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**Private & Confidential**

July 25, 2019

**RECEIVED**

**JUL 29 2019**

**TOWN OF MANLIUS**

Ms. Ann Oot  
Town Manager  
Town of Manlius  
301 Brooklea Dr.  
Fayetteville, NY 13066

**RE: Medicare Part D Service Agreement for Town of Manlius**

Dear Ann:

Enclosed you will find our Medicare Part D Service Agreement that includes details of our Scope of Services and Fee in Appendix A. Appendix B contains the contact information for your engagement team and information about BPAS. Our standard Terms of Engagement are attached.

This agreement will be provided to you on an annual basis. If you would like us to proceed with the engagement, please sign the Service Agreement and approve the fees by initialing Appendix A. Return a signed copy to us; we will not be able to complete our work until we receive this authorization.

We value our relationship with your organization and look forward to continuing to serve you. Please review this information carefully, and if you have any questions please do not hesitate to call me at (315) 703-8905.

Sincerely,

*Monica J. Cecilia*

Monica J. Cecilia, F.S.A., M.A.A.A.  
Vice President  
BPAS Healthcare Consulting Services

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## Solving Tomorrow's Benefit Challenges Today

BPAS Family of Services: Plan Administration & Recordkeeping | TPA Services | Actuarial & Pension Services | VEBA & HRA/HSA Services | Fiduciary Services  
AutoRollovers & MyPlanLoan Services | Healthcare Consulting Services | Hand Benefits & Trust, a BPAS Company | BPAS Trust Company of Puerto Rico

BPAS offices in: Rochester, Syracuse, Utica, & New York, NY | Philadelphia & Pittsburgh, PA | Houston, TX | E. Hanover, NJ | San Juan, PR

# MEDICARE PART D SERVICE AGREEMENT

## Agreement

This Engagement Letter ("Agreement") and the accompanying Terms of Engagement is between Town of Manlius (the "Sponsor") and BPAS Actuarial and Pension Services, LLC ("BPAS").

## Purpose

Town of Manlius sponsors a retiree health plan ("the Plan") and is interested in obtaining an actuarial attestation from BPAS that the Plan's prescription drug benefits for Medicare-eligible retirees are actuarially equivalent to the prescription drug coverage provided under Medicare Part D.

## Standard Services

BPAS will determine whether each prescription drug benefit option for Medicare-eligible retirees and dependents under the Plan is actuarially equivalent to the standard Medicare Part D benefit by satisfying the:

- Gross Value Test (the gross Plan benefit is of equal or greater value than the standard Medicare Part D benefit), and
- Net Value Test (the net value of Plan benefits is equal to or greater than the value of standard Medicare Part D benefits after subtracting required retiree contributions to each plan).

The Sponsor will provide BPAS, as requested in a specified format and timely manner, information regarding the Plan (i.e. plan provisions, plan participants, contributions, claim data, etc.) in order to complete the services outlined herein. The Sponsor will take full responsibility for ensuring that the data provided is reasonable and appropriate. While BPAS will take all necessary steps in compliance with Actuarial Standards of Practice to ensure the reasonableness of the information provided, we will not perform an audit or independent verification of the information.

Town of Manlius' benefit options may be rich enough that BPAS may, within its professional discretion, attest to the actuarial equivalence to the standard Medicare Part D benefit without calculating the Gross Value and Net Value Tests using Plan-specific claim data to support the attestation. BPAS will determine whether to base these calculations on Town of Manlius's actual Medicare-eligible prescription drug claims experience or on normative Medicare-eligible prescription drug claims, consistent with professional actuarial standards of practice and regulations prescribed by the Centers for Medicare and Medicaid Services ("CMS").

BPAS will provide an actuarial attestation signed by a Member of the American Academy of Actuaries for each benefit option that we determine is actuarially equivalent to standard coverage under Medicare Part D. The actuarial attestation will be provided in a form consistent with the requirements of the Center for Medicare and Medicaid Services. BPAS has no responsibility to update the report for events and circumstances occurring after the date of the report.

