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**South Washington County Schools**

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Keith Jacobus, Ph.D., Superintendent

**District Service Center**

7362 E. Point Douglas Rd. S.

Cottage Grove, MN 55016

Phone: 651-425-6300 Fax: 651-425-6318

**ADMINISTRATIVE REPORT**

TO: Members of the School Board  
Keith Jacobus, Superintendent

FROM: Dan Pyan, Director of Finance and Operations, 425-6260

DATE: October 16, 2018

TOPIC/PURPOSE OF REPORT: Approve Master Service Agreement with 121 Benefits

REFERENCE TO POLICY/STRATEGIC PLAN: Policy 701

RECOMMENDED BOARD ACTION: Approval

DATE FOR BOARD ACTION: October 17, 2018

**REPORT**

Please approve the attached contract between South Washington County Schools District 833 and DRT Benefits Corp dba 121 Benefits.

121 Benefits will be administering the District's Flexible Spending Accounts, its funded Health Reimbursement Arrangements, its COBRA obligations and continuation services for Retiree billing. PlanSource previously provided these services.

The contract period is January 1, 2019 to December 31, 2020.

Administration recommends approval of this contract.

# Master Service Agreement



South Washington County Schools District 833  
October 15, 2018

## **Plan Years**

**January 1, 2019 – December 31, 2020**

Flexible Spending Accounts

Funded Health Reimbursement Arrangements COBRA

Administration and Continuation Services Retiree

Billing



## MASTER AGREEMENT FOR ADMINISTRATIVE SERVICES

THIS AGREEMENT, made on this 15th day of October, 2018, by and between DRT Benefits Corp. dba 121 Benefits, a Minnesota corporation (“Administrative Firm”) and South Washington County Schools District 833, (“Employer” and “Plan Administrator”).

WHEREAS, Employer has established and maintains certain benefit plans (the “Plans”) that are “group benefit plans” that must comply with the Internal Revenue Code (the “Code”), the Public Health Services Act (the “PHSA”) and state law; and

WHEREAS, Employer is a governmental entity and, therefore, the Plans are not an employee welfare benefit plan subject to the Employee Retirement Income Security Act of 1974; and

WHEREAS, Employer and Plan Administrator desire that Administrative Firm furnish certain services described in this Master Agreement for Administrative Services (the “Agreement”) and its Addenda in the operation and administration of the Plans;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and the exhibits and Addenda, if any, attached hereto, Employer, Plan Administrator, and Administrative Firm hereby agree as follows:

### I. Definitions

The following definitions shall apply to this Agreement and its Addenda, unless a term is defined differently in an Addendum:

- A. Addenda or Addendum – means the addenda or an addendum to this Agreement entered into by Employer and/or Plan Administrator and Administrative Firm related to the particular Administrative Services to be provided by Administrative Firm in addition to the Administrative Services required hereunder. This Agreement includes the following Addenda:
  - Cafeteria Plan Services Agreement Addendum
  - Funded Health Reimbursement Arrangement Addendum
  - COBRA Coverage Services Agreement Addendum
- A. Administrative Firm – means DRT Benefits Corp. dba 121 Benefits (including all of its authorized representatives), an independent contractor designated to perform certain Administrative Services pursuant to this Agreement with respect to the Plans.
- B. Administrative Services - means those services relating to the establishment, maintenance, and administration of the Plans to be performed by Administrative Firm as set forth in this Agreement and the exhibits and Addenda hereto.
- C. Agreement - means this Master Agreement for Administrative Services and any exhibits and Addenda attached hereto and any outside agreements specifically incorporated by reference.
- D. Code - means the Internal Revenue Code of 1986 and regulations thereunder, as amended from time to time.
- E. COBRA - means the Consolidated Omnibus Budget Reconciliation Act of 1985 (as it appears in the PHSA) and regulations thereunder, as amended from time to time.
- F. Covered Individual – means a person properly covered under the Plan to which Administrative Firm is providing services, including a Participant and the spouse and dependents of the Participant covered pursuant to the terms of the Plans.

- G. Effective Date - means the date upon which this Agreement, once fully executed by all parties, is first effective, January 1, 2019.
- H. Employer – means South Washington County Schools District 833.
- I. Fiduciary – means Plan Administrator and any other person who satisfies the definition of “fiduciary” under applicable law.
- J. HIPAA - means the Health Insurance Portability and Accountability Act of 1996 and regulations thereunder, as amended from time to time.
- K. Participant – means an eligible employee or former employee of Employer participating in the Plan to which Administrative Firm is providing services in accordance with the terms thereof and an employee or former employee of Employer participating in such Plan pursuant to COBRA.
- L. PHSA – means the Public Health Services Act.
- M. Plan or Plans - means the following programs or arrangements of benefits established and maintained by Employer with respect to which Administrative Firm provides services under this Agreement or its Addenda Cafeteria Plan Services, Funded Health Reimbursement Arrangement Agreement and COBRA Continuation Services Administration.
- N. Plan Administrator – means Employer.
- O. Summary Plan Description (“SPD”) - means the written document distributed directly or indirectly to Participants describing the Plan.

**II. Plan Establishment & Maintenance**

- A. Generally. Employer shall establish the Plans. Plan Administrator shall be responsible for the operation and administration of Plans. In accordance with this Agreement, Administrative Firm shall provide Administrative Services to Employer and Plan Administrator in connection with the establishment, operation, and administration of the Plans.
- B. Plan Documentation. Employer and Plan Administrator shall have ultimate responsibility for all aspects of the Plan documentation, including, but not limited to, written Plan documents, SPDs, Plan amendments, and SPD updates. Upon request of Employer, Administrative Firm may provide Employer with services related to the initial preparation, periodic revision, and printing of the Plan documentation. The fee for such services is identified in Exhibit A. Employer and Plan Administrator shall approve all such materials within thirty (30) days following delivery by Administrative Firm, unless such deadline is extended by mutual agreement of all parties. Employer’s and Plan Administrator’s failure to object within such time period (including any agreed upon extension period) shall constitute approval. Unless Employer, Plan Administrator and Administrative Firm mutually agree otherwise, Plan Administrator shall deliver to all Covered Individuals all appropriate and necessary documents and materials, including, but not limited to, the Plan documents, Plan amendments, SPDs, enrollment forms, application forms, and notices, as may be necessary for the operation of the Plans or to satisfy the requirements of state or federal laws and regulations.
- C. Plan Amendment & Termination. The Plans may be amended or terminated in accordance with the Plan provisions. If Employer amends a Plan, Employer agrees to notify Administrative Firm (1) before the later of the effective date of the amendment or the date of adoption of the amendment, or (2) as soon as administratively feasible. Administrative Firm is responsible for providing services related to the amendment only upon its consent, which shall be evidenced by an amendment to this Agreement. Such consent shall not be unreasonably withheld, but may be conditioned upon Employer’s agreement to pay increased administrative fees. Upon request of Employer, Administrative Firm may provide Employer with services related to preparation of Plan amendments and summaries of material modification. The fee for such services is identified in Exhibit A.

### III. Administrative Firm Responsibilities

- A. Status of Administrative Firm. Employer shall not (1) name Administrative Firm as Plan Administrator or Employer in any documents applicable to the Plans, nor (2) hold out to other parties or third parties that Administrative Firm serves in any of the foregoing capacities. In addition, Administrative Firm does not intend to assume any of the administrative duties or responsibilities commensurate with such designations.
- B. Capacity of Administrative Firm. In fulfilling its duties and obligations under this Agreement, Administrative Firm shall act as the administrative agent of the Plans and does not intend to be a Employer or Plan Administrator (as such terms are defined under applicable law or the Plans) of the Plans or with respect to the Plan assets. In addition, Administrative Firm shall not be required to participate in or act in a manner that aids or assists a breach of a Fiduciary's duty.
- C. Account Servicing and Employee Communication. Administrative Firm shall provide account management services. Administrative Firm shall provide general administrative services to assist Covered Individuals with general information about the Plans and answer routine questions from persons concerning coverage status, claims status, complaint administration, and other inquiries related to the Plans. Administrative Firm shall provide each Participant with appropriate forms and instructions related to Administrative Firm's services hereunder, including on-line reimbursement claim forms, applicable worksheets, and instructions for filing claims and accessing accounts electronically. Administrative Firm shall also provide to Employer or Plan Administrator, via its website, forms and worksheets used to communicate Participant terminations and changes in family status.
- D. Enrollment and Elections. Administrative Firm shall provide access to electronic Participant election forms to be used during the enrollment process. Administrative Firm shall process election information and change in election information as necessary to provide Administrative Services. Administrative Firm shall prepare confirmation communications to employees to verify elections.
- E. Assistance in Reporting and Compliance. Except as otherwise provided herein, Administrative Firm shall, based on information it may possess or is provided by Employer, use its best efforts to assist Employer or Plan Administrator in the preparation of any tax return, report or other document required by any local, state or federal government or agency thereof with respect to the Plan. However, the ultimate responsibility for the preparation and the filing of any such document shall be that of that Employer or Plan Administrator.
- F. Compliance with Applicable Law. Except to the extent a responsibility is specifically assigned to Employer or Plan Administrator in this Agreement, Administrative Firm shall comply with applicable federal and state laws, rules, and regulations applicable to Administrative Firm's responsibilities under this Agreement.
- G. Additional Duties. Administrative Firm shall perform all additional duties as required by and specified in the Addenda.

### IV. Duties of Employer and Plan Administrator

- A. Eligibility Determination & Information. Employer shall make determinations regarding an employee's eligibility to participate in the Plans (including the eligibility of the owners of Employer), provide eligible employees with necessary enrollment materials and information regarding the Plans, enroll eligible employees into the Plans, and respond whether directly or through referral to others all inquiries from employees regarding eligibility for, enrollment in, and the terms and conditions of the Plans.
- B. FMLA Determinations. Employer shall make determinations regarding FMLA, including, but not limited to, whether FMLA applies. Administrative Firm shall not make determinations regarding FMLA, but upon request by Employer shall provide assistance in determining the application of FMLA. Furthermore, Administrative Firm shall be entitled to rely upon the information provided by Employer and is under no obligation to independently verify such information.

