

AN ORDINANCE 2013-12-05-0868

AUTHORIZING AN AMENDMENT AND SECOND EXTENSION OF THE CONTRACT WITH UNITED HEALTHCARE INSURANCE COMPANY, IN AN ESTIMATED ANNUAL AMOUNT OF \$4,368,318 TO PROVIDE THIRD PARTY ADMINISTRATION FOR THE CITY'S SELF FUNDED MEDICAL PLANS AND OTHER RELATED SERVICES.

* * * *

WHEREAS, the City's Employee Benefits program provides covered employees and retirees with medical, prescription and flexible spending claim and reduced health care costs resulting from contracted provider discounts, utilization review, large case management, wellness programs and disease management, which services include third party administration ("TPA"), Flexible Spending Account ("FSA") Administration, Preferred Provider Organization ("PPO"), and Total Health Management and Prescription Benefit Management (PBM) services; and

WHEREAS, the contract provides medical third party administration for the City's self-funded medical plans, flexible spending account administration, preferred provider organization, total health management and prescription benefit management services; and

WHEREAS, the contract term ends December 31, 2012 and contains two (2), one (1) year extensions; and

WHEREAS, the parties wish to exercise the second renewal option for a one-year period, beginning January 1, 2014 and ending December 31, 2014; and

WHEREAS, the parties also wish to amend the contract to provide for rates; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City's contract with United HealthCare is hereby amended as set forth in Attachment 1. This contract is also extended for a one year period, from January 1, 2014 through December 31, 2014 as set forth in Attachment 1. The City Manager, or her designee, is authorized to execute the Extension and Amendment, Attachment 1, and any other documents necessary to give effect to this Ordinance.

SECTION 2. Funding in the amount of \$3,276,238.00 are budgeted for this contract in fund 75002000, Cost Center 1002010025, and General Ledger 5201040, as part of the Fiscal Year 2014 Budget.

SECTION 3. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers,

KC
12/05/13
Item No. 39
Corrected

WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 4. This ordinance is effective immediately upon passage by eight affirmative votes; otherwise, it is effective ten days after passage.

PASSED AND APPROVED this 5th day of December, 2013.



M A Y O R
Julián Castro

ATTEST:

APPROVED AS TO FORM:



Leticia M. Vacek City Clerk



Michael Bernard, City Attorney

Agenda Item:	39 (in consent vote: 7, 8, 9, 10, 11, 12A, 12B, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 31, 32, 34, 36, 37, 38, 39, 40, 41, 42, 43A, 43B, 43C, 43D)
Date:	12/05/2013
Time:	10:02:38 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing an amendment and second extension of the contract with UnitedHealthcare Insurance Company, in an estimated annual amount of \$4,368,318 to provide Third Party Administration for the City's self-funded medical plans, Health Savings Account, Flexible Spending Account, Prescription Benefit Management services, subcontracting services of health miles program through Virgin Pulse, Healthy Rewards telephonic coaching and reporting, Preferred Provider Organization, Total Health Management, and one additional onsite health coach. [Ben Gorzell, Chief Financial Officer; Joe Angelo, Chief Human Resources Officer]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor	x					
Diego Bernal	District 1		x				x
Ivy R. Taylor	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x			x	
Joe Krier	District 9		x				
Carlton Soules	District 10		x				

AMENDMENT AND EXTENSION OF PROFESSIONAL SERVICES CONTRACT

This Extension of the Professional Services Contract with United Healthcare Insurance Company (hereinafter referred to as "VENDOR") to provide third party administrator services to the City of San Antonio (hereinafter referred to as "CITY"), is as follows:

WHEREAS, through Ordinance No. 2007-10-04-1043, passed and approved on October 4, 2007, City Council authorized the execution of the medical third party administration contract (hereinafter the "Contract"), with VENDOR; and

WHEREAS, said Contract provides that VENDOR shall provide medical third party administration, prescription drug benefit management, total health management, preferred provider organization and flexible spending account for its employee/retiree plan participants and their dependents; and

WHEREAS, CITY and VENDOR want to exercise the 2nd extension to begin January 1, 2014 and end December 31, 2014; and

WHEREAS, the Parties wish to amend the Contract as set forth in the attached agreement; **NOW THEREFORE:**

I. Renewal

Pursuant to the provisions of Section VIII of the Contract, CITY and VENDOR mutually agree to renew and extend the term of said Contract for a period of one year, commencing on January 1, 2014 and terminating December 31, 2014, under the same terms and conditions as stated in said Contract.

