

AMENDMENT NO. 1

Administrative Service Agreement
(Health Reimbursement Arrangement , Contract No. C20-0304-5)

This Amendment No. 1 (“Amendment”) to the Administrative Services Agreement (“Agreement”) is made this _____ day of February, 2025, (“Effective Date”), by and between the City of Glendale, an Arizona municipal corporation (“City”) and Educators Benefit Consultants LLC, ("EBC") DBA "Aviben", a Minnesota limited liability company, authorized to do business in Arizona (“Contractor”).

RECITALS

- A. City and Educators Benefit Consultant (EBC) DBA Aviben (“Contractor”) previously entered into an Administrative Service Agreement for a period of (5) five years from March 1, 2013 through February 28, 2018 with the option to extend through February 28, 2020, Contract No. C8363, dated March 1, 2013 through February 28, 2020 (“Agreement”); and
- B. City and Contractor previously entered into an Administrative Services Agreement, through the RFP process, Contract C20-0304 for a period of (1) one-year with the option to renew for (4) four years in (1) one-year increments starting on April 1, 2020.
- C. City and Contractor previously entered into the final contract extension No. 4, extending the term of the Agreement from April 1, 2024 through March 31, 2025.
- D. City and Contractor desires to retain the professional services of the Contractor to perform the services as set forth in Exhibit A, attached hereto as Exhibit A.
- E.. City and Contractor wish to modify and amend the Agreement subject to and strictly in accordance with the terms of this Amendment.

AGREEMENT

In consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Contractor hereby agree as follows:

1. **Recitals.** The recitals set forth above are not merely recitals but form an integral part of this Amendment.
2. **Term.** The term of the Agreement is extended for a (5) five-year period from April 1, 2025 through March 31, 2030, unless otherwise terminated or canceled as provided by the Agreement. All other provisions of the Agreement except as set forth in this Amendment shall remain in their entirety.
3. **Scope of Work.** All other provisions of the Agreement except as set forth in Exhibit A shall remain in the entirety.

4. **Compensation.** The Plan Administration Fee is updated to .11% (11 basis points) per quarter. All other provisions of the Agreement except as set forth in Exhibit A shall remain in the entirety.
5. **Insurance Certificate.** Current certificate will expire on February 16, 2026. A new insurance certificate must be provided prior to this date to the Materials Manager and the Contract Administrator in order for this Agreement to remain in effect.
6. **Non-discrimination.** Contractor must not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, marital status, sexual orientation, gender identity or expression, genetic characteristics, familial status, U.S. military veteran status or any disability. Contractor will require any Sub-contractor to be bound to the same requirements as stated within this section. Contractor, and on behalf of any subcontractors, warrants compliance with this section.
7. **No Boycott of Israel.** To the extent A.R.S § 35-393 through § 35-393.03 are applicable, the parties hereby certify that they are not currently engaged in, and agree for the duration of the Agreement to not engage in, a boycott of goods or services from Israel, as that term is defined in A.R.S § 35-393.
8. **Uyghur Forced Labor Prevention Act (UFLPA).** Contractor certifies that it does not currently, and during the term of this Agreement, will not use:
 - (a) the forced labor of ethnic Uyghurs in the People's Republic of China;
 - (b) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and
 - (c) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China.
9. **Attestation of PCI Compliance.** When applicable, the Contractor will provide the City annually with a Payment Card Industry Data Security Standard (PCI DSS) attestation of compliance certificate signed by an officer of Contractor with oversight responsibility.
10. **Ratification of Agreement.** City and Contractor hereby agree that except as expressly provided herein, the provisions of the Agreement shall be, and remain in full force and effect and that if any provision of this Amendment conflicts with the Agreement, then the provisions of this Amendment shall prevail.

[Signatures on the following page.]

