

PORT ST. LUCIE CITY COUNCIL  
AGENDA ITEM REQUEST

COUNCIL ITEM 12A  
DATE 2/13/12

Meeting Date: February 13, 2012

Public Hearing \_\_\_\_\_ Ordinance \_\_\_\_\_ Resolution \_\_\_\_\_ Motion X

Item: Contract #20100076, Employee Group Medical Insurance and Administrative Services, Blue Cross/Blue Shield of Florida.

Recommended Action:

Approval to enter into a contract with Blue Cross/Blue Shield of Florida for the administrative services of the City's self-insured Employee Group Medical Insurance for the prices and terms as negotiated and agreed upon by the City negotiating committee and Blue Cross/Blue Shield of Florida.

Exhibits Attached: Department Memo - Yes

Copy of the contract document.

Summary Explanation/Background Information:

City Council on June 20, 2011 gave approval to City staff to begin negotiations with the top ranked proposing firm Blue Cross/Blue Shield of Florida for the administrative services of the Employee Group Medical Plan. The City's negotiating committee and Blue Cross/Blue Shield of Florida (BCBSF) have mutually agreed upon the prices, terms and conditions for the administrative services and have incorporated these items into Contract #20100076. The contract will be a two (2) year term with two one-year renewal options. The contract allows for an adjustment of fees based on plan participants.

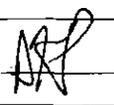
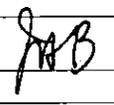
Administrative fees during the term of the Contract:

- \$52.00 per employee per month from October 1, 2011 through September 30, 2013.
- \$53.56 per employee per month from October 1, 2013 through September 30, 2015

BCBSF agrees to donate the following amounts to the City's wellness program as mutually negotiated:

Year one - October 1, 2011 - \$125,000.00  
Year two - October 1, 2012 - \$75,000.00  
Year three - October 1, 2013 - \$50,000.00  
Year four - October 1, 2014 - \$50,000.00

Annual Expenditure: To be determined by number of employees.

Director of OMB concurs with award:  City Manager concurs with award: 

Submitted by: Susan Williams  
Title: Director of Human Resources

Date Submitted: 2/3/12

**MEMORANDUM**

Date: February 3, 2012

To: Cheryl Shanaberger, OMB Deputy Director

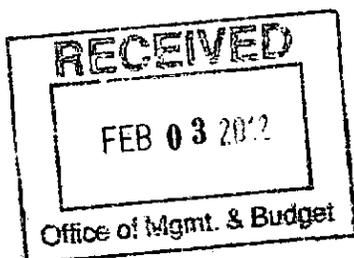
From: Susan Williams, Director of Human Resources 

Re: Contract for Administrative Services, Blue Cross/Blue Shield of Florida

As directed by Council June 20, 2011 to enter into negotiations with the top ranked proposing firm Blue Cross/Blue Shield of Florida, RFP #20100076, the City staff and Blue Cross/Blue Shield of Florida (BCBSF) have negotiated a mutually agreed upon contract for the Administrative Services of the City's self-insured Employee Group Medical Insurance Plan. Therefore we are requesting approval by the City Council of this contract. Please take this request to City Council as soon as possible.

The contract term of this contract is for two (2) years with two (2) one-year renewal options. BCBSF has agreed to contribute to the City's wellness programs. The yearly contribution amounts are specified in the contract document as well as BCBSF's administration fees.

Thank you.



**CITY OF PORT SAINT LUCIE  
CONTRACT #20100076**

This CONTRACT, executed this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the CITY OF PORT ST. LUCIE, FLORIDA, a municipal corporation, duly organized under the laws of the State of Florida, hereinafter called "City" or "Employer", the City of Port Saint Lucie Group Health Plan (GHP), and Blue Cross and Blue Shield of Florida, Inc., a Florida corporation having its principal place of business at 4800 Deerwood Campus Parkway, Jacksonville, Florida 322246 (hereinafter referred to as "BCBSF" or "Contractor").

**RECITALS**

In consideration of the below agreements and covenants set forth herein, the parties agree as follows:

**Notifications**

As used herein the City's Contract Supervisor shall mean:

Director of Human Resources, or his/her Designee  
City of Port St. Lucie, City Complex  
121 SW Port St. Lucie Blvd., Bldg. A  
Port St. Lucie, Florida 34984  
Ph: 772 344-4335 Fax 772-871-5274

As used herein the Contractor shall mean:

Blue Cross/Blue Shield of Florida  
Carlton Hobgood  
Vice President, Major Accounts  
4800 Deerwood Campus Parkway, DC3-5  
Jacksonville, FL 32246  
Ph:904-905-3072 Fax: 904-905-1688

As used herein the Agent of Record shall mean:

The Gehring Group  
Anna Maria Studley  
Managing Director  
11505 Fairchild Gardens Avenue, Ste. 202  
Palm Beach Gardens, FL 33410  
Ph: 561-626-6797/800-244-3696 Fax: 561-626-6970

As used herein the Contract Administrator shall mean:

Office of Management & Budget  
Contract Specialist, as assigned/designated by O.M.B.  
City of Port St. Lucie  
Ph: 772-871-5223 FAX: 772-871-7337

**COPY**

**SECTION I  
DESCRIPTION OF SERVICES TO BE PROVIDED**

Whereas, the City has established and currently sponsors a self-insured Employee Welfare Benefit Plan, to provide certain benefits (attached hereto as Exhibit "4" and hereinafter called the "Group Health Plan or "GHP") for covered group members and their covered dependents; and

Whereas, except as otherwise specifically provided herein, the City is to retain all liabilities under its Group Health Plan, and BCBSF is to provide the agreed upon services to the Group Health Plan without assuming any such liability; and

Whereas, the City desires that, with respect to the Group Health Plan, BCBSF furnish certain claims processing and administrative services.

Now, therefore, in consideration of the mutual promises contained herein, and other good and valuable consideration, the parties agree as follows:

**SECTION II  
DEFINITIONS**

All capitalized terms in this Contract that are not defined by this Contract will have the meaning ascribed to them by 45 C.F.R. Parts 160-64. The following terms have the following meanings when used in this Contract:

- A. "Breach" means the unauthorized acquisition, access, use or disclosure of PHI which compromises the security or privacy of PHI.
- B. "Covered Employee" means the person to whom coverage under GHP has been extended by Employer.
- C. "Covered Person" means the Covered Employee and any other persons to whom coverage has been extended under GHP as specified by GHP's Plan Document.
- D. "Creditable Coverage Certificate" means a certificate disclosing information relating to an individual's creditable coverage under a health care benefit program for purposes of reducing any preexisting condition limitation or exclusion imposed by any group health plan coverage.
- E. "Disclose" and "disclosure" mean, with respect to Protected Health Information, release, transfer, providing access to or divulging to a person or entity not within BCBSF.
- F. "Electronic Protected Health Information" means Protected Health Information that is (1) transmitted by electronic media or (2) maintained in electronic media.
- G. "Protected Health Information" means the Protected Health Information, as that term is defined in 45 C.F.R. § 160.103, that BCBSF creates or receives for, on behalf of, or from GHP (or from a GHP Business Associate) in the performance of BCBSF's duties under

the Contract. For purposes of this Contract, Protected Health Information encompasses Electronic Protected Health Information.

- H. "Plan Document" means GHP's written documentation that informs Covered Persons of the benefits to which they are entitled from GHP and describes the procedures for (1) establishing and carrying out funding of the benefits to which Covered Persons are entitled under GHP; (2) allocating and delegating responsibility for GHP's operation and administration, and (3) amending the Plan Document. City and GHP represent and warrant that GHP's Plan Document provides for the allocation and delegation of the responsibilities assigned to BCBSF under the Contract.
- I. "Unsecured PHI" means PHI that is not secured through the use of technology or methods approved by the Secretary of Health and Human Services to render the PHI unusable, unreadable or indecipherable to unauthorized individuals.
- J. "Use" means, with respect to Protected Health Information, utilization, employment, examination, analysis or application within BCBSF.

### **SECTION III TIME OF PERFORMANCE**

Contract period shall commence October 1, 2011 and terminate September 30, 2013, a term of twenty-four (24) months with two (2) one-year renewals thereafter unless the Contract is terminated earlier in accordance with the provisions of this Contract. In the event all work required in the Contract has not been completed by the specified date, the Contractor agrees to provide work as authorized by the Contract Supervisor until all work specified in the Contract has been rendered.

