

# RECORD OF RESOLUTIONS

Resolution No. 2015-I

March 23, 2015

## CITY OF BELLBROOK, OHIO

### RESOLUTION NO. 2015-I

#### **A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDED JOINT SELF-INSURANCE AGREEMENT WITH THE CENTER FOR LOCAL GOVERNMENT BENEFITS POOL.**

WHEREAS, the City of Bellbrook is a current member of the Center for Local Government Benefits Pool (CLGBP); and

WHEREAS, the CLGBP provides self-insured health benefits to its members; and

WHEREAS, an Amended Joint Self-Insurance Agreement to continue membership in the CLGBP has been submitted to all participating members for approval; and

WHEREAS, the City of Bellbrook desires to continue as a member of the CLGBP according to the terms of said Amended Agreement, a copy of which is attached hereto.

NOW, THEREFORE, THE CITY OF BELLBROOK HEREBY RESOLVES:

Section 1. That the Amended Agreement with the Center for Local Government Benefits Pool is hereby accepted and approved.

Section 2. That the City Manager is hereby authorized to execute said Amended Agreement for and on behalf of the City of Bellbrook.

Section 3. That this resolution shall take effect and be in force forthwith.

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Robert L. Baird, Mayor

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Carrie C. Smith, Clerk of Council

**CENTER FOR LOCAL GOVERNMENT BENEFITS POOL**

**~~SECOND~~ AMENDED JOINT SELF-INSURANCE AGREEMENT**

(Effective August 1, 2015)

WHEREAS, Section 9.833 of the Ohio Revised Code authorizes Political Subdivisions to act individually or jointly to establish health care benefits programs for their officers or employees; and

WHEREAS, effective August 1, 2009, as sponsored by the Center for Local Government, an Ohio not-for-profit corporation (“CLG”), a number of the Members of CLG representing local Political Subdivisions did enter into a Joint Self-Insurance Agreement to establish a joint self-insurance program to provide healthcare benefits for the officers and employees of such political subdivisions as permitted by RC Section 9.833; and

WHEREAS, the current Political Subdivisions who are parties to such Agreement (“Members”) do desire to amend such prior agreement to govern the terms and conditions under which the Members will continue to operate and administer such joint self-insurance program; and

WHEREAS, this Agreement, as amended to be effective ~~November 1, 2013~~August 1, 2015, shall be executed in component parts by the Members upon approval of their respective Political Subdivision, and with such amendment the Members desire to be bound by the terms and conditions of this amended Agreement (as amended “Agreement”).

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, it is agreed by and among the CLG and the Members identified below, on behalf of which this Agreement has been executed in accordance with Section 9.833 of the Ohio Revised Code that:

**ARTICLE I**

Section 1.1. Name. The unincorporated joint self-insurance program shall be known as the Center for Local Government Benefits Pool (hereinafter “Benefits Pool”).

Section 1.2. Duration. This Agreement as amended shall be effective ~~November 1, 2013~~August 1, 2015 after appropriate approval by two-thirds (2/3) of the current Members of the Benefits Pool and shall supersede the prior Agreement which was effective ~~March 1, 2012~~November 1, 2013. Such amended Agreement shall continue indefinitely until amended or appropriately terminated as provided herein. The Benefits Pool shall have a perpetual duration and shall continue until terminated pursuant to this Agreement.

Section 1.3. Legal Status. The Benefits Pool shall be deemed to be a legal entity, separate and apart from its Members to obtain insurance, to create a joint self-insurance program, and to provide for the joint administration of the funds of the Benefits Pool.

## **ARTICLE II DEFINITIONS**

Section 2.1. Act. “Act” shall mean Section 9.833 of the Ohio Revised Code and any successor statute thereto, as amended from time to time.

Section 2.2 Administrator. “Administrator” shall mean the entity designated by the Board (as hereafter defined) to supervise the administration of the Benefits Pool, provide additional protections utilizing its pooling structure, and to perform such other duties as are set forth in a separate Administration Agreement which the Board shall authorize and execute with such Administrator. The current Administrator is the ~~Ohio Mid-East Regional Education Service Agency (“OME-RESA”)~~[Jefferson Health Plan \(“JHP”\) formerly known as the Ohio Mid-East Regional Education Service Agency \(“OME-RESA”\)](#). The current Administration Agreement is attached hereto as Exhibit A. Any reference herein to such Administration Agreement including the OME-RESA Administration Agreement, and any future Administration Agreement authorized by the Board, are referred to herein as “Administration Agreement.”

Section 2.3. Agreement “Agreement” means this Agreement as amended and all counterparts hereto, as may be amended from time to time.

Section 2.4. Board. “Board” shall mean all of the Directors of the Benefits Pool.

Section 2.5. Broker. “Broker” shall mean the benefits broker for the Benefits Pool.

Section 2.6. CLG Board. “CLG Board” shall mean the Board of the Center for Local Government.

Section 2.7 Contributions. “Contributions” shall mean any amounts paid by a Member to the fund of the Benefits Pool.

Section 2.8. Director. “Director” shall mean the persons appointed by each Member to represent the Member on the Board of the Benefits Pool.

Section 2.9. Executive Committee. “Executive Committee” shall mean the officers of the Directors of the Benefits Pool, including the President, Vice President, Secretary and Treasurer, and such other Directors as set forth herein.

Section 2.10. EST. “EST” shall mean Eastern Standard Time.

