



**AMENDMENT TO
CITY OF SAN JOSE FEDERATED VEBA HEALTH SAVINGS PLAN**

BY THIS AGREEMENT, the City of San Jose Federated VEBA Health Savings Plan (herein referred to as the "Plan") is hereby amended as follows:

**ARTICLE I
PREAMBLE**

- 1.1 **Purpose.** The purpose of this Amendment is to authorize the receipt of benefits under the Plan by use of electronic payment (i.e., debit) cards in accordance with the rules applicable under the Internal Revenue Code.
- 1.2 **Effective Date.** This Amendment shall be effective on _____, 2019.
- 1.3 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.4 **Construction.** Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment, and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section or other numbering designations.

**ARTICLE II
AMENDMENT**

- 2.1 **Claim for Benefits.** The Plan is amended to provide that a Participant may receive reimbursement of an Eligible Expense by use of an electronic payment card at the time the Eligible Expense is incurred. The use of the electronic payment card shall be subject following conditions:
- (1) The Participant must make an affirmative action to use the electronic payment card in accordance with procedures established by the Plan Supervisor.
 - (2) The electronic payment card will be deactivated when a Participant's participation in the Plan terminates.
 - (3) A Participant must certify in writing that:
 - i. the electronic payment card will be used only for Eligible Expenses that have not been reimbursement under any other plan covering similar benefits; and
 - ii. the Participant will not seek reimbursement for any expense paid with the electronic payment card under any other plan covering benefits.

- iii. The Participant will return any expenses paid with the electronic payment card the Employer, Plan Administrator or Plan Supervisor determines was not an Eligible Expense.

The electronic payment card shall include a statement providing that each use of the card shall constitute a reaffirmation of the certification.

- (4) The electronic payment card may be used only at merchants who are health care providers (e.g., doctor's office, hospital, pharmacy, etc.) or other merchants identified in applicable IRS guidance.
- (5) Each time the electronic payment is used, a Participant shall obtain and retain a third party statement from the health care provider containing the information necessary to substantiate that the expense paid by the card was an Eligible Expense.
- (6) Claims shall be substantiated if one of the following conditions is satisfied:
 - i. The Participant provides, upon request by the Claims Administrator (or its designee), the third party statement with respect to the claim.
 - ii. The payment was made to a merchant who is a health care provider and it matches a specific co-payment the Participant has under a group medical or group dental plan sponsored by the Plan Sponsor or a multiple of that co-payment of not more than five (5) times the dollar amount of the co-payment.
 - iii. The payment was made to a merchant who is a health care provider and is for an expense with the same amount, duration, and health care provider as previously approved expense under this Plan.
 - iv. The payment was made to a merchant who is a health care provider and the electronic claim file with respect to the expense is accompanied by an electronic or written confirmation from the health care provider that verifies the nature and amount of the expense and that the expense is an Eligible Expense.
 - v. The electronic payment card is used at a merchant (of any kind) that participants in an inventory information approval system developed by the card provider that verifies, at the time of purchase, that the goods being purchased constitute medical care.
- (7) Special rules apply to the use of the electronic payment card to purchase over-the-counter drugs and medicines other than insulin. Notwithstanding the rules described above regarding the use of the card to purchase medical care, the card may be used to purchase such over-the-counter drugs and medicines only in the following circumstances:
 - i. At any 90% pharmacy if the expense is substantiated after the purchase in accordance with (6)(i) above or as may be required by the applicable law.
 - ii. At drug stores, pharmacies, non-health care merchants that have pharmacies, and mail order or web-based merchants that sell prescription drugs, if prior to purchase, (a) the cardholder presents the prescription to

the pharmacist; (b) the pharmacist assigns a prescription number and dispenses the over-the-counter drug or medicine in accordance with applicable law; (c) the pharmacy retains a record of the transaction, including the name on the prescription, prescription number, date and the amount of the purchase; (d) the pharmacy's records are accessible to the employer or its agent; (e) the debit card system does not allow over-the-counter drugs or medicines without a prescription number; and (f) the expense is substantiated in accordance with the standard rules described above in paragraph (6).

iii. At merchants having healthcare related merchant codes (other than merchants described in item ii above) if the expense is substantiated in accordance with the standard rules described in paragraph (6).

(8) A Participant shall repay the Plan for an electronic payment card payment where the claim is not substantiated (and therefore not eligible for reimbursement) as required above. The Plan shall handle unsubstantiated claims as required under the Code and applicable regulations.

