

**AGREEMENT**  
*between*  
**THE CITY OF COCONUT CREEK**  
*And*  
**THE GEHRING GROUP, INC.**  
*for*  
**INSURANCE BROKERAGE SERVICES**  
**RFP NO. 11-04-15-11**

THIS AGREEMENT is made and entered into this 11th day of February, 2016 by and between the City of Coconut Creek, a municipal corporation, with principal offices located at 4800 West Copans Road, Coconut Creek, FL 33063 (the "CITY") and The Gehring Group, Inc., an active corporation, existing under the State of Florida, with offices located at 11505 Fairchild Gardens Avenue, Suite 202, Palm Beach Gardens, FL 33410 (the "Contractor") to provide Insurance Brokerage Services pursuant to RFP No. 11-04-15-11.

Now therefore, in consideration of the mutual covenants hereinafter set forth, the City and Contractor agree as follows:

**1) The Contract Documents**

The contract documents consist of this Agreement, conditions of the contract of RFP No. 11-04-15-11, all addenda issued prior to, and all modifications issued after execution of this Agreement. These contract documents form the Agreement, and all are as fully a part of the Agreement if attached to this Agreement or repeated therein.

**2) The Work**

The Contractor shall perform all work for the City required by the contract documents and as set forth below:

- a) Contractor shall furnish all labor, materials, and equipment necessary as indicated in the specifications herein.
- b) Contractor 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" and BenTek's Scope of Work Agreement, Exhibit "B", attached hereto and incorporated herein by reference.
- c) Contractor agrees, on request, to come to the City's offices in Coconut Creek, Florida, or such other places as reasonably designated by the City, to meet with representatives of the City, as necessary at Contractor's expense.
- d) Contractor shall comply with any and all Federal, State, and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to the Contractor, its employees, agents or subcontractors, if any, with respect to the work and services described herein.

**3) Contract Price**

The Agreement shall be performed pursuant to RFP No. 11-04-15-11. Pricing shall be as per the Fees listed in Exhibit "C" and shall include all costs associated with the project including labor, equipment, supplies, management, etc.

Pricing is subject to Performance Guarantees as set forth in Exhibit "D."

**4) Contract Term**

The initial term of this Agreement shall be for three (3) years commencing on March 1, 2016.

**5) Contract Extension**

The City reserves the right to extend this Agreement for three (3) additional one (1) year periods, providing both parties agree to the extension; all the terms, conditions and specifications remain the same; and such extension is approved by the City. Contractor shall give written notice to the City not less than ninety (90) days prior to renewal date of any adjustment in the initial Agreement amount. Agreement renewal shall be based on satisfactory performance, mutual acceptance, and determination that the Contract is in the best interest of the City.

In the event services are scheduled to end because of the expiration of this Agreement, the Agreement shall continue the service upon the request of the Contract Administrator. The extension period shall not extend for more than ninety (90) days beyond the expiration date of the existing Agreement. The Contractor shall be compensated for the service at the rate(s) in effect when the City invokes this extension clause.

**6) Indemnification**

Contractor shall protect, defend, indemnify, and hold harmless, the City, its employees, agents, elected or appointed officials, and officers from and against any and all losses, penalties, damages, settlements, claims, costs, charges for other expenses, or liabilities of every and any kind including attorney fees, in connection with or arising directly or indirectly out of the work agreed to or performed by Contractor under the terms of this Agreement. Without limiting the foregoing, any and all claim, suits, or other defects in materials or workmanship, actual or alleged violations of any applicable statute, ordinance, administrative order, rule, or regulation, or decree of any court shall be included in this indemnity except those arising from the sole negligence of the City. Nothing herein is intended to serve as a waiver of sovereign immunity by City under Section 768.28, Florida Statutes, nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement.

**7) Non-Discrimination**

The Contractor agrees that it shall not discriminate against any of its employees or applicants for employment because of their age, handicap, race, color, religion, sex, national origin, marital status, political affiliations, familial status, disability, sexual orientation, pregnancy, or gender identity or expression and to abide by all Federal, State and County laws regarding non-discrimination. The Contractor further agrees to insert the foregoing provisions in all subcontracts hereunder except subcontracts for standard commercial supplies or raw materials. Any violation of such provisions shall constitute a material breach of this Agreement.

