AGENDA REQUEST

**ORDINANCE**

CAPTION: An ordinance authorizing and approving a contract between the City of Pasadena and Allegiance Benefit Plan Management, Inc. for third party administration of the employee Medical, PPO Dental, Flexible Spending, and COBRA benefit programs for (3) years beginning January 1, 2012, with an option for two (1) year renewals and authorizing the 2012 employee and retiree contribution schedules for medical, dental, vision and voluntary life insurance rates.

RECOMMENDATIONS & JUSTIFICATION: The recommendation for the selection of a third party administrator. Attached to the ordinance are Overview, Exhibit A: Administrative Services Agreement; Exhibit B: Business Associate Agreement; Exhibit C: COBRA Agreement; Exhibit D: Flexible Benefits Services Agreement; Exhibit E: 2012 Rates for Medical, Dental, Vision, Voluntary Life and Flexible Spending.

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APPROVED:

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DEFERRED: ____________________
An Ordinance authorizing and approving a contract between the City of Pasadena and Allegiance Benefit Plan Management, Inc. for third party administration of the employee Medical, PPO Dental, Flexible Spending, and COBRA benefit programs for three (3) years beginning January 1, 2012, with an option for two (2) one (1) year renewals and authorizing the 2012 employee and retiree contribution schedules for medical, dental, vision and voluntary life insurance rates.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PASADENA:

SECTION 1. That there is hereby authorized and approved a contract between the City of Pasadena and Allegiance Benefit Plan Management, Inc. for third party administration of the employee Medical, PPO Dental, Flexible Spending, and COBRA benefit programs for three (3) years beginning January 1, 2012, with an option for two (2) one (1) year renewals and authorizing the 2012 employee and retiree contribution schedules for medical, dental, vision and voluntary life insurance rates. The following exhibits are attached hereto and hereby made part of this contract renewal:

Overview
Exhibit A Administrative Services Agreement
Exhibit B Business Associate Agreement
Exhibit C COBRA Agreement
Exhibit D Flexible Benefits Services Agreement
Exhibit E 2012 Rates for Medical, Dental, Vision, Voluntary Life and Flexible Spending

SECTION 2. That the Mayor of the City of Pasadena, Texas is hereby authorized and directed to execute for and on behalf of the City the annexed contract and documents necessary to effectuate said contract.
SECTION 3. That the City Council officially determines that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the City for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 551, Texas Government Code; and that this meeting has been open to the public as required by law at all times during which this ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further confirms such written notice and the contents and posting thereof.

(SIGNATURE AND APPROVAL - NEXT PAGE)
PASSED ON FIRST READING by the City Council of the City of Pasadena, Texas in regular meeting in the City Hall this the 11th day of October, A.D., 2011.
APPROVED this the 11th day of October, A.D., 2011.

JOHNNY ISBELL, MAYOR
OF THE CITY OF PASADENA, TEXAS

ATTEST:

LINDA RORICK
CITY SECRETARY
CITY OF PASADENA, TEXAS

APPROVED:

LEE CLARK
CITY ATTORNEY
CITY OF PASADENA, TEXAS

PASSED ON SECOND AND FINAL READING by the City Council of the City of Pasadena, Texas in regular meeting in the City Hall this the 18th day of October, A.D., 2011.
APPROVED this the 18th day of October, A.D., 2011.

JOHNNY ISBELL, MAYOR
OF THE CITY OF PASADENA, TEXAS

ATTEST:

LINDA RORICK
CITY SECRETARY
CITY OF PASADENA, TEXAS

APPROVED:

LEE CLARK
CITY ATTORNEY
CITY OF PASADENA, TEXAS

Benefits.TPA-Allegiancecell
Overview

With the current contract with UMR as the TPA (Third Party Administrator) to expire on 12/31/2011, an RFP was issued on June 3, 2011. The deadline for submission was July 11, 2011. Five companies responded and were evaluated through a face-to-face interview process on August 10-11, 2011. The evaluation panel included, Patty Long, Brett Baird, Sofia Martinez, Eric Smith and Randy Perry, with Karen Forbes serving as the facilitator.

The five companies evaluated were Blue Cross/Blue Shield, UMR, Allegiance, Mutual Assurance Administrators and Delta Health Systems. Allegiance Benefit Plan Management, Inc. scored the highest of the companies and is being recommended as the new TPA.
## Costs

### Accounts

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**Total:** $9,787,000
Exhibit “A”

Administrative Services Agreement
THIS Administrative Services Agreement (hereinafter "Agreement"), effective for an initial period of thirty-six (36) months beginning January 1, 2012, and ending December 31, 2014, and continuing thereafter, for a maximum of two additional twelve (12) month periods, as provided by this Agreement, is entered into by the CITY OF PASADENA, TEXAS, a legal entity duly organized and existing under the laws of the State of Texas, (hereinafter referred to as the "Plan Sponsor"), and ALLEGIANCE BENEFIT PLAN MANAGEMENT, INC., a corporation duly organized and existing under the laws of the State of Montana (hereinafter referred to as the "TPA").

WHEREAS, the Plan Sponsor sponsors a self-funded employee welfare benefit plan (the "Plan");

WHEREAS, the Plan Sponsor desires to make available a program of health care benefits under the Plan;

WHEREAS, the Plan Sponsor wishes to contract with an independent third party administrator to perform certain administrative services with respect to the Plan as described herein;

WHEREAS, the TPA desires to contract with the Plan Sponsor to perform certain administrative services with respect to the Plan as described herein; and

THEREFORE, in consideration of the promises and mutual covenants contained herein, the Plan Sponsor and the TPA enter into this Agreement for administrative services for the Plan.

ARTICLE I: DEFINITIONS

For the purposes of this Agreement, the following words and phrases have the meanings set forth below, unless the context clearly indicates otherwise and, wherever appropriate, the singular shall include the plural and the plural shall include the singular.

1.1 "Claim" means each bill, invoice, claim form or other document representing a request for payment for medical, dental or vision services, which is received by the TPA. Each such document will be considered to be one "claim", regardless of the number of itemized lines on the document and regardless of whether the document is a duplicate of previous documents or whether the services indicated on the document are eligible for coverage under the applicable Plan.

1.2 "Claimant" means a Covered Person or entity on behalf of a Covered Person, submitting expenses for payment or reimbursement from the Plan.

1.3 "Claims Payment Account" means an account utilized by the Plan Sponsor for payment or reimbursement for Covered Services, which account balances shall constitute assets of the Plan Sponsor and not the Plan.

1.4 "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985 or the Public Health Service Act, as amended, together with all regulations applicable thereto.

1.5 "COBRA Participant" means any person who is properly enrolled for and entitled to benefits from the Plan policy, pursuant to COBRA continuation coverage.

1.6 "Complete Claim" means a claim for benefits for a Covered Person that has been submitted by a licensed Health Care Provider or the Covered Person, void of any omissions of pertinent information, coordination of benefits or liability issues, in a form satisfactory to TPA and with sufficient documentation to substantiate the claim for benefits under the Plan that is necessary or required according to industry standards or requirements in order for the TPA to make a determination of benefits under the Plan.

1.7 "Covered Person" is a person who is properly enrolled and entitled to benefits from the Plan.

1.8 "Covered Services" means the care, treatments, services or supplies described in the Plan Document as eligible for payment or reimbursement from the Plan.

1.9 "Creditable Coverage" means health or medical coverage under which a Covered Person was covered prior to enrollment under this Plan which prior coverage was under any of the following:

(a) A group health plan;
(b) Health Insurance coverage;
(c) Part A, Part B or Part C of Title XVIII of the Social Security Act (Medicare);
(d) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under §1928 (Medicaid);
(e) Chapter 55 of Title 10, United States Code (active military and CHAMPUS);
(f) A medical care program of the Indian Health Service or a tribal organization;
(g) A state health benefits risk pool;
1.10 "Employer" means the Plan Sponsor and any successor organization or affiliate of such Employer which assumes the obligations of the Plan and this Agreement.

1.11 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, together with all regulations applicable thereto.

1.12 "Fee Schedule" means the listing of fees or charges for services provided under this Agreement. This Fee Schedule may be modified from time to time in writing by the mutual agreement of the parties. The Fee Schedule is contained in Appendix A and is a part of this Agreement.

1.13 "Health Care Providers" means physicians, dentists, hospitals, or other health care practitioners or health care facilities that are duly licensed and authorized to receive payment or reimbursement for Covered Services in accordance with the terms of the Plan.

1.14 "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended, together with all applicable regulations thereto.

1.15 "Paid Claims" means claims for benefits under the Plan that have been processed for payment by the TPA, have been funded in U.S. Dollars by the Plan or the Plan Sponsor, and for which payment or electronic payment has been issued and transmitted to the Claimant or assignee.

1.16 "Plan" means the self-funded health and welfare benefit plan which is the subject of this Agreement and which the Plan Sponsor has established pursuant to the Plan Document.

1.17 "Plan Administrator" means the person or entity, including an insurance company, designated by the Plan Sponsor to manage the Plan and make all discretionary decisions regarding Plan terms and managing Plan assets.

1.18 "Plan Document" means the instrument or instruments that set forth and govern the duties of the Plan Sponsor and eligibility and benefit provisions of the Plan, which provide for the payment or reimbursement of Covered Services.

1.19 "Plan Participant" is any employee, retiree or COBRA beneficiary who is properly enrolled and eligible or benefits under the Plan.

1.20 "Plan Year" means the twelve-month period of time beginning with the effective date of the Plan as specified in the Plan Document.

1.21 "Qualified Beneficiary" means a Covered Person under the Plan Sponsor's Plan, who is eligible to continue coverage under the Plan policy in accordance with the applicable provisions of Title X of COBRA or §609(a) of ERISA regarding Qualified Medical Child Support Orders, or in accordance with any similar applicable state law. Qualified Beneficiary also means a child born to, adopted or placed for adoption with a Participant or former Participant, who is a COBRA participant, at any time during active COBRA continuation coverage of that Participant or former Participant.

1.22 "Qualifying Event" means:

(a) With respect to an eligible Participant:

1. The termination (other than by reason of gross misconduct) of the covered Participant's employment; or
2. The reduction in hours of the covered Participant's employment causing the Participant to become ineligible for coverage.

(b) With respect to covered Dependents:

1. Death of the covered Participant;
2. Termination of the covered Participant's employment;
3. Reduction in hours of the covered Participant's employment causing the Participant to become ineligible for coverage;
4. The divorce or legal separation of the covered Participant from his or her spouse;
5. The covered Participant's entitlement to Medicare; or
6. A covered Dependent child ceases to be a Dependent as defined by the Plan.

(c) Qualifying Events for retired Participants, for purposes of this section, are:

1. Bankruptcy, if the covered Participant retired on or before the date of any substantial elimination of group health coverage due to bankruptcy.

(d) Qualifying Events for the Dependents of retired covered Participants, for purposes of this section, are:
1.23 "Stop Loss or Excess Loss Insurance" means an insurance policy obtained by the Plan or the Plan Sponsor to provide coverage for individual claims at a specified stop loss limit and/or group claims at an aggregate stop loss limit that are incurred and paid during a defined period of time by the insurance policy.

1.24 "Summary Plan Description" means the document that describes the terms and conditions under which the Plan operates.

1.25 "Utilization Management" means the evaluation of medical necessity and appropriateness of the use of health care services, procedures, and facilities utilized by a Covered Person under the terms of the Plan.

1.26 "Working Days" shall mean a regular business day, which is not a recognized federal or banking holiday, and specifically excluding any Saturday or Sunday.

ARTICLE II. RELATIONSHIP OF THE PARTIES

2.1 The Plan Sponsor acknowledges that the TPA is an independent contractor for purposes of this Agreement. As such, the TPA is not an agent or employee of the Plan Sponsor and does not assume any liability or responsibility for any breach of duty or act of omission by the Plan Sponsor. The Plan Sponsor delegates to the TPA only non-discretionary authority with respect to assisting Plan Sponsor in the development, maintenance and administration of the Plan as specifically described in this Agreement. Any function not specifically delegated by Plan Sponsor to, and agreed to be assumed by the TPA in writing pursuant to this Agreement shall remain the sole responsibility of the Plan Sponsor. The Plan Sponsor shall retain all discretionary authority, control and responsibility for the operation and administration of the Plan.

2.2 The parties acknowledge that:

(a) This is a contract for administrative services only as specifically set forth herein;

(b) The TPA shall not be obligated to disburse more in payment for Claims or other obligations arising under the Plan than the Plan Sponsor shall have made available in the Claims Payment Account;

(c) This Agreement shall not be deemed a contract of insurance under any laws or regulations. The TPA does not insure, guarantee or underwrite the liability of the Plan Sponsor under the Plan. The TPA has no responsibility and the Plan Sponsor has total responsibility for payment of Claims under the Plan and all expenses incidental to the Plan; and

(d) The TPA is not the plan administrator, plan sponsor or plan fiduciary and the Plan Sponsor will not identify the TPA or any of its affiliates as such. The Plan Sponsor acknowledges and agrees that it is the plan sponsor, plan administrator and named fiduciary as such terms are defined by ERISA.

2.3 Except as specifically set forth herein, this Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective legal successors provided, however, that neither party may assign this Agreement without the prior written consent of the other, which consent shall not be unreasonably withheld.

2.4 It is agreed by the parties to this Agreement that any cause of action brought by either party to this contract must be made within four(4) years of the date of occurrence of any alleged breach, infliction or dispute, or within four(4) years of the termination date of this Agreement, whichever occurs first.

2.5 The Plan Sponsor acknowledges and agrees that the TPA will not be deemed to be a legal or tax advisor for the Plan or the Plan Sponsor as a result of the performance of its duties under this Agreement. The TPA makes no representation to the Plan Sponsor concerning federal, state, or local laws, rules or regulations applicable to the Plan. Company must seek its own counsel for legal advice and guidance. In no event shall the TPA be liable for special or consequential damages, even if the TPA was advised of the possibility of such damages.

2.6 The TPA may secure the services of actuaries, computer software companies, computer service firms, insurance consultants and producers, legal counsel, accountants, utilization management consultants, pharmacy benefit management companies, preferred provider organizations, claims negotiation companies, subrogation firms, and any other entities that it deems necessary in the performance of its obligations under this Agreement. At the discretion of the TPA, such services may be performed directly by the TPA, wholly or in part, through a subsidiary or affiliate of TPA or under an agreement with an organization, agent, advisor or other person of its choosing. Any such services resulting in a fee not agreed to in the Fee Schedule, Appendix A, must first be authorized in writing by the Plan Sponsor.

2.7 The TPA agrees to be duly licensed as a Third Party Administrator to the extent required under applicable law and agrees to maintain such licensure throughout the term of this Agreement.

2.8 The TPA will possess through the term of this Agreement an in-force fidelity bond or other insurance
as may be required by state and federal laws for the protection of its clients. Additionally, the TPA agrees to comply with any state or federal statutes or regulations regarding its operations.

2.9 The TPA shall be entitled to rely upon, without investigation or inquiry, any written or oral information or communication of the Plan Sponsor or agents, including but not limited to consultants, actuaries, attorneys, accountants, auditors, managed care organizations, preferred provider organizations, pharmacy benefit management companies, mental health care management companies or brokers retained by the Plan Sponsor.

2.10 The TPA will indemnify, defend, save and hold the Plan Sponsor harmless from and against any and all claims, suits, liabilities, losses, penalties or damages including court costs and attorneys’ fees with respect to the Plan which directly result from or arise out of the dishonest, fraudulent, grossly negligent or criminal acts of the TPA or its employees, except for any acts taken at the specific direction of the Plan Sponsor.

2.11 The Plan Sponsor accepts all legal and financial liability for its own actions or inactions as well as the actions or inactions of its authorized representatives. The Plan Sponsor shall ensure that no such legal or financial liabilities shall be borne by the TPA.

ARTICLE III. THE TPA’S RESPONSIBILITIES

The TPA will provide the following Plan Administrative services for the Plan Sponsor:

3.1 Maintain Plan records based on eligibility information submitted by the Plan Sponsor as to the dates on which a Covered Person’s coverage commences and terminates.

Maintain Plan records of Plan coverage applicable to each Covered Person based on information submitted by the Plan Sponsor.

Maintain Plan records regarding payment of Claims, denial of Claims, and Claims pended.

3.2 Administer enrollment of Covered Persons, create and distribute enrollment forms and answer inquiries, create and maintain enrollment records for Covered Persons, and distribute identification cards to the Plan Sponsor in accordance with Appendix A, the Fee Schedule.

3.3 Process Complete Claims submitted by Covered Persons or Health Care Providers according to the terms of the Plan Document as construed by the Plan Sponsor. These Claims will be processed in accordance with prevailing industry practices and the TPA will use an industry-recognized method of determining usual, customary, and reasonable charges or the prevailing fee allowance as determined by the Plan Sponsor in the Plan.

The TPA will not be required by the Plan Sponsor to alter its standard claims processes, procedures or regular mail dates to manipulate the Paid Claims date for any purpose.

The TPA will process claims received on a basis consistent with prevailing industry practice for timeliness and accuracy, in accordance with the terms of the Plan Document as construed by the Plan Sponsor, and consistent medical information forms, pre-existing conditions requirements, disability determinations and coordination of benefits situations. Unless specifically agreed by the parties in writing, the TPA’s duties with respect to subrogation situations shall be limited to informing the Plan Sponsor that subrogation rights may exist. The terms, conditions and fees for any additional agreement regarding subrogation are as stated in the attached Subrogation Services Appendix, if applicable.

The TPA will process Claims or request additional information in order to be able to process a Complete Claim within an average of fourteen (14) Working Days from the date the Complete Claim is received by the TPA.

If additional information is needed for a Complete Claim, the TPA will send through the U.S. Mail to the appropriate persons (with a copy to the Plan Participant) a follow-up request for the required information for a Complete Claim requesting a response to the request for additional information for a Complete Claim within a maximum of forty-five (45) days. The follow-up request will indicate that no additional requests for information will be sent and the file will be closed, and the initial incomplete claim will be denied, if the requested information is not provided within the specified time.

When all necessary documents and Claim information have been received to constitute a Complete Claim and the Complete Claim has been approved, a Claim check or draft will be remitted on the next Paid Claims batch disbursal date provided that the Plan Sponsor has provided funds for such Complete Claims or advance funding has been provided by the Stop Loss or Excess Loss insurance company. All Complete Claims will remain in a processed but pended status until funded by the Plan Sponsor or its Stop Loss or Excess Loss insurance company. The Plan Sponsor must provide funding of all Complete Claims within five (5) Working Days of receipt of request for funding from the TPA.

Customer Service Representatives of the TPA will inform any Plan Participant or Health Care Provider who inquires about any Claim which is pended for lack of funds that such Claim has been received and processed and is pending receipt of funds. No further explanation will be required of the TPA by the Plan Sponsor under such circumstances.

Unless otherwise advised by the Plan Sponsor, the Plan Sponsor agrees that the order of claims payment by TPA of new claims submitted under the Plan shall be based on processing first the oldest claims with
3.4 After a preliminary review to determine that the Claim was correctly processed, the TPA will refer any doubtful, disputed or appealed Claims to the Plan Sponsor for a final decision. The TPA will provide initial claims adjudication and assist the Plan Administrator with appeals. The Plan will pay the actual cost of any expert medical consultation required to determine claims eligibility under the Plan as a claims cost.

3.5 Process, issue and distribute Claims checks, drafts or electronic funds transfer, as instructed by the Plan Sponsor to Plan Participants, Health Care Providers, or others as may be applicable. Every week the TPA will notify the Plan Sponsor of the Claims batch amount required to be prospectively deposited to the Claims Payment Account to pay the Claims liability after these Claims are processed for payment.

