

VILLAGE OF DOWNERS GROVE
Report for the Village

SUBJECT:	10/1/2019	SUBMITTED BY:
Employe Benefits Renewal Contracts and Medical Plan Amendments for FY 2020		Dennis Burke Director of Human Resources

SYNOPSIS

Resolutions have been prepared to authorize approval of employee benefits renewal contracts and plan amendments for FY 2020.

STRATEGIC PLAN ALIGNMENT

The goals for 2017-2019 include *Steward of Financial, Neighborhood and Environmental Sustainability*.

FISCAL IMPACT

The Proposed FY20 health insurance budget includes \$1,650,095 for claims administration, stop loss contracts and Wellness Health Initiative. The vendors and contract amounts for FY19 and FY20 are itemized below:

Vendor	Contract Item	FY2019 Amount	FY2020 Amount
Blue Cross/Blue Shield	Medical Claim Administration	\$150,822.00	\$91,834.00
Blue Cross/Blue Shield	Specific and Aggregate Stop Loss	\$568,210.00	\$785,492.00
Subtotal		\$719,032.00	\$877,326.00
National Insurance Services Trust	Life Insurance	\$83,504.00	\$83,504.00
National Insurance Services Trust	Disability Benefits	\$23,746.00	\$23,746.00
TASC	Veba Health Savings	\$28,089.90	\$28,089.90
Humana	Retiree Carve Out	\$288,207.00	\$339,361.00
Eye Med	Vision	\$30,341.76	\$33,294.12
Perspectives	Employee Assistance Program	\$11,000.00	\$9,350.00
Grand Total		\$1,183,920.66	\$1,394,671.02

RECOMMENDATION

Approval on the October 1, 2019 consent agenda.

BACKGROUND

The recommended contracts provide the necessary administration and support for the Village's Health Insurance program, which has a total budget of \$6.8 million as shown in the FY20 Proposed Budget. The budget also describes how the Village has positioned itself well to effectively control health insurance costs and respond to the requirements of the Patient Protection Affordable Care Act.

A summary of the 2020 employee benefits contracts is provided below:

- *Medical Claim Administration* – The Village has a self-funded medical plan and contracts with an outside vendor to provide claim administration on behalf of the Village. Claim administration includes medical and prescription drug claim adjudication, pre-certification and medical case management services. On an annual basis, staff reviews the claim administration services received from the vendor. Also reviewed is the relationship the vendor has with preferred provider organizations (PPO) to ensure the discounts received through the PPO contracts are cost effective to both the employee and the Village. The Village has contracted with Blue Cross/Blue Shield of Illinois for these services since 2011. Blue Cross has provided a renewal quote for 2020 for claims administration. Blue Cross also charges a fee to access their PPO network. The fee is offset by the significant savings the Village realizes through the Blue Cross PPO discounts. The Village made positive changes to the plan design which was recognized by Blue Cross that provided a more positive renewal cost which includes an increase in prescription drug credits. Total annual costs for medical claims administration for 2020, which includes the PPO access fee, are \$91,834. This represents a decrease of \$58,988 from the previous year.
- *Stop Loss Coverage* - The Village purchases stop loss coverage to limit its financial exposure. Stop loss coverage provides insurance for catastrophic medical claims of participants in the Village's group health care plan. There are two types of stop loss coverage, specific and aggregate. Specific stop loss insurance provides a point at which time the insurance company becomes responsible for any claims after an individual insured reaches a pre-determined limit in the contract year. As part of the annual review, staff directs the Village's consultant, the Horton Group, to recommend to the Village the most appropriate point for specific stop loss coverage. The consultant reviews specific claim data on the Village's group and determines if it is cost effective for the Village to take on additional claim exposure. For 2020 the consultant determined that the Village should remain at the current \$150,000 specific stop loss level. Due to a high volume of claims that reached the \$150,000 stop loss level the Village expected an increase in the Stop Loss premium. The Village does obtain alternative quotes on stop loss coverage on an annual basis. Blue Cross's quote for stop loss totals \$785,492 annually. The increase of \$190,282 for stop loss from last year is due to 11 participants in the health plan exceeding the \$150,000 limit. Instead of red lining these four individuals at higher levels of stop loss at a higher rate, the underwriter added to the premium and kept all participants at \$150,000 stop loss, which is in the best interest of the Village's Health Plan.
- *Life Insurance* – Life Insurance is offered as an employee benefit. The premium for Life Insurance for 2020 is \$83,504. This premium reflects no increase from the previous year.
- *Long Term Disability Insurance (LTD)* – LTD is a benefit for all full time employees, except sworn Police or Fire employees, who are covered through the pension plan. Premium costs for FY20 is \$23,746. This premium reflects no increase from the previous year.
- *Vebe Health Savings* – under the Village of Downers Grove medical program, employees are able to participate in a "VEBA Savings Plan" (oftentimes referred to as a health reimbursement account or HRA).

The Village contracts with TASC for administration of the HRA. Administrative Fees for FY20 are \$28,089.90.

- *Retiree Carve Out* – Village employees and their eligible spouses that are on the Village’s Health Insurance Plan go to the Retiree Carve Out when they reach Medicare age at 65 years old. In 2012, the Village through the Broker found a Humana Supplement plan for these retirees is provided thereby removing them from the Village’s Self-Insurance Program. The Village pays the premium and invoices those premiums to the respective retirees. However, those employees that retired prior to the change in Village Ordinance on 9/9/2009 receive credit of 50% of premium. The premium for 2020 is \$339,361. The increase from the previous year is due to eleven (11) new plan participants and a tax of \$16.88 a month per participant.
- *Vision* – The Village provides employees a vision program which is administered by Eye Med Plan of Illinois. Under this program, employees utilize network providers where services are received at discounted rates and benefits are primarily paid in full two years for frames and one year for lenses. Fees for administration of the Eye Med program for 2020 are \$33,294.12. The increase of \$2,952.24 is reasonable according to the Village’s Broker and the quote is for four (4) years to 2023.
- *Employee Assistance Program* – Perspectives provides employee assistance programs for all Village employees. These programs include individual Counseling, Family Counseling, Debt Consolidation, Legal Counseling and more. Because the Village has been a good customer, Perspectives has offered a three (3) year contract through December 31, 2022, as well as a 15% discount. The fee will be \$9,350. This is a decrease of \$1,650 from last year.