## Fees for Standard Services

The specific services and associated professional service fees for each of the benefit plans are outlined in Appendix A of this Agreement. This fee quotation is based on the assumption that BPAS will be able to provide the actuarial attestation without performing the gross value and net value tests using Town of Manlius's claim data. The total estimated engagement fee is based on BPAS's understanding of Town of Manlius's prescription

## MEDICARE PART D SERVICE AGREEMENT

drug benefit options. Actual engagement fees will be based upon the actual method required to test for actuarial equivalence, the number of benefit plans, and the number of Medicare-eligible participants (if applicable). If actual fees differ materially from those estimated, BPAS will notify Town of Manlius promptly in writing and obtain their concurrence before proceeding with any services. BPAS will invoice Town of Manlius on a monthly basis as time is incurred in connection with this project and will issue a final invoice for the remaining fee upon completion of the engagement. BPAS's fee estimate does not encompass additional work that Town of Manlius may ask them to complete.

BPAS reserves the right to amend the fee schedule from time to time. The Sponsor will receive prior notification of such changes.

The associated fees in Appendix A for the services outlined are based on the time required to perform the services. With regard to the expected time and our fee, we assume the following:

- Receipt of complete and accurate data in the format requested by the due date required, in order to staff the engagement appropriately and complete the work in the mutually agreed upon timeframe. Please refer to Appendix B for details regarding your BPAS engagement team.
- There will be no changes in any areas, including current law, regulations, accounting standards or plan provisions that would impact our deliverables. If however, there are changes that would impact the scope of our services, we will notify you and get approval for the revised fee before proceeding.

### **Additional Services and Fees**

In the event that additional services that are outside the scope of this engagement letter are requested by Town of Manlius, BPAS shall provide such additional services at the rates outlined in Appendix A of this Agreement, only as and to the extent requested by Town of Manlius or a representative of Town of Manlius. Additional services that are beyond the scope of Standard Services include assistance with Town of Manlius's filing with or responses to audit requests from the Center for Medicare and Medicaid Services, revisions to the Business Associate Agreement, and rework due to inaccurate, incomplete, or revised Plan Information.

By signing below you are authorizing BPAS to perform the professional services outlined in Appendix A and you are agreeing to the associated fee outlined in Appendix A. In addition by signing below you are agreeing to the conditions outlined in this agreement, including those outlined in the attached "Terms of Engagement". Finally, unless noted otherwise below, you are authorizing BPAS to use the Sponsor as a reference (either written or verbal) with respect to the professional services provided.

**MEDICARE PART D SERVICE AGREEMENT**

**Acceptance of Agreement**

We agree with the terms set forth in this Agreement; including the use of the Sponsor as a reference for BPAS unless otherwise noted below:

**BPAS Actuarial and Pension Services, LLC**

<i>Monica J. Cecilia</i>	Vice President	7/25/2019
Signature	Title	Date

**Town of Manlius**



_____	_____	_____
Authorized Representative Signature	Title	Date

\_\_\_\_\_ Initial here if you do NOT want BPAS to use the Sponsor as a reference for this engagement.

**APPENDIX A – FEE SCHEDULE**

**MEDICARE PART D ACTUARIAL ATTESTATION**

Medicare Part D Actuarial Attestation.....\$2,400.

Determination of actuarial equivalency to the standard Medicare Part D benefit of 1 plan by satisfying the:

- Gross Value Test (the gross Plan benefit is of equal or greater value than the standard Medicare Part D benefit), and
- Net Value Test (the net value of Plan benefits is equal to or greater than the value of standard Medicare Part D benefits after subtracting required retiree contributions to each plan).

For services or additional work that is hourly based, our rates range from \$110 to \$500.  
Every attempt will be made to have the work performed at the lowest billing rate possible.

## APPENDIX B

### YOUR ENGAGEMENT TEAM - SYRACUSE OFFICE

Name	Title	Telephone Number	Email Address
Monica J. Cecilia	Vice President	(315) 703-8905	mcecilia@bpas.com

#### About BPAS

BPAS is a national provider of retirement plans, benefit plans, fund administration, and collective investment trusts. We support 3,800 retirement plans, \$77 billion in trust assets, \$1 trillion in fund administration, and more than 450,000 participants. With our breadth of services, we are well positioned to help our clients solve their benefit plan challenges without the need to engage multiple providers. One company. One call.