- C. **Continuation Law Compliance.** Unless Employer, Plan Administrator, and Administrative Firm have entered a Continuation Services Agreement Addendum, or a separate agreement for administrative services in which Administrative Firm has agreed to provide such services, Employer shall comply with the applicable provisions of COBRA and state continuation laws, including, but not limited to, providing qualified beneficiaries covered by the Plans with initial COBRA notices, notices upon a qualifying event, notices of unavailability, termination notices, and other information concerning COBRA elections.
- D. **Medical Child Support Order Compliance.** Plan Administrator shall be responsible for all aspects of compliance with medical child support orders, including, but not limited to, establishing procedures and determining whether a medical child support order must be followed. Plan Administrator shall provide notice to Administrative Firm of any Covered Individuals covered under the Plan by virtue of a medical child support order and of any Covered Individuals who cease to be covered under the Plan by virtue of the expiration of such an order. Administrative Firm shall be entitled to rely upon the information provided by Plan Administrator pertaining to medical child support orders.
- E. **Payment of Administrative Services Fees.** In consideration of Administrative Firm's performance of the services described in this Agreement, Employer and/or Plan Administrator shall pay Administrative Firm's administrative fees as described in Exhibit A. Such fees shall be billed by Administrative Firm on a monthly basis on or about the first day of the month for the previous month's services. Such fees are due and payable within thirty (30) days of receipt of Administrative Firm's statement. Any failure to remit any such fees within thirty (30) days of their due date may, at Administrative Firm's option, result in Administrative Firm's (1) suspension of performance of its services under this Agreement until such time as such fees are paid, or (2) termination of this Agreement.
- F. **Regulatory Compliance.** While Firm Administrator shall provide administrative services related to the plans, Employer and Plan Administrator shall be responsible for compliance with applicable laws and regulations pertaining to the Plans. Employer and Plan Administrator shall be responsible for any and all governmental or regulatory charges resulting from Employer's establishment and operation of the Plans. Employer and Plan Administrator shall be responsible for determining the tax consequences of a Covered Individual's participation in the Plans, if any, and for any tax withholding or reporting related to such participation (e.g., the tax consequences of the participation of individuals deemed to be self-employed under the Code). This provision does not relieve Administrative Firm from any statutory or agency requirements placed directly on it as a result of performing services under this Agreement.
- G. **Plan Design.** Employer possesses and exercises ultimate authority and responsibility for the design of the Plan.
- H. **Plan Interpretation.** Plan Administrator possesses and exercises ultimate authority and responsibility for determining benefits under the Plan and making decisions regarding eligibility for participation, termination of participation, and payment of benefits. This authority and responsibility includes, but is not limited to, final review of claim denials.
- I. **Other Information.** Employer or Plan Administrator (including a designee) shall comply with all reasonable requests for information made by Administrative Firm reasonably necessary for Administrative Firm to fulfill its duties under this Agreement. Any documentation received by Employer or Plan Administrator (including a designee) that should have been provided to Administrative Firm shall be promptly forwarded to Administrative Firm. Such documentation includes, but is not limited to, claim forms.
- J. **Legal Obligations.** Employer or Plan Administrator shall possess ultimate responsibility and authority for the operation of the Plans and for their compliance with all applicable laws and regulations pursuant to the provisions of the Plans.
- K. **Unclaimed Property.** Employer or Plan Administrator shall be responsible for determining whether a State's unclaimed/abandoned property or escheat laws apply to the Plans and the benefit payments made by Administrative Firm thereunder. To the extent such State laws are



applicable to the Plans and/or to the benefit payments made by Administrative Firm thereunder, Employer and Plan Administrator shall be solely responsible for complying with such laws on behalf of themselves, the Plans, and Administrative Firm, including making any required payments to and filing any required reports with the applicable State. Administrative Firm shall provide periodic reports to Employer and Plan Administrator regarding unclaimed benefit payments under the Plans.

## V. Records & Information

- A. Maintenance and Access. Administrative Firm and Plan Administrator shall maintain adequate records relating to the terms and operation of the Plans for at least the Plan year to which the records relate and for an eight (8) year period thereafter. Each party shall have access to the records relating to the Plans maintained by the other party during normal business hours and upon reasonable notice and request and subject to applicable laws and regulations. The parties shall maintain the confidentiality of any information relating to Covered Individuals and the Plans in accordance with applicable laws and regulations. At the conclusion of the period for which records are required to be kept under this provision and prior to any modification, destruction or disposal of any records, Administrative Firm shall provide Plan Administrator an opportunity to review the records and obtain copies of any such records. All costs associated with such inspection and copying of records will be paid by Plan Administrator.
- B. Record Use. Administrative Firm, Employer, and Plan Administrator agree that the medical records, names, addresses, telephone numbers, Social Security numbers and other personal information relating to Covered Individuals, which Administrative Firm may obtain as a result of performing administrative services may be collected, maintained and used by Administrative Firm and Plan Administrator only as necessary to administer the Plans. Administrative Firm and Plan Administrator may use patient specific and individually identifiable information, as necessary to properly administer the Plans, to defend any claim related to the Plans or to the provision of services under this Agreement, or as otherwise may be permitted by state or federal law. All parties agree that such information shall be considered confidential and protected as required under applicable law.
- C. Confidential Business Information. Administrative Firm, Employer, and Plan Administrator shall each take all necessary steps to protect the other parties' confidential business information. Such information shall not be disclosed to third parties without the express written consent of the other parties unless required by law or court order.
- D. Transfer of Records. When this Agreement ends, Administrative Firm may transfer to Employer, Plan Administrator, and/or any successor administrator those records Administrative Firm determines are reasonably necessary to effectuate a smooth transition of administration of the Plans and any other records Administrative Firm possesses that relate to the Plans. Administrative Firm intends that this transfer of records will satisfy its obligation to maintain such records as described above. Administrative Firm shall provide Plan Administrator an opportunity to review the records and obtain copies of any such records in addition to the records Administrative Firm has identified as necessary for a smooth transition or otherwise transferred. The details of such transfer including, but not limited to, the means, method and timing, shall be agreed to by the parties. All costs associated with such a record review and transfer will be paid by Employer and/or Plan Administrator.
- E. HIPAA Business Associate. Administrative Firm acknowledges its role as a business associate of certain Plans for purposes of the privacy and security standards under HIPAA. Exhibit B reflects the business associate contractual requirements.

## VI. Indemnification and Limitation of Liability

- A. Administrative Firm Indemnification. Administrative Firm agrees to indemnify and hold harmless Employer and Plan Administrator from any and all claims, losses, and expenses including, but not limited to, attorney's fees, incurred by Employer and/or Plan Administrator as a result of

Administrative Firm's (or Administrative Firm affiliated company's) negligence, misconduct, fraud, criminal conduct, or breach of this Agreement.

- B. Employer and Plan Administrator Indemnification. Excepting negligence, misconduct, fraud, criminal conduct, or breach of this Agreement by Administrative Firm, Employer and Plan Administrator agree to hold Administrative Firm harmless from, and indemnify Administrative Firm against, any and all claims, losses, and expenses, including attorney's fees, incurred by Administrative Firm arising out of its performance of services under this Agreement.
- C. Limitation of Liability. In performing its obligations under this Agreement, Administrative Firm neither assumes liability for nor otherwise agrees to underwrite the benefits provided by the Plans. Except as otherwise provided herein, Administrative Firm shall have no duty or obligation to defend any legal action or proceeding brought to recover, directly or indirectly, a claim for benefits.
- D. Limitation of Damages and No Punitive Damages. The exclusive remedy available to you in any adjudication proceeding shall be the right to pursue claims for actual damages that are directly caused by acts or omissions that are breaches by us of our duties under this Agreement and/or under applicable professional standards.
- E. Time Limitation. The nature of our services makes it difficult, with the passage of time, to gather and present evidence that fully and fairly establishes the facts underlying any Dispute. We both agree that, notwithstanding any statute of limitations that might otherwise apply to a Dispute, it is reasonable that you may not bring any legal proceeding against us unless it is commenced within thirty-six (36) months ("Limitation Period") after the date when we deliver our report, return or other deliverable under this agreement to you, regardless of whether we do other services for you or that may relate to the benefit services provided.

The Limitations Period applies and begins to run even if you have not suffered any damage or loss, or have not become aware of the existence or possible existence of a Dispute.

- F. Reliance on Data & Direction. Notwithstanding any provision of this Agreement to the contrary, Administrative Firm is not responsible or liable for any acts or omissions made pursuant to any direction, consent, or other request reasonably believed by Administrative Firm to be genuine and from an authorized representative of Employer or Plan Administrator. Administrative Firm is not responsible or liable for acts or omissions made in reasonable reliance on erroneous data provided by Employer or Plan Administrator to the extent Administrative Firm's acts or omissions are attributable to the erroneous data, or for the failure of Employer or Plan Administrator to perform their obligations under this Agreement.

## **VII. Term and Termination**

- A. Term. This Agreement is effective as of the Effective Date and shall continue until the end of the claims run-out period provided under the Plan following the close of the Plan year containing the Effective Date, unless earlier terminated pursuant to this Section VII of the Agreement. Upon expiration of the initial term (and each succeeding term), the Agreement shall automatically renew for an additional term continuing until the end of the claims run-out period provided under the Plan following the close of the subsequent Plan year, unless earlier terminated pursuant to this Section VII of the Agreement.
- B. Termination. This Agreement and its Addenda may be terminated by either party at the end of a term upon written notice of the intention to terminate given to the other party at least sixty (60) days prior to the end of such term.
- C. Automatic Termination. The Agreement and its Addenda shall automatically terminate upon:
  1. The material breach of the terms of this Agreement or an Addendum by any party, including failure to provide adequate funds to the Claims Account or to remit service fees due Administrative Firm, if such material breach is not corrected within ten (10) days of receipt of written notice specifying the nature of the breach to the satisfaction of the non-breaching party, provided that if the material breach relates only to an Addendum, at its election, the non-breaching party may choose to terminate only the Addendum that has been breached;



2. The bankruptcy or insolvency of Employer, Plan Administrator, or Administrative Firm; or
  3. The enactment of any law, promulgation of any regulation or action of any State or Federal agency or authority which makes or declares illegal the continuance of this Agreement or the performance of any of the services of Administrative Firm hereunder.
- D. **Post-Termination Obligations.** Upon termination of this Agreement, Administrative Firm shall cease to act on behalf of Employer and Plan Administrator. Employer and Plan Administrator shall be responsible for the administration of the Plans, and the processing of benefit claims received on or after the effective date of termination. Administrative Firm reserves the right to notify Covered Individuals that Administrative Firm no longer acts on behalf of Employer and Plan Administrator following termination of the Agreement. Notwithstanding the foregoing, Administrative Firm may, as mutually agreed upon by Employer, Plan Administrator, and Administrative Firm, provide certain administrative services following the termination of this Agreement. Such services shall be provided pursuant to and solely in accordance with a written addendum to this Agreement signed by Employer, Plan Administrator, and Administrative Firm.
- E. **Survival.** Any provisions of this Agreement that by their terms impose obligations and responsibilities that extend beyond the term of this Agreement, including, but not limited to, Articles V, VI, and VII and Exhibit B, shall survive termination of this Agreement.