Section 2.11. Fund or Funds. “Fund or Funds” shall mean those amounts paid by Members pursuant to Articles Seven and Eight.

Section 2.12. Member. “Member” shall mean a Political Subdivision who is a party to this Agreement and who has not withdrawn from or been terminated from participation in the Benefits Pool.

Section 2.13. Plan Year. The “Plan Year” for the Benefits Pool runs from August 1<sup>st</sup> until July 31<sup>st</sup>.

Section 2.14. Political Subdivision. “Political Subdivision” shall have the same meaning given to it by the Act.

Section 2.15. Scope of Coverage. “Scope of Coverage” shall mean the coverage, limits and deductibles set forth in Section 4.6 hereof.

Section 2.16. Surplus Funds. “Surplus Funds” shall mean the amount by which the funds available to operate the Benefits Pool for any year or years exceed all of the costs, liabilities (including claim liabilities, claim reserves terminal liability) and expenses of operating the Benefits Pool.

Section 2.17. Term. “Term” shall mean the period of time that a Member has agreed to participate in the Benefits Pool and the period of time that the Member has agreed to conform to this Agreement.

### **ARTICLE III MEMBERSHIP**

Section 3.1 Qualifications. An applicant seeking membership in the Benefits Pool must meet all of the qualifications required by the Act, must demonstrate to the satisfaction of the Executive Committee the financial ability to pay all Contributions required of the Member, and must meet all other underwriting and financial guidelines as established by the Board and/or the Administrator. An applicant seeking membership to the Benefits Pool must join the Center for Local Government, and must maintain membership in the Center for Local Government for the duration of time they are participants in the Benefits Pool.

Section 3.2 Application. All applicants seeking to become Members shall request membership in the Benefits Pool by notifying the Executive Committee in writing of their intent to become a Member, signing and accepting this Agreement, as it may now exist or hereafter be amended, providing ~~a Township Resolution or Municipal Ordinance or other~~ legislation authorizing participation, and ~~provide~~ providing to the Administrator all required underwriting data and forms.

Section 3.3 Effective Time of Membership. An applicant shall become a Member at the time that a duly authorized officer of the applicant executes, a duly authorized officer of the Benefits Pool accepts, and written acceptance of the request to participate is forwarded by the Benefits Pool and actually received by the Member. No applicant shall be permitted to become a Member, unless it provides written documentation satisfactory to the Executive Committee, in its sole judgment, that the applicant has the requisite capacity and authority, and has agreed to all of its obligations hereunder. Membership shall thereafter be effective on the date noted in Section 3.5 of this executed Agreement.

Section 3.4 Duties of Members. Each Member agrees to do or cause to be done all of the following:

- a) Cooperate with and institute all loss prevention procedures and guidelines approved by the Executive Committee.
- b) Designate a Director of the Member to serve on the Board, and to cause that Representative to attend all meetings of the Board.
- c) Provide the Benefits Pool and/or its duly authorized representatives access to records of the Member during normal business hours, upon 24 hours prior written notice and only for the purpose of conducting necessary services related to the operation of the Benefits Pool and for no other purposes.
- d) Permit the Benefits Pool and/or its duly authorized representatives to represent the Member in investigating, litigating and settling any claim made against the Benefits Pool or the Member that is within the Scope of Coverage provided by the Benefits Pool.
- e) Promptly pay when and as due all Contributions required under this Agreement.
- f) Agree to be solely responsible for compliance with all federal and state employee benefits laws relative to the benefits the Member secures for its employees through participation within the Benefits Pool. Member acknowledges and agrees that no other Member, nor the CLG, nor Benefits Pool, nor the Administrator shall be responsible for Member's compliance responsibility nor any civil damages or administrative penalties which may be assessed against a Member for any non-compliance with federal or state benefits laws.
- g) Pay Contributions for insurance/pool/benefits of the Benefits Pool negotiated in accordance with the terms established by the Board and the insurance/pool/benefits provider and Administrator.
- h) Cooperate fully with the Board and the Administrator in any matter relating to the purpose and operations of the Benefits Pool.
- i) Act promptly on all matters requiring action on the part of the Member in order for the Board or the Administrator to properly administer the Benefits Pool.
- j) Each Member shall, as needed by the Board, the Administrator, and/or the insurance/pool/benefit provider(s) servicing the Benefits Pool, furnish periodic reports of additions, deletions, and changes to the listing of covered

employees, as well as all other information as may be reasonably required for the purpose of enrolling employees, processing terminations, determining Contribution levels, effecting changes in family status, and assessing the costs of administration as provided herein.

- k) The Member is subject to the Benefits Pool's rules on timely notification of enrollments to, and terminations from, the plan. In no event will the Benefits Pool, its insurers or administrators, adjust overpayments, or accept late enrollees (without evidence of insurability, if applicable) when notified more than two (2) months after the termination or date eligible for enrollment.
- l) Neither the CLG, nor the Administrator, nor the Benefits Pool assumes any responsibility to provide any specified level of benefits, benefits provisions, type of coverage, or amount of allowable payment, in order to meet the requirements of any Member's collective bargaining agreements or satisfy the outcome of any employee or bargaining group member dispute or grievance. The Benefits Pool reserves the right to withdraw plan offerings or change benefit levels at any time according to the approval of the Board.

