

**ORIGINAL**

**ASEA/AFSCME LOCAL 52 HEALTH BENEFITS TRUST  
TRUST AGREEMENT**

As Amended and Restated  
Effective March 28, 2019

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## **PREAMBLE**

This Trust Agreement originally made and entered into effective September 1, 2000, by and between the Alaska State Employees Association, American Federation of State, County and Municipal Employees Local 52. AFL-CIO, hereinafter referred to as ASEA/AFSCME Local 52, as plan sponsor, and the State of Alaska, through bargaining memorialized in LOA 01-GG-296, acting for and on behalf of its members, and

WHEREAS, the purpose of the Trust governed by this Trust Agreement is to provide health and welfare benefits on behalf of and for the benefit of ASEA/AFSCME Local 52 members and their Beneficiaries, and the members and Beneficiaries of other participating bargaining units subject to a Special Participation Agreement; and

WHEREAS, the Board of Trustees has the authority and desires to amend and restate the Trust Agreement effective March 28, 2019,

NOW, THEREFORE, with the power afforded by the original and amended and restated Trust Agreements, the undersigned hereby adopt this Amended and Restated Trust Agreement as follows:

# ARTICLE I

## DECLARATION OF TRUST

### **1. Name**

ASEA/AFSCME Local 52 declared and established a Trust Fund named the ASEA/AFSCME Local 52 Health Benefits Trust.

### **2. Purpose**

The purpose of the Trust Fund is to provide an entity to which can be paid

- a. Contributions from Participating Employers and
- b. Contributions from Participating Employees (if any),

and through which the Trustees can create and administer one or more Employee Welfare Benefit Plan(s) for the Participating Employees and their Beneficiaries on whose behalf the Contributions have been paid.

### **3. Nature of Trust Fund**

The Trust Fund is a "Trust" which, where applicable, will follow the procedure of Section 403(a) of the Employee Retirement Income Security Act of 1974, as a guideline, and Section 501(c) of the Internal Revenue Code.

### **4. Duration of Trust Fund**

The Trust Fund shall continue in existence on an indefinite basis, contemporaneously with the terms of this Trust Agreement.

### **5. Term of Trust Agreement**

This Amended and Restated Trust Agreement shall be effective March 28, 2019, and continue indefinitely until such time as it may be terminated in accordance with the provisions of Article XII hereof.

## ARTICLE II

### DEFINITIONS

The following definitions shall govern in this Trust Agreement:

**1. "Beneficiary"**

Any dependent of a Participating Employee, who is entitled to benefits, as defined in a Benefit Plan.

**2. "Benefit Plan" or "Employee Welfare Benefit Plan"**

Any lawful employee welfare benefit plan created and administered by the Trustees.

**3. "Collective Bargaining Agreement"**

A written agreement between a Participating Employer and a Participating Labor Organization and any supplement, amendment, continuation, or renewal thereof, by the terms of which the Employer is obligated to make Contributions to the Trust Fund.

**4. "Contributions"**

The payment required of a Participating Employer, or of Participating Employees, pursuant to the terms of a Collective Bargaining Agreement, or Special Participation Agreement, for the purpose of providing Employee Welfare Benefits to the Employees covered by said Agreements and their Beneficiaries; and/or the self-payment rules adopted by the Trustees.

**5. "Participating Employee"**

Any individual employed by a Participating Employer who is covered by a Collective Bargaining Agreement, or Special Participation Agreement, and for whom the Employer makes Contributions to the Trust Fund, and any individual who may have been so employed but is subsequently laid off, terminated, or retired, as applicable, and participates pursuant to the Consolidated Omnibus Budget Reconciliation Act (COBRA).

**6. "Participating Employer"**

The United States of America; the State of Alaska; any other state, county, borough, or municipality; or any other public agency, public corporation, or governmental unit that is party to a Collective Bargaining Agreement or Special Participation Agreement and that satisfies the requirements of Article V hereof, or a Labor Organization as defined below.

**7. "Participating Labor Organization"**

ASEA/AFSCME Local 52 and any other lawful labor organization that represents public employees in collective bargaining with governmental units or other public employers and that is approved for participation in this Trust Fund by ASEA/AFSCME Local 52 and the Trustees of the Trust Fund.

**8. "Special Participation Agreement"**

A written agreement between a Participating Employer and the Board of Trustees, and any supplement, amendment, continuation, or renewal thereof, that obligates the Employer to make Contributions to the Trust Fund for the purpose of providing Employee Welfare Benefits to the Employees and their Beneficiaries covered by said Agreement.

**9. "Trustees" or "Board of Trustees"**

The Trustees of the Trust Fund and their successors.

**10. "Trust" or "Trust Fund"**

The entity created by this Trust Agreement, and all property and money held by such entity, including all contract rights and records.

**11. "Welfare Benefits" or "Employee Welfare Benefits"**

The benefits provided in an employee welfare benefit plan.

## **ARTICLE III**

### **THE TRUSTEES**

#### **1. Board of Trustees**

The Trust Fund and the Employee Welfare Benefit Plan(s) shall be administered by a Board of Trustees comprised of no less than six (6) Trustee positions nor more than nine (9) Trustee positions.

##### **A. GGU Trustees**

The membership of ASEA/AFSCME Local 52 shall elect six (6) Trustees from the State of Alaska General Governmental Unit (GGU Trustees). Each GGU Trustee shall serve a term of four years, with no prohibition against serving multiple terms, as follows:

- i. Two Trustees elected At Large by the general membership of the Union.
- ii. One Trustee elected by ballot of the members of the Central (Anchorage) Region.
- iii. One Trustee elected by ballot of the members of the Southeast (Juneau) Region.
- iv. One Trustee elected by ballot of the members of the Northern (Fairbanks) Region.
- v. One Trustee elected by ballot of the members of the Rural/Bush Region.

