

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
JUNE 12, 2012 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Contract for Health Plan Consulting	Resolution ✓ Ordinance Motion Discussion Only	Dennis E. Burke Human Resources Director

SYNOPSIS

A resolution has been prepared to authorize a three year contract effective July 1, 2012 with Horton Group of Orland Park, IL for Plan Consulting Services for an amount not to exceed \$38,700 annually.

STRATEGIC PLAN ALIGNMENT

The goals for 2011-2018 include *Steward of Financial and Environmental Sustainability*.

FISCAL IMPACT

The FY12 budget provides \$53,760 for this annual cost within the Health Insurance Fund.

RECOMMENDATION

Approval on the June 12, 2012 Consent Agenda.

BACKGROUND

The Village of Downers Grove contracts with an employee benefit consultant for Village insurance needs related to the Health Insurance Program. Services provided by the consultant include conducting research, providing advice, screening of products and negotiating various insurance products and alternatives. The current consultant's contract expires this year.

In compliance with the Village's purchasing policy, a request for proposal for employee benefit consultant services was published in March 2012. Staff received eleven responses. Staff focused on three components which are important to the Village:

- Competitive quotes for health insurance products,
- A strong wellness program and
- Ability to communicate with Village employees.

Staff recommends The Horton Group be awarded the contract as the Village's Health Insurance Consultant. The Horton Group met all the criteria and has the strongest wellness plan. Staff conducted reference checks on The Horton Group and received positive feedback from other municipalities.

ATTACHMENTS

Resolution

Plan Consultant Agreement

RESOLUTION NO. _____

**A RESOLUTION AUTHORIZING EXECUTION OF A
PLAN CONSULTANT AGREEMENT
BETWEEN THE VILLAGE OF DOWNERS GROVE AND THE HORTON GROUP**

BE IT RESOLVED by the Village Council of the Village of Downers Grove, DuPage County, Illinois, as follows:

1. That the form and substance of a certain Agreement for Professional Services (the “Agreement”), between the Village of Downers Grove (the “Client”) and The Horton Group (“THG”), for certain insurance consultant services, as set forth in the form of the agreement submitted to this meeting with the recommendation of the Village Manager, is hereby approved.

2. That the Mayor and Village Clerk are hereby respectively authorized and directed for and on behalf of the Village to execute, attest, seal and deliver the Agreement, substantially in the form approved in the foregoing paragraph of this Resolution, together with such changes as the Manager shall deem necessary.

3. That the proper officials, agents and employees of the Village are hereby authorized and directed to take such further action as they may deem necessary or appropriate to perform all obligations and commitments of the Village in accordance with the provisions of the Agreement.

4. That all resolutions or parts of resolutions in conflict with the provisions of this Resolution are hereby repealed.

5. That this Resolution shall be in full force and effect from and after its passage as provided by law.

Mayor

Passed:

Attest: _____

Village Clerk

PLAN CONSULTANT AGREEMENT

VILLAGE OF DOWNERS GROVE

This Agreement is made and entered into as of the ____ day of _____, 2012 by and between the Village of Downers Grove, located at 801 Burlington, Downers Grove, IL 60515 (“the Client”) and The Horton Group, located at 10320 Orland Parkway, Orland Park, IL 60467 (“THG”).

WITNESSETH

WHEREAS, the Client has established the Plan for its employees; and

WHEREAS, the Client has requested THG to serve as “Plan Consultant” and to furnish certain services with respect to the Plan; and

WHEREAS, THG is willing to provide such services under the terms and conditions contained in this Agreement; and

WHEREAS, the Standards for Privacy of Individually Identifiable Health Information, as amended from time to time (the “Privacy Rule”) under the Health Insurance Portability and Accountability Act of 1996, as amended from time to time (“HIPAA”) require certain privacy provisions to be implemented because THG may use or disclose “protected health information” (“PHI”) (as defined by the Privacy Rule) while performing services under this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the Client, the Plan and THG agree to the provisions as set forth in this Agreement.

ARTICLE 1.

DEFINITIONS

- 1.1. The “Plan” means, except as described in Section 4.1 below, the following Plan benefits: the Village of Downers Grove Employee Benefit Plans (Medical, Dental, Vision, Group Life/ADD, Group LTD, Section 125 Flexible Spending, Employee Assistance Program).

ARTICLE 2.

EFFECTIVE DATE

- 2.1. The effective date of this Agreement is July 1, 2012, and shall continue through June 30, 2015, subject to the termination provisions contained in this Agreement (“Term”).

ARTICLE 3.

THG RESPONSIBILITIES

- 3.1. Under the direction of the Client’s Insurance Committee, THG will represent the best interests of the Client in relationship with Reinsurance Carriers, the Third Party Claim Administrator, PPO and Medical Case Management Personnel, Psychological and Substance Abuse Management Personnel, Prescription Drug Vendors, Wellness and providers of other services. THG’s Scope of Services shall also include those listed on Exhibit A attached hereto and incorporated herein.
- 3.2. As part of this service, THG will assist in collecting data and facts necessary for Client to review claim appeals should an insured not agree with the decisions of the Third Party Claim

Administrator. THG's services do not include evaluation of the merits of a claim or appeal or analysis of whether the Third Party Claim Administrator complied with the required claims procedures.

