

**ACTION ITEM**

**Date:** February 25, 2019

**To:** Raymond E. Lechner, Ph.D., Superintendent

**From:** Heather Glowacki, Ed.D., Administrator for Human Resources  
Ellen Crispino, Business Manager/CSBO

**Subject:** Cooperative 90's Dental Plan Agreement

**PROPOSED ACTION BY THE BOARD OF EDUCATION**

Motion to execute the Cooperative 90's Dental Plan Agreement.

**BACKGROUND**

Effective September 1, 2017, District 39 joined Cooperative 90's Health Plan. This health cooperative consists of Bannockburn School District, Bensenville Library, Cook Library, Millburn School District, Waukegan Public Library, and District 39. At the time of District 39's entry into the health cooperative, Wilmette was also invited to join the Cooperative 90's Dental Plan. However, a deliberate decision was made to focus on the transition related to health insurance. After 18 months of participating in the Cooperative 90's Health Plan, there is an opportunity to consider moving to the Cooperative 90's Dental Plan for the June 1, 2019 plan year.

Currently, Guardian/First Commonwealth is District 39's dental insurance company. Because the premium costs for dental insurance are paid by employees, soliciting feedback from staff about the proposed change was a necessary component in this process. All staff were provided with the cost/plan comparison document. Staff were asked to review this document, consider their needs and the needs of their family members, and talk with their current dentist to determine whether or not moving from Guardian/First Commonwealth to Delta Dental would be beneficial. Staff were asked to complete a brief survey.

**Survey Results**

There were 214 responses. Of the 214 responses, 145 (67.8%) were WEA, 53 (24.8%) were SSU, and 16 (7.5%) were non-union employees. These responses represent approximately 43% of the WEA membership, 25% of the SSU membership, and 50% of non-union membership. Overall, the results indicate that moving to Delta Dental insurance would be a benefit (69.2%).

**COOPERATIVE 90's DENTAL PLAN**

The Cooperative 90's Dental Plan consists of the entities mentioned above. District 39 would be the sixth and largest member of the Cooperative 90's Dental Plan.

The Cooperative 90's Dental Plan is administered by Delta Dental of Illinois. Similar to what is currently offered by Guardian, there is a Dental HMO and two PPO networks; PPO and Premier, as well as out of network benefits. Premium tiers are either single (employee) coverage or family coverage. The premiums for Delta Dental are less with enhanced benefits.

**FINANCIAL IMPACT**

Joining Cooperative 90's Dental Plan should offer a savings to employees while improving benefits. The premiums are less and the benefits are better than what is currently being offered. There will be a cost to District 39.

When joining Cooperative 90's, the District is required to deposit two months premium as a contribution to the reserves. The District would also contribute their proportionate share of reserves to the Cooperative. As reported with Cooperative 90's health insurance, the District's proportionate share of the reserves is calculated at the end of each of the first three years as a new member. Additionally, if claim and fixed costs exceed premiums remitted, the District would be responsible for this balance. Excessive claims could result in increased premiums. Should the District decide to leave the Cooperative after the initial three year commitment, District 39 would receive its proportionate share of the reserve following the processing of run-out claims and fixed costs.

**Employee Cost/Savings with Cooperative 90s Dental Plan**

| Plan       | Current Plan Employee Monthly Cost | Cooperative 90's Employee Monthly Cost | Employee Monthly Cost (Savings) With Cooperative 90's | Employee Annual Cost (Savings) With Cooperative 90's |
|------------|------------------------------------|--|---|--|
| <b>HMO</b> |                                    |  |   |  |
| Employee   | 17.80                              | 16.31                                  | (1.49)  | (17.88)  |
| Family     | 46.98                              | 38.23                                  | (8.75)  | (105.00)   |
| <b>PPO</b> |                                    |  |   |  |
| Employee   | 49.57                              | 44.00                                  | (5.57)  | (66.84)  |
| Family     | 146.06                             | 128.00                                 | (18.06)   | (216.72)   |

The benefit changes to the PPO plan if the District moves to Cooperative 90's Dental plan includes: no deductible for PPO network dentists; an increase from \$1,000 to \$2,000 in annual benefit maximum; and an increase from \$1,000 to \$2,000 in lifetime orthodontia benefits.

**ADVANTAGES**

Membership in Cooperative 90's offers advantages:

- Potential financial savings to employees and District
- No deductible for PPO network dentists
- An increase from \$1,000 to \$2,000 in annual benefit maximum
- An increase from \$1,000 to \$2,000 in lifetime orthodontia benefits.

**DISADVANTAGES**

Membership in Cooperative 90's may have disadvantages to employees and the District:

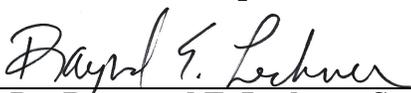
- Minimum of 3-year initial membership period in the cooperative
- District may incur additional claim costs during the first 3 years which could affect premium costs
- District will need to pay the proportionate share of reserves for the cooperative

**RECOMMENDATION**

It is recommended that the Board of Education become a member of the Cooperative 90's Dental Plan.

HG/hg

**Recommended for presentation to the Board of Education**



**Dr. Raymond E. Lechner, Superintendent**

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**COOPERATIVE 90'S  
DENTAL PLAN AGREEMENT**

*Amended effective June 1, 2011*

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*Prepared by:*

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## INTRODUCTION

This amended Agreement, dated June 1, 2011, made by and among the legal entities set forth in Appendix A, attached hereto and expressly incorporated herein, amends the original Agreement made the 1<sup>st</sup> day of August, 1992.

**WHEREAS**, Article VII, Section 10 of the 1970 Constitution of the State of Illinois and the Illinois Intergovernmental Cooperation Act (Illinois Compiled Statutes) provide that units of local governments may contract with one another to perform any activity authorized by law and with corporations in any manner not prohibited by law; and

**WHEREAS**, said Illinois Intergovernmental Cooperation Act specifically provides that units of local government may join together for the purpose of establishing self-insurance programs; and

**WHEREAS**, in view of this, each legal entity set forth in Appendix "A" and hereinafter referred to individually as an "Affiliate" or when acting together as "Affiliates" have established in full force and effect the Dental Plan Cooperative, hereinafter referred to as the "Cooperative," to provide certain benefit Plan(s) for their employees and employees' dependents, including, but not limited to, the dental Plan; and

**WHEREAS**, each Affiliate has also agreed to establish a program for funding and administering the benefit Plan(s) pursuant to this Agreement.

