

**CITY CLERK
ORIGINAL**

DELIVERED JUN 09 2011

**AGREEMENT FOR
RETIREE BILLING SERVICES**

This Agreement for Retiree Billing Services (the "Agreement") made effective as of July 1, 2011 (the "Effective Date"), by and between the **CITY OF GLENDALE**, an Arizona municipal corporation (the "Employer"), and **P&A ADMINISTRATIVE SERVICES, INC.**, a New York corporation authorized to do business in Arizona ("P&A")

WITNESSETH:

WHEREAS, the Employer maintains several group health plans for the benefit of its eligible employees and retired employees; and

WHEREAS, the Employer desires to use P&A to assist the Employer in providing insurance benefits to certain retired employees of the Employer, and P&A desires to provide such services upon certain terms and conditions.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto, with the intention of being legally bound hereby, covenant and agree as follows:

1. Retiree Billing Services To Be Provided By P&A.

P&A shall provide the following services with respect to each retired employee of the Employer who has coverage under any group health plan or coverage option listed on Schedule A (a "Retiree"):

(a) P&A shall send correspondence to each Retiree describing P&A's role in the administration of the Plan, billing and collection process, acceptable payment methods, and P&A customer contact information, and any other information requested by the Employer. A sample of the correspondence is attached to this Agreement as Exhibit 1.

(b) With respect to each person who is a Retiree on the Effective Date of this Agreement, P&A shall receive by electronic download from the Employer the information that P&A deems necessary to discharge its responsibilities under this Agreement, including but not limited to name, address, Social Security number, plan information, coverage information (including information for covered dependents) and costs, and shall enter that information into P&A's administrative software system to create an electronic file with respect to the Retiree.

(c) With respect to each individual who becomes a Retiree after the Effective Date of this Agreement, P&A shall receive from the Employer his or her enrollment form and shall enter the pertinent

data from the form into a electronic file.

(d) P&A shall forward to each Retiree a monthly bill for the Retiree's share of the cost of his or her Retiree insurance coverage for the ensuing month and shall send monthly late notices to any Retiree who fails to timely remit to P&A the monies due under any such bill.

(e) P&A shall collect from Retirees the monies billed for, and shall forward all the monies collected to the Employer with appropriate instructions to pay insurance carriers and any other providers of Retiree coverage

(f) Should a Retiree fail to make any premium payment for insurance coverage that he or she has been receiving by the deadline for same, P&A shall notify the provider of that coverage and the Employer that the Retiree failed to pay the premium on time.

2. *Employer Responsibilities; Warranties And Representations.*

(a) The Employer shall notify P&A as soon as possible, but not later than thirty (30) days, following the occurrence of any of the following events:

- (1) the commencement of coverage for any Retiree; or
- (2) the death of a Retiree.

Such notification shall be made by mailing, faxing, emailing or other electronic transfer in a format mutually agreed upon, using forms provided by P&A for this purpose

(b) The Employer shall promptly and accurately furnish to P&A such information as P&A reasonably deems necessary or appropriate for the discharge of its responsibilities hereunder.

3. *Compensation.*

(a) As compensation for the services rendered hereunder, the Employer agrees to pay P&A fees in accordance with the fee schedule set forth at Schedule B hereto. P&A, with the written consent of the Employer, may adjust a fee listed on the fee schedule as of the beginning of any Contract Year commencing after the Effective Date. The fee increase for each service provided by P&A will not exceed 5% of the fee charged by P&A for such service during the prior Contract Year. For purposes of this Agreement, the term "Contract Year" means the period beginning on the Effective Date and ending one year later and each subsequent one-year period beginning on an anniversary of the Effective Date. P&A shall notify the Employer in writing of any adjustment to a fee on the fee schedule not less than one hundred and twenty (120) days before the beginning of the Contract Year in which the adjustment is to become effective.

(b) Should the Employer desire any services or materials that are in addition to the services described in Section 1, it shall request those services in writing. P&A shall be entitled to such additional compensation from the Employer for those additional services as is mutually agreed upon by the

Employer and P&A.