Section 3.5 Membership in the Benefits Pool. Membership in the Benefits Pool shall continue as provided under the prior Agreement and shall continue after ~~November 1, 2013~~August 1, 2015 in accordance with the terms of this amended Agreement which shall then become the new "Commencement Date" as provided in this Agreement. Any Member joining after this Commencement Date of ~~November 1, 2013~~August 1, 2015 shall be bound by the terms of the amended Agreement upon the date of the Member's acceptance of this Agreement.

## **ARTICLE IV BOARD OF DIRECTORS**

Section 4.1 Establishment of the Board. The Benefits Pool shall have a Board of Directors, which shall, among other duties, determine the general policy of the Benefits Pool. Each Member shall be entitled to appoint one Director.

Section 4.2 Term of Directorships. A person appointed by a Member to serve as a Director on the Board shall remain in office until (1) the Benefits Pool receives evidence of the appointment of a successor, or (2) the effective time of the withdrawal from or termination of the Member's participation in the Benefits Pool.

Section 4.3 Officers . The Board shall every three (3) years elect from the Directors of the Board a President, a Vice President, a Secretary, and a Treasurer. The Directors receiving the largest number of votes for each office shall be elected. No Director may serve more than two (2) consecutive terms as President.

Section 4.4 Meetings.

- a) Regular Meetings. Meetings of the Board shall be held no less frequently than semi-annually at such times as the President shall prescribe. The President shall give written notice to each Director of the time, date and place of each semi-annual meeting, at least seven (7) days prior to each meeting. This notice may, but is not required to, contain an agenda of items to be discussed. Any item of Benefits Pool business may be considered at such semi-annual meetings, whether or not identified on an agenda that may have been contained in the notice for the meeting.
- b) Special Meetings. Special meetings of the Board may be called by the President or by a majority of the Directors. Only items listed for discussion in the notice of the special meeting may be considered at a special meeting. The President shall give written notice to each Director of the time, date, place and purposes of a special meeting at least three (3) days prior to each such special meeting.
- c) Meeting by Use of Communications Equipment. Directors may attend a meeting of Directors by use of communications equipment that enables the Director or proxy holder an opportunity to participate in the meeting and to vote on matters submitted to the Directors, including an opportunity to read or hear the proceedings of the meeting and to speak or otherwise participate in the proceedings contemporaneously with those physically present. Any Director using communications equipment will be deemed present in person at the meeting, whether the meeting is to be held at a designated place or solely by a means of communications equipment. Those Directors attending and participating at the meeting by communications equipment shall be noted in the Minutes of the meeting, which Minutes also shall reference the means of communications equipment and the time and date the meeting was convened on such basis. The Secretary shall certify as an appropriate Director action any Resolution or other action taken at the meeting of the Directors on such basis. Any third party may rely upon such certification as a valid act of the Directors of the Benefits Pool.

Section 4.5 Committees of the Board. The Board may from time to time appoint ad hoc committees of no fewer than three (3) of the Directors. The Board may change membership of the ad hoc committees at any time. An ad hoc committee may bind the Board only as to matters over which the Board has given such committee express authorization.

Section 4.6 Executive Committee. There is hereby established an Executive Committee consisting of the President, Vice President, Secretary and Treasurer elected by the Board and three (3) at large Directors of the Benefits Pool appointed by the Directors. Each at large appointed Director shall serve for a two (2) year term, and may be re-appointed for successive terms by the Directors. The terms for the at large members of the Executive Committee shall be staggered with two (2) initial appointees serving a period of one (1) year and one (1) initial appointee serving a term of two (2) years. Thereafter, successor terms shall be equal to two (2) years.

Successor at large members of the Executive Committee shall be elected by the Membership at a Meeting of the Directors as provided herein. Each term on the Executive Committee shall commence January 1<sup>st</sup>. Vacancies to the Executive Committee shall be filled by the same process.

The Executive Committee shall give non-binding recommendations and advice to the Directors of the Benefits Pool in the following areas:

- a) The types of insurance/pooling/benefits to be provided or risks to be shared through the Benefits Pool.
- b) The selection of insurance/pool/benefit providers.
- c) Plan design.
- d) Recommendations to confirm pricing for insurance plans.
- e) An annual budget for the Benefits Pool.
- f) Contracting for outside services such as legal or accounting advice.
- g) Such other duties and responsibilities as may be assigned by the Directors.

The Directors of The Pool may consider, but shall not be bound, by any recommendations of the Executive Committee established herein.

Section 4.7 Powers and Duties. The Board is authorized and directed to carry out each and every act necessary, convenient or desirable including, but not limited to:

- a) Hiring an Administrator,
- b) Receiving Member contributions,
- c) Facilitation of the contract with the Administrator to accomplish the administration of the Benefits Pool for settling and paying, or causing the payment of, claims on behalf of the Members,
- d) Making and entering into subcontracts to conduct and operate the Benefits Pool,
- e) Employing any such persons or entities as are necessary to conduct the proper affairs of the Benefits Pool,
- f) Approving new Members,
- g) Terminating the participation of Members,
- h) Approving and amending the annual budget of the Benefits Pool,
- i) Resolving disputes over the Scope of Coverage provided by the Benefits Pool,
- j) Approving educational and other programs relating to risk reduction,
- k) Approving reasonable and necessary loss reduction and prevention procedures to be followed by all Members, [including wellness programs](#),
- l) Approving the Funding Rates of each Member, as defined in Section 7.1 hereof,
- m) Establishing rules and regulations regarding the payment of funds from the Benefits Pool as shall from time to time seem appropriate and necessary,
- n) Investing Benefits Pool monies, or overseeing the investment of Benefits Pool monies by the Administrator,



