledge that in the negotiation and performance of this Agreement, confidential and proprietary information of each has been and will be made available to the other. The parties agree to use reasonable efforts to maintain the confidentiality of such material, but in no event lesser than was used with like material of the receiving party and not to make any internal use of such material not required or permitted under this Agreement. Neither party will disclose the information to any third party without prior written authorization from the disclosing party. The information received by a receiving party will only be used by those of its employees, agents and consultants whose duties justify the need for access to the information provided and who have agreed to abide by the obligations of secrecy and limited use commensurate in scope with this Agreement. These obligations will apply to verbal information as well as specific portions of the information that are disclosed in writing or other tangible form and marked to indicate its confidential nature. These obligations will not apply to any of the information which:

- i) Was known to the receiving party prior to receipt under this Agreement as demonstrated by the receiving party's records; or
- ii) Was publicly known or available prior to receipt under this Agreement, or later becomes publicly known or available through no fault of the receiving party; or
- iii) Is disclosed to the receiving party without restrictions on disclosure by a third party having the legal right to disclose the same; or
- iv) Is disclosed to a third party by the disclosing party without an obligation of confidentiality, unless such information must be retained by that party for that party to fulfill its legal or agreement obligations under this Agreement; or
- v) Is independently developed by an employee, consultant, or agent of the receiving party without access to the information as received under this Agreement; or

vi) The receiving party is obligated to produce as required by law, lawfully issued subpoena, or court order, provided that the disclosing party has been given notice thereof and if there is sufficient time, an opportunity to waive its rights to seek a protective order or other appropriate remedy.

To the extent that particular information is subject to specific statutory confidentiality requirements, the requirements of such statute, rather than this section, shall be controlling.

#### **10. INDEPENDENT CONTRACTOR**

Segal is an independent contractor. No provision of this Agreement or act of the parties hereunder pursuant to this Agreement will be construed to express or imply a joint venture, partnership, or relationship other than vendor and purchaser of the services. No employee or representative of Segal will at any time be deemed to be under the control or authority of the Client, or under the joint control of both parties. Segal is liable for all workers' compensation premiums and liability, and federal, state and local withholding taxes or charges with respect to its employees.

#### **11. SUBCONTRACTORS**

Any subcontractors to be utilized on this project will be subject to the Client's approval.

#### **12. NO ASSIGNMENT**

This agreement may not be assigned by either of the parties without the written consent of the other party.

#### **13. FORCE MAJEURE**

Segal will not be liable for any delay in performance or inability to perform due to force majeure, including without limitation any acts of God, acts or omissions of the Client, major equipment failures, fluctuations or non availability of electrical power or telecommunications equipment, or other conditions beyond the control of Segal. If Segal's performance is delayed by force majeure, Segal will discuss the situation with the Client and agree upon an extended period for performance. If an event of force majeure continues for more than thirty (30) days, either party may, at its option, terminate this Agreement and any Statements of Work thereunder. Segal will render a final billing to the Client after the date of any such termination, and Client will pay the same in accordance with Section 4.

#### **14. THIRD PARTY BENEFICIARIES**

This Agreement is for the benefit of the parties to the Agreement and does not confer any rights or privileges upon any third parties.

## 15. DISPUTE RESOLUTION

A. **Mediation.** Any disputes between the parties hereto are subject to mediation in accordance with the Judicial Arbitration and Mediation Service ("JAMS") as a condition precedent to the commencement of any legal proceeding hereunder.

B. **Waiver of Jury Trial.** Each party hereby waives any right to a trial by jury in any action, suit, or proceeding arising out of this agreement, or any other agreement or transaction between the parties.

C. **Notice.** In the event that either party believes that the other party has not complied with its obligations hereunder, such party shall send written notice of such non-compliance to the other party. In the event that such other party does not cure such non-compliance within thirty (30) days of the date of such notice, then the party sending notice may avail itself of the terms of Section 15A above.

## 16. DAMAGES

Each party shall be liable to the other for any direct damages that result from such party's willful misconduct, negligence or other wrongful conduct arising out of or relating to this Agreement. In no event shall either party be liable to the other or any third party, whether in contract or tort (including negligence), warranty or otherwise, for any indirect, incidental, special, consequential, exemplary or punitive damages arising out of or relating to this Agreement, even if the party has been advised of the possibility of such damages.