The TPA shall establish and maintain customary investigative benefit and Claims review procedures within the prevailing standard of care in the TPA industry. The TPA will notify the Plan Sponsor of the discontinuance of such procedures or any significant or material changes therein. The TPA shall take reasonable measures and precautions to prevent the allowance and payment of improper benefits and Claims. The TPA shall not be liable for fraud by any Health Care Provider or Covered Person or for errors in Claim payment made to Covered Persons or designated assignees in good faith. The TPA shall not be liable for any loss of discount or increase in charges arising from a Claim due to a delay in the payment of a Claim. If a Claim payment error is discovered, the Health Care Provider or Covered Person will be notified and requested to refund payment. In the event that the Covered Person or his/her assignee does not respond to the refund request or refuses payment, the Plan Sponsor will be notified. The Plan Sponsor shall have the right to bring action against any employee or provider of service who does not voluntarily agree to repay the Plan for payments made in error. The TPA shall not be liable for misrepresentations, inflated charges, omissions, errors or fraud by any Health Care Provider or Covered Person which may result in any ineligible or excessive Claim payments.

3.6 Notify Covered Persons in writing through the U.S. Mail of ineligible Claims received. The computerized Explanation of Benefits form (EOB) shall indicate the general reason why such Claim is ineligible for payment. The EOB shall also contain notice of the written Claims review and appeal procedure in the Plan. This notification will be made within an average of fourteen (14) Working Days of the date the TPA receives the Complete Claim documentation and any Plan interpretations by the Plan Sponsor.

3.7 Respond to Claims inquiries by a Covered Person, the estate of a Covered Person, an authorized member of a Covered Person's family unit, the Covered Person's authorized legal representative or an authorized Health Care Provider.

3.8 Maintain local telephone service and toll-free telephone lines during regular business hours for inquiries made by Covered Persons regarding the status of their Claims. Such telephone lines may be recorded by the TPA.

3.9 Maintain an Internet Inquiry site for Paid Claims, processed claims and related information. Maintain an interactive voice response system and fax back service for the convenience of Covered Persons and Health Care Providers for Claim or coverage inquiries.

3.10 Maintain information that identifies a Covered Person in a confidential manner. The TPA agrees to take all reasonable precautions to prevent disclosure or use of Claims information for a purpose unrelated to the administration of the Plan. TPA shall not be liable for fraud, deceit, misrepresentation or any other false, misleading or erroneous representations made by the Plan Sponsor, any Covered Person, any Health Care Provider or any other person pertaining to any confidential, personal or protected health information or claim request. The TPA will only release non-protected health or Claims information for certificate of need reviews; for medical necessity determinations; to set uniform data standards; to update relative values scales; to use in claims analysis; to further cost containment programs; to verify eligibility; to comply with federal, state or local laws; for coordination of benefits; for subrogation; in response to a civil or criminal action upon issuance of a subpoena, or with the written consent of the Covered Person or his or her legal representative.

3.11 Provide and maintain a specimen Plan Document and Summary Plan Description in a format acceptable to the TPA for review and final approval by the Plan Sponsor and the Plan Sponsor's legal counsel. Upon approval of
the Plan Document from the Plan Sponsor, the TPA will forward copies of plan document and amendments, if any, to the Stop Loss or Excess Loss insurance company.

The TPA will furnish a master Summary Plan Description to the Plan Sponsor, either electronically (PDF format), or in printed form, and Summary Plan Description booklets in TPA's format for the fees stated in Appendix A.

The TPA will maintain an electronic Claims file on every Claim reported to it by the Covered Persons. The TPA shall retain such files and all Plan-related information for a period of six (6) years. Copies of such records shall be made available to the Plan Sponsor for inspection during a regularly scheduled Working Day at the office of the TPA for consultation, review and audit upon advance notice of a minimum of fourteen (14) Working Days.

The Plan Sponsor shall pay for any audit made at its request.

In the event this Agreement is terminated, the Plan Sponsor shall have a continuing obligation and liability to pay the TPA for all costs and professional, executive, managerial and clerical time expended by the TPA and its employees for any audit conducted by the Plan Sponsor or its Stop Loss or Excess Loss insurance company, and this obligation and liability shall survive and continue beyond the termination of this Agreement. The Plan Sponsor shall pay an advance retainer to the TPA for any audit assistance at any time the TPA receives notice from the Plan Sponsor or its Stop Loss or Excess Loss insurance company of an audit to be conducted after the termination date of this Agreement. The advance retainer shall be in an amount to be determined by the TPA in estimation of the extra time required for the scope of the audit that is requested. In no event shall the audit retainer fee be less than Two Thousand Five Hundred and no/100 Dollars ($2,500.00). The TPA will not be required by the Plan Sponsor to provide access to its records, nor will any of the TPA's employees provide assistance to any auditor until receipt by the TPA of the required audit retainer fee.

Any audit shall be conducted by an auditor mutually acceptable to the Plan Sponsor and the TPA and the audit shall include, but not necessarily be limited to, producing photocopies of Claims and funding information in the TPA's existing format(s), a review of procedural controls, a review of system controls, a review of Plan provisions, a review of sampled Claims, and comparison of results to TPA industry performance standards or any statistical models previously agreed to by the Plan Sponsor and the TPA in writing.

Nothing in this Agreement, expressed or implied, shall require the TPA disclose any proprietary information, including, but not limited, file layout or record formats of its Claims processing system or procedures. Further, except for those reports and data extracts agreed to separately in writing, nothing in this Agreement, expressed or implied shall require TPA to provide records or information in a format not in use by the TPA, or to create unique information formats solely for the use of the auditor(s), consultant(s), agent(s) or broker(s) for the Plan Sponsor without mutual agreement or without payment of fees at the normal hourly rate changed for such services as noted in Appendix A.

3.12 Upon request of the Plan Sponsor, provide COBRA continuation coverage through a related corporation, Allegiance COBRA Services, Inc. (ACSI). A separate fee will be charged for COBRA continuation services, which fee is set out in a COBRA Services Agreement. If the Plan Sponsor does not request COBRA continuation services from ACSI, all responsibility and liability for administration of COBRA continuation shall remain with the Plan Sponsor, and neither the TPA nor ACSI will have any obligation or responsibility for providing such services or consultation regarding such services.
3.13 Provide the following reports:

(a) monthly summary of benefits paid analysis by type of Claim and total dollar amounts;
(b) monthly check register;
(c) monthly cumulative aggregate deductible to paid Claims report;
(d) annual summary management report within sixty (60) days after the close of the Plan Year;
(e) annual loss analysis report; and
(f) special reports requested by the Plan Sponsor which the TPA agrees to produce, and subject to a fee addressed in Appendix A.

3.15 If applicable:

(a) Notify the Stop Loss or Excess Loss insurance company of any potential large Claims, which may become a Claim under the Stop Loss or Excess Loss coverage.
(b) On behalf of the Plan Sponsor, the TPA will file with the insurance company or its designee any Complete Claims for consideration for reimbursement under the Stop Loss or Excess Loss policies.
(c) Promptly forward to the Plan Sponsor any premium, claim reimbursement, Stop Loss or Excess Loss or other notices received from the Stop Loss or Excess Loss insurance carrier concerning the policy.

3.16 If applicable, conduct utilization review for the Plan, including pre-certification of hospital stays, concurrent review of hospital stays, discharge planning, preliminary review for potential hospital bill audits, large case management or any other managed care programs as agreed to between the Plan Sponsor and the TPA. A separate fee will be charged for these services as stated in Appendix A.

3.17 Maintain working relationships with networks of Health Care Providers through Preferred Provider Organizations (PPO) contracted by the Plan Sponsor or arranged by the TPA. The TPA shall be entitled to rely upon any and all representations made by Health Care Providers/PPO regarding their qualifications as Health Care Providers, and shall have no obligation or liability to obtain, verify or monitor such qualifications or credentials.

3.18 If checked as an included service in Appendix A, the TPA will provide coordination of services for wellness and health assessment through a third party vendor, Behavioral Health Care Options, Inc.

3.19 Provide, within thirty (30) days after termination of this Agreement, a summary paid Claim report of all Claims paid twenty-four (24) months prior to the date of termination, copies of any governmental reports, and other plan documentation to the Plan Sponsor. Until that time, these records will be maintained at the TPA's principal administrative office. Claim files will be kept in secure storage facilities or electronic media for at least six (6) years following the termination of the Plan Year. Copies of any materials in storage will be available to the Plan Sponsor for a copy fee of fifteen ($15) cents per page copied plus a retrieval fee of Ten Dollars ($10.00) per box or electronic media access. At the end of the six (6) year period or termination of this Agreement, if earlier, the TPA shall notify the Plan Sponsor that these records will be destroyed.

3.20 Upon termination of this Agreement, provide all notices and documents to the Plan Sponsor and to the Texas Department of Insurance as are required under Applicable Texas statutes and regulations.

3.21 Provide Certificates of Creditable Coverage and other Creditable Coverage services as required by HIPAA for employees of the Plan Sponsor and their eligible dependents.

3.22 Provide non-proprietary information and documents as requested by the Plan Sponsor to representatives designated by the Plan Sponsor. However, if the Plan Sponsor has entered into an agreement with any new representative, and the TPA has notice of the same, the TPA shall not be required to provide any information or documentation to other representatives unless or until the Plan Sponsor has terminated the original representative agreement and notified the original representative of the termination. The TPA shall have the express right to contact any representative to verify the representative agreement has been terminated. A separate fee will be charged for this service as stated in Appendix A.

3.23 For Plan Sponsors which have designated subsidiaries, divisions, or which are a Multiple Employer Welfare Arrangement (MEWA): when any designated subsidiary, division or member employer of a MEWA terminates coverage under the plan that is the subject of this Agreement, the TPA will automatically perform run-out services for a period of three (3) months after the date of such termination for such designated subsidiary, division or member employer, unless directed not to do so by the Plan Sponsor in writing. The fee for each month of run-out services will be equal to the claims processing fee(s) stated in Appendix A, based upon the designated subsidiary's, division's or MEWA member
employer's number of enrolled Plan Participants for the month immediately prior to the date of termination of coverage. Plan Sponsor will also pay the TPA run-out services fees for any enrolled Plan Participants who were laid-off or otherwise terminated from the rolls of the Plan during the term of this Agreement if the total number of such laid-off or terminated Plan Participants exceeds five (5%) percent of the total number of enrolled Plan Participants during the first month of this Agreement. Final reconciliation of run-out services fees will be made within ninety (90) days of the end of this Agreement.

3.24 Fees for the services described in Article III are set out in Appendix A hereto. Such fees are fixed for the initial term of this Agreement except that upon sixty (60) days prior notice to Plan Sponsor, the fees are subject to change under the following conditions:

(a) if the Plan Sponsor's census of enrolled employees increases or decreases by more than ten (10%) percent from the number of employees that were enrolled on the commencement of this Agreement;
(b) if the Plan Sponsor significantly alters the design or complexity of its health benefit plan;
(c) if the Plan Sponsor regularly requesting and obtaining extra-contractual services from the TPA.

3.25 The TPA will comply with the applicable laws and rules for the storage, transmission and release of any “protected health information” (used herein as such defined in HIPAA). Notwithstanding any other provision of this Agreement, the TPA shall not be required to do any act which in its judgment violates the HIPAA Administrative Simplification or Hi Tech Security rules.

3.26 The TPA will provide consolidated billing services if checked as an included service in Appendix A. Specifically, the TPA will bill fees and premiums for other employee benefits including, but not limited to, group life, group AD&D and/or group short term and long term disability to the Plan Sponsor, and will remit the premium collected to the applicable carrier.

ARTICLE IV:
THE PLAN SPONSOR'S RESPONSIBILITIES

The Plan Sponsor or Employer will:

4.1 Establish the Plan together with a framework of policies, interpretations and rules, which shall be the basis for the TPA's performance of its duties under this Agreement.

4.3 Maintain current and accurate Plan eligibility and coverage records, verify Covered Person eligibility and submit eligibility and coverage information monthly, or more often if requested by the TPA, to the TPA at its designated electronic or postal address.

This information shall be provided in a format acceptable to the TPA and shall include the following for each Covered Person: name and address, Social Security number, date of birth, type of coverage, sex, relationship to employee, changes in coverage, date coverage begins or ends, and any other information as necessary to determine eligibility and coverage under the Plan.

The Plan Sponsor assumes the responsibility for and will hold the TPA harmless from the erroneous disbursement of benefits by the TPA in the event of error or neglect by the Plan Sponsor or Employer in providing eligibility and coverage information to the TPA, including, but not limited to, failure to give timely notification if ineligibility or termination of a former Covered Person, or fraudulent enrollment and/or continuation of coverage.

The TPA shall make recommendations regarding Claims determinations. The Sponsor shall have the sole authority to resolve all Plan ambiguities and interpretations, questions and disputes relating to the Plan eligibility of a Covered Person, Plan coverage and denied Claims.

The Plan Sponsor shall have the sole authority to make determinations regarding appeal of denied Claims. The Plan Sponsor will respond to any written request for information made by the TPA within ten (10) Working Days of receipt of the request.

Resolve all Plan ambiguities, questions and disputes relating to the Plan eligibility of a Covered Person, Plan coverage, denial of Claims or decisions regarding appeal or denial of Claims, or any other Plan interpretation questions. The Plan Sponsor will respond to any written request made by the TPA within ten (10) Working Days of receipt of the request.

The TPA will administer and process Claims in accordance with Article III if the Plan Document and Summary Plan description are clear and unambiguous as to the validity of the Claims and the Covered Person's eligibility for coverage under the Plan. The TPA will have no discretionary authority to interpret the Plan or adjudicate Claims. If processing a benefit Claim requires interpretation of ambiguous Plan language, and the Plan Sponsor has not previously indicated to the TPA the proper interpretation of the language, then the Plan Sponsor will be responsible for resolving the ambiguity or any other dispute.

In any event, the TPA shall rely upon the Plan Sponsor's decision as to any Claim (whether or not it involves a Plan ambiguity or other dispute) and such decision by the Plan Sponsor shall be final and binding unless modified or reversed by a court or regulatory agency having jurisdiction over such Claim matter.

Fully fund the Claims Payment Account every week based upon the Claims batch report provided by the TPA.
4.4 Set funding levels for the Plan at a minimum level necessary to cover the expected Claims costs, administrative expenses and incurred but not reported Claims liability and fund the Plan at such level.

4.5 Not request or require the TPA, under any circumstances, to issue Claims drafts for Claims, stop loss or excess loss insurance premiums, or any other costs arising out of the subject matter of this Agreement, unless the Plan Sponsor has so authorized and has previously deposited sufficient funds to cover such Complete Claims or other Plan expense obligations and payment(s).

4.6 Provide the TPA with copies of any and all revisions or changes to the Plan at least five (5) Working Days prior to the effective date of the changes. Failure to provide timely notice may result in additional claims processing fees as set forth in Appendix A.

4.7 Provide, and timely distribute, all notices and information required to be given to Covered Persons, including Summary Annual Reports. Maintain and operate the Plan in accordance with applicable law. Maintain all recordkeeping and file all forms relative thereto pursuant to any federal, state or local law, unless this Agreement specifically assigns such duties to the TPA.

4.8 Acknowledge that it is the Plan Sponsor, Plan Administrator, and Named Fiduciary. As such, the Plan Sponsor retains full discretionary control and authority and discretionary responsibility in the operation and administration of the Plan.

4.9 Pay any taxes, assessments for fees arising solely out of the operations of the Plan or the services provided under this Agreement that are levied against the Plan or against the TPA by any governmental entity whether federal, state or local, or any political subdivisions or instrumentality thereof. Taxes based on TPA’s net income or licenses TPA is required to maintain to provide the services under this Agreement shall be the sole responsibility of TPA.

4.10 The Plan Sponsor understands and agrees that the TPA and its affiliates are not obligated to share proprietary and confidential information. Nevertheless, in the event TPA or its affiliates agree to provide proprietary and confidential information, the Plan Sponsor understands and acknowledges that that TPA or its affiliate will assert, in a brief to the Texas Attorney General, that the proprietary and confidential information would be exempt from public disclosure under the Texas Public Information Act codified at Chapter 552 of the Texas Government Code, and that such information should not be released to a requestor under the Texas Public Information Act without the prior written consent of the TPA or its affiliate. The Plan Sponsor hereby agrees to notify the TPA, in writing, within three (3) business days of Plan Sponsor’s receipt of any such public information request for the proprietary and confidential information.

Failure to provide such notice to the TPA shall constitute a material breach of this Agreement

4.11 Pay, in accordance with the Fee Schedule, Appendix A, the TPA’s fees for services rendered under this Agreement. The TPA is expressly directed by the Plan Sponsor to pay any excess loss insurance premiums (where applicable), fee, cost or charge then due to the TPA prior to application of funds to payment of Claims or any other costs arising out of the Plan or subject matter of this Agreement. The Plan Sponsor specifically directs that all funds provided to TPA under this Agreement will be disbursed in the following order: First to pay excess loss insurance premiums where applicable, claims administration fees, costs and related expenses incurred by TPA and second, to pay benefit claims arising under the Plan.

4.12 Maintain any fidelity bond or other insurance as may be requested by state or federal law for the protection of the Plan and Covered Persons.

4.13 Notify the TPA if the Plan Sponsor ceases to maintain Stop Loss or Excess Loss insurance with an admitted insurance company in the amount set forth in the Fee Schedule, Appendix A.

4.14 Promptly notify the TPA of any termination notice, expiration lapse, or modification of Stop Loss or Excess Loss insurance, life insurance, disability insurance, conversion insurance or any other insurance purchased in conjunction with the Plan.

4.15 Ensure that there is adequate release and authorization from each participant and/or beneficiary under the Plan permitting Health Care Providers to share with TPA and TPA to share with Health Care Providers and other service providers to the Plan any and all information, whether protected or individually identifiable, which may be necessary to perform the services anticipated by this Agreement and any Appendices hereto. TPA may in its sole discretion, require participants and/or beneficiaries of the Plan to execute additional releases and authorizations for the use and disclosure of such information. TPA may refuse to release protected or other individually identifiable health care information to Plan Sponsor, its agents and designees if such authorizations and/or releases are not provided.

Have the sole responsibility for reporting and disclosure, including but not limited to plan documents, summary plan descriptions, summaries of material modifications, participant communications, pre-retirement counseling to participants, bonding filings or other compliance required of, by or for the Plan, their participants and beneficiaries, or the Plan Sponsor by ERISA, the Internal Revenue Code, or any other related and/or applicable federal, state or local laws, rules or regulations.

Shall be solely responsible for paying all fees, expenses, or costs attributable to any legal action or proceeding brought to recover a claim for benefits under
the Plan. TPA shall, however, make available to the Plan Sponsor and its counsel, such evidence which relates to or is relevant to such action or proceeding as TPA may have as a result of the performance of the services set forth in this Agreement. TPA shall promptly notify the Plan Sponsor in writing of any legal actions of which it becomes aware that involve the Plan or the Plan Sponsor. The TPA will be responsible for its own attorney's fees and costs but, only to the extent that the TPA is found to be liable for such fees and costs.

4.18 Provide timely, accurate and complete information required by TPA to provide the services that TPA has agreed to perform under this Agreement. TPA shall have the right to rely on such information. Such information shall include but not be limited to all necessary eligibility enrollment and participant data; and copies of all governing documents of the Plan and any amendments thereto, including any written policies, interpretations, rules, practices or procedure concerning same. Such information shall be provided upon execution of this Agreement and immediately following modification or amendment. TPA shall have the right to assume that all such information is accurate and complete and TPA shall be under no duty to question such information. Plan Sponsor shall reimburse TPA at its standard hourly rates for TPA's costs incurred for efforts expended to remedy data or information inaccuracies as were provide by the Plan Sponsor.

ARTICLE V: DURATION OF AGREEMENT

5.1 This Agreement shall commence and end on the dates first written above, unless terminated earlier in accordance with this Article. This Agreement shall automatically renew for a maximum of two additional 12 month periods (January 1, 2015 through December 31, 2015 and January 1, 2016 through December 31, 2016) upon the terms and for these stated in the Fee Appendix hereto, unless terminated as otherwise stated in this Article.