- o) Overseeing the Administrator's duties with respect to providing surety and/or fidelity bonds for directors and all persons charged with the custody or investment of Benefits Pool funds,
- p) Overseeing the Administrator's duties with respect to establishing bank accounts as necessary, which may include establishing a trust account with the trust department of a local national bank, to collect premiums, pay claims and otherwise to manage and account for Benefits Pool funds,
- q) Providing evidence of coverage with respect to stop loss and/or any other kind of insurance for the benefit of the Benefits Pool,
- r) Determining whether the Benefits Pool has any surplus Funds and, if so, how such surplus Funds shall be utilized for the operation of the Benefits Pool and/or shall be distributed to Members, in accordance with the terms of the Agreement.
- s) Selection of a Third Party Administrator and other medical vendors for claims payment, prescription management and network services.

Section 4.8 Coverage and Rates. The coverage, limits, deductibles and other terms of the health care benefits (the Scope of Coverage) as provided by the Benefits Pool are described in Exhibits attached hereto, which attachments are incorporated herein by this reference. From time to time hereafter, the Board may revise the Scope of Coverage, as it deems necessary or appropriate.

Current Funding Rates, as determined actuarially by the Administrator are provided in Exhibits attached hereto, which attachments are incorporated herein by this reference. On an annual basis, prior to June 1, the Administrator will determine through its board and actuaries renewal Funding Rates for the Benefits Pool.

Section 4.9 Voting, Proxies. Each Director shall be entitled to one vote on each matter voted upon by the Board, except that the President shall have an additional vote in the event of a tie. A Director may be represented and may vote by proxy. The President may request an instrument in writing signed by the Director prior to the meeting at which the proxy has requested the authority to vote. The President will notify all Directors of the proxy approval prior to taking any formal actions at the Board meeting.

Section 4.10 Quorum. A quorum of the Board shall consist of fifty percent (50%) of the Directors. Except as provided in Section 12.10 below, the affirmative vote of a majority of the Directors present at a meeting of the Board in person, by proxy, or participating electronically at which a quorum is present shall be the vote of the Board.

Section 4.11 Role of the CLG Board. Except as specifically provided in this Agreement, the CLG Board shall not itself offer, provide or guarantee insurance/pool/benefit coverage to the employees or officers of its separate members. The CLG Board shall function solely as a facilitator and sponsor of ~~The~~ the Benefits Pool, and yields all responsibilities to the Board of the Benefits Pool and the Administrator.

## **ARTICLE V ADMINISTRATOR**

Section 5.1 Contract. The Board shall contract with an Administrator and delegate to such Administrator contractual powers and duties (set forth in Article IV above) as the Board shall deem advisable. As noted in Section 2.2 herein, the current Administrator is ~~OME-RESA~~[JHP](#).

Section 5.2 Duties of The Administrator. The day to day operations, fiscal responsibilities and administration of the Benefits Pool shall be handled by the Administrator, and shall be overseen and governed by the Executive Committee of the Benefits Pool. The complete duties and responsibilities of the Administrator shall include, but not be limited to, to receive, process and facilitate payments of Contributions, fees, premiums and other fiscal responsibilities as shall come within the scope of the operation of the insurance/pool/benefit programs offered to the Members and purchased through the Benefits Pool.

Section 5.3 Annual Report. The Board shall receive from the Administrator and review an annual report setting forth the history and trends of the Benefits Pool. The report shall be in such form and include such information as is acceptable to the Board. The report may be consolidated with the Administrator's budget recommendations required under Section 7.32 hereof.

## **ARTICLE VI ACTUARY APPOINTMENT**

Section 6.1 Actuary. The Board shall rely upon the actuary of the Administrator as an independent actuary who shall be a member of the American Academy of Actuaries (the Actuary) to perform the duties required by Section 9.833 of the Ohio Revised Code or otherwise by the Board.

Section 6.2 Actuarial Report. The Board shall have prepared by the Administrator's Actuary the report as required by Section 9.833 of the Ohio Revised Code.

## **ARTICLE VII BENEFITS POOL FUNDS**

Section 7.1 Funds. The Board shall establish one or more Funds, to be maintained by the Administrator, which shall consist of Member Contributions in

amounts the Administrator in cooperation with the Board deems sufficient to annually fund the administrative expenses of the Benefits Pool, to purchase excess insurance, stop-loss insurance or reinsurance for the Benefits Pool, to pay current year claim expenses and to establish and maintain sufficient reserves.

Section 7.2 Budget. No later than June 1 of each Benefits Pool year, the Administrator shall prepare and submit to the Board an estimate of the budget of the Benefits Pool for the succeeding fiscal year. If the budget is acceptable to the Board, the Board shall approve such budget in the manner established in Article IV.

Section 7.3 Surplus Funds. The Board, in its sole discretion, may make application to the Administrator for approval to apply surplus Funds toward the Contributions of Members for any period of moratorium the Administrator may deem appropriate. The Administrator shall retain all such Funds to create a reserve against future loss and/or to fund any other necessary and proper cost, liability and/or expense of the Benefits Pool. The Executive Committee, in conjunction with the Administrator and such other parties, as it deems appropriate to consult, shall each year determine the amount of any surplus Funds, if any, and shall promptly communicate that information and the actions to be taken on that issue to each Member on or before the October meeting.

Section 7.4 Purchase of Stop-Loss Insurance. The Board may investigate and cause to be purchased each year, either directly or through the Administrator, supplemental pooling within the Administrator's pool and stop-loss insurance for the Benefits Pool.