**8) Independent Contractor**

Contractor is an Independent Contractor under this Agreement. Services provided by the Contractor shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of the Contractor.

**9) Assignment and Subcontracting**

Contractor shall not transfer or assign the performance required by this Agreement without the prior consent of the City. This Agreement, or any portion thereof, shall not be subcontracted without the prior written consent of the City.

**10) Notice**

Whenever either party desires or is required under this Agreement to give notice to any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended at the following addresses.

CITY

City Manager  
City of Coconut Creek  
4800 West Copans Road  
Coconut Creek, FL 33063  
With a copy to the City Attorney at the same address.

CONTRACTOR

Kurt Gehring, CEO  
The Gehring Group, Inc.  
11505 Fairchild Gardens Ave., Suite 202  
Palm Beach Gardens, FL 33410  
Phone: 800-244-3696  
Fax: 561-626-6970  
Email: kurt.gehring@gehringgroup.com

**11) Agreement Subject to Funding**

This Agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the City Commission of the CITY OF COCONUT CREEK in the annual budget for each fiscal year of this Agreement, and is subject to termination based on lack of funding.

**12) Venue**

This Agreement shall be governed by the laws of the State of Florida as now and hereafter in force. The venue for actions arising out of this Agreement is situated exclusively in Broward County, Florida.

**13) Signatory Authority**

The Contractor shall provide the City with copies of requisite documentation evidencing that the signatory for Contractor has the authority to enter into this Agreement.

**14) Severability; Waiver of Provisions**

Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

**15) Merger; Amendment**

This Agreement constitutes the entire Agreement between the Contractor and the City, and negotiations and oral understandings between the parties are merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the Contractor and the City.

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature. CITY OF COCONUT CREEK, through its City Manager or designee and The Gehring Group, Inc., signing by and through Mr. Kurt Gehring, CEO, duly authorized to execute same.

**CITY OF COCONUT CREEK**

ATTEST:

\_\_\_\_\_  
Mary C. Blasi, City Manager      Date

\_\_\_\_\_  
Leslie Wallace May      Date  
City Clerk

Approved as to form and legal sufficiency:

\_\_\_\_\_  
Terrill C. Pyburn, City Attorney      Date

**CONTRACTOR**

ATTEST:

\_\_\_\_\_  
The Gehring Group, Inc.

\_\_\_\_\_  
(Corporate Secretary)

\_\_\_\_\_  
Signature of President/Owner      Date

\_\_\_\_\_  
Type/Print Name of Corporate Secy.

\_\_\_\_\_  
Type/Print Name of President/Owner

(CORPORATE SEAL)

**CORPORATE ACKNOWLEDGEMENT**

STATE OF FLORIDA:

:SS

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

I HEREBY CERTIFY that on this day, before me, an Officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared \_\_\_\_\_, of \_\_\_\_\_ a \_\_\_\_\_ Corporation, to me known to be the person(s) described in and who executed the foregoing instrument and acknowledged before me that he/she executed the same.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Signature of Notary Public  
State of Florida at Large

\_\_\_\_\_  
Print, Type or Stamp  
Name of Notary Public

- Personally known to me or
- Produced Identification

\_\_\_\_\_  
Type of I.D. Produced

- DID take an oath, or
- DID NOT take an oath.

