

**REQUEST FOR AGENDA PLACEMENT FORM**

Submission Deadline - Tuesday, 12:00 PM before Court Dates

SUBMITTED BY: Steve Watson TODAY'S DATE: 10/6/2021

DEPARTMENT: Auditor

SIGNATURE OF DEPARTMENT HEAD: 

REQUESTED AGENDA DATE: 10/25/2021

**SPECIFIC AGENDA WORDING:**

Consideration of Business Associate Agreement and Master Service Agreement with Gabriel Roeder Smith & Company for OPEB valuation and GASB 75 Valuation Reports and authorize County Judge to sign.

COMMISSIONERS COURT

OCT 25 2021

**PERSON(S) TO PRESENT ITEM:**

Steve Watson

**SUPPORT MATERIAL:** (Must enclose supporting documentation)

**Approved**

**TIME:** 5  
(Anticipated number of minutes needed to discuss item)

**ACTION ITEM:**   
**WORKSHOP:**  
**CONSENT:**  
**EXECUTIVE:**

**STAFF NOTICE:**

**COUNTY ATTORNEY:**   
**AUDITOR:**   
**PERSONNEL:**  
**BUDGET COORDINATOR:**

**IT DEPARTMENT:**  
**PURCHASING DEPARTMENT:**  
**PUBLIC WORKS:**  
**OTHER:**

This Section to be completed by County Judge's Office

ASSIGNED AGENDA DATE: \_\_\_\_\_

REQUEST RECEIVED BY COUNTY JUDGE'S OFFICE:

\_\_\_\_\_  
**COURT MEMBER APPROVAL:**

\_\_\_\_\_  
**DATE:**

DEC 14 2020

**REQUEST FOR AGENDA PLACEMENT FORM**

Submission Deadline - Tuesday, 12:00 PM before Court Dates

SUBMITTED BY: Jennifer Lyon

TODAY'S DATE: December 2, 2020

DEPARTMENT: Auditor's Office

SIGNATURE OF DEPARTMENT HEAD:

REQUESTED AGENDA DATE: 12-14-20

SPECIFIC AGENDA WORDING: Consideration of Engagement Letter for September 30, 2020 OPEB valuation and GASB 75 Valuation Reports for fiscal years ending 2020 & 2021

PERSON(S) TO PRESENT ITEM: Kirk Kirkpatrick

SUPPORT MATERIAL: (Must enclose supporting documentation)

TIME: 5 min

ACTION ITEM: X

WORKSHOP

(Anticipated number of minutes needed to discuss item)

CONSENT:

EXECUTIVE:

**STAFF NOTICE:**

COUNTY ATTORNEY: X

IT DEPARTMENT:

AUDITOR: X

PURCHASING DEPARTMENT:

PERSONNEL:

PUBLIC WORKS:

BUDGET COORDINATOR:

OTHER:

\*\*\*\*\*This Section to be Completed by County Judge's Office\*\*\*\*\*

ASSIGNED AGENDA DATE:

REQUEST RECEIVED BY COUNTY JUDGE'S OFFICE

COURT MEMBER APPROVAL \_\_\_\_\_ Date December 2, 2020



November 30, 2020

Ms. Jennifer Lyon  
First Assistant County Auditor  
Johnson County  
2 N. Main St.  
Cleburne, TX 76033

**Re: Engagement Letter for the September 30, 2020 OPEB valuation and the GASB 75 Valuation Reports for fiscal years ending 2020 and 2021**

Dear Ms. Lyon,

You have requested a pricing quote for a GASB 75 actuarial valuation under the Shared Services arrangement provided by Gabriel, Roeder, Smith & Co (GRS) and North Central Texas Council of Governments (NCTCOG).

