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January 12, 2006

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M E M O R A N D U M

TO: Board of Directors of the
Intergovernmental Personnel Benefit Cooperative

FROM: Stewart H. Diamond

DATE: January 13, 2006

SUBJECT: Final Third Comprehensive Amendment

IPBC
BYLAWS

Dear Board Members:

I am e-mailing to you for your review a clean and a black-lined copy of the Third Consolidated Amendment to the Comprehensive Contract and By-Laws—Intergovernmental Personnel Benefit Cooperative (IPBC), which must be approved by the full Board of Directors. This version incorporates the original version, the corrections requested by various parties, including Chairman Fialkowski and the amendments to Articles XI, XVI and XVII, which incorporates the provisions required by State law relating to union-sponsored plans. The Committee system and the Board will later deal with the criterion, if any, to be put in place for continuing membership if there is a significant reduction in covered employees.

An amendment to our By-Laws requires approval by the affirmative votes of two-thirds of our membership. If there is widespread review and approval, this change can be acted upon at the January meeting or it can be continued to the next meeting

SHD:dar
Enclosures

DROLLINS\L:\MY DOCUMENTS\IPBC\BRD-18-MEM.WPD /

Approved Jan. 18, 2006

**THIRD CONSOLIDATED AMENDMENT TO
CONTRACT AND BY-LAWS
INTERGOVERNMENTAL PERSONNEL BENEFIT COOPERATIVE**

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Drafted by: ANCEL, GLINK, DIAMOND, BUSH, DICIANNI & ROLEK P.C.

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**THIRD CONSOLIDATED AMENDMENT TO THE
CONTRACT AND BY-LAWS
INTERGOVERNMENTAL PERSONNEL BENEFIT COOPERATIVE**

ARTICLE I. Definitions and Purpose.

DEFINITIONS:

As used in this agreement, the following terms shall have the meaning hereinafter set out:

ADMINISTRATIVE FUND - A fund of monies established by the MEMBERS of the Intergovernmental Personnel Benefit Cooperative to pay for the joint administration of the personnel non-salary benefit programs offered by each MEMBER to its employees and officers and turned over for administration to the COOPERATIVE.

ADMINISTRATOR - An independent contractor of the COOPERATIVE employed to administer the personnel benefit programs of the various MEMBERS of the COOPERATIVE.

BENEFIT FUND - A fund of monies established by the MEMBERS of the Intergovernmental Personnel Benefit Cooperative to fund certain benefits granted by the individual MEMBERS to their respective officers and employees and to purchase excess, aggregate, or other insurance.

BENEFITS - Non-salary payments made to employees or officers, including but not limited to payments or reimbursements of expenses arising out of an illness or an accident and life insurance proceeds. The units of local government which participate in the COOPERATIVE have determined not to purchase insurance coverage for benefit payments below certain high limits but rather to rely upon their pooled financial capabilities

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to pay benefits within the financial obligations of the COOPERATIVE and to purchase some insurance to protect against catastrophic and certain other benefit claims.

COOPERATIVE - The Intergovernmental Personnel Benefit Cooperative established pursuant to the Constitution and the statutes of this State by this intergovernmental agreement.

HMO FUND - A fund of monies established by the MEMBERS of the Intergovernmental Personnel Benefit Cooperative to fund certain benefits granted by the individual MEMBERS to their respective officers and employees relating to health maintenance organizations.

CASH FLOW ACCOUNT - A fund of monies established by the MEMBERS of the Intergovernmental Personnel Benefit Cooperative to fund needed cash flow in the Benefit Pool. The Board of Directors shall establish, from time-to-time, the funding requirements from the MEMBERS to generally provide at least two (2) months of estimated funding for the Benefit Pool.

LISTED ENTITIES - Governmental bodies, quasi governmental bodies and non-profit public service entities listed by a MEMBER as having their employees and officers under a benefit program which will be administered along with that of a MEMBER by the COOPERATIVE.

MEMBERS - The units of local government or intergovernmental agencies established pursuant to an intergovernmental agreement composed of units of local government (sub-pool) which initially or later enter into this intergovernmental contract for the benefit of their employees and officers along with the employees and officers of other listed entities. Whenever in this agreement the phrase "units of local government, municipality" or

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similar phrase is used, it shall also refer to any intergovernmental agency established pursuant to an intergovernmental agreement composed of units of local government.

TERMINAL RESERVE FUND OR TERMINAL RESERVES - A fund of monies retained by the Intergovernmental Personnel Benefit Cooperative on behalf of MEMBERS whose fund balances may be in excess of all financial requirements for that MEMBER.

PURPOSE:

The Intergovernmental Personnel Benefit Cooperative is a cooperative entity voluntarily established by contracting units of local government as are permitted by Article VII, Section 10 of the 1970 Constitution of the State of Illinois, and the Intergovernmental Cooperation Act and other provisions of law to jointly administer some or all of the personnel benefit programs offered by its MEMBERS to their officers and employees and the officers and employees of other governmental, quasi-governmental and non-profit public service entities with which some or all MEMBERS have separately arranged to list as if such officers and employees were employed by the MEMBER.

To the extent provided for in this Contract and By-Laws, and as approved by the Board of Directors , the Intergovernmental Personnel Benefit Cooperative shall provide benefit coverage to the officers or employees of its MEMBERS. The Intergovernmental Personnel Benefit Cooperative shall also carry out such claim reduction and educational programs as shall be authorized by its Board of Directors. The creation of the various funds established in this Contract and By-Laws are not intended by the parties to constitute the transaction of an insurance business within the State of Illinois. The intent of the parties is to separately establish benefit programs and to utilize the Intergovernmental Personnel Benefit Cooperative to achieve reduced costs of administration and insurance purchases by providing similar services to all MEMBERS and to

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require MEMBERS to pay for the costs of such benefits or to share such costs in the manner from time-to-time established by the Board of Directors.

