

**BENEFIT SERVICES
ADMINISTRATION AGREEMENT
FOR THE
CITY OF RAPID CITY
HEALTHCARE PLAN**

THIS BENEFIT SERVICES ADMINISTRATION AGREEMENT ("Agreement") is entered into this 1ST day of July 2004, by and between City of Rapid City (the "Plan Sponsor") with its primary place of business in the State of South Dakota, and First Administrators, Inc. (the "Benefit Services Administrator").

RECITALS:

- (a) The Plan Sponsor has established and maintains an employee welfare benefit plan known as City of Rapid City Healthcare Plan (the "Benefit Plan" or "Plan") to provide benefits for Participants; and
- (b) The Plan Sponsor desires to retain the Benefit Services Administrator to facilitate the provision of administrative services with respect to the Benefit Plan in accordance with the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties agree as follows:

Section 1. Definitions. All words and phrases defined in the Benefit Plan which are not also defined in this Agreement shall have the same meaning in this Agreement. In addition, the following words and phrases shall, for purposes of this Agreement, have the meanings indicated:

- (a) "Affiliate" means any person which, directly or indirectly, owns or controls a Person, is owned or controlled by a Person or is under common control with a Person.
- (b) "Auditing Fees" means those amounts charged by organizations other than the Benefit Services Administrator for conducting audits of provider bills, reviewing the medical necessity of services rendered, reviewing the appropriateness of the charges, and verifying that the charges were for actual services rendered.
- (c) "Benefits" means the payments made to or on behalf of the Participants for the services covered by the Benefit Plan.
- (d) "Benefit Fund" means the monies provided by the Plan Sponsor to pay for Received Claims, Benefits, and other obligations specified in this Agreement and in the Benefit Plan.
- (e) "Business Associate Contract" means a written contract or other written agreement between the Plan Sponsor and the Benefit Services Administrator required by 45 CFR §164.502(e)(2).

- (f) "Case Management Fees" means those amounts charged for providing case management services.
- (g) "COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.
- (h) "Confidential Information" means all information, data, or other materials, in any medium, provided by one party (the "Data Owner") to the other (the "Receiving Party") on or after the date of execution of this Agreement. Confidential Information may include, by way of example, but without limitation, data, know-how, formulas, manuals, processes, designs, sketches, photographs, plans, drawings, specifications, samples, reports, customer and distributor names, any non-public personal information as that term is used in Title V of the Gramm-Leach-Bliley Act (PL 102-106) and state insurance regulations implementing such Act ("Non-public Personal Information"), pricing and financial information, claims information, market definitions, inventions and ideas. Confidential Information can also include information which is visual in nature or information provided orally, so long as the disclosure includes a visual or oral notice of the confidentiality, which is subsequently followed up in a writing which describes the information being protected. Confidential Information shall not include information that can be demonstrated to be generally known or available to the public, through no act or omission on the part of the Receiving Party. Confidential Information that is not Non-public Personal Information shall not include information:
- (i) Known to the Receiving Party prior to disclosure under this Agreement;
 - (ii) Independently developed by personnel of the Receiving Party who have not had access to Confidential Information received from the Data Owner; or
 - (iii) Provided to the Receiving Party by a third party without any restriction on disclosure and without breach of any obligation of confidentiality to a party to this Agreement.
- (i) "Covered Dependent" means any dependent of a Covered Employee who is eligible for Benefits as designated in the Benefit Plan and who has not become ineligible to participate in the Benefit Plan.
- (j) "Covered Employee" means any current or former employee of an Employer who is eligible for Benefits as designated in the Benefit Plan and who has not become ineligible to participate in the Benefit Plan.
- (k) "Employer" means an employer, which may be the Plan Sponsor, and which has adopted the Benefit Plan to provide Benefits for its Participants.
- (l) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, as amended.
- (m) "Insolvency" means the entry of a decree or order for relief by a court having jurisdiction in any involuntary case under federal bankruptcy laws or any other applicable federal or state bankruptcy, insolvency or other similar law, or for the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator (or

other similar official) or for winding up or liquidation of affairs and the continuance of any such decree or order unstayed and in effect for a period of ninety (90) consecutive days.

- (n) "Participant" means any Covered Employee and any Covered Dependent.
- (o) "Person" means firms, associations, partnerships, limited partnerships, joint ventures, trusts, corporations and other legal entities, including public or governmental bodies, agencies or instrumentalities, as well as natural persons.
- (p) "Plan Document" means the written description of the Benefit Plan outlining Benefits and administrative procedures.
- (q) "Privacy Officer" means the individual responsible for the development and implementation of privacy policies and procedures for the Plan Sponsor as required by 45 CFR 164.530.
- (r) "Protected Health Information" means the same as the term "protected health information" in 45 CFR 164.501.
- (s) "Received Claim" means any claim for Benefits under the Benefit Plan received by the Benefit Services Administrator on or before the last business day during the term of this Agreement.

Section 2. Term and Termination of this Agreement.

