

**FIRST AMENDMENT
TO THE
PORT OF HOUSTON AUTHORITY RESTATED RETIREMENT PLAN
(AS AMENDED AND RESTATED EFFECTIVE OCTOBER 24, 2017)**

WHEREAS, the Port of Houston Authority of Harris County, Texas (the “Employer”), sponsors the Port of Houston Authority Restated Retirement Plan (as Amended and Restated effective as of October 24, 2017) (the “Plan”); and

WHEREAS, in Section 8.1 of the Plan, the Employer has reserved the right and discretion to amend the Plan at any time, and from time to time, to any extent it may deem advisable, subject to certain limitations that are enumerated in the Plan; and

WHEREAS, on December 20, 2019, Division O of the “Further Consolidated Appropriations Act, 2020”, titled “Setting Every Community Up for Retirement Enhancement” (the “SECURE Act”) was signed into law; and

WHEREAS, Section 114 of the SECURE Act increased the “required beginning date” in Code Section 401(a)(9)(C)(i)(I) from (A) April 1 of the calendar year following the later of the calendar year in which (1) the employee attains age 70½, or (2) the calendar year in which the employee retires to (B) April 1 of the calendar year following the later of the calendar year in which (1) the employee attains age 72, or (2) the calendar year in which the employee retires, to be effective for individuals who attain age 70½ after December 31, 2019; and

WHEREAS, the Employer has determined that the Plan should be amended to maintain compliance with the change to the “required beginning date” made by the SECURE Act; and

WHEREAS, the Employer has determined that the Plan should be amended to provide for an additional optional form of lump sum distribution that may be elected within 45 days following separation from service by a participant whose accrued benefit exceeds the maximum small benefit cash-out amount but whose accrued benefit is no greater than \$100,000 when actuarially converted into a lump sum; and

WHEREAS, the Employer has determined that the Plan should be amended to incorporate a one-time lump sum payout window program (the “Window Program”), which Window Program will permit lump sum distributions to be made to vested terminated Participants who (i) satisfy certain eligibility requirements and (ii) have not yet commenced to receive distributions of their benefits under the Plan;

NOW, THEREFORE, the Employer hereby amends the Plan, to be effective as of the dates specified herein, as follows:

SECURE Act (Required Minimum Distributions)

1. Effective January 1, 2020, Section 5.8(b)(2)(A) of the Plan is amended and restated, in its entirety, as follows:

(A) Life expectancy rule, Spouse is beneficiary.

(i) For Participants who die on or after January 1, 2020, if the Participant's surviving Spouse is the Participant's sole "Designated Beneficiary," then distributions to the surviving Spouse will begin by December 31st of the calendar year immediately following the calendar year in which the Participant died, or by December 31st of the calendar year in which the Participant would have attained age 72, if later.

(ii) For Participants who died before January 1, 2020, if the Participant's surviving Spouse is the Participant's sole "Designated Beneficiary," then distributions to the surviving Spouse will begin by December 31st of the calendar year immediately following the calendar year in which the Participant died, or by December 31st of the calendar year in which the Participant would have attained age 70½, if later.

2. Effective January 1, 2020, Section 5.8(f)(6) of the Plan is amended and restated, in its entirety, as follows:

(6) "**Required Beginning Date**" for a participant who attains age 70½ on or after January 1, 2020, means the April 1st of the calendar year following the later of (A) the calendar year in which the Participant attains age 72, or (B) if the Participant is not a "five percent owner" at any time during the Plan Year ending with or within the calendar year in which the Participant attains age 72, then the calendar year in which the Participant retires. For a participant who attained age 70½ before January 1, 2020, "Required Beginning Date" means the April 1st of the calendar year next following the later of (A) the calendar year in which the Participant attains age 70½, or (B) if the Participant is not a "five percent owner" at any time during the Plan Year ending with or within the calendar year in which the Participant attains age 70½, then the calendar year in which the Participant retires. A "five percent owner" means a Participant who is a five percent owner as defined in Code Section 416(i)(1)(B)(i).

Optional Lump Sum Distributions

1. Effective August 6, 2022, new Section 1.55A is added to the Plan as follows:

1.55A "**Vested Terminated Benefit**" has the meaning given to it in in Section 5.1(b).

2. *Effective August 6, 2022, Sections 5.1(b) and (c) are amended and restated, in their entirety, as follows:*

(b) Benefits Before Normal Retirement Date

(1) Early Retirement Benefit. A Participant who satisfies the eligibility requirements for an Early Retirement Benefit in Section 1.21 may elect to receive, in lieu of his Normal Retirement Benefit, an Early Retirement Benefit that is payable beginning on the Participant's Early Retirement Date and is the Actuarial Equivalent of the Participant's Accrued Benefit.

