
City of South San Francisco
HEALTH REIMBURSEMENT ARRANGEMENT
ADMINISTRATIVE SERVICES AGREEMENT
(Confidential)

Thank you for retaining Educators Benefit Consultants, LLC d/b/a Aviben ("Aviben" or "EBC") to perform services for your HRA Plan. We look forward to working with you and will do our best to provide service for your HRA Plan in a prompt and efficient manner.

This summarizes the work we are to perform, outlines our fees and billing procedures, and notifies you of your responsibilities. Please read it carefully 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.

The engagement will renew on the first day of each succeeding plan year, unless either of us gives the other notice of termination of this engagement 90 days prior to the end of any plan year. You will receive notice of any increases in the cost of administration services at least 100 days prior to the end of the plan year. In the event the notice of increase is not received by you at least 90 days prior to the end of the plan year, you will have 30 days after the receipt of the increase to give us notice of the cancellation of our services.

1. WHAT AVIBEN WILL DO:

A. Plan Documentation – Aviben will prepare the following documentation for the Plan in accordance with current with Internal Revenue Codes (IRC) 105, 106, 213(d), 115, 501(a), and the Affordable Care Act (ACA) as applicable. Aviben will make recommendations to employer as needed on ways to comply with these Code sections in the future. Employer will be notified of the cost, and the content of the changes required to the following, if relevant:

- Plan Document
- Adoption Agreement
- Funding Addendum (Naming the Trust Vehicle)
- Summary Plan Description
- Enrollment Forms
- Claim Forms
- Notice of Privacy Practices (HIPAA requirement)
- Business Associate Agreement (HIPAA requirement)

B. Trust Documentation – **Public Employers** have the option between two different trust types an IRC 115 (Integral Part Trust) or a IRC 501(c)(9) (Voluntary Employee Beneficiary Association or VEBA Trust). **Private Sector Employers** that desire to implement a Trust only have the VEBA Trust as an option.

- Trust Addendum: Specific to VEBA or 115 Requirements
- Custodial Agreement: Specific to VEBA or 115 Requirements
- Benny Card Addendum

C. Aviben will prepare the following documentation for the establishment of the VEBA Trust.

- Form SS-4 to request trust tax ID number
- Form 8718: User Fee for Exempt Organization Determination Letter Request
 - User fee to be paid by employer
- Form 1024: Application for Recognition of Exemption Under Section 501(a) and all supporting materials

*All revenue sharing dollars shall be credited back to participants' accounts (e.g., 12b1s, Sub TAs, and interest earned via "The Standard II" fixed account).

D. Administrative Duties: To follow are some of the daily administrative functions performed by Aviben

- Process claims
- Provide employee enrollment materials
- Reimburse participants via ACH, check, or debit card process
- Customer service call center
- Reporting as required under Section 111 of the Medicare, Medicaid, and SCHIP Extension Act of 2007
- Provide a secure participant web portal
- Provide a secure employer web portal
- Monitor HRA investment offerings
- Mail or e-mail statements to participants at least annually
- Consulting services to employer
- Provide PCOR participant count report and payment instructions
- 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 prepare the following in response to voluntary or mandatory amendments.

- Resolution to Amend
- The Amendment or an Adoption Agreement
- Summary of Material Modifications (describes changes and impact on plan)

The fee for a voluntary amendment shall be \$200.00

The fee for a mandatory amendment shall be \$0

2. Other Services

- A. Discrimination Test (D-Test) Performed Annually.** If elected as an option, Aviben shall perform a discrimination test based on employee information that you submit 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. I understand that if I elect to have Aviben run the annual test we will be invoiced the cost quoted in the Service Agreement Addendum – Fee Schedule. Aviben shall invoice us upon completion of the test.
- B. 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:
- Retiree Only HRAs
 - Limited-Use HRAs
 - Integrated HRAs only if the insurance SBC addresses the HRA Plan

The IRS provides that an 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. I understand that if I elect for Aviben to provide an updated SBC and Uniform Glossary for our employer-sponsored HRA Plan on an ongoing annual basis, this SBC and Glossary will be posted on the employee web portal every year and we will be invoiced the cost quoted in the Service Agreement Addendum – Fee Schedule. I further understand that if I elect to have Aviben mail the SBC to employees 3 months before our plan year begins, we will be billed the cost of the mailings in addition to the cost quoted in the Service Agreement Addendum – Fee Schedule.

- C. Annual Form 990 Filing (annual requirement for VEBA trusts).** If desired, Aviben shall prepare signature ready Form 990 on an annual basis for filing with the IRS; employer will be responsible for following our 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. I understand that if I elect to have Aviben prepare the filing we will be invoiced the fee quoted in the Service Agreement Addendum. The fee will be charged when the filing package is sent to employer for signature and mailing.
- D. Annual Form 5500 Filing (annual requirement for private sector plans).** If desired, Aviben shall prepare 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 our 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. I understand that if I elect to have Aviben prepare the filing we will be charged the fee quoted in the Service Agreement Addendum – Fee Schedule once the Form is submitted for electronic signature.
- E. 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). I understand that if I elect to have Aviben perform the COBRA Administration services, we will be charged the fee quoted in the Service Agreement Addendum – Fee Schedule.