- (a) **Effective Date and Initial Term.** This Agreement, when signed by authorized representatives of the Plan Sponsor and the Benefit Services Administrator, shall be effective on July 1, 2004 and shall continue in full force through the period ending June 30, 2005 (the "Initial Term").
- (b) **Renewal Terms.** This Agreement shall automatically continue for an additional 12-month term or terms ("Renewal Term") following the expiration of the Initial Term or any Renewal Term, upon the same terms and conditions, except as they may be amended as provided in this Agreement or an Addendum to this Agreement.
- (c) **Termination.**
 - (i) Either the Plan Sponsor or the Benefit Services Administrator may terminate this Agreement as of the end of the Initial Term or as of the end of any Renewal Term by providing written notice of termination delivered to the other party at least thirty (30) days prior to the intended date of termination.
 - (ii) The Benefit Services Administrator may terminate this Agreement upon ten (10) days written notice to the Plan Sponsor in the event the Benefit Fund account is insufficient to meet the payment of Received Claims or other obligations specified in the Benefit Plan and this Agreement, provided the Plan Sponsor does not deposit or cause to be deposited sufficient funds in the Benefit Fund account within ten (10) days after the date such notice is given.

- (iii) In the event the Plan Sponsor does not pay, or cause to be paid, the billed insurance premiums and/or administrative fees when due, the Benefit Services Administrator may give written notice demanding payment within ten (10) days. If full payment is not received by the end of the ten (10) day period from the date such notice is given this Agreement shall then terminate without further notice.
- (iv) Either the Plan Sponsor or the Benefit Services Administrator may terminate this Agreement upon ten (10) days written notice to the other in the event of dissolution or Insolvency of the Benefit Services Administrator or the Plan Sponsor.

If either party materially breaches this Agreement for reasons other than as stated in (ii) through (iv) above, the other party may terminate this Agreement provided that it notifies in writing the breaching party of the specific breach and allows the breaching party the opportunity to cure the breach within sixty (60) days. If the breaching party has not cured the breach within the sixty (60) day period following the date such notice is given, the Agreement shall then terminate without further notice.

(d) Effect of Termination.

- (i) Unless otherwise mutually agreed, the Plan Sponsor will have no further obligation to pay the Benefit Services Administrator monthly Administrative Fees incurred after the date of termination of this Agreement; provided, however, the Plan Sponsor shall pay all administrative fees and any premiums or Benefits accrued through the date of termination of this Agreement.
- (ii) Upon written request by the Plan Sponsor and upon payment of all amounts due to the Benefit Services Administrator through the date of termination of this Agreement, the Benefit Services Administrator will make available to the Plan Sponsor or to any successor benefit services administrator designated by the Plan Sponsor all materials in its possession necessary to continue the administration of the Benefit Plan; provided, however, the cost for preparation and transfer of such records shall be borne by the successor benefit services administrator or by the Plan Sponsor.

Section 3. Duties of Benefit Services Administrator. The Benefit Services Administrator, during the term of this Agreement, shall provide the following services for the Benefit Plan and shall, except as otherwise provided in this Agreement, have no duty or obligation to perform any other act or service:

- (a) Process Received Claims in accordance with the Benefit Plan Document and release Benefit payments promptly after Plan Sponsor deposits adequate funds in the Benefit Fund;
- (b) Refer to the Plan Sponsor, for consideration and final decision, any claim or class of claims the Plan Sponsor may specify including, without limitation, claims involving:
 - (i) Any question with respect to qualification of Received Claims for Benefits submitted under the terms of the Benefit Plan;

- (ii) Any question with respect to the amount of any Benefits due;
- (iii) Any controversy with a Participant involving a Received Claim;
- (iv) Any question with respect to the eligibility of a Participant to receive Benefits under the Benefit Plan;

with an analysis of the issues to assist the Plan Sponsor in reaching a final decision;

- (c) Maintain records in a retrievable format relating to Received Claims for a period of seven (7) years from the date processing of the Received Claim is completed, and on-line claims payment history for no less than two (2) Plan years from the date of claim payment;
- (d) Confirm to providers of service the eligibility of Participants to receive Benefits under the Benefit Plan on the basis of data and information provided to the Benefit Services Administrator by the Plan Sponsor;
- (e) Provide necessary facilities, personnel, procedures, forms and instructions for the administration and processing of any Received Claim;
- (f) Provide the Plan Sponsor with requested standard utilization reports for the Benefit Plan within fifteen (15) days following the close of each business month;

Non-standard reports are available upon request. In addition to a fee for such report(s), a fee may also be charged for custom programming time. Such fee(s) will be provided to the Plan Sponsor upon request;

- (g) Audit a sample of Received Claims to verify the quality and accuracy of the claim processing service;
- (h) Coordinate re-pricing, and/or discounting of applicable bills under the Benefit Plan with applicable vendors. The Plan Sponsor will incur the pre-approved fee for the re-pricing and/or discounting service. A portion of this fee may be paid to the Benefit Services Administrator. The amount of such fees paid to the Benefit Services Administrator, if any, will be disclosed to the Plan Sponsor;
- (i) When requested by the Plan Sponsor or by a stop loss or excess liability insurance carrier, coordinate the auditing of selected participating provider bills over threshold amount with medical review organizations to assure the submitted charges are accurately reported and considered under the Benefit Plan. The Plan Sponsor will incur the cost of any hospital audit fee, which may vary depending on the hospital;
- (j) When appropriate, coordinate, arrange and support case management services with medical review organizations, which may be an affiliate of the Benefit Services Administrator;
- (k) Provide toll-free telephone service for inquiries by Participants under the Benefit Plan and return voicemail messages in a prompt manner;

