AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

Agenda Item: Services Agreement - Flex Benefit Plan, GPA

Action Requested: County Manager Signature

Parties to the Agreement: Gunnison County, Colorado & Group & Pension Administrators, Inc.

Term Begins: 01/01/2020 **Term Ends:** **Grant Contract #:**

Summary:

GPA to administer services for the Flexible Benefit Plan

Fiscal Impact:

Submitted by: Cheryl Seling **Submitter's Email Address:** cseling@gunnisoncounty.org

Finance Review: (●) Required ( ) Not Required

Comments:
No concerns, fee is $6/mo per participant. Covered in 2020 adopted budget. ln

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 6/11/2020

County Attorney Review: (●) Required ( ) Not Required

Comments:
ok db 6/12/20

Reveiwed by: GUNCOUNTY1\dBaumgarten Discharge Date: 6/12/2020 Certificate of Insurance Required Yes ( ) No (●)

County Manager Review:

Comments:

Reveiwed by: GUNCOUNTY1\emense Discharge Date: 6/12/2020

(●) Consent Agenda ( ) Regular Agenda ( ) Worksession Time Allotted: 0

Agenda Date: 6/16/2020

Revised April 2015

FLEXIBLE BENEFIT PLAN
ADMINISTRATION AGREEMENT

This administration agreement (hereinafter referred to as "Agreement") is entered into this **January 1, 2020** between **Gunnison County** (hereinafter referred to as the "Employer"), and **Group & Pension Administrators, Inc.**, a Texas corporation (hereinafter referred to as the "Administrative Firm").

Whereas, said Employer has implemented a Flexible Benefit Plan (hereinafter referred to as "Plan"), and

Whereas, said Employer hereby agrees to retain said Administrative Firm to perform administrative duties required for proper operation of the Plan for and in consideration of the administrative fees which are due and payable in advance on the first (1st) day of each month, and

Whereas, said Administrative Firm hereby agrees to furnish these services for consideration and Administrative Firm agrees to be responsible for performing its duties.

Therefore, in consideration of the mutual promises and covenants contained below, the parties hereto agree as follows.

SERVICES TO BE RENDERED BY ADMINISTRATIVE FIRM

Administrative Firm agrees to provide to the Employer during the term of this Agreement all of the services set forth below.

1. Develop, design and install administrative and record-keeping systems in accordance with prudent standards of employee benefit recordkeeping and maintain records of all transactions in which the Administrative Firm engages with insurers, the Employer, and Plan Participants. These records will be maintained during the term of this agreement and for as long as state and federal laws require. The Employer and insurers are entitled to continuous access to these books and records sufficient to permit fulfillment of contractual obligations. Fulfillment of legal storage requirements may be by delivering the books and records to a successor administrator with written notice to the State Board of Insurance. During the time these records are in the Administrative Firm's custody best efforts will be made to prevent disclosure or use of the information for a purpose unrelated to the administration of the Plan; the Administrative Firm will notify the employer and make disclosure for:

   (i) Response to a court order;

   (ii) An examination conducted by the State Board of Insurance; Dept. of Labor, or IRS;

   (iii) An audit or investigation conducted under the Employee Retirement Income Security Act of 1974;

   (iv) A request of the Employer; or

   (v) The written consent of the identified individual or his or her legal representative.

2. Review the Employer's existing Plan documentation, if any, and make a determination as to the Administrative Firm's ability to administer the Plan as it is stated; or if any amendments, or restatements or new documents could be required. In the event Plan documentation service is required and if the Employer has elected to have the Administrative Firm assist in this activity as indicated on the signature page of this agreement, the Administrative Firm will prepare a draft of the set of Plan documents it considers necessary. It is understood by all parties to this agreement that the Administrative Firm is not engaged in the practice of law. Any Plan Documents, Summary Plan Descriptions, other related Plan forms, and amendments thereto are provided by the Administrative Firm as drafts that reflect its administrative capabilities and must be reviewed by the Employer and Employer's Attorney with NO REPRESENTATION OR WARRANTY OF ANY KIND, expressed or implied, including no warranties of MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, nor is any opinion, expressed or implied, rendered by the Administrative Firm's attorneys as to the legal effect,

sufficiency or tax qualification of any documents provided. Upon completion of the Plan document set the Employee Summary Plan Descriptions and enrollment forms will be printed if so specified on the signature page of this agreement.