GGU Trustee elections shall take place in September of the year corresponding with the Trustee position(s) up for election. Each Trustee shall be elected for a term of four (4) years on a rotating basis running from the date such Trustee is elected. A newly elected or re-elected Trustee shall be seated on the Board of Trustees no later than the next regularly scheduled Board of Trustees meeting following the election.

Current GGU Trustee positions will come up for election by Statewide or Regional GGU membership as follows, and every four years thereafter:

- i. One Trustee--At Large (Statewide)—September 2019
- ii. One Trustee—At Large (Statewide)—September 2020
- iii. One Trustee--Central Region (Anchorage)—September 2020
- iv. One Trustee--Southeast Region (Juneau)—September 2021
- v. One Trustee--Northern Region (Fairbanks)—September 2019
- vi. One Trustee—Rural/Bush Region—September 2021

## **B. Non-GGU Trustees**

The Board of Trustees, in its sole discretion, may allow Trustee positions for non-GGU employee groups participating pursuant to a Special Participation Agreement as defined in Article II, Section 8. The method of appointment or election of non-GGU Trustees, or successor non-GGU Trustees, shall be determined by the public-sector employee organization representing the Participating Employees subject to the Special Participation Agreement and is subject to the approval of the Board of Trustees.

## **C. Election Policy**

The Board of Trustees shall be responsible for establishing an Election Policy and for running the elections for the GGU Trustee positions.

To be considered for election as a GGU Trustee to the Board of Trustees, an individual must be an ASEA/AFSCME Local 52 Health Benefits Trust participant, and a member in good standing of ASEA/AFSCME Local 52 whose status is any one of the following: full-time, part-time, seasonal, on leave-of-absence, or layoff Employee of the State of Alaska in the General Governmental Unit.

For a Regional position, an individual must work in that area. GGU Trustees shall be elected based on their credentials, taking into consideration the individuals' knowledge of employee benefits issues, special training pertaining to benefit plans and/or fiduciary responsibility, and other unique qualifications, training, or knowledge.

The method of filling GGU Trustee positions on the Board of Trustees provided for by Article III shall not be amended without the affirmative vote upon ballot poll of the general membership of the Union.

## **2. Statutory Capacities of Trustees**

The Trustees shall be considered "named fiduciaries," "fiduciaries," and "the plan administrator."

## **3. Plan Sponsor**

ASEA/AFSCME Local 52 shall be considered the "plan sponsor."

## **4. Agent for Service of Process**

Each Trustee shall be considered as an agent of the Trust Fund for the purpose of accepting service of legal process, provided that the Trustees may designate their administrative agent, or another person, as agent of the Trust Fund for this purpose.

## **5. Termination of Trustee**

The Board of Trustees shall have the authority to terminate a Trustee from the Board of Trustees on motion and by majority vote of the Board of Trustees.

## **6. Successor GGU Trustees -- Filling Vacancies on the Board of Trustees**

In the event of the termination of office, resignation, or death of a GGU Trustee, a successor GGU Trustee shall be elected at the next regularly scheduled GGU Trustee election for the position left vacant. If a vacancy on the Board of Trustees impedes the Trustees from conducting the business of the Trust, the Board of Trustees may call for a special election to fill the vacant GGU Trustee position.

GGU Trustees elected to fill a vacancy shall be elected to fill the remainder of the term of the vacated position.

## **7. Acceptance of Office by Trustees**

Each Trustee shall sign the Trust Agreement or another document accepting his/her office as Trustee and agreeing to abide by the terms and provisions of this Trust Agreement. Each Trustee may be asked to submit to a criminal background check, which may include fingerprint identification. Further, each Trustee must sign an Acceptance of Trusteeship document attesting to the fact that they have committed no past acts which would disqualify them from acting as a fiduciary, utilizing ERISA standards as a guideline for fiduciary qualifications.

## **8. Termination of Office for Failure to Attend Meetings**

The office of a Trustee shall be automatically terminated if such Trustee fails to attend three consecutive meetings of the Board of Trustees without being excused from attendance by specific action of the remaining Trustees noted in the minutes.

## **9. Resignation of Office**

A Trustee may resign his/her office at any time. A Trustee seeking to resign must give written notice of the intent to resign to the of the Board of Trustees. Such notice must be received at least 15 days prior to the resignation effective date.

## **10. Vacancies**

No vacancy in the position of Trustee shall impair the power of the remaining Trustees to administer the affairs of the Trust Fund, so long as a quorum exists as specified in Article IV, Section 2 hereof, nor will a vacancy violate Section 1 of this Article III.

## **11. Return of Books and Records**

In the event of the termination of office, resignation, or death of a Trustee, the Trustee (or his/her legal guardian, heirs, or personal representative) shall forthwith turn over to ASEA/AFSCME Local 52 Health Benefits Trust any and all records, books, documents, monies, and other property in the possession of the Trustee, or under his/her control, that belongs to the Trust Fund or that were received by him/her in his/her capacity as Trustee.

## **ARTICLE IV**

### **TRUST FUND ADMINISTRATION**

#### **1. Manner of Voting**

Any action to be taken by the Trustees shall be determined by majority vote of the Trustees.

