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# MEMO

APPROVED  
3/20/2023



DATE: March 8, 2023

FROM: Lisa L. Moore  
Assistant Procurement Director

A handwritten signature in black ink, appearing to read "Lisa L. Moore".

TO: Board of County Commissioners

SUBJECT: Agreement – Consolidated Admin Services & Bank of Oklahoma

Submitted for your approval and execution is the attached agreement between the Board of County Commissioners on behalf of Tulsa County Human Resources Department, Consolidated Admin Services (CAS) and Bank of Oklahoma for administrative services pertaining to Tulsa County Employee Benefits Plan through December 31, 2023. Annual administration fees of \$250.00 for post-employment health shall be paid to CAS with a monthly ongoing administration fee of \$4.00 per participant per month as further described in the attached.

Respectfully submitted for your approval and execution.

LLM / dcc

SUBMITTED FOR: The March 20, 2023 BOCC meeting agenda.

CME# 20230375

**Consolidated Admin Services, LLC  
Administrative Services Agreement**

This Administrative Services Agreement (the "Agreement") is entered into the date last signed below, by and between **Consolidated Admin Services, LLC**, an Arkansas Limited Liability Company ("CAS") and **BOKF, NA dba Bank of Oklahoma** ("Trustee"), as Plan Trustee of a self-funded employee benefits plan (the "Plan") and consented to by **Tulsa County** ("Employer").

**ARTICLE I.  
SERVICES AND TERM**

- 1.1 Provision of Services. Subject to the terms and conditions of this Agreement, for the term of this Agreement, CAS shall provide to Trustee, and Trustee shall purchase from CAS, the Services as set forth in this Agreement and any Exhibits attached hereto.
- 1.2 Term. The initial term of this Agreement shall be for a period of one (1) year commencing on January 1, 2023 (the "Effective Date") and ending on December 31, 2023. This Agreement may be renewed by written agreement of the parties upon the same terms and conditions.
- 1.3 Scope of Undertaking. Trustee and Employer have authority to control and manage operation of the Plan. CAS is and shall remain an independent contractor with respect to the services being performed hereunder and shall not for any purpose be deemed an employee of Trustee. CAS and Trustee shall not be deemed partners, engaged in a joint venture or governed by any legal relationship other than that of independent contractors. CAS does not assume any responsibility for the general design of the Plan, the adequacy of funding required by the Plan, or any act or omission or breach of duty by Trustee. CAS shall not in any way be deemed to be an insurer, underwriter, or guarantor with respect to any benefits payable under the Plan. CAS provides claims administration services only and does not assume any financial risk or obligation with respect to claims for benefits payable by Trustee 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 Employer or any person who is participating in the Plan.

**ARTICLE II.  
CAS OBLIGATIONS**

- 2.1 CAS Obligations. CAS's sole responsibilities to Trustee shall be limited to those described in this Agreement and any Exhibits attached hereto. As of the Effective Date, CAS shall:
  - (a) Provide the Administrative Claims Processing Services to Trustee in accordance with Exhibit "B" attached hereto and incorporated herein by reference.

- (b) Maintain books and records of all transactions subject to this Agreement and between Trustee and Enrollees in accordance with standards of record keeping customary in the health and welfare benefits administration industry. CAS acknowledges that the appropriate regulatory authority has the right to inspect all records and books that are maintained by CAS in accordance with this Agreement.
  - (c) Maintain all licenses and permits required by applicable federal, state and local statutes and regulations to carry out its obligations under this Agreement. CAS represents and warrants that it is and will remain during the term of this Agreement in compliance with applicable state and federal laws.
- 2.2 Reliance on Instructions and Plan Documents. CAS may rely upon any written instructions or information relating to CAS's performance of Services provided to CAS by Trustee or Trustee's designated representatives, and reasonably believed by CAS to be genuine and authorized by Trustee. CAS may rely on, and is under no obligation to investigate the accuracy or completeness of the information in the Plan Documents provided by Trustee pursuant to Section 3.1. CAS shall incur no liability resulting from CAS's reasonable reliance on such instructions or information.
- 2.3 Standard of Care. CAS shall use reasonable care and due diligence in the exercise of its powers in 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 such payment made to or on behalf of an ineligible person or any overpayment. However, in no event shall CAS be liable to Trustee or any third party for such overpayment or payment error, unless CAS would otherwise be liable under another provision of this Agreement.
- 2.4 Non-Discretionary Duties. CAS and Trustee agree that the duties to be performed by CAS hereunder are non-discretionary duties. CAS will assist in the coordination of services by certain vendors to Employer's plan at the request of Trustee, provided that, unless otherwise agreed upon in writing, CAS shall not be liable for payment to such vendors or for the acts or omissions of such vendors. CAS and Trustee may also agree to additional duties in writing as may be specified in any Exhibits and/or amendments from time to time.

### **ARTICLE III. TRUSTEE OBLIGATIONS**

- 3.1 Trustee Obligations. To enable CAS to perform its obligations under this Agreement, Trustee agrees to the following:
- (a) Trustee Responsibilities. Trustee and Employer have authority and responsibility for the Plan and its operation, including the authority and responsibility for administering, construing, and interpreting the provisions of the Plan and making determinations thereunder. Trustee gives CAS the authority to act on behalf of Trustee in connection with the Plan, but only as expressly stated in this Agreement or as mutually agreed upon in writing between Trustee and CAS. All final determinations as to an Enrollee's entitlement to Plan benefits are to be made by Employer, including any determination upon appeal of a denied claim for Plan benefits.