#### **VIII. Miscellaneous**

- A. **Agreement Amendment.** This Agreement may be amended only by mutual agreement in writing executed by all parties, except that Administrative Firm may, upon at least seven (7) days advance written notice, amend this Agreement to the extent necessary to comply with applicable federal, state, or local laws or regulations. Notwithstanding the foregoing, Administrative Firm may amend Exhibit A to this Agreement by providing to Employer a copy of the proposed amended Exhibit A at least sixty (60) days before the end of a term, provided that if Employer provides written notice to Administrative Firm of its objection to such amendment at least thirty (30) days prior to the end of a term, such amendment shall not become effective and the Agreement shall terminate at the end of the then current term. Notwithstanding the foregoing, Administrative Firm may propose a revision to Exhibit A at any time if any change in the law or regulations imposes upon Administrative Firm greater duties or obligations than are contemplated by this Agreement. If the proposed amendment is not acceptable to the Employer, and the Employer and Administrative Firm are not able to agree to an alternative revision to Exhibit A, the Administrative Firm may terminate the Agreement at the end of the current term without additional notice.
- B. **Notices.** All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing and delivered personally, or sent by registered or certified mail or nationally recognized overnight carrier, postage prepaid, or by facsimile transmission, to the address set forth below, or to such other address set forth in a notice given in the manner herein provided. All such notices, requests, information or other communications shall be deemed to have been given (i) when delivered if personally delivered, (ii) three business days after having been placed in the mail, if delivered by registered or certified mail, (iii) the business day after having been placed with a nationally recognized overnight carrier, if delivered by nationally recognized overnight carrier, and (iv) the business day after transmittal by facsimile if transmitted with electronic confirmation of receipt.

If to Employer and Plan Administrator:

South Washington County Schools District 833  
Attn: Dan Pyan, Director of Finance  
7362 E Point Douglas Rd S  
Cottage Grove, MN 55016  
Phone: 651.425.6260

If to Administrative Firm:

121 Benefits  
Attn: Linda Heuer, President  
730 2nd Ave S., Ste. 400  
730 Building  
Minneapolis, MN 55402  
Phone: 612.877.4330  
Fax: 612.877.4323

Upon the occurrence of a change in any of the above address information, each party shall notify the other party(ies) of such change within five (5) business days of the effective date of the change.

- C. **Severability.** The provisions of this Agreement are severable. If any provision of this Agreement is held invalid by a court of law or other tribunal, the invalidity of any provision will not affect any other provision of this Agreement.
- D. **No Waiver of Rights.** Nothing in this Agreement shall be deemed to limit or abrogate any right or remedy available under law. The failure of any party to insist upon the strict observation or performance of any provision of this Agreement or to exercise any right or remedy shall not impair or waive any such right or remedy.
- E. **Non-Assumption of Liabilities.** Unless specifically provided in this Agreement, the parties do not assume the existing or future obligations, liabilities or debts of the other party.
- F. **Entire Agreement.** This Agreement shall supersede and replace any and all other agreements between the parties relating to the same subject matter. This Agreement contains the entire agreement and understanding of the parties relating to the subject matter hereof, except as otherwise provided in this Agreement.
- G. **Mediation.** All Disputes between us shall first be submitted to non-binding mediation by written notice ("Mediation Notice") to the other party. In mediation, we will work with you to resolve any differences voluntarily with the aid of an impartial mediator. The mediator will be selected by mutual agreement, but if we cannot agree on a mediator, one shall be designated by the American Arbitration Association ("AAA").
- The mediation will be conducted as specified by the mediator and agreed upon by the parties. The parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the Dispute. Mediation will be conducted with the parties in person in Minneapolis, Minnesota.
- Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the parties.
- Either party may commence suit on a Dispute after the mediator declares an impasse.
- H. **Governing Law and Venue.** The Agreement shall be governed by and interpreted in accordance with applicable federal law. To the extent the federal law does not govern, this Agreement shall be governed by the laws of the State of Minnesota and the courts in such state shall have sole and exclusive jurisdiction of any dispute related hereto and arising hereunder.
- I. **Independent Contractors.** Administrative Firm shall be construed to be acting as an independent contractor and not as an employee of Employer or Plan Administrator. Administrative Firm, Employer and Plan Administrator shall not have the power or authority to act for or on behalf of, or to bind the other party, except as set forth in this Agreement.
- J. **Third Party Beneficiaries.** The obligations of each party to this Agreement shall inure solely to the benefit of the other party(ies). Except as expressly provided in this Agreement, no person or entity is intended to be or shall be construed or deemed to be a third party beneficiary of this Agreement.
- K. **Successors and Assigns.** This Agreement shall be binding on any successors, assigns and subcontractors of the parties authorized under this Agreement.

- L. Audit Rights. The parties agree to cooperate in all reasonable audits. Audit fees shall be payable by the party initiating the audit. Audits shall be conducted using procedures mutually agreed upon by the parties. Results of the audit may be shared with the party being audited at the sole discretion of the party initiating the audit.
- M. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
- N. Force Majeure. Neither party shall be liable for any delay or failure to perform its obligations under this Agreement arising out of a cause beyond its control or without its fault or negligence. Such causes may include, but are not limited to, fires, floods, and natural disasters.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the Effective Date.

EMPLOYER

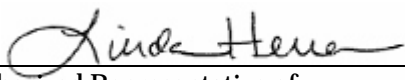
PLAN ADMINISTRATOR

By: \_\_\_\_\_  
 Board President  
 South Washington County Schools District 833

By: \_\_\_\_\_  
 Authorized Representative  
 South Washington County Schools District 833

Its: \_\_\_\_\_

THIRD PARTY ADMINISTRATOR

By:  \_\_\_\_\_  
 Authorized Representative of  
 DRT Benefits Corp. dba 121 Benefits  
 Its: President

## **LIST OF EXHIBITS**

- A Administrative Fees
- B Business Associate Agreement
  - Cafeteria Plan Addendum
  - Funded Health Reimbursement Arrangement Addendum
  - COBRA Coverage Services Agreement Addendum

**EXHIBIT A**  
**Administrative Fees**  
**January 1, 2019 – December 31, 2020**

The Employer shall make payments of administrative service fees in accordance with the following schedule:

**Cafeteria Plan Services**

Initial Set-Up Fee	\$	250.00	(one-time fee)
Annual Renewal Fee <sup>1</sup> -Discrimination Testing, Re-enrollment	\$	500.00	
FSA Administration Fee	\$	3.40	per Participant per month

**HRA VEBA Plan Services**

HRA VEBA Administration Fee <sup>2</sup>	\$	5.50	per Participant per month
Annual Platform Fee		40	basis points
Monthly Minimum	\$	250.00	(Cafeteria Plan plus HRA VEBA)

**Debit Card Services<sup>3</sup>**

Additional, Replacement, Lost/Stolen Cards	\$	10.00	for set of two replacement cards
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**Optional Services**

Employee Education Meetings	\$	250.00	two (2) meetings included
Preparation of FSA plan document and SPD	\$	550.00	
Preparation of plan amendment	\$	350.00	
Preparation of VEBA plan document	\$	No charge	

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<sup>1</sup> Charged each year after initial year.

<sup>2</sup> Monthly HRA VEBA Administration Fee will be deducted directly from the participants account for Retirees and other Inactives.

<sup>3</sup> Debit Card Pricing may be changed with a thirty (30) day notice of such proposed changes subject to Employer approval.

**COBRA Coverage Services**

Initial Set-Up Fee	\$	Waived	(one-time fee)
Takeover Fee	\$	5.00	per transferred Participant (one-time fee)
Administration Fee			
- for Active Retirees	\$	5.00	per Qualified Retiree per month
- for COBRA/Continuation	\$	0.30	per Eligible Employee per month
Monthly Minimum Fee	\$	150.00	

**Optional Services**

Initial New Hire General Notice	\$	3.00	per Notice
Open Enrollment Packets	\$	10.00	per packet if larger than standard business envelope

**121 Benefits will retain the 2% COBRA administrative fee**





**Exhibit B**  
**BUSINESS ASSOCIATE AGREEMENT**  
(amended for HITECH under ARRA)

This Business Associate Agreement (“Agreement”) is entered into by and between South Washington County Schools District 833 (“Covered Entity”) and DRT Benefits Corp. dba 121 Benefits, a Minnesota corporation (“Business Associate”) (each a “Party” and collectively the “Parties”).

**I. Purpose**

The Parties have entered into an agreement for services dated 15th day of October, 2018, a copy of which is attached, through which Business Associate provides various services at the request of Covered Entity (the “Services”). This Agreement is intended to constitute a “business associate” agreement, as required under the privacy and security provisions of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), as amended. The parties acknowledge that portions of HIPAA apply directly to Business Associate as provided in the Health Information Technology for Economic and Clinical Health Act (“HITECH”). Business Associate’s obligations under this Agreement may be the same as, or in some cases in addition to, Business Associate’s obligations under HIPAA.

**II. Definitions**

Unless otherwise defined herein, all capitalized terms in this Agreement shall have the same meaning as provided under the Privacy Rule and/or Security Rule.

- A. Effective Date – means January 1, 2019, unless specifically noted otherwise herein.
- B. Electronic Protected Health Information (Electronic PHI) – shall have the same meaning as the term “electronic protected health information” in 45 C.F.R. 160.103, limited to the information created, received, or transmitted by Business Associate on behalf of Covered Entity.
- C. Individual - shall have the same meaning as the term “individual” in 45 C.F.R. Section 160.103, limited to individuals to whom Covered Entity provides coverage or services.
- D. Privacy Rule – means the Standards and Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and Part 164, subparts A, D, and E and the privacy provisions of HIPAA, as amended.
- E. Protected Health Information (PHI) – shall have the same meaning as the term “protected health information” in 45 C.F.R. 160.103, limited to the information created, received, or transmitted by Business Associate on behalf of Covered Entity. PHI specifically includes Electronic PHI.
- F. Secretary – means the Secretary of the Department of Health and Human Services or his/her designee.
- G. Security Incident – shall have the same meaning as the term “security incident” in 45 C.F.R. Section 164.304, unless defined differently in Covered Entity’s policies and procedures for compliance with the Security Rule, which shall be provided to the Business Associate.
- H. Security Rule – means the Security Standards and Implementation Specifications at 45 C.F.R. Part 160 and Part 164, subpart C and the security provisions of HIPAA, as amended.
- I. Standards for Electronic Transactions Rule - means the final regulations issued by the Department Of Health and Human Services concerning standard transactions and code sets under the Administrative Simplification provisions of HIPAA, 45 C.F.R. Part 160 and Part 162.