### **SECTION IV RENEWAL OPTION**

This Contract allows for two one-year renewal options after the initial 24 month term. In the event Contractor offers in writing, prior to the termination of this Contract, to provide the identical services required in this contract for subsequent one-year calendar period and the City agrees that said services are required and that the cost is acceptable, then the City, without additional bidding or negotiation, may, with the mutual agreement of the Contractor, extend this contract for the additional year.

**NOTE: Contractor may exercise the option to renew by submitting a written submission nine (9) months prior to the termination of the contract period.**

### **SECTION V DUTIES AND RESPONSIBILITIES OF THE CITY**

**Final Authority:** The City retains all final authority and responsibility for the Group Health Plan including, but not limited to eligibility and enrollment for coverage under the Group Health Plan, the existence of coverage, the benefits structure of the Group Health Plan, claims payment decisions, cost containment program decisions, utilization benefits management, compliance with the

requirements of COBRA (Consolidated Omnibus Budget Reconciliation Act of 1985, as amended), compliance with the requirements of ERISA (Employee Retirement Income Security Act of 1974, as amended), compliance with reporting and remitting abandoned property funds, and compliance with any other state and federal law or regulation applicable to the City, the Group Health Plan, or the administration of the Group Health Plan.

The City agrees to provide BCBSF with any information BCBSF reasonably requires in order to perform the administrative services set forth herein.

Eligibility and Enrollment: As of the first day of the term of this Contract, the City will have delivered to BCBSF enrollment information regarding eligible and properly enrolled members, as determined by the City. The City shall deliver to BCBSF all employee and dependent eligibility status changes on a monthly basis, or more frequently as mutually agreed by the parties. The City shall be responsible for providing each covered employee with a copy of the plan document which shall include the Group Health Plan.

## **SECTION VI** **DUTIES AND RESPONSIBILITIES OF BCBSF**

Generally: It is understood and agreed that BCBSF is empowered and required to act with respect to the Group Health Plan only as expressly stated herein.

The City and BCBSF agree that BCBSF's role is to provide administrative claims payment services, that BCBSF does not assume any financial risk or obligation with respect to claims, that the services rendered by BCBSF under this Contract shall not include the power to exercise control over the Group Health Plan's assets, if any, or discretionary authority over the Health Care Plan's operations, and that BCBSF will not for any purpose, under ERISA or otherwise, be deemed to be the "Plan Administrator" of the Group Health Plan or a "fiduciary" with respect to the Group Health Plan. BCBSF's services hereunder are intended to and shall consist only of ministerial functions. The Group Health Plan's "Administrator" for purposes of ERISA is the City.

Enrollment; Forms and I.D. Cards: BCBSF shall enroll those individuals who have completed an application and are identified by the City as eligible for benefits under the Group Health Plan on the effective date of this Contract, and subsequently during the continuance of this Contract. BCBSF shall be entitled to rely on the information furnished to it by the City.

BCBSF shall furnish to the City, for distribution to persons participating in the Group Health Plan, a supply of identification cards, benefit plan descriptions, forms to be used for submission of claims and enrollment, and any other forms necessary for the administration of the Group Health Plan, as determined by BCBSF.

Claims Processing: BCBSF shall provide claims processing services on behalf of the City for all properly submitted claims, in accordance with the benefits and procedures set forth in Exhibit 4, using funds solely supplied by the City, as set forth in Section XI, Compensation. BCBSF shall furnish each claimant with an explanation of each claim that is paid, rejected, suspended or denied.

For purposes of this Contract, the term "claim(s)" shall be defined as the amount paid or payable by BCBSF to providers of services and/or covered group members under this Contract and the Group Health Plan, and in conformity with any agreements BCBSF enters into with such providers of services, and includes capitation, physician incentives, pharmacy, physician, hospital and other fee-for-service claims expenditures.

Program Administration: BCBSF shall administer its established cost containment programs and utilization benefits management programs, as selected by the City and described in the Group Health Plan.

BCBSF shall make available its Preferred Provider Organization Program(s) to covered group members and their covered dependents, as set forth in the Group Health Plan. Any agreements between providers of services and BCBSF are the sole property of BCBSF and BCBSF retains the right to the use and control thereof.

Inaccurate Payments: Whenever BCBSF becomes aware that the payment of a claim under the Group Health Plan to any person was, or may have been, made which was not in accordance with the terms of the Group Health Plan, whether or not such payment was BCBSF's fault, and whether or not such payment was more than or less than was appropriate under the terms of the Group Health Plan, BCBSF shall investigate such payment in accordance with its standard commercial insurance business practices and either 1) for a payment of \$50.00 or more, make a diligent effort to recover any payment which was more than was appropriate under the Group Health Plan or 2) as the case may be, adjust any claim the payment of which was less than appropriate under the Group Health Plan. The City delegates to BCBSF the discretion and the authority to determine under what circumstances to compromise a claim or to settle for less than the full amount of the claim. In the event any part of an inaccurate payment is recovered, the City will receive a refund from BCBSF. Nothing herein shall require BCBSF to institute a legal action or suit to recover payments made by BCBSF.

Additionally, the City delegates to BCBSF the discretion and authority to pursue recoveries for claims paid as a result of fraud, abuse or other inappropriate action by a third party, including the right to opt-out or opt-in the City from any class action. These claims include, but are not limited to, all legal claims the City can assert whether based on common law or statute such as RICO, antitrust, deceptive trade practices, consumer fraud, insurance fraud, unjust enrichment, breach of fiduciary duty, breach of contract, breach of covenant of good faith and fair dealing, torts (including fraud, negligence, and product liability), breach of warranty, medical monitoring, false claims and kickbacks. If BCBSF obtains a recovery from any of these efforts, BCBSF will reimburse the City's pro rata share of the recovery. This share is calculated from the City's claims history or covered members at the time of such recovery, less the City's pro rata share of costs, if any, fees paid to outside counsel and any other costs incurred in obtaining that recovery. BCBSF will not charge the City for any costs if BCBSF does not obtain a recovery that exceeds those costs.

Records and Reports: BCBSF agrees to establish, maintain and provide to the City, records and reports generated for the purposes of reporting claims experience and conducting audits of operations. BCBSF will provide claims information only in accordance with this Contract. BCBSF will not provide any information with regard to provider pricing agreements or any other information which is of a confidential or proprietary nature, as determined by BCBSF.

Pharmacy Rebates: In certain circumstances, BCBSF and/or its pharmacy benefit manager ("PBM") negotiate(s) and receive(s) formulary rebates, volume discounts, and/or fees from certain drug manufacturers as a result of the inclusion of such manufacturer's branded products on BCBSF's formularies ("Rebates").

The PBM generally passes Rebates through to BCBSF, less a 12.5% fee as part of its compensation for its services. At times, the PBM may pass through a guaranteed minimum amount per prescription that exceeds the Rebates otherwise payable to BCBSF. In either situation, BCBSF passes through 100% of the amounts it receives to the City.

BCBSF may receive a portion of the Rebates on a prepaid, estimated basis, before any drug claims are filed and paid. To the extent that BCBSF receives prepaid, estimated rebate amounts, BCBSF retains, as part of its compensation, the interest earned on such amounts from the time it receives such prepayments until it forwards the City's Rebates. This time period is generally nine to twelve months. BCBSF expects to earn interest at the rate of 1.25% per annum.

BCBSF pays the City its Rebates or guaranteed minimum amount after BCBSF is able to determine the share attributable to the drug claims actually made by City's group members. This typically occurs seven to nine months after the end of the calendar quarter in which the drugs were dispensed.

BCBSF will provide more specific information on the amounts retained by BCBSF or the PBM upon request by the City.

Claims Payments: The source or sources of payment under the Group Health Plan are to be only the assets of the City, and BCBSF will have no liability whatsoever for providing a source from which payments will be made under the Group Health Care Plan.

Providers Outside the State of Florida:

A. BlueCard: BCBSF participates in a program called "BlueCard." Whenever member's access health care services outside the geographic area BCBSF serves, the claim for those services may be processed through BlueCard and presented to BCBSF for payment in conformity with network access rules of the BlueCard Policies then in effect ("Policies"). Under BlueCard, when members receive covered health care services within the geographic area served by an on-site Blue Cross and/or Blue Shield Licensee ("Host Blue"); BCBSF will remain responsible to City for fulfilling BCBSF contract obligations. However, the Host Blue will only be responsible, in accordance with applicable BlueCard Policies, if any, for providing such services as contracting with its participating providers and handling all interaction with its participating providers. The financial terms of BlueCard are described generally below.