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ARTICLE II. Powers and Duties.

The powers of the COOPERATIVE to perform and accomplish the purposes set forth above, within the budgetary limits and procedures set forth in these By-Laws, shall be the following:

- (a) To employ agents, employees and independent contractors,
- (b) To lease real property and to purchase or lease equipment, machinery, or personal property necessary for the carrying out of the purpose of the COOPERATIVE,
- (c) To carry out educational and other programs relating to health, accident and other claims reductions,
- (d) To cause the creation of, see to the collection of funds necessary for the administration and operation of the COOPERATIVE,
- (e) To purchase such types of insurance as are approved by the Board of Directors,
- (f) Solely within the budgetary limits established by the MEMBERS to 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 powers enumerated in Article II.

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ARTICLE III. Participation

The membership of the COOPERATIVE shall consist of those MEMBERS and previously approved listed entities which were MEMBERS of the COOPERATIVE on January 1, 2006. Listed entities are other governmental, quasi-governmental and non-profit public service entities which MEMBERS have chosen to include within their membership in the COOPERATIVE. Such listing fulfills a public purpose in that such listed entities have so few employees and officers that they could not bear the risk inherent in offering such benefit programs on their own. In other cases, the MEMBER itself has so few employees that it requires the participation of such other listed entities for the same reason. The MEMBER which lists entities shall, however, be the sole MEMBER of the COOPERATIVE and shall be responsible for all costs and duties of membership provided herein. The MEMBER may make such arrangement as is desired with members of a sub-pool or the listed entities regarding the manner of payment, sharing of risks and duration of such arrangement. Such arrangement is not a part of this Contract and By-Laws. New MEMBERS and their listed entities and the listing of additional entities by existing MEMBERS shall be added to the COOPERATIVE only after at least the concurrence of two-thirds (2/3) of the entire membership of the Board of Directors and subject to the payment of such sums and under such conditions as the Board shall in each case or from time-to-time establish.

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ARTICLE IV. Term of the COOPERATIVE and Amendment.

Since, as of May May 2, 2005, MEMBERS of the COOPERATIVE, which provided their respective benefit plans to at least 750 officers and employees did by corporate ordinance or resolution elected to continue as MEMBERS into the next three-year cycle, the COOPERATIVE has continued in existence. The terms of this Third Consolidated Amendment to the Contract and By-Laws of the Intergovernmental Personnel Benefit Cooperative shall take effect upon its approval by the Board of Directors. If this Third Consolidated Amendment is approved, its terms, as amended, shall govern all actions taken of the Cooperative including the obligations of MEMBERS to provide benefits to their employees as is provided herein.

ARTICLE V. Board of Directors.

- (a) There is hereby established a Board of Directors of the COOPERATIVE. Each MEMBER unit of local government shall, by majority vote of its governing board, elect one (1) person to represent that body on the Board of Directors. The MEMBER may also select an alternate representative to serve when the initial representative is unable to carry out his duties. The person and alternate selected need not be an elected official of the MEMBER. During the last quarter of the fiscal year, or at its first meeting of each subsequent fiscal year, the Board of Director shall elect from the Board one (1) person to serve as Chairman of the Board and one (1) person to serve as Vice Chairman of the Board for terms of one (1) or two (2) fiscal years,. The Board of Directors may from time-to-time establish other officers of the Board and may elect a person from the Board to serve in any of such offices. The Board may fill any vacancies which may occur in such offices until the end of the term. The Board may also remove any elected officer or appointed Committee member.
- (b) The Board of Directors shall determine the general policy of the COOPERATIVE which policy shall be followed by all officers, agents, employees and independent contractors employed by the COOPERATIVE. It shall have the responsibility for (1) Hiring of COOPERATIVE officers, agents, non-clerical employees and independent contractors, (2) Setting of compensation for all persons, firms and corporations employed by the COOPERATIVE, (3) Setting of fidelity bonding requirements for employees or other persons, (4) Approval of amendments to the By-Laws, (5) Approval of the acceptance of new MEMBERS and listed entities,

- (6) Approval of educational and other programs relating to claim reduction, (7) Approval of monthly and supplementary payments to the Administrative Fund and the Benefit Fund, including that portion of the cost of insurance attributable to each MEMBER, (8) Any other matters not assigned to another committee, officer, independent contractor, or agent.
- (c) Each MEMBER shall be entitled to one (1) vote on the Board of Directors. Such vote may be cast only by the designated representative of the MEMBER or in the Director's absence by an alternate selected by the MEMBER in the same manner as specified for the selection of the principal representative. No proxy votes or absentee votes shall be permitted, but in the absence of a quorum, not more than two (2) Directors may participate in a meeting by telephonic means. If more than two (2) Directors request to participate by telephonic means, a random method carried out in advance of the meeting shall be used by the person who will be presiding at the meeting to choose the Directors to be selected. Voting shall be conducted by voice vote unless one (1) or more MEMBERS of the Board of Directors shall request a roll call vote; provided, however, that any vote to authorize the payment of bills or which requires a greater than a majority vote for passage, shall be by roll call.
- (d) The representative selected by the MEMBER shall serve for a one fiscal year term commencing at the beginning of each fiscal year and until his successor has been selected. The representative chosen by the MEMBER may be removed by the majority vote of the corporate authorities of the MEMBER during the period of this term. In the event that a vacancy occurs in the representative or alternate rep-

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representative selected by the corporate authorities of a MEMBER, that body shall appoint a successor. The failure of a MEMBER to select a representative or his or her failure to participate shall not affect the responsibilities or duties of a MEMBER under this contract.