**NOW, THEREFORE**, each Affiliate in exchange for the mutual covenants, promises and obligations contained herein, promises and agrees as follows:

### ARTICLE I. ESTABLISHMENT AND PURPOSE OF THE COOPERATIVE 90'S DENTAL PLAN

- 1.01 The Affiliates have established an employee benefit cooperative as authorized by the Constitution of Illinois and the Illinois Intergovernmental Cooperation Act, known as the Cooperative 90's Dental Plan, hereinafter known as the "Cooperative." The governing body of the Cooperative shall be known hereinafter as the "Board".
- 1.02 The purpose of the Cooperative is to administer certain of the employee benefit programs offered by the Affiliates to their employees and employees' dependents. The Cooperative shall not itself offer, provide or guarantee benefit coverage. This intergovernmental agreement may authorize the Affiliates to self-insure and authorize jointly each Affiliate to utilize its funds as outlined in this Agreement to protect itself and the Affiliates against loss in the designated insurable area. The Cooperative shall function solely to administer, process and direct the payment of such claims as shall come within the benefit programs offered by each Affiliate that is approved as part of the Cooperative program by three-quarters (¾) vote of the Board. Each Affiliate remains individually responsible for any and all benefit programs not a part of the Cooperative program as adopted by the Board after authorization by three-quarters (¾) vote of the active Affiliates. The Cooperative shall also carry out such claim reduction, risk management, and education programs as may be authorized by the Board.
- 1.03 The creation of an Account under Article VIII of this Agreement is not intended by the Affiliates to constitute the transaction of an insurance business within the State of Illinois. The intent of the Affiliates is to provide or make available through the Cooperative employee benefit Plan(s) and benefit-related services and to utilize the Cooperative to achieve reduced administrative costs by providing similar services to each Affiliate.

- 1.04 The Affiliates also intend by the creation of the Cooperative to minimize annual fluctuations in employee benefit costs and to ultimately equalize the risks. It is agreed that Reserves will be created to provide safety margins and assist in stabilizing costs.

**ARTICLE II.  
DEFINITIONS**

In addition to the terms defined elsewhere in the Agreement, each of the following terms shall have the meaning set forth below:

- 2.01 **ACCOUNT** – An account or accounts established and funded by the Affiliates to:
- (a) pay the joint administrative expenses of and fund certain benefit Plan(s) granted by each Affiliate to their respective employees and employees' dependents; and
  - (b) pay any other expenditure authorized by the terms of this Agreement.
- 2.02 **AFFILIATE** – A unit of local government that participates in the Cooperative as identified in Appendix A.
- 2.03 **AGREEMENT** – This Cooperative 90's Dental Plan Agreement, as amended.
- 2.04 **ALTERNATE** – A person designated by an Affiliate to act on behalf of the Affiliate if the Representative is unavailable to do so.
- 2.05 **BENEFICIARY** – A person designated by a Participant, or by the terms of a Plan, who is or may become entitled to a benefit under that Plan.
- 2.06 **BENEFIT YEAR** – January 1 to December 31.
- 2.07 **BOARD** – The governing body of the Cooperative established pursuant to Article III of the Agreement.
- 2.08 **CHAIRPERSON** – A representative who serves as the Chairperson of the Board having been elected by a majority of the Representatives.
- 2.09 **CLAIMS ADMINISTRATOR** – The Claims Administrator appointed pursuant to Section 3.02(a) and who processes all claims for benefits by Participants and Beneficiaries under the supervision and control of the Board through its designated liaison (Plan Consultant) or, in his absence, through the Chairperson or other designee.
- 2.10 **COOPERATIVE** – The entity created under the Illinois Intergovernmental Cooperative Act by Affiliates known as the Cooperative 90's Dental Plan.
- 2.11 **EFFECTIVE DATE** – The Agreement became effective June 1, 1990 The Effective Date of this amended Agreement is June 1, 2011.
- 2.12 **FISCAL YEAR** – The twelve (12) month period commencing on June 1.
- 2.13 **FUND BALANCE** – Excess of assets over liabilities at any point and time using generally accepted accounting principles.
- 2.14 **PARTICIPANT** – Any employee or former employee of an Affiliate, or eligible Beneficiary who is or may become eligible to receive a benefit of any type from a Plan.
- 2.15 **PLAN CONSULTANT** – The person or entity appointed pursuant to Section 3.02(a) who shall:

- (a) Be the principal manager of the Cooperative;
  - (b) Supervise and control the day to day operations of the Cooperative;
  - (c) Carry out the purpose of the Cooperative as directed by this Agreement and as may be directed from time to time by the Board; and
  - (d) Perform those duties set forth in Section 7.03.
- 2.16 **PLAN(S)** – A plan or plans sponsored and maintained by the Cooperative pursuant to the provisions of this Agreement for an Affiliate’s employees, former employees, and their dependents. The Board may from time to time adopt one or more new, substituted or additional plans to provide life, medical, accident or disability benefits for Affiliate employees or employees’ dependents and to have such plan or plans administered under this Agreement.
- 2.17 **QUORUM** – A quorum is the required percentage of possible Representatives necessary for the Board to hold a meeting and conduct Cooperative business. A Quorum is present when a majority (more than fifty percent (50%)) of the Representatives are physically present at a duly called meeting.
- 2.18 **REPRESENTATIVE** – Each Affiliate’s designated individual to serve and act on behalf of the Affiliate on the Board.
- 2.19 **RESERVES** – Amount established through an excess of contributions over expenses and established to pay run-off claims and/or reduce the volatility of claim fluctuations.