- (b) Information to CAS. Trustee shall furnish to CAS all information necessary for CAS to perform its functions hereunder, including information concerning the Plan and the eligibility of individuals to participate in and receive Plan benefits. CAS shall have no responsibility with regard to benefits paid in error due to Trustee's failure to timely update any information required to be furnished pursuant to this Section. Additionally, should Trustee fail to provide CAS with any information necessary in order for CAS to comply with applicable federal and/or state law reporting requirements, Trustee shall be solely responsible for payment of any monetary penalties assessed against CAS as a result thereof.
- (c) Plan Documents. Trustee and Employer are responsible for the Plan's compliance with all applicable federal and state laws and regulations and Trustee shall furnish written notification to CAS with complete and accurate copies of the current Plan Documents, as well as any Plan Amendments, at least sixty (60) days before the effective date of such changes. Trustee acknowledges that CAS is not providing tax or legal advice and that Trustee and Employer shall be responsible for determining the legal and tax status of the Plan.
- (d) Licenses. Trustee shall maintain and file all licenses, permits, reports and disclosures and maintain the Plan in compliance with and as required by applicable federal, state, and local statutes and regulations.
- (e) Retroactive Plan Changes. Trustee shall provide CAS with sixty (60) days prior written notice for any plan amendments. In the event Trustee fails to provide notice to CAS within this timeframe, or in the event Trustee desires to make retroactive amendments to the Plan, Trustee shall be responsible for all fees and expenses incurred by CAS in the correction of any claims impacted by such amendment(s).
- (f) Trustee shall perform any other administrative functions not expressly assumed by CAS hereunder.

3.2 Final Authority. Trustee shall have all discretionary authority and control over the management and disposition of Plan assets to the exclusion of CAS. CAS shall not exercise any authority or control with respect to the management or disposition of the assets of the Plan. CAS shall have no responsibility or liability with respect to (i) any funding of Plan Benefits, (ii) any insurance coverage pertaining to the Plan, Enrollees, or Employer, or (iii) the nature or quality of professional health services rendered to Enrollees.

3.3 Banking Arrangements. Trustee shall provide sufficient funds to cover all of its obligations under the Plan, and CAS has no duty or obligation, legal or otherwise, to make such payments should Trustee fail to provide such funding. Trustee specifically authorizes CAS to issue claims payment via check, electronic transfer, and/or any other valid form of payment on a bank account established and maintained in the name of the Plan. At an interval to be mutually agreed upon, CAS shall notify Trustee of the amount needed to pay approved benefit claims and Trustee shall transfer or authorize payment from the bank account in order to fund Plan benefits. Trustee shall enter into such agreements and provide instructions to its bank, if necessary, in order to implement this Section 3.3. CAS shall have sole authority to provide whatever notifications,

instructions, or directions as may be necessary to accomplish the disbursement of such funds to or on behalf of Enrollees in payment of approved claims.

- 3.4 Funding of Benefits. Funding for any payment on behalf of Enrollees under the Plan, including but not limited to, all benefits to Enrollees in accordance with the Plan, is the sole responsibility of Employer and Trustee, and Trustee and Employer agree to accept liability for, and provide sufficient funds to satisfy, all payment to Enrollees under the Plan, including claims for reimbursement of covered expenses, if such expenses are incurred and the claim is presented for payment during the term of this Agreement.
- 3.5 Payment Methods. Trustee agrees that CAS may subcontract with qualified entities for purposes of issuing claims payments to providers and/or facilities via check, electronic transfer, or any other valid form of payment, as determined by CAS in its reasonable discretion. Trustee agrees to provide CAS with its reasonable cooperation to allow CAS to implement various payment platforms for Trustee's Plan(s), including providing CAS with any reasonable documentation necessary to implement these services. Trustee acknowledges that CAS may receive certain financial incentives as a result of such arrangements based upon the aggregate amount of claim dollars processed through CAS qualified entities. Notwithstanding, CAS and Trustee agree that participation incentives are not specific to Employer's Plan(s), and will not directly impact Employer's Plan costs or expenses in any way.

#### **ARTICLE IV. PAYMENTS TO CAS**

- 4.1 CAS Services Charges. The monthly administrative service charges payable to CAS are described in the Exhibit "A" attached hereto. Trustee shall pay CAS for all Services provided under this Agreement consistent with the terms of Exhibit "A". Except as otherwise provided in Exhibit "A," CAS shall invoice Trustee on or before the twenty-fifth (25<sup>th</sup>) day of each month for CAS administrative service charges incurred for the month immediately following the invoiced date. Trustee shall make payment to CAS no later than ten (10) business days after the invoice date. Trustee agrees to pay the invoiced amount in full and any subsequent adjustments shall be reflected in the next billing cycle. Should Trustee fail to make payment to CAS within this time period, such amounts may, in CAS's sole discretion, be automatically deducted from the bank account maintained by Trustee pursuant to Article III. Trustee also acknowledges that failure to timely pay any invoiced amounts when due may result in automatic suspension of all services provided hereunder until all past due amounts are received by CAS. This includes, but is not limited to, retroactive reversal of discounts taken on Trustee's claims through any PPO network(s) associated and/or affiliated with CAS. Suspension of services for nonpayment may also extend to any subcontractors and/or vendors listed in Exhibit "A".

Notwithstanding any other remedies provided herein, any amount due pursuant to Exhibit "A" that is not timely paid shall thereafter bear interest until paid at a rate of interest equal to three percent (3%) per annum more than the prime rate established by Citibank N.A. of New York, or the maximum rate permitted by law, whichever is less.

- 4.2 Billing of Charges. As reasonably requested by Trustee, CAS shall provide to Trustee reasonable documentation and back-up to explain or detail its administrative service charges. When applicable, CAS shall have the right to audit the employment records of the Employer only as

necessary to verify the accuracy of the fee calculations. All charges contemplated by this Agreement, whether provided for in this or any other section or Exhibit, shall be included on Trustee's monthly statement. The charges shall be separately itemized; however, the statement shall be totaled as one amount for such billing month.