CITY OF GLENDALE, an Arizona
municipal corporation

Kevin R. Phelps, City Manager

ATTEST:

Julie K. Bower, City Clerk (SEAL)

APPROVED AS TO FORM:

Michael D. Bailey, City Attorney

Educators Benefit Consultants LLC dba
Aviben
a Minnesota limited liability company

Trent Pepper

By: **Trent Pepper**

Its: **General Counsel**

EXHIBIT A
SCOPE OF WORK
HEALTH REIMBURSEMENT ARRANGEMENT
ADMINISTRATIVE SERVICES AGREEMENT
(Confidential)

This summarizes the work we are to perform, outlines our fees and billing procedures, and notifies you of your responsibilities. Please read it carefully, consult with your counsel and advisers, and call us with any questions you may have. If you do not have any questions, please sign and return the enclosed copy to our office.

In consideration of the mutual promises and covenants contained herein, and the exhibits and Addenda, if any, attached hereto, Employer and Aviben hereby agree as follows:

1. WHAT AVIBEN WILL DO:

- a. Plan Documentation** – Aviben will provide the following documentation for the Plan in accordance with Internal Revenue Codes (IRC) 105, 106, 213(d), 115, 501(a), and the Affordable Care Act (ACA) as applicable. Employer will be notified of the cost, and the content of the changes required to the following, if relevant:
 - i. Plan Document
 - ii. Adoption Agreement
 - iii. Summary Plan Description
 - iv. Enrollment instructions
 - v. Claim Forms
 - vi. Notice of Privacy Practices (HIPAA requirement)
 - vii. Business Associate Agreement (HIPAA requirement)
- b. Trust Documentation** – **Public Employers** have the option between two different trust types an IRC 115 (also called an Integral Part Trust) or a IRC 501(c)(9) (also called a Voluntary Employee Beneficiary Association or VEBA Trust). **Private Sector Employers** that desire to implement a Trust only have the VEBA Trust as an option. Aviben will provide the Adoption Agreement with a section specific to the relevant Trust being utilized (VEBA or 115 Trust) and Aviben will provide the Custodial Agreement: Specific to VEBA or 115 Requirements.
- c. Aviben will provide the following documentation for the establishment of the VEBA Trust, if relevant and selected by the Employer.**
 - i. Form SS-4 to request trust tax ID number
 - ii. Form 8718: User Fee for Exempt Organization Determination Letter Request. **User fee to be paid by employer.**
 - iii. Form 1024: Application for Recognition of Exemption Under Section 501(a) and all supporting materials
- d. Administrative Duties: To follow are the daily administrative functions performed by Aviben**
 - i. Process claims
 - ii. Provide employee enrollment materials
 - iii. Reimburse participants via ACH, check, or debit card process

- iv. Customer service call center
 - v. Reporting as required under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007
 - vi. Provide a secure participant web portal
 - vii. Provide a secure employer web portal
 - viii. Consult with investment advisory firm annually to monitor HRA investment offerings
 - ix. Mail or e-mail statements to participants at least annually
 - x. Reasonable consulting services to employer
 - xi. Provide PCOR participant count report and payment instructions
 - xii. Provide Transitional Reinsurance Fee participant count report and payment instructions
- e. Plan Amendments** – From time to time a plan will need to be amended either to reflect voluntary changes made by the plan sponsor or to reflect mandatory changes required by law. Aviben shall provide the following in response to voluntary or mandatory amendments.
- i. Resolution to Amend (if voluntary change)
 - ii. The Amendment or an Adoption Agreement
 - iii. Summary of Material Modifications (describes changes and impact on plan)

The fee for a voluntary amendment shall be \$0
The fee for a mandatory amendment shall be \$0

f. Other Services

- i. **Discrimination Test (D-Test) Performed Annually.** If elected as an option, Aviben shall perform a discrimination test based on employee information that you submits in accordance with IRC 105(h). If elected, Employer shall receive D-Test notice early in the Plan year from Aviben. Employer shall complete and submit via an on-line process. Aviben shall provide written outcome and analysis of the D-Test for Employer. Employer understands that if it elects to have Aviben run the annual test Employer will be invoiced the cost quoted in the Service Agreement Addendum – Fee Schedule. Aviben shall invoice Employer upon completion of the test.
- ii. **Summary of Benefit Coverage (SBC) and Uniform Glossary.** The ACA provides that participants must receive a SBC upon a) initial enrollment in a plan; b) at the beginning of each new plan year; and c) within seven business days of requesting a copy. SBC are not required for all HRAs. Upon consulting with an Aviben representative it will be determined whether or not your HRA Plan requires an SBC. In general the following plans are exempt from the SBC requirement:
 - 1. Retiree Only HRAs