(9) The use of an electronic payment card does not constitute a "claim" under the claims procedures.

2.2 Restrictions on Investment of HC Account. The Plan is amended to provide that, if a Participant elects to use an electronic payment card, a portion of the Participant's HC Account will be segregated in a separate subaccount for purposes of providing funding for electronic payment card transactions. The funds held in such subaccount shall be unavailable for investment and shall be held as cash. The balance of such subaccount shall be equal to the lesser of \$1,000 or the balance of the Participant's HC Account. In the event a Participant's entire HC Account is not held in such subaccount, the Plan Supervisor will liquidate the Participant's investments and transfer funds to the cash subaccount on a weekly basis in an amount sufficient to maintain the required balance of the subaccount.

IN WITNESS WHEREOF, this Amendment has been executed this _____ day of _____, _____.

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By: _____

Printed Name: _____

Title: _____



**AMENDMENT TO
CITY OF SAN JOSE SWORN VEBA HEALTH SAVINGS PLAN**

BY THIS AGREEMENT, the City of San Jose Sworn VEBA Health Savings Plan (herein referred to as the "Plan") is hereby amended as follows:

**ARTICLE I
PREAMBLE**

- 1.1 **Purpose.** The purpose of this Amendment is to authorize the receipt of benefits under the Plan by use of electronic payment (i.e., debit) cards in accordance with the rules applicable under the Internal Revenue Code.
- 1.2 **Effective Date.** This Amendment shall be effective on _____, 2019.
- 1.3 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.4 **Construction.** Except as otherwise provided in this Amendment, any reference to "Section" in this Amendment refers only to sections within this Amendment, and is not a reference to the Plan. The Article and Section numbering in this Amendment is solely for purposes of this Amendment, and does not relate to any Plan article, section or other numbering designations.

**ARTICLE II
AMENDMENT**

- 2.1 **Claim for Benefits.** The Plan is amended to provide that a Participant may receive reimbursement of an Eligible Expense by use of an electronic payment card at the time the Eligible Expense is incurred. The use of the electronic payment card shall be subject following conditions:
- (1) The Participant must make an affirmative action to use the electronic payment card in accordance with procedures established by the Plan Supervisor.
 - (2) The electronic payment card will be deactivated when a Participant's participation in the Plan terminates.
 - (3) A Participant must certify in writing that:
 - i. the electronic payment card will be used only for Eligible Expenses that have not been reimbursement under any other plan covering similar benefits; and
 - ii. the Participant will not seek reimbursement for any expense paid with the electronic payment card under any other plan covering benefits.

- iii. The Participant will return any expenses paid with the electronic payment card the Employer, Plan Administrator or Plan Supervisor determines was not an Eligible Expense.

The electronic payment card shall include a statement providing that each use of the card shall constitute a reaffirmation of the certification.

- (4) The electronic payment card may be used only at merchants who are health care providers (e.g., doctor's office, hospital, pharmacy, etc.) or other merchants identified in applicable IRS guidance.
- (5) Each time the electronic payment is used, a Participant shall obtain and retain a third party statement from the health care provider containing the information necessary to substantiate that the expense paid by the card was an Eligible Expense.
- (6) Claims shall be substantiated if one of the following conditions is satisfied:
 - i. The Participant provides, upon request by the Claims Administrator (or its designee), the third party statement with respect to the claim.
 - ii. The payment was made to a merchant who is a health care provider and it matches a specific co-payment the Participant has under a group medical or group dental plan sponsored by the Plan Sponsor or a multiple of that co-payment of not more than five (5) times the dollar amount of the co-payment.
 - iii. The payment was made to a merchant who is a health care provider and is for an expense with the same amount, duration, and health care provider as previously approved expense under this Plan.
 - iv. The payment was made to a merchant who is a health care provider and the electronic claim file with respect to the expense is accompanied by an electronic or written confirmation from the health care provider that verifies the nature and amount of the expense and that the expense is an Eligible Expense.
 - v. The electronic payment card is used at a merchant (of any kind) that participants in an inventory information approval system developed by the card provider that verifies, at the time of purchase, that the goods being purchased constitute medical care.
- (7) Special rules apply to the use of the electronic payment card to purchase over-the-counter drugs and medicines other than insulin. Notwithstanding the rules described above regarding the use of the card to purchase medical care, the card may be used to purchase such over-the-counter drugs and medicines only in the following circumstances:
 - i. At any 90% pharmacy if the expense is substantiated after the purchase in accordance with (6)(i) above or as may be required by the applicable law.
 - ii. At drug stores, pharmacies, non-health care merchants that have pharmacies, and mail order or web-based merchants that sell prescription drugs, if prior to purchase, (a) the cardholder presents the prescription to