- (l) Provide the Internal Revenue Service with any required information regarding claim payments from the Benefit Plan to health care providers;
- (m) Attempt to recover any overpayments on Received Claims, provided, however, the Benefit Services Administrator shall not be required to initiate legal proceedings to recover an overpayment. The Benefit Services Administrator is not responsible for such overpayments that are not reimbursed by the Participants providing an attempt has been made to recover such overpayments;
- (n) Unless otherwise directed by Plan Sponsor, prepare a draft of the Benefit Plan document and summary plan description (which may be combined into a single document) for the Plan Sponsor's final approval, and upon approval, file the Benefit Plan document and subsequent amendments with the stop loss insurance or excess liability carrier on behalf of the Plan Sponsor;
- (o) Prepare and print Participant identification cards for the Benefit Plan, unless otherwise directed;
- (p) Upon receiving notification from the Plan Sponsor, add and terminate Participants from the various benefit programs and change coverage options for Participants which result from qualifying events as specified in the Benefit Plan;
- (q) Based upon information provided by Plan Sponsor pursuant to Section 4(b), prepare and provide to the Plan Sponsor an eligibility list showing Covered Employees and Covered Dependents as well as other information to be verified by the Plan Sponsor;
- (r) Prepare and provide to the Plan Sponsor a monthly billing statement;
- (s) Bill, collect, and remit to the appropriate insurance carriers, vendors, and brokers designated by the Plan Sponsor using funds provided by the Plan Sponsor;
- (t) Provide enrollment and claim forms upon request by the Plan Sponsor or Participants;
- (u) When requested, provide the Plan Sponsor data regarding commissions, administrative fees and premiums as necessary to enable the Plan Sponsor to complete the Plan Sponsor's Form 5500 Series Annual Report for the Benefit Plan;
- (v) Unless otherwise directed by Plan Sponsor, Benefit Services Administrator shall provide subrogation recovery service. Such service will include all steps taken, up to but not including litigation, to recover funds paid by the Plan Sponsor's Benefit Plan which may be found to be the liability of a third party or other insurance carrier. The Plan Sponsor shall be responsible for any fees or costs, including attorney's fees, incurred in the recovery process, with any unpaid amount of those costs and fees first paid from any funds recovered. The Plan Sponsor shall accept, as payment in full, any such recoveries as negotiated by the Benefit Services Administrator. If, in the opinion of the Benefit Services Administrator, recovery of funds will not offset the costs associated with such recovery, the Benefit Services Administrator shall document such conclusion in its records relating to the Benefit Plan and the claim shall not be further pursued;

- (w) Submit specific and aggregate claims under the Benefit Plan to the stop loss or excess liability insurance company pursuant to the stop loss or excess liability insurance contract between the stop loss or excess liability insurance company and the Plan Sponsor, and upon receipt of said reimbursements, forward such monies to the Plan Sponsor;
- (x) Benefit Services Administrator will attempt, upon authorization from the Plan Sponsor, to arrange for the purchase of policies of stop-loss or excess liability insurance. The premiums for any insurance purchased will be paid by the Plan Sponsor. In no event will Benefit Services Administrator be liable for failure to place any type of insurance policy on behalf of the Plan Sponsor; and
- (y) Return to the Plan Sponsor, or the appropriate Employer, any funds which are attributable to unnegotiated checks issued to pay Received Claims.

Section 4. Duties of the Plan Sponsor. The Plan Sponsor, during the term of this Agreement, shall perform the following duties:

- (a) Establish a Benefit Fund account or authorize the use of a Benefit Fund account established by the Benefit Services Administrator. The Plan Sponsor shall transfer or deposit, or cause to be transferred or deposited, the necessary funds to the Benefit Fund account for the payment of all Received Claims, fees, and expenses specified in the Benefit Plan and in this Agreement. If a Benefit Services Administrator bank account is used, the Plan Sponsor shall arrange transfer of funds to the account via mail within ten (10) days of the Benefit Services Administrator's request for funds to facilitate prompt payment of claims, fees and expenses. Benefit payments will only be released upon receipt of funds. The Benefit Services Administrator shall not be liable for the payment of any Received Claims, fees, taxes, penalties, fines, or other expenses that may be required under the Benefit Plan and the Plan Sponsor retains responsibility for the payment of all Received Claims and other expenses under the Benefit Plan.

If a Plan Sponsor bank account is used, the Plan Sponsor shall be responsible to reconcile the account, pay bank charges, and maintain a balance sufficient to cover issued checks.

If a Benefit Services Administrator bank account is used, all reconciliation and account maintenance will be the responsibility of the Benefit Services Administrator. The Plan Sponsor remains responsible for funding the account in amounts sufficient to cover issued checks.

- (b) Furnish to the Benefit Services Administrator on or before twenty (20) days from the date of the most recent billing statement sent to the Plan Sponsor the following:
 - (i) Enrollment information for all new Participants with their effective date to be eligible to receive Benefits under the Benefit Plan;
 - (ii) A list of all Participants who are no longer eligible to receive Benefits under the Benefit Plan so that the Benefit Services Administrator may prevent the processing of claims after the termination date specified by the Plan Sponsor;

- (iii) A list and/or enrollment forms for all Covered Employees changing coverage including changes in COBRA eligibility, if applicable; and
- (iv) Any data needed to certify the eligibility of Participants to receive benefits.

