



COMMISSIONERS COURT
COMMUNICATION

COURT ORDER NUMBER _____
PAGE 1 OF 5
DATE: 12/17/2024

**SUBJECT: CONSIDERATION OF A HEALTH SAVINGS ACCOUNT FUND
TRANSFER AGREEMENT WITH OPTUM BANK**

***** CONSENT AGENDA *****

COMMISSIONERS COURT ACTION REQUESTED

It is requested that the Commissioners Court consider a Health Savings Account (HSA) Transfer Agreement with Optum Bank to facilitate the bulk transfer of funds for eligible employees who are interested in moving HSA funds from Optum Bank to Health Equity in 2025.

BACKGROUND

Tarrant County is changing Health Savings Account (HSA) vendors effective January 1, 2025. Optum Bank is the current plan year 2024 vendor, and Health Equity is the new plan year 2025 vendor. Employees who enrolled in the HDP plan and who are eligible to contribute to an HSA in plan year 2025 will have the option of Health Equity and Optum Bank coordinating a bulk transfer of their current HSA funds. The details of this plan were approved by the Commissioners Court on November 12, 2024, through Court Order #144155. The attached agreement outlines Optum Bank's responsibility to close HSAs and electronically transfer HSA funds to Health Equity as explicitly agreed to by the employees outlined above.

An up-front fee of \$20 per account must be paid to Optum Bank by March 12, 2025, before the bulk transfer occurs, and the turnaround time to pay the invoice could be ten (10) days or less. A detailed invoice will be provided, and payment can be made via ACH/Wire using the current method of funding contributions. Optum Bank will provide details and refund fees via ACH for any account that cannot be transferred. HealthEquity will reimburse the County for the total fees paid after any refund issued by Optum Bank.

FISCAL IMPACT

The estimated cost is \$17,000.00, which Health Equity will reimburse in its totality, resulting in no cost to the County.

SUBMITTED BY	Human Resources	PREPARED BY:	Anjanie Ramnarine
		APPROVED BY:	Anjanie Ramnarine

HSA FUND TRANSFER AGREEMENT

This HSA FUND TRANSFER AGREEMENT AGREEMENT ("Agreement") is entered into and effective September 17, 2024 (the "Effective Date") by and between PEBC - Tarrant County, on behalf of itself, its affiliates, administrators, representatives, successors and assignees (collectively the "Employer"), and Optum Bank, Inc., a Utah chartered FDIC insured financial institution (the "Bank") (individually a "Party" and collectively the "Parties")

RECITALS

WHEREAS, Employer sponsors a qualified High Deductible Health Plan ("HDHP") as defined in Section 223 of the Internal Revenue Code of 1986, as amended (the "Code"). In connection with such HDHP, Employer facilitated the establishment of certain individually owned employee (each an "Account Holder") Health Savings Accounts (each an "HSA") with Bank, a qualified HSA custodian under the Code.

WHEREAS, Employer now desires to terminate certain Account Holder's HSAs and transfer all funds related thereto to the HSA trustee or the custodian as directed by Employer ("New Custodian").

NOW, THEREFORE, in consideration of their mutual promises herein contained and other valuable consideration, the Parties covenant and agree as follows:

AGREEMENT

1. **Direction to Bank.** Employer, itself or through its designee, hereby directs Bank to take the following actions with regard to the HSAs of Account Holders specifically identified by Employer and communicated to Bank in a form and format acceptable to Bank:
 - (i) For Account Holders that have invested a portion of their HSA balance in self-directed investments, Employer explicitly authorizes Bank to cancel any open buy or sell orders and sell, at a time and in a manner deemed necessary and appropriate by Bank, all investments in any such investment account. Employer acknowledges that liquidation of investments may result in losses to the Account Holder, that the same or similar investment options may not be available through the New Custodian, and that liquidated funds cannot be reinvested by Account Holders until the funds transfer process is completed by the New Custodian.
 - (ii) Terminate each Account Holder's Custodial and Deposit Agreement with the Bank and close the respective HSAs.
 - (iii) Initiate and adjust an electronic transfer of all amounts deposited in, or otherwise held by or related to, the HSAs, less any fees owed by Account Holders to Bank, to the New Custodian. Such transfer will be made through regional automated clearing house ("ACH") associations, and is subject to the operating rules and regulations of the National Automated Clearinghouse Association ("NACHA").
2. **Fees.** Employer agrees to pay the Bank's standard transfer fee of Twenty Dollars (US \$20.00) per HSA. In the event that the standard transfer fee is not paid prior to completing the transactions listed in Section 1 above, Employer acknowledges and agrees that such fee may be deducted from the HSAs prior to the Bank completing any such transactions. If the Account Holder's balance is less than the then-current transfer fee assessed by the Bank and Employer does not pay such transfer fee prior to any transfer directed by Employer, the Account Holder's HSA and any related balances shall remain with the Bank and will not transfer.
3. **Indemnification.** Except to the extent directly caused by Bank's negligence or willful misconduct, Employer does hereby indemnify, keep indemnified, defend and hold harmless Bank and its directors, officers, employees,

attorneys, agents, successors and assigns from and against any and all claims losses, damages, actions and causes of action (individually and collectively, a "Claim"), which Bank or its directors, officers, employees, attorneys, agents, successors and assigns at any time may sustain or incur that directly or indirectly arise from, or in any way are connected or related to the directions, instructions, and authorizations given by Employer herein, including but not limited to, any and all liabilities, fees, costs and assessments, both internal and external, resulting from:

- (i) Losses sustained in connection with the liquidation of HSA Investments.
- (ii) Losses of any interest earnings due to the closing of an HSA and transfer of the funds to the New Custodian.
- (iii) Refusal by the New Custodian to accept a transfer of HSA funds.
- (iv) Failure of the New Custodian to deposit transferred HSA funds into a new account within the timing restrictions defined by applicable law or regulations.
- (v) Legal or regulatory actions or findings wherein the HSAs are determined or considered to be subject to the Employee Retirement Income Security Act of 1974 ("ERISA") and/or any regulation, bulletin, interpretation, or other guidance issued pursuant thereto.

