

**THIRD AMENDMENT TO AGREEMENT FOR VOLUNTARY BENEFITS
ADMINISTRATION BETWEEN THE CITY OF FORT LAUDERDALE, FLORIDA,
AND FBMC BENEFITS MANAGEMENT, INC.**

This THIRD AMENDMENT TO AGREEMENT FOR VOLUNTARY BENEFITS ADMINISTRATION ("Third Amendment"), made and entered into this _____ day of _____, 2024, is by and between FBMC BENEFITS MANAGEMENT, INC., a Florida corporation ("FBMC" or "Contractor"), and the CITY OF FORT LAUDERDALE, a Florida municipality, ("City"), (collectively, "Parties").

WHEREAS, the Parties entered into an Agreement for Voluntary Benefits Administration dated October 6, 2015, ("Agreement"), for an initial term ending December 31, 2018; and

WHEREAS, as a First Amendment to the Agreement, the Parties agreed to extend the Agreement for an additional thirty-six-month period ending December 31, 2021; and

WHEREAS, as a Second Amendment to the Agreement, the Parties agreed to extend the Agreement for an additional thirty-six-month period ending December 31, 2024; and

WHEREAS, FBMC has proposed adding Genomic Life Cancer Guardian and Pet Benefit Solution products to the City's array of group voluntary insurance products; and

WHEREAS the Parties wish to extend the Agreement for an additional thirty-six-month period ending December 31, 2027;

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the Parties contained herein, the Parties agree to amend the Agreement as follows:

1. FBMC will continue to act as a liaison for billing/payment reconciliations issues and audits. The City will send payroll deducted premiums to voluntary benefits carriers.

2. During each year of this Agreement FBMC will evaluate the City's plan design and provide voluntary benefit product recommendations to the City for the following plan year. The City, by and through its City Manager, may accept one or more of FBMC's recommendations and include such product(s) among the array of voluntary benefit products offered pursuant to this Agreement or remove any existing voluntary benefit product(s). FBMC commits to provide the City with a voluntary benefits annual review with details consisting of participation numbers by product line, utilization/experience, and rates. FBMC will also commit to comparison and analysis of voluntary products as directed by the City.

3. The Agreement is extended for an additional thirty-six-month term ending December 31, 2027.

4. Genomic Life Cancer Guardian and Pet Benefit Solution products are added to the City's array of group voluntary insurance products.

5. Section VI.BB. of the Agreement is amended to provide as follows:

Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, created pursuant to Section 215.473, Florida Statutes (2024), as may be amended or revised, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2024), as may be amended or revised. The Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2024), as may be amended or revised, and that it is not engaged in a boycott of Israel. The City may terminate this Agreement at the City's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes (2024), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List, or been placed on a list created pursuant to Section 215.473, Florida Statutes (2024), as may be amended or revised, relating to scrutinized active business operations in Iran, or been placed on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2024), as may be amended or revised, or is engaged in a boycott of Israel, or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2024), as may be amended or revised.

6. Section VI.CC. of the Agreement is amended to provide as follows:

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY CLERK'S OFFICE, 1 EAST BROWARD BOULEVARD, SUITE 444, FORT LAUDERDALE, FLORIDA 33301, PHONE: 954-828-5002, EMAIL: PRRCONTRACT@FORTLAUDERDALE.GOV.

Contractor shall comply with public records laws, and Contractor shall:

- a. Keep and maintain public records required by the City to perform the service.
- b. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2024), as may be amended or revised, or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the City.
- d. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

7. As a condition precedent to the effectiveness of this Agreement, pursuant to Section 448.095, Florida Statutes (2024), as may be amended or revised, the Contractor and its subcontractors shall register with and use the E-Verify system to electronically verify the employment eligibility of newly hired employees.

a. The Contractor shall require each of its subcontractors, if any, to provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor shall maintain a copy of the subcontractor's affidavit for the duration of this Agreement and in accordance with the public records requirements of this Agreement.

b. The City, the Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Subsection 448.09(1), Florida Statutes (2024), as may be amended or revised, shall terminate the contract with the person or entity.

c. The City, upon good faith belief that a subcontractor knowingly violated the provisions of Subsection 448.095(5), Florida Statutes (2024), as may be amended or revised, but that the Contractor otherwise complied with Subsection 448.095(5), Florida Statutes (2024), as may be amended or revised, shall promptly notify Contractor and order the Contractor to immediately terminate the contract with the subcontractor, and the Contractor shall comply with such order.