#### **2. Constitution of a Quorum**

To convene a valid regular or special meeting of the Trustees, a majority of currently constituted Trustees must be present in person, telephonically, or in response to an authorized electronic poll. However, in the event of a natural disaster, such as severe earthquake, or other widespread catastrophic event, such as pandemic flu, that would hinder the Trust's ability to conduct business, the Trustees recognize that it may be unfeasible for a majority of Trustees to be present to conduct business. In case of such an event, a quorum for the purpose of conducting business shall consist of three (3) Trustees present in person, telephonically or responding to an authorized electronic poll, provided all reasonable means of contacting the other Trustees have been exhausted and documented.

#### **3. Motions**

Any Trustee, including the Chairperson, may offer or second any motion or resolution presented for the Trustees' consideration.

#### **4. Prohibition of Proxies**

To encourage full attendance at meetings of the Trustees and due consideration of the matters being voted upon, there shall be no proxies. A Trustee must be present in person, telephonically, or responding to an authorized electronic poll in order to cast a vote.

#### **5. Regular Meetings**

The Trustees shall hold regular periodic meetings consistent with the needs of Trust Fund business, provided that there shall be at least two (2) regular meetings held during each calendar year. The Trustees shall determine the time and place of all such meetings.

#### **6. Special Meetings**

Either the Chairperson or any three other Trustees may call a special meeting of the Trustees by giving written notice to the remaining Trustees of the time and place of such meeting at least ten (10) days before the date set for the meeting, provided that ten (10) days advance notice will not be necessary if all Trustees agree to an earlier meeting.

#### **7. Action Without a Formal Meeting**

The Trustees may take action without a formal meeting by means of (a) conference telephone call arranged by the Chairperson in which a quorum of the Trustees participate, (b) the presentation of a written motion or resolution sent to all Trustees by the Chairperson and the

subsequent obtaining of Trustee votes on the motion or resolution in telephone calls placed to each Trustee by the Chairperson, (c) the presentation of a written motion or resolution sent to all Trustees by the Chairperson and the subsequent obtaining of Trustee votes on the motion or resolution in letters sent by each Trustee to the Chairperson, or (d) by means of an email poll initiated by the Chairperson or made at the Chairperson's direction, and the subsequent obtaining of votes on the motion or resolution via return email to the Chairperson by each Trustee.

Any such action shall be confirmed in the minutes of the next regular meeting.

## **8. Chairperson**

The Chairperson shall be elected by majority vote of the Trustees annually at the December Board of Trustees meeting.

## **9. Duties of Chairperson**

The Chairperson shall chair the meetings of the Trustees and shall also advise the Trustees as to all correspondence and financial reports pertaining to the Trust Fund and shall keep minutes or records of all meetings, proceedings, and actions of the Trustees, provided that these particular responsibilities may be delegated to the administrative agent or to another of the professionals or nonprofessionals retained by the Trustees.

## **10. Authorized Signatures**

The Chairperson and any one other Trustee shall sign all negotiable instruments, certificates, contracts, government reports, and other legal documents on behalf of the Trust Fund, provided that the authority for signing negotiable instruments may be delegated to the administrative agent, corporate trustee (if any), depository bank, or custodian bank. All persons doing business with the Trust Fund may rely on such signatures.

## **11. Compensation and Expenses**

No Trustee shall receive any compensation from the Trust Fund.

Each Trustee shall be reimbursed out of the Trust Fund for all expenses properly and actually incurred and documented by him/her in the administration of the Trust Fund, including reimbursement of personal leave taken for the purpose conducting the business of the Trust upon prior approval and arrangement by the Board of Trustees.

The Trustees shall establish the conditions for the reimbursement of expenses and shall adopt a policy governing the reimbursement of Trustee expenses.

## **12. Benefits to Trustees Not Prohibited**

Nothing in this Trust Agreement shall prohibit a Trustee from receiving any benefits under the terms of a Benefit Plan, if he/she is otherwise eligible for the same as a Participating Employee or a Beneficiary of a Participating Employee.

## **ARTICLE V**

### **PARTICIPATION**

#### **1. Public Employees**

Employees working for a public employer in the State of Alaska shall be allowed to participate in this Trust Fund, provided that (a) the Employer agrees in a Collective Bargaining Agreement or Special Participation Agreement with ASEA/AFSCME Local 52 or with such other Labor Organization as is approved by ASEA/AFSCME Local 52 to make Contributions to this Trust Fund for such Employees, or (b) the Employees make Contributions to this Trust Fund directly or through payroll deductions as approved by the Board of Trustees and/or required by COBRA.

#### **2. Employees of Participating Labor Organization**

Employees working for ASEA/AFSCME Local 52 or any other Participating Labor Organization shall be allowed to participate in this Trust Fund, provided that (a) the Participating Labor Organization agrees in a Special Participation Agreement to make Contributions to this Trust Fund for such Employees, or (b) the Employees make Contributions to this Trust Fund through payroll deductions or directly pursuant to COBRA.

#### **3. No Participation by Employees of Private Employers**

Only Employees of Participating Employers, or Participating Labor Organizations, as those terms are defined in Article II, Sections 5, 6, and 7 hereof, shall be entitled to participate in or receive benefits from this Trust Fund. The receipt by this Trust Fund of Contributions which may be submitted on behalf of individuals who are not eligible to participate shall not stop the Trustees from declining or terminating the participation of such individuals nor shall it constitute a waiver of any of the provisions of this Trust Agreement or the Benefit Plan(s).