B. Liability Calculation Method Per Claim: The calculation of member liability on claims for covered health care services incurred outside the geographic area BCBSF serves and processed through BlueCard will be based on the lower of the provider's billed charges or the negotiated price BCBSF pays the Host Blue.

The calculation of City's liability on claims for covered health care services incurred outside the geographic area BCBSF serves and processed through BlueCard will be based on the negotiated price BCBSF pays the Host Blue.

The methods employed by a Host Blue to determine a negotiated price will vary among Host Blues based on the terms of each Host Blue's provider contracts. The negotiated price paid to a Host Blue by BCBSF on a claim for health care services processed through BlueCard may represent:

- the actual price paid on the claim by the Host Blue to the health care provider ("Actual Price"),

or

- an estimated price, determined by the Host Blue in accordance with BlueCard Policies, based on the Actual Price increased or reduced to reflect aggregate payments expected to result from settlements, withholds, any other contingent payment arrangements and non-claims transactions with all of the Host Blue's health care providers or one or more particular providers ("Estimated Price"),

or

- an average price, determined by the Host Blue in accordance with BlueCard Policies, based on a billed charges discount representing the Host Blue's average savings expected after settlements, withholds, any other contingent payment arrangements and non-claims transactions for all of its providers or for a specified group of providers ("Average Price"). An Average Price may result in greater variation to the member and the City from the Actual Price than would an Estimated Price.

Host Blues using either the Estimated Price or Average Price will, in accordance with BlueCard Policies, prospectively increase or reduce the Estimated Price or Average Price to correct for over - or underestimation of past prices. However, the amount paid by the member and the City is a final price and will not be affected by such prospective adjustment. In addition, the use of a liability calculation method of Estimated Price or Average Price may result in some portion of the amount paid by the City being held in a variance account by the Host Blues, pending settlement with its participating providers. Because all amounts paid are final, the fund held in a variance account, if any, do not belong to the City and are eventually exhausted by provider settlements and through prospective adjustment to the negotiated prices.

Statutes in a small number of states may require a Host Blue either (1) to use a basis for calculating the member's liability for covered health care services that does not reflect the entire savings realized, or expected to be realized, on a particular claim or (2) to add a surcharge. Should any state statutes mandate liability calculation methods that differ from the negotiated price methodology or require a surcharge, BCBSF would then calculate member's liability and the City's liability for any covered health care services consistent with the applicable state statute in effect at the time the member received those services.

C. Return of Recoveries: Under BlueCard, recoveries from a Host Blue or from participating providers of a Host Blue can arise in several ways, including but not limited to anti-fraud and abuse audits, provider/hospital audits, credit balance audits, utilization review refunds, and unsolicited refunds. In some cases, the Host Blue will engage third parties to assist in discovery or collection of recovery amounts. The fees of such a third party are netted against the recovery. Recovery amounts, net of fees, if any, will be applied in accordance with applicable BlueCard Policies, which generally require correction on a claim-by-claim or prospective basis.

Unless otherwise agreed to by the Host Blue, Home Licensees may request adjustments from the Host Blue for full provider refunds due to the retroactive cancellation of membership only for one year after the Inter-Licensee financial settlement process date of the original claim. However, recovery of claim payments associated with a retroactive cancellation may not be possible if the recovery conflicts with the Host Blue's state law, provider contracts or jeopardizes its relationship with its providers.

D. BlueCard Fees and Compensation: City understands and agrees (1) to pay certain fees and compensation to BCBSF which BCBSF is obligated under BlueCard to pay to the Host Blue, to the Blue Cross Blue Shield Association, or to the BlueCard vendors, unless BCBSF's contract obligations to the City require those fees and compensation to be paid only by Administrator and (2) that fees and compensation under BlueCard may be revised from time to time without City's prior approval in accordance with the standard procedures for revising fees and compensation under BlueCard. Some of these fees and compensation are charged each time a claim is processed through BlueCard and include, but are not limited to, access fees, administrative expense allowance fees, Central Financial Agency Fees, and ITS Transaction Fees. Also, some of these claim-based fees, such as the access fee and the administrative expense allowance fee may be passed on to the City as an additional claim liability. Other fees include, but are not limited to, an 800 number fee and a fee for providing provider directories.

E. Inconsistencies: To the extent of any inconsistency between the above provision titled "Providers Outside the State of Florida" and other terms or conditions of the Agreement, the above provision controls.

**SECTION VII**  
**PRIVACY AND SECURITY OF PROTECTED HEALTH INFORMATION**

Preservation of Privacy - BCBSF will keep confidential all Protected Health Information that BCBSF creates or receives on GHP's behalf or receives from GHP (or another Business Associate of GHP) in the performance of its duties under this Contract.

Prohibition on Non-Permitted Use or Disclosure - BCBSF will neither use nor disclose Protected Health Information (including any Protected Health Information that BCBSF may receive from a GHP Business Associate) except (1) as permitted or required by this Contract, (2) as permitted or required in writing by GHP, or (3) as Required by Law.

Permitted Uses and Disclosures - BCBSF will be permitted to use or disclose Protected Health Information only as follows:

- A. GHP's Payment Activities and Health Care Operations- BCBSF will be permitted to use and disclose Protected Health Information for Payment, Health Care Operations, and Data Aggregation for GHP, including programs administered by BCBSF for GHP that may improve the quality and reduce the cost of care Covered Persons receive. Those programs administered by BCBSF for GHP:  
\_\_\_\_\_ include (but are not limited to)  
  X   do not include  
a payer-based health record program (*i.e.*, Care Profile).
- B. Another Covered Entity's Payment Activities and Health Care Operations - BCBSF will be permitted to disclose Protected Health Information in accordance with 45 C.F.R. § 164.506(c) for the Payment activities of another Covered Entity or Health Care Provider and for the qualifying Health Care Operations of another Covered Entity.
- C. Provider's Treatment Activities - BCBSF will be permitted to disclose Protected Health Information in accordance with 45 C.F.R. § 164.506(c) for the Treatment activities of a Health Care Provider.
- D. Covered Person Permission - BCBSF will be permitted to use or disclose Protected Health Information in accordance with an authorization or other permission granted by an Individual (or the Individual's Personal Representative) in accordance with 45 C.F.R. § 164.508 or 45 C.F.R. § 164.510, as applicable.

**SECTION VIII**  
**BCBSF'S OWN MANAGEMENT AND ADMINISTRATION**

Protected Health Information Use - BCBSF will be permitted to use Protected Health Information as necessary for BCBSF's proper management and administration or to carry out BCBSF's legal responsibilities.

Protected Health Information Disclosure - BCBSF will be permitted to disclose Protected Health Information as necessary for BCBSF's proper management and administration or to carry out BCBSF's legal responsibilities only (i) if the disclosure is Required by Law, or (ii) if before the disclosure, BCBSF obtains from the entity to which the disclosure is to be made reasonable assurance, evidenced by written contract, that the entity will (1) hold Protected Health Information in confidence, (2) use or further disclose Protected Health Information only for the purposes for which BCBSF disclosed it to the entity or as Required by Law; and (3) notify BCBSF of any instance of which the entity becomes aware in which the confidentiality of any Protected Health Information was breached.

De-Identified Health Information - BCBSF may use Protected Health Information to create De-Identified Health Information in conformance with 45 C.F.R. § 164.514(b). BCBSF may use and disclose De-Identified Health Information for any purpose, including after any termination of the Contract and/or the Addendum(s) thereof.

Limited Data Set - BCBSF may use Protected Health Information to create a Limited Data Set:

A. Creation of Limited Data Set.

1. that contains the minimum amount of Protected Health Information reasonably necessary to accomplish the purposes set out below in Paragraph B of this Section; and
2. from which have been removed all of the direct identifiers, as specified in 45 C.F.R. § 164.514(e)(2), of the Individuals whose Protected Health Information is included in the Limited Data Set and of the relatives, household members and employers of those Individuals.

B. BCBSF's Permitted Uses and Disclosures - BCBSF may use and disclose the Limited Data Set for only Health Care Operations permitted by this Contract.

