

**AGREEMENT TO PROVIDE AGENT OF RECORD SERVICES  
RELATING TO EMPLOYEE BENEFITS**

THIS AGREEMENT ("Agreement") is made this 12 day of June, 2012, by and between the City of Cocoa, headquartered at 65 Stone Street, Cocoa, FL 32922, hereinafter referred to as "CITY", and The Gehring Group, Inc., with its principal place of business located at 11505 Fairchild Gardens Avenue, Suite 202, Palm Beach Gardens, FL 33410, hereinafter referred to as "GEHRING GROUP".

**RECITALS:**

- a. CITY is a municipal corporation existing under the State of Florida, and in the conduct of its business, desires to obtain certain consulting services relating to its benefits program.
- b. GEHRING GROUP is an active corporation, existing under the State of Florida, experienced in the foregoing and agrees to perform these services for the CITY under the terms and conditions set forth in this Agreement.

In consideration of the mutual premises set forth in this Agreement, it is agreed by and between CITY and GEHRING GROUP as follows:

**SECTION ONE  
NATURE OF WORK**

GEHRING GROUP will perform consulting and advisory services on behalf of the CITY with respect to its benefits program, as more particularly described in the "SCOPE OF SERVICES" as set forth in **EXHIBIT "A,"** attached hereto and incorporated herein by this reference, and the BenTek Online Benefits and Enrollment System as outlined and attached hereto and incorporated herein as **EXHIBIT "B."** Unless otherwise provided herein, GEHRING GROUP shall furnish all materials, tools, equipment, and manpower to complete the work required by this Agreement. The GEHRING GROUP warrants that it holds all necessary licenses required to conduct the work required by this Agreement, and agrees to maintain said licenses in good standing during the term of this Agreement. The GEHRING GROUP shall immediately notify the CITY in the event of a loss, suspension or termination of any license required to perform the services set forth in this Agreement.

**SECTION TWO  
PLACE OF WORK**

GEHRING GROUP agrees, on request, to come to the CITY's offices in Cocoa, Florida, or such other places as reasonably designated by the CITY, to meet with representatives of the CITY, as necessary.

### **SECTION THREE TIME DEVOTED TO WORK**

In the performance of services, the services and hours GEHRING GROUP is to work on any given day, will be entirely within GEHRING GROUP'S control and professional judgment, and CITY will rely upon GEHRING GROUP to exercise sound professional judgment, and to devote such time, as is reasonably necessary, to fulfill the intent and purpose of this Agreement, which is to source and provide on a cost effective basis, the benefit programs required by the CITY in accordance with the Scope of Services per **EXHIBIT "A"**. All work furnished by the GEHRING GROUP hereunder shall conform to the highest quality professional standards of care and practice in effect at the time the work was performed.

### **SECTION FOUR PAYMENT**

GEHRING GROUP will be compensated through payment of commissions received from the various carriers who have contracted with the CITY to provide coverage to the CITY as outlined in **EXHIBIT "C"** entitled "Commissions". The annual services to be provided by the GEHRING GROUP to the CITY are described in **EXHIBIT "A"** entitled "SCOPE OF SERVICES TO BE PROVIDED BY GEHRING GROUP." In addition, GEHRING GROUP shall provide the Additional Services listed in **EXHIBIT "A,"** and the use of the BenTek software, including the monthly maintenance of the system, open enrollment, annual benefit plan updates, and data warehousing for such Additional Services as overviewed in **EXHIBIT "B."** The undertaking by GEHRING GROUP to perform professional services defined within this Agreement extends only to those services specifically described herein. If upon the request of the CITY, GEHRING GROUP agrees to perform additional services hereunder, the CITY shall pay GEHRING GROUP for the performance of such additional services an additional amount (in addition to all other amounts payable under this Agreement) based on a mutually agreed upon addendum to this Agreement outlining such additional fee and services, executed by the parties to this Agreement addressing the additional services. The City shall not be responsible for the payment of any additional services provided by GEHRING GROUP unless the description of said services has been set forth in the aforementioned addendum and approved by the City Council or City Manager in accordance with the City's purchasing policies and procedures.