Based on the information you provided, the cost of services for Johnson County is \$10,645. This price is based on receiving data in the standard GRS format and using the following assumptions:

Pricing Category	Pricing Parameters	Fee
Annual or Biennial	Biennial	
Number of Participants	200 - 499	\$10,645
Claims Analysis Required	No	\$0
Health Plans	1. Johnson County Health Plan	\$0
Retirement Plans	1. TCDRS	\$0
Implicit Subsidy Only Discount	Not Eligible	\$0
Plan Change Not Previously Valued	No	N/A
OPEB Trust or Equivalent Arrangement	No	N/A
Single Discount Rate Test	No	\$0
Plan Only Reporting Package	No	\$0
Cost Sharing Schedules for Primary Government and Component Units	No	\$0
Calculation of an Actuarially Determined Contribution	No	\$0
<b>Total</b>		<b>\$10,645</b>

**Basic Services**

- Actuarial valuation of employer OPEB in compliance with the requirements of GASB Statements No. 74 and No. 75. The valuation report will include, but is not limited to, the following:
  - > The updated Total OPEB Liability, based on the appropriate discount rate for the reporting period.
  - > A reconciliation of the Total OPEB Liability, which shows, among other items, the impact of benefit changes, assumption changes, and demographic gains/losses separately.
  - > The OPEB expense and supplementary information required by GASB 75.
  - > The characteristics of covered active members, retirees, and beneficiaries and other information required for the note disclosures.
  - > A statement of outflows and inflows arising from the current reporting period.
  - > A statement of outflows and inflows to be recognized in future OPEB expense.
  - > A sensitivity analysis providing the Total OPEB Liability based on a 1% higher and 1% lower discount rate.
  - > A sensitivity analysis providing the Total OPEB Liability based on a 1% higher and 1% lower health care trend assumption.

**Billing Schedule**

GRS pricing assumes 30% paid upon acceptance by the government of the engagement, 40% upon delivery of the draft full valuation, and 30% upon delivery in the second year of the rolled forward report.

The Master Agreement allows for automatic fee increases based on changes in the Consumer Price Index (CPI), starting in January of 2019. As a result, the 2020 fees are 4.35% higher than those in the original fee schedule that's shown in our Master Agreement. However, the fees provided in this engagement letter will not change based on the annual updates to the overall pricing schedule. Any CPI related increases will only apply to the next valuation cycle.

Ms. Jennifer Lyon  
November 30, 2020  
Page 3

**Basic Options Study**

It is anticipated that Johnson County may want to consider options for mitigating its OPEB liability. Basic Options studies would include alternative discount rates, alternative healthcare trend rates, benefit capitations, and changes in retiree cost sharing. The cost for a basic Options study will be \$1,360 per study.

Fees for plan redesign studies that are not considered basic will be communicated after the specifics of the proposed plan changes are discussed.

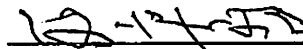
**Additional Services**

Fees for additional consulting services not included under Basic Services or included in the fixed fee Options studies will be priced separately upon request and will be based on the following hourly rates:

<u>GRS Resource Classification</u>	<u>Hourly Rates</u>
Lead Actuary	\$340
Actuarial Staff	\$225
Support Staff	\$195

A copy of this engagement letter will be made a part of the master agreement between Johnson County and GRS.

JOHNSON COUNTY, TX

  
Date

GABRIEL, ROEDER, SMITH & COMPANY



Mehdi Riazi, Senior Consultant

11/30/2020

Date

# Master Agreement

## Other Post Employment Benefits (OPEB) Actuarial Valuations

Pursuant to the award of RFP NCT-2017-02 (Other Post Employment Benefits (OPEB) Actuarial Valuations) by the North Central Texas Council of Governments (NCTCOG), this agreement confirms the terms under which

Johnson County hereinafter referred to as 'CONTRACTING GOVERNMENT' has engaged Gabriel, Roeder, Smith & Co. hereinafter referred to as "GRS" to perform actuarial consulting services. In as much as this relationship will involve several actuarial reviews and other services that will be governed by the Request for Proposal (RFP # NCT-2017-02) issued by NCTCOG on January 4, 2017 and our contract with NCTCOG, we have agreed to establish this "master agreement" defining the general terms and conditions for all work performed for the CONTRACTING GOVERNMENT.