4. Limitation on P&A's Obligations. P&A shall have no obligation under this Agreement or otherwise to verify the accuracy or completeness of any information furnished by the Employer to P&A. P&A shall not provide legal counsel or tax advice to the Employer, and any advice furnished by P&A to the Employer regarding any provision of any law providing for the continuation of group health coverage should not be relied upon by Employer prior to consulting with its own legal advisors. It is not the Employer's responsibility to review forms generated by P&A or its administrative procedures for compliance with any applicable law. P&A shall defend, indemnify and hold harmless Employer and its agents from all loss, damages, or claims of whatever nature, including attorney's fees, expert witness fees and costs of litigations, which are caused by the use of the forms generated by P&A or its administrative procedures.

5. Insurance

(a) P&A will provide and maintain at all time during the term of the Agreement, the following types and amount of insurance:

- (1) Commercial general liability including broad form contractual, personal injury, premises, products and completed operations and fire legal liability in the amount of \$2,000,000 per occurrence;
- (2) Comprehensive automobile liability insurance in the amount of \$2,000,000, combined single limit per occurrence; and
- (3) Worker's Compensation in the amount required by law.

(b) Insurance must be in a form satisfactory to and from a company acceptable to the Employer's Risk Manager, name City of Glendale as an additional insured and require 30 days written notice to Employer before modification or termination. The insurance must also include contractual liability coverage for the obligation of indemnity assumed in this Agreement. Policy issuer must possess an A.M. Best Rating of at least "A."

(c) Employer's Risk Manager may determine other requirements necessary for P&A's operations. Insurance requirements are subject to periodic review and adjustment by Employer

6. Relationship and Responsibilities of the Parties; Indemnification. The legal relationship between the Employer and P&A shall be exclusively that of principal and agent. The responsibilities and liabilities of P&A are only those set forth herein, and no others shall be implied. P&A shall have no duty

or authority to make, or to compel the Employer to make payment of any benefit under the Plan. Except for its own misconduct or negligence, P&A shall not indemnify the Employer or any other provider of benefits under the Plan, with respect to its liability to pay benefits to Participants.

Employer and P&A agree to each be solely responsible for their own acts or omissions in the performance of each of their individual duties hereunder, and shall be financially and legally responsible for all liabilities, costs, damages, expenses and attorney fees resulting from, or attributable to any and all of their individual acts or omissions. No party shall have any obligation to indemnify the other, and/or its agents, employees and representatives.

7. Term and Termination. The initial term of this Agreement shall be the Contract Year commencing on the Effective Date. Thereafter, this Agreement may be renewed for no more than four additional Contract Years, unless one party to this Agreement gives the other party notice in writing of its desire to terminate the Agreement as of the end of a specified Contract Year not less than sixty (60) days prior to the end of that Contract Year. Notwithstanding the foregoing, this Agreement shall terminate (a) automatically if either party is adjudicated a bankrupt or suffers appointment of a temporary or permanent receiver, trustee or custodian for all or a substantial part of their assets, which shall not be discharged within thirty (30) days of appointment, or makes an assignment for the benefit of creditors, (b) ninety days (90) after Employer notify P&A its intent to terminate; or (b) after written notice by one party of the other party's material breach of, or material failure to perform, its obligations hereunder unless such breach or failure is cured within ten (10) days of said notice. Any notice of breach must provide details, to the extent the non-breaching party has knowledge of such details, regarding the nature of the other party's alleged breach, the specific obligation hereunder to which the alleged material breach relates, the date on which occurred and the identity of any personnel of the other party that were involved. Failure to provide such detail shall render said notice null and void for purposes of this Agreement.

In addition, either party may terminate this Agreement for any reason or no reason upon ninety (90) days' written notice to the other party.

Should the Employer cause this Agreement to be terminated other than in accordance with the preceding paragraph, the Employer immediately shall become obligated to pay P&A as liquidated damages an amount equal to three months of the monthly administrative fees applicable during the month prior to the termination. For purposes of calculating this liquidated damages amount, the administrative fees due to P&A hereunder for services it provided in the month preceding the month within which P&A first was notified of the premature termination of the Agreement shall be multiplied by three (3) and paid to P&A upon the effective date of termination.