- 3.3. THG shall assume responsibility for assuring that the Third Party Claim Administrator will
 - a. Enter into a contract with the "Client" setting forth the terms of services and compensation.
 - b. Analyze, adjust and coordinate claim payments with doctors, hospitals and other providers of services to determine that the charges made are eligible under the terms of the Plan.
 - c. Furnish claim worksheets documenting the payment of benefits and coordinating benefits when other plans are involved.
 - d. Maintain and distribute summaries of paid benefits and checks issued.
 - e. Provide certification of participant's eligibility when required by Plan specifications and provide information concerning the Plan to all providers and participants.

In addition, THG will review large claims to assure proper handling, case management and liaison with stop loss carriers.

- 3.4. THG shall communicate with carriers regarding claims, coverages and other matters and secure in a timely manner "best efforts" stop loss quotations from insurance carriers on a net (no commission to THG) basis and provide a summary report of results to the Client with recommendations for adoption.
- 3.5. When requested in writing, THG shall assist the Client in securing bids for Third Party Claim Administrator services.
- 3.6. THG shall be responsible for preparing annual premium projections to be used as a guideline for determining premium levels for employees and dependents, designed to meet all annual expenses.
- 3.7. THG shall periodically, but each year not less than 90 days before the end of the Client's fiscal year, review the Plan document and provide recommendations designed to meet current legislation, adjust to changing needs, take advantage of cost containment possibilities, revise exclusions, encourage wellness and recognize new medical developments.
- 3.8. Michael Wojcik or a representative from THG will attend all scheduled meetings and participate in the programs as requested.
- 3.9. THG will attend and participate in communication meetings with employees as requested by the Client.

- 3.10. THG will comply with all provisions of the Plan document and any rules and regulations of the Client affecting the services under this Agreement which are communicated to THG in writing by the Client.
- 3.11. THG will comply with all local, state, and federal laws and regulations applicable to THG in providing the services under this Agreement.
- 3.12. THG will be available for consultation with any covered participant regarding benefits or questions they may have.
- 3.13. THG shall disclose to the Client any income or commissions which are earned by excess and surplus line brokers, wholesalers, re-insurance intermediates, underwriting managers or other parties providing services to the Client which are recommended by THG and in which THG, or corporate parent or subsidiary of that company, has an ownership interest in an amount greater than 5%.

ARTICLE 4.

HIPAA PRIVACY COMPLIANCE

- 4.1. For purposes of this Article 4, the Plan benefits subject to this Agreement shall include: the Village of Downers Grove Employee Benefit Plans (Medical, Dental, Vision, Group LTD).
- 4.2. THG may use or disclose PHI as follows
 - a. THG shall disclose PHI only to those Client employees designated by the Plan or the Client as responsible for the Plan's administrative functions (a list of such employees is attached as Exhibit B). The provisions of this Article 4 apply to the PHI of current, prospective, and former Plan participants (the "Participants") to the extent THG uses or discloses such PHI.
 - b. THG may use or disclose PHI in connection with the services set forth in Article 4 of this Agreement, if such use or disclosure would not violate the Privacy Rule if done by the Plan.
 - c. THG may use or disclose PHI for THG's management and administration, if the use or disclosure is
 1. Required by law; or
 2. THG obtains reasonable assurances from the recipient that the PHI disclosed will be protected as follows
 - i. The recipient agrees to keep the PHI confidential and use or further disclose the PHI only as required by law or for the purpose for which it was disclosed to the recipient.
 - ii. The recipient agrees to notify THG when the recipient becomes aware that the confidentiality of the PHI has been breached.

- d. THG may use PHI to provide data aggregation services to the Plan as permitted by the Privacy Rule.

4.3. To the extent THG uses or discloses PHI to or on behalf of the Plan, THG agrees to

- a. Not use or disclose PHI other than as permitted or required by this Agreement or as required by the Privacy Rule or other federal or state law.
- b. Use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement.
- c. Report to the Plan any use or disclosure of PHI which violates this Agreement when THG becomes aware of such violation.
- d. Ensure that its agents and subcontractors who are given Plan PHI agree to the same restrictions and conditions under this Agreement which apply to THG.
- e. Unless expressly stated otherwise in a written agreement, THG, the Plan and the Client do not intend for THG to maintain PHI in a file (a "designated record set" under the Privacy Rule). If a written agreement does require THG to maintain PHI in a file, THG will, at the request of the Plan or a Participant
 - 1. Make PHI available to the Plan for purposes of Participant access, amendment and accountings of disclosures in accordance with the Privacy Rule.
 - 2. Make such amendment(s) to PHI maintained by THG as the Plan directs or agrees to pursuant to the Privacy Rule.
- f. Upon reasonable notice, make internal practices, books, and records, relating to the use and disclosure of Plan PHI available to the Secretary of the Department of Health and Human Services for purposes of determining the Plan's compliance with the Privacy Rule.
- g. Document such disclosures of PHI and information related to such disclosures as would be required for the Plan to respond to a request by Participant for an accounting of disclosures of PHI in accordance with the Privacy Rule and make this documentation available to the Plan or, as directed by the Plan, to Participant in order to meet the requirements of the Privacy Rule.