This agreement will not, by itself, authorize the performance of any services. Rather specific services will be authorized through a separate engagement letter that references this master agreement and details the services to be provided and the required fees. In the event of an inconsistency between this master agreement and an individual engagement letter, the master agreement will be followed.

As described in the above referenced Request for Proposal the following terms apply:

- A. **Tax Exempt Entities.** CONTRACTING GOVERNMENT is exempt from manufacturer's federal excise tax and states sales tax. Tax exemption certificates will be issued upon request.
- B. **Role of NCTCOG.** NCTCOG has served as a facilitator to the RFP and award process but the contractual relationship is between GRS and the CONTRACTING GOVERNMENT.
- C. **Aggregate Information.** GRS agrees to supply the CONTRACTING GOVERNMENT with the specified results from the valuations and to aggregate that information with that of other governments for the purpose of benchmarking.
- D. **Fees.** GRS agrees to follow the attached pricing schedule ("Attachment A") for pricing of its services. Fees are subject to inflation adjustments starting in January of 2019. The fees associated with each valuation cycle will be provided in a separate engagement letter.
- E. **Review of Charges.** CONTRACTING GOVERNMENT has the right to review the supporting documentation for any hourly charges or out of pocket expenses assessed to the CONTRACTING GOVERNMENT under the fee schedule.



- F. **Termination.** Both CONTRACTING GOVERNMENT and GRS will have the right to terminate this agreement through written notice. CONTRACTING GOVERNMENT will pay any charges or prorate fees incurred to the date the termination notice is received and actuary will cease any in progress work unless specific stopping points are provided in the letter.
- G. **Work Product.** The final work product will be the property of the CONTRACTING GOVERNMENT to be used as stated in the specific engagement letter. Ancillary use of the product is permitted, but GRS is not responsible for the reliability of those projections. It is understood that all reports are subject to the open records laws of the State of Texas and the contracting jurisdiction.
- H. **Independent Contractor.** All the services provided by GRS will be as an independent contractor. None of the terms in the engagement letter will be interpreted to create an agency or employment relationship.
- I. **Term.** The term of this master agreement will be governed by the afore referenced NCTCOG RFP and will expire on June 30, 2023.
- J. **Complete Agreement.** This agreement combined with the specific engagement letter and as clarified by the RFP and Proposal set forth the entire agreement between the CONTRACTING GOVERNMENT and GRS.
- K. **Indemnification.** GRS covenants and agrees to indemnify and hold harmless and defend and does hereby indemnify, hold harmless, and defend CONTRACTING GOVERNMENT, its officers and employees, from and against any and all suits or claims for damages or injuries, including death, to persons or property, whether real or asserted, arising out of any negligent act or omission on the part of the contractor, its officers, agents, servants, employees, or subcontractors, and the contractor does hereby assume all liability for injuries, claims or suits for damages to persons, property, or whatever kind of character, whether real or asserted, occurring during or arising out of the performance of this contract as a result of any negligent act or omission on the part of the contractor, its officers, agents, servants, employees, or subcontractors to the extent permitted by law. Please review this master agreement letter and the attached schedules and indicate your acceptance by having an official of CONTRACTING GOVERNMENT sign below.
- L. **Force Majeure.** A force majeure event shall be defined to include governmental decrees or restraints, acts of God (except that rain, wind, flood or other natural phenomena normally expected for the locality, shall not be construed as an act of God), work stoppages due to labor disputes or strikes, fires, explosions, epidemics, riots, war, rebellion, and sabotage. If a delay or failure of performance by either party to this contract results from the occurrence of a force majeure event, the delay shall be excused and the time fixed for completion of the work extended by a period equivalent to the time lost because of the event.



M. **Professional Standards.** GRS will provide qualified personnel for each engagement and follow all professional standards ascribed by the American Academy of Actuaries and the Governmental Accounting Standards Board.

GABRIEL, ROEDER, SMITH & CO.