### III. Rights and Obligations of Business Associate

#### A. Uses and Disclosures by Business Associate.

1. Business Associate agrees that it will not use or disclose protected health information other than as permitted or required by the Agreement or as required by law. The Business Associate will use appropriate safeguards and comply with Subpart C of 45 C.F.R. Part 164 with respect to electronic protected health information, to prevent use or disclosure of protect health information other than as provided by the Agreement.
2. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI (i) to perform functions, activities, or services for, or on behalf of, Covered Entity pursuant to any service agreement with the Business Associate, (ii) as permitted or required by this Agreement, or (iii) as Required by Law. Business Associate may disclose PHI to other Business Associates of Covered Entity, or to Business Associates of another Covered Entity that is part of an organized health care arrangement that includes Covered Entity, to the fullest extent allowed under applicable law.
3. Except as otherwise limited in this Agreement, Business Associate may use and disclose PHI for the proper management and administration of its business or to carry out its legal responsibilities to the extent allowed by the Privacy Rule and Security Rule.
4. Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. Section 164.504(e)(2)(i)(B).
5. Except as otherwise limited in this Agreement, Business Associate may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. Section 164.502(j)(1).
6. Business Associate will limit its use, disclosure, or request of PHI to a Limited Data Set or the minimum necessary amount in accordance with the Privacy Rule.

#### B. Additional Obligations of Business Associate.

1. Safeguards. Business Associate will implement administrative, physical and technical safeguards to prevent the improper use of, disclosure of, and tampering with PHI and to reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic PHI.
2. Reporting and Mitigation.
  - a. Business Associate shall immediately notify Covered Entity of each acquisition, access, use, or disclosure of PHI of which it becomes aware that is made by Business Associate, its employees, representatives, agents, or subcontractors and that is not specifically permitted by this Agreement.
  - b. Business Associate shall notify Covered Entity of any Security Incident of which it becomes aware. Business Associate shall provide such notification on a quarterly basis, unless a more prompt notice is otherwise required by this Agreement (e.g., under Section III.B.2.a or Section III.B.9). With respect to Security Incidents that result from an unsuccessful attempt to access, use, disclose, modify, or destroy Electronic PHI or interfere with system operations in an information system containing Electronic PHI, the notification required hereunder need only report the aggregate number of such incidents.
  - c. Business Associate agrees to promptly mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure in violation of this Agreement or of a Security Incident.

3. Agents and Subcontractors. Business Associate will enter into a written contract with any agent or subcontractor, who creates, receives, maintains, or transmits PHI or Electronic PHI on behalf of Business Associate that requires such agent or subcontractor to comply with the same restrictions and conditions that apply by and through this Agreement to Business Associate with respect to such information.
4. Access to and Amendment of PHI. At Covered Entity's direction or request, Business Associate shall: (a) make PHI specified by Covered Entity maintained in a Designated Record Set available to the individual(s) identified by Covered Entity as being entitled to access and copy that PHI, and (b) make PHI maintained in a Designated Record Set available to Covered Entity for the purpose of amendment and incorporating such amendments into the PHI. Associate shall provide such access and incorporate such amendments within ten (10) days of the request by the Covered Entity and in the manner specified by Covered Entity. Effective September 23, 2013, if the Protected Health Information requested by Covered Entity is maintained in a Designated Record Set electronically, Business Associate shall make available, within the time period specified above, a copy of such information in the electronic form and format specified by Covered Entity, provided such information is readily producible in such form and format. If the information is not readily producible in such form or format, Business Associate shall make the information available in a readable electronic form and format as agreed to by the parties.

In the event any Individual makes a request for access to or amendment of PHI directly to Business Associate, Business Associate shall forward such request to Covered Entity within five (5) days thereof. Upon request of the Covered Entity, Business Associate shall assume these responsibilities and make amendment(s) to PHI in a designated record set as directed or agreed to by Covered Entity pursuant to 45 C.F.R. 164.526, or take other measures as necessary to satisfy Covered Entity's obligations under 45 C.F.R. 164.526.

5. Disclosure Accounting. Business Associate agrees to track disclosures of PHI, and information related to such disclosures, as is necessary to enable Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. Section 164.528. Upon Covered Entity's request, Business Associate shall provide Covered Entity with an accounting of each disclosure of PHI made by Business Associate or its employees, agents, representatives, or subcontractors with respect to which Covered Entity is required to make an accounting under the Privacy Rule. Any accounting provided by Business Associate under this section shall include: (a) the date of the disclosure; (b) the name, and address if known, of the entity or person who received the PHI; (c) a brief description of the PHI disclosed; and (d) a brief statement of the purpose of the disclosure. – In addition to the forgoing, Business Associate shall track other disclosures and/or make available to Covered Entity such information as is necessary for Covered Entity to comply with any additional accounting requirements effective as of the compliance date applicable under final regulations implementing such requirements. Notwithstanding anything herein to the contrary, Covered Entity shall be ultimately responsible for providing the disclosure accounting to the Covered Individual.
6. Policies and Procedures. As of the effective date of this replacement under HITECH (as specified by the Secretary), Business Associate shall conduct a security risk assessment (in accordance with 45 C.F.R. Section 164.306(b)(2)) and adopt and implement policies and procedures as required under the Privacy Rule and/or the Security Rule.
7. Access to Business Associate's Internal Records. Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to Covered Entity or the Secretary, for the purposes of the Secretary's determining compliance with HIPAA. No attorney-client or other legal privilege will be deemed waived by Business Associate or Covered Entity as a result of this section.

8. Electronic Transactions. In the event the Business Associate transmits or receives any Covered Electronic Transaction on behalf of Covered Entity, it shall comply with all applicable provisions of the Standards for Electronic Transactions Rule to the extent Required by Law, and shall ensure that any agents and subcontractors that assist Business Associate in conducting Covered Electronic Transactions on behalf of Covered Entity agree in writing to comply with the Standards for Electronic Transactions Rule to the extent Required by Law.
9. Breach Notifications. If Business Associate accesses, maintains, retains, modifies, records, stores, destroys, or otherwise holds, uses, or discloses Unsecured PHI, Business Associate shall notify Covered Entity, in accordance with the Privacy Rule, of a Breach of such information without unreasonable delay, but no later than sixty (60) days following discovery of the Breach.

C. Obligations and Rights of Covered Entity.

1. Notice of Privacy Practices. Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. Section 164.520, as well as any changes to such notice.
2. Requests by Covered Entity. Covered Entity shall not request or direct Business Associate to use or disclose PHI or Electronic PHI in any manner that would not be permissible under the Privacy Rule or Security Rule if done by Covered Entity. To the extent a dispute or difference of opinion exists between the Business Associate and Covered Entity regarding whether a use or disclosure is permissible, Business Associate may disclose the PHI under objection pursuant to the specific, written direction of Covered Entity. Any disclosures made pursuant to such specific, written direction shall be subject to the indemnification provisions of the Agreement.
3. Authorizations. Covered Entity shall notify Business Associate of any authorization provided by an Individual to use or disclose PHI (and changes in or revocation of such an authorization); to the extent that such information may affect Business Associate's use or disclosure of PHI. Upon receipt of such notification, Business Associate shall use or disclose PHI in accordance with the authorization or changes thereto.
4. Restrictions. Covered Entity shall notify Business Associate of any restriction on the use or disclosure of PHI to which Covered Entity has agreed in accordance with 45 C.F.R. Section 164.522 or is required to agree under HITECH (and any changes to or termination of such a restriction), to the extent that such restriction may affect Business Associate's use or disclosure of PHI. Upon receipt of such notification, Business Associate shall comply with such a restriction.

#### IV. **Term and Termination**

- A. Term. This Agreement will begin and become effective on the Effective Date and shall terminate as provided in this Section IV.
- B. Termination. Subject to Section IV.C., this Agreement may terminate as described below.
  1. This Agreement shall terminate upon the completion of the Services, unless the Parties thereafter continue a business relationship involving Business Associate's use and disclosure of PHI. In that event, this Agreement shall continue during the business relationship.
  2. In the event that a Party (the "non-breaching party") discovers and determines that the other Party (the "breaching party") materially breached or violated any of its obligations under this Agreement, the non-breaching party will notify the breaching party of such breach in writing and may immediately terminate the Agreement upon notice to the breaching party or may provide the breaching party with an opportunity to take reasonable

steps to cure the breach or end the violation, as applicable, within a mutually agreed upon period of time. If the breaching party's attempts to cure the breach or end the violation are unsuccessful within that period, without limiting the rights of the Parties under the Agreement, the non-breaching party shall immediately terminate the Agreement upon notice to the breaching party if feasible.

3. If Business Associate makes the determination that a material condition of performance has changed with respect to the Services or this Agreement, including changes to HIPAA, Business Associate may terminate this Agreement upon (30) days notice to Covered Entity. Business Associate agrees, however, to cooperate with Covered Entity to find a mutually satisfactory resolution to the matter prior to terminating.
- C. **Effect of Termination.** Upon termination of the Agreement, for any reason, Business Associate shall retain all Protected Health Information created or received by it on behalf of Covered Entity. Business Associate shall retain such Protected Health Information for the purpose of continuing its proper management and administration or to carry out its legal responsibilities after termination of this Agreement. PHI not required for the Business Associate to continue its proper management and administration or to carry out its legal responsibilities will be returned to the Covered Entity, transmitted to another business associate of the Covered Entity at termination, or destroyed. Business Associate will extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to that purpose, for so long as Business Associate maintains such Protected Health Information.

## V. General Provisions

- A. **Regulatory References.** A reference in this Agreement to a section in the Privacy Rule or the Security Rule means the section as in effect or as amended.
- B. **Amendment.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy Rule, the Security Rule, and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.
- C. **Interpretation.** Any ambiguity in this Agreement shall be resolved to permit each Party to comply with the Privacy Rule and the Security Rule.
- D. **Survival.** The respective rights and obligations of Business Associate and Covered Entity under this Agreement shall survive the termination of this Agreement and any related services agreement.
- E. **Indemnity.** Each Party will indemnify, hold harmless, and defend the other Party and its affiliates, officers, directors, employees or agents from and against any claim, cause of action, liability, damage, cost or expense, including attorneys' fees and court or proceeding costs, arising out of or in connection with any non-permitted or violating use or disclosure of PHI or other breach of this Agreement by such Party or any subcontractor, agent, person or entity under such Party's control.
- F. **No Third Party Beneficiaries.** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties hereto, any rights obligations, or liabilities whatsoever.
- G. **Conformance with Law.** The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for the Parties to comply with the requirements of HIPAA.
- H. **Notices.** All notices, required or permitted by either party shall be in writing and shall be sufficiently given and served if personally delivered or sent by U.S. mail, postage prepaid and addressed to either party at the addresses designated below, or to such other place as either party may, from time to time, designate in writing to the other. Any such notice shall be deemed to have been given, if mailed as provided herein, as of the date mailed.