## **ARTICLE VI**

### **TRUSTEE RESPONSIBILITIES**

#### **1. General Duty -- Receipt of Contributions and Creation and Administration of Benefit Plans**

It shall be the general duty of the Trustees to receive Contributions from Participating Employers, Contributions from Participating Employees (if any), and any other income or assets they may receive and, with such, to create and administer one or more Employee Welfare Benefit Plan(s) for the Participating Employees and their Beneficiaries.

Additionally, the Trustees shall have the specific duties set forth in this Trust Agreement and applicable laws.

#### **2. Compliance with the Internal Revenue Code**

The Trustees shall administer the Trust Fund and the Benefit Plan(s) so that, to the extent allowed in the Internal Revenue Code, the Trust Fund is tax exempt, and the value of the Employee Welfare Benefits is excludable from the recipients' taxable income. The Trust Fund shall obtain and maintain a current determination from the Internal Revenue Service of its tax-exempt status.

#### **3. Basis of Payments to and from Trust Fund**

The basis on which Contributions of Participating Employers and Contributions of Participating Employees (if any) are made shall be as specified in the underlying Collective Bargaining Agreement or Special Participation Agreement. The basis on which benefits are paid out of the Trust Fund shall be as specified in the Employee Welfare Benefits Plan Booklet, which shall also serve as the Summary Plan Description.

#### **4. Application of Trust Fund Assets**

The assets of the Trust Fund shall never inure to the benefit of any Participating Employer and shall be held for the exclusive purposes of providing benefits to Participating Employees and their Beneficiaries and defraying reasonable expenses of administering the plans so long as the Trust remains in existence.

#### **5. Fiduciary Standards**

The Trustees shall discharge their duties and administer the Trust Fund assets solely in the interest of the Participating Employees and their Beneficiaries and for the exclusive purpose of (a) providing benefits to Participating Employees and their Beneficiaries, and (b) defraying reasonable expenses of Benefit Plan administration.

In carrying out their duties, the Trustees 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 like character and with like aims.

At all times the Trustees shall maintain a policy of fiduciary liability insurance, which is sufficient based upon consultation with the Trust's professional advisors and upon industry practice.

## **6. Deposits**

Contributions, or any other monies which the Trustees may receive, shall be deposited in one or more banks or similar financial institutions supervised by the United States or a state, pending the allocation of such monies for the payment of current benefits and expenses, or for investments.

## **7. Investments**

The Trustees shall invest all Contributions or other monies not required for the payment of current benefits and expenses. The Trustees may invest and reinvest in bank accounts, savings and loan accounts, securities, mortgages, deeds of trust, notes, commercial paper, real estate, insurance contracts, and in such other property, real personal or mixed, as they deem prudent, provided that in the making of investments, the Trustees shall diversify such investments, so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so. The Trustees shall utilize the services of one or more investment consultants and/or managers, registered under the Investment Advisors Act of 1940, or a bank as defined by that Act, to perform investment services and develop an appropriate Investment Policy Statement.

## **8. Specifically Permitted Investments**

In the event the Trustees designate one or more banks or similar financial institutions supervised by the United States or a state to serve as custodian of the Trust assets, or as a corporate trustee, or in another fiduciary capacity, the monies belonging to the Trust Fund may be invested in the accounts of such bank or institution, provided that such accounts bear a reasonable interest rate.

Further, the monies of the Trust Fund may be invested in (a) a common or collective trust fund, or pooled investment fund, maintained by a bank or trust company supervised by the United States or a state, or (b) in the pooled investment fund of an insurance company, even though such bank, trust company, or insurance company is a party-in-interest, provided that the bank, trust company, or insurance company receives not more than reasonable compensation for managing such an investment.

## **9. Title to Investments and Other Assets**

Title to all investment or other assets of the Trust Fund shall be maintained in the name of the Trust Fund.

## **10. Fidelity Bond**

The Trustees shall procure an appropriate fidelity bond covering each Trustee or other person who receives, handles, disburses, or otherwise exercises custody or control of any of the funds or other property of the Trust Fund.

The cost of such bond shall be chargeable to the Trust Fund, provided that, if such bond

covers persons other than the Trustees or their employees (if any), and if there is an additional premium for the coverage for such other persons, the additional premium shall be chargeable to such other person.

## **11. Records**

The Trustees shall maintain records of their administration of the Trust Fund, including records of all receipts and disbursements, all investments purchased or sold, the text of each Benefit Plan, and all correspondence. No such record shall be destroyed except upon the specific action of the Trustees, and destruction shall not be directed until a period of eight (8) years has elapsed from the date the record was created, or in compliance with a formal Records Retention and Destruction Policy approved by the Board of Trustees.

## **12. Annual Audit**

The Trustees shall engage, on behalf of the Participating Employees and their Beneficiaries, an independent certified public accountant and shall authorize such accountant to conduct an annual financial examination of the Trust Fund. The cost of such examination shall be chargeable to the Trust Fund.

A statement of the results of each such examination shall be submitted to the Trustees for their review and, further, shall be made part of the Trust Fund's annual report. The Trustees will also ensure that the Trust files IRS Form 990 timely each year upon completion of the annual audit.

## **13. Plan Document**

The Trustees shall prepare a Plan Document, a Summary Plan Description, and any modifications or changes in the information contained in such Description.

The Trustees shall furnish to Participating Employees and to each Beneficiary receiving benefits a copy of the Summary Plan Description and copies of any modifications or changes in the information in such Description.