- 4.3 Fee Adjustments. Pursuant to Section 1.2, CAS's fees are guaranteed for the initial term of the Agreement. The fees payable to other vendors may be subject to change after the first twelve (12) months of the Agreement. Notwithstanding the foregoing, CAS shall have the right to adjust the fees set forth in Exhibit "A" if (i) the Plan or applicable federal and/or state law is amended to modify benefits in a manner that materially effects CAS's administrative duties, (ii) there is a material variation, of at least ten percent (10%), in participant enrollment or family coverage, or (iii) CAS's cost of operation is increased solely by virtue of increased postal charges. Said fee adjustment, if any, shall be limited to the amount of increased cost incurred by CAS due to any of the above listed changes.
- 4.4 Taxes and Miscellaneous Fees. Trustee shall pay, or reimburse CAS for the payment of, any taxes, however designed or levied, based upon any charges under this Agreement, or upon the Services provided under this Agreement, or their use, exclusive, however, of franchise taxes or income taxes based on income of CAS. In addition, Trustee shall be responsible for reimbursing CAS any fees associated with Trustee's failure to timely remit administrative fees and/or premium payments, including, but not limited to, expedite fees for late payment associated with Trustee's stop-loss policies and/or fees owed to other vendors.

#### **ARTICLE V. TRADEMARKS AND RELATED PROVISIONS**

- 5.1 Trademarks and Related Provisions.
- (a) The trademarks, service marks, trade names, and logos of CAS and its Affiliates are the property of CAS and its Affiliates, and Trustee and Employer have no right to use such marks, names, or logos unless authorized in writing by CAS.
  - (b) Trustee's and Employer's trademarks, service marks, trade names, and logos are the property of Trustee and Employer, respectively, and CAS and its Affiliates have no right to use such marks, names, or logos unless authorized in writing by Trustee or Employer, respectively.
  - (c) 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.

#### **ARTICLE VI. CONFIDENTIALITY; OWNERSHIP AND USE OF DATA**

## 6.1 Confidentiality.

- (a) Except as otherwise provided under the Open Records Act, both parties agree to keep all confidential materials and information of the other confidential. Neither party shall reproduce, disclose or disseminate the confidential information of the other party to third parties without the prior written consent of such other party. Upon termination of this Agreement for any reason, each party shall return all confidential information of the other party, including any copies thereof, to such other party upon the other party's written request. Notwithstanding the communication and dissemination of information necessary to provide the Services required by this Agreement, all records and other information pertaining to the Plan and its beneficiaries shall be treated as confidential information.
- (b) Notwithstanding the foregoing, Trustee acknowledges and agrees that CAS may disclose confidential information received by CAS pursuant to this Agreement if such disclosure is (a) compelled by any court decree, subpoena or other legal, administrative or regulatory order or process, or (b) in the opinion of its counsel, otherwise required by law, rule, or regulation, or necessary or appropriate in connection with any litigation or other proceeding to which CAS or its Affiliates is involved. To the extent practicable and not otherwise prohibited by law or any such order or process, CAS will use commercially reasonable efforts to notify Trustee prior to any proposed disclosure of confidential information hereunder.
- (c) Both parties agree to comply with terms and conditions of the Business Associate Agreement set forth in Exhibit "C" attached hereto and incorporated herein by reference.

## 6.2 Ownership and Use of Data.

- (a) CAS agrees that all books, records, lists of names, journals, ledgers and other recorded information developed specifically in connection with administration of the Plan shall always be and remain the property of Trustee. Trustee shall reasonably be entitled to access said records and Plan information for purposes of fulfilling its obligations to Plan Enrollees. Upon termination of this Agreement, CAS may deliver said records and Plan information, in original form or on electronic media, as determined by CAS in its sole discretion to Trustee or its designated agent. Records are shipped at cost to Trustee. Any special turnover reports at time of termination will be provided at an additional cost to the Trustee. CAS shall maintain copies of any records required by law following termination of this Agreement. (This provision shall not apply to such records that have been destroyed in the ordinary course of business or must be maintained by CAS as required by applicable third party administrator licensing laws.)
- (b) Trustee agrees that CAS is the sole owner of the following materials and that Trustee has no right to their use following termination of this Agreement, it being agreed that such materials were not prepared at the expense of Trustee:
  - i. claim processing and payment manuals;

- ii. administrative procedure manuals;
- iii. data processing system designs;
- iv. computer programs, software and equipment.

## **ARTICLE VII. TERMINATION**

- 7.1 Termination for Cause. If either party materially defaults in the performance of any of its obligations under this Agreement (except for a default in payments to CAS), which default shall not be substantially cured within thirty (30) days after written notice is given to the defaulting party specifying the default, then the party not in default may, by giving notice to the defaulting party, terminate this Agreement as of a date specified in such notice of termination. Notwithstanding the foregoing, with respect to material defaults (except for a default in payments to CAS) that cannot reasonably be cured within thirty (30) days, it shall not be a default under this Section if the defaulting party in good faith proceeds within thirty (30) days to commence curing said default and thereafter prosecutes with due diligence the curing of such default to conclusion.
- 7.2 Termination or Suspension for Nonpayment. In addition to any other remedies provided for in this Agreement, should Trustee (i) default in the payment when due of any amount due to CAS or (ii) fail to provide sufficient funds to cover all of its obligations under the Plan, CAS shall have the right upon written notice to suspend all services provided under this Agreement. Should Trustee fail to cure such payment or funding default(s) within ten (10) days after receipt of such notice (the "Cure Period"), CAS may, in its sole discretion, terminate this Agreement immediately and without additional notice upon expiration of the Cure Period.
- 7.3 Termination for Insolvency. If either party is declared insolvent or bankrupt in a legal proceeding, is the subject of any proceedings related to its liquidation, insolvency or for the appointment of a receiver, conservator or similar officer for it, makes an assignment for the benefit of all or substantially all of its creditors, or enters into an agreement for the composition, extension or readjustment of all or substantially all of its obligations, then all payment obligations under this Agreement shall be deemed to be administrative expenses of the bankrupt party. The liquidator, trustee, receiver, conservator, new owner, manager or other agent or representative shall have sixty (60) days to notify the other party that it is terminating this Agreement as of a date within such sixty (60) day period. If other party is not so notified, this Agreement shall not be terminated, but shall continue on all of the terms and conditions stated in this Agreement, including without limitation, the payment terms specified in Article IV.
- 7.4 Termination Obligations. Upon the expiration or termination of this Agreement for any reason, CAS shall have no further obligation to handle any pending claims to conclusion and Trustee shall immediately pay to CAS any payments due for services provided under this Agreement. Upon such payment, CAS shall turn over all pending claims and employee accumulations to Trustee or its designee.



