



Contract Review Sheet

HR-5039-22

Contract for Services #: HR-5039-22 Amendment #: _____

Contact: George, Kathleen Department: Human Resources Department

Phone #: (503) 373-4388 Date Sent: _____

Title: Master Service Agreement, Employee Benefits

Contractor's Name: Consolidated Admin Services

Term - Date From: January 1, 2023 Expires: December 31, 2025

Contract Total: \$ 63,982.80 Amendment: \$ - New Total: \$ 63,982.80

Incoming Funds Federal Funds Reinstatement Retroactive Amendment greater than 25%

Source Selection Method: 50-0150 Employee Benefits 0

Description of Services or Grant Award

Master Service Agreement for third party administrator for County Flexible Spending Accounts, Health Savings Accounts, COBRA and Retiree Health Plans. Initial term for three years with option to extend for an additional year. Estimated annual cost to County \$21,327.60.

Desired BOC Session Date: 10/5/2022 BOC Planning Date: 9/22/2022

Files submitted in CMS: 9/14/2022 Printed packet & copies due in Finance: 9/20/2022

BOC Session Presenter(s) _____

FOR FINANCE USE

Date Finance Received: 9/16/2022 Date Legal Received: _____

Comments: Y

REQUIRED APPROVALS

Finance - Contracts _____ Date _____ Contract Specialist _____ Date _____

Legal Counsel _____ Date _____ Chief Administrative Officer _____ Date _____



MARION COUNTY BOARD OF COMMISSIONERS

Board Session Agenda Review Form

Meeting date: October 5, 2022

Department: Human Resources Agenda Planning Date: Time required: 5

Audio/Visual aids

Contact: Lori Klemsen Phone: 503-584-7781

Department Head Signature: Lori Klemsen

Table with 2 columns: Field Name (TITLE, Issue, Description & Background, Financial Impacts, Impacts to Department & External Agencies, Options for Consideration, Recommendation, List of attachments, Presenter) and Content.

Copies of completed paperwork sent to the following: (Include names and e-mail addresses.)

Copies to: Jan Fritz, County Administrative Officer; jfritz@co.marion.or.us; Jane Vetto, County Counsel; jvetto@co.marion.or.us; Kathie Carter, Senior Employee Benefits Specialist, kcarter@co.marion.or.us; Cheryl Carder, Payroll Supervisor, ccarder@co.marion.or.us; Lori Klemsen, HR Manager, lklemsen@co.marion.or.us



MASTER SERVICE AGREEMENT

This Master Service Agreement for Administration of Employee Benefits ("**Agreement**") is entered into by and between Consolidated Admin Services, LLC ("**CAS**"), an Arkansas Limited Liability Company, and the Entity identified below ("**Client**").

Entity's Legal Name: Marion County	Business Federal ID # 93-6002307	
Mailing Address: P.O. Box 14500	City: Salem	
Address Line 2:	State: OR	Zip Code: 97309

Background

CAS is a third-party administrator in the business of administering certain employee benefits on behalf of employers.

Client is an employer desiring to retain CAS's services pursuant to the terms and conditions set forth below and in Exhibit A.

Accordingly, the parties agree as follows:

1. Definitions

"**Employees**" means the Client's past and present employees who, including the employees' beneficiaries, are or were entitled to benefits administered by CAS during the Term.

"**Exhibit A**" refers to the exhibit bearing the "Exhibit A" designation attached to this Agreement.

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

"**Services**" means all work CAS agrees to perform for Client or Client's employees as set forth in this Agreement.

"**Term**" means the initial term and every renewal term, if any.

2. Effective Date, Term, and Renewal

This Agreement becomes effective on January 1, 2023 ("**Effective Date**"). The initial Term of the Agreement is three (3) years from the Effective Date. This Agreement will renew automatically for a renewal Term of one (1) year at the expiration of the initial Term. Either party may elect not to renew this Agreement at the end of a Term by providing the other party with written notice of non-renewal at least sixty (60) days before the expiration of the Term.

3. Scope of Relationship

3.1. Independent Contractors. The parties understand and agree that CAS is a third-party administrator of employee benefits. CAS will remain an independent contractor for all Services provided to Client and Client's Employees. The parties agree that CAS will not be a professional employer organization or co-employer of

Client's Employees. The parties further agree that under no circumstance should their relationship be construed or deemed as a joint venture, partnership, or employer-employee relationship. CAS provides claims administration services and limited compliance reporting services only and does not assume any financial risk or obligation with respect to claims for benefits payable under a Client-sponsored employee benefit plan. The parties agree that CAS is in no way an insurer, underwriter, or guarantor with respect to any benefits payable under the Services. All rights and powers not expressly granted to either party under this Agreement will be expressly reserved to the other. Neither party has the right, power, or authority in any way to bind the other party to the fulfillment of any condition not expressly stated in this Agreement or to any contract or obligation, express or implied.

CAS is not a law firm and does not provide legal, investment, accounting, or tax advice. Client understands and agrees that all written or verbal communications provided by CAS as Services rendered under this Agreement are general in nature and not intended to constitute legal, investment, accounting, or tax advice. The Services provided by CAS may have legal, investment, and tax consequences for the Client. Client agrees that it is responsible for directing its questions or concerns regarding the impact of legal, investment, accounting, or tax consequences of any Service offered by CAS to Client's own advisors at Client's expense.

For any Client or Service subject to the Employee Retirement Income Security Act of 1974 (ERISA), as amended, the terms "**Administrator**" (also referred to as the Plan Administrator), "**Plan Sponsor**," "**Named Fiduciary**," and "**Plan Assets**" have the meaning given to such terms by ERISA. CAS is not the Plan Administrator, the Plan Sponsor, or a Named Fiduciary for any Services. CAS does not accept a fiduciary role or status for any Service. CAS does not collect or hold employee contributions or Plan Assets. Client acknowledges and agrees that any funding submitted to CAS in connection with a plan or component benefit that is considered a welfare plan within the meaning provided by ERISA will: (a) be comprised of general assets of Client, (b) until disbursed by CAS, retain its status as general assets of Client subject to the rights of Client's creditors, (c) until disbursed by CAS, be returned to Client upon written request, and (d) not be segregated or set aside in a trust or escrow account by CAS.

- 3.2. Responsibilities of CAS. CAS's sole responsibilities will be limited to those expressly stated in this Agreement and Exhibit A. As of the Effective Date, CAS shall: (a) provide the Services selected by Client in Exhibit A, which is attached hereto and incorporated herein by reference; (b) maintain books and records of transactions subject to this Agreement in accordance with standards of record keeping customary in the third-party administration of employee benefits industry; and (c) maintain all licenses and permits required by applicable law to carry out its obligations under this Agreement. CAS shall use ordinary care and due diligence in the performance of the Services and provide the Services in a timely, professional and accurate manner using the information the Employer provides or causes to be provided to CAS. CAS shall rely on the accuracy and timeliness of the information supplied by Client or Client's agent to perform its Services. CAS has no responsibility or liability with respect to (a) any funding of Plan Benefits, (b) any insurance coverage pertaining to Client or Client's employee benefit plans, Employees, enrollees, (c) ensuring any benefit plan complies with legal requirements imposed upon Client, or (d) the nature or quality of professional health Services rendered to Employees or their beneficiaries.

The parties acknowledge and agree that CAS has no ability or responsibility to verify data provided to CAS by Client, Client's agents, or Employees. CAS shall have no liability for failure to provide, or for defects in providing, a Service for which Client, Employee, or Client's agent has not provided accurate, complete, and timely data to CAS in an agreed-upon format. CAS will have no liability for interruptions or delays in the provision of Services caused either in whole or in part by Client's failure to provide accurate, complete, and timely data to CAS. If any report provided to Client contains any inaccurate or incomplete information, Client shall promptly take all necessary actions to effectuate changes to the report by notifying CAS. CAS does not assume any responsibility for the general policy design of the plan, the adequacy of its funding, or any act or omission or breach of duty by Client.

- 3.3. Responsibilities of Client. Client has sole and final discretionary authority to control and manage the legal, administrative, and operational functions of any plan sponsored by Client. Client shall have all authority and control over the management and disposition of Plan Assets to the exclusion of CAS. Client shall present to CAS, in an accurate, complete, and timely manner, all relevant information as determined to be necessary by CAS to enable CAS to perform the Services. It is Client's responsibility to educate and inform Employees on the Services being provided, including the delivery of administration materials (where needed) and compliance documents (e.g., distribution of an applicable Summary Plan Description). Client shall ensure that Employees comply with all applicable Participant obligations relating to the Services.