## **ARTICLE VIII FUNDING SCOPE OF RISK SHARING PROTECTION**

Section 8.1 Monthly Contributions. On or before June 1 in each year hereunder, the Board (after consultation with the Administrator, its Actuary, and such other persons the Board deems necessary and appropriate to consult) shall calculate the expected costs (Expected Costs) for the Benefits Pool for the next fiscal year. Expected Costs shall include anticipated claim costs and fixed administrative costs associated with the operation of the Benefits Pool, including, but not limited to, premiums for stop-loss insurance, excess insurance, fees for its Administrator, Actuary, fiscal agent and legal counsel. After calculating Expected Costs and on or about June 1 of each year hereunder, the Board shall determine each Member's community funding rates (Funding Rate) as they relate to the various Plans of Benefits. A Member's Contributions to the Fund will be determined by the community Funding Rate established with reference to the number of employees and officers of the Member who are covered for benefits through the Benefits Pool, their coverage type and the Plan of Benefits chosen. A Member's monthly Contribution shall be the combined total of the Member's Fixed Cost as determined by

the Board, and their assigned Funding Rate. As appropriate the Contribution shall also include an amount assessed to a Member pursuant to Paragraph 8.2 herein.

Members shall pay Contributions (total monthly Funding Rates) monthly, and payments are due on the first day of each month, but must be received by the Administrator of the Benefits Pool no later than the ~~10<sup>th</sup>~~ tenth day of each month. If a Member is delinquent in making a monthly payment, the Member shall pay a penalty equal to 2% of the monthly Contribution then due, which shall be assessed to a Member and is due and payable within thirty (30) days. Upon a second delinquency during the Plan Year, or if a Member fails to pay the assessed penalty in a timely manner, claims payments may be suspended by the Board until such time as the Member Contribution and assessment is brought current. On a third delinquency or default on any payment of any assessment or contribution during a Plan Year, the Member's participation may be terminated by the Board, which termination shall be treated as an Unauthorized Withdrawal as noted below. If the Board elects to terminate a Member for cause consistent to this Section 8.1, the Member shall be given thirty (30) days advance written notice of such termination. Recognizing that there may be circumstances beyond the Member's control which may cause a delinquency, a Member, prior to become delinquent, may petition the Board for a grace period to allow for the payment of contributions and any other assessments.

The Board with direction from the Administrator shall determine the percentage increase or decrease for the total fund prior to June 1 of each year. The Board shall approve a funding methodology that will be completed by the Administrator. The funding methodology approved by the Board may be changed by a two-thirds (2/3) positive vote of all Directors representing all participating entities, as long as it is approved by the Administrator.

Section 8.2 Assessments. From time to time hereafter, the Board upon notification from the Administrator, may require that Members make supplementary payments to the Benefits Pool for any necessary or appropriate purpose where there is reasonable concern that Funds then available to the Benefits Pool will not be sufficient to meet the responsibilities of the Benefits Pool. All assessments for supplementary payments shall be made proportionately among the Members of the Benefits Pool for the year as to which the assessment relates, as determined by the Board. The Board may assess supplemental payments from Members, including withdrawn or terminated Members, for any one or more year of their membership, in direct relation to each Member's Funding Rate for that year.

## **ARTICLE IX WITHDRAWAL AND TERMINATION**

Section 9.1 Authorized Withdrawals. After three (3) years of membership, a Member may withdraw from the Benefits Pool by providing written notice to the Benefits Pool as provided by Section 12.7 herein. Authorized Withdrawals must be effective at

the end of a Plan Year (July 31). Notice shall be in two stages. First, a Member intending to withdraw shall give notice ~~no less than ninety (90) days in advance of the intended date by May 1~~ of the potential withdrawal, ~~which date of withdrawal must be the first day of a calendar month during the Plan Year.~~ The final decision as to whether or not to withdraw ~~and the effective date of such withdrawal shall be noticed to the Benefits Pool no less than thirty (30) days before the final date of withdrawal~~ shall be provided by June 1. ~~The effective date of any withdrawal shall always fall on the first day of a calendar month.~~ A Member may withdraw ~~upon fewer than ninety (30) days notice~~ with less notice upon the affirmative vote of two-thirds of the Directors of the Benefits Pool, voting at a meeting called for such purpose. A Member may also withdraw ~~upon fewer than ninety (30) days~~ with less notice if the insurance benefits provided by the Benefits Pool are altered in any manner which would result in a violation of such Member's obligations under any then applicable collective bargaining agreements that existed prior to the change in benefits. Upon the Authorized Withdrawal of any Member, the Member shall be obligated to the Benefits Pool for its withdrawing obligations as ~~set forth in Section 9.3, Responsibilities of Withdrawing Members, below:~~ follows:

- a) All Contributions for the period prior to withdrawal during which participation in the pool was extended to the Member;
- b) The Member's proportionate share of administrative costs, assessments or any other monies already prescribed by the Board, the Benefits Pool, its agents, Administrator or insurers through the date of withdrawal,
- c) The Member's proportionate share of any Benefits Pool deficit for each year of membership;
- d) Administrative costs including, but not limited to, claims administration, internal pool contributions, JHP administrative expenses, federal taxes/fees and broker commissions for a period of six (6) months after the date of withdrawal;
- e) Claims incurred prior to the date of withdrawal will be paid by the Benefits Pool for a period of six (6) months. After six (6) months, all claims become the responsibility of the withdrawing Member.
- f) The withdrawing Member may elect to have less than six (6) months' coverage with the approval of two-thirds of the Board.