South Washington County Schools District 833  
Attn: Dan Pyan, Director of Finance  
7362 E Point Douglas Rd S  
Cottage Grove, MN 55016  
Phone: 651.425.6260

121 Benefits  
Attn: Linda Heuer, President  
730 2<sup>nd</sup> Ave. S., Ste. 400  
730 Building  
Minneapolis, MN 55402  
Phone: 612.877.4330  
Fax: 612.877.4323

- I. **No Exclusion.** Covered Entity represents that it has not, and Business Associate represents that neither it nor any of its employees, independent contractors or agents who will be working on the subject matter of this Agreement have been, excluded from participation in any federal or state Medicare, Medicaid, or any other third party payor program, nor is any such action pending. Each Party shall each immediately notify the other Party when it learns if such action is threatened, proposed or taken. If at any time either Covered Entity or Business Associate (or any of its employees, independent contractors or agents who will be working on the subject matter of this Agreement) are excluded, as described above, then the other Party may immediately terminate this Agreement.
- J. **Governing Law.** This Agreement shall be governed by the law of Minnesota, except to the extent preempted by federal law.
- K. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect.
- L. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to its subject matter and constitutes and supersedes all prior agreements, representations and understandings of the parties, written or oral, with regard to this same subject matter. Notwithstanding the foregoing, this Agreement is intended to supplement (rather than supersede) the agreement between Business Associate and the sponsor of the Covered Entity related to the services that Business Associate provides with respect to administration of the Covered Entity.
- M. **Counterparts.** This Agreement may be executed in counterparts, each of which so executed shall be construed to be an original, but all of which together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Transmission by facsimile or electronic mail of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart. This Agreement and any amendment or modification may not be denied legal effect or enforceability solely because it is in electronic form, or because an electronic signature or electronic record was used in its formation.



IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date set forth below.

EMPLOYER

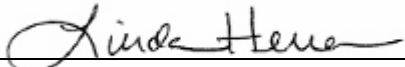
PLAN ADMINISTRATOR

By: \_\_\_\_\_  
Board President  
South Washington County Schools District 833

By: \_\_\_\_\_  
Authorized Representative  
South Washington County Schools District 833

Its: \_\_\_\_\_

THIRD PARTY ADMINISTRATOR

By:  \_\_\_\_\_  
Authorized Representative of  
DRT Benefits Corp. dba 121 Benefits  
Its: President



**CAFETERIA PLAN SERVICES AGREEMENT ADDENDUM**  
**to the**  
**AGREEMENT FOR ADMINISTRATIVE SERVICES**  
**between**  
**DRT Benefits Corp. dba 121 Benefits (“Administrative Firm”)**  
**and**  
**South Washington County Schools District 833 (“Employer” and “Plan Administrator”)**

The purpose of this Addendum is to describe the services, in addition to those services described in the Agreement, to be furnished by Administrative Firm to the cafeteria plan (the “Plan”) (within the meaning of Section 125 of the Code) established and maintained by Employer.

**I. Definitions**

In addition to the definitions contained in the Agreement, which are hereby incorporated herein to the extent not inconsistent herewith, the following definitions shall apply to this Addendum:

- A. Addendum – means this Cafeteria Plan Services Addendum to the Agreement.
- B. Bank – means Bancorp, the bank selected by the Debit Card Company to be the issuer of the Debit Card.
- C. Claims Account – means the checking account established or designated by Employer as the bank account from which checks or ACH benefit payments under the Plan shall be paid.
- D. Debit Card Account – means the checking account established or designated by Employer as the bank account from which Debit Card transactions under the Plan shall be paid.
- E. Debit Card – means the prepaid benefits card issued by the Debit Card Company for purposes of benefit administration by Administrative Firm through its subcontractor, Debit Card Company.
- F. Debit Card Company – means WEX Health.
- G. Effective Date - means the date upon which this Addendum, once fully executed by all parties, is first effective, January 1, 2019.
- H. Plan - means Employer’s cafeteria plan under Section 125 of the Code.

**II. Administrative Firm Responsibilities**

- A. Processing of Claims. Subject to Article III of this Addendum and Section VI.D. of the Agreement, Administrative Firm shall process, adjust, and settle claims of Covered Individuals received by Administrative Firm for benefits under the Plan in accordance with the terms and conditions of the Plan. Where the terms and conditions of the Plan are not clear, Administrative Firm reserves the right to request direction from Plan Administrator. Generally, Administrative Firm shall pay reimbursements via check or direct deposit paid from the Claims Account, on a weekly basis, excluding weekends and Federal and bank holidays.
- B. Overpayments and Erroneous Payments. Should Administrative Firm discover or have brought to its attention an overpayment or otherwise erroneous benefit payment under this Plan in excess of \$10, Administrative Firm shall make a diligent attempt to recover such payment in accordance herewith. Administrative Firm will make three (3) written contacts with the recipient of the payment. If the payment has not been recovered within a reasonable time following the third contact, Administrative Firm will notify Plan Administrator. Plan Administrator shall then decide whether and in what manner to further pursue repayment of the payment. If Plan Administrator determines to take further action to pursue recovery of

the payment, Plan Administrator shall be responsible for all costs incurred in doing so. After the three (3) contacts described herein, Administrative Firm shall take no further action to recover the payment unless the parties agree, in writing, on the terms and conditions applicable to such additional services by Administrative Firm.

- C. Nondiscrimination testing. Based upon information supplied by Employer and upon written request each Plan year, Administrative Firm shall run only the following nondiscrimination tests, if applicable to the Plan under the Code: the cafeteria plan 25% concentration test, the dependent care plan 25% concentration test, and the dependent care plan 55% average benefits test. Notwithstanding the foregoing, on a case-by-case basis and upon request by Plan Administrator, Administrative Firm may agree to run any other nondiscrimination test applicable to the Plan, the health flexible spending account (the "health FSA") and dependent care flexible spending account. Such agreement shall be reflected in writing and Administrative Firm may charge an additional fee for such services as communicated to Plan Administrator. Administrative Firm shall communicate the results of such tests, and recommendations for correcting any failed test, to Employer in writing. Employer shall be responsible for ensuring compliance with all applicable nondiscrimination requirements related to such tests and any other test.
- D. Participant Statements. On at least a quarterly basis, Administrative Firm shall provide to each Participant who is participating in the health FSA or dependent care FSA components of the Plan, electronic or paper statement providing information regarding account balances and claims paid.
- E. Accountings. On at least a monthly basis, Administrative Firm shall provide Employer with an electronic link to an accounting of contributions and payments made during the reporting period in such format and detail as Employer and Administrative Firm shall mutually agree.
- F. Debit Card Services. If Debit Card services are reflected in Exhibit A to the Agreement, the Administrative Firm through its subcontractor, Debit Card Company, will provide the following services with respect to the use of Debit Cards to obtain reimbursements under the health FSA (the "FSA"):
  - 1. Obtain all information necessary for issuance of Debit Cards to FSA participants. Administrative Firm and Debit Card Company are entitled to rely upon the accuracy and completeness of all information provided by Employer.
  - 2. Through its subcontractor, the Debit Card Company, issue Debit Cards and process Debit Card transactions.
  - 3. Provide communications to Employer, Plan Administrator, and FSA participants regarding use of Debit Cards.
  - 4. Provide substantiation of claims reimbursed via use of the Debit Card, either directly or through its subcontractor, the Debit Card Company, in accordance with applicable IRS rules.
  - 5. Assist Plan Administrator with recouping improper Debit Card reimbursements to the extent required by IRS rules. Notwithstanding the foregoing, it shall be Plan Administrator's ultimate responsibility for recouping such reimbursements in accordance with applicable IRS rules.

### **III. Duties of Employer and Plan Administrator**

- A. Participant Information. Employer shall, in a mutually agreed format, provide Administrative Firm with a listing of all persons participating in the Plan and their elections there under. Employer shall also provide Administrative Firm with written notice of any addition or deletion of Covered Individuals and any change in Participant elections. Administrative Firm may rely on the most current information in its possession regarding the participation and election of a Participant in paying claims and providing other services under this Agreement, including but not limited to, nondiscrimination testing.

- B. Election Changes. Employer shall determine the appropriateness of all requests by Participants to change their elections under the Plan.
- C. Claims Account. Non-debit card claims shall be paid from Administrative Firm's claims account. Employer acknowledges that such account may include funds deposited by other employers for the purpose of paying claims under benefit plans sponsored by such employers. Employer further acknowledges that while funds are held in the account prior to reimbursement of claims, Administrative Firm may earn bank credit and/or interest on such funds. Such bank credit and interest shall be retained by Administrative Firm and be considered part of the administrative fee paid by Employer to Administrative Firm for the services provided hereunder. Upon request of Administrative Firm, Employer shall transfer funds to Administrative Firm's claims account in an amount determined by Administrative Firm to be necessary for reimbursement of eligible claims. Employer acknowledges that Administrative Firm has no obligation to pay claims for benefits under the Plan and Administrative Firm shall not advance its own funds if there are not sufficient funds provided by Employer for such payment.
- D. Debit Card Funding. If Debit Card services are reflected in Exhibit A to the Agreement, the Employer shall:
1. Have ultimate responsibility for funding all payments made by the Debit Card and all Debit Card related fees.
  2. Each day, have funds available equal to the amount of funds withdrawn from the Debit Card Account for Debit Card transactions over the past day. Administration Firm will transfer that amount from the Client's bank account into the Debit Card Account using a method agreed upon by the Employer. Additional funds may be required in the Debit Card Account as requested by the Administrative Firm should a short fall occur.
  3. If the Employer fails to provide the funds requested by Administrative Firm within the applicable period, and the actual balance in the Debit Card Account is less than the balance required as provided above, the Administrative Firm will provide notice so Employer can correct the shortfall. If such balance deficiency is not cured within two (2) days of the notice, the Bank may stop authorizing card payments and Administrative Firm may suspend all services under this Addendum for the period of time the required amounts are not provided. In such case, the Administrative Firm can also elect to terminate this Addendum. Employer is responsible for all outstanding obligations relating to the Debit Card Account, including any Bank charges, penalties, and interest in connection therewith.
  4. Any funds provided by Employer to the Administration Firm hereunder not used to pay Debit Card claims or fees with respect to the Plan will be returned by the Administration Firm to the Employer upon termination of this Agreement or upon Employer ceasing to offer Debit Cards to Plan participants within 120 days following the deactivation of all cards associated with the Plan.
- E. Nondiscrimination Testing. Except as specifically provided in Section II.C., Plan Administrator shall be responsible for the nondiscrimination testing applicable to the Plan under the Code and for ensuring the Plan's compliance with the Code's nondiscrimination requirements.
- F. Review of Reports. Employer or Plan Administrator shall review the monthly accounting provided by Administrative Firm and reconcile such accountings with its payroll records. Employer or Plan Administrator shall notify Administrative Firm of any discrepancy within ten (10) business days of receipt of the accounting.