**ARTICLE VIII.  
INDEMNITIES AND LIABILITIES**

8.1 Indemnity.

- (a) In performing its obligations under this Agreement, CAS neither insures nor underwrites the liability of the Trustee's Plan. CAS shall have no duty or obligation to defend against any legal action or proceeding brought to recover a claim for Plan benefits or any causes of actions for expenses or liabilities incident to the Plan. CAS shall, however, make available to Trustee and its counsel, such evidence relevant or related to such action or proceeding as CAS may have as a result of its administration of the contested benefit determination. CAS shall promptly notify in writing the Trustee or its designated legal counsel of any legal actions that involve the Plan or Trustee.
- (b) Except as otherwise explicitly provided in this Agreement, Trustee shall retain the responsibility for all Plan benefit claims and all expenses and liabilities incidental to the Plan and agrees to indemnify CAS for and hold it, its directors, officers, employees, affiliates and subsidiaries harmless from all amounts and expenses (including reasonable attorneys' fees and court costs) for which CAS may become liable resulting from Trustee's breach of this Agreement or arising out of any legal action or proceeding claiming a breach of fiduciary duty or claiming to recover benefits under the Plan.
- (c) CAS shall use reasonable care and diligence in the exercising of its powers and the performance of its duties as defined by this Agreement or written instructions submitted by Trustee or its designated representative. Furthermore, CAS agrees to indemnify Trustee and hold Trustee harmless against any and all amounts and expenses (including reasonable attorneys' fees and court costs) for which Trustee may become liable resulting from or arising out of negligent, fraudulent or criminal acts of CAS's employees, either acting alone or in collusion with others.
- (d) If any action, suit or other proceeding is commenced, or any claim or demand is asserted, relating to or in respect of which a party (an "Indemnatee") demands indemnification pursuant to this Section (each a "Claim"), the Indemnatee shall, with reasonable promptness, notify the party from which such indemnification is demanded (the "Indemnitor") of such Claim. Such notice shall describe the nature of such Claim in reasonable detail and include such written information that the Indemnatee has received with regard to the Claim as may be reasonably necessary for the Indemnitor to evaluate such Claim. The Indemnatee's failure to give such notice to the Indemnitor shall not relieve the Indemnitor from any of its or his obligations under this Agreement, except to the extent such failure materially and substantially prejudices the defense of the action or proceeding by the Indemnitor. The Indemnitor shall have the right to control the defense of any action, suit or other proceeding brought by a third party that constitutes a Claim (each a "Third Party Claim") with counsel approved by the Indemnatee, which approval shall not be unreasonably withheld, conditioned or delayed, all at the Indemnitor's sole cost and expense. The Indemnitor may not settle any such Third Party Claim without the Indemnatee's consent, which consent shall not be unreasonably withheld, conditioned or delayed (provided, however that Indemnitor shall not be required to consent to any admission of guilt or criminal wrongdoing as part of any

settlement), and the Indemnitee, at his or its sole cost and expense, may employ separate counsel and participate in the defense thereof. The Indemnitee and Indemnitor shall reasonably cooperate with each other in connection with each Third Party Claim.

- (e) Rights of indemnification under this Section 8.1 shall survive termination of this Agreement.

#### **ARTICLE IX: LIABILITY**

- 9.1 Limitation of Liability. The duties of CAS are limited to those specifically set forth in this Agreement. Notwithstanding anything in this Agreement to the contrary, if Trustee, Employer, or anyone claiming under or through Trustee or Employer should make any claim against CAS or its affiliates arising out of or related to this Agreement (including, without limitation, for breach of contract, breach of warranty, breach of any indemnity or any tort claim), CAS's liability will be limited to the actual direct damages caused by CAS's actions, not to exceed (in the aggregate for all claims), the amount that Trustee paid CAS for services rendered in the preceding twelve (12) months.
- 9.2 Liability for Damages. Neither party shall be liable to the other party for any special, indirect, incidental, exemplary, or consequential damages, including without limitation lost profits, business interruption, loss of use, or loss of information, regardless of whether such party was advised of the possibility of any of the foregoing.