2. Limited-Use HRAs
3. Integrated HRAs as long as the insurance that is integrated with the HRA delivers a SBC that addresses the HRA Plan

The IRS provides that a SBC may be delivered in an electronic format. If elected, your HRA Plan's SBC and Uniform Glossary will be loaded on the employee web portal and updated 3 months before your plan year renews. If you want the SBC mailed to participants Aviben shall be reimbursed for the postage expense. Employer understands that if it elects for Aviben to provide an updated SBC and Uniform Glossary for its employer-sponsored HRA Plan on an ongoing annual basis, this SBC and Glossary will be posted on the employee web portal every year and Employer will be invoiced the cost quoted in the Service Agreement Addendum – Fee Schedule. Employer further understands that if it elects to have Aviben mail the SBC to employees 3 months before its plan year begins, Employer will be billed the cost of the mailings in addition to the cost quoted in the Service Agreement Addendum – Fee Schedule.

- iii. **Annual Form 990 Filing (annual requirement for VEBA trusts).** If desired, Aviben shall provide signature ready Form 990 on an annual basis for filing with the IR. **Employer will be responsible for following Aviben's instructions to sign and timely file these forms with the appropriate government agency.** The 990 is due on the 15th day of the fifth month after the plan year ends. Employer understands that if it elects to have Aviben provide the filing it will be invoiced the fee quoted in the Service Agreement Addendum—Fee Schedule. The fee will be charged when the filing package is sent to the Employer for signature.
- iv. **Annual Form 5500 Filing (annual requirement for private sector plans).** If desired, Aviben shall provide and submit to electronic filing service for filing with the Department of Labor (DOL). **This filing is required for private sector VEBA plans. Employer will be responsible for following Aviben's instruction to electronically sign and timely file the form with the appropriate government agency.** This filing is due by the last day of the seventh month after the plan year ends. Employer understands that if it elects to have Aviben provide the filing it will be charged the fee quoted in the Service Agreement Addendum – Fee Schedule once the Form is submitted to the Employer for electronic signature.
- v. **COBRA Administration for HRA Plan.** If desired, Aviben will provide certain COBRA Administration services for the HRA Plan including sending the HRA COBRA Election packet and providing the option to elect the alternative to COBRA (spend down feature). Employer understands that if it elects to have Aviben perform the COBRA Administration services, it will be charged the fee quoted in the Service Agreement Addendum – Fee Schedule.

2. WHAT EMPLOYER AGREES TO DO

It is impossible for Aviben to provide services without your cooperation. Therefore, as the Employer and Plan Administrator, you are responsible for the following:



1995 E. Rum River Dr. S., Cambridge, MN 55008

Metro: 763-552-6053 | Toll Free: 888-507-6053

Fax: 763-552-6055 | www.aviben.com

A Division of Educators Benefit Consultants, LLC ("EBC")