If retroactive changes are submitted more than ninety (90) days after the date of the event being reported, no administrative fee credit will be given. Retroactive credits for stop loss or excess liability insurance carriers or other vendors are subject to applicable agreements between the Benefit Plan or the Plan Sponsor and the vendor;

- (c) Pay all premiums and administrative fees by the due date specified on the Benefit Services Administrator's billing statement;
- (d) Approve or disapprove provider audits and case management services as may be recommended from time to time. Auditing Fees and Case Management Fees are the sole responsibility of the Plan Sponsor;
- (e) Promptly furnish to the Benefit Services Administrator an executed Benefit Plan document and any amendments;
- (f) Be responsible for and act as the fiduciary for the administration of the Benefit Plan, including, but not limited to, approving the summary plan description, distribution of the summary plan descriptions when required, interpretation of governmental regulations and mandated benefits, maintaining plan documents, and any communications to the Participants;
- (g) Make a decision on any Qualified Medical Child Support Order request promptly and within the time required by any applicable law or regulation;
- (h) Make a decision on any dispute or appeal involving a Received Claim promptly and within the time required by any applicable law or regulation;
- (i) When necessary, assist the Benefit Services Administrator in recovering overpayments on Received Claims;
- (j) Accept settlement of subrogation claims as negotiated by the Benefit Services Administrator as payment in full unless the Plan Sponsor notifies the Benefits Services Administrator in writing that the Plan Sponsor elects to assume full responsibility for settlement of any or all subrogation claims.
- (k) Provide any fidelity bond for fiduciaries and employees required by ERISA;
- (l) Comply with any applicable escheat or unclaimed property laws; and
- (m) Comply with all federal, state and local laws applicable to the Benefit Plan, including, without limitation, ERISA, HIPAA and COBRA.

Section 5. Protected Health Information. The Plan Sponsor and the Benefit Services Administrator shall not reveal any Protected Health Information except in accordance with applicable federal and state law or Business Associate Contract including, when required,

receipt of proper authorization from the individual involved. The Plan Sponsor will designate a Privacy Officer or other individuals authorized to receive or release Protected Health Information.

Section 6. Use of Confidential Information. Plan Sponsor understands and acknowledges that Benefit Services Administrator may be subject to certain privacy laws and any Non-public Personal Information that Plan Sponsor may receive from Benefit Services Administrator is received with limitations on its use and disclosure.

Plan Sponsor agrees that it is prohibited from using the Non-public Personal Information it receives from Benefit Services Administrator other than as required by law, regulation or rule, or to carry out the purposes for which Benefit Services Administrator disclosed the Non-public Personal Information to Plan Sponsor including use under an exception permitted under applicable law in the ordinary course of business to carry out those purposes.

Any other Confidential Information provided pursuant to this Agreement may be used by the Receiving Party only for the purpose of providing Benefits to Plan Participants. No other use is permitted without the advance written permission of an officer of the Data Owner.

In the event the Receiving Party receives a request or demand to disclose all or any part of the Confidential Information under the terms of a subpoena or order issued by a court of competent jurisdiction, or by any governmental agency in any jurisdiction in which the Receiving Party conducts business, or otherwise, the Receiving Party shall promptly notify the Data Owner of the existence, terms and circumstances surrounding the request so that the Data Owner may seek a protective order or other appropriate relief or remedy and/or waive compliance with the terms of this Agreement. Receiving Party agrees to cooperate with the Data Owner in connection with its efforts to prevent required disclosure.

To the extent the Receiving Party prepares any analysis, formulates conclusions, or otherwise acts based on review of the Confidential Information, the Data Owner shall be held harmless from Receiving Party's reliance upon such analysis or with respect to any actions or the failure to act based on the analysis or conclusions.

The Data Owner owns the Confidential Information provided hereunder and the grant of the limited license to use the Confidential Information pursuant to this Agreement does not transfer any rights of any kind to the Receiving Party other than the limited right to use the Confidential Information as set forth herein.

Upon the request of the Data Owner, the Receiving Party shall promptly return all Confidential Information and shall certify to the return of all tangible Confidential Information and references thereto and the destruction of any references thereto on magnetic or other intangible media.

The Receiving Party hereby acknowledges that unauthorized disclosure or use of Confidential Information could be cause of irreparable harm and significant injury to the Data Owner and may be difficult to ascertain. Accordingly, the Receiving Party agrees that the Data Owner shall have the right to obtain immediate injunctive relief to enforce obligations under this Section 6, in addition to any other rights and remedies the Data Owner may have under this Agreement or in law or in equity. If any legal action is necessary to enforce rights under this Section 6, the Data Owner shall be entitled to reasonable attorneys' fees and expenses in addition to any other allowable relief.