#### **ARTICLE X. MISCELLANEOUS**

- 10.1 Subrogation and Recovery. As required by the Plan and mutually agreed upon by the Trustee and CAS, CAS may pursue rights of subrogation and recovery on behalf of Employer's Plan. CAS reserves the right to subcontract for the performance of these subrogation services. Trustee shall cooperate with CAS or any such subcontractor in the recovery effort.
- 10.2 Binding Nature and Assignment. This Agreement shall be binding on the parties and their respective successors and assigns. Notwithstanding subcontracting arrangements disclosed in this Agreement by CAS, neither party may assign its rights or delegate its rights or delegate its material obligations under this Agreement without the prior written consent of the other party, except that either party shall, without the obligation to obtain the prior written consent of the other party, be entitled to assign this Agreement or all or any part of its rights or obligations hereunder to an affiliate of a party; or to the purchaser of all or substantially all of the assets or capital stock of a party or to an entity into which a party is merged, provided, further that no such assignment shall relieve the party from its obligations hereunder.
- 10.3 Entire Agreement. This Agreement, including any Exhibits attached to this Agreement, each of which is incorporated herein for all purposes, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement as of the date hereof and supersedes any prior agreements or arrangements between CAS and Trustee regarding the subject matter of

this Agreement. This Agreement may be amended, modified or changed only by a written instrument executed by both CAS and Trustee.

- 10.4 Insurance. For the duration of this Agreement, CAS shall maintain fidelity insurance coverage in the sum of not less than \$2,000,000 and errors and omissions insurance coverage in the sum of not less than \$2,000,000.
- 10.5 Practice of Law. It is understood and agreed that CAS will not perform, and the Trustee will not request performance of, any services which may constitute the unauthorized practice of law.
- 10.6 Severability. If any provision of this Agreement is declared or found to be illegal, unenforceable or void, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is illegal, unenforceable or void, it being the intent and agreement of the parties that this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it legal and enforceable while preserving its intent or, if that is not possible, by substituting therefore another provision that is legal and enforceable and achieves the same objective. In addition, if such illegal, unenforceable or void provision does not relate to the payments to be made to CAS, and if the remainder of this Agreement shall not be affected by such declaration or finding and is capable of substantial performance, then each provision not so affected shall be enforced to the maximum extent permitted by law.
- 10.7 Waiver. No delay or omission by either party to exercise any right or power under this Agreement shall impair such right or power or be construed to be a waiver thereof. A waiver by either party of any of the covenants to be performed by the other or any breach shall not be construed to be a waiver of any succeeding breach or of any other covenant. All remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to either party at law, in equity or otherwise.
- 10.8 Relationship of Parties. In providing Services to Trustee under this Agreement, CAS is acting only as an independent contractor and not as a fiduciary of the Plan or an employee of Trustee. Nothing in this Agreement shall be deemed to constitute or create a joint venture, partnership, pooling arrangement or other form of business entity between CAS or any of its Affiliates and Trustee or any of its Affiliates. It is acknowledged that CAS is performing ministerial functions on behalf of and under the control and general requirements of Trustee. CAS does not undertake by this Agreement or otherwise to perform any obligation of Trustee, whether regulatory or contractual, or to assume any responsibility for Trustee's business or operations. CAS has the sole right and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed, all work to be performed by CAS.
- 10.9 Force Majeure. Each party shall be excused from performance under this Agreement (except with respect to the payment of monies) for any period and to the extent that it is prevented from performing any action, in whole or in part, as a result of delays beyond its reasonable control caused by the other party or by an act of God, war, civil disturbance, court order, labor dispute, third party nonperformance, or other cause beyond its reasonable control, including without limitation, failures or fluctuations in electrical power, heat, light, air conditioning or telecommunications equipment. Such nonperformance shall not be a default or a ground for termination of this Agreement. Each party shall endeavor to promptly remedy the cause of any such nonperformance.

10.10 Notices. Wherever under this Agreement either party is required or permitted to give notices to the other, such notice shall be deemed given when in writing and (i) when personally delivered in hand by nationally-recognized independent courier service or (ii) when sent via certified mail, postage prepaid, to the other party at the address set forth below:

In the case of CAS:

Consolidated Admin Services, LLC  
140 Professional Drive  
Cabot, AR 72023

Attention: Carrie Stout

In the case of Trustee:

BOKF, NA dba Bank of Oklahoma  
Bank of Oklahoma Tower  
P.O. Box 880  
Tulsa, Oklahoma 74101

Attention: Ken Etheredge

With a copy to:

Frederic Dorwart, Lawyers  
124 East 4th Street  
Tulsa, OK 74101

In the case of Employer:

Tulsa County  
500 South Denver  
Tulsa, OK 74103

Attention: Michael Willis

Any such notice shall be deemed to have been given on the date actually delivered if hand delivered or three (3) Business Days after the date mailed, as the case may be. Either party may from time to time change its address for notification purposes by giving the other prior notice of the new address and the date upon which such new address shall become effective, which will be not less than five (5) Business Days from the date such notice is sent pursuant to this Section 10.10.

10.11 Governing Law; Venue. The laws of the State of Oklahoma (without regard to its choice of law principles that might apply the law of another jurisdiction) shall govern the validity of this Agreement, the construction of its terms, and the interpretation and enforcement of the rights and duties of the Parties. Any cause of action for a breach or enforcement of, or a declaratory judgment respecting this Agreement shall be commenced and maintained only in the United

States District Court for the Northern District of Oklahoma or the applicable Oklahoma state trial court sitting in Tulsa, Oklahoma and having subject matter jurisdiction.

- 10.13 Beneficiaries. This Agreement is not a third party beneficiary contract, and is solely for the benefit of the parties and their successors and permitted assigns, and does not confer any rights or remedies on any other person or entity.

[SIGNATURE PAGE FOLLOWS]

**CONSOLIDATED ADMIN  
SERVICES, LLC**

By: Carrie Stout

Name: Carrie Stout

Title: President

Date: 03/06/2023

**BOKF, NA dba BANK OF OKLAHOMA**

By: James Bertsch

Name: James Bertsch

Title: SVP and Sr. Trust Officer

Date: 03/01/2023

**TULSA COUNTY**

By: Stan Sallee

Name: Stan Sallee

Title: Chairman Pro Tem

Date: 3/20/2023

APPROVED AS TO FORM:

Adrian Wilks  
ASST. DIST. ATTORNEY

**EXHIBIT "A"**  
**FEES**

The fees and costs payable to CAS for the services rendered by CAS shall be as set forth below.