5.2 At any time during the term of this Agreement, either the Plan Sponsor or the TPA may amend or change the provisions of this Agreement. These amendments or changes must be agreed upon in advance in writing by both the Plan Sponsor and the TPA. If any such amendment increases the anticipated Claims experience under the Plan or the TPA's cost of administering the Plan, the Plan Sponsor agrees to pay any increase in Claims expenses, as well as increases in administrative fees or other costs which the TPA reasonably expects to incur as a result of such modification.

Any amendment which affects only the Fee Schedule, Appendix A, may be made, in writing, signed by all parties, and without other formal amendment of this Agreement. All fee quotes accepted by the Plan Sponsor for renewals of this Agreement will be incorporated into this Agreement as amendments to the Fee Schedule, Appendix A.

5.3 Either the Plan Sponsor or the TPA may terminate this Agreement at any time, by giving sixty (60) days advance written notice to the other party unless both parties agree to waive such advance notice. At the option of the party initiating the termination, the other party may be permitted a cure period (of a length determined by the party initiating the termination) to cure any default.

The TPA may, at its sole option, terminate this Agreement with thirty (30) days written notice upon the occurrence of any one or more of the following events pertaining to the Plan Sponsor:

(a) The Plan Sponsor fails to fund the Claims Payment account;
(b) The Plan Sponsor fails to pay administration fees or other fees for the TPA's services upon presentation for payment and in accordance with the Fee Schedule, Appendix A;
(c) The Plan Sponsor fails to comply with any federal, state or other government statute, rule or regulation;
(d) The Plan Sponsor, through its acts, practices, or operations, exposes the TPA to any existing or potential investigation or litigation;
(e) The Plan Sponsor permits its stop loss or excess loss insurance to lapse, whether by failure to pay premiums or otherwise;
(f) The Plan Sponsor loses its licensure or certification, if required by law, to continue the Plan;
(g) Insolvency of the Plan;
(h) Court appointment of a permanent receiver for substantially all of the Plan Sponsor's assets;
(i) A general assignment for the benefit of creditors by the Plan Sponsor; or
(j) The filing of a voluntary or involuntary petition of bankruptcy, if such petition is not dismissed within forty-five (45) days of the date of filing, provided that an order for relief from automatic stay has been obtained, or with respect to a Chapter 11 proceeding, that the bankrupt or Bankruptcy Trustee fails to reaffirm this Agreement and provide adequate assurances pursuant to 11 USC 365.

During the thirty-day notice period TPA's obligations under this Agreement and any performance guarantees related thereto shall be suspended.

5.5 The Plan Sponsor may, at its option, terminate this Agreement with thirty (30) days written notice upon the occurrence of any one or more of the following events pertaining to the TPA:

(a) Court appointment of a permanent receiver for all or substantially all of the TPA's assets;
(b) A general assignment for the benefit of creditors by the TPA;
(c) The filing of a voluntary or involuntary petition of bankruptcy, if such petition is not dismissed within forty-five (45) days of the date of filing, provided that an order for relief from automatic stay has been obtained, or with respect to a Chapter 11 proceeding, that the bankrupt or Bankruptcy Trustee fails to reaffirm this Agreement and provide adequate assurances pursuant to 11 USC 365;
(d) The TPA loses its licensure or certification required by law to continue its business or continue as third party administrator; or
(e) The TPA fails to comply with any federal, state or other governmental statute, rule or regulations.
(f) The TPA, through its acts, practices, or operations, exposes the TPA to any existing or potential investigation or litigation.

During the thirty-day notice period TPA's obligations under this Agreement and any performance guarantees related thereto shall be suspended.

5.6 At the written request of the Plan Sponsor and subject to the Plan Sponsor's continuing obligation to fund the Claims Payment Account, and to timely pay any outstanding amounts due and payable to the TPA under the terms of this Agreement, the TPA may, at its sole discretion, agree to process incurred but not reported Claims after the termination of this Agreement (Run-Out Services). The written request of the Plan Sponsor must be received simultaneously with the notice of termination required by subsection 5.3 of this Agreement. Such agreement (Run-Out Services Agreement), if any, shall be in writing and a separate fee will be charged for this service. TPA will not refuse to provide Run-Out Services except if the Plan Sponsor has materially breached this Agreement, the Plan Sponsor terminates this Agreement without proper notice, or if this Agreement is terminated as a result of any of the events set out in paragraphs 5.4 or 5.5 of this Agreement. Additionally, if the Plan Sponsor terminates this agreement early, there shall be additional fees for runout services as stated in Appendix A hereeto.

5.7 If this Agreement terminates for any reason and no Run-Out Service Agreement is requested, or if the TPA declines to provide Run-Out Services, the TPA shall have no obligation to:

(a) Complete the processing of any claim requests that were pending or otherwise not Complete Claims or complete the processing of any Complete Claims if the Plan Sponsor has failed to provide funds for the payments of any benefits due;
(b) Accept or process requests for claim payments presented to it after termination of this Agreement irrespective of when such claim was incurred;
(c) Issue claims checks after the termination date of this Agreement for any request for claims payments relative to conditions existing before, on or after such a date.
(d) Provide ongoing customer service to Plan Participants or Health Care Providers; or
(e) Perform any other task or requirement of this Agreement, except for those requirements that specifically survive termination of this Agreement.

5.8 If the Plan Sponsor terminates this Agreement on or before the expressed expiration date of this Agreement, but after such termination date becomes entitled to any reimbursement(s) pursuant to the provisions of the Plan Sponsor's Stop Loss or Excess Loss insurance policy aggregate or specific loss reimbursement provisions, and no separate Run-Out Services Agreement is executed, the Plan Sponsor shall pay to the TPA an hourly fee of One Hundred and no/100 Dollars ($100.00) per hour for all services rendered by the TPA after termination of this Agreement regarding such reimbursement(s) request made to or claims paid by a Stop Loss or Excess Loss insurance company.

5.9 In the event this Agreement is terminated for any reason and Plan Sponsor cannot be located following reasonable efforts by TPA, TPA shall charge a $50.00 per check administrative charge for its efforts to return any stale dated funds (defined as a check with an original issue date greater than 180 days) belonging to Plan Sponsor or belonging to a plan participant who, likewise, cannot be located. The administrative charge may be paid from any funds of the Plan Sponsor held by TPA, or billed directly to the Plan Sponsor. This provision shall survive termination of this Agreement.

5.10 The Plan Sponsor specifically acknowledges that the TPA incurs ongoing costs for staffing, long term planning, maintenance of customer service support and other costs connected with providing services to Plan Sponsor's Plan, and that the notice of termination and terminate date provisions of this Agreement provide adequate notice to the TPA so that unnecessary costs are not incurred by the TPA if the Plan Sponsor terminates this Agreement. In that regard, it is specifically agreed by the Plan Sponsor that in the event that the Plan Sponsor either fails to provide the advance notice for termination required by this Agreement, or terminates this Agreement other than on its express expiration date, the Plan Sponsor shall pay to the TPA a fee equal to two times the amount of Plan Sponsor's administrative fees payable to the TPA for the month immediately prior to the date notice of termination is received. The amount payable under this provision shall be as liquidated damages incurred by the TPA for the costs recited in this subsection, in lieu of specific calculation of the same, and not as a penalty. The liquidated damages will be in addition to any other fees
required under this Agreement or any subsequent Run-Out Services Agreement between the parties.

**ARTICLE VI: MISCELLANEOUS**

6.1 This Agreement, together with all addenda, exhibits and appendices, supersedes any and all prior representations, conditions, warranties, understandings, proposals or other agreements between the Plan Sponsor and the TPA hereto, oral or written, in relation to the services and systems of the TPA, which are rendered or are to be rendered in connection with its assistance to the Plan Sponsor in the administration of the Plan.

6.2 This Agreement, together with the aforesaid addenda, exhibits, and appendices, constitutes the entire Administrative Services Agreement of whatsoever kind or nature existing between or among the parties.

6.3 The parties hereto, having read and understood this entire Agreement, acknowledge and agree that there are no other representations, conditions, promises, agreements, understandings or warranties that exist outside this Agreement which have been made by either of the parties hereto, which have induced either party or have led to the execution of this Agreement by either party. Any statements, proposals, representations, conditions, warranties, understandings or agreements which may have been heretofore made by either of the parties hereto, and which are not expressly contained or incorporated by reference herein, are void and of no effect.

6.4 Except as provided in Article V, no changes in or additions to this Agreement shall be recognized unless and until made in writing and signed by all parties hereto.

6.5 In the event any provision of this Agreement is held to be invalid, illegal or unenforceable for any reason and in any respect, such invalidity, illegality or unenforceability shall in no event affect, prejudice or disturb the validity of the remainder of this Agreement, which shall remain in accordance with its terms.

6.6 The parties hereto will each notify the other, within ten (10) Working Days of any inquiry made by any Covered Person or authorized representative of any Covered Person related to Plan Documents, Plan Records, Claims, Claims Appeals, Claims Disputes, threatened litigation, lawsuits pertaining to the Plan or any inquiry made by federal or state authority regarding the Plan.

6.7 In the event that either party is unable to perform any of its obligations under this Agreement because of natural disaster, fire, flood, wind storm, power outage, labor unrest, civil disobedience, acts of war (declared or undeclared), or actions or decrees of governmental bodies or any event which is referred to as a "Force Majeure Event", the party who has been so affected shall immediately notify the other party and shall do everything possible to resume performance.

6.8 Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of non-performance exceeds fourteen (14) Working Days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may terminate this Agreement by giving thirty (30) calendar days' written notice.

6.9 All notices required to be given to either party by this Agreement shall, unless otherwise specified in writing, be deemed to have been given three (3) days after deposit in the U.S. Mail, first class postage prepaid, certified mail, return receipt requested.

Any official notice to the TPA will be mailed to the attention of: President and General Manager, 2806 South Garfield St., Missoula, MT 59801.

Any official notice to the Plan Sponsor will be mailed to the attention of:

Mr. Randy Perry
Director of Human Resources
1211 Southmore
Pasadena, TX 77502

The TPA has adopted an Affirmative Action Policy which is in compliance with §49-2-101, Montana Code Annotated.

Employees hired by the TPA are hired on the basis of merit and qualifications, and there is no discrimination on the basis of race, color, religious creed, political ideas, sex, age, marital status, physical handicap, national origin or ancestry by persons performing this Agreement. Qualifications mean such abilities as are genuinely related to competent performance of the particular occupational task.

This Agreement shall be interpreted and construed in accordance with the laws of the state of Texas except to the extent superseded by federal law. Any litigation related to the interpretation or performance of this agreement shall be conducted in a Texas state or federal court with jurisdiction, in Harris County, Texas.

The parties agree to use and disclose protected health information about a Covered Person in accordance with the terms of a separately provided Business Associate Agreement.

The TPA shall comply with the Montana Workers' Compensation Act while performing its obligations under this Agreement in accordance with §§39-71-120, 39-71-401 and 39-71-405, Montana Code Annotated. Proof of compliance shall be in the form of workers' compensation insurance, an independent contractor's exemption or documentation of corporate officer status. Such insurance/exemption shall be valid and in force for the duration of this Agreement. The TPA shall also comply with the worker's compensation laws or other similar laws of any other state that may apply.
6.13 The TPA may enter into arrangements with a Health Care Provider or group of Health Care Providers to obtain discounts in charges for Covered Services. TPA makes no representations that such discounts will continue for any period of time or will apply in any particular factual context. In no event will TPA be responsible for the loss of any such discounts except in the sole event that such loss is directly caused by commissions or omissions of TPA which constitute gross negligence.

6.14 No forbearance or neglect on the part of either party to enforce or insist upon any of the provisions of this Agreement shall be construed as a waiver, alteration or modification of the Agreement.

6.15 Should TPA's performance of its duties under this Agreement be made materially more burdensome or expensive due to an increase in US Postal Service rates or due to a change in federal, state or local laws or imposition of fees there under, any such additional fees shall be paid by Plan Sponsor. The TPA will notify the City and get their approval before any increase in fees associated with this section.

6.16 The TPA and the Plan Sponsor specifically state, acknowledge and agree that it is their intent that no other parties including, but not limited to, all persons eligible for benefits under the Plan, all covered employees, and their assignees shall be third party beneficiaries of this Agreement. The parties further agree that nothing herein shall be deemed to impose on the TPA any obligation to any other party including, but not limited to, all persons eligible for benefits under the Plan, all covered employees, and their assignees.

6.17 The Plan Sponsor acknowledges that the TPA shall have no responsibility or liability for any fines or penalties assessed the Internal Revenue Service as a result of the issuance of annual 1099 forms to medical service providers so long as the TPA has issued the 1099 to the same name, address and TIN as billed by the medical service provider at the point of claim submission.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on their behalf by their duly authorized representatives' signatures, effective as of the date first written above.

CITY OF PASADENA, TEXAS

By: JOHNNY J. ISBELL, MAYOR
   (Name/Title)

By: X
   (Signature)

Date: 1-9-12

ALLEGIANC BENEFIT PLAN MANAGEMENT, INC.
2806 S. Garfield St.
Missoula, MT 59801

By: Ronald K. Dewsnup
   President and General Manager

By: X
   (Signature)

Date: 01/03/2012
APPENDIX A

FEE SCHEDULE AND FINANCIAL ARRANGEMENT

Fee Schedule

The Plan Sponsor and the TPA hereby agree to the compensation schedules set forth below as being the sole compensation to the TPA for the performance of its obligations under this Agreement. Monthly fees are based upon Plan Participant enrollment as of the beginning of each month. Except as otherwise provided in this Agreement, the fees of the TPA stated in this Fee Schedule are guaranteed for the initial 3-year term of this Agreement (January 1, 2012 through December 31, 2014). This Agreement may be renewed after the initial term for a maximum of 2 successive 12 month periods. For each such 12 month renewal period, TPA’s fees stated below will increase 3% for each 12 month period.

A. Administration fee of $21.25 per Plan Participant per month, which fee shall include services for production and maintenance of Plan Documents/Summary Plan Description, plan building, amendment production, plan document compliance, and HIPAA compliance, ERISA compliance (if applicable) and production and mailing via bulk mail to the Plan Sponsor of health plan identification cards, and all of the following services that are checked:

- Medical Claims
- Dental Claims
- Vision Claims
- Short Term Disability
- Consolidated Billing
- PPO Management and Provider Network Coordination
- Predictive Modeling Services
- Behavioral Healthcare Options
- World Doc online wellness program
- On-line Wellness/health risk assessment program
- COBRA services and HIPAA Certificates of Creditable Coverage, provided by Allegiance COBRA Services, Inc. pursuant to the COBRA Administrative Services and Certification of Creditable Coverage Agreement attached hereto. (In addition to this fee, the TPA will also retain two (2) percent of all COBRA premiums as fees for COBRA services.)
- Pre-certification, outpatient surgery pre-treatment review, continued stay review, concurrent utilization review, or coordination of large case management referrals.
- any administrative fees charged by the Pharmacy Benefit Management (PBM) company that is utilized by the Plan pursuant to written agreement with the Plan, the PBM and the TPA. Certain drug manufacturers may have rebate agreements for certain drugs with the PBM. Rebates from drug manufacturers are not guaranteed to the PBM and may be subject to change during the term of this Agreement. Rebates received by the TPA, if any, from the PBM under any master contract between the TPA and the PBM that is accessed by the Plan or Plan Sponsor pursuant to this Agreement will be allocated on a prorated basis to all participating Plans under such PBM agreement with the TPA. In addition to the Administration Fee stated above, rebates equal to $.50 per Plan Participant per month for the period covered by the rebate will be retained by the TPA to offset costs and expenses incurred by the TPA for regular eligibility maintenance, file maintenance, ID card production, reporting customer service assistance and other services performed by the TPA in connection with the PBM agreement for and on behalf of the participating Plan, provided, however, that if the Plan’s pro rata share of the rebate, in total, is insufficient to equal $.50 per Plan Participant per month for the period covered by the rebate, the TPA will accept the amount of the rebate as full payment for these services.

Distribution of plan materials will be delivered to the Plan Sponsor. An additional postage and handling fee will be paid to the TPA for mailing materials to individual Plan Participants.

In the event that the Plan Sponsor terminates this agreement early, the Run Out fees shall be $42.50 per Plan Participant per month of Run Out Services

B. A one time fee of $1,500.00 for plan set up and programming.
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<th>Description</th>
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<td>C.</td>
<td>Hourly fee of $125.00 for welfare plan consulting. Such services must be agreed to in advance by the Plan Sponsor.</td>
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<tr>
<td>D.</td>
<td>Hourly fee of $125.00 for stop-loss reimbursement services, audit assistance services and any other services provided by the TPA after termination of this Agreement and in the absence of a separate Run-Out Services Agreement.</td>
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<td>E.</td>
<td>Hourly fee of $125.00 for special programming requests or research including production of any special claims history reports. Such services must be agreed to in advance by the Plan Sponsor.</td>
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<td>F.</td>
<td>Special Reports requested by the Plan Sponsor and produced by the TPA upon prior agreement as to report(s) and fee(s).</td>
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<td>G.</td>
<td>A fee of $2.40 per employee per month for Large Case Management.</td>
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<td>H.</td>
<td>Final fee of $500.00 for forwarding magnet diskette of eligibility/enrollment file in DBC or ASCII format to the Plan Sponsor (if requested).</td>
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<tr>
<td>I.</td>
<td>Final fee of $1,500.00 for forwarding magnetic diskette of Claims history file in DBC or ASCII format to the Plan Sponsor (if requested).</td>
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<tr>
<td>J.</td>
<td>Check customization, customized printed material, special statistical reports other than those enumerated in this contract, special medical underwriting, new taxes assessed against the Plan, or other services mutually agreed upon will be billed separately at the rate of $125.00 per hour for such services. Such services must be agreed to in advance by the Plan Sponsor.</td>
</tr>
<tr>
<td>K.</td>
<td>The TPA will furnish a master Summary Plan Description to the Plan Sponsor either electronically (PDF format), or in printed form and will provide printed SPDs for a fee equal to the actual costs for printing a Summary Plan Description Booklet, together with costs of shipping for each booklet.</td>
</tr>
<tr>
<td>L.</td>
<td>A fee of $125.00 per hour for time expended producing and providing information in addition to those reports and/or data extracts mutually agreed upon to representatives for whom the Plan Sponsor requests Plan information be provided, together with any postage, shipping and copying costs. Paper copies will be billed at fifteen ($0.15) cents per copy and electronic copies shall be billed at $500.00 per disk in DBC or ASCII format only.</td>
</tr>
<tr>
<td>M.</td>
<td>PPO access fees for any PPO organization or claim negotiation company that assesses a per Plan Participant fee, a per Claim fee, or a percentage of claims savings fees not to exceed twenty-five (25%) percent of the actual savings amount between the charges billed by the Health Care Provider and the discounted amount agreed to between the PPO or Claims Negotiation Company and the Health Care Provider. The amount charged under this Agreement shall be equal to the amount charged by the PPO or Claims Negotiation Company. The TPA, its parents or its affiliates, may be paid a service fee by the PPO for claim repricing or other administrative services associated with the claims discount or negotiation. The Plan Sponsor will receive a report that outlines the total billed charges, the total discounts obtained, the net claims cost and the total claim savings to the Plan. Any additional fee in excess of this amount must be approved in advance by the Plan Sponsor. The TPA may be paid a fee not to exceed twenty-five (25%) percent of the savings payable to TPA, its parent or its affiliates, realized as a result of any negotiation or reduction in the amount of claims paid or any recovered funds obtained by</td>
</tr>
</tbody>
</table>
N. Funds held in accounts by TPA, until paid out for benefits, may accrue interest. The interest accrued will be retained by TPA as reasonable compensation and fees for fees assessed on the accounts, for paper, printing and postage, record keeping and account reconciliation, bank service fees, trust tax return preparation; and SAS 70 and related trust activities audit fees.