By: *Amil White*

Date: 11/9/21

Title: Regional Director

CONTRACTING GOVERNMENT

By: *Randy Harmon*

Date: 10-25-21

Title: County Judge





## ATTACHMENT A

### Pricing Schedule – Calendar Years 2017 and 2018

Plan Basic Services			
	<b>Governments by Total OPEB Participants (Actives and Retirees)</b>	<b>Annual</b>	<b>Biennial</b>
P1	Less than 100	\$7,200	\$9,400
P2	Between 100 to 199	\$7,200	\$9,400
P3	Between 200 and 499	\$7,900	\$10,200
P4	Between 500 and 999	\$9,400	\$11,800
P5	Between 1,000 and 2,499	\$10,700	\$13,200
P6	Between 2,500 and 4,999	\$11,600	\$14,200
P7	Between 5,000 and 7,500	\$14,700	\$17,400
P8	Greater than 7,500	\$17,800	\$20,600
	<b>Plan Features Resulting in Additional Cost (Discount) to Basic Services</b>	<b>Annual</b>	<b>Biennial</b>
P9	Self-Insured Healthcare Plans	\$2,100	\$2,100
P10	Cost per additional healthcare plan option (high deductible, HMO, PPO etc.)	\$600	\$600
P11	Cost per additional retirement plan covered by the same OPEB plan	\$1,700	\$1,700
P12	Implicit subsidy only plans	-\$2,000	-\$2,000
P13	Plan change not previously valued (Basic)*	\$1,300	\$1,300
P14	Plan change not previously valued (Non-Basic)*	To be quoted	To be quoted
P15	OPEB Trust or Equivalent Arrangement	\$500	\$1,250
P16	Single Discount Rate Test	\$1,000	\$1,000
P17	Data Processing Charge**	To be quoted	To be quoted

\* The impact of plan changes which are deemed significant need to be measured under GASB 74/75. A Basic or Non-Basic fee will apply anytime a plan change impact needs to be separately measured. No fee will apply if GRS has already measured the impact of the plan change.

\*\* GRS fees are based on receiving census and claims data in the requested format. If data is provided in a different format or in multiple files, GRS will discuss an "out-side of scope" data fee charge with the Client before proceeding with the valuation.



	<b>Optional Services</b>	
O1	Updating actuarial valuations to the measurement date	\$1,500
O2	Upgrade roll-forward to full valuation	\$3,300
O3	Plan only reporting package for separately issued financial statements	\$800
O4	Cost Sharing schedules for primary government and component units	To be quoted
O5	Pricing valuation for OPEB plan changes (Basic)	\$1,300
O6	Pricing valuation for OPEB plan changes (Non-Basic)	To be quoted
O7	Experience Study	To be quoted
	Consulting on active health plans:	
O8	Pricing of premiums for self-insured health plans	To be quoted
O9	Cost trend analysis	To be quoted
O10	Hourly rate for additional services-responsible actuary	\$330
O11	Hourly rate for other actuarial staff	\$215
O12	Hourly rate for additional services-support staff	\$185
O13	In person meeting/presentation-per meeting*	\$1,300
O14	Calculation of an Actuarially Determined Contribution	To be quoted
O15	Money-weighted rate of return	\$500
O16	Initial GASB 75 report based on roll-forward of a previously completed GRS GASB 45 Valuation	\$2,500
O17	Initial GASB 74/75 report based on Roll-forward of a previously completed GRS GASB 45 Valuation**	\$4,000

\*Fee for in-person meeting/presentation does not include travel expenses. Fees for travel outside the Dallas/Fort Worth metroplex will be the responsibility of the employer.

\*\*Fee will be reduced by \$1,000 if a Blended Discount Rate test is not needed.