8. Confidentiality. All books and records, including the data therein, pertaining to each party and

the Retirees which may come into the hands of the other are to be treated as confidential and private records, and the other party shall not disclose information from such records unless it is required by law or authorized by the initial party in writing prior to such disclosure. If P&A discovered that it may have disclosed Retirees' records or data without the consent of the Retirees, P&A shall immediately notify the Employer and the Retirees about such unauthorized disclosure and take all necessary steps required by applicable federal and state laws and regulations to protect the Retirees from the effect of the disclosure.

Both parties reserve the right to control the use of any of their symbols, trademarks, computer programs and service marks currently existing or hereafter established. Both parties agree that they will not use the computer programs, work, symbols, trademarks, service marks, or other devices of the other in advertising, promotional material, or otherwise and will not advertise or display such devices without the prior written consent of the other party. In addition, both parties further agree that any such work, symbols, trademarks, service marks, or other devices furnished by one party to the other shall remain the property of the initial party and shall be returned by the other party upon demand of the initial party upon termination of this Agreement.

9. HIPAA Compliance. With respect to any personal medical information that it obtains pursuant to this Agreement ("Participant Information"), P&A shall act in conformance with the Health Insurance Portability and Accountability Act of 1996 and all regulations issued from time to time pursuant thereto (collectively "HIPAA"). The obligations under HIPAA include, but are not limited to the following:

(a) P&A shall not use or further disclose Participant Information other than as permitted or required by the Agreement.

(b) P&A shall not use or further disclose Participant Information in a way that would violate the privacy regulations set forth in HIPAA.

(c) P&A shall implement appropriate safeguards to prevent use or disclosure of Participant Information other than as provided for pursuant to the Agreement.

(d) P&A shall ensure that any agents to whom it provides protected Participant Information will abide by the requirements of HIPAA with respect to disclosure of such information.

(e) P&A shall report to the Employer and affected Participant any uses or disclosures of Participant Information not provided for pursuant to the Agreement of which P&A becomes aware. If P&A discovered that it may have disclosed Participant Information without the consent of the Participant, P&A shall immediately notify the Employer and Participant about such unauthorized disclosure and take all necessary steps required by applicable federal and state laws and regulations to protect the Participant from the effect of the disclosure.

(f) P&A shall make available protected Participant Information in accordance with the

provisions of HIPAA relating to an individual's right to receive an accounting of uses and disclosures of their health information.

(g) P&A shall make its internal practices, books and records relating to the use and disclosure of protected Participant Information received from the Employer or Participants available to the Secretary of Health and Human Services for purposes of determining compliance with the HIPAA regulations.

(h) P&A shall return to the Employer all protected Participant health information at the termination or expiration of the Agreement

(i) P&A shall incorporate any amendments or corrections to protected Participant health information when the Employer or Participants notify P&A of such changes

10. **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the parties, their legal representatives, successors and assigns

11. **Integration.** By their making of this Agreement, the parties hereto hereby acknowledge that this Agreement supersedes any previous understandings between them with respect to all matters contained herein and contains the entire understanding and agreement between them with respect to all matters contained herein and cannot be amended, modified or supplemented except by a subsequent written agreement entered into by both parties.

12. **Subcontracting.** P&A shall not subcontract any portion of this Agreement without the prior written approval of the Employer.

13. **Non-Exclusive Arrangement.** Nothing contained herein shall be construed to prevent either party from independently operating or participating in any other agreement concerning plan administration services independent and unrelated to the services and obligations of the parties pursuant to this Agreement

14. **Waiver of Breach.** The waiver by either party of a breach or violation of any provision of this Agreement shall not operate as or be construed as a waiver of a breach or violation of any other provision of this Agreement or of any subsequent breach or violation thereof

15. **Severability.** In the event any provision of this Agreement is rendered invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

16. **Governing Law.** This Agreement is made in and shall be construed pursuant to the laws of the State of Arizona, to the extent that the law of the State of Arizona is not superseded by federal law