Section 7. COBRA Administration. In addition to the duties of the parties otherwise specified in this Agreement, the parties agree to the allocation of administrative responsibilities with respect to all individuals eligible for continuation of health coverage under the provisions of COBRA as indicated below:

(a) Duties of the Plan Sponsor:

- (i) Provide the initial notice of COBRA at the time of employment, outlining rights and obligations under the Plan.
- (ii) Identify qualifying events (i.e. termination, divorce, death of employee, and when notified by employee of the maximum age of dependent, etc.) and notify the Benefit Services Administrator in writing within 30 days of the occurrence of such event.
- (iii) Prepare and provide the qualifying event notice of right to purchase COBRA continuation coverage to COBRA qualified beneficiaries within the time period required by law.
- (iv) Instruct COBRA qualified beneficiaries to communicate acceptance or rejection of right to purchase COBRA continuation of coverage to the Plan Sponsor. Advise COBRA qualified beneficiaries that all future correspondence regarding COBRA issues should be directed to the Plan Sponsor.
- (v) Receive notice from COBRA qualified beneficiaries of acceptance or rejection of right to purchase COBRA continuation coverage.
- (vi) Track COBRA qualified beneficiaries' eligibility timeframes.
- (vii) Bill and collect premiums directly from COBRA qualified beneficiaries and notify the Benefit Services Administrator immediately of termination of coverage for any COBRA qualified beneficiary.
- (viii) Notify the COBRA qualified beneficiaries of options available to them during any open enrollment period of the Plan, if applicable.
- (ix) Notify COBRA qualified beneficiaries of any COBRA rate changes.
- (x) Notify COBRA qualified beneficiaries of their rights to obtain a group conversion policy, if applicable.

(b) Duties of the Benefit Services Administrator:

- (i) Upon receiving notification from the Plan Sponsor, terminate COBRA qualified beneficiaries' coverage based on effective date of termination provided by the Plan Sponsor.

Section 8. Certificate of Creditable Coverage. In addition to the duties of the parties otherwise specified in this Agreement, the parties agree to the following allocation of administrative

responsibilities with respect to meeting the requirements of HIPAA regarding certificates of creditable coverage:

- (a) The Plan Sponsor has responsibility for providing to Participants the notification of their rights under HIPAA.
- (b) The Plan Sponsor shall notify the Benefit Services Administrator when a Participant ceases to be eligible to participate in the Benefit Plan.
- (c) The Benefit Services Administrator will provide a certificate of creditable coverage according to the Standard Method as required by HIPAA. This certificate will be provided to Participants at the time they terminate coverage and, if COBRA continuation coverage is elected, at the time they terminate COBRA coverage. This certificate of creditable coverage will be provided upon request to active Participants for up to twenty-four (24) months after termination.
- (d) The Benefit Services Administrator will provide a letter to a Participant upon receipt of an enrollment form and/or certificate of creditable coverage. This letter will outline any remaining pre-existing condition period once the creditable coverage from the former employer is applied. The Benefit Services Administrator will not provide a letter if there is no remaining pre-existing condition period to be satisfied.

Section 9. Drug Company Rebates. Drug manufacturers sometimes offer rebates to pharmacy benefits managers when the drugs they manufacture are used in formularies. The Benefit Services Administrator may receive a share of these rebates from the pharmacy benefits manager in the form of a predetermined amount for each prescription claim processed by the pharmacy benefits manager, regardless of whether the claim is for a formulary drug. If applicable, receipt and use of the rebates is described in the Addendum to this Agreement. The rebates will not be taken into account in determining any applicable deductibles, coinsurance, copayment, or out-of-pocket maximum amounts for which a Participant is responsible.

Section 10. Administrative Fees. The Plan Sponsor shall pay, by the due date specified on the applicable billing statement, administrative fees to the Benefit Services Administrator in accordance with the terms of the Addendum to this Agreement. The administrative fees specified in the Addendum may be changed at any time and from time to time by the Benefit Services Administrator as indicated in the Addendum.

Section 11. Commissions. As additional compensation, the Benefit Services Administrator may be entitled to commissions earned for procuring and placing insurance coverages for the Employer and for reporting information to the carrier(s) throughout the policy period. Regular commissions payable to the Benefits Services Administrator with respect to such policies are described in the Addendum to this Agreement. The Benefit Services Administrator may also be entitled to commissions based on its entire business volume with one insurance company. These commissions, if received, will be retained by the Benefit Services Administrator.

Section 12. Plan Sponsor Election to Use Services of Related Parties. Plan Sponsor may elect to use a party related to the Benefit Services Administrator to provide Utilization Review or Preferred Provider network services. If a Related Party is elected to provide services, a description of the relationship to the Benefit Services Administrator will be provided in the Addendum to this Agreement.

Section 13. Authorization of the Benefit Services Administrator to Process and Pay Claims. In the Addendum to this Agreement the Plan Sponsor will authorize and direct the Benefit Services Administrator to draw checks, drafts or other instruments for the payment of Benefits, Auditing Fees, re-pricing fees, vendor payment fees, and Case Management Fees in accordance with the terms and conditions of the Benefit Plan and this Agreement against the Benefit Fund account maintained by the Plan Sponsor or by the Benefit Services Administrator.

Section 14. Benefit Services Administrator is Not Legal Advisor or Fiduciary. The Benefit Services Administrator is not an attorney and is not licensed to practice law. All documents provided by the Benefit Services Administrator are intended to comply with current laws, rules and regulations but such documents are subject to review and approval by legal counsel to the Plan Sponsor. Furthermore, the Benefit Services Administrator does not have, and shall not exercise, any discretionary authority or discretionary control respecting management of the Benefit Plan or respecting management or disposition of its assets, will not render investment advice for a fee or other compensation with respect to any monies or other property of the Benefit Plan or have any responsibility or authority to do so nor will the Benefit Services Administrator have any discretionary authority or discretionary responsibility in the administration of the Benefit Plan. Services of the Benefit Services Administrator shall be limited to nondiscretionary administrative services in accordance with the terms of this Agreement, the Benefit Plan and related documents.