II. Amendment

Section VII, Consideration and Billing 7.1 Exhibit C ASO Fees Year 7 is amended as follows:

Administration Fee Components		Base Fee
Pharmacy Fee:	UHCP	\$1.07
BH Fee:	Standard Care Management	\$3.05
Optum Fees:	Nurseline	\$1.21
	PS PHS/TDS/HeNotes	\$0.58
	DM Bundle, incl. Diabtetes, CAD, CHF	\$2.23
Additional Options:	On Site CSR	\$0.63
	Wellness/Communications/Reporting Budget	\$0.83
	Expanded eCR Reporting	\$0.09
	Cobra	\$0.50
	Analytic/Consulting services	\$0.00
Total Administration Fee Cost (PSPM)		\$38.24

-Admin Fee Credit	(\$8.95)
Total NET Administration Fee Cost	\$29.29

Civilian/retiree additional options:

Health Rewards w/Outcomes (w/Coaching, reporting)	\$1.20
Virgin Pulse administration w/pedometers	\$2.58
FSA Administration	\$5.09
HSA Administration	\$1.25
Onsite Health Coach	\$1.91

III.

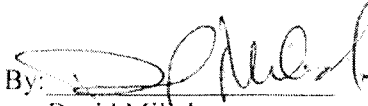
All other terms, conditions, covenants and provisions of the Contract approved through Ordinance No. 2007-10-04-1043 and amended by the parties through Ordinance No. 2013-06-20-0477, 2012-11-08-0879 and 2010-09-16-0810 and not specifically provided for herein shall remain in full force and effect for the term.

Executed and Agreed to this the _____ day of _____ 2013.

CITY OF SAN ANTONIO

UNITED HEALTHCARE SERVICES, INC.

By: _____
Sheryl Sculley
City Manager

By: 
David Milich
CEO South Texas

Krista Cover
Assistant City Attorney

WITNESSETH:

HIPAA BUSINESS ASSOCIATE AGREEMENT

This HIPAA Business Associate Agreement is entered into by and between the City of San Antonio ("Covered Entity"), and United Healthcare Insurance Company, a Business Associate ("BA").

WHEREAS, the City of San Antonio and BA have entered into a Professional Services Contract ("Service Contract"), executed on December 5, 2013, whereby BA provides medical third party administration services to the Covered Entity; and

WHEREAS, Covered Entity and BA may need to use, disclose and/or make available certain information pursuant to the terms of the Service Contract, some of which may constitute Protected Health Information ("PHI"); and

WHEREAS, Covered Entity and BA intend to protect the privacy and provide for the security of PHI disclosed to each other pursuant to the Service Contract in compliance with the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 ("HIPAA") and regulations promulgated thereunder by the U.S. Department of Health and Human Services (the "HIPAA Regulations") and other applicable laws; and

WHEREAS, the purpose of this Agreement is to satisfy certain standards and requirements of HIPAA and the HIPAA Regulations, including, but not limited to, Title 45, Section 164.504(e) of the Code of Federal Regulations ("C.F.R."), as the same may be amended from time to time;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

A. Definitions. For the purposes of this Agreement, the following terms have the meanings ascribed to them:

(1) "Disclosure" with respect to PHI, shall mean the release, transfer, provision of access to or divulging in any other manner of PHI outside the entity holding the PHI.

(2) "Individual" shall have the same meaning as the term "Individual" in 45 C.F.R. 164.501 and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R. 164.502(g).

(3) "Parties" shall mean Covered Entity and BA. "Business Associate" shall generally have the same meaning as the term "business associate" at 45 CFR 160.103. "Covered Entity" shall generally have the same meaning as the term "covered entity" at 45 CFR 160.103.

(4) "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and Part 164, subparts A and E.

(5) "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. 164.501, limited to the information created or received by BA from or on behalf of Covered Entity.

(6) "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.501.

(7) "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

(8) "PHI Breach" shall mean an acquisition, access, use, or disclosure of PHI in a manner not permitted by the Privacy Rules and such action compromises the security or privacy of the PHI.