BPAS family of services includes: Plan Administration & Recordkeeping, Actuarial & Pension, TPA, Fiduciary, Healthcare Consulting, VEBA & HRA/HSA, AutoRollovers & MyPlanLoan, Transfer Agency, Fund Administration, Custody, and Collective Investment Funds.

BPAS subsidiaries include: Hand Benefits & Trust, BPAS Trust Company of Puerto Rico, NRS Trust Product Administration, and Global Trust Company.

Specialty retirement plan administration practices include auto enrollment plans, multiple employer trusts/plans (MET/MEP), plans with employer securities, PR 1081 plans, VEBA/HRA plans, and cash balance plans.

As a solutions-oriented national practice, we are committed to Solving Tomorrow's Benefit Challenges Today.

# Terms of Engagement

## Entire Agreement

These Terms of Engagement and the Service Agreement letter to which they are attached (collectively, the "Agreement") constitute the entire agreement between the client to whom such engagement letter is addressed and any other legal entities referred to therein ("Client" or "you") and BPAS Actuarial and Pension Services, LLC, a New York limited liability company ("BPAS Actuarial and Pension Services," "we" or "us"), regarding the services described in the engagement letter. No modification, variation, amendment or supplement to this Agreement shall be effective for any purpose whatsoever unless reduced to writing and signed by each party.

## Responsibilities of the Client

In circumstances where the Client is a business entity, the Client agrees to identify those individuals authorized to request services from BPAS Actuarial and Pension Services under the terms of this Agreement. Individuals authorized to request services agree to identify the purpose of the services, and identify for whom the services are to be performed (e.g., the corporation, an employee, a director) at the time the services are requested.

A fundamental term of this Agreement is that the Client will provide us with all information relevant to the services to be performed and to provide us with any reasonable assistance as may be required to properly perform the engagement. The Client agrees to bring to our attention any matters that may reasonably be expected to require further consideration to determine the proper treatment of any relevant item. The Client also agrees to bring to our attention any changes in the information as originally presented as soon as such information becomes available. Client acknowledges that it retains all management responsibilities related to judgments and decisions regarding the Client's financial or business matters.

Unless otherwise indicated, any returns, reports, letters, written opinions, memoranda, etc. delivered to the Client as part of the services ("Deliverables") are solely for the Client and are not intended to nor may they be relied upon by any other party (each, a "Third Party").

## Responsibilities of BPAS Actuarial and Pension Services

We will perform our services on the basis of the information you have provided and in consideration of the applicable federal, foreign, state or local tax laws, regulations and associated interpretations relative to the appropriate jurisdiction as of the date the services are provided. Laws and regulations are subject to change at any time, and such changes may be retroactive in effect and may be applicable to advice given or other services rendered before their effective dates. We do not assume responsibility for such changes occurring after the date we have completed our services. Client acknowledges that BPAS Actuarial and Pension Services does not practice law and our services do not constitute legal advice.

Some of the matters on which we may be asked to advise the Client may have implications to other persons or entities. However, we have no responsibility to these persons or entities unless we are specifically engaged to

address these issues to such persons or entities, and we agree to do so in writing.

We will discuss with Client any issues of which we are aware that we believe may subject the Client to penalties and discuss with Client possible courses of action to avoid the imposition of any penalty. We are not responsible for any penalties imposed for positions that have been discussed with Client where we recommended a course of action to avoid penalties and the Client elected not to pursue such course.

BPAS Actuarial and Pension Services is not responsible for any penalties assessed against the Client as the result of the Client's failure to provide us with all the relevant information relative to the issue under consultation. Furthermore, the Client agrees to defend, indemnify and hold BPAS Actuarial and Pension Services harmless for any penalties imposed on BPAS Actuarial and Pension Services or its staff, as the result of the Client's failure to provide such information.

## Electronic Communications

In performing services under this Agreement, BPAS Actuarial and Pension Services and/or Client may wish to communicate electronically either via facsimile, electronic mail or similar methods (collectively, "E-mail"). However, the electronic transmission of information cannot be guaranteed to be secure or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. Unless you notify us otherwise, your acceptance of this Agreement constitutes your consent to use E-mail. All risks related to your business and connected with your use of E-mail are borne by you and are not our responsibility.