## EXHIBIT "A"

### SCOPE OF SERVICES

#### A. Ongoing Services:

1. Monitor the programs' operations throughout the year to ensure that benefit providers are meeting all customer service requirements and standards.
2. Act as a liaison between the City and providers to assist with resolving claim disputes, contract administration and interpretations, and other issues, and provide related administrative support as requested.
3. Provide dedicated personnel to manage the account relationship with the City by acting as the primary contact, and ensuring personnel availability for meetings, phone calls, and e-mail correspondence as required.
4. Meet quarterly (or more frequently when reasonably necessary) with specific City staff.
5. Coordinate annual audits of City's benefits plans and associated vendors; prepare annual financial reports on plan year outcomes.
6. Prepare and deliver claims experience and any other necessary reports to City designee(s) at intervals acceptable to the City.
7. Provide advice and assistance in the review of City group health and medical benefits program on a continuing basis to ensure such plans are in compliance with state/federal requirements and maintain adequate benefits with respect to other plans.
8. Stay current on proposed and/or newly adopted state and federal legislation related to employee and retiree benefits, as well as modifications to existing state and federal laws related to employee and retiree benefits, such as HIPAA, COBRA, PPACA, etc. Provide this information to the City's designee(s) in addition to advising of applicable benefit and funding trends that may affect the benefits program.
9. Advise and assist the City as requested with:
  - a. Drafting new employee benefits plan documents, modifications to existing benefits plans, and any documents required for approval process;
  - b. Submitting written reports and other documents as required by the State and/or Federal Government;
  - c. Assisting in coordination of the City's wellness initiatives.
10. Prepare, conduct, and analyze benefits surveys with City employees and other municipalities to ensure competitive benefits plans and plan satisfaction.
11. Provide health advocacy services directly to plan members including, but not limited to, reviewing hospital and doctor bills, and Explanation of Benefits for claims accuracy, developing claim appeals, researching and resolving pharmacy delays or denials, assisting with member eligibility, explaining available benefits and services, and providing periodic on-site visits to provide said services; or coordinate and provide

funds for said services.

12. Provide comprehensive online benefits enrollment and administration software service that integrates with City's benefits plans and financial software, or coordinate administration and provide funds for said service.
13. Provide PSST ACA Track or similar Gehring Group negotiated price solution to prepare Form 1095-C and mail to the City's plan participants and to electronically file the Employer Form 1094-C as required under the Affordable Care Act.
14. Maintain confidentiality of City records and data as required by federal and state laws.
15. Perform other related services as requested by City on an "as needed" basis.

**B. Plan Year Renewal Services:**

1. Research, design and propose employee benefit plans for the City as appropriate, using the City's current benefits plans as benchmarks.
2. Provide dedicated personnel to act as primary contact and manage the City's plan year renewal processes, ensuring personnel availability for meetings, phone calls, and e-mail correspondence as required.
3. Meet with the City to discuss existing benefit plan options and establish goals and objectives for the City's benefits program as necessary.
4. Review past performance and provide analysis of proposed renewal of current plan and/or alternatives.
5. Review and recommend additional available cost savings plan alternatives and creative funding options.
6. Review existing contribution structure, determine appropriate employee and employer benefit contribution levels, and recommend annual contribution strategy.
7. Provide City information regarding benefits programs offered by municipalities of comparable size and location in the upcoming play year.
8. Conduct renewal negotiations and develop appropriate information for management purposes.
9. Upon City's request, assist in coordinating a comprehensive "Request for Proposal" (RFP) process to identify potential high quality vendors, according to established City guidelines. The scope of this RFP may include, but is not limited to providers for: Medical, Dental, Employee Assistance Program, Voluntary Life (Employee and Dependent), Long Term Care, and/or Voluntary Supplemental Insurance Coverage.
10. Act as Lead Negotiator and Consultant for the City during benefit contract negotiations and renewals.
11. Prepare and present a written analytical report of all proposals received including disruption analyses, recommendation(s) and supporting documentation for recommendations.

12. Advise and assist with the review of contracts, plan documents, insurance policies and other documents (employee booklets, SPD, SBC, etc.) and master contracts for applicability, accuracy, consistency, and legal compliance before adoption and printing.
13. Assist with planning and implementation of selected benefits including vendor selection and transition, participant eligibility and enrollment, and other related tasks.
14. Develop City employee benefit program communication materials, and coordinate the design, printing and production of those materials, as edited and approved by the City's designee(s).
15. Assist with the development of the City's performance guarantees relating to vendors' performance of services to the City and evaluation of said performance.
16. Facilitate the annual open enrollment processes.