B. BA Obligations and Activities. BA agrees that it shall:

(1) Not use or disclose the PHI other than as permitted or required by this Agreement or as Required by Law;

(2) Establish and maintain appropriate administrative, physical, and technical safeguards that reasonably and appropriately protect, consistent with the services provided under this Agreement, the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of covered entity;

(3) Mitigate, to the extent practicable, any harmful effect that is known to BA of a use or disclosure of PHI by BA in violation of the requirements of this Agreement;

(4) Report to Covered Entity any use or disclosure of PHI of which BA is aware or becomes aware that is not provided for or allowed by this Agreement as well as any security incident that BA becomes aware of;

(5) Ensure that a business associate agreement is in place with any of its agents or subcontractors with which BA does business and to whom it provides PHI received from, created or received by BA on behalf of Covered Entity are aware of and agree to the same restrictions and conditions that apply through this Agreement to BA with respect to such information, and further agree to implement reasonable and appropriate administrative, physical and technical safeguards to protect such information;

(6) Provide access, at the request of Covered Entity, and in a reasonable time and manner as agreed by the Parties, to PHI in a Designated Record Set to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements 45 C.F.R. §164.524;

(7) Make any amendment(s) to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. 164.526 at the request of the Covered Entity or an Individual, and in a reasonable time and manner agreed to by the Parties;

(8) Make available to the Covered Entity or to the Secretary of the U.S. Department of Health and Human Services all internal practices, books and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by the BA on behalf of the Covered Entity, for purposes of the

Secretary of the U.S. Department of Health and Human Services in determining Covered Entity's compliance with the Privacy Rule;

(9) Document such disclosures of PHI, and information related to such disclosures, as would be required for Covered Entity to respond to a request from an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. 164.528;

(10) Provide Covered Entity or an Individual, in a reasonable time and manner as agreed to by the Parties, information collected in accordance with Section B(9) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. 164.528.

(11) Will immediately, and in no event later than 48 hours of discovery, notify Covered Entity of any breach of PHI and will coordinate with Covered Entity to identify, record, investigate, and report to an affected individual and US Department of Health and Human Services, as required, any covered PHI breach.

(12) Comply with all HIPAA Security Rule requirements.

(13) Comply with the provisions of HIPAA Privacy Rule for any obligation Covered Entity delegates to BA.

C. Permitted Uses and Disclosures by BA

(1) Except as otherwise limited in this Agreement, BA may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in the Service Contract, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity.

(2) Except as otherwise limited in this Agreement, BA may disclose PHI for the proper management and administration of the BA, provided that disclosures are Required By Law, or BA obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the BA of any instances of which it is aware in which the confidentiality of the information has been breached.

(3) Except as otherwise limited in this Agreement, BA may use PHI to provide Data Aggregation Services to Covered Entity as permitted by 45 C.F.R. 164.504(e)(2)(i)(B).

(4) BA may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 C.F.R. 502(j)(1).

D. Obligations of Covered Entity. Covered Entity shall inform BA of its privacy practices and restrictions as follows. Covered Entity shall:

(1) notify BA of any limitations in its notice of privacy practices in accordance with 45 C.F.R. 164.520, to the extent that such limitation may affect BA's use or disclosure of PHI;

(2) notify BA of any changes in, or revocation of, permission by any Individual to use or disclose PHI, to the extent that such changes may affect BA's use or disclosure of PHI;

(3) notify BA of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. 164.522 to the extent that such changes may affect BA's use or disclosure of PHI.

(4) coordinate with BA regarding any PHI breach and make timely notification to affected individuals within 60 days of discovery.

E. Permissible Requests by Covered Entity.

Covered Entity shall not request BA to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity, except that the Business Associate may use or disclose PHI for data aggregation or management and administrative activities of the BA.

F. Term and Termination.

(1) The term of this Agreement shall commence on the date on which it is fully executed or contract start date of January 1, 2014, whichever is later. This Agreement shall terminate when all PHI encompassed by this Agreement is destroyed or returned to Covered Entity or, if it is infeasible to return or destroy the PHI, protections are extended to such information in accordance with the termination provisions in this Section.