- (e) The Board of Directors may establish rules governing its own conduct and procedure not inconsistent with the By-Laws.
- (f) A quorum shall consist of a majority of the MEMBERS of the Board of Directors. Except as provided in Subsection (g) herein, or elsewhere in these By-Laws, a simple majority of a quorum shall be sufficient to pass upon all matters.
- (g) A greater vote than a majority of a quorum shall be required to approve the following matters:
 - (i) Such matters as the Board of Directors shall establish within its rules as requiring for passage a vote greater than a majority of a quorum; provided, however, that such a rule can only be established by a greater than majority vote at least equal to the greater than majority percentage within the proposed rule,
 - (ii) The admission of a new MEMBER or a listed entity and the expulsion of a MEMBER shall require at least the concurrence of two-thirds (2/3) of the entire membership of the Board of Directors,
 - (iii) Any amendment of these By-Laws except as provided in Subsection (iv) below, shall require at least the concurrence of two-thirds (2/3) of the entire membership of the Board of Directors,

- (iv) The amendment of these By-Laws to require mandatory membership in the COOPERATIVE for more than a three-year term shall require the favorable vote of the governing board of each MEMBER evidenced by a resolution or ordinance.
- (v) The payment of a contested employee benefit in a manner contrary to that recommended by the Administrator, which is brought to the Board of Directors, shall require the concurrence of at least two-thirds (2/3) of a quorum at a Board of Directors meeting.
- (vi) The approval of annual payments of all kinds, the allocation of those payments among MEMBERS, shall require the concurrence of at least two-thirds (2/3) of a quorum at a Board of Directors meeting.
- (h) No one serving on the Board of Directors shall receive any salary or other payment from the COOPERATIVE and any salary, compensation, payment or expenses for such representative, shall be paid by each MEMBER separate from this Contract. Provided, however, that in the event the person chosen as Treasurer is a member of the Board of Directors, that person may receive such compensation as is established from time-to-time by the Board of Directors. In addition, the Chairman of the Board, Treasurer and such other officers as may be selected from time-to-time may submit to the Board of Directors for their approval, reimbursement of expenses incurred in the pursuit of their position as officers of the COOPERATIVE. The reimbursement for such expenses shall include amounts advanced on behalf of the COOPERATIVE either by the officer himself or by a MEMBER of the COOPERATIVE.

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- (i) There is hereby established an Executive Committee. The Board can establish other Standing Committees. The Chairman shall name the MEMBERS and Chairs of authorized Standing Committees subject to approval by the Board. The Chairman may fill vacancies until the Board shall act on appointments. The day-to-day operation of the Cooperative shall be directed by an Executive Committee. That Committee shall be composed of the Chairman, Vice Chairman, Treasurer and the Chairs of other Standing Committees. The Executive Committee shall meet at the call of the Chairman or any two other members. The Executive Committee shall review and pay the bills submitted to the Cooperative by its providers and consultants and may choose to settle disputes over coverage or raised by the MEMBERS or to refer such disputes to the Board of Directors. The Executive Committee will also carry out such assignment or duties as shall be generally, or on a specific basis, assigned to it by the Board of Directors or the Chairman. Any decision of the Executive Committee may be appealed by a MEMBER within thirty (30) days to the Board at its next regular or special meeting which occurs at least seven (7) days after the date of the appeal.

ARTICLE VI. Board of Directors Meetings.

- (a) Regular meetings of the Board of Directors shall be held at least four (4) times a year. The dates of regular meetings of the Board shall be established at the beginning of each fiscal year. Any item of business may be considered at a regular meeting. At least two (2) meetings must be held during the first half of the fiscal year and at least two (2) meetings must be held during the second half of the fiscal year. Special meetings of the Board of Directors may be called by its Chairman, or by any two (2) Directors. Ten (10) days written notice of regular or special meetings shall be given to the official representatives of each MEMBER government 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.
- (b) The time, date and location of regular and special meetings of the Board of Directors shall be determined by the Chairman of the Board of Directors or by the convening authority.
- (c) To the extent not contrary to these By-Laws, and except as modified by the Board of Directors, Roberts Rules of Order, latest edition, shall govern all meetings of the Board of Directors. Minutes of all regular and special meetings of the Board of Directors shall be sent to all MEMBERS of the Board of Directors.

ARTICLE VII. Cooperative Officers.

- (a) In addition to the Chairman and Vice Chairman, the officers of the COOPERATIVE shall consist of a Treasurer and such other offices as are established from time-to-time by the Board of Directors. All officers shall be appointed by the Board of Directors.
- (b) The Treasurer shall:
 - 1. Have charge and custody of and be responsible for all funds and securities of the COOPERATIVE; receive and give all receipts for monies due and payable to the COOPERATIVE from any source whatsoever; deposit all such monies in the name of the COOPERATIVE in such banks, savings and loan associations or other depositories as shall be selected by the Board of Directors; keep the financial records of the COOPERATIVE and invest the funds of the COOPERATIVE as are not immediately required in such securities as the Board of Directors shall specifically or generally select from time-to-time. Provided, however, that all investments of COOPERATIVE funds shall be made only in those securities which may be purchased by Illinois non-home rule communities under the statutory provisions of Illinois law.
 - 2. In general, perform all the duties incident to the office of Treasurer and such other duties as from time-to-time may be assigned to the Treasurer by the Administrator or the Board of Directors.
- (c) In the absence of the Treasurer, or in the event of the inability or refusal of such officers to act, the Chairman of the Board of Directors may temporarily perform

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the duties of the Treasurer and, when so acting, shall have all of the powers of and be subject to all of the restrictions upon the Treasurer. A new Treasurer shall be selected at the next regular or special meeting of the Board of Directors, but the Chairman may act, in any case, until the selection is made.