**IV. Term and Termination**

- A. Term. This Addendum is effective as of the Effective Date and shall continue in effect for the term of the Agreement, unless earlier terminated pursuant to this Section IV.B. of the Addendum.
- B. Termination. This Addendum shall terminate effective with the termination of the Agreement. In addition, this Addendum may be terminated or shall terminate, without the termination of the Agreement, as provided herein or in Sections VII.B. and VII.C. of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Addendum to be effective as of the Effective Date.

EMPLOYER

PLAN ADMINISTRATOR

By: \_\_\_\_\_  
Board President  
South Washington County Schools District 833

By: \_\_\_\_\_  
Authorized Representative  
South Washington County Schools District 833

Its: \_\_\_\_\_

THIRD PARTY ADMINISTRATOR

By: *Kinda Hene*  
Authorized Representative of  
DRT Benefits Corp.  
Its: President



**FUNDED HEALTH REIMBURSEMENT ARRANGEMENT ADDENDUM  
to the  
AGREEMENT FOR ADMINISTRATIVE SERVICES  
between  
DRT Benefits Corp. dba 121 Benefits (“Administrative Firm”)  
and  
South Washington County Schools District 833 (“Employer” and “Plan Administrator”)**

The purpose of this Addendum is to describe the services, in addition to those services described in the Agreement, to be furnished by Administrative Firm to the trust-funded health reimbursement arrangement (the “Plan”) (within the meaning of Section 105 of the Code) established and maintained by Employer.

**I. Definitions**

In addition to the definitions contained in the Agreement, which are hereby incorporated herein to the extent not inconsistent herewith, the following definitions shall apply to this Addendum:

- A. Addendum – means this Funded Health Reimbursement Arrangement Addendum to the Agreement.
- B. Bank – means Bancorp, the bank selected by the Debit Card Company to be the issuer of the Debit Card.
- C. Claims Account – means the checking account established or designated by Employer as the bank account from which checks or ACH benefit payments under the Plan shall be paid.
- D. Debit Card Account – means the checking account established or designated by Employer as the bank account from which Debit Card transactions under the Plan shall be paid.
- E. Debit Card – means the prepaid benefits card issued by the Debit Card Company for purposes of benefit administration by Administrative Firm through its subcontractor, Debit Card Company.
- F. Debit Card Company – means WEX Health.
- G. Effective Date - means the date upon which this Addendum, once fully executed by all parties, is first effective, January 1, 2019.
- H. Funds – means the mutual funds in which the assets of the Trust may be invested.
- I. Plan - means Employer’s health reimbursement arrangement under Section 105 of the Code.
- J. Subcontractor – means the service provider hired by Administrative Firm to assist it with providing recordkeeping and related investment services under this Addendum. The Record-keeper is Benefit Plans Administrative Services, LLC.
- K. Trust – means the voluntary employees’ beneficiary association (VEBA) trust established by Employer (pursuant to Code §501(c)(9)) for the purpose of holding the assets of and funding the benefits provided under the Plan.
- L. Trustee – the person or entity appointed by Employer to be the trustee of the Trust.

**II. Administrative Firm Responsibilities**

- A. Processing of Claims. Subject to Article III of this Addendum and Section VI.D. of the Agreement, Administrative Firm shall process, adjust, and settle claims of Covered Individuals received by Administrative Firm for benefits under the Plan in accordance with the terms and conditions of the Plan. Where the terms and conditions of the Plan are not clear, Administrative Firm reserves the right to request direction from Plan Administrator. Generally, Administrative Firm shall pay reimbursements via check or direct deposit paid from the Claims Account, on a weekly basis, excluding weekends and Federal and bank holidays.



- B. Processing Withdrawals. When the Plan Administrator requests a withdrawal from the Trust with respect to the Plan, Administrative Firm shall provide instructions to the Trustee or its designee, in accordance with any contract or agreement between the Trustee and Employer, directing the Trustee to make a distribution from the Trust.
- C. Overpayments and Erroneous Payments. Should Administrative Firm discover or have brought to its attention an overpayment or otherwise erroneous benefit payment under this Plan in excess of \$10, Administrative Firm shall make a diligent attempt to recover such payment in accordance herewith. Administrative Firm will make three (3) written contacts with the recipient of the payment. If the payment has not been recovered within a reasonable time following the third contact, Administrative Firm will notify Plan Administrator. Plan Administrator shall then decide whether and in what manner to further pursue repayment of the payment. If Plan Administrator determines to take further action to pursue recovery of the payment, Plan Administrator shall be responsible for all costs incurred in doing so. After the three (3) contacts described herein, Administrative Firm shall take no further action to recover the payment unless the parties agree, in writing, on the terms and conditions applicable to such additional services by Administrative Firm.
- D. Participant Statements and Access to Account Information.
1. On at least a quarterly basis, Administrative Firm shall provide to each Participant who is participating in the Plan, an electronic or paper statement providing information regarding account balances and claims paid. The Subcontractor will provide to each Participant who is participating in the Plan, an electronic or paper statement providing information regarding participant assets.
  2. Administrative Firm, will provide Participants with on-going access to the recordkeeping system via a voice response system (“VRS”) through its Subcontractor, and/or website connection on a twenty-four (24) hour basis in addition to a call center accessible using a toll-free number. Although Administrative Firm does not guarantee immediate access or uninterrupted service at any time, Administrative Firm shall use reasonable efforts to maintain the VRS and website properly using generally accepted industry standards.
- E. Accountings. On at least a monthly basis, Administrative Firm shall provide Employer with an electronic link to an accounting of contributions and payments made during the reporting period in such format and detail as Employer and Administrative Firm shall mutually agree.
- F. Recordkeeping and Investment Services. Administrative Firm through its subcontractor will perform the following recordkeeping and investment-related services:
1. Maintain records of allocations of the Plan’s assets by Participant and contribution type for each Fund selected by the Participant or the Plan Administrator, as applicable;
  2. Perform investment of Employer contributions and earnings according to the investment direction and information provided by the Participants or Plan Administrator, as applicable;
  3. If applicable, re-invest existing account balances into Funds according to directions from Participants provided in accordance with procedures established by Administrative Firm (such transactions will be processed each business day as requested by Participants and in accordance with the Administrative Firm’s procedures, or, as soon as administratively feasible);
  4. Provide daily valuation services;
  5. Maintain financial records and perform bookkeeping and bank reconciliation activities according to generally accepted accounting principles;
  6. Provide detailed quarterly (cash basis) financial statements on all income and expense items including contributions, expenses, assets, delinquencies to consultant and other parties, as directed;
  7. With respect to the transmission of data to a Fund and/or sponsor of the Fund, provide automated transmissions to Funds for the purchase and redemption transactions generated by Plan Administrator or Participants, as applicable, through Administrative Firm record-keeping

systems (the automated transmissions shall be made through the National Security Clearing Corporation, a non-profit organization owned by various national stock exchanges (“NSCC”);

8. Transmit orders from Participants or Plan Administrator, as applicable, for the purchase and redemption of shares of funds in accordance with the operating procedures set forth in Exhibit A (“Operating Procedures”), which may be amended or modified by Administrative Firm from time to time by delivery of a revised Exhibit A to Plan Administrator via electronic means or hard copy;

Some or all of the foregoing services may be provided through the Subcontractor.

- G. Trust Tax Reporting Services. Administrative Firm shall assist Employer with complying with the tax reporting requirements applicable to the Trust, including assistance with preparation of Form 990. Administrative Firm shall provide any information in its possession to facilitate the preparation of such forms, but shall not be responsible for preparation or timely submission of the forms.
- H. Debit Card Services. If Debit Card services are reflected in Exhibit A to the Agreement, the Administrative Firm through its subcontractor, Debit Card Company, will provide the following services with respect to the use of Debit Cards to obtain reimbursements under the health reimbursement arrangement (the “HRA”):
  1. Obtain all information necessary for issuance of Debit Cards to HRA participants. Administrative Firm and Debit Card Company are entitled to rely upon the accuracy and completeness of all information provided by Employer.
  2. Through its subcontractor, the Debit Card Company, issue Debit Cards and process Debit Card transactions.
  3. Provide communications to Employer, Plan Administrator, and HRA participants regarding use of Debit Cards.
  4. Provide substantiation of claims reimbursed via use of the Debit Card, either directly or through its subcontractor, the Debit Card Company, in accordance with applicable IRS rules.
  5. Assist Plan Administrator with recouping improper Debit Card reimbursements to the extent required by IRS rules. Notwithstanding the foregoing, it shall be Plan Administrator’s ultimate responsibility for recouping such reimbursements in accordance with applicable IRS rules.
  6. Transfer funds from the Trust to the Debit Card Account as debit card transactions are paid by the Administration Firm.

### **III. Duties of Employer and Plan Administrator**

- A. Participant Information. Employer shall, in a mutually agreed format, provide Administrative Firm with a listing of all persons participating in the Plan and their elections thereunder (if any). Employer shall also provide Administrative Firm with written notice of any addition or deletion of Covered Individuals and any change in Participant elections. Administrative Firm may rely on the most current information in its possession regarding the participation and election of a Participant in paying claims and providing other services under this Agreement, including but not limited to, nondiscrimination testing.
- B. Election Changes. Employer shall determine the appropriateness of all requests by Participants to change elections (if any) under the Plan.
- C. Contributions. Employer shall remit contributions to the Administrative Firm according to the agreed upon schedule. The Administrative Firm will transfer those contributions to the Trust as provided in the Plan. As contributions are made, the Adopting Employer shall, in a mutually agreed format, provide Administrative Firm with such Participant contribution information as is reasonably required by Administrative Firm in order to perform its duties hereunder, including, but not limited to, the amount of the contribution to be allocated to each Participant. The Adopting Employer is responsible for the accuracy and completeness of the data it submits to Administrative

Firm and is solely responsible for any adverse consequences that may result from errors or inaccuracies in such data. Administrative Firm is not responsible for requiring that any contributions be made, or for determining that the contributions that are received by the Trust comply with the terms of the Plan.