Members who exit the Benefits Pool as an Authorized Withdrawal will not be eligible to re-join the Benefits Pool for a period of three (3) years except upon the approval of two-thirds of the Board.

Withdrawing Members waive all claims and rights to any Reserve or Surplus balance held by the Benefits Pool.

Section 9.2 Unauthorized Withdrawals. In order to protect the viability of this Benefits Pool, any Member withdrawing from the Benefits Pool in a manner other than as authorized by Paragraph 9.1 above, shall be considered an Unauthorized Withdrawing Member. An Unauthorized Withdrawing Member shall be obligated to the Benefits Pool

for its withdrawing obligations as ~~set forth in Section 9.3, Responsibilities of Withdrawing Members, below follows:~~

- a) All Contributions for the period prior to withdrawal during which participation in the pool was extended to the Member;
- b) The Member's proportionate share of administrative costs, assessments or any other monies already prescribed by the Board, the Benefits Pool, its agents, Administrator or insurers through the date of withdrawal,
- c) The Member's proportionate share of any Benefits Pool deficit for each year of membership;
- d) Administrative costs including, but not limited to, claims administration, internal pool contributions, JHP administrative expenses, federal taxes/fees and broker commissions for a period of six (6) months after the date of withdrawal;
- e) All claims incurred but not yet paid (claims run-out) prior to the date of withdrawal;
- f) Unauthorized Withdrawal penalty of two (2) months' Contributions based on the average Contributions paid over the preceding twelve (12) months.

Members who exit the Benefits Pool as an Unauthorized Withdrawal will not be eligible to re-join the Benefits Pool for a period five (5) years except upon the approval of two-thirds of the Board.

Withdrawing Members waive all claims and rights to any Reserve or Surplus balance held by the Benefits Pool.

~~Additionally an Unauthorized Withdrawing Member shall pay to the Benefits Pool a withdrawing fee equal to the greater of the monthly Contribution due from such Unauthorized Withdrawing Member the month prior to the Notice of Withdrawal or the average monthly Contribution due from such Unauthorized Withdrawing Member over the most recent twelve (12) months prior to the Notice of Withdrawal.~~

### Section 9.3 Responsibilities of Withdrawing Members.

A. *Withdrawing Financial Obligations.* ~~Any Member withdrawing, whether an Authorized Withdrawal, or a withdrawal which may be deemed an Unauthorized Withdrawal, shall assume and be responsible for the payment of the following: (1) All Contributions for the period prior to withdrawal during which participation in the pool was extended to the Member, (2) The Member's proportionate share of administrative costs, assessments or any other monies already prescribed by the Board, the Benefits Pool, its agents, Administrator or insurers through the date of withdrawal, (3) Unless otherwise waived by the Board, any additional administrative costs, including audit or accounting fees incurred by the Benefits Pool to calculate the Withdrawing Member's withdrawing obligations including the Reserve Deficit as provided herein, and (4) The Member's Reserve Deficit which shall consist of the net sum of (A) the Member's proportionate share of Benefits Pools Profit/Loss as noted on the most recent Profit and Loss statement for the Benefits Pool, adjusted through the date of withdrawal, and (B) the Member's Benefit Pool's Reserve Requirement. The Reserve Requirement for each~~

~~Member shall be calculated each plan year including the initial Reserve Requirement assigned to such Member at the time the Member joins the pool. A withdrawing Member's Reserve Requirement during the current plan year shall be calculated through the date of withdrawal. The withdrawing Member's Reserve Deficit shall be the cumulative total of the initial Reserve Requirement, the Reserve Requirement for the Member during each plan year the withdrawing Member participated in the plan, and the closing plan year Reserve Requirement for the withdrawing Member up to the date of withdrawal.~~

In determining a Member's proportionate share of any of the obligations set forth in this Section 9.3, the amount of the Member's contributions of the twelve (12) month period prior to the measuring date shall be divided by the total contributions of all Members during the same measuring period. The resulting quotient shall be the factor used in determining a Member's proportionate share.

B. *Due Date of Obligations.* All obligations payable by a withdrawing Member as set forth herein, including the unauthorized withdrawing fee due under Section 9.2, shall be due and payable within thirty (30) days of the latter of the date of withdrawal or the date that the Withdrawing Member's obligations ~~under Section 9.3(A)~~ are calculated and billed to the Withdrawing Member. If not paid within that time, such obligation shall bear interest at the rate of one percent (1%) per month until paid in full.

C. *Re-Entry Rights.* ~~Members withdrawing as an Authorized Withdrawal must wait a minimum of twenty four (24) months from the date of withdrawal to apply for re-entry as a Member of the Benefits Pool. Members withdrawing as an Unauthorized Withdrawal must wait a minimum of thirty six (36) months from the date of withdrawal to apply for re-entry as a Member of the Benefits Pool.~~ There is no guarantee provided by the CLG or the Benefits Pool that re-entry will be granted by the Benefits Pool or by the Administrator, as the medical underwriter of ~~The~~[the Benefits Pool](#).