**ARTICLE III.  
AUTHORITY AND DUTIES OF THE BOARD**

- 3.01 The Cooperative shall be managed by the Board, pursuant to the terms of this Agreement. The Board shall consist of one Representative from each Affiliate to be designated by such Affiliate. Each Affiliate may also designate one Alternate to attend and vote at any and all Board meetings in lieu of the designated representative.
- 3.02 The Board shall have the authority and duty to accomplish the purposes set forth in Article I above and, in furtherance of such authority and duty, shall:
- (a) Maximize the value of the Affiliates’ and Cooperative’s benefit dollars;
  - (b) Select, enter into a contract with, and/ or hire a Plan Consultant, agents, employees, independent contractors, Claims Administrator, attorneys, auditors, and such other persons as may be necessary to administer and accomplish the purpose of the Cooperative; provided, however, that the Cooperative shall not have the authority to enter into any collective bargaining agreement with Affiliate employees;
  - (c) Appoint committees;
  - (d) Carry out education and other programs relating to claims management and reductions;
  - (e) Direct the collection and payment of funds to be used for the administration of the Cooperative and the provision of benefits under the Plan(s).
  - (f) Invest funds in accordance with the investment policy established by the Board and in compliance with the provisions of the Illinois Public Funds Investment Act (30 ILCS 235/0.01, *et seq.*);

- (g) Select one or more depositories for the funds of the Cooperative in compliance with the provisions of the Illinois Public Funds Deposit Act (30 ILCS 235/0.01, *et seq.*);
- (h) Cause to be purchased other types of insurance adopted by the Board;
- (i) Prepare, review and approve the annual budget of the Cooperative and a monthly report of the financial affairs of the Cooperative;
- (j) Obtain, approve and submit to each Affiliate every five (5) years (on years ending in five (5) and zero (0) an audited report of the financial affairs of the Cooperative, made by a certified public accountant within six (6) months from the end of that Fiscal Year in accordance with generally accepted auditing standards;
- (k) Recommend changes in policy to Affiliates;
- (l) Recommend the compensation for all such agents, employees and independent contractors;
- (m) Change, amend or modify the Plan(s);
- (n) Cause to be purchased fidelity and fiduciary liability bonds for employees (if any) or other persons, as required by this Agreement, as required by law, or otherwise determined to be appropriate by the Board;
- (o) Establish and recommend monthly and supplementary payments to the Account;
- (p) Review and ultimately rule upon employee benefit claim disputes;
- (q) In accordance with the provisions of Article XIV may recommend to Affiliates the expulsion of any individual Affiliate from the Cooperative for failure to perform its obligations under this Agreement; and
- (r) Carry out such other activities as are necessarily implied or required to carry out the purposes of the Cooperative specified in Article I or the specific activities enumerated in this Article III.

3.03 No one serving on the Board shall receive any compensation or other payment for services as a Representative on the Board except for expenses incurred at the direction of the Board. The Chairperson or any Representative serving as an officer of the Board may submit to the Board for approval and be reimbursed for expenses incurred in their position as a Representative on the Board. Reimbursement for such expenses shall include amounts advanced on behalf of the Cooperative, and shall be in accordance with procedures and policies established by the Board consistent with the terms of this Agreement.

**ARTICLE IV.  
GOALS OF THE COOPERATIVE**

- 4.01 The goals of the Cooperative shall be:
- (a) To provide quality benefits for Participants and Beneficiaries consistent with financial responsibilities and restraints.
  - (b) To keep premium rates as low as possible by using all of the tools available in "managed care" including:
    - 1) Effective benefit plan design and updating;
    - 2) Use of a preferred provider organization and other negotiated discounts; and
    - 3) A claims administration organization that manages claims in addition to paying them.
  - (c) To attain and maintain Reserves. The purpose of the Reserves is to have sufficient funds available to pay all incurred but not yet paid claims at any given time and to minimize the impact of short term large claim fluctuations.
  - (d) To assure that all providers of service are effectively discharging their responsibilities.
  - (e) To be alert to new advances in treatment and technology that can enhance coverage to Participants and Beneficiaries and strive to reduce costs at the same time.
  - (f) To comply with legal requirements and monitor legislative developments.
  - (g) To review claim administration fees and services no less than every three (3) years, including any commissions within such quotes or fees, if any.
  - (h) To maximize the value of the Affiliates' and Cooperative's benefit dollars.

**ARTICLE V.  
MEETINGS OF THE BOARD**

- 5.01 Regular meetings of the Board shall be held as often as necessary to carry out the purpose of the Cooperative but no less than four (4) times in each Fiscal Year. At least two (2) meetings shall be held during the first half of the Fiscal Year and at least two (2) meetings shall be held during the second half of the Fiscal Year.
- 5.02 Special meetings of the Board may be called by its Chairperson or by any two (2) Representatives.
- 5.03 Three (3) to ten (10) business days written notice of regular or special meetings of the Board shall be given to each Representative and an agenda specifying the subject of any special meeting shall accompany such notice. Business conducted at special meetings shall be limited to those items specified in the agenda.
- 5.04 The time, date and location of regular meetings of the Board shall be determined by the Board. The four (4) quarterly meetings will be scheduled at the beginning of the Fiscal Year. Additional meetings may be set as needed.
- 5.05 Minutes of all regular, special and emergency meetings of the Board shall be sent to the Representatives.

- 5.06 All meetings of the Board shall be conducted in the manner required by law. In the event of any conflict between any provision of this Agreement and any provision of any applicable law, this Agreement shall be deemed modified to the extent necessary to comply with such law. In addition to any notices of meetings the Chairperson may be required to serve under this Agreement, the Chairperson shall cause to be published any schedule or notice of meetings of the Board as required by law.
- 5.07 Each Affiliate shall be entitled to one vote on the Board through its Representative or Alternate. No proxy votes or absentee votes shall be permitted. Voting shall be conducted in accordance with the rules of procedures established pursuant to Section 5.08 and applicable law.
- 5.08 The Board may establish rules governing its own conduct and procedure, consistent with this Agreement. Except as modified by the Board pursuant to this Section or by contrary law, Roberts Rules of Order (latest edition) shall govern all meetings of the Board.

#### **ARTICLE VI. OFFICERS**

- 6.01 Officers of the Cooperative shall consist of a Chairperson. Terms of office are two (2) years. The Board shall elect officers for the coming Fiscal Year at the fourth quarter meeting. The Chairperson will be elected on even years and serve for two (2) consecutive years. The Board may from time to time establish other offices and may elect a Representative to serve in any of such offices. The Board may fill any vacancies which may occur in such offices for the remainder of a term.