## **14. Documents to be Examined or Furnished**

The Trustees shall make available for examination by Participating Employees or their Beneficiaries, in the Trust Fund office, a copy of (a) this Trust Agreement, (b) the Plan Document, (c) the Summary Plan Description, (d) the latest annual report, (e) the applicable Collective Bargaining Agreement, and (f) any other contracts or instruments under which a Benefit Plan is established or operated.

## **15. Procedure for Establishing Funding Policy**

The Trustees shall meet periodically with the benefit plan consultant, the independent certified public accountant, and such other Trust Fund advisors as may be appropriate, for the purpose of anticipating the short-term and long-term financial needs of the Trust Fund. Thereupon, the Trustees shall adopt an appropriate funding policy and method for the Trust Fund.

The funding policy and method shall be considered by the Trustees in the management of Trust Fund assets.

## **16. Procedure for Review of Denied Benefit Claims**

The Trustees shall establish administrative procedures whereby Participating Employees or their Beneficiaries whose claims for benefits are denied are notified, in writing, of the reasons for such denial, and which afford such Participating Employees or Beneficiaries reasonable opportunity for a full and fair review. In the conduct of any review of a denied benefit claim, the Trustees shall have the authority to interpret and apply the terms and provisions of the health and welfare plan and this Trust Agreement. The process for review of denied benefit claims and appeals shall be set forth in the Summary Plan Description (consisting of the Benefits Plan Booklet) in effect when the claim was incurred. The Summary Plan Description for the applicable period in which the denial of benefits is being reviewed is incorporated herein by reference.

## **ARTICLE VII**

### **DELEGATION OF TRUSTEE RESPONSIBILITIES**

#### **1. Delegation of Responsibilities**

The Trustees may delegate all or part of their responsibilities with respect to the administration of the Trust Fund or the Benefit Plan(s), to an administrative agent, or banking institution, or to one or more insurance carriers.

#### **2. Method of Delegation**

In the event the Trustees elect to delegate a particular responsibility they shall do so by the adoption of a motion or resolution making the delegation to a designated person or entity. The delegation shall be effective when the designated person or entity accepts the delegation. If the delegation involves a responsibility other than one which is ministerial in nature, the designated person or entity shall also acknowledge, in writing, his/her/its status as a fiduciary with respect to the Trust Fund, as legally applicable.

#### **3. Review of Performance**

In the event the Trustees elect to delegate Trustee responsibilities, they shall periodically review the performance of the persons or entities to whom such responsibilities have been delegated, on at least an annual basis, consistent with the Trustees' fiduciary responsibility.

## **ARTICLE VIII**

### **TRUSTEE POWERS**

#### **1. General Powers**

Except as may be expressly limited by the terms of this Trust Agreement, the Trustees shall have full and exclusive authority to control and administer the Trust Fund and the Employee Welfare Benefit Plan(s) they create.

The authority of the Trustees not only encompasses the specific powers recited in the various paragraphs of this Trust Agreement, but also includes the general power to do all things and take all action, including the expenditure of Trust Fund monies, which they may deem necessary to carry out the purpose of this Trust Agreement. The Trustees may implement their powers through the adoption of appropriate motions, resolutions, or administrative rules, policies and regulations.

#### **2. Specific Powers Discretionary**

The recitation of specific powers in this Trust Agreement shall not be interpreted as compelling the exercise of any such power. The exercise of specific powers is discretionary with the Trustees.

#### **3. Initial Benefit Plan**

The initial Employee Benefit Plan to be administered through this Trust Fund was a health and welfare program for Employees for the State of Alaska working under ASEA/AFSCME Local 52 Collective Bargaining Agreement. This Trust Agreement anticipates that the Employee Benefit Plan(s) administered through this Trust Fund may be offered to non-GGU members and their Beneficiaries described in Article II, Sections 5, 6 and 7.

#### **4. Additional Benefit Plans**

The Trustees shall have the authority to create and administer additional Employee Welfare Benefit Plans, provided that such Plans are supported by Contributions from Participating Employers or Participating Employees, or from Union dues.

#### **5. Design of Benefit Plans**

The Trustees shall have the authority to determine the details of the Benefit Plan(s), including the determination of the rules under which Participating Employees shall be eligible for benefits and the nature and amount of such benefits. The Trustees shall also have the authority to determine whether benefits shall be extended to Beneficiaries of Participating Employees and, if so, to determine which class or classes of Beneficiaries shall be eligible for benefits, the eligibility rules which will apply to such class or classes of Beneficiaries, and the nature and amount of such benefits. If there are different Contribution rates, the Trustees may establish different eligibility rules, or benefit formulas, for the Participating Employees and their Beneficiaries who are affected thereby.

## **6. Means of Providing Benefits**

The Trustees shall have the authority to provide benefits, in whole or in part, directly from the Trust Fund or to contract with an insurance carrier, service organization, health maintenance organization, or other entity, to underwrite or provide such benefits.

## **7. Facility of Payment**

The Trustees shall have the authority to adopt rules by the terms of which benefit payments owing to minors or incompetents may be paid instead to a person or institution providing care or other services to such minor or incompetent, even though a legal guardianship does not exist. Benefit payments made under any such rules shall fully discharge the Trust Fund's obligation to the minor or incompetent.

## **8. Self-Payments by Employees**

The Trustees shall have the authority to include provisions in the Benefit Plan(s) by the terms of which Participating Employees, during periods of strikes, lockouts, Employer delinquencies, leaves of absence, disabilities, layoffs, terminations, or retirement may be permitted to make Contributions on their own behalf.