- (d) The COOPERATIVE shall purchase a blanket fidelity bond in an amount to be established by the Board of Directors to assure the fidelity of all officers, directors, and employees of the COOPERATIVE who shall have the authority to receive or authorize by their signature or order the payment of COOPERATIVE funds. Additional fidelity and similar coverages may be procured by the COOPERATIVE from time-to-time.
- (e) The Board may select a financial institution to carry out some or all of the functions which would otherwise be assigned to a Treasurer and may select a management company or agent to carry out some or all of the functions which would otherwise be assigned to an Administrator.

ARTICLE VIII. Finances.

A. Administrative Fund.

The cost of the administration of the COOPERATIVE shall be borne by each of its MEMBERS in direct proportion to the number of employees and officers of the MEMBER and listed entities whose benefit programs are to be administered by the COOPERATIVE as compared to the total number of such persons served by the COOPERATIVE.

Whenever payments to the Administrative Fund shall be based upon an estimate, the MEMBER shall promptly receive a refund or pay a deficiency when final figures become available. The Administrative Fund shall pay all of the administrative costs of the COOPERATIVE and payment shall be made to cause the administration of all actions approved by the Board of Directors.

B. The Benefit Fund.

Payments into the Benefit Fund will be developed and administered in the following manner:

1. Before the start of each fiscal year, the Administrator will determine on the basis of financial data the amount of total payments from all MEMBERS necessary to fund anticipated benefit payments and the cost of insurance.
2. The Administrator will also recommend how this total amount of anticipated expenses should be divided among the MEMBERS. The charges to be made to the MEMBERS shall be determined by a vote of the Board of Directors which shall, in establishing such sums due, treat all similarly situated MEMBERS in an equal manner. Such a vote must receive at least

the concurrence of two-thirds (2/3) of a quorum at a Board of Directors meeting.

3. The Board of Directors may, each fiscal year, choose an allocation of the payments into the Benefit Fund whereby some or all of the costs are divided among the MEMBERS based upon general increases or decreases in the total costs of the COOPERATIVE without regard to the claims made against individual MEMBERS or it may elect to grant debits or credits based upon the individual plans offered by the MEMBERS or the level of claims. Debits or credits may be expressed through the use of a banding formula.
4. In the event that the Board of Directors shall fail to approve the charges or allocations by the requisite vote, the charges and allocations for the next year shall, until and unless modified, be based upon the prior year's allocations with charges increased by ten percent (10%) and additionally subject to the obligation to make Supplementary Payments.
5. The Administrator will purchase such other insurance coverage as may be approved by the Board of Directors.
6. Without regard to any other provision contained within this Article VIII, the Board of Directors may establish charges to be paid by the MEMBERS for life insurance benefits to be based upon total pooling of the experience of all MEMBERS with each MEMBER paying the same cost per employee for such life insurance coverage. The time at which a determination regarding the amounts due for such life insurance coverage

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and the manner in which such amounts shall be paid shall be the same as that established for other payments into the Benefit Fund. The Board of Directors may also establish a program to provide dental or other benefits to MEMBERS which wish such coverage.

C. Cash Flow Account.

The Cooperative shall maintain a Cash Flow Account. Each MEMBER shall make payments into that account equal to some percentage set by the Board of Directors of the payments that MEMBER has made into the Benefit Fund. The Board of Directors shall determine the manner in which each MEMBER'S obligation to make payments into the Cash Flow Account is established to assure that an adequate balance for the payment of claims remains in that account at all times. The Board of Directors may establish a method whereby automatic withdrawals from Terminal Reserves are utilized to fund deficits in the Cash Flow Account. The Board of Directors shall determine whether the Cash Flow Account shall be treated as a single fund which can be utilized for the payment of the claims of any MEMBER or whether each MEMBER shall be obligated to maintain its own individual account. If separate accounts are maintained, MEMBERS may be individually required to make up deficiencies in their accounts. The establishment of payments into this account must receive at least the concurrence of two-thirds (2/3) of a quorum at a Board of Directors meeting.

D. General Fiscal Matters.

The Board of Directors shall provide to the MEMBERS an annual audit of the financial affairs of the COOPERATIVE to be made by a certified public accountant at the end of each fiscal year in accordance with generally accepted auditing principals.

E. Supplementary Payments.

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If, during any year, the funds on hand are not sufficient to pay benefits or administrative expenses which are the responsibility of the COOPERATIVE and not through insurance coverage or other costs, the Board of Directors shall require Supplementary Payments. The increased payments shall be computed utilizing the same method under which payments were made for the year in question and except for payments into the Administrative Fund where payments shall be made by all MEMBERS, they shall only be due from MEMBERS which were entitled to receive benefits from the account which requires Supplementary Payments. If a MEMBER transfers employees and officers from a fund where Supplementary Payments are due to another fund, a determination shall be made by the Board of Directors as to the amount of Supplementary Payments due from that MEMBER arising from its prior participation in that fund.

F. Terminal Reserves

During any fiscal year, and with the approval of the Executive Committee, a MEMBER may withdraw from the COOPERATIVE any amount of Terminal Reserves provided that there shall be deducted from that payment any amounts owed by the MEMBER or reasonably anticipated to be owed by the MEMBER to the COOPERATIVE either being then due and payable or estimated to be due based upon tentative figures or preliminary audits, or any other amounts due from the MEMBER to the COOPERATIVE. The Executive Committee may always deduct from a MEMBER's Terminal Reserves any amounts necessary to pay for that MEMBER's obligations to the COOPERATIVE. Within thirty (30) days after a final audit, approved by the Board of Directors, the amounts then determined to be owed to the COOPERATIVE shall be deducted from the Terminal Reserves. Thereafter, the MEMBER shall receive a determination of the Executive Committee within sixty (60) days of a written request. If the COOPERATIVE shall have advanced funds on behalf of a MEMBER such that the MEMBER is expected to have

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a deficit balance in its Terminal Reserves, then, within sixty (60) days after written notice, the MEMBER shall be required to pay to the COOPERATIVE at least sufficient funds so as to remove the deficit in its Terminal Reserves.