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- a. **Timeliness and Accuracy of Data** – Aviben must receive complete, accurate, and timely information. We will rely exclusively on information provided by Employer, its agents, employees, directors, representatives, or advisors (collectively “Employer”), whether oral or in writing, and will have no responsibility to verify independently the accuracy of that information. Aviben assumes no responsibility to acquire information other than to request it from Employer, and will not be liable for any errors or omissions made because of incomplete or incorrect information that Employer furnishes to Aviben. In the event inaccurate or incomplete materials require that Aviben repeat any compliance work already completed, Employer will be charged an additional fee.
 - b. **Annual Compliance** – Aviben may require employee census data and updated information about Employer and/or its plans in order to provide relevant services. Employer agrees to provide this information upon request by Aviben
 - c. **Filing Government Reports** – Aviben will provide certain government reports on your behalf. Employer will be responsible for the timely filing of these reports with the appropriate agency.
 - d. **Notification of Contacts by Government Agencies** – You will notify Aviben of any plan audits, investigations, or examinations by any governmental agency including, without limitation, the Internal Revenue Service or U.S. Department of Labor. If additional services are needed in connection with any such audit, investigation, or examination, Aviben will provide those services and bill separately for those services under our Fee Schedule.
 - e. **Qualified Medical Child Support Order (“QMCSO”) Determination** – Employer is responsible for the determination of whether court orders comply with the QMCSO requirements of the Code unless consultation is requested by Employer and agreed upon by Aviben in writing. In the event Employer has possession of any QMCSO requiring the separation of any assets of the Plan, Employer must inform Aviben of the required separation.
 - f. **Other Plans** - The Plan's operation and tax qualification is affected by other plans sponsored by the Employer (whether currently active or terminated, and whether or not Aviben administers them). Employer is responsible for informing Aviben of other plans.

3. INDEMNIFICATION AND CONFIDENTIALITY

- a. **Mutual Indemnification** – Employer shall indemnify and hold harmless Aviben and each of its officers, and employees from and against any and all claims, damages or expenses of any kind incurred by Aviben as a result of a third party claim that the employer acted in gross negligence, willfully, or in violation of applicable standard of care in breach of its obligations under this Plan. Aviben shall indemnify and hold harmless Employer and each of its officers, directors, and employees from and against any and all claims, damages or expense of any kind incurred by employer as a result of a third party claim that Aviben acted in gross negligence, willfully, or in violation of applicable standard of care in breach of its obligations under this Plan.
- b. **Confidentiality** – The Aviben design shall not be divulged by the Employer to any third parties, unless written permission is received from Aviben, providing that the Employer may divulge aspects of the Aviben design when acting as a reference to third parties who are considering adoption of the Aviben system. Aviben has Employers permission to provide Plan Documents and Adoption Agreements to entities named in the Adoption Agreement, such as a trustee or investment manager.



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4. BILLING PROCEDURES AND COLLECTIONS

- a. **Statements, Late Charges, Stopping of Work** - You will be billed on an ongoing basis for work performed by Aviben that is not taken directly from the participants' accounts. Invoices are due upon receipt, and become delinquent and subject to late charges if payment is not received by our office within 30 days. If payment is past due in excess of 30 days, Aviben reserve the right to stop all work until your account is brought current. In addition, balances not paid within 30 days of the invoice date will bear a late charge equal to 1.5% of the outstanding balance for each month or partial month until paid in full. Aviben is not responsible for any late tax filings or penalties, fines, taxes, or other charges that may be assessed.
- b. **Costs and Expenses** - In addition to the fees quoted in the attached Fee Schedule, you are responsible for payment of any out-of-pocket expenses Aviben may incur on your behalf, such as IRS user fees, and extensive travel expenses.

5. TERM

- a. The term of the Agreement is extended for a (5) five-year period from April 1, 2025 through March 31, 2030, unless otherwise terminated or cancelled as provided by the agreement.

6. GENERAL

- a. **Governing Law** - This agreement shall be interpreted, construed, and enforced in accordance with the laws of the State of Minnesota and the obligations, rights, and remedies of the parties hereunder shall be determined in accordance with such laws, except to the extent preempted by Federal law. Any action brought by any party hereto shall be brought within the State of Minnesota. If jurisdiction exists in Federal Courts, the parties agree to bring any action in the District Court of Minnesota in the City of St. Paul. If Federal jurisdiction does not exist, the parties agree to bring any action in the Tenth Judicial District, or the County of Isanti.
- b. **Entire Agreement** - This Service Agreement and the Service Agreement Addendum - Fee Schedule contains the entire agreement between Employer and Aviben with respect to its subject matter and constitutes and supersedes all prior agreements, representations and understandings of the parties, written or oral, with regard to this same subject matter. This Agreement is intended to supplement (rather than supersede) the agreement between Business Associate and the sponsor of the Plan, or Covered Entity, related to the services that Business Associate provides with respect to administration of the Plan. This agreement may be modified only by mutual written consent between Employer and Aviben.
- c. **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit each party to comply with the Privacy Rule and the Security Rule, if applicable. If any provision of this Agreement or portion of such provision is held invalid for any reason, including specific local, state, or federal laws, the remainder of the Agreement (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be effected thereby.
- d. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.