#### **PRICING ASSUMPTIONS**

- a. Pricing assumes that all participating entities offer basic vision and dental and life insurance to employees and retirees
- b. Pricing assumes for annual valuations: 50% paid upon initiation of the work and 50% upon receipt of the draft report. For biennial valuations 30% upon initiation of the work, 40% upon delivery of the draft valuation and 30% upon delivery in the second year of the rolled forward report.
- c. Number of OPEB participants will be determined as of the date the valuation is performed.
- d. Pricing will be held constant until January 2019 (approximately one and half years after contract award) and then be adjusted in relation to the Consumer Price Index-All Urban Consumers annually for each of the remaining six years. Starting in January 2019, the fees increase based on the November over November increase to the CPI-U. For example, the fees for 2019 would be increased by the change in the CPI-U from November 2017 to November 2018. Annual fee increases must be approved by the NCTCOG, and the NCTCOG has the right to limit the CPI related fee increase in any year. Once an annual or biennial valuation fee is agree to, CPI related fee increases would not impact the valuation fee for that particular valuation cycle. CPI related fee increases would apply to the next valuation cycle.



## BUSINESS ASSOCIATE AGREEMENT

This BUSINESS ASSOCIATE AGREEMENT (this "Agreement") is entered into by and between GABRIEL, ROEDER, SMITH & COMPANY, a Michigan corporation ("GRS) and Johnson County, TX Retiree Health Care Plan (the "Plan") (together, the "Parties", effective as provided below.

### RECITALS

WHEREAS, the Plan is a "covered entity" within the meaning of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 CFR Parts 160-164) ("HIPAA") and the requirements of the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the "HITECH Act"; HIPAA and the HITECH Act are collectively referred to in this Agreement as "HIPAA/HITECH"); and

WHEREAS, GRS has entered into an agreement with Johnson County acting on behalf of the Plan, to provide certain consulting and/or actuarial services in connection with the Plan (the "Service Agreement"); and

WHEREAS, HIPAA/HITECH requires covered entities such as the Plan to obtain and document satisfactory assurances from "business associates" (as defined therein) regarding appropriate safeguarding of certain "protected health information" (as defined therein) received or created by the business associate (a "BA Agreement"); and

WHEREAS, GRS, in the performance of its services in connection with the Plan, is a "business associate" within the meaning of HIPAA/HITECH; and

WHEREAS, the Parties desire to enter into an agreement intended to satisfy the BA Agreement requirement as and to the extent such requirement may be applicable.

NOW, THEREFORE, in consideration of the premises and the respective covenants and agreements herein contained, the Parties agree as follows:

### AGREEMENT

#### 1. **Definitions**

Capitalized terms not expressly defined in this Agreement shall have the meanings as defined in HIPAA/HITECH. For purposes of this Agreement:

- (a) "**Data Aggregation**" shall have the same meaning as the term "data aggregation" in 45 CFR 164.501.
- (b) "**Designated Record Set**" shall have the same meaning as the term "designated record set" in 45 CFR 164.501 in respect of the Plan.
- (c) "**Effective Date**" shall have the meaning as set forth in Section 5(a) of this Agreement.
- (d) "**Individual**" shall have the same meaning as the term "individual" in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).

- (e) **"Plan Administrator"** shall mean the person(s) or office(s) with the discretionary authority to act on behalf of the Plan on matters relating to HIPAA/HITECH and this Agreement.
- (f) **"HIPAA/HITECH"** shall have the meaning as set forth in the RECITALS portion of this Agreement.
- (g) **"Protected Health Information"** shall have the same meaning as the term "protected health information" in 45 CFR 160.103, but limited to the information received or created by GRS from or on behalf of the Plan.
- (h) **"Required by Law"** shall have the same meaning as the term "required by law" in 45 CFR 164.103, to the extent not preempted by Federal law.
- (i) **"Secretary"** shall mean the Secretary of the Department of Health and Human Services or his designee.
- (j) **"Service Agreement"** shall have the meaning as set forth in the RECITALS portion of this Agreement.
- (k) **"Significant Breach"** shall mean a pattern of activity or practice that constitutes a material breach or violation of this Agreement in the written opinion of legal counsel for the Plan. For purposes hereof, a "pattern of activity or practice" shall consist of at least three (3) discrete acts and/or omissions within a period of not more than 180 consecutive days.