G. Runout Claims--Pre-July 1, 1996.

The administration and financing of pre-1996 claims shall be administered in accordance with the Second Consolidated Amendment.

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ARTICLE IX. Plan of Benefits, HMOs and Reductions In Coverage.

MEMBERS may change the Plan of Benefits provided at any time, but shall notify the Administrator at least sixty (60) days prior to the intended effective date of such change; and such change shall be subject to a redetermination on an underwriting basis of the payments due the COOPERATIVE. The Administrator shall make a determination as to the amount of the increased or reduced payment required in light of the change. If the MEMBER should dispute the amount of the redetermination, an initial decision regarding such amount shall be made by the Executive Committee with an appeal to the Board of Directors. In the event that the Administrator should determine that the proposed change provides a level or type of coverage, the cost of which cannot be determined on an underwriting basis or which would provide an excessive risk to the COOPERATIVE, or is inconsistent with the insurance purchased by the COOPERATIVE or would otherwise not be in the best interest of the COOPERATIVE, the Administrator shall present that opinion and the reasons supporting that opinion in writing to the MEMBER requesting the change and to the Chairman. The change shall not come into effect within the COOPERATIVE's plan of benefits except in the manner recommended by the Administrator unless the decision of the Administrator is overturned or modified by the Executive Committee or the Board of Directors. The MEMBER may institute the change, but shall be individually financially responsible for the administration and payment of such benefits as are not eventually authorized to be provided within the COOPERATIVE. The Administrator shall as promptly as possible re-price covered benefits. No claim may be made against the COOPERATIVE for the unauthorized change.

The COOPERATIVE may offer to its MEMBERS participation in an HMO Fund separate from the Benefit Fund to pay the costs of providing HMO services to the officers and em-

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employees of the participating MEMBERS. Accounting for this Fund, including surplus or deficit amounts, shall be separate from the Benefit Fund. For any fiscal year if the Board of Directors of the COOPERATIVE votes to provide an HMO Fund for the fiscal year, all MEMBERS offering HMO benefits to their officers and employees shall only offer the Plan of Benefits of the COOPERATIVE'S HMO Fund or those in union-sponsored programs.

An HMO Plan of Benefits shall mean any plan which provides benefits to participants through a restriction on the doctors who provide services, an absence of substantial deductible or co-payments and an absence of or simplified claim forms. An HMO Plan of Benefits may be offered by the COOPERATIVE either through joint purchase or pooling.

The rates for the HMO Plan or Plans of Benefits offered by the COOPERATIVE for the specific plans of its MEMBERS shall be established by the Board of Directors. The Board may establish an average annual rate percentage change for the HMO Fund as a whole, and may then, through the use of a banding formula, establish bands of no more than 10 percentage points more or less than the average annual price adjustment for those MEMBERS whose claims experience has been above or below the average. It may also approve other allocation formulas.

Where the Cooperative chooses to establish a single annual increase with bands, it may, under two (2) circumstances and upon the recommendation of the Administrator, individually rate a MEMBER or MEMBERS. Where the actual paid claims, incurred by a MEMBER during two (2) or more years of a three (3) year cycle, were both in the highest or both in the lowest bands, or where it is discovered that claim history material submitted by a MEMBER was improperly stated, that MEMBER or MEMBERS may be individually rated and may be required to contribute to the HMO Fund a sum no more than 100% greater or lesser than the amount which would be payable had that MEMBER or MEMBERS been rated with the group as a whole. Such

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individual rating shall carry into another cycle until such time as the paid claims of the MEMBER have declined for a year so that the MEMBER would be entitled to be rated with the group as a whole.

If, for any year or years, the Board of Directors should determine that there are surplus funds within the HMO Fund which can be distributed to the MEMBERS without harming the fiscal integrity of the HMO Fund, those surplus funds shall be distributed to all existing and prior MEMBERS of the COOPERATIVE (who validly withdrew) who made contributions into the HMO Fund in the proportion in which those contributions were made. A determination as to whether surplus funds shall be distributed to the remaining MEMBERS of the COOPERATIVE shall be made from time-to-time by the Board of Directors.

If a MEMBER, in accordance with the By-Laws, elects to withdraw from the COOPERATIVE, or if it has no officers or employees who will receive the HMO Plan of Benefits for the next fiscal year, it shall be the obligation of that MEMBER to pay all the claims of its officers and employees for HMO services under the COOPERATIVE which were performed prior to the commencement of that next fiscal year, but not submitted and processed before the end of that fiscal year, but within the time period allowed for submissions. The Executive Committee, on the recommendation of the Administrator, may require a MEMBER to pre-fund an amount estimated to be sufficient to pay for such HMO runoff claims and administration.

Within sixty (60) days after the approval of the audit of the COOPERATIVE's HMO Fund for the prior fiscal year, a final accounting of funds owed or owing shall take place. If a MEMBER which has offered an HMO Plan of Benefits shall have no officers or employees receiving such benefits in a subsequent fiscal year, or if that MEMBER has validly withdrawn from the COOPERATIVE, then that MEMBER, subject to a pre-funding of HMO run-off claims

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and administration, shall be entitled to its percentage of any surplus funds within the HMO Fund. The payment of surplus funds or the receipt of amounts otherwise due from the MEMBER shall be carried out in accordance with the provisions of Article XVII.