ATTACHMENTS

Resolutions

Contracts

RESOLUTION NO. ____**A RESOLUTION AUTHORIZING EXECUTION OF A
TRUST FUNDED HRA ADMINISTRATION AGREEMENT BETWEEN
TOTAL ADMINISTRATIVE SERVICES CORPORATION AND
THE VILLAGE OF DOWNERS GROVE**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Agreement (the "Agreement"), between the Village of Downers Grove (the "Adopting Employer" & "Plan Administrator") and Total Administrative Services Corporation (the "Plan Supervisor"), to perform services relating to the operation and administration of the VEBA health savings plan effective January 1, 2020, as set forth in the form of the Agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Village Manager and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____

Village Clerk



**TRUST FUNDED HRA
ADMINISTRATION AGREEMENT
effective January 1, 2020**

between

**Total Administrative Services Corporation
("Plan Supervisor")**

And

The Village of Downers Grove ("Adopting Employer" & "Plan Administrator")

WHEREAS, The Village of Downers Grove ("Adopting Employer") has heretofore adopted the The Village of Downers Grove Funded Health Reimbursement Arrangement (the "HRA Plan"); and

WHEREAS, Adopting Employer has heretofore adopted the The Village of Downers Grove VEBA Health Savings Trust (the "Trust"); and

WHEREAS, Adopting Employer may have heretofore adopted one or more health and/or welfare benefit plans (other than the HRA Plan) that are to be funded through the Trust (the "Health and Welfare Plan(s)"); and

WHEREAS, the HRA Plan and Health and Welfare Plan(s) (if any) names Adopting Employer as Plan Administrator and appoints Plan Administrator to act on behalf of the HRA Plan and Health and Welfare Plan(s) (if any); and

WHEREAS, Adopting Employer is a governmental entity and, therefore, the HRA Plan and Health and Welfare Plan(s) (if any) are not employee welfare benefit plans subject to the Employee Retirement Income Security Act of 1974 ("ERISA"); and

WHEREAS, the HRA Plan is, and the Health and Welfare Plan(s) (if any) may be, "covered entities" subject to the privacy and security provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); and

WHEREAS, the Plan Administrator is the entity capable of acting on behalf the HRA Plan and Health and Welfare Plan(s) (if any) for purposes of HIPAA; and

WHEREAS, the Plan Supervisor performs services (directly and indirectly) with respect to operating, administering, and providing recordkeeping for programs of the type of the Health and Welfare Plan(s) (if any), HRA Plan, and the Trust; and

WHEREAS, the Plan Administrator desires that the Plan Supervisor furnish certain services described in this Agreement in the operation and administration of the Health and Welfare Plan(s) (if any), HRA Plan, and the Trust;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and the exhibits and addenda, if any, attached hereto, effective January 1, 2020, the Plan Administrator and the Plan Supervisor hereby agree as follows:

I. Definitions

The following Definitions shall apply to this Agreement:

- A. **Administrative Services** - means those services relating to the establishment, maintenance, and administration of the HRA Plan, Health and Welfare Plan(s), and Trust to be performed by the Plan Supervisor as set forth in this Agreement.
- B. **Adopting Employer** – means The Village of Downers Grove
- C. **Adoption Agreement** – means the Trust Funded HRA Basic Plan Document Adoption Agreement for The Village of Downers Grove, effective January 1, 2017.
- D. **Agreement** - means this administration agreement and any exhibits and addenda attached hereto and any outside agreements specifically incorporated by reference.
- E. **Basic Plan Document** – means the document known as the Trust Funded HRA Basic Plan Document.
- F. **COBRA** - means the Consolidated Omnibus Budget Reconciliation Act of 1985 (as it appears in the Public Health Services Act) and regulations thereunder, as amended from time to time.
- G. **Code** - means the Internal Revenue Code of 1986 and regulations thereunder, as amended from time to time.
- H. **Effective Date** - means the date upon which this Agreement is first effective as indicated above.
- I. **ERISA** - means the Employee Retirement Income Security Act of 1974 and regulations thereunder, as amended from time to time.
- J. **Health and Welfare Plan(s)** - not applicable.
- K. **HIPAA** - means the Health Insurance Portability and Accountability Act of 1996 and regulations thereunder, as amended from time to time.
- L. **HRA Plan** - means the The Village of Downers Grove Funded Health Reimbursement Arrangement.
- M. **Participant** – means an individual who is participating in one or both of the HRA Plan and/or Health and Welfare Plan(s), including those on continuation coverage required under COBRA.
- N. **PPACA** – means the Patient Protection and Affordable Care Act and regulations thereunder, as amended from time to time.
- O. **Plan Administrator** – means the entity as defined in the HRA Plan and Health and Welfare Plan(s).
- P. **Plan Supervisor** – means Total Administrative Services Corporation an independent contractor designated to perform certain administrative services pursuant to this Agreement with respect to the HRA Plan, Health and Welfare Plan(s), and Trust.
- Q. **PHI** – means Protected Health Information for purposes of HIPAA.
- R. **Summary Description** – means the written documents distributed directly or indirectly to Participants explaining the HRA Plan and Health and Welfare Plan(s).

- S. **Trust** – means the The Village of Downers Grove VEBA Health Savings Trust.
- T. **Trust Document** – means the document through which the Trust is established.

II. Plan Establishment & Maintenance

- A. **Generally.** Adopting Employer shall establish the Health and Welfare Plan(s), HRA Plan, and the Trust. The Plan Administrator shall be responsible for the operation and administration of the Health and Welfare Plan(s), HRA Plan, and the Trust. In accordance with this Agreement, the Plan Supervisor shall provide administrative services to Adopting Employer and Plan Administrator in connection with the establishment of, the operation of, the administration of, and/or the recordkeeping for the Health and Welfare Plan(s), HRA Plan, and the Trust.
- B. **Documents.** Adopting Employer and Plan Administrator shall have ultimate responsibility for all aspects of the HRA Plan, Health and Welfare Plan(s), and Trust documentation, including, but not limited to, the plan document, Trust Document, Summary Description, amendments and updates to such documents, and the application for tax-exempt status (IRS Form 1024).
 - 1. **Health and Welfare Plan(s).** The Adopting Employer and Plan Administrator shall be responsible for all plan documentation related to the Health and Welfare Plan(s). Except as provided below, the Plan Supervisor shall not be responsible for providing documents for the Health and Welfare Plan(s).
 - 2. **HRA Plan and Trust.** The Plan Supervisor shall provide the Adopting Employer with services related to the initial preparation and periodic revision of documents relating to the HRA Plan including the Basic Plan Document, Trust Document, Summary Description for the HRA Plan, IRS Form 1024, and related documentation. Adopting Employer and Plan Administrator shall approve all such materials within thirty (30) days following delivery by the Plan Supervisor, unless such deadline is extended by mutual agreement of all parties. Adopting Employer's and Plan Administrator's failure to object within such time period (including any agreed upon extension period) shall constitute approval. Unless Adopting Employer, Plan Administrator and the Plan Supervisor mutually agree otherwise, the Plan Administrator shall deliver to all Participants all appropriate and necessary documents and materials, including, but not limited to, the Plan Document for the HRA Plan, Trust Document, Trust amendments, Summary Descriptions, enrollment forms, and application and notice forms, as may be necessary for the operation of the HRA Plan or to satisfy the requirements of state or federal laws and regulations. Upon termination of this Agreement, Adopting Employer agrees to cease using the documents relating to the HRA Plan including the Plan Document, Trust Document, Summary Description, and other Participant communication materials, and further agrees that neither it nor its agents shall copy any portion of the Plan Document or Trust Document in the course of preparing replacement documents.
- C. **Amendment & Termination.** The HRA Plan, Health and Welfare Plan(s), and/or Trust may be amended or terminated in accordance with their terms. If the Adopting Employer amends the HRA Plan, Health and Welfare Plan(s), or the Trust, the Adopting Employer agrees to notify the Plan Supervisor (1) before the later of the effective date of the amendment or the date of adoption of the amendment, or (2) as soon as administratively feasible. The Plan Supervisor is responsible for providing services pursuant to such amended Plan or Trust only upon its consent which shall be evidenced by an amendment to this Agreement. Such consent shall not be unreasonably withheld but may be conditioned upon Adopting Employer's agreement to pay increased administrative fees.