TPA through employment of cost containment companies. Specific fees at the inception of this contract for which a per Participant per month rate is charged are:

$6.25 per Plan Participant per month for CIGNA.
Funding and Fee Payment Terms

Allegiance Benefit Plan Management, Inc., will establish and maintain a zero balance Claims Payment Account for payment and reimbursement of Covered Services.

TPA will notify Plan Sponsor or its designee on a weekly basis of amount required to be deposited to the Claims Payment Account to pay claims after they have been processed for payment. Notification of the amount required to be deposited will take place as follows:

On Monday of each week (Tuesday, if Monday coincides with a recognized Federal holiday), an electronic notification will be provided to Plan Sponsor that the weekly report of claims processed for payment is available on TPA’s secured website.

Upon approval from Plan Sponsor, TPA will effect an electronic withdrawal of funds from an account designated by Plan Sponsor on a Debit Authorization form, a copy of which is attached.

TPA will generate a monthly bill for fees. Payment of monthly billing will be as follows:

On or about the 25th of each month, TPA will provide an electronic notification to Plan Sponsor that the monthly bill is available on TPA’s secured website.

Upon approval from Plan Sponsor, TPA will effect an electronic withdrawal of funds from an account designated by Plan Sponsor on the Debit Authorization Form.
APPENDIX B

SUBROGATION AND REIMBURSEMENT SERVICES

The Plan Sponsor and TPA hereby agree that TPA will perform certain services in connection with the Plan regarding subrogation and reimbursement rights of the Plan and for the fees stated in this Appendix.

A. TPA shall provide recovery services for subrogation/reimbursement of Complete Claims paid by the Plan. Subrogation services shall include direct recovery on behalf of the Plan against third parties and reimbursement services shall include recovery of Plan funds from those Covered Persons who have recovered damages from third parties. Such services shall include review of paid Complete Claims and applicable medical records, identifying potential subrogation and reimbursement claims, follow up questionnaires to Covered Persons and Health Care Providers, additional research as necessary, notification to Health Care Providers, Covered Persons, and their authorized representatives, settlement of claims with prior authorization from the Plan Administrator, and other acts necessary to effectuate recovery of Plan funds.

B. The Plan Sponsor shall pay direct costs incurred by the TPA if written approval is given in advance by Plan Sponsor for subrogation and reimbursement services, including, but not limited to costs of consultants, outside legal counsel, and other professionals. The Plan Sponsor shall also pay the TPA fifteen percent (15%) of the total funds recovered from subrogation or reimbursement less any direct costs incurred by the TPA. Plan Sponsor shall never receive less than 85% of any subrogation recovery.

C. If necessary to retain outside legal counsel for recovery of Plan funds, the Plan Sponsor shall have sole discretion to select and retain legal counsel.

D. Plan Sponsor and TPA acknowledge that negotiation or waiver of a subrogation/reimbursement claim may be necessary as a result of state or federal law or the specific facts and circumstances of the disputed Claim. The TPA shall refer any requests for negotiation or waiver of a claim to the Plan Sponsor for final settlement.
APPENDIX C

COBRA ADMINISTRATIVE SERVICES
AND
CERTIFICATION OF CREDIBLE COVERAGE
AGREEMENT

This COBRA Administrative Services and Certification of Credible Coverage Agreement (hereinafter "Agreement") is entered into January 1, 2012, by and between The City of Pasadena, Texas (hereinafter "Plan Sponsor") and ALLEGIANCE COBRA SERVICES, INC., (hereinafter "TPA"). whose address and phone number are 2806 S. Garfield St, PO Box 2097, Missoula, MT 59806; (406) 721-2222.

WHEREAS, the Plan Sponsor and/or the plan administrator of the group health plan sponsored by the Plan Sponsor is required to perform certain duties pursuant to continuation of benefits coverage and certification of credible coverage requirements.

WHEREAS, the Plan Sponsor has selected the TPA to perform certain nondiscretionary and ministerial duties pursuant to the Plan Sponsor's continuation of benefits coverage and certification of credible coverage requirements.

NOW THEREFORE, in consideration of the terms and conditions hereinafter set forth, the parties agree as follows:

SECTION 1: Definitions

1.1 "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985 or the Public Health Service Act, as amended or interpreted from time to time, and applicable regulations.

1.2 "COBRA Participant" means any person who is properly enrolled for and entitled to benefits from the Plan, pursuant to COBRA continuation coverage.

1.3 "Credible Coverage" means health or medical coverage under which a Covered Person was covered prior to enrollment under this Plan, which prior coverage was under any of the following:

(a) A group health plan
(b) Health insurance coverage
(c) Part A, Part B or Part C of Title XVIII of the Social Security Act (Medicare)
(d) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under Section 1928 (Medicaid)
(e) Chapter 55 of Title 10, United States Code (active military and CHAMPUS)
(f) A medical care program of the Indian Health Service or a tribal organization
(g) A state health benefits risk pool
(h) A health plan offered under chapter 89 of Title 5, United States Code (Federal Employee Health Benefits)
(i) A public health plan
(j) A health benefit plan under section 5(e) of the Peace Corps Act

1.4 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended and interpreted from time to time, together with applicable regulations.

1.5 "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended or interpreted from time to time, together with applicable regulations.

1.6 "Plan" means the self-funded health and welfare benefit plan as defined by ERISA; which is the subject of this Agreement and which the Plan Sponsor has established pursuant to the Plan Document.

1.7 "Plan Administrator" means the person or entity as defined by ERISA; and designated by the Plan Sponsor to manage the Plan and make all discretionary decisions regarding Plan terms and managing Plan assets.

1.8 "Plan Participant" is any employee, retiree or COBRA beneficiary who is properly enrolled and eligible for benefits under the Plan.

1.9 "Qualified Beneficiary" means a covered person under the Plan, who is eligible to continue coverage under the Plan in accordance with the applicable provisions of COBRA, regarding Qualified Medical Child Support Orders, or in accordance with any other applicable Federal or State law.

1.10 "Qualified Beneficiary" also means a child born to, adopted by or placed for adoption with a covered employee or former employee, at any time during active COBRA continuation coverage of that employee or former employee.

1.10 "Qualifying Event" means:

a. With respect to a covered employee or former employee, termination of employment of the employee (except for termination as a result of gross misconduct), or reduction of hours of employment causing the employee to become ineligible for coverage.

b. With respect to an eligible dependent or spouse of a
covered employee or former employee, termination of employment of the employee (except for termination as a result of gross misconduct), reduction of hours of employment causing the employee to become ineligible for coverage, the covered employee's entitlement to Medicare, the death of the covered employee, the divorce or legal separation of the spouse from the covered employee, and an eligible dependent who ceases to be a dependent as that term is defined by the Plan.

c. With respect to eligible retirees and their eligible dependents, the commencement of a bankruptcy proceeding.

d. Any other qualifying event as defined by law and as the law may be amended or interpreted from time to time.

SECTION 2: Relationship of Parties

2.1 Independent Contractor. Plan Sponsor acknowledges that the TPA is an independent contractor as defined in section 39-71-120 of the Montana Code Annotated, as amended, for purposes of this Agreement. As such, the TPA is not an agent or employee of Plan Sponsor and does not assume any liability or responsibility for any breach of duty or act of omission by Plan Sponsor.

2.2 Plan Fiduciary. Plan Sponsor acknowledges and agrees that the performance by the TPA of its obligations under this Agreement does not make the TPA a plan administrator, plan sponsor, or fiduciary as defined by ERISA, and Plan Sponsor will not identify the TPA or any of its affiliates as such. The Plan Sponsor further acknowledges and agrees that it is the plan sponsor, plan administrator, and named fiduciary as defined by ERISA. As such, Plan Sponsor retains full discretionary authority, control, and responsibility for the operation and administration of the Plan.

2.3 No Legal or Tax Advice. Plan Sponsor acknowledges and agrees that the TPA will not be deemed to be a legal or tax advisor as a result of the performance of its duties under this Agreement.

2.4 Subcontractors. The TPA may subcontract the services of computer companies, consultants, attorneys, accountants, and other organizations that it deems necessary in the performance of its obligations under this Agreement. At the discretion of the TPA, such services may be performed directly by the TPA, wholly or in part, through a subsidiary or affiliate of the TPA or under an agreement with an organization, agent, or other person of its choosing. Any such services resulting in a fee not agreed to in Appendix A, Fee Schedule and Financial Arrangement in the Administrative Services Agreement between Plan Sponsor and Allegiance Benefit Plan Management, shall have prior written authorization by the Plan Sponsor.

2.5 Third Party Administrator Licensure. The TPA will maintain licensing and registration as required by applicable state and federal law.

SECTION 3: Responsibilities of Plan Sponsor

3.1 Initial Notice: If applicable, Plan Sponsor will notify the TPA within thirty (30) days after employees and/or their dependents enroll in Plan Sponsor's Plan, of such enrollment to allow the TPA to send the employee an initial COBRA notice.

3.2 Qualifying Event Notice: Plan Sponsor will notify the TPA or cause the TPA to be notified when employees and/or their dependents have a Qualifying Event as follows:

a. Within 30 days of the employee's death, termination from employment for any reason including gross misconduct, or reduction of employment hours.

b. Within 60 days of the divorce or legal separation of the employee or the date at which a dependent child ceases eligibility under the Plan.

c. Within 60 days of a second Qualifying Event of a Qualified Beneficiary dependent or spouse, such as the divorce or legal separation from the covered employee, death of the covered employee, entitlement to Medicare or the dependent child ceasing eligibility under the Plan.

3.3 Late Notice of Qualifying Event: If any employee or dependent of an employee provides notice to the Plan Sponsor of divorce or legal separation, entitlement to Medicare, or that a dependent child ceases eligibility under the Plan, and such notice is made more than 60 days after the Qualifying Event, Plan Sponsor will notify the TPA in writing of the same within 10 days after receiving the notice.

The TPA will not enroll those persons who provided notice in such manner for COBRA continuation coverage, unless specifically directed to do so in writing, by the Plan Sponsor and/or the Plan Administrator.

3.4 Qualified Beneficiary Information: Plan Sponsor will provide the TPA the following information with notice of a Qualifying Event:

a. The name, address, and Social Security number of the employee.

b. The name, address, and Social Security number for any covered dependents.

c. Date and description of the Qualifying Event, or if not a Qualifying Event, the date and reason, if known, for dropping or terminating Dependent coverage. If the Plan Sponsor knows that the Participant's reason for dropping or terminating Dependent coverage is in contemplation of divorce or legal separation, Plan Sponsor shall notify the TPA of the same to assure that any affected Dependent receives notice of any COBRA rights to which he or she is entitled.
3.5 SSI Determination Letters: Plan Sponsor will forward copies of any Social Security Disability Determination letters it may receive from COBRA Participants, within 10 days after Plan Sponsor receives the same and has date stamped the letter.

3.6 Plan Sponsor Plan, Changes, and Amendments: Plan Sponsor will notify the TPA of any changes in benefits, eligibility and/or premiums for Plan Sponsor’s Plan, in accordance with the terms of the Administrative Service Agreement for the Plan Sponsor’s Plan.

3.7 COBRA Premiums: Plan Sponsor will determine the amount to be charged for COBRA premiums and notify the TPA of the same, in writing, upon execution of this Agreement. Plan Sponsor will notify the TPA in writing of any premium changes at least thirty (30) days prior to the effective date of the change or as soon as reasonably possible thereafter.

3.8 COBRA Election Forms: If Plan Sponsor receives requests for COBRA coverage, Plan Sponsor will record on the form the date it was received by Plan Sponsor. Plan Sponsor will fax a copy of the form to the TPA on the date it is received by Plan Sponsor, and will mail a copy of the same to the TPA within five (5) days of receipt by Plan Sponsor.

3.9 Premium Trust Accounts: Plan Sponsor will establish, or cause to be established, a premium trust account at a bank designated by the TPA. Plan Sponsor, and not the TPA, will be the owner of such account.

Plan Sponsor authorizes the TPA to endorse COBRA premium payments received by stamping the same with “FOR DEPOSIT ONLY” and the applicable premium trust account number and to deposit the payments into the premium trust account.

3.10 Premium Payments Received from COBRA Participants: If Plan Sponsor receives premium payments directly from COBRA Participants, Plan Sponsor will notify the TPA in writing on the date of receipt, or cause the TPA to be notified in writing on the date of receipt, of the premium amount, the name of the COBRA Participant(s) for whom the premium applies, date of receipt, and period for which the premium applies. Plan Sponsor shall forward premium checks received to the TPA for deposit into the premium trust account.

3.11 Initial Grace Period: Plan Sponsor designates that the initial 45 day grace period for the premium payment will begin on the date of COBRA election.

3.12 Other: Plan Sponsor will provide any other information required by the TPA to perform its obligations under this Agreement.

SECTION 4: COBRA Services of the TPA

4.1 Initial Notice. If applicable, within fourteen (14) days of receipt of notice from Plan Sponsor of a newly-enrolled employee and/or spouse, the TPA will mail to the employee and/or spouse an initial notice of COBRA continuation coverage rights.

4.2 Enrollment Packet: Within 14 days of receipt from the Plan Sponsor of a Qualifying Event, the TPA will mail to Qualified Beneficiaries a notice of the right to elect COBRA continuation coverage.

4.3 Enrollment of Qualified Beneficiaries: The TPA will enroll all Qualified Beneficiaries who elect COBRA continuation coverage within the time permitted by law.

4.4 Notice of Open Enrollment: The TPA will notify COBRA participants of any open enrollment periods held for employees under Plan Sponsor’s Plan.

4.5 Contemplation of Divorce: Upon receipt of notice from the Plan Sponsor, the TPA will provide notices to spouses and other Dependents whose coverage is being terminated in contemplation of divorce or legal separation that they may have rights to COBRA continuation coverage when the divorce decree or legal separation is entered by a court.

4.6 Post-Election Notices: The TPA will provide all post election notices to employees and their spouses required by applicable law, including but not limited to notice of ineligibility for COBRA continuation coverage, notice of nonpayment of premium, and notice of termination of COBRA coverage. If the notice of ineligibility is due to the employee’s termination of employment for gross misconduct, the Plan Sponsor shall be solely responsible for the determination of gross misconduct.

4.7 Plan Changes and Amendments: The TPA will inform COBRA Participants under the Plan of any changes in benefits, eligibility requirements, or premiums of the Plan. The obligations of the TPA under this subsection will be limited to mailing to COBRA Participants, copies of all Plan amendments, changes, modifications, or other notices as received from the Plan Sponsor.

4.8 Customer Service Toll-Free Line: The TPA will provide customer service assistance regarding COBRA issues to Plan Sponsor and beneficiaries under Plan Sponsor’s Plan through a toll-free telephone number during regular business hours.

4.9 COBRA Participant Premiums: The TPA will bill COBRA Participants for the premiums as designated by Plan Sponsor and in accordance with applicable law. The TPA will not be required to bill for any premium amount that does not comply with applicable law.

The TPA will direct COBRA Participants to make premium payments payable to the Plan Sponsor and to send payments to the TPA for deposit into the premium trust account. If the TPA receives premium checks made
payable to the TPA, the TPA will endorse them over to Plan Sponsor, without recourse. The TPA will collect COBRA premiums and deposit them in the Plan Sponsor’s premium trust account no less frequently than weekly.

The TPA will establish, or cause to be established, a system to credit the premium payments to the appropriate Qualified Beneficiary or COBRA Participant.

4.10 Late Premium Notices: The TPA will send a reminder notice to Qualified Beneficiaries and COBRA Participants whose premium payment has not been received on or about the twentieth day of the month.

4.11 Late Premium Payments: If the TPA receives a premium payment past the premium due date (including any grace period provided by law or the Plan), the TPA will return the payment to the sender with a notice that it cannot be accepted. The TPA will return the payment to the sender, with such notice, within five (5) days of receiving the payment.

4.12 COBRA Terminations: The TPA will notify the Plan Sponsor of the date COBRA continuation coverage will expire in the absence of any default, for each COBRA Participant. Such notice will be given in an eligibility report provided by the TPA to the Plan Sponsor on a monthly basis.

4.13 Notice of Default: The TPA will notify each COBRA Participant, in writing, of any default in payment of premium, or other default causing loss of coverage, including the date of default and the date COBRA continuation coverage terminated. Notice will be sent by first class mail within five (5) days following receipt of notice from Plan Sponsor and/or Plan Administrator.

4.14 Notice of COBRA Exhaustion: The TPA will notify each COBRA Participant of the date COBRA continuation coverage will expire in the absence of any default. Such notice will be sent by first class mail within thirty (30) days of the termination date.

4.15 Conversion Coverage: If applicable, the TPA shall provide notices to eligible COBRA Participants of their rights to obtain conversion coverage. Such notices shall be supplied at the expense of the Plan. The TPA shall administer conversion rights in accordance with the provisions of the Plan document.

SECTION 5: Creditable Coverage Certification Services of the TPA

5.1 Customer Service Toll-Free Line: The TPA will provide customer service assistance regarding Creditable Coverage to Plan Sponsor and beneficiaries under Plan Sponsor’s Plan through a toll-free telephone number during regular business hours.

5.2 Certificates of Creditable Coverage: The TPA will provide Certifications of Creditable Coverage as required by law, to employees, dependents and others authorized to receive this information.

SECTION 6: TPA Compensation

Plan Sponsor agrees to pay the TPA its compensation for services provided under this Agreement in accordance with the terms and conditions outlined in Appendix A, “Fee Schedule and Financial Arrangement” in the Administrative Services Agreement between Plan Sponsor and Allegiance Benefit Plan Management.

SECTION 7: Limitations on Liability

7.1 Premium Payments/Loss of Coverage: Except as provided for under section 8.1, the TPA will have no liability to any person or entity regarding the processing of premium payments. Provided the TPA acts in accordance with this Agreement, the TPA will have no liability to any person or any entity for loss of COBRA coverage as a result of late or nonpayment of premium.

7.2 Failure of Plan Sponsor to Notify: The TPA will provide all notices to COBRA Participants and Qualified Beneficiaries in accordance with this Agreement. Provided the TPA acts in accordance with this Agreement, the TPA will have no liability to any COBRA Participant or Qualified Beneficiary for failure of the Plan Sponsor to properly notify the TPA and provide the information required for the TPA to perform its obligations under this Agreement. The TPA will have no liability for the accuracy of the information provided by the Plan Sponsor and for any actions taken in reliance upon any such information.

7.3 NSF Checks: This Agreement will not be construed in any manner to require the TPA to collect insufficient funds, “stop-payment” or otherwise dishonored checks, or other negotiable instruments received for premium payments, which are subsequently not paid by the maker. The TPA will not be liable for any losses to Plan Sponsor or Plan Sponsor’s Plan as a result of such checks or negotiable instruments.

7.4 Determinations of Gross Misconduct: The TPA shall not make any determinations of any nature regarding whether a Qualified Beneficiary’s termination from employment was due to gross misconduct. The TPA shall be entitled to rely upon any determinations of gross misconduct as made by the Plan Sponsor and shall have no liability for actions taken in reliance upon any such information as provided by the Plan Sponsor.

SECTION 8: Term and Termination of Agreement

8.1 Term and Renewal Term: The term of this Agreement shall commence on January 1, 2012, and run concurrently with the Administrative Services Agreement to which this Appendix is a part.

8.2 Survival: The provisions of Sections 2, 7, and 8 shall survive termination of this Agreement.
SECTION 10: General Provisions

10.1 Authorization: Plan Sponsor grants to the TPA the authority to do all acts it deems necessary to carry out the terms of this Agreement.

10.2 Waiver: No forbearance or neglect on the part of either party to enforce or insist upon any of the provisions of this Agreement will be construed as a waiver, alteration, or modification of this Agreement.

10.3 Entire Agreement, Amendments, Modification: This Agreement and any attachments constitute the entire agreement between the parties with respect to its subject matter. This Agreement supersedes all existing agreements and all other oral, written or other communications between them concerning its subject matter. This Agreement or any attachment shall not be amended or modified except as agreed upon in writing and signed by the parties. If any such modification or amendment increases the direct costs to the TPA under this Agreement, the Plan Sponsor agrees to pay any increases in direct costs that the TPA reasonably expects to incur as a result of such modification.