Section 15. Liability and Indemnity.

- (a) In performing its obligations under this Agreement, Benefit Services Administrator neither insures nor underwrites any liability of the Plan Sponsor under the Plan, and, with respect to the Plan Sponsor acts only as the provider of the services described in this Agreement and, with respect to Plan Participants, acts only on behalf of the Plan Sponsor.
- (b) Benefit Services Administrator provides administrative services set forth in this Agreement only and does not assume any financial risk or obligation with respect to Benefits. Benefit Services Administrator has no obligation to settle Received Claims if Plan Sponsor fails to pay or reimburse Benefit Services Administrator in accordance with this Agreement.
- (c) Benefit Services Administrator shall have no duty or obligation to defend against any action or proceeding brought to recover a claim for Plan Benefits. Benefit Services Administrator shall, however, make available to the Plan Sponsor and its counsel, such evidence relevant to such action or proceeding as Benefit Services Administrator may have as a result of its administration of the contested Benefit determination.
- (d) Except as may be otherwise explicitly provided in this Agreement, the Plan Sponsor shall accept the tender of defense and have the liability for all Plan Benefit claims and all expenses incident to the Plan, and agrees to indemnify Benefit Services Administrator for and hold it, its directors, officers and employees, harmless from all amounts and expenses (including reasonable attorneys' fees and court costs) for which Benefit Services Administrator may be alleged to be, or may become, liable:
 - (i) For any state premium, or similar tax, or any similar Benefit or Plan-related charge, surcharge or assessment, however denominated, including any

penalties and interest payable with respect thereto, assessed against Benefit Services Administrator on the basis of and/or measured by the amount of Plan Benefits administered by Benefit Services Administrator pursuant to this Agreement;

- (ii) Arising from any action or proceeding to recover Benefits under the Plan;
 - (iii) Arising from any claim, action or proceeding, whether made by or on behalf of any Plan Participant or Participants, any governmental body or bodies, or any other party, regarding unclaimed or abandoned property, or laws related thereto, or any escheat obligations, as related to Plan Benefits administered pursuant to this Agreement, including any penalties and interest payable with respect thereto;
 - (iv) Arising from any allegation of a breach of confidentiality arising out of release of Confidential Information to Plan Sponsor or a third party at the Plan Sponsor's direction or arising out of any improper use of Confidential Information by Plan Sponsor or such third party; or
 - (v) Resulting from, or arising out of, any income tax withholding with regard to Benefits paid to, or for the benefit of, Plan Participants.
- (e) In the event litigation is instituted by a third party against the Plan Sponsor and/or the Benefit Services Administrator concerning any matter under the Plan, including a suit for Plan Benefits, each party to this Agreement shall have sole authority to select legal counsel of its choice.
- (f) In performing its obligations under this Agreement, Benefit Services Administrator shall use reasonable diligence and that degree of skill and judgment possessed by one experienced in furnishing claim administration services to plans of similar size and characteristics as the Plan. Notwithstanding the provisions of Section 15(c), the Benefit Services Administrator shall be liable to and indemnify the Plan Sponsor for any loss, cost or expense (including reasonable attorneys' fees and court costs) for which the Plan Sponsor may become liable in consequence of:
- (i) Any acts or omission of the Benefit Services Administrator which, in the aggregate, constitute a failure on the part of the Benefit Services Administrator to perform its claim administration obligations under this Agreement in accordance with the standard set forth above;
 - (ii) The negligent or intentional wrongful acts or omissions of medical providers if such providers are employees of the Benefit Services Administrator or its Affiliates to the extent that such acts or omissions arise out of such provider's participation in the Benefit Services Administrator provider networks.
- (g) To avoid misunderstanding by third parties concerning the respective duties and liabilities hereunder, each party agrees not to use the other's name, logo, service marks, trademarks or other identifying information without the prior written approval of the other.

- (h) The indemnities set forth in this Section 15 shall survive the termination of this Agreement.

Section 16. Entire Agreement. This Agreement and any Addendum or Appendix to this Agreement constitute the entire agreement of the parties and supersedes any prior agreement (and any addendum or appendix thereto) concerning the subject matter of this Agreement. No change, modification or waiver of any provision of the Agreement or any Addendum shall be valid unless in writing and signed by both parties.

Section 17. Successors and Assigns. This Agreement may not be assigned by the Plan Sponsor without the prior written consent of the Benefit Services Administrator. This Agreement shall be binding upon the successors and permitted assigns of the parties to this Agreement.

Section 18. Applicable Law and Waiver of Jury Trial. To the extent not superseded by the laws of the United States and without regard to any conflict of law rule, this Agreement will be construed in accordance with and governed by the laws of the State of South Dakota. This Agreement has been entered into and is performable in part in Rapid City, SD. Plan Sponsor and Benefit Services Administrator each waive any right to a jury trial with respect to and in any action, proceeding, claim, counterclaim, demand or other matter whatsoever arising out of this Agreement.

Section 19. Notices. Notices shall be given as indicated in an Addendum to this Agreement.