III. Plan Supervisor Responsibilities

- A. **Status of the Plan Supervisor.** Adopting Employer shall not (1) name the Plan Supervisor as the Plan Administrator in any documents applicable to the HRA Plan or Health and Welfare Plan(s), nor (2) hold out to other parties or third parties that the Plan Supervisor serves in the foregoing capacity. In addition, the Plan Supervisor does not intend to assume any of the administrative duties or responsibilities commensurate with such designations.
- B. **Capacity of Plan Supervisor.** In fulfilling its duties and obligations under this Agreement, the Plan Supervisor: (i) shall act as the administrative agent of the HRA Plan, Health and Welfare Plan(s), and Trust; (ii) does not intend to be an Adopting Employer or Plan Administrator (as such terms are defined under the Plan) of the HRA Plan or Health and Welfare Plan(s) or with respect to the assets of such plans; and (iii) does not have any discretionary authority, control, or responsibility with respect to administration of the HRA Plan, Health and Welfare Plan(s), or the Trust or with respect to conformity of the HRA Plan, Health and Welfare Plan(s), or the Trust with any applicable federal or state law. In addition, the Plan Supervisor shall not be required to participate in or act in a manner that aids or assists a breach of a fiduciary's duty.
- C. **Processing of Claims.** Subject to Article IV and Section VI.C., the Plan Supervisor shall process, adjust and settle claims of Participants received by the Plan Supervisor for benefits under the HRA Plan in accordance with the terms and conditions of the HRA Plan. The Plan Supervisor shall deliver (electronically) to all Participants the claim forms necessary for submitting claims. Where the terms and conditions of the HRA Plan are not clear, the Plan Supervisor reserves the right to request direction from the Plan Administrator. When a claim is approved, the Plan Supervisor or its designee shall provide instructions to the trustee or its designee, in accordance with any contract or agreement between the trustee and the Plan Administrator, directing the trustee to pay benefits from the Trust. When a claim is denied, the Plan Supervisor will notify the Participant of such denial in compliance with the Plan. If such denial is appealed, the Plan Supervisor will notify the Plan Administrator within thirty (30) days. The Plan Supervisor will not be responsible for processing, adjusting and settling claims of Participants for benefits under the Health and Welfare Plan(s).
- D. **Account Servicing.** The Plan Supervisor shall provide account management services. The Plan Supervisor shall make available to the Adopting Employer a client service representative to respond to questions regarding general administrative issues and plan design.
- E. **Employee Communication.** The Plan Supervisor shall provide standard communication materials to Participants in the HRA Plan as agreed upon by the parties. The Plan Supervisor shall provide general administrative services to assist persons with general information about the HRA Plan and answer routine questions from persons concerning coverage status, claims status, complaint administration, and other inquiries related to the HRA Plan. Notwithstanding the preceding, the Plan Supervisor shall: (i) be under no obligation to meet with individual Participants regarding their claims; and (ii) not offer any investment or securities advice to any Participant.
- F. **Recordkeeping.** The Plan Supervisor shall perform the recordkeeping services described herein in conformity with data provided by the Adopting Employer.
1. The Plan Supervisor will maintain records of the allocations of the HRA Plan's account by Participant and contribution type for each investment fund selected by the Participant or the Adopting Employer, as applicable.
 2. The Plan Supervisor will maintain records of funds deposited in an aggregate account in the Trust to fund the Health and Welfare Plan(s).

3. The Plan Supervisor will perform calculations of allocations of Adopting Employer contributions and earnings according to the direction and information requested from and provided by the Adopting Employer.
 4. If applicable, the Plan Supervisor will perform allocation of existing account balances into investment funds according to directions from Participants provided in accordance the procedures established by the Plan Supervisor. Such transactions will be processed each business day as requested by Participants and in accordance with the Plan Supervisor's procedures. Confirmations of investment elections, investment transfers, and realignment requests directed by Participants will be sent to Participants.
- G. **Accountings.** At such regular periodic intervals as Adopting Employer and the Plan Supervisor agree upon and specify in Exhibit A (which is incorporated by reference herein), the Plan Supervisor shall provide the Adopting Employer with reporting regarding the Health and Welfare Plan(s), HRA Plan, and the Trust.
- H. **Participant Access to Information.** The Plan Supervisor shall provide HRA Plan Participants with "24 hour" access to the recordkeeping system through a website connection, but does not guarantee immediate or uninterrupted access at any time. The Plan Supervisor will use reasonable efforts to keep the website properly maintained, but cannot be held responsible for circumstances beyond its reasonable control such as, but not limited to, natural disasters, damage resulting from unauthorized use of a Participants personal identification number, or failure of the system for any other reason outside of the Plan Supervisor's control. The Plan Supervisor shall also provide HRA Plan Participants with account statements at least annually. Such statements shall be provided directly to the Plan Administrator for distribution to the Participants.
- I. **Assistance with Reporting and Notifications.**
1. **Form 990.** The Plan Supervisor shall, based on information it may possess, use its best efforts to prepare IRS Form 990, subject to review by the Plan Administrator as provided in Section IV.M. of this Agreement. The Plan Supervisor shall prepare the Form 990 in a timely manner to allow the Plan Administrator reasonable time to review the Form 990 before the filing due date (including any extensions obtained by the Plan Supervisor). The responsibility for filing and/or distributing IRS Form 990, shall be that of the Adopting Employer or Plan Administrator.
 2. **Other Reports and Notifications.** Except as otherwise specifically provided herein and unless applicable law imposes such responsibility solely on the Plan Supervisor, the Plan Supervisor shall not have any responsibility related to: (1) determining what reporting and notification requirements apply to the HRA Plan and the Health and Welfare Plan(s); (2) preparing and filing any tax return, report, or other document required to be provided to any local, State or Federal government or agency thereof with respect to the HRA Plan or the Health and Welfare Plan(s) (e.g., various reports required under PPACA, etc.); or (3) preparing and distributing any notification required to be provided to any participant of the HRA Plan or the Health and Welfare Plan(s) under applicable law (e.g., various notifications required by PPACA, etc.). Such responsibility for preparing, filing, and/or distributing all tax returns, reports, notifications, or other documents shall be that of the Adopting Employer or Plan Administrator. Notwithstanding the foregoing, the Plan Supervisor may assist Adopting Employer and Plan Administrator with its reporting and notification obligations if the Plan Supervisor agrees, in writing, to do so and if Adopting Employer and/or Plan Administrator agree to pay any additional fees chargeable by the Plan Supervisor for such additional service.