the pharmacist; (b) the pharmacist assigns a prescription number and dispenses the over-the-counter drug or medicine in accordance with applicable law; (c) the pharmacy retains a record of the transaction, including the name on the prescription, prescription number, date and the amount of the purchase; (d) the pharmacy's records are accessible to the employer or its agent; (e) the debit card system does not allow over-the-counter drugs or medicines without a prescription number; and (f) the expense is substantiated in accordance with the standard rules described above in paragraph (6).

iii. At merchants having healthcare related merchant codes (other than merchants described in item ii above) if the expense is substantiated in accordance with the standard rules described in paragraph (6).

(8) A Participant shall repay the Plan for an electronic payment card payment where the claim is not substantiated (and therefore not eligible for reimbursement) as required above. The Plan shall handle unsubstantiated claims as required under the Code and applicable regulations.

(9) The use of an electronic payment card does not constitute a "claim" under the claims procedures.

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IN WITNESS WHEREOF, this Amendment has been executed this _____ day of _____, _____.

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By: _____

Printed Name: _____

Title: _____



ADDENDUM TO THE FUNDED HRA ADMINISTRATION SERVICES AGREEMENT

This Addendum to the Trust Funded HRA Administration Agreement ("Agreement") is dated this ("Effective Date"), made by and between Total Administrative Services Corporation ("TASC") and the "Adopting Employer" identified in the Agreement and below.

RECITALS

WHEREAS, TASC and the Adopting Employer have entered into the Agreement; and

WHEREAS, TASC and the Adopting Employer wish to modify certain terms and conditions in the Agreement to add debit card feature for the participant employees, and retirees if applicable, at no additional fee.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency on which is hereby acknowledged by the parties, and the exchange of the mutual promises made below, the parties hereto agree as follows:

GENERAL CONDITIONS

Defined Terms. Any capitalized terms not specifically defined herein shall have the same meanings ascribed to them in the Agreement.

Counterparts. This Addendum may be executed and delivered (including by facsimile or Portable Document Format (pdf) transmission) in one or more counterparts, all of which will be considered one and the same agreement and will become effective when one or more counterparts have been signed by each of the parties and delivered to the other parties. Any such facsimile documents and signatures shall, subject to applicable legal requirements, have the same force and effect as manually-signed originals and shall be binding on the parties hereto.

Conflicts. If any conflict arises between the terms and conditions of this Addendum and the Agreement, the terms of this Addendum shall control. Subject to the foregoing, all other terms and conditions of the Agreement which are not specifically modified herein shall remain in full force and effect.

Debit Card Services.

There will be no additional administrative fee for debit card services.

The Claims Administrator will provide the following services with respect to the use of the debit cards to obtain reimbursements under the Plan:

1. Obtain all information necessary for the issuance of debit cards to Participants. TASC is entitled to rely upon the accuracy and completeness of all information provided by the Adopting Employer.
2. Through its subcontractor, the debit card vendor, issue debit cards, and process debit card transactions.
3. Provide communications to the Adopting Employer, Plan Administrator, and Participants, regarding use of debit cards.



4. Provide substantiation of claims reimbursed via the use of the debit card in accordance with applicable IRS rules.
5. Assist the Plan Administrator with recouping improper debit card reimbursements to the extent required by IRS rules. Notwithstanding the foregoing, it shall be the Plan Administrators ultimate responsibility for recouping such reimbursements in accordance with applicable IRS rules.

TASC will not be liable for Participant fraud unless the loss is attributable to TASC negligence. TASC may be able to assist the Participant in the recovery of debit account transactions reported as fraudulent, provided that such Participant complies with the terms outlined in the applicable Cardholder Agreement for the timely reporting of such fraudulent activity.

IN WITNESS WHEREOF, each of the parties has caused this Addendum to be executed on behalf of the date first written above.

PLAN ADMINISTRATOR

TOTAL ADMINISTRATIVE SERVICES CORPORATION

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____