- D. Claims Account. Administrative Firm shall transfer funds for the purpose of paying claims from the Trust to the Claims Account in an amount equal to the amount of the claims. Employer acknowledges that Administrative Firm has no obligation to pay claims for benefits under the Plan and Administrative Firm shall not advance its own funds if there are not sufficient funds in the Trust for such payment. Employer acknowledges that the Claims Account may include funds deposited by other employers for the purpose of paying claims under benefit plans sponsored by such employers. Employer further acknowledges that while funds are held in the account prior to reimbursement of claims, Administrative Firm may earn bank credit and/or interest on such funds. Such bank credit and interest shall be retained by Administrative Firm and be considered part of the administrative fee paid by Employer to Administrative Firm for the services provided hereunder.
- E. Debit Card Funding. If Debit Card services are reflected in Exhibit A to the Agreement, the Administration Firm shall transfer from the Trust:
  - 1. All payments made by the Debit Card and all Debit Card related fees.
  - 2. Each day, pull funds into the Debit Card Account equal to the amount of funds withdrawn from the Debit Card Account for Debit Card transactions over the past day.
  - 3. Any funds provided by the Trust to the Claims Account hereunder not used to pay Debit Card claims or fees with respect to the Plan will be returned to the Trust upon termination of this Agreement or upon Employer ceasing to offer Debit Cards to Plan participants within 120 days following the deactivation of all cards associated with the Plan.
- E. Nondiscrimination Testing. Plan Administrator shall be responsible for the nondiscrimination testing applicable to the Plan under the Code and for ensuring the Plan's compliance with the Code's nondiscrimination requirements.
- F. Review of Reports. Employer or Plan Administrator shall review the monthly accounting provided by Administrative Firm and reconcile such accountings with its payroll records. Employer or Plan Administrator shall notify Administrative Firm of any discrepancy within ten (10) business days of receipt of the accounting.
- G. Investment Options. The Funds available through the Trust shall be selected and may be revised from time to time in writing by Plan Administrator. Administrative Firm will make available such Funds to the Participants within sixty (60) days of its receipt of a written direction from the Plan Administrator. Where any Fund contains restrictions on amounts that may be transferred out of or into such Fund, Administrative Firm is hereby directed to enforce such restrictions in its performance of administrative services for the Trust. Where such restrictions are in the form of redemption fees, Administrative Firm may restrict the Participant's ability to transfer Funds subject to a redemption fee until the expiration of the applicable holding period. In the event that Administrative Firm cannot confirm that a transferee fund will comply with such restrictions, Administrative Firm is hereby directed to deny the transfer request on behalf of the Plan Administrator, and provide written notice of such denial to the Plan Administrator.

#### **IV. Fees**

- A. In consideration for the services provided by Administrative Firm in accordance with this Addendum, Employer and Plan Administrator agree to pay to Administrative Firm the applicable fees reflected in the attached Fee Schedule.
- B. Plan Administrator has the option to designate the method of fee payment for each fee type prior to the execution of this Addendum. In the event the Plan Administrator fails to indicate the method of fee payment, the fees will be configured as follows: (1) Recordkeeping Fee – Invoiced to Employer; (2) Platform – Deducted from Plan Assets.

- C. Administrative Firm represents that it and/or Subcontractor may be entitled to certain fees from the Funds pursuant to their separate agreements with the various Funds, including, but not limited to “12b-1 fees,” shareholder servicing fees, and sub-transfer agency fees (“Fund Fees”). Administrative Firm and/or Subcontractor shall be entitled to any Fund Fees earned with regard to any Fund. Administrative Firm will take the amount of revenue sharing received into consideration when determining its fees. The custody fee applied to each Fund will be reduced by the payment of Fund Fees by the respective Fund. Fund Fees are subject to change without Administrative Firm’s consent based on the policies of the Funds. Administrative Firm will not be responsible to audit the amounts received attributable to the Trust’s holdings. Any increases or decreases in Fund Fee payments by the Fund or a change in the Fund menu will result in a corresponding adjustment to the custody fee applicable to such Funds. For additional information regarding revenue sharing and other costs associated with administering mutual funds, refer to the fund prospectus and related information. Administrative Firm shall provide information regarding such fees via the sponsor website, which is continually updated to reflect the total fees and other compensation that it and/or Subcontractor receives from the Funds as a result of the services it provided to the Trust pursuant to this Addendum, and provide the Plan Administrator with notice that the sponsor website has been updated.
- D. Employer agrees to pay the fee described in this paragraph D upon termination of this Addendum.
1. If Employer provides Administrative Firm written notice of termination of the Addendum less than 95 days prior to the effective date of the termination, Employer shall pay to Administrative Firm a fee equal to 25% of the annual charges owed to Administrative Firm under this Addendum and 25% of the annual charges owed to the Trustee under any agreement(s) between Employer and Trustee (including, but not limited to custodial fees, and mutual fund revenue sharing fees).
  2. If Employer provides Administrative Firm written notice of termination of the Addendum at least 95 days prior to the effective date of the termination, Employer shall pay to Administrative Firm a fee equal to:
    - a. If Administrative Firm has provided services to the Plan for less than three (3) years, \$750 plus 10% of the annual charges owed to Administrative Firm under this Addendum plus 10% of the annual charges owed to the Trustee under any agreement(s) between Employer and Trustee (including, but not limited to, custodial fees, and mutual fund revenue sharing fees).
    - b. If Administrative Firm has provided services to the Plan for three (3) years or more, \$1,000 plus 5% of the annual charges owed to Administrative Firm under this Addendum plus 5% of the annual charges owed to the Trustee under any agreement(s) between Employer and Trustee (including, but not limited to, custodial fees, and mutual fund revenue sharing fees); provided the total fee shall not exceed \$2,500.
  3. If Employer provides Administrative Firm written notice of termination of the Addendum at least 125 days prior to the effective date of the termination, the fees described in this paragraph D are waived.
  4. If this Addendum terminates due to a material breach by, or the bankruptcy or insolvency of, Employer, Employer shall pay to Administrative Firm a fee equal to 25% of the annual charges owed to Administrative Firm under this Addendum and 25% of the annual charges owed to the Trustee under any agreement(s) between Employer and Trustee (including, but not limited to, standard annual fees, custodial fees, and mutual fund revenue sharing fees).

## V. **Limitation of Liability for Investment Transactions**

Administrative Firm shall use due care transmitting data through the NSCC. Administrative Firm’s liability hereunder is limited solely to data processing errors resulting from: (i) malfunction of Administrative Firm’s equipment, (ii) error by Administrative Firm’s employees or agents; or (iii) error by Administrative Firm’s computer software. Administrative Firm’s liability hereunder is limited solely to restoring the Participant and/or the Trust to the same position it/he would have been in had the error not occurred. However, should the Participant and/or Plan Administrator choose not to initiate any and all actions on their part to effect the change, Administrative Firm will not be required to make any restoration to the

Trust. Administrative Firm shall make a good faith effort to correct any error caused by Administrative Firm's performance, provided that the Plan Administrator notifies Administrative Firm in writing of such error and furnishes all data necessary to make such correction within thirty (30) days following the date of delivery of a benefit statement that contains the data relating to the claimed error. (The Participant will have received a confirmation of the transaction separately and in advance of receiving the benefit statement and the results of the transaction also shall have been posted on the internet shortly after said transaction has been completed). To the extent permitted by law, in the absence of intentional misconduct or gross negligence of Administrative Firm or any of its employees or agents, Administrative Firm shall not be liable for punitive damages or for loss of profit, goodwill, or other special, incidental or consequential damages suffered by the Trust, Employer, the Plan Administrator, an agent of the Plan, or a Participant as a result of Administrative Firm's performance under this Agreement.

**VI. Term and Termination**

- A. Term. This Addendum is effective as of the Effective Date and shall continue in effect for the term of the Agreement, unless earlier terminated pursuant to this Section IV.B. of the Addendum.
- B. Termination. This Addendum shall terminate effective with the termination of the Agreement. In addition, this Addendum may be terminated or shall terminate, without the termination of the Agreement, as provided herein or in Sections VII.B. and VII.C. of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Addendum to be effective as of the Effective Date.

EMPLOYER

PLAN ADMINISTRATOR

By: \_\_\_\_\_  
Board President  
South Washington County Schools District 833

By: \_\_\_\_\_  
Authorized Representative  
South Washington County Schools District 833

Its: \_\_\_\_\_

THIRD PARTY ADMINISTRATOR

By: *Kinda Herea*  
Authorized Representative of  
DRT Benefits Corp.  
Its: President

**EXHIBIT A  
OPERATING PROCEDURES**

Employer shall immediately contact payroll vendors to initiate electronic reporting of data to Administrative Firm using the file layout provided by Administrative Firm. Participant-directed trading will begin based on Participant elections on file with Administrative Firm and/or Subcontractor. **The following steps must be completed to initiate each trade:**

**TRADE PREPARATION**

**Participant Data and Contributions**

1. Employer downloads Participant data and contributions information to Administrative Firm and/or Subcontractor.
2. Administrative Firm processes the Participant data and contribution information received.
3. **PARTICIPANT DATA MUST BE RECEIVED IN ORDER FOR TRADES TO BE PROCESSED**

**Verification of Pay Date Data**

1. Administrative Firm through its Subcontractor will send a communication (*Verification Data*) to the Employer detailing the gross amount of contributions prior to transmittal of funds.
2. **In addition, by approving the verification data**, the Employer signifies to Administrative Firm, through its Subcontractor that funds have been made available for Administrative Firm to complete the transaction.
3. **ACCEPTANCE OF VERIFICATION DATA MUST BE RECEIVED IN ORDER FOR TRADES TO BE PROCESSED**

**TRANSMITTAL OF FUNDS**

1. The Employer must authorize Administrative Firm and its Subcontractor to initiate debit entries in connection with contributions and other payments made to the Plan, as directed by the Employer, through an Automated Clearing House (“ACH”) electronic funds transfer from the account set up for this purpose. Such account shall be designated by the Employer on an “ACH Authorization” Form. The Employer may subsequently designate another bank account by directing Administrative Firm in writing or such other medium as may be acceptable to Administrative Firm and/or Subcontractor. The Employer will be responsible for submitting contribution and other payment data via electronic means acceptable to Administrative Firm. The Employer also directs that the Employer’s completed ACH Authorization, or subsequent direction acceptable to Administrative Firm, which supersedes the original, shall serve as authorization to the bank indicated by the Employer to accept any such debit entries initiated to the designated bank account. The Employer agrees that it shall be solely responsible for assuring that Administrative Firm and its Subcontractor are in receipt of the information necessary to initiate and effectuate the transfer of funds pursuant to this instruction and that the bank account designated by the Employer now or in the future, contains sufficient funds to satisfy Administrative Firm’s and its Subcontractor’s ACH request. Further, the Employer agrees and acknowledges that 1) if it should fail to make sufficient funds available in its bank account for ACH purposes, Administrative Firm and its Subcontractor reserves the right to reverse these new contribution trades in Participant accounts, and 2) if the Employer fails to deliver settlement proceeds, the Employer will assume full responsibility for resolving this matter with Participants, including any financial restitution.
2. Once the money is transferred (invested) the funds become the property of the Trust.
3. **FUNDS MUST BE RECEIVED IN ORDER FOR TRADES TO BE PROCESSED**

Time elapsed from receipt of valid Participant data and contribution information, approved verification data and funds to cover contribution trade as outlined above, and Trade Date will not exceed three (3) business days. (*Subject to the Force Majeure provision of the Agreement.*)



## **TRADE PROCESSING**

### **Trade Date**

Transactions will be priced at Trade Date's NAV, provided that Subcontractor receives the Participating Fund's prices (NAV's) for Trade Date prior to 6:30 p.m. ET. *(At times, the funds may encounter heavy trading or system malfunctions and may not provide NAV in a timely manner).* Subcontractor will transmit transactions over the System to the Participating Funds (or their transfer agent) **prior to midnight** on Trade Date. However, the Trade Date for Employer contributions may be up to 3 business days after receipt by Subcontractor. Subcontractor will use its best efforts to affect transactions based in fund trading restrictions and custodial timing after receipt of transaction instructions from the Employer or Participants. Instructions received on a day that is not a business day shall be deemed to have been received in the first business day thereafter. A "business day" is a day on which Administrative Firm, Subcontractor, the New York Stock Exchange, and all other entities contracted by Administrative Firm and Subcontractor to provide trade execution and settlement are open for business.