Section 20. Severability. If any provision of this Agreement shall be held or found to be illegal, inoperative or unenforceable, the provision shall be ineffective without invalidating the remaining provisions of this Agreement.

Section 21. Addendum or Addenda. Attached hereto may be an Addendum or Addenda which if so attached constitutes a part of this Agreement, and any conflict between the Addendum or Addenda and the Agreement shall be controlled by the Addendum or Addenda.

Section 22. Rules of Interpretation. Unless expressly indicated otherwise, references to sections are to be construed as references to sections of this Agreement as originally executed. Use of the words "herein," "hereby," "hereunder" and "hereof" refer to this entire Agreement and not solely to the particular portion in which any such word is used. This Agreement shall not be construed more strongly against any party regardless of who is responsible for its preparation.

Section 23. Third Party Beneficiaries. This Agreement is for the benefit of the Plan Sponsor and the Benefit Services Administrator and not for any other Person. It shall not create any legal relationship between the Benefit Services Administrator and any Participant or any other party claiming any right, whether legal or equitable, under the terms of this Agreement or of the Plan.

Section 24. Waivers. No course of dealing or failure of either party to strictly enforce any term, right or condition of this Agreement shall be construed as a waiver or relinquishment of such term, right or condition and waiver by either party of any default shall not be deemed a waiver of any other default.

Section 25. Survival. In addition to the Sections in this Agreement which are specifically stated to survive termination of this Agreement, provisions contained in this Agreement that by their

sense and context are intended to survive completion of performance, termination or cancellation of this Agreement shall so survive.

Section 26. Force Majeure. Benefit Services Administrator shall not be liable for any failure to meet any of the obligations or provide any of the services and/or benefits specified or required under this Agreement where such failure to perform is due to any contingency beyond the reasonable control of Benefit Services Administrator, its employees, officers, or directors. Such contingencies include, but are not limited to, acts or omissions of any person or entity not employed or reasonably controlled by Benefit Services Administrator, its employees, officers or directors, acts of God, fires, wars, act or acts of terrorism, accidents, labor disputes or shortages, and governmental laws, ordinances, rules or regulations, whether valid or invalid.

Section 27. Nature of Relationship. Nothing contained in this Agreement and no action taken or omitted to be taken by Plan Sponsor or Benefit Services Administrator pursuant hereto shall be deemed to constitute Plan Sponsor and Benefit Services Administrator a partnership, an association, a joint venture or other entity whatsoever. Benefit Services Administrator shall at all times be acting as an independent contractor under this Agreement, and Benefit Services Administrator shall be solely responsible for discharging all of its obligations hereunder.

Section 28. Internet Usage. Plan Sponsor may establish a link from a World Wide Web site that it maintains in connection with its general employee benefit plan administration activities to the Benefit Services Administrator's World Wide Web site. To the extent the Plan Sponsor has access to any of Benefit Services Administrator's Web sites or other electronic data bases with respect to Plan administration matters, the Plan Sponsor agrees that its access to such Web sites and data bases is subject to the terms and conditions of any agreement(s) entered into by Plan Sponsor and Benefit Services Administrator regarding such Web sites and/or data bases.

Section 29. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement in duplicate counterparts by their respective officials duly authorized.

FIRST ADMINISTRATORS, INC.

By: 

Title: President & CEO

Date: 9/8/2004

CITY OF RAPID CITY

By: _____

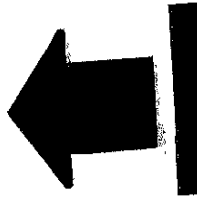
Title: _____

Date: _____

ATTEST:

Finance Officer

(SEAL)



**BENEFIT SERVICES
ADMINISTRATION AGREEMENT
ADDENDUM
FOR THE
CITY OF RAPID CITY
HEALTHCARE PLAN**

THIS ADDENDUM is entered into this 1st day of July 2004, by and between City of Rapid City (the "Plan Sponsor"), and First Administrators, Inc. (the "Benefit Services Administrator"). This Addendum relates to the Benefit Services Administration Agreement between the Plan Sponsor and the Benefit Services Administrator dated July 1, 2004. The provisions of this Addendum relate to the Sections of the Benefit Services Administration Agreement indicated. All words and phrases defined in the Benefit Services Agreement which are not also defined in this Addendum shall have the same meaning in this Addendum.

Section 9. Drug Company Rebates. One half of any rebates received by the Benefit Services Administrator for prescription claims processed by the pharmacy benefits manager for Participants will be retained by the Benefit Services Administrator and will be applied to reduce the costs of administering the pharmacy program. Any portion of a rebate not retained by the Benefit Services Administrator will be distributed to the Plan Sponsor.

Section 10. Administrative Fees. The Plan Sponsor shall pay administrative fees to the Benefit Services Administrator by the due date specified on the applicable billing statement as follows:

- (a) Monthly Administration Fees. The Plan Sponsor shall pay to the Benefit Services Administrator the monthly administrative fees for each Covered Employee, unless otherwise stated, who is determined to be eligible to receive Benefits under the Benefit Plan at the time the statement is prepared based upon information available to the Benefits Services Administrator at that time.

Monthly administrative fees are based on First Administrators or the contracted vendor providing the below described service, any change in service may require an amendment to a fee amount.