## **9. Retention of Professional and Non-Professional Assistants**

The Trustees shall have the authority to retain, at the expense of the Trust Fund, one or more accountants, actuaries, administrative agents, attorneys, banking institutions, employee benefit plan consultants, and other professional and nonprofessional assistants, as they may deem necessary in the administration of the Trust Fund and the Benefit Plan(s).

The Trustees shall periodically review the performance of their professional and non-professional assistants.

## **10. Obtaining Necessary Premises, Equipment, and Supplies**

The Trustees shall have the authority to purchase or lease suitable premises and equipment and to purchase materials and supplies, at the expense of the Trust Fund, as they may deem necessary in the administration of the Trust Fund and the Benefit Plan(s).

## **11. Insurance**

The Trustees shall have the authority to purchase policies of insurance (including, but not limited to liability, property damage, casualty, errors and omissions, and fiduciary liability) to protect the Trust Fund and to protect themselves and their employees (if any) with respect to their activities on behalf of the Trust Fund as they may deem necessary. The cost of such insurance policies shall be chargeable to the Trust Fund, provided that, if such insurance policies cover persons other than the Trustees or their employees (if any), and if there is an additional premium for the coverage for such other persons, the additional premium shall be chargeable to such other persons.

Any policy of errors and omissions or fiduciary liability insurance which covers the Trustees individually shall contain a recourse clause, provided that nothing herein shall prevent a Trustee (or ASEA/AFSCME Local 52 or other Participating Employer, acting on his/her behalf)

from purchasing, for the Trustees, a waiver of the recourse clause or a separate policy insuring against such recourse.

## **12. Borrowing Money**

The Trustees shall have the authority to borrow money for the Trust Fund, with or without security, as they may deem necessary in the administration of the Trust Fund and the Benefit Plan(s).

## **13. Reserve Funds**

The Trustees shall have the authority to maintain reasonable reserve funds for future contingencies as they may deem necessary in the administration of the Trust Fund and the Benefit Plan(s).

## **14. Payment of Taxes**

The Trustees shall have the authority to pay, at the expense of the Trust Fund, taxes and assessments of any kind, that may be lawfully levied or assessed against the Trust Fund.

## **15. Refunds of Contributions Erroneously Paid**

The Trustees shall have the authority to adopt rules by the terms of which refunds of Contributions may be made to a Participating Employer, Participating Employee, or ASEA/AFSCME Local 52 that has paid such Contribution in error.

## **16. Prosecution of Legal Actions or Claims**

The Trustees shall have the authority to originate and maintain any legal actions or claims involving potential legal actions, at the expense of the Trust Fund, as they may deem necessary in the administration of the Trust Fund and the Benefit Plan(s). All such actions and claims shall be prosecuted in the name of the Trust Fund or in the name of an assignee.

## **17. Defense of Legal Actions or Claims**

The Trustees shall have the authority to defend all legal actions, claims involving potential legal actions, and investigatory proceedings initiated against the Trust Fund or against one or more of the Trustees, former Trustees, administrative agents, or against one or more of the employees of the Trust Fund (if any) that relate to the administration of the Trust Fund or the Benefit Plan(s). Except as stated below, the defense of such actions, claims, and proceedings shall be at the expense of the Trust Fund.

If the final court decree establishes personal liability on the part of specified Trustees, administrative agents, or employees (if any) for breach of their fiduciary responsibilities, and orders that the specified persons are to bear the expenses of their own defense, their attorney fees shall not be chargeable to the Trust Fund. If attorney fees and costs have already been charged to the Trust Fund, the specified persons shall be obligated to repay the Trust Fund for their pro-rata share of such fees and costs.

## **18. Compromise of Legal Actions or Claims**

The Trustees shall have the authority to compromise, settle, or release all legal actions or claims involving potential legal actions, in favor of or against the Trust Fund, on such terms and conditions as they may determine.

## **19. Penalties for False or Withheld Information**

The Trustees shall have the authority to adopt rules and regulations by the terms or which reasonable penalties or forfeitures may be imposed upon Participating Employees or Beneficiaries who (a) falsify any information requested of them in the administration of the Trust Fund and the Benefit Plan(s), (b) fail to provide requested information within a reasonable time, or (c) make material misrepresentations to the Trust Fund regarding eligibility, enrollment, or benefit claims.

## **20. Correction of Errors**

It is recognized and acknowledged that the Trustees will provide eligibility credits or benefits to Participating Employees and their Beneficiaries based on Trust Fund records. It is also recognized and acknowledged that such records could be incorrect due to (a) Participating Employers reporting individuals who are not eligible for participation, (b) Participating Employers reporting incorrect names or incorrect social security numbers, (c) Participating Employers reporting more (or less) than the hours or Contributions required to be reported, (d) delinquent Participating Employer reports, (e) Employees or Beneficiaries submitting incorrect or false benefit applications, (f) recording or computation errors, (g) computer errors, or (h) other similar circumstances. The Trustees shall have the authority to correct the Trust Fund records whenever errors are discovered and to terminate participation, adjust eligibility credits and benefits, or seek the recovery of benefit overpayments, as they may determine.

## **21. Mergers**

It is recognized that at some time or times in the future the Trustees may deem it in the best interests of the Trust Fund and of the Participating Employers and Participating Employees to accept the merger of another employee welfare benefit trust fund into this Trust Fund, or to merge this Trust Fund into another employee welfare benefit trust fund. The Trustees shall have the authority to negotiate and consummate an appropriate merger agreement, subject to the approval of the State Executive Board of ASEA/AFSCME Local 52 and the affirmative vote upon ballot poll of the general membership, and the bargaining parties for the underlying Collective Bargaining Agreement(s).