### **SECTION FIVE TERM**

The term shall commence upon the parties' execution of the Agreement. ("Commencement Date"). The term of this Agreement shall be three (3) years, and may be renewed for two (2) additional one year periods at the sole option of the CITY. The CITY's City Manager may exercise this renewal option by providing the GEHRING GROUP with at least 120 days written notice in advance of the anniversary of the Commencement Date.

**SECTION SIX**  
**STATUS OF GEHRING GROUP**

This Agreement calls for the performance of the services of GEHRING GROUP as an independent contractor, and GEHRING GROUP, an active Florida corporation, will not be considered an employee of the CITY for any purpose.

**SECTION SEVEN**  
**INDEMNIFICATION**

GEHRING GROUP shall protect, defend, indemnify, and hold harmless, the CITY, its employees, agents, elected or appointed officials, and representatives from any and all claims, losses, suits, costs, expenses, fines, penalties, deficiencies, damages, obligations, and liabilities, including all attorney's fees and court costs through all appeals, for which CITY, its employees, agents, elected or appointed officials, and representatives can or may be held liable as a result of injury to persons (including death) or damage to property occurring by reason of any negligent acts or omissions or willful misconduct of GEHRING GROUP, its employees, or agents arising out of or connected with this Agreement, or any inaccurate representation made by the GEHRING GROUP, its employees, or agents, or any errors and omissions of the GEHRING GROUP, its employees, or agents, or any breach of this Agreement by GEHRING GROUP, its employees, or agents. GEHRING GROUP shall not be required to indemnify CITY or its agents, employees, or representatives when an occurrence results solely from the wrongful acts or omissions of CITY, or its agents, elected or appointed officials, employees, or representatives.

GEHRING GROUP shall protect, defend, indemnify, and hold harmless, the CITY, its employees, agents, elected or appointed officials, and representatives from any and all claims and liabilities, whether rightful or otherwise, that the work furnished by the GEHRING GROUP hereunder, or any part thereof, constitutes an infringement of any patent or copyright of the United States. GEHRING GROUP shall pay all damages and costs awarded against the CITY.

This indemnification paragraph shall survive the termination of this Agreement until such time as all pending claims between the parties have been settled, or if no such pending claims, until such time as all applicable statute of limitation time periods have expired with respect to the work performed by GEHRING GROUP pursuant to this Agreement.

## **SECTION EIGHT TERMINATION**

Notwithstanding Section Five, the CITY may terminate this Agreement for any reason, with or without cause and without penalty, by giving GEHRING GROUP 120 days advance written notice of the CITY's intent to terminate the Agreement.

## **SECTION NINE MISCELLANEOUS**

1. As an independent contractor, GEHRING GROUP shall pay all expenses in connection with its consulting business and GEHRING GROUP will not incur any indebtedness on behalf of CITY with this AGREEMENT.
2. In the event either party hereto shall file a lawsuit to enforce any of the terms hereof, the prevailing party shall be entitled to recover all costs, charges, and expenses of enforcement, including reasonable attorney's fees incurred in a trial of appellate proceeding.
3. This Agreement shall constitute the entire Agreement between the parties relative to the transaction contemplated herein and neither this Agreement nor any term or provision hereof may be waived, except by an instrument in writing executed by the CITY and GEHRING GROUP.
4. This Agreement shall be interpreted and enforced in accordance with the laws of the State of Florida, and the venue for any action brought or arising out of this Agreement shall be Brevard County, Florida.
5. Should any term or provision of this Agreement be held, to any extent, invalid or unenforceable, as against any person, entity or circumstance during the term hereof, by force of any statute, law, or ruling of any forum of competent jurisdiction, such invalidity shall not affect any other term or provision of this Agreement, to the extent that the Agreement shall remain operable, enforceable and in full force and effect to the extent permitted by law.
6. This Agreement may be amended, extended, or renewed only with the written approval of the parties.
7. This Agreement states the entire understanding and agreement between the parties and supersedes any and all written or oral representations, statements, negotiations, or agreements previously existing between the parties with respect to the subject matter of this Agreement. The GEHRING GROUP recognizes that any representations, statements or negotiations made by CITY staff do not suffice to legally bind the CITY in a contractual relationship unless they have been reduced to writing and signed by an authorized CITY representative.


This Agreement shall inure to the benefit of and shall be binding upon the parties, their respective assigns, and successors in interest.