4.4. The Plan agrees to

- a. Inform THG of Plan policies and procedures governing the use and disclosure of PHI to the extent necessary for THG to perform its obligations under this Agreement. THG will have a reasonable time to act on these changes.
- b. Notify THG of any changes in, or revocation of, permission given by the Participant to the Plan to use or disclose PHI, to the extent that such changes may affect THG's use or disclosure of PHI.

- c. Notify THG, prior to acceptance by the Plan, of any restriction on the use or disclosure of PHI made in accordance with the Privacy Rule so that THG can determine whether it is infeasible to comply with such restriction. Once agreed to, THG shall have a reasonable period of time to act on such notice.
- d. Represent and warrant to THG that the Plan will not disclose any PHI to THG unless the Plan has obtained any consents and authorizations that may be required by law or are otherwise necessary for such disclosure.
- e. Warrant that it shall not request THG to use or disclose PHI in any manner that would not be permissible under applicable law if done by the Plan.

ARTICLE 5.

CLIENT LIABILITY AND INDEMNIFICATION

- 5.1. THG does not insure nor underwrite the liability of the Client under this Plan. The Client retains the ultimate responsibility for claims made pursuant to the Plan. The Client is responsible for all expenses incident to the Plan except those specifically assumed by THG in this Agreement.
- 5.2. Plan and all members of its workforce (together, the "Plan Indemnitors") and Client, its respective directors, officers, subcontractors, agents or other members of its workforce (together, the "Client Indemnitors"), agree to indemnify, defend and hold harmless THG, its respective directors, officers, subcontractors, agents or other members of its workforce (together, the "Vendor Indemnitees"), against any and all claims, demands, losses, costs, expenses, obligations, liabilities, actions, suits, damages and deficiencies (including, without limitation, all costs and reasonable attorneys' fees) that arise out of or are proximately caused by:
 - a. Plan Indemnitors' or Client Indemnitors' breach of this Agreement, including, without limitation, the failure of Plan Indemnitors or Client Indemnitors to perform their obligations with respect to PHI, or by any use or disclosure of PHI by Plan Indemnitors or Client Indemnitors that is not permitted under this Agreement; or
 - b. Plan Indemnitors' or Client Indemnitors' breach of any warranty hereunder or any negligence or wrongful acts or omissions, including failure to perform its obligations under the Privacy Regulations, by Plan Indemnitors or Client Indemnitors or their directors, officers, subcontractors, agents or other members of their workforce.

Accordingly, on demand, Plan Indemnitors or Client Indemnitors shall reimburse any Vendor Indemnitees for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including, without limitation, all costs and reasonable attorneys' fees), which may for any reason be imposed upon any Vendor Indemnitees by reason of any suit, claim, action, proceeding or demand by any third party which results from or is proximately caused by Plan Indemnitors' or Client Indemnitors' breach hereunder. THG shall provide prompt written notice of, and information and assistance (at Plan Indemnitors' or Client Indemnitors' expense), as reasonably requested by Client, in the defense of such claim, suit or proceeding.

ARTICLE 6.
THG LIABILITY

- 6.1. THG, its respective directors, officers, subcontractors, agents or other members of its workforce (together, the "Vendor Indemnitors"), agree to indemnify, defend and hold harmless Plan and all members of its workforce (together, the "Plan Indemnitees") and Client and Client's respective directors, officers, subcontractors, agents or other members of its workforce (together, the "Client Indemnitees"), against any and all claims, demands, losses, costs, expenses, obligations, liabilities, actions, suits, damages and deficiencies (including, without limitation, all costs and reasonable attorneys' fees) that arise out of or are proximately caused by:
- a. Vendor Indemnitors' breach of this Agreement, including, without limitation, the failure of Vendor Indemnitors to perform their obligations with respect to PHI, or by any use or disclosure of PHI by Vendor Indemnitors that is not permitted under this Agreement; or
 - b. Vendor Indemnitors' breach of any warranty hereunder or any gross negligence or wrongful acts or omissions, including failure to perform its obligations under the Privacy Regulations.

Accordingly, Vendor Indemnitors shall reimburse any Plan Indemnitees or Client Indemnitees for any and all actual and direct losses, liabilities, fines, penalties, costs or expenses (including, without limitation, all costs and reasonable attorneys' fees), which may for any reason be imposed upon any Plan Indemnitees or Client Indemnitees by reason of any suit, claim, action, proceeding or demand by any third party which results from or is proximately caused by Vendor Indemnitors' material breach hereunder. Plan shall provide prompt written notice of, and information and assistance (at Vendor Indemnitors' expense), as reasonably requested by THG, in the defense of such claim, suit or proceeding.