#### **ARTICLE VII. PLAN CONSULTANT**

- 7.01 The Board shall contract with a Plan Consultant whose duties are listed in 7.03 below.
- 7.02 The fee of the Plan Consultant shall be determined by the Board and shall be payable pursuant to the contract between the Plan Consultant and the Cooperative unless or until otherwise revised by the Board.
- 7.03 The Plan Consultant shall be the principal operating manager of the Cooperative and shall supervise and control day-to-day operations of the Cooperative and carry out the purpose of the Cooperative as directed by the Board. Among the duties and authority of the Plan Consultant shall be the following:
- (a) To sign on behalf of the Cooperative any instrument which the Board has authorized to be executed, by a formal vote or written authority, and, in general, to perform all duties incident to the office of the Plan Consultant and such other duties as may be prescribed by the Board consistent with this Agreement from time to time.
  - (b) To prepare a proposed annual budget indicating the proposed monthly employee and dependent premium and to submit such proposals to the Board.
  - (c) To make recommendations regarding policy decisions, the creation of other Board offices and the retention of agents, employees and independent contractors.
  - (d) At each regular meeting of the Board and at such other times as requested to do so by the Board, to present a full report of the Plan Consultant's activities and the fiscal condition of the Cooperative.
  - (e) To report monthly to each Affiliate on all benefit claims filed and payouts made for that Affiliate.

- (f) Within the constraints of the budget approved by the Board, to make or direct distributions from the Account for payment of benefit claims and the administrative expenses of the Cooperative and maintain accurate and detailed records and accounts of all transactions.
  - (g) Act as liaison with the Claim Administrator, Board and each Representative.
  - (h) Deposit all Cooperative funds in depositories selected by the Board and to invest and reinvest funds of the Cooperative not immediately required.
  - (i) Prepare Board agendas in conjunction with the Chairperson.
  - (j) Monitor monthly billings to ensure that they are received in a timely fashion and in the correct amount.
  - (k) Review and decide employee claims disputes referred to the Plan Consultant in accordance with the procedures established in the Plan Document as set forth in Appendix B of this document.
  - (l) Secure bids from potential claim administrators no less than every three (3) year, or earlier at the direction of the Board, and make recommendations the selection of a Claims Administrator for adoption by the Board.
  - (m) Upon request of the Board, investigate potential additional lines of coverage, review applications for participation in the Cooperative of other local government entities, and recommend Cooperative and Board goals.
  - (n) Provide necessary information to the selected certified public accountant (CPA) in conjunction with the preparation of the audit reports.
  - (o) Be readily available for consultation with any interested employee regarding benefits as determined by the Board and approved by each Affiliate.
  - (p) Upon request of the Board, solicit new Affiliates.
- 7.04 In the absence of the Plan Consultant or in the event of the inability or refusal of the Plan Consultant to act, the Chairperson may, with the approval of the Board, perform the duties of the Plan Consultant and, when so acting, shall have all the powers of and be subject to all of the restrictions upon the Plan Consultant.
- 7.05 Fiduciary liability coverage will be obtained subject to authorization of the Board and paid as an administrative expense of the Cooperative.
- 7.06 There also shall be appointed a person or entity as a Claim Administrator who shall be responsible for the processing of benefit claims and for paying the day-to-day expenses of the Cooperative as authorized and directed by the Plan Consultant. The Claims Administrator shall perform its duties under the direction and control of the Plan Consultant and shall report directly to the Plan Consultant.

**ARTICLE VIII.  
ACCOUNT**

8.01 **Administration** – It is intended that the Account will contain a sufficient amount at all times to pay the anticipated benefits and costs as defined in 8.02 and the administrative expenses of the Cooperative.

8.02 **Payments** – Payments into the Account will be developed and administered in the following manner:

- (a) At least sixty (60) days prior to the start of each Fiscal Year, the Plan Consultant shall project for each Plan (1) the cost of anticipated benefit payments, and (2) all other costs.
- (b) The Plan Consultant shall project the amount necessary to establish Reserves totaling at least fifteen percent (15%) of projected claims for the given Fiscal Year.
- (c) The projections shall be made on a Plan by Plan basis. In the event the projections cannot be completed within the time period required herein for reasons beyond the Plan Consultant's control, the Board may allow the Plan Consultant to make such projections as soon as reasonably practicable under the circumstances.
- (d) Thirty (30) days prior to the beginning of each Fiscal Year and considering the recommendations of the Plan Consultant, the Board, by a three-quarters (3/4) vote, the Board shall approve (1) an expense budget for each Plan for the coming Fiscal Year, and (2) the monthly tiered premium rates for each Plan.
- (e) Affiliates shall make monthly payments to the Account based upon monthly billings for the Plan.
- (f) Reserves are carried forward each Fiscal Year. Except as provided in Articles XIV and XV, Reserves remain unallocated and shall be available to pay benefits and administrative expenses of the applicable Plan as a whole.
- (g) With respect to Articles XIV and XV, an Affiliate of the Cooperative, as of May 31, 2011, shall have a calculated share of Reserves. An Affiliate joining the Plan on or after June 1, 2011, must complete three (3) years of participation in the Plan before such Affiliate is entitled to a calculated share of Reserves resulting from that Affiliate's participation in the Plan.
- (h) An Affiliate's calculated share of Reserves shall be based upon the ratio of cumulative premium payments paid into the Account by an Affiliate to the cumulative premium payments paid into the Account by all Affiliates over the applicable time frame. For example, an Affiliate (who was an Affiliate on May 31, 2011) is withdrawing effective May 31, 2013. If the Affiliate's cumulative premium payments for the two-year period ending May 31, 2013 accounts for forty-five percent (45%) of the cumulative premium payments of all Affiliates for that same time frame, that Affiliate's calculated share is forty-five percent (45%) of the Reserves.
- (i) A schedule of Reserves and sufficient information to determine allocations of Affiliate ownership shall be maintained with the Cooperative financial records.