4. Payment Terms

- 4.1. General Terms. Client agrees to pay CAS for Services its Fees as calculated and outlined (1) on a CAS Proposal provided to Client, which is expressly incorporated by reference into this Agreement, (2) as outlined in Exhibit A to this agreement, and (3) as provided by CAS to Client in accordance with the terms of this Agreement ("**Fees**"). For Services where Fees are calculated based on the number of Client's Employees, the parties agree: (1) Client shall provide CAS monthly updates regarding the number of Employees covered by the applicable Services, (2) CAS shall have the right to adjust its Fees in the event of a material change in the number of Employees, and (3) CAS shall be entitled to recover additional Fees based on changes in the number of Employees for months for which Client fails to report the number of Employees accurately.
- 4.2. Invoices and Payment Terms. CAS will transmit an invoice to Client every month. Payment is due according to the terms on the invoice. If Client does not receive an invoice each month, for a period of time when Client knows CAS is performing Services on Client's behalf, Client shall contact CAS immediately to request an invoice. If CAS does not receive payment for Services within sixty (60) days of Client's receipt of an invoice, then CAS has the sole discretion to suspend its performance of all applicable Services and place all processing on hold until all past due amounts are paid. The parties agree that CAS shall have no liability for any losses due to suspending or placing any Services on hold for non-payment. Any refunds or adjustments owed to Client will be processed only after CAS verifies that Client does not owe any past due funds to CAS. No refunds or adjustments will be made while Client is in default under this Agreement, or if an Employee is in violation of any applicable agreement pertaining to the Services. If CAS's bank rejects or returns Client's payment, CAS reserves the right to charge Client a Fee equal to that which the bank charges to CAS for each rejected or returned payment.
- 4.3. Past Due Accounts. CAS reserves the right to charge a 5% late penalty Fee compounded monthly on all past due accounts. If Client fails to pay Fees due to CAS within sixty (60) days of the invoice date, CAS will assess a late payment penalty on the portion of the balance that is thirty-one (31) days past due. Client is obligated to pay the penalty and Fees for Services rendered upon receipt of penalty notification.
- 4.4. ACH Payment. Client's payment for Services may occur via ACH transaction, or if payment via ACH transaction is not authorized, CAS will invoice Client. If Client grants CAS authority to debit its Fees by ACH or other electronic means, that authority will remain in effect until CAS has received written notification terminating the authority. Client's written notice terminating such authority must be made in such a time and manner as to afford CAS, CAS's financial institution, and Client's financial institution a reasonable opportunity to act on the termination. CAS reserves the right to correct any processing errors and to recover any payment made in error for any reason. Client authorizes CAS to debit or credit Client's accounts as necessary to correct such errors.

- 4.5. Price and Fee Increase During Term. CAS agrees not to increase its prices for Services during a current Term. However, CAS reserves the right to add Fees or adjust its prices for Services to be rendered in an upcoming renewal Term, provided that CAS delivers written notice of the applicable prices and Fees to Client at least sixty (60) days before the start of the renewal Term.
- 4.6. Unclaimed Funds. State law governs when accounts or funds relating to Services, including, but not limited to, funds attributable to unpresented checks, dormant Client or Employee accounts, or plan experience gains (forfeitures), are considered unclaimed or abandoned property. CAS will return to Client any such accounts or funds considered under applicable state law to be unclaimed or abandoned property ("**Unclaimed Funds**"). Client agrees that, at all times, it remains the holder of the Unclaimed Funds and shall be solely responsible for compliance with applicable laws, including providing statutory notice and the delivery and reporting of Unclaimed Funds to the relevant agencies as required under the law. Unless prohibited by law, CAS may offset its costs and expenses associated with the Unclaimed Funds. CAS shall have no liability to Client or Employees for the Unclaimed Funds.
- 4.7. Debit Accounts. With respect to any Services involving debit accounts of any type, including but not limited to debit cards, Client acknowledges and accepts sole responsibility for the payment of all debit account transactions. CAS may be able to assist Client in the recovery of such debit account transactions reported as fraudulent, provided that Employees comply with the terms outlined in the applicable Cardholder Agreement for the timely reporting of such fraudulent activity. Client acknowledges and accepts sole responsibility for fraudulent claims by Employees, regardless of whether by use of the debit card, debit account, submitted online, submitted by a medical provider, or manually submitted. CAS has the right to recoup any payment or overpayment made to Client or Employee in error, regardless of the reason for the erroneous payment. CAS has the right to require a deposit or payment from Client or the Employee when the disbursement of funds creates or will create a negative account balance.

5. Third-party Software

- 5.1. To the extent that (a) Services including software or other technology licensed from third parties, or (b) the Services are procured or derived from third parties, the parties agree the Services shall be within the scope and on the terms and conditions established by the third-party licensors or providers. This Agreement is not intended to constitute a sublicense of any software or technology provided by third-party licensor.
- 5.2. If CAS encounters a restriction or objection from a third-party licensor or supplier that prevents CAS, as a practical matter, from providing the Services as contemplated by this Agreement, then the parties will confer to decide upon a solution, which may include seeking necessary consents or licenses, replacing the affected resource, adopting a work-around, and so forth. CAS gives no assurance about whether such a restriction or objection may arise, and Client shall excuse CAS from performing the Services to the extent it can legally do so. If the parties cannot mutually agree upon an alternative solution, CAS may terminate the provision of that particular service without penalty to Client.

6. Intellectual Property

- 6.1. The trademarks, service marks, trade names, and logos of Client and its affiliates are the property of Client and its affiliates, and CAS has no right to use such marks, names, or logos unless authorized in writing by Client.
- 6.2. The trademarks, service marks, trade names, and logos of CAS and its affiliates are the property of CAS and its affiliates, and Client has no right to use such marks, names, or logos unless authorized in writing by CAS.

- 6.3. Neither party shall use another party's copyrights, symbols, trademarks, or service marks in advertising or promotional materials or otherwise without the prior written consent of such other party.

7. Protected Health Information

- 7.1. Legal Compliance. CAS shall comply with the requirements imposed upon business associates by applicable law and regulations with regard to protected health information (PHI), including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), as amended, the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH Act"), and the American Recovery and Reinvestment Act of 2009 ("ARRA").
- 7.2. Privacy Notices. CAS shall provide a notice of privacy practices required by HIPAA, as well as any subsequent changes to such notices. The benefit plan document shall be distributed in accordance with the HIPAA privacy rule. Client shall not require CAS to use or disclose PHI in any manner that applicable law would prohibit Client from using or disclosing in the same manner, except that CAS may use or disclose PHI for purposes of the management and administrative activities of CAS.
- 7.3. Permitted Uses and Disclosures. CAS agrees to receive, create, use, or disclose PHI only in a manner that is consistent with this Agreement, the HIPAA Privacy Rule, and HIPAA Security Rule, and only in connection with providing Services to Client; provided that applicable law would allow such use or disclosure by Client under the same circumstances.
- 7.4. PHI and Termination. At the termination of this Agreement, CAS agrees to return and destroy any and all PHI in any form received by CAS under this Agreement, as allowed for under applicable law, and to the extent that it is not feasible, to continue to limit the further uses and disclosures of that information.
- 7.5. CAS's General Responsibilities Regarding PHI. In the performance of Services and unless otherwise prohibited by law, regulation, or court order, CAS agrees to:
- A. not use or further disclose PHI other than as permitted or required by this Agreement or as required by law;
 - B. use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for by this Agreement;
 - C. mitigate, to the extent practicable, any harmful effect that is known to CAS of a use or disclosure of PHI by CAS in violation of the terms of this Agreement;
 - D. provide access, at the request of Client, and in the time and manner designated by Client, to PHI in a Designated Record Set, to Client or, as directed by Client, to an Individual, to meet the requirements of 45 C.F.R. §164.524;
 - E. provide to Client or an Individual, in the time and manner designated by Client, information collected to permit Client to respond to a request by an Employee for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528;
 - F. implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that CAS creates, receives, maintains, or transmits on behalf Client as required to comply with HIPAA security regulations at 45 C.F.R. Parts 160, 162, and 164;
 - G. have a system in place to report to Client any Security Incident of which CAS becomes aware.

8. General Provisions

- 8.1. Notices. Any notice required by this Agreement to be given in writing shall be either mailed first class with the recipient's signature required or sent by electronic means, such as facsimile or e-mail. A notice delivered by courier or mail service shall be deemed received upon delivery. Any notice sent by electronic means shall be deemed received on the date that the sending terminal records that the notice was sent. In all cases, the parties agree that notices arriving on a Saturday or Sunday are not considered "received" until the following

Monday. If a notice arrives on a Monday through Friday (“**Weekday**”) that is also a federal holiday, as designated by 5 U.S.C. § 6103(a) (“**Federal Holiday**”), then the notice is not considered “received” until the next Weekday that is not a Federal Holiday.