3. Provide an itemized monthly statement for any insured plans of the Employer administered by the Administrative Firm and state separately in writing the amount of any premium or contribution specified by any insurer; Plan contributions received by the Administrative Firm will be deposited in a Distribution Account, from there amounts will be drawn to pay the compensation contained herein, any miscellaneous charges, and any insured coverages or other fixed costs; residual funds will be paid to the Plan Fund Account.

4. If the Plan offers Flexible Spending Account administration as indicated on the signature page of this agreement, the Administrative firm will act as the Employer's representative to analyze and/or investigate Flexible Spending Account claims submitted by Plan participants and determine the amounts of benefits payable under the Plan, including the adjustment of benefit payments, verification and reasonableness of charges and appropriateness of procedures taking into account industry standards for claims adjudication including coordination of Flexible Spending Account benefit payments with other similar plans and employers.

5. The Administrative Firm or its authorized representatives will draw drafts on the Plan Fund Account to be provided by the Employer for:

   (i) Payment of Flexible Spending Account benefits when provided by the Plan and the Administrative Firm may provide for and honor assignments of benefits to any licensed practitioner, hospital or other health services facility providing services to a participant, in accordance with benefits provided in the Plan;
   (ii) Payment to an insurance carrier for plan coverage; or
   (iii) Payment of premiums to other miscellaneous plan service providers as approved by the Employer.

6. Provide worksheets of Flexible Spending Account benefit payments along with check registers.

7. Provide a detailed monthly report of Flexible Spending Account benefits paid.

8. Prepare a monthly summary of all benefits elected, contributed and disbursed with IRC Section 125 compliance testing results and recommendations.

9. Provide an annual management report of the Plan's operations during the preceding period and provide cost estimates and deposit guidelines for the ensuing year.

10. For those Plans with a Dependent Care Flexible Spending Account, the Administrative Firm will provide a calendar year report of dependent care claims by employee for the employer to include with annual IRS W2 form preparation.

11. The Administrative Firm will pay from its fee all the necessary and ordinary expenses of administration for the Plan, except as otherwise specifically provided by this Agreement. However, it is specifically agreed and intended that the Administrative Firm will not pay for the following out of its fee; benefit claims, insured coverages, any miscellaneous charges for medical information fees, investment fees, bank fees, administrative taxes, accounting, actuarial, auditing and attorney fees or other legal expenses.

EMPLOYER'S PERFORMANCE

Employer agrees to perform the following duties.

1. Certify eligibility of participants and will advise the Administrative Firm of the cessation of a Participant's employment or other event which would entitle the Participant or his dependent to extended benefits under section 601 of ERISA or similar legislation.

2. When the Plan provides for Flexible Spending Accounts, establish an appropriate commercial checking account into which sufficient monies will be periodically deposited to honor drafts for Flexible Spending Account claims or other authorized Plan expenses drawn by the Administrative Firm, or by the Administrative Firm's authorized designated employees.

3. Assist in the enrollment of eligible employees and cooperate with the Administrative Firm as requested with regard to claims and other activities related to the administration of the Plan; and will maintain a supply of claim forms, enrollment forms and all other documents provided by the Administrative Firm; and will distribute or make them available to participants as required or requested.

4. Pay to Administrative Firm as compensation in full for services rendered, fees as specified herein; such fees are negotiable annually; all other costs of the Administrative Firm for services or products beyond the scope of the provisions contained herein will be paid billed if approved by the employer in advance, on an "actual cost basis" to the Plan, and paid directly by the Employer to the Administrative Firm monthly.

5. Pay any and all taxes, licenses and fees levied by any local, State or Federal authority in connection with the operation of the Plan.

6. Provide the Administrative Firm with copies of the Plan, Summary Plan Description and any and all amendments thereto which shall be appended to and become a part of this agreement. A notice of any amendment to the plan shall be provided to the Administrative Firm at least thirty (30) days prior to the effective date of such amendment.

7. Be responsible for procuring any fiduciary bonds required by ERISA or any other federal or applicable state legislation as the Plan Sponsor, Plan Administrator, or Plan Fiduciary.

8. Reconcile payroll amounts contributed to the Plan based on reports provided by the Administrative Firm.

9. Initiate any action required in the event the Plan becomes discriminatory.

GENERAL TERMS AND CONDITIONS

Other terms and conditions of this services agreement include the following items.

1. The Administrative Firm, in performing its obligations under this Agreement, is acting only as agent of the Employer and the rights and responsibilities of the parties shall be determined in accordance with the law of agency except as otherwise provided herein.