## 2. **Obligations of GRS**

GRS agrees to:

- (a) not use or disclose Protected Health Information other than as permitted or required by this Agreement or as Required By Law;
- (b) use appropriate safeguards and comply, where applicable, with the Security Standards for the Protection of Electronic Protected Health Information set forth in 45 CFR Part 164, Subpart C with respect to electronic protected health information, to prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement;
- (c) report to the Plan Administrator any use or disclosure of Protected Health Information not provided for by this Agreement of which it becomes aware, including breaches of unsecured Protected Health Information as required by 45 CFR 164.410;
- (d) in accordance with 45 CFR 164.502(e)(1)(ii), ensure that any subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of GRS agrees to the same restrictions and conditions that apply through this Agreement to GRS with respect to such information; provided that the Plan shall not have any right to disapprove any subcontractors of GRS or to review any agreements with such subcontractors, except to the extent specifically provided herein or in the Service Agreement;

- (e) provide, in a commercially reasonable time and manner, access to Protected Health Information to the Plan Administrator to the extent necessary to meet the requirements under 45 CFR 164.524, provided that (i) such access shall be provided only to the extent such Protected Health Information is in the possession of GRS and maintained in a Designated Record Set and (ii) the Plan shall reimburse to GRS any of the following costs incurred in providing such access:
  - (i) copying (including the cost of supplies and labor);
  - (ii) postage; and
  - (iii) preparation of an explanation or summary of the Protected Health Information;
- (f) make, in a commercially reasonable time and manner, any amendment(s) to Protected Health Information that the Plan Administrator directs or agrees to pursuant to 45 CFR 164.526, provided that such amendment(s) shall be made only to the extent such Protected Health Information is in the possession of GRS and maintained in a Designated Record Set;
- (g) make available to the Plan Administrator, in a commercially reasonable time and manner, information in the possession of GRS as and to the extent required for the Plan to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528;
- (h) to the extent GRS is to carry out the Plan's obligations regarding Privacy of Individual Identifiable Health Information set forth in 45 CFR Part 164, Subpart E (the "Privacy Requirements"), comply with the Privacy Requirements that apply to the Plan in GRS' performance of such obligations; and
- (i) make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from the Plan, or created or received by GRS on behalf of the Plan, available to the Secretary for purposes of the Secretary determining the Plan's compliance with the Privacy Requirements.

**3. *Permitted Uses and Disclosures by GRS***

- (a) General Use and Disclosure Provisions. Except as otherwise limited in this Agreement, GRS may use or disclose Protected Health Information to perform its duties, functions, activities, or services for, or on behalf of, the Plan, provided that such use or disclosure would not violate (i) HIPAA/HITECH if done by the Plan or (ii) the minimum necessary policies and procedures of the Plan as and to the extent intended to comply with HIPAA/HITECH and communicated by the Plan Administrator to GRS.
- (b) Specific Use and Disclosure Provisions.
  - (i) GRS may use Protected Health Information for the proper management and administration of GRS or to carry out the legal responsibilities of GRS.
  - (ii) Except as otherwise restricted by this Agreement, GRS may disclose Protected Health Information for the proper management and administration of GRS or to carry out the legal responsibilities of GRS, provided that:
    - (A) disclosures are Required By Law, or