C. Prohibition on Unauthorized Use or Disclosure

1. BCBSF will neither use nor disclose the Limited Data Set for any purpose other than as permitted by Paragraph B of this Section, as otherwise permitted in writing by GHP, or as Required by Law.
2. BCBSF is not authorized to use or disclose the Limited Data Set in a manner that would violate the Privacy Rule, 45 C.F.R. Part 164, Subpart E, if done by GHP.
3. BCBSF will not attempt to identify the information contained in the Limited Data Set or contact any Individual who may be the subject of information contained in the Limited Data Set.

D. Information Safeguards. - BCBSF will adopt and use appropriate administrative, physical, and technical safeguards to preserve the integrity and confidentiality of the

Limited Data Set and to prevent its use or disclosure other than as permitted by this Limited Data Set Section.

- E. Permitted Subcontractors, and Agents. - BCBSF will require any agent or subcontractor to which it discloses the Limited Data Set, to agree to comply with the same restrictions and conditions that apply to BCBSF's use and disclosure of the Limited Data Set pursuant to this Limited Data Set Section.
- F. Breach of Privacy Obligations. BCBSF will report to GHP any use or disclosure of the Limited Data Set that is not permitted by this Limited Data Set Section of which BCBSF becomes aware.

Minimum Necessary - BCBSF will, in the performance of its functions and activities on GHP's behalf under the Contract, make reasonable efforts to use, to disclose, or to request of a Covered Entity only the minimum necessary amount of Protected Health Information to accomplish the intended purpose of the use, the disclosure, or the request, except that BCBSF will not be obligated to comply with this minimum necessary limitation with respect to:

- A. Disclosures to GHP, as distinguished from disclosures to Employer;
- B. Disclosure to or request by a health care provider for Treatment;
- C. Use with or disclosure to a Covered Person who is the subject of Protected Health Information, or that Covered Person's Personal Representative;
- D. Use or disclosure made pursuant to an authorization compliant with 45 C.F.R. § 164.508 that is signed by an Individual who is the subject of Protected Health Information to be used or disclosed, or by that Individual's Personal Representative, as defined in 45 C.F.R. § 164.502(g);
- E. Disclosure to the United States Department of Health and Human Services ("DHHS") in accordance with the Inspection of Internal Practices, Books and Records Section below;
- F. Use or disclosure that is Required by Law; or
- G. Any other use or disclosure that is excepted from the minimum necessary limitation as specified in 45 C.F.R. § 164.502(b)(2).

Disclosure to GHP and GHP's Business Associates - Other than disclosures permitted by the Limited Data Set Section above, BCBSF will not disclose Protected Health Information to GHP, a GHP Business Associate, or a GHP Vendor, except as directed by GHP in writing.

Disclosure to BCBSF's Subcontractors and Agents - BCBSF may disclose Protected Health Information to a subcontractor or agent. BCBSF will require each subcontractor and agent to which BCBSF may disclose Protected Health Information to provide reasonable assurance, evidenced by written contract, that such subcontractor or agent will comply with the same privacy and security obligations with respect to Protected Health Information as this Contract applies to BCBSF.

Disclosure to Employer - BCBSF will not disclose any Protected Health Information to City, except as permitted by and in accordance with Section IX below.

Reporting Non-Permitted Use or Disclosure and Security Incidents:

- A. Privacy Breach - BCBSF will report to GHP any use or disclosure of Protected Health Information not permitted by this Contract or in writing by GHP, including Breaches of Unsecured PHI, of which BCBSF becomes aware in accordance with relevant legal requirements. BCBSF will cooperate with GHP in GHP's performance of investigation or assessments necessary to determine whether a Breach of Unsecured PHI has occurred. GHP shall bear sole responsibility for determining the need for and implementing notification concerning any Breach of Unsecured PHI,
- B. Security Incidents - BCBSF will report to GHP any incident of which BCBSF becomes aware that is (a) a successful unauthorized access, use or disclosure of Electronic Protected Health Information; or (b) a successful major (i) modification or destruction of Electronic Protected Health Information or (ii) interference with system operations in an Information System containing Electronic Protected Health Information. Upon GHP's request, BCBSF will report any incident of which BCBSF becomes aware that is a successful minor (a) modification or destruction of Electronic Protected Health Information or (b) interference with system operations in an Information System containing Electronic Protected Health Information.
- C. Duty to Mitigate - BCBSF will mitigate to the extent practicable any harmful effect of which BCBSF is aware that is caused by any use or disclosure of Protected Health Information in violation of this Contract.

Disposition of Protected Health Information

- A. Return or Destruction Feasible- Upon termination of the Contract, BCBSF will, if feasible, return to GHP or destroy, all Protected Health Information in BCBSF's custody or control (or in the custody or control of any subcontractor or agent to which BCBSF disclosed Protected Health Information). BCBSF will complete such return or destruction as promptly as practical after termination of the Contract.
- B. Return or Destruction Not Feasible - BCBSF will identify for GHP any Protected Health Information that BCBSF (or any subcontractor or agent to which BCBSF disclosed Protected Health Information) cannot feasibly return to GHP or destroy upon termination of the Contract and will describe the purposes that make the return to GHP or destruction infeasible. BCBSF will limit its (and, by its written contract pursuant to the Disclosure to BCBSF's Subcontractors and Agents Section above, any subcontractor's or agent's) further use or disclosure of Protected Health Information after termination of the Contract

to the purposes that make return to GHP or destruction infeasible and to those uses or disclosures Required by Law.

- C. Ongoing Privacy and Security Obligations - BCBSF's obligations to preserve the privacy and safeguard the security of Protected Health Information as specified in this Contract will survive termination or other conclusion of this Contract

#### Access, Amendment, and Disclosure Accounting for Protected Health Information

- A. Access - BCBSF will, consistent with 45 C.F.R. § 164.524(b)(2), make available to the Covered Person (or the Covered Person's Personal Representative) for inspection and copying any of the Protected Health Information about the Covered Person that qualifies as part of a Designated Record Set that BCBSF has in its custody or control, and that is not exempted from access by 45 C.F.R. § 164.524(a), so that GHP can meet its access obligations under 45 C.F.R. § 164.524.
- B. Amendment - BCBSF will, consistent with 45 C.F.R. § 164.526(b)(2), amend, pursuant to a Covered Person's written request to amend (or a written request to amend by the Covered Person's Personal Representative), any portion of Protected Health Information about the Covered Person that qualifies as part of a Designated Record Set that BCBSF has in its custody or control, so that GHP can meet its obligations under 45 C.F.R. § 164.526.
- C. Disclosure Accounting - So that GHP may meet its disclosure accounting obligations under 45 C.F.R. § 164.528, BCBSF will do the following:
  - 1. Disclosure Tracking - BCBSF will, consistent with 45 C.F.R. § 164.528(b), record each disclosure of Protected Health Information that is not excepted from disclosure accounting under 45 C.F.R. § 164.528(a) that BCBSF makes to GHP or to a third party ("Accountable Disclosures").
  - 2. Disclosure Tracking Time Periods - BCBSF will have available for Covered Person the disclosure information for each Accountable Disclosure for at least six (6) years immediately following the date of the Accountable Disclosure.
  - 3. Provision of Disclosure Information - BCBSF will, consistent with 45 C.F.R. § 164.528(c)(1), make available to the Covered Person (or the Covered Person's Personal Representative) the disclosure information regarding the Covered Person, so that GHP can meet its disclosure accounting obligations under 45 C.F.R. § 164.528.
  - 4. Restriction Requests - GHP will direct a Covered Person to promptly notify BCBSF in the manner designated by BCBSF of any request for restriction on the use or disclosure of Protected Health Information about a Covered Person that may affect BCBSF. Consistent with 45 C.F.R. § 164.522(a), and on behalf of GHP, BCBSF will agree to or deny any such restriction request. BCBSF will not be in breach of the Contract for failure to comply with a restriction request on the use or disclosure of Protected Health Information about a Covered Person unless GHP or the Covered Person (or the Covered Person's Personal Representative) notifies

BCBSF in the manner designated by BCBSF of the terms of the restriction and BCBSF agrees to the restriction request in writing.

5. Confidential Communications - BCBSF will provide a process for a Covered Person to request that BCBSF communicate with the Covered Person about Protected Health Information about the Covered Person by confidential alternative location, and Covered Person to provide BCBSF with the information that BCBSF needs to be able to evaluate that request. Consistent with 45 C.F.R. § 164.522(b) and on behalf of GHP, BCBSF will agree to or deny any confidential communication request. Furthermore, BCBSF will develop policies and procedures consistent with 45 C.F.R. § 164.522(b) to fulfill its obligations under this paragraph.