2. The Administrative Firm shall not be liable for or use its funds for the payment of benefits under the Plan of the Employer and if, in the normal course of business under this Agreement, the Administrative Firm chooses to advance any funds, the Employer shall reimburse the Administrative Firm for such payment. In no event shall such advances by the Administrative Firm be construed as obligating the Administrative Firm to make further advances, or to assume liability of the Employer for the payment of benefits under the Plan.

3. The Administrative Firm shall use ordinary care and reasonable diligence in the exercise of its power and the performance of its duties as Administrative Firm hereunder, but unless resulting from its negligence shall not be liable to the Employer for any mistake of judgment or other action taken in good faith. This agreement does not create any rights in, or duties to, any Participant or claimants under the plan against the

Administrative Firm. It is the intention of the Administrative Firm and the Employer that any determination of benefits by the Administrative Firm shall be binding and conclusive unless such determination is appealed or is arbitrary and capricious.

4. The Administrative Firm agrees to indemnify the Employer and hold the Employer harmless against any and all loss, damage and expense, including court costs and attorney's fees, with respect to this agreement resulting from or arising out of the adjudged negligent, dishonest fraudulent or criminal acts of the Administrative Firm's employees, acting alone or in collusion with others. The Administrative Firm shall maintain Fidelity Bond coverage in an amount not less than $500,000 and Errors and Omissions coverage in an amount not less than $500,000 during the term of this agreement. Note, this Fidelity Bond does not cover acts of: the Employer, or any other Plan Fiduciary.

5. Except as provided in (4) above, the Employer agrees to indemnify and hold harmless the Administrative Plan against any and all loss, damage and expense, caused solely by Employee's negligence. Nothing in this Agreement is or shall be construed to be a waiver by Employer of any of the protections or limits provided by the Colorado Government Immunity Act as it may be amended.

6. The work to be performed by the Administrative Firm under this Agreement may, at its discretion, be performed directly by it or wholly or in part through a subsidiary or affiliate of the Administrative Firm or under an Agreement with an organization of its choosing. Prior approval shall be obtained from the Employer. Such approval will not be unreasonably withheld.

7. The Administrative Firm may seek the service of experts in performing its duties under this Agreement. The Administrative Firm shall consult with the Employer or legal counsel designated by the Employer when legal or extraordinary benefit matters seem to be involved. The defense of any legal action on a claim for benefits shall not be the obligation of the Administrative Firm except as set out in section 3, 4 and 5 above. Any cost or fees incurred by the Administrative Firm in connection with any such consultation or defense shall be paid by the Employer, except as provided in sections 4 and 5 above.

8. The Administrative Firm shall be entitled to rely upon any communication believed by the Administrative Firm to be genuine and to have been signed or presented by the proper party or parties.

9. This Agreement is effective for any claims processed by the Administrative Firm regardless of the incurred dates of service and paid dates. This Agreement shall be renewed and remain in active status in successive periods of twelve (12) months each. The Employer or the Administrative Firm can give the other at least sixty (60) days written notice of its intention to terminate the Agreement at anytime after the completion of the first year.

10. This Agreement shall be construed and enforced according to the laws of the state of **Colorado** to the extent not preempted by ERISA or other Federal legislation.

11. This Agreement and any appendices thereto constitute the entire agreement between the parties hereto. Changes in this Agreement or in any appendix hereto may be made only by mutual agreement between the Administrative Firm and the Employer.

12. If any state or other jurisdiction enacts a law which prohibits the continuance of this Agreement or the existing law is interpreted to so prohibit the continuance of this Agreement, this Agreement shall terminate automatically as to such jurisdiction on the effective date of such law or interpretation.

13. Failure of the Employer within thirty (30) days of receipt of written notice by the Administrative Firm to provide funds for the payment of benefit claims, administrative fees, or insurance premiums will result in termination of the Agreement immediately upon notice from the Administrative Firm to the Employer. Such notice may be by telegram, teletype or other means of written communication.

14. The Employer and the Administrative Firm stipulate that the Plan is a Cafeteria Fringe Benefit Plan. The reporting and disclosure requirements imposed by state and federal statutes are the responsibility of the Employer, and although the Administrative Firm will provide assistance, in meeting and fulfilling such reporting

and disclosure requirements, the Administrative Firm disclaims any responsibility for same. The Employer may wish to seek advice of counsel as to all legal documents required for such filings. While the Administrative Firm will perform some administrative duties as part of this agreement and has some fiduciary responsibility to the extent of performing those duties, the Administrative Firm shall not be considered the Plan Fiduciary or the Plan Administrator.