- 8.2. Successors and Assigns. Neither party shall assign this Agreement without the prior written consent of the non-assigning party. This Agreement shall bind all successors and permitted assigns under this Agreement.
- 8.3. Force Majeure. A party shall not be held responsible for any cessation, interruption, or delay in the performance of their obligations under this Agreement when caused by activities or factors beyond the party's reasonable control, including, but not limited to, delays by reason of natural disaster, fires, acts of God, strikes, pandemics, civil disturbance, disruption of the public markets, faulty performance by contracts or subcontractors, or government agencies, acts of the public enemy, unavailability of materials or services required in the performance of the Services, or other force majeure as recognized by statute or the common law of Arkansas.
- 8.4. Indemnification and Limitations of Liability. Subject to the limitations set forth herein, Each party shall defend, save, indemnify, and hold harmless the other party, its officers, agents, and employees from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature whatsoever, including attorney fees, resulting from, arising out of, or relating to the activities of it or its officers, employees, subcontractors, or agents under this Contract. Each party shall have control of the defense and settlement of any claim that is subject to this section.
- 8.5. Governing Law; Jurisdiction; Prevailing Party. This Contract shall be governed by the laws of the State of Oregon. Any action commenced in connection with this Contract shall be in the Circuit Court of Marion County. All rights and remedies of the County shall be cumulative and may be exercised successively or concurrently. The foregoing is without limitation to or waiver of any other rights or remedies of the County according to law.
- A. *Arbitration*. The parties shall make good faith efforts to find an arbitrator. The arbitrator must be selected and agreed upon by both parties. Unless otherwise agreed, the arbitrator must be an attorney with at least ten years of experience in litigation. No demand for arbitration may be made after the date when the institution of legal or equitable proceedings based on such claim or dispute would be barred by the applicable statute of limitation. The arbitrator is not authorized to award punitive or other damages not measured by the prevailing party's actual damages. Each party shall bear its own costs, fees, and expenses of arbitration, including attorney’s fees.

The arbitrator shall require the parties to exchange (a) the name and, if known, address and telephone number of each person likely to have knowledge of relevant information and the subjects of the information, and (b) non-privileged documents, including those in electronic form, that are relevant to the issues raised by any claim, defense or counterclaim or on which the producing party may rely in support of or in opposition to any claim, defense or counterclaim. The arbitrator shall limit such production based on unreasonable expense, duplication, and undue burden. These exchanges shall occur no later than 60 days following the arbitrator's appointment. At the request of a party, the arbitrator may, at their discretion, order the deposition of witnesses. Depositions shall be limited to a maximum of three depositions per party, and each deposition may not exceed three hours in duration, including breaks. All discovery shall be completed within 120 days following the arbitrator's appointment. The arbitrator may allow such other discovery as the arbitrator determines to be reasonably necessary. The parties may add, alter, or omit arbitration terms if both parties agree to such terms in a signed writing.

8.6. Termination. In the event a party is or becomes non-compliant with applicable law governing the Services, where such non-compliance could reasonably result in losses such as but not limited to an excise tax, penalty, or claims liability, the other party shall have the right to terminate this Agreement immediately by written notice to the non-compliant party.

If a party breaches any material term, condition, or covenant of this Agreement, the non-breaching party may terminate this Agreement by giving the breaching party written notice of its intention to terminate the Agreement and sixty (60) days to cure the default. If the defaulting party fails to cure the default within 30-days of receiving the notice, this Agreement will automatically terminate upon expiration of the 30-day cure period. Any termination shall be without prejudice to any other rights and remedies the non-defaulting party may have against the defaulting party with respect to such default.

In the event of any breach by Client, CAS has the right to suspend all Services to Client, without incurring any liability for the suspension, until the default(s) has been cured and all outstanding obligations of Client have been met. If client fails to timely pay accounts owed to CAS, CAS may terminate this Agreement immediately upon delivery of written notice to Client, and all amounts due to CAS will become immediately due and payable.

In the event of termination of this Agreement, CAS shall (1) release to Client in any reasonably usable format records and files relating to invoicing and records developed and maintained by CAS pursuant to this Agreement, and (2) deliver to Client all unused materials, equipment, and specifications that Client furnished.

If CAS performs any work following this Agreement's termination, CAS will be entitled to its Fees on the same basis as if the Agreement continued in effect for the period during which such Services were performed. CAS will transmit an invoice to Client for Services rendered following termination of this Agreement, and that invoice will be due upon receipt.

8.7. Compliance. Each party shall be responsible for complying with all applicable laws pertaining to the parties' respective business and operations. CAS's obligation to provide a Service will terminate automatically with no penalty to CAS if Client is no longer eligible to use that Service or the continued provision of the Service would violate applicable law. CAS is not responsible for detecting illegal acts by, or misrepresentations of, Client's Employees or representatives. At all times, Client shall take all necessary actions to ensure it complies with state and federal law applicable to the Services. Client shall promptly and thoroughly review the reports made available to Client to ensure CAS has received all information and CAS has based the Services on accurate and complete information. CAS shall have no liability to Client or any other person or entity for costs, excise or other taxes, penalties, interest, damage, or loss (collectively "Damages") that occur more than thirty (30) days after CAS has provided or made available a report to Client, and where Damages arising out of or relating to any mistake or error appearing in the report caused Client's provision of inaccurate or incomplete information to CAS.

8.8. Miscellaneous. This Agreement, together with all Exhibits and any other documents incorporated herein or incorporate this Agreement by reference, constitutes the sole and entire agreement of the parties to this Agreement and supersedes all prior and contemporaneous understandings and agreements, both written and oral. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument. The matters set forth in this Agreement may not be amended or waived except by a separate writing that memorializes the parties' express consent to amend or waive a provision in this Agreement or the entire Agreement. The waiver of any breach of this Agreement by either party will not constitute a continuing waiver by such party or a waiver by such party of any subsequent breach of either the same or any other provision of this Agreement. Every provision of this Agreement is intended to be severable. If any term or provision hereof is illegal or invalid for any

reason whatsoever, such illegality or invalidity shall not affect the remainder of such term or provision, nor the remainder of this Agreement. This Agreement is binding on the parties and their successors and assigns.

IN WITNESS WHEREOF, the parties understand and agree to the terms and conditions stated in this Agreement and Exhibit A, which is hereby incorporated into this Agreement by reference.

CLIENT

Authorized Signor's Name: _____

Title: _____

Signature: _____

Date: _____

CAS

Authorized Signor's Name: **Carrie Stout** _____

Title: President _____

Signature: _____

Date: _____

**MARION COUNTY SIGNATURES
BOARD OF COMMISSIONERS:**

Chair Date

Commissioner Date

Commissioner Date

Authorized Signature: _____
Department Director or designee Date

Authorized Signature: _____
Chief Administrative Officer Date

Reviewed by Signature: _____
Marion County Legal Counsel Date

Reviewed by Signature: _____
Marion County Contracts & Procurement Date

Exhibit A

This Exhibit A is expressly incorporated, by reference into the Master Service Agreement entered into between Consolidated Admin Services, LLC and Marion County, which has an Effective Date of January 1, 2023.

CAS Pricing

Annual Fees:	\$300.00
Setup of Plans	
Setup Data feed & Carrier connection Service Agreement	
Renewal of Plans processing Plan Documents	
Monthly Fees:	
FSA Account Administration:	\$3.00 PPPM
HSA Account Administration:	\$2.00 PPPM
Commuter Account Administration:	\$3.00 PPPM
COBRA Administration:	\$0.35 per FTE + CAS retains 2%
Retiree Billing:	\$2.00 per Retiree

Fees Include:

Account Administration
Takeover Notice to current COBRA & Retiree participants Coupons to current COBRA & Retiree participants
All Required COBRA Notices/ Premium Collection & Carrier Remittance Retiree Billing Coupons and Monthly Carrier Remittance
Onecard Debit Card – FSA & HSA
Claim Reimbursement – Direct Deposit or check Online Access for Employer & Employee Mobile APP
Monthly Account Statements via Email HSA investment portal
FSA/HSA store
Healthshopper powered by Amazon HSA tax documents
Phone/Email Support - CAS difference – we answer all calls, no phone tree or waiting on hold.

HSA Addendum to Administration of Employee Benefits Agreement Between Consolidated Admin Services, LLC and Marion County

This HSA ADDENDUM is attached to, and forms an integral part of, the **Administration of Employee Benefits Agreement** (the "**Agreement**"), dated January 1, 2023, between Consolidated Admin Services, LLC ("**CAS**"), and Marion County ("**Client**") (referred to collectively as the "**Parties**"). To the extent that any of the terms or conditions contained in this ADDENDUM may contradict or conflict with any of the terms or conditions of the attached Agreement, it is expressly understood and agreed that the terms of this ADDENDUM shall take precedence and supersede the attached Agreement.

The Parties agree as follows:

Section 1 – Definitions

"Beneficiary" a person selected by a Participant who has the right to receive from and derive advantage from that Participant's Plan membership.

"Code" means the Internal Revenue Code of 1986, as amended.

"Employee" means a person employed by Client.