10.4 Severability: If any provision of this Agreement is held to be invalid, illegal, or unenforceable by any court of final jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to remain fully valid, enforceable, and binding on the parties.

10.5 Agreement Counterparts: This Agreement may be executed in two or more counterparts, each and all of which will be deemed an original and all of which together will constitute but one and the same instrument.

10.6 Assignment: Neither party shall assign, transfer, or subcontract any portion of this Agreement without the prior written consent of the non-assigning party.

10.7 Notice of Threatened Litigation: The Plan Sponsor will notify the TPA within ten (10) days of any threatened litigation, lawsuits or regulatory complaints or inquiries pertaining to the subject matter of this Agreement, or any inquiry made by any federal or state authority regarding the same.

10.8 Compliance with Laws. The TPA shall, in the performance of its obligations under this Agreement, comply with applicable federal, state or local laws, rules and regulations.

10.8 Service of Notice. Neither party will be bound by any notice, directive or request unless and until it is received in writing, or by facsimile transmission, or by e-mail address at the addresses in this subsection. All notices given to either party under this Agreement shall, unless otherwise specified in writing, be deemed to have been given three (3) days after deposit in the U.S. Mail, first class postage prepaid, certified mail, return receipt requested; date of facsimile transmission; or date of e-mail transmission.

Notice to the TPA shall be directed to:

Ronald K. Dewsnup, President and GM, Allegiance Benefit Plan Management, Inc., 2806 South Garfield St., PO Box 3018, Missoula, MT 59806-3018; Phone: (406) 721-2222; Fax: (406) 721-2252; Email: rdewsnup@askallegiance.com.

Notice to the Plan Sponsor shall be directed to:

Mr. Randy Perry
Director of Human Resources
1211 Southmore
Pasadena, TX 77502

10.9 Choice of Law and Venue. See Choice of law and Venue provisions of the Administrative Services Agreement to which this Agreement is an Appendix.

10.10 Costs and Attorney Fees. If either party breaches or defaults in the performance of their obligations under this Agreement, the breaching party will pay all reasonable attorney fees and costs incurred by the non-breaching party as a result of such breach or default.

10.11 Headings: Section headings are included only for convenient reference and do not describe the sections to which they relate.

10.12 Interpretation of Words: Words denoting the singular include the plural and vice versa.

(Plan Sponsor)

Initials (TPA)
Exhibit “B”

Business Associate Agreement
(Treatment of HIPPA Information)
BUSINESS ASSOCIATE AGREEMENT
BETWEEN
CITY OF PASADENA
AND
ALLEGIANCE BENEFIT PLAN MANAGEMENT

I. PREAMBLE

Pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations, the Standards for Privacy of Individually-Identifiable Health Information, 45 CFR §164.500 et seq., and the HITECH Act, The City of Pasadena ("Covered Entity") and ALLEGIANCE BENEFIT PLAN MANAGEMENT, Business Associate, (jointly "the Parties") wish to enter into this Agreement that addresses the requirements of the HIPAA Privacy Rule with respect to "business associates," as that term is defined in the HIPAA Privacy Rule and to incorporate the additional requirements of: (i) the HIPAA Security Standards, and the HIPAA Standards for Electronic Transactions (together with the HIPAA Privacy Rule shall be collectively referred to in this Agreement as "the HIPAA Regulations"), and (ii) the requirements of the Health Information Technology for Economic and Clinical Health Act, a part of the American Recovery and Reinvestment Act of 2009 (the "HITECH Act") that are applicable to business associates, along with any guidance and/or regulations issued by the U.S. Department of Health and Human Services ("HHS"). Covered Entity and Business Associate agree to incorporate into this Agreement any regulations issued by HHS with respect to the HITECH Act that relate to the obligations of business associates.

Specifically, this Agreement is intended to ensure that Business Associate will establish and implement appropriate safeguards (including certain administrative requirements) for "Protected Health Information;" Business Associate may create, receive, use, or disclose in connection with certain functions, activities or services (collectively "services") to be provided by Business Associate to Covered Entity. The services to be provided by Business Associate are identified in a separate agreement between the Parties.

The Parties acknowledge and agree that in connection with the services to be provided; Business Associate may create, receive, use or disclose Protected Health Information ("PHI"). PHI is defined as individually-identifiable health information maintained or transmitted in any form or medium, including, without limitation, all information (including demographic, medical and financial information), data, documentation, and materials that relate to: (i) the past, present or future physical or mental health or condition of an individual; (ii) the provision of health care to an individual; or (iii) the past, present or future payment for the provision of health care to an individual. PHI does not include health information that has been de-identified in accordance with the standards for de-identification provided for in the HIPAA Regulations.

This Agreement shall replace any and all previous Business Associate Agreements between the Parties.

In connection with Business Associate's creation, receipt, use or disclosure of PHI, Business Associate and Covered Entity agree as follows:

II. DEFINITIONS

A. "Electronic PHI" shall mean protected health information that is transmitted or maintained in any electronic media, as this term is defined in 45 C.F.R. § 160.103.

B. "Limited Data Set" shall mean protected health information that excludes the following direct identifiers of the individual or of relatives, employers, or household members of the individual:
   (i) Names;
   (ii) Postal address information, other than town or city, State, and zip code;
   (iii) Telephone numbers;
   (iv) Fax numbers;
   (v) Electronic mail addresses;
(vi) Social security numbers;
(vii) Medical record numbers;
(viii) Health plan beneficiary numbers;
(ix) Account numbers;
(x) Certificate/license numbers;
(xi) Vehicle identifiers and serial numbers, including license plate numbers;
(xii) Device identifiers and serial numbers;
(xiii) Web Universal Resource Locators (URLs);
(xiv) Internet Protocol (IP) address numbers;
(xv) Biometric identifiers, including finger and voice prints; and
(xvi) Full face photographic images and any comparable images.

C. "Protected Health Information" or "PHI" shall mean information created or received by a health care provider, health plan, employer, or health care clearinghouse, that: (i) relates to the past, present, or future physical or mental health or condition of an individual, provision of health care to the individual, or the past, present, or future payment for provision of health care to the individual; (ii) identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the individual; and (iii) is transmitted or maintained in an electronic medium, or in any other form or medium. The use of the term "Protected Health Information" or "PHI" in this Agreement shall mean both Electronic PHI and non-electronic PHI, unless another meaning is clearly specified.

D. "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

E. All other terms used in this Agreement shall have the meanings set forth in the applicable definitions under the HIPAA Regulations and/or the security and privacy provisions of the HITECH Act that are applicable to business associates along with any regulations issued by HHS.

III. GENERAL TERMS

A. In the event of an inconsistency between the provisions of this Agreement and the mandatory terms of the HIPAA Regulations, as may be expressly amended from time to time by the Department of Health and Human Services (HHS) or as a result of interpretations by HHS, a court of appropriate jurisdiction, or another agency having regulatory authority over the Parties, the interpretation of HHS, such court or regulatory agency shall prevail. In the event of a conflict among the interpretations of these entities, the conflict shall be resolved in accordance with the rules of precedence.

B. Where provisions of this Agreement are different from those mandated by the HIPAA Regulations but are nonetheless permitted by the Rule, the provisions of the Agreement shall control.

C. Except as expressly provided in the HIPAA Regulations or this Agreement, this Agreement does not create any rights in third parties.

IV. SPECIFIC REQUIREMENTS OF BUSINESS ASSOCIATE

A. Business Associate agrees to create, receive, use or disclose PHI only in a manner consistent with this Agreement or the HIPAA Regulations and only in connection with providing the services to Covered Entity identified in their service agreement entered into between the parties. Accordingly, in providing services to or for the Covered Entity, Business Associate is permitted to use and disclose PHI for "treatment, payment and healthcare operations" in accordance with the HIPAA Regulations.

B. Business Associate shall report to Covered Entity any use or disclosure of PHI that is not provided for in this Agreement.

C. Business Associate shall maintain necessary safeguards to ensure that PHI is not used or disclosed
except as provided for in this Agreement

D. Additionally, under the HIPAA Regulations, Business Associate also may use or disclose PHI received by Business Associate in its capacity as a business associate to the Covered Entity if:

1. the use relates to: (a) the proper management and administration of Business Associate to carry out legal responsibilities of Business Associate, or (b) data aggregation services relating to the health care operations of the Covered Entity; or

2. the disclosure of information received in such capacity will be made in connection with a function, responsibility, or service to be performed by Business Associate, and such disclosure is required by law or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidential and the person agrees to notify Business Associate of any breaches of confidentiality.

E. Business Associate's use, disclosure or request of PHI shall utilize a Limited Data Set if practicable. Otherwise, in performing the functions and activities as specified in the agreement between the parties and this Agreement, Business Associate agrees to use or disclose only the minimum necessary PHI to accomplish the intended purpose of the use or disclosure.

F. In accordance with 45 C.F.R. § 164.524 of the HIPAA Privacy Rule and, where applicable, in accordance with the HITECH Act, Business Associate will make available to those individuals who are subjects of PHI, their PHI in Designated Record Sets by providing the PHI to Covered Entity (who then will share the PHI with the individual), by forwarding the PHI directly to the individual, or by making the PHI available to such individual at a reasonable time and at a reasonable location. Business Associate shall make such information available in an electronic format where directed by Covered Entity.

G. Business Associate shall make available the information necessary to provide an accounting of disclosures of PHI as provided for in 45 C.F.R. '164.528 of the HIPAA Privacy Rule, and where so required by the HITECH ACT and/or accompanying regulations, Business Associate shall make such information available directly to the individual. Business Associate is not required to record disclosure information or otherwise account for disclosures of PHI that this Agreement or the agreement between the parties in writing permits or requires: (i) for the purpose of payment activities or health care operations (except where such recording or accounting is required by the HITECH Act, and as of the effective dates for this provision of the HITECH Act), (ii) to the individual who is the subject of the PHI disclosed, or to that individual’s personal representative; (iii) to persons involved in that individual’s health care or payment for health care; (iv) for notification for disaster relief purposes, (v) for national security or intelligence purposes, (vi) to law enforcement officials or correctional institutions regarding inmates (vii) pursuant to an authorization; (viii) for disclosures of certain PHI made as part of a limited data set; and (ix) for certain incidental disclosures that may occur where reasonable safeguards have been implemented.

H. Business Associate shall make available PHI for amendment and incorporate or append any amendment to PHI in accordance with 45 C.F.R. '164.526 of the HIPAA Privacy Rule.

I. If an individual submits a Request for Restriction or Request for Confidential Communications to the Business Associate, Business Associate and Covered Entity agree that Business Associate, on behalf of Covered Entity, will evaluate and respond to these requests according to Business Associate’s own procedures for such requests.

J. Business Associate shall make available to HHS or its agents its internal practices, books and records relating to the use and disclosure of PHI with regard to this Agreement.
K. Business Associate agrees that Covered Entity shall have the right to terminate this Agreement and seek other remedies if Business Associate violates a material term of this Agreement.

L. Business Associate shall report to Covered Entity any use or disclosure of PHI that is not provided for in this Agreement and take all reasonable action to remediate and mitigate the consequences of such disclosure or use.

Business Associate acknowledges that if it fails to remediate and mitigate or cure the consequences of disclosure, the Covered Entity will do so, and Business Associate will indemnify Covered Entity for all costs and damages associated therewith.

M. Business Associate will develop, document, implement, maintain, and use appropriate administrative, technical, and physical safeguards to preserve the integrity, confidentiality, and availability of, and to prevent non-permitted use or disclosure of, PHI created or received for or from the Covered Entity. Business Associate agrees that with respect to PHI, these safeguards at a minimum shall meet the requirements of the HIPAA Security Standards applicable to Business Associate.

N. In order to comply with HIPAA Security Standards for PHI, Business Associate agrees that it shall:

1. Implement administrative, physical, and technical safeguards consistent with (and as required by) the HIPAA Security Standards that reasonably protect the confidentiality, integrity, and availability of PHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity. Business Associate shall develop and implement policies and procedures that meet the Security Standards documentation requirements as required by the HITECH Act;

2. As also provided for in Section IV. Q., below, ensure that any agent, including a subcontractor, to whom it provides such PHI agrees to implement reasonable and appropriate safeguards to protect it;

3. Report to Covered Entity, Security Incidents of which Business Associate becomes aware that result in the unauthorized access, use, disclosure, modification, or destruction of the Covered Entity’s PHI, (hereinafter referred to as “Successful Security Incidents”). Business Associate shall report Successful Security Incidents to Covered Entity as specified in Section IV. S;

4. For any other Security Incidents that do not result in unauthorized access, use, disclosure, modification, or destruction of Covered Entity’s PHI (including for purposes of example and not for purposes of limitation, pings on Business Associate’s firewall, port scans, attempts to log onto a system or enter a database with an invalid password or username, denial-of-service attacks that do not result in the system being taken offline, or malware such as worms or viruses)(hereinafter “Unsuccessful Security Incidents”), Business Associate shall aggregate the data and, upon Covered Entity’s written request, report to Covered Entity in accordance with the reporting requirements identified in Section IV. S.;

5. Take all commercially reasonable steps to mitigate, to the extent practicable, any harmful effect known to Business Associate resulting from a Security Incident;

6. Permit Termination of this Agreement if Covered Entity determines Business Associate has violated a material term of this Agreement with respect to Business Associate’s security obligation and Business Associate is unable to cure the violation;

7. Upon Covered Entity’s request, Business Associate will provide Covered Entity with access to, and copies of, documentation regarding Business Associate’s safeguards for PHI. Business Associate shall conduct Standard Transactions consistent with 45 CFR Part 162 for or on behalf of Covered Entity to the extent such Standard Transactions are required in the course of Business Associate’s performing services under the services agreement between the parties and this
Agreement for Covered Entity. As provided for in Section IV.O., below Business Associate will require any agent or subcontractor involved with the conduct of such Standard Transactions to comply with each applicable requirement of 45 CFR Part 162. Further, Business Associate will not enter into, or permit its agents or subcontractors to enter into, any trading partner agreement in connection with the conduct of Standard Transactions for or on behalf of Covered Entity that:

8. Changes the definition, data condition, or use of data element or segment in a Standard Transaction;
9. Adds any data element or segment to the maximum defined data set;
10. Uses any code or data element that is marked “not used” in the Standard Transaction’s implementation specification; or
11. Changes the meaning or intent of the Standard Transaction’s implementation specification.

O. Business Associate, Plan Sponsor and Covered Entity recognize and agree that communications between the parties that are required to meet the Standards for Electronic Transactions will meet the Standards set by that regulation. Communications between Plan Sponsor and Business Associate or between Plan Sponsor and the Covered Entity, do not need to comply with the HIPAA Standards for Electronic Transactions. Accordingly, unless agreed to otherwise by the Parties in writing, all communications (if any) for purposes of “enrollment” as that term is defined in 45 CFR Part 162, Subpart O or for “Health Covered Entity Premium Payment Data” as that term is defined in 45 CFR Part 162, Subpart Q, shall be conducted between the Plan Sponsor and either Business Associate or Covered Entity. For all such communications (and any other communications between Plan Sponsor and Business Associate, Plan Sponsor shall use such forms, tape formats or electronic formats as Business Associate may approve. Plan Sponsor will include all information reasonably required by Business Associate to effect such data exchanges or notifications.

P. All communications between Business Associate and Covered Entity required to meet the HIPAA Standards for Electronic Transactions shall do so. For any other communications between Business Associate and Covered Entity, Covered Entity shall use such forms, tape formats, or electronic formats as Business Associate may approve. Covered Entity shall include all information reasonably required by Business Associate to effect such data exchanges or notifications.

Q. Business Associate shall include in all contracts with its agents or subcontractors, if such contracts involve disclosure of PHI to the agents or subcontractors, the same restrictions and conditions on the use, disclosure and security of such PHI as set forth in this Agreement.

R. Business Associate shall notify and report to Covered Entity (in the manner and within the timeframes described below) any use or disclosure of PHI not permitted by this Agreement, by applicable law, or permitted in writing by covered entity.

S. Business Associate shall notify Covered Entity following discovery and without unreasonable delay but in no event later than twenty (20) calendar days following discovery of any “Breach” of “Unsecured Protected Health Information” as these terms are defined by the HITECH Act and its implementing regulations Business Associate shall cooperate with Covered Entity in investigating the Breach and in meeting Covered Entity’s obligations under the HITECH Act. Business Associate shall follow its notification requirements outlined immediately below:

1. For Successful Security Incidents and any other use or disclosure of PHI not permitted by the Agreement, the agreement between the parties, applicable law, or without the written approval of the Covered Entity, Business Associate—without unreasonable delay and in no event later than thirty (30) days after Business Associate learns of such non permitted use or disclosure—shall provide Covered Entity a report that will:

a. Identify (if known) each individual whose Unsecured PHI has been or is reasonably believed by
Business Associate to have been accessed, acquired, or disclosed during such Breach;

b. Identify the nature of the non-permitted access, use, or disclosure including the date of the incident and the date of discovery;

c. Identify the PHI accessed, used, or disclosed (e.g., name, SSN, DOB);

d. Identify who made the non-permitted access, use or received the non-permitted disclosure;

e. Identify the corrective action Business Associate took or will take to prevent further non-permitted accesses, uses or disclosures;

f. Identify what Business Associate did or will do to mitigate any deleterious effect of the non-permitted access, use or disclosure; and

g. Provide any other information the Covered Entity may reasonably request.

2. For Unsuccessful Security Incidents, Business Associate shall provide Covered Entity, upon its written request, a report that: (i). identifies the categories of Unsuccessful Security Incidents as described in Section IV N. 4; (ii) indicates whether Business Associate believes its current defensive security measures are adequate to address all Unsuccessful Security Incidents, given the scope and nature of such attempts; and (iii) if security measures are not adequate, the measures Business Associate will implement to address the security inadequacies.

T. In compliance with the Red Flags Rule, to the extent Business Associate performs any activities on behalf of Covered Entity in connection with one or more covered accounts, as that term is defined by 16 CFR 6812(b)(3), Business Associate shall conduct such activities in accordance with reasonable policies and procedures designated to detect, prevent and mitigate the risk of identity theft.

V. SPECIFIC REQUIREMENTS FOR THE COVERED ENTITY

A. Covered Entity shall notify Business Associate of any limitation(s) in its Notice of Privacy Practices of Covered Entity in accordance with 45 CFR ‘164.520 to the extent that such limitation may affect Business Associate’s use or disclosure of PHI.

B. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate’s use or disclosure of PHI.

C. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR ‘164.522, to the extent that such restriction may affect Business Associate’s use or disclosure of PHI.

D. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Privacy Rule if done by Covered Entity

E. Covered Entity agrees that Business Associate shall have the right to terminate this Agreement and seek other remedies if Covered Entity violates a material term of this Agreement.

VI. MUTUAL OBLIGATIONS OF THE PARTIES
A. Covered Entity and Business Associate each have a right to terminate this Agreement if the other party has engaged in a pattern of activity or practice that constitutes a material breach or violation of Business Associate's or Covered Entity's respective obligations regarding PHI under this Agreement and, on notice of such material breach or violation from the Covered Entity or Business Associate, fails to take reasonable steps to cure the material breach or end the violation.

B. If Business Associate or Covered Entity fail to cure the material breach or end the violation after the other party's notice, the Covered Entity or Business Associate (as applicable) may terminate this Agreement by providing Business Associate or the Covered Entity written notice of termination, stating the uncured material breach or violation that provides the basis for the termination and specifying the effective date of the termination. Such termination shall be effective 60 days from this termination notice.

C. Business Associate's and Covered Entity's obligation to protect the privacy and security of the PHI it created, received, maintained, or transmitted in connection with services to be provided under the agreement between the parties or this Agreement will be continuous and survive termination, of the agreement for services between the parties or this Agreement for any reason. Business Associate's other obligations and rights, and Covered Entity's obligations and rights upon termination are those set forth in this Agreement or the agreement for services between the parties.