## 17. CONFLICT OF INTEREST

Segal hereby affirms that there are no relevant facts or circumstances now giving rise or which could, in the future, give rise to a Conflict of Interest. A Conflict of Interest means that because of other activities or relationships with other persons, Segal or its subcontractor is unable or potentially unable to render impartial assistance or advice to the Client, or Segal's objectivity in performing the agreement work is or might be otherwise impaired.

If an actual or potential Conflict of Interest arises subsequent to the date of this agreement, Segal shall make a full disclosure in writing to the Client of all relevant facts and circumstances. This disclosure shall include a description of actions that Segal has taken and proposes to take to avoid, mitigate, or neutralize the action or potential conflict of interest. Segal will continue performance of work under the agreement until notified by the Client of any contrary action to be taken.

## 18. NON-DISCRIMINATION

Segal agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment notices setting forth the substance of this clause.

## 19. AUDIT OF SEGAL'S FEES

Upon reasonable notice and during normal business hours, the Client reserves the right to audit or cause to be audited Segal's books and accounts with respect to fees and expenses under this Agreement at any time during the term of this Agreement and for three years thereafter except for confidential or proprietary information or trade secrets of Segal or any third party.

## 20. NOTICES

All notices, claims, and approvals given under this Agreement must be in writing and delivered in person, by first class or express mail or facsimile addressed as set forth below or such other address that a party gives by notice. Notice given in accordance with this subsection will be deemed given when received.

- A. If to the Client: Robert H. Skinner  
Chief Administrative Officer  
4 Market St  
P.O. Box 168  
Collinsville, CT 06022
- B. Copy to: Brian D. First  
Board of Finance, Town of Canton  
85 High Valley Drive  
Canton, CT 06019
- C. If to Segal: Benefit Consultant:  
John Stiefel  
Vice President & Consulting Actuary  
30 Waterside Drive, Suite 300  
Farmington, CT 06032
- D. Copy to:  
  
General Counsel  
The Segal Company  
333 West 34<sup>th</sup> Street  
New York, NY 10001-2402

## 21. AMENDMENT OR MODIFICATION

No amendment or modification of this Agreement shall be valid or binding unless set forth in writing and duly executed by the parties hereunder.

## 22. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and it supersedes all prior oral or written agreements, commitments or understandings with respect to such matters.

## 23. SEVERABILITY

The invalidity, in whole or part, of any provision of this Agreement will not affect the remainder of that provision or this Agreement

## 24. BUSINESS ASSOCIATE AGREEMENT

The parties, if required by law, shall enter into a business associate agreement, which shall be annexed hereto as Exhibit B.

## 25. WAIVER OF DEFAULT

Waiver by a party of any default by the other will not be deemed a waiver of any other default irrespective of whether such default is similar.

26. **CONSTRUCTION OF LAWS AND JURISDICTION OF COURTS**

This Agreement will be governed in all respects by the laws of **Connecticut**, without regard to any conflicts of law principle, decisional law, or statutory provision, which would require or permit the application of another jurisdiction's substantive law.

27. **DULY AUTHORIZED SIGNATURES**

**For the Client:**

The undersigned, **Robert H. Skinner** is **Chief Administrative Officer** of the **Town of Canton** and as such has been duly authorized by the Client to sign this Agreement on behalf thereof.

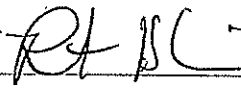
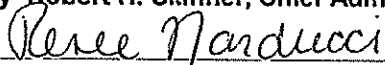
**For Segal:**

The undersigned **John Stiefel** is **Vice President and Consulting Actuary** of Segal and as such is duly authorized to sign this agreement in behalf thereof, thereby binding Segal to the provisions of this Agreement.

**IN WITNESS THEREOF**, the parties have executed this Agreement as of the date hereinabove set forth.

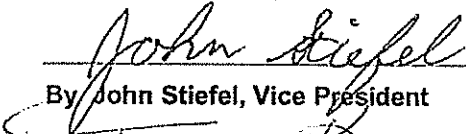
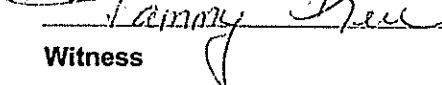
**TOWN OF CANTON**

8-3-16  
Date

  
By **Robert H. Skinner, Chief Administrative Officer**  
  
Witness **Renee Narducci**

**THE SEGAL COMPANY (EASTERN STATES), INC.**

July 18, 2016  
Date

  
By **John Stiefel, Vice President**  
  
Witness

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