"Electronic PHI" has the meaning assigned to such term under HIPAA. As used in this Agreement, the term "PHI", as defined below, shall include "Electronic PHI", unless clearly indicated otherwise.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended.

"HSA" means Health Savings Account as this term is defined in Section 223 of the Internal Revenue Code of 1986.

"Named Fiduciary" means the named fiduciary as defined in ERISA §402(a)(1).

"PHI", which stands for "Protected Health Information," has the meaning assigned to such term under HIPAA. As used in this Agreement, the term "PHI" shall include "Electronic PHI", as defined above, unless clearly indicated otherwise.

"Plan" means the HSA maintained by the employees of Client, in their sole discretion.

"Plan Administrator" means the administrator as defined in ERISA §3(16)(A).

Section 2 – Scope of Services

Client has sole and final authority to control and manage the operation of the Plan. CAS is and shall remain an independent contractor with respect to the services being performed hereunder (the "Services") and shall not for any purpose be deemed an employee of Client. Nor shall CAS and Client be deemed partners, engaged in a joint venture or governed by any legal relationship other than that of independent contractor/contractee. CAS does not assume any responsibility for the general policy design of the Plan, the adequacy of its funding, or any act or omission or breach of duty by Client. Nor is CAS in any way to be deemed an insurer, underwriter, or

guarantor with respect to any benefits payable under the Plan. CAS generally provides reimbursement services only and does not assume any financial risk or obligation with respect to claims for benefits payable by Client under the Plan. Nothing herein shall be deemed to constitute CAS as a party to the Plan or to confer upon CAS any authority or control respecting management of the Plan, authority or responsibility in connection with administration of the Plan, or responsibility for the terms or validity of the Plan. Nothing in this Agreement shall be deemed to impose upon CAS any obligation to any Employee of Client or any person who is participating in the Plan (“Participant”).

Section 3 – Information to Be Furnished to CAS

Client shall furnish information requested by CAS as CAS determines necessary to perform CAS's functions hereunder, including information concerning the Plan and the eligibility of Employees to participate in and receive Plan benefits. Such information shall be provided to CAS in the time and in the manner agreed to by Client and CAS. CAS shall not be responsible for benefits paid in error due to Client's failure to timely update necessary information. From time to time thereafter, but no more frequently than monthly, CAS shall provide Client with updated reports summarizing the eligibility data provided by Client (the “**Eligibility Reports**”) by electronic medium unless otherwise agreed by the Parties. The Eligibility Reports shall specify the effective date for each Participant who is added to or terminated from participation in the Plan. Client shall be responsible for ensuring the accuracy of its Eligibility Reports, and bears the burden of proof in any dispute with CAS relating to the accuracy of any Eligibility Report. CAS shall have no liability to Client or any Participant as a consequence of an inaccurate Eligibility Report and CAS shall not have any obligation to credit Client for any claims expenses or administrative fees incurred or paid to CAS as a consequence of Client failing to review Eligibility Reports for accuracy. CAS shall assume that all such information is complete and accurate and is under no duty to question the completeness or accuracy of such information. Such Eligibility Reports shall be considered PHI and, when transmitted by or maintained in electronic media shall be considered Electronic PHI, and subject to the privacy and security rules under HIPAA and this Agreement.

All information required under this Agreement will be provided in such format and at such intervals as is reasonably required by, and acceptable to, the Parties. In the event the Client fails to provide CAS with accurate information required for CAS to provide the services to be rendered herein, on a timely basis, Client agrees to indemnify, hold harmless, and defend CAS from and against any and all liabilities, losses, damages, claims, lawsuits, causes of action, costs and expenses that may be incurred by CAS in connection with the failure of the Client to provide CAS with accurate information on a timely basis necessary to carry out its obligations under this Agreement, provided that CAS's action or failure to act in response to such lack of notice was not malicious or grossly negligent. Client further agrees to inform CAS of any changes to the benefit plan at any time to ensure proper billing.

Section 4 – Client's Covenants

General. Client has the sole authority and responsibility for the Plan and their operation, including the authority and responsibility for administering, construing and interpreting the provisions of the Plan and making all determinations thereunder. Client gives CAS the authority to act on behalf of Client in connection with the Plan, but only as expressly stated in this Agreement or as mutually agreed in writing by the Parties. All final determinations as to a Participant's entitlement to Plan benefits are to be made by Client, including any determination upon appeal of a denied claim for Plan benefits. Client is considered the Plan Administrator and Named Fiduciary of the Plan benefits for purposes of ERISA.

Responsibilities. Without limiting Client's responsibilities described herein, it shall be Client's sole responsibility (as Plan Administrator) and duty to: ensure compliance with all applicable laws related to HSA benefits; perform required nondiscrimination testing; amend the Plan as necessary to ensure ongoing compliance with applicable law; determine if and when a valid election change has occurred; handle Participant claim appeals; execute and retain required Plan and claims documentation; and take all other steps necessary to maintain and operate the Plan in compliance with applicable provisions of the Plans, ERISA, HIPAA, the Code and other applicable federal and state laws.

Plan Documents. Client is responsible for the Plan's compliance with all applicable federal and state laws and regulations and shall provide CAS with all relevant documents, including but not limited to, the Plan documents and any Plan amendments. Client will notify CAS of any changes to the Plan at least thirty (30) days before the effective date of such changes. Client acknowledges that CAS is not providing tax or legal advice and that Client shall be solely responsible for determining the legal and tax status of the Plan.

Liability for Claims. Client is responsible for payment of claims made pursuant to, and the benefits to be provided by, the Plan. CAS does not insure or underwrite the liability of Client under the Plan. Except for expenses specifically assumed by CAS in this Agreement, Client is responsible for all expenses incident to the Plan.

Medical Records. Client shall, if required by law or regulation, notify each Participant and provide each Participant with an opportunity to opt out (if required) or obtain from each Participant such written authorization for release of any personal financial records and medical records in accordance with applicable state and federal law (including the Gramm-Leach-Bliley Act) to permit Client and/or CAS to perform their obligations under this Agreement.

Section 5 – CAS's Covenants

Benefits Payment. CAS shall, on behalf of Client, operate under the express terms of this Agreement and the Plan. CAS shall initially determine if persons covered by the Plan (as described in the Eligibility Reports) are entitled to benefits under the Plan and shall pay Plan benefits in its usual and customary manner, to Participants, or their Beneficiaries as set forth in this Agreement. CAS shall have no duty or obligation with respect to claims incurred prior to the Effective Date ("Prior Reimbursement Requests"), if any, and/or Plan(s) administration (or other) services arising prior to the Effective Date ("Prior Administration"), if any, regardless of whether such services were/are to be performed prior to or after the Effective Date. Client agrees that: (a) CAS has no responsibility or obligation with respect to Prior Reimbursement Requests and/or Prior Administration; (b) Client will be responsible for processing Prior Reimbursement Requests and maintaining legally required records of all Prior Reimbursement Requests and Prior Administration sufficient to comply with applicable legal (e.g., IRS substantiation) requirements; and (c) Client shall indemnify and hold CAS harmless for any liability relating to Prior Reimbursement Requests and/or Prior Administration. The above provisions and any other contractual references to indemnification notwithstanding, the Parties agree that Client shall not be required to indemnify, hold harmless or reimburse CAS except as expressly allowed by the laws of the State of Arkansas.

Parties agree to take all reasonable precautions to avoid creating any third-party claim or liability under or in connection with this Agreement. In the event either Party fails to protect against such claims, then that Party agrees to fully cooperate with the other Party in the defense of any legal action brought by such third-party. The aforesaid shall not be construed to constitute a waiver of

Client's statutory tort immunity, or create any debt obligation not authorized by the laws or Constitution of the State of Arkansas.

Reporting. Each month via electronic medium (unless otherwise agreed by the Parties), CAS shall make available to Client a master report showing the payment history and status of Participant claims and the amounts and transactions of Participant accounts during the preceding month. For purposes of Client's Plan, Client must provide certification that the Plan document requires the Client to comply with applicable privacy and security rules under HIPAA before CAS will make available the reports provided for in this Section to Client. CAS shall also make available to Participants each month via electronic medium a report showing their individual payment history and status of claims and the amounts and transactions in their individual accounts during the preceding month. For purposes of Client's HSA, Client is responsible for ensuring that any Beneficiary of the Participant for whom a claim has been submitted to the HSA has agreed to the disclosure of his or her PHI to the Participant, if required by the HIPAA privacy rule.

Claim Appeals. CAS shall refer to Client or its designee, for final determination, any claim for benefits or coverage that is appealed after initial rejection by CAS or any class of claims that Client may specify, including: (a) any question of eligibility or entitlement of the claimant for coverage under the Plan; (b) any question with respect to the amount due; or (c) any other appeal.