1. Post-Employment Health Plan (PEHP) Administration. For administration of Employer's Post-Employment Health Plan, Trustee shall pay CAS the following administrative fees:
  - (a) An annual renewal fee of \$250.00.
  - (b) A monthly ongoing administration fee of \$4.00 per participant per month.
2. Plan Amendments and Restatements. The cost for future Plan changes including Plan Amendments and restatements changes shall be:
  - (a) Included in the annual document fee
3. Run-Out Administration. Upon termination of this Agreement, subject to the mutual written agreement of the parties, CAS will provide PEHP run-out claims administration according to the following terms and conditions. For processing of PEHP run-out claims incurred prior to the termination date of this Agreement, CAS shall receive a monthly fee equal to a percentage of the PEHP monthly administration fees billed during the month immediately preceding the termination date, according to the following scale. These run-out fees shall be payable upon Trustee's receipt of the monthly run-out administration fee invoice.
  - (a) First Month After Termination: 100% of the monthly PEHP administration fees billed to Trustee during the month prior to the termination of this Agreement.
  - (b) Second Month After Termination: 66% of the monthly PEHP administration fees billed to Trustee during the month prior to the termination of this Agreement.
  - (c) Third Month After Termination: 33% of the monthly PEHP administration fees billed to Trustee during the month prior to the termination of this Agreement.

Failure of Trustee to timely pay all fees due to CAS pursuant to this section will result in immediate suspension of run-out administration without notice or reinstatement, and CAS shall have no further liability or obligation to process any claims for Trustee or Employer.

**EXHIBIT "B"**  
**ADMINISTRATIVE CLAIMS PROCESSING SERVICES**

After its receipt and processing of all necessary Plan data and other documentation and information required under the Agreement, CAS shall provide the following administrative services in connection with the Plan:

- A. Perform the following PEHP administration services in accordance with the terms of the Agreement and the Plan Documents provided pursuant to the Agreement.
  - 1. Receive and review PEHP claims. Substantiate eligibility and calculate amounts to be reimbursed under the Plan pursuant to the terms and conditions of the PEHP.
  - 2. Correspond with participants and notify them in writing of any additional information necessary to process claims or if the claims are denied. Conduct the claims reviews and appeals procedures in accordance with Plan provisions.
  - 3. Provide information to participants regarding the status of their account after each quarter. Participants shall be notified of their plan year election, total reimbursements to date, balance in their accounts, and forfeiture information.
  - 4. Provide necessary information to Trustee and/or Employer for inclusion of PEHP information on 5500 reporting.
  - 5. Provide a draft of an Open Enrollment Notice and new enrollment form to Employer that can be duplicated and distributed for Plan Year elections.
- B. Prepare draft plan document(s)/summary plan description(s) from information provided by Trustee and Employer in accordance with Section 3.1. All such drafts, including amendments, are subject to Trustee's and Employer's approval. CAS shall not be liable for the printing costs of the plan documents.
- C. Comply with the Business Associate provisions set forth in Exhibit "C."
- D. Provide the optional services, if any, for the fees set forth in Exhibit "A."



**EXHIBIT "C"**  
**BUSINESS ASSOCIATE AGREEMENT**

This Business Associate Agreement is entered into by and between CAS (the "Business Associate") and Trustee (the "Covered Entity") (jointly, "the Parties").

**RECITALS**

- A. Covered Entity and Business Associate wish to modify the Administrative Services Agreement (the "Agreement") to incorporate the terms of this Exhibit to comply with the requirements of: (i) the implementing regulations at 45 C.F.R. Parts 160, 162, and 164 for the Administrative Simplification provisions of Title II, Subtitle F of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") (i.e., the HIPAA Privacy, Security, Electronic Transaction, Breach Notification, and Enforcement Rules (the "Implementing Regulations")), (ii) the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the "HITECH Act") that are applicable to business associates, and (iii) the requirements of the final modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules as issued on January 25, 2013 and effective March 26, 2013 (75 Fed. Reg. 5566 (Jan. 25, 2013)) (the "Final Regulations"). The Implementing Regulations, the HITECH Act, and the Final Regulations are collectively referred to in this Exhibit as the "HIPAA Requirements."
- B. Covered Entity and Business Associate agree to incorporate into this Exhibit any regulations issued by the U.S. Department of Health and Human Services ("DHHS") with respect to the HIPAA Requirements that relate to the obligations of business associates and that are required to be (or should be) reflected in a business associate agreement. Business Associate recognizes and agrees that it is obligated by law to meet the applicable provisions of the HIPAA Requirements and that it has direct liability for any violations of the HIPAA Requirements.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter addressed, the Parties agree as follows:

**ARTICLE I:**  
**DEFINITIONS**

- 1.1** "Breach" shall mean, as defined in 45 C.F.R. § 164.402, the acquisition, access, use or disclosure of Unsecured Protected Health Information in a manner not permitted by the HIPAA Requirements that compromises the security or privacy of that Protected Health Information.
- 1.2** "Business Associate Subcontractor" shall mean, as defined in 45 C.F.R. § 160.103, any entity (including an agent) that creates, receives, maintains or transmits Protected Health Information on behalf of Business Associate.
- 1.3** "Electronic PHI" shall mean, as defined in 45 C.F.R. § 160.103, Protected Health Information that is transmitted or maintained in any Electronic Media.