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## EXHIBIT "B"

### BenTek Scope of Work Agreement

This document is to confirm and specify the Scope of Work between **BenTek, Inc.** (BenTek) and the **City of Coconut Creek** (CLIENT) to deploy an Internet based employee benefits administration application.

**The following sections describe application functionality, the responsibilities of all parties represented by this Agreement, contact information, contract term, and payment for the utilization of the BenTek application.**

#### **APPLICATION FUNCTIONALITY**

The BenTek application is composed of two major modules: Benefits Administration and the Employee Benefits Center (EBC).

The Benefits Administration module provides the following functionality:

- Unique password protected user profiles with permission options.
- Single point of entry for benefits data management including demographic, employment, and group insurance eligibility information inclusive of plan elections, employee deductions, and employer contributions.
- Single point of entry for benefits data management including demographic and group insurance eligibility information for dependent records.
- Benefit eligibility and payroll deduction/contribution analyses of core and ancillary benefits.
- Personnel data reconciliation process of demographic and job information.
- HIPAA 834 and non-standard file exchange for core benefits.
- Access to Secure FTP for document/report sharing, etc.
- Historical records of demographic, job, and coverage changes for employee records.
- Historical records of demographic and coverage changes for dependent records.
- 40+ standard reports available.
- Customized reports upon request including annual Open Enrollment benefit and payroll deduction reports.
- Printable life insurance beneficiary designations entered by employees.
- Printable Summary of Benefits available for all employee records (active, retired, COBRA).
- Qualifying Life Event processing including individualized approval and denial letters available.
- Document warehouse for qualifying life event documentation within each employee record.
- Optional Third party export file exchange for core/ancillary benefits.
- Optional Vendor invoicing and premium reporting.
- Optional bi-directional payroll integration.
- Optional Enterprise Web SSO (Single Sign-on).

The Employee Benefits Center (Employee Self Service) module will provide the following functionality to employees of CLIENT:

- Unique password protected user profiles.
- View of current and future benefit summary including payroll deductions, covered dependents, and beneficiaries.
- Electronic submission of qualified event elections changes with access to documentation requirements based on life event.
- Resource Center including user guide, videos, forms, plan summary documents, etc.
- Benefits Highlights of coverage options offered including access to Summary of Benefit and Coverage documents, plan summaries, carrier websites, forms, etc.
- Online Beneficiary Designation process accessible 24/7.
- New Hire Orientation equipped with benefit rules permitting online enrollment of all eligible benefits based on established eligibility rules.

- Annual Open Enrollment equipped with benefit rules permitting the online enrollment of all available benefits based on renewal decisions.
- Generation of confirmation statements is available upon the completion of all online enrollment processes (New Hire, Open Enrollment, and Qualifying Events).

## **BENTEK RESPONSIBILITIES**

- Provides BenTek file specifications options for receipt of client files used for initial site population and ongoing audit features (Personnel Import and Payroll Audit).
- Manages initial and renewal implementation projects with timelines, weekly calls, on-site meetings, etc.
- Creates and manages communication and documentation flow via the Social Business Client Information Portal.
- Manages completion and analysis of the Benefit Specification Document during initial and renewal implementations.
- Obtains written letter of authorization from Client to permit BenTek to communicate with current insurance companies, TPA's, etc., in order to obtain enrollment files.
- Manages the completion and facilitation of initial client/vendor data audit and results.
- Executes required vendor electronic eligibility set-up documents.
- Creates and tests all electronic file transmissions for core benefits (medical, dental, and vision plans) in 834 (version 5010) file format.
- Configures BenTek application with all client's benefit rules, election options, eligibility, etc., established in the Benefit Specification Document.
- Configures BenTek application with all group insurance premiums, payroll deductions, etc., established in the Rate Specification Document.
- Configures BenTek application with mechanism to transmit files electronically to third party vendors (insurance carriers, Third Party Administrators, payroll systems, etc.).
- Manages creation and client review of site content for all BenTek screens including Log-in and Introduction screens, New Hire Orientation, Qualifying Events, Open Enrollment, etc.
- Provides regular system enhancements and updates as needed all of which are documented in the monthly distributed BenTek Newsletter.
- Maintains Social Business Client Information Portal with current membership, documentation, files containing PII, Technical Specifications, User/Admin Guides, Newsletters, Project Timelines etc.
- Establishes BenTek task list for Client, which includes eligibility file transmission and audit process schedules.
- Establishes and maintains Renewal (open enrollment) timeline, which is determined by type of renewal (carrier changes, plan/rate changes, etc.).
- Facilitates initial and annual Client review of test site (web demonstration).
- Provides dedicated Client Services/Support Team.
- Provides on-site/web client training (as determined in this Agreement).
- Provides and maintains all hardware to host the application (server and maintenance).
- Provide notice of any Security Incident within five (5) days of when BenTek becomes aware of such an incident to the Client and the Florida Department of Legal Affairs regarding such breach of security affecting five hundred (500) or more individuals in accordance with Section 501.171, Florida Statutes.