- 6.2. THG will use reasonable care and due diligence in the exercise of its powers in performance of its duties under this Agreement.
- 6.3. THG shall purchase and maintain an insurance policy for general and professional liability coverage for no less than \$2,000,000 per claim, \$2,000,000 per incident. THG will provide the Client with copy of said policies upon request.

ARTICLE 7.
RECORDS

- 7.1. THG agrees that all books, records, lists of names and other documents and information developed in connection with the Plan is and shall remain the property of the Client. THG shall store and administer the records in accordance with the requirements of the HIPAA Privacy Rules and the Client's rules and regulations and shall keep all such records confidential.

**ARTICLE 8.
COMPENSATION OF THG**

- 8.1. For THG services provided pursuant to the Agreement for the period of July 1, 2012 through June 30, 2015, the Client will pay \$3,225.00 per month to THG, which represents \$38,700.00 annually. The fee is in lieu of standard agent commissions normally paid to THG by the insurance carriers involved. Any standard agent commissions received by THG shall be credited by Horton against past due and future installments of the fee. The fee structure by service category is illustrated in the Fee-Based Pricing Proposal attached hereto as Exhibit A.
- 8.2. THG may receive additional compensation from the insurance companies, in the forms of, including but not limited to, contingent commission or bonus commission. Upon request, THG will disclose all compensation amounts as well as any other contingent, bonus or other similar agreements that may be in place.

**ARTICLE 9.
AMENDMENT**

- 9.1. This Agreement may be amended or modified only by a written agreement, which shall be attached to and become a part of this Agreement. The written amendment must be signed by THG, the Client, and, if the amendment affects the terms of Article 4 of this Agreement or the Plan's obligations under the Privacy Rule, the Plan.

**ARTICLE 10.
TERMINATION**

- 10.1. Except as provided in Section 10.3, this Agreement may be terminated by either party upon 60 days written notice.
- 10.2. Except as provided in Section 10.3, this Agreement will terminate automatically and immediately on June 30, 2015 or as of the date the Plan or all of the Plan benefits subject to this Agreement are terminated.
- 10.3. This Agreement may be terminated by the Plan, the Client or THG upon thirty (30) days notice for what it reasonably believes to be a material breach of the terms of Article 4 of this Agreement if such breach is not substantially cured within such time. This cure period shall start upon receipt by the breaching party of written notice indicating the reasons the non-breaching party believes Article 4 of the Agreement has been breached and describing the alleged breach in sufficient detail to enable the breaching party to make its own assessment of whether a material breach has occurred. When the Agreement terminates, THG (and its agents and subcontractors) shall return or destroy all PHI received from the Plan, or created or received by THG on behalf of the Plan within a reasonable time. THG shall not retain any copies of the PHI. If, however, return or destruction of the PHI is not feasible, THG shall notify the Client of this and extend the protections of this Agreement to the PHI retained and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as THG maintains such PHI. Feasibility will be determined based on the document retention policy developed by THG.

**ARTICLE 11.
MISCELLANEOUS**

- 11.1. The Client hires THG as an independent contractor and neither THG nor any of its employees are employees of the Client.
- 11.2. THG shall not assign this Agreement in whole or in part, nor subcontract any of the services requested to be performed hereunder without prior written approval of the Client.
- 11.3. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the parties and the respective successors or assigns of the parties, any rights, remedies, obligations or liabilities whatsoever.
- 11.4. All notices required or desired in connection with this Agreement shall be sufficient, if given by mail addressed to the party receiving the notice at the address designated herein or at such other address as may be agreed to in writing by the parties.
- 11.5. All ambiguities in this Agreement first shall be resolved to permit the Client and the Plan to comply with HIPAA and the Privacy Rule and then interpreted and construed according to the laws of the State of Illinois.

IN WITNESS WHEREOF, the Village of Downers Grove, The Horton Group and the Plan have caused this Agreement to be executed by their undersigned representatives.

M. L. E. W. [Signature]
(Signature of THG Agent)

Title: Plan Consultant

The Horton Group
10320 Orland Parkway
Orland Park, IL 60467

Date: 6-2-12

(Signature of Authorized Client Representative)

Title: Mayor

Village of Downers Grove
801 Burlington
Downers Grove, IL 60515

Date: _____

(Signature of Plan Privacy Official or other representative)