Recordkeeping. CAS shall maintain, during the Term, the usual and customary books, records and documents, including electronic records, relating to the Plan and its Participants, which CAS has prepared or that have otherwise come within its possession. These books, records, and documents, including electronic records, are the property of Client, and Client has the right of continuing access to them during normal business hours at CAS' offices with reasonable prior notice. If this Agreement terminates or expires, CAS shall deliver, at Client's request, all such books, records, and documents (whether printed or electronic) to Client, subject to CAS' right to retain copies of any records it deems appropriate. Client shall be required to pay CAS reasonable charges for transportation or duplication of such records. Provided, however, that upon termination or expiration of this Agreement, CAS must return to Client all PHI (whether electronic or printed), including PHI that is in the possession of CAS's subcontractors or agents, and thereafter destroy and not maintain any copies thereof in CAS's own records, or in the records of CAS's subcontractors or agents.

Standard of Care; Erroneous Payment. CAS shall use reasonable care and due diligence in the exercise of its powers and the performance of its duties under this Agreement. If CAS makes any payment under this Agreement to an ineligible person, or if more than the correct amount is paid, CAS shall make a diligent effort to recover any payment made to or on behalf of an ineligible person or any overpayment. However, CAS will not be liable for such payment, unless CAS would otherwise be liable under another provision of this Agreement.

Notices to Client. CAS shall provide to Client all notices (including any required opt-out notice) reflecting its privacy policies and practices as required by state and/or federal law (including the Gramm-Leach-Bliley Act).

Section 6 – HIPAA

Privacy. CAS shall provide a notice of privacy practices under HIPAA, as well as any subsequent changes to such notices. The Plan document includes the HIPAA privacy rule to permit disclosures of any PHI to Client for plan administration purposes. Copies of any

authorizations of Participants or Beneficiaries to use or disclose any and all PHI (and any later changes to or revocations of such authorizations); notice of any restrictions on the use or disclosure of PHI that Client agrees to under the HIPAA privacy rule; and notice of any requests that communications be sent to a Participant or Beneficiary by an alternative means or at an alternative location that Client agrees to under the HIPAA privacy rule. Client shall not request CAS to use or disclose PHI in any manner that would not be permissible under the HIPAA privacy rule if done by Client, except that CAS may use or disclose PHI for purposes of data aggregation and the management and administrative activities of CAS, as provided in the Agreement.

CAS's General Responsibilities.

1. CAS agrees not to use or further disclose PHI other than as permitted or required by this Agreement or as required by law.
2. CAS agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement.
3. CAS agrees to mitigate, to the extent practicable, any harmful effect that is known to CAS of a use or disclosure of PHI by CAS in violation of the terms of this Agreement.
4. CAS agrees to report to Client any use or disclosure of PHI not provided for by this Agreement.
5. CAS agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by CAS on behalf of Client, agrees to the same restrictions and conditions that apply throughout this Agreement to CAS with respect to such information.
6. CAS agrees to provide access, at the request of Client, and in the time and manner designated by Client, to PHI in a Designated Record Set, to Client or, as directed by Client, to an Individual, in order to meet the requirements of 45 C.F.R. §164.524 .
7. CAS agrees to make any amendment(s) to PHI in a Designated Record Set that Client directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of Client or an Individual, and in the time and manner designated by Client.
8. CAS agrees to make internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by CAS on behalf of Client available to Client, or at the request of Client, to the Secretary, in the time and manner designated by Client or the Secretary, for purposes of the Secretary determining Client's compliance with the HIPAA privacy rule.
9. CAS agrees to document such disclosures of PHI and information related to such disclosures as would be required for Client to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528.
10. CAS agrees to provide to Client or an Individual, in the time and manner designated by Client, information collected in accordance with Section 3.11(a)(9) to permit Client to respond to a request by an Employee for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528.
11. In the event that CAS conducts Standard Transactions with or on behalf of the HSA, CAS will comply with the requirements in 45 C.F.R Part 162. CAS will require any subcontractor or agent involved with the conduct of such Standard Transactions to comply with each applicable requirement of 45 C.F.R. Part 162.
12. CAS agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that CAS creates, receives, maintains, or transmits on behalf the Client.

13. CAS agrees to ensure that any agent, including a subcontractor, to whom it provides PHI created, received, maintained, or transmitted on behalf of the Client, agrees to implement reasonable and appropriate safeguards to protect such PHI.
14. CAS agrees to report to Client the aggregate number of unsuccessful, unauthorized attempts to access, use, disclose, modify, or destroy Electronic PHI or to interfere with system operations in an information system containing Electronic PHI, including pings. Such reports will be provided once per month, on or before the 10th calendar day of such month. CAS will report to Client any successful unauthorized access, use, disclosure, modification, or destruction of PHI or any successful interference with system operations in an information system containing PHI, in writing, as soon as feasible.

Permitted Used and Disclosures. CAS may use and disclose any PHI on behalf of, or to provide services to Client, as specified in this Agreement; for the proper management and administration of CAS; to carry out the legal responsibilities of CAS; and to provide data aggregation services to Client. Notwithstanding the foregoing, such use and disclosure of PHI may not violate the HIPAA privacy rule.

Amendment to Comply with Privacy and Security Laws. CAS agrees to amend this Section as necessary to comply with the requirements of the privacy and security rules under state and federal law.

Termination of the Agreement. CAS agrees to termination of this Agreement by Client if the terms of this Section are violated. In addition, at termination or expiration of this Agreement, CAS agrees to return and destroy any and all PHI in any form received by CAS under this Agreement and, to the extent that it is not feasible, to continue to limit the further uses and disclosures of that information as provided by this Section.

Section 7 – Exclusive Responsibility for Operation of Plan

For purposes of this Agreement, Client has the sole and exclusive authority and responsibility for Client's Plan, its provision of benefits, and its operation. CAS is empowered to act solely as agent for, and on behalf of, the Client and only as expressly stated in this Agreement.

Client authorizes CAS to process contributions by draft payment or debit on a bank account established and maintained in the name of Client for the payment of Plan benefits. Each week or at such other interval as mutually agreed upon, CAS will notify Client of the amount needed to post to employees HSA and Client shall pay or transfer into the bank account the amount needed for the payment of contributions. Client shall enter into such agreements and provide instructions to its bank as are necessary. CAS shall have authority to provide whatever notifications, instructions, or directions as may be necessary to accomplish the disbursement of such Plan funds to or on behalf of Participants.

Funding for any payment on behalf of the Participants under the Plan, including but not limited to, all benefits to Participants in accordance with the Plan, is the sole responsibility of Client, and Client agrees to accept liability for, and provide sufficient funds to satisfy, all payments to Participants under the Plan, including claims for reimbursement for covered expenses, if such expenses are incurred and the claim is presented for payment during the Term.

Section 8 – Fees

Billing of Charges. All service charges of CAS, whether provided for in this or any other Section, shall be billed separately from statements for payment of claims so that proper accounting can be made by Client of the respective amounts paid for claims and for administrative expenses.

Payment of Charges. All charges under this Agreement shall be determined by CAS and billed to Client monthly. Alternatively, if so agreed by the Parties, CAS may deduct payment for monthly service charges from the bank account maintained by Client. Client shall make payment to CAS within ten (10) business days of receipt of notice of the amount due, or such amount will automatically be deducted from the bank account maintained by Client.

8.2 HSA Fees

<u>1.</u>	<u>Annual Fee</u>	<u>Included in FSA Addendum</u>
<u>2.</u>	<u>Monthly Service Charges</u>	<u>\$2.00 Per Participant Per Month</u>

Services Included: Client is responsible for all legal requirements and administrative obligations with regard to the Plan except for the following administrative duties (to be performed by CAS):


1. CAS shall make available (by electronic medium and paper copy) enrollment and reimbursement forms and instructions for filing Participant claims. Upon payment of additional fees, CAS shall make available other HSA documents.
2. Upon receiving instructions from Client with regard to a Participant's change in status or other event that permits an election change under IRS regulations, CAS shall make the requested change in the Participant's election as soon as practicable, within two (2) business days.
3. CAS shall make initial decisions with regard to Participant claims and disburse any benefit payments that it determines to be due within five (5) business days of the day on which CAS receives the claim. Benefit payments shall be made by check payable to the Participant. Accounts of terminated employees with less than \$20 will be closed.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

Marion County

Consolidated Admin Services, LLC

Signature: _____

Signature: 

Name: _____

Name: Carrie Stout

Title: _____

Title: President

Date: _____

Date: January 1, 2023

FSA/DCAP Addendum to Administration of Employee Benefits Agreement Between Consolidated Admin Services, LLC and Marion County

This FSA/DCAP ADDENDUM is attached to, and forms an integral part of, the **Administration of Employee Benefits Agreement** (the "**Agreement**"), dated January 1, 2023, between Consolidated Admin Services, LLC ("**CAS**"), and Marion County ("**Client**") (referred to collectively as the "**Parties**"). To the extent that any of the terms or conditions contained in this ADDENDUM may contradict or conflict with any of the terms or conditions of the attached Agreement, it is expressly understood and agreed that the terms of this ADDENDUM shall take precedence and supersede the attached Agreement.