- J. **Nondiscrimination Testing.** If chosen by the Plan Administrator as an optional service as listed in Exhibit B, the Plan Supervisor shall perform all nondiscrimination tests that may be required under the Code with respect to the HRA Plan, including, but not limited to, tests regarding coverage and benefits, and shall verify the classes of highly compensated employees and non-highly compensated employees with the Adopting Employer if this option is chosen by Plan Administrator as an optional service as listed on the Fee Schedule incorporated as part of this Agreement. The Adopting Employer shall provide all information necessary to complete such testing. Should the HRA Plan fail any applicable nondiscrimination tests, the Plan Supervisor may provide suggestions (consistent with the HRA Plan language) regarding how to correct the situation. The responsibility for making a decision regarding how to correct the situation shall be that of the Adopting Employer or Plan Administrator.
- K. **Compliance with Applicable Law.** The Plan Supervisor shall comply with all federal and state laws and regulations applicable to the Plan Supervisor's responsibilities under this Agreement.
- L. **Insurance.** The Plan Supervisor shall maintain professional liability and errors and omissions insurance in the amount of \$2,000,000.00.
- M. **Subcontractors.** The Plan Supervisor may hire subcontractors, at its own expense, to perform any of the services required of it under this Agreement and to act as its designee for purposes of this Agreement.
- N. **Investments.** The Plan Supervisor shall not be responsible for, and shall not take part in, selecting or recommending investments available to Participants.
- O. **Shareholder Communications.** Plan Supervisor will cause all proxies and accompanying materials solicited by an entity, and all prospectuses issued by a company whose securities are held in the Trust ("shareholder communications") to be mailed to the Plan Administrator within a reasonable period of time after the receipt of such shareholder communications by Plan Supervisor. In the event a Participant makes a request to the Plan Supervisor for a copy of any shareholder communication, the Plan Supervisor shall forward such request, within a reasonable time period, to the Plan Administrator who shall be responsible for responding to such request. Plan Supervisor has no responsibility to disseminate copies of shareholder communications to Participants who have invested their accounts in the securities for which such shareholder communications have been received or to any other person. If the shareholder communications include a requirement, request, or opportunity for action (such as a proxy, consent, election, instruction, direction, approval, or similar action) (the "Proxies"), the Plan Administrator will solely be responsible for soliciting and forwarding proxy votes in accordance with the Plan Document and the requirements of the law. In no case will Plan Supervisor be under any duty to determine how, or if, Proxies are voted or to take any other action in connection with any shareholder communication. Plan Supervisor will be under no obligation to forward or return any other corporate material received on behalf of the Trust unless required by law or this paragraph.
- P. **Processing Withdrawals.** When the Plan Administrator requests a withdrawal from the Trust with respect to the Health and Welfare Plan(s), the Plan Supervisor or its designee shall provide instructions to the trustee or its designee, in accordance with any contract or agreement between the trustee and the Plan Administrator, directing the trustee to make a distribution from the Trust.
- Q. **Debit Card Services.** The Plan Supervisor will provide the following services with respect to the use of debits cards to obtain reimbursements under the HRA Plan:
1. Obtain all information necessary for issuance of debit cards to Participants. The Plan Supervisor is entitled to rely upon the accuracy and completeness of all information provided by the Adopting Employer.

2. Through its subcontractor, the debit card vendor, issue debit cards and process debit card transactions.
3. Provide communications to the Adopting Employer, Plan Administrator, and Participants regarding use of debit cards.
4. Process the transfer of funds from the Trust to a designated account to pay debit card claims. The Trust shall be the primary source of funding for debit card claims.
5. Provide substantiation of claims reimbursed via use of the debit card in accordance with applicable IRS rules.
6. Assist the Plan Administrator with recouping debit card reimbursements that are not permitted by IRS rules to the extent required by, and in accordance with, IRS rules. Notwithstanding the foregoing, it shall be the Plan Administrator's ultimate responsibility for recouping such reimbursements in accordance with applicable IRS rules.

IV. Duties of Adopting Employer and Plan Administrator

- A. **FMLA Determinations.** The Adopting Employer shall make determinations regarding FMLA, including, but not limited to, whether FMLA applies. The Plan Supervisor shall not make determinations regarding FMLA. Furthermore, the Plan Supervisor shall be entitled to rely upon the information provided by the Adopting Employer and is under no obligation to independently verify such information.
- B. **Eligibility Determination & Information.** The Adopting Employer shall provide the Plan Supervisor with a listing of all persons eligible for coverage under the HRA Plan, with a list of all eligible participants who are "claim active" (i.e., are entitled to have claims reimbursed), a list of all eligible participants who are not claim active, written notice of any addition or deletion of such persons, and any further information necessary for the Plan Supervisor to provide its services hereunder. The Adopting Employer is responsible for reviewing and approving the documentation of such information. The Adopting Employer may provide such information in any written method mutually acceptable to the Adopting Employer and the Plan Supervisor, including, but not limited to, electronic transmissions. The Plan Supervisor may rely on the most current information in its possession regarding eligibility of a HRA Plan Participant in paying claims and providing other services under this Agreement.
- C. **Contributions.** The Adopting Employer shall remit contributions to the Trust as provided in the HRA Plan and Health and Welfare Plan(s). As contributions are made, the Adopting Employer shall, in a mutually agreed format, provide the Plan Supervisor with such Participant contribution information as is reasonably required by the Plan Supervisor in order to perform its duties hereunder, including, but not limited to, the amount of the contribution to be allocated to each Participant. The Adopting Employer is responsible for the accuracy and completeness of the data it submits to the Plan Supervisor and is solely responsible for any adverse consequences that may result from errors or inaccuracies in such data. The Plan Supervisor is not responsible for requiring that any contributions be made, or for determining that the contributions that are received by the Trust comply with the terms of the HRA Plan or Health and Welfare Plan(s).
- D. **Medical Child Support Order Compliance.** Adopting Employer shall be responsible for all aspects of compliance with state law and the Child Support Performance and Incentive Act of 1998 regarding medical child support orders. Adopting Employer shall provide notice to the Plan Supervisor of any Participants who become covered under the HRA Plan by virtue of a medical child support order and of any Participants who cease to be covered under the HRA Plan by virtue of the expiration of a medical child support order. The Plan

Supervisor shall be entitled to rely upon the information provided by the Adopting Employer pertaining to such medical child support order.

- E. **Nondiscrimination Testing.** Unless otherwise provided in Exhibit B, the Adopting Employer and the Plan Administrator are responsible for performing any nondiscrimination tests that may be required under the Code, including, but not limited to, tests regarding coverage and benefits. Should the HRA Plan fail any applicable nondiscrimination tests, the Plan Supervisor may provide suggestions (consistent with the HRA Plan language) regarding how to correct the situation. The responsibility for making a decision regarding how to correct the situation shall be that of the Adopting Employer or Plan Administrator.
- F. **Payment of Administrative Services Fees.** In consideration of Plan Supervisor's performance of the services described in this Agreement, Adopting Employer shall pay the Plan Supervisor's administrative fees as described in Exhibit B. Generally, all such fees will be paid as provided in the Adoption Agreement, provided per participant per month fees may be paid directly from the accounts of HRA Plan Participants that are claim active (i.e., able to submit claims and obtain reimbursements) only if such Participants will not be receiving any future contributions.
1. **Payment by Participants.** Subject to the foregoing, if the HRA Plan provides that administrative fees for employees shall be paid from the Trust (including from a Participant's account), the Plan Supervisor shall bill the Trust and/or the Participants' accounts directly as the fees become due. Notwithstanding the foregoing, if the HRA Plan provides that the administrative fees for a Participant who has terminated employment with the Adopting Employer shall be paid from the Participant's account, the Plan Supervisor shall bill the Participant's account every six (6) months (in January and July) on a prospective basis (i.e., the January billing shall cover January through June). If the Participant terminates employment after the regularly scheduled billing dates (i.e., in January and July), the first billing for that Participant shall occur on the date following the date of termination and shall cover the months between that date and the date of the next regularly scheduled billing.
 2. **Minimum Fees.** The minimum monthly fee described in Exhibit B shall apply if the sum of the recordkeeping fees and standard claims processing fees (excluding asset-based fees) does not exceed the applicable minimum provided in Exhibit B. If the minimum fee applies, the asset-based fees identified in Exhibit B will be charged and collected in addition to the applicable minimum monthly fee.
 3. **Failure to Pay.** Any failure to pay any such fees within thirty (30) days of the date upon which they are due may, at the Plan Supervisor's option, result in the Plan Supervisor's (1) imposition of a late fee equal to the lesser of (i) 1.5% of the outstanding balance or \$75 per month, whichever is greater, or (ii) the maximum amount allowed by the usury laws of the applicable state, and/or (2) upon notice to the Plan Administrator, suspension of performance of its services under this Agreement until such time as such fees are paid or termination of this Agreement.
 4. **Increases.** The administrative fees identified in Exhibit B shall increase upon reasonable notice in the event of and in direct proportion to any rate increases implemented by the United States Postal Service. Such increases shall be effective on the effective date or the first of the month next following the effective date of the postage rate increase. The Plan Supervisor also reserves the right to charge additional fees for repeating, or expanding the scope of, its services due to inaccurate, incomplete, or unusable data supplied by the Adopting Employer.
 5. **Fees for Additional Services.** In the event additional services that are not part of the normal plan administrative services contemplated by this Agreement, or chosen by Plan Administrator on Exhibit B, are required, Plan Supervisor may