Title: Director of Human Resources

Village of Downers Grove
801 Burlington
Downers Grove, IL 60515

Date: _____



Employee Benefits Consulting Pricing and Scope of Services

General Services	Fee Pricing
<p>Human Resource; Employee Communications; Compliance: Financial Analytics; Worksite Wellness: Annual Service Schedule</p> <p><i>Lines of Coverage: Medical, Dental, Life, AD&D, Section 125 Flexible Spending, Employee Assistance Program, Long Term Disability (LTD) and Vision.</i></p>	<p><i>\$3,225 per month paid monthly in lieu of standard agent commission Guaranteed for 3 years.</i></p>
Human Resource	Included
<p><u>Employee Communication:</u></p> <p>Onsite or Webcast Open Enrollment Meetings</p> <ul style="list-style-type: none"> • Custom PowerPoint Presentations for Open Enrollment • Voiceover PowerPoint Presentation for Open Enrollment <p>Employee Benefit Portal/ Website</p> <ul style="list-style-type: none"> • An easy way to provide information to your employees • This Portal is a complete employee communication system that helps you streamline processes, and improve communication • Online Enrollment Capabilities (available with ongoing eligibility 24/7/365 – separate vendor fee) • Carrier Resources and Tools • HR Forms and Tools • Employee Benefit Learning Center • Employee Handbook and Policies <p>Custom Employee Compensation Benefit Statement Designated Horton Employee Claims Assistant / Advocate</p>	

<p><u>Employer Services:</u></p> <p>Employee Handbook & Policy Development HR Benefits Portal</p> <ul style="list-style-type: none"> • HR-related articles • Access to a community of HR Professionals <p>Claims, Billing, Eligibility Assistance Benefit Education and Communication</p> <ul style="list-style-type: none"> • Benefit Alerts • Compliance – Legislative Alerts • Horton Health Initiatives Newsletter <p>Horton Learning Center–</p> <ul style="list-style-type: none"> • Train the Trainer Seminars • Employee Focused “Know Your Benefits” and “Consumerism” Education • Retirement Education <p>Compliance Support</p>	
<p>Compliance</p>	<p>Included</p>
<p>Health Care Reform News and Compliance Plan Document and Group Policy/SPD/Certificate Review State and Federal Legislative Briefings</p> <ul style="list-style-type: none"> • COBRA • FMLA • HIPAA • HIPAA Privacy • ADA • Section 125 • Medicare Part D • CHIPRA <p>Agency Engagement in Health Care Legislation on State and Federal Level Attorney on Staff, Benefits Law Firm on Retainer</p>	
<p>Financial Analytics</p>	<p>Included</p>
<p>Initial Assessment – Plan Strategy Develop a strategic plan that defines objectives and outlines the actions needed to fulfill those objectives (to the degree data is available).</p> <ul style="list-style-type: none"> • Benefit Plan Strategy • Financial Benchmarking <p>Quarterly Online Communication – Horton Analytics – Quarterly Financial Snapshot</p> <ul style="list-style-type: none"> • How your plan is performing vs. industry benchmarks • Market insight / strategies used by like organizations <p>Mid-Year Performance Analysis</p> <ul style="list-style-type: none"> • Executive Summary Report • Horton Stewardship Report • Carrier Reporting • Medical Diagnostic Categories • Wellness Screening Forecasts 	

<ul style="list-style-type: none"> • Rx Condition Awareness, Plan Performance and Innovations • Provider Network Performance • Horton Health Initiatives Integration Report • Utilization Containment Strategies • Employee/Employer Contribution Analysis and Modeling • Pre-renewal Forecasting and Suggested Plan Models <p>Additional Analysis and Renewal Process</p> <ul style="list-style-type: none"> • "Shock Claim" Notification • Monthly Aggregate Reporting (self-funded cases through TPA or Carrier) • Prepare Renewal Specifications • Seek Quotes to Analyze and Compare Market • Retiree Carve Out Analysis • PBM Carve Out Analysis (depending on data availability) • Negotiate Pricing with Carriers/Vendors • Make Recommendations for renewal (plan design, contributions, product, carrier, network) 	
<p>Horton Health Initiatives Services</p>	<p>Included</p>
<p>Initial Workplace Wellness Assessment</p> <p>Implementing The Fundamentals</p> <ul style="list-style-type: none"> • Health Assessment • Health Management Education • Engage Activities • Develop Incentives and Rewards <p>Define Additional Objectives & By-laws</p> <ul style="list-style-type: none"> • Three Year Plan Timeline • Incentive Contribution Modeling • Organize and Initiate Wellness Committee • Wellness Fair Coordination • Health Improvement Incentive Options <p>Additional Health and Wellness Related – Outside Vendor Costs</p> <ul style="list-style-type: none"> • Biometric Screening (these costs vary by participation but may be paid by the plan) • Flu Shots (these costs vary by participation but may be paid by the plan) • Stroke Screening • BMI / Tanita Scale Readings • Learn at Lunch Seminars • Health Coaching • Nurse Hot Line • Doctor On Site 	

Exhibit B

The Plan and the Client hereby designate the following employees as responsible for the Plan's administrative functions who are permitted to use and disclose PHI:

Village Manager

Village Attorney

Privacy Officer

Benefits Coordinator

Risk Manager

Staff Attorney

Secretary, HR

Ken Olson

Michael Wojcik

Kevin Herman

Chris Reed

Rutnanne Trubich

Cheryl Koski

Bonnie Cochran

Tina Jenkins

Beth Ponstein

Stephanie Phillips

Pam Bender

Michelle McPhail

Lisette Hansen

**ADDENDUM TO THE PLAN CONSULTANT AGREEMENT BETWEEN
THE VILLAGE OF DOWNERS GROVE AND THE HORTON GROUP**

The following terms shall apply to the Plan Consultant Agreement the Village of Downers Grove ("Village") and The Horton Group ("Consultant"):

A. USE OF VILLAGE'S NAME

The Consultant is specifically denied the right of using in any form or medium the name of the Village for public advertising unless express permission is granted by the Village.