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- e. **Headings.** The Headings and captions used in this Agreement are for convenience only and in no way define, limit or otherwise describe the scope or intent of this Agreement, or any provisions hereof.
- f. **Counterparts.** This Agreement may be executed in counterparts, each of which so executed shall be construed to be an original, but all of which together shall constitute one agreement binding on all parties. Transmission by facsimile or electronic mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart. This Agreement and any amendment or modification may not be denied legal effect or enforceability solely because it is in electronic form, or because an electronic signature or electronic record was used in its formation.

7. ACCEPTANCE & ACKNOWLEDGMENTS

- a. **The terms and conditions of this Service, as well as Aviben’s Terms of Use and Privacy Policy (publicly available on Aviben’s Website) are agreed to and accepted by an Authorized Plan Representative on behalf of the Plan and by the Employer as of the date set forth below**
- b. **Any collectively bargained Employees participating in this Plan participate because the collective bargaining agreement provides for coverage under this Plan.**
- c. **This Plan has been duly adopted or authorized to be adopted by the Employer’s Committee.**
- d. **The Employer acknowledges that it has reviewed the Adoption Agreement, Plan Document, Service Agreement, and applicable Addendum/Addenda with its legal, tax and compliance advisers prior to signing below.**
- e. **This Service Agreement, and applicable Addendum/Addenda may be executed in any number of counterparts, any of which may be executed and transmitted by facsimile or other electronic means, and each of which will be deemed to be an original of this Service Agreement, and applicable Addendum/Addenda and all of which, when taken together, will be deemed to constitute one and the same instrument for purposes of execution.**

Dated: _____

Dated: February 10, 2025

Name of Employer: City of Glendale

Educators Benefit Consultants, LLC

Executed: _____
Print Name & Title:

By: Trent Pepper

General Counsel
Educators Benefit Consultants, LLC
1995 E. Rum River Dr. South
Cambridge, MN 55008



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SERVICE AGREEMENT ADDENDUM – FEE SCHEDULE FOR SERVICES PROVIDED

Plan: City of Glendale Retiree HRA

Employer: City of Glendale

Pursuant to the attached "Administration Services Agreement", Aviben has been engaged by the "Plan" to provide administration and compliance services. The specific services are outlined in the "Administration Services Agreement". The purpose of this addendum is for the Plan and Employer to acknowledge the fees associated with the administrative services provided by Aviben and to authorize Aviben to deduct fees for these services directly from participant accounts or via invoice directly to Employer (either by design, or in the event of non-payment by the Employer).

1. Fees - For the performance of these services, Aviben will charge the following:

A. Administrative Fees:

Employer Pays (Billed Quarterly in Advance)

a. Funded Retiree-Only HRA.....\$0.00 per participant per month

Participant Pays

All HRAs in a VEBA or 115 Trust are subject to asset based fee of 11 bps per quarter pulled quarterly.

If funds are invested in anything other than the fixed interest account or the money market other investment fees shall also apply.

2. Optional Services Aviben Can Provide [CHECK DESIRED OPTIONS]:

- Discrimination Test**.....\$500.00 (if elected by Employer)
- Summary of Benefit Coverage (SBC)**\$100.00 for annual update
 Note that Retiree-Only HRAs are exempt from this requirement.
 - Via USPS Mail** - *If employer wants SBC & Glossary mailed annually employer will be billed cost of mailings in addition to the annual update fee.*
- 990 Filing (VEBA's Requirement)**.....\$500.00
- 5500 Filing (only private sector plans)**\$500.00
- COBRA Administration**.....\$20.00 per packet & \$7.00 per participant per month