Notwithstanding any other provision herein, Employer's obligation hereunder to indemnify and hold harmless Bank is only to the extent permitted by the laws and Constitution of the State of Texas, and only to the extent the Texas Legislature waives Employer's existing immunity. Nothing in this indemnification provision requires that the County incur any debt, assess or collect funds, or create a sinking fund.

4. **Sovereign Immunity.** THIS AGREEMENT IS EXPRESSLY MADE SUBJECT TO COUNTY'S SOVEREIGN IMMUNITY, TITLE 5 OF THE TEXAS CIVIL PRACTICES AND REMEDIES CODE, AND ALL APPLICABLE FEDERAL AND STATE LAW. THE PARTIES EXPRESSLY AGREE THAT NO PROVISION OF THIS AGREEMENT IS IN ANY WAY INTENDED TO CONSTITUTE A WAIVER OF ANY IMMUNITIES FROM SUIT OR FROM LIABILITY THAT THE COUNTY HAS BY OPERATION OF LAW. NOTHING IN THIS AGREEMENT IS INTENDED TO BENEFIT ANY THIRD-PARTY BENEFICIARY.
5. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and supersedes all previous communications, proposals, representations and agreements, whether oral or written, with respect thereto.
6. **Governing Law; Jurisdiction.** This Agreement shall be governed and construed in accordance with by the laws of the State of Texas and shall be binding upon and inure to the benefit of Bank, Employer and their respective administrators, representatives, successors and assigns. Any legal action arising out of or relating to this Agreement shall be brought only in the state or federal courts located in Dallas County, Texas and the parties irrevocably consent to the jurisdiction and venue of such courts.
7. **Termination of HSA Agreement.** If it is the case that Employer and Bank have entered into a Health Savings Account Enrollment and Contribution Agreement ("HSA Agreement") thereby enabling Employer to open and administer HSAs for and on behalf of Account Holders, such HSA Agreement is hereby terminated on the date when the HSAs are transferred to the New Custodian under the terms of this Agreement.
8. **Electronic Signature/ Counterparts.** The Parties acknowledge and agree that this Agreement may be executed or accepted using electronic, stamped or facsimile signatures, and that such a signature shall be legally binding to the same extent as a written signature by a Party's authorized representative. Each Party waives any legal requirement that this Agreement be embodied, stored or reproduced in tangible media, and agrees that an electronic reproduction shall be given the same legal force and effect as a signed writing.

Furthermore, this Agreement may be executed and delivered in as many counterparts as may be deemed necessary or convenient each of which, when so executed, shall be deemed an original, but all such counterpart

shall constitute but one of the same Agreement.

9. **Signature Authority.** The undersigned hereby certify that they have been duly authorized by all necessary and appropriate corporate action to execute this Agreement for and on behalf of their respective Parties to form a legally binding contract and understand that acceptance of this Agreement constitutes an agreement to be bound to perform in strict conformity with the terms and conditions set forth herein.

IN WITNESS WHEREOF, intending to be legally bound, the undersigned hereby acknowledges and certifies that as of the Effective Date of this Agreement, they are duly authorized to sign on behalf of and legally bind their respective entities named below.

Optum Bank, Inc.
12921 S. Vista Station Blvd. Ste 300
Draper, UT 84020

Signature: 
Print Name: Travis Soto
Title: CFO
Date: 11/19/2024

PEBC - Tarrant County
100 E Weatherford St
Fort Worth, TX, 76196-0206

Signature: _____
Print Name: Tim O'Hare
Title: County Judge
Date: _____

APPROVED AS TO FORM:


Criminal District Attorney's Office*

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

Agreement Number: 01407504.0

Certification of Available Funds: \$ _____

Tarrant County Auditor

CO#144481



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Human Resources

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Anjanie Ramnarine

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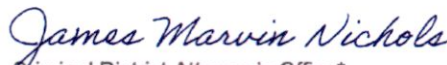
Optum Bank, Inc.
12921 S. Vista Station Blvd. Ste 300
Draper, UT 84020

Signature: 
Print Name: Travis Soto
Title: CFO
Date: 11/19/2024

PEBC - Tarrant County
100 E Weatherford St
Fort Worth, TX, 76196-0206

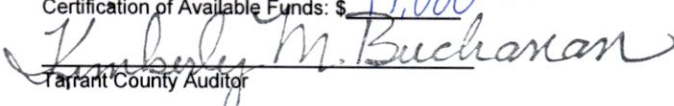
Signature: _____
Print Name: Tim O'Hare
Title: County Judge
Date: _____

APPROVED AS TO FORM:


Criminal District Attorney's Office*

*By law, the Criminal District Attorney's Office may only approve contracts for its clients. We reviewed this document as to form from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.

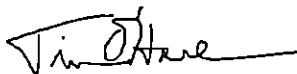
Agreement Number: 01407504.0

Certification of Available Funds: \$ 17,000.00

Tarrant County Auditor

Consideration of a Health Savings Account Fund Transfer Agreement with Optum Bank

SIGNED AND EXECUTED this 17 day of December, 2024.

**COUNTY OF TARRANT
STATE OF TEXAS**

A handwritten signature in black ink, appearing to read "Tim O'Hare", with a long horizontal flourish extending to the right.

Tim O'Hare
County Judge
12/19/2024