B. CAMPAIGN DISCLOSURE

Consultant shall execute the Campaign Disclosure Certificate, attached hereto as Exhibit A.

The Campaign Disclosure Certificate is required pursuant to the Village of Downers Grove Council Policy on Ethical Standards and is applicable to those campaign contributions made to any member of the Village Council.

Said Campaign Disclosure Certificate requires any individual or entity entering into an agreement to disclose campaign contributions, as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4), made to current members of the Village Council within the five (5) year period preceding the date of the agreement.

By signing the agreement, Consultant agrees to refrain from making any campaign contributions as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4) to any Village Council member and any challengers seeking to serve as a member of the Downers Grove Village Council.

C. VILLAGE ORDINANCES

The Consultant will strictly comply with all ordinances of the Village of Downers Grove and laws of the State of Illinois

D. INSURANCE REQUIREMENTS

The Consultant shall be required to obtain, from a company or companies lawfully authorized to do business in the jurisdiction in which the project is located, such general liability insurance which, at a minimum, will protect the Consultant from the types of claims set forth below which may arise out of or result from the Consultant's operations under this Contract and for which the Consultant may legally liable:

- Claims under workers compensation, disability benefit and other similar employee benefit acts which are applicable to the operation to be performed;
- Claims for damages resulting from bodily injury, occupational sickness or disease, or death of the Consultant's employees;
- Claims for damages resulting from bodily injury, sickness or disease, or death of any

person other than the Consultant's employees;

- Claims for damages insured by the usual personal injury liability coverage which are sustained: (1) by a person as a result of an offense directly or indirectly related to employment of such person by the Consultant, or (2) by another person;
- Claims for damages, other than to the work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- Claims for damages as a result of professional or any other type of negligent action by the Consultant or failure to properly perform services under the scope of the agreement between the Consultant and the Village.

The Consultant shall demonstrate having insurance coverage for a minimum of \$2 million for professional liability (errors and omissions).

As evidence of said coverages, Consultant shall provide the Village with certificates of insurance and include a provision for cancellation only upon at least 30 days prior notice to the Village.

E. PATRIOT ACT COMPLIANCE

The Consultant represents and warrants to the Village that neither it nor any of its principals, shareholders, members, partners, or affiliates, as applicable, is a person or entity named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of a Specially Designated National and Blocked Person. The Consultant further represents and warrants to the Village that the Consultant and its principals, shareholders, members, partners, or affiliates, as applicable are not, directly or indirectly, engaged in, and are not facilitating, the transactions contemplated by this Agreement on behalf of any person or entity named as a Specially Designated National and Blocked Person. The Consultant hereby agrees to defend, indemnify and hold harmless the Village, and its elected or appointed officers, employees, agents, representatives, engineers and attorneys, from and against any and all claims, damages, losses, risks, liabilities and expenses (including reasonable attorney's fees and costs) arising from or related to any breach of the foregoing representations and warranties.

F. NONDISCRIMINATION

Consultant shall, as a party to a public contract:

- (a) Refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;
- (b) The Consultant certifies that it is an "equal opportunity employer" as defined by

Section 2000(e) of Chapter 21, Title 42, U.S. Code Annotated and Executive Orders #11246 and #11375, which are incorporated herein by reference. The Equal Opportunity clause, Section 6.1 of the Rules and Regulations of the Department of Human Rights of the State of Illinois, is a material part of any contract awarded on the basis of this proposal.

It is unlawful to discriminate on the basis of race, color, sex, national origin, ancestry, age, marital status, physical or mental handicap or unfavorable discharge for military service. Consultant shall comply with standards set forth in Title VII of the Civil Rights Act of 1964, 42 U.S.C. Secs. 2000 et seq., The Human Rights Act of the State of Illinois, 775 ILCS 5/1-101 et. seq., and The Americans With Disabilities Act, 42 U.S.C. Secs. 12101 et. seq.

G. SEXUAL HARASSMENT POLICY

The Consultant, as a party to a public contract, shall have a written sexual harassment policy that:

- 14.1.1 Notes the illegality of sexual harassment;
- 14.1.2 Sets forth the State law definition of sexual harassment;
- 14.1.3 Describes sexual harassment utilizing examples;
- 14.1.4 Describes the Consultant's internal complaint process including penalties;
- 14.1.5 Describes the legal recourse, investigative and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and how to contact these entities; and
- 14.1.6 Describes the protection against retaliation afforded under the Illinois Human Rights Act.