VII. TERM AND TERMINATION

A. The Term of this Agreement shall be effective as of October 1, 2011 and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

B. Effect of Termination.

1. Except as provided in paragraph (2) below, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.

2. In the event that Business Associate determines that returning or destroying the PHI is infeasible Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon notification that the return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI.

IN WITNESS WHEREOF, the parties have caused this Business Associate Agreement to be executed on their behalf by their duly authorized representatives' signatures, effective as of the date first written above.

CITY OF PASADENA

ALLEGIANCE BENEFIT PLAN MANAGEMENT

BY: ___________________________  BY: ___________________________
NAME: _________________________  NAME: _________________________
TITLE: _________________________  TITLE: _________________________
Exhibit “C”

COBRA
Administrative Services Agreement
APPENDIX C

COBRA ADMINISTRATIVE SERVICES
AND
CERTIFICATION OF CREDITABLE COVERAGE
AGREEMENT

This COBRA Administrative Services and Certification of Creditable Coverage Agreement (hereinafter “Agreement”) is entered into January 1, 2012, by and between The City of Pasadena, Texas (hereinafter “Plan Sponsor”) and ALLEGIANCE COBRA SERVICES, INC., (hereinafter “TPA”), whose address and phone number are 2806 S. Garfield St, PO Box 2097, Missoula, MT 59806; (406) 721-2222.

WHEREAS, the Plan Sponsor and/or the plan administrator of the group health plan sponsored by the Plan Sponsor is required to perform certain duties pursuant to continuation of benefits coverage and certification of creditable coverage requirements.

WHEREAS, the Plan Sponsor has selected the TPA to perform certain nondiscretionary and ministerial duties pursuant to the Plan Sponsor’s continuation of benefits coverage and certification of creditable coverage requirements.

NOW THEREFORE, in consideration of the terms and conditions hereinafter set forth, the parties agree as follows:

SECTION 1: Definitions

1.1 "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985 or the Public Health Service Act, as amended or interpreted from time to time, and applicable regulations.

1.2 "COBRA Participant" means any person who is properly enrolled for and entitled to benefits from the Plan, pursuant to COBRA continuation coverage.

1.3 "Creditable Coverage" means health or medical coverage under which a Covered Person was covered prior to enrollment under this Plan, which prior coverage was under any of the following:

   (a) A group health plan
   (b) Health insurance coverage
   (c) Part A, Part B or Part C of Title XVIII of the Social Security Act (Medicare)
   (d) Title XIX of the Social Security Act, other than coverage consisting solely of benefits under Section 1928 (Medicaid)
   (e) Chapter 55 of Title 10, United States Code (active military and CHAMPUS)
   (f) A medical care program of the Indian Health Service or a tribal organization
   (g) A state health benefits risk pool
   (h) A health plan offered under chapter 89 of Title 5, United States Code (Federal Employee Health Benefits)
   (i) A public health plan
   (j) A health benefit plan under section 5(e) of the Peace Corps Act

1.4 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended and interpreted from time to time, together with applicable regulations.

1.5 "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended or interpreted from time to time, together with applicable regulations.

1.6 "Plan" means the self-funded health and welfare benefit plan as defined by ERISA; which is the subject of this Agreement and which the Plan Sponsor has established pursuant to the Plan Document.

1.7 "Plan Administrator" means the person or entity as defined by ERISA; and designated by the Plan Sponsor to manage the Plan and make all discretionary decisions regarding Plan terms and managing Plan assets.

1.8 "Plan Participant" is any employee, retiree or COBRA beneficiary who is properly enrolled and eligible for benefits under the Plan.

1.9 "Qualified Beneficiary" means a covered person under the Plan, who is eligible to continue coverage under the Plan in accordance with the applicable provisions of COBRA, regarding Qualified Medical Child Support Orders, or in accordance with any other applicable Federal or State law.

1.10 "Qualified Beneficiary" also means a child born to, adopted by or placed for adoption with a covered employee or former employee, at any time during active COBRA continuation coverage of that employee or former employee.

1.10 "Qualifying Event" means:

   a. With respect to a covered employee or former employee, termination of employment of the employee (except for termination as a result of gross misconduct), or reduction of hours of employment causing the employee to become ineligible for coverage.
   b. With respect to an eligible dependent or spouse of a...
covered employee or former employee, termination of
employment of the employee (except for termination
as a result of gross misconduct), reduction of hours
of employment causing the employee to become
ineligible for coverage, the covered employee’s
entitlement to Medicare, the death of the covered
employee, the divorce or legal separation of the
spouse from the covered employee, and an eligible
dependent who ceases to be a dependent as that
term is defined by the Plan.

c. With respect to eligible retirees and their eligible
dependents, the commencement of a bankruptcy
proceeding.

d. Any other qualifying event as defined by law and as
the law may be amended or interpreted from time to
time.

SECTION 2: Relationship of Parties

2.1 Independent Contractor. Plan Sponsor acknowledges
that the TPA is an independent contractor as defined in
section 39-71-120 of the Montana Code Annotated, as
amended, for purposes of this Agreement. As such, the
TPA is not an agent or employee of Plan Sponsor and
does not assume any liability or responsibility for any
breach of duty or act of omission by Plan Sponsor.

2.2 Plan Fiduciary. Plan Sponsor acknowledges and agrees
that the performance by the TPA of its obligations under
this Agreement does not make the TPA a plan
administrator, plan sponsor, or fiduciary as defined by
ERISA, and Plan Sponsor will not identify the TPA or any
of its affiliates as such. The Plan Sponsor further
acknowledges and agrees that it is the plan sponsor, plan
administrator, and named fiduciary as defined by ERISA.
As such, Plan Sponsor retains full discretionary authority,
control, and responsibility for the operation and
administration of the Plan.

2.3 No Legal or Tax Advice. Plan Sponsor acknowledges and
agrees that the TPA will not be deemed to be a legal or
tax advisor as a result of the performance of its duties
under this Agreement.

2.4 Subcontractors. The TPA may subcontract the services
of computer companies, consultants, attorneys,
accountants, and other organizations that it deems
necessary in the performance of its obligations under this
Agreement. At the discretion of the TPA, such services
may be performed directly by the TPA, wholly or in part,
through a subsidiary or affiliate of the TPA or under an
agreement with an organization, agent, or other person
of its choosing. Any such services resulting in a fee not
agreed to in Appendix A, Fee Schedule and Financial
Arrangement in the Administrative Services Agreement
between Plan Sponsor and Allegiance Benefit Plan
Management, shall have prior written authorization by the
Plan Sponsor.

2.5 Third Party Administrator Licensure. The TPA will

SECTION 3: Responsibilities of Plan Sponsor

3.1 Initial Notice: If applicable, Plan Sponsor will notify the
TPA within thirty (30) days after employees and/or their
dependents enroll in Plan Sponsor’s Plan, of such
enrollment to allow the TPA to send the employee an
initial COBRA notice.

3.2 Qualifying Event Notice: Plan Sponsor will notify the TPA
or cause the TPA to be notified when employees and/or
their dependents have a Qualifying Event as follows:

a. Within 30 days of the employee’s death, termination
   from employment for any reason including gross
   misconduct, or reduction of employment hours.

b. Within 60 days of the divorce or legal separation of
   the employee or the date at which a dependent child
   ceases eligibility under the Plan.

c. Within 60 days of a second Qualifying Event of a
   Qualified Beneficiary dependent or spouse, such as
   the divorce or legal separation from the covered
   employee, death of the covered employee,
   entitlement to Medicare or the dependent child
   ceasing eligibility under the Plan.

3.3 Late Notice of Qualifying Event: If any employee or
dependent of an employee provides notice to the Plan
Sponsor of divorce or legal separation, entitlement to
Medicare, or that a dependent child ceases eligibility
under the Plan, and such notice is made more than 60
days after the Qualifying Event, Plan Sponsor will notify
the TPA in writing of the same within 10 days after
receiving the notice.

The TPA will not enroll those persons who provided notice
in such manner for COBRA continuation coverage, unless
specifically directed to do so in writing, by the Plan
Sponsor and/or the Plan Administrator.

3.4 Qualified Beneficiary Information: Plan Sponsor will
provide the TPA the following information with notice of a
Qualifying Event:

a. The name, address, and Social Security number of
   the employee.

b. The name, address, and Social Security number for
   any covered dependents.

c. Date and description of the Qualifying Event, or if not
   a Qualifying Event, the date and reason, if known, for
dropping or terminating Dependent coverage. If the
Plan Sponsor knows that the Participant’s reason for
dropping or terminating Dependent coverage is in
contemplation of divorce or legal separation, Plan
Sponsor shall notify the TPA of the same to assure
that any affected Dependent receives notice of any
COBRA rights to which he or she is entitled.
3.5 SSI Determination Letters: Plan Sponsor will forward copies of any Social Security Disability Determination letters it may receive from COBRA Participants, within 10 days after Plan Sponsor receives the same and has date stamped the letter.

3.6 Plan Sponsor Plan, Changes, and Amendments: Plan Sponsor will notify the TPA of any changes in benefits, eligibility and/or premiums for Plan Sponsor's Plan, in accordance with the terms of the Administrative Service Agreement for the Plan Sponsor's Plan.

3.7 COBRA Premiums: Plan Sponsor will determine the amount to be charged for COBRA premiums and notify the TPA of the same, in writing, upon execution of this Agreement. Plan Sponsor will notify the TPA in writing of any premium changes at least thirty (30) days prior to the effective date of the change or as soon as reasonably possible thereafter.

3.8 COBRA Election Forms: If Plan Sponsor receives requests for COBRA coverage, Plan Sponsor will record on the form the date it was received by Plan Sponsor. Plan Sponsor will fax a copy of the form to the TPA on the date it is received by Plan Sponsor, and will mail a copy of the same to the TPA within five (5) days of receipt by Plan Sponsor.

3.9 Premium Trust Accounts: Plan Sponsor will establish, or cause to be established, a premium trust account at a bank designated by the TPA. Plan Sponsor, and not the TPA, will be the owner of such account.

Plan Sponsor authorizes the TPA to endorse COBRA premium payments received by stamping the same with "FOR DEPOSIT ONLY" and the applicable premium trust account number and to deposit the payments into the premium trust account.

3.10 Premium Payments Received from COBRA Participants: If Plan Sponsor receives premium payments directly from COBRA Participants, Plan Sponsor will notify the TPA in writing on the date of receipt, or cause the TPA to be notified in writing on the date of receipt, of the premium amount, the name of the COBRA Participant(s) for whom the premium applies, date of receipt, and period for which the premium applies. Plan Sponsor shall forward premium checks received to the TPA for deposit into the premium trust account.

3.11 Initial Grace Period: Plan Sponsor designates that the initial 45 day grace period for the premium payment will begin on the date of COBRA election.

3.12 Other: Plan Sponsor will provide any other information required by the TPA to perform its obligations under this Agreement.

SECTION 4: COBRA Services of the TPA

4.1 Initial Notice. If applicable, within fourteen (14) days of receipt of notice from Plan Sponsor of a newly-enrolled employee and/or spouse, the TPA will mail to the employee and/or spouse an initial notice of COBRA continuation coverage rights.

4.2 Enrollment Packet: Within 14 days of receipt of notice from the Plan Sponsor of a Qualifying Event, the TPA will mail to Qualified Beneficiaries a notice of the right to elect COBRA continuation coverage.

4.3 Enrollment of Qualified Beneficiaries: The TPA will enroll all Qualified Beneficiaries who elect COBRA continuation coverage within the time permitted by law.

4.4 Notice of Open Enrollment. The TPA will notify COBRA participants of any open enrollment periods held for employees under Plan Sponsor's Plan.

4.5 Contemplation of Divorce: Upon receipt of notice from the Plan Sponsor, the TPA will provide notices to spouses and other Dependents whose coverage is being terminated in contemplation of divorce or legal separation that they may have rights to COBRA continuation coverage when the divorce decree or legal separation is entered by a court.

4.6 Post-Election Notices: The TPA will provide all post election notices to employees and their spouses required by applicable law, including but not limited to notice of ineligibility for COBRA continuation coverage, notice of nonpayment of premium, and notice of termination of COBRA coverage. If the notice of ineligibility is due to the employee's termination of employment for gross misconduct, the Plan Sponsor shall be solely responsible for the determination of gross misconduct.

4.7 Plan Changes and Amendments: The TPA will inform COBRA Participants under the Plan of any changes in benefits, eligibility requirements, or premiums of the Plan. The obligations of the TPA under this subsection will be limited to mailing to COBRA Participants, copies of all Plan amendments, changes, modifications, or other notices as received from the Plan Sponsor.

4.8 Customer Service Toll-Free Line: The TPA will provide customer service assistance regarding COBRA issues to Plan Sponsor and beneficiaries under Plan Sponsor's Plan through a toll-free telephone number during regular business hours.

4.9 COBRA Participant Premiums: The TPA will bill COBRA Participants for the premiums as designated by Plan Sponsor and in accordance with applicable law. The TPA will not be required to bill for any premium amount that does not comply with applicable law.

The TPA will direct COBRA Participants to make premium payments payable to the Plan Sponsor and to send payments to the TPA for deposit into the premium trust account. If the TPA receives premium checks made
payable to the TPA, the TPA will endorse them over to Plan Sponsor, without recourse. The TPA will collect COBRA premiums and deposit them in the Plan Sponsor’s premium trust account no less frequently than weekly.

The TPA will establish, or cause to be established, a system to credit the premium payments to the appropriate Qualified Beneficiary or COBRA Participant.

4.10 Late Premium Notices: The TPA will send a reminder notice to Qualified Beneficiaries and COBRA Participants whose premium payment has not been received on or about the twentieth day of the month.

4.11 Late Premium Payments: If the TPA receives a premium payment past the premium due date (including any grace period provided by law or the Plan), the TPA will return the payment to the sender with a notice that it cannot be accepted. The TPA will return the payment to the sender, with such notice, within five (5) days of receiving the payment.

4.12 COBRA Terminations: The TPA will notify the Plan Sponsor of the date COBRA continuation coverage will expire in the absence of any default, for each COBRA Participant. Such notice will be given in an eligibility report provided by the TPA to the Plan Sponsor on a monthly basis.

4.13 Notice of Default: The TPA will notify each COBRA Participant, in writing, of any default in payment of premium, or other default causing loss of coverage, including the date of default and the date COBRA continuation coverage terminated. Notice will be sent by first class mail within five (5) days following receipt of notice from Plan Sponsor and/or Plan Administrator.

4.14 Notice of COBRA Exhaustion: The TPA will notify each COBRA Participant of the date COBRA continuation coverage will expire in the absence of any default. Such notice will be sent by first class mail within thirty (30) days of the termination date.

4.15 Conversion Coverage: If applicable, the TPA shall provide notices to eligible COBRA Participants of their rights to obtain conversion coverage. Such notices shall be supplied at the expense of the Plan. The TPA shall administer conversion rights in accordance with the provisions of the Plan document.

SECTION 5: Creditable Coverage Certification Services of the TPA

5.1 Customer Service Toll-Free Line: The TPA will provide customer service assistance regarding Creditable Coverage to Plan Sponsor and beneficiaries under Plan Sponsor’s Plan through a toll-free telephone number during regular business hours.

5.2 Certificates of Creditable Coverage: The TPA will provide Certifications of Creditable Coverage as required by law, to employees, dependents and others authorized to receive this information.

SECTION 6: TPA Compensation

Plan Sponsor agrees to pay the TPA its compensation for services provided under this Agreement in accordance with the terms and conditions outlined in Appendix A, “Fee Schedule and Financial Arrangement” in the Administrative Services Agreement between Plan Sponsor and Allegiance Benefit Plan Management.

SECTION 7: Limitations on Liability

7.1 Premium Payments/Loss of Coverage: Except as provided for under section 8.1, the TPA will have no liability to any person or entity regarding the processing of premium payments. Provided the TPA acts in accordance with this Agreement, the TPA will have no liability to any person or entity for loss of COBRA coverage as a result of late or nonpayment of premium.

7.2 Failure of Plan Sponsor to Notify: The TPA will provide all notices to COBRA Participants and Qualified Beneficiaries in accordance with this Agreement. Provided the TPA acts in accordance with this Agreement, the TPA will have no liability to any COBRA Participant or Qualified Beneficiary for failure of the Plan Sponsor to properly notify the TPA and provide the information required for the TPA to perform its obligations under this Agreement. The TPA will have no liability for the accuracy of the information provided by the Plan Sponsor and for any actions taken in reliance upon any such information.

7.3 NSF Checks: This Agreement will not be construed in any manner to require the TPA to collect insufficient funds, "stop-payment" or otherwise dishonored checks, or other negotiable instruments received for premium payments, which are subsequently not paid by the maker. The TPA will not be liable for any losses to Plan Sponsor or Plan Sponsor’s Plan as a result of such checks or negotiable instruments.

7.4 Determinations of Gross Misconduct: The TPA shall not make any determinations of any nature regarding whether a Qualified Beneficiary’s termination from employment was due to gross misconduct. The TPA shall be entitled to rely upon any determinations of gross misconduct as made by the Plan Sponsor and shall have no liability for actions taken in reliance upon any such information as provided by the Plan Sponsor.

SECTION 8: Term and Termination of Agreement

8.1 Term and Renewal Term: The term of this Agreement shall commence on January 1, 2012, and run concurrently with the Administrative Services Agreement to which this Appendix is a part.

8.2 Survival: The provisions of Sections 2, 7, and 8 shall survive termination of this Agreement.
10.1 Authorization: Plan Sponsor grants to the TPA the authority to do all acts it deems necessary to carry out the terms of this Agreement.

10.2 Waiver: No forbearance or neglect on the part of either party to enforce or insist upon any of the provisions of this Agreement will be construed as a waiver, alteration, or modification of this Agreement.

10.3 Entire Agreement, Amendments, Modification: This Agreement and any attachments constitute the entire agreement between the parties with respect to its subject matter. This Agreement supersedes all existing agreements and all other oral, written or other communications between them concerning its subject matter. This Agreement or any attachment shall not be amended or modified except as agreed upon in writing and signed by the parties. If any such modification or amendment increases the direct costs to the TPA under this Agreement, the Plan Sponsor agrees to pay any increases in direct costs that the TPA reasonably expects to incur as a result of such modification.

10.4 Severability: If any provision of this Agreement is held to be invalid, illegal, or unenforceable by any court of final jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to remain fully valid, enforceable, and binding on the parties.

10.5 Agreement Counterparts: This Agreement may be executed in two or more counterparts, each and all of which will be deemed an original and all of which together will constitute but one and the same instrument.

10.6 Assignment: Neither party shall assign, transfer, or subcontract any portion of this Agreement without the prior written consent of the non-assigning party.

10.7 Notice of Threatened Litigation: The Plan Sponsor will notify the TPA within ten (10) days of any threatened litigation, lawsuits or regulatory complaints or inquiries pertaining to the subject matter of this Agreement, or any inquiry made by any federal or state authority regarding the same.

10.8 Compliance with Laws: The TPA shall, in the performance of its obligations under this Agreement, comply with applicable federal, state or local laws, rules and regulations.

10.8 Service of Notice. Neither party will be bound by any notice, directive or request unless and until it is received in writing, or by facsimile transmission, or by e-mail address at the addresses in this subsection. All notices given to either party under this Agreement shall, unless otherwise specified in writing, be deemed to have been given three (3) days after deposit in the U.S. Mail, first class postage prepaid, certified mail, return receipt requested.; date of facsimile transmission; or date of e-mail transmission.

Notice to the TPA shall be directed to:

Ronald K. Dewsnup, President and GM, Allegiance Benefit Plan Management, Inc., 2806 South Garfield St., PO Box 3018, Missoula, MT 59806-3018; Phone: (406) 721-2222; Fax: (406) 721-2252; Email: rdewsnup@askallegiance.com.