17. **Enforcement.** If any action at law or in equity (including arbitration) is necessary to enforce or interpret any one or more of the terms of this Agreement, then, to the extent permitted by law, the prevailing party shall be entitled to reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which such party may be entitled

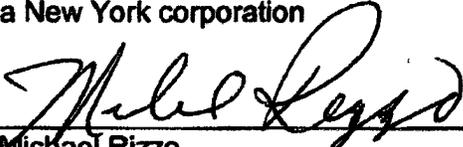
18. **Notice.** Any notice hereunder by a party shall be deemed to have been duly given three (3) business days after mailing, and, except as otherwise provided herein, shall be given by mailing in any post office or post office box maintained by the United States Postal Service, enclosed in a postage paid envelope, registered or certified mail, return receipt requested. A mailing to P&A shall be addressed to 17 Court Street, Suite 500, Buffalo, NY 14202-3294 A mailing to the City of Glendale shall be addressed to the Human Resources Director (5850 W. Glendale Ave. Ste. B-56, Glendale, AZ 85301) and to the City Attorney's office (5850 W Glendale Ave Ste. 450, Glendale, AZ 85301).

19. **Immigration Law Compliance.** P & A warrants, to the extent applicable under A.R.S. §41-4401, compliance with all applicable immigration laws and regulations that relate to their employees as well as compliance with A.R.S. §23-214(A) which requires registration and participation with the E-Verify Program - the employment verification program administered by the United States Department of Homeland Security, the Social Security Administration, or any successor program.

20. **Foreign Prohibitions.** P & A certifies under A.R.S. §§ 35-391 et seq., and 35-393 et seq., that it does not have "scrutinized" business operations, as defined in the preceding statutes, in the countries of Sudan or Iran.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by an authorized officer as of the Effective Date

"P&A":

P&A ADMINISTRATIVE SERVICES, INC.,
a New York corporation


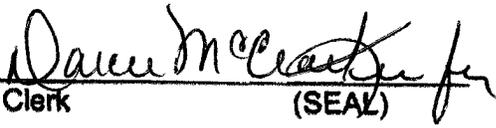
Michael Rizzo
President
Date: 4/12/11

"Employer":

CITY OF GLENDALE,
an Arizona municipal corporation


Ed Beasley
City Manager
Date: 6.9.11

ATTEST:


City Clerk (SEAL)

APPROVED AS TO FORM:


City Attorney

EXHIBIT 1
P&A SAMPLE CORRESPONDENCE TO RETIREES

SCHEDULE A
EMPLOYER'S GROUP HEALTH PLANS

BLUE CROSS BLUE SHIELD OF ARIZONA-MEDICAL
DELTA DENTAL PLAN OF ARIZONA-DENTAL
EMPLOYER'S DENTAL SERVICE-DENTAL
VISION SERVICE PLAN-VISION
THE HARTFORD-LIFE

**SCHEDULE B
FEES**

- 1 **INSTALLATION FEE.** The Employer shall pay to P&A a one-time fee of \$500.00 within thirty (30) days after receipt by the Employer of P&A's invoice with respect to same

2. **RETIREE BILLING FEES.** The Employer shall pay (or cause to be paid) to P&A fees for each calendar month commencing while this Agreement remains in effect. The fees for a given month shall equal \$5.85 for each individual who was a Retiree as of the first day of the preceding month; provided, however, the fees for the first month of the Agreement shall be based on the number of Retirees on the Effective Date. P&A shall provide an invoice for the fees due with respect to each month, with each invoice due and payable within thirty (30) days after receipt by the Employer.

3. **MAILING EXPENSES.** The Employer shall pay the cost of any mailing required under the Agreement the rate for which exceeds the first class rate charged by the U S Post Office

- 4 **PARTICIPANT FEES.** P&A reserves the right to impose a charge of \$25.00 on a Retiree should a check tendered by him or her in payment of a premium be returned on account of insufficient funds. Further, if insurance coverage must be reinstated due to non-payment of premiums or other circumstances for which a Retiree is responsible, P&A may impose a charge of \$30.00 on that Retiree