In the event that HMO coverage is no longer offered by the COOPERATIVE, any surplus funds remaining shall, after audit and the setting aside of run-off amounts, be distributed to the MEMBERS (except for expelled MEMBERS) in the proportion in which they contributed funds to the HMO Fund.

If the number of employees or officers of the MEMBERS eligible to receive some portion of any of the COOPERATIVE's benefits should decline or where for some other reason the Administrator is concerned about the ability of a specific fund to cover potential claims, the matter shall be brought to the attention of the Executive Committee and the Board of Directors. The Board of Directors may determine that the coverage shall no longer be offered or its scope or amount of coverage shall be prospectively reduced. A decision to make such a reduction shall not become effective for at least sixty (60) days after the vote of the Board.

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ARTICLE X. Insurance and Other Coverages.

The COOPERATIVE may purchase insurance from a company permitted to write such coverage in Illinois. The COOPERATIVE may also join with other intergovernmental entities to provide collective self-insurance. The obligation of any MEMBER to the COOPERATIVE shall be limited to funding those benefits collectively self-insured by the COOPERATIVE. No MEMBER shall be responsible for the benefit claims of another MEMBER which were to be paid by insurance or at levels above the insurance purchased for MEMBERS.

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ARTICLE XI. Obligations of Members.

The obligations of MEMBERS of the COOPERATIVE shall be as follows:

- (a) To appropriate for, where necessary to levy for and to promptly pay all monthly and supplementary or other payments to the COOPERATIVE at such times and in such amounts as shall be established by the Board of Directors within the scope of this Contract and By-Laws. Any delinquent payments shall be paid with a penalty which shall, for the period of non-payment, be equivalent to the prime rate of interest on the date of delinquency charged by the bank in Illinois with the largest assets or the highest interest rate allowed by statute to be paid by an Illinois non-home rule municipality whichever is greater. In the event that the COOPERATIVE shall be required to expend funds for administrative, legal or other costs brought about by the failure of a MEMBER to pay sums owed the COOPERATIVE or to otherwise comply with its obligations, such amounts expended shall be added to the sums due the COOPERATIVE and shall be payable by the MEMBER. In the event that a MEMBER of the COOPERATIVE should sue the COOPERATIVE or any of its MEMBERS or officers regarding an interpretation of this Contract and By-Laws, an action taken by the Board of Directors or officers or any other matter arising out of its membership in the COOPERATIVE, and should not be the prevailing party in that suit, it shall, as part of its contractual obligation to this COOPERATIVE, pay the reasonable attorneys' fees and other costs and expenses expended by the COOPERATIVE in defending against that suit.

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- (b) During its entire membership in the IPBC, a MEMBER shall only exclusively provide to its employees and officers, except independent contractors, or those in union-sponsored programs, the health and accident benefits and associated life insurance coverage of the COOPERATIVE.

In entering into this intergovernmental agreement, each MEMBER, sub-pool and sub-pool member acknowledges, recognizes and accepts that intergovernmental agreements are voluntary associations where the MEMBERS can determine, by contract and, by authorized actions of the Board of Directors, the identity of the MEMBERS, how MEMBERS and those otherwise bound can be admitted, dealt with during membership and expelled.

- (c) To select a person to serve on the Board of Directors and to select an alternate representative.
- (d) To allow the COOPERATIVE reasonable access to all facilities of the MEMBER and all records including but not limited to financial records which relate to the purpose and powers of the COOPERATIVE.
- (e) To furnish full cooperation with the COOPERATIVE's attorneys, claims adjusters, the Administrator and any agent, employee, officer or independent contractor of the COOPERATIVE relating to the purpose and powers of the COOPERATIVE.
- (f) To furnish the COOPERATIVE with a copy of revisions to its written benefit program at least sixty (60) days prior to the effective date of such change.
- (g) To report to the COOPERATIVE as promptly as possible all claims made to it within its benefit program as administered by the COOPERATIVE.

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- (h) To follow those procedures regarding the administration of and application for benefits adopted by the Board of Directors which do not reduce the level of benefits contained within any MEMBER's individual benefit program. For example, large case management and frequency and amount of claim submissions. The adoption of such procedures shall require at least the concurrence of two-thirds (2/3) of the entire membership of the Board of Directors.

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ARTICLE XII. Liability of Board of Directors or Officers.

The MEMBERS of the Board of Directors or officers of the COOPERATIVE should use ordinary care and reasonable diligence in the exercise of their power and in the performance of their duties hereunder; they shall not be liable for any mistake of judgment or other action made, taken or omitted by them in good faith; nor for any action 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 Director shall be liable for any action taken or omitted by any other Director. No Director shall be required to give a bond or other security to guarantee the faithful performance of their duties hereunder. The Administrative Fund shall be used to defend and hold harmless any Director or officer for actions taken by the Board or performed by the Director within the scope of his authority. The COOPERATIVE may purchase insurance providing similar coverage for such Directors or officers.

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ARTICLE XIII. Additional Insurance.

The Administrator through the distribution of the minutes of the Board of Directors or through other means shall inform all MEMBERS of the scope and amount of insurance in force from time-to-time. Membership in the COOPERATIVE shall not preclude any MEMBER from purchasing any insurance coverage above those amounts or in addition to that purchased by the COOPERATIVE. The COOPERATIVE may also create and administer programs to pay dental or other claims. All funds for the operation of such programs shall be accounted for separately and the financial obligations arising from such programs shall only be the responsibility of MEMBERS which participate.

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ARTICLE XIV. Disputes Over Coverage.

In the event that a MEMBER should question whether its employee or officer or that of a listed entity is entitled to payments, that MEMBER shall, in writing, direct the COOPERATIVE not to pay any further amounts arising from such claim after the date of the receipt of the written direction. When so directed, the COOPERATIVE shall not pay such claim unless the MEMBER's order is withdrawn. Provided, however, that the MEMBER shall defend and hold harmless the COOPERATIVE against all costs, including defense costs, or damages which the COOPERATIVE shall incur in acting on the direction of the MEMBER. The COOPERATIVE may require the MEMBER to advance funds to support this obligation and on a failure of the MEMBER to do so, it may choose to make the payment.