Notice to the Plan Sponsor shall be directed to:

Mr. Randy Perry
Director of Human Resources
1211 Southmore
Pasadena, TX 77502

10.9 Choice of Law and Venue. See Choice of law and Venue provisions of the Administrative Services Agreement to which this Agreement is an Appendix

10.10 Costs and Attorney Fees. If either party breaches or defaults in the performance of their obligations under this Agreement, the breaching party will pay all reasonable attorney fees and costs incurred by the non-breaching party as a result of such breach or default.

10.11 Headings: Section headings are included only for convenient reference and do not describe the sections to which they relate.

10.12 Interpretation of Words: Words denoting the singular include the plural and vice versa.

Initials (Plan Sponsor)

Initials (TPA)
Exhibit “D”

Flexible Benefit Services
(Flexible Savings Account)
APPENDIX D TO ADMINISTRATIVE SERVICES AGREEMENT  
FLEXIBLE BENEFITS SERVICES  

The Plan Sponsor and the TPA agree to the following administrative services for the FLEX Plan.  

SECTION 1. DEFINITIONS  

For the purposes of this Agreement the following words and phrases have the meanings set forth below, unless the context clearly indicates otherwise and, wherever appropriate, the singular will include the plural and the plural will include the singular.  

1.1 "Calendar Year" means January 1 through December 31 of the same year.  

1.2 "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, together with all regulations applicable thereto.  

1.3 "Covered Services" means the care, treatments, services or supplies described in the Plan Document as eligible for reimbursement from the FLEX Plan.  

1.4 "Employer" means the Plan Sponsor and any successor organization or affiliate of such Employer which assumes the obligations of the FLEX Plan and this Agreement.  

1.5 "ERISA" means the Employee Retirement Income Security Act of 1974, as amended, together with all regulations applicable thereto.  

1.6 "Fee Schedule" means the listing of fees or charges for services provided under this Agreement. This Fee Schedule may be modified from time to time in writing by the mutual agreement of the parties. The Fee Schedule is contained in Appendix A and is a part of this Agreement.  

1.7 "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as it may be amended from time to time, and all regulations applicable thereto.  

1.8 "Participant" is any employee, retiree or COBRA beneficiary who is properly enrolled for and entitled to participate in the FLEX Plan and who submits expenses for reimbursement from the FLEX Plan.  

1.9 "Plan" means the Flexible Benefits Plan for the Employees of the City of Pasadena, Texas, which is the subject of this Agreement and which the Plan Sponsor has established pursuant to the Plan Document.  

1.10 "Plan Administrator" means the Employer and/or entity designated by the Plan Sponsor which is responsible to manage the day-to-day functions of the FLEX Plan and make all discretionary decisions regarding Plan terms and managing Plan assets. The Plan Administrator may employ persons or firms to process Reimbursement Requests and perform other Plan-connected services. For the purposes of the Employee Retirement Income Security Act of 1974, as amended, and any applicable state legislation of a similar nature, the Employer will be deemed to be the Plan Administrator of the FLEX Plan unless by action of the Board of Directors or equivalent authority the Employer designates in writing an individual or committee to act as Plan Administrator.  

1.11 "Plan Document" means the instrument or instruments that set forth and govern the duties of the Plan Sponsor and eligibility and benefit provisions of the FLEX Plan which provide for before-tax payment of premium for the employee health and welfare plan and the reimbursement of Covered Services.  

1.12 "Plan Sponsor" will be as defined in Section 3(16)(A) of ERISA and means the entity and any successor entity or organization, which is responsible for and which has created, established and maintains an employee health and welfare benefit plan and/or FLEX Plan for the benefit of a group or groups of employees. Plan Sponsor includes any successor organization or affiliate of such Plan Sponsor which assumes the obligations of the FLEX Plan and this Agreement.  

1.13 "Plan Year" means the twelve-month period of time beginning with the effective date of the FLEX Plan as specified in the Plan Document.  

1.14 "Reimbursement Account" means an account utilized for reimbursement for Covered Services. For purposes of this Agreement, the Reimbursement Account means the funds deposited for before-tax payment of premium for the employee health and welfare benefits plan and for Reimbursement Requests.  

1.15 "Reimbursement Request" means a request by a Participant for reimbursement for Covered Services from the FLEX Plan.
"Summary Plan Description" means the document required to be provided under Sec. 102 of ERISA that describes the terms and conditions under which the FLEX Plan operates.

"Working Day" will mean a regular business day that is not a recognized federal or banking holiday, and specifically excluding any Saturday or Sunday.

SECTION 2. RELATIONSHIP OF THE PARTIES

2.1 The Plan Sponsor delegates to the TPA only those powers and responsibilities with respect to development, maintenance and administration of the FLEX Plan that are specifically enumerated in this Agreement. Any function not specifically delegated to and assumed by the TPA in writing pursuant to this Agreement will remain the sole responsibility of the Plan Sponsor. The Plan Sponsor retains the responsibility for any obligations under the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, as amended, and obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) unless this Agreement and the Fee Schedule in Appendix A expressly include provisions and fees for COBRA or HIPAA administrative services by the TPA.

2.2 The TPA is acting as an independent contractor for purposes of this Agreement. As such, the TPA is not a fiduciary and does not assume any liability or responsibility for any breach of duty or act of omission by Plan Sponsor.

2.3 The parties acknowledge that:

A. This is a contract for administrative services only as specifically set forth herein; and

B. The TPA will not be obligated to disburse more in payment for Reimbursement Requests or other obligations arising under the FLEX Plan than the Plan Sponsor will have made available in the Reimbursement Account; and

C. This Agreement will not be deemed a contract of insurance under any laws or regulations. The TPA does not insure, guarantee or underwrite the liability of the Plan Sponsor under the FLEX Plan. The Plan Sponsor has total responsibility for payment of before-tax premium for the employee health and welfare benefits plan, for Reimbursement Requests under the FLEX Plan and all expenses incidental to the FLEX Plan.

2.4 The TPA agrees to be duly licensed as a Third Party Administrator to the extent required under applicable law and agrees to maintain such licensure throughout the term of this Agreement.

2.5 The TPA may secure the services of actuaries, computer service firms, insurance consultants, legal counsel, accountants and any other entities that it deems necessary in performing its duties under this Agreement. At the discretion of the TPA such services may be performed directly by it, wholly or in part, through a subsidiary or affiliate of the TPA or under an agreement with an organization, agent, advisor or other person of its choosing. Any such services resulting in a charge not agreed to in the Fee Schedule must first be authorized in writing by the Plan Sponsor. The TPA will be entitled to rely, without investigation or inquiry, upon any written or oral information or communication of the Plan Sponsor or Agents, including but not limited to: Consultants, Actuaries, Attorneys, Accountants, auditors, or Brokers retained by the Plan Sponsor.

2.6 ALLEGIANCE will not be bound by any notice, directive or request unless and until it is received in writing at the mailing address or fax number shown below:

Ronald K. Dewsnup, President and GM
2806 SOUTH GARFIELD STREET
MISSOULA, MT 59801
(406) 523-3149

Neither Plan Sponsor nor Plan Administrator will be bound by any written notice, directive or request unless and until it is received in writing at its primary place of business or fax number shown below:

Randy Perry
Human Resources Director
1211 Southmore
Pasadena, TX 77502

2.7 The Plan Sponsor is entitled to its claims information and other information which the Plan Sponsor and Plan Administrator are required to retain by applicable law, but any proprietary, confidential or trade secret information of the TPA shall be removed from such information.
SECTION 3.    THE TPA's RESPONSIBILITIES

The TPA will provide the following FLEX Plan Supervisory and Reimbursement Services for the Plan Sponsor. The fees for these services are stated in the Fee Schedule in Appendix A.

SUPERVISORY SERVICES

3.1 The TPA will assist Plan Sponsor in developing and designing the FLEX Plan and any amendments, revisions or modifications, subject to approval by Plan Sponsor or Plan Sponsor's attorney.

3.2 The TPA will maintain FLEX Plan records based on eligibility information submitted by the Plan Sponsor as to the dates on which a Participant's eligibility commences and terminates, maintain Plan records of Plan elections applicable to each Participant based on information submitted by the Plan Sponsor, and maintain Plan records regarding Reimbursement Requests, denials of Reimbursement Requests, and Reimbursement Requests pended.

3.3 Upon request of Plan Sponsor, TPA will perform 25% Key Employee Concentration discrimination testing for the Plan referenced in this Agreement. However, by providing these services, TPA is not acting as Plan Sponsor's legal counsel or tax advisor. All services provided by TPA under this paragraph should be reviewed by Plan Sponsor's legal counsel and tax advisors.

3.4 The TPA will perform the following specific services for Plan Sponsor as requested:

A. Project estimated costs relating to the FLEX Plan.
B. Draft and prepare FLEX Summary Plan Description for review and approval by Sponsor's legal counsel.
C. Assist with the introduction of Plan provisions and procedures to Sponsor's electing employees through materials and meetings arranged by agreement between Sponsor and the TPA.
D. Prepare reports as required by law for the financial management and administrative control of the FLEX Plan for use by Sponsor.
E. Provide to Plan Sponsor, upon request, a copy of all Plan documents which employees are entitled to examine under ERISA and any other related documents. Said documents will be limited to insurance contracts, if any, and documents required to be filed with the U. S. Department of Labor. There will be a $0.15 per page copy charge assessed for all copies produced hereunder.

3.5 The Employer and not the TPA, is responsible for preparing and filing the IRS Form 5500 on or before the due date. The TPA will provide the necessary information to enable the Plan Sponsor to complete and file an IRS form 5500 annual report, if requested, at least thirty (30) days prior to the date such filings are due.

REIMBURSEMENT PROCESSING SERVICES

3.6 As specified under the FLEX Plan, the TPA will:

A. Promptly process and prepare disbursement to pay valid Reimbursement Requests submitted by participating employees.
B. Provide a proper accounting and billing to Plan Sponsor of Reimbursement Requests paid.
C. Maintain current and complete records and files of Reimbursement Requests and payments for each participating employee according to the TPA's current practices.

3.7 The TPA agrees to be duty licensed as a Third Party Administrator to the extent required under applicable law and agrees to maintain such licensure throughout the term of this Agreement.

3.8 The TPA will possess throughout the term of this Agreement an in-force fidelity bond or other insurance as may be required by state and federal laws for the protection of its clients. Additionally, the TPA agrees to comply with any state or federal statutes or regulations regarding its operations.

3.9 The TPA will process enrollment forms for Participants in the FLEX Plan and answer enrollment inquiries; create and maintain enrollment records for Participants and distribute FLEX Plan materials supplied by the Plan Sponsor to new Plan Participants.

3.10 The TPA will process Reimbursement Requests incurred by Participants according to the terms of the Plan Document as construed by the Plan Sponsor. The TPA will establish and maintain usual and customary Reimbursement Request review procedures within the usual standard of care in the TPA industry. The TPA will take reasonable measures and precautions to
prevent the reimbursement of improper requests. The TPA will not be liable for fraud, misrepresentation or errors by any Participant or for errors in Reimbursements made to Participants in good faith.

When all necessary documents and Reimbursement Request form information have been received and the Reimbursement Request has been adjudicated, a Reimbursement check or draft will be remitted on the next Reimbursement disbursal date provided that the Plan Sponsor has provided funds for such Reimbursement. All Reimbursement Requests will remain in a processed but pending status until funded by the Plan Sponsor.

Customer Service Representatives of the TPA will inform any Participant who inquires about any Reimbursement Request which is pending for lack of funds that such Reimbursement Request has been received and processed and is pending receipt of funds. No further explanation will be required of the TPA by the Plan Sponsor under such circumstances.

3.11 The TPA will notify Participants in writing of ineligible Reimbursement Requests received.

3.12 The TPA will process, issue, and distribute Reimbursement checks or drafts as instructed by the Plan Sponsor to Participants. The TPA will notify the Plan Sponsor of the Reimbursement Request amount required to be deposited to the Reimbursement Account to pay the Reimbursement Requests as they occur.

3.13 The TPA will maintain local telephone service and toll-free telephone lines for inquiries made by Participants regarding the status of their Reimbursement Requests. The TPA may record such telephone calls.

3.14 The TPA will respond to Reimbursement Request inquiries by a Participant, the estate of a Participant, an authorized member of a Participant's family unit, or the Participant's authorized legal representative.

3.15 The TPA will maintain information that identifies a Participant in a confidential manner. The TPA agrees to take all reasonable precautions to prevent disclosure or the use of premium payment information or Reimbursement Request information for a purpose unrelated to the administration of the FLEX Plan.

3.16 Plan Sponsor may provide its own Plan Document and Summary Plan Description at its expense, used by TPA for review and approval by Plan Sponsor's legal counsel, subject to review and approval by TPA.

3.17 The TPA will maintain a Reimbursement Request file on every Reimbursement Request reported to it by the Participants. Copies of such records will be made available to the Plan Sponsor during a regularly scheduled Working Day at the office of the TPA for consultation, review, and audit upon advance notice of a minimum of fourteen (14) Working Days.

The Plan Sponsor will pay for any audit made at its request. A fee of fifteen cents ($0.15) per photo copy will be paid by the Plan Sponsor or Plan auditor on behalf of the Plan Sponsor for any Reimbursement Request or other record. The TPA will charge an hourly fee of $100 for executive or professional time, $50 per hour for department manager time and $25 per hour for clerical time spent in cooperation with such consultation, review and audit.

3.18 The TPA will, upon termination of this Agreement, and any applicable run out agreement, save all records at the TPA's principal administrative office. Reimbursement request files will be kept in secure storage facilities for at least six (6) years following the termination of a Plan Year or as required by ERISA. Copies of current plan year records or documents will be made available to Plan Sponsor at no cost. Copies of any materials related to previous plan years will be available to Plan Sponsor electronically or for a copy fee of fifteen cents ($0.15) per page copied plus a retrieval fee of ten dollars ($10.00) per box or CD ROM diskette accessed. At the end of the six-(6) year period, the TPA will destroy all records.

3.19 The TPA will perform special Reimbursement Request history research projects upon request by the Plan Sponsor. A separate fee may be required depending upon the complexity of such request.

3.20 The TPA will provide non-proprietary information and documents as requested by the Plan Sponsor to brokers and agents designated by the Plan Sponsor, provided, however, if the Plan Sponsor has entered into an agent of record agreement with any agent or broker, and the TPA has notice of the same, the TPA will not be required to provide any information or documentation to other agents or brokers unless or until Plan Sponsor has terminated the agent of record agreement and notified the agent of record of the termination. The TPA will have the express right to contact any agent of record to verify the agent of record agreement has been terminated.

3.21 The TPA will provide COBRA service for Plan Sponsor's flex plan for the fees stated in the Fee Appendix attached hereto. TPA's responsibilities for COBRA administration are stated in the COBRA Appendix C of the Administrative Services Agreement.
SECTION 4. PLAN SPONSOR OBLIGATIONS

4.1 Plan Sponsor will furnish to the TPA the following reports and information to allow effective performance by the TPA:

A. Certification of participation in the FLEX Plan and such other information as may be necessary for processing Reimbursement Requests.

B. Prompt reconciliation of:

(1) The itemized monthly billing provided by the TPA listing employees covered under the FLEX Plan, and;

(2) The amount of premiums and contributions elected by each participating employee for the billing period.

In the event the Plan Sponsor does not reconcile the contribution listing, the TPA will reconcile the contribution listing at the rates shown in the Fee Schedule in Appendix A.

4.2 Plan Sponsor will give notice of the establishment of the FLEX Plan to its employees and will be responsible for distributing copies of the Summary Plan Description to participating employees.

4.3 Plan Sponsor will maintain current and accurate Plan eligibility and participation records, verify Participant eligibility and submit this information if requested by the TPA, to the TPA at its designated mailing address.

This information will be provided in a format acceptable to the TPA and will include the following for each Participant: name and address, Social Security number, date of birth, type of participation, sex, relationship to employee, changes in participation, date participation begins or ends, and any other information necessary to determine eligibility and participation levels under the FLEX Plan.

Plan Sponsor assumes the responsibility for the erroneous disbursement of reimbursements by the TPA in the event of error or neglect on the Plan Sponsor or Employer's part of providing eligibility and participation information to the TPA, including but not limited to, failure to give timely notification of ineligibility or termination of a former Participant.

4.4 Plan Sponsor will resolve all Plan ambiguities and disputes relating to the eligibility of a Participant, Plan participation, denial of Reimbursement Requests or decisions regarding appeal, or denial of Reimbursement Requests, or any other Plan interpretation questions. The Plan Sponsor will respond to any written request made by the TPA within ten (10) working days.

The TPA will administer and process Reimbursement Requests in accordance with this Agreement if the Plan Document and Summary Plan Description are clear and unambiguous as to the validity of the Reimbursement Requests and the Participants' eligibility for participation under the FLEX Plan, but will have no discretionary authority to interpret the FLEX Plan or adjudicate Reimbursement Requests. If processing a Reimbursement Request requires interpretation of ambiguous Plan language, and the Plan Sponsor has not previously indicated to the TPA the proper interpretation of the language, then the Plan Sponsor will be responsible for resolving the ambiguity or any other dispute.

The Plan Sponsor's decision as to any Reimbursement Request (whether or not it involves a Plan ambiguity or other dispute) will be final and binding unless modified or reversed by a court or regulatory agency having jurisdiction over such matter.

4.5 Plan Sponsor will prospectively fund the Reimbursement Accounts each pay period by depositing funds deducted from Participants' wages into the Reimbursement Account. If additional funding is required to pay claims, Plan Sponsor shall advance funds in a timely manner, but in no event later than thirty (30) days after notice from the TPA of the required funding amount, so pended claims can be released.

4.6 Plan Sponsor will not demand or require the TPA, under any circumstances, to issue checks or drafts for Reimbursement Requests or any other costs arising out of the subject matter of this Agreement, unless the Plan Sponsor has so authorized and has previously deposited sufficient funds to cover such payment(s).

4.7 Plan Sponsor will provide the TPA with copies of and all revisions or changes to the FLEX Plan within five (5) Working Days of the effective date of the changes.

4.8 Plan Sponsor will provide, and timely distribute, all notices and information required to be given to Participants, maintain and operate the FLEX Plan in accordance with applicable law, maintain all record keeping, and file all forms relating thereto pursuant to any federal, state, or local law, unless this Agreement specifically assigns such duties to the TPA.

4.9 Plan Sponsor will at all times acknowledge that it is the Plan Sponsor, Plan Administrator, and Named Fiduciary, as these terms
4.10 Plan Sponsor will pay any and all taxes, licenses, and fees levied, if any, by any local, state, or federal authority in connection with the FLEX Plan.

4.11 Plan Sponsor will hold confidential information obtained that is proprietary to the TPA or information or material not generally known by personnel other than management employees of the TPA.

4.12 Plan Sponsor will pay, in accordance with the Fee Schedule, the TPA's fees for services rendered under this Agreement. Unless otherwise agreed, the TPA may withdraw from the applicable account any fee then due to the TPA prior to application of the funds in the applicable account to pay Reimbursement Requests or any other costs arising out of the FLEX Plan or the subject matter of this Agreement.

4.13 Plan Sponsor will maintain any fidelity bond or other insurance as may be required by state or federal law for the protection of the FLEX Plan and Participants.

4.14 Plan Sponsor will maintain a supply of election forms, Reimbursement Request forms, Compensation Reduction Agreement forms, and other documents provided by the TPA, and will make them available to participating employees.

4.15 Plan Sponsor will submit timely payment for enrollment services and administrative fees as stated in Appendix A.

4.16 Plan Sponsor will provide all reports and documents required from time to time to satisfy governing law or to promote effective FLEX Plan operation.

4.17 Plan Sponsor retains sole responsibility for Plan Sponsor's obligations and responsibilities under the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985, as amended, or the Health Insurance Portability and Accountability Act (HIPAA) of 1996, unless Plan Sponsor has specifically requested TPA to provide COBRA administrative services, in which case TPA's responsibilities for COBRA administration are stated in the COBRA Appendix attached hereto and made a part hereof by this reference.