## **CLIENT'S RESPONSIBILITIES**

- Executes initial Sales Quote, Scope of Work, Agreements/Contracts with BenTek.
- Executes Agreements with BenTek and Third Party vendors to establish secure electronic connection for transmission of eligibility files.
- Establishes membership in the Social Business Client Information Portal.
- Exchanges information in the Social Business Client Information Portal.
- Completes Benefit and Rate Specification Documents including providing clarification and final approval.
- Updates Benefit Specification Document including providing clarification and approval at each annual renewal.
- Provides BenTek with Personnel and Payroll data files pursuant to BenTek file specifications. Continue to work with BenTek through layout requirement review and file testing.
- Provides BenTek with Payroll related information including but not limited to deduction and contribution codes, pay types, deduction schedule, and payroll calendar to ensure accuracy of set-up.

- Validates all employees demographic and benefit discrepancies identified during initial audit. Conveys all corrections directly to third party vendors and provides revised Personnel and Payroll data files to BenTek for initial system population.
- Reviews EBC Site Content Template documents providing updates and final approval.
- Reviews application and performs record validation in test environment prior to "Go Live" date.

## **CHANGE MANAGEMENT**

Substantial changes that materially change the scope of services as provided in this Agreement must be mutually agreed upon by BenTek and the Client prior to implementation. It is expected that new features will be added to BenTek and existing software may be modified from time to time. Any system-wide or version changes will be communicated to Client in advance of implementation if impacts are expected.

## **DATA MANAGEMENT**

It is understood that BenTek maintains the software and warehouses the data for the City. The software is the sole property of BenTek as specified in the accompanying Professional Services Agreement, executed by both parties and a part of this Agreement. The Client's data is the property of the Client. In the event of termination, the Client's data will be returned to the Client upon request in a standard format agreed upon by the CLIENT and by BenTek.

## **TERM**

The term of this Agreement is concurrent with the Agreement between CLIENT and GEHRING GROUP. The BenTek implementation will commence per a mutually agreed upon timetable established by **BenTek** and approved by Client. In the event CLIENT and GEHRING GROUP terminate its relationship, BenTek, Inc. will have the option of terminating this Agreement to coincide with such termination; or BenTek, Inc. may elect to continue services by executing a new contract directly with the CLIENT. Any party to this Agreement may terminate their participation at any time given **ninety (90) days** written notice. Any changes to the project objectives as stated in this Agreement subsequent to the Agreement's execution may necessitate a revision to this Agreement and contract term.

## **FEES**

The fee for the utilization of the BenTek application is to be paid for directly by GEHRING GROUP. Any changes to the project objectives as stated in this Agreement subsequent to the Agreement's execution may necessitate a revision to this Agreement.

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# BenTek® Professional Services Agreement

This Professional Services Agreement (“PSA”) sets forth the terms and conditions under which BenTek will perform certain consulting services for the undersigned Client.

1 Work. BenTek agrees to provide services as described in Exhibit B attached hereto (“Work”) and to use commercially reasonable efforts to complete the Work in accordance with the schedule set forth therein. BenTek agrees to notify Client if, at any time, it becomes apparent that the parties need to revise the schedule.