In the event that an officer or employee or other person claiming benefits from a MEMBER or the MEMBER itself should contest the decision of the Executive Committee or the Board of Directors, which declines to pay a benefit in whole or in part, the decision of the Executive Committee or the Board of Directors shall be final in the absence of fraud. The COOPERATIVE shall have no financial responsibility if a company which provides insurance for benefit claims refuses or is unable to pay such claims. In the absence of action by the Board of Directors to recover such funds from the Company the MEMBER affected may pursue the matter at its expense.

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ARTICLE XV. Contractual Obligation.

This document shall constitute a contract among the MEMBERS of the COOPERATIVE. The obligations and responsibilities of the MEMBERS set forth herein including the obligation to take no action inconsistent with this Contract and By-Laws as originally written or validly amended shall remain a continuing obligation and responsibility of the MEMBER. The terms of this contract may be enforced in a court of law either by the COOPERATIVE itself or by any of its MEMBERS. The consideration for the duties herewith imposed upon the MEMBERS to take certain actions and to refrain from certain other actions shall be based upon the mutual promises and agreements of the MEMBERS set forth herein and the advantage gained by MEMBERS in anticipated reduction of administrative costs for the processing of personnel benefits. Provided, however, that the financial obligations of a MEMBER are limited to that agreed to herein or such additional obligations as may come about through amendments to these By-Laws.

ARTICLE XVI. Expulsion of Members.

By at least the concurrence of two-thirds (2/3) of the entire remaining membership of the Board of Directors, any MEMBER may be expelled. Such expulsion, which shall take effect in the manner set out below, may be carried out for one or more of the following reasons:

- (a) Failure to make any payments due to the COOPERATIVE,
- (b) Failure to exclusively provide to its employees and officers, except independent contractors, or those in union-sponsored programs, the health and accident benefits and associated life insurance coverage of the COOPERATIVE,
- (c) Failure to furnish full cooperation with the COOPERATIVE's attorneys, Administrator and any agent, employee, officer or independent contractor of the COOPERATIVE relating to the purpose and powers of the COOPERATIVE,
- (d) Failure to carry out any obligation of a MEMBER which impairs the ability of the COOPERATIVE to carry out its purpose and powers.

No MEMBER may be expelled, except after notice from the COOPERATIVE, of the alleged failure along with a reasonable opportunity of not less than fifteen (15) days to cure the alleged failure. The MEMBER, within that 15 day period, may request a hearing before the Board before any decision is made as to whether the expulsion shall take place. The Board shall set the date for a hearing which shall not be less than fifteen (15) days after the expiration of the time to cure has passed. The Board may appoint a hearing officer to conduct such hearing and make a recommendation to the Board based upon findings of fact. If the Board conducts the hearing itself, it may make a decision at the close of the hearing. A decision by the Board to expel a MEMBER after notice and hearing and a failure to cure the alleged defect shall be final unless the Board shall be found by a court to have committed a gross abuse of discretion. After

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expulsion, the former MEMBER shall continue to be fully obligated for any payments due to the COOPERATIVE which were created during the term of its membership along with any other unfulfilled obligation as if it were still a MEMBER of the COOPERATIVE.

The obligation of the COOPERATIVE to administer the claims filed under the benefit program of the expelled MEMBER shall cease thirty (30) days after the date of expulsion, provided that the MEMBER is not in financial arrears to the COOPERATIVE. If the expelled MEMBER is in financial arrears to the COOPERATIVE, including estimated deficits, the administration of claims shall cease immediately upon expulsion. After expulsion, the COOPERATIVE or its Administrator may agree by contract to administer and pay the claims of the expelled MEMBER using funds furnished by the expelled MEMBER. The expelled MEMBER shall be required to pay the cost of the transfer of such document if it should choose to pay claims by itself or through others.

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ARTICLE XVII. Withdrawal of a Member and Continuation
or Termination of the COOPERATIVE.

All MEMBERS of the COOPERATIVE shall be obligated to continue as MEMBERS during a three-year membership cycle. The obligation of a MEMBER during each cycle in which it is a MEMBER shall include continuing participation with regard to all classes of officers and employees of the MEMBER, not including its listed entities, established as being entitled to benefits at the commencement of each three-year cycle. Provided, however, that if a MEMBER should choose to end continuing participation with regard to officers and employees of the MEMBER, other than at the end of a three-year cycle, who are to be provided health and life insurance coverage in a union-sponsored program, the COOPERATIVE shall permit such withdrawal, but it may re-price the costs of benefits to the continuing employees or officers based upon the same underwriting criteria used by that COOPERATIVE in the normal course of its business. If officers or employees are withdrawn from the COOPERATIVE into a union-sponsored program, they may subsequently be returned to coverage, but only on an underwriting basis. In addition, when the withdrawal is into a union-sponsored program, no MEMBER shall be expelled from the COOPERATIVE if the continuing employees or officers meet the general criteria required from time-to-time for other MEMBERS of the COOPERATIVE. If a MEMBER, which no longer meets the underwriting criteria as a MEMBER should be voluntarily admitted to an intergovernmental agency, which itself is a MEMBER of the COOPERATIVE, it may continue receiving benefits from the COOPERATIVE under the Contract and By-Laws of the Intergovernmental Agency. Provided, however, that upon a two-thirds (2/3) affirmative vote of the entire membership of the Board of Directors, any MEMBER may be relieved of continuing participation with regard to a particular class or classes of officers and employees of the

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MEMBER. In addition, a MEMBER shall only be required to provide continuing participation for those persons within such classes of officers and employees as are actually employed or working for the MEMBER.