BCBSF will provide a process for termination of any requirement to communicate with the Covered Person about Protected Health Information about the Covered Person by confidential alternative location.

6. Complaint Process - BCBSF will, consistent with 45 C.F.R. § 164.530(d) and on behalf of GHP, provide a process for Covered Persons (or Covered Person's Personal Representative) to make complaints concerning BCBSF's policies and procedures, which policies and procedures GHP hereby adopts as its own so that GHP can meet its compliance obligations under 45 C.F.R. Part 164.

#### GHP's Privacy Practices Notice

- A. Preparation of GHP's Privacy Practices Notices - BCBSF will prepare Privacy Practices Notices appropriate for the benefit plans that BCBSF administers for GHP under the Contract and reflective of the requirements of 45 C.F.R. Part 164 pertaining to use and disclosure of Protected Health Information and Covered Person's rights with respect to Protected Health Information. The Privacy Practices Notices will address whether GHP discloses or authorizes BCBSF to disclose to Employer enrollment data, Summary Health Information that may include Covered Persons' Individually Identifiable Health Information or Protected Health Information for plan administration functions. Unless otherwise agreed upon by the Parties, GHP hereby adopts BCBSF's Privacy Practices Notice attached as **EXHIBIT 1**, and any future revisions thereof, as its own.
- B. Distribution of GHP's Privacy Practices Notice - BCBSF will distribute GHP's then effective and appropriate Privacy Practices Notice to each new Covered Employee upon the Covered Employee's enrollment in GHP and to any Covered Employee upon request. BCBSF will distribute any GHP revised Privacy Practices Notice to each Covered Employee then enrolled in GHP, and may distribute any GHP revised Privacy Practices Notice to any other Covered Person over the age of 18 then enrolled in GHP, within sixty (60) days after any material change in GHP's Privacy Practices Notice.

BCBSF will distribute GHP's Privacy Practices Notice to any Covered Person requesting it. Additionally, every three (3) years, BCBSF will notify each Covered Employee then

enrolled in GHP, and may notify any other Covered Person over the age of 18 then enrolled in GHP, of the availability of GHP's Privacy Practices Notice upon request.

- C. BCBSF to Comply with Notices - BCBSF will neither use nor disclose Protected Health Information in any manner inconsistent with the content of GHP's then current Privacy Practices Notice applicable to the benefit plans that BCBSF administers for GHP under the Agreement.

Issuance of Certificate of Creditable Coverage - At the written or electronic direction of Employer or GHP, BCBSF may use and disclose Protected Health Information to issue to each Covered Person, whose coverage under a benefits plan administered pursuant to the Agreement terminates during the term of the Contract, a Certificate of Creditable Coverage. The Certificate of Creditable Coverage will be based upon the coverage that the Covered Person had under the benefits plan administered pursuant to the Contract and the information that Employer or GHP provides to BCBSF regarding the Covered Person's coverage eligibility and coverage termination under that benefits plan.

#### Safeguarding Protected Health Information

- A. Privacy of Protected Health Information - BCBSF will maintain reasonable and appropriate administrative, physical, and technical safeguards, consistent with 45 C.F.R. § 164.530(c) and any other implementing regulations issued by DHHS that are applicable to BCBSF as GHP's Business Associate, to protect against reasonably anticipated threats or hazards to and to ensure the security and integrity of Protected Health Information, to protect against reasonably anticipated unauthorized use or disclosure of Protected Health Information, and to reasonably safeguard Protected Health Information from any intentional or unintentional use or disclosure in violation of this Contract.
- B. Security of Electronic Protected Health Information - BCBSF will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic Protected Health Information that BCBSF creates, receives, maintains, or transmits on behalf of GHP consistent with the Security Rule, 45 C.F.R. Part 164, Subpart C.

Inspection of Internal Practices, Books, and Records - BCBSF will make its internal practices, books, and records relating to its use and disclosure of Protected Health Information available to GHP and to DHHS to determine GHP's compliance with 45 C.F.R. Part 164, Subpart E "Privacy of Individually Identifiable Health Information."

**SECTION IX  
CITY'S/EMPLOYER'S RESPONSIBILITIES**

Data Exchange Between Employer (City) and BCBSF

- A. Enrollment Data - BCBSF may disclose to Employer the minimum necessary information regarding whether an individual is a Covered Person participating in GHP or enrolled or dis-enrolled from coverage under the GHP.

Employer may electronically exchange data with BCBSF regarding the enrollment and disenrollment of Covered Persons as participants in GHP using the Enrollment and Disenrollment in Health Plan Standard Transaction (ASC X12N 834-Benefit Enrollment and Maintenance) as specified in 45 C.F.R. Part 162, Subpart O.

- B. Other Data Exchanges and Notifications – Employer(City) will exchange with BCBSF all data not otherwise addressed in this Section and any notification by using such forms, tape formats, or electronic formats as BCBSF may approve. Employer will furnish all information reasonably required by BCBSF to effect such data exchanges or notifications.

Summary Health Information - Upon Employer's written request for the purpose either (A) to obtain premium bids for providing health insurance coverage under GHP, or (B) to modify, amend, or terminate GHP, BCBSF will provide Summary Health Information regarding the Covered Persons participating in GHP to Employer.

Employer's(City's) Certification - Employer hereby makes the certification specified in **EXHIBIT 2** so that Employer may request and receive the minimum necessary Protected Health Information from BCBSF for those plan administration functions that Employer will perform for GHP. GHP therefore authorizes BCBSF to disclose the minimum necessary Protected Health Information to those authorized representatives of Employer as specified in **EXHIBIT 3** for the plan administration functions that Employer will perform for GHP as specified in GHP's Plan Document as amended and in **EXHIBIT 3**. BCBSF may rely on Employer's certification and GHP's authorization that Employer has provided the requisite certification and will have no obligation to verify (1) that GHP's Plan Document complies with the requirements of 45 C.F.R. § 164.504(f)(2), 45 C.F.R. § 164.314(b)(2), or this IX Section, or (2) that Employer is complying with GHP's Plan Document.

**SECTION X  
MISCELLANEOUS-CONFORMANCE TO APPLICABLE LAW**

Automatic amendment to Conform to Applicable Law - Upon the compliance date of any final regulation or amendment to final regulation with respect to Protected Health Information, Standard Transactions, the security of Health Information, or other aspects of HIPAA-AS applicable to this Contract, this Contract will automatically amend such that the obligations imposed on Employer, GHP, and BCBSF remain in compliance with such regulations, unless BCBSF elects to terminate the Contract by providing Employer and GHP notice of termination in accordance with the Contract at least **90** days before the compliance date of such final regulation or amendment to final regulation.

Add GHP As A Party To Contract - Notwithstanding Section VI, "Generally", of the Contract, in order to make clear the respective HIPAA-AS compliance obligations of BCBSF, GHP, and Employer, as set forth in this Contract, GHP shall hereby be added as a separate party to the Contract.

Revision To Section VI, entitled "Claims Processing" - The first sentence of Section VI, Claims Processing of the Contract shall be deleted and replaced as follows: "The BCBSF shall provide claims processing services on behalf of the Group Health Plan."

Revision To Section VI, entitled "Records and Reports" - In order for GHP to be able to comply with its obligations under the HIPAA-AS Privacy and Security Rules and for Employer and BCBSF to be able to comply with their obligations hereunder, the terms and conditions of Section VI, Records and Reports of the Contract, and any subsequent amendments made thereto by the parties, shall be made subject to this Contract.

Compliance Date For Security Obligations - BCBSF's security obligations as set forth in Section VIII, Disclosure to BCBSF's Subcontractors and Agents, Reporting Non-Permitted Use or Disclosure and Security Incidents, paragraph B and Safeguarding Protected Health Information, paragraph B, herein shall take effect the later of (A) the last date set forth in Section XXV below or (B) the compliance deadline of the HIPAA-AS Security Rule (which is, as of the date hereof, April 20, 2005 or April 20 2006 for Small Health Plans).

Hitech Compliance - BCBSF shall comply with all applicable requirements of Title XII, Subtitle D of the Health Information Technology for Economic and Clinical Health Act ("HITECH"), 42 U.S.C. Sections 17921-17954 and all applicable HITECH implementing regulations issued by the Department of Health and Human Services as of the date by which BCBSF must comply with such statutory and regulatory requirements.