2 Price and Payment. The fee for the utilization of the BenTek application is to be paid for directly by GEHRING GROUP.

3 Ownership. Client agrees that any and all deliverables, plans, specifications, documentation, and other materials delivered to Client hereunder, together with all ideas, concepts, know-how, techniques, inventions, discoveries or improvements, including but not limited to computer software, whether in object code or source code form, developed by BenTek and arising out of or relating to the Work (collectively referred to as the “Work Product”) are the property of BenTek and BenTek hereby grants Client a nonexclusive, nontransferable license for internal use of the Work Product for the purposes set forth in this PSA in accordance with BenTek’s standard software license terms and conditions. BenTek will retain all right, title and interest in and to the Work Product, except to the extent that the Work Product contains any Client Confidential Information to which Client will retain all right, title and interest. BenTek expressly reserves the right to perform similar work for other customers.

4 Force Majeure. Neither party shall be liable for failure to perform any of its obligations hereunder where such performance is prevented or interfered with by any cause beyond the reasonable control of the parties hereto. This provision shall not be construed as relieving either party from its obligation to pay any sums due the other party.

5 Term and Termination. This PSA shall commence on the Effective Date below and shall continue until completion of all Work unless earlier terminated. Either party may terminate this PSA if the other party fails to perform any of its material obligations hereunder and such failure to perform has not been cured within thirty (30) days of written notice thereof by the terminating party. The parties’ obligations under Sections 3 and 8 hereof shall survive expiration or termination of this PSA regardless of the manner of termination.

6 Warranty. During the term of the applicable Work, BenTek warrants that any service rendered by BenTek during such time shall be performed with the care and skill ordinarily used by other members of BenTek’s profession practicing under similar conditions at the same time and in the same locality.

7 Client Responsibilities. Client is solely responsible for the use to which it puts any deliverable or information provided by BenTek hereunder and any decisions it makes in using such deliverable or information. Client represents and warrants that it has all right and authority from any third party suppliers to allow BenTek to perform the Work hereunder and shall defend, indemnify, and hold harmless BenTek from any claims or damages incurred relating thereto. Nothing herein is intended to serve as a waiver of sovereign immunity by Client under Section 768.28, Florida Statutes nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement.

7.1 Limitation/Remedies. BenTek’s sole liability under Clause 6 shall be to re-perform any service which fails to conform to the specified standard. In no event shall BenTek’s liability under this Section 6 exceed the value of the product or service provided which gave rise to the claim hereunder. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 6 ABOVE, BENTEK MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESSED OR IMPLIED, WITH REGARD TO THE WORK OR WORK PRODUCT, INCLUDING, BUT NOT LIMITED TO, YEAR 2000 COMPLIANCE OF ANY KIND OR NATURE, AND IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE.

8 DAMAGES. IN NO EVENT SHALL BENTEK BE LIABLE FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES, SUCH AS, BUT NOT LIMITED TO LOSS OF ANTICIPATED PROFITS OR OTHER ECONOMIC LOSS IN CONNECTION WITH OR ARISING OUT OF THE WORK. BENTEK’S TOTAL AGGREGATE LIABILITY FOR ANY AND ALL DAMAGES SHALL NOT EXCEED THE TOTAL CONTRACT PRICE.

9 Confidentiality.

9.1 Confidential Information. “Confidential Information” means all information provided by one party to the other party relating to the Work which the disclosing party has identified as being proprietary or confidential, except information which (i) is public knowledge at the time of disclosure; (ii) becomes public knowledge through no act or omission of receiving party; (iii) has been furnished to the receiving party by a third party whom the receiving believes may legitimately provide the information without restriction on disclosure; (iv) was in receiving party’s possession, as evidenced by written or computerized records, prior to the date of this PSA and which was not acquired under obligations of confidentiality from the disclosing party; or (v) was independently developed by the receiving party as evidenced by written or computerized records; (vi) is not deemed to be confidential or exempt pursuant to Chapter 119, Florida Statutes.