Administrative Firm and/or Subcontractor will not be responsible or have any liability for any loss or diminution in value that may occur if transactions are not executed due to the close of the New York Stock Exchange.

### **Wire Date**

Subcontractor will cause funds representing result of transactions traded to be wired to the Fund(s) the morning following Trade Date. Subcontractor or its designee is solely responsible for the coordination with each Fund of the wire transfer or deposit of funds for the purchase and redemption of fund shares and will ensure that payment occurs on a timely basis in order to obtain Trade Date's NAV. The Funds' inability to accept or receive deposit of funds goes beyond Administrative Firm's and/or Subcontractor's responsibility.

### **Failure of System**

If the System fails for any reason, the failed trades will be placed the next business day.





**COBRA COVERAGE SERVICES AGREEMENT ADDENDUM  
to the  
AGREEMENT FOR ADMINISTRATIVE SERVICES  
between  
DRT Benefits Corp. dba 121 Benefits (“Administrative Firm”)  
and  
South Washington County Schools District 833 (“Employer” and “Plan Administrator”)**

The purpose of this Addendum is to describe the services, in addition to those services described in the Agreement, to be furnished by Administrative Firm to the Plans with respect to their compliance with COBRA.

**I. Definitions**

In addition to the definitions contained in the Agreement, which are hereby incorporated herein to the extent not inconsistent herewith, the following definitions shall apply to this Addendum:

- A. Addendum – means this COBRA Coverage Services Addendum to the Agreement.
- B. Applicable Premium – means the cost to the Plan for a period of coverage (for example, one, two or three months) for similarly situated Covered Individuals for whom a Qualifying Event has not occurred.
- C. COBRA Coverage – means the continuation coverage required under COBRA.
- D. COBRA Participant – means any person receiving COBRA Coverage under the Plan in accordance with the terms and conditions of the Plan and applicable law. This includes, but is not limited to, Qualified Beneficiaries.
- E. Continuation Coverage – means the continuation coverage required to be provided with respect to a Plan under applicable law. Such coverage may include continuation coverage under a group health plan required by COBRA, USERRA, and/or state law and/or continuation coverage under a group term life insurance plan required by state law.
- F. Continuation Participant – means any person receiving Continuation Coverage under the Plan(s) in accordance with applicable law. This includes, but is not limited to, Qualified Beneficiaries.
- G. Covered Individual – means an individual who is properly participating in the Plan(s), including those receiving Continuation Coverage.
- H. Effective Date - means the date upon which this Addendum, once fully executed by all parties, is first effective, January 1, 2019.
- I. Insignificant Shortfalls – Payment amounts for COBRA coverage within the lesser of (i) \$50, or (ii) ten percent (10%), of the actual amount due.
- J. Plan(s) - means the following plan of benefits established and maintained by Employer to which Administrative Firm provides services under this Addendum: COBRA Coverage Services Agreement Addenda.
- K. Qualified Beneficiary – means a covered employee or the spouse, former spouse or dependent child of the covered employee, who has lost group coverage in a Qualifying Event and is entitled to elect COBRA coverage.
- L. Qualifying Event – means the loss of coverage under a Plan on account of one of the specific events described in COBRA.

## II. Administrative Firm Responsibilities

- A. Distribution of COBRA Election Notices and Forms. Administrative Firm shall distribute all notices required by COBRA, other than the initial or general notices, and provide election forms for the election of COBRA Coverage. Administrative Firm shall notify any person whose claim for COBRA Coverage is denied of the reasons for the denial and of the person's rights, if any, to have the denial reviewed in accordance with the terms and provisions of the Plan. The notification will be in a manner agreed upon by Plan Administrator and Administrative Firm. All notices will be provided based upon the address information provided to Administrative Firm by Plan Administrator.
- B. COBRA Eligibility. Administrative Firm shall process elections for COBRA Coverage under the Plan. Determinations regarding eligibility for COBRA Coverage shall be made in accordance with the written terms and conditions of the respective Plan. Administrative Firm shall determine if a person is entitled to COBRA Coverage based upon information provided to it by Plan Administrator. Administrative Firm will refer to Plan Administrator any claim or class of claims specified in writing by Plan Administrator as well as any claim that is disputed after the initial denial. Plan Administrator shall have final discretionary authority to make all determinations regarding COBRA Coverage under the Plan.
- C. Collection of COBRA Premiums. Administrative Firm shall collect payments of COBRA Coverage premiums. By the 15<sup>th</sup> of each month, Administrative Firm shall forward to Employer all COBRA Coverage premiums collected by Administrative Firm in the previous month.
- D. Termination/Cancellation of COBRA Coverage. Administrative Firm shall provide any required notification of the cessation of COBRA Coverage to impacted individuals.
- E. Reports. Monthly, the Administrative Firm will prepare a remittance report detailing the payments we have received and what month the payments cover.
- F. Administrative Materials. At the direction of Employer and Plan Administrator, Administrative Firm shall prepare draft documentation relating to the services provided under this Addendum, including election notices, election forms, and various administrative forms. Plan Administrator shall finalize and approve for use the administrative documents. Unless mutually agreed otherwise, such finalization shall be accomplished prior to the use or distribution of such documents.

## III. Duties of Employer/Plan Administrator

- A. Eligibility and Notification of Right to Elect. It is Plan Administrator's responsibility to notify Administrative Firm of an individual's experience of an event triggering a continuation responsibility on prepared data forms provided in advance by Administrative Firm to Plan Administrator. This information shall include:
- Full name of the employee, gender, date of birth
  - Division or unit number (if applicable)
  - Full name of the Qualified Beneficiary(s), gender, date of birth
  - Employee's Social Security number
  - Last known address of the Qualified Beneficiary
  - Last known coverage of the Qualified Beneficiary
  - Original date of coverage
  - Date of loss of coverage
  - Date of Qualifying Event
  - Type of Qualifying Event
  - Any special instructions
  - Name of employee who submitted data

Upon receipt of this information, Administrative Firm will generate and mail required notification information regarding the individual(s) ability to elect COBRA Coverage.

With respect to this notification responsibility, Administrative Firm is entitled to rely upon the eligibility information provided by Plan Administrator and is under no obligation to independently verify such information.

- B. Late Notification to Administrative Firm. Administrative Firm's responsibilities under this Agreement are triggered upon notification by Employer and/or Plan Administrator as described above. If such notification is not timely made, Administrative Firm shall use its best efforts to quickly perform its responsibilities. However, ultimate responsibility for any consequences, damages, etc., attributable in whole or in part to the late notification to Administrative Firm remains with Employer and Plan Administrator. For purposes of this provision, "timely" refers to a period of time reasonably sufficient for Administrative Firm to perform its responsibilities within the time period required under COBRA.
- C. Cost of COBRA Coverage. Employer and/or Plan Administrator shall provide Administrative Firm with the Applicable Premium calculation for COBRA Coverage under the Plan. Administrative Firm shall be entitled to rely on such information. Unless Plan Administrator provides written direction otherwise, Administrative Firm shall charge COBRA Participants the maximum premiums allowed under COBRA, including the 2% administrative fee.
- D. COBRA Coverage Documents. Employer and Plan Administrator shall provide direction to Administrative Firm, as necessary, regarding COBRA Coverage documentation. Employer and Plan Administrator shall approve all such materials within thirty (30) days following delivery by Administrative Firm, unless such deadline is extended by mutual agreement of all parties. Employer and Plan Administrator's failure to object within such time period (including any agreed upon extension period) shall constitute approval. Employer and Plan Administrator shall be solely responsible for the content of COBRA Coverage documentation it has been provided for review and approval.
- E. COBRA Coverage Determinations. Through this Agreement, Plan Administrator delegates to Administrative Firm authority to make the described determinations related to COBRA Coverage under the Plan. If Plan Administrator disagrees with Administrative Firm on a particular determination Plan Administrator shall immediately notify Administrative Firm, in writing, of such disagreement and direct Administrative Firm regarding the situation. Plan Administrator shall be solely responsible for the final initial determination on such claim, which shall be communicated in writing to Administrative Firm. Administrative Firm shall be entitled to rely on the final initial determination made by Plan Administrator.

As between Administrative Firm and Plan Administrator, Plan Administrator is responsible for the final decision upon review of disputed eligibility and coverage issues, including determinations with respect to COBRA Coverage. Upon receipt of applicable information and documentation from Administrative Firm, Plan Administrator shall notify Administrative Firm in writing of its final decision upon review of disputed eligibility and coverage issues.

#### **IV. Term and Termination**

- A. Term. This Addendum is effective as of the Effective Date and shall continue in effect for the term of the Agreement, unless earlier terminated pursuant to this Section IV.B. of the Addendum.
- B. Termination. This Addendum shall terminate effective with the termination of the Agreement. In addition, this Addendum may be terminated or shall terminate, without the termination of the Agreement, as provided in Sections VII.B. and VII.C. of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the effective date indicated above.

**EMPLOYER**

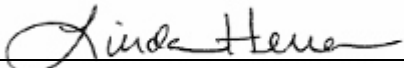
**PLAN ADMINISTRATOR**

By: \_\_\_\_\_  
Board President  
South Washington County Schools District 833

By: \_\_\_\_\_  
Authorized Representative  
South Washington County Schools District 833

Its: \_\_\_\_\_

**THIRD PARTY ADMINISTRATOR**

By:  \_\_\_\_\_  
Authorized Representative of  
DRT Benefits Corp. dba 121 Benefits  
Its: President