## SECTION XI COMPENSATION

- A. **Claims Payment:** The City is financially responsible for the payment of all claims paid under the Group Health Plan. Financial arrangements regarding the payment of such claims are set forth below:
1. Each month, BCBSF will notify the City of the amount due to satisfy the previous month's paid claims liability. BCBSF also will provide the City with a detailed printout of the previous month's claims payments. The City agrees to pay the full amount of the bill within ten (10) days of the written notification. If the payment is not received by BCBSF by the payment due date, the payment will be considered past due and subject to a late payment charge, as set forth below. Additionally, BCBSF will immediately suspend claims until payment is received by BCBSF.
- B. **Administrative Fees:** The City agrees to promptly pay all administrative fees as set forth below. Administrative fees are not subject to change during the initial twenty-

four (24) month term of this Contract. The administrative fees will increase, as proposed, for the two renewal options of one year each.

1. The City agrees to pay to BCBSF, each month during the term of this Contract, an administrative fee, as set forth below. The City agrees to pay to BCBSF, each month, the administrative fee within ten (10) calendar days of the written notification of the amount due. If payment is not received by BCBSF by the due date, the payment will be considered past due and subject to a late payment charge, as set forth below. Additionally, BCBSF will immediately suspend claims until payment is received by BCBSF.

a. Administrative fees during the term of the Contract:

- \$52.00 per employee per month from 8/01/2011 through 9/30/2013
- \$53.56 per contract per month from 10/01/2013 through 9/30/2015

b. Administrative fees after the termination of the Contract: 15% of claims paid. This will not exceed \$300,000.00.

c. BCBSF agrees to donate the following amounts to the City's wellness program:

Year One - October 1, 2011 - \$125,000.00  
Year Two - October 1, 2012 - \$75,000.00  
Year Three - October 1, 2013 - \$50,000.00  
Year Four - October 1, 2014 - \$50,000.00

d. Late Charges: In the event the City fails to pay any amount owed in full by the due date, the City shall pay BCBSF, in addition to the amount due, a late charge of:

1. A daily charge of .00038 times the amount of overdue payment.

C. Funding Information: Method of funding transfer: ACH

D. Modifications: Any modifications to the administrative fees as stated in this Contract will require approval and acceptance by both parties, the City and the Contractor. Either party is to give other party to this Contract forty-five (45) days prior written notice. Any agreed upon changes (modification of the Group Health Plan or changes in enrollment) to this contract will be incorporated in the contract document through a contract amendment and only after the City Council's approval.

#### Expected Enrollment

A. The administrative fees referenced above are based on an expected enrollment of: 925.

- B. If the actual enrollment is materially different from this expected enrollment, BCBSF reserves the right to adjust the administrative fees as set forth in the Contract. Actual administrative fees will be charged based on actual enrollment. Materially different shall be defined as a 10% (or more) increase or decrease in the number of plan participants since the date the then current charges were effective. The change shall be preceded by (a) notice of the amount of the new monthly administrative fee; (b) the effective date of the change.

Use of Names and Logos

- A. The City agrees to allow BCBSF to use the City's name and logo on I.D. cards and other forms necessary to effectuate this Contract, and to promote the City's relationship with BCBSF to potential or existing providers. BCBSF shall not use the City's name or logo for any other purpose without the prior written consent of the City.
- B. The City agrees that the names, logos, symbols, trademarks, tradenames, and service marks of BCBSF, whether presently existing or hereafter established, are the sole property of BCBSF and BCBSF retains the right to the use and control thereof. The City shall not use BCBSF's name, logos, symbols, trademarks or service marks in advertising or promotional materials or otherwise without the prior written consent of BCBSF and shall cease any such usage immediately upon written notice by BCBSF or upon termination of this Contract, whichever is sooner.

**SECTION XII  
CONFORMANCE WITH PROPOSAL**

Not applicable to this contract.

**SECTION XIII  
INSURANCE**

Contractor agrees to maintain the following insurance and self-insurance at its sole expense:

1. Workers' Compensation – Contractor will maintain its current status as an approved self-insurer in the State of Florida.
2. Commercial General Liability Insurance in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate, using the ISO standard form or its equivalent. City will be covered as an additional insured.

3. Business Automobile Liability Insurance covering all autos used in the performance of the contract or brought onto City premises, in the amount of \$1,000,000 per accident.

4. Professional Liability Insurance in an amount not less than \$1,000,000 per claim.

All insurance will be provided by companies licensed or approved to do business in the State of Florida and maintaining an A.M. Best Rating of at least A-. Should any of the policies be cancelled or non-renewed, Contractor agrees to give the City 30 days' prior written notice. At contract inception and annually thereafter, Contractor will provide City with a standard Certificate of Insurance as evidence of the above insurance.

#### **SECTION XIV PROHIBITION AGAINST FILING OR MAINTAINING LIENS AND SUITS**

Subject to the laws of the State of Florida and of the United States, neither Contractor nor any subcontractor, supplier of materials, laborer or other person shall file or maintain any lien for labor or materials delivered in the performance of this contract against the City. The right to maintain such lien for any or all of the above parties is hereby expressly waived.

#### **SECTION XV COMPLIANCE WITH LAWS**

The Contractor shall give all notices required by and shall otherwise comply with all applicable laws, ordinances and codes and shall, at his own expense, secure and pay the fees and charges for all permits required for the performance of the contract. All materials furnished and services performed are to comply with all local state and federal laws and regulations.

#### **SECTION XVI LICENSING**

BCBSF warrants that it possesses all licenses and certificates necessary to perform required services and is not in violation of any laws. BCBSF warrants that his license and certificates are current and will be maintained throughout the duration of the contract.

#### **SECTION XVII TERMINATION**

- A. Administration After Termination: The City is solely liable and responsible for all claims incurred under the Group Health Plan by its covered group members and their dependents during the term of this Contract, including those incurred claims which are not presented to the City or BCBSF during the term of this Contract. BCBSF will adjudicate all claims incurred during the term of this Contract. For purposes of this Contract, the date of an incurred claim is the date the particular service was rendered or the supply was furnished. After the effective date of termination of this Contract, the City will continue to provide

BCBSF with funds to pay claims incurred prior to the termination date and will continue to pay the applicable administrative fees as set forth in Section XI.

- B. Unilateral Termination: The City or BCBSF may unilaterally terminate this Contract upon 30 days prior written notice to the other after the initial 24 month term of this Contract.
- C. Termination On Anniversary Date: After the initial 24 month term, this Contract shall automatically terminate as of the date of any anniversary of the effective date of this Contract, if either the City or BCBSF has given at least 30 days prior written notice to the other of its intention not to renew this Contract as of that anniversary date.
- D. Termination Upon Default: Upon the occurrence of any of the following events, this Contract will automatically terminate at the end of the 8th business day following the day upon which the City or BCBSF is notified of any of the events of default set forth hereunder, and then only in the event that the City or BCBSF has not cured the incident of default:
1. The City's failure to provide adequate funds, as set in Section XI, as necessary for the payment of claims pursuant to the Group Health Plan;
  2. The City's failure to pay any administrative fees or late penalty as set forth in Section XI of this Contract;
  3. The City ceases to maintain a Group Health Plan;
  4. The City modifies the Group Health Plan without the prior written consent of BCBSF;
  5. At any time any judicial or regulatory body determines that this Contract, or any provision of this Contract, is invalid or illegal, or that this arrangement constitutes an insurance policy or program which is subject to state and/or federal insurance regulations and/or taxation;
  6. At any time the City or BCBSF otherwise materially breaches this Contract.
- E. Rights and Responsibilities Upon Termination: In the event of termination of this Contract, the City will immediately notify each covered group member of the termination date. Termination of this Contract for any reason shall not affect the rights or obligations of either party which arise prior to the date of termination.

## SECTION XVIII LAW

This Contract is to be construed as though made in and to be performed in the State of Florida and is to be governed by the laws of Florida in all respects without reference to the laws of any other state or nation. The venue of any action taken pursuant to this contract shall be in Broward County, Florida.

**SECTION XIX  
LEGAL ACTION – INDEMNIFICATION**

Not applicable for this contract document

**SECTION XX  
APPROPRIATION APPROVAL**

The BCBSF acknowledges that the City of Port Saint Lucie's performance and obligation to pay under this Contract is contingent upon an annual appropriation by the City Council. The BCBSF agrees that, in the event such appropriation is not forthcoming, the City may terminate this Contract and that no charges, penalties or other costs shall be assessed.