Section 9.4 Termination of a Member for Cause. Upon a vote of the Board taken in accordance with Article IV and with no less than five (5) days advanced written notice, a Member's participation may be terminated, if such a Member materially breaches or violates any of the terms of this Agreement, the terms of The Administration Agreement in effect at the time of such breach, or makes any misrepresentations to either the Board, its Executive Committee, the Administrator, or any third party providing assistance in the administration of the Benefits Pool. Without limiting the generality of the foregoing, the failure of a Member to promptly make payments to the Benefits Pool in complete conformity with the provisions of Sections 8.1 and 8.2 hereof shall be deemed to be a material breach and violation of this Agreement, which in and of itself would constitute and warrant termination. Unless otherwise authorized by the Board, a Member expelled from the Benefits Pool shall be considered an Unauthorized Withdrawing Member and treated accordingly as provided in Section 9.2 and 9.3 herein. Upon termination, the terminated Member shall:

- a) Remain liable for any and all amounts remaining due and unpaid under Sections 8.1 and 8.2, hereof, and
- b) Have no rights whatsoever to share in any surplus Funds then and/or thereafter in existence, and
- c) Effective as of 11:59 p.m. E.S.T. or E.D.S.T. on the date on which such termination is effective, the terminated Member shall be wholly and solely responsible for providing the health care benefits that had previously been provided by the Benefits Pool, including but not limited to any and all incurred but not reported liabilities and/or terminal liabilities related to its prior Benefits Pool participation, and the Benefits Pool shall have absolutely no liabilities related to the terminated Member's prior Benefits Pool participation, and the Benefits Pool shall have absolutely no liabilities to the Member in that regard.

## **ARTICLE X TERMINATION OF THE BENEFITS POOL**

Section 10.1 Termination. This Agreement may be terminated only by the written consent of no less than two thirds (2/3) of all Members voting through their Directors at a meeting called expressly for that purpose. After a vote to terminate the Benefits Pool, the Board shall complete the Benefits Pool's business as quickly as possible, but in any event shall complete this process no later than twelve (12) months after the termination date. During such period, the Benefits Pool shall continue to pay all claims and expenses until the Benefits Pool Funds are exhausted. After payment of all claims and expenses, or upon the termination of the aforesaid twelve (12) month period, any remaining surplus Funds held by the Benefits Pool shall be paid to the Members of the Benefits Pool who were Members of the Benefits Pool as of the termination date. The Surplus Funds, if any, shall be distributed according to the percentage relationship which each Member's Contribution to the Benefits Pool for the prior three (3) calendar years of the Benefits Pool bears to all Member Contributions to the Benefits Pool for that same time period.

The Benefits Pool shall not be responsible for any claims filed after the aforesaid termination period. Members shall remain obligated to make payments to the Benefits Pool pursuant to Article VII hereof during the aforesaid twelve-month period, for claims and other expenses related to periods prior to the termination date.

## **ARTICLE XI INDEMNIFICATION**

Section 11.1 Mandatory Indemnification. The Benefits Pool shall indemnify any officer or Director who was or is a party to, or is threatened to be made a party to, any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including without limitation, any action threatened or instituted by or on behalf of the Benefits Pool except as provided herein) against expense



(including without limitation, reasonable attorneys' fees, filing fees, court reporters' fees and transcript costs), judgments, fines and amounts paid in settlement actually and reasonably incurred by him/her in connection with such action, suit or proceeding if he/she acted in good faith and in a manner he/she reasonably believed to be in or not opposed to the best interests of the Benefits Pool, and with respect to any criminal action or proceeding, if he/she had no reasonable cause to believe the conduct was unlawful. A person claiming indemnification under this Section 11.1 shall be rebuttably presumed in respect of any act or omission giving rise to such claim for indemnification, to have acted in good faith and in a manner that such party reasonably believed to be in or not opposed to the best interests of the Benefits Pool, and with respect to any criminal matter, to have had no reasonable cause to believe that the conduct was unlawful, and the termination of any action, suit or proceeding by judgment, order, settlement or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, rebut such presumption.

Section 11.2 Court-Approved Indemnification. Anything contained in this Agreement or elsewhere to the contrary notwithstanding:

- a) The Benefits Pool shall not indemnify any officer or Director of the Benefits Pool who was a party to any completed action or suit instituted against, by or on behalf of the Benefits Pool by reason of the fact that he/she is or was a Director, officer, employee or agent of the Benefits Pool, in respect to any claim, issue or matter asserted in such action or suit as to which such person shall have been adjudged to be liable for acting with reckless disregard for the best interest of the Benefits Pool or misconduct (other than negligence) in the performance of duties to the Benefits Pool, unless, and only to the extent that, the Court of Common Pleas or the court in which such action or suit was brought shall determine upon application that, despite such adjudication of liability, and in view of all the circumstances of the case, such person is fairly and reasonably entitled to such indemnity as such Court of Common Pleas or such other court shall deem proper, and,
- b) The Benefits Pool shall promptly make any such unpaid indemnification as is determined by a court to be proper, as contemplated by this Section.

Section 11.3 Indemnification for Expenses. To the extent that an officer or Director of the Benefits Pool has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 11.1, or in defense of any claim, issue or matter therein, he/she shall be promptly indemnified by the Benefits Pool against expenses (including, without limitation, attorney's fees, filing fees, court reporter's fees and transcript costs) actually and reasonably incurred by him or her in connection therewith.