Effective with respect to Employees who terminate employment on or after August 1, 1982, and who satisfy the provisions of Section 1.21(c), the actuarial reduction for early receipt shall not apply (i.e., if the Participant has attained age fifty-five (55) or more and the sum of the Participant's age and Periods of Service for purposes of vesting equals eighty-five (85) or more).

(2) Vested Terminated Benefit. A Participant who separates from service prior to his Normal Retirement Date and whose Accrued Benefit has a Present Value that does not exceed \$100,000 as of the date that the Participant separates from service, may elect within the 45 calendar days following such separation from service, to receive, in lieu of his Normal Retirement Benefit, a Vested Terminated Benefit that is the Present Value of the Vested portion of the Participant's Accrued Benefit distributable in the single lump sum form of payment described in Section 5.6(a)(7). The Vested Terminated Benefit is payable as of the first day of the month next following the date that the Plan Administrator timely receives and accepts the Participant's valid election pursuant to this Section 5.1(b)(2), or as soon as administratively practicable thereafter. A Participant may not elect to receive the Vested Terminated Benefit in a form of distribution different than the single lump sum form of payment.

To be valid, a Participant's election pursuant to this Section 5.1(b)(2) must be received and accepted by the Plan Administrator by no later than the 45th calendar day following the Participant's separation from service date. A Participant who declines to elect a Vested Terminated Benefit distribution within such 45-day period will be eligible to elect to receive a distribution in accordance with other provisions of this Plan subject to satisfaction of any applicable eligibility conditions.

(c) Normal Form of Distribution. The Normal Retirement Benefit payable to a Participant pursuant to this Section 5.1 (other than a lump sum payment pursuant to Section 5.1(b)(2)) shall be a monthly pension commencing on the Participant's Retirement Date and continuing for life. If a Retired Participant dies prior to the completion of 60 monthly payments, such monthly payments shall be continued to the Retired Participant's Beneficiary until the monthly payments made to the Retired Participant and to the Beneficiary shall total 60. However, the form of distribution of such benefit shall be determined pursuant to Section 5.6.

3. *Effective August 6, 2022, Section 5.5(b) of the Plan is amended and restated, in its entirety, as follows:*

(b) **Earlier payments of benefits.**

(1) Early Retirement Benefit. The Administrator shall, at the election of the Participant, direct earlier payment of the Vested portion of the Participant's Accrued Benefit at any time after the Participant satisfies the requirements to receive an Early Retirement Benefit, which shall be an Early Retirement Benefit subject to the provisions of Section 5.1(b)(1). Any distribution under this paragraph shall be made in a manner which is consistent with and satisfies the provisions of Section 5.6.

(2) Vested Terminated Benefit. The Administrator shall, at the election of the Participant, direct earlier payment of the Vested portion of the Participant's Accrued Benefit in accordance with the provisions of Section 5.1(b)(2).

4. *Effective August 6, 2022, Section 5.6(a) of the Plan is amended to add the following new subsection 5.6(a)(7) at the end thereof, as follows:*

(7) Single lump sum distribution. A Participant may elect this optional single lump sum form of distribution if (a) the Present Value of the Participant's Accrued Benefit does not exceed \$100,000, and (b) such election is made by the Participant, and received and accepted by the Plan Administrator, by no later than the 45th calendar day following the Participant's separation from service date.

Lump Sum Window Program

1. *Effective August 15, 2022, the Plan is amended to add the following new Appendix A to the end thereof:*

**APPENDIX A
WINDOW BENEFIT PROGRAM**

I. Defined Terms.

Unless otherwise provided herein, the capitalized terms that are used in this Appendix A shall have the meanings given to them in Article 1 of the Plan.

1. **Election Period.** The dates within which a Participant may elect to participate in the Window Benefit Program. The Election Period is from August 15, 2022, to September 30, 2022.
2. **Payment Date.** Any date that is as soon as administratively practicable on or after December 1, 2022, and before January 1, 2023.

3. **Window Benefit Program.** The program described in this Appendix A.