## **22. Joinder of Non-GGU Bargaining Units**

It is recognized that at some time or times in the future, the Trustees may determine that it is reasonable to allow participation of other public sector groups represented by a Union other than ASEA/AFSCME Local 52, providing them the opportunity to bargain the provision of Employee Welfare Benefits to its members and their Beneficiaries through the Trust. The Trustees have the authority to allow such participation, as defined in Article II, Sections 5, 6, and 7, and the authority to set the rules of participation, Contribution rates, and benefits available through the Trust. The Trustees shall obtain the approval of the State Executive Board of ASEA/AFSCME Local 52 for participation of such additional bargaining unit groups, and any such participation must also be subject to a Memorandum of Understanding, or other

agreement between the public sector union representing such employees and the public entity subject to a Collective Bargaining Agreement.

### **23. Interpretation and Application of Documents**

The Trustees shall have the sole and exclusive authority to interpret and apply the provisions of this Trust Agreement, or of the Benefit Plan(s), or of their own motions, resolutions, and administrative rules and regulations, or of any contracts, instruments, or writings they may have adopted or entered into.

## **ARTICLE IX**

### **HEARING PROCEDURES**

#### **1. Procedures to be Followed**

The Trustees shall establish benefit appeal procedures affording Participating Employees or their Beneficiaries whose claims for benefits are denied, in whole or in part, a full and fair opportunity for review in accordance with claim appeals procedures dictated by federal and state law for group health plans. Such procedures shall be clearly set forth in the current Summary Plan Description for each Plan offered through the Trust, in accordance with federal and state laws currently governing Trust operations. The Summary Plan Description in effect at the time the wholly or partially denied claim is incurred shall be incorporated herein by reference.

## **ARTICLE X**

### **LIMITATIONS**

#### **1. Liabilities and Debts of Trust Fund**

Neither ASEA/AFSCME Local 52 nor any Trustee, and no Participating Employer, Participating Employee, or Beneficiary shall be responsible for the liabilities or debts of the Trust Fund.

#### **2. Liabilities and Debts of Participating Parties**

No Participating Employer shall become responsible by reason of their participation in the Trust Fund for the liabilities or debts of any other Participating Employer.

#### **3. Personal Liabilities of Trustees**

No Trustee shall incur any personal liability in connection with the administration of the Trust Fund or the Benefit Plan(s). Except as may be required by other applicable provisions of this Trust, no Trustee shall be held personally liable for any breach of fiduciary responsibilities in connection with the administration of the Trust Fund or the Benefit Plan(s) where it is established that (a) the responsibilities at issue were lawfully delegated to other fiduciaries, or (b) in carrying out the responsibilities at issue the Trustee reasonably relied upon the advice given by the administrative agent or by one or more of the advisors retained by the Trustees.

No Trustee shall be personally liable for a breach of fiduciary responsibilities if such breach was committed before he/she became a Trustee or after he/she ceased to be a Trustee.

#### **4. Judgments against Trust Fund**

Any money judgment against the Trust Fund shall be enforceable only against the Trust Fund entity.

#### **5. Participating Parties' Rights**

Except as specifically provided for in this Trust Agreement or in the Benefit Plan(s), no Participating Employer, Participating Employee, or Beneficiary shall have any right, title, or interest in or to the Trust Fund, or in or to the Contributions, or in or to the benefits provided.

No Participating Employee shall be entitled to receive any part of the Contributions in lieu of the benefits provided through a Benefit Plan, nor shall a Participating Employee who does not qualify for benefits, or his/her Employer, have any claim to the Contributions which may have been paid on his/her behalf.

#### **6. Cessation of Participation**

In the event a Participating Employer should cease its participation in the Trust Fund, there shall be no division or allocation of any of the monies or assets of the Trust Fund, except as may be required by law.

## **7. Protection of Trust Fund, Contributions, and Benefits**

No part of the Trust Fund (including the Contributions) or the benefits payable under the Benefit Plan(s) shall be subject in any manner, by a Participating Employee or Beneficiary, to anticipation, alienation, sale, transfer, assignment, encumbrance, or charge, and any such attempt shall be null and void, provided that the Trustees may recognize assignments of benefits from a Participating Employee or Beneficiary to a doctor, hospital, or other person or institution that has treated or cared for, or provided services or goods to, the Participating Employee or Beneficiary for purposes of allowing direct payment of the allowable benefit to such provider.

Further, no part of the Trust Fund (including the Contributions) or the benefits payable under the Benefit Plan(s) shall be liable for the debts of a Participating Employee or Beneficiary, nor be subject in any manner to garnishment, attachment, lien, charge, or any other legal process brought by any person against a Participating Employee or Beneficiary, and any such attempt shall be null and void.

## **8. Reliance upon Written Documents**

The Trustees may act upon any written letter, report, certificate, instrument, or other document submitted to them by any Participating Employer, Participating Employee, or Beneficiary, or by any other person, where such document appears to be genuine and to be signed by the proper person or persons, and the Trustees shall be under no duty to make any investigation or inquiry as to any statement contained in any such document.

## **9. Agents of Trust Fund**

The Trust Fund is an entity separate and apart from the ASEA/AFSCME Local 52 and the Participating Employers. Accordingly, unless authorized in a motion or resolution of the Board of Trustees, neither ASEA/AFSCME Local 52 nor any Participating Employer, nor any individual employed thereby, shall have any authority to act or function for or on behalf of the Trust Fund or as an agent thereof.