**SECTION XXI  
MISCELLANEOUS PROVISIONS**

A. Amendment: Except as otherwise provided for herein, this Contract may be modified, amended, renewed, or extended only upon mutual agreement, in writing, signed by the duly authorized representatives of the City and BCBSF.

B. Subsidiaries and Affiliates: Any of the functions to be performed by BCBSF under this Contract may be performed by BCBSF or any of its subsidiaries, affiliates, or designees.

C. Governing Law: This Contract is subject to and shall be governed by the laws of the State of Florida, except where those laws are preempted by the laws of the United States.

D. Venue: All actions or proceedings instituted by the City or BCBSF hereunder shall be brought in a court of competent jurisdiction in Broward County, Florida.

E. Waiver of Breach: Waiver of a breach of any provision of this Contract shall not be deemed a waiver of any other breach of the same or a different provision.

F. Inconsistencies: If the provisions of this Contract are in any way inconsistent with the provisions of the Group Health Plan, then the provisions of this Contract shall prevail and the other provisions shall be deemed modified, but only to the extent necessary to implement the intent of the parties expressed herein.

G. Notices: Any notice required to be given pursuant to this Contract shall be in writing, postage pre-paid, and shall be sent by certified or registered mail, return receipt requested, or by Federal Express or other overnight mail delivery for which evidence of delivery is obtained by the sender, to BCBSF or the City at the addresses indicated on the first page of this Contract, or such other addresses that the parties may hereafter designate. The notice shall be effective on the date the notice was posted.

H. Entire Contract: This Contract, including the attachments hereto, contains the entire agreement between BCBSF and the City with respect to the specific subject matter hereof. Any prior agreements, promises, negotiations or representations, either verbal or written, relating to the subject matter of this Contract and not expressly set forth in this Contract are of no force and effect.

I. Severability: In the event any provision of this Contract is deemed to be invalid or unenforceable, all other provisions shall remain in full force and effect.

J. Binding Effect of Contract: The Contract shall be binding upon and inure to the benefit of the parties, their agents, servants, employees, successors, and assigns unless otherwise set forth herein or agreed to by the parties.

K. Survival: The rights and obligations of the parties as set forth herein shall survive the termination of this Contract to the extent necessary to effectuate the intent of the parties as expressed herein.

L. Independent Relationship: Notwithstanding any other provision of this Contract, in the performance of the obligations of this Contract, each party is at all times acting and performing as an independent contractor with respect to the other party. It is further expressly agreed that no work, act, commission or omission of either party (or any of its agents or employees) pursuant to the terms and conditions of this Contract, shall be construed to make or render such party (or any of its agents or employees) an agent, servant, representative, or employee of, or joint venture with, such other party.

## SECTION XXII ENTIRE CONTRACT

The written terms and provisions of this contract shall supersede all prior verbal statements of any official or other representative of the City. Such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any manner whatsoever, this contract or contract documents.

This Contract may be executed in any number of counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

Balance of page intentionally left blank.

IN WITNESS WHEREOF, the parties have executed this contract at Port St. Lucie, Florida, the day and year first above written.

CITY OF PORT ST. LUCIE FLORIDA/City of Port Saint Lucie Group Health Plan

By: \_\_\_\_\_  
Signature \_\_\_\_\_  
City Manager

Name (printed) \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Signature \_\_\_\_\_  
City Clerk

Name (printed) \_\_\_\_\_

BLUE CROSS AND BLUE SHIELD OF FLORIDA, INC.

By: Carlton Hobgood  
Authorized Representative

Name (printed) Carlton Hobgood

State of: Florida

County of: Duval

Before me personally appeared: Carlton Hobgood  
(please print)

Personally known

Produced Identification: \_\_\_\_\_ Identification No. \_\_\_\_\_  
(type of identification)

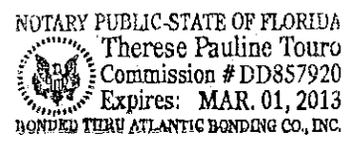
and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that he executed said instrument for the purposes therein expressed. (he/she)

WITNESS my hand and official seal, this 1<sup>st</sup> day of February, 2012.

Therese Pauline Touro  
Notary Signature

Notary Public-State of FLORIDA at Large

My Commission Expires MARCH 1, 2013



(seal)

COPY

## EXHIBIT 1—SAMPLE NOTICE OF PRIVACY PRACTICES

THIS NOTICE DESCRIBES HOW HEALTH INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

*Si usted desea una copia de esta notificación en español, por favor comuníquese con un representante de servicio al cliente utilizando el número telefónico indicado en su tarjeta de asegurado.*

### **Health Insurance Portability And Accountability Act- Administrative Simplification (HIPAA-AS)**

#### **Notice of Privacy Practices**

for your group health plan Sponsored by your employer and for which Blue Cross and Blue Shield of Florida, Inc. or Health Options, Inc. provides claim administration and other services.

#### **Our Legal Duty**

As your health plan, we are required by applicable federal and state laws to maintain the privacy of your protected health information (PHI). This notice describes our privacy practices, our legal duties, and your rights concerning your PHI. We will follow the privacy practices that are described in this notice while it is in effect. This notice took effect **April 14, 2003**, and will remain in effect until a revised notice is issued.

We reserve the right to change our privacy practices and the terms of this notice at any time and to make the terms of our notice effective for all PHI that we maintain.

Before we make a significant change in our privacy practices, we will change this notice and send the new notice to you.

#### **How we can use or disclose PHI without a specific authorization**

**To You:** We must disclose your PHI to you, as described in the Individual Rights section of this notice.

**For Treatment:** For example: we may disclose PHI in an electronic health record we create from claims information, to a doctor or hospital at their request, in order for them to provide treatment to you. Additionally, we may disclose PHI to a doctor, dentist or a hospital at their request for their treatment purposes.

**For Payment:** For example: we may use and disclose PHI to pay claims for services provided to you by doctors, dentists or hospitals. We may also disclose your PHI to a health care provider or another health plan so that the provider or plan may obtain payment of a claim or engage in other payment activities.

quality assessment and improvement activities, to conduct fraud and abuse investigations, to engage in care coordination or case management or to communicate with you about health related benefits

and services or about treatment alternatives that may be of interest to you. We may also disclose PHI to a health care provider or another health plan subject to federal privacy laws, as long as the provider or plan has or had a relationship with you and the PHI is disclosed only for certain health care operations of that provider or plan. We may also disclose PHI to other entities with which we have contracted to perform or provide certain services on our behalf (i.e. business associates).

**For Public Health and Safety:** We may use or disclose PHI to the extent necessary to avert a serious and imminent threat to the health or safety of you or others. We may also disclose PHI for public health and government health care oversight activities and to report suspected abuse, neglect or domestic violence to government authorities.

**As Required by Law:** We may use or disclose PHI when we are required to do so by law.

**For Process and Proceedings:** We may disclose PHI in response to a court or administrative order, subpoena, discovery request, or other lawful process.

**For Law Enforcement:** We may disclose PHI to a law enforcement official with regard to crime victims and criminal activities.

**Special Government Functions:** We may disclose the PHI of military personnel or inmates or other persons in lawful custody under certain circumstances. We may disclose PHI to authorized federal officials for lawful national security activities.

**To Plan Sponsors (including employers who act as Plan Sponsors):** We may disclose enrollment and disenrollment information to the Plan Sponsor of your group health plan. We may also disclose certain PHI to the Plan Sponsor to perform plan administration functions. We may disclose summary health information to the Plan Sponsor so that the Plan Sponsor may:

- Obtain premium bids
- Decide whether to amend, modify or terminate your group health plan

**For Research, Death, and Organ Donation:** We may use or disclose PHI in certain circumstances related to research, death or organ donation.

**For Workers Compensation:** We may disclose PHI as permitted by workers' compensation and similar laws.

#### **Uses and disclosures of PHI permitted only after authorization is received**

**Authorization:** You may give us written authorization to use your PHI or to disclose it to anyone for any purpose not otherwise permitted or required by law. If you give us an authorization, you may revoke it in writing at any time. Your revocation will not affect any use or disclosure permitted by your authorization while it was in effect.

**To Family and Friends:** While the law permits us in certain circumstances to disclose your PHI to family, friends and others, we will do so only with your authorization. In the event you are unable to authorize such disclosure, but emergency or similar circumstances indicate that disclosure would be

in your best interest, we may disclose your PHI to family, friends or others to the extent necessary to help with your health care coverage arrangements.