II. Eligibility.

1. To be eligible to participate in the Window Benefit Program, a Participant must satisfy all of the following requirements:
 - (a) the Participant must have incurred a termination of employment from the Employer on or before August 5, 2022;
 - (b) the Participant must not have been rehired by the Employer after the commencement of the Election Period;
 - (c) the Participant must not be in pay status under the Plan (*i.e.*, the Participant must not have already commenced receiving a distribution of his Accrued Benefit) before the Payment Date;
 - (d) the Participant must make a valid election within the Election Period to receive a distribution, commencing as of the Payment Date, pursuant to the Window Benefit Program.
2. Notwithstanding any other provision in this Appendix A, a Participant who is required under the terms of the Plan, without regard to the Window Benefit Program, to commence distribution of his Accrued Benefit prior to the Payment Date cannot participate in the Window Benefit Program. Any such Participant must thus elect a form of distribution from the choices as in effect as of the time that he is required to commence to receive a distribution of his Accrued Benefit under the terms of the Plan without regard to this Appendix A.
3. The Administrator shall have the authority to determine, in its discretion, whether any Participant (a) is eligible to participate in the Window Benefit Program and (b) has timely and validly elected to participate in the Window Benefit Program. The decision of the Administrator in this respect shall be final and binding on the Participant and all other interested persons.

III. Elections.

1. To be valid, a Participant's election to participate in the Window Benefit Program must be:
 - (a) made on the form provided by the Administrator for this purpose;
 - (b) signed and dated by the Participant within the Election Period; and
 - (c) received in good order and accepted by the Administrator within the Election Period.

2. **Election Choices.**

- (a) **Timing of distribution.** All benefits elected pursuant to this Window Benefit Program shall commence as soon as administratively practicable on or after the Payment Date.
- (b) **Form of distribution.**
 - (i) A Participant whose Accrued Benefit has a present value of less than or equal to \$5,000 on the Payment Date shall receive a distribution pursuant to Section 5.6(b) of the Plan.
 - (ii) A Participant whose Accrued Benefit has a present value that is greater than \$5,000 shall receive a lump sum distribution that is the actuarial equivalent of the Participant's vested Accrued Benefit applying the Applicable Interest Rate and Applicable Mortality Table.

IV. **Distributions.**

- 1. **Election.** A Participant who (a) satisfies the eligibility requirements of this Appendix A, and (b) makes a valid election pursuant to this Appendix A, shall receive the form and timing of distribution as he elected pursuant to this Appendix A.
- 2. **Death After Election.** In the event that a Participant dies following his valid election to participate in the Window Benefit Program but before payment of his Accrued Benefit is actually made, or commences to be made, pursuant to this Appendix A, the lump sum distribution described in Section III(2)(b) of this Appendix A shall be made to the Participant's Beneficiary as soon as administratively practicable on or after the Payment Date, and in no case later than December 31 of the fifth year following the year of the Participant's death.

Other Revisions

- 1. *Effective August 10, 2022, Sections 5.3(d)(5) of the Plan is amended and restated in its entirety, as follows:*

(5) **"Disability Termination Date"** means the date that a Totally and Permanently Disabled Participant terminates employment.

2. *Effective August 10, 2022, Sections 5.6(b) and (c) of the Plan are amended and restated, in their entireties, as follows:*

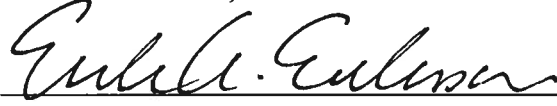

(b) **Form of Payment of small benefits.** If the Present Value of the Participant's Accrued Benefit does not exceed \$5,000, then distribution may only be made as a lump sum payment.

(c) **Mandatory Distributions (forced cash-outs).** If the Present Value of a Participant's Accrued Benefit does not exceed \$1,000, an immediate lump sum distribution will be made regardless of the Participant's written consent. This provision does not apply to distributions of benefits upon death to a surviving Spouse or other Beneficiary which are governed under Section 5.7.

If the Present Value of a Participant's Accrued Benefit is greater than \$1,000 and does not exceed \$5,000, then distribution may only be made as a lump sum payment, but such Participant will not be required to receive an immediate lump sum distribution and may elect to defer commencement. The Participant's consent shall be required before a distribution may be made until such time as the Participant is otherwise required to begin distribution of his benefit pursuant to other applicable provisions of the Plan.

IN WITNESS WHEREOF, this First Amendment has been approved and executed by a duly authorized officer of the Employer, to be effective as of the dates provided herein.

**PORT OF HOUSTON AUTHORITY
OF HARRIS COUNTY, TEXAS**

By:  
Name: **Erik A. Eriksson**
Chief Legal Officer
Title: _____
Date: 7.11.22