charge the Adopting Employer an additional fee commensurate with the additional services provided. Plan Supervisor will inform the Adopting Employer of the amount of the additional fee in advance of conducting the additional administrative services. Examples of additional administrative services not contemplated by this Agreement include (but are not limited to): calculating income on late participant contributions; calculating income on participant contributions that are delayed by Adopting Employer actions; and any other administration services requested by Adopting Employer that are not part of the on-going administrative services contemplated by this Agreement.

6. **Fees of Distributors.** In the event an Adopting Employer or HRA Plan is responsible for authorized distributor fees related to the Plan, Plan Supervisor reserves the right to bill to and collect from the Trust any distributor fees, which shall be in addition to the administrative fees described in Exhibit B.
 7. **Trustee Fees.** Adopting Employer has appointed a trustee of the Trust. To the extent the trustee charges an annual fixed fee for its services as trustee, Plan Supervisor shall pay such fixed fee on Adopting Employer's behalf and then obtain reimbursement for such payment from Adopting Employer or the Trust as provided in the Adoption Agreement. Adopting Employer agrees to reimburse Plan Supervisor for such fixed fee or authorize reimbursement from the Trust. To the extent the trustee charges an asset based fee for its services as trustee, Plan Supervisor shall pay such asset based fee on Adopting Employer's behalf and then obtain reimbursement for such payment from Adopting Employer or the Trust as provided in the Adoption Agreement.
- G. **Fees Payable By Mutual Funds.** The Plan Supervisor performs services with respect to mutual fund investments, including, but not limited to, the purchase and redemption of shares and participant-level fund recordkeeping. These services are necessary to allow Trust assets to be invested in such mutual funds. The mutual fund companies compensate Plan Supervisor for these services pursuant to a services agreement between the Plan Supervisor and each fund or its affiliate. The Plan Administrator or Adopting Employer may receive, upon request, a report of the specific amount of compensation received from each mutual fund during a particular time period. If a mutual fund reduces the compensation it pays to Plan Supervisor to an amount less than 0.0625%, Plan Supervisor, is hereby authorized to withdraw such shortfalls from the Trust as compensation for these mutual fund services. The amount of the fee for which the Trust may be responsible shall be no more than the difference between the amount of compensation paid by the mutual fund company and 0.0625%, determined on a quarterly basis.
- H. **HIPAA Portability and PPACA.** Adopting Employer or Plan Administrator shall be solely responsible for determining whether the portability requirements of HIPAA and group health plan requirements of the Patient Protection and Affordable Care Act ("PPACA") apply to the HRA Plan and the Health and Welfare Plan(s). Unless mutually agreed otherwise, Adopting Employer or Plan Administrator shall be solely responsible for complying with (1) the portability requirements of HIPAA, including, but not limited to, providing certificates of creditable coverage to Participants, and (2) the group health plan requirements of PPACA, including, but not limited to, the external review requirements, with respect to the HRA Plan and the Health and Welfare Plan(s).
- I. **Regulatory Compliance.** Adopting Employer and Plan Administrator shall be responsible for compliance with applicable laws and regulations pertaining to the HRA Plan or Health and Welfare Plan(s). Adopting Employer and Plan Administrator shall be responsible for any governmental or regulatory charges resulting from the Adopting Employer's establishment and operation of the HRA Plan or Health and Welfare Plan(s). This provision does not relieve the Plan Supervisor from any statutory or agency requirements placed directly on it as a result of performing services under this Agreement.

- J. **HRA Plan and Health and Welfare Plan Design.** Adopting Employer possesses and exercises ultimate authority and responsibility for the design of the HRA Plan and Health and Welfare Plan(s). The Adopting Employer has consulted its legal and/or accounting advisors concerning the tax advantages and consequences of sponsoring the Health and Welfare Plan(s), HRA Plan, and the Trust and shall not rely on the Plan Supervisor for such guidance.
- K. **HRA Plan and Health and Welfare Plan Interpretation.** Plan Administrator possesses and exercises ultimate authority and responsibility for determining benefits under the HRA Plan and Health and Welfare Plan(s), making decisions regarding eligibility for participation, termination of participation, and payment of benefits. This includes, but is not limited to, review of claim denials.
- L. **Other Information.** Adopting Employer or Plan Administrator (including a designee) shall comply with all requests for information made by the Plan Supervisor reasonably necessary for the Plan Supervisor to fulfill its duties under this Agreement. Any documentation received by the Adopting Employer or Plan Administrator (including a designee) that should have been provided to the Plan Supervisor shall be promptly forwarded to the Plan Supervisor. Such documentation includes, but is not limited to, claims forms.
- M. **Review of Reports and Forms.** The Adopting Employer shall be responsible to review all accounting reports, compliance testing, government returns (i.e., Form 990), and any other reports prepared by or on behalf of the Plan Supervisor (collectively the "Reports") and to notify the Plan Supervisor of any errors or omissions in the Reports within sixty (60) days of receipt of them. If no errors or omissions are asserted within sixty (60) days, the Adopting Employer shall be deemed to have approved the accuracy of the Reports and the Plan Supervisor shall be released and relieved of all liability and indemnified by the Adopting Employer for any actions taken pursuant to this Agreement based upon the Reports.
- N. **Review of Communication Materials.** The Adopting Employer shall review all communication products and materials prepared by the Plan Supervisor to ensure consistency of the materials with the terms of the HRA Plan.
- O. **Authorized Representatives.** Until otherwise advised in writing by the Adopting Employer, the Plan Supervisor may accept the authority and rely upon the instructions of, or documents signed by, any representatives of the Adopting Employer listed in Exhibit C (which is incorporated by reference herein). Additional documentation, specifying persons authorized for various purposes, may also be executed by the parties from time to time, and the Plan Supervisor shall be entitled to rely upon such documentation without question, unless it has actual knowledge that such person's authority has been revoked.
- P. **Legal Obligations.** Adopting Employer or Plan Administrator shall possess ultimate responsibility and authority for the operation of the HRA Plan and Health and Welfare Plan(s).
- Q. **Investments.** The Plan Administrator shall be responsible for determining how and with whom to invest the assets of the Trust, including, but not limited to, selecting the investments or menu of investment options, as the case may be. The Plan Administrator shall adopt an investment policy governing the investment of the assets of the Trust. The Plan Administrator shall be responsible for mailing or otherwise distributing fund prospectuses or other similar information regarding the investments in which the assets of the Trust are invested to the extent such information is not distributed by the funds or investment providers. The Plan Supervisor shall have no responsibility with respect to the investment of the assets of the Trust.