Section 11.4 Determination Required. Any indemnification required under Section 11.1 and not precluded under Section 11.2 shall be made by the Benefits Pool only upon a determination that such indemnification of the officer or Director is proper in the circumstances, because he or she has met the applicable standard of conduct set forth in Section 11.1. Such determination may be made only;

- a) By a majority vote of a quorum consisting of Directors of the Board who were not and are not parties to, or threatened with any such action, suit or proceeding, or,
- b) If such a quorum is not obtainable or if a majority of a quorum of disinterested Directors so directs, in a written opinion by independent legal counsel other than an attorney, or a firm having associated with it an attorney who has been retained by one who has performed services for the Benefits Pool, or any person to be indemnified, within the past five (5) years, or
- c) By the court in which such action, suit or proceeding was brought, if any.

Section 11.5 Advances for Expenses. Expenses (including, without limitation, attorney's fees and transcript costs) incurred in defending any action, suit or proceeding referred to in Section 11.1 shall be paid by the Benefits Pool in advance of the final disposition of such action, suit or proceeding to or on behalf of the officer or Director promptly as such expenses are incurred by him or her, but only if such officer or Director shall first agree, in writing, to repay all amounts so paid in respect of any claim, issue or other matter asserted in such action, suit or proceeding in defense of which he or she shall not have been successful on the merits or otherwise; if it shall ultimately be determined as provided in Section 11.4 that such person is not entitled to be indemnified by the Benefits Pool as provided in this Article XI.

Section 11.6 Non Exclusivity. The indemnification provided by this Article XI shall not be exclusive of, and shall be in addition to, any other rights to which any person seeking indemnification may be entitled, and shall continue, as to a person who has ceased to be an officer or Director of the Benefits Pool and shall inure to the benefit of the heirs, executors, and administrators of such person.

## **ARTICLE XII MISCELLANEOUS**

### Section 12.1 Representation of Authority.

- a) Member warrants to the CLG Board, the Benefits Pool and the Administrator that the undersigned has full authority to enter into this Agreement for and on behalf of the Member effective on the Commencement Date listed herein, and any separate legislation necessary to authorize this contract or to authorize the agent to sign this contract on behalf of the Member has been appropriately enacted and a copy of such authorizing legislation is attached hereto.
- b) Each Member shall receive reports at least annually, from the Treasurer of the Benefits Pool, of the Benefits Pool's operating results and financial position.

Section 12.2 Ohio Law Governs. This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

Section 12.3 Enabling Action by Members. If any action requiring the vote, consent or approval of any or all Members of the Benefits Pool, is required in order to make permissible or lawful any actions contemplated by this Agreement, each Director will vote for such action on behalf of its Member.

Section 12.4 Counterparts. This Agreement and any amendments thereto may be executed in one or more counterparts, each of which shall be deemed to be a duplicate original, but all counterparts taken together shall constitute one and the same Agreement.

Section 12.5 Severability. The invalidity or unenforceability of any provision of this Agreement in any particular respect shall not affect the validity and enforceability of any other provision of this Agreement or of the same provision in any other respect.

Section 12.6 Captions. All captions used in this Agreement are for convenience of reference only, do not form a substantive part of this Agreement, and shall not restrict or enlarge any substantive provision of this Agreement.

Section 12.7 Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be mailed by regular U.S. mail postage prepaid, or otherwise delivered by hand or by messenger, addressed:

- a) If to a Member, to the Director or legislative authority of such Member at such address set forth on the last page of this Agreement or at such other address as the Member or Director shall have furnished to the Benefits Pool in writing, or
- b) If to the Benefits Pool, at the Benefits Pool address set forth on the last page of this Agreement and addressed to the attention of the Secretary of the Benefits Pool or at such other address as the Benefits Pool shall have furnished to the Members in writing.

Each such notice or other communication shall for all purposes of this Agreement be treated as effective or having been given:

- a) when delivered, if delivered personally, or
- b) if sent by mail, addressed and mailed in compliance with this Section 12.6.

Section 12.8 Entire Agreement. This Agreement constitutes the entire Agreement between the parties hereto in respect of the subject matter of this Agreement, and this Agreement supersedes all prior and contemporaneous agreements between the parties hereto in respect of the subject matter of this Agreement.

Section 12.9 Pronouns. All pronouns and any variations thereof used in any part of this Agreement to refer to any person or persons shall be deemed to refer to the

masculine, feminine, neuter, singular or plural, as the identity of the person or persons may require.

Section 12.10 Amendment. This Agreement may be amended only by the written consent and agreement of no less than two-thirds (2/3) of all Members a party hereto. The Benefits Pool, through the Board, may require that Members provide written documentation satisfactory to the Board, in its sole judgment, that such Member has the requisite capacity and authority, and has obtained all required approvals, to vote on any matter contemplated by this Section 12.10. Any amendment adopted by the Benefits Pool shall be binding upon the Member for the balance of the term of this Agreement and shall be incorporated herein upon adoption without the need for any further acknowledgment, acceptance or execution of this amendment by the Member or its governing legislative body.

Section 12.11 Other Instruments. The Members agree to execute such further instruments and to take such further actions as may be required and necessary to carry out the intent of this Agreement.

Section 12.12 Contract Execution. This Agreement shall be executed by the undersigned duly authorized officer of the Political Subdivision indicated below by the authority vested in such officer by the legislative authority of such Political Subdivision as evidenced by the attached legislative action, and by the Center for Local Government Benefits Pool by the representative authorized by the Center for Local Government Board.

IN WITNESS WHEREOF, this Agreement was executed on this \_\_\_\_\_ day of \_\_\_\_\_, ~~2013~~2015.

Center for Local Government Benefits Pool	_____
	Political Subdivision
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____