3. WHAT YOU AGREE TO DO

It is impossible for us to provide services to you without your cooperation. Therefore, you are responsible for the following:

- **Timeliness and Accuracy of Data** – We must receive complete, accurate, and timely information. We will rely exclusively on information provided by you, your agents, employees, or advisors, whether oral or in writing, and will have no responsibility to verify independently the accuracy of that information. We assume no responsibility to acquire information other than to request it from you and will not be liable for any errors or omissions made because of incomplete or incorrect information that you furnish to us. In the event inaccurate or incomplete materials require that we repeat any compliance work already completed, you will be charged an additional fee.
- **Annual Compliance** – Upon request we may require employee census data, updated information about your company. Following the receipt of complete information from you, Aviben will do the following:
- **Filing Government Reports** – We will prepare certain government reports on your behalf. You will be responsible for the timely filing of these reports with the appropriate agency.



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- **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.
- **Qualified Medical Child Support Order (“QMCSO”) Determination** – Unless you otherwise request us to assist in the determination, you will be responsible for the determination of whether court orders comply with the QMCSO requirements of the Code. In the event you have possession of any QMCSO requiring the separation of any assets of the Plan, you must inform Aviben of the required separation.
- **Other Plans** - The Plan's operation and tax qualification is affected by other plans sponsored by the Company (whether currently active or terminated, and whether or not we administer them). You are responsible for informing us of other plans.
- **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 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 negligence, willfully, or in violation of applicable standard of care in breach of its obligations under this Plan.
- **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.

4. BILLING PROCEDURES AND COLLECTIONS

- **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, we 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.
- **Governing Law** - This agreement shall be interpreted, construed, and enforced in accordance with the laws of the State of Minnesota and shall and the obligations, rights, and remedies of the parties hereunder shall be determined in accordance with such laws. 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.



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- **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 we may incur on your behalf, such as IRS user fees, and extensive travel expenses.¹

5. ENTIRE AGREEMENT

This Service Agreement and the Service Agreement Fee Schedule contains the entire agreement between you and Aviben with respect to your HRA Plan. This Agreement supersedes any prior conflicting agreements. This agreement may be modified only by mutual written consent between you and Aviben. We will commence work under this agreement upon receipt of a signed copy of this Service Agreement and Service Agreement Fee Schedule. If you have questions regarding this letter, please call 1-888-507-6053.

6. ACCEPTANCE

The items and conditions of this Service Agreement are agreed to and accepted by an Authorized Plan Representative on behalf of the Plan and by the Employer:

Dated: _____

Dated: _____

Name of Employer: City of South San Francisco

Educators Benefit Consultants, LLC

By: _____
Mike Futrell, City Manager
City of South San Francisco
400 Grand Avenue
South San Francisco, CA 94080

By: _____
Loni Morrow, General Counsel
Educators Benefit Consultants, LLC
1995 E. Rum River Dr. South
Cambridge, MN 55008

¹ Aviben will absorb the cost of one business trip per year to an employer's location. Trips in excess of one made at the request of the employer shall be paid for by the employer (mileage and lodging) unless otherwise negotiated.



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SERVICE AGREEMENT ADDENDUM – FEE SCHEDULE FOR SERVICES PROVIDED

Plan: **City of South San Francisco Retiree HRA**

Employer: **City of South San Francisco**

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 agreement 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 invoiced 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. **Plan Documentation Fee (Document and Set-up) – One time only**.....\$1,000
- B. **Trust Documentation – One time only**.....\$250
- C. **Administrative Fees (charged quarterly in advance):**
 - Employer Pays**
 - ☐ 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 14 bps per quarter. If funds are invested in anything other than the fixed interest account or the money market other investment fees shall also apply.*
- D. **System Fee**.....\$1.00 per participant per month once claims-eligible
PLEASE CHECK ONE:
☒ Charge by deducting from Participant account annually in advance
☐ Charge Employer quarterly
- E. **Plan Amendments Paid By Employer**
 - a. Voluntary amendments.....\$200.00
 - b. Federally mandated amendments.....\$0.00

2. Other Services Aviben Can Provide if Desired [PLEASE CHECK DESIRED OPTIONS]:

- ☐ **Discrimination Test**.....\$500.00 (if elected by Employer)
- ☒ **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

3. EFT/ACH Authorization for Contributions and Reimbursements

Unless otherwise negotiated, I will authorize Aviben to receive information via an electronic transaction from the Plan.

BY: _____ Print Name & Title Janet Salisbury, Finance Director

Phone: (650) _____

*All revenue sharing dollars shall be credited back to participants' accounts (e.g., 12b1s, Sub TAs, and interest earned via "The Standard II" fixed account).



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ACKNOWLEDGMENTS

- A. *Any collectively bargained Employees participating in this Plan participate because the collective bargaining agreement provides for coverage under this Plan.*
- B. *This Plan has been duly adopted or authorized to be adopted by the Employer's Committee.*
- C. *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.*
- D. *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.*

Executed by:

EMPLOYER: City of South San Francisco

By: _____
Mike Futrell

Title: City Manager

Date: _____

EDUCATORS BENEFIT CONSULTANTS, LLC d/b/a Aviben

By: _____
Loni Morrow

Title: General Counsel

Date: _____