- R. **Debit Card Responsibilities.** The Adopting Employer acknowledges and accepts sole responsibility for fraudulent debit card usage. The Plan Supervisor may be able to assist the Adopting Employer in the recovery of debit account transactions reported as fraudulent, provided that Participants comply with the terms outlined in the applicable Cardholder Agreement for the timely reporting of such fraudulent activity. To the extent the assets of the Trust are insufficient to fund all debit card claims, the Adopting Employer shall have sole responsibility for the payment of any debit card transactions that cannot be funded by the Trust.

V. Records & Information

- A. **Maintenance and Access.** Plan Supervisor and Plan Administrator shall maintain adequate records relating to the terms and operation of the HRA Plan, Health and Welfare Plan(s), and Trust for at least the plan year to which the records relate and for an eight (8) year period thereafter. Each party shall have access to the records relating to the Health and Welfare Plan(s), HRA Plan, and the Trust maintained by the other party during normal business hours and upon reasonable notice and request and subject to applicable laws and regulations. The parties shall maintain the confidentiality of any information relating to Participants, the Health and Welfare Plan(s), the HRA Plan, and the Trust in accordance with applicable laws and regulations.
- B. **Record Use.** The Plan Supervisor, Adopting Employer and Plan Administrator agree that the medical records, names, addresses, telephone numbers, Social Security numbers and other personal information relating to Participants, which the Plan Supervisor may obtain as a result of performing administrative services may be collected, maintained and used by the Plan Supervisor and the Plan Administrator as necessary to administer the HRA Plan, Health and Welfare Plan(s), and the Trust. The Plan Supervisor and the Plan Administrator may use patient specific and individually identifiable information, as necessary to properly administer the Health and Welfare Plan(s), the HRA Plan, and the Trust, to defend any claim related to the HRA Plan, Health and Welfare Plan(s), or to the provision of services under this Agreement, or as otherwise may be permitted by state or federal law. All parties agree that such information shall be considered confidential and protected as required under applicable law.
- C. **Confidential Business Information.** The Plan Supervisor, Adopting Employer and Plan Administrator shall each take all necessary steps to protect the other party's confidential business information. Such information shall not be disclosed to third parties without the express written consent of the other party unless required by law or court order.
- D. **Transfer of Records.** When this Agreement ends, the Plan Supervisor may transfer to Adopting Employer, Plan Administrator and/or any successor administrator those records the Plan Supervisor determines are reasonably necessary to effectuate a smooth transition of administration of the HRA Plan or Health and Welfare Plan(s). The Plan Supervisor intends that this transfer of records will satisfy its obligation to maintain such records as described above. The Plan Supervisor shall provide the Plan Administrator an opportunity to review the records and obtain copies of any such records in addition to the records the Plan Supervisor has identified as necessary for a smooth transition or otherwise transferred. The details of such transfer, including but not limited to the means, method and timing, shall be agreed to by the parties. All costs associated with such a record review and transfer will be paid by the Adopting Employer prior to the transfer.
- E. **HIPAA Business Associate.** The Plan Supervisor acknowledges its role as a business associate for purposes of the privacy and security standards under HIPAA.

VI. Indemnification and Limitation of Liability

- A. **Funding.** The Plan Supervisor shall have no responsibility, risk, liability, or obligation for the funding of HRA Plan or Health and Welfare Plan(s) benefits. The responsibility and

obligation for funding benefits shall be solely and completely the responsibility of the Adopting Employer.

- B. **Claim Processing Errors.** The Plan Supervisor shall be liable for the recovery of claim processing errors arising from the Plan Supervisor's performance pursuant to the terms of this Agreement. Notwithstanding the preceding, however, the Plan Supervisor shall not be liable for any such error that is reasonable, made in good faith, and within acceptable industry standards. The Plan Supervisor shall use diligent efforts toward the recovery of such losses. The Plan Supervisor's liability, if any, shall be limited to the amount in excess of the claim amount(s) payable under the terms of the HRA Plan.
- C. **Indemnification by the Plan Administrator for Claims Decisions.** If the Plan Administrator reverses a claim payment decision made by the Plan Supervisor, the Plan Administrator shall notify the Plan Supervisor in writing of such decision and shall indemnify, hold harmless, and defend the Plan Supervisor from and against any and all liabilities, losses, damages, claims, lawsuits, causes of action, costs, and expenses the Plan Supervisor may incur because of any such reversal, unless the Plan Supervisor was negligent in making the claim payment decision.
- D. **No Guarantee of Benefits.** The Plan Supervisor does not assume any responsibility, risk, liability or obligation for the general policy direction of the HRA Plan or Health and Welfare Plan(s), the adequacy of funding thereof, or any act or omission or breach of duty by parties other than Plan Supervisor. The Plan Supervisor is not and shall not be deemed a guarantor with respect to any benefits payable under the HRA Plan or Health and Welfare Plan(s).
- E. **Indemnification for Design/Interpretation.** The Plan Supervisor is not engaged in the practice of law. The resolution of any legal issues concerning the HRA Plan or Medical Plan is the responsibility of the Plan Administrator and/or the Adopting Employer and their legal counsel. The Plan Administrator and Adopting Employer shall indemnify, hold harmless, and defend the Plan Supervisor from and against any and all liabilities, losses, damages, claims, lawsuits, or causes of action, and any costs and expenses associated therewith (including any attorneys' fees the Plan Supervisor may incur or be asked to pay), arising, directly or indirectly, out of the design and/or interpretation of the HRA Plan or Health and Welfare Plan(s), including, but not limited to, any liability, losses, damages, claims, lawsuits, or causes of action and any costs and expenses associated therewith (including any attorneys' fees the Plan Supervisor may incur or be asked to pay) arising under any state, federal or local law or regulation.
- F. **General Indemnification.** The Plan Administrator and Adopting Employer shall indemnify, hold harmless, and defend the Plan Supervisor and its directors, trustees, officers, employees, and agents from and against any and all liabilities, losses or damages arising out of any claims, lawsuits, or causes of action, and any costs and expenses associated therewith (including any attorneys' fees the Plan Supervisor may incur or be asked to pay), which arise, directly or indirectly, from the Plan Administrator's or Adopting Employer's act or omission to act in its administration of the Plan, including, but not limited to, any liability, losses, damages, claims, lawsuits, or causes of action and any costs and expenses associated therewith (including any attorneys' fees the Plan Supervisor may incur or be asked to pay) arising under any law.
- G. **Indemnification for Prior Administration.** If a party other than the Plan Supervisor previously provided administration or recordkeeping services to the Health and Welfare Plan(s), HRA Plan, or the Trust, the Plan Administrator and Adopting Employer shall indemnify, hold harmless, and defend the Plan Supervisor and its directors, trustees, officers, employees, and agents from and against any and all liabilities, losses or damages arising out of any claims, lawsuits, or causes of action, and any costs and expenses associated therewith (including any attorneys' fees the Plan Supervisor may incur or be asked to pay), which arise, directly or indirectly, from such prior administration or

recordkeeping, including, but not limited to, any liability, losses, damages, claims, lawsuits, or causes of action and any costs and expenses associated therewith (including any attorneys' fees the Plan Supervisor may incur or be asked to pay) arising under any law.

