

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

This **SECOND AMENDMENT** to Agreement for Voluntary Benefits Administration, made and entered into this 5<sup>th</sup> day of October, 2021, 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").

**WITNESSETH:**

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, effective January 1, 2019, American Family Life Assurance Company of Columbus (Aflac) replaced Trustmark Insurance Company and American Heritage Life Insurance Company as the voluntary benefits carrier offering group voluntary insurance products; and

WHEREAS the Parties wish to extend the Agreement for an additional thirty-six-month period ending December 31, 2024; and

WHEREAS the Parties would like to update the Agreement and memorialize several matters, including the scope of work moving forward;

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

1. Effective January 1, 2019, American Family Life Assurance Company of Columbus (Aflac) has replaced Trustmark Insurance Company and American Heritage Life Insurance Company as the voluntary benefits carrier offering group voluntary insurance products.
2. FBMC will provide City employees, dependents and retirees one-on-one communication and enrollment in the City's voluntary and core benefits year-round, including open enrollment. FBMC will provide a comprehensive onsite and call center enrollment service with telephonic and virtual capabilities where every employee can meet with a professional licensed FBMC Benefits Counselor. During this meeting, each employee will receive specific education on all employee benefits offered by the City, including the City's core benefits.
3. 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.
4. Annually during the month of April, FBMC will evaluate the City's plan designs and provide Voluntary Benefits recommendations to the City. 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.
5. FBMC shall add to FBMC's staff a Senior Employee Benefits Specialist, who will support the City's personnel by conducting the voluntary benefits new hire education and orientation, as well as call center enrollment for newly eligible employees in need of assistance with enrollment and benefits education, including core benefits, as directed by the City. City employees will have year-round access to the Senior Employee Benefits Specialist via a dedicated email and call center phone number, Monday – Friday 8:00

am to 5:00 pm, excluding holidays observed by the City. The Senior Employee Benefits Specialist will be available to provide the City's active current employees assistance with enrollment, understanding benefits policies, how to access website, materials, and other resources available to better understand the voluntary benefits programs available.

6. FBMC agrees to administratively support the City with developing and editing the active and retiree newsletter that is prepared by the City. This newsletter contains all the important annual enrollment information, including benefits education workshops events, overview of changes, and how to enroll. FBMC will provide the final electronic document in a format that is acceptable to the City. City will be responsible for the printing and distribution to employees and retirees.

7. The Agreement is extended for an additional thirty-six-month term ending December 31, 2024.

8. 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 the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2021), as may be amended or revised, and that it is not engaged in a boycott of Israel, and that it does not have business operations in Cuba or Syria, as provided in section 287.135, Florida Statutes (2021), as may be amended or revised. 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 (2021), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2021), 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 (2021), as may be amended or revised.

9. 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, 100 NORTH ANDREWS AVENUE, 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 (2021), 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 contract term and following completion of the contract 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.

10. The Contractor shall not, in any of its activities, including employment, discriminate against any individual on the basis of race, color, national origin, religion, creed, sex, disability, sexual orientation, gender, gender identity, gender expression, or marital status.

a. The Contractor certifies and represents that it will comply with Section 2-187, Code of Ordinances of the City of Fort Lauderdale, Florida, (2021), as may be amended or revised, ("Section 2-187").

b. The failure of the Contractor to comply with Section 2-187 shall be deemed to be a material breach of this Agreement, entitling the City to pursue any remedy stated below or any remedy provided under applicable law.

c. The City may terminate this Agreement if the Contractor fails to comply with Section 2-187.

d. The City may retain all monies due or to become due until the Contractor complies with Section 2-187.

e. The Contractor may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in Section 2-183 of the Code of Ordinances of the City of Fort Lauderdale, Florida.

11. As a condition precedent to the effectiveness of this Agreement, pursuant to Section 448.095, Florida Statutes (2021), 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 (2021), 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(2), Florida Statutes (2021), as may be amended or revised, but that the Contractor otherwise complied with Subsection 448.095(2), 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(2)(c)1. or 2., Florida Statutes (2021), 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(2)(c), Florida Statutes (2021), 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 11, including this subparagraph, requiring any and all subcontractors, as defined in Subsection 448.095(1)(j), Florida Statutes (2021), as may be amended or revised, to include all of the requirements of this section 11 in their subcontracts. Contractor shall be responsible for compliance by any and all subcontractors, as defined in Subsection 448.095(1)(j), Florida Statutes (2021), as may be amended or revised, with the requirements of Section 448.095, Florida Statutes (2021), as may be amended or revised.

12. The Contractor agrees to provide electronic and physical security to personal information, as defined in Section 501.171, Florida Statutes (2021), 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 (2021), 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 WITNESS WHEREOF**, the Parties do hereby sign and execute this Second Amendment to Agreement for Voluntary Benefits Administration as follows.

CITY OF FORT LAUDERDALE

By: \_\_\_\_\_  
Christopher J. Lagerbloom, ICMA-CM, City Manager

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney

WITNESSES:

FBMC Benefits Management, Inc.

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
David Andrew Faulkenberry, President, CEO

ATTEST:

(CORPORATE SEAL)

\_\_\_\_\_  
Krista M. Campbell, Chief Operating Officer

STATE OF FLORIDA:

COUNTY OF \_\_\_\_\_:

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2021, by David Andrew Faulkenberry, President, CEO, 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 \_\_\_\_\_