- 1.4** “**Protected Health Information**” or “**PHI**” shall mean, as defined in 45 C.F.R. § 160.103, 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 the 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 Exhibit shall mean both Electronic PHI and non-Electronic PHI, unless another meaning is clearly specified.
- 1.5** “**Security Incident**” shall mean, as defined in 45 C.F.R. § 164.304, the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.
- 1.6** “**Unsecured Protected Health Information**” shall mean, as defined in 45 C.F.R. § 164.402, Protected Health Information that is not rendered unusable, unreadable, or indecipherable to unauthorized persons through the use of a technology or methodology specified by DHHS.
- 1.7** All other capitalized terms used in this Exhibit shall have the meanings set forth in the applicable definitions under the HIPAA Requirements.

## **ARTICLE II: GENERAL TERMS**

- 2.1 General Terms.** In the event of an inconsistency between the provisions of this Exhibit and a mandatory term of the HIPAA Requirements (as these terms may be expressly amended from time to time by the DHHS or as a result of interpretations by DHHS, a court, or another regulatory agency with authority over the Parties), the interpretation of DHHS, 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 rules of precedence. Where provisions of this Exhibit are different from those mandated by the HIPAA Requirements, but are nonetheless permitted by the HIPAA Requirements, the provisions of this Exhibit shall control. Except as expressly provided in the HIPAA Requirements or this Exhibit, this Exhibit does not create any rights in third parties.
- 2.2 Flow-Down Obligations to Business Associate Subcontractors.** Business Associate agrees that as required by the HIPAA Requirements, Business Associate will enter into a written agreement with all Business Associate Subcontractors that: (i) requires them to comply with the Privacy and Security Rule of this Exhibit in the same manner as required of Business Associate, and (ii) notifies such Business Associate Subcontractors that they will incur liability under the HIPAA Requirements for non-compliance with such provisions. Accordingly, Business Associate shall ensure that all Business Associate Subcontractors agree in writing to the same privacy and security restrictions, conditions and requirements that apply to Business Associate with respect to PHI.
- 2.3 Permitted Uses and Disclosures of PHI.** Business Associate agrees to create, receive, use, disclose, maintain, or transmit PHI only in a manner that is consistent with this Exhibit or the

HIPAA Requirements and only in connection with providing the services to Covered Entity as outlined in the Agreement. Accordingly, in providing services to or for Covered Entity, Business Associate, for example, will be permitted to use and disclose PHI for the “Treatment, Payment, and Health Care Operations” as those terms are defined in the HIPAA Requirements. Business Associate further agrees that, to the extent it is carrying out one or more of Covered Entity’s obligations under the Privacy Rule (Subpart E of 45 C.F.R. Part 164), it shall comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations. Business Associate shall report to Covered Entity any use or disclosure of PHI that is not provided for in this Exhibit, including reporting of Breaches of Unsecured Protected Health Information as required by 45 C.F.R. § 164.410 and required by Article IV, below.

**2.4 Business Associate Obligations.** As permitted by the HIPAA Requirements, Business Associate may also use or disclose PHI received by the Business Associate in its capacity as a Business Associate to Covered Entity for Business Associate’s own operations if:

- a) The use relates to: (1) the proper management and administration of Business Associate or to carry out legal responsibilities of Business Associate, or (2) data aggregation services relating to the health care operations of Covered Entity; or
- b) The disclosure of information received in such capacity will be made in connection with a function, responsibility, or services to be performed by Business Associate, and such disclosure is required by law or the 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 the Business Associate of any breaches of confidentiality.

**2.5 Minimum Necessary Standard and Creation of Limited Data Set.** 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 and this Exhibit, Business Associate agrees to use, disclose, or request only the minimum necessary PHI to accomplish the intended purpose of the use, disclosure or request.

**2.6 Access.** In accordance with 45 C.F.R. § 164.524 of the HIPAA Requirements, Business Associate will make available to the Covered Entity (or as directed by the Covered Entity, to those individuals who are the subjects of the PHI (or their designees)), their PHI in the Designated Record Set. Business Associate shall make such information available in an electronic format where directed by Covered Entity.

**2.7 Disclosure Accounting.** 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 Requirements by making such information available to Covered Entity or (at the direction of Covered Entity) making such information available directly to the individual.

**2.8 Amendment.** Business Associate shall make PHI in a Designated Record Set available for amendment and, as directed by the Covered Entity, incorporate any amendment to PHI in accordance with 45 C.F.R. § 164.526 of the HIPAA Requirements.

- 2.9 Right to Request Restrictions on the Disclosure of PHI and Confidential Communications.** If an individual submits a Request for Restriction or Request for Confidential Communications to Business Associate, Business Associate shall forward these requests to Covered Entity.
- 2.10 Return or Destruction of PHI.** Upon termination or expiration of the Agreement or this Exhibit, Business Associate agrees to return the PHI to Covered Entity, destroy the PHI (and retain no copies), or if Business Associate determines that return or destruction of the PHI is not feasible, to (a) continue to extend the protections of this Exhibit and of the HIPAA Requirements to the PHI, and (b) limit any further uses and disclosures of the PHI to the purpose making return or destruction infeasible.
- 2.11 Availability of Books and Records.** Business Associate shall make available to DHHS or its designated agents, the business Associate's internal practices, books, and records relating to the use and disclosure of PHI in connection with this Exhibit.