- H. **Plan Supervisor's Duty to Indemnify.** The Plan Supervisor shall indemnify, hold harmless, and defend the Plan Administrator and Adopting Employer and their directors, trustees, officers, employees, and agents from and against any and all liabilities, losses or damages arising out of any claims, lawsuits, or causes of action, and any costs and expenses associated therewith (including any attorneys' fees the Plan Administrator and Adopting Employer may incur or be asked to pay), which arise, directly or indirectly, from the Plan Supervisor's act or omission to act in its administration of the HRA Plan, Health and Welfare Plan(s), or Trust including, but not limited to, any liability, losses, damages, claims, lawsuits, or causes of action and any costs and expenses associated therewith (including any attorneys' fees the Plan Administrator and Adopting Employer may incur or be asked to pay) arising under any law.
- I. **Limitation of Liability.** The Plan Supervisor shall exercise, in the performance of its duties, reasonable care and shall be liable for loss only when caused by the Plan Supervisor's (or the Plan Supervisor's subcontractors') negligence, gross negligence, fraud, willful misconduct, criminal conduct or a material breach of this Agreement. The Plan Supervisor shall be responsible for direct damages caused by its failure to satisfy its duties hereunder; provided, however, that the Plan Supervisor shall not be liable for any incidental or consequential damages caused by its failure to satisfy its duties hereunder. The Plan Supervisor shall not be liable for the processing that is delayed due to circumstances beyond its reasonable control, including, but not limited to, national, state, or city disaster, acts of God, severe weather, or any other circumstances that would affect the Plan Supervisor or its trading platforms, software, or Internet systems.
- J. **Reliance on Data & Direction.** Notwithstanding any provision of this Agreement to the contrary, the Plan Supervisor is not responsible or liable for any acts or omissions made pursuant to any direction, consent or other request reasonably believed by the Plan Supervisor to be genuine and from an authorized representative of Adopting Employer and Plan Administrator. The Plan Supervisor is not responsible or liable for acts or omissions made in reliance on erroneous data provided by Adopting Employer or Plan Administrator to the extent the Plan Supervisor's acts or omissions are attributable to the erroneous data, or for the failure of Adopting Employer or Plan Administrator to perform their obligations under this Agreement.

VII. Term and Termination

- A. **Term.** This Agreement is effective as of the date first written hereinabove and shall continue for a period of thirty-six (36) consecutive months beginning on the Effective Date. This Agreement may be extended no more than twice for subsequent annual periods by mutual agreement of the parties, provided any such agreement complies with the Adopting Employer's purchasing policies and the availability of funds. If this Agreement is not terminated or replaced by a new agreement, this Agreement may be renewed as provided herein and Employer and Plan Administrator will be obligated to comply with any changes made to the Agreement by Plan Supervisor in accordance with Section VIII.A. below. Notwithstanding the foregoing, this Agreement will not renew if Plan Supervisor determines that a material breach existed on the scheduled renewal date.
- B. **Termination.** This Agreement may be terminated by either party at any time by written notice of intention to terminate given to the other party to be effective as of a specified date not less than ninety (90) days from the date such notice is received.
- C. **Termination For Cause.** Either party shall have the right to immediately terminate the Agreement upon:

1. The material breach of the terms of this Agreement, by either the Plan Supervisor or the Adopting Employer, including failure to remit service fees due the Plan Supervisor, if such material breach is not corrected within ten (10) days of receipt of written notice specifying the nature of the breach to the satisfaction of the non-breaching party;
 2. The bankruptcy or insolvency of Adopting Employer or the Plan Supervisor; or
 3. The enactment of any law, promulgation of any regulation or action of any State or Federal agency or authority which makes or declares illegal the continuance of this Agreement or the performance of any of the services of the Plan Supervisor hereunder.
- D. **Responsibility for Claims Administration After Termination of Agreement.** Upon termination of this Agreement, the Plan Supervisor shall cease to act on behalf of Adopting Employer and Plan Administrator. Adopting Employer and Plan Administrator shall be responsible for the processing and payment of all eligible benefit claims payable on or after the date of termination pursuant to the terms of the HRA Plan. The Plan Supervisor reserves the right to notify any Participants that the Plan Supervisor no longer acts on behalf of Adopting Employer and Plan Administrator.
- E. **Post-Termination Obligations.** Plan Supervisor may, as mutually agreed upon by Adopting Employer, Plan Administrator and Plan Supervisor, provide certain administrative services following the termination of this Agreement.

VIII. Miscellaneous

- A. **Agreement Amendment.** This Agreement may be amended only by mutual agreement in writing executed by all parties. In addition, upon notification to Adopting Employer and Plan Administrator, Plan Supervisor may amend this Agreement at any time to the extent necessary to comply with applicable federal, state or local laws or regulations. Furthermore, Plan Supervisor may amend the rates, fees, and charges to be paid by the Trust or Adopting Employer and other terms of this Agreement effective as of the start of any term described in Section VII.A. Plan Supervisor shall notify Adopting Employer and Plan Administrator of (a) the new rates, fees, and charges at least sixty (60) days prior to the start of the new term, and (b) any changes in other terms of this Agreement at least thirty (30) days prior to the start of a new term. In the event the Adopting Employer and Plan Administrator do not consent to the new rates, fees and charges, the Adopting Employer or Plan Administrator, upon written notice to the Plan Supervisor, may terminate this Agreement or any proposed Agreement immediately without penalty.
- B. **Notices.** All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing and delivered personally, or sent by registered or certified mail or nationally recognized overnight carrier, postage prepaid, electronic transmission, or by facsimile transmission, to the address set forth below, or to such other address set forth in a notice given in the manner herein provided. All such notices, requests, information or other communications shall be deemed to have been given (i) when delivered if personally delivered, (ii) three business days after having been placed in the mail, if delivered by registered or certified mail, (iii) the business day after having been placed with a nationally recognized overnight carrier, if delivered by nationally recognized overnight carrier, and (iv) the business day after transmittal by facsimile if transmitted with electronic confirmation of receipt.

If to Adopting Employer and Plan Administrator:

The Village of Downers Grove
Civic Center
801 Burlington
Downers Grove, IL 60515
Telephone: (630) 434-5536

If to the Plan Supervisor:

Total Administrative Services Corporation
Attn: Corporate Counsel
2302 International Lane
Madison, WI 53704-3140
Telephone: 888.595.2261

Upon the occurrence of a change in any of the above address information, each party shall notify the other party(ies) of such change within five (5) business days of the effective date of the change.

- C. **Severability.** The provisions of this Agreement are severable. If any provision of this Agreement is held invalid by a court of law or other tribunal, the invalidity of any provision will not affect any other provision of this Agreement.
- D. **Survival.** The rights and obligations described in Sections V., VI, and VII shall survive termination of this Agreement.
- E. **No Waiver of Rights.** Nothing in this Agreement shall be deemed to limit or abrogate any right or remedy available under law. The failure of any party to insist upon the strict observation or performance of any provision of this Agreement or to exercise any right or remedy shall not impair or waive any such right or remedy.
- F. **Copyrighted Works.** The Adopting Employer acknowledges that the Plan Supervisor and its agents are the sole copyright owners of all plan documentation, administrative guides and forms, content of the web site, and all other materials provided under the terms of this Agreement and that such materials are proprietary to the Plan Supervisor. The Plan Supervisor grants the Adopting Employer a nonexclusive, nontransferable right to copy such materials provided such copies are needed for the sole purpose of collecting and reporting information regarding Participants or notifying Participants of information regarding the HRA Plan or Health and Welfare Plan(s). Other materials provided by the Plan Supervisor shall not be copied or reproduced by the Adopting Employer without the Plan Supervisor's prior written consent.
- G. **Non-Assumption of Liabilities.** Unless specifically provided in this Agreement, the parties do not assume the existing or future obligations, liabilities or debts of the other party.
- H. **Entire Agreement.** This Agreement shall supersede and replace any and all other agreements between the parties relating to the same subject matter. This Agreement contains the entire agreement and understanding of the parties relating to the subject matter hereof, except as otherwise provided in this Agreement.
- I. **Authority.** This Agreement is the valid and binding obligation of the Adopting Employer and Plan Administrator, enforceable in accordance with its terms. The execution and performance of this Agreement has been duly authorized by all necessary action of the Adopting Employer's governing body. The Adopting Employer and Plan Administrator have the full legal right, power and authority to enter into and perform the Agreement. Each

party represents that this Agreement has been executed by a duly authorized representative.