## **Individual Rights**

*To exercise any of these rights, please call the customer service number on your ID card.*

**Access:** With limited exceptions, you have the right to review in person, or obtain copies of your PHI. We may charge you a reasonable fee as allowed by law.

**Amendment:** With limited exceptions, you have the right to request that we amend your PHI.

**Disclosure Accounting:** You have the right to request and receive a list of certain disclosures made of your PHI. If you request this list more than once in a 12-month period, we may charge you a reasonable fee as allowed by law to respond to any additional request.

**Use/Disclosure Restriction:** You have the right to request that we restrict our use or disclosure of your PHI for certain purposes. We are not required to agree to a requested restriction. We will agree to restrict the use or disclosure of your PHI provided the law allows and we determine the restriction does not impact our ability to administer your benefits. Even when we agree to a restriction request, we may still disclose your PHI in a medical emergency, and use or disclose your PHI for public health and safety and other similar public benefit purposes permitted or required by law.

**Confidential Communication:** You have the right to request that we communicate with you in confidence about your PHI at an alternative address. When you call the customer service number on your ID card to request confidential communications at an alternative address, please ask for a PHI address.

**NOTE:** If you choose to have confidential communications sent to you at a PHI address, we will only respond to inquiries from you. If you receive services from any health care providers, you are responsible for notifying those providers directly if you would like a PHI address from them.

**Privacy Notice:** You have the right to request and receive a copy of this notice at any time. For more information or if you have questions about this notice, please contact us using the information listed at the end of this notice.

## **Organizations Covered by this Notice**

**This Notice applies to the privacy practices of the organizations listed below:**

**Your group health plan Sponsored by your employer and for which Blue Cross and Blue Shield of Florida, Inc. or Health Options, Inc. provides claim administration and other services.**

## **Complaints**

If you are concerned that we may have violated your privacy rights, you may complain to us using the contact information listed at the end of this notice. You may also submit a written complaint to the U.S. Department of Health and Human Services. We will provide you with the address for the U.S. Department of Health and Human Services upon request.

We support your right to protect the privacy of your PHI. We will not retaliate in any way if you choose to file a complaint with us or with the U.S. Department of Health and Human Services.

**Contact Office:** BCBSF Corporate Compliance Office, administrative service provider for your group health plan.

**Telephone:** 888-574-2583

**Address:** P.O. Box 44283, Jacksonville, FL 32203-4283

Blue Cross and Blue Shield of Florida, Inc. and its subsidiary, Health Options, Inc., are Independent Licensees of the Blue Cross and Blue Shield Association.

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## EXHIBIT 2—EMPLOYER’S CERTIFICATION

### PART 1 – Employer to Amend Plan Documents for Privacy provisions

Employer certifies that Employer has amended GHP’s Plan Document to incorporate the provisions required by 45 C.F.R. § 164.504(f)(2), as set forth below, and agrees to comply with GHP’s Plan Document as amended.

1. Neither use nor further disclose Protected Health Information, except as permitted or required by GHP’s Plan Document or as required by law.
2. Neither use nor disclose Protected Health Information for any employment-related action or decision, or in connection with any other benefit or employee benefit plan of Employer.
3. Ensure adequate separation between Employer and GHP by (a) describing those employees or classes of employees or other persons under Employer’s control who will be given access to Protected Health Information to perform plan administration functions for GHP, (b) restricting the access to and use of Protected Health Information by such employees or other persons to the plan administration functions that Employer will perform for GHP, and (c) instituting an effective mechanism for resolving any noncompliance with GHP’s Plan Document by such employees or other persons.
4. Ensure that any subcontractor or agent to which Employer provides Protected Health Information agrees to the restrictions and conditions of GHP’s Plan Document with respect to Protected Health Information.
5. Report to GHP any use or disclosure of Protected Health Information of which Employer becomes aware that is inconsistent with the uses and disclosures allowed by GHP’s Plan Document.
6. Make Protected Health Information available to GHP or, at GHP’s direction, to the Covered Person who is the subject of Protected Health Information (or the Covered Person’s Personal Representative) so that GHP can meet its access obligations under 45 C.F.R. § 164.524.
7. Make Protected Health Information available to GHP for amendment and, on notice from GHP, amend Protected Health Information, so that GHP can meet its amendment obligations under 45 C.F.R. § 164.526.
8. Record Disclosure Information as defined above for each disclosure that Employer makes of Protected Health Information that is not excepted from disclosure accounting and provide that Disclosure Information to GHP on request so that GHP can meet its disclosure accounting obligations under 45 C.F.R. § 164.528.
9. Make its internal practices, books, and records relating to its use and disclosure of Protected Health Information available to GHP and to DHHS to determine GHP’s compliance with 45 C.F.R. Part 164, Subpart E “Privacy of Individually Identifiable Health Information.”
10. Return to GHP or destroy if feasible all Protected Health Information in whatever form or medium that Employer (and any subcontractor or agent of Employer) received from GHP or

BCBSF, including all copies thereof and all data, compilations, and other works derived there from that allow identification of any present or past Covered Person who is the subject of Protected Health Information, when Employer no longer needs Protected Health Information for the plan administration functions for which the Employer received Protected Health Information. Employer will limit the use or disclosure of any of Protected Health Information that Employer (or any subcontractor or agent of Employer) cannot feasibly return to GHP or destroy to the purposes that make its return to GHP or destruction infeasible.

## **PART 2 - Employer to Amend Plan Documents for Security provisions**

Employer further certifies that Employer has amended GHP's Plan Document to incorporate the provisions required by 45 C.F.R. § 164.314(b)(2), as set forth below, and agrees to comply with GHP's Plan Document as amended.

1. Implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of Electronic Protected Health Information that Employer creates, receives, maintains or transmits on GHP's behalf.
2. Ensure that the adequate separation between Employer and GHP required by 45 C.F.R. § 164.504(f)(2)(iii) (as described in item 3 above) is supported by reasonable and appropriate Security Measures.
3. Ensure that any subcontractor or agent to which Employer provides Electronic Protected Health Information agrees to implement reasonable and appropriate Security Measures to protect the Electronic Protected Health Information.
4. Report to GHP any incident of which Employer becomes aware that is (a) a successful unauthorized access, use or disclosure of Electronic Protected Health Information; or (b) a successful major (i) modification or destruction of Electronic Protected Health Information or (ii) interference with system operations in an Information System containing Electronic Protected Health Information. Upon GHP's request, Employer will report any incident of which Employer becomes aware that is a successful minor (a) modification or destruction of Electronic Protected Health Information or (b) interference with system operations in an Information System containing Electronic Protected Health Information.

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**EXHIBIT 3— DISCLOSURE OF PROTECTED HEALTH INFORMATION  
FOR PLAN ADMINISTRATION**

Group Health Plan (“GHP”) must promptly notify BCBSF in writing if any of the information contained in EXHIBIT 3 changes.

**PART 1**

Name(s) and Title(s) of Employer representatives (i.e. employees of Employer) authorized to request and receive the minimum necessary Protected Health Information from BCBSF:

Susan Williams, Director of HR

Claudia McCaskill, Senior Benefits Analyst

for the performance of the following plan administration functions for GHP unless otherwise indicated by GHP:

- Actuarial and statistical analysis
- Claims/membership inquiries
- Procurement of reinsurance or stop loss coverage
- Quality assessment and improvement activities
- Performance monitoring
- Other health care operations
- Payment activities

**PART 2**

Identify the name(s), title(s) and company name(s) of any individual(s) from organizations other than Employer or Group Health Plan (“GHP”) (examples of such “GHP Vendor” types of services include, but are not limited to, stop-loss carriers; reinsurers; agents, brokers or Broker; or external auditors) that Employer or GHP hereby authorizes to request and receive the minimum necessary Protected Health Information to perform plan administration functions and/or assist with the procurement of reinsurance or stop-loss coverage:

Company Name	Type of Service Performed (Example: stop-loss carrier, reinsurer, agent, broker)	Name of Individual Performing Service	Title of Individual Performing Service
Gehring Group	Broker	Anna Maria Studley	Director Account Management
Gehring Group	Broker	Shawn Fleming	Analytics
Gehring Group	Broker	Jodi Beale	Account Manager
Gehring Group	Broker	Christian Bergstrom	Analytics
Symetra	StopLoss Carrier	Eric Hicks	Sales Director
Symetra	StopLoss Carrier	Murphy Head	Sales Director

**EXHIBIT 4**

The entire Group Health Plan is attached hereto and made a part of this Contract.