- (B) GRS obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies GRS of any instances of which it is aware in which the confidentiality of the information has been breached.
- (iii) Except as otherwise limited in this Agreement, GRS may use Protected Health Information to provide Data Aggregation services as permitted by 45 CFR 164.504(e)(2)(i)(B).
- (iv) GRS may use or disclose Protected Health Information to report violations of law to appropriate Federal and/or State authorities, consistent with 45 CFR 164.502(j).
- (v) Except as otherwise limited in this Agreement, GRS may disclose Protected Health Information to other “business associates” (within the meaning of HIPAA/HITECH) of the Plan (i) as directed by the Plan Administrator or (ii) to perform its duties under the Service Agreement. Notwithstanding any provision hereof or any other prior agreement by the Parties, it shall be the Plan’s sole responsibility (and not GRS’s responsibility) to ensure that the Plan has entered into appropriate business associate agreements with (or has obtained similar written assurances from) its business associates.
- (vi) Except as otherwise limited in this Agreement, GRS may disclose Protected Health Information to the Plan’s sponsoring employer(s) as directed by the Plan Administrator; provided that the Plan Administrator shall include in such direction the specific person(s) or official(s) to whom such disclosure shall be made. Notwithstanding any provision hereof or any other prior agreement by the Parties, it shall be the Plan’s sole responsibility (and not GRS’s responsibility) to ensure that the Plan has, in its official plan document, an appropriate provision regarding disclosures of Protected Health Information to any sponsoring employer of the Plan.

**4. *Obligations of the Plan and Plan Administrator***

- (a) General. Except as otherwise specifically provided under this Agreement, the Plan shall not request or permit GRS to (and shall not cause the Plan Administrator to request or permit GRS to) use or disclose Protected Health Information in any manner that may not be permissible under HIPAA/HITECH if done by the Plan.
- (b) Notification of Privacy Practices and Restrictions. The Plan shall cause the Plan Administrator to promptly notify GRS of:
  - (i) the name or office of each person authorized to act as the Plan Administrator for purposes of this Agreement, and any changes thereto;
  - (ii) any limitation(s) in the Plan’s notice of privacy practices in accordance with 45 CFR 164.520, to the extent that such limitation may affect GRS’s use or disclosure of Protected Health Information;

- (iii) any changes in, or revocation of, permission by an Individual regarding use or disclosure of Protected Health Information relating to that Individual, to the extent that such changes may affect GRS's use or disclosure of Protected Health Information;
- (iv) any restriction to the use or disclosure of Protected Health Information that the Plan has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect GRS's use or disclosure of Protected Health Information; and
- (v) any policies and procedures of the Plan to the extent that such policies or procedures may affect GRS' use or disclosure of Protected Health Information.

**5. Term and Termination**

- (a) Term. The term of this Agreement shall be for a period commencing as of the later of (i) October 7, 2021 or (ii) the first date as of which HIPAA/HITECH applies to the Plan (the "Effective Date"), and ending when all of the Protected Health Information provided by the Plan to GRS, or created or received by GRS on behalf of the Plan, is destroyed, returned to the Plan or further protected in accordance with the termination provisions in this Section 5.
- (b) Termination for Cause. Upon the Plan Administrator's knowledge of a Significant Breach of GRS's obligation under this Agreement and subject to Section 5(c) hereof, the Plan Administrator may commence termination of this Agreement by providing a notice of termination to GRS. Notwithstanding the foregoing, this Agreement shall be considered to have been terminated pursuant to this Section 5(b) only if, prior to such notice of termination:
  - (i) the Plan Administrator shall have given to GRS written notice describing with specificity the Significant Breach;
  - (ii) a period of 60 days from and after the giving of such notice shall have elapsed without GRS's having substantially cured or remedied such reason for termination during such 60-day period, unless such reason for termination cannot be substantially cured or remedied within 60 days, in which case the period for remedy or cure shall be extended for a reasonable time (not to exceed 60 days), provided that GRS has made and continues to make a diligent effort to effect such remedy or cure; and
  - (iii) a final determination shall have been made by the Plan Administrator that the Significant Breach persists, following a meeting at which GRS shall be entitled to appear and contest the determination.
- (c) Condition Precedent. Upon receipt of a notice of termination pursuant to Section 5(b) hereof, or for termination of this Agreement for any other reason, GRS shall return or destroy all Protected Health Information received from the Plan, or created or received by GRS on behalf of the Plan, that GRS still maintains in any form, and shall retain no copies of such information, except that if GRS determines that such return or destruction is not feasible, GRS shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction infeasible.

- (d) Report to Secretary of HHS. If, in the reasonable determination of the Plan Administrator, termination of the Agreement pursuant to Section 5(b) hereof is not feasible, the Plan Administrator shall report the Significant Breach to the Secretary.