H. EQUAL EMPLOYMENT OPPORTUNITY

In the event of the Consultant's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act or the Rules and Regulations of the Illinois Department of Human Rights ("Department"), the Consultant may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the Contract may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this Contract, the Consultant agrees as follows:

That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, sexual orientation, sexual identity or an unfavorable discharge from military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.

That, if it hires additional employees in order to perform this Contract or any portion thereof, it will determine the availability (in accordance with the

Department's Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.

That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military services.

That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Consultant's obligations under the Illinois Human Rights Act and the Department's Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the Consultant in its efforts to comply with such Act and Rules and Regulations, the Consultant will promptly so notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.

That it will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules and Regulations.

That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purpose of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations.

That it will include verbatim or by reference the provisions of this clause in every subcontract it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this contract, the Consultant will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply therewith. In addition, the Consultant will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivision or municipal corporations.

I. DRUG & ALCOHOL POLICY

The Consultant is committed to providing a safe, healthy and productive work environment for all employees, free of alcohol and drug use. The Consultant recognizes

that alcohol, drug and other substance abuse by employees can impair their ability to perform work properly and cause unsafe working conditions for those around them. The Consultant strictly prohibits the use, possession, distribution, or sale of illicit or unprescribed controlled drugs on company business or premises. Unauthorized possession, use, distribution, or sale of alcoholic beverages on company premises is not allowed. Violators will be subject to disciplinary action up to and including termination.

The Consultant recognizes that alcohol and drug dependency is a treatable condition. Employees who suspect they have an alcohol or drug dependency are encouraged to contact the Consultant's Employee Assistance Program (EAP) or seek other professional advice and follow appropriate treatment before it results in job performance issues.

J. STANDARD OF CARE

Services performed by The Consultant under this Contract will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representations express or implied, and no warranty or guarantee is included or intended in this Contract, or in any report, opinions, and documents or otherwise.

If the Consultant fails to meet the foregoing standard, Consultant will perform at its own cost, and without reimbursement from the Village, the professional services necessary to correct errors and omissions caused by Consultant's failure to comply with the above standard and reported to Consultant within one (1) year from the completion of Consultant's services for the Project.

K. GOVERNING LAW

This Contract will be governed by and construed in accordance with the laws of the State of Illinois without regard for the conflict of laws provisions. Venue is proper only in the County of DuPage or the Northern District of Illinois.

L. NOT TO EXCEED CONTRACT

The contract price is a "not-to-exceed" cost. At any time additional work is necessary or requested, and the not-to-exceed price is increased thereby, any change, addition or price increase must be agreed to in writing by all parties who have executed the Contract.

M. SEVERABILITY OF INVALID PROVISIONS

If any provisions of this Contract are held to contravene or be invalid under the laws of any state, country or jurisdiction, contravention will not invalidate the entire Contract, but it will be construed as if not containing the invalid provision and the rights or obligations of the parties will be construed and enforced accordingly.

N. COOPERATION WITH FOIA COMPLIANCE

Consultant acknowledges that the Freedom of Information Act may apply to public records in possession of the Consultant or a subcontractor. Consultant and all of its subcontractors shall cooperate with the Village in its efforts to comply with the Freedom of Information Act. (5 ILCS 140/1 et.seq.)

CONSULTANT:

The Horton Group, Inc.
Company Name

Date: 6/8/12

10320 Orland Parkway
Street Address of Company

Mike.wojcik@thehortongroup.com
Email Address


Orland Park, IL 60467
City, State, Zip

Mike Wojcik
Contact Name (Print)

708-845-3000
Business Phone

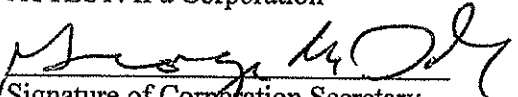
708-650-1557
24-Hour Telephone

708-845-3001
Fax


Signature of Officer, Partner or
Sole Proprietor

Kevin Palmer - V.P.
Print Name & Title

ATTEST: If a Corporation


Signature of Corporation Secretary

VILLAGE OF DOWNERS GROVE:

Authorized Signature

ATTEST:

Title

Signature of Village Clerk

Date

Date

Campaign Disclosure Certificate

Any contractor, proposer, bidder or vendor who responds by submitting a bid or proposal to the Village of Downers Grove shall be required to submit with its bid submission, an executed Campaign Disclosure Certificate.

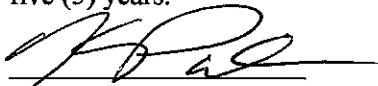
The Campaign Disclosure Certificate is required pursuant to the Village of Downers Grove Council Policy on Ethical Standards and is applicable to those campaign contributions made to any member of the Village Council.

Said Campaign Disclosure Certificate requires any individual or entity bidding to disclose campaign contributions, as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4), made to current members of the Village Council within the five (5) year period preceding the date of the bid or proposal release.

By signing the bid or proposal documents, contractor/proposer/bidder/vendor agrees to refrain from making any campaign contributions as defined in Section 9-1.4 of the Election Code (10 ILCS 5/9-1.4) to any Village Council member and any challengers seeking to serve as a member of the Downers Grove Village Council.