8.03 **Supplementary Payments** – If, during any Fiscal Year, the Plan Consultant, in its discretion, determines that the funds available in the Account are insufficient to meet a Plan's current or anticipated future claims or administrative expenses, the Plan Consultant may recommend supplementary payments for approval by the Board. The Plan Consultant shall recommend supplementary payments for approval by the Board if the funds available in Account fall below

the applicable Plan's average monthly claim expenses based on the prior twelve (12) months. The Plan Consultant shall recommend the total amount of the supplementary payment needed. The total shall be allocated among the Affiliates based on the most recent monthly billing (i.e., an Affiliate's share of the supplementary payment shall be equivalent to the Affiliate's share of the total amount of the most recent monthly billing). The Board shall require supplementary payments from all Affiliates be made not more than thirty (30) days of receipt of notice. Supplementary payments will be recorded as a liability and will be repaid if and when such Account again becomes financially stable (i.e., has sufficient Reserves as described in Section 4.01).

- 8.04 **Required Payments** – During any Fiscal Year, the Affiliate shall only be required to make payments into the Account for those Participants and/or Beneficiaries within the covered classes who are covered under the Plan(s) available through by such Affiliate.
- 8.05 **New Affiliate Assessments** – For the first three (3) Fiscal Years of participation in a Plan, an Affiliate shall be assessed ("New Affiliate Assessment"). The New Affiliate Assessment shall be assessed following the close of each of the first three (3) Fiscal Years of participation in a Plan as follows:
- (a) Following the close of the first Fiscal Year of participation, the Plan Consultant shall calculate an amount reflecting 1/3 of the New Affiliate's proportionate share of the Reserves for the Fiscal Year just ended. That amount is the New Affiliate Assessment for Fiscal Year 1.
  - (b) Following the close of the second Fiscal Year of participation, the Plan Consultant shall calculate a New Affiliate Assessment reflecting 2/3 of the New Affiliate's proportionate share of the Reserves for the Fiscal Year just ended. The amount is the New Affiliate Assessment for Fiscal Year 2. With respect to the second Fiscal Year of participation, that New Affiliate Assessment is offset by the amount of the first Fiscal Year's New Affiliate Assessment.
  - (c) Following the close of the third Fiscal Year of participation, the Plan Consultant shall calculate a New Affiliate Assessment reflecting 3/3 of the New Affiliate's proportionate share of the Reserves for the Fiscal Year just ended. That amount is the New Affiliate Assessment for Fiscal Year 3. With respect to the third Fiscal Year of participation, that New Affiliate Assessment is offset by the amount of the New Affiliate Assessments for Fiscal Year one participation and Fiscal Year two participation.

#### **ARTICLE IX. PLAN OF BENEFITS**

- 9.01 The Board may, from time to time, change Plan(s) or the terms and conditions thereof, or adopt new or additional Plan(s), but such change or new or additional Plan shall not be binding on the Cooperative unless and until such change or new or additional Plan(s) are consented to by the Board as described in Article X.
- 9.02 The Plan Consultant and Claims Administrator shall be notified of any such change or new or additional Plan as soon as practicable but in all events at least sixty (60) days prior to the effective date of the change or adoption of the new or additional Plan.
- 9.03 The current Plan(s) at any time are summarized in Appendix B.
- 9.04 Each Affiliate must maintain a level of participation in each Plan equal to or greater than fifty (50%) percent of eligible employees ("Participation Level"). For the sole purpose of determining if an Affiliate meets the Participation Level, "eligible employee" is defined as a full-time or part-time employee of Affiliate as of the first day of the Fiscal Year. In its discretion, the Board may

exclude from this definition (1) an employee who would otherwise meet the definition but is covered under a spouse's plan, (2) employees whose coverage is provided elsewhere as a result of collective bargaining, or (3) any other group of employees deemed appropriate by the Board. Such exclusions from the definition of eligible employee may include limitations, restrictions, or other parameters.

- 9.05 In the event an Affiliate's participation in the Plan falls below the Participation Level, the Affiliate shall have the balance of the Fiscal Year ("the Probationary Period") to bring its participation in the Plan up to the Participation Level. If at the end of the Probationary Period an Affiliate's participation in the Plan does not meet or exceed the Participation Level, the Affiliate may be expelled from the Cooperative, pursuant to Article XIV, effective upon the expiration of the Probationary Period. During the Probationary Period, an Affiliate shall pay premiums as if it met the Participation Level, whether or not it actually meets the Participation Level.
- 9.06 Except as otherwise provided with respect to the run-out claims of expelled or withdrawing Affiliates, the Affiliates agree to pool claim experience and use a common premium for each Plan.

#### **ARTICLE X. MATTERS REQUIRING APPROVAL**

- 10.01 A Quorum shall be required to hold a Board meeting.
- 10.02 The following matters require approval of seventy-five percent (75%), rounded up if a fraction, of all Affiliates as evidenced by resolution of the governing body of each Affiliate:
- (a) Amendments to this Agreement;
  - (b) The expulsion of an Affiliate from the Cooperative; provided, however, that the expulsion of an Affiliate shall require a seventy-five percent (75%), rounded up if a fraction, vote of all of the Affiliates other than the Affiliate whose expulsion has been recommended by the Board;
  - (c) Merger of the Cooperative with another cooperative;
  - (d) Termination of the Cooperative;
  - (e) Approval of any proposed new Affiliate(s); and
  - (f) Extension of the term of this Agreement.
- 10.03 The following matters require approval of a majority (more than fifty percent (50%)) of all Representatives on the Board:
- (a) Selection of the Plan Consultant, Claim Administrator, and other necessary parties, (accountants, attorneys, etc.);
  - (b) Approval of annual budget of the Cooperative;
  - (c) Approval of any Plan amendments; and
  - (d) Approval of any new benefit Plan(s).

10.04 The following matters require approval of a majority (more than fifty percent (50%) of the Representatives on the Board following the establishment of a Quorum:

- (a) Any and all other action consistent with the other terms of this Agreement, which the Board deems necessary and for which the Board is not expressly authorized to act by the terms of this Agreement.