8. CITY and GEHRING GROUP each represent that they have both shared equally in drafting this Agreement and no party shall be favored or disfavored regarding the interpretation of this Agreement in the event of a dispute between the parties.
9. Notwithstanding any other provision set forth in this Agreement, nothing contained in this Agreement shall be construed as a waiver of the CITY's right to sovereign immunity under section 768.28, Florida Statutes, or other limitations imposed on the CITY'S potential liability under state or federal law. As such, the CITY shall not be liable under this Agreement for punitive damages or interest for the period before judgment. Further, the CITY shall not be liable for any claim or judgment, or portion thereof, to any one person for more than two hundred thousand dollars (\$200,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the State or its agencies and subdivisions arising out of the same incident or occurrence, exceeds the sum of three hundred thousand dollars (\$300,000.00). This paragraph shall survive termination of this Agreement.
10. It is hereby specifically agreed that any record, document, computerized information and program, audio or video tape, photograph, or other writing of the GEHRING GROUP and its independent contractors and associates related, directly or indirectly, to this Agreement, may be deemed to be a Public Record whether in the possession or control of the CITY or the GEHRING GROUP. Said record, document, computerized information and program, audio or video tape, photograph, or other writing of the GEHRING GROUP is subject to the provisions of Chapter 119, Florida Statutes, and may not be destroyed without the specific written approval of the City Manager. Upon request by the CITY, the GEHRING GROUP shall promptly supply copies of said public records to the CITY. All books, cards, registers, receipts, documents, and other papers in connection with this Agreement shall at any and all reasonable times during the normal working hours of the GEHRING GROUP be open and freely exhibited to the CITY for the purpose of examination and/or audit. Notwithstanding, the parties agree to maintain the confidentiality of any records or documents, from third party disclosure, that is deemed confidential and/or exempt from public records disclosure pursuant to federal or state law including, but not limited to, under the Health Insurance Portability and Accountability Act of 1996 and related HIPAA Privacy Rules.
11. The GEHRING GROUP shall maintain in effect, during the life of this Agreement, a minimum of \$1,000,000.00 professional, general, and auto liability insurance policies (combined single limit for each occurrence), as well as, adequate Workers' Compensation Insurance and Employers' Liability Insurance in at least such amounts as are required by law for all of its employees performing Work for the City pursuant to this Agreement. Current, valid insurance policies meeting the requirements herein identified shall be maintained with the CITY during the term of this Agreement. Renewal certificates shall be sent to the CITY prior to any expiration date. There shall also be a thirty (30) day advance written notification to the CITY in the event of cancellation or modification of any stipulated insurance coverage.

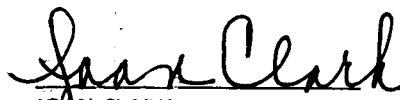
12. The GEHRING GROUP warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the GEHRING GROUP, to solicit or secure this Agreement, and that it has not paid or agreed to pay any CITY employee or official, person, company, corporation, individual, or firm, other than a bona fide employee working solely for the GEHRING GROUP, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

**IN WITNESS WHEREOF**, the parties or their duly authorized representatives hereby execute this Agreement on the date first written above.

CITY OF COCOA, FLORIDA


BY:   
MICHAEL C. BLAKE  
MAYOR

ATTEST:

BY:   
JOAN CLARK  
CITY CLERK

(CITY SEAL)

GEHRING GROUP

BY:   
KURT GEHRING, PRESIDENT

**EXHIBIT A**  
**SCOPE OF SERVICES TO BE PROVIDED BY GEHRING GROUP**

**The below list of services, as outlined in RFP # 12-09-COC, are to be provided by Gehring Group as part of inclusive services for the following lines of coverage: Medical Insurance with Prescription Coverage, Dental Insurance, Vision Insurance, Flexible Spending Account, Life Insurance, Disability Insurance, Employee Assistance Program:**