The Parties agree as follows:

Section 1 – Definitions

"Code" means the Internal Revenue Code of 1986, as amended.

"DCAP" means the dependent care assistance program benefit offered to employees.

"Employee" means a person employed by Client.

"Electronic PHI" has the meaning assigned to such term under HIPAA. As used in this Agreement, the term "PHI", as defined below, shall include "Electronic PHI", unless clearly indicated otherwise.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"FSA" means the flexible spending account benefit offered to employees.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended.

"Named Fiduciary" means the named fiduciary as defined in ERISA §402(a)(1).

"PHI", which stands for "Protected Health Information," has the meaning assigned to such term under HIPAA. As used in this Agreement, the term "PHI" shall include "Electronic PHI", as defined above, unless clearly indicated otherwise.

"Plan" means the FSA or DCAP, as applicable.

"Plan Administrator" means the administrator as defined in ERISA §3(16)(A).

Section 2 – Scope of Services

Client has sole and final authority to control and manage the operation of the Plan. CAS is and shall remain an independent contractor with respect to the services being performed hereunder (the "Services") and shall not for any purpose be deemed an employee of Client. Nor shall CAS and Client be deemed partners, engaged in a joint venture or governed by any legal relationship other than that of independent contractor. CAS does not assume any responsibility for the general policy design of the Plan, the adequacy of its funding, or any act or omission or breach of duty by Client. Nor is CAS in any way to be deemed an insurer, underwriter, or guarantor with

respect to any benefits payable under the Plan. CAS generally provides reimbursement services only and does not assume any financial risk or obligation with respect to claims for benefits payable by Client under the Plan. Nothing herein shall be deemed to constitute CAS as a party to the Plan or to confer upon CAS any authority or control respecting management of the Plan, authority or responsibility in connection with administration of the Plan, or responsibility for the terms or validity of the Plan. Nothing in this Agreement shall be deemed to impose upon CAS any obligation to any Employee of Client or any person who is participating in the Plan (“Participant”).

Section 3 – Information to Be Furnished to CAS

Client shall furnish information requested by CAS as CAS determines necessary to perform CAS's functions hereunder, including information concerning the Plan and the eligibility of Employees to participate in and receive Plan benefits. Such information shall be provided to CAS in the time and in the manner agreed to by Client and CAS. CAS shall not be responsible for benefits paid in error due to Client's failure to timely update necessary information. From time to time thereafter, but no more frequently than monthly, CAS shall provide Client with updated reports summarizing the eligibility data provided by Client (the “**Eligibility Reports**”) by electronic medium unless otherwise agreed by the Parties. The Eligibility Reports shall specify the effective date for each Participant who is added to or terminated from participation in the Plan. Client shall be responsible for ensuring the accuracy of its Eligibility Reports, and bears the burden of proof in any dispute with CAS relating to the accuracy of any Eligibility Report. CAS shall have no liability to Client or any Participant as a consequence of an inaccurate Eligibility Report and CAS shall not have any obligation to credit Client for any claims expenses or administrative fees incurred or paid to CAS as a consequence of Client failing to review Eligibility Reports for accuracy. CAS shall assume that all such information is complete and accurate and is under no duty to question the completeness or accuracy of such information. Such Eligibility Reports shall be considered PHI and, when transmitted by or maintained in electronic media shall be considered Electronic PHI, and subject to the privacy and security rules under HIPAA and this Agreement.

All information required under this Agreement will be provided in such format and at such intervals as is reasonably required by, and acceptable to, the Parties. In the event the Client fails to provide CAS with accurate information required for CAS to provide the services to be rendered herein, on a timely basis, Client agrees to indemnify, hold harmless, and defend CAS from and against any and all liabilities, losses, damages, claims, lawsuits, causes of action, costs and expenses that may be incurred by CAS in connection with the failure of the Client to provide CAS with accurate information on a timely basis necessary to carry out its obligations under this Agreement, provided that CAS's action or failure to act in response to such lack of notice was not malicious or grossly negligent. Client further agrees to inform CAS of any changes to the benefit plan at any time to ensure proper billing.

Section 4 – Client's Covenants

General. Client has the sole authority and responsibility for the Plan and their operation, including the authority and responsibility for administering, construing and interpreting the provisions of the Plan and making all determinations thereunder. Client gives CAS the authority to act on behalf of Client in connection with the Plan, but only as expressly stated in this Agreement or as mutually agreed in writing by the Parties. All final determinations as to a Participant's entitlement to Plan benefits are to be made by Client, including any determination

upon appeal of a denied claim for Plan benefits. Client is considered the Plan Administrator and Named Fiduciary of the Plan benefits for purposes of ERISA.

Responsibilities. Without limiting Client's responsibilities described herein, it shall be Client's sole responsibility (as Plan Administrator) and duty to: ensure compliance with all applicable laws related to FSA and DCAP benefits; perform required nondiscrimination testing; amend the Plan as necessary to ensure ongoing compliance with applicable law; file any required tax or governmental returns (including Form 5500 returns) relating to the Plan; determine if and when a valid election change has occurred; handle Participant claim appeals; execute and retain required Plan and claims documentation; and take all other steps necessary to maintain and operate the Plan in compliance with applicable provisions of the Plans, ERISA, HIPAA, the Code and other applicable federal and state laws.

Plan Documents. Client is responsible for the Plan's compliance with all applicable federal and state laws and regulations and shall provide CAS with all relevant documents, including but not limited to, the Plan documents and any Plan amendments. Client will notify CAS of any changes to the Plan at least thirty (30) days before the effective date of such changes. Client acknowledges that CAS is not providing tax or legal advice and that Client shall be solely responsible for determining the legal and tax status of the Plan.

Liability for Claims. Client is responsible for payment of claims made pursuant to, and the benefits to be provided by, the Plan. CAS does not insure or underwrite the liability of Client under the Plan. Except for expenses specifically assumed by CAS in this Agreement, Client is responsible for all expenses incident to the Plan.

Medical Records. Client shall, if required by law or regulation, notify each Participant and provide each Participant with an opportunity to opt out (if required) or obtain from each Participant such written authorization for release of any personal financial records and medical records in accordance with applicable state and federal law (including the Gramm-Leach-Bliley Act) to permit Client and/or CAS to perform their obligations under this Agreement.

Section 5 – CAS's Covenants

Benefits Payment. CAS shall, on behalf of Client, operate under the express terms of this Agreement and the Plan. CAS shall initially determine if persons covered by the Plan (as described in the Eligibility Reports) are entitled to benefits under the Plan and shall pay Plan benefits in its usual and customary manner, to Participants, or their Beneficiaries as set forth in this Agreement. CAS shall have no duty or obligation with respect to claims incurred prior to the Effective Date ("Prior Reimbursement Requests"), if any, and/or Plan(s) administration (or other) services arising prior to the Effective Date ("Prior Administration"), if any, regardless of whether such services were/are to be performed prior to or after the Effective Date. Client agrees that: (a) CAS has no responsibility or obligation with respect to Prior Reimbursement Requests and/or Prior Administration; (b) Client will be responsible for processing Prior Reimbursement Requests and maintaining legally required records of all Prior Reimbursement Requests and Prior Administration sufficient to comply with applicable legal (e.g., IRS substantiation) requirements; and (c) Client shall indemnify and hold CAS harmless for any liability relating to Prior Reimbursement Requests and/or Prior Administration. The above provisions and any other contractual references to indemnification notwithstanding, the Parties agree that Client shall not be required to indemnify, hold harmless or reimburse CAS except as expressly allowed by the laws of the State of Arkansas.

Parties agree to take all reasonable precautions to avoid creating any third-party claim or liability under or in connection with this Agreement. In the event either Party fails to protect against such claims, then that Party agrees to fully cooperate with the other Party in the defense of any legal action brought by such third-party. The aforesaid shall not be construed to constitute a waiver of Client's statutory tort immunity or create any debt obligation not authorized by the laws or Constitution of the State of Arkansas.

Reporting. Each month via electronic medium (unless otherwise agreed by the Parties), CAS shall make available to Client a master report showing the payment history and status of Participant claims and the amounts and transactions of Participant accounts during the preceding month. For purposes of Client's Plan, Client must provide certification that the Plan document requires the Client to comply with applicable privacy and security rules under HIPAA before CAS will make available the reports provided for in this Section to Client. CAS shall also make available to Participants each month via electronic medium a report showing their individual payment history and status of claims and the amounts and transactions in their individual accounts during the preceding month. For purposes of Client's Plan, Client is responsible for ensuring that any Beneficiary of the Participant for whom a claim has been submitted to the FSA has agreed to the disclosure of his or her PHI to the Participant, if required by the HIPAA privacy rule.