**ARTICLE XI.  
OBLIGATIONS OF AFFILIATES**

11.01 The obligations of each Affiliate shall be as follows:

- (a) To appropriate or budget for and, where necessary, to levy for, and pay promptly all monthly and supplementary or other payments to the Account within thirty (30) days from notice and in such amounts as are established within the scope of this Agreement;
- (b) To cooperate fully with the Plan Consultant, Claims Administrator, the Cooperative's attorneys and auditors and any agent, employee, officer or independent contractor of the Cooperative in any matter relating to the purpose and powers of the Cooperative;
- (c) To review all proposed changes to a Plan prior to the Board's final vote on such changes;
- (d) To provide a prompt monthly listing of any new or terminated employees in accordance with the parameters set by the Claims Administrator;
- (e) To notify promptly all of its Plan Participants of the withdrawal or expulsion of such Affiliate from this Agreement;
- (f) To act promptly on all matters requiring Board approval and to not withhold such approval unreasonably or arbitrarily; and.
- (g) To purchase and maintain errors and omission insurance covering liability arising out of the Affiliate's participation in the Cooperative, including any liability arising from the actions of the Affiliate's Representative acting in his/her scope of authority under this Agreement.

11.02 At the discretion of the Board, non-performance of Affiliate obligations, whether in whole or in part, may be the basis for a recommendation to expel pursuant to Article XIV.

**ARTICLE XII.  
LIABILITY OF BOARD OR OFFICERS**

12.01 The Representatives, Alternates, and officers shall discharge their duties solely in the interest of the Plan participants and other persons entitled to benefits under any Plan, and:

- (a) For the exclusive purpose of:
  - 1) providing benefits to Participants and other persons entitled to benefits under the Plan; and
  - 2) defraying reasonable expense of administering the Plan.
- (b) With the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

- (c) In accordance with the documents and instruments governing the Plan insofar as such documents and instruments are consistent with the law.

12.02 To the fullest extent permitted by applicable law, the Representatives, Alternates, and officers shall not be liable for any mistake in judgment or other action made, taken or omitted by them in good faith; nor for any action made, taken or omitted by any agent, employee or independent contractor selected with reasonable care, nor for loss incurred through investment of Cooperative funds, or failure to invest. No Representative, Alternate or officer shall be liable for any action taken or omitted by any other Representative, Alternate or officer. No Representative shall be required to give a bond or other security to guarantee the faithful performance of his/her duties hereunder except as required by this Agreement or by law. The Account shall be used to defend and hold harmless any officer, Representative or Alternate of the Board for actions taken by the Board if performed by the officer, Representative or Alternate within the scope of his authority. The Cooperative may purchase insurance providing fiduciary liability coverage for officers, Representative and/or Alternates.

### **ARTICLE XIII. CONTRACTUAL OBLIGATION**

13.01 The obligations and responsibilities of the Affiliates set forth in this Agreement, including the obligation to take no action inconsistent with this Agreement, as originally written or validly amended, shall remain a continuing obligation and responsibility of each Affiliate. This Agreement may be enforced in law or equity either by the Cooperative itself or by any Affiliate. The consideration for the duties imposed upon the Affiliates by this Agreement is based upon the mutual promises and agreements of the Affiliates set forth herein and the advantages gained by the Affiliates through reduced administrative costs for the processing of employee benefits. Except to the extent of the limited financial contributions to the Cooperative each Affiliate has agreed to make, no Affiliate agrees by this Agreement to be responsible for any claims of any kind against any other Affiliate. The Affiliates intend in the creation of the Cooperative to establish an organization for joint administration of employee benefits within the scope set forth in this Agreement only and do not intend to create between the Affiliates any relationship of partnership, surety, indemnification or liability for the debts of or claims against another.

### **ARTICLE XIV. EXPULSION OF AN AFFILIATE**

14.01 Following reasonable efforts to informally resolve a situation, an Affiliate may be expelled from the Cooperative for failing to perform or fulfill the responsibilities assigned to Affiliates under the Agreement or for any other action or failure to act determined by the Board to be detrimental to the interests of the Cooperative.

14.02 The expulsion of an Affiliate must be approved by a seventy-five percent (75%), rounded up if a fraction, vote of all Affiliates, excluding the Affiliate whose expulsion is being voted upon as evidenced by resolution of the governing body of each Affiliate. Following reasonable attempts by the Board to resolve the situation, the expulsion proceedings set out below shall be followed.

14.03 No Affiliate may be expelled except after written notice from the Board of the reason for the expulsion and after a reasonable opportunity of not less than fifteen (15) days to cure. Within such fifteen (15) day period, the Affiliate may request a hearing before the Board prior to any decision being made as to whether to recommend expulsion. The Board shall set the date for such hearing, which shall not be less than fifteen (15) days after expiration of the time period for correction. The Board may appoint a hearing officer to conduct such hearing and make recommendations to the Board based upon findings of the fact; provided, however, if the hearing is conducted by a hearing officer, the Affiliate may request a further hearing before the full Board. Such request shall be in writing and addressed to the Chairperson. The Board or hearing officer may recommend a decision at the close of the hearing or within fifteen (15) days

thereafter. The expulsion of an Affiliate, following the notice and hearing as set forth in this Section, shall be final when approved as specified in Section 15.02 and shall become effective thirty (30) days following such approval, unless a different effective date is agreed to by the Board and the expelled Affiliate. At such a hearing, the appealing Affiliate may not vote or be the hearing officer.