4.18 If the Plan Sponsor elects Set-Up Services Only, as shown on the Fee Schedule in Appendix A, and elects not to have the TPA provide Re-Enrollment and Discrimination Testing Services, the Plan Sponsor retains sole responsibility for Discrimination Testing, and the TPA will have no responsibility for the same. Further, if these services are not elected, the TPA will have no responsibility whatsoever for notifying Plan Sponsor of changes in, and required compliance with, the laws applicable to this Plan, including Plan Document revisions required for such compliance. The Plan Sponsor will remain solely responsible for remaining apprized of such future changes in laws and required compliance with regard to Plan Documents.

4.19 The Plan Sponsor has sole responsibility for preparing and filing IRS Form 5500 if applicable.

4.20 TPA provides a website to its customers for access to plan information which includes Protected Health Information (PHI) as that term is defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Access to PHI via the website is limited to the person to whom the PHI belongs by use of a unique personal password mailed to that person's known address. Plan Sponsor has requested TPA to issue passwords to persons requesting them via the TPA's website. Plan Sponsor and TPA agree to the following: The person requesting a password will certify their identity by using unique identifiers. TPA will follow its established policies and procedures in issuing passwords in order to protect PHI, and said policies and procedures will be available for review and inspection by Plan Sponsor upon (1) business day's request. TPA agrees to notify Plan Sponsor of any changes to established policies and procedures. TPA will not be responsible or liable in any way as the Business Associate of Plan Sponsor for any fraud or identity misrepresentation which causes a password to be issued to the wrong person.

SECTION 5. DURATION OF AGREEMENT

5.1 This Agreement shall commence and end at the same time(s) and dates stated in the Administrative Services Agreement to which the Appendix is attached and made a part of. Fees are guaranteed as stated in the fee Appendix hereto through December 31, 2014 except as otherwise stated in this Appendix or the Administrative Services Agreement to which this Appendix is a part.

5.2 The Plan Sponsor specifically acknowledges that the TPA incurs ongoing costs for staffing, long term planning, maintenance of customer service support and other costs connected with providing services to Plan Sponsor's Plan, and that the notice of termination and termination date provisions of this Agreement provide adequate notice to the TPA so that unnecessary costs are not incurred by the TPA if the Plan Sponsor terminates this Agreement without cause or without adequate notice as required herein. In that regard, either party may terminate this Agreement at any time and for any reason upon providing the terminating party with sixty (60) days prior notice of intent to terminate, unless both parties agree to waive such advance notice. At the option of the party initiating the termination, the other party may be permitted a cure period (of a length determined by the party initiating the termination) to cure any default.
All obligations of the TPA to process benefits under the FLEX Plan are terminated on the effective date of termination unless the Plan Sponsor requests Run Out services. It is specifically agreed by the Plan Sponsor that in the event that the Plan Sponsor fails to provide the advance notice of sixty days for termination required by this Agreement, the Plan Sponsor shall pay to the TPA a fee equal to two times the amount of Plan Sponsor's administrative fees payable to the TPA for the month immediately prior to the date notice of termination is received.

The amounts payable under this provision shall be as liquidated damages incurred by the TPA for the costs recited in this subsection, in lieu of specific calculation of the same, and not as a penalty. The liquidated damages will be in addition to any other fees required under this Agreement or any subsequent Run-Out Services Agreement between the parties. TPA shall provide Run Out services under the terms and as stated in the Administrative Services Agreement to which the Appendix is a part.

5.3 Failure of Plan Sponsor to provide funds for Reimbursement Requests or to make contributions to the FLEX Plan will result in the termination of this Agreement thirty (30) days from the date of written notice to Plan Sponsor of the lack of funds.

5.4 Upon termination of this Agreement, the TPA shall provide an accounting and reconciliation to Plan Sponsor within sixty (60) days after the effective date of termination. Together with said accounting and reconciliation, the TPA shall return to Plan Sponsor all remaining funds of Plan Sponsor and/or its employees held by the TPA. TPA shall forward to Plan Sponsor all Reimbursement Requests received but not processed by TPA.

5.5 Any amendment which affects only the Fee Schedule, Appendix A, may be made, in writing signed by all parties, and without other formal amendment of this Agreement. All fee quotes accepted by Plan Sponsor for renewals of this Agreement will be incorporated into this Agreement as amendments to the Fee Schedule, Appendix A.

5.6 In the event this Agreement is terminated for any reason and Plan Sponsor cannot be located following reasonable efforts by TPA, TPA shall charge a $50.00 per check administrative charge for its efforts to return any stale dated funds (defined as a check with an original issue date greater than 180 days) belonging to Plan Sponsor or belonging to a plan participant who, likewise, cannot be located. The administrative charge may be paid from any funds of the Plan Sponsor held by TPA, or billed directly to the Plan Sponsor. This provision shall survive termination of this Agreement.

SECTION 6. LIMITATIONS

6.1 In performing its obligations in this Agreement, the TPA is acting only as an independent contractor. Plan Sponsor shall be deemed to be Plan Administrator, unless Plan Sponsor designates an individual or committee to act as Plan Administrator. For purposes of the Employee Retirement Income Security Act of 1974 as amended from time to time and any applicable State legislation of a similar nature, Sponsor will be deemed to be Administrator of the Plan, unless Sponsor designates an individual or committee to act as Administrator. In no instance will the TPA be deemed to be or be, Administrator of the Plan for purposes of the Employee Retirement Income Security Act of 1974, as amended from time to time.

6.2 The TPA will not be liable for, and will not advance its funds for payment of Reimbursement Requests under the FLEX Plan. The TPA will not be considered the insurer or underwriter of the liability of Plan Sponsor to provide benefits for the employees participating under the FLEX Plan. Plan Sponsor will have final responsibility and liability for Reimbursement Requests in accordance with the FLEX Plan.

SECTION 7. MISCELLANEOUS

7.1 This Agreement, together with all addenda, exhibits, and appendices supersedes any and all prior representations, conditions, warranties, understandings, proposals, or other agreements between the Plan Sponsor and the TPA hereto, oral or written, in relation to the services and systems of the TPA, which are rendered or are to be rendered in connection with its assistance to the Plan Sponsor in the administration of the FLEX Plan.

7.2 This Agreement, together with the aforesaid addenda, exhibits, and appendices constitutes the entire Administrative Services Agreement of whatsoever kind or nature existing between or among the parties.

7.3 The parties hereto, having read and understood this entire Agreement, acknowledge and agree that there are no other representations, conditions, promises, agreements, understandings, or warranties which exist outside this Agreement which have been made by either of the parties hereto, which have induced either party or have led to the execution of this Agreement by either party. Any statements, proposals, representations, conditions, warranties, understandings, or agreements which may have been heretofore made by either of the parties hereto, and which are not expressly contained or incorporated by reference herein, are void and of no effect.

7.4 This Agreement may be executed in two or more counterparts, each and all of which shall be deemed an original and all of which together shall constitute but one and the same instrument.
7.5 Except as provided herein, no changes in or additions to this Agreement shall be recognized unless and until made in writing and signed by all parties hereto.

7.6 In the event any provision of this Agreement is held to be invalid, illegal, or unenforceable for any reason and in any respect, such invalidity, illegality, or unenforceability shall in no event affect, prejudice, or disturb the validity of the remainder of this Agreement, which shall remain in accordance with its terms.

7.7 Each party hereto agrees to notify the other within ten (10) Working Days of any inquiry made by any Participant or authorized representative of any Participant related to Plan Documents, Plan Records, Reimbursement Requests, disputes, threatened litigation, lawsuits pertaining to the FLEX Plan, or any inquiry made by any federal or state authority regarding the FLEX Plan.

7.8 In the event that either party is unable to perform any of its obligations under this Agreement because of natural disaster, labor unrest, civil disobedience, acts of war (declared or undeclared), or actions or decrees of governmental bodies (any one of these events which is referred to as a "Force Majeure Event"), the party who has been so affected shall immediately notify the other party and shall do everything possible to resume performance.

Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of non-performance exceeds fourteen (14) Working Days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving ten (10) Working Days written notice, terminate this Agreement.

7.9 The TPA has adopted an Affirmative Action Policy that is in compliance with Section 49-3-101 to Section 49-3-303 MCA. Employees hired by the TPA are hired on the basis of merit and qualifications; and there is no discrimination on the basis of race, color, religious creed, political ideas, sex, age, marital status, physical handicap, national origin or ancestry by persons performing this Agreement. Qualifications mean such abilities as are genuinely related to competent performance of the particular occupational task.

7.10 This Agreement shall be interpreted and construed in accordance with the laws of the state of Texas except to the extent superseded by federal law. Venue shall be in a court with appropriate jurisdiction in Harris County, Texas.

7.11 No forbearance or neglect on the part of either party to enforce or insist upon any of the provisions of this Agreement shall be construed as a waiver, alteration, or modification of the Agreement.

APPENDIX A
1. **FEE SCHEDULE**

The Plan Sponsor and the TPA hereby agree to the compensation schedules set forth below as being the sole compensation to the TPA for any of its services which relate to the FLEX Plan. Monthly fees are based upon Plan Participant enrollment as of the beginning of the month.

Plan Sponsor shall pay THE TPA the following fees as indicated:

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>FEE</th>
<th>DATE DUE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly Service Fee</td>
<td>$4.25/per flex participant/per month</td>
<td>Within 30 days of invoice date</td>
</tr>
<tr>
<td>Annual Re-Enrollment Fee*</td>
<td>Waived</td>
<td></td>
</tr>
<tr>
<td>(Includes re-enrollment of group annually into software system, changes to Plan Document and Summary Plan Description, and any other changes required for the Flex Plan to remain in compliance with current federal and state law.)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hourly fee of $50.00 for reconciliation of contribution listing and related accounting services.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hourly fee of $100.00 for welfare plan consulting. Such services must be agreed to in advance by the Plan Sponsor.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hourly fee of $100.00 per hour for audit assistance services and any other services provided by the TPA not specifically provided for in this Agreement.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electronic Payment Card Service</td>
<td>$1.00/per flex participant/per month</td>
<td>Within 30 days of invoice date</td>
</tr>
</tbody>
</table>

Initials: Allegiance  City of Pasadena
Exhibit “E”

2012 Rates
Medical
Dental
Vision
Voluntary Life
Flexible Spending
2012 Medical Rates

**Active Employee Medical Monthly Rates w/PHA**

<table>
<thead>
<tr>
<th>Plan</th>
<th>Plan A</th>
<th>Plan B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee Only</td>
<td>$ 79.00</td>
<td>$ 0.00</td>
</tr>
<tr>
<td>Employee &amp; Spouse</td>
<td>$250.00</td>
<td>$101.00</td>
</tr>
<tr>
<td>Employee &amp; Child(ren)</td>
<td>$184.00</td>
<td>$ 56.00</td>
</tr>
<tr>
<td>Employee &amp; Family</td>
<td>$361.00</td>
<td>$152.00</td>
</tr>
</tbody>
</table>

**Active Employee Medical Monthly Rates w/o PHA**

<table>
<thead>
<tr>
<th>Plan</th>
<th>Plan A</th>
<th>Plan B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee Only</td>
<td>$129.00</td>
<td>$ 50.00</td>
</tr>
<tr>
<td>Employee &amp; Spouse</td>
<td>$350.00</td>
<td>$201.00</td>
</tr>
<tr>
<td>Employee &amp; Child(ren)</td>
<td>$234.00</td>
<td>$106.00</td>
</tr>
<tr>
<td>Employee &amp; Family</td>
<td>$461.00</td>
<td>$252.00</td>
</tr>
</tbody>
</table>

If employee and spouse are covered, both employee and spouse must complete the PHA by November 30, 2011 to receive discounted monthly rate. New employees and spouse are required to satisfy the PHA option within 30 days of the effective date of insurance coverage.

*PHA (Personal Health Assessment) requires:

- Blood Pressure
- Height / Weight
- Complete Metabolic Panel (CMP 14)
- Lipid Panel with TC: HDL Ratio

May be done at COP Employee Clinic or through personal physician (affidavit from personal physician required as proof of completion).
Retiree (Under 65 years of age) Monthly Medical Rates - Retirement Effective January 1, 2012 or later

Retiree with 25 years of service with the City of Pasadena or Retiree whose age and years of service with the City of Pasadena equal to 65 or greater.

<table>
<thead>
<tr>
<th></th>
<th>Plan A</th>
<th>Plan B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee Only</td>
<td>$253.00</td>
<td>$174.00</td>
</tr>
<tr>
<td>Employee/Spouse</td>
<td>$644.00</td>
<td>$495.00</td>
</tr>
<tr>
<td>Employee/Child(ren)</td>
<td>$536.00</td>
<td>$408.00</td>
</tr>
<tr>
<td>Employee/Family</td>
<td>$953.00</td>
<td>$744.00</td>
</tr>
</tbody>
</table>

Retiree with 20-24 years of service with the City of Pasadena and Retiree whose age and years of service with the City of Pasadena is less than 65.

<table>
<thead>
<tr>
<th></th>
<th>Plan A</th>
<th>Plan B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee Only</td>
<td>$340.50</td>
<td>$261.50</td>
</tr>
<tr>
<td>Employee/Spouse</td>
<td>$769.00</td>
<td>$620.00</td>
</tr>
<tr>
<td>Employee/Child(ren)</td>
<td>$648.50</td>
<td>$520.50</td>
</tr>
<tr>
<td>Employee/Family</td>
<td>$1115.50</td>
<td>$906.50</td>
</tr>
</tbody>
</table>

Retiree with less than 20 years of service with the City of Pasadena and Retiree whose age and years of service with the City of Pasadena is less than 65.

<table>
<thead>
<tr>
<th></th>
<th>Plan A</th>
<th>Plan B</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee Only</td>
<td>$428.00</td>
<td>$349.00</td>
</tr>
<tr>
<td>Employee/Spouse</td>
<td>$894.00</td>
<td>$745.00</td>
</tr>
<tr>
<td>Employee/Child(ren)</td>
<td>$761.00</td>
<td>$633.00</td>
</tr>
<tr>
<td>Employee/Family</td>
<td>$1278.00</td>
<td>$1069.00</td>
</tr>
</tbody>
</table>

Revised 10/07/2011
Retiree Only Coverage (65 years of age or over) Monthly Medical Rates -
Effective January 1, 2012

**Hartford Supplement**

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical</td>
<td>$187.11</td>
<td></td>
</tr>
<tr>
<td>Prescription Drug Plan</td>
<td>$160.00</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$347.11</strong></td>
<td></td>
</tr>
</tbody>
</table>

**City Contribution**  
$300.00

**Monthly Cost to Retiree**  
$47.11

*Spouse is eligible for coverage with total cost to be paid by employee/spouse.*
# 2012 Dental & Vision Rates

## Employee Monthly Dental Rates

### Cigna DHMO

<table>
<thead>
<tr>
<th>Plan Type</th>
<th>Active</th>
<th>Retiree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee Only</td>
<td>$0.23</td>
<td>$12.42</td>
</tr>
<tr>
<td>Employee &amp; Spouse</td>
<td>$11.18</td>
<td>$23.07</td>
</tr>
<tr>
<td>Employee &amp; Child(ren)</td>
<td>$9.56</td>
<td>$21.45</td>
</tr>
<tr>
<td>Employee &amp; Family</td>
<td>$23.47</td>
<td>$35.36</td>
</tr>
</tbody>
</table>

### Allegiance PPO

<table>
<thead>
<tr>
<th>Plan Type</th>
<th>Active</th>
<th>Retiree</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee Only</td>
<td>$2.52</td>
<td>$22.68</td>
</tr>
<tr>
<td>Employee &amp; Spouse</td>
<td>$24.93</td>
<td>$45.09</td>
</tr>
<tr>
<td>Employee &amp; Child(ren)</td>
<td>$24.05</td>
<td>$44.21</td>
</tr>
<tr>
<td>Employee &amp; Family</td>
<td>$42.88</td>
<td>$63.05</td>
</tr>
</tbody>
</table>

## Active Employee Monthly Vision Rates

<table>
<thead>
<tr>
<th>Plan Type</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee Only</td>
<td>$7.54</td>
</tr>
<tr>
<td>Employee &amp; Spouse</td>
<td>$15.10</td>
</tr>
<tr>
<td>Employee &amp; Child(ren)</td>
<td>$15.54</td>
</tr>
<tr>
<td>Employee &amp; Family</td>
<td>$21.52</td>
</tr>
</tbody>
</table>
## 2012 Voluntary Life Insurance – CIGNA

### EMPLOYEE (max = 3x annual salary up to $150,000)

<table>
<thead>
<tr>
<th>Age in 2010</th>
<th>Monthly cost per $10,000 unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 20</td>
<td>$0.50</td>
</tr>
<tr>
<td>20 to 24</td>
<td>$0.50</td>
</tr>
<tr>
<td>25 to 29</td>
<td>$0.70</td>
</tr>
<tr>
<td>30 to 34</td>
<td>$0.70</td>
</tr>
<tr>
<td>35 to 39</td>
<td>$1.05</td>
</tr>
<tr>
<td>40 to 44</td>
<td>$1.45</td>
</tr>
<tr>
<td>45 to 49</td>
<td>$1.95</td>
</tr>
<tr>
<td>50 to 54</td>
<td>$3.56</td>
</tr>
<tr>
<td>55 to 59</td>
<td>$5.98</td>
</tr>
<tr>
<td>60 to 64</td>
<td>$8.90</td>
</tr>
<tr>
<td>65 to 69</td>
<td>$15.20</td>
</tr>
<tr>
<td>70 to 74</td>
<td>$29.50</td>
</tr>
<tr>
<td>75+</td>
<td>$59.60</td>
</tr>
</tbody>
</table>

### SPOUSE (max $25,000)

<table>
<thead>
<tr>
<th>Age in 2010</th>
<th>Monthly cost per $5,000 unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under 20</td>
<td>$0.25</td>
</tr>
<tr>
<td>20 to 24</td>
<td>$0.25</td>
</tr>
<tr>
<td>25 to 29</td>
<td>$0.35</td>
</tr>
<tr>
<td>30 to 34</td>
<td>$0.35</td>
</tr>
<tr>
<td>35 to 39</td>
<td>$0.53</td>
</tr>
<tr>
<td>40 to 44</td>
<td>$0.73</td>
</tr>
<tr>
<td>45 to 49</td>
<td>$0.98</td>
</tr>
<tr>
<td>50 to 54</td>
<td>$1.78</td>
</tr>
<tr>
<td>55 to 59</td>
<td>$2.99</td>
</tr>
<tr>
<td>60 to 64</td>
<td>$4.45</td>
</tr>
<tr>
<td>65 to 69</td>
<td>$7.60</td>
</tr>
</tbody>
</table>

### CHILDREN (only 10,000 available)

Monthly cost for children is $2.51 for $10,000 of coverage

One premium will insure all eligible children
## 2012 Accidental Death and Dismemberment

### EMPLOYEE (max = 3x annual salary up to $150,000)

<table>
<thead>
<tr>
<th>Age in 2010</th>
<th>Monthly cost per $10,000 unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>All</td>
<td>$0.35</td>
</tr>
</tbody>
</table>

### SPOUSE (max $25,000)

<table>
<thead>
<tr>
<th>Age in 2010</th>
<th>Monthly cost per $1,000 unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>All</td>
<td>$0.035</td>
</tr>
</tbody>
</table>

### CHILDREN (only 10,000 available)

Monthly cost for children is $0.35 for $10,000 of coverage

One premium will insure all eligible children
Flexible Spending Account

**Medical**

Maximum City Contribution to each Active Employee*

$500 Per Year

Maximum Employee Contribution-including any City Contribution

$5,000 Per Year

*Pro rated for employees hired after of January 1, 2012

**Dependent Care**

Maximum Employee Contribution

$5,000 Per Year