15. In the event of termination of this Agreement, the Administrative Firm:

    (i) shall complete the processing of all requests for Flexible Spending Accounts benefit payments under the Plan which are received by it and are due and payable prior to termination of this Agreement but it shall have no obligation to:

        (a) complete the processing of any such requests upon its determination that the Employer has failed to provide funds for the payment of proceeds accepted by it;

        (b) process request for benefit payments presented to it after termination date for requests for benefits relative to conditions existing on such date incurred after the term date; or

        (c) issue drafts after the termination date for requests for benefit payments relative to conditions existing on such date incurred after the term date;

    (ii) forward the claimant files to the appropriate party as prescribed by Federal and State Laws. These files are defined as the Property of the Plan Sponsor;

    (iii) retain a copy of each benefit draft issued in a numerical register as specified in Federal and State Records Retention Laws. These copies are defined as the Property of the Administrative Firm.

    (iv) shall require **10%** of the paid claims for processing of any claim that was incurred after the term date after the termination of this agreement. This fee is due at the time the claim is processed.

16. The Employer agrees to pay **10%** of the paid claims for processing of any claim incurred prior to the effective date of this agreement. This fee is due at the time the claim is processed.

17. Verification of Plan Participant benefits will be the responsibility of the Administrative firm. The Administrative Firm shall rely on participation information provided by the Employer.

COMPENSATION

A Plan setup fee of **$0.00** will be paid to the Administrative Firm upon execution of this agreement for:

Plan documentation services;

Printing of Summary Plan Descriptions;

Printing of enrollment forms;

Enrollment services.

The following rates for MONTHLY compensation to the Administrative Firm will be in effect beginning with the effective date of this agreement and will continue until revised in writing by all parties to this agreement:

Flexible Spending Account Administration	**$6.00**

MISCELLANEOUS CHARGES

(A) Restatement of Plan Document	$ 0
(B) Amendment to Plan Document	$ 0

At the end of the first plan year and each succeeding plan year end, an ANNUAL maintenance fee will be paid to the Administrative Firm for:

Re-enrollment Services and 5500 Filing Assistance	**$0.00**

The Agent of Record, **Strategic Healthplan Consulting, LLC**, will receive **0%** of all Administrative Firm fees less printing expenses.

IN WITNESS WHEREOF, the parties hereto have caused to execute by their respective officers duly authorized to do so.

On behalf of: **Gunnison County**

By: _____

Title: _____

Attest: _____

On behalf of : **Group & Pension Administrators, Inc.**

By: _____

Title: Pension Manager

Attest: _____

ADDENDUM
to the Flexible Benefit Plan Administration Agreement
between **GUNNISON COUNTY** (Client)
and **GROUP & PENSION ADMINISTRATORS, INC**. (Administrative Firm)

Whereas **Gunnison County** is a client of Administrative Firm and desires to use a contracted service of the Administrative Firm whereby the Plan account holders ("Plan Participants") may submit and pay claims through the use of a stored value or debit card ("Card") provided by the Administrative Firm's service provider. The Client by signing this Addendum agrees to the following terms and conditions:

1. Client will provide Administrative Firm Plan Participant eligibility and annual election data no later than fifteen (15) days prior to the proposed Card effective date.

2. Client will notify Administrative Firm of any needed Card terminations. Client will be responsible for any charges to the Card up to 5 business days from the date of Client's Card termination notification to ADMINISTRATIVE FIRM .

3. Client is responsible for providing funds for all payments made by means of the Card on behalf of Plan Participants and all Card-related fees charged to Plan Participants. This includes but is not limited to substantiated claims, unsubstantiated fraud and/or abuse committed by Plan Participants.

4. Client is responsible for providing funds within two (2) business days of receipt of written notice by ADMINISTRATIVE FIRM to the Client to provide funds for the payment of benefit claims. If funds are not received by ADMINISTRATIVE FIRM, ADMINISTRATIVE FIRM has the right to deactivate and/or terminate the Card. Client will be responsible for all outstanding obligations relating to Card, including any bank charges, penalties and interest in connection therewith.

5. Client will provide a deposit equal to six percent (6%) of the annual election of Plan Participants.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed on their behalf by the duly authorized signatures on the **1st day of January, 2020**.

Group & Pension Administrators, Inc. **12770 Merit Drive. Suite 200** **Dallas, TX 75251**	**Gunnison County** **200 E. Virginia** **Gunnison, CO 81230**
_____ Randy Farrow, Pension Manager	_____ Name
Date: _____	Date: _____