Claim Appeals. CAS shall refer to Client or its designee, for final determination, any claim for benefits or coverage that is appealed after initial rejection by CAS or any class of claims that Client may specify, including: (a) any question of eligibility or entitlement of the claimant for coverage under the Plan; (b) any question with respect to the amount due; or (c) any other appeal.

Recordkeeping. CAS shall maintain, during the Term, the usual and customary books, records and documents, including electronic records, relating to the Plan and its Participants, which CAS has prepared or that have otherwise come within its possession. These books, records, and documents, including electronic records, are the property of Client, and Client has the right of continuing access to them during normal business hours at CAS' offices with reasonable prior notice. If this Agreement terminates or expires, CAS shall deliver, at Client's request, all such books, records, and documents (whether printed or electronic) to Client, subject to CAS' right to retain copies of any records it deems appropriate. Client shall be required to pay CAS reasonable charges for transportation or duplication of such records. Provided, however, that upon termination or expiration of this Agreement, CAS must return to Client all PHI (whether electronic or printed), including PHI that is in the possession of CAS's subcontractors or agents, and thereafter destroy and not maintain any copies thereof in CAS's own records, or in the records of CAS's subcontractors or agents.

Standard of Care; Erroneous Payment. CAS shall use reasonable care and due diligence in the exercise of its powers and the performance of its duties under this Agreement. If CAS makes any payment under this Agreement to an ineligible person, or if more than the correct amount is paid, CAS shall make a diligent effort to recover any payment made to or on behalf of an ineligible person or any overpayment. However, CAS will not be liable for such payment, unless CAS would otherwise be liable under another provision of this Agreement.

Notices to Client. CAS shall provide to Client all notices (including any required opt-out notice) reflecting its privacy policies and practices as required by state and/or federal law (including the Gramm-Leach-Bliley Act).

Section 6 – HIPAA

Privacy. CAS shall provide a notice of privacy practices under HIPAA, as well as any subsequent changes to such notices. The FSA plan document includes the HIPAA privacy rule to permit disclosures of any PHI to Client for plan administration purposes. Copies of any authorizations of Participants or Beneficiaries to use or disclose any and all PHI (and any later changes to or revocations of such authorizations); notice of any restrictions on the use or disclosure of PHI that Client agrees to under the HIPAA privacy rule; and notice of any requests that communications be sent to a Participant or Beneficiary by an alternative means or at an alternative location that Client agrees to under the HIPAA privacy rule. Client shall not request CAS to use or disclose PHI in any manner that would not be permissible under the HIPAA privacy rule if done by Client, except that CAS may use or disclose PHI for purposes of data aggregation and the management and administrative activities of CAS, as provided in the Agreement.

CAS's General Responsibilities.

1. CAS agrees not to use or further disclose PHI other than as permitted or required by this Agreement or as required by law.
2. CAS agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement.
3. CAS agrees to mitigate, to the extent practicable, any harmful effect that is known to CAS of a use or disclosure of PHI by CAS in violation of the terms of this Agreement.
4. CAS agrees to report to Client any use or disclosure of PHI not provided for by this Agreement.
5. CAS agrees to ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by CAS on behalf of Client, agrees to the same restrictions and conditions that apply throughout this Agreement to CAS with respect to such information.
6. CAS agrees to provide access, at the request of Client, and in the time and manner designated by Client, to PHI in a Designated Record Set, to Client or, as directed by Client, to an Individual, in order to meet the requirements of 45 C.F.R. §164.524 .
7. CAS agrees to make any amendment(s) to PHI in a Designated Record Set that Client directs or agrees to pursuant to 45 C.F.R. §164.526 at the request of Client or an Individual, and in the time and manner designated by Client.
8. CAS agrees to make internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by CAS on behalf of Client available to Client, or at the request of Client, to the Secretary, in the time and manner designated by Client or the Secretary, for purposes of the Secretary determining Client's compliance with the HIPAA privacy rule.
9. CAS agrees to document such disclosures of PHI and information related to such disclosures as would be required for Client to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528.
10. CAS agrees to provide to Client or an Individual, in the time and manner designated by Client, information collected in accordance with Section 3.11(a)(9) to permit Client to respond to a request by an Employee for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528.
11. In the event that CAS conducts Standard Transactions with or on behalf of the FSA, CAS will comply with the requirements in 45 C.F.R Part 162. CAS will

- require any subcontractor or agent involved with the conduct of such Standard Transactions to comply with each applicable requirement of 45 C.F.R. Part 162.
12. CAS agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that CAS creates, receives, maintains, or transmits on behalf the Client.
 13. CAS agrees to ensure that any agent, including a subcontractor, to whom it provides PHI created, received, maintained, or transmitted on behalf of the Client, agrees to implement reasonable and appropriate safeguards to protect such PHI.
 14. CAS agrees to report to Client the aggregate number of unsuccessful, unauthorized attempts to access, use, disclose, modify, or destroy Electronic PHI or to interfere with system operations in an information system containing Electronic PHI, including pings. Such reports will be provided once per month, on or before the 10th calendar day of such month. CAS will report to Client any successful unauthorized access, use, disclosure, modification, or destruction of PHI or any successful interference with system operations in an information system containing PHI, in writing, as soon as feasible.

Permitted Used and Disclosures. CAS may use and disclose any PHI on behalf of, or to provide services to Client, as specified in this Agreement; for the proper management and administration of CAS; to carry out the legal responsibilities of CAS; and to provide data aggregation services to Client. Notwithstanding the foregoing, such use and disclosure of PHI may not violate the HIPAA privacy rule.

Amendment to Comply with Privacy and Security Laws. CAS agrees to amend this Section as necessary to comply with the requirements of the privacy and security rules under state and federal law.

Termination of the Agreement. CAS agrees to termination of this Agreement by Client if the terms of this Section are violated. In addition, at termination or expiration of this Agreement, CAS agrees to return and destroy any and all PHI in any form received by CAS under this Agreement and, to the extent that it is not feasible, to continue to limit the further uses and disclosures of that information as provided by this Section.

Section 7 – Exclusive Responsibility for Operation of Plan

For purposes of this Agreement, Client has the sole and exclusive authority and responsibility for Client's Plan, its provision of benefits, and its operation. CAS is empowered to act solely as agent for, and on behalf of, the Client and only as expressly stated in this Agreement.

Client authorizes CAS to pay Plan benefits by draft payment or debit on a bank account established and maintained by Client for the payment of Plan benefits. Each week or at such other interval as mutually agreed upon, CAS will notify Client of the amount needed to pay approved benefit claims and Client shall pay or transfer into the bank account the amount needed for the payment of Plan benefits or authorizes CAS to transfer funds according to EFT agreement. Client shall enter into such agreements and provide instructions to its bank as are necessary. CAS shall have authority to provide whatever notifications, instructions, or directions as may be necessary to accomplish the disbursement of such Plan funds to or on behalf of Participants in payment of approved claims.

Funding for any payment on behalf of the Participants under the Plan, including but not limited to, all benefits to Participants in accordance with the Plan, is the sole responsibility of Client, and

Client agrees to accept liability for, and provide sufficient funds to satisfy, all payments to Participants under the Plan, including claims for reimbursement for covered expenses, if such expenses are incurred and the claim is presented for payment during the Term.

Section 8 – Fees

Billing of Charges. All service charges of CAS, whether provided for in this or any other Section, shall be billed separately from statements for payment of claims so that proper accounting can be made by Client of the respective amounts paid for claims and for administrative expenses.

Payment of Charges. All charges under this Agreement shall be determined by CAS and billed to Client monthly. Alternatively, if so agreed by the Parties, CAS may deduct payment for monthly service charges from the bank account maintained by Client. Client shall make payment to CAS within fifteen (15) business days of receipt of notice of the amount due, or such amount will automatically be deducted from the bank account maintained by Client.