**6. Other Provisions**


- (a) Separate from Service Agreement. Notwithstanding anything herein to the contrary, this Agreement shall not be construed, and is not intended, to be a part of any Service Agreement or to otherwise impose on GRS any duties, responsibilities, obligation whatsoever in respect of the administration of the Plan, including any duties, responsibilities or obligation of the Plan pursuant to HIPAA/HITECH.
- (b) No Liability. To the fullest extent permitted by law, GRS shall be under no liability for any use or disclosure made in accordance with the directions of the Plan Administrator or other Plan representatives.
- (c) No Duty to Question. Notwithstanding anything herein to the contrary, GRS shall not be under any duty to question any directions received from the Plan Administrator, nor to review in any respect the manner in which any fiduciary of the Plan exercises its authority and discharges its duties with respect to the Plan.
- (d) Amendment. The Parties agree to take such action to amend this Agreement from time to time as is necessary for the Plan to comply with the requirements of HIPAA/HITECH.
- (e) Ambiguities. Any ambiguity in this Agreement shall be resolved in a manner that is consistent with the applicable requirements under HIPAA/HITECH.
- (f) Notice. Any notice required to be given hereunder shall be in writing and delivered by hand or sent by facsimile, registered or certified mail, return receipt requested, or by air courier, to the address (or fax number) cited in the signature block of this Agreement or to such other address (or fax number) as shall be specified by like notice by either Party, and shall be deemed given only when received.
- (g) Headings. The title, headings, and subheadings of this Agreement are solely for the convenience of the Parties and do not affect the meaning or interpretation of any provision of this Agreement.
- (h) Governing Law. Except to the extent preempted by Federal law, this Agreement shall be governed by and enforceable in accordance with the laws of the State of Texas without giving effect to the principles of conflict of laws thereof.
- (i) Dispute Resolution. In the event a dispute arises between the Plan and the Consultant concerning the performance of this Contract, the parties agree to meet, and negotiate in good faith, in order to attempt to resolve the dispute. Said meeting shall take place within thirty (30) days after one party sends the other party written notice identifying the cause or reason for the dispute and requesting a meeting. The Plan and the Consultant agree that neither party will file any lawsuit for the purpose of resolving a dispute, or exercise its right to terminate the Contract, until thirty (30) days after the date on which the parties held the aforesaid meeting to resolve the dispute or such other date upon which the parties mutually agree in writing.




- (j) Entire Agreement. This Agreement contains the entire understanding between the Plan and GRS with respect to the subject matter hereof and, except as specifically provided herein, cancels and supersedes any and all other agreements between the Plan and GRS with respect to the subject matter hereof. Any amendment or modification of this Agreement shall not be binding unless in writing and signed by both the Plan and GRS.
- (k) Severability. In the event that any provision of this Agreement is determined to be invalid or unenforceable, the remaining terms and conditions of this Agreement shall be unaffected and shall remain in full force and effect, and any such determination of invalidity or unenforceability shall not affect the validity or enforceability of any other provision of this Agreement.
- (l) No Benefit to Others. The representations, covenants and agreements contained in this Agreement are for the sole benefit of the Parties, and they shall not be construed as conferring, and are not intended to confer, any rights on any other persons.
- (m) Counterparts. This Agreement may be signed in counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

IN WITNESS WHEREOF, the Parties have entered into this Business Associate Agreement, effective as of the Effective Date.

JOHNSON COUNTY, TX RETIREE HEALTH CARE PLAN

Date: 10-25-21 By:   
 Name: Roger Harmon,  
 Title: County Judge  
 Address: 2 N Main Rm 120  
Cleburne, Tx 76033

GABRIEL, ROEDER, SMITH & COMPANY

Date: October 7, 2021 By:   
 Name: Christine Scheer  
 Title: Corporate Secretary  
 Address: One Towne Square, Suite 800  
Southfield, Michigan 48076