**ARTICLE III:  
INFORMATION AND SECURITY STANDARDS**

- 3.1 Safeguards.** Business Associate agrees that, with respect to Electronic PHI, these Safeguards, at a minimum, shall meet the requirements of the HIPAA Security Standards applicable to Business Associate. More specifically, to comply with the HIPAA Security Standards for Electronic PHI, Business Associate agrees that it shall:
- a) 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 Electronic 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 documentation requirements as required by the HIPAA Requirements.
  - b) Ensure that any Business Associate Subcontractor agrees to implement reasonable and appropriate safeguards to protect the Electronic PHI.
  - c) Report to Covered Entity any unauthorized access, use, disclosure, modification, or destruction of PHI (including Electronic PHI) not permitted by this Exhibit, applicable law, or permitted by Covered Entity in writing ("Successful Security Incidents" or Breaches) of which Business Associate becomes aware. Business Associate shall report such Successful Security Incidents or Breaches to Covered Entity as specified in Article IV, below.
  - d) For Security Incidents that do not result in unauthorized access, use, disclosure, modification, or destruction of 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, malware such as worms or viruses (hereinafter, "Unsuccessful Security Incidents"), aggregate the data and, upon Covered Entity's written request, report to Covered Entity in accordance with the reporting requirements identified in Article IV, below.

- e) Take all commercially reasonable steps to mitigate, to the extent practicable, any harmful effect that is known to Business Associate resulting from any unauthorized access, use, disclosure, modification, or destruction of PHI.
- f) Permit termination of this Exhibit if Covered Entity determines that Business Associate has violated a material term of this Exhibit with respect to Business Associate's security obligations and Business Associate is unable to cure the violation.
- g) Upon Covered Entity's reasonable written request, provide Covered Entity with access to and copies of documentation regarding Business Associate's safeguards for PHI and Electronic PHI.

**3.2 Compliance with HIPAA Transaction Standards.** Business Associate will conduct Standard Transactions consistent with 45 C.F.R. Part 162 for or on behalf of Covered Entity to the extent such Standard Transactions are required in the course of Business Associate's performance of services under the Agreement and this Exhibit for Covered Entity. As provided herein, Business Associate will require any Business Associate Subcontractor involved with the conduct of such Standard Transactions to comply with each applicable requirement of 45 C.F.R. Part 162. Further, Business Associate will not enter into, or permit its Subcontractors to enter into, any trading partner agreement in connection with the conduct of Standard Transactions for or on behalf of Covered Entity that:

- a) Changes the definition, data condition, or use of a data element or segment in a Standard Transaction;
- b) Adds any data element or segment to the maximum defined data set;
- c) Uses any code or data element that is marked "not used" in the Standard Transaction's implementation specification or is not in the Standard Transaction's implementation specification; or
- d) Changes the meaning or intent of the Standard Transaction's implementation specification.

**3.3 Communications Between Business Associate and Covered Entity.** All communications between Business Associate and Covered Entity that are 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 will include all information reasonable required by Business Associate to affect such data exchanges or notifications.

#### **ARTICLE IV: NOTICE AND REPORTING OBLIGATIONS**

**4.1 Notice of Non-Compliance with Exhibit.** Business Associate shall notify Covered Entity within sixty (60) days after discovery, any unauthorized access, use, disclosure, modification, or destruction of PHI (including any successful Security Incident) that is not permitted by this

Exhibit, by applicable law, or permitted in writing by Covered Entity, whether such non-compliance is by (or at) Business Associate or by (or at) a Business Associate Subcontractor.

**4.2 Notice of Breach.** Business Associate will notify Covered Entity following discovery and without unreasonable delay but in no event later than thirty (30) days following discovery, any Breach of Unsecured Protected Health Information, whether such Breach is by Business Associate or by Business Associate Subcontractor. As provided for in 45 C.F.R. § 164.402, Business Associate recognizes and agrees that any acquisition, access, use or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule (Subpart E of 45 C.F.R. Part 164) is presumed to be a Breach. As such, Business Associate shall (i) notify Covered Entity of any non-permitted acquisition, access, use or disclosure of PHI, and (ii) reasonably assist Covered Entity in performing a risk assessment to determine if there is a low probability that the PHI has been compromised. Business Associate shall include in its notification to Covered Entity (or shall follow its initial notification if unknown at the time of discovery), with a report that will:

- a) Identify (if known) each individual whose Unsecured Protected Health information has been, or is reasonably believed by Business Associate to have been accessed, acquired or disclosed;
- 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, social security number, date of birth, etc.);
- d) Identify what corrective action Business Associate (or Business Associate Subcontractor) took or will take to prevent further non-permitted accesses, uses, or disclosures;
- e) Identify what Business Associate (or Business Associate Subcontractor) did or will do to mitigate any deleterious effect of the non-permitted access, use or disclosure; and
- f) Provide such other information as the Covered Entity may reasonably request.

**4.3 Unsuccessful Security Incidents.** 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; (ii) indicates whether Business Associate believes its (or its Business Associate Subcontractor's) current defensive security measures are adequate to address all Unsuccessful Security Incidents, given the scope and nature of such attempts; and (iii) if the security measures are not adequate, the measures Business Associate (or Business Associate Subcontractor) will implement to address the security inadequacies.

## **ARTICLE V: TERMINATION**

### **5.1 Termination.**

- a) Covered Entity and Business Associate each will have the right to terminate this Exhibit if the other Party has engaged in a pattern of activity or practice that constitutes a material

breach of violation of Business Associate's or Covered Entity's respective obligations regarding PHI under this Exhibit and, on notice of such material breach or violation from 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, Covered Entity and Business Associate (as applicable) may terminate this Exhibit by providing Business Associate or 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 sixty (60) days from this termination notice.

**5.2 Continuing Privacy and Security Obligations.** Business Associate's and Covered Entity's obligation to protect the privacy and security of the PHI it created, maintained, received, or transmitted in connection with services provided under the Agreement and this Exhibit will be continuous and survive termination, cancellation, expiration, or other conclusion of this Exhibit and the Agreement. Business Associate's other obligations and rights, and the Covered Entity's obligations and right upon termination, cancellation, expiration, or other conclusion of this Exhibit, are those set forth in this Exhibit and/or the Agreement.