9.2 Nondisclosure. Each party shall protect as proprietary and confidential all Confidential Information disclosed to the other under this PSA using at least as great a degree of care as used to maintain the confidentiality of its own most Confidential Information, but in no event less than a reasonable degree of care. Except with specific prior written authorization, each party shall not use, either directly or indirectly, any of the other party’s Confidential Information other than for the purpose for which it has been disclosed in connection with the performance of the Work. Each of the parties agrees that it will disclose the other party’s Confidential Information only to its employees who need to know such information, provided that such employees are bound by terms and conditions protecting such Confidential Information substantially similar to those of this PSA. This paragraph shall survive the expiration or termination of this PSA for a period of five (5) years.

9.3 Respect of Business Relationship. Neither party nor their respective agents, employees, officers, principal, directors and/or subsidiaries shall seek to utilize any customer information obtained as a result of this Agreement to harm, alter, undermine, or otherwise disturb the existing status and/or terms of any business relationship between the other party and its customers. Any violation of this provision shall subject the breaching party to liquidated damages that shall include but not be limited to immediate termination of this agreement, provided reasonable notice is given to BenTek.

10 No Assignment. Client nor BenTek shall assign this PSA without the prior written consent of the other. Any transfer by merger, consolidation or liquidation shall constitute an assignment or purposes of this PSA.

11 Non-Solicitation. Client agrees that, during the term of this PSA and for a period of two (2) years thereafter, Client will not, except with BenTek’s prior written approval, hire, solicit or offer employment, directly or indirectly, to any BenTek employee or staff.

12 Amendment; Waiver. Neither this PSA nor any term, covenant, condition or other provision hereof may be changed, waived, discharged or terminated orally but only by an instrument in writing signed by both parties. Except as otherwise provided, failure or delay of either party to exercise any right or remedy hereunder shall not constitute a waiver of rights or remedies under this PSA.

13 Governing Law. This PSA shall be construed according to the laws of the State of Florida.

14 Entire Agreement. This PSA along with the Agreement between the City and Gehring Group for Insurance Brokerage Services dated the 11th day of February, 2016, the RFP No. 11-04-15-11, and the Scope of Work Agreement between BenTek and Client attached to the Agreement between the City and Gehring Group as Exhibit “B” shall

constitute the entire agreement between the parties hereto with respect to its subject matter; and, except as otherwise expressly provided herein, this PSA shall not be affected by reference to any other document.

15 Severability. If any provision of this PSA is held unenforceable or inoperative by any court of competent jurisdiction, either in whole or in part, the remaining provisions shall be given full force and effect to the extent not inconsistent with the original terms of this PSA.

16 Notices. Notices and communications required by this PSA shall be in writing and may be delivered in person, by courier, transmitted by facsimile, or mailed prepaid first class, return receipt required, to the respective parties at the address listed herein or other address most recently designated in writing. Notices directed to BenTek shall be sent "Attention: Chief Financial Officer."

17 The Effective Date of this PSA shall coincide and run concurrently with the term of Agreement between The City of Coconut Creek and Gehring Group for insurance brokerage service.

BENTEK, INC.

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

CITY OF COCONUT CREEK

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT "C"

### Fees

#### Option I - Commissions

GEHRING GROUP will provide all services as included and described in **Exhibit "A"** (including "Additional Services") and will be paid through monthly commissions from insurance carriers equal to the following percentage for insurance programs secured by GEHRING GROUP. GEHRING GROUP will provide CITY an accounting of all commissions received, annually or upon request by the CITY. GEHRING GROUP agrees to allow the CITY to audit the annual accounting through direct contact with the carriers. GEHRING GROUP will release the carrier to provide information regarding any and all payment of aforementioned compensation upon request by the CITY. Such commissions shall be paid by the health and dental insurance providers and the total paid shall not exceed eighty-two thousand five hundred dollars (\$82,500) per fiscal year (October 1 – Sept 30).