- 14.04 After expulsion, the former Affiliate shall continue to be fully liable for (a) any payment due to the Account with respect to the period prior to the date of expulsion, (b) any other unfulfilled obligation arising at any time attributable to the period prior to the date of expulsion, and (c) any other unfulfilled obligation as if it was still an Affiliate of the Cooperative.
- 14.05 The Cooperative shall have no obligation with respect to expenses incurred under a Plan by a Participant or Beneficiary covered through an expelled Affiliate after the effective date of such expulsion. No claim under a Plan by a Participant or Beneficiary covered through an expelled Affiliate for an expense that was incurred before the effective date of expulsion shall be paid if not presented to the Cooperative, or its designated agent, within ninety (90) days after the effective date of expulsion (i.e., any such claim will not be paid by the Plan). Except as provided below, the obligation of the Cooperative to administer claims for expenses incurred under a Plan by a Participant or Beneficiary covered through an expelled Affiliate prior to the effective date of expulsion ("run-out claims") shall continue for such claims as may have been filed or which are filed within ninety (90) days after the effective date of the expulsion of the Affiliate. Payment and administration of any claims for expenses incurred prior to the effective date of an Affiliate's expulsion that are submitted for payment after such ninety (90) day period shall be the sole responsibility of the expelled Affiliate.
- 14.06 The expelled Affiliate shall deposit in the Account three (3) months of the current premium (the "withdrawal fee"). Such payment shall be made on or before the effective date of the expulsion. If the expelled Affiliate fails to make such payment in a timely manner, the Cooperative's obligation to administer and pay run-out claims shall be extinguished and the expelled Affiliate shall be solely liable and responsible for paying and administering such claims. The withdrawal fee shall be used to pay run-out claims and any administrative expenses incurred with respect to paying such claims. If the expelled Affiliate's withdrawal fee with respect to a Plan is exhausted before all run-off claims are paid under the Plan, the expelled Affiliate shall deposit in the Account a sufficient amount to fund all subsequent run-out claims prior to the payment of any such claims. No later than the latter of (1) Board approval of the Fiscal Year audit, if applicable, or (2) sixty (60) days after payment of the last run-out claim of expelled Affiliate, any remaining portion of the withdrawal fee shall be repaid to the expelled Affiliate.
- 14.07 Following the close of the Fiscal Year including the effective date of the Affiliate's expulsion, allocation of the accumulated reserves shall be made as provided in Section 8.02(i) and 8.02(j).
- (a) If the expelled Affiliate's accumulated Reserves ownership for a Plan is positive, the expelled Affiliate shall be paid such amount in three (3) equal annual installments beginning with the first Fiscal Year beginning in the Fiscal Year in which the allocation of net surplus or deficit is made.
- (b) If the expelled Affiliate's accumulated Reserves ownership for a Plan is negative, the expelled Affiliate shall be liable to the Cooperative for such amount. This amount must be paid to the Cooperative within ninety (90) days of demand by the Cooperative.

**ARTICLE XV.**  
**VOLUNTARY WITHDRAWAL FROM THE COOPERATIVE**

- 15.01 After the initial three (3) year commitment, an Affiliate may withdraw on any renewal date upon advance written notice to the Cooperative by December 1 of any given year (180 days notice) or by such other lesser advance notice deemed reasonable by the Board in its sole discretion. Upon

the Board's receipt of a notice of withdrawal, the withdrawal of such Affiliate is irrevocable unless such revocation is allowed at the sole discretion of the Board. Upon an Affiliate's submission of a notice of withdrawal, such Affiliate forfeits all of its voting rights in its own right and as a Representative on the Board, unless allowed to vote on any particular matter at the sole discretion of the Board. The rights and duties of the Cooperative with respect to a withdrawing Affiliate in the Cooperative shall be as set forth below.

- 15.02 After voluntary withdrawal, the former Affiliate shall continue to be fully liable for (a) any payment due to the Account with respect to the period prior to the date of withdrawal, (b) any other unfulfilled obligation arising at any time attributable to the period prior to the date of withdrawal, and (c) any other unfulfilled obligation as if it was still an Affiliate of the Cooperative.
- 15.03 The Cooperative shall have no obligation with respect to claims incurred under a Plan by a Participant or Beneficiary covered through a withdrawing Affiliate after the effective date of such withdrawal. No claim under a Plan by a Participant or Beneficiary covered through a withdrawing Affiliate that was incurred before the effective date of voluntary withdrawal shall be paid if not presented to the Cooperative, or its designated agent, within one hundred twenty (120) days after the effective date of the voluntary withdrawal (i.e., any such claim will not be paid by the Plan). Except as provided below, the obligation of the Cooperative to administer claims incurred under the Plan by a Participant or Beneficiary covered through a withdrawing Affiliate prior to the effective date of withdrawal ("run-out claims") shall continue for such claims as may have been filed or which are filed within one hundred twenty (120) days after the effective date of the voluntary withdrawal of the Affiliate. Payment and administration of any claims for expenses incurred prior to the effective date of an Affiliate's voluntary withdrawal that are submitted for payment after such one hundred twenty (120) day period shall be the sole responsibility of the withdrawing Affiliate.
- 15.04 The withdrawing Affiliate shall deposit in the Account three (3) months of the current premium (the "withdrawal fee"). Such payment shall be made on or before the effective date of the withdrawal. If the withdrawing Affiliate fails to make such payment in a timely manner, the Cooperative's obligation to administer and pay run-out claims shall be extinguished and the withdrawing Affiliate shall be solely liable and responsible for paying and administering such claims. The withdrawal fee shall be used to pay run-out claims and any administrative expenses incurred with respect to paying such claims. If the withdrawing Affiliate's withdrawal fee with respect to a Plan is exhausted before all run-off claims are paid under the Plan, the withdrawing Affiliate shall deposit in the Account a sufficient amount to fund all subsequent run-out claims prior to the payment of any such claims. No later than the latter of (1) Board approval of the Fiscal Year audit, if applicable, or (2) sixty (60) days after payment of the last run-out claim of withdrawing Affiliate, any portion of the withdrawal fee remaining shall be repaid to the withdrawing Affiliate.
- 15.05 Following the close of the Fiscal Year including the effective date of the Affiliate's withdrawal, allocation of the accumulated reserves shall be made as provided in Section 8.02 (i) and (j).
- (a) If the withdrawing Affiliate's accumulated Reserves ownership for a Plan is positive, the withdrawing Affiliate shall be paid such amount in three (3) equal annual installments beginning with the first Fiscal Year beginning in the Fiscal Year in which the allocation of net surplus or deficit is made.
- (b) If the withdrawing Affiliate's accumulated Reserves ownership for a Plan is negative, the withdrawing Affiliate shall be liable to the Cooperative for such amount. This amount must be paid to the Cooperative within ninety (90) days of demand by the Cooperative.

**ARTICLE XVI.  
MERGER OF THE COOPERATIVE**

16.01 The Cooperative may merge with any other cooperative established under the Illinois Intergovernmental Cooperation Act upon a vote of Affiliates described in Article X.

