

TOWN OF CANTON
Consulting Agreement

This Consulting Agreement (the "Agreement") between Hooker & Holcombe, Inc. ("Hooker & Holcombe"), a Connecticut corporation, and the Town of Canton (the "Client") is entered into as of February 12, 2021.

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

1. DESCRIPTION OF SERVICES

Hooker & Holcombe shall provide to the Client the services in connection with an Other Post-Employment Benefits (OPEB) actuarial valuation to assist the Town to prepare for and comply with GASB Statements #74 and #75 for the period of July 1, 2020 through June 30, 2024.

2. CHANGES IN SCOPE OF SERVICES

Any work requested by the Client that is not included in Section 1 or any revisions of work requested by the Client shall be subject to a written agreement executed by both parties. Prior to performing any services not contemplated in this Agreement, 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 Hooker & Holcombe may propose in writing future services. If such proposal is agreed to in writing 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 data from the Client. Hooker & Holcombe will prepare a detailed data request outlining what is necessary to perform these services. Hooker & Holcombe 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.

B. Upon receipt of the data, Hooker & Holcombe will examine it for missing information and internal consistency.

C. Timely Provision of Information. Client will assure that its other professionals and vendors cooperate with Hooker & Holcombe and provide the information requested or needed by Hooker & Holcombe on a timely basis.

4. PAYMENT TERMS

Basic Annual Services

	Biennial OPEB Valuation	GASB 74/75
July 1, 2020	\$6,500	
June 30, 2021		\$2,500
June 30, 2022		\$2,575
July 1, 2022	\$6,700	
June 30, 2023		\$2,650
June 30, 2024		\$2,750
Total	\$13,200	\$10,475

Invoices will be upon completion of each report.

Fees will be paid within 45 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 Hooker & Holcombe's standard fees. Unusual or unexpected expenses for the basic services will be discussed with the Client and may be billed separately at Hooker & Holcombe's then hourly rates (unless otherwise agreed in writing by the Client and Hooker & Holcombe).

If this Agreement is terminated or authorized services or projects are suspended, Hooker & Holcombe 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 at Hooker & Holcombe's then hourly rates.

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. Hooker & Holcombe will provide an estimate of such charges before the work is commenced. The time charges shall be based on Hooker & Holcombe's time charge rates then in effect unless otherwise agreed to in writing by the parties.

Projects Outside the Scope: Fees for projects outside the scope of this Agreement will be mutually agreed upon by the Client and Hooker & Holcombe before beginning work on the project.

5. NON-APPROPRIATION

Funding for this Agreement between the Client and Hooker & Holcombe 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 by either party 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, 2020 (beginning date) through the June 30, 2024 disclosure (ending date).

7. TERMINATION OF AGREEMENT

Either party may terminate this Agreement on thirty (30) days' prior written notice to the other party. Hooker & Holcombe 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. Hooker & Holcombe 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, Hooker & Holcombe will re-perform such element in a manner that does conform, except that if such re-performance is impracticable, Hooker & Holcombe 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 is 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, except as otherwise required by law or set forth in this Agreement. 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 or is otherwise non-public. These obligations will not apply to any of the information which:

- A. Was known to the receiving party prior to receipt under this Agreement as demonstrated by the receiving party's records; or
- B. 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
- C. Is disclosed to the receiving party without restrictions on disclosure by a third party having the legal right to disclose the same; or
- D. Is disclosed to a third party by the disclosing party without an obligation of confidentiality; or
- E. Is independently developed by an employee, consultant, or agent of the receiving party without using the information of the disclosing party under this Agreement; or
- F. 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

Hooker & Holcombe 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 Hooker & Holcombe will at any time be deemed to be under the control or authority of the Client, or under the joint control of both parties. Hooker & Holcombe 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, and any attempted assignment of this Agreement in violation of this section shall be null and void.

13. FORCE MAJEURE

Hooker & Holcombe 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, war, acts of terrorism, insurrection, pandemic or other conditions beyond the control of Hooker & Holcombe. If Hooker & Holcombe's performance is delayed by force majeure, Hooker & Holcombe 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. Hooker & Holcombe 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, other than those seeking immediate equitable relief such as an injunction, 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 terminate this Agreement in accordance with Section 7.

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.

Client agrees that Hooker & Holcombe's liability hereunder for damages, regardless of the form of action, shall not exceed the total amount paid for the services described herein. This shall be Client's exclusive remedy, except as otherwise required by applicable law.

No action, regardless of form, arising out of the services under this letter agreement may be brought by either party more than three years after the date of the last service provided under this letter agreement, except as otherwise required by applicable law.

17. CONFLICT OF INTEREST

Hooker & Holcombe hereby affirms that there are currently 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, Hooker & Holcombe or its subcontractor is unable or potentially unable to render impartial assistance or advice to the Client, or Hooker & Holcombe's objectivity in performing the Agreement is or might be otherwise impaired.

If an actual or potential Conflict of Interest arises subsequent to the date of this Agreement, Hooker & Holcombe 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 Hooker & Holcombe has taken and proposes to take to avoid, mitigate, or neutralize the action or potential conflict of interest. Hooker & Holcombe will continue performance of work under the Agreement until notified by the Client of any contrary action to be taken or determination by Hooker & Holcombe that is cannot proceed.

18. NON-DISCRIMINATION

Hooker & Holcombe 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 HOOKER & HOLCOMBE'S FEES

Upon reasonable notice and during normal business hours, the Client reserves the right to audit or cause to be audited Hooker & Holcombe'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 Hooker & Holcombe 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, overnight courier or email 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 actually received or delivery is refused.

A. If to the Client: Robert H. Skinner
Town of Canton
Chief Administrative Officer
4 Market Street
P.O. Box 168
Collinsville, CT 06022
Email: rskinner@townofcantonct.org

B. Copy to: William Geiger
Town of Canton
Finance Officer
4 Market Street
P.O. Box 168
Collinsville, CT 06022
P.O. Box 168
Email: wgeiger@townofcantonct.org

C. If to Hooker & Holcombe: Steve A. Lemanski
Hooker & Holcombe, Inc.
Vice President, Practice Leader,
Consulting Actuary
1300 Hall Boulevard, Suite 1C
Bloomfield, CT 06002
Email: slemanski@hhconsultants.com

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. 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.

25. 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.

26. DOCUMENT MANAGEMENT & RETENTION

Hooker & Holcombe prefers to receive documents in electronic format. If Hooker & Holcombe receives any documents from Client in paper format, Hooker & Holcombe may scan them or otherwise convert them to an electronic format and destroy the paper documents unless Client has previously requested in writing that we return any paper documents to you. It is your responsibility to properly maintain any records as required by law. Hooker & Holcombe typically retains client documents in its files for only a reasonable period of time, and no longer than necessary, after which Hooker & Holcombe may destroy them, regardless of format, without further notice to Client, subject to any applicable legal requirements specifying a document retention

27. COUNTERPARTS

This Agreement may be executed in any number of counterparts (including those executed and/or delivered by facsimile or other electronic means, including by DocuSign or other similar platform), each of which shall be considered an original and all of which taken together shall constitute one and the same agreement.

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

TOWN OF CANTON

By RT H L

Date 2/11/21

Robert H. Skinner
Chief Administrative Officer

HOOKER & HOLCOMBE, INC.

By Steve A. Lemanski

Date 2/12/2021

Name Steve A. Lemanski

Its Vice President, Consulting Actuary