The monthly administrative fees effective July 1, 2004 are as follows:

Administrative Service	Monthly Fee/Covered Employee
Medical Plan	\$ 5.95
Dental Plan	\$ 2.60
Short-Term Disability	\$ N/A
Vision Plan	\$ N/A
Initial COBRA Notice Service	\$ N/A
Certificates of Creditable Coverage	\$10.00 per exiting employee
Broker Fee	\$ N/A
ID Cards	\$ N/A

- (b) Monthly fees collected on behalf of Plan Sponsor and remitted to the appropriate Vendor:

Vendor Access Fees	Monthly Fee/Covered Employee or as noted
PPO Access Fee	\$ 4.00 - Wellmark Select 30% of savings- Beechstreet through TLC
Utilization Review	\$ 1.70- O'Hara
Pharmacy Benefits	\$ N/A

- (c) Other Fees:

Out of Network re-pricing and discounting fees, hospital bill audit fees, and pharmacy administration fees will be processed through claim payment process.

- (d) Increased expenses of the Benefit Services Administrator incurred by reason of any change in the Benefit Plan will give the Benefit Services Administrator the right to adjust monthly administrative fees to the extent necessitated by the increased expenses, to be effective on the date any such changes in the Benefit Plan are effective.

The annual fees and monthly administrative fees are subject to change, to be effective on the commencement date of any Renewal Term, upon thirty (30) days prior written notice. Such administrative fees may also be adjusted on any date that increased expenses are incurred by reason of a change imposed by public bodies, such adjustment being limited to the amount necessary to administer the change.

Section 11. Commissions. The insurance company issuing the stop loss or excess liability insurance policy arranged or recommended by the Benefit Services Administrator will pay to the Benefit Services Administrator a commission equal to 15% of premiums paid for such policy. The Benefit Services Administrator may also be entitled to commissions based on its entire business volume with the insurer providing coverage to the Employer. The Benefit Services Administrator is not affiliated with the insuring company and is not limited by an agreement with the insuring company.

Section 12. Plan Sponsor Election to Use Services of Related Parties. Plan Sponsor has selected OHARA Managed Care ("OHARA") to provide Utilization Review services for the Benefit Plan. The Benefit Services Administrator has a 25% ownership interest in OHARA. The Benefit Services Administrator does not receive any direct compensation from OHARA. It could receive indirect compensation through the distribution of OHARA's year-end profits or through an increase in the value of its ownership interest in OHARA.

Plan Sponsor has selected Beechstreet through TLC Advantage ("TLC") to provide Preferred Provider network services for the Benefit Plan. The Benefit Services Administrator has a 33.33% ownership interest in TLC. The Benefit Services Administrator does not receive any direct compensation from TLC. It could receive indirect compensation through the distribution of TLC's year-end profits or through an increase in the value of its ownership interest in TLC.

Plan Sponsor has selected Wellmark, Inc. to provide Preferred Provider Network Services through Wellmark Select. Wellmark Select is a PPO owned by Wellmark, Inc., the parent company of Benefit Services Administrator. Wellmark, Inc. charges the Benefit Services Administrator for the PPO Services provided to clients of the Benefit Services Administrator. Benefit Services Administrator's charge to client for the PPO Services is described in Section 10 above.

Section 13. Authorization of the Benefit Services Administrator to Process and Pay Claims.

The Plan Sponsor hereby authorizes and directs the Benefit Services Administrator to draw checks, drafts or other instruments for the payment of Benefits, Auditing Fees, re-pricing fees, vendor payment fees, and Case Management Fees in accordance with the terms and conditions of the Benefit Plan and this Agreement against the Benefit Fund account maintained by the Benefit Services Administrator for that purpose. Such Benefit Fund account shall be maintained in an interest-bearing account with a state or national bank, insured by the FDIC, and eligible for checking privileges. Any interest on the Benefit Fund account shall be paid to the Benefit Services Administrator as compensation for maintaining the account.

Section 19. Notices. All notices, consents, waivers and other communications required or permitted by this Addendum or the Agreement shall be in writing and shall be deemed given to a party when (a) delivered to the appropriate address by hand or by nationally recognized overnight courier service (costs prepaid); (b) sent by facsimile with confirmation of transmission by the transmitting equipment; or (c) received or rejected by the addressee, if sent by certified mail, return receipt requested, in each case to the following addresses or facsimile numbers and marked to the attention of the person (by name or title) designated below (or to such other address, facsimile number or person as a party may designate by written notice to the other parties):

To Benefit Services Administrator:

First Administrators, Inc.
P.O. Box 8150
Rapid City, SD 57709
Facsimile Number: 605-343-8887
Attention: President & CEO

To Plan Sponsor:

City of Rapid City
300 Sixth Street
Rapid City, SD 57701
Facsimile Number: 605-394-4136
Attention: Jim Preston

This Addendum supersedes any conflicting provisions in the Agreement and any prior Addendum to the Agreement.

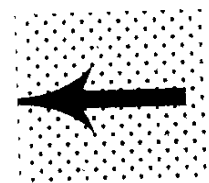
IN WITNESS WHEREOF, the parties have executed this Addendum in duplicate counterparts by their respective officials duly authorized.

FIRST ADMINISTRATORS, INC.

By: 

Title: President & CEO

Date: 9/8/2004



CITY OF RAPID CITY

By: _____

Title: _____

Date: _____

ATTEST:

Finance Officer

(SEAL)