d. A contract terminated under Subparagraph 448.095(5)(c)1. or 2., Florida Statutes (2024), as may be amended or revised, is not a breach of contract and may not be considered as such. If the City terminates this contract under Paragraph 448.095(5)(c), Florida Statutes (2024), as may be amended or revised, the Contractor may not be awarded a public contract for at least one year after the date on which the contract was terminated. The Contractor is liable for any additional costs incurred by the City as a result of termination of this Agreement.

e. Contractor shall include in each of its subcontracts, if any, the requirements set forth in this Section 7, including this subparagraph, requiring any and all subcontractors, as defined in Subsection 448.095(1)(e), Florida Statutes (2024), as may be amended or revised, to include all of the requirements of this Section 7 in their subcontracts. Contractor shall be responsible for compliance by any and all subcontractors, as defined in Subsection 448.095(1)(e), Florida Statutes (2024), as may be amended or revised, with the requirements of Section 448.095, Florida Statutes (2024), as may be amended or revised.

8. The Contractor agrees to provide electronic and physical security to personal information, as defined in Section 501.171, Florida Statutes (2024), as may be amended or revised, ("Section 501.171"), that is obtained from the City, in accordance with the standard set forth in Section 501.171. As provided in Section 501.171, the Contractor shall take reasonable measures to protect and secure data in electronic form containing personal information. The Contractor shall notify the City of any breach of security of a system maintained by the Contractor as expeditiously as practicable, but no later than 10 days following the determination of the breach of security or reason to believe the breach occurred. Such notification from the Contractor shall include all information that the City needs to comply with the notice requirements set forth in Section 501.171. The Contractor, as the City's third-party agent, as defined in Section 501.171, shall comply with and perform all of the requirements set forth in Subsections 501.171(3) and (4), Florida Statutes (2024), as may be amended or revised, in the event the Contractor experiences a breach of security involving unauthorized access of the City's data in electronic form containing personal information.

In addition to complying with Subsections 501.171(3) and (4), Florida Statutes (2024), as may be amended or revised, the Contractor shall provide credit monitoring and identity theft protection to affected persons, establish and operate a call center for affected persons, and perform other functions and services as required by law. The Contractor shall ensure that the City is in compliance with all legal requirements and laws associated with the breach of security or the potential breach of security.

In the event of a breach of security of a system maintained by the Contractor or reason to believe a breach occurred, Contractor shall immediately take such actions as may be necessary to preserve forensic evidence and eliminate the cause of the breach of security. Contractor shall provide the City all information reasonably necessary to understand the nature and scope of the breach of security, including what actions Contractor has taken to mitigate any harmful effect of the unauthorized use or disclosure of, or access to, the City's data in electronic form containing personal information. Until the resolution of the data security incident, Contractor shall provide this information to the City at thirty-day intervals from the date of the breach.

The City may suspend any services or products provided by Contractor until the City determines that the cause of the breach of security has been sufficiently mitigated. Failure by the Contractor to comply with this section may be considered breach of contract.

9. As a condition precedent to the effectiveness of this Third Amendment, the Contractor shall provide the City with an affidavit signed by an officer or representative of the Contractor under penalty of perjury attesting that the Contractor does not meet any of the criteria in paragraphs (2)(a)-(c) of Section 287.138, Florida Statutes (2024), as may be amended or revised.

10. As a condition precedent to the effectiveness of this Third Amendment, the Contractor shall provide the City with an affidavit signed by an officer or a representative of the Contractor under penalty of perjury attesting that the Contractor does not use coercion for labor or services as defined in Section 787.06, Florida Statutes (2024), as may be amended or revised.

IN WITNESS WHEREOF, the Parties do hereby sign and execute this Third Amendment to Agreement for Voluntary Benefits Administration as follows.

City of Fort Lauderdale

By: _____
Susan Grant, Acting City Manager

Approved as to form and correctness:
D'Wayne M. Spence, Interim City Attorney

Eric W. Abend
Senior Assistant City Attorney

WITNESSES:

FBMC Benefits Management, Inc.

Signature

By: _____
David A. Faulkenberry, President

Print Name:

Signature

Print Name:

ATTEST:

(CORPORATE SEAL)

Patrick D. Flemming, Secretary

STATE OF FLORIDA:
COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ___ day of _____, 2024, by David A. Faulkenberry as President for FBMC Benefits Management, Inc., a Florida corporation.

(Signature of Notary Public – State of Florida)

(Print, Type or Stamp Commissioned Name of Notary Public)

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____