**ARTICLE XVII.  
TERM & TERMINATION OF THE COOPERATIVE**

17.01 The Cooperative shall operate on a twenty (20) year term that began on June 1, 2004 and terminates on May 31, 2024. The Cooperative's existence may be extended for additional terms of one or multiple years, as permitted by law, in accordance with Section 11.02. The length of the term of the Cooperative, or any extension thereof, shall not affect (1) any Affiliate's right to withdraw from the Cooperative pursuant to the procedures described in this Agreement, or (2) the termination of the Cooperative under Section 17.02 of this Agreement.

17.02 The Cooperative shall terminate upon the occurrence of any one of the following events:

- (a) A final determination by a court of competent jurisdiction, after all appeals have been exhausted or time for appeal has expired, that the Cooperative is invalid, contrary to law, or insolvent;
- (b) The number of Participants covered by the Plan(s), in the aggregate, administered by the Cooperative falls below fifty (50), provided (in which case the Cooperative shall terminate effective on the last day of the current Benefit Year), however, any two (2) or more of the Affiliates may elect within sixty (60) days of the occurrence of such event to continue the Cooperative with respect to themselves; or
- (c) Upon a vote of Affiliates described in Article X.

17.03 Upon termination of the Cooperative, and to the extent not precluded by applicable law, the rights and duties of the Cooperative to each Affiliate and the rights and duties of each Affiliate to the Cooperative shall be the same as those with respect to a withdrawing Affiliate as outlined in Section XVI.

**ARTICLE XVIII.  
MISCELLANEOUS**

18.01 **Notice** – Any notice required by this Agreement shall be in writing and shall be deemed to have been given when deposited in a United States Post Office, registered or certified mail, postage prepaid, return receipt requested and addressed as follows:

- (a) If to the Cooperative: to the then current Chairperson of the Board at the address of the then current Plan Consultant.
- (b) If to an Affiliate: to the address set forth on Appendix A or to such other address as any part to this Agreement may from time to time specify in writing to the other parties and to the Cooperative.

Any notice required by this Agreement may be waived by the party(ies) to whom such notice is required to be provided hereunder.

18.02 **Section Headings** – The section headings inserted in this Agreement are for convenience only and are not intended to and shall be construed to limit, enlarge or affect the scope or intent of this Agreement or the meaning of any provision hereof.

- 18.03 **Validity and Savings Clause** – In the event any provision of this Agreement shall be declared by a final judgment of a Court of competent jurisdiction to be unlawful or unconstitutional or invalid as applied to any Affiliate, the lawfulness, constitutionality or validity of the remainder of this Agreement shall not be deemed affected thereby.
- 18.04 **Counterparts** – This Agreement and any amendments thereto may be executed in any number of counterparts which taken together constitute a single instrument.
- 18.05 **Entire Agreement** - All the agreements, covenants, representations, and warranties between the Affiliates expressed or implied, oral or written, concerning the subject matter of this Agreement are contained in this Agreement. All prior and contemporaneous conversations, negotiations, agreements, representations, covenants and warranties, concerning the subject matter of this Agreement, are merged into this Agreement.

**ARTICLE XIX.  
NEW AFFILIATES**

- 19.01 The Cooperative may consider applications from potential additional Affiliates under the following conditions:
- (a) A formal application for consideration must be submitted by the potential Affiliate.
  - (b) An application fee may be required after an introductory meeting reviewing the program. This fee is non-refundable and is for the purpose of attending meetings, preparing individualized financial projections, and other administrative matters associated with the consideration of the prospective Affiliate's application.
  - (c) An additional fee may be required should the prospective Affiliate actually become an Affiliate. This fee is for the cost of enrolling and entering the Affiliate's Participants and Beneficiaries into the Claims Administrator "system", benefit booklets, identification cards, introductory meetings and any necessary amendments.
  - (d) The new Affiliate must agree to an initial three (3) year commitment, subject to the continuation of the Cooperative.
- 19.02 Addition of a new Affiliate must be made on a vote of the Board as described in Section 11.03(d).
- 19.03 Approved new Affiliates normally enter the program on June 1 (beginning of Fiscal Year). Entry in to the program at other times may be permitted, the terms and conditions of which to be mutually agreed upon by the New Affiliate and the Cooperative. In its discretion, the Board may allow entry to the program at other times and may impose restrictions, limitations, etc. with respect to such entry.
- 19.04 Within ten (10) days after the effective date of its admission to the Cooperative, a new Affiliate shall deposit in the Account an amount equal to two (2) months of premiums due from such Affiliate as a contribution to the Reserves. This amount shall be returned to the new Affiliate following the end of the first Fiscal Year of participation.

**IN WITNESS WHEREOF**, the Affiliates have caused this Agreement to be executed by their duly authorized officers and their undersigned representatives as of the date above written.

Bannockburn School District 106

By: *John Demond*  
Title: *Superintendent*  
Date: *4/18/2011*

Millburn School District 24

By: *Mary Beth*  
Title: *Business Manager*  
Date: *4/14/11*

Waukegan Public Library

By: *Cynthia Jay*  
Title: *Human Resource Manager*  
Date: *April 14, 2010*

Lake Forest Health and Fitness Center

By: *Linda Sibara*  
Title: *Human Resource Director*  
Date: *14 April 2011*

Cook Memorial Public Library District

By: *Christine P. Papoli*  
Title: *Human Resources Manager*  
Date: *4/14/11*

Bensenville Community Public Library

By: *Jim Rodriguez*  
Title: *Library Director*  
Date: *4/14/11*

**APPENDIX A**  
**LIST OF AFFILIATES AS OF JUNE 1, 2011**

Bannockburn School District 106  
2165 Telegraph Rd.  
Deerfield, IL 60015

Millburn School District 24  
18550 Millburn Rd.  
Wadsworth, IL 60083

Lake Forest Health and Fitness Center  
1200 N. Westmoreland Road  
Lake Forest, IL 60045

Waukegan Public Library  
128 North County Street  
Waukegan, IL 60085

Cook Memorial Public Library District  
413 N. Milwaukee Ave.  
Libertyville, IL 60048

Bensenville Community Public Library  
200 S. Church Rd.  
Bensenville, IL 60106

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**APPENDIX B  
PLAN(S)**

See attached, a copy of the most recent official Plan documentation for each Plan.