In order to continue as a MEMBER of the COOPERATIVE into the next three-year cycle which will commence on July 1, 2008, and for each three-year cycle thereafter, the governing Board of each MEMBER must, at least sixty (60) days before the commencement date, pass an ordinance or resolution agreeing to continue as a MEMBER for the new three-year term. Failure to pass a timely ordinance or resolution shall constitute a withdrawal; provided, however, that by at least the concurrence of the majority of the entire continuing MEMBERS, the withdrawal may be canceled and the MEMBER, at its request, filed within that sixty (60) day period, may be reinstated.

If a MEMBER should withdraw from the COOPERATIVE, no benefit claims of the MEMBER shall be processed or paid by the COOPERATIVE after the close of the fiscal year in which withdrawal takes place, unless the withdrawing MEMBER shall enter into a contract with the COOPERATIVE or the Administrator to provide such services using funds furnished by the withdrawing MEMBER. Pending claims and other records relating to the withdrawing MEMBER shall, in the absence of such a contract, be turned over to that MEMBER in a prompt manner and at that MEMBER's cost.

With regards to benefit claims and administrative fees after a MEMBER withdraws in any way from the COOPERATIVE, the contract between the COOPERATIVE and the entity offering HMO benefits may provide that the COOPERATIVE is responsible for certain payments to the HMO for benefit claims and administrative costs for a continuing period. If a con-

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tract contains such a provision, the withdrawing MEMBER is responsible for the payment to the COOPERATIVE for all of such payments for the period contained within that agreement.

Within one-hundred twenty (120) days after the approval of the audit of the COOPERATIVE for the prior fiscal year, a final accounting of funds owed or owing shall take place. Such accounting shall include all funds of the COOPERATIVE. If the amount owed to or owing from the withdrawing MEMBER shall be \$25,000 or less, the party owing such funds shall make payment within ninety (90) days after the final accounting. If the amount owed to or owing from the withdrawing MEMBER shall be over \$25,000, the party owing such funds may pay such funds owed in no more than 13 equal monthly payments with interest at the highest amount lawfully payable by a non-home rule Illinois municipality with the first payment to commence within ninety (90) days after the final accounting is established.

If a MEMBER should withdraw from the COOPERATIVE, and the COOPERATIVE should in error pay any benefit claims, administrative fees or other charges on behalf of a withdrawing Member which it was not obligated to pay, the withdrawing Member shall, upon thirty (30) days' written notice, reimburse the COOPERATIVE for the amounts improperly paid.

If the withdrawal of MEMBERS prior to the start of any three-year cycle shall reduce the number of covered employees and officers of the remaining MEMBERS, and any new MEMBERS legally committed to membership for the next three-year cycle, to less than 750 persons, the COOPERATIVE shall, except for winding up its affairs, cease its operations at the end of the then-concluding fiscal year. In that case, the Board of Directors shall continue to meet on such a schedule as shall be necessary to carry out the winding up of the affairs of the COOPERATIVE. If, during any fiscal year, the number of covered employees and officers should, through the withdrawal or expulsion of listed entities or attrition, be reduced to below

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500 persons, any MEMBER may call a special meeting to discuss the feasibility of continuing the COOPERATIVE in operation until the close of that fiscal year.

All withdrawing MEMBERS shall remain fully obligated for their portion of all expenses of and claims against the COOPERATIVE incurred during the period of their membership.

If any MEMBER should file a suit against the COOPERATIVE questioning the validity of the Contract and By-Laws document, or should raise the validity of this document in a suit by the COOPERATIVE and the validity of the Contract and By-Laws document is sustained, that MEMBER shall pay for the full legal and defense costs of the COOPERATIVE in that suit.

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**AMENDMENT TO THE
THIRD CONSOLIDATED AMENDMENT
TO THE CONTRACT AND BY-LAWS OF THE
INTERGOVERNMENTAL PERSONNEL BENEFIT COOPERATIVE**

AMENDMENT to Article VIII, "Finances." The following language shall be added as a new Subsection H, to Article VIII, which deals with "Finances." The language would be, as follows:

H. Suspension or Termination of Claim or Other Payments.

In any situation, where the Executive Committee should determine that a Member has not promptly paid to the COOPERATIVE any financial obligation then due, which is in excess of the amount of \$50,000.00, or is more than one-half of one month's contribution, whichever is less, it may direct that the payment of the Member's claims or other sums sought shall be suspended or terminated for a specified period of time or until certain specified actions have taken place. If the decision is made by the Executive Committee, the suspension may be for a period of time up to and including the date at which the Board of Directors considers and takes action relating to a proposed termination of membership or other action. The Executive Committee shall notify the Members of the Board of Directors of its decision. The Board of Directors may also vote to suspend or terminate in the situations provided for above.

As is provided in the PURPOSE section, the IPBC is to "jointly administer some or all of the personnel benefit programs offered by its MEMBERS to their officers and employees...." The COOPERATIVE has determined that the funding of those administrative acts is dependent upon the prompt and full payment by MEMBERS of their obligations. A defaulting MEMBER, rather than the COOPERATIVE, shall be fully responsible for any claims, demands or suits, or any increased costs allegedly caused by a suspension or termination of claim payment on behalf of a MEMBER in financial default. In case such a claim, demand, suit or increased cost is made or incurred by the COOPERATIVE, the defaulting MEMBER shall hold harmless, defend and indemnify the COOPERATIVE, its other MEMBERS and their officers and employees against such claim, demand, suit or cost.

AMENDMENT NUMBER _____

Passed by the Board of Directors of
The IPBC at the meeting held on the
16 day of Sept, 2009.