- (a) Provide the City with unbiased professional guidance regarding the most advantageous information concerning insurance markets from the standpoint of cost, service and coverage.
- (b) Act as a resource to advise the City in the areas of COBRA, HIPPA, Cafeteria Plan Section 125, ERISA, EEO, FMLA, Health Care Reform laws and any other areas in the insurance field where expertise and guidance may be requested.
- (c) Assist the City in identifying its employee insurance benefits and recommend methods to reduce, offset or update its coverage requirements.
- (d) Aid the City in understanding and negotiating all of the insurance matters concerning rates, claims, and resolution of issues on behalf of the City.
- (e) Recommend any additional coverage to the City that the Broker feels should be carried but currently is not in place.
- (f) Assist the City in the areas of evaluating insurance available in the market, claims handling and administration, as requested.
- (g) Review collective bargaining agreements to identify the City's health benefits obligations.
- (h) Review the claims history reports and collaborate with the HR Benefits Coordinator to generally assist the City with developing policies.
- (i) Assistance with maintaining up-to-date policies and procedures to insure compliance with federal and state standards and regulations.
- (j) Attend events concerning the City's Insurance matters including the Wellness and Benefits Fair, City Council meetings discussing insurance and employee benefits, and any other meeting deemed appropriate by the City.
- (k) Provide various claims review reports as requested.

- (l) Conduct analysis of insurance programs within other local governments to compare best practices.
- (m) Issue Certificates of Insurance (COI) as may be required by the City.
- (n) Any additional services agreed upon by the City and Broker.
- (o) Provide the City with any additional recommendations that will foster innovative practices and options regarding insurance.
- (p) Provide recommendation for RFP for health insurance and other listed benefits. All insurance carriers shall be rated (A) or better by the most recently published A.M. Best Rating Guide. Unless otherwise specified, it shall be the responsibility of the Successful Proposer to insure that all subcontractors comply with the same insurance requirements spelled out above. The City may request a copy of the insurance policy according to the nature of the project. City reserves the right to accept or reject the insurance carrier.

**ADDITIONAL SERVICES:**

**Additionally, inclusive to this agreement are the standard Gehring Group Services, provided for each plan year of October 1 – September 30<sup>th</sup>, pursuant to this agreement, as outlined below:**

- A. Conduct detailed review, analysis and projection sessions with decision makers at key points throughout the plan year: mid-plan year, fourth quarter, and pre-renewal.
- B. Negotiate renewal rates, benefits, and services with group insurance carriers to maximize value for the CITY.
- C. Attend and/or conduct group insurance committee meetings with employees and management. Conduct review sessions and renewal negotiations based on experience periods.
- D. Provide review/analysis/projections to include:
  - a. Projected renewal costs
  - b. Enrollment analysis and comparisons
  - c. Claims analysis and comparisons
  - d. High cost claim summary
  - e. Network utilization and cost avoidance reports
  - f. Any additional reports determined to be needed and available and that the GEHRING GROUP believes will be beneficial to the CITY



- E. Support the CITY administrative staff by resolving important enrollment and billing problems.
- F. Serve the CITY's employees by resolving individual benefit delivery issues including special problems with providers and claims.
- G. Assist with annual employee open enrollment meeting for the purpose of supporting and improving service to employees and assist the CITY in getting BenTek up and running on the CITY's system.
- H. Provide detailed quarterly reports analyzing plan revenues, claims, and administrative expenses and their fees including Gehring Group commissions, in a format that is easy to understand and helpful in decision-making.
- I. Be available for questions, explanations, discussions, and respond to requests from Human Resources or City Management within the time frame requested.
- J. Provide guidance and assistance with COBRA compliance and administration.
- K. Provide administration (or pay for administration services) for COBRA voluntary benefits, leave of Absence voluntary benefits, and Retiree voluntary benefits.
- L. Meet with employee insurance advisory committee about strategic planning on an as needed basis.
- M. Provide Additional Services
  - Program Implementation
  - Ongoing Service
  - On-site Service
  - Employee Surveys
  - Employee Benefits Handbook
  - In-House Graphics Department – Professional Employee Communications
  - Produce Formal Proposals / Make Presentations

## EXHIBIT "B"



### Comprehensive Online Benefits Enrollment & Administration System

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BenTek® is an innovative tool that Gehring Group has provided to a large number of our public sector clients to much acclaim. BenTek®, Benefits Technology by Benefits People, is a comprehensive on-line benefits administration system aimed at increasing efficiencies and reducing the burden of the administration of your employee benefits program. BenTek® segregates processes and embodies three online modules:

1. Internet based open enrollment site that allows employees to enroll in their selected benefits online in a paperless format,
2. A 24/7 employee benefits center from which employees can access provider links, policy information, report qualifying events and view their benefit elections, and
3. The benefits administration system which can perform the functions of an employee benefits data management system all year round, allowing for electronic transmission of eligibility data to carriers. BenTek also boasts unique audit capabilities that allow the administrator to easily identify when payroll deductions have not been taken – resulting in not only the savings of reconciliation time, but also ensuring the employee portion of any premiums is also collected.