Medical Insurance 3%

Dental Insurance 5%

Additionally, GEHRING GROUP will receive carrier paid compensation at a rate of three percent (3%), subject to the fiscal year caps set forth in the following table, for the following lines of coverage: group life, voluntary life, short term disability, AD&D, and long term disability.

Description	Commission (%)	\$ Cap for Commission-based Fees
Medical	3%	\$82,500 annual cap on medical; and
Dental	5%	dental
Short-Term Disability	3%	\$3,000
Long-Term Disability	3%	\$3,000
Life Insurance	3%	\$3,500 for Life, AD&D, and Voluntary Life
Accidental Death and Dismemberment	3%	N/A
Benefits Administration Software Package	Included*	N/A
ACA Compliance Reporting Software and Related Tax Filing Services	Included**	N/A

\*If the City deems the Benefits Administration Software Package is no longer needed, the commission for medical insurance shall be reduced from 3% to 2%.

\*\*If the City deems the ACA Compliance Reporting Software and Related Tax Filing Services are no longer needed, the annual flat dollar cap for the commission on Medical and Dental insurance shall be reduced from \$82,500 to \$80,000 (prorated for any portion of the fiscal year remaining at the time the service is cancelled).

**EXHIBIT “D”  
Performance Guarantees**

**Account Management** **25% of Total Fees at Risk**

Account Management Composite Score (all categories) will be assessed quarterly on a scale of 1-5. An average annual score based on the four (4) quarterly assessments must be at least 4.0 for Gehring Group to avoid reimbursing the Fees at Risk to the City. *See scale below.*

**Categories for Assessment:**

- **Customer Support and Responsiveness** – Requests are acknowledged within one business day, and status updates are provided at least every two business days until issue is resolved.
- **Deadlines and Deliverables for Implementation and Open Enrollment** – Are met within agreed upon timeline.
- **Wellness Support** – Strategizes with the City to develop measurable wellness goals to incentivize employee participation and positively impact future insurance renewals. Coordinates and facilitates planning meetings with the City and initiatives to achieve these goals.

**Analytics** **25% of Total Fees at Risk**

Analytic Composite Score (all categories) will be assessed quarterly on a scale of 1-5. An average annual score based on the four (4) quarterly assessments must be at least 4.0 for Gehring Group to avoid reimbursing the Fees at Risk to the City. *See scale below.*

**Categories for Assessment:**

- **Deadlines and Deliverables** – Are met within agreed upon timeline.
- **Accuracy** – Documentation and analyses are prepared accurately.
- **Claims Reports** – Are provided to client monthly (subject to availability of carrier reporting).
- **Plan Analyses** – Are provided to include recommended plan design changes to achieve renewal and long-term goals.

**Benefit Consultant** **25% of Total Fees at Risk**

Benefit Consultant Composite Score (all categories) will be assessed quarterly on a scale of 1-5. An average annual score based on the four (4) quarterly assessments must be at least 4.0 for Gehring Group to avoid reimbursing the Fees at Risk to the City. *See scale below.*

**Categories for Assessment:**

- Coordination and facilitation of Bi-Monthly Strategy meetings
- Timely notification of team assignment changes and Gehring Group executive staff updates
- **Strategy and Benchmarking** – Proactively provide benchmarking of like entities, carrier product updates, funding options, plan design options, and other relevant information to assist with development of City’s long-term benefits strategy.

**Overall Customer Satisfaction** **25% of Total Fees at Risk**

Overall Customer Satisfaction Rating

Overall Customer Satisfaction Rating will be assessed quarterly on a scale of 1-5. The average annual score based on the four (4) quarterly assessments must be at least 4.0 for Gehring Group to avoid reimbursing the Fees at Risk to the City. *See scale below.*

**Total Fees at Risk** **5% of Collected Commission for Health Coverage**

*\*Final assessment measured each 12 month period beginning March 1, 2016.*

*\*\*If errors or delays are determined not to be a result of Gehring Group performance and/or within Gehring Group's control, it will not be assessed within the above performance evaluation.*

\*\*\*Scale

- 1 – Dissatisfied
- 2 – Fair
- 3 – Average
- 4 – Satisfied
- 5 – Very Satisfied