8.2 FSA DECAP Fees

<u>1.</u>	<u>Annual Fee</u>	<u>\$300.00</u>
<u>2.</u>	<u>Monthly Service Charges FSA</u>	<u>\$3.00 Per Participant Per Month</u>
<u>3.</u>	<u>Monthly Service Charges Commuter</u>	<u>\$3.00 Per Participant Per Month</u>

Services Included: Client is responsible for all legal requirements and administrative obligations with regard to the FSA and DCAP except for the following administrative duties (to be performed by CAS):

1. CAS shall make available (by electronic medium and paper copy) enrollment and reimbursement forms and instructions for filing Participant claims. Upon payment of additional fees, CAS shall make available other FSA documents.
2. Upon receiving instructions from Client with regard to a Participant's change in status or other event that permits an election change under IRS regulations, CAS shall make the requested change in the Participant's election as soon as practicable, within two (2) business days.
3. CAS shall prepare the information necessary to enable Client to satisfy its Form 5500 filing obligation with regard to the FSA. Client shall be responsible for reviewing the information provided by CAS to ensure its accuracy, and, unless otherwise agreed by the Parties in writing, Client shall prepare and submit any Form 5500.
4. CAS shall assist Client in preparing preliminary, and final nondiscrimination tests for the FSA.
5. CAS shall make initial decisions with regard to Participant claims and disburse any benefit payments that it determines to be due within five (5) business days of the day on which CAS receives the claim. Benefit payments shall be made by check payable to the Participant. If the amount of the claim exceeds the amount the Participant has had withheld to date, CAS will contact Client to make available such excess amount. CAS shall notify Participants with regard to any claims that are denied due to inadequate substantiation or data submission and provide an adequate period of time for the Participant to resubmit the claim. CAS shall follow the requirements of ERISA with regard to denial of claims.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

Marion County

Consolidated Admin Services, LLC

Signature:

Signature:



Name:

Name: Carrie Stout

Title:

Title: President

Date:

Date: January 1, 2023

**COBRA & Retiree Billing Addendum to Administration of Employee
Benefits Agreement
Between Consolidated Admin Services, LLC and Marion County**

This COBRA & Retiree Billing addendum is attached to, and forms an integral part of, the **Administration of Employee Benefits Agreement** (the "**Agreement**"), dated January 1, 2023, between Consolidated Admin Services, LLC ("**CAS**"), and Marion County ("**Client**") (referred to collectively as the "**Parties**"). To the extent that any of the terms or conditions contained in this ADDENDUM may contradict or conflict with any of the terms or conditions of the attached Agreement, it is expressly understood and agreed that the terms of this addendum shall take precedence and supersede the attached Agreement.

The Parties agree as follows:

Section 1 – Definitions

“COBRA” means Consolidated Omnibus Budget Reconciliation Act of 1985.

“Continuation Coverage” means the coverages following a Qualifying Event provided to a Qualified Beneficiary as required by COBRA.

“Continuation Coverage Period” means the period commencing on the date of a Qualifying Event and continuing for the maximum period specified in COBRA.

“Plan Administrator” means the administrator as defined in the Employee Retirement Income Security Act of 1974 (ERISA) in §3(16)(A).

“Qualified Beneficiary” shall have the meaning attributed to that term under the Consolidated Omnibus Budget Reconciliation Act of 1985.

“Qualifying Event” shall have the meaning attributed to that term under the Consolidated Omnibus Budget Reconciliation Act of 1985.

Section 2 – Information to Be Furnished to CAS

During the Term of this Agreement, Client will furnish CAS with the information necessary to provide the Services, including, but not limited to:

- (a) An up to date census of employees and coverages.
- (b) The names of all Qualified Beneficiaries eligible to elect Continuation Coverage, as well as the Qualifying Event date and the type of event (i.e., termination), Employee census information including the coverage that the Employee had at the time of the Qualifying Event, and dependent information for all dependents covered under the Employee's Plan at the time of the Qualifying Event.
- (c) Mailing addresses and any other information necessary to enable CAS to perform the Services under this Agreement;
- (d) Information concerning any violations of COBRA known to Client immediately upon acquiring such information.

All information required under this Section will be provided in such format and at such intervals as is reasonably required by, and acceptable to, the Parties. In the event the Client fails to provide CAS with accurate information required for CAS to provide the services to be rendered herein, on a timely basis, Client agrees to indemnify, hold harmless, and defend CAS from and against any and all liabilities, losses, damages, claims, lawsuits, causes of action, costs and expenses that may be incurred by CAS in connection with the failure of the Client to provide CAS with accurate information on a timely basis necessary to carry out its obligations under this Agreement, provided that CAS's action or failure to act in response to such lack of notice was not malicious or grossly negligent. Client further agrees to inform CAS of any changes to the benefit plan at any time to ensure proper billing.

Section 3 – Premiums and Grace Periods

Client will determine the cost to the Plan for Continuation Coverage and establish the premium to be charged to Qualified Beneficiaries. Client will also establish the length of the grace period within which a Qualified Beneficiary may pay premiums for Continuation Coverage without the loss of such coverage.

Section 4 – Collection of Due and Unpaid Premiums

Client will be responsible for collection of due and unpaid premiums owed by Qualified Beneficiaries to whom Continuation Coverage was provided and who did not remit premiums for such Continuation Coverage. All efforts to collect such amounts will be the sole responsibility of Client.

Section 5 – Client's Covenants

Client shall:

- (a) advise CAS of newly hired and changes in enrollment of active employees within (30) days of changes.
- (b) advise CAS of the following events within thirty (30) days of the qualifying event date or the last date of coverage, whichever is later, of said event(s):
 - (1) Death of a covered employee;
 - (2) Termination of a covered employee (for reasons other than gross misconduct) or reduction in the employee's hours. The Client shall be solely responsible for determining whether or not the employee has been terminated for gross misconduct, as that term is defined by COBRA or applicable state continuation of coverage requirements.
- (c) determine whether a Qualifying Event has occurred.
- (d) determine who is eligible to receive COBRA coverage.
- (e) work directly with the insurance carrier to reinstate the employee's insurance and hold CAS harmless in the event Client fails to reinstate coverage.

Section 6 – CAS's Covenants

With respect to every Plan, CAS shall administer the applicable continuation of benefits requirements of COBRA or State Continuation of Coverage regulations. CAS shall provide such services in a manner which complies with the requirements of applicable benefits continuation laws. CAS shall not, for any purpose, be deemed to be a "Fiduciary" (as defined in ERISA or the Internal Revenue Code) of the Plan or the sponsor of the Plan. The sole function of CAS is to

provide administration services and Client agrees that CAS shall have no liability for the funding of participant premiums. Specifically, CAS shall provide the following services with respect to each Plan according to applicable law:

6.1 General COBRA Notification. If Client notifies CAS of a new hire event and CAS is informed in a timely matter of the event, CAS shall provide the COBRA General Notice to inform newly hired employee(s) of their rights under COBRA.

6.2 Election Notices. When a qualifying event occurs, and CAS is informed in a timely matter, CAS shall advise qualified beneficiaries in writing of their rights under current laws and regulations relative to continued coverage under the Client's group health plan(s).

6.3 Initial Election Period. CAS shall track the time frame described by applicable law within which a Qualified Beneficiary must elect continuation coverage.

6.4 Forms. CAS shall provide Client with forms to be used to notify CAS of Qualifying Events.

6.5 Open Enrollment Notices. CAS shall notify Qualified Beneficiaries as required in the event that their continuation options are modified as a result of an open enrollment process of the Client.

6.6 Intent to Cancel Notices. In the event that a Qualified Beneficiary fails to remit a required premium payment by its due date, CAS shall notify the Qualified Beneficiary of his or her failure to remit, the consequences of such failure, and the final date by which payment must be received in order to continue his or her COBRA coverage. CAS will notify client of termination so that client can terminate from insurance carrier billing.

6.7 Service Telephone Line. CAS shall maintain a telephone number and a staff of service representatives to assist Client and Qualified Beneficiaries in determining their responsibilities, rights, and current status under applicable law during CAS normal business hours.

6.8 COBRA Coupons. CAS shall send COBRA coupons to Qualified Beneficiaries who have elected to use Continuation Coverage.

Section 7 – Maintenance of Roster of Qualified Beneficiaries

CAS will, if requested by Client, establish, maintain, and update a roster containing the names of all former Employees who elect Continuation Coverage under the Plan and provide such roster to Client on a requested basis.

Section 8 – Deposit of Premium Payment

Upon receipt of premium payments from Qualified Beneficiaries for Continuation Coverage, CAS will deposit such amounts in an account established by CAS, until such amounts are required to be remitted to the applicable Client and/or carrier. CAS will maintain and render accounting of the premiums received from Qualified Beneficiaries for Continuation Coverage, and remit the amounts collected to Client or carriers at such times and in such manner as shall be agreed upon by CAS and Client, but not more frequently than monthly.

Section 9 – Exclusive Responsibility for Operation of Plan

For purposes of this Agreement, Client has the sole and exclusive authority and responsibility for Client’s COBRA Plan, its provision of benefits, and its operation. CAS is empowered to act solely as agent for, and on behalf of, the Client and only as expressly stated in this Agreement.

Section 10 – Service Fees

10.1 COBRA Administration Fee

CAS will retain the 2% COBRA Administration fee paid by the Qualified Beneficiary and the 50% (after the initial 18-month continuation period has expired) payable during a period of disability extension.

10.2 COBRA Fees

<u>1.</u>	<u>Annual Fee</u>	<u>Included in FSA Addendum</u>
<u>2.</u>	<u>Per Benefit Eligible Employee Per Month Fee</u>	<u>\$0.35</u>
<u>3.</u>	<u>Retiree Billing Per Retiree</u>	<u>\$2.00</u>

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first above written.

Marion County

Consolidated Admin Services, LLC

Signature: _____

Signature: 

Name: _____

Name: Carrie Stout

Title: _____

Title: President

Date: _____

Date: January 1, 2023