Both parties will carry out procedures to protect the integrity of data. In particular, it is the recipient's responsibility to carry out a virus check on any attachments before launching or otherwise using any documents, whether received by E-mail or on disk or otherwise.

## Engagement Limitations

Except as may be specified in this Agreement, we will not audit or otherwise verify the information supplied to us, from whatever source, in connection with this engagement.

As you are aware, tax returns and filings with taxing and regulatory authorities may be subject to audit. We will be available to assist the Client in the event of an audit of any issue for which we have provided services under this Agreement. However, unless otherwise indicated, our fees for these additional services are not included in our fee for the services covered by this Agreement.

We will not be prevented or restricted by anything in this Agreement from providing services for other clients.

We are not responsible for auditing or verifying the work performed by previous service providers and are in no way liable for errors or omissions caused by such service providers.

In the course of our engagement, certain communications between Client and BPAS Actuarial and Pension Services may be subject to a confidentiality privilege. Client recognizes that we may be required to disclose such communications to federal, state and international regulatory bodies; a court in criminal or other civil litigation; or to other Third Parties, including Client's independent auditors, as part of our professional responsibilities. In the event that we receive a request from a Third Party (including a subpoena, summons or discovery demand in litigation) calling for the production of information, we will promptly notify you to the extent we are allowed to disclose the request for information. We agree to cooperate with Client in any effort to assert any privilege with respect to such information, provided Client agrees to hold BPAS Actuarial and Pension Services harmless from and be responsible for any costs and expenses resulting from such assertion.

#### Disassociation or Termination of Engagement

Either party may terminate this Agreement upon written notice to the other party. In the event of termination, Client will be responsible for fees earned and expenses incurred through the date the termination notice is received.

#### Limitation of Liability

All services will be rendered by and under the supervision of qualified staff in accordance with the terms and conditions set forth in this Agreement. BPAS Actuarial and Pension Services makes no other representation or warranty regarding either the services to be provided or any Deliverables; in particular, and without limitation of the foregoing, any express or implied warranties of fitness for a particular purpose, merchantability, warranties arising by custom or usage in the profession, and warranties arising by operation of law are expressly disclaimed.

In no event, unless it has been finally determined by a court of competent jurisdiction that BPAS Actuarial and Pension Services was grossly negligent or acted fraudulently, shall BPAS Actuarial and Pension Services be liable to the Client or any of its officers, directors, employees or shareholders or to any other third party, whether such claim is based in tort, contract or other law for any amount in excess of the total professional fee paid by you to us under this Agreement for the particular service to which such claim relates.

**IN NO EVENT SHALL BPAS ACTUARIAL AND PENSION SERVICES BE LIABLE TO YOU OR ANY THIRD PARTY UNDER OR IN CONNECTION WITH THIS AGREEMENT FOR ANY LOSS OF PROFIT, LOSS OF REVENUE, OR FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, PUNITIVE OR OTHER INDIRECT DAMAGES OF ANY NATURE, OR FOR ANY REASON, INCLUDING WITHOUT LIMITATION, THE BREACH OF THIS AGREEMENT OR ANY EXPIRATION OR TERMINATION OF THIS AGREEMENT, WHETHER SUCH LIABILITY IS ASSERTED ON THE BASIS OF CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**

#### Resolution of Differences

**In the unlikely event that differences concerning this Agreement should arise that are not resolved by mutual agreement, to facilitate judicial resolution and**

**save time and expense of both parties, BPAS Actuarial and Pension Services and the Client agree not to demand a trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement.**

#### Other Provisions

Neither party shall be liable to the other for any delay or failure to perform any of the services or obligations set forth in this Agreement due to causes beyond its reasonable control. All terms and conditions of this Agreement that are intended by their nature to survive termination of this Agreement shall survive termination and remain in full force, including but not limited to the terms and conditions concerning payments, warranties, limitations of liability, indemnities, and resolution of differences. If any provision of this Agreement, including the Limitation of Liability clause, is determined to be invalid under any applicable law, such provision will be applied to the maximum extent permitted by applicable law, and shall automatically be deemed amended in a manner consistent with its objectives to the extent necessary to conform to any limitations required under applicable law.

This Agreement will be governed by the laws of the State of New York. The sole jurisdiction and venue for actions related to the subject matter hereof shall be the state and federal courts sitting in the State of New York.