- J. **Governing Law.** The Agreement shall be governed by and interpreted in accordance with applicable federal law. To the extent the federal law does not govern, this Agreement shall be governed by the laws of the State of Illinois and the courts in such state shall have sole and exclusive jurisdiction of any dispute related hereto and arising hereunder.
- K. **Independent Contractors.** The Plan Supervisor shall be construed to be acting as an independent contractor and not as an employee of Adopting Employer or Plan Administrator. The Plan Supervisor, Adopting Employer and the Plan Administrator shall not have the power or authority to act for or on behalf of, or to bind the other party, except as set forth in this Agreement.
- L. **Third Party Beneficiaries.** The obligations of each party to this Agreement shall inure solely to the benefit of the other signatory party(ies). Except as expressly provided in this Agreement, no person or entity is intended to be or shall be construed or deemed to be a third party beneficiary of this Agreement.
- M. **Successors and Assigns.** This Agreement shall be binding on any successors, assigns and subcontractors of the parties authorized under this Agreement.
- N. **Audit Rights.** The parties agree to cooperate in all reasonable audits. Audit fees shall be payable by the party initiating the audit. Audits shall be conducted using procedures mutually agreed upon by the parties. Results of the audit may be shared with the party being audited at the sole discretion of the party initiating the audit.
- O. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
- P. **Force Majeure.** Neither party shall be liable for any delay or failure to perform its obligations under this Agreement arising out of a cause beyond its control or without its fault or negligence. Such causes may include, but are not limited to, fires, floods, and natural disasters.
- Q. **Acceptance of Agreement.** Payment to Plan Supervisor by Adopting Employer (either through direct check or electronic funds transaction) made at least seven (7) days following receipt of this Agreement for services described in this Agreement will signify Employer's acceptance of all terms, conditions, and obligations of this Agreement. Acceptance will be effective on the Effective Date.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the effective date indicated above.

ADOPTING EMPLOYER & PLAN
ADMINISTRATOR

PLAN SUPERVISOR

By: _____

By: _____

Authorized Representative
Total Administrative Services Corporation

Printed: _____

Title: _____

Title: _____

LIST OF EXHIBITS

- A Reports
- B Administrative Fees
- C Authorized Representatives

EXHIBIT A **Reports**

Participant:

- Confirmations within 24 hours of:
 - Investment Elections
 - Transfer of Funds
 - Realignment Requests
- Claim Confirmations – verification sent via email that a claim was entered into the system within 24 hours
- Advice of Deposits – email notice that a deposit will be made to a participant bank account within 24 hours
- Receipt Reminders – email or letter sent at 5 and 20 days after an online claim is filed to remind participants of outstanding receipts due
- Denial & Repayment Notifications – email or letter notifying a participant of a denied claim and repayment (if required) within 24 hours
- Annual statements mailed to the Adopting Employer for distribution (within 22 business days following close of the Plan Year)

Plan Sponsor:

Quarterly

- VEBA Reconciliation – reconciles VEBA account to the plan report totals, by fund and in the total.

Annually

- Participant Statements – plan year account statements for participants (for distribution to participants) of the funded portion of the HRA.

Web Site:

Participant

- Statement on Demand

Plan Sponsor On-Demand reports

- Distributions Report - reports participant census data, claim amounts paid and withdrawal dates within a selected date range.
- Employee Census - reports participant data, including name and address, dates and participant's age.
- Termination Report - reports terminated participants' census data, and balance within a selected date range.

EXHIBIT B
Administrative Fees

The following describes the standard and optional VEBA/HRA claims administration and recordkeeping services and fees, and the party which will be responsible for paying the fees:

STANDARD SERVICES

Recordkeeping PPM¹ Fee	\$2.57
Claims PPM Fee	\$5.13
Minimum Monthly Fee (excluding shareholder service fees or fees charged to Participant accounts):	\$250

OTHER FEES (as applicable)

Description of Service	Fee
Standard communication materials (some materials will reflect actual plan provisions, but no custom fonts, wording, logos, etc.; customization is available – see below for optional services and fees)	N/C
Annual participant statements mailed to employer for distribution (mailed within 22 business days following plan anniversary)	N/C
Standard Plan – Plan and Trust documents	N/C
Standard Plan amendments/restatements requested by Adopting Employer	\$250 each
Trust EIN Assignment and Form 1024 Preparation and Filing *	**
Preparation of Summary of Benefits and Coverage (SBC)	N/C
Check re-issue fee (charged to participant)	\$25
Fee to correct erroneous data provided by Adopting Employer or Plan Administrator	\$150/hour
Custom file formatting	\$150/hour
Wire transfer fee (ACH deposits, no additional fee)	\$20
Record review and transfer upon termination	\$150/hour

¹ "PPM" means per participant per month.

OPTIONAL SERVICES

Initial to Authorize Optional Service	Description of Optional Service	Fee
_____	Custom Plan – Plan and Trust documents (including plan amendments/restatements to custom plan and trust documents) *	**
_____	Discrimination testing (per test)	\$150/hour
_____	Consulting to correct failed discrimination tests	**
_____	Employee meetings (per meeting, plus travel expenses)	\$275
_____	Multi-site billing and accounting (per site)	\$25
_____	Customized communication materials (<i>e.g.</i> , custom fonts, wording, logos, etc.) (annual fee)	\$150/hr + production costs + .25¢ PPM

*Work performed on behalf of Plan Supervisor by Hitesman & Wold, P.A. TASC provides standard documents at no cost. Custom plan documents and amendments/restatements to custom plan documents are prepared on behalf of Plan Supervisor by Hitesman & Wold, P.A. TASC covers the cost of the first two hours of work performed by Hitesman & Wold, P.A.; time to prepare the Form 1024 may exceed the two hours. Any additional legal questions exceeding the first two hours covered by TASC may incur additional charges. The \$850 IRS Filing Fee required with the Form 1024 filing is the Adopting Employer's responsibility.

** **All services** mentioned in this Agreement provided by Hitesman & Wold, P.A. are provided directly to the Plan Supervisor and billed to the Plan. A separate Engagement Letter will be sent to the Plan Supervisor to cover the Agreement with Hitesman. TASC will be billed for and pay for the first two (2) hours of Hitesman services, regardless of which Service described in this Agreement was provided.

EXHIBIT C

Authorized Representatives

Name: _____ Signature: _____

Name: _____ Signature: _____

Name: _____ Signature: _____

Name: _____ Signature: _____