Under penalty of perjury, I declare:

Proposer/vendor has not contributed to any elected Village position within the last five (5) years.


Signature

Kevin Palmer
Print Name

Proposer/vendor has contributed a campaign contribution to a current member of the Village Council within the last five (5) years.

Print the following information:

Name of Contributor: _____
(company or individual)

To whom contribution was made: _____

Year contribution made: _____ Amount: \$ _____

Signature

Print Name

PROPOSER'S CERTIFICATION (page 1 of 3)

With regard to Employee Benefits Consultant RFP-0-20-2012/TT, Proposer The Horton Group,
(Name of Project) (Name of Proposer)
hereby certifies the following:

1. Proposer is not barred from bidding this Contract as a result of violations of Section 720 ILCS 5/33E-3 (Bid Rigging) or 720 ILCS 5/33E-4 (Bid-Rotating);
2. Proposer certifies that it has a written sexual harassment policy in place and is in full compliance with 775 ILCS 5/2-105(A)(4);
3. Proposer certifies that it is in full compliance with the Federal Highway Administrative Rules on Controlled Substances and Alcohol Use and Testing, 49 C. F.R. Parts 40 and 382 and that all employee drivers are currently participating in a drug and alcohol testing program pursuant to the Rules.
4. Proposer further certifies that it is not delinquent in the payment of any tax administered by the Department of Revenue, or that Proposer is contesting its liability for the tax delinquency or the amount of a tax delinquency in accordance with the procedures established by the appropriate Revenue Act. Proposer further certifies that if it owes any tax payment(s) to the Department of Revenue, Proposer has entered into an agreement with the Department of Revenue for the payment of all such taxes that are due, and Proposer is in compliance with the agreement.

BY: 
Proposer's Authorized Agent


3	6	-	3	6	7	2	1	7	1
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FEDERAL TAXPAYER IDENTIFICATION NUMBER

or _____
Social Security Number



Subscribed and sworn to before me
this 13th day of April, 2012.


Notary Public

PROPOSER'S CERTIFICATION (page 2 of 3)

(Fill Out Applicable Paragraph Below)

(a) Corporation

The Proposer is a corporation organized and existing under the laws of the State of Illinois, which operates under the Legal name of The Horton Group, Inc., and the full names of its Officers are as follows:

President: Steven J. Topel

Secretary: Kevin Palmer

Treasurer: James Farmer

and it does have a corporate seal. (In the event that this Proposal is executed by other than the President, attach hereto a certified copy of that section of Corporate By-Laws or other authorization by the Corporation which permits the person to execute the offer for the corporation.)

(b) Partnership

Signatures and Addresses of All Members of Partnership:

The partnership does business under the legal name of: _____ which name is registered with the office of _____ in the State of _____.

(c) Sole Proprietor

The Proposer is a Sole Proprietor whose full name is: _____ and if operating under a trade name, said trade name is: _____ which name is registered with the office of _____ in the State of _____.

5. Are you willing to comply with the Village's preceding insurance requirements within 13 days of the award of the contract? Yes

Insurer's Name The Hartford

Agent The Horton Group, Inc.

Street Address 10320 Orland Parkway

PROPOSER'S CERTIFICATION (page 3 of 3)

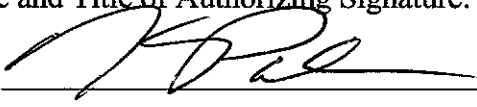
City, State, Zip Code Orland Park, IL 60467

Telephone Number 708-845-3000

I/We affirm that the above certifications are true and accurate and that I/we have read and understand them.

Print Name of Company: The Horton Group, Inc.

Print Name and Title of Authorizing Signature: Kevin Palmer, Vice President & Secretary

Signature:  _____

Date: April 13, 2012

Suspension or Debarment Certificate

Non-Federal entities are prohibited from contracting with or making sub-awards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement for goods or services equal to or in excess of \$100,000.00. Contractors receiving individual awards for \$100,000.00 or more and all sub-recipients must certify that the organization and its principals are not suspended or debarred.

By submitting this offer and signing this certificate, the Proposer certifies to the best of its knowledge and belief, that the company and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal, state or local governmental entity, department or agency;
2. Have not within a three-year period preceding this Proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, or convicted of or had a civil judgment against them for a violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal/contract had one or more public transactions (Federal, State or local) terminated for cause or default.

If the Proposer is unable to certify to any of the statements in this certification, Proposer shall attach an explanation to this certification.

Company Name: The Horton Group, Inc.

Address: 10320 Orland Parkway

City: Orland Park Zip Code: 60467

Telephone: (708) 845-3000 Fax Number: (708) 845-3001

E-mail Address: kevin.palmer@thehortongroup.com

Authorized Company Signature: _____



(Print)Name: Kevin Palmer Title of Official: Vice President & Secretary

Date: April 13, 2012