Imagine your next open enrollment being a virtually paperless process. It is a system that is so simple to use that instructions are not necessary. We have had great success with implementing BenTek for clients with a varied degree of technology sophistication - from the proficient to the inexperienced web user. And with features such as online life insurance beneficiary designation, automatic transmission of eligibility updates to multiple insurance carriers, the ability for the employee to report qualifying events subject to the administrators acceptance, the ability to print a report of changes to employee benefits for bill reconciliation, and an employee benefits center with links and forms that mitigate informational request calls to HR; BenTek® becomes another member of your benefits administration team. BenTek is a customizable solution that has proven itself an invaluable, easy to use resource for a number of public sector entities throughout the state of Florida including cities, school boards, counties, and special taxing districts, who have applauded the responsiveness and professional knowledge exhibited by BenTek's staff.

#### **BenTek® Services**

BenTek®, the internet based employee benefits administration solution is comprised of three modules: Client Administration System, Open Enrollment, and Employee Benefits Center.

The **Client Administration System** allows for one point of entry for employee benefits data management and allows the Client to:

- Update personnel benefit plans and election related data
- Generate and process carrier self billing files
- Make prior and partial period (as permitted by carrier) adjustments
- Produce payroll related benefit deduction analyses
- Allow for electronic multiple carrier updates of eligibility from single entry point on bi-weekly or other designated period
- Approve/deny/suspend pending changes requested by plan participants
- Maintain historical record of employee election and plan changes
- Transmit electronic or paper report to payroll department listing current benefit plan payroll deduction changes
- Warehouse final billing files segregated by carrier
- Provide standard reports for historical periods for various administration functions (e.g. Census)
- Provide customized reporting capability

The **Open Enrollment Module** allows internet access for employees to confirm or make changes to their benefits and/or plan selections for the upcoming plan year. Data the participants' access is their own frozen participant enrollment data at a specified snapshot date. This module allows the Client and/or employees to:

- Track plan changes made on a daily basis
- Generate confirmation statements with elections chosen & deduction post changes as entered for new plan year
- Link to applicable benefits booklet plan section
- Link to carrier websites
- Link contact information for employee questions
- Capability to print carrier forms
- Prohibit employees from making changes to comply with carrier mandated signature authorization requirements
- Offer separate passwords/access capabilities for employees, administrators, and authorized third parties

The **Employee Benefits Center** allows internet access to employees giving them the capability to view and modify (as allowed) and request modification of their benefit elections and deductions, and link to benefit plan information. Successful implementation will provide employee access to:

- View current benefit elections, deduction, benefit information, and pending change requests
- Electronically request qualified event elections changes with automatic benefit administrator notification
- Link to/print signature required submission forms for qualified events
- Auto fill claim forms
- Link to carrier sites
- Link to applicable summary plan descriptions or summary of benefits and coverage
- provide link to contact info and e-mail for plan administrator

## EXHIBIT "C"

### Commissions

GEHRING GROUP will be paid a monthly commission equal to the following percentage for insurance programs secured by GEHRING GROUP. Such commissions may be paid through the insurance providers.

Line of Coverage	Commission Rate
Health Insurance (Fully Insured)	2%
Dental Insurance	5%
Vision Insurance	10%
Flexible Spending Account	n/a
Life and AD&D	10%
Disability Insurance	10%
Employee Assistance Program	n/a

Please note that the above fees include all services outlined in Exhibit A: Scope of Services to be provided by Gehring Group:

- All travel costs
- BenTek® – Online Enrollment and Administration System
- Development, production and printing of annual employee benefit booklet (all copies)
- Access to Gehring Group Client Portal
- Access to *HR Answers Now* online H.R. research tool