(2) Termination for Cause. Upon Covered Entity's knowledge of a material breach by BA, Covered Entity shall either (a) provide an opportunity for BA to cure the breach in accordance with the terms of the Service Contract or, if the BA does not cure the breach or end the violation within the time for cure specified in the Service Contract, end the violation and terminate this Agreement and the Contract; or (b) immediately terminate this Agreement and the Service Contract if BA has breached a material term of this Agreement and cure is not possible. If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary of the U.S. Department of Health and Human Services.

(3) Effect of Termination.

(a) Except as provided below in paragraph (b) of this Section F(3), upon termination of this Agreement for any reason, BA shall return or destroy all PHI received from the Covered Entity, or created or received by BA on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of BA or its subcontractors or agents. BA shall not retain any copies of PHI.

(b) In the event that BA determines that returning or destroying PHI is infeasible, BA shall provide to Covered Entity written notification of the condition that makes the return or destruction of PHI infeasible. Upon BA's conveyance of such written notification, BA shall extend the

protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make its return or destruction infeasible, for so long as BA maintains such PHI.

- (4) Notwithstanding any other provision under this Agreement, the Parties agree that the Service Contract may be terminated by either Party without penalty should the other Party violate a material obligation under this Agreement.
- G. Amendment to Comply with Law. The Parties agree to take written action as is necessary to amend this Agreement to comply with any Privacy Rules and HIPAA legal requirements for Covered Entity without the need for additional council action.
- H. Survival. The respective rights and obligations of the BA under Sections B, C(2) and (4), and F(3) shall survive the termination of this Agreement.
- I. Interpretation. Any ambiguity in this Agreement shall be interpreted to permit Covered Entity to comply with the Privacy Rule.
- J. Regulatory References. A reference in this Agreement to a section in the Privacy Rule means the section as in effect or amended.
- K. No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer upon any person other than Covered Entity, BA, and their respective successors or assigns, any rights, remedies, obligations, or liabilities whatsoever.
- L. **INDEMNIFICATION. BA WILL INDEMNIFY, DEFEND AND HOLD COVERED ENTITY AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS HARMLESS, FROM AND AGAINST ANY AND ALL LOSSES, LIABILITIES, DAMAGES, COSTS AND EXPENSES ARISING OUT OF OR RELATED TO ANY THIRD-PARTY CLAIM BASED UPON ANY BREACH OF THIS AGREEMENT BY BA IN ACCORDANCE WITH THE INDEMNITY PROVISIONS IN THE SERVICE AGREEMENTS, WHICH ARE HEREBY INCORPORATED BY REFERENCE FOR ALL PURPOSES.**
- M. Reimbursement. BA will reimburse Covered Entity for reasonable costs incurred responding to a PHI breach by BA or any of BA's subcontractors.
- N. Waiver. No provision of this Agreement or any breach thereof shall be deemed waived unless such waiver is in writing and signed by the party claimed to have waived such provision or breach. No waiver of a breach shall constitute a waiver of or excuse any different or subsequent breach.
- O. Assignment. Neither party may assign (whether by operation or law or otherwise) any of its rights or delegate or subcontract any of its obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, Covered Entity shall have the right to assign its rights and obligations hereunder to any entity that is an affiliate or successor of Covered Entity, without the prior approval of Business Associate.
- P. Entire Agreement. This Agreement constitutes the complete agreement between Business Associate and Covered Entity relating to the matters specified in this Agreement, and

supersedes all prior representations or agreements, whether oral or written, with respect to such matters. In the event of any conflict between the terms of this Agreement and the terms of the Service Contracts or any such later agreement(s), the terms of this Agreement shall control unless the terms of such Service Contract comply with the Privacy Standards and the Security Standards. No oral modification or waiver of any of the provisions of this Agreement shall be binding on either party. This Agreement is for the benefit of, and shall be binding upon the parties, their affiliates and respective successors and assigns. No third party shall be considered a third-party beneficiary under this Agreement, nor shall any third party have any rights as a result of this Agreement.

Q. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Texas.

EXECUTED to be effective January 1, 2014, by the **City of San Antonio**, signing by and through its program manager.

COVERED ENTITY
By City of San Antonio

By: _____

Print Name: Ben Gorzell

Print Title: Chief Financial Officer

BUSINESS ASSOCIATE:

By:  _____

Print Name: David Milich

Print Title: CEO South Texas

APPROVED AS TO FORM:

Krista Cover
Assistant City Attorney