Likewise, unless authorized in a motion or resolution of the Board of Trustees, no individual Trustee shall have any authority to act or function for or on behalf of the Trust Fund or as an agent thereof.

## **ARTICLE XI**

### **MISCELLANEOUS**

#### **1. Trust Fund Offices**

The Trust Fund shall maintain a principal office and branch offices, where necessary, in such locations as the Trustees may determine. In the absence of such offices, the office of the Trust's professional third-party administrator shall serve as the Trust's office, and shall also be the repository of the Trust's records.

#### **2. Applicable Laws and Regulations**

This Trust Agreement shall be interpreted, and the Trust Fund shall be administered, in accordance with the Internal Revenue Code, and the regulations pertinent thereto, and other applicable statutes and regulations and this Trust Agreement, as such statutes and regulations and this Trust Agreement presently exist or as they may hereafter be amended.

References herein to particular sections of the above-mentioned statutes shall include any regulations pertinent to such sections and any subsequent amendments to such sections or regulations.

#### **3. Service in More than One Fiduciary Capacity**

Any Trustee or other person who is a fiduciary may serve the Trust Fund in more than one fiduciary capacity so long as their capacity as a dual fiduciary is disclosed to and approved by the Board of Trustees.

#### **4. Notices**

Any written notice permitted or required by this Trust Agreement shall be personally delivered to the person for whom it is intended or sent to such person at his/her residence or business address by first class mail, certified mail, or overnight express delivery.

#### **5. Severability**

If any provision of this Trust Agreement, or of the Benefit Plan(s), is held to be illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining portions of the Trust Agreement or of the Benefit Plan(s).

#### **6. Titles and Words**

The titles of the various articles and sections of this Trust Agreement, with the exception of Article II, are inserted solely for convenience of reference and are not a part of, nor shall they be used to construe, any term or provision hereof. Whenever any words are used herein in the masculine gender they shall be construed as though they were used in the feminine gender, and words in singular form shall be construed as though they were used in the plural form, in all cases where they would so apply.

## **ARTICLE XII**

### **AMENDMENTS AND TERMINATION**

#### **1. Amendments**

This Trust Agreement may be amended at any time by action of the Board of Trustees of the ASEA/AFSCME Local 52 Health Benefits Trust, with the exception of Article III.

#### **2. Termination**

This Trust Agreement may be terminated at any time by action of the Board of Trustees of the ASEA/AFSCME Local 52 Health Benefits Trust.

#### **3. Allocation upon Termination**

Upon termination of this Trust Agreement, the Trustees shall conclude the affairs of the Trust Fund. Where termination occurs as the result of a merger, as authorized under Article VIII, Section 21, any and all monies and assets remaining in the Trust Fund after payment of expenses shall be transferred to the trust fund with which the merger has been negotiated. With respect to any other termination, any and all monies shall be used for the continuance of the benefits provided under the then existing Benefit Plan(s). Assets existing, after all benefits incurred through the date of termination have been paid, shall be transferred to the Participating Employers with each Employer receiving its appropriate share of available reserves, and used for the sole and exclusive purpose of providing benefits to the Employees covered by the Collective Bargaining Agreement between such Employer and the Union representing such Employees.

## SIGNATURES

Adopted by action of the Board of Trustees of the ASEA/AFSCME Local 52 Health Benefits Trust on March 28, 2019, and effective March 28, 2019.

*Michael Williams*

Michael Williams

*Shawn Staker*

Shawn Staker

*Brittany R. Staker*

Brittany Staker

*Terry Roth*

Terry Roth

*Jake Lauten*

Jake Lauten

*Chelsea Sieh*

Chelsea Sieh

**ASEA/AFSCME LOCAL 52 HEALTH BENEFITS TRUST**

**TRUST AGREEMENT**

**AMENDMENT NO. 1**

Effective May 21, 2020, the Trust Agreement of the ASEA/AFSCME Local 52 Health Benefits Trust (as amended and restated effective March 28, 2019) is amended as follows:

**ARTICLE III**

**TRUST FUND ADMINISTRATION**

Section 11 Return of Books and Records is renumbered Section 12.

A new Section 11 is added to read as follows:

**11. Board Member Emeritus**

The Board of Trustees have the discretion to nominate and elect a Board Member Emeritus by majority vote of the Trustees present at the Fall Board of Trustees meeting, provided a quorum is established. Such Board Member Emeritus will be a non-voting position pursuant to the qualifications and requirements established by the Board of Trustees in the Board Member Emeritus Policy.

IN WITNESS WHEREOF, and as conclusive evidence of the adoption of the foregoing instrument comprising Amendment No. 1 to the Trust Agreement of the ASEA/AFSCME Local 52 Health Benefits Trust (as amended and restated effective March 28, 2019), the Board of Trustees executes this Amendment in its name and on its behalf this May 21, 2020.

Due to COVID-19 restrictions, the Trustees could not meet in person, hence this Amendment is signed in counterpart.

*Michael Williams*

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Michael Williams

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Chelsea Sieh

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Jake Lauten

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Brittany Staker

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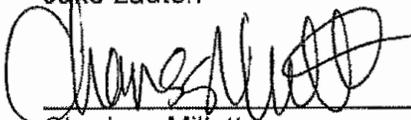
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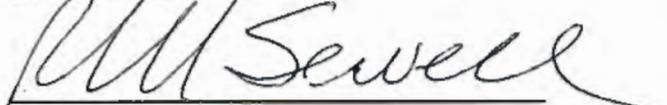
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